

# Tree Top and the Cornwall Comprehensive Plan Update

Assembled from Town of Cornwall correspondence, a Town Board resolution, and a consultant report. Each entry is tied to a document reproduced behind this page or to an identified public record.

AUG 3, 2023  
EXHIBIT A

## ● A land trust officer, wearing a Town hat, proposes funding opposition research

Edward “Ted” Warren, Public Policy Coordinator of the Hudson Highlands Land Trust, emails Supervisor Joshua Wojehowski and Wynn Gold. Writing, he says, in his Cornwall Conservation Advisory Council capacity, he proposes that the land trust pay a consultant to manufacture “more robust objections” to the DEIS. He states the purpose plainly: objections strong enough to “convince Chrissy to talk.” The review is leverage, and he floats a land swap as the trade.

AUG 17, 2023  
EXHIBIT B

## ● Two weeks later, Warren asks the Town for the DEIS

He emails Wojehowski, Neil Novesky and Gary Vinson, copying counsel at Drake Loeb PLLC, asking whether an electronic copy of the Tree Top DEIS is available “for interested agencies.” He signs as an officer of the land trust.

FEB 15, 2024  
EXHIBIT C

## ● The commissioned study is delivered

Hudsonia Ltd. delivers a fifteen page biodiversity assessment prepared expressly for the Hudson Highlands Land Trust. It concludes that the applicant’s DEIS is deficient and dismisses the project’s impacts on wetland and forest habitat.

FEB 25, 2025  
EXHIBIT D

## ● The Comprehensive Plan is reopened

The Town Board creates a five member Comprehensive Plan Advisory Committee and names Wynn Gold chairman on the spot.

FEB 25, 2025  
WITNESS ACCOUNT

## ○ The same night, a resident is told the seats are already picked

Angelo Schembari says that Wynn Gold told him that evening the committee had already been picked. The resolution adopted that night named only Gold and left the other four seats to a later vote of the Board.

MAR 10, 2025  
EXHIBIT E

## ● Warren clears it with his employer, then takes the seat

Warren tells Gold his Executive Director sees “no internal reason why I would not be able to sit” on it. He is appointed. The organization that paid for the study opposing the project now helps write the Town plan governing it.

APR 8, 2025  
MEETING VIDEO

## ○ The Supervisor says the idea to reach the owners just came up

On the record, Joshua Wojehowski says “the idea came up, let’s reach out to the property owners.” That idea had been put to him in writing in August 2023 by Warren, along with the parcel swap. Video at 4:50. <https://www.youtube.com/watch?v=kWn0kriO5to>

## How the process was shaped

A short reading guide to the documents that follow.

### The environmental review as leverage

The August 2023 email is not a letter of environmental concern. Warren proposes that his private employer pay a consultant to generate stronger objections to the DEIS, and he says why: to make the objections severe enough that the landowner will come to the negotiating table. He is explicit that what he wants out of it is a different deal, floating a swap of the NYMA parcels for a smaller project. He writes this while describing himself as acting in his capacity on a Town advisory council, and he sends it to the Supervisor and to the man who would later chair the Comprehensive Plan committee. The public comment period exists so that a lead agency can weigh environmental impacts under SEQRA. Here it is discussed as a pressure instrument, and the expert findings are budgeted for in advance of anyone knowing what they would say.

### What followed

Two weeks later Warren asked the Town for the review document itself, describing the request as one made for interested agencies. Six months after that, the study his employer commissioned was delivered, concluding that the applicant's DEIS was deficient. In March 2025, after the Town Board created the Comprehensive Plan Advisory Committee, Warren cleared his participation with his employer rather than disclosing the conflict publicly, sought the appointment, and received it.

### The pattern

A single person moves through four positions in sequence: opponent of a project, holder of a Town advisory seat used to enter the review, procurer of the Town's review documents on behalf of a private organization, and finally author of the Town plan governing the land in question. At every step the instrument being used is a public process, and at no step is the public in the conversation. A resident who asked about serving says the chairman told him, on the night the committee was created, that the seats had already been picked. The resolution adopted that same evening left four of the five to a later vote of the Board.

### What these documents do not establish

No document in this packet proves an agreement, an exchange of value, or that any appointment was fixed before the Town Board acted. Those would be inferences, and readers are entitled to draw their own or to decline to. What the documents do establish is dates, authorship, recipients, and text. They are reproduced here in full and unedited so that the record can be read directly rather than taken on anyone's characterization of it.

### Open questions

Who retained Hudsonia, on what date, and under what terms. Whether the Conservation Advisory Council was aware that one of its members was simultaneously acting for a private organization with an interest in a pending application. Whether the conflict was ever disclosed to the Town Board before the appointment was made. And why records requests bearing on these questions have gone unanswered.

