Amherst Town Board

Regular Meeting of the Town Board

Minutes

5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Monday, July 12, 2021 | **7:00 PM** | **Amherst Municipal Building**

I. IN MEMORY

II. INVOCATION

Supervisor Kulpa

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL:

7:00 PM Meeting called to order on July 12, 2021 at Amherst Municipal Building, 5583 Main Street, Williamsville, NY.

Attendee Name	Organization	Title	Status	Arrived
Brian J. Kulpa	Town of Amherst	Supervisor	Remote	
Jacqualine Berger	Town of Amherst	Deputy Supervisor	Remote	
Deborah Bruch Bucki	Town of Amherst	Councilmember	Remote	
Shawn Lavin	Town of Amherst	Councilmember	Remote	
Michael Szukala	Town of Amherst	Councilmember	Remote	
Francina J. Spoth	Town of Amherst	Town Clerk	Remote	
Kathleen Cooper	Town of Amherst	Deputy Town Clerk	Remote	
Stanley J. Sliwa	Town of Amherst	Town Attorney	Remote	
Daryl Bramer	Town of Amherst	Comptroller	Remote	
Jeffrey S. Burroughs	Town of Amherst	Town Engineer	Remote	
Lynda Juul	Town of Amherst	Director of Finance	Remote	
Mark S. Berke	Town of Amherst	Building Commissioner	Remote	
Daniel J. Ulatowski	Town of Amherst	Principal Planner	Remote	
Vianne Uthman	Town of Amherst	Deputy Town Clerk	Remote	

V. MINUTES APPROVAL

1. Monday, June 21, 2021

RESULT:	**ACCEPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Jacqualine Berger, Deputy Supervisor
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

VI. PROCLAMATIONS AND ANNOUNCEMENTS

Deputy Supervisor Berger presented a Proclamation to People Inc. in recognition of their 50th Anniversary.

Deputy Supervisor Berger also read a Proclamation that will be presented to the Talk It Over Campaign declaring July 2021 "Talk It Over month" (to aid the prevention of underage drinking).

VII. PUBLIC HEARINGS

Speakers will be limited to 3 minutes.

1. Resolution 2021-569

Request to Rezone 468 Harding Road

DRAFT RESOLUTION
(7/12/21)

Denial of Local Law to Amend the Zoning Map
(468 Harding Road, Z-2020-13)

RESOLVED, that pursuant to NYS Town Law Sec.272-a, the Town Board concurs with the findings of the Planning Board as stated in their resolution of May 20, 2021 that the proposed Traditional Single-Family Residential District (TR-3) zoning at 468 Harding Road is **not consistent** with the adopted Bicentennial Comprehensive Plan, as amended, and be it further

RESOLVED, that in accordance with Section 203-8-3 of the Town Code (Zoning), the Town Board **denies** the request to amend the Town Zoning map for the following reasons as stated by the Planning Board:

1. The proposed zoning and development plan is inconsistent with the policies of the Comprehensive Plan and the Zoning Ordinance.

2. The proposal is not compatible with the present zoning and conforming uses of nearby properties and with the character of the neighborhood.

7/12/2021
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was opened at 7:11 PM.

Jeffery D. Palumbo, Esq., Barclay Damon LLP, presented and answered questions along with David Capretto from Forbes Capretto Homes.

The following Speakers addressed the Town Board and all spoke in opposition:
Mark Bechtel, 442 Harding Rd. - Opposed to 10 more houses, roads are narrow, additional cars, increased noise and parking; no sidewalks, no street lights
Kathleen Santillo, 411 Harding Rd. - 10 houses too close together, traffic, too many cars
John Squires, 437 Harding Rd. - Increased traffic, not comfortable with 10 homes

As there were no further speakers, Supervisor Kulpa motioned to adjourn the public hearing and set a decision date for August 9th. The motion was seconded by Councilmember Bucki and unanimously approved 5-0. The public hearing was adjourned at 7:43 PM.

RESULT:	**ADJOURNED [UNANIMOUS]**	**Next: 8/9/2021 7:00 PM**
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Deborah Bruch Bucki, Councilmember	
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala	

2. Resolution 2021-570

Request to Reclassify a Portion of 520 Campbell Boulevard and to Amend the Audubon Development Plan

DRAFT RESOLUTION
(7/12/2021)

Adoption of Local Law to Amend the Zoning Map
(520 Campbell Boulevard (portion), Z-2021-03)

RESOLVED, that pursuant to 6NYCRR Part 617 (SEQR) and Town Code Section 104, as amended, the requirements of SEQR have been completed and the Town Board issues the attached Negative Declaration, and be it further

RESOLVED, that pursuant to NYS Town Law Sec.272-a, the Town Board concurs with the findings of the Planning Board as stated in their resolution of May 28, 2021 that the proposed NCD-ND zoning at 520 Campbell Boulevard (portion) is consistent with the adopted Bicentennial Comprehensive Plan, as amended, and be it further

RESOLVED, that to the extent the proposed zoning is not consistent with the adopted Comprehensive Plan, the plan is hereby amended to be consistent with the proposed zoning at this location, and be it further

RESOLVED, that in accordance with Section 203-8-3 of the Town Code (Zoning), the Town Board adopts Local Law (#) to amend the Town zoning map subject to the following condition as recommended by the Planning Board

1. That future development of the site complies with the dimensional requirements set forth in the R-3 zoning district listed in §203-3-6(B) of Town Code.

7/12/2021
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0. The public hearing was opened at 7:44 PM.

Sean W. Hopkins, Esq., presented and answered questions.

The following Speaker addressed the Town Board:
Judy Colton, Sunshine Dr. - Questioned whether this rezoning would have any impact on the land near Bucyrus Heights

As there were no further speakers, Supervisor Kulpa motioned to adjourn the public hearing and set a decision date for August 9th. The motion was seconded by Councilmember Lavin and unanimously approved 5-0. The public hearing was adjourned at 8:04 PM.

RESULT:	**ADJOURNED [UNANIMOUS]**	**Next: 8/9/2021 7:00 PM**
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Shawn Lavin, Councilmember	
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala	

VIII. PERSONAL APPOINTMENTS TO BOARDS & COMMITTEES

Board Appointments - Amherst Conservation Advisory Council, Board of Ethics, Historic Preservation, IDA, Planning, Recreation, Recycling & Waste, Traffic Safety and the Zoning Board of Appeals.

NOTE - The number of vacancies is listed after the Committee name.

1. 9/11 Commemoration Committee

Membership is unlimited.

2. Amherst Committee on Disabilities (2)

3. Amherst Community Diversity Commission (9)

4. Amherst Conservation Advisory Council (4)

5. Amherst Industrial Development Agency

Membership is full.

6. Amherst Veterans Committee (5)

7. Arts & Culture in Public Places Board (5)

8. Board of Assessment Review

Membership is full.

9. Board of Electrician Examiners

Membership is full.

10. Board of Ethics

Membership is full.

11. Board of Plumbing and Drainage Examiners

Membership is full.

12. Citizens Financial Advisory Committee (2)

13. Design Advisory Board

14. Employee Suggestion Program Merit Award Board

Membership is full.

15. Employee Suggestion Review Committee

Membership is full.

16. Energy Conservation Citizens Advisory Committee (3)

17. Freedom of Information Law (FOIL) Board

18. Glen Park Joint Board

Membership is full.

19. Government Study Committee (2)

20. Historic Preservation Commission (1)

21. Information Technology Advisory Committee (2)

22. Library Board of Trustees

Membership is full.

23. Minority / Woman Owned Business (4)

24. Open Government Advisory Board (4)

25. Planning Board

Membership is full.

26. Recreation Commission (2)

27. Recycling and Waste Committee (3)

28. Senior Services Advisory Board (2)

29. Traffic Safety Board

Membership is full.

30. Youth Board (6)

Adult vacancies (6), Youth vacancies (0)

31. Zoning Board of Appeals

Membership is full.

IX. PUBLIC EXPRESSION

This is an opportunity for residents to comment on matters involving Amherst other than those pertinent to Public Hearings that day. Speakers will be limited to 3 minutes.

A motion to open Public Expression was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0. Public Expression was opened at 8:05 PM.

The following speakers addressed the Town Board:
Joe Voytovich, 35 Bucyrus Dr. - Open Government Advisory Board meetings; FOIL laws on website seem to be out of date; departments could scan and email FOIL info to people
Jennifer Snyder Haas, 185 Fairways Blvd. - Is a member of the Amherst Central Park Task Force, is opposed to lack of input and to plans that are happening with Westwood and the sale of property
Judy Ferraro, 213 Donna Lea - Needless development; wild out-of-control spending; should have been detailed maps of UBMD, Westwood, etc before sale or decisions
Tom Frank, 5403 Main St. - Amherst Central Park Project & public input; Erie Canal Corridor
Don Smith, N. Long St. - Would like resolutions to have more detailed information so the public could be informed; expand information on the agenda
Dan Ryder, 38 Garden Pkwy. - Questioned appraised value and if comparables were used for Town properties and Westwood; contamination on Westwood site
Chris Drongosky, Amherstdale Road - Town should be focusing on bringing Westwood back as a golf course
Judy Colton, Sunshine Dr. - Contamination at Westwood

There were no further speakers from the public, therefore Supervisor Kulpa moved to close Public Expression, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Public Expression was closed at 8:36 PM.

X. CONSENT AGENDA

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

XI. COUNCILMEMBER RESOLUTIONS

A. SUPERVISOR KULPA:

1. Resolution 2021-571

Approve ALiWAY Creative Agency Contract for Mural at Glen Park - CRS #2731

Kindly adopt a resolution authorizing the Supervisor to execute the attached agreement relative to Noll Pavilion in Glen Park, which is jointly owned by the Town of Amherst and Village of Williamsville for a Mural Design & Execution Project.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

B. DEPUTY SUPERVISOR BERGER:

C. COUNCILMEMBER BUCKI:

D. COUNCILMEMBER LAVIN:

E. COUNCILMEMBER SZUKALA:

1. Resolution 2021-572

Schoelles Road – Establish a No-Passing Zone Between Hopkins Road and Campbell Blvd.

WHEREAS Schoelles Road between Hopkins Road and Campbell Blvd (Rt 270) is a Town Road and was recently paved by the Town's Highway Department; and

WHEREAS prior to the new paving work, this roadway was formally striped as a two-direction passing zone consisting of a broken yellow line where crossing the center line markings with care was permitted for traffic traveling in either direction; and

WHEREAS a resident of Schoelles Road submitted a request to the Highway Superintendent to install a solid double yellow line instead of the passing zone markings to "deter people from passing slower vehicles" in an effort to slow overall speeds; and

WHEREAS the Amherst Traffic Safety Board and the Highway Superintendent both agree that Schoelles Road be changed to a solid double yellow line; and

THEREFORE BE IT RESOLVED that it is hereby ordered that the pavement striping on Schoelles Road between Campbell Boulevard (Rt 270) and Hopkins Road be marked as a two-direction no-passing zone consisting of two normal solid yellow lines where crossing the center line markings for passing is prohibited for traffic traveling in either direction; and

THEREFORE BE IT FURTHER RESOLVED that the Town's Highway Department install or administer the installation of the pavement markings in accordance to the Manual of Uniform Traffic Control Devices.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Michael Szukala, Councilmember
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

XII. DEPARTMENT HEAD RESOLUTIONS AND REPORTS

A. TOWN ATTORNEY:

1. Resolution 2021-573

Contract for Court Reporting Services with Jack W. Hunt and Associates, LLC (CRS #2742)

AGENDA ITEM : JULY 12TH, 2021

TO: **Town Board**

FROM: **Stanley J. Sliwa, Esq., Town Attorney**

DATE: **July 7, 2021**

RE: **Contract For Court Reporting Services**
Jack W. Hunt and Associates, LLC (CRS# 2742)

7.1.2021-6.30.2024

Kindly pass a resolution authorizing the Supervisor to execute the attached contract with Jack W. Hunt and Associates, LLC, for court reporting services for a term of three years, commencing July 1st, 2021 and extending through and including June 30th, 2024 at the rates set in the response to the issued RFP pending successful completion of the CRS.

Thank you.

SJS:nmb:hs
Attachments
c: Kathy Cooper, Deputy Town Clerk
(*w/attachments,* **Agenda Item - July 12th, 2021**)

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

2. Resolution 2021-574

License Agreement : 9 Avalon Meadows Lane (Banerjee/Mukherjee) CRS #2743

AGENDA ITEM : JULY 12TH, 2021

TO: **Town Board**

FROM: **Nicole M. Burroughs, NYSCP, Senior Paralegal**

DATE: **July 7, 2021**

RE: **Request for License Agreement (CRS #2743)**
Installation of Fence
Property Located At:
9 Avalon Meadows Lane, East Amherst, New York 14051

Kindly adopt a resolution authorizing the Supervisor to execute the attached License Agreement pending successful completion of the CRS.

The owners of the above-referenced property are seeking permission to install a

fence that would encroach into an existing Town-owned easement, the details and stipulations of which are more fully described in the License Agreement.

This request was reviewed and approved by the Engineering Department.

Thank you for your consideration.

NMB:hs
Attachment
c: Kathy Cooper, Deputy Town Clerk
(w/attachment, **Agenda Item: July 12th, 2021**)
Jeffrey S. Burroughs, PE, Town Engineer *(w/attachment)*

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

3. Resolution 2021-575

Authorization to Pay Outside Counsel from Trust and Agency Account - Jurek Post Purchase

AGENDA ITEM : JULY 12TH, 2021

TO: **Town Board**

FROM: **Stanley J. Sliwa, Esq., Town Attorney**

DATE: **July 7, 2021**

RE: **Authorization To Pay Outside Counsel Invoice From Trust and Agency Account For Services Related To Jurek Post Purchase**

Kindly adopt a resolution authorizing the Comptroller and/or Finance Director to issue payment to Bengart & DeMarco, LLP in the amount of $4,091.50 from the established Trust and Agency Account (T2107.4001) for legal services performed relative to the purchase of the Jurek Post.

Thank you.

SJS:nmb:hs
c: Kathy Cooper, Deputy Town Clerk
(**Agenda Item : July 12th, 2021**)
Daryl C. Bramer, Town Comptroller
Lynda Juul, Director of Finance

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

B. TOWN CLERK:

1. Resolution 2021-576

Granicus, LLC Meeting Management Software for Minute Traq and Media Traq CRS #2581

Please authorize the Supervisor to sign the Annual Service Agreement Renewal with Granicus, LLC for the Meeting Management Software for Minute Traq and Media Traq. This agreement is valid from 4/17/2021-4/16/2022.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

2. Resolution 2021-577

New Firefighters for Main-Transit Fire Department

The 2 new firefighters for the Main-Transit Fire Department both live in the Town of Amherst and reside within the Main-Transit Fire District borders.

James Swannie
160 Caesar Blvd.

Williamsville, NY 14221

Astrid Amanda
4380 Main Street
Amherst, NY 14226

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

3. Resolution 2021-578

Fireworks Permit - Park Country Club

The Town Board unanimously approved this request for a fireworks permit for July 4, 2021 at 9:30 PM at Park Country Club, 4949 Sheridan Drive with the following conditions:

1. Minimum secured diameter of site shall be 420 feet, maximum 6 inch shell size per permit.

2. That the audience be 420 feet from the fireworks discharge location for vertical mortars.

3. That one (1) 5-lb. ABC fire extinguisher, with a current inspection tag, is located at the firing site with a qualified operator. Additional extinguishers may be required depending on the site layout.

4. That the trajectory of shells shall not come within 25 feet of overhead objects.

5. That the actual shooters listed on the application be present at the site or a substitute shooters list be submitted five (5) or more days prior to the event.

6. Display shall follow NFPA 1123-2018 & IFC 2018.

7. Crowds over 1000 people require a crowd manager.

8. If you would like to start the display earlier than the time proposed you must call 689-1212 before starting to be approved by our office.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

4. Resolution 2021-579

Amusement License - Giancarlo's Walker Center LLC

Request by Giancarlo's Walker Center LLC for a First Class Amusement License for events every Wednesday from June 23 through September 1 from 4:30 PM - 11 PM. Supervising Code Enforcement Officer recommends a fee of $50.

The Building Department recommends the following conditions:

1. That all fire lanes be kept clear at all times.
2. For any tents in excess of 400 square feet being used, a fire prevention tent permit must be obtained.
3. All temporary power must be code complaint.
4. Bathroom facility must be made available and accessible.
5. On site accessible parking must be maintained.
6. Vehicle impact protection must be provided for the guest area.
7. Fire Department access must be maintained at all times in the event of an emergency.
8. Events with 1,000 guests or more will require "Crowd Managers" per the 2020 FCNYS.
9. The applicant must abide by Chapter 138 of the Town of Amherst Code regarding noise.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

5. Resolution 2021-580

Amusement License - 12 Gates Brewing Company

Request by 12 Gates Brewing Company for a First Class Amusement License for July 17, 2021 from 12 PM - 11 PM.

Supervising Code Enforcement Officer recommends a fee of $50.

The Building Department recommends the following conditions:

1. Food Trucks must have a current Town of Amherst Food Vendor License and have the current inspection sticker affixed to vehicle.
2. That all fire lanes be kept clear at all times.
3. All temporary power must be code complaint.
4. Bathroom facility must be made available and accessible.
5. On site accessible parking must be maintained.
6. Vehicle impact protection must be provided for the guest area.
7. Fire Department access must be maintained at all times in the event of an emergency.
8. Events with 1,000 guests or more will require "Crowd Managers" that are in compliance with Chapter 4 of the 2020 FCNYS.
9. The applicant must abide by Chapter 138 of the Town of Amherst Code regarding noise.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

C. ASSESSOR:

D. BUILDING/BUILDING MAINTENANCE:

E. CENTRAL ALARM:

F. COMPTROLLER:

1. Resolution 2021-581

Budget Transfers and Amendments

For July 12, 2021 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 7/7/2021
Re: Various Department Budget Transfers / Amendments

I have received the following request(s) requiring budget transfers and / or amendments. Based on my review, I ask that the Town Board approve the following list;

BUDGET TRANSFERS - 2021

FROM: ***TO:***

BUDGET AMENDMENTS - 2021

INCREASE: ***INCREASE:***

N2044.02785 Cheektowaga Home - PI $1,433.70 N2044.4000 Contractual $1,433.70
N2049.02785 Cheektowaga Home Admin $159.30 N2049.4003 Admin $159.30
To recognize Community Development program income from 79 Applewood, Cheektowaga.

N2044.02785 Cheektowaga Home - PI $2,808.00 N2044.4000 Contractual $2,808.00
N2049.02785 Cheektowaga Home Admin $312.00 N2049.4003 Admin $312.00
To recognize Community Development program income from 15 Greenleaf Lane, Cheektowaga.

N1042.05002 Em'ee Health Ins. Contribution $1,902.96 N1042.8050 Health Ins. $1,902.96
To recognize Community Development 2nd quarter employee health insurance contributions.

N0001.20063 CDBG Income $5,820.00 N1521.4000 Contractual $5,820.00
To recognize Community Development drawdowns for PO 22123612.

N0001.20063 CDBG Income $16,390.00 N1521.4000 Contractual $16,390.00
To recognize Community Development drawdowns for PO 22123614.

KP2101.02089 Rec Facility - Erie County Grant $250,000 KP2101.4972 Construction $250,000
To setup budget for CRS# 2703, Kingsgate Park Central Amherst Little League Improvements, pending successful completion of the contract routing process.

N2057.4000 CDBG Senior Ctr. - COVID 19 $29,103.15 N2057.2600 Other Equipment $29,103.15
To transfers funds for CRS #2732 Senior Center Audio Visual Equipment.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

G. CONTRACT COMPLIANCE:

1. Resolution 2021-582

Award RFP #202009 - Wireless Telecommunications Consultant - CRS #2690

WHEREAS, the Contract Compliance and Administration Department received proposals on January 8, 2021 for RFP #202009 Wireless Telecommunications Consultant; and

WHEREAS, the RFP process resulted in responses from one (1) vendor;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract

Compliance and Administration Department to award this RFP to CityScape Consultants, Inc.; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with CityScape Consultants, Inc.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

2. Resolution 2021-583

Award RFP #202104 - Senior Center Audio Visual Equipment - CRS #2732

WHEREAS, RFP's were received by the Contract Compliance and Administration Department on May 27, 2021 for RFP #202104 Senior Center Audio Visual Equipment; and

WHEREAS, one (1) submission was received;

NOW, THEREFORE, BE IT RESOLVED, the RFP be awarded to Park Place Installations; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with Park Place Installations.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

3. Resolution 2021-584

Piggyback on Erie County Contract with Willow Creek Farm - CRS #2765

RESOLVED, the Town Board authorizes the Supervisor to sign the piggyback contract with Willow Creek Farm. This is a piggyback contract through Erie County Bid #219065-004 for Playground Cushion Chips; and

BE IT FURTHER RESOLVED, the Town Board authorizes a waiver of insurance as Willow Creek Farm personnel will not be on Town of Amherst property; and

BE IT FURTHER RESOLVED, this approval is pending successful completion of the contract routing system, due to the need to purchase product as soon as possible.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

4. Resolution 2021-585

Award Bid #2021016 - Tree Treatment Products - CRS #2750 & 2751

WHEREAS, the Contract Compliance and Administration Department received bids on May 27, 2021 for Bid #2021016 - Tree Treatment Products; and

WHEREAS, the bid process resulted in responses from two (2) vendors, as per the attached bid tabulation form; and

THEREFORE BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this bid as follows: Items #2, 5, 7, 12, 18, & 22 to Nutrien Ag Solutions; Items #1, 3, 4, 6, 8-11, 13-17, 19-21, & 23 to Site One Landscape Supply; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contracts with Nutrien Ag Solutions and Site One Landscape Supply; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the contract routing system due to the need to purchase these products as soon as possible.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

H. COURT:

I. ECONOMIC DEVELOPMENT:

J. EMERGENCY SERVICES:

K. ENGINEERING:

1. Resolution 2021-586

Auction of Engineering Department & Sewer Maintenance Surplus Equipment

The Engineering Sewer Maintenance Division is seeking to participate in the Auctions International online auction to dispose of old and surplus equipment.

The following equipment is slated for auction:

	ID	Description	VIN/Serial #	Condition
1.	E-14	2004 Chevrolet G2500 Survey Van	1GCGG25V541218171	Fair
2.	E-87	2011 Ford F250 4x2 Supercab	1FT7X2A698EA80008	Poor
3.	E-69	2001 International Vacuum Truck	1HTSCAAR91H386345	Good

May we please have the approval to place the above equipment in the auction?

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

2. Resolution 2021-587

Rejection of Bids - Canalway Trail & Hopkins Road Trail Safety Enhancements

On June 17, 2021, five (5) bids were received for the above referenced project. The bid tabulation sheet is attached. After review of the bids, it is recommended that all bids are to be rejected due to insufficient funding. Supplementary funding is requested within the 2022 Capital Improvement Program cycle.

The project will be re-bid once sufficient funding is in place and in a time frame that does not jeopardize the outside funding that has been secured. Thank you for considering this request.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

3. Resolution 2021-588

WPCF De-Ionized Water System Service Contract CRS No. 2697

The WPCF is requesting that the Town Board authorize the Supervisor to sign a service agreement with Evoqua Water Technologies. Evoqua is the factory authorized service provider for the WPCF's De-Ionized Water Production System, which is critical to the lab at the WPCF. The term of this contract will be from date of execution by the Town of Amherst through February 28, 2022.

This request is pending successful completion of the contract review process.

Funds will be available in G9916-4860.

Thank you for considering this request.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

4. Resolution 2021-589

Machine Shop Services Extension Agreement CRS No. 2734

The Engineering Department, WPCF Division is requesting that the Town Board authorize the Supervisor to sign the attached contract extension agreement with Hohl Industrial Services, Inc. The terms and conditions within Town of Amherst Bid 2019034 Machine Shop Services will remain the same. The term of this contract will run from Date of execution by the Town of Amherst through September 24, 2023.

This request has successfully completed the contract review process.

Funds for this request are available Town-wide and various.

Thank you for considering this request.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

5. Resolution 2021-590

Sludge Disposal Contract - Modern Landfill, Inc. CRS No. 2730

The Engineering Department, WPCF division is requesting that the Town Board authorize the Supervisor to sign the attached contract extension agreement with Modern Landfill, Inc. The terms and conditions within Town of Amherst Bid 2018018 Sludge Disposal shall remain the same. This extension will be retroactive from June 18, 2021 through March 31, 2022.

This request has successfully completed the contract review process.

Funds for this request are available in G9916-4950.

Thank you for considering this request.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

6. Resolution 2021-591

WPCF Laboratory Scale & Inspection Service CRS No. 2723

As the Engineering Department WPCF is required to have periodic inspections, calibrations, and services performed to our laboratory scales and balances, we would like to enter into a term agreement to provide the required services.

The WPCF is requesting that the Town Board authorize the Supervisor to sign an agreement with Precision Scale & Balance to provide the services as described in their attached quote, dated May 18, 2021. The term of this contract will be from date of execution by the Town of Amherst through December 31, 2022 and will not exceed $5,000.00.

This request has successfully completed the contract review process.

Funds will be available in G9916-4860.

Thank you for considering this request.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

7. Resolution 2021-592

CIP Program Amendment - PO-2 Police Training Center Improvements

The Engineering Department is recommending amendment of the 2021-2026 CIP for the above project in the amounts shown below. This CIP project was originally intended to fund two (2) projects at the above facility; installation of the emergency electric generator and also a restroom expansion improvement. The proposed amendment will allocate adequate funding to the currently underfunded restroom expansion as well as allocate American Rescue Plan Act Funding to the installation of the emergency electric generator that was procured under the Federal Coronavirus Aid, Relief and Economic Security Act (CARES Act).

CIP No.	Project Description	2021 CIP Allocation	Amend To
PO-2	Police Training Center Improvements (becomes Police Training Center Restroom Expansion Improvements)	$150,000 LA	$245,000 LA
PO-9 (new)	Police Training Center Emergency Electric Generator Installation	$0	$250,000 X

LA = General Fund Bond
X = American Rescue Plan Act Funding

Please approve this amendment to the 2021-2026 CIP and allocate the funding as shown above.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

8. Resolution 2021-593

CIP Amendment - Brompton Road, Park Club Lane & Oakwood Safety Study & Redesign CIP No. E-44

The Engineering Department is recommending amendment of the 2021-2026 CIP for the above project in the amounts shown in the table below. This amendment will allocate adequate funding to a multiple street safety study that has been expanded and that is currently underfunded.

CIP No.	Project Description	2021 Bond Allocations	Amend To
E-44	Brompton Road Safety Study & Redesign	$ 25,000	$ 60,000
	Total	**$ 25,000**	**$ 60,000**

Please approve this amendment to the 2021-2026 CIP and reassign the funding as identified above. Please note that while the above request is not budget neutral we will

continue to try to identify project bond reductions throughout the balance of 2021 in an effort to attempt to achieve budget neutrality associated with this request.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

9. Resolution 2021-594

Purchase of One 2022 Ford F250 XL Super Cab 4X4 W/8' Box

WHEREAS, the Sewer Maintenance Division is requesting to purchase one (1) 2022 Ford F250 XL Super Cab 4x4 Cab w/8’ box to replace an aging Fleet Truck;

WHEREAS, Contract Compliance and the Engineering Department issued Mini-Bid #7482 through the NYS OGS Marketplace for one (1) 2022 Ford F250 XL Super Cab 4x4 Cab w/8’ box;

WHEREAS, bids were received from one (1) vendor per the attached Mini-Bid Tabulation form;

THEREFORE BE IT RESOLVED, the Town Board authorizes the Mini-Bid to be awarded to the low bid from Genesee Valley Ford Avon, 1675 Interstate Drive, Avon, NY 14414 and

BE IT FURTHER RESOLVED, NYS OGS allows the purchase of additional quantities of vehicles of the same specifications and price; and

BE IT FURTHER RESOLVED, that the Town Board authorizes a waiver of insurance; and

BE IT FURTHER RESOLVED, that the Town Board authorizes the Engineering Department to issue a Purchase Order to complete the purchase from Genesee Valley Ford Avon for one (1) vehicle as per the attached.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

10. Resolution 2021-595

Erie County Contract for Funding - Kingsgate Park CALL Improvements CRS 2703

The County of Erie has appropriated grant funds to the Town of Amherst towards the construction of a new restroom/concessions building, picnic shelter and related utility infrastructure at the above facility to replace the temporary mobile restroom trailer that has been in use at this facility for 10+ years. As such, please authorize Supervisor Brian Kulpa to sign the attached contract and associated equal pay certification with Erie County in order to provide the Town with $250,000 in funding towards the above improvements. This contract has been successfully routed through the CRS system.

As these funds are received from the County they are to be deposited within the project account KP2101.02089.

Thank you for considering this request.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

11. Resolution 2021-596

Award of Bid - Kingsgate Park CALL Improvements - General Willett Builders, Inc.

On July 1, 2021, bids were received for the above referenced project. After review of the five (5) bids received (bid tabulation attached), we recommend award of this contract to Willett Builders, Inc., 180 Genesee St., Corfu, NY 14036, in the amount of $875,500.00 to include the Base Bid and Alternate Bid Item Nos. 1, 2 & 3. As the Town has been granted a funding allocation from Erie County towards this project contract in the amount of

$250,000, the Town share of the required funding towards this contract shall be $625,500.00.

Funding for this contract shall be from project account KP2101.4972.

Thank you for considering this request.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

12. Resolution 2021-597

Award of Bid - Kingsgate Park CALL Improvements - Plumbing Contract DV Brown & Associates, Inc.

On July 1, 2021, bids were received for the above referenced project. After review of the ten (10) bids received (bid tabulation attached), we recommend award of this contract to DV Brown & Associates, Inc., 567 Vickers St., Tonawanda, NY 14150, in the amount of $74,800.00 to include the Base Bid and Alternate Bid Item No. 1.

Funding for this contract shall be from project account KP2101.4972.

Thank you for considering this request.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

13. Resolution 2021-598

Award of Bid - Kingsgate Park CALL Improvements - Electrical Contract Goodwin Electric Corporation

On July 1, 2021, bids were received for the above referenced project. After review of the five (5) bids received (bid tabulation attached), we recommend award of this contract to Goodwin Electric Corporation, 201 S. Youngs Rd., Williamsville, NY 14221, in the amount of $39,850.00 to include the Base Bid and Alternate Bid Item No. 1.

Funding for this contract shall be from project account KP2101.4972.

Thank you for considering this request.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

14. Resolution 2021-599

Award of Bid - Kingsgate Park CALL Improvements - Mechanical Contract Willett Builders, Inc.

On July 1, 2021, bids were received for the above referenced project. After review of the three (3) bids received (bid tabulation attached), we recommend award of this contract to Willett Builders, Inc., 180 Genesee St., Corfu, NY 14036, as per their low base bid amount of $14,200.00.

Funding for this contract shall be from project account KP2101.4972.

Thank you for considering this request.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

15. Resolution 2021-600

Award of Bid - Northtown Center Parking Lot Expansion - General Contract American Paving & Excavating, Inc.

On June 15, 2021, bids were received for the above referenced project. After review of the nine (9) bids received (bid tabulation attached), we recommend award of this contract to American Paving & Excavating Inc., 5880 Thompson Road, Clarence Center, NY 14032, in the amount of $508,944.00 to include the Base Bid and Alternate Bid Item Nos. 1 & 2 (Landscape plantings - trees and shrubs).

Funding for this contract shall be from project account KP2103.4972.

Thank you for considering this request.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

16. Resolution 2021-601

Award of Bid - Northtown Center Parking Lot Expansion - Electrical Contract Goodwin Electric Corporation

On June 15, 2021, bids were received for the above referenced project. After review of the seven (7) bids received (bid tabulation attached), we recommend award of this contract to Goodwin Electric Corporation, 201 S. Youngs Rd., Williamsville, NY 14221, at their low base bid amount of $52,797.00.

Funding for this contract shall be from project account KP2103.4972.

Thank you for considering this request.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

17. Resolution 2021-602

Engineering Department A/E 3-Year Term Agreements

In an attempt to minimize the number of contracts that are routed through the multistep contractual review procedure and to minimize the staff time associated with the preparation and review of individual project RFPs, the Engineering Department is requesting that the Town Board award Owner/Engineer/Architecture 3-year term agreements (with an optional 4th year extension) to the following firms:

Firm	Specialty Term	CRS #
Fisher Associates	Infrastructure	2752
Buffalo Engineering	Facilities	2753
DiDonato	Facilities	2754
TY Lin	Traffic/Transportation	2755
WSP	Traffic/Transportation	2756
C&S Companies	Environmental	2757
Earth Dimensions	Environmental	2758
KHEOPS Architecture & Eng	Survey	2760
AECOM	Wastewater	2761
GHD	Wastewater	2762
Arcadis	Wastewater	2763
Wendel	Wastewater	2764

This is the first of two requested rounds of awards as there are additional term contracts that will be brought to the July 26th Town Board Meeting.

Please note that the intent of this procedure is to capture a majority of the professional services procured by the Engineering Department associated with all types of Town projects; however individual RFPs will still be issued for large one-off projects.

With the award of the above referenced contracts, the Town is locking in consultant rates and personnel to prepare studies and designs related to the various capital and maintenance projects. Project scopes and budgets (comprising of individual work orders attached to the master agreement) will be developed between the Engineering Department and the consultant and approved by the Comptroller for budget compliance and executed by the Town Supervisor.

There are other advantages to this approach to engineering contracts:

1 The consultant and Engineering Department will jointly develop scope, which will minimize miscommunications about scope and improve owner-engineer understanding of project and potential project pitfalls up front in process;

2 The process is more efficient for Engineering Department and other Town contracts personnel as less time is used to develop and review individual RFPs;
3 This will move the Town away from low-cost engineering, which sometimes costs the Town additional money on the construction end as omissions and errors are expensive to fix during construction.

As you know, this type of contractual arrangement is not unique in the business. Most of the major municipalities and special districts have similar arrangements with the consulting community, including Erie County Division of Sewerage Management, the City of Buffalo Water Board, the City of Buffalo Department of Public Works and the Erie County Department of Public Works.

Funding for these contracts will be project based and they will be available to be used Town wide.

Thank you for considering this request.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

L. FINANCE:

1. Resolution 2021-603

Use of T-Account Funds from T2023 Recreation Fees

RESOLVED, that $100,000 in funds from T2023 Recreation Fees is hereby authorized to be expended for the repair of parks equipment and purchase of playground surface material in various parks throughout the Town.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

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2. Resolution 2021-604

Authorize Municipal Cooperative Agreement with Village of Williamsville - CRS #2733

RESOLVED, the attached Municipal Cooperative Agreement with the Village of Williamsville is hereby authorized for the purpose of maintaining properties located at 5933 Main Street and 5949 Main Street in Williamsville, NY.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

3. Resolution 2021-605

Authorize Vendors for Amherst Market at Bassett Park - CRS #2665, 2688, 2724, 2735, 2740 & 2745

WHEREAS, contract documents and vendors for the Amherst Market at Bassett Park were approved on June 7, 2021 via RES-2021-492; and

WHEREAS, additional vendors have requested to participate and filled out the appropriate documentation;

NOW, THEREFORE, BE IT RESOLVED, the Town Board hereby approves contracts with the following vendors, subject to successful completion of the Contract Routing System:

CRS #2665 Ty and Mel Enterprises, dba Mad Sauces
CRS #2688 Pour and Penchant
CRS #2724 Black Barn Bakery
CRS #2735 Jordan Buell, Equitable Advisors
CRS #2740 Sherry Martin Dance Studio
CRS #2745 NorthCoast

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

M. HIGHWAY

1. Resolution 2021-606

Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co. CRS # 2727

NOW THEREFORE BE IT RESOLVED, that the Town of Amherst is approved to piggyback on the County of Erie - Construction and Maintenance Materials contract with Pavilion Drainage Supply Co. for guide railing, median barrier and concrete barriers.

The Erie County and Pavilion Drainage Supply Co. is Bid Reference 221065-004, Sections 568, 587 and E606 for guide railing, median barriers and concrete barriers. Contract term is 4/1/2021 through 3/31/2022.

NOW THEREFORE BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to sign this contract. This contract has completed the CRS #2727 Contract Routing System and Town Attorney approval.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

N. HUMAN RESOURCES:

1. Resolution 2021-607

Deputy Town Attorney/Town Attorney's Office

Please appoint a Deputy Town Attorney (Town Prosecutor) to the Town Attorney's Office. Permanent, at an annual salary of $84,709.69 effective July 26, 2021 for Samuel Alba.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

2. Resolution 2021-608

Police Officer/Police Department (4 Positions)

Please appoint ~~five (5)~~ four (4) Police Officers to the Police Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII(c). Effective July 26, 2021 at an annual salary of $62,102 for Nathaniel Gold, Michayla Pane, Dustin Schultz, and Kenneth Stuber . Contingent upon successful completion of all pre-employment requirements and Erie County Civil Service Rules and Regulations.

7/12/2021
A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion was then made by Deputy Supervisor Berger to amend the resolution from five (5) Police Officers to four(4). The motion was seconded by Councilmember Bucki and unanimously approved 5-0.

A motion to approve as amended was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

RESULT:	**ADOPTED AS AMENDED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

3. Resolution 2021-609

Messenger/Human Resources Department

Please appoint a Messenger to the Human Resources Department. Effective June 26, 2021, at an annual salary of $48,750, Grade 7 of the Exempt Non Department Head Salary Schedule for Kathleen Talty. Contingent upon completing all pre-employment requirements. Replacing an employee who retired.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

O. INFORMATION TECHNOLOGY:

1. Resolution 2021-610

Auction / Disposal of Obsolete Equipment

Approval is respectfully requested from the Amherst Town Board to auction obsolete Information Technology equipment. This request is made in accordance with the Town's Property Disposition Policy (Resolution 2011-1032).

It is the intention of the Department of Information Technology to place the following equipment for auction through the Town's approved vendor -- Auctions International. The Department of Information Technology will work with Contract Compliance and Administration as well as the Comptroller's Office to ensure proper disposal procedures are met. If the auction proves unsuccessful, the Department of Information Technology intends on properly disposing of this equipment through the Town's Refuse Department.

(2) HP ProLiant DL585 G6 Servers
These servers are no longer in production. We have reached out to other Town departments to see if they had a need for this equipment with no interest.

As there is no other appropriate use in any of the IT server rooms / buildings and this equipment is no longer supported by the manufacturer we have deemed this equipment as obsolete.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

P. PLANNING:

1. Resolution 2021-611

To Authorize the Town Supervisor to Sign Grant Application Materials and Submit an Application to the New York State Affordable Housing Corporation Not to Exceed $300,000 in Funding for a Housing Rehabilitation Matching Grant to Assist Target Neighborhoods

WHEREAS, the New York State Affordable Housing Corporation will be accepting applications for grant funding for housing rehabilitation loans in 2021, and

WHEREAS, said funds can be used in conjunction with Community Development Block Grant and HOME Investment Partnership Grant funds administered by the Town to assist low and moderate income homeowners, and

WHEREAS, the Planning Department has prepared an application for submission to the NYS Affordable Housing Corporation for said funds, NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Amherst authorizes the Supervisor to sign said application and any related documents, and submit same to the New York State Affordable Housing Corporation for a grant not to exceed $300,000 with a local match of $200,000 for housing rehabilitation loans for low and moderate income homeowners, and BE IT

FURTHER RESOLVED, that a copy of this resolution be forwarded to State Senator Edward A. Rath and State Assemblywoman Karen McMahon.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

2. Resolution 2021-612

Sidewalk Waiver Request, SWW-2021-01

Sidewalk Waiver Request, **SWW-2021-01**; property located at **386 Walton Drive** (SBL 80.14-12-14) in Audubon Terrace South Subdivision. Karla J.L. Gadley, Petitioner.

The subject request has been reviewed by the Planning and Engineering Departments

and **will be placed on the July 12, 2021 Town Board agenda under the Planning Director's report** for decision by the Board. Attached find the reviews from both departments which give their recommendations.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

3. Resolution 2021-613

Request to Schedule a Public Hearing, ZTA-2021-01

Please schedule a public hearing on the proposed Local Law to Amend the Zoning Ordinance: Amendments to the Research and Development (RD) District at the August 9th Town Board meeting.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Q. POLICE:

1. Resolution 2021-614

2021 Edward Byrne Memorial Justice Assistance Grant Formula Program "JAG" (CRS #2748)

TOWN BOARD AGENDA ITEM: JULY 12, 2021

TO: **Town Board**

FROM: **Scott P. Chamberlin, Chief of Police**

RE: **2021 Edward Byrne Memorial Justice Assistance Grant Formula**

Program "JAG" (CRS #2748)

Kindly adopt the following Resolution:

WHEREAS, the Bureau of Justice Assistance has combined funding available through the Edward Byrne program and is offering grant money to the City of Buffalo and the Towns of Amherst and Cheektowaga; and

WHEREAS, The Town of Amherst will receive approximately $11,964.00 to utilize for a number of purposes including but not limited to equipment and supplies, contractual support, training, technical assistance and information systems for criminal justice for a variety of program areas; and

WHEREAS, no matching funds are required for the purpose of securing these grant funds; and

WHEREAS, the City of Buffalo will serve as the lead agency for the purpose of securing and administering these grant funds;

NOW THEREFORE BE IT RESOLVED, that the Town Supervisor is hereby authorized and directed to execute all documents pertaining to the application and acquisition of said funding including a Memorandum of Understanding with the other municipal partners in this collaborative effort. Approval is contingent upon successful completion of the Contract Routing System.

SPC:msl
Attachment
C: Kathy Cooper, Deputy Town Clerk **(Agenda Item: July 12, 2021)**

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

R. SENIOR SERVICES:

S. YOUTH AND RECREATION:

1. Resolution 2021-615

Lease Agreement CRS #2728

Authorize the Supervisor to sign a lease between the Town of Amherst (Youth & Recreation Department) and the Alfred J. Jurek American Legion Post 1672 as an agreement to use the Alfred J. Jurek American Legion Post's fields.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

2. Resolution 2021-616

Clearfield Flooring CRS #2625

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Fairway Floor Covering, Inc. for flooring at the Clearfield Recreation Center.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

3. Resolution 2021-617

Contract Extension - S&S Worldwide, Inc. CRS #2736

Authorize the Supervisor to sign a piggyback contract extension between the Town of Amherst and S&S Worldwide for the purchase of arts and craft supplies (original contract CRS #85).

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

4. Resolution 2021-618

Sourcewell Piggyback Contract CRS #2682

Authorize the Supervisor to sign a piggyback contract between the Town of Amherst and Musco Sport Lighting, LLC for the purchase of sports lighting with related supplies and services, pending receipt of updated Workers' Comp insurance and successful completion of the contract routing process.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

5. Resolution 2021-619

Summer Concert - CRS #2744

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and BMCE, Inc. for performance of a summer concert at Bassett Park, pending successful completion of the contract routing process.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

6. Resolution 2021-620

Sports Equipment Piggyback (BSN) - CRS #2710

Authorize the Supervisor to sign a piggyback contract between the Town of Amherst and BSN Sports LLC for the purchase of athletic and physical education supplies and team uniforms.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

7. Resolution 2021-621

Summer Concert (American Legion Band) - CRS #2725

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and the American Legion Band of the Tonawandas for a concert at Bassett Park.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

XIII. UNFINISHED BUSINESS

1. Resolution 2021-78

Local Law Amending Chapter 19, Ethics

A public hearing for "A Local Law Amending Chapter 19 of The Code Of The Town of Amherst With Respect To The Code of Ethics".

The purpose of this Local Law shall be to amend various section of Chapter 19 of the Code of the Town of Amherst with respect to the list of officials, notice and verification of filing.

1/19/2021
A motion to adjourn to April 19th was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

4/19/2021
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was opened at 7:08 PM.

There were no speakers from the public. Supervisor Kulpa moved to Table the public hearing, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was Tabled at 7:09 PM.

RESULT:	**TABLED (NO VOTE)**	**Next: 7/26/2021 3:00 PM**

2. Resolution 2021-153

Amend the Audubon Development Plan and the Zoning Map to Reclassify 2160 & 2170 North Forest Road from NCD-SA to NCD-ND

DRAFT RESOLUTION
(2/22/21)

Amend the Audubon Development Plan and the Zoning Map
[2160 & 2170 North Forest Road (NCD); Z-2020-06]

RESOLVED, that pursuant to 6NYCRR Part 617 (SEQR) and Town Code Section 104, as amended, that the requirements of SEQR have been completed and the Town Board issues the attached Negative Declaration, and be it further

RESOLVED, that pursuant to NYS Town Law Sec.272-a, the Town Board concurs with the findings of the Planning Board as stated in their resolution of January 21, 2021 that the proposed New Community District - Neighborhood District (NCD-ND) classification at 2160 & 2170 North Forest Road is consistent with the adopted Bicentennial Comprehensive Plan, as amended, and be it further

RESOLVED, that to the extent the proposed classification is not consistent with the adopted Comprehensive Plan, the plan is hereby amended to be consistent with the proposed classification at this location, and be it further

RESOLVED, that in accordance with Section 203-8-3 of the Town Code (Zoning), the Town Board adopts Local Law (#) to amend the Town Zoning map subject to the following condition as recommended by the Planning Board:

1. That the petitioner include additional parking spaces beyond the 17 spaces shown on the concept plan at the site plan stage.

2/22/2021

A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0. The public hearing was opened at 7:32 PM.

Sean Hopkins, Esq. presented.

The following speakers addressed the Town Board:
Joseph Hausbeck, 2180 N. Forest Rd. - Spoke in opposition; does not fit the concept of the neighborhood; submitted a letter listing various concerns
Fran Cummings, 2200 N. Forest Rd. - Voiced her concerns; property floods; traffic
Karen Macris, 2230 N. Forest Rd. - Asked questions; concern of dorm-like apartments; dumpster location and noise

There were no further speakers from the public, therefore Supervisor Kulpa moved to adjourn the public hearing to March 8th. The motion was seconded by Councilmember Szukala and unanimously approved 5-0. The public hearing was adjourned at 8:17 PM.

3/8/2021

A motion to adjourn to April 5th was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

4/5/2021

A motion to open the public hearing was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was opened at 7:05 PM.

Sean Hopkins, Esq. presented updated plans.

The following speakers addressed the Town Board:
Fran Cummings, 2200 N. Forest Rd. - Concerned about it being student housing, lighting spillover, flooding and traffic
Joseph Hausbeck, 2180 N. Forest Rd. - Concerned about excavation of the site and the project being too large

There were no further speakers from the public, therefore Supervisor Kulpa moved to adjourn the public hearing to April 19th. The motion was seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was adjourned at 7:34 PM.

4/19/2021

Per Supervisor Kulpa, the Petitioner has requested an adjournment. Supervisor Kulpa then moved to Adjourn to May 3rd, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The hearing was adjourned at 7:09 PM.

5/03/2021

A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0. The public hearing was opened at 7:09 PM.

Sean Hopkins, Esq. presented updated plans.

The following speaker addressed the Town Board:
Fran Cummings, 2200 N. Forest Rd. - Voiced her continued concerns regarding flooding, student housing in their senior citizen community

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the public hearing, seconded by Councilmember Bucki and unanimously approved 5-0. The public hearing was closed at 7:29 PM.

RESULT:	**TABLED (NO VOTE)**	**Next: 7/26/2021 3:00 PM**

XIV. COMMUNICATIONS

1. Communication 2021-71

Request for Public Hearing to Rezone 10060 & 10090 Transit Road

Request from Jeffery Palumbo, Esq. to schedule a public hearing for the rezoning of 10060 & 10090 Transit Road.

This hearing has been scheduled for August 9, 2021.

7/12/2021
Consent

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

2. Communication 2021-72

Request for Public Hearing to Rezone Portions of 6842 & 6846 Main Street

Request from Sean Hopkins, Esq. for a public hearing with respect to the rezoning of portions of 6842 & 6846 Main Street from GB to DC-5.

This hearing has been scheduled for August 9, 2021.

7/12/2021
Consent

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

3. Communication 2021-73

Permission for Sign Placement and Fee Waiver - Amherst Symphony Orchestra

Request from Lee Brusino to place three (3) signs, one at the Clearfield Recreation Center at Hopkins Road, one at Town Highway Department at 450 Maple Road and one at the Harlem Road Community Center, 4255 Harlem Road to promote the Amherst Symphony Orchestra's concert on August 3rd. He is also requesting waiver of the sign permit fee.

The Building Department approves sign placement and recommends fee waiver.

7/12/2021
Consent

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

4. Communication 2021-74

Request for Fee Waiver - Congregation Brith Hadoshah

Request for waiver of the fire safety inspection fee for a Congregation Brith Hadoshah's annual picnic to be held on August 22nd.

The Building Department recommends approval of the fee waiver.

7/12/2021
Consent

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

5. Communication 2021-75

Resident Concerns - 468 Harding Road

Emails from Rose Walker.

7/12/2021
Referred to Planning, Planning Board, Zoning Board, Traffic Safety, Town Attorney, and to be entered into rezoning file.

RESULT:	**REFERRED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

6. Communication 2021-76

Rezoning of 468 Harding Road

Resident speaks for neighborhood regarding 468 Harding Road rezoning.

7/12/2021
Referred to Planning, Planning Board, Zoning Board, Traffic Safety, Town Attorney, and to be entered into rezoning file.

RESULT:	**REFERRED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

7. Communication 2021-77

Residents Requesting an Update to Youngs Road Extension

Stonebridge Homeowners Association is requesting an update to the Youngs Road Extension project.

7/12/2021
Referred to Planning and Town Attorney.

RESULT:	**REFERRED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

8. Communication 2021-78

Pedestrian Entrance Concerns

Resident expresses concerns about pedestrian entrance for Amherst Central Park at Frankhauser Road.

7/12/2021
Referred to the Central Park Task Force.

RESULT:	**REFERRED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

9. Communication 2021-79

Summons and Complaint: Federal National Mortgage Association ("Fannie Mae") Et Al. Vs. Town of Amherst Et Al.

7/12/2021
Referred to Town Attorney.

RESULT:	**REFERRED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

10. Communication 2021-80

Notice of Claim: Niagara Mohawk Power Corporation D/B/A National Grid Vs. Town of Amherst

7/12/2021
Referred to Town Attorney.

RESULT:	**REFERRED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

XV. PUBLIC IMPROVEMENT PERMITS

XVI. SUSPENSION OF RULES

Supervisor Kulpa motioned to open Suspension of Rules to bring forth 1 unlisted item. The motion was seconded by Councilmember Bucki and unanimously approved 5-0. Suspension of Rules was opened at 8:39 PM.

There being no further business requiring Suspension of Rules, Supervisor Kulpa moved to close and return to the regular agenda, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Suspension of Rules was closed at 8:43 PM.

1. Resolution 2021-622

Grant Authorization to the Supervisor to Submit a U.S. Department of Transportation (USDOT) Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant Application

To: Amherst Town Board

From: Brian J. Kulpa, Town Supervisor

Date: July 12, 2021

Re: Grant authorization to the Supervisor to submit a U.S. Department of Transportation (USDOT) Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant application.

Please consider adoption of the following resolution as a suspension item to tonight's Town Board agenda.

WHEREAS, the Consolidates Appropriations Act, 2021 appropriated $1 billion to be awarded by the USDOT on a competitive basis for capital investments in surface transportation that will have a significant local or regional impact; and,

WHEREAS, the USDOT released a 2021 Notice of Funding Opportunity for the $1 billion RAISE program in FY 2021; and,

WHEREAS, The Town of Amherst with the support of Erie County, is requesting USDOT RAISE Planning Resources to transform Maple Road into a complete street to connect neighborhoods, recreation and major commercial centers; and,

WHEREAS, It is vital for the Town of Amherst and Erie County to create a comprehensive plan for the redevelopment of Maple Road to focus on safety, connectivity and accessibility which will enhance the promotion of safe public access and smart development throughout the area; and,

WHEREAS, the Town Board commits to providing the required local matching funds for the Rebuilding American Infrastructure with Sustainability and Equity (RAISE***)*** program not to exceed 20% of total project costs and to insure the timely implementation of the proposed project; and,

WHEREAS, the total project costs are estimated to be **$1,000,000**; and

NOW THEREFOR BE IT RESOLVED, Brian Kulpa, Supervisor of the Town of Amherst, is hereby authorized and directed to file an application for funds from U.S. Department of Transportation (USDOT) through their Rebuilding American Infrastructure with Sustainability and Equity (RAISE) program, and, upon approval of said application for funds to enter into and execute a project agreement with the USDOT for such financial assistance to the Town of Amherst.

7/12/2021
A motion to adopt was made by Deputy Supervisor Berger, seconded by Councilmember Bucki and unanimously approved 5-0.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Jacqualine Berger, Deputy Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

XVII. PUBLIC EXPRESSION #2

This is an opportunity for residents to comment on matters involving Amherst

other than those pertinent to Public Hearings that day. Speakers will be limited to 3 minutes.

A motion to open Public Expression was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Public Expression was opened at 8:44 PM.

The following speakers addressed the Town Board:
Michael Kankiewicz, 115 Sedgemoor -Red light running on Sheridan Drive between N. Forest & Millersport
Jennifer Snyder Haas, 185 Fairways, Blvd. - MOU with Mensch Partners; Questioned the sale and clean up of contamination at Westwood
Don Smith, N. Long St. - Amherst Central Park Task Force, impact & side effects, transparency
Chris Drongosky, Amherstdale Rd. - Town has to be careful, Mensch could walk away & leave Westwood cleanup to the Town; public wants to know extent of contamination & what will be done
Kathy Aquilina, Maple Rd. - Questioned contract with American Campus

There were no other speakers from the public, therefore Supervisor Kulpa moved to close Public Expression, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Public Expression was closed at 9:05 PM.

XVIII. ADJOURNMENT

There being no further business to come before the Town Board, Supervisor Kulpa moved to adjourn, seconded by Councilmember Bucki and unanimously approved 5-0. The Town Board meeting of July 12, 2021 was adjourned at 9:05 PM.

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 23440 **RESOLUTION 2021-569** **ADJOURNED**

Request to Rezone 468 Harding Road

DRAFT RESOLUTION
(7/12/21)

Denial of Local Law to Amend the Zoning Map
(468 Harding Road, Z-2020-13)

RESOLVED, that pursuant to NYS Town Law Sec.272-a, the Town Board concurs with the findings of the Planning Board as stated in their resolution of May 20, 2021 that the proposed Traditional Single-Family Residential District (TR-3) zoning at 468 Harding Road is **not consistent** with the adopted Bicentennial Comprehensive Plan, as amended, and be it further

RESOLVED, that in accordance with Section 203-8-3 of the Town Code (Zoning), the Town Board **denies** the request to amend the Town Zoning map for the following reasons as stated by the Planning Board:

1. The proposed zoning and development plan is inconsistent with the policies of the Comprehensive Plan and the Zoning Ordinance.

2. The proposal is not compatible with the present zoning and conforming uses of nearby properties and with the character of the neighborhood.

7/12/2021
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was opened at 7:11 PM.

Jeffery D. Palumbo, Esq., Barclay Damon LLP, presented and answered questions along with David Capretto from Forbes Capretto Homes.

The following Speakers addressed the Town Board and all spoke in opposition:
Mark Bechtel, 442 Harding Rd. - Opposed to 10 more houses, roads are narrow, additional cars, increased noise and parking; no sidewalks, no street lights
Kathleen Santillo, 411 Harding Rd. - 10 houses too close together, traffic, too many cars
John Squires, 437 Harding Rd. - Increased traffic, not comfortable with 10 homes

As there were no further speakers, Supervisor Kulpa motioned to adjourn the public hearing and set a decision date for August 9th. The motion was seconded by Councilmember Bucki and unanimously approved 5-0. The public hearing was adjourned at 7:43 PM.

RESULT:	**ADJOURNED [UNANIMOUS]**	**Next: 8/9/2021 7:00 PM**
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Deborah Bruch Bucki, Councilmember	
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala	

LOCAL LAW NO. _____-202_

TOWN OF AMHERST
COUNTY OF ERIE, STATE OF NEW YORK

A LOCAL LAW AMENDING CHAPTER 203 OF THE TOWN OF AMHERST CODE, KNOWN AS THE ZONING ORDINANCE, TO REZONE 468 Harding Road FROM _R-3_ TO _TR-3_ AND TO AMEND THE ZONING MAP ACCORDINGLY

Be it enacted by the Town Board of the Town of Amherst as follows:

Section 1. Title.

This Local Law shall be referred to as, "A Local Law Amending the Zoning of 468 Harding Road."

Section 2. Legislative Findings and Intent.

The Town Board of the Town of Amherst finds that an application to rezone 468 Harding Road from R-3 Residential 3 to TR-3 Traditional Residential Single Family zoning has been filed and is in proper order. The Town Board further finds that the rezoning is consistent with the Comprehensive Plan.

Section 3. Amherst Zoning Map.

The Town Board hereby amends its zoning map which is incorporated by reference in the Town zoning code by amending from R-3 Residential 3 to TR-3 Traditional Residential Single Family the zoning of 468 Harding Road, **subject to any conditions imposed by the authorizing resolution**; legally described as follows:

> ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie, State of New York being part of Lot 83, Township 11, Range 7 of the Holland Land Company's Survey, more particularly described as follows:
> BEGINNING at a point in the easterly line of Harding Road at the southerly line of lands conveyed to Sider by deed recorded in the Erie County Clerk's Office in Liber 2268 of Deeds at page 123;
> THENCE S 89°19'31" E along the said southerly line of Sider a distance of 276.59 feet to the westerly line of McKinley Avenue as appropriated by the State of New York and shown as Parcel 230 on Map 202;

Attachment: LL 468 Harding 2nd Amended TR-3 (RES-2021-569 : Rezoning of 468 Harding Road)

THENCE S 00°12'01" W, along the said westerly line of Parcel 230 a distance of 204.31 feet;
THENCE S39°51'32" W, continuing along the westerly line of Parcel 230, a distance of 30.17 feet to the northerly line of said Parcel 230:
THENCE S 89°45'27' W, along the said northerly line of Parcel 230, a distance of 224.14 feet;
THENCE N 46°08'55" W, continuing along the said northerly line of Parcel 230, a distance of 44.89 feet to the easterly line of Harding Road;
THENCE N 00°00'06" W, along the easterly line of Harding Road, a distance of 200.86 feet to the POINT OF BEGINNING, being 1.44 acres of land, more or less.

Section 4. Validity.

This Local Law is adopted under the authority granted to the Town Board of the Town of Amherst pursuant to §§10(1)(ii)(a)(12), 20 and 27 of the Municipal Home Rule Law and §265 of the Town Law of the State of New York.

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

Section 5. Effective Date.

This Local Law shall take effect immediately when it is filed in the Office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law and published pursuant to Sections 130 & 133 of the Town Law and Chapter 28 of the Code of the Town of Amherst.

Francina J. Spoth
Town Clerk
Town of Amherst
County of Erie, State of New York

Attachment: LL 468 Harding 2nd Amended TR-3 (RES-2021-569 : Rezoning of 468 Harding Road)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa, Supervisor
Daniel C. Howard, A Planning Director
Ellen M. Kost, AIC Assistant Planning Dir

Town Board Agenda of July 12, 2021

June 23, 2021

The Honorable Town Board
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Subject: Request to Rezone 1.44± acres of land from Residential District Three (R-3) to Traditional Single-Family Residential District (TR-3); property located at 468 Harding Road, Forbes Capretto Homes, petitioner. (Z-2020-13).

Honorable Members:

The subject property is a 1.44 ± acre rectangular shaped parcel located at the southern termini of McKinley Avenue and Harding Road west of the intersection of Freeman Road and McKinley Avenue. The site is currently undeveloped and is largely lawn with 10± mature deciduous trees scattered along its periphery; it has 229 ± feet of frontage on both McKinley Avenue and Harding Roads with a depth of 276 ± feet.

The subject site is located within an archaeologically sensitive area based on NYS mapping and is within the Clarence Central School District.

For information on the surrounding zoning and land use, please refer to the attached sketch.

The purpose of this request as shown on the concept plan is to allow the petitioner to construct a future 10 lot subdivision, with the internal 8 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.

An application to rezone the subject parcel from Residential District Three (R-3) to Residential District Four (R-4) to allow for two family dwellings was denied by the Town Board on February 4, 1991 (Z-1990-27).

The Planning Board previously approved a site plan on January 19, 2006 for a four-lot subdivision on the subject parcel (SP-2005-25).

The Planning Board offers the following findings consistent with Section 8-3 of the Zoning Ordinance.

continued . . .

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Honorable Town Board

Rezone land from R-3 to TR-3; property located at 468 Harding Road Agenda of July 12, 2021

INTENT AND OBJECTIVES OF THE COMPREHENSIVE PLAN

The request is consistent with the Town of Amherst Bicentennial Comprehensive Plan's Conceptual Land Use Plan which projects single family residential development for the subject parcel. The request, however, is inconsistent with the Comprehensive Plan goal for the location of infill single-family residential development since it does not conform with the established character and scale of the surrounding neighborhood and areas. Adjacent single-family lots appear to have widths ranging from 59 feet to 159 feet, with the average lot width of 61 feet.

INTENT AND OBJECTIVES OF THE ZONING ORDINANCE

The proposed rezoning is inconsistent with the following sections of the Zoning Ordinance;

- §1-2-2 A, which seeks to protect the character and values of residential, institutional and public uses, business, commercial and manufacturing uses and to insure their orderly and beneficial development,
- §1-2-2 C, which seeks to prevent overcrowding of the land,
- §1-2-2 H, which seeks to assure that structures and land use arrangements are aesthetically harmonious with nearby areas and structures, and
- §1-2-2 K, which seeks to guide future development of the Town to bring about the gradual conformity of land and building uses in accordance with the objectives of the Comprehensive Plan.

CONSISTENCY/COMPATIBILITY WITH SURROUNDING DEVELOPMENT/ZONING

The proposed development is inconsistent and less compatible with the existing surrounding single family residential homes and lot sizes The proposed zoning district would allow for an approximate 45% reduction in the minimum lot size and a 38% reduction in lot width.

The area of the subject site facing the lots on the west side of Harding Road should at a minimum be consistent with the existing detached single family lots on that roadway. The easterly portion of the parcel could potentially be developed with an owner-occupied form of attached or detached higher density residential development which would face the rear of commercial properties fronting on Transit Road.

ADEQUATE SERVICES AND UTILITIES

All services and utilities necessary for the proposed rezoning are available and adequate at the subject location.

A Short Form Stage A/B Cultural Resource Investigation has been performed on the subject site and the NYS Office of Parks, Recreation and Historic Preservation has determined that the project will have no impact upon cultural resources in or eligible for inclusion in the State and National Register of Historic Places.

This is an Unlisted action, and an environmental assessment consistent with SEQR has been prepared for the subject proposal. Pursuant to Local Law #3-82, as amended, the requirements of SEQR are complete and the proposal is not expected to have a significant adverse effect on the environment.

continued . . .

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Honorable Town Board

Rezone land from R-3 to TR-3; property located at 468 Harding Road Agenda of July 12, 2021

RECOMMENDATION

The Planning Board recommends that your Honorable Body concur with the Planning Board and that the subject request be **denied** based on the attached resolution.

Very truly yours,

Ellen M Host

for Daniel C. Howard, AICP
Planning Director

DH/SM/___
Att.
X:\Current_Planning\Files\Rezonings\2020\Z-2020-13_(468_Harding_Rd)_2020\Z-2020-13_Town_Board_Letter_071221.docx
cc: Stanley Sliwa, Town Attorney

Planning Board Denial May 20, 2021
Ayes 5; Noes 2 (Gill, Gilmour)

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

TOWN OF AMHERST
PLANNING BOARD
ZONING RESOLUTION
Z-2020-13

PETITIONER

Forbes Capretto Homes
c/o Jeff Palumbo, Esq.
Barclay Damon LLP
9276 Main Street, Suite 3
Clarence, NY 14031

PROPERTY LOCATION

468 Harding Road

WHEREAS the Town of Amherst Planning Board on Thursday, March 18, April 15, and May 20, 2021 held a remote public hearing on the proposed rezoning of land from Residential District Three (R-3) to Traditional Single-Family Residential District (TR-3), and

WHEREAS the Planning Board has reviewed plans and other materials regarding the rezoning proposal, and

WHEREAS the materials and plans have been referred to the Town's various review agencies, and

WHEREAS in accordance with Section 8-3-5 of the Zoning Ordinance the Planning Board finds that:

A. The proposed zoning and development plan is inconsistent with the policies of the Comprehensive Plan and the Zoning Ordinance.

B. There are adequate services and utilities available or proposed to be made available in the construction of the development.

C. The proposal is not compatible with the present zoning and conforming uses of nearby property and with the character of the neighborhood.

D. The subject property is suitable for uses permitted by the current versus the proposed district.

E. The proposed change does not tend to improve the balance of uses, or meet a specific demand in the Town.

F. Review by the US Army Corps of Engineers under Section 404 of the Clean Water Act may be waived since hydric/potentially hydric soils have not been identified on the parcel.

Pursuant to Local Law #3-82, as amended, the Planning Board recommends that the Town Board determine that the requirements of SEQR are complete and that the subject proposal is not expected to have a significant adverse effect on the environment.

MAY 28 '21 PM 2:07 RCVD

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

TOWN OF AMHERST
PLANNING BOARD
ZONING RESOLUTION
Z-2020-13

PETITIONER	PROPERTY LOCATION
Forbes Capretto Homes	468 Harding Road

NOW THEREFORE BE IT RESOLVED that the Planning Board recommends to the Town Board in accordance with Section 8-3-4 of the Zoning Ordinance, that the rezoning request be **denied** for the following reasons.

1. The proposed zoning and development plan is inconsistent with the policies of the Comprehensive Plan and the Zoning Ordinance.

2. The proposal is not compatible with the present zoning and conforming uses of nearby properties and with the character of the neighborhood.

The foregoing resolution was adopted by the Town of Amherst Planning Board, May 20, 2021. moved by – Giuliani, seconded by – Chmiel, ayes 5, noes 2 (Gill, Gilmour).

Robert J. Gilmour, Chair

5-27-21
Date

SM/ac
X:\Current_Planning\Files\Rezonings\2020\Z-2020-13_(468_Harding_Rd)_2020\Z-2020-13_Resolution_052021.docx
cc: Town Clerk
Commissioner of Building
Highway Superintendent
Town Engineer
Traffic/Safety Coordinator
Jeff Palumbo, Barclay Damon LLP, 9276 Main Street, Suite 3, Clarence, New York 14031

MAY 28 '21 PM 2:37 RCVD

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

BARCLAY DAMON

Jeffery D. Palumbo
Partner

April 16, 2021

BY HAND DELIVERY

Town of Amherst
Town Board
c/o Town Planning Department
5583 Main Street
Williamsville, NY 14221

Re: 468 Harding Road
Proposed Rezoning

Dear Honorable Members of the Town Board:

Barclay Damon LLP represents Forbes Capretto Homes ("Applicant"). The Applicant previously submitted a Petition for Rezoning of the above Property on December 28, 2020 and an Amended Petition for Rezoning on February 4, 2021. We respectfully ask on behalf of Applicant that the original Petition for Rezoning filed on December 28, 2020 and the Amended Petition for Rezoning submitted on February 4, 2021 be further amended so that the request is now for rezoning from R-3 to TR-3.

This letter will confirm that Applicant is under contract to purchase 468 Harding Road, SBL 82.09-6-20, in the Town of Amherst ("Property"). The 1.44 acre Property is vacant, unimproved land in the southeast corner of the Town, immediately west of Transit Road and south of Interstate 90. Currently, the property is zoned Residential 3 (R-3). Applicant proposes a rezoning to Traditional Single-Family Residential (TR-3). The rezoning is one step towards a ten unit residential infill development with approximately 0.72 acres of greenspace. The proposed infill development is a permitted use in the TR-3 district. Subsequent to this request for rezoning, Applicant will seek site plan approval and any other necessary municipal approvals.

Enclosed, please find the following:

(1) Amended Petition for Rezoning/Town Application Form
(2) Amended Town of Amherst Zoning Code Rezoning Analysis
(3) Existing Boundary Survey
(4) Legal Description of Property to be Rezoned
(5) Preliminary Concept Plan
(6) Amended Draft Local Law

9276 Main Street - Suite 3 - Clarence, New York 14031 barclaydamon.com
JPalumbo@barclaydamon.com Direct: (716) 858-3722 Fax: (716) 768-2725

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

(7) Amended Full Environmental Assessment Form
(8) Town of Amherst Supplemental Environmental Assessment Form
(9) Owner Authorization

We look forward to introducing this Amended Application and discussing this Redevelopment with the Town Board. Thank you for your consideration. Please contact me should you require anything additional.

Very truly yours.

Jeffery D. Palumbo

JDP:tam
Enclosures

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

SECOND AMENDED APPLICATION TO TR-3
APRIL 16, 2021

TOWN OF AMHERST PLANNING DEPARTMENT

Application for Rezoning Review and, if required Comprehensive Plan Amendment

For Official Use

File #: _____ **Acreage** _____ **Fee $** _____

Address Verified by Assessor's Office _____
VERIFIED BY DATE

Materials Accepted by Town Clerk & Fee Paid _____
ACCEPTED BY DATE

Materials Checked by Building Dept. _____
RECEIVED BY DATE

Materials Received by Planning Dept. _____
RECEIVED BY DATE

		Fill In Applicable Fees
2 ACRES OR LESS	$1,250	X
2 – 20 ACRES $1,250 + $250/acres or fraction thereof over 2 acres		_____
20 – 30 ACRES $5,700 + $150/acre or fraction thereof over 20 acres		_____
OVER 30 ACRES $6,900 +$75/acre or fraction thereof over 30 acres		_____
Request for Relief of/Change to Conditions of Zoning Approval	$ 1,200	_____
AFFIDAVIT FEE FOR PUBLIC HEARING	$ 15.00	X
TOTAL FEE:	$ 1,265	

Town of Amherst Planning Department 5583 Main Street Williamsville New York 14221
(716) 631-7051 Fax (716) 631-7153 Web www.amherst.ny.us

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TO BE COMPLETED BY APPLICANT

1. **Petitioner:** Name: Forbes Capretto Homes

Address: c/o Barclay Damon LLP
9276 Main Street, Suite 3

Clarence (City) NY (State) 14031 (Zip Code)

Phone: (716) 858-3728 Fax: (716) 768-2728

E Mail: jpalumbo@barclaydamon.com

2. **The undersigned hereby petitions the Honorable Town Board to rezone the following described property**

From: R-3 District

To: TR-3 District

3. **Street address of land to be rezoned:** (must be verified by Town Assessor's Office)

468 Harding Road
Amherst, NY

SBL #: 82.09-6-20

4. **Area of land to be rezoned** (in acres): 1.44

5. **Owner of Land:**

Name: Lori Grabenstatter

Address: 469 Harding Road

Telephone:

6. **Representative** (Architect, Engineer, Landscape Architect, Surveyor or Attorney):

Name: Jeffery D. Palumbo, Esq.

Address: 9276 Main Street, Suite 3

Clarence (City) NY (State) 14031 (Zip Code)

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7. **Petitioner's interest in property**

X Option to purchase

_____ Owner

_____ Other (explain) _____

8. **The following are all others having an interest in this application and join herein with the petitioner named above:** (describe extent of interest; attach sheets as needed)

9. **Attach Survey and Legal description of land to be rezoned. The Survey must be prepared by a New York State Licensed Land Surveyor.**

10. **Said property has the following deed restrictions or Covenants:** (attach copy)

Liber _____ Page _____

11. **Information on proposed project:**

A. Description of the character of the proposed development:

Rezone to TR-3 in furtherance of development of vacant land into residential use.

B. Rationale for rezoning request:

1. Why was this site chosen? Availability, size, marketability, proximity to central corridor in Town and connectivity to neighboring municipalities.

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2. Why cannot land be used with the existing zoning?
Not economically viable.

3. How will this rezoning impact surrounding properties?
Residential use maintained.

4. How will this rezoning impact the school system?
Clarence Central School district; no likely impact.

12. Quantitative Data:

A. Total # of dwelling units 10

B. Distribution of dwelling units by type 10 single family patio homes

C. Gross Residential Density per acre

D. Total amount of Open Space N/A

E. Proposed Non-Residential Floor Area n/a

13. Development Schedule:

Start

Finish 6-9 months after bulding permit

Stages (# of) 1

14. If any portion of the proposed development is planned to be sold or leased, please describe:
Each unit will be leased.

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15. **Open Space ownership and maintenance provisions (if applicable):**

N/A

16. **Basis for Findings (Sec. 8-3-5 of the Town Zoning Code) (Attach sheets and supplemental materials as necessary.)**

A. **The proposed zoning and development plan must be generally consistent with the policies of the Comprehensive Plan and the Town Zoning Ordinance.**

1. State in detail why the proposed zoning is consistent with the adopted Town of Amherst Bicentennial Comprehensive Plan. Cite specific sections, maps, and/or figures in the plan that support the proposed zoning at this location (The Comprehensive Plan document is available at the Planning Department, Town Clerk's Office, Amherst libraries, or at www.amherst.ny.us). Add sheets as needed.

See attached analysis.

2. Pursuant to NYS Town Law Section 272a(11), "all Town land use regulations must be in accordance with a comprehensive plan adopted pursuant to this Section." The Town Board adopted the Comprehensive Plan pursuant to NYS Town Law 272 on January 2, 2007. If the rezoning is approved, the Town Board may require the Plan to be amended, as applicable.

Cite all text, map, and / or figures that must be amended to support the proposed zoning at this location (attach pages as necessary) and provide detailed suggested amendments.

See attached analysis.

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3. State why the proposed zoning is consistent with intent and objectives (Sec. 1-2-2) of the Zoning Ordinance:
See attached analysis.

B. **Adequate Services and Utilities are available or are proposed to be made available with the construction of the development:**

1. Sanitary Sewer
Existing Town Sanitary Sewer District # 16
2. Storm Sewer/Drainage
Conveyance systems along Harding Road, Stiles Court, and McKinley Avenue
3. Water
Erie County Water Authority Lease Managed Service Area
4. Other

C. **Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood:**
See attached analysis.

D. **Suitability of the subject property for uses permitted by the current versus the proposed district:**
See attached analysis.

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E. **Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town:**

See attached analysis

17. The petitioner ~~encloses herewith~~ previously paid the sum of $ 1,265.00 to pay the fee, and consents to the placement of a sign(s) at the described location identifying this request for a period of time to be determined by the Town Clerk.

18. The undersigned certifies that all information required to be disclosed pursuant to Section 809 of the General Municipal Law (see below) is as follows:

The undersigned swears or affirms that all statements made herein are true, that all drawings submitted correctly show the situation involved in this petition.

Jeffery D. Palumbo
Signature of Petitioner

Subscribed and sworn to before me this 16 day of April, 2021

Notary Public, Erie County, New York

TRACY A. MURRAY#01MU5077295
Notary Public, State of New York
Qualified in Genesee County
My Commission Expires 05/05/

N.Y.S. General Municipal Law - Section 809 Disclosure in certain applications:

1. Every application, petition or request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or official map, license or permit, pursuant to the provision of any ordinance, local law, rule or regulation constituting the zoning and planning regulations of a municipality shall state the name, residence and the nature and extent of the interest of any state office or any office or employee of such municipality or of a municipality of which such municipality is a part, in the person, partnership or association making such application, petition or request (hereinafter called the applicant) to the extent known to such applicant.

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2. For the purpose of this section an officer or employee shall be deemed to have an interest in the applicant when he, his spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them

   (a) is the applicant, or
   (b) is an officer, director, partner or employee of the applicant, or
   (c) legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant, or
   (d) is a party to an agreement with such an applicant, express or implied, whereby he may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such applicant, petition or request.

3. In the county of Nassau the provisions of subdivisions one and two of this section shall also apply to a party officer. "Party Officer" shall mean any person holding any position or office, whether by election, appointment or otherwise, in any party as defined by subdivision four or section two of the election law.

4. Ownership of less than five per cent of the stock of a corporation whose stock is listed on the New York or American Stock Exchanges shall not constitute an interest for the purposes of this section.

5. A person who knowingly and intentionally violates this section shall be guilty of a misdemeanor.

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Rezoning Application Requirements and Checklist

The following checklist outlines the information required by the Town of Amherst to accept a Rezoning application. ***It is strongly recommended that you make an appointment with Planning Staff to discuss what information will be needed to address the items shown on the checklist.***

Item No.	Item	Submitted	Official use
I Application Information			
1.0	**Town of Amherst Rezoning / Comprehensive Plan Amendment Application Form (available from Planning Department)**		
1.1	Name, address, and contact information of the petitioner		
1.2	Name and address of property owners(s) – if different than petitioner		
1.3	If petitioner is different than property owner, provide statement describing interest in property and a letter from the property owner authorizing the application		
1.4	Identify existing and proposed zoning and acreage of area proposed to be rezoned		
1.5	Parcel addresses and Section, Block, and Lot (SBL) numbers of all properties proposed to be rezoned. Indicate if a portion of any parcel is involved, if applicable		
1.6	Statement of planning objectives to be achieved by the proposed rezoning, including the following: • How the proposed zoning and development plan meets the objectives of the Comprehensive Plan • A description of the character of the proposed development • The rationale behind the assumptions that are presented		
1.7	Cite specific maps and / or figures in the Comprehensive Plan that must be amended to support the proposed zoning and provide suggested amendments)		
1.8	A general statement about how any proposed open space will be maintained (if applicable)		
1.9	A development schedule indicating the approximate date when construction is expected to begin and be completed. Identify schedule of any proposed phasing of the development (attach pages as necessary)		
1.10	A statement of the petitioner's intentions regarding future sale or leasing of all or portions of the proposed development		
II Survey and Legal Description			
1.0	**Complete boundary survey that includes all existing structures, acreage, legal description, and easements plotted to scale by a NYS licensed land surveyor**		
1.1	Raised/wet seal and signature of licensed surveyor		
1.2	Clear delineation and acreage of area to be rezoned if different than property boundary		
2.0	**Legal Description of the total area proposed to be rezoned. (must be consistent with area shown to be rezoned on boundary survey)**		

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Item No.	Item	Submitted	Official use
III Concept Plan (if required by the Planning Board)			
1.0	**Conceptual development plan drawn to scale (no larger than 24" x36" format and folded into 8 ½" x 11" size)**		
1.1	North arrow		
1.2	Scale of drawing		
1.3	Property lines (existing and proposed)		
1.4	Unique natural features and tree cover		
1.5	Information on land controlled by the applicant located within 500 feet of the perimeter of the area proposed to be rezoned		
1.6	Location of all proposed structures and other improvements		
1.7	Number and type of dwelling units (if applicable)		
1.8	Gross square feet of commercial space (if applicable)		
1.9	Maximum structure heights		
1.10	Architectural sketches		
1.11	Existing and proposed contours		
1.12	Existing utility systems (sanitary sewers, water, storm drainage)		
1.13	Location of proposed storm water detention or retention facilities		
1.14	Proposed land use arrangement		
1.15	Location of all parking, loading, stacking and interior circulation drives		
1.16	Location of proposed curb cuts		
1.17	Location of cross access drives to adjacent parcels		
1.18	Pedestrian circulation system		
1.19	Location of NYSDEC wetlands (including buffer area) and/or federal wetlands; indicate jurisdictional status		
1.20	Location of floodway and 100-year floodplain (if applicable)		
1.21	Location and purpose of any proposed easements		
1.22	Location and proposed development of all open spaces, including parks, playgrounds, conservation areas, and dedicated open space; indicate intended ownership of such areas		
1.23	Additional data as required by the Planning Board		
V Other Required Information			
1.0	**Completed and signed Environmental Assessment Form**		
11	Soil boring report and geotechnical report prepared by a qualified Professional Engineer (if applicable)		
1.2	Traffic impact study (if applicable)		
1.3	Archaeological assessment (If applicable)		
1.4	Wetland Delineation report (if applicable)		
2.0	**8 1/2" X 11" reduction of concept plan drawing (see appendix B)**		
3.0	**A CD containing a PDF of the complete submittal package, including all drawings.**		

Rev. 07/02/08, 10/24/08, 11/4/13

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Town Zoning Code and Comprehensive Plan
Rezoning Analysis

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Town Zoning Code Rezoning Analysis
468 Harding Road

Pursuant to § 203-8-3-5 of the Town of Amherst Zoning Code, Petitioner submits the following in support of its Application to rezone 468 Harding Road (SBL 82.09-6-20) ("Property") from Residential District 3 (R-3) to Traditional Single-Family Residential District (TR-3) ("Application").

A. The proposed zoning and development plan is generally consistent with the policies of the Comprehensive Plan and this Ordinance.

1. State in detail why the proposed zoning is consistent with the adopted Town of Amherst Bicentennial Comprehensive Plan.

The Town of Amherst Bicentennial Comprehensive Plan, Amended September 2019 ("Comprehensive Plan"), calls for the development of "policies [that] emphasize the application of context-sensitive design standards to enhance community appearance and sense of place [and] spur reinvestment rather than new greenfield development, the Plan proposes tax and other incentives and zoning revisions focused on infill and redevelopment in older neighborhoods and commercial corridors." See Comprehensive Plan at ii – iiii.

As to context, the Property is located in the southeast corner of the Town immediately west of Transit Road and south of Interstate 90. Access to the Property is through a lighted intersection at Freeman Road and Transit Road. The Property is located in a small neighborhood with approximately 57 homes. The neighborhood has been continuously built up over time. One dwelling was constructed in 1927, with the majority being built in the 1930s-1960s; however, construction continued into the 1980s, 1990s, and 2000s. Two dwelling were constructed in the early 2010s, and the neighborhood still has vacant land for single-family dwelling construction. Meanwhile, the Property sits vacant and is currently owned by a neighboring resident. The proposed zoning is a step towards an infill development that helps sustain the continued growth of the preexisting neighborhood by introducing a "mixed residential" element to this underutilized Property in the neighborhood. See Comprehensive Plan at 3-31 – 3-32. While the proposed zoning presents an opportunity for infill development, it will not undermine previous operational and access improvements to Transit Road. See Comprehensive Plan at 6-12. The proposed zoning and subsequent development will use the same lighted intersection the rest of the neighborhood uses for ingress and egress, and the proposed development will have minimal trip generation given only ten units. See Comprehensive Plan at 1-6 (referencing Transit Road Arterial/Access Management Study); see also Transit Road Arterial/Access Management study at 40 – 42.

The subsequent infill development envisions a scale and site layout sensitive to the size and height of existing dwellings. In other words, the subsequent development is not imposing or out of character with the existing dwellings. Simply, this proposed zoning and subsequent infill development introduces quality housing similar in scale to neighboring

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

dwellings to create a more coherent, complete neighborhood. See Comprehensive Plan at vii, 3-54, 11-8.

2. **Pursuant to New York State Town Law § 272a(11) . . . . cite all text, map, and/or figures that must be amended to support the proposed zoning at this location.**

   The proposed zoning will require a Local Law amending Chapter 203 of the Town of Amherst Code to rezone the Properties from R3 to TR-3 and to Amend the Zoning Map, accordingly.

3. **State why the proposed zoning is consistent with intent and objections of § 203-1-2-2 of the Zoning Code.**

   The proposed zoning achieves many of the Town's Zoning Code Objectives as set forth in § 203-1-2-2. For example, the proposed zoning protects character and values of residential uses with an orderly and beneficial infill development designed and arranged consistently and harmoniously with the surrounding neighborhood. The proposed zoning also prevents the overcrowding of land with an infill development that also balances greenspace and preservation. Also, as mentioned above, the proposed zoning is consistent with the Comprehensive Plan and furthers Comprehensive Plan goals.

B. Adequate services and utilities available or proposed to be made available in the construction of the development.

The proposed zoning will not result in any change to structures or utility consumption currently servicing the Property, which includes:

1. **Sanitary Sewer** – existing Town Sanitary Sewer District #16

2. **Storm Sewer/Drainage** – conveyance systems along Harding Road, Stiles Court, and McKinley Avenue.

3. **Water** – Erie County Water Authority Lease Managed Service Area.

C. Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood.

The Property is currently zoned R-3 – Residential District Three under § 202-3-6 of the Zoning Code. R-3 permits single family detached dwellings. While the R-3 zoning matches the existing neighborhood, the Property itself is out of character with the lots in the neighborhood at 1.44 acres. The proposed zoning to TR-3 maintains the residential use while further an infill development more adequate for changing demographics and meeting a need for mixed residential. The infill development itself will be designed and scaled harmoniously with the existing neighborhood.

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D. Suitability of the subject property for uses permitted by the current versus the proposed district.

The Property is out of scale for a single family detached dwelling and more appropriate for multi-family dwellings. Overall, the Property is suitable for residential use, which the proposed zoning maintains.

E. Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town.

The proposed change maintain the residential character of the Property but accommodates an infill development designed and scaled consistently with the surrounding neighborhood. The infill development also continues the steady build-up of the existing area and meets the need for mixed residential neighborhoods. See analysis contained in Section A.

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Full Environmental Assessment Form

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

SECOND AMENDED 4/16/21

Full Environmental Assessment Form
Part 1 - Project and Setting

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1 is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Harding Road		
Project Location (describe, and attach a general location map): 468 Harding Road (SBL 82.09-6-20)		
Brief Description of Proposed Action (include purpose or need): Rezone entirety of 468 Harding Road from R-3 to TR-3. The action has been defined broadly to include all site activities and including post-rezoning development of site.		
Name of Applicant/Sponsor: Forbes Capretto Homes	Telephone: (716) 688-5597 E-Mail: dcapretto@fobeshomes.com	
Address: 470 Cayuga Road		
City/PO: Cheektowaga	State: NY	Zip Code: 14225
Project Contact (if not same as sponsor; give name and title/role): Barclay Damon LLP, Jeffery D Palumbo as agent/attorney	Telephone: (716) 858-3728 E-Mail: jpalumbo@barclaydamon.com	
Address: 9276 Main Street, Suite 3		
City/PO: Clarence	State: NY	Zip Code: 14031
Property Owner (if not same as sponsor): Lori Grabenstatter	Telephone: E-Mail:	
Address: 469 Harding Road		
City/PO: Amherst	State: NY	Zip Code:14221

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)		
Government Entity	**If Yes: Identify Agency and Approval(s) Required**	**Application Date (Actual or projected)**
a. CityCounsel, TownBoard, or Village Board of Trustees ☑Yes ☐No	Amherst Town Board	December 28, 2020
b. City, Town or Village Planning Board or Commission ☑Yes ☐No	Amherst Planning Board, recommendation to Town Board	December 28, 2020
c. City, Town or Village Zoning Board of Appeals ☐Yes ☑No		
d. Other local agencies ☐Yes ☑No		
e. County agencies ☑Yes ☐No	Erie County Planning, 239-m referral	December 28, 2020
f. Regional agencies ☐Yes ☑No		
g. State agencies ☐Yes ☑No		
h. Federal agencies ☐Yes ☑No		

i. Coastal Resources.
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway? ☐Yes ☑No

ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program? ☐Yes ☑No

iii. Is the project site within a Coastal Erosion Hazard Area? ☐Yes ☑No

C. Planning and Zoning

C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? ☑Yes ☐No

- **If Yes,** complete sections C, F and G.
- **If No,** proceed to question C.2 and complete all remaining sections and questions in Part 1

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? ☑Yes ☐No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? ☑Yes ☐No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) ☑Yes ☐No

If Yes, identify the plan(s):
NYS Heritage Areas West Erie Canal Corridor

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? ☐Yes ☑No

If Yes, identify the plan(s):

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C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. ☑ Yes ☐ No
If Yes, what is the zoning classification(s) including any applicable overlay district?
Residential-3

b. Is the use permitted or allowed by a special or conditional use permit? ☐ Yes ☑ No

c. Is a zoning change requested as part of the proposed action? ☑ Yes ☐ No
If Yes,
i. What is the proposed new zoning for the site? Traditional Single-Family Residential (TR-3)

C.4. Existing community services.

a. In what school district is the project site located? Clarence Central School District

b. What police or other public protection forces serve the project site?
Town of Amherst Police Department

c. Which fire protection and emergency medical services serve the project site?
Main-Transit Fire Protection District

d. What parks serve the project site?
Wehrle FAA Recreation Complex - Amherst

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? residential

b. a. Total acreage of the site of the proposed action? +/-1.44 acres
b. Total acreage to be physically disturbed? +/-1.44 acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? +/- 1.44 acres

c. Is the proposed action an expansion of an existing project or use? ☐ Yes ☑ No
i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % Units:

d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☑ No
If Yes,
i Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)
ii Is a cluster/conservation layout proposed? ☐ Yes ☐ No
iii Number of lots proposed?
iv Minimum and maximum proposed lot sizes? Minimum Maximum

e. Will the proposed action be constructed in multiple phases? ☐ Yes ☑ No
i. If No, anticipated period of construction: 6-9 months
ii. If Yes:
- Total number of phases anticipated
- Anticipated commencement date of phase 1 (including demolition) month year
- Anticipated completion date of final phase month year
- Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases:

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f. Does the project include new residential uses? ☑ Yes ☐ No

If Yes, show numbers of units proposed.

	One Family	Two Family	Three Family	Multiple Family (four or more)
Initial Phase	10			
At completion of all phases	10			

g. Does the proposed action include new non-residential construction (including expansions)? ☐ Yes ☑ No

If Yes,

i. Total number of structures

ii Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length

iii. Approximate extent of building space to be heated or cooled: _____ square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? ☑ Yes ☐ No

If Yes,

i. Purpose of the impoundment: drainage

ii If a water impoundment, the principal source of the water: ☑ Ground water ☐ Surface water streams ☐ Other specify:

iii If other than water, identify the type of impounded/contained liquids and their source.

iv Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres

v Dimensions of the proposed dam or impounding structure: _____ height; _____ length

vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete):

earth fill

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite) ☐ Yes ☑ No

If Yes:

i. What is the purpose of the excavation or dredging?

ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?

- Volume (specify tons or cubic yards):
- Over what duration of time?

iii Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them.

iv. Will there be onsite dewatering or processing of excavated materials? ☐ Yes ☐ No

If yes, describe.

v What is the total area to be dredged or excavated? _____ acres

vi What is the maximum area to be worked at any one time? _____ acres

vii. What would be the maximum depth of excavation or dredging? _____ feet

viii. Will the excavation require blasting? ☐ Yes ☐ No

ix. Summarize site reclamation goals and plan:

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? ☐ Yes ☑ No

If Yes:

i Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description):

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ii Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

iii. Will the proposed action cause or result in disturbance to bottom sediments? ☐Yes ☐No
If Yes, describe:

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation? ☐Yes ☐No
If Yes:

- acres of aquatic vegetation proposed to be removed:
- expected acreage of aquatic vegetation remaining after project completion:
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access):
- proposed method of plant removal:
- if chemical herbicide treatment will be used, specify product(s):

v. Describe any proposed reclamation/mitigation following disturbance:

c. Will the proposed action use, or create a new demand for water? ☑Yes ☐No
If Yes:

i. Total anticipated water usage/demand per day: 3,750 gallons/day

ii Will the proposed action obtain water from an existing public water supply? ☑Yes ☐No
If Yes:

- Name of district or service area: Town of Amherst/Erie County Water Authority Lease Managed Service Area
- Does the existing public water supply have capacity to serve the proposal? ☑Yes ☐No
- Is the project site in the existing district? ☑Yes ☐No
- Is expansion of the district needed? ☐Yes ☑No
- Do existing lines serve the project site? ☑Yes ☐No

iii. Will line extension within an existing district be necessary to supply the project? ☑Yes ☐No
If Yes:

- Describe extensions or capacity expansions proposed to serve this project: extension based on available waterline situation in area
- Source(s) of supply for the district: Lake Erie

iv Is a new water supply district or service area proposed to be formed to serve the project site? ☐Yes ☑No
If, Yes:

- Applicant/sponsor for new district:
- Date application submitted or anticipated:
- Proposed source(s) of supply for new district:

v If a public water supply will not be used, describe plans to provide water supply for the project:

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes? ☑Yes ☐No
If Yes:

i Total anticipated liquid waste generation per day: 2,500 gallons/day

ii Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each):
sanitary wastewater

iii Will the proposed action use any existing public wastewater treatment facilities? ☑Yes ☐No
If Yes:

- Name of wastewater treatment plant to be used: Town of Amherst Plant No. 16
- Name of district: Town of Amherst Sewer District No. 16
- Does the existing wastewater treatment plant have capacity to serve the project? ☑Yes ☐No
- Is the project site in the existing district? ☑Yes ☐No
- Is expansion of the district needed? ☐Yes ☑No

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- Do existing sewer lines serve the project site? ☑Yes ☐No
- Will a line extension within an existing district be necessary to serve the project? ☐Yes ☑No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? ☐Yes ☑No

If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- What is the receiving water for the wastewater discharge? _____

v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans):

_____

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? ☑Yes ☐No

If Yes:

i. How much impervious surface will the project create in relation to total size of project parcel?

_____ Square feet or 0.4 acres (impervious surface)

_____ Square feet or _____ acres (parcel size)

ii. Describe types of new point sources: Pipes, stormwater planters, and stormwater detention basins

iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?

directed to existing stormwater runoff conveyances systems along Harding Road, Stiles Court, and McKinley Avenue

- If to surface waters, identify receiving water bodies or wetlands: _____
- Will stormwater runoff flow to adjacent properties? ☐Yes ☑No

iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? ☐Yes ☑No

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? ☐Yes ☑No

If Yes, identify:

i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)

ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)

iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? ☐Yes ☑No

If Yes:

i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) ☐Yes ☐No

ii. In addition to emissions as calculated in the application, the project will generate:

- _____ Tons/year (short tons) of Carbon Dioxide (CO_2)
- _____ Tons/year (short tons) of Nitrous Oxide (N_2O)
- _____ Tons/year (short tons) of Perfluorocarbons (PFCs)
- _____ Tons/year (short tons) of Sulfur Hexafluoride (SF_6)
- _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydroflourocarbons (HFCs)
- _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

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h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? ☐Yes ☑No

If Yes:

i. Estimate methane generation in tons/year (metric): _____

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? ☐Yes ☑No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust):

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? ☐Yes ☑No

If Yes:

i. When is the peak traffic expected (Check all that apply): ☐Morning ☐Evening ☐Weekend ☐Randomly between hours of _____ to _____.

ii For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____

iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____

iv. Does the proposed action include any shared use parking? ☐Yes ☐No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe:

vi Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? ☐Yes ☐No

vii Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? ☐Yes ☐No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? ☐Yes ☐No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? ☐Yes ☐No N/A

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: _____

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other):

iii. Will the proposed action require a new, or an upgrade, to an existing substation? ☐Yes ☐No

l. Hours of operation. Answer all items which apply.

i During Construction:

- Monday - Friday: Pursuant to Town Code
- Saturday: Pursuant to Town Code
- Sunday: Pursuant to Town Code
- Holidays: Pursuant to Town Code

ii During Operations:

- Monday - Friday: Continuous
- Saturday: Continuous
- Sunday: Continuous
- Holidays: Continuous

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m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? ☑ Yes ☐ No

If yes:

i. Provide details including sources, time of day and duration:

During Construction only, which will occur as permitted by Town Code, and includes noise levels typically associated with construction.

ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? ☐ Yes ☑ No

Describe:

n. Will the proposed action have outdoor lighting? ☑ Yes ☐ No

If yes:

i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:

Dark sky compatible

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? ☐ Yes ☑ No

Describe:

o. Does the proposed action have the potential to produce odors for more than one hour per day? ☐ Yes ☑ No

If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures:

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? ☐ Yes ☑ No

If Yes:

i. Product(s) to be stored

ii. Volume(s) _____ per unit time _____ (e.g., month, year)

iii. Generally, describe the proposed storage facilities:

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? ☐ Yes ☐ No N/A

If Yes:

i Describe proposed treatment(s):

ii. Will the proposed action use Integrated Pest Management Practices? ☐ Yes ☐ No

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? ☐ Yes ☐ No N/A

If Yes:

i. Describe any solid waste(s) to be generated during construction or operation of the facility:

- Construction: _____ tons per _____ (unit of time)
- Operation : _____ tons per _____ (unit of time)

ii Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:

- Construction:
- Operation:

iii Proposed disposal methods facilities for solid waste generated on-site:

- Construction:
- Operation:

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s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☑ No

If Yes:

i Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii Anticipated rate of disposal/processing:

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii If landfill, anticipated site life: _____ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐ Yes ☑ No

If Yes:

i Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii Generally describe processes or activities involving hazardous wastes or constituents: _____

iii Specify amount to be handled or generated _____ tons/month

iv Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☐ No

If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility:

Not applicable

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i Check all uses that occur on, adjoining and near the project site.

☐ Urban ☐ Industrial ☑ Commercial ☑ Residential (suburban) ☐ Rural (non-farm)
☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other (specify): _____

ii If mix of uses, generally describe:

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	0.0	0.40	+ 0.40
• Forested			
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)			
• Agricultural (includes active orchards, field, greenhouse etc.)			
• Surface water features (lakes, ponds, streams, rivers, etc.)			
• Wetlands (freshwater or tidal)			
• Non-vegetated (bare rock, earth or fill)			
• Other Describe: greenspace/Vacant lot	+/- 1.44	1.04	- 0.40

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c. Is the project site presently used by members of the community for public recreation? ☐Yes ☑No
i. If Yes: explain: _____

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? ☐Yes ☑No
If Yes,
i. Identify Facilities:

e. Does the project site contain an existing dam? ☐Yes ☑No
If Yes:
i Dimensions of the dam and impoundment:
- Dam height: _____ feet
- Dam length: _____ feet
- Surface area: _____ acres
- Volume impounded: _____ gallons OR acre-feet

ii Dam's existing hazard classification: _____
iii Provide date and summarize results of last inspection:

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? ☐Yes ☑No
If Yes:
i. Has the facility been formally closed? ☐Yes ☐No
- If yes, cite sources/documentation: _____

ii Describe the location of the project site relative to the boundaries of the solid waste management facility:

iii. Describe any development constraints due to the prior solid waste activities: _____

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? ☐Yes ☑No
If Yes:
i Describe waste(s) handled and waste management activities, including approximate time when activities occurred:

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? ☐Yes ☑No
If Yes:
i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: ☐Yes ☐No
☐ Yes – Spills Incidents database — Provide DEC ID number(s): _____
☐ Yes – Environmental Site Remediation database — Provide DEC ID number(s): _____
☐ Neither database

ii If site has been subject of RCRA corrective activities, describe control measures: _____

iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? ☑Yes ☐No
If yes, provide DEC ID number(s): 915043

iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):
The site of the proposed action has not been the subject of remediation, however, if the project site lands within 2,000 feet of an adjoining property subject to remediation, the EAF Mapper will check "yes" on the PDF of the FEAF. Attached is a description of the Pfohl Brothers Landfill remediation site at Aero Drive and Transit Road located south of the project site. Remedial construction of the site was completed in 2002 with a landfill cap and vented leachate collection system

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v. Is the project site subject to an institutional control limiting property uses? ☐ Yes ☑ No

- If yes, DEC site ID number: _____
- Describe the type of institutional control (e.g., deed restriction or easement): _____
- Describe any use limitations: _____
- Describe any engineering controls: _____
- Will the project affect the institutional or engineering controls in place? ☐ Yes ☐ No
- Explain: _____

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? > 5 feet

b. Are there bedrock outcroppings on the project site? ☐ Yes ☑ No
If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %

c. Predominant soil type(s) present on project site:

Claverack Loamy fine sand, 0--3%	73 %
Wassaic Silt Loam, 3-8% slopes	27 %
	%

d. What is the average depth to the water table on the project site? Average: 2 feet

e. Drainage status of project site soils:

☑ Well Drained:	27 % of site
☑ Moderately Well Drained:	73 % of site
☐ Poorly Drained	% of site

f. Approximate proportion of proposed action site with slopes:

☑ 0-10%:	100 % of site
☐ 10-15%:	% of site
☐ 15% or greater:	% of site

g. Are there any unique geologic features on the project site? ☐ Yes ☑ No
If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? ☐ Yes ☑ No

ii. Do any wetlands or other waterbodies adjoin the project site? ☐ Yes ☑ No

If Yes to either *i* or *ii*, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? ☐ Yes ☑ No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name _____ Classification _____
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name _____ Approximate Size _____
- Wetland No. (if regulated by DEC)

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? ☐ Yes ☑ No

If yes, name of impaired water body bodies and basis for listing as impaired: _____

i. Is the project site in a designated Floodway? ☐ Yes ☑ No

j. Is the project site in the 100-year Floodplain? ☐ Yes ☑ No

k. Is the project site in the 500-year Floodplain? ☐ Yes ☑ No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? ☐ Yes ☑ No
If Yes:

i. Name of aquifer: _____

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m. Identify the predominant wildlife species that occupy or use the project site:

n. Does the project site contain a designated significant natural community? ☐Yes ☑No

If Yes:

i. Describe the habitat/community (composition, function, and basis for designation):

ii. Source(s) of description or evaluation:

iii. Extent of community/habitat:

- Currently: acres
- Following completion of project as proposed: acres
- Gain or loss (indicate + or -): acres

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? ☐Yes ☑No

If Yes:

i Species and listing (endangered or threatened):

p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? ☐Yes ☑No

If Yes:

i. Species and listing:

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? ☐Yes ☑No

If yes, give a brief description of how the proposed action may affect that use:

E.3. Designated Public Resources On or Near Project Site

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐Yes ☑No

If Yes, provide county plus district name/number:

b. Are agricultural lands consisting of highly productive soils present? ☐Yes ☑No

i. If Yes: acreage(s) on project site?

ii. Source(s) of soil rating(s):

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? ☐Yes ☑No

If Yes:

i. Nature of the natural landmark: ☐ Biological Community ☐ Geological Feature

ii. Provide brief description of landmark, including values behind designation and approximate size/extent:

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? ☐Yes ☑No

If Yes:

i. CEA name:

ii. Basis for designation:

iii. Designating agency and date:

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e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined bythe Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? ☐ Yes ☑ No

If Yes:

i Nature of historic/archaeological resource: ☐ Archaeological Site ☐ Historic Building or District

ii Name: _____

iii Brief description of attributes on which listing is based:

_____

f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? ☑ Yes ☐ No

g. Have additional archaeological or historic site(s) or resources been identified on the project site? ☐ Yes ☑ No

If Yes:

i. Describe possible resource(s): _____

ii. Basis for identification: _____

h. Is the project site within fives miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? ☐ Yes ☑ No

If Yes:

i. Identify resource: _____

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____

iii Distance between project and resource: _____ miles.

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? ☐ Yes ☑ No

If Yes:

i Identify the name of the river and its designation: _____

ii Is the activity consistent with development restrictions contained in 6NYCRR Part 666? ☐ Yes ☐ No

F. Additional Information

Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Forbes Capretto Homes by agent/attorney Date April 16, 2021 - AMENDED SUBMITTAL

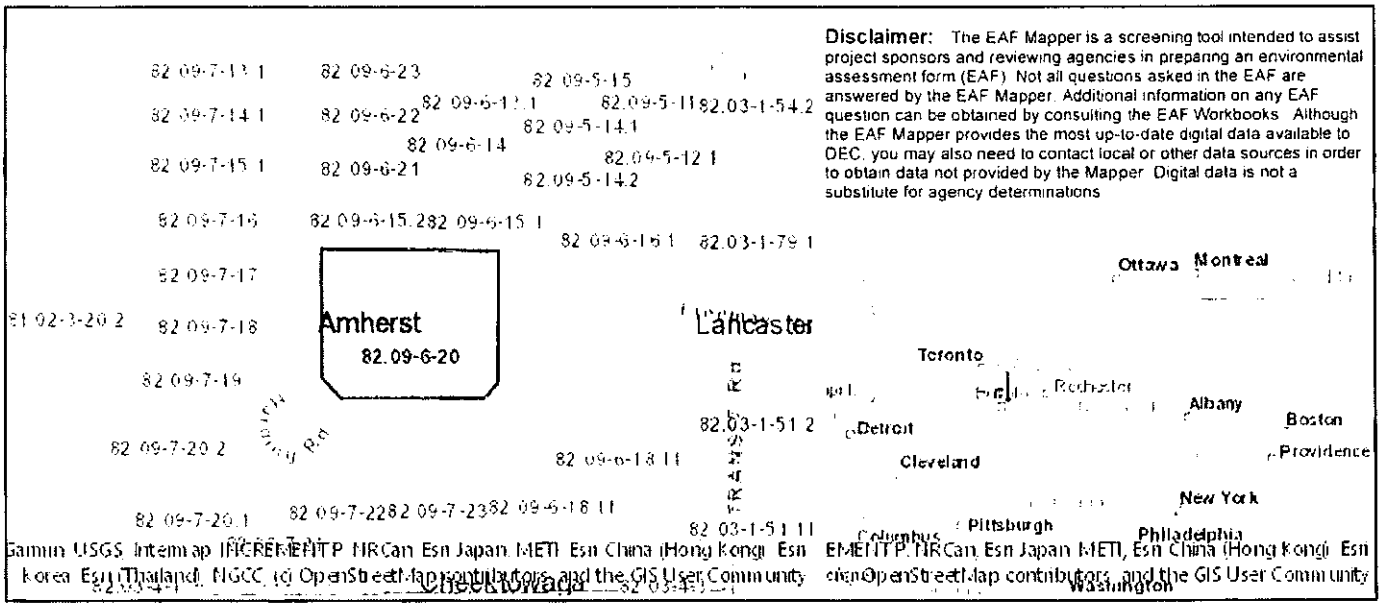
Signature Jeffery D. Palumbo Title agent/attorney

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EAF Mapper Summary Report

Wednesday, December 23, 2020 4:24 PM



B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	NYS Heritage Areas:West Erie Canal Corridor
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	Yes
E.1.h.iii [Within 2,000' of DEC Remediation Site - DEC ID]	915043
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	No
E.2.h.ii [Surface Water Features]	No
E.2.h.iii [Surface Water Features]	No
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	No
E.2.k. [500 Year Floodplain]	No
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No

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E.2.o. [Endangered or Threatened Species]	No
E.2.p [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

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NEW YORK STATE OF OPPORTUNITY | Department of Environmental Conservation

Environmental Site Remediation Database Search Details

Site Record

Document Repository

Site-related documents are available for review through the DECInfo Locator on line at DECInfol ocator

Administrative Information

Site Name: Pfohl Brothers Landfill
Site Code: 915043
Program: State Superfund Program
Classification: **04**
EPA ID Number:

Location

DEC Region:9
Address: Aero Drive and Transit Road
City: Cheektowaga Zip: 14225
County: Erie
Latitude:42.94506036
Longitude:-78.70135094
Site Type: LANDFILL
Estimated Size: 94 Acres

Institutional And Engineering Controls

Control Type:
Deed Restriction

Control Elements:
Ground Water Use Restriction
Vapor Mitigation
Soil Management Plan
Cover System
Leachate Collection
Fencing/Access Control
Landuse Restriction
Building Use Restriction
Surface Water Use Restriction

Site Owner(s) and Operator(s)

Current Owner Name: ELIZABETH I. MCBRIDE

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Current Owner(s) Address: 9450-201 MEADOWOOD DRIVE
FORT PIERCE,FL, 34951
Current Owner Name:P AUL PFOHL
Current Owner(s) Address: PO BOX 3210
KIRBY,OR, 97531
Current Owner Name: PFOHL BROTHERS
Current Owner(s) Address: 5833 MAIN ST.
BUFFALO,NY, 14221
Current Owner Name: Pfohl Enterprises
Current Owner(s) Address: 5833 Main Street
Buffalo,NY, 14221
Current Owner Name:STUAR T JENKINS
Current Owner(s) Address: 42 WILLOWBROOK
BUFFALO,NY, 14221
Current Owner Name: AERO LAND, INC.
Current Owner(s) Address: 215 CALIFORNIA DRIVE
WILLIAMSVILLE,NY, 14221
Owner(s) during disposal: PFOHL BROTHERS
Current On-Site Operator: town of cheektowaga
Stated Operator(s) Address:
Cheektowaga,NY 14225

Hazardous Waste Disposal Period

From: 1940s **To:** 1969

Site Description

Location: This site is located in the Town of Cheektowaga, Erie County, on the north and south sides of Aero Drive. The closest main corridor is Transit Road that rests to the east. Site Features: The site consists of two capped fill areas for a total of approximately 94 acres. One fill area (approximately 70 acres) is located on Area B (north side of Aero Drive) and the other (approximately 24 acres) is located on Area C (south side of Aero Drive.) The two capped areas are individually fenced and there are four entrance gates along Aero Drive: two on the north side for Area B and two on the south side for Area C. The capped areas have evenly-distributed gas vents for the landfill gas control system. Several engineered drainage swales, ditches, and culverts divert surface water off the caps. The majority of this site remains vacant and grassy, however there are some commercial establishments present to the south east corner. Current Zoning and Land Use: This site comprised of multiple parcels zoned for commercial use. Past Use of the Site: The landfill was operated between 1940 and 1969 receiving household and industrial wastes. The industrial waste materials included paints, waste solvents, thinners, pine tar pitch, cellulose, rubber, scrap metal and phenolic tars. A Remedial Investigation and Feasibility Study was completed in 1991. The data showed that on-site soils, groundwater, seeps, and sediments were contaminated with Volatile and Semi-Volatile Organic Compounds, and metals at various concentrations. The data did not show any significant off-site impact. A Record of Decision (ROD) was issued in 1992 requiring the landfill to be consolidated and closed. A component of the ROD was an Interim Remedial Measure (drum removal) in advance of the landfill closure. The IRM program was initiated by the State in 1992, and subsequently completed by

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

the Potentially Responsible Parties (PRPs). This effort resulted in the removal of approximately 4800 drums and 660 cu./yds. of contaminated soil. A second ROD was issued in 1994 which removed Area A from the site description. Area A is the northern portion of the site which is located immediately south of the NYS Thruway. The ROD also stated that there will be no action in regard to off-site groundwater. The final remedial design for the site was completed in 2000. The remedial construction consisted of waste consolidation; capping of landfills on north side (Area B) and south side (Area C) of Aero Drive; providing leachate collection around areas B and C; restoring wetlands; and fencing the landfill. Work commenced in 2001 and was completed in 2002. The consolidated landfill was reduced to 94 acres. Site Geology and Hydrogeology: The landfill is located in the Lake Erie Plain. The region is underlain by gently dipping bedrock of sedimentary nature (e.g., sandstones, siltstones,and shales). Surface drainage in the area is generally to Aero Creek, Aero Lake, adjacent wetlands and unnamed tributaries, which eventually drain into Ellicott Creek, a regional creek that empties into the Niagara River at the City of Tonawanda, New York. Several ponds, marshes, and wetlands are within a mile of the site. Existing flood insurance maps (Federal Emergency Management Agency, 1983) indicate that the site is not in the Ellicott Creek Floodway. Changes to the flood elevation in Ellicott Creek did not occur as a result of site construction. The areas just outside the boundary of Area B (i.e., Aero Lake,Aero Creek, and adjacent wetlands) are within the 100-year flood zone elevation of 696.8 feet, as are several areas within Area C located adjacent to Aero Drive, Transit Road and Pfohl Road. Deed restrictions have been filed by the PRPs. The Operation, Maintenance and Monitoring Plan was approved in March 2006 and is being implemented by the Town of Cheektowaga.

Contaminants of Concern (Including Materials Disposed)

Contaminant Name/Type

WASTE OIL, PAINTS, THINNERS, PINE TAR PITCH
phenol

Site Environmental Assessment

Nature and Extent of Contamination: To facilitate future development along Pfohl Road and Aero Drive, approximately 36 acres of the landfilled areas, consisting of about 540,000 cubic yards of waste located along these roads (the edges of Areas B and C) were excavated and consolidated on the interior portions of Areas B and C. In addition, 9,200 cubic yards of contaminated soil and waste were excavated to protect the wetlands and consolidated on the interior portions of Areas B and C. Post-excavation soil samples showed that the remaining soils met New York State Technical and Administrative Guidance Memorandum No. 94-HWR-4046 January 24, 1994 (Revised) cleanup objectives. The excavated areas were backfilled with clean fill and top soil and were reseeded. A 94-acre cap was constructed over the consolidated wastes in conformance with New York State 6 NYCRR Part 360 closure requirements. The cap consists of a six-inch gas venting layer overlain by a layer of filter fabric, a 40-mil thick very flexible polyethylene (VFPE) liner, a 24-inch barrier protection layer of clean soil, and topped with six inched of topsoil capable of supporting vegetation. Forty-nine

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

gas vents were installed to convey the gas from beneath the low permeability layer of the cap via the gas venting layer to the atmosphere. The leachate collection system consists of an 8-inch diameter perforated collection pipe set in a granular material-filled trench, which runs along the 10,000-foot perimeter of the landfilled areas at a depth of approximately five to 22 feet bgs. An additional 1,000 feet of collection drain was installed eight to 14 feet bgs in the southwest interior of Area B to promote an upward gradient from the bedrock to the overburden within the confines of the perimeter barrier containment system. All of the collected leachate is discharged directly to the Cheektowaga Publically-Owned Treatment Works via six collection wet wells and a force main that was constructed to a sewer interceptor. Twenty-eight manholes were installed to facilitate monitoring and maintenance. A polyethylene (VFPE) wall keyed into 24 inches of undisturbed clay at the bottom of the perimeter trench was installed as a vertical barrier to prevent the collection drain system from collecting clean off-site groundwater and dewatering the adjacent wetlands. The polyethylene wall was connected to the VFPE liner in the landfill caps. All disturbed areas of the site were subsequently restored. A vegetative layer consisting of hardy, shallow rooted grasses was established on the surface of the landfill caps. The grass serves to stabilize the soil against erosion, minimize percolation of precipitation, promote evapotranspiration of soil moisture, and is aesthetically pleasing. Special Resources Impacted/Threatened: Vegetation patterns at the site are a mixture of herbaceous field, weed, and grass species. Both open-field, wetland and forested habitats characterize the surrounding area. These habitats support a variety of avian and mammalian species. No New York State Department of Environmental Conservation (NYSDEC) Significant Habitat Areas are found on-site, and no endangered or threatened species were identified in this area. Due to meandering wetland boundaries, the construction of the landfill caps led to the permanent removal of 0.16 acre of wetlands along a portion of the western boundary of Area B. As mitigation, 0.50 acres of wetland were reestablished along the northern boundary of Area B, resulting in a net gain of 0.34 acre of wetland.

Site Health Assessment

Remedial construction was completed in 2002 and consisted of waste consolidation, installation of a leachate collection system, and capping and fencing of the site. Previously, residential surface soil and sump water sample results indicated no threat to human health. NYSDOH sampled several private wells in the area, and none exceeded drinking water standards. NYSDOH conducted a lead screening and health survey, with no unusual patterns of reported illnesses or health conditions related to the site. The NYSDOH cancer incidence study concluded that overall from 1978 through 1989 a significant excess of newly diagnosed cancer cases were observed among females, but not among males. When the cases were geographically tracked no clustering or unusual patterns were seen near the landfill. During construction of the landfill cap, site-related odors were noticed by NYS Thruway employees in the adjacent toll booths. Air monitoring on-site and at the toll booths did not detect site-related contaminants at levels that represent a health concern.

For more Information:

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Return To Results

Refine This Search

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Town Supplemental Environmental Assessment Form

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

TOWN OF AMHERST ATTACHMENT
State Environmental Quality Review
ENVIRONMENTAL ASSESSMENT FORM

1. For each applicable category of proposed <u>new</u> structures, including additions to existing structures, provide the following information for all soil types on the project site (*according to Soil Survey of Erie County, NY; Table 11, Building Site Development, pp 294-305):*

Soil Name	Shallow excavations	Dwellings without basements	Dwellings with basements	Small commercial buildings	Local roads and streets
Claverack Loamy fine sand, 0-3% slopes	very limited	somewhat limited	very limited	somewhat limited	somewhat limited
Wassaic silt loam, 3-8% slopes	very limited	somewhat limited	very limited	somewhat limited	somewhat limited

2. If the Soil survey indicates either "severe" or "moderate" suitability for the proposed types of construction, a geotechnical and hydrological analysis based on one test per 3.5 acres of project area must be provided (per Town Board resolution, 3/17/03, amended 6/16/03).

____ Geotechnical report attached ____ Not applicable

3. Is your property located: On Youngs Road between Dodge and Klein Roads? ☐ Yes ☒ No
On Wehrle Dr. between Spindrift Dr. and Oakwood Rd? ☐ Yes ☒ No

If so, the property may be within an area of the Town that is affected by a moratorium on connections to the sanitary sewer system.

4. Are there alternative locations on the site for this project? ☐ Yes ☒ No

5. Location and size of real property owned by petitioner within one (1) mile of subject proposal:
none.

6. Are you aware of current or future plans or intentions by others in the Town of Amherst to develop property within 1000± ft. of the present project request: ☐ Yes ☒ No

Describe_____

(Potential environmental impacts from adjacent or nearby projects undergoing the approval process will receive a coordinated environmental review to determine cumulative effects on common receivers (e.g. traffic and drainage corridors) and other relevant environmental concerns.)

7. Maximum number of vehicular trips to be generated per hour upon completion of project 7
Source: New York State Department of Environmental Conservation trip projection ratios

8. Will blasting occur during construction? ☐ Yes ☒ No

9. Does the project propose to connect and be tributary to the public sanitary sewer system? ☒ Yes ☐ No

10. Proposed net additional gallons per day (gpd) of sanitary sewer discharge upon completion of project:

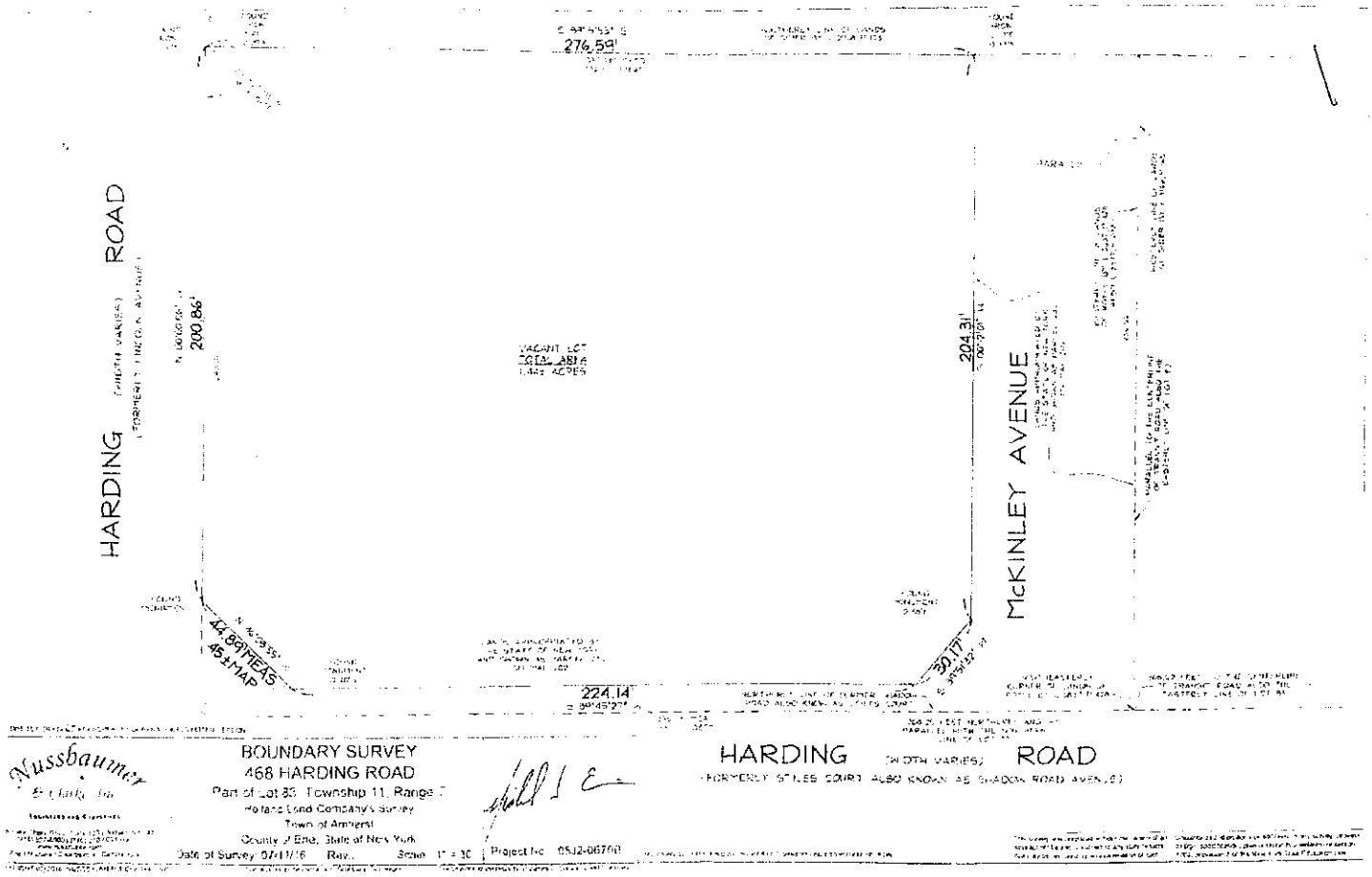
466 average flow 1,862 peak flow.

(Please note that average flows of 2,500 gpd or greater will require an Engineer's Report that includes a detailed downstream sewer capacity analysis and the identification of and commitment to required I/I offset work during peak wastewater flow conditions.)

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Existing Boundary Survey

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)



Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Legal Description of Property to be Rezoned

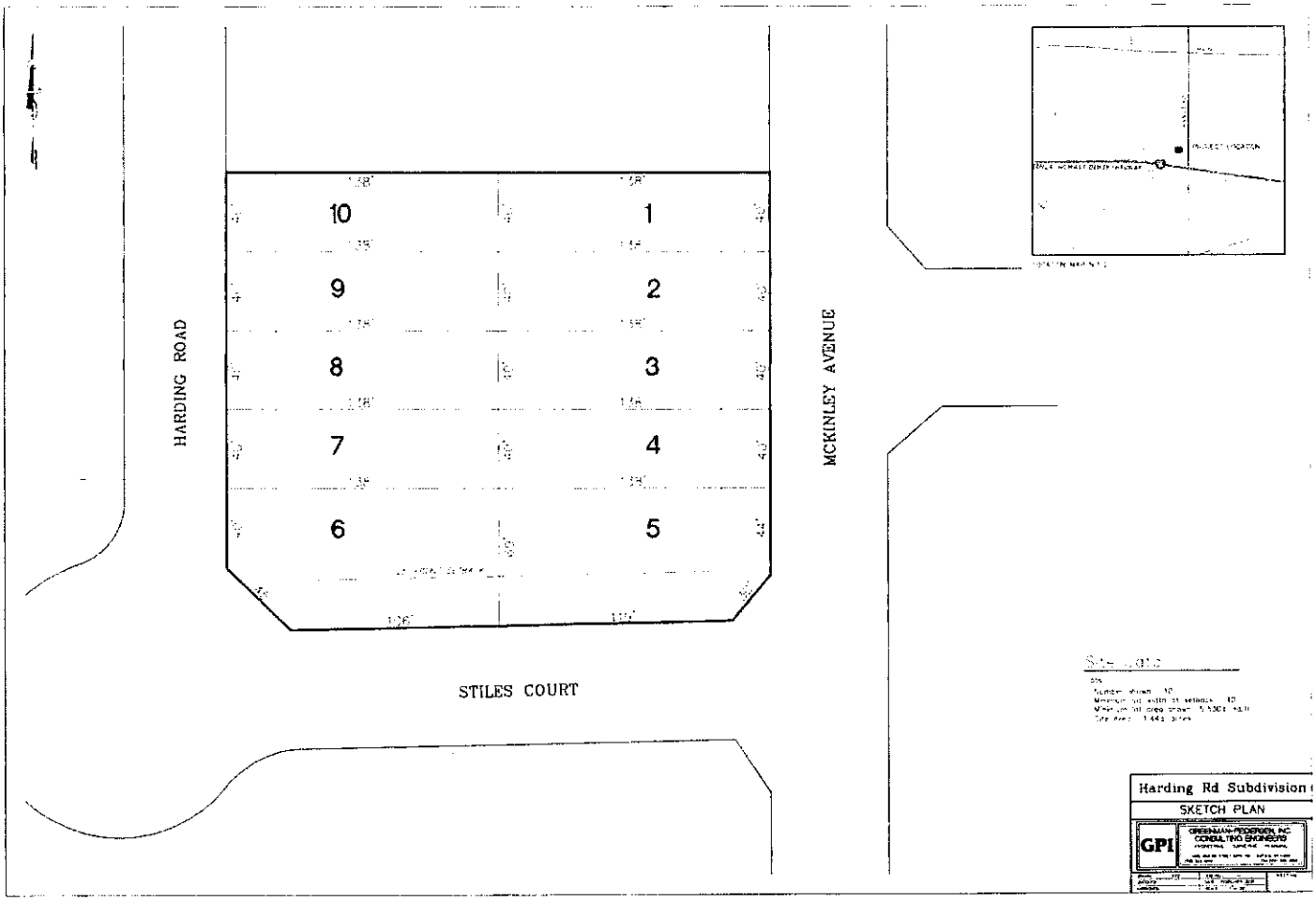
Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie, State of New York being part of Lot 83, Township 11, Range 7 of the Holland Land Company's Survey, more particularly described as follows:
BEGINNING at a point in the easterly line of Harding Road at the southerly line of lands conveyed to Sider by deed recorded in the Erie County Clerk's Office in Liber 2268 of Deeds at page 123;
THENCE S 89°19'31" E along the said southerly line of Sider a distance of 276.59 feet to the westerly line of McKinley Avenue as appropriated by the State of New York and shown as Parcel 230 on Map 202;
THENCE S 00°12'01" W, along the said westerly line of Parcel 230 a distance of 204.31 feet;
THENCE S39°51'32" W, continuing along the westerly line of Parcel 230, a distance of 30.17 feet to the northerly line of said Parcel 230:
THENCE S 89°45'27' W, along the said northerly line of Parcel 230, a distance of 224.14 feet;
THENCE N 46°08'55" W, continuing along the said northerly line of Parcel 230, a distance of 44.89 feet to the easterly line of Harding Road;
THENCE N 00°00'06" W, along the easterly line of Harding Road, a distance of 200.86 feet to the POINT OF BEGINNING, being 1.44 acres of land, more or less.

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Preliminary Concept Plan

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)



Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Draft Local Law

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Owner Authorization

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

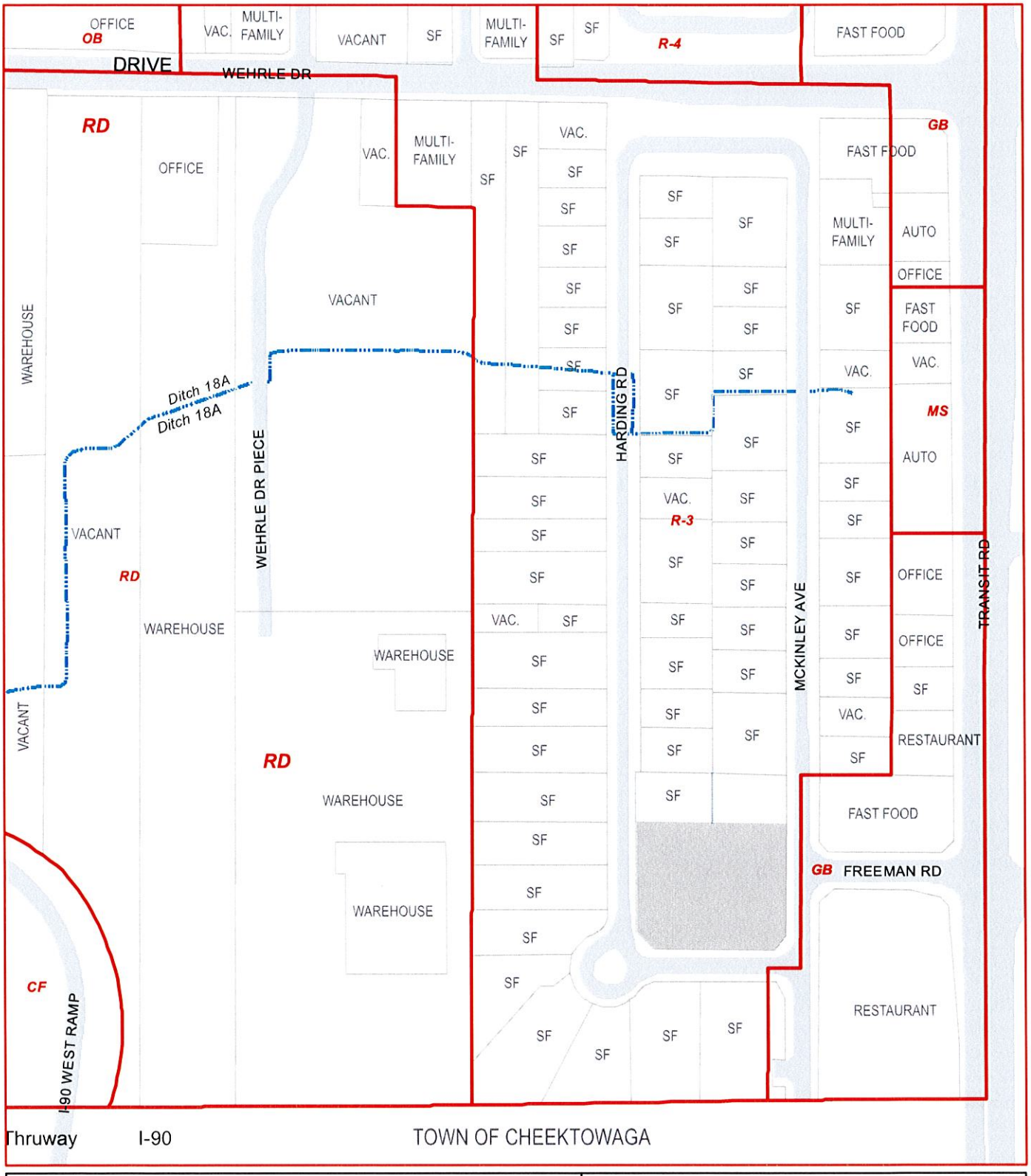
AUTHORIZATION

Lori M. Grabenstatter, record property owner of 468 Harding Road, 82.09-6-20, in the Town of Amherst hereby authorize Forbes Capretto Homes by the law firm of Barclay Damon LLP, to file an application, along with any necessary supporting documentation, with the Town of Amherst in connection with approvals sought for the above referenced property.

By: Lori M. Grabenstatter

Dated: ~~December __, 2020~~ January 4, 2021

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)



Z-2020-13

Request to Rezone 1.44+/- AC of Land from R-3 to TR-3
Property Located at 468 Harding Road

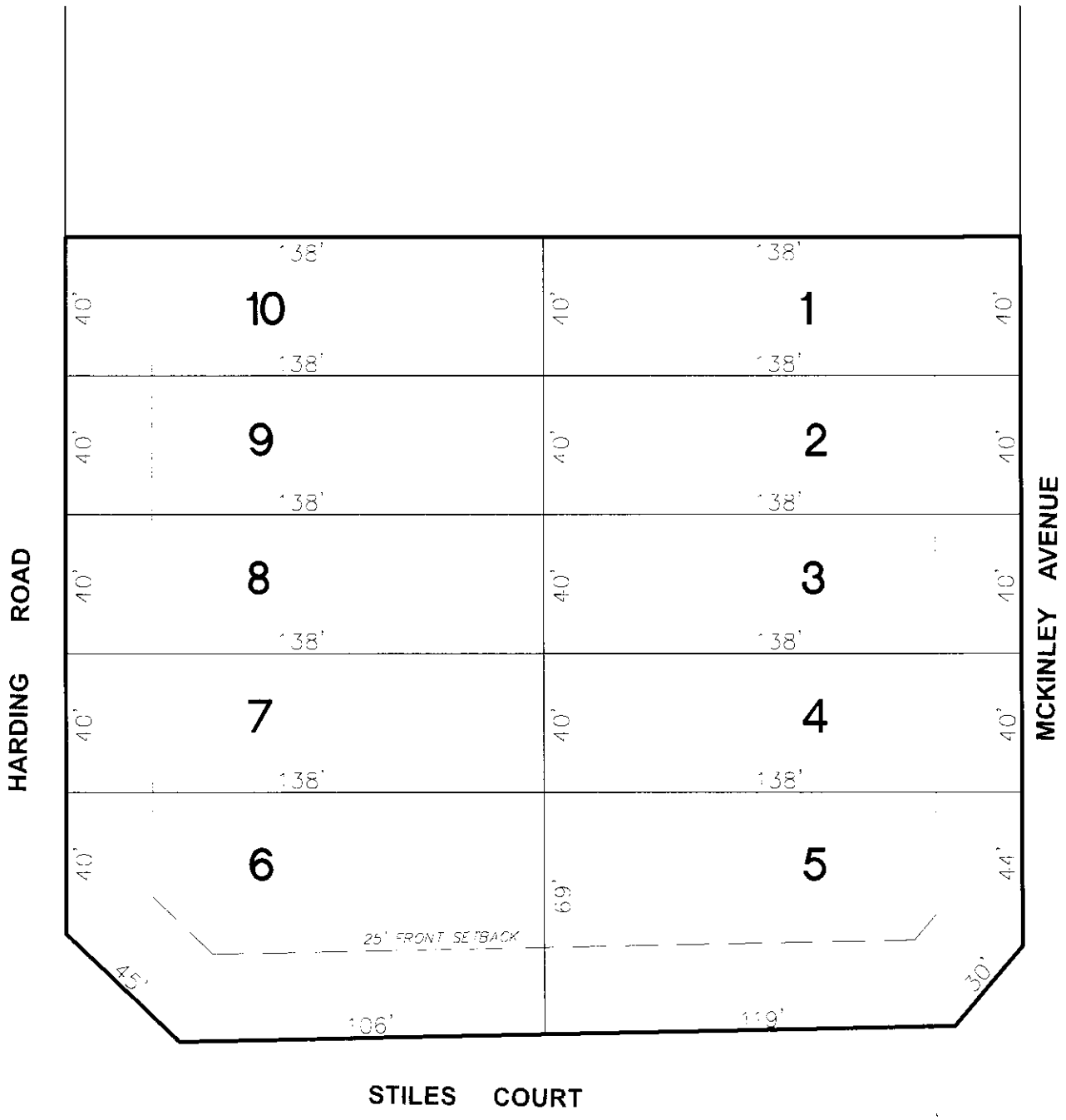
Forbes Capretto Homes, Petitioner

May 20, 2021

468 Harding Road

Prepared by the Town of Amherst Planning Department

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)



CONCEPT PLAN

Z-2020-13
468 Harding Road
Received: 3/2/21

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)



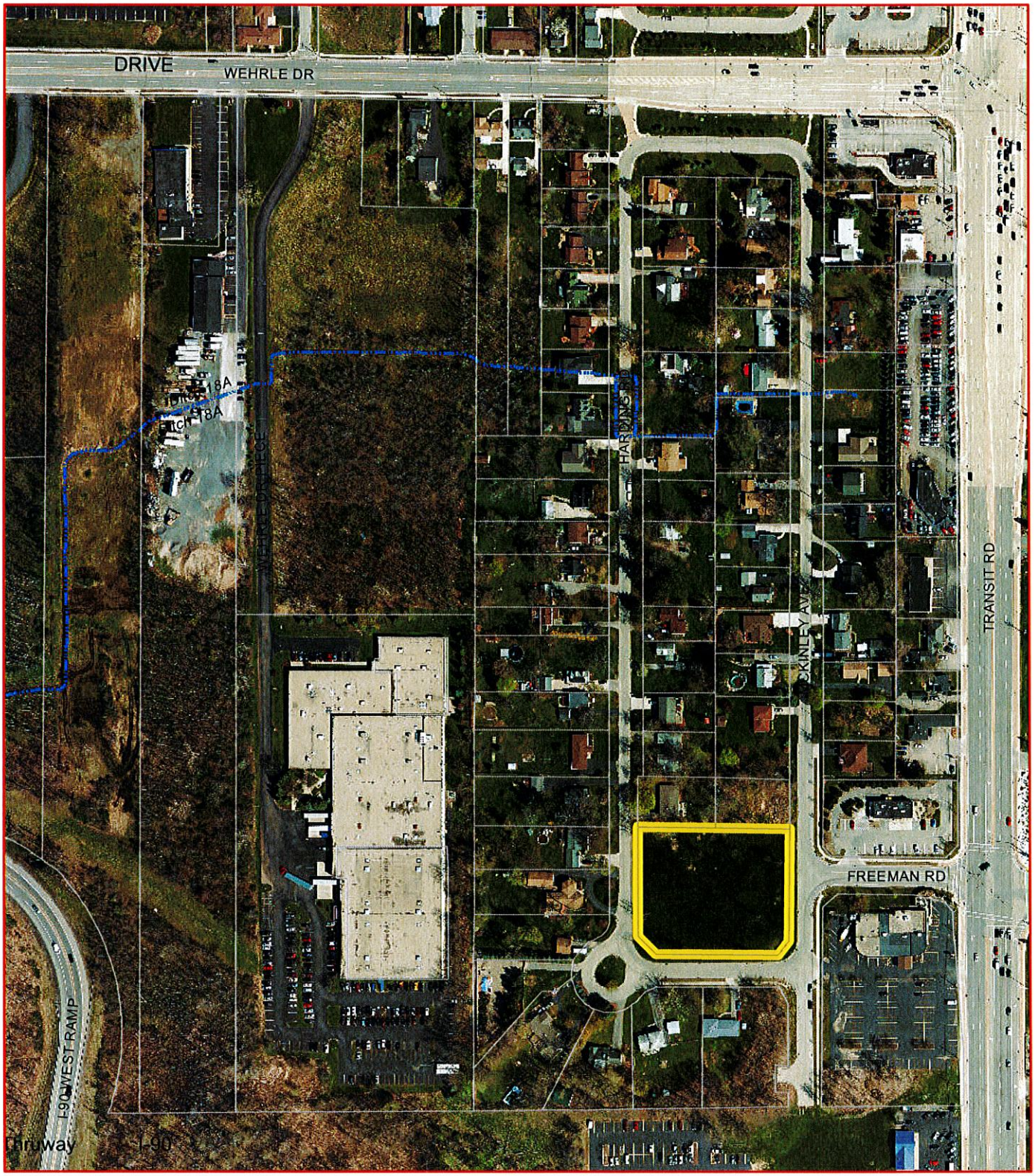




ILLUSTRATION

Z-2020-13
468 Harding Road
Received: 4/15/21

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)



Z-2020-13

Request to Rezone 1.44+/- AC of Land from R-3 to TR-3
Property Located at 468 Harding Road

Forbes Capretto Homes, Petitioner

May 20, 2021

468 Harding Road

Prepared by the Town of Amherst Planning Department

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Amherst

Town of Amherst Planning Department *Erie Cou*

SPa

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

RECEIVED
MAY 07 2021
TOWN OF AMHERST
PLANNING DEPT.

