

SECTION 6

DESCRIPTION OF PROPOSED MITIGATION MEASURES

6.0 INTRODUCTION:

This section of the DGEIS has been prepared for the purpose of providing information regarding the potential mitigation measures to be implemented by the Project Sponsor in connection with the redevelopment of the Project Site as a mixed use neighborhood in a manner consistent with the Conceptual Master Plan. SEQRA requires that mitigation measures be imposed in connection with the environmental review of a proposed project involving an Environmental Impact Statement for the purpose of minimizing identified potential adverse environmental impacts to the maximum extent practicable.¹

As discussed in Section 2.2.4, a Generic EIS has been prepared for the purpose of the coordinated environmental review of the proposed mixed use neighborhood as authorized by the SEQRA Regulations.² The decision to utilize a Generic EIS was based on its appropriateness for the redevelopment of a large site (approximately 170 acres) in multiple phases in a manner consistent with the Conceptual Master Plan.³ The Conceptual Master Plan illustrates the organization of a mixture of proposed land uses and the magnitude of the proposed development of the Project Site. However, the final form of the proposed mixed use neighborhood and the precise sequencing and timing for the redevelopment of the Project Site in a manner consistent

¹ Pursuant to 6 NYCRR Part 617.9(b)(5)(iv), an Environmental Impact Statement is required to include a description of the proposed measures. Pursuant to 6 NYCRR Part 617.2(x), mitigation is defined as “a way to avoid or minimize adverse environmental impacts.”

² See 6 NYCRR Part 617.10.

³ The 3rd edition of the SEQR Handbook as published by the NYSDEC, states that a DGEIS is appropriate for planned unit developments or planned development districts and phased development projects (See Page 147).

with the Conceptual Master Plan will depend on market demand and cannot be precisely determined at this time.⁴ A key benefit of a Generic EIS is that it allows a lead agency to establish thresholds for future environmental review of related actions (e.g., site plan and subdivision applications) that may differ from the project layout depicted on the Conceptual Master Plan.⁵

The Findings Statement to be issued by the Town Board, in its capacity as the designated lead agency, at the conclusion of its coordinated environmental review of the proposed redevelopment of the Project Site as mixed use neighborhood, will contain mitigation measures to be imposed for the purpose of minimizing identified adverse environmental impacts to the maximum extent practicable. The SEQRA Regulations expressly state that a findings statement must:

1. Consider the relevant environmental impacts, facts and conclusions disclosed in the final EIS;
2. Weigh and balance relevant environmental impacts with social, economic and other considerations;
3. Provide a rationale for the agency's decision;
4. Certify that the requirements of this Part have been met; and
5. Certify that consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.⁶

⁴ The 3rd edition of the SEQRA Handbook as published by the NYSDEC, states that a DGEIS is appropriate for planned unit developments or planned development districts and phased development projects (See Page 147).

⁵ A lead agency does not have the ability to establish thresholds for future environmental review if a Draft Environmental Impact Statement ("DEIS") is utilized.

⁶ See 6 NYCRR Part 617.10.

As described in Section 5 of this DGEIS (“Analysis of Environmental Impacts”), the proposed mixed use neighborhood will result in both short-term and long-term adverse impacts and long-term beneficial impacts. Categories of potential adverse impacts as thoroughly evaluated in Section 5 of this DGEIS include: alteration to on-site topography, disturbance of soils, changing of existing drainage patterns, sanitary sewer impacts; air quality impacts, changes to community character, noise impacts, lighting impacts, the filling of non-jurisdictional wetlands, removal of vegetation, and changes of wildlife habitat. Additionally, the proposed mixed use neighborhood will increase the traffic volumes on the roadway network in the vicinity of the Project Site and also modify existing traffic patterns including changes that will result from the new north/south roadway that will connect Sheridan Drive and Maple Road (“Westwood Parkway”). The Project will generate positive, long-term impacts including the following: improved storm water management; the preservation of approximately 64 acres of the Project Site as permanent open space (including the Ellicott Creek corridor); the proposed publicly accessible recreational amenities (including the proposed approximately 23 acres park area (“Westwood Park”) and extensive recreational trails and sidewalks; the redevelopment of the Project Site as a pedestrian-friendly integrated mixed use neighborhood in a manner consistent with the mixed use and redevelopment planning objectives contained in the adopted Comprehensive Plan; a net increase in on-site wetland areas; sanitary sewer mitigation based on existing downstream sanitary sewer capacity constraints; and, the substantial economic and fiscal benefits that will be realized by the Town, Erie County and the Williamsville Central School District.

Proper consideration of the identified and evaluated potential adverse impacts associated with the redevelopment of the Project Site as the proposed mixed use neighborhood played an integral role in the planning process. The project layout as depicted on the Conceptual Master Plan reflects the concerted effort made during the planning process to consider potential adverse environmental impacts. Examples of features of the mixed use neighborhood that reflect the effort to properly consider adverse environmental impacts include the permanent open space buffers along the perimeter of the Project Site, the 23 acre publicly accessible park area (“Westwood Park”) that will include the Ellicott Creek corridor, as well as the decision to redevelop the Project Site as a mixed use neighborhood predominately comprised of a diverse range of residential uses.

The proposed mixed use neighborhood has been designed and will be developed to avoid or minimize the identified adverse environmental impacts to the maximum extent practicable while simultaneously fulfilling the Project Sponsor’s objectives for the redevelopment of the Project Site as a mixed use neighborhood in a manner consistent with the planning goals and objectives contained in the Town’s adopted Comprehensive Plan.

The subsections below describe the mitigation measures that have been incorporated into the design and layout of the mixed use neighborhood and also describe the additional mitigation measures proposed by the Project Sponsor to minimize identified adverse impacts to the maximum extent practicable as required by SEQRA.

It is important to keep in mind that potential mitigation measures that are discussed below as proposed by the Project Sponsor do not preclude the Town Board, in its capacity as the designated lead agency, or involved agencies, from imposing additional mitigation measures or

modifying the Project Sponsor’s proposed mitigation measures. Additionally, the precise specifics of certain categories of mitigation measures such as sanitary sewer impacts, stormwater impacts from new impervious surfaces, etc., have not yet been determined. For example, the precise required mitigation measures for sanitary sewer impacts requires additional technical evaluations and discussions with the Town’s Engineering Department⁷ and is subject to input and decisions from agencies with jurisdiction regarding sanitary sewer mitigation such as the New York State Department of Environmental Conservation (“NYSDEC”) and the Erie County Health Department (“ECHD”). The 3rd edition of the SEQR Handbook as published by the NYSDEC states that it is appropriate for a lead agency to impose mitigation measures for a project involving a Generic EIS based on the establishment of performance standards and/or impact thresholds that will apply to future project specific reviews such as site plan and subdivision applications.⁸

⁷ The Project Sponsor and its consultants have engaged in productive discussions with the Town’s Engineering Department regarding sanitary impacts and potential sanitary sewer mitigation measures. The Engineering Department’s staff has in-depth information regarding the Town’s sanitary sewer system and has provided the Project Sponsor and its consultants with relevant technical information to assist in the evaluation of potential sanitary sewer mitigation measures. The sanitary sewer mitigation for the mixed use neighborhood will include off-site sanitary sewer mitigation measures per the standard I&I policy as well as potential on-site and off-site sanitary sewer mitigation measures required based on existing downstream sanitary sewer capacity constraints during wet weather conditions, as revealed by testing conducted by TECsmith in its Sanitary Sewer Flow Capacity Study, a copy of which is provided at Appendix Volume IV, Letter U. Technical discussions with the Engineering Department, NYSDEC and ECHD will be required to define, review and obtain approvals for sanitary sewer mitigation measures. Although the precise specifics of required sanitary sewer mitigation measures has not yet been determined, information regarding the degree of the magnitude of the required sanitary sewer mitigation is available based on the application of the standard I&I policy to the projected peak daily sanitary flows from the proposed mixed use neighborhood and the analysis of the capacity constraints during wet weather conditions in the downstream sanitary sewer system that will service the mixed use neighborhood.

⁸ See SEQR Handbook, Page 149

The redevelopment of the Project Site as an integrated mixed use neighborhood will incorporate sustainable growth strategies that will create publicly accessible open spaces, provide public access to Ellicott Creek, encourage and provide pedestrian and public transportation options, and promote energy efficiency. In addition, the project design reflects the incorporation of the principles and objectives of the Leadership in Energy and Environmental Design (“LEED”) Neighborhood Development Rating certification program, a green building and sustainability approach that emphasizes site selection, design, buildings, and infrastructure in a neighborhood setting. Further, the Westwood Project will retain as focal points of the mixed use neighborhood both the original potentially historic clubhouse and the riparian corridor along Ellicott Creek, enhancing both elements through the creation of surrounding publicly accessible open space (including the approximately 23 acre Westwood Park with an approximately five acre lake adjacent to Ellicott Creek and the approximately 1.2 acres of publicly accessible open space for community events and gatherings adjacent to the original clubhouse).

