
**Application to Amend the Findings Statement
and to Amend the Comprehensive Plan
Site “A” of Muir Woods Project
Location of Project Site: 50 Dodge Road
Town of Amherst**

APPLICANT/PROJECT SPONSOR:

Sawyers Landing LLC
c/o William Severyn
43 Central Avenue
Lancaster, New York 14086

Date: June 24, 2024

Prepared By:

Sean Hopkins, Esq.
Hopkins Sorgi & McCarthy PLLC
5500 Main Street, Suite 343
Williamsville, NY 14221
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E-mail: shopkins@hsmlegal.com

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- **Exhibit 14**: Amended Wetland Permit Issued by the United States Army Corps of Engineers (“USACE”) dated February 25, 2021
- **Exhibit 15**: Amended Wetland Permit Issued by the New York State Department of Environmental Conservation (“NYSDEC”) dated December 24, 2020
- **Exhibit 16**: Redline Draft of Proposed Amended Findings for Proposed Mixed-Use Project on Site “A” of Muir Woods Property
- **Exhibit 17**: Color Copy of Figure 6 of the Town of Amherst Comprehensive Plan titled “Conceptual Land Use Plan”
- **Exhibit 18**: Color Copy of Figure 21 of the Town of Amherst Comprehensive Plan titled “University Focal Planning Area – Concept Plan”

**Exhibit 1 – Application to Amend the Findings
Statement and to Amend the Comprehensive Plan**

Application to Amend Findings Statement
& Reclassify Portion of 50 Dodge Road
from NCD-RI to NCD-LC - Site A of
Muir Woods [Z-2002-9E]



Applicant: Sawyer's Landing LLC
Sean Hopkins, Esq.
Hopkins Sorgi & McCarthy PLLC
5500 Main Street, Suite 343
Williamsville, NY 14221
Tel: 716.510-4338
E-mail: shopkins@hsmlegal.com

TOWN OF AMHERST PLANNING DEPARTMENT

Application for Rezoning Review and, if required Comprehensive Plan Amendment
For Official Use

File #: Z-2002-9E **Acres:** 17.424 **Fee \$:** \$5,465.00

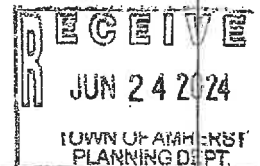
Address Verified by Assessor's Office _____
VERIFIED BY DATE

Materials Accepted by Town Clerk & Fee Paid _____
AC CEP TB BY DATE

Materials Checked by Building Dept. _____
RECEIVED BY DATE

Materials Received by Planning Dept. *[Signature]* _____
RECEIVED BY DATE

		<u>Fill In</u> <u>Applicable Fees</u>
2 ACRES OR LESS	\$1,250	<u>\$1,250.00</u>
2 – 20 ACRES \$1,250 + \$250/acres or fraction thereof over 2 acres		<u>\$3,000.00</u>
20 – 30 ACRES \$5,700 + \$150/acre or fraction thereof over 20 acres		_____
OVER 30 ACRES \$6,900 + \$75/acre or fraction thereof over 30 acres		<u>1,200.00</u>
Request for Relief of/Change to Conditions of Zoning Approval [Application to Amend Findings Statement]	\$ 1,200	
AFFIDAVIT FEE FOR PUBLIC HEARING	\$ 15.00	<u>\$15.00</u>
TOTAL FEE:		<u>\$ 5,465.00</u>



[Note: A completed Part 1 of the Full Environmental Assessment Form is attached as Exhibit "3" of this Application.]

TO BE COMPLETED BY APPLICANT

1. **Petitioner:** Name: Sawyers Landing LLC
Address: c/o Sean Hopkins, Esq.
5500 Main Street, Suite 343
Williamsville, New York 14221
City State Zip Code
Phone: 510-4338 Fax: _____
E Mail shopkins@hsmlegal.com

2. **The undersigned hereby petitions the Honorable Town Board to rezone the following described property**

From: NCD-RI District
To: NCD-LC District

3. **Street address of land to be rezoned: (must be verified by Town Assessor's Office)**

Portion of 50 Dodge Road

SBL #: 40.08-3-13.11

4. **Area of land to be rezoned (in acres):** 13.452 Acres to be Reclassified
from NCD-RI to NCD-LC

5. **Owner of Land:**

Name: Sawyers Landing LLC
Address: c/o Sean Hopkins, Esq., 5500 Main Street, Suite 343, Williamsville, NY 14221
Telephone: 510-4338

6. **Representative (Architect, Engineer, Landscape Architect, Surveyor or Attorney):**

Name: Sean W. Hopkins, Esq.
Address: 5500 Main Street Suite 343
Williamsville, New York 14221
Tel: 716.510-4338 - E-mail: shopkins@hsmlegal.com
City State Zip Code

7. **Petitioner's interest in property**

_____ Option to purchase
 X Owner
_____ Other (explain) _____

8. **The following are all others having an interest in this application and join herein with the petitioner named above: (describe extent of interest; attach sheets as needed)**

Not Applicable.

9. **Attach Survey and Legal description of land to be rezoned. The Survey must be prepared by a New York State Licensed Land Surveyor.** Legal description of portion of 50 Dodge Road to be Reclassified from NCD-LI to NCD-LC attached as Exhibit "5" and Survey as Exhibit "4".

10. **Said property has the following deed restrictions or Covenants: (attach copy) Not Applicable.**

Liber 13330 Page 8243

A portion of the Project Site is subject to the Declaration of Restrictions recorded at the Erie County Clerk's Office on June 21, 2018. A copy of the recorded Declaration of Restrictions is provided at Exhibit "12".

11. **Information on proposed project:**

A. **Description of the character of the proposed development:**
See Exhibit "6".

B. **Rationale for rezoning request:**
1. **Why was this site chosen?** _____
See Exhibit "6".

2. Why cannot land be used with the existing zoning?

See Exhibit "6".

3. How will this rezoning impact surrounding properties?

See Exhibit "6".

4. How will this rezoning impact the school system?

See Exhibit "6".

12. Quantitative Data:

- A. Total # of dwelling units 207
- B. Distribution of dwelling units by type 63 two-story townhomes, 22 two-unit townhomes and 100 apartments in the mixed-use buildings
- C. Gross Residential Density per acre 11.87 units per acre
- D. Total amount of Open Space .98 acres
- E. Proposed Non-Residential Floor Area 56,000 sq. ft.

Note: The large 9.81 acre wetland directly west of the Project Site that is subject to the jurisdiction of both the NYSDEC and USACE will also be preserved as Permanent Open Space.

13. Development Schedule:

Start 2024

Finish 2026 [The precise timing of the phasing and development of the Project Site as a mixed-use project will be dependent on market conditions.]

Stages (# of) 3-4

14. If any portion of the proposed development is planned to be sold or leased, please describe:

The commercial space will be leased along with the apartments in the mixed-use buildings and the single-story buildings with attached garages. The single-family townhomes will for sale. The two family townhomes will for lease.

15. **Open Space ownership and maintenance provisions (if applicable):**

Greenspace and landscaping will be privately owned and maintained.

16. **Basis for Findings (Sec. 8-3-5 of the Town Zoning Code) (Attach sheets and supplemental materials as necessary.)**

A. **The proposed zoning and development plan must be generally consistent with the policies of the Comprehensive Plan and the Town Zoning Ordinance.**

1. State in detail why the proposed zoning is consistent with the adopted Town of Amherst Bicentennial Comprehensive Plan. Cite specific sections, maps, and/or figures in the plan that support the proposed zoning at this location (The Comprehensive Plan document is available at the Planning Department, Town Clerk's Office, Amherst libraries, or at www.amherst.ny.us). Add sheets as needed.

See Exhibit "7".

2. Pursuant to NYS Town Law Section 272a(11), "all Town land use regulations must be in accordance with a comprehensive plan adopted pursuant to this Section." The Town Board adopted the Comprehensive Plan pursuant to NYS Town Law 272 on January 2, 2007. If the rezoning is approved, the Town Board may require the Plan to be amended, as applicable.

Cite all text, map, and / or figures that must be amended to support the proposed zoning at this location (attach pages as necessary) and provide detailed suggested amendments.

See Exhibit "7".

3. State why the proposed zoning is consistent with intent and objectives (Sec. 1-2-2) of the Zoning Ordinance:

See Exhibit "7".

B. Adequate Services and Utilities are available or are proposed to be made available with the construction of the development:

- 1. Sanitary Sewer _____
Yes. _____
- 2. Storm Sewer/Drainage _____
Yes. _____
- 3. Water _____
Yes. _____
- 4. Other Yes. _____

C. Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood:

See Exhibit "7".

D. Suitability of the subject property for uses permitted by the current versus the proposed district:


See Exhibit "7".

E. Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town:


See Exhibit "7".

- 17. The petitioner encloses herewith the sum of \$ 5,465.00 to pay the fee, and consents to the placement of a sign(s) at the described location identifying this request for a period of time to be determined by the Town Clerk.
- 18. The undersigned certifies that all information required to be disclosed pursuant to Section 809 of the General Municipal Law (see below) is as follows:

The undersigned swears or affirms that all statements made herein are true, that all drawings submitted correctly show the situation involved in this petition.


Sean Hopkins, Esq., Counsel for Petitioner
Signature of Petitioner

Subscribed and sworn to before me this 24th day of June, 2024

Notary Public, Erie County, New York 
PATRICIA C. MAYNARD
Notary Public, State of New York
Registration No. 01MA6384435
Qualified in Erie County
Commission Expires Dec. 10, 2026

N.Y.S. General Municipal Law - Section 809 Disclosure in certain applications.

- 1. Every application, petition or request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or official map, license or permit, pursuant to the provision of any ordinance, local law, rule or regulation constituting the zoning and planning regulations of a municipality shall state the name, residence and the nature and extent of the interest of any state office or any office or employee of such municipality or of a municipality of which such municipality is a part, in the person, partnership or association making such application, petition or request (hereinafter called the applicant) to the extent known to such applicant.

2. For the purpose of this section an officer or employee shall be deemed to have an interest in the applicant when he, his spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them
 - (a) is the applicant, or
 - (b) is an officer, director, partner or employee of the applicant, or
 - (c) legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant, or
 - (d) is a party to an agreement with such an applicant, express or implied, whereby he may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such applicant, petition or request.
3. In the county of Nassau the provisions of subdivisions one and two of this section shall also apply to a party officer. "Party Officer" shall mean any person holding any position or office, whether by election, appointment or otherwise, in any party as defined by subdivision four or section two of the election law.
4. Ownership of less than five per cent of the stock of a corporation whose stock is listed on the New York or American Stock Exchanges shall not constitute an interest for the purposes of this section.
5. A person who knowingly and intentionally violates this section shall be guilty of a misdemeanor.

**Exhibit 2 – Description of Requested Amendment of
Findings Statement for Proposed Mixed-Use Project on
Site “A” of the Muir Woods Property**

**EXHIBIT 2 OF APPLICATION TO AMEND
FINDINGS STATEMENT AND RECLASSIFY PORTION OF 50 DODGE ROAD
FROM NCD-RI TO NCD-LC**

**DESCRIPTION OF REQUEST TO AMEND THE FINDINGS
STATEMENT AND TO RECLASSIFY PORTION OF 50 DODGE ROAD FROM
NCD-RI TO NCD-LC**

I. INTRODUCTION:

Sawyers Landing LLC (“Project Sponsor”) is requesting that the Town Board approve a request to amend the Findings Statement issued by the Town Board pursuant to the State Environmental Quality Review Act (“SEQRA”) on September 27, 2021 to allow the property at 50 Dodge Road to be developed as a mixed-use project in a manner consistent with the Overall Site Plan [Drawing C-100 – Date: 06/21/24] prepared by Carmina Wood Design, which includes a climate controlled storage building on the western portion of the Project Site. Reduced-size copies of the Overall Site Plan and the Site Plan are attached as Exhibits “9” and “9A”.

The proposed mixed-use project consists of mixture of components including 2 four-story mixed use buildings that will each include 15,000 sq. ft. of 1st floor commercial space with 50 apartments per building, a four-story climate controlled storage building, single-family and two-family townhomes buildings and related site improvements. The layout for the proposed mixed-use project depicted on the Overall Site Plan has a total 207 residential units.

The proposed mixed-use project will also include all necessary site improvements including driveway connections to Dodge Road, access aisles, parking spaces, driveways, wetland impacts, lighting, landscaping, an on-site storm water management improvements, sanitary sewer and water lines and connections and all other required utility improvements.

The documentation being submitted on behalf of the Project Sponsor in connection with this Application to Amend the Findings Statement and Reclassify a portion of 50 Dodge Road from NCD-RI to NCD-LC attached to this Application consists of the following:

- **Exhibit 1:** Application to Amend the Findings Statement & Reclassify a Portion of 50 Dodge Road from NCD-RI to NCD-LC dated June 24, 2024
- **Exhibit 2:** Description of Requested Amendment of Findings Statement for Site “A” of the Muir Woods Project
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- **Exhibit 9B**: Reduced-Size Copy of Landscape Plan [Drawing L-100 – Date: 06/20/24] prepared by Carmina Wood Design for the Mixed-Use Project at 50 Dodge Road [Note: Full-Size copy also attached]
- **Exhibit 9C**: Reduced-Size Copy of Landscape Plan [Drawing L-100 – Date: 06/20/24] prepared by Carmina Wood Design for the Mixed-Use Project at 50 Dodge Road [Note: Full-Size copy also attached]
- **Exhibit 10**: Resolution 2021-818 as Adopted by the Town of Amherst Town Board on September 27, 2021 for the purpose of Issuing an Amended Findings Statement pursuant to the State Environmental Quality Review Act (“SEQRA”) for Mixed-Use Development on Site “A” of Muir Woods Property [Formerly 1081 North French Road – Current Address of 50 Dodge Road]
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- **Exhibit 18**: Color Copy of Figure 21 of the Town of Amherst Comprehensive Plan titled “University Focal Planning Area – Concept Plan”

**Exhibit 3 – Part 1 of the Full Environmental Assessment
Form prepared pursuant to the State Environmental
Quality Review Act (“SEQRA”) with attached Page 5[a]**

*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: Proposed Mixed-Use Project - Site A of Muir Woods		
Project Location (describe, and attach a general location map): 50 Dodge Road - Town of Amherst - Erie County		
Brief Description of Proposed Action (include purpose or need): The proposed action consists of an amendment of the Findings Statement issued by the Town of Amherst Town Board ("Town Board") on September 27, 2021 pursuant to the State Environmental Quality Review Act ("SEQRA") to accommodate the updated layout for the proposed mixed-use project to be located at 50 Dodge Road. The layout of the mixed-use project is depicted on the Overall Site Plan [Drawing C-100] prepared by Carmina Wood Design. The residential density of the project has been reduced to 207 units. The action has been defined broadly to include all required discretionary approvals and permits as well as all site improvements including the proposed mixed-use and residential buildings, a climate controlled storage buildings, driveway connections, access aisles, parking spaces, driveways, wetland impacts, lighting, landscaping, an on-site storm water management improvements, sanitary sewer and water lines and connections and all other required utility improvements. The project purpose is to develop Site "A" of overall Muir Woods Project Site as a mixed-use project in a manner consistent with the Overall Site Plan for the project prepared by Carmina Wood Morris DPC prepared by Carmina Wood Design. The project is a Type I action pursuant to SEQRA and the Town Board issued an Amended Findings Statement pursuant to SEQRA on September 27, 2021. The proposed use is consistent with the Town's adopted Comprehensive Plan.		
Name of Applicant/Sponsor: Sawyers Landing LLC c/o Sean Hopkins, Esq.	Telephone: 716.510-4338	E-Mail: shopkins@hsmlegal.com
Address: 5500 Main Street, Suite 343		
City/PO: Williamsville, NY	State: NY	Zip Code: 14221
Project Contact (if not same as sponsor; give name and title/role):	Telephone:	
	E-Mail:	
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor):	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 <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Town Board - Amended Findings Statement and Reclassification of NCD Property	June 24, 2024
b. City, Town or Village Planning Board or Commission <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Planning Board - Amended Site Plan Approval and Subdivision Approval	To be Determined
c. City, Town or Village Zoning Board of Appeals <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
d. Other local agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Building Department - Building Permits; Town of Amherst IDA [PILOT, etc.]	To be determined
e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Highway Work Permit - ECDPW; Water - ECWA	To be determined
f. Regional agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
g. State agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	NYSDEC - Amended Wetland Permit; DSCA Approval and SPDES Permit	Amended wetland permit issued on 12/24/20 - DSCA & SPDES - To be determined
h. Federal agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	USACE - Amended Wetland Permit	Issued on 02/25/21
i. Coastal Resources.		
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
iii. Is the project site within a Coastal Erosion Hazard Area?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

[Note: The Town has an adopted Waterfront Revitalization Program.]

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?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<ul style="list-style-type: none"> • 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?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> 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?)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, identify the plan(s): NYS Heritage Areas: West Erie Canal Corridor [Note: The project will not have any impacts on the West Erie Canal Corridor.]	

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?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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?
Site "A" of the Muir Woods property is zoned New Community District - NCD-ND and NCD-RI pursuant to the Town of Amherst Zoning Map.

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? The Applicant is proposing to reclassify 13.54 acres from NCD-RI to NCD-LC.

C.4. Existing community services.

a. In what school district is the project site located? Sweet Home Central School District

b. What police or other public protection forces serve the project site?
Town of Amherst Police Department

c. Which fire protection and emergency medical services serve the project site?
Volunteer Fire Department

d. What parks serve the project site?
Various Town Parks including Nature View 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)? Mixed-use project consisting of commercial space and various residential unit types.

b. a. Total acreage of the site of the proposed action? 17.424 acres
b. Total acreage to be physically disturbed? 17 acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 17.424 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)? % _____ Units: _____

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)
63 residential lots [2 family townhomes for sale]

ii. Is a cluster/conservation layout proposed? Yes No

iii. Number of lots proposed? 63 lots

iv. Minimum and maximum proposed lot sizes? Minimum 1,400 sq. ft. Maximum 1,400 sq. ft.

e. Will the proposed action be constructed in multiple phases? Yes No

i. If No, anticipated period of construction: _____ months

ii. If Yes:

- Total number of phases anticipated 3-4
- Anticipated commencement date of phase 1 (including demolition) Mar month 2025 year
- Anticipated completion date of final phase Mar month 2027 year

• Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

The infrastructure necessary for each phase will be installed to ensure compliance with applicable technical standards including those for stormwater management.

f. Does the project include new residential uses? **[Note: The 63 one-family units consist of attached townhome units for sale.]** Yes No
 If Yes, show numbers of units proposed. The build-out of the residential components will be based on market conditions.

	One Family	Two Family	Three Family	Multiple Family (four or more)
Initial Phase	63	22	_____	50
At completion of all phases	63	22	_____	100

g. Does the proposed action include new non-residential construction (including expansions)? Yes No
 If Yes, There will be 15,000 sq. ft. of commercial space in each of the two mixed-use buildings.

i. Total number of structures _____ 3
 ii. Dimensions (in feet) of largest proposed structure: _____ 55' height; _____ 240' width; and _____ 120' length
 iii. Approximate extent of building space to be heated or cooled: _____ 56,000 square feet

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: Storm water management
 ii. If a water impoundment, the principal source of the water: Ground water Surface water streams Other specify:
 Storm water runoff from impervious surfaces.
 iii. If other than water, identify the type of impounded/contained liquids and their source.
 N/A
 iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ 1.5 acres
 v. Dimensions of the proposed dam or impounding structure: _____ N/A height; _____ length
 vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete):
 Impoundment area is an excavation consisting of 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): _____

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:

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: _____
- if chemical/herbicide treatment will be used, specify product(s): _____

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

c. Will the proposed action use, or create a new demand for water? Yes No

If Yes:

i. Total anticipated water usage/demand per day: _____ 56,524 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: ECWA Consolidated Water District
- 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

If Yes:

i. Total anticipated liquid waste generation per day: _____ 51,385 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

iii. Will the proposed action use any existing public wastewater treatment facilities? Yes No

If Yes:

- Name of wastewater treatment plant to be used: Tonawanda Creek Wastewater Treatment Plant
- Name of district: Town of Amherst Consolidated Sanitary 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:

- How much impervious surface will the project create in relation to total size of project parcel?
 _____ Square feet or _____ 8 acres (impervious surface)
 _____ Square feet or 17.42 acres (parcel size)
- Describe types of new point sources. Parking lots and roof tops
- 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)?
Stormwater runoff will be conveyed into the on-site stormwater management system to be installed per the applicable stringent stormwater quality and quantity standards of the NYS Department of Environmental Conservation ("NYSDEC")
 - If to surface waters, identify receiving water bodies or wetlands: _____
 NYSDEC & Federal wetlands on the east portion of the site after on-site stormwater management system.
 - 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:

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

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

- 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:

- 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
- In addition to emissions as calculated in the application, the project will generate:
 - _____ Tons/year (short tons) of Carbon Dioxide (CO₂)
 - _____ Tons/year (short tons) of Nitrous Oxide (N₂O)
 - _____ Tons/year (short tons) of Perfluorocarbons (PFCs)
 - _____ Tons/year (short tons) of Sulfur Hexafluoride (SF₆)
 - _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (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
[Note: An updated Traffic Impact Study prepared by Passero Associates has been submitted based on the current project layout.]

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 _____ Proposed _____ Net increase/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: _____
To be determined

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

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>i. During Construction:</i>		<i>ii. During Operations:</i>	
• Monday - Friday: _____	7:00 to 7:00	• Monday - Friday: _____	8:00 to 11:00
• Saturday: _____	8:00 to 6:00	• Saturday: _____	8:00 to 11:00
• Sunday: _____	As needed	• Sunday: _____	8:00 to 10:00
• Holidays: _____	Not Applicable	• Holidays: _____	8:00 to 10:00

The hours of operation during "During Operations" as listed above apply to the first floor commercial space in the two mixed-use buildings. The hours are estimates since the tenants that will lease the first floor commercial space including both office and retail tenants have not yet been identified.

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 activities will include the use of construction equipment during daytime hours that will exceed ambient background noise levels. The construction related noise impacts are a temporary unavoidable impact.

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 will be installed in compliance with the lighting standards contained in the Town of Amherst Zoning Code.

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 _____
 ii. Volume(s) _____ per unit time _____ (e.g., month, year)
 iii. Generally, describe the proposed storage facilities: _____

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):
Potential use of lawn fertilizer and pesticides on maintained portions of property in accordance with applicable standards for application and use of lawn fertilizer and pesticides.

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 : 3 tons per week (unit of time)

ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:
 • Construction: wood and metal waste may be recycled by the contract at their discretion
 • Operation: Town of Amherst recycling program will be followed

iii. Proposed disposal methods/facilities for solid waste generated on-site:
 • Construction: approved NYSDEC landfill via contractor or private disposal company
 • Operation: approved NYSDEC landfill via private disposal company

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): Wetlands

ii. If mix of uses, generally describe:

There are mixture of uses in the vicinity of the Project Site including residential uses to the north in the Bucyrus Heights Subdivision, an elementary school, apartments and office buildings on Sweet Home Road and permanent open space to the east of Site "A".

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	0	8.0	+ 8.0
• Forested	0	0	0
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	17.4	0	-17.4
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)	0	0	0
• Wetlands (freshwater or tidal)			
• Non-vegetated (bare rock, earth or fill)	0	0	0
• Other Describe: <u>Greenspace, Landscaping, Pond</u>	0	9.4	+9.4

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:
1. Heritage Heights Elementary School (Sweet Home School District- 2545 Sweet Home Road); 2. Creative Play Learning Center (Private Day Care Facility- 647 Dodge Road); and 3. Four Seasons Child Care & Preschool (Private Day Care Facility- 1639 North French Road).

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? _____ >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:

Getzville silt loam	_____	94 %
Swormville clay loam	_____	6 %
_____	_____	%

d. What is the average depth to the water table on the project site? Average: _____ >5 feet

e. Drainage status of project site soils: Well Drained: _____ % of site
 Moderately Well Drained: _____ % of site
 Poorly Drained: 100 % of site

f. Approximate proportion of proposed action site with slopes: 0-10%: 100 % of site
 10-15%: _____ % 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 _____ Classification _____
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name Federal Waters, NYS Wetland Approximate Size NYS Wetland (in a... _____
- Wetland No. (if regulated by DEC) TE-33 _____

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: _____

m. Identify the predominant wildlife species that occupy or use the project site: _____
 Typical suburban species _____

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): _____

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: _____
 Spiny Softshell - The Project Sponsor does not believe that Spiny Softshell is present on Site A of the Muir Woods property.

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: Eligible property: Heritage Heights Elementary School

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

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 [No impact letter issued by SHPO on October 10, 2001.]

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 five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? Yes No

If Yes:

i. Identify resource: _____

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

iii. Distance between project and resource: _____ 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.

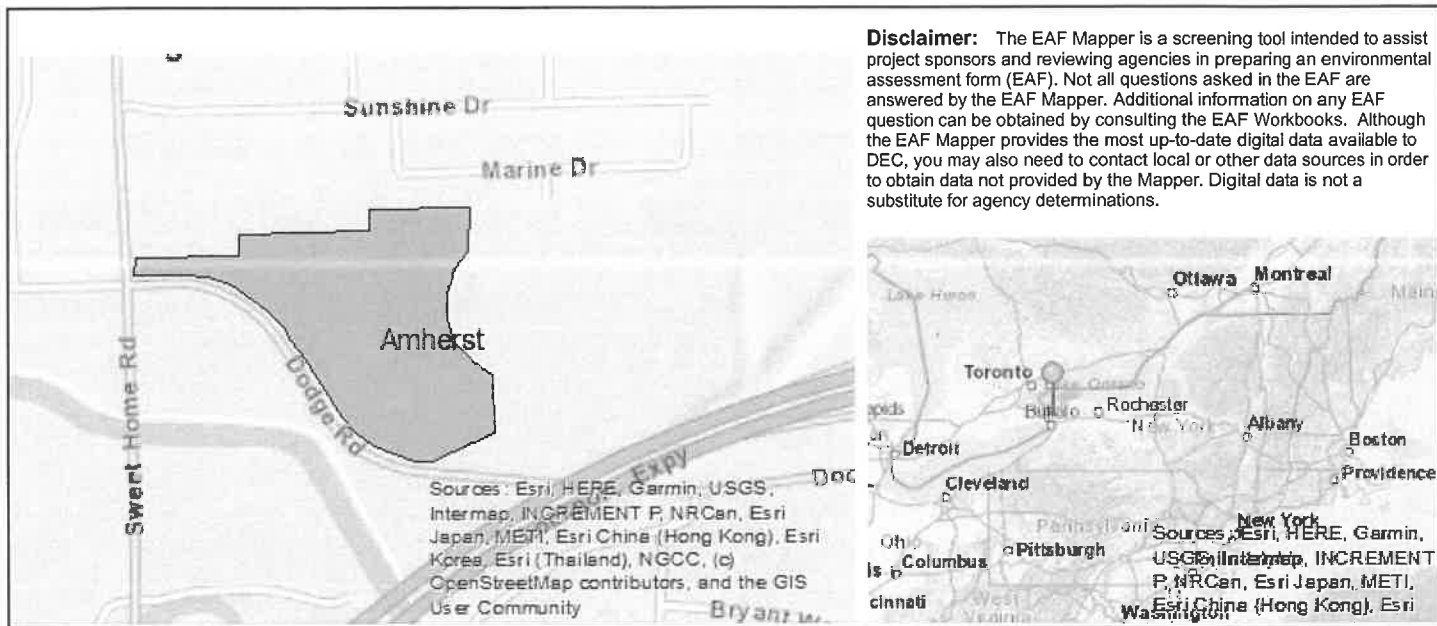
Applicant/Sponsor Name Sawyers Landing LLC

Date June 24, 2024

Signature Sean Hopkins

Title Attorney for Project Sponsor

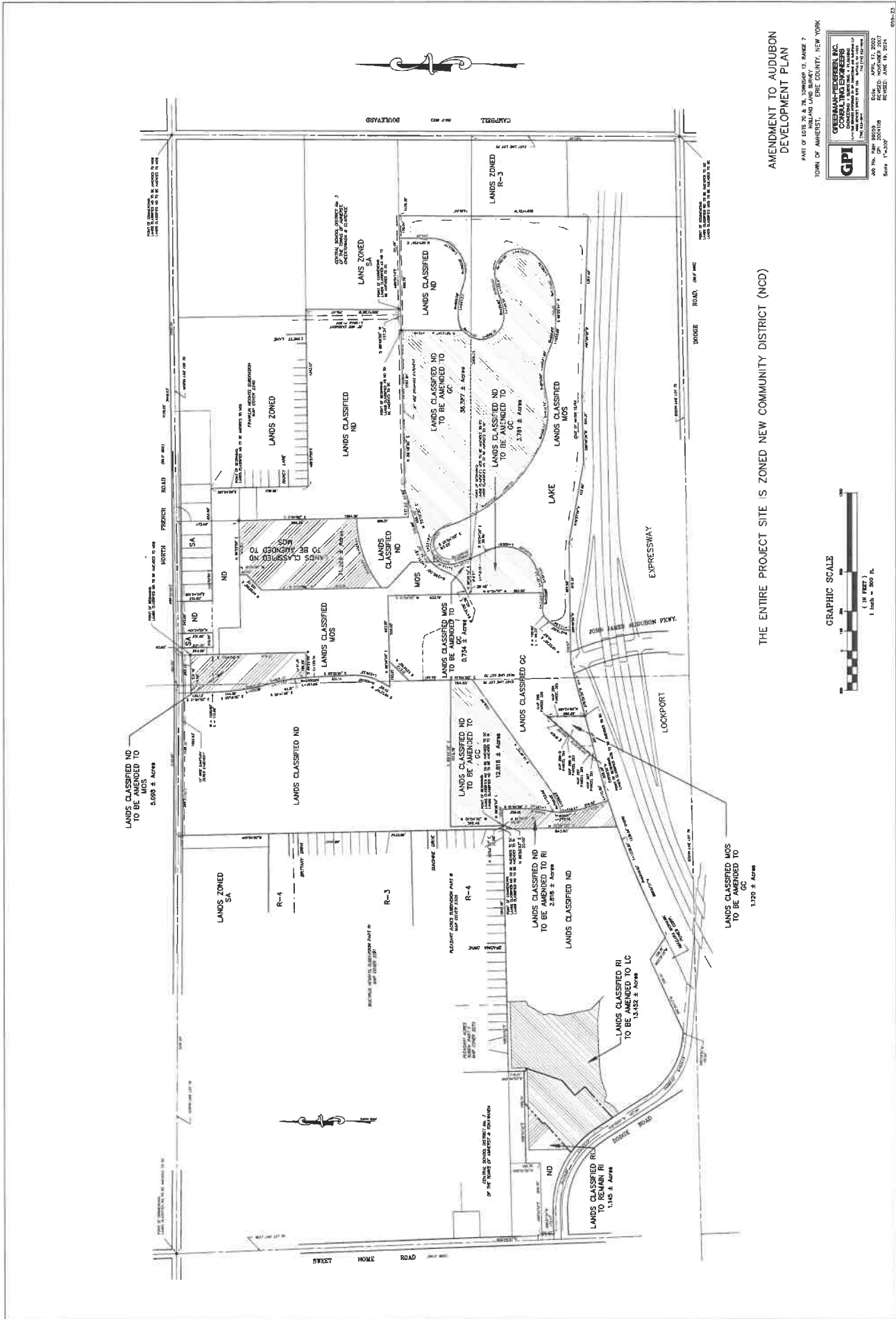
Sean W. Hopkins, Esq.



B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	NYS Heritage Areas:West Erie Canal Corridor
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 - Wetlands Name]	Federal Waters, NYS Wetland
E.2.h.iv [Surface Water Features - Wetlands Size]	NYS Wetland (in acres):34.6
E.2.h.iv [Surface Water Features - DEC Wetlands Number]	TE-33
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	No

E.2.k. [500 Year Floodplain]	Yes
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	No
E.2.p. [Rare Plants or Animals]	Yes
E.2.p. [Rare Plants or Animals - Name]	Spiny Softshell
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]	Yes - Digital mapping data for archaeological site boundaries are not available. Refer to EAF Workbook.
E.3.e.ii [National or State Register of Historic Places or State Eligible Sites - Name]	Eligible property:Heritage Heights Elementary School
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

**Exhibit 4 – Survey of 50 Dodge Road as
prepared by Mark Andrews of GPI Engineering
& Surveying**



THE ENTIRE PROJECT SITE IS ZONED NEW COMMUNITY DISTRICT (NCD)

AMENDMENT TO AUDUBON DEVELOPMENT PLAN

PART OF LOT 26 & 27, TOWNSHIP 13, RANGE 7
HOLLAND LAND SURVEY,
TOWN OF AUDUBON, ERIE COUNTY, NEW YORK

GPI
GREENMAN-PEERSON INC.
CONSULTING ENGINEERS
100 WEST 17TH STREET, SUITE 200
NEW YORK, NY 10011
TEL: 212-512-2000
FAX: 212-512-2001
WWW.GPI-INC.COM
REVISED: JUNE 19, 2014
SCALE: 1"=500'



**Exhibit 5 – Legal Description of Portion of
50 Dodge Road to be Reclassified from NCD–RI to
NCD–LC as prepared by Mark Andrews of
GPI Engineering & Surveying**

EXHIBIT 5

**LEGAL DESCRIPTION OF PROPERTY TO BE RECLASSIFIED FROM NCD-RI TO
NCD-LC**

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie, State of New York, being part of Lot 76, Township 12, Range 7 of the Holland Land Company's Survey, bounded and described as follows.

