

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY
Agenda – 530th Meeting
Friday, December 17, 2021-8:30 am

Via Zoom - James J. Allen Boardroom
Agency Offices – 4287 Main Street, Amherst, NY 14226

1. Roll Call of Members
2. Reading and Approval of Minutes
3. Bills & Communications
4. Treasurer's Report
5. Public Comment
 - a. Speakers Limited to Three (3) Minutes
6. Executive Director's Report
7. Committee Reports
 - I. Governance Committee
 - Amherst Central Park Infrastructure Fund and Administration Agreement
8. Unfinished Business
9. New Business
 - I. 111 North Maplemere, LLC
 - Authorization Resolution
 - II. Amherst NY Properties, KP6, LLC
 - Public Hearing
 - Authorization Resolution
10. Adjournment

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY
Minutes of the 529th Meeting
Monday, December 6, 2021 – 8:30 am – via Zoom
James J. Allen Boardroom
Agency Offices, 4287 Main Street

Pursuant to the provisions of Part E of Chapter 417 of the Laws of 2021, the Town of Amherst Industrial Development Agency Board of Directors Meeting was conducted through via Zoom and live streamed at www.AmherstIDA.com. In attendance at the meeting at Amherst IDA offices was Executive Director David Mingoia. A video recording of the meeting can be accessed and viewed at www.AmherstIDA.com

PRESENT via Zoom:

Carlton N. Brock, Jr.
William Tuyn
Anthony Agostino
Timothy Drury
Philip Meyer
Hadar Borden
Frank L. LoTempio III
David S. Mingoia, Executive Director
Kevin J. Zanner, Hurwitz & Fine PC

GUESTS via Zoom:

AIDA Staff
Jacqueline Berger, TOA Councilmember
Brian Kulpa, TOA Supervisor
Angela Rossi, TOA Dept of Economic Development
Sean Hopkins, Hopkins & Sgroi
Donald Griebner,
Erik Wagner, Ciminelli Development Co.
D. Feldman
Lawrence Hunter
Dr. McGrath, 111 North Maplemere, LLC
Dr. Leddy, 111 North Maplemere, LLC

Chairman Carlton Brock called the meeting to order and reminded everyone the meeting was being video recorded and live-streamed.

MINUTES

Upon a motion by Frank LoTempio seconded by Philip Meyer and unanimously carried, the minutes of the October meeting were approved as presented.

BILLS & COMMUNICATIONS

There were no Bills & Communications presented at this meeting.

TREASURER'S REPORT

Upon a motion by Frank LoTempio, seconded by Hadar Borden and unanimously carried, the Treasurer's Report for October 2021 was approved as presented.

PUBLIC COMMENT

There was no Public Comment at this meeting.

EXECUTIVE DIRECTOR'S REPORT

There was no Executive Director's Report presented at this meeting.

COMMITTEE REPORTS

Governance Committee

The Governance Committee met in November to discuss the OSC Corrective Action Plan (CAP) for the Amherst IDA Audit performed by their office and released in September 2021. The Committee recommended the CAP be presented to the full board for approval at its December 6, 2021 meeting.

Frank LoTempio made a motion to approve the OSC Corrective Action Plan (CAP). Philip Meyer seconded the motion. Votes to approve the CAP were made by Brock, Agostino, Drury, Meyer, Borden and LoTempio. Motion to approve passed by a vote of 6-0.

Establish 2022 Nominating Committee

Philip Meyer made a motion to approve Hadar Borden and Anthony Agostino as the 2022 Nominating Committee. Frank LoTempio seconded the motion. Votes to approve the 2022 Nominating Committee as Hadar Borden and Anthony Agostino were made by Brock, Agostino, Drury, Meyer, Borden and LoTempio. Motion to approve passed by a vote of 6-0.

UNFINISHED BUSINESS

There was no Unfinished Business presented at this meeting.

NEW BUSINESS

A Public Hearing commenced at 8:40 am for an application for assistance for 111 North Maplemere, LLC project.

8:40 am – AIDA Board Member William Tuyn entered the meeting.

9:14 am – The Public Hearing was closed.

Frank LoTempio made a motion to place the 111 North Maplemere, LLC project application on the agenda for the Friday, December 17th Board of Directors meeting. William Tuyn seconded the motion. Votes of aye to place the 111 North Maplemere, LLC project on the agenda for the Friday, December 17th Board of Directors meeting were cast by Brock, Tuyn, Agostino, Drury, Meyer, Borden and LoTempio. Motion to approve passed 7-0.

9:20 am – Frank LoTempio made a motion to adjourn the meeting. Anthony Agostino seconded the motion. Motion to approve adjournment was unanimously carried.

EXECUTIVE DIRECTORS REPORT

December 17, 2021

2022 - EXECUTIVE COMMITTEE AND BOARD MEETING DATES

Below is draft proposed meeting dates for calendar year 2022. Please let us know if there are any known conflicts so we can adjust before we publish the meeting schedule in January.

EXECUTIVE (or other) COMMITTEE

Thursday, January 6, 2022

Thursday, February 3, 2022

Thursday, March 10, 2022

Thursday, April 7, 2022

Thursday, May 5, 2022

Thursday, June 2, 2022

Thursday, July 7, 2022

Thursday, August 4, 2022

Thursday, September 1, 2022

Thursday, October 6, 2022

Thursday, November 3, 2022

Thursday, December 1, 2022

BOARD MEETINGS

Friday, January 21, 2022

Friday, February 18, 2022

Friday, March 25, 2022

Friday, April 22, 2022

Friday, May 20, 2022

Friday, June 17, 2022

Friday, July 22, 2022

Friday, August 19, 2022

Friday, September 16, 2022

Friday, October 21, 2022

Friday, November 18, 2022

Friday, December 16, 2022

**AMHERST CENTRAL PARK
INFRASTRUCTURE FUND ADMINISTRATION AGREEMENT**

THIS AGREEMENT (“Agreement”), entered into as of _____, 202_, is by and between the TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY, a New York public benefit corporation with offices at 4287 Main Street, Amherst, New York 14228 (“AIDA”); and the TOWN OF AMHERST, a New York municipal corporation having its principal office at 5583 Main Street, Williamsville, New York 14221 (the “Town”).

RECITALS:

A. AIDA, the Town, and the Sweet Home Central School District (the “School District”) are parties to that certain Amherst Central Park Infrastructure Fund and PILOT Application Agreement (the “PILOT Application Agreement”) pursuant to which the parties agreed to have AIDA redirect a portion of Town PILOT payments and a portion of School District PILOT payments received by AIDA to a restricted fund (the “Amherst Central Park Infrastructure Fund” or “Fund”), to be managed and disbursed by AIDA in accordance with this Agreement.

B. The parties desire to enter into this Agreement to set forth their respective understandings concerning the management and administration of the Fund.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**ARTICLE I
INCORPORATION OF RECITALS**

1.1 Recitals. The foregoing Recitals are hereby incorporated into this Agreement and made a part hereof as if fully set forth herein.

**ARTICLE II
APPOINTMENT OF FUND ADMINISTRATOR**

2.1 Appointment. AIDA is hereby designated as administrator of the Fund (the “Fund Administrator”), and AIDA accepts such appointment upon the terms and conditions set forth herein.

**ARTICLE III
DUTIES OF FUND ADMINISTRATOR**

3.1 No Implied Duties. The Fund Administrator need only perform those duties that are specifically set forth in this Agreement. No covenants or obligations adverse to the Fund Administrator shall be implied in this Agreement.

3.2 Investment of PILOT Payments. The Fund Administrator shall deposit Town PILOT payments and School District PILOT payments received pursuant to the PILOT Application Agreement into one or more dedicated, interest-bearing depository accounts (individually or collectively, the “Fund Account”) established at the financial institution at which AIDA regularly maintains its own accounts. The Fund Administrator shall have the absolute discretion to invest and manage the Fund Account, subject to the investment limitations set forth in Section 10 of the New York General Municipal Law (GML). All decisions made by the Fund Administrator in connection with the investment and management of the Fund Account shall be final and not subject to challenge, provided that the Fund Administrator is managing the Fund Account in compliance with Section 10 of the GML. Provided that the Fund Administrator complies with Section 10 of the GML in connection with the investment and management of the Fund Account, the Fund Administrator shall have no liability for any losses incurred to the Fund Account.

3.3 Reinvestment. The Fund Administrator shall reinvest all interest earned on the monies of the Fund into the Fund Account. All earned interest shall become part of the Fund, to be managed and disbursed in accordance with the terms of this Agreement.

3.4 Disbursement of Fund Monies.

(a) Eligible Disbursement Purposes. The parties acknowledge and agree that the Fund has been established for the purpose of funding “Eligible Projects” as defined in the PILOT Application Agreement which include: (i) the undertaking of public infrastructure improvements and public streetscape improvements and/or enhancements, sidewalk reconstruction, curb reconstruction, tree planting, installation of street lighting, paving and public parking, smart city technologies, traffic signals, within the PIF District; and (ii) financial assistance for the Northwest Community Center, Amherst Central Park and park-displaced projects located elsewhere in the Town. No disbursement may be made from the Fund unless such disbursement is for an eligible purpose as described in the preceding sentence (“Eligible Purpose”) and the disbursement request complies with the requirements set forth in Section 3.4(b) of this Agreement.

(b) Disbursement Requests. The Town may request from time to time that the Fund Administrator disburse monies from the Fund Account to the Town (or if requested by the Town in writing, to a person or entity designated by the Town) for an Eligible Purpose. Each disbursement request made by the Town to the Fund Administrator shall be accompanied by (i) documentation satisfactory to the Fund Administrator that is sufficient to identify that the disbursement is being requested in connection with an Eligible Purpose (“Disbursement Request Documentation”) and (ii) a certification (“Town Certification”) signed by the Town Supervisor (“Supervisor”) or other person duly authorized in writing by the Supervisor confirming that the disbursement request has been approved by the Town and certifying that the monies requested for disbursement shall be applied by the Town toward an Eligible Purpose as described in the Disbursement Request Documentation. Provided that the Disbursement Request Documentation and the Town Certification meet the requirements of the preceding

sentence and there are sufficient monies in the Fund Account to fulfill the disbursement request, the Fund Administrator shall disburse monies from the Fund Account to the Town within ten (10) business days after the Fund Administrator's approval of the disbursement request, provided that the Fund Administrator may delay disbursement for a period of time (not to exceed thirty (30) calendar days) if it determines that an earlier disbursement would result in penalties or other losses to the Fund Account.

(c) Rejection of Disbursement Request. In the event that the Fund Administrator determines that the Disbursement Request Documentation and/or the Town Certification do not meet the requirements of Section 3.4(b), the Fund Administrator shall reject the disbursement request and notify the Town in writing of same no later than five (5) business days after the Fund Administrator's receipt of the disbursement request. Such notification shall identify the specific deficiency or deficiencies in the Disbursement Request Documentation and/or the Town Certification, as applicable. The Town may submit additional documentation to the Fund Administrator to correct the deficiency or deficiencies. Notwithstanding the foregoing, the Fund Administrator shall retain the discretion to grant or reject a disbursement request based on such additional documentation. The Fund Administrator's determination that any Disbursement Request Documentation and/or the Town Certification do not meet the requirements of Section 3.4(b) shall be final and not subject to challenge.

(d) Payment of Fund Administration Expenses. The Fund Administrator shall pay all Fund Administration Expenses (as defined herein) from the Fund Account, provided that such expenses are documented to the satisfaction of the Fund Administrator. "Fund Administration Expenses" shall include all out-of-pocket third-party costs and expenses incurred by the Fund Administrator in connection with the performance of its duties under this Agreement, including, without limitation, any fees assessed by the financial institution(s) with respect to the Fund Account and any expenses incurred in connection with any audit with respect to the Fund Account. Fund Administration Expenses shall also include standard time charges of the Fund Administrator for its personnel with regard to the performance by such personnel of the Fund Administrator's responsibilities under this Agreement, provided that such time charges are fully documented and do not exceed 1% of the balance of the Fund in any given calendar year. Statements for time charges of the Fund Administrator shall be issued and paid in December of each year, with the 1% limitation described in the preceding sentence measured as of November 30th of the same calendar year.

(e) Accuracy of Documents; Indemnity. In disbursing monies from the Fund Account, the Fund Administrator shall be entitled to conclusively rely upon the accuracy of all facts and representations set forth in the Disbursement Request Documentation, the Town Certification and such other documentation received by the Fund Administrator and need not investigate any fact or matter stated in such documentation. The Town shall indemnify and hold the Fund Administrator harmless from any and all claims, demands and lawsuits against the Fund Administrator which arise from or relate to any inaccuracy or misrepresentation in any Disbursement Request Documentation or Town Certification

submitted by the Town to the Fund Administrator or any determination by the Fund Administrator to grant or reject such a disbursement request.

3.5 Resignation of Fund Administrator. AIDA may, upon 120 days prior written notice to the Town, resign from its responsibilities under this Agreement, provided that a replacement Fund Administrator agrees to assume AIDA's responsibilities under this Agreement in accordance with the provisions of this Section 2.2. Upon issuance of such notice, AIDA shall use its best efforts to obtain an agreement from a commercial bank and trust company or another institution reasonably satisfactory to the Town to assume the responsibilities of Fund Administrator, and the charges of such replacement Fund Administrator to perform such services shall constitute eligible Fund Administration Expenses as defined in Section 3.4(d) of this Agreement.

ARTICLE IV RECORDKEEPING; REPORTS AND AUDITS

4.1 Recordkeeping. The Fund Administrator shall keep accurate and complete records pertaining to the Fund Account. Such records shall include a record of all deposits, investments and interest earned in the Fund Account, and all disbursements made from the Fund Account.

4.2 Reporting Requirements. The Fund Administrator shall prepare and submit an annual report to the Town, School District and AIDA within one hundred twenty (120) days after the end of each calendar year. Each report shall identify the amount of Town PILOT payments and School District PILOT payments remitted to the Fund Administrator and shall include a schedule setting forth the Fund balance at the beginning and end of the calendar year, all disbursements made from the Fund for an Eligible Purpose, all disbursements made from the Fund for Fund Administration Expenses and the amount of interest earned on the Fund balance during the calendar year.

4.3 Audit Rights. The Town, School District and AIDA may, at their sole expense, audit the Fund upon thirty (30) days written notice to the Fund Administrator.

ARTICLE V TERM; TERMINATION

5.1 Term; Termination. This Agreement shall commence as of the Effective Date set forth above and continue until the Fund Administrator has disbursed all funds from the Fund Account.

ARTICLE VI EXCULPATORY PROVISIONS

6.1 Exculpatory Provisions. No provision, covenant or agreement contained in this Agreement, and any other agreement entered into in connection herewith, nor any

obligations herein imposed upon the parties, nor the breach thereof, shall constitute or give rise to or impose upon such party a pecuniary liability or a charge upon its general credit. All covenants, stipulations, promises, agreements and obligations of the parties contained herein shall be deemed to be covenants, stipulations, promises, agreements and obligations of such party and not of any member, director, officer, employee or agent thereof in his or her individual capacity, and no recourse shall be had for any claim hereunder against any member, director, officer, employee or agent of such party.

6.2 Limitation on Performance. No provision of this Agreement shall require the Fund Administrator to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties herein or in the exercise of any of its rights or duties if the Fund Administrator shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured.

ARTICLE VII GENERAL PROVISIONS

7.1 Entire Agreement; Amendment. This Agreement (including the Schedule attached hereto) sets forth the entire agreement and understandings of the parties with respect to the subject matter hereof and supersede all prior agreements, written or oral, with respect thereto. No amendment or modification of this Agreement shall be effective unless in writing and signed by all of the parties hereto.

7.2 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

7.3 Waiver. No waiver by any party of any breach, default or violation of any term, warranty, representation, agreement, covenant, condition or provision hereof shall constitute a waiver of any subsequent breach, default or violation of the same or any other term, warranty, representation, agreement, covenant, condition or provision hereof.

7.4 Binding Effect; No Assignment. The provisions of this Agreement shall bind and benefit the successors and assigns of the parties hereto, provided that no party shall assign this Agreement, or any of their rights or obligations hereunder, without the prior written consent of the other parties hereto.

7.5 Notices. All notices that may be given in connection with this Agreement shall be in writing and shall be delivered personally or mailed postage prepaid, by regular mail, to the parties at their addresses as set forth above. Notices shall be effective from the date of delivery if delivered personally, or from one (1) business day after the day of deposit with the U.S. mail, if mailed.

7.6 Severability. The provisions of this Agreement shall be severable, and if any clause, sentence, paragraph, provision or other part hereof shall be adjudged by any

court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, which remainder shall continue in full force and effect.

7.7 Headings. The headings and captions herein are for convenience only and are not to be construed as a part of this Agreement, nor shall the same be construed as defining or limiting in any way the scope or intent of the provisions hereof.

7.8 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[The Remainder of this Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the parties have signed this Agreement as of the date first written above.

TOWN OF AMHERST INDUSTRIAL
DEVELOPMENT AGENCY

By: _____

TOWN OF AMHERST

By: _____

**PROJECT PROFILE:
111 NORTH MAPLEMERE LLC - AMHERST
COLLABORATIVE MEDICAL FACILITY
\$67,250,006**



ELIGIBILITY

- Commercial Project under NYS Law
- Amherst Central Park Infrastructure Fund Project

COMPANY INCENTIVES (EST.)

- Property Tax = \$1,146,000
- Sales Tax = \$2,209,112
- Mortgage Tax= \$355,781

PROJECT BENEFITS (EST.)

- PIF Proceeds = \$11,990,000
- Property Taxes = \$3,346,000
- Income Taxes = \$31,906,000
- Sales Taxes = \$10,856,907

EMPLOYMENT

- 287 Construction and Related Jobs Created
- 80 Full-Time Equivalent Jobs Created
- 247 Full-Time Equivalent Jobs Retained
- Site Payroll = \$22,629,000

PROJECT SCHEDULE

- December 2021 - Project Begins
- January 2023 - Project Complete

Project Address:

111 North Maplemere Drive
Amherst, New York 14221
(Sweet Home School District)

Investment:

Land Acquisition: \$3,000,000
Construction: \$45,905,211
Soft/Other Costs: \$14,344,796



Project Summary:

Ciminelli Real Estate Corporation, acting as agent and developer for the project, is one of the region’s most established developers for the past 35 years. The proposed project consists of the development of a state of the art healthcare facility consisting of 163,200 square feet integrating innovative specialized medical tenants, mainly consisting of not-for-profit medical providers. Kaleida, University Orthopedic Services, Great Lakes Imaging, Bones and Guts, and General Physician, PC, are locating at the project to improve healthcare collaboration, community synergies, and improve patient outcomes.

The project represents the first development in the Amherst Central Park Initiative (ACP) and will generate PILOT payments that will capitalize a fund to be used for infrastructure and community projects. ACP is a generational creation of a mixture of complementary uses stemming off of the Northtown Center that will marry improved passive and active recreation along with cutting edge medical and associated residential and commercial development. Initial funds from the ACP Infrastructure Fund will pay for roadway and utility costs, including a new boulevard at the project site, and the creation of the Northwest Amherst Community Center in partnership with the Sweet Home School District.

