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June 30, 2025

To: SEQRA Distribution List

**Re: Scannell Properties #600, LLC – Project Bluebird  
NYS Route 6, Wawayanda, Orange County, New York**

Dear Involved and Interested Agencies:

As required by 6 NYCRR § 617.12(b) and at the request of the Town of Wawayanda Planning Board, please find enclosed the Board's SEQRA Negative Declaration with respect to the above-referenced, proposed action in the Town of Wawayanda, Orange County, New York. The Planning Board, acting as the established SEQRA lead agency for review of the project, approved the enclosed SEQRA Negative Declaration at its regular meeting on June 11, 2025.

Any questions regarding the enclosed should be directed to the Town of Wawayanda Planning Board at (845) 355-5700.

Very truly yours,



Paul Van Cott

**A copy of this Notice of Negative Declaration will be filed with:**

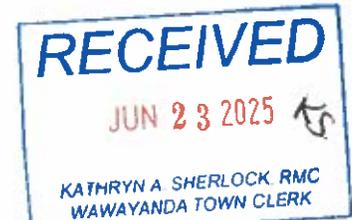
Town of Wawayanda Town Board;  
Town of Wawayanda Zoning Board of Appeals;  
Town of Wawayanda Highway Department;  
Orange County Planning Department;  
Orange County Health Department;  
Orange County Industrial Development Agency;  
NYS Department of Environmental Conservation, Region 3;  
NYS Department of State;  
NYS Office of Parks, Recreation and Historic Preservation; and  
NYS Department of Transportation, Region 8.

**TOWN OF WAWAYANDA PLANNING BOARD**  
80 Ridgebury Hill Rd, Slate Hill, NY 10973

State Environmental Quality Review Act

**NEGATIVE DECLARATION**  
Notice of Determination of Non-Significance

Adopted by the Wawayanda Planning Board on June 11, 2025



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**TOWN OF WAWAYANDA PLANNING BOARD  
80 Ridgebury Hill Rd, Slate Hill, NY 10973**

State Environmental Quality Review Act

**NEGATIVE DECLARATION**

Notice of Determination of Non-Significance

June 11, 2025

This notice is issued pursuant to the New York State Environmental Quality Review Act, Article 8 of the NYS Environmental Conservation Law and its implementing regulations contained in Part 617 of the New York State Code of Rules and Regulations (collectively, "SEQRA").

The Planning Board of the Town of Wawayanda (the "Planning Board"), as the lead agency under SEQRA, has determined that the proposed action described below will not have a significant adverse environmental impact and a draft environmental impact statement will not be prepared.

**Name of Proposed Action:** Project Bluebird

**SEQRA Classification:** Type I

**I. DESCRIPTION OF PROPOSED ACTION**

In August 2024 Scannell Properties #600, LLC ("Scannell") submitted an application to the Town of Wawayanda Planning Board (the "Planning Board") for amended Special Use Permit and Site Plan approvals for the redevelopment of an active mine site between U.S. Route 6 ("Route 6") and U.S. Interstate I-84 ("I-84") with an e-commerce logistics, storage and distribution facility on lands comprising approximately 108.4 acres in the Town of Wawayanda (the "Town"), Orange County, New York (the "Project" or "Project Bluebird"). Project Bluebird will include a Service Driveway (discussed below) and will be eventually served by a new electric substation (the "Substation") for electrical service to be provided by Orange & Rockland Utilities, Inc. ("O&R").

The Project will be undertaken in the Town's Mixed Commercial ("MC-1") zoning district, as an allowed "warehouse, storage and distribution facility" use under the Town of Wawayanda Zoning Law (the "Zoning Law").<sup>1</sup> The Project's facilities will be constructed on SBL # 11-1-34.342 ("Building Site"), comprising approximately 81.38 acres including where the mine site is located. The mining use will cease operations. The Service Driveway will be constructed by Scannell on approximately 22.64 acres of SBL ## 11-1-34.332 and 11-1-41.2 ("Service Driveway Site") and the Substation will be built in the future on SBL # 11-1-34.12 ("Substation Site"), which includes approximately 3.68 acres. Together, the Building Site, the Service Driveway Site and the Substation Site comprise the "Project Site" for the Project. Scannell owns

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<sup>1</sup> Pursuant to Town of Wawayanda Local Law 5 of 2024, entitled "Zoning and Subdivision Law Amendments," the Project is considered a "partially exempt project" that is not subject to the requirements of Zoning Law §§ 195-60.1(A) and (B) pertaining to warehouse, storage and distribution facility uses because its August 2024 application for the Project was pending at the Planning Board prior to November 7, 2024 consistent with the terms of Local Law 5 of 2024, which became effective on December 23, 2024.

the Building Site and is the contract purchaser of the Service Driveway Site and the Substation Site.

The Project represents an amendment to a Scannell project that was conditionally approved by the Town of Wawayanda Planning Board (the "Planning Board") in December 2022, after the Planning Board's October 2022 determination pursuant to the New York State Environmental Quality Review Act and its implementing regulations in 6 NYCRR Part 617 (collectively, "SEQRA") that the project would not have any significant adverse impacts on the environment (the "SHCC Negative Declaration"). For that project, the Planning Board issued a conditional Special Use Permit and granted conditional Site Plan Review approval for Scannell's proposed approximately 925,000 square foot ("SF") warehouse, storage and distribution facility that was to be known as the Slate Hill Commerce Center ("SHCC").<sup>2</sup> SHCC included the Service Driveway but not the Substation.

To meet the building and operational needs of a new user, Scannell has applied for amended Special Use Permit and Site Plan Review approvals from the Planning Board for the Project. The Project also includes a Casual Subdivision/Lot Line Change to merge a small portion of Lot 41:2 (approximately 0.78 acres) on the western side of the Middletown and New Jersey Railroad ("MNJRR") right-of-way with the Building Site.

In support of its applications for these approvals, Scannell has made the following submissions to the Planning Board (collectively, the "Application"):

- August 8, 2024 Application
- October 30, 2024 Supplemental Submission;
- December 16, 2024 SEQRA Expanded EAF Submission;
- March 13, 2025 Air Quality Submission;
- March 26, 2025 Supplemental Submission;
- April 9, 2025 Supplemental Submission;
- April 22, 2025 Supplemental Submission;
- May 28, 2025 Response to Public Comment;
- May 28, 2025 Ballon Study Analysis;
- June 5, 2025 Additional Response to Comment.

In addition to the above submissions, the Planning Board relied upon numerous reviews, studies and memos prepared by its consultants, including traffic and noise consultants. All of these submissions comprising the Application were thoroughly reviewed by the Planning Board and its planning, traffic, air quality, noise, legal and engineering consultants. During this extensive and thorough review, Scannell modified the Project to address comments raised by both the Planning Board and its consultants.

### ***Project Description***

Based on the site plans submitted by Scannell, Project Bluebird's facility on the Building Site will have a footprint of approximately 652,060 SF with five stories and a total floor area of approximately 3,232,740 SF. The building will be built into the existing mining pit, resulting in

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<sup>2</sup> The Planning Board recently granted Scannell an extension of the conditional Special Use Permit and Site Plan Review approval for SHCC to December 2025.

its placement at 30-40 feet below the elevation of the adjoining I-84. Each story will have over 608,000 SF of floor space for operational needs, along with associated office space on the mezzanine level. The height of the building will be 103.5'. Since the height of buildings in the MC-1 District is generally limited to 65', Scannell has applied for a height variance from the Town of Wawayanda Zoning Board of Appeals ("ZBA"), which is currently pending. As proposed, the facility will meet the new user's objective of a multi-story e-commerce logistics, storage and distribution facility that maximizes the scale and efficiency of operations. The building will occupy a smaller footprint than the footprint that was previously approved by the Planning Board for SHCC.

According to Scannell, the multi-story facility is designed with lower floor-to-ceiling distances due to lower storage heights of bins operated by robots, resulting in a more efficient design for the total amount of square footage proposed without wasted space. The extra floors are intended to not only add space to keep a larger amount of goods on hand close to customers in the distribution area, but to also provide the floor area required for the state-of-the-art equipment and robotics required to efficiently facilitate the storing, picking, and packaging of customer orders. The design of the upper floors is intended to optimize the building's height and use gravity to route inventory to the distribution system on the first floor for outbound shipments.

Scannell maintains that there is no feasible alternative to the requested building height for Project Bluebird that meets the user's goals for an e-commerce logistics, storage and distribution facility with the required 3,232,740 SF of floor space needed to provide the required scale and maximum efficiency for its operations. According to Scannell, spreading the building's footprint to comply with the 65' height standard contained in the Zoning Law would cause logistical issues and adversely impact the operational efficiency of Project Bluebird, preventing it from achieving its goals. For its user's purposes, Scannell submits that the only feasible way to achieve the goal of sufficient floor space that will meet Project Bluebird's scale, operational and logistical needs is through the proposed 5-story, 652,060 SF footprint building. Because the height of the proposed building will exceed what is permitted by the Zoning Law, Scannell has applied to the ZBA for the above-referenced variance.

Accessory features proposed for Project Bluebird include 2 guard shacks; 985 car parking spaces (including 8 motorcycle parking spaces); 484 trailer stalls and 59 loading docks; 2 water storage tanks; stormwater management practices and improvements; site driveways; lighting, landscaping; signage; and other related improvements. Once constructed, operational activities will take place within the proposed building in a secured environment that is not open to the public. The operational activities will occur 24 hours, seven days a week.

Access to and from Project Bluebird will occur from a service driveway (the "Service Driveway") required by the Planning Board for SHCC that will originate at a signalized access point onto Route 6 near the eastern boundary of the Service Driveway Site and continue generally parallel with Route 6 and the existing power lines in a westerly direction across SBL ## 11-1-34.332 and 11-1-41.2, crossing the out-of-service MNJRR line that forms the eastern and southern boundary of the Building Site.<sup>3</sup> For connection to the Service Driveway, two private roadway crossings of the railroad tracks will be installed as part of the Project, along with the installation

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<sup>3</sup> The portion of the Service Driveway between the two private crossings is located in the same vicinity as former Hoops Road, a town road that extended from MNJRR to Route 6 until the Town of Wawayanda Town Board abandoned the road in 2023 pursuant to NYS Highway Law. Title to the lands comprising the former Hoops Road was conveyed to the adjoining property owners, including the owner of the Service Driveway and Substation sites.

of utility lines under the railroad tracks. Scannell has entered into a private crossing agreement with MNJRR for one of the crossings and a utility license for the utility crossing and is negotiating a second private crossing agreement with MNJRR for the second crossing and additional utility crossings.

The Service Driveway will be two lanes wide, approximately 40' wide and 3,280' in length and will be constructed in accordance with industry standards for heavy truck use and with Town of Wawayanda Code § 158-28 for commercial driveways subject to the review of the Town Superintendent of Highways and the Town Engineer. The Service Driveway has been located immediately south of the power lines that traverse the two affected tax lots in an east-west direction. In addition, as per the Planning Board's concerns regarding future traffic circulation associated with the development of adjoining properties, the Service Driveway has been designed to allow for a future connection for a driveway to serve future development on SBL # 11-1-41.2 and development on a parcel to the immediate east of SBL # 11-1-41.2 (SBL # 11-1-19.2).

To connect Project Bluebird to public water and sewer, proposed water and sewer main extensions are proposed to originate on the Project Site in the vicinity of the MNJRR. A pump station for the sewer main would be provided on the Project Site. The mains would be constructed under the MNJRR rail line and would then run parallel to I-84 to the eastern lot line of SBL # 11-1-19.2. From there, the water and sewer mains will cross under I-84 and follow an existing driveway to its intersection with Route 6. At that point, the water main will tap into the existing main providing public water. From the driveway, the sewer main would be constructed within the right-of-way of Route 6 over an additional distance of nearly a mile to a connection to an existing Town gravity sewer main. All infrastructure associated with the new water and sewer mains would be offered for dedication to the Town after completion of construction, subject to the Town's review and acceptance in its sole discretion. Connections to public water and sewer for the Project will require Town Board approval, including out-of-district user agreements since the Project Site is outside of the Town's existing water/sewer districts.

O&R has confirmed that it will provide electrical service to Project Bluebird and that temporary service will be provided until the new Substation is built. As conceptually proposed, the Substation will be constructed within an area comprising approximately 227' x 331' on the Project Site as reflected in the site plans for Project Bluebird. In addition, a ring driveway with gravel pad in the center will connect the Substation to the Service Driveway. The Substation is an allowed use in the MC-1 zoning district and will require future site plan approval from the Planning Board. Proposed landscaping and lighting plans are shown for the Substation in the site plans for SEQRA purposes.

Redevelopment of the Building Site and the Substation Site will require the demolition of several existing buildings. On the Building Site, a barn and a small building associated with mining operations on the western portion of the Site will be demolished and removed. On the Substation Site, an existing residential structure will be demolished and removed from that Site.

Project Bluebird will be built adjacent to I-84 on an active commercial mine site where extensive mining has already occurred and is ongoing pursuant to a New York State Department of Environmental Conservation ("NYSDEC") mining permit that is currently set to expire in 2027. Subject to NYSDEC review and approval, the permit and reclamation responsibilities will be transferred to Scannell and all commercial mining on the Building Site will cease so that the Site can be reclaimed based on its redevelopment with the Project. As described above, traffic from the Project would enter onto Route 6, an established east/west state highway with a direct

connection to I-84 approximately two miles to the east through a primarily commercial corridor. Project Bluebird's layout is oriented towards I-84, with the building and parking areas located as far away from adjoining properties as possible. As discussed below, through the Project's design, including site layout, set-backs, architecture and landscaping, impacts to surrounding lots and the environment will be minimized while allowing the Proposed Action which is consistent with the uses allowed in the MC-1 zoning district along the Route 6 corridor next to I-84.

Finally, Scannell proposes to design, obtain permits for, and construct a new ambulance building to serve the Town's newly formed ambulance district. No plans exist for this building at this time and the details of the new building including, without limitation, its location, size and other specifications will be provided, when they become known, in an Agreement to be entered into between the Town and Scannell.

## **II. BACKGROUND**

### ***Mining Operations***

Since 2009, NYSDEC and the Planning Board have authorized mining operations (the "Mining Operations") on the Project Site. Overall, 59 acres of the Building Site are approved for the Mining Operations, with the current 2022 NYSDEC permit renewal allowing 24 acres to be actively mined until its expiration in 2027.

Existing Mining Operations on the Project Site include excavation and on-site processing of sand and gravel, glacial till and consolidated rock. Consolidated materials are subject to either mechanical ripping or blasting to prepare them for transport in suitable sizes. On-site material processing activities include crushing and screening. Processed materials are hauled off of the Building Site for use in construction projects. Trucks travel to and from the mine's access road onto McBride Road to the west of the Building Site, with the majority of trucks traveling in the direction of I-84 to the east of the Building Site.

Prior to granting approvals for the Mining Operations in 2009 and 2015, NYSDEC reviewed the potential environmental impacts of the Mining Operations pursuant to SEQRA and concluded that there would be no significant adverse impacts. Some of the anticipated impacts of the Mining Operations discussed during the prior SEQRA review included significant impacts to bedrock from mechanical ripping and blasting, from the removal of soils, bedrock and minerals, and from the permanent alteration of the mine site's topography. They also included impacts to plants and animals and their habitat due to the removal of existing vegetative communities and the displacement of wildlife and disruption of travel patterns of species. Visual and noise impacts from the Mining Operations were also anticipated but not deemed significant. NYSDEC's 2009 SEQRA review also contemplated increased truck traffic from the Mining Operations and the 2015 SEQRA review considered the impacts of moving the primary mining access from former Hoops Road onto McBride Road. The Planning Board was an involved agency in the SEQRA reviews of the Mining Operations and issued a Special Use Permit for those operations.

During its SEQRA review of SHCC in 2022, the Planning Board considered NYSDEC's prior SEQRA reviews of the potential environmental impacts from the Mining Operations. In the SHCC Negative Declaration, the Planning Board found that approval of SHCC would result in the cessation of the Mining Operations and the regrading and redevelopment of the mine site through the construction of SHCC. The Board also found that SHCC would eliminate any truck traffic

during operations from the Building Site traveling on McBride Road (which has some single-family residential homes) limiting access from McBride Road to emergency vehicles only. Comparing the environmental impacts of the Mining Operations with those of SHCC, in the SHCC Negative Declaration Planning Board repeatedly found that the environmental impacts of SHCC would be less than those of the Mining Operations.

Consistent with SHCC, the undertaking of Project Bluebird will result in cessation of the Mining Operations on the Building Site and the reclamation of mine site through the Project's development in accordance with site plans to be approved by the Planning Board and pursuant to building permits to be issued by the Town. In addition, NYSDEC will review and approve the proposed reclamation of the mine with Project Bluebird and Scannell will be required to comply with the procedural and/or other requirements that are necessary to close out the mining permit and to comply with the NYS Environmental Mined Land Reclamation Law (ECL Article 23, Title 27) and its implementing regulations.

### ***Slate Hill Commerce Center (SHCC)***

Scannell applied to the Planning Board for SHCC in June 2021 for Special Use Permit, Site Plan Review and Subdivision/Lot Line Change approvals to reclaim the mine site on the Project Site and to redevelop the Site and other lands with a new 925,000± square foot warehouse, storage and distribution facility. The lands involved in SHCC included the Building Site and the Service Driveway Site. Based on its thorough and coordinated review of the potential environmental impacts of SHCC, the Planning Board issued the SHCC Negative Declaration for SHCC in October 2022. Thereafter, after holding a public hearing on the application for SHCC, the Planning Board granted conditional Special Use Permit, Site Plan Review and Casual Subdivision/Lot Line Change approvals for SHCC. The lot line change for SHCC has already been implemented and filed with the Orange County Clerk.

