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November 5, 2025

**VIA EMAIL**

Anchin, Block & Anchin LLP  
c/o Mr. Brian Sanvidge, CIG, CFE  
Orange County IDA State Monitor  
3 Times Square  
New York, NY 10036

**RE: Orange County Industrial Development Agency**

Dear Mr. Sanvidge:

I am in receipt of and have reviewed the letter from Senator James Skoufis, dated October 24, 2025 (the “Skoufis Letter”) accepted in your capacity as the New York State appointed Monitor of the Orange County Industrial Development Agency (the “OCIDA”) regarding the request that you veto the Authorizing Resolution that was approved on October 23, 2025 for the Orange County Industrial Development Agency with Scannell Properties #600, LLC/Amazon.com Services LLC project (the “Project”).

I am also in receipt of your Memorandum, dated October 28, 2025, which requests additional information regarding the Project.

The OCIDA Board of Directors (the “Board”) thoroughly reviewed and assessed the full record including the Application, supporting materials, third-party cost-benefit and economic impact analyses, the public hearing transcript and comments, PILOT schedule analysis, and the SEQRA Negative Declaration (collectively, the “Application Materials”) during its May 14, 2025 and October 23, 2025 meetings. As discussed below, the Board firmly rejects the claims made in the Skoufis Letter and maintains that the Project’s approval was well-documented, consistent with law and OCIDA policies and that no veto is warranted.

**Skoufis Letter Response**

Specifically, the Skoufis Letter cites to Section 912(3)(f)(vi) of the New York General Municipal Law (“GML”) as follows:

the monitor shall have seventy-two hours after any contract or financial assistance is approved to review such financial assistance or contract, and if a violation of policy related to the industrial development agency's uniform tax exemption policy required by section eight hundred seventy-four of this article, a conflict of interest, or a violation of law is identified during such time period, the monitor shall notify the industrial development agency in writing. Any such contract or financial assistance so identified by the monitor shall not be legally binding or effective and may not be reconsidered by the board for at least ten days or until the next board meeting.

Initially, the aforesaid law does not grant to any elected official – Federal, State or Local – a belated independent right to challenge any IDA decision after same has been made. Elected officials, like the Senator, are free, and indeed encouraged to participate with the public with the IDA's public review and approval process. If dissatisfied, their remedy is an Article 78 challenge. However, the GML does not grant a post-IDA approval veto to such elected officials or the public, nor could it since such a provision would obviate and/or remove the statutory scheme and integrity of the IDA approval and SEQRA review process. Yet, that is precisely what Senator Skoufis has attempted to do, without the benefit of having attended any IDA public hearing or the two IDA public meetings where the Project was considered. In effect, the Senator – and opposition groups – seek to create a new independent “veto” remedy via a second review process of the IDA application under the guise of the Monitor's veto power. Neither the GML nor applicable law (i.e., SEQRA) permits same. For that reason alone, the Senator's hyper partisan second bite at the apple should be rejected.

As General Counsel to the OCIDA, I reject Senator Skoufis' position that the Authorizing Resolution was in violation of the OCIDA's Uniform Tax Exemption Policy (“UTEP”). Furthermore, Senator Skoufis' attempt to usurp your authority as State Monitor is highly inappropriate. Your firm was appointed as an independent State Monitor of the OCIDA and Senator Skoufis should not exert any undue influence on your decision making. You alone have standing to veto any OCIDA actions. The letter from Senator Skoufis and additional correspondence you provided to us are a blatant attempt by others to unduly influence you with their own agenda.

Based on the forgoing, the Skoufis Letter states that the OCIDA Board of Directors' October 23, 2025 Authorizing Resolution with respect to the Project's financial assistance warrants a veto because the Authorizing Resolution violated the OCIDA's UTEP. The Skoufis letter then referenced five alleged UTEP violations, makes an additional claim that the Board failed to conduct a meaningful “but for” test beyond the “check-the-box” question provided for within the Scannell Properties #600, LLC/Amazon.com Services LLC (collectively, the “Applicant”) application (the “Application”), and concludes by stating the Board failed to consider all of the forgoing, thus warranting the requested veto.

The OCIDA Board takes all of its applications seriously and conscientiously weighs the merits of each and every project. It is impossible for Senator Skoufis to know the thought process of each and every Board Member or to determine what factors the Board took into consideration. You, however, were at each and every Board Meeting, either in person or via Zoom, as well as the public hearing. Accordingly, you have a better understanding of the lengthy and thoughtful process that led to the approval of the Authorizing Resolution on October 23, 2025.

We confirm that no violations of the UTEP/Project Approval Policy exist that would warrant the requested veto. Contrary to the assertions in the Skoufis Letter, the Board received and comprehensively assessed the Application Materials prior to its determination. The Board's resolution and deliberations clearly demonstrate that all relevant UTEP criteria, including those cited in the Skoufis Letter, were thoroughly assessed. To suggest otherwise disregards the substantial evidence of the Board's careful and informed review and implies, without basis, that the Board failed to engage with the materials before it.

By way of background, the OCIDA UTEP is to be applied consistent with the guidelines contained within the OCDA Project Approval Policy, and the two policies are hereinafter referred to as the "OCIDA UTEP/Project Approval Policy". The UTEP/Project Approval Policy required the Board to assess all material information included in connection with the application for financial assistance to afford a reasonable basis for its decision to provide financial assistance (the "Assessment"). The UTEP/Project Approval Policy specifically states that "[a]s one part of their Assessment, the [Board] shall consider" certain additional factors so enumerated therein. In conducting its Assessment, the UTEP/Project Approval Policy provides that no one factor qualifies a project for approval, and that "it is up to the Agency, in its sole and absolute discretion, to review, analyze, and weigh all factors and policy initiatives when considering projects or approval".

The OCIDA's UTEP/Project Approval Policy states that Board Members shall consider the following: (i) the permanent jobs created by the project, including the number of jobs, salaries and related benefits; (ii) extent that the project will provide onsite child daycare facilities; (iii) whether the project is identified as a priority industry pursuant to the North American Industry Classification System ("NAICS"); (iv) the estimated value of the tax exemptions and abatements to be provided; (v) the impact of the proposed project on existing businesses; (vi) the expected amount of private sector investment; (vii) the public support for the project; (viii) the effect of the project on the environment; (ix) the use of renewable resources and/or green technology; (x) the extent that the project will require additional services; (xi) the likelihood that the project will be completed in a timely fashion; (xii) the extent that the project will provide additional sources of revenue to the affected taxing jurisdictions; (xiii) other public and community benefits that might occur as a result of the project; and (xiv) the Cost-Benefit Analysis.

Each of these 14 factors must be considered, but no one factor should be the sole reason to approve or deny an application. Senator Skoufis claims that five (5) of the 14 factors should have led to the denial of the project, but that completely dismisses and devalues the remaining 9 factors.

Furthermore, the Board did consider each and every factor and ultimately decided that the project deserved approval.

Job Quality/Salary: In accordance with the OCIDA UTEP/Project Approval Policy, the Board is required to assess “the extent to which a project will create or retain permanent full-time equivalent private sector jobs, including the number of jobs, the quality of and salary for such jobs, and any related benefits (healthcare and retirement, for example)”. Board members assessed and discussed the Application Materials showing the Project will create within three (3) years 750 direct on-site permanent jobs with nearly \$30,000,000 in annual earning with production roles averaging \$37,440 annually, and management roles averaging \$60,000 annually, and with all employees receiving a comprehensive benefits package (medical, dental, vision, infertility, 401(k) with company match, disability and mental health care, paid parental leave, Career Choice – Amazon’s pre-paid tuition program, and FSA dependent care plans) valued at 20-30% of salary, such benefits to begin on day one for all employees and eligible family members, including domestic partners and children. During the meetings, several Board members expressed strong support for the new job opportunities, and the desire to bring these jobs to Orange County. When the Project does not fall within a “Priority Industry” – such as manufacturing or high tech – and is therefore not subject to the additional criteria outlined in the UTEP/Project Approval Policy, the Board, in contrast to the assertion in the Skoufis Letter, not only considered this UTEP/Project Approval Policy factor but did so with rigor and transparency, engaging in substantive public dialogue and a thorough evaluation of job quality, compensation and benefits.

Childcare: In accordance with the UTEP/Project Approval Policy, the Board is required to assess “the extent to which the project will provide onsite child daycare facilities”. The Project does not provide onsite child daycare facilities. However, the Application specifically states that as part of its employee benefits package, the Applicant will provide Flexible Spending Accounts for Dependent Care so that employees can use pre-tax dollars to pay for childcare services. The applicant also has a service that can provide childcare referrals and paid paternal leave. The provision of employee benefits was discussed at the Board’s meetings. Contrary to the assertion contained in the Skoufis Letter, the Board’s consideration of the foregoing demonstrates that it assessed this UTEP/Project Approval Policy factor in an appropriate manner. It is also important to note that the revised Section 874 of the General Municipal Law that added the provision of “onsite childcare services or otherwise facilitate new childcare services” as a guideline to be considered by an IDA Board did not become effective until June 19, 2025. The applicant submitted its application on or about March 28, 2025 and, accordingly, is not subject to the revised language contained in Section 874.

Public Support: Per the UTEP/Project Approval Policy, the Board is required to consider “the demonstrated public support for the proposed project”. The OCIDA held a lengthy public hearing on June 10, 2025, and also accepted written comments regarding the project until 4pm on June 26, 2025. A wide range of perspectives were presented both in person during the public hearing and through written comments. The public hearing testimony and associated written comments



received demonstrates the public sentiment was deeply divided, with both notable support and strong opposition expressed. Support was expressed by local union representatives, business leaders, and residents, emphasizing the hundreds of construction jobs and new permanent jobs to be created and citing the new competitive and fair wage jobs, the substantial new tax revenue generated for schools and local services, the revitalization of a former industrial site, and the economic ripple effect. Others voiced concerns about the scale of the tax incentives, the adequacy of wages, working conditions, and negative impacts on local infrastructure. Several speakers questioned whether the PILOT is necessary or beneficial, and others questioned the scale of the financial assistance. Based on the diversity of the opinions, the OCIDA and Board responded, as further disclosed in the Application Materials presented to the Board, by negotiating a reduced 15-year PILOT (from the original 20-year PILOT) with the Town Supervisor and the Applicant, resulting in higher payments to the tax jurisdictions. The shortened PILOT would result in approximately \$20,000,000 in additional property taxes being paid by the Applicant over the next 20 years. The Board's assessment of public input reflects a balancing of public input, economic analysis, and policy objectives. Contrary to the assertion contained in the Skoufis Letter, the Board's decision to reduce the PILOT term and abatement percentages to the 15-year agreement is a clear and substantive demonstration that the Board took its obligation to assess "demonstrated public support" seriously, not merely as a procedural formality, but as a meaningful factor in its deliberations. The Board's actions reflect a thoughtful and responsible approach, directly incorporating community concerns into the final negotiated outcome.

Environmental Impacts: In accordance with the UTEP/Project Approval Policy, the OCIDA must assess "the effect of the proposed project on the environment". In undertaking this component part of its assessment, and consistent with Article 8 of the Environmental Conservation Law of the State of New York and the regulations of the Department of Environmental Conservation of the State of New York ("SEQRA"), the Board appropriately assessed and relied on the Town of Wawayanda (the "Town") Planning Board's SEQRA review, as Lead Agency (as defined within the SEQRA) which determined the Project would not have a significant adverse impact resulting in the issuance of a Negative Declaration as defined under SEQRA. The Negative Declaration specifically determined that the Project will not have any significant adverse impact on noise, odor, light, air, water, transportation/traffic. This determination was based on extensive technical studies, public input, third party commissioned consultant reviews, and specifically addressed traffic and pollution impacts. The Board's Authorizing Resolution that ratifies and adopts the Negative Declaration is consistent with SEQRA law and demonstrates that traffic and pollution impacts were rigorously analyzed and addressed through Project design. Contrary to the Skoufis Letter, the Board's consideration and adoption of the Negative Declaration as provided for within its Authorizing Resolution as a component piece of its overall approval demonstrates the Board's appropriate assessment of the potential environmental impacts associated with the Project.

Additional Municipal Services: The UTEP/Project Approval Policy requires the OCIDA to consider "the extent to which the proposed project will require the provision of additional services,

including, but not limited to additional educational, transportation, police, emergency, medical or fire services”. As a direct result of such consideration, and following continued collaboration between the OCIDA, the Town, and the Applicant since the submission of the Application in March of 2025, and as stated within the Negative Declaration, the Project has expanded to include the Applicant’s commitment to design and construct a new ambulance building to support the Town’s newly formed ambulance district, further enhancing public services and community well-being. Board members noted and discussed that the school district will receive “monumental” new tax revenues – over \$40 million - during the term of the PILOT, far exceeding the current annual \$164,000 in combined taxes for the Town, County, and School District. Board members also discussed the millions in new tax dollars to benefit the Town, highway, ambulance (in addition to the new Applicant funded ambulance building), and fire districts. The Board further discussed the County-wide decline in its school-age population and concluded that any potential increase in student enrollment resulting from the Project would be more than offset by the anticipated growth in school district revenues. Contrary to the assertions in the Skoufis Letter, the Board did engage in public dialogue and gave full consideration to this UTEP/Project Approval Policy factor, both during its meetings and through prior collaboration with the Town and the Applicant to support the design and construction of the new ambulance building.