The project qualifies under the Countywide Uniform Tax Exemption Policy and New York State Industrial Development Agency Statute as it will provide an expanded offering of medical services primarily by not-for-profit entities in one location that is currently not offered. The applicant provided a market analysis report concluding that the concentration of medical services, leading edge technology, and advanced research and educational programming is not readily available. In addition, months of planning and analysis in response to the COVID-19 Pandemic led to the *Amherst Medical Spine* strategy, which is a collaborative effort between the Town, Amherst IDA and Amherst Chamber of Commerce to attract and expand specialized medical services and innovation in the Town of Amherst.

PROJECT PROFILE:
111 NORTH MAPLEMERE LLC - AMHERST
COLLABORATIVE MEDICAL FACILITY
\$67,250,006

AIDA COMPANY HISTORY:

None

MATERIAL TERMS:

1. Creation of 68 Full-Time Equivalent Positions at the project location and maintenance of the positions for the duration of the PILOT.
2. Retention of 247 Existing Full-Time Equivalent Positions at the project location and maintenance of the positions for the duration of the PILOT.
3. Investment of not less than \$57,162,505 at the project location as noted in the application.
4. Compliance with the Agency's Local Labor Policy in connection with the construction of the Project

Town of Amherst Industrial Development Agency

MRB Cost Benefit Calculator

Date: December 10, 2021
 Project Title: 111 North Maplemere - Amherst Collaborative Medical Facility
 Project Location: 111 North Maplemere Drive



Economic Impacts

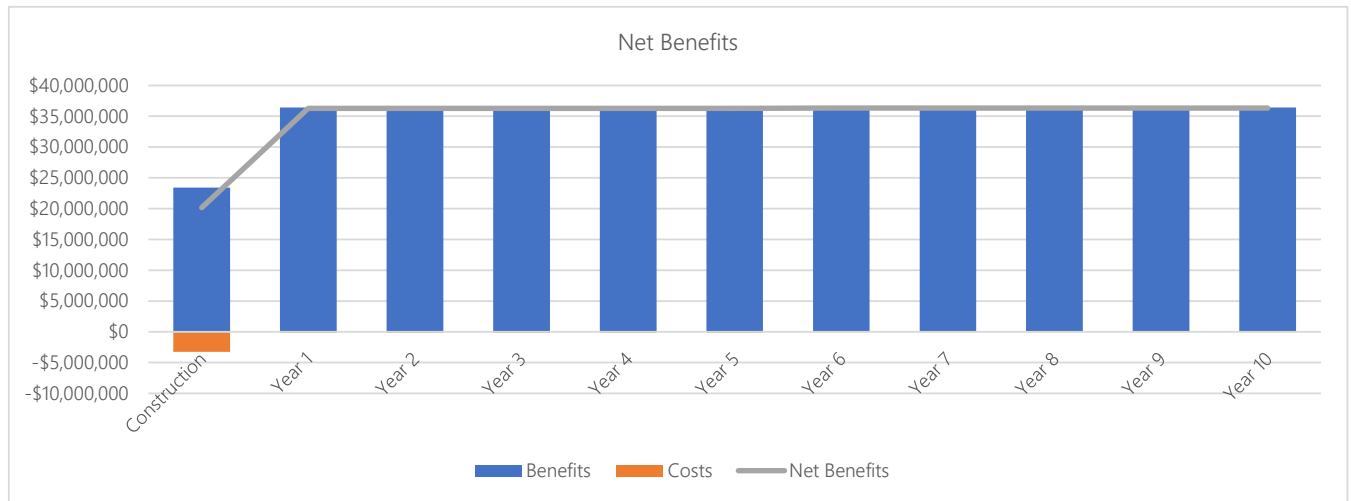
Summary of Economic Impacts over the Life of the PILOT

Project Total Investment
 \$45,905,211

Temporary (Construction)			
	Direct	Indirect	Total
Jobs	150	137	287
Earnings	\$14,237,620	\$7,855,679	\$22,093,298
Local Spend	\$34,428,908	\$24,375,539	\$58,804,448

Ongoing (Operations)			
Aggregate over life of the PILOT			
	Direct	Indirect	Total
Jobs	327	192	519
Earnings	\$457,800,000	\$229,129,159	\$686,929,159

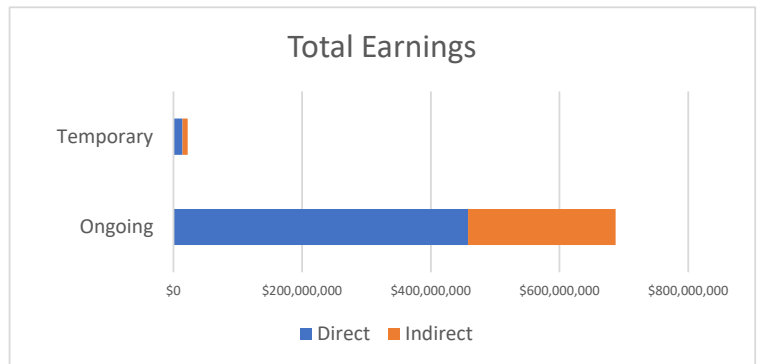
Figure 1



Net Benefits chart will always display construction through year 10, irrespective of the length of the PILOT.

Figure 2

Figure 3



Fiscal Impacts

Estimated Costs of Exemptions

	Nominal Value	Discounted Value*
Property Tax Exemption	\$1,146,351	\$1,044,376
Sales Tax Exemption	\$2,905,211	\$2,905,211
Local Sales Tax Exemption	\$1,577,115	\$1,577,115
State Sales Tax Exemption	\$1,328,096	\$1,328,096
Mortgage Recording Tax Exemption	\$355,781	\$355,781
Local Mortgage Recording Tax Exemption	\$118,594	\$118,594
State Mortgage Recording Tax Exemption	\$237,187	\$237,187
Total Costs	\$4,407,343	\$4,305,368

State and Local Benefits

	Nominal Value	Discounted Value*
Local Benefits	\$730,488,779	\$601,050,530
To Private Individuals	\$709,022,457	\$583,707,116
Temporary Payroll	\$22,093,298	\$22,093,298
Ongoing Payroll	\$686,929,159	\$561,613,818
Other Payments to Private Individuals	\$0	\$0
To the Public	\$21,466,321	\$17,343,414
Increase in Property Tax Revenue	\$15,572,572	\$12,491,348
Temporary Jobs - Sales Tax Revenue	\$183,651	\$183,651
Ongoing Jobs - Sales Tax Revenue	\$5,710,099	\$4,668,415
Other Local Municipal Revenue	\$0	\$0
State Benefits	\$36,869,168	\$30,352,770
To the Public	\$36,869,168	\$30,352,770
Temporary Income Tax Revenue	\$994,198	\$994,198
Ongoing Income Tax Revenue	\$30,911,812	\$25,272,622
Temporary Jobs - Sales Tax Revenue	\$154,653	\$154,653
Ongoing Jobs - Sales Tax Revenue	\$4,808,504	\$3,931,297
Total Benefits to State & Region	\$767,357,946	\$631,403,300

Benefit to Cost Ratio

	Benefit*	Cost*	Ratio
Local	\$601,050,530	\$2,740,085	219:1
State	\$30,352,770	\$1,565,284	19:1
Grand Total	\$631,403,300	\$4,305,368	147:1

*Discounted at 2%

Additional Comments from IDA

The Project is subject to the terms of the Amherst Central Park Infrastructure Fund and PILOT Application Agreement

Does the IDA believe that the project can be accomplished in a timely fashion? Yes

RESOLUTION OF THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF A STATE-OF-THE-ART HEALTHCARE FACILITY AND RELATED SITE IMPROVEMENTS BY CIMINELLI REAL ESTATE CORPORATION, AS AGENT FOR 111 NORTH MAPLEMERE LLC, TO BE LOCATED AT 111 NORTH MAPLEMERE ROAD, AMHERST, NEW YORK, FOR LEASE OR SALE TO THE AGENCY AND SUBSEQUENT LEASE OR RECONVEYANCE PURSUANT TO A LEASE OR AN INSTALLMENT SALE CONTRACT TO CIMINELLI REAL ESTATE CORPORATION, AS AGENT FOR 111 NORTH MAPLEMERE LLC, THE EXECUTION OF A MORTGAGE AGREEMENT, LEASE AGREEMENT AND/OR INSTALLMENT SALE CONTRACT, A CUSTOMIZED PILOT AGREEMENT AND THE TAKING OF OTHER ACTIONS.

WHEREAS, the Town of Amherst Industrial Development Agency (the “Agency”) is authorized under the laws of the State of New York, and in particular the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and Section 914-a of the General Municipal Law, as amended (collectively, the “Act”), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, Ciminelli Real Estate Corporation, as agent for 111 North Maplemere LLC, a New York limited liability company (hereinafter, the “Company”), has submitted an application to the Agency requesting the Agency to undertake a certain project (the “Project”) consisting of: (i) the acquisition of an approximately 14.97-acre parcel of land (SBL No. 55.03-1-12) located at 111 North Maplemere in Amherst, New York within the Sweet Home Central School District (the “Land”); and (ii) the construction of an approximately 163,000 +/- square foot state-of-the-art healthcare facility (the “Facility”) and related site improvements, including 816 parking spaces, the installation of public roadways and related infrastructure, landscaping, lighting, and storm water management improvements (collectively the “Improvements”); and

WHEREAS, the Company has submitted an application and other materials and information (collectively, the “Application”) to the Agency to initiate the accomplishment of the above; and

WHEREAS, the Application sets forth certain information with respect to the Company and the Project, including the following: that the Company desires Agency financing for the construction of an approximately 163,000 square foot state-of-the-art healthcare facility, to be located at 111 North Maplemere Road in Amherst, New York, all at a cost of approximately \$67,250,006; that the Company anticipates that eighty (80) full-time equivalent (FTE) employment positions will be created and two hundred and forty-seven (247) FTE employment positions will be retained; that if Agency financing is disapproved, the Company would likely not proceed with the Project; and that, therefore, Agency financing is necessary to encourage the Company to proceed with the Project; and

WHEREAS, Section IV of the Countywide Uniform Tax Exemption Policy the (“UTEP”) permits the Agency to deviate from its standard payment in lieu of taxes agreement schedule in accordance with the requirements set forth in the UTEP and applicable provisions of the General Municipal Law; and

WHEREAS, pursuant to Section 874(4)(b) of the General Municipal Law and the UTEP, the Agency duly delivered a notice of deviation on November 22, 2021 to the chief executive officers of each of the affected taxing jurisdictions and the industrial development agencies located in Erie County regarding the proposed non-standard PILOT Agreement for the Project; and

WHEREAS, after the giving of all required notices (including published notice), the Agency held a public hearing on the Project on December 6, 2021, and has considered all oral and written presentations made at or in connection with said public hearing and all written comments submitted to the Agency regarding the Project; and

WHEREAS, based upon the Application, the Agency has determined that the Project includes facilities or property which will be primarily used in making retail sales (as defined in Section 862(2) of the New York General Municipal Law) to customers who personally visit such facilities and that the Agency is permitted to provide financial assistance with respect to the Project because the predominant purpose of the Project would be to make available goods or services—specifically medical services in a multi-tenant, state-of-the-art, multi-disciplinary healthcare facility—which would not, but for the Project, be reasonably accessible to the residents of the Town of Amherst because of a lack of reasonably accessible retail trade facilities offering such goods or services; and

WHEREAS, based upon the Application, the Agency has determined that the Project constitutes a medical project under the UTEP and that the Agency is permitted to provide financial assistance with respect to the Project because the Project would provide medical services that are generally not available and the Company has provided a market analysis (the “Market Analysis”) which concluded that the Project’s concentration of medical services, leading edge technology, and advanced research educational programming is not readily available in the Town of Amherst or Erie County, New York; and

WHEREAS, the Company has represented in its Application that the completion of the Project will not result in the removal of a civic, commercial, industrial, or manufacturing plant of the Company or any occupant of the Facility from one area of the State to another area of the State, or in the abandonment of one or more plants or facilities of the Company or any proposed occupant of the Facility located within the State; and

WHEREAS, the Agency further finds, based on the Application, that the Project will serve the public purpose of Article 18-A of the General Municipal Law by preserving permanent, private sector jobs or increasing the overall number of permanent, private sector jobs in New York State; and

WHEREAS, the Agency has reviewed the Application, prepared a cost-benefit analysis with respect to the Project and considered the extent to which the Project will create and retain permanent, private-sector jobs, the value of tax exemptions to be provided, the amount of private sector investment generated or likely to be generated by the Project, the likelihood of accomplishing the

proposed Project in a timely fashion, the extent to which the proposed Project will provide additional sources of revenue for the municipalities and school district and other public benefits that might occur as a result of the Project; and

WHEREAS, the Agency desires to encourage the Company with respect to the consummation of the Project, if by doing so it is able to induce the Company to proceed with the Project in the Town of Amherst; and

WHEREAS, the Company has determined it will complete the Project by obtaining a conventional loan(s) from a third party, and the Company has requested that the Agency execute any and all documents required by the parties, including any collateral mortgages on the Project given to secure a loan(s) obtained by the Company to finance the cost of the Project; and

WHEREAS, the Town of Amherst Planning Board (the “Planning Board”) served as lead agency pursuant to the State Environmental Quality Review Act (ECL Article 8 and its implementing regulations at 6 NYCRR Part 617) (“SEQRA”) for the Company’s project. The Agency was duly identified as an involved agency in Part 1 of a long-form Environmental Assessment Form (“EAF”) which was completed for the Project, a copy of which was provided to the Agency and is attached hereto as part of Exhibit A; and

WHEREAS, the Planning Board made determinations on July 6, 2020, May 20, 2021, and September 23, 2021 at the completion of coordinated environmental reviews of the Project, concluding that the requirements of SEQRA were complete, and that the project is not expected to have a significant adverse effect on the environment (the “SEQRA Findings”). A copy of the SEQRA Findings is attached hereto as part of Exhibit A.

NOW, THEREFORE, THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY HEREBY RESOLVES AS FOLLOWS:

Section 1. Based upon the Agency’s review of the Company’s Application, the EAF and the SEQRA Findings issued by the Planning Board, the Agency hereby: (a) consents to and affirms the status of the Planning Board as lead agency within the meaning of, and for all purposes of complying with, SEQRA; (b) determines that the proceedings undertaken by the Planning Board as lead agency under SEQRA with respect to the acquisition, construction and equipping of the Project satisfy the requirements of SEQRA, and ratifies and confirms such proceedings by the Planning Board as lead agency; and (c) determines that all of the provisions of SEQRA that are required to be complied with as a condition precedent to the approval of the Financial Assistance (as defined herein) contemplated by the Agency with respect to the Project and the participation by the Agency in undertaking the Project have been satisfied.

Section 2. The Project is described in the recitals to this Resolution. The financial assistance to be provided in connection therewith include: (i) an exemption from sales and use taxes for building materials and machinery, equipment, fixtures and furnishings purchased for incorporation into or use at the Project location having a total cost not to exceed \$25,247,000.00, (ii) an exemption from mortgage recording taxes for one or more mortgages having an aggregate principal amount not to exceed \$47,437,505.00, and (iii) an abatement from real property taxes in accordance with a

customized twenty (20) year payment in lieu of tax schedule in accordance with that certain Amherst Central Park Infrastructure Fund and PILOT Application Agreement to be entered into by the Agency, the Town of Amherst and Sweet Home Central School District (collectively, the “Financial Assistance”). The PILOT Schedule for the Project is set forth in Exhibit B attached hereto. In addition to any other covenants, obligations and agreements which may be contained in the Project Documents (as hereinafter defined), the provision by the Agency of the Financial Assistance is made subject to the agreement by the Company throughout the period during which the Company is receiving Financial Assistance from the Agency (the “Compliance Period”) to comply with the following covenants and agreements, each of which shall constitute a “Material Factor”:

- (a) compliance with the Agency’s Local Labor Policy in connection with the construction of the Project;
- (b) achievement of a total of sixty-eight (68) full-time equivalent (FTE) jobs at the Project within two years of Project completion and the retention of such jobs throughout the Compliance Period;
- (c) continued retention of two hundred and forty-seven (247) full-time equivalent (FTE) jobs at the Project Site throughout the Compliance Period; and
- (d) investment of not less than \$57,162,505 in the acquisition, renovation and equipping of the Project.

Section 3. Pursuant to Section 862 of the Act, the Agency determines that the Project would be considered a “retail facility” and further determines that the Project qualifies as a medical project which generally does not qualify under the UTEP. However, based upon the Application and supporting documentation, including the Market Analysis, submitted by the Company, the Agency hereby determines that the Agency is permitted to provide financial assistance with respect to the Project because (i) the predominant purpose of the Project would be to make available goods or services—specifically medical services in a multi-tenant, state-of-the-art, multi-disciplinary healthcare facility—which would not, but for the Project, be reasonably accessible to the residents of the Town of Amherst because of a lack of reasonably accessible retail trade facilities offering such goods or services; and (ii) the Company has provided a Market Analysis which determined that the Project’s concentration of medical services, leading edge technology, and advanced research educational programming is not readily available in the Town of Amherst or Erie County, New York; and (iii) the Project will serve the public purpose of the Act by preserving permanent, private sector jobs and increasing the overall number of permanent, private sector jobs in New York State. Notwithstanding anything contained in this Resolution to the contrary, no Financial Assistance shall be provided to the Company by the Agency unless and until the Supervisor of the Town of Amherst confirms and approves the proposed action of the Agency as required pursuant to Section 862(2)(c) of the Act.

Section 4. The Agency further determines, based on the Company’s Application, that the Project will not result in the removal of a civic, commercial, industrial, or manufacturing plant of the Company or any occupant of the Facility from one area of the State to another area of the State, or in the abandonment of one or more plants or facilities of the Company or any proposed occupant of the

Facility located within the State.

