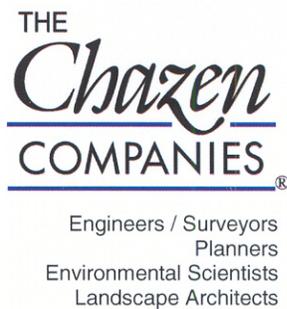


2015 STATEMENT OF FINDINGS: Town of Malta, NY

LUTHER FOREST TECHNOLOGY CAMPUS PLANNED DEVELOPMENT DISTRICT  
AMENDMENT 2015

SARATOGA COUNTY, NEW YORK

August 3, 2015



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## 1.0 INTRODUCTION

- 1) The proposed action for which this 2015 Findings Statement has been prepared is the modification of the Planned Development District #46 (PDD) legislation for the Luther Forest Technology Campus (LFTC) as jointly requested by Luther Forest Technology Campus Economic Development Corporation (LFTCEDC) and GLOBALFOUNDRIES. Two separate PDDs have been established in the Towns of Malta and Stillwater for the LFTC project site, which allow a mixture of industrial, commercial and residential uses, including up to three semiconductor manufacturing facilities, up to 2 million square feet of ancillary uses, a hotel/conference center, and up to 50 residential homes.
- 2) These Findings have been prepared for a Third Supplemental Environmental Impact Statement (TSFEIS) prepared in accordance with Article 8 of the State Environmental Quality review Act (SEQRA) and Part 617 of the implementing regulations. The original Town of Malta Planned Development District legislation which created the Luther Forest Technology Campus (LFTC) was classified as a SEQRA Type 1 Action and a Generic Environmental Impact Statement (GEIS) was prepared. The LFTC is located on approximately 1,350 acres situated one-half mile southeast of the intersection of Dunning Street and Route 9 in the Town of Malta and west of Cold Springs Road in the Town of Stillwater, Saratoga County. The TSFEIS addresses proposed revisions to that legislation.
- 3) The proposed action for the amendment of the existing PDD legislation was brought about, in large part, because of the passage of more than ten years since the founding of LFTC and the Applicants' belief that some of the pieces of the legislation have challenged LFTCEDC in its task of bringing additional tenants to the remaining development areas zoned within the PDD. The requested amendments include (1) changes to the permitted uses and definitions of uses, (2) removal of the restriction on PILOT agreement in the LFTC, (3) modifications to soil disturbance and subdivision processes, (4) removal of development agreements in favor of development fees; (5) codification of the process for calculation of open space and recreation fees; and (6) confirmation of location of noise monitoring locations and bringing decibel levels into parity with all other parts of the Towns.
- 4) The original Town of Malta PDD legislation creating the LFTC was subject to a Draft Generic Environmental Impact Statement (GEIS) adopted on January 16, 2003, a Final Generic Environmental Impact Statement adopted on October 16, 2003, and a Findings Statement adopted on May 18, 2004. In 2008, Advanced Micro Devices (AMD), GLOBALFOUNDRIES' predecessor in LFTC, applied for amendments to the LFTCPDD and a SEQRA review was conducted by the Town of Malta. On March 25, 2008, a Supplemental Draft Generic Environmental Impact

Statement (SDEIS) was adopted by the Town of Malta, and followed by the adoption of a Supplemental Final Generic Environmental Impact Statement (SFEIS) on August 1, 2008. On August 25, 2008, the Town of Malta adopted a Findings Statement concerning the supplemental environmental review and GLOBALFOUNDRIES remains the only tenant in LFTC. On March 7, 2013, application by GLOBALFOUNDRIES for amendments commenced with the drafting of a Second Supplemental Draft Environmental Impact Statement (SSDEIS) which was adopted by the Town of Malta Board, and then a Second Supplemental Final Environmental Impact Statement was adopted on July 29, 2013. On August 19, 2013, the Town of Malta adopted a Findings Statement in connection with the 2013 environmental review. Collectively, these documents, including their appendices and exhibits, constitute "the Prior SEQRA Record."