6.1 GEOTECHNICAL AND SOILS MITIGATION MEASURES:

Potential impacts to the existing physical characteristics of the Project Site will result primarily from construction activities that will modify topography and disturb soils, thus increasing the potential for erosion and sedimentation.

To minimize the potential for erosion and sedimentation impacts during the construction of the mixed use neighborhood to the maximum extent practicable, a licensed engineering firm will prepare a Storm Water Pollution Prevention Plan (“SWPPP”) complying with applicable stringent standards. The SWPPP will need to be reviewed and approved by the Town’s Engineering Department before construction activities can commence on the Project Site in furtherance of the mixed use neighborhood. All contractors that will be involved in construction activities will be required to comply with the approved SWPPP. The SWPPP will define the Best Management Practices (“BMPs”) and provide information regarding temporary erosion controls (e.g., silt fence, straw/hay bales) to be installed as appropriate around disturbed areas. The SWPPP will be prepared by a licensed engineering firm pursuant to the stringent requirements of the NYSDEC’s SPDES General Permit for Storm Water Discharges from Construction Activity (GP-0-10-001, effective January 29, 2010), and will be consistent with the NYSDEC’s Storm water Management Design Manual (2015) and the New York State Standards and Specifications for Erosion and Sedimentation Controls (2005). The NYSDEC’s stringent standards for construction activities ensure construction activities conducted in accordance with an approved SWPPP will not result in significant erosion and sedimentation impacts.

The construction activities to be conducted on the Project Site in connection with the redevelopment of the Project Site as mixed use neighborhood will also need to comply with the

Town's requirements for storm water and erosion control, including the incorporation of measures to minimize discharges to the Town's municipal separate storm water sewer system. In addition, the potential for erosion and sedimentation impacts will be further minimized by the planned construction of the mixed use neighborhood in phases, over an anticipated ten year period. As a result, the amount of soil disturbed at any one time will be limited to the maximum extent practicable since site clearing and grading activities will be conducted for site specific components immediately prior to construction of approved site specific projects. It is also important to mention that temporary erosion and sediment control measures will be inspected by a third party engineering consultant on behalf of the Town and must be maintained throughout the construction phases of the Project. The third party consultant will be required to prepare and submit reports based on its regular inspections.

As fully described in Section 4.1.2 of this DEGIS and evaluated in terms of potential environmental impacts in Section 5.1.2 of this DGEIS, a comprehensive environmental assessment of the Project Site revealed the presence of arsenic contamination within the underlying soils at the site that are in exceedance of New York State Department of Environmental Conservation ("NYSDEC") Soil Cleanup Objectives for both industrial and residential land use and occupancy. The arsenic contamination has been sourced from the historic application of pesticide and herbicide at the Project Site given its historic utilization as private country club and golf course. As fully described in Section 5.1.2 of this DGEIS, there is potential for human or environmental exposure to the arsenic contamination either by direct ingestion or inhalation of the soil during excavation and construction or indirect exposure by way

of the arsenic migrating from the soils and into either surface water runoff or groundwater at the Project Site.

In recognition of this concern, the Project Sponsor has proactively made application to the NYSDEC Brownfield Cleanup Program (“BCP”) as of November 13, 2014.⁹ The NYSDEC has officially reviewed the initial BCP Application and issued a letter acknowledging Application Acceptance in the BCP Program as of February 26, 2015.¹⁰ Having received official notice of Application Acceptance from the NYSDEC, the Project Sponsor has executed a Brownfield Cleanup Agreement with the NYSDEC dated March 10, 2015.¹¹ Site remediation through the BCP is multi-step process that provides for regulatory oversight and public involvement. The following is a brief summary of the application requirements, remediation process, and BCP objectives:

- Application Process: The Project Sponsor previously submitted a complete application to the NYSDEC which provided a thorough description of the environmental or contamination concern, eligibility information, site history and environmental data/reports. The NYSDEC reviewed the complete application and provided a response

⁹ See Appendix Volume IV, Letter P, “New York State Department of Environmental Conservation Brownfield Cleanup Program Application (NYSDEC Site ID #C915291)”.

¹⁰ See Appendix Volume IV, Letter Z2.7, “02.26.15- BCP, NYSDEC Letter to Mensch RE: BCP Application Acceptance”.

¹¹ Definition: A *Brownfield Cleanup Agreement (“BCA”)* is the official contractual Agreement between the NYSDEC and BCP Applicant as it relates to the remediation of a brownfield site and is required for all parties who wish to participate in the Brownfield Cleanup Program (“BCP”). By executing a BCA, an Applicant makes a commitment to undertake certain remedial activities under DEC’s oversight. The obligation incurred by an Applicant under a BCA depends to some degree on the Applicant’s status as either a Participant or a Volunteer. A BCA may be terminated by an Applicant at any time upon written notification to DEC; DEC may terminate a BCA if the Applicant fails to substantially comply with the terms and conditions of the BCA (Source: NYSDEC online. *Environmental Cleanup & Brownfields- Brownfield Cleanup Agreements*. Available online at: <http://www.dec.ny.gov/chemical/8647.html>).

to the Project Sponsor determining that the Application was complete and accepting the Project Site for inclusion in the BCP.¹²

- Brownfield Cleanup Agreement: The Brownfield Cleanup Agreement (“BCA”) is the official agreement between the BCP Applicant and NYSDEC which includes all of the terms and conditions as it relates to the remedial activities to be undertaken at the Project Site and both parties’ obligations therein.¹³ Following the full execution of the BCA by both the Project Sponsor and the NYSDEC, the Project Sponsor will then be required to prepare an Investigation Work Plan and Report that will serve as the complete strategy for fully exploring and investigating the Project Site to determine the full extent and source of potential contamination.
- Remedial Investigation Work Plan: The Remedial Investigation Work Plan (“RIWP”) must define the nature and extent of site contamination. Applicants must also define any potential off-site contamination that may have migrated from the site. The RIWP will define the methods, procedures and scope of investigation activities to be utilized at the Project Site in developing a comprehensive assessment of potential contamination. Beyond providing for a complete property description, intent of the site remediation and field activities scope of work and schedule, the RIWP must also include:

¹² See NYSDEC DEC Program Policy. *DER-32/Brownfield Cleanup Program Applications and Agreements*. Section V. Procedure- A. Application Process. Issuance Date: June 22, 2010. Available online at: http://www.dec.ny.gov/docs/remediation_hudson_pdf/der32.pdf.

¹³ See NYSDEC DEC Program Policy. *DER-32/Brownfield Cleanup Program Applications and Agreements*. Section V. Procedure- E. BCA Overview. Issuance Date: June 22, 2010. Available online at: http://www.dec.ny.gov/docs/remediation_hudson_pdf/der32.pdf.

- Quality Assurance / Quality Control Plan: The Quality Assurance / Quality Control Plan (“QA/QC Plan”) must identify the standard methodology and operating procedure for sampling retrieval and testing at the Project Site. The standards imposed assure that there is no opportunity for cross contamination, improper extraction methods or false sampling results due to laboratory analytical procedures.¹⁴
- Health and Safety Plans: Any person conducting investigation or remediation activities is required to prepare and implement a site-specific health and safety plan which will be adhered to by all personnel involved in the investigation and/or remediation at the site. The Health and Safety Plans (“HASP”) is a requirement of the federal Occupational Safety and Health Administration (“OSHA”) and is not subject to the approval of the Department of Environmental Remediation (“DER”). In addition to the HASP for the protection of site workers, all work plans for any intrusive activities, which the remediation of the Project Site would be considered, must include a site-specific Community Health & Safety Plan (“CAMP”). The CAMP is required to address community health and safety and identifies measures and/or actions to ensure that the public living and working near the site as well as employees or visitors to any facility located on the site are protected from exposure to site contaminants during intrusive activities, remedial actions or on-site treatment

¹⁴ See NYSDEC Program Policy. *DER-10/Technical Guidance for Site Investigation and Remediation*. Chapter 2- Sampling, Analysis & Quality Assurance (page 43) - May 2010. Available online at: http://www.dec.ny.gov/docs/remediation_hudson_pdf/der32.pdf.

actions undertaken during the investigation and/or remediation of the site. The CAMP is inclusive of a fugitive dust/particle monitoring program pursuant to the community air monitoring requirement of the New York State Department of Health (“NYSDOH”). The CAMP will identify maximum particulate and contamination thresholds within the community air and will require the ceasing of all work activity at the Project Site should the previously identified thresholds be exceeded at any point. The necessary community air monitoring program at the site will be guided by the oversight, management and regular inspection of both NYSDEC and NYSDOH officials.¹⁵

- Reporting & Schedule: The Project Sponsor will be required to provide monthly project update reports inclusive of a consideration for the estimated schedule of site work and remediation. At a minimum, the periodic progress reports should include a discussion of the project progress and significant activities accomplished within that reporting period, pending or planned significant activities, schedule impacts or modifications, current or anticipated problems or delays, corrective actions being planned in light of potential problems and any additional pertinent documentation relative to site conditions and work progress (i.e. photographs, reports, sampling results, etc.).¹⁶

¹⁵ See NYSDEC Program Policy. *DER-10/Technical Guidance for Site Investigation and Remediation*. Chapter 1- General Information (page 30) - May 2010. Available online at: http://www.dec.ny.gov/docs/remediation_hudson_pdf/der10.pdf.

