

March 3, 2021

VIA EMAIL AND BY HAND

Planning Board
Town of Hudson
Attn: Brian Groth, Town Planner
12 School Street
Hudson, NH 03051

RE: Hudson Logistics Center – Site Plan, Subdivision and Conditional Use Permit Applications
Supplemental Information

Dear Brian:


On behalf of the Applicant, Hillwood Enterprises, L.P., enclosed for filing with the Board are thirteen (13) copies of the following documents:

1. Set of waiver requests (6) from the Hudson Land Use Code;
2. Letter to Hudson Planning Board, dated March 2, 2021, from John D. Krebs, Planning Consultant (outlining how the Hudson Logistics Center meets certain criteria under the Site Plan Regulations); and,
3. Memorandum to Hudson Planning Board, dated March 3, 2021, from John T. Smolak, Esq. and Justin Pasay, Esq. (with attachments), summarizing how the Hudson Logistics Center meets the Site Plan Review Regulations and Conditional Use Permit Requirements of the Zoning Ordinance.

Lastly, this letter hereby memorializes the Applicant's withdrawal of its Subdivision Application filed with the Board on April 21, 2020, given that the Applicant is no longer pursuing a 3-lot subdivision with public roadway, and given that a Lot Line Relocation Plan Application has been filed with the Planning Board.

Please do not hesitate to contact me with any comments, questions or concerns. Thank you for your time.

Very truly yours,



John T. Smolak, Esq.

cc: Brian Kutz, Hillwood (email only)
Langan (email only)
Justin L. Pasay, Esq. (email only)

WAIVER REQUEST FORM
(Overhead Utility Lines)

Name of Subdivision/Site Plan: Hudson Logistics Center

Street Address: Lowell and Steele Roads

I Hillwood Enterprises, L.P. hereby request that the Planning Board

waive the requirements of item Section 276-13 of the Hudson Land Use Regulations in reference to a plan presented by Langan Engineering & Environmental Services, Inc.

(name of surveyor and engineer) dated March 10, 2021,

for property Tax Map 234, Lots 5, 34 and 35 and Tax Map 239, Lot 1 in the Town of Hudson, NH.

As the aforementioned applicant, I, herein, acknowledge that this waiver is requested in accordance with the provisions set forth in RSA 674:36, II (n), i.e., without the Planning Board granting said waiver, it would pose an unnecessary hardship upon me (the applicant), and the granting of this waiver would not be contrary to the spirit and intent of the Land Use Regulations.

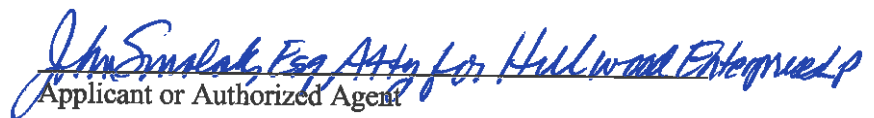
Hardship reason(s) for granting this waiver (if additional space is needed please attach the appropriate documentation hereto):

See attached narrative.

Reason(s) for granting this waiver, relative to not being contrary to the spirit and intent of the Land Use Regulations: (if additional space is needed please attach the appropriate documentation hereto):

See attached narrative.

Signed:


Applicant or Authorized Agent

WAIVER REQUEST: (Overhead Lines)

Administrative Requirements and Definitions Ordinance: Hudson Administrative Ordinance Chapter 276-13 which states that “all electric, telephone, television and other communication lines, both main and service connections, servicing new developments shall be provided by underground wiring within easements or dedicated public rights-of-way, installed in accordance with the prevailing standards and practices of the utility or other companies providing such services.

Waiver Request: A waiver is requested from **Chapter 276-13** in order to allow proposed overhead electrical lines for a distance of approximately 950 linear feet, and extending from an existing line in Lowell Road and westerly to the existing property at 267 Lowell Road currently owned by 267 Lowell Road LLC and occupied by BAE Systems. Waiver is necessitated because the utility provider, Eversource, is requiring that this segment of electrical line be maintained as overhead lines.

Basis of Waiver:

- **Introduction**

The proposed Hudson Logistics Center Project includes a proposed private roadway access known as Green Meadow Drive which extends from Lowell Road, crosses the property located at 267 Lowell Road via an existing easement, and extends onto the Property. Green Meadow Drive will serve as a primary access to the Hudson Logistics Center, and will provide access to Buildings A, B, C and the primary access to 267 Lowell Road parcel.

- **This waiver request meets the standard within the Waiver Request Form.**

Strict conformity with 276-13 for this area of the Project would pose an unnecessary hardship to the Applicant due to the fact that Eversource is requiring this segment of the service line remain as overhead line. Eversource is requiring this, as the existing electrical service to the 267 Lowell Road facility is currently overhead from Lowell Road to the building. Eversource’s position is that it is not feasible to covert the initial segment of their service from Lowell Road to a short underground segment, only to return aboveground to connect back to the 267 Lowell Road overhead infrastructure. Therefore, they are requiring the Applicant to have the initial segment of the new service remain above ground until a location that a connection can be made to the 267 Lowell Road existing infrastructure. From that location into and throughout the proposed development, the Eversource system will be underground in compliance with 276-13.

- **Granting of the waiver shall not violate the purposes or general standards of those regulations; nor would the grant of this waiver be contrary to the spirit and intent of the regulations**

Granting of the waiver shall not violate the purposes or general standards, and would not would not be contrary to the spirit and intent of the regulations since such lines currently exist, and as provided under Section 276-13.C, the placement and alignment of poles for the overhead lines: (a) are designed to lessen the visual impact of overhead lines; (b) the proposed alignment and pole locations have been carefully routed to avoid locations along horizons; (c) will not result in clearing swaths through treed areas via selective cutting, and trees shall be planted in open areas and at key locations to minimize the view of the poles and the alignments; and, (d) alignments follow rear lot lines and other alignments to the extent practicable.

Granting this waiver will not be contrary to the spirit and intent of the Town's Land Use Regulations because the spirit and intent of Chapter 276-13 is related primarily to aesthetics, and in this case, the measures proposed above mimic existing conditions and will result in the lessening of any visual impact as it relates to overhead utility lines to the extent practicable but as dictated by Eversource. To summarize, despite the length of the run of the overhead lines, the unique circumstances being dictated by Eversource, necessitate a finding that the regulation's spirit and intent, rooted in public safety and aesthetics, are not compromised through the granting of this waiver.

- **This waiver request also meets the standard within Chapter 276-7.**
 - **The requirements of Chapter 276-13 are unnecessary.**

As indicated above, the purpose of Chapter 276-13 is to lessen the visual impact of overhead lines. Here, there are existing lines but they will be relocated, and existing mature trees along with proposed plantings will lessen the visual impact. Since the Applicant will be undertaking efforts to reduce visual impact as described above, the requirements of Chapter 276-13 are unnecessary for this area of the Project as visual impacts are minimized to the extent practicable.

- **Granting the waiver will not violate the purposes or general standards of the Land Use Regulations.**

Many existing overhead utility lines exist today along Lowell Road, and the utility lines for the Project will be located as required under Chapter 276-13 except for this limited area where, as noted above, measures have been undertaken to minimize the potential visual impact of a limited area of overhead utility lines for the purposes described above. As a result, this waiver will not violate the purposes of Chapter 276-13 for the reasons outlined above.

- **Granting the waiver shall result in a general benefit to the Town and surrounding properties.**

Granting the waiver will reduce the potential for disruption of utility services of 267 Lowell Road and its tenant. Granting the waiver will support the Hudson Logistics Center which will create thousands of jobs, constitute millions of dollars in community improvements and new annual tax revenue, will be an economic boost for the Town of Hudson in these uncertain times, and is the type of development specifically contemplated by the Town's Master Plan. As a result, the waiver will result in a general benefit to the Town.

- **Conclusion**

The above request is reasonable considering the unique circumstances of the Property and the scale of the proposed commercial development and, by virtue of the multiple ways the Applicant is taking measures to lessen visual impacts, the waiver request meets the spirit and intent of the Town of Hudson Administrative Regulations.

WAIVER REQUEST FORM
(Parking Space Dimensions)

Name of Subdivision/Site Plan: Hudson Logistics Center

Street Address: Lowell and Steele Roads

I Hillwood Enterprises, L.P. hereby request that the Planning Board waive the requirements of item Section 275-8.C(4) of the Hudson Land Use Regulations in reference to a plan presented by Langan Engineering & Environmental Services, Inc.

(name of surveyor and engineer) dated March 10, 2021,
for property Tax Map 234, Lots 5, 34 and 35 and Tax Map 239, Lot 1 in the Town of Hudson, NH.

As the aforementioned applicant, I, herein, acknowledge that this waiver is requested in accordance with the provisions set forth in RSA 674:36, II (n), i.e., without the Planning Board granting said waiver, it would pose an unnecessary hardship upon me (the applicant), and the granting of this waiver would not be contrary to the spirit and intent of the Land Use Regulations.

Hardship reason(s) for granting this waiver (if additional space is needed please attach the appropriate documentation hereto):

See attached narrative.

Reason(s) for granting this waiver, relative to not being contrary to the spirit and intent of the Land Use Regulations: (if additional space is needed please attach the appropriate documentation hereto):

See attached narrative.

Signed:


Applicant or Authorized Agent

WAIVER REQUEST: (Parking Space Dimensions)

Land Use Regulation: Site Plan Review Regulations, Chapter 275-8(C)(4) states that “[p]arking space dimensions shall be 10 feet by 20 feet, except that the PLANNING BOARD may vote to allow dimensions of nine feet by 18 feet.”

Waiver Request: A waiver is requested from **Chapter 275-8(C)(4)** to permit parking space dimensions for the Hudson Logistics Center to be nine feet by 18 feet instead of 10 feet by 20 feet.

Basis of Waiver: It is not clear that a waiver is required from Chapter 275-8(C)(4) to permit use of parking spaces that are nine by 18 feet in support of the Hudson Logistics Center, because the Planning Board has independent authority per the plain language of the regulation to allow nine by 18-foot parking spaces by vote. Nonetheless, Hillwood files this waiver request as a precautionary measure and submits that it plainly meets the Waiver Request Form waiver standard, as well as the waiver standard articulated within Chapter 276-7 of the Town’s Land Use Regulations, both of which standards are addressed below.

- **This waiver request meets the standard within the Waiver Request Form.**

Use of nine by 18-foot parking stalls is specifically contemplated by Chapter 275-8(C)(4). Further, ten by 20-foot stalls are not necessary for the project and would lead to more impervious surface and corresponding environmental impact. Requiring Hillwood to develop more impervious surface than what is required to satisfy the proposed use, is a hardship.

Granting the requested waiver will not be contrary to the spirit and intent of the Town’s Land Use Regulations. On the contrary, permitting the use of nine by 18-foot spaces which aptly serve the proposed use and will reduce the impervious footprint of the project, will advance the Site Review Regulation’s purpose of “provid[ing] for and protect[ing] the public health, safety and wellbeing.” Land Use Regulations, Chapter 275, §275-3.

- **This waiver request also meets the waiver standard within Chapter 276-7.**
 - **The requirements of Chapter 275-8(C)(4) are unnecessary for this application.**

The three new distribution and logistics buildings at the heart of the Hudson Logistics Center do not require 10 by 20-foot parking spaces and the nine by 18-foot spaces, specifically contemplated by the Site Review Regulations and authorized by vote of the Planning Board without a waiver, are sufficient.

- **Granting the waiver will not violate the purposes or general standards of the Land Use Regulations.**

The primary purpose of the Site Review Regulations and the Town's Land Use Regulations is to preserve the public's health and welfare through safe development. As the potential use of nine by 18-foot parking spaces is specifically contemplated by the Site Review Regulations, and as use of such will not compromise the public's health, safety or welfare, granting the requested waiver is appropriate.

- **Granting the waiver shall result in a general benefit to the Town and surrounding properties.**

Granting the requested waiver will result in a general benefit to the Town and surrounding properties because smaller parking spaces will translate into less impervious surface for the project.

- **Conclusion**

Strict enforcement of the 10 by 20-foot parking space requirement would constitute a hardship because it would require Hillwood to build more impervious surface than what is necessary to serve the proposed use, especially where Chapter 275-8(C)(4) specifically contemplates use of nine by 18-foot spaces, as proposed. Further, use of nine by 18-foot spaces will benefit the public and surrounding properties for the reasons outlined above. For these reasons, the requested waiver is appropriate.

WAIVER REQUEST FORM
(Parking Space Reduction)

Name of Subdivision/Site Plan: Hudson Logistics Center

Street Address: Lowell and Steele Roads

I Hillwood Enterprises, L.P. hereby request that the Planning Board waive the requirements of item Chapter 275-8.C(2) of the Hudson Land Use Regulations in reference to a plan presented by Langan Engineering & Environmental Services, Inc.

(name of surveyor and engineer) dated March 10, 2021,
for property Tax Map 234, Lots 5, 34 and 35 and Tax Map 239, Lot 1 in the Town of Hudson, NH.

As the aforementioned applicant, I, herein, acknowledge that this waiver is requested in accordance with the provisions set forth in RSA 674:36, II (n), i.e., without the Planning Board granting said waiver, it would pose an unnecessary hardship upon me (the applicant), and the granting of this waiver would not be contrary to the spirit and intent of the Land Use Regulations.

Hardship reason(s) for granting this waiver (if additional space is needed please attach the appropriate documentation hereto):

See attached narrative.

Reason(s) for granting this waiver, relative to not being contrary to the spirit and intent of the Land Use Regulations: (if additional space is needed please attach the appropriate documentation hereto):

See attached narrative.

Signed:


Applicant or Authorized Agent

WAIVER REQUEST: (Parking Spaces)

Site Plan Review Ordinance: Hudson Site Plan Review Ordinance Chapter 275-8.C(2) which states that:

“C. In addition to the general regulations, notations of, or showing compliance with, the following shall be required of all SITE PLAN APPLICATIONS: ... (2) The calculations for required off-street spaces shall be computed in accord with the specifications listed below. Any use not listed shall provide parking as required by the PLANNING BOARD. The PLANNING BOARD may vary these requirements if the APPLICANT can demonstrate that fewer spaces than required below are consistent with the proposed use:

...

(g) Industrial: one for each 600 square-foot of gross floor space or 0.75 space per employee of the combined employment of the two largest successive shifts, whichever is larger.”

Waiver Request: A waiver is requested from **Chapter 275-8.C(2)** in order to reduce the number of renumber of required parking spaces from 4,359 parking spaces to 1,806 parking spaces, or a reduction of 2,553 parking spaces.

Basis of Waiver:

- **Introduction**

Off-street parking requirements in Hudson are regulated by 275-8(C)(2) of the Site Plan Regulations. Subsection 2(g) provides that for industrial uses, one space for each 600 square-foot of gross floor space or 0.75 space per employee of the combined employment of the two largest successive shifts, whichever is larger, is required. Under these provisions, the number of required parking spaces for each building is greater based upon square-footage and is as follows:

<u>Building</u>	<u>Building Size (s.f.)</u>	<u>Required Spaces</u>	<u>Proposed</u>
➤ Building A	1,330,825	2,218	1,008
➤ Building B	1,005,480	1,676	380
➤ Building C	<u>529,844</u>	<u>883</u>	<u>418</u>
Totals	2,866,149	4,777	1,806

- **This waiver request meets the standard within the Waiver Request Form.**

Strict conformity with 275-8.C(2) for this Project would pose an unnecessary hardship to the Applicant due to the significant impervious surfaces and resulting groundwater impacts resulting from the need to building in excess of over 2,900 parking spaces not required for Project operations. It would appear that the requirement of 1 space per 600 square feet of gross-floor-area is an outdated parking standard designed for much less labor intensive certain industrial or manufacturing operations. As a result, and based upon actual operational data from similar facilities, as described in traffic data generated by the or on behalf of the Applicant, the number of desired parking spaces is significantly less than the standard imposed. The desired spaces also include capacity for peak season operations. To impose such a parking standard would both impose an unnecessary hardship on the Applicant, and result in greater stormwater runoff that would need to be treated and then discharged to the ground. Accordingly, the requirement is unnecessary for this Application.

- **Granting of the waiver shall not violate the purposes or general standards of those regulations; nor would the grant of this waiver be contrary to the spirit and intent of the regulations**

Granting of the waiver shall not violate the purposes or general standards, and would not would not be contrary to the spirit and intent of the regulations since the purpose of the parking standard is to ensure the provision of adequate on-site parking, and given that Section 275-8.C also contemplates providing the Planning Board with the ability to vary the requirements if the Applicant can demonstrate that fewer spaces than required below are consistent with the proposed use, the Applicant's demonstration of this fact through traffic operational data demonstrates that granting this waiver will not be contrary to the spirit and intent of the Town's Land Use Regulations. To summarize, the industrial use requirement of 1 parking space per 600 square-feet of gross-floor-area is a generic, and perhaps, outmoded standard for modern industrial uses, and flexibility in this standard by granting the Planning Board with the flexibility to vary this standard upon a demonstration of parking need necessitate a finding that the regulation's spirit and intent, is not compromised through the granting of this waiver.

- **This waiver request also meets the standard within Chapter 276-7.**
 - **The requirements of Chapter 276-13 are unnecessary.**

As indicated above, the purpose of Chapter 275-8.C is to ensure the provision of adequate parking based upon the type of use proposed. Here, the Applicant has made a demonstration that significantly less parking that what the regulation suggests confirms that adherence to this requirement is unnecessary.

- **Granting the waiver will not violate the purposes or general standards of the Land Use Regulations.**

The regulations ascribe the required number of parking spaces based upon the type of use, and contemplates the potential need of the Planning Board to vary this standard based upon the particular circumstances of the use and upon the Applicant's demonstration that a different number of required parking spaces is appropriate. As a result, this waiver to reduce the number of required parking spaces, based upon operational programming for these specific facilities and a history with other facilities, will not violate the purposes of Chapter 275-8.C(2) for the reasons outlined above.

- **Granting the waiver shall result in a general benefit to the Town and surrounding properties.**

Granting the waiver will reduce the area of impervious surfaces, and therefore, will significantly reduce the amount of parking lot runoff from those areas, resulting in a benefit to the environment, including nearby wetlands, the Merrimack River, Limit Brook, and downstream abutters in the form of improved water quality. By not including the excess parking required under the regulation, the Applicant was able to consolidate the development area into less acreage, resulting in providing additional setbacks from the residential neighbors, the wetland resource areas and the Merrimack River. As a result, the waiver will result in a general benefit to the Town.

- **Conclusion**

The above request is reasonable considering the type of use and demonstrated need for lesser parking, all of which results in benefits to the Town in terms of impact to the environment and setbacks from the residential neighbors. As a result, the waiver request meets the spirit and intent of the Town of Hudson Site Plan Regulations.

WAIVER REQUEST FORM

(Driveways – Design Criteria – More Than One Driveway/Parcel)

Name of Subdivision/Site Plan: Hudson Logistics Center

Street Address: Lowell and Steele Roads

I Hillwood Enterprises, L.P. hereby request that the Planning Board waive the requirements of item Chapter 193-10 of the Hudson Land Use Regulations in reference to a plan presented by Langan Engineering & Environmental Services, Inc.

(name of surveyor and engineer) dated March 10, 2021, for property Tax Map 234, Lots 5, 34 and 35 and Tax Map 239, Lot 1 in the Town of Hudson, NH.

As the aforementioned applicant, I, herein, acknowledge that this waiver is requested in accordance with the provisions set forth in RSA 674:36, II (n), i.e., without the Planning Board granting said waiver, it would pose an unnecessary hardship upon me (the applicant), and the granting of this waiver would not be contrary to the spirit and intent of the Land Use Regulations.

Hardship reason(s) for granting this waiver (if additional space is needed please attach the appropriate documentation hereto):

See attached narrative.

Reason(s) for granting this waiver, relative to not being contrary to the spirit and intent of the Land Use Regulations: (if additional space is needed please attach the appropriate documentation hereto):

See attached narrative.