- 5) In accordance with application to amend the LFTCPDD, and pursuant to the State Environmental Quality Review Act (SEQRA), the Malta Town Board, as Lead Agency, caused a Third Supplemental Draft Environmental Impact Statement (TSDEIS) to be prepared. It was adopted on February 2, 2015 and a Third Supplemental Final Environmental Impact Statement (TSFEIS) adopted June 1, 2015 to evaluate the potential environmental impacts of the proposed PDD modifications. Collectively, these documents, including their appendices and exhibits, constitute "the TSEIS."
- 6) The proposed action involves the amendment of the LFTC PDD legislation. The applicants have proposed essentially the changes referenced in Paragraph 3 above to the legislation which were analyzed in the TSDEIS dated February 2, 2015. Additional changes by the Malta Town Board were further analyzed in the TSFEIS dated June 1, 2015.
- 7) The following procedural steps were followed.
  - a) The Town Board accepted the TSDEIS as complete on February 2, 2015. The TSDEIS included an assessment of the existing environmental conditions and metrics, as well as any changes as a result of the amendments proposed by the applicants.
  - b) The Town Board held a public hearing on the TSDEIS on March 2, 2015 and accepted public comments until March 16, 2015.
  - c) The Town Board adopted the TSFEIS on June 1, 2015.
  - d) The Town Board issued this Findings Statement on \_\_\_\_\_, 2015.

## 2.0 SUMMARY OF THE PROPOSED ACTION

- 1) The proposed action is the amendment of the LFTC PDD which was originally envisioned as a long range conceptual master plan for the 1,350 acre project site in the Towns of Malta and Stillwater, which included changes in zoning. The original PDD allowed for the creation of a technology campus and manufacturing center with a specific focus on nanotechnology manufacturing uses, nanotechnology support uses, general office, a hotel/conference center, limited retail and commercial uses, and a small number of residential homes.
- 2) AMD received the initial approvals to build its Fab 8 Campus in the LFTC in 2009 and, as the current successor in interest, GLOBALFOUNDRIES has operated on the site since that time. It remains the only permanent tenant in the 1,350 acre campus, with nine other Development Areas standing undeveloped.
- 3) The 2015 proposed amendments to the existing LFTC PDD are intended to address the information now known concerning development in the Campus and related development trends in the ten years since the legislation was initially passed. The amendments include, but are not limited to, (1) changes to and expansion of the permitted uses and definitions of uses, (2) removal of the restriction on PILOT agreements in the LFTC, (3) modifications to soil disturbance and subdivision processes, (4) removal of development agreements in favor of development fees; (5) codification of the process for calculation of open space and recreation fees; and (6) confirmation of location of noise monitoring locations and bringing decibel levels into parity with all other parts of the Towns.
- 4) Upon adoption of amendments to the LFTC PDD, LFTCEDC believes it would be positioned to market and sell lands with the LFTC in accordance with the revised legislation. All future occupants and owners within the LFTC would be required to demonstrate compliance with the legislation, the TSEIS and the Prior SEQRA Record.
- 5) Many of the impacts analyzed in the Prior SEQRA Record for LFTC and AMD were based on an analysis of nanotechnology campus development and specifically from the Abbie Gregg Report (AGR). In the ten years since the LFTC PDD was originally enacted, some of the assumptions made in the AGR, and more generally the Prior SEQRA Record, have not manifested and do not reflect the actual development conditions within the Campus. The currently proposed LFTC PDD amendments represent no changed circumstances from an environmental review standpoint and will continue to meet the thresholds established by the Prior SEQRA Record, the changes which will represent new findings and thresholds are set forth herein. The complete TSEIS contains additional analysis of such impacts.

Permits and approvals for the proposed LFTC amendments are as follows:

I. SEQRA Involved Agencies

Agency	Permit / Approval
Malta Town Board (SEQRA Lead Agency)	PDD Amendment
Stillwater Town Board	PDD Amendment

II. SEQRA Interested Agencies

Agency	Permit / Approval
Saratoga County Sewer District #1	Potential permits to connect into sewer system for future owners in the project
Town of Malta Planning Board	Recommendations on PDD Approval; potential future site plan and subdivision approvals.
Town of Stillwater Planning Board	Recommendations on PDD Approval; potential future site plan and subdivision approvals.
Saratoga County Planning Board	GML 239-m review
Saratoga County IDA	Possible future funding
Mechanicville-Stillwater IDA	Possible future funding
Empire State Development Corporation	Potential future funding
Village of Round Lake Board of Trustees	Traffic review and previous traffic concerns
Saratoga County Water Authority	Potential water connection into system for future owners in the project
New York State Department of Environmental Conservation	Potential SPDES construction activity permit
New York State Department of Transportation	Traffic impacts and mitigation concerning continuing review of I-87

III. Other Federal and State Reviewing Agencies (Non-SEQRA)

Agency	Permit / Approval
US Environmental Protection Agency	Change of use of federal superfund site

## **3.0 FACTS AND CONCLUSIONS**

### **3.1 Transportation**

- 1) An updated Traffic Summary from 2014 analyzed the changes to the permitted uses as proposed by the amendments in order to assess impacts, if any, on traffic trips.
- 2) A comparison of the currently approved development within LFTC and the phased trip thresholds established in the Prior SEQRA (Phases 1 through 4) record indicate that 366 AM peak hour trips and 526 PM peak hour trips remain available before the Phase 4 trip thresholds are exceeded. The traffic impacts from the uses proposed are comparable to the impacts related to the existing uses in the legislation from the review in the Prior SEQRA Record.
- 3) There are no new adverse traffic impacts expected to result from the changes in use in the LFTC PDD.