MEMORANDUM

April 20, 2021

TO: Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
Brian Barnes, Senior GIS Analyst (Eng.) (letter only)
Bryan Parnell, Fire Chiefs' Association (c/o Bldg)
Stan Sliwa, Town Attorney (Local Law Only)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Integrated Review Coordinator, ECDEP
Edward Rutkowski, SEQR Review Coordinator, NYSDOT

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director

SUBJECT: REQUEST TO REZONE 1.44± ACRES OF LAND FROM R-3 TO TR-3; PROPERTY LOCATED AT **468 HARDING ROAD**. FORBES CAPRETTO HOMES, PETITIONER. **Z-2020-13**.

REVIEW:

REVISED:
Received April 19, 2021

Do you agree with all statements made? Yes, with conditions.

If you do not, briefly state why: _____

General comments relative to your agency interests: Concerned with the number of possible curb cuts this number of lots will create along curves and intersections.

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

ATSB suggests a private alley service driveways for all 10 lots, located along the rear property line. If unable/unwilling, ever effort should be given to consolidate driveways using shared driveways (1 per two lots) with no driveways entering the intersection.

Please call the Planning Department if additional information is required (631-7051).

Signature: Schregel, ATSB **Date:** 5/6/21

EK/RR/bt
X:\Current_Planning\Files\Rezonings\2020\Z-2020-13_(468_Harding_Rd)_2020\Z-2020-13_Rev_Transmittal_042021.doc

cc: Scott Marshall, Principal Planner
Jeff Palumbo, Barclay Damon LLP, 9276 Main Street, Suite 3, Clarence, New York 14031

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

RECEIVED
MAY 04 2021
TOWN OF AMHERST
PLANNING DEPT.

MEMORANDUM April 20, 2021

TO: Daniel Ulatowski, Principal Planner
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Integrated Review Coordinator, ECDEP
Edward Rutkowski, SEQR Review Coordinator, NYSDOT

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director

SUBJECT: REQUEST TO REZONE 1.44± ACRES OF LAND FROM R-3 TO TR-3; PROPERTY LOCATED AT **468 HARDING ROAD**. FORBES CAPRETTO HOMES, PETITIONER. **Z-2020-13.**

REVISED:
Received April 19, 2021

REVIEW:

Do you agree with all statements made? YES

If you do not, briefly state why: _____

General comments relative to your agency interests: NONE

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: _____ **Date:** 4/29/21

EK/RR/bf
X:\Current_Planning\Files\Rezonings\2020\Z-2020-13_(468_Harding_Rd)_2020\Z-2020-13_Rev_Transmittal_042021.doc
cc: Scott Marshall, Principal Planner
Jeff Palumbo, Barclay Damon LLP, 9276 Main Street, Suite 3, Clarence, New York 14031

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
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Daniel C. Howard, AICP
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Ellen M. Kost, AICP
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RECEIVED
MAY - 3 2021
TOWN OF AMHERST
PLANNING DEPT.

MEMORANDUM April 20, 2021

TO: Daniel Ulatowski, Principal Planner
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Integrated Review Coordinator, ECDEP
Edward Rutkowski, SEQR Review Coordinator, NYSDOT

RECEIVED
APR 22 2021
TOWN ATTORNEY

4/26/21 AD

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director

SUBJECT: REQUEST TO REZONE 1.44± ACRES OF LAND FROM R-3 TO TR-3; PROPERTY LOCATED AT **468 HARDING ROAD**. FORBES CAPRETTO HOMES, PETITIONER. **Z-2020-13**.

REVISED:
Received April 19, 2021

REVIEW:

Do you agree with all statements made? Agree with all statements made.

If you do not, briefly state why: _____

General comments relative to your agency interests: _____

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: _____ **Date:** 4/26/21

EK/RR/bf
X:\Current_Planning\Files\Rezonings\2020\Z-2020-13_(468_Harding_Rd)_2020\Z-2020-13_Rev_Transmittal_042021.doc
cc: Scott Marshall, Principal Planner
Jeff Palumbo, Barclay Damon LLP, 9276 Main Street, Suite 3, Clarence, New York 14031

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

RECEIVED
APR 22 2021
TOWN ATTORNEY

RECEIVE
APR 29 2021
TOWN OF AMHERST
PLANNING DEPT.

MEMORANDUM April 20, 2021

TO: Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
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Integrated Review Coordinator, ECDEP
Edward Rutkowski, SEQR Review Coordinator, NYSDOT

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director

SUBJECT: REQUEST TO REZONE 1.44± ACRES OF LAND FROM R-3 TO TR-3; PROPERTY LOCATED AT **468 HARDING ROAD**. FORBES CAPRETTO HOMES, PETITIONER. **Z-2020-13**.

REVISED:
Received April 19, 2021

REVIEW:

Do you agree with all statements made? N/A.

If you do not, briefly state why: _____

_____.

General comments relative to your agency interests: Not at this time

_____.

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

_____

_____

_____.

Please call the Planning Department if additional information is required (631-7051).

Signature: Stan Sliwa **Date:** 4/23/21

EK/RR/bf
X:\Current_Planning\Files\Rezonings\2020\Z-2020-13_(468_Harding_Rd)_2020\Z-2020-13_Rev_Transmittal_042021.doc
cc: Scott Marshall, Principal Planner
Jeff Palumbo, Barclay Damon LLP, 9276 Main Street, Suite 3, Clarence, New York 14031

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

MEMORANDUM April 20, 2021

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SUBJECT: REQUEST TO REZONE 1.44± ACRES OF LAND FROM R-3 TO TR-3; PROPERTY LOCATED AT **468 HARDING ROAD**. FORBES CAPRETTO HOMES, PETITIONER. **Z-2020-13**.

REVISED:
Received April 19, 2021

REVIEW:

Do you agree with all statements made? No.

If you do not, briefly state why: The existing R-3 zoning will allow for the development of 6 residential lots consistent in size with the existing lots in the neighborhood.

General comments relative to your agency interests: The average lot width of the 61 homes in the neighborhood averages 91 feet, with a min. lot of 52 feet and a maximum lot of width of 159 ' (see attached).

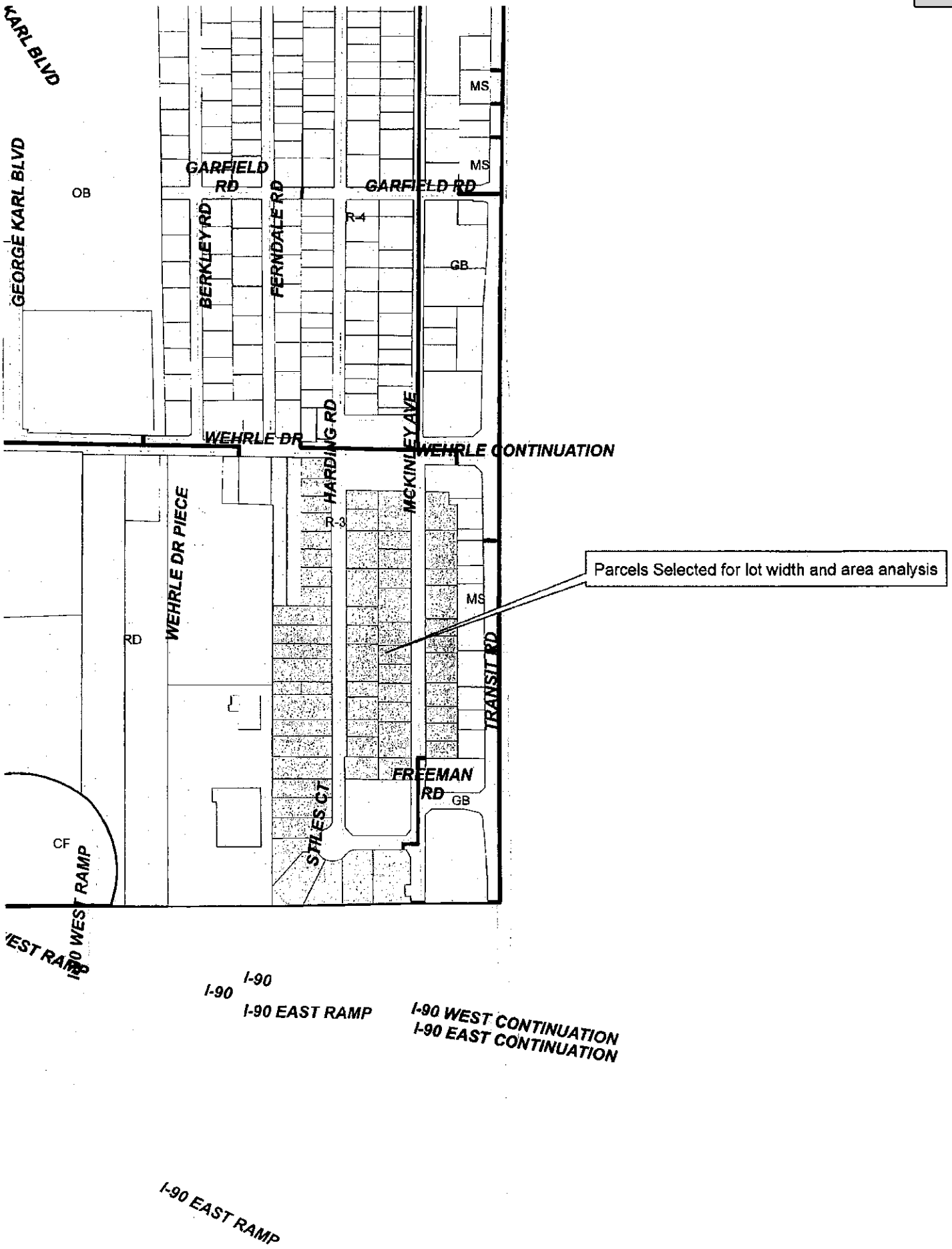
If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: Daniel J. Ulatowski **Date:** 04/26/2021

EK/RR/bf
X:\Current_Planning\Files\Rezonings\2020\Z-2020-13_(468_Harding_Rd)_2020\Z-2020-13_Rev_Transmittal_042021.doc
cc: Scott Marshall, Principal Planner
Jeff Palumbo, Barclay Damon LLP, 9276 Main Street, Suite 3, Clarence, New York 14031

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)



Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Parcel Address	FRONTAGE	DEPTH	ACRES
370 MC KINLEY AVE	70.00000	0.00000	0.20957
465 HARDING RD	80.00000	255.00000	0.45029
440 MC KINLEY AVE	70.00000	135.00000	0.22196
382 MC KINLEY AVE	137.60000	135.00000	0.41972
442 HARDING RD	70.00000	135.00000	0.21333
437 HARDING RD	67.00000	251.00000	0.38727
435 MC KINLEY AVE	155.00000	135.00000	0.46504
341 HARDING RD	56.00000	140.00000	0.24733
432 MC KINLEY AVE	75.00000	135.00000	0.21353
347 HARDING RD	70.00000	126.00000	0.20382
352 HARDING RD	75.00000	135.00000	0.23546
345 MC KINLEY AVE	159.00000	135.00000	0.51725
350 MC KINLEY AVE	109.00000	135.00000	0.44038
353 HARDING RD	93.00000	126.00000	0.19936
360 HARDING RD	88.00000	135.00000	0.26888
359 HARDING RD	76.00000	127.00000	0.22075
364 MC KINLEY AVE	156.00000	135.00000	0.47919
366 HARDING RD	156.00000	135.00000	0.47395
357 MC KINLEY AVE	78.00000	135.00000	0.23387
365 HARDING RD	75.00000	127.00000	0.21037
363 MC KINLEY AVE	78.00000	135.00000	0.25472
371 HARDING RD	75.00000	127.00000	0.21533
381 HARDING RD	80.00000	126.00000	0.23109
380 HARDING RD	156.00000	135.00000	0.47650
377 MC KINLEY AVE	80.00000	135.00000	0.25526
387 MC KINLEY AVE	139.00000	135.00000	0.43794
423 HARDING RD (NO FTG)	52.00000	124.00000	0.14211
415 HARDING RD	52.00000	126.00000	0.14848
424 MC KINLEY AVE	95.00000	135.00000	0.29668
421 MC KINLEY AVE	78.00000	135.00000	0.24692
389 HARDING RD	78.00000	251.00000	0.44149
392 HARDING RD	78.00000	135.00000	0.23465
391 MC KINLEY AVE	93.00000	135.00000	0.29586
395 HARDING RD	78.00000	251.00000	0.43456
400 HARDING RD	78.00000	135.00000	0.23075
394 MC KINLEY AVE	68.00000	135.00000	0.20790
412 HARDING RD	156.00000	135.00000	0.46884
405 HARDING RD	60.00000	251.00000	0.33734
405 MC KINLEY AVE	76.00000	135.00000	0.24066
410 MC KINLEY AVE	124.00000	135.00000	0.37501
411 HARDING RD	96.00000	251.00000	0.54484
415 MC KINLEY AVE	80.00000	135.00000	0.24811
424 HARDING RD	63.00000	135.00000	0.19196
431 HARDING RD	104.00000	251.00000	0.58821
430 HARDING RD	93.00000	135.00000	0.28183
427 MC KINLEY AVE	78.00000	135.00000	0.24707

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

469 HARDING RD	80.00000	256.00000	0.47207
441 HARDING RD	85.00000	251.00000	0.48488
450 HARDING RD	83.00000	135.00000	0.25213
448 MC KINLEY AVE	70.00000	135.00000	0.21566
461 HARDING RD	92.00000	252.00000	0.51176
460 HARDING RD	91.80000	135.01000	0.29435
479 HARDING RD	100.00000	221.00000	0.42658
483 HARDING RD	82.00000	199.00000	0.43211
489 HARDING RD	89.00000	217.00000	0.69650
505 HARDING RD	127.00000	201.00000	0.63655
575 HARDING RD	127.00000	218.00000	0.75724
491 HARDING RD	100.00000	195.00000	0.48501
388 MC KINLEY AVE	68.80000	135.00000	0.21590
455 MC KINLEY AVE	91.80000	135.00000	0.27950

Average Lot Width	91.52	Average Lot Area	0.34
Maximum Lot Width	159.00	Maximum Lot Area	0.76
Minimum Lot Width	52.00	Minimum Lot Area	0.14

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

RECEIVED
APR 21 2021
TOWN OF AMHERST
BUILDING DEPT

MEMORANDUM April 20, 2021

TO: Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
Brian Barnes, Senior GIS Analyst (Eng.) (letter only)
Bryan Parnell, Fire Chiefs' Association (c/o Bldg)
Stan Sliwa, Town Attorney (Local Law Only)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Integrated Review Coordinator, ECDEP
Edward Rutkowski, SEQR Review Coordinator, NYSDOT

RECEIVED
APR 23 2021
TOWN OF AMHERST
PLANNING DEPT.

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director

SUBJECT: REQUEST TO REZONE 1.44± ACRES OF LAND FROM R-3 TO TR-3; PROPERTY LOCATED AT **468 HARDING ROAD**. FORBES CAPRETTO HOMES, PETITIONER. **Z-2020-13**.

REVISED:
Received April 19, 2021

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: _____

General comments relative to your agency interests: none at this time

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: Douglas Gesel **Date:** April 22, 21

EK/RR/bf
X:\Current_Planning\Files\Rezonings\2020\Z-2020-13_(468_Harding_Rd)_2020\Z-2020-13_Rev_Transmittal_042021.doc
cc: Scott Marshall, Principal Planner
Jeff Palumbo, Barclay Damon LLP, 9276 Main Street, Suite 3, Clarence, New York 14031

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

MEMORANDUM April 20, 2021

TO: Daniel Ulatowski, Principal Planner
[redacted], Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
Brian Barnes, Senior GIS Analyst (Eng.) (letter only)
Bryan Parnell, Fire Chiefs' Association (c/o Bldg)
Stan Sliwa, Town Attorney (Local Law Only)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Integrated Review Coordinator, ECDEP
Edward Rutkowski, SEQR Review Coordinator, NYSDOT

4/22/21 TO: Ellen Kost FROM: Dave Marrano Assessor cc: C. Walford

10 Single Family Patio

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director

SUBJECT: REQUEST TO REZONE 1.44± ACRES OF LAND FROM R-3 TO TR-3; PROPERTY LOCATED AT **468 HARDING ROAD**. FORBES CAPRETTO HOMES, PETITIONER. **Z-2020-13**.

REVISED:
Received April 19, 2021

REVIEW:

Do you agree with all statements made? See Below

If you do not, briefly state why: The Assessors office is

General comments relative to your agency interests: Opposed to this rezone if the end Result is

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.) Residential Properties with Condominium Tax Status If not Condominium Tax status, we would suppose

Please call the Planning Department if additional information is required (631-7051).

Signature: _____ **Date:** 4/22/21

EK/RR/bf
X:\Current_Planning\Files\Rezonings\2020\Z-2020-13_(468_Harding_Rd)_2020\Z-2020-13_Rev_Transmittal_042021.doc
cc: Scott Marshall, Principal Planner
Jeff Palumbo, Barclay Damon LLP, 9276 Main Street, Suite 3, Clarence, New York 14031

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

RECEIVED
FEB 18 2021
TOWN OF AMHERST
PLANNING DEPT.

MEMORANDUM February 9, 2021

TO: Kathy Cooper, Deputy Town Clerk
Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
Brian Barnes, Senior GIS Analyst (Eng.) (letter only)
Bryan Parnell, Fire Chiefs' Association (c/o Bldg)
Stan Sliwa, Town Attorney (Local Law Only)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way
Integrated Review Coordinator, ECDEP
Edward Rutkowski, SEQR Review Coordinator, NYSDOT
Williamsville Central School District

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director TV

SUBJECT: AMENDED REQUEST TO REZONE 1.44± ACRES OF LAND FROM **R-3** TO **CR-3A**, **Z-2020-13**; PROPERTY LOCATED AT **468 HARDING ROAD**. BARCLAY DAMON LLC, PETITIONER.

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: _____

General comments relative to your agency interests: _____

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: _____ **Date:** 2/16/21

EK/TV/ac
X:\Current_Planning\Files\Rezonings\2020\Z-2020-13_(468_Harding_Rd)\Z-2020-13_Transmittal_amended_.20921.doc
cc: Scott Marshall, Principal Planner
Jeff Palumbo, Barclay Damon LLP, 9276 Main Street, Suite 3, Clarence, New York 14031

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

RECEIVED
Williamsville Central School District
FEB 12 2021
Asst Superintendent for
Finance & Management Services

MEMORANDUM February 9, 2021

TO: Kathy Cooper, Deputy Town Clerk
Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
Brian Barnes, Senior GIS Analyst (Eng.) (letter only)
Bryan Parnell, Fire Chiefs' Association (c/o Bldg)
Stan Sliwa, Town Attorney (Local Law Only)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way
Integrated Review Coordinator, ECDEP
Edward Rutkowski, SEQR Review Coordinator, NYSDOT
Williamsville Central School District

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director TV

SUBJECT: AMENDED REQUEST TO REZONE 1.44± ACRES OF LAND FROM **R-3** TO **CR-3A**; **Z-2020-13**; PROPERTY LOCATED AT **468 HARDING ROAD**. BARCLAY DAMON LLC, PETITIONER.

REVIEW:

Do you agree with all statements made? Neutral

If you do not, briefly state why: _____

General comments relative to your agency interests: No comments at this time

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: _____ **Date:** 2/16/21

EK/TV/ac
X:\Current_Planning\Files\Rezonings\2020\Z-2020-13_(468_Harding_Rd)\Z-2020-13_Transmittal_amended_20921.doc
cc: Scott Marshall, Principal Planner
Jeff Palumbo, Barclay Damon LLP, 9276 Main Street, Suite 3, Clarence, New York 14031

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

SITE PLAN OR ZONING REFERRAL TO COUNTY OF ERIE, NY AND REPLY TO MUNICIPALITY

Note: Please complete and send one copy with attachments to Erie County Division of Planning. Room 1053, 95 Franklin Street, Buffalo, N.Y. 14202. Retain a copy for your files.

DO NOT WRITE IN THIS SPACE

Case No.: ZR-21-84

Received: 1/14/21

The proposed action described herein is referred in accordance with the provisions of the General Municipal Law, which provides that if no reply is received in 30 days after receipt of full information including a SEQR EAF if applicable, the municipal agency may take final action without considering such reply. If, however, reply is received at any time prior to municipal action, such reply must be considered.

Description of Proposed Action

1. Name of Municipality: Town of Amherst, NY

2. Hearing Schedule: Date 02/20/21 Time 6:30pm Location Town Offices

3. Action is before: [X] Legislative Body [ ] Board of Appeals [X] Planning Board

4. Action consists of: [ ] New Ordinance [ ] Rezone/Map Change [ ] Ordinance Amendment [ ] Site Plan [ ] Variance [ ] Special Use Permit [X] Other Rezoning

5. Location of Property: [ ] Entire Municipality [X] Specific as follows: 468 Harding Road

6. Referral required as Site is within 500'of: [ ] State or County Property/Institution [X] Municipal Boundary [ ] Farm Operation located in an Agricultural District [ ] Expressway [ ] County Road [X] State Highway [ ] Proposed State or County Road, Property, Building/ Institution, Drainageway

7. Proposed change or use: Rezoning of 1.44± acres of land From R-3 to MFR-4A.

8. Other remarks: (ID#, SBL#, etc.) Z-2020-13

9. Submitted by: Roberta Rapporccio, Associate Planner Date: 1/8/21

Mailing Address: 5583 Main Street, Williamsville, NY 14221

Reply to Municipality by Erie County Division of Planning

Receipt of the above-described proposed action is acknowledged on 1/26/21. The Division herewith submits its review and reply under the provisions of applicable state and local law, based on the information submitted with this referral.

1. [ ] **The proposed action is not subject to review under the law.**
2. [ ] **Form ZR-3, Comment on Proposed Action is attached hereto.**
3. [ ] **The proposed action is subject to review; the Division makes the recommendation shown on Form ZR-4, Recommendation on Proposed Action, which is attached hereto.**
4. [X] **No recommendation; proposed action has been reviewed and determined to be of local concern**

By the Division of Planning: Dan M. Hall Date: 1/26/21

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

January 12, 2021

Forbes Capretto Homes
c/o Jeff Palumbo
Barclay Damon LLP
9276 Main Street, Suite 3
Clarence, New York 14031

SUBJECT:	Rezoning Application Review	**Z-2020-13**
	Proposed:	Rezoning of 1.44± acres of land from R-3 to MFR-4A
	Property located at:	**469 Harding Road**
	Application received:	December 28, 2020
	Representative:	Barclay Damon LLP

Dear Mr. Palumbo,

Please consider the following comments:

1. The required geotechnical report must be provided for this site prior to the Planning Board public hearing.

2. The subject site is located within an archaeologically sensitive area. An archaeological assessment will be required prior to the Planning Board making a SEQR determination.

3. Please note that any other SEQR-related issues raised during the review process for this rezoning must be addressed prior to action by the Planning Board.

4. Any revised materials submitted must be provided to this office in a digital format in addition to paper copies.

Very truly yours,

Daniel C. Howard, AICP
Planning Director

DH/SM/ac
X:\Current_Planning\Files\Rezonings\2020\Z-2020-13_(468_Harding_Rd)\Z-2020-13_Zoning_Review_Letter_010521.doccc:

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

From: Mark Bechtel [mailto:markbechtel2425@gmail.com]
Sent: Sunday, May 23, 2021 8:28 PM
To: Kulpa, Brian J. ; Bucki, Debbie ; Berger, Jacqualine ; Szukala, Michael ; Lavin, Shawn A. ; Howard, Dan
Subject: 468 Harding Rd new housing project.

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Supervisor Kulpa and Town Board Members

I am again writing to you with great concern over the new housing development planned to be built at 468 Harding Road. I was unable to attend the recent Planning Board meeting and I would appreciate some clarity with this project. I have heard everything from two buildings with five units each to ten individual homes. An article in the Buffalo News from 5/21/21 indicates that the project will be two buildings with five units each. I was under the impression that the two building plan was not going to be built anymore. I would like to know what the true plans are.

I am also asking that you visit the site and see for yourselves that this site is not large enough to support two five unit buildings or ten individual houses. I would have much less concern if they built six individual houses, which is what the site is zoned for. However, ten houses on this small piece of property is far too many and will create overcrowding and other safety concerns for our neighborhood. Moreover, nothing has been said by the builder in reference to addressing the increased traffic concerns, lack of street lighting concerns and the fact that we have no sidewalks on our streets. I walk around the block with my four year daughter all the time and we constantly have to move over for vehicles going by. With increased housing in our small neighborhood comes increased traffic and major safety concerns since we have no sidewalks and no place for our children to play.

In closing, I am asking that you please visit this site and decide for yourselves if ten new houses would fit on this lot. I also ask you to put yourselves in my position and if you would want this development in your neighborhood. Please do not allow the re-zoning of this site and allow Forbes Capretto Homes to pack in ten more houses into our neighborhood.

Respectfully

Mark Bechtel

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

From: Mark Bechtel <markbechtel2425@gmail.com>
Date: 3/18/21 8:46 AM (GMT-05:00)
To: "Kulpa, Brian J." <bkulpa@amherst.ny.us>
Cc: "Berger, Jacqualine" <jberger@amherst.ny.us>, "Bucki, Debbie" <dbucki@amherst.ny.us>, "Lavin, Shawn A." <slavin@amherst.ny.us>, "Szukala, Michael" <mszukala@amherst.ny.us>
Subject: Proposed re-zoning for 468 Harding Road

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Supervisor Kulpa

I am writing to you today so that I may voice my concern over the proposed building of apartments at 468 Harding Road. I have resided at 442 Harding Road with my wife and children for over eight years. We have children ages 13,12 and 4. We are extremely concerned about the proposed building of higher density residential apartments on a street that currently only has single family homes. Our concerns center around the safety of our children and our quality of life.

To begin with, there are no sidewalks and the street is a narrow residential street. When we are walking or riding bikes as a family or if the kids are alone going around the block there is nowhere to be but the street. Higher density apartments, coupled with the proposed Big Ditch restaurant being added nearby will more than certainly increase the traffic which will in turn, cause less safe conditions to enjoy such activities. Additionally, by virtue of the nature of non permanent housing there will be an influx of temporary residents in what is currently a very stable neighborhood. There are also concerns over an increase in street parking and noise that will be associated with any type of apartment building(s). We already have noise from Transit Road, the Airport and Thruway. This will only add to the noise level in the neighborhood which will stem from activities ranging from loud music, car alarms, increased vehicle traffic, etc. Lastly, a project such as this is out of character for our quiet little neighborhood and would certainly negatively affect property values of the neighboring single family homes.

In closing, I am respectfully asking you to not allow this project to proceed. We have little issue with single family homes being built on this vacant land, however the scope of this project does not fit the neighborhood. If this project is allowed to move forward, myself and several of my neighbors may feel our only option is to sell and leave the town entirely.

Respectfully

Mark and Kathryn Bechtel

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

From: Mark Bechtel [mailto:markbechtel2425@gmail.com]
Sent: Sunday, May 23, 2021 8:28 PM
To: Kulpa, Brian J. ; Bucki, Debbie ; Berger, Jacqualine ; Szukala, Michael ; Lavin, Shawn A. ; Howard, Dan
Subject: 468 Harding Rd new housing project.

CAUTION: This email originated from outside of the organization.
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Dear Supervisor Kulpa and Town Board Members

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I am also asking that you visit the site and see for yourselves that this site is not large enough to support two five unit buildings or ten individual houses. I would have much less concern if they built six individual houses, which is what the site is zoned for. However, ten houses on this small piece of property is far too many and will create overcrowding and other safety concerns for our neighborhood. Moreover, nothing has been said by the builder in reference to addressing the increased traffic concerns, lack of street lighting concerns and the fact that we have no sidewalks on our streets. I walk around the block with my four year daughter all the time and we constantly have to move over for vehicles going by. With increased housing in our small neighborhood comes increased traffic and major safety concerns since we have no sidewalks and no place for our children to play.

In closing, I am asking that you please visit this site and decide for yourselves if ten new houses would fit on this lot. I also ask you to put yourselves in my position and if you would want this development in your neighborhood. Please do not allow the re-zoning of this site and allow Forbes Capretto Homes to pack in ten more houses into our neighborhood.

Respectfully

Mark Bechtel

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

TO:

Date: 4/13/2021

Town of Amherst Supervisor Kulpa, Brian Kulpa bkulpa@amherst.ny.us

Amherst Town Board –

Jacqualine Berger – jberger@amherst.ny.us

Deborah Bucki - dbucki@amherst.ny.us

Shawn Lavin – slavin@amherst.ny.us

Michael Szukala mszukala@amherst.ny.us

Town of Amherst Zoning & Planning – Acarrato@amherst.ny.us

Asst. planning director Ellen Kost EKOST@amherst.ny.us

Daniel Howard planning@amherst.ny.com

RE: Request to Rezone 144 Acres of Land / 468 Harding Road

I am writing to express my strong opposition and concern over the potential rezoning of the property at 468 Harding to MFR-4A. I am extremely concerned about how this would affect our neighborhood which is zoned R-3. Our properties in this neighborhood are Zoned R-3 for a reason. We have single family homes that are the makeup of our neighborhood. I am concerned for the safety of our families, most with either small children and / or pets who use our neighborhood daily for exercise - walking /biking. We also have seniors that use their scooters in the street. Dropping multifamily units in our neighborhood will only make the traffic and congestion this much worse, causing additional concern for the safety of our families.

I am a resident of this community for 34 years and have fought to keep our neighborhood single family homes. It is why we purchased this property in the first place - a safe and congestion free neighborhood with little to no traffic to raise our family. Dropping Apartments / multifamily units on tiny lots are not in support of our neighborhood community and would look totally out of character.

I cannot imagine how noisy it will be when Big Ditch is in full swing. The airport / thruway and transit road noise are a lot to handle as it is. More cars, more lights, more Noise which will in no doubt be enhanced by multi-family units.

This zoning seems one step closer to allowing commercial to encroach the neighborhood. Please support my request by OPPOSING this rezoning and multi-family dwellings on postage sized lots which look nothing like the properties in our neighborhood.

Respectfully,

Lisa Fischer

405 McKinley Ave

Williamsville, NY 14221

mtfd55w@yahoo.com

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Fadel, Bryan

From: Dan Kennedy <mullane716@gmail.com>
Sent: Sunday, May 23, 2021 11:47 AM
To: Carrato, Amy
Subject: 468 Harding Road re-zoning

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Planning Board,
In response to the re-zoning request for 468 Harding Road to divide up the lots from 6 to 10, I ask that this request be denied on the grounds that the density is not consistent with the neighborhood. As I understand the request is to have 10 lots, 5 on each side, at 40 foot widths. That is not consistent with the lot sizes of the rest of the neighborhood and would be at a density more closely resembling city lot sizes. I am a resident of the neighborhood and think a development like this would reduce my home value. Besides appearances, it would create more traffic and street parking than the neighborhood was designed for. Again, I request that this motion be denied. Developing as 6 lots would still be below widths of most lots but I would be ok with that.
Thank you,
Dan Kennedy
461 Harding Road
Williamsville, NY 14221

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

April 12, 2021

Amherst Planning Board
5583 Main Street
Williamsville, New York 14221

Re: Request to Rezone Land at
468 Harding Road

Dear Amherst Planning Board Members,

We are writing this letter to state that we are opposed to the rezoning of this land to accommodate apartments. We were informed by Mr. Voight of the Planning Department that this rezoning would allow for apartments to be constructed currently and in the future once the zoning is changed. Ours is a quiet, family-oriented neighborhood and we do not feel that apartments should be built on this lot. Apartments typically are not kept up as well, as they are not owned by the renters, tend to have a transient population, often have dumpsters to contend with and not enough off-street parking to accommodate their cars. This is not what we want in our neighborhood. Years ago, our neighborhood came together to stop apartments from being built on that site. Fortunately, the Amherst Town Board agreed with us then and they did not rezone for apartments. We are hoping that the current Town Board would also support us and not rezone this land for apartments.

Thank you for your consideration and support of our neighborhood.

Sincerely,

Robert and Carol Kern

505 Harding Road
Williamsville, NY 14221
716-725-5753

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

RECEIVED
APR 12 2021
TOWN OF AMHERST
PLANNING DEPT.

Amherst Planning Board
5583 Main Street
Williamsville, NY 14221

Subject: Request to Rezone 468 Harding Rd from R-3 to MFR-4A

Dear Mr Kulpa and Planning Board Members,

Our names are Rosanne and John McGovern and live at 424 McKinley Avenue in Williamsville. This letter is in response to the Town Clerk's letter from March 29 for a zoning change at 468 Harding Road that has been requested by Forbes Capretto Homes from R-3 to MFR-4A, Z-2020-13.

From what we understand, Forbes would like to build single family structures on the 468 Harding.
We do not object to single family homes.
Under the MFR-4A zoning code, commercial, public and civic structures would be allowed to be built. It could be developed into a Bed and Breakfast, public utilities facility or even a telecommunication facility.
We do object to changing the zoning to MFR-4A.

Our concern is after the property is no longer owned by Forbes Capretto Homes. New owners would have standards that open up the possibility of commercial development on that land.
We definitely welcome new families; we do not welcome public, civic or commercial facilities.
Our request is to keep the zoning of 468 Harding at R-3.
Thank you.

Respectfully,
John McGovern

Rosanne McGovern

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Fadel, Bryan

From: Jackie Rindfleisch <jackierindfleisch@yahoo.com>
Sent: Wednesday, April 14, 2021 1:35 PM
To: Carrato, Amy
Subject: 468 Harding Rd

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

My name is Jacqueline Rindfleisch, I live at 431 Harding Rd. Williamsville, NY. I am writing in opposition to the attempt to rezone 468 Harding Rd. We live in a nice quiet neighborhood and we don't want to have apartment buildings or condos built on our street. There is already a brewery going up in the same general area. We have no sidewalks and the street is not nearly wide enough. We have lived in this neighborhood since 1995. This is the second attempt to rezone this property, and it is essentially the same neighbor that has something to do with this. He claims that "his wife wouldn't want to look at condos or an apartment building". But I am 100 percent sure that he will sell his house before this. He has been trying to sell this property ever since the neighbors signed a petition so that he couldn't rezone it. This neighborhood is where I raised my children and it would ruin this area not to mention our property values. Please do not allow this to happen. Thank you for your time.

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Fadel, Bryan

From: Rose Walker <rorow45@hotmail.com>
Sent: Wednesday, April 14, 2021 12:42 PM
To: Carrato, Amy
Subject: Request to rezone 468 Harding in Williamsville

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Amherst Planning Board,

I am unable to attend the Zoom meeting on April 15, 2021 regarding the re-zoning at 468 Harding Rd. in Williamsville. I would like to state reasons why I DO NOT agree with it being re-zoned.

If my understanding is correct you do not have to rezone if you wish to build a house or apartments on a lot in a residential area. If the owner of this property wants to rezone this area that would mean they are going to have it changed so they can build something for a business on it. If the owner has the plans of building something for their business these are the cons:

- What type of building will be there? If it is a commercial building it will be an eye sore to our beautiful neighbor. It would be the first building you would see coming into our residential area.
- What is going to be in this building? If it is trucks or equipment for a business, there will be more pollution in the area. If there are multiple trucks/equipment it will add to the noise of the neighborhood. Plus, you're talking about possible fuel spills and more of an opportunity of a hazard happening.
- More people on the street with people that do not live there and will probably not have the consideration of the residents of that street. There are many times when I do come around the bend and I have to yield as it is to one or two trucks that are on the side of the road from their business as it is. I don't complain about that but I do not want more business vehicles on our road to make it more difficult to reach my house.
- Will there have to be more electric wires need for this building? If so how will that add to the power outages that we do get when we have storms. What power lines will it run off?
- Would they be dumping anything on the lot from the business? If so, what about smells if not taken care of properly? What about a rat infestation?

If the owner is building an apartment complex, I believe they would not have to re-zone it. If apartments or anything similar to that is being built and it does have to be rezoned, here are my concerns:

- Parking lot – are there going to be lights on during the whole night as a security?
- Noise – more cars and more people.
- Garbage collection – dumpster – will it attract rats?
- Sewer plans and discharge – will it overrun the current system in the neighborhood?
- Does the whole street change the zone or is it just that lot? If they are allowed to rezone whats to say someone else on the street wants to rezone an area?

I vote against them rezoning. It should be kept residential. If they want to build townhouses (anything other than a regular house) I am also against that for the above reasons.

Sincerely,

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Resident/home owner of 441 Harding Rd.

Sent from my iPad

Attachment: Z-2020-13_TB_Letter_071221 (RES-2021-569 : Rezoning of 468 Harding Road)

Cooper, Kathy

From: Carrato, Amy
Sent: Monday, June 21, 2021 9:22 AM
To: Cooper, Kathy
Subject: FW: 468 Harding rd..Williamsville

This one too...

-----Original Message-----
From: Rose Walker <rorow45@hotmail.com>
Sent: Friday, June 18, 2021 12:36 PM
To: Carrato, Amy <acarrato@amherst.ny.us>
Subject: 468 Harding rd..Williamsville

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

Grabber complaining about lights from Russell Park.. ok town board.. what about his landscaping supplies he has on his lots behind fence..and in garage.. and for ForbesCapretto homes saying what's four more houses.. we live here not him. Grabber says 5 houses are ok with it, but it's NOT the majority.. we live here too.. we've had issues with Grabber before when he wanted to re-zone..
Sent from my iPad

Attachment: Rose Walker 468 Harding (RES-2021-569 : Rezoning of 468 Harding Road)

Cooper, Kathy

Subject: FW: Planning board.. concerning Harding rd..

-----Original Message-----
From: Carrato, Amy <acarrato@amherst.ny.us>
Sent: Thursday, June 17, 2021 1:06 PM
To: TownClerkDL <townclerk@amherst.ny.us>
Subject: FW: Planning board.. concerning Harding rd..

The email below is regarding Z-2020-13, 486 Harding Road. This will be on the July 12 Town Board agenda.

Amy

-----Original Message-----
From: Rose Walker
Sent: Thursday, June 17, 2021 10:10 AM
To: Carrato, Amy <acarrato@amherst.ny.us>
Subject: Planning board.. concerning Harding rd..

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

I'm very concerned about this 10 houses on 468 Harding rd, It will not be in the best interest for our street.. and now, they want to put sidewalks in... they wanted to do that when they reconstructed Transit/Whrele .. and when they connected McKinley/Harding. No sidewalks because we have to maintain them with snow removal.. no one wanted them .. and I still don't want them.. I'm doing my own driveway now in my 70's..and that would be an added work.. not only that—we lose frontage of our property.. I reside 441 Harding.. thank you for taking the time to read this.. Rose
Sent from my iPad

Attachment: 468 Harding - Walker (RES-2021-569 : Rezoning of 468 Harding Road)

-------- Original message --------
From: Mary Dolata [redacted]
Date: 7/7/21 11:21 AM (GMT-05:00)
To: "Kulpa, Brian J." <bkulpa@amherst.ny.us>
Cc: "Berger, Jacqualine" <jberger@amherst.ny.us>, "Bucki, Debbie" <dbucki@amherst.ny.us>, "Lavin, Shawn A." <slavin@amherst.ny.us>, "Szukala, Michael" <mszukala@amherst.ny.us>
Subject: Zoning at 468 Harding Rd

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Amherst Town Board Members,
:

Prior to the meeting on July 12, 2021 we wish to convey our opposition to the request to amend the zoning for the property at 468 Harding Rd. Contrary to statements made by the builder the addition of 10 homes to a 1.44 acre property is not "characteristic of the neighborhood". We ourselves, and the neighbors on either side of us, have .5 acres on our property. On the entire length of our side of Harding Rd from the property in question to the Wehrle Drive there are only 11 homes.

To my knowledge all of the homes on Harding and McKinley except one are owner occupied. Several of them for over 30 years with the same owner. In speaking with neighbors there are concerns these small and inexpensive houses- relative to other homes built here in the past 20 years- would attract investors and become rental properties. This is also not characteristic of the neighborhood and would change the dynamic of an established and older neighborhood.

Our neighborhood was reconfigured several years ago with access to Wehrle closed off and all traffic from both streets must now exit onto Freeman and then Transit Rd. Adding in traffic from Dunkin Donuts and the Protocol, which is currently a COVID testing site, as well as the possible addition of traffic from the Big Ditch Brewery creates a lot for such a small intersection. There is another home currently being constructed adjacent to the 468 Harding property so in reality this would be an 11 home addition if this is approved. If these small homes have more than one vehicle parking will be an issue as on street parking is banned overnight in the winter months and parking vehicles on both sides of our narrow streets makes it difficult to drive down. The current property owner has said the new homes will not affect those of us down the street, but as previously stated we must all go past that property to exit the neighborhood. This affects every homeowner and it is frustrating that we have not all been provided with notices re: the meetings concerning this request to rezone. Thank you for your consideration to this matter.

Sincerely,

Thomas and Mary Dolata
[redacted]
Williamsville, NY 14221

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 23441 **RESOLUTION 2021-570** **ADJOURNED**

Request to Reclassify a Portion of 520 Campbell Boulevard and to Amend the Audubon Development Plan

DRAFT RESOLUTION
(7/12/2021)

Adoption of Local Law to Amend the Zoning Map
(520 Campbell Boulevard (portion), Z-2021-03)

RESOLVED, that pursuant to 6NYCRR Part 617 (SEQR) and Town Code Section 104, as amended, the requirements of SEQR have been completed and the Town Board issues the attached Negative Declaration, and be it further

RESOLVED, that pursuant to NYS Town Law Sec.272-a, the Town Board concurs with the findings of the Planning Board as stated in their resolution of May 28, 2021 that the proposed NCD-ND zoning at 520 Campbell Boulevard (portion) is consistent with the adopted Bicentennial Comprehensive Plan, as amended, and be it further

RESOLVED, that to the extent the proposed zoning is not consistent with the adopted Comprehensive Plan, the plan is hereby amended to be consistent with the proposed zoning at this location, and be it further

RESOLVED, that in accordance with Section 203-8-3 of the Town Code (Zoning), the Town Board adopts Local Law (#) to amend the Town zoning map subject to the following condition as recommended by the Planning Board

1. That future development of the site complies with the dimensional requirements set forth in the R-3 zoning district listed in §203-3-6(B) of Town Code.

7/12/2021
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0. The public hearing was opened at 7:44 PM.

Sean W. Hopkins, Esq., presented and answered questions.

The following Speaker addressed the Town Board:
Judy Colton, Sunshine Dr. - Questioned whether this rezoning would have any impact on the land near Bucyrus Heights

As there were no further speakers, Supervisor Kulpa motioned to adjourn the public hearing and set a decision date for August 9th. The motion was seconded by Councilmember Lavin and unanimously approved 5-0. The public hearing was adjourned at 8:04 PM.

RESULT:	**ADJOURNED [UNANIMOUS]**	**Next: 8/9/2021 7:00 PM**
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Shawn Lavin, Councilmember	
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala	

D R A F T (7/12/21)

SEQR

NEGATIVE DECLARATION

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency: Town of Amherst
Town Board

Project: Z-2021-03

Address: 5583 Main Street
Williamsville, NY 14221
(716) 631-7051

Date:

This notice is issued pursuant to Part 617 and Local Law #3-82, as amended, of the implementing regulations pertaining to Article 8 (State Environmental Quality Review) of the Environmental Conservation Law.

The Lead Agency has determined that the proposed action described below will not have a significant adverse effect on the environment.

Title of Action: Rezoning Request.

SEQR Status: Type I

Description of Action: Reclassification of 1.8± acres of land from NCD-SA to NCD-ND to allow for the future use and development of the site is to allow a portion of the site to be developed as single-family lots. A total of 1.80 ± acres out of 14.39 ± acres will be developed into 8 single family homes that have frontage on Sierra Drive, a public roadway.

Location: 520 Campbell Boulevard (portion), Town of Amherst, Erie County, New York

Petitioner: Cimimelli Muir Woods LLC

Attachment: Z-2021-03_Draft_Neg_Declaration_071221 (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Reasons Supporting This Determination

Based on information submitted by the applicant, including a Full Environmental Assessment Form (EAF) - Parts 1 & 2, a complete rezoning application, and concept plan, a preliminary staff analysis was undertaken. Compared to the criteria listed in Section 617.7, all indications are that the proposed reclassification of 1.8 ± acres of land from NCD-SA to NCD-ND for a proposed addition of 8 single family homes will not have a significant impact on the environment, as follows:

1. The project is not expected to cause a substantial adverse change in existing air quality, ground or surface water quality or quantity, or noise levels; a substantial increase in solid waste production; or a substantial increase in the potential for erosion, flooding, leaching or drainage problems. The Town Engineering Department on March 5, 2021 reviewed the application and EAF submitted on March 1, 2021, and had no objection or comments on the proposed rezoning.

2. The project will not result in the removal or destruction of large quantities of vegetation or fauna; or in significant adverse impacts to fish or wildlife species, habitats or other natural resources. A Landscape/Tree preservation Plan shall be required of the applicant upon submittal of a site plan application for development of the site at which stage all landscape requirements of the Zoning Ordinance will be met.

3. The project is not expected to create any material conflict with the Town Comprehensive Plan. The project will comply with all regulations of the Town Zoning Ordinance before final site plan approval is granted. The Town Building Department on March 5, 2021 reviewed the application and EAF submitted on March 1, 2021, and has no objection or comments on the proposed rezoning.

4. The project is not within an area identified by the State as potentially containing significant cultural or archeological resources, nor will it impair the character or quality of important historical resources.

5. The project will not impair the character or quality of important aesthetic resources or of existing community or neighborhood character. The subject request is for reclassification from NCD-SA to NCD-ND. Neighboring uses are residential and zoned NCD-R-3, NCD-SA, and NCD-ND; therefore, the project is consistent with surrounding land use.

6. The proposed reclassification to NCD-ND for a proposed addition of 8 single-family homes will not cause a major change in the use of either the quantity or type of energy.

7. The reclassification to NCD-ND for the proposed addition of 8 single-family homes will not create any hazard to human health.

Attachment: Z-2021-03_Draft_Neg_Declaration_071221 (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

8. The reclassification to NCD-ND will not cause a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses. The proposed addition of 8 single-family homes will be consistent with the scale of surrounding land uses.

9. The reclassification to NCD-ND for the proposed addition of 8 single-family homes will not significantly increase the number of people using the site over its previous level of use.

10. Review by the Town Traffic/Safety Board on March 8, 2021 and NYSDOT on April 12, 2021 indicate that significant negative traffic impacts are not expected to result from the proposed project.

11. Coordinated reviews of the project have been undertaken by Town Departments including Building on March 5, 2021, Engineering on March 5, 2021, Traffic/Safety Board on March 8, 2021, Assessor on March 8, 2021, Fire Chiefs' Council on May 19, 2021, and Right-of-Way Agent on March 10, 2021 along with outside agencies including Erie County Department of Environment & Planning on April 12, 2021, and New York State Department of Transportation on April 12, 2021. These reviews have not identified any significant environmental issues and indicate that the proposal will not have a significant damaging impact on the environment.

12. Issues not specifically mentioned above and/or those not specifically reviewed were not raised by Town departments, outside agencies or the public and are not determined to be causing significant negative environmental impacts.

_____ _____

Signature & title of preparer date

_____ _____

Brian J. Kulpa, Supervisor date

DH/SM/bf
X:\Current_Planning\Files\Rezonings\2021\Z-2021-03_(520_Campbell_Blvd)_2021\Z-2021-03_Draft_Neg_Declaration_071221.docx
cc: Amherst Town Clerk
Amherst Building Department
ECDEP
NYSDEC

Attachment: Z-2021-03_Draft_Neg_Declaration_071221 (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

LOCAL LAW NO. _____-202_

TOWN OF AMHERST
COUNTY OF ERIE, STATE OF NEW YORK

A LOCAL LAW AMENDING CHAPTER 203 OF THE TOWN OF AMHERST CODE, KNOWN AS THE ZONING ORDINANCE TO RECLASSIFY A PORTION OF 520 CAMPBELL BOULEVARD FROM NCD-SA TO NCD-ND & TO AMEND THE AUDUBON DEVELOPMENT PLAN AND TO AMEND THE ZONING MAP ACCORDINGLY.

Be it enacted by the Town Board of the Town of Amherst as follows:

Section 1. Title.

This Local Law shall be referred to as, "A Local Law Amending Chapter 203 of Town of Amherst Code, Known As The Zoning Ordinance To Reclassify a Portion of 520 Campbell Boulevard from NCD-SA to NCD-ND and to Amend the Audubon Development Plan and to Amend The Zoning Map Accordingly".

Section 2. Legislative Findings and Intent.

The Town Board of the Town of Amherst finds that an application to reclassify a portion of 520 Campbell Boulevard from NCD-SA to NCD-ND and to Amend the Audubon Development Plan and to Amend the Zoning Map Accordingly has been filed and is in proper order. The Town Board further finds that the request to reclassify a portion of 520 Campbell Boulevard from NCD-SA to NCD-ND and the Amendment of the Audubon Development Plan are consistent with the Comprehensive Plan.

Section 3. Amherst Zoning Map.

The Town Board hereby amends its zoning map which is incorporated by reference in the Town zoning code reclassifying from NCD-SA to NCD-ND a portion of 520 Campbell Boulevard, **subject to any conditions imposed by the authorizing resolution**; legally described as follows:

Legal Description of Property to be Reclassified from NCD-SA to NCD-ND:

ALL THOSE TRACTS OR PARCELS OF LAND situate in the Town of Amherst, County of Erie, State of New York, being part of Lot 70, Township 12, Range 7 of the Holland Land Company's Survey, bounded and described as follows.

PARCEL 1:

BEGINNING at a point on the northerly boundary of Sierra Drive as shown on a subdivison map of The Preserve at Muir Woods recorded in the Erie County Clerk's Office under Map Cover 3754 at a distance of 276.97 feet westerly from its intersection

Attachment: LL 520 Campbell Blvd (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

with the westerly boundary of Campbell Boulevard being a 66.00 feet wide right of way;

Thence along the northerly boundary of Sierra Drive the following two (2) courses and distances:

1) N-89°-45'-59"-W, a distance of 458.83 feet to a point of curvature;
2) Westerly along a curve to the left having a radius of 176.00 feet an arc distance of 6.17 feet to a point;

THENCE: Through the lands conveyed to Ciminelli Muir Woods LLC by deed recorded in the Erie County Clerk's Office in Liber 11322 of Deeds at page 4494 the following two (2) courses and distances:

1) N-00°-14'-01"-E, along a non-radial line a distance of 138.94 feet to a point;
2) S-89°-45'-59"-E, along a line parallel with the northerly line of said Sierra Drive a distance of 194.09 feet to the southwest corner of lands conveyed to Kathleen J. Skeide by Deed recorded in the Erie County Clerk's Office in Liber 11123 of Deeds at page 2408;

THENCE: N-89°-22'-00"-E, along the south line of said Kathleen J. Skeide lands a distance of 270.94 feet to a point;

THENCE: S-01°-14'-00"-E through said lands conveyed to Ciminelli Muir Woods LLC a distance of 142.93 feet to the POINT OF BEGINNING, Containing 1.495 acres more or less.

PARCEL 2:

BEGINNING at a point on the northwesterly boundary of Sierra Drive at the northeasterly corner of Sub Lot 21 as shown on a subdivison map of The Preserve at Muir Woods recorded in the Erie County Clerk's Office under Map Cover 3754;

THENCE: N-75°-07'-44"-W, along the northerly line of said Sub lot 21 a distance of 156.81 feet to the northeast corner of Sub lot 18 as shown on said map Cover 3754;
THENCE: N-54°-35'-00"-W, along the northeasterly line of said Sub lot 18 a distance of 75.41 feet to a northerly corner of said Sub lot 18;

THENCE: Through said lands conveyed to Ciminelli Muir Woods LLC the following two (2) courses and distances:

1) N-79°-00'-45"-E, a distance of 128.98 feet to a point;
2) S-63°-52'-36"-E, along a radial line a distance of 117.00 feet to a point on the first mentioned northwesterly boundary of Sierra Drive;

THENCE: along said northwesterly boundary of Sierra Drive the following two (2) courses and distances:

Attachment: LL 520 Campbell Blvd (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

1) Southwesterly along a curve to the left having a radius of 176.00 feet an arc distance of 34.56 feet to a point of tangency;
2) S-14°-52'-16"-W a distance of 25.55 feet to the POINT OF BEGINNING, Containing 0.308 acre more or less.

Section 4. Validity.

This Local Law is adopted under the authority granted to the Town Board of the Town of Amherst pursuant to §§10(1)(ii)(a)(12), 20 and 27 of the Municipal Home Rule Law and §265 of the Town Law of the State of New York.

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

Section 5. Effective Date.

This Local Law shall take effect immediately when it is filed in the Office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law and published pursuant to Sections 130 & 133 of the Town Law and Chapter 28 of the Code of the Town of Amherst.

Francina J. Spoth
Town Clerk
Town of Amherst
County of Erie, State of New York

Attachment: LL 520 Campbell Blvd (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa, Supervisor
Daniel C. Howard, A Planning Directo
Ellen M. Kost, AI Assistant Planning Di

Town Board Agenda of July 12, 2021

The Honorable Town Board
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Subject: Request to Amend the Audubon Development Plan and Reclassify 1.8 ± acres of land from NCD-SA to NCD-ND, property located at 520 Campbell Boulevard (portion), Ciminelli Real Estate, Petitioner (Z-2021-03).

Honorable Members:

The subject property is a 1.8 ± acre irregularly shaped parcel located at 520 Campbell Boulevard (portion) on the west side of Campbell Boulevard, 0.44± miles north of the intersection of Campbell Boulevard and Dodge Road. The proposed project site is currently vacant open space that has an abundance of trees, with a federal wetland encompassing 6.8± acres of the entire site. The proposed rezoning site will be part of the existing residential development named "The Preserve at Muir Woods."

Campbell Boulevard is classified as a NYS minor arterial in Figure 9 in the Comprehensive Plan.

For information on the surrounding zoning and land use, please refer to the attached sketch.

The purpose of this request is to allow a portion of the site to be developed as single-family lots. A total of 1.80± acres out of 14.39± acres will be developed into 8 single family homes that have frontage on Sierra Drive, a public roadway.

History of previous rezoning requests:

SP-2017-03: Site plan for 133-lot subdivision "The Preserve @ Muir Woods," site includes 520 Campbell Blvd (approved 9/14/2017)

SP-2013-03_A: Final plat for "The Preserve @ Muir Woods" was approved 6/21/2018.

Z-2018-06: Amendment #69 to Audubon Development Plan for 520 Campbell Boulevard (portion) - Reclassify 1.8 acres from NCD-SA to NCD-ND to add 8 lots to "The Preserve at Muir Woods" (withdrawn by applicant)

continued...

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Honorable Town Board

Rezone land from NCD-SA to NCD-ND; property located at 520 Campbell Boulevard (portion)
Agenda of July 12, 2021

The Planning Board offers the following findings consistent with Section 8-3 of the Zoning Ordinance.

INTENT AND OBJECTIVES OF THE COMPREHENSIVE PLAN

The proposed rezoning is consistent with the Comprehensive Plan which shows the project area as "mixed residential." The Comprehensive Plan outlines mixed residential as "designations comprised of small lot single-family, duplex, and other attached dwelling types." The concept plan presented shows small lot, single-family homes which fits the description of the mixed residential land use.

INTENT AND OBJECTIVES OF THE ZONING ORDINANCE

The proposal is consistent with Section 1-2-2K of the Zoning Ordinance which seeks to guide the future development of the Town so as to bring about the gradual conformity of land and building uses in accordance with the objectives of the Comprehensive Plan.

CONSISTENCY/COMPATIBILITY WITH SURROUNDING DEVELOPMENT/ZONING

Adjacent land uses are all residential, zoned NCD-R-3, NCD-SA, and NCD-ND. The residential development that is adjacent, is zoned NCD-ND but is restricted to residential use only. The Comprehensive Plan shows the surrounding land uses as mixed residential, and recreation/open space which is consistent with the proposed reclassification.

ADEQUATE SERVICES AND UTILITIES

All services and utilities necessary for the proposed rezoning are available and adequate at the subject location. This is a Type I action, and an environmental assessment consistent with SEQR has been prepared for the subject proposal. Pursuant to Local Law #3-82, as amended, the requirements of SEQR are complete and the proposal is not expected to have a significant adverse effect on the environment.

RECOMMENDATION

The Planning Board recommends that your Honorable Body concur with the Planning Board's findings relative to SEQR and issue the attached Negative Declaration, and that the subject request be **approved** based on the attached resolution.

Very truly yours,

for Daniel Howard
Planning Director

DH/SM/bf
Att.
X:\Current_Planning\Files\Rezonings\2021\Z-2021-03_(520_Campbell_Blvd)_2021\Z-2021-03_TB_Leter_071221.docx
cc: Stanley Sliwa, Town Attorney
Planning Board Approval – May 20, 2021
Ayes 6, Noes 1 (Penberthy)

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

TOWN OF AMHERST
PLANNING BOARD RESOLUTION
AMENDMENT #75 TO THE AUDUBON DEVELOPMENT PLAN
Z-2021-03

PETITIONER

Ciminelli Real Estate Corporation
c/o Sean Hopkins, Esq.
5500 Main Street, Suite 343
Williamsville, NY 14221

PROPERTY LOCATION

520 Campbell Boulevard (portion)

WHEREAS the Town of Amherst Planning Board on Thursday, May 20, 2021 held a virtual public hearing on Amendment #75 to the Audubon New Community District Development Plan to reclassify the subject property from NCD-SA to NCD-ND (Neighborhood District), and

WHEREAS the Planning Board has reviewed the Amendment plans and supporting documentation, and

WHEREAS the Amendment has been referred to the various Town review agencies, and

WHEREAS the Planning Board finds that:

A. The proposed Revision to the Development Plan meets the intent and objectives of a New Community District as expressed in Subsection 1-1.1.

B. The proposed Revision to the Development Plan meets all the requirements of Section 5-2-3 through 5-2-6.

C. The proposed Revision to the Development Plan is conceptually sound in that it meets present and future community needs.

D. There are or will be adequate services and utilities available or proposed to be made available in the construction of the development.

E. The proposed Amendment to the Development Plan is consistent with the Town Comprehensive Plan.

Pursuant to Local Law #3-82, as amended, the Planning Board recommends that the Town Board determine that the requirements of SEQR are complete and that the subject proposal is not expected to have a significant adverse effect on the environment.

NOW THEREFORE BE IT RESOLVED that the Planning Board, in accordance with Section 8-15-2 of the Zoning Ordinance offers a positive report and recommends Town Board **approval** of Amendment #75 to the Audubon Development Plan with the following condition:

1. That future development of the site comply with the dimensional requirements set forth in the R-3 zoning district listed in §203-3-6(B) of Town Code.

MAY28'21 PM 2:08 RCVD

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

TOWN OF AMHERST
PLANNING BOARD RESOLUTION
AMENDMENT #75 TO THE AUDUBON DEVELOPMENT PLAN
Z-2021-03

PETITIONER

Ciminelli Real Estate Corporation

PROPERTY LOCATION

520 Campbell Boulevard (portion)

The foregoing resolution was adopted by the Town of Amherst Planning Board, May 20, 2021; moved by Giuliani; seconded by Gill; ayes 6, noes 1 (Penberthy).

Robert J. Gilmour, Chair — Date 5-27-21

TV/ac
X:\Current_Planning\Files\Rezonings\2021\Z-2021-03_(520_Campbell_Blvd)_2021\Z-2021-03_Resolution_052021.docx
cc: Commissioner of Building
Town Engineer
Highway Superintendent
Traffic/Safety Coordinator

MAY 28 '21 PM 2:09 RCVD

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Application to Reclassify a Portion of 520 Campbell Boulevard from NCD-SA to NCD-ND and Amendment of the Audubon New Community District Development Plan
Applicant: Cimineili Real Estate Corporation

Prepared By: Sean W. Hopkins, Esq.
Hopkins Sorgi & McCarthy PLLC
5500 Main Street, Suite 343
Williamsville, New York 14221
Tel: 510-4338
E-mail: shopkins@hsr-legal.com

TOWN OF AMHERST PLANNING DEPARTMENT

Application for Rezoning Review and, if required Comprehensive Plan Amendment

For Official Use

File #: Z-2021-03 **Acreage** 1.8 **Fee $** 1,265.00

Address Verified by Assessor's Office _____ VERIFIED BY DATE

Materials Accepted by Town Clerk & Fee Paid _____ ACCEPTED BY DATE

Materials Checked by Building Dept. _____ RECEIVED BY DATE

Materials Received by Planning Dept. _____ RECEIVED BY DATE

		Fill In Applicable Fees
2 ACRES OR LESS	**$1,250**	$1,250.00
2 – 20 ACRES **$1,250 + $250/acres or fraction thereof over 2 acres**		_____
20 – 30 ACRES **$5,700 + $150/acre or fraction thereof over 20 acres**		_____
OVER 30 ACRES **$6,900 +$75/acre or fraction thereof over 30 acres**		_____
Request for Relief of/Change to Conditions of Zoning Approval	**$ 1,200**	_____
AFFIDAVIT FEE FOR PUBLIC HEARING	**$ 15.00**	$15.00
	TOTAL FEE:	$ 1,265.00

RECEIVED
FEB 22 2021
TOWN OF AMHERST
PLANNING DEPT.

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

TO BE COMPLETED BY APPLICANT

1. **Petitioner:** Name: Ciminelli Real Estate Corporation

Address: c/o Sean Hopkins, Esq.
5500 Main Street, Suite 343
Williamsville, New York 14221
City State Zip Code

Phone: 510-4338 Fax:

E Mail shopkins@hsr-legal.com

2. **The undersigned hereby petitions the Honorable Town Board to rezone the following described property**

From: NCD-SA District

To: NCD-ND District

[Note: The request involves a requested reclassification of a portion 520 Campbell Boulevard from NCD-SA to NCD-ND, which is not considered a rezoning. The application also includes a request to amend the Audubon New Community Development Plan.]

3. **Street address of land to be rezoned:** (must be verified by Town Assessor's Office)

Portion of 520 Campbell Boulevard

SBL #: 27.19-1-29

4. **Area of land to be rezoned** (in acres): 1.8 acres [Reclassification of a portion of 520 Campbell Boulevard from NCD-SA to NCD-ND]

5. **Owner of Land:**

Name: Ciminelli Muir Woods LLC

Address: 1185 Sweet Home Road, Amherst, NY 14226

Telephone: 631-8000

6. **Representative** (Architect, Engineer, Landscape Architect, Surveyor or Attorney):

Additional Project Contact:
Ken Zollitsch, GPI Engineering
4950 Genesee Street, Suite 100
Buffalo, New York 14225
Tel: 716.989-3342
E-mail: kzollitsch@gpinet.com

Name: Sean W. Hopkins, Esq., Hopkins Sorgi & McCarthy PLLC

Address: 5500 Main Street, Suite 343

Williamsville, New York 14221

Tel: 716.510-4338 - E-mail: shopkins@hsr-legal.com

City State Zip Code

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

7. Petitioner's interest in property

_____Option to purchase

_____Owner

__x__Other (explain) The owner of the Project Site and the Petitioner are related entities.

8. The following are all others having an interest in this application and join herein with the petitioner named above: (describe extent of interest; attach sheets as needed)

Not Applicable.

9. Attach Survey and Legal description of land to be rezoned. The Survey must be prepared by a New York State Licensed Land Surveyor. Legal description of property to be reclassified attached as Exhibit "1" and a copy the Survey of the portion of 520 Campbell Boulevard to be reclassified is provided at Exhibit "2".

10. Said property has the following deed restrictions or Covenants: (attach copy) Not Applicable.

Liber _____ Page _____

11. Information on proposed project:

A. Description of the character of the proposed development:

See Exhibit "3".

B. Rationale for rezoning request:

1. Why was this site chosen?

See Exhibit "3".

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

2. Why cannot land be used with the existing zoning?

See Exhibit "3".

3. How will this rezoning impact surrounding properties?

See Exhibit "3".

4. How will this rezoning impact the school system?

See Exhibit "3".

12. Quantitative Data:

A. Total # of dwelling units 8

B. Distribution of dwelling units by type Single Family Homes for Sale.

C. Gross Residential Density per acre 0.55 units per acre.

D. Total amount of Open Space Approximately 10 acres.

E. Proposed Non-Residential Floor Area Not Applicable.

[Note: A copy of the Sketch Plan prepared by GPI Engineering is provided at Exhibit "5".]

13. Development Schedule:

Start Summer 2021

Finish Fall 2021

Stages (# of) 1

14. If any portion of the proposed development is planned to be sold or leased, please describe:

The detached single-family homes on individual lots will be sold.

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

15. Open Space ownership and maintenance provisions (if applicable):

Greenspace and landscaping will be privately owned and maintained.

16. Basis for Findings (Sec. 8-3-5 of the Town Zoning Code) (Attach sheets and supplemental materials as necessary.)

A. <u>The proposed zoning and development plan must be generally consistent with the policies of the Comprehensive Plan and the Town Zoning Ordinance.</u>

1. State in detail why the proposed zoning is consistent with the adopted Town of Amherst Bicentennial Comprehensive Plan. Cite specific sections, maps, and/or figures in the plan that support the proposed zoning at this location (The Comprehensive Plan document is available at the Planning Department, Town Clerk's Office, Amherst libraries, or at www.amherst.ny.us). Add sheets as needed.

See Exhibit "4".

2. Pursuant to NYS Town Law Section 272a(11), "all Town land use regulations must be in accordance with a comprehensive plan adopted pursuant to this Section." The Town Board adopted the Comprehensive Plan pursuant to NYS Town Law 272 on January 2, 2007. If the rezoning is approved, the Town Board may require the Plan to be amended, as applicable.

Cite all text, map, and / or figures that must be amended to support the proposed zoning at this location (attach pages as necessary) and provide detailed suggested amendments.

See Exhibit "4".

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

3. State why the proposed zoning is consistent with intent and objectives (Sec. 1-2-2) of the Zoning Ordinance:

See Exhibit "4".

B. Adequate Services and Utilities are available or are proposed to be made available with the construction of the development:

1. Sanitary Sewer

Yes. Sanitary sewer connections for individual lots into existing sanitary sewer line on Sierra Drive.

2. Storm Sewer/Drainage

Yes.

3. Water

Yes.

4. Other Yes.

C. Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood:

See Exhibit "4".

D. Suitability of the subject property for uses permitted by the current versus the proposed district:

See Exhibit "4".

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

E. **Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town:**

See Exhibit "4".

17. The petitioner encloses herewith the sum of $ 1,265.00 to pay the fee, and consents to the placement of a sign(s) at the described location identifying this request for a period of time to be determined by the Town Clerk. [Note: The filing fee has been previously paid.]

18. The undersigned certifies that all information required to be disclosed pursuant to Section 809 of the General Municipal Law (see below) is as follows:

The undersigned swears or affirms that all statements made herein are true, that all drawings submitted correctly show the situation involved in this petition.

Counsel for Petitioner

Signature of Petitioner

Subscribed and sworn to before me this 22nd day of February, 2021

Notary Public, Erie County, New York Marianne Brautlacht

Marianne Brautlacht

MARIANNE BRAUTLACHT
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 01/14/2022

N.Y.S. General Municipal Law - Section 809 Disclosure in certain applications:

1. Every application, petition or request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or official map, license or permit, pursuant to the provision of any ordinance, local law, rule or regulation constituting the zoning and planning regulations of a municipality shall state the name, residence and the nature and extent of the interest of any state office or any office or employee of such municipality or of a municipality of which such municipality is a part, in the person, partnership or association making such application, petition or request (hereinafter called the applicant) to the extent known to such applicant.

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

2. For the purpose of this section an officer or employee shall be deemed to have an interest in the applicant when he, his spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them

   (a) is the applicant, or
   (b) is an officer, director, partner or employee of the applicant, or
   (c) legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant, or
   (d) is a party to an agreement with such an applicant, express or implied, whereby he may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such applicant, petition or request.

3. In the county of Nassau the provisions of subdivisions one and two of this section shall also apply to a party officer. "Party Officer" shall mean any person holding any position or office, whether by election, appointment or otherwise, in any party as defined by subdivision four or section two of the election law.

4. Ownership of less than five per cent of the stock of a corporation whose stock is listed on the New York or American Stock Exchanges shall not constitute an interest for the purposes of this section.

5. A person who knowingly and intentionally violates this section shall be guilty of a misdemeanor.

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Full Environmental Assessment Form Prepared pursuant to the State Environmental Quality Review Act ("SEQRA") with Attached Page 5[a] & Attachment "A"

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Full Environmental Assessment Form
Part 1 - Project and Setting

Prepared By: Sean Hopkins, Esq.
5500 Main Street, Suite 343
Williamsville, New York 14221
Tel: 716.510-4338
E-mail: shopkins@hsr-legal.com

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the project sponsor to verify that the information contained in Part 1is accurate and complete.

A. Project and Sponsor Information.

Name of Action or Project: Preserve at Muir Woods Subdivision - Proposed 8 Lot Residential Subdivision		
Project Location (describe, and attach a general location map): 520 Campbell Boulevard, Town of Amherst - Erie County		
Brief Description of Proposed Action (include purpose or need): The project ("action") consists of a residential subdivision on a portion of the approximately 14.39 acres parcel at 520 Campbell Boulevard ("Project Site") consisting of eight lots for detached single-family homes. The portion of the Project Site to be developed as single-family homes on individuals lot consists of 1.80 acres of the Project Site [12.5%] that is currently zoned NCD-SA. The Project Sponsor is seeking to amend classification of 1.80 acres of the Project Site from NCD-SA to NCD - Neighborhood District ("NCD-ND"). No impacts to the 6.88 acres of jurisdictional federal on the Project Site are being proposed and a copy of the Jurisdictional Determination issued by the U.S. Army Corps of Engineers on July 12, 2017 is provided at Attachment "A" of this Part 1 of the Full EAF. The action has been defined broadly to include all required discretionary approvals and permits as well as all site improvements including the proposed detached single-family homes, driveways, grading, sanitary sewer and water lines and connections and all other required utility improvements. The project purpose is to develop the a portion of 520 Campbell Boulevard with frontage on a public roadway as single-family homes. The project is a Unlisted Action pursuant to the State Environmental Quality Review Act ("SEQRA") since none of the impacts cross the threshold for a Type I action contained in 6 NYCRR Part 617.4		
Name of Applicant/Sponsor: Ciminelli Real Estate Corporation c/o Sean Hopkins, Esq.	Telephone: 510-4338 E-Mail: shopkins@hsr-legal.com	
Address: 5500 Main Street, Suite 343		
City/PO: Williamsville	State: NY	Zip Code: 14221
Project Contact (if not same as sponsor; give name and title/role): Sean W. Hopkins, Esq., Attorney for Project Sponsor	Telephone: 510-4338 E-Mail: shopkins@hsr-legal.com	
Address: 5500 Main Street, Suite 343		
City/PO: Williamsville	State: NY	Zip Code: 14221
Property Owner (if not same as sponsor): Ciminelli Muir Woods LLC	Telephone: 631-8000 E-Mail: afaeth@ciminelli.com	
Address: 50 Fountain Plaza, Suite 500		
City/PO: Buffalo	State: NY	Zip Code:

Additional Project Contact: Ken Zollitsch, GPI Engineering
4950 Genesee Street, Suite 100
Buffalo, New York 14225
Tel: 716.989-3342
E-mail: kzollitsch@gpinet.com

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)		
Government Entity	**If Yes: Identify Agency and Approval(s) Required**	**Application Date (Actual or projected)**
a. City Council, Town Board, or Village Board of Trustees ☑Yes ☐No	Reclassification of Project Site from NCD-SA to NCD-ND & Amendment of Aud. Dev. Plan	February 22, 2021
b. City, Town or Village Planning Board or Commission ☑Yes ☐No	Site Plan Approval and Final Plat Approval	To be Determined
c. City Council, Town or Village Zoning Board of Appeals ☐Yes ☑No		
d. Other local agencies ☑Yes ☐No	Building Dept. - Building Permits; Engineering Department - SWPPP Approval	To be Determined
e. County agencies ☑Yes ☐No	ECHD - Sanitary Sewer, Water Approval and Realty Subdivision; ECWA - Water	To be Determined
f. Regional agencies ☐Yes ☐No		
g. State agencies ☑Yes ☐No	New York State Department of Environmental Conservation - SPDES Permit	To be Determined
h. Federal agencies ☐Yes ☑No		

i. Coastal Resources.
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway? ☐Yes ☑No

ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program? ☐Yes ☑No
iii. Is the project site within a Coastal Erosion Hazard Area? ☐Yes ☑No

C. Planning and Zoning

C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? ☐Yes ☑No

- **If Yes,** complete sections C, F and G.
- **If No,** proceed to question C.2 and complete all remaining sections and questions in Part 1

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? ☑Yes ☐No
If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? ☑Yes ☐No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) [Note: The action will have no adverse impacts on the West Erie Canal Corridor.] ☑Yes ☐No
If Yes, identify the plan(s):
NYS Heritage Areas:West Erie Canal Corridor

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? ☐Yes ☑No
If Yes, identify the plan(s):

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. ☑ Yes ☐ No
If Yes, what is the zoning classification(s) including any applicable overlay district?
The Project Site is currently zoned NCD-SA. The Project Sponsor is proposing to reclassify a portion of the Project Site from NCD-SA to NCD-ND.

b. Is the use permitted or allowed by a special or conditional use permit? ☐ Yes ☑ No

c. Is a zoning change requested as part of the proposed action? ☐ Yes ☑ No
If Yes, [Note: The Project Sponsor is proposing to reclassify a portion of the Project Site from NCD-SA to NCD-ND.]
i. What is the proposed new zoning for the site?

C.4. Existing community services.

a. In what school district is the project site located? Williamsville Central School District

b. What police or other public protection forces serve the project site?
Town of Amherst Police Department

c. Which fire protection and emergency medical services serve the project site?
Getzville Fire Protection District and Twin City Ambulance

d. What parks serve the project site?
Nature View Park; Walton Woods Park and Ellicott Creek Park

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? Detached single-family homes on individual lots.

b. a. Total acreage of the site of the proposed action? 14.39 acres
b. Total acreage to be physically disturbed? 1.8± acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 341± acres
[Note: 9.97 acres of 520 Campbell Boulevard will consist of Permanent Open Space subject to a Declaration of Restrictions.]

c. Is the proposed action an expansion of an existing project or use? ☐ Yes ☑ No
i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % Units:

d. Is the proposed action a subdivision, or does it include a subdivision? ☑ Yes ☐ No
If Yes,
i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)
Residential subdivision consisting of detached single-family homes on individual lots.
ii. Is a cluster/conservation layout proposed? ☐ Yes ☑ No
iii. Number of lots proposed? 8
iv. Minimum and maximum proposed lot sizes? Minimum 9,100± sqft Maximum 13,490± sqft

e. Will proposed action be constructed in multiple phases? ☐ Yes ☑ No
i. If No, anticipated period of construction: 3 months
ii. If Yes:
- Total number of phases anticipated
- Anticipated commencement date of phase 1 (including demolition) ____ month ____ year
- Anticipated completion date of final phase ____ month ____ year
- Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases:

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

f. Does the project include new residential uses? ☑ Yes ☐ No
If Yes, show numbers of units proposed.

	One Family	Two Family	Three Family	Multiple Family (four or more)
Initial Phase	8			
At completion of all phases	8			

g. Does the proposed action include new non-residential construction (including expansions)? ☐ Yes ☑ No
If Yes,
i. Total number of structures _____
ii. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length
iii. Approximate extent of building space to be heated or cooled: _____ square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? ☐ Yes ☑ No
If Yes,
i. Purpose of the impoundment: _____
ii. If a water impoundment, the principal source of the water: ☐ Ground water ☐ Surface water streams ☐ Other specify: _____
iii. If other than water, identify the type of impounded/contained liquids and their source. _____
iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres
v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length
vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): _____

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite) ☐ Yes ☑ No
If Yes:
i .What is the purpose of the excavation or dredging? _____
ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?
- Volume (specify tons or cubic yards): _____
- Over what duration of time? _____

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. _____
iv. Will there be onsite dewatering or processing of excavated materials? ☐ Yes ☐ No
If yes, describe. _____
v. What is the total area to be dredged or excavated? _____ acres
vi. What is the maximum area to be worked at any one time? _____ acres
vii. What would be the maximum depth of excavation or dredging? _____ feet
viii. Will the excavation require blasting? ☐ Yes ☐ No
ix. Summarize site reclamation goals and plan: _____

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? ☐ Yes ☑ No
If Yes:
i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

iii. Will proposed action cause or result in disturbance to bottom sediments? ☐ Yes ☐ No
If Yes, describe:

iv. Will proposed action cause or result in the destruction or removal of aquatic vegetation? ☐ Yes ☐ No
If Yes:

- acres of aquatic vegetation proposed to be removed:
- expected acreage of aquatic vegetation remaining after project completion:
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access):
- proposed method of plant removal:
- if chemical/herbicide treatment will be used, specify product(s):

v. Describe any proposed reclamation/mitigation following disturbance:

c. Will the proposed action use, or create a new demand for water? ☑ Yes ☐ No
If Yes:

i. Total anticipated water usage/demand per day: 4,200± gallons/day

ii. Will the proposed action obtain water from an existing public water supply? ☑ Yes ☐ No
If Yes:

- Name of district or service area: Town of Amherst
- Does the existing public water supply have capacity to serve the proposal? ☑ Yes ☐ No
- Is the project site in the existing district? ☑ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☑ No
- Do existing lines serve the project site? ☑ Yes ☐ No

iii. Will line extension within an existing district be necessary to supply the project? ☐ Yes ☑ No
If Yes:

- Describe extensions or capacity expansions proposed to serve this project:
- Source(s) of supply for the district:

iv. Is a new water supply district or service area proposed to be formed to serve the project site? ☐ Yes ☑ No
If, Yes:

- Applicant/sponsor for new district:
- Date application submitted or anticipated:
- Proposed source(s) of supply for new district:

v. If a public water supply will not be used, describe plans to provide water supply for the project:

vi. If water supply will be from wells (public or private), maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes? ☑ Yes ☐ No
If Yes:

i. Total anticipated liquid waste generation per day: 2,800± gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each):

iii. Will the proposed action use any existing public wastewater treatment facilities? ☑ Yes ☐ No
If Yes:

- Name of wastewater treatment plant to be used: Town of Amherst Water Pollution Control Facility
- Name of district: Town District 16
- Does the existing wastewater treatment plant have capacity to serve the project? ☑ Yes ☐ No
- Is the project site in the existing district? ☑ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☑ No

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

- Do existing sewer lines serve the project site? ☑Yes ☐No
- Will line extension within an existing district be necessary to serve the project? ☐Yes ☑No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? ☐Yes ☑No

If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- What is the receiving water for the wastewater discharge? _____

v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge, or describe subsurface disposal plans):

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? ☑Yes ☐No

If Yes:

i. How much impervious surface will the project create in relation to total size of project parcel?

_____ Square feet or 0.5± acres (impervious surface)

_____ Square feet or 1.8± acres (parcel size)

ii. Describe types of new point sources. New point sources will be inletting/outletting the proposed stormwater facilities. The impervious surfaces include driveways and single family homes.

iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?

Runoff will be directed to new stormwater facilities which will outlet to the adjacent lake which will ultimately flow to Ellicott Creek

- If to surface waters, identify receiving water bodies or wetlands: Ellicott Creek
- Will stormwater runoff flow to adjacent properties? ☐Yes ☑No

iv. Does proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? ☐Yes ☑No

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? ☑Yes ☐No

If Yes, identify:

i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)

Heavy equipment emissions during site construction.

ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)

iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? ☐Yes ☑No

If Yes:

i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) ☐Yes ☑No

ii. In addition to emissions as calculated in the application, the project will generate:

- _____Tons/year (short tons) of Carbon Dioxide (CO_2)
- _____Tons/year (short tons) of Nitrous Oxide (N_2O)
- _____Tons/year (short tons) of Perfluorocarbons (PFCs)
- _____Tons/year (short tons) of Sulfur Hexafluoride (SF_6)
- _____Tons/year (short tons) of Carbon Dioxide equivalent of Hydroflourocarbons (HFCs)
- _____Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? ☐Yes ☑No

If Yes:

i. Estimate methane generation in tons/year (metric): _____

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? ☐Yes ☑No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust):

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? ☐Yes ☑No

If Yes:

i. When is the peak traffic expected (Check all that apply): ☐Morning ☐Evening ☐Weekend ☐Randomly between hours of _____ to _____.

ii. For commercial activities only, projected number of semi-trailer truck trips/day: _____

iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____

iv. Does the proposed action include any shared use parking? ☐Yes ☐No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe:

vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? ☐Yes ☐No

vii Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? ☐Yes ☐No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? ☐Yes ☐No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? ☐Yes ☑No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: _____

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other):

iii. Will the proposed action require a new, or an upgrade to, an existing substation? ☐Yes ☐No

l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: 7am - 7pm or as allowed by Town
- Saturday: 7am - 7pm or as allowed by Town
- Sunday: to be determined
- Holidays: Not Anticipated

ii. During Operations:

- Monday - Friday: N/A
- Saturday: N/A
- Sunday: N/A
- Holidays: N/A

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m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? ☑ Yes ☐ No

If yes:

i. Provide details including sources, time of day and duration:

During construction there will be temporary unavoidable noise impacts associated with the use of construction equipment and vehicles.

ii. Will proposed action remove existing natural barriers that could act as a noise barrier or screen? ☐ Yes ☑ No

Describe:

n.. Will the proposed action have outdoor lighting? ☑ Yes ☐ No

If yes:

i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:

Street fixtures and lighting on single family homes.

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? ☐ Yes ☑ No

Describe:

o. Does the proposed action have the potential to produce odors for more than one hour per day? ☐ Yes ☑ No

If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures:

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? ☐ Yes ☑ No

If Yes:

i. Product(s) to be stored

ii. Volume(s) _____ per unit time _____ (e.g., month, year)

iii. Generally describe proposed storage facilities:

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? ☐ Yes ☑ No

If Yes:

i. Describe proposed treatment(s):

ii. Will the proposed action use Integrated Pest Management Practices? ☐ Yes ☐ No

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? ☐ Yes ☑ No

If Yes:

i. Describe any solid waste(s) to be generated during construction or operation of the facility:

- Construction: _____ tons per _____ (unit of time)
- Operation : _____ tons per _____ (unit of time)

ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:

- Construction:
- Operation:

iii. Proposed disposal methods/facilities for solid waste generated on-site:

- Construction:
- Operation:

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☑ No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii. Anticipated rate of disposal/processing:

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐ Yes ☑ No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

iii. Specify amount to be handled or generated _____ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☐ No

If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: _____

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

☐ Urban ☐ Industrial ☑ Commercial ☑ Residential (suburban) ☐ Rural (non-farm)
☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other (specify): _____

ii. If mix of uses, generally describe:

The primary use of the parcels in the vicinity of the Project Site is single-family homes on residential units. There are commercial uses at the intersection of Campbell Boulevard and North French Road and also multifamily uses to the south of the site on the east side of Campbell Boulevard.

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	0	0.5±	+ 0.5±
• Forested	1.4±	0.0±	-1.4±
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	6.11±	5.71±	-0.4±
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)	0	0	0
• Wetlands (freshwater or tidal) [federal wetlands]	6.88	6.88	0
• Non-vegetated (bare rock, earth or fill)	-	-	-
• Other Describe: Lawns and landscaping	0	1.3±	+ 1.3±

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

c. Is the project site presently used by members of the community for public recreation? ☐Yes ☑No
i. If Yes: explain: _____

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? ☐Yes ☑No
If Yes,
i. Identify Facilities:

e. Does the project site contain an existing dam? ☐Yes ☑No
If Yes:
i. Dimensions of the dam and impoundment:
- Dam height: _____ feet
- Dam length: _____ feet
- Surface area: _____ acres
- Volume impounded: _____ gallons OR acre-feet

ii. Dam's existing hazard classification: _____
iii. Provide date and summarize results of last inspection:

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? ☐Yes ☑No
If Yes:
i. Has the facility been formally closed? ☐Yes ☐No
- If yes, cite sources/documentation: _____

ii. Describe the location of the project site relative to the boundaries of the solid waste management facility:
iii. Describe any development constraints due to the prior solid waste activities: _____

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? ☐Yes ☑No
If Yes:
i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred:

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? ☐Yes ☑No
If Yes:
i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: ☐Yes ☐No
☐ Yes – Spills Incidents database — Provide DEC ID number(s): _____
☐ Yes – Environmental Site Remediation database — Provide DEC ID number(s): _____
☐ Neither database

ii. If site has been subject of RCRA corrective activities, describe control measures: _____

iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? ☐Yes ☑No
If yes, provide DEC ID number(s): _____
iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):

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v. Is the project site subject to an institutional control limiting property uses? ☐Yes ☑No

- If yes, DEC site ID number: _____
- Describe the type of institutional control (e.g., deed restriction or easement): _____
- Describe any use limitations: _____
- Describe any engineering controls: _____
- Will the project affect the institutional or engineering controls in place? ☐Yes ☐No
- Explain: _____

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? greater than 6 feet

b. Are there bedrock outcroppings on the project site? ☐Yes ☑No
If Yes, what proportion of the site is comprised of bedrock outcroppings? 0 %

c. Predominant soil type(s) present on project site:

Ch - Cheektowaga	63 %
Cv - Cosad	37 %
	%

d. What is the average depth to the water table on the project site? Average: 0.0-1.5 feet

e. Drainage status of project site soils:
☐ Well Drained: ____% of site
☐ Moderately Well Drained: ____% of site
☑ Poorly Drained 100 % of site

f. Approximate proportion of proposed action site with slopes:
☑ 0-10%: 100 % of site
☐ 10-15%: ____% of site
☐ 15% or greater: ____% of site

g. Are there any unique geologic features on the project site? ☐Yes ☑No
If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? [There are 6.88 acres of federal wetlands located on the Project Site per the Jurisdictional ☑Yes ☐No

ii. Do any wetlands or other waterbodies adjoin the project site? Determination issued by the USACE on July ☑Yes ☐No
If Yes to either *i* or *ii*, continue. If No, skip to E.2.i. 12, 2017. A copy is provided at Attachment "A."]

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? [The Applicant is not proposing any impacts to the 6.88 acres of federal wetlands.] ☑Yes ☐No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name _____ Classification _____
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name Federal Waters Approximate Size 6.88 Acres
- Wetland No. (if regulated by DEC) _____

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? ☐Yes ☑No
If yes, name of impaired water body/bodies and basis for listing as impaired: _____

i. Is the project site in a designated Floodway? ☐Yes ☑No

j. Is the project site in the 100 year Floodplain? ☐Yes ☑No

k. Is the project site in the 500 year Floodplain? ☑Yes ☐No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? ☐Yes ☑No
If Yes:
i. Name of aquifer: _____

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

m. Identify the predominant wildlife species that occupy or use the project site:
Typical suburban species

n. Does the project site contain a designated significant natural community? ☐Yes ☑No
If Yes:
i. Describe the habitat/community (composition, function, and basis for designation):
ii. Source(s) of description or evaluation:
iii. Extent of community/habitat:
- Currently: _____ acres
- Following completion of project as proposed: _____ acres
- Gain or loss (indicate + or -): _____ acres

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? ☐ Yes ☑No

p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? ☐Yes ☑No

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? ☐Yes ☑No
If yes, give a brief description of how the proposed action may affect that use:

E.3. Designated Public Resources On or Near Project Site

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐Yes ☑No
If Yes, provide county plus district name/number:

b. Are agricultural lands consisting of highly productive soils present? ☐Yes ☑No
i. If Yes: acreage(s) on project site?
ii. Source(s) of soil rating(s):

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? ☐Yes ☑No
If Yes:
i. Nature of the natural landmark: ☐ Biological Community ☐ Geological Feature
ii. Provide brief description of landmark, including values behind designation and approximate size/extent:

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? ☐Yes ☑No
If Yes:
i. CEA name:
ii. Basis for designation:
iii. Designating agency and date:

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on, or has been nominated by the NYS Board of Historic Preservation for inclusion on, the State or National Register of Historic Places? ☐ Yes ☑ No

If Yes:

i. Nature of historic/archaeological resource: ☐ Archaeological Site ☐ Historic Building or District

ii. Name: _____

iii. Brief description of attributes on which listing is based:

_____

f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? ☑ Yes ☐ No

g. Have additional archaeological or historic site(s) or resources been identified on the project site? ☐ Yes ☑ No

If Yes:

i. Describe possible resource(s): _____

ii. Basis for identification: _____

h. Is the project site within fives miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? ☐ Yes ☑ No

If Yes:

i. Identify resource: _____

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____

iii. Distance between project and resource: _____ miles.

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? ☐ Yes ☑ No

If Yes:

i. Identify the name of the river and its designation: _____

ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? ☐ Yes ☐ No

F. Additional Information

Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Ciminelli Real Estate Corporation Date February 22, 2021

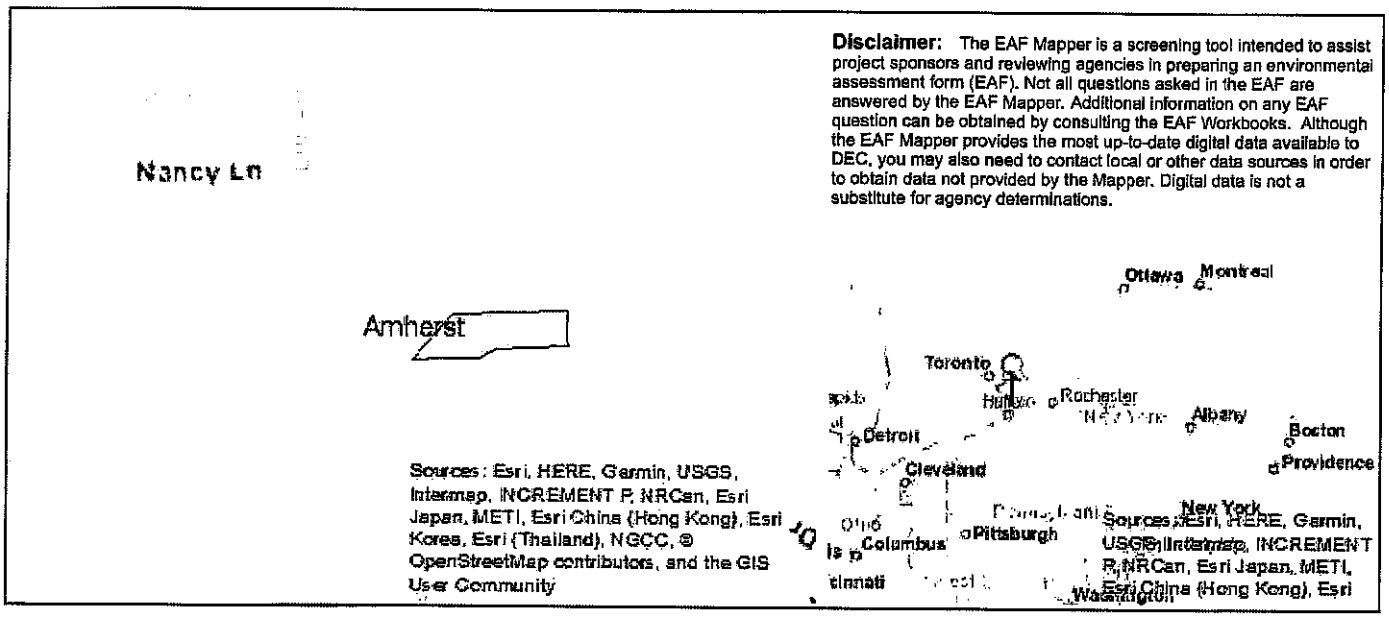
Signature _____ Title Attorney for Applicant/Project Sponsor

Sean W. Hopkins, Esq.

PRINT FORM

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

EAF Mapper Summary Report



B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	NYS Heritage Areas:West Erie Canal Corridor
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	No
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	Yes
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.iv [Surface Water Features - Wetlands Name]	Federal Waters
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	No
E.2.k. [500 Year Floodplain]	Yes
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No

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E.2.o. [Endangered or Threatened Species]	No
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National Register of Historic Places]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

TOWN OF AMHERST ATTACHMENT
State Environmental Quality Review
ENVIRONMENTAL ASSESSMENT FORM

Application to Reclassify a Portion of 520 Campbell Boulevard from NCD-SA to NCD-ND and Amendment of Audubon Development Plan

1. For each applicable category of proposed new structures, including additions to existing structures, provide the following information for all soil types on the project site (*according to Soil Survey of Erie County, NY; Table 11, Building Site Development, pp 294-305):*

Soil Name	Shallow excavations	Dwellings without basements	Dwellings with basements	Small commercial buildings	Local roads and streets
Cheektowaga [Ch]	Severe: wetness, too clayey	Severe: wetness	Severe: wetness	Severe: wetness	Severe: wetness
Cosad [Cv]	Severe: wetness, cutbanks cave, too clayey	Severe: wetness	Severe: wetness	Severe: wetness	Moderate: wetness

2. If the Soil survey indicates either "severe" or "moderate" suitability for the proposed types of construction, a geotechnical and hydrological analysis based on one test per 3.5 acres of project area must be provided (per Town Board resolution, 3/17/03, amended 6/16/03).

___ Geotechnical report attached ___ Not applicable

[Note: Three copies of the Geotechnical Report prepared by Glynn Group dated October 4, 2018 are being submitted with the Application and supporting documentation.]

3. Is your property located: On Youngs Road between Dodge and Klein Roads? ☐ Yes ✓ No
On Wehrle Dr. between Spindrift Dr. and Oakwood Rd? ☐ Yes ✓ No

If so, the property may be within an area of the Town that is affected by a moratorium on connections to the sanitary sewer system.

4. Are there alternative locations on the site for this project? ☐ Yes ✓ No

5. Location and size of real property owned by petitioner within one (1) mile of subject proposal:

The Petitioner owns the parcels of real property 1081 and 1121 North French Road which consist of nearly 330 acres of land.

6. Are you aware of current or future plans or intentions by others in the Town of Amherst to develop property within 1000± ft. of the present project request: ☐ Yes ✓ No

Describe: **There are current proposals to develop Site "B" of Muir Woods as student housing and Site "A" of Muir Woods as a mixed-use project.**

(Potential environmental impacts from adjacent or nearby projects undergoing the approval process will receive a coordinated environmental review to determine cumulative effects on common receivers (e.g. traffic and drainage corridors) and other relevant environmental concerns.)

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

7. Maximum number of vehicular trips to be generated per hour upon completion of project: **8 vehicular trips during the weekday peak travel period.**

8. Will blasting occur during construction? ☐ Yes ☑ No

9. Does the project propose to connect and be tributary to the public sanitary sewer system? ☑ Yes ☐ No

10. Proposed net additional gallons per day (gpd) of sanitary sewer discharge upon completion of project:

    2,800 gpd average flow **11,200** gpd peak flow.

    (Please note that average flows of 2,500 gpd or greater will require an Engineer's Report that includes a detailed downstream sewer capacity analysis and the identification of and commitment to required I/I offset work during peak wastewater flow conditions.)

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Attachment A of Part 1 of Full Environmental Assessment Form – Jurisdictional Determination for 520 Campbell Boulevard Issued by the United States Army Corps of Engineers ("USACE") on July 12, 2017

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

DEPARTMENT OF THE ARMY
BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

REPLY TO
ATTENTION OF:

July 12, 2017

Regulatory Branch

SUBJECT: Preliminary Jurisdictional Determination for Department of the Army Application No. 2001-00067.

Ciminelli Real Estate Corporation
Centerpointe Corporate Park
350 Essjay Road
Williamsville, NY 14221

Dear Mr. Brad Packard:

I have reviewed the wetland delineation map you submitted for your request for a wetland boundary verification, located at 520 Campbell Boulevard which is directly adjacent to the Muir Woods project site, Town of Amherst, County of Erie, New York.

I have evaluated your submitted wetland delineation map and have determined that the wetland and water boundaries shown on the map accurately represent on-site conditions. Please note that this is a Preliminary Jurisdictional Determination (JD). Preliminary JDs are non-binding written indications that there may be waters of the United States (WOUS) on your parcel and approximate locations of those waters. Preliminary JDs are advisory in nature and may not be appealed.

Pursuant to Regulatory Guidance Letter 16-01, any permit application made in reliance on this Preliminary JD will be evaluated as though all wetlands or waters on the site are regulated by the Corps. Further, all waters, including wetlands will be used for purposes of assessing the area of project related impacts and compensatory mitigation. If you require a definitive response regarding Department of the Army jurisdiction for any or all of the waters identified on the submitted drawings, you may request an approved jurisdictional determination (AJD) from this office. If an AJD is requested, please be aware that this is often a lengthy process and we may require the submittal of additional information.

I have enclosed the Preliminary JD Form with this letter. The form and attached table identifies the extent of waters on the site and specific terms and conditions of the Preliminary JD. Please sign and return a copy of this form to my attention. If you do not respond within 15 days, we will presume concurrence and no additional follow up is necessary prior to finalizing an action.

In accordance with Regulatory Guidance Letter 05-02, "Preliminary jurisdictional determinations are not definitive determinations of areas within regulatory jurisdiction and do not have expirations dates." However, I strongly recommend that the boundaries of all aquatic resources on the parcel be re-evaluated by a qualified wetland biologist after five years of the

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Regulatory Branch

SUBJECT: Preliminary Jurisdictional Determination for Department of the Army Application No. 2001-00067.

date of this letter. This will ensure that any changes are appropriately identified and you do not inadvertently incur a violation of Federal law while constructing your project or working on your project site.

Lastly, this determination has been conducted only to identify the limits of waters that may be subject to Corps Clean Water Act or Rivers and Harbors Act jurisdiction. This delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are United States Department of Agriculture (USDA) program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resource Conservation Service prior to starting work.

Questions pertaining to this matter should be directed to me at 716-879-4346, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, or by e-mail at: martin.h.crosson@usace.army.mil

Sincerely,

Martin H. Crosson
Biologist

Enclosures

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Ciminelli Real Estate Corporation	File Number: 2001-00067	Date: 07/12/2017
Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
	APPROVED JURISDICTIONAL DETERMINATION	D
X	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/CECW/Pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.

- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.

- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.

- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:	If you only have questions regarding the appeal process you may also contact:
Martin Crosson U.S. Army Corps of Engineers 1776 Niagara Street Buffalo, New York 14207 716-879-4346 martin.h.crosson@usace.army.mil	Attn: Jacob Siegrist Great Lakes and Ohio River Division CELRD-PD-REG 550 Main Street, Room 10524 Cincinnati, OH 45202-3222 513-684-2699; FAX 513-684-2460

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

	Date:	Telephone number:
_____ Signature of appellant or agent.		

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

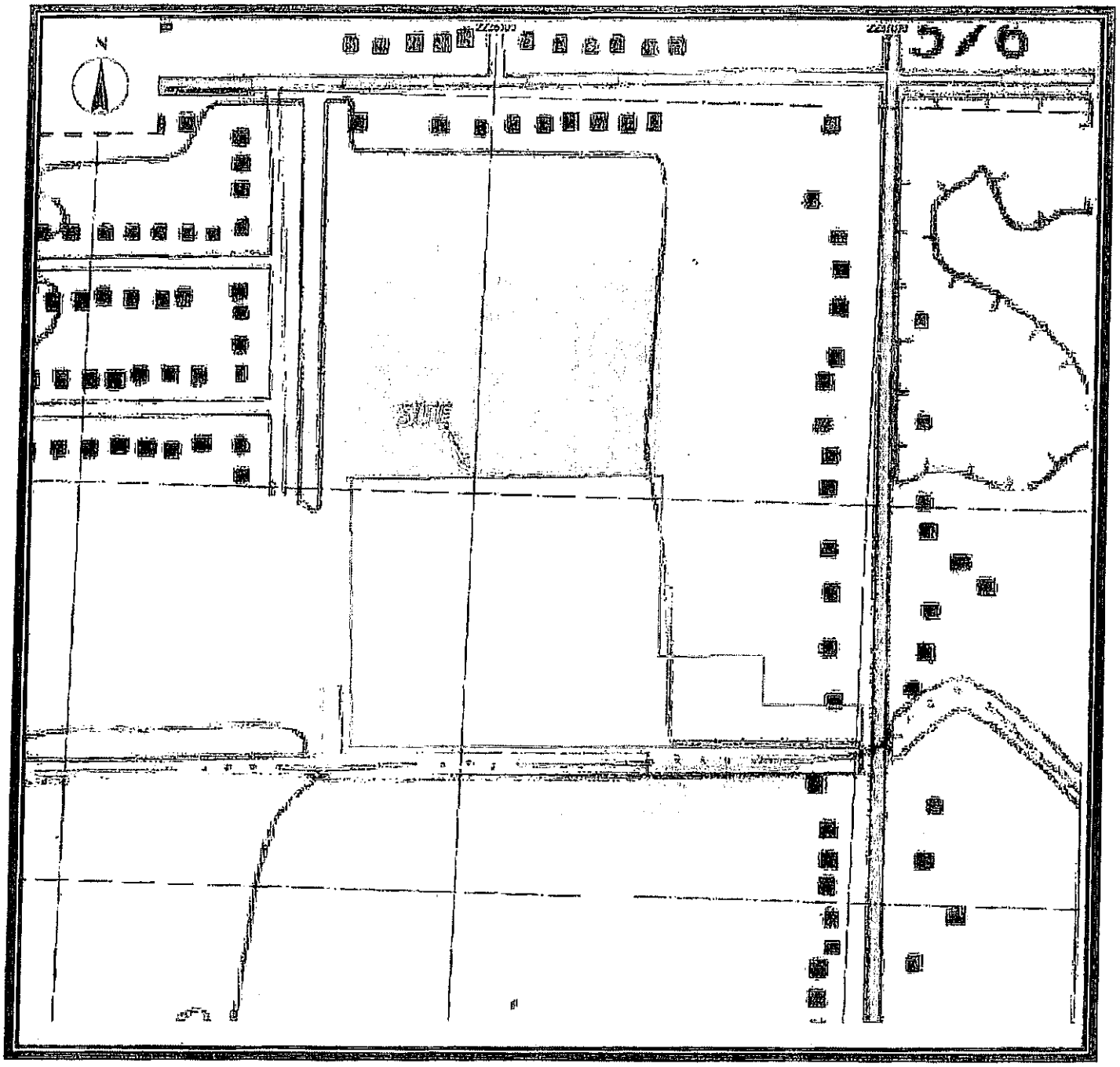


FIGURE 1: USGS 7.5 MINUTE TOPOGRAPHICAL MAP

Tonawanda East Quadrangle / 2002 DeLorme

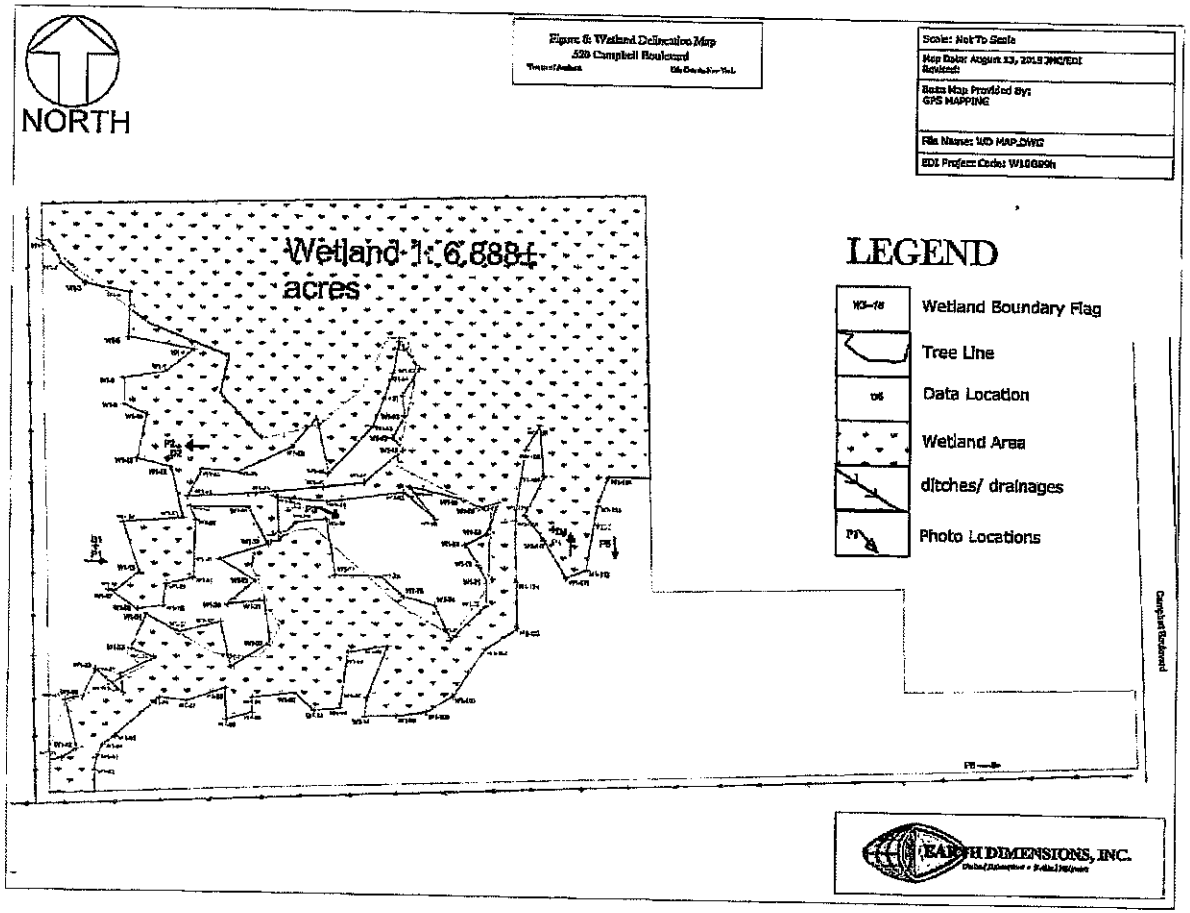
520 Campbell Boulevard

Town of Amherst, Erie County, New York

Ciminelli Real Estate Corporation
D/A Processing No. 2001-00067
Erie County, NY
Sheet 1 of 2

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Ciminelli Real Estate Corporation
D/A Processing No. 2001-00067
Erie County, NY
Sheet 2 of 2



PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PJD: July 12, 2017.

B. NAME AND ADDRESS OF PERSON REQUESTING PJD:

Ciminelli Real Estate Corporation
Centerpointe Corporate Park
350 Essjay Road
Williamsville, NY 14221

C. DISTRICT OFFICE, FILE NAME, AND NUMBER: LRB Buffalo, Ciminelli Real Estate Corporation, 2001-00067.

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:

State: New York County/parish/borough: Erie City: Amherst

Center coordinates of site (lat/long in degree decimal format):

Lat.: 43.03126° Long.: -78.77060°

Universal Transverse Mercator: 17

Name of nearest waterbody: Ellicott Creek

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☒ Office (Desk) Determination. Date: July 12, 2017.

☒ Field Determination. Date(s): July 11, 2017.

TABLE OF AQUATIC RESOURCES IN REVIEW AREA WHICH "MAY BE" SUBJECT TO REGULATORY JURISDICTION.

Site number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e., wetland vs. non-wetland waters)	Geographic authority to which the aquatic resource "may be" subject (i.e., Section 404 or Section 10/404)
Wetland 1	43.03126°	-78.77060°	6.888	PSS/FO	404

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

1) The Corps of Engineers believes that there may be jurisdictional aquatic resources in the review area, and the requestor of this PJD is hereby advised of his or her option to request and obtain an approved JD (AJD) for that review area based on an informed decision after having discussed the various types of JDs and their characteristics and circumstances when they may be appropriate.
2) In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an AJD for the activity, the permit applicant is hereby made aware that: (1) the permit applicant has elected to seek a permit authorization based on a PJD, which does not make an official determination of jurisdictional aquatic resources; (2) the applicant has the option to request an AJD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an AJD could possibly result in less compensatory mitigation being required or different special conditions; (3) the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) undertaking any activity in reliance upon the subject permit authorization without requesting an AJD constitutes the applicant's acceptance of the use of the PJD; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a PJD constitutes agreement that all aquatic resources in the review area affected in any way by that activity will be treated as jurisdictional, and waives any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an AJD or a PJD, the JD will be processed as soon as practicable. Further, an AJD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331. If, during an administrative appeal, it becomes appropriate to make an official determination whether geographic jurisdiction exists over aquatic resources in the review area, or to provide an official delineation of jurisdictional aquatic resources in the review area, the Corps will provide an AJD to accomplish that result, as soon as is practicable. This PJD finds that there *"may be"* waters of the U.S. and/or that there *"may be"* navigable waters of the U.S. on the subject review area, and identifies all aquatic features in the review area that could be affected by the proposed activity, based on the following information:

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SUPPORTING DATA. Data reviewed for PJD (check all that apply)

Checked items should be included in subject file. Appropriately reference sources below where indicated for all checked items:

☒ Maps, plans, plots or plat submitted by or on behalf of the PJD requestor: Map: Delineation Report completed by Earth Dimensions, Inc. dated August 20, 2015.
☒ Data sheets prepared/submitted by or on behalf of the PJD requestor.
  ☒ Office concurs with data sheets/delineation report.
  ☐ Office does not concur with data sheets/delineation report. Rationale: _____.
☐ Data sheets prepared by the Corps: _____.
☐ Corps navigable waters' study: _____.
☐ U.S. Geological Survey Hydrologic Atlas: _____.
  ☐ USGS NHD data.
  ☐ USGS 8 and 12 digit HUC maps.
☒ U.S. Geological Survey map(s). Cite scale & quad name: Tonawanda East NY USGS 7.5.
☒ Natural Resources Conservation Service Soil Survey. Citation: Erie County.
☒ National wetlands inventory map(s). Cite name: fws.gov – wetland data mapper.
☐ State/local wetland inventory map(s): _____.
☐ FEMA/FIRM maps: _____
☐ 100-year Floodplain Elevation is: ____. (National Geodetic Vertical Datum of 1929)
☐ Photographs:
  ☐ Aerial (Name & Date): _____.
  ☐ Other (Name & Date): _____.
☐ Previous determination(s). File no. and date of response letter: _____.
☐ Other information (please specify): _____.

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

J. Martin R. Cramer 07/12/2017
Signature and date of
Regulatory staff member
completing PJD

07/13/2017
Signature and date of
person requesting PJD
(REQUIRED, unless obtaining
the signature is impracticable)[1]
By: Ciminelli Muir Woods, LLC
By: Ciminelli Real Estate Corporation,
its Managing Member
Brad Packard, Director of Development & Planning
Ciminelli Real Estate Corporation

[1] Districts may establish timeframes for requestor to return signed PJD forms. If the requestor does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Exhibit 1 – Legal Description of Property to be Reclassified from New Community District – Suburban Agriculture ("NCD-SA") to New Community District – Neighborhood District ("NCD-ND")

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

EXHIBIT 1

LEGAL DESCRIPTION OF PORTION OF 520 CAMPBELL BOULEVARD TO BE RECLASSIFIED FROM NEW COMMUNITY DISTRICT – SUBURBAN AGRICULTURE ("NCD-SA") TO NEW COMMUNITY DISTRICT – NEIGHBORHOOD DISTRICT ("NCD-ND")

ALL THOSE TRACTS OR PARCELS OF LAND situate in the Town of Amherst, County of Erie, State of New York, being part of Lot 70, Township 12, Range 7 of the Holland Land Company's Survey, bounded and described as follows.

PARCEL 1:

BEGINNING at a point on the northerly boundary of Sierra Drive as shown on a subdivison map of The Preserve at Muir Woods recorded in the Erie County Clerk's Office under Map Cover 3754 at a distance of 276.97 feet westerly from its intersection with the westerly boundary of Campbell Boulevard being a 66.00 feet wide right of way;

Thence along the northerly boundary of Sierra Drive the following two (2) courses and distances:

1) N-89°-45'-59"-W, a distance of 458.83 feet to a point of curvature;
2) Westerly along a curve to the left having a radius of 176.00 feet an arc distance of 6.17 feet to a point;

THENCE: Through the lands conveyed to Ciminelli Muir Woods LLC by deed recorded in the Erie County Clerk's Office in Liber 11322 of Deeds at page 4494 the following two (2) courses and distances:

1) N-00°-14'-01"-E, along a non-radial line a distance of 138.94 feet to a point;
2) S-89°-45'-59"-E, along a line parallel with the northerly line of said Sierra Drive a distance of 194.09 feet to the southwest corner of lands conveyed to Kathleen J. Skeide by Deed recorded in the Erie County Clerk's Office in Liber 11123 of Deeds at page 2408;

THENCE: N-89°-22'-00"-E, along the south line of said Kathleen J. Skeide lands a distance of 270.94 feet to a point;

THENCE: S-01°-14'-00"-E through said lands conveyed to Ciminelli Muir Woods LLC a distance of 142.93 feet to the POINT OF BEGINNING, Containing 1.495 acres more or less.

PARCEL 2:

BEGINNING at a point on the northwesterly boundary of Sierra Drive at the northeasterly corner of Sub Lot 21 as shown on a subdivison map of The Preserve at Muir Woods recorded in the Erie County Clerk's Office under Map Cover 3754;

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

THENCE: N-75°-07'-44"-W, along the northerly line of said Sub lot 21 a distance of 156.81 feet to the northeast corner of Sub lot 18 as shown on said map Cover 3754;
THENCE: N-54°-35'-00"-W, along the northeasterly line of said Sub lot 18 a distance of 75.41 feet to a northerly corner of said Sub lot 18;

THENCE: Through said lands conveyed to Ciminelli Muir Woods LLC the following two (2) courses and distances:

1) N-79°-00'-45"-E, a distance of 128.98 feet to a point;
2) S-63°-52'-36"-E, along a radial line a distance of 117.00 feet to a point on the first mentioned northwesterly boundary of Sierra Drive;

THENCE: along said northwesterly boundary of Sierra Drive the following two (2) courses and distances:

1) Southwesterly along a curve to the left having a radius of 176.00 feet an arc distance of 34.56 feet to a point of tangency;
2) S-14°-52'-16"-W a distance of 25.55 feet to the POINT OF BEGINNING, Containing 0.308 acre more or less.

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

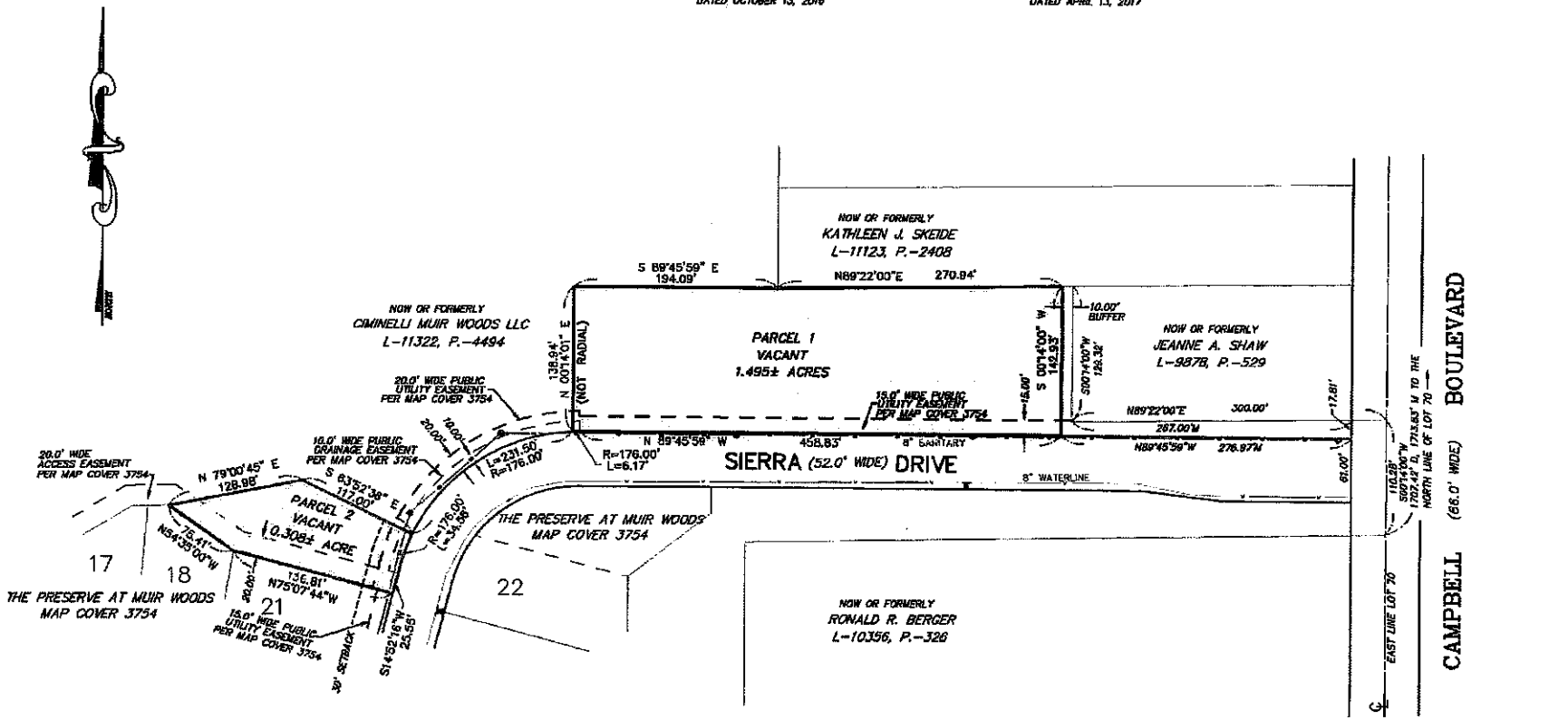
Exhibit 2 – Survey of Portion of 520 Campbell Boulevard to be Reclassified from New Community District – Suburban Agriculture ("NCD-SA") to New Community District – Neighborhood District ("NCD-ND") as Prepared by GPI Engineering, Landscape, Architecture & Surveying, LLP [11" x 17"]

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THIS SURVEY WAS PREPARED WITH THE BENEFIT OF A TITLE COMMITMENT REPORT PREPARED BY STEWART TITLE INSURANCE COMPANY, TITLE NO. 10-330915 DATED OCTOBER 13, 2016

THIS SURVEY WAS PREPARED WITH THE BENEFIT OF A TITLE COMMITMENT REPORT PREPARED BY STEWART TITLE INSURANCE COMPANY, TITLE NO. 10-3300139 DATED APRIL 13, 2017

NOTE: UNAUTHORIZED ALTERATION OR ADDITION TO THIS DOCUMENT IS A VIOLATION OF SECTION 7209 PROVISION 2 OF THE NEW YORK STATE EDUCATION LAW.



SURVEY OF
PART OF LOT 70, TOWNSHIP 12, RANGE 7
HOLLAND LAND SURVEY
TOWN OF AMHERST, ERIE COUNTY, NEW YORK

GPI ENGINEERING, LANDSCAPE ARCHITECTURE & SURVEYING, LLP
ENGINEERING • SURVEYING • LANDSCAPE ARCHITECTURE
4950 GENESEE STREET, SUITE 100
BUFFALO, NEW YORK 14225
(716) 633-4844 FAX 633-4848

Job No. 2013062 Date: SEPTEMBER 7, 2018
SCALE: 1"=100'

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Exhibit 3 – Responses to Questions 11A & 11B of the Application

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

EXHIBIT 3

RESPONSES TO QUESTION 11A & 11B OF THE APPLICATION

Question 11(A): Description of the character of the proposed development:

Response to Question 11(A): The proposed project consists of eight (8) lots for detached single-family homes for sale on 1.8 acres of the 14.39 acre parcel at 520 Campbell Boulevard ("Project Site"). The new homes will be located on the Sierra Drive frontage of the Project Site. A copy of the Sketch Plan prepared by GPI showing the layout of the proposed residential lots is provided at Exhibit "5" of this Application. 9.88 acres of the Project Site, including the 6.88 acres of federal wetlands subject to the jurisdiction of the United States Army Corps of Engineers, will consist of Permanent Open Space to be protected via the recording of a Declaration of Restrictions at the Erie County Clerk's Office. The portion of the Project Site that will consist of Permanent Open Space is depicted on the plan prepared by GPI provided at Exhibit "9" of this Application. The proposed residential project requires 1.8 acres of the Project Site to be reclassified from New Community District – Suburban Agriculture ("NCD-SA") to New Community District – Neighborhood District ("NCD-ND"). The remainder of the Project Site will remain classified as NCD-SA. The portion of the Project Site to be reclassified from NCD-SA to NCD-ND is depicted on the Survey prepared by GPI provided at Exhibit "2" of this Application and a survey of the entire Project Site prepared by GPI is provided at Exhibit "6" of this Application.

Question 11(B)(1): Rationale for rezoning request: 1. What was this site chosen?

Response to Question 11(B)(1): The Project Site is an appropriate location for the proposed eight (8) lot residential subdivision for detached single-family homes given its proximity to the previously

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approved The Preserve at Muir Woods Subdivision and given that the proposed lot are already serviced by the necessary public infrastructure.

Question 11(B)(2): Why cannot land be used with the existing zoning?

Response to Question 11(B)(2): The Applicant is not seeking to amend the zoning classification of the portion of the Project Site to be developed as eight (8) lots for detached single-family homes. Instead, the Applicant is seeking to reclassify 1.8 acres of the Project Site from NCD-SA to NCD-ND. The portion of the Project Site with frontage on Sierra Drive to be developed as detached single-family homes for sale is not suitable for agricultural uses.

Question 11(B)(3): How will this rezoning impact surrounding properties?

Response to Question 11(B)(3): The proposed reclassification of 1.8 acres of the Project Site from NCD-SA to NCD-ND to accommodate eight (8) lots for detached single-family homes will not result in any significant adverse impacts on surrounding properties. A color excerpt of the Zoning Map is provided at Exhibit "8" of this Application and it shows that the predominant land use on the parcels in the vicinity of the Project Site are single-family homes on lots zoned R-3, NCD-R3 and NCD-ND.

Question 11(B)(4): How will this rezoning impact the school system?

Response to Question 11(B)(4): The proposed residential project will have positive impacts on the Williamsville Central School District since the property taxes that will be generated on an annual basis will be substantially greater than the current property taxes generated by the vacant land zoned NCD-SA.

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Exhibit 4 – Responses to Questions 16A, 16B, 16D & 16E of the Application

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

EXHIBIT 4

RESPONSES TO QUESTIONS 16(A), 16(C), 16(D) & 16(E) OF REZONING APPLICATION

Question 16(A)(1): **State in detail why the proposed zoning is consistent with the adopted Town of Amherst Bicentennial Comprehensive Plan. Cite specific sections, maps and/or figures in the plan that support the proposed zoning at this location.**

Response to Question 16(A)(1): The Town of Amherst adopted the Bicentennial Comprehensive Plan in January of 2007 after completing a lengthy planning process that included numerous public meetings and public hearings involving the Comprehensive Plan Advisory Committee, the Planning Board and the Town Board.[1] In June of 2019, the Town Board adopted amendments to the Bicentennial Comprehensive Plan.

The Project Site is zoned New Community District ("NCD"). The Applicant is not seeking a rezoning of a portion of 520 Campbell Boulevard ("Project Site"), but instead is seeking to reclassify only 1.8 acres of the 14.39 acre parcel from New Community District – Suburban Agriculture ("NCD-SA") to New Community District – Neighborhood District ("NCD-ND").[2] Figure 6 of the Comprehensive Plan is titled "Conceptual Land Use Plan" and it indicates the

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[1] A copy of the resolution adopted by the Town Board on January 2, 2007 for the purpose of adopting the Bicentennial Comprehensive Plan pursuant to Town Law Section 272-a is included at the beginning of the Comprehensive Plan. This resolution recites the lengthy planning history that incorporated numerous opportunities for public input as well as a coordinated environmental review pursuant to SEQRA that involved the preparation a Generic EIS and the issuance of a Findings Statement.

[2] A copy of the Survey prepared by GPI showing the portion of 520 Campbell Road that the Applicant is seeking to reclassify from NCD-SA to NCD-ND is provided at Exhibit "2" of this Application. A copy of the Survey of the overall parcel at 520 Campbell Boulevard as prepared by GPI is provided at Exhibit "6" of this Application.

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Project Site is suitable for "Single Family Residential". A color copy of Figure 6 of the Comprehensive Plan is provided at Exhibit "7" of this Application. The use of the portion of 520 Campbell Boulevard for agricultural purposes is not suitable given the limited size of the developable portion of this parcel and the existing uses of nearby parcels, which predominantly consists of single-family homes on individuals lots. A color excerpt of the Zoning Map is provided at Exhibit "8" of this Application and it shows that there are any many nearby parcels zoned R-3, NCD-R3 and NCD-ND that are utilized as single-family homes on individual lots.

It is also important to mention that

Question 16(A)(2): Cite all text, map, and/or figures that must be amended to support the proposed zoning at this location and provide detailed suggested amendments.

Response to Question 16(A)(2): The Applicant is not seeking to amend the zoning classification of a portion of the Project Site to accommodate the proposed use of 1.8 acres as eight lots for detached single-family homes for sale. The proposed reclassification of a portion of the Project Site from New Community District – Suburban Agriculture ("NCD-SA") to New Community District – Neighborhood District ("NCD-ND") does not require an amendment to the Bicentennial Comprehensive Plan. The eight proposed residential lots on the portion of the Project Site that will have frontage on Sierra Drive is consistent with the recommended land use per the "Conceptual Land Use Plan" contained at Figure 6 of the adopted Comprehensive Plan.

Question 16(A)(3): State why the proposed zoning is consistent with intent and objectives (Sec. 1-2-2) of the Zoning Ordinance:

Response to Question 16(A)(3): Section 1-2-1 of the Zoning Code is titled "Purpose" and it states as follows:

> "The purpose of this Zoning Ordinance and the intent of the legislative authority in its adoption is to promote the environment of

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

the town and its public health, safety, convenience, comfort, prosperity and the general welfare by regulating the use of buildings, other structures and land for residences, open space, public facilities, business, services, industry or other purposes; by regulating and restricting the bulk, height, design, building coverage and location of structures; by regulating and limiting population density; and for the aforesaid purposes, to divide the land within the limits of the town into districts of such number and dimensions generally consistent with the policies of the Comprehensive Plan and to provide procedures for the administration and amendment of said Zoning Ordinance."

The proposed reclassification of only 1.8 acres of the Project Site from NCD-SA to NCD-ND is consistent with the Purpose of the Zoning Code. The proposed NCD-ND classification of a portion of the Project Site to accommodate eight lots for detached single-family homes is consistent with the Bicentennial Comprehensive Plan and will promote the public health, safety, convenience, comfort, prosperity and general welfare of the Town of Amherst and its residents.

Section 1-2-2 of the Zoning Code sets forth the objectives of the Zoning Code. This section of the Zoning Code lists thirteen objectives that are discussed below as follows:

A. **To protect the character and values of residential, institutional and public uses, business, commercial and manufacturing uses and to insure their orderly and beneficial development;**

Response: The proposed and reclassification of 1.8 acres of the Project Site from NCD-SA to NCD-ND as well as the proposed residential project consisting of eight lots for detached single-family homes is consistent with the objective of protecting the character and value of existing land uses. It is important to mention that 9.88 acres of the Project Site, including the 6.88 acres of jurisdictional federal wetlands, will consist of Permanent Open Space to be protected via the recording of a Declaration of Restrictions at the Erie County Clerk's Office. The portion of the Project Site that will consist of Permanent Open Space is depicted on the plan prepared by GPI provided at Exhibit "9" of this Application.

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

B. To provide adequate open spaces for light, air and outdoor uses to include public, common and private open space areas;

Response: The proposed and reclassification of 1.8 acres of the Project Site from NCD-SA to NCD-ND as well as the proposed residential project consisting of eight lots for detached single-family homes is consistent with this objective. The Comprehensive Plan strongly encourages infill development and the proposed eight lots represents infill development since the lots will be located on Sierra Drive, which means no new Town owned infrastructure will be necessary in connection with the proposed residential project.

C. To prevent overcrowding of land;

Response: The proposed eight lots for detached single-family homes on the approximately 14.39 acre Project Site represents a density of only .55 homes per acre. The proposed residential project will not result in the overcrowding of land.

D. To prevent excessive concentration of population and to prevent spare and uncoordinated development;

Response: The proposed eight lots for detached single-family homes on the approximately 14.39 acre Project Site represents only a density of .55 homes per acre. The proposed residential project will not result in the overcrowding of land.

E. To regulate and control the location and spacing of buildings on the lot and in relation to the surrounding property generally consistent with the policies of the Comprehensive Plan.

Response: The responses to the Questions in Section 16 of this Application to reclassify a portion of the Project Site from NCD-SA to NCD-ND set forth the reasons the proposed project is consistent with the policies of the adopted Comprehensive Plan.

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

F. To protect persons and property from damage and injury due to fire or flood;

Response: The small portion of the Project Site to be developed for residential purposes is not located in a regulated floodway or flood zone. The Site Plan Application review process for the eight proposed lots for detached single-family homes will trigger the need for an Engineer's Report and SWPPP prepared by a licensed engineer to be prepared for review and approval by the Town's Engineering Department. The project will not increase the likelihood of damage and injury due to fire and flood. The new homes will be constructed per the stringent requirements of the NYS Building Code.

G. To preserve and protect significant natural features and vegetation, thereby preventing ecological damage and visual blight which occur when those features or vegetation are eliminated or substantially altered to serve development purposes only.

Response: The proposed and reclassification of 1.8 acres of the Project Site from NCD-SA to NCD-ND as well as the proposed residential project consisting of eight lots for detached single-family homes is consistent with this objective. 9.88 acres of the Project Site, including the 6.88 acres of jurisdictional federal wetlands, will consist of Permanent Open Space to be protected via the recording of a Declaration of Restrictions at the Erie County Clerk's Office. The portion of the Project Site that will consist of Permanent Open Space is depicted on the Plan prepared by GPI attached as Exhibit "9" of this Application.

H. To assure that structure and land use arrangements are aesthetically harmonious with nearby areas and structures.

Response: The development of approximately 1.8 acres of Project Site in a manner consistent with the Sketch Plan prepared by GPI provided at Exhibit "5" of this Application will be aesthetically harmonious with nearby areas and structures.

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

I. To regulate the location of buildings and intensity of uses in relation to streets according to plans so as to cause the least interference with and be damaged least by traffic movements and hence result in lessened street congestion and improved public safety.

Response: The eight proposed residential lots for detached single-family homes will be located on Sierra Drive and will not result in potentially significant traffic impacts.

J. To establish zoning patterns that insure economical extensions for sewers, water supply waste disposal and other public utilities, as well as development of recreation, schools and other public facilities;

Response: The 1.8 acres of the Project Site to be developed as eight lots for detached single-family homes will have direct access to sanitary sewer and water lines as well as necessary public utilities. The proposed residential project will not result in the need for the Town of Amherst or other governmental agencies to pay for infrastructure improvements.

K. To guide the future development of the town so as to being the gradual conformity of land, structures and uses generally consistent with the policies of the Comprehensive Plan.

Response: The proposed reclassification of 1.8 acres of the Project Site from NCD-SA to NCD-ND as well as the proposed residential project consisting of eight lots for detached single-family homes is consistent with this objective since the proposed residential project, which includes a large area of Permanent Open Space, is consistent with the policies contained in the Comprehensive Plan.

L. To accomplish the specific intents and goals set forth in the introduction to the respective sections.

Response: The proposed reclassification of 1.8 acres of the Project Site from NCD-SA to NCD-ND, as well as the proposed residential project consisting of eight lots for detached single-family homes is consistent with this objective.

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

M. To protect the community from visual pollution resulting from the unregulated use of signs and other advertising devices.

Response: The proposed reclassification of 1.8 acres of the Project Site from NCD-SA to NCD-ND, as well as the proposed residential project consisting of eight lots for detached single-family homes is consistent with this objective. No signage will be required for the eight proposed lots for detached single-family homes.

Question 16(C): Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood:

Response to Question 16(C): The proposed reclassification of 1.8 acres of the Project Site from NCD-SA to NCD-ND as well as the proposed residential project consisting of eight lots for detached single-family homes, is compatible with the present zoning and conforming uses of nearby properties and the character of the neighborhood. A color excerpt of the Zoning Map is provided at Exhibit "8" of this Application and it shows that there are any many nearby parcels zoned R-3, NCD-R3 and NCD-ND that are utilized as single-family homes on individual lots.

Question 16(D): Suitability of the subject property for uses permitted by the current versus the proposed district:

Response to Question 16(D): The Project Site is not suitable for agricultural uses. The approximately 1.8 acres of the Project Site to be developed as eight lots for detached single-family homes is suitable for the proposed NCD-ND classification and the proposed use is consistent with the adopted Comprehensive Plan.

Question 16(E): Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town:

Response to Question 16(D): The proposed reclassification of a portion of the Project Site from NCD-SA to NCD-ND to accommodate eight lots for detached single-family homes for sale will have positive impacts on the balance of uses in the Town.