Signed:

John Swarick, Esq., Attorney for Hillwood Enterprises LP
Applicant or Authorized Agent

WAIVER REQUEST: (Driveways – Design Criteria – More Than One Driveway/Parcel)

Driveway Ordinance: Hudson Driveway Ordinance Chapter 193-10 states that “G. Only one driveway per parcel having adequate frontage, as required by Chapter 334, Zoning, is allowed, except in the case of two-unit residential buildings (duplexes), one DRIVEWAY per unit shall be allowed. H. Driveways are not permitted in side or rear setback areas, unless a shared access is required by the Planning Board. I. With the exception of Subsection G, above, shared driveway are not allowed unless approved by the Planning Board.”

Waiver Request: A waiver is requested from **Chapter 193-10** in order to allow the Property to have two driveways, including the private shared driveway to the north of the Property extending onto the Sam’s Club property, a second main shared private driveway extending over a portion of 267 Lowell Road, named Green Meadow Drive.

Basis of Waiver:

- **Introduction**

The proposed Hudson Logistics Center Project includes a proposed private roadway access known as Green Meadow Drive which extends from Lowell Road, crosses the property located at 267 Lowell Road, via an existing easement, and extends onto the Property. Green Meadow Drive will serve as a primary access to the Hudson Logistics Center, and will provide access to Buildings A, B, C and the primary access to the 267 Lowell Road parcel. The proposed Project includes a second proposed access point serving as a access to serve the three buildings and is located to the north as an extension of access to Wal Mart Boulevard serving Sam’s Club, via an existing easement.

- **This waiver request meets the standard within the Waiver Request Form.**

Strict conformity with 193-10 for this area of the Project would pose an unnecessary hardship to the Applicant due to the significant disruption of the operations of the Project with a single driveway, impact on the operations of the property owners over which the access easement is provided, potential impacts to the operations of Lowell Road, and it would be unsafe to maintain a single driveway which could interfere with Fire Department and other emergency operations if a single driveway became blocked. Given that the Project needs to maintain two access points for operational purposes, and the other needs of emergency services, the imposition of the requirement of a single driveway is impractical for the size of the operations and the varying needs of the driveways as described above.

- **Granting of the waiver shall not violate the purposes or general standards of those regulations; nor would the grant of this waiver be contrary to the spirit and intent of the regulations**

Granting of the waiver shall not violate the purposes or general standards, and would not would not be contrary to the spirit and intent of the regulations since the purpose of the Driveway Ordinance as articulated under Section 193-3 is to:

“...ensure the public safety through the orderly control of traffic movement onto and from highways, exits, streets and roadways....

“...ensure the existence of necessary drainage facilities required to provide a safe and controlled approach to a highway in all seasons of the year...

“... prevent the existence of unsafe conditions resulting from improper placements of any driveway, wall, barrier, structure or any other object or combination thereof within or adjacent to any right-of-way accepted by or dedicated to the Town.”

Here, the provision of the number of proposed driveways for a 375+ acre lot would not violate the purposes or general standards, and would not be contrary to the spirit and intent of the regulations under Section 193-10 since the purpose of the separate driveways is in fact to ensure public safety, to provide a controlled approach to a highway, and prevents the existence of unsafe conditions by the proper placement of the driveways. Moreover, historic planning efforts specifically required the reservation of driveway access to the Property.

To summarize, despite the number of driveways, the unique circumstances of the Property, and its multiple access ways necessitate a finding that the regulation's spirit and intent, rooted in public safety, are not compromised through the granting of this waiver.

- **This waiver request also meets the standard within Chapter 276-7.**
 - **The requirements of Chapter 276-13 are unnecessary.**

As indicated above, the purpose of Chapter 193-10 is to ensure the public safety through the orderly control of traffic movement. Here, the two separate driveways each have an integral purpose to ensure public safety. Since the Applicant will be undertaking efforts to improve public safety as described above, the requirements of Chapter 193-10 are unnecessary, and in fact would be dangerous if required to be adhered to under these unique circumstances.

- **Granting the waiver will not violate the purposes or general standards of the Land Use Regulations.**

Granting of the waiver will not violate the purposes of the Land Use Regulations, and in fact, the waiver furthers the purposes of the Land Use Regulations by ensuring public safety and orderly traffic flow which are critical to the operations of the Project. As a result, this waiver will not violate the purposes of Chapter 193-10 for the reasons outlined above.

- **Granting the waiver shall result in a general benefit to the Town and surrounding properties.**

Granting the waiver will reduce the potential for negative traffic impacts by spreading out the vehicle trips and related access to multiple points which will prevent excessive queuing and bottlenecks. As a result, the waiver will result in a general benefit to the Town.

- **Conclusion**

The above request is reasonable considering the unique circumstances of the Property and the scale of the proposed commercial development and, by virtue of the multiple ways the Applicant is taking measures to lessen traffic impacts, the waiver request meets the spirit and intent of the Town of Hudson Administrative Regulations.

WAIVER REQUEST FORM
(Driveways – Design Criteria – Driveway Width)

Name of Subdivision/Site Plan: Hudson Logistics Center

Street Address: Lowell and Steele Roads

I Hillwood Enterprises, L.P. hereby request that the Planning Board waive the requirements of item Chapter 193-10.F of the Hudson Land Use Regulations in reference to a plan presented by Langan Engineering & Environmental Services, Inc.

(name of surveyor and engineer) dated March 10, 2021,
for property Tax Map 234, Lots 5, 34 and 35 and Tax Map 239, Lot 1 in the Town of Hudson, NH.

As the aforementioned applicant, I, herein, acknowledge that this waiver is requested in accordance with the provisions set forth in RSA 674:36, II (n), i.e., without the Planning Board granting said waiver, it would pose an unnecessary hardship upon me (the applicant), and the granting of this waiver would not be contrary to the spirit and intent of the Land Use Regulations.

Hardship reason(s) for granting this waiver (if additional space is needed please attach the appropriate documentation hereto):

See attached narrative.

Reason(s) for granting this waiver, relative to not being contrary to the spirit and intent of the Land Use Regulations: (if additional space is needed please attach the appropriate documentation hereto):

See attached narrative.

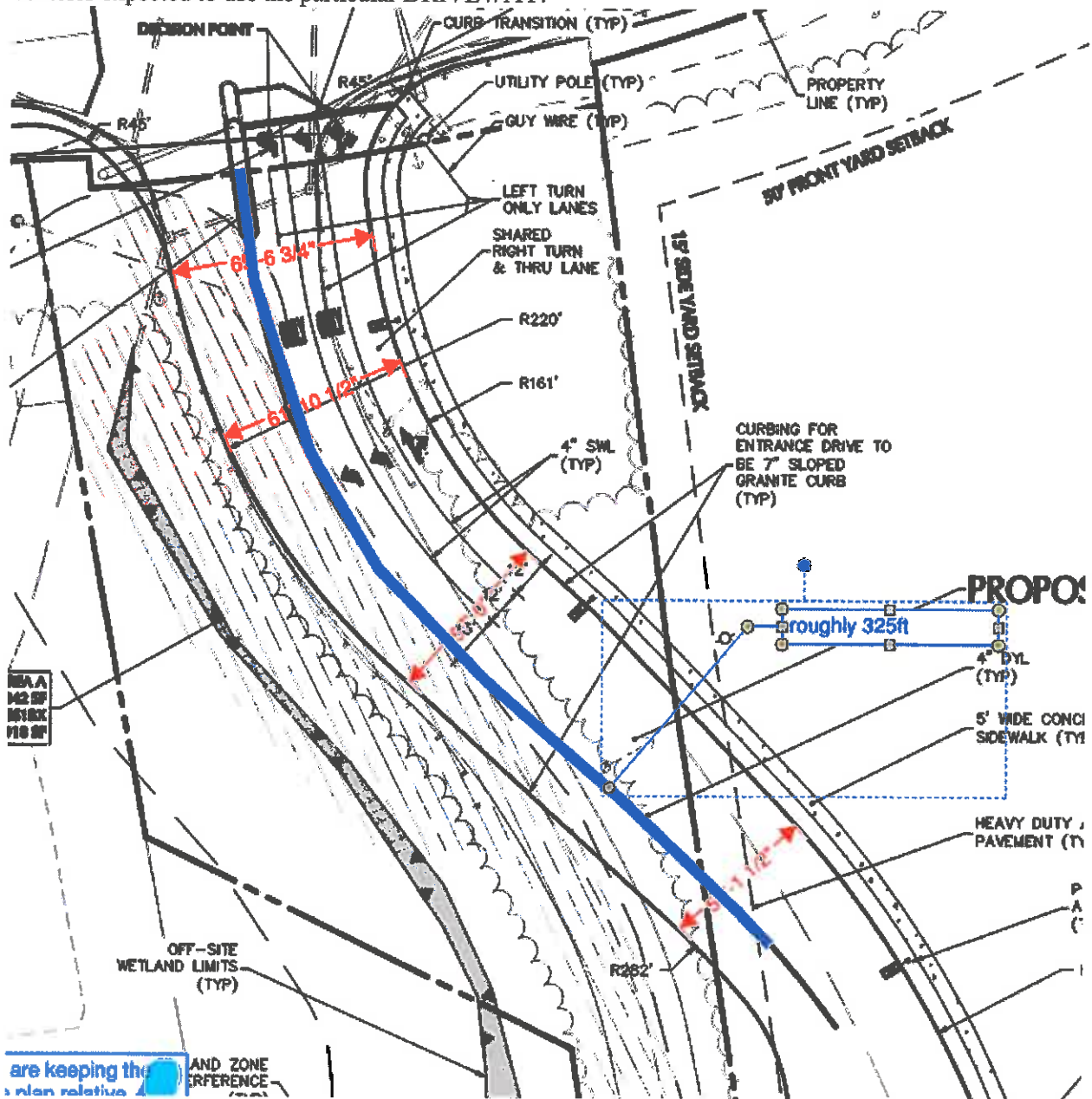
Signed:


Applicant or Authorized Agent

WAIVER REQUEST: (Driveways – Design Criteria – Driveway Width)

Driveway Ordinance: Hudson Driveway Ordinance Chapter 193-10.F states that:

“F. Maximum DRIVEWAY width of 50 feet, except that a DRIVEWAY may be flared beyond a width of 50 feet, at and near its junction with the HIGHWAY, to accommodate the turning radius of vehicles expected to use the particular DRIVEWAY.”



Waiver Request: A waiver is requested from **Chapter 193-10.F** in order to allow for certain sections of Green Meadow Drive to exceed 50 feet in width.

Basis of Waiver:

- **Introduction**

The proposed Hudson Logistics Center Project includes a proposed private roadway access known as Green Meadow Drive which extends from Lowell Road, crosses the property located at 267 Lowell Road via an existing easement, and extends onto the Property. Green Meadow Drive will serve as the primary access to the Hudson Logistics Center, and will provide access to Buildings A, B, C and the primary access to the 267 Lowell Road parcel.

- **This waiver request meets the standard within the Waiver Request Form.**

Strict conformity with 193-10 for this area of the Project would pose an unnecessary hardship to the Applicant due to the need for certain sections of Green Meadow Drive to exceed the 50-foot width which is critical to safe and efficient vehicular operations. Given that the Project needs to maintain a certain width along Green Meadow Drive for operational purposes, the imposition of the width requirement is impractical for the size of the operations and the varying needs of the driveways as described above. The proposed with reflects the lane arrangements identified in the traffic impact study to provide adequate and efficient operation of the signalized intersection of Lowell Road and Green Meadow Drive.

- **Granting of the waiver shall not violate the purposes or general standards of those regulations; nor would the grant of this waiver be contrary to the spirit and intent of the regulations**

Granting of the waiver shall not violate the purposes or general standards, and would not would not be contrary to the spirit and intent of the regulations since the purpose of the Driveway Ordinance as articulated under Section 193-3 is to:

“...ensure the public safety through the orderly control of traffic movement onto and from highways, exits, streets and roadways....

“...ensure the existence of necessary drainage facilities required to provide a safe and controlled approach to a highway in all seasons of the year...

“... prevent the existence of unsafe conditions resulting from improper placements of any driveway, wall, barrier, structure or any other object or combination thereof within or adjacent to any right-of-way accepted by or dedicated to the Town.”

Here, the provision of a certain width for certain sections of Green Meadow Drive would not violate the purposes or general standards, and would not would not be contrary to the spirit and intent of the regulations under Section 193-10 since the purpose of the driveway width requirement is in fact to ensure public safety, to provide a controlled approach to a highway, and prevents the existence of unsafe conditions.

To summarize, unique circumstances of the Property, and its access requirements necessitate a finding that the regulation's spirit and intent, rooted in public safety, are not compromised through the granting of this waiver.

- **This waiver request also meets the standard within Chapter 276-7.**
 - **The requirements of Chapter 276-13 are unnecessary.**

As indicated above, the purpose of Chapter 193-10 is to ensure the public safety through the orderly control of traffic movement. Here, the width of driveway plays an integral purpose to ensure public safety. Since the Applicant will be undertaking efforts to improve public safety as described above, the requirements of Chapter 193-10 are unnecessary, and in fact would be dangerous if required to be adhered to under these unique circumstances.

- **Granting the waiver will not violate the purposes or general standards of the Land Use Regulations.**

Granting the waiver will not violate the purposes of the Land Use Regulations, and in fact, the waiver furthers the purposes of the Land Use Regulations by ensuring public safety and orderly traffic flow which are critical to the operations of the Project. As a result, this waiver will not violate the purposes of Chapter 193-10 for the reasons outlined above.

- **Granting the waiver shall result in a general benefit to the Town and surrounding properties.**

Granting the waiver will reduce the potential for negative traffic impacts by ensuring safe and efficient access to and from the Property through Green Meadow Drive. As a result, the waiver will result in a general benefit to the Town.

- **Conclusion**

The above request is reasonable considering the unique circumstances of the Property and the scale of the proposed commercial development and, by virtue of the ways the Applicant is taking measures to lessen traffic impacts, the waiver request meets the spirit and intent of the Town of Hudson Administrative Regulations.

John D. Krebs, Planning Consultant

Forty-Three Sherwood Forest Way

Freedom, New Hampshire 03836

jdkrebs67@yahoo.com

603.396.2868

March 2, 2021

Hudson Planning Board
c/o Brian Goth
Town Planner
Town of Hudson
12 School Street
Hudson, New Hampshire

Dear Mr. Groth:

On behalf of my client, Hillwood Enterprises, LP (Hillwood), this correspondence responds to a letter by Carol Ogilvie, Planning Consultant, dated December 21, 2020, filed with the Town of Hudson's Planning Board (the Opinion Letter), regarding Hillwood's proposed redevelopment of the Greenmeadow Golf Course into the Hudson Logistics Center (the Project) on property identified as Town of Hudson Tax Maps 234, Lots 5, 34 & 35 and Town Tax Map 239, Lot 1 (collectively, the Property).

By way of background, I hold a Master's Degree in Urban & Regional Planning and have been a Municipal Planner in New England for 29 years, 28 of which have been in New Hampshire. I have worked in many communities where large-scale commercial developments have been permitted including, but not limited to malls, big box retailers and the EP Power Plant in Newington, NH (f/k/a Newington Energy). I have extensive experience with drafting and administering zoning ordinances and site plan review regulations in New Hampshire.

I visited the Property and surrounding area on Wednesday, February 17, 2021, reviewed the Project Subdivision and Site Plans prepared by HSI, Inc. & Langan Engineering & Environmental Services ("Langan"), respectively, as well as supporting documentation submitted to the Town by Hillwood and its consultants, and information submitted by Project abutters, concerned citizens and their representatives, including the Opinion Letter.

Based upon this review, I offer the following:

Site Characteristics:

- The site is very large, comprised of approximately 375.37 acres of land;
- The two main roads bordering the site are very heavily travelled; Sagamore Bridge Road has an AADT of +43,000 and Lowell Road has an AADT of +21,000 vehicles;

- The Site is bordered to the North and West (in Nashua) by large-scale commercial development; to the East by predominantly commercial uses and some residential uses; and, to the South by residential uses;
- The proposed Hudson Logistics Center buildings total +2,614,984 square feet of footprint which equals +/-16% of the Property;
- Hillwood is proposing the conveyance of a conservation easement to the Town of approximately 120 acres of conservation land (+/-32% of the Property) for permanent protection to include nearly 90 acres of land on the eastern portion of the Property, and 30 acres of land along the Merrimack River, and proposes the restoration of approximately 40 acres of sensitive wetland and wetland buffer areas. Additionally, Hillwood is proposing an intensive screening configuration on the southern boundary of the Property to include all of the screening mechanisms called out for in the Site Plan Review Regulations (preservation of existing landscaping, new plantings, use of a landscaped earthen berm, and a sound fence).
- This Property has been zoned for industrial uses since 1956, and throughout the intervening years the Zoning Ordinance has expanded the allowable commercial uses and was last amended in 2017 to specifically increase the permitted building height on the Property from 38' to 50';
- The largest residential neighborhood abutting this industrially zoned property is the Greenmeadow subdivision to the south, comprised of Eagle Drive, Fairway Drive and Par Lane. Homes in this neighborhood were built primarily in the very late 1970's and early 1980's, some +/-23 years after the Property was zoned for industrial uses.

Responses to the Opinion Letter in sequential order:

Below I provide a response to the assertions and conclusions contained in the Opinion Letter, in an order that corresponds with the organization of that letter.

1. Comparison of Hudson Logistics Center to other (similar) facilities

In the second paragraph on page 1 of the Opinion Letter, Ms. Ogilvie asserts that she could identify no comparative facilities to the proposed Hudson Logistics Center in New Hampshire, and could only identify one Amazon facility in New Hampshire, in Nashua. Ms. Ogilvie goes on to list the names of other industrial developments in New Hampshire, Massachusetts and Connecticut, along with, presumably, the acreage of the underlying properties and the square footage of the facilities themselves. This information is provided to assert the conclusion that “[n]one of these examples compare either in size of footprint to the Hudson proposal, nor do they share any similarity with their locations.”

I see no merit in such a comparison as zoning, highway networks, available land, community / Master Plan objectives, etc. are all unique characteristics of individual towns. The Opinion Letter does not analyze or otherwise account for such considerations with regard to the properties and developments referenced, and does not describe whether, for example, the

underlying municipalities in those examples have undertaken recent Zoning Ordinance amendments to specifically facilitate the type of development proposed, as is the case in Hudson. Merely comparing building sizes to the size of the lot on which they are built reveals little information as to the shape, environmental constraints, historical zoning and context, and land remaining for future development, all of which data is unaddressed and unknown with regard to the sites listed in the Opinion Letter. However, to the extent the mathematical relationship between building size and land area is a relevant factor to be considered, and to the extent the data contained in the Opinion Letter is accurate, it is important to note that the Hudson Logistics Center demonstrates a building to land area ratio well below the average established by the examples provided.

Specifically, the Opinion Letter provides five (5)¹ example comparisons to include BAE Systems in Hudson, and four (4) Amazon sites between New Hampshire, Massachusetts, and Connecticut. The site with the smallest building to land area ratio is the BAE site in Hudson. At 303,508 square feet on +-170 acres, the building to lot area ratio is +-0.4%. The remaining sites, however, have building to land area ratios of 37%², 51%³, 32%⁴ and 26%⁵, respectively.

Based on this data, the average building to land area ratio is 29%. The Hudson Logistic Center proposes only a 16% building to land area ratio with +/-120 acres of land proposed to be conveyed to the Town of Hudson for permanent conservation. As explained elsewhere in this analysis, the Hudson Logistics Center is appropriately and conservatively sited on the Property.

2. Noise

The Opinion Letter states that “[n]oise from this project could reasonably be expected to negatively impact the neighborhood.” This conclusion overlooks factual considerations relevant to the Hudson Logistics Center to include the intensive screening and buffering proposals from Hillwood, the standard established by Chapter 249 of the Town Code which is the Noise Ordinance, the Sound Study performed by Ostergaard Acoustical Associates which has been updated and peer reviewed, and the Harris Miller, Miller & Hanson Inc. (“HMMH”) peer review which confirmed the project’s compliance with the Town’s Noise Ordinance provisions, none of which considerations are mentioned in the Opinion Letter.