EXHIBIT

A

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**Email: Edward Warren to Joshua Wojehowski and Wynn Gold, copying Douglas Land**

SUBJECT: TREE TOP / AUGUST 3, 2023, 6:50 PM

**From:** Edward Warren <edward.warren@hhl.org>  
**Sent:** Thursday, August 3, 2023 6:50 PM  
**To:** Joshua Wojehowski; Wynn Gold  
**Cc:** Douglas Land  
**Subject:** Tree Top

Hi Josh and Wynn,

I'm getting ready (in my CCAC capacity) to wade into the DEIS and start making notes for the public comment period, and I'm curious as to whether or not there have been any substantive conversations with Chrissy Amato. I can't help but feel like there could be a big picture connection between whatever might happen with the NYMA property and the Tree Top parcel/project. For example, if the Town were to somehow acquire the NYMA parcels, would there be an opportunity to trade Chrissy the donut hole in exchange for a smaller (but still lucrative enough) project clustered closer to 9W with a preserved buffer along the Moodna and the neighborhoods to the south? Could there be some value to HHLT throwing some money at a consultant to review the DEIS and create more robust objections that might convince Chrissy to talk?

I'd hate to see this project move forward as is without at least trying to talk to her--that is unless that's already been tried. I understand that because of Dick and Co.'s lack luster spot zoning she kind of has the town over a barrel, but I wonder if she might be open to some suggestions that are a little more creative than fucking warehouses.

T.

Edward Warren  
Public Policy Coordinator  
Hudson Highlands Land Trust, Inc.  
(215) 609-2639

## ISSUES AND BACKGROUND

EXHIBIT

B

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**Email: Edward Warren to Joshua Wojehowski, Neil Novesky and Gary Vinson, copying counsel at Drake Loeb PLLC**

SUBJECT: CORNWALL LOGISTICS, LLC DEIS / AUGUST 17, 2023, 11:11 AM

**Joshua Wojehowski**

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**From:** Edward Warren <edward.warren@hhlt.org>  
**Sent:** Thursday, August 17, 2023 11:11 AM  
**To:** Joshua Wojehowski; Neil Novesky; Gary Vinson  
**Cc:** dcordisco@drakeloeb.com  
**Subject:** Cornwall Logistics, LLC DEIS

Good morning all,

I'm wondering if an electronic copy of the Tree Top project DEIS is available for interested agencies. I poked around in the TB agendas section of the website, but did not see anything.

Thanks!

Ted

Edward Warren  
Public Policy Coordinator  
Hudson Highlands Land Trust, Inc.  
(215) 609-2639

EXHIBIT

C

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## **Preliminary Biodiversity Assessment and Review of the Proposed Treetop Warehouse Complex Project**

ERIK KIVIAT, HUDSONIA LTD. / PREPARED FOR THE HUDSON HIGHLANDS LAND TRUST / 15 FEBRUARY 2024



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a nonprofit institute

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**Preliminary Biodiversity Assessment and Review of the Proposed  
Treetop Warehouse Complex Project, Route 9W and Route 74,  
Town of Cornwall, Orange County, New York**

**Erik Kiviat  
Hudsonia**

**Prepared for the Hudson Highlands Land Trust**

**15 February 2024**

## **Introduction**

At the request of the Hudson Highlands Land Trust, I reviewed selected environmental documents for a large proposed Cornwall Logistics, LLC (“Treetop”) warehouse complex and performed a preliminary biodiversity assessment of the site south of Route 74 and west of Route 9W in the Town of Cornwall, Orange County, New York (street address 2615 US Route 9W). The proposed warehouse buildings would cover almost a quarter of the 200 acre, currently forested site. The aim of this review and assessment was to identify any special biological resources of the site, determine if the information presented by the applicant is adequate for planning, and conceptualize potential adverse impacts on biodiversity of the proposed development project.

Hudsonia does not advocate for or against land use projects. Rather, we use information from planning documents, maps (e.g., geologic, soils, wetlands, satellite imagery), Hudsonia files, scientific and natural history literature, and field observations to analyze impacts on biodiversity and make recommendations for reducing those impacts. Hudsonia’s reports are publicly available to local and other government agencies, citizens’ and environmental groups, landowners, and the general public.

## **Overview of site and study methods**

The bedrock geology underlying the site is unknown because of deep regolith (overburden) cover associated with the Moodna Creek corridor (Fisher et al. 1970, Cornwall 2019). The surficial geology is glacial outwash and a lacustrine delta (Cadwell et al. 1986). Soils of the site are predominantly silt loams (<https://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>). The northwestern portion of the site has abundant cobbles embedded in the soil; embedded boulders or outcrops are scattered elsewhere. An off-road vehicle (ORV) or work vehicle trail in the north-central area exhibits deep erosion (about 1 m). I found no evidence of an onsite soil survey in the environmental documents; soils data are taken directly from the USDA and may not be accurate at the scale of the proposed development. Most or all of the site has Soils of Statewide Importance (DEIS p. 166), presumably what are usually referred to as Farmland of Statewide Importance.

I reconnoitered the site ca 1030-1630 h EST on 8 February 2024. The weather was mostly sunny with high clouds, wind in the forest Beaufort 0-1, air temperature ca 40-50F, with no precipitation; there was no snow cover although some of the wetland pools had ice as much as 1 cm thick. The property was not posted and evidenced considerable public use.