The Planning Board's Special Use Permit and Site Plan Review approvals of SHCC remain valid under the Zoning Law until December 2025, allowing for the development of the 925,000± SF warehouse, storage and distribution facility as previously approved by the Planning Board in accordance with those approvals. However, according to Scannell, a new, preferred user has been identified that is prepared to move forward with construction subject to receipt of amended approvals from the Planning Board.

### **III. SEQRA COMPLIANCE**

Even though there have been prior SEQRA Negative Declarations for the Mining Operations and SHCC, the amended Project's potential environmental impacts must still be reviewed pursuant to SEQRA. For the Planning Board, review of the amended Project is the SEQRA "action" based on the Application submitted by Scannell. The Planning Board has classified the Project as a Type 1 action pursuant to 6 NYCRR § 617.4(b)(i), established itself as lead agency for SEQRA review of the Project, and has coordinated its SEQRA review with other involved and interested agencies.

### **IV. INVOLVED AND INTERESTED AGENCIES**

In the FEAF Part 1 for Project Bluebird, Scannell identified the following agencies that may be involved or interested in the environmental review and approval of Project Bluebird for required reviews/approvals including:

<b>Agency</b>	<b>Review/Approval Required</b>
Town of Wawayanda Town Board	Approval of 5-acre stormwater waiver Approval of stormwater easement Approval of water and sewer allocations Approval of Developers Agreement
Town of Wawayanda Zoning Board of Appeals	Approval of height variance
Town of Wawayanda Highway Department	Approval of Emergency Access to McBride Road
Orange County Planning Department	GML § 239-m review
Orange County Health Department	Approval of water main extension
Orange County Industrial Development Agency	Approval of financial incentives for project
NYS Department of Environmental Conservation, Region 3	Modified Town's water withdrawal permit Approval of sewer main extension General SPDES Permit for Stormwater Discharges from Construction Activities Water quality certification for NWP #39; Approval of amended mining reclamation plan Article 24 wetland jurisdictional determination
NYS Department of State	Approval of NYS Uniform Building and Fire Code variance for building's fire suppression system
NYS Office of Parks, Recreation and Historic Preservation	Review by State Historic Preservation Office
NYS Department of Transportation, Region 8	Temporary construction access permit Highway work permit for roadway improvements Permit to install water/sewer lines under I-84 and along Route 6 Approval of land donation

## **V. EVALUATION OF POTENTIAL ENVIRONMENTAL IMPACTS**

The SEQRA lead agency must consider the criteria for determining the significance of potential environmental impacts from the Project as set forth in the SEQRA regulations at 6 NYCRR § 617.7(c). To accomplish this, the lead agency reviews all relevant information and completes Parts 2 and 3 of the FEAF to provide the basis for its SEQRA determination. For Project Bluebird, the identification and assessment of potential environmental impacts is based upon the Planning Board's review of the FEAF Part 2 and all of the extensive information provided by the Applicant, the Board's consultants, other agencies (including the Orange County Planning

Department's comments pursuant to GML § 239-m), and from the public. The reasons for the Planning Board's SEQRA determination in FEAF Part 3 are provided in this Negative Declaration.

For the following reasons, the Planning Board finds that Project Bluebird will not create any significant adverse environmental impacts and a negative declaration is warranted for the Project under SEQRA. In reaching this determination, the Planning Board has considered the consistency of Project Bluebird's potential impacts with those of SHCC as previously reviewed by the Planning Board in its October 2022 SEQRA Negative Declaration and whether Project Bluebird would result in any new impacts or "relevant or significant" cumulative impacts.

While future site plan review of the proposed Substation will be required by the Planning Board, O&R's requirement of a substation is a reasonably foreseeable component of Project Bluebird and must be reviewed pursuant to SEQRA to avoid segmentation of the proposed action. Future site plan review of the Substation will require a determination of SEQRA consistency by the Planning Board or a new SEQRA determination if warranted.

With respect to the potential for cumulative impacts in association with Project Bluebird, the Planning Board particularly considered the following proposed and/or approved industrial facilities in the Town (the "Facilities"): RDM #1 - 1081 Dolsontown Road (SBL #6-1-1); RDM #2 - County Route 56 (SBL # 12-1-2.2); RDM #3 - Dewpoint South (SBL # 4-1-50.32); RDM #4 - Dewpoint North (SBL #4-1-50.2); RDM #5 - Dolsontown East (SBL ## 1-1-52.1, 1-1-4.2 & 6-1-3.2); RDM #6 - Simon Business Park (SBL ## 6-1-107, 6-1-90.1); Project Liberty (SBL # 11-1-41.2); RDM #7 - Route 6 Logistics Center (SBL ## 4-1-55.11 & 4-1-55.12); and the Marangi Solid Waste Management Facility (SBL ## 6-1-3.31 and 6-1-3.32). The Planning Board's review of potential cumulative impacts was based upon the criteria for making a SEQRA determination of significance provided in 6 NYCRR § 617.7(c). The size of each of the Facilities and their SEQRA and Planning Board approval status are described in the Application and their geographic relationship to the Project Site is shown in the following figure provided by Scannell in the Application:



SEQRA Negative Declarations were made by the Planning Board for all of the Facilities as reflected in the Application.

According to the Application, RDM warehouses ## 1, 3, 4, 5 and 6 are each more than two miles away from the Project Site, while RDM warehouses ## 2 and 7 are both more than a mile away from the Site. Based on the figure submitted by Scannell, the Marangi Solid Waste Management Facility is farther away than any of the RDM warehouses from the Project Site and the Project Liberty warehouse is on the tax parcel immediately adjacent to the eastern side of the Site.

#### 1. Impact on Land

**Finding: The Project will not result in any significant adverse environmental impacts on Land.**

#### *Prior Negative Declaration for SHCC*

For SHCC, the Planning Board identified the following potential "moderate to large" impacts on Land in its review of the FEAF Part 2 for SHCC:

1. *The proposed action may involve construction on land where depth to water table is less than 3 feet;*
2. *The proposed action may involve construction on slopes of 15% or greater;*
3. *The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface;*

4. *The proposed action may involve the excavation and removal of more than 1,000 tons of natural material;*
5. *The proposed action may involve construction that continues for more than one year or in multiple phases; and*
6. *The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides).*

In the Negative Declaration for SHCC, the Planning Board found that these potential “moderate to large” impacts from SHCC would not result in any significant adverse impact on Land. Overall, the Planning Board found that, in comparison to the ongoing Mining Operations, SHCC’s potential impacts to Land would be substantially less since SHCC would result in the end of mining and the reclamation of the existing mining site. The Board also found that SHCC would result in substantially less erosion than under current conditions associated with the Mining Operations as a result of the implementation of a NYSDEC-required stormwater pollution prevention plan (“SWPPP”) for SHCC, which includes Best Management Practices, stormwater controls and other measures to avoid or minimize adverse erosion impacts from the Project.

***Project Bluebird Impacts:***

Through its review of the FEAF Part 2 for Project Bluebird, the Planning Board has identified the same potential “moderate to large” impacts as were identified for SHCC. In addition, the Board has identified blasting and construction on lands where depth to water table is less than 3 feet or on slopes of 15% or greater as potential “moderate to large” impacts from the Project on Land. For the following reasons, Project Bluebird’s potential for impacts on Land are consistent with those of SHCC and will not have a significant adverse impact on Land based upon the SHCC Negative Declaration and the Board’s review of the Application for the following reasons:

- Mining Operations are actively ongoing on the Building Site in the area where Project Bluebird will be constructed. Reclamation of the mine site will occur through the development of Project Bluebird and the excavation and removal of natural materials for the Mining Operations will cease.
- Two years of active mining and removal of materials have occurred on the Project Site since issuance of the SHCC Negative Declaration, reducing the amount of construction that will need to be done in order to establish required grades for the Project.
- The Project is not expected to remove more than 1,000 tons of natural material from the site due to the amount of material already removed as a result of the Mining Operations.
- The Project will be constructed in the same location as SHCC, within the area approved by NYSDEC for mining after issuance of two SEQRA negative declarations with respect to the Mining Operations and in the same area as the SEQRA negative declaration issued by the Planning Board for SHCC. Project Bluebird will involve essentially the same amount of lot surface coverage within the mining footprint as SHCC. The Project will also affect the same area of land in the same location as SHCC for the construction of the Service Driveway and associated stormwater control measures.
- Construction of the Substation will only require the temporary disturbance of lands for excavation and backfilling activities. Most of the construction will occur on lands that have previously been extensively disturbed by prior site development as a residential use. The Project’s stormwater pollution and prevention plan (“SWPPP”) will include erosion control measures that will be implemented and maintained during construction of the Substation to minimize the erosion of land. Disturbed lands will be paved and/or restored and stabilized with appropriate vegetation or other measures after construction as required by NYSDEC stormwater regulations. Stormwater controls will be maintained as required by

the SWPPP during operations. Accordingly, no significant adverse impact on Land will occur from construction or operation of the Substation.

- The Project will have minimal impact on land “where depth to water table is less than 3 feet.” The area of the Project Site involving lands less than 3 feet above the water table are the wetlands on western portion of the Building Site. The disturbance to these wetlands for Project Bluebird will be the same or less than the 0.048 acres of wetlands disturbance that was previously authorized for SHCC for grading and stormwater discharges under federal Nationwide Permit #39 for such disturbances. Erosion during construction involving lands less than 3 feet above the water table will be controlled through the implementation of the SWPPP for the Project.
- During construction, dewatering may be required within the existing mine site, which will be undertaken consistent with the approved SWPPP for the Project. No water will be discharged directly to any wetland or waterbody.
- The Project will involve construction on “slopes of 15% or greater” within the existing mining footprint authorized by NYSDEC in its 2009 SEQRA negative declaration and permit and along portions of the Service Driveway. All Project construction, including construction involving slopes of 15% or greater, will be undertaken in accordance with the approved SWPPP for Project Bluebird in order to prevent impacts from erosion.
- While Project Bluebird is anticipated to require 18-24 months for completion of construction after receipt of all required approvals, this is only up to a year longer than construction of SHCC would take. Further, as compared to the impacts of the existing Mining Operations, which were reauthorized by NYSDEC in 2022 for another 5-year term, the impacts to Land from construction of Project Bluebird will be substantially less and likely of much shorter duration than the Mining Operations. This includes construction hours and days that are generally consistent with the Mining Operations and less impactful than SHCC as approved. All construction work for the Project will be limited to Monday to Saturday from 7 a.m. – 7 p.m. and any holidays on days between Monday and Saturday except New Year’s, Memorial Day, July 4th, Labor Day, Thanksgiving and Christmas.
- Blasting for the existing Mining Operations has occurred and is authorized by the NYSDEC permit. During construction, like SHCC, controlled blasting will occur during the initial phases of Project Bluebird’s construction in order to establish necessary elevation grades for the building and other improvements. Consistent with the recommendations of the Project’s Geotechnical Report, a blasting program will be developed by Scannell’s engineer, which will require review by the Town’s engineer and Planning Board approval of the blasting protocol prior to any blasting. NYSDEC will also need to review and approve the blasting program as part of its review of an amended reclamation plan for the Project Site. Any blasting will be very limited in duration during the first several months of construction. Prior notice of planned blasting activities, as well as an opportunity for a “pre-blast” survey, will be provided to residents and other property owners within 1500 feet of the Project Site. Project Bluebird will be responsible for addressing any offsite impacts reasonably attributable to blasting activities on properties where a pre-blast survey is conducted.
- Project construction will be undertaken in accordance with the recommendations for earthwork provided in the Geotechnical Report, further limiting any potential impacts on Land during construction.
- Project Bluebird will not result in any additional or different impacts on Land than SHCC with respect to the other potential “moderate to large” impacts identified by the Planning Board for SHCC, which the Planning Board evaluated and discussed in the SHCC Negative Declaration.

### *Potential Cumulative Impacts*

With respect to the potential for cumulative impacts on Land from the Project, the Planning Board considered the other Facilities and determined that all of them, except for a conditionally approved warehouse on SBL # 11-1-41.2 adjacent to the Project Site (“Project Liberty”), are too far away geographically from the Site to be relevant in terms of potential impacts on Land. With respect to Project Liberty, there are no potentially significant cumulative impacts on Land associated with Project Bluebird that reasonably merit consideration.

Project Liberty was the subject of a SEQRA Negative Declaration (the “Liberty Negative Declaration”) issued by the Planning Board in November 2023. With respect to potential impacts on Land, the Board had identified the same potential “moderate to large” impacts as it had for SHCC and added as an “Other Impact” that Project Liberty would result in the disturbance of more than 10 acres of land. The Board reviewed these potential impacts from Project Liberty in the Liberty Negative Declaration and determined that none of them had the potential to result in a significant adverse environmental impact. The Planning Board issued the Liberty Negative Declaration over a year after issuing the SHCC Negative Declaration which, as discussed in detail above, also concluded that SHCC would not have any significant adverse impacts on Land. In the Liberty Negative Declaration, the Planning Board reached the same conclusion that there would be no significant adverse impacts on Land. In making this determination, the Planning Board did not identify any potential “relevant or significant” cumulative impacts on Land associated with SHCC, which would also apply to Project Bluebird since the potential impacts on Land from SHCC and Project Bluebird are consistent.

Of the potential “moderate to large” impacts identified by the Planning Board for both Project Liberty and SHCC, the impacts with the potential for a cumulative impact from Project Bluebird in association with Project Liberty are the time required for construction of both projects, and in the unlikely circumstance that the timing of construction of both projects overlaps: (1) construction traffic; (2) increased erosion and (3) noise. None of these potential cumulative impacts would be significant.

With respect to construction timelines for the two projects, it is entirely speculative as to whether construction will occur at the same time, overlap, or occur over separate periods of time. According to Scannell, the user for Project Bluebird is ready to move forward with construction upon receipt of required approvals, but the timing for construction of Project Liberty is less certain.

Potential cumulative traffic impacts from construction trucks entering and leaving the two sites at the same time will not be significant because neither Project Bluebird nor Project Liberty are expected to require the export of substantial amounts of material from the two sites, reducing the potential for cumulative impacts from truck traffic leaving the Site. For example, according to the Bluebird Geotechnical Report it is anticipated that Bluebird will reuse natural materials stockpiled on the mine site rather than importing fill from offsite, which will also limit the number of truck trips.

Regarding erosion, the two projects will each result in improved erosion and stormwater controls as compared to existing conditions involving the Mining Operations and the uncontrolled, disturbed conditions of SBL # 11-1-41.2 through the implementation of approved SWPPPs for each project. Moreover, as explained further in connection with Impact on Surface Waters below, Project Bluebird and Project Liberty drain to separate watersheds and receiving waters, with Project Bluebird draining to the south and west and Project Liberty draining to the east, limiting

the potential for any cumulative stormwater or erosion impact from Project Bluebird in connection with Project Liberty.

Finally, with respect to potential noise impacts, both the SHCC Negative Declaration and the Liberty Negative Declaration found that any impacts during construction would not have any significant adverse impact. This remains the case if the construction timelines of the two projects overlap. Noise related to Project Bluebird's construction will be similar to, or even less than the existing Mining Operations. Moreover, any overlapping construction would occur during daylight hours when noise from traffic on Route 6 and I-84 is the loudest. These two highways, which both sites are located between, are the dominant sources of ambient noise in the area.

Accordingly, for the foregoing reasons, Project Bluebird will not result in any significant adverse environmental impacts on Land.

## **2. Impact on Geological Features**

**Finding: The Project will not result in any significant adverse environmental impacts on Geological Features.**

Consistent with the SHCC Negative Declaration, there are no unique landforms on the Project Site that will be impacted by Project Bluebird and the Planning Board did not identify any "moderate to large" potential impacts related to Geological Features in its review of the FEAF Part 2 for the Project. No unique or unusual land forms exist on the Project Site. Accordingly, Project Bluebird will not have any significant adverse impact on Geological Features.

## **3. Impact on Surface Water**

**Finding: The Project will not result in any significant adverse environmental impacts on Surface Water.**

### ***Prior Negative Declaration for SHCC***

For SHCC, the Planning Board identified the following potential "moderate to large" impacts on Surface Water in its review of the FEAF Part 2:

- 1. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body;*
- 2. The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments; and*
- 3. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies; and*
- 4. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action.*

In the SHCC Negative Declaration, the Planning Board found that these potential "moderate to large" impacts from SHCC would not result in any significant adverse impact on Surface Water. Briefly, SHCC involved the same small wetland disturbance as discussed below for Project Bluebird (approximately 2,100 sf or .048± acres), for which coverage under Nationwide Permit # 39 was obtained. Regarding the potential for erosion or water quality impacts, as

discussed below for Project Bluebird, the SHCC SWPPP provided for the avoidance and/or minimization of impacts.