But-For Question: In full compliance with Section 859(4)(d) of the GML, the Applicant as a component part of its Application, submitted a sworn statement, affirmed under penalty of perjury, attesting that the Project would not proceed without financial assistance from the OCIDA. The representation was publicly reaffirmed at both the May 14 and October 23, 2025 Board meetings, where, when asked directly whether the Project would move forward without OCIDA support, the Applicant responded unequivocally: “No”, consistent with its Application. In fact, at the October 23<sup>rd</sup> meeting, the Applicant, in response to a direct question from a Board Member, stated that the Applicant was also considering locations in other New York State counties, New Jersey, Pennsylvania, Connecticut and Massachusetts. Contrary to the claims in the Skoufis Letter, the Board gave deliberate and documented consideration to this statutory requirement. The record clearly demonstrated that both the Applicant and the Board complied with the legal mandate, and the Project’s reliance on OCIDA assistance was properly substantiated and integral to the Board’s decision making.

### **Anchin Memorandum Response**

The OCIDA is not aware of the location or size of other sites that are or have been under consideration by the Applicant.

The OCIDA first became aware that the Applicant was considering the site in the Town when it received an initial application for financial assistance in November, 2022. The prior application was for the construction and equipping of a 925,000 sq ft facility, but ultimately the Applicant did not proceed.

In sum, Board transcripts and the full record demonstrate, unequivocally, that the OCIDA Board's approval of the Project was fully compliant with the UTEP/Project Approval Policy and all applicable legal requirements. Each criterion cited in the Skoufis Letter was not only considered but substantively assessed through detailed deliberations and public engagement. Accordingly, there is no factual or legal basis for a veto under GML Section 912(3)(f)(vi). To do so would be improper, arbitrary, capricious, and contrary to law. Below is an item-by-item response to the Anchin Memorandum:

Item 1: Amazon confirms that it cannot disclose the specific location currently under evaluation in neighboring states such as NJ, CT, MA, PA, and the northeast market in general due to the confidential nature of its site selection process and active negotiations with various communities and property owners. In the event Amazon is no longer bound by such restrictions, Amazon will be happy to share these locations with you. However, Amazon can confirm that it is actively evaluating a comparable site in the Town of Florida, Montgomery County, New York and Hamilton Township, New Jersey.

Item 2: Amazon confirms that the size of the location under consideration is comparable to the proposed Orange County site.

Item 3: Amazon confirms that it initially identified the Orange County site in 2022-2023 for a different business use with significant less capital investment and job than what is currently proposing.

Item 4: Should the project move forward, the Applicants have agreed with the Town to design and construct a new ambulance building to support the Town's newly formed ambulance district, further enhancing public services and community well-being. The Town and Applicants have also agreed that the Applicant will establish a \$1.5 million host community fund to be used by the Town for public benefit. An email was submitted by Minisink Valley Central School District (the "School District") to the OCIDA, and distributed to the Board on October 22, 2025, wherein the School District requested the Applicants consider providing financing for the construction of "several new turf fields." The Board did not make the School District's request a requirement for Project approval. Instead, the Board focused on ensuring the School District and other tax jurisdictions would benefit from substantial new tax revenues. The School District is projected to receive more than \$40 million in new revenues over the 15-year PILOT, and more than \$8 million per year after the PILOT ends, a significant increase from the current tax base. These funds will provide the School District with new resources to address its priorities.

Item 5: As you are aware, the Applicants originally applied for the OCIDA's standard 20-year Job Creation PILOT per the UTEP. Following the Public Hearing, PILOT deviation discussions were held by telephone conference calls between the Applicants and OCIDA. The Applicants submitted a formal PILOT Deviation request to OCIDA on September 23, 2025, from the OCIDA standard 20-year job creation PILOT to a 15-year PILOT. In addition, the OCIDA Board provided Monitor

Brian Sanvidge in a timely manner with the OCIDA approving resolution, as required by statute, prior to the October 23, 2025, OCIDA Board meeting.

### **Third Party Letter Response**

See correspondence enclosed within Attachment A, for responses to the items raised in the Third Party Letter. We note that the issues and questions raised in the Third Party Letter “Submitted under SEQR 6 NYCRR Section 617.9(b)(5)(i), (vi), (vii) and (ix)” are not applicable to the Project, given the procedure status and the determination already made by the Town Planning Board, as SEQRA lead agency, and its properly issued Negative Declaration. The Negative Declaration confirms the Project will not result in any significant adverse environmental impacts. The sections cited in the Third Party Letter pertain to the preparation and content of an environmental impact statement, which is not required when a Negative Declaration has been issued. Notwithstanding the foregoing, we do provide the requested responses to each item raised in the Third Party Letter, as set forth in Attachment A, solely for the sake of completeness and to ensure the record reflects a full and transparent consideration of all comments received.

In sum, Board transcripts and the full record clearly demonstrate that the OCIDA Board’s approval of the Project was fully compliant with the UTEP/Project Approval Policy and all applicable legal requirements. Each criterion cited in the Skoufis Letter was not only considered but substantively assessed through detailed deliberations and public engagement. Accordingly, there is no factual or legal basis for a veto under GML Section 913(3)(f)(vi).

Bleakley Platt & Schmidt, LLP

By:

A handwritten signature in black ink, appearing to read 'Lino J. Sciarretta', written over a horizontal line.

Lino J. Sciarretta, Esq.

## **ATTACHMENT “A”**



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November 5, 2025

#### VIA EMAIL

Orange County IDA  
4 Crotty Lane, Suite 100  
New Windsor, NY 12553  
Attn: Bill Fioravanti

**RE: Joint letter to Brian Sanvidge, OCIDA State Monitor, dated October 27, 2025  
and submitted by Protect Orange County and Save Wawayanda (the  
“October 27<sup>th</sup> Letter”)**

Dear Mr. Fioravanti:

This letter responds as appropriate to the above-referenced October 27<sup>th</sup> Letter concerning the cost-benefit analysis (“CBA”) prepared for the Orange County Industrial Development Agency’s (“OCIDA”) review of Project Bluebird (a/ka/ the “Project”). A copy of the October 27<sup>th</sup> Letter is enclosed herewith.

As a threshold matter, the October 27<sup>th</sup> Letter inappropriately seeks to inject unsupported, misplaced, and inaccurate speculation regarding the purported environmental costs of Project Bluebird into its criticisms of the CBA. First, note that Section 859-a(5)(b) of the New York General Municipal Law (the “GML”) provides that prior to providing any financial assistance of more than \$100,000, the OCIDA must prepare a written cost-benefit analysis that evaluates a project’s potential to create or retain permanent private sector jobs, estimates the value of the proposed tax exemptions, assesses the amount of private investment likely to be generated, considers the project’s contributions to the state’s renewable energy goals, evaluates the feasibility of timely project completion, and identifies any additional public benefits such as increased municipal and school district revenues, and any other public benefits that might occur. To implement this requirement, the OCIDA’s “Project Approval Policy” (the “Policy”) requires that “[t]he members shall prepare, or cause to be prepared, a written cost-benefit analysis, including a ratio of abatement to new community investment (the “Cost-Benefit Analysis”)... [and that] [t]he board shall consider the Cost-Benefit Analysis when determining if a project is eligible for financial assistance.” The Policy is entirely consistent with Section 859-a(5)(b) of the GML, and in contrast to the claims made in the October 27<sup>th</sup> Letter, neither the GML nor the OCIDA’s Policy requires or authorizes the OCIDA to consider the several environmental and socialized costs, as so claimed within the October 27<sup>th</sup> Letter, within a cost-benefit analysis.

As a second threshold matter, the October 27<sup>th</sup> Letter states it is being “submitted under SEQR 6 N.Y.C.R.R. §617.9(b)(5)(i), (vi), (viii) and (ix)”, being requirements that *are not even applicable* to the Project, given the procedural status and the determination already made by the Town of Wawayanda Planning Board, as lead agency under the New York State Environmental Quality Review Act (“SEQRA”), and its properly issued Negative Declaration for the Project pursuant to 6 N.Y.C.R.R. §617.7.

Notwithstanding the foregoing, and in the interest of transparency and procedural integrity, we will respond to the October 27<sup>th</sup> Letter. However, we respectfully request that you entirely reject the claims and demands contained therein, as they are legally unsupported and factually inaccurate. The October 27<sup>th</sup> Letter misrepresents the distinct legal frameworks governing environmental review under SEQRA and the cost-benefit analysis required under Section 859-a of the GML, leading to a flawed interpretation of the OCIDA's statutory obligations.

The CBA prepared for Project Bluebird, as so referenced in the October 27<sup>th</sup> Letter, a copy of which is enclosed, and that was also provided to and discussed by OCIDA board members at the October 23, 2025 meeting whereat the OCIDA approved of the Project, fully complied with the GML and the OCIDA Policy. As required by the Policy, the CBA compares the estimated costs of the approved exemptions (the "Abatements") to the estimated state and local benefits (the "New Community Investment") that Project Bluebird will provide, concluding that the New Community Investment will exceed the Abatements by a 9:1 ratio.

To the extent that the October 27<sup>th</sup> Letter raises environmental and public health issues with respect to Project Bluebird<sup>1</sup>, as discussed below, these issues have been exhaustively studied and vetted, resulting in a SEQRA Negative Declaration issued by the Town of Wawayanda Planning Board (the "Planning Board") as SEQRA lead agency for a coordinated environmental review of Project Bluebird's potential environmental impacts.<sup>2</sup> A copy of the Negative Declaration is enclosed. OCIDA was an involved agency in the coordinated SEQRA review of Project Bluebird by the Planning Board and is bound by the Negative Declaration (6 N.Y.C.R.R. § 617.6(b)(3)(iii)).

Scannell Properties #600, LLC ("Scannell") respectfully notes that the Planning Board served as the SEQRA lead agency for this Project and, in accordance with New York law, conducted the full environmental review, ultimately issuing a Negative Declaration. Capitalized terms used and not defined in this letter have the meanings ascribed to such terms in the Negative Declaration. Under SEQRA, once a lead agency (here, the Planning Board) makes its environmental determination (here, the Negative Declaration), that determination is binding on other "involved agencies," such as OCIDA, as long as those agencies rely on the record developed by the lead agency (6 N.Y.C.R.R. § 617.6(b)(3)(iii)).

OCIDA reviewed and adopted the Planning Board's SEQRA Negative Declaration process at its October 23, 2025 meeting, as reflected in OCIDA's final resolution. Accordingly, OCIDA's reliance upon the Planning Board's findings is both procedurally and legally appropriate. Any concerns regarding the environmental review process now fall within the jurisdiction of the courts. In this regard, we remind you that Protect Orange County has already commenced litigation in Supreme Court challenging the Planning Board's SEQRA determination.

For convenience, we have listed out the various categories of issues from the October 27<sup>th</sup> Letter and have briefly responded to each with citations from the record.

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<sup>1</sup> The October 27<sup>th</sup> Letter's references to 6 NYCRR § 617.9 are inapplicable, as those requirements only pertain to the necessary contents of environmental impact statements when a potential significant adverse environmental impact is identified. For Project Bluebird, no potential significant adverse impacts were identified by the Planning Board during its comprehensive SEQRA review, so no environmental impact statement was required.

<sup>2</sup> The Negative Declaration was followed by the October 22, 2025 Planning Board approval of Project Bluebird, which included findings that also address the environmental and public health issues raised in the October 27<sup>th</sup> Letter.

## **I. Environmental and Socialized Costs Omitted from the Cost-Benefit Analysis**

### **1. Air Quality and Greenhouse-Gas Emissions**

The potential impacts, including cumulative impacts and the potential impacts of mobile sources (e.g., trucks), of Project Bluebird on air quality were extensively studied, quantified and considered by the Planning Board in the Negative Declaration. This review included consideration of impacts on ozone, a greenhouse gas, and precursor air pollutants to greenhouse gases, and compliance with applicable air quality standards. *See Negative Declaration, Section 6.* For this review, a comprehensive air quality report was prepared by Scannell's consultant based upon on both quantitative and qualitative analyses that were reviewed and confirmed by the Planning Board's own consulting air quality expert. At the public hearing on Project Bluebird prior to adoption of the Negative Declaration, air quality issues were raised by the public for consideration by the Planning Board. In the Negative Declaration, the Planning Board concluded that Project Bluebird would not result in any significant adverse impact on air quality. *See Negative Declaration, Section 6, and page 44, as well as Exhibit 6 (Cumulative Air Quality Dispersion Modeling and Analysis, prepared by Langan), available on the Town of Wawayanda's website under Agendas, Minutes, & Public Hearings/Planning Board/2025/Public Hearings/Scannell-Project Blue Bird/03-26-2025 Submission Project Blue Bird.*

The October 27<sup>th</sup> Letter's reliance on EPA's Social Cost of Carbon is irrelevant to OCIDA's statutory and policy obligations. Neither the GML nor the OCIDA's Policy requires or permits monetizing climate or health impacts in a cost-benefit analysis. The CBA is limited to economic factors, and imposing external metrics like the social cost of carbon misstates the law and exceeds OCIDA's authority. Environmental impacts were fully addressed under SEQRA, resulting in a Negative Declaration, and cannot be retroactively injected into the OCIDA CBA process.