Hudsonia’s methods of assessing biodiversity are outlined in the manuals prepared by Kiviat and Stevens (2001) and Kiviat and Johnson (2013).

## **Results and Discussion**

### *Wetlands*

The DEIS (p. 182) addresses six wetlands (“mapped wetlands” in this report), of which five reportedly appear on the National Wetland Inventory map. Two of these, Wetlands C and F, are considered federally non-jurisdictional; however, Wetland C drains into a northward-flowing stream and therefore may not be an “isolated,” non-jurisdictional wetland. The DEIS states that the wetlands are partly fed by groundwater, but lacks an explanation of how this was determined; many intermittent woodland pools in the region are hydrologically perched. The positioning of wetland boundary flags seemed correct at

several locations I checked; however, the flags that were present on the day of my survey were relatively far apart which could indicate that the intricacies of the wetland boundaries were not well documented.

Wetland C, mid-site, is a large, very high quality, vernal pool (intermittent woodland pool or woodland pool). The pool contains many hummocks (elevated root crowns) created by trees and shrubs, separated by water exceeding 30 cm depth at typical springtime high water level. There is a high probability that this pool supports a species-rich assemblage of breeding amphibians and macroinvertebrates. Similar pools I have studied in the Hudson Valley variably support breeding wood frog, spring peeper, spotted salamander, Jefferson salamander, marbled salamander, four-toed salamander, spotted turtle, fairy shrimp, and many other invertebrate species.

Two of the other mapped wetlands, wetlands A and D, contain potential amphibian breeding pools, essentially vernal pools surrounded by wooded swamp (see photo at end). These habitats were not recognized in the DEIS wetland descriptions. Wetlands A and D drain into small streams that exit the site.

I found four unmapped, unflagged wetlands in the northern portion of the site (Table 1). The applicant's wetland consultant may have only looked at the NWI-mapped wetlands and not reconnoitered the entirety of the site for wetlands (except Wetland A) that had not been detected in the National Wetlands Inventory. Or the consultant may have decided to ignore these smaller wetlands under the assumption they were not regulated and could legally be filled. It is important to understand that all wetlands are important ecologically, whether or not they are regulated under federal or state law.

As annual precipitation continues to increase and the concentration of precipitation in large storms increases, onsite wetlands are likely to expand at times of high water with a consequent expansion of the wetland boundary. This may affect developability of areas near the wetlands. Draining roof runoff into existing wetlands (Dynamic Engineering 2023) would exacerbate these water level increases.

### *Uplands*

#### Forest

Most of the site is covered with mature forest, mixed-species hardwoods, oak dominated, with a number of large trees up to ca 90 cm dbh (see Tree Plot Area Survey among applicant's documents), including some large tuliptrees. Downed logs (coarse woody debris), of all sizes, are common in many areas of the site. I saw several large, recently-tipped over trees. I also observed several burned (probably long ago) standing dead snags and downed logs. Some of the downed logs have loosening bark.

The forest contains extensive forest interior habitat, potentially, for breeding songbirds such as cerulean warbler and wood thrush (New York Species of Greatest Conservation Need [SGCN]). Interestingly, I saw considerable eastern bluebird foraging in two widely separated areas of the forest near wetlands, although the (non-listed) bluebird is principally a species of non-forested habitats.

#### Shrubland

In the northeast portion of the site, centered on the "dogleg" extending to Route 9W, was an area covering perhaps several hectares of thickets dominated by shrubs, woody vines, small trees, and scattered larger trees. There were grassy patches along a wide ORV trail and a large grass-forb area with a circular ORV track close to Route 9W. Thickets (often referred to as *young forest* or *shrubland*) are important habitat, that is declining in extent in the Northeast, for many species of birds and other wildlife. I can find no mention of the thickets and their habitat functions in the DEIS.

## *Rocks*

Embedded boulders (some could be small bedrock outcrops) roughly 1 m tall are scattered around the site, such as near Wetland D. Some of these rocks contain crevices that could be used by small-footed bat for roosting. DEIS page 161 states that “rock outcrops” are found throughout the site. Probably this refers mostly or entirely to embedded boulders, although it may be difficult to tell without excavation whether a projecting rock is connected to underlying bedrock or is an erratic dropped by the glaciers (or perhaps human agency). The geology section of the DEIS does not mention the large outcrop (Table 1) at the southern site boundary near Wetland F, described in the next paragraph.

An enormous isolated rock outcrop (or possibly a very large glacial erratic boulder) is located on the southern border south of Wetland F (see Table 1 and photo at end of this report). The main rock is about 5 m high and 6 m in diameter at base; it is surrounded by angular boulders that have broken off the main rock. The main rock supports various lichens and mosses, as well as a large patch of polypody fern. This rock contains crevices that could be used for roosting by small-footed bat or other bats, as well as ample elevated surfaces that could support vulnerable plants above the reach of grazing deer. If the rock is indeed an outcrop of bedrock, it could provide clues to the bedrock underlying the rest of the site, which has not been identified due to the deep overburden (Fisher et al. 1970).