### **3.2 Infrastructure**

No new or additional impacts to infrastructure resources, other than those identified in the Prior SEQRA Record, have been identified.

### **3.3 Water Resources**

No new or additional impacts to water resources, other than those identified in the Prior SEQRA Record, have been identified.

### **3.4 Geology**

No new or additional impacts to geological resources, other than those identified in the Prior SEQRA Record, have been identified.

### **3.5 Fish and Wildlife**

No new or additional impacts to fish and wildlife resources, other than those identified in the Prior SEQRA Record, have been identified.

### **3.6 Vegetative Impacts**

No new or additional impacts to vegetative resources, other than those identified in the Prior SEQRA Record, have been identified.

### 3.7 Historic and Archeological Resources

No new or additional impacts to water resources, other than those identified in the Prior SEQRA Record, have been identified.

### 3.8 Health and Safety

No new or additional impacts to health and safety, other than those identified in the Prior SEQRA Record, have been identified.

### 3.9 Land Use and Zoning

- 1) The applicants seek the following changes related to the permitted uses with the LFTC: (1) to make permitted uses universally available within Development Areas 2-9 and 11; (2) to change definitions for “nanotechnology support manufacturing business”; and (3) to expand the list and definitions of permitted uses.
- 2) The Prior SEQRA Record contains the intention for an ‘industry cluster’ focus as the desired development within the LFTC to maximize the highest and best use of the project site. With GLOBALFOUNDRIES occupying and operating in Development Area 1, the permitting of the allowable uses in any of the available ancillary use Development Areas remains the highest and best use of land while meeting the intention of the original vision of an ‘industry cluster.’ There are no environmental impacts which flow from universally permitting the approved uses in Development Areas 2-9 and 11. See Table 3.9.1.

**TABLE 3.9.1  
EXISTING AND PROPOSED USES BY DEVELOPMENT AREA**

PDD AREA	EXISTING PERMITTED USES	PROPOSED PERMITTED USES
1	<ul style="list-style-type: none"> <li>• Nanotechnology Semiconductor Manufacturing Facilities</li> <li>• Public and Private Utilities</li> </ul>	NO CHANGE
2,3	<ul style="list-style-type: none"> <li>• Nanotechnology manufacturing Support Business</li> <li>• Community uses</li> <li>• Offices</li> <li>• Public and private utilities</li> </ul>	<ul style="list-style-type: none"> <li>• Nanotechnology Manufacturing Support Business</li> <li>• Technology and Light Industrial</li> <li>• Research and Development</li> <li>• Campus Commercial</li> <li>• Community Uses</li> </ul>

		<ul style="list-style-type: none"> <li>• Offices</li> <li>• Public and private utilities</li> </ul>
4,5,9	<ul style="list-style-type: none"> <li>• Nanotechnology Manufacturing Support Business</li> <li>• Offices</li> <li>• Public and private utilities</li> </ul>	<ul style="list-style-type: none"> <li>• Nanotechnology Manufacturing Support Business</li> <li>• Technology and Light Industrial</li> <li>• Research and Development</li> <li>• Campus Commercial</li> <li>• Offices</li> <li>• Public and private utilities</li> </ul>
6,7,8	<ul style="list-style-type: none"> <li>• Community uses</li> <li>• Offices</li> <li>• Public and private utilities</li> <li>• Campus Commercial (by special use permit)</li> </ul>	<ul style="list-style-type: none"> <li>• Technology and Light Industrial</li> <li>• Campus commercial</li> <li>• Research and Development</li> <li>• Community uses</li> <li>• Offices</li> <li>• Public and private utilities</li> </ul>
10	<ul style="list-style-type: none"> <li>• Single family residential</li> <li>• Public and private pathways and trails</li> <li>• Public and private utilities</li> </ul>	NO CHANGE
11	<ul style="list-style-type: none"> <li>• Conference center (40 rooms)</li> <li>• Community uses</li> <li>• Public and private utilities</li> </ul>	<ul style="list-style-type: none"> <li>• Hotel/Conference center (120 rooms)</li> <li>• Community uses</li> <li>• Public and private utilities</li> </ul>
12-15, 17, 19	<ul style="list-style-type: none"> <li>• Buffer zone</li> <li>• Managed forest</li> <li>• Managed wetland</li> <li>• Public pathways and trails</li> <li>• Public and private utilities</li> </ul>	NO CHANGE
16	<ul style="list-style-type: none"> <li>• Public pathways and trails</li> <li>• Managed wetlands</li> <li>• Public and private utilities</li> </ul>	NO CHANGE
18	<ul style="list-style-type: none"> <li>• Community uses</li> <li>• Public park</li> <li>• Public pathways and trails</li> <li>• Public and private utilities</li> </ul>	NO CHANGE