### **2. Water Resources and Stormwater**

The October 27<sup>th</sup> Letter inaccurately describes the extensive measures that Project Bluebird provides to avoid and/or minimize potential impacts to water resources that will result from the project and should be disregarded.

In Sections 3 and 4 of the Negative Declaration, the Planning Board reviewed the potential impacts of Project Bluebird on Surface Water and Groundwater, respectively, and concluded that no significant adverse impacts would result from the project. With respect to stormwater control, during construction and operations an approved stormwater pollution prevention plan ("SWPPP") will be implemented. The SWPPP<sup>3</sup> provides for stormwater and erosion control measures intended to ensure that there is no increase in the quantity of the stormwater released from the site and that any discharge complies with applicable NYS water quality standards. The SWPPP, which was reviewed and approved by the Town's engineer, will implement state-of-the-art stormwater management practices specifically designed to reduce the potential of any downstream or groundwater impacts. A stormwater facilities maintenance agreement with the Town will ensure the maintenance

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<sup>3</sup> The approved SWPPP is available on the Town's website under Agendas, Minutes, & Public Hearings/Planning Board/2025/Public Hearings/Scannell-Project Blue Bird.



of these measures, provide a stormwater maintenance bond, and fund an escrow to defray the costs of municipal inspections of the stormwater management system. *See subsections (ii) and (v) of section (b) on page 7 and subsection (e) on page 8 of the Conditional Site Plan Resolution dated October 22, 2025 and stamped as received by the Town Clerk on October 23, 2025, available on the Town's website under Agendas, Minutes, & Public Hearings/Planning Board/2025/Public Hearings/Scannell-Project Blue Bird/10-22-2025 Approval Documents.*

The October 27<sup>th</sup> Letter's assertions that the CBA should include long-term public costs for stormwater oversight and enforcement is legally unfounded. Neither the GML nor OCIDA Policy requires or permits the inclusion of environmental compliance costs or speculative municipal expenses in a cost-benefit analysis. The CBA is limited to economic factors. Stormwater impacts were fully addressed under SEQRA, resulting in a Negative Declaration. Attempting to retroactively impose these environmental considerations in the CBA misstates the law and exceeds OCIDA's statutory and Policy authority.

### **3. Habitat Loss, Noise, and Light Pollution**

The October 27<sup>th</sup> Letter grossly distorts the potential impacts of Project Bluebird on wildlife habitat. Project Bluebird will be constructed in a mining pit, which has been actively mined since the 2000's. As the Planning Board found in the Negative Declaration, Section 7, the site is predominantly a disturbed open area providing little habitat for animal species. Small areas of undisturbed, potential habitat on the western portion of the site and along I-84 will not be affected by the project. Further, the Planning Board found after review of the project and the habitat assessment that any indirect impacts to wildlife from noise or light will be minimized by measures intended to avoid or minimize such impacts discussed in separate sections of the Negative Declaration and also amply supported by expert reports and plans. Generally, potential light impacts to wildlife and neighbors will be minimized by proposed Dark-sky compliant lighting, as recognized by the Planning Board in the Negative Declaration. A habitat assessment prepared for the Planning Board's review documented the site conditions and lack of suitable habitat, supporting the Planning Board's conclusion in the Negative Declaration that there would be no significant adverse impacts from Project Bluebird on wildlife. *See Page 42 of Negative Declaration.*

The October 27<sup>th</sup> Letter's reference to ecosystem service valuation and monetized impacts from habitat loss, noise, and light pollution are irrelevant to OCIDA's statutory and Policy obligations. Neither the GML nor OCIDA policy requires or permits the inclusion of monetizing habitat loss, noise, and light pollution metrics in a CBA. The CBA is limited to economic factors. Environmental considerations were fully addressed under SEQRA resulting in the Negative Declaration. These issues cannot be retroactively imposed injected into the CBA process.

### **4. Transportation Infrastructure and Roadway Wear**

The inaccuracy of the October 27<sup>th</sup> Letter's claims is underscored by the allegation that truck traffic from Project Bluebird will "accelerate the deteriorating of local roads." This is simply an untrue statement, as the Traffic Impact Study ("TIS") prepared by Scannell's consultant and reviewed by the Town's engineer and NYSDOT projects that there will be no truck traffic on local roads and that 90% of all traffic will travel on state highways to

and from I-84. The Negative Declaration (Section 11) concluded that Project Bluebird will not result in any significant adverse transportation impacts. The Special Use Permit findings (*Copy enclosed, See Page 10*) made by the Planning Board in its approval of Project Bluebird reflect the lack of impacts that the project is expected will

As benefits from the project, the Negative Declaration requires the implementation of significant traffic-control upgrades and improvements, including construction of additional turn lanes and a traffic signal at the Route 17M/Route 6 intersection, a signalized intersection at Route 6 and Route 56, and a traffic monitoring program funded by escrowed monies to ensure that any unanticipated traffic impacts are properly mitigated. Project Bluebird is also required to utilize the Service Driveway (shared with Project Liberty) to minimize traffic impacts from the Project onto Route 6 and onto local roads. *See pages 32-36 of the Negative Declaration.*

As summarized above, transportation infrastructure and roadway impacts were reviewed under SEQRA and addressed in the Negative Declaration. In addition, the Project Bluebird 15-Year PILOT analysis, a component piece of the OCIDA's CBA, identifies the extent to which the proposed Project will provide significant additional sources of revenue for municipalities and school districts – and particularly, the 2025 Highway District, as required under Section 859-a(5)(b) of the GML – funds that can be used for transportation and roadway purposes.

## **5. Public Safety and Emergency Services**

The unsubstantiated claim in the October 27<sup>th</sup> Letter is contradicted by the Negative Declaration and the Planning Board's Special Use Permit findings. Both the Negative Declaration (*See page 48*) and the Special Use Permit findings (*See page 20*) found that Project Bluebird is not expected to result in any costs for municipal services. Further, even with the PILOT, the Town's fire and ambulance special districts will receive 100% of the district fees based upon the full taxable value of the project site.

As summarized above, public safety impacts were reviewed under SEQRA and addressed in the Negative Declaration. In addition, the Project Bluebird 15-Year PILOT analysis, a component piece of the OCIDA's CBA, identifies the extent to which the proposed project will provide significant additional sources of revenue for the Wawayanda Ambulance and Slate Hill Fire Districts, as required under Section 859-a(5)(b) of the GML, for public safety purposes.

## **6. Opportunity Cost of Public Subsidies**

Without the tax exemptions, the Project will not move forward, which would translate to the municipalities, school districts, and special districts forfeiting the new tax revenue generated from this Project. The Project Bluebird 15-Year PILOT analysis, a component piece of the OCIDA's CBA, identifies the extent to which the proposed project will provide significant additional sources of revenue for municipalities and school districts and special districts in the event the Project were to move forward with OCIDA financial assistance. The October 27<sup>th</sup> Letter's "opportunity cost" argument is misplaced. The CBA fully accounts for the millions in tax exemptions by directly comparing them to the Project's substantial, quantifiable economic benefits – over \$1 billion in new local and state benefits

including new jobs, payroll, and tax revenues. An opportunity cost analysis is not required under either the GML or OCIDA policy. The CBA properly evaluated the statutory factors. Speculative or hypothetical uses of foregone revenue cannot be imposed on the OCIDA's CBA statutory and policy processes.

#### **7. Socialized Costs for Low-Wage Labor – impacts on housing, education, food and transportation and healthcare**

Section 859-a(5)(b) of the GML and the OCIDA Policy as applicable to Project Bluebird do not require or authorize the inclusion of speculative social service costs or public subsidy estimates in a CBA. The OCIDA board fully considered the Project's 15-year PILOT Analysis, which projects over \$40 million in school district revenues during the PILOT and \$8 million annually thereafter, far exceeding current tax receipts. The Board also noted that any potential increase in student enrollment would be more than offset by this new revenue growth. Broader social issues such as housing, food, transportation, and healthcare, are outside the scope of the CBA statute and OCIDA policy.

## **II. Lithium-Ion Battery Hazards and Unfunded Emergency-Response Costs**

All issues related to lithium-ion battery hazards, fire safety variances and emergency response costs were thoroughly reviewed by the New York State Department of State ("NYSDOS") and addressed in the fire suppression system variance process, with full consideration of public safety and environmental risks. Neither GML Section 859-a(5)(b) nor the OCIDA Policy requires or authorizes the inclusion of speculative emergency response or environmental mitigations costs in the CBA. These matters are outside the scope of CBA and cannot be injected into the CBA process. Below please find some more detailed responses to the issue raised in the October 27<sup>th</sup> Letter.

### **1. Unfunded Emergency-Response Infrastructure**

Again, the unsubstantiated claims in the October 27<sup>th</sup> Letter are belied by the Negative Declaration and the Planning Board's Special Use Permit findings.

As reflected in the Planning Board's Special Use Permit findings (*See pages 2, 4-6*), the Town of Wawayanda's Fire Chief stated unequivocally that Project Bluebird would not threaten local fire-fighting capacity and has given no indication that necessary equipment was lacking. Rather, the Fire Chief noted that the fire district would benefit substantially from Project Bluebird from district fees that will be paid based upon the full taxable value of the project site. This benefit will make it possible for the district to replace or buy any additional equipment it requires. Also, as not reflected in the October 27<sup>th</sup> Letter, Scannell's fire engineer provided substantial information to the Planning Board explaining how the potential fire risks of the project's lithium-ion battery powered robotics in the building would be minimized that the Planning Board noted in its Special Use Permit findings (*See pages 2, 4-6*). This includes the state-of-the-art fire suppression system provided for Project Bluebird. Project Bluebird's fire safety design and measures have been vetted by the New York State Department of State in its approval as well as by Town Code Enforcement Officer and its Fire Chief. *See NYSDOS Decision, available on the Town's website at Agendas, Minutes, & Public Hearings/Planning Board/2025/Public Hearings/Scannell-Project Blue Bird/09-24-2025 Submission Project Blue Bird.*

## **2. Environmental and Public-Health Risks of a Catastrophic Event**

The Project's extensive operational and other fire safety measures will reduce the risk of a fire and limit the potential for any major fire involving the Project's robotics. The sufficiency of the Project's fire prevention and safety measures has been vetted by NYSDOS as the State agency responsible for administration of the State Fire Code, and by the Town Fire Chief. The Fire Chief stated at the public hearing and in his letter submitted to the Planning Board that he is comfortable that his responders can adequately respond to any fires at the facility. The on-site fire safety force would be funded by Amazon. The significant tax dollars generated by this Project can be utilized by the Town for any local fire coordinating needs that the City may have. Environmental insurance is not warranted for this site.

## **3. Absence of Mitigation or Risk-Internalization Mechanism**

There are no specific cost-sharing mechanisms associated with potential environmental or public-health impacts of a potential fire at the facility, because the unrestricted tax funds generated by the Project are of more than sufficient magnitude to cover any such costs. Moreover, none of the many agencies reviewing this Project as part of SEQRA review raised any of these matters or requested any specific cost-sharing mechanisms or funds other than what is laid out in the conditional site plan approval resolution.

## **III. Electrical Infrastructure and Ratepayer Impacts**

GML Section 859-a(5)(b) and the OCIDA policy do not require or authorize the inclusion of speculative utility or ratepayer costs in the CBA. These matters are outside the scope of the GML CBA requirements and cannot be injected into the OCIDA CBA process. Below please find some more detailed responses to the issues raised in the October 27<sup>th</sup> Letter.

### **1. Ratepayer Subsidy**

The Applicant received a will-serve letter from Orange and Rockland Utilities, Inc., the electric utility service provider for the Town ("ORU"), stating that it can serve the electrical loads of the Project. The Substation design and permitting will not be fully financed through regulated-utility capital budgets; rather, the Applicant is responsible for funding the same, with costs for construction of the facility being funded by ORU. The Applicant will donate the Substation land to ORU. Once the Substation is operational, the customers that use the power from the Substation will pay for their respective usage based on filed rates. Moreover, The Substation is intended to provide for more efficient distribution of electricity within ORU's service area, including the Project Site. *See Negative Declaration, Section 14 and SEQRA Narrative on Substation, Exhibits 4 and 6 at Agendas, Minutes, & Public Hearings/Planning Board/2025/Public Hearings/Scannell-Project Blue Bird/04-09-2025 Submission Project Blue Bird.*

### **2. Peak Demand and Capacity Charges**

OCIDA was neither required nor authorized to include speculative future utility capacity and peak demand charges in the CBA. These matters are outside the scope of the GML CBA requirements and cannot be injected into the OCIDA CBA process.