***Project Bluebird Impacts:***

Through its review of the FEAF Part 2 for Project Bluebird, the Planning Board has identified the same potential “moderate to large” impacts as were identified for SHCC. For the following reasons and based upon the SHCC Negative Declaration and the Planning Board’s review of the Application, Project Bluebird’s potential for impacts on Surface Water are consistent with those considered in the SHCC Negative Declaration and will not result in any significant adverse impact on Surface Water:

- The wetland disturbance required for Project Bluebird will be the same or less than the minor wetland disturbance that was previously authorized for SHCC. The Project will have a minimal impact (approximately 2,100 sf or .048± acres) on the approximately 0.8563 acres of wetlands subject to federal wetlands jurisdiction along a small creek on the western portion of the Project Site related to the installation of a stormwater outfall. The involved wetlands comprise less than 6% of the wetlands on the Project Site. No construction will occur within the bed or banks of the creek. Authorization for the minor wetland disturbance has obtained pursuant to Nationwide Permit #39 remains valid, so the Project’s minor wetland impacts will be subject to federal standards, limiting any potential wetland impacts.
- By email dated April 23, 2025, NYSDEC Region 3 indicated that it has not yet determined whether Wetland WD on the Project Site is subject to NYSDEC’s regulatory jurisdiction under recent amendments to 6 NYCRR Part 664. Based on information provided to NYSDEC by Scannell, Wetland WD is the only wetland on the Project Site that Region 3 has identified as potentially being jurisdictional. If NYSDEC determines that it does not have any jurisdiction over Wetland WD, no wetlands permit will be required for the Project.
- In the April 23<sup>rd</sup> email, NYSDEC concluded: “Considering all available information for the overall project it is the opinion of DEC Region 3 Bureau of Ecosystem Health Staff that if the Jurisdictional Determination Process concludes that wetland WD meets the criteria to be regulated by NYSDEC that the current proposal could meet the permit issuance standards as outlined in 6 NYCRR Part 663.5 for a wetland of any Class so that a Freshwater Wetland Permit could be issued.”
- Information submitted to NYSDEC by Scannell requesting this confirmation showed that the Project would not impact Wetland WD itself, but that approximately 32,750 sf of the 100-foot adjacent area of Wetland WD will be occupied by the Project for truck driveways and grading after its construction. According to Scannell, this is less than the estimated 41,868 sf of this 100-foot adjacent area reviewed by the Planning Board than SHCC would occupy. Moreover, the 100-foot wetland adjacent area that will be impacted by Project Bluebird is currently agricultural fields with no stormwater controls. Implementation of an approved SWPPP for Project Bluebird will avoid and/or minimize any impacts on Wetland WD and other portions of the wetland’s 100-foot adjacent area.
- Project Bluebird’s improvements that encroach into Wetland WD’s 100-foot adjacent area are unavoidable due to the truck turning movements into the secured portion of the Project Site. The guard shack is located in an orientation so that a tractor trailer arrives parallel once turning through the radius of the drive. If the guard shack was relocated north of the current location, tractor trailers would arrive at the shack still in the turning movement and cause a safety issue. The pavement south of the guard shack currently is a minimum

distance for tractor trailers leaving the site to again make turns and arrive parallel to this location and exit the secured location. These current improvement locations are restricted from all moving north by the northern property line. The encroachment of the bio-detention area is for required compliance water quality/ detention regulations for stormwater. Based on the April 23<sup>rd</sup> email, NYSDEC's conclusion that the Project would meet its regulatory standards for permit issuance in 6 NYCRR Part 663 demonstrates that the Project sufficiently avoids or minimizes potential impacts and would be compatible with the wetland, if it is ultimately determined to be jurisdictional.

- Avoidance and/or minimization of turbidity or erosion will occur through the Project's implementation of the SWPPP which includes modern stormwater management controls designed to ensure that any stormwater discharged from the Project Site will meet NYSDEC water quality standards, both during and after construction, resulting in minimal impacts to surface waters. Stormwater from the Project will be managed, treated and discharged in accordance with the requirements set forth in the 2025 NYSDEC State Pollution Discharge Elimination System general stormwater permit and the Project's SWPPP, subject to prior review and oversight by the Town's engineer and continuing regulatory oversight and enforcement by NYSDEC. Stormwater will be collected and treated to protect water quality prior to discharge. As required by law, stormwater will be managed to control the rate of stormwater runoff to less than pre-development rates for a full range of storm events from the 1-year storm to the 100-year storm. As required by Chapter 154 of the Town of Wawayanda Code, Scannell will also enter into a Stormwater Facilities Maintenance Agreement to provide for the continued maintenance of stormwater controls on the Project Site subject to periodic inspections by regulating authorities, further reducing the possibility of impacts to surface waters.
- During the Project's construction, erosion and sediment control, soil stabilization, dewatering and pollution prevention measures will be installed, implemented and maintained on the Project Site as set forth in the SWPPP and as required by law to minimize the discharge or erosion of sediment and prevent a violation of the State's water quality standards. These measures are designed to limit erosion of land by controlling the flow of water until permanent stormwater control measures are installed and pervious surfaces are stabilized with vegetation and/or buildings and parking areas. Measures will include, but not be limited to, installation of silt-fencing to control disturbed areas; stockpiling soils and vegetative soil stabilization; seeding and mulching of all disturbed surfaces; dust control (as necessary); and ongoing inspection and maintenance of erosion control measures to ensure their effectiveness until all disturbed surfaces are stabilized. The Project's SWPPP and Site Plans will comply with the requirements of NYSDEC General Stormwater Permit GP-0-25-001 and the adopted New York State Stormwater Management Design Manual, dated July 31, 2024.
- Due to the current disturbance of approximately 30 acres of the Project Site as a result of the Mining Operations and the scale of the overall development (e.g., a building pad of approximately 15 acres), Scannell has made a detailed application to the Town for authorization to disturb up to 30 acres at any one time as compared to the 5 acres of disturbance that is normally allowed. Scannell has provided phasing plans to delineate the approximate proposed phase boundaries and the critical tasks of each phase that will be implemented in accordance with the SWPPP and the site plans. Additional measures proposed by Scannell to ensure the avoidance or minimization of any potential Impact to Surface Waters include having a minimum of 2 site inspections every 7 calendar days by a qualified inspector to ensure the stability and effectiveness of all protective measures and practices during construction for as long as more than 5.0 acres of land remains disturbed.

- Post-construction, Project Bluebird's stormwater management system will collect stormwater run-off from the Project Site through a series of catch basins and pipes and convey the water to the proposed stormwater management areas depicted on the Project's Site Plans and in the SWPPP. Avoidance or minimization of potential impacts will occur through the treatment of sediments and other contaminants in the run-off as described in the SWPPP to ensure the stormwater discharges meet applicable water quality standards and have minimal impacts on the downstream water courses and wetlands. As required by the NYSDEC stormwater regulations, the peak rate of run-off from the Project Site will be essentially the same or less than the peak rate of run-off under the existing conditions.
- Overall, Project Bluebird's SWPPP and erosion and stormwater controls that will be undertaken during and post-construction will provide the same level of minimization of potential impacts on Surface Water and the same level of compliance with NYSDEC requirements discussed in the SHCC Negative Declaration.

### ***Potential Cumulative Impacts***

With respect to the potential for cumulative impacts on Surface Waters, due to distance and varying drainage patterns, there is no potential for cumulative impacts from Project Bluebird in association with any of the other Facilities as it relates to the primary receiving waterbodies. Stormwater from the Project Site drains towards an entirely different sub-watershed than any of the other Facilities and the point of confluence of receiving waters for the two sub-watersheds in the Wallkill River is approximately nine miles apart. Furthermore, Project Bluebird and all of the other Facilities must be designed, constructed and maintained in compliance with NYSDEC's stormwater requirements, including compliance with applicable water quality standards for receiving waters and must manage and control the rate of stormwater runoff to less than pre-development rates for the 1-, 10-, and 100-year storm events prior to discharge. Like Project Bluebird, all of the other Facilities include SWPPPs that meet these requirements to avoid any potential significant adverse stormwater impacts.

None of the SEQRA Negative Declarations for any of the other Facilities identified any potential for significant adverse impacts from individual projects or for cumulative impacts to Surface Waters involving SHCC. Since Project Bluebird's potential impacts on Surface Waters are consistent with those of SHCC as reviewed by the Planning Board in the SHCC Negative Declaration, there is no potential for potential "relevant or significant" cumulative impacts involving Project Bluebird.

Accordingly, for the foregoing reasons, Project Bluebird will not result in any significant adverse environmental impacts on Surface Waters.

#### **4. Impact on Groundwater**

**Finding: The Project will not result in any significant adverse environmental impacts on Groundwater.**

#### ***Prior Negative Declaration for SHCC***

In the SHCC Negative Declaration, the Planning Board did not identify any potential “moderate to large” impacts on Groundwater that might occur from SHCC. Specifically, the Board found that SHCC would not have any significant adverse impacts on groundwater.

***Project Bluebird Impacts:***

Through its review of the FEAF Part 2 for Project Bluebird, the Planning Board has not identified any potential “moderate to large” impacts on Groundwater. Based upon the SHCC Negative Declaration and the Planning Board’s review of the Application, the Project’s potential impacts on Groundwater are consistent with the SHCC in the Negative Declaration and will not result in any significant adverse impact because:

- Consistent with the SHCC Negative Declaration, water supply and wastewater treatment for Project Bluebird will be obtained from public facilities and will not impact Groundwater on the Site, as no groundwater will be withdrawn from and no wastewater will be discharged on the Site.
- Although Project Bluebird requires more gallons per day (23,430 GPD as opposed to 7,000 GPD) than for SHCC, water supply will still be obtained from the Town of Wawayanda via its agreement with the City of Middletown and wastewater treatment will be provided at the City of Middletown wastewater treatment facility. The availability of water/sewer capacity has been documented by Delaware Engineering in a technical Water and Sewer Memorandum submitted in support of the Application and a “will-serve” request for the Project has been submitted to the Town’s engineer. The Town of Wawayanda Town Board must approve any allocation of water/sewer capacity for the Project.
- The Updated Environmental Site Assessment provided by Scannell for the Building Site and the Environmental Site Assessments for the Service Driveway Site and the Substation Site did not identify any Recognized Environmental Conditions on the Project Site requiring further assessment or remediation.
- The Project’s SWPPP will provide “hot-spot” treatment for truck parking areas consistent with SHCC, ensuring the separate collection and treatment of potentially contaminated stormwater.
- Stormwater from the Service Driveway will be treated and controlled by a bioretention basin and a wet pond, which will be a non-infiltration system with underdrains that will not have an impact on groundwater. This design complies with NYSDEC stormwater requirements and will protect the groundwater from any impacts.
- The comparatively minor amount of stormwater generated from the Substation Lot will be managed in accordance with the Project’s SWPPP, both during construction and operations. An existing private well on the Site will be properly decommissioned in accordance with NYS Department of Health regulations and the existing septic system will be properly abandoned.

***Potential Cumulative Impacts***

With respect to the potential for cumulative impacts on Groundwater, due to distance, there is no potential for relevant cumulative impacts on Groundwater from Project Bluebird in association with any of the other Facilities considered by the Planning Board except for Project Liberty. Further, as noted above, based on a cumulative assessment provided by Scannell there is adequate water/sewer capacity to serve Project Bluebird and Project Liberty as out-of-district users. Even with the increased water/sewer demand from Project Bluebird, there is sufficient

capacity to also serve the only other two Facilities located outside of the existing water/sewer district that have proposed to be served by public water and sewer. The remainder of the other Facilities considered by the Board (except for one that proposes to be served by a private well and septic system) are all within the local water/sewer district and are subject to separate capacity availability.

Regarding Project Liberty, the Planning Board reviewed the potential for impacts on Groundwater in the Liberty Negative Declaration. The Planning Board issued the Liberty Negative Declaration over a year after issuing the SHCC Negative Declaration which, as discussed in detail above, concluded that SHCC would not have any significant adverse impacts on Groundwater. In the Liberty Negative Declaration, the Planning Board reached the same conclusion that there would be no significant adverse impacts on Groundwater. In making this determination, the Planning Board did not identify any potential cumulative impacts on Groundwater associated with SHCC, which would also apply for Project Bluebird since the potential impacts of SHCC and Bluebird on Groundwater are consistent.

Based on the foregoing, Project Bluebird will not create any significant adverse impacts on Groundwater, including any potentially significant cumulative impacts in association with Project Liberty.

#### **5. Impact on Flooding**

**Finding: The Project will not result in any significant adverse environmental impacts on Flooding.**

#### ***Prior Negative Declaration for SHCC***

In the SHCC Negative Declaration, the Planning Board found that SHCC would not have any significant adverse impacts on Flooding. Specifically, the Board found that the Federal Emergency Management Administration Flood Insurance Rate Maps ("FIRM") covering the Town of Wawayanda show that the Project Site is located outside any designated floodway, 100-year floodplain or 500-year floodplain, limiting the potential for any impacts on Flooding.

#### ***Project Bluebird Impacts***

Through its review of the FEAF Part 2 for Project Bluebird, the Planning Board identified any potential "moderate to large" impacts on Flooding:

1. *The proposed action may result in, or require, modification of existing drainage patterns; and*
2. *The proposed action may change flood water flows that contribute to flooding.*

Based upon the SHCC Negative Declaration and the Planning Board's review of the Application, Project Bluebird will not have any significant adverse impact on Flooding because the Site is located outside any designated floodway, 100-year floodplain or 500-year floodplain, limiting the potential for any impacts on Flooding. Furthermore, based upon the discussion of Impact on Surface Water above, any potential Impact on Flooding will be minimized by the management, treatment and discharge of stormwater from the Project Site accordance with the requirements set forth in the 2025 NYSDEC State Pollution Discharge Elimination System general stormwater permit and the Project's SWPPP. In particular, based upon the Project's design, stormwater will

be managed to control the rate of stormwater runoff to less than pre-development rates for a full range of storm events from the 1-year storm to the 100-year storm.

### ***Potential Cumulative Impacts***

With respect to the potential for cumulative impacts on Flooding, only Project Liberty has any potential for a cumulative impact in association with Project Bluebird, as the other Facilities are too far away geographically from the Project Site to be relevant in terms of potential impacts on Flooding. As with Project Bluebird, Project Liberty is also located outside any designated floodway, 100-year floodplain or 500-year floodplain, so there is no potential for any significant cumulative impacts. Furthermore, as discussed above in relation to potential impacts to Surface Water, stormwater from Project flows into a separate sub-watershed than Project Liberty or any of the other Facilities.

Based on the foregoing, Project Bluebird will not create any significant adverse impacts on Flooding.

### **6. Impact on Air**

**Finding: The Project will not result in any significant adverse environmental impacts on Air.**

#### ***Prior Negative Declaration for SHCC:***

In the SHCC Negative Declaration, the Planning Board did not identify any potential “moderate to large” impacts on Air and determined that SHCC would not result in any significant adverse impacts on Air. Specifically, the Board found that SHCC would not include a State regulated air emission source or involve any activity that will have more than a minimal impact on Air.

#### ***Project Bluebird Impacts:***

Through its review of the FEAF Part 2 for Project Bluebird, the Planning Board identified the following potential “moderate to large impact” on Air from Project Bluebird:

*The proposed action may result in fugitive dust emissions from constructions activities and may result in exceedances of NAAQS standards from traffic.*

Any fugitive dust emissions from the Project’s construction will be consistent with those of SHCC and will not result in any significant adverse impacts. During construction, the following measures will be undertaken by Scannell to minimize any potential impacts from fugitive dust emissions:

- Water trucks with dedicated operator(s) shall be used during construction to ensure any dust is contained on the Site;
- Street sweepers will be staged at the Project Site’s entrance/exit to immediately clean up material on the driveways and on the surrounding roadway;
- In accordance with the Project SWPPP, dust control shall be provided by the general contractor to a degree acceptable to the owner/operator, the Town, and NYSDOT, and in compliance with the applicable local and state dust control requirements;

- In accordance with SWPPP requirements areas where soil disturbance has temporarily or permanently ceased, the application of soil stabilization measures shall be initiated by the end of the next business day and completed within 14 days from the date the current soil disturbance ceased; and
- Construction related vehicle traffic speed on-site will be limited to 15 MPH and enforced by the contractor as necessary to reduce fugitive dust generation.

For its evaluation of potential cumulative impacts associated with Project Bluebird, as discussed below, Scannell provided an evaluation of the potential for cumulative impacts on Air from mobile air emission sources. Based upon this evaluation, the Project's traffic will not result in any exceedances of NAAQS standards.

### ***Potential Cumulative Impacts***

Project Bluebird and the other Facilities considered by the Planning Board have the potential to result in cumulative impacts on Air from on-site operations and vehicle and truck traffic. To evaluate the potential cumulative air quality impacts of Project Bluebird, both at the Project Site and between the Project's driveway access onto Route 6 and along Route 6 to I-84, Scannell prepared an air quality report (the "Study"). The Study estimated the projected future cumulative emissions from mobile sources (i.e., passenger vehicles and long-haul trucks) using Environmental Protection Agency ("EPA") approved modeling software and the traffic volume projections provided in the Traffic Impact Study ("TIS") for Project Bluebird discussed below. In addition to Project Bluebird's mobile sources and other existing and projected traffic considered in the TIS, the Study included the mobile sources from all of the other Facilities, including their estimated onsite mobile emissions. The air quality dispersion modeling results were compared to EPA's National Ambient Air Quality Standards ("NAAQS") to determine if there are potential air quality impacts to nearby sensitive receptors (i.e., local residential areas and schools).

The potential impacts of cumulative mobile source emissions on sensitive receptors focused on areas that would also be affected by Project Bluebird's mobile sources. Specifically, these areas include the Route 6 corridor between the Bluebird site and I-84, areas of public access and residential areas along Route 6. Although there were no identified areas of public access along the roadways of the Study (e.g., sidewalks), modelling receptors were conservatively placed along this corridor. The surrounding area was reviewed for sensitive locations, such as schools, hospitals, and nursing homes, including a medical clinic located on Route 6.

