

# Review of Grand Island Commerce Center Draft Supplemental EIS

## Review and Recommendations Report

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Town of Grand Island

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## 1.0 INTRODUCTION

CC Environment & Planning (CC) has been contracted by the Town of Grand Island to review a Draft Supplemental Environmental Impact Statement (DSEIS) prepared in accordance with the State Environmental Quality Review Act (SEQRA) and dated October 2022 for the Grand Island Commerce Center project located at 2780 Long Road and 0 Bedell Road in the Town of Grand Island, Erie County, New York. The DSEIS was prepared by Passero Associates on behalf of Acquest Development, LLC for based on a Final Scope adopted by the Town of Grand Island as Lead Agency under SEQR. The following review conducted by CC is meant to assist Lead Agency review of the DSEIS and facilitate stewardship of municipal resources including land, water, wildlife, other natural resources, and community character. Related sections of the DSEIS were reviewed by CC staff including the statements of potential adverse impacts, unavoidable adverse environmental impacts, irreversible commitment of natural resources, and proposed mitigation measures.

### PROPOSED ACTION

The proposed action as presented in the DSEIS is the “...development of 141 +/- acres of vacant land zoned M-1 Light Industrial and Research District (“M-1 District”) situated [on a 207.43+ acre site, south of Long Road, north of Bedell Road, west of I-190 parcels 23.00-1-50 and 23.00-1-26.1] in the Town of Grand Island with a +/-1,330,336 sq. ft. warehouse and distribution facility, known as the Grand Island Commerce Center. The Facility has a footprint of 1,080,308 sq. ft., including +/- 36,241 sq. ft. of space devoted to accessory offices, common space, and mechanical rooms, and a +/- 250,028 sq. ft. mezzanine that will be used for storage. The Project includes 101 loading docks on the west and south sides of the building, a 1,289-space parking lot for passenger vehicles on the west side of the building, and a separate 416 trailer parking stalls on the east side of the building. The Project includes two full movement driveway entrances, one from Long Road (Erie County Route 310) and one from Bedell Road; three stormwater management areas; the relocation of a man-made tributary (“feeder creek”) and construction of two culverts; two guard houses; a water tank on the north side of the Facility; onsite utility improvements; and site lighting and landscaping.” The purpose of the project is to “address the growing demand for large single-building warehousing and distribution facilities in Western New York.”

## 2.0 REVIEW AND RECOMMENDATIONS

### 2.1 IMPACT ON LAND

#### REVIEW NOTES

Approximately 141 acres of open space consisting of old field (meadow), shrub habitat, wetlands, and early successional forest will be converted to buildings, parking areas and roads, managed landscapes, and stormwater features. Approximately 66 acres within a separate parcel at this location is reviewed as part of the project area. This parcel is largely forested with state-mapped wetlands and includes a 20+ acre open field to the north of the forested area. The forested section of this parcel (44 acres) is proposed for protection. Note that the last bullet on page 21 states that a conservation easement will be created to preserve existing natural areas and vegetation on the 66 acre parcel but does not specify only 44 acres.

This project has been identified for potential development since the 1990s and is noted in the Town's Comprehensive Plan. The proposed development design includes consideration of the value of open space and natural resources, which are also identified as critical to the Town in the Comprehensive Plan.

Construction activities include 1,191,572 cubic yards of cut and fill with no plans for importing or exporting material. Construction is planned for a single phase with erosion and sediment control and stormwater management features to offset erosion and stormwater runoff during and after construction. Stormwater management has been designed to completely avoid the second parcel. Spoil balance at the site is meant to be used to create berms and landscape features to offset loss of aesthetics provided by the current open space.

Passero Associates developed a Stormwater Pollution Prevention Plan (SWPPP) Report for the Long Road Distribution Facility dated July 27, 2022.

#### RECOMMENDATIONS

This development will require removal of the natural land cover types listed above. This will result in the loss of ecological services these ecosystems provide to the Town which include air and water purification and cooling, soil formation, nutrient cycling, carbon sequestration and climate resiliency, wildlife habitat for native reptiles, amphibians, birds, and mammals, migratory birds and pollinators, and aesthetics. Minimizing the disturbance footprint is recommended. Additional gain in balancing economic development with natural resource protection is to increase the buffers between the area identified for protection including adding in the 20-acre open field to the north so that most or all the 66-acre parcel is protected as open space under a conservation easement. Consider partnering with a land trust such as Western New York Land Conservancy to hold said easement.

Maximizing the use of green infrastructure techniques throughout the development area can result in a reduction of impervious surfaces and improve management of runoff from such surfaces to further improve the balance between economic gain and protection of the ecological services provided by the open space at this location.