### 3. Environmental Risks from Electrical Infrastructure

The Substation is in the design phase and will be subject to the Planning Board's site plan review process. Such 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 based upon material changes from Project Bluebird. Existing vegetation on the site will be retained to the maximum extent practicable. There are no wetlands or other surface waters on the Substation site. *See pages 36-37 of the Negative Declaration; SEQRA Narrative on Substation, Exhibit 4 at Agendas, Minutes, & Public Hearings/Planning Board/2025/Public Hearings/Scannell-Project Blue Bird/04-09-2025 Submission Project Blue Bird.*

The OCIDA's CBA for Project Bluebird fully complies with the GML and the OCIDA Policy. The CBA appropriately focused on the statutory economic factors, and neither the law nor OCIDA Policy requires or authorizes the inclusion of speculative or unsubstantiated costs as asserted in the October 27<sup>th</sup> Letter. Environmental and public health concerns were thoroughly reviewed and resolved by the SEQRA lead agency, whose Negative Declaration is binding and confirms no significant adverse impacts to the environmental or other resources discussed in the October 27<sup>th</sup> Letter.

The claims in the October 27<sup>th</sup> Letter misstate the law and lack factual support. The CBA and record, including the Planning Board's Special Use Permit findings, demonstrate that Project Bluebird meets all CBA related statutory obligations and delivers substantial public benefit.

Please share this letter with OCIDA Monitor Brain Sanvidge and urge him to both reject the October 27<sup>th</sup> Letter, because it is legally unsupported, factually inaccurate, and contrary to the record, and to deny its request to overturn/veto the OCIDA's Project Bluebird approval.

Very Truly Yours,

**SCANNELL PROPERTIES #600, LLC**



Marc D. Pfleging, Manager

enclosures

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10-27-25

Brian Sanvidge  
OCIDA State Monitor  
3 Times Square  
New York, NY 10036

**RE: Project Bluebird / Scannell Properties #600 LLC & Amazon.com Services Inc. - Incomplete Cost–Benefit Analysis and Failure to Disclose Environmental, Emergency, Energy, and Socialized Costs**

Dear Mr. Sandvidge:

I am writing on behalf of **Protect Orange County** and **Save Wawayanda** to identify failures and omissions in **Project Bluebird's Cost-Benefit Analysis**. For the reasons listed below we believe this project will be a net cost to the public in orders of magnitude and urge you to overturn the OCIDA's approval of a PILOT agreement as it is based on false and misleading information.

*(Submitted under SEQR 6 NYCRR §617.9(b)(5)(i), (vi), (viii), and (ix))*

## **I. Environmental and Socialized Costs Omitted from the Cost–Benefit Analysis**

The MRB Group *Cost–Benefit Analysis* (CBA) presented to the Orange County Industrial Development Agency on October 20, 2025, asserts a 9:1 benefit-to-cost ratio based solely on construction payroll, sales taxes, and property-tax multipliers. This analysis is **incomplete, misleading, and noncompliant with SEQR**, because it ignores the full spectrum of **environmental, infrastructure, and human costs** that will be borne by the public.



## 1. Air Quality and Greenhouse-Gas Emissions

The project's 24-hour logistics operations will bring hundreds of daily truck and van trips, emitting large quantities of NO<sub>2</sub>, CO, PM 2.5, and CO<sub>2</sub>. Using EPA's 2023 *Social Cost of Carbon* (\$190 per ton CO<sub>2</sub>), lifetime emissions from construction, vehicle operations, and energy use could produce **tens of millions of dollars** in unpriced climate and public-health damages. Increased ozone and fine particulates are directly linked to asthma, COPD, and cardiovascular illness—burdens that fall on **local healthcare systems and residents**, not the applicant.

## 2. Water Resources and Stormwater

The site's massive impervious footprint eliminates natural filtration, generating stormwater runoff containing oil, heavy metals, and microplastics. These flows threaten **groundwater recharge and private wells** and will require **expanded public stormwater infrastructure and monitoring programs**. No portion of these costs appears in the CBA, and there is no financial assurance for post-construction maintenance or remediation.

The *Draft Negative Declaration* confirms that Scannell Properties is responsible for constructing and maintaining a **comprehensive stormwater management system** as required by NYSDEC and the Town of Wawayanda.

However, the **Cost–Benefit Analysis (CBA)** still omits any recognition of the **long-term public costs** associated with oversight, inspection, and enforcement of these stormwater systems. While the developer funds initial construction, the Town and DEC must commit ongoing staff time, engineering resources, and potential enforcement actions over the project's 15-year life and beyond.

The CBA also fails to account for **potential downstream impacts**—such as cumulative runoff to nearby tributaries, long-term sedimentation, or groundwater contamination from industrial vehicle operations—that could result in public expenditures for remediation or infrastructure upgrades.

Accordingly, while the project nominally includes a stormwater management plan, the financial and administrative burden of monitoring and enforcement remains a socialized cost that should have been identified in the economic and environmental analysis.

## 3. Habitat Loss, Noise, and Light Pollution

Conversion of over 100 acres of rural land to paved industrial space permanently eliminates **carbon-sequestering vegetation, wildlife corridors, and pollinator habitat**. NYSERDA estimates lost ecosystem services at **\$4,000–\$6,000 per acre annually**, translating to



millions in long-term natural-capital losses. While the site is currently an active quarry there are still forested acreage that would be lost by this project.

In addition, **nighttime light pollution** from 24-hour operations disrupts nocturnal species and nearby residents' quality of life—none of which is monetized or mitigated.

#### **4. Transportation Infrastructure and Roadway Wear**

Hundreds of daily truck trips will accelerate the deterioration of local roads.

Repaving and traffic-control upgrades will fall to the **Town of Wawayanda and Orange County**, or NYS representing millions in deferred infrastructure liabilities over the 15-year PILOT term.

#### **5. Public Safety and Emergency Services**

The CBA notes a one-time \$1 million “ambulance bay” contribution, but provides no funding for **increased fire, police, and EMS staffing, equipment, or training** necessitated by the facility's size and 24-hour operations.

All ongoing costs of readiness, overtime, and mutual-aid coordination are **unfunded mandates** transferred to local government.

#### **6. Opportunity Cost of Public Subsidies**

The \$111,217,075 in total tax exemptions represents a **direct loss of public revenue** that could otherwise fund local schools, infrastructure, or environmental restoration. By treating this only as a fiscal “cost” in an input-output model—and not as a **lost public investment opportunity**—the CBA misrepresents the project's actual economic tradeoffs.

#### **7. Socialized Costs for Low-Wage Labor**

The CBA celebrates job creation but fails to disclose **the quality and sustainability of those jobs**. Typical Amazon warehouse wages in New York range from \$18–\$21/hour—barely above subsistence in Orange County's current cost of living.

This creates **secondary socialized costs**:

- **Housing:** Rent inflation and displacement pressures for low-income residents as new workers compete for scarce units.
- **Education:** Increased enrollment from working families without proportional PILOT contributions to school tax bases.

- **Food and Transportation:** Low-wage workers reliant on SNAP and fuel assistance, both subsidized by taxpayers.
- **Healthcare:** Higher rates of occupational injury and stress-related illness, shifting costs onto Medicaid and public hospitals.

These externalized social-service costs are substantial and ongoing. They represent **hidden public subsidies** that the CBA completely omits.

## II. Lithium-Ion Battery Hazards and Unfunded Emergency-Response Costs

The project includes roughly **6,000 lithium-ion battery-powered robots** operating continuously within a multi-story logistics structure. The applicant secured a **Substantial Variance** waiving **Type IA fire-resistance construction**—a safety measure valued by the applicant at **over \$80 million**—in favor of performance-based active systems. This waiver effectively shifts the risk of catastrophic failure from private capital to **public emergency responders and taxpayers. See Department of State Petition (Exhibit A)**

This decision of the New York State Department of State Hudson Valley Regional Board of Review grants Scannell Properties #600 LLC multiple variances from the Uniform Fire Prevention and Building Code for the Project Bluebird facility at 22 McBride Road, Wawayanda, NY.

The document confirms that the developer sought and received relief from (1) the required **Type I-A fire-resistance ratings**, (2) **maximum exit-travel distances** (increased from 250 ft to 400 ft), and (3) **maximum allowable quantities of flammable and combustible liquids (MAQs)**. The record further states that full code compliance would have cost **“in excess of \$80 million”** and delayed construction six to eight months. (Paragraph 14) The variance instead allows reliance on an alternative performance-based design using extended-coverage K25.2 sprinklers, dual water sources and fire loops, a three-hour water-supply duration, and a continuously staffed **Fire Safety Force (FSF)** coordinated with the Town of Wawayanda Fire Company.

The findings also confirm that the facility will house **6,000 to 7,000 autonomous robots** powered by lithium-ion batteries and will store **up to 49,500 gallons of flammable and combustible liquids** within its semi-automated storage system.

This official state record substantiates that Project Bluebird required extraordinary safety variances, that its fire-life-safety performance depends on complex active systems and local emergency coordination, and that the project achieved major cost savings by waiving conventional passive fireproofing requirements.

The decision therefore provides **direct evidence** of the **unpriced risk transfer** and **public safety dependencies** identified throughout this SEQR comment.

## 1. Unfunded Emergency-Response Infrastructure

A facility of this type requires specialized capabilities that local responders currently lack:

- **HF and VOC gas detection systems** and continuous environmental monitoring;
- **Thermal imaging** and location tracking for concealed hotspots in dense pod storage grids;
- **High-capacity suppression equipment** and water supply for long-duration cooling operations;
- **Toxic runoff containment and neutralization** systems;
- **Specialized PPE and decontamination tents** for hydrogen fluoride exposure;
- **Advanced lithium-ion fire and robotics-suppression training** and annual multi-agency drills.

None of these capital or operational costs are included in the IDA analysis or developer filings. The variance decision itself acknowledges reliance on **local fire coordination** and a 24/7 on-site “Fire Safety Force,” but provides no compensation for municipal agencies that must support it.

## 2. Environmental and Public-Health Risks of a Catastrophic Event

A lithium-ion thermal-runaway event could release **hydrogen fluoride (HF), carbon monoxide, and other toxic gases**, requiring **evacuations and long-term air-quality monitoring**. Suppression water contaminated with heavy metals and electrolytes would necessitate **hazardous-waste disposal** and potentially **soil and groundwater remediation**. These are foreseeable costs under NFPA 855 and UL 9540A testing data, yet no financial provision or insurance disclosure exists to address them.

## 3. Absence of Mitigation or Risk-Internalization Mechanism

There is no mitigation or cost-sharing mechanism—no regional hazmat funding, no equipment grant, no public-safety endowment. The record shows only an \$80 million savings achieved by **waiving fireproofing requirements**. That unspent \$80 million is not a “benefit”; it is a **shifted liability**.

The omission of these emergency and environmental costs renders the CBA’s claimed benefits inaccurate and misleading.

## III. Electrical Infrastructure and Ratepayer Impacts

The Bluebird facility will draw **extraordinary electrical loads** for lighting, robotics, climate control, and data operations. These loads will require **major grid reinforcements**, including new substations, transformers, and distribution upgrades. Because these upgrades are financed through regulated-utility capital budgets, they are **socialized across all ratepayers**—raising bills for residents and small businesses statewide.

### 1. Ratepayer Subsidy

Utility infrastructure for large industrial users is amortized across the customer base through Public Service Commission rate cases. This means the project's power demand translates into **long-term costs for ordinary customers**, even while the applicant receives local tax exemptions.

### 2. Peak Demand and Capacity Charges

As a non-interruptible load, the facility will contribute to regional peak demand, triggering higher NYISO capacity charges and **system-wide rate increases**. These costs are borne by **ratepayers, not the developer**, and are entirely absent from the IDA fiscal analysis.

### 3. Environmental Risks from Electrical Infrastructure

Transformer stations and high-voltage service lines introduce new **oil-containment and EMF exposure risks**, and construction may require additional wetland or habitat disturbance. The SEQR record contains no assessment of these downstream environmental effects or their fiscal implications.

## IV. Conclusion

Project Bluebird's fiscal presentation to the Orange County IDA and the State Fire Prevention and Building Code Council is **materially incomplete**.

It omits:

1. Environmental externalities (air, water, habitat, climate).
2. Public infrastructure and safety costs.
3. Emergency-response and hazardous-material readiness expenses.
4. Electrical grid and ratepayer burdens.
5. Social-service costs associated with low-wage labor.
6. The \$80 million in avoided fire-safety construction as a transferred public risk.