With respect to potential cumulative impacts on air quality from Project Bluebird and existing and projected mobile air emission sources along the Route 6 corridor to I-84, the Study found that projected cumulative emissions associated with mobile sources in 2027 (including the other Facilities and Project Bluebird), added to background concentrations, would not result in an exceedance of the applicable NAAQS at any receptor locations, including at sensitive receptor locations. This includes from mobile sources operating on Project Bluebird's site as well as between Project Bluebird's site and I-84 along the Route 6 corridor.

In addition to the analysis discussed above, the potential for cumulative air quality impacts from mobile sources on ozone was considered. Ozone is a colorless gas composed of three oxygen atoms, known chemically as O<sub>3</sub>. It occurs both in the Earth's upper atmosphere and at ground level. Ground-level ozone is a major component of smog and poses health risks to humans, animals, and vegetation. The formation of ground-level ozone is a photochemical process involving precursor pollutants such as NO<sub>x</sub> and volatile organic compounds ("VOCs").

The Study found that emissions of NO<sub>x</sub> associated with projected mobile sources in 2027, added to background concentrations, would not result in an exceedance of the applicable NAAQS and therefore, projected contributions of NO<sub>x</sub> to the formation of ozone are expected to be minor. Additionally, the Study included consideration of four pollutants which are VOCs. These VOCs are projected to be below the respective regulatory thresholds; therefore, projected contributions of VOCs to the formation of ozone are also expected to be minor.

Based on the foregoing, it is not anticipated that cumulative existing and projected mobile sources (including Project Bluebird) will have any significant adverse impact on Air within the Study area. This includes along the commercial corridor from Project Bluebird's site and along Route 6 to I-84 where receptors were included as part the Study. Onsite, based upon a qualitative assessment, the Study projected that Project Bluebird will likely result in a reduction of air pollutant emissions as compared to the existing mining operations, further minimizing the potential for any air quality impacts associated with Project Bluebird.

For the foregoing reasons, it is not anticipated that Project Bluebird will have any significant adverse impact on Air.

## **7. Impact on Plants and Animals**

**Finding: The Project will not result in any significant adverse environmental impacts on Plants and Animals.**

### ***Prior Negative Declaration for SHCC***

In the SHCC Negative Declaration, the Planning Board did not identify any potential "moderate to large" impacts on Plants and Animals that might occur from SHCC. Specifically, the Board found that SHCC would not have any significant adverse impacts on Plants and Animals on the Project Site as demonstrated by the habitat assessment that had been submitted by Scannell with respect to wetlands and wildlife. Further, the Board found that overall impacts on Plants and Animals on the Project Site would not exceed the impacts of the approved Mining Operations as determined through NYSDEC's prior SEQRA negative declarations. In addition, the Board found that the Service Driveway would "be primarily constructed on lands that that have been extensively disturbed and do not provide any suitable habitat for plants or animals."

According to the SHCC Negative Declaration, the Project Site is predominantly a disturbed, open area providing little habitat for animal species and including Mining Operations, farmland, a residential use and other previously disturbed lands. Relatively mature forest exists within the riparian corridor in the western portion of the Site and within narrow, fragmented patches along the I-84 right-of-way and SHCC's southern boundary along the MNJRR rail line. Otherwise, the Project Site consists of the Mining Operations, a cultivated farm field, early successional brush and woodlands and previously disturbed or developed lands.

### ***Project Bluebird Impacts***

Through its review of the FEAF Part 2 for Project Bluebird, the Planning Board did not identify any potential "moderate to large" impacts on Plants or Animals. Based upon the SHCC Negative Declaration, the Project Liberty Negative Declaration and the Board's review of the

Application, the Project will not have any significant adverse impact on Plants or Animals for the following reasons:

- The Project Site is predominantly a disturbed, open area providing minimal habitat for Plant and Animal species. The Site's potential habitat has been extensively disturbed by Mining Operations, farming, residential and other human activities. The prior habitat assessments done for SHCC and Project Liberty provide extensive, detailed information about the existing lack of suitable habitat on the Project Site for protected or other species.
- Relatively mature forest exists within the riparian corridor in the western portion of the Site and within narrow, fragmented patches along the I-84 right-of-way and SHCC's southern boundary along the MNJRR rail line, which will not be affected by the Project. Otherwise, the Project Site is mined, extensively disturbed, previously farmed or developed.
- Terrestrial habitat in the area is already fragmented by the Mining Operations and Route 6 and I-84 and undisturbed intact habitat is primarily within the forest on the western portion of the Project Site, which may provide habitat for large mammals. This area will not be disturbed by the Project and the large areas of connected forested habitat to the west and north of the Project Site will remain unaffected by the Project.
- The freshwater wetlands on the Site, which will be minimally impacted by the Project, may provide habitat for small mammals such as muskrats and voles and reptiles and amphibians such as eastern painted turtle, spotted turtle, common snapping turtle, pickerel frog, northern leopard frog, and green frog. Terrestrial species, including some of those listed above, may also utilize the freshwater wetlands on the Property for foraging, cover, or travel. Almost all of the wetlands on the Site and the forested wetlands along the riparian corridor to the west of the Project Site will remain intact as potential habitat.
- State and federally protected species identified in the FEAF Part 1 and the USFWS IPaC GIS tool for the Project Site include Indiana Bats, Northern Long-eared Bats, Tri-color Bats, Bald Eagles, Golden Eagles, the Small Whorled Pogonia and the Bog Turtle.
- The three protected bat species all share the same overwintering and summer roosting habitat requirements. No overwintering habitat for protected bat species has been identified on the Project Site and minimal potential summer roosting habitat for bats was identified on the Project Site that would be impacted by tree clearing for SHCC and Project Liberty. Since Project Bluebird will not involve any additional tree clearing of potential bat habitat than those projects based on Bluebird's site plans, no different or additional impacts to potential bat habitat on the Project Site will occur. This includes the Substation Site, which is primarily an open property with few trees developed for a residential use.
- Any potential impacts to bats that may use the Project Site for summer roosting will be avoided by limiting any tree cutting to winter months from November 1<sup>st</sup> through March 31<sup>st</sup>. Substantial additional areas of potential bats habitat are found in the riparian corridor to west of the Project Site and in the extensive, forested area to the north of I-84 from the Project Site.
- For Bald Eagles, the FEAF Part 1 indicates that there is potential habitat in the area where the Project Site is located, however, NYSDEC did not indicate any concern about potential impacts to this species in its February 21, 2025 response to the Planning Board's SEQRA Lead Agency Notice for the Project, focusing instead only on protected bats. This is consistent with past NYSDEC communications concerning the Project Site, as there is

minimal potential Bald Eagle habitat on the Project Site and historically no nests within ½ of a mile of the Site. Overall, it is unlikely that the Project Site would provide suitable habitat for Bald Eagles. According to NYSDEC (<https://dec.ny.gov/nature/animals-fish-plants/bald-eagle>), "Eagles prefer undisturbed areas near large lakes and reservoirs, marshes and swamps, or stretches along rivers where they can find open water and their primary food, fish. Historically, bald eagles nested in forests along the shorelines of oceans, lakes or rivers...."

- Similarly, Golden Eagles typically prefer cliffs and large trees with large horizontal branches and for roosting and perching. They are not typically found in areas with human activity or disturbance. Because of the substantially disturbed nature of the Project Site, it is not reasonably anticipated that suitable habitat is present or that Golden Eagles will be found there.
- The Small Whorled Pogonia is an extremely rare plant that is typically found in forests, which will not be affected by the undertaking of the Project. The primarily disturbed or used lands of the Project Site where the Project will be built does not provide suitable habitat for the Small Whorled Pogonia.
- The Bog Turtle is a semi-aquatic turtle that prefers open-canopy, shallow-water wetlands with soft soils, perennial groundwater discharges and low-growing vegetation. The wetlands on the Project Site associated with the relatively mature forest within the riparian corridor in the western portion of the Site are not suitable habitat for Bog Turtles and no members of this species have been observed on the Project Site. In addition, wetland impacts associated with Project Bluebird will be minimal, so it is not anticipated that project will result in any impacts to Bog Turtles.
- Monarch Butterflies are proposed for federal protection. The FEAF Part 1 for the Project indicates that potential preferred habitat for Monarch Butterflies (i.e., Meadows, grasslands or brushlands) will increase by approximately 25.75 acres as a result of the undertaking of the Project, minimizing the potential for impacts to this species. Also, other open field areas in the vicinity of the Project Site will continue to provide potential habitat for this species.
- General wildlife species are not anticipated to be significantly impacted by the Project as wildlife occurrences and habitation within the Project Site is expected to be very limited due to the existing uses and disturbed nature of the Site. Further habitat in the area is already fragmented by the Mining Operations and the surrounding highways. Some wildlife should be able to disperse to and use other nearby habitats, particularly to west and including across McBride Road. The forested riparian corridor to the west will remain and contains habitat for terrestrial, semi-aquatic and aquatic wildlife and provides connectivity to other habitats on and offsite, including to the west across McBride Road.
- Almost all of the lands where Project Bluebird will be built have been mined, disturbed or developed and only the same limited areas of cutting of potential protected bat habitat on the Project Site as SHCC will occur. Finally, Project Bluebird will include all of the measures for Plants and Animals proposed to support the SHCC Negative Declaration.
- Finally, no pesticides will be used on the Project Site and any indirect impacts from Project Bluebird on Plants and Animals due to lighting or noise will be minimized by measures for avoiding or minimizing such potential impacts as discussed below.

### ***Potential Cumulative Impacts***

With respect to the potential for cumulative impacts on Plants and Animals, none of the other Facilities require evaluation except for Project Liberty because of its proximity to the Building Site. The other Facilities are too far away geographically and/or separated from the Project Site by I-84 or Route 6 to be relevant in terms of potential cumulative impacts on Plants and Animals.

In the Liberty Negative Declaration, the Planning Board found that Project Liberty would not have any significant adverse impacts on Plants and Animals after its review of a habitat assessment that was provided by the applicant. The Board concluded that:

“Overall, because of the lack of forested areas or wetlands and the heavily disturbed nature of the lands comprising the Project Site, any suitable habitat for protected species on the Project Site is extremely limited and will not be affected by the Project.”

The lands on which Project Bluebird and Project Liberty will be constructed lie between I-84 and Route 6 and have been mined and/or otherwise significantly disturbed. The habitat assessments done for the two projects demonstrate the lack of any valuable habitat on either site and that habitat is already fragmented by the existing land uses and the surrounding highways. Moreover, both projects are located across Route 6 from another substantial mining operation and to the west of a commercial corridor along that highway. In this developed context, there is no potential for any “relevant and significant” cumulative impacts on Plants and Animals from Project Bluebird in connection with Project Liberty.

Based on the foregoing, Project Bluebird will not have any significant adverse impacts on Plants and Animals.

### **8. Impact on Agricultural Resources**

**Finding: The Project will not result in any significant adverse environmental impacts on Agricultural Resources.**

#### ***Prior Negative Declaration for SHCC***

In the Negative Declaration issued for SHCC, the Planning Board did not identify any potential “moderate to large impacts” on Agricultural Resources that might occur from that project. Specifically, the Planning Board found that SHCC would not cause significant adverse impacts to agricultural resources due to the Mining Operations.

The Board further found that while the reclamation plan for the Mining Operations contemplated that the mined lands could eventually be returned to possible agricultural use, it was acknowledged even in 2009 that the property might be more suitable for “large-scale development” consistent with the Town’s Zoning Law. The Board found that SHCC would be consistent with this prior SEQRA assessment of the potential conversion of the mined lands and with the Town’s commercial/industrial zoning that contemplates such development on the Project Site.

Additionally, the Board determined that the impacts of SHCC were less critical due to the location of the project next to I-84 in a commercial/industrial zoning district designated by the Town for precisely the use proposed by Scannell. The Board confirmed that the Town’s zoning

map reflects the community's priority of protecting agricultural land in the Town outside the commercial/industrial zoning district through land use controls, noting that: (1) most of the land in the Town (over 65% based on the 2018 Town of Wawayanda Comprehensive Plan) is zoned to encourage agricultural uses and the use of almost all of this land in the Town is limited by this zoning; and that (2) by contrast, lands in the MC-1 zoning district only comprise 10.3% of the Town's lands according to the Comprehensive Plan. The Planning Board concluded that SHCC would support this Townwide planning strategy.

### ***Project Bluebird Impacts***

Because development of Project Bluebird will be generally coextensive with the development of SHCC, no new or additional impacts on Agricultural Resources will occur. Based upon its review of the FEAF Part 1, however, the Planning Board did identify the following potential "moderate to large impact" from Project Bluebird on Agricultural Resources:

*The proposed action may irreversibly convert more than 2.5 acres of agricultural land to non-agricultural uses.*

The Project Site is located in Orange County Agricultural District #1 and limited farming on lands that are not being mined, disturbed or otherwise used is currently occurring on the Building Site and the Service Driveway Site. This minimal farming activity will continue on the Site until construction of the Project occurs. In addition, farming on the adjoining 4.3± acre parcel (SBL #15-1-63.212) that is adjacent to the Project Site is ongoing and will not be affected by the Project. While Project Bluebird will result in the permanent conversion of 19.2 acres of agricultural land on the Project Site as a result of development of the Project, for the reasons discussed above from the SHCC Negative Declaration, this loss will not result in any significant adverse impact on Agricultural Resources. Finally, development of the Substation on the Substation Site, which is already developed for a residential use (not farming), will not have any adverse impact on Agricultural Resources.

### ***Potential Cumulative Impacts***

With respect to the potential for any "relevant or significant" cumulative impacts from Project Bluebird in association with other Facilities, this potential has been previously reviewed repeatedly by the Planning Board in its SEQRA review of all of those projects, including SHCC and Project Liberty. No potential "relevant or significant" cumulative impacts to Agricultural Resources have been identified in any of those reviews. For Project Liberty, in particular, which the Planning Board reviewed a full year after SHCC, the Board concluded in the Liberty Negative Declaration that Project Liberty would "not cause any significant adverse impacts to agricultural resources."

For the foregoing reasons, Project Bluebird will not have any significant adverse impacts on Agricultural Resources.

## 9. Impact on Aesthetic Resources

**Finding: The Project will not result in any significant adverse environmental impacts on Aesthetic Resources.**

### *Prior SEQRA Negative Declaration for SHCC*

In the SHCC Negative Declaration, the Planning Board identified the following potential “moderate to large” impacts to Aesthetic Resources from SHCC:

1. *The proposed action may be visible from publicly accessible vantage points both seasonally (e.g., screened by summer foliage, but visible during other seasons) and year-round; and*
2. *Visibility involving the public may occur during routine travel by residents, including to and from work and during recreational or tourism-based activities.*

The Planning Board found in the SHCC Negative Declaration that these potential “moderate to large” impacts from SHCC would not result in any significant adverse impact on Aesthetic Resources. The Planning Board found that SHCC would represent an improvement as compared to the existing visual impacts of the Mining Operations, which were previously determined through SEQRA review by NYSDEC and the Planning Board to not be a significant adverse environmental impact. In addition, the Board found that since SHCC is located on lands zoned by the Town for industrial/commercial uses that normally involve more visible development, the overall limited visibility of SHCC, minimized as proposed by distance, topography, sound walls, vegetation and architectural design, is reasonable and would not result in any significant adverse environmental impacts on Aesthetic Resources.

### *Project Bluebird Impacts*

The Planning Board has not identified any potential “moderate to large” impacts on Aesthetic Resources through its review of the FEAF Part 2 for Project Bluebird. For Project Bluebird, these impacts include the increase in height of the Project’s warehouse, which requires a height variance from the ZBA, as compared to the height of SHCC which complied with the Zoning Law. Consistent with SHCC, however, based upon the SHCC Negative Declaration and review of the Application, including the visual impact assessment information provided in support of the Application, Project Bluebird will not result in any significant adverse impact on Aesthetic Resources for the following reasons:

- The Project is an allowed use under the Zoning Law that will be located in a growing commercial/industrial zoning district in the Town, where some visibility of proposed uses similar to the Project is to be reasonably expected and is permitted by the Zoning Law.
- Based on the FEAF Part 1 and the SEQRA Comparison Chart submitted by Scannell in support of the Application, Project Bluebird will be taller but will provide greater setbacks from surrounding roads and residential uses than SHCC. The building will be 99.8’ feet farther from McBride Road than SHCC, 63.3’ farther away from I-84 and a combined 153’ farther away from the side yard boundaries of the Site.
- Even though taller, the floor elevation of Bluebird’s building will be 30-40’ below I-84, reducing its potential visual impact. Additionally, the dimensions of Project Bluebird’s building will be substantially smaller than that of SHCC: the dimension of SHCC’s

building facing I-84 and Route 6 would be 1460', while Project Bluebird's comparable dimension will be 1041.7'. Similarly, the dimension of SHCC's building facing west and towards the Project Liberty site to the east would be 620', as compared to the same faces of Project Bluebird's which will be 558'.

