

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

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

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

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

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

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

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

WHEREAS, after the giving of all required notices (including published notice), the Agency held a public hearing on the Project on March 4, 2021, and has considered all oral and written presentations made at or in connection with said public hearing; and

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

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

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

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

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

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

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

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

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

Section 3. The Project is for a commercial purpose within meaning of the Act. The Project will be located in a section of Town of Amherst that is in need of residential housing units of the kind and quality proposed by the Company. The Project is consistent with the Town of Amherst Comprehensive Plan, which provides for additional housing opportunities and choices, including higher density housing. In making this determination, the Agency has also considered the following factors which further support its findings: (i) the Project has the support of the Town of Amherst government; (ii) the Project is compliant with the investment and growth criteria of the Town of Amherst Comprehensive Plan calling for a strong tax base and development in convenient and

accessible locations; (iii) a northerly extension of John James Audubon Parkway has been designated for development for the past 50 years and the Company has agreed to undertake and complete substantial off-site infrastructure improvements in connection with the Project; and (iv) the Company has provided appropriate evidence demonstrating the financial obstacles to the development of the Project without Agency assistance.

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

1. The extent to which the Project will create or retain permanent private sector jobs. The Project is expected to create nine full-time positions and two part-time positions, with an estimated annual total payroll of \$539,660.00.
2. The estimated value of tax exemptions to be provided. The estimated value of the sales and use tax benefit for the Project is an amount up to \$2,263,013.00. The estimated value of the mortgage recording tax benefit is an amount up to \$405,961.00. The estimated value of the real property tax benefit is \$6,507,039.00.
3. Whether affected taxing jurisdictions will be reimbursed by the Project occupant if the Project does not fulfill the purposes for which an exemption was provided. The Company will be subject to potential financial assistance recapture in the event the Applicant does not adhere to the Agency's standard material terms and conditions governing the receipt of financial assistance.
4. The impact of the proposed project on existing and proposed businesses and economic development projects in the vicinity. The impact of the Project is a positive one on the community, as it will promote job opportunities, general prosperity and economic welfare for the residents of Erie County and the Town of Amherst. The Company has committed to making significant off-site infrastructure improvements that will benefit the Project site and facilitate additional development adjacent to the Project. The Company has identified in its Application the following improvements and associated costs (the aggregate estimated cost of which is \$4,946,871.00):
 - (i) W/S Line Extension to Main at Dodge Road: \$2,051,943.00;
 - (ii) John Jay Audubon Extension w/onsite roundabout: \$876,169.00
 - (iii) National Grid Line Extension to Dodge Road - \$1,198,026.00;
 - (iv) Roundabout at John James Audubon Parkway and 1-990 as required by the NYS Department of Transportation - \$350,000.00;
 - (v) Lane widening for exit ramps of the 1-990 as required by the NYS Department of Transportation - \$275,000.00;

- (vi) Paved secondary emergency access/recreational trail connecting to Dodge Road - \$145,733,00
 - (vii) DOT - Design and Engineering: \$50,000.00
5. The amount of private sector investment generated or likely to be generated by the proposed Project. The total private sector investment in the Project is expected to exceed \$83,273,930.00.
 6. The demonstrated public support for the Project. The Town of Amherst has expressed its support for the Project. The Town Board approved the Company's request for a special use permit for dormitory use on November 12, 2019.
 7. The likelihood of accomplishing the proposed Project in a timely fashion. The Project is expected to be completed in a timely manner. Construction is expected to begin in the fall of 2021, with completion in late spring of 2023.
 8. The effect of the proposed Project upon the environment. The Town of Amherst has served as lead agency for the coordinated environmental review pursuant to the State Environmental Quality Review Act (SEQRA) for the Muir Woods Project, which encompasses 326+/- acres that are located generally north of the I-990, south of North French Road, east of Sweet Home Road and west of Campbell Boulevard. The Project that is the subject of the Company's request for Financial Assistance will be located on Site B, which consists of approximately 46 acres of the Muir Woods Project site. As lead agency, the Town Board evaluated the environmental impacts of the Company's request to amend the SEQRA Findings Statement to permit Site B to be developed as a student housing community to include a maximum of 515 units. On August 5, 2019, the Town approved an amendment to the Findings Statement to permit student housing at the site based on its determination that the potential modifications to the Muir Woods Project would not result in any potentially significant adverse environmental impacts that were not thoroughly evaluated in connection with the previous comprehensive environmental review of the Project that concluded with the issuance of a Findings Statement on December 7, 2007 and the issuance of an Amended Findings Statement on December 7, 2015. On April 15, 2021, the Town of Amherst Planning Board approved the site plan for the project and made a finding that the requirements of SEQRA were complete, and that the project is not expected to have a significant adverse effect on the environment.
 9. The extent to which the Project will utilize, to the fullest extent practicable and economically feasible, resource conservation, energy efficiency, green technologies, and alternative and renewable energy measures. The Company is exploring environmentally responsible construction such as green infrastructure and renewable energy systems.
 10. The extent to which the proposed Project will require the provision of additional services including, but not limited, educational, transportation, emergency medical or police and fire services. The Project is not expected to require the provision of additional services.