- 3) The definition of ‘Nanotechnology Manufacturing Support Business’ currently requires a finding that a business’s goods and services must be “of use” to a nanotechnology manufacturing facility. The proposed amendment would be broader and more flexible so as to require a demonstration of “related or

compatible” to a nanotechnology manufacturing facility in order to be considered a permitted use. The intent of the Prior SEQRA Record was that the “support” businesses to the anchor facilities be “a general rather than specific requirement” and, consistent with this conclusion, the change will not result in any new adverse environmental impacts. See Table 3.9.2.

- 4) Businesses operating under the ‘Campus Commercial’ use are intended to serve the needs of the Campus community through the sale of goods and services. By limiting this use we intend to limit any negative economic impact that such use may have on businesses and services outside the campus. This use is intended to reduce environmental impacts by providing amenities on site. The limitation of 50,000 square feet for the total square footage of Campus Commercial is appropriate and intended to retain the core businesses of the Campus to nanotechnology manufacturing and businesses supporting same, technology and light industrial uses, as well as businesses focusing on research and development, all within the parameters described elsewhere in this Statement of Findings.
  
- 5) The Statement of Findings from 2004 provided that the ancillary uses were intended to be “minor manufacturing, office, R&D, and wholesale and other uses which support the anchor Fabs.” The proposed amendments will vary the language of the permitted uses in Development Areas 2-9 and 11 in order to provide greater flexibility as to the types of business which can locate in those areas while maintaining and enhancing the spirit and intent of the original technology campus concept. See Table 3.9.2.

**TABLE 3.9.2  
EXISTING AND PROPOSED DEFINITIONS FOR PERMITTED USES**

USE	EXISTING DEFINITION	PROPOSED DEFINITION
Nanotechnology Manufacturing Support Business	Those businesses and governmental entities which provide goods and services of use to Nanotechnology Manufacturing Facilities including Research and Development Facilities.	Those businesses and governmental entities which are related and compatible with Nanotechnology Manufacturing Facilities, including Research and Development Facilities, as limited by the thresholds and limitations contained within the SEQRA record for this PDD.
Technology and Light Industrial	None	Businesses, including technology or research offices, involved in the production of technologically

		<p>complex products, new or advanced materials, products with highly sophisticated designs, and other innovative products, including processing, packaging, incidental storage, sales and distribution, and exclusive of uses which emit offensive, noisy or otherwise objectionable disturbances such as vibration, dust or odors.</p>
<p>Research and Development Facilities</p>	<p>None.</p>	<p>A building or structure built, altered or equipped for experimental or scientific study or testing and analysis for experimental research, including laboratories, in the natural, physical or social sciences or engineering and development as an extension of investigation with the objective of creating end products, including the limited construction of pilot or test models and materials and which does not emit or pass of sound, vibration, light, odor, smells, smokes and other noxious products beyond the boundaries of the structure, and does not include activities involving living organisms of any kind.</p>
<p>Campus Commercial</p>	<p>Non-destination business intended to serve the needs of the Campus community. Most uses require a Special Use Permit from the Town Board, as set forth in paragraph C.</p>	<p>Businesses intended to serve the needs of the Campus community which are (1) located within buildings; and (2) provide goods and services, including but not limited to, restaurant, fast-food restaurant, retail business, dry-cleaning, banking, convenience store, day-care center (child), drugstore, fitness center, and personal service shop. Each</p>