¹⁶ See NYSDEC Program Policy. *DER-10/Technical Guidance for Site Investigation and Remediation*. Chapter 5- Remedial Design/Remedial Action (page 169) - May 2010. Available online at: http://www.dec.ny.gov/docs/remediation_hudson_pdf/der10.pdf.

- Remedial Action Work Plan: Following the completion and execution of the remedial investigation of the Project Site as per the RIWP described above, the Project Sponsor will be prepare a Remedial Action Work Plan (“RAWP”) that prescribes the preferred remedial approach and action to be undertaken given the findings of the RI. The RAWP must include an Alternatives Analysis¹⁷ and comprehensive explanation as to why the selected remedy for the Project Site is preferred including consideration of economic, environmental, social and feasibility constraints. Similar to the RIWP, the RAWP must also include plans for QA/QC, HASP, CAMP and monthly project progress reporting that includes the regulatory oversight, monitoring and if necessary, enforcement action by official of the NYSDEC and NYSDOH.¹⁸
- Certificate of Completion Issuance: Following execution of the complete RAWP, inclusive of regulatory monitoring and oversight throughout as per the terms and conditions of the BCA, the Project Sponsor will be required to submit a Construction Completion Report and Final Engineering Report (“FER”)¹⁹. The FER will provide complete documentation of the Project, RIWP, RAWP, remedial actions accomplished and current status of contamination at the Project Site based on the chosen remedy and

¹⁷ Definition: An *Alternatives Analysis* means a study undertaken to develop and evaluate options for remedial action in accordance with potential remediation options and the selected remedial action (Source: NYSDEC online. *Subpart 375-3 Brownfield Cleanup Program, 375-3.2, Definitions*. Available online at- <http://www.dec.ny.gov/regs/4372.html>).

¹⁸ See NYSDEC Program Policy. *DER-10/Technical Guidance for Site Investigation and Remediation*. Chapter 5- Remedial Design/Remedial Action (page 153) - May 2010. Available online at: http://www.dec.ny.gov/docs/remediation_hudson_pdf/der10.pdf.

¹⁹ Definition: A *Final Engineering Report (“FER”)* is a report prepared to document implementation of the complete selected remedial program, including the necessary certifications for it. The scope of the FER will vary to reflect the manner in which the remedial program was implemented for the entire site. (Source: NYSDEC Program Policy. *DER-10/Technical Guidance for Site Investigation and Remediation Part 1-3 Definitions*. Available online at- http://www.dec.ny.gov/docs/remediation_hudson_pdf/der10.pdf).

its effectiveness. The FER includes considerations for Confirmatory Sampling²⁰ that will provide the definitive proof and evidence of sufficient levels of remediation and contamination removal achieved throughout the Project Site. Following review of the FER and a thorough analysis of the confirmatory sampling results, the NYSDEC will issue a Certificate of Completion²¹ that identifies the level of remediation achieved as per the previously established Soil Cleanup Levels²² relative to the previously identified contaminants of concern at the Project Site. It is important to mention that the NYSDEC will not issue the COC authorizing occupancy and utilization of the Project Site for prescribed land uses unless the Soil Cleanup Levels have been achieved as detailed within the RAWP and FER. Additionally, should there be unique circumstances regarding the final remedial measures or further monitoring of potential contamination at the Project Site, the NYSDEC may choose to impose the following

²⁰ Definition: A *Confirmatory Sample* is a sample taken during the course of a remedial action to determine whether cleanup requirements have been achieved or whether further remediation is required. For a final delineation sample in association with the submission of an FER, the analysis must be by an ELAP- accredited laboratory (ELAP- Environmental Laboratory Approval Program was established by the New York State Department of Health Wadsworth Center in 1984 and is responsible for the certification of laboratories performing environmental analyses on samples originating from New York State, thus ensuring the accuracy and reliability of these analyses.

²¹ Definition: the *Certificate of Completion* (“COC”) is the official acknowledgement by the NYSDEC that the objectives of the RAWP have been satisfied as per the soil cleanup objectives and confirmatory sampling data provided within the FER. The COC will be issued upon a determination that either 1) the FER is approved; or, 2) a no further action decision document is issued. The COC provides liability protections to the Project Sponsor as defined under the BCP and will trigger the availability of tax credits for eligible parties. The COC also allows the Certificate holder to redevelop the site, subject to certain restrictions, if applicable. The Certificate may be modified or revoked by DEC, subject to certain reopeners. COCs may be transferred to successors and assigns of the remedial party or parties named in the COC.

²² Definition: the *Soil Cleanup Level* means the concentration of a given contaminant for a specific site that must be achieved under a remedial program for soil. Depending on the regulatory program, a soil cleanup level may be based on the applicable regulation [6 NYCRR 375-6.8(a) or (b)], modified from the regulatory value based on site-specific differences, or based on other information, including background levels or feasibility (See NYSDEC CP-51 / Soil Cleanup Guidance. Available online at: http://www.dec.ny.gov/docs/remediation_hudson_pdf/cpsoil.pdf).

measures as temporary or permanent regulatory controls in accordance with the provisions of the COC:

- Site Management Plan: A Site Management Plan (“SMP”) is a document which details potential institutional and engineering controls required for a site and physical components of the remedy required to be operated, maintained and monitored to assure continued effectiveness. The SMP contains specific directions and procedures for future remedial activity and monitoring at the Project Site and is typically imposed by way of deed restrictions, requiring the Project Sponsor and any future owner of the Project Site to comply with the SMP’s terms and conditions.²³
- Institutional Control and Engineering Control Plan: Institutional Controls (“IC’s”) include any non-physical means of enforcing restrictions on the use of real property that intentionally limit human or environmental exposure, restricts the use of groundwater, provides notice to potential owners, operators, or members of the public, or prevents actions that would interfere with the effectiveness of a remedial program or with the effectiveness and/or integrity of site management activities at or pertaining to a site. Engineering Controls (“EC’s”) include any physical barrier or method employed to actively or passively contain, stabilize, or monitor contamination, restrict the movement of contamination to ensure the long-term effectiveness of a remedial program, or

²³ See NYSDEC Program Policy. *DER-10/Technical Guidance for Site Investigation and Remediation*. Chapter 6 - Site Management, Periodic Review and Closeout (page 180) - May 2010. Available online at: http://www.dec.ny.gov/docs/remediation_hudson_pdf/der10.pdf.

eliminate potential exposure pathways to contamination. Engineering controls include, but are not limited to, pavement, caps, covers, subsurface barriers, vapor barriers, slurry walls, building ventilation systems, fences, access controls, the provision of alternative water supplies via connection to an existing public water supply, adding treatment technologies to such water supplies, and installing filtration devices on private water supplies.²⁴

- Environmental Easement: Environmental easements are granted by title owners of the property to the NYSDEC pursuant to ECL Article 71, Title 36. Environmental easements run with the land, and are enforceable in perpetuity. The property owners must periodically certify to NYSDEC that the restrictions and requirements included in the easement remain in-place and effective. Environmental easements contain a use restriction and/or a prohibition on the use of land in a manner inconsistent with the engineering controls.²⁵

In summary, based on the receipt of approval of its application to the NYSDEC Brownfield Cleanup Program, the Project Sponsor is proceeding with the process to effectively and safely remediate the arsenic containing soils at the Project Site as an integral part of the redevelopment of the Project Site as a mixed use neighborhood. The multi-step review process includes a comprehensive regulatory process with oversight and enforcement by the NYSDEC and NYSDOH. In terms of short-term potential environmental impacts related to site

²⁴ See NYSDEC Program Policy. *DER-10/Technical Guidance for Site Investigation and Remediation*. Chapter 6- Site Management, Periodic Review and Closeout (page 181) - May 2010. Available online at: http://www.dec.ny.gov/docs/remediation_hudson_pdf/der10.pdf.

