MINUTES
TOWN OF AMHERST
AMHERST PLANNING BOARD MEETING
June 16, 2022
6:30 PM

ROLL CALL

Attendee Name	Organization	Title	Status	Arrived
Robert J. Gilmour	Town of Amherst	Chair	Present	
Michael Chmiel	Town of Amherst	Board Member	Present	
Harbinder Gill	Town of Amherst	Board Member	Present	
Dal Giuliani	Town of Amherst	Board Member	Present	
Brittany Lee Penberthy	Town of Amherst	Board Member	Present	
Joseph P. Raffaele Jr.	Town of Amherst	Board Member	Present	
Carrie H. Kahn	Town of Amherst	Board Member	Present	
Dan Howard	Town of Amherst	Planning Director	Present	
Daniel J. Ulatowski	Town of Amherst	Assistant Planning Director/ZEO	Present	
Scott Marshall	Town of Amherst	Principal Planner	Present	
Thomas J. Voigt	Town of Amherst	Assistant Planner	Present	
Gary Palumbo	Town of Amherst	Associate Planner	Present	
Amy Carrato	Town of Amherst	Sr. Clerk Typist	Present	
Jacqualine Berger	Town of Amherst	Councilmember	Present	
Ann Demopoulos	Town of	Deputy Town Attorney	Present	

	Amherst			

Note: There will be no public hearing or opportunity to speak for the projects listed under the Unfinished Business section of this agenda.

Please note the following time limits for speakers at public hearings:

- **Presentation by Petitioner: 15 minutes**
- **Rebuttal by neighborhood/resident spokesperson: 15 minutes**
- **Individual speakers: 3 minutes**

PUBLIC HEARINGS

SITE PLANS & RELIEF FROM CONDITIONS OF SITE PLANS

1. PROPOSED OFFICE BUILDING - PARKING EXPANSION, SP-1988-54H
Property located at 30-36 North Union Road
Iskalo Development, Petitioner

Proposal to construct 15 parking stalls along North Union Road. Landscape hedges are proposed intermittently between the existing trees that are to remain along North Union Road to screen the proposed parking from the right-of-way and from adjacent residential uses. Two new light poles will be added as part of this proposal.

Sean Hopkins, Esq., Hopkins Sorgi & McCarthy, represented the petitioner, explained the proposal and was available to answer questions from the Board. David Chiazza, Iskalo Development, and Nick Dolpp, Iskalo Development, were also present.

In response to the Board's questions, Mr. Hopkins stated the mature vegetation along N. Union Road will not be removed.

No further comments were heard on this proposal. The hearing was closed.

Following discussion, Mr. Chmiel moved to approve the Negative Declaration. The motion was seconded by Mr. Giuliani and carried. Ayes 7, Noes 0.

Following the approval of the Negative Declaration, Mr. Chmiel moved to approve the request based on the resolution. The motion was seconded by Mr. Giuliani and carried. Ayes 7, Noes 0.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Michael Chmiel, Board Member
SECONDER:	Dal Giuliani, Board Member
AYES:	Gilmour, Chmiel, Gill, Giuliani, Penberthy, Raffaele Jr., Kahn

2. PROPOSED AUTOMOTIVE DEALERSHIP - SERVICE BUILDING ADDITION & UNIFIED DEVELOPMENT, SP-1998-33F
Property located at 1025, 1135 & 1145 Millersport Highway
NAC Real Estate, LLC, Petitioner

Proposed 7,350 sq. ft. free standing automotive service building with a 1,020 sq. ft. mezzanine on currently vacant land in the northern portion of the site along with the associated site changes relating to vehicle use areas, site lighting, landscaping, utilities and stormwater facilities and creation of a Unified Development with the parcel located at 1035 Millersport Highway.

Sean Hopkins, Esq., Hopkins Sorgi & McCarthy, represented the petitioner, explained the proposal and was available to answer questions from the Board. Jason Burford, Greenman-Pedersen, Inc., was also present.

In response to the Board's questions, Mr. Burford stated the new service building will be used by Northtown Automotive Company employees.