		business space is limited to 5,000 square feet and the aggregate square footage shall not exceed 50,000 square feet for the entire campus.
<b>Hotel/Conference Center</b>	A conference center, lodge or retreat to be used by its owner or the Owners for the benefit of its own employees or guests, or for lease by a single user for its own employees or guests. Such conference center, lodge or retreat shall not be used as a hotel, and the rental of individual rooms containing sleeping quarters shall be limited to those participating in events within the conference center, lodge or retreats.	A conference center, lodge or retreat to be used by its owner or the Owners for the benefit of its own employees or guests, or for lease by a single user for its own employees or guests, including support activities such as food preparation. There shall be a maximum of one (1) hotel/conference center within the PDD.
<b>Buffer Zone</b>	An area of woods and undisturbed growth at the perimeter of the District as set forth on the Maps (Exhibit A), being at least 400 feet in width adjacent to residential Areas (except in Development Area 11 which will have a minimum 200 foot buffer), and 100 feet adjacent to roads. Forest management plans shall provide that mature trees shall be retained to the maximum extent possible within 100 feet of roadways and residential areas.	An area of woods and undisturbed growth at the perimeter of the District as set forth on the Maps (Exhibit A), being at least 400 feet in width adjacent to residential Areas (except in Development Areas 4 and 11 which will have a minimum 200 foot buffer), and 100 feet adjacent to roads as measured from pavement. Forest management plans shall provide that mature trees shall be retained to the maximum extent possible within 100 feet of roadways and residential areas.
<b>Community Uses</b>	Uses provided by public or not-for-profit entities such as public schools, community recreational	Uses provided by public or not-for-profit entities such as public or private schools, community recreational facilities, public safety

	<p>facilities, public safety facilities, college satellite campus, library, playground, playing fields and similar uses for the uses and benefit of residents of the surrounding communities as well as users of the Campus.</p>	<p>facilities, nursery school, college satellite campus, library, playground, playing fields and similar uses for the uses and benefit of residents of the surrounding communities as well as users of the Campus.</p>
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- 6) As with all uses in the LFTCPDD, the existing thresholds and limitations within the SEQRA record control the availability of utilities, traffic capacity, and all other mitigation measures identified in the Prior SEQRA Record.

**3.10 Socio-Economic Impacts**

- 1) The proposed amendment includes the removal of the existing limitation in the LFTC PDD which prevents owners within the Campus from applying for or receiving tax abatements through a Payment-in-lieu-of-Taxes agreement (“PILOT”).
- 2) The Prior SEQRA Record contained two recitations about the limitation on PILOTs from the original LFTC PDD: (1) PILOTs were not a sufficient tax incentive to entice an anchor fab tenant to the site without extensive NYS tax incentives; and therefore (2) a limiting condition on the use of PILOTs could be added to the legislation to address any potential tax shortfall to the Towns in the event the Empire Zone Program was terminated.
- 3) In the time since those statements were made, GLOBALFOUNDRIES has located on site as the anchor fab tenant, it is a participant in the NYS Empire Zones program and has remained a participant through “grandfathering” following the NYS Empire Zone Program termination in 2010. Therefore, the conditions under which the tax abatement limitation was created have substantially changed.
- 4) In 2013, the tax payments received by the Towns and other taxing entities from the only major tenant in LFTC (GLOBALFOUNDRIES) include (1) \$592,270.89 in Town taxes; (2) \$525,704.89 in emergency response levies; (3) \$1,532,106.91 in County tax payments; (4) \$10,260.00 for the Malta library; and (5) \$11,083,152.74 in school tax payments. The amounts received are consistent with the projection of economic development from the anchor fab tenant in Development Area 1. Additional and updated fiscal information is extensively provided in the TSEIS.

- 5) However, the Prior SEQRA Record indicates that “the economic impacts of ancillary development that [are] likely to occur on areas within LFTC not occupied by the anchor tenant . . . [are] secondary or indirect economic impacts . . .”. With GLOBALFOUNDRIES operating in Development Area 1, the only Development Areas which remain available in LFTC are those with space for ancillary development, and as such, the economic impacts of this type of development are considered secondary or indirect.
- 6) In light of the fact that there has been a significant and positive economic impact as a result of the LFTC PDD and that any change to the legislation concerning tax abatements will necessarily affect only ancillary development (secondarily or indirectly), there are no new socioeconomic impacts other than those identified in the Prior SEQRA Record, that have been identified.

### 3.11 Noise

- 1) The amendments propose to modify the legislation in Malta from an existing night/day noise limitation of 45/55 dBA to 50/60 dBA . Recently, the Town of Malta engaged in a SEQRA process to determine the impacts of modifying its Town-wide noise ordinance and ultimately determined decibel levels at 50 dBA during the evening and 60 dBA during the day caused no significant environmental impact. With respect to the LFTC, 2003 AGI Report included an assumption that “typically the site should achieve less than 55 dBA during the day and 45 dBA at night . . .”. As such, there is no environmental impact associated with modifying the decibel limitation in the LFTC to 50/60 dBA.
- 2) In order to effectively monitor and further regulate the noise (decibel) limitation change as set forth above, the Town of Malta will add an octave band limit and modify the receptor locations. Both the 50/60 dBA limit and the octave band limits set forth in the chart below (Table 3.10.1) establish the noise level limits when measured at or within the real property line of any residential property. Noise receptors will be relocated so as to measure the noise level limits at or within the real property line of any residential property. If their performance is impaired or affected by topography or other geographic conditions, the Planning Board will issue a letter to the owner of the land on which the receptor is located which notifies the owner of impaired performance and directs where the receptor is to be relocated. These noise level limits and measurement locations replace and supersede the previous limits and locations established in the SEQRA record.