The closest Hudson Logistics Center building to a lot line bordering a residential neighborhood is over 400 feet away, providing more than ample distance to buffer noise which is further attenuated by the positioning of the proposed earthen berm, sound fence, the preservation of

¹ Facility #2 in the Opinion Letter, pertaining to the F.W. Webb development in Londonderry, depicts a land area of 9 acres (392,040 square feet) and an 800,000 square foot building, some 204% larger than the lot size. This figure cannot be correct and has been disregarded accordingly.

² Amazon, Nashua, NH.

³ Amazon, Fall River, MA.

⁴ Amazon, North Haven, CT.

⁵ Amazon, Windsor, CT.

existing mature trees along the southerly property line and the proposed new landscaping. Further, a *before and after* comparison is not a regulatory standard set forth in the Site Plan Review Regulations or Noise Ordinance. Noise from trucks entering, navigating and exiting the site will be far quieter as they will be travelling throughout the site very slow as compared to vehicles traveling on public roads. Similarly, while the Opinion Letter states that “while noise may be within appropriate ranges, this does not take into account that the noise would be virtually incessant”, this is not a requirement advanced by the Site Plan Review Regulations, nor should it have been. The mere fact that the Town of Hudson zoned this land for industrial uses, broadened these uses over the past six decades, and recently specifically legislated an increased building height of 50 feet for this specific Property, to encourage other industrial uses is a clear indication that industrial operations were anticipated.

Finally, the Opinion Letter does not address the conclusions made by Ostergaard and confirmed by HMMH that the Project will comply with the Town’s Noise Ordinance, which is the sole legitimate consideration in this context. On this evidence, it appears the Project will comply with the Town of Hudson’s land use regulations.

3. Light Pollution

The Opinion Letter states that there will be “light pollution coming from the light fixtures on the buildings and the numerous light fixtures in the parking and loading areas.” The Opinion Letter goes on to state that “[i]t is possible that the proposed berm will shield some of these, but it is hard to imagine that there would not be some level of light pollution reaching into the sky that would not be shielded by a berm.” Finally, the Opinion Letter concludes that that the development will cause “lighting impacts” to the residential neighbors, and infers, without reference to any Town of Hudson land use regulation, that such impacts are violative of the applicable regulations.

The Lighting Plan(s) submitted as part of the Site plan Application Sheet LL100-LL129 & LL501-LL503 clearly indicate that the Plans comply with the Site Plan Review Regulations which both prevent over lighting of sites and spillage of light off the property. The proposed lighting plans accomplish these regulatory objectives. Additionally, while residential abutters may be able to see a light fixture from their home several hundred feet away, there is no standard requiring light sources from being invisible from a property line, which would literally be an impossible requirement to satisfy for virtually any property within this area of Hudson. There are commercial and municipal (street) light sources surrounding this entire site.

On the data and evidence before the Planning Board, there is nothing to suggest that Hillwood’s proposed lighting scheme is violative of any Town of Hudson land use regulation.

4. Air Quality

The Opinion Letter states that “[a]ir quality is another issue for the neighborhood” and states that “trucks will be operating 24/7 ...” Following these assertions, the Opinion Letter states that

the effects of this will be “to discharge pollutants into the air constantly” and that while “[i]t is possible to mitigate some air pollution at the source of the mechanical equipment; I cannot see that happening with the trucks.” The Opinion Letter does not identify or conclude that the Hudson Logistics Project will violate any local or other relevant air quality regulation.

Importantly, beginning in 2010 the US EPA and the National Highway Traffic Safety Administration issued greenhouse gas emissions and fuel economy standards for medium and heavy-duty trucks manufactured in model years 2014-2018; the standards established for model years 2018-2027 further improve fuel efficiency and cut carbon pollution. It is unfair and unreasonable to suggest that the trucks moving goods into and out of these facilities, and the mechanical equipment inside of the buildings, will cause air quality degradation without referencing any data or evidence to support the conclusion.

In this context, the Opinion Letter does not mention the Air Quality Impact Analysis, as amended and revised, prepared for Hillwood by Epsilon Associates, Inc. and reviewed and confirmed by Tetra Tech. Contrary to the assertions in the Opinion Letter, the Air Quality Impact Analysis supports the conclusion that the Project complies with all applicable state and federal air pollution control regulations.

5. Traffic Impacts

With regard to traffic impacts, the Opinion Letter states that “it is hard to imagine that more than doubling [traffic] in some areas is not going to result in major traffic impacts to the adjacent area. Even with the installation of traffic control systems, there will be the addition of those hundreds of trucks to and from the site, with the attendant wait times at the traffic signals.” Additionally, the Opinion Letter states that Hillwood’s traffic presentation in November of 2020 was “disingenuous” because it cited Tuscan Village in Salem, the Mall of New Hampshire and Rockingham Park, Sam’s Club and Walmart, each of which constitute significantly more traffic trips than that which is proposed by the Hudson Logistics Center.

The Opinion Letter assertions regarding traffic appear to be assumptions which are not based on data or evidence because the Opinion Letter offers no substantive rebuttal to the Traffic Impact Study for the Hudson Logistics Center, Hudson, New Hampshire, prepared for Hillwood by Langan, as revised (the “Traffic Impact Study”). As I am sure the Planning Board is aware, the methodology of the Traffic Impact Study and the conclusions and proposed traffic mitigation proposals advanced therein have been confirmed and approved by the New Hampshire Department of Transportation (“NHDOT”), the Town’s peer review consultant, Vanasse Hangen Brustlin, Inc. (“VHB”) and a second peer reviewing firm, Stantec.

To summarize, the Hudson Logistics Center project and the proposed mitigation and roadway improvements are the result of a thorough analysis by a team of qualified, licensed Professional Engineers. The Traffic Impact Study submitted as part of the Site Plan Review Application has been thoroughly reviewed and approved by NHDOT, the Town’s peer review firm VHB, and a

secondary peer review firm, Stantec. The evidence and data produced through the review process indicates that the proposed roadway improvements will mitigate and improve existing traffic conditions in the area. This conclusion is also supported by common sense, as it defies logic that the proponent of a 2.6 million square-foot distribution/fulfillment center would design traffic improvements that result in delays for shipments to and from the site.

6. Berm

With regard to the proposed earthen berm which will serve as screening to the residential uses to the south of the Hudson Logistics Center, the Opinion Letter states that "it might be necessary for the [sound fence] to be lighted, per FAA requirements" which would "create yet another source of light pollution and disturbance."

I understand that the berm is proposed as screening pursuant to Section 275-8(C)(8) of the Site Plan Review Regulations and it serves, along with the preservation of existing landscaping, the planting of new landscaping, and the use of the sound fence, to insulate the residential abutters from the Hudson Logistics Center in conformity with that Site Plan Review Regulation requirement. Additionally, FAA Lighting requirements are triggered when a structure is 200 feet above the ground, so the suggestion that the proposed sound wall may require aeronautical hazard lighting is unsupported by the record before the Planning Board.

7. Zoning Setback

The Opinion Letter opines that the project's earthen berm, sound fence, and grass swale, which are located within the 200 foot buffer required by Section 276-11.1(B)(12) of the Town's Administrative Requirements and Definitions, are "part of the project, not independent from it, and therefore should be subject to the setback."

This requirement is not a Zoning Ordinance requirement, it is a regulation properly interpreted and administered by the Planning Board, which I understand has already determined that Section 276-11.1(B)(12) does not prohibit the earth berm, sound fence, and grass swale within the 200 foot buffer. Beyond this, as a professional planner with many years of experience working in New Hampshire for communities from Berlin to Seabrook to Manchester, I've never seen a zoning ordinance interpreted in manner the Opinion Letter suggests is proper in this case. It is common practice to locate drainage structures, lighting, signage, walkways, landscape berms, fencing and other components of a commercial development within setbacks. Asserting that a 200 foot (in this case 200 feet x +-3,800 feet equating to over 17 acres) setback may not be used for site improvements, I would argue is tantamount to an unconstitutional taking. I believe that the limited use of setback areas proposed for these site improvements is both consistent with the Hudson Zoning Ordinance and very commonly accepted practice in New Hampshire.

8. Visual Impacts

The Opinion Letter states that Hillwood should “provide[] line-of-sight photo simulations of what [the southern residential abutters] will be seeing from their yards and houses.” I understand that since this comment from Ms. Ogilvie, Hillwood has indeed provided and presented a photo simulation analysis incorporating the expected views from more than half of the immediate southern abutters to the Property at the time of planting, and 10 years in the future. Beyond this, the Property has been zoned for Industrial Uses for 65 years. Less than four (4) years ago, the Town, by a majority vote of the residents, amended its Zoning Ordinance to allow taller buildings on this specific Property.

To be clear, this Project will alter the view, particularly when there is no foliage, from the residential property owners primarily along Fairway Drive and Eagle Drive, because they currently enjoy a view of a golf course. However, the Town, through Section 275-8(C)(8) of the Site Plan Review Regulations and Section 276-11.1(B)(12) of the Administrative Requirements and Definitions, took great measures to ensure that any development of the Property would be inclusive of a buffer and screening to protect these residents from the potential impacts of commercial development. Specifically, these regulations require screening and a 200 foot buffer from their properties. Pursuant to these requirements, Hillwood has proposed an intensive screening configuration inclusive of all the measures referenced in the Site Plan Review Regulations to include the preservation of existing landscaping, additional plantings, topographic adjustments (the berm) and the use of the sound fence. Additionally, as previously stated in #2 above, the closest proposed building to these residential properties is over 400’ – double the required setback. The totality of all of these efforts being made by Hillwood will mitigate the visual impact of the proposed development to the greatest practicable extent, in accordance with the Town’s Land Use Regulations.

9. General Requirements of the Site Plan Review

Finally, the Opinion Letter raises four specific areas of concern which reference general statements found in the Site Plan Review Regulations which are not specific regulatory requirements. The letter states that while “[t]he applicant may well have met the technical requirements for Site Plan Review, these items . . . call for some judgment on the part of the Planning Board.” I respond to Ms. Ogilvie’s assertions in these individual contexts below.

- J. *Harmonious and aesthetically pleasing development of the municipality and its environs.* The Opinion Letter asserts without elaboration the simple conclusion that “the proposal is not harmonious or aesthetically pleasing.” However, as I note above, the proposed Site Plan Application before the Hudson Planning Board results in 16% of a 375 acre site being covered by buildings; half the percentage of coverage of the other examples provided by Ms. Ogilvie. Further, Hillwood is proposing to convey +-120 acres of land to the Town of Hudson for permanent conservation and is proposing a robust screening plan for the

southern boundary of the Property which utilizes all of the screening mechanisms called out in the Site Plan Review Regulations. The result is a project that is well-insulated from its surroundings and constitutes a well-designed, modern distribution/fulfillment center that is in keeping with the Hudson Zoning Ordinance which envisioned the commercial development of this site 65 years ago.

- K. *Suitably located travelways of sufficient width to accommodate existing and prospective traffic and to afford adequate light, air and access for fire-fighting apparatus and equipment to buildings and be coordinated so as to compose a convenient system.* The Opinion Letter states that “the travelways will negatively impact light and air and the additional traffic will affect emergency response[.]” To the contrary, and as I discuss above, there is no evidence in the application files to suggest that the internal roadways are improperly designed for reasonable access, especially to emergency vehicles. This site is after all, designed to accommodate long wheelbase trucks, larger than fire equipment apparatus. Further, the Traffic Impact Study and proposed mitigation efforts indicate that traffic in and around the Property will be improved over existing conditions. These conclusions and assertions have been confirmed by NHDOT, the Town’s peer reviewer VHB, and Stantec.
- I. *Landscaping in keeping with the general character of the surrounding area, showing trees, shrubbery, and grass areas and other reasonable landscape details.* The Opinion Letter states that “the landscaping for a project of this scale can not be in keeping with the general character of the surrounding area[.]” Site Plans submitted to the Town for review contain multiple sheets detailing the proposed landscaping. I understand that Hillwood requires no waivers from the Town’s landscaping requirements. Hillwood’s compliance with the Town’s landscaping requirements was peer reviewed by Fuss & O’Neill. Additionally, the development of the Property will be insulated by proposed conservation land and the screening proposed on the southern boundary. Succinctly, the application clearly complies with all applicable requirements and the Opinion Letter contains no evidence to the contrary.
- Q. *The minimization of encroachment on neighboring land uses.* The Opinion Letter states that “encroachment on neighboring land uses is certainly not minimized.” Suggesting that this plan is not consistent with the Site Plan Review Regulation’s statement that adequate provisions be made for “[t]he minimization of encroachment on neighboring land uses” is baseless. The proposed buildings/uses are clearly permitted; building setbacks and the administrative buffer are strictly adhered to, and in most cases significantly greater than required; substantial efforts have been made to situate buildings on the lot to

provide additional buffering to the neighboring residential properties and a substantial amount of the Property, equaling +-30% of the site, will remain protected conservation land.

It is clear that this Project is consistent with the policies set forth in Hudson's Master Plans, both current and past; the project complies with all applicable land use regulations and the proposed Site Plan will ensure that impacts on abutting properties are eliminated or reasonably mitigated.

Should you have any questions regarding this letter, please feel free to contact me.

Kindest Regards,

John D. Krebs

John D. Krebs

MEMORANDUM

To: Hudson Planning Board (Timothy Malley, Chair)
Brian Groth, Town Planner

From: John T. Smolak, Esq. Smolak & Vaughan, LLP &
Justin L. Pasay, Esq., Donahue, Tucker & Ciandella, PLLC

Re: Hudson Logistics Center – Site Plan, Conditional Use Permit, and Lot Line
Adjustment/Merger Applications
Findings and Conclusions

Date: March 3, 2021

On behalf of the Applicant, Hillwood Enterprises, L.P., the following sets forth the Applicant's demonstrated compliance with the criteria required under the Site Plan Regulations (Town Code, Chapter 275) (the "Regulations") and the applicable Conditional Use Permit ("CUP") criteria under Article IX of the Hudson Zoning Ordinance (Town Code, Chapter 334) (the "Zoning Ordinance").

DESCRIPTION OF PROJECT

Hillwood Enterprises, L.P. ("Hillwood" or the "Applicant") is proposing to construct and operate the Hudson Logistics Center on property currently known as the Green Meadow Golf Course. The proposal will employ a condominium form of ownership and consist of three new distribution and logistics buildings, known as Building A, Building B, and Building C, which will together constitute 2,603,400 sf of new building footprint, along with parking, landscaping and screening, lighting, signage, grading, drainage, utility and other improvements as depicted on a set of plans, specifications and details entitled "Hudson Logistics Center, Site Plan & Wetlands Conditional Use Applications," dated April 21, 2000 (Rev. March 10, 2021)(the "Project Site Plans")(and collectively, the "Improvements," the "Hudson Logistics Center" or the "Project"). Certain off-site traffic and other improvements will be constructed as a part of the proposed traffic mitigation plan for the Project, which have been reviewed by the New Hampshire DOT ("NHDOT") and the Town of Hudson (the "Town").

The Improvements will be constructed on a proposed single lot with frontage on Lowell Road, consisting of approximately 375.37 +/- acres of land (the "Property"). The Property currently consists of both Tax Map 239, Lot 1 and Map 234, Lot 5 which are proposed to be consolidated with a 3.220-acre portion of 273 Lowell Road (Tax Map 234, Lot 5) to create the 375.37-acre lot known as the Property as a part of a Lot Line Adjustment/Lot Consolidation Plan Application filed with the Planning Board.

Primary access to the Hudson Logistics Center will be through a new dedicated private driveway, to be known as Greenmeadow Drive, which will consist of a shared

driveway with the abutting Mercury Systems property (Tax Map 234, Lot 35) known as 267 Lowell Road, and extend from Lowell Road westerly to a roundabout which then extends driveways to all three buildings. A secondary private driveway access to the Property includes rights for access and utilities to Lowell Road through the abutting Sam's Club lot (Tax Map 228, Lot 4) known as Walmart Boulevard (the "Northern Access Road"). The vast majority of the Property is located within the General One (G-1) Zoning District, with the exception of a small triangular shaped area of land located behind Sam's Club, which is in the Business (B) Zoning District.

LEGAL STANDARD OF PLANNING BOARD REVIEW

Site plan review in New Hampshire is designed to ensure that uses permitted by a zoning ordinance are "constructed on a site in such a way that they fit into the area in which they are being constructed without causing drainage, traffic, or lighting problems."¹ Similarly, site plan review is intended to ensure that "sites will be developed in a safe and attractive manner and in a way that will not involve danger or injury to the health, safety, or prosperity of abutting property owners or the general public."² These purposes are accomplished by "subjecting the plan to the very expertise expected of a planning board in cases where it would not be feasible to set forth in the ordinance a set of specific requirements upon which a building inspector could readily grant or refuse a permit."³

Site plan review is, nonetheless, limited.⁴ A Planning Board's review "does not give the Planning Board the authority to deny a particular use simply because it does not feel that the proposed use is an appropriate use of the land. Whether the use is appropriate is a zoning question."⁵ Moreover, in New Hampshire, Planning Board members hearing site plan applications sit in a judicial or quasi-judicial capacity.⁶ Accordingly, Planning Board members may only make a decision after weighing and considering such arguments and evidence as the parties choose to lay before them, and while members are permitted to rely on their personal knowledge of certain factors in reaching decisions, Planning Board decisions must be based on "more than the mere personal opinion of its members."⁷ Additionally, Planning Board members may base their conclusions upon their own knowledge, experience and observations in addition to expert testimony, but they may not simply choose to ignore expert advice, especially if it is uncontradicted."⁸

¹ Summa Humma Enters. v. Town of Tilton, 151 N.H. 75, 78 (2004) (quoting 15 Loughlin, New Hampshire Practice, Land Use Planning and Zoning § 30.01, at 425 (2000)).

² Id. See also Regulations, §275-3 defining the purpose of the Town's Regulations ("This chapter is to assure that minimum standards shall be attained, so as to provide for and protect the public health, safety and general wellbeing").

³ Id.

⁴ Id.

⁵ Id. (quoting 15 Loughlin, § 30.09, at 437)

⁶ Sanborn v. Fellows, 22 N.H. 473 489 (1851); Winslow v. Town of Holderness Planning Board, 125 N.H. 262, 267 (1984).

⁷ Condos East Corporation v. Town of Conway, 132 N.H. 431 (1989); See also 15 Loughlin, New Hampshire Practice: Land Use Planning and Zoning, § 28.10 (4th Ed.)

⁸ Id.

Finally Planning Boards “cannot supersede the specific regulations and ordinances that control the site plan review process with their own personal feelings and then justify their reasoning through the application of general considerations.”⁹ Nor can Planning Boards base decisions on *ad hoc* considerations or on vague concerns.¹⁰

PLANNING BOARD REVIEW OF THE PROJECT

A. Background

On April 21, 2020, the Applicant filed a Site Plan Application, a Conditional Use Permit Application and a Subdivision Application and corresponding proposed subdivision plan depicting a consolidation, resubdivision and a proposed new public road, Greenmeadow Drive, along with accompanying plans and other documentation as required under the Hudson Land Use Regulations (collectively, the “Applications”).

On May 27, 2020, the Planning Board voted unanimously to accept jurisdiction over the Applications above. Since that time, the Hudson Planning Board has conducted over twelve (12) separate meetings, including those held on: May 27, 2020; June 13, 2020 (site walk); June 24, 2020 (deferred); July 22, 2020, August 12, 2020; August 26, 2020 (deferred); September 9, 2020; October 21, 2020, November 18, 2020, December 16, 2020 (cancelled); December 30, 2020; January 13, 2021, January 27, 2021; February 10, 2021, February 24, 2021 and other meetings the Applicant anticipates will be held on March 10, 2021 and March 24, 2021.

