MINUTES
TOWN OF AMHERST
AMHERST PLANNING BOARD MEETING
October 20, 2022
6:30 PM

The Planning Board will hold a public work session at 6:00 pm in the Amherst Municipal Building, 5583 Main Street, Williamsville, NY 14221 on the same date.

This meeting is being video recorded.

The plans and documents that are available below for each Planning Board hearing item were submitted by the project applicant and are intended to provide general information about the proposal.

The official, complete sets of submittal documents and materials that provide more detailed information about the projects are available in the Planning Department, which is located in Amherst Town Hall, 5583 Main Street, Williamsville, NY 14221. Hours are 9 am to 5 pm, Monday through Friday. If you have any questions, please contact the Planning Department at (716) 631-7051.

Revised plans are submitted on an ongoing basis throughout the review process to address comments on the project. Every effort will be made to post the most recent version of the plans and application materials in a timely manner.

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	Absent	
Dal Giuliani	Town of Amherst	Board Member	Present	
Brittany Lee Penberthy	Town of Amherst	Board Member	Present	
Joseph P. Raffaele	Town of	Board Member	Present	

Jr.	Amherst			
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	
Amy Carrato	Town of Amherst	Community Development Assistant	Present	
Ann Demopoulos	Town of Amherst	Deputy Town Attorney	Present	

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 DENTISTRY SCHOOL AND PARKING LOT EXPANSION, SP-2022-02
Property located at 2525 Kensington Avenue
Philipps Bros Supply Inc., Petitioner

April 21, 2022
No comments were heard on this proposal. The Petitioner requested an adjournment. Ms. Penberthy moved to adjourn until the May Planning Board meeting. The motion was seconded by Mr. Chmiel and carried. Ayes 6, Noes 0, Absent 1 (Gilmour).

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

October 20, 2022
No comments were heard on this proposal. Mr. Giuliani moved to adjourn the proposal. The motion was seconded by Ms. Kahn and carried. Ayes 6, Noes 0, Absent 1 (Gill).

RESULT:	**ADJOURNED [UNANIMOUS]**	**Next: 1/26/2023 6:30 PM**
MOVER:	Dal Giuliani, Board Member	
SECONDER:	Carrie H. Kahn, Board Member	
AYES:	Gilmour, Chmiel, Giuliani, Penberthy, Raffaele Jr., Kahn	
ABSENT:	Gill	

SUBDIVISIONS & RELIEF FROM CONDITIONS OF SUBDIVISIONS

2. SEQR HEARING FOR A PROPOSED 18-LOT SUBDIVISION, SUB-2021-01PP
Property located at 166 Klein Road
Regency Builders, LLC, Petitioner

The proposed subdivision includes 19 lots for single family homes in the R-3 zoning district. The proposal shows a 28-foot-wide private drive that terminates in a hammer-head turn around. The stormwater and bio-retention areas are located at the northern most end of the parcel, at the terminus of the private drive.

Sean Hopkins, Esq., Hopkins Sorgi & McCarthy represented the petitioner, explained the proposal and was available to answer questions from the Board. Elliott Lasky, Regency Builders' and Ken Zollitsch, Greenman-Pedersen Inc, were also present.

Christine Koziol, 59 Kingswaye Drive, Adam Nethero, 29 Kingswaye Drive, and Joseph Bennett, 36 Chestnut Hill Lane, spoke in opposition of the proposal.

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. Raffaele and carried. Ayes 5, Noes 1, Absent 1 (Gill).

RESULT:	**APPROVED [5 TO 1]**
MOVER:	Michael Chmiel, Board Member
SECONDER:	Joseph P. Raffaele Jr., Board Member
AYES:	Gilmour, Chmiel, Giuliani, Raffaele Jr., Kahn
NAYS:	Penberthy
ABSENT:	Gill

MISCELLANEOUS

3. PROPOSED LOCAL LAW TO AMEND CHAPTER 203 OF TOWN CODE (ZONING ORDINANCE) TEXT AMENDMENTS TO SC - SHOPPING CENTER DISTRICT, PART 6 (USE REGULATIONS) AND PART 7 (OFF-STREET PARKING, LOADING AND STACKING), ZTA-2022-04
Town of Amherst, Petitioner

The revised Zoning Code was adopted by the Town Board on May 1, 2006 with an effective date of May 23, 2006. The proposed changes include changes to the SC- Shopping Center zoning district by establishing a minimum district size of 50 acres, increasing the minimum parcel size from 5 acres to 10 acres, removing, adding and consolidating allowable uses. Additional amendments include changes to the parking regulations and changes to the use regulations for service stations.

Dan Ulatowski, Assistant Planning Director, represented the petitioner, explained the proposal and was available to answer questions from the Board.

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 6, Noes 0, Absent 1 (Gill).