TABLE 3.10.1  
 DAYTIME AND NIGHTTIME UNWEIGHTED OCTAVE BAND LIMITS  
 FOR RESIDENTIAL PROPERTY RECEIVERS\*

	Octave Band Center Frequency, Hz								
	31.5	63	125	250	500	1000	2000	4000	8000
Daytime 7:00 A.M. to-9:00 P.M.	94	80	72	65	61	58	55	53	51
Nighttime 9:00 P.M. - to- 7:00 A.M.	87	72	62	54	49	46	43	41	39

\* When measuring continuous octave band sound, the measuring device shall be set for “flat” or “liner” weighting (do not use “A” scale), “slow meter response.”

### 3.11 Recreation

- 1) Owners and operators in the LFTC are currently obligated to pay an Open Space/Recreation Fee for development in accordance with Town of Malta Local Law 6-2004 Section W.5.(b).(3).
- 2) The applicants seek a legislative codification of the current fee collection policy in place at the Malta Building and Planning Department which consists of calculating all fees at the time of site plan application and payments to be made in one half increments at the time of the issuance of a building permit and the at the issuance of a certificate of occupancy.
- 3) Due to the existing policy and procedure, there are no new adverse impacts expected to result from the clarification in the manner in which open space and recreation fees are calculated and collected.
- 4) Furthermore, the proposed modifications to the Development Agreement section (§167A-52 (F)) of the existing legislation are specifically denoted as separate and apart from the SEQRA review process and any change will be a legislative enactment with no significant adverse environmental impacts associated thereto.

### 3.12 Open Space

No new or additional impacts to open space resources, other than those identified in the Prior SEQRA Record, have been identified.

### 3.13 Educational Facilities

No new or additional impacts to educational facilities, other than those identified in the Prior SEQRA Record, have been identified.

### 3.14 Visual Impacts

- 1) The amendment seeks to remove the requirement that soil disturbance must not take place until after site plan approval. The stated purpose in the Prior SEQRA Record for limiting the ability to disturb soil until after a site plan approval was to eliminate “clear cutting for the purpose of creating views.”
- 2) Although much of LFTC was forested prior to the real property transfer to LFTCEDC, the 100 ft buffers around the PDD lands were intended to screen the viewsheds into the campus. All 100 ft buffers have been and will be maintained as visual resource mitigation. However, the applicants seek the ability to permit soil disturbance prior to site plan approval in accordance with the recently enacted Article 136 of the Malta Town Code which enables the Town’s Code Enforcement Officer or Stormwater Management Officer to review plans and approve any plans to move soil greater than 1 acre. The provisions of Article 136 of the Malta Town Code are sufficient to prevent adverse environmental impacts from clearcutting or erosion.
- 3) Additionally, the Prior SEQRA Record provides support for the elimination of subdivision approval as duplicative to site plan review within LFTC. When the original legislation was passed, however, subdivision was not removed but rather required to occur following site plan approval. The proposed amendments would allow subdivision in advance of site plan approval in accordance with Chapter 143 of the Malta Town Code and similar to all other landowners in the Town. The subdivision provisions in the Malta Town Code are sufficient to prevent adverse environmental visual impacts related to subdivision of land prior to site plan approval.
- 4) Furthermore, the proposed amendments seek to clarify and correct surrounding the original intent of the 400-ft buffer for neighborhood residences by extending the 200-ft buffer exception to Development Area 4. The Prior SEQRA Record required the buffer for the residences closest to areas of impact which included the Luther Forest Neighborhood, but did not include the Joyce/Knapp Road homes nearly ½ mile from Development Area 4. Therefore, there are no significant adverse environmental impacts related to reducing the 400-ft buffer requirement from Development Area 4 to 200-ft.

### **3.15 Emergency Services**

No new or additional impacts to emergency services, other than those identified in the Prior SEQRA Record, have been identified.

### **3.16 Construction Impacts**

No new or additional construction impacts, other than those identified in the Prior SEQRA Record, have been identified.

### **3.17 Architectural Guidelines and LEED Certification**

No new or additional impacts to architectural guidelines and LEED certification, other than those identified in the Prior SEQRA Record, have been identified.