Section 5. The proposed Financial Assistance for the Project deviates from the UTEP as the proposed payment in lieu of real estate tax arrangement utilizes abatement percentages that differ from the standard abatement percentages under the UTEP and the duration of the PILOT schedule is longer than the standard schedules set forth in the UTEP. The Agency hereby approves of the deviation from the UTEP and authorizes the provision of the Financial Assistance as described herein. In making this determination, the Agency has considered the following factors as required by the Act and the UTEP, no single one of which is determinative:

1. The extent to which the Project will create or retain permanent private sector jobs. The Project is expected to create seventy (70) full-time positions and twenty (20) part-time positions. The Project is expected to retain two hundred and thirty (230) full-time positions and thirty-five (35) part-time positions.
2. The estimated value of tax exemptions to be provided. The estimated value of the sales and use tax benefit for the Project is an amount up to \$2,209,112.00. The estimated value of the mortgage recording tax benefit is an amount up to \$355,781.00. The estimated value of the real property tax benefit is \$1,146,000.
3. Whether affected taxing jurisdictions will be reimbursed by the Project occupant if the Project does not fulfill the purposes for which an exemption was provided. The Company will be subject to potential Financial Assistance recapture in the event the Company does not adhere to the Agency's standard material terms and conditions governing the receipt of financial assistance.
4. The impact of the proposed project on existing and proposed businesses and economic development projects in the vicinity. The impact of the Project is a positive one on the community, as it will promote job opportunities, general prosperity and economic welfare for the residents of Erie County and the Town of Amherst. The Project is the first development to capitalize a fund for infrastructure and community projects per the PILOT Agreement in an estimated amount of \$11,990,000.
5. The amount of private sector investment generated or likely to be generated by the proposed Project. The total private sector investment in the Project is expected to exceed \$67,250,006.
6. The demonstrated public support for the Project. The Town of Amherst has expressed its support for the Project. On July 8, 2020, the Town of Amherst Town Board adopted a resolution to amend its adopted Bicentennial Comprehensive Plan, which designed the Project's location as appropriate for "Community Facilities" and to amend the Project location's zoning classification. On August 18, 2020, the Town of Amherst's Zoning Board of Appeals granted the required area variances for the Project. On May 20, 2021, the Town of Amherst Planning Board granted the Site Approval Plan for the Project. On September 23, 2021, the Town of Amherst Planning Board approved an Amended Site Plan for the Project, which approved the public infrastructure components of the Project.

7. The likelihood of accomplishing the proposed Project in a timely fashion. The Project is expected to be completed in a timely manner. Construction is expected to begin in the winter of 2022, with completion in the winter of 2023.
8. The effect of the proposed Project upon the environment. The Project is a Type I action pursuant to the State Environmental Quality Review Act (SEQRA). The Town of Amherst has served as lead agency for the coordinated environmental review of the Project pursuant to SEQRA, which encompasses 14.91 acres and off-site Right-of-Way improvements acres that are located on a portion of 500 Maple Road.

As lead agency, the Town Board evaluated the environmental impacts of the Company's request to amend the SEQRA Findings Statement to permit the Land to be developed as a 163,000+/- square foot building to be utilized as a multi-tenant medical office building and UBMD surgery center, in addition to public infrastructure improvements including roadways and utility infrastructure improvements and connections. Negative declarations by the Town of Amherst Planning Board were each issued on July 6, 2020, May 20, 2021 and September 23, 2021 at the completion of coordinated environmental reviews of the Project, determining that the proposed actions by the Company would not have a significant adverse effect on the environment.

9. The extent to which the Project will utilize, to the fullest extent practicable and economically feasible, resource conservation, energy efficiency, green technologies, and alternative and renewable energy measures. The Company has indicated in its application that all mechanical equipment for the Project's building core and shell will provide demonstrated energy efficiency benefits and utilize state-of-the-art components and designs.
10. The extent to which the proposed Project will require the provision of additional services including, but not limited, educational, transportation, emergency medical or police and fire services. The Project is not expected to require the provision of additional services.
11. The extent to which the proposed Project will provide additional sources of revenue for municipalities and school districts. The Project site currently consists of decommissioned athletic fields and greenspaces. The Project will generate additional sources of revenue from the PILOT payments which would otherwise not be received if the Project does not proceed.

Section 6. The Agency hereby authorizes the Company, as agent for the Agency, to proceed with the Project as herein authorized. The Agency is hereby authorized to acquire an interest in the Project site and the buildings thereon, if any, and to make renovations or additions thereto. The Company is authorized to proceed with the acquisition and construction of the Project as set forth in any Project Agreement, the Agency Lease Agreement or Installment Sale Contract (as hereinafter defined).

Section 7. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, and

any Assistant Secretary of the Agency, and other appropriate officials of the Agency and its agents and employees, are hereby authorized and directed to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution and to complete the Project in cooperation with the Company.

Section 8. The Company is authorized, as agent of the Agency, to initiate the construction of a building(s) or building addition(s) constituting the Project, and the acquisition of machinery and equipment which will be a part thereof or will be used in connection therewith, and to advance such funds as may be necessary to accomplish such purposes. The designation of the Company as agent hereunder is limited to purchases of sales-taxable tangible personal property and services in connection with the Project which do not exceed a total cost of \$25,247,000.00 and shall not apply to any other purchase by the Company or any operating expenses of the Company. The Company shall report to the Agency, at such times as the Agency shall require, or as may otherwise be prescribed by the Commissioner of the New York State Department of Taxation and Finance (the “Commissioner”), the value of all sales and use tax exemptions claimed by the Company or agents of the Company or any operators of the Project, including, but not limited to, consultants or subcontractors of such agents or Project operators under the authority granted pursuant to this Resolution. A failure to report may result in the revocation of the designation of the Company as agent and repayment of any sales and use tax exemptions claimed.

Section 9. The Agency is hereby authorized to enter into a Project Agreement with respect to the provision of the Financial Assistance authorized herein (the “Project Agreement”) and to acquire an interest in the Project site and construct a facility thereon, and the execution and delivery of a lease by the Company to the Agency (the “Company Lease”), an Agency Lease Agreement (the “Agency Lease Agreement”) or Installment Sale Contract (the “Installment Sale Contract”) between the Agency and the Company, the PILOT Agreement, and such other documents as may be necessary to fulfill the intent of the parties to the transaction (collectively, the “Project Documents”), in form satisfactory to Agency counsel, are hereby authorized. The PILOT Agreement shall provide for payments in accordance with a customized twenty (20) year payment in lieu of tax schedule as set forth on Exhibit B. This Resolution is expressly made contingent on the execution and delivery of the Amherst Central Park Infrastructure Fund and PILOT Application Agreement to be entered into by the Agency, the Town of Amherst, and Sweet Home Central School District. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, or any Assistant Secretary are each authorized to execute such documents and to make or approve such amendments or modifications to the Project Agreement, Company Lease, the Agency Lease Agreement, Installment Sale Contract, the PILOT Agreement and such other documents executed and delivered in connection therewith as they deem necessary under the circumstances provided, however, that such modifications do not materially alter the risk to the Agency.

Section 10. The Agency is hereby authorized to execute and deliver to the lender(s) one or more collateral mortgages on the Project given to secure one or more conventional loans, and such other documents as may be necessary to fulfill the intent of the parties to the transaction in form satisfactory to Agency counsel provided that the aggregate amount of such mortgages shall not exceed \$47,437,505.00. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, and any Assistant Secretary are each authorized to execute such collateral mortgages and to make or approve such amendment(s) or modifications to such collateral mortgages and other documents executed and

delivered in connection therewith as they may deem necessary under the circumstances, provided, however, that such modifications do not materially alter the risk to the Agency.

Section 11. Any such action heretofore taken by the Company initiating the acquisition, installation and construction of the Project is hereby ratified, confirmed and approved.

Section 12. Any expenses incurred by the Agency with respect to the Project and the financing thereof shall be paid by the Company. By acceptance hereof, the Company agrees to pay such expenses and further agrees to indemnify the Agency, its members, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency with respect to the Project and the financing thereof.

Section 13. In the event a lease is not executed between the Company and the Agency by the expiration date of this Resolution (as such date may be extended as provided herein) or the termination of this Resolution, the Company shall then be required to pay all sales taxes which would have been levied in connection with the acquisition, construction and installation of all improvements of the real property and the machinery and equipment which constitute the Project, as if the Agency did not have an interest in the Project from the date the Company commenced its acquisition, construction and installation. In addition, in the event, because of the involvement of the Agency, the Company claims an exemption from state sales or use tax in connection with the Project, and such exemption is claimed with respect to property or services not authorized hereunder, or which exemption is in excess of the amounts authorized hereunder, or is otherwise not permitted under this Resolution, or if the Company shall fail to comply with a material term or condition regarding the use of property or services acquired by the Company as agent for the Agency as set forth in this Resolution or in any document authorized hereunder, then the Company shall each be required to remit to the Agency an amount equal to the amount of state sales and use taxes for which such exemption was improperly claimed. A failure to remit such amounts may result in an assessment against the Company by the Commissioner of state sales and use taxes, together with any relevant penalties and interest.

In addition to the foregoing, in the event the Agency determines that Company is in violation of a Material Factor, or in the event that the Company closes the Project or relocates its operations to a location outside of the Town of Amherst within the time period during which the Company is receiving Financial Assistance from the Agency or in the event the Agency determines, in its judgment, that the Company knowingly and intentionally submitted false or intentionally misleading information in its application to the Agency or in any report or certification submitted to the Agency for the purpose of obtaining or maintaining any Financial Assistance from the Agency (each referred to herein as a “Recapture Event”), the Agency may, in accordance with its policies and procedures then in effect, (i) revoke the designation of the Company and any agents of the Company (including, but not limited to, consultants, sub-contractors or equipment lessors of the Company) as agents for the Agency in connection with the Project and terminate the exemption from New York State and local sales and use taxes conferred with respect to the Project and/or (ii) require that the Company, commencing with the tax fiscal year next following such Recapture Event make payments in lieu of taxes on the Project with respect to all applicable taxing authorities in such amounts as would be payable as real estate taxes levied on the

Project if the Agency did not have an interest in the Project or otherwise modify the amount or terms of any Financial Assistance being provided by the Agency in connection with the Project and/or (iii) require that the Company pay to the Agency an amount equal to all or a portion (as determined by the Agency in its discretion) of the total value of (x) all sales tax exemptions claimed by the Company and any agents of the Company, including, but not limited to, consultants, sub-contractors, or any equipment lessors of the Company under the authority granted under this Resolution and the Project Agreement, (y) any exemption from real estate taxes received by reason of the Agency's leasehold interest in the Project and/or (z) any exemption from mortgage recording tax received by reason of the Agency's involvement with the Project. If the Agency makes any of the foregoing determinations and requires a repayment of all or a portion of the Financial Assistance received by the Company, the Company shall (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdiction(s) unless otherwise agreed to by any affected tax jurisdiction.

Section 14. The Agency has made and makes no representation or warranty whatsoever, either express or implied, with respect to the merchantability, condition, environmental status, fitness, design, operation or workmanship of any part of the Project, its fitness for any particular purpose, the quality or capacity of the materials in the Project, or the suitability of the Project for the Company's purposes or needs. The Company is satisfied that the Project is suitable and fit for its purposes. The Agency shall not be liable in any manner whatsoever to anyone for any loss, damage or expense of any kind or nature caused, directly or indirectly, by the Project property or the use or maintenance thereof or the failure of operation thereof, or the repair, service or adjustment thereof, or by any delay or failure to provide any such maintenance, repairs, service or adjustment, or by any interruption of service or loss of use thereof or for any loss of business howsoever caused, and the Company each hereby indemnifies and holds the Agency harmless from any such loss, damage or expense.

Section 15. Should the appropriate officers of the Agency determine, in their absolute discretion, that there is reason to believe that the activities of any past or present owner or operator of the Premises have resulted in the generation of any "hazardous substance" (as the term has been defined from time to time in any applicable federal or state law, rule or regulation), or that any party has stored, disposed or released any such substance on the Premises or within a one (1) mile radius thereof, the Agency shall be under no obligation to enter into a lease as contemplated by this Resolution.

Section 16. No covenant, stipulation, obligation or agreement herein contained or contained in the Project Agreement, Company Lease, the Mortgage Agreement, the Agency Lease Agreement, Installment Sale Contract, the PILOT Agreement or other documents, nor the breach thereof, shall constitute or give rise to or impose upon the Agency a pecuniary liability or a charge upon its general credit, nor shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity.

Section 17. Should the Agency's participation in the Project be challenged by any party, in the courts or otherwise, the Company shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge

including, but not limited to, the fees and disbursements of the Agency's counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under Article 18-A of the General Municipal Law to participate in the Project, this Resolution shall automatically become null, void and of no further force and effect, and the Agency shall have no liability to the Company hereunder or otherwise.

Section 18. This Resolution shall take effect immediately and shall continue in full force and effect for one (1) year from the date hereof and on or after such one (1) year anniversary, the Agency may, at its option either (a) terminate the effectiveness of this Resolution (except with respect to the obligations of the Company pursuant to Sections 12, 13 and 17 of this Resolution which shall survive any expiration or termination) or (b) allow the Company additional time in which to close the transactions contemplated by this Resolution based upon affirmative actions taken by the Company to complete such transactions. Upon any allowance of additional time to close, the Agency may charge the Company an extension fee in accordance with the Agency's fee schedule.

Section 19. This Resolution is subject to compliance with all local building and zoning requirements.

DATED: December 17, 2021

ACCEPTED AND AGREED TO: _____, 2021

111 NORTH MAPLEMERE LLC

By: _____
Name:
Title:

EXHIBIT A

EAF and SEQRA Findings

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: UBMD Surgery Center and Medical Office Project		
Project Location (describe, and attach a general location map): Portion of 500 Maple Road [SBL No. 55.04-1-6.1] - Town of Amherst - Erie County		
Brief Description of Proposed Action (include purpose or need): The proposed project ("action") consists of the UBMD surgery center and medical office building consisting of a 163,200 sq. ft. building and related site improvements to be located on a portion of 500 Maple Road. The proposed project includes public infrastructure improvements including roadways and utility infrastructure improvements and connections as depicted on the project plans prepared by Watts Architecture and Engineering. A copy of the Site Plan depicting the layout of the project is provided at Exhibit "2" of the AIDA Application. The Planning Board granted Site Plan Approval on May 20, 2021 and approved a Site Plan Amendment on September 23, 2021. The proposed project has been subject to three separate coordinated environmental reviews pursuant to the State Environmental Quality Review Act ("SEQRA") that each resulted in the issuance of a Negative Declaration. The Planning Board issued Negative Declarations pursuant to SEQRA on September 23, 2021 and May 20, 2021. Additionally, the Town Board issued a Negative Declaration pursuant to SEQRA on July 6, 2020. Copies of the above referenced Negative Declarations are provided at Attachments "A", "B" and "C" of this Part 1 of the Full EAF.		
Name of Applicant/Sponsor: Audubon Park MOB, LLC c/o Ciminelli Real Estate Corporation	Telephone: 631-8000	E-Mail: ewagner@ciminelli.com
Address: 50 Fountain Plaza, Suite 500		
City/PO: Buffalo	State: NY	Zip Code: 14202
Project Contact (if not same as sponsor; give name and title/role): Sean Hopkins, Esq., Hopkins Sorgi & McCarthy PLLC	Telephone: (716) 510-4338	E-Mail: shopkins@hsmlegal.com
Address: 5500 Main Street, Suite 343		
City/PO: Williamsville	State: NY	Zip Code: 14221
Property Owner (if not same as sponsor): Town of Amherst	Telephone:	E-Mail:
Address: 5583 Main Street		
City/PO: Williamsville	State: NY	Zip Code: 14221

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, <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No or Village Board of Trustees	Town of Amherst Town Board - Rezoning of Project Site & Comp. Plan Amendment	Approved on July 6, 2020
b. City, Town or Village <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Planning Board or Commission	Town of Amherst Planning Board - Site Plan and Site Plan Amendment	Approved on May 20, 2021 and September 23, 2021
c. City, Town or <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Village Zoning Board of Appeals		
d. Other local agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Town of Amherst IDA - PILOT, Sales Tax Exemption, etc.	October 2021
e. County agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
f. Regional agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
g. State agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
h. Federal agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
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

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 type="checkbox"/> Yes <input checked="" 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
[Note: The proposed project will not have any adverse impacts on the West Erie Canal Corridor.]	
If Yes, identify the plan(s):	
NYS Heritage Areas: 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?

Community Facilities District ("CF"). The Town of Amherst Town Board amended the zoning classification of the Project Site to CF by a unanimous vote on July 6, 2020.

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

c. Is a zoning change requested as part of the proposed action? Yes No

If Yes,

i. What is the proposed new zoning for the site? _____

C.4. Existing community services.

a. In what school district is the project site located? 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?
There are various parks that are within the Town of Amherst in relatively close proximity to the Project Site.

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)? UBMD surgery center and medical office building along with all related proposed site improvements.

b. a. Total acreage of the site of the proposed action?	<u>14.91</u> acres	[The project also involves off-site Right-of-Way improvements as depicted on the engineered plans.]
b. Total acreage to be physically disturbed?	<u>14.1</u> acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?	<u>14.91</u> 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) _____

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

iii. Number of lots proposed? _____

iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

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

i. If No, anticipated period of construction: 12-15 months

ii. If Yes:

- Total number of phases anticipated _____
- Anticipated commencement date of phase 1 (including demolition) _____ month _____ year
- Anticipated completion date of final phase _____ month _____ year

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

f. Does the project include new residential uses? Yes No
 If Yes, show numbers of units proposed.

	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	_____	_____	_____	_____
At completion of all phases	_____	_____	_____	_____

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

i. Total number of structures 1 [UBMD surgery center and medical office building and parking structure]
 ii. Dimensions (in feet) of largest proposed structure: 41' height; 233.18' width; and 743.26' length
 iii. Approximate extent of building space to be heated or cooled: 163,400 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 per applicable NYSDEC and Town of Amherst standards.
 ii. If a water impoundment, the principal source of the water: Ground water Surface water streams Other specify: Run-off from impervious surfaces on the Project Site.
 iii. If other than water, identify the type of impounded/contained liquids and their source. Not applicable.
 iv. Approximate size of the proposed impoundment. Volume: 0.22 million gallons; surface area: _____ acres
 v. Dimensions of the proposed dam or impounding structure: 300' height; 40' length
 vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): Earth fill.

D.2. Project Operations

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

i. What is the purpose of the excavation or dredging? _____
 ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?
 • Volume (specify tons or cubic yards): _____
 • Over what duration of time? _____
 iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them.

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

 v. What is the total area to be dredged or excavated? _____ acres
 vi. What is the maximum area to be worked at any one time? _____ acres
 vii. What would be the maximum depth of excavation or dredging? _____ feet
 viii. Will the excavation require blasting? Yes No
 ix. Summarize site reclamation goals and plan: _____

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

i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____

[Note: A wetland investigation of the Project Site was conducted by Earth Dimensions. The wetland investigation confirmed there are not any wetlands subject to the jurisdiction of either the USACE or NYSDEC on the Project Site as described in the letter from Scott Livingstone to Ellen Kost of the Town of Amherst Planning Department dated March 22, 2020. A copy the wetland investigation letter is provided at Attachment "D" of this Part 1 of the Full EAF.]