11. The extent to which the proposed Project will provide additional sources of revenue for municipalities and school districts. The Project site currently consists of vacant land. The Project will generate additional sources of revenue from the PILOT payments which would otherwise not be received if the Project does not proceed.

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

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

Section 7. The Company is authorized, as agent of the Agency, to initiate the construction of a building(s) or building addition(s) constituting the Project, and the acquisition of machinery and equipment which will be a part thereof or will be used in connection therewith, and to advance such funds as may be necessary to accomplish such purposes. The designation of the Company as agent hereunder is limited to purchases of sales-taxable tangible personal property and services in connection with the Project which do not exceed a total cost of \$70,550,000 and shall not apply to any other purchase by the Company or any operating expenses of the Company. The Company shall report to the Agency, at such times as the Agency shall require, or as may otherwise be prescribed by the Commissioner of the New York State Department of Taxation and Finance (the "Commissioner"), the value of all sales and use tax exemptions claimed by the Company or agents of the Company or any operators of the Project, including, but not limited to, consultants or subcontractors of such agents or Project operators under the authority granted pursuant to this Resolution. A failure to report may result in the revocation of the designation of the Company as agent and repayment of any sales and use tax exemptions claimed.

Section 8. The Agency is hereby authorized to enter into a Project Agreement with respect the provision of the Financial Assistance authorized herein (the "Project Agreement") and to acquire an interest in the Project site and construct a facility thereon, and the execution and delivery of a lease by the Company to the Agency (the "Company Lease"), an Agency Lease Agreement (the "Agency Lease Agreement") or Installment Sale Contract (the "Installment Sale Contract") between the Agency and the Company, the PILOT Agreement, and such other documents as may be necessary to fulfill the intent of the parties to the transaction (collectively, the "Project Documents"), in form satisfactory to Agency counsel, are hereby authorized. The PILOT Agreement shall provide for payments in accordance with a customized ten (10) year payment in lieu of tax schedule as set forth on Exhibit B. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, or any Assistant Secretary are each authorized to execute such documents and to make or approve such amendments or modifications to the Project Agreement, Company Lease, the Agency Lease Agreement, Installment Sale Contract, the PILOT Agreement and such other documents executed

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

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

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

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

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

In addition to the foregoing, in the event the Agency determines that Company is in violation of a Material Factor, or in the event that the Company closes the Project or relocates its operations to a location outside of the Town of Amherst within the time period during which

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

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

Section 14. Should the appropriate officers of the Agency determine, in their absolute discretion, that there is reason to believe that the activities of any past or present owner or operator of the Premises have resulted in the generation of any "hazardous substance" (as the term has been defined from time to time in any applicable federal or state law, rule or regulation), or that any party

has stored, disposed or released any such substance on the Premises or within a one (1) mile radius thereof, the Agency shall be under no obligation to enter into a lease as contemplated by this Resolution.