COMMENCING at the southwest corner of lands shown on a map of Pleasant Acres Subdivision Part II filed in the Erie County Clerk's Office under Map Cover 2273;

THENCE: N-88°-55'-52"-E along the south line of said Map Cover 2273 and partly along the south line of lands shown on a map of Pleasant Acres Subdivision Part III filed in the Erie County Clerk's Office under Map Cover 2305, a distance of 530.61 feet to a point;

THENCE: Through the lands conveyed to Ciminelli Muir Woods LLC by deed recorded in the Erie County Clerk's Office in Liber 11307 of Deeds at page 4915, the following sixteen (16) courses and distances:

- 1) S-01°-04'-08"-E, a distance of 25 feet to the POINT OF BEGINNING;
- 2) S-01°-04'-08"-E, a distance of 120.35 feet to a point;
- 3) S-64°-48'-00"-W, a distance of 35.05 feet to a point;
- 4) S-29°-42'-37"-W, a distance of 141.03 feet to a point;
- 5) S-10°-07'-24"-E, a distance of 43.27 feet to a point;
- 6) S-11°-02'-55"-W, a distance of 83.05 feet to a point;
- 7) S-11°-56'-26"-E, a distance of 236.39 feet to a point;
- 8) S-45°-19'-36"-E, a distance of 99.81 feet to a point;
- 9) N-83°-38'-15"-W, a distance of 172.76 feet to a point;
- 10) S-87°-22'-49"-W, a distance of 322.92 feet to a point;
- 11) S-83°-36'-25"-W, a distance of 105.17 feet to a point;
- 12) S-71°-08'-13"-W, a distance of 128.98 feet to a point;
- 13) N-67°-53'-17"-W, a distance of 50.93 feet to a point;
- 14) S-23°-50'-17"-W, a distance of 47.47 feet to a point;
- 15) S-39°-43'-51"-W, a distance of 50.80 feet to a point;
- 16) S-57°-29'-39"-W, a distance of 52.30 feet to a point on the northeast line of Dodge Road Relocation;

THENCE: N-32°-30'-21"-W and along the northeasterly line of Dodge Road Relocation a distance of 198.87 feet to a point of curvature;

THENCE: Northwesterly, along the northeasterly line of Dodge Road Relocation on a curve to the left having a radius of 724.00 feet, an arc distance of 272.06 to a point;

THENCE: Through the lands conveyed to Ciminelli Muir Woods LLC by deed recorded in the Erie County Clerk's Office in Liber 11307 of Deeds at page 4915, the following six (6) courses

and distances:

- 1) N-48°-24'-26"-E a distance of 302.13 feet to a point;
- 2) N-41°-35'-34"-W a distance of 14.00 feet to a point;
- 3) N-48°-24'-26"-E a distance of 173.12 feet to a point;
- 4) N-88°-55'-52"-E a distance of 296.93 feet to a point;
- 5) N-02°-04'-03"-W a distance of 118.24 feet to a point;
- 6) N-88°-55'-52"-E a distance of 505.17 feet to a point the POINT or PLACE of BEGINNING, having an area of 13.461 acres be the same more or less.

**Exhibit 6 – Responses to Questions 11A and 11B of
the Application to Amend the Findings Statement and
to Amend the Comprehensive Plan & Reclassify a
Portion of 50 Dodge Road from NCD-RI to NCD-LC**

EXHIBIT 6

**APPLICATION TO AMEND
FINDINGS STATEMENT AND RECLASSIFY PORTION OF
50 DODGE ROAD FROM NCD-RI TO NCD-LC**

Question 11(A): **Description of the character of the proposed development:**

Response to

Question 11(A): The updated layout of the proposed mixed-use project is depicted on the full- size copy of the Overall Site Plan [Drawing C-100 – Date: 06/20/24] for the proposed mixed-use project on Site A of the Muir Woods property prepared by Carmina Wood Morris DPC attached to this Application. A reduced size copy of the Overall Site Plan is also provided at Exhibit “9” of this Application. The project layout has been updated to add a climate controlled self-story building on the western portion of the Project Site.

The residential density of the project has been reduced to 207 units. The action has been defined with the Part 1 of the Full EAF, a copy of which is provided at Exhibit “3” broadly as follows: “All required discretionary approvals and permits as well as all site improvements including the proposed mixed-use and residential buildings, a climate controlled storage buildings, driveway connections, access aisles, parking spaces, driveways, wetland impacts, lighting, landscaping, an on-site storm water management improvements, sanitary sewer and water lines and connections and all other required utility improvements. The project purpose is to develop Site "A" of overall Muir Woods Project Site as a mixed-use project in a manner consistent with the Overall Site Plan for the project prepared by Carmina Wood Morris DPC prepared by Carmina Wood Design. The project is a Type I action pursuant to SEQRA and the Town Board issued an Amended Findings Statement pursuant to SEQRA on September 27, 2021. The proposed use is consistent with the Town's adopted Comprehensive Plan.”

Question 11(B)(1): Rationale for rezoning request: 1. Why was this site chosen?

Response to Question 11(B)(1): The reclassification of a portion of 50 Dodge Road is being sought to ensure that the residential components of the Project Site will be located on property to be classified NCD-ND. Within Section 5-2-5 of the Zoning Code, the language states that the NCD-ND classification is intended to include primarily residential areas designed to provide living space for families and individuals and that ancillary uses designed to conveniently serve residents may be located within them. Section 5-2-5 of the Zoning Code also states that the NCD-NC classification includes:

- Residences and dwelling units of every type, except as otherwise specified in this subsection. In developing a balanced community the use of a variety housing types, styles and construction methods shall be deemed most in keeping with this Section.
- Small convenience retail and service facilities, except for automobile drive-in restaurants, and ancillary office facilities designed to serve the needs of residents of the neighborhood.

Question 11(B)(2): Why cannot land be used with the existing zoning?

Response to

Question 11(B)(2): Not applicable. The Project Sponsor is not seeking to amend the zoning classification of the Project Site.

Question 11(B)(3): How will this rezoning impact surrounding properties?

Response to

Question 11(B)(3): Not applicable. The Project Sponsor is not seeking to amend the zoning classification of the Project Site. The Project Sponsor believes the proposed development of Site “A” of the Muir Woods property as a mixed-use project per the updated layout will not have any potentially significant adverse impacts on surrounding properties and also that the proposed use is dramatically more compatible with nearby land use than the originally proposed flex/office space and research and development use.

Question 11(B)(4): How will this rezoning impact the school system?

Response to

Question 11(B)(4): The proposed mixed-use project will have positive impacts that will benefit the Sweet Home Central School District since the mixed-use project will generate substantial annual property taxes.

**Exhibit 7 – Responses to Questions 16A, 16C, 16D and
16E of the Application to Amend the Findings
Statement & Reclassify a Portion of 50 Dodge Road
from NCD-RI to NCD-LC**

EXHIBIT 7

**APPLICATION TO AMEND THE FINDINGS STATEMENT
AND RECLASSIFY PORTION OF 50 DODGE ROAD FROM
NCD-RI TO NCD-LC**

Question 16(A)(1): **State in detail why the proposed zoning is consistent with the adopted Town of Amherst Bicentennial Comprehensive Plan. Cite specific sections, maps and/or figures in the plan that support the proposed zoning at this location.**

Response to

Question 16(A)(1): During its meeting on October 19, 2020, the Town Board adopted Resolution 2020-792 for the purpose of approving an amendment to the Comprehensive Plan to designate Site A as appropriate for a mixed-use residential/commercial use instead of the previously proposed flex office/R&D buildings. The proposed mixed-use project is clearly consistent with the adopted Comprehensive Plan including Figure 6, which designates the Project Site as appropriate for “Commercial/Mixed Use”. A color copy of Figure 6 is provided at Exhibit “17”. Figure 21 of the Comprehensive Plan which is titled “University Focal Planning Area – Concept Plan” designates the Project Site as appropriate for “Commercial/Mixed Use. A copy of Figure 21 of the Comprehensive Plan is provided at Exhibit “18”.

Question 16(A)(2): **Cite all text, map, and/or figures that must be amended to support the proposed zoning at this location and provide detailed suggested amendments.**

Response to

Question 16(A)(2): The Project Sponsor is not seeking to amend the adopted Comprehensive Plan in connection with the updated layout for the mixed-use project.

Question 16(A)(3): State why the proposed zoning is consistent with intent and objectives (Sec. 1-2-2) of the Zoning Ordinance:

Response to

Question 16(A)(3): Not applicable. The Project Sponsor is not seeking to amend the zoning classification of the Project Site. Nonetheless, the requested amendment of the Findings Statement issued by the Town Board on October 19, 2020 is consistent with the intent and objectives of the Zoning Code for the reasons stated below.

Section 1-2-1 of the Zoning Code is titled “Purpose” and it states as follows:

“The purpose of this Zoning Ordinance and the intent of the legislative authority in its adoption is to promote the environment of the town and its public health, safety, convenience, comfort, prosperity and the general welfare by regulating the use of buildings, other structures and land for residences, open space, public facilities, business, services, industry or other purposes; by regulating and restricting the bulk, height, design, building coverage and location of structures; by regulating and limiting population density; and for the aforesaid purposes, to divide the land within the limits of the town into districts of such number and dimensions generally consistent with the policies of the Comprehensive Plan and to provide procedures for the administration and amendment of said Zoning Ordinance.”

The proposed development of the Project Site as mixed-use project is consistent with the “Purpose” of the Zoning Code. Section 1-2-2 of the Zoning Code sets forth the objectives of the Zoning Code. This section of the Zoning Code lists thirteen (13) objectives that are discussed below as follows:

- A. To protect the character and values of residential, institutional and public uses, business, commercial and manufacturing uses and to insure their orderly and beneficial development;**

Response: The proposed mixed-use project will be consistent with the objective of protecting the character and value of existing land uses. The proposed mixed-use project has been carefully designed to reduce previously authorized wetland impacts and to

include a mixture of uses in a pedestrian friendly environment and as such represents orderly and beneficial development.

B. To provide adequate open spaces for light, air and outdoor uses to include public, common and private open space areas;

Response: The proposed mixed use project is consistent with this objective. The Project Site will include permanent open space and a portion of the recreational trail on the overall Muir Woods property that will connect to the Town's nearby recreational trail that connects to the UB North Campus.

C. To prevent overcrowding of land;

Response: The proposed mixed-use project will not result in the overcrowding of land.

D. To prevent excessive concentration of population and to prevent sparse and uncoordinated development;

Response: The proposed mixed-use project will not result in excessive concentration of population. The proposed mixed-use project does not represent an example of uncoordinated development.

E. To regulate and control the location and spacing of buildings on the lot and in relation to the surrounding property generally consistent with the policies of the Comprehensive Plan.

Response: The proposed mixed-use project has been carefully designed to be consistent with the policies of the Comprehensive Plan.

F. To protect persons and property from damage and injury due to fire or flood;

Response: A SWPPP with Engineer's Report prepared by Carmina Wood Design was previously submitted for review and approval by the Town's Engineering Department. The mixed-use project will not increase the likelihood of damage and injury due to fire and flood. The proposed project will be constructed per the stringent requirements of the NYS Building Code including the fire safety standards contained therein.

G. To preserve and protect significant natural features and vegetation, thereby preventing ecological damage and visual blight which occur when those features or vegetation are eliminated or substantially altered to serve development purposes only.

Response: The proposed mixed-use project will not be inconsistent with this objective.

H. To assure that structure and land use arrangements are aesthetically harmonious with nearby areas and structures.

Response: The development of the Project Site in a manner consistent with the updated Site Plan will be aesthetically harmonious with nearby areas and structures.

I. To regulate the location of buildings and intensity of uses in relation to streets according to plans so as to cause the least interference with and be damaged least by traffic movements and hence result in lessened street congestion and improved public safety.

Response: The proposed mixed-use project will not result in any potentially significant traffic impacts as confirmed by the updated Traffic Impact Study prepared by Passero Associates.

J. To establish zoning patterns that insure economical extensions for sewers, water supply waste disposal and other public utilities, as well as development of recreation, schools and other public facilities;

Response: The Project Site has access to sanitary sewer and water lines as well as necessary public utilities.

K. To guide the future development of the town so as to being the gradual conformity of land, structures and uses generally consistent with the policies of the Comprehensive Plan.

Response: The proposed mixed-use project is consistent with this objective since the project is generally consistent with the policies in the Comprehensive Plan.

L. To accomplish the specific intents and goals set forth in the introduction to the respective sections.

Response: The proposed mixed-use project is consistent with this objective.

M. To protect the community from visual pollution resulting from the unregulated use of signs and other advertising devices.

Response: The proposed mixed-use project will not be inconsistent with this objective.

Question 16(C): **Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood:**

Response to

Question 16(C): The proposed mixed-use project will be compatible with the present zoning and conforming uses of nearby properties and the character of the neighborhood. There are a mixture of land uses on parcels with varying zoning classifications in the vicinity of the Project Site. The nearby land uses include residential uses in the Bucyrus Heights Subdivision to the north of a portion of the Project Site, the Lockwood Villas apartment project on Sweet Home Road directly north of a portion of the Project Site, Heritage Heights Elementary School on Sweet Home Road, and office buildings on property at the southeast corner of Dodge Road and Sweet Home Road.

Question 16(D): **Suitability of the subject property for uses permitted by the current versus the proposed district:**

Response to

Question 16(D): The Project Site is more suitable for the proposed mixed-use project than the previously proposed flex office and research and development buildings.

Question 16(E): **Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town:**

Response to

Question 16(D): The proposed mixed-use project will improve the balance of uses in the Town and will meet a specific demand for mixed-use living environments featuring integrated residential and commercial uses in a pedestrian friendly environment.

**Exhibit 8 – Amended Findings Statement issued by
the Town of Amherst Town Board on
September 27, 2021**



Town of Amherst

Brian J. Kulpa
Town Supervisor

AMENDMENT #51 TO THE AUDUBON DEVELOPMENT PLAN
TO RECLASSIFY A PORTION OF 326± ACRES OF LAND
FROM NCD-ND & NCD-MOS to NCD-GC, NCD-RI & NCD-MOS
1081 & 1121 North French Road
(Z-9-02)

CERTIFICATION OF AMENDED FINDINGS

Having considered the Draft and Final Generic EIS documents, and having considered the preceding written facts and conclusions relied upon to meet the requirements of 6 NYCRR 617, this Amended Statement of Findings certifies that:

1. The requirements of 6 NYCRR Part 617 have been met;
2. Consistent with the social, economic and other essential considerations from among the reasonable alternatives thereto, the action **approved** is one which minimizes or avoids adverse environmental effects to the maximum extent practicable; including the effects disclosed in the Generic Environmental Impact Statements, and the Application to Amend the Findings Statement, and
3. Consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the Environmental Impact Statement process and the Second Application to Amend the Findings Statement will be minimized or avoided by incorporating as conditions to the decision those mitigative measures which were identified as practicable.

TOWN OF AMHERST

Name of Agency

Signature of Responsible Official

BRIAN J. KULPA

Name of Responsible Official

TOWN SUPERVISOR

Title of Responsible Official

September 27, 2021

Date

5583 MAIN STREET, WILLIAMSVILLE, NY 14221

Address of Agency

Certification of Amended Findings
Amendment #51 to the Audubon Development Plan (Z-9-02)

RESOLUTION

WHEREAS, following the April 16, 2004 submittal of a Draft Generic Environmental Impact Statement (DGEIS) prepared by Ciminelli Development Company, Inc., the DGEIS was accepted by the Town Board on September 7, 2004. The DGEIS was submitted for the proposed rezoning from NCD-ND & NCD-MOS to NCD-GC, NCD-RI & NCD-MOS and development of 326± acres of land located at 1081 & 1121 North French Road. On October 28, 2004, the Planning Board held a public hearing on the DGEIS and rezoning request and recommended approval of the subject petition. Subsequently, a public hearing on the DGEIS and rezoning request was held by the Town Board on March 2, 2005. A Final Generic Environmental Impact Statement (FGEIS) was accepted by the Town Board on November 5, 2007, and a Notice of Completion of the FGEIS was filed on November 14, 2007; and

WHEREAS, the Planning Board and the Town Board have considered the content of the DGEIS, the FGEIS, and all other documents and comments and submissions made during and after the hearings.

WHEREAS, on February 18, 2014, the Project Sponsor submitted an Application to Amend the Findings Statement and Audubon Development Plan along with supporting documentation. The Planning Board held a public hearing on the Application during its meeting on March 14, 2014 and it recommended approval of the Application. On June 16, 2014, the Town Board held a public hearing on the Application but did not issue a decision on the Application.

WHEREAS, on August 17, 2015, the Project Sponsor submitted an Amended Application to Amend the Findings Statement and Audubon Development Plan for the purpose of modifying the Application filed on February 18, 2014.

WHEREAS, the Planning Board held a public hearing on the Amended Application during its meeting on September 17, 2015 and the Planning Board recommended in favor of the Application. On November 16, 2015, the Town Board held a public hearing on the Application. On December 7, 2015, the Town Board voted to issue an Amended Findings Statement based on its determination that the potential modifications to the Muir Woods Project will not result in any potentially significant adverse environmental impacts that were not thoroughly evaluated in connection with the comprehensive environmental review of the Project that concluded with the original issuance of a Findings Statement on December 17, 2007.

WHEREAS, the Planning Board conducted a coordinated environmental review of the development of Sites C and D of the overall Project Site as a 133 lot residential subdivision. On September 14, 2017, the Planning Board issued a negative declaration pursuant to SEQRA for the subdivision based on its determination that the subdivision would not result in any potentially significant adverse environmental impacts.

Certification of Amended Findings
Amendment #51 to the Audubon Development Plan (Z-9-02)

WHEREAS, on April 15, 2019, the Project Sponsor submitted an Application to Amend the Findings Statement and Audubon Development Plan along with supporting documentation. The requested amendment of the Findings Statement issued by the Town Board on December 17, 2017 was to allow student housing to be developed on Site B of the overall Muir Woods Project Site (“Application to Amend the Findings Statement”). The Planning Board held public hearings on the Application to Amend the Findings Statement during its meeting on May 16, 2019 and June 20, 2019 it adopted a resolution recommended approval of the Application to Amend the Findings Statement during its meeting on June 20, 2019.

WHEREAS, on August 5, 2019, the Town Board held a public hearing on the Application to Amend the Findings Statement. On August 5, 2019, the Town Board voted three to one to amend the Findings Statement based on its determination that the potential modifications to the Muir Woods Project will not result in any potentially significant adverse environmental impacts that were not thoroughly evaluated in connection with the previous comprehensive environmental review of the Project that concluded with the issuance of a Findings Statement on December 7, 2007 and the issuance of an Amended Findings Statement on December 7, 2015.

WHEREAS, on June 24, 2020, the Project Sponsor submitted an Application to Amend the Findings Statement issued by the Town Board on December 17, 2017 and to Amend the Comprehensive Plan for Site A of the Muir Woods Project to allow a mixed-use project to be developed on Site A of the overall Muir Woods Project Site (hereinafter collectively the “Application to Amend the Findings Statement”). The Planning Board held a public hearing on the Application to Amend the Findings Statement during its meeting on August 20, 2020 and at the same meeting adopted a resolution recommending approval of the Application to Amend the Findings Statement by the Town Board.

WHEREAS, on October 6, 2020, the Town Board held a public hearing on the Application to Amend the Findings Statement. On October 19, 2020, the Town Board voted to issue the Amended Findings Statement based on its determination that the potential modifications to the Muir Woods Project will not result in any potentially significant adverse environmental impacts that were not thoroughly evaluated in connection with the previous comprehensive environmental review of the Project that concluded with the issuance of a Findings Statement on December 7, 2007, and the issuance of an Amended Findings Statements on December 7, 2015 and August 5, 2019.

WHEREAS, on July 7, 2021, Sawyers Landing LLC submitted an Application to Amend the Findings Statement issued by the Town Board on October 19, 2020 in order to seek to increase the allowable residential density from 202 units to 258 units. The Planning Board held a public hearing on the Application to Amend the Findings Statement during its meeting on August 19, 2021 and at the same meeting adopted a resolution recommending approval of the Application to Amend the Findings Statement by the Town Board.

Certification of Amended Findings
Amendment #51 to the Audubon Development Plan (Z-9-02)

WHEREAS, on September 27 2021, the Town Board held a public hearing on the Application to Amend the Findings Statement. On September 27 2021, the Town Board voted to issue the Amended Findings Statement based on its determination that the potential modifications to the Muir Woods Project will not result in any potentially significant adverse environmental impacts that were not thoroughly evaluated in connection with the previous comprehensive environmental review of the Project that concluded with the issuance of a Findings Statement on December 7, 2007, and the issuance of an Amended Findings Statements on December 7, 2015 and August 5, 2019 and October 19, 2020.

NOW THEREFORE THE TOWN BOARD FINDS AND DETERMINES THAT:

1. These Amended Findings set forth specific conditions and criteria consistent with 6 NYCRR Sections 617.7, 617.9, 617.11, and 617.12 under which the site plan process can proceed. This process provides procedures to supplement the FGEIS if necessary and for public notice and opportunity to participate in hearings before the Town Planning Board before it approves a site plan. An Environmental Assessment Form will be required with site plan application for environmental review. If the proposed development does not conform with these Amended Findings, a Supplemental Findings Statement, a supplement to the FGEIS, or a Negative Declaration shall be prepared to comply with 6 NYCRR Section 617.9.
2. The proposed mixed-use, student housing and residential development as presented in the FGEIS and the Application to Amend the Findings Statement submitted to the Planning Department on July 6, 2021 is consistent with the intent and objectives of the Zoning Ordinance.
3. Adequate services and utilities must be available prior to occupancy. Review and approval of services and utilities by the Town agencies will be required for site plan approval.
4. Development will be consistent with all other applicable laws, rules and regulations.
5. As provided in 6NYCRR Part 617.10, the Town Board chose to require the preparation of a draft Generic Environmental Impact Statement (DGEIS) instead of a draft Environmental Impact Statement (DEIS) for this project. This decision was based on the scope and timetable of the development described by the Project Sponsor and depicted in the Conceptual Master Plan, which showed a multi-use development on 330± acres of land, to be built out over a 15-20 year period. The Board's decision is also based on the following reasons:
 - A DGEIS provides a lead agency with the framework for properly evaluating a conceptual master plan while identifying the important elements of the environmental setting associated with the project site. A DGEIS assesses a

Certification of Amended Findings
Amendment #51 to the Audubon Development Plan (Z-9-02)

broad scope of a group of actions or a combination of effects from a single action.

- The utilization of a DGEIS provides the Town Board with the authority to establish specific criteria and thresholds by which future actions such as site plan and subdivision applications will be reviewed, including requirements for ensuring subsequent compliance with SEQR.
 - The Town Board's decision to require the Project Sponsor to prepare a DGEIS acknowledges that the specific layout and appearance of the development cannot be determined at this time but rather will be decided over a period of several years and subject to market demands, and the development of the project will occur in stages.
 - The SEQR regulations state that a DGEIS is appropriate for a series or sequence of separate actions and/or projects that have wide application or restrict the range of future alternative policies.
 - The Town Board's utilization of a DGEIS affords it the opportunity to evaluate a broad range of anticipated impacts, and it also ensures that related actions will not be segmented in order to avoid the required analysis of the proposed development of the overall project site.
6. By the time the Findings Statement was issued by the Town Board on December 17, 2007, the proposed Muir Woods development had been significantly revised since its initial submittal in 2002, resulting in a reduction in the commercial/office component of the project from 1.8± million sq. ft. to 700,000± sq. ft. and in the residential component from 200± units to 136± units. These changes were made in response to the NYS Department of Environmental Conservation, the U.S. Army Corps of Engineers and the public to minimize impacts to wetland areas to the greatest extent possible.

Following the issuance of the Findings Statement by the Town Board on December 17, 2007, the Project Sponsor obtained the required wetland permits from the New York State Department of Environmental Conservation and the United State Army Corps of Engineers. In an effort to address current market needs while maintaining the intent of the project site New Community District zoning, the Project Sponsor submitted an Application to Amend the Findings Statement in February of 2014 to expand the range of uses within Site B of the project site to specifically allow for multi-family housing in addition to the previously approved office/retail development.

Based on input received during the review of the Application to Amend the Findings Statement to allow for multi-family housing on Site B, the Project Sponsor submitted an Amended Application to Amend the Findings Statement and Audubon Development Plan on August 17, 2015 for the purpose of modifying the Application filed on February 18, 2014. The Amended Application proposed to modify the permitted use of the eastern portion of Site B, comprised of approximately 26 acres. Pursuant to the updated Application, the western

Certification of Amended Findings
Amendment #51 to the Audubon Development Plan (Z-9-02)

portion of Site B comprised of approximately 20 acres would have remained designated for commercial office and retail development per the Finding Statement issued by the Town Board on December 17, 2007.

Subsequent to the issuance of an Amended Findings Statement by the Town Board on December 7, 2015, the Project Sponsor sought the required approvals and permits for the development of Sites C and D of the Project Site as a 133 lot residential subdivision that includes a roadway connection to Campbell Boulevard on 520 Campbell Boulevard. The Planning Board thoroughly considered the potential adverse environmental impacts associated with the subdivision and issued a negative declaration pursuant to SEQR on September 14, 2017 based on its determination that the 133 lot residential subdivision on Sites C and D would not result in any potentially significant adverse environmental impacts. On September 14, 2017, the Planning Board granted Site Plan Approval for the subdivision, and on June 21, 2018 granted Final Plat Approval for the subdivision. A map cover for the approved 133 residential subdivision was filed with the Erie County Clerk's Office on July 24, 2018, and construction activities in furtherance of the construction of the subdivision began in the fall of 2018.

Following the issuance of the Amended Findings Statement by the Town Board on December 7, 2015, the Project Sponsor sought and obtained extensions of the expiration dates of the wetland permits previously issued by the New York State Department of Environmental Conservation and the United States Army Corps of Engineers.

In an effort to allow student housing to be developed on Site B while maintaining the intent of the New Community District zoning, the Project Sponsor submitted an Application to Amend the Findings Statement on April 15, 2019. The Project Sponsor sought an Amendment of the Findings Statement to expand the range of uses within Site B of the project site to specifically allow for student housing in addition to the previously approved multifamily housing on the western 20± acres of Site B and the previously approved office/retail development on the eastern portion of Site B.

In an effort to allow a mixed-use project to be developed on Site A while maintaining the intent of the New Community District zoning, the Project Sponsor submitted an Application to Amend the Findings Statement and the adopted Comprehensive Plan on June 24, 2020. The Project Sponsor sought an Amendment of the Findings Statement to modify the land use category within Site A of the project site to replace the previously proposed 237,000 sq. ft. maximum Flex office/R&D use with a mixed-use development including 2 four-story mixed-use buildings along the Dodge Road frontage of Site A, 45 two-family townhomes and 2 six-unit single-story multifamily buildings. The Project Sponsor sought to amend the Comprehensive Plan to designate Site A as appropriate for Mixed Residential use. In connection with the proposed mixed-

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use development of Site A, the Project Sponsor proposed to reduce previously approved impacts to the federal wetlands subject to the jurisdiction of the United States Army Corps of Engineers ("USACE") and also to the NYSDEC Freshwater Wetland and its regulated 100 ft. Adjacent Area.

On August 20, 2020, the Planning Board held public hearings in connection with its review of the Application to Amend the Findings Statement and the Comprehensive Plan as filed by the Project Sponsor on June 24, 2020. The Planning Board adopted resolutions during its meeting on August 20, 2020 by unanimous votes recommending that the Town Board issue the Amended Findings Statement and amend the Comprehensive Plan to designate Site A as appropriate for Mixed Residential use.

On October 6, 2020, the Town Board held public hearings in connection with its review of the Application to Amend the Findings Statement and the Comprehensive Plan as filed by the Project Sponsor on June 24, 2020. On October 19, 2020, the Town Board adopted Resolution 2020-791 for the purpose of issuing an Amended Findings Statement to allow Site A of the Muir Woods Property to be developed as a mixed-use residential/commercial project instead of the previously proposed flex office/R&D buildings. Resolution 2020-791 as adopted by the Town Board on October 6, 2020 also authorized the acquisition of approximately 43 acres of Permanent Open Space via a donation by the property owner consisting of property to the west of Site B including the eastern portion of Site A consisting of approximately 9.81 acres of wetlands subject to the jurisdiction of both the NYSDEC and USACE. During its meeting on October 19, 2020, the Town Board also adopted Resolution 2020-792 for the purpose of approving an amendment to the Comprehensive Plan to designate Site A as appropriate for a mixed-use residential/commercial use instead of the previously proposed flex office/R&D buildings

On December 24, 2020, the New York State Department of Environmental Conservation ("NYSDEC") issued an Amended Wetland Permit [Permit No. 9-1422-00398/0001] authorizing the impacts to NYSDEC Freshwater Wetlands and the associated regulated 100 ft. Adjacent Area in order to accommodate the mixed-use development of Site "A". The Amended Wetland Permit reduced the impacts to jurisdictional freshwater wetlands associated with the development of Site A from 9.46 acres to 1.2 acres and reduced the impacts with the development of Site A to the regulated 100 ft. wide adjacent area from 4.2 acres to 3.65 acres.

As a result of the Amended Wetland Permit issued by the NYSDEC on December 24, 2020, the development of the Muir Woods Property will result in permanent impacts to approximately 2.39 acres of State regulated wetlands (TE-22, TE-23 and TE-34), and 11.38 acres of State regulated 100 foot wide wetland adjacent area. As mitigation for those impacts the Project Sponsor is required to create 19.58 acres of in-kind and out-of-kind wetlands on the overall Muir Woods

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Property, in six areas, to replace the functions and benefits of the impacted wetlands. Additionally, there will be 4.3 acres of stream channel enhancement on-site as mitigation for State wetland regulated adjacent area impacts.

On February 25, 2021, the United States Army Corps of Engineers (“USACE”) issued an Amended Wetland Permit [LRB-2001-00067] authorizing impacts to 6.09 acres of federal wetlands, which was a reduction of 6.92 acres of previously authorized impact of 13.01 acre to federal wetlands, in order to accommodate the mixed-use project on Site A.

On July 7, 2021, Sawyers Landing LLC filed an Application to Amend the Findings Statement to accommodate an increase of the allowable density of the residential component of the mixed-use project on Site A from 202 units to 258 units.

7. A Supplemental GEIS, an option that the SEQR regulations leaves to the discretion of the Lead Agency, was not required for this project due to the Town Board’s decision that the reduction in the project described in #6, above did not meet the criteria set forth in 6NYCRR Part 617.9(a)(7). Although the changes proposed by the Project Sponsor reduced the development significantly, it was not determined that the amended project would encroach on any land not initially identified in the scope of the original development proposal. The project changes also did not result in newly discovered information, and would not result in any significant environmental impacts not addressed or inadequately addressed in the DGEIS.

8. Traffic and Transportation (FGEIS Section 2.1)

Site specific requirements shall be established by the Town, County and State, as appropriate, as development applications are reviewed. The developer shall be responsible for any traffic mitigation required for development of the project site.

The potential traffic impacts associated with the original project proposal were clearly analyzed and identified within the Traffic Impact Study prepared by Stantec Consulting Services, Inc. dated March 2003 and updated August of 2005 in association with the acceptance of the FGEIS.

The Amended Findings Statement issued by the Town Board on August 5, 2019 included the consideration of adding student housing to the authorized uses of Site B pursuant to the Amended Findings Statement issued by the Town Board on December 17, 2007. The Project Sponsor submitted a Traffic Impact Study for the purpose of evaluating the potential traffic impacts of the development of Site B as a maximum of 515 student housing units. It was determined that the potential traffic impacts associated with student housing on Site B will be less than the potential traffic impacts of the development of Site B in its entirety as a

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maximum of 464,850 sq. ft. of commercial office and retail development pursuant to the Findings Statement issued by the Town Board on December 17, 2007.