## 2.2 IMPACT ON WATER RESOURCES

### REVIEW NOTES

This site is part of the Niagara River Watershed and site runoff will drain toward and into the Niagara River. Construction activities and stormwater post development from the addition of approximately 67 acres of impervious surface could have negative impacts to water quality on site and in the Niagara River. As noted above, as SWPPP has been developed for this project and project site in accordance with SPDES General Permit requirements.

Wilson Environmental Technologies, Inc (WET) completed a field delineation of wetlands as reported in the Wetland Delineation Report – Grand Island Commerce Center, August 27, 2019.

The wetland data presented in the DSEIS is unclear with reference to more than one delineation, JD, and inconsistent numbering of wetlands. The 2019 wetland delineation report in Appendix H only references 16 wetlands (Wetlands A-P) within the 141-acre parcel. On page 24 it states that additional area was added to the site plan. This area was delineated for wetlands and five additional wetlands totaling 0.883 acre were added. However, six additional wetlands show up on maps (Wetlands Q-V) along with the western boundary of the state-mapped wetland line within the 66-acre parcel. We do not see any supporting data for these additional delineated wetland lines in Appendix H.

On page xx in the Executive Summary, it identifies wetlands as state or federal jurisdictional. Four are identified as state-regulated, five federal jurisdiction, and 11 non-jurisdictional. There are several references to unavoidable wetland impacts in the DSEIS. On page 25 it only lists the removed wetland areas that are believed to be federally jurisdictional (1.4 acres) in the impact statement. Adding up the table for proposed disturbance acres suggests 7.75 total wetland acres will be impacted. On pages 70 and 73 it states that 7.7 acres of wetlands (6.7 acres of federal wetlands and 1.0 acre of state wetlands) will be removed.

Based on the information in the DSEIS narrative, appendices, and maps combined, our conclusion is that there are 22 wetlands that have been mapped primarily within the 141-acre parcel totaling approximately 11.5 acres. Most of the wetlands in the 66-acre parcel were not delineated in the field except within the western boundary of the state regulated wetland to determine the location of the 100' regulated adjacent area. Thus, most of the wetland acreage on the 66-acre parcel is not included in the 11.5-acre calculation. Of the wetlands delineated in the field (11.5 acres), 7.75 acres will be removed for site development. Of the acres to be removed, 1.36 are federally regulated and will require mitigation (see impact table on Map A-3). No state-regulated wetlands or state-regulated adjacent area will be impacted according to the narrative however the design maps suggest a small portion of the regulated adjacent area is within the limits of disturbance line near Wetland M associated with the drainage easement.

There are two federally regulated streams (feeder creek and collector creek) on the project Site. Approximately 3,320 LF will be impacted due to the relocation of the feeder creek.

Proposed wetland mitigation will be to purchase mitigation credits (not sure what the reference to “tax” credit might be) from Ducks Unlimited’s In Lieu Fee Mitigation program. It is not clear if mitigation is proposed for the relocation of the feeder creek.

### RECOMMENDATIONS

1. While the SWPPP appears to be in accordance with the SPDES General Permit requirements, there is a significant increase in impervious surface proposed as part of this project. Consider increasing use of green infrastructure practices throughout the site to reduce and manage stormwater and consider alternatives to impervious surfaces wherever possible.
2. Include data sheets and photos for the six wetlands that were delineated after the original delineation in 2019. Describe all the wetlands on page 25 (missing descriptors for wetlands L, Q, T, and V).
3. While small, isolated wetlands are not currently protected by state or federal jurisdiction, they do provide important benefits to native plants and animals and support a greater diversity on the landscape. Many amphibian species such as wood frogs and salamanders rely on such wetlands for breeding. Avoidance and minimization of impacts of all wetlands at the site is recommended, even if they are not regulated.
4. Clarify wetland impact acreages. Clarify jurisdiction. We recommend jurisdictional review be updated for both state and federal agencies considering additional data collected at the site and changing regulations. It would be helpful to have some documentation from NYSDEC as well regarding their jurisdiction. This will help with conservation strategies and avoid surprises later at the permitting phase that can cause delays and unforeseen costs. Note that wetland V seems to be missing from the 2020 JD and the attachment is not included in the PDF in Appendix H.
5. Further minimizing wetland impacts where possible and increasing the buffer around remaining wetlands to greater than 100’ would improve wetland protection and add open space diversity as would ensuring these protected buffers are maintained in natural, native, vegetated cover. The 100’ buffer regulated by NYSDEC is a regulatory width. Buffers up to 300’ or greater can provide additional benefits to wetland ecological processes and wildlife utilization of the site.
6. It appears there is a small portion of the state-regulated adjacent area around Wetland M within the LOD but there is no mention of the impact or permit requirement under Article 24.
7. Note: There may be regulated adjacent area along the southeast line of the development footprint between Wetlands R and T.
8. The federal permitting process will require greater detail than presented here including an alternatives analysis and mitigation plan for both wetland and stream impacts. The information presented here, while confusing, does suggest an appropriate mitigation plan for wetland impacts that could be improved with additional avoidance and minimization and increased buffer for protection of remaining wetlands as stated in #1 above.
9. Mitigation should include something for impacts to the feeder creek. Ducks Unlimited does not, to our knowledge, sell stream mitigation credits in the Niagara River Watershed. Confirm.