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

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

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

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

DATED: April 23, 2021

ACCEPTED AND AGREED TO: August 10, 2021

YORK ACQUISITIONS, LLC

By: 

Name: Greg Henry

Title: Authorized Signatory

EXHIBIT A

EAF and SEQRA Findings

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1 is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Proposed Student Housing Community		
Project Location (describe, and attach a general location map): 1081 and 1121 North French Road [SBL Nos. 40.08-3-1.11/A & 40.08-3-1.11] - Town of Amherst - Erie County [Phase I located on 1081 North French Rd.]		
Brief Description of Proposed Action (include purpose or need): The proposed action consists of Phase 1 of a student housing project at 1081 and 1121 North French Road (the "Project Site"). The project consists of 208 units (830 beds). The project includes necessary clearing of the entire Project Site including the easternmost 17.7 acres to developed in future as Phase 2 of the project. The action has been defined broadly to include all required discretionary approvals and permits as well as all site improvements including the proposed student housing buildings, an extension of John James Audubon as a public roadway to be dedicated to the Town of Amherst, access aisles, parking spaces, driveways, wetland impacts, lighting, landscaping, on-site storm water management improvements, on-site and off-site sanitary sewer improvements and water lines and connections and all other required utility improvements. The project purpose is to develop Site "B" of overall Muir Woods Project Site as a student housing community in a manner generally consistent with the fully engineered for the student housing community. The project is a Type I action pursuant to SEQRA. The Town of Amherst Town Board issued an Amended Findings Statement pursuant to the State Environmental Quality Review Act ("SEQRA") to allow student housing on the Project Site on August 5, 2019 and the project is consistent with the Amended Findings Statement as well as the adopted Bicentennial Comprehensive Plan.		
Name of Applicant/Sponsor: Aspen Heights Partners c/o Sean Hopkins, Esq.	Telephone: (716) 510-4338	E-Mail: shopkins@hsr-legal.com
Address: 5500 Main Street, Suite 343		
City/PO: Williamsville	State: NY	Zip Code: 14221
Project Contact (if not same as sponsor; give name and title/role):	Telephone:	E-Mail:
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor): Ciminelli Muir Woods LLC	Telephone: (716) 631-8000	E-Mail: afaeth@ciminelli.com
Address: 50 Fountain Plaza, Suite 500		
City/PO: Buffalo	State: NY	Zip Code: 14202

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No or Village Board of Trustees	Town Board - PIPs and ownership of off-site sanitary sewer improvements	To be determined
b. City, Town or Village Planning Board or Commission <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Planning Board - Site Plan Approval	September 20, 2020 [pending before the Planning Board]
c. City, Town or Village Zoning Board of Appeals <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
d. Other local agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Eng. Dept. - Storm. Permit; Building Dept. - Build. & Floodplain Permit; AIDA - Financial incentives	To be determined [AIDA Application pending]
e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	ECWA - Water connection; ECHD - Sanitary Sewer Permit	To be determined
f. Regional agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Potential Extension of NFTA light rail and related on-site improvements [east portion of Project Site]	Not Applicable
g. State agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	NYS DOT - Break-in-Access & Highway Work Permit and NYS DEC - SPDES Permit	Break-in-Access Application pending
h. Federal agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
i. Coastal Resources.		
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
iii. Is the project site within a Coastal Erosion Hazard Area?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

C. Planning and Zoning

C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? Yes No

- If Yes, complete sections C, F and G.
- If No, proceed to question C.2 and complete all remaining sections and questions in Part 1

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? Yes No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? Yes No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) Yes No

If Yes, identify the plan(s): [Note: The proposed project will not have any adverse impacts on the West Erie Canal Corridor.]

NYS Heritage Areas: West Erie Canal Corridor

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? Yes No

If Yes, identify the plan(s):

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. Yes No
 If Yes, what is the zoning classification(s) including any applicable overlay district?
 The Project Site is zoned New Community District ("NCD") pursuant to the Town of Amherst Zoning Map.