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Exhibit 5 – Sketch Plan Depicting Proposed Eight Lots for Detached Single-Family Homes as Prepared by GPI Engineering, Landscape, Architecture & Surveying, LLP [11" x 17"]

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

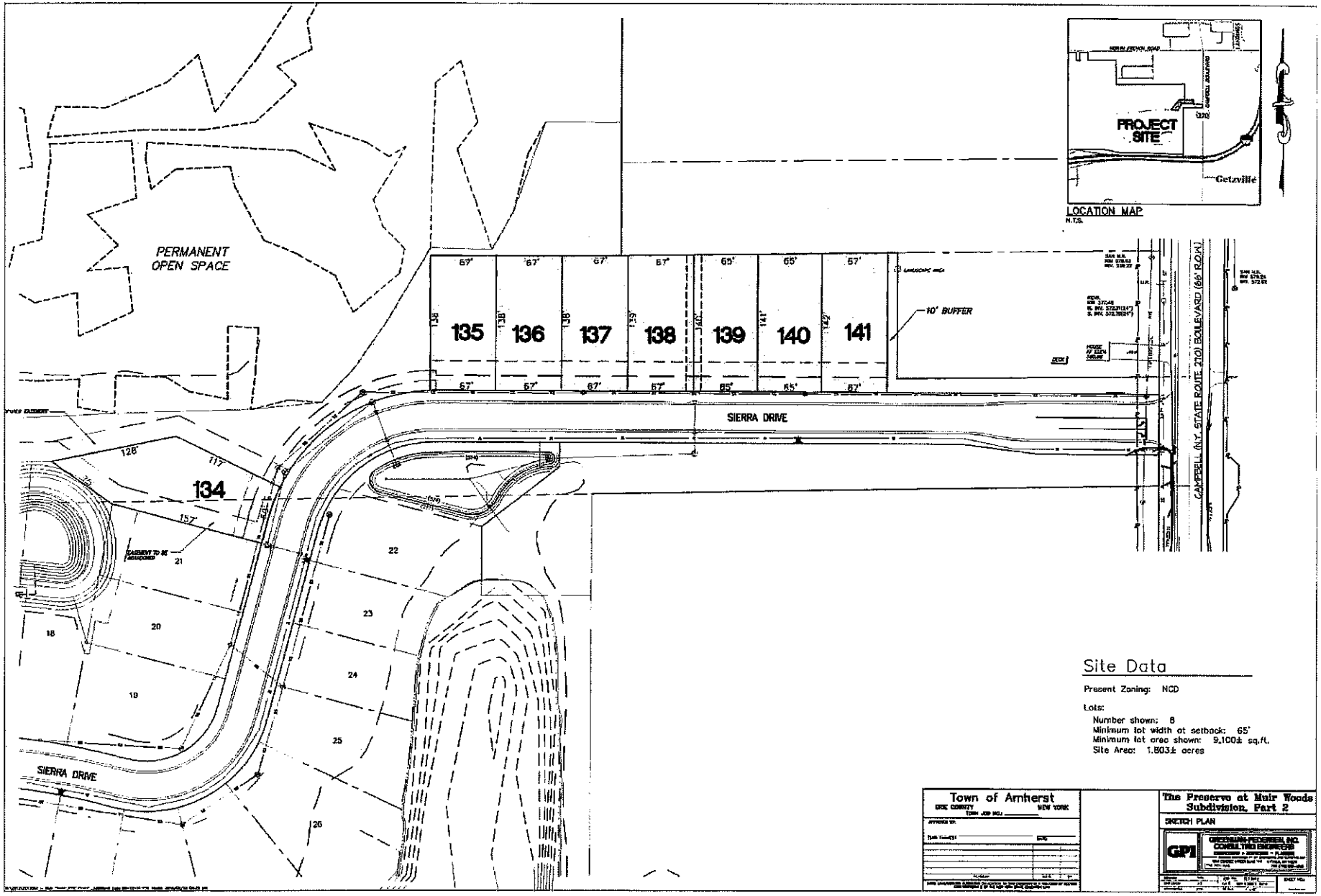
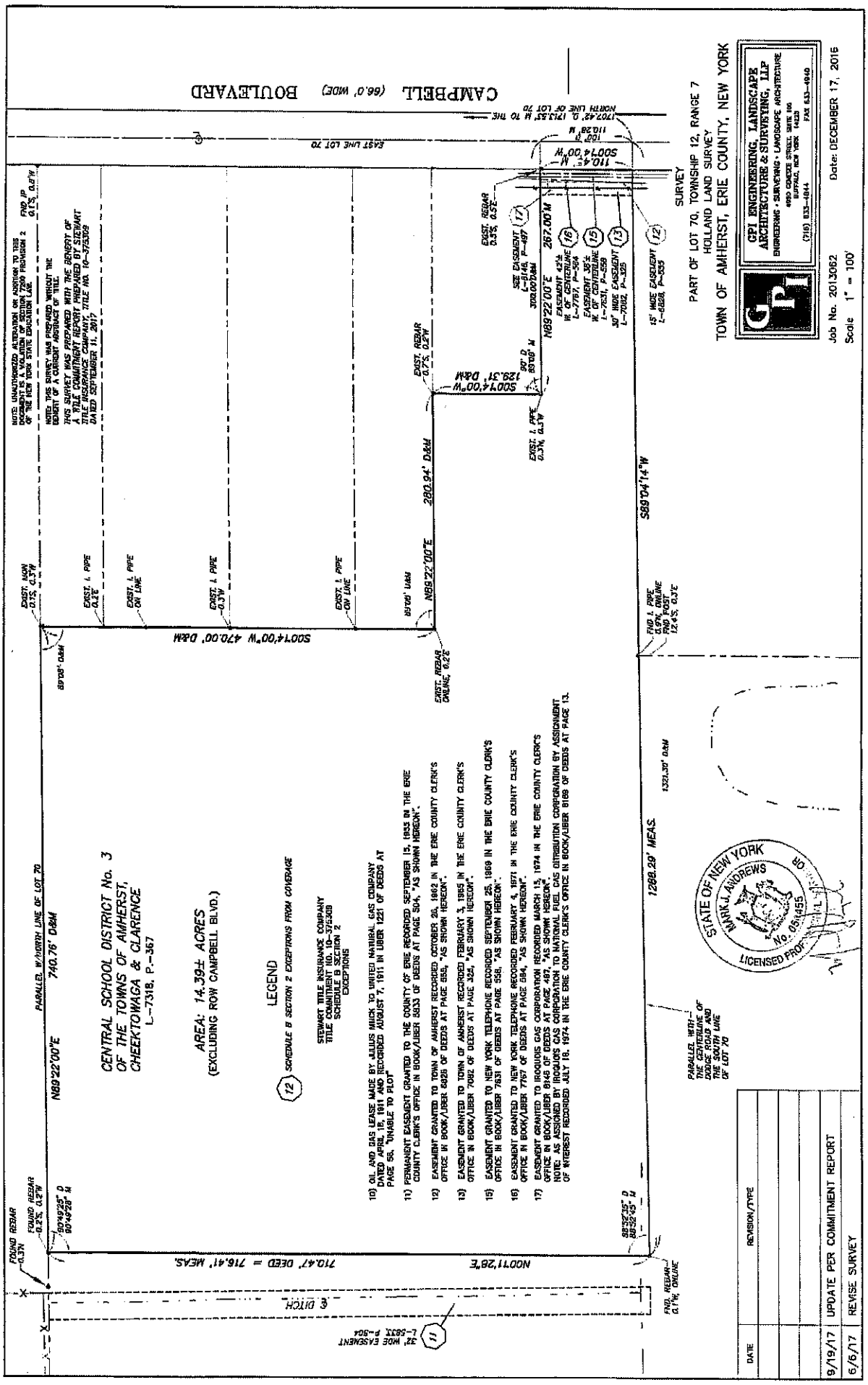

PERMANENT
OPEN SPACE
135
136
137
138
139
140
141
10' BUFFER
SIERRA DRIVE
134
CAMPBELL (N.Y. STATE ROUTE 210) BOULEVARD (66' R.O.W.)
SIERRA DRIVE
LOCATION MAP
N.T.S.
PROJECT SITE
Getzville
Site Data
Present Zoning: NCD
Lots:
Number shown: 8
Minimum lot width at setback: 65'
Minimum lot area shown: 9,100± sq.ft.
Site Area: 1.803± acres
Town of Amherst
ERIE COUNTY NEW YORK
The Preserve at Muir Woods Subdivision, Part 2
SKETCH PLAN
GPI

Exhibit 6 – Survey of 520 Campbell Boulevard as Prepared by GPI Engineering, Landscape, Architecture & Surveying, LLP [11" x 17"]

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)



Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Exhibit 7 – Color Copy of Figure 6 of the Town of Amherst Comprehensive Plan – Conceptual Land Use Plan

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

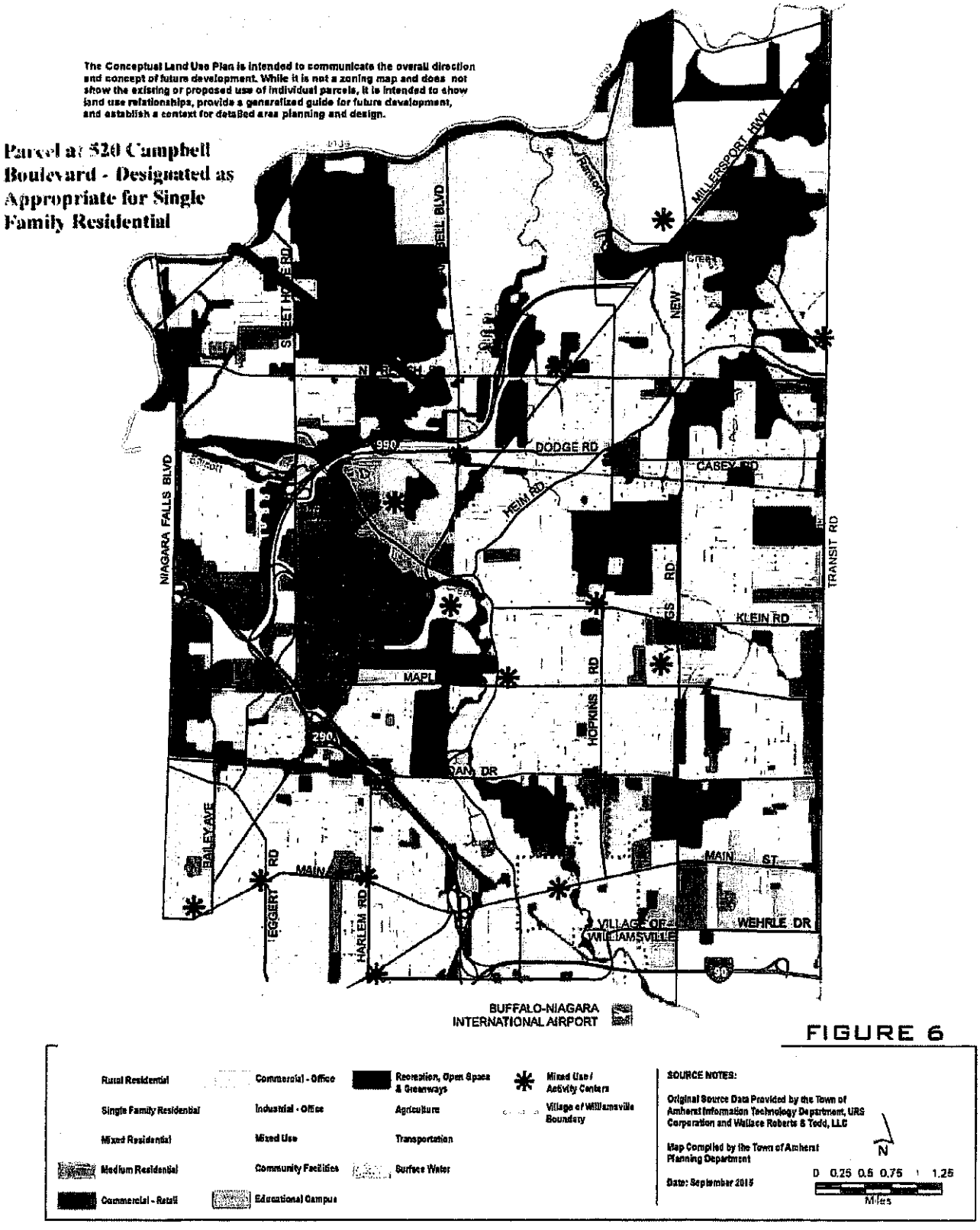


FIGURE 6

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Exhibit 8 – Color Excerpt of Town of Amherst Zoning Map

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

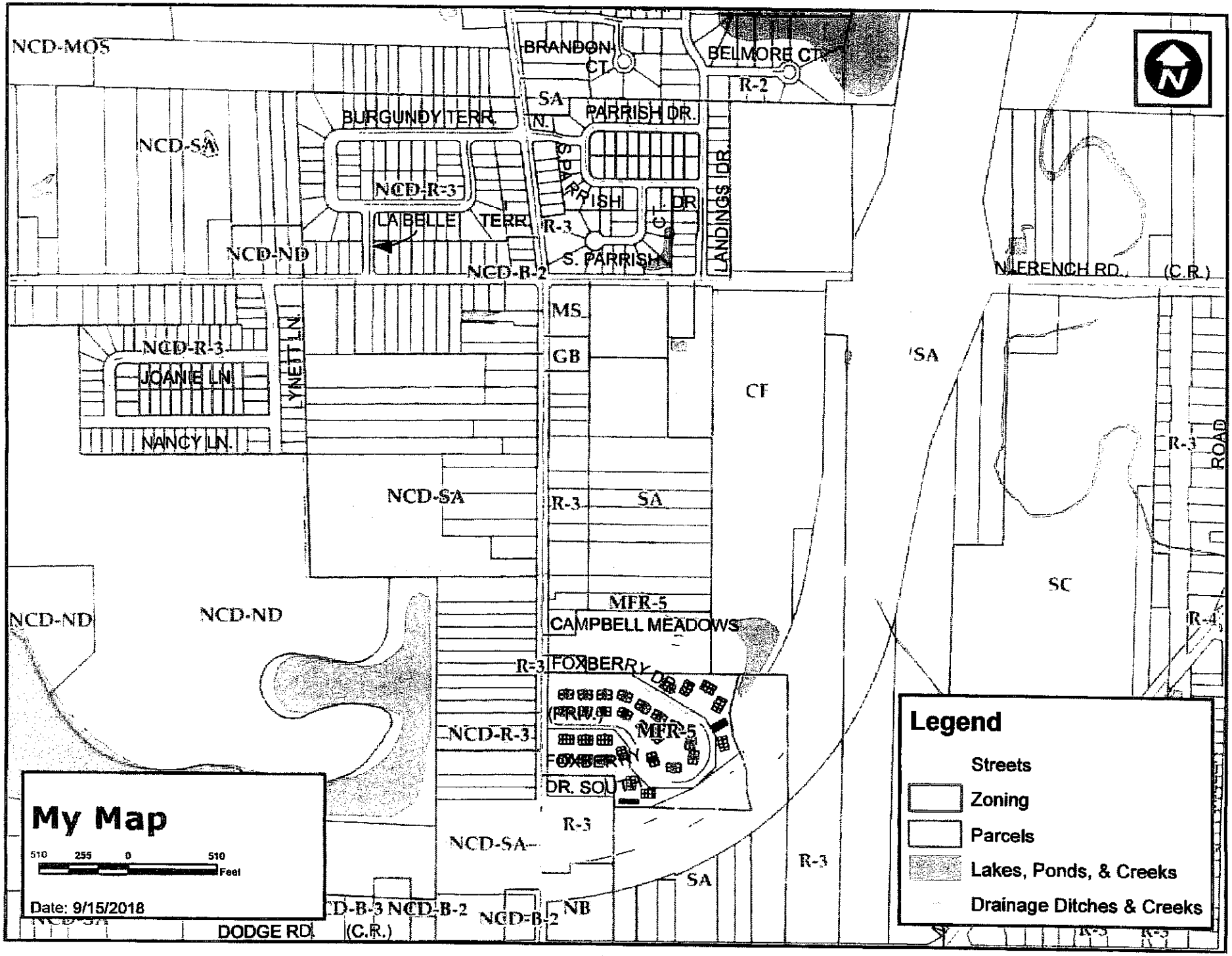
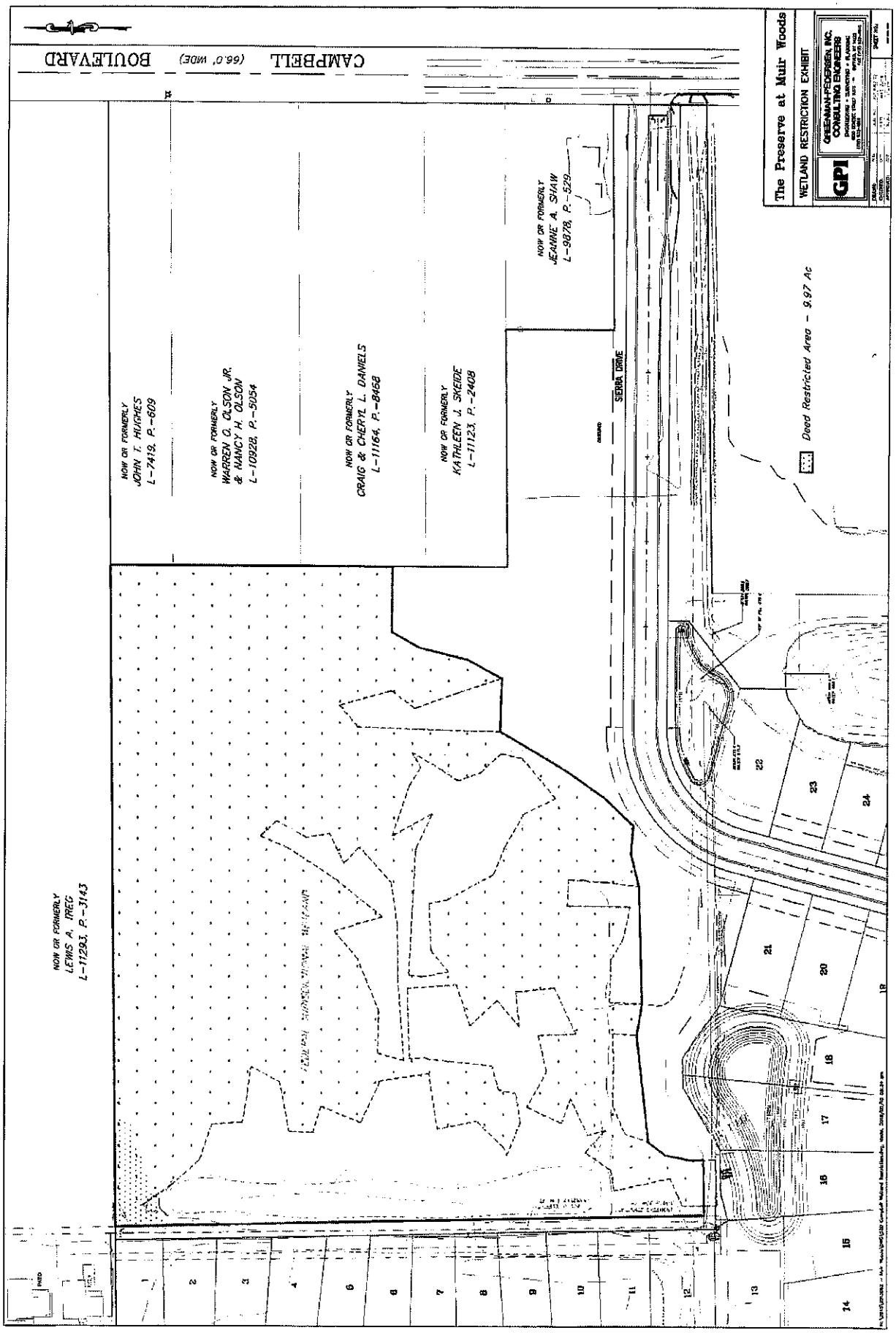

NCD-MOS
BRANDON CT.
BELMORE CT.
R-2
SA
N.
PARRISH DR.
BURGUNDY TERR.
NCD-SA
NCD-R-3
LA BELLE TERR.
R-3
S. PARRISH CT.
LANDINGS DR.
NCD-ND
NCD-R-2
S. PARRISH DR.
N. FRENCH RD.
(C.R.)
MS
NCD-R-3
GB
LYNETT LN.
JOANIE LN.
NANCY LN.
CT
SA
R-3
ROAD
NCD-SA
R-3
SA
SC
MFR-5
NCD-ND
NCD-ND
CAMPBELL MEADOWS
R-4
R-3
FOXBERRY DR.
MFR-5
NCD-R-3
DR. SOUTH
R-3
NCD-SA
R-3
SA
NB
NCD-B-2
DODGE RD.
(C.R.)
My Map
510 255 0 510
Feet
Date: 9/15/2018
Legend
Streets
Zoning
Parcels
Lakes, Ponds, & Creeks
Drainage Ditches & Creeks

Exhibit 9 – Wetland Restriction Plan as Prepared by GPI Engineering, Landscape, Architecture & Surveying, LLP

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)



Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Exhibit 10 – Resolution Adopted by the Town of Amherst Planning Board on November 15, 2018

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

TOWN OF AMHERST
PLANNING BOARD RESOLUTION
AMENDMENT #69 TO THE AUDUBON DEVELOPMENT PLAN
Z-2018-06

NOV20'18 AM10:17 RCVD

PETITIONER

Ciminelli Real Estate Corp.
c/o Sean Hopkins, Esq.
5500 Main St., Suite 343
Williamsville, NY 14221

PROPERTY LOCATION

520 Campbell Boulevard (portion)

WHEREAS the Town of Amherst Planning Board on Thursday, October 18 **and November 15**, 2018 held public hearings on Amendment #69 to the Audubon New Community District Development Plan to include the property location for use as "The Preserve at Muir Woods" subdivision, Phase 2, and

WHEREAS the Planning Board has reviewed the Amendment plans and supporting documentation, and

WHEREAS the Amendment has been referred to the various Town review agencies, and

WHEREAS the Planning Board finds that:

A. The proposed Revision to the Development Plan meets the intent and objectives of a New Community District as expressed in Subsection 1-1.1.

B. The proposed Revision to the Development Plan meets all the requirements of Section 5-2-3 through 5-2-6.

C. The proposed Revision to the Development Plan is conceptually sound in that it meets present and future community needs.

D. There are or will be adequate services and utilities available or proposed to be made available in the construction of the development.

E. The proposed Amendment to the Development Plan is consistent with the Town Comprehensive Plan.

Pursuant to Local Law #3-82, as amended, the Planning Board recommends that the Town Board determine that the requirements of SEQR are complete and that the subject proposal is not expected to have a significant adverse effect on the environment.

NOW THEREFORE BE IT RESOLVED that the Planning Board, in accordance with Section 8-15-2 of the Zoning Ordinance offers a positive report and recommends Town Board **approval** of Amendment #69 to the Audubon Development Plan with the following conditions:

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

TOWN OF AMHERST
PLANNING BOARD RESOLUTION
AMENDMENT #69 TO THE AUDUBON DEVELOPMENT PLAN
Z-2018-06

NOV20'19 AM10:17 RCVD

PETITIONER	PROPERTY LOCATION
Ciminelli Real Estate Corp.	520 Campbell Boulevard (portion)

1. That as-built record drawings, including location of utilities, be provided to the Engineering Department prior to issuance of a Certificate of Occupancy by the Building Department.

2. That the petitioner be willing to contribute funds to an escrow account for future improvements at the intersection of North French Road and Campbell Boulevard in an amount that is proportional to the percentage share that the anticipated total trip generation of the proposed residential subdivision is contributing to the overall total trip generation at the existing intersection. Said escrow account and associated intersection improvements shall be subject to the review and approval of the New York State Department of Transportation, the agency with jurisdiction over the intersection of North French Road and Campbell Boulevard.

3. That the petitioner comply with all the requirements contained in the Muir Woods Findings statement amended by the Town Board on December 7, 2015 which include but are not limited to:

    - Prohibiting construction vehicles from using Lynette Lane as a means of access by way of a deed restriction to be included with the sale of any lots within Sites C and D (Section 8F).

    - Traffic mitigation measures including petitioner's potential obligation to make off-site improvements to Lynette lane and its intersection with North French Road (Section 8H).

    - Submittal of a current trip count report for both the a.m. and p.m. peak travel hours upon completion of Phase I development (Section 8H).

4. That the petitioner comply with the requirements of the NYSDOT as stated in its email to the Planning Department dated June 15, 2017, including the stipulation that no connection be provided between the terminus of John James Audubon Parkway and Sites C and D.

5. That the petitioner shall grant an access easement to the Town of Amherst for the purpose of authorizing the Town's Highway Department to access on-site ditches and stormwater management improvements in accordance with the Highway Department review dated April 24, 2018. A recorded copy of the Declaration of Restrictions shall be provided to the Town upon recording in the County Clerk's office.

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

TOWN OF AMHERST
PLANNING BOARD RESOLUTION
AMENDMENT #69 TO THE AUDUBON DEVELOPMENT PLAN
Z-2018-06

NOV20'18 AM10:17 RCVD

PETITIONER	PROPERTY LOCATION
Ciminelli Real Estate Corp.	520 Campbell Boulevard (portion)

6. That the petitioner shall form a homeowners association for the purpose of owning and maintaining the existing lake and other areas not consisting of subdivision lots for detached single-family homes. A copy of the offering plan for the homeowners association with evidence of approval by the New York State Attorney General's Office shall be provided to the Planning Department and Building Department prior to the first sale of a lot in the subdivision.

7. The Declaration of Restrictions and Restrictive Covenants to be recorded at the Erie County Clerk's Office upon approval of the Offering Plan for the homeowners association shall include the following:

   A. A recitation of the requirement that the homeowners association shall be required to comply with the terms and conditions contained in the Town of Amherst Stormwater Control Facility Maintenance Agreement to be recorded at the Erie County Clerk's Office as required by the memorandum issued by the Engineering Department dated June 15, 2017 approving the Stormwater Water Pollution and Prevention Plan once the Map Cover for the subdivision has been filed at the Erie County Clerk's Office.

   B. A restriction stating that any property owner with a residential lot or property contiguous with the existing federal jurisdictional drainage pond who desires to modify, impact, construct, disturb or in any way alter the existing shoreline of the detention pond shall be required to obtain written approval from the United States Army Corps of Engineers prior to taking any action in connection with disturbing the shoreline.

   A recorded copy of the Declaration of Restrictions shall be provided to the Town upon recording in the County Clerk's office.

8. That the petitioner provide a recorded copy of the Stormwater Control Facility Maintenance Agreement to the Planning and Engineering Departments upon recording in the County Clerk's office.

9. The petitioner shall be required to construct a recreational trail as per the plans and specifications provided within the Recreational Trail Plan prepared by Greenman- Pedersen, Inc. dated September, 2017 subject to the approval of the United States Army Corps of Engineers. The Town reserves the right, but is not obligated to, require that the trail

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

TOWN OF AMHERST
PLANNING BOARD RESOLUTION
AMENDMENT #69 TO THE AUDUBON DEVELOPMENT PLAN
Z-2018-06

NOV20'18 AM10:17 RCVD

PETITIONER	PROPERTY LOCATION
Ciminelli Real Estate Corp.	520 Campbell Boulevard (portion)

improvements and associated property be conveyed to the Town at no cost following completion of construction.

10. In connection with Special Condition No. 9 of the United States Army Corps of Engineers Validated Wetland Permit No. 2001-00067, the petitioner shall be required to place a conservation easement or Declaration of Restrictions on the non-developed portions of Sites C and D, a recorded copy of which shall be provided to the Town.

11. That the use of this 1.8± acres of 520 Campbell Boulevard is limited to a maximum of eight (8) lots for detached single-family homes on individual lots.

12. That a Homeowners' Association will be formed and approved by the New York State Attorney General's Office prior to purchasers closing on the purchase of new homes within the proposed subdivision.

13. That the Homeowners' Association will be responsible for the maintenance and repair of the segment of sidewalk directly south of the existing parcel at 530 Campbell Boulevard.

14. That the Permanent Open Space to be provided on 520 Campbell Boulevard will remain permanently undeveloped and protected via the recording of a Declaration of Restrictions at the Erie County Clerk's Office.

15. That the restrictions based on the conditions contained in the wetland permits issued by the US Army Corps of Engineers will be included in the offering plan for the Homeowners' Association, a copy of which will be provided to each prospective purchaser of a home within the subdivision.

The foregoing resolution was adopted by the Town of Amherst Planning Board, November 15, 2018; ~~moved by~~ – Giuliani; seconded by – Gelber; ayes – 5, noes – 2 (Shapiro, Ulatowski).

Robert J. Gilmour, Chair — Date 11/20/18

EK/ac
X:\Current_Planning\Files\Rezonings\2018\Z-2018-06_(520_Campbell_Blvd_portion)_2018\Blurb_NCD_111518.doc
Blurb_NCD_111518
cc: Commissioner of Building
Highway Superintendent
Town Engineer
Traffic/Safety Coordinator
Ciminelli Real Estate Corp., c/o Sean Hopkins, Esq., 5500 Main St., Suite 343, Williamsville, NY 14221

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Full Environmental Assessment Form
Part 1 - Project and Setting

Prepared By: Sean Hopkins, Esq.
5500 Main Street, Suite 343
Williamsville, New York 14221
Tel: 716.510-4338
E-mail: shopkins@hsr-legal.com

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the project sponsor to verify that the information contained in Part 1is accurate and complete.

A. Project and Sponsor Information.

Name of Action or Project: Preserve at Muir Woods Subdivision - Proposed 8 Lot Residential Subdivision		
Project Location (describe, and attach a general location map): 520 Campbell Boulevard, Town of Amherst - Erie County		
Brief Description of Proposed Action (include purpose or need): The project ("action") consists of a residential subdivision on a portion of the approximately 14.39 acres parcel at 520 Campbell Boulevard ("Project Site") consisting of eight lots for detached single-family homes. The portion of the Project Site to be developed as single-family homes on individuals lot consists of 1.80 acres of the Project Site [12.5%] that is currently zoned NCD-SA. The Project Sponsor is seeking to amend classification of 1.80 acres of the Project Site from NCD-SA to NCD - Neighborhood District ("NCD-ND"). No impacts to the 6.88 acres of jurisdictional federal on the Project Site are being proposed and a copy of the Jurisdictional Determination issued by the U.S. Army Corps of Engineers on July 12, 2017 is provided at Attachment "A" of this Part 1 of the Full EAF. The action has been defined broadly to include all required discretionary approvals and permits as well as all site improvements including the proposed detached single-family homes, driveways, grading, sanitary sewer and water lines and connections and all other required utility improvements. The project purpose is to develop the a portion of 520 Campbell Boulevard with frontage on a public roadway as single-family homes. The project is a Unlisted Action pursuant to the State Environmental Quality Review Act ("SEQRA") since none of the impacts cross the threshold for a Type I action contained in 6 NYCRR Part 617.4		
Name of Applicant/Sponsor: Ciminelli Real Estate Corporation c/o Sean Hopkins, Esq.	Telephone: 510-4338 E-Mail: shopkins@hsr-legal.com	
Address: 5500 Main Street, Suite 343		
City/PO: Williamsville	State: NY	Zip Code: 14221
Project Contact (if not same as sponsor; give name and title/role): Sean W. Hopkins, Esq., Attorney for Project Sponsor	Telephone: 510-4338 E-Mail: shopkins@hsr-legal.com	
Address: 5500 Main Street, Suite 343		
City/PO: Williamsville	State: NY	Zip Code: 14221
Property Owner (if not same as sponsor): Ciminelli Muir Woods LLC	Telephone: 631-8000 E-Mail: afaeth@ciminelli.com	
Address: 50 Fountain Plaza, Suite 500		
City/PO: Buffalo	State: NY	Zip Code:

Additional Project Contact: Ken Zollitsch, GPI Engineering
4950 Genesee Street, Suite 100
Buffalo, New York 14225
Tel: 716.989-3342
E-mail: kzollitsch@gpinet.com

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Council, Town Board, or Village Board of Trustees ☑Yes ☐No	Reclassification of Project Site from NCD-SA to NCD-ND & Amendment of Aud. Dev. Plan	February 22, 2021
b. City, Town or Village Planning Board or Commission ☑Yes ☐No	Site Plan Approval and Final Plat Approval	To be Determined
c. City Council, Town or Village Zoning Board of Appeals ☐Yes ☑No		
d. Other local agencies ☑Yes ☐No	Building Dept. - Building Permits; Engineering Department - SWPPP Approval	To be Determined
e. County agencies ☑Yes ☐No	ECHD - Sanitary Sewer, Water Approval and Realty Subdivision; ECWA - Water	To be Determined
f. Regional agencies ☐Yes ☐No		
g. State agencies ☑Yes ☐No	New York State Department of Environmental Conservation - SPDES Permit	To be Determined
h. Federal agencies ☐Yes ☑No		

i. Coastal Resources.
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway? ☐Yes ☑No

ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program? ☐Yes ☑No
iii. Is the project site within a Coastal Erosion Hazard Area? ☐Yes ☑No

C. Planning and Zoning

C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? ☐Yes ☑No

- **If Yes,** complete sections C, F and G.
- **If No,** proceed to question C.2 and complete all remaining sections and questions in Part 1

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? ☑Yes ☐No
If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? ☑Yes ☐No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) [Note: The action will have no adverse impacts on the West Erie Canal Corridor.] ☑Yes ☐No
If Yes, identify the plan(s):
NYS Heritage Areas:West Erie Canal Corridor

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? ☐Yes ☑No
If Yes, identify the plan(s):

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. ☑ Yes ☐ No
If Yes, what is the zoning classification(s) including any applicable overlay district?
The Project Site is currently zoned NCD-SA. The Project Sponsor is proposing to reclassify a portion of the Project Site from NCD-SA to NCD-ND.

b. Is the use permitted or allowed by a special or conditional use permit? ☐ Yes ☑ No

c. Is a zoning change requested as part of the proposed action? ☐ Yes ☑ No
If Yes, [Note: The Project Sponsor is proposing to reclassify a portion of the Project Site from NCD-SA to NCD-ND.]
i. What is the proposed new zoning for the site?

C.4. Existing community services.

a. In what school district is the project site located? Williamsville Central School District

b. What police or other public protection forces serve the project site?
Town of Amherst Police Department

c. Which fire protection and emergency medical services serve the project site?
Getzville Fire Protection District and Twin City Ambulance

d. What parks serve the project site?
Nature View Park; Walton Woods Park and Ellicott Creek Park

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? Detached single-family homes on individual lots.

b. a. Total acreage of the site of the proposed action? 14.39 acres
b. Total acreage to be physically disturbed? 1.8± acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 341± acres
[Note: 9.97 acres of 520 Campbell Boulevard will consist of Permanent Open Space subject to a Declaration of Restrictions.]

c. Is the proposed action an expansion of an existing project or use? ☐ Yes ☑ No
i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % Units:

d. Is the proposed action a subdivision, or does it include a subdivision? ☑ Yes ☐ No
If Yes,
i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)
Residential subdivision consisting of detached single-family homes on individual lots.
ii. Is a cluster/conservation layout proposed? ☐ Yes ☑ No
iii. Number of lots proposed? 8
iv. Minimum and maximum proposed lot sizes? Minimum 9,100± sqft Maximum 13,490± sqft

e. Will proposed action be constructed in multiple phases? ☐ Yes ☑ No
i. If No, anticipated period of construction: 3 months
ii. If Yes:
- Total number of phases anticipated
- Anticipated commencement date of phase 1 (including demolition) ____ month ____ year
- Anticipated completion date of final phase ____ month ____ year
- Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases:

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f. Does the project include new residential uses? ☑ Yes ☐ No

If Yes, show numbers of units proposed.

	One Family	Two Family	Three Family	Multiple Family (four or more)
Initial Phase	8			
At completion of all phases	8			

g. Does the proposed action include new non-residential construction (including expansions)? ☐ Yes ☑ No

If Yes,

i. Total number of structures _____

ii. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length

iii. Approximate extent of building space to be heated or cooled: _____ square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? ☐ Yes ☑ No

If Yes,

i. Purpose of the impoundment: _____

ii. If a water impoundment, the principal source of the water: ☐ Ground water ☐ Surface water streams ☐ Other specify: _____

iii. If other than water, identify the type of impounded/contained liquids and their source. _____

iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres

v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length

vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): _____

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite) ☐ Yes ☑ No

If Yes:

i. What is the purpose of the excavation or dredging? _____

ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?

- Volume (specify tons or cubic yards): _____
- Over what duration of time? _____

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. _____

iv. Will there be onsite dewatering or processing of excavated materials? ☐ Yes ☐ No

If yes, describe. _____

v. What is the total area to be dredged or excavated? _____ acres

vi. What is the maximum area to be worked at any one time? _____ acres

vii. What would be the maximum depth of excavation or dredging? _____ feet

viii. Will the excavation require blasting? ☐ Yes ☐ No

ix. Summarize site reclamation goals and plan: _____

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? ☐ Yes ☑ No

If Yes:

i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____

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ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

iii. Will proposed action cause or result in disturbance to bottom sediments? ☐ Yes ☐ No
If Yes, describe:

iv. Will proposed action cause or result in the destruction or removal of aquatic vegetation? ☐ Yes ☐ No
If Yes:

- acres of aquatic vegetation proposed to be removed:
- expected acreage of aquatic vegetation remaining after project completion:
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access):
- proposed method of plant removal:
- if chemical/herbicide treatment will be used, specify product(s):

v. Describe any proposed reclamation/mitigation following disturbance:

c. Will the proposed action use, or create a new demand for water? ☑ Yes ☐ No
If Yes:

i. Total anticipated water usage/demand per day: 4,200± gallons/day

ii. Will the proposed action obtain water from an existing public water supply? ☑ Yes ☐ No
If Yes:

- Name of district or service area: Town of Amherst
- Does the existing public water supply have capacity to serve the proposal? ☑ Yes ☐ No
- Is the project site in the existing district? ☑ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☑ No
- Do existing lines serve the project site? ☑ Yes ☐ No

iii. Will line extension within an existing district be necessary to supply the project? ☐ Yes ☑ No
If Yes:

- Describe extensions or capacity expansions proposed to serve this project:
- Source(s) of supply for the district:

iv. Is a new water supply district or service area proposed to be formed to serve the project site? ☐ Yes ☑ No
If, Yes:

- Applicant/sponsor for new district:
- Date application submitted or anticipated:
- Proposed source(s) of supply for new district:

v. If a public water supply will not be used, describe plans to provide water supply for the project:

vi. If water supply will be from wells (public or private), maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes? ☑ Yes ☐ No
If Yes:

i. Total anticipated liquid waste generation per day: 2,800± gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each):

iii. Will the proposed action use any existing public wastewater treatment facilities? ☑ Yes ☐ No
If Yes:

- Name of wastewater treatment plant to be used: Town of Amherst Water Pollution Control Facility
- Name of district: Town District 16
- Does the existing wastewater treatment plant have capacity to serve the project? ☑ Yes ☐ No
- Is the project site in the existing district? ☑ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☑ No

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- Do existing sewer lines serve the project site? ☑Yes ☐No
- Will line extension within an existing district be necessary to serve the project? ☐Yes ☑No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? ☐Yes ☑No

If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- What is the receiving water for the wastewater discharge? _____

v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge, or describe subsurface disposal plans):

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? ☑Yes ☐No

If Yes:

i. How much impervious surface will the project create in relation to total size of project parcel?

_____ Square feet or 0.5± acres (impervious surface)

_____ Square feet or 1.8± acres (parcel size)

ii. Describe types of new point sources. New point sources will be inletting/outletting the proposed stormwater facilities. The impervious surfaces include driveways and single family homes.

iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?

Runoff will be directed to new stormwater facilities which will outlet to the adjacent lake which will ultimately flow to Ellicott Creek

- If to surface waters, identify receiving water bodies or wetlands: Ellicott Creek
- Will stormwater runoff flow to adjacent properties? ☐Yes ☑No

iv. Does proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? ☐Yes ☑No

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? ☑Yes ☐No

If Yes, identify:

i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)

Heavy equipment emissions during site construction.

ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)

iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? ☐Yes ☑No

If Yes:

i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) ☐Yes ☑No

ii. In addition to emissions as calculated in the application, the project will generate:

- _____ Tons/year (short tons) of Carbon Dioxide (CO_2)
- _____ Tons/year (short tons) of Nitrous Oxide (N_2O)
- _____ Tons/year (short tons) of Perfluorocarbons (PFCs)
- _____ Tons/year (short tons) of Sulfur Hexafluoride (SF_6)
- _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydroflourocarbons (HFCs)
- _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

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h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? ☐Yes ☑No

If Yes:

i. Estimate methane generation in tons/year (metric): _____

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? ☐Yes ☑No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust):

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? ☐Yes ☑No

If Yes:

i. When is the peak traffic expected (Check all that apply): ☐Morning ☐Evening ☐Weekend ☐Randomly between hours of _____ to _____.

ii. For commercial activities only, projected number of semi-trailer truck trips/day: _____

iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____

iv. Does the proposed action include any shared use parking? ☐Yes ☐No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe:

vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? ☐Yes ☐No

vii Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? ☐Yes ☐No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? ☐Yes ☐No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? ☐Yes ☑No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: _____

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other):

iii. Will the proposed action require a new, or an upgrade to, an existing substation? ☐Yes ☐No

l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: 7am - 7pm or as allowed by Town
- Saturday: 7am - 7pm or as allowed by Town
- Sunday: to be determined
- Holidays: Not Anticipated

ii. During Operations:

- Monday - Friday: N/A
- Saturday: N/A
- Sunday: N/A
- Holidays: N/A

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m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? ☑ Yes ☐ No

If yes:

i. Provide details including sources, time of day and duration:

During construction there will be temporary unavoidable noise impacts associated with the use of construction equipment and vehicles.

ii. Will proposed action remove existing natural barriers that could act as a noise barrier or screen? ☐ Yes ☑ No

Describe:

n.. Will the proposed action have outdoor lighting? ☑ Yes ☐ No

If yes:

i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:

Street fixtures and lighting on single family homes.

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? ☐ Yes ☑ No

Describe:

o. Does the proposed action have the potential to produce odors for more than one hour per day? ☐ Yes ☑ No

If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures:

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? ☐ Yes ☑ No

If Yes:

i. Product(s) to be stored

ii. Volume(s) _____ per unit time _____ (e.g., month, year)

iii. Generally describe proposed storage facilities:

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? ☐ Yes ☑ No

If Yes:

i. Describe proposed treatment(s):

ii. Will the proposed action use Integrated Pest Management Practices? ☐ Yes ☐ No

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? ☐ Yes ☑ No

If Yes:

i. Describe any solid waste(s) to be generated during construction or operation of the facility:

- Construction: _____ tons per _____ (unit of time)
- Operation : _____ tons per _____ (unit of time)

ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:

- Construction:
- Operation:

iii. Proposed disposal methods/facilities for solid waste generated on-site:

- Construction:
- Operation:

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s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☑ No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii. Anticipated rate of disposal/processing:

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐ Yes ☑ No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

iii. Specify amount to be handled or generated _____ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☐ No

If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility:

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

☐ Urban ☐ Industrial ☑ Commercial ☑ Residential (suburban) ☐ Rural (non-farm)
☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other (specify): _____

ii. If mix of uses, generally describe:

The primary use of the parcels in the vicinity of the Project Site is single-family homes on residential units. There are commercial uses at the intersection of Campbell Boulevard and North French Road and also multifamily uses to the south of the site on the east side of Campbell Boulevard.

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	0	0.5±	+ 0.5±
• Forested	1.4±	0.0±	-1.4±
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	6.11±	5.71±	-0.4±
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)	0	0	0
• Wetlands (freshwater or tidal) [federal wetlands]	6.88	6.88	0
• Non-vegetated (bare rock, earth or fill)	-	-	-
• Other Describe: Lawns and landscaping	0	1.3±	+ 1.3±

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c. Is the project site presently used by members of the community for public recreation? ☐Yes ☑No
i. If Yes: explain: _____

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? ☐Yes ☑No
If Yes,
i. Identify Facilities:

e. Does the project site contain an existing dam? ☐Yes ☑No
If Yes:
i. Dimensions of the dam and impoundment:
- Dam height: _____ feet
- Dam length: _____ feet
- Surface area: _____ acres
- Volume impounded: _____ gallons OR acre-feet

ii. Dam's existing hazard classification: _____
iii. Provide date and summarize results of last inspection:

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? ☐Yes ☑No
If Yes:
i. Has the facility been formally closed? ☐Yes ☐ No
- If yes, cite sources/documentation: _____

ii. Describe the location of the project site relative to the boundaries of the solid waste management facility:
iii. Describe any development constraints due to the prior solid waste activities: _____

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? ☐Yes ☑No
If Yes:
i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred:

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? ☐Yes ☑ No
If Yes:
i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: ☐Yes ☐No
☐ Yes – Spills Incidents database — Provide DEC ID number(s): _____
☐ Yes – Environmental Site Remediation database — Provide DEC ID number(s): _____
☐ Neither database

ii. If site has been subject of RCRA corrective activities, describe control measures: _____
iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? ☐Yes ☑No
If yes, provide DEC ID number(s): _____
iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):

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v. Is the project site subject to an institutional control limiting property uses? ☐Yes ☑No

- If yes, DEC site ID number: _____
- Describe the type of institutional control (e.g., deed restriction or easement): _____
- Describe any use limitations: _____
- Describe any engineering controls: _____
- Will the project affect the institutional or engineering controls in place? ☐Yes ☐No
- Explain: _____

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? greater than 5 feet

b. Are there bedrock outcroppings on the project site? ☐Yes ☑No
If Yes, what proportion of the site is comprised of bedrock outcroppings? 0 %

c. Predominant soil type(s) present on project site:

Ch - Cheektowaga	63 %
Cv - Cosad	37 %
	%

d. What is the average depth to the water table on the project site? Average: 0.0-1.5 feet

e. Drainage status of project site soils:
☐ Well Drained: ____% of site
☐ Moderately Well Drained: ____% of site
☑ Poorly Drained 100 % of site

f. Approximate proportion of proposed action site with slopes:
☑ 0-10%: 100 % of site
☐ 10-15%: ____% of site
☐ 15% or greater: ____% of site

g. Are there any unique geologic features on the project site? ☐Yes ☑No
If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? [There are 6.88 acres of federal wetlands located on the Project Site per the Jurisdictional ☑Yes ☐No

ii. Do any wetlands or other waterbodies adjoin the project site? Determination issued by the USACE on July ☑Yes ☐No
If Yes to either *i* or *ii*, continue. If No, skip to E.2.i. 12, 2017. A copy is provided at Attachment "A."]

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? [The Applicant is not proposing any impacts to the 6.88 acres of federal wetlands.] ☑Yes ☐No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name _____ Classification _____
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name Federal Waters Approximate Size 6.88 Acres
- Wetland No. (if regulated by DEC) _____

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? ☐Yes ☑No
If yes, name of impaired water body/bodies and basis for listing as impaired: _____

i. Is the project site in a designated Floodway? ☐Yes ☑No

j. Is the project site in the 100 year Floodplain? ☐Yes ☑No

k. Is the project site in the 500 year Floodplain? ☑Yes ☐No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? ☐Yes ☑No
If Yes:
i. Name of aquifer: _____

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m. Identify the predominant wildlife species that occupy or use the project site:
Typical suburban species

n. Does the project site contain a designated significant natural community? ☐Yes ☑No
If Yes:
i. Describe the habitat/community (composition, function, and basis for designation):
ii. Source(s) of description or evaluation:
iii. Extent of community/habitat:
- Currently: _____ acres
- Following completion of project as proposed: _____ acres
- Gain or loss (indicate + or -): _____ acres

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? ☐Yes ☑No

p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? ☐Yes ☑No

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? ☐Yes ☑No
If yes, give a brief description of how the proposed action may affect that use:

E.3. Designated Public Resources On or Near Project Site

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐Yes ☑No
If Yes, provide county plus district name/number:

b. Are agricultural lands consisting of highly productive soils present? ☐Yes ☑No
i. If Yes: acreage(s) on project site?
ii. Source(s) of soil rating(s):

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? ☐Yes ☑No
If Yes:
i. Nature of the natural landmark: ☐ Biological Community ☐ Geological Feature
ii. Provide brief description of landmark, including values behind designation and approximate size/extent:

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? ☐Yes ☑No
If Yes:
i. CEA name:
ii. Basis for designation:
iii. Designating agency and date:

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e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on, or has been nominated by the NYS Board of Historic Preservation for inclusion on, the State or National Register of Historic Places? ☐ Yes ☑ No

If Yes:

i. Nature of historic/archaeological resource: ☐ Archaeological Site ☐ Historic Building or District

ii. Name: _____

iii. Brief description of attributes on which listing is based:

_____

f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? ☑ Yes ☐ No

g. Have additional archaeological or historic site(s) or resources been identified on the project site? ☐ Yes ☑ No

If Yes:

i. Describe possible resource(s): _____

ii. Basis for identification: _____

h. Is the project site within fives miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? ☐ Yes ☑ No

If Yes:

i. Identify resource: _____

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____

iii. Distance between project and resource: _____ miles.

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? ☐ Yes ☑ No

If Yes:

i. Identify the name of the river and its designation: _____

ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? ☐ Yes ☐ No

F. Additional Information

Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Ciminelli Real Estate Corporation Date February 22, 2021

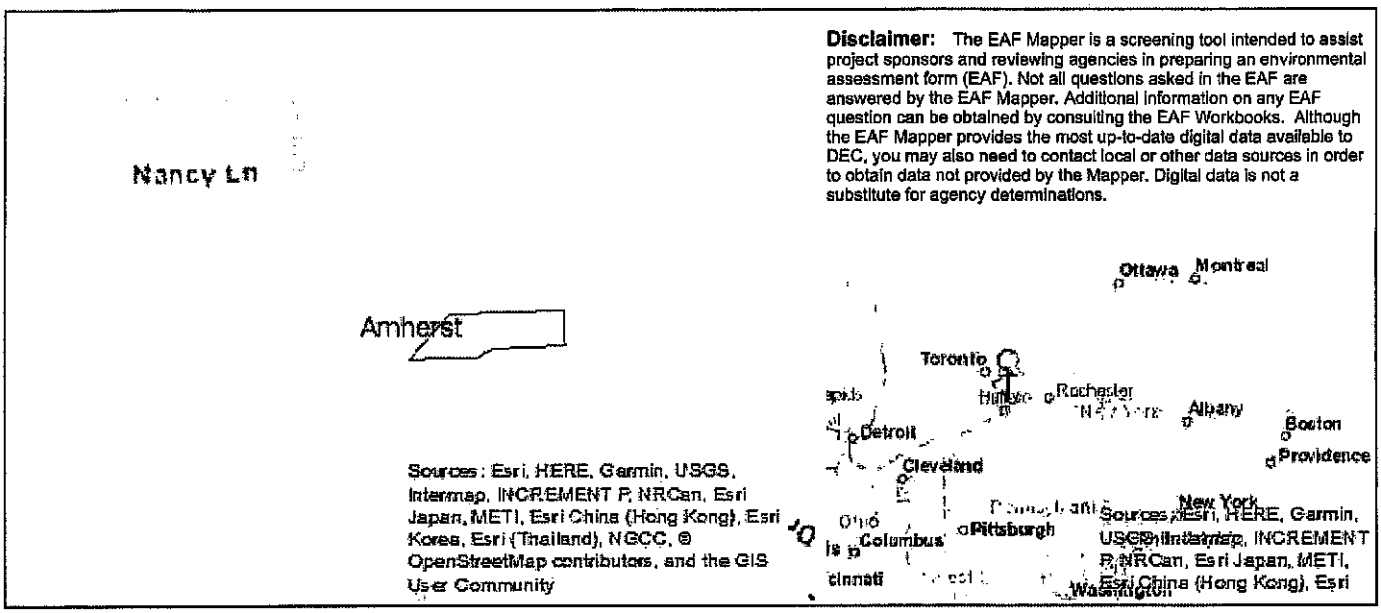
Signature _____ Title Attorney for Applicant/Project Sponsor

Sean W. Hopkins, Esq.

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EAF Mapper Summary Report



B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	NYS Heritage Areas:West Erie Canal Corridor
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	No
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	Yes
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.iv [Surface Water Features - Wetlands Name]	Federal Waters
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	No
E.2.k. [500 Year Floodplain]	Yes
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

E.2.o. [Endangered or Threatened Species]	No
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National Register of Historic Places]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

TOWN OF AMHERST ATTACHMENT
State Environmental Quality Review
ENVIRONMENTAL ASSESSMENT FORM

Application to Reclassify a Portion of 520 Campbell Boulevard from NCD-SA to NCD-ND and Amendment of Audubon Development Plan

1. For each applicable category of proposed new structures, including additions to existing structures, provide the following information for all soil types on the project site (*according to Soil Survey of Erie County, NY; Table 11, Building Site Development, pp 294-305):*

Soil Name	Shallow excavations	Dwellings without basements	Dwellings with basements	Small commercial buildings	Local roads and streets
Cheektowaga [Ch]	Severe: wetness, too clayey	Severe: wetness	Severe: wetness	Severe: wetness	Severe: wetness
Cosad [Cv]	Severe: wetness, cutbanks cave, too clayey	Severe: wetness	Severe: wetness	Severe: wetness	Moderate: wetness

2. If the Soil survey indicates either "severe" or "moderate" suitability for the proposed types of construction, a geotechnical and hydrological analysis based on one test per 3.5 acres of project area must be provided (per Town Board resolution, 3/17/03, amended 6/16/03).

___ Geotechnical report attached ___ Not applicable

[Note: Three copies of the Geotechnical Report prepared by Glynn Group dated October 4, 2018 are being submitted with the Application and supporting documentation.]

3. Is your property located: On Youngs Road between Dodge and Klein Roads? ☐ Yes ☑ No
On Wehrle Dr. between Spindrift Dr. and Oakwood Rd? ☐ Yes ☑ No

If so, the property may be within an area of the Town that is affected by a moratorium on connections to the sanitary sewer system.

4. Are there alternative locations on the site for this project? ☐ Yes ☑ No

5. Location and size of real property owned by petitioner within one (1) mile of subject proposal:

The Petitioner owns the parcels of real property 1081 and 1121 North French Road which consist of nearly 330 acres of land.

6. Are you aware of current or future plans or intentions by others in the Town of Amherst to develop property within 1000± ft. of the present project request: ☐ Yes ☑ No

Describe: **There are current proposals to develop Site "B" of Muir Woods as student housing and Site "A" of Muir Woods as a mixed-use project.**

(Potential environmental impacts from adjacent or nearby projects undergoing the approval process will receive a coordinated environmental review to determine cumulative effects on common receivers (e.g. traffic and drainage corridors) and other relevant environmental concerns.)

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

7. Maximum number of vehicular trips to be generated per hour upon completion of project: **8 vehicular trips during the weekday peak travel period.**

8. Will blasting occur during construction? ☐ Yes ☑ No

9. Does the project propose to connect and be tributary to the public sanitary sewer system? ☑ Yes ☐ No

10. Proposed net additional gallons per day (gpd) of sanitary sewer discharge upon completion of project:

    2,800 gpd average flow **11,200** gpd peak flow.

    (Please note that average flows of 2,500 gpd or greater will require an Engineer's Report that includes a detailed downstream sewer capacity analysis and the identification of and commitment to required I/I offset work during peak wastewater flow conditions.)

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

GGE GROUP
ENGINEERING & ARCHITECTURE, PLLC

Civil • Geotechnical
Structural • Architecture
Material Testing • Consulting

October 4, 2018

Ciminelli Real Estate Corporation
350 Essjay Road
Williamsville, New York 14221

Attn: Mr. Matt Ciminelli

Subject: **Preliminary Geotechnical Evaluation**
520 Campbell Boulevard Rezoning
Town of Amherst, New York
GGEA 18-1263

Dear Mr. Ciminelli:

Glynn Group Engineering and Architecture, PLLC (GGEA) has prepared this preliminary geotechnical evaluation to assist in rezoning efforts for the proposed development of eight (8) lots along Sierra Drive in the Town of Amherst, New York. Sierra Drive is to intersect with Campbell Boulevard in the vicinity of address 520 and will be part of the Preserve at Muir Woods Subdivision Part 2. The project site is located on the west side of Campbell Boulevard approximately 0.25 miles south of North French Road. This geotechnical evaluation is based on one (1) SPT soil boring performed Earth Dimensions, Inc. (EDI) on September 25, 2018 at the approximate southern end of Lot 138. The site was forested and undeveloped prior to the construction of Sierra Drive.

The subsurface investigation was performed in accordance with ASTM D-1586 "Standard Test Method for Standard Penetration Test (SPT) and Split-Barrel Sampling of Soils". Hollow stem augers were advanced through the overburden material to permit soil sample retrieval using a twenty-four inch long, two inch diameter split spoon sampler. Resistance values, or blow counts, were recorded for each six-inch advancement of the split spoon sampler and "N" values were calculated by totaling the resistance values for the 6/12 and 12/18 inch intervals. Retrieved soil samples were logged and visually classified by EDI in accordance with the ASEE System of Definition for Visual Identification of Soils (Burmister Classification System) and ASTM D-2488 "Standard Practice for Description and Identification of Soils (Visual - Manual Procedure)".

The soil boring was terminated in very dense glacial till at a depth of 35.0 feet below existing grade. Specific subsurface conditions can be found on the enclosed soil boring log, however subsurface conditions were found to be typical for the area and generally consist of moist, compact, silty sand (SM) to a depth of 2.5 feet, followed by moist, very stiff, lean clay with gravel (CL) to a depth of 10.0 feet, followed by extremely moist to wet, firm, lean clay (CL) to a depth of 12.0 feet, followed by wet, soft, lean clay (CL) to a depth of 25.5 feet, followed by moist, very dense, sandy silt with gravel (ML) to the boring termination depth of 35.0 feet. Bedrock is estimated at a depth of approximately 45 feet.

GLYNN GROUP ENGINEERING & ARCHITECTURE, PLLC
415 South Transit Street, Lockport, New York 14094
voice 716.625.6933 / fax 716.625.6983
www.glynngroup.com

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Groundwater was not encountered in the augers upon the completion of drilling efforts. The augers did not remain in the ground for an extended period of time to allow for groundwater to migrate through the soils and stabilize in the augers, nor was a groundwater monitoring well installed to obtain accurate groundwater elevation data. However, based on the moisture content and color of recovered soil samples, the stabilized groundwater elevation is estimated at a depth of approximately 10 feet below existing grade, where soils transition from moist to wet and begin to decrease in strength.

The native subsurface conditions at this property are of good structural quality in the upper 12 feet and will provide for the construction of shallow foundation systems for the proposed structures consisting of standard strip and spread footings. Although soft soils were encountered from approximately 12 to 14 feet, properly designed and constructed shallow foundation systems bearing within the upper stiff soils will provide adequate support for the proposed houses. The site is suitable for basement construction pending foundations are designed for an allowable bearing capacity not to exceed 2,500 psf.

In accordance with Section 1613 (Earthquake Loads) of the 2015 IBC, the site is classified as Seismic Site Class D. The site classification is based on the summation of N values for the upper 100 feet of soil in accordance with equation 20.4-2 of ASCE 7.

This completes the current scope of GGEA's services for this project. Foundation construction and design recommendations should be provided through the preparation of a full multi-boring geotechnical investigation and report prior to construction. Please contact GGEA if you should have any questions or if encountered subsurface conditions differ from those identified within this report.

Sincerely,

G. Edward Lover
Senior Geologist

STATE OF NEW YORK
MARK W. GLYNN
LICENSED PROFESSIONAL ENGINEER

Mark W. Glynn, P.E.
Consulting Engineer, Principal

/gel

encl. soil boring log, boring location plan, seismic site class

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

EARTH DIMENSIONS, INC.

Soil and Hydrogeologic Investigations • Wetland Delineations

1091 Jamison Road • Elma, NY 14059

(716) 655-1717 • FAX (716) 655-2915

IOG99i HOLE NO. B-1-18 SURF. ELEVATION —

PROJECT 520 Campbell Boulevard LOCATION North Side of Access Road

Town of Amherst, Erie County, NY

CLIENT Glynn Group Engineering & Architecture, PLLC DATE STARTED 09/25/18 COMPLETED 09/25/18

DEPTH IN FT	SN REC	0/6	6/12	12/18	18/24	N	LITH	DESCRIPTION AND CLASSIFICATION	WATER TABLE AND REMARKS
	1	9						Extremely moist to wet gray (SILTY-CLAY) fill with 3 to 7% gravel, trace sand, stiff, massive soil structure, (CL).	Clayey soil fill with trace sand and gravel to 0.2 feet over sandy soil fill with little silt, trace clay to 2.3 feet over water sorted and deposited sand with little silt to 2.5 feet over clayey lake sediment with trace sand to 25.0 feet over silty glacial till with little to some gravel, little sand to end of boring.
	17		6			13			
				7					
					6				
	2	19						0.2	
	11		18					Moist faintly mottled orangish brown (SILTY-SAND) fill with mostly very fine to fine size sand, little silt, trace clay, compact, massive soil structure, (SM) tending toward (ML).	
				15		33			
					16				
	3	4							
5	15		7			19			
				12					
					15			2.3	
	4	9						Extremely moist brown (SILTY-SAND) with mostly very fine to fine size sand, little silt, compact, thinly bedded, (SM).	
	23		8			18			
				10					
					14			grades downward to 2.5	
	5	8						Moist gray (SILTY-CLAY) with 3 to 7% gravel, trace sand, very stiff, thinly laminated with very thin coarse silt lenses, (CL).	
	24		5			12			
				7					
10					6				
	6	6						grades downward to 8.0	
	20		4					Extremely moist gray (SILTY-CLAY) with trace sand, stiff, soft below 12.0 feet, thiny laminated with very thin coarse silt lenses, (CL).	
				4		8			
					4				
	7	3							
	19		2			4			
				2					
					4				
	8	3							
15	20		4			7			
				3					
					3				
	9	4							
	23		3			6			
				3					
20					2				

N=NUMBER OF BLOWS TO DRIVE 2 " SPOON 12 " WITH 140 lb. WT. FALLING 30 " PER BLOW

LOGGED BY Jason Kryszak, Geologist, (cns) SHEET 1 OF 2

Note: Advanced bore hole with 2 1/4" ID x 6" OD hollow stem auger casing with continuous split spoon sampling to 16.0 feet and 5.0-foot interval sampling to end of boring at 35.0 feet. Bore hole was backfilled with cuttings to ground surface upon completion.

No water at completion.

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

EARTH DIMENSIONS, INC.

Soil and Hydrogeologic Investigations • Wetland Delineations

1091 Jamison Road • Elma, NY 14059

(716) 655-1717 • FAX (716) 655-2915

10G99j HOLE NO. B-1-18 SURF. ELEVATION _

PROJECT 520 Campbell Boulevard LOCATION North Side of Access Road

Town of Amherst, Erie County, NY

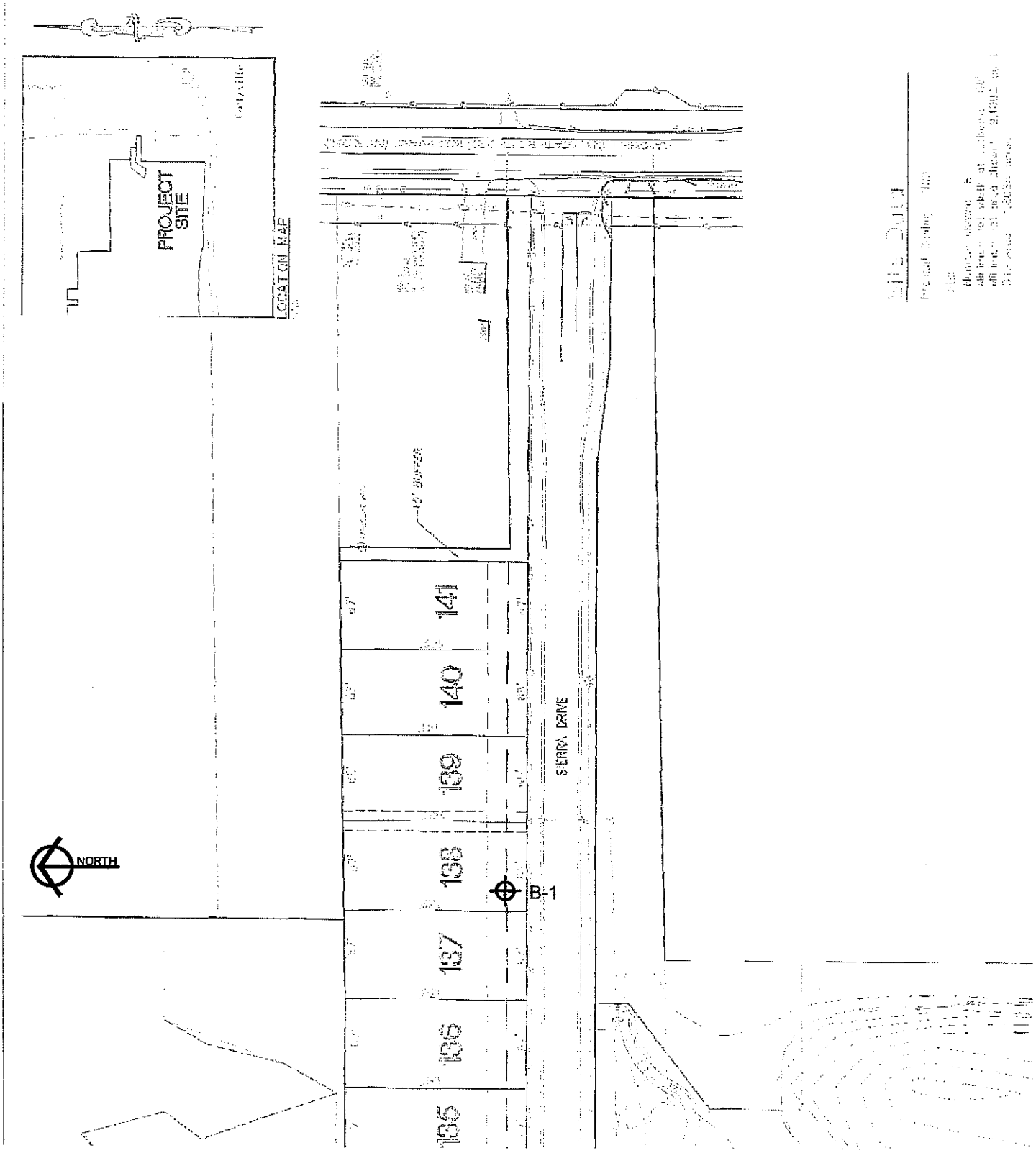
CLIENT Glynn Group Engineering & Architecture, PLLC DATE STARTED 09/25/18 COMPLETED 09/25/18

DEPTH IN FT	SN REC	0/6	6/12	12/18	18/24	N	LITH	DESCRIPTION AND CLASSIFICATION	WATER TABLE AND REMARKS
	10	2						Extremely moist gray (SILTY-CLAY) with trace sand, stiff, soft below 12.0 feet, thiny laminated with very thin coarse silt lenses, (CL).	
	24		2			5			
				3					
25					3			grades downward to 25.5	
								Moist gray gravelly (SANDY-SILT) with 15 to 25% gravel, occasional cobble, little sand, very dense, massive soil structure, (ML).	
	11	57							
	8		100/3						
30									
	12	26							
	15		40			127			
				87					
35					93			35.0	
								Boring completed at 35.0 feet	
40									

N=NUMBER OF BLOWS TO DRIVE 2 " SPOON 12 " WITH 140 lb. WT. FALLING 30 " PER BLOW

LOGGED BY Jason Kryszak, Geologist, (cns) SHEET 2 OF 2

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)



GGE
ENGINEERING • DESIGN
GLYNN GEOTECHNICAL ENGINEERING
415 S. TRANSIT STREET
LOCKPORT, NEW YORK 14094
VOICE (716) 625 - 6933 / FAX (716) 625-6983
www.glynngroup.com

PROJECT: 520 CAMPBELL BOULEVARD			SHEET NO.: S1
SUBJECT: SOIL BORING LOCATION PLAN			
CLIENT: CIMINELLI REAL ESTATE CORP			
PROJ. NO.: 18-1263	SCALE: 1"= 100'-0"	DATE: 09.17.18	BY: GEL

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Project : 520 Campbell Boulevard
Client: Ciminelli Real Estate Corporation
GGE # : 18-1263
Date: 10.04.18

B-1

	Depth (di)	N Value (Ni)
	2.5	13
	7.5	20
	2	8
	2	4
ASCE 7	11.5	6
Equation 20.4-2	19.5	75
	45	100

$$N = \frac{100}{\sum \frac{di}{Ni}}$$

***N* = 25.4**

ASCE 7
Table 20.3-1

$$15 \leq N \leq 50$$

SITE CLASS D

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

DEPARTMENT OF THE ARMY
BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

REPLY TO
ATTENTION OF:

July 12, 2017

Regulatory Branch

SUBJECT: Preliminary Jurisdictional Determination for Department of the Army Application No. 2001-00067.

Ciminelli Real Estate Corporation
Centerpointe Corporate Park
350 Essjay Road
Williamsville, NY 14221

Dear Mr. Brad Packard:

I have reviewed the wetland delineation map you submitted for your request for a wetland boundary verification, located at 520 Campbell Boulevard which is directly adjacent to the Muir Woods project site, Town of Amherst, County of Erie, New York.

I have evaluated your submitted wetland delineation map and have determined that the wetland and water boundaries shown on the map accurately represent on-site conditions. Please note that this is a Preliminary Jurisdictional Determination (JD). Preliminary JDs are non-binding written indications that there may be waters of the United States (WOUS) on your parcel and approximate locations of those waters. Preliminary JDs are advisory in nature and may not be appealed.

Pursuant to Regulatory Guidance Letter 16-01, any permit application made in reliance on this Preliminary JD will be evaluated as though all wetlands or waters on the site are regulated by the Corps. Further, all waters, including wetlands will be used for purposes of assessing the area of project related impacts and compensatory mitigation. If you require a definitive response regarding Department of the Army jurisdiction for any or all of the waters identified on the submitted drawings, you may request an approved jurisdictional determination (AJD) from this office. If an AJD is requested, please be aware that this is often a lengthy process and we may require the submittal of additional information.

I have enclosed the Preliminary JD Form with this letter. The form and attached table identifies the extent of waters on the site and specific terms and conditions of the Preliminary JD. Please sign and return a copy of this form to my attention. If you do not respond within 15 days, we will presume concurrence and no additional follow up is necessary prior to finalizing an action.

In accordance with Regulatory Guidance Letter 05-02, "Preliminary jurisdictional determinations are not definitive determinations of areas within regulatory jurisdiction and do not have expirations dates." However, I strongly recommend that the boundaries of all aquatic resources on the parcel be re-evaluated by a qualified wetland biologist after five years of the

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Regulatory Branch

SUBJECT: Preliminary Jurisdictional Determination for Department of the Army Application No. 2001-00067.

date of this letter. This will ensure that any changes are appropriately identified and you do not inadvertently incur a violation of Federal law while constructing your project or working on your project site.

Lastly, this determination has been conducted only to identify the limits of waters that may be subject to Corps Clean Water Act or Rivers and Harbors Act jurisdiction. This delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are United States Department of Agriculture (USDA) program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resource Conservation Service prior to starting work.

Questions pertaining to this matter should be directed to me at 716-879-4346, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, or by e-mail at: martin.h.crosson@usace.army.mil

Sincerely,

Martin H. Crosson
Biologist

Enclosures

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Ciminelli Real Estate Corporation	File Number: 2001-00067	Date: 07/12/2017
Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
	APPROVED JURISDICTIONAL DETERMINATION	D
X	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/CECW/Pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.

- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.

- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.

- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:	If you only have questions regarding the appeal process you may also contact:
Martin Crosson U.S. Army Corps of Engineers 1776 Niagara Street Buffalo, New York 14207 716-879-4346 martin.h.crosson@usace.army.mil	Attn: Jacob Siegrist Great Lakes and Ohio River Division CELRD-PD-REG 550 Main Street, Room 10524 Cincinnati, OH 45202-3222 513-684-2699; FAX 513-684-2460

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

	Date:	Telephone number:
_____ Signature of appellant or agent.		

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

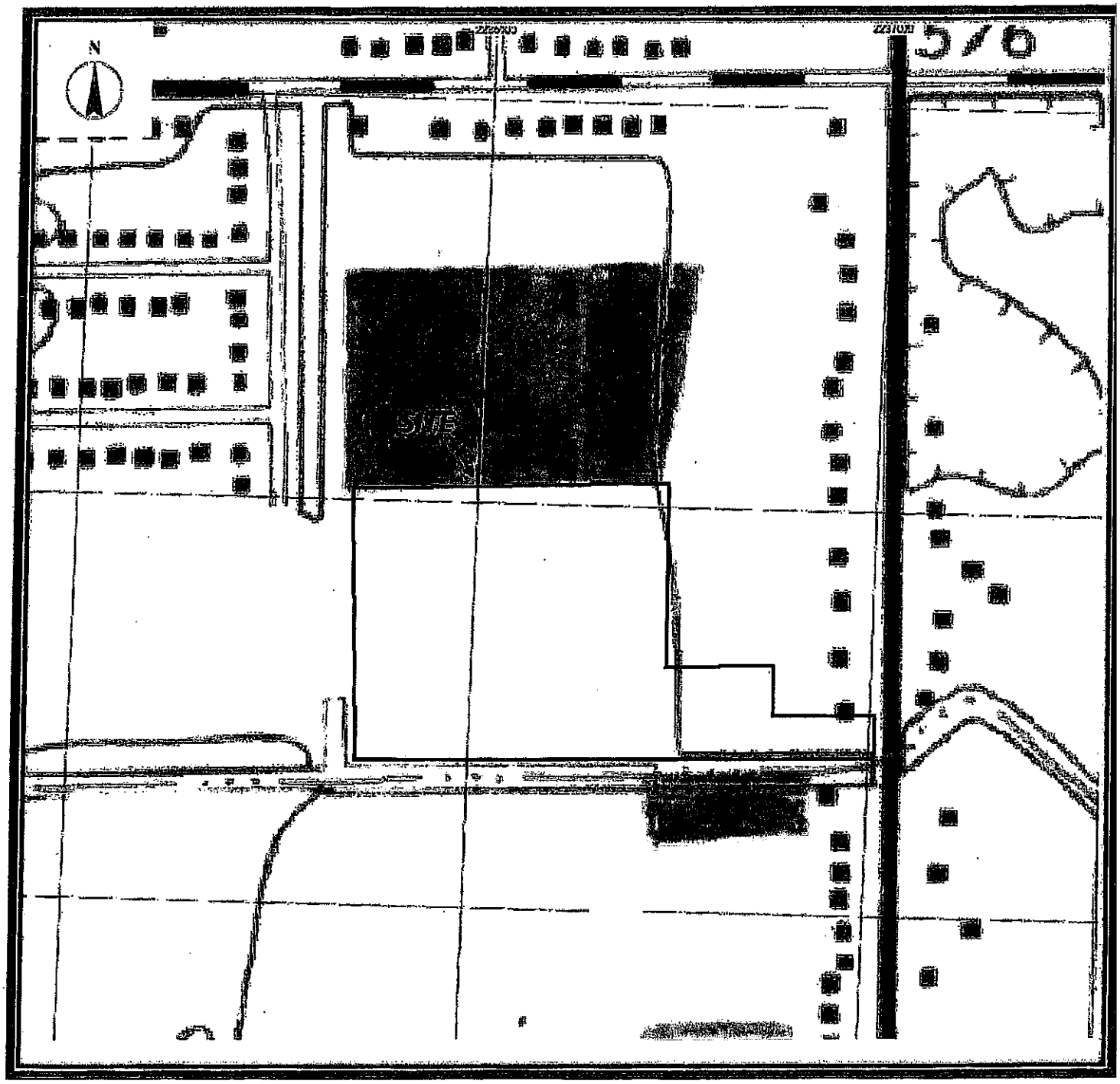


FIGURE 1: USGS 7.5 MINUTE TOPOGRAPHICAL MAP

Tonawanda East Quadrangle / 2002 DeLorme

520 Campbell Boulevard

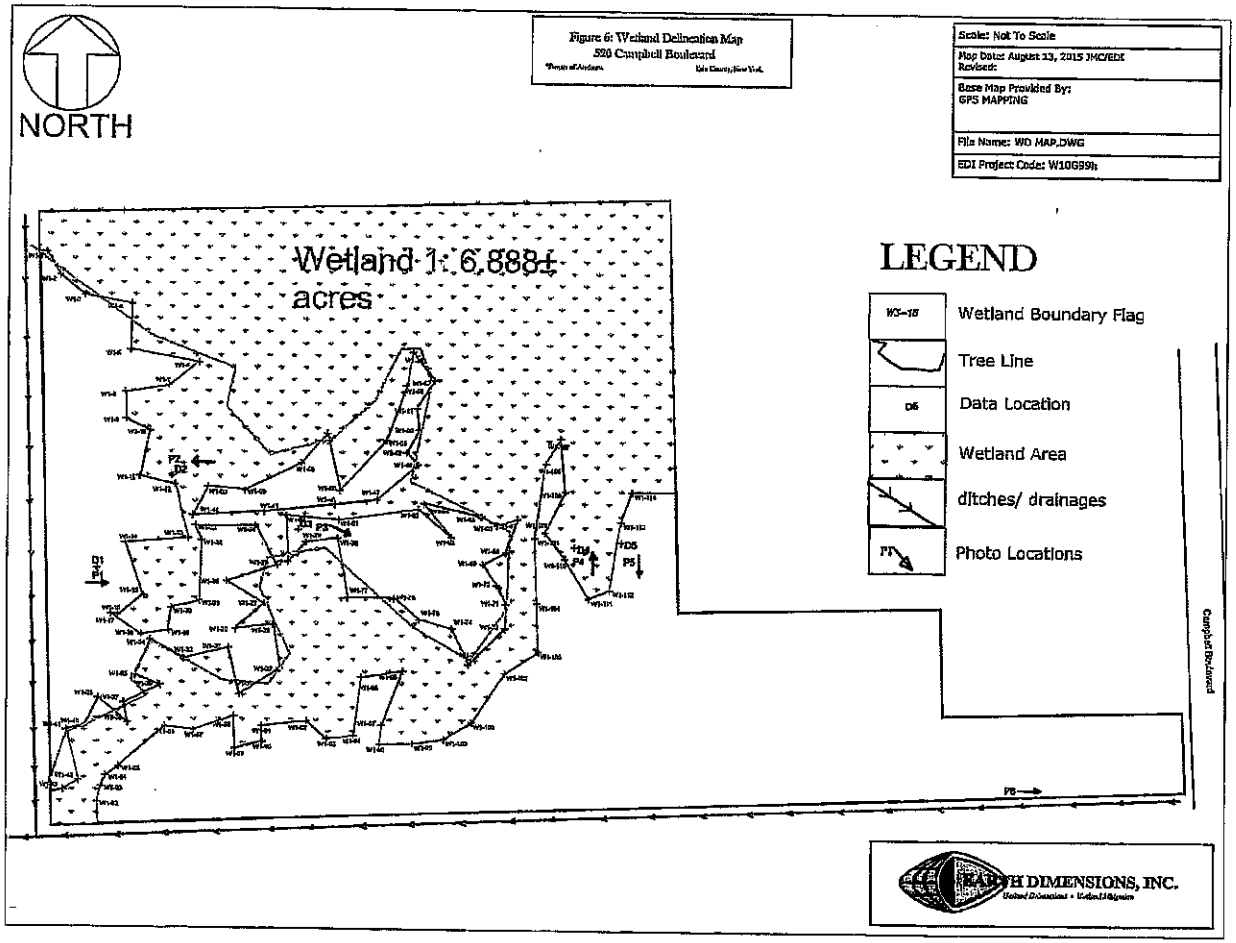
Town of Amherst, Erie County, New York

Ciminelli Real Estate Corporation
D/A Processing No. 2001-00067
Erie County, NY
Sheet 1 of 2

EARTH DIMENSIONS, INC.

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Ciminelli Real Estate Corporation
D/A Processing No. 2001-00067
Erie County, NY
Sheet 2 of 2



PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PJD: July 12, 2017.

B. NAME AND ADDRESS OF PERSON REQUESTING PJD:

Ciminelli Real Estate Corporation
Centerpointe Corporate Park
350 Essjay Road
Williamsville, NY 14221

C. DISTRICT OFFICE, FILE NAME, AND NUMBER: LRB Buffalo, Ciminelli Real Estate Corporation, 2001-00067.

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:

State: New York County/parish/borough: Erie City: Amherst

Center coordinates of site (lat/long in degree decimal format):

Lat.: 43.03126° Long.: -78.77060°

Universal Transverse Mercator: 17

Name of nearest waterbody: Ellicott Creek

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☒ Office (Desk) Determination. Date: July 12, 2017.

☒ Field Determination. Date(s): July 11, 2017.

TABLE OF AQUATIC RESOURCES IN REVIEW AREA WHICH "MAY BE" SUBJECT TO REGULATORY JURISDICTION.

Site number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e., wetland vs. non-wetland waters)	Geographic authority to which the aquatic resource "may be" subject (i.e., Section 404 or Section 10/404)
Wetland 1	43.03126°	-78.77060°	6.888	PSS/FO	404

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

1) The Corps of Engineers believes that there may be jurisdictional aquatic resources in the review area, and the requestor of this PJD is hereby advised of his or her option to request and obtain an approved JD (AJD) for that review area based on an informed decision after having discussed the various types of JDs and their characteristics and circumstances when they may be appropriate.
2) In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an AJD for the activity, the permit applicant is hereby made aware that: (1) the permit applicant has elected to seek a permit authorization based on a PJD, which does not make an official determination of jurisdictional aquatic resources; (2) the applicant has the option to request an AJD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an AJD could possibly result in less compensatory mitigation being required or different special conditions; (3) the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) undertaking any activity in reliance upon the subject permit authorization without requesting an AJD constitutes the applicant's acceptance of the use of the PJD; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a PJD constitutes agreement that all aquatic resources in the review area affected in any way by that activity will be treated as jurisdictional, and waives any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an AJD or a PJD, the JD will be processed as soon as practicable. Further, an AJD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331. If, during an administrative appeal, it becomes appropriate to make an official determination whether geographic jurisdiction exists over aquatic resources in the review area, or to provide an official delineation of jurisdictional aquatic resources in the review area, the Corps will provide an AJD to accomplish that result, as soon as is practicable. This PJD finds that there *"may be"* waters of the U.S. and/or that there *"may be"* navigable waters of the U.S. on the subject review area, and identifies all aquatic features in the review area that could be affected by the proposed activity, based on the following information:

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

SUPPORTING DATA. Data reviewed for PJD (check all that apply)

Checked items should be included in subject file. Appropriately reference sources below where indicated for all checked items:

☒ Maps, plans, plots or plat submitted by or on behalf of the PJD requestor: Map: Delineation Report completed by Earth Dimensions, Inc. dated August 20, 2015.
☒ Data sheets prepared/submitted by or on behalf of the PJD requestor.
  ☒ Office concurs with data sheets/delineation report.
  ☐ Office does not concur with data sheets/delineation report. Rationale: _____.
☐ Data sheets prepared by the Corps: _____.
☐ Corps navigable waters' study: _____.
☐ U.S. Geological Survey Hydrologic Atlas: _____.
  ☐ USGS NHD data.
  ☐ USGS 8 and 12 digit HUC maps.
☒ U.S. Geological Survey map(s). Cite scale & quad name: Tonawanda East NY USGS 7.5.
☒ Natural Resources Conservation Service Soil Survey. Citation: Erie County.
☒ National wetlands inventory map(s). Cite name: fws.gov – wetland data mapper.
☐ State/local wetland inventory map(s): _____.
☐ FEMA/FIRM maps: _____
☐ 100-year Floodplain Elevation is: ____. (National Geodetic Vertical Datum of 1929)
☐ Photographs:
  ☐ Aerial (Name & Date): _____.
  ☐ Other (Name & Date): _____.
☐ Previous determination(s). File no. and date of response letter: _____.
☐ Other information (please specify): _____.

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

Martin D. Crouse 07/12/2017
Signature and date of
Regulatory staff member
completing PJD

07/13/2017
Signature and date of
person requesting PJD
(REQUIRED, unless obtaining
the signature is impracticable)[1]
By: Ciminelli Muir Woods, LLC
By: Ciminelli Real Estate Corporation,
its Managing Member
Brad Packard, Director of Development & Planning
Ciminelli Real Estate Corporation

[1] Districts may establish timeframes for requestor to return signed PJD forms. If the requestor does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

NEW YORK STATE
Bernadette Castro
Commissioner

New York State Office of Parks, Recreation and Historic Preservation
Historic Preservation Field Services Bureau
Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

October 10, 2001

Carolyn A. Pierce
CCRG
105 Robie Avenue
Buffalo, New York 14214

Dear Ms. Pierce:

Re: SHORA
Muir Woods Mixed-Use Development
Amherst/Erie County
01PR0345

Thank you for requesting the comments of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the project in accordance with the New York State Parks, Recreation and Historic Preservation Law, Section 14.09.

Based upon this review, it is the OPRHP's opinion that your project will have No Impact upon cultural resources in or eligible for inclusion in the State and National Registers of Historic Places.

If further correspondence is required regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,

Ruth L. Pierpont
Director

RLP:cmp

RECEIVED
OCT 16 2001
CIMINELLI DEVELOPMENT COMPANY, INC.

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

LOCAL LAW NO. _____-202_

TOWN OF AMHERST
COUNTY OF ERIE, STATE OF NEW YORK

A LOCAL LAW AMENDING CHAPTER 203 OF THE TOWN OF AMHERST CODE, KNOWN AS THE ZONING ORDINANCE TO RECLASSIFY A PORTION OF 520 CAMPBELL BOULEVARD FROM NCD-SA TO NCD-ND & TO AMEND THE AUDUBON DEVELOPMENT PLAN AND TO AMEND THE ZONING MAP ACCORDINGLY.

Be it enacted by the Town Board of the Town of Amherst as follows:

Section 1. Title.

This Local Law shall be referred to as, "A Local Law Amending Chapter 203 of Town of Amherst Code, Known As The Zoning Ordinance To Reclassify a Portion of 520 Campbell Boulevard from NCD-SA to NCD-ND and to Amend the Audubon Development Plan and to Amend The Zoning Map Accordingly".

Section 2. Legislative Findings and Intent.

The Town Board of the Town of Amherst finds that an application to reclassify a portion of 520 Campbell Boulevard from NCD-SA to NCD-ND and to Amend the Audubon Development Plan and to Amend the Zoning Map Accordingly has been filed and is in proper order. The Town Board further finds that the request to reclassify a portion of 520 Campbell Boulevard from NCD-SA to NCD-ND and the Amendment of the Audubon Development Plan are consistent with the Comprehensive Plan.

Section 3. Amherst Zoning Map.

The Town Board hereby amends its zoning map which is incorporated by reference in the Town zoning code reclassifying from NCD-SA to NCD-ND a portion of 520 Campbell Boulevard, **subject to any conditions imposed by the authorizing resolution**; legally described as follows:

Legal Description of Property to be Reclassified from NCD-SA to NCD-ND:

ALL THOSE TRACTS OR PARCELS OF LAND situate in the Town of Amherst, County of Erie, State of New York, being part of Lot 70, Township 12, Range 7 of the Holland Land Company's Survey, bounded and described as follows.

PARCEL 1:

BEGINNING at a point on the northerly boundary of Sierra Drive as shown on a subdivison map of The Preserve at Muir Woods recorded in the Erie County Clerk's Office under Map Cover 3754 at a distance of 276.97 feet westerly from its intersection

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

with the westerly boundary of Campbell Boulevard being a 66.00 feet wide right of way;

Thence along the northerly boundary of Sierra Drive the following two (2) courses and distances:

1) N-89°-45'-59"-W, a distance of 458.83 feet to a point of curvature;
2) Westerly along a curve to the left having a radius of 176.00 feet an arc distance of 6.17 feet to a point;

THENCE: Through the lands conveyed to Ciminelli Muir Woods LLC by deed recorded in the Erie County Clerk's Office in Liber 11322 of Deeds at page 4494 the following two (2) courses and distances:

1) N-00°-14'-01"-E, along a non-radial line a distance of 138.94 feet to a point;
2) S-89°-45'-59"-E, along a line parallel with the northerly line of said Sierra Drive a distance of 194.09 feet to the southwest corner of lands conveyed to Kathleen J. Skeide by Deed recorded in the Erie County Clerk's Office in Liber 11123 of Deeds at page 2408;

THENCE: N-89°-22'-00"-E, along the south line of said Kathleen J. Skeide lands a distance of 270.94 feet to a point;

THENCE: S-01°-14'-00"-E through said lands conveyed to Ciminelli Muir Woods LLC a distance of 142.93 feet to the POINT OF BEGINNING, Containing 1.495 acres more or less.

PARCEL 2:

BEGINNING at a point on the northwesterly boundary of Sierra Drive at the northeasterly corner of Sub Lot 21 as shown on a subdivison map of The Preserve at Muir Woods recorded in the Erie County Clerk's Office under Map Cover 3754;

THENCE: N-75°-07'-44"-W, along the northerly line of said Sub lot 21 a distance of 156.81 feet to the northeast corner of Sub lot 18 as shown on said map Cover 3754;
THENCE: N-54°-35'-00"-W, along the northeasterly line of said Sub lot 18 a distance of 75.41 feet to a northerly corner of said Sub lot 18;

THENCE: Through said lands conveyed to Ciminelli Muir Woods LLC the following two (2) courses and distances:

1) N-79°-00'-45"-E, a distance of 128.98 feet to a point;
2) S-63°-52'-36"-E, along a radial line a distance of 117.00 feet to a point on the first mentioned northwesterly boundary of Sierra Drive;

THENCE: along said northwesterly boundary of Sierra Drive the following two (2) courses and distances:

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

1) Southwesterly along a curve to the left having a radius of 176.00 feet an arc distance of 34.56 feet to a point of tangency;
2) S-14°-52'-16"-W a distance of 25.55 feet to the POINT OF BEGINNING, Containing 0.308 acre more or less.

Section 4. Validity.

This Local Law is adopted under the authority granted to the Town Board of the Town of Amherst pursuant to §§10(1)(ii)(a)(12), 20 and 27 of the Municipal Home Rule Law and §265 of the Town Law of the State of New York.

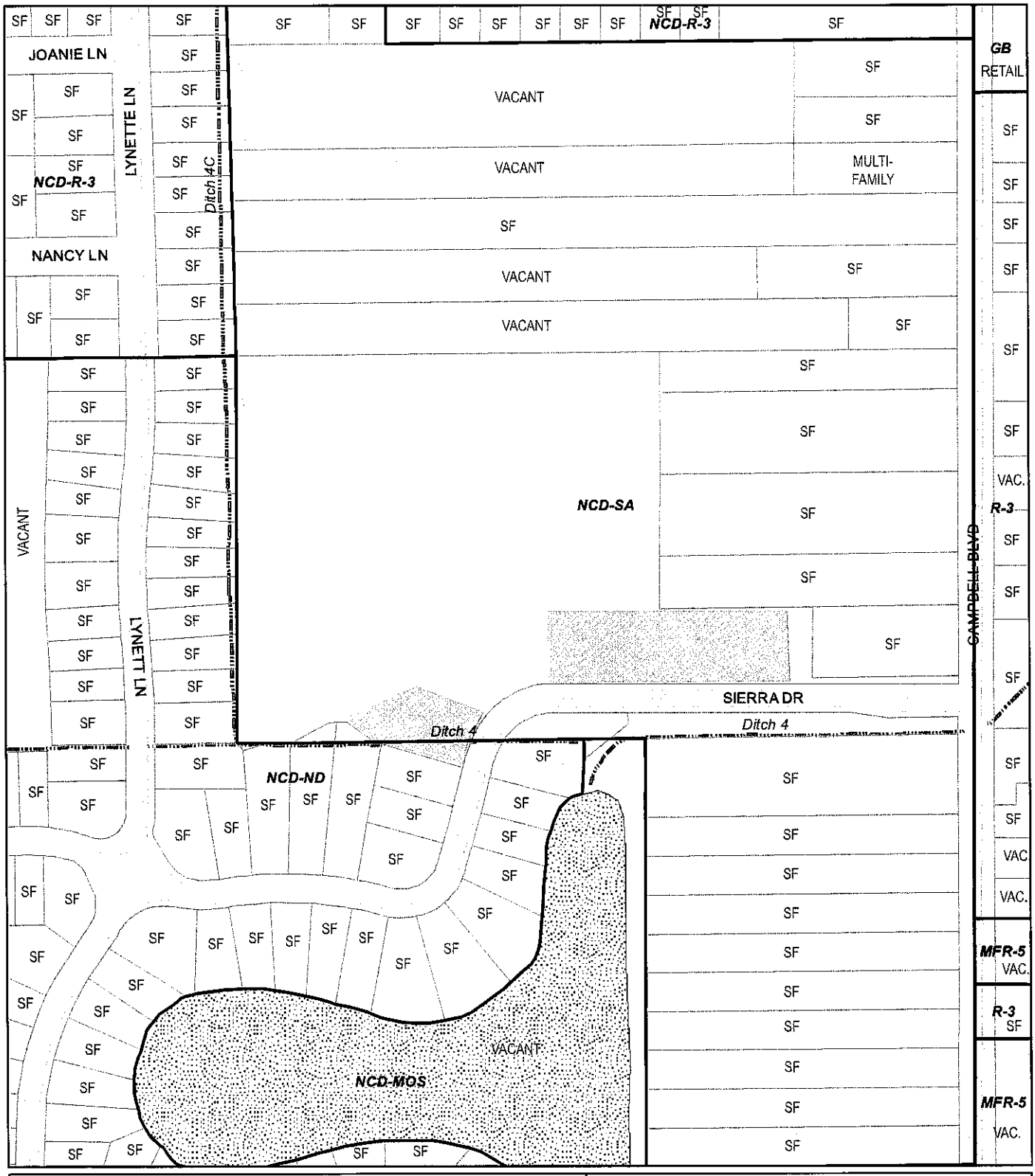
The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

Section 5. Effective Date.

This Local Law shall take effect immediately when it is filed in the Office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law and published pursuant to Sections 130 & 133 of the Town Law and Chapter 28 of the Code of the Town of Amherst.

Francina J. Spoth
Town Clerk
Town of Amherst
County of Erie, State of New York

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)



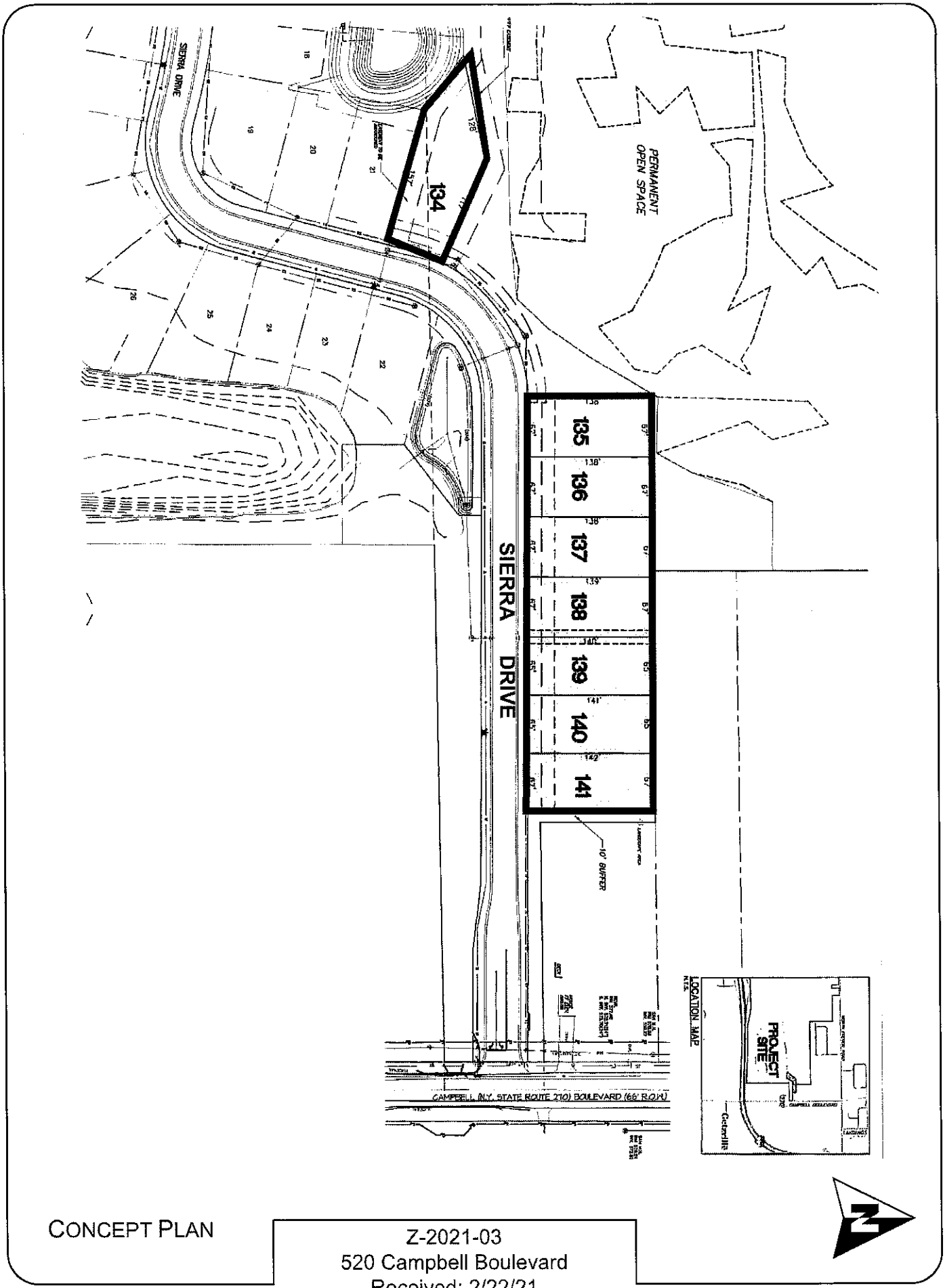
Z-2021-03

Request to Reclassify 1.8+/- AC of Land from NCD-SA to NCD-ND, Amendment #75 to the Audubon Development Plan
Property Located at 520 Campbell Boulevard (portion)
Ciminelli Real Estate, Petitioner
May 20, 2021

520 Campbell Boulevard (portion)

Prepared by the Town of Amherst Planning Department

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)



CONCEPT PLAN

Z-2021-03
520 Campbell Boulevard
Received: 2/22/21

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)



Z-2021-03

Request to Reclassify 1.8+/- AC of Land from NCD-SA to NCD-ND, Amendment #75 to the Audubon Development Plan
Property Located at 520 Campbell Boulevard (portion)
Ciminelli Real Estate, Petitioner
May 20, 2021

520 Campbell Boulevard (portion)

Prepared by the Town of Amherst Planning Department

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 9
270 Michigan Avenue, Buffalo, NY 14203-2915
P: (716) 851-7165 I F: (716) 851-7168
www.dec.ny.gov

May 21, 2021

Ellen Kost
Town of Amherst Planning Department
5583 Main Street
Williamsville, New York 14221

Dear Ellen Kost:

SEQR Lead Agency Coordination
520 Campbell Blvd – Amendment 75
Audubon Development Plan
Town of Amherst, Erie County

This is to acknowledge receipt of your February 24, 2021 notice which for the above-noted project. NYSDEC has no objection to the proposed reclassification of land. Please be advised of the following:

Project plans must comply with the previously issued 401 Water Quality Certification (DEC No. 9-1422-00398/00002 issued 1/10/2019, including the approved plans entitled: The Preserve at Muir Woods (DEC Planting Exhibit, DEC Earthwork Exhibit and the Wetland Restriction Exhibit) by Greenman-Pedersen, Inc. dated May 2018.

If you have any other questions, please feel free to contact Ms. Kerri Pickard-DePriest of my staff or me at 716/851-7165.

Sincerely,

David S. Denk

David S Denk
Regional Permit Administrator

KPD

ecc: Maureen Brady, NYSDEC Office of General Counsel
Charles Rosenburg, NYSDEC Division of Fish and Wildlife
US Army Corps of Engineers, Buffalo District

NEW YORK STATE OF OPPORTUNITY | Department of Environmental Conservation

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

SITE PLAN OR ZONING REFERRAL TO COUNTY OF ERIE, NY AND REPLY TO MUNICIPALITY

Note: Please complete in triplicate. Send original and one copy (with attachments) to Erie County Division of Planning, Room 1053, 95 Franklin Street, Buffalo, N.Y. 14202. Retain last copy for your files.

DO NOT WRITE IN THIS SPACE

Case No.: ZR-21-237

Received: 3/3/21

The proposed action described herein is referred in accordance with the provisions of the General Municipal Law, which provides that if no reply is received in 30 days after receipt of full information including a SEQR EAF if applicable, the municipal agency may take final action without considering such reply. If, however, reply is received at any time prior to municipal Action, such reply must be considered.

Description of Proposed Action

1. Name of Municipality: Town of Amherst

2. Hearing Schedule: **Date** April 15, 2021 **Time** 6:30pm **Location** 5583 Main Street, Williamsville

3. Action is before: ☐ Legislative Body ☐ Board of Appeals ☒ Planning Board

4. Action consists of: ☐ New Ordinance ☒ Rezone/Map Change ☐ Ordinance Amendment

☐ Site Plan ☐ Variance ☐ Special Use Permit ☐ Other

5. Location of Property: ☐ Entire Municipality ☒ Specific as follows 520 Campbell Blvd (portion)

6. Referral required as Site is within 500'of: ☐ State or County Property/Institution ☐ Municipal Boundary ☐ Farm Operation located in an Agricultural District

☐ Expressway ☐ County Road ☒ State Highway ☐ Proposed State or County Road, Property, Building/ Institution, Drainageway

7. Proposed change or use: (be specific) Amend the Audubon Development Plan to Reclassify 1.8± acres land from NCD-SA to NCD-ND

8. Other remarks: (ID#, SBL#, etc.) Z-2021-03

9. Submitted by: Scott A Marshall, Principal Planner February 23, 2021

Town of Amherst, 5583 Main St., Williamsville, NY 14221

Reply to Municipality by Erie County Division of Planning

Receipt of the above-described proposed action is acknowledged on 3/8/21. **The Division herewith submits its review and reply under the provisions of applicable state and local law, based on the information submitted with this referral.**

1. ☐ **The proposed action is not subject to review under the law.**
2. ☐ **Form ZR-3, Comment on Proposed Action is attached hereto.**
3. ☐ **The proposed action is subject to review; the Division makes the recommendation shown on Form ZR-4, Recommendation on Proposed Action, which is attached hereto.**
4. ☒ **No recommendation; proposed action has been reviewed and determined to be of local concern**

By the Division of Planning: Jan M. Hall **Date:** 4/6/21

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Amherst

Town of Amherst Planning Department *Erie County, New York*

RECEIVED
MAR 05 2021
TOWN ATTORNEY

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

MEMORANDUM March 1, 2021

TO: Kathy Cooper, Deputy Town Clerk
Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
Brian Barnes, Senior GIS Analyst (Eng.) (letter only)
Bryan Parnell, Fire Chiefs' Association (c/o Bldg)
Stan Sliwa, Town Attorney (Local Law Only)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way
Integrated Review Coordinator, ECDEP
Edward Rutkowski, SEQR Review Coordinator, NYSDOT
Williamsville School District
NYSDEC

RECEIVED
MAR 23 2021
TOWN OF AMHERST
PLANNING DEPT.

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director

SUBJECT: AMENDMENT #75 TO THE AUDUBON DEVELOPMENT PLAN, REQUEST TO RECLASSIFY 1.8± ACRES OF LAND FROM **NCD SA** TO **NCD ND. Z-2021-03**; PROPERTY LOCATED AT **520 CAMPBELL BOULEVARD (PORTION)**. CIMINELLI REAL ESTATE CORPORATION, PETITIONER.

REVIEW:

Do you agree with all statements made? Agree with all statements made.

If you do not, briefly state why: _____

General comments relative to your agency interests: none

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.) none at this stage

Please call the Planning Department if additional information is required (631-7051).

Signature: _____ **Date:** 3/18/21

EK/ac
X:\Current_Planning\Files\Rezonings\2021\Z-2021-03_(520_Campbell_Blvd)_2021\Z-2021-03_Transmittal_022521.doc

cc: Scott Marshall, Principal Planner
Sean Hopkins, Esq., Hopkins Sorgi & McCarthy PLLC, 5500 Main St. Suite 343, Williamsville, NY 14221
Ken Zollitsch, GPI Engineering, 4950 Genesee St. Suite 100, Buffalo, NY 14225
Adam Faeth, Ciminelli Real Estate Corporation, 50 Fountain Plaza Suite 500, Buffalo, NY 14202

5583 Main Street • Williamsville • New York • 14221 • (716) 631-7051 • Fax (716) 631-7153

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

RECEIVED
MAR 11 2021
TOWN OF AMHERST
PLANNING DEPT.

RECEIVED
Williamsville Central School District
MAR 05 2021
Asst Superintendent for
Finance & Management Services

MEMORANDUM March 1, 2021

TO: Kathy Cooper, Deputy Town Clerk
Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
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Stan Sliwa, Town Attorney (Local Law Only)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way
Integrated Review Coordinator, ECDEP
Edward Rutkowski, SEQR Review Coordinator, NYSDOT
Williamsville School District
NYSDEC

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director

SUBJECT: AMENDMENT #75 TO THE AUDUBON DEVELOPMENT PLAN, REQUEST TO RECLASSIFY 1.8± ACRES OF LAND FROM **NCD SA** TO **NCD ND. Z-2021-03**; PROPERTY LOCATED AT **520 CAMPBELL BOULEVARD (PORTION)**. CIMINELLI REAL ESTATE CORPORATION, PETITIONER.

REVIEW:

Do you agree with all statements made? School district does not have comments.

If you do not, briefly state why: _____

General comments relative to your agency interests: School district does not have comment

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: _____ **Date:** 3/9/21

EK/ac
X:\Current_Planning\Files\Rezonings\2021\Z-2021-03_(520_Campbell_Blvd)_2021\Z-2021-03_Transmittal_022521.doc

cc: Scott Marshall, Principal Planner
Sean Hopkins, Esq., Hopkins Sorgi & McCarthy PLLC, 5500 Main St. Suite 343, Williamsville, NY 14221
Ken Zollitsch, GPI Engineering, 4950 Genesee St. Suite 100, Buffalo, NY 14225
Adam Faeth, Ciminelli Real Estate Corporation, 50 Fountain Plaza Suite 500, Buffalo, NY 14202

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

RECEIVED
MAR 03 2021
TOWN ATTORNEY

MEMORANDUM March 1, 2021

RECEIVE
MAR 10 2021
TOWN OF AMHERST
PLANNING DEPT.

FROM

TO: Kathy Cooper, Deputy Town Clerk
Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
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Stan Sliwa, Town Attorney (Local Law Only)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way
Integrated Review Coordinator, ECDEP
Edward Rutkowski, SEQR Review Coordinator, NYSDOT
Williamsville School District
NYSDEC

TO

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director

SUBJECT: AMENDMENT #75 TO THE AUDUBON DEVELOPMENT PLAN, REQUEST TO RECLASSIFY 1.8± ACRES OF LAND FROM **NCD SA** TO **NCD ND. Z-2021-03**; PROPERTY LOCATED AT **520 CAMPBELL BOULEVARD (PORTION)**. CIMINELLI REAL ESTATE CORPORATION, PETITIONER.

REVIEW:

Do you agree with all statements made? N/A.

If you do not, briefly state why: _____.

General comments relative to your agency interests: None at this time.

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: Stanley Sliwa **Date:** 3/9/21

EK/ac
X:\Current_Planning\Files\Rezonings\2021\Z-2021-03_(520_Campbell_Blvd)_2021\Z-2021-03_Transmittal_022521.doc
cc: Scott Marshall, Principal Planner
Sean Hopkins, Esq., Hopkins Sorgi & McCarthy PLLC, 5500 Main St. Suite 343, Williamsville, NY 14221
Ken Zollitsch, GPI Engineering, 4950 Genesee St. Suite 100, Buffalo, NY 14225
Adam Faeth, Ciminelli Real Estate Corporation, 50 Fountain Plaza Suite 500, Buffalo, NY 14202

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Amherst

2005.008A

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

RECEIVED
MAR 08 2021
TOWN OF AMHERST
PLANNING DEPT

MEMORANDUM

March 1, 2021

TO: Kathy Cooper, Deputy Town Clerk
Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
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Williamsville School District
NYSDEC

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director

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REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: _____

General comments relative to your agency interests: _____

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: _____ **Date:** 3/5/21

EK/ac
X:\Current_Planning\Files\Rezonings\2021\Z-2021-03_(520_Campbell_Blvd)_2021\Z-2021-03_Transmittal_022521.doc

cc: Scott Marshall, Principal Planner
Sean Hopkins, Esq., Hopkins Sorgi & McCarthy PLLC, 5500 Main St. Suite 343, Williamsville, NY 14221
Ken Zollitsch, GPI Engineering, 4950 Genesee St. Suite 100, Buffalo, NY 14225
Adam Faeth, Ciminelli Real Estate Corporation, 50 Fountain Plaza Suite 500, Buffalo, NY 14202

5583 Main Street • Williamsville • New York • 14221 • (716) 631-7051 • Fax (716) 631-7153

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Amherst

Town of Amherst Planning Department *Erie County, New York*

RECEIVED
MAR 08 2021
TOWN OF AMHERST
PLANNING DEPT.

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

MEMORANDUM March 1, 2021

TO: Kathy Cooper, Deputy Town Clerk
Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
Brian Barnes, Senior GIS Analyst (Eng.) (letter only)
Bryan Parnell, Fire Chiefs' Association (c/o Bldg)
Stan Sliwa, Town Attorney (Local Law Only)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way
Integrated Review Coordinator, ECDEP
Edward Rutkowski, SEQR Review Coordinator, NYSDOT
Williamsville School District
NYSDEC

To: Ellen Kost
From: Dave Marrano
Subj: See Below
Date 3/9/21

cc: C. w/ front

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director

SUBJECT: AMENDMENT #75 TO THE AUDUBON DEVELOPMENT PLAN, REQUEST TO RECLASSIFY 1.8± ACRES OF LAND FROM **NCD SA** TO **NCD ND. Z-2021-03**; PROPERTY LOCATED AT **520 CAMPBELL BOULEVARD (PORTION)**. CIMINELLI REAL ESTATE CORPORATION, PETITIONER.

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: N/A

General comments relative to your agency interests: Since Property will not have Condo Status, Assessors Office has no Issue

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: _____ **Date:** 3/9/21

EK/ac
X:\Current_Planning\Files\Rezonings\2021\Z-2021-03_(520_Campbell_Blvd)_2021\Z-2021-03_Transmittal_022521.doc

cc: Scott Marshall, Principal Planner
Sean Hopkins, Esq., Hopkins Sorgi & McCarthy PLLC, 5500 Main St. Suite 343, Williamsville, NY 14221
Ken Zollitsch, GPI Engineering, 4950 Genesee St. Suite 100, Buffalo, NY 14225
Adam Faeth, Ciminelli Real Estate Corporation, 50 Fountain Plaza Suite 500, Buffalo, NY 14202

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

MEMORANDUM March 1, 2021

TO: Kathy Cooper, Deputy Town Clerk
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Edward Rutkowski, SEQR Review Coordinator, NYSDOT
Williamsville School District
NYSDEC
ECDEP

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director

SUBJECT: AMENDMENT #75 TO THE AUDUBON DEVELOPMENT PLAN, REQUEST TO RECLASSIFY 1.8± ACRES OF LAND FROM **NCD SA** TO **NCD ND. Z-2021-03**; PROPERTY LOCATED AT **520 CAMPBELL BOULEVARD (PORTION)**. CIMINELLI REAL ESTATE CORPORATION, PETITIONER.

REVIEW:

Do you agree with all statements made? Agree with statements made.

If you do not, briefly state why: _____

General comments relative to your agency interests: The dimensional standards as specified in the R-3 zoning district should be placed on the development of the lots, since the site will be within the NCD district having no dimensional standards for the placement of buildings.

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: _____ ZEO **Date:** March 8, 2021

EK/ac
X:\Current_Planning\Files\Rezonings\2021\Z-2021-03_(520_Campbell_Blvd)_2021\Z-2021-03_Transmittal_022521.doc

cc: Scott Marshall, Principal Planner
Sean Hopkins, Esq., Hopkins Sorgi & McCarthy PLLC, 5500 Main St. Suite 343, Williamsville, NY 14221
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Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

RECEIVED
MAR 05 2021
TOWN OF AMHERST
PLANNING DEPT.

MEMORANDUM March 1, 2021

TO: Kathy Cooper, Deputy Town Clerk
Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
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Williamsville School District
NYSDEC

RECEIVED
MAR 03 2021
TOWN OF AMHERST
BUILDING DEPT

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director

SUBJECT: AMENDMENT #75 TO THE AUDUBON DEVELOPMENT PLAN, REQUEST TO RECLASSIFY 1.8± ACRES OF LAND FROM **NCD SA TO NCD ND. Z-2021-03**; PROPERTY LOCATED AT **520 CAMPBELL BOULEVARD (PORTION)**. CIMINELLI REAL ESTATE CORPORATION, PETITIONER.

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: _____

General comments relative to your agency interests: None at this time

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: _____ **Date:** 3-4-21

EK/ac
X:\Current_Planning\Files\Rezonings\2021\Z-2021-03_(520_Campbell_Blvd)_2021\Z-2021-03_Transmittal_022521.doc

cc: Scott Marshall, Principal Planner
Sean Hopkins, Esq., Hopkins Sorgi & McCarthy PLLC, 5500 Main St. Suite 343, Williamsville, NY 14221
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Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

RECEIVED
MAR 05 2021
TOWN OF AMHERST
PLANNING DEPT.

MEMORANDUM March 1, 2021

TO: Kathy Cooper, Deputy Town Clerk
Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
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Edward Rutkowski, SEQR Review Coordinator, NYSDOT
Williamsville School District
NYSDEC

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director

SUBJECT: AMENDMENT #75 TO THE AUDUBON DEVELOPMENT PLAN, REQUEST TO RECLASSIFY 1.8± ACRES OF LAND FROM **NCD SA** TO **NCD ND. Z-2021-03**; PROPERTY LOCATED AT **520 CAMPBELL BOULEVARD (PORTION)**. CIMINELLI REAL ESTATE CORPORATION, PETITIONER.

REVIEW:

Do you agree with all statements made? YES.

If you do not, briefly state why: _____

General comments relative to your agency interests: NONE

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: _____ **Date:** 3/4/21

EK/ac
X:\Current_Planning\Files\Rezonings\2021\Z-2021-03_(520_Campbell_Blvd)_2021\Z-2021-03_Transmittal_022521.doc

cc: Scott Marshall, Principal Planner
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Adam Faeth, Ciminelli Real Estate Corporation, 50 Fountain Plaza Suite 500, Buffalo, NY 14202

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Fadel, Bryan

From: Jillian Ponterio <jponterio529@aol.com>
Sent: Wednesday, May 19, 2021 6:33 PM
To: Carrato, Amy
Cc: Kost, Ellen
Subject: Muir Woods Rezoning Application

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

To whom this concerns:

I previously submitted a petition (https://www.change.org/p/town-of-amherst-planning-department-protest-against-rezoning-development-of-520-campbell-blvd?recruiter=1092007073&utm_source=share_petition&utm_medium=sms&utm_campaign=psf_combo_share_abi&utm_term=tap_basic_share&recruited_by_id=96e760c0-9b01-11ea-90f4-d19befdbcd0c) on behalf of the residents of Muir Woods in opposition to Petitioner Ciminelli Real Estate's request to reclassify 1.8 acres of land located at 520 Campbell Blvd. in the Muir Woods subdivision. The primary factors weighing against reclassification are dangerous traffic burdens on the neighborhood, reduced green space, and the inability of Petitioner Ciminelli to demonstrate undue hardship. The safety and welfare of residents must be balanced against the economic interests of the Petitioner. The Board should be guided by the following factors when considering the request to reclassify:

(1) will the petitioner suffer significant economic injury if the petition is denied;
(2) does the proposal present a substantial change in the character of the neighborhood; and
(3) whether the "difficulty" alleged by petitioner is self-created.

(Matter of Nicefor v ***Zoning*** *Bd. of Appeals,* 147 AD2d 483; *Human Dev. Servs. v* ***Zoning*** *Bd. of Appeals,* 110 AD2d 135, 139-140, *affd* 67 NY2d 702) (*Lim-Kim v Zoning Bd. of Appeals,* 185 AD2d 346, 347 [2d Dept 1992])

In the matter at hand, upon information and belief, the subdivision plan was approved by the Board with the existing zoning in place and two of the three phases of the subdivision have been completed pursuant to such zoning. The project is substantially completed subject to the existing zoning ordinance and Petitioner cannot claim that denial o the current petition would result in "undue hardship." See In *Matter of Otto v Steinhilber* (282 **NY** 71, 76), which sets forth the classic "unnecessary hardship" test governing grant of use variances

While the proposed homes are situated in an area of similar residences, they change the essential character of the neighborhood by reducing green space, a priority for NCD zoning, and increasing traffic which will exacerbate an already dangerous traffic situation at the corner of Campbell Blvd. and Sierra Drive. The existing traffic burden on Campbell Blvd. and the surrounding neighborhood posed by Muir Woods will be further aggravated with eight additiona homes. The aesthetic integrity of the neighborhood and its green space will be compromised.

I request that the Board deny Petitioner's request for a zoning reclassification. In the alternative, I request that the Board reserve decision and commission a traffic study to determine the impact of a variance and how to best mitigate dangerous conditions, for example, by installation of a traffic light.

Thank you for your consideration. Respectfully submitted,
Jillian M. Ponterio

Jillian M. Ponterio, Esq.
LIPSITZ, PONTERIO & COMERFORD, LLC
424 Main Street | Suite 1500 | Buffalo, NY 14202
Tel. (716) 849-0701 | Ext. 228 | Fax: (716) 849-0708 | Rochester: (585) 286-9787 | Toll Free: (866) 238-1452 |
Website: www.lipsitzponterio.com<http://www.lipsitzponterio.com/>

The information transmitted is intended only for the person or entity to which it is addressed and may contain

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer.

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 23439 **RESOLUTION 2021-571** **ADOPTED**

Approve ALiWAY Creative Agency Contract for Mural at Glen Park - CRS #2731

Kindly adopt a resolution authorizing the Supervisor to execute the attached agreement relative to Noll Pavilion in Glen Park, which is jointly owned by the Town of Amherst and Village of Williamsville for a Mural Design & Execution Project.

7/12/2021
Consent

FINANCIAL IMPACT:

N/A - $3,310.00 plus additional rendering fees to be paid by the Village of Williamsville out of the Glen Park Fund

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala



NOLL NATURE BUILDING MURAL

CONTRACT

Designer
ALiWAY
aliway.creativeagency@gmail.com
716-573-6109

Clients
Village of Williamsville
Town of Amherst

Number: 0010
Project: Mural Design & Execution
Rate: $15/sqft

Date Project Began: 04/04/21
Date of Contract: 05/16/21
Sqft: 214

Project Description

Designer agrees to paint 1 exterior mural at The Noll Pavilion paid for by The Village of Williamsville and the Town of Amherst for the price of $3,310.00 from the Glen Park account. Design process includes two initial designs to start, two rounds of revisions, and application of the final design. Additional revisions are an added fee at the Designers rate of $100 per revision. Mural installation will take approximately 24 -31 days (project timeline below).

Payment Terms

(i) 50% deposit of $1,655.00 due upon execution of Contract.

(ii) Final installment of $1,655.00 due upon completion of the mural (10% added fee if payment isn't received within 30 days of mural installation).

(iii) Designer shall be entitled to receive reimbursement for any overages or additional expenses only with prior written approval of The Village of Williamsville and Town of Amherst.

Project Timeline

5-24-21 or ASAP	Deposit and Contract Due
NA	First Round of Designs Due
5-17-21 — 5-24-21	Revisions
6-01-21* or ASAP	Mural Application
7-01-21 or Upon completion	Final Payment Due

*weather permitting

Attachment: 062321 ALiWAY Contract - Mural at Glen Park (RES-2021-571 : Approve ALiWAY Creative Agency Contract for Mural at Glen Park -

Usage

Notwithstanding the assignment of any advertising/promotion rights to the Clients, the Designer shall retain all copyrights of the artwork, including all reproduction, display, distribution, and derivative works rights. Clients shall not use digital files in any capacity. Designer is entitled to use any unselected designs for other projects. Designer is entitled to sign the mural in a discreet area of the wall. Designer is entitled to identify as the creators of the artwork and share on their portfolio, including website and on social media platforms. Clients shall not alter, modify, edit, or change the artwork without Designer's prior written consent. No work may be reproduced by Clients without the prior written approval of Designer.

Artist Alteration

Colors may appear differently in paint than on screen renderings. Designer is not responsible for such differences. Designs may be altered based on the following factors: wall texture, signage or electrical outlets on the wall, etc. Changes, if necessary, will be made by the Designers' expertise. All paint, fabric, wood, and other materials are subject to change based on market availability and designers are not responsible for differences based on those factors. Differences in on screen render to final mural may be up to 25% different as an approximation.

Maintenance

Clients shall notify the Designer promptly in the event of the need for any maintenance or restoration services so that the Designer may have a reasonable opportunity to perform such work themselves or to supervise or consult in its performance. Designer shall be compensated at $100/hour by the Clients through the Glen Park account, for future maintenance and/or restoration services rendered with prior written authorization. In absence of any need for restoration or maintenance, the work shall remain free of alteration by the Clients, who shall take reasonable precautions to protect it against damage or destruction by external forces. If the Clients choose to remove or cover the mural from the wall, Designer is not responsible for removal, movement, and/or disposal of the mural. Designer is not liable for any injury or damage resulting from moving, or tampering with the mural.

Delay

If the execution of the work is delayed by an act or neglect of the Clients, by labor disputes, fire, unusual transportation delays, or by other external forces or natural calamities outside of Designers' control, the Designer shall be entitled to extend the completion date via verbal, or written notification to the Clients, by the time equivalent to the period of such delay. Project timeline may be changed with written consent between both parties and a new timeline must be created before any additional work is continued on the project. If the Clients fail to comply with the agreed upon timeline, the project will be pushed back based on the Designer's schedule and Designer has the option to terminate the project.

Additional Compensation

Any additional artwork done by the Designer shall be negotiated and compensated separately from this Agreement. If the Clients wish to use artwork in any other capacity, excluding the mural, usage must be negotiated separate from this agreement and other fees may incur.

Attachment: 062321 ALiWAY Contract - Mural at Glen Park (RES-2021-571 : Approve ALiWAY Creative Agency Contract for Mural at Glen Park -

Termination

Either party may terminate this Agreement on three (3) days written notice via e-mail to the other party in the event that such other party is in breach of any provision of this Agreement, provided that, during the three day period, the party in breach fails to cure such breach.

Waivers

No waiver of any term or provision of this Agreement will be valid unless such waiver is in writing signed by the party against whom enforcement of the waiver is sought. The waiver of any term or provision of this Agreement will not apply to any subsequent breach of this Agreement.

Governing Document

This Agreement constitutes the entire agreement and understanding of Designer and Clients with respect to the terms and conditions of the project and supersedes all prior and contemporaneous written or verbal agreements and understandings between Designer and Clients relating to such subject matter. This Agreement may only be amended by written instrument signed by Designer and Clients.

Successors and Assigns

The provisions of this Agreement will inure to the benefit of, and will be binding upon the Clients and their successors and assigns.

Counterparts

This Agreement may be executed in more than one counterpart, each of which will be deemed an original, but all of which together will constitute but one and the same instrument. An electronic signature, electronic copy thereof, or a photocopy of this Agreement shall have the same force and effect as the original.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on _____.

DESIGNER	CLIENTS	
_____	_____	_____
Name	Village of Williamsville	Town of Amherst
_____	_____	_____
(Signature)	(Signature)	(Signature)
Title: _____	Title: _____	Title: _____

Attachment: 062321 ALiWAY Contract - Mural at Glen Park (RES-2021-571 : Approve ALiWAY Creative Agency Contract for Mural at Glen Park -

Village of Williamsville

716-632-4120
FAX: 716-632-6009
www.walkablewilliamsville.com

5565 Main Street
Williamsville, New York 14221

June 3, 2021

Mr. Brian Kulpa, Town Supervisor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Brian –

Enclosed please find three (3) copies of a contract to ALiWAY Creative Agency (Alessandra Price) for a Mural at Glen Park. I have had Village Attorney, Chip Grieco and Town Attorney, Stanley Sliwa both approve this contract.

The Village will be approving the contract at the June 14, 2021 Village Board meeting. If you can sign all 3 copies and return them to me, I will get the additional signatures that are needed. Once they are complete, I will forward a fully executed contract to the Town.

Because Glen Park is jointly owned by the Town of Amherst and the Village of Williamsville, both municipalities need to sign off.

If you have any questions, please let me know.

Sincerely,

VILLAGE OF WILLIAMSVILLE

Judith A. Kindron
Administrator/Clerk-Treasurer

Ends.

Attachment: 060321 ltr from village ALiWAY contract between town (RES-2021-571 : Approve ALiWAY Creative Agency Contract for Mural at

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Councilmembers
Initiated by: **Michael Szukala**
Co-Sponsored by:

DOC ID: 23433 **RESOLUTION 2021-572** **ADOPTED**

Schoelles Road – Establish a No-Passing Zone Between Hopkins Road and Campbell Blvd.

WHEREAS Schoelles Road between Hopkins Road and Campbell Blvd (Rt 270) is a Town Road and was recently paved by the Town's Highway Department; and

WHEREAS prior to the new paving work, this roadway was formally striped as a two-direction passing zone consisting of a broken yellow line where crossing the center line markings with care was permitted for traffic traveling in either direction; and

WHEREAS a resident of Schoelles Road submitted a request to the Highway Superintendent to install a solid double yellow line instead of the passing zone markings to "deter people from passing slower vehicles" in an effort to slow overall speeds; and

WHEREAS the Amherst Traffic Safety Board and the Highway Superintendent both agree that Schoelles Road be changed to a solid double yellow line; and

THEREFORE BE IT RESOLVED that it is hereby ordered that the pavement striping on Schoelles Road between Campbell Boulevard (Rt 270) and Hopkins Road be marked as a two-direction no-passing zone consisting of two normal solid yellow lines where crossing the center line markings for passing is prohibited for traffic traveling in either direction; and

THEREFORE BE IT FURTHER RESOLVED that the Town's Highway Department install or administer the installation of the pavement markings in accordance to the Manual of Uniform Traffic Control Devices.

7/12/2021
Consent

FINANCIAL IMPACT:

$9,222

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Michael Szukala, Councilmember
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 23467 **RESOLUTION 2021-573** **ADOPTED**

Contract for Court Reporting Services with Jack W. Hunt and Associates, LLC (CRS #2742)

AGENDA ITEM : JULY 12TH, 2021

TO: **Town Board**

FROM: **Stanley J. Sliwa, Esq., Town Attorney**

DATE: **July 7, 2021**

RE: **Contract For Court Reporting Services**
Jack W. Hunt and Associates, LLC (CRS# 2742)
7.1.2021-6.30.2024

Kindly pass a resolution authorizing the Supervisor to execute the attached contract with Jack W. Hunt and Associates, LLC, for court reporting services for a term of three years, commencing July 1st, 2021 and extending through and including June 30th, 2024 at the rates set in the response to the issued RFP pending successful completion of the CRS.

Thank you.

SJS:nmb:hs
Attachments
c: Kathy Cooper, Deputy Town Clerk
(*w/attachments,* **Agenda Item - July 12th, 2021**)

7/12/2021
Consent

FINANCIAL IMPACT:

To be paid for from account A1420.4090 at the rates established in the RFP response, attached here as Exhibit "A."

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

jack w. hunt and associates, inc.
court reporting specialists

JACK W. HUNT *(1923 - 1998)*

424 Main Street – Suite 1120
Buffalo, New York 14202
(716) 853-5600 Fax: (716) 855-1028
The Record Never Forgets

KEVIN R. HUNT, *President*
TIMOTHY M. HUNT, *Vice-President*
Legal-Video Specialist

6/25/2021

In Re: Response to RFP For Court Reporting Services, Return Date 3/5/21

CONTRACT FOR COURT REPORTING SERVICES

This is a service contract between the Town of Amherst and Jack W. Hunt and Associates, Inc. the provisions of which are set out in Exhibit A, entitled 2021_Town_of_Amherst.docx, which is dated 3/2/2021, which was in response to the above RFP.

The rates as set forth in Exhibit 1 on page 7, entitled Fee Proposal, will be in effect for three years from the signing of this document, estimated to be 7/1/2021 to 6/30/2024.

Digitally signed by CATalyst_CVNet
DN: cn=CATalyst_CVNet
Date: 2021.06.25 10:42:54 -04'00'

Kevin R. Hunt, President
Jack W. Hunt and Associates, Inc.
Date: 6/24/2021

Print Name:_____
Town of Amherst
Date: _____

Attachment: JWH_Town_Of_Amherst_Court_Reporting_Services_Signed (RES-2021-573 : Contract for Court Reporting Services with Jack W.

EXHIBIT
A
exhibitsticker.com

jack w. hunt and associates, inc.
court reporting specialists

424 Main Street – Suite 1120
Buffalo, New York 14202
(716) 853-5600 Fax: (716) 855-1028
The Record Never Forgets

JACK W. HUNT *(1923 - 1998)*

KEVIN R. HUNT, *President*
TIMOTHY M. HUNT, *Vice-President*
Legal-Video Specialist

March 2, 2021

Stanley J. Sliwa, Esq.
Office of the Town Attorney
Town of Amherst Municipal Building
5583 Main Street
Williamsville, New York 14221

Mr. Sliwa:

What a remarkable year it has been for all of us. Dealing with a pandemic has not been an easy undertaking, but here we are.

We appreciate the opportunity to bid on stenographic services for the Town of Amherst. After going through the RFP, we feel highly confident that we are the most qualified applicant, with the ability to provide all the services you require – and more if you desire.

Our attached response to your RFP shares all the details, but if you need any refinements and/or additional information as you consider your options, please let us know. We'd also be happy to connect you with a few of our customers, including the ones referenced in the attached RFP if you'd like another perspective.

As a lifelong resident of the Town of Amherst and now heading a firm dedicated to serving the local bar since the late 1950s, we are excited to share our passion and commitment to a quality record with the Town of Amherst and look forward to the opportunity to work as your partner and achieve success together.

Thank you for your time and consideration,

Kevin R. Hunt
President
Jack W. Hunt & Associates, Inc.

Attachment: Exhibit_A_2021_Town_of_Amherst (RES-2021-573 : Contract for Court Reporting Services with Jack W. Hunt and Associates, L

Description of Firm

(Firm's organizational structure. (Corporation, Partnership, LLC)

Established in 1958, the firm of Jack W. Hunt and Associates, Inc. is a Corporation organized under the laws of the State of New York and the United States. Our Federal ID is 16-1058272.

Attachment: Exhibit_A_2021_Town_of_Amherst (RES-2021-573 : Contract for Court Reporting Services with Jack W. Hunt and Associates, LLC

Authorized Representatives

The following are considered authorized representatives to represent Jack W. Hunt and Associates, Inc. with respect to all discussions or communications relating to this RFP.

Kevin R. Hunt, President
krhunt@jwhcorp.com
Tel: (716) 853-5600 – Ext 400
Cell: (716) 228-4147

Timothy M. Hunt, Vice President
timhunt@jwhcorp.com
Tel: (716) 853-5600 – Ext 401
Cell: (716) 440-7108

Aimee L. Messing, Office Manager
amessing@jwhcorp.com
Tel: (716) 853-5600 – Ext 406

Office Fax: (716) 855-1028

Attachment: Exhibit_A_2021_Town_of_Amherst (RES-2021-573 : Contract for Court Reporting Services with Jack W. Hunt and Associates, LLC

Experience

Founded in 1958 by the firm's namesake, we have been in business for over 60 years and during that time have always advocated for the perfect record of testimony given in depositions / hearings / arbitrations.

Currently the sons of the founder, Kevin R. Hunt and Timothy M. Hunt, are running the business with the same drive toward quality and advancement that their father championed.

We provided the bulk of the reporting services for the Love Canal litigation as well as the local asbestos litigation. We also provided back office support for the Dome Stadium Trial.

Our experience both locally and nationally is vast and far-reaching. A resume of our areas of expertise and services provided is available upon request.

Listed below is some of our experience in working for public agency clients.

Niagara Frontier Transportation Authority (NFTA). Providing verbatim court reporting and video services while producing quality transcripts with a quick turnaround. On occasion, we have been requested for trial presentation support, which we seamlessly provided.

United States District Court , Western District of New York. Provided court reporting services and transcripts of proceedings (including realtime reporting) including attending and recording verbatim court proceedings and promptly producing transcripts of court proceedings when requested by a judge or by any participating party.

New York State Office of the State Comptroller, New York State and Local Retirement System (OSC). Attend hearings and produce verbatim transcripts.

New York State Public Employment Relations Board. Attend hearings and provide verbatim transcripts.

Attachment: Exhibit_A_2021_Town_of_Amherst (RES-2021-573 : Contract for Court Reporting Services with Jack W. Hunt and Associates, LLC

Relevant Experience and Work History

Below are the relevant experience and lengths of tenure of all 17 reporters that will be performing work under this RFP. All have performed work for public agency clients, including but not limited to the Niagara Frontier Transit Authority (NFTA) and the New York State Retirement Hearings.

All reporters at JWH use state-of-the-art equipment and are trained and qualified to employ current software and technology. They attend periodic in-house continuing education training. Many are National Court Reporting Association (NCRA) members. All are held in high regard as skilled and efficient court reporters.

Reporter	Tenure at JWH (Years)	Years of Reporting
Kevin R. Hunt	44	44
Lori Beck	40	40
Joan Metzger	37	44
Mary Schulze	33	33
Anne Barone	31	31
Lynn Myers	27	27
Debbie Figueroa	25	25
Betsy Black	24	24
Richard Whelan	23	40
Wendy D. Herman	17	17
Nancy Broich	9	38
Kathleen Coon	9	36
Lynne DiMarco	9	12
Andrea Hobbs	4	4
Danielle Fetzer	4	4
Letitia Davies	3	3
Megan Titus	1	1

In addition to our court reporting staff, a large support staff is available to assist in remote depositions, legal reproduction/scanning, administrative functions and customer support assistance. We also provide a website (www.jwhcorp.com) which offers a secure transcript repository with unique single-click transcript retrieval, on-line scheduling, account review, all of which is available 24/7/365.

Attachment: Exhibit_A_2021_Town_of_Amherst (RES-2021-573 : Contract for Court Reporting Services with Jack W. Hunt and Associates, LLC

Current Client References

1.) **Firm:** Niagara Frontier Transportation Authority
Contact: Vicky-Marie J. Brunette
Address: 181 Ellicott Street, Buffalo, NY 14203
Phone Number: (716) 855-7300 Ext. 7254
Date of Service: 2012 to date
Completed Work: Personal Injury Depositions
Contact: Yes

2.) **Firm:** Connors, LLP
Contact: Terrence M. Connors
Address: 1000 Liberty Building, Buffalo, NY 14202
Phone Number: (716) 852-5533
Date of Service: Date of their inception to date
Completed Work: Airplane, Love Canal, Medical, Personal Injury, Product Liability
Contact: Yes

3.) **Firm:** Roach, Brown, McCarthy & Gruber
Contact: J. Mark Gruber
Address: 1920 Liberty Building, Buffalo, NY 14202
Phone Number: (716) 852-0400
Date of Service: 1958 to date (through various iterations of their firm)
Completed Work: Medical, Personal Injury, Product Liability
Contact: Yes

Attachment: Exhibit_A_2021_Town_of_Amherst (RES-2021-573 : Contract for Court Reporting Services with Jack W. Hunt and Associates, LLC

Fee Proposal

Due to the fact that all of our reporters are employees, in order to not run afoul of NYS Department of Labor regulations, reasonable breaks should be provided and proceedings continuing past 6:00 pm will be subject to the below overtime fee.

The below prices are in response to the Scope of Services section of the RFP, along with the email response to JWH's questions, with the assumption that the depositions will be held by ZOOM Meeting, at JWH's office in Buffalo, or at the Town of Amherst Municipal Building in Williamsville.

Item	Description	Rate
1	Original & One (per page) Expedited fees start at 100% surcharge for Same Day delivery, reducing by 10% for each additional day, ie, 90% surcharge for Next Day, 80% for 2nd day, etc.	$4.95
2	Waiting Time (when requested to wait longer than 1 Hour)	$90/hr
3	Cancellation after 4pm the day before confirmed scheduling	$150.00
4	Hyperlinked Exhibits (per linked exhibit, not pages contained within the exhibit)	$1.00
5	Scanning of paper to digital image (Note: If the exhibit is already in digital format when provided to JWH, there is no charge)	.09/image
6	Overtime (when running past 6pm, per hour, two hour minimum	$50
7	Photocopy/Scanning per image 8.5x11 (unstapled)	.09
8	Photocopy per image 11x17 (unstapled)	.25

Attachment: Exhibit_A_2021_Town_of_Amherst (RES-2021-573 : Contract for Court Reporting Services with Jack W. Hunt and Associates, LLC

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Town Attorney
Initiated by: **Nicole M. Burroughs**
Co-Sponsored by:

DOC ID: 23469 **RESOLUTION 2021-574** **ADOPTED**

License Agreement : 9 Avalon Meadows Lane (Banerjee/Mukherjee) CRS #2743

AGENDA ITEM : JULY 12TH, 2021

TO: **Town Board**

FROM: **Nicole M. Burroughs, NYSCP, Senior Paralegal**

DATE: **July 7, 2021**

RE: **Request for License Agreement (CRS #2743)**
Installation of Fence
Property Located At:
9 Avalon Meadows Lane, East Amherst, New York 14051

Kindly adopt a resolution authorizing the Supervisor to execute the attached License Agreement pending successful completion of the CRS.

The owners of the above-referenced property are seeking permission to install a fence that would encroach into an existing Town-owned easement, the details and stipulations of which are more fully described in the License Agreement.

This request was reviewed and approved by the Engineering Department.

Thank you for your consideration.

NMB:hs
Attachment
c: Kathy Cooper, Deputy Town Clerk
(w/attachment, **Agenda Item: July 12th, 2021**)
Jeffrey S. Burroughs, PE, Town Engineer *(w/attachment)*

7/12/2021
Consent

FINANCIAL IMPACT:

$150.00 - Fee For License Agreement

$80.00 - ECCO Filing Fee

Both fees paid to the Town in one check by homeowners - $230.00 (A5010.02724)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Return to: Town of Amherst
Attorney's Office
5583 Main Street
Williamsville, New York 14221

TOWN OF AMHERST
LICENSE AGREEMENT

THIS AGREEMENT, made as of this _____ day of July, 2021, between the Town of Amherst, a municipal corporation existing under and by virtue of the laws of the State of New York, having its principal office at 5583 Main Street, Williamsville, New York 14221, Party of the First Part hereinafter referred to as the "Town" and

Anupam Banerjee and Sayanti Mukherjee
9 Avalon Meadows Lane
East Amherst, New York 14051
SBL: 42.10-8-27

Parties of the Second Part hereinafter referred to as the "Owners."

WITNESSETH:

WHEREAS, the Owners are presently the owners of following described premises:

All of that tract or parcel of land situate in the Town of Amherst, County of Erie, and State of New York, being part of Lot No. 45, Township 12, Range 7 of the Holland Land Company's Survey and according to a map filed in the Erie County Clerk's Office under Map Cover No. 3576 is known as Subdivision Lot No. 14.

It is more commonly known as:

9 Avalon Meadows Lane
East Amherst, New York 14051
SBL: 42.10-8-27

WHEREAS, the Town became the holder of a Sanitary Sewer Easement as shown on the Subdivision Map filed in the Erie County Clerk's Office under Cover No. 3576. Said sanitary sewer easement is shown on the survey attached hereto as Exhibit "A;"

Attachment: LicenseAgreement (RES-2021-574 : License Agreement : 9 Avalon Meadows Lane (Banerjee/Mukherjee) CRS #2743)

WHEREAS, the Owners are desirous of utilizing a portion of the aforementioned easement area:

To install a fence that will encroach a maximum of 5 feet into the 30 foot wide sanitary sewer easement;

as shown on a sketch labeled Exhibit "A," attached hereto and made a part hereof. Said fence is to be constructed in accordance with the guidelines above and as more fully detailed on Exhibit "A" attached hereto and made a part hereof.

WHEREAS, the intended use as hereinafter provided does not interfere with the municipal purpose of which said Sanitary Sewer Easement was acquired.

NOW, THEREFORE, in consideration of the premises and the sum of One Dollar ($1.00) paid to the Town, the receipt whereof is hereby acknowledged, and the covenants and promises hereinafter set forth the parties agree as follows:

The Town does hereby grant to the Owners, his/her successors, distributees and assigns a license and/or privilege to install, maintain, and use a portion of the Sanitary Sewer Easement areas as shown on Exhibit "A," subject to the following conditions:

a. There shall not be installed or placed devices, equipment or structures within the said easement area without prior approval of the Town;

b. The use of said license in the Sanitary Sewer Easement area shall not interfere or restrict the operation, maintenance, repair and/or reconstruction of the Sanitary Sewer Facilities;

c. If it becomes necessary to remove said encroachment(s) for the purpose of repair and/or reconstruction of the Sanitary Sewer facilities, the cost of the removal and reinstallation of said improvements shall be at the expense of the Owners, his/her successors, distributees and assigns.

d. If at any time the Sanitary Sewer facilities are exposed, unearthed or damaged, the Town shall be promptly notified and allowed inspection of the easement areas.

e. Owners acknowledge and accept all consequences, including, but not limited to, damage to any and all structures/fixtures/assemblies that encroach into the easement area as a result of a high water event.

Attachment: LicenseAgreement (RES-2021-574 : License Agreement : 9 Avalon Meadows Lane (Banerjee/Mukherjee) CRS #2743)

The Owners shall defend, indemnify and hold harmless the Town from any and all claims or causes of action arising out of the use and exercise of this agreement.

This Agreement shall commence on the ___ day of July, 2021 and shall terminate one (1) year thereafter.

This Agreement, however, shall automatically extend for one (1) year periods unless the same is cancelled as herein provided.

Either party may cancel this Agreement by giving sixty (60) days written notice to the other of such cancellation and during said sixty (60) days cancellation shall remove said fence and shall restore the area to the same condition that existed prior.

This Agreement shall ensure to the benefit of the parties, hereto, their successors, distributees, and assigns.

IN WITNESS WHEREOF, the parties to this Agreement have executed the same, the day and year first above written.