- Overall, the Project Site is uniquely situated adjacent to the wooded I-84 right-of-way and the Building Site's layout is purposefully oriented to be as far away as possible from a small number of residential uses to the west (on McBride Road) and south (on Route 6) identified in the Application as being within 500 feet of the Project Site. Existing trees and other vegetation on the Project Site and adjacent properties (including MNJRR), proposed landscaping on the McBride Road side of the Site and along Route 6 that exceeds that proposed for SHCC, together with distance and topography, combine to reduce potential views of the Project Site from these few offsite residential locations.
- Consistent with SHCC and based upon the viewshed analysis and visual simulations provided by Scannell, the Project will have only "no to small" visual impacts on any officially designated federal, state, or local scenic or aesthetic resources nearby, including any officially designated scenic views. This includes the Town of Wawayanda's "Ridgeline Preservation Areas" Critical Environmental Area.
- The visual impact assessment information submitted in support of the Application includes a viewshed analysis that identifies areas within 2 miles of the Project Site where Project Bluebird has the potential to be visible. For the Planning Board's assessment of potential visual impacts, Scannell provided visual simulations of Project Bluebird from public vantage points where the Project may be potentially visible. This was in addition to simulations from vantage points along Route 6, I-84 and McBride Road closer to the Site that were previously selected by the Planning Board for SHCC (and duplicated for Project Bluebird) as well as additional vantage points along those roads. The simulations include existing trees and other vegetation and also include the landscaping (at planting, 5 and 10 years) along Route 6 that will be undertaken to limit views of the Substation and to limit views of the Project's building from McBride Road. The viewshed analysis and all of these simulations sufficiently demonstrate that any potential visibility of the 103.5' tall building will not result in a significant adverse impact due to distance, topography and intervening vegetation. The accuracy of the computer-generated visual simulations provided by Scannell was confirmed through a balloon study performed by Scannell on May 27, 2025, which demonstrated that the height of the building reflected in the simulations is accurate for purposes of evaluating the building's potential visual impacts. The balloon study also showed that there would be some partial, filtered views of the building from relatively distant off-site locations, and would be more visible during leaf-off conditions, including from higher elevations along Ridgebury Hill Road and Ridgebury Road. Surrounding roads at similar elevations (namely Seward Road, Heselton Drive and Creedon Hill Road) may have interspersed locations with similar, partial visibility of the building where vegetation along the roads does not block such views especially during off-leaf conditions. As expected, the balloons were also visible from Route 6 near Gonzalez Drive and from McBride Road (where landscaping will eventually be planted to substantially screen the building). Due to vegetation and topography, any partial, periodic views of the Project's building from various locations along these roads by the traveling public will be limited and short in duration, mostly backdropped by surrounding treelines and hillsides. Screening shall be finalized during site plan review.

- To further minimize aesthetic impacts, a building design will be used for Project Bluebird that is more representative of a high-tech R&D production facility than a warehouse, with projecting first-floor glass entry elements at the office area, attractive paint schemes to add depth and character, varied roof lines on the amended Project's elevations, decorative aluminum composite material that will highlight the primary and secondary office entries, horizontal reveals to add dimension to the building's façade, and decorative parapets that include glass clerestory windows on the north and south elevations. This design and diverse paint scheme will make the building more visually appealing when viewed from off-site locations. Building color options have been submitted by Scannell, including but not limited to color renderings shown in a visual simulation presented at the May 14, 2025 Planning Board meeting (Slide 11). The Planning Board, based on consideration of the various visual simulations determines that the building will not result in any significant adverse visual impacts.
- Project Bluebird will eliminate the existing visual impacts of the mining pit, which were previously determined through SEQRA review by NYSDEC and the Planning Board to not be a significant adverse environmental impact.
- As demonstrated by the visual simulations, it is not expected that the Substation will result in any significant adverse visual impacts due to existing vegetation and proposed landscaping along Route 6. Any views of the Substation will be minimized for this allowed use in the MC-1 zoning district, and fleeting for travelers along Route 6, where such views are reasonably expected and consistent with the existing character of the Route 6 corridor in this area.
- Overall, Project Bluebird's building, while taller than SHCC's warehouse building, will not have a significant adverse impact given its location, layout and design consistent with the SHCC Negative Declaration.

### ***Potential Cumulative Impacts***

With respect to the potential for any "relevant or significant" cumulative impacts on Aesthetic Resources from Project Bluebird in association with other Facilities, the Planning Board has considered potential impacts on Aesthetic Resources in its SEQRA review of all of those projects and has consistently concluded that no significant adverse impacts would occur. In making these determinations, the Planning Board has appropriately affirmed that, in the commercial/industrial MC-1 zoning district (particularly along I-84 and Route 6), some visibility of proposed uses similar to the Project is to be reasonably expected and permitted by the Zoning Law. The consistency of this perspective is also grounded in the existing and approved commercial/industrial character of this corridor.

This SEQRA review has necessarily included the Board's consideration of whether there is a potential for any "relevant or significant" cumulative impacts from any other related actions on Aesthetic Resources. None of the other Facilities are related to Project Bluebird and, except for Project Liberty, all of the other projects are too far away from the Project Site to have any potential for any relevant cumulative impacts on Aesthetic Resources. In any case, the SEQRA negative declarations issued for all of the Facilities, including the SHCC Negative Declaration and the Liberty Negative Declaration, found that there would be no significant adverse impact from the projects on Aesthetic Resources after considering the criteria for determining whether any

significant adverse impacts would occur, including the potential for significant cumulative impacts. See 6 NYCRR § 617.7(c)(1)(xii).

For Project Liberty, this SEQRA determination occurred after the Planning Board's SEQRA negative declaration for SHCC. No potentially significant cumulative impacts on Aesthetic Resources were identified with respect to the two projects through the SEQRA review of Project Liberty. Here, the Visual Simulations for Project Bluebird demonstrate that the visual impacts of the Project and SHCC will be substantially the same even though the Project Bluebird building is taller. Since Project Bluebird's impacts on Aesthetic Resources have been evaluated and the Planning Board has determined there will not be a significant adverse impact, no new or additional potentially significant cumulative impacts will occur for the reasons expressed in the prior SEQRA negative declarations for SHCC and Project Liberty.

For the foregoing reasons, Project Bluebird will not have any significant adverse impacts on Aesthetic Resources.

#### **10. Impact on Historic and Archaeological Resources**

**Finding: The Project will not result in any significant adverse environmental impacts on Historic and Archaeological Resources.**

##### ***Prior Negative Declaration for SHCC***

The Planning Board did not identify any potential "moderate to large" impacts on Historic and Archeological Resources that would result from SHCC. In the SHCC Negative Declaration, the Planning Board found that SHCC would not impair the character or quality of any important historical and/or archaeological resources. No significant archaeological resources were identified on the Building Site during the original review of the Mining Operations and New York State's Historic Preservation Office ("SHPO") has determined that there would be no adverse effects on historic or archaeological resources on the Building Site. In 2007, over 1000 test pits were undertaken on the Building Site and no indication of historic or archaeological resources were found. Further, due to distance, topography and intervening vegetation and as confirmed by the visual simulations provided for the Project, a residential property at 106 McBride Road that has been determined by SHPO to be potentially eligible for listing on the State Register of Historic Places will not be significantly affected by the Project. In addition, the Planning Board found that given the limited disturbance that would occur on and the extensive prior disturbance of the parcel on which the Service Driveway would be constructed, no significant impacts to cultural resources are expected from the construction of the Service Driveway or installation of utilities or stormwater control measures on that parcel as part of SHCC.

##### ***Project Bluebird Impacts***

Through its review of the FEAF Part 2 for Project Bluebird, the Planning Board has not identified any potential "moderate to large" impacts on Historic and Archeological Resources. Because development of Project Bluebird will be coextensive with the development of SHCC, no new or additional impacts on Historic and Archeological Resources will occur. Moreover, by letter of December 3, 2024, SHPO determined that the development of the Substation on Lot 34.12, including the demolition of the existing buildings on the Substation Site, would not impact any Historic and Archaeological Resources listed in or eligible for listing in the New York State and

National Registers of Historic Places. Based upon the SHCC Negative Declaration and review of the Application, Project Bluebird will not have any significant adverse impact on Historic and Archaeological Resources as reflected in SHPO's March 2, 2023 determination that the lands including the Service Driveway Site would not impact any Historic and Archeological Resources listed in or eligible for listing in the New York State and National Registers of Historic Places.

### ***Potential Cumulative Impacts***

With respect to the potential for cumulative impacts on Historic and Archaeological Resources, none of the Facilities require evaluation except for Project Liberty. The other Facilities are too far away geographically from the Project Site to be relevant in terms of potential cumulative impacts on Historic and Archaeological Resources. With respect to Project Liberty, the Liberty Negative Declaration and SHCC Negative Declaration and supporting information demonstrate conclusively that there is no potential for any significant cumulative impacts on Historic and Archeological Resources involving these extensively mined and/or disturbed lands, as confirmed by the SHPO "no effect" determinations provided for both projects. This included a determination by Scannell's consultant, which SHPO affirmed in its "no effect" determination, that Project Liberty would have no effect on the potentially historic buildings on the parcels to the east of the Service Driveway Site. This determination is also relevant to Project Bluebird, since the Building Site is even further away to the west from these buildings.

Based on the foregoing, Project Bluebird will not result in any significant adverse impacts on Historic and Archaeological Resources.

### **11. Impact on Open Space and Recreation**

**Finding: The Project will not result in any significant adverse environmental impacts on Open Space and Recreation.**

No potential "moderate to large impacts" from Project Bluebird on Open Space and Recreation have been identified through the Planning Board's review of the FEAF Part 2 for the project. Consistent with the SHCC Negative Declaration, Project Bluebird will not result in any loss of recreational opportunities, or any reduction of an open space resource designated in a governmental open space plan. The Project Site is located in a zoning district intended for commercial/industrial development such as the Project. The Project Site is privately owned and is not used for public recreation. The Site contains an active mine and has been subject to extensive Mining Operations. Accordingly, Project Bluebird will not have any significant adverse impact on Open Space and Recreation and there is no potential for any cumulative impacts to such resources.

Based on the foregoing, Project Bluebird will not have any significant adverse impact on open space and recreational resources.

### **12. Impact on Critical Environmental Areas**

**Finding: The Project will not result in any significant adverse environmental impacts on Critical Environmental Areas.**

No potential "moderate to large impacts" from Project Bluebird on Critical Environmental Areas have been identified through the Planning Board's review of the FEAF Part 2 for the project.

Consistent with the SHCC Negative Declaration, Project Bluebird will not have any significant adverse impacts on any critical environmental areas ("CEAs") listed by NYSDEC because the Project Site does not contain any CEAs and will have little to no impact on a nearby CEA. According to the NYSDE listing, the CEA was designated to protect ridgelines from erosion.

A portion of the construction of the water and sewer mains for the Project will occur in the Town of Wawayanda's "Ridgeline Preservation Areas" CEA. The CEA includes lands along the Matrix warehouse driveway near the intersection with Route 6 and potentially for a short distance north along Route 6. Any construction impacts on the CEA will be minimal, however, and will not affect any ridge lines as the installation of the mains will only involve temporary disturbance to land adjacent to an existing driveway and Route 6 in previously disturbed areas. The new mains will not be installed in any ridgeline areas for which the CEA was designed to protect from erosion. All mains will be installed underground and will not be visible from the CEA. The new sewer and water mains will affect only a very small area of the CEA. Further, erosion control measures will be undertaken and maintained during construction and all disturbed soils will be stabilized and revegetated.

Moreover, as demonstrated by the viewshed analysis and visual simulations provided by Scannell, there will be only "no to small" potential visual impacts from Project Bluebird on the CEA. Accordingly, Project Bluebird will not have any significant adverse impacts on the Town's CEA.

### **13. Impact on Transportation**

**Finding: The Project will not result in any significant adverse environmental impacts on Transportation.**

#### ***Prior Negative Declaration for SHCC***

Through its review of the FEAF Part 2 for SHCC, the Board identified the following potential "moderate to large" impact to Transportation:

- 1. Projected traffic increase may exceed capacity of existing road network;*
- 2. The proposed action will degrade existing transit access;*
- 3. The proposed action may alter the present pattern of movement of people or goods; and*
- 4. Other impacts: Route 6; Intersection of NYS Route 17M ("Route 17M") and I-84; Intersection of Route 6 and NYS Route 284 ("Route 284").*

In the SHCC Negative Declaration, the Planning Board determined that SHCC would not cause any significant adverse impacts involving Transportation. The Planning Board specifically found that traffic generated by SHCC would not exceed the capacity of the roadway network and studied intersections based on the traffic improvement measures proposed for that project, concluding that affected intersections would all operate at overall acceptable levels of service with the implementation of those measures. Based on Planning Board comments, the Service Driveway was proposed by Scannell to further minimize traffic impacts from the project to Route 6 and other local roads.

### ***Project Bluebird Impacts***

The Planning Board identified the following potential “moderate to large” impacts from Project Bluebird on Transportation through its review of the FEAF Part 2:

- 1. Projected traffic increase may exceed capacity of existing road network;*
- 2. The proposed action may result in the construction of paved parking area for 500 or*
- 3. more vehicles;*
- 4. The proposed action may alter the present pattern of movement of people or goods; and*
- 5. The project will generate substantial traffic during construction.*

Based upon the SHCC Negative Declaration and review of the Application, the Planning Board finds that Project Bluebird will not have any significant adverse impact on Transportation.

In support of the amended Application for Project Bluebird, Scannell commissioned a comprehensive, updated Traffic Impact Study (“Bluebird TIS”) to analyze the potential cumulative impacts of Project Bluebird’s traffic on the transportation network which will be impacted. Overall, the Bluebird TIS found that Project Bluebird is anticipated to generate substantially less truck and passenger vehicle traffic than SHCC during peak morning and evening hours on Route 6 and Route 17M. This is due to the user’s shift changes based upon operational requirements, which result in Project Bluebird having different peak hours for traffic than SHCC. To minimize any traffic impacts, Project Bluebird includes the traffic improvements discussed below, which go beyond those provided in the SHCC Negative Declaration. The Bluebird TIS found that these proposed improvements will result in the same or reduced potential for impacts on traffic as compared to SHCC.

As explained in the Bluebird TIS, the reduction in the overall trip generation count projected for Project Bluebird as compared to SHCC is due to several factors. First, while Project Bluebird will be a substantially larger facility in terms of square footage (3,232,740 SF), only 1,265,118 SF of that will be space used by employees during multiple shifts, limiting the number of employees and vehicles at the facility at any given time. Further, the majority of the facility’s floor space (1,967,622 SF) will be unoccupied and dedicated to automatic operations. This is compared to the estimated 1,000,000 SF of occupied space that was used by Scannell in conducting the SHCC TIS. By contrast, since a user has been identified for Project Bluebird, actual trip rates based upon staggered employee shift times and operations at other, similar facilities were able to be used instead of Institute of Transportation Engineers trip rates. This provides more accurate trip data and peak hours for purposes of the Bluebird TIS and the Planning Board’s review. Finally, while updated 2024 background traffic counts established that the peak morning and evening traffic hours on local roadways remain consistent with those studied for SHCC in 2022 (7:30 to 8:30 a.m. and 4:30 to 5:30 p.m.), due to the Project Bluebird user’s required timing of shift changes and corresponding loading/unloading operations those hours do not correspond to the peak hours for traffic generated by Project Bluebird, reducing the project’s traffic on local roadways during adjacent street peak hours as identified above.

Consistent with SHCC, almost all (90%) of Project Bluebird’s truck traffic is projected to travel on Route 6 to and from the Route 6 intersection with Route 17M and the I-84 interchange that lies approximately two miles to the east of the Project Site. Project traffic will enter and exit the Site at a new signalized intersection between the Service Driveway and Route 6 located

approximately 500 feet to the west of Seward Road. Travel on this route is through a predominantly commercial/industrial corridor toward I-84.

As noted above, Scannell will undertake traffic improvement measures that will ensure that any potential traffic impacts from Project Bluebird are the same or less than those for SHCC reviewed in the SHCC Negative Declaration, many of which have already been designed by Scannell's traffic consultants and approved by the New York State Department of Transportation ("NYSDOT"). Specifically, the improvement measures that Scannell will undertake and their status according to Scannell is:

- The proposed Service Driveway intersection with Route 6 has been designed and approved by the NYSDOT including a separate eastbound left turn lane, separate westbound right turn lane, separate left and right turn lanes exiting the Service Driveway, and signalization.
- Currently under design, a traffic signal at the Route 6 and County Route 56 intersection is planned and being implemented.
- Signalization of the intersection of Route 6 and Route 284 is warranted based upon NYSDOT standards. NYSDOT will review the analysis and determine whether the signal is to be implemented. A bond will be provided to the Town for the costs of installing the signal, subject to its release 12 months after issuance of a Certificate of Occupancy and full occupancy of the Project in the event NYSDOT does not make a determination before the end of that time period.
- The intersections of Ridgebury Hill Road and McBride Road with Route 6 will continue to be monitored for potential future signalization or construction of a two-way left turn as determined to be warranted by the Town of Wawayanda and subject to approval of the NYSDOT. Separate bonds will be provided to the Town for the costs of implementing these improvement measures, subject to release 12 months after issuance of a Certificate of Occupancy and full occupancy of Project Bluebird if they are not determined to be warranted by NYSDOT by the end of that period.
- At the Route 17M/Route 6 intersection, an additional eastbound left turn lane (double left turn lane) on Route 6 as well as an additional northbound left turn lane (double left turn lane) on Route 17M will be installed. This change will require a new traffic signal to accommodate the additional lanes and signal phasing/timings. This also includes an upgrade to the vehicle detection system by use of a camera(s) (as previously approved and under design).
- To reduce the delays for the I-84 westbound off-ramp to Route 17M northbound under the Existing, No-Build and Build conditions, a second right turn lane on the ramp approach in combination with signalization and coordination has been approved by NYSDOT and is currently under design.