Each of these categories represents a **real, quantifiable cost** that under SEQR §617.9(b)(5)(i), (viii), and (ix) should have been identified, disclosed, and included in the cost–benefit analysis. By omitting them, the CBA’s “9:1 benefit-to-cost ratio” is unsupported and misleading, and the record fails to demonstrate a net public benefit or a finding of no significant adverse impact.

**Respectfully submitted,**

Pramilla Malick

Leslie Hanes

Protect Orange County

Save Wawayanda

CC: James Skoufis

Michael Sussman

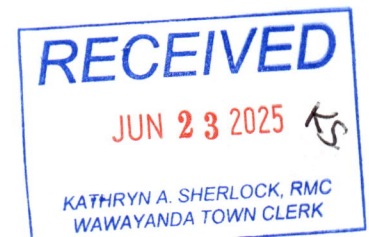


**TOWN OF WAWAYANDA PLANNING BOARD**  
**80 Ridgebury Hill Rd, Slate Hill, NY 10973**

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 sheds; 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**

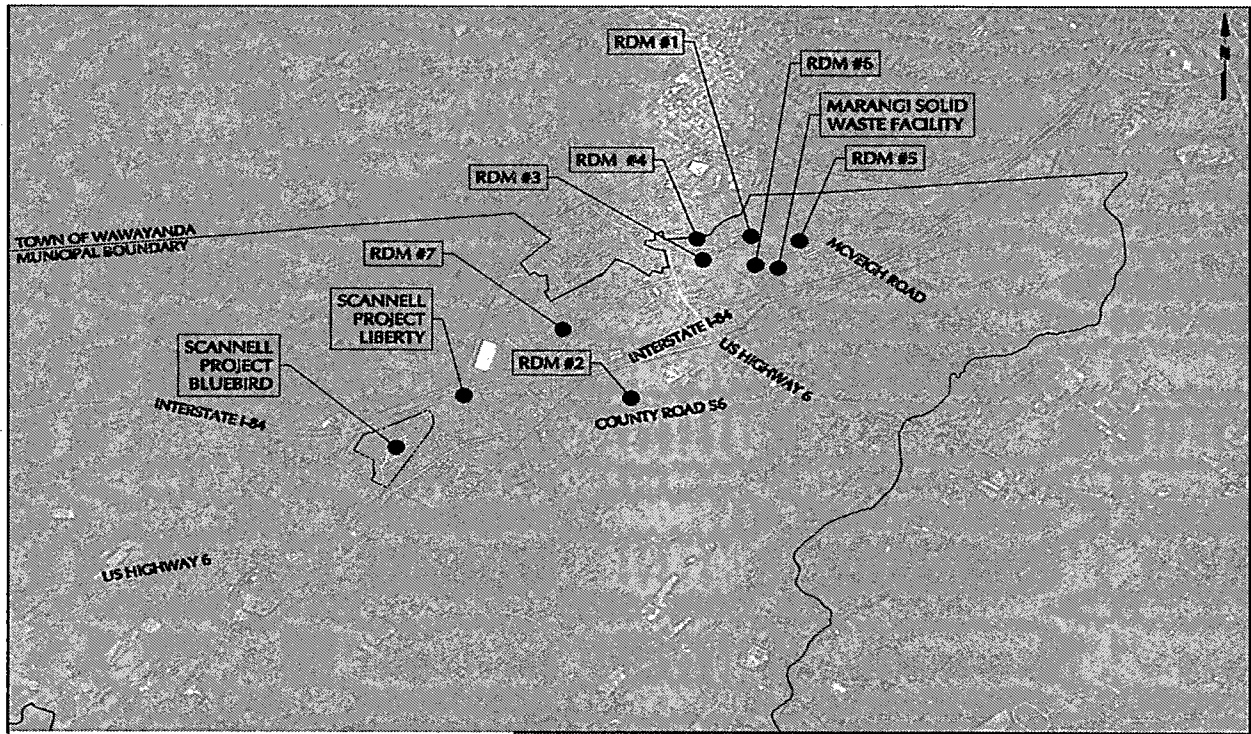
The SEQRA lead agency must consider the criteria for determining the significance of potential environmental impacts from the Project as set forth in the SEQRA regulations at 6 NYCRR § 617.7(c). To accomplish this, the lead agency reviews all relevant information and completes Parts 2 and 3 of the FEAF 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 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 FEA 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:**

Contact Person: John Razzano, Chairman  
Town of Wawayanda Planning Board

Address: Town of Wawayanda Town Hall  
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:**

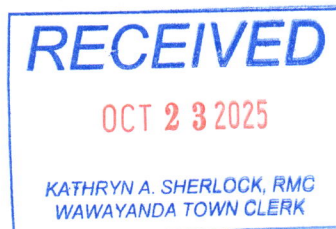
Town of Wawayanda Town Board;  
Town of Wawayanda Zoning Board of Appeals;  
Town of Wawayanda Highway Department;  
Orange County Planning Department;  
Orange County Health Department;  
Orange County Industrial Development Agency;  
NYS Department of Environmental Conservation, Region 3;  
NYS Department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



## Town of Wawayanda Planning Board

### Special Use Permits Findings for Project Bluebird

October 22, 2025



Scannell Properties #600, LLC (“Scannell” or the “Applicant”) has submitted amended Special Use Permit and Site Plan applications (the “Applications”) to the Town of Wawayanda Planning Board (the “Planning Board”) for the redevelopment of an active mine site with a 5-story, ±3.2 million square foot (“SF”) e-commerce logistics, storage and distribution facility (the “Project” or “Project Bluebird”) on lands between U.S. Route 6 (“Route 6”) and U.S. Interstate I-84 (“I-84”) comprising approximately 108.4 acres in the Town of Wawayanda (the “Town”), Orange County, New York (the “Site” or the “Project Site”). Project Bluebird will include a Service Driveway and will eventually be served by a new electric substation (the “Substation”) to be separately owned and operated by Orange & Rockland Utilities, Inc. The Project will be built in the Town’s Mixed Commercial (“MC-1”) zoning district, where Project Bluebird is an allowed industrial use (as a warehouse, storage and distribution facility).

Access to and from the Project Site will be from a shared Service Driveway at a signalized intersection with Route 6 approximately 2/3 of a mile to the east of McBride Road. The current access to McBride Road and Route 6 used by truck traffic and other vehicles from the mining operations on the Project Site will be eliminated except for emergency vehicle access. From the new Service Driveway intersection, 90% of Project traffic is expected to travel on Route 6 to and from I-84, located approximately 2 miles away from the intersection of the Service Driveway and Route 6. Little traffic is expected to travel on local roads.

The Project is shown on site plans prepared by Langan Engineering and Environmental Services, Inc. and last revised April 9, 2025 (except for Drawing No. CS100, with a last revised date of July 23, 2025) (collectively, the “Site Plans”).

Project Bluebird is proposed as an amendment to Special Use Permit and Site Plan approvals granted by the Planning Board for the Slate Hill Commerce Center (“SHCC”) on the Project Site in December 2022. SHCC was approved by the Planning Board as a warehouse, storage and distribution facility with a ±925,000 SF footprint. In addition to the amended Special Use Permit sought for Project Bluebird to be used as a warehouse, storage and distribution facility use, on July 30, 2025 (after the Planning Board’s June 11, 2025 Negative Declaration) Scannell amended its pending Special Use Permit application to the Planning Board to include in its application a proposal for a Special Use Permit for a height exception pursuant to Zoning Law § 195-13(B) for the proposed ±96.21’ height of the Project’s building, requiring a ±31.21’ exception from the 65’ height restriction provided by the Zoning Law for buildings in the MC-1 zoning district.

For its review of Scannell’s applications for Special Use Permits (for both the warehouse use and the height exceptions), the Town of Wawayanda Zoning Law (the “Zoning Law”) requires the Planning Board to consider certain criteria. These criteria serve to guide the Planning Board’s

discretionary review of Special Use Permit applications and provide the basis for findings with respect to those criteria. In order to grant Project Bluebird's amended Special Use Permit application for a height exception, Zoning Law § 195-13(B) requires the Planning Board to make two specific findings (discussed below). For both Special Use Permits sought by Scannell, Zoning Law § 195-76 provides the criteria that the Planning Board must consider in deciding whether to approve, approve with modifications, or disapprove those applications.

On or about June 11, 2025, the Planning Board, acting as lead agency, adopted a SEQRA Negative Declaration for Project Bluebird (the "Negative Declaration"), which is incorporated herein by reference. As required by SEQRA, the Negative Declaration took a hard look at potential significant adverse environmental impacts from the Project and concluded that the Project would not result in any significant adverse environmental impacts, including impacts related to the height of the Project's building. The Negative Declaration also found that Project Bluebird's impacts were substantially consistent with those of SHCC. The Planning Board's findings in the Negative Declaration overlap with and support findings that Project Bluebird satisfies the Special Use Permit review criteria provided by Zoning Law § 195-76, as well as the findings required for Planning Board approval of a height exception as a special use pursuant to Zoning Law § 195-13(B).

As part of its SEQRA review of the Project, the Planning Board has also considered the potential for impacts related to Scannell's application for a Special Use Permit for a height exception pursuant to Zoning Law § 195-13(B). No changes to the Project have occurred since the issuance of the Negative Declaration and the potential impacts of the height of the building, particularly visual impacts, were thoroughly considered by the Planning Board in the Negative Declaration. While SEQRA does not require an exhaustive evaluation of every conceivable impact from a proposed action, the Planning Board's Negative Declaration included a conclusion that the Project's state-of-the art fire suppression system will limit the burden on the Wawayanda Fire Company. This assessment is further supported by the decision of the New York State Department of State ("NYSDOS"), the state agency charged with the administration of the Uniform Fire Prevention and Building Code, approving the Project's fire safety design. It is also supported by the extensive information provided by the Applicant's Fire Engineer detailing the Project's fire safety design measures and explaining how the potential fire risks of the lithium-ion battery-powered robotics in the building will be minimized. Finally, this conclusion is supported by the expertise and expert opinion of the local Fire Chief, who is familiar with the Project's safety design and fighting fires involving lithium-ion batteries and has stated that local fire-fighting capacity will not be impacted by the Project. Accordingly, Scannell's request for a height exception is fully consistent with the adopted Negative Declaration and the Planning's Board's prior SEQRA review for the Project.

Further, in its Special Use Permit and Site Plan approval resolution approving SHCC as a warehouse use, the Planning Board had found that SHCC satisfied the Town of Wawayanda's Special Use Permit review criteria set forth in Zoning Law § 195-76. This finding for SHCC supports findings that Project Bluebird also satisfies the review criteria provided in Zoning Law § 196-76, based upon the Project's consistency with SHCC as reflected in the Applications and the Negative Declaration.



Public comments during and after the public hearings on the Project advocated that the Planning Board should deny the Project's Special Use Permit application as it had recently done for another warehouse, storage and distribution facility ("RDM #7). In its September 24, 2025 response to public comments, the Applicant for the Project provided a chart distinguishing the two projects based upon the findings made by the Planning Board in the Negative Declaration for the Project and the Board's denial of a Special Use Permit for RDM #7. This comparison of the Planning Board's findings showed that there are significant differences between the two projects, including that RDM #7 would be built on vacant land immediately adjacent to a residential neighborhood. The Planning Board agrees with the Applicant's September 24, 2025 assessment and incorporates the Applicant's chart from that letter into these findings by reference. Overall, the Planning Board's decision for RDM #7 is wholly inapplicable and not relevant to the Project.

For these reasons and those provided below and based upon the Applications, the Negative Declaration, the prior SHCC approval, and the public hearings held on the Applications, the Planning Board makes the following findings for Project Bluebird with respect to the Special Use Permit criteria provided by Zoning Law §§ 195-13(B) and 195-76.

#### **Application for a Height Exception Pursuant to Zoning Law § 195-13(B)**

Pursuant to Zoning Law § 195-13(B) and Article III of the Zoning Law, on July 30, 2025 Scannell submitted an amended application for a Special Use Permit for a height exception for Project Bluebird's proposed building. Zoning Law § 195-13(B) provides "permitted exceptions" from the Zoning Law's height restrictions for certain non-inhabited and other structures and expressly provides:

"Permitted exceptions. Height limitations stipulated elsewhere in this chapter shall not apply to church spires, belfries, cupolas, domes, monuments, water towers, chimneys, smokestacks, flagpoles, farm buildings or similar noninhabited structures under 100 feet in height. Radio and transmission towers shall be subject to the requirements of § 195-40 of this chapter. Noninhabited structures over 100 feet in height may be permitted as special uses, provided they are sufficiently set back from adjoining properties to avoid any safety hazard connected therewith and meet all state and federal air safety and electronic communications standards. *Other height exceptions may be granted as special uses where fire-fighting capacity will not be threatened and buffers and setbacks are also proportionally greater.*"<sup>1</sup>

Scannell's application for a height exception was submitted to the Planning Board after the Town of Wawayanda Zoning Board of Appeals ("ZBA") denied an area variance for the height of the building pursuant to separate authority and standards provided by the Zoning Law and NYS Town Law. Based upon the plain reading of Zoning Law § 195-13(B), the Planning Board accepted

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<sup>1</sup> Section 195-13(B) of the Zoning Law authorizes the Planning Board to grant two different Special Use Permits allowing exceptions to the Zoning Law's height restrictions: (1) an exception for non-inhabited structures and (2) an exception for all other structures. Both of these two different and separate Special Use Permits for different types of structures require specific, additional, but different, findings for the issuance of a Special Use Permit.