TOWN OF AMHERST

_____
Brian J. Kulpa
Supervisor

PROPERTY OWNER

_____
Anupam Banerjee

PROPERTY OWNER

_____
Sayanti Mukherjee

Attachment: LicenseAgreement (RES-2021-574 : License Agreement : 9 Avalon Meadows Lane (Banerjee/Mukherjee) CRS #2743)

STATE OF NEW YORK }
ERIE COUNTY }SS:

On the _____day of _____ in the year 2021 before me, the undersigned, personally appeared**, Brian J. Kulpa,** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to within the instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

STATE OF NEW YORK }
ERIE COUNTY }SS:

On the _____day of _____ in the year 2021 before me, the undersigned, personally appeared, **Anupam Banerjee** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to within the instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

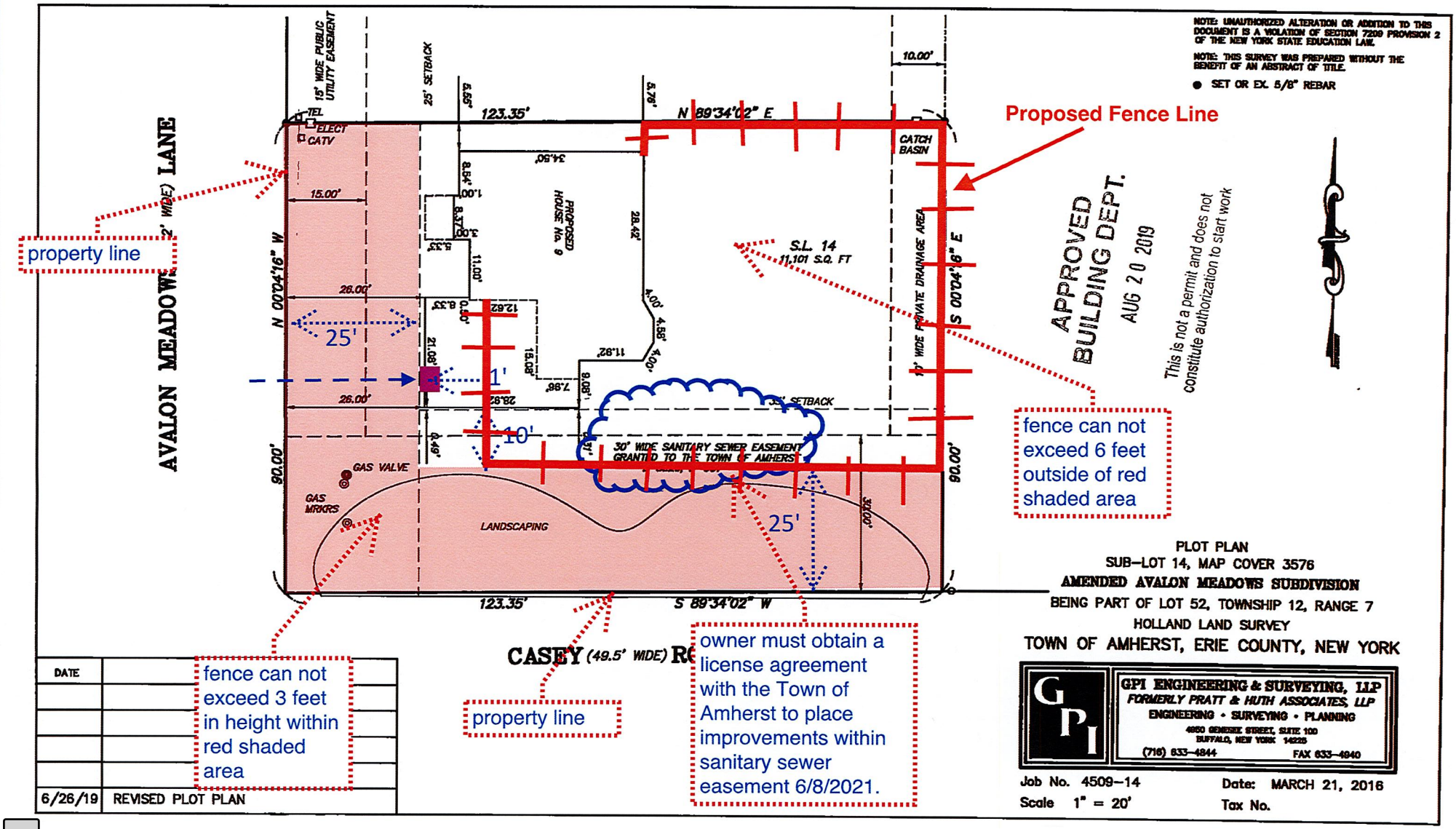
_____
Notary Public

STATE OF NEW YORK }
ERIE COUNTY }SS:

On the _____day of _____ in the year 2021 before me, the undersigned, personally appeared, **Sayanti Mukherjee** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to within the instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

Attachment: LicenseAgreement (RES-2021-574 : License Agreement : 9 Avalon Meadows Lane (Banerjee/Mukherjee) CRS #2743)



Attachment: ExhibitA.9AvalonMeadowsLane-06232021111102 (RES-2021-574 : License Agreement : 9 Avalon Meadows Lane

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 23473 **RESOLUTION 2021-575** **ADOPTED**

Authorization to Pay Outside Counsel from Trust and Agency Account - Jurek Post Purchase

AGENDA ITEM : JULY 12TH, 2021

TO: **Town Board**

FROM: **Stanley J. Sliwa, Esq., Town Attorney**

DATE: **July 7, 2021**

RE: **Authorization To Pay Outside Counsel Invoice From Trust and Agency Account For Services Related To Jurek Post Purchase**

Kindly adopt a resolution authorizing the Comptroller and/or Finance Director to issue payment to Bengart & DeMarco, LLP in the amount of $4,091.50 from the established Trust and Agency Account (T2107.4001) for legal services performed relative to the purchase of the Jurek Post.

Thank you.

SJS:nmb:hs
c: Kathy Cooper, Deputy Town Clerk
(**Agenda Item : July 12th, 2021**)
Daryl C. Bramer, Town Comptroller
Lynda Juul, Director of Finance

7/12/2021
Consent

FINANCIAL IMPACT:

$4,091.50 From T2107.4001

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Town Clerk
Initiated by: **Francina J. Spoth**
Co-Sponsored by:

DOC ID: 23438 **RESOLUTION 2021-576** **ADOPTED**

Granicus, LLC Meeting Management Software for Minute Traq and Media Traq CRS #2581

Please authorize the Supervisor to sign the Annual Service Agreement Renewal with Granicus, LLC for the Meeting Management Software for Minute Traq and Media Traq. This agreement is valid from 4/17/2021-4/16/2022.

7/12/2021
Consent

FINANCIAL IMPACT:

$16,099.13 T 4011 4002

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

GRANICUS

408 Saint Peter Street, Suite 600
Saint Paul, MN 55102
United States

THIS IS NOT AN INVOICE

Order Form
Prepared for
Amherst, NY

Granicus Proposal for Amherst, NY

ORDER DETAILS

Prepared By: System Integration
Phone:
Email: salesforce@granicus.com
Order #: Q-137337
Prepared On: 04/21/2021

ORDER TERMS

Currency: USD
Payment Terms: Net 30 (Payments for subscriptions are due at the beginning of the period of performance.)
Current Subscription End Date: 04/16/2021
Period of Performance: 04/17/2021 - 04/16/2022

Attachment: Granicus Contract 2021 (RES-2021-576 : Granicus, LLC Meeting Management Software for Minute Traq and Media Traq CRS #2581)

GRANICUS

Order Form
Amherst, NY

PRICING SUMMARY

The pricing and terms within this Proposal are specific to the products and volumes contained within this Proposal.

Renewal Subscription Fees

Solution	Billing Frequency	Quantity/Unit	Annual Fee
IQM2 - Civic Streaming	Annual	1 Each	$6,751.25
IQM2 - Agenda & Minutes	Annual	1 Each	$9,347.88
		SUBTOTAL:	**$16,099.13**

Order #: Q-137337
Prepared: 04/21/2021

Attachment: Granicus Contract 2021 (RES-2021-576 : Granicus, LLC Meeting Management Software for Minute Traq and Media Traq CRS #2581)

GRANICUS

Order Form
Amherst, NY

PRODUCT DESCRIPTIONS

Solution	Description
IQM2 - Civic Streaming	Build trust with live and on-demand video of public meetings, when and where it's most convenient for citizens.
IQM2 - Agenda & Minutes	Easily prepare for meetings, approve agenda items, generate documents, create meeting packets and capture minutes.

Attachment: Granicus Contract 2021 (RES-2021-576 : Granicus, LLC Meeting Management Software for Minute Traq and Media Traq CRS #2581)

GRANICUS

Order Form
Amherst, NY

TERMS & CONDITIONS

- Link to Terms: https://granicus.com/pdfs/Master_Subscription_Agreement.pdf
- This quote is exclusive of applicable state, local, and federal taxes, which, if any, will be included in the invoice. It is the responsibility of Amherst, NY to provide applicable exemption certificate(s).
- Granicus certifies that it will not sell, retain, use, or disclose any personal information provided by Client for any purpose other than the specific purpose of performing the services outlined within this Agreement.
- Any lapse in payment may result in suspension of service and will require the payment of a setup fee to reinstate the subscription.
- Notwithstanding anything to the contrary, Granicus reserves the right to adjust pricing at any renewal in which the volume has changed from the prior term without regard to the prior term's per-unit pricing.

Attachment: Granicus Contract 2021 (RES-2021-576 : Granicus, LLC Meeting Management Software for Minute Traq and Media Traq CRS #2581)

GRANICUS

Order Form
Amherst, NY

BILLING INFORMATION

Billing Contact:		**Purchase Order Required?**	[ ] - No [ ] - Yes
Billing Phone:		**PO Number:** *If PO required*	
Billing Email:			

If submitting a Purchase Order, please include the following language:
The pricing, terms, and conditions of quote Q-137337 dated 04/21/2021 are incorporated into this Purchase Order by reference and shall take precedence over any terms and conditions included in this Purchase Order.

AGREEMENT AND ACCEPTANCE

By signing this document, the undersigned certifies they have authority to enter the agreement. The undersigned also understands the services and terms.

Amherst, NY		**Granicus**	
Signature:		**Signature:**	Jessica Yang
Name:		**Name:**	Jessica Yang
Title:		**Title:**	Manager of Business and Contracts
Date:		**Date:**	4/21/2021

Order #: Q-137337
Prepared: 04/21/2021

Attachment: Granicus Contract 2021 (RES-2021-576 : Granicus, LLC Meeting Management Software for Minute Traq and Media Traq CRS #2581)

Attachment: Granicus Contract 2021 (RES-2021-576 : Granicus, LLC Meeting Management Software for Minute Traq and Media Traq CRS #2581)

Consultant Minor Exposure Addendum to Contract

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Consultants or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. ~~To the fullest extent permitted by law, Consultant shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Consultant its officers, agents, sub-Consultants, and/or employees as well as the negligence, active or passive, of the Consultant, its officers, agents, sub-Consultants, and/or employees.~~ Reserved.

Commented [AC1]: Indemnification is addressed in MSA

4. Consultant shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Consultant shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Consultant shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate.

(c) Consultant shall furnish the above insurances, including sub-Consultants' insurances, to the Town and shall also assure that any policy procured by it shall ~~name~~ include the Town as an additional insured on a primary and non-contributory basis.

(d) Consultant shall ensure all its sub-Consultants, if any, have obtained all the above insurances and shall also assure that any policy procured by any sub-Consultant or sub-sub Consultant shall include~~name~~ the Town as an additional insured on aprimary and non-contributory basis.

Revised 12.30.19 SJS

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

6. No Assignment: In accordance with the provisions of Section 109 of the General Municipal Law, the Consultant is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Consultant shall, among other things and as applicable, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Consultant, in accordance with its status as an independent Consultant, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

9. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules, regulations or ordinances for any state other than New York State, to the laws, statutes, rules, regulations

Attachment: Granicus Contract 2021 (RES-2021-576 : Granicus, LLC Meeting Management Software for Minute Traq and Media Traq CRS #2581)

or ordinances for any county other than Erie County, New York or to the laws, statutes, rules, regulations or ordinances for any municipality other than the Town of Amherst, then the laws, statutes, rules, regulations or ordinances for New York State, Erie county and/or the Town of Amherst shall apply as applicable. Any and all legal action necessary to enforce the Agreement will be venued in Supreme Court, Erie County, New York or in the United States District Court for the Western District of New York, Buffalo Division.

10. It is hereby acknowledged that performance of this Contract will be undertaken in accordance with the specifications and pricing on which the bid was submitted.

Authority for execution on behalf of Town: The Supervisor has executed this Agreement pursuant to a Resolution adopted by the Town Board of the Town, at a meeting thereof held on_____. Brian J. Kulpa, the Supervisor, whose signature appears hereafter, is duly authorized and empowered to execute this instrument and enter into such an Agreement on behalf of the Town as a result of that Resolution. This instrument shall be executed in triplicate. At least one (1) copy shall be permanently filed, after execution thereof, in the office of the Town Clerk of Town.

Agreed to and Accepted by:

Granicus, LLC
Print Name of Company

By: Jessi
Signature

Jessica Yang
Printed name

Date: 6/16/2021

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Revised 12.30.19 SJS

Attachment: Granicus Contract 2021 (RES-2021-576 : Granicus, LLC Meeting Management Software for Minute Traq and Media Traq CRS #2581)

GRANICUS

Master Subscription Agreement

This Master Subscription Agreement ("**Agreement)** is made by and between the party procuring Granicus Products and Services ("**Client**") and Granicus, LLC, a Minnesota Limited Liability Company d/b/a Granicus ("**Granicus**"). Client and Granicus may each be referred to herein as "Party" or collectively as "Parties".

By accessing the Granicus Products and Services, Client accepts this Agreement. Due to the rapidly changing nature of digital communications, this Agreement may be updated from time to time at Granicus' sole discretion. Notification to Client will be via email or posting to the Granicus website.

1. **Definitions.** In addition to terms defined elsewhere in this Agreement, the following terms shall have the meaning specified:

   "Agreement Term" means the total time covered by the Initial Term and all Extension Terms for each Order or SOW under this Agreement, further specified in Section 7.1.
   "Extension Term" means any term that increases the length of the Initial Term of this Agreement or an Order Term of an Order or SOW.
   "Granicus Products and Services" means the products and services made available to Client pursuant to this Agreement, which may include Granicus products and services accessible for use by Client on a subscription basis ("Software-as-a-Service" or "SaaS"), Granicus professional services, content from any professional services or other required equipment components or other required hardware, as specified in each Order or SOW.
   "Initial Term" shall have the meaning specified in Exhibit A or Order or SOW between Granicus and Client for the first duration of performance that Client has access to Granicus Products and Services.
   "Order" means a written order, proposal, or purchase document in which Granicus agrees to provide and Client agrees to purchase specific Granicus Products and Services.
   "Order Term" means the then-current duration of performance identified on each Order or SOW, for which Granicus has committed to provide, and Client has committed to pay for, Granicus Products and Services.
   "**Statement of Work"** or **"SOW"** means a written order, proposal, or purchase document that is signed by both Parties and describes the Granicus Products and Services to be provided and/or performed by Granicus. Each Order or SOW shall describe the Parties' performance obligations and any assumptions or contingencies associated with the implementations of the Granicus Products and Services, as specified in each Order or SOW placed hereunder.
   "Support" means the ongoing support and maintenance services performed by Granicus related to the Granicus Products and Services as specified in each Order or SOW placed between the Parties.

2. **Ordering and Scope**
   2.1. **Ordering Granicus Products and Services.** The Parties may execute one or more Order or SOW related to the sale and purchase of Granicus Products and Services. Each Order or SOW will generally include an itemized list of the Granicus Products and Services as well as the Order Term for such Granicus Products and Services. Each Order or SOW must, generally, be signed by the Parties; although, when a validly-issued purchase order by Client accompanies the Order or SOW, then the Order or SOW need not be executed by the Parties. Each Order or SOW shall be governed by this Agreement regardless of any pre-printed legal terms on each Order or SOW, and by this reference is incorporated herein.

Attachment: Granicus Contract 2021 (RES-2021-576 : Granicus, LLC Meeting Management Software for Minute Traq and Media Traq CRS #2581)

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2.2. Support. Basic support related to standard Granicus Products and Services is included within the fees paid during the Order Term. Granicus may update its Support obligations under this Agreement, so long as the functionality purchased by Client is not materially diminished.

2.3. Future Functionality. Client acknowledges that any purchase hereunder is not contingent on the delivery of any future functionality or features.

2.4. Cooperative Purchasing. To the extent permitted by law and approved by Client, the terms of this Agreement and set forth in one or more Order or SOW may be extended for use by other municipalities, school districts and governmental agencies upon execution of an addendum or other duly signed writing setting forth all of the terms and conditions for such use. The applicable fees for additional municipalities, school districts or governmental agencies will be provided by Granicus to Client and the applicable additional party upon written request.

3. Use of Granicus Products and Services and Proprietary Rights

3.1. Granicus Products and Services. The Granicus Products and Services are purchased by Client as subscriptions during an Order Term specified in each Order or SOW. Additional Granicus Products and Services may be added during an Order Term as described in Section 2.1.

3.2. Permitted Use. Subject to the terms and conditions of this Agreement, Granicus hereby grants during each Order Term, and Client hereby accepts, solely for its internal use, a worldwide, revocable, non-exclusive, non-transferrable right to use the Granicus Products and Services to the extent allowed in the relevant Order or SOW (collectively the "Permitted Use").

3.2.1. Data Sources. Data uploaded into Granicus Products and Services must be brought in from Client sources (interactions with end users and opt-in contact lists). Client cannot upload purchased contact information into Granicus Products and Services without Granicus' written permission and professional services support for list cleansing. Granicus certifies that it will not sell, retain, use, or disclose any personal information provided by Client for any purpose other than the specific purpose of performing the Services outlined within this Agreement.

3.2.2. Passwords. Passwords are not transferable to any third party. Client is responsible for keeping all passwords secure and all use of the Granicus Products and Services accessed through Client's passwords.

3.2.3. Content. Client can only use Granicus Products and Services to share content that is created by and owned by Client and/or content for related organizations provided that it is in support of other organizations but not as a primary communication vehicle for other organizations that do not have a Granicus subscription. Any content deemed inappropriate for a public audience or in support of programs or topics that are unrelated to Client, can be removed or limited by Granicus.

3.2.3.1. Disclaimers. Any text, data, graphics, or any other material displayed or published on Client's website must be free from violation of or infringement of copyright, trademark, service mark, patent, trade secret, statutory, common law or proprietary or intellectual property rights of others. Granicus is not responsible for content migrated by Client or any third party.

3.2.4. Advertising. Granicus Products and Services shall not be used to promote products or services available for sale through Client or any third party unless approved in writing, in advance, by Granicus. Granicus reserves the right to request and review the details of any agreement between Client and a third party that compensates Client for the right to have information included in Content distributed or made available through Granicus Products and Services prior to approving the presence of Advertising within Granicus Products and Services.

3.2.5. Granicus Subscriber Information for Communications Cloud Suite only

3.2.5.1. Data Provided by Client. Data provided by Client and contact information gathered through Client's own web properties or activities will remain the property of Client ("Direct Subscriber"), including any and all personally identifiable information (PII). Granicus will not release the data without the express written permission of Client, unless required by law.

3.2.5.2. Granicus shall not disclose the client's data except to any third parties as necessary to operate the Granicus Products and Services (provided that the client hereby grants to Granicus a perpetual, noncancelable, worldwide, non-exclusive license to utilize any data, on an anonymous or aggregate basis only, that arises from the use of the Granicus Products and Services by the client, whether disclosed on, subsequent to, or prior to the Effective Date, to improve the functionality of the Granicus Products and Services and any other legitimate business purpose including the right to sublicense such data to third parties, subject to all legal restrictions regarding the use and disclosure of such information).

3.2.5.3. Data Obtained through the Granicus Advanced Network

3.2.5.3.1. Granicus offers a SaaS product, known as the Communications Cloud, that offers Direct Subscribers recommendations to subscribe to other Granicus Client's digital communication (the "Advanced Network"). When a Direct Subscriber signs up through one of the recommendations of the Advanced Network, that subscriber is a "Network Subscriber" to the agency it subscribed to through the Advanced Network.

3.2.5.3.2. Access to the Advanced Network is a benefit of the GovDelivery Communications Cloud subscription with Granicus. Network Subscribers are available for use only on the GovDelivery Communications Cloud while Client is under an active GovDelivery Communications Cloud subscription. Network Subscribers will not transfer to Client upon termination of any Granicus Order, SOW or Exhibit. Client shall not use or transfer any of the Network Subscribers after termination of its Order, SOW or Exhibit placed under this Agreement. All information related to Network Subscribers must be destroyed by Client within 15 calendar days of the Order, SOW or Exhibit placed under this Agreement terminating.

3.2.5.3.3. Opt-In. During the last 10 calendar days of Client's Order Term for the terminating Order, SOW or Exhibit placed under this Agreement, Client may send an opt-in email to Network Subscribers that shall include an explanation of Client's relationship with Granicus terminating and that the Network Subscribers may visit Client's website to subscribe to further updates from Client in the future. Any Network Subscriber that does not opt-in will not be transferred with the subscriber list provided to Client upon termination.

3.3. Restrictions. Client shall not:

3.3.1. Misuse any Granicus resources or cause any disruption, including but not limited to, the display of pornography or linking to pornographic material, advertisements, solicitations, or mass mailings to individuals who have not agreed to be contacted;

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3.3.2. Use any process, program, or tool for gaining unauthorized access to the systems, networks, or accounts of other parties, including but not limited to, other Granicus Clients;

3.3.3. Client must not use the Granicus Products and Services in a manner in which system or network resources are unreasonably denied to other Granicus clients;

3.3.4. Client must not use the Services as a door or signpost to another server.

3.3.5. Access or use any portion of Granicus Products and Services, except as expressly allowed by this Agreement or each Order or SOW placed hereunder;

3.3.6. Disassemble, decompile, or otherwise reverse engineer all or any portion of the Granicus Products and Services;

3.3.7. Use the Granicus Products and Services for any unlawful purposes;

3.3.8. Export or allow access to the Granicus Products and Services in violation of U.S. laws or regulations;

3.3.9. Except as expressly permitted in this Agreement, subcontract, disclose, rent, or lease the Granicus Products and Services, or any portion thereof, for third party use; or

3.3.10. Modify, adapt, or use the Granicus Products and Services to develop any software application intended for resale which uses the Granicus Products and Services in whole or in part.

3.4. Client Feedback. Client assigns to Granicus any suggestion, enhancement, request, recommendation, correction or other feedback provided by Client relating to the use of the Granicus Products and Services. Granicus may use such submissions as it deems appropriate in its sole discretion.

3.5. Reservation of Rights. Subject to the limited rights expressly granted hereunder, Granicus and/or its licensors reserve all right, title and interest in the Granicus Products and Services, the documentation and resulting product including all related intellectual property rights. Further, no implied licenses are granted to Client. The Granicus name, the Granicus logo, and the product names associated with the services are trademarks of Granicus or its suppliers, and no right or license is granted to use them.

4. Payment

4.1. Fees. Client agrees to pay all fees, costs and other amounts as specified in each Order or SOW. Annual fees are due upfront according to the billing frequency specified in each Order or SOW. Granicus reserves the right to suspend any Granicus Products and Services should there be a lapse in payment. A lapse in the term of each Order or SOW will require the payment of a setup fee to reinstate the subscription. All fees are exclusive of applicable state, local, and federal taxes, which, if any, will be included in the invoice. It is Client's responsibility to provide applicable exemption certificate(s).

4.2. Disputed Invoiced Amounts. Client shall provide Granicus with detailed written notice of any amount(s) Client reasonably disputes within thirty (30) days of the date of invoice for said amount(s) at issue. Granicus will not exercise its rights under 4.1 above if Client has, in good faith, disputed an invoice and is diligently trying to resolve the dispute. Client's failure to provide Granicus with notice of any disputed invoiced amount(s) shall be deemed to be Client's acceptance of the content of such invoice.

4.3. Price Increases. Any price increases not negotiated in advance shall be provided by Granicus to Client at least thirty (30) days prior to the end of the Order Term. Upon each yearly anniversary during the term of this Agreement (including the Initial Term, all Extended Terms, and all Order Terms), the Granicus Product and Services fees shall increase from the previous term's fees by up to ten (10) percent per year.

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5. Representations, Warranties and Disclaimers

5.1. Representations. Each Party represents that it has validly entered into this Agreement and has the legal power to do so.

5.2. Warranties. Granicus warrants that it takes all precautions that are standard in the industry to increase the likelihood of a successful performance for the Granicus Products and Services; however, the Granicus Products and Services are provided "AS IS" and as available.

5.3. Disclaimers. EXCEPT AS PROVIDED IN SECTION 5.2 ABOVE, EACH PARTY HEREBY DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY NATURE WHATSOEVER WHETHER ORAL AND WRITTEN, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. GRANICUS DOES NOT WARRANT THAT GRANICUS PRODUCTS AND SERVICES WILL MEET CLIENT'S REQUIREMENTS OR THAT THE OPERATION THEREOF WILL BE UNINTERRUPTED OR ERROR FREE.

6. Confidential Information

6.1. Confidential Information. It is expected that one Party (Disclosing Party) may disclose to the other Party (Receiving Party) certain information which may be considered confidential and/or trade secret information ("Confidential Information"). Confidential Information shall include: (i) Granicus' Products and Services, (ii) non-public information if it is clearly and conspicuously marked as "confidential" or with a similar designation at the time of disclosure; (iii) non-public information of the Disclosing Party if it is identified as confidential and/or proprietary before, during, or promptly after presentation or communication and (iv) any information that should be reasonably understood to be confidential or proprietary to the Receiving Party, given the nature of the information and the context in which disclosed.

Subject to applicable law, each Receiving Party agrees to receive and hold any Confidential Information in strict confidence. Without limiting the scope of the foregoing, each Receiving Party also agrees: (a) to protect and safeguard the Confidential Information against unauthorized use, publication or disclosure; (b) not to reveal, report, publish, disclose, transfer, copy or otherwise use any Confidential Information except as specifically authorized by the Disclosing Party; (c) not to use any Confidential Information for any purpose other than as stated above; (d) to restrict access to Confidential Information to those of its advisors, officers, directors, employees, agents, consultants, contractors and lobbyists who have a need to know, who have been advised of the confidential nature thereof, and who are under express written obligations of confidentiality or under obligations of confidentiality imposed by law or rule; and (e) to exercise at least the same standard of care and security to protect the confidentiality of the Confidential Information received by it as it protects its own confidential information.

If a Receiving Party is requested or required in a judicial, administrative, or governmental proceeding to disclose any Confidential Information, it will notify the Disclosing Party as promptly as practicable so that the Disclosing Party may seek an appropriate protective order or waiver for that instance.

6.2. Exceptions. Confidential Information shall not include information which: (i) is or becomes public knowledge through no fault of the Receiving Party; (ii) was in the Receiving Party's possession before receipt from the Disclosing Party; (iii) is rightfully received by the Receiving party from a third party without any duty of confidentiality; (iv) is disclosed by the Disclosing Party without any duty of confidentiality on the third party; (v) is independently developed by the Receiving Party without use or reference to the Disclosing Party's Confidential Information; or (vi) is disclosed with the prior written approval of the Disclosing Party.

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6.3. Storage and Sending. In the event that Granicus Products and Services will be used to store and/or send Confidential Information, Granicus must be notified in writing, in advance of the storage or sending. Should Client provide such notice, Client must ensure that Confidential Information or sensitive information is stored behind a secure interface and that Granicus Products and Services be used only to notify people of updates to the information that can be accessed after authentication against a secure interface managed by Client.

6.4. Return of Confidential Information. Each Receiving Party shall return or destroy the Confidential Information immediately upon written request by the Disclosing Party; provided, however, that each Receiving Party may retain one copy of the Confidential Information in order to comply with applicable laws and the terms of this Agreement. Customer understands and agrees that it may not always be possible to completely remove or delete all personal data from Granicus' databases without some residual data because of backups and for other reasons.

7. Term and Termination

7.1. Agreement Term. The Agreement Term shall begin on the date of the initial Order or SOW and continue through the latest date of the Order Term of each Order or SOW under this Agreement, unless otherwise terminated as provided in this Section 7. Each Order or SOW will specify an Order Term for the Granicus Products and Services provided under the respective Order or SOW. Client's right to access or use the Granicus Products and Services will cease at the end of the Order Term identified within each Order or SOW, unless either extended or earlier terminated as provided in this Section 7. Unless a Party has given written notice to the other Party at least ninety (90) days prior to the end of the then-current Order Term, the Granicus Products and Services will automatically renew at the end of each term for an Extension Term of one (1) year.

7.2. Effect of Termination. If the Parties agree to terminate this Agreement and an Order or SOW is still in effect at the time of termination, then the terms and conditions contained in this Agreement shall continue to govern the outstanding Order or SOW until termination or expiration thereof. If the Agreement is terminated for breach, then unless otherwise agreed to in writing, all outstanding Orders or SOWs shall immediately terminate as of the Agreement termination date. Unless otherwise stated in this Agreement, in no event shall Client be entitled to a refund of any prepaid fees upon termination.

7.3. Termination for Cause. The non-breaching Party may terminate this Agreement upon written notice if the other Party is in material breach of this Agreement and fails to cure such breach within thirty (30) days after the non-breaching Party provides written notice of the breach. A Party may also terminate this Agreement immediately upon notice if the other Party: (a) is liquidated, dissolved, or adjudged to be in a state of bankruptcy or receivership; (b) is insolvent, unable to pay its debts as they become due, makes an assignment for the benefit of creditors or takes advantage of any law for the benefit of debtors; or (c) ceases to conduct business for any reason on an ongoing basis leaving no successor in interest. Granicus may, without liability, immediately suspend or terminate any or all Order or SOW issued hereunder if any Fees owed under this Agreement are past due pursuant to Section 4.1.

7.4. Rights and Obligations After Termination. In the event of expiration or termination of this Agreement, Client shall immediately pay to Granicus all Fees due to Granicus through the date of expiration or termination.

7.5. Survival. All rights granted hereunder shall terminate upon the latter of the termination or expiration date of this Agreement, or each Order or SOW. The provisions of this Agreement with respect to warranties, liability, choice of law and jurisdiction, and confidentiality shall survive termination of this Agreement and continue in full force and effect.

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8. **Limitation of Liability**

8.1. **EXCLUSION OF CONSEQUENTIAL AND RELATED DAMAGES.** UNDER NO CIRCUMSTANCES SHALL GRANICUS BE LIABLE FOR ANY SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, GRANICUS SHALL NOT BE LIABLE FOR: (A) ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF CLIENT DATA; (B) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (C) LOSS OF BUSINESS; (D) DAMAGES ARISING OUT OF ACCESS TO OR INABILITY TO ACCESS THE SERVICES, SOFTWARE, CONTENT, OR RELATED TECHNICAL SUPPORT; OR (E) FOR ANY MATTER BEYOND GRANICUS' REASONABLE CONTROL, EVEN IF GRANICUS HAS BEEN ADVISED OF THE POSSIBILITY OF ANY OF THE FOREGOING LOSSES OR DAMAGES.

8.2. **LIMITATION OF LIABILITY.** EXCEPT FOR CLIENT'S BREACH OF SECTION 3.3, IN NO INSTANCE SHALL EITHER PARTY'S LIABILITY TO THE OTHER PARTY FOR DIRECT DAMAGES UNDER THIS AGREEMENT (WHETHER IN CONTRACT OR TORT OR OTHERWISE) EXCEED THE FEES PAID BY CLIENT FOR THE GRANICUS PRODUCTS AND SERVICES DURING THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE DATE THE DAMAGED PARTY NOTIFIES THE OTHER PARTY IN WRITING OF THE CLAIM FOR DIRECT DAMAGES. GRANICUS SHALL NOT BE RESPONSIBLE FOR ANY LOST PROFITS OR OTHER DAMAGES, INCLUDING DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR ANY OTHER DAMAGES, HOWEVER CAUSED. NEITHER PARTY MAY INSTITUTE AN ACTION IN ANY FORM ARISING OUT OF NOR IN CONNECTION WITH THIS AGREEMENT MORE THAN TWO (2) YEARS AFTER THE CAUSE OF ACTION HAS ARISEN. THE ABOVE LIMITATIONS WILL NOT LIMIT CLIENT'S PAYMENT OBLIGATIONS UNDER SECTION 4 ABOVE.

9. **Indemnification**

9.1. **Indemnification by Granicus.** Granicus will defend Client from and against all losses, liabilities, damages and expenses arising from any claim or suit by a third party unaffiliated with either Party to this Agreement ("Claims") and shall pay all losses, damages, liabilities, settlements, judgments, awards, interest, civil penalties, and reasonable expenses (collectively, "Losses," and including reasonable attorneys' fees and court costs), to the extent arising out of any Claims by any third party that Granicus Products and Services infringe a valid U.S. copyright or U.S. patent issued as of the date of the applicable Order or SOW. In the event of such a Claim, if Granicus determines that an affected Order or SOW is likely, or if the solution is determined in a final, non-appealable judgment by a court of competent jurisdiction, to infringe a valid U.S. copyright or U.S. patent issued as of the date of the applicable Order or SOW, Granicus will, in its discretion: (a) replace the affected Granicus Products and Services; (b) modify the affected Granicus Products and Services to render it non-infringing; or (c) terminate this Agreement or the applicable Order or SOW with respect to the affected solution and refund to Client any prepaid fees for the then-remaining or unexpired portion of the Order or SOW term. Notwithstanding the foregoing, Granicus shall have no obligation to indemnify, defend, or hold Client harmless from any Claim to the extent it is based upon: (i) a modification to any solution by Client (or by anyone under Client's direction or control or using logins or passwords assigned to Client); (ii) a modification made by Granicus pursuant to Client's required instructions or specifications or in reliance on materials or information provided by Client; or (iii) Client's use (or use by anyone under Client's direction or control or using logins or passwords assigned to Client) of any Granicus Products and Services other than in accordance with this Agreement. This section 9.1 sets forth Client's sole and exclusive remedy, and Granicus' entire liability, for any Claim that the Granicus

Products and Services or any other materials provided by Granicus violate or infringe upon the rights of any third party.

9.2. Indemnification by Client. Client shall defend, indemnify, and hold Granicus harmless from and against any Claims, and shall pay all Losses, to the extent arising out of or related to (a) Client's (or that of anyone authorized by Client or using logins or passwords assigned to Client) use or modification of any Granicus Products and Services; (b) any Client content; or (c) Client's violation of applicable law.

9.3. Defense. With regard to any Claim subject to indemnification pursuant to this Section 9: (a) the Party seeking indemnification shall promptly notify the indemnifying Party upon becoming aware of the Claim; (b) the indemnifying Party shall promptly assume sole defense and control of such Claim upon becoming aware thereof; and (c) the indemnified Party shall reasonably cooperate with the indemnifying Party regarding such Claim. Nevertheless, the indemnified Party may reasonably participate in such defense, at its expense, with counsel of its choice, but shall not settle any such Claim without the indemnifying Party's prior written consent. The indemnifying Party shall not settle or compromise any Claim in any manner that imposes any obligations upon the indemnified Party without the prior written consent of the indemnified Party.

10. General

10.1. Relationship of the Parties. Granicus and Client acknowledge that they operate independent of each other. Nothing in this Agreement shall be deemed or construed to create a joint venture, partnership, agency, or employee/employer relationship between the Parties for any purpose, including, but not limited to, taxes or employee benefits. Each Party will be solely responsible for the payment of all taxes and insurance for its employees and business operations.

10.2. Headings. The various section headings of this Agreement are inserted only for convenience of reference and are not intended, nor shall they be construed to modify, define, limit, or expand the intent of the Parties.

10.3. Amendments. This Agreement may not be amended or modified except by a written instrument signed by authorized representatives of both Parties.

10.4. Severability. To the extent permitted by applicable law, the Parties hereby waive any provision of law that would render any clause of this Agreement invalid or otherwise unenforceable in any respect. In the event that a provision of this Agreement is held to be invalid or otherwise unenforceable, such provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by applicable law, and the remaining provisions of this Agreement will continue in full force and effect.

10.5. Assignment. Neither Party may assign, delegate, or otherwise transfer this Agreement or any of its rights or obligations hereunder, either voluntarily or by operation of law, without the prior written consent of the other Party (such consent not to be unreasonably withheld); provided, however, that either Party may assign this Agreement without the other Party's consent in the event of any successor or assign that has acquired all, or substantially all, of the assigning Party's business by means of merger, stock purchase, asset purchase, or otherwise. Any assignment or attempted assignment in violation of this Agreement shall be null and void.

10.6. No Third-Party Beneficiaries. Subject to Section 10.5 this Agreement is binding upon, and insures solely to the benefit of the Parties hereto and their respective permitted successors and assigns; there are no third-party beneficiaries to this Agreement.

10.7. Notice. Other than routine administrative communications, which may be exchanged by the Parties via email or other means, all notices, consents, and approvals hereunder shall be in writing and shall be deemed to have been given upon: (a) personal delivery; (b) the day of receipt, as shown in the applicable carrier's systems, if sent via FedEx, UPS, DHL, or other

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nationally recognized express carrier; (c) the third business day after sending by U.S. Postal Service, First Class, postage prepaid, return receipt requested; or (d) sending by email, with confirmed receipt from the receiving party. Either Party may provide the other with notice of a change in mailing or email address in which case the mailing or email address, as applicable, for that Party will be deemed to have been amended.

10.8. Force Majeure. Any delay in the performance by either Party hereto of its obligations hereunder shall be excused when such delay in performance is due to any cause or event of any nature whatsoever beyond the reasonable control of such Party, including, without limitation, any act of God; any fire, flood, or weather condition; any computer virus, worm, denial of service attack; any earthquake; any act of a public enemy, war, insurrection, riot, explosion or strike; provided, that written notice thereof must be given by such Party to the other Party within twenty (20) days after occurrence of such cause or event.

10.9. Choice of Law and Jurisdiction. This Agreement shall be governed by and interpreted under the laws of the State of Minnesota, without reference to the State's principles of conflicts of law. The Parties expressly consent and submit to the exclusive jurisdiction of the state and federal courts of Ramsey County, Minnesota.

10.10. Entire Agreement. This Agreement, together with all Orders or SOWs referenced herein, sets forth the entire understanding of the Parties with respect to the subject matter of this Agreement, and supersedes any and all prior oral and written understandings, quotations, communications, and agreements. Granicus and Client agree that any and all Orders or SOWs are incorporated herein by this reference. In the event of possible conflict or inconsistency between such documents, the conflict or inconsistency shall be resolved by giving precedence in the following order: (1) the terms of this Agreement; (2) Orders; (3) all other SOWs or other purchase documents; (4) Granicus response to Client's request for RFI, RFP, RFQ; and (5) Client's RFI, RFP, RFQ. If Client issues a purchase order, Granicus hereby rejects any additional or conflicting terms appearing on the purchase order or any other ordering materials submitted by Client. Upon request, Granicus shall reference a purchase order number on its invoices, provided, however, that Client acknowledges that it is Client's responsibility to provide the corresponding purchase order information (including a purchase order number) to Granicus upon the creation of such a purchase order. Client agrees that a failure to provide Granicus with the corresponding purchase order shall not relieve Client of its obligations to provide payment to Granicus pursuant to Section 4.1 above.

10.11. Reference. Notwithstanding any other terms to the contrary contained herein, Client grants Granicus the right to use Client's name and logo in Client lists and marketing materials.

10.12. Injunctive Relief. Granicus is entitled to obtain injunctive relief if Client's use of Granicus Products and Services is in violation of any restrictions set forth in this Agreement.

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IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a provision was added to the State Finance Law (SFL}, Section 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will develop a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). This list is posted on the OGS website.

By submitting a response to this solicitation, or by assuming the responsibility under a Contract/Lease awarded hereunder, Bidder/Contractor/Vendor (or any assignee) certifies that it will not utilize on such Contract/Lease any subcontractor that is identified on the prohibited entities list.

Additionally, Bidder/Contractor/Vendor is advised that any Bidder/ Contractor/Vendor seeking to renew or extend a Contract/Lease (or assume responsibility of a Contract/Lease awarded must certify at the time the Contract/Lease is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract/Lease, should the Town of Amherst (Town) receive information that a person is in violation of the above-referenced certification, the Town will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the Town shall take such action as appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor/Vendor in default.

The Town reserves the right to reject any Contract/Lease or request for assignment for an entity that appears on the prohibited entities list prior to the award of a Contract/Lease, and to pursue a responsibility review with respect to any entity that is awarded a Contract/Lease and appears on the prohibited entities list after Contract/Lease award.

Company Name: Granicus, LLC

Signature: [signature]

Print Name: Jessica Yang

Title: Manager of Business and Contracts

Date: 4/07/2021

HANNA ROSE LARSON
Notary Public
State of Minnesota
My Commission Expires
January 31, 2022

Sworn To Before Me This
7th Day of April 2021

[signature]
Notary Public

Revised 4.2017

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NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF INSURANCE COVERAGE
DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW

PART 1. To be completed by Disability and Paid Family Leave Benefits Carrier or Licensed Insurance Agent of that Carrier

1a. Legal Name & Address of Insured (use street address only)
GRANICUS LLC
408 ST PETER ST, STE 600
SAINT PAUL, MN 55102

Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)*

1b. Business Telephone Number of Insured
(651) 726-7313

1c. Federal Employer Identification Number of Insured or Social Security Number
411941088

2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)
GRANICUS LLC
408 ST. PETER STREET
SUITE 600
ST. PAUL, MN 55102

3a. Name of Insurance Carrier
New York State Insurance Fund (NYSIF)

3b. Policy Number of Entity Listed in Box "1a"
DBL 6885 24 - 9

3c. Policy effective period
06/29/2020 to 06/29/2022

4. Policy provides the following benefits:
- [x] A. Both disability and paid family leave benefits
- [ ] B. Disability benefits only
- [ ] C. Paid family leave benefits only

5. Policy covers:
- [x] A. All of the employer's employees eligible under the NYS Disability and Paid Family Leave Benefits Law
- [ ] B. Only the following class or classes of employer's employees:

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has NYS Disability and/or Paid Family Leave Benefits insurance coverage as described above.

Date Signed 5/20/2021 By _____
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number (866) 697-4332 Name and Title **Melissa Jensen, Director of Disability Insurance Unit**

IMPORTANT: If Box 4A and 5A are checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of that carrier,this certificate is COMPLETE. Mail it directly to the certificate holder.

If Box 4B, 4C or 5B is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the NYS Disability and Paid Family Leave Benefits Law. It must be mailed for completion to the Workers' Compensation Board, DB Plans Acceptance Unit, PO Box 5200, Binghamton, NY 13902-5200

PART 2. To be completed by the NYS Workers' Compensation Board (Only if Box 4C or 5B of Part 1 has been checked)

State of New York
Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability and Paid Family Leave Benefits Law with respect to all of his/her employees.

Date Signed _____ By _____
(Signature of Authorized NYS Workers' Compensation Board Employee)

Telephone Number _____ Name and Title _____

Please Note: *Only insurance carriers licensed to write NYS disability and paid family leave benefits insurance policies and NYS licensed insurance agents of those insurance carriers are authorized to issue Form DB-120.1.* ***Insurance brokers are NOT authorized to issue this form.***

DB-120.1 (10-17)

Certificate Number 644479

Attachment: Granicus Contract 2021 (RES-2021-576 : Granicus, LLC Meeting Management Software for Minute Traq and Media Traq CRS #2581)

Additional Instructions for Form DB-120.1

By signing this form, the insurance carrier identified in box "3" on this form is certifying that it is insuring the business referenced in box "1a" for disability and/or paid family leave benefits under the New York State Disability and Paid Family Leave Benefits Law. The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed as the certificate holder in box "2".

The insurance carrier must notify the above certificate holder and the Worker's Compensation Board within 10 days IF a policy is cancelled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from coverage indicated on this Certificate. (These notices may be sent by regular mail.) Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in Box 3c, whichever is earlier.

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This certificate may be used as evidence of a Disability and/or Paid Family Leave Benefits contract of insurance only while the underlying policy is in effect.

Please Note: Upon the cancellation of the disability and/or paid family leave benefits policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of NYS Disability and/or Paid Family Leave Benefits Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Disability and Paid Family Leave Benefits Law.

DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW

§220. Subd. 8

(a) The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in employment as defined in this article, and not withstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that the payment of disability benefits and after January first, two thousand and twenty-one, the payment of family leave benefits for all employees has been secured as provided by this article. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any disability benefits to any such employee if so employed.

(b) The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in employment as defined in this article and notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that the payment of disability benefits, and after January first, two thousand eighteen, the payment of family leave benefits for all employees has been secured as provided by this article.

Attachment: Granicus Contract 2021 (RES-2021-576 : Granicus, LLC Meeting Management Software for Minute Traq and Media Traq CRS #2581)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (use street address only)	1b. Business Telephone Number of Insured
GRANICUS, LLC 1999 BROADWAY STE 3600 DENVER, CO 80202-5740	1c. NYS Unemployment Insurance Employer Registration Number of Insured 49-695072
Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)*	1d. Federal Employer Identification Number of Insured or Social Security Number 41-1941088
2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) TOWN OF AMHERST, NY 5583 MAIN STREET WILLIAMSVILLE, NY 14221	3a. Name of Insurance Carrier THE CONTINENTAL INSURANCE COMPANY 3b. Policy Number of Entity Listed in Box "1a" WC643664067 3c. Policy effective period 10/20/2020 to 10/20/2021 3d. The Proprietor, Partners or Executive Officers are ☐ included. (Only check box if all partners/officers included) ☒ all excluded or certain partners/officers excluded.

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. **(To use this form, New York (NY) must be listed under Item 3A on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

The insurance carrier must notify the above certificate holder and the Workers' Compensation Board within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) **Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichever is earlier.**

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This certificate may be used as evidence of a Workers' Compensation contract of insurance only while the underlying policy is in effect.

Please Note: Upon cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: Desiray Lee
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: Desiray Lee 11/25/2020
(Signature) (Date)

Title: POLICY SUPPORT ASSISTANT

Telephone Number of authorized representative or licensed agent of insurance carrier: 407-804-6121

Please Note: Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are NOT authorized to issue it.

Attachment: Granicus Contract 2021 (RES-2021-576 : Granicus, LLC Meeting Management Software for Minute Traq and Media Traq CRS #2581)

Workers' Compensation Law

Section 57. Restriction on issue of permits and the entering into contracts unless compensation is secured.

1. The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, and notwithstanding any general or special statute requiring or authorizing the issue of such permits shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter. Nothing herein however, shall be construed as creating any liability on the part of such state or municipal department, board commission or office to pay any compensation to any such employee if so employed.

2. The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter.

Attachment: Granicus Contract 2021 (RES-2021-576 : Granicus, LLC Meeting Management Software for Minute Traq and Media Traq CRS #2581)

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 10/20/2021 | 4/8/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Lockton Insurance Brokers, LLC CA License #OF15767 Three Embarcadero Center, Suite 600 San Francisco CA 94111 (415) 568-4000	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS:
INSURED 1418581 Granicus, LLC 408 Saint Peter Street Suite 600 Saint Paul MN 55102	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : National Fire Insurance Co of Hartford — 2047 INSURER B : Continental Casualty Company — 2044 INSURER C : The Continental Insurance Company — 3528 INSURER D : INSURER E : INSURER F :

COVERAGES GRAIN01 **CERTIFICATE NUMBER:** 15978533 **REVISION NUMBER:** XXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY [X] PRO-JECT [X] LOC OTHER:	Y	N	6043664103	10/20/2020	10/20/2021	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 1,000,000 $ 15,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
B	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY X Comp $100 Ded X Coll $1,000 Ded	N	N	6043664084	10/20/2020	10/20/2021	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ XXXXXXX $ XXXXXXX $ XXXXXXX
	UMBRELLA LIAB / OCCUR EXCESS LIAB / CLAIMS-MADE DED / RETENTION $			NOT APPLICABLE			EACH OCCURRENCE AGGREGATE	$ XXXXXXX $ XXXXXXX
C C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N [N] N/A If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	N	6043664067 (AOS) 6043664070 (CA)	10/20/2020 10/20/2020	10/20/2021 10/20/2021	X PER STATUTE / OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
THIS CERTIFICATE SUPERSEDES ALL PREVIOUSLY ISSUED CERTIFICATES FOR THIS HOLDER, APPLICABLE TO THE CARRIERS LISTED AND THE POLICY TERM(S) REFERENCED.
Town of Amherst, its officers, officials, employees, agents and volunteers is/are an Additional Insured with respect to liability arising out of the operations of the insured and to the extent provided by the policy language or endorsement issued or approved by the insurance carrier.

CERTIFICATE HOLDER

15978533
Town of Amherst
Attn: Town Hall
5583 Main Street
Williamsville, NY 14221

CANCELLATION See Attachments

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE Adam D. McDonough

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Attachment: Granicus Contract 2021 (RES-2021-576 : Granicus, LLC Meeting Management Software for Minute Traq and Media Traq CRS #2581)

Technology General Liability Extension Endorsement

It is understood and agreed that this endorsement amends the **COMMERCIAL GENERAL LIABILITY COVERAGE PART** as follows. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement with respect to such provision do not apply.

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4. Broad Knowledge of Occurrence/ Notice of Occurrence
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6. Estates, Legal Representatives and Spouses
7. Expected Or Intended Injury — Exception for Reasonable Force
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Attachment: Granicus Contract 2021 (RES-2021-576 : Granicus, LLC Meeting Management Software for Minute Traq and Media Traq CRS #2581)

Technology General Liability Extension Endorsement

1. ADDITIONAL INSUREDS

a. WHO IS AN INSURED is amended to include as an **Insured** any person or organization described in paragraphs **A.** through **K.** below whom a **Named Insured** is required to add as an additional insured on this **Coverage Part** under a written contract or written agreement, provided such contract or agreement:

(1) is currently in effect or becomes effective during the term of this **Coverage Part;** and

(2) was executed prior to:

(a) the **bodily injury** or **property damage;** or
(b) the offense that caused the **personal and advertising injury,**

for which such additional insured seeks coverage.

b. However, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

(1) a higher limit of insurance than required by such contract or agreement; or

(2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph **A.** through **K.** below.

Any coverage granted by this endorsement shall apply only to the extent permissible by law.

A. Controlling Interest

Any person or organization with a controlling interest in a **Named Insured,** but only with respect to such person or organization's liability for **bodily injury, property damage** or **personal and advertising injury** arising out of:

1. such person or organization's financial control of a **Named Insured;** or
2. premises such person or organization owns, maintains or controls while a **Named Insured** leases or occupies such premises;

provided that the coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

B. Co-owner of Insured Premises

A co-owner of a premises co-owned by a **Named Insured** and covered under this insurance but only with respect to such co-owner's liability for **bodily injury, property damage** or **personal and advertising injury** as co-owner of such premises.

C. Grantor of Franchise

Any person or organization that has granted a franchise to a **Named Insured,** but only with respect to such person or organization's liability for **bodily injury, property damage** or **personal and advertising injury** as grantor of a franchise to the **Named Insured.**

D. Lessor of Equipment

Any person or organization from whom a **Named Insured** leases equipment, but only with respect to liability for **bodily injury, property damage** or **personal and advertising injury** caused, in whole or in part, by the **Named Insured's** maintenance, operation or use of such equipment, provided that the **occurrence** giving rise to such **bodily injury, property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease.

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Attachment: Granicus Contract 2021 (RES-2021-576 : Granicus, LLC Meeting Management Software for Minute Traq and Media Traq CRS #2581)

Technology General Liability Extension Endorsement

A. Lessor of Land

Any person or organization from whom a **Named Insured** leases land but only with respect to liability for **bodily injury, property damage** or **personal and advertising injury** arising out of the ownership, maintenance or use of such land, provided that the **occurrence** giving rise to such **bodily injury, property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

B. Lessor of Premises

An owner or lessor of premises leased to the **Named Insured,** or such owner or lessor's real estate manager, but only with respect to liability for **bodily injury, property damage** or **personal and advertising injury** arising out of the ownership, maintenance or use of such part of the premises leased to the **Named Insured,** and provided that the **occurrence** giving rise to such **bodily injury** or **property damage,** or the offense giving rise to such **personal and advertising injury,** takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

C. Mortgagee, Assignee or Receiver

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee or receiver's liability for **bodily injury, property damage** or **personal and advertising injury** arising out of the **Named Insured's** ownership, maintenance, or use of a premises by a **Named Insured.**

The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

D. State or Governmental Agency or Subdivision or Political Subdivisions — Permits

A state or governmental agency or subdivision or political subdivision that has issued a permit or authorization but only with respect to such state or governmental agency or subdivision or political subdivision's liability for **bodily injury, property damage** or **personal and advertising injury** arising out of:

1. the following hazards in connection with premises a **Named Insured** owns, rents, or controls and to which this insurance applies:
   a. the existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
   b. the construction, erection, or removal of elevators; or
   c. the ownership, maintenance or use of any elevators covered by this insurance; or
2. the permitted or authorized operations performed by a **Named Insured** or on a **Named Insured's**

behalf. The coverage granted by this paragraph does not apply to:

   a. **Bodily injury, property damage** or **personal and advertising injury** arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or
   b. **Bodily injury** or **property damage** included within the **products-completed operations hazard.**

With respect to this provision's requirement that additional insured status must be requested under a written contract or agreement, the Insurer will treat as a written contract any governmental permit that requires the **Named Insured** to add the governmental entity as an additional insured.

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Technology General Liability Extension Endorsement

I. Trade Show Event Lessor

1. With respect to a **Named Insured's** participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom the **Named Insured** is required to include as an additional insured, but only with respect to such person or organization's liability for **bodily injury, property damage** or **personal and advertising injury** caused by:

a. the **Named Insured's** acts or omissions; or

b. the acts or omissions of those acting on the **Named Insured's** behalf,

in the performance of the **Named Insured's** ongoing operations at the trade show event premises during the trade show event.

2. The coverage granted by this paragraph does not apply to **bodily injury** or **property damage** included within the **products-completed operations hazard.**

J. Vendor

Any person or organization but only with respect to such person or organization's liability for **bodily injury** or **property damage** arising out of **your products** which are distributed or sold in the regular course of such person or organization's business, provided that:

1. The coverage granted by this paragraph does not apply to:

a. **bodily injury** or **property damage** for which such person or organization is obligated to pay **damages** by reason of the assumption of liability in a contract or agreement unless such liability exists in the absence of the contract or agreement;

b. any express warranty unauthorized by the **Named Insured**;

c. any physical or chemical change in any product made intentionally by such person or organization;

d. repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

e. any failure to make any inspections, adjustments, tests or servicing that such person or organization has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

f. demonstration, installation, servicing or repair operations, except such operations performed at such person or organization's premises in connection with the sale of a product;

g. products which, after distribution or sale by the **Named Insured,** have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for such person or organization; or

h. **bodily injury** or **property damage** arising out of the sole negligence of such person or organization for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(1) the exceptions contained in Subparagraphs **d.** or **f.** above; or

(2) such inspections, adjustments, tests or servicing as such person or organization has agreed with the **Named Insured** to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

2. This Paragraph **J.** does not apply to any insured person or organization, from whom the **Named Insured** has acquired such products, nor to any ingredient, part or container, entering into, accompanying or containing such products.

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CNA PARAMOU

Technology General Liability Extension Endorsement

3. This Paragraph **J.** also does not apply:

   a. to any vendor specifically scheduled as an additional insured by endorsement to this **Coverage Part**;

   b. to any of **your products** for which coverage is excluded by endorsement to this **Coverage Part**; nor

   c. if **bodily injury** or **property damage** included within the **products-completed operations hazard** is excluded by endorsement to this **Coverage Part.**

K. Other Person Or Organization / Your Work

Any person or organization who is not an additional insured under Paragraphs **A.** through **J.** above. Such additional insured is an **Insured** solely for **bodily injury, property damage** or **personal and advertising injury** for which such additional insured is liable because of the **Named Insured's** acts or omissions.

The coverage granted by this paragraph does not apply to any person or organization:

1. who is specifically scheduled as an additional insured on another endorsement to this **Coverage Part;** nor

2. for **bodily injury** or **property damage** included within the **products-completed operations hazard** except to the extent all of the following apply:

   a. this **Coverage Part** provides such coverage;

   b. the written contract or agreement described in the opening paragraph of this **ADDITIONAL INSUREDS** Provision requires the **Named Insured** to provide the additional insured such coverage; and

   c. the **bodily injury** or **property damage** results from **your work** that is the subject of the written contract or agreement, and such work has not been excluded by endorsement to this **Coverage Part.**

2. ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE

A. The **Other Insurance** Condition in the **COMMERCIAL GENERAL LIABILITY CONDITIONS** Section is amended to add the following paragraph:

If the **Named Insured** has agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured's own insurance, then this insurance is primary, and the Insurer will not seek contribution from that other insurance. For the purpose of this Provision **2.**, the additional insured's own insurance means insurance on which the additional insured is a named insured.

B. With respect to persons or organizations that qualify as additional insureds pursuant to paragraph **1.K.** of this endorsement, the following sentence is added to the paragraph above:

Otherwise, and notwithstanding anything to the contrary elsewhere in this Condition, the insurance provided to such person or organization is excess of any other insurance available to such person or organization.

3. BODILY INJURY — EXPANDED DEFINITION

Under **DEFINITIONS,** the definition of **bodily injury** is deleted and replaced by the following:

Bodily injury means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury sustained by that person at any time which results as a consequence of the physical injury, sickness or disease.

4. BROAD KNOWLEDGE OF OCCURRENCE/ NOTICE OF OCCURRENCE

Under **CONDITIONS,** the condition entitled **Duties in The Event of Occurrence, Offense, Claim or Suit** Condition is amended to add the following provisions:

A. BROAD KNOWLEDGE OF OCCURRENCE

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Technology General Liability Extension Endorsement

The Named Insured must give the Insurer or the Insurer's authorized representative notice of an **occurrence,** offense or **claim** only when the **occurrence,** offense or **claim** is known to a natural person **Named Insured,** to a partner, executive officer, manager or member of a **Named Insured,** or to an **employee** designated by any of the above to give such notice.

B. NOTICE OF OCCURRENCE

The **Named Insured's** rights under this **Coverage Part** will not be prejudiced if the **Named Insured** fails to give the Insurer notice of an **occurrence,** offense or **claim** and that failure is solely due to the **Named Insured's** reasonable belief that the **bodily injury** or **property damage** is not covered under this **Coverage Part.** However, the **Named Insured** shall give written notice of such **occurrence,** offense or **claim** to the Insurer as soon as the **Named Insured** is aware that this insurance may apply to such **occurrence,** offense or **claim.**

5. BROAD NAMED INSURED

WHO IS AN INSURED is amended to delete its Paragraph **3.** in its entirety and replace it with the following:

3. Pursuant to the limitations described in Paragraph **4.** below, any organization in which a **Named Insured** has management control:

a. on the effective date of this **Coverage Part;** or

b. by reason of a **Named Insured** creating or acquiring the organization during the **policy period,**

qualifies as a **Named Insured,** provided that there is no other similar liability insurance, whether primary, contributory, excess, contingent or otherwise, which provides coverage to such organization, or which would have provided coverage but for the exhaustion of its limit, and without regard to whether its coverage is broader or narrower than that provided by this insurance.

But this **BROAD NAMED INSURED** provision does not apply to:

(a) any partnership or joint venture; or

(b) any organization for which coverage is excluded by another endorsement attached to this **Coverage Part.**

For the purpose of this provision, and of this endorsement's **JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANIES** provision, management control means:

A. owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of the Board of Directors of a corporation, or the members of the management board of a limited liability company; or

B. having the right, pursuant to a written trust agreement, to protect, control the use of, encumber or transfer or sell property held by a trust.

4. With respect to organizations which qualify as **Named Insureds** by virtue of Paragraph **3.** above, this insurance does not apply to:

a. bodily injury or **property damage** that first occurred prior to the date of management control, or that first occurs after management control ceases; nor

b. personal or advertising injury caused by an offense that first occurred prior to the date of management control or that first occurs after management control ceases.

5. The insurance provided by this **Coverage Part** applies to **Named Insureds** when trading under their own names or under such other trading names or doing-business-as names (dba) as any **Named Insured** should choose to employ.

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Technology General Liability Extension Endorsement

1. **ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES**

The estates, heirs, legal representatives and **spouses** of any natural person **Insured** shall also be insured under this policy; provided, however, coverage is afforded to such estates, heirs, legal representatives, and **spouses** only for **claims** arising solely out of their capacity or status as such and, in the case of a **spouse,** where such **claim** seeks **damages** from marital community property, jointly held property or property transferred from such natural person **Insured** to such **spouse.** No coverage is provided for any act, error or omission of an estate, heir, legal representative, or **spouse** outside the scope of such person's capacity or status as such, provided however that the **spouse** of a natural person **Named Insured** and the **spouses** of members or partners of joint venture or partnership **Named Insureds** are **Insureds** with respect to such **spouses'** acts, errors or omissions in the conduct of the **Named Insured's** business.

2. **EXPECTED OR INTENDED INJURY — EXCEPTION FOR REASONABLE FORCE**

Under **COVERAGES, Coverage A — Bodily Injury And Property Damage Liability,** the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Expected or Intended Injury** and replace it with the following:
This insurance does not apply to:

Expected or Intended Injury

Bodily injury or **property damage** expected or intended from the standpoint of the **Insured.** This exclusion does not apply to **bodily injury** or **property damage** resulting from the use of reasonable force to protect persons or property.

3. **IN REM ACTIONS**

A quasi in rem action against any vessel owned or operated by or for the **Named Insured,** or chartered by or for the **Named Insured,** will be treated in the same manner as though the action were in personam against the **Named Insured.**

4. **INCIDENTAL HEALTH CARE MALPRACTICE COVERAGE**

Solely with respect to **bodily injury** that arises out of a **health care incident:**

A. Under **COVERAGES, Coverage A — Bodily Injury And Property Damage Liability,** the **Insuring Agreement** is amended to replace Paragraphs **1.b.(1)** and **1.b.(2)** with the following:

b. This insurance applies to **bodily injury** provided that the professional health care services are incidental to the **Named Insured's** primary business purpose, and only if:

(1) such **bodily injury** is caused by an **occurrence** that takes place in the **coverage territory.**

(2) the **bodily injury** first occurs during the **policy period.** All **bodily injury** arising from an **occurrence** will be deemed to have occurred at the time of the first act, error, or omission that is part of the **occurrence;** and

B. Under **COVERAGES, Coverage A — Bodily Injury And Property Damage Liability,** the paragraph entitled **Exclusions** is amended to:

i. add the following to the **Employers Liability** exclusion:

This exclusion applies only if the **bodily injury** arising from a **health care incident** is covered by other liability insurance available to the **Insured** (or which would have been available but for exhaustion of its limits).

ii. delete the exclusion entitled **Contractual Liability** and replace it with the

following: This insurance does not apply to:

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Contractual Liability

the **Insured's** actual or alleged liability under any oral or written contract or agreement, including but not limited to express warranties or guarantees.

iii. add the following additional exclusions.

This insurance does not apply to:

Discrimination

any actual or alleged discrimination, humiliation or harassment, that includes but shall not be limited to **claims** based on an individual's race, creed, color, age, gender, national origin, religion, disability, marital status or sexual orientation.

Dishonesty or Crime

Any actual or alleged dishonest, criminal or malicious act, error or omission.

Medicare/Medicaid Fraud

any actual or alleged violation of law with respect to Medicare, Medicaid, Tricare or any similar federal, state or local governmental program.

Services Excluded by Endorsement

Any **health care incident** for which coverage is excluded by endorsement.

C. DEFINITIONS is amended to:

i. add the following definitions:

Health care incident means an act, error or omission by the **Named Insured's employees** or **volunteer workers** in the rendering of:

a. professional health care services on behalf of the **Named Insured** or

b. Good Samaritan services rendered in an emergency and for which no payment is demanded or received.

Professional health care services means any health care services or the related furnishing of food, beverages, medical supplies or appliances by the following providers in their capacity as such but solely to the extent they are duly licensed as required:

a. Physician;

b. Nurse;

c. Nurse practitioner;

d. Emergency medical technician;

e. Paramedic;

f. Dentist;

g. Physical therapist;

h. Psychologist;

i. Speech therapist;

j. Other allied health professional; or

Professional health care services does not include any services rendered in connection with human clinical trials or product testing

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Technology General Liability Extension Endorsement

i. delete the definition of **occurrence** and replace it with the following:

Occurrence means a **health care incident.** All acts, errors or omissions that are logically connected by any common fact, circumstance, situation, transaction, event, advice or decision will be considered to constitute a single **occurrence;**

ii. amend the definition of **Insured** to:

a. add the following:

- the **Named Insured's employees** are **Insureds** with respect to:

  (1) bodily injury to a **co-employee** while in the course of the **co-employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business; and

  (2) bodily injury to a **volunteer worker** while performing duties related to the conduct of the **Named Insured's** business;

  when such **bodily injury** arises out of a **health care incident.**

- the **Named Insured's volunteer workers** are **Insureds** with respect to:

  (1) bodily injury to a **co-volunteer worker** while performing duties related to the conduct of the **Named Insured's** business; and

  (2) bodily injury to an **employee** while in the course of the **employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident.**

b. delete Subparagraphs **(a), (b), (c) and (d)** of Paragraph **2.a.(1)** of **WHO IS AN INSURED.**

c. add the following:

Insured does not include any physician while acting in his or her capacity as such.

D. The **Other Insurance** condition is amended to delete Paragraph **b.(1)** in its entirety and replace it with the following:

Other Insurance

b. Excess Insurance

(1) To the extent this insurance applies, it is excess over any other insurance, self insurance or risk transfer instrument, whether primary, excess, contingent or on any other basis, except for insurance purchased specifically by the **Named Insured** to be excess of this coverage.

10. JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANIES

WHO IS AN INSURED is amended to delete its last paragraph and replace it with the following:

No person or organization is an **Insured** with respect to:

the conduct of any current or past partnership or joint venture that is not shown as a **Named Insured** in the Declarations; nor

the conduct of a current or past limited liability company in which a **Named Insured's** interest does/did not rise to the level of management control;

except that if the **Named Insured** was a joint venturer, partner, or member of such a limited liability company, and such joint venture, partnership or limited liability company terminated prior to or during the **policy period,**

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Technology General Liability Extension Endorsement

Named Insured is an **Insured** with respect to its interest in such joint venture, partnership or limited liability company but only to the extent that:

a. any offense giving rise to **personal and advertising injury** occurred prior to such termination date, and the **personal and advertising injury** arising out of such offense, first occurred after such termination date;

b. the **bodily injury** or **property damage** first occurred after such termination date; and

c. there is no other valid and collectible insurance purchased specifically to insure the partnership, joint venture or limited liability company.

11. LEGAL LIABILITY — DAMAGE TO PREMISES

A. Under **COVERAGES, Coverage A — Bodily Injury and Property Damage Liability,** the paragraph entitled **Exclusions** is amended to delete the first paragraph immediately following subparagraph **(6)** of the **Damage to Property** exclusion and replace it with the following:

Paragraphs (1), (3) and (4) of this exclusion do not apply to **property damage** (other than damage by fire, lightning, explosion, smoke or leakage from automatic fire protective systems) to premises rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, nor to the contents of premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **LIMITS OF INSURANCE.**

B. Under **COVERAGES, Coverage A — Bodily Injury and Property Damage Liability,** the paragraph entitled **Exclusions** is amended to delete its last paragraph and replace it with the following:

Exclusions **c.** through **n.** do not apply to damage by fire, lightning, explosion, smoke or leakage from automatic fire protective systems to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner, nor to damage to the contents of premises rented to a **Named Insured** for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in the **LIMITS OF INSURANCE** Section.

C. LIMITS OF INSURANCE is amended to delete Paragraph **6.** (the Damage To Premises Rented To You Limit) and replace it with the following:

6. Subject to Paragraph **5.** above, (the Each Occurrence Limit), the Damage To Premises Rented To You Limit is the most the Insurer will pay under **COVERAGE A** for **damages** because of **property damage** to:

a. any one premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with the permission of the owner; and

b. contents of such premises if the premises is rented to the **Named Insured** for a period of 7 or fewer consecutive days.

The Damage To Premises Rented To You Limit is $500,000. unless a higher Damage to Premises Rented to You Limit is shown in the Declarations.

D. The **Other Insurance** Condition is amended to delete Paragraph **b.(1)(a)(ii),** and replace it with the following:

(ii) That is property insurance for premises rented to a **Named Insured,** for premises temporarily occupied by the **Named Insured** with the permission of the owner; or for personal property of others in the **Named Insured's** care, custody or control;

E. This Provision **11.** does not apply if liability for damage to premises rented to a **Named Insured** is excluded by another endorsement attached to this **Coverage Part.**

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Technology General Liability Extension Endorsement

12. MEDICAL PAYMENTS

A. LIMITS OF INSURANCE is amended to delete Paragraph **7.** (the Medical Expense Limit) and replace it with the following:

7. Subject to Paragraph **5.** above (the Each Occurrence Limit), the Medical Expense Limit is the most the Insurer will pay under **Coverage C — Medical Payments** for all medical expenses because of **bodily injury** sustained by any one person. The Medical Expense Limit is the greater of:

(1) $15,000 unless a different amount is shown here: ; or

(2) the amount shown in the Declarations for Medical Expense Limit.

B. Under **COVERAGES,** the **Insuring Agreement** of **Coverage C — Medical Payments** is amended to replace Paragraph **1.a.(3)(b)** with the following:

(b) The expenses are incurred and reported to the Insurer within three years of the date of the accident; and

13. NON-OWNED AIRCRAFT

Under **COVERAGES, Coverage A — Bodily Injury and Property Damage Liability,** the paragraph entitled **Exclusions** is amended as follows:

The exclusion entitled **Aircraft, Auto or Watercraft** is amended to add the following:

This exclusion does not apply to an aircraft not owned by any **Named Insured,** provided that:

1. the pilot in command holds a currently effective certificate issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;
2. the aircraft is rented with a trained, paid crew to the **Named Insured**; and
3. the aircraft is not being used to carry persons or property for a charge.

14. NON-OWNED WATERCRAFT

Under **COVERAGES, Coverage A — Bodily Injury and Property Damage Liability,** the paragraph entitled **Exclusions** is amended to delete subparagraph **(2)** of the exclusion entitled **Aircraft, Auto or Watercraft,** and replace it with the following:

This exclusion does not apply to:

(2) a watercraft that is not owned by any **Named Insured**, provided the watercraft is:

(a) less than 75 feet long; and

(b) not being used to carry persons or property for a charge.

15. PERSONAL AND ADVERTISING INJURY —DISCRIMINATION OR HUMILIATION

A. Under **DEFINITIONS,** the definition of **personal and advertising injury** is amended to add the following tort:

- Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

B. Under **COVERAGES, Coverage B — Personal and Advertising Injury Liability,** the paragraph entitled **Exclusions** is amended to:

1. delete the Exclusion entitled **Knowing Violation Of Rights Of Another** and replace it with the following: This insurance does not apply to:

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Knowing Violation of Rights of Another

Personal and advertising injury caused by or at the direction of the **Insured** with the knowledge that the act would violate the rights of another and would inflict **personal and advertising injury.** This exclusion shall not apply to discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is not done intentionally by or at the direction of:

(a) the **Named Insured;** or

(b) any **executive officer,** director, stockholder, partner, member or manager (if the **Named Insured** is a limited liability company) of the **Named Insured.**

2. add the following exclusions:

This insurance does not apply to:

Employment Related Discrimination

Discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any **Insured.**

Premises Related Discrimination

discrimination or humiliation arising out of the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any **Insured.**

Notwithstanding the above, there is no coverage for fines or penalties levied or imposed by a governmental entity because of discrimination.

The coverage provided by this **PERSONAL AND ADVERTISING INJURY —DISCRIMINATION OR HUMILIATION** Provision does not apply to any person or organization whose status as an **Insured** derives solely from

- Provision **1. ADDITIONAL INSURED** of this endorsement; or
- attachment of an additional insured endorsement to this **Coverage Part.**

16. PERSONAL AND ADVERTISING INJURY - LIMITED CONTRACTUAL LIABILITY

A. Under **COVERAGES, Coverage B —Personal and Advertising Injury Liability,** the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Contractual Liability** and replace it with the following:

This insurance does not apply to:

Contractual Liability

Personal and advertising injury for which the **Insured** has assumed liability in a contract or agreement.

This exclusion does not apply to liability for **damages:**

(1) that the **Insured** would have in the absence of the contract or agreement; or

(2) assumed in a contract or agreement that is an **insured contract** provided the offense that caused such **personal or advertising injury** first occurred subsequent to the execution of such **insured contract.** Solely for the purpose of liability assumed in an **insured contract,** reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an **Insured** are deemed to be **damages** because of **personal and advertising injury** provided:

(a) liability to such party for, or for the cost of, that party's defense has also been assumed in such **insured contract;** and

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Technology General Liability Extension Endorsement

B. Solely for the purpose of the coverage provided by this paragraph, **DEFINITIONS** is amended to delete the definition of **insured contract** in its entirety, and replace it with the following:

Insured contract means that part of a written contract or written agreement pertaining to the **Named Insured's** business under which the **Named Insured** assumes the tort liability of another party to pay for **personal or advertising injury** arising out of the offense of false arrest, detention or imprisonment. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

C. Solely for the purpose of the coverage provided by this paragraph, the following changes are made to the Section entitled **SUPPLEMENTARY PAYMENTS — COVERAGES A AND B:**

1. Paragraph **2.d.** is replaced by the following:

   d. The allegations in the suit and the information the Insurer knows about the offense alleged in such suit are such that no conflict appears to exist between the interests of the **Insured** and the interests of the indemnitee;

2. The first unnumbered paragraph beneath Paragraph **21(2)(b)** is deleted and replaced by the following:

   So long as the above conditions are met, attorneys fees incurred by the Insurer in the defense of that indemnitee, necessary litigation expenses incurred by the Insurer, and necessary litigation expenses incurred by the indemnitee at the Insurer's request will be paid as **defense costs.** Notwithstanding the provisions of Paragraph **e.(2)** of the Contractual Liability exclusion (as amended by this Endorsement), such payments will not be deemed to be **damages** for **personal and advertising injury** and will not reduce the limits of insurance.

D. This **PERSONAL AND ADVERTISING INJURY - LIMITED CONTRACTUAL LIABILITY** Provision does not apply if **Coverage B —Personal and Advertising Injury Liability** is excluded by another endorsement attached to this **Coverage Part.**

17. PROPERTY DAMAGE — ELEVATORS

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A. Under **COVERAGES, Coverage A — Bodily Injury and Property Damage Liability,** the paragraph entitled **Exclusions** is amended such that the **Damage to Your Product** Exclusion and subparagraphs **(3), (4)** and **(6)** of the **Damage to Property** Exclusion do not apply to **property damage** that results from the use of elevators.

B. Solely for the purpose of the coverage provided by this **PROPERTY DAMAGE — ELEVATORS** Provision, the **Other Insurance** conditions is amended to add the following paragraph:

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is Property insurance covering property of others damaged from the use of elevators.

18. SUPPLEMENTARY PAYMENTS

The section entitled **SUPPLEMENTARY PAYMENTS — COVERAGES A AND B** is amended as follows:

A. Paragraph **1.b.** is amended to delete the $250 limit shown for the cost of bail bonds and replace it with a $5,000. limit; and

B. Paragraph **1.d.** is amended to delete the limit of $250 shown for daily loss of earnings and replace it with a $1,000. limit.

19. PROPERTY DAMAGE - PATTERNS MOLDS AND DIES

Under **COVERAGES, Coverage A — Bodily Injury and Property Damage Liability,** the paragraph entitled **Exclusions** is amended to delete subparagraphs **(3)** and **(4)** of the Exclusion entitled **Damage to Property,** but only with respect to patterns, molds or dies that are in the care, custody or control of the **Insured,** and only if such patterns, molds or dies are not being used to perform operations at the time of loss. A limit of insurance of $25,000 per **policy period** applies to this **PROPERTY DAMAGE - PATTERNS MOLDS AND DIES** coverage, and

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Technology General Liability Extension Endorsement

A. is included within the General Aggregate Limit as described in **LIMITS OF INSURANCE;** and

B. applies excess over any valid and collectible property insurance available to the **Insured,** including any deductible applicable to such insurance; the **Other Insurance** condition is changed accordingly.

20. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

If the **Named Insured** unintentionally fails to disclose all existing hazards at the inception date of the **Named Insured's Coverage Part,** the Insurer will not deny coverage under this **Coverage Part** because of such failure.

21. WAIVER OF SUBROGATION - BLANKET

Under **CONDITIONS,** the condition entitled **Transfer Of Rights Of Recovery Against Others To Us** is amended to add the following:

The Insurer waives any right of recovery the Insurer may have against any person or organization because of payments the Insurer makes for injury or damage arising out of:

1. the **Named Insured's** ongoing operations; or
2. **your work** included in the **products-completed operations hazard.**

However, this waiver applies only when the **Named Insured** has agreed in writing to waive such rights of recovery in a written contract or written agreement, and only if such contract or agreement:

1. is in effect or becomes effective during the term of this **Coverage Part;** and
2. was executed prior to the **bodily injury, property damage** or **personal and advertising injury** giving rise to the **claim.**

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

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Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 23466 **RESOLUTION 2021-577** **ADOPTED**

New Firefighters for Main-Transit Fire Department

The 2 new firefighters for the Main-Transit Fire Department both live in the Town of Amherst and reside within the Main-Transit Fire District borders.

James Swannie
160 Caesar Blvd.
Williamsville, NY 14221

Astrid Amanda
4380 Main Street
Amherst, NY 14226

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

TOWN OF AMHERST
VOLUNTEER FIRE DEPARTMENT MEMBERSHIP
RESIDENCY VERIFICATION FORM

Applicant Name: James Swannie

Applicant Home Address: 160 Caesar Blvd, WILLIAMSVILLE 14221

Under penalty of perjury I, James Swannie affirm I am an applicant to be a member of the, Main-Transit (fire dept.) and my address of residence is listed above.

☑ My address is in the fire distract I've applied to or territory which is afforded protection by the fire department of the fire district or fire company pursuant to contract.

☐ My address is outside the district or territory that provides protection by the fire district or company, but is in the vicinity of my occupation, in which I will be able to render active service as a volunteer. My occupation address is:

_____

Signature of Applicant: James Swannie

I have verified the applicant's address or employment, where applicable, by examining their driver's license or other suitable document such as a utility bill, lease or pay stub.

Signature: [signature]

Title: SENIOR CAPTAIN

Date: 7.5.21

Submit this completed form to:
Amherst Town Clerk
5583 Main Street
Williamsville, NY 14221

Attachment: J SWANNIE RESIDENCY FORM (RES-2021-577 : New Firefighters for Main--Transit Fire Department)

TOWN OF AMHERST
VOLUNTEER FIRE DEPARTMENT MEMBERSHIP
RESIDENCY VERIFICATION FORM

Applicant Name: Astrid Amanda

Applicant Home Address: 4380 main street, NY, 14226

Under penalty of perjury I, Astrid Amanda affirm I am an applicant to be a member of the, Main - transit (fire dept.) and my address of residence is listed above.

- ☒ My address is in the fire distract I've applied to or territory which is afforded protection by the fire department of the fire district or fire company pursuant to contract.
- ☒ **My address is outside the district or territory that provides protection by the fire district** or company, but is in the vicinity of my occupation, in which I will be able to render active service as a volunteer. My occupation address is:

Signature of Applicant:

I have verified the applicant's address or employment, where applicable, by examining their driver's license or other suitable document such as a utility bill, lease or pay stub.

Signature:

Title: SENIOR CAPTAIN

Date: 7.5.21

Submit this completed form to:
Amherst Town Clerk
5583 Main Street
Williamsville, NY 14221

Attachment: A AMANDA RESIDENCY APPROVAL (RES-2021-577 : New Firefighters for Main--Transit Fire Department)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 23459 **RESOLUTION 2021-578** **ADOPTED**

Fireworks Permit - Park Country Club

The Town Board unanimously approved this request for a fireworks permit for July 4, 2021 at 9:30 PM at Park Country Club, 4949 Sheridan Drive with the following conditions:

1. Minimum secured diameter of site shall be 420 feet, maximum 6 inch shell size per permit.

2. That the audience be 420 feet from the fireworks discharge location for vertical mortars.

3. That one (1) 5-lb. ABC fire extinguisher, with a current inspection tag, is located at the firing site with a qualified operator. Additional extinguishers may be required depending on the site layout.

4. That the trajectory of shells shall not come within 25 feet of overhead objects.

5. That the actual shooters listed on the application be present at the site or a substitute shooters list be submitted five (5) or more days prior to the event.

6. Display shall follow NFPA 1123-2018 & IFC 2018.

7. Crowds over 1000 people require a crowd manager.

8. If you would like to start the display earlier than the time proposed you must call 689-1212 before starting to be approved by our office.

7/12/2021
Consent

FINANCIAL IMPACT:

$100.00 permit fee paid

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

TOWN OF AMHERST

TOWN CLERK'S OFFICE

5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221
(716) 631-7021
FAX (716) 631-7152
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Kathleen Cooper
Deputy Town Clerk

Timothy Koller
Deputy Town Clerk

July 2, 2021

Young Explosives Corp
P O Box 18653
Rochester, NY 14618

Permission is hereby granted by the Town of Amherst, Erie County, New York to conduct a public display of fireworks as requested at 4949 Sheridan Drive.

Location: The Park Country Club
4949 Sheridan Dr
Williamsville, NY 14221

Date/Time Event: July 4, 2021
Approximately at 9:30 pm

In accordance with the information set forth in the penal law, and the application upon which this permit is granted, along with the following:

1. Minimum secured diameter of site shall be 420 feet, maximum 6 inch shell size per permit.

2. That the audience be 420 feet from the fireworks discharge location for vertical mortars.

3. That one (1) 5-lb. ABC fire extinguisher, with a current inspection tag, is located at the firing site with a qualified operator. Additional extinguishers may be required depending on the site layout.

4. That the trajectory of shells shall not come within 25 feet of overhead objects.

5. That the actual shooters listed on the application be present at the site or a substitute shooters list be submitted five (5) or more days prior to the event.

6. Display shall follow NFPA 1123-2018 & IFC 2018.

7. Crowds over 1000 people require a crowd manager.

8. If you would like to start the display earlier than the time proposed you must call 689-1212 before starting to be approved by our office.

If you wish to start earlier than the time proposed, you must call 689-1212 for approval.

Sincerely,

Francina J Spoth

Francina J. Spoth
Amherst Town Clerk

C: Fire Department
Police Department
Fire Control
Fire Safety Office

Attachment: fireworks (RES-2021-578 : Fireworks Permit- Park Country Club)

TOWN OF AMHERST
BUILDING DEPARTMENT
ERIE COUNTY, NEW YORK
5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221

PHONE: (716) 631-7080
FAX: (716) 631-7192

MARK S. BERKE, P.E.
Commissioner of Building

Memorandum

DATE: July 2, 2021

TO: Francina Spoth, Town Clerk

FROM: Bryan W. Parnell, Senior Fire Inspector

RE: Fireworks Display – The Park Country Club At 4949 Sheridan Drive

DATE & TIME: Sunday, July 4, 2021 at 9:30 PM. All items required on the application appear to be in order. Therefore, we hereby recommend the approval of this application with the following conditions.

1) Minimum secured diameter of site shall be 420 feet, maximum 6 inch shell size per permit.
2) That the audience be 420 feet from the fireworks discharge location for vertical mortars.
3) That one (1) 5-lb. ABC fire extinguisher, with a current inspection tag, is located at the firing site with a qualified operator. Additional extinguishers maybe required depending on site layout.
4) That the trajectory of shells shall not come within 25 feet of overhead objects.
5) That the actual shooters listed on the application be present at the site or a substitute shooters list be submitted five (5) or more days prior to the event
6) Display shall follow NFPA 1123-2018 & IFC 2018.
7) Crowds over 1000 people require a crowd manager
8) If you would like to start the display earlier than the time proposed you must call 689-1212 before starting to be approved by our office.

Bryan W. Parnell
Senior Fire Inspector
Fire Safety Division

X:\DOCS\BWP\fireworks display\2021\4949 Sheridan Dr 6-26-2021.docx

Attachment: fireworks (RES-2021-578 : Fireworks Permit- Park Country Club)

TOWN OF AMHERST
BUILDING DEPARTMENT
DIVISION OF FIRE SAFETY
5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221
(716) 631-7142

FIRE PREVENTION / OPERATING PERMIT

APPLICATION DATE	DATE ISSUED	EXPIRATION DATE	PERMIT NUMBER
07/02/2021	07/02/2021	01/02/2022	FP-2021-0067

APPLICANT	ADDRESS	PHONE NUMBER
YOUNG EXPLOSIVES CORP	2165 NEW MICHIGAN RD CANANDAIGUA	585-394-1783

LOCATION OF ACTIVITY: YOUNG EXPLOSIVES CORP - (SITE) 4949 Sheridan Dr, Amherst, NY 14221

THE ABOVE NAMED INDIVIDUAL/BUSINESS HEREBY MAKES APPLICATION TO CONDUCT THE FOLLOWING ACTIVITY PER CHAPTER 83 OF THE BUILDING CONSTRUCTION ADMINISTRATION CODE OF THE TOWN OF AMHERST. AND FOR THE KEEPING, STORAGE, OCCUPANCY, USE, SALE, HANDLING, OR MANUFACTURE OF THE FOLLOWING: (STATE QUANTITIES NORMALLY TO BE STORED, HOW STORED, OR USED, GIVING AMOUNTS FOR EACH KIND OR CATEGORY.)

fireworks display 7/4/2021 at 9:30 pm
Display must conform to NFPA 1123-2018 and IFC 2018
6 inch shell max
attendance over 1000 people require crowd managers
fire extinguishers required
shooters list changes required prior to event required

IN ACCORDANCE WITH THE FIRE PREVENTION CODE OR NFPA SECTION(S):

APPROVED BY FIRE OFFICIAL	DATE	FEE PAID
	07/02/2021	100.00

THIS PERMIT MUST BE POSTED ON THE ABOVE MENTIONED PREMISES

STATEMENT

I HEREBY ACKNOWLEDGE THAT: I HAVE READ THIS APPLICATION, THAT THE INFORMATION GIVEN IS CORRECT, AND THAT I AM THE OWNER OR DULY AUTHORIZED TO ACT IN THE OWNER'S BEHALF AND AS SUCH HEREBY AGREE TO COMPLY WITH THE APPLICABLE REQUIREMENTS OF THE FIRE PREVENTION CODE.

Signature — President (Title)

DO NOT WRITE BELOW THIS LINE

COMMENTS:

APPROVED BY FIRE OFFICIAL — DATE

WHERE APPLICABLE - SEPARATE PERMITS ARE REQUIRED FOR BUILDING CONSTRUCTION ACTIVITY INCLUDING ELECTRICAL, PLUMBING, AND MECHANICAL INSTALLATIONS.

Attachment: fireworks (RES-2021-578 : Fireworks Permit- Park Country Club)

Town of Amherst

Brian J. Kulpa
Town Supervisor

MEMORANDUM

TO: Dan Hooper,
Fire Inspector's Office

FROM: Brian J. Kulpa, BK
Town Supervisor

DATE: June 29, 2021

RE: **Park Country Club 4th of July Fireworks Permit**

The Town Clerks office received an email from Park Country Club stating they would like to have fireworks for the 4th of July. Tim Koller polled the Town Board on June 23rd, and as a result, was unanimously approved. Tim Koller authorizes the permit.

This is going on a retroactive resolution for the July 12, 2021 Town Board Meeting. Should you have any further questions, please contact the Supervisor's Office.

BK/mt

Attachment: fireworks (RES-2021-578 : Fireworks Permit- Park Country Club)

Town of Amherst, 5583 Main St., Williamsville, NY 14221 PH: 716-631-7045 FX: 716-631-7152

APPLICATION FOR FIREWORKS DISPLAY

The undersigned hereby makes application to the Town Board of the Town of Amherst to acquire a license pursuant to Chapter 68 (Amusements) of the Code of the Town of Amherst for the public display of fireworks in the Town of Amherst, Erie County, New York:

1. Name of individual/company sponsoring the display and the names of the persons actually to be in charge of the firing of the display areas: The Park Country Club of Buffalo

   Young Explosives Corp.
2. Date and time of day at which the display is to be held:

   Sunday July 4, 2021; approximately 9:30pm
3. Exact location planned for the display:

   The Park County Club, 4949 Sheridan Dr, Williamsville
4. Age, experience and physical characteristics of individuals who are to discharge fireworks:

   Allen Westfall-NYS Pyro cert # 174 exp 12/21

   Milton Surre-male over 18
5. Number and kind of fireworks to be discharged (include largest shell size):

   1.3G-3"-73; 4"-30; 5"-10;6"-8 Finale-2"-30;2.5"-50; 3"-6; 4"-6. 5 ground cakes
6. Manner and place of storage of these fireworks prior to the display:

   With Young Explosives at all times.
7. Attached is a diagram of the grounds on which the display is to be held. This diagram shows the point at which the fireworks are to be discharged, the location of all the buildings, highways, and other lines of communications in addition to the lines behind which the audience will be restrained, the location of all nearby trees, telegraph or telephone lines or other overhead obstructions.
8. This application shall be accompanied by a bond or policy of public liability insurance with a limit of $3,000,000 for personal injuries and $1,000,000 for property damage and proof of Workers' Compensation Insurance.
9. This application for a Fire Prevention Operating Permit (Code 52) must be accompanied by a check in the amount of $90 made out to "Town of Amherst".

Date:

Company, Corporation or Individual

James R. Young on behalf of The Park Country Club of Buffalo, Inc.

By: James Young

STATE OF NEW YORK
Monroe COUNTY
TOWN OF Rochester

Sworn to before me this 24 day of June 2021

Claudia Visca
Notary Public

CLAUDIA VISCA
Notary Public, State of New York
Qualified in Monroe County
Reg. No. 01VI6104902
My Commission Expires 02/02/2024

9/30/09

Attachment: fireworks (RES-2021-578 : Fireworks Permit- Park Country Club)

U.S. Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives

Federal Explosives License/Permit
(18 U.S.C. Chapter 40)

In accordance with the provisions of Title XI, Organized Crime Control Act of 1970, and the regulations issued thereunder (27 CFR Part 555), you may engage in the activity specified in this license or permit within the limitations of Chapter 40, Title 18, United States Code and the regulations issued thereunder, until the expiration date shown. **THIS LICENSE IS NOT TRANSFERABLE UNDER 27 CFR 555.53.** See "WARNINGS" and "NOTICES" on reverse.

Direct ATF Correspondence To: ATF - Chief, FELC 244 Needy Road Martinsburg, WV 25405-9431	License/Permit Number: **6-NY-069-21-1K-00338**
Chief, Federal Explosives Licensing Center (FELC): Christopher R. Reeves	Expiration Date: **October 1, 2021**

Name
YOUNG EXPLOSIVES CORP

Premises Address (Changes? Notify the FELC at least 10 days before the move.)
2165 NEW MICHIGAN ROAD
CANANDAIGUA, NY 14424-0000

Type of License or Permit
21-MANUFACTURER OF EXPLOSIVES

Purchasing Certification Statement

The licensee or permittee named above shall use a copy of this license or permit to assist a transferor of explosives to verify the identity and the licensed status of the licensee or permittee as provided by 27 CFR Part 555. The signature on each copy must be an original signature. A faxed, scanned or e-mailed copy of the license or permit with a signature intended to be an original signature is acceptable. The signature must be that of the Federal Explosives Licensee (FEL) or a responsible person of the FEL. I certify that this is a true copy of a license or permit issued to the licensee or permittee named above to engage in the business or operations specified above under "Type of License or Permit."

Mailing Address (Changes? Notify the FELC of any changes.)

YOUNG EXPLOSIVES CORP
P O BOX 18653
ROCHESTER, NY 14618-0000

License/Permittee Responsible Person Signature	President Position/Title
James R Young Printed Name	10/1/18 Date

Previous Edition is Obsolete

YOUNG EXPLOSIVES CORP;2165 NEW MICHIGAN ROAD;14424;6-NY-069-21-1K-00338;October 1, 2021;21-MANUFACTURER OF EXPLOSIVES

ATF Form 5400.14/5400.15 Part I
Revised October 2011

Federal Explosives License (FEL) Customer Service Information

Federal Explosives Licensing Center (FELC)
244 Needy Road
Martinsburg, WV 25405-9431

Toll-free Telephone Number: (877) 283-3352
Fax Number: (304) 616-4401
E-mail: FELC@atf.gov

ATF Homepage: www.atf.gov

Change of Address *(27 CFR 555.54(a)(1))*. Licensees or permittees may during the term of their current license or permit remove their business or operations to a new location at which they intend regularly to carry on such business or operations. The licensee or permittee is required to give notification of the new location of the business or operations not less than 10 days prior to such removal with the Chief, Federal Explosives Licensing Center. The license or permit will be valid for the remainder of the term of the original license or permit. **(The Chief, FELC, shall, if the licensee or permittee is not qualified, refer the request for amended license or permit to the Director of Industry Operations for denial in accordance with § 555.54.)**

Right of Succession *(27 CFR 555.59)*. (a) Certain persons other than the licensee or permittee may secure the right to carry on the same explosive materials business or operations at the same address shown on, and for the remainder of the term of, a current license or permit. Such persons are: (1) The surviving spouse or child, or executor, administrator, or other legal representative of a deceased licensee or permittee; and (2) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors. (b) In order to secure the right provided by this section, the person or persons continuing the business or operations shall furnish the license or permit for for that business or operations for endorsement of such succession to the Chief, FELC, within 30 days from the date on which the successor begins to carry on the business or operations.

(Continued on reverse side)

Cut Here ✂

Federal Explosives License/Permit (FEL) Information Card

License/Permit Name: **YOUNG EXPLOSIVES CORP**

Business Name:

License/Permit Number: **6-NY-069-21-1K-00338**

License/Permit Type: **21-MANUFACTURER OF EXPLOSIVES**

Expiration: **October 1, 2021**

Please Note: Not Valid for the Sale or Other Disposition of Explosives.

Attachment: fireworks (RES-2021-578 : Fireworks Permit- Park Country Club)

STATE OF NEW YORK
DEPARTMENT OF LABOR

DIVISION OF
SAFETY AND HEALTH

LICENSE TO DEAL IN OR MANUFACTURE EXPLOSIVES

Expires: 2/28/2022

Young Explosives Corporation
PO Box 18653
Rochester, NY 14618

James R. Young

THIS LICENSE MUST BE POSTED IN YOUR PLACE OF BUSINESS

License No. D-2316

is hereby licensed to deal in or manufacture explosives in compliance with the requirements of the Labor Law and Industrial Code Rules. Any change in the conditions under which this license is granted may cause it to be revoked.

Eileen M. Franko, Acting Director FOR
THE COMMISSIONER OF LABOR

Every person selling, delivering or giving away any explosives must keep at the principal place of business within the state a record of each transaction, including:

1) the NAME or TYPE and QUANTITY of explosives SOLD, DELIVERED or GIVEN. Note: No license is needed to purchase smokeless powder or black powder in quantities not exceeding five pounds for use in firing antique firearms or artifacts or replicas thereof. However, dealers MUST post all such transactions on the "Dealer Manufacturer Report of Explosives Transactions".

2) the DATE OF EACH SALE, DELIVERY or GIFT.

3) the NAME, LICENSE NUMBER and BUSINESS ADDRESS of the purchaser, donee, or person to whom the explosives were delivered and the firm, if any, represented by such person.

4) the NAME, ADDRESS, and LICENSE NUMBER of the person TAKING THE EXPLOSIVES AWAY from the seller or donor.

SH-862 (5/98)

Attachment: fireworks (RES-2021-578 : Fireworks Permit- Park Country Club)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF INSURANCE COVERAGE
DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW

PART 1. To be completed by Disability and Paid Family Leave Benefits Carrier or Licensed Insurance Agent of that Carrier

1a. Legal Name & Address of Insured (use street address only) YOUNG EXPLOSIVES CORP. 2165 NEW MICHIGAN ROAD CANANDAIGUA, NY 14424 Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)*	1b. Business Telephone Number of Insured (585) 394-1783 1c. Federal Employer Identification Number of Insured or Social Security Number 160900107
2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) YOUNG EXPLOSIVES CORPORATION PO BOX 18653 ROCHESTER, NY 14618	3a. Name of Insurance Carrier **New York State Insurance Fund (NYSIF)** 3b. Policy Number of Entity Listed in Box "1a" DBL 6163 63 - 9 3c. Policy effective period 04/01/2021 to 04/01/2022

4. Policy provides the following benefits:
- ☒ A. Both disability and paid family leave benefits
- ☐ B. Disability benefits only
- ☐ C. Paid family leave benefits only

5. Policy covers:
- ☒ A. All of the employer's employees eligible under the NYS Disability and Paid Family Leave Benefits Law
- ☐ B. Only the following class or classes of employer's employees:

_____

_____

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has NYS Disability and/or Paid Family Leave Benefits insurance coverage as described above.

Date Signed 4/9/2021 By _____

(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number (866) 697-4332 Name and Title **Melissa Jensen, Director of Disability Insurance Unit**

IMPORTANT: If Box 4A and 5A are checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of that carrier,this certificate is COMPLETE. Mail it directly to the certificate holder.

If Box 4B, 4C or 5B is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the NYS Disability and Paid Family Leave Benefits Law. It must be mailed for completion to the Workers' Compensation Board, DB Plans Acceptance Unit, PO Box 5200, Binghamton, NY 13902-5200

PART 2. To be completed by the NYS Workers' Compensation Board (Only if Box 4C or 5B of Part 1 has been checked)

State of New York
Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability and Paid Family Leave Benefits Law with respect to all of his/her employees.

Date Signed _____ By _____

(Signature of Authorized NYS Workers' Compensation Board Employee)

Telephone Number _____ Name and Title _____

Please Note: *Only insurance carriers licensed to write NYS disability and paid family leave benefits insurance policies and NYS licensed insurance agents of those insurance carriers are authorized to issue Form DB-120.1.* ***Insurance brokers are NOT authorized to issue this form.***

DB-120.1 (10-17)

Certificate Number 638228

Attachment: fireworks (RES-2021-578 : Fireworks Permit- Park Country Club)

NYSIF
New York State Insurance Fund

100 CHESTNUT STREET - SUITE 1000, ROCHESTER, NEW YORK 14604
| nysif.com

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

SCAN TO VALIDATE
AND SUBSCRIBE

^^^^^^ 160900107
YOUNG EXPLOSIVES CORP
P O BOX 18653
ROCHESTER NY 14618

POLICYHOLDER	CERTIFICATE HOLDER
YOUNG EXPLOSIVES CORP P O BOX 18653 ROCHESTER NY 14618	YOUNG EXPLOSIVES CORPORATION PO BOX 18653 ROCHESTER NY 14618-1461

POLICY NUMBER	CERTIFICATE NUMBER	POLICY PERIOD	DATE
R 400 999-9	147930	01/01/2021 TO 01/01/2022	2/22/2021

THIS IS TO CERTIFY THAT THE POLICYHOLDER NAMED ABOVE IS INSURED WITH THE NEW YORK STATE INSURANCE FUND UNDER POLICY NO. 400 999-9, COVERING THE ENTIRE OBLIGATION OF THIS POLICYHOLDER FOR WORKERS' COMPENSATION UNDER THE NEW YORK WORKERS' COMPENSATION LAW WITH RESPECT TO ALL OPERATIONS IN THE STATE OF NEW YORK, EXCEPT AS INDICATED BELOW, AND, WITH RESPECT TO OPERATIONS OUTSIDE OF NEW YORK, TO THE POLICYHOLDER'S REGULAR NEW YORK STATE EMPLOYEES ONLY.

IF YOU WISH TO RECEIVE NOTIFICATIONS REGARDING SAID POLICY, INCLUDING ANY NOTIFICATION OF CANCELLATIONS, OR TO VALIDATE THIS CERTIFICATE, VISIT OUR WEBSITE AT HTTPS://WWW.NYSIF.COM/CERT/CERTVAL.ASP. THE NEW YORK STATE INSURANCE FUND IS NOT LIABLE IN THE EVENT OF FAILURE TO GIVE SUCH NOTIFICATIONS.

THIS POLICY DOES NOT COVER CLAIMS OR SUITS THAT ARISE FROM BODILY INJURY SUFFERED BY THE OFFICERS OF THE INSURED CORPORATION.

PRESIDENT
JAMES YOUNG
1 OF 1 EXECUTIVE OFFICER OF
YOUNG EXPLOSIVES CORP

THE POLICY INCLUDES A WAIVER OF SUBROGATION ENDORSEMENT UNDER WHICH NYSIF AGREES TO WAIVE ITS RIGHT OF SUBROGATION TO BRING AN ACTION AGAINST THE CERTIFICATE HOLDER TO RECOVER AMOUNTS WE PAID IN WORKERS' COMPENSATION AND/OR MEDICAL BENEFITS TO OR ON BEHALF OF AN EMPLOYEE OF OUR INSURED IN THE EVENT THAT, PRIOR TO THE DATE OF THE ACCIDENT, THE CERTIFICATE HOLDER HAS ENTERED INTO A WRITTEN CONTRACT WITH OUR INSURED THAT REQUIRES THAT SUCH RIGHT OF SUBROGATION BE WAIVED.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS NOR INSURANCE COVERAGE UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICY.

BY CAUSING THIS CERTIFICATE TO BE ISSUED TO THE CERTIFICATE HOLDER, THE POLICYHOLDER UNDERTAKES TO PROVIDE THE CERTIFICATE HOLDER 5 CALENDAR DAYS' NOTICE OF ANY CANCELLATION OF THE POLICY.

NEW YORK STATE INSURANCE FUND

DIRECTOR,INSURANCE FUND UNDERWRITING

VALIDATION NUMBER: 349971331

U-26.3

Attachment: fireworks (RES-2021-578 : Fireworks Permit- Park Country Club)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 6/24/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Britton Gallagher One Cleveland Center, Floor 30 1375 East 9th Street Cleveland OH 44114	**CONTACT NAME:** **PHONE (A/C, No, Ext):** 216-658-7100 **FAX (A/C, No):** 216-658-7101 **E-MAIL ADDRESS:**
INSURED Young Explosives Corporation P.O. Box 18653 Rochester NY 14618	**INSURER(S) AFFORDING COVERAGE** / **NAIC #** **INSURER A :** Everest National Insurance Company — 10120 **INSURER B :** Axis Surplus Insurance Company — 26620 **INSURER C :** **INSURER D :** **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** 1173066590 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:	Y	Y	SI8GL00353-211	3/20/2021	3/20/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 500,000 $ $ 1,000,000 $ 2,000,000 $ 2,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS X HIRED AUTOS X NON-OWNED AUTOS	Y	Y	SI8CA00054-211	3/20/2021	3/20/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
B	UMBRELLA LIAB X OCCUR X EXCESS LIAB CLAIMS-MADE DED RETENTION $	Y	Y	P-001-000088056-03	3/20/2021	3/20/2022	EACH OCCURRENCE AGGREGATE	$ 4,000,000 $ 4,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $
	Hired Car Physical Damage						ACV $100 Comp. $500 Coll.	Limit Ded. Ded.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Additional Insured extension of coverage is provided by above referenced General Liability policy where required by written agreement.
Date (s): Sunday July 4, 2021
Location: The Park Country Club grounds
Additional Insured: The Park Country Club of Buffalo, Inc.; Town of Amherst; Village of Williamsville

Group Code: Certificate#0179

CERTIFICATE HOLDER

The Park Country Club of Buffalo, Inc.
4949 Sheridan Dr.
Williamsville NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2014 ACORD CORPORATION. All rights reserved.

Attachment: fireworks (RES-2021-578 : Fireworks Permit- Park Country Club)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 23477 **RESOLUTION 2021-579** **ADOPTED**

Amusement License - Giancarlo's Walker Center LLC

Request by Giancarlo's Walker Center LLC for a First Class Amusement License for events every Wednesday from June 23 through September 1 from 4:30 PM - 11 PM.
Supervising Code Enforcement Officer recommends a fee of $50.

The Building Department recommends the following conditions:

1. That all fire lanes be kept clear at all times.
2. For any tents in excess of 400 square feet being used, a fire prevention tent permit must be obtained.
3. All temporary power must be code complaint.
4. Bathroom facility must be made available and accessible.
5. On site accessible parking must be maintained.
6. Vehicle impact protection must be provided for the guest area.
7. Fire Department access must be maintained at all times in the event of an emergency.
8. Events with 1,000 guests or more will require "Crowd Managers" per the 2020 FCNYS.
9. The applicant must abide by Chapter 138 of the Town of Amherst Code regarding noise.

7/12/2021
Consent

FINANCIAL IMPACT:

Income to the Town.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

TOWN OF AMHERST
BUILDING DEPARTMENT
INTER-DEPARTMENTAL CORRESPONDENCE
5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221

PHONE: (716) 631-7080
FAX: (716) 631-7192

Mark S. Berke, P.E.
Commissioner of Building

Agenda Item

DATE: July 6, 2021

TO: Town Board

FROM: Douglas Gesel, Supervising Code Enforcement Officer

RE: Amusement License for 5110 Main Street, The Walker Center

In response to the Amusement License Application dated June 1, 2021, from G. Ragusa,

I recommend the approval of his request for First Class outdoor events at the above noted address.

The fee for such an event is set be the Town Board, the fee can be from $5.00 to $50.00 per day, or fraction thereof.

With the event being on every Wednesday from June 1 through September 1, 2021 (11 events) from 4:30 pm until 11:00pm in the parking lot of the address noted above, I would recommend a fee of $50.00.

I would recommend that the following conditions be stated:

- That all fire lanes be kept clear at all times.
- For any tents in excess of 400 square feet being used, a fire prevention tent permit must be obtained.
- All temporary power must be code compliant.
- Bathroom facility must be made available & accessible.
- On site accessible parking must be maintained.
- Vehicle impact protection must be provided for the guest area.
- Fire Department access must be maintained at all times in the event of an emergency.
- Events with 1,000 guests or more will require "Crowd Managers" per the 2020 FCNYS.
- The applicant must abide by Chapter 138 of the Town of Amherst Code regarding noise.

Please contact me if you have any questions regarding this response.

Doug Gesel

Douglas Gesel, Supervising Code Enforcement Officer
cc: Fran Spoth, Town Clerk, Mark Berke P.E. Commissioner of Building, Bryan Parnell, Senior Fire Inspector

Attachment: DOC070621-07062021153850 (RES-2021-579 : Amusement License - Giancarlo's Walker Center LLC)

Koller, Timothy

From: Melissa Lynch
Sent: Tuesday, July 6, 2021 2:52 PM
To: Koller, Timothy
Subject: Re: Amusement License Review - Giancarlo's

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Tim,

I spoke with the Chief about this application. He did not have any comments upon his review.

Thanks,
Melissa

On Tue, Jun 29, 2021 at 2:31 PM Koller, Timothy <tkoller@amherst.ny.us> wrote:

MEMORANDUM

Date: June 29, 2021

To: Scott Chamberlin, Chief of Police, Doug Gesel, Supv. Code Enforcement Officer & Bryan Parnell, Senior Fire Inspector

From: Timothy Koller, Deputy Town Clerk

Re: Amusement License

Attached is an application from Giancarlo's Walker Center LLC, to hold 11 events starting Wednesday June 23, 2021 thru September 1, 2021 for live music at 5110 Main Street. Due to an email issue this was just brought to my attention today. Please review and send any written comments back to me as soon as possible so we can place this on the earliest Town Board Agenda. Thank you for your cooperation.

Timothy J. Koller
Deputy Town Clerk
Town of Amherst
(716) 631-7043

--
Melissa Lynch, Paralegal
Assistant to the Chief of Police
Amherst Police Department
500 John James Audubon Parkway

Attachment: DOC070621-07062021153850 (RES-2021-579 : Amusement License - Giancarlo's Walker Center LLC)

Town of Amherst
Amusement License Application

Organization or Resident: Giancarlo's Walker Center LLC

Address of Event: 5710 Main St - Amherst, NY 14221

Describe Event: Live music on blocked off section of parking lot

List All Dates: Every Wednesday June 23 - September 1
day/month/year & day of week

Number of Occasions: 11

Time (Start & End): 4:30 PM - 11:00 PM

PLEASE ATTACH A SITE PLAN WITH DESIGNATED AREA FOR EVENT

Name of Organizer Giancarlo's Walker Center LLC

Address 5710 Main St / Amherst, NY 14221

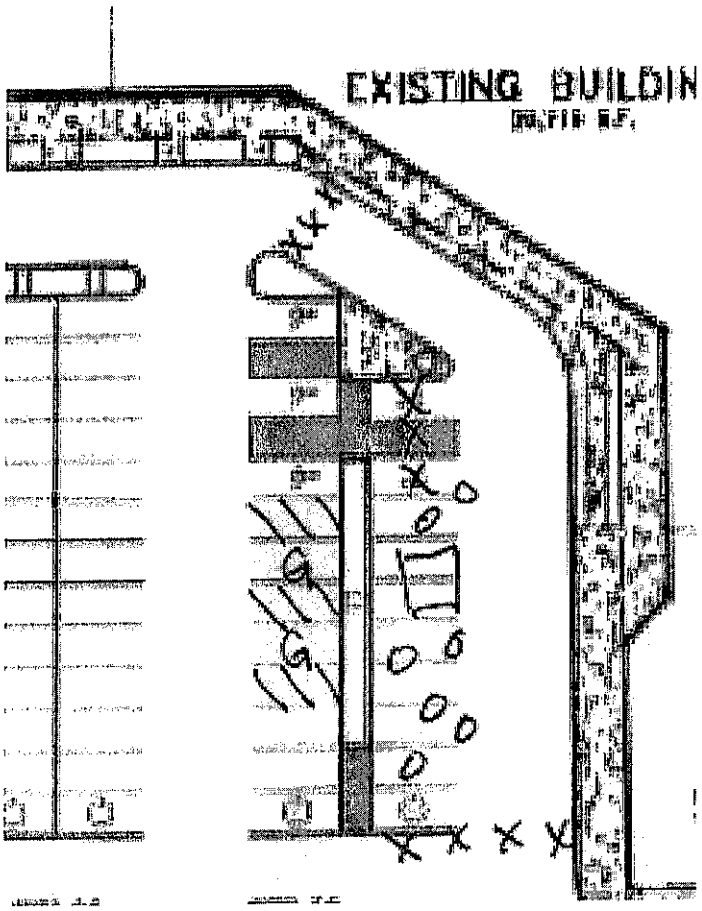
Phone Number 716.650.5566

Signature of Organizer

Date June 1, 2021

Office use only:
Submitted to Police & Building _____
Fee determined by Town Board _____
Business or Resident notified _____
Payment Rcvd _____
License issued and mailed out _____

Attachment: DOC070621-07062021153850 (RES-2021-579 : Amusement License - Giancarlo's Walker Center LLC)



Wednesdays in the Walker Center 2021

Guests #: 20-40

Security: 1 Maintenance team member per night

Tables: 7 tables with 4-6 chairs at each table

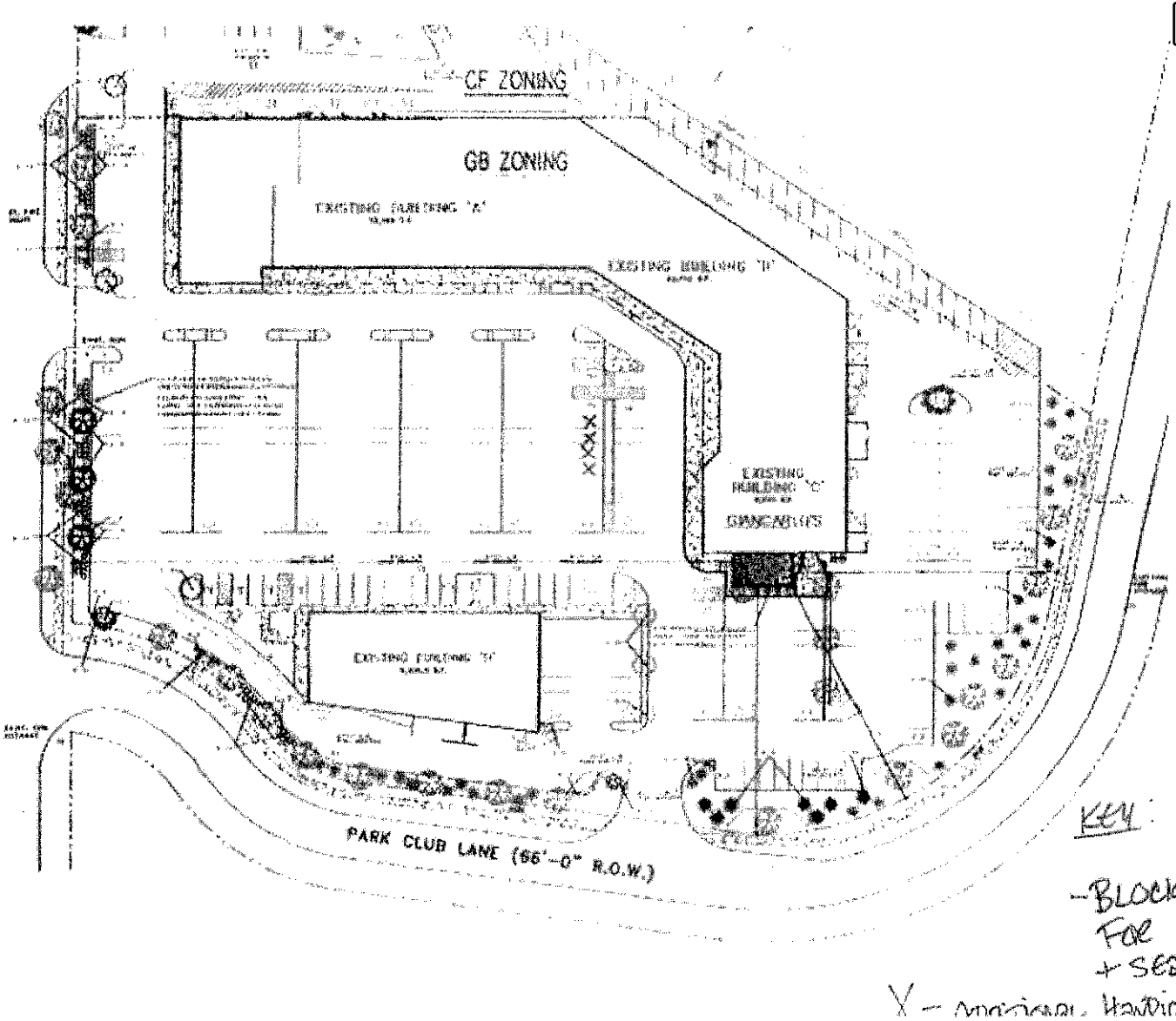
Fire Lane: Fire lane will be kept clear of tables and chairs during events.
-In the event of an emergency the maintenance and serving staff will remove the cones immediately.

Power Source: The band will use a 120V extension cord with a ramp to prevent tripping.

Tent: A tent will not be used during the event

Key:
X - cones
- additional handicap park
O - tables w/ chairs
⊓ - Band

Attachment: DOC070621-07062021153850 (RES-2021-579 : Amusement License - Giancarlo's Walker Center LLC)



Attachment: DOC070621-07062021153850 (RES-2021-579 : Amusement License - Giancarlo's Walker Center LLC)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 23483 **RESOLUTION 2021-580** **ADOPTED**

Amusement License - 12 Gates Brewing Company

Request by 12 Gates Brewing Company for a First Class Amusement License for July 17, 2021 from 12 PM - 11 PM.
Supervising Code Enforcement Officer recommends a fee of $50.

The Building Department recommends the following conditions:

1. Food Trucks must have a current Town of Amherst Food Vendor License and have the current inspection sticker affixed to vehicle.
2. That all fire lanes be kept clear at all times.
3. All temporary power must be code complaint.
4. Bathroom facility must be made available and accessible.
5. On site accessible parking must be maintained.
6. Vehicle impact protection must be provided for the guest area.
7. Fire Department access must be maintained at all times in the event of an emergency.
8. Events with 1,000 guests or more will require "Crowd Managers" that are in compliance with Chapter 4 of the 2020 FCNYS.
9. The applicant must abide by Chapter 138 of the Town of Amherst Code regarding noise.

7/12/2021
Consent

FINANCIAL IMPACT:

Income to the Town.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Town of Amherst
Amusement License Application

Organization or Resident: 12 GATES BREWING CO.

Address of Event: 80 EARHART DR Suite 20

Describe Event: CRAFT BEER & MUSIC FEST

List All Dates: SATURDAY July 17, 2021
day/month/year & day of week

Number of Occasions: 1

Time (Start & End): 12:00pm - 11:00pm

PLEASE ATTACH A SITE PLAN WITH DESIGNATED AREA FOR EVENT

Name of Organizer KEVIN LALOCK

Address 80 EARHART DR Suite 20

Phone Number 716.903.2141

Signature of Organizer

Date 7/2/2021

Office use only:
Submitted to Police & Building _____
Fee determined by Town Board _____
Business or Resident notified _____
Payment Rcvd _____
License issued and mailed out _____

Attachment: 12 Gates - Amusement Permit App (RES-2021-580 : Amusement License - 12 Gates Brewing Company)



Attachment: 12 Gates - Amusement Permit App (RES-2021-580 : Amusement License - 12 Gates Brewing Company)

TOWN OF AMHERST
BUILDING DEPARTMENT
INTER-DEPARTMENTAL CORRESPONDENCE
5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221

PHONE: (716) 631-7080
FAX: (716) 631-7192

Mark S. Berke, P.E.
Commissioner of Building

Agenda Item

DATE: July 6, 2021

TO: Town Board

FROM: Douglas Gesel, Supervising Code Enforcement Officer

RE: Amusement License for 80 Earhart Drive, 12 Gates Brewing Company

In response to the Amusement License Application dated July 2, 2021 from Kevin Lalock,

I recommend the approval of his request for First Class outdoor events at the above noted address. The fee for such an event is set be the Town Board, the fee can be from $5.00 to $50.00 per day, or fraction thereof.

With the event being on Saturday July 17, 2021 from 12:00 pm until 11:00pm in the parking lot of the address noted above, I would recommend a fee of $50.00.

I would recommend that the following conditions be stated:

- Food Trucks must have a current Town of Amherst Food Vendor License and have the current inspection sticker affixed to the vehicle.
- That all fire lanes be kept clear at all times.
- All temporary power must be code compliant.
- Bathroom facility must be made available & accessible.
- On site accessible parking must be maintained.
- Vehicle impact protection must be provided for the guest area.
- Fire Department access must be maintained at all times in the event of an emergency.
- Events with 1,000 guests or more will require "Crowd Managers" that are in compliance with Chapter 4 of the 2020 FCNYS.
- The applicant must abide by Chapter 138 of the Town of Amherst Code regarding noise.

Please contact me if you have any questions regarding this response.

Douglas Gesel, Supervising Code Enforcement Officer
cc: Fran Spoth, Town Clerk, Mark Berke P.E. Commissioner of Building, Bryan Parnell, Senior Fire Inspector

Attachment: 12 Gates - Amusement Permit App (RES-2021-580 : Amusement License - 12 Gates Brewing Company)

Koller, Timothy

From: Kevin Brown
Sent: Tuesday, July 6, 2021 4:09 PM
To: Koller, Timothy
Cc: Lynch, Melissa
Subject: Re: Amusement License - 12 Gates Brewery

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

From a police / traffic perspective I do not see an issue with this event. Please let me know if you have any questions.

Thanks,

Captain Kevin Brown
Amherst Police Department
500 John James Audubon Pkwy
Amherst, New York 14228
Work:(716) 689-1302

On Tue, Jul 6, 2021, 15:40 Scott Chamberlin > wrote:
Thanks Kevin,

Can you please reply to the original sender from Town Hall also? Thanks.

SC

Chief Scott P. Chamberlin
Town of Amherst Police Department
500 John James Audubon Parkway
Amherst, NY 14228
(716)689-1351

On Tue, Jul 6, 2021 at 3:17 PM Kevin Brown > wrote:
Chief,
The location is not within a residential neighborhood, so I don't foresee an issue with noise. There appears to be sufficient parking in and around their establishment. From a traffic perspective I do not see an issue with this event. Please let me know if you have any questions.

Thanks,
Kevin

Captain Kevin Brown
Amherst Police Department

Attachment: 12 Gates - Amusement Permit App (RES-2021-580 : Amusement License - 12 Gates Brewing Company)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Comptroller
Initiated by: **Daryl Bramer**
Co-Sponsored by:

DOC ID: 23480 **RESOLUTION 2021-581** **ADOPTED**

Budget Transfers and Amendments

For July 12, 2021 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 7/7/2021
Re: Various Department Budget Transfers / Amendments

I have received the following request(s) requiring budget transfers and / or amendments. Based on my review, I ask that the Town Board approve the following list;

BUDGET TRANSFERS - 2021

FROM: ***TO:***

BUDGET AMENDMENTS - 2021

INCREASE: ***INCREASE:***

N2044.02785 Cheektowaga Home - PI $1,433.70 N2044.4000 Contractual $1,433.70
N2049.02785 Cheektowaga Home Admin $159.30 N2049.4003 Admin $159.30
To recognize Community Development program income from 79 Applewood, Cheektowaga.

N2044.02785 Cheektowaga Home - PI $2,808.00 N2044.4000 Contractual $2,808.00
N2049.02785 Cheektowaga Home Admin $312.00 N2049.4003 Admin $312.00
To recognize Community Development program income from 15 Greenleaf Lane, Cheektowaga.

N1042.05002 Em'ee Health Ins. Contribution $1,902.96 N1042.8050 Health Ins. $1,902.96
To recognize Community Development 2nd quarter employee health insurance contributions.

N0001.20063 CDBG Income $5,820.00 N1521.4000 Contractual $5,820.00
To recognize Community Development drawdowns for PO 22123612.

N0001.20063 CDBG Income $16,390.00 N1521.4000 Contractual $16,390.00
To recognize Community Development drawdowns for PO 22123614.

KP2101.02089 Rec Facility - Erie County Grant $250,000 KP2101.4972 Construction $250,000
To setup budget for CRS# 2703, Kingsgate Park Central Amherst Little League Improvements, pending successful completion of the contract routing process.

N2057.4000 CDBG Senior Ctr. - COVID 19 $29,103.15 N2057.2600 Other Equipment $29,103.15
To transfers funds for CRS #2732 Senior Center Audio Visual Equipment.

7/12/2021
Consent

FINANCIAL IMPACT:

Community Development and Erie County Grant.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 23364 **RESOLUTION 2021-582** **ADOPTED**

Award RFP #202009 - Wireless Telecommunications Consultant - CRS #2690

WHEREAS, the Contract Compliance and Administration Department received proposals on January 8, 2021 for RFP #202009 Wireless Telecommunications Consultant; and

WHEREAS, the RFP process resulted in responses from one (1) vendor;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this RFP to CityScape Consultants, Inc.; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with CityScape Consultants, Inc.

7/12/2021
Consent

FINANCIAL IMPACT:

AG3065-0699; A1420-4090; P1915-4090 Amount TBD

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 23451 **RESOLUTION 2021-583** **ADOPTED**

Award RFP #202104 - Senior Center Audio Visual Equipment - CRS #2732

WHEREAS, RFP's were received by the Contract Compliance and Administration Department on May 27, 2021 for RFP #202104 Senior Center Audio Visual Equipment; and

WHEREAS, one (1) submission was received;

NOW, THEREFORE, BE IT RESOLVED, the RFP be awarded to Park Place Installations; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with Park Place Installations.

7/12/2021
Consent

FINANCIAL IMPACT:

N2057-2600 - $29,103.15

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 23503 **RESOLUTION 2021-584** **ADOPTED**

Piggyback on Erie County Contract with Willow Creek Farm - CRS #2765

RESOLVED, the Town Board authorizes the Supervisor to sign the piggyback contract with Willow Creek Farm. This is a piggyback contract through Erie County Bid #219065-004 for Playground Cushion Chips; and

BE IT FURTHER RESOLVED, the Town Board authorizes a waiver of insurance as Willow Creek Farm personnel will not be on Town of Amherst property; and

BE IT FURTHER RESOLVED, this approval is pending successful completion of the contract routing system, due to the need to purchase product as soon as possible.

7/12/2021
Consent

FINANCIAL IMPACT:

T2023; Amount TBD

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DIVISION OF PURCHASE
INVITATION TO BID

Bids, as stated below, will be received and publicly opened by the Division of Purchase in accordance with the attached specifications. **FAX bids are acceptable.** Bids should be submitted to:

County of Erie
Division of Purchase
Attention: Tricia Pierce, Buyer (716) 858-6337
95 Franklin Street, Room 1254
Buffalo, New York 14202-3967

NOTE: Lower left hand corner of envelope MUST indicate the following:

BID NUMBER: 219065-004

OPENING DATE: 5/13/19 TIME: 2:30 PM

FOR: Playground Cushion Chips

NAME OF BIDDER: Willow Creek Farm

If you are submitting other Invitations to Bid, each bid must be enclosed in a separate envelope.

Following EXHIBITS are attached to and made a part of the bid specifications, and part of any agreement entered into pursuant to this Invitation to Bid:

X	EXHIBIT "A"	- Assignment of Public Contracts
X	EXHIBIT "B"	- Purchases by Other Local Governments or Special Districts
____	EXHIBIT "C"	- Construction/Reconstruction Contracts
____	EXHIBIT "D"	- Bid Bond (Formal Bid)
N/A	EXHIBIT "E"	- Bid Bond (Informal Bid)
X	EXHIBIT "EP"	- Erie County Equal Pay Certification
____	EXHIBIT "F"	- Standard Agreement
X	EXHIBIT "G"	- Non-Collusive Bidding Certification
X	EXHIBIT "H"	- MBE/ WBE Commitment
____	EXHIBIT "IC"	- Insurance
____	EXHIBIT "J"	- Apprentice Training Program Certification
____	EXHIBIT "P" & EXHIBIT "PBI"	- Performance Bond
____	EXHIBIT "PW"	- NYS Prevailing Wage
____	EXHIBIT "Q"	- Confined Space Program Certification

(Rev. 1/15)

Attachment: Willow Creek Farm (RES-2021-584 : Piggyback on Erie County Contract with Willow Creek Farm - CRS #2765)

County of Erie

DIVISION OF PURCHASE
BID SPECIFICATIONS

BID NO 219065-004

Attention: Erie County Parks
Address: Various
Erie County

Ship Via: CW
Date Required at Destination: ASAP

ITEM NO.	QUAN-TITY	UM	CATALOG NO./DESCRIPTION		UNIT PRICE	TOTAL PRICE
			Proposal to supply 7 different Erie County Parks			
			with the material listed below.			
			No Fuel Surcharges allowed. Quantities are estimated.			
			All parks are located within Erie County.			
			Product MUST be available immediately.			
1	700	yards	High Quality Cushion Wood- Must be:		$ 22/yd	$ 15,400
			95% Hardwood			
	350 yds		Triple Ground			13,700
2	8	Ea	Cost to deliver to each location(up to 100 yards)		$ 50.00	$ 400
	9 x 4 yds					
			TOTAL			$15,800

PLEASE NOTE: ALTERNATE PRODUCTS & SERVICES WILL BE EVALUATED AS PER BIDDER INSTRUCTION #19

NOTE: Bid results cannot be given over the phone. All requests for bid results should be submitted in writing or faxed to:

ERIE COUNTY DIVISION OF PURCHASE
Freedom of Information Officer
95 Franklin Street, Rm. 1254
Buffalo, NY 14202
FAX #: **716/858-6465**

TOTAL NET BID DELIVERED INSIDE $15,800-

NAME OF BIDDER Willow Creek Farm

(Rev. 9/95)
ERIE COUNTY OFFICE BUILDING, 95 FRANKLIN STREET, BUFFALO, NEW YORK 14202 (716) 858-6395

Attachment: Willow Creek Farm (RES-2021-584 : Piggyback on Erie County Contract with Willow Creek Farm - CRS #2765)

Erie County Equal Pay Certification

In order to comply with Executive Order 13 dated November 6, 2014, we hereby certify that we are in compliance with federal law, including the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, Federal Executive Order 11246 of September 24, 1965 and New York State Labor Law Section 194 (together " Equal Pay Law"). The average compensation for female employees is not consistently below the average compensation for male employees, taking into account mitigating factors. We understand that this certification is a material component of this contract. Violation of the provisions of Executive Order 13, which is attached hereto and made a part hereof, can constitute grounds for the immediate termination of this contract and may constitute grounds for determining that a bidder is not qualified to participate in future county contracts.
We have evaluated wages and benefits to ensure compliance with the Federal Equal Pay Law.

Signature

Verification

STATE OF New York)
COUNTY OF Niagara) SS:

A)
Melvyn Hedges, being duly sworn, states he or she is the owner of (or a partner in) Willow Creek Farm, and is making the foregoing Certification and that the statements and representations made in the Certification are true to his or her own knowledge.

B)
_____, being duly sworn, states that he or she is the Name of Corporate Officer _____, of _____, Title of Corporate Officer Name of Corporation the enterprise making the foregoing Certification, that he or she has read the Certification and knows its contents, that the statements and representations made in the Certification are true to his or her own knowledge, and that the Certification is made at the direction of the Board of Directors of the Corporation.

Sworn to before me this 7th
Day of May, 2019

JEFFREY DANIEL BERDZIK
NOTARY PUBLIC STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
LIC. #01BE6266700
COMM. EXP. 08/06/20__

Attachment: Willow Creek Farm (RES-2021-584 : Piggyback on Erie County Contract with Willow Creek Farm - CRS #2765)

EXHIBIT "G"

County of Erie

DIVISION OF PURCHASE

NON-COLLUSIVE BIDDING CERTIFICATION

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

(1) the prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or any competitor;

(2) unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and

(3) no attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

NOTICE

(Penal Law, Section 210.45)

IT IS A CRIME, PUNISHABLE AS A CLASS A MISDEMEANOR UNDER THE LAWS OF THE STATE OF NEW YORK, FOR A PERSON, IN AND BY A WRITTEN INSTRUMENT, TO KNOWINGLY MAKE A FALSE STATEMENT, OR TO MAKE A FALSE STATEMENT, OR TO MAKE A STATEMENT WHICH SUCH PERSON DOES NOT BELIEVE TO BE TRUE.

BID NOT ACCEPTABLE WITHOUT FOLLOWING CERTIFICATION:

Affirmed under penalty of perjury this 7th day of May, 2019

TERMS _____ DELIVERY DATE AT DESTINATION _____

FIRM NAME Willow Creek Farm

ADDRESS 10270 Rapids Rd.

Clarence Ctr. NY ZIP 14032

AUTHORIZED SIGNATURE Melvyn C. Hedges

TYPED NAME OF AUTHORIZED SIGNATURE Melvyn C. Hedges

TITLE Owner TELEPHONE NO. 716 741 2599

cell 716 863-7089

(Rev. 4/1/93)

ERIE COUNTY OFFICE BUILDING, 95 FRANKLIN STREET, BUFFALO, NEW YORK 14202 (716) 858-8395

Attachment: Willow Creek Farm (RES-2021-584 : Piggyback on Erie County Contract with Willow Creek Farm - CRS #2765)

BID WILL NOT BE CONSIDERED IF THIS FORM IS NOT SUBMITTED WITH BID AS REQUIRED, REGARDLESS OF THE BID AMOUNT.

BID NO.: 219065-004
BID DATE: 5/13/19

ERIE COUNTY MINORITY/ WOMEN BUSINESS ENTERPRISE
UTILIZATION REPORT - PART A

COMPANY: Willow Creek Farm
AUTHORIZED REPRESENTATIVE: Melvyn Hedges
ADDRESS: 10270 Rapids Rd Clar. Ctr. NY 14032
TELEPHONE NUMBER: (__)_
BID NAME: Playground Cushionwood chips

I. List actions taken to identify, solicit, and contact Minority Business Enterprises (MBE)/Women Business Enterprises (WBE) to bid on subcontracts for this project.

1.
2. No subcontracts
3.
4.
5.
6.

II. List all bona fide Minority/Women Business Enterprise subcontractors and suppliers solicited, contracted, or presently negotiating a contract in accordance with the minority business utilization goal set forth by the County of Erie. (Attach additional sheets if necessary.)

MBE/WBE OWNED FIRMS	SUPPLY/SERVICE	AMOUNT OF PROPOSAL	PRIOR CERTIFICATION	CONTRACT EXECUTED	REASON IF CONTRACT NOT AWARDED
Name: _____ Address: _____ Telephone No. _____ IRS # _____				YES ____ NO ____	
Name: _____ Address: _____ Telephone No. _____ IRS # _____				YES ____ NO ____	

Attachment: Willow Creek Farm (RES-2021-584 : Piggyback on Erie County Contract with Willow Creek Farm - CRS #2765)

MBE/WBE OWNED FIRMS	SUPPLY/SERVICE	AMOUNT OF PROPOSAL	PRIOR CERTIFICATION	CONTRACT EXECUTED	REASON IF CONTRACT NOT AWARDED
Name: _____ Address: _____ _____ Telephone No. _____ IRS # _____				YES _____ NO _____	
Name: _____ Address: _____ _____ Telephone No. _____ IRS # _____				YES _____ NO _____	
Name: _____ Address: _____ _____ Telephone No. _____ IRS # _____				YES _____ NO _____	

III. Total Dollar Amount to be subcontracted to
Minority Business Enterprise(s). $
Women Business Enterprise(s). $

IV. Total Amount of Bid $

V. MBE Percent (%) of project bid %
WBE Percent (%) of project bid %

VI. YOU MUST ATTACH COPIES OF RELEVANT CORRESPONDENCE AND DOCUMENTS, INCLUDING RETURN RECEIPTS.

Melissa C. Hodges 5-7-19

SIGNATURE OF AUTHORIZED REPRESENTATIVE DATE

(01/09)

Attachment: Willow Creek Farm (RES-2021-584 : Piggyback on Erie County Contract with Willow Creek Farm - CRS #2765)

MBE/WBE UTILIZATION REPORT - PART B

FINAL CERTIFICATION OF EXPENDITURES TO MBEs/WBEs

(To be completed by the prime vendor and submitted to the Erie County Division of E.E.O. when contract is complete)

Erie County reserves the right to require documentation, including, but not limited to, cancelled checks to verify these amounts.

VENDOR: Willow Creek Farm BID NO. 219065-004

MBE	TOTAL AMOUNT EXPENDED Ø
WBE	

TOTAL OF ALL MBE SUBCONTRACTS	$ 0
TOTAL OF ALL WOMEN SUBCONTRACTS	$ 0
AMOUNT OF CONTRACT (PRIME)	$ 0
FINAL MBE PERCENTAGE	$ 0
FINAL WBE PERCENTAGE	$ 0

I Evelyn C. Hodges as an official representative of W.C.F., do hereby certify that the information listed above is correct and complete.

SIGNATURE Evelyn C. Hodges TITLE OWNER DATE 5-7-19

MAIL TO: Erie County Division of E.E.O.
95 Franklin Street
6th Floor
Buffalo, NY 14202

(01/09)

Attachment: Willow Creek Farm (RES-2021-584 : Piggyback on Erie County Contract with Willow Creek Farm - CRS #2765)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 23496 **RESOLUTION 2021-585** **ADOPTED**

Award Bid #2021016 - Tree Treatment Products - CRS #2750 & 2751

WHEREAS, the Contract Compliance and Administration Department received bids on May 27, 2021 for Bid #2021016 - Tree Treatment Products; and

WHEREAS, the bid process resulted in responses from two (2) vendors, as per the attached bid tabulation form; and

THEREFORE BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this bid as follows: Items #2, 5, 7, 12, 18, & 22 to Nutrien Ag Solutions; Items #1, 3, 4, 6, 8-11, 13-17, 19-21, & 23 to Site One Landscape Supply; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contracts with Nutrien Ag Solutions and Site One Landscape Supply; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the contract routing system due to the need to purchase these products as soon as possible.

7/12/2021
Consent

FINANCIAL IMPACT:

Town Wide - Various Accounts - Amount TBD

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Bid #2021016 Tree Treatment Products									
		Low Bidder							
			Vendor Name:	Nutrien Ag Solutions			Site One		
Item #	QTY	U/M		Unit Price	Packaging Info.	Total Price	Unit Price	Packaging Info.	Total Price
1	24	EA	E040-415ON Emamcectin Benzoate Case 8 Liters	$3,260.00		$78,240.00	$1,519.80	4x 1qt/cs.	$77,085.96
2	216	EA	070-0155 Plugs 100/package	$42.50		$9,180.00	$43.45	100/pk.	$9,385.20
3	5	EA	030-2030 Clean Jet 1	$13.30		$66.50	$11.74	1 liter	$58.70
4	6	EA	053536 Posting Signs Box 500	$45.50		$273.00	$29.57	Box/500	$177.42
5	8	EA	092174 Posting Sticks 20” Box 250	$21.60		$172.80	$45.00	Box 500	$180.00
6	2	EA	070-0120 Arborplug Setter 2 Pack	$33.25		$66.50	$29.41	2-pk.	$58.82
7	24	EA	040-4100N Arborjet Tree-Age Rup 1 Liter (New Label)	$407.50		$9,780.00	No Bid		No Bid
8	10	EA	040-2003 Ima-jet 1 Liter	$284.05		$2,840.50	$263.82	1 liter	$2,638.20
9	10	EA	040-2011 Ace-Jet-15 gr/pack 20 pack box	$223.25		$2,232.50	$207.35	15 gm x 20	$2,073.50
10	10	EA	040-3011 Phospho-jet 1 liter	$75.99		$759.90	$70.58	1 liter	$705.80
11	10	EA	040-6000 Alamo 1 Quart	$237.49		$2,374.90	$61.75	1 liter	$584.37
12	10	EA	030-4010 Min-jet Iron with MG 1 Gallon	$109.25		$1,092.50	$92.00	1 liter	$3,482.58
13	10	EA	030-2030 Arborjet Clean-Jet 1 Liter	$13.30		$133.00	$11.74	1 liter	$117.40
14	20	EA	070-0155 Arborjet Plugs #4 100/Pk	$45.00		$900.00	$43.45	100/pk.	$869.00
15	10	EA	010-4022 Hydraulic O Ring Kit Arborjet	$19.00		$190.00	$17.50	Each	$175.00
16	5	EA	010-9023 Tree Iv Bottle 1 Liter Arborjet	$14.25		$71.25	$12.50	1 liter	$62.50
17	5	EA	070-0120 Arborplug Setter 2-Pack Arborjet	$33.25		$166.25	$29.41	2/pk.	$147.05
18	10	EA	070-0515 Deluxe Viper Needle 2Pack Arborjet	$33.25	4-Pack	$166.25	$87.50	2/pk.	$875.00
19	10	EA	070-2000 Drill Bit 2-Pack #4 Arborjet	$20.90		$209.00	$18.24	2/pk.	$182.40
20	5	EA	975-00165 Diameter Tape	$24.70		$123.50	$22.94	12 ft.	$114.70
21	15	EA	053536 Posting Sign Ny W/O Stick Npers Bx/500	$45.50		$682.50	$29.57	Box/500	$443.55
22	15	EA	092174 Slim Jim Stakes Bx/500	$21.60		$324.00	$45.00	Box/500	$675.00
23	3	EA	070-2350 Arborjet Quik Jet Air Kit	$2,184.05		$6,552.15	$1,941.18	Each	$5,823.54
NOTES: Site One: Item #1: Quantity changed from 24 to 192 - Arborjet Tree - Age G4 4 x 1 Qt/Case									

Attachment: Bid Tab 2021016 Tree Treatment Products (RES-2021-585 : Award Bid #2021016 Tree

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 23488 **RESOLUTION 2021-586** **ADOPTED**

Auction of Engineering Department & Sewer Maintenance Surplus Equipment

The Engineering Sewer Maintenance Division is seeking to participate in the Auctions International online auction to dispose of old and surplus equipment.