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

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

C.4. Existing community services.

a. In what school district is the project site located? The western portion of the Project Site is located in the Sweet Home Central School District and the eastern portion of the Project Site is located in the Williamsville School District.

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

c. Which fire protection and emergency medical services serve the project site?
 Fire Protection- Getzville Fire Company. Emergency Medical Ambulance Services- Twin City Ambulance Service.

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

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? The proposed project consists of student housing units for lease.

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

c. Is the proposed action an expansion of an existing project or use? Yes No
 i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____

d. Is the proposed action a subdivision, or does it include a subdivision? Yes No
 If Yes,
 i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types) _____
 ii. Is a cluster/conservation layout proposed? Yes No
 iii. Number of lots proposed? _____ 2
 iv. Minimum and maximum proposed lot sizes? Minimum _____ 23.7 acres Maximum _____ 23.7 acres

e. Will the proposed action be constructed in multiple phases? Yes No
 i. If No, anticipated period of construction: _____ months
 ii. If Yes:
 • Total number of phases anticipated _____ 2
 • Anticipated commencement date of phase 1 (including demolition) _____ 03 month _____ 2021 year
 • Anticipated completion date of final phase _____ 08 month _____ 2025 year
 • Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____
 The first phase of the project will include the construction of the proposed extension of Audubon Parkway as public roadway and a gated emergency access only road connecting Site "B" with Sites "C" and "D" of the overall Muir Woods Project as required by Appendix D of the NYS Fire Code. The timing of the development of the eastern portion of Site B has not yet been determined and will be dependent on numerous factors including market conditions at that time.

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

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

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

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

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? Yes No
 If Yes,

i. Purpose of the impoundment: Stormwater detention
 ii. If a water impoundment, the principal source of the water: Ground water Surface water streams Other specify: Management of stormwater runoff from impervious surfaces per applicable stringent NYSDEC stormwater quality and quantity standards.
 iii. If other than water, identify the type of impounded/contained liquids and their source.
 iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ 1.0± acres
 v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length
 vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete):
Proposed stormwater facilities will be excavated from existing earth and does not constitute a dam.

D.2. Project Operations

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

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

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

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

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

i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): Wetland impacts associated with the development of Site B have been approved by the NYSDEC (Permit No. 9-1422-0398/00001) as issued on December 17, 2019 and USACE (Permit No. 2001-00067) as issued by the USACE on December 12, 2019.

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

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:
 Wetland impacts associated with the development of Site B have been approved by the NYSDEC (Permit No. 9-1422-0398/00001) and the USACE (Permit No. 2001-00067). The required wetland mitigation for the wetland impacts for the development of Site "B" will be implemented in connection with its development as a student housing project.

- iii. Will the proposed action cause or result in disturbance to bottom sediments? Yes No
 If Yes, describe: Existing Federal Jurisdictional ditches at the property will be relocated and/or removed in association with approved permitting.
- iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation? Yes No
 If Yes:
- acres of aquatic vegetation proposed to be removed: _____
 - expected acreage of aquatic vegetation remaining after project completion: _____
 - purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____
 - proposed method of plant removal: _____
 - if chemical/herbicide treatment will be used, specify product(s): _____
- v. Describe any proposed reclamation/mitigation following disturbance: _____

- c. Will the proposed action use, or create a new demand for water? Yes No
 If Yes:
- i. Total anticipated water usage/demand per day: _____ 263,250± gallons/day
- ii. Will the proposed action obtain water from an existing public water supply? Yes No
 If Yes:
- Name of district or service area: Amherst Water District No. 15
 - Does the existing public water supply have capacity to serve the proposal? Yes No
 - Is the project site in the existing district? Yes No
 - Is expansion of the district needed? Yes No
 - Do existing lines serve the project site? Yes No
- iii. Will line extension within an existing district be necessary to supply the project? Yes No
 If Yes:
- Describe extensions or capacity expansions proposed to serve this project: _____
 Public extension of waterline along Audubon Parkway to service the site, private extensions throughout site.
 - Source(s) of supply for the district: Erie County Water Authority
- iv. Is a new water supply district or service area proposed to be formed to serve the project site? Yes No
 If, Yes:
- Applicant/sponsor for new district: _____
 - Date application submitted or anticipated: _____
 - Proposed source(s) of supply for new district: _____
- v. If a public water supply will not be used, describe plans to provide water supply for the project: _____
- vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: _____ gallons/minute.