The Applicant will monitor conditions at the Route 6/Route 284 intersection and Ridgebury Hill Road/McBride intersection in accordance with a monitoring plan approved by the Town's traffic engineer which assesses traffic conditions and the need for improvements up to 12 months after full occupancy of the Project.

These traffic measures included in Project Bluebird go further than those proposed for SHCC. Based on the reduced trip generation from Project Bluebird during the peak AM and PM traffic periods as compared to SHCC, together with the implementation of these proposed

improvements, the Bluebird TIS demonstrates that Project Bluebird's traffic will have similar if not less impact on traffic than SHCC as discussed in more detail below.

Scannell is committed to undertaking the traffic improvements described above, as approved by NYSDOT upon approval of the Project and issuance of building permits for the Project's construction, regardless of whether any of the other Facilities are ever constructed.

During construction, it is not anticipated that the Project will result in any significant adverse impacts on Traffic for the following reasons:

- Normal construction work hours starting at 7:00 a.m. will limit Project impacts during the morning peak hour on local roadways, as most incoming traffic (including workers) will arrive well before the 7:30 – 8:30 a.m. peak hour on those roads. Similarly, most construction traffic is expected to leave the Site outside the 4:30 p.m. to 5:30 p.m. peak hour with construction ending at 7 p.m. Further, according to Scannell, it is not anticipated that more 200 construction workers at any one time will be needed on the Site, further limiting potential traffic impacts during construction. Scannell will undertake affirmative construction schedule management measures to limit travel and impacts on school bus traffic associated with construction traffic during the peak hours on local roadways.
- All deliveries will be coordinated and sequenced to ensure there are no traffic impacts to local roads and delivery staging areas will be provided as well.
- As reflected in the updated Geotechnical Report provided by Scannell, because the Project Site involves an existing mine that has already been extensively disturbed through excavation and includes large stockpiles of fill material, it is not anticipated that significant amounts of natural materials will need to be imported into or exported from the Project Site order to achieve required elevations. Nevertheless, Scannell's construction management schedule will ensure that truck traffic arriving or leaving the Site during peak traffic hours will be minimized to the maximum extent possible.
- Finally, as discussed in relation to Impact on Noise below, Scannell will avoid the need for arriving and departing concrete trucks on the Project Site by having a mobile concrete batch plant on the Site to provide for the efficient pouring of concrete for the building's foundation, thereby substantially limiting the Project's impact on Traffic during construction.

For the foregoing reasons, Project Bluebird would not have any significant adverse impact on Transportation.

### ***Potential Cumulative Impacts***

The Bluebird TIS provides a comprehensive analysis of the potential cumulative impacts on the future capacity of ten intersections<sup>4</sup> (the "Studied Intersections") along the Route 6 corridor to handle projected traffic from Project Bluebird and the Facilities identified in this Negative Declaration reviewed by the Planning Board. Using 2024 traffic data, the Bluebird TIS provides a cumulative analysis (the "2027 Build Condition") of projected traffic volumes that includes the

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<sup>4</sup> The Studied Intersections include: Route 6 and Route 284, Route 6 and Ridgebury Hill Road, Route 6 and McBride Road, Route 6 and former Hoops Road, Route 6 and Creedon Hill Road, Route 6 and C.R. 56, Route 17M and Route 6, Route 17M and I-84 On/Off Ramps, Route 6 and Project Bluebird's Service Driveway and Route 6 and Seward Road.

combined projected traffic from all of these projects and Project Bluebird (replacing SHCC), together with anticipated additional background growth of traffic between 2024 and 2027.

In addition to the traffic volumes for the 2027 Build Condition, the TIS provides the 2024 Existing Traffic Volumes. It also provides the projected traffic volumes for a 2027 No-Build Condition, which includes all of the traffic noted above (including SHCC) and other known potential development in the Town, together with anticipated additional background growth of traffic between 2024 and 2027 but excludes the projected traffic from Project Bluebird. Both the 2027 Build Condition and the 2027 No-Build Condition assume that all of the other Facilities are built. This provides the basis for an extremely conservative cumulative analysis of the potential impacts of traffic on the levels of service (“LOS”) capacity of the Studied Intersections if Project Bluebird, instead of previously approved SHCC, is built. This analysis includes consideration of the LOS that would be provided at these intersections if the proposed traffic improvement measures discussed above are implemented, which they would be as part of the undertaking of Project Bluebird whether or not any other Facilities are ever built.

The results of this cumulative impacts analysis are discussed on pages 8-14 of the Bluebird TIS and shown in more detail on Table 2 of the Bluebird TIS. They demonstrate that Project Bluebird, which includes the proposed traffic improvement measures described above, would have the same or less impact on the LOS at the Studied Intersections under a 2027 Build Condition as compared to a 2027 No-Build Condition that includes SHCC. Specifically, as noted above, with the implementation of the proposed traffic improvement measures as part of Project Bluebird, overall acceptable levels of service will occur at all of the Studied Intersections during the peak morning and evening traffic hours under the 2027 Build Condition. Accordingly, based on the Bluebird TIS, Project Bluebird will not result in any significant adverse cumulative impacts on Transportation under the 2027 Build Condition and will result in similar or less impacts than the 2027 No-Build Condition which includes SHCC instead of Project Bluebird.

For the foregoing reasons, Project Bluebird’s potential Transportation impacts are consistent with or less than those of SHCC considered in the Planning Board’s SHCC Negative Declaration and Project Bluebird will not result in any significant adverse impacts, including any cumulative impacts, on Transportation.

#### **14. Impact on Energy**

**Finding: The Project will not result in any significant adverse environmental impacts on Energy.**

Potential “moderate to large impacts” from Project Bluebird on Energy have been identified through the Planning Board’s review of the FEAF Part 2 for the Project, based upon the amount of electricity the project will require for its operations, including robotics, and the area of heating/cooling space the Project involves. However, the Planning Board concludes that these potential impacts will not result in any significant impact requiring an environmental impact statement because O&R has indicated in a “will-serve” letter to Scannell that it will supply the Project’s electricity demands. While a new Substation will eventually be required for the Project, temporary power will be provided to the Project by O&R in the meantime.

Further, there is no potential for significant cumulative impacts to energy from Project Bluebird in association with the other proposed and/or approved industrial projects considered by

the Planning Board, assuming that they are all built, as reflected in the SEQRA Negative Declarations for all of those projects.

Accordingly, no significant adverse impact on Energy will occur from Project Bluebird.

#### **15. Impact on Noise, Odor and Light**

**Finding: The Project will not result in any significant adverse environmental impacts on Noise, Odor and Light.**

#### ***Prior Negative Declaration for SHCC***

In the SHCC Negative Declaration, the Planning Board determined that SHCC would not cause any significant adverse impacts involving Noise, Odor or Light due to its location between I-84 and Route 6, which are the dominant existing sources of noise in the area, and the design and layout of the project. Through its review of the FEAF Part 2 for SHCC, the Board had identified only the following potential “moderate to large” impact to Noise, Odor and Light that might result from that project:

*The proposed action may result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center, or nursing home.*

The Planning Board determined in the SHCC Negative Declaration that there would not be any significant adverse impacts from SHCC on Noise, Odor and Light associated with this potential “moderate to large” impact, or for any other potential Noise, Odor or Light impacts from that project.

#### ***Project Bluebird Impacts***

The Planning Board identified the following potential “moderate to large impacts” from Project Bluebird on Noise, Odor & Light through the review of the FEAF Part 2 for the Project:

- 1. The proposed action may produce sound above noise levels established by local regulation;*
- 2. The proposed action may result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center, or nursing home; and*
- 3. The construction may result in increased noise levels.*

No significant adverse impacts attributable to noise from the Project will occur based on Scannell’s and the Planning Board’s studies demonstrating the Project’s compliance with NYSDEC’s policy guidance on “Assessing and Mitigating Noise Impacts” (“NYSDEC’s Noise Guidelines”). NYSDEC’s Noise Guidelines are particularly relevant for purposes of SEQRA review because they are based upon the actual potential noise impacts of Project Bluebird on nearby residences around the Project Site. Based upon these studies and the Application, Project Bluebird will not result in any significant adverse impacts to Noise, Odor or Light, which are consistent with those of SHCC that were evaluated by the Planning Board in the SHCC Negative Declaration.

As noted in Impact on Land above, construction of Project Bluebird is proposed to occur over a period of 18-24 months and Scannell estimates that the most intense period of exterior

construction involving Noise impacts will occur during the first 12 months after the commencement of construction pursuant to a Town building permit. All construction work for the Project will be limited to Monday to Saturday from 7 a.m. – 7 p.m. and any holidays on days between Monday and Saturday except New Year's, Memorial Day, July 4th, Labor Day, Thanksgiving and Christmas.

Blasting for construction of the Project will involve temporary Noise impacts consistent with the existing Mining Operations. During construction, like SHCC, controlled blasting will occur during the initial phases of Project Bluebird's construction in order to establish necessary elevation grades for the building and other improvements. This blasting will be very limited in duration during the first several months of construction. As discussed in Impact on Land above, all blasting during construction will be performed pursuant to a program developed by a qualified geotechnical engineer to minimize impacts, including noise. Proposed measures to reduce potential noise from blasting include only conducting blasting activities during weekday working hours from 7:00 a.m. to 5:00 p.m. and not blasting when weather conditions, including wind direction, are unfavorable for avoiding noise impacts.

Overall, other construction activities for Project Bluebird are reasonably expected to result in Noise impacts that are substantially consistent with those of the existing Mining Operations described above. During construction, Noise will occur due to the use of machinery and other construction equipment for the following activities: removal of existing vegetation; earthwork and excavation; paving and construction of driveways; and building erection and fit-out. The types of construction equipment generally used for these types of activities would include bulldozers, compressors, front-end loaders, dump trucks and pavers.

Continuous concrete pours will occur during normal construction hours for the slab on metal deck that will provide the base and ensure the integrity of the building's construction. To minimize Noise impacts related to this construction work, Scannell will employ a mobile concrete batch plant that will be placed on the Site which will operate during daytime work hours. This will minimize concrete truck traffic entering and leaving the Site and make the pouring activities more efficient. The batch plant will be placed as far away from the western and southern boundaries of the Project Site as possible to maximize distance and the resulting attenuation of sound at those Site boundaries. To further reduce potential noise impacts from batch plant operations to residences to the west and south, shipping containers will be stacked around the plant to contain sound. To reduce noise to the north, the retaining wall or temporary slope along the I-84 right-of-way will have been constructed prior to any slab pours. Additionally, all concrete delivery trucks entering the Site will be equipped with fully operational mufflers and white-noise backup alarms to replace traditional beeping systems.

Once Project Site grading has been finalized and the building has been erected, construction noise levels will be substantially reduced. All of the expected 6 months of finishing work, which will occur indoors, will be contained and involve only minimal Noise impacts. External work from then on will be mostly related to final paving and landscaping. The Project's proposed retaining walls and sound walls will be installed as early as possible during construction to further reduce potential Noise impacts.

Generally, to reduce potential Noise impacts from construction of the Project, Scannell will implement noise reduction measures recommended by NYSDEC's Noise Guidelines, including:

- Replacing, where possible, back-up beepers on any “on-site” machinery with white-noise backup alarms and/or strobe lights to eliminate impulse beeping;
- Ensuring the appropriate use of fully-functioning mufflers to reduce frequency of sound on machinery that pulses, such as diesel engines and compressed air machinery;
- Periodically inspecting all equipment used on-site to ensure that properly functioning muffler systems are used on all equipment;
- Ensuring that trucks and equipment comply with NYSDEC idling limits and that no unnecessary idling occurs;
- Modifying machinery to reduce noise by using plastic liners, flexible noise control covers, and dampening plates and pads on any large sheet metal surfaces;
- Ensuring equipment is regularly maintained;
- Completing the grading and landscaping along the northern, southern and western portions of the Site as early as possible during construction phasing so that the retaining wall and sound walls can be constructed or so that temporary stockpiles of raw material can be used to provide sound barriers during ongoing construction; and
- Staging all vehicles and equipment in locations during construction where noise and light will not impact nearby residents and will comply with Town noise standards, including during the start-up and warming of equipment.

Additionally, during construction, the Project will implement all of the Noise reduction measures recommended in the Project’s Sound Study, including limiting “the amount of equipment operating near one receptor at a given time,” avoiding “exposing any one receptor to high sound levels for an extended period,” placing “stationary equipment such as generators, compressors, and office trailers away from receptors,” and avoiding “having construction parking or laydown areas nearby receptors.”

Finally, as discussed below, Scannell will undertake a Noise monitoring program, after its approval by the Town’s noise consultant, to ensure compliance with the Town’s noise limits during operations.

To evaluate potential onsite Noise impacts from Project Bluebird’s proposed operations, Scannell conducted an updated sound study (the “Bluebird Sound Study”) that includes prior sound analyses done for Project Liberty and SHCC and demonstrated the consistency of Project Bluebird with the SHCC Negative Declaration with respect to potential Noise impacts. Discussed further below, the Planning Board’s own consultant provided a separate analysis of potential Noise impacts from Project Bluebird. As noted above, both studies found that the Project will comply with NYSDEC’s Noise Guidelines. Both studies also take into account the newly-adopted noise limits required by the Town of Wawayanda in the Zoning Law, which include limits of 65 dB(A) at the Project Site’s lot lines between 7:00 a.m. and 10:00 p.m. and 50 dB(A) between 10:00 p.m. and 7:00 a.m. and further allows for the Planning Board’s adjustment of these limits for projects under its review in particular circumstances.<sup>5</sup>

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<sup>5</sup> See Zoning Law § 195-23(D). Prior to the adoption of this new law, a variance from the ZBA was required for any proposed non-compliance with the noise standard. The Planning Board’s authority under the new law to adjust noise limits based on the specific circumstances of a project is critical, particularly when an applicant demonstrates that there are no noise impacts to neighbors as compared to existing ambient conditions.

The Bluebird Sound Study demonstrated Project Bluebird's general compliance with the Town's new noise limits for stationary noise sources including HVAC systems, as well as trucks at the docks and in the parking areas on the Project Site. More critically, consistent with NYSDEC's Noise Guidelines and with the SHCC Negative Declaration, the Bluebird Sound Study concluded that noise from all onsite sources, including stationary sources, moving trucks and yard tractors used to move trailers on the Site will not result in any significant adverse effects on the several residential properties closest to the Project Site.

The Project Site is uniquely situated adjacent to I-84 and the Project's building is located more than 1,000 feet from several residential uses to the west (on McBride Road) and from residences to the south (on Route 6). Both sound studies conducted by Scannell for SHCC and for Project Bluebird recognized this distance as a critical factor for reducing potential impacts from the two projects. Also, both sound studies noted that existing ambient sound levels are heavily affected by the constant noise of passing traffic on Route 6 and I-84. As recognized by the Planning Board in the SHCC Negative Declaration:

"The Project Site's location between I-84 and U.S Route 6 results in significant background noise levels from vehicles traveling at high speeds on those highways. These highways are considered to be the dominant source of existing ambient noise for nearby residences (in addition to the mine) near the Project Site on McBride Road, Route 6 and across I-84."

NYSDEC Noise Guidelines compare existing ambient sound levels measured by dB(A) that are experienced by sensitive receptors (including residences) with the potential sound levels that will occur from a project. Increases in noise levels by up to 3 dB(A) are considered to have no to minimal impact, while increases up to 6 dB(A) are deemed to be tolerable. If the project may result in levels that exceed existing ambient levels by more than 6 dB(A), further noise analysis may be needed.

For Project Bluebird, the Study found that based upon the levels of noise from I-84 and Route 6 experienced by nearby residences, noise levels from Project Bluebird should conservatively<sup>6</sup> not exceed 55 dB(A) in order to comply with the DEC noise guidelines and avoid increases of noise levels of more than 6 dB(A). The Study modelled the stationary source sound levels expected from 60 HVAC units with a heating/cooling capacity of 25 tons or greater, along with the expected noise from seven trucks loading/unloading at loading docks simultaneously and fourteen idling trucks. To evaluate the noise from truck movements around the Site, the Study added in the maximum sound levels expected from simultaneous noise from seven trucks and five trailer tractors that were placed around the perimeter of the Site at locations nearest to potential receptors.

The Bluebird Sound Study found that even with the added noise levels from trucks and trailer tractors, which will produce the highest average and intermittent noise levels from the Project, Project Bluebird will comply with the 55 dB(A) sound level and avoid any significant adverse impacts to nearby residences. Average maximum levels of noise including truck activity on the Project Site will result in dB(A) levels in the upper 40's at residential receptors, while even intermittent noise from truck-related activities (e.g., trailer disconnects, back-up beepers, etc.) will

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<sup>6</sup> The prior sound analysis conducted for Project Liberty found that average sound levels along Route 6 and I-84 were between 61 and 69 dB(A).

result in dB(A) levels only in the low 50's at residential receptors, within the goal of 55 dB(A) based upon NYSDEC guidelines that is based upon existing ambient conditions.

As compared to SHCC, Project Bluebird's Study found that the Project will have even less potential noise impact on residential properties to the north of I-84 due to the elimination of truck loading docks on the north side of the building. Further, due to the substantial elevation difference between I-84 and the driveway along that side of the building, any noise from truck movements will be further reduced by the solid retaining wall required for site stability along the outside edge of the driveway. The height of this wall will be taller than incoming trucks accessing the Site, limiting sound travel to the north of the Site. Based on the Study, north of I-84 the maximum sound levels expected from the Project are below 45 dB(A).