Scannell's application for a height exception and held and closed a public hearing on it on September 10, 2025.

Scannell's application for a Special Use Permit for a height exception is not a request for a "waiver" pursuant to Zoning Law § 195-69. A "waiver" is not relevant to this application. Zoning Law § 195-69 only gives the Planning Board the right to waive any of the special use permit requirements of Article VII of the Zoning Law. However, the special use permit requirements for height exceptions are provided in Article III of the Zoning Law, not Article VII. As such, the Planning Board's authority to grant a "waiver" under § 195-69 does not even apply to a special use permit for a height exception. Instead, as noted above, Scannell has applied for a Special Use Permit as expressly authorized by Zoning Law § 195-13(B), which is in Article III of the Zoning Law.

Nor is a Planning Board decision to grant the requested height exception controlled by the ZBA's denial, which was made based upon entirely different Zoning Law standards. The Planning Board's role is to apply the Zoning Law as it is plainly written, even if it leads to a different outcome from the ZBA. Under the Zoning Law as it is written, it is entirely possible for the Planning Board to grant a Special Use Permit for a height exception based on the findings required by Zoning Law §§ 195-13(B) and 195-76, even after a ZBA variance denial pursuant to Zoning Law § 195-85.

Granting the height exception to Scannell is not expected to create a precedent that results in a proliferation of applications to the Planning Board for height exceptions. The Applicant has demonstrated that Project Bluebird's operational needs are unique, requiring the taller building. The ±83-acre portion of the Project Site where the building will be located is uniquely large, making it possible for Scannell to satisfy the additional findings required by Zoning Law § 195-13(B) as discussed below.

Accordingly, the Planning Board makes the following specific findings required by Zoning Law § 195-13(B) with respect to Scannell's application for a Special Use Permit for a building height exception:

***Fire-fighting Capacity will not be Threatened***

Pursuant to Zoning Law § 195-13(B) for the requested building height exception, the Planning Board finds that the Project will not threaten fire-fighting capacity. This finding is based upon the Negative Declaration, which considered this issue and specifically stated that the Project's state-of-the-art fire suppression system would limit burdens on the Wawayanda Fire Company<sup>2</sup>, and the letters provided to the Planning Board from the Applicant's Fire Engineer and from the Slate Hill Fire Department's Chief, Shaun Graham, as well as the testimony of Chief Graham at the September 10, 2025 public hearing. In testimony at the hearing and in his September 18, 2025 letter, Chief Graham detailed his extensive qualifications as a fire fighter, including fifteen (15) years of volunteer service in Orange County and six (6) years of professional

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<sup>2</sup> The Wawayanda Fire Company, as an interested agency, consented to the Planning Board serving as SEQRA lead agency for the Project and did not indicate any concerns about impacts to the community's fire-fighting capacity from the Project.

experience as a firefighter for the New York City Fire Department. The Planning Board finds that Chief Graham's assessment that local fire-fighting capacity will not be threatened by the granting of the Special Use Permit for the height exception for Project Bluebird is credible and dispositive.

The Fire Engineer's July 28, 2025 and September 19, 2025 letters explain how the Project's design, layout and operations will comply with or exceed the requirements of the NYS Uniform Building and Fire Code and reduce any potential impact on local fire-fighting capacity. As reflected in the Fire Engineer's Letter, this will include fire-resistant construction materials for the building; a state-of-the-art fire suppression system; required building access including roof access through internal stairwells; a dedicated onsite Fire Command Center; and trained onsite fire professionals. In his testimony at the hearing, Chief Graham cited these measures, which include nine fire-enclosed stairwells to the roof of the building, as key reasons supporting his conclusion that local fire-fighting capacity will not be threatened. He also noted that his department has a 100-foot ladder vehicle, which together with the safe rooftop access provided by the stairwells, meets the department's needs for fighting any fire involving Project Bluebird's taller building.

Fire safety concerns about lithium-ion battery-powered robotics in the Project's building that were raised at the public hearing have been satisfactorily addressed prior to the issuance of the Negative Declaration and at the public hearing. Substantial information has been provided by Scannell, its Fire Engineer, and Chief Graham, who stated that he has experience in fighting lithium-ion battery fires. The Project's robotics ("Drive Units") are separate, individual machines with their own built in and self-contained battery packs to power the electric motor of each Drive Unit and, based upon the plain reading of the Zoning Law, do not constitute a "Battery Storage Energy System" ("BESS") as defined by the Uniform Code and Zoning Law § 195-40.1. which contemplate devices that are connected together to form a "system" that provides energy storage for future use.<sup>3</sup> Unlike a BESS, the Drive Units are simply a form of individual battery-powered tools/machines (e.g., battery-powered drills, lawn mowers, automobiles) separately plugged into a power source at the facility. As such, they will be charged at the facility on individual charging stations specific to each robot and are not assembled/connected together. Each battery provides power only to its individual Drive Unit and nothing else. Battery packs are not removed for charging or at any other time but stay inside the Drive Unit. To minimize fire risk, as standard operating procedure a reduced charge will be provided to each Drive Unit. Further, according to Scannell's Fire Engineer, each Drive Unit "has an integral battery management system ("BMS") that monitors conditions like voltage, current, temperatures, state of charge, etc. If there are irregularities, the drive unit would be flagged and inspected for issues." Additionally, all of the

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<sup>3</sup> Consistent with the Uniform Code, a Battery Energy Storage System is defined in Zoning Law § 195-40.1(B) as "One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle." As noted above, the individual robot battery units are not assembled together to store energy. According to NYSEDA, unlike the Project's individual Drive Units, a BESS is a type of energy storage system, "like large-scale batteries," that stores energy drawn from the power grid during periods of low demand or extra capacity" and stores that electricity "until it's needed, such as during peak usage times, grid disturbances, or outages." See [https://www.nyserda.ny.gov/All-Programs/Energy-Storage-Program/Energy-Storage-for-New-York-State?gad\\_source=1&gad\\_campaignid=22765827349&gbraid=0AAAAAD1A\\_kD0\\_6BjF8hkO7zGzgSB4KW9v&clid=CjwKCAjwr8LHBhBKEiwAy47uUhe0PN7frT5RbX8\\_ZbKwOb79Br2outLVRJtOz7ocqRYnrgL93bmGixoCghlQA\\_vD\\_BwE](https://www.nyserda.ny.gov/All-Programs/Energy-Storage-Program/Energy-Storage-for-New-York-State?gad_source=1&gad_campaignid=22765827349&gbraid=0AAAAAD1A_kD0_6BjF8hkO7zGzgSB4KW9v&clid=CjwKCAjwr8LHBhBKEiwAy47uUhe0PN7frT5RbX8_ZbKwOb79Br2outLVRJtOz7ocqRYnrgL93bmGixoCghlQA_vD_BwE) The Zoning Law's BESS provisions are based upon a model law provided by NYSEDA: <https://www.nyserda.ny.gov/-/media/Project/Nyserda/Files/Programs/Clean-Energy-Siting/model-law.pdf>

Drive Units are inspected periodically to ensure that they are in efficient operating condition. The Applicant has stated that spare batteries for robotics will not be stored at the facility, which is a condition of these approvals, and if there are operational issues (including the need for a new battery), the individual robot is sent back to the manufacturer.

Overall, while the potential for lithium-ion battery fires exists, the risks of a major fire incident are not significant due to the small size of the individual Drive Units, the large area of the facility, the constant monitoring of the Drive Units by the BMS and all of the fire prevention and management measures designed into the Project. According to the Fire Engineer, since the batteries involved are relatively small, a fire event would likely be limited to one Drive Unit. Further, according to the Applicant's Fire Engineer, deflagration or an explosion hazard is "extremely unlikely" due to the large volume of warehouse space involved and "adequate volume of air to dilute the discharge of flammable vapors." The building's automatically-triggered smoke control system will provide additional ventilation in the event of fire incident. Finally, per the Fire Engineer, the Project's building has been designed to take these potential hazards into account for compliance with the Uniform Code, and the fire protection measures provided and described in detail by the Fire Engineer "ensure that potential fires are manageable and adequate access is provided" for fire-fighting throughout the building.

Based upon the foregoing, particularly Chief Graham's qualified professional judgment that the height of Project Bluebird's building will not "threaten" local fire-fighting capacity, the Planning Board finds that Project Bluebird will not threaten fire-fighting capacity as required for the granting of a Special Use Permit for a height exception pursuant to Zoning Law § 195-13(B).

### ***Buffers and Setbacks are Proportionally Greater***

Scannell's July 30, 2025 updated site plan and the Planning Board's SEQRA Negative Declaration demonstrate how the Project's setbacks and buffers support the issuance of a Special Use Permit for the increased height of the building. The following chart demonstrates how the Project provides setbacks that far exceed those required for this Project under the Zoning Law:

<b>Setback Area</b>	<b>Minimum Required</b>	<b>Provided</b>	<b>% Increased</b>
Front Yard	50'	1013.6'	1,927%
Rear Yard	30'	226.2'	654%
Side Yard (One Side)	15'	213.1'	1,321%
Side Yard (Both Sides)	35'	581.8'	1,562%

Comparatively, the 48% difference between the 65' height standard allowed by the Zoning Law and the 96.2' height exception sought by the Applicant is substantially less than the percentage increase of the enhanced setbacks provided by the Project.

"Buffer" is not a defined term in the Zoning Law but is defined in the Town's Land Subdivision Regulations as:

*An area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences and/or berms, designed to continuously limit the view of, and/or sound from, the site to adjacent sites or properties.*

The buffers provided for the Project and their minimization of potential sound and visual impacts are extensively documented in the Planning Board's SEQRA Negative Declaration and include the enhanced setbacks noted above, existing trees and proposed landscaping and the Project's sound walls. Additionally, the planned construction of the building in an existing mining pit at an elevation that is 30-40 feet below I-84 and the location of the Project's building between U.S. Route 6 and I-84 further serve to buffer the Project's potential sound and visual impacts.

For the foregoing reasons, the Planning Board finds that Project Bluebird's setbacks and buffers are proportionately greater as required for the granting of a Special Use Permit for a height exception for the Project's building under Zoning Law § 195-13(B).

#### **Consideration of Special Use Review Criteria pursuant to Zoning Law § 195-76**

Pursuant to Article VII of the Zoning Law, Scannell has applied to the Planning Board for two Special Use Permits as an amendment to the Special Use Permit previously granted for SHCC as a warehouse, storage and distribution facility in December 2022. First, an amended Special Use Permit is sought for Project Bluebird's proposed warehouse, storage and distribution facility use as required by Zoning Law § 195-11 and the Schedule of District Regulations for the MC-1 district. Second, pursuant to Zoning Law § 195-13(B) and Article III of the Zoning Law, a Special Use Permit is sought for the height of Project Bluebird's building as an exception to the Zoning Law's height restrictions. Scannell has not sought a waiver from the Planning Board pursuant to Zoning Law § 195-69 for any of the requirements of Article VII of the Zoning Law (or for any other provision of the Zoning Law).

Zoning Law § 195-76 requires the Planning Board to consider a number of general and specific criteria in its discretionary review of applications for Special Use Permits. After due consideration, and supported by the Applications and Negative Declaration for Project Bluebird, as well as Project Bluebird's consistency with the previously approved SHCC warehouse, storage and distribution facility, for the following reasons the Planning Board finds that Project Bluebird's applications for Special Use Permits satisfy the criteria provided in Zoning Law § 195-76:

#### **General Criterion:**

*Conformity to the Town of Wawayanda Comprehensive Plan and the various other plans, laws and ordinances of the Town.*

#### **Findings:**

As stated above, the Planning Board previously found that SHCC conformed with the Town of Wawayanda Comprehensive Plan and other plans, laws and ordinances of the Town. Project Bluebird, as an amendment to the SHCC approvals, is consistent with those findings and similarly conforms as discussed below. In the Negative Declaration, the Planning Board found

that “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.” *See*, Consistency with Community Plans, Negative Declaration., Page 45. With respect to the Comprehensive Plan, the Negative Declaration specifically details how the Project will advance certain Comprehensive Plan Goals. *See Id.*, Pages 45-46.