²⁵ See NYSDEC Program Policy. *DER-10/Technical Guidance for Site Investigation and Remediation*. Chapter 6- Site Management, Periodic Review and Closeout (page 166) - May 2010. Available online at: http://www.dec.ny.gov/docs/remediation_hudson_pdf/der10.pdf.

disturbance of the arsenic containing soils, the Project Sponsor will be required to prepare a Remedial Investigation Work Plan (“RIWP”) that includes specific provisions for worker, resident and environmental safety and health controls. These measures include: construction practices to limit fugitive dust; unique practices in excavating, storing and depositing potentially contaminated soils to avoid surface water groundwater exposure; and, continuous monitoring of site conditions and community air throughout the site remediation process. Additionally, NYSDEC and NYSDOH staff will be assigned to provide site monitoring and oversight of the complete remediation process at the Project Site. In terms of long-term impacts, the remediation of the Project Site will provide a significant positive environmental impact by removing the potential for long-term human, environmental, and surface/groundwater exposure to the existing contamination. Additionally, the Site Management Plan conditions and restrictions that may be imposed by the NYSDEC upon completion of the site remediation process will also fully mitigate any potential for long-term environmental impacts related to the remediation efforts and results.

In recognition of the potential concerns regarding the suitability of the on-site soils for the development of the Project Site as a mixed use neighborhood, a detailed analysis of geology and soils on the Project Site was performed by Empire Geo-Services, Inc. in February 2014. A complete copy of the comprehensive Geotechnical Evaluation Report prepared by Empire Geo-Services, Inc. is provided at Appendix Volume I, Letter D, “Geotechnical Evaluation Report”. The results of the comprehensive geotechnical investigation conducted by Empire Geo-Services, Inc. indicated that a majority of the on-site soils are suitable for the proposed mixed use components, but that in some locations, poor surface soil drainage, exacerbated by perched or

trapped groundwater in the topsoil and fill layers, could make site preparation work (e.g., topsoil stripping and sub-grade activities) difficult, particularly during wet conditions. During wet weather conditions, construction activities increase the potential for soil erosion and sedimentation impacts.

In order to mitigate for identified potential adverse soils impacts during the construction of the mixed use neighborhood to the maximum extent practicable, the following mitigation measures, as recommended by Empire Geo-Services, Inc. will be implemented:

- Before the initiation of site preparation activities, take steps to improve drainage, such as the installation of drainage swales to intercept and divert surface runoff away from construction areas; slope the subgrade and “sealing” the surface with a smooth drum roller to promote runoff; and restrict construction equipment from traveling over subgrades, particularly under wet conditions.
- To protect subgrades and minimize subgrade degradation, place a suitable base material and underlying geotextile fabric beneath haul roads and in construction staging areas.
- Remove existing structures, vegetation (including trees and stumps), and topsoil / organic soils from within the proposed building pad and pavement areas, and then proof-roll the exposed subgrades, pursuant to the recommendations of on-site supervising geotechnical engineer personnel.
- Perform filling and grading as necessary to raise site grades sufficiently in advance of foundation, pavement, and utility construction (typically one-two months in advance of final subgrade preparation and subbase stone placement for floor slab and pavement construction).

In addition, foundation designs for each of the buildings to be constructed on the Project Site in connection with the mixed use neighborhood will need to be reviewed and approved by

the Town's Building Department for conformance with applicable stringent standards contained in the New York State Building Code, prior to the issuance of building permits.

6.2 WATER RESOURCES AND WATER QUALITY MITIGATION MEASURES:

6.2.1 Surface Water

The redevelopment of the Project Site as a mixed use neighborhood will result in the filling of approximately 4.17 acres of non-jurisdictional wetlands located on the Project Site. As discussed in Section 4.2.1 of this DGEIS, both the USACE and NYSDEC have confirmed that the small isolated wetlands to be filled are not jurisdictional.

To mitigate for the proposed impacts to the small, non-jurisdictional wetlands to be filled, the Project Sponsor has proposed a new approximately five acre lake, and will retain and reshape four of the existing open water ponds that presently represent manmade water hazards on the former private golf course. Additionally, the 3.24 acres of federal wetlands along Ellicott Creek that are subject to the jurisdiction of the USACE will be preserved in their entirety. As a result, a total of 6.7 acres of new open water wetlands will be created in connection with the redevelopment of the Project Site as a mixed use neighborhood. Along with the approximately 3.24 acres of federal wetlands that will be preserved along Ellicott Creek, the redevelopment of the Project Site as a mixed use neighborhood will result in a total of 9.94 acres of wetlands, representing a net increase of 2.54 acres of wetlands.

In order to avoid potential adverse impacts to Ellicott Creek and the on-site ponds during construction activities, Best Management Practices (“BMPs”) will be deployed pursuant to the Storm Water Pollution Prevention Plan (“SWPPP”) to be prepared by a licensed engineering firm pursuant to the applicable stringent NYSDEC standards. In addition, appropriate spill prevention, control, and countermeasure procedures will be implemented during construction of the mixed use neighborhood to minimize or avoid the potential for inadvertent spills or leaks of

fuels and lubricants from construction equipment. Additionally, areas disturbed by construction activities will be promptly stabilized by using appropriate BMPs.

The on-site ponds to be maintained and the proposed approximately five acre lake to be installed as part of the storm water management system will assist in complying with the NYSDEC's and the Town's stringent stormwater quality standards. The storm water management system will be based on an interconnected pond system, and after stormwater has been treated per the NYSDEC's stringent stormwater quality standards, it will be conveyed into Ellicott Creek at a controlled rate in compliance with the Town's and the NYSDEC's stringent stormwater quantity standards. The creation of the proposed approximately 23 acre park area ("Westwood Park") adjacent to Ellicott Creek also will serve to filter stormwater runoff from impervious surfaces and to preserve riparian vegetation, which also acts to control erosion (through root system stabilization of the soil).

Lastly, the on-site residential lawns, permanent open space buffers, and publicly accessible open spaces will be revegetated and landscaped. The revegetation and landscaping of the mixed use neighborhood components will be completed pursuant to approved Landscaping Plans prepared by a licensed Landscape Architect that comply with the stringent landscaping and screening standards as set forth in Section 7-2 of the Zoning Code. The new landscaping will provide soil stabilization that will assist in avoiding sedimentation and other adverse impacts to water resources and water quality on a long-term basis.

6.2.2 Groundwater

As stated in Section 5.2.2 of this DGEIS, construction of the Project is not anticipated to have any adverse impacts on groundwater resources or groundwater quality. In the vicinity of

the Project Site, groundwater is not used for potable water supply. Further, the Project Site is not within a designated aquifer area. For the foregoing reasons, no groundwater mitigation measures are necessary

6.2.3 Floodway and Floodplain

The Project will permanently modify portions of the Ellicott Creek 100 year floodplain adjacent to Ellicott Creek on the Project Site. However, the mixed use neighborhood has deliberately been planned to avoid long-term potential adverse impacts to the Ellicott Creek flood storage capacity. Specifically, the creation of the new approximately five acre lake and associated ponds along the eastern boundary of the Project Site will compensate for the loss of flood storage capacity associated with the on-site filling of a portion of the 100 year floodplain.

The Project Sponsor will be required to retain a licensed engineering firm to conduct additional hydraulic / drainage investigations and to prepare a detailed analysis and engineered plans for the proposed floodplain modifications. Because of the proposed impacts to a portion of the 100 year floodplain on the Project Site, the Project Sponsor will be required to seek and obtain a Letter of Map Revision (“LOMR”) from the Federal Emergency Management Agency (“FEMA”) in order to change the Ellicott Creek 100 year floodplain boundary on the Project Site in order to reflect the project related topographic changes and the flood storage capacity to be provided by the proposed approximately five acre lake and nearby pond. The issuance of a Conditional Letter of Map Revision (“CLOMR”) by FEMA would effectively remove portions of the Project Site from the 100-year floodplain (also designated as a Special Flood Hazard

Area).²⁶ In addition, the Project Sponsor will be required to obtain a Floodplain Development Permit from the Town's Floodplain Administrator for Flood Hazard Reduction.

²⁶ The CLOMR becomes a Letter of Map Revision ("LOMR") upon completion of the project and demonstration that the as-built conditions match that of the proposed conditions upon which the CLOMR was approved.