The Town Board, as Lead Agency, requires that the Project Sponsor comply with the following mitigation measures during the development of the project site:

A. Provision for Future Extension of John James Audubon Parkway to North French Road

The extension of John James Audubon Parkway through the project site and connecting to North French Road was proposed in the initial Concept Plan submitted for the Muir Woods project in 2002. This proposal was also incorporated into the DGEIS submitted to the Town in 2004. The connection was removed from the Concept Plan in response to the requirement from the NYS Department of Environmental Conservation to further reduce impacts to State and federal wetlands. The Town of Amherst may in the future be interested in the possibility of a future northerly extension of John James Audubon Parkway to North French Road while acknowledging such possible future extension would require approvals from both the NYS Department of Environmental Conservation and the United States Army Corps of Engineers.

The rationale for the road connection was found in several planning documents, both historical and recent:

- The Amherst Community Development Plan adopted by the Planning Board in 1975 includes the extension of the then-planned Lockport Expressway through the subject site as a future Minor Arterial road.
- A report prepared by NYSDOT in 1976 anticipated the extension of the John James Audubon Parkway and forecast its use by 1,950 vehicles per hour.
- The Amherst Bicentennial Comprehensive Plan, accepted by the Town Board in February 2004 and adopted by the Town Board in January 2007, identifies the "Audubon Parkway Extension" in the map showing the Future Thoroughfare System.

The 30+ years of anticipating this roadway connection point to its significance in meeting the transportation goal of improving circulation within the Town and the role this connection would play in overall Town development. Given its importance, the Town Board is requiring that the future location of this connector be shown on site plans submitted for review, and that sufficient land be reserved by the Project Sponsor for the eventual connection to be constructed. The road construction and alignment will be subject to approval by the NYSDEC and the U.S. Army Corps of Engineers, as applicable.

B. Residential Connection to Lynette Lane

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The residential component of the proposed Muir Woods development to occur on Sites C & D may have a direct road connection to Lynette Lane. There will be no direct roadway connection to Nancy Lane. Non-residential traffic will be discouraged from using Lynette Lane through the implementation of various traffic calming measures to be proposed during the site plan review process for the development of Sites C & D, subject to review of such traffic calming measures by the Town Traffic-Safety Board and Fire Chief's Association. These measures include:

1. The lack of direct sight lines for motorists to discourage non-residential traffic from utilizing Lynette Lane to access North French Road;
2. Curvilinear road design; and
3. Installation of signage posting the road for "resident and emergency traffic only" or other such measure to prohibit non-residential traffic from travelling on Lynette Lane and the proposed public roadways within the existing residential subdivision;

If a problem is determined to exist based on the Phase 2 traffic study, further measures to discourage traffic of prohibit cut-through traffic will be considered.

C. No Internal Roadway Connection to Dodge Road

The internal connector road within the Muir Woods development is not proposed to have a westerly connection to Dodge Road; the only direct vehicular connection to Dodge Road will be from the portion of the project located in the western portion of the project site (Site A). If warranted at some future time by a traffic analysis, a connection to Dodge Road may be made from the internal connector road if required permits for such a roadway connection can be obtained from the NYSDEC and the US Army Corps of Engineers.

D. Updated Traffic Impact Study

The Traffic Impact Study will be updated when any of three established thresholds are met:

1. Completion of Phase I development, defined as full build-out of Site B, or
2. prior to approval of any site plan in Site C or Site D or any direct or indirect connection to any of the Sites with Lynette Lane, or
3. when the number of combined vehicular trips entering and exiting the site during the AM weekday peak travel hour reaches 858 trips, or

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4. when the number of combined vehicular trips entering and exiting the site during the PM weekday peak travel hour reaches 774 trips.

If actual conditions exceed projections, this will be reflected in the updated TIS to be prepared by the Project Sponsor, and the Project Sponsor may be required to implement traffic related mitigation measure sooner than expected.

Any mitigation measures, including off-site mitigation measures that are required as a result of the updated TIS, shall be the sole obligation of the Project Sponsor, if approved. Any off-site improvements, including the acquisition of private property required to make those improvements, shall be conditions of any site plan approval and treated as Public Improvement Permits (PIPs) for the purpose of final permitting. At no time shall the Town be required to make any off-site improvements or acquire private property, either by purchase or through its eminent domain powers, to mitigate the impact of this development project.

E. Alternate Access to Campbell Boulevard

During the original environmental review of the proposed project which concluded with the Town Board's issuance of a Findings Statement on December 17, 2007, the Project Sponsor attempted to seek a vehicular connection from the site to Campbell Boulevard through property located at 520 Campbell Boulevard which is owned by the Williamsville Central School District. The Town also participated in efforts to obtain access to Campbell Boulevard via this property. These attempts were not successful.

The Project Sponsor eventually was successful in acquiring 520 Campbell Boulevard from the Williamsville Central School District on December 5, 2017 and the approved 133 residential subdivision on Sites C and D includes a public roadway connection on 520 Campbell Boulevard to Campbell Boulevard.

F. Construction Vehicles

As part of the public comment period for the project, concerns were raised regarding the use of construction vehicles on existing residential streets in the adjacent Franklin Heights Subdivision to access the project site during project construction. In order to avoid the adverse environmental impacts associated with construction vehicles, existing residential streets shall not be utilized by construction vehicles to access the project site. The infrastructure to be constructed for the project shall be appropriately sequenced so that construction vehicles can access the site via the northerly extension of John James Audubon Parkway and Doge Road only.

Any future builder, owner or developer who purchases lots for development within Site C & D shall be prohibited from using Lynette Lane as a means of

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access for construction vehicles. A deed restriction incorporating this restriction shall be a prerequisite of the sale of any lots within Sites C and D, and the Town shall be provided with a copy of the recorded deed restriction, which shall not be recorded at the Erie County Clerk's Office until the content and form of the deed restriction has been reviewed and approved by the Building Department and Town Attorney's Office.

On June 21, 2018, a Declaration of Restrictions was recorded at the Erie County Clerk's Office (Liber 11330 of Deeds at Page 8243) for the purpose of complying with the relevant portion of the Amended Findings Statement prohibiting construction vehicles from utilizing Lynette Lane for access by construction vehicles.

G. Break in Access for Connection to Lockport Expressway (I-990)

The proposed northerly extension of John James Audubon Parkway as a Town roadway to provide access to the project site requires a break in access to the Lockport Expressway (I-990). The NYSDOT has been aware of this requirement since the initial petition by the Project Sponsor in 2002. Prior to the granting of the break in access, several conditions must be met, including completion of any required environmental compliance. Once completed and inspected, the Project Sponsor will be required to dedicate the northern extension of John James Audubon Parkway to the Town for permanent use as a public roadway to be dedicated to the Town of Amherst.

On May 20, 2019, the Town Board adopted a resolution stating the Town will serve as the applicant for the required Break-in-Access for the proposed northerly extension of John James Audubon Parkway as a public roadway to be dedicated to the Town of Amherst.

The Town filed an Application for Break-in-Access with the New York State Department of Transportation on August 21, 2019. The NYSDOT has not yet issued a decision on the pending request for Break-in-Access approval.

The Break-in-Access for the proposed northerly extension of John James Audubon Parkway as a public roadway to be dedicated to the Town of Amherst will result in numerous public benefits including, but not limited to, accommodating the potential future extension of the NFTA light rail and a terminus for such light rail on Site B, publicly accessible parking for a recreational trail that will cross the overall Muir Woods Project Site and connect to the Town's recreational trail (extending from Niagara Falls Boulevard to the trailhead near the intersection of North Forest Road and Maple Road), and a potential future extension of John James Audubon Parkway as a public roadway connecting to North French Road.

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H. Traffic Mitigation Measures

Dodge Road / Project Site Roadway

Phase I development:

- Installation of a stop sign to the southbound (site driveway) approach
- Construction of one shared left-right turn lane for southbound site driveway approach

Full development:

- No additional improvements

John James Audubon Parkway / I-990 Ramps

Phase I development:

Upon the completion of Phase I development, (Phase I development defined in Section 8, Part D.1. of this Amended Findings Statement) the Project Sponsor shall be required to provide a current trip count Report for both the a.m. and p.m. peak travel hours. Subject to the findings of a warrant analysis prepared in accordance with appropriate traffic engineering standards as determined by the updated trip count Report and based on an analysis of the potential impacts upon existing Levels of Service at this intersection, the Project Sponsor may be required to work with the New York State Department of Transportation to provide the following mitigation measures:

- Installation of traffic signals, each with their own controller, at both the northbound and southbound I-990 to John James Audubon Parkway
- Installation of a wire connection between these two new signals and the existing traffic signal at John James Audubon Parkway and Dodge Road in order to coordinate all three traffic signals
- Widening of both the northbound and southbound I-990 off-ramps to provide one additional turning lane on each ramp approach to John James Audubon Parkway

Full development: If any of the thresholds identified in 'D' above are met, the following improvements will be evaluated and may be required:

- installation of a third lane to the northbound off-ramp in order to provide two left turn lanes and one right turn lane
- add a free-flow southbound right turn lane at the southbound ramp, including a second receiving lane on the ramp to merge to one lane prior to the I-990 mainline

Dodge Road / John James Audubon Parkway

Phase I development:

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- Traffic signal timings will need to be adjusted periodically over time as warranted by changing travel patterns

Full development:

- Construction of a westbound right turn lane. It is anticipated that this improvement will be required when approximately 75% of the development is complete or when the number of westbound right turning vehicles from Dodge Road exceeds 300 vehicles per hour during the morning peak travel period.

North French Road / Sweet Home Road

Phase I development:

- Adjustments to traffic signal timing as travel patterns warrant modification

Full Development:

- Construction of an eastbound right turn lane. Traffic volumes turning right at this location currently exceed guidelines recommended in the Highway Capacity Manual for consideration of installing a separate right turn lane. While construction of this lane is currently warranted to address current existing traffic operations in the area, it will not be needed as a result of traffic to be generated by the proposed development of the project site until approximately 90% of the proposed development has been completed, since new traffic projected to be generated by the project will only add a few additional vehicular trips to this traffic movement.
- Modify signal timings during both the morning and evening peak hours, as necessary. Recent improvements to this intersection to provide protected phasing for the left turns will reduce the number of left turn accidents at this location. Additionally, future planned improvements to be implemented by Erie County will assist in further reductions in the number of accidents at this intersection.

North French Road / Campbell Boulevard

Phase I development

- Adjustments to traffic signal timing as travel patterns warrant modification

Full development:

- Add protected/permitted phasing for eastbound, northbound and southbound left turns when the traffic signal is upgraded in association with the improvement identified above.

North French Road / I-990 Ramps
Dodge Road / Sweet Home Road
Dodge Road / Campbell Boulevard

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be 4.3 acres of stream channel enhancement on-site (totaling approximately 2,630 linear feet).

- The development of the eastern portion of Site B for residential purposes, shall not include any owner occupied housing units within the State regulated wetland or the 100 ft. regulated Adjacent Area that do not involve oversight by either a homeowners or condominium association to ensure there will not be any impacts into the 100 ft. regulated wetland Adjacent Area that is to be preserved on Site B.

Federal Wetlands:

As stated in its letter dated August 27, 2007, the United States Army Corps of Engineers (USACE) has field verified that the federal wetland boundaries located on the Muir Woods project site as shown on the wetland delineation map prepared by Greenman-Pedersen, Inc. dated May 2007 are accurate. The wetland areas were delineated by Earth Dimensions, Inc. and summarized in a final wetland delineation report dated May 16, 2007.

The Project Sponsor provided a complete Joint Application For Permit for wetland impacts associated with the project to the USACE and NYSDEC as of June, 2009. After thoroughly reviewing the complete application and associated wetland impacts, the USACE issued a Validated Department of the Army Permit for wetland impacts associated with the project as of May, 2012. Additionally, having thoroughly reviewed the complete application and associated wetland impacts, the NYSDEC officially issued a Freshwater Wetland Permit and Water Quality Certification for wetland impacts associated with the project as of November, 2009.

On May 14, 2012, the United States Army Corps of Engineers (“USACE”) issued Department of Army Permit No. 2001-00067. The permit issued by the USACE permitted to impact 17.83 acres of Federal wetland, and 1.29 acres (approximately 5227 linear feet) of jurisdictional tributaries for the construction of Muir Woods project. On May 6, 2016, the USACE extended the permit expiration dated from May 14, 2012 to November 30, 2019. The USACE issued a modification of Permit No. 2001-00067 on June 20, 2018 in connection with the development of Sites “C” and “D” as a residential subdivision. On January 16, 2019, the USACE extended the expiration date of Department of Army Permit No. 2001-00067 to November 30, 2024.

On February 25, 2021, the United States Army Corps of Engineers (“USACE”) issued an Amended Wetland Permit [LRB-2001-00067] authorizing impacts to 6.089 acres of federal wetlands, which was a reduction of 6.921 acres of previously authorized impact of 13.01 acre to federal wetlands, in order to accommodate the mixed-use project on Site A.

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10. Wildlife / Biological Resources (FGEIS Section 2.3)

The NYSDEC's Natural Heritage Program has reported no record of known occurrences of rare or state-listed animals or plants, significant natural communities, or other significant habitats, on or in the immediate vicinity of the project site. The Project Sponsor will be required to implement the following mitigation measures in order to minimize impacts to wildlife resources to the maximum extent practicable:

- A comprehensive erosion control plan will be developed and implemented to protect vegetation and water quality.
- Off-limit areas, including wetlands, will be delineated prior to construction to avoid or minimize impacts to vegetation. The construction workforce will be educated as to respecting and adhering to physical boundaries of off-limit areas.
- Best Management Practices will be followed during construction.
- The establishment of invasive vegetative species will be deterred through manual extraction and rapid establishment of desirable vegetation. Exposed and disturbed soils will be seeded, planted and mulched to prevent the colonization of invasive species. Volume 8 of the Appendix of the FGEIS at Exhibit F (*SJWPA Appendix M*) contains a discussion of the proposed on-site wetland mitigation including the protection of habitat areas.
- Waterfowl activity will be deterred in the off-site wetland mitigation area located in the Town of Newstead through the use of mylar tape, snow fencing, 4-7 ft. tree plantings and the seeding of upland grassland areas with a cool season grass.
- The proposed on-site wetland mitigation system will be designed to provide seasonal aquatic habitat for fish, waterfowl and amphibians; habitat for multiple covertypes of wetland plant species; and passerine bird nesting, feeding and resting habitat.
- The project site historically has had an elevated number of deer-vehicle accidents on the roads surrounding the parcel. This parcel is a portion of a much larger habitat area which also includes Nature View Park to the north and is not a "closed" habitat area. The Planning Department, in conjunction with the Police Department, will continue to monitor the deer population throughout the Town and implement approved methods of reducing deer/vehicle accidents in accordance with the Deer-Vehicle Accident Management Plan.

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11. Drainage and Flooding (FGEIS Section 2.4)

The following measures shall be implemented by the Project Sponsor to mitigate drainage and flooding impacts to the maximum extent practicable:

- A. The Town Highway Department shall have access to all Town ditches that are on the subject property including Town ditches 4, 4A, 4B and 4C. The Project Sponsor will be required to grant public easements to the Town to these ditches to ensure their proper maintenance. No aspect of the Muir Woods development will inhibit access to Town ditches or create undue burden to the Town for restoration of easement property used to access Town ditches. On June 28, 2018, the Project Sponsor recorded a Permanent Access and Drainage Easement at the Erie County Clerk's Office (Liber 11331 of Deeds at Page 1521) for the purpose of granting the Town an easement to access town ditches and stormwater management facilities on the Project Site including the existing lake.
- B. The project site and the surrounding vicinity are known as locations for high amounts of beaver and mosquito activity. Access to the Town Highway Department for control of this activity in Town ditches or other areas of the development shall be provided.
- C. The Project Sponsor shall be responsible for cleaning and debrising of all Town ditches located on the project site during the initial construction phases of the project. The Project Sponsor will also be responsible for long-term maintenance of stream/drainage features and detention/stormwater basins; for maintenance of on-site wetland mitigation areas during the monitoring period; and for the construction of all drainage improvements required for development of the project site.
- D. The Project Sponsor shall be required to construct any ponds and sand filters required stormwater quality treatment. All ponds and sand filters to be constructed on the project site will be privately owned and maintained, with public drainage easement to be granted by the Project Sponsor to allow Town to properly maintain the inlet and outlet pipes of any wet ponds.
- E. All stormwater runoff will be treated to standards approved by the Town Engineering Department prior to discharging into the existing lake on the project site or Town ditches. No additional detention is being proposed for the Muir Woods development for stormwater quantity control.

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- F. All buildings in the west portion of the Muir Woods site located within the Ellicott Creek flood plain will be at a minimum elevation of 576.0 feet, or one foot above the base flood elevation as determined by the Town Building Commissioner.

As development is proposed, specific drainage plans will be reviewed and approved by the Town Highway and Engineering Departments and the NYS Department of Environmental Conservation/US Army Corps of Engineers during site plan review, to ensure there is no adverse impact to the Ellicott Creek Flood Control system.

- G. Upon development, the existing 32± acre lake in the southeast portion of the project site will be maintained with a normal lake level of 569.55 feet. The existing 42-inch CMP outlet at the west end of the lake will remain as it is. All stormwater from the east side of the development around the lake will pass through a stormwater quality treatment facility consistent with the NYS Stormwater Management Design Manual and Phase II Stormwater SPDES requirements prior to entering the lake. This system currently designed as sand filters may evolve into wet ponds, bio-retention filters, and/or other acceptable practices under the Design Manual and SPDES requirements.
- H. Backyard runoff from proposed residential units will be separated from wetland mitigation areas and wetlands either by a ditch or rear yard drains to preclude pollution of those areas by lawn chemicals, per NYSDEC letter dated October 26, 2007.
- I. A detailed Stormwater Pollution Prevention Plan (SWPPP), including a Sediment and Erosion Control Plan, for the various phases of the project including any related on-site drainage areas shall be submitted as specific site plans are submitted for review. The Stormwater Pollution Prevention Plan for each phase of the project will need to be reviewed and approved by the Town's Engineering Department.
- J. The Project Sponsor shall be required to comply with the findings and recommendations of the Preliminary Drainage report prepared by Greenman-Pedersen, Inc. in August 2007 and any updated reports during the course of development.
- K. The Project Sponsor will provide backyard drainage for the existing homes that are directly adjacent to the portions of the project site that will be developed for residential use. This requirement pertains to Sites and D. Additional drainage improvements for the areas along the rear yards of the homeowners on Nancy Lane will also be installed by the Project Sponsor. The drainage pipe to be installed in the rear yards of the new residential

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units that will be integrated with the new drainage swale behind the residents of Nancy Lane will be a minimum diameter of 12 inches.

12. Character and Quality of Life Issues (FGEIS Section 2.5)

A. Setbacks

On those portions of the project site where commercial or student housing development will be directly adjacent to existing residential areas (i.e. Bucyrus Heights), setbacks will retain existing vegetation to a depth that provides an adequate buffer. The following minimum setbacks will be required:

- The planting of additional trees and shrubs by the Project Sponsor within the minimum setback area may be required to supplement the existing vegetation in order to provide adequate buffers.
- A combination of earthen berms and new vegetation will be required in those portions of the minimum setback area where there is not sufficient existing vegetation to provide an adequate buffer. The minimum height at the top of berms shall be three feet, and the maximum slope shall be 1 on 3 (33%) to promote the growth and long-term viability of trees and shrubs planted on the berms. Berms should have a natural appearance by varying their width and height.
- Site A (western portion of the project site) – This portion of the project site will be utilized for mixed-use; a portion of Site A is located directly south of the Bucyrus Heights subdivision.
 - 25 ft. minimum building setback from residential lot line for single-story residential buildings.
 - 90 ft. minimum building setback from residential lot line for attached and detached two-family townhome style units.
 - 250 ft. minimum building setback from residential lot line for four-story mixed use buildings.
 - 250 ft. minimum building setback from residential lot line for four-story multifamily building.
 - 60 ft. parking setback from residential lot line
- Site B (center portion of site) – This portion of the project site will be developed around the extended John James Audubon Parkway as a

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public roadway to be dedicated to the Town of Amherst. Site B will be developed as student housing or for the land uses permitted pursuant to the Amended Findings Statement issued by the Town Board on December 17, 2015. The following setback standards apply to the development of Site B:

- 60 ft. building setback from residential lot line. If the height of any proposed buildings exceeds 50 feet, the required minimum building setback shall be equal to the height of the proposed building.
- 90 ft. parking setback to residential lot line

B. Building Height

The following maximum building heights will be observed for the proposed development:

- Site A (western portion of the project site) – This portion of the project site will be the location of mixed-use and residential buildings and a portion of Site A is located directly south of the Bucyrus Heights subdivision.
 - Maximum building height for mixed-use and multifamily buildings shall be four-stories and 55 ft. as measured from the finished grade to the top of any parapet (excluding any rooftop mechanical equipment). All mechanical equipment shall be properly screened in accordance with the standards contained in the Zoning Code adopted by the Town Board in May of 2006.
 - Maximum height of any residential buildings within 90 ft. of a residential lot shall be 25 ft.
- Site B (center portion of the project site) – This site will be developed around the extended John James Audubon Parkway as a public roadway to be dedicated to the Town of Amherst. Site B will be developed as student housing or Site B will be developed as permitted to the Amended Findings Statement issued by the Town Board on December 17, 2015.
 - There will not be a maximum height for buildings to be constructed on Site B. All buildings will be required to comply with a minimum required setback that shall be the greater of 50 feet or the height of the proposed building at the point of its maximum height (including rooftop mechanicals, etc.)

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13. Soil Stability and Foundation Issues (FGEIS Section 2.6)

The Geotechnical Engineering Report prepared by McMahon & Mann Consulting Engineers, P.C. dated June 2005 includes findings and foundation considerations for future construction of the various components of the project. The report is included in Volume 6, Appendix I of the FGEIS.

The Town shall not grant site plan, subdivision or Public Improvement Permit (PIP) approval for construction of any component of the project (buildings, parking areas or infrastructure) unless the identified limitations as discussed in the McMahon & Mann report are adequately accounted for. The applicant shall be required to provide documentation of site-specific soil characteristics and comply with all relevant Town building codes regarding soil conditions.

Additional mitigation measures to be undertaken by the Project Sponsor, subject to determination by the Building Department, may include:

- Perform individual soil borings for each proposed structure to accurately determine the specific geotechnical design perimeters.
- Take measures to control the moisture content of the soils outside the structure. These may include installation of an irrigation system that would maintain near-saturated conditions in the soil around the structure during dry summer months, and/or installation of an exterior vapor barrier that extends out away from the structure around the perimeter.
- Monitoring of soil moisture with supplemental foundation watering during dry months.
- Use of a lower allowable bearing pressure for design of the spread footings.
- Placement of a minimum of two continuous #5 horizontal longitudinal reinforcing bars in each of the following locations: in the footing, at the base of the foundation wall, and at the top of the foundation wall.
- Use of an isolation joint between the basement floor slab and the foundation wall.
- Installation of a quality vapor barrier under the basement floor slab.
- Installation of a foundation drain system designed so that the floor elevation of the sump is above the elevation of the bottom of the footing.

14. Economic Impacts (FGEIS Section 2.7)

All infrastructure required to support the development of the project site will be installed at the Project Sponsor's expense. Town-wide or localized special assessment districts (sewer, water, highway, etc.) are established so operating cost can be spread over many taxpayers who use specific services.

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According to the “Cost of Servicing/Revenues Generated Land Use Study” in December 2006 commissioned by the Amherst Industrial Development Agency, for every \$1.00 attributed to residential use, \$1.11 is expended in providing government services, while just \$0.48 is expended for commercial use and \$0.60 is expended for open land. As a predominantly commercial oriented mixed-use project, the estimated \$3,500,000 in yearly tax revenue (2007 estimated) to the Town at full build out projected to be generated by the project is expected to cover the cost of any additional services including police and fire protection, snow plowing, maintenance of roads, water and sewer infrastructure, ditches, etc.

An economic real estate study for the proposed Muir Woods project was completed by Northeast Appraisers in March, 2002 which analyzed residential demand and property values. A subsequent Economic Analysis was completed by Real Property Services, LLC in July 2006, which is included in Appendix K, Volume 8 of the FGEIS. The conclusions of those reports are:

- There will be no negative impact on the marketability or values of nearby existing housing. The project may potentially have a positive impact on surrounding residential property values due to increased demand on desirability to live in close proximity to the development.
- The proposed project development will add over \$70 million to the Town of Amherst tax base when completed, and generate over \$3.4 million in tax revenue per year at stabilized 2008 levels.
- Over the first 10 years of development, the project is projected to generate over \$21.4 million in tax revenue, as compared to total tax revenue of approximately \$260,000 that would be generated if the project site remains as vacant land over the same period.
- It appears that both the Sweet Home and Williamsville School Districts will be impacted minimally with regards to expenditures on a per student basis. This takes into account that more than 50% of the residential development will consist of patio homes, which primarily cater to “empty nesters” and typically generate less students per household.
- The competitive advantages of the project site which are expected to support strong market absorption include its direct interchange access from the Lockport Expressway (I-990) and the high visibility of the site from expressway traffic.

15. Noise and Light Issues (FGEIS Section 2.9)

Noise – It is anticipated that the project site will be built-out in stages over many years and, as such, there is a need to impose mitigation measure for noise from

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construction activities to minimize this identified adverse environmental impact to the maximum extent practicable. Both temporary and long terms noise impacts may result from the construction activities on the project site as well as from the proposed use of the project site.

Noise from construction-related activities, which will exceed local ambient levels for noise outside of structures, may cause some temporary annoyance to nearby residents. It is expected that this impact, caused by heavy equipment, construction vehicles and power tools, will continue throughout the duration of construction. In order to reduce this noise, the following measures will be undertaken by the Project Sponsor:

- Limit major construction activities to daytime hours
- Use of construction equipment with mufflers
- The preservation of existing vegetation to the greatest extent practicable will provide a noise barrier to existing residential areas.
- If blasting is required, the developer will follow all requirements of the Town Blasting Ordinance

Noise resulting from the occupation and usage of the buildings constructed on the project site can be expected to result in sound levels that are characteristic of suburban office and residential developments and should not be significant.

With the Lockport Expressway (I-990) forming the southern boundary of the project site, and its design as an elevated highway for a portion of this boundary, traffic is considered the largest source of existing noise. Levels from typical noise generators that may be expected to exist in the vicinity of the project site include:

Distant traffic (45 mph)	45 – 50 decibels
Passenger car pass-bys	70 decibels
Accelerating trucks	85 decibels
Distant aircraft noise	60 – 85 decibels

The Transportation Project Report for the Lockport Expressway evaluated the potential noise impacts of the entire I-990 project, including the interchange that will be improved in connection with the proposed project. A copy of the Noise & Air Pollution Study is found in Volume 6 of the Appendix of the DGEIS at Exhibit 30. In addition, there is not any development directly adjacent to the existing interchange that will be impacted by the proposed interchange improvements. To the south of the northbound off-ramp there are some residential units situated along Dodge Road. However, the planned improvements at the existing off-ramps will not result in a movement of traffic 50% or more closer to source receptors.

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Light – To mitigate the light spillage from exterior lighting on adjacent residential properties, especially the Bucyrus Heights neighborhood, the following measures will be implemented:

- Appropriately located lighting, downward-directed lighting fixtures or hooded lighting will be used to prevent off-site light spillage on adjacent residential areas. The light fixtures and their placement will follow all Town of Amherst code requirements for usage and design. The Town Zoning Code requires a lighting plan to be submitted during the site plan review process, and the standards contained in the relevant section of the Zoning Code regulate lighting spillover from commercial locations onto adjacent residential land uses.
- Screening of proposed commercial buildings and parking lots will be provided through the creation of berms or landscaping elements on the periphery of developed areas (see Section 10A above).

16. Open Space and Recreation (FGEIS Section 2.10)

The proposed internal trail system shall be installed (Sites C & D) of the “The Preserve at Muir Woods” development, provided it does not impact regulated wetlands or is permitted by permits issued by the NYSDEC and/or USACE. Public access to a portion of the existing lake will be provided. The majority of State Wetlands TE-22, TE-33, and TE-34 will remain as Major Open Space (MOS). As a result of the modifications to the project, approximately 224± acres of the project site will be preserved as open space.

The proposed recreational trail connecting sites A, B, C, and D of the Muir Woods Development shall connect to the Town’s existing trail system as shown in Figure 4 (Park, Open Space and Trail map) and Figure 2.1 (University Focal Planning Area Concept Plan) of the adopted Amherst Bicentennial Comprehensive Plan and shall be constructed by the Project Sponsor as part of the Muir Woods project. Each development site of the Muir Woods Development shall complete its portion of the trail system prior to the issuance of any certificate of occupancy by the Town of Amherst Building Department.

The Project Sponsor will work with the Town toward achieving the trail connections. An opportunity for a future multi-use trail connection northerly to Nature View Park shall be maintained in accordance with the Town Comprehensive Plan.

17. Other Issues (FGEIS Section 2.12)

A. Reclassification of Land

Certification of Amended Findings
Amendment #51 to the Audubon Development Plan (Z-9-02)

The entire project site is zoned New Community District (NCD), and no changes are proposed to remove the property from the NCD zoning district classification.

The original request by Ciminelli Development Company, Inc. in 2002 was to reclassify 326± acres of land from NCD-ND and NCD-MOS to NCD-GC, NCD-RI and NCD-MOS. This request was reviewed and commented on over a five year period. As a result of discussions with the NYS Department of Environmental Conservation during that time, the petitioner amended the original Muir Woods Concept Plan by reducing the overall development from 144 acres to 110 acres in order to minimize wetland impacts. In addition, the various components of the development were altered so that the proposed size of the commercial office/R&D space was reduced from 1.8 million sq. ft. to 700,000 sq. ft. The proposed “village center” originally envisioned was also eliminated. The result is a different land pattern from that initially proposed and one that is not consistent with the originally-requested reclassification districts.

The following additional steps shall be undertaken as part of the Findings for this project:

- The parcels to be reclassified to NCD-GC shall be deed restricted to prohibit the following uses:
 - Automobile sales and service facilities (except vehicles used primarily on the subject property)
 - veterinary clinics or kennels
 - gasoline service station will be prohibited around the existing lake

On June 21, 2018, a Declaration of Restrictions was recorded at the Erie County Clerk’s Office (Liber 11330 of Deeds at Page 8243) for the purpose of prohibiting the above described uses on the portion of the Project Site reclassified to NCD-GC.

- At the Town Board’s direction, the Town shall initiate a reclassification of the remainder of wetland areas contained in the original project proposal as Major Open Space (MOS).

B. Land Use

The proposed development will follow the program summarized below as depicted in the original Findings Statement concept plan for the project dated September 2007, as depicted in the Concept Plan for Site B dated August 14, 2015, as the Concept Plan for Site B dated April 2,

Certification of Amended Findings
Amendment #51 to the Audubon Development Plan (Z-9-02)

2019 showing a student housing project, or as the Concept Plan for Site A dated June 23, 2021 showing a mixed-use project:

Development Site	Land Use	Maximum Developed Area	Development Program
Site A	Mixed-Use	17.42 acres	Maximum of two mixed-use buildings with a maximum height of 60 ft. and maximum combined footprint of 50,000 sq. ft., one four-story multifamily building with a maximum height of 55 ft. (48 units), 49 two-family attached and detached townhomes (98 units) and 12 standalone apartments with attached garages and maximum height of 25 ft. The overall maximum allowed residential density on Site A is 258 units.
Site B (Option 1)	Class A Corporate office buildings	46 acres	Maximum of 464,850 sq. ft. of office/retail space
Site B (Option 2)	Residential/ Commercial	46 acres	Maximum of 192 residential units on the eastern portion of Site B (approximately 26 acres) and a maximum of 205,000 sq. ft. of office and commercial space on the western portion of Site B (approximately 20 acres)
Site B (Option 3)	Residential - Student housing	46 acres	Maximum of 515 student housing units
Sites C and D	Residential	37 acres	133 lot residential subdivision consisting of detached single-family homes on individual lots pursuant to the Map Cover filed at the Erie County Clerk's Office on July 24, 2018.

General components of the proposed development that will minimize adverse environmental impacts include:

- The maintenance of the remaining approximately 224± acres of the development site as permanent open space.
- Implementing a cluster pattern to maximize open space preservation.

C. Utility Infrastructure - In accordance with the October 17, 2007 letter received from the Erie County Department of Environment & Planning, all proposed sanitary sewer lines to be constructed to service both the residential and commercial portions of the project will be subject to review and approval by the Erie County Health Department. All systems installed or improved for the project will be undertaken by the Project Sponsor at its cost and will be required to meet all Town, County and State requirements.