Based upon the Site Plans, the Project complies with the Town of Wawayanda’s Zoning Law as the proposed warehouse, storage and distribution facility use is allowed in the MC-1 district. This evidences that the Project conforms and is consistent with the community and the area in which it is proposed for development. With the granting of a Special Use Permit for the height of the building, the Project also complies with all of the bulk and dimensional requirements of the Zoning Law. With respect to the additional findings required by Zoning Law § 195-13(B) for the Special Use Permit for the height of the Project’s building, the Project will not threaten fire-fighting capacity and provides proportionately greater buffers and setbacks than are required by the Zoning Law based upon the Site Plans and for the reasons above.

Project Bluebird’s location and proposed use are consistent with the community’s zoning goals for the MC-1 zoning 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 approximately 10.3% of the Town. This land use pattern as reflected in the MC-1 district supports the goals of the Town’s Comprehensive Plan, making provision for commercial/industrial development on lands including the Project Site that will benefit the Town while maintaining the vast majority of Town lands for residential and agricultural uses and separating them from potential impacts from the Route 6 commercial/industrial corridor in the MC-1 district.

Overall, Project Bluebird will repurpose and provide a productive use for heavily disturbed lands between I-84 and Route 6. As designed, Project Bluebird is consistent with community plans for the MC-1 zoning district and will positively contribute to the character of the MC-1 zoning district along I-84 and the Town’s existing and planned Route 6 commercial/industrial corridor.

For the foregoing reasons, and consistent with SHCC and the Negative Declaration, Project Bluebird conforms with the Town of Wawayanda Comprehensive Plan and the various other plans, laws and ordinances of the Town.

**General Criterion:**

*Conservation features, aesthetics, landscaping and impact on surrounding development as well as on the entire Town.*

**Findings:**

The Planning Board previously found that SHCC satisfied this criterion for a Special Use Permit. Project Bluebird, consistent with SHCC and the Planning Board’s finding in the Negative Declaration, also adequately satisfies this review criterion by minimizing impacts on surrounding development and on the Town. This will include conserving and enhancing natural buffers around

the Site along I-84, Route 6 and McBride Road. An active mining pit will be reclaimed and permanently stabilized through the construction of the Project. Wetlands on the western portion of the Project Site will also be preserved.

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. While taller than the SHCC building, Project Bluebird's building will provide greater setbacks from surrounding roads and residential uses than SHCC's. Bluebird's building will be  $\pm 99.8'$  feet further from McBride Road than SHCC's building,  $\pm 63.3'$  further away from I-84 and a combined  $\pm 153'$  further away from the side yard boundaries of the Site. Further, the floor elevation of Bluebird's building will be 30-40' below I-84, reducing its potential visual impact from Route 6, I-84 and surrounding uses. Additionally, the footprint 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  $\pm 1460'$ , while Project Bluebird's comparable dimension will be  $\pm 1041.7'$ . Similarly, the dimension of SHCC's building facing west and towards the Project Liberty site to the east would be  $\pm 620'$ , as compared to the same faces of Project Bluebird's which will be  $\pm 558'$ .

The Project Site is uniquely situated adjacent to the wooded I-84 right-of-way and the Project's layout is purposefully oriented to be as far away as possible from the existing residential uses to the west (on McBride Road) and south (on Route 6) identified in the Applications as being within 500 feet of the Project Site. Existing trees and other vegetation on the Project Site and adjacent properties, 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, all combine to reduce potential adverse impacts to surrounding development and the Town. Visual impact assessment information provided by Scannell in the Applications, as well as the Planning Board's findings in the Negative Declaration, support the Project's satisfaction of this Special Use Permit review criterion.

For the foregoing reasons, Project Bluebird will limit impacts on surrounding development and on the community (as reflected in the Negative Declaration and discussed above and below) for purposes of satisfying this Special Use Permit general criterion from Zoning Law § 195-76.

**General Criterion:**

*Traffic flow, circulation and parking shall be reviewed to ensure the safety of the public and of the users of the facility and to ensure that there is no unreasonable interference with traffic on surrounding streets.*

**Findings:**

The Planning Board found that SHCC satisfied this criterion provided in Zoning Law § 195-76 and Project Bluebird is consistent with that prior finding as demonstrated by the Applications and the Traffic Impact Study ("TIS") submitted by Scannell. Further, in the Negative Declaration (See, Negative Declaration, Impact on Transportation, Page 32), the Planning Board

found that Project Bluebird will not have any significant adverse impacts on traffic on surrounding roads, including highways and local roads.

Planning Board review of Project Bluebird's Site Plans further confirms that the Project's traffic flow, circulation and parking will also ensure the safety of the public consistent with SHCC. The same Service Driveway from a signalized intersection with Route 6 will provide access to and egress from the Project Site for all passenger vehicle and truck traffic. Once on the Project Site, parking for passenger vehicles will be adequately separated from truck traffic to ensure public safety.

Overall, the TIS, which was conducted using conservative modeling methods, demonstrates 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, where nearly 90% of traffic from the Project Site is expected to travel. Further, the overall impact of Project Bluebird on other local roads is projected to be the same as SHCC. Specifically, the TIS evaluated (including by conducting traffic counts) the potential impact on local roads including Ridgebury Hill Road, McBride Road, Creedon Hill Road and Seward Road. These roads are the local collector roads for residential areas to the southeast and northwest of the Project Site. Based upon the TIS, no project-generated traffic is expected to use these roads.

Nevertheless, the TIS evaluated the potential traffic impacts for these roads, especially at their intersections with Route 6, and mitigation measures were recommended in the TIS to avoid/reduce impacts. NYSDOT and the Town's traffic engineers reviewed and accepted the TIS and its findings and recommendations. The Negative Declaration concluded, based on the TIS and the Town traffic engineer's acceptance, that there would be no significant adverse traffic impacts. To minimize any traffic impacts, Project Bluebird will include the traffic improvements discussed in the Negative Declaration, which go beyond those provided for SHCC.

For the foregoing reasons and consistent with the SHCC Special Use Permit findings and the Negative Declaration, Project Bluebird's potential onsite and offsite traffic impacts are consistent with or less than those of SHCC and Project Bluebird satisfies this review criterion provided in Zoning Law § 195-76.

**Review Criterion – Zoning Law § 195-76(A):**

*Building design and location should be suitable for the use intended and compatible with natural and man-made surroundings. New buildings, for example, should generally be placed along the edges and not in the middle of open fields. They should also be sited so as to not protrude above treetops or the ridgelines of hills seen from public places and busy highways. Building color, materials and design should be adapted to surroundings as opposed to adaptation of the site to the building or the building to an arbitrary national franchise concept.*

**Findings:**

Project Bluebird will be constructed in the MC-1 district, where some visibility of development is to be reasonably expected, as the Planning Board found in the Negative

Declaration, and will be adjacent to another approved warehouse, storage and distribution facility to its immediate east. For the reasons discussed in the Negative Declaration (*See, Negative Declaration, Impact on Aesthetics, Page 27*), Project Bluebird's design and location is suitable for the proposed warehouse use and the Project is compatible with its surroundings in the MC-1 district. The Project's building is placed along the northern edge of the Project Site, as close as possible to I-84 and as far away as possible from the existing residential uses on Route 6 and McBride Road, in an existing mining pit. Further, the floor elevation of Bluebird's building will be 30-40' below I-84, reducing its potential visual impact from Route 6, I-84 and surrounding uses. As demonstrated by the visual assessment prepared on Scannell's behalf, views of the Project's building from Route 6 and I-84 and public places will be limited by distance, topography, intervening vegetation and proposed landscaping. Views of the building from McBride Road will be screened over time by proposed coniferous landscaping. From other public places and roads, any fleeting views of the traveling public of the Project's building will be mostly backdropped by and not protrude above surrounding treelines and hillsides. Further, the proposed color, materials and design of the Project's building are suitable for the MC-1 district and are consistent with those of Project Liberty (another warehouse approved by the Planning Board to be constructed on the vacant lands to the immediate east of where the Project's building will be located). For these reasons, Project Bluebird will satisfy Zoning Law § 195-76(A).

**Review Criterion – Zoning Law § 195-76(B):**

*Commercial facades of more than 100 feet in length should incorporate recesses and projections, such as windows, awnings and arcades, along 20% of the facade length. Variations in rooflines should be added to reduce the massive scale of these structures and add interest. All facades of such a building that are visible from adjoining streets or properties should exhibit features comparable in character to the front so as to better integrate with the community. Where such facades face adjacent residential uses, earthen berms planted with evergreen trees should be provided. Loading docks and accessory facilities should be incorporated in the building design and screened with materials comparable in quality to the principal structure. Sidewalks should be provided along the full length of any facade with a customer entrance and integrated into a system of internal landscape-defined pedestrian walkways breaking up all parking areas.*

**Findings:**

The Planning Board previously found that SHCC, which included a much larger (although shorter) building, satisfied this review criterion, and Project Bluebird's design is substantially consistent with SHCC's. The Project's building also satisfies this review criterion, as demonstrated by the visual simulations and the elevations provided in support of the Applications. As noted above, the design of the building's facades are more representative of a high-tech R&D production facility than a warehouse, with projecting elements and recesses on all sides and projecting first-floor glass entry elements at the office area. Sidewalks are provided along the building's facade and are connected to walkways through the parking area for passenger vehicles.



Variations in the building's roof lines have been provided, along with decorative parapets that include glass clerestory windows on the north and south elevations.

The Project's building is as far away as possible from nearby residential uses and as close to the northern border of the Property along I-84 as possible. As noted above, the dimensions of Project Bluebird's building will be smaller, and, while taller than SHCC, the floor elevation of Bluebird's building will be 30-40' below I-84, reducing its visual impacts on nearby residential uses. Consistent with the Negative Declaration and the visual assessment provided by the Applicant, the combination of topography, intervening existing vegetation and distance will substantially limit the visibility of the building from nearby residential uses, I-84, Route 6 and McBride Road. Where limited views occur along McBride Road, planted landscaping over time will limit any visual impacts. Proposed landscaping for Project Bluebird exceeds that proposed for SHCC along McBride Road and Route 6 and additional landscaping was not required for SHCC in order to satisfy this Special Use Permit criterion.

Accordingly, the design of the Project's building satisfies Zoning Law § 195-76(B) and any visual impacts of the building on nearby residents will either be avoided or substantially limited by building design, final colors as approved by the Planning Board, topography, distance, existing intervening vegetation and, over time, proposed coniferous landscaping.

**Review Criterion – Zoning Law § 195-76(C):**

*Improvements made to the property should not detract from the character of the neighborhood by producing excessive lighting or unnecessary sign proliferation. Recessed lighting and landscaped ground signs are preferred.*

**Findings:**

With respect to lighting, as reflected in the Site Plans for the Project, new, modern and energy-efficient lighting will be used throughout the Project Site. Exterior site lighting will comply with the Zoning Law and will be the minimum necessary while ensuring a safe and secure facility. All proposed lighting will be dark-sky compliant, downward facing and will minimize sky glow and light pollution from the Site. Where appropriate, lighting fixtures will be of a full cutoff type or provided with shields to reduce glare and light pollution. As shown on the Site Plans, the fixture locations have been sited to avoid and/or minimize any light trespass onto adjacent properties. Due to lighting design and distance, there will be no impacts on nearby homes on McBride Road and Route 6. These measures have been incorporated by the Applicant to minimize otherwise potential adverse impacts from site lighting of the new building and parking facilities.

Signage will comply with the Town's Zoning Law. As shown on the Site Plans, exterior signage will be primarily directional in nature for the purpose of providing information to employees, truck drivers, visitors and others on internal driveways or entering the Project's building. Based on the building's elevations, only a sign with the user's name will be provided above the entrance to the office area. None of this site signage will detract from the character of the neighborhood due to distance, topography, existing vegetation and planted landscaping.

Accordingly, Project Bluebird will satisfy this criterion in Zoning Law § 195-76(C).

**Review Criterion – Zoning Law § 195-76(D):**

*Parking areas should generally be placed in the rear or side whenever possible and provide for connections with adjoining lots. Accessory buildings should also be located in the rear with access from rear alleys. If placement in the rear is not possible, parking lots should be located to the side with screening from the street.*

**Findings:**

Based on the Site Plans, the Project's parking areas and accessory buildings (two small guard shacks) satisfy this review criterion in Zoning Law § 195-76(D) by being located on the sides and rear of the Project's building to the extent possible. The Project's parking design ensures the safe circulation and separation of automobiles from truck traffic on the Project Site, while also providing safe and efficient access to and from the Service Driveway on the eastern side of the Site. Based on the site layout, trucks will enter the property and circulate around the building, while employees will enter directly into the parking areas provided for them on the eastern and northern sides of the building. This separation of vehicle and truck traffic will make it safer for pedestrians entering the building from the front.

Importantly, as shown by the visual assessment information provided by Scannell in support of the Applications, and consistent with the Negative Declaration (*See*, Negative Declaration, Impact on Aesthetics, Page 27), due to the layout of the Project Site and the screening effect provided by distance, topography, existing intervening vegetation, sound walls and proposed landscaping, any visibility of the Project's parking areas and guard shacks will be avoided altogether or substantially minimized.