6.3 BIOLOGICAL RESOURCE MITIGATION MEASURES:

The redevelopment of the Project Site as a mixed use neighborhood in a manner consistent with the Conceptual Master Plan will permanently remove the lawn, landscaping, portions of the small non-jurisdictional wetlands, and other vegetation that currently characterizes the former private golf course. However, the vegetation and wildlife habitats that will be impacted in connection with the construction of the mixed use neighborhood are common to the area, and similar habitats are available in the immediate vicinity of the Project Site (as represented by the adjacent Audubon Par 3 Golf Course and the Audubon 18-Hole Golf Course directly to the north of the Site). In order to fully assess potential loss of vegetative communities and habitat associated with the redevelopment of the Project Site, the Project Sponsor retained the service of Earth Dimensions, Inc. (“EDI”) to perform a Site Vegetation & Wildlife Investigation Report.²⁷ EDI’s comprehensive investigation and findings are fully described within Section 4.3 of this DGEIS. In summary, EDI concluded that the proposed mixed use neighborhood will result in unavoidable adverse impacts to existing wildlife habitats, wetland areas, and site vegetation. However, the Project Sponsor has deliberately designed the layout of the mixed use neighborhood to avoid disturbance of the more mature northern hardwood vegetative communities on the Project Site. In addition, the project layout will sustain large areas of open space and natural vegetative communities totaling approximately 64 acres, which the Project Sponsor is willing to permanently protect by the recording of deed restrictions. The Project Sponsor’s effort to preserve large areas of permanent open space will provide suitable wildlife habitat including migratory bird nesting on a long-term basis. Ultimately, EDI

²⁷ See Appendix Volume IV, Letter Q, “Site Vegetation & Wildlife Investigation Report”.

concluded that the potential impacts associated with the proposed mixed use neighborhood will not be significant and that the mitigation measures to be implemented to minimize impacts to these resources to the maximum extent practicable include: permanent protection of evenly distributed open space areas; avoidance of disturbance to mature northern hardwood vegetative communities; and a net increase of open water wetland areas on the Project Site are appropriate mitigation measures for the identified adverse impacts.²⁸

Ellicott Creek and its associated riparian corridor, which provides the most diverse habitat on the Project Site, will be preserved and enhanced by the creation of the adjacent 23 acre publicly accessible park area (“Westwood Park”) including the approximately five acre lake, as confirmed by EDI’s professional opinion in its Site Vegetation & Wildlife Investigation Report.²⁹ Further, as the Project Site is redeveloped as a mixed use neighborhood, lawns and landscaping will be planted. These newly vegetated areas will serve to mitigate to the maximum extent practicable, the impacts to the former golf course habitat that will be permanently modified as a result of the redevelopment of the Project Site as a mixed use neighborhood.

On-site tree removal may potentially disturb the habitat of the northern long-eared bat, a threatened species. “Minimal tree removal”, defined as less than one acre in total³⁰, is an activity exempt from requiring an incidental take permit. If tree removal does exceed one acre in total, the Project Sponsor will seek issuance of a permit from the appropriate agency. Furthermore, tree removal shall be limited to between October 31st and March 31st, when the northern long-eared bat has typically migrated from the region.

²⁸ See Appendix Volume IV, Letter Q, “Site Vegetation and Wildlife Investigation Report,” page 8.

²⁹ See Appendix Volume IV, Letter Q, “Site Vegetation and Wildlife Investigation Report,” page 15.

³⁰ “Do I Need A Permit? A Key to Northern Long-eared Bat Interim 4(d) Rule for non-Federal Projects”, http://www.fws.gov/mountain-prairie/ea/KeyInterim4dRule_March2015.pdf.

6.4 LAND USE AND ZONING AND COMMUNITY CHARACTER MITIGATION MEASURES:

The proposed mixed use neighborhood will result in a significant change of the use of the Project Site, which was a private golf course until December 31, 2014. The Project will also result in potentially significant changes to the character of the Project Site. However, it is important to mention that the mixed use neighborhood has been designed based on the redevelopment and mixed use planning goals and objectives contained in the adopted Comprehensive Plan.

In order to mitigate for potentially significant community character impacts to the maximum extent practicable, the Project Sponsor has proposed a series of mitigation measures described in the list below as follows:

1. Permanent Open Space Buffers along the western, northern and southern perimeters of the Project Site will remain zoned RC and will be subject to a recorded Declaration of Restrictions to ensure these areas shall be permanently preserved.
2. High impact landscaping, buffering and screening will be provided along the western, northern and southern edges of the Project Site, pursuant to the stringent applicable standards contained in Section 7-2 of the Zoning Code.
3. The TND zoning classification will be utilized for the redevelopment of the Project Site as a mixed use neighborhood with the exception of 1.4 acres of property to be zoned GB for the propose four-story hotel and 13.59 acres of property to be zoned MFR-7 for the senior housing component.

4. The Project Site will be redeveloped as a mixed use neighborhood in accordance with PUD requirements that apply to the redevelopment of project sites that are 30 acres or larger.³¹
5. The height of the proposed hotel will be limited to four-stories.
6. The proposed four-story hotel will be located on the approximately 1.4 acres of GB zoned property and will have a minimum setback of 555 feet from the southern boundary of the Project Site and a minimum setback of 655 feet from the property boundary of the closest existing residential use located on the southern side of Sheridan Drive.
7. The height of the proposed senior housing building on the western portion of the Project Site will be limited to two-stories.
8. The proposed two-story senior housing building on the western portion of the Project Site will be located on the approximately 13.59 acres of MFR-7 zoned property and will have a minimum setback of 185 feet from the property boundary of the closest existing residential use located on the east side of Fairways Boulevard.
9. The Vehicle Use Area (parking and interior driveway) for the two-story senior housing building will have a minimum setback of 120 feet from the property boundary of the closest existing residential use located on the east side of Fairways Boulevard.

³¹ For a complete description of the PUD requirements, See Section 3.2.1 of this DGEIS. A complete copy of the PUD requirements as per the Town of Amherst Zoning Code can be found within Appendix Volume II, Letter K7, “Zoning Code, Section 6-9 (PUD)”.

10. Approximately 64 acres, or 38% of the Project Site, will be preserved as permanent open space.
11. An approximately 23 acre of publicly accessible park area (“Westwood Park”), including the creation of an approximately five acre lake will be provided on the eastern side of the Project Site adjacent to Ellicott Creek.
12. Shared parking will be implemented to the maximum extent practicable, which enables smaller and more efficient parking areas, which results in less impervious surfaces.
13. Parking areas on the Project Site will be located behind the buildings to be utilized for commercial purposes to the maximum extent practicable.
14. Extensive interior greenspace and landscaping will be provided in parking area in accordance with the applicable stringent landscaping requirement for parking area contained in Section 7-2 of the Zoning Code.

6.5 RECREATION AND VISUAL RESOURCE MITIGATION MEASURES:

The redevelopment of the vacant former private golf course and country club as a mixed use neighborhood represents a long-term potentially significant change of the visual character of the Project Site. However, these impacts will be mitigated to the maximum extent practicable by the redevelopment of the Project Site in a manner consistent with the Conceptual Master Plan, which integrates high-quality mixed use designs with varied landscape elements (e.g., ponds, lake, public open space, trails). In addition, the Project Sponsor plans to incorporate LEED standards for lighting into the Project design, including measures for minimizing potential adverse lighting impacts (e.g., light trespass onto neighboring property, sky glow, and glare) associated with outdoor lighting.

Mitigation for increases in lighting levels on the Project Site will be provided for by the implementation of a Lighting Plan in compliance with the stringent lighting standards set forth in Section 7-3 of the Zoning Code. Mitigation measures for potential lighting impacts will include: shielding outdoor lights, placing lighting carefully only where it is needed and the use of façade / architectural lighting that it is aimed from the top down such that the illuminated areas do not extend beyond the areas nearby the buildings.

The redevelopment of the Project Site as a mixed use neighborhood will also result in the creation of publicly accessible open space and enhanced water-based recreational opportunities associated with both Ellicott Creek and the proposed approximately five acre lake. Further, the trails that will be established on the Project Site will provide publicly accessible opportunities for walking, hiking and bicycling. Overall, the Project will result in long-term benefits by providing these publicly accessible recreational amenities.

6.6 SOCIOECONOMICS:

Based on the Economic and Fiscal Impact study prepared by CGR (refer to Appendix Volume IV, Letter X, Revised Economic & Fiscal Impact Analysis), the redevelopment of the Project Site as a mixed use neighborhood in a manner consistent with the Conceptual Master Plan will have substantial positive impacts on employment, income, and tax revenues, and will not generate excessive increases in population or associated school enrollment. The planned project facilities are not expected to require significant expansion of public infrastructure, although interconnections to public water, sewer, and storm sewers will be needed. The comprehensive analysis conducted by GGR demonstrated that it is anticipated that community service providers (e.g., police, fire) will have the capacity to serve the increase demand for these services that will result from the mixed use neighborhood.³²

Although public funds will need to be expended for the provision of government services to the Project, the substantial revenues that will accrue to taxing jurisdictions as a result of the Project will far exceed the costs for the provision of these services.³³ Overall, the mixed use neighborhood will have substantial long-term positive economic impacts in terms of increases in property, income and sales and tax revenues that will accrue to the Town of Amherst, Williamsville Central School District and Erie County.

³² See Appendix Volume IV, Letter X, “Revised Economic & Fiscal Impact Analysis,” page 18.

³³ See Appendix Volume IV, Letter X, “Revised Economic & Fiscal Impact Analysis,” page 24.