## 4.0 NO ACTION AND ALTERNATIVES

### 4.1 No Action

- 1) The No Action alternative assumes that the LFTCPDD remains in its existing state without any modifications to address the circumstances which have caused a lack of interest among potential tenants to locate on site or to clarify noise monitoring, open space fee collection, and recreation fee collection processes.
- 2) Under the No Action scenario, LFTCEDC (or its successor) would continue in efforts to market the Campus to potential developers. There is the possibility that, over time, economic conditions could shift such that LFTC is a desirable location for certain projects and the Towns could potentially realize the 2004 vision without any changes in the governing legislation. In accordance with No Action, the uses would remain limited and specific with emphasis on the GLOBALFOUNDRIES supply chain and a limited conference center and retail presence. Additionally, the Towns would presumably maintain the tax abatement limitation which would result in continued real property tax revenue to the Towns and the school districts for new projects within LFTC. The processes in place for subdivision, soil disturbance, and open space fee and recreation fee collection would also remain constant. Finally, the noise monitoring locations and decibel limitations would remain in place.
- 3) There is also potential under a No Action scenario that the barriers to development within LFTC, as cited by the applicants, could remain in place and leave GLOBALFOUNDRIES as the sole tenant within LFTC for the foreseeable future.

### 4.2 Alternative PDD Uses

- 1) In order to maintain the goals of the LFTC Campus as set forth in the both the Prior SEQRA Record and the Master Plan, alternative land uses which did not support the campus-style model and did not have an emphasis on technology sector jobs were not considered. The revised definitions for *nanotechnology support manufacturing business, campus commercial, conference center, research and development, and technology and light industrial* all relate to the findings in the Prior SEQRA Record, but provide increased flexibility in the “as of right” tenants who could potentially locate on the site. Specifically, the current “campus commercial” use is allowed by special use permit in Development Areas 6, 7 and 8 under a slightly

different definition than proposed by the applicants. While the current definition includes “goods and services” which serve the LFTC tenants, it is noted that the language provided in the proposed amendments includes specificity where there is currently none in the legislation. Campus commercial could remain by special use permit authority only with the general definition for guidance, but such a scenario was ultimately disregarded in favor of limitations on retail such as square footage and location within buildings on-site. Other uses such as heavy industry, mixed use, and light industrial without the demonstration of a technological component were considered, but were disregarded because of their lack of compliance with the existing Comprehensive Plans.

- 2) The alternative PDD uses would be no more protective of the environment than those proposed, and would be contrary to the articulated land use plans for the Towns.

### **4.3 Alternative Tax Incentive Programs**

- 1) Both START-UP NY and the Excelsior Jobs Programs were considered as alternatives to permitting PILOT agreements between potential tenants in LFTC and local IDAs. These were ultimately determined to not be practical alternatives to PILOTs. First, START-UP NY is contingent upon the application process and terms set forth by ESDC and HVCC. It has a limited radius of one-mile which would only cover a portion of LFTC unless extended by an HVCC application for a qualifying project. While providing numerous tax incentives, the START-UP NY program does not provide relief from local real property taxation to non-exempt land owners and it significantly limits the field of potential tenants who would qualify for relief. Therefore, is not a comparable alternative to a PILOT agreement. Second, the Excelsior Jobs Program (EJP) has a determined set of private sector industries which qualify for inclusion in the program, as well as a catch-all category of “regional significant projects.” Given that GLOBALFOUNDRIES is the region’s significant project, it is unlikely that there is space or infrastructure to support a second “regionally significant project” within LFTC. As such, it is also not considered a comparable alternative to a PILOT agreement because it does not relieve LFTC from the competitive disadvantages the current tax abatement policy imposes.
- 2) While it is alternately possible to allow PILOT agreements to only those tenants who do not otherwise qualify for a NYS tax incentive program such as those mentioned above or ones to be created in future, the ability to rely on a PILOT for entities would be the single greatest inducement to

build within LFTC, and without it, would be a financial barrier for a business seeking to locate within the Campus. Such an alternative is less than desirable because it still allows better economic incentives (PILOTs and NYS tax incentives) to those locating anywhere besides LFTC, which maintains the only such restriction in NYS, including lands just outside of the Campus in both Towns.