- d. Will the proposed action generate liquid wastes? Yes No
 If Yes:
- i. Total anticipated liquid waste generation per day: _____ 175,500± gallons/day
- ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): _____
 Sanitary wastewater.
- iii. Will the proposed action use any existing public wastewater treatment facilities? Yes No
 If Yes:
- Name of wastewater treatment plant to be used: Amherst Wastewater Treatment Plant #16
 - Name of district: Amherst Sewer District 16
 - Does the existing wastewater treatment plant have capacity to serve the project? Yes No
 - Is the project site in the existing district? Yes No
 - Is expansion of the district needed? Yes No

[Note: In connection with the Site Plan review process, a Downstream Sanitary Sewer Capacity Analysis will be prepared to evaluate downstream sanitary sewer capacity during wet weather conditions.]

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

If Yes:

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

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

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

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

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

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

If Yes:

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

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

iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____

iv. Does the proposed action include any shared use parking? Yes No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: _____

vi. Are public/private transportation service(s) or facilities available within 1/2 mile of the proposed site? Yes No

vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? Yes No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? Yes No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? Yes No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: _____

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

iii. Will the proposed action require a new, or an upgrade, to an existing substation? Yes No

l. Hours of operation. Answer all items which apply.

i. During Construction:		ii. During Operations:	
• Monday - Friday:	7:00 a.m. to 7:00 p.m.	• Monday - Friday:	24 hours per day
• Saturday:	7:00 a.m. to 5 p.m.	• Saturday:	24 hours per day
• Sunday:	As needed	• Sunday:	24 hours per day
• Holidays:	As needed	• Holidays:	24 hours per day

<p>m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes:</p> <p>i. Provide details including sources, time of day and duration: <u>Operation of construction vehicles during site construction of the project. This represents a temporary unavoidable impact.</u></p>	
<p>ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Describe: _____</p>	
<p>n. Will the proposed action have outdoor lighting? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes:</p> <p>i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures: <u>The project will utilize standard pole mounted and exterior wall pack lighting for residential buildings and parking areas.</u></p>	
<p>ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Describe: _____</p>	
<p>o. Does the proposed action have the potential to produce odors for more than one hour per day? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures: _____</p>	
<p>p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Product(s) to be stored _____</p> <p>ii. Volume(s) _____ per unit time _____ (e.g., month, year)</p> <p>iii. Generally, describe the proposed storage facilities: _____</p>	
<p>q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Describe proposed treatment(s): <u>Potential use of lawn fertilizer and pesticides on maintained portions of property in accordance with applicable standards for application and use of lawn fertilizer and pesticides.</u></p>	
<p>ii. Will the proposed action use Integrated Pest Management Practices? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Describe any solid waste(s) to be generated during construction or operation of the facility:</p> <ul style="list-style-type: none"> • Construction: _____ tons per _____ (unit of time) • Operation : _____ tons per _____ (unit of time) <p>ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:</p> <ul style="list-style-type: none"> • Construction: _____ • Operation: _____ <p>iii. Proposed disposal methods/facilities for solid waste generated on-site:</p> <ul style="list-style-type: none"> • Construction: _____ • Operation: _____ 	

s. Does the proposed action include construction or modification of a solid waste management facility? Yes No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii. Anticipated rate of disposal/processing:

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? Yes No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

iii. Specify amount to be handled or generated _____ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? Yes No

If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: _____

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

Urban Industrial Commercial Residential (suburban) Rural (non-farm)

Forest Agriculture Aquatic Other (specify): Lockport Expressway I-990

ii. If mix of uses, generally describe:

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

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	-	24.2±	+ 24.2
• Forested	24.3±	1.8±	- 22.5
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	15.7±	0.8±	- 14.9
• Agricultural (includes active orchards, field, greenhouse etc.)	-	-	-
• Surface water features (lakes, ponds, streams, rivers, etc.)	0.3±	0.8±	+ 0.5
• Wetlands (freshwater or tidal)	1.1±	0.2±	- 0.9
• Non-vegetated (bare rock, earth or fill)	-	-	-
• Other Describe: <u>Landscaping & Lawns</u>	-	13.6±	+ 13.6

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

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? Yes No
If Yes,
i. Identify Facilities:
1. Heritage Heights Elementary School (Sweet Home School District- 2545 Sweet Home Road); 2. Creative Play Learning Center (Private Day Care Facility- 647 Dodge Road); 3. Four Seasons Child Care & Preschool (Private Day Care Facility- 1639 North French Road).

e. Does the project site contain an existing dam? Yes No
If Yes:
i. Dimensions of the dam and impoundment:
• Dam height: _____ feet
• Dam length: _____ feet
• Surface area: _____ acres
• Volume impounded: _____ gallons OR acre-feet
ii. Dam's existing hazard classification: _____
iii. Provide date and summarize results of last inspection: _____

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? Yes No
If Yes:
i. Has the facility been formally closed? Yes No
• If yes, cite sources/documentation: _____
ii. Describe the location of the project site relative to the boundaries of the solid waste management facility: _____
iii. Describe any development constraints due to the prior solid waste activities: _____

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? Yes No
If Yes:
i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred: _____

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? Yes No
If Yes:
i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: Yes No
 Yes – Spills Incidents database Provide DEC ID number(s): _____
 Yes – Environmental Site Remediation database Provide DEC ID number(s): _____
 Neither database
ii. If site has been subject of RCRA corrective activities, describe control measures: _____
iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? Yes No
If yes, provide DEC ID number(s): _____
iv. If yes to (i), (ii) or (iii) above, describe current status of site(s): _____

v. Is the project site subject to an institutional control limiting property uses? Yes No

- If yes, DEC site ID number: _____
- Describe the type of institutional control (e.g., deed restriction or easement): _____
- Describe any use limitations: _____
- Describe any engineering controls: _____
- Will the project affect the institutional or engineering controls in place? Yes No
- Explain: _____

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? _____ 5+ feet

b. Are there bedrock outcroppings on the project site? Yes No
 If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %

c. Predominant soil type(s) present on project site:

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

d. What is the average depth to the water table on the project site? Average: 0.0-1.5 feet

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

f. Approximate proportion of proposed action site with slopes: 0-10%: 100 % of site
 10-15%: _____ % of site
 15% or greater: _____ % of site

g. Are there any unique geologic features on the project site? Yes No
 If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? Yes No

ii. Do any wetlands or other waterbodies adjoin the project site? Yes No
 If Yes to either i or ii, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? Yes No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

• Streams:	Name 837-27	Classification C
• Lakes or Ponds:	Name _____	Classification _____
• Wetlands:	Name Federal Waters, NYS Wetland, Federal Waters, Fe...	Approximate Size NYS Wetland (in a...
• Wetland No. (if regulated by DEC)	TE-34, TE-22	

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? Yes No
 If yes, name of impaired water body/bodies and basis for listing as impaired: _____
 Name - Pollutants - Uses: Ellicott Creek, Lower, and tribs - Nutrients/Silt/Sediment - Aquatic Life