The Town of Hudson Conservation Commission held eight (8) meetings to review and discuss the Applicant’s CUP Application, including the following meetings: June 2, 2020, June 13, 2020 (site walk); June 29, 2020 (second site walk); July 20, 2020; August 24, 2020; November 16, 2020; December 14, 2020; January 11, 2021; and January 25,

⁹ Trustees of Dartmouth College v. Town of Hanover, 171 N.H. 497, 514 (2018). In Dartmouth, Dartmouth College proposed to build a large sports complex in proximity to residential uses. The proposed sports complex complied with all local zoning regulations regarding height, massing, building footprint, setback, etc. Despite this, a vocal opposition group comprised primarily of abutters were successful in convincing the Hanover Planning Board to deny Dartmouth’s site plan review application after a lengthy process. In so doing, the Supreme Court held:

Here, the planning board essentially decided that the [sports complex] is: (1) too large and imposing, despite the project’s compliance with Hanover’s I-District zoning ordinances regulating a structure’s height and size; (2) too close to the abutting neighborhood, despite the project’s compliance with the unique setback and height restrictions imposed by its proximity to a residential neighborhood; and (3) not a harmonious or aesthetically pleasing fit with the development of the town and its environs, despite the fact that the [sports complex] constitutes a permitted use within a “special district” that not only contemplates large warehouse and recreational facilities, but currently includes two indoor sports facilities of similar sizes. A planning board cannot supersede the specific regulations and ordinance that control the site plan review process with their own personal feelings and then justify their reasoning through the application of general considerations.

2021, at which the Conservation Commission voted 3-1 to recommend to the Planning Board approve the Applicant's CUP Application with a list of 24 proposed stipulations. The lone dissenting vote opined that the basis for her vote was insufficiency of time.

A Lot Line Relocation Application with accompanying plans and supporting documentation was filed with the Planning Board on February 17, 2021 with a meeting to be held on March 10, 2021. By letter, dated March 3, 2021, the Applicant requested the Board to accept the withdrawal of the Subdivision Application above as a result of the consolidation of the Property into a single lot pursuant to the Lot Line Relocation Application and associated request to merge lots.

Based upon recommendations of the Planning Board, the Conservation Commission, the Town Planner, and/or the Applicant's own volition, the Applicant prepared supplemental studies on traffic, noise, air pollution, property market valuation, stormwater, screening and buffering, wildlife impacts, and fiscal impacts, from several consultants to include: Langan Engineering and Environmental Services, Inc. ("Langan"), Barret Planning Group LLC ("Barret"), Wesley G. Reeks, MAI ("Mr. Reeks"), Trimont Real Estate Advisors ("Trimont"), Ostergaard Acoustical Associates ("Ostergaard"), Gove Environmental Services, Inc. ("Gove"), Epsilon Associates, Inc. ("Epsilon"), Stantec Engineering ("Stantec"), Lucas Environmental, LLC ("Lucas"), and John D. Krebs ("Mr. Krebs"). These expert studies were independently evaluated by the Town's Planning Board, the Planning Board's professional third-party independent peer review professionals, and/or Town officials and staff for conformance with the Town's Land Use Regulations as well as generally recognized standards for evaluating the particular subject matter. Over the course of the extensive review of the proposed Hudson Logistics Center, the Planning Board has heard dozens of hours of testimony from the Applicant, the Applicant's professional consultants, the Planning Board's peer review professional consultants, Town Officials, and the public.

B. Site Plan Review Criteria

The Regulations outline several criteria which must be satisfied to the satisfaction of the Planning Board before a site plan review application will be approved. The Applicant submits that its Site Plan Review Application complies with all of those requirements as outlined below.

Section 275-6 of the Regulations requires that the Planning Board find that adequate provisions be made for 22 individual criteria. The record of this case indicates that each of these criteria have been satisfied as set forth below.¹¹ We note that a number of the site plan criteria, and the information provided by the Applicant to satisfy the same as described below, are overlapping with one another, and we have attempted to

¹¹ We note that a number of the Site Plan Review criteria, and the information provided by the Applicant to satisfy the same, are overlapping with one another. In those instances, we have attempted to incorporate and categorize the findings accordingly.

incorporate and categorize the following findings based upon these separate criteria as follows:

- **§275-6(A) The safe and attractive DEVELOPMENT of the site and to guard against such conditions as would involve danger or injury to health or safety, and no significant diminution in value of surrounding properties would be suffered.**

The Applicant has undertaken extensive efforts to design a Project which is a safe and attractive development which guards against conditions which would involve danger or injury to health and safety in the following ways:

1. The Applicant's Project Team has filed a 248-page plan package which includes plans and related notes and details described as: existing conditions; site plans and details; grading and drainage; subgrade drainage; grading and drainage details; wetland impacts; utilities; utility details; soil erosion and sediment control (phases 1-3); soil erosion and sediment control details; lighting plans; lighting notes and details; landscape planting plans; landscape notes and details; site signage; and floor plans and elevations for Building A, Building B and Building C, all of which were designed by professional engineers, landscape architects and architects demonstrating that the proposed Project is both a safe and attractive development and to guard against such conditions as would involve danger or injury to health or safety.¹²
2. The Project Site Plans have been extensively peer reviewed by the Planning Board's peer review consultants, Fuss & O'Neill (and its subconsultants), among others, to ensure compliance with applicable stormwater, zoning, site plan, landscaping, lighting, wetlands, and erosion and sedimentation control requirements. The Applicant's engineering and design team provided detailed responses to Fuss & O'Neill, and all peer reviewers, in order to respond to those matters, to ensure that no project design or operational conditions would involve danger or injury to health or safety.

We depict below a summarization of the robust peer review process employed in this case over the last 10 months:

- Fuss & O'Neill Peer Review Letter #1, 6.15.20 – Site Plan, Administrative, Subdivision, Driveway, Utility, Drainage Design/Stormwater, Zoning, Erosion Control, Wetland Impacts, Landscaping, Lighting, State Permits, Other, Codes and Land Use Regulations.

¹² See the Project Site Plans.

- Fuss & O'Neill Peer Review letter #2, dated 10.16.20 (resolved issues); Fuss & O'Neill Peer Review letter #2, dated 10.16.20 (outstanding issues); and Fuss & O'Neill File Memorandum, dated 10.16.20 (materials reviewed) re: Site Plan Review Code (Ch. 275), Administrative Code (Ch. 276), Stormwater Codes (Ch. 290), Subdivision (Ch. 289), Driveway Review Code (Ch. 193), Utility Design, Sewer Use Ordinance 77, Zoning Regulations, and criteria outlined in the CLD Consulting Engineers Proposal approved September 16, 2003, revised September 20, 2004, June 4, 2007, September 3, 2008, and October 2015, Erosion Control/Wetland Impacts, Landscaping (Ch. 334/275), Lighting (Ch.275).
- Langan Response to Public Comments, dated 12.1.20.
- Fuss & O'Neill Peer Review letter #3, 12.21.20 – Site Plan Review Codes, Stormwater, Codes, Driveway Review Codes, Sewer Use Ordinance 77, Zoning Regulations, and criteria outlined in the CLD Consulting Engineers Proposal approved September 16, 2003, revised September 20, 2004, June 4, 2007, September 3, 2008, and October 2015;
- Response from Langan, dated 2.24.21, to peer review comment letter provided by Fuss & O'Neill, dated 12.21.20.
- Email correspondence between the Town of Hudson, Langan and Fuss & O'Neill, dated between 2.4.21, and 2.18.21.
- Packages received by Fuss & O'Neill from Langan including the following:
 - Copy of Stormwater Management Report, prepared by Langan dated May 2020, revised February 2021.
 - Copy of Geotechnical Engineering Study for Lot A for Hudson Logistics Center, prepared for Hillwood by Langan dated 7.22.20 (Rev. 8.31.20).
 - Copy of Geotechnical Engineering Study for Lot B for Hudson Logistics Center, prepared for Hillwood by Langan dated 7.22.20 (Rev. 8.31.20).
 - Copy of Geotechnical Engineering Study for Lot C for Hudson Logistics Center, prepared for Hillwood by Langan dated 7.22.20 (Rev. 8.31.20).
 - Copy of Hudson Logistics Center Site Plan & Wetlands Conditional Use Applications plan set, Lowell Road, Map 239, Lot 1, Town of Hudson, Hillsborough County, New Hampshire, prepared by Langan dated 4.21.20, revision dated 2.24.21, and including the drawings on the attached Drawing Index.
 - Copy of Town of Hudson Planning Board Review Memorandum, prepared by Langan dated 2.24.21.
 - Copy of Town of Hudson Planning Board - Response to Stormwater Design Review Memorandum, prepared by Langan dated 2.24.20 (*sic*).
 - Copy of Buildings A&B Building Height Calculation Worksheets, prepared by Langan, not dated.

- Copy of Appendix I – 2021-01-11 Local Wetland Impact Figure, not dated.
 - Copy of Wetlands Permit Application – Request for More Information response letter, prepared by Gove, dated 9.8.20;
 - Copy of Soil Mapping Memorandum, prepared by Gove, dated 12.7.20.
- Fuss & O’Neill Peer Review Letter #4 (02.19.21) –Site Plan Review Codes, Stormwater Codes, Driveway, Review Codes, Sewer Use Ordinance 77, Zoning Regulations, and Engineering Department Technical Guidance
 - Langan Memorandum, dated 2.25.21, Responding to GeoInsight Consultant Review Letter dated November 13, 2020.
 - Langan Memorandum, dated 2.26.21, to peer review comment letter provided by Fuss & O’Neill, dated 2.19.21.
3. The Applicant has responded to specific questions from Planning Board members and the Town Engineer which related to health, safety and other design matters to include:
- Memorandum to Brian Groth from Langan dated 10.14.20, responses to questions from Planning Board
 - Memorandum to Elvis Dhima from Langan dated 10.14.20, responses to questions from Town Engineer.
4. The Applicant has developed a robust landscaping design as well as a Sight Line Study to ensure a safe and attractive development which incorporates an extensive and effective buffer with screening consisting of a combination of existing landscaping, new landscaping, an earthen berm, and a sound fence, all of which are designed to create a reasonable effective visual screening barrier as explained in greater detail below.¹³
5. As detailed below, the Applicant’s Team has designed the Project as well as on-site and off-site access and travel points to ensure the Project traffic design creates a safe and attractive development which guards against conditions which would involve danger or injury to health and safety.¹⁴
6. From a planning perspective, the Applicant has incorporated design elements to maintain a safe and attractive development.¹⁵

¹³ See Landscape Plans & Specifications, Sheets LP100-LP129 (Landscape Planting Plans) and LP501-LP502 (Landscape Notes & Details), contained within the Project Site Plans; Sight Line Study and 1.27.21 Planning Board PowerPoint presentation, slides 24-73; and sound fence examples, 2.24.21 Planning Board PowerPoint presentation, slide 3.

¹⁴ See below.

¹⁵ See Staff Report #9 dated 12.30.20, analysis of Carol Ogilvie Letter to Planning Board dated 12.21.20; See also letter of John D. Krebs, Planning Consultant letter, dated March 2, 2021.

7. The Applicant also responded to many questions from the public to ensure the Project site is maintained as a safe and attractive development and to guard against such conditions as would involve danger or injury to health or safety, as well as other questions and comments.¹⁶

With regard to Section 275-6(A)'s requirement to ensure that development not cause "significant diminution in value of surrounding properties [] be suffered[,]" the Applicant has demonstrated compliance with this regulation as follows.

8. The Applicant's certified New Hampshire Real Estate Appraiser, Mr. Reeks, as well as a nationally recognized real estate advisory services firm, Trimont, completed property valuation analyses both from a local, New Hampshire perspective, and from a more regional perspective. These analyses employed industry standard methodologies and concluded that the value of surrounding properties will not suffer from development of the Property as proposed.¹⁷
9. The Board's peer review consultant agreed that the two distribution facilities studied by the Reeks Report are the most appropriate New Hampshire comparables, and that analyzing comparable/paired sales is an accepted methodology, provided the pairs are appropriate and the specific comparability to the issue at hand is reasonably close. Although the Board's peer review consultant suggested the New Hampshire comparables may not be "comparable enough," the Board's peer review consultant did not prepare an opinion of the impact of the Logistics proposal.¹⁸
10. Instead, the Board's Peer Review Consultant suggested "the impact of new development on nearby residential units is site-specific."
11. As a result, Mr. Reeks prepared an updated report.¹⁹ While site-specific sales were unavailable when the initial Reeks Report was prepared in August 2020, the Revised Reeks Report was able to identify listings and sales occurring after the Project was announced in order to identify whether the known presence of the pending Project had resulted in any diminution of market values of surrounding properties.

¹⁶ See Langan response to Public Comments, dated 12.1.20.

¹⁷ See Proposed Hudson Logistics Center, Real Estate Appraisal Services Report, dated August 1, 2020, prepared by Wesley G. Reeks, MAI, dated 8.1.20 (the "Reeks Report"); and Property Value Analysis, dated 7.10.20, prepared by Trimont Real Estate Advisors (the "Trimont Report").

¹⁸ See Preliminary Draft – Trimont Real Estate Analysis Peer Review, dated August 6, 2020, prepared by AER; and, Preliminary Draft – Wesley Reeks Real Estate Analysis Peer Review, dated August 8, 2020, prepared by AER.

¹⁹ See Real Estate Appraisal Services Report, Proposed Hudson Logistics Center, Lowell Road, Hudson, New Hampshire, dated 2.9.21 (Date of Appraisal Service: 8 February 2021; Dates of Inspection: 24, 25, and 28 July 2020) (the "Revised Reeks Report").

12. The Revised Reeks Report identified five (5) listings and sales in the Ridgecrest Subdivision which sold for either at or above listing price in a matter of days. Similarly, two (2) additional properties sold in the Green Meadow Subdivision at or above listing price in a matter of days. These site-specific sales, several of which were sold at the highest price per square foot in both subdivisions ever, closed when the existence of the proposed Project was well-known.
13. Mr. Reeks added that further analysis of these seven (7) recent sales in the Green Meadow and Ridgecrest subdivisions indicate their average value increases over the past ten years is 6.6% which is similar, but slightly higher than the 10-year average town-wide of 5.3%.
14. As a result, the Revised Reeks Report concludes that these residential sales support his original conclusion that there would be no diminishment of market value by reason of the Project on surrounding properties.
15. Moreover, from a non-residential perspective, the Revised Reeks Report notes that the recent sale of the commercial property at 267 Lowell Road, which was purchased in 2014 for \$15,900,000, and which was resold in January 2021 for \$25,700,000, is also indicative of no negative impact on commercial property values by reason of the Project.
16. As a result, Mr. Reeks concluded that no evidence was found of any negative impacts to surrounding property values from the construction of a large warehouse facility nearby. It is concluded that the proposed Hudson Logistics Center will have no negative impact on market values of residential and commercial properties in the immediate area of the proposed Hudson Logistics Center.
17. The Revised Reeks Report was not reviewed by the Town's Peer Review Consultant and the record contains no other data or evidence from any professional that would tend to rebut or undermine the conclusions in the Reeks Report, Trimont Report, and Revised Reeks Report.
18. The Board's Peer Review Consultant also suggested that "...the Hudson Logistics developers have funded a wide range of impact studies specific to this proposal. It would be useful to the planning board, abutters, and town residents for Mr. Reeks, who I know has extensive professional real estate analysis experience, to:
1. Examine the various studies prepared on behalf of Logistics (and peer review thereof) and comment individually on whether there is likely to be an impact on market appeal of abutting Hudson residential units, and 2. Comment on other factors not specifically studied, such as line of sight, the impact of changing from a recreational golf course use to a 2.6 million square foot logistics center, the impact of mitigating berms and sound barriers, etc. on the market appeal of nearby residences."

19. In response, the Revised Reeks Report discusses the various studies prepared by the Applicant including those relating to traffic; air quality; stormwater management; wetlands; noise; and screening and buffering.²⁰
20. At the Planning Board's February 24, 2021 meeting, Mr. Reeks testified that he understood that a Sight Line Study was performed for dwellings along Fairway and Eagle Drives which showed a significant buffer and screening being created to separate the Project from the residential uses such that there will be little or no visibility of the Project buildings.
21. Based upon the foregoing, Mr. Reeks concluded that it does not appear that these matters would become a factor of concern in the evaluation of potential impacts to property values such that they would result in a negative or substantial diminution of surrounding property values.
22. Accordingly, and consistent both with the utilization of industry standards and methodology and with the direction given to the Applicant by the Board's Peer Review Consultant, the data and evidence before the Planning Board conclusively shows that not only would there be no significant diminution in value of surrounding properties suffered, but the Reeks Reports conclude there would be no diminution of surrounding property values by reason of the Project. There is no credible evidence to the contrary in the record before the Planning Board.
23. In addition to the above, the Applicant responded to the many questions from the public concerning property value, as well as other questions and comments.²¹
 - **§275-6(B) Traffic circulation and access, including adequacy of entrances and exits, traffic flow, sight distances, curb cuts, turning lanes and traffic signalization.**

The adequacy of the Project's traffic circulation and access, including adequacy of entrances and exits, traffic flow, sight distances, curb cuts, turning lanes and traffic signalization, has been demonstrated and vetted, as confirmed below. The Project complies with this Site Plan Review criteria.

24. The Applicant and its team have undertaken an extension traffic analysis of the proposed Project, in consultation with the Town (including the Planning Board, Fire Department, Police Department, and Town Engineer), the New Hampshire DOT ("NHDOT"), the Town's peer review engineering professionals, Vanasse Hangen Brustlin, Inc. ("VHB"), Stantec, and the Nashua Regional Planning Commission.

²⁰ See Revised Reeks Report, pgs. 25 – 28.

²¹ See Memorandum to Brian Groth from Wesley G. Reeks, MAI, dated December 16, 2020 (Response to Public Comments – Market Study and Property Values).

As a result of this consultation and review process, a final Traffic Impact Study, final Project Site Plans, proposed on-site traffic design, and off-site traffic control and roadway conceptual designs, have been prepared and peer reviewed. The information prepared by the Applicant is as follows:

- Traffic Impact Study for Hudson Logistics Center, Hudson, New Hampshire, Prepared for Hillwood Enterprises, L.P. by Langan Engineering & Environmental Services, Inc., dated April, 2020 (Revised September, 2020)(the “TIS”);
- TIS Supplement prepared by Langan dated September, 2020;
- Potential Peak Season Trip Generation Memorandum from Langan dated 9.22.20;
- Proposed Overall Site Improvements Plan, dated 9.20;
- VISSIM Evaluation of Merge and Weave Segments Along Sagamore Bridge Road, prepared by Stantec, dated 8.20.20;
- Synchro files associated with TIS, dated 9.9.20;
- Conceptual Off-Site Improvement Plans included in the Supplemental TIS, dated September, 2020
- Memorandum to Brian Defosses, NHDOT, dated 10.9.20, from John Plante, P.E., Langan (Response to TIS Comments);
Trip Generation Review, dated 10.19.20, prepared for Hillwood Enterprises, L.P., by Richard S. Bryant, P.E., Stantec (includes a third party peer review by traffic engineering consultants which concludes that the trip generation forecasts developed by Langan were developed in accordance with standard engineering and industry practice as well as Town guidance, and that the resulting trip estimates applied in Langan’s TIS are conservative, or an overestimation of the traffic impact on the area roadway network); and
- Applicant’s PowerPoint Presentation to Planning Board, dated November 18, 2020 (including summary of traffic analysis, trip distribution, proposed off-site improvements and related mitigation, and reduction of vehicle queuing created by off-site improvements).

25. As a result of this consultation and review process, the peer review and other traffic engineering professionals have unanimously confirmed the adequacy of the traffic analysis on-site, as well as off-site, including proposed mitigation. The information prepared by the traffic professionals is as follows:

- Traffic Peer Review prepared by VHB, dated 10.15.20 (“In summary, VHB has concluded that, based on the estimated site-generated vehicle trips presented in the Traffic Impact Study, the applicant’s proposed upgrades to the study area intersections adequately mitigate the project’s traffic impact. Note that the applicant needs to demonstrate that there is available ROW, or the ability to acquire the needed ROW to construct the

roadway upgrades that are being proposed while meeting design requirements. Additionally, the applicant needs to provide clarity on the user's program as to whether it might change with increased product demand and whether that could increase the vehicle-trip estimate. Upon resolution of the vehicle-trip generation question, VHB will assess and recommend to the Planning Board an appropriate traffic impact fee."