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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: _____ 13,400 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 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: _____ 13,400 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: Town of Amherst Wastewater Treatment Plant on Tonawanda Creek Road.
- 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:

- i. How much impervious surface will the project create in relation to total size of project parcel?
 _____ Square feet or 11.11 acres (impervious surface)
 _____ Square feet or 14.91 acres (parcel size)
- ii. Describe types of new point sources. Impervious surfaces including buildings, roadway, access aisles and parking spaces.
- iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?
On-site stormwater management facilities.
- If to surface waters, identify receiving water bodies or wetlands: _____
Not Applicable.
- Will stormwater runoff flow to adjacent properties? Yes No

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

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

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

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

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

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

- i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) Yes No
- ii. In addition to emissions as calculated in the application, the project will generate:
 - _____ Tons/year (short tons) of Carbon Dioxide (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 Hydroflouorocarbons (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? [An updated Traffic Impact Study prepared by Amy C. Dake, P.E., of SRF Associates has been submitted with the Site Plan Amendment Application.] Yes No

If Yes:

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

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

iii. Parking spaces: Existing _____ 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 1/2 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. During Construction:

- Monday - Friday: _____ 7:00 a.m. to 7:00 p.m. _____
- Saturday: _____ 7:00 a.m. to 5:00 p.m. _____
- Sunday: _____ As needed _____
- Holidays: _____ As needed _____

ii. During Operations:

- Monday - Friday: _____ 6:00 a.m. to 9:00 p.m. _____
- Saturday: _____ 6:00 a.m. to 9:00 p.m. _____
- Sunday: _____ 6:00 a.m. to 6:00 p.m. _____
- Holidays: _____ As needed _____

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

If yes:

i. Provide details including sources, time of day and duration:
Construction equipment will generate temporary unavoidable noise impacts during construction of the project. Construction activities will occur during daytime hours and generally will occur during weekdays.

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 to be installed on the Project Site per the lighting standards contained in Section 7-3 of the Town of Amherst Zoning Code. The Photometric Plan [Drawing E050-PH] provides information regarding the site lighting for the proposed project.

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):

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: _____ tons per _____ (unit of time)
- Operation : _____ tons per _____ (unit of time)

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

- Construction: _____
- Operation: _____

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

- Construction: _____
- Operation: _____

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): Northtown Center at Amherst and athletic fields
 ii. If mix of uses, generally describe:
 There are a mixture of uses in the vicinity of the Project Site including the Northtown Center and a Hampton Inn hotel to the west, duplexes on property zoned R-4 on North Maplemere Road to the south and offices on Maple Road.

b. Land uses and covertypes on the project site.

Land use or Covertypes	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	.5	11.11	+10.61
• Forested	0	0	0
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)			
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)	0	0	
• Wetlands (freshwater or tidal)	0	0	0
• Non-vegetated (bare rock, earth or fill)	0	0	0
• Other Describe: <u>Decommissioned Athletic Fields and Greenspace</u>	14.41	3.3 [Greenspace]	-11.11

c. Is the project site presently used by members of the community for public recreation? Yes No
i. If Yes: explain: Athletic fields located on the Project Site are utilized for public recreation including soccer, baseball and softball.

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:
 The boundary of the North Campus of the University of Buffalo is within 1,500 ft. of the Project Site.

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): C915291, C915207
iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):
 The Project Sponsor is not aware of the status of the above reference sites as referenced with being within 2,000 ft. of the Project Site.

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? _____ >15 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:

Lakemont	_____	39.5 %
Odessa	_____	60.5 %
	_____	%

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
[Note: There are not any jurisdictional wetlands located on the Project Site per the wetland investigation letter provided at Attachment "A".]

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? [There are not any jurisdictional wetlands or waterbodies located on the Project Site.] 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 Approximate Size 0.00
- Wetland No. (if regulated by DEC) _____

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? Yes No
If yes, name of impaired water body/bodies and basis for listing as impaired: _____

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

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

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

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? Yes No
If Yes:
i. Name of aquifer: _____

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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes: <i>i.</i> Describe the habitat/community (composition, function, and basis for designation): _____ _____ <i>ii.</i> Source(s) of description or evaluation: _____ <i>iii.</i> Extent of community/habitat: <ul style="list-style-type: none"> • 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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes: <i>i.</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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes: <i>i.</i> Species and listing: _____ _____	
q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, provide county plus district name/number: _____	
b. Are agricultural lands consisting of highly productive soils present? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>i.</i> If Yes: acreage(s) on project site? _____ <i>ii.</i> 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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes: <i>i.</i> Nature of the natural landmark: <input type="checkbox"/> Biological Community <input type="checkbox"/> Geological Feature <i>ii.</i> 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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes: <i>i.</i> CEA name: _____ <i>ii.</i> Basis for designation: _____ <i>iii.</i> 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: _____

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? [See Letter of Nancy Herter of SHPO at Attachment "E."] Yes No

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

If Yes:

i. Describe possible resource(s): _____

ii. Basis for identification: _____

h. Is the project site within 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.

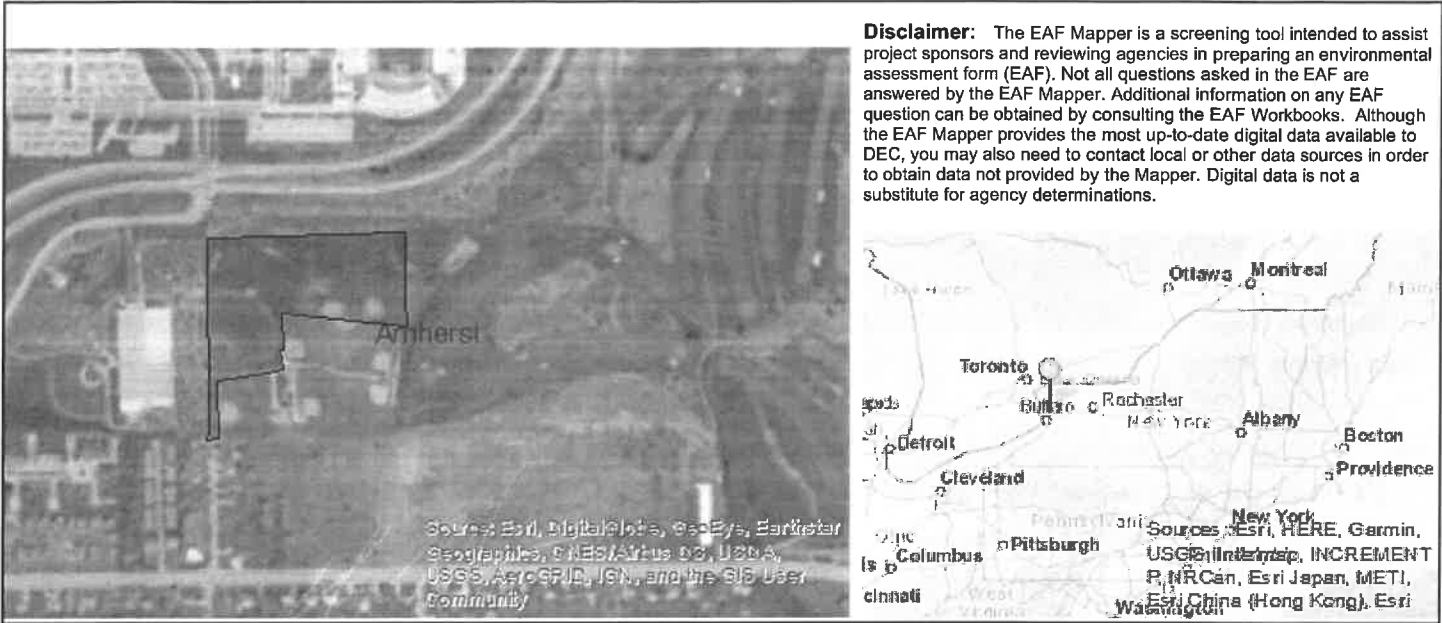
If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

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

Applicant/Sponsor Name Audubon Park MOB LLC Date October 12, 2021

Signature  Title Counsel for Project Sponsor
 Sean W. Hopkins, Esq.



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

B.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]	Yes
E.1.h.iii [Within 2,000' of DEC Remediation Site - DEC ID]	C915291, C915207
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
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]	No

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]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

Reasons Supporting This Determination

Based on information submitted by the applicant including a Full Environmental Assessment Form (EAF) - Part I, (as amended) and a complete site plan application, a preliminary staff analysis was undertaken. Compared to the criteria listed in Section 617.7, all indications are that this action will not have a significant impact on the environment, as follows:

1. The project is not expected to cause a substantial adverse change in existing air quality, ground or surface water quality or quantity, or noise levels; a substantial increase in solid waste production; or a substantial increase in the potential for erosion, flooding, leaching or drainage problems. The Engineering Department on September 1, 2021 reviewed the PIP Grading, Drainage, Utility Plans and Roadway Sections and Profiles submitted on August 13, 2021 for the roadway. Engineer's Report submitted on March 22, 2021, Erosion Control Plan submitted on March 22, 2021 & April 30, 2021 and, Geotechnical Report prepared by Empire GEO Technical Engineering Services submitted on March 22, 2021 with the previous application for the building and roadway.

The Stormwater Pollution Prevention Plan (SWPPP) submitted on March 22, 2021 with the previous application for the building and roadway was also reviewed. Based on its review of these documents, the Department has determined that the project has or will have met all applicable requirements and has no objection to its approval.


2. The project will not result in the removal or destruction of large quantities of vegetation or fauna; or in significant adverse impacts to fish or wildlife species, habitats or other natural resources. The Planning Department reviewed a Landscape Plan submitted on September 20, 2021 submitted with the previous application for the building and roadway and determined that it meets or exceeds Zoning Ordinance requirements for greenspace. The Landscape Plan has or will have met all Zoning Ordinance and Town requirements for landscaping.
3. The project did conflict with the Comprehensive Plan, specifically Figure 6, Conceptual Land Use Plan, and Figure 21, University Focal Planning Area. A Comprehensive Plan amendment was approved by the Town Board on July 22, 2020 to accommodate the changes required for this site plan to occur. The Building Department in their review of August 31, 2021 and the Planning Department in their review of September 23, 2021 has reviewed the application documents, along with the Geotechnical Report submitted on March 22, 2021 and determined that the subject project has or will have met all International Building Code – 2018 and Zoning Ordinance regulations.
4. The project is within an area identified by the State as having potential archaeological or historical significance. The NYS Office of Parks, Recreation and Historic Preservation has reviewed the project and, as stated in their letter of June 7, 2019, determined that there will be no impact on these resources.

5. The project is considered consistent with surrounding land use. The site is located in the Community Facilities District (CF) zoning. It is bordered on the north by a strip of SUNY at Buffalo land and adjacent to the Ellicott Creek Trailway and Millersport Highway (unzoned), on the west by the Amherst Northtown Center zoned Recreation Conservation District (RC), and on the south by duplexes along North Maplemere Drive zoned Residential District Four (R-4). The proposed project is for the construction of 770± lineal feet of public roadway and reconfiguration of 530± lineal feet of public roadway and intersection realignments along with the associated public utilities for water, sanitary and storm sewers to service a previously approved 163,200± sq. ft. medical building with parking for 816± vehicles.
5. The proposed public roadway construction and reconfiguration along with associated public utilities for water, sanitary and storm sewers will not cause a major change in the use of either the quantity or type of energy.
6. The project will not create any hazard to human health. The Fire Chief's Association will review the project, and all requirements of this agency has or will have been met.
7. The proposed public roadway construction and reconfiguration along with associated public utilities for water, sanitary and storm sewers will not cause a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses. The proposed project will be consistent with the scale of surrounding land uses.
8. The proposed public roadway construction and reconfiguration along with associated public utilities for water, sanitary and storm sewers will not significantly increase the number of people using the site over its previous level of use.
9. Review by the Town Traffic/Safety Board dated September 3, 2021, indicates that significant negative traffic impacts are not expected to result from the proposed public roadway and road reconfiguration project. Review of the Traffic Impact Study (TIS) prepared by SRF Associates submitted to the Planning Department on March 22, 2021 and reviewed by the Town Traffic/Safety Board September 3, 2021 indicates that significant negative traffic impacts are not expected to result from the proposed project.
10. A coordinated review of the project has been undertaken by Town Departments including, in addition to those mentioned above, Highway on September 6, 2021, Plumbing Division on August 26, 2021 and Right-of-Way Agent on September 1, 2021. These reviews did not identify any potential significant adverse environmental issues and indicated that the proposal will not have a significant damaging impact on the environment.

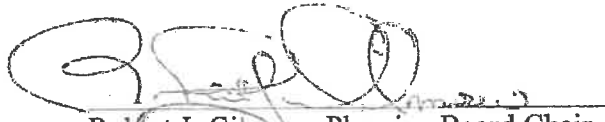
11. Issues not specifically mentioned above and/or those not specifically reviewed were not raised by Town departments, outside agencies or the public and are not determined to cause significant negative environmental impacts.

Planning Board Approval

Moved by: Giuliani; Seconded by: Chmiel Ayes; 7 Noes 0.


signature & title of preparer

9/29/2021
Date


Robert J. Gilmour, Planning Board Chair

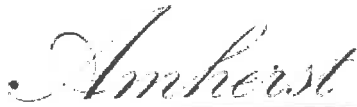
9-30-21
Date

SM/ac

X:\Current_Planning\Files\Site Plans\2020\SP-2020-09_B (500 Maple Rd portion)_2021\SP-2020-09_B_SEQR_Neg_Declaration_092321.docx

- cc: Amherst Town Clerk
Building Department
Engineering
Fire Chiefs'
Highway
Traffic/Safety
ECDEP
NYSDOT

- Erik Wagner, 111 North Maplemere, LLC, 50 Fountain Plaza, Suite 500, Buffalo, New York 14202
Sean Hopkins, Esq. Hopkins Sorgi & McCarthy PLLC, 5500 Main St., Ste. 343, Williamsville, NY 14221
Brad Sendlak, Watts Architecture & Engineering, 95 Perry St., Ste. 200, Buffalo, NY 14203
Kristopher J. Winkler, PE, Watts Architecture & Engineering, 95 Perry St., Ste. 200, Buffalo, NY 14203
Frank Sica, Cannon Design, 50 Fountain Plaza, Ste. 200, Buffalo, NY 14202



SEQR Negative Declaration

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency: Town of Amherst Planning Board **Project:** SP-2020-09_A

Address: 5583 Main Street
Williamsville, NY 14221
(716) 631-7051 **Date:** May 20, 2021

This notice is issued pursuant to Part 617 and Local Law #3-82, as amended, of the implementing regulations pertaining to Article 8 (State Environmental Quality Review) of the Environmental Conservation Law.

The Lead Agency has determined that the proposed action described below will not have a significant adverse effect on the environment.

Title of Action: Site Plan Review

SEQR Status: Type 1

Description of Action: The construction of a 1 and 2-story 163,200± sq. ft. surgery center and medical office building in the northwestern portion of the Town’s Audubon Recreation Center property. The project includes 816 parking spaces – 389 spaces surrounding the building and 427 in a surface parking lot south of the building. Work will include the site improvements not specifically stated above, including, stormwater, utilities, grading, lighting, paving, and landscaping.

The roadways and new intersection alignment are shown for reference only. The roadways will require a future site plan amendment and SEQR review.

Location: 500 Maple Road (portion), Amherst, Erie County

Petitioner: 111 North Maplemere, LLC

Reasons Supporting This Determination

Based on information submitted by the applicant including a Full Environmental Assessment Form (EAF) - Part I, (as amended) and a complete site plan application, a preliminary staff analysis was undertaken. Compared to the criteria listed in Section 617.7, all indications are that this action will not have a significant impact on the environment, as follows:

1. The project is not expected to cause a substantial adverse change in existing air quality, ground or surface water quality or quantity, or noise levels; a substantial increase in solid waste production; or a substantial increase in the potential for erosion, flooding, leaching or drainage problems. The Engineering Department on May 5, 2021 reviewed the Grading, Drainage and Utility Plans submitted on March 22, 2021 & April 30, 2021, Engineer's Report submitted on March 22, 2021, Erosion Control Plan submitted on March 22, 2021 & April 30, 2021 and Geotechnical Report prepared by Empire GEO Technical Engineering Services submitted on March 22, 2021.

The Stormwater Pollution Prevention Plan (SWPPP) submitted on March 22, 2021 was also reviewed. Based on its review of these documents, the Department has determined that the project has or will have met all applicable requirements and has no objection to its approval.

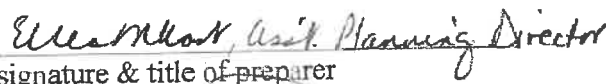
2. The project will not result in the removal or destruction of large quantities of vegetation or fauna; or in significant adverse impacts to fish or wildlife species, habitats or other natural resources. The Planning Department reviewed a Landscape Plan submitted on April 29, 2021 and determined that it meets or exceeds Zoning Ordinance requirements for greenspace. The Landscape Plan has or will have met all Zoning Ordinance and Town requirements for landscaping.
3. The project did conflict with the Comprehensive Plan, specifically Figure 6, Conceptual Land Use Plan, and Figure 21, University Focal Planning Area. A Comprehensive Plan amendment was approved by the Town Board on July 22, 2020 to accommodate the changes required for this site plan to occur. The Building Department in their review of March 26, 2021 and the Planning Department in their review of May 5, 2021 has reviewed the application documents, along with the Geotechnical Report submitted on March 22, 2021 and determined that the subject project has or will have met all International Building Code – 2015 and Zoning Ordinance regulations.
4. The project is within an area identified by the State as having potential archaeological or historical significance. The NYS Office of Parks, Recreation and Historic Preservation has reviewed the project and, as stated in their letter of June 7, 2019, determined that there will be no impact on these resources.

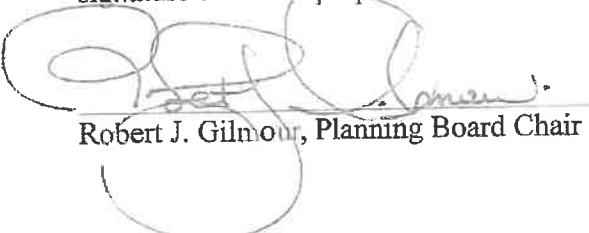
5. The project is located in the Community Facilities District (CF) zoning. It is bordered on the north by a strip of SUNY at Buffalo vacant land followed by the Ellicott Creek Trailway and Millersport Highway (unzoned), on the west by the Amherst Northtown Center zoned Recreation Conservation District (RC), and on the south by duplexes along North Maplemere Drive zoned Residential District Four (R-4). The one and two story 163,200± sq. ft. surgery center and medical office building and 389 parking spaces will be located in the northern portion of the project site with the 427 space surface parking lot in the southern portion of the project site. Therefore, the project is considered consistent with surrounding land use.
6. The proposed subject development will include a one- and two-story 163,200± sq. ft. surgery center and medical office building and 816 parking spaces which will cause a change in the use of either the quantity or type of energy. All utility infrastructure is or will be available prior to occupancy.
7. The project will not create any hazard to human health.
8. The project will cause a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses, however, the proposed one- and two-story 163,200± sq. ft. surgery center and medical office building and 816 parking spaces will be consistent with the scale of surrounding and future land uses.
9. The function of the proposed one- and two-story 163,200± sq. ft. surgery center and medical office building and 816 parking spaces will increase the number of people using the site over its previous level of use. All road and utility infrastructure is or will be in place prior to occupancy.
10. Review by the Town Traffic/Safety Board dated May 6, 2021, indicated that significant negative traffic impacts are not expected to result from the proposed one- and two-story 163,200± sq. ft. surgery center and medical office building and 816 parking spaces. Review of the Traffic Impact Study (TIS) prepared by SRF Associates submitted to the Planning Department on March 22, 2021 will be reviewed by the Town Traffic/Safety Board, Erie County Dept. of Public Works – Highways Division, and NYSDOT when a subsequent site plan is filed for the roadway network to be associated with the subject development. Identification and mitigation of any significant negative traffic impacts expected to result from the proposed project will be addressed at the time the roadway network is under review.
11. A coordinated review of the project has been undertaken by Town Departments including, in addition to those mentioned above, Highway on April 14, 2021, Assessor on March 25, 2021, Plumbing Division on March 26, 2021 and Right-of-Way Agent on May 7, 2021. These reviews did not identify any potential significant adverse environmental issues and indicated that the proposal will not have a significant damaging impact on the environment.