6.7 CULTURAL AND HISTORIC RESOURCES:

In terms of cultural resources, as more fully described in Section 4.7 of this DGEIS, the Project Sponsor retained the services of Historic Preservation and Interpretation, Inc. (“HPI”) to conduct Phase 1A,³⁴ Phase 1B³⁵ and Phase 2³⁶ Cultural Resources Investigations of the Project Site. Following a thorough review of the Phase 1A and 1B reports provided for its consideration, the New York State Office of Parks, Recreation and Historic Preservation (“SHPO”) agreed with the findings of HPI in that only three sites (known as “Prehistoric Site 1”, “Prehistoric Site 3”, and “Westwood Historic Site”), consisting of less than 5 acres of the 170 acre Project Site would require further investigation by way of a Phase 2 Cultural Resources Investigation.³⁷ Based on its comprehensive Phase 2 testing of the Prehistoric Sites 1 and 3, HPI concluded these sites are not considered eligible for inclusion on the National or State Registers of Historic Places. Based upon its review of the Cultural Resource Investigation Reports prepared by HPI, the New York State Office of Parks, Recreation & Historic Preservation (“OPRHP”) issued correspondence to the Town of Amherst Planning Department on June 16, 2015 containing its opinion that no portions of the Project Site are National Register eligible. Furthermore, OPRHP confirmed that they have no further archaeology concerns with respect to the Project Site and as such are not recommending any additional archaeological testing.³⁸

In summary, through fully investigating the Project Site and determining there are no potentially significant cultural resources and in committing to sustain the original historic

³⁴ See Appendix Volume I, Letter E, “Phase 1A Cultural Resources Investigation”.

³⁵ See Appendix Volume I, Letter F, “Phase 1B Cultural Resources Investigation”.

³⁶ See Appendix Volume IV, Letter T, “Phase 2 Cultural Resources Investigation”.

³⁷ See Appendix Volume I, Letter G, “Cultural Resources Investigation Comment Letter”.

³⁸ See Appendix Volume IV, Letter Z2.8, “Letter, OPRHP to Town of Amherst Planning Department dated June 16, 2015.”

structure of the existing clubhouse dating to 1928, the redevelopment of the Project Site as a mixed use neighborhood will not result in any potentially significant long-term adverse impacts to cultural or historic resources on the Project Site.

6.8 TRANSPORTATION MITIGATION MEASURES:

The proposed mixed use neighborhood will modify localized transportation patterns by creating the new north-south roadway connection through the Project Site between Maple Road and Sheridan Drive; establishing new streets on the Project Site; and providing pedestrian friendly amenities such as sidewalks and recreational trails. Because the Project Site is located on an established NFTA bus route, the redevelopment of the Project Site as a mixed use neighborhood will also offer opportunities for promoting the use of public transportation. In addition, the proposed trail system planned will interconnect to Amherst's existing trail / bicycle route network, providing pedestrian and biking access to a variety of locations in the Town and surrounding areas.

The comprehensive Traffic Impact Study prepared by SRF Associates (refer to Appendix Volume IV, Letter W, "Revised Traffic Impact Study") provides very detailed information on potential adverse traffic impacts to the roadway network in the vicinity of the Project Site (particularly vehicular traffic patterns and flows) anticipated to result from the redevelopment of the Project Site a mixed use neighborhood, as well as potential transportation related mitigation measures to mitigate for traffic impacts to the maximum extent practicable.

As summarized in Section 5.8 of this DGEIS, SRF's capacity analyses determined that some of the road intersections in the study area for the TIS should be improved to maintain suitable Levels of Service ("LOS") after accounting for increases in traffic volumes resulting from the mixed use neighborhood. Except for these intersection-specific recommendations, SRF determined that the vehicular trips expected to be generated as a result of the Project can be accommodated by the existing roadway network.

Proposed mitigation measures for potential adverse traffic impacts as identified in the comprehensive Traffic Impact Study, prepared by SRF Associates, consisted of the following:

- Installation of a new traffic signal at the proposed full access public roadway to Sheridan Drive, at the time the roadway connection is completed. The signal should be coordinated with the existing traffic signal network along Sheridan Drive to the west of the Project Site.
- Installation a new traffic signal at the proposed full access public roadway connection to Maple Road when the roadway connection is completed.
- The proposed full access public roadway that will connect to Sheridan Drive should be designed to provide two lanes of exiting traffic and two lanes of entering traffic to both facilitate traffic movements and to achieve the desired alignment with Fenwick Road. The throat length of the driveway should be designed to accommodate vehicle queues exiting the site and reduce vehicle blockages of internal circulation roadways; therefore a minimum uninterrupted throat length of 200 feet is recommended by SRF Associates.
- Internal sidewalks should form an inter-connected network allowing users to actively walk amongst the various land use components to be included in the mixed use neighborhood. Additionally, internal paved recreational paths should be designed and installed to encourage bicycle use.
- The southern portion of the proposed mixed use neighborhood consisting of the commercial, higher density residential and the four-story hotel component should incorporate bicycle parking and related facilities into the design. Such facilities should include bike racks and consideration can be given to providing bike lockers, shower and changing facilities within one or more of the proposed buildings.
- Transportation demand management (“TDM”) strategies should be considered and implemented when practical to reduce off-site vehicular trips.

- Consideration should be given to reducing the number of parking spaces constructed on-site given the mixed-use nature of the proposed neighborhood, potential for non-vehicular trips, and the potential for shared parking between non-competing uses.

It is important to mention that traffic related mitigation measures on highways in the vicinity of the Project Site that are subject to the jurisdiction of the New York State Department of Transportation (“NYSDOT”) and the Erie County Department of Public Works (“ECDPW”) including but not limited to Sheridan Drive, which is a NYS Highway and Maple Road, which is an Erie County Highway, including the timing of such mitigation measures, will be subject to the review and approval of these involved agencies. The Project Sponsor and SRF Associates, the traffic consultant, have engaged in discussions with both NYSDOT and ECDPW and have received correspondence from the ECDPW stating its opinion the project will not result in any adverse impacts to the affected county highway based on the project trips to be generated, the capacity analysis contained in the TIS and the existing and proposed project roadway connections as evaluated in the TIS.³⁹ The NYSDOT has previously received the TIS and it is anticipated that it will issue comments to the Town based on its review of the TIS during the public comment period on the DGEIS.

³⁹ See Appendix Volume IV, Letter Z2.9, “ECDPW to TOA Planning Department RE: TIS Review”

6.9 AIR QUALITY AND NOISE MITIGATION MEASURES:

6.9.1 Air Quality

During the construction of the mixed use neighborhood, impacts to air quality will occur as a result of emissions from construction equipment and construction-related vehicles and from the generation of fugitive dust during earth moving activities. The occupation of the Westwood facilities will cause long-term, but minor, and localized impacts to air quality, primarily due to increases in traffic volumes on the roadway network in the vicinity of the Project Site. Additionally, the building heating and cooling systems will have minor but long-term air quality impacts, although it is important to mention that such systems will comply with applicable stringent energy efficiency standards for new buildings, which will minimize emissions from these systems.

As fully described in Section 5.9.1 of this DGEIS, in the process of performing an Environmental Site Assessment at the Project Site, the Project Sponsor uncovered arsenic contamination within the underlying soils related to the historic application of pesticides and herbicides in association with the long standing utilization of the Project Site as a private golf course and country club.⁴⁰ In recognition of the potential environmental impacts associated with the arsenic contamination within the underlying soils at the Project Site, the Project Sponsor made application to the New York State Department of Environmental Conservation (“NYSDEC”) Brownfield Cleanup Program (“BCP”) and has received an official notice from the

⁴⁰ See Appendix Volume, IV, “Phase 2 Environmental Site Assessment & Soil/Sediment Sampling Report”.

NYSDEC of application acceptance.⁴¹ For a complete description of the BCP soil remediation process including regulatory agency oversight and management, please refer to Section 6.3 above. Section 5.9.1 of this DGEIS provides a complete description of the potential environmental impacts related to arsenic containing soils being released to the ambient atmosphere via fugitive dust during site excavation, remediation and construction. There is a potential human exposure path to the arsenic via inhalation of the fugitive dust. However, the BCP will require the Project Sponsor to develop a Health and Safety Plan that includes a Community Air Monitoring Program. The Community Air Monitoring Program will require the services of a third party special inspections service provider to continually monitor air quality during site excavation and remediation. If at any point should the monitoring equipment detect arsenic contamination levels or other contaminants of concern that exceed regulatory thresholds for the Community Air Monitoring requirements, work must be ceased. Upon the stoppage of work at the site, the Project Sponsor would be required to work with the NYSDEC and NYSDOH to implement further work performance and fugitive dust controls to prevent any further exceedances. Given the community air quality health and safety controls that must be implemented as per the NYSDEC BCP and the regulatory oversight throughout the remediation process, there will not be any potentially significant environmental impacts to air quality during the remediation and construction process of the mixed use neighborhood redevelopment.