- Letter to Brian Groth, dated 10.15.20, from William Cass, P.E., Assistant Commissioner, NHDOT ("The Department has reviewed and approved the methodology, trip generation and traffic volumes developed in the TIS. We concur that the proposed geometric modifications and adaptive signal control proposed at the four signalized intersections will adequately mitigate the developer's traffic. Per our review of the traffic analysis of the TIS, the proposed improvements will handle the existing and added traffic volumes reasonably well. Accordingly, the Department is supportive of the proposed development and the proposed mitigation.")
- Memorandum from Nick Saunders, P.E., Traffic Research Engineer, to Brian Defosses, P.E., NHDOT District 5, NHDOT, dated September 20, 2020 ("This section has completed its review of the September, 2020 Traffic Impact and Study (TIS) and TIS Supplement prepared by LANGAN. This review pertains only to the methodology and adequacy of the projected traffic volumes, and does not imply approval of the proposal. You (District) and/or Highway Design will be reviewing the mitigation, site access plans and other elements of the Driveway rules pursuant to this traffic memorandum. Traffic volume projections for this TIS and TIS Supplement are acceptable, and may be used for design purposes").
- Memorandum from John Butler, P.E., Geometrics Engineer, to Brian Defosses, P.E., Assistant District Engineer, NHDOT District 5, NHDOT, dated 10.2.20 ("we concur that the proposed geometric modifications and adaptive signal control at the four NHDOT signalized intersections will adequately mitigate the development's traffic...").
- Letter to Timothy Malley, Chair, dated 10.7.20, from Jay Minkarah, Executive Director, Nashua Regional Planning Commission ("Based on our analysis of the revised Traffic Impact Study and related materials submitted by the applicant, input from NHDOT and other stakeholders, and our in-house trip distribution modeling, we conclude that the improvements proposed by the applicants to mitigate anticipated traffic impacts appear to be adequate to support the proposed project.")

26. The Applicant has responded to specific questions from Planning Board members and the Town Engineer which related to traffic and related design matters.²²

²² See Memorandum to Brian Groth from Langan, dated 10.14.20 and Memorandum to Elvis Dhima from Langan, dated 10.14.20.

27. The Applicant also responded to the many questions from the Planning Board, the Town Engineer, and the public related to traffic circulation and access including adequacy of entrances and exits, traffic flow, sight distances, curb cuts, turning lanes and traffic signalization.²³
28. The data and evidence presented by the Applicant regarding compliance with Section 275-6(B) of the Regulations has been thoroughly reviewed and corroborated and there is no legitimate and substantive evidence tending to rebut or undermine the foundational conclusion that the improvements proposed by the Applicant to mitigate anticipated traffic impacts are adequate to support the project.

- **§275-6(C) Pedestrian and bicycle safety and access.**

The Applicant has undertaken efforts to provide for pedestrian and bicycle safety and access in conformity with Section 275-6(C) of the Regulations as follows.

29. The Applicant's Project team has filed a 248-page set of site plans and specifications which include site plans depicting the construction of a 5-foot wide sidewalk extending from the intersection of Lowell Road and Green Meadow Drive, westerly along Green Meadow Drive to the roundabout, where the sidewalks extend to each of the three buildings in order to form a network of interconnected sidewalks through the site to service Building A, Building B and Building C, all of which were designed by professional engineers and others demonstrating that the proposed sidewalks are adequate to serve the Project.²⁴

The Project plans have been extensively peer reviewed by Fuss & O'Neill to ensure compliance with applicable Regulations, including sidewalk and bicycle requirements. The Applicant's engineering and design team provided detailed responses to Fuss & O'Neill in order to respond to those matters, to ensure that no Project design or operational conditions would involve danger or injury to health or safety, as follows:

- Fuss & O'Neill Peer Review Letter #1, 6.15.20 – Site Plan, Administrative, Subdivision, Driveway, Utility, Drainage Design/Stormwater, Zoning, Erosion Control, Wetland Impacts,

²³ See Memorandum to Brian Groth from Langan Engineering, dated 10.14.20 (responses to questions from public on traffic matters); Memorandum to Brian Groth from Langan Engineering, dated 10.14.20 (responses to questions from Planning Board); Memorandum to Elvis Dhima from Langan Engineering, dated 10.14.20 (responses to questions from Town Engineer); Memorandum to Brian Groth from Langan Engineering, dated 11.3.20 (supplemental traffic response memorandum to public comment, trip generation analysis and TEPP memorandum); and Memorandum to Brian Groth from Langan, dated 11.30.20 (response to Supplemental Public Comments – Traffic).

²⁴ See Project Site Plans, Sheets CS101-CS129.

Landscaping, Lighting, State Permits, Other, Codes and Land Use Regulations.

- Langan Response to Public Comments, dated 12.1.20
- Fuss & O'Neill Peer Review letter #3, 12.21.20 – Site Plan Review Codes, Stormwater, Codes, Driveway Review Codes, Sewer Use Ordinance 77, Zoning Regulations, and criteria outlined in the CLD Consulting Engineers Proposal approved September 16, 2003, revised September 20, 2004, June 4, 2007, September 3, 2008, and October 2015.
- Response from Langan, dated 2.24.21, to peer review comment letter provided by Fuss & O'Neill, dated 12.21.20.
- Email correspondence between the Town of Hudson, Langan and Fuss & O'Neill, dated between 2.4.21, and 2.18.21.
- Fuss & O'Neill Peer Review Letter #4, 02.19.21 –Site Plan Review Codes, Stormwater Codes, Driveway, Review Codes, Sewer Use Ordinance 77, Zoning Regulations, and Engineering Department Technical Guidance; and
- Langan Memorandum, dated 2.26.21, to peer review comment letter provided by Fuss & O'Neill, dated 2.19.21.

- §275-6(D) Off-street parking and loading.

The Applicant complies with the Town's off-street parking requirements as follows.

30. The Applicant's Project team has filed a 248-page set of site plans and specifications which include site plans depicting the construction of parking and loading facilities for each of the three buildings in order to service Building A, Building B and Building C, all of which were designed by professional engineers demonstrating that the proposed parking and loading facilities are adequate to serve the Project.²⁵
31. Based upon the Tenant's operational requirements for Buildings A and B, as well as the Applicant's experience with similar operations for Building C, the Project will provide adequate parking and loading facilities in a manner that minimizes impact and impervious surface as follows:
 - Based upon parking requirements in Section 275-8.C.2 of the Regulations for industrial uses, required parking includes 1 space for every 600 s.f. of gross floor space or 0.75 space for each employee of the combined employment of the two largest shifts, whichever is larger.
 - The Applicant is proposing 1,806 spaces where 4,777 spaces would be required. This number of spaces is based upon Amazon's projected parking space needs for the operation of Buildings A and B, and the

²⁵ See Project Site Plans, Sheets CS101-CS129.

Applicant's experience developing similar buildings such as Building C in projects from around the country.

- Under the Town's Regulations, Building A would require 2,218 spaces but the Applicant is proposing to provide 1,008 spaces for this building.
- For Building B, the Regulations require 1,676 spaces, but the Applicant is proposing 418 spaces for this building.
- For Building C, the Regulations require 883 spaces, but the Applicant is proposing to provide 380 spaces.

32. Because the proposed off-street parking is less than that which is required by the Regulations, the Applicant has requested a waiver from the required number of parking spaces.
33. In addition, the Applicant is requesting a waiver from the parking space dimensional requirements to allow for the parking spaces to be reduced from 10' x 20' to 9 x 18' for the reasons described in the waiver request.
34. Reducing the number of off-street parking and the size of the off-street parking spaces utilized will minimize the impact of the development on the Property.
35. The Applicant is also providing for adequate loading facilities as required under Section 275-8.C(6), and as depicted on the Site Plans.

Additionally, the Project Site Plans have been extensively peer reviewed by Fuss & O'Neill to ensure compliance with applicable Regulations, including parking and loading requirements. The Applicant's engineering and design team provided detailed responses to Fuss & O'Neill in order to respond to those matters, to ensure that no project design or operational conditions would involve danger or injury to health or safety as follows:

- Fuss & O'Neill Peer Review Letter #1, 06.15.20 – Site Plan, Administrative, Subdivision, Driveway, Utility, Drainage Design/Stormwater, Zoning, Erosion Control, Wetland Impacts, Landscaping, Lighting, State Permits, Other, Codes and Land Use Regulations.
- Response from Langan, dated 9.14.20, to peer review comment letter provided by Fuss & O'Neill on Stormwater Design Review letter, dated 6.25.20.
- Fuss & O'Neill Peer Review letter #2, dated 10.16.20 (resolved issues); Fuss & O'Neill Peer Review letter #2, dated 10.16.20 (outstanding issues); and Fuss & O'Neill File Memorandum, dated 10.16.20 (materials reviewed) re: Site Plan Review Code (Ch. 275), Administrative Code (Ch. 276), Stormwater Codes (Ch. 290), Subdivision (Ch. 289), Driveway Review Code (Ch. 193), Utility Design, Sewer Use Ordinance 77, Zoning Regulations, and criteria outlined in the CLD Consulting Engineers

Proposal approved 9.16.03, revised 9.20.04, 6.4.07, 9.3.08, and October 2015, Erosion Control/Wetland Impacts, Landscaping (Ch. 334/275), Lighting (Ch.275).

- Langan response to Public Comments, dated 12.1.20.
- Fuss & O’Neill Peer Review letter #3, 12.21.20 – Site Plan Review Codes, Stormwater, Codes, Driveway Review Codes, Sewer Use Ordinance 77, Zoning Regulations, and criteria outlined in the CLD Consulting Engineers Proposal approved 9.16.03, revised 9.20.04, 6.4.07, 9.3.08, and October 2015.
- Response from Langan, dated 2.24.21, to peer review comment letter provided by Fuss & O’Neill, dated 12.21.20.
- Email correspondence between the Town of Hudson, Langan and Fuss & O’Neill, dated between 2.4.21, and 2.18.21.
- Fuss & O’Neill Peer Review Letter #4, 02.19.21 – Site Plan Review Codes, Stormwater Codes, Driveway, Review Codes, Sewer Use Ordinance 77, Zoning Regulations, and Engineering Department Technical Guidance.
- Langan Memorandum, dated 2.25.21, Responding to GeoInsight Consultant Review Letter” dated 11.13.20.
- Langan Memorandum, dated 2.26.21, to peer review comment letter provided by Fuss & O’Neill, dated 2.19.21.

– §275-6(E) Emergency vehicle access, including fire lanes.

The Applicant has undertaken efforts to ensure the provision of adequate emergency vehicle access, including fire lanes, as follows.

36. The Applicant’s Project team has filed a 248-page set of site plans and specifications which include site plans depicting the Project access including areas for fire lanes for Buildings A, B and C, all of which was designed by professional engineers and others demonstrating that the emergency vehicle access, including fire lanes, are adequate to serve the Project.²⁶
37. The Project Site Plans have been peer extensively peer reviewed by Fuss & O’Neill, to ensure compliance with applicable Regulations, including emergency access requirements. The Applicant’s engineering and design team provided detailed responses to Fuss & O’Neill in order to respond to those matters, to ensure that no project design or operational conditions would involve danger or injury to health or safety, as follows:
 - Fuss & O’Neill Peer Review Letter #1, 06.15.20 – Site Plan, Administrative, Subdivision, Driveway, Utility, Drainage Design/Stormwater, Zoning, Erosion Control, Wetland Impacts,

²⁶ See Project Site Plans, Sheets CS101-CS129.

Landscaping, Lighting, State Permits, Other, Codes and Land Use Regulations.

- Response from Langan, dated 9.14.20, to peer review comment letter provided by Fuss & O'Neill on Stormwater Design Review letter, dated 6.25.20.
- Fuss & O'Neill Peer Review letter #2, dated 10.16.20 (resolved issues); Fuss & O'Neill Peer Review letter #2, dated 10.16.20 (outstanding issues); and Fuss & O'Neill File Memorandum, dated 10.16.20 (materials reviewed) re: Site Plan Review Code (Ch. 275), Administrative Code (Ch. 276), Stormwater Codes (Ch. 290), Subdivision (Ch. 289), Driveway Review Code (Ch. 193), Utility Design, Sewer Use Ordinance 77, Zoning Regulations, and criteria outlined in the CLD Consulting Engineers Proposal approved 9.16.03, revised 9.20.04, 6.4.07, 9.3.08, and October 2015, Erosion Control/Wetland Impacts, Landscaping (Ch. 334/275), Lighting (Ch.275).
- Langan Response to Public Comments, dated 12.1.20.
- Fuss & O'Neill Peer Review letter #3, 12.21.20 – Site Plan Review Codes, Stormwater, Codes, Driveway Review Codes, Sewer Use Ordinance 77, Zoning Regulations, and criteria outlined in the CLD Consulting Engineers Proposal approved 9.16.03, revised 9.20.04, 6.4.07, 9.3.08, and October 2015.
- Response from Langan, dated 2.24.21, to peer review comment letter provided by Fuss & O'Neill, dated 12.21.20.
- Email correspondence between the Town of Hudson, Langan and Fuss & O'Neill, dated between 2.4.21, and 2.18.21.
- Fuss & O'Neill Peer Review Letter #4, 02.19.21 – Site Plan Review Codes, Stormwater Codes, Driveway, Review Codes, Sewer Use Ordinance 77, Zoning Regulations, and Engineering Department Technical Guidance.
- Langan Memorandum, dated 2.25.21, Responding to GeoInsight Consultant Review Letter” dated 11.13.20.
- Langan Memorandum, dated 2.26.21, to peer review comment letter provided by Fuss & O'Neill, dated 2.19.21.

38. The Hudson Fire Chief Has confirmed the adequacy of emergency access, including fire lanes.
39. Memorandum to Brian Groth, dated March 2, 2021, from Robert Buxton, Fire Chief, Hudson Fire Department outlining requirements for full NFPA/State Fire Code compliance.
40. On this evidence, the Applicant as satisfied the requirement to ensure adequate emergency vehicle access, including fire lanes.

- **§275-6(F) Stormwater drainage and groundwater recharge.**

The Applicant has undertaken extensive efforts to ensure the provision of adequate stormwater drainage and adequate groundwater recharge, as demonstrated by the following.

41. The Applicant's Project Team has filed a 248-page set of site plans and specifications, as well as a stormwater management report, which include site plans, specifications and other requirements depicting the Project stormwater management design, treatment summary and collection system, specifications and details which provide for stormwater drainage and groundwater recharge in accordance with the Town of Hudson Stormwater Ordinance (Chapter 290).²⁷
42. The Project Site Plans and Stormwater Report have been peer extensively peer reviewed by Fuss & O'Neill to ensure compliance with applicable stormwater management requirements. The Applicant's engineering and design team provided detailed responses to Fuss & O'Neill in order to respond to those matters, to ensure that the proposed stormwater management system will support the requirements of the proposed Project. The Project Stormwater Management Plan was also discussed and reviewed by the Hudson Conservation Commission, and is subject to review, comment and approval by the NHDES of an Alteration of Terrain Permit and a NHDES Wetland Permit, as well as the US Army Corps Programmatic Permit for New Hampshire (General Permit No: NAE-2016-02415), a US EPA NPDES Construction General Permit, and New Hampshire Small MS4 General Permit (with permit modifications effective on January 6, 2021), which is enforced, in part, through the Town of Hudson Stormwater Ordinance as well as the NHDOT MS4 Permit, as indicated below:
 - Fuss & O'Neill Peer Review Letter #1, 06.19.20 – Stormwater Design & Site Plan & Wetlands Conditional Use Applications.
 - NHDES Alteration of Terrain Permit Application for Hudson Logistics Center (filed in 6.20), as supplemented by NHDES Alteration of Terrain Permit Application Supplement (filed in 2.21).
 - Town Department Review Comments filed with Staff Planner Report #3, 7.3.20.
 - Stormwater Management.
 - Response from Langan, dated 9.14.20, to peer review comment letter provided by Fuss & O'Neill on Stormwater Design Review letter, dated 6.19.20.
 - Fuss & O'Neill Peer Review Letter #3, 12.17.20 – Stormwater Design Review.

²⁷ See Project Site Plans including Sheets CG100-CG129 (Grading & Drainage Plans), CG 200 – CG204 (Subgrade Drainage Plans), and CG501-CG504 (Drainage Details); and Stormwater Management Report for Hudson Logistics Center, dated 5.20 (Rev. 2.21), prepared for Hillwood Enterprises, LP by Langan Engineering & Environmental Services, Inc. (the "Stormwater Report").

- Response from Langan, dated 2.24.21, to peer review comment letter provided by Fuss & O'Neill on Stormwater Design Review letter, dated 12.17.20.
- Memorandum from James Gove, Gove Environmental, dated 12.7.20 regarding Greenmeadow Golf Course Soil Mapping.
- Fuss & O'Neill Peer Review Letter #4, 2.8.21 – Stormwater Design Review.
- Memorandum to Brian Groth, dated 2.26.21, from John Plante, P.E., responding to GeoInsight Letter.

43. The Applicant has responded to specific questions from Planning Board members, Conservation Commission Members and the Town Engineer which related to stormwater drainage and groundwater recharge.²⁸

44. The Applicant has also responded to the many questions from the public with respect to related to stormwater drainage and groundwater recharge, and we also understand that detailed public comments on stormwater and groundwater recharge were also delivered to the Board's peer review engineer, Fuss & O'Neill, for consideration as a part of the Board's stormwater peer review process.²⁹

45. Through the extensive review and vetting process, the Applicant has satisfied the Town's requirements in this context.

- **§275-6(G) Water supply, wastewater disposal and solid waste disposal.**

The Applicant has made adequate provision for water supply, wastewater disposal, and solid waste disposal, based upon the following.

46. The Applicant has made adequate provision for water supply. The Project Site Plans include utility plans captioned as Sheets CU100-CU129 (Utility Plans), and CU501-CU503 (Utility Details), which include plans, specifications and related notes and details related to water and sewer utilities.

47. The Applicant's water and sewer utilities were peer reviewed by Fuss & O'Neill, and the proposed water services facilities and infrastructure for the project are subject to approval pursuant to the Town's "WATER LINE ACCEPTANCE PROCEDURES Approved by BOS 7/28/2020," and "CHAPTER 274 -- TOWN OF HUDSON WATER UTILITY Rules and Regulations (Approved by BOS

²⁸ See Memorandum to Brian Groth from Langan, dated 10.14.20 (responses to questions from Planning Board); Memorandum to Elvis Dhima from Langan, dated 10.14.20 (responses to questions from Town Engineer); and, Memorandum to Randall Brownrigg, Chair, Conservation Commission, from Gove, dated 11.9.20 (responses to Conservation Commission member comments).

²⁹ See Memorandum to Randall Brownrigg, Chair, Conservation Commission, from Gove dated 11.9.20 (responses to wetlands and wildlife public comments); and Memorandum to Brian Groth from Langan, dated 12.1.20, responding to public comments.

7/28/2020).

48. The Project was evaluated to determine whether the Hudson water supply system was capable of handling the domestic water and supplemental fire supply to the Project site by the Town's water peer review consulting engineers, Weston & Sampson, which concluded that the Hudson water system can support the water demands of the Hudson Logistics Center.³⁰
49. See Memorandum to Brian Groth, Town Planner, to Elvis Dhima, Town Engineer, dated 2.24.21, confirming the water utility system can accommodate domestic and fire protection for the Project.
50. The Applicant has made adequate provision for wastewater disposal, based upon the following. The Applicant's Project Site Plans include plans for sewer service connection via an existing connection on the Property to the north by Sagamore Bridge Road.
- The Applicant made a request to the Town, by letter dated 1.5.21, through its Town Engineer and Board of Selectmen, to provide both access to municipal sewer and an allocation of sewer design flow for an allocation not to exceed 36,900 gpd of design flow from the Town of Hudson sewer system.
 - The Town Engineer reviewed the request and plans for sewer and delivered the request by Memorandum, dated 1.7.21, to the Hudson Board of Selectmen.
 - By vote at its 1.26.21 meeting, the Board of Selectmen voted to grant Hillwood's request for access to the Town sewer system with an allocation of 36,900 GPD for the amount of \$130,257 to be paid by Hillwood, subject to Planning Board site plan approval.
 - The Project's proposed sewer facilities and infrastructure would be subject to the Town's sewer line acceptance procedures. See Memorandum to Brian Groth, Town Planner, to Elvis Dhima, Town Engineer, dated 2.24.21, confirming the sewer facilities allocation.
51. The Applicant has made adequate provision for solid waste disposal. Unlike many commercial facilities, Buildings A, B and C will have internal refuse control and dumpsters and compactors directly connected to the building, occupying loading dock bays. There are no freestanding dumpsters elsewhere on the site. Accordingly, trash removal will be conducted by a commercial trash hauler.
52. On the evidence within the record, the Applicant has satisfied this prong of the Site Plan Review criteria.