Certification of Amended Findings
Amendment #51 to the Audubon Development Plan (Z-9-02)

- D. Archaeological/Cultural Resources – One prehistoric archaeological site was discovered on the project site, with a Stage 2 archaeological study determining that the identified prehistoric archaeological site did not meet the eligibility criteria for listing on the State or National Register of Historic Places. This finding was confirmed by the NYS Office of Parks, Recreation and Historic Preservation in its letter of October 10, 2001. No mitigation measures are needed for the subject development.
- E. Air Quality – Potential impacts to air quality resulting from fugitive dust generated during construction activities will be minimized by the following measures:
- seeding and/or mulching exposed soils as soon as practicable and in accordance with the requirements and applicable regulations promulgated by the NYSDEC
 - grading roadways and covering them with gravel during construction, periodically regarding, compacting and replacing gravel as necessary as determined by the Town
 - wetting down temporary roads to be constructed on the project site during construction of the build-out of the project as needed throughout the duration of construction activities and as determined by the Town.
- F. Condominium Designation - As originally proposed, the residential portion of the project was not to include the development of any units that will be filed as condominiums. The Project Sponsor previously offered to place a deed restriction to this affect as a condition of sale to any future builder, developer or owner of any lot on the subject site. On June 21, 2018, a Declaration of Restrictions was recorded at the Erie County Clerk's Office (Liber 11330 of Deeds at Page 8243) for the purpose of prohibiting the residential uses on the Project Site from utilizing the condominium form of ownership. The Project Sponsor is requesting that the Declaration of Restrictions be modified to allow the condominium form of ownership for the attached residential units to be developed on Site A.

18. Evaluation of Future Actions

In accordance with SEQR regulations, upon application to the Town for development of the project site that requires the submittal of an Environmental Assessment Form, the Town will be required to determine if the potential adverse environmental impacts associated with the development have been adequately identified and evaluated in the DGEIS, FGEIS, and this Amended Findings Statement, and whether the proposed development exceeds any of the thresholds and/or requirements contained in this

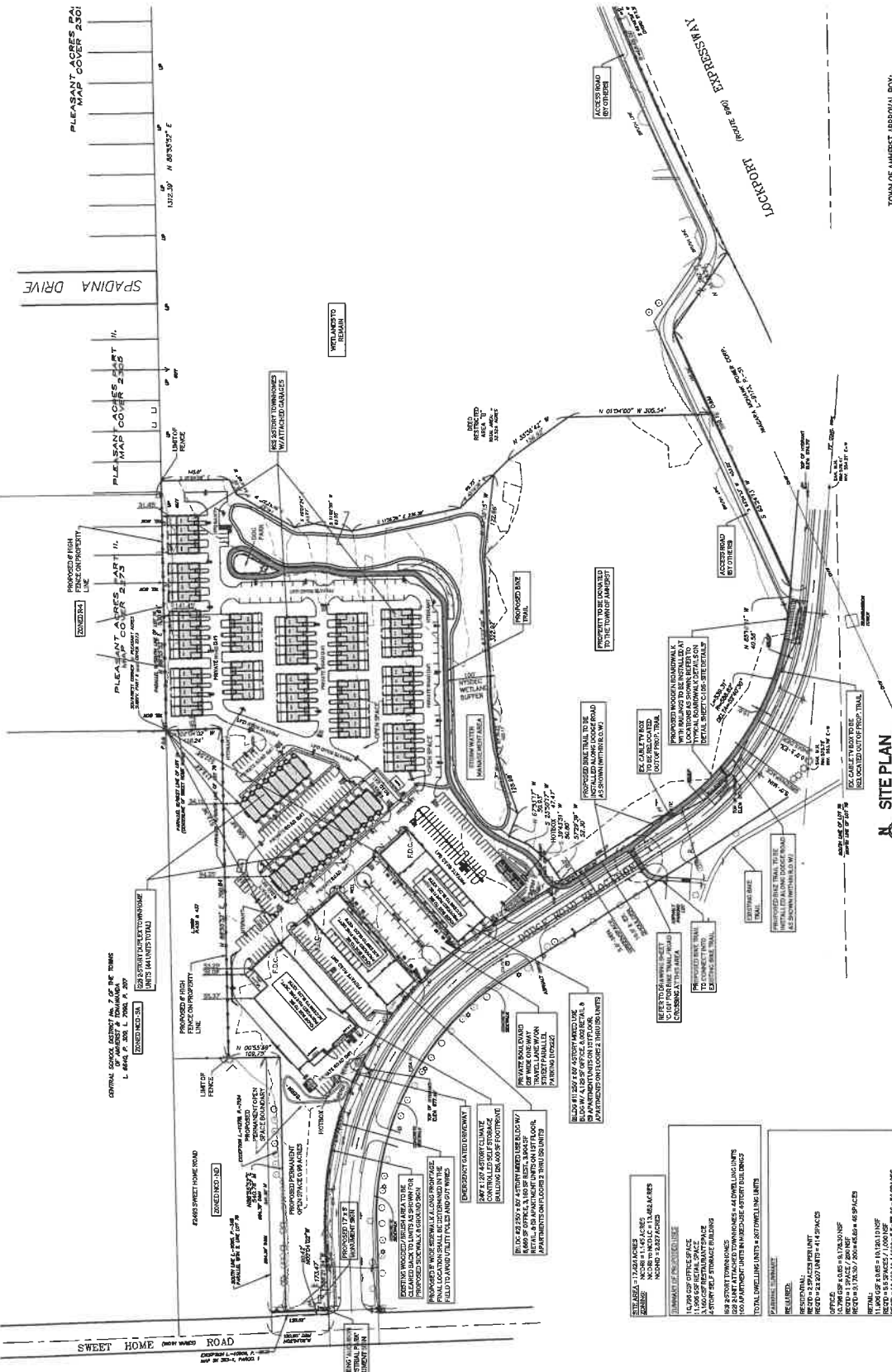
Certification of Amended Findings
Amendment #51 to the Audubon Development Plan (Z-9-02)

Findings Statement. This determination must be made by the Town prior to the issuance of any discretionary land use approvals by the Town for the proposed development.

The following scenarios are put forth in Section 617.10(c) & (d) of the SEQR regulations:

- A. If the Town determines that the proposed action is in conformance with the conditions and thresholds in the FGEIS or the Amended Findings Statement, then no further environmental review pursuant to SEQR will be required;
- B. If the Town determines that the proposed action is adequately addressed in the FGEIS, but is not addressed or not adequately addressed in the Amended Findings Statement, then an amendment to this Amended Findings Statement must be prepared;
- C. If the Town determines that the proposed action was not addressed, or was not adequately addressed, in the FGEIS, but it will not result in any significant environmental impacts, then a negative declaration must be prepared; or
- D. If the Town determines that the proposed action was not addressed, or was not adequately addressed, in the FGEIS, and the action may have one or more significant adverse environmental impacts, then a supplement to the FGEIS must be prepared.

**Exhibit 9 – Reduced Size Copy of Overall Site Plan
[Drawing C-100 – Date: 06/20/24] prepared by Carmina
Wood Design for the Mixed-Use Project at 50 Dodge
Road [Note: Full-Size copy also attached]**



N SITE PLAN
 SCALE: 1" = 100'

TOWN OF AMHERST APPROVAL BOX:

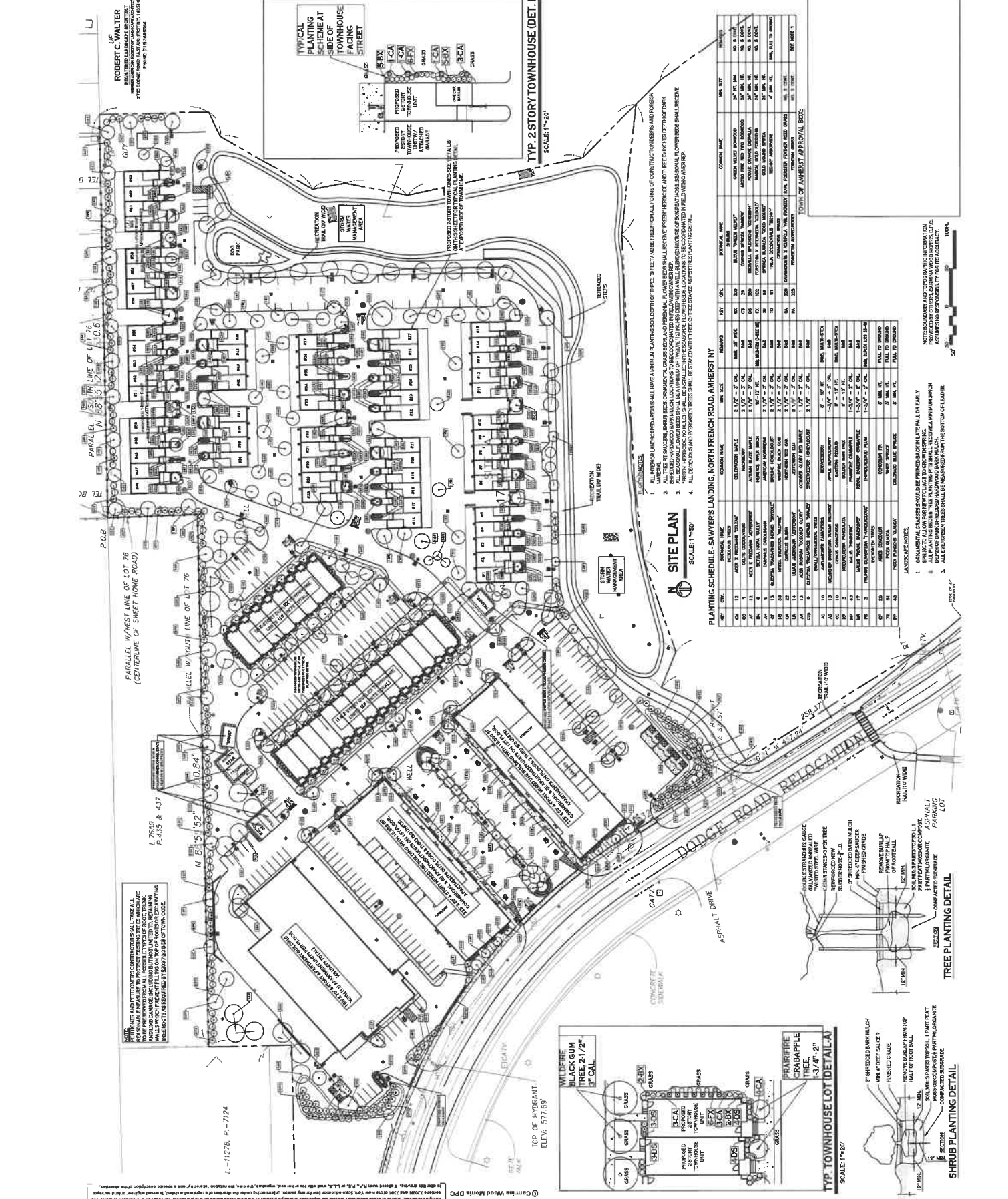
VEGETATION SUMMARY
 FORESTAL IMPACTS PROPOSED = 1000 AC
 FORESTAL IMPACTS PREVIOUSLY DISCLOSED = 4500 AC
 INTEREST IMPACTS PROPOSED = 120 AC
 INTEREST IMPACTS PREVIOUSLY DISCLOSED = 850 AC
 INTEREST BUFFER IMPACTS PROPOSED = 25 AC
 INTEREST BUFFER IMPACTS PREVIOUSLY DISCLOSED = 450 AC
 TOTAL IMPACTS = 1575 AC

VEGETATION SUMMARY
 FORESTAL IMPACTS PROPOSED = 1000 AC
 FORESTAL IMPACTS PREVIOUSLY DISCLOSED = 4500 AC
 INTEREST IMPACTS PROPOSED = 120 AC
 INTEREST IMPACTS PREVIOUSLY DISCLOSED = 850 AC
 INTEREST BUFFER IMPACTS PROPOSED = 25 AC
 INTEREST BUFFER IMPACTS PREVIOUSLY DISCLOSED = 450 AC
 TOTAL IMPACTS = 1575 AC

VEGETATION SUMMARY
 FORESTAL IMPACTS PROPOSED = 1000 AC
 FORESTAL IMPACTS PREVIOUSLY DISCLOSED = 4500 AC
 INTEREST IMPACTS PROPOSED = 120 AC
 INTEREST IMPACTS PREVIOUSLY DISCLOSED = 850 AC
 INTEREST BUFFER IMPACTS PROPOSED = 25 AC
 INTEREST BUFFER IMPACTS PREVIOUSLY DISCLOSED = 450 AC
 TOTAL IMPACTS = 1575 AC

All project plans shall be prepared in accordance with the provisions of the Uniform Land Use Review Procedure Act (ULURP) and the Uniform Statewide Planning and Zoning Act (USPA). The design professional shall be responsible for the accuracy of the information provided. The design professional shall be responsible for the accuracy of the information provided. The design professional shall be responsible for the accuracy of the information provided.

**Exhibit 9A – Reduced Size Copy of Site Plan
[Drawing C-100 – Date: 06/20/24] prepared by Carmina
Wood Design for the Mixed-Use Project at 50 Dodge
Road [Note: Full-Size copy also attached]**



ROBERT C. WALTER
 REGISTERED LANDSCAPE ARCHITECT
 2700 FORD ROAD, FARMINGTON, CT 06031
 PHONE: 860.271.0486

PLANTING SCHEDULE - SAWYERS LANDING, NORTH FRENCH ROAD, AMHERST, NY

REF.	QTY.	DESCRIPTION	PLANT SPEC.	CONTRACT TIME	CONTRACT TIME	CONTRACT TIME
01	10	PLANTING
02	10	PLANTING
03	10	PLANTING
04	10	PLANTING
05	10	PLANTING
06	10	PLANTING
07	10	PLANTING
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100	10	PLANTING

TYP. TOWNHOUSE LOT (DETAIL-A)
 SCALE: 1"=20'

SHRUB PLANTING DETAIL
 SCALE: 1"=20'

TREE PLANTING DETAIL
 SCALE: 1"=20'

LANDSCAPE NOTES:

- ORNAMENTAL GRASSES SHALL BE PLANTED IN LATE FALL OR EARLY WINTER.
- ALL PLANTING SHALL BE PERFORMED IN ACCORDANCE WITH THE AMERICAN STANDARD FOR TREE SPECIFICATION (ANSI Z60.1).
- ALL PLANTING SHALL BE PERFORMED IN ACCORDANCE WITH THE AMERICAN STANDARD FOR TREE SPECIFICATION (ANSI Z60.1).
- ALL PLANTING SHALL BE PERFORMED IN ACCORDANCE WITH THE AMERICAN STANDARD FOR TREE SPECIFICATION (ANSI Z60.1).

PROJECT NAME:
 Site Development plans for:
Sawyer's Landing
 Portion of 1081 North French Road
 Amherst, New York

DRAWING NAME:
 Landscape Plan

DRAWING NO.:
 L-100

PROJECT NO.:
 21.011

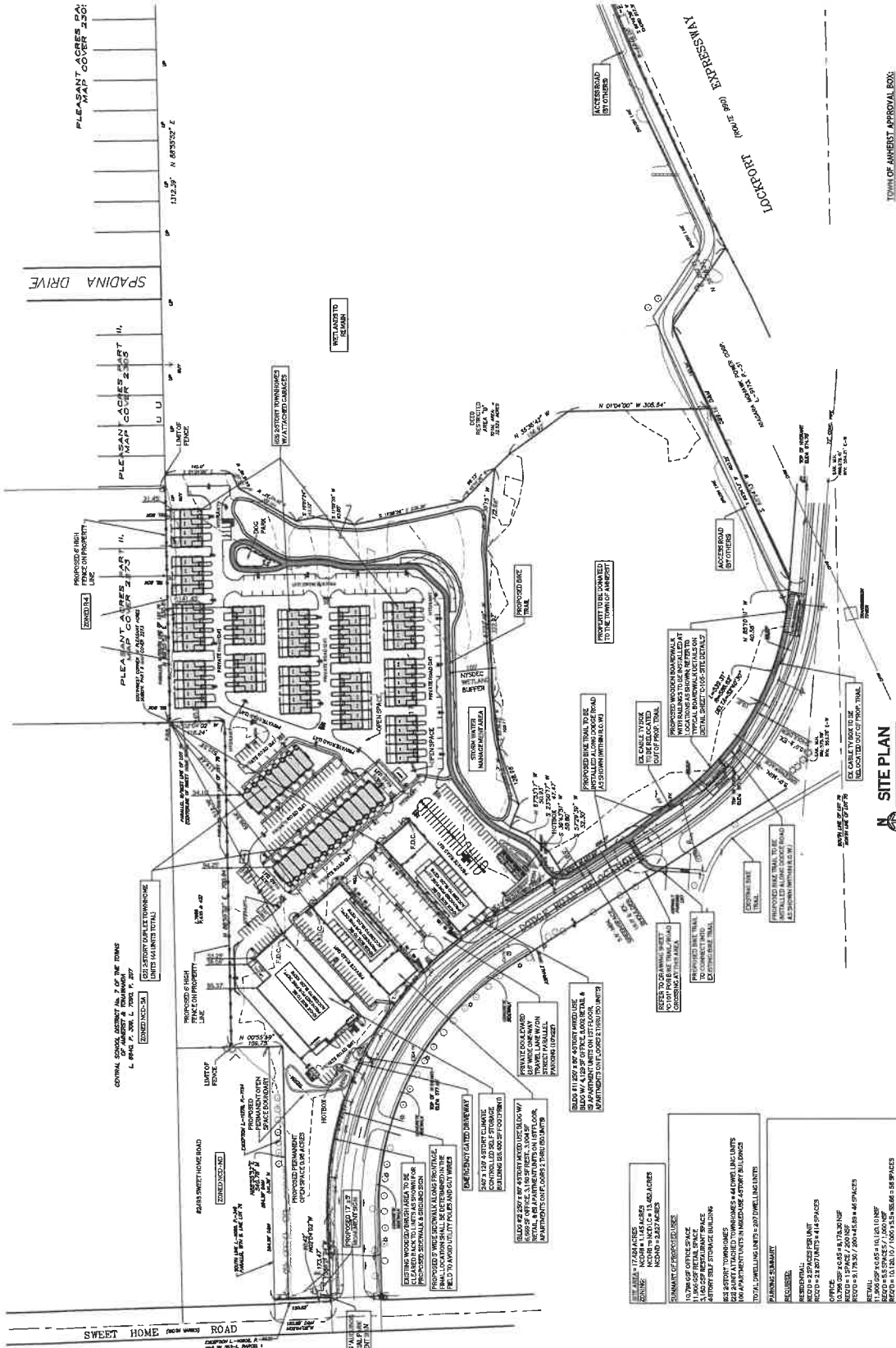
DATE:
 04/08/24

REVISIONS:
 No. Description Date
 1 Rev. per ECPV 03/28/24 Comments 04/08/24
 2 Rev. per Ryan Hennes Comments 04/08/24

SCALE:
 1"=20'

NOTES:
 1. ALL INTERIOR LANDSCAPED AREAS SHALL HAVE A MINIMUM PLANTING DEPTH OF THREE (3) FEET AND BE FREE FROM ALL FORMS OF CONSTRUCTION DEBRIS AND FOREIGN MATERIALS.
 2. ALL TREE PLANTING SHALL BE PERFORMED IN ACCORDANCE WITH THE AMERICAN STANDARD FOR TREE SPECIFICATION (ANSI Z60.1).
 3. ALL PLANTING SHALL BE PERFORMED IN ACCORDANCE WITH THE AMERICAN STANDARD FOR TREE SPECIFICATION (ANSI Z60.1).
 4. ALL PLANTING SHALL BE PERFORMED IN ACCORDANCE WITH THE AMERICAN STANDARD FOR TREE SPECIFICATION (ANSI Z60.1).

**Exhibit 9B – Reduced-Size Copy of Landscape Plan
[Drawing L-100 – Date: 06/20/24] prepared by Carmina
Wood Design for the Mixed-Use Project at 50 Dodge
Road [Note: Full-Size copy also attached]**



N SITE PLAN
 SCALE: 1" = 100'

TOWN OF AMHERST APPROVAL BOX:

DETAILED DESCRIPTION:
 ALL IMPROVEMENTS SHALL BE IN ACCORDANCE WITH THE TOWN OF AMHERST ZONING ORDINANCE AND THE TOWN OF AMHERST SUBDIVISION MAP ACT.
 ALL IMPROVEMENTS SHALL BE IN ACCORDANCE WITH THE TOWN OF AMHERST ZONING ORDINANCE AND THE TOWN OF AMHERST SUBDIVISION MAP ACT.
 ALL IMPROVEMENTS SHALL BE IN ACCORDANCE WITH THE TOWN OF AMHERST ZONING ORDINANCE AND THE TOWN OF AMHERST SUBDIVISION MAP ACT.

NOTE: SHOWN AND TYPICAL IMPROVEMENTS PROVIDED BY OTHERS, CARMINA WOOD MORRIS, P.C. ASSUMES NO RESPONSIBILITY FOR THIS ACCURACY.

PLANNING SUMMARY	PLANNING SUMMARY
TOTAL DWELLING UNITS = 207 DWELLING UNITS	TOTAL DWELLING UNITS = 207 DWELLING UNITS
TOTAL APARTMENT UNITS = 164 APARTMENT UNITS	TOTAL APARTMENT UNITS = 164 APARTMENT UNITS
TOTAL TOWNHOMES = 44 TOWNHOMES	TOTAL TOWNHOMES = 44 TOWNHOMES
TOTAL OFFICE SPACES = 10,000 SQ. FT.	TOTAL OFFICE SPACES = 10,000 SQ. FT.
TOTAL RETAIL SPACES = 10,000 SQ. FT.	TOTAL RETAIL SPACES = 10,000 SQ. FT.
TOTAL COMMERCIAL SPACES = 10,000 SQ. FT.	TOTAL COMMERCIAL SPACES = 10,000 SQ. FT.
TOTAL PARKING SPACES = 10,000 SPACES	TOTAL PARKING SPACES = 10,000 SPACES
TOTAL BIKE SPACES = 10,000 SPACES	TOTAL BIKE SPACES = 10,000 SPACES
TOTAL BIKE TRAIL MILES = 1.0 MILE	TOTAL BIKE TRAIL MILES = 1.0 MILE
TOTAL BIKE TRAIL WIDTH = 10 FEET	TOTAL BIKE TRAIL WIDTH = 10 FEET
TOTAL BIKE TRAIL SURFACE AREA = 10,000 SQ. FT.	TOTAL BIKE TRAIL SURFACE AREA = 10,000 SQ. FT.
TOTAL BIKE TRAIL COST = \$100,000	TOTAL BIKE TRAIL COST = \$100,000
TOTAL BIKE TRAIL MAINTENANCE COST = \$10,000	TOTAL BIKE TRAIL MAINTENANCE COST = \$10,000
TOTAL BIKE TRAIL REPAIR COST = \$10,000	TOTAL BIKE TRAIL REPAIR COST = \$10,000
TOTAL BIKE TRAIL REPLACEMENT COST = \$10,000	TOTAL BIKE TRAIL REPLACEMENT COST = \$10,000
TOTAL BIKE TRAIL DEMOLITION COST = \$10,000	TOTAL BIKE TRAIL DEMOLITION COST = \$10,000
TOTAL BIKE TRAIL DISPOSAL COST = \$10,000	TOTAL BIKE TRAIL DISPOSAL COST = \$10,000
TOTAL BIKE TRAIL TOTAL COST = \$150,000	TOTAL BIKE TRAIL TOTAL COST = \$150,000

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**Exhibit 10 – Resolution 2021–818 as Adopted by the
Town of Amherst Town Board on September 27, 2021 for
the purpose of Issuing an Amended Findings Statement
pursuant to the State Environmental Quality Review Act
("SEQRA") for Mixed–Use Development on Site "A" of
Muir Woods Property**



Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 10/19/20 07:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 22383

RESOLUTION 2020-791

ROLL CALL VOTE (ADOPTED)

Amendment to the SEQR Findings Statement for "Muir Woods - Site A" (1081 N. French Road)

Amendment to the SEQR Findings Statement for
"Muir Woods - Site A"
[1081 North French Road (NCD); Z-2002-09C]

RESOLVED, that pursuant to 6NYCRR Part 617 (SEQR) and Town Code Section 104, as amended, that the requirements of SEQR have been completed, and be it further

RESOLVED, that pursuant to NYS Town Law Section 272-a, the Town Board concurs with the findings of the Planning Board as stated in their resolution of August 20, 2020 to amend the "Development Program" within the SEQR Findings Statement approved by the Town Board on August 5, 2020 to permit "Site A" located at the western end of the overall Muir Woods site located at 1081 North French Road (NCD) to be developed as a mixed-use residential/commercial project instead of flex office/R&D buildings.

RESOLVED, that Ciminelli Muir Woods, LLC has offered to donate to the Town approximately 43 acres of Permanent Open Space located between Site "A" and Site "B" of the Overall Muir Wood Property as depicted on a plan prepared by Greenman-Pedersen Consulting Engineers Inc. dated October 13, 2020;

RESOLVED, the approximately 43 acres of Permanent Open Space includes a portion of the Muir Woods Project with frontage on Dodge Road and is also contiguous to the southern boundary of a portion of the Bucyrus Heights Subdivision and the approximately 43 acres of Permanent Open Space includes extensive existing vegetation and also includes wetlands subject to the jurisdiction of the United States Army Corps of Engineers ("USACE") and wetlands and regulated 100 ft. adjacent areas subject to the jurisdiction of the New York State Department of Environmental Conservation ("NYSDEC"); and

RESOLVED, the Town Board hereby finds as follows: i.) Acquisition of the approximately 43 acres of Permanent Open Space on the Muir Woods Project Site is consistent with the Conceptual Land Use Plan for the Town contained at Figure 6 of the adopted Bicentennial Comprehensive Plan that designates this acreage as "Recreation, Open Space & Gateways"; and, ii.) Acquisition of the approximately 43 acres of Permanent Open Space on the Muir Woods Project Site as described herein will result in benefits to the Town and its residents including homeowners in the Bucyrus Heights Subdivision.

RESOLVED, the Town Board has evaluated the potential adverse environmental impacts associated with the acquisition of the 43 acres of Permanent Open Space and determined that such acquisition will not result in any potentially significant adverse environmental impacts.

RESOLVED, that the Town Board hereby authorizes the acquisition of the approximately 43 acres of Permanent Open Space on the Muir Woods Project Site as described herein via a donation from Ciminelli Muir Woods, LLC subject to the following terms and conditions:

1. The adoption of this resolution by the Town Board for the purpose of acquiring the Permanent Open Space described herein does not include the Town Board designating the Permanent Open Space as "parkland". The Town Board shall adopt a separate resolution in the future if it determines designating the Permanent Open Space as "parkland" is appropriate.
2. Ciminelli Muir Woods, LLC, its successors and assigns, shall retain an easement with respect to the approximately 43 acres of Permanent Open Space for the purpose of completing required wetland mitigation and wetland mitigation monitoring in accordance with the terms and conditions contained in wetland permits issued by the USACE and the NYSDEC. Upon the USACE and the NYSDEC determining that the required wetland mitigation has been completed to their satisfaction and the expiration of the monitoring period, the easement shall terminate.
3. Prior to the recording of a deed from Ciminelli Muir Woods, LLC to the Town of Amherst for the purpose of conveying ownership of the Permanent Open Space as described herein, a Declaration of Restrictive Covenants shall be recorded at the Erie County Clerk's Office for the restricting the use of the approximately 43 acres of Permanent Open Space in accordance with the terms and conditions of wetland permits issued by the USACE and the NYSDEC and also for the purpose of prohibiting future development of the approximately 43 acres of Permanent Open Space.
4. Ciminelli Muir Woods, LLC shall be responsible for the expenses associated with the preparation of a survey and an Abstract of Title for the Permanent Open Space as described herein and the recording fees for the deed to be recorded at the Erie County Clerk's Office.
5. The documentation required to effectuate the transfer of the Permanent Open Space as described herein and to comply with the above conditions shall be subject to review and approval by the Town Attorney's Office.
6. The Supervisor is authorized to execute any documentation required to effectuate the acquisition of the 43 acres of Permanent Open Space in accordance with the terms and conditions contained in this resolution.

10/06/2020

A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 4-0. The public hearing was opened at 7:51 PM.

Sean W. Hopkins, Esq., presented for both resolution #791 and #792 and answered questions from the Board.

There were no speakers from the public, therefore Supervisor Kulpa moved to adjourn the public hearing and set a Decision Date for October 19th. The motion was seconded by Councilmember Lavin and unanimously approved 4-0. The public hearing was adjourned at 8:13 PM.

10/19/2020

A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0. The public hearing was opened at 7:18 PM.

Sean W. Hopkins, Esq., presented under Res #792.

There were no speakers from the public, therefore Supervisor Kulpa moved to close the public hearing, seconded by Councilmember Lavin and unanimously approved 5-0. The public hearing was closed at 7:20 PM.

A motion to adopt the amended SEQR Findings Statement was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and approved via Roll Call vote 4-1 (nay, Buckl).

RESULT:	ROLL CALL VOTE (ADOPTED) [4 TO 1]
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Jacqueline Berger, Deputy Supervisor
AYES:	Kulpa, Berger, Lavin, Szukala
NAYS:	Buckl

**Exhibit 11 – Reduced-Size Copy of Parcel Plan
[Drawing C-102 – Date: 05/28/24] prepared by Carmina
Wood Design for the Mixed-Use Project at 50 Dodge
Road [Note: Full-Size copy also attached]**



Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/27/21 07:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 24831

RESOLUTION 2021-818

ROLL CALL VOTE (ADOPTED AS AMENDED)

Amendment to the SEQR Findings Statement for “Muir Woods - Site A”, Amendment #51 to the Audubon New Community District Development Plan [1081 (Formerly 1121) North French Road (NCD); Z-2002-09_D]

RESOLVED, that pursuant to 6NYCRR Part 617 (SEQR) and Town Code Section 104, as amended, that the requirements of SEQR have been completed, and be it further

RESOLVED, that pursuant to NYS Town Law Sec.272-a, the Town Board concurs with the findings of the Planning Board as stated in their resolution of August 19, 2021 to amend the “Development Program” within the SEQR Findings Statement approved by the Town Board on October 19, 2020 to permit “Site A” located at the western end of the overall Muir Woods site located at 1121 North French Road (NCD) to be developed at a higher density mixed-use residential/commercial project development than that outlined in the findings statement adopted on October 19, 2020.

1. That the Town Board approval of the issuance of the amended findings statement be subject to a condition requiring that the Planning Department be satisfied with the amended findings statement document prior to its signature by the Supervisor.

9/27/2021

A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0. The public hearing was opened at 7:08 PM.

Sean Hopkins, Esq. presented.

There were no speakers from the public, therefore Supervisor Kulpa moved to close the public hearing, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was closed at 7:17 PM.

A motion to adopt was made by Supervisor Kulpa and seconded by Councilmember Lavin. A motion was then made by Supervisor Kulpa to amend, seconded by Councilmember Lavin and unanimously approved 5-0. Amendment adds a condition listed above.

A motion to approve as amended was made by Supervisor Kulpa, seconded by Councilmember Lavin and approved 4-1 (nay, Bucki) via Roll Call vote.

RESULT: ROLL CALL VOTE (ADOPTED AS AMENDED) [4 TO 1]
MOVER: Brian J. Kulpa, Supervisor
SECONDER: Shawn Lavin, Councilmember
AYES: Kulpa, Berger, Lavin, Szukala
NAYS: Bucki

Exhibit 12 – Copy of the Declaration of Restrictions as Recorded in at the Erie County Clerk's Office on June 21, 2018 at Liber 11330 of Deeds at Page 8243 for the purpose of complying with the relevant portion of the Amended Findings Statement issued by the Town Board Pursuant to the State Environmental Quality Review Act ("SEQRA") on December 7, 2015

Return Original to Box 468
Hopkins Sorgi & Romanowski PLLC
Attn: Sean W. Hopkins, Esq.

FILED

JUN 21 2018

ERIE COUNTY
CLERK'S OFFICE

DECLARATION OF RESTRICTIONS

THIS DECLARATION OF RESTRICTIONS (“Declaration”) is made as of the 8th day of June, 2018 by **CIMINELLI MUIR WOODS, LLC**, a limited liability company organized under the laws of the State of New York, having its office at 350 Essjay Road, Williamsville, NY (“**Declarant**”) under facts and circumstances summarized by the following recitals:

WHEREAS, Declarant is the owner of real property consisting of approximately 326 acres of real property located at 1081 and 1121 North French Road (hereinafter “**Subject Property**”) and that is more particularly by the metes and bounds legal description attached at Schedule “1” hereto;

WHEREAS, the Subject Property is zoned New Community District (“**NCD**”) pursuant to the Zoning Map of the Town of Amherst and the use of land within the New Community District is regulated pursuant to the land use classifications contained in the Zoning Code of the Town of Amherst;

WHEREAS, Declarant petitioned the Town Board of the Town of Amherst (hereinafter “**Town Board**”) to amend the land use classifications of portions of the Subject Property that is owned by the Declarant;

WHEREAS, on December 3, 2007, the Town Board issued a Findings Statement pursuant to the State Environmental Quality Review Act (“**SEQRA**”) and the Town Board also voted to: 1.) approve Amendment #51 to the Audubon Development Plan, 2.) amend the land use classifications of portions of the Subject Property from NCD-Neighborhood District and NCD-Major Open Space to NCD-General Commercial, NCD-Restricted Industrial and NCD-Major Open Space;

WHEREAS, as the Town Board imposed conditions in connection with its decisions to issue a Findings Statement pursuant to SEQRA and amending the land use classifications of portions of the Subject Property;

WHEREAS, the Town Board issued an Amended Statement of Findings pursuant to SEQRA on December 7, 2015;

NOW, THEREFORE, in exchange for good and valuable consideration the sufficiency of which is acknowledged, the Declarant agrees to restrict the future use of the portions of the Subject Property (or its entirety when expressly specified) in accordance with the conditions imposed by the Town Board that are subject to this Declaration of Restrictions as follows

1. All construction equipment and vehicles that will be utilized in connection with the development the Subject Property pursuant to site plans and final plats to be approved by the Town of Amherst Planning Board shall be expressly prohibited from utilizing the existing streets within the Franklin Heights Subdivision, including but not limited to Lynette Lane, for purposes of egress and ingress to the Subject Property.