There are numerous historic stone walls on the site (see the DEIS wetland map). These walls undoubtedly present clues as to historic land use, as well as providing habitat features potentially used by many wildlife species including various small mammals, winter wren, salamanders, eastern rat snake and northern black racer (the two snakes are SGCN), and by mosses and lichens. Removal or burial of portions of these walls will alter biodiversity and should be discussed in the planning process.

## *Habitat Potential*

**Bats.** There is abundant potential spring-summer bat habitat including habitat for listed species (northern long-eared bat, Indiana bat). During the warm season, bat roosts and maternity colonies are associated with trees, logs, rocks, and debris piles. The site has a substantial number of standing dead trees (snags) and downed logs with loose bark, as well as boulders or outcrops with crevices. Wetland pools and other habitats onsite are potential bat foraging habitats. DEIS page 128 asserts there is no potential summer habitat for Indiana bat onsite, notwithstanding that the site contains many standing dead and downed trees with loose bark and other cavities (Kiviat, personal observation). There is also a small number of shagbark hickory trees onsite; the voids beneath the curling bark of this species are often used by bats. DEIS (page 128) states that Indiana bats may travel 2.5 miles from known locations; this generalization is in error inasmuch as the species has been tracked some 40 miles between winter and summer habitat in the Mid-Hudson region (NYNHP 2024). The DEIS mention that no bats were seen during onsite field work is meaningless, because there is no description of searching for bats or conducting acoustic (bat detector) surveys, or even a statement that an observer was present onsite at twilight in warm weather when bats are likely to be active.

**Bald eagle.** Although bald eagle activity has not been reported from the site-proper, the location near Moodna Creek and the Hudson River estuary, and the expanding breeding population of this species, indicate the potential for nesting in tall trees on the site. There are bald eagle nests in the general vicinity (DEIS appendix) and a bald eagle was observed near the site (DEIS page 129).

**Peregrine falcon.** This species, listed as Endangered in New York, is included in the DEIS bird list due to records in the Breeding Bird Atlas but not onsite observations. However, peregrines nest in the Hudson

Highlands just across the Hudson River. Peregrines could potentially use trees at the edges of the site (e.g., at the western border high above Moodna Creek) for hunting or feeding perches. Potential presence of peregrines is not addressed in the DEIS.

Forest interior birds. Extensive hardwood forest with mature and overmature trees provides potential breeding and migrant stopover habitat for barred owl, long-eared owl, eastern screech owl, great horned owl, broad-winged hawk, cerulean warbler, wood thrush, scarlet tanager, and many other species. Barred owl, wood thrush, and scarlet tanager have been observed onsite (DEIS page 123); wood thrush and scarlet tanager are SGCN. Barred owl is not a listed species, but is dependent on extensive mature upland forest and forested swamp habitat and generally avoids areas where the forest has been fragmented.

Shrubland birds. Among potential breeding birds, for example, are black-billed cuckoo and brown thrasher, both SGCN. Many other bird and other wildlife species depend on shrubland – thickets – young forest.

Reptiles. The DEIS asserts there is no potential bog turtle (federal Threatened, New York Endangered) habitat on the site. Although I agree with the assessment, the DEIS does not document the reasoning for this conclusion. There is a standardized habitat assessment procedure, promulgated by the U.S. Fish and Wildlife Service, that should be used for wetlands on a development site.

Other reptiles likely to occur onsite, all SGCN, are box turtle, spotted turtle, eastern rat snake, northern black racer, ribbon snake, hog-nosed snake, and northern copperhead – all are known from similar habitats in the region. The spotted turtle, for example, typically inhabits a group of wetlands of variable pH, woodland pools, and forest, and is highly mobile among those habitat units. Any of these species present onsite would be at a high probability of injury or death in the parking lots and internal roads of the proposed warehouse complex.

Amphibians. The intermittent woodland pools in Wetlands A, C, and D are potential breeding habitat for four-toed salamander, Jefferson - blue-spotted complex salamanders, marbled salamander (all SGCN), spotted salamander, wood frog, and spring peeper. DEIS page 131 refers to 2006 observations of “mole salamanders” (i.e., *Ambystoma* species) without naming the species. This is unacceptable. As I point out below, in order to conserve pool-breeding amphibians it is necessary to protect forest habitat around the breeding pool as well as protecting the pool itself (Calhoun et al. 2005). Not to mention that the pools themselves must be correctly identified; the DEIS does identify the very high quality pool in Wetland C but not the pools in Wetlands A and D.

Invertebrates. The only invertebrate species of conservation concern directly addressed by the DEIS is the monarch butterfly. The DEIS states the monarch is federally listed as Endangered; this is incorrect – it is a candidate for listing but has not yet been listed. The DEIS (pages 129, 140) asserts there is no habitat for monarch on the site. However, the herbaceous meadow near the east end of the northeastern dogleg is potential monarch foraging habitat at existing forbs, and possible breeding habitat if common milkweed is also present or colonizes by means of its windborne seeds in the near future. Clearing of forest for the warehouse project would create additional potential habitat along the new forest edges and open areas (landscaped or not).