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

REZONING & RELIEF FROM CONDITIONS OF REZONINGS

4. REQUEST TO REZONE 6.27± ACRES OF LAND FROM GB TO DC-5, Z-2022-07
Property located at a portion of 4110-4120 Sheridan Drive
Sheridan Commons, LLC, Petitioner

September 22, 2022
No comments were heard on this proposal.

Mr. Giuliani moved to adjourn the proposal at the petitioners request. The motion was seconded by Ms. Penberthy and carried. Ayes 5, Noes 0, Absent 2 (Kahn, Raffaele).

October 20, 2022
The purpose of the subject request is to further develop a commercial site by incorporating a mixture of uses and utilizing different dimensional requirements that include a lower parking ratio, and decreased setbacks while encouraging walkable streetscapes.

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

In response to the Board's questions, Mr. Hopkins stated the existing hotel has four stories and the conceptual structure is consistent with the surrounding area.

Carol Ignaszek, 183 Park Forest Drive, John Kleindinst, 98 Sunrise Blvd., and Karla Burns, 172 Park Forest Drive, spoke in opposition of the proposal.

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

Following discussion, Mr. Chmiel moved to approve the request with the recommendation to the Town Board that the requested zoning be changed to Deep Corridor 3 (DC-3). The motion was seconded by Ms. Penberthy and failed. Ayes 3, Noes 3 (Gilmour, Giuliani, Kahn), Absent 1 (Gill).

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

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

Following discussion, Ms. Penberthy moved to recind the previous vote to adjourn the proposal. The motion was seconded by Mr. Chmiel and carried. Ayes 6, Noes 0, Absent 1 (Gill).

Ms. Penberthy moved to adjourn the proposal to the November 17, 2022 Planning Board meeting. The motion was seconded by Mr. Chmiel and carried. Ayes 6, Noes 0, Absent 1 (Gill).

RESULT:	**ADJOURNED [UNANIMOUS]**	**Next: 11/17/2022 6:30 PM**
MOVER:	Brittany Lee Penberthy, Board Member	
SECONDER:	Michael Chmiel, Board Member	
AYES:	Gilmour, Chmiel, Giuliani, Penberthy, Raffaele Jr., Kahn	
ABSENT:	Gill	

5. REQUEST TO REMOVE A DECLARATION OF RESTRICTIONS IMPOSED AS PART OF A REZONING DECISION, Z-1996-32A
Property located at 4110-4120 Sheridan Drive
Sheridan Commons LLC, Petitioner

September 22, 2022
No comments were heard on this proposal.

Ms. Penberthy moved to adjourn the proposal at the petitioners request. The motion was seconded by Mr. Chmiel and carried. Ayes 5, Noes 0, Absent 2 (Kahn, Raffaele).

October 20, 2022
In a rezoning decision made by the Town Board on July 7, 1997, 5 restrictions were placed on the subject parcel. Restriction #3 limited the height of office buildings on the site to a maximum of 48 feet. The purpose of this request is to obtain relief from the height restriction to allow for the potential development of a medical office building that would exceed 48 feet in height including stair and utility tower. .

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

Karla Burns, 172 Park Forest Drive, John Kleindinst, 98 Sunrise Blvd., Joel Terragnoli, 18 Chestnut Hill Lane, and Bob Kaczorowski, 146 Park Forest Drive, spoke in opposition of the proposal.

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 failed due to a lack of a second.

Ms. Penberthy moved to adjourn the proposal to the November 17, 2022 Planning Board meeting. The motion was seconded by Mr. Chmiel and carried. Ayes 6, Noes 0, Absent 1 (Gill).

RESULT:	**ADJOURNED [UNANIMOUS]**	**Next: 11/17/2022 6:30 PM**
MOVER:	Brittany Lee Penberthy, Board Member	
SECONDER:	Michael Chmiel, Board Member	
AYES:	Gilmour, Chmiel, Giuliani, Penberthy, Raffaele Jr., Kahn	
ABSENT:	Gill	

6. REQUEST TO REZONE 5.1± ACRES OF LAND FROM R-3 AND OB TO DC-5, Z-2022-08
Property located at 1720, 1740 & 1760 Maple Road
MEL Investors, LLC, Petitioner

To allow for the potential future development of a mixed use project consisting of two four-story mixed use buildings totaling 128,800± square feet with 7,000 sq. ft. of commercial space on the first floor of the easterly building and 102 total apartment units for lease in the two buildings, two two-story townhome buildings with attached garages (6 unit & 5 unit buildings) to the north of the mixed use buildings and three ten car garage structures north of the townhomes between the residential district to the north and an eight space garage on the western portion of the site. Parking is proposed for 191 vehicles (142 surface spaces and 49 in garages) with two curb cuts to Maple Road (the easterly driveway is shared with the pediatric medical building to the east) and a shared access with the pediatric medical building to the east to Ayer Road.