No further comments were heard on this proposal. The hearing was closed.

Following discussion, Ms. Penberthy moved to approve the Negative Declaration. The motion was seconded by Mr. Giuliani and carried. Ayes 7, Noes 0.

Following the approval of the Negative Declaration, Ms. Penberthy moved to approve the request based on the resolution. The motion was seconded by Mr. Giuliani and carried. Ayes 7, Noes 0.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Brittany Lee Penberthy, Board Member
SECONDER:	Dal Giuliani, Board Member
AYES:	Gilmour, Chmiel, Gill, Giuliani, Penberthy, Raffaele Jr., Kahn

SUBDIVISIONS & RELIEF FROM CONDITIONS OF SUBDIVISIONS

None

MISCELLANEOUS

3. PROPOSED AMENDMENT TO FIGURES 6 & 21 OF THE BICENTENNIAL COMPREHENSIVE PLAN FROM COMMUNITY FACILITIES TO COMMERCIAL OFFICE, BCPA-2022-03
Property located at 2605 Amherst Manor Road
111 North Maplemere LLC, Petitioner

To allow for development of a Proposed 163,200 sq. ft. medical office building / ambulatory surgery center with 816 parking spaces and the associated site amenities/improvements including but not limited to stormwater, utilities, grading, lighting, paving, and landscaping along with the northerly extension of N. Maplemere Road to connect to Millersport Highway.
Sean Hopkins, Esq., Hopkins Sorgi & McCarthy, represented the petitioner, explained the proposal and was available to answer questions from the Board.

No comments were heard on this proposal. The hearing was closed.

Mr. Giuliani moved to approve the request based on the resolution. The motion was seconded by Mr. Chmiel and carried. Ayes 7, Noes 0.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Dal Giuliani, Board Member
SECONDER:	Michael Chmiel, Board Member
AYES:	Gilmour, Chmiel, Gill, Giuliani, Penberthy, Raffaele Jr., Kahn

REZONING & RELIEF FROM CONDITIONS OF REZONINGS

4. REQUEST TO REZONE 14.97± ACRES OF LAND FROM CF TO OB, Z-2022-05
Property located at 2605 Amherst Manor Drive
111 North Maplemere LLC, Petitioner

To allow for development of a Proposed 163,200 sq. ft. medical office building / ambulatory surgery center with 816 parking spaces and the associated site amenities/improvements including but not limited to stormwater, utilities, grading, lighting, paving, and landscaping along with the northerly extension of N. Maplemere Road to connect to Millersport Highway.

Sean Hopkins, Esq., Hopkins Sorgi McCarthy, represented the petitioner, explained the proposal and was available to answer questions from the Board.

No comments were heard on this proposal. The hearing was closed.

Mr. Giuliani moved to approve the request based on the resolution. The motion was seconded by Mr. Chmiel and carried. Ayes 6, Noes 1 (Penberthy).

RESULT:	**APPROVED [6 TO 1]**
MOVER:	Dal Giuliani, Board Member
SECONDER:	Michael Chmiel, Board Member
AYES:	Gilmour, Chmiel, Gill, Giuliani, Raffaele Jr., Kahn
NAYS:	Penberthy

5. REQUEST TO REZONE 7.43± ACRES FROM RD TO CTR-8, Z-2022-02
Property located at 1400-1404 & 1408-1416 Sweet Home Road
North Forest Development LLC, Petitioner

June 16, 2022
No comments were heard on this proposal. Mr. Giuliani moved to adjourn the proposal. The motion was seconded by Mr. Chmiel and carried. Ayes 7, Noes 0.

May 19, 2022
No comments were heard on this proposal. Mr. Chmiel moved to adjourn the proposal. The motion was seconded by Ms. Penberthy and carried. Ayes 6, Noes 0, Absent 1 (Giuliani).

September 22, 2022
The purpose of this request is to allow for subsequent development of a mixed-use project consisting of 500± residential units and 10,000± square feet of commercial/retail space.

Sean Hopkins, Esq., Hopkins Sorgi & McCarthy PLLC, represented the petitioner, explained the proposal and was available to answer questions from the Board. Roy Jordan was also present.