Additional invertebrates of conservation concern should be addressed. The small road pools, created and maintained by ORVs or work vehicles, in the lower end of Wetland A and at least one of the unmapped wetlands (Table 1), as well as the swamp pools, are potential habitat for various species of clam shrimps (see Schmidt and Kiviat 2007, Schmidt et al. 2018). Clam shrimps are all apparently rare in the Northeast, and most of them live in small, long-lasting rain pools on roads and trails (one species occurs in woodland

pools). Small and large temporary pools, in addition to potentially supporting clam shrimps, also tend to have species-rich assemblages of macroinvertebrates (Hudsonia, unpublished data). Patches of grass, robust little bluestem (*Schizachyrium scoparium*) or an *Andropogon* species, along and near the trails in the northeastern dogleg, could support various species of butterflies, some at least regionally-rare here, for which these grasses are larval host plants. Inasmuch as the dogleg could be used for an entrance road, the biology of that area is important to survey.

DEIS page 176 asserts no “benthic invertebrates” on the site. This is a peculiar claim, inasmuch as the small streams almost certainly have a few benthic invertebrates that can occur in intermittent or small perennial streams. Moreover, the woodland pool areas of the wetlands almost certainly have diverse benthos, based on extrapolation of the results of a two-year Hudsonia study of temporary pools, some of which were similar to those at the warehouse site, in Ulster and Dutchess counties.

Plants. Evidently the flora list for the site (DEIS) was compiled during the wetland delineations and the transect survey. Those surveys omitted the very great majority of the site. Biological surveys, in order to be thorough and useful for conservation planning, must address localized features that may not be intercepted by transects, such as the large rock outcrop and the edges of the road through the northeastern dogleg. A rare sedge, *Carex seorsa*, was reported on the site in 2006 (DEIS). This is a species of hardwood swamps and ample potential habitat is present. The DEIS states that it wasn’t found during the applicant’s studies of the last few years but there is no description of how this species was searched for (if at all). I greatly doubt that the DEIS flora list is comprehensive, and *Carex seorsa* or other rare plants such as certain orchids of mature forest may well be present. Some *Carex* sedges have short phenological periods during which they are identifiable to species, and certain orchids are notorious for not appearing above ground every year.

Environmental weeds (invasive plants) are relatively sparse on the site. This is probably due to the relative lack of recent disturbance on the site. The weeds I observed were Thunberg barberry, winged euonymus, privet, Bell’s honeysuckle, tree-of-heaven, stiltgrass, knapweed (*Centaurea* sp.), and jimsonweed. Also there was a very small patch of stunted common reed in the northern tail of Wetland C. The DEIS mentions additional species including angelica tree. Development of the site would result in the spread of those species and establishment of additional species including knotweed which is abundant just north of the site. Construction equipment, and freight trucks, are likely to bring seeds or other weed propagules onto the site.

### *Cultural*

The site contains cultural resources including a stone wall-lined pit, and an array of stone walls that could have been part of a livestock farm (the latter are shown on the DEIS wetland map). In addition I noted many signs of recent and older human activity including deer stands, trail cameras probably emplaced by hunters, a hunting blind, dumps, litter, and ORV trails. The stone-lined pit may be a partly-filled old shallow well, as those features in our region are typically stone-lined; a disused well could have been used as a refuse pit or filled for safety reasons.

### **Potential impacts**

The combined footprint of the proposed buildings *alone* would be 46 acres or about 23% of the ca 200 acre (81 hectare) site. Parking areas and other infrastructure would account for a substantial additional area. This would fragment the now-intact forest block. Fragmentation, combined with noise and visual disturbance, could cause area-sensitive or forest-interior species, such as barred owl and wood thrush, to

leave the site or experience reduced nesting success. Amphibians and reptiles would be subject to injury and mortality from vehicles and construction equipment, and potentially entrapment in *pitfalls* such as window wells, percolation test pits, or utility ditches.

DEIS page 128 asserts that vegetation removal will only result in temporary disturbance to flora and fauna. However, if a specific element, such as a tree or rock with microhabitats used by bats, is removed, there may not be an equally suitable roost site elsewhere. The same can be said for many other wildlife and plant taxa. Moreover, the dispersal (displacement) of animals caused by a major disturbance such as the proposed warehouse project would stimulate many wildlife movements across roads where animals would be exposed to injury or death from traffic. Some of this would occur right on the site, considering the large numbers of heavy trucks that would be entering and exiting the site during warehouse operation, not to mention construction equipment. Beyond that certain species may be using very specific habitat features that do not occur nearby, some species may not be able to cross intervening habitats, or may find offsite habitats saturated with competing individuals of the same or another species and therefore unavailable. None of this is assessed in the DEIS. Given the habitats onsite (e.g., extensive mature forest, woodland pools), and the observed presence of, e.g., wood thrush and barred owl, this is an important question.