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

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

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

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

<p>m. Identify the predominant wildlife species that occupy or use the project site: Birds- The FGEIS identifies the complete list of birds species noted at the subject property.</p>	<p>Mammals- The FGEIS identifies the complete list of mammal species noted at the subject property.</p>	<p>Reptiles, Amphibians & Fish - The FGEIS identifies the complete list noted at the subject property.</p>
<p>n. Does the project site contain a designated significant natural community? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Describe the habitat/community (composition, function, and basis for designation): _____</p> <p>ii. Source(s) of description or evaluation: _____</p> <p>iii. Extent of community/habitat:</p> <ul style="list-style-type: none"> • Currently: _____ acres • Following completion of project as proposed: _____ acres • Gain or loss (indicate + or -): _____ acres 		
<p>o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Species and listing (endangered or threatened): _____</p> <p>_____</p> <p>_____</p>		
<p>p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Species and listing: _____</p> <p>Spiny Softshell</p>		
<p>q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If yes, give a brief description of how the proposed action may affect that use: _____</p> <p>_____</p>		
<p>E.3. Designated Public Resources On or Near Project Site</p>		
<p>a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes, provide county plus district name/number: _____</p>		
<p>b. Are agricultural lands consisting of highly productive soils present? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>i. If Yes: acreage(s) on project site? _____</p> <p>ii. Source(s) of soil rating(s): _____</p>		
<p>c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Nature of the natural landmark: <input type="checkbox"/> Biological Community <input type="checkbox"/> Geological Feature</p> <p>ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____</p> <p>_____</p> <p>_____</p>		
<p>d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. CEA name: _____</p> <p>ii. Basis for designation: _____</p> <p>iii. Designating agency and date: _____</p>		

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? Yes No

If Yes:

i. Nature of historic/archaeological resource: Archaeological Site Historic Building or District

ii. Name: _____

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

f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? Yes No [No impact letter issued by SHPO on October 10, 2001.]

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

If Yes:

i. Describe possible resource(s): _____

ii. Basis for identification: _____

h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? Yes No

If Yes:

i. Identify resource: Nature View Park (1,254 acre natural park owned by the Town of Amherst)

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): Local Park that is permanently preserved via a conservation easement held by the Western New York Land Conservancy.

iii. Distance between project and resource: 0.6 miles.

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? Yes No

If Yes:

i. Identify the name of the river and its designation: _____

ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? Yes No

F. Additional Information

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

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

G. Verification

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

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

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

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, © OpenStreetMap contributors, and the GIS User Community

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

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, © OpenStreetMap contributors, and the GIS User Community

B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	NYS Heritage Areas: West Erie Canal Corridor
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	No
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	Yes
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.iv [Surface Water Features - Stream Name]	837-27
E.2.h.iv [Surface Water Features - Stream Classification]	C
E.2.h.iv [Surface Water Features - Wetlands Name]	Federal Waters, NYS Wetland
E.2.h.iv [Surface Water Features - Wetlands Size]	NYS Wetland (in acres):42.2, NYS Wetland (in acres):54.3
E.2.h.iv [Surface Water Features - DEC Wetlands Number]	TE-34, TE-22

E.2.h.v [Impaired Water Bodies]	Yes
E.2.h.v [Impaired Water Bodies - Name and Basis for Listing]	Name - Pollutants - Uses:Ellicott Creek, Lower, and tribs – Nutrients;Silt/Sediment – Aquatic Life
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	Yes
E.2.k. [500 Year Floodplain]	Yes
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	No
E.2.p. [Rare Plants or Animals]	Yes
E.2.p. [Rare Plants or Animals - Name]	Spiny Softshell
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National Register of Historic Places]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

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

PETITIONER

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

PROPERTY LOCATION

1081 North French Road

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

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

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

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

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

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

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

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

PETITIONER

Aspen Heights Student VI, LLC

PROPERTY LOCATION

1081 North French Road

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

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

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

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

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

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

PETITIONER

Aspen Heights Student VI, LLC

PROPERTY LOCATION

1081 North French Road

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

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

PETITIONER

PROPERTY LOCATION

Aspen Heights Student VI, LLC

1081 North French Road

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

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

Robert J. Gilmour, Chair

Date

EK/ac

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

cc: Town Clerk

Approved Plan: Cannon Design

Commissioner of Building

Received: March 22, 2021

Town Engineer

Fire Chiefs

Traffic/Safety

Highway Superintendent

ECDEP

NYSDOT

NYSDEC

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

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

EXHIBIT B

PILOT Schedule

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

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

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

PILOT Payments shall be calculated as follows:

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

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

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