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

In response to the Board's questions, Mr. Hopkins stated DC-5 zoning has been used to abut single-family residences at other project sites, the properties to the north are residential, to the east is an urgent care facility, the properties to the west are zoned R-3, the properties to the south are zoned MFR-7 and R-3, there are no five story buildings in the immediate area, the Planning Board recommended approval and the Town Board approved the Bicentennial Comprehensive Plan Amendment for this site, a five story 65 foot is allowed under the current zoning, and the petitioner would be agreeable to a four story building with a flat roof.

Joanne Wylie on behalf of Robert DiVita, 1725 & 1735 Maple Road, Joanne Wylie, 1683C Maple Road, David Saia, 70 Hamlin Square, and Karen Sternman, 1689B Maple Road spoke in opposition of the proposal.

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

Following discussion, Ms. Penberthy moved to approve the request with the recommendation to the Town Board that the requested zoning be changed to Deep Corridor 3 (DC-3). The motion was seconded by Mr. Chmiel and failed. Ayes 3, Noes 3 (Gilmour, Giuliani, Kahn), Absent 1 (Gill).

Ms. Penberthy moved to adjourn the proposal to the November 17, 2022 Planning Board meeting. The motion was seconded by Mr. Chmiel and carried. Ayes 6, Noes 0, Absent 1 (Gill).

RESULT:	**ADJOURNED [UNANIMOUS]**	**Next: 11/17/2022 6:30 PM**
MOVER:	Brittany Lee Penberthy, Board Member	
SECONDER:	Michael Chmiel, Board Member	
AYES:	Gilmour, Chmiel, Giuliani, Penberthy, Raffaele Jr., Kahn	
ABSENT:	Gill	

7. <u>REQUEST TO REZONE 0.25± ACRES OF LAND FROM R-3 TO MFR-4A, Z-2022-09</u>
Property located at 6254 Main Street
Mohit Kumar, Petitioner

The purpose of this request is to accommodate a potential future two-unit residential building.

Jeffery Palumbo, Esq., Block, Longo, LaMarca & Brzezinski, 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 there possibly could be one curb cut on Main Street.

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

Following discussion, Mr. Chmiel moved to approve the request based on the resolution. The motion was seconded by Ms. Penberthy and carried. Ayes 6, Noes 0, Absent 1 (Gill).

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

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. SEQR HEARING FOR A PROPOSED 8-LOT SUBDIVISION, SUB-2022-01PP
Property located at 468 Harding Road
Harding Road LLC, Petitioner

September 22, 2022
Proposal to subdivide 1.44± acres into 8 lots in order to allow construction of eight single-family residences. Proposed lots are along existing public streets (Harding Road and McKinley Avenue) and includes the extensions of water and sanitary sewer service. Subdivision is comprised of 6 internal lots being a minimum of 50 feet in width by 132 feet in depth, and 2 corner lots being 78± feet in width and 132 feet in depth.

Jeffrey Palumbo, Esq., Block. Longo, LaMarca & Brzezinski, 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 number of lots in the subdivision is required for the SEQR process.

Judson Paige, 375 Harding Road; Mark Bechtel, 442 Harding Road; Suzanne Paige, 375 Harding Road; Jennifer Colwell, 435 McKinley Avenue and Frank Cascino, 381 Harding Road spoke in opposition of the proposal.

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 failed. Ayes 3, Noes 2 (Gill, Penberthy), Absent 2 (Kahn, Raffaele).

Ms. Penberthy moved to approve the Negative Declaration based on a 6 lot subdivison. The motion was seconded by Mr. Gill. The motion was withdrawn by Ms. Penberthy.

Ms. Penberthy moved to adjourn the proposal. The motion was seconded by Mr. Gill and carried. Ayes 5, Noes 0, Absent 2 (Kahn, Raffaele).

<u>October 20, 2022</u>
Mr. Chmiel moved to approve the Negative Declaration. The motion was seconded by Mr. Raffaele and carried. Ayes 5, Noes 1 (Penberthy), Absent 1 (Gill).

RESULT:	**APPROVED [5 TO 1]**
MOVER:	Michael Chmiel, Board Member
SECONDER:	Joseph P. Raffaele Jr., Board Member
AYES:	Gilmour, Chmiel, Giuliani, Raffaele Jr., Kahn
NAYS:	Penberthy
ABSENT:	Gill

REZONING & RELIEF FROM CONDITIONS OF REZONINGS

None

MISCELLANEOUS

9. 2023 PLANNING BOARD CALENDAR

The Draft 2023 Schedule of Planning Board meetings was approved with a change in date for the January 2023 meeting from January 19, 2023 to January 26, 2023.

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

OTHER COMMUNICATIONS

None

DIRECTOR'S REPORT

MINUTES APPROVAL

Ms. Penberthy moved to approve the minutes. The motion was seconded by Mr. Chmiel and carried. Ayes 4, Noes 0, Absent 1 (Gill), Abstain 2 (Kahn, Raffaele).

ADJOURNMENT

The Planning Board meeting of date was adjourned at 8:48 pm.