12. Issues not specifically mentioned above and/or those not specifically reviewed were not raised by Town departments, outside agencies or the public and are not determined to cause significant negative environmental impacts.

Planning Board Approval

Moved by: Chmiel; Seconded by: Gelber, Ayes; 7 Noes 0.


signature & title of preparer 5/27/21
Date


Robert J. Gilmour, Planning Board Chair 5-27-21.
Date

SM/ac

X:\Current_Planning\Files\Site Plans\2020\SP-2020-09_A (500 Maple Rd portion)_2021\SP-2020-09_A_SEQR_Neg_Declaration_052021.docx

- cc: Amherst Town Clerk
Building Department
Engineering
Fire Chiefs'
Highway
Traffic/Safety
ECDEP
NYSDEC
NYSDOT
Erik Wagner, Ciminelli Real Estate Corp., 50 Fountain Plaza, Suite 500, Buffalo, NY 14202
Sean Hopkins, Hopkins Sorgi & McCarthy, 5500 Main St., Suite 343, Williamsville, NY 14221
Frank Sica, CannonDesign, 50 Fountain Plaza, Suite 200, Buffalo, NY 14202
Brad Sendlak, Watts Architectural & Engineering, 95 Perry St., Suite 200, Buffalo, NY 14203
Kristopher Winkler, Watts Architectural & Engineering, 95 Perry St., Suite 200, Buffalo, NY 14203



Town of Amherst Planning Department

Erie County, New York



Brian J. Kulpa
Supervisor

Daniel C. Howard, AICP
Planning Director

Ellen M. Kost, AICP
Assistant Planning Director

SEQR

NEGATIVE DECLARATION

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency:	Town of Amherst Town Board	Project:	BCPA-2020-01 and Z-2020-05
Address:	5583 Main Street Williamsville, NY 14221 (716) 631-7051	Date:	July 6, 2020

This notice is issued pursuant to Part 617 and Local Law #3-82, as amended, of the implementing regulations pertaining to Article 8 (State Environmental Quality Review) of the Environmental Conservation Law.

The Lead Agency has determined that the proposed action described below will not have a significant adverse effect on the environment.

Title of Action: Amendment to Bicentennial Comprehensive Plan and Rezoning

SEQR Status: Type I

Description of Action: Amendment to the Bicentennial Comprehensive Plan to allow Community Facilities use (medical facility) on 14.97± acres of the Town's Audubon Recreation Center; and rezoning of the same 14.97± acres from RC to CF to allow development of a UBMD surgical center and medical office facility.

Location: 500 Maple Road (portion), Town of Amherst, Erie County, New York

Petitioner: Audubon Park MOB, LLC

Reasons Supporting This Determination

Based on information submitted by the applicant, including a Full Environmental Assessment Form (EAF) - Part 1, geotechnical report, Downstream Sewer Capacity Analysis, Preliminary Drainage Report, Traffic Assessment, complete application for Bicentennial Comprehensive Plan amendment and rezoning, and concept plan, a preliminary staff analysis was undertaken. Compared to the criteria listed in Section 617.7, all indications are that the proposed action will not have a significant impact on the environment, as follows:

1. The action is not expected to cause a substantial adverse change in existing air quality, ground or surface water quality or quantity, or noise levels; a substantial increase in solid waste production; or a substantial increase in the potential for erosion, flooding, leaching or drainage problems. The Town Engineering Department on May 20, 2020 reviewed the application and EAF submitted on March 23, 2020, and had no objection or comments on the proposed rezoning. A Downstream Sewer Capacity Analysis and Preliminary Drainage Report were received on May 15, 2020 and reviewed. The Engineering Department found both reports to be complete and that there is sufficient sanitary capacity available for this project within the downstream sewers.

A 1.43± acre wetland area was found on the site by Earth Dimensions, Inc. It is that firm's professional opinion that the wetland will not be impacted by the proposed project and that the project may proceed without a Jurisdictional Determination or Section 404 permit from the US Army Corps of Engineers.

2. The action will not result in the removal or destruction of large quantities of vegetation or fauna; or in significant adverse impacts to fish or wildlife species, habitats or other natural resources. A Landscape/Tree preservation Plan shall be required of the applicant upon submittal of a site plan application for development of the site at which stage all landscape requirements of the Zoning Ordinance will be met.
3. The action does conflict with the Town Comprehensive Plan, specifically Figure 6, Conceptual Land Use Plan; therefore a Comprehensive Plan amendment is included with this action. The project will comply with all regulations of the Town Zoning Ordinance before final site plan approval is granted. The Town Building Department on May 19, 2020 reviewed the application and EAF submitted on March 23, 2020, and has no objection or comments on the proposed rezoning.
4. The action is within an area identified by the State as potentially containing significant cultural or archeological resources. The NYS Office of Parks, Recreation, Historic Preservation has reviewed the project and determined that there will be no impact on these resources.

5. The action will not impair the character or quality of important aesthetic resources or of existing community or neighborhood character. The subject requests will amend the Bicentennial Comprehensive Plan and rezone 14.97± acres of land from Recreation Conservation (RC) to Community Facilities (CF). The property is bordered on the north by a strip of SUNY at Buffalo vacant land followed by the Ellicott Creek Trailway and Millersport Highway (unzoned), on the west by the Amherst Northtown Center (zoned RC), and on the south by duplexes along North Maplemere Drive (zoned R-4). The proposed UBMD facility will be one- and two-stories in height and be situated in the north portion of the area to be rezoned; the 4-story parking garage will be situated along the proposed North Maplemere extension, thus locating it nearly 850 ft. from the single-family residences on the south side of Maple Road. Therefore, the project is considered consistent with surrounding land use.
6. The action will cause a change in the quantity or type of energy used. All necessary utility infrastructure is or will be in place prior to final approval.
7. The action will not create any hazard to human health. The proposed medical facility will be located in close proximity to UB sports facilities, increase the opportunities for medical care and be easily accessible for all residents in the region.
8. The action will cause a substantial change in the use and the intensity of land that currently holds recreational resources. The existing ball fields to be removed will be moved to another location in close proximity and improved. The proposed medical facility is considered consistent with the scale of surrounding land uses (Town Northtown Center, UB facilities).
9. The action will significantly increase the number of people using the site over its previous level of use. The Town will ensure that all required road and utility infrastructure to support the increase are in place prior to final approval.
10. Review by the Town Traffic/Safety Board on May 15, 2020, NYSDOT on May 20, 2020, and the Erie County DPW Highways Division indicate that significant negative traffic impacts are not expected to result from the proposed project. The Traffic/Safety Board requests that a full Traffic Impact Study be submitted at the time of site plan application.
11. Coordinated reviews of the project have been undertaken by Town Departments including Building on May 19, 2020, Engineering on May 20, 2020, Traffic/Safety Board on May 15, 2020, and Assessor on April 7, 2020 along with outside agencies including the Erie County Department of Environment and Planning, Erie County DPW Highways Division, New York State Department of Transportation on May 20, 2020, Department of Environmental Conservation, and SUNY at Buffalo on May 29, 2020. These reviews have not identified any significant environmental issues and indicate that the proposal will not have a significant damaging impact on the environment.

Negative Declaration – BCPA-2020-01 & Z-2020-05

July 6, 2020

Page 4

12. Issues not specifically mentioned above and/or those not specifically reviewed were not raised by Town departments, outside agencies or the public and are not determined to be causing significant negative environmental impacts.
13. The Town Board determines that sufficient documentation has been provided to justify segmentation of this action from the future Town initiative to develop the Audubon Recreation Center in exchange for acquiring the former Westwood Country Club property as parkland. The Town Board further determines that the segmented review will be no less protective of the environment.

Ellen M. Kost Ass't. Planning Director 5/19/21
Signature & title of preparer date

Brian J. Kulpa
Brian J. Kulpa, Supervisor

5/25/21
date

EMK/ac

X:\Current_Planning\Files\Rezoning\2020\Z-2020-05_(500_Maple_Rd)_2020\TB Ltr_Comp Plan Amend & Rezoning_062220.docx

cc: Amherst Town Clerk
Amherst Building Department
ECDEP
NYSDEC
Audubon Park MOB LLC, c/o Sean Hopkins, Esq., 5500 Main Street, Suite 343, Williamsville, NY 14221

EXHIBIT B

PILOT Schedule

Consistent with the provisions of the Amherst Central Park Infrastructure Fund and PILOT Application Agreement to be entered into by the Agency, the Town of Amherst, New York and Sweet Home Central School District, the Agency and the Company will enter into an Agreement for Payment in Lieu of Real Estate Taxes (“PILOT Agreement”) for a term of twenty (20) years, with annual abatement percentages in accordance with the following schedule:

<u>Year</u>	<u>COLUMN 1:</u> <u>PILOT Abatement</u> <u>Schedule Applicable to</u> <u>Improvements</u> <u>Constructed on Lots</u>	<u>COLUMN 2:</u> <u>Percentage of</u> <u>Town and</u> <u>School District</u> <u>PILOT</u> <u>Payments to be</u> <u>Directed to the</u> <u>Fund</u>	<u>COLUMN 3:</u> <u>Percentage of</u> <u>Town and School</u> <u>District PILOT</u> <u>Payments to be</u> <u>Directed to the</u> <u>Town and School</u> <u>District</u>	<u>COLUMN 4:</u> <u>Percentage of</u> <u>County PILOT</u> <u>Payments to be</u> <u>Paid to the</u> <u>County</u>
1	20%	100%	0	100%
2	20%	100%	0	100%
3	20%	100%	0	100%
4	20%	100%	0	100%
5	20%	100%	0	100%
6	10%	100%	0	100%
7	10%	100%	0	100%
8	10%	100%	0	100%
9	10%	100%	0	100%
10	10%	100%	0	100%
11	0	90%	10%	100%
12	0	90%	10%	100%
13	0	90%	10%	100%
14	0	90%	10%	100%
15	0	90%	10%	100%
16	0	80%	20%	100%
17	0	80%	20%	100%
18	0	80%	20%	100%
19	0	80%	20%	100%
20	0	80%	20%	100%

Dave Mingoia

From: Christy <chriskay333@hotmail.com>
Sent: Sunday, December 5, 2021 1:04 AM
To: Dave Mingoia
Subject: public hearing Monday, Dec 6 at 8:30am

Dear D Mingoia,

I cannot attend the public hearing. I would appreciate it if you could read this for me at public comment.

My name is Christy Kirisits. I have lived at 112 Barberry Ln since the blizzard of 1977. We moved here from the city. It felt like we were moving into a park. No more. Now there is too much traffic, too much noise pollution, too many fences and too much development.

I am adamantly opposed to the UBMD/Ciminelli medical complex tax break request. As a matter of fact, I am opposed to the idea of a medical complex. This is the first I have heard that they are trying to bring in Orthopedic and Sports medicine, General Surgery, a primary care office and medical imaging all in one location. Let all these medical businesses stay where they are. I see now that this was the plan right from the start.

UBMD was supposed to replace 2 football fields only. The increased tax revenue was supposed to be the seed money for Westwood. While our attention was on Westwood, Northtown Center has been cemented overturned and turned into a giant parking lot. We have lost our green space. The building is much larger and the parking lots have been built at the town's expense to be shared with UBMD. We have already given them more than enough.

I attended 2 public neighborhood forums, one on Sheridan at the Fire Hall and one in Eggertsville. Brian Kulpa never mentioned bringing in 4 more medical businesses. Funny it came up only after the election. The public has been intentionally misled.

Medical projects are NOT eligible for tax breaks. Please don't approve this tax break request.

Christy Kirisits

Sent from [Mail](#) for Windows

Dave Mingoia

From: Al Kirisits <alkirisits@gmail.com>
Sent: Sunday, December 5, 2021 9:25 AM
To: Dave Mingoia
Subject: UB MD project tax relief

Mr. Dmingoia

I strongly object to the Amherst IDA granting any tax relief to the Ciminelli corporation for the UB MD northtowns project. The ciminelli corporation is a large, well capitalized company who entered into a agreement this year with the town knowing all the risks and profits associated with this project. Now they are attempting to squeeze out of the agreed upon terms at the expense of the town taxpayers. The arguments put forth in the application are specious at best. I ask that you consider the benefit of the Amherst Taxpayers, not the bottom line of Ciminelli.

Sent from Mail for Windows

Lawrence Hunter
281 Sundown Trail
Williamsville, N.Y. 14221

December 6, 2021

Mr. David S. Mingoia
Amherst IDA
4287 Main Street
Amherst, N.Y. 14226

Dear Mr. Mingoia,

I am writing you on behalf of the many residents in the Town of Amherst who are tired of multi-million-dollar companies, such as the Ciminelli Real Estate Corporation and 111 North Maplemere, LLC, (hereinafter referred to as “Two Companies”) asking for unnecessary tax breaks at Amherst taxpayers expense. In addition, no company should receive any form of tax break when their application to do so, contains deceiving and misrepresenting comments.

The Amherst IDA website states that your mission is to “Broaden the tax base of the Town of Amherst in order to reduce the tax burden on homeowners” The application for tax breaks from the above mentioned companies does NOT do this. If you feel it does do it, then you must explain in specific detail.

Since I was unable to find the application of these Two Companies on your website, I will have to make references from the Buffalo News article entitled, “UBMD, Ciminelli seek Amherst IDA tax breaks for medical complex”. In that article it states that the average full-time salary will be nearly \$100,000.00, which is way above the national average, and much higher than the average salary in Erie County. If they can afford such salaries, they don’t need tax breaks.

The article also states that the, “Site improvements requested by Amherst officials would benefit the Town”. In the “Decommissioning Agreement” with 111 North Maplemere, LLC, dated November 9, 2020, section 1, article 4, states that the improvements, “Will be completed by 111 NM on behalf of the Town and at EXPENSES of the Town”. So the Two Companies are deceiving you into believing they will pay for things, when in fact it’s the Amherst taxpayer who will pay for them. Such deception should NOT be rewarded with tax breaks.

I suspect you are well aware that when a developer builds a new residential or commercial road to access the development, even though the road, upon it’s completion which may include drainage and sewer construction, might be dedicated to the Town, the Town does not pay for such construction. However, in the “Purchase and Sale Agreement (Between TPA and Bones & Guts, LLC) (CRS #2107) it specifically states under ARTICLE XII, “Special Provisions”, 12.5, that, “The Town agrees that the party or parties that incur the expenses for the installation of Roadway improvements for the Surgery Center Project.....shall be reimbursed by the Town for

costs of such Roadway improvements simultaneous with the dedication of the Public Roadways to the Town". Why do these Two Companies need tax breaks when the Town of Amherst taxpayer will be paying millions-of-dollars to assist in this project? This project is NOT reducing the "Tax burden on homeowners", but increasing it.

The Buffalo News article also states that the ambulatory surgery center will perform various procedures and surgeries that, "Are not provided by competitors". Sir, if another business does not provide the same product or function, then they are NOT a competitor. However, if these Two Companies think they have a competitor, then the Amherst taxpayer should not assist businesses in competing against each other.

If these Two Companies were just starting a business and had no experience in developing such a business, then the Amherst IDA might consider assisting them with such a project. However, these are wealthy business people, with years and years of experience, who seem to be saying, "Gee we need help because we're too dumb to figure out how to make this project successful unless you save us millions-of-dollars". They should be embarrassed and you should not reward such stupidity.

The deception and misrepresentation that these Two Companies have presented to you should NOT be rewarded at the expense of Amherst taxpayers. Their request should be denied.

Respectfully,

Lawrence Hunter

PROJECT PROFILE:
ASPEN - MUIR WOODS INFRASTRUCTURE DEVELOPMENT
\$83,273,930
December 17, 2021



ELIGIBILITY

- Commercial Project under NYS Law

COMPANY INCENTIVES (EST.)

- Property Tax = \$6,507,039
- Sales Tax = \$2,263,000
- Mortgage Tax= \$405,961

PROJECT BENEFITS (EST.)

- Property Taxes = \$4,521,841
- Income Taxes = \$2,084,000
- Sales Taxes = \$1,334,000

EMPLOYMENT

- 497 Construction Jobs Created
- 9 Full-Time Jobs Created
- 2 Part-Time Jobs Created
- Average Salary of New Jobs = \$40,000

PROJECT SCHEDULE

- December 2021 - Project Begins
- July 2023 - Project Complete

Project Address:
 1081 North French Road
 Amherst, New York 14221
 (Sweet Home School District)

Investment:
 Land Acquisition: \$4,500,000
 Construction: \$68,024,916
 Soft/Other Costs: \$10,749,014

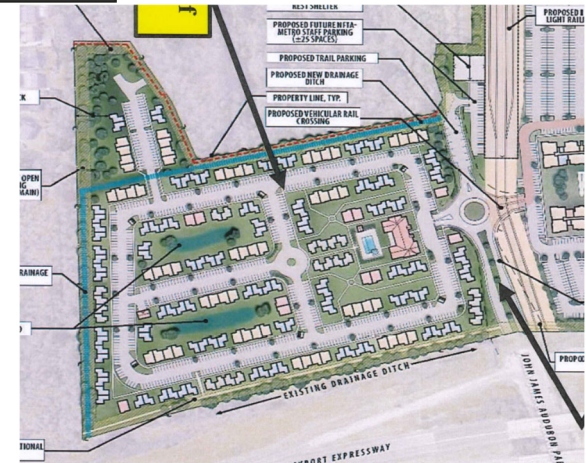
Company Description:

The project applicant is Aspen Heights, a national student housing developer based in Austin, Texas with over \$1.6 billion in multifamily residential and student development and management since its founding in 2006. Aspen Heights’ focus on quality and construction and development creating designs that integrate into the community has enabled the company to build a strong track record with projects throughout the mid-west and south. The nearest facility is located in Syracuse, New York.

Project Description:

Aspen Heights, through Amherst NY Properties KP6, LLC, is proposing to construct and manage a multi-phase student housing development on the Muir Woods parcel to include 830 beds in cottage/ townhome style units. This project was previously induced in April 2021 for York Acquisitions, LLC to undertake the project, but the change to an unrelated corporate entity requires further Agency approval. The developer is faced with estimates of \$5,000,000 in extraordinary off-site public benefit infrastructure expenses as directed by the New York State Department of Transportation and others. Included in these costs is design allowance for a future NFTA Metro Light Rail or Enhanced Transit Stop. Construction costs, through material and labor increases caused by the pandemic, impact the feasibility of the project.