DEIS page 137 asserts that the wetlands, including the woodland pool (vernal pool) in Wetland C, would not be disturbed, thus wetland wildlife would not be adversely affected. Yet the proposed development includes large buildings shoehorned in between the wetlands. Amphibians, and other wildlife using these wetlands, would very likely eventually be run over in parking areas or internal roads, or dry to death crossing parking areas or where buildings block their migration paths. Protection of wetland wildlife, including vernal pool amphibians, requires protecting a substantial area of forest around the pool because amphibians (as their name implies) move in and out of the pool and in some cases spend most of the year 100 m or more distant from the pool (see Recommendations, below, and Calhoun et al. [2005]).

Blasting is anticipated as part of the development process (see “Blasting Addendum” appended to DEIS). Blasting could disrupt the hydropattern of the woodland pools, especially if the DEIS is correct in stating that the wetlands are partly groundwater-fed. Blasting could damage subterranean snake hibernacula and potentially injure or kill wildlife near the location of a blast. Responses of raptors to blasting noise and vibration vary, and in some cases nests are damaged or birds abandoned an area (Holthuijzen et al. 1990).

Impacts other than on habitat functions would also occur in connection with development. Impervious surfaces would divert stormwater from infiltration into groundwater to surface runoff, depending on the efficiency of stormwater ponds and other engineering features. Carbon sequestration and storage would be reduced due to the removal of trees and other vegetation, and the exposure of soil organic matter to the atmosphere. Altered runoff patterns could cause gullying in certain soils (soil erodibility is evidenced by the gullied vehicle road in the north-central area) and change the hydropattern of wetlands.

### **Applicant's documents**

The DEIS states the mapped wetlands were “dominated” by various plant species. Flowering dogwood (*Cornus florida*) is listed in multiple wetlands; however, flowering dogwood is an upland species not expected to occur, or very rarely so, in wetlands. This is likely a misidentification. However, if flowering dogwood is actually present as several or more individuals not on a topographic high spot, it could indicate unusual conditions or the likelihood that a rare species occurs. “water-purslane (*Lythrum portula*)” was reported in Wetland A (DEIS page 183). *Lythrum portula* is a western species and is not documented to occur in New York (NYFA 2024, USDA 2024). This plant may be *Ludwigia palustris*,

sometimes called water-purslane. If indeed it is *Lythrum portula*, it is an important occurrence to document with a specimen deposited in a formal herbarium. Under Wetland C, *Vaccinium corymbosum* is listed twice with different common names (DEIS page 184); one of the names (“blueridge blueberry”) is not in the DEIS plant list. The DEIS mentions *Sphagnum* mosses in the wetlands and does not report other kinds mosses; it is likely that non-*Sphagnum* mosses dominate most of the wetland hummocks although *Sphagnum* may be present too. I was unable to survey the flora of each wetland in detail, thus can not confirm the accuracy of the rest of the wetland plant lists. It is unclear from the DEIS whether identifications were documented by means of photographs or specimens. Given the problems noted above, all the wetland flora should be resurveyed by a technical botanist.

DEIS pages 144-145 briefly describes proposed landscaping plants and control of nonnative invasive plants. The passage states, “Tree and shrub species of plants native to New York have been selected to the extent practicable...” yet the list of woody species to be planted contains 3 native and 7 nonnative species. Plantings could employ all native species; many lists and recommendations have been published for this purpose. The DEIS reserves the right to use herbicides to manage competing vegetation, which is unnecessary. Herbicides are toxic to wildlife as well as plants and other organisms (Kiviat 2023), and non-chemical techniques are available (e.g., Travis and Kiviat 2016).

Oddly, in the list of wildlife observed on the site (DEIS page 126), a millipede and a sowbug are included under Insects. These are not insects. Also, a fungus is included in the list of plant species on DEIS page 122; fungi are not plants. Moreover, it is unclear why a single fungus species is listed when there may be a hundred or more species onsite.

The Stormwater Plan (Dynamic Engineering 2023) states that roof runoff from some (all?) of the proposed buildings would be run into existing wetlands. This would increase water levels and lengthen the hydroperiod of the receiving wetlands. An important principle of wetland management is to maintain the existing hydropattern (water levels, flows, and their timing) unless specifically planned changes are expected to be beneficial to particular managed species. The woodland pool habitats in Wetlands A, C, and D are especially sensitive in this regard, as the amphibian and invertebrate species using the pools have not been identified and certain species could be harmed by water additions (e.g., by reducing or eliminating the dry period). Moreover, depending on the nature of the roofs yielding the stormwater, chemical changes could occur in the woodland pools. Different species of invertebrates and amphibians have different ranges of pH tolerance, and this may also be the case with metals or other substances present in the precipitation or the roofs. The runoff water currently flowing into these pools is buffered by live vegetation and plant detritus (dead leaves, branches, fruits, etc.), which likely modulate the influent water chemistry. This is one of the ecological functions of buffer zones (adjacent areas) of upland soil and vegetation surrounding a wetland. Direct runoff, via pipes or channels, from the roofs would not experience this buffering. Degradation of water quality and alteration of hydropattern in woodland pools were discussed by Calhoun et al. (2005).