³⁰ See Memorandum to Elvis Dhima, Town Engineer, dated 12.15.20, prepared by Weston & Sampson Engineering, Inc.

§275-6(H) Elimination of undesirable and preventable elements of pollution, such as noise, smoke, soot, particulates or any other discharge, into the environment which might prove harmful to persons, structures, or adjacent properties.

The Applicant's Project has demonstrated that it has eliminated undesirable and preventable elements of pollution, such as noise, smoke, soot, particulates or any other discharge, into the environment which might prove harmful to persons, structures or adjacent properties in the following ways.

53. The Applicant's Project has demonstrated that noise pollution and other elements of noise can be adequately controlled and mitigated such that it has demonstrated compliance with the Hudson Noise Ordinance.
- "Sight Sound Evaluation and Control - Proposed Hudson Logistics Center, Hudson, NH," Prepared by Benjamin C. Mueller, P.E., OAA File 4228A, 5.18.20.³¹
 - Fuss & O'Neill/HMMH Peer Review Letter, 6.29.20 – Sound.
 - Sound Study Update, dated 7.13.20, prepared by Ostergaard.
 - Letter from HMMH to Steven Reichert, dated 9.15.20 with the subject "Peer Review of the Ostergaard Acoustical Associates Letter dated 13 July 2020 with the subject "Sound Study Update, Proposed Hudson Logistics Center, Hudson, New Hampshire."
 - Memorandum to Brian Groth/Town of Hudson from Ostergaard, dated 12.1.20 (response to public comments).
 - Sound Study (Revision 2), prepared Ostergaard, dated 12.1.20.
 - Letter from Christopher Bajdek to Steven Reichert, dated 1.14.21 with the subject "Peer Review of the report entitled 'Site Sound Evaluation and Control - Proposed Hudson Logistics Center, Hudson, NH,' by Ostergaard Acoustical Associates and other related materials" (The revised Report addresses the majority of the comments made in prior reviews. However, it is my professional opinion that the applicant has not demonstrated that the Project will produce noise levels that are within 10 dB(A) of background sound levels in the community, as required by Section 294-4 (D) of the Noise Ordinance.")
 - Letter to Brian Kutz, Hillwood Enterprises, L.P., dated 2.10.21 prepared by Ostergaard (Re: Sound Study Update – Code Compliance Support Information)
 - Fuss & O'Neill/HMMH Peer Review Letter, dated 2.17.21 – Peer Review of the Ostergaard Acoustical Associates Letter dated 10 February with the subject "Sound Study Update – Code Compliance Support Information – Proposed Hudson Logistics Center, Hudson, New Hampshire"

³¹ The ("Sound Study").

54. The Applicant's acoustical engineer, Ostergaard Acoustical Associates, prepared a Sound Study.
- The Planning Board requested, and the Applicant agreed, to conduct a sound evaluation in order to demonstrate that the Project will comply with the Town of Hudson Noise Ordinance (Town Code, Chapter 294).
 - The Applicant's acoustical engineer, Ostergaard Acoustical Associates, proceeded to undertake a Sound Study, which was reviewed by the Board's acoustical engineering consultants, HMMH, Inc.
 - Ostergaard did recommend mitigation to include: (a) the construction of an earthen berm; (b) the construction of a sound fence, including a section that is 10 feet in height, and another section which is 15 feet in height; (c) equip all terminal tractors with smart, ambient sensing, multi-frequency back-up alarms; (d) proceed with HVAC equipment plans, keeping in mind acoustical performance to ensure project noise goals are met in compliance with the Hudson Noise Ordinance.
 - These proposed improvements are reflected in the Project Site Plans.
 - The Sound Study concluded that "assuming the performance standards described in the Hudson Noise Ordinance above are followed, the proposed site activities will comply with the applicable standards described under Chapter 249. Moreover, since we have demonstrated that the applicable provisions of the Hudson Noise Ordinance will be complied with, the proposed Project and related operations at the site make adequate provision '... to guard against such conditions as would involve danger or injury to health or safety,...' and will eliminate '....undesirable and preventable elements of pollution, such as noise, ..., into the environment which might prove harmful to persons, structures or adjacent properties,' all as required under Section 275-8 of the Hudson Site Plan Ordinance."
 - As a result of the Applicant's Sound Study as well as follow-up testing, modeling and other documentation required by HMMH, Inc., the Board's acoustical engineering consultants concluded that "it is my professional opinion that the applicant has demonstrated that the Project can operate in compliance with the Town's Noise Ordinance."³²
 - The Applicant also responded to public comments related to noise as described in a Memorandum to Brian Groth/Town of Hudson from Benjamin Mueller, P.E., Principal, Ostergaard Acoustical Associates, dated 12.1.20.
55. The Applicant's Wildlife Consultant, Curt Young from Lucas Environmental, has confirmed no detrimental impact to wildlife arising from sound:
- "In the short term, temporary sound (noise) impacts will result from construction of the Project. As with most construction projects, these effects

³² See Fuss & O'Neill/HMMH Peer Review Letter (2.17.21) – Peer Review of the Ostergaard Acoustical Associates Letter dated 10 February with the subject "Sound Study Update – Code Compliance Support Information – Proposed Hudson Logistics Center, Hudson, New Hampshire."

will be temporary, will occur mostly during normal working hours and may, for short durations, be audible off-Property. More variable noise levels during construction may affect foraging, breeding, and nesting behavior of wildlife in the immediate Project area. Noise during construction will be temporary but may possibly cause wildlife to reduce their use of land immediately adjacent to the Property during normal working hours. But when these impacts are considered in the context of the Property setting (e.g., existing noise resulting from Circumferential Highway and Lowell Road), it is considered unlikely that these short-term impacts will result in a significant impact to the wildlife community in the area.”³³

- “The Project will employ common and practical Best Management Practices (“BMPs”) to mitigate short term noise impacts. Long-term increased noise levels will occur; resulting in a potential overall increase in ambient sound levels from increased truck and vehicle traffic, idling trucks, and trucks backing up. The proposed Project incorporates several sound mitigation components that complies with the state and local noise ordinance requirements. Limitations on vehicle idling are also included, consistent with Env-A 1102.02 (Idling Limitations for Motor Vehicles). Additionally, limitations to the degree practicable on loudspeaker use, vehicle idling and other high decibel noises are also included, consistent with the Town of Hudson Noise Ordinance (Chapter 249 of the Hudson Town Code).”
- “Wildlife species that are tolerant of development, such as those commonly occurring wildlife at the Property, are not anticipated to be affected by the proposed noise levels as they are accustomed to existing noise levels from Circumferential Highway, Lowell Road and from the on-site and abutting property activity and will acclimate to the facility operational noise levels after the Hudson Logistics Center is completed.”
- See Section 5.2 (Sound) in Wildlife Habitat Evaluation, Hudson Logistics Center, dated 11.9.20, prepared for Hillwood Enterprises, L.P. by Lucas Environmental, LLC.

56. The Applicant’s Project has demonstrated that air pollution and other elements of air regulation can be adequately controlled and mitigated such that it has demonstrated compliance with applicable state and federal air pollution control regulations, as demonstrated by the following:

- Air Quality Impact Analysis, dated 7.8.20, prepared by Epsilon Associates, Inc.
- Revised Air Quality Impact Analysis, Epsilon Associates, received 10.26.20.
- Letter from Tetra Tech, dated 11.12.20, Subject: Hudson Logistics Center – Air Quality Impact Analysis Review.

³³ See Wildlife Habitat Evaluation, Hudson Logistics Center, dated 11.9.20, prepared for Hillwood Enterprises, L.P. by Lucas Environmental, LLC;

- Memorandum, dated 11.18.20, from Vincent Tino, Epsilon Associates, to Nate, Kirschner, Langan, Subject: Responses to Review Comments – Hudson Logistics.
 - Email from Liz Hendrick, CCM, Senior Consultant – Air Quality, Tetra Tech, dated 11.24.20, to Dale Raczynski, Epsilon, Subject: RE: Hudson Logistics Air Quality Study regarding Epsilon’s response to comments and revisions to the modeling report, and confirming there is no need to review the air quality analysis any further.
 - Air Quality Impact Analysis, Hudson Logistics Center, Hudson, New Hampshire (Revised 11.30.20), submitted to Hudson Planning Board, and prepared by Epsilon Associates, Inc.
57. The Applicant’s air pollution control engineer, Epsilon Associates, Inc., prepared an “Air Quality Impact Analysis, Hudson Logistics Center, Hudson, New Hampshire.”
- On behalf of Hillwood, a report entitled “Air Quality Impact Analysis, Hudson Logistics Center, Hudson, New Hampshire” (REVISED November 30, 2020), prepared by Epsilon Associates, Inc. was filed with the Town of Hudson Planning Board (the “Air Quality Report”), and was peer reviewed by qualified air pollution control consultants retained by the Hudson Planning Board. The Air Quality Report evaluated air quality impacts from stationary sources located onsite, as well as potential impacts from Project-generated traffic, for potential on-site and neighborhood impacts. The Air Quality Report also indicated that the Report had been “prepared at the request of the Hudson Planning Department on behalf of the Hudson Planning Board, and has also been prepared to demonstrate whether the potential air quality impacts meet certain air quality standards as prescribed by the Town of Hudson Site Plan Review Ordinance under Section 275-6 (General Requirements). One of these requirements is to show that adequate provisions be made for a development to demonstrate that the Project will not contribute to a condition of air pollution, and to guard against such conditions which would subject the nearby properties to ‘danger or injury to health or safety, and that no significant diminution in value of surrounding properties would be suffered.’ Additionally, the Project is required to reduce and/or eliminate elements of pollution, such as noise, smoke, soot, particulates or any other discharge, into the environment which might prove harmful to persons, structures or adjacent properties.” (Air Quality Study, pp. 1-1 to 1-2).
 - Section 4.0 of the Air Quality Report describes how all applicable air quality standards would be met, and Section 4.7 of the Air Quality Study concluded that “since all predicted concentrations are below their applicable NAAQS and/or RTAP standards, it can be concluded that the proposed Project will not cause or contribute to a condition of air pollution in the area. As noted in Section 2.1 of the Air Quality Study, “the NAAQS are established to be protective of both short-term health effects and long-term health effects by

defining the averaging time for the standards. The secondary standards are protective of wildlife, crops, vegetation and buildings.”

- Section 4.6.2 of the Air Quality Study also states that “based upon the analysis above which demonstrates that both stationary and mobile sources of potential pollutants are expected to be well below applicable federal and state standards, the Project’s diesel emissions including particulates from exhaust, tire wear, and brake wear, are not expected to cause or exacerbate health conditions, such as asthma, for those persons living in nearby residential dwellings.”
- Therefore, with respect to air quality impacts, the Air Quality Study states that “the Project meets the requirements laid out in Chapter 275 of the Town of Hudson’s Site Plan Review regulations.” (Air Quality Study, pp. 4-1 to 4-7).
- The Air Quality Study also recommended certain mitigation, including: (a) prevention of unnecessary idling both during construction and post-construction operations as required by New Hampshire regulation ENV-A-1100; (b) secure permits for the backup power emergency generators, in accordance with ENV-A-610, a General State Permit (GSP) for Internal Combustion Engines – Emergency Generators or Fire Pump Engines; and, (c) incorporate practices for fugitive dust emissions during construction which are factored into the Stormwater Pollution Prevention Plan required to be implemented under the U.S. EPA NPDES Construction General Permit Program.
- The Applicant also responded to public comments related to air quality as described in a Memorandum to Brian Groth, dated 10.31.20, from Dale T. Raczynski, PE, Principal, Epsilon Associates, Inc.
- On this information the Applicant has demonstrated that the Project complies with this Site Plan Review criteria.

58. The Applicant’s Project has demonstrated that potential pollution from stormwater management and runoff and work within regulated wetlands can be adequately controlled and mitigated such that it has demonstrated compliance with applicable local, state, and federal regulations, as demonstrated by the following:

- See Subsection F. Stormwater drainage and groundwater recharge, above.
- See Subsection M. Signage and exterior lighting, demonstrating compliance of lighting with applicable standards in order to prevent light pollution, below.
- See Wetlands Conditional Use Permit Criteria in Part C below describing how wetlands filings demonstrate protection of wetland resources, and prevention of downstream impacts, no flooding or other adverse impacts from work, and protection of wildlife interests.

– **§275-6(I) Adequate provision for fire safety, prevention and control.**

The Applicant has undertaken efforts to ensure the provision of adequate fire safety, prevention and control, as follows.

59. The Project Site Plans include site plans depicting the Project access including areas for fire lanes and adequate provision for fire safety, prevention and control for Buildings A, B and C, all of which was designed by professional engineers and others demonstrating that these measures are adequate to serve the Project.³⁴
60. The Site Plans have been peer extensively peer reviewed Fuss & O'Neill to ensure compliance with applicable Regulations including fire safety, prevention and control requirements. The Applicant's engineering and design team provided detailed responses to Fuss & O'Neill in order to respond to those matters, to ensure that no project design or operational conditions would involve danger or injury to health or safety, as depicted below:
- Fuss & O'Neill Peer Review Letter #1, 6.15.20 – Site Plan, Administrative, Subdivision, Driveway, Utility, Drainage Design/Stormwater, Zoning, Erosion Control, Wetland Impacts, Landscaping, Lighting, State Permits, Other, Codes and Land Use Regulations.
 - Response from Langan, dated 9.14.20, to peer review comment letter provided by Fuss & O'Neill on Stormwater Design Review letter, dated 6.25.20
 - Fuss & O'Neill Peer Review letter #2, dated 10.16.20 (resolved issues); Fuss & O'Neill Peer Review letter #2, dated 10.16.20 (outstanding issues); and Fuss & O'Neill File Memorandum, dated 10.16.20 (materials reviewed) re: Site Plan Review Code (Ch. 275), Administrative Code (Ch. 276), Stormwater Codes (Ch. 290), Subdivision (Ch. 289), Driveway Review Code (Ch. 193), Utility Design, Sewer Use Ordinance 77, Zoning Regulations, and criteria outlined in the CLD Consulting Engineers Proposal approved 9.16.03, revised 9.20.04, 6.4.07, 9.3.08, and October 2015, Erosion Control/Wetland Impacts, Landscaping (Ch. 334/275), Lighting (Ch.275).
 - Langan Response to Public Comments, dated 12.1.20
 - Fuss & O'Neill Peer Review letter #3, 12.21.20 – Site Plan Review Codes, Stormwater, Codes, Driveway Review Codes, Sewer Use Ordinance 77, Zoning Regulations, and criteria outlined in the CLD Consulting Engineers Proposal approved 9.16.03, revised 9.20.04, 6.4.07, 9.3.08, and October 2015.
 - Response from Langan, dated 2.24.21, to peer review comment letter provided by Fuss & O'Neill, dated 12.21.20.
 - Email correspondence between the Town of Hudson, Langan and Fuss & O'Neill, dated between 2.4.21, and 2.18.21.
 - Fuss & O'Neill Peer Review Letter #4, 02.19.21 – Site Plan Review Codes, Stormwater Codes, Driveway, Review Codes, Sewer Use Ordinance 77, Zoning Regulations, and Engineering Department Technical Guidance Langan Memorandum, dated 2.25.21, Responding to GeoInsight Consultant Review Letter” dated 11.13.20.

³⁴ See Project Site Plans, Sheets CS101-CS129.

- Langan Memorandum, dated 2.26.21, to peer review comment letter provided by Fuss & O'Neill, dated 2.19.21.
61. The Hudson Fire Chief Has confirmed the adequacy of the Project for purposes of fire safety, prevention and control.
- Memorandum to Brian Groth, dated March 2, 2021, from Robert Buxton, Fire Chief, Hudson Fire Department.
 - The Hudson Fire Chief's determination is subject to the conditions listed in his March 2, 2021 Memorandum.
- **§275-6(J) Harmonious and aesthetically pleasing DEVELOPMENT of the municipality and its environs.**

The Applicant has demonstrated the Project has adequately provided for harmonious and aesthetically pleasing development of the municipality and its environs in the following ways.

62. The Applicant obtained the expert opinion of John D. Krebs, a Planning Consultant who reviewed Carol Ogilvie's letter and stated in relevant part that "...the proposed Site Plan Application before the Hudson Planning Board results in 16% of a 375 acre site being covered by buildings; half of the percentage of coverage of the other examples provided by Ms. Ogilvie. Further, Hillwood is proposing to convey +-120 acres of land to the Town of Hudson for permanent conservation and is proposing a robust screening plan for the southern boundary of the Property which utilizes all of the screening mechanisms called out in the Site Plan Review Regulations. The result is a project that is well-insulated from its surroundings and constitutes a well-designed, modern distribution/fulfillment center that is in keeping with the Hudson Zoning Ordinance which envisioned the commercial development of this site 65 years ago."³⁵
63. The Property was specifically identified by the Nashua Planning Commission as having the greatest development potential in the area and recent Zoning Ordinance changes adopted by the Town Meeting, to include an affirmative vote in 2017 to specifically increase the building height allowance on the Property from 38' feet to 50 feet in 2017, were expressly designed to attract the type of industrial development proposed by the Applicant. Moreover, the Applicant's proposal is type of development specifically contemplated and encouraged by the Master Plan.³⁶

³⁵ See John D. Krebs letter dated March 2, 2021.

³⁶ See Town of Hudson, NH, 2006 Master Plan, Chapter IV ("Economic Development") ("While the Town cannot control general economic forces and trends, it should promote the development of a diverse economic base. A diverse business and industrial base can help prevent economic downturns affecting certain sectors of the economy from having a disproportionate impact on the Town's overall economic health. In order to maintain and improve Hudson's tax base, the Town should focus on attracting and maintaining those non-residential uses that tend to have the highest assessed value. These include

64. landscape design plan proposes plantings native to the region both within the development area, as well as along the project perimeter to naturalize existing lawn golf course and restore it to a state that promotes wildlife diversity and habitat, pollinator species, as well as flora and fauna while buffering and protecting adjacent resources such as the Merrimack River and on-site wetlands.
65. The plans includes preservation of existing landscaping, a landscape berm, sound fence, and layers of new evergreen and deciduous trees along the southern property line that will serve as a buffer and screen to the adjacent residential properties to the south.
66. In addition, proposed Buildings B and C have been moved northerly away from residential properties by a distance of approximately 453.8 feet for Building B, and by approximately 594 feet for Building C, from the closest point to any residential property, well in excess of the 200-foot setback requirement under the Section 276—11.B.1(12) which provides that “[n]o buildings, parking or display areas may be located within “a [200’] distance from the residential property line to any improved part of the industrial development.”
67. The Project includes over 40 acres of restoration areas of wetlands and other wildlife areas, and includes over 120 acres of permanently protected open space subject to a conservation easement proposed to be granted by the Applicant to the Town, thereby providing significant open space as buffering to the properties to the east and south of the buildings.
68. The Sight Line Study presented to the Planning Board also demonstrates the significant buffering and screening proposed through a combination of berming, landscaping and fencing as noted above.
69. The rooftop mechanicals will be no higher than 5 ½ feet in height, will be located away from the southerly end of the buildings, and will be screened with a parapet, all of which is designed to minimize visual impacts to the surrounding neighborhoods. See rooftop plans, 2.24.21 Planning Board PowerPoint presentation, slides 5-6.

commercial development such as ... industrial uses and utilities”); (“Hudson has the opportunity to further increase employment through continued development and redevelopment of commercial and industrial property”) (“It is essential that the Town maintain and enhance its tax base by attracting commercial, industrial and mixed-use development with a high assessed value per land area”. See also, Hudson Economic Development Assessment, dated June 12, 2018, prepared for the Town of Hudson by the Nashua Regional Planning Commission.