The proposed project is a deviation from the uniform tax exemption policy and leverages a payment in lieu of tax (PILOT) arrangement to mitigate extraordinary expenses not limited to roadway widening, traffic circle, water and sewer extensions and electric utility infrastructure. Any project proposed for this site would require similar off-site infrastructure. Upon construction, the public infrastructure improvements will be transferred to the requisite entities.



**PROJECT PROFILE:
ASPEN - MUIR WOODS INFRASTRUCTURE DEVELOPMENT
\$83,273,930**

AIDA COMPANY HISTORY:

None

MATERIAL TERMS:

1. Investment of not less than \$70,782,840 at the project location and on off-site infrastructure as noted in the application.
2. Successful completion of construction of off-site infrastructure and transfer of ownership to the requisite entities.
3. Creation and of 9 full time equivalent jobs at the project location and maintaining these jobs for the duration of the PILOT.
4. Compliance with the Agency's Local Labor Policy in connection with the construction of the Project.

Cost-Benefit Analysis for Aspen Muir Woods Infrastructure Project

Prepared by this agency using InformAnalytics

Executive Summary

INVESTOR
Amherst NY Properties KP6, LLC

TOTAL JOBS
20 Ongoing;
677 Temporary

TOTAL INVESTED
\$83.3 Million

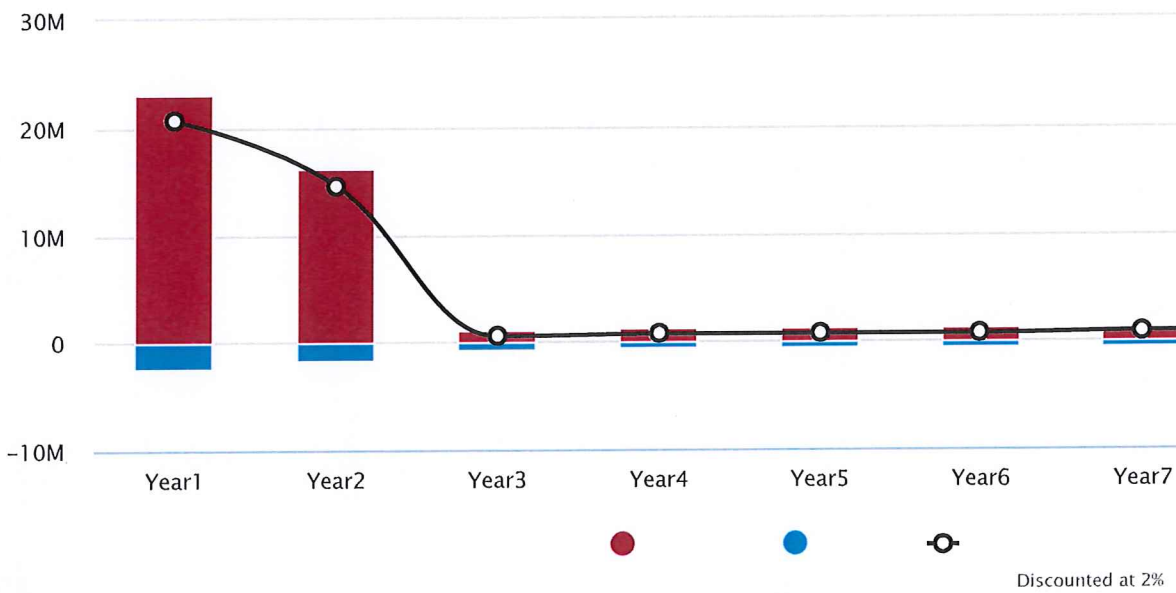
LOCATION
1121 North French

TIMELINE
10 Years

F1 FIGURE 1

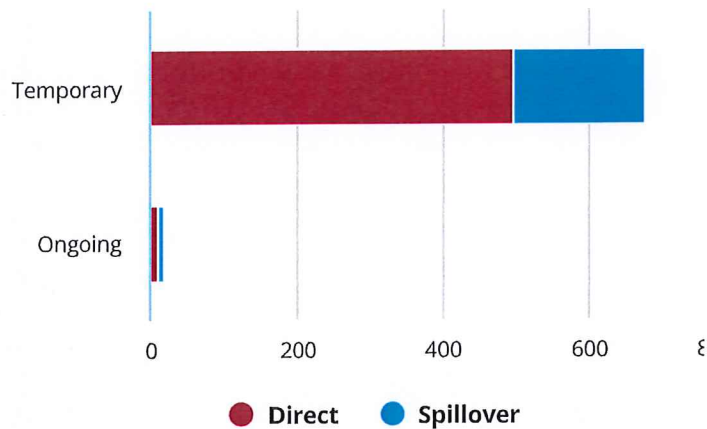
Discounted* Net Benefits for Aspen Muir Woods Infrastructure Project by Year

Total Net Benefits: \$41,529,000



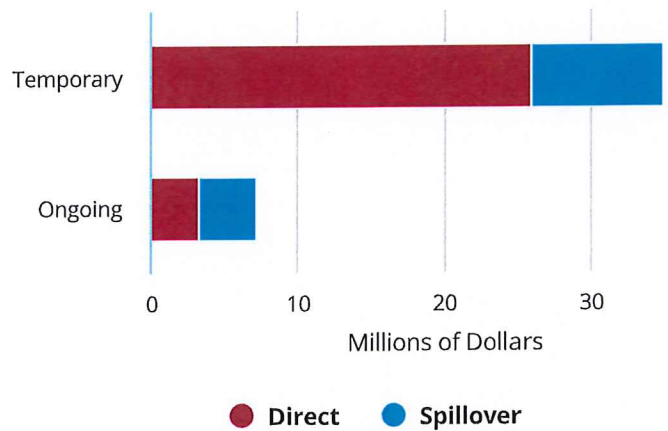
F2 FIGURE 2

Total Jobs



F3 FIGURE 3

Total Payroll



Proposed Investment

Amherst NY Properties KP6, LLC proposes to invest \$83.3 million at 1121 North French over 10 years. Agency staff summarize the proposed with the following: Aspen Heights, through Amherst NY Properties KP6, LLC, is proposing to construct and manage a multi-phase student housing development on the Muir Woods parcel to include 830 beds in cottage/townhome style units.. The developer is faced with preliminary estimates of at least \$5,000,000 in extraordinary off-site public benefit infrastructure expenses as directed by the New York State Department of Transportation and others. Included in these costs is design allowance for a future NFTA-Metro Light Rail or Enhanced Transit Stop. Construction costs, through material and labor increases caused by the pandemic, impact the feasibility of the project.

T1 TABLE 1

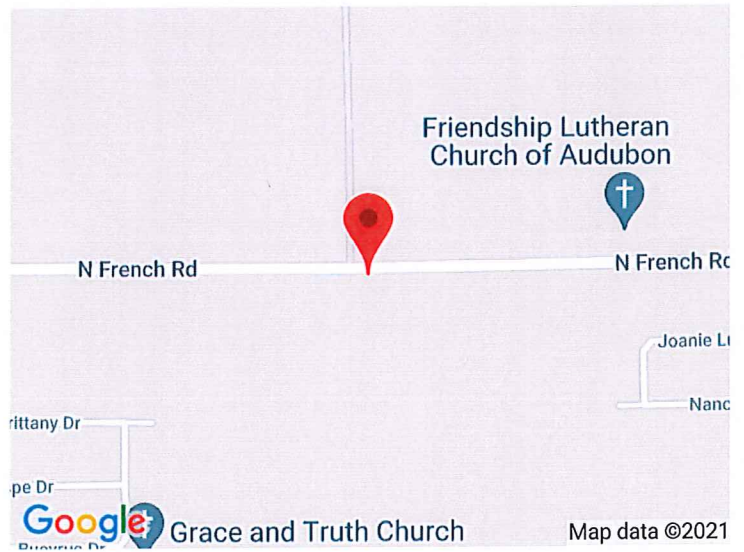
Proposed Investments

Description	Amount
CONSTRUCTION SPENDING	
Project Development	\$68,025,000
OTHER SPENDING	
Soft Costs	\$10,749,000
Land Acquisition	\$4,500,000
Total Investments	\$83,274,000
Discounted Total (2%)	\$82,740,000

May not sum to total due to rounding.

F4 FIGURE 4

Location of Investment



Cost-Benefit Analysis

A cost-benefit analysis of this proposed investment was conducted using InformAnalytics, an economic impact model developed by CGR. The report estimates the impact that a potential project will have on the local economy based on information provided by the agency. The report calculates the costs and benefits for specified local taxing districts over the first 10 years, with future returns discounted at a 2% rate.

T2 TABLE 2

Estimated Costs or Incentives

The agency is considering the following incentive package for Amherst NY Properties KP6, LLC.

Description	Nominal Value	Discounted Value*
Property Tax Exemption	\$5,849,000	\$5,399,000
Sales Tax Exemption	\$2,262,000	\$2,244,000
Mortgage Recording Tax Exemption	\$406,000	\$406,000
Total Costs	\$8,516,000	\$8,049,000

May not sum to total due to rounding.

* Discounted at 2%

T3 TABLE 3

State & Regional Impact (Life of Project)

The following table estimates the total benefits from the project over its lifetime.

Description	Direct	Spillover	Total
REGIONAL BENEFITS	\$34,366,000	\$13,617,000	\$47,982,000
To Private Individuals	\$29,802,000	\$13,392,000	\$43,194,000
Temporary Payroll	\$26,144,000	\$9,074,000	\$35,218,000
Ongoing Payroll	\$3,658,000	\$4,318,000	\$7,977,000
To the Public	\$4,564,000	\$224,000	\$4,788,000
Property Tax Revenue	\$4,064,000	N/A	\$4,064,000
Temporary Sales Tax Revenue	\$438,000	\$152,000	\$590,000
Ongoing Sales Tax Revenue	\$61,000	\$72,000	\$134,000
STATE BENEFITS	\$1,868,000	\$826,000	\$2,694,000
To the Public	\$1,868,000	\$826,000	\$2,694,000
Temporary Income Tax Revenue	\$1,278,000	\$444,000	\$1,722,000
Ongoing Income Tax Revenue	\$170,000	\$193,000	\$362,000
Temporary Sales Tax Revenue	\$369,000	\$128,000	\$497,000
Ongoing Sales Tax Revenue	\$52,000	\$61,000	\$113,000
Total Benefits to State & Region	\$36,234,000	\$14,442,000	\$50,676,000
Discounted Total Benefits (2%)	\$35,646,000	\$13,933,000	\$49,579,000

May not sum to total due to rounding.

T4 TABLE 4

Benefit to Cost Ratio

The following benefit to cost ratios were calculated using the discounted totals.

Description	Benefit*	Cost*	Ratio
Region	\$46,947,000	\$6,753,000	7:1
State	\$2,632,000	\$1,297,000	2:1
Grand Total	\$49,579,000	\$8,049,000	6:1

May not sum to total due to rounding.

* Discounted at 2%

CGR has exercised reasonable professional care and diligence in the production and design of the InformAnalytics™ tool. However, the data used is provided by users. InformAnalytics does not independently verify, validate or audit the data supplied by users. CGR makes no representations or warranties with respect to the accuracy of the data supplied by users.

RESOLUTION OF THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A RESIDENTIAL STUDENT HOUSING DEVELOPMENT BY AMHERST NY PROPERTIES KP6, LLC, TO BE LOCATED AT 1081 NORTH FRENCH ROAD, AMHERST, NEW YORK, FOR LEASE OR SALE TO THE AGENCY AND SUBSEQUENT LEASE OR RECONVEYANCE PURSUANT TO A LEASE OR AN INSTALLMENT SALE CONTRACT TO AMHERST NY PROPERTIES KP6, LLC, THE EXECUTION OF A MORTGAGE AGREEMENT, LEASE AGREEMENT AND/OR INSTALLMENT SALE CONTRACT, A CUSTOMIZED PILOT AGREEMENT AND THE TAKING OF OTHER ACTIONS.

WHEREAS, the Town of Amherst Industrial Development Agency (the “Agency”) is authorized under the laws of the State of New York, and in particular the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and Section 914-a of the General Municipal Law, as amended (collectively, the “Act”), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, Amherst NY Properties KP6, LLC, for itself or for affiliated individuals or entities (collectively, the “Company”), has submitted an application to the Agency requesting the Agency to undertake a certain project (the “Project”) consisting of: (a) the acquisition of a leasehold interest in a parcel of vacant land located at 1081 North French Road in the Town of Amherst, New York (the “Land”); (b) the construction thereon of a student housing development to include up to 830 beds in cottage/townhome style units, a clubhouse area and related amenities and improvements (the “Improvements”); and (c) the acquisition and installation therein, thereon or thereabout of certain machinery, equipment and related personal property (the “Equipment”); and

WHEREAS, this Project was previously induced by the Agency on April 23, 2021 based on an application submitted by York Acquisitions, LLC (“York”); and

WHEREAS, the Agency was recently informed that the Project owner/occupant will be the Company, which is not directly affiliated or controlled by York and York would have no continuing interest in the Project; and

WHEREAS, the Agency requested that the Company submit a new application, and the Company has submitted an application and other materials and information (collectively, the “Application”) to the Agency to initiate the accomplishment of the above; and

WHEREAS, the Application sets forth certain information with respect to the Company and the Project, including the following: that the Company desires Agency financing for the construction

of an 830+/- bed student housing development, to be located at 1081 North French Road, Amherst, New York, all at a cost of approximately \$83,274,000; that the Company anticipates that nine (9) full-time equivalent (FTE) employment positions will be created; that (i) the Project will provide substantial capital investment, including a commitment from the Company to undertake and complete significant off-site infrastructure improvements; (ii) that if Agency financing is disapproved, the Company would likely not proceed with the Project; and that, therefore, Agency financing is necessary to encourage the Company to proceed with the Project; and

WHEREAS, Section IV of the Countywide Uniform Tax Exemption Policy the (“UTEP”) permits the Agency to deviate from its standard payment in lieu of taxes agreement schedule in accordance with the requirements set forth in the UTEP and applicable provisions of the General Municipal Law; and

WHEREAS, pursuant to Section 874(4)(b) of the General Municipal Law and the UTEP, the Agency duly delivered a notice of deviation on February 16, 2021 to the chief executive officers of each of the affected taxing jurisdictions and the industrial development agencies located in Erie County regarding the proposed non-standard PILOT Agreement for the Project; and

WHEREAS, after the giving of all required notices (including published notice), the Agency held a public hearing on the Project on December 17, 2021, and has considered all oral and written presentations made at or in connection with said public hearing; and

WHEREAS, the Agency has reviewed the Application, prepared a cost-benefit analysis with respect to the Project and considered the extent to which the Project will create and retain permanent, private-sector jobs, the value of tax exemptions to be provided, the amount of private sector investment generated or likely to be generated by the Project, the likelihood of accomplishing the proposed Project in a timely fashion, the extent to which the proposed Project will provide additional sources of revenue for the municipalities and school district and other public benefits that might occur as a result of the Project; and

WHEREAS, the Agency desires to encourage the Company with respect to the consummation of the Project, if by doing so it is able to induce the Company to proceed with the Project in the Town of Amherst; and

WHEREAS, the Company has determined it will complete the Project by obtaining a conventional loan(s) from a third party, and the Company has requested that the Agency execute any and all documents required by the parties, including any collateral mortgages on the Project given to secure a loan(s) obtained by the Company to finance the cost of the Project; and

WHEREAS, the Town of Amherst Planning Board (the “Planning Board”) served as lead agency pursuant to the State Environmental Quality Review Act (ECL Article 8 and its implementing regulations at 6 NYCRR Part 617) (“SEQRA”) for the Company’s project. The Agency was duly identified as an involved agency in Part 1 of a long-form Environmental Assessment Form (“EA”) which was completed for the Project, a copy of which was provided to the Agency and is attached hereto as part of Exhibit A; and

WHEREAS, on April 15, 2021, the Planning Board made a determination that the requirements of SEQRA were complete, and that the project is not expected to have a significant adverse effect on the environment (the “SEQRA Findings”). A copy of the SEQRA Findings is attached hereto as part of Exhibit A.

NOW, THEREFORE, THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY HEREBY RESOLVES AS FOLLOWS:

Section 1. Based upon the Agency’s review of the Company’s Application, the EAF and the SEQRA Findings issued by the Planning Board, the Agency hereby: (a) consents to and affirms the status of the Planning Board as lead agency within the meaning of, and for all purposes of complying with, SEQRA; (b) determines that the proceedings undertaken by the Planning Board as lead agency under SEQRA with respect to the acquisition, construction and equipping of the Project satisfy the requirements of SEQRA, and ratifies and confirms such proceedings by the Planning Board as lead agency; and (c) determines that all of the provisions of SEQRA that are required to be complied with as a condition precedent to the approval of the Financial Assistance (as defined herein) contemplated by the Agency with respect to the Project and the participation by the Agency in undertaking the Project have been satisfied.

Section 2. The Project is described in the recitals to this Resolution. The financial assistance to be provided in connection therewith include: (i) an exemption from sales and use taxes for building materials and machinery, equipment, fixtures and furnishings purchased for incorporation into or use at the Project location having a total cost not to exceed \$25,851,573.00, (ii) an exemption from mortgage recording taxes for one or more mortgages having an aggregate principal amount not to exceed \$54,128,260.00, and (iii) an abatement from real property taxes in accordance with a customized ten (10) year payment in lieu of tax schedule as set forth in Exhibit B attached hereto (collectively, the “Financial Assistance”). In addition to any other covenants, obligations and agreements which may be contained in the Project Documents (as hereinafter defined), the provision by the Agency of the Financial Assistance is made subject to the agreement by the Company throughout the period during which the Company is receiving Financial Assistance from the Agency (the “Compliance Period”) to comply with the following covenants and agreements, each of which shall constitute a “Material Factor”:

- (a) compliance with the Agency’s Local Labor Policy in connection with the construction of the Project;
- (b) achievement of a total of nine (9) full-time equivalent (FTE) jobs at the Project within two years of Project completion and the retention of such jobs throughout the Compliance Period;
- (c) successful completion of construction of all off-site infrastructure and transfer of ownership to the requisite entities; and
- (d) investment of not less than \$70,782,840 in the acquisition, renovation and equipping of the Project.

Section 3. The Project is for a commercial purpose within meaning of the Act. The Project will be located in a section of Town of Amherst that is in need of residential housing units of the kind and quality proposed by the Company. The Project is consistent with the Town of Amherst Comprehensive Plan, which provides for additional housing opportunities and choices, including higher density housing. In making this determination, the Agency has also considered the following factors which further support its findings: (i) the Project has the support of the Town of Amherst government; (ii) the Project is compliant with the investment and growth criteria of the Town of Amherst Comprehensive Plan calling for a strong tax base and development in convenient and accessible locations; (iii) a northerly extension of John James Audubon Parkway has been designated for development for the past 50 years and the Company has agreed to undertake and complete substantial off-site infrastructure improvements in connection with the Project; and (iv) the Company has provided appropriate evidence demonstrating the financial obstacles to the development of the Project without Agency assistance.