2. The residential components of the project shall be prohibited from utilizing the condominium form of ownership.
3. On those portions of the Subject Parcel where commercial development (excluding all residential uses) will be located directly adjacent to existing residential areas (i.e. Bucyrus Heights), minimum setbacks have been established for the purpose of providing an adequate buffer. The following minimum setbacks will apply only to development of portions of the Subject Property that are directly adjacent to existing residential uses as of the date of this Declaration of Restrictions:
 - All commercial development (buildings and parking areas) will have a minimum setback of fifty feet (50'), with the area within forty feet (40') of adjacent residential property boundaries remaining undisturbed so that existing trees and brush remain as a buffer. The planting of additional trees and shrubs by the Declarant within the minimum setback area may be required by the Town of Amherst during the site plan review process to supplement the existing vegetation in order to provide adequate buffers.
 - A combination of earthen berms and new vegetation will be required in those portions of the minimum setback area where there is not sufficient existing vegetation to provide an adequate buffer. The minimum height at the top of berms shall be three feet (3'), and the maximum slope shall be 1 on 3 (33%) to promote the growth and long-term viability of trees and shrubs planted on the berms. Berms should have a natural appearance by varying their width and height. The Town of Amherst will verify compliance with this requirement during the site plan review process.
 - Site A: Site A is the western portion of the Subject Parcel that is proposed to be utilized for flex office/R&D buildings and it is located directly south of the existing Bucyrus Heights subdivision. A legal description of Site A is attached as Schedule "2". The minimum setbacks for development within Site A shall be as follows:
 - 60 ft. minimum required building setback from residential lot line.
 - 60 ft. minimum required parking setback from residential lot line.
 - Site B: Site B is the center portion of the Subject Parcel that will be utilized for office space. A legal description of Site B is attached as Schedule "3". The minimum setbacks for development within Site B shall be as follows:
 - 60 ft. minimum building setback from residential lot line. If the height of any proposed office buildings exceeds 50 feet, the required minimum building setback shall be equal to or greater than the height of the proposed office building.

- 60 ft. minimum parking setback to residential lot line.
4. The following maximum building heights shall apply to the commercial components of the development of the Subject Parcel:
- Site A (western portion of the project site) – The maximum building height for buildings within Site A as described in Schedule “2” shall be as follows:
 - Maximum building height shall be 40 ft. as measured from the finished grade to the top of any parapet (excluding any rooftop mechanical equipment). All mechanical equipment shall be properly screened in accordance with the standards contained in the Zoning Code adopted by the Town Board in May of 2006.
 - Site B (center portion of the Subject Parcel) – The maximum building height for buildings within Site B as described in Schedule “3” shall be as follows:
 - There will not be a maximum height for office buildings to be constructed on Site B. All office buildings to be constructed on Site B will be required to comply with a minimum required setback that shall be the greater of fifty feet (50’) feet or the height of the proposed office building at the point of its maximum height (including rooftop mechanicals, etc.).
5. The portions of the Subject Property reclassified to New Community District – General Commercial (“NCD-GC”) by the Town Board as described in the attached Schedule “4” shall be prohibited from being utilized for the following categories of land uses:
- A. Automobile sales and service facilities (except vehicles used primarily on the subject property);
 - B. Veterinary clinics or kennels; and
 - C. Gasoline service stations shall be prohibited around the existing approximately 32 acre lake on the southeastern portion of the Subject Property.

The above restrictions contained in numbered paragraphs 1, 2, 3, 4 and 5 shall be binding on all parties claiming thereunder and shall run and touch the land except that the above restrictions can be changed, modified or eliminated by a majority vote of the Town Board.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK
SIGNATURE(S) ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the individual executing this Declaration of Restrictions on behalf of the Declarant has the full legal authority to enter execute this Declaration of Restrictions.

CIMINELLI MIR WOODS, LLC

By: 

Title: Paul F. Ciminelli
Managing Member

Print Name:

STATE OF NEW YORK)
COUNTY OF ERIE) ss.:

On this 8 day of June, 2018, before me, the undersigned, a notary public in and for said state, personally appeared Paul F. Ciminelli, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to within this instrument and acknowledged to me that he executed the same in his capacity, that they by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

KATHLEEN A. GUENTHER #01GU4676162
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
My Commission Expires August 31, 2018

SCHEDULE 1

LEGAL DESCRIPTION OF SUBJECT PROPERTY

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie, State of New York, being part of Lots 70 & 76, Township 12, Range 7 of the Holland Land Company's Survey, bounded and described as follows.

COMMENCING at a point on the centerline of North French Road at the northwest corner of Lot 70 distant 4179.22 feet west of the northeast corner of Lot 70, being the intersection of the centerline of North French Road and the centerline of Campbell Boulevard;

THENCE: N-89°-22'-00"-E, along the centerline of North French Road being the north line of Lot 70, a distance of 285.00 feet to a point;

THENCE: S-01°-04'-00"-E a distance of 33.00 feet to the south line of North French Road and the POINT OF BEGINNING;

THENCE: S-01°-04'-00"-E a distance of 231.00 feet to a point;

THENCE: N-89°-22'-00"-E, parallel with the centerline of North French Road being the north line of Lot 70, a distance of 110.00 feet to a point;

THENCE: N-01°-04'-00"-W a distance of 231.00 feet to the south line of North French Road;

THENCE: N-89°-22'-00"-E, along the said south line of North French Road a distance of 243.00 feet to a point;

THENCE: S-01°-04'-00"-E a distance of 231.00 feet to a point;

THENCE: N-89°-22'-00"-E, parallel with the centerline of North French Road being the north line of Lot 70, a distance of 853.60 feet to the western most northwest corner of Franklin Heights Subdivision filed in the Erie County Clerk's Office under Map Cover 2240;

THENCE: S-01°-04'-00"-E and parallel with the west line of Lot 70 a distance of 739.86 feet to the southwest corner of said Map Cover 2240;

THENCE: N-89°-22'-00"-E and parallel with the centerline of North French Road being the north line of Lot 70, a distance of 1343.12 feet to the northwest corner of lands conveyed to the Central School District No. 3 of the Towns of Amherst, Cheektowaga and Clarence by deed recorded in the Erie County Clerk's Office in Liber 7318 of Deeds at page 367;

THENCE: S-00°-11'-28"-W, along the west line of said Central School District No. 3 of the Towns of Amherst, Cheektowaga and Clarence lands, a distance of 716.41 feet to the southwest corner thereof;

THENCE: N-89°-04'-14"-E, and parallel with the south line of lot 70 being the centerline of Dodge Road, along the south line of said Central School District No. 3 of the Towns of Amherst, Cheektowaga and Clarence lands, a distance of 711.46 feet a point distant 609.84 feet west of the centerline of Campbell Boulevard being the east line of Lot 70;

THENCE: S-00°-14'-01"-W, parallel with the centerline of Campbell Boulevard (east line of Lot 70), a distance of 1439.24 feet to the northerly line of the Lockport Expressway Section II;

THENCE: Along the northerly lines of said Lockport Expressway Section II, the following six (6) courses and distances;

- 1.) N-87°-56'-02"-W, a distance of 1367.40 feet to a point.
- 2.) S-88°-46'-36"-W, a distance of 504.31 feet to a point.
- 3.) N-79°-27'-19"-W, a distance of 612.88 feet to a point.
- 4.) S-89°-19'-05"-W, a distance of 916.15 feet to a point.
- 5.) S-75°-02'-22"-W, a distance of 970.22 feet to a point of curvature
- 6.) Southwesterly along a curve to the left having a radius of 6,848.00 feet an arc distance of 1,238.25, and a central angle of 10°-21'-37" and a chord length of 1,236.56 feet at a bearing of S-68°-07'-21"-W to the east corner of lands conveyed to Niagara Mohawk Power Corporation by deed recorded in the Erie County Clerk's Office in Liber 9173 of Deeds at page 51.

THENCE: N-55°-38'-22"-W a distance of 202.71 feet to the north corner of said lands conveyed to Niagara Mohawk Power Corporation by deed recorded in the Erie County Clerk's Office in Liber 9173 of Deeds at page 51;

THENCE: S-65°-24'-13"-W a distance of 599.16 feet to the north line of Dodge Road Relocation;

THENCE: N-85°-10'-51"-W along the northerly line of Dodge Road Relocation a distance of 40.58 feet to a point of curvature;

THENCE: Northwesterly along a curve to the right and along the northerly line of Dodge Road Relocation said curve having a radius of 586.62 feet an arc distance of 539.31 and a central angle of 52°-40'-30" to a point of tangency;

THENCE: N-32°-30'-21"-W and along the northerly line of Dodge Road Relocation a distance of 457.24 feet to a point of curvature;

THENCE: Northwesterly along a curve to the left and along the northerly line of Dodge Road Relocation said curve having a radius of 724.00 feet an arc distance of 747.17 and a central angle of 59°-07'-45" to a point of tangency;

THENCE: S-88°-21'-54"-W and along the northerly line of Dodge Road Relocation a distance of 173.47 feet to the east line of Sweet Home Road as appropriated by the County of Erie under Liber 10908 of Deeds at page 9632 and delineated on Map SK 353-1, Parcel 1;

THENCE: N-02°-04'-02"-W and along said east line of Sweet Home Road a distance of 90.42 feet to a point;

THENCE: N-88°-55'-52"-E a distance of 540.79 feet to a point;

THENCE: N-00°-55'-59"-W a distance of 109.75 feet to a point;

THENCE: N-88°-55'-52"-E a distance of 700.84 feet to a point;

THENCE: N-02°-04'-02"-W and parallel with the centerline of Sweet Home Road being the west line of Lot 76, a distance of 118.24 feet to the southwest corner of lands shown on a map of Pleasant Acres Subdivision Part II filed in the Erie County Clerk's Office under Map Cover 2273;

THENCE: N-88°-55'-52"-E along the south line of said Map Cover 2273 and along the south line of lands shown on a map of Pleasant Acres Subdivision Part III filed in the Erie County Clerk's Office under Map Cover 2305 and being parallel with the south line of Lot 76, a distance of 1843.00 feet to the southeast corner of said Map Cover 2305;

THENCE: N-01°-06'-07"-W along the east line of said Map Cover 2305 and along the east line of lands shown on a map Bucyrus Heights Subdivision Part IV filed in the Erie County Clerk's Office under Map Cover 2291 and their extension north a distance of 2433.88 feet to the south line of said North French Road;

THENCE: S-89°-37'-42"-E along the south line of said North French Road a distance of 1138.32 feet to an angle point;

THENCE: N-89°-22'-00"-E continuing along the south line of said North French Road a distance of 285.54 feet to the POINT or PLACE of BEGINNING, having an area of 325.46 acres be the same more or less.

SCHEDULE 2

LEGAL DESCRIPTION OF SITE A

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie, State of New York, being Part of Lot 76, Township 12, Range 7 of the Holland Land Survey (so-called) bounded and described as follows:

COMMENCING at the point of intersection of the centerline of Dodge Road with the centerline of Sweet Home Road; thence: south along the centerline of Sweet Home Road, a distance of 86.08 feet to a point; thence: east, at right angles with said centerline, a distance of 679.33 feet to the POINT OR PLACE OF BEGINNING of the parcel hereinafter described:

THENCE: through lands now or formerly of New York State Urban Development Corporation, the following fifteen (15) courses and distances:

- 1.) N-00°-55'-59"-W, a distance of 304.81 feet to a point;
- 2.) N-88°-55'-52"-E, a distance of 625.24 feet to a point;
- 3.) N-02°-04'-02"-W, a distance of 118.24 feet to a point;
- 4.) N-88°-55'-52"-E, a distance of 506.27 feet to a point;
- 5.) S-01°-04'-08"-E, a distance of 120.35 feet to a point;
- 6.) S-64°-48'-00"-W, a distance of 35.05 feet to a point;
- 7.) S-29°-42'-37"-W, a distance of 135.73 feet to a point;
- 8.) S-06°-01'-17"-E, a distance of 361.98 feet to a point;
- 9.) S-45°-04'-18"-E, a distance of 271.44 feet to a point;
- 10.) S-01°-04'-00"-E, a distance of 314.49 feet to a point;
- 11.) S-65°-24'-13"-W, a distance of 407.54 feet to a point;
- 12.) N-85°-10'-51"-W, a distance of 34.02 feet to a point of curvature;
- 13.) Northwesterly, on a curve to the right having a radius of 561.62 feet, an arc distance of 516.33 feet to a point of tangency;
- 14.) N-32°-30'-21"-W, a distance of 457.24 feet to a point of curvature;
- 15.) Northwesterly, on a curve to the left having a radius of 749.00 feet, an arc distance of 272.69 feet to the above described POINT OR PLACE OF BEGINNING containing 24.812 acres be the same more or less.

Declaration of Restrictions

1081 & 1121 North French Road – Town of Amherst

Page 8 of 12

SCHEDULE 3

LEGAL DESCRIPTION OF SITE B

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie, State of New York, being Part of Lots 70 and 76, Township 12, Range 7 of the Holland Land Survey (so-called) bounded and described as follows:

COMMENCING at the southeasterly corner of Pleasant Acres Subdivision, Part III as shown on a map filed in the Erie County Clerk's Office under Map Cover 2305:

THENCE: N-88°-55'-52"-E, a distance of 25.49 feet to the POINT OR PLACE OF BEGINNING of the parcel hereinafter described:

THENCE: Through lands now or formerly of New York State Urban Development Corporation the following eighteen (18) courses and distances:

- 1.) N-01°-04'-00"-W, a distance of 399.46 feet to a point;
- 2.) S-89°-49'-30"-E, a distance of 1113.76 feet to a point;
- 3.) N-01°-04'-00"-W, a distance of 313.08 feet to a point;
- 4.) N-43°-56'-00"-E, a distance of 212.13 feet to a point;
- 5.) N-88°-56'-00"-E, a distance of 500.00 feet to a point;
- 6.) S-01°-04'-00"-E, a distance of 633.18 feet to a point;
- 7.) N-64°-16'-09"-E, a distance of 40.36 feet to a point of curvature;
- 8.) Northeasterly along a curve to the left having a radius 246.47 feet, an arc distance of 199.72 feet to a point of reverse curvature;
- 9.) Northeasterly along a curve to the right having a radius 290.00 feet, an arc distance of 139.68 feet to a point to a point;
- 10.) S-41°-06'-39"-E, along a radial line a distance of 42.58 feet to a point;
- 11.) Southwesterly along a curve to the left having a radius of 145.00 feet, an arc distance of 165.69 feet to a point of compound curvature;
- 12.) Southeasterly along a curve to the left having a radius of 1490.00 feet, an arc distance of 235.87 feet to a point to a point of tangency;
- 13.) S-26°-24'-00"-E, along a line a distance of 38.95 feet to a point of curvature;
- 14.) Southeasterly and Southwesterly along a curve to the right having a radius of 265.00 feet, an arc distance of 400.91 feet to a point to a point of compound curvature;
- 15.) Southwesterly along a curve to the right having a radius of 500.00 feet, an arc distance of 345.60 feet to a point to a point of reverse curvature;
- 16.) Southwesterly along a curve to the left having a radius of 100.00 feet, an arc distance of 99.07 feet to a point to a point of tangency;
- 17.) S-42°-22'-25"-W, a distance of 40.03 feet to a point of curvature;
- 18.) Southwesterly along a curve to the left having a radius of 215.00 feet, an arc distance of 161.56 feet to a point on the northerly boundary line of the Lockport Expressway;

THENCE: along the said northerly boundary of the Lockport Expressway the following three (3) courses and distances:

Declaration of Restrictions

1081 & 1121 North French Road – Town of Amherst

Page 9 of 12

- 1.) S-89°-19'-05"-W, a distance of 248.17 feet to a point;
- 2.) S-75°-02'-22"-W, a distance of 970.22 feet to a point of curvature;
- 3.) Southwesterly along a curve to the left having a radius of 6848.00 feet an arc distance of 322.33 feet to a point:

THENCE: Through lands now or formerly of New York State Urban Development Corporation the following three (3) courses and distances:

- 1.) N-01°-04'-00"-W, a distance of 843.03 feet to a point;
- 2.) N-88°-55'-52"-E, a distance of 25.00 feet to a point;
- 3.) N-01°-04'-00"-W, a distance of 25.00 feet to the above described POINT OR PLACE OF BEGINNING containing 52.202 acres be the same more or less.

SCHEDULE 4

**LEGAL DESCRIPTION OF PORTIONS OF SUBJECT PROPERTY RECLASSIFIED
TO NEW COMMUNITY DISTRICT – GENERAL COMMERCIAL (“NCD-GC”)**

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie, State of New York, being Part of Lots 70 and 76, Township 12, Range 7 of the Holland Land Survey (so-called) bounded and described as follows:

COMMENCING at the southeasterly corner of Pleasant Acres Subdivision, Part III as shown on a map filed in the Erie County Clerk’s Office under Map Cover 2305:

THENCE: N-88°-55’-52”-E, a distance of 25.49 feet to the POINT OR PLACE OF BEGINNING of the parcel hereinafter described:

THENCE: Through lands now or formerly of New York State Urban Development Corporation the following thirty (30) courses and distances:

- 1.) N-01°-04’-00”-W, a distance of 399.46 feet to a point;
- 2.) S-89°-49’-30”-E, a distance of 1113.76 feet to a point;
- 3.) N-01°-04’-00”-W, a distance of 477.72 feet to a point;
- 4.) N-43°-56’-00”-W, a distance of 212.13 feet to a point;
- 5.) N-88°-56’-00”-E, a distance of 500.00 feet to a point;
- 6.) S-01°-04’-00”-E, a distance of 633.18 feet to a point;
- 7.) N-64°-16’-09”-E, a distance of 40.36 feet to a point of curvature;
- 8.) Northeasterly along a curve to the left having a radius 246.47 feet, an arc distance of 199.72 feet to a point of reverse curvature;
- 9.) Northeasterly along a curve to the right having a radius of 290.00 feet, an arc distance of 271.18 feet to a point;
- 10.) N-73°-15’-30”-E, a distance of 466.70 feet to a point;
- 11.) N-88°-48’-50”-E, a distance of 1197.84 feet to a point;
- 12.) S-00°-14’-01”-W, a distance of 470.19 feet to a point on a curve;
- 13.) Southwesterly and southeasterly along a curve to the left having a radius of 175.00 feet an arc distance of 442.29 feet to a point of compound curvature;
- 14.) Easterly along a curve to the left having a radius of 425.00 feet an arc distance of 145.78 feet to a point of reverse curvature;
- 15.) Easterly along a curve to the right having a radius of 500.00 an arc distance of 172.91 feet to a point of compound curvature;
- 16.) Southeasterly and southwesterly along a curve to the right having a radius of 185.00 an arc distance of 438.62 feet to a point of compound curvature;
- 17.) Southwesterly along a curve to the right having a radius of 475.00 feet an arc distance of 382.34 feet to a point of tangency;
- 18.) S-89°-22’-54”-W, a distance of 150.00 feet to a point;
- 19.) Westerly along a curve to the right having a radius of 500.00 feet an arc distance of 222.66 feet to a point of reverse curvature;

Declaration of Restrictions

1081 & 1121 North French Road – Town of Amherst

- 20.) Westerly along a curve to the left having a radius of 500.00 feet an arc distance of 341.90 feet to a point of reverse curvature;
- 21.) Westerly along a curve to the right having a radius of 585.00 feet an arc distance of 414.74 feet to a point of compound curvature;
- 22.) Northwesterly along a curve to the right having a radius of 1200.00 feet an arc distance of 986.04 feet to a point of reverse curvature;
- 23.) Northwesterly and southwesterly along a curve to the left having a radius of 145.00 an arc distance of 455.53 feet to a point of compound curvature;
- 24.) Southeasterly along a curve to the left having a radius of 1490.00 feet, an arc distance of 235.87 feet to a point to a point of tangency;
- 25.) S-26°-24'-00"-E, a distance of 38.95 feet to a point of curvature;
- 26.) Southwesterly along a curve to the right having a radius of 265.00 feet, an arc distance of 400.91 feet to a point to a point of compound curvature;
- 27.) Southwesterly along a curve to the right having a radius of 500.00 feet, an arc distance of 345.60 feet to a point to a point of reverse curvature;
- 28.) Southwesterly along a curve to the left having a radius of 100.00 feet, an arc distance of 99.07 feet to a point to a point of tangency;
- 29.) S-42°-22'-25"-W, a distance of 40.03 feet to a point of curvature;
- 30.) Southwesterly along a curve to the left having a radius of 215.00 feet, an arc distance of 161.56 feet to a point on the northerly boundary line of the Lockport Expressway;

Thence along the said northerly boundary of the Lockport Expressway the following three (3) courses and distances:

- 1.) S-89°-19'-05"-W, a distance of 248.17 feet to a point;
- 2.) S-75°-02'-22"-W, a distance of 970.22 feet to a point of curvature;
- 3.) Southwesterly along a curve to the left having a radius of 6848.00 feet an arc distance of 111.80 feet to a point:

THENCE: Through lands now or formerly of New York State Urban Development Corporation the following five (5) courses and distances:

- 1.) N-17°-38'-00"-W, a distance of 219.03 feet to a point of curvature;
- 2.) Northerly along a curve to the right having a radius of 500.00 feet an arc distance of 272.15 feet to a point of reverse curvature;
- 3.) Northerly along a curve to the left having a radius of 500.00 feet an arc distance of 127.60 feet to a point of tangency;
- 4.) N-01°-04'-08"-W, a distance of 200.00 feet to a point;
- 5.) S-88°-55'-52"-W, a distance of 125.00 feet to the above described POINT OR PLACE OF BEGINNING containing 87.733 acres be the same more or less.

MICHAEL P KEARNS, ERIE COUNTY CLERK
REF:

DATE: 6/21/2018
TIME: 4:01:37 PM
RECEIPT: 18114282

SEAN HOPKINS
ACCOUNT #: 0

ITEM - 01 774
RECD: 6/21/2018 4:07:17 PM
FILE: 2018123291 BK/PG D 11330/8243
CITINELLI WUIR WOODS LLC
TOWN OF AMHERST
Recording Fees 105.00
Subtotal 105.00

TOTAL DUE \$105.00
PAID TOTAL \$105.00
PAID CREDIT \$105.00

VISA # xxxx-

REC BY: Janet H
COUNTY RECORDER

**Exhibit 13 – No Impact Determination Letter
Issued by Ruth Pierpont, Director, New York State
Office of Parks, Recreation and Historic
Preservation, dated October 10, 2001**



New York State Office of Parks, Recreation and Historic Preservation
Historic Preservation Field Services Bureau
Pebbles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

October 10, 2001

Carolyn A. Pierce
CCRG
105 Robie Avenue
Buffalo, New York 14214

Dear Ms. Pierce:

Re: SBORA
Muir Woods Mixed-Use Development
Adirondack/Essex County
01PR0345

Thank you for requesting the comments of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the project in accordance with the New York State Parks, Recreation and Historic Preservation Law, Section 14.09.

Based upon this review, it is the OPRHP's opinion that your project will have No Impact upon cultural resources in or eligible for inclusion in the State and National Registers of Historic Places.

If further correspondence is required regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,

Ruth L. Pierpont
Director

RLP:cmp

RECEIVED

OCT 16 2001

GIMNELLI DEVELOPMENT
COMPANY, INC.

**Exhibit 14 – Amended Wetland Permit Issued by the
United States Army Corps of Engineers (“USACE”)
dated February 25, 2021**



DEPARTMENT OF THE ARMY
BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

February 25, 2021

Regulatory Branch

SUBJECT: Request for Modification of Department of the Army Permit No. LRB-2001-00067, New York State Department of Environmental Conservation No. 9-1422-00398/00002.

Mr. Adam Faeth
Development Manager
Ciminelli Muir Woods LLC
350 Essjay Road Suite 101
Williamsville, NY 14221

Dear Mr. Faeth:

This is in reply to your submittal dated July 20, 2020 in which you requested a modification of Department of the Army Permit No. LRB-2001-00067. The project is located on a 326-acre parcel in the Town of Amherst, Erie County, New York. Specifically, you seek authorization to change the proposed use of an area identified as Site A from research and development and flex office space to a mixed-use commercial and residential development. This includes two 4-story mixed-use buildings, two-family townhouses, 6-unit apartment buildings, and a recreational trail to connect Site A with Site B. Wetland impacts have been reduced from 13.01 acres to 6.089 acres in Site A. A reduction of 6.921 acres. In addition, because of the reconfigured project including the significant reduction of wetland impacts, you have requested that the requirement of off-site compensatory mitigation be removed. Lastly, you have requested that 134 acres of the overall Muir Woods site located northeast of Site B, is donated to the Town of Amherst. This area will remain as open space in perpetuity. Permit compliance with mitigation requirements will remain as it currently is on the 134-acre site as a responsibility of Ciminelli Muir Woods LLC.

A Public Notice was published and coordinated with agencies and adjacent property owners using standard procedures. No comments were received as a result of the Public Notice. Based upon our evaluation, I concluded your request will not result in any unacceptable environmental or navigational impacts. Therefore, I am modifying Department of the Army permit No. LRB-2001-00067 to reflect the changes outlined in your request and identified on the attached drawings. All other terms and conditions of Permit No. LRB-2001-00067 remain in full force and effect.

Sheets 1, 2, and 3 of 3 are hereby made part of Permit No. LRB-2001-00067. Sheet 1 of 3 of this modification is an update to Sheets 2, 3, and 5 of 6 of the original permit. Sheet 2 and 3 of 3 of this modification are updates to Sheet 5 of 6 of the original permit. In addition, the following Special Conditions No. 6 and 8 of Permit No. LRB-2001-00067 are modified so that they no

Regulatory Branch

SUBJECT: Request for Modification of Department of the Army Permit No. LRB-2001-00067, New York State Department of Environmental Conservation No. 9-1422-00398/00002.

longer include the requirement of off-site compensatory mitigation, as indicated below with the original and the following modified condition:

1. Special Condition Number 6: As mitigation to compensate for unavoidable and permanent impacts to 17.83 acres of Federal wetlands and 1.29 acres of Federal tributaries (approximately 5227 linear feet), the permittee shall create, at a minimum; 26.91 acres of wetland on-site, and 27.37 acres of wetland off-site. In addition, the permittee shall enhance 4.3 acres of tributary (approximately 2630 linear feet) on-site, all in accordance with the approved on-site and off-site mitigation plan that is made part of this permit. The mitigation area must be constructed in accordance with the approved plan as well as all permit conditions.

Modified Special Condition Number 6: As mitigation to compensate for unavoidable and permanent impacts to 10.91 acres of Federal wetlands and 1.29 acres of Federal tributaries (approximately 5227 linear feet), the permittee shall create, at a minimum; 26.91 acres of wetland on-site. In addition, the permittee shall enhance 4.3 acres of tributary (approximately 2630 linear feet) on-site, all in accordance with the approved on-site mitigation plan that is made part of this permit. The mitigation area must be constructed in accordance with the approved plan as well as all permit conditions.

2. Special Condition Number 8: The approved compensatory mitigation must be in strict conformance with the plans approved by the Corps of Engineers. Such approved plans were prepared by Ciminelli Development Company, Incorporated and titled "Supplement #4 to the Wetland Permit Application for Muir Woods Development Project" dated June 2009, including the Proposed On-Site Wetland Mitigation Plan, and the Proposed Off-Site Wetland Mitigation Plan dated November 16, 2009. The stated mitigation plans are hereby incorporated into and made part of the permit as Attachments 1 and 2. The permittee shall implement the mitigation in accordance with the plans and all permit conditions. Where permit conditions differ from the mitigation plan, the permit conditions shall be the ruling condition.

Modified Special Condition Number 8: The approved compensatory mitigation must be in strict conformance with the plans approved by the Corps of Engineers. Such approved plans were prepared by Ciminelli Development Company, Incorporated and titled "Supplement #4 to the Wetland Permit Application for Muir Woods Development Project" dated June 2009, including the Proposed On-Site Wetland Mitigation Plan dated November 16, 2009. The stated on-site mitigation plan is hereby incorporated into and made part of the permit as Attachments 1. The permittee shall implement the mitigation in accordance with the plans and all permit conditions. Where permit conditions differ from the mitigation plan, the permit conditions shall be the ruling condition.