## Conclusions and Recommendations

The information presented in the applicant’s documents does not allow incisive analysis of environmental impacts of the proposed warehouse complex in a large, diverse, urban greenspace. The following information is needed for this purpose:

- Onsite soil survey. The USDA soils data cited above are indicative but not accurate at the scale of the proposed construction. For example, the wetland soils are not shown in the USDA survey, probably because their areas are too small. DEIS page 162 shows a soil map drawn directly from USDA.

-Tree survey with all trees > 30 cm dbh identified *to species level*, measured (dbh), and mapped on the entire site (not just on study plots or proposed building footprints). The applicant's consultants sampled trees and depicted canopy cover and dbh on a number of large plots around the site, but the trees were not identified as far as I can tell. The magnolia identification should be confirmed. The identity of the "flowering dogwood" trees in the wetlands should be checked.

-Flora survey including wetland and upland vascular plants. This survey should be conducted in spring (May) for forest "ephemerals," late June or July for many forest and wetland species, and late August or September for late-blooming herbs. The rare sedge, *Carex seorsa* (ranked S4 by the New York Natural Heritage Program), reported by the applicant, should be searched for and its population assessed at the appropriate season by a technical botanist. The extensive mature forest offers potential habitat for a variety of uncommon and rare plants including several native orchids, and there could be other rare sedges and other rare plants in the wetlands and wetland buffer zones. *Lythrum portula*, *Sphagnum*, and other wetland plants listed in the DEIS should be surveyed or confirmed (surveys should encompass the entirety of each wetland, not just the wetland-upland boundary).

-Acoustic bat survey in spring and summer. This survey should be conducted, at a minimum, in spring and summer, deploying numerous bat detectors around the site, including at the wetlands, for a week or more in each season. The recordings should be analyzed by a bat expert because some species are difficult to tell apart. Because several of our nine bat species have been decimated in recent years by white-nose syndrome (a fungal disease), preservation of high quality spring-summer habitat with ample roost structures is necessary to help mitigate disease stresses on populations (see Frick et al. [2020] regarding the importance of forests for bats).

-Breeding bird survey in May-June encompassing the entire site (not limited to plots).

-The entire site should be surveyed at a fine scale for additional unmapped wetlands (including temporary woodland pools).

-Survey of the swamp pools (in Wetlands A, C, D, and temporary pool in northwest corner of site) in April for amphibian egg masses and larvae. Egg masses (hatched out or not) of wood frog, spotted salamander, and Jefferson – blue-spotted salamander complex should be identified and counted. Marbled salamander larvae should be sought by night-lighting (marbled salamanders lay their eggs in the fall, and the eggs hatch when pools refill). Adult four-toed salamanders should be looked for under moss mats on woody plant hummocks (elevated root crowns) and beneath logs and rocks in the wetland buffer zones.

-Geological evaluation of the large erratic or outcrop on the southern property line (Table 1). Even if the rock is partly or mostly offsite, it is important as a key to the unknown underlying geology, as well as potentially important habitat (e.g., for bat roosting and deer-vulnerable plants).

-Further assessment of cultural resources including the stone-lined pit, stone walls, and potential for prehistoric sites. The location on a high, well-drained terrace overlooking Moodna Creek, with its tidal wetlands, and the Hudson River estuary suggests a potentially high quality area for habitation by prehistoric peoples. The DEIS (page 202) refers to a Phase 1A cultural resources survey conducted earlier (2006?) and states that there are no important cultural resources on the site. Given the nature of the site and the intensive alteration proposed, the situation merits a more detailed investigation and analysis of cultural resources.

Intermittent woodland pools (vernal pools) supporting woodland pool-breeding amphibians should be managed according to guidelines in Calhoun et al. (2005). These guidelines stipulate no development within 30 m of the pool (wetland) edge, and at least three-fourths of the area between 30 and 230 m from the pool boundary should be kept in an undeveloped, wooded state, to protect pool quality and provide upland habitat for immature and adult amphibians during the nonbreeding season.

DEIS page 183 asserts that the Town of Cornwall wetland law does not protect the wetlands on the site. The interpretation of the local law needs further legal analysis prior to this conclusion.

Because the site currently has only a sparse representation of invasive plants, and forest clearing with soil grading will open the site to colonization or spread of many nonnative weeds, there should be a comprehensive invasive plants management plan. Such a plan should employ non-chemical management techniques (Travis and Kiviat 2016) because herbicides are toxic to a broad spectrum of wildlife (Kiviat 2023). DEIS page 167 alludes to weed control with no details; this is inadequate.

Overall, I find the DEIS deficient in not adequately describing the site and its biota; downplaying the use of the site by Endangered, Threatened, and rare species and Species of Greatest Conservation Need; and dismissing the impacts of a large development project on wetland and forest habitat functions and biota.