10. Protect remaining wetlands and other natural communities by implementing invasive species best management practices before, during, and after construction.
  1. Protect the existing field to the north of the 44-acre forested area currently proposed for protection and include it in a conservation easement.
  2. Consider partnering with the Western New York Land Conservancy for open space protection and easements.

## 2.3 IMPACT ON ECOLOGY, AND RARE, ENDANGERED OR THREATENED SPECIES AND NATURAL RESOURCES

### REVIEW NOTES

According to the SEIS, there will be no significant impacts to rare, endangered, or threatened species or significant natural communities. Documentation comes from the Habitat Assessment Report completed by Earth Dimensions, Inc (June 20, 2022). This assessment was conducted in accordance with methodology specified by New York Natural Heritage Program (NYNHP). Online consultation as part of this assessment identified one federally listed species, seven migratory birds, one state listed species, one state significant community, and one international Ramsar site (Table 1).

Table 1. Species and Communities of Concern			
Scientific Name	Common Name	Federal Status	State Status
<i>Myotis septentrionalis</i>	Northern long-eared bat	Threatened*	Threatened
<i>Asio flammeus</i>	Short-eared owl	-	Endangered
<i>Ambystoma jeffersonianum</i>	Jefferson salamander	-	Special Concern
<i>Haliaeetus leucocephalus</i>	Bald eagle	Eagle Act Protections	Threatened
<i>Coccyzus erythrophthalmus</i>	Black-billed cuckoo	Bird of Conservation Concern	-
<i>Vermivora pinus</i>	Blue-winged warbler	Bird of Conservation Concern	-
<i>Cardellina canadensis</i>	Canada warbler	Bird of Conservation Concern	High Priority Species of Greatest Conservation Need
<i>Tringa flavipes</i>	Lesser yellowlegs	Bird of Conservation Concern	-
<i>Melanerpes erythrocephalus</i>	Red-headed woodpecker	Bird of Conservation Concern	Special Concern
<i>Hylocichla mustelina</i>	Wood thrush	Bird of Conservation Concern	-
-	Silver Maple – Ash Swamp	-	Significant Natural Community
-	Niagara Corridor Ramsar Site	-	-

\*Northern long-eared bat will be reclassified to federally endangered on January 30, 2023.

Eight ecological communities were identified within the site, none of them being the silver maple – ash swamp that was identified as a significant natural community nor any other significant natural community. Some of the ecological communities are considered at risk or hard to replace including forested wetlands and vernal pools. This section states that vernal pools will not be impacted. This conflicts with the wetland section that identifies wetlands F, G, H, and I as vernal pools (page 25), all of which will be removed as part of this project. The forested portion of the site was identified as potential suitable habitat for northern long-eared bats and Jefferson salamander, although this area will remain undeveloped and placed within a conservation easement to protect the wetlands found within this area, thus no impacts are expected to these species. The old field habitat within the Site was not identified as habitat for short-eared owl due to its small size, shrub encroachment, and proximity to development. A single survey in March 2022 did not document use by short-eared owls. Surveys in May 2022 identified two (wood thrush and blue-winged warbler) of the migratory species listed by USFWS. While it is stated that development will remove wildlife habitat, it is also stated that suitable habitat will remain on the undeveloped portions of the site and on nearby undeveloped areas, including Buckhorn Island State Park, located 0.25 miles to the north.

### RECOMMENDATIONS

The habitat assessment conducted by Earth Dimensions, Inc was thorough and covered a wide range of species of concern that have the potential to utilize the project site. Although we concur with most of the conclusions of the report, we provide the following recommendations.