Regulatory Branch

**SUBJECT: Request for Modification of Department of the Army Permit No. LRB-2001-00067,
New York State Department of Environmental Conservation No. 9-1422-00398/00002.**

Questions pertaining to this matter should be directed to Martin Crosson at 716-879-4346, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207 or by E-mail at: martin.h.crosson@usace.army.mil

BY AUTHORITY OF THE SECRETARY OF THE ARMY

Steven V. Mativier

For: Mark Scalabrino
Acting Chief, Regulatory Branch

Enclosures

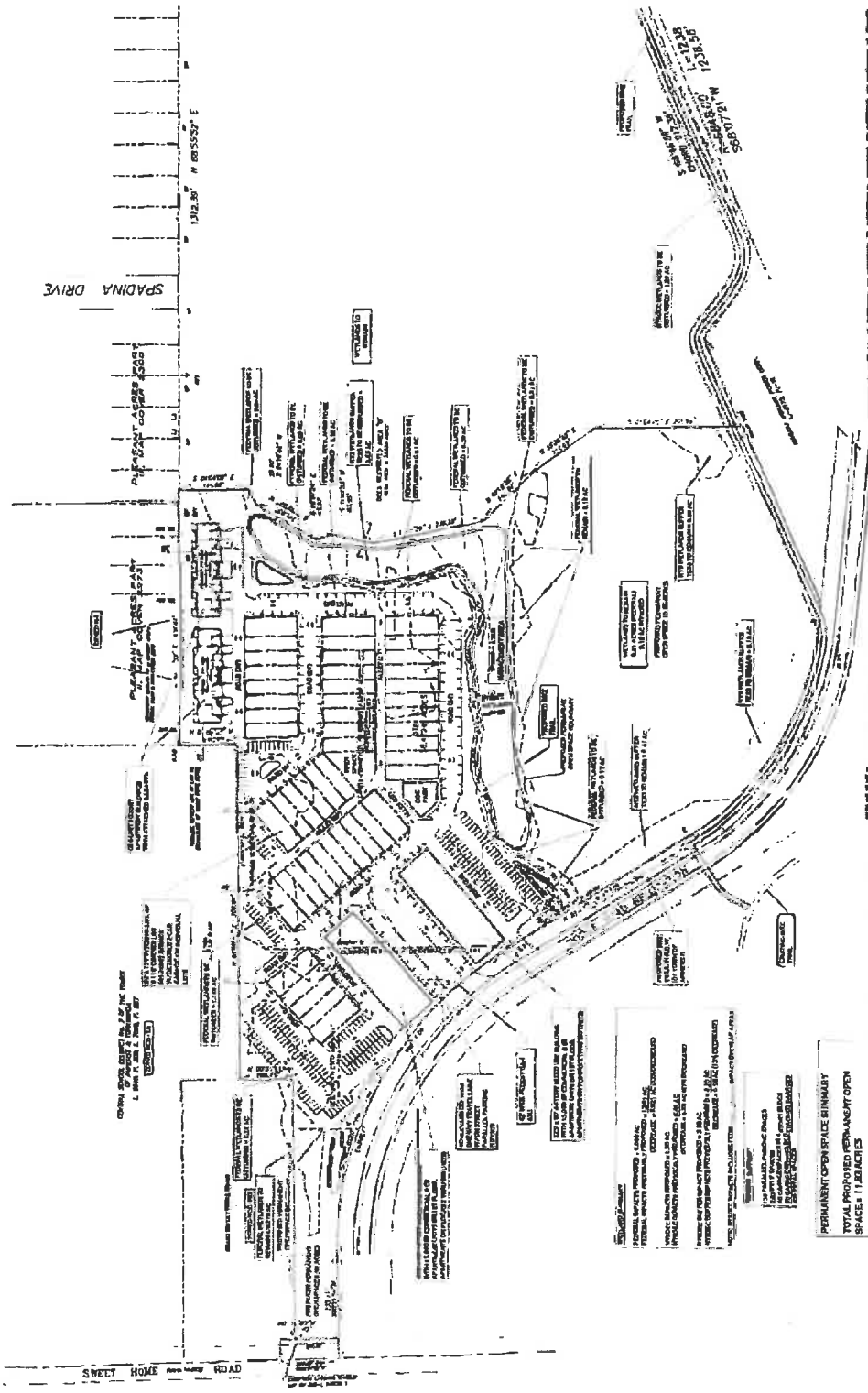


Campana
Wbad
Morris

Site Development Plans for
Muir Woods Site "A"
Arherst, New York
Sweet Home & Dodge Road

PROJECT NAME:
DRAWING NUMBER:
CONCEPT SITE PLAN

SCHWABCO, INC.
C-100
Project No.: 18-1182



SITE DATA
28.47 ACRES TOTAL
ZONED MUD-10

M SITE PLAN
Ciminelli Development Corporation
DA No. 2001-00067
Erie County, New York
Quad: Tonawanda East
Sheet 1 of 3

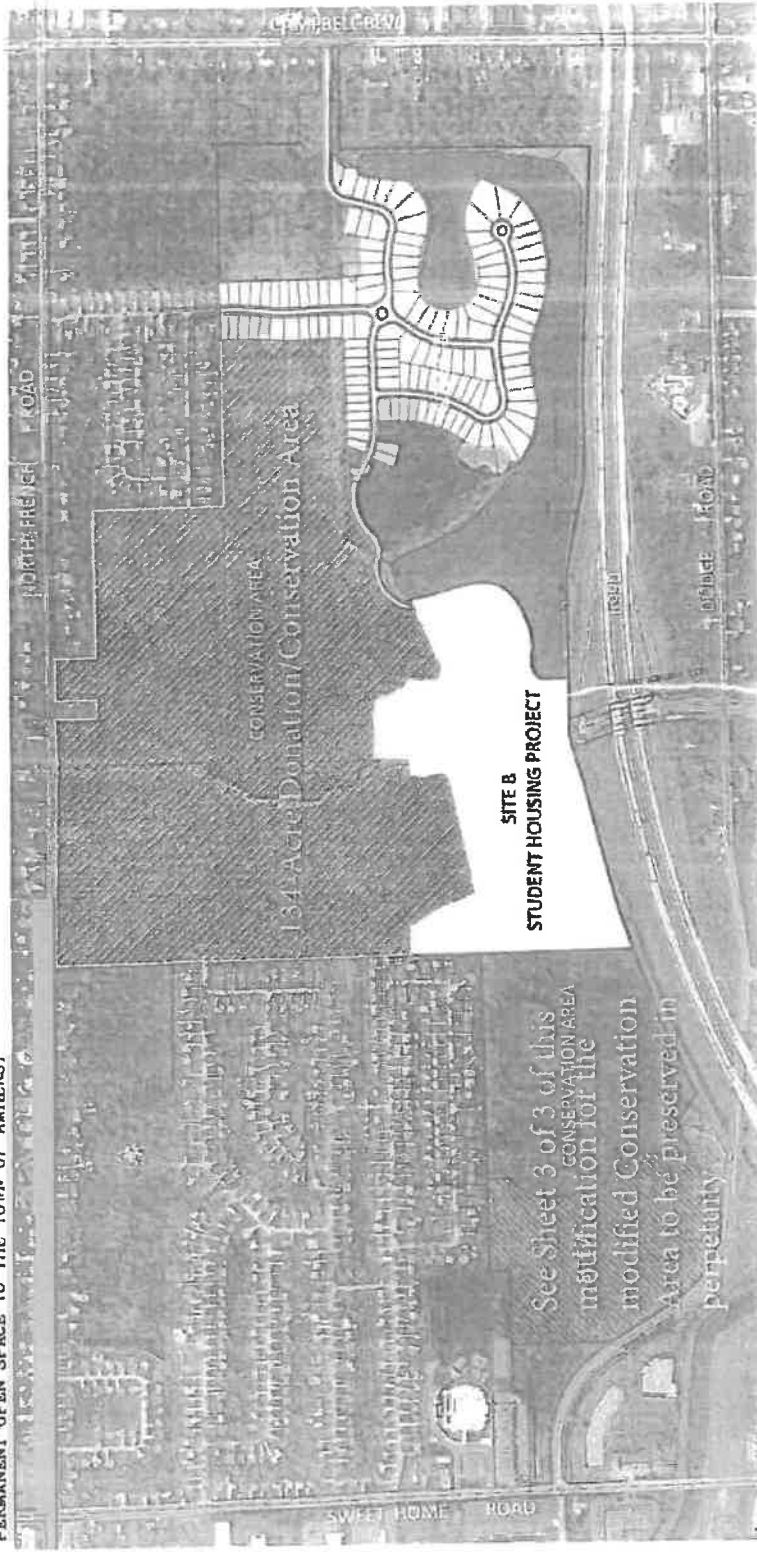
PERMANENT OPEN SPACE BINARY
TOTAL PROPOSED OPEN SPACE
SPACE = 17.00 ACRES
PREVIOUS PROPOSED PERMANENT OPEN
SPACE = 3.51 ACRES
NET INCREASE = 7.03 ACRES

PERMANENT OPEN SPACE
TOTAL PROPOSED PERMANENT OPEN SPACE = 17.00 ACRES
PREVIOUS PROPOSED PERMANENT OPEN SPACE = 3.51 ACRES
NET INCREASE = 7.03 ACRES

Campana Wood Morris, Inc. is a subsidiary of Campana Wood Morris, Inc. The information contained herein is for informational purposes only and does not constitute an offer of securities. The information contained herein is not intended to be used for any other purpose. The information contained herein is not intended to be used for any other purpose. The information contained herein is not intended to be used for any other purpose.

MUIR WOODS OVERALL PROJECT AREA

PROPOSED DONATION OF APPROXIMATELY 134 ACRES OF PERMANENT OPEN SPACE TO THE TOWN OF AMHERST



See Sheet 3 of 3 of this CONSERVATION AREA modification for the modified Conservation Area to be preserved in perpetuity

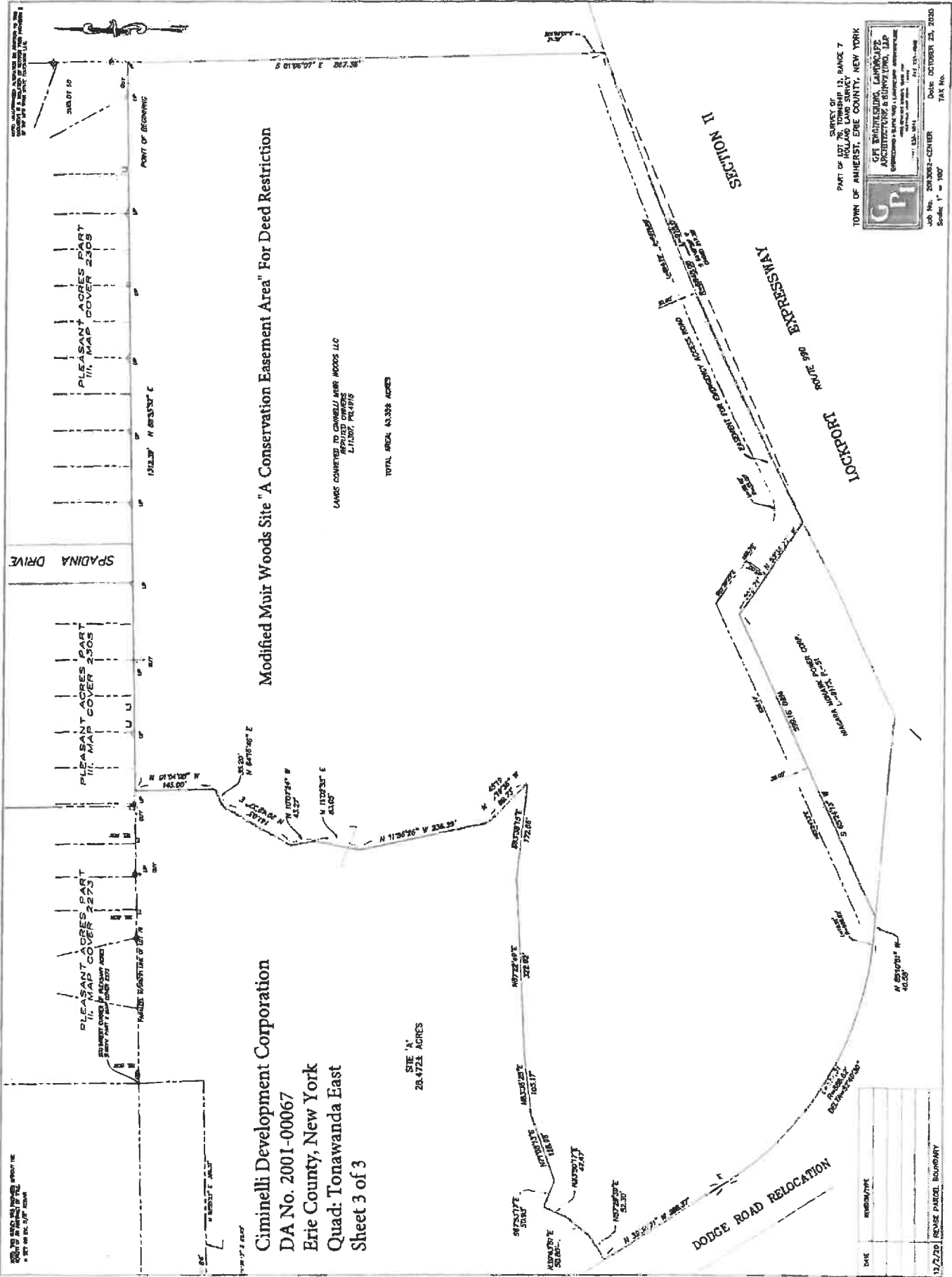


CONSERVATION AREA TO BE DONATED

Ciminelli Development Corporation
DA No. 2001-00067
Erie County, New York
Quad: Tonawanda East
Sheet 2 of 3



200.00 ACRES AND THEREAFTER
 PART OF 107.76 ACRES
 PART OF 107.76 ACRES



Ciminelli Development Corporation
 DA No. 2001-00067
 Erie County, New York
 Quad: Tonawanda East
 Sheet 3 of 3

SITE 'A'
 28.4724 ACRES

Modified Muir Woods Site "A Conservation Easement Area" For Deed Restriction

LAWS CONVEYED TO CIMINELLI MUIR WOODS LLC
 10/13/07, 10/13/07

TOTAL AREA 43.334 ACRES

SUBJECT OF
 PART OF 107.76 ACRES, TOWNSHIP 12, RANGE 7
 TOWN OF AMHERST, ERIE COUNTY, NEW YORK



Job No. 2003003-00018 Date: OCTOBER 25, 2020
 Scale: 1" = 100' TANK No.

DATE	DESCRIPTION
12/2/20	RELEASE PARCEL BOUNDARY

**Exhibit 15 – Amended Wetland Permit Issued by the
New York State Department of Environmental
Conservation (“NYSDEC”) dated December 24, 2020**

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits and Compliance
219 Michigan Avenue, Buffalo, NY 14203-2915
P: (716) 851-7165 | F: (716) 851-7168
www.dec.ny.gov

December 24, 2020

Mr. Adam Faeth
Ciminelli Real Estate Corporation
50 Fountain Plaza, Suite 500
Buffalo, New York 14202

Muir Woods Development – “Site A”
Permit Transmittal Letter
Permit No. 9-1422-00398/00001

Dear Mr. Faeth:

Enclosed is your permit which was issued in accordance with applicable provisions of the Environmental Conservation Law. The permit is valid for only that project, activity or operation expressly authorized. If modifications are desired after permit issuance, you must submit the proposed revisions and receive written approval from the Permit Administrator prior to initiating any change. If the Department determines that the modification represents a material change in the scope of the authorized project, activity, operation or permit conditions, you will be required to submit a new application for permit.

Please review all permit conditions carefully. In particular, identify your initial responsibilities under this permit in order to assure timely action if required. Since failure to comply precisely with permit conditions may be treated as a violation of the environmental conservation law, you are requested to provide a copy of the permit to the project contractor, facility operator, and other persons directly responsible for permit implementation (if any).

If you have any questions, please contact this office at the above address.

Respectfully,
David S. Denk
Regional Permit Administrator

Enclosure

cc: NYSDEC Law Enforcement
Maureen Brady, NYSDEC Office of General Counsel
Mr. Chuck Rosenburg, NYSDEC Division of Fish and Wildlife
Mr. Martin Crossen, USACOE
Sean Hopkins, Esq., Hopkins Sorgi & McCarthy PLLC





PERMIT
Under the Environmental Conservation Law (ECL)

Permittee and Facility Information

Permit Issued To:
Ciminelli Muir Woods LLC
50 Fountain Plaza, Suite 500
Buffalo, NY 14202
(716) 631-8000

Facility:
MUIR WOODS DEVELOPMENT
1121 N French Rd
Amherst, NY 14228

Facility Location: in AMHERST in ERIE COUNTY

Facility Principal Reference Point: NYTM-E: 191.586 NYTM-N: 4770.823
Latitude: 43°01'38.9" Longitude: 78°47'07.2"

Authorized Activity: Construction of a mixed-use project named "Muir Woods" consisting of approximately two 4-story mixed-use buildings consisting of commercial space and residential units, 90 two-family townhouses and 2 six-unit apartment buildings, approximately 133 detached single-family residential units and 515 cottage-style and apartment-style housing units with various amenities; and gas, electric, sanitary, potable water and storm water (the necessary infrastructure), while maintaining open space on approximately 224 acres in the Audubon New Community District. The Muir Woods project property is a 326 acre site bounded by the Lockport Expressway (Interstate Route 990) and Dodge Road on the south, Sweet Home Road on the west, North French Road on the north and Campbell Boulevard on the east. The project will result in permanent impacts to approximately 2.39 acres of State regulated wetlands (TE-22, TE-23 and TE-34), and 11.38 acres of State regulated 100 foot wide wetland adjacent area. As mitigation for those impacts the project includes creation of 19.58 acres of in-kind and out-of-kind wetlands on-site, in six areas, to replace the functions and benefits of the impacted wetlands. There will be 4.3 acres of stream channel enhancement on-site as mitigation for State wetland regulated adjacent area impacts. The project also includes construction at 520 Campbell Road property as detailed on plan sheets referenced in Natural Resource Condition No. 4.

Permit Authorizations

Freshwater Wetlands - Under Article 24

Permit ID 9-1422-00398/00001

Renewal	Effective Date: 1/10/2019	Expiration Date: 11/30/2024
Modification # 1	Effective Date: 12/17/2019	Expiration Date: 11/30/2024
Modification # 2	Effective Date: 12/24/2020	Expiration Date: 11/30/2024



Water Quality Certification - Under Section 401 - Clean Water Act
Permit ID 9-1422-00398/00002

Renewal	Effective Date: <u>1/10/2019</u>	Expiration Date: <u>11/30/2024</u>
Modification # 1	Effective Date: <u>12/17/2019</u>	Expiration Date: <u>11/30/2024</u>
Modification # 2	Effective Date: <u>12/24/2020</u>	Expiration Date: <u>11/30/2024</u>

NYSDEC Approval

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.

Permit Administrator: DAVID S DENK, Regional Permit Administrator
Address: NYSDEC Region 9 Headquarters
270 Michigan Ave
Buffalo, NY 14203 -2915

Authorized Signature: David S. Denk Digitally signed by David S. Denk
DN: cn=David S. Denk, o=NYS DEC,
ou=Div. of Env. Permits,
email=David.Denk@dec.ny.gov, c=US
Date: 2020.12.24 10:29:47 -05'00' Date / /

Permit Components

- NATURAL RESOURCE PERMIT CONDITIONS
- WATER QUALITY CERTIFICATION SPECIFIC CONDITION
- GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS
- NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following Permits: FRESHWATER WETLANDS; WATER QUALITY CERTIFICATION

- 1. No Work Prior to Approval of Legal Instrument for Preservation of Undeveloped Areas of Site** No work authorized by this permit may begin until the Department approves a legal instrument, such as a deed restriction and/or conservation easement, that will preserve in perpetuity the natural resource values of the undeveloped areas of the site. This condition does not apply to the 520 Campbell Boulevard property.
- 2. Declaration of Restrictions 520 Campbell Boulevard Property** A Declaration of Restrictions permanently prohibiting any future development of the 6.88 acres of jurisdictional federal wetlands and portion of the upland area on 520 Campbell Boulevard as depicted on the Wetland Restriction Exhibit Map must be incorporated into the deeds for lots 1 – 12 and 21. By 60 days after Water Quality Certification issuance, the permittee shall file with the real property records of the Erie County Clerk's Office, the deed for each applicable lot containing this notice. The permittee shall within two weeks following the filing of the deed(s) submit proof of filing from the County Clerk's Office



showing the Liber and page number at which the deed notice was filed and the date of filing for one of the affected lots to: Regional Permit Administrator, NYSDEC Region 9 Headquarters, 270 Michigan Ave, Buffalo, NY 14203-2915.

3. Conformance With Plans All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or applicant's agent as part of the permit application. Such approved plans were prepared by Ciminelli Development Company, Inc. and titled "Supplement #4 to the Wetland Permit Application for Muir Woods Development Project" dated June 2009.

4. Conformance with Plans Site B All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or the applicant's agent as part of the permit application. Such approved plans include the "Concept Plan - Muir Woods" dated 08 November 2019 amended to show Conifer Planting Area (attached).

5. Conformance with Plans - 520 Campbell Boulevard All activities authorized by this permit for the 520 Campbell Boulevard property must be in strict conformance with the approved plans submitted by the applicant or applicant's agent as part of the permit application. Such approved plans include those sheets entitled: The Preserve at Muir Woods (DEC Planting Exhibit, DEC Earthwork Exhibit and the Wetland Restriction Exhibit) by Greenman-Pedersen, Inc. dated May 2018.

6. Conformance with Plans Site A All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or the applicant's agent as part of the permit application. Such approved plans include Drawing C-100 dated July 20, 2020 and received by this Department on August 10, 2020.

7. Future Phases Prior to development of Muir Woods Sites A and B, the permittee must obtain specific approval of engineered plans for Sites A and B to ensure compliance with the terms and condition of this permit, the approved wetland mitigation plans and the most current Findings Statement for the overall Muir Woods Project issued pursuant to the State Environmental Quality Review Act. The permittee shall submit the engineered plans for the development of Sites A and B for review by the Department simultaneous with submission of such engineered plans to the Town of Amherst. If required by the Department, the permittee shall make any necessary modifications to the engineered plans to ensure compliance with the terms and conditions of this permit, the approved wetland mitigation plans and the most current Findings Statement.

8. Permit Conditions Prevail over Plans If any condition of this permit conflicts with the approved plans noted in Condition Number 1, the permit conditions shall prevail over the plans unless specific written approval for such a change is obtained from this Department prior to implementation.

9. Pre-construction Meeting to Review Permit Prior to commencing work at the project site, the permittee shall schedule a pre-construction meeting with Department staff (Contact: Mr. David Denk, Regional Permit Administrator, NYSDEC, Division of Environmental Permits, Telephone : 716/851- 7165 and/or Mr. Charles P. Rosenburg, NYSDEC, Division of Fish and Wildlife, Telephone: 716/851-7010) and selected contractors to review the conditions contained in this permit.



10. Mark Areas of No Disturbance on the Muir Woods Site Grade stakes and/or other appropriate measures (substantial contractor fencing, perhaps in combination with necessary silt fencing) shall be used to ensure that no equipment enters identified areas of no disturbance within the immediate area under construction (i.e.- Site A, Site B, Site C or Site D) on the Muir Woods project site. Boundaries of the on-site mitigation areas shall likewise be marked to define the limits of that work.

11. Install Controls Along Limits of Disturbance Before any soil is disturbed within a specific Site Development Area, as detailed in Condition #6 above, the permittee shall install securely anchored silt fencing and/or continuous staked hay bales along the limits-of-disturbance as shown on the plans or drawings referenced in this permit. Such erosion and sedimentation controls shall be maintained until unpaved portions of the subject site are stabilized by a self-sustaining cover of vegetation that is adequate to prevent erosion and sedimentation on and off the site. Sediment which has accumulated at the controls shall be removed periodically as necessary during the construction period. Before the controls are removed, the permittee shall remove all sediment that has accumulated at the controls.

12. Work Within Areas Depicted on Plans All construction activity, including operation of machinery, excavation, filling, grading, clearing of vegetation, disposal of waste, street paving and stockpiling of material must take place within the Site Development Areas or mitigation areas as depicted on the project plans referenced by this permit. Construction activity is prohibited within areas to be left in a natural condition or locations on the property not within the Site Development Areas or mitigation areas designated by this permit. Disturbance to the wetlands and their regulated 100 foot wide adjacent areas shall be strictly limited to the work areas identified in the plans, and specifically the MAP SHOWING WETLAND IMPACT AREAS - NEW YORK STATE WETLANDS, and APPENDIX M - PROPOSED ON-SITE MITIGATION PLAN.

13. Invasive Species (Non-Native Vegetation) To prevent the unintentional introduction or spread of invasive species, the permittee must ensure that all construction equipment is cleaned of mud, seeds, vegetation and other debris before entering any approved Site Development Areas within State regulated wetlands or their 100 foot wide adjacent areas, as well as all on-site wetland mitigation areas.

14. Prevention of Invasive Species The permittee shall prevent the establishment of invasive species (purple loosestrife, Phragmites, reed canary-grass, Japanese knotweed, glossy buckthorn and common buckthorn) across all disturbed areas within the wetland mitigation area for five growing seasons. If any of these invasive species become established, monitoring and treatment may be extended for an additional 5 years at the Department's discretion.

15. Wetland Mitigation is Mandatory Completion of all freshwater wetland mitigation is mandatory regardless of whether or not construction proceeds to completion. The required mitigation must be completed by the expiration date of this permit. Mitigation will be subject to remediation, if necessary, pursuant to Condition #16 below. All mitigation areas shall be monitored for a period of ten (10) years or until the mitigation is deemed successful by this Department. Monitoring reports shall be prepared for the first four (4) years after construction of the mitigation areas and every other year (years 6, 8 and 10) thereafter. This Department may, at its discretion, modify the 10-year monitoring period and/or monitoring report requirement at any time. Monitoring reports shall be submitted to Mr. Charles P. Rosenberg, Habitat Manager, NYSDEC, Bureau of Ecosystem Health, 270 Michigan Avenue, Buffalo, NY 14203-2915 Telephone: 716/851-7024.



16. On-Site Mitigation to be in Accordance with Mitigation Plan The on-site mitigation shall be in accordance with Appendix M - Proposed On-Site Wetland Mitigation for Muir Woods prepared by Earth Dimensions, Inc. revised May 25, 2009 and with the modifications shown in Exhibit 22 of the July 20, 2020 application binder.

17. Planting Row of Native Conifers The permittee shall plant a row of native conifer trees in the location shown on the attached plan. The tree plantings must be a minimum of 6 feet tall, spaced 15 feet apart, and must be planted no later than October 15th following the completion of construction of the adjacent apartment units.

18. Survival Rate for Mitigation Plantings The permittee shall prepare a care, maintenance, inspection, and replacement schedule for the tree and shrub plantings described in the mitigation plan to ensure an 85% survival rate for five growing seasons. This condition includes all on-site landscape "buffer" plantings.

19. Herbicides, Pesticides in Wetland or Adjacent Area The use of herbicides and other pesticides in State regulated wetlands or their 100 foot wide adjacent areas is a regulated activity and may only be conducted pursuant to a valid Article 33 Pesticides Permit.

20. Requirement for SPDES General Permit GP-0-15-002 for Stormwater Discharge from Construction Activities Since development of the Muir Woods site in the Town of Amherst will involve land disturbance of one (1) or more acres, the permittee is required to obtain coverage under State Pollutant Discharge Elimination System (SPDES) General Permit GP-0-15-002 for Stormwater Discharge from Construction Activities. A Notice of Intent (NOI) is required to be sent to NYSDEC, Division of Water, 625 Broadway, 4th Floor, Albany, New York 12233-3505, Telephone: 518/402-8111 and approved before construction commences. Alternatively, an eNOI may be filed electronically as described on the Department's website. The General Permit GP-0-15-002 and NOI form are available on the Department's website at www.dec.state.ny.us.

21. Visibly Turbid Discharges Prohibited Visibly turbid discharges from project dewatering operations, excavation and grading activities are strictly prohibited to any "water body" (pond, wetland, stream or water course). Any such discharges shall be (1) retained in an appropriately maintained upland settling basin, filtered through crushed stone, sand, filter fabric fences, hay bales etc., or (2) directed to a grassy area sufficiently distant from any water body to preclude such entry.

22. Stockpiling of Soil Stockpiling of excavated soil is prohibited at locations within any portion of the TE-22, TE-23 and TE-34 Wetlands or their regulated 100 foot wide adjacent areas, or within any mapped 100-year floodplain beyond the Site Development Areas or mitigation areas identified in the plans.

23. Stabilize Disturbed Areas All areas of soil disturbance resulting from this project shall be seeded with an appropriate perennial grass seed and mulched with straw, or hydro-seeded. Mulch shall be maintained until suitable vegetative cover is established.

24. Temporary Mulch, Final Seeding If seeding is impracticable due to the time of year, a temporary mulch shall be applied and final seeding shall be performed at the earliest opportunity when weather conditions favor germination and growth.



25. Disposal of Material Any non-merchantable tree and brush debris, demolition debris, excess construction materials, and/or excess excavated materials shall be immediately and completely disposed of on an approved upland site more than 100 feet from any regulated freshwater wetland. These materials shall be suitably stabilized so as not to re-enter any water body, wetland, or wetland adjacent area; and must be disposed of in accordance with all local, state, and federal statutes, regulations, or ordinances.

26. Placement of Interpretive Signs Required Permanent interpretive signs shall be placed at various wetland boundary locations throughout the Muir Woods project site. The permittee shall submit a proposal for the signs to the Department for approval. The interpretive signs shall be a minimum of 12 inches by 12 inches and shall be placed on permanent posts.

27. Annual Project Inspection / Meeting The permittee shall schedule an annual inspection/meeting to update Department staff on project progress and compliance with conditions of this permit for the on-site wetland mitigation area.

28. Wetland Monuments Monuments shall be placed every 200 feet along the outer edge of the wetland preservation areas. The monuments shall be 30" long, 5/8" rebar and cap embedded flush and in the center of the top exposed surface of concrete in a minimum 4 inch diameter, 4.5 foot long section of PVC Schedule 40 drain pipe filled with concrete, extending vertically 1.5 to 2 feet above existing grade at each location. The caps shall say "Conservation Area Marker, Do Not Disturb". These monuments are to be permanently maintained.

29. Wetland Boundaries The boundaries of the TE-22, TE-23 and TE-34 Wetlands shall be fixed for the period of this permit (expires November 30, 2024). At that time, new boundary delineations for those wetlands will be required by this Department (to be performed or confirmed by a Department Biologist). Since project activities will be subject to the updated wetland boundary delineations and pertinent regulations at that time, any future permit modification (if necessary) would be reviewed based on the updated delineations and pertinent regulations. As such, modifications to the current project plan may be necessary depending upon the updated wetland delineations and permit regulations in effect at that time.

30. State Not Liable for Damage The State of New York shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.



31. State May Order Removal or Alteration of Work If future operations by the State of New York require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Department of Environmental Conservation it shall cause unreasonable obstruction to the free navigation of said waters or flood flows or endanger the health, safety or welfare of the people of the State, or cause loss or destruction of the natural resources of the State, the owner may be ordered by the Department to remove or alter the structural work, obstructions, or hazards caused thereby without expense to the State, and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners, shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable and flood capacity of the watercourse. No claim shall be made against the State of New York on account of any such removal or alteration.

32. State May Require Site Restoration If upon the expiration or revocation of this permit, the project hereby authorized has not been completed, the applicant shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may lawfully require, remove all or any portion of the uncompleted structure or fill and restore the site to its former condition. No claim shall be made against the State of New York on account of any such removal or alteration.

33. Precautions Against Contamination of Waters All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other environmentally deleterious materials associated with the project.

WATER QUALITY CERTIFICATION SPECIFIC CONDITIONS

1. Water Quality Certification The authorized project, as conditioned pursuant to the Certificate, complies with Section 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act, as amended and as implemented by the limitations, standards, and criteria of state statutory and regulatory requirements set forth in 6 NYCRR Section 608.9(a). The authorized project, as conditioned, will also comply with applicable New York State water quality standards, including but not limited to effluent limitations, best usages and thermal discharge criteria, as applicable, as set forth in 6 NYCRR Parts 701, 702, 703, and 704.

GENERAL CONDITIONS - Apply to ALL Authorized Permits:

1. Facility Inspection by The Department The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).



The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

2. Relationship of this Permit to Other Department Orders and Determinations Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

3. Applications For Permit Renewals, Modifications or Transfers The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator
NYSDEC Region 9 Headquarters
270 Michigan Ave
Buffalo, NY14203 -2915

4. Submission of Renewal Application The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Freshwater Wetlands, Water Quality Certification.

5. Permit Modifications, Suspensions and Revocations by the Department The Department reserves the right to exercise all available authority to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

6. Permit Transfer Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.



NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

Item B: Permittee's Contractors to Comply with Permit

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

Item C: Permittee Responsible for Obtaining Other Required Permits

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

Item D: No Right to Trespass or Interfere with Riparian Rights

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

**Exhibit 16 – Redline Draft of Proposed Amended
Findings for Proposed Mixed-Use Project on
Site “A” of Muir Woods Property**



Town of Amherst

Brian J. Kulpa
Town Supervisor

AMENDMENT #51 TO THE AUDUBON DEVELOPMENT PLAN
TO RECLASSIFY A PORTION OF 326± ACRES OF LAND
FROM NCD-ND & NCD-MOS to NCD-GC, NCD-RI & NCD-MOS
1081 & 1121 North French Road
(Z-9-02)

CERTIFICATION OF AMENDED FINDINGS

Having considered the Draft and Final Generic EIS documents, and having considered the preceding written facts and conclusions relied upon to meet the requirements of 6 NYCRR 617, this Amended Statement of Findings certifies that:

1. The requirements of 6 NYCRR Part 617 have been met;
2. Consistent with the social, economic and other essential considerations from among the reasonable alternatives thereto, the action **approved** is one which minimizes or avoids adverse environmental effects to the maximum extent practicable; including the effects disclosed in the Generic Environmental Impact Statements, and the Application to Amend the Findings Statement, and
3. Consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the Environmental Impact Statement process and the Second Application to Amend the Findings Statement will be minimized or avoided by incorporating as conditions to the decision those mitigative measures which were identified as practicable.

TOWN OF AMHERST

Name of Agency

Signature of Responsible Official

BRIAN J. KULPA

Name of Responsible Official

TOWN SUPERVISOR

September 27, 2021

Title of Responsible Official

Date

5583 MAIN STREET, WILLIAMSVILLE, NY 14221

Address of Agency

Certification of Amended Findings
Amendment #51 to the Audubon Development Plan (Z-9-02)

RESOLUTION

WHEREAS, following the April 16, 2004 submittal of a Draft Generic Environmental Impact Statement (DGEIS) prepared by Ciminelli Development Company, Inc., the DGEIS was accepted by the Town Board on September 7, 2004. The DGEIS was submitted for the proposed rezoning from NCD-ND & NCD-MOS to NCD-GC, NCD-RI & NCD-MOS and development of 326± acres of land located at 1081 & 1121 North French Road. On October 28, 2004, the Planning Board held a public hearing on the DGEIS and rezoning request and recommended approval of the subject petition. Subsequently, a public hearing on the DGEIS and rezoning request was held by the Town Board on March 2, 2005. A Final Generic Environmental Impact Statement (FGEIS) was accepted by the Town Board on November 5, 2007, and a Notice of Completion of the FGEIS was filed on November 14, 2007; and

WHEREAS, the Planning Board and the Town Board have considered the content of the DGEIS, the FGEIS, and all other documents and comments and submissions made during and after the hearings.

WHEREAS, on February 18, 2014, the Project Sponsor submitted an Application to Amend the Findings Statement and Audubon Development Plan along with supporting documentation. The Planning Board held a public hearing on the Application during its meeting on March 14, 2014 and it recommended approval of the Application. On June 16, 2014, the Town Board held a public hearing on the Application but did not issue a decision on the Application.

WHEREAS, on August 17, 2015, the Project Sponsor submitted an Amended Application to Amend the Findings Statement and Audubon Development Plan for the purpose of modifying the Application filed on February 18, 2014.

WHEREAS, the Planning Board held a public hearing on the Amended Application during its meeting on September 17, 2015 and the Planning Board recommended in favor of the Application. On November 16, 2015, the Town Board held a public hearing on the Application. On December 7, 2015, the Town Board voted to issue an Amended Findings Statement based on its determination that the potential modifications to the Muir Woods Project will not result in any potentially significant adverse environmental impacts that were not thoroughly evaluated in connection with the comprehensive environmental review of the Project that concluded with the original issuance of a Findings Statement on December 17, 2007.