**Review Criterion – Zoning Law § 195-76(E):**

*Storm drainage, flooding and erosion and sedimentation controls should be employed to prevent injury to persons, water damage to property and siltation to streams and other water bodies.*

**Findings:**

Consistent with the Negative Declaration (*See*, Negative Declaration, Impact on Surface Waters, Page 14), the Project will satisfy this review criterion through implementation of the proposed stormwater pollution prevention plan ("SWPPP") for the Project.

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 with the Town 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.

Accordingly, through the implementation of the SWPPP included in the Applications, Project Bluebird will adequately satisfy this review criterion and prevent injury to persons, water damage to property and siltation to streams and other water bodies consistent with SHCC and as reflected in the Negative Declaration.

**Review Criterion – Zoning Law § 195-76(F):**

*Whenever feasible, existing roads onto or across properties should be retained and reused instead of building new, so as to maximize the use of present features such as stone walls and tree borders and avoid unnecessary destruction of landscape and tree canopy. Developers building new driveways or roads through wooded areas should reduce removal of tree canopy by restricting clearing and pavement width to the minimum required for safely accommodating anticipated traffic flows.*

**Findings:**

The Service Driveway as shown on the Site Plans was required for SHCC at the request of the Planning Board to provide shared driveway access for SHCC and for the subsequently approved project to its east (Project Liberty) at a signalized intersection with Route 6. The Planning Board found that SHCC satisfied this review criterion and the Service Driveway proposed for Project Bluebird is consistent with SHCC's for purposes of the Planning Board's review of this criterion. Limited tree removal is required for the Service Driveway, which will primarily be constructed across extensively disturbed lands to the east of the Project's building, internal circulation drives and parking areas. Accordingly, Project Bluebird satisfies this review criterion.

**Review Criterion – Zoning Law § 195-76(G):**

*The crossing of steep slopes with roads and driveways should be minimized and building which does take place on slopes should be multistoried with entrances at different levels as opposed to re-grading the site flat.*

**Findings:**

The Planning Board found that SHCC adequately satisfied this review criterion and Project Bluebird is consistent with SHCC based upon the Applications, the Site Plans, and the Negative Declaration. Through its development of the Project, Scannell will be redeveloping and reclaiming the Project Site, which is currently being used for mining operations approved by NYSDEC and the Planning Board in 2009. In order to achieve desired elevations for the Project's building and parking areas, significant regrading of steep slopes will be required as shown on the Site Plans and discussed in the Geotechnical Report submitted in support of the Applications. When completed, however, Project driveways and parking areas will not be on steep slopes, including where the Service Driveway will be constructed. Also, any potential stormwater or erosion impacts related to development or operation of the Project will be controlled and avoid or minimized during

construction through the implementation of the approved SWPPP on the Property. Proposed slopes greater than 3:1 will be properly stabilized during construction with erosion control matting as shown on the Erosion & Sediment Control Plans included in the Site Plans. Accordingly, Project Bluebird adequately satisfies this review criterion.

**Review Criterion – Zoning Law § 195-76(H):**

*New driveways onto principal thoroughfares should be minimized for both traffic safety and aesthetic purposes, and interior access drives which preserve tree borders along highways should be used as an alternative. Developers who preserve tree borders should be permitted to recover density on the interior of their property through use of clustering.*

**Findings:**

Consistent with SHCC, Project Bluebird satisfies this review criterion since the Project will include the same intersection of the Project's Service Driveway with Route 6. As noted above, the Service Driveway, which parallels Route 6, was required for SHCC at the request of the Planning Board to provide shared driveway access for SHCC and for Project Liberty at a signalized intersection with Route 6. No existing tree borders along Route 6 will be removed in relation to the Project and new landscaping will be provided along Route 6 and McBride Road to screen, respectively, the future Substation and the Project's building consistent with the visual assessment provided in support of the Applications and the Planning Board's findings in the Negative Declaration (See, Negative Declaration, Impact on Aesthetics, Page 27). For the foregoing reasons, Project Bluebird satisfies this review criterion.

**Review Criterion – Zoning Law § 195-76(I):**

*Building sites at prominent intersections of new developments should be reserved for equally prominent buildings or features which will appropriately terminate the street vistas. All street corners should be defined with buildings, trees or sidewalks.*

**Findings:**

The Project will not be developed at a prominent intersection. Rather, the Project will be located at the end of an existing private road (the Service Driveway) as far away as possible from nearby residential or commercial properties on Route 6. Accordingly, Project Bluebird satisfies this review criterion.

**Review Criterion – Zoning Law § 195-76(J):**

*Cul-de-sac and dead-end streets should be discouraged in favor of roads and drives which connect to existing streets on both ends. Streets within residentially developed areas should be accompanied by on-street parking and a sidewalk on at least one side of the street. Sidewalks should also be provided in connection with new commercial development adjacent to residential areas, and pedestrian access should be encouraged.*

**Findings:**

As shown on the Site Plans, Project Bluebird will be located at the end of a private road (former Hoops Road), so there is no opportunity for a connection beyond the Project Site.

Sidewalks are not proposed for the Service Driveway proposed to serve as primary access for the Project, which is within the MC-1 zoning district where sidewalks would not be required or exist now. Sidewalks would also not be appropriate for the portion of the Project Site along McBride Road, since there are currently no sidewalks along any portion of McBride Road or Route 6. For these reasons, Project Bluebird satisfies the review criterion in Zoning Law § 195-76(J).

**Review Criterion – Zoning Law § 195-76(K):**

*New buildings on a street should conform to the dominant setback line and be aligned parallel to the street so as to create a defined edge to the public space.*

**Findings:**

As discussed above, the Project's building greatly exceeds the setbacks required by the Zoning Law for the Project and those of SHCC as approved by the Planning Board. Further, the Project Site is comprised of internal parcels relative to Route 6 and there is no existing dominant setback line of nearby buildings to conform to. Relative to I-84, given the large size of the building, Project Bluebird's setback from the highway right-of-way (226.2') will be generally consistent with Project Liberty's (200'). The Planning Board found that SHCC satisfied this review criterion with a setback of 162.9' from the I-84 right-of-way, so Project Bluebird conforms even more closely to Project Liberty's setback and satisfies this review criterion.

**Review Criterion – Zoning Law § 195-76(L):**

*The proposed use should not have a detrimental impact on adjacent properties or the health, safety and welfare of the residents of the Town of Wawayanda.*

**Findings:**

The Planning Board found that SHCC satisfied this review criterion and the Negative Declaration did not identify any significant adverse impacts from the Project on adjacent properties or the health safety or welfare of the residents of the Town of Wawayanda. Consistent with SHCC and the Negative Declaration, Project Bluebird satisfies this review criterion for reasons that include the following:

***Air***

In the Planning Board's Negative Declaration for Project Bluebird, the Planning Board considered the potential for impacts to air quality from fugitive dust emissions during the Project's construction and from Project-generated traffic, particularly truck traffic, during operations. No other potential impacts to air quality from the Project were identified.

The Planning Board found in the Negative Declaration that 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. (See, Negative Declaration, Impact on Air, Page 20). Similarly, the Planning Board found in the Negative Declaration that Project-generated traffic, even when combined with traffic from nine other proposed and/or approved industrial facilities in the MC-1 district, will not result in any significant adverse impact on air quality (See, Negative Declaration,

Impact on Air, Page 20). 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") that is included in the Applications. Based upon its review of the Study, the Planning Board concluded in the Negative Declaration it is not anticipated that cumulative existing and projected mobile sources (including Project Bluebird) will have any significant adverse impact on air. 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 air quality impacts associated with Project Bluebird.

### ***Wastewater***

Wastewater from the Project will be pumped from the Project Site through an underground force main through the Town's sanitary sewer 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 discharge from Project Bluebird will not require any pretreatment because it will consist only of domestic sanitary wastewater from a limited number of restrooms. There will be no industrial wastewater discharge from the Project Site. Based upon the Water and Sewer Memorandum provided by the Applicant in support of the Applications, there is available capacity at the Middletown plant for treatment of the estimated 23,430 gallons per day of wastewater that Project Bluebird will generate. The Middletown plant is a 8.5 million gallons per day treatment facility, which means that Project Bluebird will only comprise approximately .0028% of the potential wastewater that the facility is capable of treating under its permit. Accordingly, Project Bluebird will have a minimal impact on the community as a result of its expansion of the wastewater discharge at the Middletown wastewater treatment plant.

### ***Solid/Hazardous Waste***

As reflected in the Negative Declaration, Project Bluebird will not result in the generation of any hazardous waste and it is not a solid waste management facility. Project 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 solid waste management facility subject to NYSDEC permit requirements. No waste will be disposed of on the Project Site.

### ***Traffic***

See discussion above and in Negative Declaration.

### ***Noise***

Consistent with SHCC and the Negative Declaration (*See*, Negative Declaration, Impact on Noise, Odor and Light, Page 37), 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 based upon the actual potential noise impacts of Project Bluebird on nearby residences around the Project Site. Based upon these studies and the Applications, Project Bluebird will not result in any significant

adverse noise impacts, which are consistent with those of SHCC that were evaluated by the Planning Board before approving that project.

### ***Odors***

With respect to Odors, consistent with SHCC and the Negative Declaration (*See, Negative Declaration, Impact on Noise, Odor and Light, Page 37*), Project Bluebird is not anticipated to result in more than minimal impacts to adjacent properties 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 and of short duration. Project Bluebird, when operational, is not anticipated to generate any odor impacts and any odor impacts from mobile sources on adjacent properties 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***

Project Bluebird's lighting will be consistent with the lighting analyzed by the Planning Board for SHCC that was found to satisfy this review criterion and that was found to pose no significant adverse impact in the Negative Declaration (*See, Negative Declaration, Impact on Noise, Odor and Light, Page 37*). New, dark-sky compliant, modern and energy-efficient lighting will be used for the Project. Exterior site lighting will comply with the Zoning Law and 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. Nighttime lighting for the Substation will only occur sporadically as needed for access and maintenance. As shown on the Site Plans, the fixture locations have been sited to avoid and/or minimize 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.

### **Review Criterion – Zoning Law § 195-76(M):**

*If the proposed use is one judged to present detrimental impacts with respect to noise, lighting, surface runoff, emissions or other similar factors, the Planning Board shall determine whether an approval could be conditioned in such a manner as to eliminate or substantially reduce those impacts.*

### **Findings:**

Additional measures proposed by Scannell to avoid or minimize Project impacts are included in the Negative Declaration and will be implemented as part of the Project. Those measures from the Negative Declaration are incorporated into these findings by reference and a condition requiring their implementation is included in the approval resolution for the Project.

## **Review Criterion – Zoning Law § 195-76(N):**

*The Planning Board shall consider whether the use will have a positive or negative effect on the environment, job creation, the economy, housing availability or open space preservation. The granting of an approval should not cause an undue economic burden on community facilities or services, including but not limited to highways, sewage treatment facilities, water supplies and fire-fighting capabilities. The applicant shall be responsible for providing such improvements or additional services as may be required to adequately serve the proposed use, and any approval shall be so conditioned. The Town shall be authorized to demand fees in support of such services where they cannot be directly provided by the applicant. This shall specifically apply, but not be limited to, additional fees to support fire district expenses.*

## **Findings:**

The Planning Board found that SHCC satisfied this review criterion. In the Negative Declaration, the Board determined that Project Bluebird will have minimal impact upon community infrastructure and that the benefits that the Project will provide will far exceed the cost of any additional services required as a result of the Project. Those benefits are expected to include:

- Design, permitting and construction of a new ambulance building to serve the Town's newly formed ambulance district (See, Negative Declaration, Page 6);
- 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 Project Site was developed for an alternative facility with a similar footprint);
- Water and sewer fees for those services;
- \$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.

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. Water and sewer fees will be paid 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.

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, the local Fire District and Town 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 and its user have jointly applied to the Orange County Industrial Development Agency (“OCIDA”) for tax incentives to facilitate development of this 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, increased tax revenues for the Town and Minisink Valley School District are to be reasonably expected, and as noted above, 100% of any Fire District and Town special district charges will always be provided.

**Review Criterion – Zoning Law § 195-76(O):**

*The hamlet areas of Wawayanda, specifically Ridgebury, Slate Hill and old New Hampton, are important and integral parts of the Town's culture and heritage. The hamlets represent historic, compact, developed areas within the largely rural regions of the Town. The character and quality of Wawayanda would be permanently diminished if these small settlements were to disappear from the landscape. New development should be integrated into the hamlet centers in such a way that it improves upon the positive aesthetic aspects of the hamlet centers and ensures that these centers will be preserved. New buildings and additions to existing buildings should blend into the existing hamlet landscape to the maximum extent practical.*

**Findings:**

The Planning Board found that SHCC satisfied this review criterion and Project Bluebird is consistent with SHCC and also satisfies this criterion due to the location of the Project Site in the MC-1 zoning district outside of the existing, developed hamlet areas of Ridgebury, Slate Hill and old New Hampton.