In response to the Board's questions, Mr. Hopkins stated this development could be a mix of market rate apartments and student housing but will most likely be student housing.

No further comments were heard on this proposal. The hearing was closed.

Following discussion, Mr. Giuliani moved to approve the request based on the resolution. The motion was seconded by Mr. Chmiel and carried. Ayes 5, Noes 0, Absent 2 (Kahn, Raffaele).

RESULT:	**ADJOURNED [UNANIMOUS]**	**Next: 9/22/2022 6:30 PM**
MOVER:	Dal Giuliani, Board Member	
SECONDER:	Michael Chmiel, Board Member	
AYES:	Gilmour, Chmiel, Gill, Giuliani, Penberthy, Raffaele Jr., Kahn	

6. REQUEST TO REZONE 1.75± ACRES FROM MS AND R-4 TO DC-3, Z-2022-04
Properties located at 5105 & 5117 Sheridan Drive and 543 & 553 Mill Street
Iskalo 5117 Sheridan Inc., Petitioner

The purpose of this rezoning request is to allow for the subsequent development of the subject parcels for a commercial project. The concept plan illustrates two commercial buildings (the easterly one is existing) fronting on Sheridan Drive, both buildings include a drive through. The concept plan also shows a 3-story apartment building fronting along Mill Street with curb cuts on either side and a widening of the existing curb cut onto Sheridan Drive. One curb cut on each of Sheridan Drive and Mill Street are proposed to be removed.

Sean Hopkins, Esq., Hopkins Sorgi & McCarthy, represented the petitioner, explained the proposal and was available to answer questions from the Board. David Chiazza, Iskalo Development, and Nick Dolpp, Iskalo Development, were also present.

In response to the Board's questions, Mr. Chiazza stated there is not a timeline when the apartment building on Mill Street will be constructed and the current homes will be maintained. Mr. Hopkins stated shared access to the parking lots will be considered during the site plan process, the rezoning of the Mill Street properties is being requested to be consistent, traffic will be addressed during the site plan process, and the proposed curb cuts are farther from the intersection than the current curb cuts.

Paul Zarbo, 628 Mill St. and Mary Ferenczy, 681 Mill St. spoke in opposition of the proposal.

Chester & Amy Crosofsky, 1070 N. Forest Rd. spoke in favor of the proposal.

No further comments were heard on this proposal. The hearing was closed.

Mr. Giuliani moved to approve the request based on the resolution. The motion was seconded by Ms. Kahn and carried. Ayes 5, Noes 2 (Gill, Penberthy).

RESULT:	**APPROVED [5 TO 2]**
MOVER:	Dal Giuliani, Board Member
SECONDER:	Carrie H. Kahn, Board Member
AYES:	Gilmour, Chmiel, Giuliani, Raffaele Jr., Kahn
NAYS:	Gill, Penberthy

7. <u>REQUEST TO REZONE 11.29± ACRES OF LAND FROM GB TO DC-5, Z-2022-06</u>
Property located at 35, 50 & 55 Crosspoint Parkway
Uniland Development, Petitioner

The purpose of this request is to allow for the subsequent development of a residential project that will consist of three, 4-story buildings that will contain 208± units. The concept plan also illustrates 8 garage buildings, a parking field and associated landscaping.

Kevin Kirk, Uniland Development, represented the petitioner, explained the proposal and was available to answer questions from the Board.

In response to the Board's questions, Mr. Kirk stated there will be approximately 208 units and there will be one and two bedroom market rate apartments.

Jim Zappa, 43 Fawn Meadows Ct., spoke in opposition of the proposal.

No further comments were heard on this proposal. The hearing was closed.

Mr. Giuliani moved to approve the request based on the resolution. The motion was seconded by Ms. Kahn and carried. Ayes 6, Noes 0, Abstain 1 (Chmiel).

RESULT:	**APPROVED [6 TO 0]**
MOVER:	Dal Giuliani, Board Member
SECONDER:	Carrie H. Kahn, Board Member
AYES:	Gilmour, Gill, Giuliani, Penberthy, Raffaele Jr., Kahn
ABSTAIN:	Chmiel

OTHER COMMUNICATIONS

None

All public hearings are completed and closed at the termination of public discussion for each agenda item unless otherwise specified by the Chair.