WHEREAS, the Planning Board conducted a coordinated environmental review of the development of Sites C and D of the overall Project Site as a 133 lot residential subdivision. On September 14, 2017, the Planning Board issued a negative declaration pursuant to SEQRA for the subdivision based on its determination that the subdivision would not result in any potentially significant adverse environmental impacts.

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WHEREAS, on April 15, 2019, the Project Sponsor submitted an Application to Amend the Findings Statement and Audubon Development Plan along with supporting documentation. The requested amendment of the Findings Statement issued by the Town Board on December 17, 2017 was to allow student housing to be developed on Site B of the overall Muir Woods Project Site (“Application to Amend the Findings Statement”). The Planning Board held public hearings on the Application to Amend the Findings Statement during its meeting on May 16, 2019 and June 20, 2019 it adopted a resolution recommending approval of the Application to Amend the Findings Statement during its meeting on June 20, 2019.

WHEREAS, on August 5, 2019, the Town Board held a public hearing on the Application to Amend the Findings Statement. On August 5, 2019, the Town Board voted three to one to amend the Findings Statement based on its determination that the potential modifications to the Muir Woods Project will not result in any potentially significant adverse environmental impacts that were not thoroughly evaluated in connection with the previous comprehensive environmental review of the Project that concluded with the issuance of a Findings Statement on December 7, 2007 and the issuance of an Amended Findings Statement on December 7, 2015.

WHEREAS, on June 24, 2020, the Project Sponsor submitted an Application to Amend the Findings Statement issued by the Town Board on December 17, 2017 and to Amend the Comprehensive Plan for Site A of the Muir Woods Project to allow a mixed-use project to be developed on Site A of the overall Muir Woods Project Site (hereinafter collectively the “Application to Amend the Findings Statement”). The Planning Board held a public hearing on the Application to Amend the Findings Statement during its meeting on August 20, 2020 and at the same meeting adopted a resolution recommending approval of the Application to Amend the Findings Statement by the Town Board.

WHEREAS, on October 6, 2020, the Town Board held a public hearing on the Application to Amend the Findings Statement. On October 19, 2020, the Town Board voted to issue the Amended Findings Statement based on its determination that the potential modifications to the Muir Woods Project will not result in any potentially significant adverse environmental impacts that were not thoroughly evaluated in connection with the previous comprehensive environmental review of the Project that concluded with the issuance of a Findings Statement on December 7, 2007, and the issuance of an Amended Findings Statements on December 7, 2015 and August 5, 2019.

WHEREAS, on July 7, 2021, Sawyers Landing LLC submitted an Application to Amend the Findings Statement issued by the Town Board on October 19, 2020 in order to seek to increase the allowable residential density from 202 units to 258 units. The Planning Board held a public hearing on the Application to Amend the Findings Statement during its meeting on August 19, 2021 and at the same meeting adopted a resolution recommending approval of the Application to Amend the Findings Statement by the Town Board.

Certification of Amended Findings
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WHEREAS, on September 27 2021, the Town Board held a public hearing on the Application to Amend the Findings Statement. On September 27 2021, the Town Board voted to issue the Amended Findings Statement based on its determination that the potential modifications to the Muir Woods Project will not result in any potentially significant adverse environmental impacts that were not thoroughly evaluated in connection with the previous comprehensive environmental review of the Project that concluded with the issuance of a Findings Statement on December 7, 2007, and the issuance of an Amended Findings Statements on December 7, 2015 and August 5, 2019 and October 19, 2020.

WHEREAS, on June 24, 2024, Sawyers Landing LLC submitted an Application to Amend the Findings Statement issued by the Town Board on September 27, 2021 in order to modify the allowable uses on Site A of the overall Muir Woods Project Site [50 Dodge Road] to include a four-story climate controlled storage building and also to reclassify 13.452 acres of 50 Dodge Road from NCD-RI to NCD-LC.

The Planning Board held a public hearing on the Application to Amend the Findings Statement during its meeting on _____, 2024 and adopted a resolution recommending that the Town Board _____ the Application to Amend the Findings Statement and to reclassify 13.452 acres of 50 Dodge Road from NCD-RI to NCD-LC.

WHEREAS, on _____, 2024, the Town Board held a public hearing on the Application to Amend the Findings Statement and to reclassify 13.452 acres of 50 Dodge Road from NCD-RI to NCD-LC.

WHEREAS, on _____, 2024, the Town Board voted to issue the Amended Findings Statement based on its determination that the potential modifications to mixed-use project at 50 Dodge Road will not result in any potentially significant adverse environmental impacts that were not thoroughly evaluated in connection with the previous comprehensive environmental review of the Project that concluded with the issuance of an Amended Findings Statement pursuant to SEQRA on September 27, 2021.

WHEREAS, on _____, 2024, the Town Board adopted a resolution to approve the reclassification of 13.452 acres of 50 Dodge Road from NCD-RI to NCD-LC.

NOW THEREFORE THE TOWN BOARD FINDS AND DETERMINES THAT:

1. These Amended Findings set forth specific conditions and criteria consistent with 6 NYCRR Sections 617.7, 617.9, 617.11, and 617.12 under which the site plan process can proceed. This process provides procedures to supplement the FGEIS if necessary and for public notice and opportunity to participate in hearings before the Town Planning Board before it approves a site plan. An Environmental Assessment Form will be required with site plan application for environmental

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review. If the proposed development does not conform with these Amended Findings, a Supplemental Findings Statement, a supplement to the FGEIS, or a Negative Declaration shall be prepared to comply with 6 NYCRR Section 617.9.

2. The proposed mixed-use, student housing and residential development as presented in the FGEIS and the Application to Amend the Findings Statement submitted to the Planning Department on July 6, 2021 is consistent with the intent and objectives of the Zoning Ordinance.
3. Adequate services and utilities must be available prior to occupancy. Review and approval of services and utilities by the Town agencies will be required for site plan approval.
4. Development will be consistent with all other applicable laws, rules and regulations.
5. As provided in 6NYCRR Part 617.10, the Town Board chose to require the preparation of a draft Generic Environmental Impact Statement (DGEIS) instead of a draft Environmental Impact Statement (DEIS) for this project. This decision was based on the scope and timetable of the development described by the Project Sponsor and depicted in the Conceptual Master Plan, which showed a multi-use development on 330± acres of land, to be built out over a 15-20 year period. The Board's decision is also based on the following reasons:
 - A DGEIS provides a lead agency with the framework for properly evaluating a conceptual master plan while identifying the important elements of the environmental setting associated with the project site. A DGEIS assesses a broad scope of a group of actions or a combination of effects from a single action.
 - The utilization of a DGEIS provides the Town Board with the authority to establish specific criteria and thresholds by which future actions such as site plan and subdivision applications will be reviewed, including requirements for ensuring subsequent compliance with SEQR.
 - The Town Board's decision to require the Project Sponsor to prepare a DGEIS acknowledges that the specific layout and appearance of the development cannot be determined at this time but rather will be decided over a period of several years and subject to market demands, and the development of the project will occur in stages.
 - The SEQR regulations state that a DGEIS is appropriate for a series or sequence of separate actions and/or projects that have wide application or restrict the range of future alternative policies.
 - The Town Board's utilization of a DGEIS affords it the opportunity to evaluate a broad range of anticipated impacts, and it also ensures that related actions will not be segmented in order to avoid the required analysis of the proposed development of the overall project site.

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6. By the time the Findings Statement was issued by the Town Board on December 17, 2007, the proposed Muir Woods development had been significantly revised since its initial submittal in 2002, resulting in a reduction in the commercial/office component of the project from 1.8± million sq. ft. to 700,000± sq. ft. and in the residential component from 200± units to 136± units. These changes were made in response to the NYS Department of Environmental Conservation, the U.S. Army Corps of Engineers and the public to minimize impacts to wetland areas to the greatest extent possible.

Following the issuance of the Findings Statement by the Town Board on December 17, 2007, the Project Sponsor obtained the required wetland permits from the New York State Department of Environmental Conservation and the United State Army Corps of Engineers. In an effort to address current market needs while maintaining the intent of the project site New Community District zoning, the Project Sponsor submitted an Application to Amend the Findings Statement in February of 2014 to expand the range of uses within Site B of the project site to specifically allow for multi-family housing in addition to the previously approved office/retail development.

Based on input received during the review of the Application to Amend the Findings Statement to allow for multi-family housing on Site B, the Project Sponsor submitted an Amended Application to Amend the Findings Statement and Audubon Development Plan on August 17, 2015 for the purpose of modifying the Application filed on February 18, 2014. The Amended Application proposed to modify the permitted use of the eastern portion of Site B, comprised of approximately 26 acres. Pursuant to the updated Application, the western portion of Site B comprised of approximately 20 acres would have remained designated for commercial office and retail development per the Finding Statement issued by the Town Board on December 17, 2007.

Subsequent to the issuance of an Amended Findings Statement by the Town Board on December 7, 2015, the Project Sponsor sought the required approvals and permits for the development of Sites C and D of the Project Site as a 133 lot residential subdivision that includes a roadway connection to Campbell Boulevard on 520 Campbell Boulevard. The Planning Board thoroughly considered the potential adverse environmental impacts associated with the subdivision and issued a negative declaration pursuant to SEQRA on September 14, 2017 based on its determination that the 133 lot residential subdivision on Sites C and D would not result in any potentially significant adverse environmental impacts. On September 14, 2017, the Planning Board granted Site Plan Approval for the subdivision, and on June 21, 2018 granted Final Plat Approval for the subdivision. A map cover for the approved 133 residential subdivision was filed with the Erie County Clerk's Office on July 24, 2018, and construction activities in furtherance of the construction of the subdivision began in the fall of 2018.

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Following the issuance of the Amended Findings Statement by the Town Board on December 7, 2015, the Project Sponsor sought and obtained extensions of the expiration dates of the wetland permits previously issued by the New York State Department of Environmental Conservation and the United States Army Corps of Engineers.

In an effort to allow student housing to be developed on Site B while maintaining the intent of the New Community District zoning, the Project Sponsor submitted an Application to Amend the Findings Statement on April 15, 2019. The Project Sponsor sought an Amendment of the Findings Statement to expand the range of uses within Site B of the project site to specifically allow for student housing in addition to the previously approved multifamily housing on the western 20± acres of Site B and the previously approved office/retail development on the eastern portion of Site B.

In an effort to allow a mixed-use project to be developed on Site A while maintaining the intent of the New Community District zoning, the Project Sponsor submitted an Application to Amend the Findings Statement and the adopted Comprehensive Plan on June 24, 2020. The Project Sponsor sought an Amendment of the Findings Statement to modify the land use category within Site A of the project site to replace the previously proposed 237,000 sq. ft. maximum Flex office/R&D use with a mixed-use development including 2 four-story mixed-use buildings along the Dodge Road frontage of Site A, 45 two-family townhomes and 2 six-unit single-story multifamily buildings. The Project Sponsor sought to amend the Comprehensive Plan to designate Site A as appropriate for Mixed Residential use. In connection with the proposed mixed-use development of Site A, the Project Sponsor proposed to reduce previously approved impacts to the federal wetlands subject to the jurisdiction of the United States Army Corps of Engineers (“USACE”) and also to the NYSDEC Freshwater Wetland and its regulated 100 ft. Adjacent Area.

On August 20, 2020, the Planning Board held public hearings in connection with its review of the Application to Amend the Findings Statement and the Comprehensive Plan as filed by the Project Sponsor on June 24, 2020. The Planning Board adopted resolutions during its meeting on August 20, 2020 by unanimous votes recommending that the Town Board issue the Amended Findings Statement and amend the Comprehensive Plan to designate Site A as appropriate for Mixed Residential use.

On October 6, 2020, the Town Board held public hearings in connection with its review of the Application to Amend the Findings Statement and the Comprehensive Plan as filed by the Project Sponsor on June 24, 2020. On October 19, 2020, the Town Board adopted Resolution 2020-791 for the purpose of issuing an Amended Findings Statement to allow Site A of the Muir Woods

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Property to be developed as a mixed-use residential/commercial project instead of the previously proposed flex office/R&D buildings. Resolution 2020-791 as adopted by the Town Board on October 6, 2020 also authorized the acquisition of approximately 43 acres of Permanent Open Space via a donation by the property owner consisting of property to the west of Site B including the eastern portion of Site A consisting of approximately 9.81 acres of wetlands subject to the jurisdiction of both the NYSDEC and USACE. During its meeting on October 19, 2020, the Town Board also adopted Resolution 2020-792 for the purpose of approving an amendment to the Comprehensive Plan to designate Site A as appropriate for a mixed-use residential/commercial use instead of the previously proposed flex office/R&D buildings

On December 24, 2020, the New York State Department of Environmental Conservation (“NYSDEC”) issued an Amended Wetland Permit [Permit No. 9-1422-00398/0001] authorizing the impacts to NYSDEC Freshwater Wetlands and the associated regulated 100 ft. Adjacent Area in order to accommodate the mixed-use development of Site “A”. The Amended Wetland Permit reduced the impacts to jurisdictional freshwater wetlands associated with the development of Site A from 9.46 acres to 1.2 acres and reduced the impacts with the development of Site A to the regulated 100 ft. wide adjacent area from 4.2 acres to 3.65 acres.

As a result of the Amended Wetland Permit issued by the NYSDEC on December 24, 2020, the development of the Muir Woods Property will result in permanent impacts to approximately 2.39 acres of State regulated wetlands (TE-22, TE-23 and TE-34), and 11.38 acres of State regulated 100 foot wide wetland adjacent area. As mitigation for those impacts the Project Sponsor is required to create 19.58 acres of in-kind and out-of-kind wetlands on the overall Muir Woods Property, in six areas, to replace the functions and benefits of the impacted wetlands. Additionally, there will be 4.3 acres of stream channel enhancement on-site as mitigation for State wetland regulated adjacent area impacts.

On February 25, 2021, the United States Army Corps of Engineers (“USACE”) issued an Amended Wetland Permit [LRB-2001-00067] authorizing impacts to 6.09 acres of federal wetlands, which was a reduction of 6.92 acres of previously authorized impact of 13.01 acre to federal wetlands, in order to accommodate the mixed-use project on Site A.

On July 7, 2021, Sawyers Landing LLC filed an Application to Amend the Findings Statement to accommodate an increase of the allowable density of the residential component of the mixed-use project on Site A from 202 units to 258 units.

On September 27, 2024, the Town Board adopted Resolution No. 2021-818 for the purpose of approving the issuance of an Amended Findings Statement pursuant to SEQRA.

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7. A Supplemental GEIS, an option that the SEQR regulations leaves to the discretion of the Lead Agency, was not required for this project due to the Town Board's decision that the reduction in the project described in #6, above did not meet the criteria set forth in 6NYCRR Part 617.9(a)(7). Although the changes proposed by the Project Sponsor reduced the development significantly, it was not determined that the amended project would encroach on any land not initially identified in the scope of the original development proposal. The project changes also did not result in newly discovered information, and would not result in any significant environmental impacts not addressed or inadequately addressed in the DGEIS.

8. Traffic and Transportation (FGEIS Section 2.1)

Site specific requirements shall be established by the Town, County and State, as appropriate, as development applications are reviewed. The developer shall be responsible for any traffic mitigation required for development of the project site.

The potential traffic impacts associated with the original project proposal were clearly analyzed and identified within the Traffic Impact Study prepared by Stantec Consulting Services, Inc. dated March 2003 and updated August of 2005 in association with the acceptance of the FGEIS.

The Amended Findings Statement issued by the Town Board on August 5, 2019 included the consideration of adding student housing to the authorized uses of Site B pursuant to the Amended Findings Statement issued by the Town Board on December 17, 2007. The Project Sponsor submitted a Traffic Impact Study for the purpose of evaluating the potential traffic impacts of the development of Site B as a maximum of 515 student housing units. It was determined that the potential traffic impacts associated with student housing on Site B will be less than the potential traffic impacts of the development of Site B in its entirety as a maximum of 464,850 sq. ft. of commercial office and retail development pursuant to the Findings Statement issued by the Town Board on December 17, 2007.

The Town Board, as Lead Agency, requires that the Project Sponsor comply with the following mitigation measures during the development of the project site:

- A. Provision for Future Extension of John James Audubon Parkway to North French Road

The extension of John James Audubon Parkway through the project site and connecting to North French Road was proposed in the initial Concept Plan submitted for the Muir Woods project in 2002. This proposal was also incorporated into the DGEIS submitted to the Town in 2004. The connection was removed from the Concept Plan in response to the requirement from the NYS Department of Environmental Conservation to further reduce impacts to State and federal wetlands. The Town of Amherst may in the future be interested in the

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possibility of a future northerly extension of John James Audubon Parkway to North French Road while acknowledging such possible future extension would require approvals from both the NYS Department of Environmental Conservation and the United States Army Corps of Engineers.

The rationale for the road connection was found in several planning documents, both historical and recent:

- The Amherst Community Development Plan adopted by the Planning Board in 1975 includes the extension of the then-planned Lockport Expressway through the subject site as a future Minor Arterial road.
- A report prepared by NYSDOT in 1976 anticipated the extension of the John James Audubon Parkway and forecast its use by 1,950 vehicles per hour.
- The Amherst Bicentennial Comprehensive Plan, accepted by the Town Board in February 2004 and adopted by the Town Board in January 2007, identifies the “Audubon Parkway Extension” in the map showing the Future Thoroughfare System.

The 30+ years of anticipating this roadway connection point to its significance in meeting the transportation goal of improving circulation within the Town and the role this connection would play in overall Town development. Given its importance, the Town Board is requiring that the future location of this connector be shown on site plans submitted for review, and that sufficient land be reserved by the Project Sponsor for the eventual connection to be constructed. The road construction and alignment will be subject to approval by the NYSDEC and the U.S. Army Corps of Engineers, as applicable.

B. Residential Connection to Lynette Lane

The residential component of the proposed Muir Woods development to occur on Sites C & D may have a direct road connection to Lynette Lane. There will be no direct roadway connection to Nancy Lane. Non-residential traffic will be discouraged from using Lynette Lane through the implementation of various traffic calming measures to be proposed during the site plan review process for the development of Sites C & D, subject to review of such traffic calming measures by the Town Traffic-Safety Board and Fire Chief’s Association. These measures include:

1. The lack of direct sight lines for motorists to discourage non-residential traffic from utilizing Lynette Lane to access North French Road;
2. Curvilinear road design; and

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3. Installation of signage posting the road for “resident and emergency traffic only” or other such measure to prohibit non-residential traffic from travelling on Lynette Lane and the proposed public roadways within the existing residential subdivision;

If a problem is determined to exist based on the Phase 2 traffic study, further measures to discourage traffic of prohibit cut-through traffic will be considered.

C. No Internal Roadway Connection to Dodge Road

The internal connector road within the Muir Woods development is not proposed to have a westerly connection to Dodge Road; the only direct vehicular connection to Dodge Road will be from the portion of the project located in the western portion of the project site (Site A). If warranted at some future time by a traffic analysis, a connection to Dodge Road may be made from the internal connector road if required permits for such a roadway connection can be obtained from the NYSDEC and the US Army Corps of Engineers.

D. Updated Traffic Impact Study

The Traffic Impact Study will be updated when any of three established thresholds are met:

1. Completion of Phase I development, defined as full build-out of Site B, or
2. prior to approval of any site plan in Site C or Site D or any direct or indirect connection to any of the Sites with Lynette Lane, or
3. when the number of combined vehicular trips entering and exiting the site during the AM weekday peak travel hour reaches 858 trips, or
4. when the number of combined vehicular trips entering and exiting the site during the PM weekday peak travel hour reaches 774 trips.

If actual conditions exceed projections, this will be reflected in the updated TIS to be prepared by the Project Sponsor, and the Project Sponsor may be required to implement traffic related mitigation measure sooner than expected.

Any mitigation measures, including off-site mitigation measures that are required as a result of the updated TIS, shall be the sole obligation of the Project Sponsor, if approved. Any off-site improvements, including the acquisition of private property required to make those improvements, shall be conditions of any site plan approval and treated as Public Improvement Permits (PIPs) for the purpose of final permitting. At no time shall the Town be required to make any off-site

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improvements or acquire private property, either by purchase or through its eminent domain powers, to mitigate the impact of this development project.

E. Alternate Access to Campbell Boulevard

During the original environmental review of the proposed project which concluded with the Town Board's issuance of a Findings Statement on December 17, 2007, the Project Sponsor attempted to seek a vehicular connection from the site to Campbell Boulevard through property located at 520 Campbell Boulevard which is owned by the Williamsville Central School District. The Town also participated in efforts to obtain access to Campbell Boulevard via this property. These attempts were not successful.

The Project Sponsor eventually was successful in acquiring 520 Campbell Boulevard from the Williamsville Central School District on December 5, 2017 and the approved 133 residential subdivision on Sites C and D includes a public roadway connection on 520 Campbell Boulevard to Campbell Boulevard.

F. Construction Vehicles

As part of the public comment period for the project, concerns were raised regarding the use of construction vehicles on existing residential streets in the adjacent Franklin Heights Subdivision to access the project site during project construction. In order to avoid the adverse environmental impacts associated with construction vehicles, existing residential streets shall not be utilized by construction vehicles to access the project site. The infrastructure to be constructed for the project shall be appropriately sequenced so that construction vehicles can access the site via the northerly extension of John James Audubon Parkway and Doge Road only.

Any future builder, owner or developer who purchases lots for development within Site C & D shall be prohibited from using Lynette Lane as a means of access for construction vehicles. A deed restriction incorporating this restriction shall be a prerequisite of the sale of any lots within Sites C and D. and the Town shall be provided with a copy of the recorded deed restriction, which shall not be recorded at the Erie County Clerk's Office until the content and form of the deed restriction has been reviewed and approved by the Building Department and Town Attorney's Office.

On June 21, 2018, a Declaration of Restrictions was recorded at the Erie County Clerk's Office (Liber 11330 of Deeds at Page 8243) for the purpose of complying with the relevant portion of the Amended Findings Statement prohibiting construction vehicles from utilizing Lynette Lane for access by construction vehicles.

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G. Break in Access for Connection to Lockport Expressway (I-990)

The proposed northerly extension of John James Audubon Parkway as a Town roadway to provide access to the project site requires a break in access to the Lockport Expressway (I-990). The NYSDOT has been aware of this requirement since the initial petition by the Project Sponsor in 2002. Prior to the granting of the break in access, several conditions must be met, including completion of any required environmental compliance. Once completed and inspected, the Project Sponsor will be required to dedicate the northern extension of John James Audubon Parkway to the Town for permanent use as a public roadway to be dedicated to the Town of Amherst.

On May 20, 2019, the Town Board adopted a resolution stating the Town will serve as the applicant for the required Break-in-Access for the proposed northerly extension of John James Audubon Parkway as a public roadway to be dedicated to the Town of Amherst.

The Town filed an Application for Break-in-Access with the New York State Department of Transportation on August 21, 2019. The NYSDOT has not yet issued a decision on the pending request for Break-in-Access approval.

The Break-in-Access for the proposed northerly extension of John James Audubon Parkway as a public roadway to be dedicated to the Town of Amherst will result in numerous public benefits including, but not limited to, accommodating the potential future extension of the NFTA light rail and a terminus for such light rail on Site B, publicly accessible parking for a recreational trail that will cross the overall Muir Woods Project Site and connect to the Town's recreational trail (extending from Niagara Falls Boulevard to the trailhead near the intersection of North Forest Road and Maple Road), and a potential future extension of John James Audubon Parkway as a public roadway connecting to North French Road.

H. Traffic Mitigation Measures

Dodge Road / Project Site Roadway

Phase I development:

- Installation of a stop sign to the southbound (site driveway) approach
- Construction of one shared left-right turn lane for southbound site driveway approach

Full development:

- No additional improvements

John James Audubon Parkway / I-990 Ramps

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Phase I development:

Upon the completion of Phase I development, (Phase I development defined in Section 8, Part D.1. of this Amended Findings Statement) the Project Sponsor shall be required to provide a current trip count Report for both the a.m. and p.m. peak travel hours. Subject to the findings of a warrant analysis prepared in accordance with appropriate traffic engineering standards as determined by the updated trip count Report and based on an analysis of the potential impacts upon existing Levels of Service at this intersection, the Project Sponsor may be required to work with the New York State Department of Transportation to provide the following mitigation measures:

- Installation of traffic signals, each with their own controller, at both the northbound and southbound I-990 to John James Audubon Parkway
- Installation of a wire connection between these two new signals and the existing traffic signal at John James Audubon Parkway and Dodge Road in order to coordinate all three traffic signals
- Widening of both the northbound and southbound I-990 off-ramps to provide one additional turning lane on each ramp approach to John James Audubon Parkway

Full development: If any of the thresholds identified in 'D' above are met, the following improvements will be evaluated and may be required:

- installation of a third lane to the northbound off-ramp in order to provide two left turn lanes and one right turn lane
- add a free-flow southbound right turn lane at the southbound ramp, including a second receiving lane on the ramp to merge to one lane prior to the I-990 mainline

Dodge Road / John James Audubon Parkway

Phase I development:

- Traffic signal timings will need to be adjusted periodically over time as warranted by changing travel patterns

Full development:

- Construction of a westbound right turn lane. It is anticipated that this improvement will be required when approximately 75% of the development is complete or when the number of westbound right turning vehicles from Dodge Road exceeds 300 vehicles per hour during the morning peak travel period.

North French Road / Sweet Home Road

Phase I development:

- Adjustments to traffic signal timing as travel patterns warrant modification

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Full Development:

- Construction of an eastbound right turn lane. Traffic volumes turning right at this location currently exceed guidelines recommended in the Highway Capacity Manual for consideration of installing a separate right turn lane. While construction of this lane is currently warranted to address current existing traffic operations in the area, it will not be needed as a result of traffic to be generated by the proposed development of the project site until approximately 90% of the proposed development has been completed, since new traffic projected to be generated by the project will only add a few additional vehicular trips to this traffic movement.
- Modify signal timings during both the morning and evening peak hours, as necessary. Recent improvements to this intersection to provide protected phasing for the left turns will reduce the number of left turn accidents at this location. Additionally, future planned improvements to be implemented by Erie County will assist in further reductions in the number of accidents at this intersection.

North French Road / Campbell Boulevard

Phase I development

- Adjustments to traffic signal timing as travel patterns warrant modification

Full development:

- Add protected/permitted phasing for eastbound, northbound and southbound left turns when the traffic signal is upgraded in association with the improvement identified above.

North French Road / I-990 Ramps

Dodge Road / Sweet Home Road

Dodge Road / Campbell Boulevard

Phase I development:

- Modify signal timings for both the morning and evening peak travel hours as traffic patterns change.

Full development:

- Modify signal timings for both the morning and evening peak travel hours as traffic patterns change.

North Forest Road / John James Audubon Parkway

Phase I and/or Full development:

- Add protected/permitted phasing for the southbound left turn movement when warranted

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- Modify signal timings during both peak travel periods, as traffic patterns change

North French Road / Lynette Lane

Phase I development:

Based on the most current Traffic Impact Study addressing the impact on Lynette Lane and its intersection with North French Road, Lynette Lane as currently constructed may not be adequate to support the traffic associated with full build-out of the proposed development plan. Consequently, the Project Sponsor acknowledges its potential obligation to make off-site improvements to Lynette Lane and its intersection with North French Road, should any site plan be approved. See Section 8.D of this Certification of Findings.

- If the updated TIS identifies traffic mitigation measures reasonably necessary to accommodate traffic from development of the project site, and such mitigation measures cannot be mitigated by the Project Sponsor, then the scope of the project may be limited.

Route 62 / East Robinson Road
Campbell Boulevard / Tonawanda Creek Road
Millersport Highway / Campbell Boulevard / Stahl Road

Phase I and Full development:

- Modify signal timings for both the morning and evening peak travel hours as traffic patterns change.

9. Wetland Issues (FGEIS Section 2.2)

The proposed Muir Woods project will result in permanent impacts to approximately 10.98 acres of State regulated wetlands (TE-22, TE-33 and TE-34), 13.46 acres of State regulated 100-foot wide wetland adjacent area, and 19.12 acres of federal wetlands. According to the Permit Transmittal Letter dated November 30, 2009, the NYSDEC has officially issued a Freshwater Wetlands Permit (Permit ID 9-1422-00398/00001) and Water Quality Certification (Permit ID 9-1422-00398/00002) for the permanent wetland impacts as identified.

On June 1, 2018, the NYSDEC issued a modification of Permit No. 9-1422-00398/00002 (Modification No. 1 of Permit No. 9-1422-00398/00002) that applies to the development of Sites C and D as a 133 lot residential subdivision. On August 29, 2018, the NYSDEC issued a modification of Permit No. 9-1422-00398/00001 and Permit No. 9-1422-00398/00002 (Modification No. 1 of Permit No. 9-1422-00398/00001 and Modification No. 2 of Permit No. 9-1422-

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00398/00002”). On January 10, 2019, the NYSDEC issued Modification No. 3 of Permit No. Permit No. 9-1422-00398/00001 to extend the expiration date of the wetland permit to November 30, 2024.

On December 24, 2020, the New York State Department of Environmental Conservation (“NYSDEC”) issued an Amended Wetland Permit [Permit No. 9-1422-00398/0001] authorizing impacts to NYSDEC Freshwater Wetlands and the associated regulated 100 ft. Adjacent Area in order to accommodate the mixed-use development of Site “A”. The Amended Wetland Permit reduced the impacts to jurisdictional freshwater wetlands associated with the development of Site A from 9.46 acres to 1.2 acres and reduced the impacts with the development of Site A to the regulated 100 ft. wide adjacent area from 4.2 acres to 3.65 acres.

As a result of the Amended Wetland Permit issued by the NYSDEC on December 24, 2020, for the development of the Muir Woods Property will result in permanent impacts to approximately 2.39 acres of State regulated wetlands (TE-22, TE-23 and TE-34), and 11.38 acres of State regulated 100 foot wide wetland adjacent area. As mitigation for those impacts the Project Sponsor is required to create 19.58 acres of in-kind and out-of-kind wetlands on the overall Muir Woods Property in six areas, to replace the functions and benefits of the impacted wetlands. Additionally, there will be 4.3 acres of stream channel enhancement on-site as mitigation for State wetland regulated adjacent area impacts.

Additional wetland findings include the following:

- The project will not create a regulated 100-ft. wetland buffer area that crosses any property line adjacent to the project site. The on-site mitigation areas will be designed so that they will be located at least 100 ft. from neighboring properties.
- As mitigation for the impacts as identified, the project includes creation of 26.917 acres of in-kind and out-of-kind wetland on-site, in several areas, to replace the functions and benefits of the impacted wetlands. There will be 4.3 acres of stream channel enhancement on-site (totaling approximately 2,630 linear feet).
- The development of the eastern portion of Site B for residential purposes, shall not include any owner occupied housing units within the State regulated wetland or the 100 ft. regulated Adjacent Area that do not involve oversight by either a homeowners or condominium association to ensure there will not be any impacts into the 100 ft. regulated wetland Adjacent Area that is to be preserved on Site B.

Federal Wetlands:

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As stated in its letter dated August 27, 2007, the United States Army Corps of Engineers (USACE) has field verified that the federal wetland boundaries located on the Muir Woods project site as shown on the wetland delineation map prepared by Greenman-Pedersen, Inc. dated May 2007 are accurate. The wetland areas were delineated by Earth Dimensions, Inc. and summarized in a final wetland delineation report dated May 16, 2007.

The Project Sponsor provided a complete Joint Application For Permit for wetland impacts associated with the project to the USACE and NYSDEC as of June, 2009. After thoroughly reviewing the complete application and associated wetland impacts, the USACE issued a Validated Department of the Army Permit for wetland impacts associated with the project as of May, 2012. Additionally, having thoroughly reviewed the complete application and associated wetland impacts, the NYSDEC officially issued a Freshwater Wetland Permit and Water Quality Certification for wetland impacts associated with the project as of November, 2009.

On May 14, 2012, the United States Army Corps of Engineers (“USACE”) issued Department of Army Permit No. 2001-00067. The permit issued by the USACE permitted to impact 17.83 acres of Federal wetland, and 1.29 acres (approximately 5227 linear feet) of jurisdictional tributaries for the construction of Muir Woods project. On May 6, 2016, the USACE extended the permit expiration dated from May 14, 2012 to November 30, 2019. The USACE issued a modification of Permit No. 2001-00067 on June 20, 2018 in connection with the development of Sites “C” and “D” as a residential subdivision. On January 16, 2019, the USACE extended the expiration date of Department of Army Permit No. 2001-00067 to November 30, 2024.

On February 25, 2021, the United States Army Corps of Engineers (“USACE”) issued an Amended Wetland Permit [LRB-2001-00067] authorizing impacts to 6.089 acres of federal wetlands, which was a reduction of 6.921 acres of previously authorized impact of 13.01 acre to federal wetlands, in order to accommodate the mixed-use project on Site A.