The following equipment is slated for auction:

	ID	Description	VIN/Serial #	Condition
1.	E-14	2004 Chevrolet G2500 Survey Van	1GCGG25V541218171	Fair
2.	E-87	2011 Ford F250 4x2 Supercab	1FT7X2A698EA80008	Poor
3.	E-69	2001 International Vacuum Truck	1HTSCAAR91H386345	Good

May we please have the approval to place the above equipment in the auction?

7/12/2021
Consent

FINANCIAL IMPACT:

TBD

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 23489 **RESOLUTION 2021-587** **ADOPTED**

Rejection of Bids - Canalway Trail & Hopkins Road Trail Safety Enhancements

On June 17, 2021, five (5) bids were received for the above referenced project. The bid tabulation sheet is attached. After review of the bids, it is recommended that all bids are to be rejected due to insufficient funding. Supplementary funding is requested within the 2022 Capital Improvement Program cycle.

The project will be re-bid once sufficient funding is in place and in a time frame that does not jeopardize the outside funding that has been secured. Thank you for considering this request.

7/12/2021
Consent

FINANCIAL IMPACT:

N/A

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

TOWN OF AMHERST, NEW YORK

Canalway Trail and Hopkins Road Trail Safety Enhancements
KHEOPS JOB NO 19NY196
TOWN JOB NO. 2015.033A

Bid Date: June 17, 2021
Time: 12:00 PM

	Contractor	Base Bid	Alt Bid	Total
1	North Spur Construction	$ 272,839.96	$ 1,422.90	$ 274,262.86
2	McLaughlin Construction Corp	$ 276,756.00	$ 5,205.00	$ 281,961.00
3	Scott Lawn Yard, Inc	$ 280,222.50	$ 3,828.00	$ 284,050.50
4	Amherst Paving Inc.	$ 301,366.00	$ 3,375.00	$ 304,741.00
5	Pinto Construction Services, Inc	$ 447,862.00	$ 39,750.00	$ 487,612.00

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 23490 **RESOLUTION 2021-588** **ADOPTED**

WPCF De-Ionized Water System Service Contract CRS No. 2697

The WPCF is requesting that the Town Board authorize the Supervisor to sign a service agreement with Evoqua Water Technologies. Evoqua is the factory authorized service provider for the WPCF's De-Ionized Water Production System, which is critical to the lab at the WPCF. The term of this contract will be from date of execution by the Town of Amherst through February 28, 2022.

This request is pending successful completion of the contract review process.

Funds will be available in G9916-4860.

Thank you for considering this request.

7/12/2021
Consent

FINANCIAL IMPACT:

G9916-4860

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

AGREEMENT

Let this document stand as an Agreement between Evoqua Water Technologies and the Town of Amherst permitting the Town of Amherst to enter into a one year service contract according to the attached renewal request. The term of this contract extension will be from date of execution by the Town of Amherst through February 28, 2022.

Agreed to and Accepted by:

Evoqua Water Technologies

By: _____
Signature

Brian S Schumacher
Printed name

Northeast Business Mgr
Title

Date: 04-28-2021

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Attachment: Evoqua Agreement (RES-2021-588 : WPCF De-Ionized Water System Service Contract)

EVOQUA WATER TECHNOLOGIES

24hr Customer Service: (800) 466-7873
Tax ID Number: 80-0909020

Sign and return this *with your account number* via fax to (724)-572-0210 or email to porenewal@evoqua.com

Date:	December 18, 2020	Net Terms:	N30 days
To:	MICHAEL POSLINSKI	Phone:	(716) 691-9771 X-8045
	TOWN OF AMHERST	Fax:	?
	WASTEWATER TREATMENT 16	Email:	**MPOSLINSKI@AMHERST.NY.US**
	455 TONAWANDA CREEK RD		
	AMHERST, NY 14228	Branch:	030 Upstate NY 40373716

Reference: **Acct:** 0302096448 **Current PO: JD33981-24920** **Current Pricing Expires: 02/28/2021**

Dear valued customer,

Thank you for being an Evoqua customer, as well as for allowing us to fulfil your water treatment needs. As your current purchase order will run out of funds soon, we look forward to extending our engagement for another year. The prices listed below will apply for **12 months** from the date of renewal.

The schedule below is based on the **minimum** service frequency per year and may vary due to water usage and feed water quality. This renewal incorporates all Evoqua Water Technologies LLC Terms & Conditions located at https://www.evoqua.com/en/about-us/terms-conditions-sale-products-services. For additional services or labor not included here, please call for rates. **We appreciate your continued use of Evoqua's water services.**

See Page 2

AUTO RENEWAL: This agreement will automatically renew using the payment method selected below or (if blank) as previously provided unless buyer expressly wishes to opt-out of this agreement. Evoqua Water Technologies, LLC will notify you of any price changes to allow an opportunity to authorize additional funds if required. **( ) I DO NOT WISH TO AUTORENEW**

Payment selection:

( ) VISA / MASTER CARD / AMEX: CIRCLE ONE PLEASE

EXP DATE:_____ **CARD #**_____ **NAME ON CARD:**_____

( ) PURCHASE ORDER: Service will be performed at the estimated frequency above or sooner and an invoice referencing the purchase order will be mailed.

PO (# or authorized name if no purchasing system) _____ **EXPIRATION DATE:** _____

To speak with your representative, contact Sandra Buccelli via PH 724-772-1461 or Sandra.Buccelli@evoqua.com

_____ **PRINT NAME / DATE**

_____ **PHONE NUMBER**

_____ **CUST SIGNATURE / TITLE**

_____ **EMAIL ADDRESS**

IF TAX-EXEMPT, please provide a certificate issued to: Evoqua Water Technologies, LLC

Attachment: Evoqua Agreement (RES-2021-588 : WPCF De-Ionized Water System Service Contract)

Reference: **Acct:** 0302096448 **Current PO: JD33981-24920** **Current Pricing Expires: 02/28/2021**

THIS IS NOT AN INVOICE

Schedule of Services

Part Number	Description	Qty	Frequency	Unit Price	Minimum Yearly Total
W3TSP3011	PM CONTRACT RECURRING - PARTS & LABOR	1	12 Months	$7,842.94	$7,842.94
W2T149194	FILTER CTRDG,20" 0.2UM CDE F POLYSUL N	1	6 Months	$0.00	$0.00
W2T149194	FILTER CTRDG,20" 0.2UM CDE F POLYSUL N	1	over annual qty	$125.99	varies
W2T149272	MEMBRANE USF BW30-4040 DRY w/COUPLER	1	12 Months	$0.00	$0.00
W2T149272	MEMBRANE USF BW30-4040 DRY w/COUPLER	1	over annual qty	$266.17	varies
W2T159653	CART 20" X 4.5 BB 5UM CODE F PP STR	1	3 Months	$0.00	$0.00
W2T177748	O-RING, SILICONE FOR GLASS BS118	2	12 Months	$0.00	$0.00
W2T182120	CLEANER,MINNCARE QUART (4 /Case)	4	12 Months	$0.00	$0.00
W2T182120	CLEANER,MINNCARE QUART (4 /Case)	1	over annual qty	$61.22	varies
W2T182518	UV,LAMP BRK DWN PHOTO-OXI ORG-CONT;	1	12 Months	$0.00	$0.00
W2T182518	UV,LAMP BRK DWN PHOTO-OXI ORG-CONT;	1	over annual qty	$312.82	varies
W2T183545	TUBE, QUARTZ CENTRA/MEDICA	1	12 Months	$0.00	$0.00
W2T187407	VENT,FLTR HIGH FLOW CENTRA LC173	1	6 Months	$0.00	$0.00
W2T187407	VENT,FLTR HIGH FLOW CENTRA LC173	1	over annual qty	$578.16	varies
W3TSP4449	INSP & RECORD LAB POU PERFORMANCE DATA	1	3 Months	$0.00	$0.00
W3TSP4607	PERFORM & REPLCE VENT FLTR MAINT PER PMI	1	6 Months	$0.00	$0.00
W3TSP4678	PERFORM & REPLACE UV LAMP MAINT PER PMI	1	12 Months	$0.00	$0.00
W3TSP4693	PERFORM & SANITIZE STORAGE TANK PER PMI	1	12 Months	$0.00	$0.00
W3TSP4814	REPLACE INTERNAL PRE-TREATMENT FILTER	1	3 Months	$0.00	$0.00
W3TSP5225	PREVENTATIVE MAINTENANCE	1	3 Months	$0.00	$0.00
W3TSP5755	TAKE TOC WATER SAMPLE FINAL PROD WATER	1	12 Months	$0.00	$0.00
W3TSP5756	COND PROD WATER SAMPLE & TEST (OFFSITE)	1	12 Months	$0.00	$0.00
W5TDIMB10120FSP	SDI MIXBED1 1.2CF FBGLS STD POT	1	12 Months	$0.00	$0.00
W5TDIMB10120FSP	SDI MIXBED1 1.2CF FBGLS STD POT	1	over annual qty	$250.00	varies
W5TDIMB10360FSP	SDI MIXBED1 3.6CF FBGLS STD POT	1	6 Months	$0.00	$0.00
W5TDIMB10360FSP	SDI MIXBED1 3.6CF FBGLS STD POT	1	over annual qty	$250.00	varies
W5TDIRAC0360FSP	SDI REACT CARBON 3.6CF FBGLS STD PO	1	6 Months	$0.00	$0.00
W5TDIRAC0360FSP	SDI REACT CARBON 3.6CF FBGLS STD PO	1	over annual qty	$250.00	varies

A fuel/energy surcharge of $20.00 per service visit is in effect. A chemical surcharge based on tank size will be applied to each tank exchanged for SDI and WWIX service visits. Surcharge pricing may change throughout the engagement period (subject to market conditions). Failure to provide a purchase order for this renewal notice, will result in a $75 administration fee for the processing of an alternate form of payment.

Attachment: Evoqua Agreement (RES-2021-588 : WPCF De-Ionized Water System Service Contract)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 23491 **RESOLUTION 2021-589** **ADOPTED**

Machine Shop Services Extension Agreement CRS No. 2734

The Engineering Department, WPCF Division is requesting that the Town Board authorize the Supervisor to sign the attached contract extension agreement with Hohl Industrial Services, Inc. The terms and conditions within Town of Amherst Bid 2019034 Machine Shop Services will remain the same. The term of this contract will run from Date of execution by the Town of Amherst through September 24, 2023.

This request has successfully completed the contract review process.

Funds for this request are available Town-wide and various.

Thank you for considering this request.

7/12/2021
Consent

FINANCIAL IMPACT:

Town-Wide & Various

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

AGREEMENT

Let this document stand as an Agreement between Hohl Industrial Services, Inc. and the Town of Amherst permitting the Town of Amherst to extend their existing contract with Hohl Industrial Services, Inc. Both parties agree that the terms and conditions specified in the executed contract, TOA Bid 2019034 Machine Shop Services shall remain the same. The term of this contract will be from date of execution by the Town of Amherst through September 24, 2023.

Agreed to and Accepted by:

HOHL INDUSTRIAL SERVICES, INC.

By: _____
Signature

Thomas J. Santelli
Printed name

President
Title

Date: 6/29/24

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Attachment: Hohl Industrial Agreement (RES-2021-589 : Machine Shop Services Extension Agreement)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 23492 **RESOLUTION 2021-590** **ADOPTED**

Sludge Disposal Contract - Modern Landfill, Inc. CRS No. 2730

The Engineering Department, WPCF division is requesting that the Town Board authorize the Supervisor to sign the attached contract extension agreement with Modern Landfill, Inc. The terms and conditions within Town of Amherst Bid 2018018 Sludge Disposal shall remain the same. This extension will be retroactive from June 18, 2021 through March 31, 2022.

This request has successfully completed the contract review process.

Funds for this request are available in G9916-4950.

Thank you for considering this request.

7/12/2021
Consent

FINANCIAL IMPACT:

G9916-4950

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

AGREEMENT

Let this document stand as an Agreement between Modern Landfill, Inc. and the Town of Amherst permitting the Town of Amherst to extend their existing contract with Modern Landfill, Inc. Both parties agree that the terms and conditions specified in the executed contract, TOA Bid 2018018 Sludge Disposal shall remain the same. The new disposal rate will be $57.28 per ton. The term of this contract extension will run through March 31, 2022.

Agreed to and Accepted by:

Modern Landfill, Inc.

By: _____
Signature

Michael P. McInerney
Printed name

Chief Executive Office
Title

Date: June 24, 2021

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Attachment: Modern Landfill Agreement (RES-2021-590 : Sludge Disposal Contract - Modern Landfill, Inc.)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 23493 **RESOLUTION 2021-591** **ADOPTED**

WPCF Laboratory Scale & Inspection Service CRS No. 2723

As the Engineering Department WPCF is required to have periodic inspections, calibrations, and services performed to our laboratory scales and balances, we would like to enter into a term agreement to provide the required services.

The WPCF is requesting that the Town Board authorize the Supervisor to sign an agreement with Precision Scale & Balance to provide the services as described in their attached quote, dated May 18, 2021. The term of this contract will be from date of execution by the Town of Amherst through December 31, 2022 and will not exceed $5,000.00.

This request has successfully completed the contract review process.

Funds will be available in G9916-4860.

Thank you for considering this request.

7/12/2021
Consent

FINANCIAL IMPACT:

G9916-4860; NTE $5000.00

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

AGREEMENT

Let this document stand as a Term Agreement between Precision Scale & Balance and the Town of Amherst permitting the Town of Amherst to utilize the services as outlined in the attached Precision Scale & Balance quotation, dated May 18, 2021. The term of this contract will be from date of execution by the Town of Amherst through December 31, 2022.

Agreed to and Accepted by:

PRECISION SCALE & BALANCE

By: _____
Signature

MICHAEL J. DEMEIS
Printed name

EXEC VP
Title

Date: 6-14-21

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Attachment: TOA - Precision Scale Balance Agreement (RES-2021-591 : WPCF Laboratory Scale & Inspection Service)

PRECISION SCALE & BALANCE

Empire Scale Corporation
d/b/a Precision Scale & Balance
140 Rotech Drive, Lancaster, NY 14086
Phone: (716) 759-4866
Fax: (716) 759-3931

QUOTATION

Quote Date: May 18, 2021
Page: 1

Quoted To:

TOWN OF AMHERST
ATTN: TOM DEAN
455 TONAWANDA CREEK ROAD
AMHERST, NY 14228

Customer ID	Good Thru	Payment Terms	Quote Number
AMHERS	12/31/22	Net 30 Days	JD28654

We are pleased to offer the following quotation for your consideration:

Qty	Item	Description	Unit Price	Extension
3.00	SVC-BAL1	INSPECTION, CLEANING & CALIBRATION OF BALANCE, NIST TRACEABLE, INCLUDES CERTIFICATE OF CALIBRATION UNITS INCLUDE: METTLER ME1002TE/00 (S/N B948667241) METTLER AE200 (S/N K65272) METTLER BD601S (S/N 03913)	72.00	216.00
2.00	SVC-BAL1	INSPECTION, CLEANING & CALIBRATION OF BALANCE UNITS INCLUDE: METTLER AG204 (S/N B948667240) METTLER AG-204 (S/N 1115203952) **THE ABOVE METTLER AG204 BALANCES HAVE ADDITIONAL TEST POINTS OF 10 MG AND 500 MG	82.00	164.00
1.00	SVC-MOISTUREBALAN	INSPECTION, CLEANING, AND CALIBRATION OF MOISTURE ANALYZER BALANCE, NIST TRACEABLE, INCLUDES CERTIFICATE OF CALIBRATION **BOTH WEIGHING AND TEMPERATURE PARAMETERS ARE CALIBRATED ON THE MOISTURE ANALYZER. STANDARD MULTI-POINT FOR THE WEIGHING PARAMETER AND SINGLE POINT TEMPERATURE UNIT IS: SARTORIUS MA35M (S/N 0027107684)	135.00	135.00

Any Statements of Conformity and Pass/Fail status will be indicated on the calibration report, with the associated decision rule, for each measurement applied.

Thank you for allowing us the opportunity to quote your needs.
We look forward to receiving your valued order.

Please e-mail orders to orders@scaleandbalance.com

For All Your Measurement Needs,
Precision Scale & Balance

Subtotal	Continued
Sales Tax	Continued
TOTAL	Continued

Attachment: TOA - Precision Scale Balance Agreement (RES-2021-591 : WPCF Laboratory Scale & Inspection Service)

PRECISION SCALE & BALANCE

Empire Scale Corporation
d/b/a Precision Scale & Balance
140 Rotech Drive, Lancaster, NY 14086
Phone: (716) 759-4866
Fax: (716) 759-3931

QUOTATION

Quote Date: May 18, 2021

Quoted To:
TOWN OF AMHERST ATTN: TOM DEAN 455 TONAWANDA CREEK ROAD AMHERST, NY 14228

Customer ID	Good Thru	Payment Terms	Quote Number
AMHERS	12/31/22	Net 30 Days	JD28654

We are pleased to offer the following quotation for your consideration:

Qty	Item	Description	Unit Price	Extension
1.00	SVC-ZONE	ZONE TRAVEL ON-SITE SERVICE CALL AND SHOP REPAIR LABOR RATES: MONDAY - FRIDAY, 8am - 5pm BILLED @ $90.00 PER HOUR ZONE TRAVEL BILLED @ $95.00 FLAT 90 DAY WARRANTY ON REPAIRS NO CHARGE LOANER UNITS ARE PROVIDED WHILE UNITS ARE AT PS&B SHOP FOR EVALUATION/REPAIR FOR UP TO 30 DAYS FROM REPAIR QUOTE DATE. DEPOT REPAIR EVALUATIONS ARE PERFORMED AT NO CHARGE. IF REPAIRS ARE NEEDED AND APPROVED, PARTS WILL BE QUOTED AT RESPECTIVE MANUFACTURER'S CURRENT LIST PRICES. PLEASE NOTE HOWEVER THAT ALL OF YOUR UNITS EXCEPT FOR THE SARTORIUS MA-35M AND METTLER ME1002TE ARE VERY OLD AND ARE NO LONGER SUPPORTED BY THE MANUFACTURER	95.00	95.00

Any Statements of Conformity and Pass/Fail status will be indicated on the calibration report, with the associated decision rule, for each measurement applied.

Thank you for allowing us the opportunity to quote your needs.
We look forward to receiving your valued order.

Please e-mail orders to orders@scaleandbalance.com

For All Your Measurement Needs,
Precision Scale & Balance

Subtotal	610.00
Sales Tax	
TOTAL	610.00

Attachment: TOA - Precision Scale Balance Agreement (RES-2021-591 : WPCF Laboratory Scale & Inspection Service)

Addendum to Contract Minor Exposure

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Contractors or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Contractor shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Contractor its officers, agents, subcontractors, and/or employees as well as the negligence, active or passive, of the Contractor, its officers, agents, subcontractors, and/or employees.

4. Contractor shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Contractor shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Contractor shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate

(c) Contractor shall furnish the above insurances, including subcontractors' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Contractor shall ensure all its subcontractors, if any, have obtained all the above insurances and shall also assure that any policy procured by any subcontractor or sub-subcontractor shall name the Town as an additional insured on a primary and non-contributory basis.

Attachment: TOA - Precision Scale Balance Agreement (RES-2021-591 : WPCF Laboratory Scale & Inspection Service)

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

6. No Assignment: In accordance with the provisions of section 109 of the General Municipal Law, the Contractor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Contractor shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Contractor, in accordance with its status as an independent Contractor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

Attachment: TOA - Precision Scale Balance Agreement (RES-2021-591 : WPCF Laboratory Scale & Inspection Service)

9. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules, regulations or ordinances for any state other than New York State, to the laws, statutes, rules, regulations or ordinances for any county other than Erie County, New York or to the laws, statutes, rules, regulations or ordinances for any municipality other than the Town of Amherst, then the laws, statutes, rules, regulations or ordinances for New York State, Erie county and/or the Town of Amherst shall apply as applicable. Any and all legal action necessary to enforce the Agreement will be venued in Supreme Court, Erie County, New York or in the United States District Court for the Western District of New York, Buffalo Division.

10. It is hereby acknowledged that performance of this Contract will be undertaken in accordance with the specifications and pricing on which the bid was submitted.

Authority for execution on behalf of Town: The Supervisor has executed this Agreement pursuant to a Resolution adopted by the Town Board of the Town, at a meeting thereof held on _____. Brian J. Kulpa, the Supervisor whose signature appears hereafter, is duly authorized and empowered to execute this instrument and enter into such an Agreement on behalf of the Town as a result of that Resolution. This instrument shall be executed in triplicate. At least one (1) copy shall be permanently filed, after execution thereof, in the office of the Town Clerk of Town.

Agreed to and Accepted by:

PRECISION SCALE & BALANCE
Print Name of Company

By: Michael J. DeMeis
Signature

MICHAEL J. DEMEIS
Printed name

Date: 6-14-21

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: TOA - Precision Scale Balance Agreement (RES-2021-591 : WPCF Laboratory Scale & Inspection Service)

IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a provision was added to the State Finance Law (SFL), Section 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will develop a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). This list is posted on the OGS website.

By submitting a response to this solicitation, or by assuming the responsibility under a Contract/Lease awarded hereunder, Bidder/Contractor/Vendor (or any assignee) certifies that it will not utilize on such Contract/Lease any subcontractor that is identified on the prohibited entities list.

Additionally, Bidder/Contractor/Vendor is advised that any Bidder/ Contractor/Vendor seeking to renew or extend a Contract/Lease (or assume responsibility of a Contract/Lease awarded must certify at the time the Contract/Lease is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract/Lease, should the Town of Amherst (Town) receive information that a person is in violation of the above-referenced certification, the Town will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the Town shall take such action as appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor/Vendor in default.

The Town reserves the right to reject any Contract/Lease or request for assignment for an entity that appears on the prohibited entities list prior to the award of a Contract/Lease, and to pursue a responsibility review with respect to any entity that is awarded a Contract/Lease and appears on the prohibited entities list after Contract/Lease award.

Company Name: PRECISION SCALE & BALANCE

Signature: Michael J DeMeis

Print Name: MICHAEL J. DEMEIS

Title: EXEC VP

Date: 6-14-21

JODI L. HYERS
Notary Public, State of New York
Qualified in Erie County
My Commission Expires July 11, 2023

Sworn To Before Me This
14 Day of June, 2021
Jodi L Hyers
Notary Public

Revised 4.2017

Attachment: TOA - Precision Scale Balance Agreement (RES-2021-591 : WPCF Laboratory Scale & Inspection Service)

EMPISCA-02 LKONTER

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 12/20/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Walsh Duffield Companies, Inc. 801 Main St. Buffalo, NY 14203	CONTACT NAME: Leslie A. Konter, CIC PHONE (A/C, No, Ext): (716) 362-7309 FAX (A/C, No): (716) 847-1360 E-MAIL ADDRESS: lkonter@walshduffield.com
INSURED Empire Scale Corp dba Precision Scale & Balance dba Niagara Scientific Product 140 Rotech Drive Lancaster, NY 14086	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : The Travelers Indemnity Company of America — 25666 INSURER B : Charter Oak Fire Ins. Co. — 25615 INSURER C : Travelers Indemnity Company — 25658 INSURER D : Travelers Prop Cas of America — 25674 INSURER E : INSURER F :

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:	X	X	Y6304F072057TIA21	1/1/2021	1/1/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 300,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
B	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS X HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY	X	X	BA9N2222302114G	1/1/2021	1/1/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
C	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 10,000			CUP9J6502922114	1/1/2021	1/1/2022	EACH OCCURRENCE AGGREGATE	$ 6,000,000 $ 6,000,000
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	X	UBH8985662114G	1/1/2021	1/1/2022	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Certificate holder is an additional insured under general liability (premises/ongoing operations and products/completed operation) on a primary, non-contributory basis and as an additional insured on automobile, if required by written signed contract, per forms listed below, to the extent provided therein. Waiver of subrogation applies to General Liability, Auto and Workers Compensation, if required by written signed contract. Per Forms:

General Liability

CGD2460419- Blanket Additional Insured- inc. completed operations if req by contract
SEE ATTACHED ACORD 101

CERTIFICATE HOLDER

Town of Amherst
5583 Main st.
Williamsville, NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Edward F. Walsh Jr.

ACORD 25 (2016/03)

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Attachment: TOA - Precision Scale Balance Agreement (RES-2021-591 : WPCF Laboratory Scale & Inspection Service)

AGENCY CUSTOMER ID: EMPISCA-02 LKONTER

LOC #: 0

ACORD

ADDITIONAL REMARKS SCHEDULE

AGENCY	NAMED INSURED
Walsh Duffield Companies, Inc.	Empire Scale Corp dba Precision Scale & Balance dba Niagara Scientific Product 140 Rotech Drive Lancaster, NY 14086
POLICY NUMBER SEE PAGE 1	
CARRIER: SEE PAGE 1 / NAIC CODE: SEE P 1	EFFECTIVE DATE: SEE PAGE 1

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

Description of Operations/Locations/Vehicles:
CGD4170219 - Xtend endorsement for Technology
CGT1000219 - GL Coverage form (PNC)

Auto liability

CAT9600215- Business Auto Coverage Extension Form, NY
CAT4370216- Blanket Additional Insured

Umbrella Liability

EU00010716 - Excess Follow-Form and Umbrella Liability Insurance

Workers Compensation

WC000313- Waiver of our Rights to Recover from Others

ACORD 101 (2008/01)

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Attachment: TOA - Precision Scale Balance Agreement (RES-2021-591 : WPCF Laboratory Scale & Inspection Service)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (use street address only)	1b. Business Telephone Number of Insured
Empire Scale Corp dba Precision Scale & Balance **140 Rotech Drive** **Lancaster, NY 14086**	**(716) 759-4866** 1c. NYS Unemployment Insurance Employer Registration Number of Insured
Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)*	1d. Federal Employer Identification Number of Insured or Social Security Number 16-1363228
2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) Town of Amherst 5583 Main St Williamsville, NY 14221	3a. Name of Insurance Carrier **Travelers Prop Cas of America** 3b. Policy Number of Entity Listed in Box "1a" **UB9H898566** 3c. Policy effective period 1/1/2021 to 1/1/2022 3d. The Proprietor, Partners or Executive Officers are ☒ included. (Only check box if all partners/officers included) ☐ all excluded or certain partners/officers excluded.

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. **(To use this form, New York (NY) must be listed under Item 3A on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

Will the carrier notify the certificate holder within 10 days of a policy being cancelled for non-payment of premium or within 30 days if cancelled for any other reason or if the insured is otherwise eliminated from the coverage indicated on this certificate prior to the end of the policy effective period? ☐YES ☐NO

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This certificate may be used as evidence of a Workers' Compensation contract of insurance only while the underlying policy is in effect.

Please Note: Upon cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: Edward F. Walsh, Jr.
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: Edward F Walsh Jr. 6/22/2021
(Signature) (Date)

Title: President

Telephone Number of authorized representative or licensed agent of insurance carrier: 716-853-3820

Please Note: Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are NOT authorized to issue it.

C-105.2 (9-15) www.wcb.ny.gov

Attachment: TOA - Precision Scale Balance Agreement (RES-2021-591 : WPCF Laboratory Scale & Inspection Service)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF INSURANCE COVERAGE
DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW

PART 1. To be completed by Disability and Paid Family Leave Benefits Carrier or Licensed Insurance Agent of that Carrier

1a. Legal Name & Address of Insured (use street address only)
EMPIRE SCALE CORPORATION
DBA: PRECISION SCALE & BALANCE
140 ROTECH DRIVE
LANCASTER, NY 14086

Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., Wrap-Up Policy)*

1b. Business Telephone Number of Insured
7167594866

1c. Federal Employer Identification Number of Insured or Social Security Number
16-1363228

2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)
Town of Amherst WPCF
455 Tonawanda Creek Road
Amherst, NY 14228

3a. Name of Insurance Carrier
Standard Security Life Insurance Company of New York

3b. Policy Number of Entity Listed in Box "1a"
R76855-000

3c. Policy effective period
1/1/2015 to 6/10/2022

4. Policy provides the following benefits:
- [X] A. Both disability and paid family leave benefits.
- [ ] B. Disability benefits only.
- [ ] C. Paid family leave benefits only.

5. Policy covers:
- [X] A. All of the employer's employees eligible under the NYS Disability and Paid Family Leave Benefits Law.
- [ ] B. Only the following class or classes of employer's employees:

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has NYS Disability and/or Paid Family Leave Benefits insurance coverage as described above.

Date Signed 6/11/2021 By _____
(Signature of Insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number (212) 355-4141 Name and Title SUPERVISOR-DBL/POLICY SERVICES

IMPORTANT: If Boxes 4A and 5A are checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of that carrier, this certificate is COMPLETE. Mail it directly to the certificate holder.

If Box 4B, 4C or 5B is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the NYS Disability and Paid Family Leave Benefits Law. It must be mailed for completion to the Workers' Compensation Board, Plans Acceptance Unit, PO Box 5200, Binghamton, NY 13902-5200.

PART 2. To be completed by the NYS Workers' Compensation Board (Only if Box 4C or 5B of Part 1 has been checked)

State of New York
Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability and Paid Family Leave Benefits Law with respect to all of his/her employees.

Date Signed _____ By _____
(Signature of Authorized NYS Workers' Compensation Board Employee)

Telephone Number _____ Name and Title _____

Please Note: *Only insurance carriers licensed to write NYS disability and paid family leave benefits insurance policies and NYS licensed insurance agents of those insurance carriers are authorized to issue Form DB-120.1.* ***Insurance brokers are NOT authorized to issue this form.***

DB-120.1 (10-17)

DB-120.1 (10-17)

Attachment: TOA - Precision Scale Balance Agreement (RES-2021-591 : WPCF Laboratory Scale & Inspection Service)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 23494 **RESOLUTION 2021-592** **ADOPTED**

CIP Program Amendment - PO-2 Police Training Center Improvements

The Engineering Department is recommending amendment of the 2021-2026 CIP for the above project in the amounts shown below. This CIP project was originally intended to fund two (2) projects at the above facility; installation of the emergency electric generator and also a restroom expansion improvement. The proposed amendment will allocate adequate funding to the currently underfunded restroom expansion as well as allocate American Rescue Plan Act Funding to the installation of the emergency electric generator that was procured under the Federal Coronavirus Aid, Relief and Economic Security Act (CARES Act).

CIP No.	Project Description	2021 CIP Allocation	Amend To
PO-2	Police Training Center Improvements (becomes Police Training Center Restroom Expansion Improvements)	$150,000 LA	$245,000 LA
PO-9 (new)	Police Training Center Emergency Electric Generator Installation	$0	$250,000 X

LA = General Fund Bond
X = American Rescue Plan Act Funding

Please approve this amendment to the 2021-2026 CIP and allocate the funding as shown above.

7/12/2021
Consent

FINANCIAL IMPACT:

See Table

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 23495 **RESOLUTION 2021-593** **ADOPTED**

CIP Amendment - Brompton Road, Park Club Lane & Oakwood Safety Study & Redesign CIP No. E-44

The Engineering Department is recommending amendment of the 2021-2026 CIP for the above project in the amounts shown in the table below. This amendment will allocate adequate funding to a multiple street safety study that has been expanded and that is currently underfunded.

CIP No.	Project Description	2021 Bond Allocations	Amend To
E-44	Brompton Road Safety Study & Redesign	$ 25,000	$ 60,000
	Total	**$ 25,000**	**$ 60,000**

Please approve this amendment to the 2021-2026 CIP and reassign the funding as identified above. Please note that while the above request is not budget neutral we will continue to try to identify project bond reductions throughout the balance of 2021 in an effort to attempt to achieve budget neutrality associated with this request.

7/12/2021
Consent

FINANCIAL IMPACT:

Amend to $60,000.00

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 23497 **RESOLUTION 2021-594** **ADOPTED**

Purchase of One 2022 Ford F250 XL Super Cab 4X4 W/8' Box

WHEREAS, the Sewer Maintenance Division is requesting to purchase one (1) 2022 Ford F250 XL Super Cab 4x4 Cab w/8’ box to replace an aging Fleet Truck;

WHEREAS, Contract Compliance and the Engineering Department issued Mini-Bid #7482 through the NYS OGS Marketplace for one (1) 2022 Ford F250 XL Super Cab 4x4 Cab w/8’ box;

WHEREAS, bids were received from one (1) vendor per the attached Mini-Bid Tabulation form;

THEREFORE BE IT RESOLVED, the Town Board authorizes the Mini-Bid to be awarded to the low bid from Genesee Valley Ford Avon, 1675 Interstate Drive, Avon, NY 14414 and

BE IT FURTHER RESOLVED, NYS OGS allows the purchase of additional quantities of vehicles of the same specifications and price; and

BE IT FURTHER RESOLVED, that the Town Board authorizes a waiver of insurance; and

BE IT FURTHER RESOLVED, that the Town Board authorizes the Engineering Department to issue a Purchase Order to complete the purchase from Genesee Valley Ford Avon for one (1) vehicle as per the attached.

7/12/2021
Consent

FINANCIAL IMPACT:

$32,750.00; KP-2127-2250

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

(UTC-05

from: 1379 OGS Solicitation 23166: Vehicles, Class 1-8

-250 XL Super Cab 4x4 w/8' Box - Town of Amherst Award phase

Schedule | Pricing sheets | Questionnaires | Question & Answer | Offers/Applications | Compare & Select

tion (5) Awarding (0)

o Specifications Pricing Sheet | Pre-Existing Vehicles Pricing Sheet

Make | Model & Trim Level | Total Number of Vehicles

	Pricing sheet	Model Year	Make	Model & Trim Level	NYS Price for Vehicle	Total Number of Vehicles	Total Price for Mini-Bid	Phas
FORD	Vehicles Built to Specifications Pricing Sheet	2022	FORD	F250 SUPER CAB XL	$32,750	1	$32,750	Evalu
	Vehicles Built to Specifications Pricing Sheet	2022	FORD	F250 S/C XL	$32,850.68	1	$32,850.68	Evalu
nc	Vehicles Built to Specifications Pricing Sheet	2022	FORD	F-250 XL SUPER CAB	$32,909.23	1	$32,909.23	Evalu
roup	Vehicles Built to Specifications Pricing Sheet	2022	Ford	F-250 XL Super Cab	$33,436	1	$33,436	Evalu
	Vehicles Built to Specifications Pricing Sheet	2022	Ford	F250	$33,636.60	1	$33,636.60	Evalu

cation

be entered by all Authorized Users of the NYS Vehicle Marketplace. Departments and agencies MUST provide a screenshot of this "Awarding" page information when requesting a State ID from OGS Fle e order or other ordering document information or if no purchase order was made by clicking on "Edit purchase order" below.

7482 (1) Ford F-250 XL Super Cab 4x4 w/8' Box - Town of Amherst

BJA1675 LLC DBA GENESEE VALLEY FORD AVON

Vehicles Built to Specifications Pricing Sheet

#	Model Year	Make	Model & Trim Level	Model Code	Drive Type	Fuel Type	NYS Base MSRP	NYS Discount (%)	NYS Base Price	NYS Aftermarket Components Price	NYS Price for Vehicle	Total Number of Vehicles	Total Price for Mini-Bid
1	2022	FORD	F250 SUPER CAB XL	X2B	4WD	GAS	$46,540	29.63%	$32,750	$0	$32,750	1	$32,750
	Total												**$32,750**

Comment:

- Do not enter dollar signs ($) or percentage signs (%) in the above fields.
- The Total Number of Vehicles entered must match the Number of Vehicles requested in the Mini-Bid

Attachment: LowBidder_Ford F-250 XL Super Cab 4x4 w 8' Box - Town of Amherst (RES-2021-594 : Purchase of One 2022 Ford F250 XL Super Cab 4X4

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 23498 **RESOLUTION 2021-595** **ADOPTED**

Erie County Contract for Funding - Kingsgate Park CALL Improvements CRS 2703

The County of Erie has appropriated grant funds to the Town of Amherst towards the construction of a new restroom/concessions building, picnic shelter and related utility infrastructure at the above facility to replace the temporary mobile restroom trailer that has been in use at this facility for 10+ years. As such, please authorize Supervisor Brian Kulpa to sign the attached contract and associated equal pay certification with Erie County in order to provide the Town with $250,000 in funding towards the above improvements. This contract has been successfully routed through the CRS system.

As these funds are received from the County they are to be deposited within the project account KP2101.02089.

Thank you for considering this request.

7/12/2021
Consent

FINANCIAL IMPACT:

KP2101-02089; $250,000.00

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

CONTRACT

THIS CONTRACT, made as of the _24th__ day of __June_____, 2021, by and between the **COUNTY OF ERIE**, a municipal corporation of the State of New York, having its principal place of business at 95 Franklin Street, in the City of Buffalo, New York, 14202 (the "County"), and the **TOWN OF AMHERST**, a municipal corporation of the State of New York, having its principal place of business at 5583 Main Street, in the Village of Williamsville, New York, 14221 (the "Town").

W I T N E S S E T H:

WHEREAS, the County, pursuant to the authority granted to it by Sections 224 and 225 of the County Law and Local Law No. 3-2002, has appropriated funds in the County's 2021 Budget for the purpose of making a conditional grant to the Town; and

WHEREAS, the County of Erie recognizes the role of recreational programming in building community character and enhancing quality of life for residents; and

WHEREAS, Central Amherst Little League currently provides the aforementioned programming at Kingsgate Park in the Town of Amherst; and

WHEREAS, the proposed capital improvements will enable Central Amherst Little League to better provide recreational programming and ADA accessibility for County residents; and

WHEREAS, the County desires to assist the Town with the cost of the project(s) detailed in the attached Scope of Services; and

WHEREAS, the County and the Town wish to more specifically define the terms and conditions related to the payment of said conditional grant to the Town by the County and the obligations of the Town upon receipt of said conditional grant.

WHEREAS, in furtherance of this objective, the Erie County Legislature (hereinafter the "Legislature") adopted a resolution on June 24, 2021, COMM. 12E-13 (2021), authorizing the expenditure of Two Hundred Fifty Thousand Dollars ($250,000.00) for the Project, which resolution is attached hereto and incorporated herein as **Exhibit A**.

NOW, THEREFORE, IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES:

1. The Town agrees to perform, or cause to be performed, the work in accordance with the Scope of Services which is attached hereto and incorporated herein as **Exhibit B** ("Scope of Services"). No funds granted under this Contract shall be applied to any purposes other than those described in **Exhibit B**.

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2. In support of the Project described in **Exhibit B**, the County agrees to pay to the Town, subject to the terms and conditions enumerated herein, an amount not to exceed Two Hundred Fifty Thousand Dollars ($250,000.00) payable at a mutually agreeable date.

Payments shall be made on invoices submitted by the Town to the Erie County Department of Environment and Planning (the "Department") and approved by the Department. The Department will approve payments once it has received, and found satisfactory, all supporting documentation as may be required by the Department.

3. This Contract shall be deemed executory only to the extent of funds available as determined by the Budget Director and appropriated by the County for the performance of the terms hereof, and no liability on account thereof shall be incurred by the County beyond such funds. Funds provided pursuant to this Contract shall not be used for any purpose prohibited by law.

4. The location of the Project is further described in the survey and location map which and are attached hereto and incorporated herein as **Exhibit C** and **Exhibit D,** respectively.

5. The Town shall maintain complete, accurate and current records of all financial transactions relating to its operation and the services performed pursuant to this Contract. During the term of this Contract and at any time within six (6) years thereafter, the Town shall make such records available, upon request, to the County for review. The County shall have the right, upon reasonable notice and at reasonable times, to inspect the books and records of the Town, its offices and facilities, for the purpose of verifying information supplied to the County or for any other purpose reasonably related to monitoring the services to be performed by the Town pursuant to this Contract.

6. The Town agrees to furnish to the County, the Town's chief financial officer's report made for it or for other agencies and available to it, which reflects the receipt and use of funds paid to it hereunder within thirty (30) days after receipt of the request.

7. The Town agrees to submit to the Department a quarterly written report, with the first said report being due ninety (90) days from the date of this Agreement. The reports shall document and analyze the progress and status of the Project undertaken by the Town during the reporting period.

8. To the extent that the funds provided by this Contract are for specific activities or services, the Town agrees to furnish verified accounts of its disbursements hereunder, together with certified or verified invoices thereto attached, at such times as the County may determine, in such form and detail as may be required by the County, and a final account within one hundred twenty (120) days after the close of the Town's fiscal year.

9. The County may, at its option, audit such books and records of the Town as are reasonably pertinent to this Contract to substantiate the basis for payment. The County shall, in addition, have the right to audit such books and records subsequent to payment, if such audit is commenced within one year following termination of this Contract. Any expenditure determined by audit to be

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inconsistent with this Contract may be disallowed by the County and shall be subject to refund by the Town to the County.

10. The Town agrees to refund to the County any unused amount of monies paid to it hereunder.

11. The Town agrees to perform the services, which are the object of this Contract, as an Independent Contractor and neither it nor any of its employees, members, directors, agents, or representatives shall be or hold themselves out to be employees, officers, agents or representatives of the County.

12. The Town shall comply, at its own expense, with the provisions of all applicable local, state and federal laws, rules and regulations.

13. The Town shall be fully accountable for its performance under this Contract and it and its officers agree to answer under oath all questions relative to the performance hereof, and to any transaction, act or omission, had, done or omitted in connection herewith if called before any judicial, county, state or federal agency empowered to investigate this Contract or its performance.

14. The Town shall not delegate any duties or assign any of its rights under this Contract without the prior express written consent of the County.

15. The Town shall indemnify and hold harmless the County, its officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney's fees or loss arising directly or indirectly out of the performance or failure to perform hereunder by the Town or third parties under the direction or control of the Town; and to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this Contract and to bear all other costs and expenses related thereto.

16. During the term of this Contract, the Town agrees to cause its contractors, sub-contractors and vendors to maintain insurance coverage consistent with the insurance certificate included as **Exhibit E** hereto and to name the "County of Erie" as an additional insured on all such insurance policies, and to provide to the County Attorney certificate(s) of insurance evidencing such insurance coverage prior to the commencement of any work on the Project.

17. The County and the Town and their respective employees are not and shall not be considered as joint venturers, employees, partners or agents of each other and neither shall have the power to bind or obligate the other except as set forth in this Contract. There shall be no liability on the part of the County or the Town to any person for any debts incurred by the other.

18. In the event of a breach or default by the Town of any of the terms and conditions of this Contract, the County may terminate this Contract on ten (10) days written notice to the Town and request such other remedy as may be reasonable and appropriate in view of the circumstances of such breach or default, including but not limited to, reimbursement to the County by the Town of all or part of the funds granted to the Town under this Contract.

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19. The Town shall comply with Erie County Executive Order 13 (2014) and agrees to complete the Certificate collectively attached hereto as **Exhibit F** and made a part hereof. The Town shall make such records available, upon request, to the County's Division of Equal Employment Opportunity for review. The County shall have the right, upon reasonable notice and at reasonable times, to inspect the books and records of the Town, its offices and facilities, for the purpose of verifying information supplied in the Erie County Equal Pay Certification and for any other purpose reasonably related to confirming the Town's compliance with Erie County Executive Order 13 (2014). Notwithstanding the termination provisions contained herein, violation of the provisions of Executive Order 13 (2014), may constitute grounds for the immediate termination of this Contract and may constitute grounds for determining that the Town is not qualified to participate in future County contracts.

20. The Town agrees to comply with the terms, if any, of the resolution of the County Budget, and implementing resolutions appropriating funds for this Contract.

21. The Town agrees to acknowledge in any and all promotional material the fact that the Town received financial support from the County, including, but not limited to the Town's website, marketing materials and/or other publications.

22. This Contract and its attachments constitute the entire Contract between the parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings. It shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

In the event of any conflict between the terms of this Contract and the terms of any schedule or attachment hereto, it is understood that the terms of this Contract shall be controlling with respect to any interpretation of the meaning and intent of the parties.

23. Nothing herein is intended or shall be construed to confer upon or give to any third party or its successors and assigns any rights, remedies or basis for reliance upon, under or by reason of this Contract, except in the event that specific third party rights are expressly granted herein.

24. This Contract shall be construed and enforced in accordance with the laws of the State of New York. In addition, the parties hereby agree that any cause of action arising out of this Contract shall be brought in the County of Erie.

If any term or provision of this Contract is held by a court of competent jurisdiction to be invalid or void or unenforceable, the remainder of the terms and provisions of this Contract shall in no way be affected, impaired, or invalidated, and to the extent permitted by applicable law, any such term, or provision shall be restricted in applicability or reformed to the minimum extent required for such to be enforceable. This provision shall be interpreted and enforced to give effect to the original written intent of the parties prior to the determination of such invalidity or unenforceability.

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25. All notices of any nature referred to in this Contract shall be in writing and either sent by registered or certified mail postage pre-paid, or delivered by hand or overnight courier, or sent by facsimile (with acknowledgment received and a copy of the notice sent by registered or certified mail postage pre-paid), as set forth below or to such other addresses as the respective parties hereto may designate in writing. Notice shall be effective on the date of receipt. Notices shall be sent to the following:

To the County:
Commissioner of Environment and Planning
95 Franklin Street, Room 1012
Buffalo, New York 14202

With a copy to:
County Attorney
95 Franklin Street, Room 1634
Buffalo, New York 14202

To the Town:
Brian J. Kulpa, Supervisor
5583 Main Street
Williamsville, NY 14221

26. The Town represents and warrants to the County as follows:

a. The information contained in the "Scope of Services" is true and accurate and in the event any material change occurs during the terms of this Contract, the Town shall notify the County promptly in writing.

b. The execution of this Contract and the provision of services hereunder have been duly authorized by the Town and that this Contract has been signed by a duly authorized officer of the Town.

c. That this Contract is valid and enforceable against the Town in accordance with the terms hereof and that there is no order, decision, judgment or provision of the local laws, ordinances, resolutions, nor contract, mortgage, or lien which would limit or prohibit the Town from fully performing the terms and condition of this Contract.

[END TEXT]

Attachment: CALL Contract Final Version (RES-2021-595 : Erie County Contract for Funding - Kingsgate Park CALL Improvements)

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the day and year first above written.

COUNTY OF ERIE

_____

MARK POLONCARZ/ MARIA R. WHYTE
County Executive / Deputy County Executive
Dated: _____

TOWN OF AMHERST

_____

BRIAN J. KULPA
Supervisor
Dated: _____

APPROVED AS TO CONTENT

_____

DANIEL CASTLE
Deputy Commissioner
Environment and Planning
Dated: _____

APPROVED AS TO FORM

_____

KRISTEN M. WALDER
Assistant County Attorney
Document No._____
Dated: _____

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EXHIBIT A
ERIE COUNTY RESOLUTION

Attachment: CALL Contract Final Version (RES-2021-595 : Erie County Contract for Funding - Kingsgate Park CALL Improvements)

STATE OF NEW YORK

LEGISLATURE OF ERIE COUNTY

CLERK'S OFFICE

BUFFALO, N.Y., June 24, 2021

TO WHOM IT MAY CONCERN:

I HEREBY CERTIFY, *That at the **13th** Session of the Legislature of Erie County, held in the Legislative Chambers, in the City of Buffalo, on the **24th** day of **June, 2021 A.D.**, a Resolution was adopted, of which the following is a true copy:*

WHEREAS, the County of Erie recognizes the role of recreational programming in building community character and enhancing quality of life for residents; and

WHEREAS, the Challenger Division, a youth baseball league for players with disabilities and functional needs utilizes Kingsgate Park for baseball; and

WHEREAS, Central Amherst Little League currently provides programming at Kingsgate Park in the Town of Amherst; and

WHEREAS, due to the central location and unique recreational programing the site is utilized by residents from multiple municipalities within Erie County; and

WHEREAS, the proposed capital improvements will enable Central Amherst Little League to better provide recreational programming and ADA accessibility for County residents; and

WHEREAS, the Town of Amherst is the owner of Kingsgate Park and has an ongoing user agreement with Central Amherst Little League; and

WHEREAS, Erie County desires to fund a portion of the improvements to Kingsgate Park; and

WHEREAS, the County of Erie has allocated $250,000 for the proposed improvements in the approved 2021 Capital Budget in account A.21158.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is authorized to enter into contracts, easements and agreements with the Town of Amherst, in amounts not to exceed a total of $250,000 for the purpose of capital improvements and associated activities at Kingsgate Park; and be it further

RESOLVED, that the source of these funds shall be $250,000 available in the approved 2021 Erie County Capital Budget within SAP account A.21158; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send certified copies of this resolution to the County Executive; the Director of the Division of Budget and Management; the Comptroller; the Commissioner of the Department of Environment and Planning; and the County Attorney.

REFERENCE: **COMM. 12E-13 (2021)**

ATTEST

ROBERT M. GRABER
Clerk of the Legislature of Erie County

Attachment: CALL Contract Final Version (RES-2021-595 : Erie County Contract for Funding - Kingsgate Park CALL Improvements)

EXHIBIT B
SCOPE OF SERVICES

The scope of services for the funds provided by Erie County will include capital improvements at Kingsgate Park in the Town of Amherst. Improvements may include, but not be limited to, demolition of the existing concessions building, construction of an ADA accessible restroom and concession building, and a community pavilion and related utility infrastructure.

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EXHIBIT C
SURVEY

Attachment: CALL Contract Final Version (RES-2021-595 : Erie County Contract for Funding - Kingsgate Park CALL Improvements)

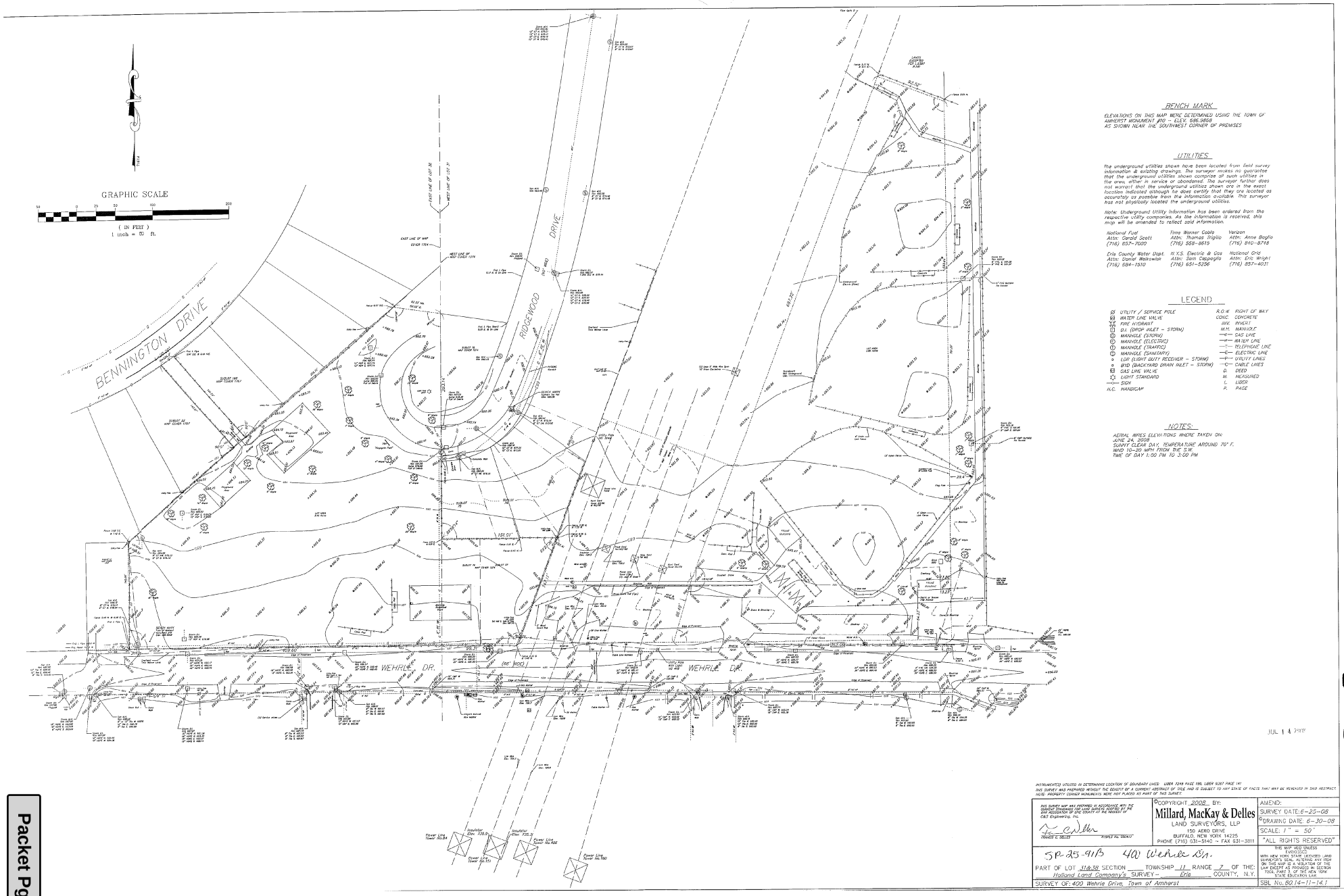
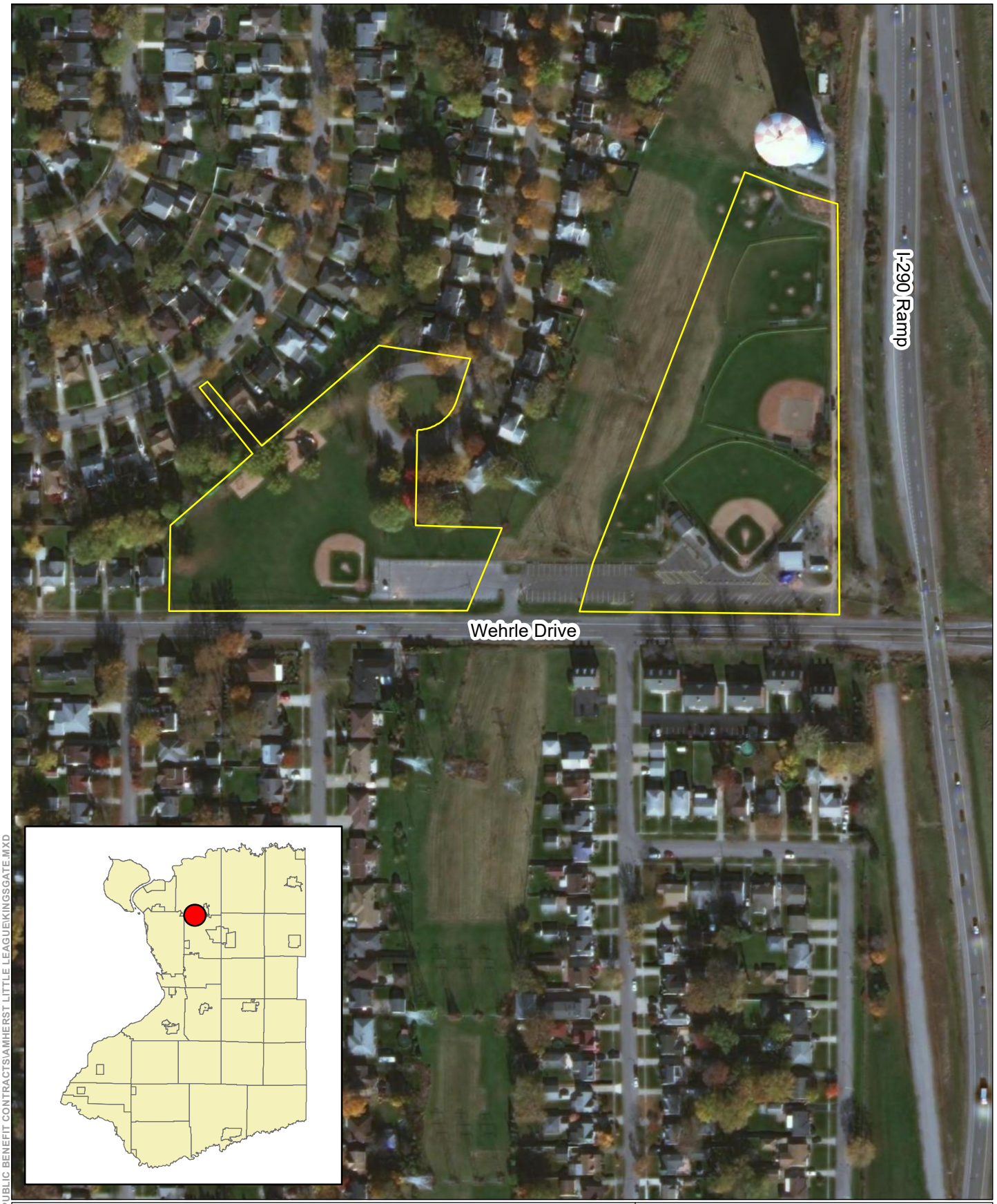

GRAPHIC SCALE
(IN FEET)
1 inch = 50 ft.
BENNINGTON DRIVE
RIDGEWOOD DRIVE
WEHRLE DR.
WEHRLE DR.
BENCH MARK
ELEVATIONS ON THIS MAP WERE DETERMINED USING THE TOWN OF AMHERST MONUMENT #10 – ELEV. 596.9868 AS SHOWN NEAR THE SOUTHWEST CORNER OF PREMISES
UTILITIES
The underground utilities shown have been located from field survey information & existing drawings. The surveyor makes no guarantee that the underground utilities shown comprise all such utilities in the area, either in service or abandoned. The surveyor further does not warrant that the underground utilities shown are in the exact location indicated although he does certify that they are located as accurately as possible from the information available. This surveyor has not physically located the underground utilities.
Note: Underground Utility Information has been ordered from the respective utility companies. As the information is received, this map will be amended to reflect said information.
National Fuel Attn: Gerald Scott (716) 857-7000
Time Warner Cable Attn: Thomas Triglio (716) 558-8615
Verizon Attn: Anne Beglio (716) 840-8748
Erie County Water Dept. Attn: Daniel Walkowiak (716) 684-1310
N.Y.S. Electric & Gas Attn: Sam Caspanglo (716) 651-5396
National Grid Attn: Eric Wright (716) 857-4031
LEGEND
UTILITY / SERVICE POLE
WATER LINE VALVE
FIRE HYDRANT
D.I. (DROP INLET – STORM)
MANHOLE (STORM)
MANHOLE (ELECTRIC)
MANHOLE (TRAFFIC)
MANHOLE (SANITARY)
L.P. (LIGHT DUTY RECEIVER – STORM)
B.I.D (BACKYARD DRAIN INLET – STORM)
GAS LINE VALVE
LIGHT STANDARD
SIGN
H.C. HANDICAP
R.O.W. RIGHT OF WAY
CONC. CONCRETE
INV. INVERT
M.H. MANHOLE
GAS LINE
WATER LINE
TELEPHONE LINE
ELECTRIC LINE
UTILITY LINES
CABLE LINES
D. DEED
M. MEASURED
L. LIBER
P. PAGE
NOTES:
AERIAL WIRES ELEVATIONS WHERE TAKEN ON: JUNE 24, 2008 SUNNY CLEAR DAY, TEMPERATURE AROUND 70° F. WIND 10-20 MPH FROM THE S.W. TIME OF DAY 1:00 PM TO 3:00 PM
JUL 14 2008
INSTRUMENT(S) UTILIZED IN DETERMINING LOCATION OF BOUNDARY LINES: LIBER 7249 PAGE 186, LIBER 9287 PAGE 141
THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATE OF FACTS THAT MAY BE REVEALED IN SAID ABSTRACT.
NOTE: PROPERTY CORNER MONUMENTS WERE NOT PLACED AS PART OF THIS SURVEY.
THIS SURVEY MAP WAS PREPARED IN ACCORDANCE WITH THE CURRENT STANDARDS FOR LAND SURVEYS ADOPTED BY THE ERIE ASSOCIATION OF CIVIL ENGINEERS AND THE COUNCIL OF CIVIL ENGINEERING, INC.
FRANCIS C. DELLES NYSPLS No. 050437
©COPYRIGHT 2008 BY:
Millard, MacKay & Delles
LAND SURVEYORS, LLP
150 AERO DRIVE
BUFFALO, NEW YORK 14225
PHONE (716) 631-5140 - FAX 631-3811
AMEND:
SURVEY DATE: 6-25-08
©DRAWING DATE: 6-30-08
SCALE: 1" = 50'
"ALL RIGHTS RESERVED"
THIS MAP VOID UNLESS EMBOSSED WITH NEW YORK STATE LICENSED LAND SURVEYOR'S SEAL AND SIGNATURE. ANY COPY ON THIS MAP IS A VIOLATION OF THE LAW EXCEPT AS PROVIDED IN SECTION 7209, PART 2, OF THE NEW YORK STATE EDUCATION LAW.
SP 25-91B 400 Wehrle Dr.
PART OF LOT 31&38 SECTION ___ TOWNSHIP 11 RANGE 7 OF THE: Holland Land Company's SURVEY – Erie COUNTY, N.Y.
SURVEY OF: 400 Wehrle Drive, Town of Amherst
SBL No. 80.14-11-14.1
SP 25-91B

EXHIBIT D
PROJECT LOCATION

Attachment: CALL Contract Final Version (RES-2021-595 : Erie County Contract for Funding - Kingsgate Park CALL Improvements)



Parcel Boundary

0 125 250 375 500 Feet

PROJECT LOCATION

KINGSGATE PARK, 400 WEHRLE DRIVE

CENTRAL AMHERST LITTLE LEAGUE IMPROVEMENTS

MAP PREPARED BY THE ERIE COUNTY DEPARTMENT OF ENVIRONMENT & PLANNING BY GERMANT, 5/28/2021

V:\PLANNING\GERMAN\PUBLIC BENEFIT CONTRACTS\AMHERST LITTLE LEAGUE\KINGSGATE.MXD

Attachment: CALL Contract Final Version (RES-2021-595 : Erie County Contract for Funding - Kingsgate Park CALL Improvements)

EXHIBIT E
INSURANCE REQUIREMENTS

Attachment: CALL Contract Final Version (RES-2021-595 : Erie County Contract for Funding - Kingsgate Park CALL Improvements)

INSTRUCTIONS FOR COUNTY OF ERIE STANDARD INSURANCE CERTIFICATE

I. Insurance shall be procured and certificates delivered before commencement of work or delivery of merchandise or equipment.

II. CERTIFICATES OF INSURANCE

A. Shall be made to the "County of Erie, 95 Franklin St, Buffalo NY, 14202"

B. Coverage must comply with all specifications of the contract.

C. Must be executed by an insurance company, agency or broker, which is licensed by the Insurance Department of the State of New York. If executed by a broker, notarized copy of authorization to bind or certify coverage must be attached.

III. Forward the completed certificate to: County of Erie, (Department or Division) responsible for entering into the agreement for construction, purchase, lease or service.

IV. Minimum coverage with limits are as follows:

Vendor Classification	A Construction and Maintenance	B Purchase or Lease of Merchandise or Equipment	C Professional Services	D Property Leased To Others Or Use Of Facilities Or Grounds	E Concession-aires Services	F Livery Services	G All Purpo Public Entity Cont
Commercial Gen. Liab.	$1,000,000 per occ.	$1,000,000 CSL	$1,000,000 CSL	$1,000,000	$1,000,000 CSL	$1,000,000	$1,000,000
General Aggregate	$2,000,000	$2,000,000	$2,000,000	$2,000,000	$2,000,000	$2,000,000	$2,000,0
Products Completed Operations Liability	$2,000,000	$2,000,000	$2,000,000	$2,000,000	$2,000,000	$2,000,000	$2,000,0
Blanket Broad Form Contractual Liability	INCLUDE						
Contractual Liability		INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUD
Broad Form P.D.	INCLUDE						
X.C.U. (explosion, collapse, Underground)	INCLUDE						
Liquor Law				INCLUDE	INCLUDE		
Auto Liab.	$1,000,000 CSL		$1,000,000 CSL	$1,000,000 CSL	$1,000,000 CSL	$1,000,000 CSL	$1,000,000
Owned	INCLUDE		INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUD
Hired	INCLUDE		INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUD
Non-Owned	INCLUDE		INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUD
Excess/Umbrella Liab.	$5,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$5,000,000	$1,000,0
Worker's Compensation & Employer's Liability	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTO
Disability Benefits	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTO
Professional Liability			$5,000,000				
Erie County, To Be Named Additional Insured	Gen. Liab., Auto Liab., & Excess	Broad Form Vendors May Be Required	Gen. Liab., Auto Liab., & Excess	Gen. Liab., Auto Liab., & Excess	Gen. Liab., Auto Liab., & Excess	Gen. Liab., Auto Liab., & Excess	Gen. Liab., Liab., & Ex

V. Construction contracts require excess Umbrella Liability limits of $5,000,000.

VI Coverage must be provided on a primary-noncontributory bases.

VII. Designated Construction Project General Aggregate Limit Per Project Endorsement CG 25 03 is required.

VIII. In the event the concessionaire is required to have a N.Y.S. license to dispense alcoholic beverages an endorsement for liquor liability is required.

IX. Waiver of Subrogation: Required on all lines unless noted

Attachment: CALL Contract Final Version (RES-2021-595 : Erie County Contract for Funding - Kingsgate Park CALL Improvements)

X. Transportation of people in buses, vans or station wagons requires $5,000,000 excess liability.

XI. Workers Compensation: State Workers' Compensation/Disability Benefits Law.
Use Applicable Certificates Below:

Workers Compensation Forms

CE-200	Exemption
C105.2	Commercial Insurer
SI-12	Self Insurer
GSI-105.2	Group Self Insured
U-26.3	New York State Insurance Fund

DBL (Disability Benefits Law) Forms

CE-200	Exemption
DB-120.1	Insurers
DB-155	Self Insured

XII. The "ACORD" form certificate may be used in place of the County of Erie Standard Insurance Certificate, provided that all of the above referenced requirements are incorporated into the "ACORD" form certificate.

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EXHIBIT F
ERIE COUNTY EQUAL PAY CERTIFICATION

Attachment: CALL Contract Final Version (RES-2021-595 : Erie County Contract for Funding - Kingsgate Park CALL Improvements)

Attachment: CALL Contract Final Version (RES-2021-595 : Erie County Contract for Funding - Kingsgate Park CALL Improvements)

Erie County Equal Pay Certification

In order to comply with Executive Order 13 dated November 6, 2014, we hereby certify that we are in compliance with federal law, including the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, Federal Executive Order 11246 of September 24, 1965 and New York State Labor Law Section 194 (together "Equal Pay Law"). The average compensation for female employees is not consistently below the average compensation for male employees, taking into account mitigating factors. We understand that this certification is a material component of this contract. Violation of the provisions of Executive Order 13, which is attached hereto and made a part hereof, can constitute grounds for the immediate termination of this contract and may constitute grounds for determining that a bidder is not qualified to participate in future county contracts.

We have evaluated wages and benefits to ensure compliance with the Federal Equal Pay Law.

_____
Signature

Verification

STATE OF _____)
COUNTY OF _____) SS:

A)
_____, being duly sworn, states he or she is the owner of (or a partner in) _____, and is making the foregoing Certification and that the statements and representations made in the Certification are true to his or her own knowledge.

B)
_____, being duly sworn, states that he or she is the
(Name of Corporate Officer)
_____, of _____,
(Title of Corporate Officer) (Name of Corporation)

the enterprise making the foregoing Certification, that he or she has read the Certification and knows its contents, that the statements and representations made in the Certification are true to his or her own knowledge, and that the Certification is made at the direction of the Board of Directors of the Corporation.

Sworn to before me this _____ Day of _____, 20____

_____
Notary Public

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 23499 **RESOLUTION 2021-596** **ADOPTED**

Award of Bid - Kingsgate Park CALL Improvements - General Willett Builders, Inc.

On July 1, 2021, bids were received for the above referenced project. After review of the five (5) bids received (bid tabulation attached), we recommend award of this contract to Willett Builders, Inc., 180 Genesee St., Corfu, NY 14036, in the amount of $875,500.00 to include the Base Bid and Alternate Bid Item Nos. 1, 2 & 3. As the Town has been granted a funding allocation from Erie County towards this project contract in the amount of $250,000, the Town share of the required funding towards this contract shall be $625,500.00.

Funding for this contract shall be from project account KP2101.4972.

Thank you for considering this request.

7/12/2021
Consent

FINANCIAL IMPACT:

$625,500.00; KP2101-4972

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Central Amherst Little League

Concession/Restroom Improvements

Bid Tabulation / July 1, 2021

T.O.A. Job No. 840127A

General Construction Contract

No.	Bidder	Bid Bond (Y / N)	Base Bid Total	Alternate 1: Picnic Shelter	Alternate 2: 2-inch Water Service	Alternate 3: Metal Roof	Total
1	Willett Builders, Inc.	Y	$599,000.00	$257,000.00	$6,000.00	$13,500.00	$875,500.00
2	Montante Construction	Y	$599,940.00	$285,455.00	$51,826.00	$56,604.00	$993,825.00
3	Sicoli Construction Services, Inc.	Y	$605,600.00	$280,000.00	$11,600.00	$20,000.00	$917,200.00
4	Cavlee Development, Inc.	Y	$623,000.00	$235,000.00	$6,200.00	$13,400.00	$877,600.00
5	Picone Construction Corp.	Y	$643,700.00	$298,400.00	$58,000.00	$29,300.00	$1,029,400.00

Attachment: Bid Tabulation - CALL General (RES-2021-596 : Award of Bid - Kingsgate Park CALL

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 23500 **RESOLUTION 2021-597** **ADOPTED**

Award of Bid - Kingsgate Park CALL Improvements - Plumbing Contract DV Brown & Associates, Inc.

On July 1, 2021, bids were received for the above referenced project. After review of the ten (10) bids received (bid tabulation attached), we recommend award of this contract to DV Brown & Associates, Inc., 567 Vickers St., Tonawanda, NY 14150, in the amount of $74,800.00 to include the Base Bid and Alternate Bid Item No. 1.

Funding for this contract shall be from project account KP2101.4972.

Thank you for considering this request.

7/12/2021
Consent

FINANCIAL IMPACT:

KP2101-4972; $74,800.00

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Central Amherst Little League

Concession/Restroom Improvements

Bid Tabulation / July 1, 2021

T.O.A. Job No. 840127A

Plumbing Contract

No.	Bidder	Bid Bond (Y / N)	Base Bid Total	Alternate 1: 2-inch Water Service	Total
1	DV Brown & Associates, Inc.	Y	$72,800.00	$2,000.00	$74,800.00
2	JR Swanson Plumbing Co.	Y	$85,200.00	$3,100.00	$88,300.00
3	Mollenberg-Betz, Inc.	Y	$96,450.00	$1,500.00	$97,950.00
4	Numarco, Inc.	Y	$96,000.00	$3,700.00	$99,700.00
5	Jim Ando Plumbing, Inc.	Y	$91,200.00	$8,650.00	$99,850.00
6	MLP Plumning & Mechanical, Inc.	Y	$98,668.00	$4,500.00	$103,168.00
7	John W. Danforth Co.	Y	$109,000.00	$3,300.00	$112,300.00
8	MKS Plumbing, Inc.	Y	$111,000.00	$5,000.00	$116,000.00
9	Willett Builders, Inc.	Y	$104,900.00	$20,700.00	$125,600.00
10	Michael A. Ferrauilo Plumbing & Heating, Inc.	Y	$124,000.00	$6,500.00	$130,500.00

Attachment: Bid Tabulation - CALL Plumbing (RES-2021-597 : Award of Bid - Kingsgate Park CALL Improvements - Plumbing)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 23501 **RESOLUTION 2021-598** **ADOPTED**

Award of Bid - Kingsgate Park CALL Improvements - Electrical Contract Goodwin Electric Corporation

On July 1, 2021, bids were received for the above referenced project. After review of the five (5) bids received (bid tabulation attached), we recommend award of this contract to Goodwin Electric Corporation, 201 S. Youngs Rd., Williamsville, NY 14221, in the amount of $39,850.00 to include the Base Bid and Alternate Bid Item No. 1.

Funding for this contract shall be from project account KP2101.4972.

Thank you for considering this request.

7/12/2021
Consent

FINANCIAL IMPACT:

KP2101-4972; $39,850.00

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Central Amherst Little League

Concession/Restroom Improvements

Bid Tabulation / July 1, 2021

T.O.A. Job No. 840127A

Electrical Contract

No.	Bidder	Bid Bond (Y / N)	Base Bid Total	Alternate 1: Shelter Electrical	Total
1	Goodwin Electric Corp.	Y	$37,450.00	$2,400.00	$39,850.00
2	Electrical Service & Systems Inst., Inc.	Y	$52,950.00	$4,785.00	$57,735.00
3	Industrical Power and Lighting Corp.	Y	$59,000.00	$5,400.00	$64,400.00
4	Weydman Electric, Inc.	Y	$63,200.00	$6,600.00	$69,800.00
5	CIR Electrical Construction Corp.	Y	$78,500.00	$8,500.00	$87,000.00

Attachment: Bid Tabulation - CALL Electric (RES-2021-598 : Award of Bid - Kingsgate Park CALL Improvements - Electrical)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 23502 **RESOLUTION 2021-599** **ADOPTED**

Award of Bid - Kingsgate Park CALL Improvements - Mechanical Contract Willett Builders, Inc.

On July 1, 2021, bids were received for the above referenced project. After review of the three (3) bids received (bid tabulation attached), we recommend award of this contract to Willett Builders, Inc., 180 Genesee St., Corfu, NY 14036, as per their low base bid amount of $14,200.00.

Funding for this contract shall be from project account KP2101.4972.

Thank you for considering this request.

7/12/2021
Consent

FINANCIAL IMPACT:

KP2101-4972; $14,200.00

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Central Amherst Little League

Concession/Restroom Improvements

Bid Tabulation / July 1, 2021

T.O.A. Job No. 840127A

Mechanical Contract

No.	Bidder	Bid Bond (Y / N)	Base Bid Total
1	Willett Builders, Inc.	Y	$14,200.00
2	Parise Mechanical, Inc.	Y	$15,700.00
3	John W. Danforth Co.	Y	$18,480.00

Attachment: Bid Tabulation - CALL Mechanical (RES-2021-599 : Award of Bid - Kingsgate Park CALL Improvements - Mechanical)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 23504 **RESOLUTION 2021-600** **ADOPTED**

Award of Bid - Northtown Center Parking Lot Expansion - General Contract American Paving & Excavating, Inc.

On June 15, 2021, bids were received for the above referenced project. After review of the nine (9) bids received (bid tabulation attached), we recommend award of this contract to American Paving & Excavating Inc., 5880 Thompson Road, Clarence Center, NY 14032, in the amount of $508,944.00 to include the Base Bid and Alternate Bid Item Nos. 1 & 2 (Landscape plantings - trees and shrubs).

Funding for this contract shall be from project account KP2103.4972.

Thank you for considering this request.

7/12/2021
Consent

FINANCIAL IMPACT:

KP2103-4972; $508,944.00

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Northtown Center Parking Lot Expansion

Bid Tabulation / June 15, 2021 / TOA Project No. 930094V - General/Site Construction

Bidder		American Paving & Excavating, Inc.	Ingalls Site Development, Incp.	Thomann Asphalt Paving Corp.	Northeast Diversification, Inc.	Anastasi Trucking, Inc.	Occhino Corp.	Scott Lawn Yard, Inc.	Milherst Construction	Zoladz Construction Co., Inc.
Bid Bond (Y / N)		**Yes**	**Yes**	**Yes**	**Yes**	**Yes**	**Yes**	**Yes**	**Yes**	**Yes**
	Quantity									
Item No. A200.0001: Site Earthwork & Demo	1 LS	$79,900.00 $79,900.00	$73,825.00 $73,825.00	$73,000.00 $73,000.00	$50,000.00 $50,000.00	$48,500.00 $48,500.00	$69,941.00 $69,941.00	$34,550.00 $34,550.00	$85,000.00 $85,000.00	$150,484.22 $150,484.22
Item No. A208.0001: Excavate & Install Bioretention Areas	360 S.Y.	$131.55 $47,358.00	$109.65 $39,474.00	$139.00 $50,040.00	$75.00 $27,000.00	$202.85 $73,026.00	$112.00 $40,320.00	$137.50 $49,500.00	$120.00 $43,200.00	$100.07 $36,025.20
Item No. 209.13: Silt Fence - Temporary	1,400 L.F.	$4.50 $6,300.00	$2.65 $3,710.00	$8.00 $11,200.00	$4.00 $5,600.00	$2.51 $3,514.00	$4.00 $5,600.00	$4.20 $5,880.00	$4.00 $5,600.00	$4.90 $6,860.00
Item No. 209.1701: Drainage Structure Inlet Protection, Silt Fence	80 L.F.	$4.50 $360.00	$2.65 $212.00	$14.00 $1,120.00	$7.00 $560.00	$3.00 $240.00	$10.30 $824.00	$8.30 $664.00	$10.00 $800.00	$9.57 $765.60
Item No. A402.0001: Hot Mix Asphalt	6,150 S.Y.	$28.05 $172,507.50	$31.74 $195,201.00	$29.00 $178,350.00	$35.00 $215,250.00	$29.50 $181,425.00	$28.00 $172,200.00	$36.40 $223,860.00	$33.00 $202,950.00	$31.05 $190,957.50
Item No. A603.9812: Furnish & Install Smooth Interior Corrugated Polyethylene Culvert, 12-inch	230 L.F.	$35.00 $8,050.00	$63.00 $14,490.00	$42.00 $9,660.00	$42.00 $9,660.00	$64.45 $14,823.50	$47.00 $10,810.00	$55.60 $12,788.00	$45.00 $10,350.00	$48.29 $11,106.70
Item No. A603.9815: Furnish & Install Smooth Interior Corrugated Polyethylene Culvert, 15-inch	255 L.F.	$40.00 $10,200.00	$63.20 $16,116.00	$48.00 $12,240.00	$44.00 $11,220.00	$64.95 $16,562.25	$55.60 $14,178.00	$66.00 $16,830.00	$50.00 $12,750.00	$51.73 $13,191.15
Item No. A604.12010006: 6-inch Diameter PVC Drain Basin with Grate	5 EA	$420.00 $2,100.00	$241.50 $1,207.50	$400.00 $2,000.00	$200.00 $1,000.00	$894.25 $4,471.25	$1,641.00 $8,205.00	$407.00 $2,035.00	$500.00 $2,500.00	$977.65 $4,888.25
Item No. A604.300103: Rectangular Drainage Structure	6 EA	$2,750.00 $16,500.00	$2,500.00 $15,000.00	$2,200.00 $13,200.00	$3,000.00 $18,000.00	$2,556.00 $15,336.00	$2,967.00 $17,802.00	$3,250.00 $19,500.00	$2,500.00 $15,000.00	$2,127.65 $12,765.90
Item No. A604.4060: Round Precast Concrete Manhole Type 60	1 EA	$4,600.00 $4,600.00	$5,200.00 $5,200.00	$6,400.00 $6,400.00	$8,000.00 $8,000.00	$9,083.00 $9,083.00	$10,337.00 $10,337.00	$8,050.00 $8,050.00	$6,000.00 $6,000.00	$6,208.26 $6,208.26
Item No. A608.0101: Concrete Sidewalks	195 S.Y.	$87.50 $17,062.50	$76.50 $14,917.50	$80.00 $15,600.00	$70.00 $13,650.00	$70.40 $13,728.00	$135.00 $26,325.00	$93.40 $18,213.00	$100.00 $19,500.00	$76.33 $14,884.35
Item No. 609.0401: Cast-In-Place Concrete Curb Type VF150	1,920 L.F.	$25.25 $48,480.00	$24.50 $47,040.00	$28.00 $53,760.00	$25.00 $48,000.00	$35.20 $67,584.00	$29.85 $57,312.00	$40.60 $77,952.00	$40.00 $76,800.00	$23.01 $44,179.20
Item No. A610.0001: Ground Vegetation Establishment	2,700 S.Y.	$3.00 $8,100.00	$8.15 $22,005.00	$6.50 $17,550.00	$4.00 $10,800.00	$2.13 $5,751.00	$8.90 $24,030.00	$3.40 $9,180.00	$12.00 $32,400.00	$2.56 $6,912.00
Item No. 614.060204: Tree Removal - 6"-12" D.B.H - Stumps Ground	6 EA	$350.00 $2,100.00	$423.00 $2,538.00	$200.00 $1,200.00	$1,700.00 $10,200.00	$1,932.00 $11,592.00	$137.00 $822.00	$1,450.00 $8,700.00	$500.00 $3,000.00	$358.91 $2,153.46

Attachment: Northtown Bid Tabulation - General-Site (RES-2021-600 : Award of Bid - Northtown Center

Item No. 614.060504: Tree Removal - 12"-36" D.B.H - Stumps Ground	1 EA	$900.00 $900.00	$1,058.00 $1,058.00	$2,000.00 $2,000.00	$4,000.00 $4,000.00	$3,133.00 $3,133.00	$1,442.00 $1,442.00	$4,400.00 $4,400.00	$500.00 $500.00	$1,435.62 $1,435.62
Item No. A685.02: Furnish & Install Site Striping	1 LS	$5,500.00 $5,500.00	$5,290.00 $5,290.00	$5,250.00 $5,250.00	$5,500.00 $5,500.00	$5,221.00 $5,221.00	$1,030.00 $1,030.00	$2,100.00 $2,100.00	$5,000.00 $5,000.00	$5,077.96 $5,077.96
Item No. A609.0001: Furnish & Install Parking Bumpers	55 EA	$120.00 $6,600.00	$94.40 $5,192.00	$80.00 $4,400.00	$100.00 $5,500.00	$137.50 $7,562.50	$110.00 $6,050.00	$95.00 $5,225.00	$100.00 $5,500.00	$193.57 $10,646.35
Item No. 619.01: Basic Work Zone Traffic Control	1 LS	$1,500.00 $1,500.00	$1,060.00 $1,060.00	$2,000.00 $2,000.00	$2,500.00 $2,500.00	$522.15 $522.15	$12,650.00 $12,650.00	$4,050.00 $4,050.00	$1,000.00 $1,000.00	$11,421.90 $11,421.90
Item No. 625.01: Survey Operations	1 LS	$2,500.00 $2,500.00	$3,440.00 $3,440.00	$10,000.00 $10,000.00	$18,000.00 $18,000.00	$8,152.00 $8,152.00	$6,457.00 $6,457.00	$26,000.00 $26,000.00	$8,500.00 $8,500.00	$32,403.77 $32,403.77
Item No. 697.03: Misc. Construction Allowance - Fixed Amount	1 LS	$10,000.00 $10,000.00	$10,000.00 $10,000.00	$10,000.00 $10,000.00	$10,000.00 $10,000.00	$10,000.00 $10,000.00	$10,000.00 $10,000.00	$10,000.00 $10,000.00	$10,000.00 $10,000.00	$10,000.00 $10,000.00
Item No. 699.04001: Mobilization (Not to Exceed 4% of Total Contract)	1 LS	$7,200.00 $7,200.00	$7,275.00 $7,275.00	$10,000.00 $10,000.00	$18,000.00 $18,000.00	$5,775.00 $5,775.00	$12,000.00 $12,000.00	$15,000.00 $15,000.00	$20,000.00 $20,000.00	$19,482.13 $19,482.13
Total Base Bid Amount		$457,818.00	$484,251.00	$488,970.00	$492,440.00	$506,001.65	$508,335.00	$554,477.00	$566,350.00	$591,849.52

Alternate Bid Items

Item No. A611.0001: Landscape Plantings - Trees	53 EA	$672.00 $35,616.00	$670.00 $35,510.00	$600.00 $31,800.00	$625.00 $33,125.00	$611.00 $32,383.00	$435.00 $23,055.00	$470.00 $24,910.00	$725.00 $38,425.00	$681.96 $36,143.88
Item No. A611.0002: Landscape Plantings - Shrubs	165 EA	$94.00 $15,510.00	$94.00 $15,510.00	$80.00 $13,200.00	$85.00 $14,025.00	$79.35 $13,092.75	$79.00 $13,035.00	$76.40 $12,606.00	$140.00 $23,100.00	$88.60 $14,619.00
Total Alternate Items		$51,126.00	$51,020.00	$45,000.00	$47,150.00	$45,475.75	$36,090.00	$37,516.00	$61,525.00	$50,762.88
Total Bid inc. Alternates		$508,944.00	$535,271.00	$533,970.00	$539,590.00	$551,477.40	$544,425.00	$591,993.00	$627,875.00	$642,612.40

Attachment: Northtown Bid Tabulation - General-Site (RES-2021-600 : Award of Bid - Northtown Center

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 23505 **RESOLUTION 2021-601** **ADOPTED**

Award of Bid - Northtown Center Parking Lot Expansion - Electrical Contract Goodwin Electric Corporation

On June 15, 2021, bids were received for the above referenced project. After review of the seven (7) bids received (bid tabulation attached), we recommend award of this contract to Goodwin Electric Corporation, 201 S. Youngs Rd., Williamsville, NY 14221, at their low base bid amount of $52,797.00.

Funding for this contract shall be from project account KP2103.4972.

Thank you for considering this request.

7/12/2021
Consent

FINANCIAL IMPACT:

KP2103-4972; $52,797.00

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Northtown Center Parking Lot Expansion

Bid Tabulation / June 15, 2021 / TOA Project No. 930094V - Electrical Construction

Bidder		Goodwin Electric Corp.	Electrical Service & Systems Installation, Inc.	CIR Electrical Construction, Corp.	Frey Electric Construction Co., Inc.	Industrial Power & Light Corp.	Weydman Electric, Inc.	Mylerson Electric, Inc.
Bid Bond (Y / N)		**Yes**	**Yes**	**Yes**	**Yes**	**Yes**	**Yes**	**Yes**
	Quantity							
Item No. A661.01: Site Electrical	1 LS	$52,797.00 $52,797.00	$55,220.00 $55,220.00	$57,800.00 $57,800.00	$61,900.00 $61,900.00	$62,200.00 $62,200.00	$62,590.00 $62,590.00	$83,900.00 $83,900.00
Total Base Bid Amount		$52,797.00	$55,220.00	$57,800.00	$61,900.00	$62,200.00	$62,590.00	$83,900.00

Attachment: Northtown Bid Tabulation - Electrical (RES-2021-601 : Award of Bid - Northtown Center

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 23506 **RESOLUTION 2021-602** **ADOPTED**

Engineering Department A/E 3-Year Term Agreements

In an attempt to minimize the number of contracts that are routed through the multistep contractual review procedure and to minimize the staff time associated with the preparation and review of individual project RFPs, the Engineering Department is requesting that the Town Board award Owner/Engineer/Architecture 3-year term agreements (with an optional 4th year extension) to the following firms:

Firm	Specialty Term	CRS #
Fisher Associates	Infrastructure	2752
Buffalo Engineering	Facilities	2753
DiDonato	Facilities	2754
TY Lin	Traffic/Transportation	2755
WSP	Traffic/Transportation	2756
C&S Companies	Environmental	2757
Earth Dimensions	Environmental	2758
KHEOPS Architecture & Eng	Survey	2760
AECOM	Wastewater	2761
GHD	Wastewater	2762
Arcadis	Wastewater	2763
Wendel	Wastewater	2764

This is the first of two requested rounds of awards as there are additional term contracts that will be brought to the July 26th Town Board Meeting.

Please note that the intent of this procedure is to capture a majority of the professional services procured by the Engineering Department associated with all types of Town projects; however individual RFPs will still be issued for large one-off projects.

With the award of the above referenced contracts, the Town is locking in consultant rates and personnel to prepare studies and designs related to the various capital and maintenance projects. Project scopes and budgets (comprising of individual work orders attached to the master agreement) will be developed between the Engineering Department and the consultant and approved by the Comptroller for budget compliance and executed by the Town Supervisor.

There are other advantages to this approach to engineering contracts:

1 The consultant and Engineering Department will jointly develop scope, which will minimize miscommunications about scope and improve owner-engineer understanding of project and potential project pitfalls up front in process;
2 The process is more efficient for Engineering Department and other Town contracts personnel as less time is used to develop and review individual RFPs;

3 This will move the Town away from low-cost engineering, which sometimes costs the Town additional money on the construction end as omissions and errors are expensive to fix during construction.

As you know, this type of contractual arrangement is not unique in the business. Most of the major municipalities and special districts have similar arrangements with the consulting community, including Erie County Division of Sewerage Management, the City of Buffalo Water Board, the City of Buffalo Department of Public Works and the Erie County Department of Public Works.

Funding for these contracts will be project based and they will be available to be used Town wide.

Thank you for considering this request.

7/12/2021
Consent

FINANCIAL IMPACT:

Town-wide/Various; Amount TBD

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Finance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 23432 **RESOLUTION 2021-603** **ADOPTED**

Use of T-Account Funds from T2023 Recreation Fees

RESOLVED, that $100,000 in funds from T2023 Recreation Fees is hereby authorized to be expended for the repair of parks equipment and purchase of playground surface material in various parks throughout the Town.

7/12/2021
Consent

FINANCIAL IMPACT:

T2023 - $100,000.00

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Finance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 23454 **RESOLUTION 2021-604** **ADOPTED**

Authorize Municipal Cooperative Agreement with Village of Williamsville - CRS #2733

RESOLVED, the attached Municipal Cooperative Agreement with the Village of Williamsville is hereby authorized for the purpose of maintaining properties located at 5933 Main Street and 5949 Main Street in Williamsville, NY.

7/12/2021
Consent

FINANCIAL IMPACT:

N/A

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

MUNICIPAL COOPERATIVE AGREEMENT

PURSUANT TO ARTICLE 5-G GENERAL MUNICIPAL LAW

THIS AGREEMENT, made by and between

THE VILLAGE OF WILLIAMSVILLE, a municipal corporation in the State of New York, having its offices at 5565 Main Street, Williamsville, New York, hereinafter known as the **VILLAGE**, and

THE TOWN OF AMHERST, a municipal corporation in the State of New York having its offices at 5583 Main Street, Williamsville, New York, hereinafter known as the **TOWN**.

W I T N E S S E T H

WHEREAS, the property located at 5933 Main Street, Williamsville, New York (S.B.L. #81.06-2-77.1), is located in the VILLAGE ("VILLAGE Parcel"); and

WHEREAS, the property located at 5949 Main Street, Williamsville, New York (S.B.L. #81.06-5-1.1 ("TOWN Parcel") is located in the Town (both properties hereinafter collectively referred to as the "Subject Properties"); and

WHEREAS, the Subject Properties are improved with an approximately 55,800 square foot three story mixed use building ("Building"), a detached garage structure to accommodate 8 automobiles and a parking lot accommodating 91 parking spaces; and

Attachment: 5933-5949 Main Street (RES-2021-604 : Authorize Municipal Cooperative Agreement with Village of Williamsville - CRS #2733)

WHEREAS, approximately 80 percent of the Building, the entirety of garage structure and approximately 20 percent of the parking lot is located on the VILLAGE Parcel within the VILLAGE; and

WHEREAS, approximately 20 percent of the Building and 80 percent of the parking lot is located on the TOWN Parcel within the TOWN; and

WHEREAS, in order to ensure the safe, efficient and consistent application and enforcement of the New York State Uniform Fire Prevention and Building Code, the New York State Energy Conservation Construction Code, and the building and zoning codes of the VILLAGE and the TOWN (collectively, "Applicable Codes") with respect to the Subject Properties, and to ensure consistent fire protection services to the Subject Properties, the VILLAGE and the TOWN entered into a Municipal Cooperative Agreement, effective June 8, 2016 ("2016 Agreement"), outlining the parties' respective obligations regarding administration and enforcement of the Applicable Codes and fire protection services for the Subject Properties, which 2016 Agreement is set to expire on June 7, 2021;

WHEREAS, the VILLAGE and the TOWN are desirous of continuing the terms of the 2016 Agreement for another five (5) years by entering into this Agreement;

NOW THEREFORE, the parties hereto agree as follows:

1. Subject to paragraph 3 of this Agreement, the VILLAGE, through its Building Department, shall perform all inspections, permit issuance, administration and enforcement required or authorized under the Applicable Codes with respect to the entire VILLAGE Parcel as well as that portion of the Building as is located on the TOWN Parcel.

Attachment: 5933-5949 Main Street (RES-2021-604 : Authorize Municipal Cooperative Agreement with Village of Williamsville - CRS #2733)

2. Subject to paragraph 3 of this Agreement, the TOWN, through its Building Department, shall perform all inspections, permit issuance, administration and enforcement required or authorized under the Applicable Codes with respect to the entire TOWN Parcel except for that portion of the Building as will be located on the TOWN Parcels.

3. Notwithstanding anything to the contrary in paragraphs 1 and 2 of this Agreement, this Agreement does not affect or change the present responsibility of the TOWN Building Department for all electrical inspections in the VILLAGE. The TOWN Building Department shall continue to perform all electrical inspections on the Subject Properties.

4. Any notices of violations or summonses issued by the VILLAGE pursuant to this Agreement will be heard in VILLAGE Court and any fines assessed retained by the VILLAGE.

5. Any notices of violations or summonses issued by the TOWN pursuant to this Agreement will be heard in TOWN Court and any fines assessed retained by the TOWN.

6. This Agreement does not affect or change the fire protection districts applicable to the Subject Properties.

7. This Agreement does not affect or change the assessment and collection of any taxes applicable to the Subject Properties.

8. This Agreement shall remain in full force and effect for five years from the effective date. At least 90 days prior to the expiration of this Agreement, the parties will confer regarding any modifications or renewals.

Attachment: 5933-5949 Main Street (RES-2021-604 : Authorize Municipal Cooperative Agreement with Village of Williamsville - CRS #2733)

9. This Agreement represents the entire Agreement of the parties and may not be modified or amended except by a written instrument duly approved by each of the respective parties.

IN WITNESS WHEREOF, the parties hereto hereby affix their hands and seals this ____ day of _____, 2021.

TOWN OF AMHERST

By: _____
Brian J. Kulpa, Supervisor

VILLAGE OF WILLIAMSVILLE

By: Deborah Rogers
Deborah Rogers, Mayor

Attachment: 5933-5949 Main Street (RES-2021-604 : Authorize Municipal Cooperative Agreement with Village of Williamsville - CRS #2733)

STATE OF NEW YORK)
COUNTY OF ERIE) ss:
TOWN OF AMHERST)

On this ____ day of _____, 2021, before me personally came BRIAN J. KULPA, to me known to be the Supervisor of the Town of Amherst, New York, and the person wo executed the foregoing instrument on behalf of the Town of Amherst, New York, who being by me duly sworn, did depose and say that he executed the said instrument by Order and Resolution of the Town Board of the Town of Amherst, New York, and that the Seal affixed is the Seal of such Town and that it was so affixed thereto by Order of the town Board of said Town.

Sworn to before me this
____ day of _____, 2021.

_____
Notary Public

STATE OF NEW YORK)
COUNTY OF ERIE) ss:
VILLAGE OF WILLIAMSVILLE)

On this 15th day of June, 2021, before me personally came DEBORAH ROGERS, to me known, who being by me duly sworn, did depose and say that he resides in the Village of Williamsville, New York; that he is the Mayor of the Village of Williamsville, the Corporation described in and which executed the executed the foregoing instrument, that he knows the seal of the Corporation; that the Seal affixed to said instrument is the Seal of said Village; and that he signed his name thereto by Order of the board of Trustees of said Village.

Sworn to before me this
15th day of June, 2021.

Judith A. Kindron
Notary Public

JUDITH A. KINDRON
Notary Public, State of New York
Reg. No. 01KI4769764
Qualified in Erie County
Commission Expires 5-31-2022

Attachment: 5933-5949 Main Street (RES-2021-604 : Authorize Municipal Cooperative Agreement with Village of Williamsville - CRS #2733)

Village of Williamsville

STATE OF NEW YORK }
COUNTY OF ERIE } **SS.**
VILLAGE OF WILLIAMSVILLE }

I,……Judith A. Kindron …….., Administrator/Village Clerk-Treasurer of the Village of Williamsville, Erie County, New York, do hereby certify that at the regular meeting of the Board of Trustees of the aforesaid village, on the ……14th ..……day of……..June. ….2021, at the Village Hall, Williamsville, New York, the following resolution was adopted, every member present voting therefore; and

ON MOTION by Deputy Mayor Piazza, seconded by Trustee Etu, the following resolution was adopted:

WHEREAS, the property adjacent to the corner of Main St. and Hirschfield Dr. has been developed by the property owner; and

WHEREAS, the building falls on both the Village of Williamsville property located at 5933 Main St. and the Town of Amherst property located at 5949 Main St.; and

WHEREAS, various items have been discussed with regard to the building, including Code Enforcement Services and Fire Protection services, among others, resulting in an Inter-Municipal Agreement between the Village of Williamsville and the Town of Amherst that was signed in 2016;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor is hereby authorized and directed to enter into a renewal of said Inter-Municipal Agreement with the Town of Amherst for the next five (5) years.
[*Trustee Etu- on the question why 5 years?][Attorney Greico-GML only allows Inter-Municipal Agreement to run for 5 years]*

Unanimously carried.

I do further certify that I compared the above with the original minutes of the Board of Trustees meeting of said Village held on the…..…14th…….day of ……June …….2021, and that the above is a true and correct transcript from said original minutes and the whole thereof, and that the resolution duly adopted by said Board of Trustees is on file in my office.

I do further certify that the following members of the Board of Trustees of the Village of Williamsville were present at such meeting, namely: Eileen Torre, Matthew Etu, David Sherman Trustees, Basil J. Piazza, Deputy Mayor, and Deborah L. Rogers, Mayor.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the said Village of Williamsville, Erie County, New York, this……4th ….day of ……January…..2021.

Judith A. Kindron
Administrator/Clerk-Treasurer
Village of Williamsville, New York

Attachment: 5933-5949 Main Street (RES-2021-604 : Authorize Municipal Cooperative Agreement with Village of Williamsville - CRS #2733)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Finance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 23510 **RESOLUTION 2021-605** **ADOPTED**

Authorize Vendors for Amherst Market at Bassett Park - CRS #2665, 2688, 2724, 2735, 2740 & 2745

WHEREAS, contract documents and vendors for the Amherst Market at Bassett Park were approved on June 7, 2021 via RES-2021-492; and

WHEREAS, additional vendors have requested to participate and filled out the appropriate documentation;

NOW, THEREFORE, BE IT RESOLVED, the Town Board hereby approves contracts with the following vendors, subject to successful completion of the Contract Routing System:

CRS #2665	Ty and Mel Enterprises, dba Mad Sauces
CRS #2688	Pour and Penchant
CRS #2724	Black Barn Bakery
CRS #2735	Jordan Buell, Equitable Advisors
CRS #2740	Sherry Martin Dance Studio
CRS #2745	NorthCoast

7/12/2021
Consent

FINANCIAL IMPACT:

N/A

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 23443 **RESOLUTION 2021-606** **ADOPTED**

Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co. CRS # 2727

NOW THEREFORE BE IT RESOLVED, that the Town of Amherst is approved to piggyback on the County of Erie - Construction and Maintenance Materials contract with Pavilion Drainage Supply Co. for guide railing, median barrier and concrete barriers.

The Erie County and Pavilion Drainage Supply Co. is Bid Reference 221065-004, Sections 568, 587 and E606 for guide railing, median barriers and concrete barriers.
Contract term is 4/1/2021 through 3/31/2022.

NOW THEREFORE BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to sign this contract. This contract has completed the CRS #2727 Contract Routing System and Town Attorney approval.

7/12/2021
Consent

FINANCIAL IMPACT:

KP 1919 : 4972

NTE $79,000.00

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

AGREEMENT

Let this document stand as an Agreement between PAVILION DRAINAGE SUPPLY CO., INC. And the Town of Amherst permitting the Town of Amherst to participate in the purchase of :

COUNTY OF ERIE-CONSTRUCTION AND MAINTENANCE MATERIALS
BID REFERENCE # 221065-004
4/1/2021 through 3/31/2022

SECTION 568 AND 587 - BRIDGE RAILING AND RECONSTRUCTION
SECTION E606 - Guide Railing, Median Barrier and Concrete Barrier
Pages 24, 25, 31, 32 AND 33.

from Pavilion Drainage Supply Co., Inc. under Erie County Construction and Maintenance Specifications of BID REFERENCE #221065-004 for the period from 4/1/2021 TO 3/31/2022.

Agreed to and Accepted by:

PAVILION DRAINAGE SUPPLY CO., INC.

By: Philip J Pfossl
Signature

Philip J. Pfossl
Print Name

President
Title

Date: 6/17/21

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian Kulpa
Supervisor

Date: _____

Attachment: PAVILION CONTRACT (RES-2021-606 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co. CRS #

Attachment: PAVILION CONTRACT (RES-2021-606 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co. CRS #

Addendum to Contract VENDOR ON SITE Major

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Vendors or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Vendor shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Vendor its officers, agents, sub-Vendors, and/or employees as well as the negligence, active or passive, of the Vendor, its officers, agents, sub-Vendors, and/or employees.

4. Vendor shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Vendor shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Vendor shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate. Umbrella coverage shall be in an amount of at least $5,000,000.00.

(c) Vendor shall furnish the above insurances, including sub-Vendors' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Vendor shall ensure all its sub-Vendors, if any, have obtained all the above insurances and shall also assure that any policy procured by any sub-Vendor or sub-sub-Vendor shall name the Town as an additional insured on a primary and non-contributory basis.

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

6. No Assignment: In accordance with the provisions of Section 109 of the General Municipal Law, the Vendor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Vendor shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Vendor, in accordance with its status as an independent Vendor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

9. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules,

Attachment: PAVILION CONTRACT (RES-2021-606 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co. CRS #

regulations or ordinances for any state other than New York State, to the laws, statutes, rules, regulations or ordinances for any county other than Erie County, New York or to the laws, statutes, rules, regulations or ordinances for any municipality other than the Town of Amherst, then the laws, statutes, rules, regulations or ordinances for New York State, Erie county and/or the Town of Amherst shall apply as applicable. Any and all legal action necessary to enforce the Agreement will be venued in Supreme Court, Erie County, New York or in the United States District Court for the Western District of New York, Buffalo Division.

10. It is hereby acknowledged that performance of this Contract will be undertaken in accordance with the specifications and pricing on which the bid was submitted.

Authority for execution on behalf of Town: The Supervisor has executed this Agreement pursuant to a Resolution adopted by the Town Board of the Town, at a meeting thereof held on _____. Brian J. Kulpa, the Supervisor whose signature appears hereafter, is duly authorized and empowered to execute this instrument and enter into such an Agreement on behalf of the Town as a result of that Resolution. This instrument shall be executed in triplicate. At least one (1) copy shall be permanently filed, after execution thereof, in the office of the Town Clerk of Town.

Agreed to and Accepted by:

Pavilion Drainage Supply Co, Inc.
Print Name of Company

By: Philip J Plossl
Signature

Philip J. Plossl
Printed name

Date: 6/17/21

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Revised 12.30.19 SJS

Attachment: PAVILION CONTRACT (RES-2021-606 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co. CRS #

IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a provision was added to the State Finance Law (SFL), Section 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will develop a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). This list is posted on the OGS website.

By submitting a response to this solicitation, or by assuming the responsibility under a Contract/Lease awarded hereunder, Bidder/Contractor/Vendor (or any assignee) certifies that it will not utilize on such Contract/Lease any subcontractor that is identified on the prohibited entities list.

Additionally, Bidder/Contractor/Vendor is advised that any Bidder/ Contractor/Vendor seeking to renew or extend a Contract/Lease (or assume responsibility of a Contract/Lease awarded must certify at the time the Contract/Lease is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract/Lease, should the Town of Amherst (Town) receive information that a person is in violation of the above-referenced certification, the Town will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the Town shall take such action as appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor/Vendor in default.

The Town reserves the right to reject any Contract/Lease or request for assignment for an entity that appears on the prohibited entities list prior to the award of a Contract/Lease, and to pursue a responsibility review with respect to any entity that is awarded a Contract/Lease and appears on the prohibited entities list after Contract/Lease award.

Company Name: Pavilion Drainage Supply Co., Inc.

Signature: Philip J. Plossl

Print Name: Philip J. Plossl

Title: President

Date: 6/17/21

DENISE S. RADER
#01RA6215695
NOTARY PUBLIC STATE OF NEW YORK
QUALIFIED IN GENESEE COUNTY
MY COMMISSION EXPIRES JAN. 04, 20 22

Sworn To Before Me This
17th Day of June, 2021
Denise S. Rader
Notary Public

Revised 4.2017

Attachment: PAVILION CONTRACT (RES-2021-606 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co. CRS #

CERTIFICATE OF LIABILITY INSURANCE

DA 11/30/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLI(BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORI REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endor If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statemen this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Vanner Insurance Agency 90 John Muir Bldg A Amherst, NY 14228 William J. Quinn 716-688-8888	CONTACT NAME: Victoria Puglia PHONE (A/C, No, Ext): 716-688-8888 FAX (A/C, No): 716-688-9001 E-MAIL ADDRESS: vpuglia@vannerinsurance.com
INSURED Pavilion Drainage Supply Co Inc. PO Box 219 Pavilion, NY 14525-0219	INSURER(S) AFFORDING COVERAGE — NAI INSURER A : The Travelers Indemnity Co — 25658 INSURER B : Travelers Indemnity Co of Amer — 25666 INSURER C : Merchants Mutual Ins Co — 23329 INSURER D : Travelers Cas Ins Co of Amer — 19046 INSURER E : West American Insurance Co — 44393 INSURER F :

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PER INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH T CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TER EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR X Contractual Liab X XCU Included GEN'L AGGREGATE LIMIT APPLIES PER: POLICY [X] PRO-JECT [ ] LOC OTHER:	X		DTCO3K092918IND20	12/01/2020	12/01/2021	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrance) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG Emp Ben.	$ 1,00 $ 30 $ $ 1,00 $ 2,00 $ 2,00 $ 1,00
B	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY [ ] SCHEDULED AUTOS X HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY			BA1L2670412026G	12/01/2020	12/01/2021	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,00 $ $ $
C	X UMBRELLA LIAB [X] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED [X] RETENTION $ 10000			CUP0000024	12/01/2020	12/01/2021	EACH OCCURRENCE AGGREGATE	$ 5,00 $ 5,00
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N [N] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		UB3K0577932026G	12/01/2020	12/01/2021	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,00 $ 1,00 $ 1,00
E	Build Risk/Floater			BMW59037560	12/01/2020	12/01/2021	Limit	1,00
E	Lease/Rented Equip			BMW59037560	12/01/2020	12/01/2021	Limit	25

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Town of Amherst is named as additional insured on a primary and non-contributory basis when required by written contract or agreement. Workers Compensation includes owners.

CERTIFICATE HOLDER

AMHER00

Town of Amherst
5583 Main Street
Williamsville, NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFO THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

ACORD 25 (2016/03)

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Attachment: PAVILION CONTRACT (RES-2021-606 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co. CRS #

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (Use street address only) Pavilion Drainage Supply Co. Inc PO Box 219 Pavilion NY 14525 **Work Location of Insured** ***(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)***	**1b. Business Telephone Number of Insured** 585-584-3261 **1c. NYS Unemployment Insurance Employer Registration Number of Insured** **1d. Federal Employer Identification Number of Insure or Social Security Number** 16-1125876
2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) Town of Amherst 5583 Main Street Williamsville, NY 14221	**3a. Name of Insurance Carrier** Travelers Cas Ins Co of America **3b. Policy Number of entity listed in box "1a"** UB3K0577932026G **3c. Policy effective period** 12/01/20 to 12/01/21 **3d. The Proprietor, Partners or Executive Officers are** ☑ **included.** (Only check box if all partners/officers included) ☐ **all excluded or certain partners/officers excluded**

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for work compensation under the New York State Workers' Compensation Law. **(To use this form, New York (NY) must be listed under Item on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will s this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

The Insurance Carrier will also notify the above certificate holder within 10 days IF a policy is canceled due to nonpayment of premi or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from coverage indicated on this Certificate. (These notices may be sent by regular mail.) ***Otherwise, this Certificate is valid for one year a this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichev earlier.***

Please Note: Upon the cancellation of the workers' compensation policy indicated on this form, if the business continues to named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a n Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandat coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referen above and that the named insured has the coverage as depicted on this form.

Approved by: Ralph J. Vanner, Jr., CPCU
(or licensed agent of insurance carrier)

Approved by:  11/30/20
(Signature) (Date)

Title: CEO

Telephone Number of authorized representative or licensed agent of insurance carrier: (716)688-8888

Please Note: *Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are N authorized to issue it.*

C-105.2 (9-07)

Attachment: PAVILION CONTRACT (RES-2021-606 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co. CRS #

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD

CERTIFICATE OF INSURANCE COVERAGE UNDER THE NYS DISABILITY BENEFITS LAW

PART 1. To be completed by Disability Benefits Carrier or Licensed Insurance Agent of that Carrier

1a. Legal Name and Address of Insured (Use street address only) Pavilion Drainage Supply Co., Inc. PO Box 219 Pavilion, New York 14525	1b. Business Telephone Number of Insured 585-584-3261 1c. NYS Unemployment Insurance Employer Registratio Number of Insured 79-120968 1d. Federal Employer Identification Number of Insured o Social Security Number 16-1125876
2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) Town of Amherst 5583 Main Street Williamsville NY 14221	3a. Name of Insurance Carrier Shelter Point Insurance co. 3b. Policy Number of entity listed in box "1a": DBL53400 3c. Policy effective period: 01/01/21 to 01/01/22

4. Policy covers:

a. ☑ All of the employer's employees eligible under the New York Disability Benefits Law

b. ☐ Only the following class or classes of the employer's employees:

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced abov that the named insured has NYS Disability Benefits insurance coverage as described above.

Date Signed 01/15/2021 By _____

(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance

Telephone Number 716-688-8888 Title CEO

IMPORTANT: If box "4a" is checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent carrier, this certificate is COMPLETE. Mail it directly to the certificate holder.

If box "4b" is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the Disability Benefits Law. It must be for completion to the Workers' Compensation Board, DB Plans Acceptance Unit, 20 Park Street, Albany, New York 12207.

PART 2. To be completed by NYS Workers' Compensation Board (Only if box "4b" of Part 1 has been chec

State Of New York
Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability Benefits Law with respect to all of his/her employees.

Date Signed _____ By _____

(Signature of NYS Workers' Compensation Board Employee)

Telephone Number _____ Title _____

Please Note: *Only insurance carriers licensed to write NYS disability benefits insurance policies and NYS licensed insurance age those insurance carriers are authorized to issue Form DB-120.1.* ***Insurance brokers are NOT authorized to issue this for***

DB-120.1 (5-06)

Additional Instructions for Form DB-120.1

Attachment: PAVILION CONTRACT (RES-2021-606 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co. CRS #

2021 Summer Maintenance Bid

Bidder List	Phone Numbers	Pages
Midland Asphalt Materials, Inc. 640 Young Street Tonawanda, New York 14150	716.692.0730	12, 14, 17, 18, 19, 54, 55, 56, 69 to 74
Milherst Construction, Inc. 10025 County Road PO Box 430 Clarence Center, New York 14032-0430	716.688.9098	69 to 74
Municipal Milling and Maintenance, LLC 9091 Erie Rd Angola, New York 14006	716.868.5158	21 and 22
New Enterprise Stone and Lime Co., Inc. 3912 Brumbaugh Road New Enterprise, PA 16664 500 Como Park Blvd. Buffalo, New York 14227	814.766.2211 716.826.7310	3, 8, 9, 10, 23, 34, 39, 59, 60, 62, 69 to 74
New Frontier Excavating & Paving, Inc. 7003 Brown Hill Road Boston, New York 14025	716.430.5046	21, 22, 69 to 74
Northeast Diversification DBA Northeast Paving #2 Cadby Industrial Park Lancaster, New York 14086	716.681.8879	1, 2, 4, 5, 6, 8, 12, 13, 21, 22, 34, 36, 43, 62, 75 to 80
Occhino Corp 2650 Seneca Street West Seneca, New York 14224	716.827.7000	1, 4, 5, 6, 12, 13, 21, 22, 34, 35, 36, 41, 43, 75 to 80
Pat Roberts & Sons, Inc 1995 Woodward Road PO Box 125 Elma, New York 14059	716.863.3615	75 to 80
Pavilion Drainage Supply Co., Inc. PO Box 219 6630 Ellicott Street Rd Pavilion, New York 14525	585.584.3261	24, 25, 31, 32 and 33 51, 52, 58, 59, 60
Redland Quarries of New York, Inc. dba Lafarge 75 Pineview Dr. Suite 100 Amherst, New York 14228	716.505.5300	3, 9, 10, 11, 23, 34, 62, 69 to 74
Robinson Paving, Inc. PO Box 266 11525 Big Tree Road East Aurora, New York 14052	716.687.1045	75 to 80
SJB Services, Inc 5167 South Park Avenue Hamburg, New York 14075	716.649.8110	9, 10, 48
Schneck's Tree Removal, Inc. 2861 Southwestern Blvd Orchard Park, New York 14127	716.675.7098	37
Suit Kote Corporation 1911 Lorings Crossing Road Cortland, New York 13045 505 Como Park Blvd. Buffalo, New York 14227	607.753.1100 716.683.8850	12, 14, 15, 16, 18, 19, 21, 22, 54, 55, 56, 75 to 80

Attachment: PAVILION CONTRACT (RES-2021-606 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co. CRS #

Specifications and Proposal Form Covering Construction and Maintenance Materials Required by the Erie County Department of Public Works For the year Beginning April 1, 2021

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Attachment: PAVILION CONTRACT (RES-2021-606 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co. CRS #

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Attachment: PAVILION CONTRACT (RES-2021-606 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co. CRS #

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Attachment: PAVILION CONTRACT (RES-2021-606 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co. CRS #

2021 Summer Maintenance Bid

SECTION 568			
Item No.	**Item**	**Pay Unit**	Pavilion Drainage
568.50	Steel Bridge Railing (Two-Rail)	Foot	$240.00
568.51	Steel Bridge Railing (Four-Rail)	Foot	$423.00
568.52	Steel Bridge Railing (Five-Rail)	Foot	$509.00
568.53	Steel Bridge Railing (Two-Rail) with Handrail	Foot	$307.00
568.54	Steel Bridge Railing (Three-Rail)	Foot	$336.00
568.70	Transition Bridge Railing	Foot	$290.00
568.70020002	Resetting Transition Bridge Railing	Foot	$177.00

2021 Summer Maintenance Bid

SECTION 587			
Item No.	**Item**	**Pay Unit**	Pavilion Drainage
587.05010015	Bridge Steel Bridge Railing Replacement Clamp	Each	$665.00
587.1001	Box Beam Bridge Rail, One Rail	Foot	$169.00
587.1002	Box Beam Bridge Rail, Two Rail	Foot	$223.00

2021 Summer Maintenance Bid

SECTION E606			
Item No.	**Item**	**Pay Unit**	Pavilion Drain
E203.99	Windrow Excavation & Removal	SY Graded	$7.65
E606.10	Box Beam Guide Railing (Furnish Only)	LF	$32.25
606.100002	Box Beam Guide Railing (Shop Bent or Shop Mitered) (Furnish and Install)	LF	$60.00
E606.100002	Box Beam Guide Railing (Shop Bent or Shop Mitered) (Furnish Only)	LF	$42.90
E606.1001	Box Beam Guide Railing (Furnished & Installed) 1' - 100'	LF	$63.30
E606.1002	Box Beam Guide Railing (Furnished & Installed) 101' - 500'	LF	$53.35
E606.1003	Box Beam Guide Railing (Furnished & Installed) 501' - 1,000'	LF	$48.35
E606.1004	Box Beam Guide Railing (Furnished & Installed) 1,001' - 5,000'	LF	$47.10
606.120101	Box Beam End Piece	EA	$619.35
606.120102	Box Beam Guide Railing End Assembly Type I (Furnish & Install)	EA	$4,357.50
E606.120102	Box Beam Guide Railing End Assembly Type I (Furnish Only)	EA	$2,917.00
606.120201	Box Beam Guide Railing End Assembly Type IIA (Furnish & Install)	EA	$2,135.00
E606.120201	Box Beam Guide Railing End Assembly Type IIA (Furnish Only)	EA	$1,404.00
606.1203	Box Beam End Assembly Type III	EA	$6,500.00
E606.1601	Corrugated Beam Guide Railing (Furnished & Installed) 1' - 100'	LF	$42.20
E606.1602	Corrugated Beam Guide Railing (Furnished & Installed) 101' - 500'	LF	$24.10
E606.1603	Corrugated Beam Guide Railing (Furnished & Installed) 501' - 1000'	LF	$22.60
E606.1604	Corrugated Beam Guide Railing (Furnished & Installed) 1001' - 5000'	LF	$20.95
E606.1605	Corrugated Beam Guide Railing (Furnish Only)	LF	$14.55
606.22	Anchorage Units for Corrugated Beam Guide Railing (Furnish & Install)	EA	$1,395.00
606.23	Anchorage Units for Corrugated Beam Guide Railing (Driveways, Walkways and Other Openings) (Furnish & Install)	EA	$1,295.00
E606.2301	Heavy Post Blocked-Out Corrugated Beam Guide Railing (Furnished and installed, various locations in Erie County) 1'-100'	LF	$58.00
E606.2302	Heavy Post Blocked-Out Corrugated Beam Guide Railing (Furnished and installed, various locations in Erie County) 101'-500'	LF	$35.30
E606.2303	Heavy Post Blocked-Out Corrugated Beam Guide Railing (Furnished and installed, various locations in Erie County) 501'-1,000'	LF	$33.05
E606.2304	Heavy Post Blocked-Out Corrugated Beam Guide Railing (Furnished and installed, various locations in Erie County) 1,001'-5,000'	LF	$31.45
606.26	Corrugated Beam Guide Railing End Terminal (Energy-Absorbing) (Furnish & Install)	EA	$5,895.00
606.27	HPBO (Mod.) Corrugated Beam Guide Railing End Terminal (Energy-Absorbing) (Furnish & Install)	EA	$4,290.00
E606.270101	HPBO (Mod.) Corrugated Beam Guide Railing (Furnish & Install) 1' - 100'	LF	$59.25
E606.270102	HPBO (Mod.) Corrugated Beam Guide Railing (Furnish & Install) 101' - 500'	LF	$36.55
E606.270103	HPBO (Mod.) Corrugated Beam Guide Railing (Furnish & Install) 501' - 1000'	LF	$34.30
E606.270104	HPBO (Mod.) Corrugated Beam Guide Railing (Furnish & Install) 1001' - 5000'	LF	$32.70
E606.270105	HPBO (Mod.) Corrugated Beam Guide Railing Shop Curved (Furnish & Install)	LF	$40.40
606.2703	Anchorage Units for HPBO (Mod.) Corrugated Beam Guide Railing (Furnish & Install)	EA	$1,845.00
606.2704	Anchorage Units for HPBO (Mod.) Corrugated Beam Guide Railing Buried in Back Slope (Furnish & Install)	EA	$2,125.00
E606.3011	Concrete barrier Type A (Precast)	Foot	
E606.36	Heavy Post Blocked-Out Corrugated Beam Guide Railing Connections to Walls Trailing Ends (Furnished and Installed, various locations in Erie County). Heavy Post Blocked-Out Corrugated Beam Guide Railing Connections to Walls Trailing Ends (Furnished and Installed, various locations in Erie County).	EA	$3,200.00
E606.4805	I-Beam Posts for Existing Corrugated Beam Guide Railing (Furnish Only)	EA	$52.50
E606.480501	I-Beam Post Installations for Corrugated Beam Guide Railing (No Railing or Post Included)	EA	$33.15

Attachment: PAVILION CONTRACT (RES-2021-606 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co. CRS #

2021 Summer Maintenance Bid

SECTION E606			
Item No.	**Item**	**Pay Unit**	Pavilion Drain
E606.480502	I-Beam Post Installations for Corrugated Beam Guide Railing (Post Only Included)	EA	$88.75
E606.4818	I-Beam Posts for Existing HPBO (Mod.) Corrugated Beam Guide Railing (Furnish & Install)	EA	$96.50
E606.514801	Resetting Corrugated Beam Guide Railing (New Posts) 1'-100'	LF	$38.10
E606.514802	Resetting Corrugated Beam Guide Railing (New Posts) 101'-500'	LF	$22.50
E606.514803	Resetting Corrugated Beam Guide Railing (New Posts) Over 500 ft.	LF	$17.10
E606.534801	Resetting Box Beam Guide Railing (New Posts) 1'-100'	LF	$53.25
E606.534802	Resetting Box Beam Guide Railing (New Posts) 101'-500'	LF	$33.35
E606.534803	Resetting Box Beam Guide Railing (New Posts) Over 500 ft.	LF	$28.25
E606.5501	Resetting HPBO Corrugated Beam Guide Railing (New 12 in. Blockouts)	LF	$31.60
E606.550101	Resetting HPBO Corrugated Beam Guide Railing (Heavy Posts and Blockouts Furnished by Others)	LF	$23.00
E606.550102	Resetting Heavy Post Blocked-Out Corrugated Beam Guide Railing (Resetting at various locations in Erie County)1'-100'	LF	$44.65
E606.550103	Resetting Heavy Post Blocked-Out Corrugated Beam Guide Railing (Resetting at various locations in Erie County)101'-500'	LF	$23.00
E606.550104	Resetting Heavy Post Blocked-Out Corrugated Beam Guide Railing (Resetting at various locations in Erie County) 501'-1,000'	LF	$17.40
E606.550105	Resetting Heavy Post Blocked-Out Corrugated Beam Guide Railing (Resetting at various locations in Erie County)1,001'-5,000'	LF	$14.15
E606.5601	Resetting Corrugated beam Guide Railing Heavy Posts and Block-Outs (Furnished by others, resetting at various locations in Erie County) 1'-100'	LF	$44.65
E606.5602	Resetting Corrugated beam Guide Railing Heavy Posts and Block-Outs (Furnished by others, resetting at various locations in Erie County) 101'-500'	LF	$23.00
E606.5603	Resetting Corrugated beam Guide Railing Heavy Posts and Block-Outs (Furnished by others, resetting at various locations in Erie County) 501'-1,000'	LF	$17.40
E606.5604	Resetting Corrugated beam Guide Railing Heavy Posts and Block-Outs (Furnished by others, resetting at various locations in Erie County) 1,001'-5,000'	LF	$14.15
606.5910	Resetting Anchorage Units for Corrugated Beam Guide Railing or Median Barrier	EA	$688.00
E606.9901	Channel Back Up for Corrugated Beam Guide Rail (Furnish & Install)	LF	$95.00
E606.9902	Attachments for HPBO Corrugated Beam w/Back Up (Furnish & Install)	EA	
E606.9903	Bridge Post Modification - HPBO Corrugated Beam Guide Railing (Furnish & Install)	LF	$1,012.50
E606.990401	Corrugated Beam Transition Assembly - Four Rail Steel Bridge Railing Including Sleeved Tuning Fork (Furnish Only)	LF	
E606.86	Guide Rail Transition Corrugated Beam to Thrie Beam	EA	$7,325.00
E606.8701	Corrugated Beam Guide Railing Transition Assembly to Two Rail Steel Bridge Railing	EA	
E606.8702	Corrugated Beam Guide Railing Transition Assembly to Four Rail Steel Bridge Railing	EA	
E606.8703	Corrugated Beam Guide Railing Transition Assembly to Discontinuous Steel Bridge Railing	EA	
E606.8704	Corrugated Beam Guide Railing Transition Assembly to Concrete Parapets or Concrete Barrier	EA	
E606.8801	Box Beam Guide Rail Transition to Concrete Barrier (One or Two Way Operation)	EA	$7,255.00

Attachment: PAVILION CONTRACT (RES-2021-606 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co. CRS #

2021 Summer Maintenance Bid

SECTION E606			
Item No.	**Item**	**Pay Unit**	Pavilion Drain
E606.8802	Box Beam Guide Rail Transition to Concrete Barrier (One Way - Trailing End)	EA	$4,965.00
E606.8901	Transition: Heavy Posts Blocked Out (MOD.) Corrugated Guide Railing to Box Beam Guide Railing	EA	$5,835.00
E606.8902	Transition: Heavy Posts Blocked Out (MOD.) Corrugated Guide Railing to Weak Post Corrugated Beam Guide Railing	EA	$3,085.00
E606.9905	Guiderail Removal	LF	$2.35
E608.0201	Asphalt Concrete Mowing Strips	Ton	$630.00
E619.9901	Maintenance & Protection of Traffic	LF	$2.35

Attachment: PAVILION CONTRACT (RES-2021-606 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co. CRS #

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 23446 **RESOLUTION 2021-607** **ADOPTED**

Deputy Town Attorney/Town Attorney's Office

Please appoint a Deputy Town Attorney (Town Prosecutor) to the Town Attorney's Office. Permanent, at an annual salary of $84,709.69 effective July 26, 2021 for Samuel Alba.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 23457 **RESOLUTION 2021-608** **ADOPTED AS AMENDED**

Police Officer/Police Department (4 Positions)

Please appoint ~~five (5)~~ four (4) Police Officers to the Police Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII(c). Effective July 26, 2021 at an annual salary of $62,102 for Nathaniel Gold, Michayla Pane, Dustin Schultz, and Kenneth Stuber . Contingent upon successful completion of all pre-employment requirements and Erie County Civil Service Rules and Regulations.

7/12/2021
A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion was then made by Deputy Supervisor Berger to amend the resolution from five (5) Police Officers to four(4). The motion was seconded by Councilmember Bucki and unanimously approved 5-0.

A motion to approve as amended was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

RESULT:	**ADOPTED AS AMENDED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 23463 **RESOLUTION 2021-609** **ADOPTED**

Messenger/Human Resources Department

Please appoint a Messenger to the Human Resources Department. Effective June 26, 2021, at an annual salary of $48,750, Grade 7 of the Exempt Non Department Head Salary Schedule for Kathleen Talty. Contingent upon completing all pre-employment requirements. Replacing an employee who retired.

7/12/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Information Technology
Initiated by: **David J. Willer**
Co-Sponsored by:

DOC ID: 23464 **RESOLUTION 2021-610** **ADOPTED**

Auction / Disposal of Obsolete Equipment

Approval is respectfully requested from the Amherst Town Board to auction obsolete Information Technology equipment. This request is made in accordance with the Town's Property Disposition Policy (Resolution 2011-1032).

It is the intention of the Department of Information Technology to place the following equipment for auction through the Town's approved vendor -- Auctions International. The Department of Information Technology will work with Contract Compliance and Administration as well as the Comptroller's Office to ensure proper disposal procedures are met. If the auction proves unsuccessful, the Department of Information Technology intends on properly disposing of this equipment through the Town's Refuse Department.

(2) HP ProLiant DL585 G6 Servers
These servers are no longer in production. We have reached out to other Town departments to see if they had a need for this equipment with no interest.

As there is no other appropriate use in any of the IT server rooms / buildings and this equipment is no longer supported by the manufacturer we have deemed this equipment as obsolete.

7/12/2021
Consent

FINANCIAL IMPACT:

TBD

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 23445 **RESOLUTION 2021-611** **ADOPTED**

To Authorize the Town Supervisor to Sign Grant Application Materials and Submit an Application to the New York State Affordable Housing Corporation Not to Exceed $300,000 in Funding for a Housing Rehabilitation Matching Grant to Assist Target Neighborhoods

WHEREAS, the New York State Affordable Housing Corporation will be accepting applications for grant funding for housing rehabilitation loans in 2021, and

WHEREAS, said funds can be used in conjunction with Community Development Block Grant and HOME Investment Partnership Grant funds administered by the Town to assist low and moderate income homeowners, and

WHEREAS, the Planning Department has prepared an application for submission to the NYS Affordable Housing Corporation for said funds, NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Amherst authorizes the Supervisor to sign said application and any related documents, and submit same to the New York State Affordable Housing Corporation for a grant not to exceed $300,000 with a local match of $200,000 for housing rehabilitation loans for low and moderate income homeowners, and BE IT

FURTHER RESOLVED, that a copy of this resolution be forwarded to State Senator Edward A. Rath and State Assemblywoman Karen McMahon.

7/12/2021
Consent

FINANCIAL IMPACT:

Adoption of the proposed resolution requires that up to $200,000 in Federal Community Development Block Grant and HOME Investment Partnership Funds be made available as a local match, but involves no other Town monetary contribution and will have no impact on the Town Budget or tax rate

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa,
Supervisor

Daniel Howard, AICP
Planning Director

Ellen M. Kost,
Assistant Planning Director

June 23, 2021

Agenda of July 12, 2021

Honorable Town Board
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Subject: Authorization for Supervisor to submit NYS Affordable Housing Corporation grant application for housing rehabilitation loans

Honorable Board Members:

The New York State Affordable Housing Corporation (AHC) offers grants to communities to make housing rehabilitation loans to low and moderate income homeowners in designated target areas. The Planning Department proposes that the Town submit an application for AHC funds not to exceed $300,000.

The funding provided under this grant requires a local match. We propose that the local match be provided with Community Development Block Grant Rehabilitation funds and HOME Investment Partnership funds, which are administered in a manner that already meets most of the AHC requirements.

Attached for your consideration is a resolution authorizing the Town Supervisor to sign the grant application materials and any related documents for NYS AHC funding for a Housing Rehabilitation Matching Grant.

Very truly yours,

Ellen M. Kost

Ellen M. Kost, AICP
Assistant Planning Director

att.

X:\Community Development\New Structure\HOUSING PROGRAMS\AHC Rehab\AHC.application\2021\TB_letter_7.12.21.docx

Attachment: state-06252021162828 (RES-2021-611 : Authorize the Supervisor to Submit the NYS AHC Grant)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 23452 **RESOLUTION 2021-612** **ADOPTED**

Sidewalk Waiver Request, SWW-2021-01

Sidewalk Waiver Request, **SWW-2021-01**; property located at **386 Walton Drive** (SBL 80.14-12-14) in Audubon Terrace South Subdivision. Karla J.L. Gadley, Petitioner.

The subject request has been reviewed by the Planning and Engineering Departments and **will be placed on the July 12, 2021 Town Board agenda under the Planning Director's report** for decision by the Board. Attached find the reviews from both departments which give their recommendations.

7/12/2021
Consent

FINANCIAL IMPACT:

None.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

Agenda of July 12, 2021

MEMORANDUM June 30, 2021

TO: Francina J. Spoth, Town Clerk
Honorable Town Board

FROM: Daniel C. Howard, AICP, Planning Director

SUBJECT: Sidewalk Waiver Request, **SWW-2021-01**; property located at **386 Walton Drive** (SBL# 80.14-12-14) in Audubon Terrace South Subdivision. Karla J.L. Gadley, Petitioner.

The subject request has been reviewed by the Planning and Engineering Departments and **will be placed on the July 12, 2021 Town Board agenda under the Planning Director's report** for decision by the Board. Attached find the reviews from both departments which give their recommendations.

Should you have any questions please contact Thomas Voigt, Assistant Planner, at 631-7051.

Thank you.

DH/TV/ac
Att. Engineering & Planning Department Reviews
X:\Current_Plannin\Files\Sidewalk Waivers\SWW 2021\SWW-2021-01\SWW-2021-01_Req. for TB Agenda_071221.doc
cc: Ellen M. Kost, Assistant Planning Director
Stanley Sliwa, Town Attorney
Building Department
Chris Schregel, Engineering Department
Karla J.L. Gadley, 386 Walton Drive, Cheektowaga, NY 14225

Attachment: SWW-2021-01_386_Walton_Drive (RES-2021-612 : Sww-2021-01)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

MEMORANDUM June 30, 2021

TO: Daniel C. Howard, AICP, Planning Director

FROM: Planning Department, Thomas J. Voigt, Assistant Planner TV

SUBJECT: Sidewalk Waiver Request, SP-2021-01; property located at **386 Walton Drive (SBL # 80.14-12-14)** in the Audubon Terrace South Subdivision. Karla JL Gadley, Petitioner.

The subject property is located 0.36 ± miles east of the Harlem Road, Kensington Avenue and Wehrle Drive intersection at the southeast corner of Walton and Wehrle Drives. The subject parcel is part of the Audubon Terrace South subdivision, filed with the County under Map Cover # 1279. This parcel has 75 feet of frontage on Walton Drive and 135 feet of frontage on Wehrle Drive.

The petitioner is requesting that the portion of sidewalk along the south side of Wehrle Drive, be waived Wehrle Drive is a county highway designated as a minor arterial in Figure 9 of the Town of Amherst Comprehensive Plan. The petitioner claims that the removal of the sidewalk will not negatively impact the pedestrian access in the neighborhood and is not needed as no other homes on the south side of Wehrle in close proximity, have sidewalks.

The installation of sidewalks at the subject location is consistent with the Town of Amherst Comprehensive Plan Goal 6.2 to achieve an efficient, multi-modal, transportation system that accommodates the automobile maintains neighborhood character, and emphasizes alternative means of travel, including walking, biking, and public transportation. It is also consistent with Policy 6.8 that aims to develop a comprehensive pedestrian network of sidewalks, crosswalks and trails by eliminating discontinuities in the current network and providing linkages between neighborhoods and major pedestrian destinations such as schools and mixed-activity centers.

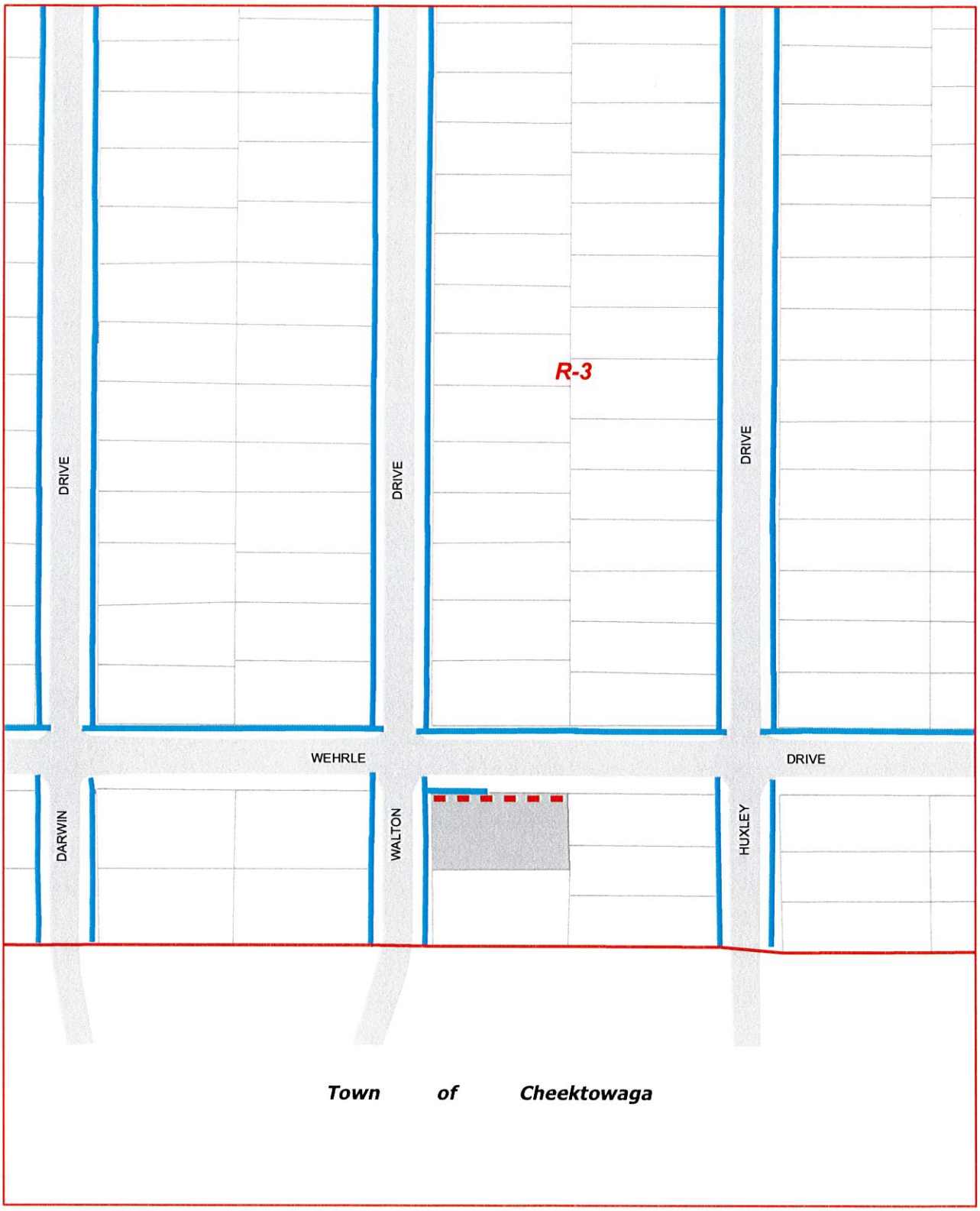
Upon field inspection by staff and represented in the attached sketch, sidewalks exist on the north side of Wehrle Drive and both the west and east sides of Walton Drive. Sidewalks on the south side of Wehrle Drive exist east of Roycroft Boulevard and west of Yvonne Avenue however, the majority of the roadway segment along the south side of Wehrle Drive has no upright curbs, narrow road shoulder areas, and a closed drainage ditch that is adjacent to the roadway.

Based upon the above and the lack of sidewalks on the south side of Wehrle Drive from Roycroft Boulevard to Yvonne Avenue, it is this department's recommendation that the subject request be **granted** with the stipulation that the sidewalks be installed at the owner's expense if at a future time after drainage system improvement are made.