70. The Project Site Plans include site plans depicting the landscaping, lighting, screening and buffering, and other design improvements intended to provide for harmonious and aesthetically pleasing development.³⁷

- **§275-6(K) Suitably located travelways of sufficient width to accommodate existing and prospective traffic and to afford adequate light, air and access for fire-fighting apparatus and equipment to buildings, and be coordinated so as to compose a convenient system.**

The Applicant has undertaken efforts to ensure the provision of suitably located travelways of sufficient width to accommodate prospective traffic and to afford adequate light, air and access for fire-fighting apparatus and equipment to buildings, as follows.

71. The Project Site Plans include site plans depicting the Project travelways which are of sufficient width to accommodate prospective traffic, and to afford adequate light, air and access for fire-fighting apparatus and equipment to buildings, and all of these improvements have been coordinated to compose a convenient system.

72. The Project Site Plans have been peer extensively peer reviewed by Fuss & O'Neill to ensure compliance with applicable Regulations including design measures which have been established for travelways which are of sufficient width to accommodate existing and prospective traffic, and which afford adequate light, air and access for fire-fighting apparatus and equipment to buildings. The Applicant's engineering and design team provided detailed responses to Fuss & O'Neill in order to respond to those matters, to ensure that project design is in accordance with these general requirements, as evidence below:

- Fuss & O'Neill Peer Review Letter #1, 06.15.20 – Site Plan, Administrative, Subdivision, Driveway, Utility, Drainage Design/Stormwater, Zoning, Erosion Control, Wetland Impacts, Landscaping, Lighting, State Permits, Other, Codes and Land Use Regulations.
- Response from Langan, dated 9.14.20, to peer review comment letter provided by Fuss & O'Neill on Stormwater Design Review letter, dated 6.25.20
- Fuss & O'Neill Peer Review letter #2, dated 10.16.20 (resolved issues); Fuss & O'Neill Peer Review letter #2, dated 10.16.20 (outstanding issues); and Fuss & O'Neill File Memorandum, dated 10.16.20 (materials reviewed) re: Site Plan Review Code (Ch. 275), Administrative Code (Ch. 276), Stormwater Codes (Ch. 290), Subdivision (Ch. 289), Driveway Review Code (Ch. 193), Utility Design, Sewer Use Ordinance 77, Zoning Regulations, and criteria outlined in the CLD Consulting Engineers Proposal approved 9.16.03, revised 9.20.04, 6.4.07, 9.3.08, and October 2015, Erosion Control/Wetland Impacts, Landscaping (Ch. 334/275), Lighting (Ch.275).

³⁷ See Project Site Plans, sheets LP100-LP129 (Landscape Planting Plans), LP501-LP502 (Landscape Notes & Details), lighting plans and specifications, Sheets LL100-LL128 (Lighting Plans), and LL501-LL503 (Lighting Plans & Details).

- Langan Response to Public Comments, dated 12.1.20.
- Fuss & O’Neill Peer Review letter #3, 12.21.20 – Site Plan Review Codes, Stormwater, Codes, Driveway Review Codes, Sewer Use Ordinance 77, Zoning Regulations, and criteria outlined in the CLD Consulting Engineers Proposal approved 9.16.03, revised 9.20.04, 6.4.07, 9.3.08, and October 2015.
- Response from Langan, dated 2.24.21, to peer review comment letter provided by Fuss & O’Neill, dated 12.21.20.
- Email correspondence between the Town of Hudson, Langan Engineering and Environmental Services, Inc., and Fuss & O’Neill, dated between 2.4.21, and 2.18.21.
- Fuss & O’Neill Peer Review Letter #4, 2.19.21 –Site Plan Review Codes, Stormwater Codes, Driveway, Review Codes, Sewer Use Ordinance 77, Zoning Regulations, and Engineering Department Technical Guidance.
- Fuss & O’Neill Peer Review Letter #4, 2.19.21 –Site Plan Review Codes, Stormwater Codes, Driveway, Review Codes, Sewer Use Ordinance 77, Zoning Regulations, and Engineering Department Technical Guidance.
- Langan Memorandum, dated 2.25.21, Responding to GeoInsight Consultant Review Letter” dated 11.13.20.
- Langan Memorandum, dated 2.26.21, to peer review comment letter provided by Fuss & O’Neill, dated 2.19.21.

73. The Hudson Fire Chief Has confirmed the Project includes suitably located travelways of sufficient width to accommodate existing and prospective traffic and to afford adequate light, air and access for fire-fighting apparatus and equipment to buildings, and that the design has been coordinated so as to compose a convenient system.³⁸

- **§275-6(L) Landscaping in keeping with the general character of the surrounding area, showing trees, shrubbery and grass areas and other reasonable landscape details.**

74. The Applicant has developed a landscaping design in keeping with the general character of the surrounding area, showing trees, shrubbery and grass areas and other reasonable landscape details.

75. More specifically, an extensive landscape design and implementation plan has been development by the Applicant which complies with the landscaping requirements of the Town (Town Code Chapter 275, 276).

76. All plantings have been closely coordinated with the Conservation Commission to select a diverse range of native species that are indigenous to and thrive in the region.

³⁸ See Memorandum to Brian Groth, dated March 2, 2021, from Robert Buxton, Fire Chief, Hudson Fire Department.

77. Over 1,400 trees and 7,000 shrubs and ground cover plantings are proposed. An additional 7,700 restoration size trees and shrubs within the 250-foot Shoreland buffer (some of which is currently occupied by manicured golf holes), 50 foot wetland buffer and upland restoration areas are proposed to be planted; 240 acres is proposed to be protected and enhanced pervious land within the property.
78. In addition to these plantings, the landscape plan restores the existing manicured golf course areas to native grass and wildflower meadows, which will serve to create biodiversity, heal the soil strata, attract pollinator species, and provide cover for wildlife and habitat. The proposed restoration area will create a successional habitat, installing young meadows, shrubs, and trees that will grow into a young forest during the observation period, and will eventually become a mature forest.
79. The Applicant has developed a robust landscaping design as well as a sight line study with particular attention paid to the southerly boundary of the Property to provide a safe and attractive development which incorporates an attractive and effective buffer with screening consisting of a combination of landscaping, berming and fencing design elements to ensure that a safe and attractive development, and to provide a reasonable effective visual barrier by the use of existing vegetation and terrain where possible, new plantings, and grade separations, fences or similar features. See the following:
- See Project Site Plans, sheets LP100-LP129 (Landscape Planting Plans) and LP501-LP502 (Landscape Notes & Details).
 - See Conservation Commission PowerPoint presentation, 1.25.21, Slides 9-30.
 - Sight Line Study, 1.27.21 Planning Board PowerPoint presentation, slides 24-73; and,
 - See sound fence examples, 2.24.21 Planning Board PowerPoint presentation, slide 3.
- **§275-6(M) Signage and exterior lighting.**

The Applicant has made provision for exterior lighting and signage that will comply with applicable requirements.

80. Site lighting has been developed to ensure no spillover onto abutting properties.
- All site lighting fixtures proposed are led-energy efficient, full cut-off fixtures, with a soft white 4,000 kelvin color temperature and are dark-sky compliant. All site lighting is directional and focused on the development areas only, reducing any impacts on conservation, wetland and buffer areas, and meets town ordinance requirements, as well as IESNA (Illuminating Engineering Society of North America) recommendations. Additionally, all fixtures along the perimeter include internal house-side shields to further reduce glare and focus light towards the site.

- Light fixtures at the center of the development are 40 ft. mounting height, lowering to a height of 30-ft around the perimeter, and 20-ft for wall mounted fixtures. The plan also proposes 20-ft height wall-mounted fixtures on the buildings. Decorative 10-ft mounting height fixtures are also proposed at the front entrances to the buildings.
 - See Project Site Plans, sheets LL100-LL128 (Lighting Plans), and LL501-LL503 (Lighting Plans & Details).
 - See Planning Board PowerPoint Presentation, 2.10.21, Slides 4-5.
81. Site lighting has been designed to ensure it is narrowly focused on paved and building surfaces to minimize potential impacts to wildlife. Operation of the facility will result in an increase in ambient light during the night; however, proposed light levels are not anticipated to significantly exceed light levels used by residential or commercial developments of a similar scale, with no at grade light migrating beyond the developed area of the Property. Refer to the Lighting Plans in the Project Plan Set. Lighting will be shielded to prevent lighting affecting the nearby Shoreland Protection Zone and the proposed Conservation Areas to the East. The lighting will also be adjusted at the proposed wetland crossing for Green Meadow Drive (Impact Area F) and the Secondary Access roadway to encourage use of the culvert structures by wildlife.
- A comprehensive illustration of building, industrial park, directional, and traffic control signage, as well as pavement markings, has been provided in with the Project Site Plans, Sheets CP100 –CP129, CP501-505) (the “Signage Plans”).
 - See Section 5.3 (Lighting) in Wildlife Habitat Evaluation.
82. Site signage has been developed to ensure that building, freestanding, and traffic directional signage will be provided in accordance with Article XII of the Zoning Ordinance (Chapter 334). The signage is also subject to review and approval by the Zoning Administrator/Code Enforcement Officer.
- **§275-6(N) Conformance with all existing codes.**
83. The Applicant has designed the Project to comply with Town Codes, including but not limited to, Zoning (Chapter 334), Site Plan Review (275), Administrative (Chapter 276), Stormwater (Chapter 290), Noise (Chapter 249), Driveways (Chapter 193), Sewers (Chapter 270, Ordinance No. 77, and Engineering Department Guidance), and water supply guidance described in the Town of Hudson Water Utility Rules and Regulations, and traffic, except as otherwise waived by the Planning Board and Engineering Department, as applicable.
84. The Site Plans have been extensively peer reviewed by Fuss & O’Neill (and other subconsultants including HMMH, Inc., Tetra Tech, Inc., etc.), to ensure compliance with applicable stormwater, Zoning (including use, dimensional, building height and other applicable requirements), site plan, landscaping,

lighting, wetlands, and erosion and sedimentation and control requirements, as well as the Town's water peer review consultants, Weston & Sampson. The Applicant's engineering and design team provided detailed responses to Fuss & O'Neill in order to respond to those matters, to ensure that no project design or operational conditions would involve danger or injury to health or safety, as evidenced below:

- Fuss & O'Neill Peer Review Letter #1, 6.15.20 – Site Plan, Administrative, Subdivision, Driveway, Utility, Drainage Design/Stormwater, Zoning, Erosion Control, Wetland Impacts, Landscaping, Lighting, State Permits, Other, Codes and Land Use Regulations.
- Response from Langan, dated 9.14.20, to peer review comment letter provided by Fuss & O'Neill on Stormwater Design Review letter, dated 6.25.20.
- Fuss & O'Neill Peer Review letter #2, dated 10.16.20 (resolved issues); Fuss & O'Neill Peer Review letter #2, dated 10.16.20 (outstanding issues); and Fuss & O'Neill File Memorandum, dated 10.16.20 (materials reviewed) re: Site Plan Review Code (Ch. 275), Administrative Code (Ch. 276), Stormwater Codes (Ch. 290), Subdivision (Ch. 289), Driveway Review Code (Ch. 193), Utility Design, Sewer Use Ordinance 77, Zoning Regulations, and criteria outlined in the CLD Consulting Engineers Proposal approved September 16, 2003, revised September 20, 2004, June 4, 2007, September 3, 2008, and October 2015, Erosion Control/Wetland Impacts, Landscaping (Ch. 334/275), Lighting (Ch.275).
- Supplemental response from Langan Engineering to Attachment B particular to site plan regulation requirements, received 11.9.20.
- Langan Response to Public Comments, dated 12.1.20.
- Fuss & O'Neill Peer Review letter #3, 12.21.20 – Site Plan Review Codes, Stormwater, Codes, Driveway Review Codes, Sewer Use Ordinance 77, Zoning Regulations, and criteria outlined in the CLD Consulting Engineers Proposal approved September 16, 2003, revised September 20, 2004, June 4, 2007, September 3, 2008, and October 2015.
- Response from Langan Engineering, dated 2.24.21, to peer review comment letter provided by Fuss & O'Neill, dated 12.21.20.
- Email correspondence between the Town of Hudson, Langan and Fuss & O'Neill, dated between 2.4.21, and 2.18.21.
- Packages received by Fuss & O'Neill from Langan received on 2.5.21, and 2.12.21, including the following:
 1. Copy of Stormwater Report, dated May 2020, revised February 2021.
 2. Copy of Geotechnical Engineering Study for Lot A for Hudson Logistics Center, prepared by Langan, dated 7.22.20 (Rev. 8.31.20).
 3. Copy of Geotechnical Engineering Study for Lot B for Hudson Logistics Center, prepared by Langan, dated 7.22.20 (Rev. 8.31.20).
 4. Copy of Geotechnical Engineering Study for Lot C for Hudson Logistics Center, prepared by Langan, dated 7.22.20 (Rev. 8.31.20).
 5. Copy of Hudson Logistics Center Site Plan & Wetlands Conditional Use Applications plan set, Lowell Road, Map 239, Lot 1, Town of Hudson,

Hillsborough County, New Hampshire, prepared by Langan dated 4.21.20, revision dated 2.24.21, and including the drawings on the attached Drawing Index.

6. Copy of Town of Hudson Planning Board Review Memorandum, prepared by Langan, dated 2.24.21.

7. Copy of Town of Hudson Planning Board - Response to Stormwater Design Review Memorandum, prepared by Langan Engineering & Environmental Services, Inc., dated 2.24.20 (sic).

8. Copy of Buildings A&B Building Height Calculation Worksheets, prepared by Langan not dated.

9. Copy of Appendix I – 2021-01-11 Local Wetland Impact Figure, not dated.

10. Copy of Wetlands Permit Application – Request for More Information response letter, prepared by Gove, dated 9.8.20.

11. Copy of Soil Mapping Memorandum, prepared by Gove, dated 12.7.20.

- Fuss & O’Neill Peer Review Letter #4 02.19.21 –Site Plan Review Codes, Stormwater Codes, Driveway, Review Codes, Sewer Use Ordinance 77, Zoning Regulations, and Engineering Department Technical Guidance.
- Letter in response to BCM Environmental & Land Law letter dated November 18, 2020 from Attorney Justin Pasay of DTC Lawyers, on behalf of Hillwood, dated December 14, 2020 (200-foot buffer).
- Copy of Buildings A&B Building Height Calculation Worksheets (undated), and Building Roof Plans, prepared by Langan Engineering, as presented in 2.24.21 Planning Board PowerPoint Presentation, slides 4-6.
- See also, Peer Review described under Sections above.
- Fuss & O’Neill Peer Review Letter #4, 02.19.21 –Site Plan Review Codes, Stormwater Codes, Driveway, Review Codes, Sewer Use Ordinance 77, Zoning Regulations, and Engineering Department Technical Guidance.
- Langan Memorandum, dated 2.25.21, Responding to GeoInsight Consultant Review Letter” dated 11.13.20.
- Langan Memorandum, dated 2.26.21, to peer review comment letter provided by Fuss & O’Neill, dated 2.19.21.

85. The Project will also comply with all applicable State and Federal Requirements, including NHDES Alteration of Terrain, NHDES Wetlands, NHDES Sewer Connection, NHDES Air Requirements, as well as the US Army Corps Programmatic Permit for New Hampshire (General Permit No: NAE-2016-02415), a US EPA NPDES Construction General Permit, and New Hampshire Small MS4 General Permit (with permit modifications effective on January 6, 2021), which is enforced, in part, through the Town of Hudson Stormwater Ordinance as well as the NHDOT MS4 Permit.

- §275-6(O) (Reserved)

- **§275-6(P) Compliance with the provisions of the Zoning Ordinance.**

The Project has been designed to be constructed and operated in accordance with the Hudson Zoning Ordinance.

86. The Project complies with the Hudson Zoning Ordinance (Chapter 334).
 - See plans and details entitled “Hudson Logistics Center, Site Plan & Wetlands Conditional Use Applications,” dated April 21, 2000 (Rev. March 10, 2021)(the “Project Site Plans”).
87. The Project has been peer reviewed in connection with Zoning by the Planning Board’s Peer Review Engineers.
 - See Fuss & O’Neill peer review letters, and responses to the same by Langan noted above.
88. The Applicant has responded to public comment related to compliance with Zoning and other matters.
 - Memorandum to Brian Groth, dated 12.2.20, from Langan.

- **§275-6(Q) The minimization of encroachment on neighboring land uses.**

The Applicant has undertaken extensive design efforts to minimize any encroachment on neighboring land uses and has provided buffering and screening to create an effective separation between the Project and other uses.

89. The Project complies with zoning setbacks and administrative requirements for buffer and does not encroach upon neighboring land uses.
 - As demonstrated in the Project Site Plans and peer review of the same, the Project complies with the applicable setback requirements of the Zoning Ordinance and the 200-foot buffer requirement within the Administrative Requirements. See Project Site Plans, Sheet CS100.
90. The Project complies with the 200-foot buffer requirement.
 - The Applicant has undertaken extensive efforts to establish an effective screening between the Project and neighboring residential land uses, including the screening in the form of berming, fencing and landscaping along the southerly boundary of the Property as described above.
 - See Letter in response to BCM Environmental & Land Law letter dated November 18, 2020 from Attorney Justin Pasay of DTC Lawyers, on behalf of Hillwood, dated December 14, 2020 (200 foot buffer).
 - See Staff Report #9, dated 12.30.20, Summary of Content, A. 200-Foot Setback, and Planning Board Determination of Interpretation of Setback

depicted in 12.30.20 Planning Board Meeting video link at
<http://www.hudsonctv.com/CablecastPublicSite/show/9500?channel=3>.

91. The Applicant has worked to establish appropriate buffers to neighboring uses in excess of those required by the ordinances.
- When requested to do so very early on in the process, the Applicant undertook extensive engineering redesign efforts to move the proposed buildings further away from the residential homes along the southerly property boundary.
 - In fact, Building A is approximately 2,530 feet from the southerly property line, Building C is approximately 590 feet from the southerly property line, and Building B is approximately 450 feet from southerly property line. Moreover, Building C is approximately 1,570 feet from the closest residence on Steele Road, and is approximately 1,960 feet from the closest residence on Linda Street to the east.
 - In addition, the Applicant has worked with the owner of 267 Lowell Road to establish extensive landscape screening along the Property's common (northeast) boundary with the commercial property located at 267 Lowell Road.
 - As described in Section L. above, the Applicant has developed a robust landscaping, buffering and screening plan to ensure that the Project does not encroach upon neighboring land uses.
- **§275-6(R) Green areas, open space, conservation easements, pedestrian easements, slope easements and such other easements as may be applicable.**

The Project design has incorporated green areas, open space, conservation easements and such other easements as may be applicable as follows.

92. The Project design has incorporated over 46% of the Property as defined "open space"
- Open Space is defined under Section 276-11.1B.(24)(b) as "grassed, treed, landscaped or natural growth areas designated for no activity associated with the nonresidential use proposed; there must be reasonable open space near or adjacent to each building or structure, including pavement, as determined by the Planning Board."
 - Over 172 acres, or 46% of Property, is defined open space where a minimum of 40% open space is required.
 - While technically not defined as open space, the amount of green areas, including defined "open space" as well as other green areas on which stormwater management facilities and other pervious improvements will be located, is approximately 232 acres, or 62% of Property.
93. The Project proposes to create over 120 acres of land to be subject to a conservation easement proposed to be granted to the Town, which we understand

is second only to Benson Park in terms of area of open space dedicated for conservation use.