10. Wildlife / Biological Resources (FGEIS Section 2.3)

The NYSDEC’s Natural Heritage Program has reported no record of known occurrences of rare or state-listed animals or plants, significant natural communities, or other significant habitats, on or in the immediate vicinity of the project site. The Project Sponsor will be required to implement the following mitigation measures in order to minimize impacts to wildlife resources to the maximum extent practicable:

- A comprehensive erosion control plan will be developed and implemented to protect vegetation and water quality.

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- Off-limit areas, including wetlands, will be delineated prior to construction to avoid or minimize impacts to vegetation. The construction workforce will be educated as to respecting and adhering to physical boundaries of off-limit areas.
- Best Management Practices will be followed during construction.
- The establishment of invasive vegetative species will be deterred through manual extraction and rapid establishment of desirable vegetation. Exposed and disturbed soils will be seeded, planted and mulched to prevent the colonization of invasive species. Volume 8 of the Appendix of the FGEIS at Exhibit F (*SJWPA Appendix M*) contains a discussion of the proposed on-site wetland mitigation including the protection of habitat areas.
- Waterfowl activity will be deterred in the off-site wetland mitigation area located in the Town of Newstead through the use of mylar tape, snow fencing, 4-7 ft. tree plantings and the seeding of upland grassland areas with a cool season grass.
- The proposed on-site wetland mitigation system will be designed to provide seasonal aquatic habitat for fish, waterfowl and amphibians; habitat for multiple covertypes of wetland plant species; and passerine bird nesting, feeding and resting habitat.
- The project site historically has had an elevated number of deer-vehicle accidents on the roads surrounding the parcel. This parcel is a portion of a much larger habitat area which also includes Nature View Park to the north and is not a "closed" habitat area. The Planning Department, in conjunction with the Police Department, will continue to monitor the deer population throughout the Town and implement approved methods of reducing deer/vehicle accidents in accordance with the Deer-Vehicle Accident Management Plan.

11. Drainage and Flooding (FGEIS Section 2.4)

The following measures shall be implemented by the Project Sponsor to mitigate drainage and flooding impacts to the maximum extent practicable:

- A. The Town Highway Department shall have access to all Town ditches that are on the subject property including Town ditches 4, 4A, 4B and 4C. The Project Sponsor will be required to grant public easements to the Town to these ditches to ensure their proper maintenance. No aspect of the Muir Woods development

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will inhibit access to Town ditches or create undue burden to the Town for restoration of easement property used to access Town ditches. On June 28, 2018, the Project Sponsor recorded a Permanent Access and Drainage Easement at the Erie County Clerk's Office (Liber 11331 of Deeds at Page 1521) for the purpose of granting the Town an easement to access town ditches and stormwater management facilities on the Project Site including the existing lake.

- B. The project site and the surrounding vicinity are known as locations for high amounts of beaver and mosquito activity. Access to the Town Highway Department for control of this activity in Town ditches or other areas of the development shall be provided.
- C. The Project Sponsor shall be responsible for cleaning and debrushing of all Town ditches located on the project site during the initial construction phases of the project. The Project Sponsor will also be responsible for long-term maintenance of stream/drainage features and detention/stormwater basins; for maintenance of on-site wetland mitigation areas during the monitoring period; and for the construction of all drainage improvements required for development of the project site.
- D. The Project Sponsor shall be required to construct any ponds and sand filters required stormwater quality treatment. All ponds and sand filters to be constructed on the project site will be privately owned and maintained, with public drainage easement to be granted by the Project Sponsor to allow Town to properly maintain the inlet and outlet pipes of any wet ponds.
- E. All stormwater runoff will be treated to standards approved by the Town Engineering Department prior to discharging into the existing lake on the project site or Town ditches. No additional detention is being proposed for the Muir Woods development for stormwater quantity control.
- F. All buildings in the west portion of the Muir Woods site located within the Ellicott Creek flood plain will be at a minimum elevation of 576.0 feet, or one foot above the base flood elevation as determined by the Town Building Commissioner.

As development is proposed, specific drainage plans will be reviewed and approved by the Town Highway and Engineering Departments and the NYS Department of Environmental Conservation/US Army Corps of Engineers during site plan review, to ensure there is no adverse impact to the Ellicott Creek Flood Control system.

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- G. Upon development, the existing 32± acre lake in the southeast portion of the project site will be maintained with a normal lake level of 569.55 feet. The existing 42-inch CMP outlet at the west end of the lake will remain as it is. All stormwater from the east side of the development around the lake will pass through a stormwater quality treatment facility consistent with the NYS Stormwater Management Design Manual and Phase II Stormwater SPDES requirements prior to entering the lake. This system currently designed as sand filters may evolve into wet ponds, bio-retention filters, and/or other acceptable practices under the Design Manual and SPDES requirements.
 - H. Backyard runoff from proposed residential units will be separated from wetland mitigation areas and wetlands either by a ditch or rear yard drains to preclude pollution of those areas by lawn chemicals, per NYSDEC letter dated October 26, 2007.
 - I. A detailed Stormwater Pollution Prevention Plan (SWPPP), including a Sediment and Erosion Control Plan, for the various phases of the project including any related on-site drainage areas shall be submitted as specific site plans are submitted for review. The Stormwater Pollution Prevention Plan for each phase of the project will need to be reviewed and approved by the Town's Engineering Department.
 - J. The Project Sponsor shall be required to comply with the findings and recommendations of the Preliminary Drainage report prepared by Greenman-Pedersen, Inc. in August 2007 and any updated reports during the course of development.
 - K. The Project Sponsor will provide backyard drainage for the existing homes that are directly adjacent to the portions of the project site that will be developed for residential use. This requirement pertains to Sites and D. Additional drainage improvements for the areas along the rear yards of the homeowners on Nancy Lane will also be installed by the Project Sponsor. The drainage pipe to be installed in the rear yards of the new residential units that will be integrated with the new drainage swale behind the residents of Nancy Lane will be a minimum diameter of 12 inches.
12. Character and Quality of Life Issues (FGEIS Section 2.5)
- A. Setbacks

On those portions of the project site where commercial or student housing development will be directly adjacent to existing residential areas (i.e. Bucyrus Heights), setbacks will retain existing vegetation to a depth that

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provides an adequate buffer. The following minimum setbacks will be required:

- The planting of additional trees and shrubs by the Project Sponsor within the minimum setback area may be required to supplement the existing vegetation in order to provide adequate buffers.
- A combination of earthen berms and new vegetation will be required in those portions of the minimum setback area where there is not sufficient existing vegetation to provide an adequate buffer. The minimum height at the top of berms shall be three feet, and the maximum slope shall be 1 on 3 (33%) to promote the growth and long-term viability of trees and shrubs planted on the berms. Berms should have a natural appearance by varying their width and height.
- Site A (western portion of the project site – 50 Dodge Road) – This portion of the project site will be utilized for mixed-use; a portion of Site A is located directly south of the Bucyrus Heights subdivision.
 - ~~25 ft. minimum building setback from residential lot line for single-story residential buildings.~~
 - 3190 ft. minimum building setback from residential lot line for attached and detached -two-family -townhome style units.
 - 250 ft. minimum building setback from residential lot line for four-story mixed use buildings.
 - ~~400~~250 ft. minimum building setback from residential lot line for four-story multifamily building.
 - 450 ft. minimum setback from residential lot line for four-story climate controlled storage building.
 - 60 ft. parking setback from residential lot line
- Site B (center portion of site) – This portion of the project site will be developed around the extended John James Audubon Parkway as a public roadway to be dedicated to the Town of Amherst. Site B will be developed as student housing or for the land uses permitted pursuant to the Amended Findings Statement issued by the Town Board on December 17, 2015. The following setback standards apply to the development of Site B:

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- 60 ft. building setback from residential lot line. If the height of any proposed buildings exceeds 50 feet, the required minimum building setback shall be equal to the height of the proposed building.
- 90 ft. parking setback to residential lot line

B. Building Height

The following maximum building heights will be observed for the proposed development:

- Site A (western portion of the project site) – This portion of the project site will be the location of mixed-use and residential buildings and a portion of Site A is located directly south of the Bucyrus Heights subdivision.
 - Maximum building height for mixed-use buildings, and multifamily buildings and climate controlled storage building shall be four-stories and 60~~55~~ ft. as measured from the finished grade to the top of any parapet (excluding any rooftop mechanical equipment). All mechanical equipment shall be properly screened in accordance with the standards contained in the Zoning Code adopted by the Town Board in May of 2006.
 - Maximum height of any residential buildings within 90 ft. of a residential lot shall be 3~~25~~ ft.
- Site B (center portion of the project site) – This site will be developed around the extended John James Audubon Parkway as a public roadway to be dedicated to the Town of Amherst. Site B will be developed as student housing or Site B will be developed as permitted to the Amended Findings Statement issued by the Town Board on December 17, 2015.
 - There will not be a maximum height for buildings to be constructed on Site B. All buildings will be required to comply with a minimum required setback that shall be the greater of 50 feet or the height of the proposed building at the point of its maximum height (including rooftop mechanicals, etc.)

13. Soil Stability and Foundation Issues (FGEIS Section 2.6)

The Geotechnical Engineering Report prepared by McMahon & Mann Consulting Engineers, P.C. dated June 2005 includes findings and foundation considerations

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for future construction of the various components of the project. The report is included in Volume 6, Appendix I of the FGEIS.

The Town shall not grant site plan, subdivision or Public Improvement Permit (PIP) approval for construction of any component of the project (buildings, parking areas or infrastructure) unless the identified limitations as discussed in the McMahon & Mann report are adequately accounted for. The applicant shall be required to provide documentation of site-specific soil characteristics and comply with all relevant Town building codes regarding soil conditions.

Additional mitigation measures to be undertaken by the Project Sponsor, subject to determination by the Building Department, may include:

- Perform individual soil borings for each proposed structure to accurately determine the specific geotechnical design perimeters.
- Take measures to control the moisture content of the soils outside the structure. These may include installation of an irrigation system that would maintain near-saturated conditions in the soil around the structure during dry summer months, and/or installation of an exterior vapor barrier that extends out away from the structure around the perimeter.
- Monitoring of soil moisture with supplemental foundation watering during dry months.
- Use of a lower allowable bearing pressure for design of the spread footings.
- Placement of a minimum of two continuous #5 horizontal longitudinal reinforcing bars in each of the following locations: in the footing, at the base of the foundation wall, and at the top of the foundation wall.
- Use of an isolation joint between the basement floor slab and the foundation wall.
- Installation of a quality vapor barrier under the basement floor slab.
- Installation of a foundation drain system designed so that the floor elevation of the sump is above the elevation of the bottom of the footing.

14. Economic Impacts (FGEIS Section 2.7)

All infrastructure required to support the development of the project site will be installed at the Project Sponsor's expense. Town-wide or localized special assessment districts (sewer, water, highway, etc.) are established so operating cost can be spread over many taxpayers who use specific services.

According to the "Cost of Servicing/Revenues Generated Land Use Study" in December 2006 commissioned by the Amherst Industrial Development Agency, for every \$1.00 attributed to residential use, \$1.11 is expended in providing government services, while just \$0.48 is expended for commercial use and \$0.60 is expended for open land. As a predominantly commercial oriented mixed-use project, the estimated \$3,500,000 in yearly tax revenue (2007 estimated) to the

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Town at full build out projected to be generated by the project is expected to cover the cost of any additional services including police and fire protection, snow plowing, maintenance of roads, water and sewer infrastructure, ditches, etc.

An economic real estate study for the proposed Muir Woods project was completed by Northeast Appraisers in March, 2002 which analyzed residential demand and property values. A subsequent Economic Analysis was completed by Real Property Services, LLC in July 2006, which is included in Appendix K, Volume 8 of the FGEIS. The conclusions of those reports are:

- There will be no negative impact on the marketability or values of nearby existing housing. The project may potentially have a positive impact on surrounding residential property values due to increased demand on desirability to live in close proximity to the development.
- The proposed project development will add over \$70 million to the Town of Amherst tax base when completed, and generate over \$3.4 million in tax revenue per year at stabilized 2008 levels.
- Over the first 10 years of development, the project is projected to generate over \$21.4 million in tax revenue, as compared to total tax revenue of approximately \$260,000 that would be generated if the project site remains as vacant land over the same period.
- It appears that both the Sweet Home and Williamsville School Districts will be impacted minimally with regards to expenditures on a per student basis. This takes into account that more than 50% of the residential development will consist of patio homes, which primarily cater to “empty nesters” and typically generate less students per household.
- The competitive advantages of the project site which are expected to support strong market absorption include its direct interchange access from the Lockport Expressway (I-990) and the high visibility of the site from expressway traffic.

15. Noise and Light Issues (FGEIS Section 2.9)

Noise – It is anticipated that the project site will be built-out in stages over many years and, as such, there is a need to impose mitigation measure for noise from construction activities to minimize this identified adverse environmental impact to the maximum extent practicable. Both temporary and long terms noise impacts may result from the construction activities on the project site as well as from the proposed use of the project site.

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Noise from construction-related activities, which will exceed local ambient levels for noise outside of structures, may cause some temporary annoyance to nearby residents. It is expected that this impact, caused by heavy equipment, construction vehicles and power tools, will continue throughout the duration of construction. In order to reduce this noise, the following measures will be undertaken by the Project Sponsor:

- Limit major construction activities to daytime hours
- Use of construction equipment with mufflers
- The preservation of existing vegetation to the greatest extent practicable will provide a noise barrier to existing residential areas.
- If blasting is required, the developer will follow all requirements of the Town Blasting Ordinance

Noise resulting from the occupation and usage of the buildings constructed on the project site can be expected to result in sound levels that are characteristic of suburban office and residential developments and should not be significant.

With the Lockport Expressway (I-990) forming the southern boundary of the project site, and its design as an elevated highway for a portion of this boundary, traffic is considered the largest source of existing noise. Levels from typical noise generators that may be expected to exist in the vicinity of the project site include:

Distant traffic (45 mph)	45 – 50 decibels
Passenger car pass-bys	70 decibels
Accelerating trucks	85 decibels
Distant aircraft noise	60 – 85 decibels

The Transportation Project Report for the Lockport Expressway evaluated the potential noise impacts of the entire I-990 project, including the interchange that will be improved in connection with the proposed project. A copy of the Noise & Air Pollution Study is found in Volume 6 of the Appendix of the DGEIS at Exhibit 30. In addition, there is not any development directly adjacent to the existing interchange that will be impacted by the proposed interchange improvements. To the south of the northbound off-ramp there are some residential units situated along Dodge Road. However, the planned improvements at the existing off-ramps will not result in a movement of traffic 50% or more closer to source receptors.

Light – To mitigate the light spillage from exterior lighting on adjacent residential properties, especially the Bucyrus Heights neighborhood, the following measures will be implemented:

- Appropriately located lighting, downward-directed lighting fixtures or hooded lighting will be used to prevent off-site light spillage on adjacent residential

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areas. The light fixtures and their placement will follow all Town of Amherst code requirements for usage and design. The Town Zoning Code requires a lighting plan to be submitted during the site plan review process, and the standards contained in the relevant section of the Zoning Code regulate lighting spillover from commercial locations onto adjacent residential land uses.

- Screening of proposed commercial buildings and parking lots will be provided through the creation of berms or landscaping elements on the periphery of developed areas (see Section 10A above).

16. Open Space and Recreation (FGEIS Section 2.10)

The proposed internal trail system shall be installed (Sites C & D) of the “The Preserve at Muir Woods” development, provided it does not impact regulated wetlands or is permitted by permits issued by the NYSDEC and/or USACE. Public access to a portion of the existing lake will be provided. The majority of State Wetlands TE-22, TE-33, and TE-34 will remain as Major Open Space (MOS). As a result of the modifications to the project, approximately 224± acres of the project site will be preserved as open space.

The proposed recreational trail connecting sites A, B, C, and D of the Muir Woods Development shall connect to the Town’s existing trail system as shown in Figure 4 (Park, Open Space and Trail map) and Figure 2.1 (University Focal Planning Area Concept Plan) of the adopted Amherst Bicentennial Comprehensive Plan and shall be constructed by the Project Sponsor as part of the Muir Woods project. Each development site of the Muir Woods Development shall complete its portion of the trail system prior to the issuance of any certificate of occupancy by the Town of Amherst Building Department.

~~The Project Sponsor will work with the Town toward achieving the trail connections. An opportunity for a future multi-use trail connection northerly to Nature View Park shall be maintained in accordance with the Town Comprehensive Plan.~~

17. Other Issues (FGEIS Section 2.12)

A. Reclassification of Land

The entire project site is zoned New Community District (NCD), and no changes are proposed to remove the property from the NCD zoning district classification.

The original request by Ciminelli Development Company, Inc. in 2002 was to reclassify 326± acres of land from NCD-ND and NCD-MOS to

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NCD-GC, NCD-RI and NCD-MOS. This request was reviewed and commented on over a five year period. As a result of discussions with the NYS Department of Environmental Conservation during that time, the petitioner amended the original Muir Woods Concept Plan by reducing the overall development from 144 acres to 110 acres in order to minimize wetland impacts. In addition, the various components of the development were altered so that the proposed size of the commercial office/R&D space was reduced from 1.8 million sq. ft. to 700,000 sq. ft. The proposed “village center” originally envisioned was also eliminated. The result is a different land pattern from that initially proposed and one that is not consistent with the originally-requested reclassification districts.

The following additional steps shall be undertaken as part of the Findings for this project:

- The parcels to be reclassified to NCD-GC shall be deed restricted to prohibit the following uses:
 - Automobile sales and service facilities (except vehicles used primarily on the subject property)
 - veterinary clinics or kennels
 - gasoline service station will be prohibited around the existing lake

On June 21, 2018, a Declaration of Restrictions was recorded at the Erie County Clerk’s Office (Liber 11330 of Deeds at Page 8243) for the purpose of prohibiting the above described uses on the portion of the Project Site reclassified to NCD-GC.

- At the Town Board’s direction, the Town shall initiate a reclassification of the remainder of wetland areas contained in the original project proposal as Major Open Space (MOS).

B. Land Use

The proposed development will follow the program summarized below as depicted in the original Findings Statement concept plan for the project dated September 2007, as depicted in the Concept Plan for Site B dated August 14, 2015, as the Concept Plan for Site B dated April 2, 2019 showing a student housing project, or as the Concept Plan for Site A dated June 23, 2021 showing a mixed-use project:

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Development Site	Land Use	Maximum Developed Area	Development Program
Site A	Mixed-Use	17.42 acres	Maximum of two mixed-use buildings with a maximum height of 60 ft. and maximum combined footprint of 50,000 sq. ft., <u>one-four story climate controlled storage building with a maximum footprint of 32,000 sq. ft.</u> ; <u>one four-story multifamily building with a maximum height of 55 ft. (48 units)</u> ; <u>49 one-family and two-family attached and detached townhomes (98 units)</u> and <u>12 standalone apartments with attached garages and maximum height of 32.5 ft.</u> The overall maximum allowed residential density on Site A is 258 units.
Site B (Option 1)	Class A Corporate office buildings	46 acres	Maximum of 464,850 sq. ft. of office/retail space
Site B (Option 2)	Residential/ Commercial	46 acres	Maximum of 192 residential units on the eastern portion of Site B (approximately 26 acres) and a maximum of 205,000 sq. ft. of office and commercial space on the western portion of Site B (approximately 20 acres)
Site B (Option 3)	Residential - Student housing	46 acres	Maximum of 515 student housing units
Sites C and D	Residential	37 acres	133 lot residential subdivision consisting of detached single-family homes on individual lots pursuant to the Map Cover filed at the Erie County Clerk's Office on July 24, 2018.

General components of the proposed development that will minimize adverse environmental impacts include:

- The maintenance of the remaining approximately 224± acres of the development site as permanent open space.
 - Implementing a cluster pattern to maximize open space preservation.
- C. Utility Infrastructure - In accordance with the October 17, 2007 letter received from the Erie County Department of Environment & Planning, all proposed sanitary sewer lines to be constructed to service both the residential and commercial portions of the project will be subject to review and approval by the Erie County Health Department. All systems installed or improved for the project will be undertaken by the Project Sponsor at its cost and will be required to meet all Town, County and State requirements.
- D. Archaeological/Cultural Resources -- One prehistoric archaeological site was discovered on the project site, with a Stage 2 archaeological study determining that the identified prehistoric archaeological site did not meet

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the eligibility criteria for listing on the State or National Register of Historic Places. This finding was confirmed by the NYS Office of Parks, Recreation and Historic Preservation in its letter of October 10, 2001. No mitigation measures are needed for the subject development.

- E. Air Quality – Potential impacts to air quality resulting from fugitive dust generated during construction activities will be minimized by the following measures:
- seeding and/or mulching exposed soils as soon as practicable and in accordance with the requirements and applicable regulations promulgated by the NYSDEC
 - grading roadways and covering them with gravel during construction, periodically regarding, compacting and replacing gravel as necessary as determined by the Town
 - wetting down temporary roads to be constructed on the project site during construction of the build-out of the project as needed throughout the duration of construction activities and as determined by the Town.
- F. Condominium Designation - As originally proposed, the residential portion of the project was not to include the development of any units that will be filed as condominiums. The Project Sponsor previously offered to place a deed restriction to this affect as a condition of sale to any future builder, developer or owner of any lot on the subject site. On June 21, 2018, a Declaration of Restrictions was recorded at the Erie County Clerk's Office (Liber 11330 of Deeds at Page 8243) for the purpose of prohibiting the residential uses on the Project Site from utilizing the condominium form of ownership. The Project Sponsor is requesting that the Declaration of Restrictions be modified to allow the condominium form of ownership for the attached residential units to be developed on Site A.

18. Evaluation of Future Actions

In accordance with SEQR regulations, upon application to the Town for development of the project site that requires the submittal of an Environmental Assessment Form, the Town will be required to determine if the potential adverse environmental impacts associated with the development have been adequately identified and evaluated in the DGEIS, FGEIS, and this Amended Findings Statement, and whether the proposed development exceeds any of the thresholds and/or requirements contained in this Findings Statement. This determination must be made by the Town prior to the issuance of any discretionary land use approvals by the Town for the proposed development.

Certification of Amended Findings
Amendment #51 to the Audubon Development Plan (Z-9-02)

The following scenarios are put forth in Section 617.10(c) & (d) of the SEQR regulations:

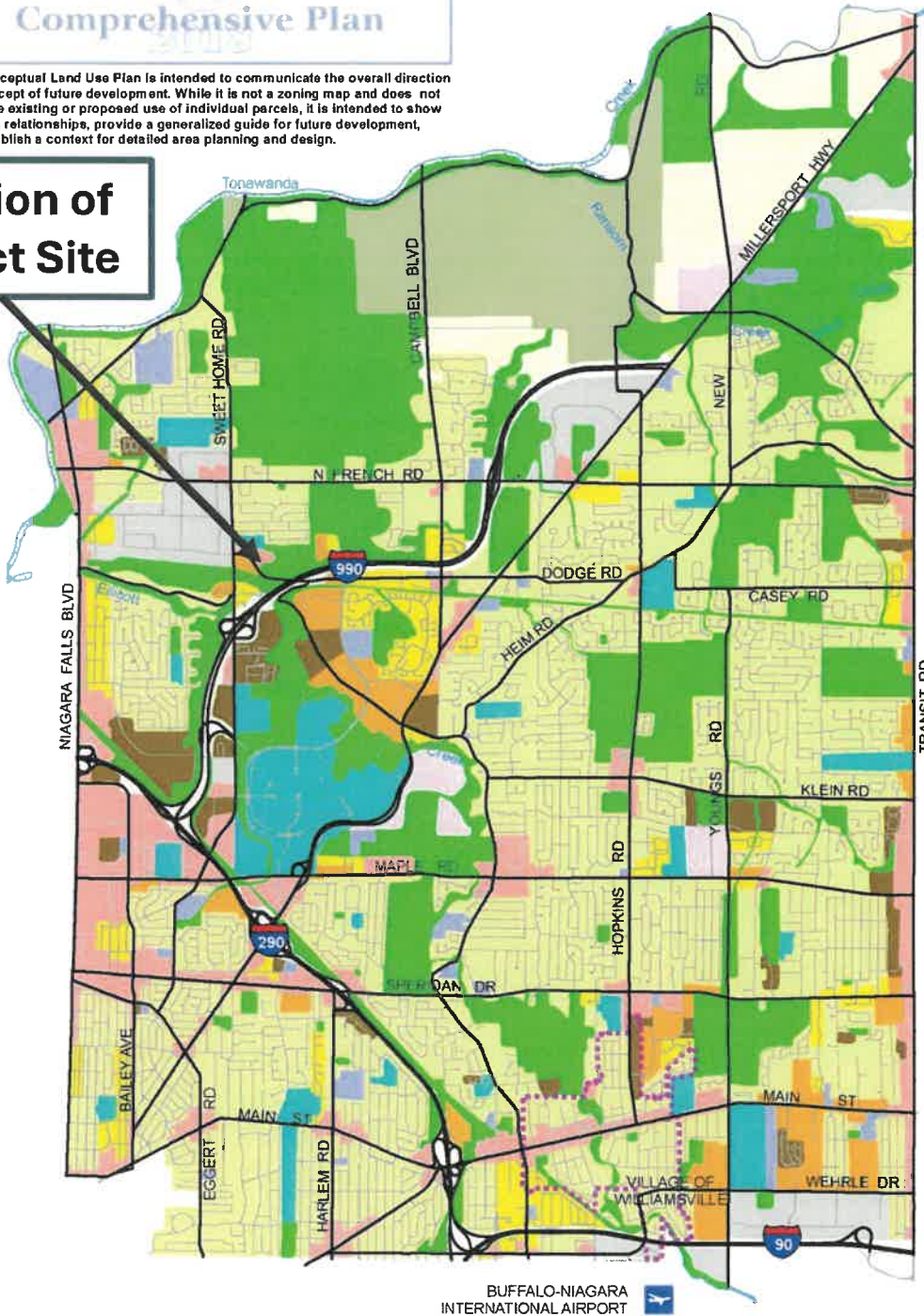
- A. If the Town determines that the proposed action is in conformance with the conditions and thresholds in the FGEIS or the Amended Findings Statement, then no further environmental review pursuant to SEQR will be required;
- B. If the Town determines that the proposed action is adequately addressed in the FGEIS, but is not addressed or not adequately addressed in the Amended Findings Statement, then an amendment to this Amended Findings Statement must be prepared;
- C. If the Town determines that the proposed action was not addressed, or was not adequately addressed, in the FGEIS, but it will not result in any significant environmental impacts, then a negative declaration must be prepared; or
- D. If the Town determines that the proposed action was not addressed, or was not adequately addressed, in the FGEIS, and the action may have one or more significant adverse environmental impacts, then a supplement to the FGEIS must be prepared.

**Exhibit 17 – Color Copy of Figure 6 of the Town of
Amherst Comprehensive Plan titled “Conceptual
Land Use Plan”**

Town of Amherst Bicentennial Comprehensive Plan 2015

The Conceptual Land Use Plan is intended to communicate the overall direction and concept of future development. While it is not a zoning map and does not show the existing or proposed use of individual parcels, it is intended to show land use relationships, provide a generalized guide for future development, and establish a context for detailed area planning and design.

Location of Project Site



BUFFALO-NIAGARA INTERNATIONAL AIRPORT

Conceptual Land Use Plan

Rural Residential	Special Use Center	Recreation, Open Space & Greenways
Single Family Residential	Commercial - Office	Agriculture
Mixed Residential	Industrial - Office	Transportation
Medium Residential	Community Facilities	Surface Water
Commercial / Mixed Use*	Educational Campus	Village of Williamsville Boundary

* See Map Figure 6-A for Additional Designations

SOURCE NOTES:

Original Source Data Provided by the Town of Amherst Information Technology Department, URS Corporation and Wallace Roberts & Todd, LLC

Map Compiled by the Town of Amherst Planning Department

Date: December 2020

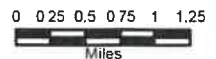
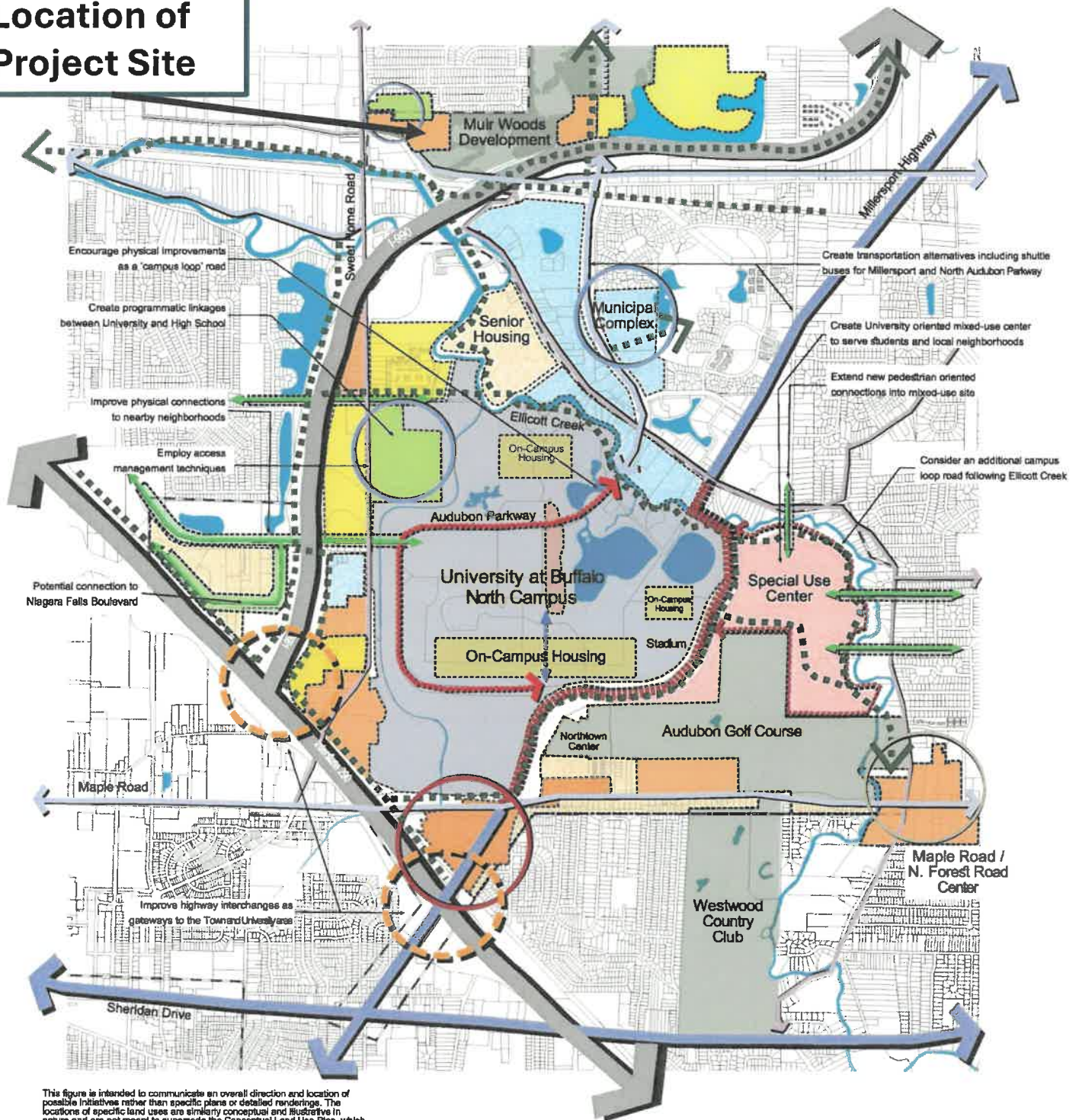


FIGURE 6

**Exhibit 18 – Color Copy of Figure 6 of the Town of
Amherst Comprehensive Plan titled “Conceptual
Land Use Plan”**

Location of Project Site



This figure is intended to communicate an overall direction and location of possible initiatives rather than specific plans or detailed renderings. The locations of specific land uses are illustrative in nature and are not meant to supersede the Conceptual Land Use Plan, which is the official guide to future land use.

UNIVERSITY FOCAL PLANNING AREA - CONCEPT PLAN

December 2020 Figure 21

Town of Amherst Bicentennial Comprehensive Plan

LEGEND

- Expressway
- Major Arterial
- Minor Arterial
- Collector
- Neighborhood Connector
- Campus Loop
- Multi-use Trail
- Natural Trail

- Special Use Center
- Stabilize and maintain existing residential fabric
- Medium Residential / Student Housing
- Commercial / Mixed-Use
- Office / Research
- School / Community Facility
- University at Buffalo
- Recreation / Open Space / Greenways

- Gateway
- Neighborhood Anchor / Community Service
- Regional Commercial Center
- Neighborhood Commercial Center