Additionally, due to the residential composition of the neighborhood, the Town may wish to request that Erie County install sidewalks along the Wehrle Drive corridor, with any future roadway improvements.

TV/ac
Att.
X:\Current_Planning\Files\Sidewalk Waivers\SWW 2021\SWW-2021-01\PD Review_063021.doc

Attachment: SWW-2021-01_386_Walton_Drive (RES-2021-612 : Sww-2021-01)



SWW-2021-01

Sidewalk Waiver Request
Property Located at 386 Walton Drive

Karla J L Gadley, Petitioner

April 13, 2021

386 Walton Drive

Existing Public Sidewalk

Requested Sidewalk Waiver Location

Prepared by the Town of Amherst Planning Department

Attachment: SWW-2021-01_386_Walton_Drive (RES-2021-612 : Sww-2021-01)

TOWN OF AMHERST

MUNICIPAL BUILDING – 5583 MAIN STREET, WILLIAMSVILLE, NEW YORK 14221
TRAFFIC SAFETY COORDINATOR - TELEPHONE 631-7154 - FAX 631-7222

MICHAEL SZUKALA
Councilmember & Liaison Officer

ERIC FRAAS
Chairman

DANIEL J. RIDER, P.E.
Vice Chairman

CHRISTOPHER P. SCHREGEL
Traffic Safety Coordinator

MEMBERS

MICHELLE NAGEL
KENNETH A. SMITH
J. MICHNIEWICZ, P.E., P.T.O.E.
MARK STORCH
MAXWELL KAHN
KEVIN CANTWELL
KRISTIN GOSS
GREG DIONNE

DEPT. LIAISONS

THOMAS VOIGHT
Planning

CAPT. KEVIN BROWN
Police

JOE FRESE
Building

AL SPOTH
Highway

April 23, 2021

TO: Daniel Howard, AICP, Planning Director

FROM: Christopher P. Schregel – Traffic Safety Coordinator

SUBJECT: Sidewalk Waiver Request – **SWW-2021-01**
(SBL# 80.14-12-14)

ADDRESS: 386 Walton Drive

PETITIONER Karla J.L. Gadley

X **SIDEWALK WAIVER REQUEST IS**

X **APPROVED AS SUBMITTED**

CPS
Cc Mark S. Berke, Commissioner of Buildings
Francina J. Spoth, Town Clerk
Karla J.L.Gadley, 386 Walton Drive, Amherst, NY 14226

Attachment: SWW-2021-01_386_Walton_Drive (RES-2021-612 : Sww-2021-01)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 23453 **RESOLUTION 2021-613** **ADOPTED**

Request to Schedule a Public Hearing, ZTA-2021-01

Please schedule a public hearing on the proposed Local Law to Amend the Zoning Ordinance: Amendments to the Research and Development (RD) District at the August 9th Town Board meeting.

7/12/2021
Consent

FINANCIAL IMPACT:

None.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 23487 **RESOLUTION 2021-614** **ADOPTED**

2021 Edward Byrne Memorial Justice Assistance Grant Formula Program "JAG" (CRS #2748)

TOWN BOARD AGENDA ITEM: JULY 12, 2021

TO: **Town Board**

FROM: **Scott P. Chamberlin, Chief of Police**

RE: **2021 Edward Byrne Memorial Justice Assistance Grant Formula Program "JAG" (CRS #2748)**

Kindly adopt the following Resolution:

WHEREAS, the Bureau of Justice Assistance has combined funding available through the Edward Byrne program and is offering grant money to the City of Buffalo and the Towns of Amherst and Cheektowaga; and

WHEREAS, The Town of Amherst will receive approximately $11,964.00 to utilize for a number of purposes including but not limited to equipment and supplies, contractual support, training, technical assistance and information systems for criminal justice for a variety of program areas; and

WHEREAS, no matching funds are required for the purpose of securing these grant funds; and

WHEREAS, the City of Buffalo will serve as the lead agency for the purpose of securing and administering these grant funds;

NOW THEREFORE BE IT RESOLVED, that the Town Supervisor is hereby authorized and directed to execute all documents pertaining to the application and acquisition of said funding including a Memorandum of Understanding with the other municipal partners in this collaborative effort. Approval is contingent upon successful completion of the Contract Routing System.

SPC:msl
Attachment
C: Kathy Cooper, Deputy Town Clerk **(Agenda Item: July 12, 2021)**

7/12/2021
Consent

FINANCIAL IMPACT:

Town of Amherst will receive $11,964.00

No matching funds required

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

THIS MEMORANDUM OF UNDERSTANDING is made and entered into between the City of Buffalo, a municipal corporation organized and existing under the laws of the State of New York, by its Department of Police ("BPD"), and in partnership with the County of Erie, through the Office of the District Attorney and Erie County Central Police Services, in addition to the Towns of Amherst and Cheektowaga through their Police Departments ("Partners").

WITNESSETH

WHEREAS, the City of Buffalo and the above-named Partners have jointly agreed to a partnership under the Edward Byrne Memorial Justice Assistance Grant Formula Program ("JAG"), which has awarded grant funding totaling $257,047 to the City of Buffalo and two (2) other Erie County jurisdiction, covering the project period from October 1, 2020 through September 30, 2024, for the purposes outlined under the JAG FY 2021 Local Solicitation; and,

WHEREAS, the source for said initiative is provided by the U.S. Department of Justice through the Office of Justice Programs, under the Bureau of Justice Assistance; and,

WHEREAS, the City of Buffalo and the Partners have proposed strategies toward criminal justice initiatives that will improve or enhance law enforcement, crime prevention, juvenile prosecution, as well as planning and/or technology improvement programs for the betterment of their communities and the improvement of the effectiveness and efficiency of criminal justice systems; and,

WHEREAS, the City of Buffalo has agreed to serve as the lead applicant/fiscal agent for these joint funds as a result of the disparate allocation requiring the submission of a joint application for the aggregate of funds allocated, and will be responsible for the administration of funds (including fund distribution to its "Partners"), monitoring, and the submission of reports to the Bureau of Justice Assistance; and,

WHEREAS, both BPD and its Partners find that the performance of the Memorandum of Understanding is in the best interest of all parties, that the undertaking will benefit the public, and that the division of funds by the Bureau of Justice was mutually accepted; and,

NOW, in consideration of the mutual covenant and terms contained herein, it is hereby agreed:

1. The City of Buffalo, which is responsible for the administration of this grant, through the Buffalo Police Department's Grants Office, will pay partners upon the full execution of a Payment Addendum to this Memorandum. The Payment Addendum will be drawn up after the City has received the upfront JAG funding from the Bureau of Justice Assistance, in accordance with fiscal procedures followed by BPD as determined by the City of Buffalo Department of Audit and Control. The City of Buffalo hereby agrees to pay $11,964 to the Town of Amherst and $16,428 to the Town of Cheektowaga, as prescribed by the Bureau of Justice. Payment to the Towns of Amherst and Cheektowaga will be handled as a reimbursement. With regard to the District Attorney's Office, although the JAG Grant has been significantly cut over the years, the City, as part of its own funding award, hereby agrees to provide a contribution of $29,000 toward the partial funding of a Juvenile Prosecutor through the Office of the District Attorney. In addition, due to the County of Erie's ineligibility for an individual allocation based on the level of crime data as determined by the Bureau of Justice, the City will contribute $5,000 to the County of Erie's Central Police Services to continue with its programming and security efforts to the county-wide Complaint

Attachment: JAG MOU with Cert (RES-2021-614 : 2021 Edward Byrne Memorial Grant "JAG" (CRS #2748))

History and Records Management System. This funding will also be handled as a reimbursement to Erie County by the City of Buffalo under a Payment Addendum.

2. Under the terms of JAG 2021 Award, payment is authorized for expenditures covering the period October 1, 2020 through September 30, 2024. For purposes of this Agreement, said obligation period has been mutually agreed upon as the start date by the City of Buffalo and the Partners, subject to the total receipt of funds separately identified and authorized in Paragraph 1 of this Memorandum of Understanding. The contract term ending date among partners may be shortened if funds are expended prior to the contract term ending date; the contract term ending date may also be extended by the City of Buffalo under the terms of the JAG Award. Any extension date must be approved by the City of Buffalo in writing, and the new approved date shall then become the contract term ending date for purposes of this Memorandum of Understanding.

3. Upon distribution of the funding to the Partners, each Partner must set up a trust fund in which to deposit the JAG funds, which may or may not be an interest-bearing account.

4. As the lead applicant/fiscal agent, the City of Buffalo, and each individual Partner will be responsible for presenting this grant to their own governing bodies for review, as well as providing an opportunity for public comment as specified in the 2021 JAG Award Local Solicitation, attached hereto as "Exhibit I".

5. JAG funds shall be utilized by each Partner under the terms of the 2021 JAG application and award, and cannot be used directly or indirectly for security enhancements or equipment to nongovernmental entities not engaged in criminal justice or public safety. All Partners must adhere to the permissible use of funds under the Edward Byrne Memorial Justice Assistance Grant, including the Prohibited and Controlled Expenditures, all of which is outlined and described and/or link(s) to further information is contained in "Exhibit I".

6. Each partner is considered a sub-recipient of the City by the U.S. Department of Justice, Office of Funding Programs, Bureau of Justice Assistance, under the JAG Award. As such, each must follow the processes outlined, along with the required Certifications and Assurances signed by the City's Chef Executive as the lead application, all of which is outlined and described and/or link(s) to further information is contained in "Exhibit I". In addition, each Partner will be responsible for the submission of fiscal reconciliation reports subject to the total funds separately identified and authorized in Paragraph 1 of this Memorandum of Understanding, including back-up documentation. All fiscal records must be maintained by each participating partner, under the terms of the 2021 JAG Award in relation to fiscal compliance. Further, each Partner will be required to submit programmatic accountability measures on specific outcomes and benefits attributable to the use of JAG Funds and their method for collecting data for these performance measures. All reports (both fiscal and programmatic), shall be submitted to the City quarterly, due within ten (10) business days of the end of each calendar quarter, so that within the following fifteen (15) business days, the City can comprehensively submit said reports to the Bureau of Justice Assistance under the terms of the 2021 JAG Award. All JAG recipients should be aware that the Bureau of Justice Assistance may consider changes to the JAG performance reporting processes, including measures. As a result, recipients are advised that the reporting requirements may be subject to modification, and upon the City's notification of such changes by the Bureau of Justice, partners will be responsible for compliance with any changes upon notice to them by the City. Should these measures be modified, then Partners will be subject to the modified

Attachment: JAG MOU with Cert (RES-2021-614 : 2021 Edward Byrne Memorial Grant "JAG" (CRS #2748))

terms and they will be identified and included as part of the Payment Addendum, referenced in Paragraph 1 of this Memorandum of Understanding.

7. The City of Buffalo, as lead applicant, along with the disparate jurisdictions (the Towns of Amherst and Cheektowaga) agrees to set-aside three (3) percent of all FY 2021 JAG funds to be used exclusively for NIBRS compliance activities, unless a waiver from the BJA Director has been applied for and received, all of which is outlined and described and/or link(s) to further information is contained in "Exhibit I". This condition is intended to ensure all jurisdictions are able to meet the deadline, established by the FBI, for transitioning from the Uniform Crime Reporting (UCR) Summary Reporting System (SRS) to the National Incident-Based Reporting System (NIBRS).

8. Each Partner agrees that, dependent upon the status of the City of Buffalo as the grantee, additional terms and special conditions may be applicable to them upon the execution of the grant award. Partners are also subject to these terms and special conditions of the prime award, and they will be identified and included as part of the Payment Addendum, referenced in Paragraph 1 of this Memorandum of Understanding.

9. Each Partner shall be responsible for its own actions in providing services under this Memorandum of Understanding, and shall not be liable for any civil liability that may arise from the furnishing of the services by the other Partners.

   The City of Buffalo, including its officers, employees and/or agents, does not assume and shall not be held liable for any costs, debts or liabilities above and beyond the amount specified in Paragraph 1 of this Memorandum of Understanding. Each Partner agrees to defend, indemnify, and hold harmless, the City of Buffalo, including its officers, employees and/or agents against all claims, losses, damages, injuries or other disputes arising out of the performance of this Memorandum of Understanding, to the extent caused by said individual Partner's acts or omissions.

   The Partners will not be liable for any delay or for failure to perform any of their respective obligations under this Memorandum of Understanding resulting from any cause beyond the Partner's reasonable control, including, but not limited to, fires, explosions, floods, strikes, work stoppages or slowdowns, or other industrial disputes, accidents, riots or civil disturbances, acts of civil or military authorities.

10. If applicable and any individual Partner does not spend the total funds authorized in Paragraph 1 of this Agreement, after a solid effort has been made by the Partner to expend same, the Partner shall transfer forthwith to the City, a sum of money equal to the difference between any unencumbered funds on hand at the end of the contract term and a list of any unpaid project-related obligations, thirty (30) days prior to the contract term ending date (September 30, 2024) or any extension thereof, whichever is longer.

11. Each Partner shall not subcontract, assign, transfer, convey, sublet, or otherwise dispose of any right, title, obligation, or interest said Partner may have under this Memorandum of Understanding without prior written consent from BPD. Any such subcontract, assignment, transfer, subletting, conveyance or disposition of this Memorandum of Understanding, or any right, title, or interest therein executed without prior written consent of the BPD shall relieve the City of Buffalo and the BPD of any and all liabilities and obligations arising out of this Memorandum of Understanding to each Partner and to the person or corporation to which this

Attachment: JAG MOU with Cert (RES-2021-614 : 2021 Edward Byrne Memorial Grant "JAG" (CRS #2748))

Memorandum of Understanding had been subcontracted, assigned, transferred, conveyed, sublet or otherwise disposed; further, the Partner's subcontractor(s), assignee(s), transferee(s), or sub lessee(s) shall forfeit and lose all monies otherwise due under this Memorandum of Understanding.

12. Each Partner acknowledges that no Federally appropriated funds have been paid or will be paid, by on behalf of or to any person for influencing or attempting to influence an officer or employee of agency, a Member of Congress, an officer or employee of Congress, or an employee of any member of Congress in connection with the making of any Federal grant, the entering into any cooperative Memorandum of Understanding, and the extension, continuation, renewal, amendment of any Federal grant or cooperative Memorandum of Understanding. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative Memorandum of Understanding, the Partner shall complete and submit STANDARD FORM – LLL, "Disclosure of Lobbying Activities," in accordance with its instructions (all of which is outlined and described and/or link(s) to further information is contained in "Exhibit I"). Each Partner shall also refer to said regulations to determine the certification to which they are required to attest and the signatures under this cooperative Memorandum of Understanding will provide for compliance with certification requirements as it relates to Lobbying (28 CFR Part 69) and Government-wide Debarment, Suspension and Other Responsibility Matters; and Drug Free WorkPlace (28CFR Part 67).

13. Pursuant to 28 C.F.R. Section 42.302, all recipients of federal funding must be in compliance with federal EEOP requirements. In addition, all Partners shall conform to all required 2021 JAG Grant requirements as outlined in the Edward Byrne Memorial Justice Assistance Grant Program FY 2021 Local Solicitation Guidance (attached hereto as "Exhibit I") and once executed, the 2021 JAG Grant Award, including the required training caveat which states that any law enforcement agency receiving direct or sub-awarded JAG funding must submit quarterly accountability metrics data related to training on use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public that officers have received. Any grantees that fail to submit this data will have their grant funds frozen.

14. This Agreement shall be governed by and construed in accordance with the laws of the County of Erie and State of New York. This Memorandum of Understanding represents the entire agreement between the parties. Any and all amendments and/or modifications to this Memorandum of Understanding must be in writing and mutually agreed upon by all parties. The effective date of this Memorandum of Understanding is the date on Page One.

15. This Agreement may be executed in any number of duplicate originals, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

SIGNATORY PAGE TO FOLLOW

Attachment: JAG MOU with Cert (RES-2021-614 : 2021 Edward Byrne Memorial Grant "JAG" (CRS #2748))

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the day and year first above written.

CITY OF BUFFALO

By: _____ Date: _____
Byron W. Brown, Mayor, City of Buffalo

COUNTY OF ERIE

By: _____ Date: _____
Mark C. Poloncarz, Erie County Executive

TOWN OF AMHERST

By: _____ Date: _____
Brian Kulpa, Supervisor

TOWN OF CHEEKTOWAGA

By: _____ Date: _____
Diane Benczkowski, Supervisor

Approved as to Content:

By: _____ Date: _____
John J. Flynn, Erie County District Attorney

By: _____ Date: _____
James A. Jancewicz, Commissioner, CPS

Approved as to Form:

By: _____ Date: _____
Timothy A. Ball, Corporation Counsel
City of Buffalo

By: _____ Date: _____
Michael A. Siragusa, County Attorney
County of Erie

Attachment: JAG MOU with Cert (RES-2021-614 : 2021 Edward Byrne Memorial Grant "JAG" (CRS #2748))

EXHIBIT “I”

Attachment: JAG MOU with Cert (RES-2021-614 : 2021 Edward Byrne Memorial Grant "JAG" (CRS #2748))

OMB No. 1121-0329
Approval Expires 11/30/2020

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

BJA FY 2021 Edward Byrne Memorial Justice Assistance Grant Program – Local Solicitation

Assistance Listing Number # 16.738

Grants.gov Solicitation Number: O-BJA-2021-135004

Solicitation Release Date: June 08, 2021 5:00 PM

Grants.gov Deadline: July 26, 2021 11:59 PM

Application JustGrants Deadline: August 09, 2021 11:59 PM

Overview

The U.S. Department of Justice (DOJ), Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA) is seeking applications for funding for the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. This program furthers the Department's mission by assisting state, local, and tribal law enforcement efforts to prevent or reduce crime and violence.

This solicitation incorporates the OJP Grant Application Resource Guide by reference. The OJP Grant Application Resource Guide provides guidance to applicants on how to prepare and submit applications for funding to OJP. **If this solicitation expressly modifies any provision in the OJP Grant Application Resource Guide, the applicant is to follow the guidelines in this solicitation as to that provision.**

This solicitation expressly modifies the OJP Grant Application Resource Guide by not incorporating the "Limitation on Use of Award Funds for Employee Compensation; Waiver" provisions in the "Financial Information" section of the OJP Grant Application Resource Guide.

Solicitation Category

Competition ID	Category	Number of Awards	Dollar Amount for Award	Performance Start Date	Performance Duration (Months)
C-BJA-2021-00149-PROD	Category 1 - Applicants with eligible allocation	603	$45,735,895.00	10/1/2020 12:00 AM	24

Attachment: JAG MOU with Cert (RES-2021-614 : 2021 Edward Byrne Memorial Grant "JAG" (CRS #2748))

Competition ID	Category	Number of Awards	Dollar Amount for Award	Performance Start Date	Performance Duration (Months)
	amounts of less than $25,000				
C-BJA-2021-00150-PROD	Category 2 - Applicants with eligible allocation amounts of $25,000 or more	582	$44,143,102.00	10/1/2020 12:00 AM	48

Eligibility (Who may apply):

- Units of local government
- Other

By law, for purposes of the JAG Program, the term "units of local government" includes a town, township, village, parish, city, county, borough, or other general-purpose political subdivision of a state; or it may be a federally recognized Indian tribal government that performs law enforcement functions (as determined by the Secretary of the Interior). A unit of local government also may be any law enforcement district or judicial enforcement district established under applicable state law with authority to independently establish a budget and impose taxes; for example, in Louisiana, a unit of local government means a district attorney or parish sheriff. The expected eligible allocations by state for the fiscal year (FY) 2021 JAG Program can be found at: https://bja.ojp.gov/program/jag/fy-2021-allocations.

Eligible allocations under JAG are posted annually on the JAG web page. See the allocation determination and Units of Local Government requirements section for more information. **Applicants with eligible allocation amounts of less than $25,000 will apply to Category 1, and applicants with eligible allocation amounts of $25,000 or more will apply to Category 2.**

All recipients and subrecipients (including any for-profit organization) must forgo any profit or management fee.

Agency Contact Description

For technical assistance with submitting the **SF-424** and **SF-LLL** in Grants.gov, contact the Grants.gov Customer Support Hotline at 800–518–4726, 606–545–5035, Grants.gov customer support web page, or email at support@grants.gov. The Grants.gov Support Hotline operates 24 hours a day, 7 days a week, except on federal holidays.

For technical assistance with submitting the **full application** in DOJ's Justice Grants System (JustGrants), contact the JustGrants Service Desk at JustGrants.Support@usdoj.gov or 833–872–5175. The JustGrants Service Desk operates 5 a.m. to 9.p.m. eastern time, Monday–Friday, and 9 a.m. to 5 p.m. Saturday, Sunday, and federal holidays.

An applicant that experiences unforeseen Grants.gov or JustGrants technical issues beyond its control that prevent it from submitting its application by the deadline must email the National Criminal Justice Reference Service Response Center (Response Center) at grants@ncjrs.gov

Attachment: JAG MOU with Cert (RES-2021-614 : 2021 Edward Byrne Memorial Grant "JAG" (CRS #2748))

within 24 hours after the application deadline to request approval to submit its application after the deadline.

For assistance with any other requirements of this solicitation, contact the Response Center by telephone at 800–851–3420 or TTY: 301–240–6310 (hearing impaired only) or by email at grants@ncjrs.gov. Response Center hours of operation are 10 a.m. to 6 p.m. eastern time Monday through Friday, and 10 a.m. to 8 p.m. eastern time on the solicitation close date. Applicants also may contact the appropriate BJA grant manager.

Submission Information

In FY 2021, applications will be submitted to DOJ in a **NEW** two-step process.

Step 1: Applicants will submit an **SF-424 and an SF-LLL** in Grants.gov at https://www.grants.gov/web/grants/register.html. To register in Grants.gov, applicants will need to obtain a Data Universal Numbering System (DUNS) and System for Award Management (SAM) registration or renewal.

Step 2: Applicants will submit the **full application,** including attachments, in JustGrants at https://justicegrants.usdoj.gov/.

To be considered timely, the full application must be submitted in JustGrants by the JustGrants application deadline.

OJP encourages applicants to review the “How to Apply” section in the OJP Grant Application Resource Guide.

Attachment: JAG MOU with Cert (RES-2021-614 : 2021 Edward Byrne Memorial Grant "JAG" (CRS #2748))

Edward Byrne Memorial Justice Assistance Grant Program
FY 2021 Local Formula Grant Solicitation
CFDA # 16.738

Program Description

Overview
The Department of Justice is committed to advancing work that promotes civil rights, increases access to justice, supports crime victims, protects the public from crime and evolving threats, and builds trust between law enforcement and the community.

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program is the primary provider of federal criminal justice funding to states and units of local government. BJA will award JAG Program funds to eligible units of local government as described in this FY 2021 JAG Program Local Solicitation. (BJA will issue a separate solicitation for states.)

Statutory Authority
The JAG Program is authorized by Title I of Pub. L. No. 90-351 (generally codified at 34 U.S.C. 10151-10726), including subpart 1 of part E (codified at 34 U.S.C. 10151-10158); see also 28 U.S.C. 530C(a).

Program-specific Information

Statutory Formula
JAG awards are based on a statutory formula that is fully described within the JAG Technical Report. Once each fiscal year's overall JAG Program funding level is determined, BJA works with the Bureau of Justice Statistics to begin a four-step grant award calculation process, which, in general, consists of:

(1) Computing an initial JAG allocation for each state, based on its share of violent crime and population (weighted equally).

(2) Reviewing the initial JAG allocation amount to determine if the state allocation is less than the minimum award amount defined in the JAG legislation (0.25 percent of the total). If this is the case, the state is funded at the minimum level, and the funds required for this are deducted from the overall pool of JAG funds. Each of the remaining states receives the minimum award plus an additional amount based on its share of violent crime and population.

(3) Dividing each state's final award amount (except for the territories and the District of Columbia) between the state and its units of local governments at rates of 60 and 40 percent, respectively.

(4) Determining unit of local government award allocations, which are based on their proportion of the state's 3-year violent crime average. If the "eligible award amount" for a particular unit of local government, as determined on this basis, is $10,000 or more, then the unit of local government is eligible to apply directly to OJP (under the JAG Local

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Solicitation) for a JAG award. If the "eligible award amount" for a particular unit of local government, as determined on this basis, is less than $10,000, however, the funds are not made available for a direct award to that particular unit of local government, but instead are added to the amount that is awarded to the state.

Allocation Determination and Units of Local Government Requirements Regarding Use of JAG Funds

Eligible allocations under JAG are posted annually on the JAG web page. Award allocations are determined by a four-step statutory formula. Additional information can be found on the JAG Resource Page or the JAG Technical Report.

According to the JAG Program statute, a "disparity" may exist between the funding eligibility of a county and its associated municipalities. *See* 34 U.S.C. § 10156(d)(4). Units of local government identified by BJA as disparate must select a fiscal agent that will submit a joint application for the allocation to include all disparate municipalities. A memorandum of understanding (MOU) that identifies which jurisdiction will serve as the applicant or fiscal agent for joint funds must be completed and signed by the authorized representative for each participating jurisdiction. Once an award is made, the fiscal agent will be responsible for distributing award funds to the other jurisdictions in the disparate group through subawards that include all appropriate award conditions. To verify eligibility on the JAG web page, an applicant should click on its respective state and note the following regarding the state's allocation table:

(1) Disparate units of local government are listed in shaded groups, in alphabetic order by county. Units of local government identified as disparate must select one unit of local government to submit an application on behalf of the disparate group.

(2) Counties that have an asterisk (*) under the "Direct Allocation" column did not submit the level of violent crime data to qualify for a direct award from BJA but are in the disparate grouping indicated by the shaded area. The JAG legislation requires these counties to remain a partner with the local jurisdictions receiving funds and must be a signatory on the required MOU.

(3) Direct allocations are listed alphabetically below the shaded disparate groupings.

Please note that disparate jurisdictions do not need to abide by the listed individual allocations, which are provided for information only. Jurisdictions in a funding disparity are responsible for determining individual amounts within the Eligible Joint Allocation and documenting individual allocations in the MOU.

Statutory Program Areas

In general, JAG funds awarded to a unit of local government under the FY 2021 program may be used to hire additional personnel and/or purchase equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice, including for any one or more of the following program areas:

- Law enforcement programs
- Prosecution and court programs
- Prevention and education programs
- Corrections and community corrections programs
- Drug treatment and enforcement programs
- Planning, evaluation, and technology improvement programs
- Crime victim and witness programs (other than compensation)

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- Mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams

Note that the statute defines “criminal justice” as “activities pertaining to crime prevention, control, or reduction, or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control, or reduce crime or to apprehend criminals, including juveniles, activities of courts having criminal jurisdiction, and related agencies (including but not limited to prosecutorial and defender services, juvenile delinquency agencies, and pretrial service or release agencies), activities of corrections, probation, or parole authorities and related agencies assisting in the rehabilitation, supervision, and care of criminal offenders, and programs relating to the prevention, control, or reduction of narcotic addiction and juvenile delinquency.”

BJA Areas of Emphasis

BJA recognizes that many state and local criminal justice systems currently face challenging fiscal environments and that an important, cost-effective way to relieve those pressures is to share or leverage resources through cooperation among federal, state, and local law enforcement. BJA intends to focus much of its work on: Restoring Justice – Support for State, Local, Tribal, and Territorial Administration (SLTT) of Criminal Justice; Community Violence Intervention; Law Enforcement Accreditation, Policy Development, and Training; Technologies to Support Transparency and Information Sharing between Law Enforcement and Communities; Sustaining COVID-19 Criminal Justice Innovations; and Innovative Forensic Technologies such as Rapid DNA for Booking Stations. BJA encourages each state recipient of an FY 2021 JAG award to join federal law enforcement agencies across the board in addressing these challenges. Additional details on the BJA areas of emphasis can be found below:

- Restoring Justice – Support for SLTT Administration of Criminal Justice
  In March 2020, SLTT governments began implementing various community mitigation policies to prevent and reduce the spread of COVID-19. As a part of these restrictions, throughout the country, courts at every level were forced to cancel or significantly scale back proceedings, which commonly included suspending in-person hearings, granting extensions of court deadlines and waivers of speedy trials, restricting access to court buildings, and postponing jury trials. This created a backlog of cases, which has impacts on criminal court operations and court staff, victims and witnesses, as well as defendants. BJA encourages state and local jurisdictions to invest JAG funds in efforts to restore justice by addressing this backlog. This could include purchase of technology to enhance the use of virtual tools to conduct outreach to witnesses and defendants, as well as for hearings and status conferences, staffing, and enhancing access to services; resources to assist the jurisdiction to develop or enhance its case management system to assess and work to eliminate the backlog of cases; building tools to support diversion and alternatives to incarceration as part of the review of backlogged cases; and technology and equipment to retrofit court houses and staff to mitigate risks to staff and those coming to court.
- Community Violence Intervention
  Cities across the U.S. are experiencing a historic spike in homicides and gun violence that disproportionately impacts people of color. The recent high-profile mass shootings in Boulder (taking the lives of 10 individuals) and Atlanta (taking the lives of eight individuals, including six Asian American women) underscored the relentlessness of this epidemic. As a result, the Biden-Harris Administration and Department of Justice are undertaking a number of steps to keep guns out of the hands of criminals, reduce the risk of gun violence, and prioritize investment in community violence intervention (CVI). There are proven CVI strategies for reducing gun violence through tools other than

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incarceration. For example, violence interruption programs deploy trusted messengers to work directly with individuals most likely to commit gun violence, intervene in conflicts, and connect people to social and economic services to reduce the likelihood of gun violence as an answer. Hospital-based violence interventions engage people who have been shot while they are still in the hospital, connecting them to services to decrease the likelihood that they commit gun violence or are victimized in the future. BJA encourages state and local jurisdictions to invest JAG funds to tailor programs and responses to CVI in an effort to build strong, sustained partnerships with community residents and organizations to support CVI work in communities most impacted by violent crime. CVI strategies will be highlighted on BJA's National Training and Technical Assistance Center (NTTAC) website, and jurisdictions looking to implement those strategies can request training and technical assistance (TTA) on the NTTAC website as well.

- Law Enforcement Accreditation, Policy Development, and Training
  The calls for police reform continue to grow, with an emphasis on protecting the sanctity of life and eliminating systemic biases, implicit or otherwise. In particular, racial profiling and related bias are particularly pernicious as they deprive communities of color of basic constitutional protections and erode confidence in policing — an essential cornerstone for crime reduction and safe communities. BJA encourages state and local jurisdictions to utilize JAG funds for the purposes of law enforcement accreditation, and developing and maintaining policies and law enforcement training focused on addressing those areas most likely to promote trust, transparency, and accountability, including use of force, racial profiling, implicit bias, procedural justice, and duty to intervene.
- Technologies to Support Transparency and Information Sharing between Law Enforcement and Communities
  This will focus on software/hardware solutions designed to enhance agency transparency with the capability of facilitating information sharing with the public, promoting an agency's work, and developing data-driven programs that improve public safety and build trust. Examples could include the sharing of information about crime statistics, locations of criminal activity, aggregated information regarding internal affairs complaints, resolution of cases and issues in the community, support for community surveys, and outreach to residents to gather their feedback.
- Sustaining COVID-19 Criminal Justice Innovations
  As a result of the COVID-19 pandemic, SLTT criminal justice agencies made strides to create innovative ways to administer justice while balancing the need to mitigate the coronavirus and maintain social distancing. While many of these innovations had an upfront cost, they will prove to be cost saving and efficient over time. For example, correctional facilities have enabled virtual programming, education, medical appointments, and family visits, as well as increased and enhanced the use of electronic monitoring. Police departments have hosted virtual community engagement events and opportunities, and courts and community corrections have increased the use of virtual staffing, status hearings, client visits, and access to treatment and support services. In addition, resources have supported the purchase of technology like headsets and hotspots to ensure confidentiality of defense counsel with clients, as well as partnerships with community partners to host outdoor events like drug court graduations. It is important for SLTT agencies to sustain these cost-saving efficiencies that resulted from the COVID-19 pandemic. As such, BJA encourages SLTT agencies to utilize JAG funds for these sustainment activities.
- Innovative Forensic Technologies such as Rapid DNA for Booking Stations

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Rapid DNA, or Rapid DNA analysis, is a term used to describe the fully automated (hands free) process of developing a DNA profile from a reference sample mouth swab in 1-2 hours without the need of a DNA laboratory and without any human intervention. The overall goal of the Rapid DNA initiative is to immediately enroll qualifying arrestees in CODIS and search unsolved crimes of special concern in near real time during the booking process. The FBI worked with numerous stakeholder groups to develop *Standards for the Operation of Rapid DNA Booking Systems by Law Enforcement Booking Agencies*, the corresponding *Audit Document* for these standards, and the *National Rapid DNA Booking Operational Procedures Manual* for the FBI approval and operation of the Rapid DNA devices in booking agencies. Below is an abbreviated list of prerequisites for federal, state, and local booking agencies to participate in Rapid DNA:

- The state must have implemented an arrestee DNA collection law that authorizes DNA sample collection from a person arrested for a specified offense at the time of arrest and for which there are no additional requirements (i.e., determination of probable cause) for the analysis of that arrestee DNA sample. Federal booking agencies already meet this prerequisite.
- Electronic Fingerprint (Live Scan) integration during the booking process for obtaining State Identification Numbers (SID) (UCN for federal booking agencies) from the State Identification Bureau (FBI for federal) in near real time.
- The booking agency must have network connectivity with the State Identification Bureau (SIB)/CJIS Systems Agency (CSA).
- The booking agency and/or state must technically integrate Rapid DNA within their automated fingerprint process in a way that must ensure only qualifying arrestees are processed.

It will be critical for booking agencies to work with their state CODIS agency to ensure all requirements are met for participation in Rapid DNA (see *National Rapid DNA Booking Operational Procedures Manual)*. BJA encourages those states with arrestee DNA collection laws that meet the prerequisites above to consider using JAG funds to implement Rapid DNA technology (or the defined prerequisites above, such as Live Scan integration) in booking stations within their states.

Additional Uses of JAG Funds

JAG funds awarded to a unit of local government under this FY 2021 solicitation may be used to:

- Enforce state and local laws that establish offenses similar to offenses established in 21 U.S.C. § 801 et seq. and/or improve the functioning of the criminal justice system, with emphasis on violent crime and serious offenses, by providing additional personnel, equipment, training, technical assistance, and information systems for the more widespread apprehension, prosecution, adjudication, detention, and rehabilitation of persons who violate these laws, and assist the victims of such crimes (other than compensation).
- Support projects related to preventing, detecting, seizing, and/or stopping the presence and use of contraband cellphones by detainees and inmates. This includes the purchasing of managed access systems and other mitigation technologies (as permitted by applicable law).

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- To purchase fentanyl detection equipment and training for law enforcement safety, as well as naloxone distribution.
- To purchase drug detection canines to combat the rise of drug trafficking, including that of methamphetamines.
- Additionally, JAG funds awarded under this FY 2021 solicitation may be used for any purpose indicated here: https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/jag-use-of-funds.pdf.

Limitations on the Use of JAG Funds

Administrative Costs
Up to 10 percent of a JAG award, including up to 10 percent of any earned interest, may be used for costs associated with administering the award, which can include indirect costs.

Supplanting
JAG funds may not be used to supplant state or local funds but must be used to increase the amounts of such funds that would, in the absence of federal funds, be made available. See the JAG FAQs for examples of supplanting. Although supplanting is prohibited, the leveraging of federal funding is encouraged.

Matching Funds
Absent specific federal statutory authority to do so, JAG award funds may not be used as a match for other federal awards.

Prohibited Expenditures and Associated Procedures under JAG
JAG funds may not be used (whether directly or indirectly) for any purpose prohibited by federal statute or regulation, including those purposes specifically prohibited by the JAG Program statute as set out at 34 U.S.C. § 10152. JAG funds may not be used (directly or indirectly) for security enhancements or equipment for nongovernmental entities not engaged in criminal justice or public safety. Additionally, JAG funds may not be used (directly or indirectly) to pay for any of the following items unless DOJ certifies that extraordinary and exigent circumstances exist making them essential to the maintenance of public safety and good order:

- Vehicles, vessels, or aircraft*
- Luxury items
- Real estate
- Construction projects (other than penal or correctional institutions)
- Any similar matters

*Police cruisers, police boats, and police helicopters are allowable vehicles under JAG and do not require BJA certification.

The JAG statute, 34 U.S.C. §§ 10151-10158, specifically identifies a list of prohibited items, including unmanned aircraft, unmanned aerial vehicles, and unmanned aerial systems, which cannot be purchased with JAG funds unless the BJA Director certifies that extraordinary and exigent circumstances exist that make the use of such funds to purchase these prohibited items essential to the maintenance of public safety and good order. Additional information on prohibited expenditures under JAG, including the process to obtain prior approval to purchase a prohibited item(s), can be found within the JAG Prohibited Expenditures Guidance or within the JAG FAQs document (see Use of Funds section).

Other Program Requirements

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Trust Fund — States (or State Administering Agencies) or units of local government may draw down JAG funds either in advance or on a reimbursement basis. To draw down in advance, a trust fund must be established in which to deposit the funds. The trust fund must be in an interest-bearing account, unless one of the exceptions in 2 C.F.R. § 200.305(b)(8) apply. If subrecipients draw down JAG funds in advance, they also must establish a trust fund in which to deposit the funds. For additional information, see 2 C.F.R. § 200.305.

Certifications and Assurances by the Chief Executive of the Applicant Government (which incorporates the 30-day governing body review requirement) — A JAG application is not complete, and a unit of local government may not access award funds, unless the chief executive of the applicant unit of local government (e.g., the mayor or chairman) properly executes, and the unit of local government submits, the "Certifications and Assurances by the Chief Executive of the Applicant Government." The most up-to-date version of this certification can be found at: https://bja.ojp.gov/program/jag/certifications-assurances. Please note that this certification takes the place of the review narrative attachment and contains assurances that the governing body notification and public comment requirements, which are required under the JAG statute (at 34 U.S.C. § 10153(a)(2)), have been satisfied.

OJP will not deny an application for an FY 2021 award for failure to submit these "Certifications and Assurances by the Chief Executive of the Applicant Government" by the application deadline, but a unit of local government will not be able to access award funds (and its award will include a condition that withholds funds) until it submits these certifications and assurances, properly executed by the chief executive of the unit of local government (e.g., mayor or chairman).

Body-Worn Cameras (BWCs) — A JAG award recipient that proposes to use FY 2021 funds to purchase BWC equipment or implement or enhance BWC programs must provide to OJP a certification(s) that each direct recipient receiving the equipment or implementing the program has policies and procedures in place related to BWC equipment usage, data storage and access, privacy considerations, and training. The certification form related to BWC policies and procedures can be found at: https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/fy-21-jag-body-worn-camera-policy-cert.pdf.

A JAG award recipient that proposes to use funds for BWC-related expenses will have funds withheld until the required certification is submitted and approved by OJP. If the JAG award recipient proposes to change project activities to utilize JAG funds for BWC-related expenses after the award is accepted, the JAG award recipient must submit the signed certification to OJP at that time.

Further, before making any subaward for BWC-related expenses, the JAG award recipient must collect a completed BWC certification from the proposed subrecipient. Any such certifications must be maintained by the JAG award recipient and made available to OJP upon request.

The BJA BWC Tool Kit provides model BWC policies and best practices to assist criminal justice departments in implementing BWC programs.

Apart from the JAG Program, BJA provides funds under the Body-Worn Camera Policy and Implementation Program (BWCPIP). BWCPIP allows jurisdictions to develop and implement policies and practices required for effective program adoption, and to address program factors including the purchase, deployment, and maintenance of camera systems and equipment; data

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storage and access; and privacy considerations. Interested JAG award recipients may wish to refer to the BWC Program web page for more information. JAG award recipients that are also BWC award recipients may not use JAG funds for any part of the 50 percent match required by the BWC Program.

Body Armor — Body armor purchased with JAG funds may be purchased at any threat level, make, or model from any distributor or manufacturer, as long as the following requirements are met: The body armor must have been tested and found to comply with the latest applicable National Institute of Justice ballistic or stab standards. In addition, body armor purchased must be made in the United States. Finally, body armor purchased with JAG funds must be "uniquely fitted vests," which means protective (ballistic or stab-resistant) armor vests that conform to the individual wearer to provide the best possible fit and coverage through a combination of: (1) correctly sized panels and carrier determined through appropriate measurement, and (2) properly adjusted straps, harnesses, fasteners, flaps, or other adjustable features. Note that the requirement that body armor be "uniquely fitted" does not necessarily require body armor that is individually manufactured based on the measurements of an individual wearer. In support of OJP's efforts to improve officer safety, the American Society for Testing and Materials (ASTM) International has made available the Standard Practice for Body Armor Wearer Measurement and Fitting of Armor (Active Standard ASTM E3003) at no cost. The Personal Armor Fit Assessment checklist is excerpted from ASTM E3003.

A JAG award recipient that proposes to use FY 2021 award funds to purchase body armor must provide OJP with a certification(s) that each law enforcement agency receiving body armor has a written "mandatory wear" policy in effect. *See* 34 U.S.C. § 10202(c). The certification form related to mandatory wear can be found at https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/fy-21-jag-body-armor-mandatory-wear-cert.pdf. Note: A JAG award recipient that proposes to use funds for the purchase of body armor will have funds withheld until the required certification is submitted and approved by OJP. If the JAG award recipient proposes to change project activities to utilize funds for the purchase of body armor after the award is accepted, the award recipient must submit the signed certification to OJP at that time.

Further, before making any subaward for the purchase of body armor, the JAG award recipient must collect a completed mandatory wear certification from the proposed subrecipient. Any such certifications must be maintained by the JAG award recipient and made available to OJP upon request.

A mandatory wear concept and issues paper and a model policy are available from the Bulletproof Vest Partnership (BVP) Customer Support Center, which can be contacted at vests@usdoj.gov or toll free at 1–877–758–3787. Additional information and FAQs related to the mandatory wear policy and certifications can be found at https://bja.ojp.gov/program/jag/frequently-asked-questions.

Apart from the JAG Program, BJA provides funds under the Bulletproof Vest Partnership Program. The BVP Program provides funding to state and local law enforcement agencies for the purchase of ballistic-resistant and stab-resistant body armor. For more information on the BVP Program, including eligibility and an application, refer to the BVP web page. JAG award recipients should note, however, that funds may not be used as any part of the 50 percent match required by the BVP Program.

Interoperable Communications — Units of local government (including any subrecipients) that

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are using FY 2021 JAG funds for emergency communications activities should comply with the *SAFECOM Guidance for Emergency Communication Grants* (*SAFECOM Guidance*), including provisions on technical standards that ensure and enhance interoperable communications. The *SAFECOM Guidance* is an essential resource for entities applying for federal financial assistance for emergency communications projects. It provides general information on eligible activities, technical standards, and other terms and conditions that are common to most federal emergency communications programs. Specifically, the *SAFECOM Guidance* provides guidance to applicants on:

- Recommendations for planning, coordinating, and implementing projects
- Emergency communications activities that can be funded through federal grants
- Best practices, policies, and technical standards that help to improve interoperability
- Resources to help grant recipients comply with technical standards and grant requirements

SAFECOM Guidance is recognized as the primary guidance on emergency communications grants by the Administration, Office of Management and Budget, and federal grant program offices. The Cybersecurity and Infrastructure Security Agency (CISA) updates the document every year in close coordination with federal, state, local, tribal, and territorial stakeholders and partners. *SAFECOM Guidance* is applicable to all federal grants funding emergency communications. The most recent version of the *SAFECOM Guidance* is available at: https://www.cisa.gov/safecom/funding.

Additionally, emergency communications projects funded with FY 2021 JAG funds should support the Statewide Communication Interoperability Plan (SCIP) and be coordinated with the full-time statewide interoperability coordinator (SWIC) in the state of the project. As the central coordination point for a state's interoperability effort, the SWIC plays a critical role and can serve as a valuable resource. SWICs are responsible for the implementation of SCIP through coordination and collaboration with the emergency response community. CISA maintains a list of SWICs for each state and territory. Contact ecd@cisa.dhs.gov for more information. All communications equipment purchased with FY 2021 JAG Program funding should be identified during the quarterly performance measurement reporting.

Further, information-sharing projects funded with FY 2021 JAG funds must comply with DOJ's Global Justice Information Sharing Initiative guidelines, as applicable, in order to promote information sharing and enable interoperability among disparate systems across the justice and public safety communities. Recipients (and subrecipients) must conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at https://it.ojp.gov/gsp_grantcondition. Recipients (and subrecipients) will be required to document their planned approaches to information sharing, describe their compliance with GSP, and document an appropriate privacy policy that protects shared information or provide detailed justification for why an alternative approach is recommended.

DNA Testing of Evidentiary Materials and Uploading DNA Profiles to a Database — If JAG Program funds are to be used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System (CODIS, the national DNA database operated by the FBI) by a government DNA lab with access to CODIS. No profiles generated with JAG funding may be entered into any other nongovernmental DNA database without prior written approval from BJA (exceptions include forensic genealogy). For more information about DNA testing as it pertains to JAG, please refer to the JAG FAQs.

Entry of Records into State Repositories — As appropriate and to the extent consistent with law,

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a special condition will be imposed that would require the following: Any program or activity that receives federal financial assistance under JAG that is likely to generate court dispositions or other records relevant to National Instant Criminal Background Check System (NICS) determinations, including any dispositions or records that involve any noncitizen or migrant who is undocumented in the United States (18 U.S.C. § 922(g)(5)(A), must have a system in place to ensure that all such NICS-relevant dispositions or records are made available in a timely fashion.

Potential Set-Asides and/or Funding Reductions

National Incident-Based Reporting System 3 Percent Set-Aside

In FY 2016, the FBI formally announced its intention to sunset the Uniform Crime Reporting (UCR) Program's traditional Summary Reporting System (SRS) and replace it with the UCR Program's National Incident-Based Reporting System (NIBRS). As of January 1, 2021, the FBI's NIBRS is the law enforcement crime data reporting standard for the nation, and SRS data are no longer accepted by the UCR Program. By statute, JAG Program awards are calculated using summary Part 1 violent crime data from the FBI's UCR Program. (See 34 U.S.C. § 10156.) Eventually, JAG Program awards will be calculated using NIBRS data and NIBRS compliance will impact JAG Program eligibility.

Beginning in FY 2018, BJA required, through the application of an award condition, direct JAG award recipients not certified by the FBI as NIBRS compliant to set aside 3 percent of their JAG award toward achieving full compliance with the FBI's NIBRS data submission requirements under the UCR Program. The 3 percent set-aside will continue in FY 2021 to help ensure remaining states and units of local government become NIBRS compliant.

Units of local government must clearly indicate in their application narratives and budgets what projects will be supported with this 3 percent set-aside.

The following are examples of costs and projects relating to NIBRS implementation at the state or local level that could be funded under the JAG Program: software, hardware, and labor that directly support or enhance a state or agency's technical capacity for collecting, processing, and analyzing data reported by local law enforcement (LE) agencies and then submitting NIBRS data to the FBI; training personnel responsible for the state's Incident-Based Reporting (IBR) program on receiving, processing, analyzing, and validating incident-based data from local LE agencies in their state; training local agencies on how to collect and submit NIBRS data; and technical assistance for LE agency personnel responsible for (1) managing the agency's crime incident data, (2) processing and validating the data, and (3) extracting and submitting IBR data to the state UCR Program according to the state's standard and/or directly to the FBI according to the NIBRS standard.

BJA will waive the set-aside requirement for units of local government that have been certified as NIBRS compliant by the FBI as of the posting date of the Local JAG Program solicitation. Units of local government that achieve full compliance with NIBRS after receiving an award should email evidence of NIBRS compliance (written documentation from the FBI that certifies NIBRS compliance) to their State Policy Advisor listed in the JustGrants System. Upon review of the documentation submitted, BJA will confirm the NIBRS compliance and then take the necessary action to clear any withholding special condition associated with the NIBRS set-aside requirement. Units of local government must retain documentation on file that demonstrates the FBI certification of NIBRS compliance. Such documentation must be made available for BJA review upon request. If approved, units of local government will not be subject to the 3 percent

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set-aside requirement.

Goals, Objectives, and Deliverables

Goals
In general, the FY 2021 JAG Program is designed to provide units of local government with additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice. Although the JAG Program provides assistance directly to states, through pass-through (and similar) requirements, the JAG Program also is designed to assist units of local government with respect to their criminal justice needs.

Objectives
The objectives are directly related to the JAG Program accountability measures described at https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/jag-pmt-accountability-measures.pdf and demonstrate the results of the work completed, as discussed under What an Application Should Include.

The goals and objectives are directly related to the performance measures that demonstrate the results of the work completed, as discussed under the Application and Submission Information section.

Deliverables
A unit of local government that receives an FY 2021 JAG award will be required to produce various types of reports, including quarterly financial reports, quarterly performance reports, and semiannual progress reports in JustGrants.

Evidence-based Programs or Practices
OJP strongly emphasizes the use of data and evidence in policymaking and program development in criminal justice, juvenile justice, and crime victim services. For additional information and resources on evidence-based programs or practices, see the OJP Grant Application Resource Guide.

Information Regarding Potential Evaluation of Programs and Activities
OJP may conduct or support an evaluation of the programs and activities funded under this solicitation. For additional information, see the OJP Grant Application Resource Guide section entitled “Information Regarding Potential Evaluation of Programs and Activities.”

Federal Award Information

Total number of awards BJA expects to make: 1,185 potential awards
Maximum dollar amount for each award: $4,095,916 (New York City)
Total amount to be awarded under solicitation: $89,878,997
Period of performance start date: October 1, 2020
Period of performance duration: 24–48 months

Category 1 – Eligible Allocation Amounts of Less than $25,000: Units of local government that are listed on the JAG web page as eligible for an allocation amount of less than $25,000 should apply under Category 1. This includes direct and joint (disparate) allocations. Category 1 awards of less than $25,000 are 2 years in length. Extensions of up to 2 years can be requested for these awards via JustGrants no fewer than 30 days prior to the grant end date and will be automatically granted upon request.

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Category 2 – Eligible Allocation Amounts of $25,000 or More: Units of local government that are listed on the JAG web page as eligible for an allocation amount of $25,000 or more should apply under Category 2. This includes direct and joint (disparate) allocations. Category 2 awards of at least $25,000 are 4 years in length. Extensions beyond this period may be made on a case-by-case basis at the discretion of the Bureau of Justice Assistance and must be requested via JustGrants no fewer than 30 days prior to the grant end date.

All awards are subject to the availability of appropriated funds and to any modifications or additional requirements that may be imposed by statute.

Availability of Funds
This solicitation, and awards (if any are made) under this solicitation, are subject to the availability of appropriated funds and any modifications or additional requirements that may be imposed by the agency or by law. In addition, nothing in this solicitation is intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The allocations by state for the FY 2021 JAG Program can be found at: https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/FY21-State-JAG-Allocations.pdf.

Type of Award
BJA expects to make awards under this solicitation as grants. See the "Administrative, National Policy, and Other Legal Requirements" section of the OJP Grant Application Resource Guide for a brief discussion of important statutes, regulations, and award conditions that apply to many (or in some cases, all) OJP grants (and cooperative agreements).

Financial Management and System of Internal Controls
Award recipients and subrecipients (including recipients or subrecipients that are pass-through entities) must, as described in the Part 200 Uniform Requirements as set out at 2 C.F.R. 200.303, comply with standards for financial and program management. The "Part 200 Uniform Requirements" means the DOJ regulation at 2 C.F.R. Part 2800, which adopts (with certain modifications) the provisions of 2 C.F.R. Part 200. See OJP Grant Application Resource Guide for additional information.

Budget Information
This solicitation expressly modifies the OJP Grant Application Resource Guide by not incorporating the "Limitation on Use of Award Funds for Employee Compensation; Waiver" provision in the "Financial Information" section of the OJP Grant Application Resource Guide.

Cost Sharing or Matching Requirement
This solicitation does not require a match.

Pre-agreement Costs (also known as Pre-award Costs)
See the OJP Grant Application Resource Guide for information on Pre-agreement Costs (also known as Pre-award Costs).

Prior Approval, Planning, and Reporting of Conference/Meeting/Training Costs

Attachment: JAG MOU with Cert (RES-2021-614 : 2021 Edward Byrne Memorial Grant "JAG" (CRS #2748))

See the OJP Grant Application Resource Guide for information on Prior Approval, Planning, and Reporting of Conference/Meeting/Training Costs.

Costs Associated with Language Assistance (if applicable)
See the OJP Grant Application Resource Guide for information on Costs Associated with Language Assistance.

Eligibility Information

For eligibility information, see the solicitation cover page.

For information on cost sharing or matching requirements, see Federal Award Information.

Application and Submission Information

Content of Application Submission
See the Application Elements and Formatting Instructions section of the OJP Grant Application Resource Guide for information on what happens to an application that does not contain all the specified elements or that is nonresponsive to the scope of the solicitation.

Information to Complete the Application for Federal Assistance (Standard Form (SF)-424) in Grants.gov.
The SF-424 will be submitted in Grants.gov. The SF-424 is a required standard form used as a cover sheet for submission of pre-applications, applications, and related information. See the OJP Grant Application Resource Guide for additional information on completing the SF-424.

In Section F of the SF-424, please include the name and contact information of the individual **who will complete application materials in JustGrants**. JustGrants will use this information *(email address)* to assign the application to this user in JustGrants.

Intergovernmental Review: This solicitation ("funding opportunity") **is** subject to Executive Order 12372. An applicant may find the names and addresses of state Single Points of Contact (SPOCs) at the following website: https://www.whitehouse.gov/wp-content/uploads/2020/04/SPOC-4-13-20.pdf. If the applicant's state appears on the SPOC list, the applicant must contact the state SPOC to find out about, and comply with, the state's process under E.O. 12372. In completing the SF-424, an applicant whose state appears on the SPOC list is to make the appropriate selection in response to question 19, once the applicant has complied with its state E.O. 12372 process. (An applicant whose state does not appear on the SPOC list should answer question 19 by selecting the response that the: "Program is subject to E.O. 12372 but has not been selected by the State for review.")

Standard Applicant Information (JustGrants 424 and General Agency Information)
The Standard Applicant Information section of the JustGrants application is pre-populated with the SF-424 data submitted in Grants.gov. Applicants will need to review the Standard Applicant Information in JustGrants and make edits as needed. Within this section, applicants will need to: add zip codes for areas affected by the project; confirm their Authorized Representative; and verify the organizations legal name and address.

Proposal Narrative

Attachment: JAG MOU with Cert (RES-2021-614 : 2021 Edward Byrne Memorial Grant "JAG" (CRS #2748))

The proposal narrative should be submitted as an attachment in JustGrants. The attached document should be double-spaced, using a standard 12-point Times New Roman font, and have no less than 1-inch margins. Pages should be numbered and submitted as an attachment

Category 1 – Eligible Allocation Amounts of Less than $25,000
The proposal narrative for Category 1 applications should include a description of the project(s), including subawards, if applicable, to be funded with JAG funds over the 2-year grant period.

Category 2 – Eligible Allocation Amounts of $25,000 or More
The proposal narrative for Category 2 applications should include:

a. Description of the Issue – Identify the unit of local government's strategy/funding priorities for the FY 2021 JAG funds, the subgrant award process (if applicable, including disparates) and timeline, any progress or challenges, and a description of the programs to be funded over the 2- to 4-year grant period.

b. Project Design and Implementation – Describe the unit of local government's strategic planning process, if any, that guides its priorities and funding strategy. This should include a description of how the local community is engaged in the planning process and the data and analysis utilized to support the plan. It should identify the stakeholders currently participating in the strategic planning process, the gaps in the needed resources for criminal justice purposes, and how JAG funds will be coordinated with state and related justice funds.

c. Capabilities and Competencies – Describe any additional strategic planning/coordination efforts in which the units of local government participate with other criminal justice/juvenile justice agencies in the state.

d. Plan for Collecting the Data Required for this Solicitation's Performance Measures – OJP will require each successful applicant to submit specific performance data that demonstrate the results of the work carried out under the award. The performance data directly relate to the objectives previously identified under "Objectives."

   Applicants should visit OJP's performance measurement page at www.ojp.gov/performance for an overview of performance measurement activities at OJP.

   The application should demonstrate the applicant's understanding of the performance data reporting requirements for this grant program and detail how the applicant will gather the required data should it receive funding.

   Note: Applicants are **not** required to submit performance data with the application. Rather, performance measures information is included as an alert that successful applicants will be required to submit performance data as part of the reporting requirements under an award.

   OJP will require each successful applicant to submit regular performance data that demonstrate the results of the work carried out under the award. The performance data directly relate to the goals, objectives, and deliverables identified under "Goals, Objectives, and Deliverables."

Attachment: JAG MOU with Cert (RES-2021-614 : 2021 Edward Byrne Memorial Grant "JAG" (CRS #2748))

Award recipients will be required to submit performance measure data in BJA's Performance Measurement Tool (PMT) located at https://bjapmt.ojp.gov/help/JAGDocs.html and separately submit a semiannual performance report in JustGrants. Further guidance on the post-award submission process will be provided, if selected for award.

Note on Project Evaluations
An applicant that proposes to use award funds through this solicitation to conduct project evaluations must follow the guidance under "Note on Project Evaluations" in the OJP Grant Application Resource Guide.

Budget and Associated Documentation

Budget Worksheet and Budget Narrative (attachment)

See the OJP Grant Application Resource Guide for additional information.

Please note that the budget narrative should include a full description of all costs, including funds set aside for the NIBRS project(s) and administrative costs (if applicable). Any costs associated with disparate localities should be noted in the "subaward" category of the budget detail worksheet

General requirement for federal authorization of any subaward; statutory authorization of subawards under the JAG Program statute. Generally, a recipient of an OJP award may not make subawards ("subgrants") unless the recipient has specific federal authorization to do so. Unless an applicable statute or DOJ regulation specifically authorizes (or requires) particular subawards, a recipient must have authorization from OJP before it may make a subaward.

However, JAG subawards that are required or specifically authorized by statute (see 34 U.S.C. § 10152(a) and 34 U.S.C. § 10156) do not require prior approval. This includes subawards made by states and units of local government under the JAG Program. For additional information regarding subawards and authorizations, please refer to the subaward section in the OJP Grant Application Resource Guide.

Indirect Cost Rate Agreement
Applicants will submit their indirect cost rate agreement by uploading the agreement as an attachment in JustGrants. See the OJP Grant Application Resource Guide for additional information.

This rule does not eliminate or alter the JAG-specific restriction in federal law that states charges for administrative costs may not exceed 10 percent of the award amount, regardless of the approved indirect cost rate.

Financial Management and System of Internal Controls Questionnaire (including applicant disclosure of high-risk status)
Applicants will download the questionnaire in JustGrants and submit by uploading the completed questionnaire as an attachment in JustGrants. See the OJP Grant Application Resource Guide for additional information.

Attachment: JAG MOU with Cert (RES-2021-614 : 2021 Edward Byrne Memorial Grant "JAG" (CRS #2748))

Additional Application Components

Research and Evaluation Independence and Integrity
If an application proposes research (including research and development) and/or evaluation, the applicant must demonstrate research/evaluation independence and integrity, including appropriate safeguards, before it may receive award funds. Applicants will submit a description of their research and evaluation independence and integrity by uploading the document as an attachment in JustGrants. For additional information regarding demonstrating research/evaluation independence and integrity, including appropriate safeguards, see the OJP Grant Application Resource Guide.

Certifications and Assurances by the Chief Executive of the Applicant Government
A JAG application is not complete, and a unit of local government may not access award funds, unless the chief executive of the applicant unit of local government (e.g., mayor or chairman) properly executes, and the unit of local government submits, the "Certifications and Assurances by the Chief Executive of the Applicant Government" attached in the section above entitled Other Program Requirements. The most up-to-date certification form can be found at: https://bja.ojp.gov/program/jag/certifications-assurances.

Disclosures and Assurances

Applications will complete the following disclosures and assurances.

Disclosure of Lobbying Activities
Applicants will complete and submit the SF-LLL in Grants.gov. See the OJP Grant Application Resource Guide for additional information.

Applicant Disclosure of Duplication in Cost Items
Applicants will complete the JustGrants web-based Applicant Disclosure of Duplication in Cost Items form. See the OJP Grant Application Resource Guide for additional information.

DOJ Certified Standard Assurance
See DOJ Certified Standard Assurance on the OJP Grant Application Resource Guide.

DOJ Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements
Applicants will review and accept the DOJ Certified Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements. See the OJP Grant Application Resource Guide.

Applicant Disclosure and Justification – DOJ High Risk Grantees (if applicable)
If applicable, applicants will submit as an attachment in JustGrants. See the OJP Grant Application Resource Guide for additional information. A DOJ High Risk Grantee is a recipient that has received a DOJ High Risk designation based on a documented history of unsatisfactory performance, financial instability, management system or other internal control deficiencies, or noncompliance with award terms and conditions on prior awards, or that is otherwise not responsible.

How to Apply

Applicants will submit an **SF-424** and an **SF-LLL** in Grants.gov at https://www.grants.gov/web/grants/register.html.

Attachment: JAG MOU with Cert (RES-2021-614 : 2021 Edward Byrne Memorial Grant "JAG" (CRS #2748))

Applicants will submit the **full application**, including attachments, in JustGrants at https://justgrants.usdoj.gov/.

For additional information, see the "How to Apply" section in the OJP Grant Application Resource Guide and the DOJ Application Submission Checklist.

Submission Dates and Time

The **SF-424** and the **SF-LLL** will be submitted in Grants.gov by 11:59 p.m. ET on July 26, 2021. OJP urges applicants to submit applications at least 72 hours prior to the application due date to allow time for the applicant to receive validation messages or rejection notifications from Grants.gov and to correct in a timely fashion any problems that may have caused a rejection notification.

The **full application** will be submitted in JustGrants by 11:59 p.m. ET on August 9, 2021. To be considered timely, the full application must be submitted in JustGrants by the JustGrants application deadline.

Application Review Information

Review Process
OJP reviews the application to make sure that the information presented is reasonable, understandable, measurable, achievable, and consistent with the solicitation. See the OJP Grant Application Resource Guide for information on the application review process for this solicitation.

Pursuant to the Part 200 Uniform Requirements, before award decisions are made, OJP also reviews information related to the degree of risk posed by the applicant. Among other things to help assess whether an applicant that has one or more prior federal awards has a satisfactory record with respect to performance, integrity, and business ethics, OJP checks whether the applicant is listed in SAM as excluded from receiving a federal award.

In addition, if OJP anticipates that an award will exceed $250,000 in federal funds, OJP also must review and consider any information about the applicant that appears in the non-public segment of the integrity and performance system accessible through SAM (currently, the Federal Awardee Performance and Integrity Information System, FAPIIS).

Important note on FAPIIS: An applicant, at its option, may review and comment on any information about itself that currently appears in FAPIIS and was entered by a federal awarding agency. OJP will consider any such comments by the applicant, in addition to the other information in FAPIIS, in its assessment of the risk posed by the applicant.

Absent explicit statutory authorization or written delegation of authority to the contrary, the Assistant Attorney General will make all final award decisions.

Federal Award Administration Information

Federal Award Notices
See the OJP Grant Application Resource Guide for information on award notifications and instructions.

Attachment: JAG MOU with Cert (RES-2021-614 : 2021 Edward Byrne Memorial Grant "JAG" (CRS #2748))

Administrative, National Policy, and Other Legal Requirements
If selected for funding, in addition to implementing the funded project consistent with the OJP-approved application, the recipient must comply with all award conditions, and all applicable requirements of federal statutes and regulations (including applicable requirements referred to in the assurances and certifications executed in connection with award acceptance).

For additional information on these legal requirements, see the "Administrative, National Policy, and Other Legal Requirements" section in the OJP Grant Application Resource Guide.

Information Technology (IT) Security Clauses
An application in response to this solicitation may require inclusion of information related to information technology security. See the OJP Grant Application Resource Guide for information on information technology security.

General Information about Post-Federal Award Reporting Requirements
In addition to the deliverables described in the Program Description, any recipient of an award under this solicitation will be required to submit certain reports and data.

Category 1 – Eligible Allocation Amounts of Less than $25,000
Recipients must submit:

- Quarterly Federal Financial Reports (and one final Federal Financial Report after all funds have been obligated and expended) through OJP's JustGrants System.
- Quarterly Performance Measurement Tool reports and a final Performance Measurement Tool report through BJA's PMT. Please note that as soon as all project activity has concluded, that report may be marked final.
- An annual progress report and final progress report through OJP's JustGrants. If all project activity has concluded at the time the first annual progress report is submitted, that report may be marked final.

Category 2 – Eligible Allocation Amounts of $25,000 or More
Recipients must submit:

- Quarterly Federal Financial Reports (and one final Federal Financial Report after all funds have been obligated and expended) through OJP's JustGrants System.
- Quarterly Performance Measurement Tool reports and a final Performance Measurement Tool report (at any time once all project activity has concluded) through BJA's PMT.
- Semiannual progress reports and a final progress report (at any time once all project activity has concluded) through OJP's JustGrants.

Future awards and/or fund drawdowns may be withheld if a recipient of an OJP award fails to report the required reports in a timely manner.

Accountability measurement data must be submitted through BJA's Performance Measurement Tool, available at https://bjapmt.ojp.gov. The accountability measures are available at https://bjapmt.ojp.gov/help/jagdocs.html. (Note that if a unit of local government provides funding to a law enforcement agency, the unit of the local government must submit quarterly accountability measurement data on training that officers have received on use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.)

See the OJP Grant Application Resource Guide for additional information on specific post-award reporting requirements, including performance measures data.

Attachment: JAG MOU with Cert (RES-2021-614 : 2021 Edward Byrne Memorial Grant "JAG" (CRS #2748))

Federal Awarding Agency Contact(s)

For OJP contact(s), see solicitation cover page.

For contact information for Grants.gov and JustGrants, see solicitation cover page.

Other Information

Freedom of Information and Privacy Act (5 U.S.C. 552 and 5 U.S.C. 552a)

See the OJP Grant Application Resource Guide for information on the Freedom of Information and Privacy Act (5 U.S.C. 552 and 5 U.S.C. 552a).

Provide Feedback to OJP

See the OJP Grant Application Resource Guide for information on how to Provide Feedback to OJP.

Attachment: JAG MOU with Cert (RES-2021-614 : 2021 Edward Byrne Memorial Grant "JAG" (CRS #2748))

Application Checklist
Edward Byrne Memorial Justice Assistance Grant Formula Program: FY 2021 Local Solicitation

This application checklist has been created as an aid in developing an application. The DOJ Application Submission Checklist is another resource.

What an Applicant Must Do:

Prior to Registering in Grants.gov:

- ☐ Acquire a DUNS Number (see OJP Grant Application Resource Guide)
- ☐ Acquire or renew registration with SAM (see OJP Grant Application Resource Guide)

To Register with Grants.gov:

- ☐ Acquire AOR and Grants.gov username/password (see OJP Grant Application Resource Guide)
- ☐ Acquire AOR confirmation from the E-Biz POC (see OJP Grant Application Resource Guide)

To Find Funding Opportunity:

- ☐ Search for the Funding Opportunity on Grants.gov
- ☐ Access Funding Opportunity and Application Package (see OJP Grant Application Resource Guide)
- ☐ Sign up for Grants.gov email notifications (optional) (see OJP Grant Application Resource Guide)
- ☐ Read Important Notice: Applying for Grants in Grants.gov
- ☐ Read OJP policy and guidance on conference approval, planning, and reporting available at ojp.gov/financialguide/DOJ/PostawardRequirements/chapter3.10a.htm (see OJP Grant Application Resource Guide)

Overview of Post-Award Legal Requirements:

- ☐ Review the "Overview of Legal Requirements Generally Applicable to OJP Grants and Cooperative Agreements - FY 2021 Awards" in the OJP Funding Resource Center.

Scope Requirement:

- ☐ The federal amount requested is within the allowable limit(s) of the FY 2021 JAG Allocations listed at: https://bja.ojp.gov/program/jag/fy-2021-allocations.

Eligibility Requirement:

Only units of local government may apply under this solicitation. By law, for purposes of the JAG Program, the term "units of local government" includes a town, township, village, parish, city, county, borough, or other general-purpose political subdivision of a state; or it may be a federally recognized Indian tribal government that performs law enforcement functions (as determined by the Secretary of the Interior). A unit of local government also may be any law enforcement district or judicial enforcement district established under applicable state law with authority to independently establish a budget and impose taxes; for example, in Louisiana, a unit of local government means a district attorney or parish sheriff.

Attachment: JAG MOU with Cert (RES-2021-614 : 2021 Edward Byrne Memorial Grant "JAG" (CRS #2748))

☐ Submit **SF-424** and **SF-LLL** in Grants.gov

*After **SF-424** and **SF-LLL** submission in Grants.gov, Receive Grants.gov Email Notifications That:*

☐ Submission has been received in Grants.gov

☐ Submission has either been successfully validated or rejected with errors (see OJP Grant Application Resource Guide)

If No Grants.gov Receipt, and Validation or Error Notifications are Received:

☐ Contact Grants.gov Customer Support Hotline at 800-518-4726, 606-545-5035, at Grants.gov customer support web page, or email at support@grants.gov regarding technical difficulties (see OJP Grant Application Resource Guide)

Receive email notification to complete application in JustGrants:

☐ Complete Application in JustGrants

Content of Application Submission

☐ Information to Complete the Application for Federal Assistance (SF-424) in Grants.gov

☐ Intergovernmental Review

☐ Standard Applicant Information (SF-424 information from Grants.gov)

☐ Proposal Narrative

Budget and Associated Documentation

☐ Budget Worksheet and Budget Narrative (attachment)

☐ Indirect Cost Rate Agreement (if applicable) (see OJP Grant Application Resource Guide)

☐ Financial Management and System of Internal Controls Questionnaire (see OJP Grant Application Resource Guide)

Additional Application Components

☐ Research and Evaluation Independence and Integrity (see OJP Grant Application Resource Guide)

☐ Certifications and Assurances by Chief Executive

Disclosures and Assurances

☐ Disclosure of Lobbying Activities (SF-LLL) (see OJP Grant Application Resource Guide)

☐ Disclosure of Duplication in Cost Items (see OJP Grant Application Resource Guide)

☐ DOJ Certified Standard Assurance (see OJP Grant Application Resource Guide)

Attachment: JAG MOU with Cert (RES-2021-614 : 2021 Edward Byrne Memorial Grant "JAG" (CRS #2748))

- ☐ DOJ Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (see OJP Grant Application Resource Guide)
- ☐ Applicant Disclosure and Justification – DOJ High Risk Grantees (if applicable) (see OJP Grant Application Resource Guide)

Submit Application in JustGrants:

- ☐ Application has been successfully submitted in JustGrants

If No JustGrants Application Submission, Validation, or Error Notifications are Received:

- ☐ Contact JustGrants.Support@usdoj.gov *or 833–872–5175* regarding technical difficulties.

Attachment: JAG MOU with Cert (RES-2021-614 : 2021 Edward Byrne Memorial Grant "JAG" (CRS #2748))

2021 New York Local JAG Allocations

Listed below are all jurisdictions in the state that are eligible for FY 2021 JAG funding, as determined by the JAG formula. For additional details regarding the JAG formula and award calculation process, with examples, please refer to the JAG Technical report here: https://www.bja.gov/Jag/pdfs/JAG-Technical-Report.pdf and current JAG Frequently Asked Questions here: https://bja.ojp.gov/program/jag/frequently-asked-questions.

Finding your jurisdiction:
(1) Disparate jurisdictions are listed in shaded groups below, in alphabetic order by county.
(2) Direct allocations are listed alphabetically below the shaded, disparate groupings.
(3) Counties that have an asterisk (*) under the "Direct Allocation" column did not submit the level of violent crime data to qualify for a direct award from BJA, but are in the disparate grouping indicated by the shaded area. The JAG legislation requires these counties to remain a partner with the local jurisdictions receiving funds and must be a signatory on the required Memorandum of Understanding (MOU). A sample MOU is provided online at: https://www.bja.gov/Funding/JAGMOU.pdf. Disparate jurisdictions do not need to abide by the listed individual allocations, which are provided for information only. Jurisdictions in a funding disparity are responsible for determining individual amounts within the Eligible Joint Allocation and for documenting individual allocations in the MOU.

State	Jurisdiction Name	Government Type	Direct Allocation	Joint Allocation
NY	ALBANY COUNTY	County	*	
NY	ALBANY CITY	Municipal	$71,053	$71,053
NY	BROOME COUNTY	County	*	
NY	BINGHAMTON CITY	Municipal	$30,435	$30,435
NY	CHAUTAUQUA COUNTY	County	*	
NY	JAMESTOWN CITY	Municipal	$18,150	$18,150
NY	DUTCHESS COUNTY	County	*	
NY	POUGHKEEPSIE CITY	Municipal	$19,376	$19,376
NY	ERIE COUNTY	County	*	
NY	AMHERST TOWN	Township	$11,964	
NY	BUFFALO CITY	Municipal	$228,655	
NY	CHEEKTOWAGA TOWN	Township	$16,428	$257,047
NY	JEFFERSON COUNTY	County	*	
NY	WATERTOWN CITY	Municipal	$13,656	$13,656
NY	MONROE COUNTY	County	$18,208	
NY	ROCHESTER CITY	Municipal	$146,688	$164,896
NY	NIAGARA COUNTY	County	*	
NY	NIAGARA FALLS CITY	Municipal	$40,648	$40,648
NY	ONEIDA COUNTY	County	*	
NY	UTICA CITY	Municipal	$31,865	$31,865
NY	ONONDAGA COUNTY	County	$16,458	
NY	SYRACUSE CITY	Municipal	$91,742	$108,200
NY	ORANGE COUNTY	County	*	
NY	NEWBURGH CITY	Municipal	$28,976	$28,976
NY	RENSSELAER COUNTY	County	*	
NY	TROY CITY	Municipal	$27,137	$27,137
NY	ROCKLAND COUNTY	County	*	
NY	SPRING VALLEY VILLAGE	Municipal	$10,738	$10,738
NY	SCHENECTADY COUNTY	County	*	
NY	SCHENECTADY CITY	Municipal	$50,336	$50,336
NY	WESTCHESTER COUNTY	County	*	
NY	MOUNT VERNON CITY	Municipal	$34,111	
NY	NEW ROCHELLE CITY	Municipal	$11,030	
NY	YONKERS CITY	Municipal	$64,896	$110,037
NY	GREECE TOWN	Township	$15,465	
NY	HEMPSTEAD VILLAGE	Municipal	$27,750	
NY	NASSAU COUNTY	County	$96,061	
NY	NEW YORK CITY	Municipal	$4,095,916	
NY	SUFFOLK COUNTY	County	$113,073	
	Local total		**$5,330,815**	

Attachment: JAG MOU with Cert (RES-2021-614 : 2021 Edward Byrne Memorial Grant "JAG" (CRS #2748))

U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS

Edward Byrne Justice Assistance Grant Program FY 2021 Local Solicitation

Certifications and Assurances by the Chief Executive of the Applicant Government

On behalf of the applicant unit of local government named below, in support of that locality's application for an award under the FY 2021 Edward Byrne Justice Assistance Grant ("JAG") Program, and further to 34 U.S.C. § 10153(a), I certify to the Office of Justice Programs ("OJP"), U.S. Department of Justice ("USDOJ"), that all of the following are true and correct:

1. I am the chief executive of the applicant unit of local government named below, and I have the authority to make the following representations on my own behalf as chief executive and on behalf of the applicant unit of local government. I understand that these representations will be relied upon as material in any OJP decision to make an award, under the application described above, to the applicant unit of local government.

2. I certify that no federal funds made available by the award (if any) that OJP makes based on the application described above will be used to supplant local funds, but will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities.

3. I assure that the application described above (and any amendment to that application) was submitted for review to the governing body of the unit of local government (*e.g.*, city council or county commission), or to an organization designated by that governing body, not less than 30 days before the date of this certification.

4. I assure that, before the date of this certification— (a) the application described above (and any amendment to that application) was made public; and (b) an opportunity to comment on that application (or amendment) was provided to citizens and to neighborhood or community-based organizations, to the extent applicable law or established procedure made such an opportunity available.

5. I assure that, for each fiscal year of the award (if any) that OJP makes based on the application described above, the applicant unit of local government will maintain and report such data, records, and information (programmatic and financial), as OJP may reasonably require.

6. I have carefully reviewed 34 U.S.C. § 10153(a)(5), and, with respect to the programs to be funded by the award (if any), I hereby make the certification required by section 10153(a)(5), as to each of the items specified therein.

Signature of Chief Executive of the Applicant Unit of Local Government	Date of Certification
Printed Name of Chief Executive	Title of Chief Executive
Name of Applicant Unit of Local Government	

Attachment: JAG MOU with Cert (RES-2021-614 : 2021 Edward Byrne Memorial Grant "JAG" (CRS #2748))

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 23449 **RESOLUTION 2021-615** **ADOPTED**

Lease Agreement CRS #2728

Authorize the Supervisor to sign a lease between the Town of Amherst (Youth & Recreation Department) and the Alfred J. Jurek American Legion Post 1672 as an agreement to use the Alfred J. Jurek American Legion Post's fields.

7/12/2021
Consent

FINANCIAL IMPACT:

A7143,4220; $1.00 per year

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

LEASE AGREEMENT

THIS AGREEMENT, is made as of June 21, 2021, between Alfred J. Jurek American Legion Post 1672, Town of Amherst, New York ("Jurek") and the Town of Amherst ("Town") a municipal corporation located at 5583 Main Street, Williamsville, New York 14221. In consideration of their mutual covenants, conditions, agreements, obligations assumed and other considerations contained herein, the parties hereto agree as follows:

1) Jurek has agreed to let, and hereby lets, and the Town has agreed to lease certain premises situated in the Town of Amherst, New York located at 655 New Road, at the intersection of Smith Road and New Road, SBL 16.00-4-10, as more particularly described in the picture and diagram attached hereto as Exhibit "A", and the related parking lots at for a term commencing on June 1, 2021 and ending on December 31, 2046.

2) Lease Payment: The Town agrees to pay one dollar ($1.00) to Jurek as rent for the entire term of this Agreement. The Town may not, without the written consent of Jurek, let, sell, underlet or assign the premises or any part thereof, for the whole or any part of the term, or use of premises or any other part thereof for any other than recreational purposes.

3) Payment for Expenses: The Town shall pay for all expenses normally incurred in the routine management, maintenance and operation of the fields, facilities and the equipment covered by this Agreement. The facility, equipment and services for which the Town shall be financially responsible shall include, but not be limited to, charges for law enforcement officers or private security officers; charges for providing appropriate trash receptacles; charges for the removal of trash and debris arising from or resulting from the use of the premises by the Town; extra custodial and ground maintenance; charges for phone lines and services; for providing bases, the home plate(s) and pitching plate(s).

4) Prevention of Waste. The Town agrees to use all reasonable precautions to prevent waste and to prevent said premises from being destroyed or injured by fire or flooding and agrees not to throw or deposit any dirt or any objectionable matter in the areas on or about the said premises. It is specifically understood that premises leased are to be kept as clean and healthful as possible.

5) Right to Assign. The Town will have the right to assign the use of fields located at the premises to various recreational leagues operating within the Town's geographic jurisdiction and notify Jurek of these assignments no later than May 1st of each calendar year.

6) Field Maintenance: The Town will maintain the parking lots and maintain the playing fields in a proper playing condition which will include maintenance such as lining and dragging on a regular basis according to game schedules, mowing grass, trimming along all fences, back stops, bleachers and lawn areas associated with the site on a minimum of a weekly basis. The Town will also perform sod cutting and fill in the infield as needed to keep

Attachment: Alfred J Jurek American Legion Post 1672 (RES-2021-615 : Lease Agreement CRS#2728)

the fields in a safe and proper playing condition and maintain the playground and playground equipment in a clean and safe condition.

7) Abatement of Nuisance: The Town agrees that it will not during the term of this Lease suffer or create any nuisance on or about the premises. The Town shall not commit any waste upon the premises or disturb nearby privately owned or publicly owned property. Further, during such times as the premises are used under this Lease, the Town and its officers, representatives, and members shall endeavor to restrain persons not affiliated with the Town, or affiliated with those leagues authorized by the Town, from committing any waste or damages upon the premises utilized by the Town on any property which is adjacent to the same. In the event Jurek property or properties owned by others are damaged or destroyed as a result of abuse under this Agreement, the Town shall immediately reimburse Jurek for such cost as shall be incurred in repairing said damages and restoring the property to its condition prior to said use and damage. It being specifically understood that instead of reimbursing Jurek for such costs the Town reserves the right to perform such repair or restoration by the use of its employees.

8) Supervision of Use: Whenever the Town shall use the premises, the Town shall assure that all activities conducted therein are supervised by responsible adults who shall be familiar with the program of the Town and the arrangements which have been made by the Town and Jurek for the use of the premises.

9) Use of Portable Equipment: Portable equipment, such as storage bins, cargo containers, backstops, bleachers and batting cages shall be permitted under this Lease. Prior to placing portable equipment on the premises, which are in addition to the portable equipment in place at the time of execution of this Lease, the Town shall submit to Jurek plans and specifications describing, in detail, the specific equipment to be used and the planned locations of said equipment. If the use of said equipment is approved by Jurek, which permission shall not be unreasonably withheld, the Town may use such portable equipment on the premises designated.

10) Non-Liability for Loss: This Lease is made upon the express condition that Jurek shall be free from any and all liability and claim for damages because of any injury to persons or property, including death, resulting from or associated with the use and maintenance of the premises by the Town. The Town hereby assumes all risk of damage to persons and property in or upon the premises, from any cause or source whatsoever connected to the negligence of the Town, and to this extent the Town hereby waives all claims against Jurek for damages to persons or property in or about said premises.

11) Indemnification: The Town shall hold Jurek harmless from, and indemnify Jurek against any and all claims, demands, causes of actions, suits, damages, counsel fees, and all other reasonable cost and expenses associated with the defense of Jurek, including cost of investigation rising out of or incurred in defense of any claim, proceeding, or action brought for personal injury, wrongful death or property damage resulting from the Town's negligence in the use or maintenance of the premises by the Town. The Town shall further save and hold harmless Jurek from and indemnify Jurek against any and all orders,

Attachment: Alfred J Jurek American Legion Post 1672 (RES-2021-615 : Lease Agreement CRS#2728)

judgments and decrees which may be entered into in any suit or action related to such injuries.

12) Intoxicating Beverages, Smokin, Vaping and Drugs: The Town shall not use, or permit to be used, in connection with its use of these premises, the smoking of cigarettes and/or cigars, the use of e-cigarettes, vaping, and the use or possession of any intoxicating beverages or drugs without the specific written approval of Jurek.

13) Notices: All notices to be given under this Lease shall be in writing and shall be effective either upon personal delivery, or being sent by e-mail, delivery and read receipt requested, addressed to the party to whom that such notice is given. Notice sent as above shall be deemed served 24 hours after transmission by e-mail.

Notice to Jurek shall be given to:

Commander
Alfred J. Jurek
American Legion Post 1672
E-mail:

Notice shall be given to the Town at the following address:

Town Attorney
5583 Main Street
Williamsville, New York 14221
E-mail: ssliwa@amherst.ny.us

Director of Youth and Recreation
Northtown Center at Amherst
1615 Amherst Manor Drive
Williamsville, New York 14221
E-mail: mpouli@AMHERST.NY.US

14) Termination: This lease may be terminated by any party upon 12 months prior written notice to the other as referenced above.

15) Waiver: The waiver by Jurek or the Town of any breach of any term, covenant, condition, provision or requirement herein contained shall not be deemed to be a waiver of any other term, covenant, condition, provision, or requirement or of any subsequent breach of the same or any other term, covenant, condition, provision, or requirement herein contained.

16) Right of First Refusal. During the term of the Agreement, before Jurek may sell the Premises to a third party, Jurek shall first offer the Premises to the Town following the procedures set forth in this Section. The Town shall have fifteen (15) days following the date Jurek first presents the Town with such offer to decide whether to try to negotiate an

Attachment: Alfred J Jurek American Legion Post 1672 (RES-2021-615 : Lease Agreement CRS#2728)

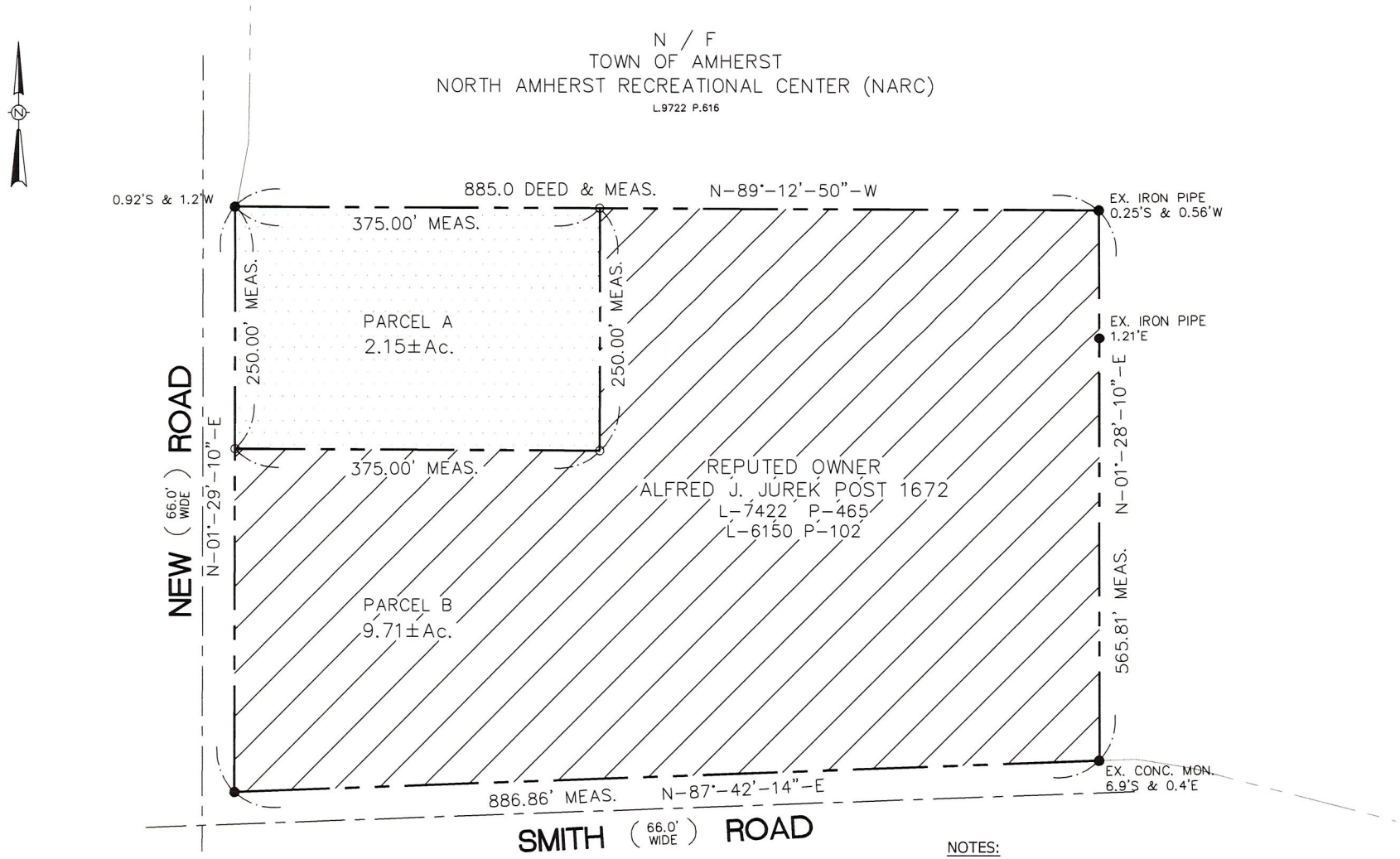
agreement for the purchase of the Premises from Jurek. If the Town desires to try to negotiate such an agreement, the Town shall, within thirty (30) days following the presentation of such offer period, deliver to Lessor written notice thereof. Promptly after receipt of such notice, the parties shall commence good faith negotiations exclusively with each other for a period not to exceed 90 days after the date the Town gives the requisite written notice to Jurek. If Jurek does not receive said notice within said 30-day period, or if Jurek receives said notice within said period but the parties do not enter into a legally binding, written agreement for the purchase and sale of the Premises, Jurek shall be free to enter into an agreement with a third party on terms no more favorable to the third party than Lessor offered to Lessee. If Jurek does not enter into a legally binding, written agreement with a third party within 90 days after the Town fails to exercise its right of first refusal, then Jurek' s right to sell the Premises to a third party shall expire and the procedure described in this Section shall be applicable again, and Jurek, prior to selling the Premises to a third party, shall first enter into good faith, reasonable efforts to negotiate the sale of the Premises to the Town. Upon each repetition of this procedure, notice shall once again be due.

By: Pauline Collier
Alfred J. Jurek
American Legion Post 1672
PAULINE R. COLLIER Commander
DATED: 6/21/21

By: _____
Brian J. Kulpa, Supervisor
Town of Amherst
DATED:

Attachment: Alfred J Jurek American Legion Post 1672 (RES-2021-615 : Lease Agreement CRS#2728)

Attachment: Alfred J Jurek American Legion Post 1672 (RES-2021-615 : Lease Agreement CRS#2728)



PARCEL A: JUREK POST

PARCEL B: TOWN OF AMHERST, NY
SPLIT OR ARRANGEMENT

NOTES:

1. DRAWING IS NOT A BOUNDARY SURVEY. INTENDED AS AN EXHIBIT ONLY.
2. REFERENCE IS A PRATT & HUTH SURVEY, JOB NO. 00916, MARCH 3, 1989
3. PART OF LOT 55, TOWNHSHIP 13, RANGE 7, HOLLAND LAND COMPANY, TOWN OF AMHERST, ERIE COUNTY, NEW YORK

TOWN OF AMHERST
JEFFREY S. BURROUGHS, P.E.
ENGINEERING DEPARTMENT
1100 N. FOREST RD.
WILLIAMSVILLE, NY 14221

655 NEW ROAD - JUREK POST

PROPOSED PARCEL SPLIT OR OTHER ARRANGEMENT WITH THE TOWN OF AMHERST

DRAWN BY:	CPS
JOB NO.:	2014.046
SCALE:	1" = 40'
DATE:	1/19/21

REVISIONS
3/5/21: Shift east line of Parcel A easterly by 25 feet.

DWG. NO. P1 SHT. NO. 1 OF 2

Attachment: Alfred J Jurek American Legion Post 1672 (RES-2021-615 : Lease Agreement CRS#2728)

PARCEL A: JUREK POST

PARCEL B: TOWN OF AMHERST, NY
SPLIT OR ARRANGEMENT

NOTES:

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TOWN OF AMHERST
JEFFREY S. BURROUGHS, P.E.
ENGINEERING DEPARTMENT
1100 N. FOREST RD.
WILLIAMSVILLE, NY 14221

655 NEW ROAD - JUREK POST

PROPOSED PARCEL SPLIT OR OTHER ARRANGEMENT WITH THE TOWN OF AMHERST

DRAWN BY:	CPS
JOB NO.:	2014.046
SCALE:	1" = 40'
DATE:	1/19/21
REVISIONS	
3/5/21:	Shift east line of Parcel A easterly by 25 feet.

DWG. NO. P2 SHT. NO. 2 OF 2

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 23456 **RESOLUTION 2021-616** **ADOPTED**

Clearfield Flooring CRS #2625

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Fairway Floor Covering, Inc. for flooring at the Clearfield Recreation Center.

7/12/2021
Consent

FINANCIAL IMPACT:

KP2101,4972; $73,388.90

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Flooring Project Quote Form

Date: 6/16/2021

Contractor name:	

Facility Name: NORTH TOWN CENTER AT AMHERST
Address: 1615 MANOR DRIVE, AMHERST NY 14221
Contact name: ERIC GUZDEK
Contact phone #: 631-7132 X 7512
730 HOPKINS COMMUNITY CENTER - LOCKER ROOMS

FAIRWAY FLOOR COVERING INC
NYS CONTRACT PC #67773
Contact name: JOE PANTANO
Contact phone # 842-3131
Contact email jpantano@fairwayfloorcovering.com

Materials			
Item	Quantity	Unit cost	Extended Amount
INTERFACE/NORA 992 GRANO 9.MM 40"X40" SPECIALTY RUBBER TILE	1200	15.47	18564.00
COLOR TO BE DETERMINED (QNTY PER SQ.FT.)			
INTERFACE/NORA PU102 POLYURETHANE RUBBER ADHESIVE 1.43 GAL PAIL	8	198.64	1589.12
Total material cost			$20,153.12

Labor					
Item	Quantity	Quoted Unit price	Not to exceed unit price (for reference)	Extended Amount	Man hours to complete task
COVE BASE REMOVALS	840	0.79	0.79	663.60	
LABOR TO REMOVE & DISPOSE Of EXISTING RUBBER TILE	3600	1.88	1.88	6768.00	
MINOR SKIM COATING TO 1/8" (MATERIAL & LABOR)	1200	1.00	1.78	1200.00	
RUBBER TILE INSTALLATION	1200	3.00	5.88	3600.00	
FURNISH AND INSTALL ROPPE 6" BASE COLOR TO BE DETERMINED	840	4.00	4.50	3360.00	
CARPET TRANSITION INSTALLATION	72	3.00	7.00	216.00	
		Total labor cost		$15,807.60	

Attachment: Fairway Flooring Clearfield final (RES-2021-616 : Clearfield Flooring CRS#2625)

Total Material cost	20153.12
Total labor cost	15807.60
Total shipping cost	
Total Project cost	$35,960.72

Total number of labor hours for the project:
Total prevailing rate (including supplemental:
PRC#_____ (provided by Authorized User)

SUBMITTED BY:
JOSEPH J. PANTANO

FAIRWAY FLOOR COVERING
PROJECT MANAGER

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Flooring Project Quote Form

Date: 6/16/2021

Contractor name:	

Facility Name: NORTH TOWN CENTER AT AMHERST
Address: 1615 MANOR DRIVE, AMHERST NY 14221
Contact name: ERIC GUZDEK
Contact phone #: 631-7132 X 7512
730 HOPKINS COMMUNITY CENTER -VESTIBLE, LOBBY,FAM CHNG. RM.

FAIRWAY FLOOR COVERING INC
NYS CONTRACT PC #67774
Contact name: JOE PANTANO
Contact phone # 842-3131
Contact email jpantano@fairwayfloorcovering.com

Materials BREAK ROOM & OFFICE			
Item	Quantity	Unit cost	Extended Amount
MANNINGTON RECOARSE CARPET TILE STYLE: #REC2T5E QNTY - SQ.YDS.	400	51.29	20516.00
COLOR TO BE DETERMINED			
MANNINGTON INFINITY PRESSURE SENSITIVE ADHESIVE 4-GALLON PAIL	6	107.82	646.92
Total material cost			$21,162.92

Labor					
Item	Quantity	Quoted Unit price	Not to exceed unit price (for reference)	Extended Amount	Man hours to complete task
FLOOR PREP LABOR & MATERIALS UP TO 1/4" THICKNESS -HOURS	24	145.00	145	3480.00	
1/8" SKIM COAT PER SQ.FT.	2400	0.80	0.80	1920.00	
CARPET TILE INSTALLATION PER SQ.YD.	400	9.50	9.50	3800.00	
		Total labor cost		$9,200.00	

Total Material cost	21162.92
Total labor cost	9200.00
Total shipping cost	
Total Project cost	$30,362.92

Total number of labor hours for the project:
Total prevailing rate (including supplemental:
PRC#_____ (provided by Authorized User)

SUBMITTED BY:
JOSEPH J. PANTANO

FAIRWAY FLOOR COVERING
PROJECT MANAGER

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: Fairway Flooring Clearfield final (RES-2021-616 : Clearfield Flooring CRS#2625)

Flooring Project Quote Form

Date: 6/16/2021

Contractor name:	

Facility Name: NORTH TOWN CENTER AT AMHERST
Address: 1615 MANOR DRIVE, AMHERST NY 14221
Contact name: ERIC GUZDEK
Contact phone #: 631-7132 X 7512
730 HOPKINS COMMUNITY CENTER - MENS & WOMENS SHOWER FLOORS

FAIRWAY FLOOR COVERING INC
NYS CONTRACT PC #67778
Contact name: JOE PANTANO
Contact phone # 842-3131
Contact email jpantano@fairwayfloorcovering.com

Materials			
Item	Quantity	Unit cost	Extended Amount
SHAW PORCELAIN TILE STYLE: #P155V COLONIAL 12X24 TILE PER SQ.FT.	400	3.24	1296.00
COLOR TO BE DETERMINED			
SHAW PORCELAIN TILE STYLE: #P158V COLONIAL 4 X12 BASE PER L/F	200	5.92	1184.00
COLOR TO BE DETERMINED			
ADVANCE SKIM COAT REPAIR/PATCH FEATHER FINISH PER BAG	8	20.42	163.36
SHAW 855XXL THINSET GREY STYLE: #125PM PER BAG	10	33.19	331.90
Total material cost			$2,975.26

Labor					
Item	Quantity	Quoted Unit price	Not to exceed unit price (for reference)	Extended Amount	Man hours to complete task
LABOR TO INSTALL CERAMIC FLOOR TILE (GENERAL LABOR SERVICES)	48	35.00	35.00	1680.00	
LABOR TO INSTALL CERAMIC FLOOR TILE (SUPPLEMENTAL BENEFITS)	48	25.00	25.00	1200.00	
LABOR TO INSTALL CERAMIC BASE (GENERAL LABOR SERVICES)	16	35.00	35.00	560.00	
LABOR TO INSTALL CERAMIC BASE (SUPPLEMENTAL BENEFITS)	16	25.00	25.00	400.00	
Total labor cost				$3,840.00	

Total Material cost	2975.26
Total labor cost	3840.00
Total shipping cost	250.00
Total Project cost	$7,065.26

Total number of labor hours for the project:
Total prevailing rate (including supplemental:
PRC#_____ (provided by Authorized User)

SUBMITTED BY:
JOSEPH J. PANTANO

FAIRWAY FLOOR COVERING
PROJECT MANAGER

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Addendum to Contract VENDOR ON SITE Minor

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Vendors or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Vendor shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Vendor its officers, agents, sub-Vendors, and/or employees as well as the negligence, active or passive, of the Vendor, its officers, agents, sub-Vendors, and/or employees.

4. Vendor shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Vendor shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Vendor shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate.

(c) Vendor shall furnish the above insurances, including sub-Vendors' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Vendor shall ensure all its sub-Vendors, if any, have obtained all the above insurances and shall also assure that any policy procured by any sub-Vendor or sub-sub-Vendor shall name the Town as an additional insured on a primary and non-contributory basis.

Attachment: Fairway Flooring Clearfield final (RES-2021-616 : Clearfield Flooring CRS#2625)

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

6. No Assignment: In accordance with the provisions of Section 109 of the General Municipal Law, the Vendor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Vendor shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Vendor, in accordance with its status as an independent Vendor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

9. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules,

Attachment: Fairway Flooring Clearfield final (RES-2021-616 : Clearfield Flooring CRS#2625)

regulations or ordinances for any state other than New York State, to the laws, statutes, rules, regulations or ordinances for any county other than Erie County, New York or to the laws, statutes, rules, regulations or ordinances for any municipality other than the Town of Amherst, then the laws, statutes, rules, regulations or ordinances for New York State, Erie county and/or the Town of Amherst shall apply as applicable. Any and all legal action necessary to enforce the Agreement will be venued in Supreme Court, Erie County, New York or in the United States District Court for the Western District of New York, Buffalo Division.

10. It is hereby acknowledged that performance of this Contract will be undertaken in accordance with the specifications and pricing on which the bid was submitted.

Authority for execution on behalf of Town: The Supervisor has executed this Agreement pursuant to a Resolution adopted by the Town Board of the Town, at a meeting thereof held on APRIL 5, 2021. Brian J. Kulpa, the Supervisor whose signature appears hereafter, is duly authorized and empowered to execute this instrument and enter into such an Agreement on behalf of the Town as a result of that Resolution. This instrument shall be executed in triplicate. At least one (1) copy shall be permanently filed, after execution thereof, in the office of the Town Clerk of Town.

Agreed to and Accepted by:

Fairway Floor Covering Inc.
Print Name of Company

By: _____
Signature

David W Dessing
Printed name

Date: 3-16-21

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: 4/1/21

Attachment: Fairway Flooring Clearfield final (RES-2021-616 : Clearfield Flooring CRS#2625)

IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a provision was added to the State Finance Law (SFL), Section 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will develop a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). This list is posted on the OGS website.

By submitting a response to this solicitation, or by assuming the responsibility under a Contract/Lease awarded hereunder, Bidder/Contractor/Vendor (or any assignee) certifies that it will not utilize on such Contract/Lease any subcontractor that is identified on the prohibited entities list.

Additionally, Bidder/Contractor/Vendor is advised that any Bidder/ Contractor/Vendor seeking to renew or extend a Contract/Lease (or assume responsibility of a Contract/Lease awarded must certify at the time the Contract/Lease is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract/Lease, should the Town of Amherst (Town) receive information that a person is in violation of the above-referenced certification, the Town will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the Town shall take such action as appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor/Vendor in default.

The Town reserves the right to reject any Contract/Lease or request for assignment for an entity that appears on the prohibited entities list prior to the award of a Contract/Lease, and to pursue a responsibility review with respect to any entity that is awarded a Contract/Lease and appears on the prohibited entities list after Contract/Lease award.

Company Name: Fairway Floor Covering Inc

Signature: _____

Print Name: David W Dussing

Title: President

Date: 3-16-21

KELLY KOCH
NOTARY PUBLIC-STATE OF NEW YORK
No. 01KO6392361
Qualified in Erie County
My Commission Expires 05-28-2023

Sworn To Before Me This
16 Day of March, 2021

_____
Notary Public

Revised 4.2017

Attachment: Fairway Flooring Clearfield final (RES-2021-616 : Clearfield Flooring CRS#2625)

FAIRW-1

OP ID: DO

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 03/16/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Litwin Castle Insurance Agency 4955 Chestnut Ridge Road Orchard Park, NY 14127 716-662-2121	CONTACT NAME: JoAnn N. Litwin PHONE (A/C, No, Ext): 716-662-2121 FAX (A/C, No): 716-662-1733 E-MAIL ADDRESS:
INSURED Fairway Floor Covering Inc 55 Gates LLC 55 N Gates Avenue Lackawanna, NY 14218	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : Erie Insurance Company — 113 INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR X Business Owners X Contractual GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:	X		Q27-5120235	03/01/2021	03/01/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 1,000,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO X OWNED AUTOS ONLY X SCHEDULED AUTOS X HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY			Q03-5130686	03/01/2021	03/01/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 10000	X		Q27-5170141	03/01/2021	03/01/2022	EACH OCCURRENCE AGGREGATE	$ 5,000,000 $ 5,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $
	INSTALLATION			Q27-5120235	03/01/2021	03/02/2022	INSTALLED & STORED	500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

THE TOWN OF AMHERST IS NAMED AS AN ADDITONAL INSURED ON A PRIMARY AND NON-CONTRIBUTORY BASIS.

CERTIFICATE HOLDER

TOWN OF AMHERST
5583 MAIN STREET
WILLIAMSVILLE, NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Joann Litwin

ACORD 25 (2016/03)

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The ACORD name and logo are registered marks of ACORD

Attachment: Fairway Flooring Clearfield final (RES-2021-616 : Clearfield Flooring CRS#2625)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF INSURANCE COVERAGE
DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW

PART 1. To be completed by Disability and Paid Family Leave Benefits Carrier or Licensed Insurance Agent of that Carrier

1a. Legal Name & Address of Insured (use street address only)
FAIRWAY FLOOR COVERING INC

55 NORTH GATES AVENUE
BUFFALO, NY 14218

Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., Wrap-Up Policy)*

1b. Business Telephone Number of Insured
716-646-6870

1c. Federal Employer Identification Number of Insured or Social Security Number
161597369

2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)
Town of Amherst
5583 Main Street
Williamsville, NY 14221

3a. Name of Insurance Carrier
ShelterPoint Life Insurance Company

3b. Policy Number of Entity Listed in Box "1a"
DBL177149

3c. Policy effective period
02/01/2021 to 01/31/2022

4. Policy provides the following benefits:
- [x] A. Both disability and paid family leave benefits.
- [ ] B. Disability benefits only.
- [ ] C. Paid family leave benefits only.

5. Policy covers:
- [x] A. All of the employer's employees eligible under the NYS Disability and Paid Family Leave Benefits Law.
- [ ] B. Only the following class or classes of employer's employees:

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has NYS Disability and/or Paid Family Leave Benefits insurance coverage as described above.

Date Signed 3/30/2021 By _____
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number 516-829-8100 Name and Title Richard White, Chief Executive Officer

IMPORTANT: If Boxes 4A and 5A are checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of that carrier, this certificate is COMPLETE. Mail it directly to the certificate holder.

If Box 4B, 4C or 5B is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the NYS Disability and Paid Family Leave Benefits Law. It must be mailed for completion to the Workers' Compensation Board, Plans Acceptance Unit, PO Box 5200, Binghamton, NY 13902-5200.

PART 2. To be completed by the NYS Workers' Compensation Board (Only if Box 4C or 5B of Part 1 has been checked)

State of New York
Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability and Paid Family Leave Benefits Law with respect to all of his/her employees.

Date Signed _____ By _____
(Signature of Authorized NYS Workers' Compensation Board Employee)

Telephone Number _____ Name and Title _____

Please Note: *Only insurance carriers licensed to write NYS disability and paid family leave benefits insurance policies and NYS licensed insurance agents of those insurance carriers are authorized to issue Form DB-120.1.* ***Insurance brokers are NOT authorized to issue this form.***

DB-120.1 (10-17)

DB-120.1 (10-17)

Attachment: Fairway Flooring Clearfield final (RES-2021-616 : Clearfield Flooring CRS#2625)

NYSIF
New York State Insurance Fund

199 CHURCH STREET, NEW YORK, N.Y. 10007-1100
| nysif.com

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

^^^^^^ 161597369

HAMOND SAFETY MANAGEMENT LLC
6800 JERICHO TURNPIKE
SUITE 105W
SYOSSET NY 11791

SCAN TO VALIDATE
AND SUBSCRIBE

POLICYHOLDER	CERTIFICATE HOLDER
FAIRWAY FLOOR COVERING INC 55 NORTH GATES AVE LACKAWANNA NY 14218	TOWN OF AMHERST 5583 MAIN STREET AMHERST NY 14221

POLICY NUMBER	CERTIFICATE NUMBER	POLICY PERIOD	DATE
G 2051 834-6	826573	01/01/2021 TO 01/01/2022	12/08/2020

THIS IS TO CERTIFY THAT THE POLICYHOLDER NAMED ABOVE IS INSURED WITH THE NEW YORK STATE INSURANCE FUND UNDER POLICY NO. 2051 834-6, COVERING THE ENTIRE OBLIGATION OF THIS POLICYHOLDER FOR WORKERS' COMPENSATION UNDER THE NEW YORK WORKERS' COMPENSATION LAW WITH RESPECT TO ALL OPERATIONS IN THE STATE OF NEW YORK, EXCEPT AS INDICATED BELOW.

IF YOU WISH TO RECEIVE NOTIFICATIONS REGARDING SAID POLICY, INCLUDING ANY NOTIFICATION OF CANCELLATIONS, OR TO VALIDATE THIS CERTIFICATE, VISIT OUR WEBSITE AT HTTPS://WWW.NYSIF.COM/CERT/CERTVAL.ASP. THE NEW YORK STATE INSURANCE FUND IS NOT LIABLE IN THE EVENT OF FAILURE TO GIVE SUCH NOTIFICATIONS.

THIS CERTIFICATE DOES NOT APPLY TO THOSE JOB SITES WHICH ARE COVERED BY OTHER INSURANCE AND ARE SPECIFICALLY EXCLUDED BY ENDORSEMENT.

THE POLICY INCLUDES A WAIVER OF SUBROGATION ENDORSEMENT UNDER WHICH NYSIF AGREES TO WAIVE ITS RIGHT OF SUBROGATION TO BRING AN ACTION AGAINST THE CERTIFICATE HOLDER TO RECOVER AMOUNTS WE PAID IN WORKERS' COMPENSATION AND/OR MEDICAL BENEFITS TO OR ON BEHALF OF AN EMPLOYEE OF OUR INSURED IN THE EVENT THAT, PRIOR TO THE DATE OF THE ACCIDENT, THE CERTIFICATE HOLDER HAS ENTERED INTO A WRITTEN CONTRACT WITH OUR INSURED THAT REQUIRES THAT SUCH RIGHT OF SUBROGATION BE WAIVED.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS NOR INSURANCE COVERAGE UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICY.

NEW YORK STATE INSURANCE FUND

DIRECTOR, INSURANCE FUND UNDERWRITING

VALIDATION NUMBER: 246710891

0000000000000088451548

Attachment: Fairway Flooring Clearfield final (RES-2021-616 : Clearfield Flooring CRS#2625)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 23471 **RESOLUTION 2021-617** **ADOPTED**

Contract Extension - S&S Worldwide, Inc. CRS #2736

Authorize the Supervisor to sign a piggyback contract extension between the Town of Amherst and S&S Worldwide for the purchase of arts and craft supplies (original contract CRS #85).

7/12/2021
Consent

FINANCIAL IMPACT:

Town-wide, various accounts, amount TBD

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a provision was added to the State Finance Law (SFL), Section 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will develop a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). This list is posted on the OGS website.

By submitting a response to this solicitation, or by assuming the responsibility under a Contract/Lease awarded hereunder, Bidder/Contractor/Vendor (or any assignee) certifies that it will not utilize on such Contract/Lease any subcontractor that is identified on the prohibited entities list.

Additionally, Bidder/Contractor/Vendor is advised that any Bidder/ Contractor/Vendor seeking to renew or extend a Contract/Lease (or assume responsibility of a Contract/Lease awarded must certify at the time the Contract/Lease is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract/Lease, should the Town of Amherst (Town) receive information that a person is in violation of the above-referenced certification, the Town will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the Town shall take such action as appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor/Vendor in default.

The Town reserves the right to reject any Contract/Lease or request for assignment for an entity that appears on the prohibited entities list prior to the award of a Contract/Lease, and to pursue a responsibility review with respect to any entity that is awarded a Contract/Lease and appears on the prohibited entities list after Contract/Lease award.

Company Name: STS Worldwide, Inc

Signature: Carol Mares

Print Name: Carol Mares

Title: Bid Analyst

Date: 6/30/2021

Sworn To Before Me This

30th Day of June, 2021

Theresa Mohrlein

Notary Public

THERESA MOHRLEIN
NOTARY PUBLIC
MY COMMISSION EXPIRES MAR. 31, 2024

Revised 4.2017

Attachment: S&S Amherst agreement extension (RES-2021-617 : Contract Extension - S&S Worldwide, Inc. CRS#2736)

TOWN OF AMHERST
ERIE COUNTY, NEW YORK

5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221
PHONE: 716-631-7013
FAX 716-631-7036
www.amherst.ny.us

BRIAN J. KULPA
Supervisor
716-631-7032

JACQUALINE G. BERGER
Deputy Supervisor/ Councilmember

Councilmembers:
DEBORAH BRUCH BUCKI RN, PhD
SHAWN A. LAVIN
MICHAEL SZUKALA

CONTRACT EXTENSION

Let this document stand as an agreement between S & S Worldwide and the Town of Amherst to extend the current contract with the Town of Amherst, permitting the Town to participate in the purchase of School & Art Supplies from S & S Worldwide under the New York State public contract Award # 23006, group # 23100.

This contract will be extended for a two-year period from June 8, 2021 to June 8, 2023.

Signed:

Carol Mares

Carol Mares, Bid Analyst
S & S Worldwide

6/30/2021
Date

Brian J. Kulpa, Supervisor
Town of Amherst

Date

Attachment: S&S Amherst agreement extension (RES-2021-617 : Contract Extension - S&S Worldwide, Inc. CRS#2736)

Addendum to Contract VENDOR NOT ON SITE

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Vendors or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Vendor shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Vendor its officers, agents, sub-Vendors, and/or employees as well as the negligence, active or passive, of the Vendor, its officers, agents, sub-Vendors, and/or employees.

4. No Assignment: In accordance with the provisions of Section 109 of the General Municipal Law, the Vendor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

5. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Vendor shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

Attachment: S&S Amherst agreement extension (RES-2021-617 : Contract Extension - S&S Worldwide, Inc. CRS#2736)

6. The Vendor, in accordance with its status as an independent Vendor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

7. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules, regulations or ordinances for any state other than New York State, to the laws, statutes, rules, regulations or ordinances for any county other than Erie County, New York or to the laws, statutes, rules, regulations or ordinances for any municipality other than the Town of Amherst, then the laws, statutes, rules, regulations or ordinances for New York State, Erie county and/or the Town of Amherst shall apply as applicable. Any and all legal action necessary to enforce the Agreement will be venued in Supreme Court, Erie County, New York or in the United States District Court for the Western District of New York, Buffalo Division.

8. It is hereby acknowledged that performance of this Contract will be undertaken in accordance with the specifications and pricing on which the bid was submitted.

This instrument shall be executed in triplicate. At least one (1) copy shall be permanently filed, after execution thereof, in the office of the Town Clerk of Town.

Agreed to and Accepted by:

STS Worldwide, Inc
Print Name of Company

By: Carol Mares
Signature

Carol Mares
Printed name

Date: 6/30/2021

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Revised 12.30.19 SJS

Attachment: S&S Amherst agreement extension (RES-2021-617 : Contract Extension - S&S Worldwide, Inc. CRS#2736)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 23472 **RESOLUTION 2021-618** **ADOPTED**

Sourcewell Piggyback Contract CRS #2682

Authorize the Supervisor to sign a piggyback contract between the Town of Amherst and Musco Sport Lighting, LLC for the purchase of sports lighting with related supplies and services, pending receipt of updated Workers' Comp insurance and successful completion of the contract routing process.

7/12/2021
Consent

FINANCIAL IMPACT:

Townwide, various accounts, amount TBD

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

AGREEMENT

Let this document stand as an agreement between Musco Sports Lighting, LLC. and the Town of Amherst, permitting the Town of Amherst to participate in the purchase of sports lighting with related supplies and services under Sourcewell cooperative purchasing contract #071619-MSL. The term of this contract will be from the date of execution by the Town of Amherst through August 27, 2023.

During the term of this agreement, Musco Sports Lighting, LLC agrees to invoice the Town of Amherst for all parts, materials and labor at the rates specified in the Sourcewell contract or at further discounted rates when such rates are part of a special being offered on certain parts or a special service package offered to Musco Sports Lighting, LLC customers. It further being agreed that the prices set forth on Musco Sports Lighting, LLC invoices shall be the price charged and that no further attempts will be made to change or seek payment at a different price.

Agreed to and Accepted by:

MUSCO SPORTS LIGHTING, LLC

By: _____
Signature

James M. Hansen
Printed Name

Secretary
Title

Date: 5/25/2021

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: Musco Sport Lighting - Sourcewell Piggyback (RES-2021-618 : Sourcewell Piggyback Contract CRS #2682)

Addendum to Contract Major Exposure

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Contractors or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Contractor shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Contractor its officers, agents, subcontractors, and/or employees as well as the negligence, active or passive, of the Contractor, its officers, agents, subcontractors, and/or employees.

4. Contractor shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Contractor shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Contractor shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate. Umbrella coverage shall be in an amount of at least $5,000,000.00.

(c) Contractor shall furnish the above insurances, including subcontractors' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Contractor shall ensure all its subcontractors, if any, have obtained all the above insurances and shall also assure that any policy procured by any subcontractor or sub-subcontractor shall name the Town as an additional insured on a primary and non-contributory basis.

Attachment: Musco Sport Lighting - Sourcewell Piggyback (RES-2021-618 : Sourcewell Piggyback Contract CRS #2682)

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

6. No Assignment: In accordance with the provisions of section 109 of the General Municipal Law, the Contractor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Contractor shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Contractor, in accordance with its status as an independent Contractor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

Attachment: Musco Sport Lighting - Sourcewell Piggyback (RES-2021-618 : Sourcewell Piggyback Contract CRS #2682)

9. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules, regulations or ordinances for any state other than New York State, to the laws, statutes, rules, regulations or ordinances for any county other than Erie County, New York or to the laws, statutes, rules, regulations or ordinances for any municipality other than the Town of Amherst, then the laws, statutes, rules, regulations or ordinances for New York State, Erie county and/or the Town of Amherst shall apply as applicable. Any and all legal action necessary to enforce the Agreement will be venued in Supreme Court, Erie County, New York or in the United States District Court for the Western District of New York, Buffalo Division.

10. It is hereby acknowledged that performance of this Contract will be undertaken in accordance with the specifications and pricing on which the bid was submitted.

Authority for execution on behalf of Town: The Supervisor has executed this Agreement pursuant to a Resolution adopted by the Town Board of the Town, at a meeting thereof held on _____. Brian J. Kulpa, the Supervisor whose signature appears hereafter, is duly authorized and empowered to execute this instrument and enter into such an Agreement on behalf of the Town as a result of that Resolution. This instrument shall be executed in triplicate. At least one (1) copy shall be permanently filed, after execution thereof, in the office of the Town Clerk of Town.

Agreed to and Accepted by:

Musco Sports Lighting, LLC
Print Name of Company

By: _____
Signature

James M. Hansen
Printed name

Date: 5/25/2021

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: Musco Sport Lighting - Sourcewell Piggyback (RES-2021-618 : Sourcewell Piggyback Contract CRS #2682)

IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a provision was added to the State Finance Law (SFL), Section 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will develop a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). This list is posted on the OGS website.

By submitting a response to this solicitation, or by assuming the responsibility under a Contract/Lease awarded hereunder, Bidder/Contractor/Vendor (or any assignee) certifies that it will not utilize on such Contract/Lease any subcontractor that is identified on the prohibited entities list.

Additionally, Bidder/Contractor/Vendor is advised that any Bidder/ Contractor/Vendor seeking to renew or extend a Contract/Lease (or assume responsibility of a Contract/Lease awarded must certify at the time the Contract/Lease is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract/Lease, should the Town of Amherst (Town) receive information that a person is in violation of the above-referenced certification, the Town will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the Town shall take such action as appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor/Vendor in default.

The Town reserves the right to reject any Contract/Lease or request for assignment for an entity that appears on the prohibited entities list prior to the award of a Contract/Lease, and to pursue a responsibility review with respect to any entity that is awarded a Contract/Lease and appears on the prohibited entities list after Contract/Lease award.

Company Name: Musco Sports Lighting, LLC

Signature: [signature]

Print Name: James M. Hansen

Title: Secretary

Date: 5/25/2021

MELINDA K. WALTER
Notarial Seal - Iowa
Commission # 746584
My Commission Expires 4/24/22

Sworn To Before Me This
25 Day of May, 2021
Melinda K Walter
Notary Public

Revised 4.2017

Attachment: Musco Sport Lighting - Sourcewell Piggyback (RES-2021-618 : Sourcewell Piggyback Contract CRS #2682)

CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY) 06/25/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Aon Risk Services Central, Inc.
Omaha NE Office
17807 Burke Street
Suite 401
Omaha NE 68118 USA

CONTACT NAME:
PHONE (A/C. No. Ext): (402) 697-1400 **FAX (A/C. No.):** (402) 697-0017
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A:	Sentry Insurance Company	24988
INSURER B:	Sentry Casualty Company	28460
INSURER C:	Travelers Property Cas Co of America	25674
INSURER D:		
INSURER E:		
INSURER F:		

INSURED
Musco Sports Lighting, LLC
c/o Musco Corporation
100 1st Ave W
Oskaloosa IA 52577 USA

COVERAGES **CERTIFICATE NUMBER:** 570088076229 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. **Limits shown are as requested**

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE / X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY / X PRO-JECT / X LOC OTHER:			9016877004	07/01/2021	07/01/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$1,000,000 $300,000 $10,000 $1,000,000 $2,000,000 $2,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY			9016877-003	07/01/2021	07/01/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$1,000,000
C	X UMBRELLA LIAB / X OCCUR EXCESS LIAB / CLAIMS-MADE DED / X RETENTION $10,000			CUP3S63336021NF	07/01/2021	07/01/2022	EACH OCCURRENCE AGGREGATE	$10,000,000 $10,000,000
B B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N: N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		9016877001 AOS 9016877002 AZ, WI	07/01/2021 07/01/2021	07/01/2022 07/01/2022	X PER STATUTE / OTH-ER E.L. EACH ACCIDENT E.L. DISEASE-EA EMPLOYEE E.L. DISEASE-POLICY LIMIT	 $1,000,000 $1,000,000 $1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: Musco Project 208873 - North Amherst Recreation Center
Musco Project 208238 - Lou Gehrig Amherst Park Baseball Stadium
Musco Project 210155 - Mathewson McCarthy Baseball
Certificate Holder is included as Additional Insured in accordance with the policy provisions of the General Liability and Auto policy.
A Waiver of Subrogation is granted in favor of Certificate Holder in accordance with the policy provisions of the General Liability, Workers Comp and Auto policy.

CERTIFICATE HOLDER

Town of Amherst
5583 Main Street
Williamsville NY 14221 USA

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Attachment: Musco Sport Lighting - Sourcewell Piggyback (RES-2021-618 : Sourcewell Piggyback Contract CRS #2682)

AGENCY CUSTOMER ID: 570000042244
LOC #:

ADDITIONAL REMARKS SCHEDULE

AGENCY	NAMED INSURED
Aon Risk Services Central, Inc.	Musco Sports Lighting, LLC
POLICY NUMBER	
See Certificate Number: 570088076229	
CARRIER / NAIC CODE	EFFECTIVE DATE:
See Certificate Number: 570088076229	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: ACORD 25 **FORM TITLE:** Certificate of Liability Insurance

Additional Description of Operations / Locations / Vehicles:

General Liability and Auto evidenced herein is Primary and Non-Contributory to other insurance available to an Additional Insured, but only in accordance with the policy's provisions.
Should any of the above described policies be cancelled before the expiration date thereof, the policy provisions will govern how notice of cancellation may be delivered to certificate holders in accordance with the policy provisions of each policy.

ACORD 101 (2008/01)
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Attachment: Musco Sport Lighting - Sourcewell Piggyback (RES-2021-618 : Sourcewell Piggyback Contract CRS #2682)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF INSURANCE COVERAGE
DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW

PART 1. To be completed by Disability and Paid Family Leave Benefits Carrier or Licensed Insurance Agent of that Carrier

1a. Legal Name & Address of Insured (use street address only) Musco Sports Lighting, LLC 100 1st Avenue West Oskaloosa, Iowa 52577 Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., Wrap-Up Policy)*	1b. Business Telephone Number of Insured 1c. Federal Employer Identification Number of Insured or Social Security Number 42-1511754
2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) Town of Amherst 5583 Main Street Williamsville, New York 14221	3a. Name of Insurance Carrier **CIGNA LIFE INSURANCE COMPANY OF NEW YORK** 3b. Policy Number of Entity Listed in Box "1a" NYD068413 3c. Policy effective period 01/01/2021 to 01/01/2022

4. Policy provides the following benefits:
- ☒ A. Both disability and paid family leave benefits.
- ☐ B. Disability benefits only.
- ☐ C. Paid family leave benefits only.

5. Policy covers:
- ☒ A. All of the employer's employees eligible under the NYS Disability and Paid Family Leave Benefits Law.
- ☐ B. Only the following class or classes of employer's employees:

_____

_____

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has NYS Disability and/or Paid Family Leave Benefits insurance coverage as described above.

Marcelina E. Reilly

Date Signed June 8, 2021 By _____
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number 1-866-761-4236 Name and Title Underwriting Director

IMPORTANT: If Boxes 4A and 5A are checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of that carrier, this certificate is COMPLETE. Mail it directly to the certificate holder.

If Box 4B, 4C or 5B is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the NYS Disability and Paid Family Leave Benefits Law. It must be mailed for completion to the Workers' Compensation Board, Plans Acceptance Unit, PO Box 5200, Binghamton, NY 13902-5200.

PART 2. To be completed by the NYS Workers' Compensation Board (Only if Box 4C or 5B of Part 1 has been checked)

State of New York
Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability and Paid Family Leave Benefits Law with respect to all of his/her employees.

Date Signed _____ By _____
(Signature of Authorized NYS Workers' Compensation Board Employee)

Telephone Number _____ Name and Title _____

Please Note: Only insurance carriers licensed to write NYS disability and paid family leave benefits insurance policies and NYS licensed insurance agents of those insurance carriers are authorized to issue Form DB-120.1. ***Insurance brokers are NOT authorized to issue this form.***

DB-120.1 (10-17)

Attachment: Musco Sport Lighting - Sourcewell Piggyback (RES-2021-618 : Sourcewell Piggyback Contract CRS #2682)

Additional Instructions for Form DB-120.1

By signing this form, the insurance carrier identified in Box 3 on this form is certifying that it is insuring the business referenced in box "1a" for disability and/or paid family leave benefits under the New York State Disability and Paid Family Leave Benefits Law. The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed as the certificate holder in Box 2.

The insurance carrier must notify the above certificate holder and the Workers' Compensation Board within 10 days IF a policy is cancelled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from coverage indicated on this Certificate. (These notices may be sent by regular mail.) Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in Box 3c, whichever is earlier.

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This certificate may be used as evidence of a Disability and/or Paid Family Leave Benefits contract of insurance only while the underlying policy is in effect.

Please Note: Upon the cancellation of the disability and/or paid family leave benefits policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of NYS Disability and/or Paid Family Leave Benefits Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Disability and Paid Family Leave Benefits Law.

DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW

§220. Subd. 8

(a) The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in employment as defined in this article, and not withstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that the payment of disability benefits and after January first, two thousand and twenty-one, the payment of family leave benefits for all employees has been secured as provided by this article. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any disability benefits to any such employee if so employed.

(b) The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in employment as defined in this article and notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that the payment of disability benefits and after January first, two thousand eighteen, the payment of family leave benefits for all employees has been secured as provided by this article.

Attachment: Musco Sport Lighting - Sourcewell Piggyback (RES-2021-618 : Sourcewell Piggyback Contract CRS #2682)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (use street address only) Musco Sports Lighting, LLC C/O Musco Corporation 100 1st Ave. W Oskaloosa, IA 52577 Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)*	1b. Business Telephone Number of Insured 800-825-6030 1c. NYS Unemployment Insurance Employer Registration Number of Insured 1d. Federal Employer Identification Number of Insured or Social Security Number 42-1511754
2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) Town of Amherst 5583 Main St. Williamsville, NY 14221 Musco Project 208873 – North Amherst Recreation Center Musco Project 208238 – Lou Gehrig Amherst Park Baseball Stadium Musco Project 210155 – Mathewson McCarthy Baseball	3a. Name of Insurance Carrier Sentry Casualty Company 3b. Policy Number of Entity Listed in Box "1a" 90-16877-01 3c. Policy effective period 7/1/2020 to 7/1/2021 3d. The Proprietor, Partners or Executive Officers are [X] included. (Only check box if all partners/officers included) [ ] all excluded or certain partners/officers excluded.

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. **(To use this form, New York (NY) must be listed under Item 3A on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

The insurance carrier must notify the above certificate holder and the Workers' Compensation Board within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than non payment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) **Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichever is earlier.**

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This certificate may be used as evidence of a Workers' Compensation contract of insurance only while the underlying policy is in effect.

Please Note: Upon cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: BRIAN JORGENSON
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: Brian Jorgenson 6/1/2021
(Signature) (Date)

Title: DIRECTOR OF NATIONAL ACCOUNTS UNDERWRITING

Telephone Number of authorized representative or licensed agent of insurance carrier: 715-346-8502

Please Note: Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are NOT authorized to issue it.

C-105.2 (9-17)

www.wcb.ny.gov

Attachment: Musco Sport Lighting - Sourcewell Piggyback (RES-2021-618 : Sourcewell Piggyback Contract CRS #2682)

Workers' Compensation Law

Section 57. Restriction on issue of permits and the entering into contracts unless compensation is secured.

1. The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, and notwithstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any compensation to any such employee if so employed.

2. The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter.

Attachment: Musco Sport Lighting - Sourcewell Piggyback (RES-2021-618 : Sourcewell Piggyback Contract CRS #2682)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 23484 **RESOLUTION 2021-619** **ADOPTED**

Summer Concert - CRS #2744

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and BMCE, Inc. for performance of a summer concert at Bassett Park, pending successful completion of the contract routing process.

7/12/2021
Consent

FINANCIAL IMPACT:

A 7142.4150 - $1,200.00

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

TOWN OF AMHERST
YOUTH & RECREATION DEPARTMENT
ERIE COUNTY, NEW YORK

Northtown Center at Amherst
1615 Amherst Manor Drive
Williamsville, NY 14221
(716) 631-7132
Fax (716) 626-9087
www.amherst.ny.us

BRIAN J. KULPA
Supervisor

JACQUALINE G. BERGER
Deputy Supervisor

MARY-DIANA POULI, Executive Director

MARK FORDEN
Chairperson, Youth Board

TIMOTHY GARDNER
Chairperson, Rec Commission

2 July 2021

Robert Militello
Bobby Militello Quartet
99 Coniston
Amherst, NY 14226

Dear Robert Militello, Bobby Militello Quartet,

This is your agreement for your 2021 performance as an independent contractor. Please provide a name and cell phone # so that our sound technician can contact you closer to your date of performance:_____.
In the event of rain, the performer/group has to supply its own sound system.

BMCE, Inc. agrees to indemnify and hold the Town of Amherst harmless for any charges, damages, or liability resulting directly or indirectly from the negligence or culpable conduct of the performers, its agents, and/or employees and to release the Town of Amherst and its employees, agents, districts, commissions, and boards from liability arising from the performance of this agreement.

AGREEMENT

Date:	Wednesday, July 7, 2021
Time:	7:00 – 9:00 p.m.
Location:	Bassett Park Amphitheater with rain site of Clearfield Community Center
Fee:	$1,200.00 (Check payable to BMCE, Inc.)
Breaks:	One (1) ten minute break

Attachment: BMCE (RES-2021-619 : Summer Concert - CRS #2744)

Name of Entity:
Identify Type of Business Entity:
(e.g. Individuals, D/B/A/, Corporation, Partnership, Association, Club, etc.)

Agreed to and approved:

*_____ _____
Name Date

_____
Title

*If entity is listed as "individual(s)," individual(s) should sign. If Corporation, Partnership, Association, or Club, officer, business agent, or other person duly authorized to sign similar agreements should sign.

Additional signatures if entity is composed of individuals:

_____

_____

_____

_____

Town of Amherst:

_____ _____
Brian J. Kulpa, Supervisor Date

Attachment: BMCE (RES-2021-619 : Summer Concert - CRS #2744)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 23485 **RESOLUTION 2021-620** **ADOPTED**

Sports Equipment Piggyback (BSN) - CRS #2710

Authorize the Supervisor to sign a piggyback contract between the Town of Amherst and BSN Sports LLC for the purchase of athletic and physical education supplies and team uniforms.

7/12/2021
Consent

FINANCIAL IMPACT:

Townwide, various accounts, amount TBD

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

AGREEMENT

Let this document stand as an agreement between BSN Sports LLC and the Town of Amherst, permitting the Town of Amherst to participate in the purchase of athletic and physical education supplies and team uniforms under OMNIA Partners cooperative purchasing contract #R201101. The term of this contract will be from the date of execution by the Town of Amherst through September 30, 2025.

During the term of this agreement, BSN Sports LLC agrees to invoice the Town of Amherst for all equipment, supplies and related accessories at the rates specified in the OMNIA Partners contract or at further discounted rates when such rates are part of a special being offered on certain items offered to BSN Sports LLC customers. It further being agreed that the prices set forth on BSN Sports LLC invoices shall be the price charged and that no further attempts will be made to change or seek payment at a different price.

Agreed to and Accepted by:

BSN SPORTS LLC

By: William Rusnak
Signature

William Rusnak
Printed Name

Senior Bid Specialist
Title

Date: 5/30/2021

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: BSN Sports LLC (RES-2021-620 : Sports Equipment Piggyback (BSN) - CRS #2710)

IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a provision was added to the State Finance Law (SFL), Section 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will develop a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). This list is posted on the OGS website.

By submitting a response to this solicitation, or by assuming the responsibility under a Contract/Lease awarded hereunder, Bidder/Contractor/Vendor (or any assignee) certifies that it will not utilize on such Contract/Lease any subcontractor that is identified on the prohibited entities list.

Additionally, Bidder/Contractor/Vendor is advised that any Bidder/ Contractor/Vendor seeking to renew or extend a Contract/Lease (or assume responsibility of a Contract/Lease awarded must certify at the time the Contract/Lease is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract/Lease, should the Town of Amherst (Town) receive information that a person is in violation of the above-referenced certification, the Town will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the Town shall take such action as appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor/Vendor in default.

The Town reserves the right to reject any Contract/Lease or request for assignment for an entity that appears on the prohibited entities list prior to the award of a Contract/Lease, and to pursue a responsibility review with respect to any entity that is awarded a Contract/Lease and appears on the prohibited entities list after Contract/Lease award.

Company Name: BSN Sports, LLC

Signature: William Rusnak

Print Name: William Rusnak

Title: Senior Bid Specialist

Date: 5/25/2021

COMMONWEALTH OF PENNSYLVANIA - NOTARY SEAL
Ryan Smyth, Notary Public
Delaware County
My Commission Expires 12/08/2024
Commission Number 1387290

Sworn To Before Me This

25 Day of May, 2021

Ryan

Notary Public

Revised 4.2017

Attachment: BSN Sports LLC (RES-2021-620 : Sports Equipment Piggyback (BSN) - CRS #2710)

Addendum to Contract VENDOR NOT ON SITE

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Vendors or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Vendor shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Vendor its officers, agents, sub-Vendors, and/or employees as well as the negligence, active or passive, of the Vendor, its officers, agents, sub-Vendors, and/or employees.

4. No Assignment: In accordance with the provisions of Section 109 of the General Municipal Law, the Vendor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

5. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Vendor shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

Attachment: BSN Sports LLC (RES-2021-620 : Sports Equipment Piggyback (BSN) - CRS #2710)

6. The Vendor, in accordance with its status as an independent Vendor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

7. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules, regulations or ordinances for any state other than New York State, to the laws, statutes, rules, regulations or ordinances for any county other than Erie County, New York or to the laws, statutes, rules, regulations or ordinances for any municipality other than the Town of Amherst, then the laws, statutes, rules, regulations or ordinances for New York State, Erie county and/or the Town of Amherst shall apply as applicable. Any and all legal action necessary to enforce the Agreement will be venued in Supreme Court, Erie County, New York or in the United States District Court for the Western District of New York, Buffalo Division.

8. It is hereby acknowledged that performance of this Contract will be undertaken in accordance with the specifications and pricing on which the bid was submitted.

This instrument shall be executed in triplicate. At least one (1) copy shall be permanently filed, after execution thereof, in the office of the Town Clerk of Town.

Agreed to and Accepted by:

BSN Sports, LLC
Print Name of Company

By: William Rusnak
Signature

William Rusnak
Printed name

Date: 5/30/2021

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Revised 12.30.19 SJS

Attachment: BSN Sports LLC (RES-2021-620 : Sports Equipment Piggyback (BSN) - CRS #2710)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 23486 **RESOLUTION 2021-621** **ADOPTED**

Summer Concert (American Legion Band) - CRS #2725

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and the American Legion Band of the Tonawandas for a concert at Bassett Park.

7/12/2021
Consent

FINANCIAL IMPACT:

A 7142.4150 - $900.00

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

TOWN OF AMHERST
YOUTH & RECREATION DEPARTMENT
ERIE COUNTY, NEW YORK

Northtown Center at Amherst
1615 Amherst Manor Drive
Williamsville, NY 14221
(716) 631-7132
Fax (716) 626-9087
www.amherst.ny.us

BRIAN J. KULPA
Supervisor

JACQUALINE G. BERGER
Deputy Supervisor - Liaison

MARY-DIANA POULI, Executive Director

MARK FORDEN
Chairperson, Youth Board

TIMOTHY GARDNER
Chairperson, Rec Commission

7 June 2021

David Abrahamian
American Legion Band of the Tonawandas
241 Sunrise Boulevard
Williamsville, NY 14221

Dear David Abrahamian, American Legion Band of the Tonawandas,

This is your agreement for your 2021 performance as an independent contractor. Please provide a name and cell phone # so that our sound technician can contact you closer to your date of performance: David Abrahamian, President 716-471-7313 M.

American Legion Band of the Tonawandas agrees to indemnify and hold the Town of Amherst harmless for any charges, damages, or liability resulting directly or indirectly from the negligence or culpable conduct of the performers, its agents, and/or employees and to release the Town of Amherst and its employees, agents, districts, commissions, and boards from liability arising from the performance of this agreement.

AGREEMENT

Date:	Wednesday, July 28, 2021
Time:	7:00-9:00 p.m.
Location:	Bassett Park Amphitheater with rain site of Clearfield Community Center
Fee:	$900.00 (check payable to American Legion Band of the Tonawandas)
Breaks:	One (1) ten minute break

Attachment: American Legion Band of the Tonawandas (RES-2021-621 : Summer Concert (American Legion Band) - CRS #2725)

Name of Entity:
Identify Type of Business Entity:
(e.g. Individuals, D/B/A, Corporation, Partnership, Association, Club, etc.)

Agreed to and approved:

* David Abrahamian
Name

6/11/2021
Date

President
Title

*If entity is listed as "individual(s)," individual(s) should sign. If Corporation, Partnership, Association, or Club, officer, business agent, or other person duly authorized to sign similar agreements should sign.

Additional signatures if entity is composed of individuals:

_____

_____

_____

_____

Town of Amherst:

_____
Brian J. Kulpa, Supervisor

_____
Date

Attachment: American Legion Band of the Tonawandas (RES-2021-621 : Summer Concert (American Legion Band) - CRS #2725)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 22672 **RESOLUTION 2021-78** **TABLED (NO VOTE)**

Local Law Amending Chapter 19, Ethics

A public hearing for "A Local Law Amending Chapter 19 of The Code Of The Town of Amherst With Respect To The Code of Ethics".

The purpose of this Local Law shall be to amend various section of Chapter 19 of the Code of the Town of Amherst with respect to the list of officials, notice and verification of filing.

1/19/2021
A motion to adjourn to April 19th was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

4/19/2021
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was opened at 7:08 PM.