Even with the truck loading docks located on the south side of the building, the Bluebird Sound Study found that noise impacts to residential properties along Route 6 and McBride Road from Project Bluebird will comply with NYSDEC's noise guidance for those potential receptors and are consistent with SHCC's impacts based upon the two sound studies conducted for the projects. Sound walls are provided along truck parking areas to the west and south to reduce any noise impacts from the Project's loading docks and parking areas on the south side of the building. Again, average maximum levels of noise from truck activity on the Project Site will result in dB(A) levels in the upper 40's at residential receptors along McBride Road and Route 6, while even intermittent noise from truck-related activities (e.g., trailer disconnects, back-up beepers, etc.) will result in dB(A) levels only in the low 50's at those residential receptors, well within the project goal of 55 dB(A) that is based upon existing ambient conditions.

Project Bluebird has addressed compliance with the Town's new noise limits through the design and layout of the Building Site. As noted above, the Project's building is more than 1,000 feet away from the several residential uses on McBride Road and Route 6. The retaining wall along I-84 and the sound walls along the western and southern truck parking areas, together with increased distance and intervening vegetation contribute to Project Bluebird's efforts to comply with the Town's noise goals.

The layout of the Building Site, retaining wall and the proposed sound walls also contribute to the lack of noise impact from Project Bluebird on nearby residences. As with SHCC, the noise modelling conducted in the Bluebird Sound Study demonstrates that Project Bluebird will not have any significant adverse noise impacts on those residences, whether they are on the other side of I-84, along McBride Road or on Route 6. Accordingly, the noise impacts from Project Bluebird will be consistent with those analyzed in the Planning Board's SHCC Negative Declaration.

Noise from the future Substation was also assessed by Scannell's noise consultant, which found that the Substation would comply with the Town's performance goals and NYSDEC guidelines for noise at the boundary of the Substation Lot. Sound levels from the Substation are not projected to exceed 50 dB(A) at the property boundary of the Substation Lot. The nearest residential receptors along Route 6 are approximately 900 feet away. Scannell's consultant concluded that "there is no acoustical concerns or negative impact from substation equipment sound."

The Planning Board had its consultant, Apex Acoustics, LLC ("Apex"), conduct an independent analysis of the potential Noise impacts from Project Bluebird. The findings of that analysis, which includes Scannell's additional modifications to the Project design to limit noise

include: (1) increase the height of the 2,250 linear feet of the southern sound wall on the Project Site from eight (8) feet to twelve (12) feet; and (2) fill the gap between the 16-foot western sound wall and the 12-foot sound wall for the emergency access driveway with a 12-foot high solid gate and any additional 12-foot high sound fencing required, are provided in Apex's May 29, 2025 Sound Modeling Report. The Sound Modeling Report found that with the addition of the additional noise reduction measures noted above, Noise from Project Bluebird would fully comply with NYSDEC's Noise guidelines. The Report further found that, with the exception of Noise levels of 52-53 dB(A) at the Project Site's western and southern property boundary between 6:00 a.m. and 7:00 a.m., Project Bluebird would comply with the Zoning Law's 65 dB(A) daytime and 50 dB(A) nighttime Noise limits with the inclusion of the 12-foot sound fence and gate agreed to by Scannell.

In the Report, Apex found that during the 6:00 a.m. to 7:00 a.m. time period, the 52-53 dB(A) sound levels at Bluebird's south and western property lines would exceed the Town's noise standard of 50 dBA during that time period, but would still be less than the 61 dB(A) ambient noise levels emanating from Route 6 during that hour, and recommended that the Planning Board exercise its authority under Zoning Law § 195-23(D) to impose less restrictive noise requirements for Project Bluebird's based on factors deemed relevant by the Planning Board. For Project Bluebird, which will: (1) comply with the NYSDEC Noise Guidelines and thus have no significant adverse impact on nearby residences during the same nighttime hour; (2) emit lower noise levels than Route 6 during this period; (3) increase the height of the southern sound wall from 8 feet to 12 feet, (4) add a 12-foot-high solid swing gate and any additional 12-foot sound wall at the emergency access driveway gap to further reduce potential noise impacts at the southwestern property boundary; and (5) otherwise meet the Town's daytime and nighttime noise standards at all property lines, the Planning Board finds that the 52-53 dBA exceedance at the southern and western property lines for the 6:00 AM to 7:00 AM hour is acceptable and appropriate.

Scannell will undertake a Noise monitoring program, subject to approval of the Town's noise consultant, to ensure compliance with applicable noise limits for 12 months following full occupancy of the Project. Scannell shall be required to undertake additional measures to ensure compliance with the Zoning Law as adjusted by this Negative Declaration where it is determined, on the basis of the monitoring results, that the Project's operations exceed the applicable noise levels.

Project Bluebird's lighting will be consistent with the lighting analyzed by the Planning Board in the SHCC Negative Declaration. New, dark-sky compliant, modern and energy-efficient lighting will be used throughout the Building Site and on the Substation Site. Exterior site lighting will comply with the Zoning Law and to be the minimum necessary while ensuring a safe and secure facility. All proposed lighting will be downward facing and will minimize sky glow and light pollution from the Building Site. Lighting fixtures will be of a full cutoff type or provided with shields to reduce glare and light pollution. Nighttime lighting for the Substation will only occur sporadically as needed for access and maintenance. As shown on the Site Plan, the fixture locations have been sited to avoid any light trespass onto adjacent properties. These measures have been incorporated to minimize otherwise potential adverse impacts from site lighting of the new building and parking facilities. Though Project Bluebird involves a taller building, light reduction measures including but not limited to interior blinds will be employed to ensure that any higher windows do not contribute to new lighting impacts.

For the foregoing reasons, the potential impacts of Project Bluebird on Noise, Odor and Light will be consistent with those analyzed by the Planning Board in the SHCC Negative Declaration.

### ***Potential Cumulative Impacts***

Project Bluebird will not result in any significant cumulative impacts on Noise, Odor or Light. With respect to all of the other Facilities except for Project Liberty, they are all too far away geographically to be relevant for purposes of any assessment of cumulative impacts on Noise, Odor or Light.

The Planning Board issued the Liberty Negative Declaration more than a year after issuing the SHCC Negative Declaration which, as discussed in detail above, concluded that SHCC would not have any significant adverse impacts on Noise, Odor and Light. In the Liberty Negative Declaration, the Planning Board reached the same conclusion that there would be no significant adverse impacts on Noise, Odor and Light. No cumulative impacts on Noise, Odor and Light associated with SHCC were identified in the Liberty Negative Declaration pursuant to 6 NYCRR § 617.7(c)(1)(xii). Accordingly, since the potential impacts of Project Bluebird on Noise, Odor and Light are consistent with those analyzed by the Planning Board in the SHCC Negative Declaration, Project Bluebird will not result in any relevant or significant cumulative impacts on Noise, Odor and Light.

Scannell also undertook a Supplemental Sound Study to evaluate the potential for off-site cumulative noise impacts from Project Bluebird and the other Facilities due to increased traffic from those developments. This offsite sound study demonstrates that the projected cumulative noise impacts from increased traffic will not have any significant adverse impact on the potential residential or other sensitive receptors along the Routes 6/17M commercial/industrial corridor between the Project Site and I-84.

Specifically, based upon NYSDEC's noise guidance, the supplemental study found that all receptors would not experience any significant adverse impact from sound levels as compared to existing ambient conditions. Measured existing sound levels at twelve locations for sensitive receptors ranged from a low of 57 dB(A) for receptors along Kirbytown Road west of Uhlig Road to highs of 70 dB(A) along Route 6 on the south and north sides of I-84. Projected cumulative sound levels all complied with NYSDEC noise guidelines and would not result in any significant adverse impacts on residential or other sensitive receptors by increasing expected sound levels by more than 6 dB(A). For all but one of the twelve locations modelled, the expected change in sound levels would be between 1 and 3 dB(A), which is considered by NYSDEC guidelines to mean no to minimal impact. One location is projected to experience a potential increase of 4 dB(A), which is within the 6 dB(A) level considered by NYSDEC to be tolerable and to not be a significant adverse impact.

The Study of potential cumulative impacts on Noise from projected traffic including Project Bluebird notes that maximum sound levels from traffic along the corridor are already established and that the residences along the corridor are already acclimated to existing sound levels from passing traffic. Thus, the Study concludes, while "average sound levels will increase slightly," they will not be of a "magnitude that will result in any negative impact to the area. Given these results, receptors along major roadways will not be able to discern the change in sound level, nor are they expected to be able to discern from which development the change comes from."

Based on the foregoing, the Project will not cause any significant adverse impacts involving Noise, Odor or Light.

#### **16. Impact on Human Health**

**Finding: The Project will not result in any significant adverse environmental impacts on Human Health.**

No potential "moderate to large impacts" from Project Bluebird on Human Health have been identified through the Planning Board's review of the FEAF Part 2 for the Project. Consistent with the SHCC Negative Declaration, no significant impacts to human health are anticipated from Project Bluebird. As discussed in Impact on Air, the Project will not involve any stationary air emission sources requiring NYSDEC permits and cumulative mobile source air emissions will comply with the NAAQS and not contribute significantly to Ozone pollution. Any asbestos-containing materials in the existing buildings on the Project Site that will be demolished will be properly managed and disposed of in accordance with applicable requirements. Nor will the Project involve the generation, treatment or storage of hazardous wastes. Further, the Project will not involve the bulk storage of over 1,100 gallons of petroleum or chemical products and no pesticides or herbicides are proposed to be used for the Project. There are no environmental conditions existing on the Project Site indicate the presence of contamination requiring any remediation. Public water will be provided for the Project and wastewater will be pumped to an existing public wastewater treatment plant and treated prior to discharge subject to a NYSDEC SPDES permit. No septic system will be used. The Project's SWPPP provides for "hotspot" treatment to prevent any ground or surface water contamination from Project-generated stormwater. Finally, all construction and operational activities will be undertaken in accordance with and in compliance with all pertinent environmental and land development regulations and related permit and approval procedures and requirements.

Additionally, based on the SEQRA determinations for the other Facilities, no potential for any significant cumulative impacts on Human Health are anticipated. None of the Planning Board's SEQRA negative declarations for the Facilities identified any "moderate to large" impacts on Human Health from those projects that would require further analysis. Further, all of the other Facilities except for Project Liberty are too geographically distant from the Project Site to involve any potentially significant or relevant impacts on Human Health in association with Project Bluebird. With respect to Project Liberty, which based upon prior Planning Board review will lack potential for impacts to Human Health consistent with those discussed above for Project Bluebird (with the exception that an Integrated Pest Management program is proposed), there is no potential for significant cumulative adverse impacts on Human Health.

Accordingly, based upon the foregoing and since Project Bluebird's potential impacts on Human Health are consistent with those of SHCC, no significant adverse impacts on Human Health will occur from Project Bluebird.

## 17. Consistency with Community Plans

**Finding: The Project is consistent with Community Plans.**

### *Prior Negative Declaration for SHCC*

In the SHCC Negative Declaration, the Planning Board found that SHCC would “support and further the goals and objectives of local community plans and will not have a significant adverse impact on them.”

### *Project Bluebird Impacts*

Through its review of the FEAF Part 2 for Project Bluebird and consistent with the SHCC Negative Declaration, the Planning Board found the following potential “moderate to large” impact on Community Plans.

*The proposed action's land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s).*

For the following reasons, Project Bluebird is entirely consistent with the Planning Board’s findings with respect to SHCC and if anything will only contribute more to further the “goals and objectives of local community plans.”

The Project will comply with the Town of Wawayanda’s Zoning Law and no variances will be needed except for an area variance for the height of the building, for which an application has been made to the ZBA. Project Bluebird’s warehouse use is allowed in the MC-1 zoning district subject to obtaining approval from the Planning Board. The Project will comply with all bulk and dimensional requirements of the Zoning Law.

In terms of the Town’s 2018 Comprehensive Plan (the “Plan”), Project Bluebird is consistent with the adopted vision for commercial/industrial development in the Town that will reduce the property tax burden on local residents with a Project that will have minimal local impacts. Project Bluebird will significantly contribute to the achievement of the community’s goals through:

- Over \$1,000,000 in building permit fees for the Project (notably, the unique building design of the Project results in significantly higher permitting fees than the Town would receive if the property was developed for an alternative facility with a similar footprint);
- \$15 million investment in needed local roadway, utility infrastructure, etc.;
- Creation of a minimum of 300 construction jobs through the construction of the Project;
- Creation of a minimum of 750 permanent jobs with full comprehensive benefits and educational opportunities, plus hundreds of part-time and seasonal jobs;
- Reuse of a site heavily disturbed by the Mining Operations in the MC-1 District with permanent industrial development;
- Significant increase in the taxable value of the Project Site, with a total capital investment in excess of several hundred million dollars;
- Indirect employment resulting from the build-out of Project Bluebird;
- Local procurement opportunities for small businesses;

- Ancillary economic output due to employment and construction;
- Positive impact creating substantial new opportunities with fiscal benefits supporting local public schools and community infrastructure; and
- Having little or no impact on local water/sewer infrastructure and other municipal services.

Project Bluebird also supports the Comprehensive Plan's goals for the MC-1 zoning district (Comprehensive Plan, p. 51). Those goals and how the Project will advance them are as follows:

*Goal: To improve the appearance of commercial corridors and mixed-use areas.* The Project will convert an existing mining operation into a new warehouse and distribution center set back from Route 6 that will minimize aesthetic impacts from adjoining neighborhoods, I-84 and Route 6 as compared to existing conditions. Existing, surrounding land use patterns between in the immediate vicinity of the Project Site are dominated by I-84, the Mining Operations on the Building Site, the extensively disturbed vacant lands on the Service Driveway Site that have been recently cleaned up, the E Tetz and Sons mining operations across Route 6 from the Project Site, Route 6 itself and a mixture of commercial and residential properties. All of these lands are located in the MC-1 zoning district and are part of a primarily commercial/industrial corridor that extends to the east along Route 6 to its intersection with Route 17M. To the immediate west of the Building Site, in the Agricultural Residential ("AR") zoning district, there are extensive forested and some agricultural lands, interspersed with spread-out residential uses along McBride Road and commercial uses in the Town Commercial ("TC") district along Route 6. The Project is oriented towards the east and I-84 in the MC-1 district, with a substantial buffer of distance, topography and vegetation separating it from the less developed areas in the AR and TC districts to the west. Through sound walls, landscaping and surrounding vacant AR lands, including lands in the AR district owned by Scannell that are not included in the Project Site, the Project will add to this buffer and provide a separation between the westernmost edge of the MC-1 zoning district from the AR and TC lands to west. The Project's Service Driveway travels east towards its intersection with Route 6 across lands that have been approved by the Planning Board for another warehouse, storage and distribution center. Thus, while the Project differs markedly from land use patterns to the west, it will be consistent with the existing and approved land use pattern to the east along Route 6 in the MC-1 district.

*Goal: Guide commercial development to state and county road corridors.* Project Bluebird will provide a Service Driveway with signalized access onto Route 6, directing all traffic onto that state highway and improving conditions on McBride Road by eliminating any access to the Project Site from that Town road except for emergency vehicles. The undertaking of the Project will also end the use of that access onto McBride Road by trucks entering and leaving the Mining Operation on the Project Site.

*Goal: Promote the expansion of municipal water and sewer systems within existing commercial zones.* The Project will include the expansion of public water and sewer services to serve the Project Site, facilitating the possibility of other commercial development connecting to municipal services in the future. At the request of the Town of Wawayanda, Scannell will extend dry water and sewer mains from the Project Site out to Route 6 in the vicinity of the former Hoops Road intersection with the highway. If a

proposal is ever made to extend these mains in the future, further SEQRA review will be required at that time.

*Goal: Identification of transportation improvements to facilitate transportation related developments with commercial zones.* The Bluebird TIS has identified current and potential improvements to the Route 6 corridor that would support the Town's transportation goals. Those traffic improvements, discussed in Section 13 – Impact on Transportation above, will be undertaken as part of Project Bluebird and will reduce potential traffic impacts in the Town. The user for Project Bluebird is prepared to move forward with these traffic improvements upon the timely receipt of all required approvals. Absent the undertaking of Project Bluebird, it is not certain that these improvements would occur.

*Goal: To promote incremental commercial and residential growth in the hamlet centers.* The Project will not be located in the hamlet centers. However, through its multi-million-dollar investment in the Town, Scannell will potentially provide indirect benefits to local businesses in the Town, including in the hamlet centers. By extending public water and sewer services to the Project Site and providing the Town with funds to potentially extend those lines to Route 6, Scannell will make it possible for the Town to consider extensions of those lines to other neighboring properties along Route 6. Finally, by creating a significant number of jobs in the community, including higher wage jobs, the Project will support additional growth and spending in the Town's residential and commercial hamlet centers.

Moreover, Project Bluebird will substantially advance Orange County planning objectives. The Project Site is identified as part of a Priority Growth Area by the 2019 Orange County Comprehensive Plan. Project Bluebird's proposed use is also one targeted by the 2015 Orange County Economic Development Strategy as one the County seeks to attract for economic development growth purposes.