Section 4. The proposed Financial Assistance for the Project deviates from the UTEP as the proposed payment in lieu of real estate tax arrangement utilizes abatement percentages that differ from the standard abatement percentages under the UTEP. The Agency hereby approves of the deviation from the UTEP and authorizes the provision of the Financial Assistance as described herein. In making this determination, the Agency has considered the following factors as required by the Act and the UTEP, no single one of which is determinative:

1. The extent to which the Project will create or retain permanent private sector jobs. The Project is expected to create nine full-time positions and two part-time positions, with an estimated annual total payroll of \$539,660.00.
2. The estimated value of tax exemptions to be provided. The estimated value of the sales and use tax benefit for the Project is an amount up to \$2,262,013.00. The estimated value of the mortgage recording tax benefit is an amount up to \$405,961.00. The estimated value of the real property tax benefit is \$6,507,039.00.
3. Whether affected taxing jurisdictions will be reimbursed by the Project occupant if the Project does not fulfill the purposes for which an exemption was provided. The Company will be subject to potential financial assistance recapture in the event the Applicant does not adhere to the Agency's standard material terms and conditions governing the receipt of financial assistance.
4. The impact of the proposed project on existing and proposed businesses and economic development projects in the vicinity. The impact of the Project is a positive one on the community, as it will promote job opportunities, general prosperity and economic welfare for the residents of Erie County and the Town of Amherst. The Company has committed to making significant off-site infrastructure improvements that will benefit the Project site and facilitate additional development adjacent to the Project. The Company has identified in its Application the following improvements and associated costs (the aggregate estimated cost of which is \$4,946,871.00):
 - (i) W/S Line Extension to Main at Dodge Road: \$2,051,943.00;

- (ii) John Jay Audubon Extension w/onsite roundabout: \$876,169.00
 - (iii) National Grid Line Extension to Dodge Road - \$1,198,026.00;
 - (iv) Roundabout at John James Audubon Parkway and 1-990 as required by the NYS Department of Transportation - \$350,000.00;
 - (v) Lane widening for exit ramps of the 1-990 as required by the NYS Department of Transportation - \$275,000.00;
 - (vi) Paved secondary emergency access/recreational trail connecting to Dodge Road - \$145,733,00
 - (vii) DOT - Design and Engineering: \$50,000.00
5. The amount of private sector investment generated or likely to be generated by the proposed Project. The total private sector investment in the Project is expected to exceed \$83,273,930.00.
 6. The demonstrated public support for the Project. The Town of Amherst has expressed its support for the Project. The Town Board approved the Company's request for a special use permit for dormitory use on November 12, 2019. On April 15, 2021, the Town of Amherst Planning Board granted Site Plan Approval for the Project.
 7. The likelihood of accomplishing the proposed Project in a timely fashion. The Project is expected to be completed in a timely manner. Construction is expected to begin in the fall/winter of 2021, with completion in the summer of 2023.
 8. The effect of the proposed Project upon the environment. The Town of Amherst has served as lead agency for the coordinated environmental review pursuant to the State Environmental Quality Review Act (SEQRA) for the Muir Woods Project, which encompasses 326+/- acres that are located generally north of the I-990, south of North French Road, east of Sweet Home Road and west of Campbell Boulevard. The Project that is the subject of the Company's request for Financial Assistance will be located on Site B, which consists of approximately 46 acres of the Muir Woods Project site. As lead agency, the Town Board evaluated the environmental impacts of the Company's request to amend the SEQRA Findings Statement to permit Site B to be developed as a student housing community to include a maximum of 515 units. On August 5, 2019, the Town approved an amendment to the Findings Statement to permit student housing at the site based on its determination that the potential modifications to the Muir Woods Project would 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. On April 15, 2021, the Town of Amherst Planning Board approved the site plan for the project and made a finding that the requirements of SEQRA were complete, and that the project is not expected to have a significant adverse effect on the environment.

9. The extent to which the Project will utilize, to the fullest extent practicable and economically feasible, resource conservation, energy efficiency, green technologies, and alternative and renewable energy measures. The Company is exploring environmentally responsible construction such as green infrastructure and renewable energy systems.
10. The extent to which the proposed Project will require the provision of additional services including, but not limited, educational, transportation, emergency medical or police and fire services. The Project is not expected to require the provision of additional services.
11. The extent to which the proposed Project will provide additional sources of revenue for municipalities and school districts. The Project site currently consists of vacant land. The Project will generate additional sources of revenue from the PILOT payments which would otherwise not be received if the Project does not proceed.

Section 5. The Agency hereby authorizes the Company, as agent for the Agency, to proceed with the Project as herein authorized. The Agency is hereby authorized to acquire an interest in the Project site and the buildings thereon, if any, and to make renovations or additions thereto. The Company is authorized to proceed with the acquisition and construction of the Project as set forth in any Project Agreement, the Agency Lease Agreement or Installment Sale Contract (as hereinafter defined).

Section 6. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, and any Assistant Secretary of the Agency, and other appropriate officials of the Agency and its agents and employees, are hereby authorized and directed to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution and to complete the Project in cooperation with the Company.

Section 7. The Company is authorized, as agent of the Agency, to initiate the construction of a building(s) or building addition(s) constituting the Project, and the acquisition of machinery and equipment which will be a part thereof or will be used in connection therewith, and to advance such funds as may be necessary to accomplish such purposes. The designation of the Company as agent hereunder is limited to purchases of sales-taxable tangible personal property and services in connection with the Project which do not exceed a total cost of \$25,851,573.00 and shall not apply to any other purchase by the Company or any operating expenses of the Company. The Company shall report to the Agency, at such times as the Agency shall require, or as may otherwise be prescribed by the Commissioner of the New York State Department of Taxation and Finance (the "Commissioner"), the value of all sales and use tax exemptions claimed by the Company or agents of the Company or any operators of the Project, including, but not limited to, consultants or subcontractors of such agents or Project operators under the authority granted pursuant to this Resolution. A failure to report may result in the revocation of the designation of the Company as agent and repayment of any sales and use tax exemptions claimed.

Section 8. The Agency is hereby authorized to enter into a Project Agreement with respect the provision of the Financial Assistance authorized herein (the "Project Agreement") and to acquire an interest in the Project site and construct a facility thereon, and the execution and delivery of a lease by the Company to the Agency (the "Company Lease"), an Agency Lease Agreement (the

“Agency Lease Agreement”) or Installment Sale Contract (the “Installment Sale Contract”) between the Agency and the Company, the PILOT Agreement, and such other documents as may be necessary to fulfill the intent of the parties to the transaction (collectively, the “Project Documents”), in form satisfactory to Agency counsel, are hereby authorized. The PILOT Agreement shall provide for payments in accordance with a customized ten (10) year payment in lieu of tax schedule as set forth on Exhibit B. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, or any Assistant Secretary are each authorized to execute such documents and to make or approve such amendments or modifications to the Project Agreement, Company Lease, the Agency Lease Agreement, Installment Sale Contract, the PILOT Agreement and such other documents executed and delivered in connection therewith as they deem necessary under the circumstances provided, however, that such modifications do not materially alter the risk to the Agency.

Section 9. In the event the Company obtains one or more conventional loans to finance the cost of the Project or which will otherwise be secured by a lien on the Project, the Agency is hereby authorized to execute and deliver to the lender(s) one or more collateral mortgages on the Project given to secure such loans, and such other documents as may be necessary to fulfill the intent of the parties to the transaction in form satisfactory to Agency counsel provided that the aggregate amount of such mortgages shall not exceed \$54,128,260.00. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, and any Assistant Secretary are each authorized to execute such collateral mortgages and to make or approve such amendment(s) or modifications to such collateral mortgages and other documents executed and delivered in connection therewith as they may deem necessary under the circumstances, provided, however, that such modifications do not materially alter the risk to the Agency.

Section 10. Any such action heretofore taken by the Company initiating the acquisition, installation and construction of the Project is hereby ratified, confirmed and approved.

Section 11. Any expenses incurred by the Agency with respect to the Project and the financing thereof shall be paid by the Company. By acceptance hereof, the Company agrees to pay such expenses and further agrees to indemnify the Agency, its members, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency with respect to the Project and the financing thereof.

Section 12. In the event a lease is not executed between the Company and the Agency by the expiration date of this Resolution (as such date may be extended as provided herein) or the termination of this Resolution, the Company shall then be required to pay all sales taxes which would have been levied in connection with the acquisition, construction and installation of all improvements of the real property and the machinery and equipment which constitute the Project, as if the Agency did not have an interest in the Project from the date the Company commenced its acquisition, construction and installation. In addition, in the event, because of the involvement of the Agency, the Company claims an exemption from state sales or use tax in connection with the Project, and such exemption is claimed with respect to property or services not authorized hereunder, or which exemption is in excess of the amounts authorized hereunder, or is otherwise not permitted under this Resolution, or if the Company shall fail to comply with a material term or condition regarding the use of property or services acquired by the Company as agent for the Agency as set forth in this Resolution

or in any document authorized hereunder, then the Company shall each be required to remit to the Agency an amount equal to the amount of state sales and use taxes for which such exemption was improperly claimed. A failure to remit such amounts may result in an assessment against the Company by the Commissioner of state sales and use taxes, together with any relevant penalties and interest.

In addition to the foregoing, in the event the Agency determines that Company is in violation of a Material Factor, or in the event that the Company closes the Project or relocates its operations to a location outside of the Town of Amherst within the time period during which the Company is receiving Financial Assistance from the Agency or in the event the Agency determines, in its judgment, that the Company knowingly and intentionally submitted false or intentionally misleading information in its application to the Agency or in any report or certification submitted to the Agency for the purpose of obtaining or maintaining any Financial Assistance from the Agency (each referred to herein as a “Recapture Event”), the Agency may, in accordance with its policies and procedures then in effect, (i) revoke the designation of the Company and any agents of the Company (including, but not limited to, consultants, sub-contractors or equipment lessors of the Company) as agents for the Agency in connection with the Project and terminate the exemption from New York State and local sales and use taxes conferred with respect to the Project and/or (ii) require that the Company, commencing with the tax fiscal year next following such Recapture Event make payments in lieu of taxes on the Project with respect to all applicable taxing authorities in such amounts as would be payable as real estate taxes levied on the Project if the Agency did not have an interest in the Project or otherwise modify the amount or terms of any Financial Assistance being provided by the Agency in connection with the Project and/or (iii) require that the Company pay to the Agency an amount equal to all or a portion (as determined by the Agency in its discretion) of the total value of (x) all sales tax exemptions claimed by the Company and any agents of the Company, including, but not limited to, consultants, sub-contractors, or any equipment lessors of the Company under the authority granted under this Resolution and the Project Agreement, (y) any exemption from real estate taxes received by reason of the Agency’s leasehold interest in the Project and/or (z) any exemption from mortgage recording tax received by reason of the Agency’s involvement with the Project. If the Agency makes any of the foregoing determinations and requires a repayment of all or a portion of the Financial Assistance received by the Company, the Company shall (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdiction(s) unless otherwise agreed to by any affected tax jurisdiction.

Section 13. The Agency has made and makes no representation or warranty whatsoever, either express or implied, with respect to the merchantability, condition, environmental status, fitness, design, operation or workmanship of any part of the Project, its fitness for any particular purpose, the quality or capacity of the materials in the Project, or the suitability of the Project for the Company’s purposes or needs. The Company is satisfied that the Project is suitable and fit for its purposes. The Agency shall not be liable in any manner whatsoever to anyone for any loss, damage or expense of any kind or nature caused, directly or indirectly, by the Project property or the use or maintenance thereof or the failure of operation thereof, or the repair, service or adjustment thereof, or by any delay or failure to provide any such maintenance, repairs, service or adjustment, or by any interruption of

service or loss of use thereof or for any loss of business howsoever caused, and the Company each hereby indemnifies and holds the Agency harmless from any such loss, damage or expense.

Section 14. Should the appropriate officers of the Agency determine, in their absolute discretion, that there is reason to believe that the activities of any past or present owner or operator of the Premises have resulted in the generation of any “hazardous substance“ (as the term has been defined from time to time in any applicable federal or state law, rule or regulation), or that any party has stored, disposed or released any such substance on the Premises or within a one (1) mile radius thereof, the Agency shall be under no obligation to enter into a lease as contemplated by this Resolution.

Section 15. No covenant, stipulation, obligation or agreement herein contained or contained in the Project Agreement, Company Lease, the Mortgage Agreement, the Agency Lease Agreement, Installment Sale Contract, the PILOT Agreement or other documents, nor the breach thereof, shall constitute or give rise to or impose upon the Agency a pecuniary liability or a charge upon its general credit, nor shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity.

Section 16. Should the Agency’s participation in the Project be challenged by any party, in the courts or otherwise, the Company shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge including, but not limited to, the fees and disbursements of the Agency’s counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under Article 18-A of the General Municipal Law to participate in the Project, this Resolution shall automatically become null, void and of no further force and effect, and the Agency shall have no liability to the Company hereunder or otherwise.

Section 17. This Resolution shall take effect immediately and shall continue in full force and effect for two (2) years from the date hereof and on or after such two (2) year anniversary, the Agency may, at its option either (a) terminate the effectiveness of this Resolution (except with respect to the obligations of the Company pursuant to Sections 11, 12 and 16 of this Resolution which shall survive any expiration or termination) or (b) allow the Company additional time in which to close the transactions contemplated by this Resolution based upon affirmative actions taken by the Company to complete such transactions. Upon any allowance of additional time to close, the Agency may charge the Company an extension fee in accordance with the Agency’s fee schedule.

Section 18. This Resolution is subject to compliance with all local building and zoning requirements.

DATED: December 17, 2021

ACCEPTED AND AGREED TO: _____, 2021

AMHERST NY PROPERTIES KP6, LLC,

By: _____
Name:
Title:

EXHIBIT A

EAF and SEQRA Findings

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 Student Housing Community		
Project Location (describe, and attach a general location map): 1081 and 1121 North French Road [SBL Nos. 40.08-3-1.11/A & 40.08-3-1.11] - Town of Amherst - Erie County [Phase I located on 1081 North French Rd.]		
Brief Description of Proposed Action (include purpose or need): The proposed action consists of Phase 1 of a student housing project at 1081 and 1121 North French Road (the "Project Site"). The project consists of 208 units (830 beds). The project includes necessary clearing of the entire Project Site including the easternmost 17.7 acres to developed in future as Phase 2 of the project. The action has been defined broadly to include all required discretionary approvals and permits as well as all site improvements including the proposed student housing buildings, an extension of John James Audubon as a public roadway to be dedicated to the Town of Amherst, access aisles, parking spaces, driveways, wetland impacts, lighting, landscaping, on-site storm water management improvements, on-site and off-site sanitary sewer improvements and water lines and connections and all other required utility improvements. The project purpose is to develop Site "B" of overall Muir Woods Project Site as a student housing community in a manner generally consistent with the fully engineered for the student housing community. The project is a Type I action pursuant to SEQRA. The Town of Amherst Town Board issued an Amended Findings Statement pursuant to the State Environmental Quality Review Act ("SEQRA") to allow student housing on the Project Site on August 5, 2019 and the project is consistent with the Amended Findings Statement as well as the adopted Bicentennial Comprehensive Plan.		
Name of Applicant/Sponsor: Aspen Heights Partners c/o Sean Hopkins, Esq.	Telephone: (716) 510-4338	E-Mail: shopkins@hsr-legal.com
Address: 5500 Main Street, Suite 343		
City/PO: Williamsville	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): Ciminelli Muir Woods LLC	Telephone: (716) 631-8000	E-Mail: afaeth@ciminelli.com
Address: 50 Fountain Plaza, Suite 500		
City/PO: Buffalo	State: NY	Zip Code: 14202

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, <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No or Village Board of Trustees	Town Board - PIPs and ownership of off-site sanitary sewer improvements	To be determined
b. City, Town or Village Planning Board or Commission <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Planning Board - Site Plan Approval	September 20, 2020 [pending before the Planning Board]
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	Eng. Dept. - Storm. Permit; Building Dept. - Build. & Floodplain Permit; AIDA - Financial incentives	To be determined [AIDA Application pending]
e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	ECWA - Water connection; ECHD - Sanitary Sewer Permit	To be determined
f. Regional agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Potential Extension of NFTA light rail and related on-site improvements [east portion of Project Site]	Not Applicable
g. State agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	NYS DOT - Break-in-Access & Highway Work Permit and NYS DEC - SPDES Permit	Break-in-Access Application pending
h. Federal agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
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

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 type="checkbox"/> Yes <input checked="" 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):	[Note: The proposed project will not have any adverse impacts on the West Erie Canal Corridor.]
NYS Heritage Areas: 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?
The Project Site is zoned New Community District ("NCD") pursuant to the Town of Amherst Zoning Map.

b. Is the use permitted or allowed by a special or conditional use permit? [Special use permit for dormitory use issued by the Town Board on November 12, 2019.] Yes No

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

C.4. Existing community services.

a. In what school district is the project site located? The western portion of the Project Site is located in the Sweet Home Central School District and the eastern portion of the Project Site is located in the Williamsville 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?
Fire Protection- Getzville Fire Company. Emergency Medical Ambulance Services- Twin City Ambulance Service.

d. What parks serve the project site?
Walton Woods Park- Town of Amherst (.57 mile); Nature View Park- Town of Amherst (2.0 miles); Ellicott Creek Park- Erie County (2.4 miles); Audubon Municipal Golf Course- Town of Amherst (3.5 miles); Glen Oaks Municipal Golf Course- Town of Amherst (4.7 miles)

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)? The proposed project consists of student housing units for lease.

b. a. Total acreage of the site of the proposed action? 41.4± acres
b. Total acreage to be physically disturbed? 38.5± acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 326± acres
[Note: The Phase I student housing project will occupy the western 23.7 acres of Site "B" of the Muir Woods Property.]

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)

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

iii. Number of lots proposed? 2

iv. Minimum and maximum proposed lot sizes? Minimum 23.7 acres Maximum 23.7 acres

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 2
• Anticipated commencement date of phase 1 (including demolition) 03 month 2021 year
• Anticipated completion date of final phase 08 month 2025 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 timing of the development of the eastern portion of Site B has not yet been determined and will be dependent on numerous factors including market conditions at that time.

The first phase of the project will include the construction of the proposed extension of Audubon Parkway as public roadway and a gated emergency access only road connecting Site "B" with Sites "C" and "D" of the overall Muir Woods Project as required by Appendix D of the NYS Fire Code.

f. Does the project include new residential uses? Yes No
 If Yes, show numbers of units proposed.