There were no speakers from the public. Supervisor Kulpa moved to Table the public hearing, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was Tabled at 7:09 PM.

FINANCIAL IMPACT:

None for the purposes of this resolution.

RESULT:	**TABLED (NO VOTE)**	**Next: 7/26/2021 3:00 PM**

LOCAL LAW NO.___ -2021

TOWN OF AMHERST

COUNTY OF ERIE, STATE OF NEW YORK

A Local Law Amending Chapter 19 of the Code of the Town of Amherst With Respect to the Code of Ethics

Be it enacted by the Town Board of the Town of Amherst as follows:

Section 1. Title.

This Local Law shall be referred to as, "A Local Law Amending Chapter 19 of The Code of The Town of Amherst With Respect To The Code of Ethics."

Section 2. Purpose

The purpose of this Local Law shall be to amend various sections of Chapter 19 of the Code of the Town of Amherst with respect to the list of officials, notice and verification of filing.

Section 3.

Chapter 19 of the Code of the Town of Amherst is amended as follows:

§ 19-1. Title.
This chapter may be cited as the "The Code of Ethics."

§ 19-2. Statutory authority; ~~intent.~~
The Code of Ethics is enacted pursuant to Article 18 of the General Municipal Law and in recognition of the policy of the State of New York and the Town of Amherst to maintain the highest standards of integrity in public service.

§ 19-3. Intent.
A. The Code of Ethics is intended to afford Town officers and employees guidance in conforming to ethical standards; to promote public confidence in the integrity of Town government; to require public disclosure of financial interests that may influence, or be perceived as influencing, actions of Town officers and employees; to minimize unwarranted suspicion; and, to provide for fair and effective administration of this Code. This Code of Ethics shall be in addition to all of the restrictions, standards and provisions pertaining to the conduct of Town officers and employees.

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

B. This Code of Ethics is further enacted to:

1. Establish high standards of ethical conduct for Town officers and employees.

2. Afford Town officers and employees clear guidance in conforming to such standards.

3. Promote public confidence in the integrity of Town government.

4. Require public disclosure of financial interests that may influence, or be perceived as influencing, actions of Town officers and employees.

5. Facilitate consideration of potential ethical problems before they arise.

6. Minimize unwarranted suspicion.

7. Enhance accountability of government to the people it serves.

8. Provide for fair and effective administration of this Code.

§ 19-~~3~~4. Definitions.
As used in the Code of Ethics, the following terms shall have the meanings indicated:

AGENCY
Any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau or committee of the Town of Amherst; and shall include but not be limited to the Town Board, ~~Zoning Board of Appeals, Planning Board, Traffic Safety Board, Recreation Commission, Library Board of Trustees, Board of Ethics, Government Study Committee, Youth Board, Board of Assessment Review, Senior Citizens Advisory Board, Amherst Industrial Development Agency, 9/11 Commemoration Commission, Amherst Committee on Disabilities, Amherst Community Diversity Council, Amherst Veterans Committee, Arts and Culture in Public Places Board, Board of Electrician Examiners, Board of Plumbing and Drainage Examiners, Citizens' Financial Advisory Committee, Employee Suggestion Review Committee, Energy Conservation Committee, FOIL Board, Glen Park Joint Board, Historic Preservation Commission, Information Technology Advisory Committee, Minority/Woman Owned Business in Amherst, Open Government Advisory Board, Recycling and Waste Committee~~ Amherst Committee on Disabilities, Amherst Community Diversity Council, Amherst Industrial Development Agency, Amherst Veterans Committee, Arts and Culture in Public Places Board, Board of Assessment Review, Board of Electrician Examiners, Board of Ethics, Board of Plumbing and Drainage Examiners, Citizens' Financial Advisor Committee, Design Advisory Board, Employee Suggestion Review Committee, Energy Conservation Committee, FOIL Board, Glen Park Joint Board,

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

Government Study Committee, Historic Preservation Commission, Information Technology Advisory Committee, Library Board of Trustees, Minority/Woman Owned Business, 911 Commemoration Commission, Open Government Advisory Board, Planning Board, Recreation Commission, Recycling and Waste Committee, Senior Citizens Advisory Board, Traffic Safety Board, Youth Board and Zoning Board of Appeals in Amherst, or an improvement district as provided by Article 12 of the Town Law.

APPEAR and APPEAR BEFORE
Communicating in whatever form, whether personally or through another person.

BUSINESS DEALING
Having or providing any contract, service or work with a municipality; buying, selling, renting, leasing or otherwise acquiring from or dispensing to a municipality any goods, services or property; or applying for, petitioning, requesting or obtaining any approval, grant, loan, license, permit or other privilege from the municipality.

CONFLICT OF INTEREST
A situation in which a person has a duty to more than one person or entity but could not do justice in the actual performance adverse to the interest of both parties. This also includes the situation in which the concerns or aims of two different parties or organizations are incompatible or a situation in which a person is in a position to derive personal benefits from actions or decisions made in their official capacity.

DISCRETIONARY ACT
Any action involving the exercise of judgment or discretion by a municipal officer or employee, either individually or as a member of any agency, and includes but is not limited to negotiation, approval, advice, recommendation, authorization or audit.

FAMILY MEMBER
A spouse, child, stepchild, brother, sister, parent, half-child, brother/sister-in-law, parent-in-law or dependent of a municipal officer or employee.

GIFT OR FINANCIAL BENEFIT
Money, service, loan, travel, entertainment, hospitality or any financial transaction on terms not available to the general public but shall not include normal hospitality or promotional materials if such hospitality or materials do not exceed One Hundred Dollars ($100.00) in value and are not received in circumstances in which it might reasonably be inferred that they were given with intention to influence or reward them in relation to the performance of their duties.

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

GOVERNING BODY
The Town Board of the Town of Amherst.

MINISTERIAL ACT
An action performed in a prescribed manner without the exercise of judgment or discretion as to the propriety of the act.

PAID TOWN OFFICER, EMPLOYEE OR OFFICIAL
Any Town officer, employee or official who receives a salary from the Town or who is compensated by the Town on a per-diem or hourly basis, but does not include a Town officer, employee or official who is solely reimbursed by the Town for expenses incurred in the course of his or her duties.

PARTICULAR MATTER
Any business dealing with the Town or any application therefor or any case, proceeding, determination, investigation, charge, accusation or arrest or any other matter involving a discretionary act of a Town officer or employee, but does not include the proposal, consideration or enactment of local laws, ordinances or regulations of general application.

PERSON
An individual, corporation, partnership, unincorporated association, LLC, LLP and all other legal entities.

POLITICAL PARTY
Any political party which appears on the ballot in the last biennial Town election.

RELATED PARTY
A spouse, child, parent, brother or sister of the Town officer or employee and a party with whom the Town officer or employee or his/her spouse, child, parent, brother or sister has or intends to enter into an employment, professional, business or financial relationship.

SPOUSE
A husband or wife from whom the Town officer or employee is not legally separated.

TOWN
The Town of Amherst, and includes all agencies thereof and officers, employees and officials thereof.

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

TOWN CLERK
The Clerk of the Town of Amherst.

TOWN OFFICER OR EMPLOYEE
Any officer, ~~or~~ employee, or intern of the Town of Amherst, whether paid or unpaid, including public officials and all other members of any agency in the Town of Amherst, but does not include the Town Justices, officers or employees of the Unified Court System. Volunteer firemen and civil defense volunteers shall not be deemed to be Town officers or employees.

TOWN OFFICIAL
Any Town officer, employee who has the authority, either alone or as a member of an agency/committee/board to perform discretionary acts on behalf of the Town with respect to any business dealing. "Town official" shall not include Town Justice and any Town officer or employee who performs only ministerial acts and duties.

§ 19-5. Applicability.

The requirements of this Code shall not replace but shall be in addition to all other legal requirements pertaining to the conduct of Town officers and employees. Every provision of this Code, except as expressly limited herein, shall apply to every officer and employee of the Town, whether paid or unpaid. It shall also apply to members, directors, officers and employees of any not-for-profit corporation if a majority of such corporation's members or directors serve by reason of their Town positions or if a majority of such corporation's officers or directors are appointed by one or more Town officers or bodies, such as the Amherst Industrial Development Agency. Any such not-for-profit corporation shall be deemed to be a Town agency for the purpose of this Code. The members, directors, officers and employees of any such corporation shall be deemed to be Town officers or employees for the purposes of this Code. It shall also apply to any person who is a member of a Town board, agency, commission, council or body, whether paid or unpaid, as well as to personal service/consultant contractors of Town Development Agencies defined above. This Code shall not apply to officers or employees of the Town Court of the Town of Amherst, unless adopted by their respective governing bodies. The Board of Ethics shall have discretion to grant a temporary exception to the provisions of this Chapter for any officer, employee, person, board, commission or agency to which this Chapter applies.

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

§ 19-46. General regulations.

A. No Town official or employee shall:

(1) Act as attorney, agent, broker, employee, consultant or representative for any person in connection with any business dealing that person has with the Town.

(2) Directly or indirectly, solicit any gift, or accept or receive any gift or series of gifts, having an annual aggregate value of One Hundred Dollars ($100.00) or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him or her or could reasonably be expected to influence him in the performance of his official duties or was intended as a reward for any official action on his or her part. The foregoing limitation shall not apply to campaign contributions not otherwise prohibited by law.

(3) Take or refrain from taking any action or agree to take or refrain from taking any action or induce or attempt to induce any other Town officer or employee to take or refrain from taking any action on any matter before the Town in order to obtain a pecuniary or material benefit for:

(a) Himself or herself;

(b) A family member;

(c) Any partnership, LLP or unincorporated association of which the Town officer or employee or family member, is a member or employee or in which he or she has a proprietary interest;

(d) Any corporation, LLC of which the Town officer or employee, or family member is an officer or director or of which he or she legally or beneficially owns or controls more than five percent (5%) of the outstanding stock;

(e) Any person with whom the Town official, or his or her family member, has an employment, professional, business or financial relationship; or

(f) Any person from whom the Town officer or employee or his or her spouse has received within any twelve-month period during the previous twenty-four (24) months a pecuniary or material benefit having an aggregate value greater than One Thousand Dollars and Zero

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

Cents ($1,000.00), unless said individuals make up less than five percent (5%) of a class of individuals benefitted.

(4) Appear before the agency/committee/board served by or which employs such Town officer or employee except on behalf of the Town or on his or her own behalf.

(5) Appear before the Town except on behalf of the Town or on his or her own behalf. This subsection shall only apply to officers and employees who are elected or who are paid by the Town.

(6) Appear as attorney or counsel against the interests of the Town in any matter in which the Town is a party or a complainant.

(7) Solicit any nonelected officer or employee of the Town to participate in an election campaign. This subsection shall not prohibit an elected officer from soliciting such participation from officers and employees who are appointed by and directly subordinate to such elected officer and who serve in positions which are in the exempt classification or the unclassified service under the Civil Service Law.

(8) Directly or through a person, campaign committee or other organization authorized to act on his or her behalf solicit any nonelected officer or employee of the Town to pay or promise to pay any assessment, subscription or contribution to a political party, political party organization or election campaign. This subsection shall not prohibit a general solicitation of a class of persons.

(9) Directly or through a person or campaign committee or other organization authorized to act on his or her behalf, solicit participation in an election campaign or payment or promise of payment of any assessment, subscription or contribution to a political party, political party organization or election campaign from any person who, to the knowledge of the municipal officer or employee, has or, within the previous twelve (12) months, has had any business dealing with the municipality. This subsection shall not prohibit a general solicitation of a class of persons.

(10) Directly or through a person or campaign committee or other organization authorized to act on his or her behalf, utilize Town property, the Town Seal, the Town Logo or stationery where the header or footer states the person's employment as a Town of Amherst employee, to solicit participation in an election campaign or payment or promise of payment of any assessment, subscription or contribution to a political party, political party organization or election campaign.

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

(11) Except where such disclosure is authorized by law, disclose any confidential information acquired in the course of his or her official duties or use any such information to advance the financial or other private interest of himself or herself or any other person.

(12) After termination of his or her term of office or employment with the Town, appear before the Town or receive compensation for any services rendered on behalf of any person other than the Town in relation to any particular matter upon which he or she took any discretionary act during his or her term of office or employment with the Town.

B. No partnership, LLP, LLC or corporation or unincorporated association of which a Town official is a member or employee or in which he or she has a proprietary interest nor any corporation, LLC of which he or she is an officer or director or legally or beneficially owns or controls more than five percent (5%) of the outstanding stock shall appear before the agency served by such Town official on behalf of any person other than the Town or itself.

C. No partnership, LLP or unincorporated association of which a Town official who is elected or paid by the Town is a member or employee or in which he or she has a proprietary interest nor any corporation, LLC of which he or she is an officer or director or of which he or she legally or beneficially owns or controls more than five percent (5%) of the outstanding stock shall appear before the Town on behalf of any person other than the Town or itself.

D. Nothing in this section shall be construed to prohibit a Town officer or employee or any other person from receiving a municipal service or benefit or using a municipal facility which is generally available to residents or a class of residents in the Town.

E. Nothing in this section shall be construed to prohibit any Town officer or employee listed in §11 of the Domestic Relations Law from accepting any gift or benefit having a value of One Hundred Dollars ($100.00) or less for the solemnization of a marriage by that Town officer or employee at a place other than the Town officer's or employee's normal place of business or at a time other than the officer's or employee's normal hours of business and except as may be otherwise restricted by law.

F. Nothing in this section shall be construed to prohibit a Town officer or employee from performing any ministerial act.

G. A person who knowingly violates any provision of this section may, in addition to any penalty contained in any other provisions of law, be dismissed,

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

suspended or removed from office or employment in the manner provided by law.

§ 19-~~5~~7. Transactional disclosure and recusal; definitions.

A. Whenever a Town official is requested or required to take any action on a matter before the Town and, to his or her knowledge, either the performance or nonperformance of that action would provide a pecuniary or material benefit to himself or herself or to any related person different from that which would be derived from the action by reason of its general application to a broad class of persons deriving such benefit, the Town official shall not participate in that matter unless the official's recusal prohibits Town action, then said officer or employee shall participate after full disclosure and reference to the particular legislation otherwise prohibiting Town action. The Town officer or employee also shall file promptly with his or her immediate superior, if any, and with the Town Clerk a signed statement disclosing the nature and extent of that interest.

B. For purposes of this section, the following terms shall have the meanings indicated:

RELATED PERSON

(1) A family member.

(2) Any corporation of which the municipal officer or employee is an officer or director or of which he or she legally or beneficially owns or controls more than five percent (5%) of the outstanding stock.

(3) Any person with whom the municipal officer or employee or his or her family member has an employment, business or financial relationship.

(4) Any person from whom the municipal officer or employee or his or her spouse has received within any twelve (12) month period during the previous twenty-four (24) months a pecuniary or material benefit having an aggregate value greater than One Thousand Dollars and Zero Cents ($1,000.00).

C. Nothing in this section shall be construed to prohibit a Town officer or employee from performing any ministerial act or to require a Town officer or employee to file a disclosure statement pursuant to Subsection A of this section prior to performing any ministerial act. The award of a contract by an officer or employee pursuant to the public bidding requirements of §103 of the General Municipal Law shall be deemed a ministerial act.

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

§ 19-~~6~~8. Disclosure statement.

A. Long Form Disclosures: All elected Town officials, all department heads and all Town Officials who are elected, appointed, paid or unpaid, who are members of the ~~Zoning Board of Appeals, Planning Board, Youth Board, Traffic Safety Board, Government Study Committee, Recreation Commission, Board of Assessment Review Amherst Industrial Development Agency, Board of Ethics, Board of Electrician Examiners, Board of Plumbing and Drainage Examiners, Citizens' Financial Advisory Committee, Energy Conservation Committee, FOIL Board, Historic Preservation Commission and the Open Government Advisory Board~~ Amherst Industrial Development Agency, Board of Assessment Review, Board of Plumbing and Drainage Examiners, Board of Electrician Examiners, Board of Ethics, Citizens' Financial Advisory Committee, Design Advisory Board, Energy Conservation Committee, FOIL Board, Government Study Committee, Historic Preservation Commission, Open Government Advisory Board, Planning Board, Recreation Commission, Traffic Safety Board, Youth Board and Zoning Board of Appeals shall file with the Town Clerk, who for the purpose of this section shall also be deemed the Secretary of the Board of Ethics as hereinafter set forth, a signed, annual disclosure statement within thirty (30) days of taking office and no later than April 30 of each year thereafter. Within thirty (30) days of any change in the information contained in his or her most recently filed statement, the ~~public~~ Town official shall file a signed amendment to the statement indicating the change.

B. Information to be disclosed by all those Town officials defined in Section 19-6A shall be in the following form:

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

(1) Name:

Address:
Email Address:

If married, spouse's name:

(2) (a) Title of Town position:

(b) Department, agency or other governmental entity:

(3) Do you receive any benefits, compensation or other consideration that are derive directly or indirectly from your employment or association with the Town of Amherst other than your remuneration from the Town?

Yes _____ No _____

If YES, please describe the nature, source of and amount such benefits, compensation o other consideration.

Nature	**Source**	**Amount**

(4) List the address and SBL of all real property in which you, your spouse or other famil member of your household has an ownership or other financial interest.

Name of Owner	**Address**

(5) List the name and address of any partnership, unincorporated association, corporation business or employer of any sort of which you or your spouse is a member, officer o employee or from which you or your spouse derive income of any nature, giving you position and/or your spouse's position, if any, with such entity.

Self/Spouse	**Position**	**Organization and Address**

(6) List the name and address of any corporation, partnership, unincorporated associatio or business of which you or your spouse legally or beneficially owns or controls mor than 5% of the issued and outstanding stock or other ownership rights.

Self/Spouse	**Organization and Address**

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

(7) State any self-employment, and the general nature thereof, from which you or you spouse has derived gross income in excess of $2,000 during the previous calendar year.

Self/Spouse **General Nature**

(8) If you are unable, after reasonable effort, to obtain any of the information required herein so state and explain.

(9) List any position you held within the last 5 years as an officer of any political committee or political organization. The term "political organization" includes any independent body or any organization that is affiliated with or a subsidiary of a political party.

(10) List the source of all gifts received in the past year from the same or affiliated source aggregating in excess of $100.00 by you or a close relative, from any person or organization having had a regulatory or financial relationship with the Town within the past 2 years or expected to have such a relationship within the next 2 years, excluding gifts from a relative. The term "gifts" includes gifts of cash, property, personal items services, payments to third parties on your behalf, loans, forgiveness of debt honorariums, travel, entertainment, hospitality, tickets and any financial transaction or terms not available to the general public. The term "gifts" shall not include normal hospitality or promotional materials received within the past year if such hospitality or materials which, when aggregated by source, do not exceed $100.00 in value and are not received in circumstances in which it might reasonably be inferred that they were given with the intention to influence or reward you in relation to the performance of your duties.

Name of Family Member	Relationship to You	Name of Business Entity	Involvement with Town

(11) List your interest or any close relative in an entity which has had financial or regulatory activity with the Town or Amherst Industrial Development Agency within the last 2 years or is expected to have such activity within the next 2 years, except for a publicly traded business organization of which you own less than 5% of the outstanding stock or ownership interest. It is not necessary to disclose personal savings accounts and retirement accounts.

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

(12)

Name of Family Member	Relationship to You	Name of Business Entity	Involvement with Town

Outside employment. Describe any outside occupation, employment, trade, business or profession providing more than $1,000.00 per year for you or a close relative, if any, and indicate whether such activities are regulated by any state or local agency.

Name of Family Member	Position	Name, Address & Description of Organization	State or Local Agency

(13) Future employment. Describe any contract, promise or other agreement between you and anyone else with respect to your employment after leaving your Town office or position.

Past employment. Identify the source and nature of any income in excess of $1,000.00 per year from any employer, including deferred income, contributions to a pension or retirement fund, profit-sharing plan, severance pay or payments under a buy-out agreement for this year and the year prior to this year.

Name and Address of Income Source	Description of Income (i.e. pension, deferred compensation, etc)

(14) Identify and describe the source of any third-party payment or reimbursement for Town of Am st travel-related expenditures in excess of $250.00 for any matter that relates to your official duti The term "reimbursement" includes any travel-related expenses provided by anyone other than the wn for speaking engagements, conferences or fact-finding events that relate to your official duties.

Source	Description

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

(15) Describe all loans and debts of you or a close relative in excess of $5,000.00 (excluding retail accommodations such as primary mortgages, home equity loans, charge accounts, lines of credit and credit cards extended in the normal course of business which are ordinarily available to the general public by financial institutions (for example, banks) and/or merchants and which are not extended in circumstances in which it might be reasonably inferred that they were extended with the intention to influence or reward you in relation to the performance of your duties):

_____ _____

~~(month, day, year)~~
(date) Signature of Reporting Individual

C. Short Form Disclosure. All Town officials who are appointed, paid or unpaid, to any board of committee for who a long form disclosure is not required shall file a Short Form Disclosure form containing the following information:

(1) Name, Address, Email Address, Telephone Number (Both Home and Cell) and if married, Spouse's name.

(2) Title of Position (Name of Board or Committee)

(3) I hereby certify that I have read Chapter 19 of the Town of Amherst Town Code (Code of Ethics) and understand its restrictions upon my activities. I further certify that I will follow these provisions and that I do not have any conflict of interest as defined in the Code of Ethics.

Name & Date

§ 19-9. Transactional Disclosure Statement Required

A. Private interests. A Town officer or employee shall, before taking, advising or participating in any official discretionary action affecting his or her known private interest or the private interest of a related party, file a statement disclosing such interest and defining the proposed action.

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

B. Professional or business transactions. If a Town officer or employee wishes to enter into an employment, professional, business or financial transaction, other than a normal retail purchase or credit transaction on the same terms as are available to the general public, with another party and such other party has pending or is known by such Town officer or employee to be considering or has had pending within the prior twelve (12) months any financial or regulatory matter with a Town agency and the Town officer or employee or a subordinate officer or employee has participated in or is authorized to participate in any official discretionary action affecting such matter, the Town officer or employee shall file a statement disclosing such transaction and disclosing the nature of his or her participation in such action prior to entering into such transaction. If a Town officer or employee learns that a related party proposed to enter or has entered into such a transaction, then he or she shall promptly file such a statement.

§ 19-~~7~~10. Civil penalty; penalties for offenses.

A. Statement of financial disclosure.

(1) A reporting individual who knowingly ~~and willfully~~ fails to file an annual statement of financial disclosure as ~~provided~~ required herein shall be presumed to have voluntarily withdrawn from membership on the committee/board they were appointed to.

(2) A reporting individual who knowingly and ~~willfully with intent to deceive~~ makes a false statement or gives information which such individual knows or should have known to be false on such statement of financial disclosure filed pursuant to this Chapter shall be assessed a civil penalty in an amount not exceed Ten Thousand Dollars and Zero Cents ($10,000.00). Assessment of a civil penalty hereunder shall be made by the Town of Amherst Board of Ethics following a hearing which follows the procedure set forth in the rules of procedure adopted by the Board of Ethics.

(3) A reporting individual fails to file an amended financial disclosure within thirty (30) days of any change in information contained in his/her most recently filed financial disclosure statement shall be presumed to have withdrawn from membership in the committee or board that they were appointed to.

(4) For a violation of this subsection 2, the Town of Amherst Board of Ethics may, in lieu of a civil penalty, refer said violation to the District Attorney and, upon such conviction~~, but only after such referral, such violation shall be punishable as a misdemeanor~~.

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

(5) Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal, may be imposed for failure to file or for false filing of such statement, except that the appointing authority may impose disciplinary actions as otherwise provided by law.

B. For violations of the conflict of interest and transactional disclosure provisions of this chapter, the Town of Amherst Board of Ethics shall assess a civil penalty in an amount not to exceed Ten Thousand Dollars and Zero Cents ($10,000.00) or, in lieu thereof, issue a public censure or private admonition. In addition, the appointing authority may impose disciplinary action as otherwise provided by law.

C. For violations of the Section 19-4(A)(10) the Town of Amherst Board of Ethics shall assess a civil penalty in an amount not to exceed Ten Thousand Dollars and Zero Cents ($10,000.00) or, in lieu thereof, issue a public censure or private admonition. In addition, the appointing authority may impose disciplinary action as otherwise provided by law including removal from office/employment. For a violation of Section 19-4(A)(10), the Town of Amherst Board of Ethics may, in lieu of a civil penalty, refer a violation to the District Attorney and upon such conviction but only after such referral, such violation shall be punishable as a Class A misdemeanor.

D. The Town of Amherst Board of Ethics shall adopt rules governing the conduct of adjudicatory proceedings and appeals relating to the assessment of civil penalties herein authorized. Such rules shall provide for due process procedural mechanisms substantially similar to those set forth in Article 3 of the State Administrative Procedures Act, but such mechanisms may not be identical in terms or scope.

E. No reporting individual shall be subject to the sanction contained in Subsections 1 or 2 for any offense that occurred more than two (2) years before Notice is provided to that individual that he/she has violated the provisions of the Ethics Code.

F. Assessment of a civil penalty shall be final unless modified, suspended or vacated within thirty (30) days of imposition and, upon becoming final, shall be subject to review at the instance of the affected reporting individual in a proceeding commenced against the Town of Amherst Board of Ethics pursuant to Article 78 of the Civil Practice Law and Rules.

§ 19-~~8~~11. Maintenance of disclosure statements.
Transitional disclosure statements and annual disclosure statements shall be a matter of public record and shall be filed and indexed with the Town Clerk.

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

The Town Clerk shall retain such disclosure statements for a period of not less than seven (7) years from the date of filing.

§ 19-~~9~~12. List of officials; notice and verification of filing.

A. On or before the first day of April of each year the Town Supervisor, together with the Town Clerk, shall:

(1) File with the Town Clerk a list of names and offices or positions of all officials and employees required to file annual disclosures; and

(2) Notify all persons required to file annual disclosure forms and request that the same be filed with the Town Clerk no later than April 30th of ~~each year~~ or the subsequent business day. Said notifications are to be sent to the person's current residence on file with the Town Clerk and also be sent via email, if email is available.

(3) Notify all Department Heads/Town Board liaisons of the names of these persons required of the names and offices or positions of all officers and employees required to file annual disclosures with an indication of whether that individual has filed the required disclosure form.

(4) If the notice is returned, the Town Clerk within three (3) business days will then notify the relevant Department Head/Town Board liaison of the same within three (3) business days. Upon receipt of such notice, the Department Head/Town Board liaison shall immediately notify the person in writing (email shall suffice) that he/she needs to file the annual disclosure statement.

B. On or before the 15th day of May of each and every year, the Board of Ethics shall meet to ascertain and verify that every required individual has filed the required disclosure statement.

C. Failure of the Supervisor and the Town Clerk to notify any or all individuals required to file disclosure statements shall not relieve Town officials~~s~~ or employees of their duty to file the disclosure statements.

§19-13. Disclosure of Interest by Town Board member; abstention from action.

When a member of the Town Board must take official action on a matter in which the board member has a substantial personal economic interest, which interest is distinct from that of the general community, the member's constituents or a substantial class of the general community he or she shall

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

divest himself or herself of that interest or shall publicly disclose the nature and extent of such interest in writing to the Town Board. The board member ~~may~~ shall abstain from participating in such action upon consideration of any possible inference of impropriety and the affirmative public need for his or her participation in the action under consideration. ~~The board member's decision not to abstain shall not be deemed unethical.~~

§19-14. Applicant Disclosure

A. Where a person requests the Town or a Town officer, official or employee to take or fail to take any action (other than a ministerial act) that may result in a financial benefit ~~both to the requester and~~ to either any officer, official or employee of the Town, the ~~requester~~ Town officials shall disclose the names of any such persons, to the extent known to the requester at the time of the request.

B. If the request is made in writing, the disclosure shall accompany the request. If the request is oral and made at a meeting of a public body, the disclosure shall be set forth in the public record of the body. If the request is oral and not made at a meeting of a public body, the disclosure shall be set forth in writing filed with the Town Clerk.

§19-15. Registration before Town Agency

No Town officer or employee shall receive or enter into any agreement, whether expressed or implied, for compensation for services to be rendered in relation to any matter before any Town agency; provided, however, that this Section shall not be applicable if the Town officer or employee does not receive compensation by reason of his or her Town position and the matter is not before his or her own agency.

§19-16. Gifts and Financial Benefit.

A. No Town officer or employee shall directly or indirectly solicit, accept or receive any gift or financial benefit from or on behalf of any person or organization that has pending or is known by such Town officer or employee to be considering or has had pending within the prior twelve (12) months any financial or regulatory transaction with any Town agency in which he or she serves or over which he or she has any jurisdiction or appointing power.

B. For purposes of this Code, a Town officer's or employee's acceptance of travel and travel-related expenses from or on behalf of any person or organization that has pending or is known by such Town officer or employee to be considering or has had pending within the prior twelve (12) months can be considered a gift to the Town of Amherst rather than to the Town officer or employee when:

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

(1) The travel is for a Town purpose and therefore could properly be paid for with Town funds;

(2) The travel arrangements are appropriate to that purpose; and

(3) The travel is no longer than reasonably necessary to accomplish the business which is its purpose.

C. To avoid an appearance of impropriety, advanced notice of such travel, including itinerary and a proposed travel budget, should be submitted to the Board of Ethics for review, when practicable. Following the conclusion of the trip, the official should report to the Board of Ethics the itinerary and actual travel disbursements and payments or reimbursements of expenses.

§19.17. Future Employment.

No Town officer or employee, without proper disclosure to the Town Board shall solicit, negotiate for or promise to accept employment by any person, firm or corporation with which he or she or his or her agency is engaged on behalf of the Town in the transaction of business or which is or may be affected by his or her official action.

§19.18. Appearance of Compensation After Termination of Service

No Town officer or employee without proper disclosure to the Town Board shall, after the termination of service or employment with such municipality, appear before any agency of the Town or receive compensation for services in relation to any specific case, proceeding, application or matter before a Town agency or against the Town's interest in which he or she personally participated in the course of his or her service or employment.

§19.19. Abuse of Position

No Town officer or employee shall accept any employment, enter into any transaction or acquire any investment under circumstances in which any impression may reasonably be created that he or she will be influenced thereby in the conduct of his or her duties. No Town officer or employee shall use or attempt to use his or her official position to secure unwarranted benefits, privileges or exemptions for himself or herself or for others.

§19.20. Board Removal

Notwithstanding provisions set forth in the Code of the Board of Ethics, Town officials or its officers covered by this Code of Ethics who violate its provisions set forth herein may be removed by the Supervisor if appointed by him/her,

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

by the Town Board through a majority vote for appointments made by the Town Board, and by the Town Board through a majority vote for individuals appointed or designated by third parties.

§19.21.

~~B.~~ Any member serving on a Town board or committee who affirmatively commences a lawsuit against the Town, or is a named party to a lawsuit against the Town and/or any board while serving as a member of that board, must disclose to that board his or her involvement in the lawsuit and must refrain from participating in all board decisions that entail or are likely to entail issues that form the basis of the litigation and may be removed; and

§19.22

~~C.~~ Any member who receives financial and/or noneconomic gains from representing groups, corporations, or individuals in legal actions brought against the Town and/or any board shall not simultaneously serve as a board member on any board of the Town of Amherst and may be removed; and

§19-23

~~D.~~ Whenever necessary, the Supervisor shall require each member to disclose all conflicts on matters before the Board, and Board members shall recuse him/herself, if necessary, from any decision or underlying considerations regarding such matters.

(1) Nothing herein shall be deemed to impose civil penalties on Board members.

(2) Nothing herein shall be deemed to bar a Board member from bringing a timely suit against the Town or its agencies for personal injuries or damages as allowed by law.

§19-21~~4~~. Reservation of Right.

Nothing in this Code shall be deemed to bar or prevent the timely filing by a present or former Town officer or employee of any claim, account, demand or suit against the Town or any agency thereof on behalf of himself or any member of his family arising out of personal injury or property damage or for any lawful benefit authorized or permitted by law.

§19.2~~2~~5 Distribution of Provisions.

The Supervisor shall cause a copy of this Code to be compiled with Article 18 of the New York General Municipal Law and such other material he or she shall deem relevant. He or she shall cause a copy of such compilation to be

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

distributed to every officer and employee of the Town within thirty (30) days of the adoption of this code or as soon thereafter as may be practicable. Every officer and employee elected or appointed thereafter shall be furnished a copy of such compilation within ten (10) days after entering upon the duties of his or her position.

§ 19-~~112326~~. Duty to report.
Every Town officer or employee shall report to the Erie County District Attorney or the Town Attorney any action which may reasonably be interpreted as an improper attempt to influence him in the conduct of his office.

§19-~~102427~~. Board of Ethics.
A. A Board of Ethics is established and shall be known as the "Town of Amherst Board of Ethics."

B. The Board of Ethics shall consist of five (5) members who shall serve five (5) year terms of office, one such term expiring each year. Members shall be appointed by the Supervisor, subject to confirmation by the Town Board. If the Supervisor shall fail to appoint the members within thirty (30) days after the establishment of the Board of Ethics or within thirty (30) days after a vacancy occurs on the Board of Ethics, the Town Board shall appoint such member or members as the case may be. ~~Only o~~ One (1) member of the Board shall be an officer or employee of the Town of Amherst. In the event that a vacancy occurs prior to the expiration of the five (5) year term, such vacancy shall be filled for the balance of such term in the same manner as members are appointed to full terms. All members shall reside within the Town of Amherst. All members shall serve without compensation except that any member who is a Town of Amherst officer or employee shall be entitled to his usual compensation when attending upon the business of the Board of Ethics during normal working hours.

C. No more than two (2) members of the Board of Ethics may be affiliated with the same political party. No member of the Board of Ethics may hold an officer's position in any political party except such person may be a member of a county committee of a political party. The members shall elect a Chairman from among themselves and such other officers as may be deemed necessary from time to time.

D. A Board of Ethics member may be removed by the Town Supervisor with the approving consent of not fewer than four (4) members of the Town Board after a finding of substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of the office or violation of this chapter after written notice of the charges and an opportunity for reply.

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

E. The Town Clerk shall be the Clerk of the Board of Ethics. All documents filed with the Town Clerk shall be deemed for the purposes of this chapter to be filings with the Board of Ethics.

F. The Board of Ethics established hereunder shall render advisory opinions to Town residents or employees on written request and, upon request of the Town Board, make recommendations to such Town Board as to any amendments of this chapter. The opinions of the Board of Ethics shall be advisory and confidential and in no event shall the identity of the town employee be disclosed except to authorized persons and agencies. Such opinions shall be on the advice of counsel employed by the Board of Ethics or, if none, of the Town Attorney.

G.~~F~~. The Board of Ethics shall have all the powers and duties as prescribed by Article 18 of the General Municipal Law. The Board of Ethics may adopt and amend such rules or procedures as are appropriate.

H. Such Board of Ethics upon its formation shall promulgate its own rules and regulations as to its form and procedures and shall maintain appropriate records of its opinions and proceedings.

Section 4. Effective Date

This Local Law shall take effect immediately and be filed in the Office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law and published pursuant to Sections 130 and 133 of the Town Law and Chapter 28 of the Code of the Town of Amherst.

Francina J. Spoth
Town Clerk
Town of Amherst
County of Erie, New York

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 22856 **RESOLUTION 2021-153** **TABLED (NO VOTE)**

Amend the Audubon Development Plan and the Zoning Map to Reclassify 2160 & 2170 North Forest Road from NCD-SA to NCD-ND

DRAFT RESOLUTION
(2/22/21)

Amend the Audubon Development Plan and the Zoning Map
[2160 & 2170 North Forest Road (NCD); Z-2020-06]

RESOLVED, that pursuant to 6NYCRR Part 617 (SEQR) and Town Code Section 104, as amended, that the requirements of SEQR have been completed and the Town Board issues the attached Negative Declaration, and be it further

RESOLVED, that pursuant to NYS Town Law Sec.272-a, the Town Board concurs with the findings of the Planning Board as stated in their resolution of January 21, 2021 that the proposed New Community District - Neighborhood District (NCD-ND) classification at 2160 & 2170 North Forest Road is consistent with the adopted Bicentennial Comprehensive Plan, as amended, and be it further

RESOLVED, that to the extent the proposed classification is not consistent with the adopted Comprehensive Plan, the plan is hereby amended to be consistent with the proposed classification at this location, and be it further

RESOLVED, that in accordance with Section 203-8-3 of the Town Code (Zoning), the Town Board adopts Local Law (#) to amend the Town Zoning map subject to the following condition as recommended by the Planning Board:

1. That the petitioner include additional parking spaces beyond the 17 spaces shown on the concept plan at the site plan stage.

2/22/2021
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0. The public hearing was opened at 7:32 PM.

Sean Hopkins, Esq. presented.

The following speakers addressed the Town Board:
Joseph Hausbeck, 2180 N. Forest Rd. - Spoke in opposition; does not fit the concept of the neighborhood; submitted a letter listing various concerns

Fran Cummings, 2200 N. Forest Rd. - Voiced her concerns; property floods; traffic
Karen Macris, 2230 N. Forest Rd. - Asked questions; concern of dorm-like apartments; dumpster location and noise

There were no further speakers from the public, therefore Supervisor Kulpa moved to adjourn the public hearing to March 8th. The motion was seconded by Councilmember Szukala and unanimously approved 5-0. The public hearing was adjourned at 8:17 PM.

3/8/2021
A motion to adjourn to April 5th was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

4/5/2021
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was opened at 7:05 PM.

Sean Hopkins, Esq. presented updated plans.

The following speakers addressed the Town Board:
Fran Cummings, 2200 N. Forest Rd. - Concerned about it being student housing, lighting spillover, flooding and traffic
Joseph Hausbeck, 2180 N. Forest Rd. - Concerned about excavation of the site and the project being too large

There were no further speakers from the public, therefore Supervisor Kulpa moved to adjourn the public hearing to April 19th. The motion was seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was adjourned at 7:34 PM.

4/19/2021
Per Supervisor Kulpa, the Petitioner has requested an adjournment. Supervisor Kulpa then moved to Adjourn to May 3rd, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The hearing was adjourned at 7:09 PM.

5/03/2021
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0. The public hearing was opened at 7:09 PM.

Sean Hopkins, Esq. presented updated plans.

The following speaker addressed the Town Board:
Fran Cummings, 2200 N. Forest Rd. - Voiced her continued concerns regarding flooding, student housing in their senior citizen community

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the public hearing, seconded by Councilmember Bucki and unanimously approved 5-0. The public hearing was closed at 7:29 PM.

RESULT:	**TABLED (NO VOTE)**	**Next: 7/26/2021 3:00 PM**

TOWN OF AMHERST

TOWN CLERK'S OFFICE

5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221
(716) 631-7021
FAX (716) 631-7152
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Kathleen Cooper
Deputy Town Clerk

Timothy Koller
Deputy Town Clerk

March 3, 2021

MEMO TO: David Marrano, Town Assessor

FROM: Francina Spoth, Town Clerk

RE: Petition

The attached petition, in connection with the parcel located at 2160 and 2170 North Forest Road was received in my office. Will you kindly check if the protest has been signed by the owners of 20% or more, either of the area of the land included in such proposed change, or of the immediately adjacent extending 100 ft. therefrom, or of that directly opposite thereto, extending 100 ft. from the street frontage of such opposite land, as provided in Zoning Ordinance, section XXI, Article 2.

Attachment
cc: Town Board
Town Attorney

Attachment: protest petition 2160 n forest-03042021095641 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

To: Members of the Amherst Town Board

c/o: Town of Amherst, Office of the Town Clerk

MAR03'21 PM 1:06 RCVD

Date: March 2, 2021

In Re: Requested Amendment to Rezone Property

Located at 2160 and 2170 North Forest Road

PROTEST PETITION

Pursuant to New York Consolidated Laws, Town Law, Section 265 (1)(b), we, the undersigned, being the owners of 20% or more of the area of land immediately adjacent to the land included in the above referenced proposed change, extending 100 feet therefrom, hereby petition that any such amendment shall require the approval of at least three-fourths of the members of the town board.

NAME:	ADDRESS:
[illegible]	2180 North Forest Rd
Rosemary Blando	2180 North Forest Rd

Attachment: protest petition 2160 n forest-03042021095641 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

Town of Amherst, NY
Office of the Assessor
David C. Marrano SCA Assessor

5583 Main Street
Williamsville, New York 14221
Phone: (716) 631-7038
www.amherst.ny.us
dmarrano@amherst.ny.us

Memorandum

March 4, 2021

To: Francina Spoth, Town Clerk
Re: Petition – 2160 & 2170 North Forest Road

The protest petition for 2170 North Forest Road has been signed by the required property owners of one of Zoning Ordinance section XXI, Article 2. The signature(s) satisfied test 2. The Super Majority calculations are based on three tests:

1. 20% or more of the owners signed a petition
2. **20% of the AREA surround said rezoning within 100 feet has signed a petition**
3. 20% of the AREA within 100 feet directly across the street from said rezoning has signed a petition

Therefore a super majority vote will be required to enact the change in zoning, as it relates to 2170 North Forest Road.

2160 North Forest Road has not been signed by the required property owners to satisfy the Zoning Ordinance referenced above, as it relates to the 3 aforementioned tests.

Should you have questions, please feel free to contact me.

Cheryl E. Walfrand
Senior Real Property Appraiser

cc: David C. Marrano
Assessor

Attachment: protest petition 2160 n forest-03042021095641 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

D R A F T (2/22/21)

SEQR

NEGATIVE DECLARATION

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency:	Town of Amherst Town Board	**Project**: Z-2020-06
Address:	5583 Main Street Williamsville, NY 14221 (716) 631-7051	**Date**:

This notice is issued pursuant to Part 617 and Local Law #3-82, as amended, of the implementing regulations pertaining to Article 8 (State Environmental Quality Review) of the Environmental Conservation Law.

The Lead Agency has determined that the proposed action described below will not have a significant adverse effect on the environment.

Title of Action:	Rezoning Request.
SEQR Status:	Type I
Description of Action:	Rezoning of 2.35± acres of land from NCD-SA to NCD-ND to allow a proposed 2-story, 8-unit apartment building.
Location:	2160 & 2170 North Forest Road (NCD), Town of Amherst, Erie County, New York
Petitioner:	Coromandel Estates Amherst, LLC

Attachment: Z-2020-06_draft TB Neg Dec_2160 & 2170_2.22.21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

Reasons Supporting This Determination

Based on information submitted by the applicant, including a Full Environmental Assessment Form (EAF) - Part 1, a complete rezoning application, and concept plan, a preliminary staff analysis was undertaken. Compared to the criteria listed in Section 617.7, all indications are that the proposed rezoning of 2.35± acres of land from NCD-SA to NCD-ND for a proposed 2-story, 8-unit apartment building will not have a significant impact on the environment, as follows:

1. The action is not expected to cause a substantial adverse change in existing air quality, ground or surface water quality or quantity, or noise levels; a substantial increase in solid waste production; or a substantial increase in the potential for erosion, flooding, leaching or drainage problems. The Town Engineering Department on December 24, 2020 reviewed the application and EAF submitted on December 18, 2020, and had no objection or comments on the proposed rezoning. The Building Department requires that a floodplain development permit be obtained prior to final site plan approval.

2. The action will not result in the removal or destruction of large quantities of vegetation or fauna; or in significant adverse impacts to fish or wildlife species, habitats or other natural resources. A Landscape/Tree preservation Plan shall be required of the applicant upon submittal of a site plan application for development of the site at which stage all landscape requirements of the Zoning Ordinance will be met.

3. The action is not expected to create any material conflict with the Town Comprehensive Plan. The project will comply with all regulations of the Town Zoning Ordinance before final site plan approval is granted. The Town Building Department on January 13, 2021 reviewed the application and EAF submitted on December 18, 2020, and has no objection or comments on the proposed rezoning.

4. The property is within an area identified by the State as potentially containing significant cultural or archeological resources. A Phase I Archaeological Reconnaissance Survey was conducted in October 2020 by the University at Buffalo's Department of Anthropology. The report concluded that no prehistoric or historic sites were identified and recommended no further work. The NYS Office of Parks, Recreation and Historic Preservation's letter of October 30, 2020 concurred that the action will not impair the character or quality of important historical resources.

5. The action will not impair the character or quality of important aesthetic resources or of existing community or neighborhood character. The subject request is for reclassification from NCD-SA to NCD-ND. This property is in an area of Town with a variety of residential uses. The majority of this area is occupied by single-family homes, however, directly across North Forest Road from this site is the Beechwood Senior Residence/Asbury Pointe development. Within the past few years, apartment developments have been constructed further west along North Forest Road, most notably the "Muir Lake" apartments between Millersport Highway and John James Audubon Parkway. Therefore, the project is considered consistent with surrounding land use.

Attachment: Z-2020-06_draft TB Neg Dec_2160 & 2170_2.22.21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

6. The proposed reclassification to NCD-ND for the proposed 2-story, 8-unit apartment building will not cause a major change in the use of either the quantity or type of energy.

7. The reclassification to NCD-ND for the proposed 2-story, 8-unit apartment building will not create any hazard to human health.

8. The reclassification to NCD-ND will not cause a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses. The proposed 2-story, 8-unit apartment building will be consistent with the scale of surrounding land uses.

9. The reclassification to NCD-ND for the proposed 2-story, 8-unit apartment building will not significantly increase the number of people using the site over its previous level of use.

10. Review by the Town Traffic/Safety Board on December 30, 2020 and the NYS Department of Transportation on November 28, 2020 indicate that significant negative traffic impacts are not expected to result from the proposed project.

11. Coordinated reviews of the project have been undertaken by Town Departments including Building on January 13, 2021, Engineering on December 24, 2020, Attorney on January 4, 2021, Traffic/Safety Board on December 30, 2020, Assessor on December 23, 2020, and Right-of-Way Agent on December 29, 2020, along with outside agencies including the NYS Department of Environmental Conservation on January 22, 2021 and the Williamsville School District on December 28, 2020. These reviews have not identified any significant environmental issues and indicate that the proposal will not have a significant damaging impact on the environment.

12. Issues not specifically mentioned above and/or those not specifically reviewed were not raised by Town departments, outside agencies or the public and are not determined to be causing significant negative environmental impacts.

_____ _____
Signature & title of preparer date

_____ _____
Brian J. Kulpa, Supervisor date

EK/ac
X:\Current_Planning\Files\Rezonings\2020\Z-2020-06_(2160 &_2170_North_Forest_Rd_NCD)_2020\Z-2020-06_draft TB Neg Dec_2.22.21.docx
cc: Amherst Town Clerk
Amherst Building Department
ECDEP
NYSDEC

Attachment: Z-2020-06_draft TB Neg Dec_2160 & 2170_2.22.21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

LOCAL LAW NO. _____-201_

TOWN OF AMHERST
COUNTY OF ERIE, STATE OF NEW YORK

A LOCAL LAW AMENDING CHAPTER 203 OF THE TOWN OF AMHERST CODE, KNOWN AS THE ZONING ORDINANCE, TO REZONE/RECLASSIFY 2160 AND 2170 NORTH FOREST ROAD FROM NCD-SA TO NCD-ND AND TO AMEND THE AUDUBON DEVELOPMENT PLAN AND TO AMEND THE ZONING MAP ACCORDINGLY.

Be it enacted by the Town Board of the Town of Amherst as follows:

Section 1. Title.

This Local Law shall be referred to as, "A Local Law Amending Chapter 203 of Town of Amherst Code, Known As The Zoning Ordinance, to Rezone/Reclassify 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and to Amend The Audubon Development Plan and to Amend The Zoning Map Accordingly".

Section 2. Legislative Findings and Intent.

The Town Board of the Town of Amherst finds that an application to rezone/reclassify 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and Amend the Audubon Development Plan and to Amend the Zoning Map Accordingly has been filed and is in proper order. The Town Board further finds that the request including the rezoning/reclassification and the amendment of the Audubon Development Plan is consistent with the Comprehensive Plan.

Section 3. Amherst Zoning Map.

The Town Board hereby: 1.) amends its Zoning Map which is incorporated by reference in the Town Zoning Code by amending/reclassifying from NCD-SA to NCD-ND the parcels at 2160 and 2170 North Forest Road; and 2.) amending the Audubon Development Plan, both being **subject to any conditions imposed by the authorizing resolution**; legally described as follows:

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie, State of New York, being part of Lot 68, Township 12, Range 7 of the Holland Land Survey so-called and further bounded and described as follows.

BEGINNING at the intersection of the centerline of Stahl Road (66.0 feet wide) with the centerline of North Forest Road (66.0 feet wide):

THENCE: Southerly, along the centerline of Stahl Road extended southerly, a

Attachment: Draft Local Law-Reclassification of 2160 2170 North Forest Road-08-24-20 (RES-2021-153 : 2160 & 2170 Request to Rezone and

distance of 108 feet more or less to the north bank of Ellicott Creek;

THENCE: Westerly along said north bank of Ellicott Creek, a distance of 583 feet more or less to the west line of lands conveyed to Peter D. Durham by deed recorded in the Erie County Clerk's Office in Liber 9264 of Deeds at page 188;

THENCE: Northerly along said west line of Peter D. Durham lands, a distance of 10 feet more or less to the north bank of Ellicott Creek;

THENCE: Westerly and southerly along said north bank of Ellicott Creek, a distance of 227 feet more or less to a point distant 100 feet westerly from the said west line of Peter D. Durham lands as measured at right angles;

THENCE: Northerly along a line parallel with the west line of said Peter D. Durham lands distant 100.00 feet westerly therefrom measured at right angles, a distance of 491 feet more or less to the centerline of North Forest Road;

THENCE: Easterly, along said centerline of North Forest Road, a distance of 564.74 feet to the POINT OR PLACE OF BEGINNING.

Section 4. Validity.

This Local Law is adopted under the authority granted to the Town Board of the Town of Amherst pursuant to §§10(1)(ii)(a)(12), 20 and 27 of the Municipal Home Rule Law and §265 of the Town Law of the State of New York.

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

Section 5. Effective Date.

This Local Law shall take effect immediately when it is filed in the Office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law and published pursuant to Sections 130 & 133 of the Town Law and Chapter 28 of the Code of the Town of Amherst.

Francina J. Spoth
Town Clerk
Town of Amherst
County of Erie, State of New York

Attachment: Draft Local Law-Reclassification of 2160 2170 North Forest Road-08-24-20 (RES-2021-153 : 2160 & 2170 Request to Rezone and

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor

Daniel C. Howard, A
Planning Directo

Ellen M. Kost, AICP
Assistant Planning Dir

Town Board Agenda of February 22, 2021

February 9, 2021

The Honorable Town Board
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Subject: Amendment #73 to the Audubon New Community District Development Plan to reclassify 2.35± acres of land from NCD-SA to NCD-ND; property located at 2160 & 2170 North Forest Road (NCD). Z-2020-06.

Honorable Members:

The subject property consists of two lots and forms a 2.35± acre irregularly shaped area located on the south side of North Forest Road, just west of the Stahl Road intersection. The site has 278.60± ft. of frontage and a depth of 497.16± ft. The site is vacant and partially wooded.

The south boundaries of the two lots are directly adjacent to Ellicott Creek, and the Ellicott Creek floodway extends onto both properties. A preliminary wetland investigation by Earth Dimensions, Inc. in July 2020 did not identify any federal jurisdictional wetlands or NYS wetlands on the subject properties. North Forest Road is a County collector.

For information on the surrounding zoning and land use, please refer to the attached sketch.

The purpose of this request is to reclassify the land to allow a 2-story, 8-unit apartment building. The concept plan shows the building in the central portion of the site, with 17 parking spaces in front of the building, eight (8) of which are proposed to be in a free-standing garage. Parking would be accessed by one driveway to North Forest Road approximately in the center of the site. Space for emergency vehicle turnaround is shown between the building and the road. The plan also shows a covered patio with fire pit on the west side of the building and a dumpster location west of the building. Two stormwater basins are proposed near the north and south ends of the west property line. All development is shown outside the Ellicott Creek floodway.

The property was zoned New Community District – Suburban Agriculture (NCD-SA) with adoption of the Town-wide zoning ordinance and maps in 1976. No other requests are on file.

The Planning Board offers the following findings consistent with Section 8-3 of the Zoning Ordinance.

continued . .

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

A) **EXTENT TO WHICH THE PROPOSED AMENDMENT MEETS THE INTENT AND OBJECTIVES OF A NEW COMMUNITY DISTRICT AS EXPRESSED IN SECTION 5-2-2 OF THE ZONING ORDINANCE.**

The proposed revision to the development plan addresses the following objectives of the Zoning Ordinance.

Objectives

2-2A *A varied choice in the types of environment, occupancy, tenure, types and cost of housing, lot sizes, and community facilities available to existing and potential Town residents.*

The proposed project consists of a 2-story, 8-unit apartment building with 17 parking spaces in front of the building, eight (8) of which will be in a free-standing garage. One driveway to North Forest Road is shown in the central portion of the site. Two stormwater basins are proposed near the west property line. All development is shown outside the Ellicott Creek floodway.

The Assessor's office agrees with all statements made in the application and has no issue with the rezoning since units will be leased and not sold with condominium tax status.

The Building Department has approved the rezoning as submitted.

2-2B *Extensive usable open space and recreation areas, appropriate in terms of location, size and suitability of intended function.*

No usable open space or recreation areas are proposed with this project. The Ellicott Creek floodway, which extends onto these properties, will remain as open space and is prohibited by FEMA regulations from containing any structures.

2-2C *The provision of commercial, office or industrial uses of substantial real property tax productivity intended to support the financing of additional educational, municipal, and other public services required as a result of the development.*

No commercial, office or industrial uses are proposed with this project.

2-2D *Convenience in location of Commercial and Service Areas*

The closest commercial/service areas to the subject property are located on Millersport Highway (0.5 miles) and on Maple Road (1.5 miles). These include gas stations and a variety of restaurants. The UB North campus, on the opposite side of Ellicott Creek, also offers commercial services.

2-2E *The preservation of such features as trees, outstanding natural topography and geological features; the prevention of soil erosion; and the comprehensive design of storm water retention and proper drainage systems.*

As most of the wooded areas in the southern and eastern portions of these properties are within the Ellicott Creek floodway, they are proposed to remain undisturbed.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

The NYS Department of Environmental Conservation concurs that the Town of Amherst should act as SEQR Lead Agency and has the following comments:

1. Note that Ellicott Creek has a water classification and standard of B. Therefore, any physical alteration (ie, land clearing, filling, drainage pipe/ditch installation, etc.) to the bed or banks (within 50 feet of the stream) will require an Article 15, Title 5, Protection of Waters Permit from the NYSDEC.

2. The project site is located near a NYS Flood Control Easement, specifically Amherst Ellicott Creek Flood Control Project. Use of this easement requires an Article 16 Flood Control Land Use Permit from the NYSDEC.

3. The site is located within the designated 100-year floodplain per the Federal Emergency Management Agency's (FEMA) Firm Map No. 36029C0069H. The proposed project should be designed in accordance with all applicable local municipal laws for flood damage reduction. In addition, Ellicott Creek has a regulatory floodway, and any encroachment into floodway, including fill, requires an engineering analysis that demonstrates a 0.0' rise in the base flood elevation before a permit can be issued. Based on submitted plans, it also appears that the proposed patio/fire pit area is within the floodway and may require a separate floodplain development permit.

4. If any project activities will involve land disturbance of 1 acre or more, the project sponsor is required to obtain a State Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activity.

5. This proposed project requires a sanitary sewer connection that is designed to convey 2,500 gallons/day or more of municipal sewage and is therefore considered a sanitary sewer extension. The Erie County Health Department will be the approving agency. A detailed Downstream Sewer Capacity Analysis must be performed and submitted for the proposed project as part of the Project's Engineering Report.

6. Portions of this project area are located on hydric soils. The project sponsor should contact the United States Department of the Army, Corps of Engineers (COE) to ensure that the project will not involve federally regulated wetlands or any other approval from that agency. If Federal Wetlands are involved, the COE may require Water Quality Certification from DEC.

7. The project site appears to be within an archaeologically sensitive area based on information obtained through the Cultural Resources Information System (CRIS) on the NYS Office of Park, Recreation and Historic Preservation's (OPRHP) website. As part of the SEQR process, this concern should be evaluated, unless it can be verified by appropriate documentation that the sites have been significantly disturbed in a way that would destroy potential artifacts. Note: If any of the described Department approvals are required, an appropriate archaeological investigation must be conducted in order to satisfy the NYS Historic Preservation Act.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

2-2F *The creative use of land and related physical development which allows an orderly transition of land from rural to urban uses.*

The subject properties are located within an area of Town with a variety of residential uses. The majority of this area is occupied by single-family homes, however, directly across North Forest Road from this site is the Beechwood Senior Residence/Asbury Pointe development. Within the past few years, apartment developments have been constructed further west along North Forest Road, most notably the "Muir Lake" apartments between Millersport Highway and John James Audubon Parkway.

The ROW Agent agrees with all statements made in the application and notes that an easement to the Town of Amherst on this property (liber 7105, page 369) should continue to be in effect and be reduced to an agreement.

2-2G *An efficient use of land resulting in smaller networks of utilities and streets and lessened burden of traffic on streets and highways thereby lowering utility and maintenance costs borne by new development.*

As the floodway is located on nearly half of the subject site, the concept plan submitted with this application shows the development limited to the central portion of the site. One driveway to North Forest Road is shown in the center of the site.

The Engineering Department, Traffic-Safety Board and Fire Chiefs' Association agree with all statements made in the application. The Highway Department review is pending.

NYSDOT reviewed the project, concurred with the Town acting as Lead Agency, and stated that the proposed project will not have a significant impact to traffic on the State Highway System.

The Erie County DPW – Highways Division concurs with the Town of Amherst being the Lead Agency for this project and has the following comments:

Permit Requirements:

1. The Developer will be required to apply for and obtain an Erie County Highway Work Permit for Utility Work Perm-2 for construction within the North Forest Road highway right-of-way.

2. The Developer will be required to apply for and obtain an Erie County Highway Work Permit for Non-Utility Work, Perm 3 for construction of a new entrance drive within the North Forest Road highway right-of-way.

Traffic Concerns:

1. A Traffic Impact Study may be needed due to the close proximity of the project to the intersection of North Forest and Stahl Road.

2-2H *Creation and preservation of natural and man-made features which will give increased environmental quality, encourage uses which will maintain high environmental quality and provide an attractive community design.*

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

The most important natural feature on this development site is the Ellicott Creek floodway, which according to FEMA regulations cannot hold structures of any kind. The wooded areas in the southern and eastern portions of the site within the floodway are therefore proposed to remain undisturbed.

This project is in an archaeologically sensitive location based on NYS mapping. A Phase I Archaeological Reconnaissance Survey was conducted in October 2020 by the Department of Anthropology at the University at Buffalo. The survey found that no historic or prehistoric sites were identified and recommended no further work. The NYS Office of Parks, Recreation and Historic Preservation concurs with the report's conclusion that no further archaeological investigations are warranted, and their opinion is that no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by this project.

2-2I *Guidance and control of development in Flood Hazard Areas so that life and property both within and without such areas are protected.*

The Building Department is responsible for administering all flood code provisions; that department has no issue with the proposed rezoning but notes that a floodplain permit will be required. Town mapping from 2019 shows this property within the existing flood hazard area.

2-2J *Increased safety for all modes of travel, including pedestrian and bicycle.*

There are no sidewalks on North Forest Road in the vicinity of this project, and the petitioner does not propose to install any. An internal sidewalk is shown around the proposed building and parking lot but does not extend to the road.

The Williamsville Central School District notes that the District has received information on this project and placed it on file, and that a future bus stop will be located at a driveway entrance at North Forest Road in accordance with District policy.

2-2K *An appropriate balancing or accommodation of the effect of major public or private development elsewhere in the Town or its vicinity.*

While the proposed 8-unit apartment building presents a denser development than the nearby single-family lots, it is consistent with the adjacent Beechwood Senior Residence/Asbury Pointe development across North Forest Road. The property is close to the UB North Campus on the opposite side of Ellicott Creek. The development can also be expected to supplement the off-campus housing stock for faculty, staff and students. The developer has stated that these units are intended to be marketed to professionals who often work remotely.

2-2L *Sufficient civic and community facilities, carefully integrated with adjoining areas.*

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

There are no civic or community facilities proposed with this project; adequate civic and community facilities are located in the area.

2-2M *Provision for the orderly updating of long-term, large-scale development plans to reflect changing circumstances within an overall, Town-approved planning framework.*

The Comprehensive Plan's Conceptual Land Use Plan (Figure 6) indicates Mixed Residential use for the section of North Forest Road between Stahl Road and Millersport Highway. The Mixed Residential designation is aimed at projects with densities of 4 – 12 units/acre. The subject project will result in a density of 3.4 units/acre.

The requested change is generally compatible with the character of development in the area, although the other comparable developments are not located on the 'creek side' of North Forest Road. The 3-story, 90-unit "Muir Lake" apartments between Millersport Highway and J. J. Audubon Parkway, as well as the Beechwood/Asbury senior residence, do not back up to Ellicott Creek. It should be noted that the subject site is within the boundary of the Town's Local Waterfront Revitalization Program (LWRP) currently in progress. This project would require another level of review for consistency with waterfront policies if the LWRP was adopted by the Town (adoption is not expected within the next year).

2-2N *A more desirable environment than would be possible through the strict application of other sections of this Zoning Ordinance.*

The current zoning of New Community District – Suburban Agriculture (NCD-SA) allows single family dwellings only. The proposed development of the site includes 8 apartment units that would not be allowed under the current zoning classification. The demand for student housing in the area surrounding the UB campus makes this a desirable location for apartment use.

B) EXTENT TO WHICH THE PROPOSED DEVELOPMENT PLAN MEETS ALL THE REQUIREMENTS OF SUBSECTIONS 5-2-4, 5-2-5, and 5-2-6 OF THE ZONING ORDINANCE.

5-2-4 Location of NCD Not applicable (pertains to entire existing NCD within the Town).

5-2-5 Permitted Uses

5-2-5A(2) Neighborhood District. This classification includes primarily residential areas designed to provide living space for families and individuals. Ancillary uses designed to conveniently serve residents may be located within them. The classification includes:

a. Residences and dwelling units of every type, except as otherwise specified in this subsection.
b. Fraternity and sorority houses, dormitories, hostels and boardinghouses.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

c. Small convenience retail and service facilities, except for automobile drive-in restaurants, and ancillary office facilities designed to serve the needs of residents of the neighborhood.
d. Public or quasi-public facilities, including schools and day-care centers, religious buildings and other community facilities.
e. Recreation facilities, open space areas, and personal training facilities.
f. Special limited commercial services and facilities not already included in the above uses, storage yards, and open equipment structures.

5-2-5B Use Mixture: Not applicable.

5-2-6 Dimensional Standards

5-2-6A The overall residential density of an NCD shall not exceed five (5) dwelling units per gross acre. This density regulation applies to the entire New Community District (4,121± acres) within the Town. Although the density of the proposed development is 3.4 units/acre, it would not bring the overall NCD density beyond the threshold of 5 units/acre.

5-2-6B Dwelling Unit Area. Information not provided. All dwelling units and rooms included in a dwelling are required to have sufficient floor area to satisfy the applicable minimum floor area requirements of the State Building Construction Code or the Town Building Code, whichever is applicable. This requirement will need to be met.

5-2-6C Minimum Area. Not applicable

5-2-6D Building Arrangements. The proposed development will result in a 2-story, 8-unit apartment building in the central portion of the site. The proposed 17 parking spaces will result in 2 spaces/unit, the minimum required by code elsewhere in the Town.

C) THE PROPOSED DEVELOPMENT PLAN IS CONCEPTUALLY SOUND IN THAT IT MEETS PRESENT AND FUTURE COMMUNITY NEEDS

The requested NCD-ND classification and proposed project concept will generally result in a sound development plan for the subject area; however, the concept should include space for overflow parking beyond that required for residents of the development. Section 5-2-7A(8) in the Zoning Ordinance states that "Off-street parking, loading, and stacking spaces shall be provided so as to prevent overflow of parked or standing vehicles onto public or common vehicular or pedestrian rights-of-way."

D) THERE ARE ADEQUATE SERVICES AND UTILITIES AVAILABLE OR PROPOSED TO BE MADE AVAILABLE IN THE CONSTRUCTION OF THE DEVELOPMENT.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

All services and utilities are or will be made available with this development.

E) THE PROPOSED DEVELOPMENT PLAN IS CONSISTENT WITH THE TOWN COMPREHENSIVE PLAN

The proposed project generally complies with the locational and use criteria in the Comprehensive Plan for land near a university campus.

SEQR

This is a Type I action, and an environmental assessment consistent with SEQR has been prepared for the subject proposal. Pursuant to Local Law #3-82, as amended, the requirements of SEQR are complete and the proposal is not expected to have a significant adverse effect on the environment.

RECOMMENDATION

The Planning Board recommends that your Honorable Body concur with the Planning Board's findings relative to SEQR and issue the attached Negative Declaration, and that the subject request be **approved** based on the attached resolution.

Very truly yours,

DANIEL C. HOWARD, AICP
Planning Director

DH/EK/ac
Att.
X:\Current_Planning\Files\Rezonings\2020\Z-2020-06_(2160 &_2170_North_Forest_Rd_NCD)_2020\Z-2020-06_TB Letter_2.22.21.docx
cc: Stanley Sliwa, Town Attorney

Planning Board Approval – January 21, 2021
Ayes 7; Noes 0

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

TOWN OF AMHERST
PLANNING BOARD RESOLUTION
AMENDMENT #73 TO THE AUDUBON DEVELOPMENT PLAN
Z-2020-06

PETITIONER
Coromandel Estates Amherst LLC
c/o Sean Hopkins, Esq.
Hopkins Sorgi & McCarthy PLLC
5500 Main St., Suite 343
Williamsville, NY 14221

PROPERTY LOCATION
2160 & 2170 North Forest Road (NCD)

JAN29'21 AM 8:32 RCVD

WHEREAS the Town of Amherst Planning Board on Thursday, January 21, 2021 held a public hearing on Amendment #73 to the Audubon New Community District Development Plan to classify the subject property as suitable for use as an apartment development, and

WHEREAS the Planning Board has reviewed the Amendment plans and supporting documentation, and

WHEREAS the Amendment has been referred to the various Town review agencies, and

WHEREAS the Planning Board finds that:

A. The proposed Revision to the Development Plan meets the intent and objectives of a New Community District as expressed in Subsection 1-1.1.

B. The proposed Revision to the Development Plan meets all the requirements of Section 5-2-3 through 5-2-6.

C. The proposed Revision to the Development Plan is conceptually sound in that it meets present and future community needs.

D. There are or will be adequate services and utilities available or proposed to be made available in the construction of the development.

E. The proposed Amendment to the Development Plan is consistent with the Town Comprehensive Plan.

Pursuant to Local Law #3-82, as amended, the Planning Board recommends that the Town Board determine that the requirements of SEQR are complete and that the subject proposal is not expected to have a significant adverse effect on the environment.

NOW THEREFORE BE IT RESOLVED that the Planning Board, in accordance with Section 8-15-2 of the Zoning Ordinance offers a positive report and recommends Town Board approval of Amendment #73 to the Audubon Development Plan with the following condition:

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

TOWN OF AMHERST
PLANNING BOARD RESOLUTION
AMENDMENT #73 TO THE AUDUBON DEVELOPMENT PLAN
Z-2020-06

PETITIONER
Coromandel Estates Amherst LLC

PROPERTY LOCATION
2160 & 2170 North Forest Road (NCD)

JAN29'21 AM 8:33 RCVD

1. That the petitioner include additional parking spaces beyond the 17 spaces shown on the concept plan at the site plan stage.

The foregoing resolution was adopted by the Town of Amherst Planning Board, January 21, 2021; moved by Chmiel; seconded by Giuliani; ayes 7, noes 0.

Robert J. Gilmour, Chair — Date 1/28/21

EK/ac
X:\Current_Planning\Files\Rezonings\2020\Z-2020-06_(2160 &_2170_North_Forest_Rd_NCD)_2020\Z-2020-06_resolution_012121.doc
cc: Commissioner of Building
Town Engineer
Highway Superintendent
Traffic/Safety Coordinator
Coromandel Estates Amherst LLC, c/o Sean Hopkins, 5500 Main St., Suite 343, Williamsville, NY 14221
Thiru Vikram, c/o Coromandel Estates LLC, 4515 Chestnut Ridge Road, Unit 106, Amherst NY 14228
Chris Wood, Carmina Wood Morris, 487 Main St., Suite 500, Buffalo NY 14203
Christina Barmosz, Silvestri Architects, 1321 Millersport Hwy., Amherst, NY 14221
David Pawlik, Creative Structures Services, 550 Seneca St., Suite 100, Buffalo NY 14204

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amended Application - Reclassification 2160 and 2170 North Forest Road and to Amend the Audubon Development Plan
Date: December 17, 2020

Applicant: Pyramandel Estates
Amherst LLC c/o Sean Hopkins, Esq.
5500 Main Street, Suite 343
Williamsville, NY 14221
Tel: 716.510-4338
E-mail: shopkins@hsr-legal.com

Original

TOWN OF AMHERST PLANNING DEPARTMENT

Application for Rezoning Review and, if required Comprehensive Plan Amendment

For Official Use

File #: Z-2020-06 **Acreage** — **Fee $** -0-

Address Verified by Assessor's Office _____ VERIFIED BY DATE

Materials Accepted by Town Clerk & Fee Paid _____ ACCEPTED BY DATE

Materials Checked by Building Dept. _____ RECEIVED BY DATE

Materials Received by Planning Dept. _____ RECEIVED BY DATE

		Fill In Applicable Fees
2 ACRES OR LESS	**$1,250**	$1,250.00
2 – 20 ACRES **$1,250 + $250/acres or fraction thereof over 2 acres**		$250.00
20 – 30 ACRES **$5,700 + $150/acre or fraction thereof over 20 acres**		____
OVER 30 ACRES **$6,900 +$75/acre or fraction thereof over 30 acres**		____
Request for Relief of/Change to Conditions of Zoning Approval	**$ 1,200**	____
AFFIDAVIT FEE FOR PUBLIC HEARING	**$ 15.00**	$15.00
	TOTAL FEE:	$ 1,515.00

REVISED
DEC 18 2020
TOWN OF AMHERST
PLANNING DEPT.

Z-2020-06,
2160 & 2170 N. Forest Rd. (RCD)

[Note: A completed Amended Part 1 of the Full Environmental Assessment Form prepared pursuant to the State Environmental Quality Review Act ("SEQRA") is attached as Exhibit "2" of this Application.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

TO BE COMPLETED BY APPLICANT

1. **Petitioner:** Name: Coromandel Estates Amherst LLC

Address: c/o Sean Hopkins, Esq.
5500 Main Street, Suite 343
Williamsville, New York 14221
City State Zip Code

Phone: 510-4338 Fax:

E Mail shopkins@hsr-legal.com

2. **The undersigned hereby petitions the Honorable Town Board to rezone the following described property**

From: NCD-SA District

To: NCD-ND District

3. **Street address of land to be rezoned:** (must be verified by Town Assessor's Office)

2160 and 2170 North Forest Road

SBL #: 55.02-1-2 and 55.01-1-19.2

4. **Area of land to be rezoned** (in acres): 2.35

5. **Owner of Land:**

Name: Allen and Kristen Guerin

Address: 270 Rosedale Boulevard, Amherst, NY 14226

Telephone:

6. **Representative** (Architect, Engineer, Landscape Architect, Surveyor or Attorney):

Name: Sean W. Hopkins, Esq.

Address: 5500 Main Street, Suite 343
Williamsville, New York 14221
Tel: 716.510-4338 - E-mail: shopkins@hsr-legal.com
City State Zip Code

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

7. **Petitioner's interest in property**

_____Option to purchase

_____Owner

__X__Other (explain) Petitioner has entered into a contract to purchase the Project Site. A signed Authorization Form is attached as Exhibit 1 of this Amended Application.

8. **The following are all others having an interest in this application and join herein with the petitioner named above:** (describe extent of interest; attach sheets as needed)

Not Applicable.

9. **Attach Survey and Legal description of land to be rezoned. The Survey must be prepared by a New York State Licensed Land Surveyor.** The legal description of property to be reclassified is attached as Exhibit "3" and a full size copy of the Survey prepared by GPI dated dated July 13, 2020 is attached. A reduced size copy of the Survey is also attached as Exhibit "4".

10. **Said property has the following deed restrictions or Covenants:** (attach copy) Not Applicable.

Liber _____ Page _____

11. **Information on proposed project:**

A. Description of the character of the proposed development:

See Exhibit 5.

B. Rationale for rezoning request:

1. Why was this site chosen?

See Exhibit 5.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

2. Why cannot land be used with the existing zoning?

See Exhibit 5.

3. How will this rezoning impact surrounding properties?

See Exhibit 5.

4. How will this rezoning impact the school system?

See Exhibit 5.

12. Quantitative Data:

A. Total # of dwelling units 8
[The density of the proposed project has been reduced from 18 units to 8 units.]

B. Distribution of dwelling units by type Attached residential units for lease

C. Gross Residential Density per acre 3.40 units per acre

D. Total amount of Open Space Approximately 1 acre of greenspace and landscaping

E. Proposed Non-Residential Floor Area Not Applicable

13. Development Schedule:

Start Spring/Summer 2021

Finish 2022

Stages (# of) 1

14. If any portion of the proposed development is planned to be sold or leased, please describe:

The attached residential units will be leased to residential tenants.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

15. **Open Space ownership and maintenance provisions (if applicable):**

Greenspace and landscaping will be privately owned and maintained.

16. **Basis for Findings (Sec. 8-3-5 of the Town Zoning Code) (Attach sheets and supplemental materials as necessary.)**

A. **The proposed zoning and development plan must be generally consistent with the policies of the Comprehensive Plan and the Town Zoning Ordinance.**

1. State in detail why the proposed zoning is consistent with the adopted Town of Amherst Bicentennial Comprehensive Plan. Cite specific sections, maps, and/or figures in the plan that support the proposed zoning at this location (The Comprehensive Plan document is available at the Planning Department, Town Clerk's Office, Amherst libraries, or at www.amherst.ny.us). Add sheets as needed.

See Exhibit 6.

2. Pursuant to NYS Town Law Section 272a(11), "all Town land use regulations must be in accordance with a comprehensive plan adopted pursuant to this Section." The Town Board adopted the Comprehensive Plan pursuant to NYS Town Law 272 on January 2, 2007. If the rezoning is approved, the Town Board may require the Plan to be amended, as applicable.

Cite all text, map, and / or figures that must be amended to support the proposed zoning at this location (attach pages as necessary) and provide detailed suggested amendments.

See Exhibit 6.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

3. State why the proposed zoning is consistent with intent and objectives (Sec. 1-2-2) of the Zoning Ordinance:

See Exhibit 6.

B. Adequate Services and Utilities are available or are proposed to be made available with the construction of the development:

1. Sanitary Sewer
   Yes.
2. Storm Sewer/Drainage
   Yes.
3. Water
   Yes.
4. Other Yes.

C. Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood:

See Exhibit 6.

D. Suitability of the subject property for uses permitted by the current versus the proposed district:

See Exhibit 6.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

E. **Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town:**

See Exhibit 6.

17. The petitioner encloses herewith the sum of $ 1,515.00 to pay the fee, and consents to the placement of a sign(s) at the described location identifying this request for a period of time to be determined by the Town Clerk.
[The filing fee was previously paid .]

18. The undersigned certifies that all information required to be disclosed pursuant to Section 809 of the General Municipal Law (see below) is as follows:

The undersigned swears or affirms that all statements made herein are true, that all drawings submitted correctly show the situation involved in this petition.

[Note: Authorization letter of property owners dated August 18, 2020 is attached to this Application.]

Counsel for Petitioner
Signature of Petitioner

Subscribed and sworn to before me this 17th day of December, 20 20

Notary Public, Erie County, New York

MARIANNE BRAUTLACHT
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 01/14/20

N.Y.S. General Municipal Law - Section 809 Disclosure in certain applications:

1. Every application, petition or request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or official map, license or permit, pursuant to the provision of any ordinance, local law, rule or regulation constituting the zoning and planning regulations of a municipality shall state the name, residence and the nature and extent of the interest of any state office or any office or employee of such municipality or of a municipality of which such municipality is a part, in the person, partnership or association making such application, petition or request (hereinafter called the applicant) to the extent known to such applicant.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

2. For the purpose of this section an officer or employee shall be deemed to have an interest in the applicant when he, his spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them

   (a) is the applicant, or
   (b) is an officer, director, partner or employee of the applicant, or
   (c) legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant, or
   (d) is a party to an agreement with such an applicant, express or implied, whereby he may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such applicant, petition or request.

3. In the county of Nassau the provisions of subdivisions one and two of this section shall also apply to a party officer. "Party Officer" shall mean any person holding any position or office, whether by election, appointment or otherwise, in any party as defined by subdivision four or section two of the election law.

4. Ownership of less than five per cent of the stock of a corporation whose stock is listed on the New York or American Stock Exchanges shall not constitute an interest for the purposes of this section.

5. A person who knowingly and intentionally violates this section shall be guilty of a misdemeanor.

P/CurrPlan/Applications2007/Rezoning & Comp Plan Amend App.
10/08

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 1 – Authorization Form of Property Owners dated August 18, 2020

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Authentisign ID: 5F5EDAC5-6B0F-4377-B19F-0884A050FD33

AUTHORIZATION

Allen Guerin and Kristen Guerin, as the record owners of the parcels of land located at 2160 North Forest Road [SBL No. 55.02-1-1] and 2170 North Forest Road [SBL No. 55.01-1-19.2] in the Town of Amherst (collectively the "Project Site") hereby authorizes Postwork Capital LLC and its consultants to seek a rezoning and all other required governmental approvals from the municipal boards of the Town of Amherst in connection with a proposed multifamily project to be located on the Project Site.

Date: August 18, 2020 Signature: Authentisign Allen Guerin 08/19/2020
8/19/2020 9:14:43 AM EDT
Print Name: Allen Guerin

Date: August 18, 2020 Signature: Authentisign Kristen Guerin 08/19/2020
Print Name: Kristen Guerin

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 2 – Amended Part 1 of Full Environmental Assessment Form Prepared Pursuant to the State Environmental Quality Review Act ("SEQRA") with Attachments "A" and "B"

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amended Part 1 of Full Environmental Assessment Form with Attachments
Date: December 17, 2020

Full Environmental Assessment Form Part 1 - Project and Setting

Prepared By: Sean Hopkins, Esq.
Hopkins Sorgi & McCarthy PLLC
5500 Main Street, Suite 343
Williamsville, NY 14221
Tel: 510-4338
E-mail: shopkins@hsr-legal.com

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Proposed Multifamily Project		
Project Location (describe, and attach a general location map): 2160 and 2170 North Forest Road - Town of Amherst - Erie County		
Brief Description of Proposed Action (include purpose or need): The proposed action involves an amendment of the land use classification of 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and an amendment of the Audubon Development Plan to accommodate the development of the Project Site as a three-story multifamily building consisting of 8 attached residential units for lease and all related site improvements as depicted on the Concept Site Plan prepared by Silvestri Architects, P.C. The proposed action has been defined broadly to include the construction of the proposed two-story multifamily building as well as all necessary site improvements including: parking spaces, a curb cut onto North Forest Road, access aisles, water and sanitary sewer lines as well as utility connections. Although the proposed project ("action") will not cross of any of the thresholds for a Type I action contained in 6 NYCRR Part 617.4. of SEQRA Regulations, it is a Type I action due the proximity of the Project Site to Ellicott Creek, which is a flowing watercourse, pursuant to a local law adopted by the Town of Amherst in 1982. The local law requires projects within 100 ft. of a flowing watercourse to be classified as Type I action. Given that the proposed project will not result in any potentially significant adverse environmental impacts, the issuance of a negative declaration pursuant to SEQRA is appropriate.		
Name of Applicant/Sponsor: Coromandel Estates Amherst LLC c/o Sean Hopkins, Esq.	Telephone: 716.510-4338 E-Mail: shopkins@hsr-legal.com	
Address: 5500 Main Street, Suite 343		
City/PO: Williamsville	State: NY	Zip Code: 14221
Project Contact (if not same as sponsor; give name and title/role): Same as Above.	Telephone: E-Mail:	
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor): Allen and Kristen Guerin	Telephone: E-Mail:	
Address: 270 Rosedale Boulevard		
City/PO: Amherst	State: NY	Zip Code: 14226

REVISED
DEC 18 2020
TOWN OF AMH
PLANNING DEPT.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, or Village Board of Trustees ☑Yes ☐No	Town of Amherst Town Board - Reclassification NCD Property and Amend. of Audubon Dev. Plan	August 24, 2020
b. City, Town or Village Planning Board or Commission ☑Yes ☐No	Planning Board - Site Plan Approval	To be Determined
c. City, Town or Village Zoning Board of Appeals ☐Yes ☑No		
d. Other local agencies ☑Yes ☐No	Building Dept. - Building and Floodplain Permits; Stormwater Permit - Eng. Dept.	To be Determined
e. County agencies ☑Yes ☐No	ECDPW - Curb cut onto North Forest Road; ECWA - Water	To be Determined
f. Regional agencies ☐Yes ☑No		
g. State agencies ☑Yes ☐No	NYSDEC - DSCA and SPDES Permit and NYSOPRHP - Cultural resource review	To be Determined
h. Federal agencies ☐Yes ☑No		

i. Coastal Resources.

i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway? ☐Yes ☑No

ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program? ☐Yes ☑No

iii. Is the project site within a Coastal Erosion Hazard Area? ☐Yes ☑No

C. Planning and Zoning

C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? ☐Yes ☑No

- **If Yes,** complete sections C, F and G.
- **If No,** proceed to question C.2 and complete all remaining sections and questions in Part 1

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? ☑Yes ☐No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? ☑Yes ☐No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) ☑Yes ☐No

If Yes, identify the plan(s):

NYS Heritage Areas:West Erie Canal Corridor

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? ☐Yes ☑No

If Yes, identify the plan(s):

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. ☑ Yes ☐ No
If Yes, what is the zoning classification(s) including any applicable overlay district?
The zoning classification of the Project Site is NCD-SA.

b. Is the use permitted or allowed by a special or conditional use permit? ☐ Yes ☑ No

c. Is a zoning change requested as part of the proposed action? ☑ Yes ☐ No
If Yes,
i. What is the proposed new zoning for the site? NCD-ND

C.4. Existing community services.

a. In what school district is the project site located? Williamsville Central School District

b. What police or other public protection forces serve the project site?
Town of Amherst Police Department

c. Which fire protection and emergency medical services serve the project site?
Getzville Volunteer Fire Department

d. What parks serve the project site?
There are various Town parks that will be accessible to future residents of the project.

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? Multifamily residential consisting of attached residential units for lease.

b. a. Total acreage of the site of the proposed action? 2.35 acres
b. Total acreage to be physically disturbed? 1.3 +/- acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 2.35 acres

c. Is the proposed action an expansion of an existing project or use? ☐ Yes ☑ No
i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____

d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☑ No
If Yes,
i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

ii. Is a cluster/conservation layout proposed? ☐ Yes ☐ No
iii. Number of lots proposed? _____
iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

e. Will the proposed action be constructed in multiple phases? ☐ Yes ☑ No
i. If No, anticipated period of construction: _____ months
ii. If Yes:
- Total number of phases anticipated _____
- Anticipated commencement date of phase 1 (including demolition) _____ month _____ year
- Anticipated completion date of final phase _____ month _____ year
- Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases:

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f. Does the project include new residen... uses? ☑ Yes ☐ No
If Yes, show numbers of units proposed.

	One Family	Two Family	Three Family	Multiple Family (four or more)
Initial Phase				8
At completion of all phases				8

g. Does the proposed action include new non-residential construction (including expansions)? ☐ Yes ☑ No
If Yes,
i. Total number of structures _____
ii. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length
iii. Approximate extent of building space to be heated or cooled: _____ square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? ☑ Yes ☐ No
If Yes,
i. Purpose of the impoundment: Stormwater management.
ii. If a water impoundment, the principal source of the water: ☐ Ground water ☐ Surface water streams ☑ Other specify: Runoff from impervious surfaces to be located on the Project Site.
iii. If other than water, identify the type of impounded/contained liquids and their source.
iv. Approximate size of the proposed impoundment. Volume: TBD million gallons; surface area: 0.3 acres
v. Dimensions of the proposed dam or impounding structure: n/a height; _____ length
vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete):
impoundment is an excavation, a dam is not required

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? ☐ Yes ☑ No
(Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)
If Yes:
i. What is the purpose of the excavation or dredging? _____
ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?
- Volume (specify tons or cubic yards): _____
- Over what duration of time? _____

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them.
iv. Will there be onsite dewatering or processing of excavated materials? ☐ Yes ☐ No
If yes, describe. _____
v. What is the total area to be dredged or excavated? _____ acres
vi. What is the maximum area to be worked at any one time? _____ acres
vii. What would be the maximum depth of excavation or dredging? _____ feet
viii. Will the excavation require blasting? ☐ Yes ☐ No
ix. Summarize site reclamation goals and plan: _____

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? ☐ Yes ☑ No
If Yes:
i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____

Attached as Attachment "A" of this Amended Part 1 of the Full EAF is a wetland investigation letter prepared by Scott Livingstone of Earth Dimensions, Inc. dated July 7, 2020 confirming there are not any wetland subject to the jurisdiction of either of the NYS Dept. of Environmental Conservation of the United States Army Corps of Engineers located on the Project Site.

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ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

iii. Will the proposed action cause or result in disturbance to bottom sediments? ☐Yes ☐No
If Yes, describe:

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation? ☐Yes ☐No
If Yes:

- acres of aquatic vegetation proposed to be removed:
- expected acreage of aquatic vegetation remaining after project completion:
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access):
- proposed method of plant removal:
- if chemical/herbicide treatment will be used, specify product(s):

v. Describe any proposed reclamation/mitigation following disturbance:

c. Will the proposed action use, or create a new demand for water? ☑Yes ☐No
If Yes:

i. Total anticipated water usage/demand per day: 1,850 gallons/day

ii. Will the proposed action obtain water from an existing public water supply? ☐Yes ☐No
If Yes:

- Name of district or service area: ECWA
- Does the existing public water supply have capacity to serve the proposal? ☑Yes ☐No
- Is the project site in the existing district? ☑Yes ☐No
- Is expansion of the district needed? ☐Yes ☑No
- Do existing lines serve the project site? ☑Yes ☐No

iii. Will line extension within an existing district be necessary to supply the project? ☐Yes ☑No
If Yes:

- Describe extensions or capacity expansions proposed to serve this project:
- Source(s) of supply for the district:

iv. Is a new water supply district or service area proposed to be formed to serve the project site? ☐ Yes ☑No
If, Yes:

- Applicant/sponsor for new district:
- Date application submitted or anticipated:
- Proposed source(s) of supply for new district:

v. If a public water supply will not be used, describe plans to provide water supply for the project:

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes? ☑Yes ☐No
If Yes:

i. Total anticipated liquid waste generation per day: 1,850 gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each):

iii. Will the proposed action use any existing public wastewater treatment facilities? ☑Yes ☐No
If Yes:

- Name of wastewater treatment plant to be used: Town of Amherst Waste Water Treatment Plan on Tonawanda Creek Road
- Name of district: Town of Amherst Consolidated Sanitary Sewer District
- Does the existing wastewater treatment plant have capacity to serve the project? ☑Yes ☐No
- Is the project site in the existing district? ☑Yes ☐No
- Is expansion of the district needed? ☐Yes ☑No

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- Do existing sewer lines serve the project site? ☑Yes ☐No
- Will a line extension within an existing district be necessary to serve the project? ☐Yes ☑No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? ☐Yes ☑No

If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- What is the receiving water for the wastewater discharge? _____

v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans):

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? ☑Yes ☐No

If Yes:

i. How much impervious surface will the project create in relation to total size of project parcel?

_____ Square feet or 0.5 acres (impervious surface)

_____ Square feet or 2.35 acres (parcel size)

ii. Describe types of new point sources. roof, parking lot

iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?

Private on-site storm water management area. Discharge will be to Ellicott Creek.

- If to surface waters, identify receiving water bodies or wetlands: Ellicott Creek.
- Will stormwater runoff flow to adjacent properties? ☐Yes ☑No

iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? ☐Yes ☑No

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? ☐Yes ☑No

If Yes, identify:

i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)

ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)

iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? ☐Yes ☑No

If Yes:

i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) ☐Yes ☐No

ii. In addition to emissions as calculated in the application, the project will generate:

- _____Tons/year (short tons) of Carbon Dioxide (CO_2)
- _____Tons/year (short tons) of Nitrous Oxide (N_2O)
- _____Tons/year (short tons) of Perfluorocarbons (PFCs)
- _____Tons/year (short tons) of Sulfur Hexafluoride (SF_6)
- _____Tons/year (short tons) of Carbon Dioxide equivalent of Hydroflourocarbons (HFCs)
- _____Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

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h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? ☐Yes ☑No

If Yes:

i. Estimate methane generation in tons/year (metric): _____

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? ☐Yes ☑No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): _____

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? ☐Yes ☑No

If Yes:

i. When is the peak traffic expected (Check all that apply): ☐Morning ☐Evening ☐Weekend ☐Randomly between hours of _____ to _____.

ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____

iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____

iv. Does the proposed action include any shared use parking? ☐Yes ☐No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: _____

vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? ☐Yes ☐No

vii Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? ☐Yes ☐No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? ☐Yes ☐No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? ☑Yes ☐No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: Typical energy usage for a project of this type

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): National Grid

iii. Will the proposed action require a new, or an upgrade, to an existing substation? ☐Yes ☑No

l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: 7:00 a.m. to 7:00 p.m.
- Saturday: 8:00 a.m. to 5:00 p.m.
- Sunday: As needed
- Holidays: Not Applicable

ii. During Operations:

- Monday - Friday: Not Applicable
- Saturday: Not Applicable
- Sunday: Not Applicable
- Holidays: Not Applicable

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m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? ☑ Yes ☐ No

If yes:

i. Provide details including sources, time of day and duration:

There will be short-term unavoidable noise impacts during the construction of the project that will result from construction equipment.

ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? ☐ Yes ☑ No

Describe:

n. Will the proposed action have outdoor lighting? ☑ Yes ☐ No

If yes:

i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:

Parking lot lights, 15' mounting height, dark sky compliant, minimum of 30' from nearest residence.

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? ☐ Yes ☑ No

Describe:

o. Does the proposed action have the potential to produce odors for more than one hour per day? ☐ Yes ☑ No

If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures:

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? ☐ Yes ☑ No

If Yes:

i. Product(s) to be stored

ii. Volume(s) _____ per unit time _____ (e.g., month, year)

iii. Generally, describe the proposed storage facilities:

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? ☐ Yes ☑ No

If Yes:

i. Describe proposed treatment(s):

ii. Will the proposed action use Integrated Pest Management Practices? ☐ Yes ☐ No

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? ☐ Yes ☑ No

If Yes:

i. Describe any solid waste(s) to be generated during construction or operation of the facility:

- Construction: 3 tons per week (unit of time)
- Operation : 2 tons per month (unit of time)

ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:

- Construction: at the discretion of the contractor
- Operation: Project will follow town of Amherst recycling program

iii. Proposed disposal methods/facilities for solid waste generated on-site:

- Construction: NYSDEC approved landfill
- Operation: NYSDEC approved landfill

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s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☑ No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii. Anticipated rate of disposal/processing:

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐ Yes ☑ No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

iii. Specify amount to be handled or generated _____ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☐ No

If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: _____

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

☐ Urban ☐ Industrial ☑ Commercial ☑ Residential (suburban) ☐ Rural (non-farm)
☐ Forest ☐ Agriculture ☐ Aquatic ☑ Other (specify): Asbury Pointe Retirement Community

ii. If mix of uses, generally describe:

There are a mixture of land uses in the vicinity of the Project Site including single-family homes, the Asbury Pointe Retirement Community and the Audubon Women's Health Medical Office.

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	0	0.9	+0.9
• Forested	.5	.5	0
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	1.8	.4	-1.4
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)			
• Wetlands (freshwater or tidal)	0	0	0
• Non-vegetated (bare rock, earth or fill)	0	0	0
• Other Describe: lawn/landscaping		0.3	+1.4

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

c. Is the project site presently used by members of the community for public recreation? ☐Yes ☑No
i. If Yes: explain: _____

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? ☑Yes ☐No
If Yes,
i. Identify Facilities:
The Asbury Pointe Retirement Community is located at 50 Stahl Road.

e. Does the project site contain an existing dam? ☐Yes ☑No
If Yes:
i. Dimensions of the dam and impoundment:
- Dam height: _____ feet
- Dam length: _____ feet
- Surface area: _____ acres
- Volume impounded: _____ gallons OR acre-feet

ii. Dam's existing hazard classification: _____
iii. Provide date and summarize results of last inspection: _____

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? ☐Yes ☑No
If Yes:
i. Has the facility been formally closed? ☐Yes ☐No
- If yes, cite sources/documentation: _____

ii. Describe the location of the project site relative to the boundaries of the solid waste management facility: _____
iii. Describe any development constraints due to the prior solid waste activities: _____

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? ☐Yes ☑No
If Yes:
i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred: _____

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? ☐Yes ☑No
If Yes:
i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: ☐Yes ☐No
☐ Yes – Spills Incidents database — Provide DEC ID number(s): _____
☐ Yes – Environmental Site Remediation database — Provide DEC ID number(s): _____
☐ Neither database

ii. If site has been subject of RCRA corrective activities, describe control measures: _____
iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? ☐Yes ☑No
If yes, provide DEC ID number(s): _____
iv. If yes to (i), (ii) or (iii) above, describe current status of site(s): _____

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

v. Is the project site subject to an institutional control limiting property uses? ☐Yes ☐No

- If yes, DEC site ID number: _____
- Describe the type of institutional control (e.g., deed restriction or easement): _____
- Describe any use limitations: _____
- Describe any engineering controls: _____
- Will the project affect the institutional or engineering controls in place? ☐Yes ☐No
- Explain: _____

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? >5 feet

b. Are there bedrock outcroppings on the project site? ☐Yes ☑No
If Yes, what proportion of the site is comprised of bedrock outcroppings? _____%

c. Predominant soil type(s) present on project site:
Cosad loamy fine sand 100 %
_____ %
_____ %

d. What is the average depth to the water table on the project site? Average: >5 feet

e. Drainage status of project site soils:
☐ Well Drained: _____% of site
☐ Moderately Well Drained: _____% of site
☑ Poorly Drained 100 % of site

f. Approximate proportion of proposed action site with slopes:
☑ 0-10%: 100 % of site
☐ 10-15%: _____% of site
☐ 15% or greater: _____% of site

g. Are there any unique geologic features on the project site? ☐Yes ☑No
If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? ☑Yes ☐No

ii. Do any wetlands or other waterbodies adjoin the project site? ☑Yes ☐No
If Yes to either *i* or *ii*, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? ☑Yes ☐No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name 837-25 Classification B
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name Federal Waters, Federal Waters, Federal Waters,... Approximate Size _____
- Wetland No. (if regulated by DEC) _____

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? ☑Yes ☐No
If yes, name of impaired water body/bodies and basis for listing as impaired:
Name - Pollutants - Uses:Ellicott Creek, Lower, and tribs – Nutrients;Silt/Sediment – Aquatic Life

i. Is the project site in a designated Floodway? [There will not be any development in the Floodway associated with Ellicott Creek.] ☑Yes ☐No

j. Is the project site in the 100-year Floodplain? ☑Yes ☐No

k. Is the project site in the 500-year Floodplain? ☑Yes ☐No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? ☐Yes ☑No
If Yes:
i. Name of aquifer: _____

[Note: Attached as Attachment "A" of this Amended Part 1 of the Full EAF is a wetland investigation letter prepared by Scott Livingstone of Earth Dimensions, Inc. dated July 7, 2020 confirming there are not any wetland subject to the jurisdiction of either of the NYS Dept. of Environmental Conservation of the United States Army Corps of Engineers located on the Project Site.]

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

m. Identify the predominant wildlife species that occupy or use the project site:
Typical suburban species

n. Does the project site contain a designated significant natural community? ☐Yes ☑No
If Yes:
i. Describe the habitat/community (composition, function, and basis for designation):
ii. Source(s) of description or evaluation:
iii. Extent of community/habitat:
- Currently: _____ acres
- Following completion of project as proposed: _____ acres
- Gain or loss (indicate + or -): _____ acres

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? ☐Yes ☑No
If Yes:
i. Species and listing (endangered or threatened):

p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? ☐Yes ☑No
If Yes:
i. Species and listing:

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? ☐Yes ☑No
If yes, give a brief description of how the proposed action may affect that use:

E.3. Designated Public Resources On or Near Project Site

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐Yes ☑No
If Yes, provide county plus district name/number:

b. Are agricultural lands consisting of highly productive soils present? ☐Yes ☑No
i. If Yes: acreage(s) on project site?
ii. Source(s) of soil rating(s):

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? ☐Yes ☑No
If Yes:
i. Nature of the natural landmark: ☐ Biological Community ☐ Geological Feature
ii. Provide brief description of landmark, including values behind designation and approximate size/extent:

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? ☐Yes ☑No
If Yes:
i. CEA name:
ii. Basis for designation:
iii. Designating agency and date:

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? ☐ Yes ☑ No

If Yes:

i. Nature of historic/archaeological resource: ☐ Archaeological Site ☐ Historic Building or District

ii. Name: _____

iii. Brief description of attributes on which listing is based:

_____

f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? ☑ Yes ☐ No

g. Have additional archaeological or historic site(s) or resources been identified on the project site? ☐ Yes ☑ No

If Yes:

i. Describe possible resource(s): _____

ii. Basis for identification: _____

h. Is the project site within fives miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? ☐ Yes ☑ No

If Yes:

i. Identify resource: _____

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____

iii. Distance between project and resource: _____ miles.

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? ☐ Yes ☑ No

If Yes:

i. Identify the name of the river and its designation: _____

ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? ☐ Yes ☐ No

[Note: A copy of the No Impact determination letter issued by the NYS Office of Parks, Recreation and Historic Preservation dated October 30, 2020 is provided at Attachment "B" of this Amended Part 1 of the Full EAF.]

F. Additional Information

Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Coromandel Estates Amherst LLC Date December 17, 2020

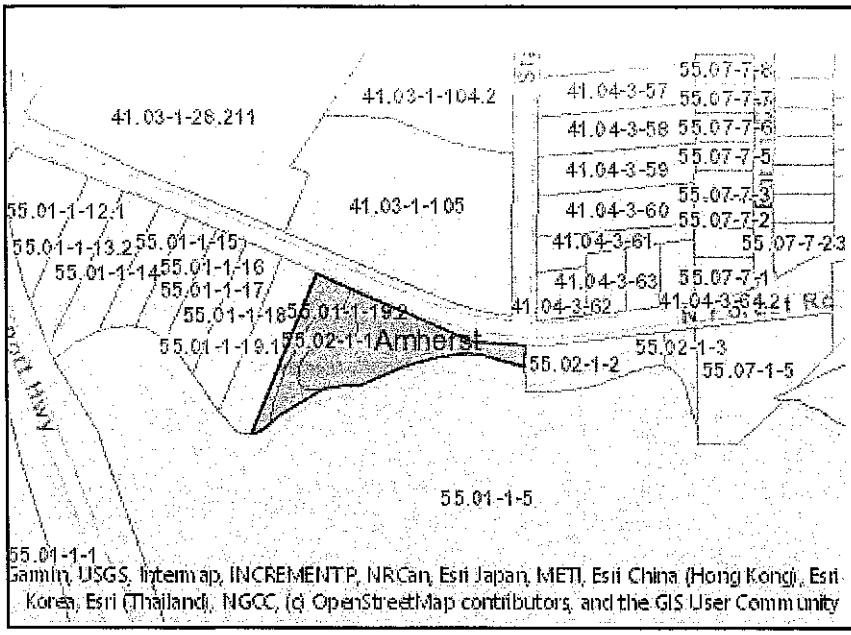
Signature _____ Title Counsel for Project Sponsor

PRINT FORM

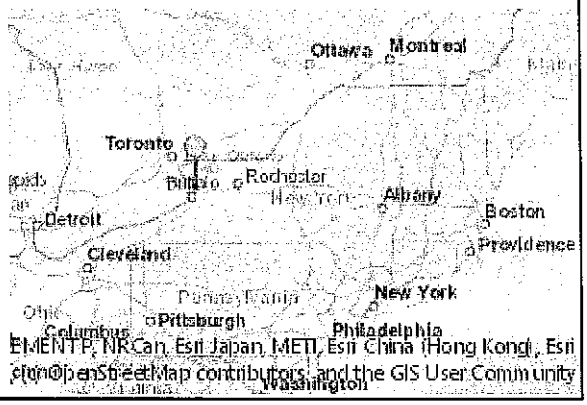
Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

EAF Mapper Summary Report

Monday, August 17, 2020 7:45 AM



Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.



B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	NYS Heritage Areas:West Erie Canal Corridor
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	No
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	Yes
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.iv [Surface Water Features - Stream Name]	837-25
E.2.h.iv [Surface Water Features - Stream Classification]	B
E.2.h.iv [Surface Water Features - Wetlands Name]	Federal Waters
E.2.h.v [Impaired Water Bodies]	Yes
E.2.h.v [Impaired Water Bodies - Name and Basis for Listing]	Name - Pollutants - Uses:Ellicott Creek, Lower, and tribs – Nutrients;Silt/Sediment – Aquatic Life

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

E.2.i. [Floodway]	Yes
E.2.j. [100 Year Floodplain]	Yes
E.2.k. [500 Year Floodplain]	Yes
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	No
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Attachment "A" of Amended Part 1 of Full Environmental Assessment Form – Wetland Investigation Letter of Scott J. Livingstone of Earth Dimensions, Inc. dated July 7, 2020

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

EARTH DIMENSIONS, INC.
* Soil & Hydrogeologic Investigations * Wetland Delineations
1091 Jamison Road, Elma NY 14059
(716) 655-1717 * Fax (716) 655-2915 www.earthdimensions.com

July 7, 2020 W4E87a

Thiru Vikram
4515 Chestnut Ridge Road
Amherst, New York 14228

Re: Preliminary Wetland Investigation – 1.9± acres
2160-2170 North Forest Road
Town of Amherst
Erie County, New York

Dear Mr. Vikram:

Earth Dimensions, Inc. (EDI) has completed a preliminary wetland investigation at the above referenced site for the purpose of identifying potential regulated wetlands and waterways. The site investigation was conducted on July 7, 2020. The attached map depicts the limits of our investigation. EDI did not identify any federally regulated wetlands as defined by the U.S. Army Corps of Engineers (USACE) Wetland Delineation Manuals within the limits of investigation. However, Ellicott Creek abuts the site on the south boundary and would be regulated by USACE under Section 404 of the Clean Water Act.

The New York State Department of Environmental Conservation (NYSDEC) On-line Resource Mapper does not depict any Freshwater Wetlands within or adjacent to the subject parcel. NYSDEC, thus, has no jurisdiction over any wetlands within the site. However, Ellicott Creek is a Class B stream and is regulated under Article 15 of New York Conservation Law.

Based on this investigation, it is our professional opinion that as long as no disturbance is proposed to the bed and banks of Ellicott Creek, your project may move forward without the need for a Section 404 permit from USACE or Article 15 permit from NYSDEC. Should your project propose impacts to the bed or banks of Ellicott Creek, we recommend that a Joint Application for permit be submitted to USACE and/or NYSDEC with a request for a Section 404 and/or an Article 15 permit, respectively.

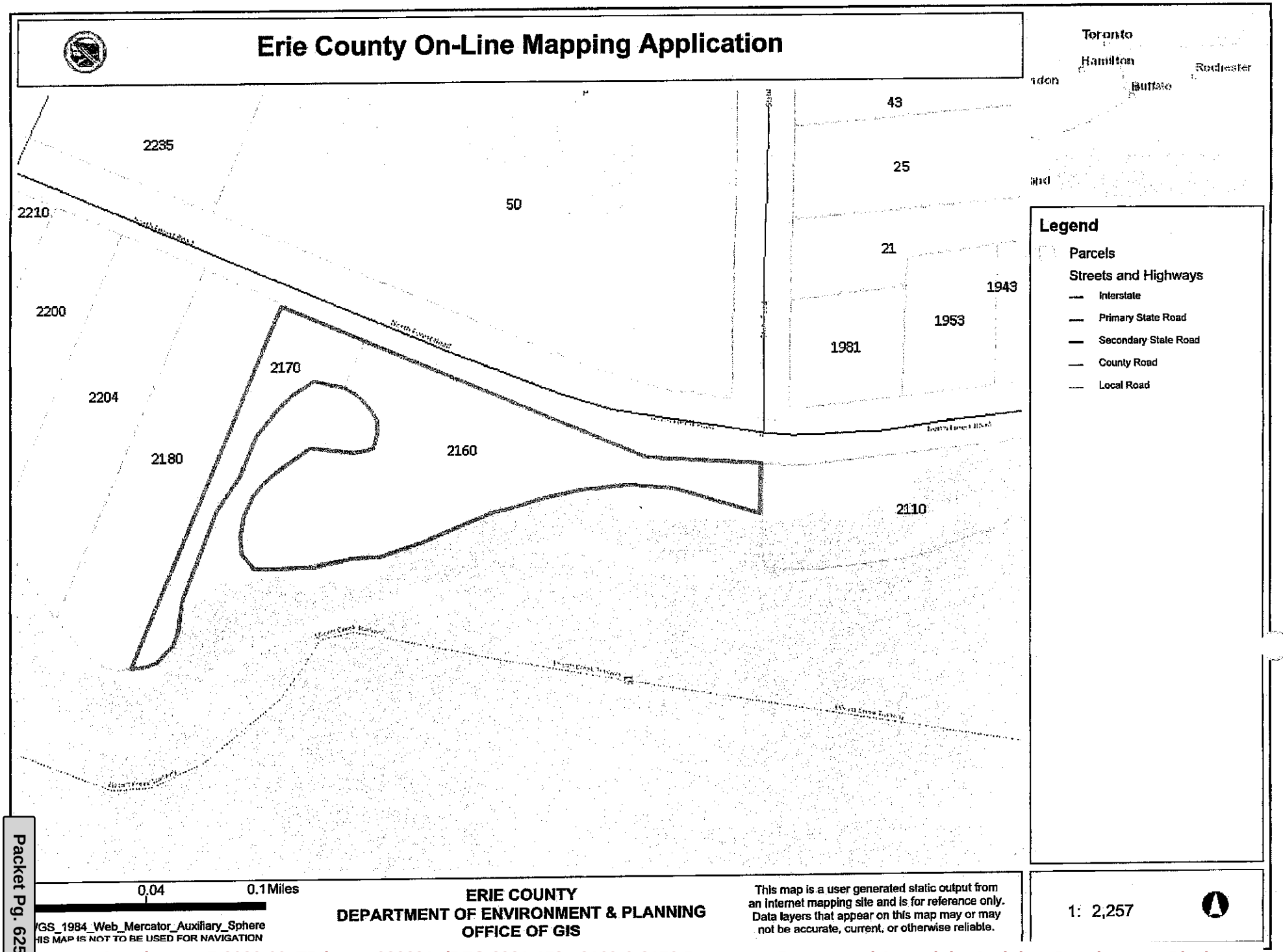
If you have any questions, please contact our office at (716) 655-1717 or email slivingstone@earthdimensions.com.

Very truly yours,
Earth Dimensions, Inc.

Scott J. Livingstone
Wetlands Operations Manager

Encl.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)



Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Attachment "B" of Amended Part 1 of Full Environmental Assessment Form – No Impact Determination Letter of Josalyn Ferguson of the New York State Office of Parks, Recreation and Historic Preservation dated October 30, 2020

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

NEW YORK STATE OF OPPORTUNITY | Parks, Recreation, and Historic Preservation

ANDREW M. CUOMO
Governor

ERIK KULLESEID
Commissioner

October 30, 2020

Roberta Rappoccio
Associate Planner
Town of Amherst, NY Planning Department
5583 Main Street
Amherst, NY 14221

Re: DEC
Rezoning for 18-Unit 3-story New Construction Project
2160 North Forest Rd, Amherst, Erie County, NY
20PR05460
Z-2020-06

Dear Roberta Rappoccio:

Thank you for requesting the comments of the Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the Phase I Archaeological Reconnaissance Survey report prepared by the University at Buffalo's Archaeological Survey (Whalen & Angelini, October 2020; 20SR00539) in accordance with the New York State Historic Preservation Act of 1980 (section 14.09 of the New York Parks, Recreation, and Historic Preservation Law). These comments are those of the Division for Historic Preservation and relate only to Historic/Cultural resources.

Based on this review, it is OPRHP's understanding that no archaeological sites were identified during the above-noted investigation, and we concur with the report's conclusion that no further archaeological investigations are warranted. It is, therefore, OPRHP's opinion that no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by this project. Should the project design be changed OPRHP recommends further consultation with this office.

If you have any questions, I can be reached via e-mail at Josalyn.Ferguson@parks.ny.gov.

Sincerely,

Josalyn Ferguson, Ph.D.
Scientist Archaeology

via email only

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 3 – Legal Description of Property to be Reclassified from NCD-SA to NCD-ND

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

EXHIBIT 3 OF AMENDED APPLICATION

LEGAL DESCRIPTION OF PROPERTY TO BE RECLASSFIED FROM NCD-SA TO NCD-ND – 2160 AND 2170 NORTH FOREST ROAD

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie, State of New York, being part of Lot 68, Township 12, Range 7 of the Holland Land Survey so-called and further bounded and described as follows.

BEGINNING at the intersection of the centerline of Stahl Road (66.0 feet wide) with the centerline of North Forest Road (66.0 feet wide):

THENCE: Southerly, along the centerline of Stahl Road extended southerly, a distance of 108 feet more or less to the north bank of Ellicott Creek;

THENCE: Westerly along said north bank of Ellicott Creek, a distance of 583 feet more or less to the west line of lands conveyed to Peter D. Durham by deed recorded in the Erie County Clerk's Office in Liber 9264 of Deeds at page 188;

THENCE: Northerly along said west line of Peter D. Durham lands, a distance of 10 feet more or less to the north bank of Ellicott Creek;

THENCE: Westerly and southerly along said north bank of Ellicott Creek, a distance of 227 feet more or less to a point distant 100 feet westerly from the said west line of Peter D. Durham lands as measured at right angles;

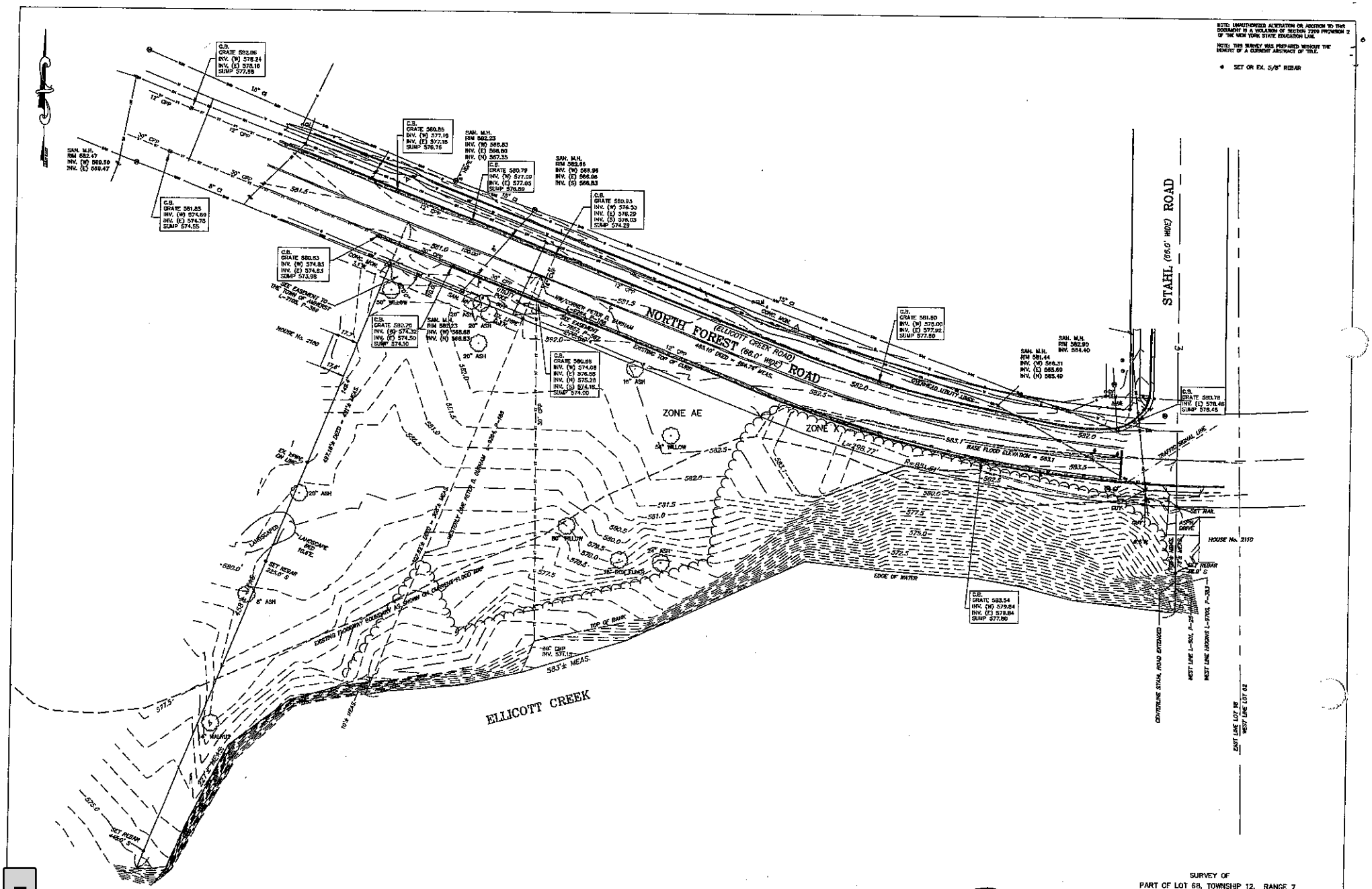
THENCE: Northerly along a line parallel with the west line of said Peter D. Durham lands distant 100.00 feet westerly therefrom measured at right angles, a distance of 491 feet more or less to the centerline of North Forest Road;

THENCE: Easterly, along said centerline of North Forest Road, a distance of 564.74 feet to the POINT OR PLACE OF BEGINNING.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 4 – Reduced Size Copy of Survey of 2160 and 2170 North Forest Road as Prepared by GPI Surveying dated July 13, 2020

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)



	REVISION/TYPE
D	UPDATE SURVEY AND TOPOGRAPHY
	RE-SURVEY
7	REVISED FLOODWAY BOUNDARY

REFERENCES:
SEE SURVEY PREPARED BY GORDON & BRODERICK ASSOCIATES JOB No. 2-15-219
SEE SURVEY PREPARED BY GORDON & BRODERICK ASSOCIATES JOB No. 2-24-219
LETTER OF MAP REVISION (LOMR) CASE No. 95-02-015P DATED 1/11/96
FLOOD INSURANCE RATE MAP NUMBER 36029C0069H DATED JUNE 7, 2019*
*MAP NUMBER 36029C0069H DATED 6/7/19 SUPERCEDES LOMR CASE No. 95-02-015P DATED 1/11/96

EQUITY TITLE REPORT No. E18-10758T EXCEPTIONS:
EASEMENT TO THE TOWN OF AMHERST L-7105, P-369 – AS SHOWN
EASEMENT TO NEW YORK TELEPHONE COMPANY L-7957, P-307 – AS SHOWN

STATE OF NEW YORK
MARK L. ANDREWS
LICENSED LAND SURVEYOR
050415

SURVEY OF
PART OF LOT 58, TOWNSHIP 12, RANGE 7
HOLLAND LAND COMPANY
TOWN OF AMHERST, ERIE COUNTY, NEW YORK

GPI ENGINEERING, LANDSCAPE ARCHITECTURE & SURVEYING, LLP
ENGINEERING • SURVEYING • LANDSCAPE ARCHITECTURE
4820 CENESEE STREET, SUITE 100
BUFFALO, NEW YORK 14228
(716) 633-4844 FAX 633-4848

Job No. 5083-BOUNDARY Date: JUNE 24, 2014
Scale 1" = 40' Tax No.

Exhibit 5 – Responses to Questions 11A & 11B of the Rezoning Application

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

EXHIBIT 5

AMENDED APPLICATION TO RECLASSIFY 2160 AND 2170 NORTH FOREST ROAD FROM NCD-SA TO NCD-ND

Question 11(A): **Description of the character of the proposed development:**

Response to Question 11(A): The modified layout of the proposed residential project is depicted on the updated Concept Site Plan prepared by Silvestri Architects P.C. A full size copy of the updated Concept Site Plan [Drawing AS-101 – Date: 12/16/20] is attached to this Amended Application and a reduced size copy is also provided at Exhibit "7". The updated layout of the proposed residential project consists of a two-story building consisting of eight (8) units for lease with related site improvements as depicted on the updated Concept Site Plan. It is important to mention that the updated Concept Plan reflects a deliberate effort made by the project team to reduce the density of the proposed multifamily project that previously consisted of a three-story building with eighteen (18) units. A copy of the previous Concept Plan for the project as prepared by Carmina Wood Morris DPC is provided at Exhibit "8" of this Amended Application.

It is important to mention that the layout of the proposed project as depicted on the updated Concept Site Plan provided is not meant to represent the final layout of the proposed project since modifications may be necessary based on the project review process and the preparation of fully engineered plans.

Question 11(B)(1): **Rationale for rezoning request: 1. Why was this site chosen?**

Response to Question 11(B)(1): The Project Site is an appropriate location for the proposed project given its location on North Forest Road in an area that consist of a mixture of uses and zoning

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

classifications. The Project Site was listed for sale and the Petitioner has entered into a contract to purchase the Project Site.

Question 11(B)(2): Why cannot land be used with the existing zoning?

Response to Question 11(B)(2): The Project Site is currently zoned NCD-SA. The allowable uses of property zoned NCD-SA are extremely limited given that the NCD-SA classification is intended for agricultural uses in rural areas.

Question 11(B)(3): How will this rezoning impact surrounding properties?

Response to Question 11(B)(3): The requested reclassification of the Project Site from NCD-SA to NCD-ND to accommodate the proposed residential project will not result in any potentially significant adverse impacts on surrounding properties. The density of the proposed residential project has been reduced from eighteen (18) units to eight (8) units as depicted on the updated Concept Plan prepared by Silvestri Architects P.C. [Drawing AS-101 – Date: 12/16/20]. An effort has been to reduce the density of the residential project and also to design the residential project to minimize environmental impacts associated with the proximity of Ellicott Creek. A completed Amended Part 1 of the Full Environmental Assessment Form prepared pursuant to the State Environmental Quality Review Act ("SEQRA") is attached as Exhibit "2".

Question 11(B)(4): How will this rezoning impact the school system?

Response to Question 11(B)(4): The proposed project will have positive impacts on the school district since the project will generate annual property taxes to be received by taxing jurisdictions. The proposed project will not generate a substantial demand for educational services.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 6 – Responses to Questions 16A, 16B, 16D & 16E of the Rezoning Application

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

EXHIBIT 6

AMENDED APPLICATION TO RECLASSIFY 2160 AND 2170 NORTH FOREST ROAD FROM NCD-SA TO NCD-ND

Question 16(A)(1): **State in detail why the proposed zoning is consistent with the adopted Town of Amherst Bicentennial Comprehensive Plan. Cite specific sections, maps and/or figures in the plan that support the proposed zoning at this location.**

Response to Question 16(A)(1): The request to reclassify the Project Site from NCD-SA to NCD-ND to accommodate the proposed residential project consisting of eighteen attached units for lease is consistent with the adopted Bicentennial Comprehensive Plan. The Town of Amherst adopted the Bicentennial Comprehensive Plan in January of 2007 after completing a lengthy planning process that included numerous public meetings and public hearings involving the Comprehensive Plan Advisory Committee, the Planning Board and the Town Board.[1] On September 3, 2019, the Town Board most recently adopted an amendments to the Bicentennial Comprehensive Plan. The Comprehensive Plan is intended to guide future growth and redevelopment in the Town.

Figure 6 of the Bicentennial Comprehensive Plan is the Conceptual Land Use Plan and it depicts the Project Site as being appropriate for "Mixed Residential" use. A copy of Figure 6 of the Comprehensive Plan is provided at Exhibit "9". The Conceptual Land Use Plan is intended to communicate the overall direction and concept of future development in the Town of Amherst. The Mixed-Residential land use category is described in Chapter 3 of the Comprehensive Plan as

[1] A copy of the resolution adopted by the Town Board on January 2, 2007 for the purpose of adopting the Bicentennial Comprehensive Plan pursuant to Town Law Section 272-a is included at the beginning of the Comprehensive Plan. This resolution recites the lengthy planning history that incorporated numerous opportunities for public input as well as a coordinated environmental review pursuant to SEQRA that involved the preparation a Generic EIS and the issuance of a Findings Statement.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

being appropriate for a residential density of 4-12 units per acre the density of the proposed project is 7.66 units per acre.

Question 16(A)(2): Cite all text, map, and/or figures that must be amended to support the proposed zoning at this location and provide detailed suggested amendments.

Response to Question 16(A)(2): The adopted Comprehensive Plan does not need to be amended to accommodate the requested reclassification of the Project Site from NCD-SA to NCD-ND.

Question 16(A)(3): State why the proposed zoning is consistent with intent and objectives (Sec. 1-2-2) of the Zoning Ordinance:

Response to Question 16(A)(3): Section 1-2-1 of the Zoning Code is titled "Purpose" and it states as follows:

> *"The purpose of this Zoning Ordinance and the intent of the legislative authority in its adoption is to promote the environment of the town and its public health, safety, convenience, comfort, prosperity and the general welfare by regulating the use of buildings, other structures and land for residences, open space, public facilities, business, services, industry or other purposes; by regulating and restricting the bulk, height, design, building coverage and location of structures; by regulating and limiting population density; and for the aforesaid purposes, to divide the land within the limits of the town into districts of such number and dimensions generally consistent with the policies of the Comprehensive Plan and to provide procedures for the administration and amendment of said Zoning Ordinance."*

The request reclassification of the Project Site from NCD-SA to NCD-ND to accommodate the proposed residential project is consistent with the "Purpose" of the Zoning Code. Section 1-2-2 of the Zoning Code sets forth the objectives of the Zoning Code. This section of the Zoning Code lists thirteen (13) objectives that are discussed below as follows:

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

A. To protect the character and values of residential, institutional and public uses, business, commercial and manufacturing uses and to insure their orderly and beneficial development;

Response: The proposed project will be consistent with the objective of protecting the character and value of existing land uses and represents orderly and beneficial development.

B. To provide adequate open spaces for light, air and outdoor uses to include public, common and private open space areas;

Response: The proposed project is consistent with this objective.

C. To prevent overcrowding of land;

Response: The proposed residential project will not result in the overcrowding of land.

D. To prevent excessive concentration of population and to prevent spare and uncoordinated development;

Response: The proposed residential project will not result in an excessive concentration of population. The proposed residential project is not an example of uncoordinated development.

E. To regulate and control the location and spacing of buildings on the lot and in relation to the surrounding property generally consistent with the policies of the Comprehensive Plan.

Response: The requested reclassification of the Project Site from NCD-SA to NCD-ND and the proposed residential project are consistent with the policies of the Comprehensive Plan.

F. To protect persons and property from damage and injury due to fire or flood;

Response: The Site Plan review process will trigger the need for an Engineer's Report and SWPPP prepared by a licensed engineer to be prepared for review and approval by the Town's Engineering Department. The residential project will not increase the

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

likelihood of damage and injury due to fire and flood. The proposed project will be constructed per the stringent requirements of the NYS Building Code including the fire safety standards contained therein.

G. To preserve and protect significant natural features and vegetation, thereby preventing ecological damage and visual blight which occur when those features or vegetation are eliminated or substantially altered to serve development purposes only.

Response: The proposed residential project will not be inconsistent with this objective.

H. To assure that structure and land use arrangements are aesthetically harmonious with nearby areas and structures.

Response: The development of the Project Site in a manner consistent with the updated Concept Site Plan depicting a two-story building with 8 units will result in a residential project that is aesthetically harmonious with nearby areas and structures.

I. To regulate the location of buildings and intensity of uses in relation to streets according to plans so as to cause the least interference with and be damaged least by traffic movements and hence result in lessened street congestion and improved public safety.

Response: The proposed residential project will not result in any potentially significant traffic impacts and only curb cut will be provided onto North Forest Road, which is an Erie County Highway. The potential traffic impacts of the proposed project will be evaluated in connection with the coordinated environmental review of the project pursuant to SEQRA.

J. To establish zoning patterns that insure economical extensions for sewers, water supply waste disposal and other public utilities, as well as development of recreation, schools and other public facilities;

Response: The Project Site has access to sanitary sewer and water lines as well as necessary public utilities.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

K. To guide the future development of the town so as to being the gradual conformity of land, structures and uses generally consistent with the policies of the Comprehensive Plan.

Response: The proposed reclassification of the Project Site from NCD-SA to NCD-ND is consistent with this objective since the project is generally consistent with the recommended land use category of "Mixed Residential" as well as the planning objectives and policies in the Comprehensive Plan.

L. To accomplish the specific intents and goals set forth in the introduction to the respective sections.

Response: The proposed residential project is consistent with this objective.

M. To protect the community from visual pollution resulting from the unregulated use of signs and other advertising devices.

Response: The proposed residential project will not be inconsistent with this objective.

Question 16(C): Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood:

Response to Question 16(C): The proposed project is compatible with the present zoning and conforming uses of nearby properties and the character of the neighborhood.

Question 16(D): Suitability of the subject property for uses permitted by the current versus the proposed district:

Response to Question 16(D): The Project Site is not suitable for agricultural uses allowed in the NCD-SA district given its size, location and nearby land uses.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

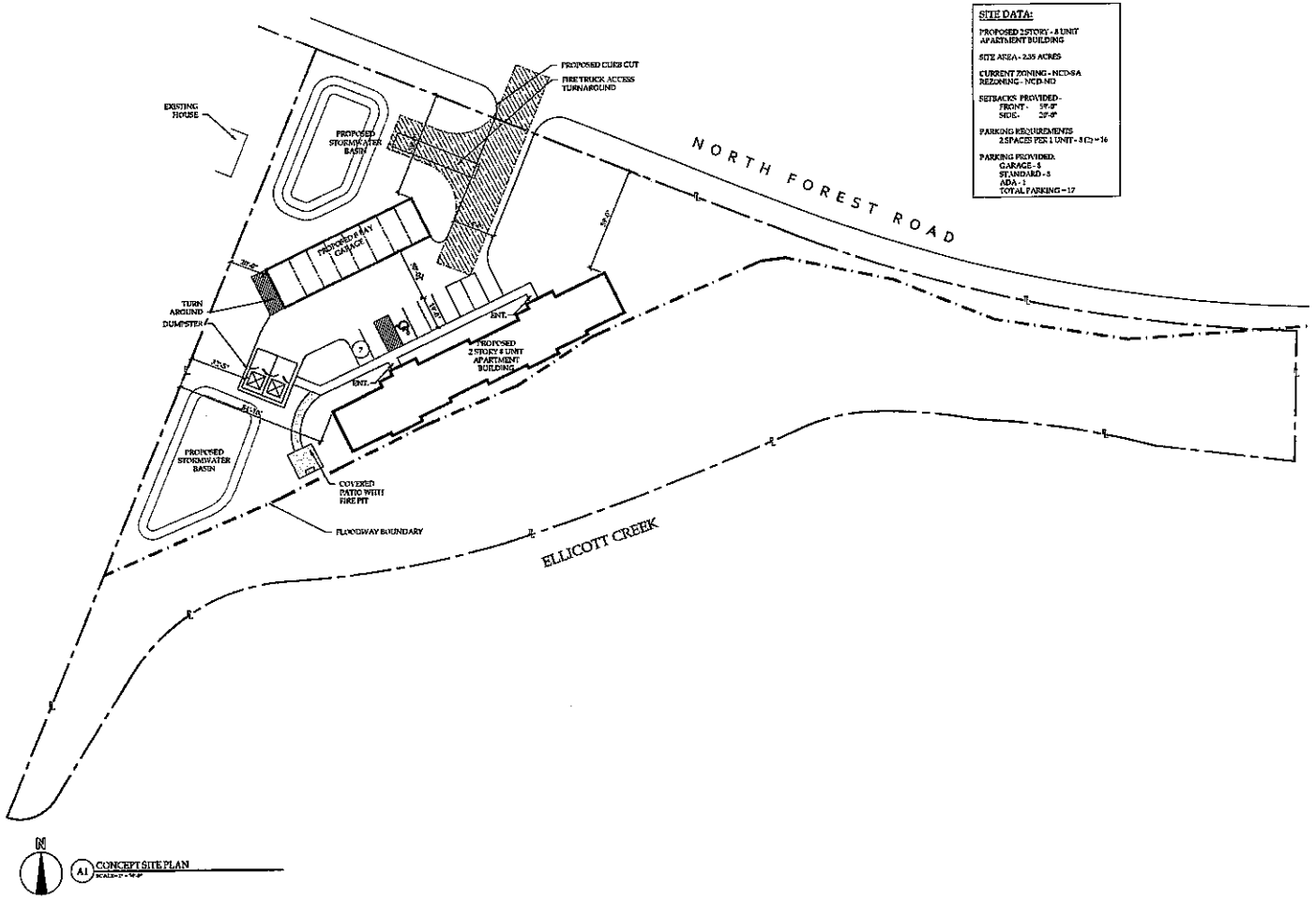
Question 16(E): **Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town:**

Response to Question 16(D): The requested reclassification of the Project Site from NCD-SA to NCD-ND to accommodate the proposed residential project will have positive impacts on the balance of uses in the Town since there is demand for upscale attached residential units for lease in the Town.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 7 – Reduced Size Copy of the Updated Concept Site Plan for the Proposed Project as Prepared by Silvestri Architects PC [Drawing AS-101 – Date: 12/16/20] [Note: A full size copy of Updated Concept Site Plan is also attached to this Amended Application]

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)



NOTICE

This document, the property of, prepared and issued by the architect, is submitted for the specific project named _____ and the recipient by accepting this document assumes custody and agrees that this document will not be copied or reproduced in part or in whole, and any special features peculiar to this design shall not be incorporated in any other project, unless prior agreement has been obtained in writing. These documents will be returned immediately upon completion of the project or upon the request of the architect.

This document is the exclusive property of the architect, no rights to ownership are transferable, or shall be lost by the filing of this document with any and all public authorities for the purpose of compliance with Codes and or Ordinances, i.e. Building Permit, etc.

NORTH FOREST APARTMENTS

2160-2170 North Forest Rd
Amherst, ny

ISSUE:

SA PROJECT TEAM: PRINCIPAL R.Silvestri
PROJ. ARCH. S.Hunt DRAFTER B.Meinhardt
JOB CAPT. _____ INTERIORS K. Hanssen

SEAL:

TITLE:

CONCEPT SITE PLAN

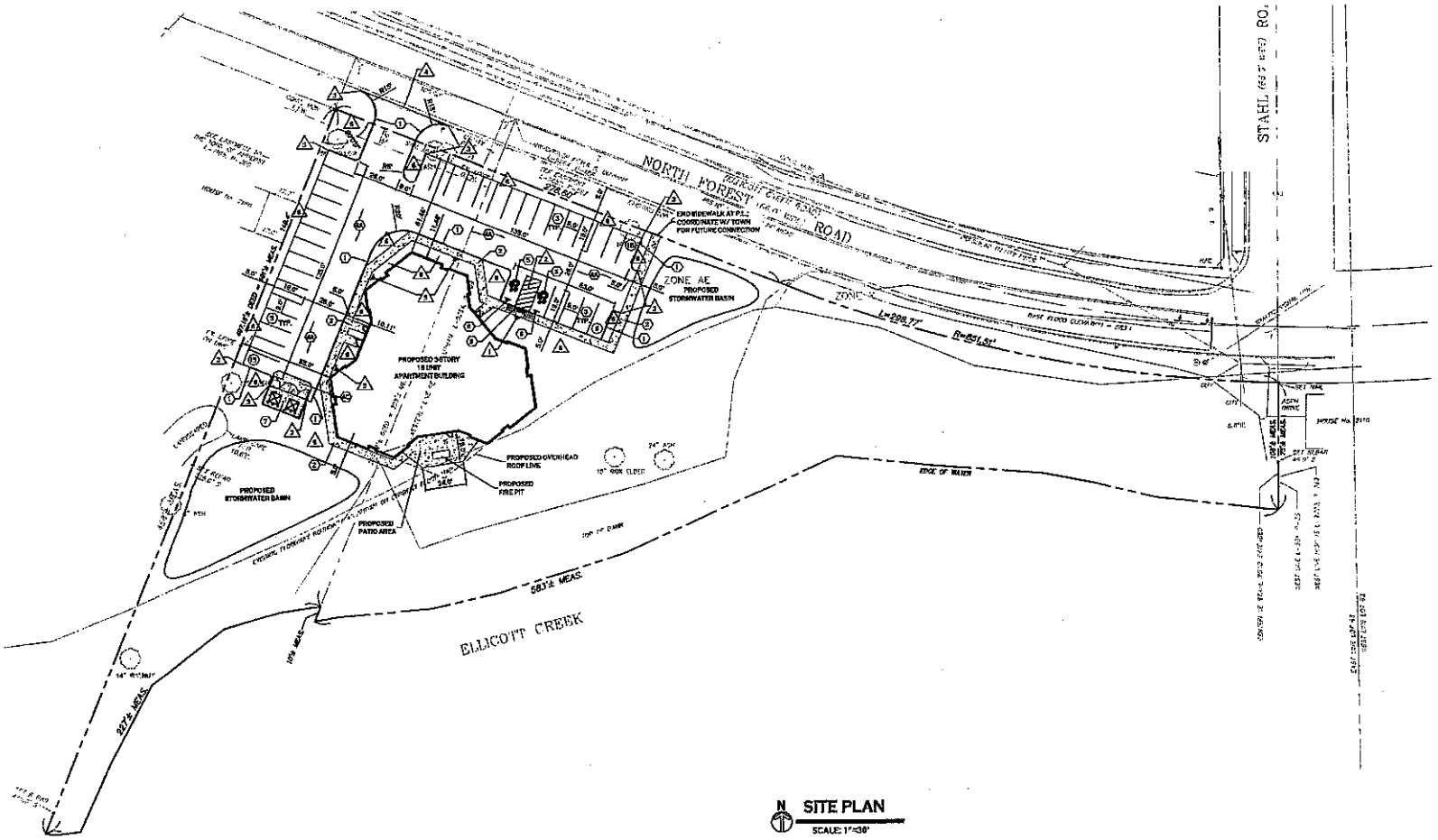
SILVESTRI ARCHITECTS • PC
1321 MILLERSPORT HWY PH. 716.691.0909
AMHERST, NY 14221 FAX 716.691.4773

SA JOB #: 20060.02
DATE: 12/16/20

DRAWING #: AS-101

Exhibit 8 – Reduced Size Copy of the Previous Concept Site Plan as Prepared by Carmina Wood Morris DPC [Drawing C-100 – Date: August 2020]

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)



N SITE PLAN
SCALE: 1"=30'

SITE DATA

TOTAL SITE 2.36 ACRES
ZONED: HCD-8A (CURRENT) TO BE REZONED TO HCD-AD
USE: PROPOSED 3-STORY 18 UNIT APARTMENT BUILDING

PARKING REQ'D: 2 SPACE PER UNIT.
18 UNITS x 2 = 36 SPACES REQ'D.
56 SPACES PROVIDED.

SITE LEGEND

- PROPERTY LINE
- PROPOSED CONCRETE CURB
- PROPOSED CONCRETE SIDEWALK
- PROPOSED ASPHALT PAVEMENT
- PROPOSED SIGN
- PROPOSED PARKING NUMBER (27)
- PROPOSED LIGHT POLE
- PROPOSED WALL MOUNTED LIGHT

NOTE: BOUNDARY AND TOPOGRAPHIC INFORMATION PROVIDED BY CTSBERG, CA RHEIN, WOOD MORRIS, D.P.C. ASSUMES NO RESPONSIBILITY FOR ITS ACCURACY.

30 0 30 60FT.

GENERAL NOTES:

1. INSTALL ALL MATERIALS TO MANUFACTURER'S RECOMMENDATIONS AND BEST STANDARDS OF TRADE INVOLVED.
2. SUBSTITUTIONS SHALL BE MADE ONLY WITH OWNER'S APPROVAL AND BE OF EQUIVALENT QUALITY TO WHAT IS SPECIFIED.
3. WORK SHALL BE COMPLETED IN STRICT ACCORDANCE WITH ALL LOCAL CODES AND OSHA SAFETY RULES AND REGULATIONS.
4. VERIFY ALL EXISTING CONDITIONS AND DIMENSIONS AT THE SITE. NOTIFY OWNER & ENGINEER OF DISCREPANCIES IN CONDITIONS SHOWN ON DRAWINGS PRIOR TO PROCEEDING WITH THE WORK.
5. CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTION OF ANY EXISTING STRUCTURES TO REMAIN AND ANY FINISH MATERIAL INSTALLED WHILE WORKING ON OTHER COMPONENTS.
6. CONTRACTOR SHALL KEEP JOB FREE OF DEBRIS AND MAKE FINAL CLEANUP TO SATISFACTION OF OWNER.
7. CONTRACTOR SHALL ASCERTAIN THE LOCATION OF ALL UTILITIES PRIOR TO CONSTRUCTION SO THAT THIS WORK WILL NOT DISTURB EXISTING LINES AND/OR INSTALLATIONS. COORDINATE ALL WORK WITH THE APPLICABLE UTILITY COMPANIES.
8. ALL OTHER PERMITS REQUIRED BY STATE OF NEW YORK, COUNTY OF ERIE, AND TOWN OF AMHERST ARE THE RESPONSIBILITY OF THE CONTRACTOR / DEVELOPER / OWNER.

SITE NOTES:

1. ALL RADII SHALL BE 3'-0" UNLESS OTHERWISE NOTED.
2. ALL DISTURBED AREAS: SHALL HAVE 4" MIN. OF TOPSOIL AND SEED.
3. ALL DIMENSIONS FROM PROPERTY LINES SHALL BE MEASURED PERPENDICULAR TO THE PROPERTY LINE.
4. CENTER ENTRANCE SIDEWALKS ON DOOR OPENINGS.
5. BUILDING DIMENSIONS ARE APPROXIMATE, REFER TO ARCHITECTURAL DRAWINGS FOR LAYOUT DIMENSIONS.