Because the mixed use neighborhood will be developed in phases, construction-related air emissions will occur over time. However, the construction related air emissions are not

⁴¹ See Appendix Volume IV, “New York State Department of Environmental Conservation Brownfield Cleanup Program Application (NYSDEC Site ID #C915291) & Appendix Volume IV, Letter Z2.7, “02.26.15- BCP, NYSDEC Letter to Mensch RE: BCP Application Acceptance”.

expected to result in potentially significant impacts to local air quality levels or to contribute to any contravention of applicable ambient air quality standards. The new roads, access aisles, driveways and parking spaces on the Project Site will all be paved. None of the vegetation cleared or grubbed from the Project Site during the build-out of the mixed use neighborhood will be burned, although it may be chipped on site for future use as mulch for landscaping purposes.

6.9.2 Noise

The sound environment on the Project Site and surrounding vicinity will change on both a short-term and long-term basis as a result of the proposed mixed use neighborhood. The Project Site currently consists of a vacant former country club and golf course and as such there are not any activities that generate noise. The noise levels that will result from the various land uses within the mixed use neighborhood will be highly localized and will be comparable to existing ambient background noise levels in the vicinity of the Project Site. None of the proposed land uses involves activities that generate noise levels that could be viewed as being potentially significant such as industrial uses, warehouses, automotive dealerships and repair facilities, etc. The existing roadways in the vicinity of the Project Site, including both Sheridan Drive and Maple Road, contributes the most to ambient background noise levels in the vicinity of the Project Site. Potential noise impacts on the nearby residential neighborhoods will be mitigated for by the installation of undulating berms and landscaping within the permanent open space buffers along the western, northern and southern boundaries of the Project Site. Potential noise impacts from the perspective of residential uses to the east of the Project Site along North Forest Road and the residential streets connecting to the North Forest Road will be mitigated for by the permanent preservation of the existing vegetation along the Ellicott Creek corridor.

On a long-term basis, the occupation of Westwood's traditional neighborhood uses and senior living area are expected to result in sound levels that are comparable to and characteristic of the suburban residential areas in the vicinity of the Project Site. The commercial, office, and hotel uses, which are planned for the southern portion of the Project Site, can be expected to generate noise associated primarily with traffic movements, which will occur principally during business hours.

Potential short-term noise impacts will result from construction of the mixed use neighborhood and the build-out is anticipated to occur in multiple phases over a ten year period. Construction related noise from the Project will be minimized to the maximum extent practicable by limiting construction activities to normal working (daylight) hours, when public sensitivity to noise from the perspective of nearby residential uses is less.

6.10 COMMUNITY FACILITIES AND SERVICES MITIGATION MEASURES:

As stated in Section 5.10, the Project will have no significant adverse impacts on the demand for municipal services. Existing municipal services have the capacity to serve the limited additional permanent population. Furthermore, the Williamsville Central School District will not be adversely impacted by the addition of the estimated 250 school-age children.

For the foregoing reasons, no mitigation measures are necessary.

6.11 LIGHTING MITIGATION MEASURES:

Lighting fixtures will be designed, sized and located in such a manner to not cast direct rays of light upon adjoining properties or cause glare hazardous to pedestrians or persons using adjacent public streets. Additionally, the Project Sponsor proposes to develop site lighting that will incorporate measures to avoid or minimize light pollution, either from indoor lighting that is projected through building windows or from outdoor lighting. For example, outdoor lighting will be placed only where needed and all outdoor light fixtures will be shielded. Dark sky outdoor lighting, which is specially designed to reduce light pollution in the night sky, also may be used to minimize the potential for light trespass and glare. Individual buildings will be designed to carefully take into account the minimization of light pollution.

6.12 UTILITIES AND NON-TRANSPORTATION INFRASTRUCTURE **MITIGATION MEASURES:**

6.12.1 Sanitary Sewers

As described in Section 5.12.1 of this DGEIS, the Project Sponsor received a Memorandum from the Town's Engineering Department requesting the completion of downstream sanitary sewer route flow monitoring to evaluate downstream sanitary sewer capacity for the proposed mixed use neighborhood.⁴² Based on the Engineering Department's request, the Project Sponsor utilized the services of TECsmith, Inc., a local water and wastewater monitoring company, to install flow monitoring equipment at specified sanitary sewer manhole locations.⁴³ The flow monitoring data results have shown that during typical dry weather operating periods there is sufficient downstream sanitary sewer capacity to service the projected sanitary flows for the mixed use neighborhood. However, the testing also revealed that during storm events that generate greater than a half inch of daily rainfall, there is a surcharge within the downstream sanitary system.

It is important to note that this condition is not a unique or new concern within the existing Town of Amherst sanitary sewer system. The temporary system surcharging that occurs during storm events is a long standing condition that is subject to a number of management and remediation strategies that have been developed with coordination between the Town of Amherst Engineering Department, New York State Department of Environmental Conservation ("NYSDEC") and Environmental Protection Agency ("EPA"). The following is a brief description of sanitary sewer mitigation measures that can be employed to remediate this existing

⁴² See Appendix Volume IV, Letter Z, Item Z2.3- "Memorandum, TOA Engineering Dept. to TOA Planning Dept. RE: DGEIS Completeness".

⁴³ Appendix Volume IV, Letter U, "Downstream Sanitary Sewer Flow Monitoring Report".

condition:

- Inflow & Infiltration (“I&I”) Flow Offset Requirements: Many municipal wastewater collection and treatment systems in New York State experience wet weather related capacity problems such as sanitary sewer overflows (“SSO’s) related to stormwater I&I that causes extraneous water to enter sanitary systems during storm events. This condition can be caused by a number of system deficiencies but most commonly is due to aged underground infrastructure with insufficient or compromised main connections, system joints, and private laterals. In recognition of this fact, specific amendments have been made to Part 750 of the New York State Environmental Conservation Law requiring that new sewer connections for projects that will convey 2,500 gallons per day or more of residential sewage are made subject to mandatory I&I flow offset requirements. Complete details regarding the I&I flow offset requirements for Erie County can be found within the Sewer Extension Application Guidance and Related I/I Flow Offset Requirements letter as issued by the NYSDEC to all municipalities in Western New York on September 15, 2014.⁴⁴

The I&I offset program requires an analysis of recent wet weather flow monitoring data, along with the proposed new development peak flows, relative to the theoretical capacity in the downstream sewer system, including any pump stations. This reporting is referred to as a Downstream Sanitary Capacity Analysis (“DSCA”). If the DSCA indicates a lack of capacity for the proposed sewer extension, wet weather flows must be reduced by using I&I flow offset measures. The NYSDEC requires that I&I

⁴⁴ See Appendix Volume IV, Letter Z, Item Z2.4- “Letter, NYSDEC Region 9 to Erie County Dist. List RE: I/I Flow Offset Requirements”.

flow offsets must achieve a minimum reduction of 4 gallons of I&I for every 1 gallon of new peak wastewater flow. This requirement was developed by the NYSDEC as an alternative to a moratorium on sewer extensions, and has been in effect in Erie County for several years. Given the anticipated maximum daily flow for the project, as calculated within the Preliminary Engineers Report, of 490,605 gallons per day,⁴⁵ the Project Sponsor will be required to provide for approximately 1,962,420 gallons of I&I reduction within the Town's sanitary system.

The actual final remedial program can include any number of system repairs and improvements including but not limited to manhole repair/replacement, pipe segment and joint repair/replacement, private lateral replacement/repair, and removal of unauthorized private discharges to the system.⁴⁶

- Project Specific Remedial Actions: In addition to the mandatory mitigation measures as identified within the I&I flow offset program as required by the NYSDEC, the Project Sponsor may employ certain infrastructure improvements during the construction and Project Site development process to further remediate and prevent any contribution to the existing surcharging condition. These options include offline and inline sanitary sewer retention systems as well as targeted capital improvements as described below.
 - Sanitary Retention Facility: An offline system would include the design of a sanitary flow holding tank, known as a Sanitary Retention Facility (“SRF”),

⁴⁵ See Appendix Volume III, Letter L, “Preliminary Engineer’s Report,” page 2.