	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase				220 [Phase I]
At completion of all phases				503

g. Does the proposed action include new non-residential construction (including expansions)? Yes No
 If Yes,
 i. Total number of structures _____
 ii. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length
 iii. Approximate extent of building space to be heated or cooled: _____ 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: Stormwater detention
 ii. If a water impoundment, the principal source of the water: Ground water Surface water streams Other specify: Management of stormwater runoff from impervious surfaces per applicable stringent NYSDEC stormwater quality and quantity standards.
 iii. If other than water, identify the type of impounded/contained liquids and their source. _____
 iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ 1.0± acres
 v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length
 vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): _____
Proposed stormwater facilities will be excavated from existing earth and does not constitute a dam.

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): Wetland impacts associated with the development of Site B have been approved by the NYSDEC (Permit No. 9-1422-0398/00001) as issued on December 17, 2019 and USACE (Permit No. 2001-00067) as issued by the USACE on December 12, 2019.

[Note: The project includes the required wetland mitigation for the authorized impacts to wetlands subject to the jurisdiction of the NYSDEC and USACE on Site "B" of the overall Muir Woods Property. A copy of Permit No. 9-1422-0398/00001 as issued by the NYSDEC on December 17, 2019 is attached as Exhibit "11" and a copy of Permit No. 2001-00067 as issued by the USACE on December 12, 2019 is attached as Exhibit "12".]

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:
Wetland impacts associated with the development of Site B have been approved by the NYSDEC (Permit No. 9-1422-0398/00001) and the USACE (Permit No. 2001-00067). The required wetland mitigation for the wetland impacts for the development of Site "B" will be implemented in connection with its development as a student housing project.

iii. Will the proposed action cause or result in disturbance to bottom sediments? Yes No
If Yes, describe: Existing Federal Jurisdictional ditches at the property will be relocated and/or removed in association with approved permitting.

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: _____ 263,250± 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: Amherst Water District No. 15
- 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: _____
Public extension of waterline along Audubon Parkway to service the site, private extensions throughout site.
- Source(s) of supply for the district: Erie County Water Authority

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: _____ 175,500± 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: Amherst Wastewater Treatment Plant #16
- Name of district: Amherst Sewer District 16
- 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

[Note: In connection with the Site Plan review process, a Downstream Sanitary Sewer Capacity Analysis will be prepared to evaluate downstream sanitary sewer capacity during wet weather conditions.]
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• 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: _____
 Connection of forcemain to the 60" diameter Peanut Line Interceptor from the Project Site and installation of collector sewers in the site. _____

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? Yes No
 If Yes:
 • Applicant/sponsor for new district: _____
 • Date application submitted or anticipated: _____
 • What is the receiving water for the wastewater discharge? _____

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

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

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? Yes No
 If Yes:
 i. How much impervious surface will the project create in relation to total size of project parcel?
 _____ Square feet or 21.2± acres (impervious surface)
 _____ Square feet or 41.4± acres (parcel size)
 ii. Describe types of new point sources. _____

 iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?
 Storm flow directed to several on-site storm water management areas prior discharging to on-site ditches. The on-site storm water management system will need to be reviewed and approved by the Engineering Department in connection with the site plan review process.
 • If to surface waters, identify receiving water bodies or wetlands: _____
 Town ditch to Ellicott Creek.
 • Will stormwater runoff flow to adjacent properties? Yes No

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

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? Yes No
 If Yes, identify:
 i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)
 The project may have tractor/trailer based deliveries and will include shuttle bus service for students to and from the UB North Campus.
 ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)
 Dependent on weather conditions and building construction schedules, there may be stationary combustion based equipment for power and heating on site
 iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)
 Project may require typical commercial grade generators and on-site mechanical units for emergency power and HVAC.

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? Yes No
 If Yes:
 i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) Yes No
 ii. In addition to emissions as calculated in the application, the project will generate:
 • _____ Tons/year (short tons) of Carbon Dioxide (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 Hydroflourocarbons (HFCs)
 • _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

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

If Yes:

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

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

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

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

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

[Note: An updated TIS is being prepared by GPI Engineering for the purpose of evaluating potential traffic impacts of the student housing community based on input received from NYSDOT and copies of the updated TIS will be submitted upon completion.]

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 1/2 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: _____

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

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.

<p>i. During Construction:</p> <ul style="list-style-type: none"> • Monday - Friday: _____ 7:00 a.m. to 7:00 p.m. _____ • Saturday: _____ 7:00 a.m. to 5 p.m. _____ • Sunday: _____ As needed _____ • Holidays: _____ As needed _____ 	<p>ii. During Operations:</p> <ul style="list-style-type: none"> • Monday - Friday: _____ 24 hours per day _____ • Saturday: _____ 24 hours per day _____ • Sunday: _____ 24 hours per day _____ • Holidays: _____ 24 hours per day _____
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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:
Operation of construction vehicles during site construction of the project. This represents 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:
The project will utilize standard pole mounted and exterior wall pack lighting for residential buildings and parking areas.

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: _____ tons per _____ (unit of time)
 • Operation : _____ tons per _____ (unit of time)
 ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:
 • Construction: _____
 • Operation: _____

iii. Proposed disposal methods/facilities for solid waste generated on-site:
 • Construction: _____
 • Operation: _____

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): Lockport Expressway [I-990]

ii. If mix of uses, generally describe:

The Project Site is located within the Town of Amherst Audubon New Community District, a 3,000 acre planned mixed-use community. The Audubon New Community District features single family residential development, office parks, and major open space in close proximity to the Project Site.

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	-	24.2±	+ 24.2
• Forested	24.3±	1.8±	- 22.5
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	15.7±	0.8±	- 14.9
• Agricultural (includes active orchards, field, greenhouse etc.)	-	-	-
• Surface water features (lakes, ponds, streams, rivers, etc.)	0.3±	0.8±	+ 0.5
• Wetlands (freshwater or tidal)	1.1±	0.2±	- 0.9
• Non-vegetated (bare rock, earth or fill)	-	-	-
• Other Describe: <u>Landscaping & Lawns</u>	-	13.6±	+ 13.6

c. Is the project site presently used by members of the community for public recreation? Yes No
i. If Yes: explain: The property is privately owned but there has been occasional unauthorized recreational use.

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); 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:

Cosad loamy fine sand	_____	80 %
Cheektowaga fine sandy loam	_____	20 %
_____	_____	%

d. What is the average depth to the water table on the project site? Average: _____ 0.0-1.5 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 837-27 Classification C
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name Federal Waters, NYS Wetland, Federal Waters, Fe... Approximate Size NYS Wetland (in a...
- Wetland No. (if regulated by DEC) TE-34, TE-22

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: _____
 Name - Pollutants - Uses: Ellicott Creek, Lower, and tribs - Nutrients; Silt/Sediment - Aquatic Life

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: _____

<p>m. Identify the predominant wildlife species that occupy or use the project site: Birds- The FGEIS identifies the _____ complete list of birds species noted at _____ the subject property.</p>	<p>Mammals- The FGEIS identifies _____ the complete list of mammal species _____ noted at the subject property.</p>	<p>Reptiles, Amphibians & Fish - The _____ FGEIS identifies the complete _____ list noted at the subject property.</p>
<p>n. Does the project site contain a designated significant natural community? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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</p>		
<p>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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes: i. Species and listing (endangered or threatened): _____ _____ _____</p>		
<p>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? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes: i. Species and listing: _____ Spiny Softshell</p>		
<p>q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, give a brief description of how the proposed action may affect that use: _____ _____</p>		
<p>E.3. Designated Public Resources On or Near Project Site</p>		
<p>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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, provide county plus district name/number: _____</p>		
<p>b. Are agricultural lands consisting of highly productive soils present? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No i. If Yes: acreage(s) on project site? _____ ii. Source(s) of soil rating(s): _____</p>		
<p>c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes: i. Nature of the natural landmark: <input type="checkbox"/> Biological Community <input type="checkbox"/> Geological Feature ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____ _____</p>		
<p>d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes: i. CEA name: _____ ii. Basis for designation: _____ iii. Designating agency and date: _____</p>		

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?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes:	
i. Nature of historic/archaeological resource: <input type="checkbox"/> Archaeological Site <input type="checkbox"/> Historic Building or District	
ii. Name: _____	
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?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <small>[No impact letter issued by SHPO on October 10, 2001.]</small>
g. Have additional archaeological or historic site(s) or resources been identified on the project site?	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If Yes:	
i. Identify resource: Nature View Park (1,254 acre natural park owned by the Town of Amherst)	
ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): Local Park that is permanently preserved via a conservation easement held by the Western New York Land Conservancy.	
iii. Distance between project and resource: 0.6 miles.	
i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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?	
<input type="checkbox"/> Yes <input type="checkbox"/> No	

F. Additional Information

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

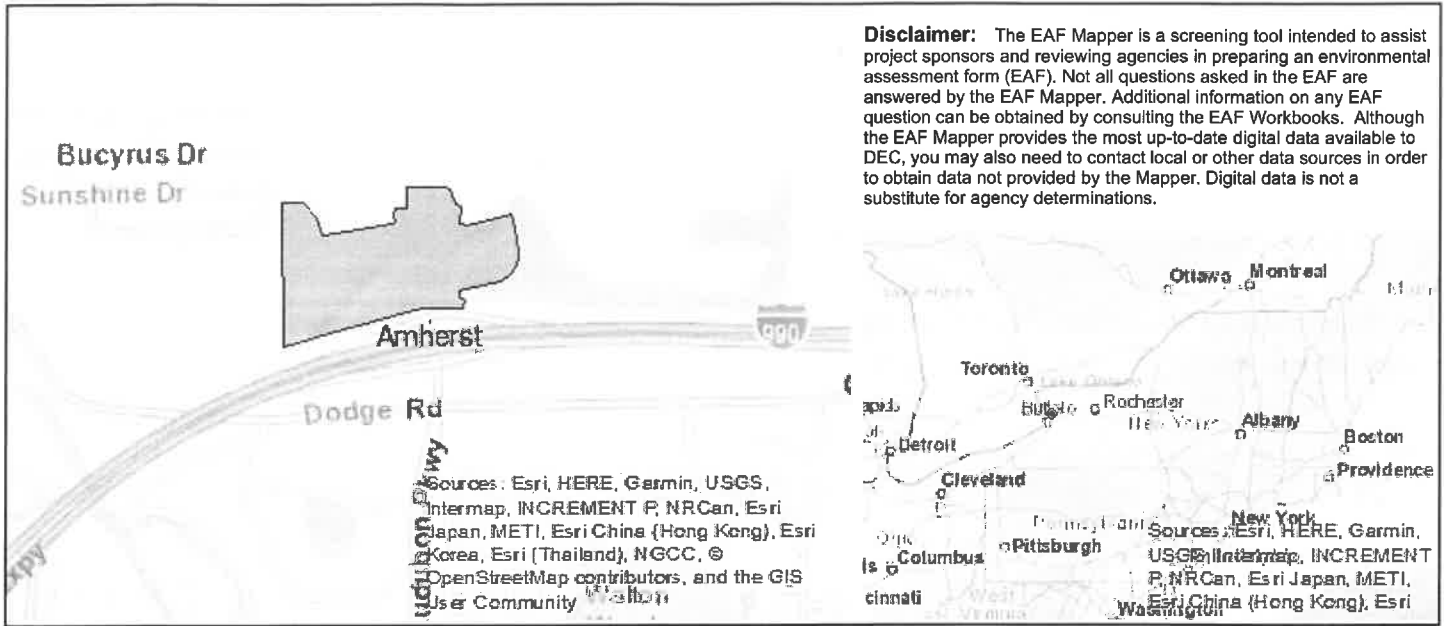
If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

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

Applicant/Sponsor Name Aspen Heights Partners Date March 6, 2021

Signature  Title Counsel 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 - Stream Name]	837-27
E.2.h.iv [Surface Water Features - Stream Classification]	C
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):42.2, NYS Wetland (in acres):54.3
E.2.h.iv [Surface Water Features - DEC Wetlands Number]	TE-34, TE-22

E.2.h.v [Impaired Water Bodies]	Yes
E.2.h.v [Impaired Water Bodies - Name and Basis for Listing]	Name - Pollutants - Uses:Ellicott Creek, Lower, and tribs – Nutrients;Silt/Sediment – Aquatic Life
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	Yes
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 Register of Historic Places]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

TOWN OF AMHERST
PLANNING BOARD
SITE PLAN RESOLUTION
SP-2020-13

PETITIONER

PROPERTY LOCATION

Aspen Heights Student VI, LLC
c/o Sean Hopkins, Esq.
Hopkins Sorgi & McCarthy
5500 Main St., Suite 343
Williamsville, NY 14221

1081 North French Road

WHEREAS, the Town of Amherst Planning Board on Thursday, April 15, 2021 held a remote public hearing on a Site Plan for a student housing development, and

WHEREAS, the Planning Board reviewed the plans and specifications for the proposed project, and

WHEREAS, the Site Plan was referred to the Town's various review agencies, and

WHEREAS, in accordance with Section 8-7-8 of the Zoning Ordinance, the Planning Board finds that:

- A. The site plan includes usable space for active and passive recreation, including pedestrian connections.
- B. The site plan does not include open space lands for public ownership but does include a 10-ft. wide public trail offered for dedication or other disposition to the Town or other public entity.
- C. School sites and facilities are adequate to accommodate the proposed site plan.
- D. The site plan includes the extension of roadways to adjacent property.

WHEREAS, in accordance with Section 8-7-9 of the Zoning Ordinance, the Planning Board finds that:

- A. The proposed site plan is consistent with the development plan if one is required.
- B. The proposed site plan is consistent with the purpose and specific requirements of the Zoning Ordinance and generally consistent with the policies of the Comprehensive Plan.
- C. Adequate services and utilities will be available prior to occupancy.

TOWN OF AMHERST
PLANNING BOARD
SITE PLAN RESOLUTION
SP-2020-13

PETITIONER

PROPERTY LOCATION

Aspen Heights Student VI, LLC

1081 North French Road

- D. The site plan is consistent with all other applicable laws.
- E. Pursuant to Local Law #3-82, as amended, the Planning Board has determined that the requirements of SEQR are complete and that the subject proposal is not expected to have a significant adverse effect on the environment.
- F. Wetland permits were issued for this project by NYSDEC on December 17, 2019 and the US Army Corps of Engineers under Section 404 of the Clean Water Act on December 12, 2019. Both permits authorize work on the project until November 30, 2024.

NOW THEREFORE BE IT RESOLVED that pursuant to Local Law #3-82, as amended, the Planning Board determines that the requirements of SEQR are complete and that the subject proposal is not expected to have a significant adverse effect on the environment, and

NOW THEREFORE BE IT FURTHER RESOLVED that the Planning Board determines that the project is consistent with the SEQR Findings Statement issued by the Town Board on October 19, 2020, and

NOW THEREFORE BE IT FURTHER RESOLVED that the Planning Board, in accordance with Section 8-7 of the Zoning Ordinance **approves** said Site Plan subject to the following conditions:

1. That the consideration of signs is specifically excluded from this approval as they require a separate review and approval by the Town.
2. That all dumpsters/trash containers and all mechanical equipment, utility structures, multiple meter boards, generators, and similar appurtenances, including those which are mounted on any part of a primary structure shall be appropriately screened with a fence, wall, and/or landscaping. Provide gate on dumpster enclosure that shall be closed whenever dumpster is not being serviced, enclosure shall be high enough to screen the dumpster(s) within.
3. That as-built record drawings, including location of utilities, be provided to the Engineering Department prior to issuance of a Certificate of Occupancy by the Building Department.

TOWN OF AMHERST
PLANNING BOARD
SITE PLAN RESOLUTION
SP-2020-13

PETITIONER

PROPERTY LOCATION

Aspen Heights Student VI, LLC

1081 North French Road

4. That the comments of the Right-of-Way Agent dated April 14, 2021 be addressed.
5. That a convenience split of the project site be put in place for tax billing purposes due to the site's location in two different school districts, per the Assessor's memo dated October 8, 2020.
6. That a floodplain permit be obtained for this project.
7. That the comments of the Fire Chiefs Association dated April 14, 2021 be addressed.
8. That the comments of the Engineering Department dated April 6, 2021 be addressed.
9. That the comments of the Plumbing Division dated October 6, 2020 be addressed.
10. That the comments of the SWPPP reviewer dated April 1, 2021 be addressed.
11. That the comments of the Traffic Safety Board dated April 8, 2021 be addressed.
12. That the design of the emergency access road, including placement of any signage or gates and the right-of-way on either side, be subject to the approval of the Highway Department, the Attorney's office, Fire Chiefs' Association, and the Traffic Safety Board.
13. That snowplowing of the proposed emergency access road be the responsibility of a private entity.
14. That any additional required landscaping to meet Town Code per Zoning Enforcement Office and Landscape Architect comments be shown on plans.
15. That additional walkway connection(s) to the proposed paved trail be provided to meet the circulation requirements of Section 203-5-2-7D of Town Code.
16. That NYSDOT approval for the break-in-access to allow the extension of John James Audubon Parkway be obtained.

TOWN OF AMHERST
PLANNING BOARD
SITE PLAN RESOLUTION
SP-2020-13

PETITIONER

PROPERTY LOCATION

Aspen Heights Student VI, LLC

1081 North French Road

17. That NYSDOT approval for the proposed relocation of the ditch located in the I-990 expressway right-of-way be obtained.
18. That easements for public use of the asphalt trail and public parking directly north of the northern terminus of John James Audubon Parkway be approved by the Town Attorney's office.

The foregoing resolution was adopted by the Town of Amherst Planning Board, April 15, 2021; moved by Giuliani; seconded by Chmiel; ayes 5, noes 0; absent 2 (Gelber, Gill).

Robert J. Gilmour, Chair

Date

EK/ac

X:\Current_Planning\Files\Site Plans\2020\SP-2020-13_(1081_North_French_Rd)_2020\SP-2020-13_Blurb_041521.doc_

cc: Town Clerk

Approved Plan: Cannon Design

Commissioner of Building

Received: March 22, 2021

Town Engineer

Fire Chiefs

Traffic/Safety

Highway Superintendent

ECDEP

NYSDOT

NYSDEC

Aspen Heights Partners, c/o Sean Hopkins, 5500 Main St., Suite 343, Williamsville, NY 14221

Greenman-Pedersen, Ken Zollitsch, 4950 Genesee St., Suite 100, Cheektowaga, NY 14225

EXHIBIT B

PILOT Schedule

The Agency and the Company propose to enter into a PILOT Agreement with annual abatement percentages in accordance with the following schedule:

Year	Abatement Percentage
1	70%
2	70%
3	70%
4	60%
5	60%
6	60%
7	50%
8	50%
9	50%
10	50%

The PILOT Agreement will have a term of ten (10) years.

PILOT Payments shall be calculated as follows:

With respect to the assessed value of the land and any pre-Project improvements (the “Pre-Project Assessment”), payments by the Company shall be in an amount equal to the amount of taxes that would have been paid were there no exemption based on the Agency’s leasehold interest in the Project.

With respect to the assessed value added by the Project, payments by the Company shall in an amount equal to the assessed value added by the Project multiplied by the abatement percentage set forth in the PILOT schedule above.

In accordance with Section 858(15) of the General Municipal Law, PILOT payments shall be allocated among the affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the Project not been tax exempt due to the status of the agency involved in the project.