#### **4.4 Alternative Soil Disturbance Process**

- 1) The enactment of soil disturbance protection provisions in the Town of Malta in the form of Article 136 provides the comprehensive review for the pre-site plan clearing and grubbing for all owners within the Town, as well as authority to review and issue Stormwater Pollution Prevention Plans (SWPPP) under its MS-4 designation. Alternatives could include a provision written specifically for LFTC, as opposed to the general provisions applicable to all landowners within the Town, which is similar to the 2008 GLOBALFOUNDRIES PDD amendment and includes a process for soil disturbance in advance of final site plan approval but still contemporaneous with a site plan application . Section DD.16 of the current LFTCPDD in the Town of Malta provides a process limited to Development Area 1 only which provides authority to the Towns to issue a “Soil Disturbance Approval.” Under the existing legislation for Development Area 1, entities may apply to receive permission to clear, grub, excavate and place fill on site, following the application for site plan, but in advance of site plan approval, provided that a SWPPP is in place and all other requirements for a SPDES General Permit are met.
- 2) The alternative of utilizing a similar process of that for Development Area 1, however, was not considered because it (1) would prohibit LFTCEDC, as the land owner and unlikely site plan applicant, to clear, grub and move fill on the sites it is preparing for sale to third parties; and (2) creates a process separate and apart from that which the Towns have since put in place to monitor and control all soil disturbance for lands within their jurisdiction. Given that the Town has determined the best practices for soil disturbance, uniformity for that practice is desirable.

#### **4.5 Alternative Subdivision Process**

- 1) The Town of Malta has subdivision review legislation which provides the necessary oversight and approval of the subdivision of land within LFTC. Alternatives for the Town of Malta could include a provision written specifically for LFTC, as opposed to the general provisions applicable to all landowners within the Town, and similar to the 2008

GLOBALFOUNDRIES PDD amendment which included a process for subdivision approval to occur alongside site plan review, but in advance of final site plan approval. Section DD.19 provides that an entity “may subdivide prior to final site plan approval, provided there is compliance with all other conditions set forth herein.” The conditions referenced in the Malta LFTCPDD include reciprocal easements, maintenance for financial commitments, and pre-payment of fees for the Landowners’ Association (See DD.19).

- 2) However, there are a variety of reasons such an alternative was not considered. First, the applicants propose a legislative amendment that maintains the ability of the Town of Malta to require the advancement fees for the Landowners’ Association prior to subdivision, but references the Town’s ability to require access easements and reciprocal agreements as part of its subdivision authority under Chapter 143 of the Zoning Code. Furthermore, the ability to obtain financing from a lender often includes the requirement that the tenant own the land for which a security instrument can be placed upon the property. The inability to be able to demonstrate ownership of the land can be an obstacle to obtaining necessary financing to commence a site development process, including the cost of engineering a full site plan. Finally, the Prior SEQRA Record indicates a desire to have “shovel ready” sites which allow developers to “limit further discretionary approvals” which, at the time, included subdivision. No amendment is being requested which would eliminate site plan review, as suggested as advantageous in the Prior SEQRA Record, but rather allows the Town to utilize its existing land use controls under Chapter 143.

#### **4.6 Alternative Decibel Limitations**

No alternatives to the monitoring locations or the increase of decibel limitation within LFTC to levels commensurate with all other areas within the Town were considered. Given the existing findings of non-impacts by the Towns under their current location and noise ordinances, no other noise levels are necessary for consideration.

#### **4.7 Alternative Open Space and Recreation Fee Payments**

- 1) The Town of Malta has a policy concerning the calculation and payment of open space and recreation fees from a timing perspective, while the Town of Stillwater does not. For purposes of uniformity and predictability, the applicants propose the use of the existing Malta policy within the legislation.

- 2) Alternatives were not considered in this circumstance because of the Town's existing policy which has operated for GLOBALFOUNDRIES and will presumably operate for any future tenant.

#### **4.8 Unavoidable Adverse Impacts**

There are not expected to be any unavoidable adverse impacts associated with the proposed action. All potentially adverse environmental impacts are planned to either be avoided, minimized to nominal (i.e., minor) levels, or appropriately mitigated such that they do not constitute a significant adverse impact.

#### **4.9 Cumulative Impacts**

The cumulative and growth inducing impacts of the proposed action, including socio-economic factors, were comprehensively summarized in the Prior SEQRA Record and TSEIS. These are baseline SEQRA conditions which are unchanged by the proposed action.

**5.0 CERTIFICATION**

Having considered the draft and final Third Supplemental Environmental Impact Statement and having considered the preceding written facts and conclusions relied on to meet the requirements of 6 NYCRR Part 617.11, this Statement of Findings certifies that:

- 1) The requirements of 6 NYCRR Part 617 have been met; and
- 2) Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impact to the maximum extent practicable, and that adverse impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.

Town Board of the Town of Malta

\_\_\_\_\_  
Signature of Responsible Official

\_\_\_\_\_  
Name of Responsible Official

\_\_\_\_\_  
Title of Responsible Official

\_\_\_\_\_  
Date

Town Board of the Town of Malta, NY  
2540 Route 9  
Malta, New York 12020

cc: Town of Stillwater, Town Board  
Luther Forest Technology Campus Economic Development Corporation  
GLOBALFOUNDRIES US, Inc.