UNFINISHED BUSINESS

Note: All public hearings have been completed. There will be no public hearings for items listed under this section.

SITE PLANS & RELIEF FROM CONDITIONS OF SITE PLANS

None

SUBDIVISIONS & RELIEF FROM CONDITIONS OF SUBDIVISIONS

8. PROPOSED SKETCH PLAN FOR A 10-LOT SUBDIVISION, SUB-2022-01SK
Property located at 468 Harding Road
Harding Road LLC, Petitioner

June 16, 2022
Ms. Penberthy moved to deny the request. The motion was seconded by Mr. Gill and carried. Ayes 4, Noes 3 (Chmiel, Gilmour, Kahn).

May 19, 2022
Subdivision of 1.44± acres into 10 lots in order to construct ten single-family residences. Proposed lots are along existing public streets (Harding Road and McKinley Avenue) with existing water and sewer infrastructure. Subdivision is comprised of 8 internal lots being 40 feet in width by 138 feet in depth, and 2 corner lots being 69± feet in width and 138 feet in depth.

Jeffery D. Palumbo Esq., Barclay Damon represented the petitioner, explained the proposal and was available to answer questions from the Board.

In response to the Board's questions, Mr. Palumbo stated the petitioner has no objection to sidewalks, the proposal is not inconsistent with the neighborhood it is just different, the site abuts commercial development, the homes will be an asset to the neighborhood and will hopefully sell in the $300,000's.

Mark Bechtel, 442 Harding Road and Suzanne Warden, 375 Harding Road spoke in opposition of the proposal.

No further comments were heard on this proposal. The hearing was closed.

Ms. Penberthy moved to reopen the Public Hearing. The motion was seconded by Mr. Chmiel and carried. Ayes 6, Noes 0, Absent 1 (Giuliani).

Mark Bechtel, 442 Harding Road spoke regarding the lawsuit and traffic concerns.

No further comments were heard on this proposal. The hearing was closed.

Mr. Chmiel moved to approve the request based on the resolution. The motion was seconded by Ms. Penberthy and failed. Ayes 3, Noes 3, Absent 1 (Giuliani).

Ms. Penberthy moved to deny the request. The motion was seconded by Mr. Raffaele and failed. Ayes 3, Noes 3, Absent 1 (Giuliani).

Ms. Penberthy moved to adjourn the proposal. The motion was seconded by Mr. Chmiel and carried. Ayes 6, Noes 0, Absent 1 (Giuliani).

RESULT:	**DENIED [4 TO 3]**
MOVER:	Brittany Lee Penberthy, Board Member
SECONDER:	Harbinder Gill, Board Member
AYES:	Gill, Giuliani, Penberthy, Raffaele Jr.
NAYS:	Gilmour, Chmiel, Kahn

MISCELLANEOUS

9. PROPOSED SIDEWALK WAIVER REQUEST, SWW-2022-01
Property located at 665 Tonawanda Creek Road
James Kam, Petitioner

Ms. Penberthy moved to deny the request based on the resolution. The motion was seconded by Mr. Chmiel and carried. Ayes 7, Noes 0.

RESULT:	**DENIED [UNANIMOUS]**
MOVER:	Brittany Lee Penberthy, Board Member
SECONDER:	Michael Chmiel, Board Member
AYES:	Gilmour, Chmiel, Gill, Giuliani, Penberthy, Raffaele Jr., Kahn

REZONING & RELIEF FROM CONDITIONS OF REZONINGS

None

OTHER COMMUNICATIONS

NONE

DIRECTOR'S REPORT

MINUTES APPROVAL

May 19, 2022
Ms. Penberthy moved to approve the minutes. The motion was seconded by Mr. Gill and carried. Ayes 6, Noes 0, Abstain 1 (Giuliani).

ADJOURNMENT

The Planning Board meeting of June 16, 2022 was adjourned at 8:08 pm.