⁴⁶ For the complete list of potential remedial measures and their associated I&I contribution value, please refer to the “Erie County Division of Sewerage Management General Infiltration and Inflow (I&I) - Contribution Removal Values By Source chart attached to Appendix Volume IV, Letter Z, Item Z2.4-“Letter, NYSDEC Region 9 to Erie County Dist. List RE: I/I Flow offset Requirements”.

within the boundaries of the Project Site. This SRF would be designed to collect and hold sanitary flows during a surcharge event. Upon conclusion of the storm event and return to a normal static flow condition, the tank would convey collected sanitary flows at a controlled rate that could be handled by the system. This type of approach is being implemented by the City of Buffalo Sewer Authority to manage system overflows that they have experienced with their municipal combined sanitary system. The system uses excess capacity in existing pipes to hold rainwater until the event is over and can then get full treatment at the Treatment Plant.⁴⁷

- Oversized SSO Relief Sewers: An example of an inline system would include the design and engineering of the project sanitary sewer lines at a size and depth that would provide excess capacity within the system to alleviate overflows during surcharge events. This would require constructing the new primary sanitary sewer service line for the Project along the new north/south public right-of-way at a sufficient depth whereby surcharging flows within the existing 36 inch Sheridan Drive sewer line could temporarily backflow into the new oversized sanitary sewer line during a storm event. The new sanitary sewer line would need to be sufficiently sized to store surcharging backflows until such time the storm event would subside and flows would then be conveyed back into the downstream system. It is important to note that the oversized SSO relief sewer option may

⁴⁷ Buffalo Sewer Authority. Bird Avenue and Lang Avenue Real Time Control System Storage Fact Sheet. <http://bsacsoimprovements.org/wp-content/uploads/2014/06/Fact-Sheet-Bird-Avenue-and-Lang-Avenue-Real-Time-Control-System-Storage-rev.pdf>.

require variances from the Great Lakes-Upper Mississippi River Board (“GLUMRB”) 10 States Standards for wastewater treatment infrastructure design specifications. The GLUMRB 10 State Standards include policy statements of member states, New York State being one such member, concerning water works design, practice, or resource protection. The potential relief sewer design approach in terms of specific depth, sizing and slope would require the review and approval of the Town of Amherst Engineering Department, NYSDEC and NYSDOH. While this approach would not eliminate the sources of I&I within the sanitary sewer network that are creating the surcharging condition, it could provide additional capacity within the sanitary sewer network to better manage the condition until long term I&I mitigation measures can be implemented to effectively reduce overall surcharging volumes.

- Targeted Sanitary System Improvements: Additionally, it also important to mention that the Town Board and Engineering Department have been and are continuing to proactively implement measures to improve the sanitary system through annual capital improvement planning and construction efforts. One such example includes the Increase and Improvement of Facilities within the Town of Amherst Consolidated Sanitary Sewer District Bond that was approved by the Town Board on November 17, 2014. Included within the sanitary improvement projects as per the Bond Authorization is the Chestnut Ridge Sanitary Sewer Diversion project (“Chestnut Ridge Project”). This project has been designed as a means to divert surcharging overflows off of the West Side Interceptor sewer during storm events. The West Side Interceptor is one of the main lines

within the downstream sanitary route for the project. The Chestnut Ridge Project, which is an example of the Town's proactive effort to implement measures to improve the sanitary system, will help to reduce existing surcharge flows within the downstream sanitary route planned for the project.

The Chestnut Ridge Project is only one example of mitigation work being planned in association with the Town of Amherst 2014 Sanitary Sewer Replacement & Rehabilitation Project ("2014 Sanitary Sewer Project"). The Town has been working to manage and resolve three (3) localized Sanitary Sewer Overflow ("SSO") points known as the Kings Highway Pump Station SSO, North Drive SSO, and Capen Boulevard SSO. In 2010, the Town received a grant from the NYSDEC in the amount of \$1.28 million that was utilized to replace and repair portions of the Harlem Road trunk sewer line in the area of the Kings Highway Pump Station SSO. This work dramatically improved sanitary sewer conditions in that area. In fact, per the Town of Amherst 2014 Year End SSO Report, which documents instances where sanitary flows were bypassed due to overflows, there was not a single overflow incident at the Kings Highway Pump Station SSO in 2014.⁴⁸

In terms of the Capen Boulevard SSO, the Town has included specific projects within the 2014 Sanitary Sewer Project that are targeted to alleviate concerns in that area as well. This work includes the replacement of 2,290 feet of 15-inch clay tile pipe with 18-inch pvc pipe along Delta Road, from Longmeadow Road to Eggert Road. This section of sewer is approximately 75 years old and is subject to I&I. This project also

⁴⁸ Town of Amherst. Town of Amherst Year End SSO Report. December 2014.

includes 64 house service lateral replacements and the complete milling and road replacement upon completion of the work. In addition, 695 feet of 18-inch clay tile pipe will be replaced with 21-inch pvc pipe along Eggert Road from Delta Road to Carmen Road. Finally, 250 feet of sanitary sewers will receive “spot” repairs combined with approximately 1,900 feet of 8-inch sanitary sewer relining along the east and west sides of Capen Boulevard, between Kenmore Avenue and Oxford Avenue. This sanitary sewer has many segments with major root infiltration and broken pipe that require replacement.⁴⁹ Similar to the Kings Highway Pump Station project mentioned above, it is anticipated that this work will provide a major improvement for the Capen Boulevard SSO. In general, both projects will help to reduce the source I&I concerns that contribute to the downstream sanitary surcharging issues.

The remaining SSO that will require a targeted evaluation and remediation plan is the North Drive SSO. The North Drive SSO is located at the intersection of North Drive and Eggert Road. In total, approximately 548,100 gallons of sanitary flows were bypassed at this SSO via a portable pump throughout three separate incidents within 2014. The Project Sponsor has met with the Town of Amherst Engineering Department to explore the implementation of sanitary sewer mitigation for this SSO and would be willing to work toward defining the problem and contributing to a solution to reduce I&I sources at this location.

Ultimately, the required sanitary sewer mitigation measures to be implemented in connection with the redevelopment of the Project Site as mixed use neighborhood, will be

⁴⁹ Town of Amherst. Town of Amherst 2014 Sanitary Sewer Replacement & Rehabilitation Projects. September 2014.

subject to the review and approval of the Town of Amherst Engineering Department, NYSDEC, and NYSDOH. While the final remedial program will require coordination with these agencies and may ultimately involve a combination of multiple sanitary sewer mitigation measures as described above, the most important point to emphasize is that the Project Sponsor must meet the requirements of the I&I flow offset program in order for sanitary sewer service to be provided to the proposed mixed use neighborhood. These stringent applicable standards will require the Project Sponsor to demonstrate sufficient capacity to service the mixed use neighborhood within the sanitary system through existing I&I reduction and targeted system improvements to create the necessary sanitary system capacity.

6.12.2 Stormwater

The redevelopment of the Project Site as a mixed use neighborhood will have long-term stormwater impacts resulting from modifications to existing drainage patterns and the new impervious surfaces. The redevelopment of the Project Site pursuant to the Conceptual Master Plan will result in approximately 68 acres of impervious surfaces on the Project Site including buildings, roadways, access aisles, parking spaces, sidewalks and paved recreational trails. These new impervious surfaces will reduce the areas on the Project Site available for groundwater infiltration. The Project Sponsor has conducted a Preliminary Drainage Analysis (refer to Appendix Volume IV, Letter V, “Revised Preliminary Drainage Analysis Report”) and a licensed professional engineer will design a storm water management system for the Project Site that will comply with the applicable stringent Town and NYSDEC storm water quantity and the NYSDEC’s stringent storm water quality standards (e.g., storm water retention, control, and release) to ensure no potentially significant adverse impacts will occur to the water quality of

Ellicott Creek or to the capacity of Town's existing storm water sewers to accommodate the additional runoff resulting from new impervious surfaces.

The stormwater management system for the Project will be designed and constructed in accordance with the New York State Storm Water Management Design Manual. The Project Sponsor also proposes to incorporate runoff reduction and low impact development practices to satisfy relevant state and local performance standards, promote groundwater recharge; and, minimize post-construction impacts to water resources to the maximum extent practicable.⁵⁰

6.12.3 Water Supply

As stated in Section 5.12.3 of this DGEIS, the evaluation of the existing public water system and the projections for demand for water indicates the existing public water supply has adequate capacity to service all of the components of the proposed mixed use neighborhood. Therefore, no mitigation measures are necessary.

6.12.4 Private Utilities

As stated in Section 4.12.4 of this DGEIS, the existing private utility infrastructure in terms of location and capacity is sufficient to serve the anticipated increase in utilization demand of the Project. Therefore, no mitigation measures are necessary.

⁵⁰ The precise specifics of the stormwater management system will be based on the fully engineered plans for the mixed use neighborhood to be prepared by a licensed engineer during the site plan and subdivision approval processes for the mixed use neighborhood. Detailed information regarding the stormwater management system will be provided on the grading plans and utility plans and the Engineer's Report which will include detailed drainage calculations for the 1 yr., 2 yr., 10 yr., 25 yr. and 100 yr. 24 hour storm events. The stormwater management system will need to be reviewed and approved by the Town's Engineering Department prior to the commencement of construction activities in furtherance of the mixed use neighborhood.