Finally, Project Bluebird's location and proposed use are consistent with the community's plans for the MC-1 District. Project Bluebird will be next to I-84 along an existing commercial/industrial corridor on a state highway and in a zoning district purposefully designated by the Town for uses like Project Bluebird. Of the lands in the Town, based on the 2018 Town of Wawayanda Comprehensive Plan, lands in the MC-1 zoning district only comprise 10.3% of the Town. All of the lands in the MC-1 District are centered around the I-84 interchange, while the vast majority of the Town lands farther away from the interchange are zoned for agricultural and/or residential uses. This land use planning goal is reflected in the Town's Comprehensive Plan. For uses like Project Bluebird, immediate access to the interstate system is critical to project operations, making the Project Site (an existing Mining Operation) a particularly desirable and suitable location for Bluebird's user. The project will provide surplus revenues to fund community services and facilities including the Minisink Vally School District, Town of Wawayanda General Fund and the Slate Hill Fire District, as sought by the Town's Comprehensive Plan goals for its MC-1 District. Revenues will also be provided to support a new ambulance special district in the Town of Wawayanda once it is formed as proposed by the Town Board in June 2024. At the same time, Project Bluebird will repurpose and provide a productive use for lands between I-84 and Route 6 consistent with the MC-1 zone.

For the foregoing reasons, consistent with SHCC, Project Bluebird will support and substantially further the goals and objectives of local community plans and will not have a significant adverse impact on them.

## **18. Consistency with Community Character**

**Finding: The Project is consistent with Community Character.**

### ***Prior Negative Declaration for SHCC***

In the SHCC Negative Declaration, the Planning Board determined that SHCC was consistent with Community Character.

### ***Project Bluebird Impacts***

Through its review of the FEAF Part 2 for Project Bluebird, the Planning Board identified the following potential “moderate to large” impacts on Community Character:

- 1. The proposed action may create a demand for additional community services (e.g. schools, police and fire; and*
- 2. The proposed action is inconsistent with the predominant architectural scale and character.*

Based upon its consistency with SHCC and the Planning Board’s review of the Application, Project Bluebird will not result in any significant adverse impacts on the Community Character of the Town of Wawayanda.

Project Bluebird will have minimal impact upon community infrastructure and the benefits that the Project will provide as described above in Consistency with Community Plans (Section 17) will far exceed the cost of any additional services required as a result of the Project. Traffic from the Project, particularly, trucks, will predominantly use Route 6, a state-maintained highway, for travel, having no impact from heavy trucks on local roads maintained by the Town. Over \$1,000,000 in building permit fees for the Project will be paid to the Town for the Project, along with water and sewer fees for those services. No other costs for municipal services provided by the Town are expected. Nor is the Project expected to result in the addition of significant numbers of students to local schools, as employees will likely be drawn from existing residents of local communities in Orange, Dutchess, Ulster, Putnam and Westchester counties, which are all within commuting distance of the Project Site. A state-of-the-art fire suppression system for the Project’s building will limit potential burdens on the Wawayanda Fire Company, which has not indicated any concerns about impacts to the community’s fire service capacity from the Project.

The substantial property tax value of the Project Site, after construction of the Project, will result in increased property tax revenues for the Town, County, school district and special districts that are reasonably expected to be in excess of any additional costs for community services attributable to the Project. Furthermore, special districts will receive 100% of assessed fees based upon the property value of the Project Site regardless of any tax incentives granted to the Project, substantially benefitting those emergency services. Scannell intends to apply to the Orange County Industrial Development Agency (“OCIDA”) for tax incentives to facilitate development of this massive project. In making its decision, OCIDA must determine that any incentives granted are in the public interest, taking into account potential burdens on local services. Accordingly,

regardless of any incentives granted by OCIDA, based on the substantial taxable value of the Project Site, significant tax revenues for the Town and Minisink Valley School District are to be reasonably expected, and as noted above 100% of any special district fees will always be provided.

Consistent with the SHCC Negative Declaration, Project Bluebird conforms to the existing and planned commercial and industrial character of the area where the Project Site is located between I-84 and Route 6 in the Town's MC-1 zoning district. The Project Site is situated with immediate access to Route 6 and nearby access to I-84 to significantly advance the Town's purposes for the MC-1 zoning district. The Project Site is not adjacent to a residential neighborhood, with only several existing residential properties located to the west (on McBride Road) and to the south (along Route 6) of the Site. Further, in the MC-1 district where the Site is located, new residential uses are not allowed (except for a mixed-use property), so no further development of homes may occur there. As discussed above, impacts on these properties will be minimized by the Project's design, including diverting Project traffic (particularly trucks) away from McBride Road or along Route 6 in the vicinity of the homes to a signalized intersection with Route 6 via the Service Driveway located to the east of the Building Site.

The Project Site is located in an area zoned for such uses that includes a growing number of warehouses and other commercial buildings located along the Route 6 commercial/industrial corridor. The Project will allow for the reclamation of the Mining Operations. In this context, Project Bluebird is consistent with the immediately surrounding MC-1 zoning district primarily nonresidential community character.

The Project's proposed building and associated parking and loading areas are located as far away from existing residential uses, and as close to I-84 as possible. Topography and wooded areas in the I-84 right-of-way, along with a building elevation that is 30-40 feet lower than the highway, will reduce impacts associated with the location of the building along the northern property line. Proposed sound control barriers along the truck parking areas and the intervening forested areas on and to west of the Building Site, together with proposed landscaping, will significantly reduce the potential for adverse noise and visual impacts from the Project to nearby sensitive receptors. Similarly, sound barriers, topography, and intervening wooded areas along the railroad and Route 6 will reduce Project impacts to the small number of homes to the south of the Project Site. Maintaining these buffers will help to provide a clear separation of the Project, which is located in the MC-1 district where commercial and industrial development is encouraged, from the less developed character of the lands to the west of the Site in the AR and TC districts. Overall, while the Project's building is architecturally different in character and scale from any buildings in the immediate area surrounding the Site, its setting on the Project Site and the proposed measures for reducing its impacts and providing a buffer from those districts will avoid any significant adverse impacts to Community Character due to the scale and character of the Project's building.

As discussed above, while the Project's building is taller than the building approved by the Planning Board for the SHCC, the potential visual impacts of the Project on nearby residential uses will be sufficiently minimized by intervening topography and vegetation, along with an attractive architectural design for the Project, that will lessen visual impacts. Further, due to the location of the Project Site in the MC-1 commercial/industrial zoning district, some visibility of the Project from surrounding uses is to be reasonably expected. In this regard, the Project's potential visibility is consistent with or less than more visible commercial and industrial

development to the east of the Project Site located in the MC-1 zoning district and the additional height of the building does not make a significant difference in terms of potential impacts. Similarly, as discussed in relation to potential Project impacts on Noise, the Project will result in minimal increases in the noise experienced by nearby residential receptors above existing, ambient levels. Finally, as discussed above regarding impacts on Light, the Project's proposed lighting will be dark-sky compliant, minimize sky glow and light pollution and, as shown on the Site Plans, will substantially avoid any light trespass onto adjacent properties.

With respect to the cumulative impacts to community character, the Facilities (except Project Liberty) are distant geographically from the Project Site and are not relevant to the community character of the Project's environs, notwithstanding the fact that all of the projects are located in the MC-1 District where they are uses that are allowed in the zoning district.

Regarding Project Liberty, consistent with the discussion above, the Liberty Negative Declaration concluded that Project Liberty was consistent with the existing and intended community character of the area between I-84 and Route 6 where it is located. The Planning Board issued the Liberty Negative Declaration nearly a year after its approval of SHCC following issuance of the SHCC Negative Declaration which, as noted above, concluded that SHCC would be consistent with Community Character. In the Liberty Negative Declaration, the Planning Board reached the same conclusion that Project Liberty was consistent with Community Character. No cumulative impacts on Community Character associated with SHCC were identified in the Liberty Negative Declaration pursuant to 6 NYCRR § 617.7(c)(1)(xii). Accordingly, since the potential impacts of Project Bluebird on Community Character are consistent with those analyzed by the Planning Board in the SHCC Negative Declaration, Project Bluebird will not result in any relevant or significant cumulative impacts on Community Character.

As designed, Project Bluebird will be consistent with the character of this area of the MC-1 zoning district along I-84 and the Town's existing and planned Route 6 commercial/industrial corridor. The Project Site will be repurposed with a use appropriate to its location in that district. Furthermore, the Project will enhance the value of nearby properties in the MC-1 zoning district, consistent with the Town's goals for future commercial/industrial growth in the Route 6 corridor. Accordingly, the Project will be consistent with the Town's expectations for the community character of the MC-1 zoning district.

## **19. Impact on Disadvantaged Communities**

**Finding: The Project will not result in any significant adverse environmental impacts on a Disadvantaged Community.**

Project Bluebird is located in a designated Disadvantaged Community ("DAC") and the Planning Board has evaluated the potential for Project Bluebird impacts on the DAC based upon the questions presented in NYSDEC's proposed addition to the FEAF Part 2 for DACs as part of proposed changes to the SEQRA regulations in 6 NYCRR Part 617. Project Bluebird will not have any significant adverse impact on the DAC where the Project will be located for the following reasons:

**Question 19(a) – Is the potentially affected disadvantaged community identified as having comparatively higher burdens or vulnerabilities by the Disadvantaged Community Assessment Tool (<https://on.ny.gov/DACAT>)?**

Yes. The DAC where the Project is located is identified as having comparatively higher burdens of vulnerabilities by the Disadvantaged Community Assessment Tool.

**Question 19(b) – The proposed action may create new air emissions or increase existing air emissions within a disadvantaged community.**

Yes. Project Bluebird will create new air emissions or increase existing air emissions within a disadvantaged community, however, air emissions associated with Project Bluebird will not result in any significant adverse impact on the DAC for the reasons discussed in relation to Impacts on Air (Section 6) above. Based upon this conservative analysis that considered the potential for cumulative impacts beyond those of Project Bluebird alone, Project Bluebird will not result in any significant adverse impacts to air quality in the DAC where the Project is located and through which Project traffic will travel along Routes 6 and 17M to I-84.

**Question 19(c) – The proposed action may create new wastewater treatment or discharges, or expand existing wastewater treatment or discharges, within a disadvantaged community.**

Yes. Project Bluebird will expand existing wastewater treatment or discharges, within a disadvantaged community. As noted above, wastewater from the Project will be pumped from the Site through an underground force main through the Town's sanitary infrastructure, ultimately to the City of Middletown wastewater treatment plant, where it will be treated prior to discharge in accordance with a NYSDEC SPDES permit. The Middletown plant is located in an adjoining DAC census tract and wastewater discharges are not identified as a significant pollution burden in that DAC. The discharge from Project Bluebird will not require any pretreatment because it will consist only of sanitary wastewater from a limited number of restrooms. Based upon the Water and Sewer Memorandum provided in support of the Application, there is available capacity at the Middletown plant for treatment of the requested 23,430 gallons per day of wastewater for Project Bluebird. The Middletown plant is an 8.5 million gallons per day treatment facility, which means that Project Bluebird will only comprise approximately .0028 percent of the potential wastewater that the facility is capable of treating under its permit. Accordingly, Project Bluebird will have a minimal impact on the DAC as a result of its expansion of the wastewater discharge at the Middletown wastewater treatment plant.

**Question 19(d) – The proposed action creates or expands a solid or hazardous waste management facility, or involves the generation of solid or hazardous waste, within or near a disadvantaged community.**

As reflected in the FEAF Part 1 provided in support of the Application, Project Bluebird will not result in the generation of any hazardous waste and will not be a solid waste management facility. Per the FEAF 1, Bluebird will generate an estimated 123 tons per month of solid waste during operations that will be hauled offsite and disposed of by a private carting business at a license and permitted solid waste management facility subject to NYSDEC permit requirements. No waste will be disposed of on the Project Site.

During construction, Project Bluebird is expected to generate as much as 10 tons per day of solid waste comprised of construction and demolition debris. This higher amount of potential waste is only expected during the first 12 months of construction after it commences. Any solid waste transported off of the Site will be covered or in a self-contained solid waste disposal vehicle to avoid any offsite impacts and properly managed and/or disposed of. To the maximum extent

possible, measures to reduce the amount of construction waste that is generated or disposed of will be undertaken. These measures will include affirmative efforts to minimize the generation of wastes, the reuse of materials whenever possible and aggressive efforts to recycle waste materials. Any unavoidable wastes for disposal will be managed, transported and disposed of in accordance with applicable local and state requirements.

**Question 19(e) – The proposed action may increase traffic within a disadvantaged community.**

Yes. Project Bluebird will increase traffic within a disadvantaged community but will not result in any significant adverse impact to the DAC for the reasons discussed above in regard to Impact on Transportation (Section 13). Project Bluebird will not result in any significant adverse impacts, including any cumulative impacts, on traffic in the DAC.

**Question 19(f) – The proposed action affects or involves one or more of the following facility types: landfill; other industrial, manufacturing, or mining land uses; major oil or chemical bulk storage facility; municipal waste combustor; power generation facility; risk management plan site; remediation site; or scrap metal processor.**

Yes. Project Bluebird will replace an active mining operation with a warehouse, storage and distribution facility on lands between Route 6 and I-84 in the MC-1 zoning district, where commercial and industrial uses such as the Project are allowed by the Town's Zoning Law and are consistent with the Town's Comprehensive Plan and County planning documents. Based on the Planning Board findings above that Project Bluebird is not inconsistent with Community Plans (Section 17) or Community Character (Section 18), Project Bluebird will not have a significant adverse impact on the DAC where the Project Site is located because it will be consistent with Wawayanda's community plans and community character, including for the MC-1 zoning district in the DAC.

**Question 19(g) – Other “pollution” impacts**

For the following reasons and based upon the SEQRA Expanded EAF Narrative and its appendices, Project Bluebird will not have any significant adverse impacts on the DAC from the following other forms of pollution as follows:

**Noise**

Consistent with the Planning Board's findings set forth in Impacts to Noise, Odor and Light provided in Section 15 above, Project Bluebird will not result in any significant adverse impacts on Noise in the DAC, including cumulative impacts, either during construction or from project operations or as a result of offsite traffic along Route 6 to I-84. Project Bluebird will comply with NYSDEC's noise guidance and not result in any significant adverse noise impacts on the several residential properties in the DAC that are closest to the Project Site. Further, projected cumulative noise impacts from increased traffic (including Bluebird) will comply with the NYSDEC noise guidance for the small number of residential or other sensitive receptors in the DAC along the Routes 6/17M commercial/industrial corridor between the Project Site and I-84. Based upon NYSDEC's noise guidance, the sound impact information by Scannell's qualified expert consultant concluded that no receptors within that area would experience any significant adverse impact from sound levels as compared to existing ambient conditions.

For the foregoing reasons, the potential impacts of Project Bluebird on Noise will not result in any significant adverse impact on the DAC.

### ***Odors***

With respect to Odors, Project Bluebird is not anticipated to result in more than minimal impacts to the DAC associated with construction and operation, and any impacts are anticipated to be similar to or less, both onsite and from mobile sources traveling along Route 6 to and from I-84, than the existing mining operations. During construction, any odor impacts from construction equipment will be temporary, of short duration and non-significant. Project Bluebird, when operational, is not anticipated to generate any odor impacts and any odor impacts from mobile sources on the DAC will likely be the same or less than those of the existing mining operations and no different than existing traffic along the Routes 6/17M commercial/industrial corridor.

### ***Light***

New, dark-sky compliant, modern and energy-efficient lighting will be used for the Project, consistent with what would reasonably be expected for this industrial use in the MC-1 zoning district. Exterior site lighting will comply with the Zoning Law and to be the minimum necessary while ensuring a safe and secure facility. All proposed lighting will be downward facing and will minimize sky glow and light pollution from the Project Lighting fixtures will be of a full cutoff type or provided with shields to reduce glare and light pollution. As shown on Project's Site Plans, the fixture locations have been sited to avoid any light trespass onto adjacent properties. These measures have been incorporated to minimize otherwise potential adverse impacts from site lighting of the new building and parking facilities. Though Project Bluebird involves a taller building, light reduction measures including but not limited to interior blinds will be employed to ensure that any higher windows do not contribute to new lighting impacts. Accordingly, no significant adverse impact on the DAC from Project Bluebird's lighting is expected to occur.

## **VI. CONCLUSION**

Based on the foregoing discussion, Project Bluebird is generally consistent with the impacts reviewed by the Planning Board in the SHCC Negative Declaration and will not create any significant new or additional adverse environmental impacts, including any relevant or significant cumulative impacts in association with any of the other Facilities. Where the new Project Design and its operational characteristics vary from what was evaluated for SHCC, those proposed impacts are not anticipated to result in significant adverse impacts. Consistent with the SHCC Negative Declaration and based on the review of the Application by the Planning Board and its consultants and the Planning Board's review of the FEAF Part 2 for Project Bluebird, the Planning Board finds that Project Bluebird will not result in any significant adverse impacts and issues a negative declaration for the Project under SEQRA. Nothing in this SEQRA Negative Declaration shall be construed to limit the Planning Board's authority, through special use permit and site plan review of Project Bluebird, to impose such reasonable conditions as the Board may deem appropriate.

**For further information:**

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Town of Wawayanda Planning Board

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80 Ridgebury Hill Road  
Slate Hill, New York 10973

**Telephone:** 845-355-5700

**A copy of this Notice of Negative Declaration will be filed with:**

Town of Wawayanda Town Board;  
Town of Wawayanda Zoning Board of Appeals;  
Town of Wawayanda Highway Department;  
Orange County Planning Department;  
Orange County Health Department;  
Orange County Industrial Development Agency;  
NYS Department of Environmental Conservation, Region 3;  
NYS Department of State;  
NYS Office of Parks, Recreation and Historic Preservation; and  
NYS Department of Transportation, Region 8.