1. Minimize impacts to wetland ecosystems, particularly vernal pools. Clarify if vernal pools are to be impacted or protected. The information in the report conflicts (see page 25 vs page 89).
2. Loss of over 123 acres of forest cover results in a significant loss of the ecological services forest and regenerating forests provide including impact to migratory birds. Consider mitigating for this loss through protection and reforestation of the open field adjacent to the 44-acre conservation easement area. This would protect the entire parcel, protect, and restore significant habitat and other ecological services, and provide an excellent buffer between the proposed development and the residential areas.
3. The old field community is ~30 acres and meets the NYSDEC size requirements ( $\geq 25$  acres) for use by short-eared owls. Additionally, we have documented use by the species with surrounding development equal to that present adjacent to the project site. It is our opinion that although this is not prime habitat for short-eared owl, it does have the potential to provide habitat for the species. Proposed clearing of the Site within January 2023 will create significantly more habitat and will make the site more attractive for the species. We recommend direct consultation with Region 9 NYSDEC to determine whether additional surveys for the species should be required.
4. If removal of woody vegetation is conducted prior to January 30, 2023, then we concur that work will be in accordance with current regulations as it relates to northern long-eared bats. If removal of trees larger than 3-inches diameter-at-breast-height must be conducted after January 30, 2023, then this work must be conducted in accordance with new northern long-eared bat regulations that are forthcoming from USFWS.



## 2.4 CONSISTENCY WITH COMMUNITY CHARACTER

### REVIEW NOTES

The Town of Grand Island identifies natural resources as their biggest asset. The DSEIS references the Town's Comprehensive Plan and its vision in several locations acknowledging the importance of natural resources to the Town and highlighting the Town's goal to provide diverse economic development in key settings (accessible) with existing infrastructure. The proposed project is characterized as a project that includes underutilized industrial lands, will not require rezoning, and that can help satisfy the need for diversity in the economy, provide year-round employment, contribute toward a more stable economic environment and yield greater tax revenue to the Town. The project design description considers the site's abundant natural resources (forests, wetlands, streams) and identifies some opportunities to avoid, minimize, and mitigate impacts to community character including preserving 60% of the R-1A portion of site and siting the majority of the development to the center of the property and along I-190. The DSEIS states that the site will be developed in an "environmentally friendly" way consistent with the rural, relaxed culture of an Island Community. The site plan includes several features to achieve this including those noted above and landscaping, berms to screen site operations, dark sky compliant lighting, installation of sound walls

### RECOMMENDATIONS

The proposed site has both natural resources and provides an ideal opportunity for economic development creating a need for a balanced approach to project design and implementation. The DSEIS should reference the Town's Open Space Inventory and prioritization work that was developed in 2019 (Open Space Inventory Update (<https://grand-island.ny.us/277/Open-Space-Inventory>)). This planning effort supports preservation of the Town's natural assets, the Town's island character, and the economic opportunities provided by the Town's natural resources. The Conservation Advisory Board (CAB) working with the Western New York Land Conservancy created an inventory and map of open spaces to facilitate review of applications received by the Town Board. The CAB identified the following environmental features as priorities for protection in the Open Space Inventory, with 1 being the highest priority, and 10 being the lowest.

- |   |                             |
|---|-----------------------------|
| 1. Properties with rare/significant natural areas                   | 6. Climate resiliency score |
| 2. Headwater forests  | 7. Federal wetlands         |
| 3. Properties abutting natural areas and parks, including corridors | 8. DEC wetlands             |
| 4. Forested properties  | 9. Floodplains              |
| 5. Streams, rivers, water bodies                                    | 10. Farmland                |

The proposed project site is a forested property with streams and wetlands and a climate resiliency score of slightly above average. It is designated as a "high priority" for protection. This further supports the previous recommendation to increase protection to the entire 66-acre parcel, reforest or support natural regeneration of trees and shrubs on the open field portion, and increase buffers between site development and existing natural resources wherever possible.

While tucking the development back in away from the adjacent residential properties will help maintain the rural feel of the community, the significant increase in traffic, especially truck traffic, will unavoidably impact the rural character of this location on Grand Island.

### **3.0 SUMMARY**

In general, the sections of the DSEIS reviewed by CC Environment & Planning accurately portray existing conditions, potential impacts, and provide a list of mitigation strategies to address adverse impacts. Our key recommendations include:

1. Increase avoidance and minimization of impacts to wetlands and existing natural cover at the site.
2. Increase proposed buffers wherever possible.
3. Include the remaining 22 acres of the 66-acre parcel in the area to be protected and protect it with a conservation easement (consider Western New York Land Conservancy). Reforest or allow natural succession of tree and shrub species.
4. Edit the wetland section noted above to correct conflicting information and provide data for the added wetlands delineated after the delineation report was completed.
5. Provide documentation from both federal and state agencies regarding jurisdiction of the mapped wetlands.
6. Review the Town's Open Space Inventory and include consideration of the Town's natural resource priorities in the DSEIS.

Additionally – the map files provided as part of the DSEIS in Appendix A are cumbersome to open and view. Consider flattening and reducing the file size to facilitate public review of maps and figures.