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Table 1. Locations of previously unmapped features mentioned in this report. UTM = Universal Transverse Mercator (metric) coordinates estimated with the smartphone app GPS Essentials and not expected to be pinpoint-accurate.

| Feature                                | UTM Northing | UTM Easting | Notes                                                                                                                         |
|----------------------------------------|--------------|-------------|-------------------------------------------------------------------------------------------------------------------------------|
| Unmapped wetland                       | 4589707      | 580205      | Temporary pool ca 10 x 20 m; too shallow for most amphibian breeding? could support breeding toads and numerous invertebrates |
| Unmapped wetland                       | 4589374      | 580371      | Contains wheelrut pools potential clam shrimp habitat                                                                         |
| Unmapped wetland                       | 4589454      | 580200      |                                                                                                                               |
| Unmapped wetland                       | 4589458      | 580454      |                                                                                                                               |
| Stone-lined pit                        | 4588822      | 578758      | Not reported in ESA?<br>See photo, below.                                                                                     |
| Large rock outcrop                     | 4588966      | 579966      | Not mentioned in DEIS?<br>See photo, below.                                                                                   |
| Very large grape ( <i>Vitis</i> ) vine | 4589329      | 580379      | Ca 15 cm diameter                                                                                                             |



Intermittent woodland pool (vernal pool), potential woodland pool-breeding amphibian and invertebrate habitat in Wetland D (from east side). (Compare Photograph 4 of Wetland D in appendix to DEIS.)



Part of the large bedrock outcrop or glacial erratic south of Wetland F.



Stone-lined pit (see Table 1).

EXHIBIT

D

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## **Resolution to Create a Comprehensive Plan Advisory Committee**

TOWN OF CORNWALL TOWN BOARD / APPROVED FEBRUARY 25, 2025

TB Accord  
2/25/25

RESOLUTION TO CREATE A COMPREHENSIVE PLAN  
ADVISORY COMMITTEE

WHEREAS, the Town of Cornwall has adopted a Comprehensive Plan pursuant to Town Law §272-a; and

WHEREAS, under Town Law §272-a a town's comprehensive plan must be periodically reviewed and updated; and

WHEREAS, the Town of Cornwall's Comprehensive Plan has not been updated since 2019; and

WHEREAS, the Town Board wishes to prepare an update to the Town's Comprehensive Plan; and

WHEREAS, it would be helpful for the Town Board to create a Comprehensive Plan Advisory Committee to assist the Town Board in preparation of the draft Comprehensive Plan Update.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. That the Town Board hereby creates an informal and advisory Comprehensive Plan Advisory Committee to assist the Town Board in preparation of the proposed Comprehensive Plan Update; and
2. That the Comprehensive Advisory Plan Committee shall have the power to conduct research and investigation into a proposed update to the Comprehensive Plan and to prepare and submit a draft Comprehensive Plan Update to the Town Board for consideration, provided that such update shall only be approved and adopted after such referrals, public input, and resolutions as required by Town Law § 272-a; and
3. That the Comprehensive Plan Advisory Committee shall consist of a chairman, and four additional members appointed as follows: one member of the Local Chamber of

Commerce or a local business owner; one member of Cornwall Conservation Advisory Committee; one member of the Cornwall Planning Board; and one member who is a resident of the Town of Cornwall.

4. That the Town Board hereby appoints Wynn Gold as the Chairman of the Comprehensive Plan Advisory Committee; and the remaining four members shall be appointed by subsequent resolution of the Town Board.

5. That members on the Comprehensive Plan Update Committee shall serve at the pleasure of the Town Board without compensation.

\_\_\_\_\_ presented the foregoing resolution which was seconded by \_\_\_\_\_,

The vote on the foregoing resolution was as follows:

Timothy McCarty, Councilman, voting \_\_\_\_\_

Virginia A. Scott, Councilwoman, voting \_\_\_\_\_

Karen Edelman-Reyes, Councilwoman, voting \_\_\_\_\_

Rokhsha Michael-Razi, Councilwoman, voting \_\_\_\_\_

Joshua Wojehowski, Supervisor, voting \_\_\_\_\_

EXHIBIT

**E**

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**Email: Edward Warren to Wynn Gold, copying Joshua Wojehowski**

SUBJECT: CORNWALL COMPREHENSIVE PLAN UPDATE COMMITTEE / MARCH 10, 2025, 5:00 PM

Joshua Wojehowski

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**From:** Edward Warren  
**Sent:** Monday, March 10, 2025 5:00 PM  
**To:** Wynn Gold  
**Cc:** Joshua Wojehowski  
**Subject:** Cornwall Comprehensive Plan Update Committee

**Caution:** This is an external email and may be malicious. Please take care when clicking links or opening attachments.

Hi Wynn,

Good to chat this afternoon. I've checked in with my Executive Director, Katrina Schindledecker, and she sees no internal reason why I would not be able to sit on the Comp Plan Update Committee.

I'm happy to be considered by the Board, and, should I be appointed, look forward to helping steer Cornwall in a positive direction.

Best,

Ted

Edward Warren  
Public Policy Manager  
Hudson Highlands Land Trust, Inc.

(845) 424-3358 ext. 5 - office