- The Applicant proposes to convey a conservation easement to the Town of Hudson which will cover approximately 120 acres of land, nearly a third of the Property.
 - Included in this area is the entire 250-foot protected Shoreland along the Merrimack River as well as the majority of the land east of the development, including Limit Brook, its associated wetlands, and upland buffers.
 - The Applicant's proposed conservation easement will ensure permanent protection of these sensitive ecological areas. The proposed preservation area alone is more than 129 times the proposed Lot Development Impact or more than 6 times the preservation that would be required under the US Army Corps of Engineers Compensatory Mitigation Guidance at the relevant 20:1 ratio.
 - In addition to the Applicant's proposed preservation, additional mitigation is also being provided through restoration of approximately 40 acres of the future conservation area, currently consisting primarily of managed golf course turf, using native seed, shrubs, and trees. The proposed restoration focuses on revegetating riparian areas, wetland buffers, and other uplands surrounding the primary wetland systems on the site, some of which have been devoid of a natural buffer for upwards of 90 years, and will remove approximately 25,700 SF of impervious surfaces (golf cart paths) within the protected Shoreland along the Merrimack River.
 - Additional details of the restoration planting are provided on the landscaping plan sheets previously provided to the Town. The diversity of species has been broadened after close collaboration with the Town's Conservation Commission and more detail has been added on plant placement and intent within the three planting zones, namely the 250-foot protected shoreland, wetland buffer areas, and the remaining uplands.
 - See supporting documentation described in conditional use permit narrative below.
- **§275-6(S) The use of a shared driveway for access to two or more proposed SITE PLANS shall be allowed.**

The Applicant has integrated its design to minimize the number of driveway curb cuts by using shared driveways to access the Property.

94. The Applicant intends to integrate the shared driveway access extending from Lowell Road to Green Meadow Drive by sharing the Project Driveway with 267 Lowell Road.
95. The Applicant intends to integrate the shared driveway access known as Walmart Boulevard which extends from Lowell Road westerly past Sam's Club to the project Property.

96. Both shared access driveway points were contemplated by the Planning Board in past approvals of both the Sam's Club Project as well as the 267 Lowell Road Project in order to ensure that the buildable upland occupied by the Greenmeadow Golf Course would have adequate access to Lowell Road so that it could be developed in the future.
97. The planning foresight by prior Planning Boards have enabled the implementation of the Proposed Project.
- See Project Site Plans.
 - **§275-6(T) Installation of improvements.**

(1) The PLANNING BOARD shall weigh the burden that proposed DEVELOPMENT places on public facilities, infrastructure, sewers and amenities and shall require the installation of public improvements, both on-site and off-site, to compensate for this burden. Improvements may include, but are not limited to:

(a) Granite curbing. The Applicant has designed the Project to include curbing as described in the Site Plans, including sloped curbing in wildlife habitat sensitive areas. See Project Site Plans.

(b) Sidewalk and STREET trees. The Applicant has incorporated both sidewalks and street trees into the Project, while incorporating existing trees along the driveways to create a more natural aesthetic along with the meadow mix ground cover plantings. See Project Site Plans.

(c) Improvements to existing roadways and drainage. The Applicant has agreed to extensive traffic mitigation improvements designed to not only mitigate for the Project traffic, but also to mitigate the existing problems along Lowell Road and beyond. See Traffic materials described above.

(d) Traffic control devices. The Applicant has committed to the installation of new traffic controls to not only more efficiently and safely move the Project traffic, but to also attempt to mitigate existing conditions so as to provide an additional public benefit which reduces queuing.

(e) Open space. The Applicant has proposed to set aside over 120 acres of land into a permanent conservation easement.

(f) Recreational space. The Applicant anticipates that opportunities for off-site recreational opportunities will be discussed with the Board.

(g) Moneys granted in lieu of land for recreational space, which shall be held by the Town in a nonlapsing fund for the future purchase and DEVELOPMENT of recreational space/facilities to serve this particular neighborhood/DEVELOPMENT. The Applicant anticipates that opportunities for off-site recreational opportunities will be discussed with the Board.

(h) Improvements to nearby traffic corridors as warranted by the Town's cost allocation procedure traffic study. The Applicant has proposed mitigation which will lead to improvements of nearby traffic corridors.

(2) All requested improvements, whether on-site or off, shall be consistent with the standards enunciated by the New Hampshire Supreme Court and this legislature. The Applicant acknowledges this requirement.

- **§275-6(U) The PLANNING BOARD shall require the APPLICANT to execute a DEVELOPMENT agreement. This agreement shall detail the terms, conditions and responsibilities of the Applicant and the Town in conjunction with an approved plan.**
98. Should the Planning Board vote approve the Site Plan and Conditional Use Permit described above, the Applicant agrees to execute a Development Agreement which would detail the terms, conditions and responsibilities of the Applicant and the Town in conjunction with an approved plan.
- **§275-6(V) Installation or placement of outside appurtenances: e.g., utility boxes, storage containers, trash receptacles and/or air-conditioning equipment.**
99. The Project will include outside appurtenances, but all utilities other than overhead lines along a segment of Green Meadow Drive (for which a waiver is requested) as well as any so-called utility “green boxes” which may be required to be installed by the electrical utility service provider will be underground.
100. Rooftop mechanical equipment and the approximate dimensions thereof, as well as the parapet of varying heights and dimensions, have been provided for Building A and Building B, and are shown in materials presented to the Board. All mechanical equipment for the buildings are located on the roof. Similar rooftop equipment will be provided on Building C.
101. The Project will not include any outside storage containers, except that unlike many commercial facilities, these buildings will have internal refuse control and dumpsters and compactors directly connected to the building, occupying loading dock bays. There are no freestanding dumpsters elsewhere on the site. Therefore the trash removal activity will be very similar to other truck activity on the site. These locations have been added to the plan.
- **§275-6(W) Exterior storage or display areas.**
102. The Project will include no exterior storage or display areas other than what might be temporarily stored in trailers as part of customary logistics operations.
- **§275-6(X) Reserved.**

103. Although not recognized as a site plan criterion, the Fiscal Impacts Analysis prepared by Barrett Planning Group LLC, and peer reviewed by AER as well as the Town Assessor, very conservatively projects the generation of approximately \$5.1 million in new gross tax revenue generated annually upon full buildout, with a projected range of between \$4.6 million and \$4.8 million in net revenue when considering municipal costs.
104. This projected net tax revenue is projected to be allocated as described at the Planning Board's September 9, 2020 meeting.
- Hudson Logistics Center, Hudson, New Hampshire, Fiscal Impact Analysis, 6.20, prepared by Barrett Planning Group LLC.
 - Preliminary Draft – Fiscal Impact Peer Review, dated 8.4.20, prepared by Applied Economics Research (AER).
 - Assessing Department review of Barrett Fiscal Impact Analysis, dated 7.7.20, prepared by Jim Michaud, Town of Hudson Chief Assessor
 - Supplemental Responses, Fiscal Impact Study prepared by the Barrett Planning Group,
 - dated 9.1.20.
 - PowerPoint, Fiscal Impact, dated 9.9.20, presented to the Hudson Planning Board,
 - Letter to Timothy Malley, Chair, from Judi Barrett, Barrett Planning Group, LLC, dated 12.16.20, responding to various comments on fiscal impact.

C. Conditional Use Permit Summary

As referenced above, the Applicant has appeared before the Town's Conservation Commission eight (8) distinct times since June of 2020, culminating in a recommended approval of the Applicant's CUP Application with stipulations. In addition to the CUP Application, the Applicant made several filings to the Conservation Commission to include a Wetland Impact Plan (amended several times as the project design has been adjusted through the review process), a Wetland Report from Gove (as amended), a CUP Narrative analysis from Donahue, Tucker & Ciandella, PLLC (as most recently amended on 1.18.21) (the "CUP Analysis"), and, as referenced above, a Wildlife Habitat Evaluation prepared by Lucas Environmental. In addition to these documents, the Applicant and its consultants responded in writing to Commission member questions, questions from the public, and collaborated extensively regarding proposed landscaping for the project, among other things. While the full narrative analysis of the Applicant's compliance with the Town's Wetlands Conservation Overlay District Ordinance is described in the CUP Analysis, a summary of the same is provided herewith.

105. The Project Purpose is inclusive of the development of Buildings A, B and C on the Property's large contiguous uplands area on the western portion of the Property and neither the Wetlands Conservation Overlay District Ordinance, nor State regulations can be interpreted as to obviate that purpose. See CUP Analysis.

106. The buildings have been thoughtfully designed and are proposed to be sited in a manner to avoid and minimize impacts to the District and be insulated from surrounding land uses in conformity with the Town's Land Use Regulations. See Project Site Plans; CUP Analysis.
107. Though the Property is roughly 375.37 acres (16,351,117.2 square feet (or "SF")) total and nearly entirely encumbered by wetlands on the eastern portion of the site from which access is derived, the Applicant only proposes total impacts to the District of 233,869 SF, which impacts consist of 55,525 SF of wetland and 178,344 SF of buffer impact. This final District impact proposal has been reduced approximately 20% from the Applicant's original proposal and is the result of significant collaboration with the Planning Board and the Conservation Commission as alternatives were explored. See Project Site Plans, Wetland Impact Plan; CUP Analysis.
108. All of the proposed impacts are access impacts as defined by the Zoning Ordinance, and of them, approximately 83% = are related to the primary accessways into the Property (Green Meadow Drive and the Northern Access Road over Walmart Blvd). See CUP Analysis; Wetlands Impact Plan.
109. The remaining 17% of the total impacts are impacts caused by the primary driveway serving Building A, the primary driveway serving Building C, and the relocation of a portion of Steele Road. Of these secondary access impacts, the vast majority of the same are buffer impacts to already disturbed golf-course turf with low wetland and wildlife habitat function and values. See Gove Wetland Report; CUP Analysis; Lucas Wildlife Habitat Evaluation.
110. The highest value wetlands on the site (Limit Brook and associated wetlands and the Merrimack River) have been entirely avoided. See CUP Analysis; Wetlands Impact Plan; Gove Wetland Report; Lucas Wildlife Habitat Evaluation.
111. The Applicant's proposal satisfies the use-specific CUP criteria of Section 334-36(C)(2) of the Zoning Ordinance. See CUP Analysis.
- First, the impacts are essential to the productive use of the land beyond the district because the entire eastern portion of the site is wetlands. The two primary access ways onto the Property utilize easements approved by the Planning Board and are critical from a planning and emergency response perspective. This approach distributes the site's traffic across two intersections and allows for efficient traffic flow within the site. This approach best-protects the public health and safety. See CUP Analysis.
 - The proposed impacts are located and constructed in such a way as to minimize the potential for detrimental impact. The primary access ways use existing easements, stay on the edge of wetlands, cross wetlands at their narrowest point, and utilize large open box culverts. The remaining

access impacts internal to the site are sited on the edge of the District and facilitate access to Buildings A and C. The vast majority of these impacts are impacts to already disturbed buffer areas which will be re-seeded and will better serve wildlife functions after completion of the Project, than the existing conditions. All impacts have been avoided to the greatest extent possible. See CUP Analysis.

- The impacts have been planned and designed, and will be constructed in a manner consistent with applicable State and local standards. See CUP Analysis.
- Considering the Project Purpose and the avoidance and minimization techniques employed, there are no viable alternatives. The impacts by the primary accessways and the internal accessways have been designed to avoid impacts to the greatest extent possible and where impacts are unavoidable, to minimize and mitigate those impacts. The round about has been studied extensively, and sited in a way that preserves pedestrian and vendor safety, and functionality of the site. See CUP Analysis.

112. The Applicant's proposal also satisfies the general CUP criteria contained within Section 334-37(A) of the Zoning Ordinance. See CUP Analysis.

- First, the proposed activity minimizes degradation of land situated within the District and offsets potential adverse impacts to functions and values of wetlands, surface waters and vernal pools. All impacts have been avoided to the greatest extent possible, and where it's not possible to avoid impact, such impacts have been mitigated as detailed in the CUP Analysis. Work with the Planning Board and Town has further reduced proposed impacts by 20% from the Applicant's original proposal. The Applicant's approach has preserved the high-value wetlands and buffers on the Property, thereby offsetting any adverse impacts to functions and values of wetlands, surface waters, and vernal pools.
- Further, the potential for impacts to occur down stream or offsite has been avoided by avoiding onsite impacts closest to areas with the most potential for offsite effects. There are no impacts to Limit Brook or its associated wetland, or its 100-year Floodplain. All access impacts have been avoided to the greatest extent possible. Sloped curbing, sound mitigation, and light shielding have been implemented to reduce impact. Further, the Applicant proposes to permanently conserve +-120 acres of land, inclusive of the Property's most sensitive wetland and ecological areas. In light of this approach, there is no potential for down stream impacts. See CUP Analysis; Lucas Wildlife Habitat Evaluation.
- Next, the proposed activity cannot practicably be located otherwise on the site to eliminate or reduce impact to the District because the accessways are required to fulfill the Project Purpose and have been thoughtfully designed to avoid and minimize impact as have the Hudson Logistic Center buildings themselves.

- The proposed activity incorporates the use of those best management practices (BMPs) recommended by the NHDES, and the Project will be subject to a NHDES Wetlands Permit and Alteration of Terrain Permit.

113. In addition to the avoidance and minimization efforts, the Applicant proposes significant mitigation to include the conveyance of a conservation easement encumbering +-120 acres of land to the Town for permanent conservation, the restoration of 40 acres of wetlands and buffer areas on the Property, and the contribution of more than \$600,000 to the State's Aquatic Resources Mitigation Fund.
114. Pursuant to the evidence within the record, the Applicant satisfies the CUP criteria contained within the Zoning Ordinance.

D. Steele Road

115. In 1985, the Town of Hudson accepted a portion of Steele Road as a public road. The terminus of the public portion of Steele Road pursuant to that acceptance is well east of the Property, and adjacent to property at 15 Steele Road, which is further identified as Town Tax Map 234, Lot 6, as depicted on a portion of the plan from Hayner/Swanson, Inc. titled "Consolidation/Subdivision Plan (Map 234, Lots 5, 24 & 35 and Tax Map 239 Lot 1) Lowell and Steele Roads, Hudson, New Hampshire" dated 21 April 2020, enclosed herewith (the "Steele Road Plan"). Since that time, the Town has only maintained Steele Road up to the extent of the Town's acceptance of the same in 1985. Thereafter, Steele Road has been maintained as a gated seasonal private driveway which is exclusively maintained by the Property owner and provides access exclusively to the Golf Course.
116. The ALTA Survey for the Project located four deeds from 1875 to 1899 which reference a road to a dwelling house, referred to as a "right of way . . . reserved to access" the former dwelling house on the Property. See Steele Road Plan. As the Project plans state, the survey affirmed that "No layout or discontinuance was found." The portion of Steele Road that was accepted by the Town in 1985 is depicted on the Project plans. The survey was unable to conclude the limits of the public road and therefore reserved comment on the remaining portion of the roadway stating that the roadway "may have met the requirements for a public way under RSA 229:1." See Steele Road Plan. The same plan depicts in yellow the full extent of the "right of way . . . reserved to access" the former dwelling house, which is approximately 1221 feet.³⁹ The Project Plans state that this area will be relocated or discontinued.

³⁹ See attached legal descriptions of existing and proposed relocated Steele Road.

117. The Applicant and the Property Owner are not aware of any evidence that any portion of “Steele Road” on the Property is a public right of way. The Property Owner always understood that the roadway was a private right of way solely benefiting the Property Owner. It serves and is surrounded by land owned exclusively by the Property Owner. The Applicant and Property owner believe it was only utilized to access a private dwelling.
118. Since the Town has asked the Applicant and the Property Owner to provide dedicated municipal access to the Merrimack River, the Project plans show Steele Road as the access. In an abundance of caution and to resolve all questions raised by the survey, after the Planning Board approves the relocation as part of the Project Site Plans which will be recorded at the Registry of Deeds, the Applicant and Property Owner will utilize the procedure outlined in RSA 231:8 *et seq* to petition the Board of Selectmen to formally relocate the tail section of Steele Road as described in the enclosed legal descriptions. Beyond that tail section to the west, the access will take the form of an improved driveway to the Merrimack River and an easement will be granted to the Town to ensure that Fire Department, and potentially other access is maintained.
119. The Applicant proposes, as discussed elsewhere, to continue to maintain the Steele Road extension to the limit of its relocation, as well as the driveway easement, depicted on the Steele Road Site Plan also enclosed herewith⁴⁰, and the Steele Road extension is proposed as a right of way to be conveyed to the Town for Town of Hudson municipal purposes, to include, potentially among other things, access to the Merrimack River for fire protection purposes. Any improvements to facilitate those Town purposes will be permitted separate and apart from current Applications before the Planning Board.

E. CONCLUSION

For the reasons described above, the Applicant has met its burden of establishing that it has met the criteria required under the Regulations and the Conditional Use Permit and other criteria under Article IX of the Zoning Ordinance, as well as other applicable requirements under the Hudson’s Land Use Regulations.

⁴⁰ See attached Steele Road Site Plan depicting (in purple) the relocated tail of Steele Road and (in yellow) the right of way proposed to be conveyed to the Town for public purposes.

LEGAL DESCRIPTION

(EXISTING STEELE ROAD)

A CERTAIN PORTION OF ROAD LOCATED IN THE TOWN OF HUDSON, COUNTY OF HILLSBOROUGH, STATE OF NEW HAMPSHIRE, SITUATED WESTERLY OF LOWELL ROAD AND BEING A PORTION OF THE STEELE ROAD, BEING DESCRIBED MORE PARTICULARLY AS FOLLOWS:

BEGINNING AT AN IRON PIN AT THE NORTHWEST CORNER OF LAND OF STEELE FARM ROAD, LLC, BEING THE SOUTHERLY SIDELINE OF STEELE ROAD; THENCE

SOUTHWESTERLY BY THE SOUTHERLY SIDELINE, A DISTANCE OF 1,221 FEET MORE OR LESS TO A POINT; THENCE

NORTHERLY A DISTANCE OF 33 FEET TO A POINT AT THE NORTHERLY SIDELINE OF SAID ROAD; THENCE

NORTHEASTERLY BY SAID SIDELINE A DISTANCE OF 1221 FEET MORE OR LESS TO AN IRON PIN; THENCE

SOUTHEASTERLY A DISTANCE OF 33 FEET TO THE POINT OF BEGINNING

SAID PARCEL CONTAINS 40, 293 SF, MORE OR LESS.

LEGAL DESCRIPTION

(RELOCATED STEELE ROAD)

A CERTAIN PORTION OF ROAD LOCATED IN THE TOWN OF HUDSON, COUNTY OF HILLSBOROUGH, STATE OF NEW HAMPSHIRE, SITUATED WESTERLY OF LOWELL ROAD AND BEING A PORTION OF THE STEELE ROAD, BEING DESCRIBED MORE PARTICULARLY AS FOLLOWS:

BEGINNING AT AN IRON PIN AT THE NORTHWEST CORNER OF LAND OF STEELE FARM ROAD, LLC, BEING THE SOUTHERLY SIDELINE OF STEELE ROAD; THENCE

S 63° 02' 20" W A DISTANCE OF 0.81 FEET TO A POINT; THENCE

S 63° 44' 38" W A DISTANCE OF 476.85 FEET TO A POINT; THENCE

SOUTHWESTERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF 148.50 FEET, A DELTA ANGLE OF 82°37'49" AND AN ARC LENGTH OF 214.16 FEET TO A POINT; THENCE

S 81° 53' 11" E A DISTANCE OF 481.98 FEET TO A POINT; THENCE

SOUTHEASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF 381.50 FEET, A DELTA ANGLE OF 3°44'18" AND AN ARC LENGTH OF 24.89 FEET TO A POINT; THENCE

S 74° 51' 07" W A DISTANCE OF 33.00 FEET TO A POINT; THENCE

NORTHWESTERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF 348.50 FEET, A DELTA ANGLE OF 3°44'18" AND AN ARC LENGTH OF 22.74 FEET TO A POINT; THENCE

N 18° 53' 11" W A DISTANCE OF 481.98 FEET TO A POINT; THENCE

NORTHEASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF 181.50 FEET, A DELTA ANGLE OF 82°37'49" AND AN ARC LENGTH OF 261.75 FEET TO A POINT; THENCE

N 63° 44' 38" E A DISTANCE OF 476.85 FEET TO A POINT; THENCE

S 27° 39' 59" E A DISTANCE OF 33.00 FEET TO A POINT THE POINT F BEGINNING

SAID PARCEL CONTAINS 40, 293 SF, MORE OR LESS.