DETAIL LEGEND SEE SITE DETAIL SHEET

1. CONCRETE CURB
2. CONCRETE SIDEWALK, 5' WIDE UNLESS OTHERWISE NOTED
3. 90° PARKING STALL
4B. STANDARD DUTY ASPHALT
4C. EXTERIOR CONCRETE SLAB ON GRADE
5. HANDICAP PAVEMENT MARKINGS
6. HANDICAPPED PARKING SIGN
7. DUMPSTER ENCLOSURE
8. LIGHT POLE FOUNDATION
9. HANDICAP PAVEMENT RAMP

NOTE LEGEND

1. INSTALL "NO PARKING" SIGN, M.U.T.C.D. SIGN NO. R7-1C
2. 4" WIDE YELLOW PAINT STRIPE @ 45° @ 2'0" O.C., INFILL AREA AS SHOWN
3. REMOVE CURB IN 2' OR MATCH EXISTING CURB
4. MATCH EX. EDGE OF PAVEMENT, SAWCUT AS REQ'D TO ACHIEVE SQUARE EDGE TO MATCH
5. INSTALL "NO PARKING-FIRE LANE" SIGN, M.U.T.C.D. SIGN NO. R8-3
6. LANDSCAPED AREA - SEE LANDSCAPE PLAN. IF NO PLANTINGS, INSTALL TOPSOIL & SEED

Carmina Wood Morris
457 Main Street Suite 300
Buffalo, New York 14203
P 716.842.3195
F 716.842.0263

REVISIONS:
No. Description Date

PROJECT NAME:
Site Development Plans for:
Proposed 3-Story Apartment bldg
2160 - 2170 North F[illegible] Road
Amherst, New York

Date: 08/2020
Drawn by: C. Wood
Scale: As Noted

DRAWING NAME:
Concept Site Plan

DRAWING NO.
C-100
Project no.: 20.143

© Carmina Wood Morris DPC All rights reserved. Reuse of these documents without the expressed written permission of Carmina Wood Morris DPC is prohibited. WARNING: It is a violation of article 145 section 7209 of the N.Y.S. Education Law for any person, unless acting under the direction of a licensed professional engineer, licensed architect or licensed surveyor, to alter these documents. If altered, add the N.Y.S. seal to the drawing and state the word "altered" along with your name and the date of such alteration and a description of the alteration.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 9 - Color Copy of Figure 6 of the Adopted Bicentennial Comprehensive Plan (titled "Conceptual Land Use Plan")

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Town of Amherst Bicentennial Comprehensive Plan

The Conceptual Land Use Plan is intended to communicate the overall direction and concept of future development. While it is not a zoning map and does not show the existing or proposed use of individual parcels, it is intended to show land use relationships, provide a generalized guide for future development, and establish a context for detailed area planning and design.

Location of Project Site - Designated as Appropriate for Mixed Residential Use

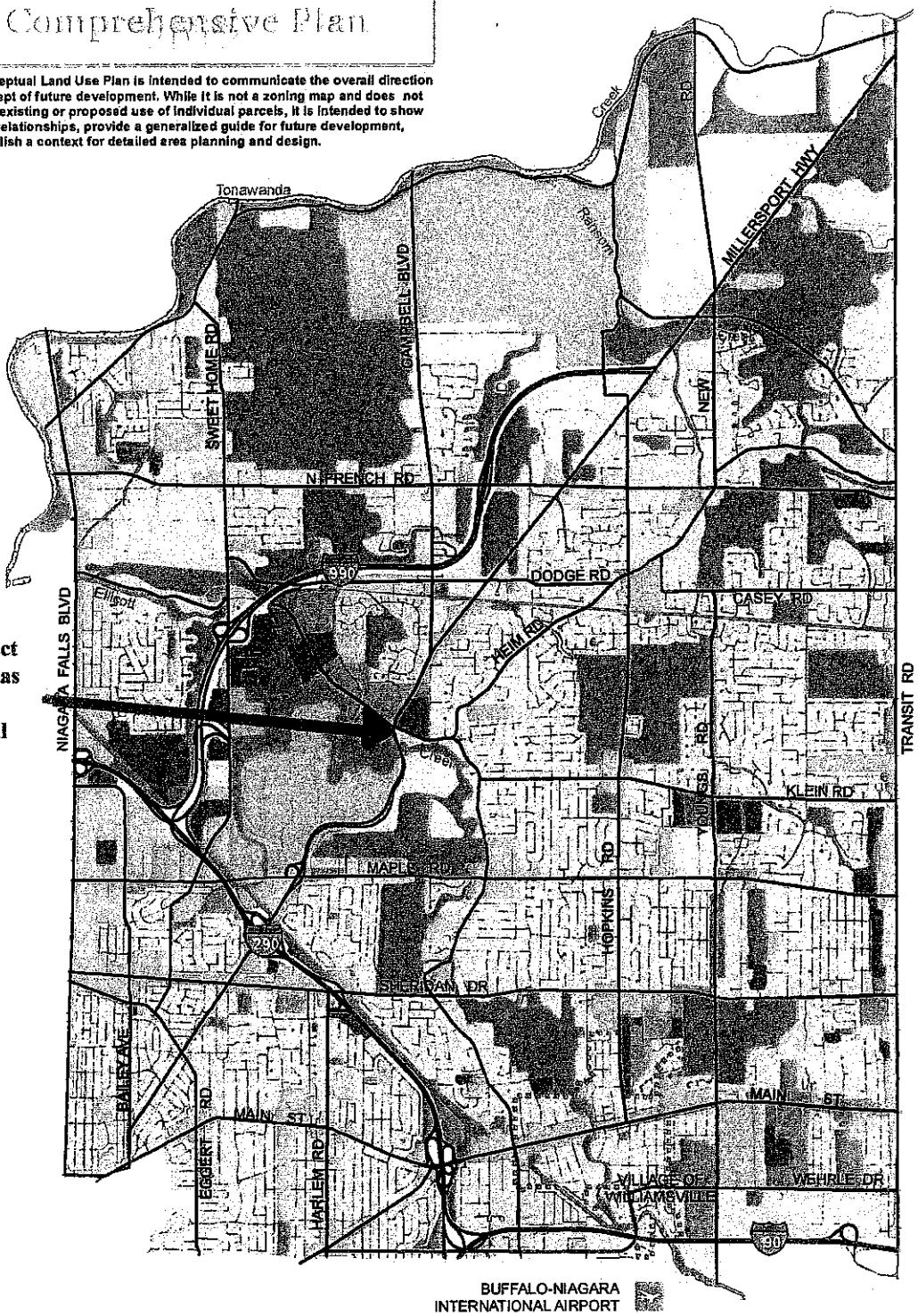


FIGURE 6

Conceptual Land Use Plan

Rural Residential
Single Family Residential
Mixed Residential
Medium Residential
Commercial / Mixed Use*
Special Use Center
Commercial - Office
Industrial - Office
Community Facilities
Educational Campus
Recreation, Open Space & Greenways
Agriculture
Transportation
Surface Water
Village of Williamsville Boundary

* See Map Figure 6-A for Additional Designations

SOURCE NOTES:

Original Source Data Provided by the Town of Amherst Information Technology Department, URS Corporation and Wallace Roberts & Todd, LLC

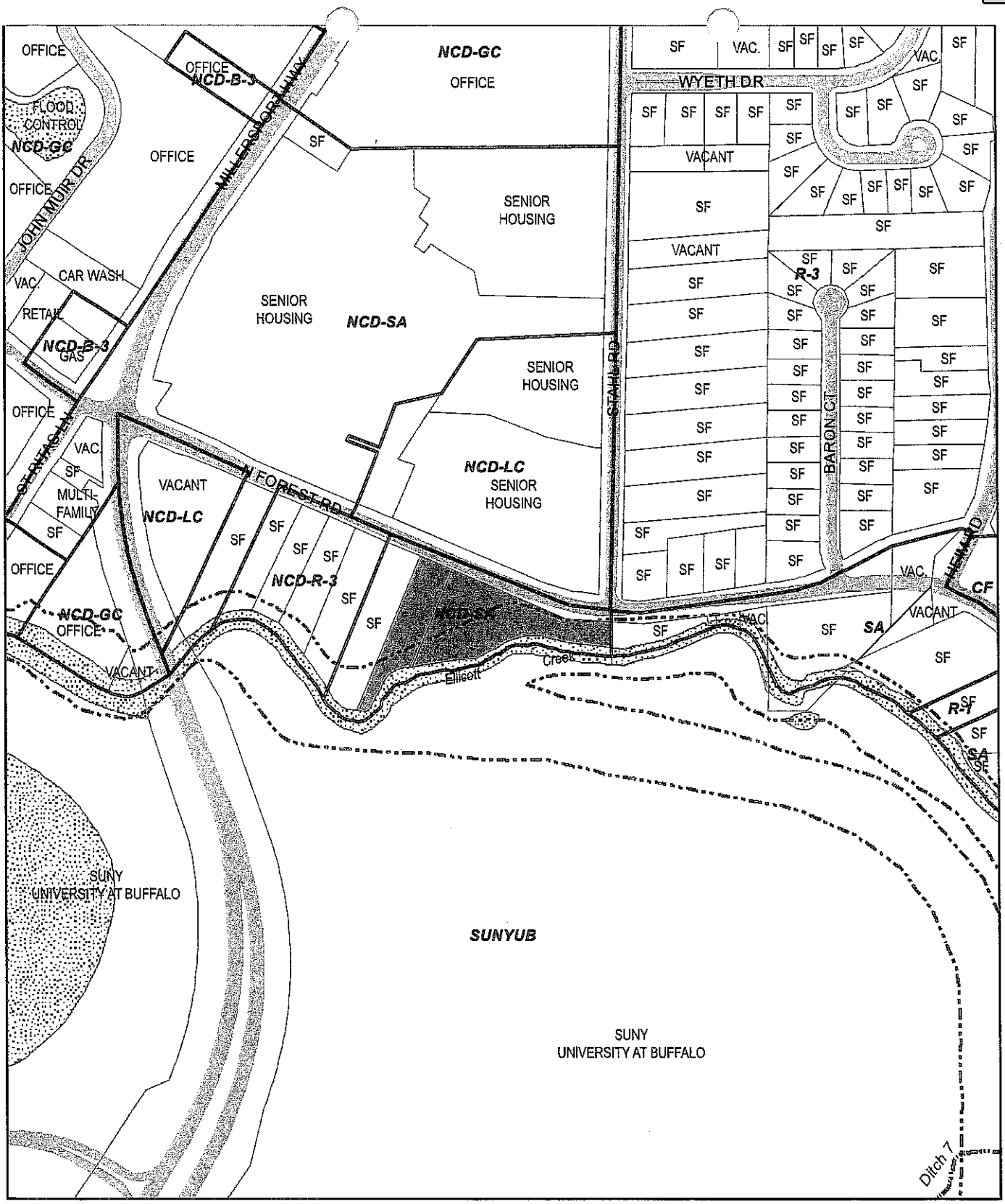
Map Compiled by the Town of Amherst Planning Department

Date: September 2019

N

0 0.25 0.5 0.75 1 1.25
Miles

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)



Z-2020-06
Proposed Amendment #73 to the Audubon New Community Development Plan to Reclassify 2.35+/- AC of Land from NCD-SA to NCD-ND
Property Located at 2160 & 2170 North Forest Road (NCD)

Coromandel Estates Amherst, LLC, Petitioner

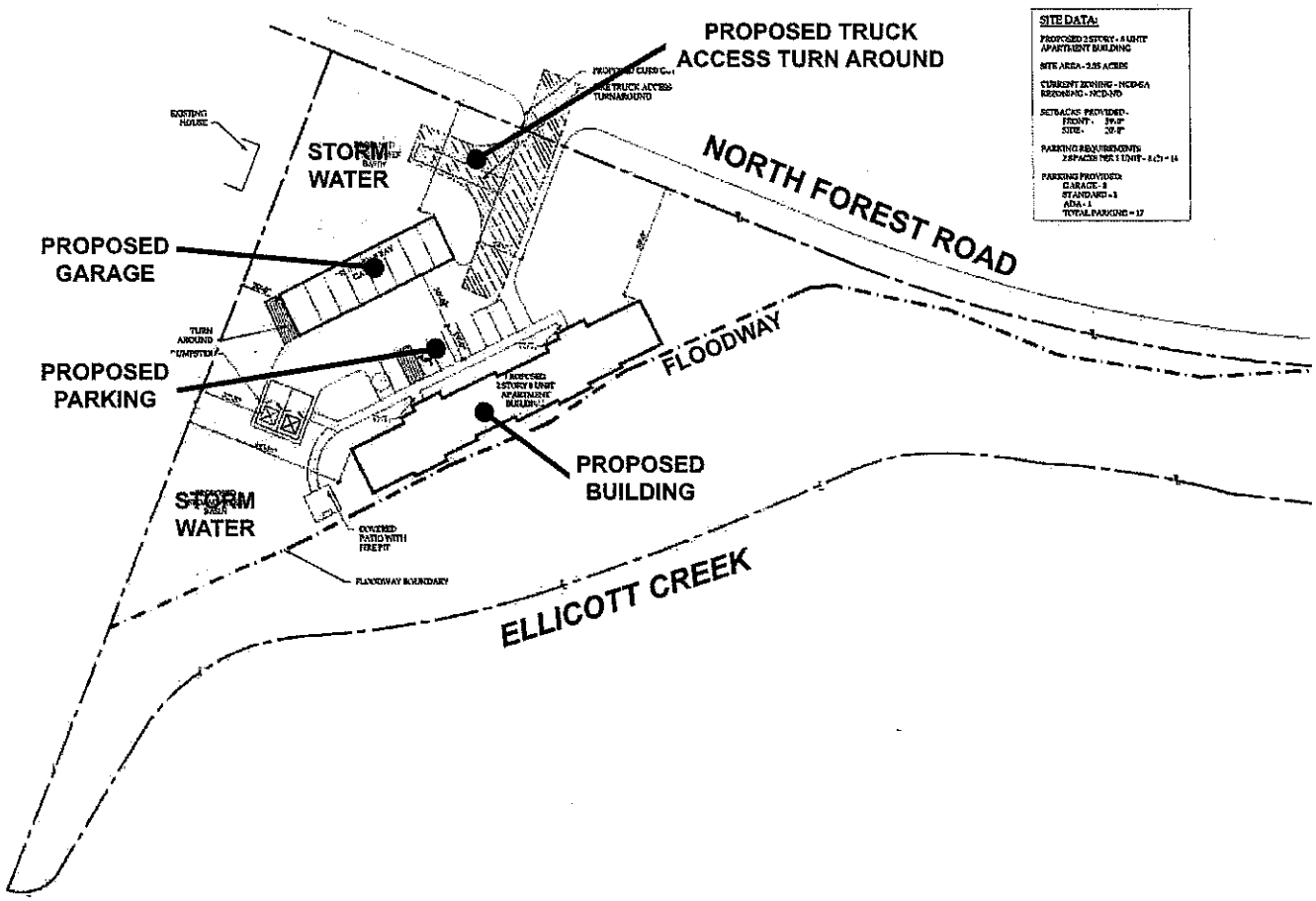
January 21, 2021

2160 & 2170 North Forest

Floodway Boundary

Prepared by the Town of Amherst Planning Department

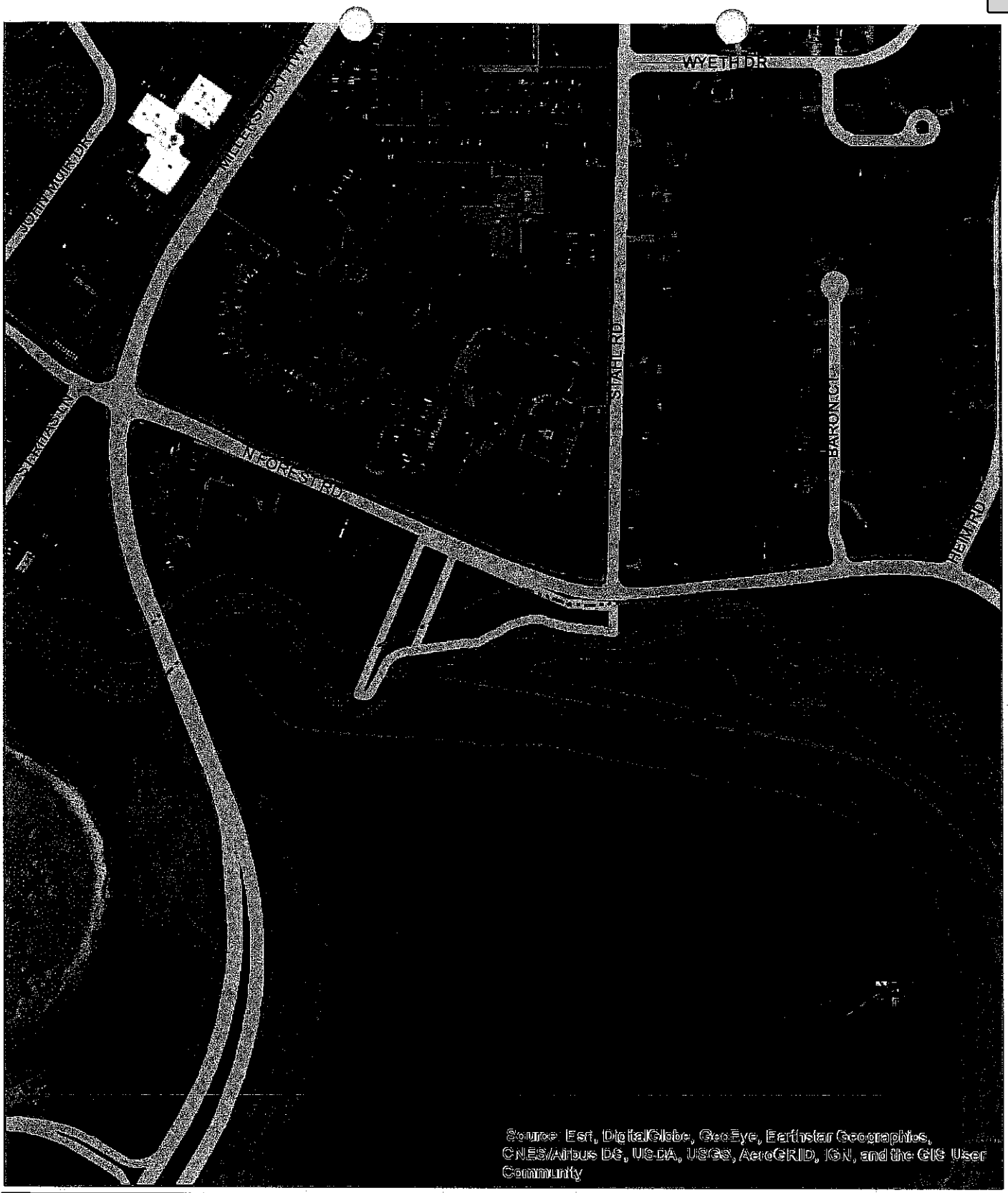
Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)



CONCEPT PLAN

Z-2020-06
2160 & 2170 North Forest Road
Received: 12/21/20

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)



Z-2020-06
Proposed Amendment #73 to the Audubon New Community Development Plan to Reclassify 2.35+/- AC of Land from NCD-SA to NCD-ND
Property Located at 2160 & 2170 North Forest Road (NCD)

Coromandel Estates Amherst, LLC, Petitioner
January 21, 2021

2160 & 2170 North Forest

Floodway Boundary

Prepared by the Town of Amherst Planning Department

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Williamsville Central Schools

Encouraging • Nurturing • Challenging

RECEIVED
SEP 22 2020
TOWN OF AMHERST
PLANNING DEPT.

September 15, 2020

Ms. Ellen Kost
Associate Planner
Town of Amherst Planning Department
5583 Main Street
Williamsville, NY 14221

RE: PROPOSED AMENTMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35 ACRES OF LAND FROM **NCD-SA** TO **NCD-ND, Z-2020-06**; PROPERTY LOCATED AT **2160 AND 2170 NORTH FOREST ROAD (NCD)**; COROMANDEL ESTATES AMHERST, LLC, PETITIONER.

Dear Ms. Kost:

The Williamsville Central School District has reviewed file number **Z-2020-06** for the request by Coromandel Estates Amherst, LLC to reclassify land for the above-named property.

Please note that the District has received this information and placed it on file. A future bus stop will be located at a driveway entrance at N. Forest Road in accordance with District policy.

Sincerely,

Thomas R. Maturski
Assistant Superintendent for Finance & Management Services

TRM/ld

cc: Coromandel Estates Amherst LLC c/o Sean Hopkins, Esq, 5500 Main St., Suite 343, Williamsville NY 14221; shopkins@hsr-legal.com
Scott Marshall, Principal Planner; smarshall@amherst.ny.us

105 Casey Road, P.O. Box 5000, East Amherst, NY 14051-5000 • Phone: (716) 626-8012, Fax: (716) 626-8017
www.williamsvillek12.org
Thomas R. Maturski, Assistant Superintendent for Finance & Management Services

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

William E. Geary, Jr.,
COMMISSIONER

DEPARTMENT OF PUBLIC WORKS
RATH BUILDING 14TH FLOOR

TELEPHONE:716.858.8300
FAX: 716.858.8228

September 27, 2020
Ms. Ellen M. Kost, AICP
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Re: Lead Agency Request
Proposed 3 Story Apartment Building
2160-2170 North Forest Road (CR-294)
(T) of Amherst, County of Erie

Dear Ms. Kost:

This Department has received your request for Lead Agency for the above referenced project and the rezoning of 2.35 acres. Erie County Department of Public Works takes no exception with the Town of Amherst being the Lead Agency for this project. This approval of Lead Agency is only from Erie County Department of Public Works and does not imply that other County Departments concur with this approval, as their response will be coming by separate letter.

Permit Requirements

The Developer will be required to apply for and obtain an Erie County Highway Work Permit for Utility Work Perm-2 for construction within the North forest Road highway right-of-way.

The Developer will be required to apply for and obtain an Erie Count Highway Work Permit for Non-Utility Work, Perm 3 for construction of a new entrance drive within the North Forest Road highway right-of-way.

Traffic Concerns

A Traffic Impact Study may be needed due to the close proximity of the project to the intersection of North Forest and Stahl Road.

We ask that you please keep us informed as this project progresses and forward design plans and reports when they become available.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Sincerely,

ERIE COUNTY DEPARTMENT OF PUBLIC WORKS

Darlene M. Svilokos, P.E.
Principal Civil Engineer

cc: Karen Hoak, Deputy Commissioner – Highways
Brian A. Rose, P.E., Supervisor of Engineering
Gina Wilkolaski, P.E., Traffic and Safety Engineer
John Dennee, Senior Highway Maintenance Engineer
File: CR-294

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 9
270 Michigan Avenue, Buffalo, NY 14203-2915
P: (716) 851-7165 I F: (716) 851-7168
www.dec.ny.gov

January 22, 2021

Ms. Ellen Kost
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Dear Ms. Kost,

SEQR Lead Agency Coordination
Audubon New Community Development
2160 and 2170 North Forest Road
Town of Amherst, Erie County

This letter is in response to your December 23, 2020 correspondence regarding the above-noted project. The revised project plan has been reviewed and the Department has no additional comments on the proposed project beyond those in the attached September 30, 2020 SEQR lead agency response letter from this agency. Thank you.

If you have any other questions, please feel free to contact Ms. Kerri Pickard-DePriest of my staff or me at 716/851-7165.

Sincerely,

David S. Denk

Digitally signed by David S. Denk
DN: cn=David S. Denk, o=NYS DEC, ou=Div. of Env. Permits, email=david.denk@dec.ny.gov, c=US
Date: 2021.01.22 14:13:13 -05'00'

David S Denk
Regional Permit Administrator

KPD

ecc: Mr. Theodore Myers, NYSDEC, Division of Water
Mr. Sean Hopkins, Esq, shopkins@hsr-legal.com

Z-2020-06

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst

Town of Amherst Planning Department *Erie County, New York*

RECEIVED
JAN 14 2021
TOWN OF AMHERST
PLANNING DEPT.

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Directo

MEMORANDUM December 18, 2020

TO: Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
Brian Barnes, Senior GIS Analyst (Eng.) (letter only)
Bryan Parnell, Fire Chiefs' Association (c/o Bldg)
Stan Sliwa, Town Attorney (Local Law Only)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Integrated Review Coordinator, ECDEP
ECHWY
NYSDEC
Williamsville Central School District

DEC 23 2020
TOWN OF AMHERST
BUILDING DEPT

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director EMK

SUBJECT: PROPOSED AMENDMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35± ACRES OF LAND FROM **NCD-SA** TO **NCD-ND;** PROPERTY LOCATED AT **2160 and 2170 NORTH FOREST ROAD (NCD);** COROMANDEL ESTATES AMHERST, LLC, PETITIONER. **Z-2020-06**

REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: _____

General comments relative to your agency interests: a floodplain development permit will be required

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: Doug Gesel **Date:** 1-13-21

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

cc: Scott Marshall, Principal Planner
Coromandel Estates Amherst LLC, c/o Sean Hopkins, 5500 Main St., Suite 343, Williamsville, NY 14221
Thiru Vikram, c/o Coromandel Estates LLC, 4515 Chestnut Ridge Road, Unit 106, Amherst NY 14228
Chris Wood, Carmina Wood Morris, 487 Main St., Suite 500, Buffalo NY 14203
Christina Barmosz, Silvestri Architects, 1321 Millersport Hwy., Amherst, NY 14221
David Pawlik, Creative Structures Services, 550 Seneca St., Suite 100, Buffalo NY 14204

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

RECEIVED
DEC 17 2020
TOWN ATTORNEY

MEMORANDUM December 18, 2020

TO: Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
Brian Barnes, Senior GIS Analyst (Eng.) (letter only)
Bryan Parnell, Fire Chiefs' Association (c/o Bldg)
Stan Sliwa, Town Attorney (Local Law Only)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Integrated Review Coordinator, ECDEP
ECHWY
NYSDEC
Williamsville Central School District

RECEIVED
JAN 05 2021
TOWN OF AMHERST
PLANNING DEPT.

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director

SUBJECT: PROPOSED AMENDMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35± ACRES OF LAND FROM **NCD-SA** TO **NCD-ND**; PROPERTY LOCATED AT **2160 and 2170 NORTH FOREST ROAD (NCD);** COROMANDEL ESTATES AMHERST, LLC, PETITIONER. **Z-2020-06**

REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: _____

General comments relative to your agency interests: None at this time

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: Stanley Sliwa **Date:** 1/4/2021

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

cc: Scott Marshall, Principal Planner
Coromandel Estates Amherst LLC, c/o Sean Hopkins, 5500 Main St., Suite 343, Williamsville, NY 14221
Thiru Vikram, c/o Coromandel Estates LLC, 4515 Chestnut Ridge Road, Unit 106, Amherst NY 14228
Chris Wood, Carmina Wood Morris, 487 Main St., Suite 500, Buffalo NY 14203
Christina Barmosz, Silvestri Architects, 1321 Millersport Hwy., Amherst, NY 14221
David Pawlik, Creative Structures Services, 550 Seneca St., Suite 100, Buffalo NY 14204

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

RECEIVED
DEC 21 2020
TOWN ATTORNEY

MEMORANDUM December 18, 2020

TO: Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
From Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
Brian Barnes, Senior GIS Analyst (Eng.) (letter only)
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Stan Sliwa, Town Attorney (Local Law Only)
12/29/20 Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Integrated Review Coordinator, ECDEP
ECHWY
NYSDEC
Williamsville Central School District

RECEIVED
JAN 05 2021
TOWN OF AMHERST
PLANNING DEPT.

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director EMK

SUBJECT: PROPOSED AMENDMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35± ACRES OF LAND FROM **NCD-SA** TO **NCD-ND**; PROPERTY LOCATED AT **2160 and 2170 NORTH FOREST ROAD (NCD);** COROMANDEL ESTATES AMHERST, LLC, PETITIONER. **Z-2020-06**

REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: N/A

General comments relative to your agency interests: N/A

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)
N/A

Please call the Planning Department if additional information is required (631-7051).

Signature: _____ **Date:** 12/29/20

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

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Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

RECEIVED
DEC 31 2020
TOWN OF AMHERST
PLANNING DEPT.

MEMORANDUM December 18, 2020

TO: Daniel Ulatowski, Principal Planner
~~Dave Marrano~~, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
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Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Integrated Review Coordinator, ECDEP
ECHWY
NYSDEC
Williamsville Central School District

TO: Ellen Kost
From: Dave Marrano
12/23/20
See Below

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director EMK

SUBJECT: PROPOSED AMENDMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35± ACRES OF LAND FROM **NCD-SA** TO **NCD-ND**; PROPERTY LOCATED AT **2160 and 2170 NORTH FOREST ROAD (NCD);** COROMANDEL ESTATES AMHERST, LLC, PETITIONER. **Z-2020-06**

REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: No Issue.

General comments relative to your agency interests: No Issue since units will be Leased, not sold w/ Condominium Tax Status

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.) N/A

Please call the Planning Department if additional information is required (631-7051).

Signature: _____ **Date:** 12/23/20

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

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Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

RECEIVED
DEC 31 2020
TOWN OF AMHERST
PLANNING DEPT.

MEMORANDUM December 18, 2020

TO: Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
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Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Integrated Review Coordinator, ECDEP
ECHWY
NYSDEC
Williamsville Central School District

TOWN OF AMHERST
ENGINEERING
DEPARTMENT
2020 DEC 22 P 12:51

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director EMK

SUBJECT: PROPOSED AMENDMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35± ACRES OF LAND FROM **NCD-SA** TO **NCD-ND**; PROPERTY LOCATED AT **2160 and 2170 NORTH FOREST ROAD (NCD);** COROMANDEL ESTATES AMHERST, LLC, PETITIONER. **Z-2020-06**

REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? YES

If you do not, briefly state why: _____

General comments relative to your agency interests: None At This Time

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: _____ **Date:** 12/30/20

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

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Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst

Town of Amherst Planning Department *Erie County, New York*

RECEIVED
Williamsville Central School District
DEC 23 2020
Asst Superintendent for
Finance & Management Services

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

MEMORANDUM December 18, 2020

RECEIVED
DEC 31 2020
TOWN OF AMHERST
PLANNING DEPT.

TO: Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
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Integrated Review Coordinator, ECDEP
ECHWY
NYSDEC
Williamsville Central School District

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director EMK

SUBJECT: PROPOSED AMENDMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35± ACRES OF LAND FROM **NCD-SA** TO **NCD-ND**; PROPERTY LOCATED AT **2160 and 2170 NORTH FOREST ROAD (NCD);** COROMANDEL ESTATES AMHERST, LLC, PETITIONER. **Z-2020-06**

REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? In regard to site plan and SEQRA, the

If you do not, briefly state why: District does not have comments on these items

General comments relative to your agency interests: Williamsville Central School District school bus service will follow policy, presently, bus service would be at entrance of the apartment complex.

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: [signature] **Date:** 12/28/20

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

cc: Scott Marshall, Principal Planner
Coromandel Estates Amherst LLC, c/o Sean Hopkins, 5500 Main St., Suite 343, Williamsville, NY 14221
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Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

TOWN OF AMHERST ENGINEERING DEPARTMENT
2020 DEC 22 P 12:37

MEMORANDUM December 18, 2020

TO: Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
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Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Integrated Review Coordinator, ECDEP
ECHWY
NYSDEC
Williamsville Central School District

RECEIVED
DEC 28 2020
TOWN OF AMHERST
PLANNING DEPT.

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director EMK

SUBJECT: PROPOSED AMENDMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35± ACRES OF LAND FROM **NCD-SA** TO **NCD-ND**; PROPERTY LOCATED AT **2160 and 2170 NORTH FOREST ROAD (NCD);** COROMANDEL ESTATES AMHERST, LLC, PETITIONER. **Z-2020-06**

REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? YES.

If you do not, briefly state why: _____

General comments relative to your agency interests: NONE

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: _____ **Date:** 12/24/20

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

cc: Scott Marshall, Principal Planner
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Thiru Vikram, c/o Coromandel Estates LLC, 4515 Chestnut Ridge Road, Unit 106, Amherst NY 14228
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David Pawlik, Creative Structures Services, 550 Seneca St., Suite 100, Buffalo NY 14204

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

RECEIVED
NOV 30 2020
TOWN OF AMHERST
PLANNING DEPT.

Kost, Ellen

From: Rutkowski, Edward (DOT) <Edward.Rutkowski@dot.ny.gov>
Sent: Saturday, November 28, 2020 12:50 PM
To: Kost, Ellen
Subject: 2160-2170 North Forest Rd, Proposed Rezoning for 18 Unit Apartment Building, Amherst
Attachments: 2160-2170 N Forest.pdf

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

Ellen,

New York State Department of Transportation (NYSDOT) reviewed the information submitted for the subject project and has the following comments:

- NYSDOT concurs with the Town of Amherst acting as the Lead Agency.
- The proposed project will not have a significant impact to traffic on the Stathe Highway System.

If you have any questions, please contact me either by email or phone.

Sincerely,
Ed Rutkowski

Edward S. Rutkowski, P. E.
SEQR/Site Plan Review Coordinator
NYSDOT - Region 5
100 Seneca Street
Buffalo, New York 14203
716-847-3575

NEW YORK STATE OF OPPORTUNITY. | Department of Transportation

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

NEW YORK STATE OF OPPORTUNITY. | Parks, Recreation, and Historic Preservation

ANDREW M. CUOMO
Governor

ERIK KULLESEID
Commissioner

October 30, 2020

Roberta Rappoccio
Associate Planner
Town of Amherst, NY Planning Department
5583 Main Street
Amherst, NY 14221

Re: DEC
Rezoning for 18-Unit 3-story New Construction Project
2160 North Forest Rd, Amherst, Erie County, NY
20PR05460
Z-2020-06

Dear Roberta Rappoccio:

Thank you for requesting the comments of the Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the Phase I Archaeological Reconnaissance Survey report prepared by the University at Buffalo's Archaeological Survey (Whalen & Angelini, October 2020; 20SR00539) in accordance with the New York State Historic Preservation Act of 1980 (section 14.09 of the New York Parks, Recreation, and Historic Preservation Law). These comments are those of the Division for Historic Preservation and relate only to Historic/Cultural resources.

Based on this review, it is OPRHP's understanding that no archaeological sites were identified during the above-noted investigation, and we concur with the report's conclusion that no further archaeological investigations are warranted. It is, therefore, OPRHP's opinion that no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by this project. Should the project design be changed OPRHP recommends further consultation with this office.

If you have any questions, I can be reached via e-mail at Josalyn.Ferguson@parks.ny.gov.

Sincerely,

Josalyn Ferguson, Ph.D.
Scientist Archaeology

via email only

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Carrato, Amy

From: ann bealer <annri35@msn.com>
Sent: Tuesday, October 06, 2020 3:26 PM
To: Carrato, Amy
Subject: Rezoning of property at 2160&2170 N. Forest Rd.

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

I am totally against the rezoning of the above properties for a 3 story apartment building. I spend my summers outside in my backyard and I would lose all my privacy. Traffic is a problem. We have trouble getting in and out of our driveways. At rush hour it is almost impossible. We also have frequent water brakes as the lines are old. They were supposed to put new lines in 3or4 years ago and they never did. How much more water can those pipes handle? Water pressure is another issue. Am and pm the pressure is low. I ask also where is the green space in Amherst. It seems all the developers want to do is build. And I would ask the Board members and the Planning Board if they would like a 3 story building right next door to them.

Ann Bealer
2204 N. Forest Rd.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Carrato, Amy

From: sprinter16@roadrunner.com
Sent: Sunday, October 11, 2020 11:29 AM
To: Carrato, Amy
Subject: Rezoning request located at 2160 & 2170 N Forest Rd.

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

To Whom It May Concern,

We received a notice regarding the request to rezone 2160 & 2170 N Forest Rd. We live at 2200 N Forest Rd which is 3 houses down from the proposed rezoning and would like it noted that we are definitely not in favor of a 3 story apartment building or any apartment building for that matter.

Several years ago an effort was made to rezone the corner of N Forest Rd and Millersport Hwy to a 3 story apartment building and that effort was successfully denied based on various issues such as excessive traffic which is already a terrible problem, frequent water main breaks that occur in our area and the proposed targeted tenants which would have been college students. At the time, there was a house on the property that was being rented out to college students and the loud parties and noise created many complaints that required a police response.

As well as the concerns already mentioned, the project calls for 2 retention ponds that will drain in to Ellicott Creek. We always have flooding occur on the lower portion of our property during heavy rains and we do not want additional discharge of water from other sources as we feel this will create more opportunity for additional flooding as well as perhaps change the flow of the water.

Most of the homes that would be directly impacted by the proposed apartment building would lose all backyard privacy based on the illustration provided in the rezoning request. One of the only saving graces of living on an extremely busy, noisy street is the fact that we have no rear neighbors and are able to enjoy the view of the creek as well as the natural habitat. Having a 3 story apartment building and the noise it will create just through everyday living will definitely have a negative impact on those of us nearest to it.

We will continue to remain involved in the meetings and decisions regarding this request.

Fran & Dennis Cummings

2200 N Forest Rd

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Carrato, Amy

From: Dan Boscarino <dboscarino@yahoo.com>
Sent: Tuesday, October 13, 2020 3:07 PM
To: Carrato, Amy
Subject: Property at 2160& 2170 North Forest Road Planning Board meeting October 15

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

I'm writing to voice my opinion that I'm not in favor of rezoning the property. The corner is extremely busy and less than a half a mile from a school zone. The traffic is already unbearable on weekday mornings and evenings. This is a residential neighborhood and should stay that way, with single family homes only. I cannot see how anyone could approve a zoning change.

Regards,

Daniel M. Boscarino
Carrie Boscarino
57 Baron Ct
Getzville, New York

Sent from Yahoo Mail for iPad

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Carrato, Amy

From: Rosemary Blando <rblando@durham.com>
Sent: Tuesday, October 13, 2020 8:04 AM
To: Carrato, Amy
Cc: jjh2180@verizon.net
Subject: 2160 & 2170 North Forest Rd
Attachments: Amherst final draft.docx; Signed petitions.pdf

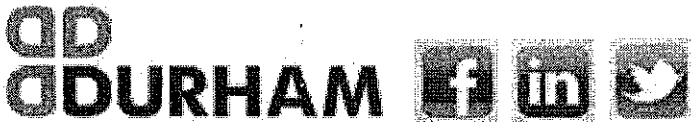
CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

Planning Board:
Attached please find our response to the request to approve **Amendment #73 of the Audubon New Community Development Plan**. This matter is scheduled to be heard as **item #3** on the Planning Board's **October 15th agenda**. Kindly acknowledge receipt via email as well as **jjh2180@vereizon.net**. My husband, Joseph Hausbeck plans to appear at the hearing, via Zoom, and requests permission to speak in rebuttal. The second attachment are (2) petitions in opposition to petitioner's request.
Thank you for your consideration,

Joseph J. Hausbeck
Rosemary Blando
Residents 2180 North Forest Rd
Williamsville, NY 14221

716.473.3972 cell

www.durhamstaffing.com



CONFIDENTIALITY NOTICE: The information contained in this email message is intended only for the personal and confidential use of the designated recipients named above. This message is an attorney-client communication or may be subject to a common interest privilege / protection, and as such, is privileged and confidential. If the reader of this message is not the intended recipient or any agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error, and that any review, dissemination, distribution or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone 716-684-3333.

This email has been checked for viruses by Avast antivirus software.
www.avast.com

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst Planning Board
5583 Main Street
Williamsville, New York 14221

Via email to: acarrato@amherst.ny.us

Re: Request to Approve Amendment #73 of the Audubon New Community Development Plan to Reclassify Property located at 2160 and 2170 North Forest Road.

To Whom It May Concern:

My wife and I are the owners and residents of 2180 North Forest Road, the property immediately adjoining the subject property. We have resided there over 23 years. We are hereby expressing our **strong opposition** to the above referenced matter which is scheduled for consideration by the Town Planning Board on Thursday, October 15th.

PROCEDURAL MATTER:

Prior to setting forth our concerns about the proposed project, I wish to raise a **procedural** concern. I am very concerned that there has been insufficient notice given of the upcoming hearing. In preparation for the hearing, I attempted to contact local residents to gauge their interest in the matter. I was advised that the Beechwood Campus and, specifically, the residents of Asbury Point, located directly across from the subject property on North Forest Road, were **not** given notice of the hearing. In addition, in speaking with the residents of eight (8) other parcels in close proximity to the subject, three (3) residents advised that they had **not** received any notice whatsoever. I attempted to contact other residents without success, perhaps because of the Covid 19 times in which we are living. I am therefore respectfully requesting that the Town insure that all reasonable efforts are made to assure that all Town Residents potentially impacted by the requested action be afforded their basic right to Notice and an Opportunity to be Heard.

SUBSTANTIVE MATTERS:

I would like to address the Request from two (2) perspectives.

I. **Character of the Neighborhood and the Subject Property:**

The property in question is the eighth parcel on the west side of North Forest Road, south of Millersport Highway. It is the last parcel on North Forest before Stahl Road and is immediately adjacent to the "zombie" property, known throughout Amherst as "that white house". The seven parcels between it and Millersport consist of six (6) single family ranch homes and one (1) one- story building, housing a Women's Medical Center. The Medical Center is on the corner of Millersport Highway (a commercial thoroughfare) and North Forest Rd. There is a substantial fenced buffer zone between the Medical Center and the first residential property, including an area dedicated to a Stormwater Management Practices Bio-retention Project, permitted by the NYS Dept. of Environmental Conservation. The rear of all the ranch homes, as well as the subject property, abut Ellicott Creek.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

It should be noted that the Medical Center required a rezoning. However, prior to that being accomplished, a different developer attempted to rezone that property to build a similar residential rental structure. That proposed redevelopment plan was objected to by the residents and was not approved by the Town. The question may therefore be asked as to why the Town should approve this application for a three-story multifamily residence on property which sits further down the same block (removed from any commercial intersection) which also presents potentially significant adverse environmental impacts.

On the opposite side of North Forest sits Asbury Point, a quiet and pristine retirement residence. Asbury Point is set back far from North Forest Road. There are dense wooded areas, landscaped areas, abundant mature trees and open greenspaces that act as a buffer between Asbury Point and North Forest Rd. The Asbury Point structure referred to by the petitioner is, indeed, three stories, but it has some underground parking. The structure, as well as its infrequently used limited surface parking area, is setback, partially concealed, and surrounded by walking paths. The building is entirely occupied by senior citizens who have a vested interest in the self-contained elderly campus. They are wonderful neighbors.

In contrast, the proposed project is a three-story, 18 unit apartment building with surface area parking for 36 cars. The site abuts our southern property line and is just 17.5 feet (+ or -) from the south wall of our home. It should be noted that the site plan describes the site as being 2.35 acres. However, the structure, surface parking and all appurtenances are "sandwiched in" on less than ½ of the "site". The remainder of the site sits in the existing floodway and is unusable. It is wooded, but sits behind the proposed development and offers no buffer between the structure and the street or our adjoining property. The "sandwiching" is so tight, that the proposed site plan reveals that portions of the proposed fire pit actually encroach into the floodway.

The site plan appears to show only a 5' "landscaped" area between the 15 parking spaces (that face our lot line and house) and the lot line itself. As the wall of our home sits approximately 17.5' from the lot line, and our home (a ranch which has no basement) sits on a concrete pad, cars will be parked 22.5' from the south wall of our house, with headlights shining in our bedroom windows. In addition, most likely because of the "sandwiching", the site plan seeks to place what appears to be a double bay dumpster extremely close to both our unfenced yard (which we use regularly throughout the spring, summer and fall) and our home. For the past 23 years we have had an unobstructed view of Ellicott Creek and the Ellicott Creek Trailway (bikepath). If this project is approved, we will have only an unobstructed view of the dumpster. We are also concerned about the potential impact of dumpster odors and the potential for rodent and pest infestation. Throughout the entire 23 years we have lived here, we have enjoyed the wildlife that regularly occupies these parcels. That wildlife includes the deer which miraculously seem to present us, each spring, with two new spotted fawns. However, it also includes the raccoon (anxiously awaiting the installation of the dumpsters) that we have observed in the tree on the property line, these are not the only potential significant adverse impacts on our property, but they are clearly indicative of the fact that this project is simple much too large for this site.

I would encourage all members of the Planning Board to personally visit the site to fully appreciate the concerns expressed.

II. <u>Specific Issues applicable to the Neighborhood:</u>

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

The proposed project is totally out of character and inconsistent with our neighborhood. It simply does not fit the site (see preceding section). The quality of life for the current residents on North Forest Road, will be adversely affected for numerous reasons. There are serious concerns over potential loss of property values; there are privacy concerns, traffic and traffic safety concerns, water issues and flooding concerns, erosion concerns, and soil and land subsidence concerns, among others.

WATER ISSUES – Over the years, the proposed site, as well as adjacent properties, have Experienced flooding issues from Ellicott Creek. During wet weather events, waters from the adjacent creek and diversion channel regularly flood portions of the proposed site, our premises, and the premises of neighbors to the north.

Prior to the construction of the Ellicott Creek diversion channel, the subject property had large depressions that used to flood regularly. Neighbors have told me that the property was actually used by local children for ice skating, and at some point a public berm was constructed along the creek in an effort to prevent the flooding. I have also been told that this berm material was later excavated and used by a prior owner of the subject property to fill the depressed areas that regularly flooded. This story may be substantiated by the following observation: on the property, there is a large old willow tree sitting about 5' deep in a rip rap well. Within that well are several plastic drain hoses, with clamps that appear to drain into the "well" area. This may be some indication of the possible depth of fill placed upon the subject property by prior owners. However, I have no idea what the composition of that fill is.

Attached to the petitioner's application for a variance is a copy of a letter from Earth Dimensions, Inc. related to a preliminary wetland investigation. That letter references an attached map which "depicts the limits of our investigation". The attached map (entitled "Erie County On-Line Mapping Application") purports to depict the subject property (2170 and 2160 North Forest Road). Please compare the configuration of the subject property shown upon that map with the configuration of the "same" property (2170 and 2160 North Forest Road) shown on the site plan. A comparison may substantiate the alleged prior flooding and the later use of fill should these questions be relevant to the question of site suitability for the proposed project.

It is my understanding that a pipe for drainage of surface water from the Asbury Point property was installed years ago, and ran under North Forest Road to what was once a culvert along the road adjoining the proposed site. Allegedly, a prior owner of the proposed site later had a 36" drainage pipe installed. That pipe bisected the proposed site and discharged the drainage water to the bank or bed of Ellicott Creek. I believe the discharge pipe itself is visible at the creek bank. However, I was unable to note any reference to that discharge system on the site plans or application documents. I have no knowledge as to whether there is any public record of this.

Based upon:

Past and current flooding issues;
The addition of ½ acre of impervious surface;
The non-use of pervious surfaces;

Lack of information regarding proposed excavations;
Lack of information regarding storm water basins and their location with respect to the topography of adjacent lands;
The discharge of storm water to Ellicott Creek; and
concerns over storm water management generally,

We have serious concern that this project will have a significant adverse environmental impact on our property and that of our neighbors to the north.

ERROSION CONCERNS - We have personally observed substantial erosion of the bank of Ellicott Creek on the site of the subject property. When we acquired our property 23 years ago, the subject property, which adjoins ours, had a large concrete wall comprised of sections of concrete attached to metal supports mounted along the creek bank. The wall was along the peninsular-like portion of the western end of the property. Over the years, due to substantial erosion of the bed behind the wall, the entire wall has fallen, section by section, into Ellicott Creek. All that currently remains of the structure are a few of the metal supports.

At the opposite end of the subject property (at the Stahl Road intersection) sits the infamous "white house". Its driveway is a matter of inches from the eastern end of the subject property. The White house (a zombie property) is generally believed to be falling into Ellicott Creek.

In our mind, concern over erosion raises an issue as to the safety and appropriateness of a construction project of this magnitude.

FLOOD CONTROL EASEMENT - Our property (which adjoins the subject property) is subject to a Flood Control Easement held by, or of interest to NYSDEC, USACOE and the TOWN of AMHERST. We assume the adjoining upstream property is, or should be, also subject to such an easement. However, I did not see it directly addressed in the petitioner's Environmental Assessment Form.

Concerns over storm water and its management (see above) would seem to have a direct impact upon any Flood Control Easement applicable to the subject property, as well as to ours.

SEWERS - The petitioner's "Application to Reclassify" represents that there is adequate sanitary Sewer capacity for the proposed project. This may not be the case. We have learned that the proposed action is considered a Sanitary Sewer Extension by the NYSDEC, and a detailed sewer capacity analysis must be performed and submitted for review and approval. Further investigation is necessary to avoid potential substantial adverse environmental impacts upon the community.

PUBLIC WATER - Again, the "Application to Reclassify" represents that adequate public water

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capacity exists. However, we can attest to the fact that, in the past, we and others in our block (North Forest Rd from Millersport Hwy to Stahl Rd) have experienced numerous interruptions in water service. These interruptions have occurred from broken pipes in our block, and have occurred principally during cold weather. Interruptions have been for long periods and have been extremely inconvenient. Ruptured pipes were the culprit and geysers with flooding of the street were common.

In August, 2016, the Town Board approved a measure to replace the water line from Stahl Road to Millersport Highway. To date, I do not believe that project has been completed. Further investigation is necessary to avoid potential adverse environmental impacts on the community.

TRAFFIC – Petition asserts that the proposed project will not result in a substantial increase in traffic above present levels. This is simply not true. Having lived on this block of North Forest for over 23 years, I am familiar with its unique problems. North Forest to Millersport Highway is a major route to the University of Buffalo. It is also the preferred route for many cars entering the Beechwood Complex on Stahl Road. It is also the route followed by large numbers of Amherst residents seeking to access the I-290 and I-990.

This block (between Millersport and Stahl) is a two way (one lane in each direction) residential street. It experiences the full impact of traffic going ***to*** the University in the morning and returning from it in the afternoon. Depending upon the time of day, the traffic can be backed up from Stahl to Millersport or from Millersport to Stahl.

As Stahl Road is the main access point for the Beechwood Complex, and ends at North Forest, traffic is also regularly backed up on Stahl Road, at the intersection. To complicate matters further, there is a serious bend on North Forest, right at the intersection. Between cars coming down North Forest and cars turning at Stahl, living on North Forest and being the first driveway from Stahl is a serious challenge. It makes it extremely difficult to find an opening in traffic long enough to enter or exit our driveway.

The proposed project seeks a curb cut for a driveway entrance onto the site. The proposed driveway is near our joint property line. It is, therefore, even closer to the Stahl Road intersection. The project allows for 36 parking places. Potentially, that makes 36 more cars attempting the same maneuvers as we must attempt and further obstructing our ability to enter and exit. This is a problem common to each of my neighbors.

It should be noted that "traffic concerns" are not limited solely to traffic flow and traffic visibility. A multi-family residential project such as this should consider the safety of pedestrians and cyclists. Due to the proximity to the University and to the Ellicott Creek Trailway (Bike Path), this stretch of North Forest Road is used regularly by both. There are no discrete bike paths along this section, and sidewalks are limited to the opposite side of North Forest. Additionally, it is questionable whether either could be practically installed along North Forest, south of the subject site, due to the proximity to the creek and its erosion issues in that area.

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SOIL ISSUES AND DEPTH TO BEDROCK – Over the years, there have been numerous efforts by individuals to acquire and build on the subject property. It is our understanding that most of the efforts involved proposed single family residences. Despite contractual agreements to purchase, none of these efforts materialized. We assume that some were discouraged because of the existence of floodplain/floodway issues. However, some failed as a result of depth to bedrock issues. Borings have been taken on a number of occasions and the results, which are unknown to us, are rumored to be unfavorable to construction due to the depth to bedrock. It should also be noted that we learned that when Asbury Point was constructed, it was necessary to drive an extraordinary number of I-beams into the ground, in places up to 40 to 50' in depth.

It is noted that the petitioner's EAF references the depth to bedrock as being "greater than 5 feet". It also identifies the soils on 100% of the site to be "cosad loamy fine sand" and 100% of the site to be poorly drained.

In light of the afore referenced information relating to prior flooding, the prior placement of fill, and existing erosion concerns, the possibility of depth to bedrock discrepancies simply reinforces our concerns relating to the integrity of the potential structure. We believe that a complete geo-technical investigation and inspection should be required. We have heard of instances of properties collapsing, in one case into a creek, within the Town of Amherst. We have no desire to see that occur next door.

CONCLUSION:

In a perfect world, the subject site would be a small neighborhood park and a continuation of the beautiful greenspace located directly across the creek from the site. It could contain a pedestrian bridge over Ellicott Creek, accessible by the general public seeking safer access to the Bike Trail, as well as the residents of Asbury Point, who, in the past, have casually strolled on this site. Possibly, a kayak launch point could serve this site as well. My wife and I, as adjoining neighbors would welcome such alternative uses. We do not oppose this proposal on the basis of change. However, the property is privately owned and we lack the power of Eminent Domain.

Based upon the foregoing considerations, we, Joseph Hausbeck and Rosemary Blando, strongly oppose approval of the petitioner's request. As 23 year residents of the site immediately adjoining the subject site, we are of the opinion that the proposed project will result in potentially significant adverse environmental impacts upon this community. Additionally, we are firmly of the belief that the applicant has failed to provide sufficient information to establish that there will be no impacts and, at the very least, a Draft Environmental Impact Statement should be required.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Town of Amherst Planning Board

5583 Main Street

Williamsville, NY 14221

We, the undersigned, being residents of North Forest Rd. between Stahl Rd and Millersport Highway, hereby **OPPOSE** the request filed by the petitioner **Coromandel Estates Amherst, LLC**, to approve amendment # 73 of the Audubon New Community Development Plan to reclassify 2.35 acres, more or less, of land located at 2160 and 2170 North Forest Rd.

Joseph Lagumbay 2160 North Forest Rd.
Rodney Hands 2180 North Forest Rd
Ann Beahen 2204 N. Forest Rd.
Donna J Beahen 2204 N. Forest Rd.
Lisa Dennis Cummings 2220 N. Forest Rd.
Sterling Lawson 1881 N. Forest Rd
Joan Amico, 1936 North Forest, Amh NY 14221
Steve Amico, 1936 North Forest, Amh NY 14221

October 2020

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Town of Amherst Planning Board

5583 Main Street

Williamsville, NY 14221

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George De Rosa
2220 North Forest Road, Williamsville, N.Y. 14221
Allen Miles
25 Stahl Rd, Getzville 14068 Allen Miles
[illegible]
W.R.D. 2220 N. Forest Rd. 14221
Karen Macura 2230 N FOREST RD 14221

October 2020

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Z-2020-06
2160 & 2170 N. Forest Rd

Carrato, Amy

From: Joan Amico <jamico99@gmail.com>
Sent: Wednesday, October 14, 2020 7:15 AM
To: Carrato, Amy
Subject: Planning Board Meeting 10/15 - Amendment #73 of the Audubon New Community Development Plan.

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

My husband and I received notice of the proposed rezoning of residential property on North Forest Road and I would like to speak at the Planning Board meeting on October 15 about this rezoning.

Also, please share my comments below with the board:

This stretch of North Forest is primarily a residential area. It is not a commercial area and it should not be rezoned. It seems that over the last several years, long stretches of North Forest Road have been turned into apartment buildings and other commercial properties. Do we really need to build such structures alongside and embedded between single family homes? Would you want to live in-between commercial properties? Do we even need another apartment complex in this area?

The Town of Amherst should first and foremost make decisions that are best for the residents that live in their community. Please think about the residents, people like my husband and I, when deciding to rezone this and any property.

Kindly reply back to confirm receipt of this email.

Thank-you,

Joan and Steve Amico
1936 N Forest Rd, Williamsville, NY 14221

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

GINEERING DPC|DBA
GEOTECHNICAL
INEERING SERVICES

Z-2020-06,
2160 and 2170 N. Fores

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September 17, 2020
Project No. WB-20-105
(SJB Project No. BE-20-105)

Postwork Capital

c/o Buffalo Automation
10236 Transit Road
East Amherst, New York
14051

Attn. Mr. Thiru Vikram, CEO

Re: Geotechnical Engineering Report
Proposed Elysium Apartment Complex
2160 North Forest Road
Town of Amherst, New York

Dear Mr. Vikram:

WMA Engineering DPC, dba Empire Geotechnical Engineering Services (Empire), is pleased to submit the enclosed Geotechnical Engineering Report for the above referenced project. We have also e-mailed you an electronic copy (pdf file format) of this report, for your use and for distribution. Please contact me should you have any questions or wish to discuss this report. Thank you for considering Empire for this work and we look forward to working with you through the completion of this project.

Sincerely,

WMA Engineering DPC, dba
Empire Geotechnical Engineering Services

Thomas R. Seider, P.E.
Geotechnical Engineer

RECEIVED
OCT 07 2020
TOWN OF AMHERST
PLANNING DEPT.

Enc.: Geotechnical Engineering Report

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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Henrietta, NY 14467
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Fax: (585) 359-9668

Geotechnical Engineering Report
Proposed Elysium Apartment Complex
2160 North Forest Road
Town of Amherst, New York

Prepared For:

Postwork Capital

c/o Buffalo Automation
10236 Transit Road
East Amherst, New York
14051

Prepared By:

WMA Engineering, DPC
dba Empire Geotechnical Engineering Services
5167 South Park Avenue
Hamburg, New York, 14075



9/17/20

Project No. WB-20-105
(SJB Project No. BE-20-105)
September 2020

A Woman Owned Firm

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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APPENDIX A – SUBSURFACE EXPLORATION LOGS

Recently Completed Test Borings July 2020 (B-1 through B-5)

APPENDIX B – SUBSURFACE EXPLORATION LOGS

Previously Completed Test Borings February 2020 (B-1) June 2014 (B-1)

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1.00 INTRODUCTION

1.10 GENERAL

This report presents the results of a subsurface exploration program completed by SJB Services, Inc. (SJB), and a geotechnical engineering evaluation completed by WMA Engineering DPC, dba Empire Geotechnical Engineering Services (Empire), for the proposed Elysium Apartment Complex, planned off of North Forest Road, within the Town of Amherst, New York. Postwork Capital retained SJB and Empire to complete this work, which was done in general accordance with SJB's June 29th, 2020 proposal, that was authorized on July 2, 2020.

SJB, our affiliated subsurface exploration company, recently completed five test borings and installed a groundwater observation well at the site. Prior to this investigation, SJB and Empire completed two separate subsurface investigations and prepared geotechnical evaluation reports for projects that were planned at the site. These included a proposed house in July 2014 and a proposed garage type structure in March 2020. The previous investigations each included one test boring along with some geotechnical laboratory testing. Neither of the two projects were constructed. It is our understanding that Postwork Capital has received approval to use the data developed during the first two investigations, to supplement the findings from the recently completed investigation.

Based on the findings from the recent investigation, and the two previous investigations, Empire has prepared this report, which summarizes the subsurface conditions encountered, and presents geotechnical recommendations for design and construction of the foundations, slab-on-grade floor, and pavement areas, as well as the associated site preparation work for the proposed project.

1.20 SITE AND PROJECT DESCRIPTION

The project site is located along the south side of North Forest Road, immediately west of its intersection with Stahl Road (street address 2160 North Forest Road) within the Town of Amherst, New York. As shown on Figure 1, Ellicott Creek forms the southern boundary of the project site, resulting in an irregular triangular shaped parcel, with about 550 feet of frontage along North Forest Road. As shown on Figure 2, the ground surface at the site slopes downward towards Ellicott Creek, with surface elevations ranging from about 583 feet to 570 feet.

Based on a cursory review of older USGS mapping (www.historicaerials.com), it appears Ellicott Creek formerly extended farther to the north than its current location. As discussed in later sections of this report, the fill soils encountered within the test borings could be related to site filling within the limits of the former creek location.

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The proposed apartment building will be located within the northwest corner of the site, beyond the floodway boundary, and where the site grades are more gradual. Based on the information provided by Silvestri Architects, PC, the apartment building will consist of a three story wood framed structure with an at-grade floor near the current site grades. Other than an elevator pit, no below grade structures are planned. Asphalt pavement driveways and parking areas are planned around the building. Figure 2 provides additional details about the proposed development.

2.00 SUBSURFACE EXPLORATIONS

2.10 JULY 2020 INVESTIGATION

The most recent subsurface exploration program included:

- 3 test borings completed within the limits of the proposed apartment building, designated as B-1 through B-3;
- 1 test boring completed within the southwest portion of the site, within a proposed terraced seating area, designated as B-4; and
- 1 test boring to the east of the proposed apartment building, within a future sports court area, designated as B-5.

The test boring locations were staked in the field by SJB, using a hand held global positioning system (GPS) instrument. The approximate test boring locations are shown on Figure 2. Survey level measurements were used to determine the approximate ground surface elevation at the test boring locations, using the rim of a catch basin frame within North Forest Road as a benchmark. The approximate benchmark location is shown on Figure 2, and has a reported elevation of 580.70 feet.

The recent test borings B-1 through B-5 were completed by SJB between July 23rd and July 27th, 2020, using a Central Mine Equipment (CME) model 550x, all-terrain tire mounted drill rig. Hollow stem auger and split spoon sampling techniques were used to advance the test borings through the overburden soils. Split spoon samples and Standard Penetration Test (SPT) were taken continuously from the ground surface to a depth of 12 feet, and in intervals of five feet or less for the remaining depth of the test borings. The split spoon samples and SPTs were completed general accordance with *ASTM D1586 – "Standard Test Method for Penetration Test and Split-Barrel Sampling of Soils"*.

Test borings B-1 through B-4 were advanced through the overburden until encountering the top of apparent bedrock, as identified by auger refusal, at depths of about 22 feet to 27.2 feet. After encountering auger refusal within test borings B-1 and B-4, 8 to 9 feet of rock coring was completed using an NQ'2' size core barrel, in accordance with *ASTM D 2113 – "Standard Practice for Rock Core Drilling and Sampling of Rock for Site Investigation"*. Test boring B-5 was completed to a depth of 15 feet.

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A Geologist prepared the test boring logs based on visual observations of the recovered soil and rock core samples and a review of the driller's field notes. The soil samples were described based on a visual/manual estimation of the grain size distribution, along with characteristics such as color, relative density, consistency, moisture, etc. The rock cores were also described, including characteristics such as color, rock type, hardness, weathering, bedding thickness, core recovery and rock quality designation (RQD). The test boring logs for the recently completed test borings B-1 through B-5 are presented in Appendix A, along with general information and a key of terms and symbols used to prepare the logs.

A groundwater monitoring well was installed within completed test boring B-2. The well consists of two inch diameter PVC screen and riser pipe, extending from the bottom of the test boring to above the ground surface. The sand pack extends from the bottom of the test boring up to a depth of about 14 feet. A bentonite chip seal was installed above the sand pack, with the remainder of the test boring backfilled with soil cuttings. Additional details regarding the construction of the well are shown on the Monitoring Well Completion Record, included in Appendix A, following test boring log B-2.

2.20 PREVIOUS INVESTIGATIONS

As noted, two previous investigations were completed at the site by SJB and Empire, each including one test boring along with some geotechnical laboratory testing. Test boring B-1 completed in June 2014 was drilled within the limits of the proposed apartment building. Test boring B-1 completed in February 2020 was completed within the southwest corner of the site. The approximate location of these test borings are shown on Figure 2. The test boring logs from the previous investigations, with updated ground surface elevations, are included in Appendix B. Additional information regarding the previous investigations is included in: Empire's July 11, 2014 Subsurface Exploration and Geotechnical Evaluation Report, along with the August 15, 2014 Follow-Up Information letter; and the March 14, 2020 Subsurface Exploration and Geotechnical Evaluation Report.

3.00 SUBSURFACE CONDITIONS

3.10 GENERAL

The subsurface conditions described in the following sections are based on the recently completed test borings B-1 through B-5, and previously completed test borings from 2014 and early 2020. Beneath the topsoil, fill type soils were encountered which extended to depths of about 4 feet to 10 feet. Beneath the fill, the upper indigenous soils consisted of silty clay soils, often containing intermixed organics, which extended to depths of about 18 to 20 feet. The remaining soils consisted of compact to very compact gravels and sands, which extended to the top of Shale bedrock at depths of about 25 to 28 feet. The soil and bedrock stratigraphy encountered along with the groundwater conditions observed are described in more detail below and on the test boring logs in Appendix A and Appendix B.

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3.20 FILL SOILS

Beneath the topsoil, fill type soils were encountered which extended to depths of about 4 to 10 feet. It should be expected that the depth of the fill will vary between and away from the exploration locations, and will be dependent on the original site topography and former limits of Ellicott Creek, prior to site filling and grading. As noted, based on a review of older USGS mapping, it appears Ellicott Creek formerly extended farther to the north than its current location.

The fill soils generally consisted of a reworked mixture of silty clays and sands with varying amounts of gravel and trace to little amounts of organics. Exceptions include: a layer of organic clayey silts encountered from about 4 to 6 feet within the 2014 test boring B-1; a zone of concrete fragments and soils observed within the upper four feet at test boring B-2; and a zone of asphalt fragments and soils observed from about 2 feet to 6 feet within test boring B-5. Trace amounts of glass, slag, concrete, organics, and asphalt were often observed within the fill soils. The Standard Penetration Test (SPT) "N" values obtained within the fill soils ranged from of 5 to "sample spoon refusal" (i.e. more than 50 blows required to advance the sample spoon with six inches or less of penetration). The variable nature of the fill soils, along with the variable relative density/consistency as determined from the SPT "N" values, indicate the fill soils were likely installed in an uncontrolled, non-engineered manner.

3.30 INDIGENOUS SOILS

Beneath the fill soils, and extending to depths of about 18 to 20 feet, the upper indigenous soils consisted of a mixture of silty clays and sands, often containing trace to little amounts of organics. Exception include the 15 to 17 feet deep sample from test boring B-2 which consisted predominately of organics. The silty clays and sands with organic are classified as CL, SC-SM, and OL-CL group soils using the Unified Soil Classification System (USCS). These upper indigenous soils appear to be alluvial deposited soils from Ellicott Creek. The SPT "N" values obtained within these soils ranged from "weight of hammer" (i.e. only the weight of the hammer and rods required to advance the sample spoon) to 8, indicating these soils have a "very soft" to "medium" consistency. Laboratory testing from the first two investigations indicate these soils, at depths shallower than about 12 to 14 feet, had a medium to high plasticity, a moisture content ranging from about 40% to 55%, and an organic content of about 5% to 8%.

Beneath a depth of about 18 to 20 feet, and extending to the top of bedrock at about 25 to 28 feet, the remaining indigenous soils consisted of a mixture of gravels and sands with little to some amounts of silts and clays. These soils are classified as GC-GM and SM group soils using the USCS. The SPT "N" values obtained within these deeper soils ranged from 40 to "sample spoon refusal", indicting the deeper soils have a "compact" to "very compact" relative density.

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3.40 BEDROCK

Recently completed test borings B-1 through B-4, along with test boring B-1 from 2014 and test boring B-1 from early 2020 were drilled through the overburden soils until encountering the top of apparent bedrock, as identified by auger refusal conditions. Following auger refusal within recently completed test borings B-1 and B-4, 8 feet, and 9 feet of rock coring was completed, respectively. The following table summarizes the depth and elevation where the top of bedrock was encountered, as identified by rock coring (C) or auger refusal (AR). At test boring B-4, rock coring was started at 22.0 feet. However, the upper portion of the recovered core consisted of soil, with the top of shale rock starting at a depth of about 24.4 feet.

Approximate Depth and Elevation of Top of Bedrock

Test Boring	Approximate Ground Surface Elevation (feet)	Depth / Elevation of Top of Bedrock (feet)
B-1	582.3	25.2 / 557.1 (C)
B-2	581.1	26.0 / 555.1 (AR)
B-3	579.5	26.5 / 553.0 (AR)
B-4	578.1	24.4 / 553.7 (C)
B-1 (2014)	581 +/-	26.0 / 555.0 (AR)
B-1 (Feb. 2020)	580.0	27.7 / 552.3 (AR)

The bedrock recovered from test borings B-1 and B-4 consisted of brown, medium hard, sound, laminated to thickly bedded, Shale bedrock. The core recoveries ranged from 66% to 100%. The rock quality designation (RQD) values for the first core runs were 21% and 47%, indicating the near surface bedrock has a "very poor" to "poor" rock mass quality. The RQD values for the second core runs were 81% and 85%, indicating the deeper bedrock has a "good" rock mass quality.

3.50 GROUNDWATER

Based on the information summarized below, a general groundwater condition at the time of our investigation appears to exist near a depth of about 10 to 11 feet, or approximate elevation 570 to 571 feet, which is near the water level within Ellicott Creek.

Water level measurements were made in the test borings following the completion of overburden drilling and sampling, and are presented on the test boring logs in Appendix A and Appendix B. At test boring B-3, the depth to water was about 21.5 feet below the ground surface. Within the remaining test borings, no water was observed. Based on the water levels measured within the observation well, as described below, it appears that

groundwater did not have sufficient time to fully accumulate and stabilize in the test holes within the time that had elapsed from the completion of drilling operations and the time of the measurements.

A groundwater observation well was installed within completed test boring B-2. SJB visited the site on August 6th, 2020, at which time the depth to water within the well was about 10.0 feet below the ground surface, correlating to approximate elevation 571 feet. Following the initial measurement, about 5 gallons of water was removed from the well, lowering the water level. SJB returned to the site on September 15th, 2020, at which time the depth to water within the well was about 11.1 feet below the surface, correlating to approximate elevation 570 feet. These depths generally correspond to the depths where the collected soil samples were described as "moist to wet" or "wet".

Some of the shallower samples of fill soils within test borings B-1 and B-5, along with some shallower samples of sandier indigenous soils within test boring B-3 were described as "moist to wet". These conditions could be representative of some perched or trapped groundwater within the more granular or looser fill and indigenous soils, which overlie less permeable indigenous soils. Perched groundwater conditions can be more prevalent following heavy or extended periods of precipitation and during seasonally wet periods. It should be expected that both permanent and perched groundwater conditions could vary with location and with changes in soil conditions, precipitation, seasonal conditions, and fluctuations of the water level within Ellicott Creek.

4.00 GEOTECHNICAL RECOMMENDATIONS

4.10 GENERAL CONSIDERATIONS AND RECOMMENDATIONS

The following general geotechnical considerations and recommendations are provided to assist with planning for the design and construction of the proposed apartment complex. More detailed recommendations are presented in the subsequent sections of this report.

1. Design and construction of the proposed building will be primarily impacted by: the fill soils that extend to depths of 4 to 10 feet; the underlying soft silty clay indigenous soils which also contain organics; and the apparent perched groundwater condition within some of the fill soils and shallower indigenous soils.

2. The fill soils and the underlying silty clay and organic indigenous soils are not suitable for supporting the proposed apartment building using a conventional shallow spread foundation design. These soils are highly compressible and can also subside with time due to decomposition of the organics, resulting in excessive amounts of settlement beneath spread foundations. In addition, the softer silty clay soils are considered marginal for support of spread foundations.

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3. Considering the issues associated with spread foundations, a deep foundation system is recommended for use at this site, which will transfer the building loads through the fill and softer indigenous soils and into the "compact" to "very compact" indigenous soils, first encountered about 18 to 20 feet below the surface. Suitable deep foundation options include: driven pipe piles; helical piles; and drilled, cast-in-place pier foundations (i.e. caissons or drilled shafts).

4. The deep foundation support options will generally eliminate the settlement risks discussed above for spread foundations. However, settlement risks will still remain with regard to the ground level floor, if designed as a conventional slab-on-grade. In order to eliminate all risks associated with a ground level floor constructed over the fill soils and softer indigenous / organic soils, the floor should be constructed as a structural floor supported by a deep foundation system. We understand, however, it may not be economically practical to use a structural floor slab.

   The Owner, therefore, could consider an approach of removing a portion of the existing fill and provide some additional Subbase Stone, along with a heavy duty stabilization geotextile and geo-grid reinforcement beneath the slab-on-grade construction. This will provide for a stiffer subgrade and reduce some of the differential settlement effects, if it were to occur. There are some uncertainties with this approach, such as the potential for some long-term differential settlement, resulting from unidentified zones of unsuitable fill soils or buried organics.

   If the Owner is willing accept these risks, then we would recommend the following be implemented as minimum requirements for constructing the slab-on-grade over the existing fill soils.

   - The existing fill subgrades should be thoroughly compacted and properly proof rolled, evaluated, and prepared in accordance with our recommendations provided in Section 4.90.6.
   - Any deleterious materials, such as organics, very soft soils, construction debris, etc., which are present within the fill soils at the bottom of the subgrade excavation, should be further undercut, removed, and replaced with additional Subbase Stone.
   - The slab-on-grade floor should be constructed over a minimum 24-inch thick layer of compacted Subbase Stone / Structural Fill, that is separated from the fill soils with a suitable stabilization/separation geotextile. The Structural Fill layer should also be reinforced with two separate layers of geo-grid.
   - Additional steel reinforcing within the floor slab should be considered to help further bridge and reduce the risks of any differential subsidence effects, should they occur.

5. The installation of new fill, necessary to raise the site grades within the proposed building will result in some settlement within the fill soils and softer zones of indigenous soils, which could induce some drown drag forces on the deep foundations. Accordingly, the amount of new fill installation should be limited and be completed at least 2 to 3 months prior to the installation of the deep foundations.

6. Excavations to construct the pile caps and elevator pit could encounter some perched groundwater. Appropriate dewatering measures should be implemented to allow for construction to proceed in the dry. Undercutting the subgrade soils by about 12 to 18 inches and replacing them with Structural Fill should be considered, to provide a firm and stable working surface for construction of the pile caps, grade beams, and elevator pit.

7. Based on the subsurface conditions encountered, the site can be classified as Seismic Site Class "D" in accordance with the criteria in the New York State Building Code.

4.20 DRIVEN PIPE PILES

A driven, closed end pipe pile, is recommended for use at the site due to its lager end bearing area, compared to an H-pile. The steel pipe pile should have a yield strength of at least 50 ksi, and should have a minimum wall thickness of 0.25 inches. A steel cap plate should be used to close the end of the pile. The perimeter of the cap plate should be flush with the outer surface of the pipe pile. Driving the pipe piles open ended is not recommended. Following driving and acceptance, the pipe pile should be filled with concrete or be capped, as determined by the Structural Engineer.

The pile foundations should be driven to practical refusal, into the "compact" to "very compact" gravel and sand soils, first encountered about 18 to 20 feet below the surface. A pipe pile driven to practical refusal can be designed for an allowable axial capacity equal to 25% of the pile yield strength or 12.5 kips per square inch (ksi), whichever is less, times the cross sectional area of the pile.

Based on the above design criteria, an 8.625 inch diameter pipe pile section (Grade 50 steel), with a wall thickness of 0.25 inches and a cross sectional area of 6.6 in^2, would provide an allowable axial compressive capacity of about 41 tons per pile. The pile, however, should be driven and tested for an ultimate capacity of 82 tons. The ultimate test capacity assumes a Factor of Safety of 2.0, as required by the Building Code of New York State.

Other pipe pile sections could also be used, based on current product availability, to obtain different allowable axial capacities, provided the same design criteria as outlined above is used.

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Pile foundations driven to practical refusal within the "compact" to "very compact" gravel and sand soils, are expected to undergo insignificant total settlement, when designed and constructed in accordance with our recommendations. Driven piles should be spaced a minimum of 3 pile widths apart, or three feet, whichever is greater. At this spacing, no group reduction factor is considered necessary. All exterior pile caps and grade beams for driven pile foundations should be embedded a minimum of 4 feet below final exterior grades for frost protection.

At least 3 random piles should be dynamically tested to confirm that the pile capacity has been obtained with an adequate factor of safety (i.e. Factor of Safety of 2.0 or greater as required by the Building Code of New York State).

It is possible that obstructions could be encountered within the fill soils. Such obstructions will hinder and impact the installation of the driven piles, and therefore should be anticipated and addressed as appropriate by the pile driving contractor. Accordingly, some pre-excavation and removal of these materials may be necessary for the proper installation of the piles.

4.30 HELICAL PILES

Helical piles, often referred to as "screw piles", bearing within the "compact" to "very compact" gravel and sand soils, first encountered about 18 to 20 feet below the surface, can be used for supporting the proposed building. Helical piles consist of a steel plate formed into the shape of a helix (one pitch of a screw thread) attached to a steel shaft. Installation is accomplished by applying torque to the shaft and screwing the pile into the soil. During the installation, the torque is measured as a correlation to the design capacity.

We recommend a performance specification for the helical piles be developed (i.e. required compressive and uplift capacities). The helical pile installation contractor can then provide a suitable design and installation procedure. Variables will include the diameter of the helical plate, the use of multiple plates, embedment length, number of piles, grouting or no grouting, etc. A New York registered Professional Engineer should prepare the helical pile design.

Preliminarily, helical piles designed to bear at a depth of about 20 feet, can be designed based on an allowable end bearing capacity of 15 kips per square foot (psf). Accordingly, a 14 inch diameter helix (end area of 1.07 square feet) would be expected to develop an allowable axial capacity of about 16 kips per pile. The actual design, however, should be completed by the contractor based on the performance specification developed for the project. Exterior grade beams and pile caps should be embedded a minimum of 4 feet for frost protection.

Due to the potential for the accumulation of perched or trapped groundwater within the fill soils, and the potential flooding events, we recommend the design groundwater elevation be assumed to exist at the ground surface.

At least one load test should be completed for each helical pile type to confirm the design capacity has been obtained with an adequate factor of safety (i.e. Factor of Safety of 2.0 or greater). The load test data should be correlated to the installation torque to provide acceptance criteria for the production piles. Based on the testing results, the actual production helical pile lengths may vary and therefore such contingencies should be planned for in the installation contracts.

4.40 DRILLED PIERS

Drilled pier foundations, if used, should bear within the "compact" to "very compact" gravel and sand soils, first encountered about 18 to 20 feet below the surface. We recommend the drilled piers bear at least 2 to 3 feet into the gravel and sand soils. Therefore, the drilled piers should bear at an elevation of about 559 to 560 feet, in order to develop adequate end bearing capacity. All drilled pier foundation construction should be monitored by qualified geotechnical personnel, to ensure the drilled piers are bearing on suitable indigenous soil bearing subgrades.

The drilled pier foundations can be sized based on a maximum net allowable end bearing capacity of 15 kips per square foot. In all cases, a minimum pier diameter of 30 inches is recommended. The piers will need to be sized based on the actual column and wall loads as determined by the designer.

Drilled piers should be spaced no closer than 3 pier diameters, center to center. Exterior grade beams and pier caps for a drilled pier foundation system should be embedded a minimum of 4 feet for frost protection. It is estimated that drilled pier foundations sized and properly constructed in accordance with our recommendations above will undergo a total settlement of less than ½ inch.

4.50 ELEVATOR PIT

As noted, a general groundwater condition is expected near elevation 570 feet to 571 feet, or about 10 to 11 feet below the existing surface. However, due to the potential for the accumulation of perched or trapped groundwater within the fill soils, and the potential flooding events, we recommend the groundwater conditions be assumed to exist at the ground surface. Accordingly, the below grade elevator pit walls, should be constructed with perimeter foundation drains to intercept any groundwater that may tend to collect against the walls, and the walls should be properly damp proofed. As an alternative, the walls could be designed to resist full hydrostatic pressures acting on the structure walls and bottom slab, and be designed as a fully waterproofed structure.

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The elevator pit walls should be designed to resist "at rest" lateral earth pressures generated by the earth backfill and any temporary or permanent surcharge loads, based on the soil parameters below. These parameters are based on the wall backfill consisting of Structural Fill, as described in Appendix C. In addition, perimeter exterior foundation drains should be incorporated in the design where the walls are designed for relieved hydrostatic pressures (i.e. drained conditions).

Where a foundation drainage system is not used, the walls should be designed to resist the hydrostatic pressures as well as the lateral earth pressures acting the walls. In this case, the lateral earth pressure should be computed based on a submerged soil unit weight. In addition, the floor / bottom slab must be designed to resist the hydrostatic uplift pressure acting on it, and the depressed structure should also be fully water proofed.

Recommended Soil Parameters for Elevator Pit Wall Design

- Coefficient of "At-Rest" Lateral Earth Pressure – 0.47
- Angle of Internal Friction – 32 Degrees
- Moist Unit Weight of Soil – 140 pcf
- Submerged or Buoyant Unit Weight of Soil – 80 pcf
- Surcharge Load Lateral Coefficient – 0.50

4.60 SLAB-ON-GRADE FLOOR

4.60.1 Floor Slab with Thickened Subbase

As discussed in Section 4.10, the ground level floor can be constructed as a slab-on-grade over the existing fill soils, provided the Owner is willing to accept the risks associated with this option. These risks include the potential for some on-going, long-term settlement, and unpredictable differential settlement, because of the variable composition and density of the fill, and potentially other undetected areas of unsuitable fill soils (i.e. organics, wood, etc.).

The existing fill soil subgrades should be thoroughly compacted and properly prepared and evaluated in accordance with our recommendations in Section 4.906 prior to placement of the geotextile and Subbase Stone material. A minimum of 24 inches of Subbase Stone should be placed beneath the slab-on-grade floor. A suitable stabilization/separation geotextile, such as Mirafi 600X, should be placed over the prepared subgrades and a geo-grid reinforcement such as a TriAx TX160, should be placed over the geotextile, prior to installation of the first lift of Subbase Stone. An additional layer of geo-grid should be installed after the first 12-inches of Structural Fill has been installed.

The slab-on-grade floors can be designed using a modulus of subgrade reaction of 200 pounds per cubic inch at the top of the 24 inches of Subbase Stone. Additional steel reinforcing within the floor slab should be considered to help further bridge and reduce the risks of any differential subsidence effects, should they occur.

It is understood the finished floor grade will be established above the surrounding exterior grades. Therefore, the use of a moisture barrier does not appear warranted, unless otherwise recommended by the finished flooring manufacturer. It is recommended that the slab-on-grade be constructed such that it floats on the subbase and subgrades, and is not structurally connected to or resting directly on, perimeter walls or column footings, in order to limit differential settlement effects, unless the slab / wall or column interface is designed with sufficient reinforcement to bridge potential differential settlement effects at these interfaces.

4.60.2 Structural Floor Slab

As discussed in Section 4.10, the floor system could also be designed as a structural slab supported by the selected deep foundation system. Although potentially more costly, a structural floor slab will negate the settlement risks associated with constructing the floor over the fill soils.

If the floor is structurally supported, it is recommended a minimum of 6 inches Subbase Stone material be placed beneath the structural slab to provide a suitable working surface to construct the slab. It is understood the finished floor grade will be established above the surrounding exterior grades. Therefore, the use of a moisture barrier does not appear warranted, unless otherwise recommended by the finished flooring manufacturer.

We note that the above subbase stone thickness is not adequate for carrying construction vehicle loads. Therefore, it may be desirable for the Contractor to temporarily increase the Subbase Stone thickness within the building pad area to provide a suitable working surface to stage the construction, carry construction vehicle loads and protect the underlying subgrades. This will be particularly important if construction proceeds during seasonally wet periods. The additional subbase stone material could then be removed and re-graded in preparation for the actual floor construction and re-used as foundation backfill, pavement subbase, or as otherwise determined appropriate.

4.70 SEISMIC DESIGN CONSIDERATIONS

Based on the subsurface conditions encountered in the test borings, the project site can be classified as Seismic Site Class "D" in accordance with ASCE 7-16, Table 20.3-1, as referenced in the 2020 Building Code of New York State. Therefore, seismic design can be based on this seismic site classification.

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The spectral response accelerations at the project site were obtained by Empire using the SEAOC / OSHPD web site application https://seismicmaps.org/. Using the site location, the spectral response accelerations are 0.170g for the short period (0.2 second) response (S_S) and 0.045g for the one second response (S_1). For design purposes, these spectral response accelerations must be adjusted for the Seismic Site Class "D" soil profile determined for the project site.

Accordingly, the adjusted spectral response accelerations for Site Class "D" are as follows:

- Short Period Response (S_{MS}) - 0.272g
- 1 Second Period Response (S_{M1}) - 0.109g

The corresponding five percent damped design spectral response accelerations (S_{DS} and S_{D1}) are as follows:

- S_{DS} - 0.181g
- S_{D1} - 0.072g

4.80 PAVEMENT DESIGN AND CONSTRUCTION

4.80.1 Pavement Design

Pavement construction should include: removal of the existing topsoil and organic soils; excavation of the subgrade soils as necessary to establish the pavement profile grade; preparation of the exposed subgrades (i.e. drying, compaction and proof-rolling); installation of subgrade fill (i.e. Suitable Granular Fill), if necessary to raise site grades; and placement of the geotextile, pavement subbase course, and asphalt pavement.

Pavement design recommendations are provided for a Medium Duty Asphalt Concrete Pavement section. The pavement section recommended assumes that the subgrades will be prepared as described in Section 4.90.6.

Medium Duty Asphalt Concrete Pavement

- 1.5 inches - Top Course
- 3.0 inches - Binder Course
- 12 to 15 inches - Subbase Course*
- Geotextile

*It is recommended the subbase course thickness be increased to 15 inches in the entrance / exit areas, which will be subject to more frequent and heavier loads. Also, it may be necessary to increase the subbase thickness in some areas to improve subgrade conditions and to promote drainage to underdrains, as discussed below.

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Materials for the above pavement structure components should consist of the following:

A. Asphalt Concrete Top Course - NYSDOT Standard Specifications, Hot Mix Asphalt, 9.5 F3 Top Course.

B. Asphalt Concrete Binder Course - NYSDOT Standard Specifications, Hot Mix Asphalt, 19 F9 Binder Course.

C. Subbase Course – Should comply with NYSDOT Standard Specifications, Item No. 304.12 - Type 2 Subbase, as described in Appendix C.

D. Geotextile - Woven polypropylene stabilization/separation geotextile (i.e., Mirafi 600X or approved suitable equivalent).

4.80.2 Pavement Drainage

The installation of underdrains or edge drains are recommended to drain the pavement subbase course within any low points, in order to limit the potential for frost action and improve pavement structure performance and design life. Alternatively, the pavement subbase course can also be allowed to daylight/drain to an adjacent perimeter drainage swale. This could be accomplished by raising the pavement grade. Drainage of the pavement subgrades can be achieved by grading the subgrade to a slope of at least 2 percent to allow drainage to the underdrains or drainage swale.

Underdrains, if used, should include a geotextile (i.e. Mirafi 160N or suitable equivalent), selected considering drainage and filtration, installed around drainage stone surrounding a slotted or perforated drain pipe. The drainage stone should be sized in accordance with the pipe slotting or perforations. A crushed aggregate (½-inch washed gravel or stone) is generally acceptable for slotted underdrain pipe. The underdrain pipes should be set in the bottom of the subbase layer, or preferably below the top of the soil subgrade elevation. The drainage stone and surrounding geotextile should extend above the underdrain pipe and into the subbase layer. Underdrain pipes should be connected to the site storm water drainage system.

4.80.3 Pavement Construction

Placement of the pavement Subbase course can proceed, following proper subgrade preparation and subgrade filling. Installation of adjacent geotextile panels should have minimum overlap of 12 to 18 inches. The Subbase Stone should be placed and compacted in accordance with the recommendations in Appendix C. Construction of the Asphalt Concrete Pavement should be performed in accordance with NYSDOT Standard Specification Section 400. The Binder and Top Course compaction / evaluation should comply with NYSDOT Standard Specifications – 80 Series Compaction procedures, as a minimum, or as otherwise required by the jurisdictional agency. In addition, placement of asphalt concrete courses should not be permitted on wet or snow covered surfaces or when the subgrade surface is less than 40° F.

4.90 SITE PREPARATION AND CONSTRUCTION

4.90.1 Construction Dewatering

Construction dewatering will be required for surface water control and for excavations which encounter groundwater conditions. A general groundwater condition is expected near the water level within Ellicott Creek, which will not likely be encountered within the relatively shallow pile cap excavations, but will be encountered within any drilled pier excavations. As noted, there appears to be some shallower zones of perched or trapped groundwater within some of the fill soils and shallower zones of sandier indigenous soils, which could be encountered within the pile cap excavations, or excavations to construct the elevator pit.

Water should be diverted away from the work areas and should be prevented from accumulating on exposed subgrades. Exposed soil subgrades will be susceptible to strength degradation in the presence of excess moisture. It is anticipated that diversion berms and proper site grading will be sufficient to control surface water.

Groundwater conditions, when encountered, should be depressed at least 1 to 2 feet below the excavation bottom. It is anticipated that sump and pump methods of dewatering will be sufficient to control perched groundwater conditions, should it be encountered within the fill soils or sandier indigenous soils. Surface water and groundwater dewatering plans should include implementation of measures to control erosion, sedimentation and the migration of soil fines.

4.90.2 Driven Pile Construction and Testing

The pipe piles should be driven using a hammer producing a suitable energy to obtain the desired ultimate capacity, yet not overstress the pile. Pile stresses should not exceed 85% of the pile yield stress. The appropriate hammer and driving criteria should be determined by the pile installation contractor through the use of the wave equation, based on the actual pile hammer and cushions that will be used for the project. If the wave equation analysis indicates that the pile may be overstressed during driving then the contractor should select an alternate hammer/cushion arrangement, which will not overstress the pile.

At least three random piles, across the limits of the site, should be dynamically tested in accordance with *ASTM D 4945 – Standard Test Method for High Strain Dynamic Testing of Piles* to confirm the driving criteria and to evaluate that the allowable pile capacity has been obtained with an adequate factor of safety (i.e. Factor of Safety of 2.0 or greater). The dynamic testing should be performed prior to installation of the production piles. The test piles may be used as production piles provided the test data is acceptable. The results of the dynamic testing should include an evaluation to simulate static load testing.

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The wave equation results, pile installation records and the results of the dynamic testing should be evaluated to confirm the design capacity and to possibly refine the driving criteria and pile lengths if determined necessary. It should be understood that the pile capacity provided was estimated using conventional static analyses based on engineering interpretation of the conditions disclosed by the test borings. Variations in soil conditions may occur, which can impact the actual pile installation requirements. Therefore, it is recommended that the contract documents contain provisions to make adjustments in the actual pile lengths required, should the installation conditions and field testing dictate such changes.

A qualified individual should observe all pile driving and should prepare an individual pile driving report for each pile installed. The report should include, pile number and location, hammer and cushion types, pile size and material, installed length, blows per foot, unusual conditions encountered during driving, top of pile elevation following driving and notes on any necessary re-striking.

Installed piles should be monitored for potential heaving during installation of adjacent piles. Any piles which heave should be re-driven and reseated as appropriate. Plumbness of the piles should be maintained within 1% of the total length. Any misaligned or damaged piles should be replaced. Following driving the inside of the pipe pile should be inspected, before concreting or capping, to assure that no damage occurred during driving. Any damaged piles should be removed and replaced.

4.90.3 Helical Pile Construction

Helical piles should be installed by a qualified and experienced contractor. The helical piles should be installed in a smooth continuous manner, with sufficient pressure to advance the helical piles. Alignment of the helical piles should be maintained within 1% of the total length. At least one load test should be completed to determine the helical pile capacity has been obtained with an adequate factor of safety (i.e. Factor of Safety of 2.0 or greater).

A correlation, using the torque during installation and the load testing data should be used to confirm subsequent helical piles are installed to two times the allowable design load. A qualified individual should observe the helical pile installation and prepare a report summarizing the installation process, load testing results, torque during installation, length of pile, etc.

4.90.4 Drilled Pier Foundation Construction

The drilled pier foundation construction is expected to encounter groundwater conditions near a depth of about 10 feet. Shallower zones of perched groundwater within the fill soils could also be encountered. Dewatering should be implemented as necessary to lower the groundwater within the drilled pier excavation casing in order to observe the pier excavation bottom and evaluate the bearing subgrade surface, and to allow construction in-the-dry.

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Alternatively, procedures for constructing the drilled piers below the groundwater elevation, can be implemented. However, there is less control during construction in-the-wet, and therefore, there may be greater risk associated with this construction procedure. If this method is used, the hole must be stabilized and the concrete must be placed in a manner that displaces slurry/water from the hole, such as a tremie method. It is recommended that the drilled piers be constructed only by a Contractor, who is qualified and experienced in such construction methods. In both cases the installation of temporary casing during drilling will be necessary to prevent the sloughing of the softer fill soils and indigenous soils into the excavations.

Initially, the excavation should extend to the proposed bearing grade. Loose soil should be removed from the bearing surface. The final bearing surface should be level or near level. Plumbness of the pier should be maintained within 1% of the total length. Casing removal during concrete placement should proceed in a manner that prevents or reduces to the extent possible, surrounding soil and water from protruding into the space that will be occupied by concrete. Qualified and experienced geotechnical personnel should monitor the drilled pier construction.

4.90.5 Excavation for Grade Beams and Pile Caps

Excavation for the pile caps and grade beams should be performed using a method, which reduces disturbance to the subgrade soils, such as a backhoe equipped with a smooth blade bucket. As noted, consideration should be given to undercutting the subgrade soils by about 12 to 18 inches and replacing them with Structural Fill, as described in Appendix C, to provide a firm and stable working surface.

Subgrades should be protected from precipitation and surface water. Water should not be allowed to accumulate on the soil subgrades and the subgrades should not be allowed to freeze, either prior to or after construction of foundations. If subgrades are not protected and degrade, they must be undercut/removed accordingly.

Excavations should be backfilled as soon as possible and prior to construction of the superstructure. It is recommended that the excavations be backfilled with a Structural Fill, as described in Appendix C.

4.90.6 Subgrade Preparation for Slab-on-Grade and Pavement Areas

The site preparation work should be performed during seasonally dry periods to minimize potential degradation of the subgrade soils and undercuts which may be required to establish a stable base for construction. It should be understood that the silty clay fill soils encountered at the site are sensitive and can degrade and lose strength when they are wet and disturbed by construction equipment traffic. Accordingly, efforts should be made to

maintain the subgrades in a dry and stable condition at all times, and minimize construction traffic directly over these soils. These efforts could include:

- Installation of drainage swales and underdrains (i.e. "French drains") to intercept and divert surface runoff and groundwater away from the construction areas;
- Proper grading and sloping of the subgrade and "sealing" of the surface with a smooth drum roller, at the end of each day or when rain is anticipated to promote runoff; and
- Restricting construction equipment traffic from traveling directly over the subgrade surfaces, especially when they are wet. Any subgrades, which become damaged, rutted or unstable should be undercut and repaired as necessary prior to placement of the overlying fill courses.

Existing trees, stumps, vegetation, topsoil, organic soils, soft or loose soils, and any other deleterious materials within the proposed slab-on-grade and pavement areas should be removed. Following stripping of the surface materials and any required excavation to the proposed subgrades, the exposed subgrades should be allowed to dry, as necessary, and then be thoroughly compacted/densified and then proof-rolled.

The subgrade compaction and proof-rolling should be performed prior to any required fill placement, using a vibratory smooth drum roller weighing at least 10 tons. The roller should be operated in the vibratory mode for compacting the subgrades and in the static mode for proof rolling. The roller should complete at least four passes over the exposed subgrades for the compaction/densification operation and at least two passes for the proof rolling evaluation.

The subgrade compaction and proof-rolling should be done under the guidance of, and observed by, a representative of Empire. Any areas, which appear wet, loose, soft, unstable or otherwise unsuitable, should be undercut. Over excavation, which may be required as the result of the proof-rolling, should be performed based on evaluation of the conditions by Empire. Resulting over-excavations should be backfilled with controlled Structural Fill. The placement of an initial lift of oversized stone fill material (i.e. "surge stone", "shot rock", etc.) encased in stabilization geotextile top and bottom, may be necessary in some cases to help stabilize the subgrades.

During construction, the Contractor should take precautions to limit construction traffic over the soil subgrades. Any subgrades, including existing soil subgrades or fill subgrades, which become damaged, rutted or unstable should be undercut and repaired as necessary prior to placement of the Subbase Stone.

Suitable Granular Fill, as described in Appendix C, can be used to raise the site grades beneath the Subbase Stone course for the slab-on-grade and pavement construction. The use of the on-site soils to raise site grades is not recommended as it is expected to be more difficult to obtain acceptable compaction and maintain stable fill subgrades (i.e. free of rutting and pumping conditions), due to its inherent finer grained composition and organic

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content. Placement of subgrade fill (Suitable Granular Fill), to raise site grades, should be observed and tested by a construction materials testing company. It is recommended that utility trenches located within pavement areas be backfilled with controlled Structural Fill.

5.00 CONCLUDING REMARKS

This report was prepared to assist in the design and construction of the proposed Elysium Apartment Complex, planned at 2160 North Forest Road, within the Town of Amherst, New York. The report has been prepared for the exclusive use of Postwork Capital, Buffalo Automation, Silvestri Architects, PC, and other members of the project design team, for specific application to this site and this project only.

The site information and recommendations were prepared based on Empire's understanding of the proposed project, as described herein, and through the application of generally accepted soils and foundation engineering practices. Empire should be consulted with any questions regarding the interpretation of the findings of our work, and/or the geotechnical considerations and recommendations presented. In addition, the recommendations presented are provided as guidance to the designer and should not be considered a project specification. No warranties, expressed or implied are made by the conclusions, opinions, recommendations or services provided.

Empire should be informed of any changes to the planned project so that it may be determined if any modifications to the information presented in this report are necessary. Empire and / or its designated representative should also be retained to review final plans and specifications and to monitor the foundation and site work construction to verify that the recommendations were properly interpreted and implemented.

Additional information regarding the use and interpretation of this report is presented in Appendix D.

Respectfully Submitted:

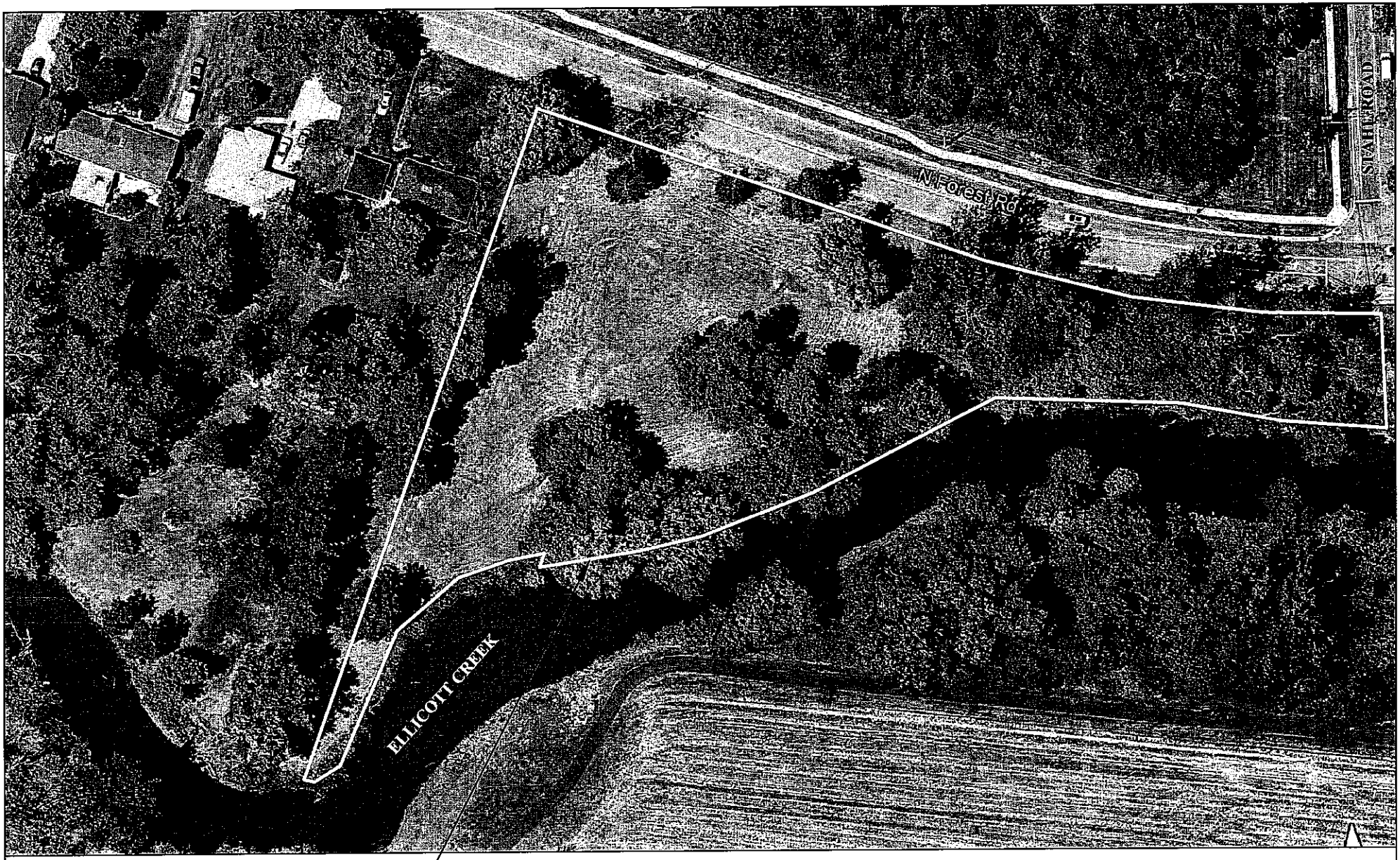
WMA Engineering DPC
dba Empire Geotechnical Engineering Services

Thomas R. Seider, P.E.
Senior Geotechnical Engineer

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Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

FIGURES



APPROXIMATE SITE LOCATION

WMA ENGINEERING DPC|DBA
EMPIRE GEOTECHNICAL
ENGINEERING SERVICES

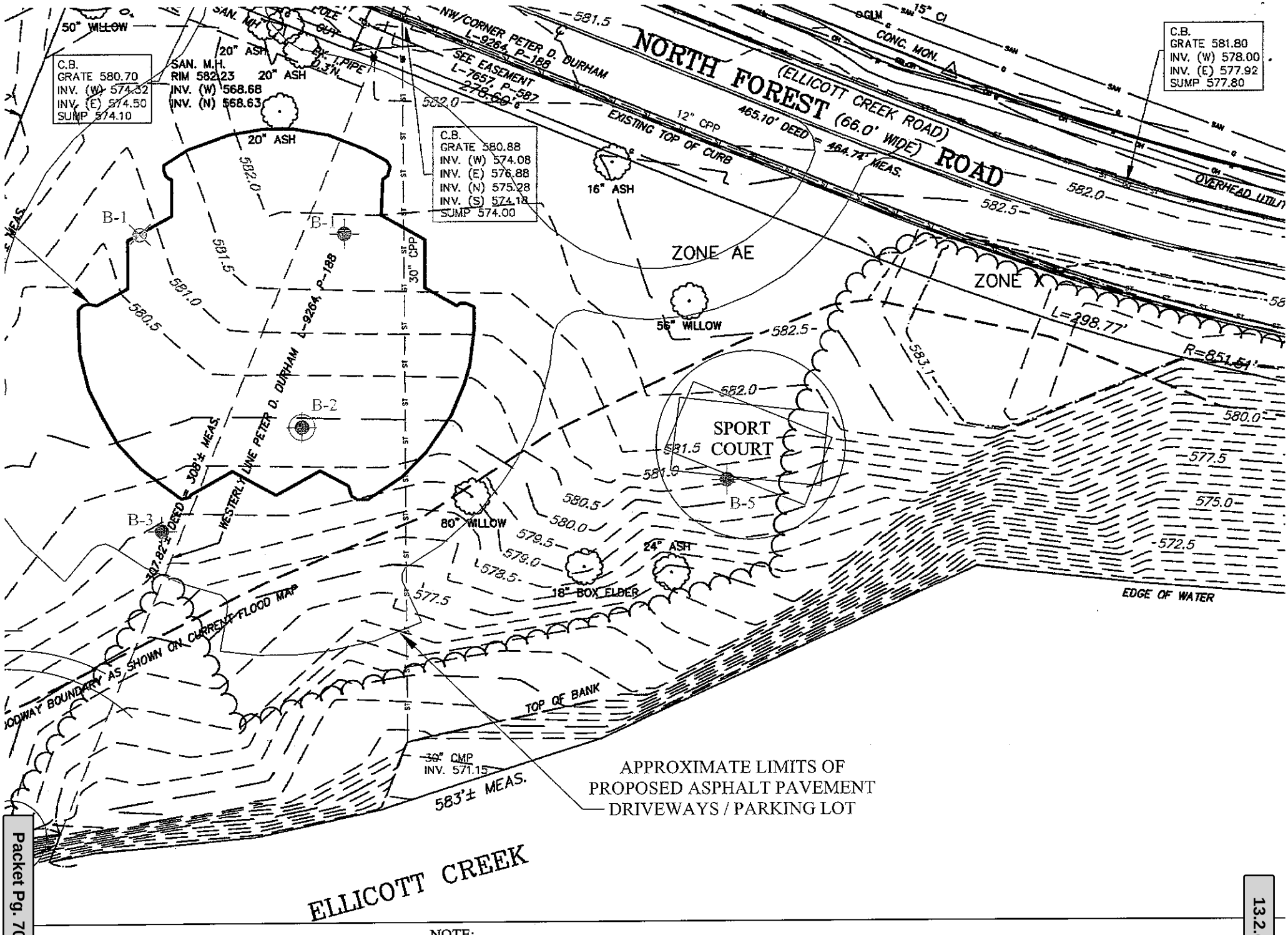
PROPOSED ELYSIUM APARTMENT COMPLEX
2160 NORTH FOREST ROAD
TOWN OF AMHERST, NEW YORK

DR BY: WMA	SCALE: NTS	PROJECT NO.: WB-20-105

NOTE:

SI

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Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

APPENDIX A

SUBSURFACE EXPLORATION LOGS

Recently Completed Test Borings
July 2020 (B-1 through B-5)

GENERAL INFORMATION & KEY TO SUBSURFACE LOGS

The Subsurface Logs attached to this report present the observations and mechanical data collected by the driller at the site, supplemented by classification of the material removed from the borings as determined through visual identification by technicians in the laboratory. It is cautioned that the materials removed from the borings represent only a fraction of the total volume of the deposits at the site and may not necessarily be representative of the subsurface condition between adjacent borings or between the sampled intervals. The data presented of the Subsurface Logs together with the recovered samples provide a basi for evaluating the character of the subsurface conditions relative to the project. The evaluation must consider all the recorded details and their procedures to more accurately evaluate the subsurface conditions. Any evaluation of the contents of this report and recovered samples must be performed by qualified professionals. The following information defines some of the procedures and terms used of the Subsurface Logs to describe the conditions encountered, consistent with the numbered identifiers shown o the Key opposite this page.

1. The figures in the Depth column define the scale of the Subsurface Log.
2. The Samples column shows, graphically, the depth range from which a sample was recovered. See Table I for descriptions of the symbols used to represent the various types of samples.
3. The Sample No. is used for identification on sample containers and/or Laboratory Test Reports.
4. Blows on Sampler – shows the results of the "Penetration Test", recording the number of blows required to drive a split spoon sampler into the soil. The number of blows required for each six inches is recorded. The first 6 inches of penetration is considered seating drive. The number of blows required for the second and third 6 inches of penetration is termed the penetration resistance,
5. Blows on Casing – Shows the number of blows required to advance the casing a distance of 12 inches. The casing size, hammer weight, and length of drop are noted at the bottom of the Subsurface Log. If the casing is advanced by means other than driving, t method of advancement will be indicated in the Notes column or under the Method of Investigation at the bottom of the Subsurfac Log. Alternatively, sample recovery may be shown in this column or other data consistent with the column heading.
6. All recovered soil samples are reviewed in the laboratory by an engineering technician, geologist, or geotechnical engineer, unless noted otherwise. Visual descriptions are made on the basis of a combination of the driller's field descriptions and noted observatio together with the sample as received in the laboratory. The method of visual classification is based primarily on the Unified Soil Classification System (ASTM D 2487) with regard to the particle size and plasticity (See Table No. II), and the Unified Soil Classification System group symbols for the soil types are sometimes included with the soil classification. Additionally, the relative portion, by weight, of two or more soil types is described for granular soils in accordance with "Suggested Methods of Test for Identification of Soils" by D.M. Burmister, ASTM Special Technical Publication 479, June 1970. (See Table No. III). Description o the relative soil density or consistency is based upon the penetration records as defined in Table No. IV. The description of the soil moisture is based upon the relative wetness of the soil as recovered and is described as dry, moist, wet, and saturated. Water introduced into the boring either naturally or during drilling may have affected the moisture condition of the recovered sample. Special terms are used as required to describe soil deposition in greater detail; several such terms are listed in Table V. When sampling gravelly soils with a standard two inch diameter split spoon, the true percentage of gravel is often not recovered due to t relatively small sampler diameter. The presence of boulders and large gravel is sometimes, but not necessarily, detected by an evaluation of the casing and sampler blows or through the "action" of the drill rig as reported by the driller.
7. Rock description is based on review of the recovered rock core and the driller's notes. Frequently used rock classification terms a included in Table VI.
8. The stratification lines represent the approximate boundary between soil types and the transition may be gradual. Solid stratification lines delineate apparent changes in soil type, based upon review of recovered soil samples and the driller's notes. Dashed lines convey a lesser degree of certainty with respect to either a change in soil type or where such change may occur.
9. Miscellaneous observations and procedures noted by the driller are shown in this column, including water level observations. It is important to realize the reliability of the water level observations depends upon the soil type (water does not readily stabilize in a hole through fine grained soils), and that any drill water used to advance the boring may have influenced the observations. The ground water level will fluctuate seasonally, typically. One or more perched or trapped water levels may exist in the ground seasonally. All the available readings should be evaluated. If definite conclusions cannot be made, it is often prudent to examine th conditions more thoroughly through test pit excavations or groundwater observation wells.
10. The length of core run is defined as the length of penetration of the core barrel. Core recovery is the length of core recovered divided by the core run. The RQD (Rock Quality Designation) is the total length of pieces of NX core exceeding 4 inches divided b the core run. The size core barrel used is also noted in the Method of Investigation at the bottom of the Subsurface Log.

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DATE

STARTED _____

FINISHED _____

SHEET ____ OF ____

SJB SERVICES, INC. SUBSURFACE LOG

PROJ. No. _____

HOLE No. _____

SURF. ELEV. _____

G.W. DEPTH _____

PROJECT _____ LOCATION _____

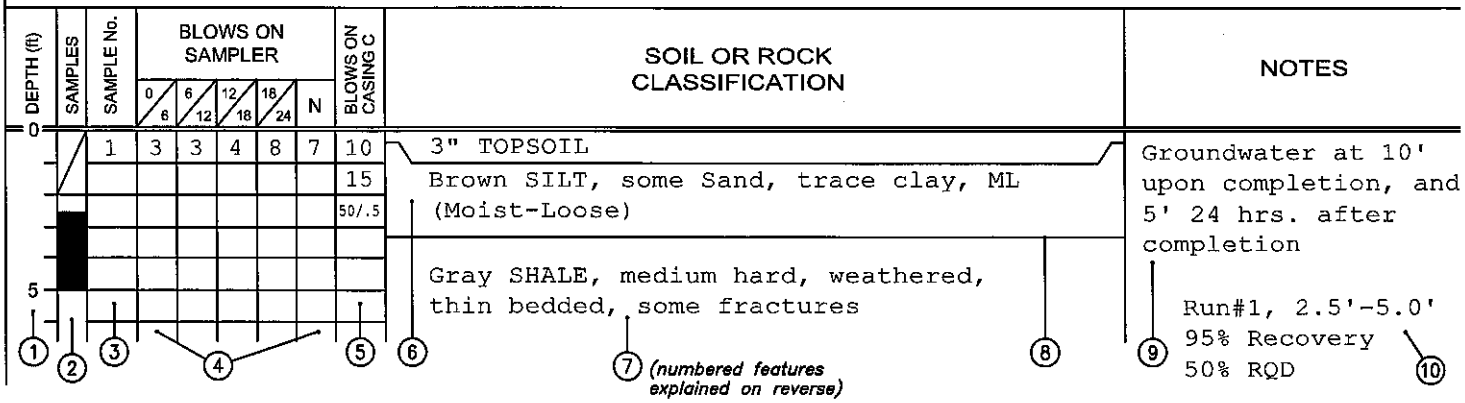


TABLE I

⁄	Split Spoon Sample
▮	Shelby Tube Sample
⊠	Geoprobe Macro-Core
▯	Auger or Test Pit Sample
■	Rock Core

TABLE II

Identification of soil type is made on basis of an estimate of particle sizes, and in the case of fine grained soils also on basis of plasticity.

Soil Type	Soil Particle Size	
Boulder	>12"	Coarse Grained (Granular)
Cobble	3" - 12"	
Gravel - Coarse	3" - 3/4"	
- Fine	3/4" - #4	
Sand - Coarse	#4 - #10	
- Medium	#10 - #40	
- Fine	#40 - #200	
Silt - Non Plastic (Granular) Clay - Plastic (Cohesive)	<#200	Fine Grained

TABLE III

The following terms are used in classifying soils consisting of mixtures of two or more soil types. The estimate is based on weight of total sample.

Term	Percent of Total Sample
"and"	35 - 50
"some"	20 - 35
"little"	10 - 20
"trace"	less than 10

(When sampling gravelly soils with a standard split spoon, the true percentage of gravel is often not recovered due to the relatively small sampler diameter.)

TABLE IV

The relative compactness or consistency is described in accordance with the following terms:

Granular Soils		Cohesive Soils	
Term	**Blows per Foot, N**	**Term**	**Blows per Foot, N**
Very Loose	0 - 4	Very Soft	0 - 2
Loose	4 - 10	Soft	2 - 4
Firm	10 - 30	Medium	4 - 8
Compact	30 - 50	Stiff	8 - 15
Very Compact	>50	Very Stiff	15 - 30
		Hard	>30

(Large particles in the soils will often significantly influence the blows per foot recorded during the penetration test)

TABLE V

Varved	Horizontal uniform layers or seams of soil(s).
Layer	Soil deposit more than 6" thick.
Seam	Soil deposit less than 6" thick.
Parting	Soil deposit less than 1/8" thick.
Laminated	Irregular, horizontal and angled seam and partings of soil(s).

TABLE VI

Rock Classification Term		Meaning
Hardness	- Soft	Scratched by fingernail
	- Medium Hard	Scratched easily by penknife
	- Hard	Scratched with difficulty by penknife
	- Very Hard	Cannot be scratched by penknife
Weathering	- Very Weathered	Judged from the relative amounts of disintegration, iron staining, core recovery, clay seams, etc.
	- Weathered	
	- Sound	

Rock Classification Term		Meaning	
Bedding	- Laminated	(<1")	Natural breaks in Rock Layers
	- Thin Bedded	(1" - 4")	
	- Bedded	(4" - 12")	
	- Thick Bedded	(12" - 36")	
	- Massive	(>36")	

(Fracturing refers to natural breaks in the rock oriented at some angle to the rock layers)

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

DATE:
START 7/23/2020
FINISH 7/23/2020
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-1
SURF. ELEV 582.3'
G.W. DEPTH See Notes

PROJECT: PROPOSED ELYSIUM APARTMENT COMPLEX
PROJ. NO.: BE-20-105
LOCATION: 2160 NORTH FOREST ROAD
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	2	4			TOPSOIL	Driller noted topsoil at the surface
		6	8		10	Brown Silty CLAY, some fine Gravel, little f-c Sand, tr.organics (moist, FILL)	
	2	8	7				
		6	5		13	One piece of coarse GRAVEL (moist, FILL)	WOH = Weight of Hammer and Rods
5	3	3	3			Brown Silty CLAY, some f-c Sand, little fine Gravel, tr.slag, tr.organics (moist-wet, FILL)	
		3	2		6		
	4	3	3			Contains tr.gravel, tr.glass, no slag	Sample #4: Contains wood
		4	3		7		
	5	WOH	2			Dark Brown Silty CLAY, little f-m Sand, tr.organics (moist, medium, CL)	Sample #5: Exhibits an organic odor
10		2	3		4		
	6	1	1			Contains tr.sand (moist-wet, soft)	
		1	1		2		Sample #6: Contains wood
15	7	WOH	1			Contains little f-m Sand, little Organics	Sample #7: Exhibits an organic odor, contains wood
		2	1		3		
20	8	6	21			Brown fine GRAVEL, some f-c Sand, little Silty Clay (moist, v.compact, GC-GM)	REF = Sample Spoon Refusal
		35	50/0.2		56		Driller noted hard augering at 20' to 25'
25	9	50/0.2			REF		NQ '2' Size Rock Core
						Brown SHALE Rock, medium hard, sound, thickly bedded, both natural and mechanical fractures	RUN #1: 25.2' - 30.2' REC = 72% RQD = 47%
30						Becomes laminated to thickly bedded	RUN #2: 30.2' - 33.2' REC = 100% RQD = 81%
35						Boring Complete at 33.0'	No Free Standing Water encountered before coring
							Free Standing Water recorded at 1' after coring
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW

CLASSIFIED BY: Geologist

DRILLER: A. KOSKE
DRILL RIG TYPE : CME-550X

METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

DATE:
START 7/27/2020
FINISH 7/27/2020
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-2
SURF. ELEV 581.1'
G.W. DEPTH See Notes

PROJECT: PROPOSED ELYSIUM APARTMENT COMPLEX
PROJ. NO.: BE-20-105
LOCATION: 2160 NORTH FOREST ROAD
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	4	15			TOPSOIL	Driller noted topsoil at the surface
		21	19		36	Brown CONCRETE fragments, some Silty Clay, little f-c Sand (moist, FILL)	
	2	15	8				
		5	6		13	Contains little Silty Clay	Sample #1: Poor Recovery
5	3	2	2			Brown Silty CLAY, some f-c Sand, little fine Gravel,	Sample #2: Poor Recovery
		3	6		5	tr.organics (moist, FILL)	
	4	4	50/0.2		REF	Contains some fine Gravel, little f-c Sand, tr.concrete (moist-wet)	
	5	50/0			REF		Sample #5: No Recovery
10							
	6	2	2			Dark Brown Silty CLAY, little Organics, tr.sand	REF = Sample Spoon Refusal
		3	3		5	(moist-wet, medium, CL)	
15							
	7	1	2			Brown Organics, tr.sand (wet)	Sample #7: Poor Recovery, contains wood
		1	6		3		
20							
	8	31	40			Brown fine GRAVEL, some f-c Sand, little Silty Clay	
		45	50/0.4		85	(wet, v.compact, GC-GM)	
25							
	9	50	50/0.2		REF		
						Boring Complete with Auger Refusal at 26.0'	No Free Standing Water reading obtained at boring completion
30							2" PVC groundwater observation well installed within completed test boring. Refer to completion record for details.
35							
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW

CLASSIFIED BY: Geologist

DRILLER: R. STEINER

DRILL RIG TYPE : CME-550X

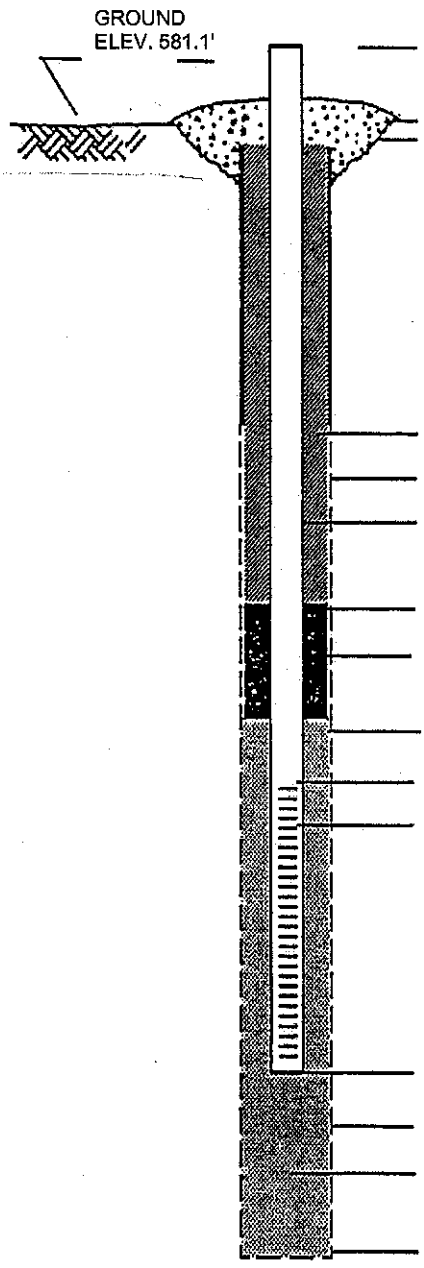
METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

MONITORING WELL COMPLETION RECORD

SJB SERVICES, INC.

WELL NUMBER: B-2	
PROJECT: Elysium Apartments	**DRILLING METHOD:** ASTM D-1586 USING HSA
PROJECT NUMBER: BE-20-105	**GEOLOGIST:** N/A
DRILLER: R. Steiner	**INSTALLATION DATE(S):** 7/27/2020



TYPE OF SURFACE SEAL:	SOIL
TYPE OF BACKFILL:	SOIL AUGER CUTTINGS
BOREHOLE DIAMETER:	7" ±
I.D. OF RISER PIPE:	2"
TYPE OF RISER PIPE:	PVC
DEPTH OF SEAL:	12'
TYPE OF SEAL:	BENTONITE CHIPS
DEPTH OF SAND PACK:	14'
DEPTH OF TOP OF SCREEN:	15.6'
TYPE OF SCREEN:	PVC
SLOT SIZE X LENGTH:	0.01' x 10'
I.D. OF SCREEN:	2"
TYPE OF SAND PACK:	No. 0 Silica Sand
DEPTH BOTTOM OF SCREEN:	25.6'
DEPTH BOTTOM OF SAND PACK:	26.0'
TYPE OF BACKFILL BELOW OBSERVATION WELL:	N/A
ELEVATION/ DEPTH OF HOLE:	26.0'

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

DATE:
START 7/24/2020
FINISH 7/24/2020
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-3
SURF. ELEV 579.5'
G.W. DEPTH See Notes

PROJECT: PROPOSED ELYSIUM APARTMENT COMPLEX
PROJ. NO.: BE-20-105
LOCATION: 2160 NORTH FOREST ROAD
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	5	6			TOPSOIL	Driller noted topsoil at the surface
		15	10		21	Brown Silty CLAY, some f-c Sand, tr.organics (moist, FILL)	
	2	8	8			Contains little fine Gravel	
		10	11		18		Sample #2: Poor Recovery
5	3	2	2			Dark Gray f-c SAND, little Silty Clay, tr.organics	
		3	4		5	(moist-wet, loose, SC-SM)	
	4	3	2			(wet)	Sample #4: Contains wood
		3	2		5		
	5	2	2			Contains some Silty Clay (v.loose)	Sample #5: Contains wood
10		1	1		3		
	6	WOH/1.0				Contains little Organics, little Silty Clay	WOH = Weight of Hammer and Rods
		WOH/1.0			WOH		
15	7	WOH/1.0				Brown Silty CLAY, some f-c Sand, little fine Gravel	
		3	5		3	(wet, soft, CL)	
							Driller noted hard augering at 18' to 26.5'
20	8	28	47			Brown fine Gravel, some f-c Sand, little Silty Clay	
		50/0.4			REF	(moist, v.compact, GC-GM)	REF = Sample Spoon Refusal
25	9	50/0.2			REF		Sample #9: No Recovery
						Boring Complete with Auger Refusal at 26.5'	Free Standing Water recorded at 21.5' at boring completion
30							
35							
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW
CLASSIFIED BY: Geologist
DRILLER: R. STEINER
DRILL RIG TYPE : CME-550X
METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

DATE:
START 7/23/2020
FINISH 7/23/2020
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-4
SURF. ELEV 578.1'
G.W. DEPTH See Notes

PROJECT: PROPOSED ELYSIUM APARTMENT COMPLEX
PROJ. NO.: BE-20-105
LOCATION: 2160 NORTH FOREST ROAD
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	1	2			TOPSOIL	Driller noted topsoil at the surface
		3	3		5	Brown Silty CLAY, some fine Gravel, little f-c Sand, tr.organics (moist, FILL)	
	2	2	5				
		10	50/0.2		15	Brown fine GRAVEL, some f-c Sand, little Concrete, little Silty Clay (moist, FILL)	
5	3	21	5				Sample #3: Contains wood
		3	3		8	Dark Brown Silty CLAY, tr.sand, tr.organics (moist, medium, CL)	
	4	4	2				Sample #4: Contains wood
		3	2		5	Contains little Organics, little f-c Sand (moist-wet) (soft)	
	5	1	1				Sample #5: Contains wood, Exhibits an organic odor
10		1	1		2		
	6	2	1			Brown Silty CLAY, little f-c Sand, tr.gravel (moist-wet, soft, CL)	
		1	2		2		
15							
	7	2	2			Contains some fine Gravel (moist, medium)	Driller noted hard augering at 18' to 22'
		4	7		6		
20							REF = Sample Spoon Refusal
	8	20	19			Brown fine GRAVEL, some f-c Sand, little Silty Clay (moist, compact, GC-GM)	
		21	25		40		NQ '2' Size Rock Core
	9	50/0			REF	22.0' to 24.4': Brown f-c GRAVEL, some f-c Sand, little Silty Clay (moist, GC-GM)	RUN #1: 22.0' - 27.0' REC = 66% RQD = 21%
25						Brown SHALE Rock, medium hard, sound, laminated to thickly bedded, both natural and mechanical fractures	
							RUN #2: 27.0' - 31.0' REC = 90% RQD = 85%
30							
						Boring Complete at 31.0'	No Free Standing Water encountered before coring
35							Free Standing Water recorded at 1' after coring
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW

CLASSIFIED BY: Geologist

DRILLER: A. KOSKE
DRILL RIG TYPE : CME-550X

METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

DATE:
START 7/24/2020
FINISH 7/24/2020
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-5
SURF. ELEV 582.0'
G.W. DEPTH See Notes

PROJECT: PROPOSED ELYSIUM APARTMENT COMPLEX
PROJ. NO.: BE-20-105
LOCATION: 2160 NORTH FOREST ROAD
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	1	4			TOPSOIL	Driller noted topsoil at the surface
		7	10		11	Brown Silty CLAY, some fine Gravel, little f-c Sand, tr.organics (moist-wet, FILL)	
	2	8	9				
		10	12		19	Brown-Black ASPHALT fragments, little Silty Clay, little fine Gravel, tr.sand (moist, FILL)	
5	3	7	10				
		15	16		25	Contains some fine Gravel, little f-c Sand, tr.silty clay tr.organics	
	4	5	5				
		6	6		11	Dark Brown Silty CLAY, tr.sand, tr.organics (moist, stiff, CL)	
	5	1	2			Contains little f-m Sand (moist-wet, medium)	Sample #5: Contains wood
10		2	2		4		
	6	1	1			Brown-Gray f-m SAND, little Silty Clay, tr.organics (moist-wet, v.loose, SC-SM)	Samples #6 & #7: Contains wood
		2	1		3		
	7	1	2			Contains tr.gravel, tr.shells	
15		2	3		4		
						Boring Complete at 15.0'	No Free Standing Water recorded at boring completion
20							
25							
30							
35							
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW

CLASSIFIED BY: Geologist

DRILLER: R. STEINER
DRILL RIG TYPE : CME-550X
METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

APPENDIX B

SUBSURFACE EXPLORATION LOGS

Previously Completed Test Borings
February 2020 (B-1)
June 2014 (B-1)

DATE:
START 2/20/2020
FINISH 2/20/2020
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-1
SURF. ELEV 580.0'
G.W. DEPTH See Notes

PROJECT: PROPOSED NEW HOME
PROJ. NO.: BE-20-010
LOCATION: 2160-2170 NORTH FOREST
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	WOH	2			TOPSOIL	Driller noted Topsoil at the surface
		3	5		5	Brown Silty CLAY, tr.sand, tr.organics (moist, FILL)	
	2	6	3			Becomes Dark Brown to Brown, Contains tr.asphalt, tr.brick	
		2	3		5		
5	3	2	2			Brown Silty CLAY, tr.gravel, tr.sand (moist-wet, FILL)	
		3	3		5		
	4	4	4			Brown Silty CLAY, tr.gravel, tr.sand, tr.organics	
		3	3		7	(moist-wet, medium, CL / Possible FILL)	
	5	1	1			Dark Brown Silty CLAY, tr.sand, tr.organics	
10		1	1		2	(moist, v.soft, CL)	
	6	WOH	WOH			Becomes Dark Brown to Dark Gray, occasional moist-wet partings	WOH = Weight of Hammer and Rods
		WOH	WOH		WOH		
	7	WOH	WOH			Red Brown Silty CLAY, some f-c Sand	
		WOH	WOH		WOH	(moist-wet, v.soft, CL)	
15	8	WOH	WOH			Contains some f-c Gravel	
		2	3		2		
	9	7	8			Contains little f-c Gravel (v.stiff)	
		8	8		16		
	10	8	12			Contains some f-c Gravel (moist)	
20		12	13		24		
	11	15	24			Contains little f-c Sand (hard)	
		17	19		41		
							REF = Sample Spoon Refusal
25							
	12	27	50/0.4		REF	Brown f-c SAND, some Silt, little f-c Gravel (moist, v.compact, SM)	Sample #13: Poor Recovery, possible weathered bedrock
	13	50/0.2			REF	Brown fine GRAVEL, tr.sand (moist, v.compact, GP)	
30						Boring Complete with Auger Refusal at 27.7'	No Free Standing Water encountered at boring completion
35							
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW

CLASSIFIED BY: Geologist

DRILLER: S. WOLKIEWICZ JR.

DRILL RIG TYPE : CME-550X

METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

DATE
START 6/30/2014
FINISH 6/30/2014
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-1
SURF. ELEV 581' +/-
G.W. DEPTH See Notes

PROJECT: PROPOSED RESIDENTIAL HOME
PROJ. NO.: BE-14-109
LOCATION: 2160 NORTH FOREST ROAD
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	3	4			TOPSOIL	Driller notes approx. 6" Topsoil
		5	7		9	Red-Brown and Black Silty CLAY, tr.sand, tr.gravel (moist, FILL)	
	2	5	8				
		7	10		15	Brown-Gray and Black f-m SAND, some Silt, tr.gravel (moist, FILL)	
5	3	3	3				
		4	4		7	Black Organic Clayey SILT, little f-c Sand (moist, FILL)	
	4	2	2			Gray and Black Organic Silty CLAY, tr.peat (moist, medium, OL-CL)	
		3	4		5		
	5	2	3				
10		3	3		6		
	6	2	2				
		2	2		4		
	7	3	2				
		3	4		5		
15	8	WOH/1.5				Becomes Red-Brown (wet, v.soft)	WOH = Weight of Hammer and Rods
			1		WOH		
	9	1	1				
		1	1		2	Contains little f-c Sand, tr.gravel	REF = Sample Spoon Refusal
	10	31	50/0.3		REF	Red-Brown f-m SAND and Silt, tr.gravel (moist, SM)	
20							
	11	19	23				
		21	22		44	(compact)	
25							
	12	19	50/0.4		REF		
						Boring Complete with Sample Spoon Refusal at 25.9' and Auger Refusal at 26.0'	No Free Standing Water encountered at Boring Completion
30							
35							
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW

CLASSIFIED BY: Geologist

DRILLER: A. JAKUBCZAK

DRILL RIG TYPE : CME-550X

METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

APPENDIX C

FILL MATERIAL AND EARTHWORK RECOMMENDATIONS

APPENDIX C

FILL MATERIAL AND EARTHWORK RECOMMENDATIONS

I. Material Recommendations

A. Structural Fill

Structural Fill should consist of a crusher run stone, free of clay, organics and friable or deleterious particles. As a minimum, the crusher run stone should meet the requirements of New York State Department of Transportation, Standard Specifications, Item 304.12 – Type 2 Subbase, with the following gradation requirements.

Sieve Size Distribution	Percent Finer by Weight
2 inch	100
¼ inch	25-60
No. 40	5-40
No. 200	0-10

B. Subbase Stone

The subbase stone course placed as the aggregate course beneath slab-on-grade and pavement construction should conform to the same material requirements as Structural Fill as stated above.

C. Suitable Granular Fill

Suitable soil material, well graded from coarse to fine and classified as GW, GP, GM, SW, SP or SM type soil using the Unified Soil Classification System (ASTM D-2487) and having no more than 85 percent by weight material passing the No. 4 sieve, no more than 20 percent by weight material passing the No. 200 sieve and which is generally free of particles greater than 6 inches, will be acceptable as Suitable Granular Fill. It should also be free of topsoil, asphalt, concrete rubble, wood, debris, clay and other deleterious materials.

Suitable Granular Fill can be used as foundation backfill and as subgrade fill to raise site grades beneath slab-on-grade and pavement construction. Material meeting the requirements of New York State Department of Transportation, Standard Specifications, Item 203.07 – Select Granular Fill, or Item 203.20 Select Granular Subgrade is acceptable for use as Suitable Granular Fill.

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

II. Placement and Compaction Requirements

All controlled fill placed beneath foundations, slab-on-grade construction and pavement construction should be compacted to a minimum of 95 percent of the maximum dry density as measured by the modified Proctor test (ASTM D1557). Fill placed in non-loaded grass areas can be compacted to a minimum of 90 percent of the maximum dry density (ASTM D1557).

Placement of fill should not exceed a maximum loose lift thickness of 6 to 9 inches with the exception of subbase courses beneath slab on grade and pavement construction, which can be placed in a single lift not exceeding 15 inches. The loose lift thickness should be reduced in conjunction with the compaction equipment used so that the required density is attained.

Fill should have a moisture content within two percent of the optimum moisture content at the time of compaction. Subgrades should be properly drained and protected from moisture and frost. Placement of fill on frozen subgrades is not acceptable. It is recommended that all fill placement and compaction be monitored and tested on a full-time basis by a representative of Empire Geo-Services, Inc.

III. Quality Assurance Testing

The following minimum laboratory and field quality assurance testing frequencies are recommended to confirm fill material quality and post placement and compaction conditions. These minimum frequencies are based on generally uniform material properties and placement conditions. Should material properties vary or conditions at the time of placement vary (i.e. moisture content, placement and compaction, procedures or equipment, etc.) Then additional testing is recommended. Additional testing, which may be necessary, should be determined by qualified geotechnical personnel, based on evaluation of the actual fill material and construction conditions.

A. Laboratory Testing of Material Properties

- Moisture content (ASTM D-2216) - 1 test per 4,000 cubic yards or no less than 2 tests per each material type.
- Grain Size Analysis (ASTM D-422) - 1 test per 4,000 cubic yards or no less than 2 tests per each material type.
- Liquid and Plastic Limits (ASTM D-4318) 1 test per 4,000 cubic yards or no less than 2 tests per each material type. Liquid and Plastic Limit testing is necessary only if appropriate, based on material composition (i.e. clayey or silty soils).

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

- Modified Proctor Moisture Density Relationship (ASTM D-1557) 1 test per 4,000 cubic yards or no less than 1 test per each material type. A maximum/minimum density relationship (ASTM D-4253 and ASTM D-4254) may be an appropriate substitute for ASTM D-1557 depending on material gradation.

B. Field In-Place Moisture/Density Testing (ASTM D-3017 and ASTM D-2922)

- Backfilling along trenches and foundation walls - 1 test per 50 lineal feet per lift.
- Backfilling Isolated Excavations (i.e. column foundations, manholes, etc.) 1 test per lift.
- Filling in open areas for slab-on-grade construction - 1 test per 2,500 square feet per lift.

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

APPENDIX D

GEOTECHNICAL REPORT LIMITATIONS

GEOTECHNICAL REPORT LIMITATIONS

WMA Engineering DPC / DBA Empire Geotechnical Engineering Services (Empire) has endeavored to meet the generally accepted standard of care for the services completed, and in doing so is obliged to advise the geotechnical report user of our report limitations. Empire believes that providing information about the report preparation and limitations is essential to help the user reduce geotechnical-related delays, cost over-runs, and other problems that can develop during the design and construction process. Empire would be pleased to answer any questions regarding the following limitations and use of our report to assist the user in assessing risks and planning for site development and construction.

PROJECT SPECIFIC FACTORS: The conclusions and recommendations provided in our geotechnical report were prepared based on project specific factors described in the report, such as size, loading, and intended use of structures; general configuration of structures, roadways, and parking lots; existing and proposed site grading; and any other pertinent project information. Changes to the project details may alter the factors considered in development of the report conclusions and recommendations. *Accordingly, Empire cannot accept responsibility for problems which may develop if we are not consulted regarding any changes to the project specific factors that were assumed during the report preparation.*

SUBSURFACE CONDITIONS: The site exploration investigated subsurface conditions only at discrete test locations. Empire has used judgement to infer subsurface conditions between the discrete test locations, and on this basis the conclusions and recommendations in our geotechnical report were developed. It should be understood that the overall subsurface conditions inferred by Empire may vary from those revealed during construction, and these variations may impact on the assumptions made in developing the report conclusions and recommendations. *For this reason, Empire should be retained during construction to confirm that conditions are as expected, and to refine our conclusions and recommendations in the event that conditions are encountered that were not disclosed during the site exploration program.*

USE OF GEOTECHNICAL REPORT: Unless indicated otherwise, our geotechnical report has been prepared for the use of our client for specific application to the site and project conditions described in the report. *Without consulting with Empire, our geotechnical report should not be applied by any party to other sites or for any uses other than those originally intended.*

CHANGES IN SITE CONDITIONS: Surface and subsurface conditions are subject to change at a project site subsequent to preparation of the geotechnical report. Changes may include, but are not limited to, floods, earthquakes, groundwater fluctuations, and construction activities at the site and/or adjoining properties. *Empire should be informed of any such changes to determine if additional investigative and/or evaluation work is warranted.*

MISINTERPRETATION OF REPORT: The conclusions and recommendations contained in our geotechnical report are subject to misinterpretation. *To limit this possibility, Empire should review project plans and specifications relative to geotechnical issues to confirm that the recommendations contained in our report have been properly interpreted and applied.*

Subsurface exploration logs and other report data are also subject to misinterpretation by others if they are separated from the geotechnical report. This often occurs when copies of logs are given to contractors during the bid preparation process. *To minimize the potential for misinterpretation, the subsurface logs should not be separated from our geotechnical report and the use of excerpted or incomplete portions of the report should be avoided.*

OTHER LIMITATIONS: Geotechnical engineering is less exact than other design disciplines, as it is based partly on judgement and opinion. For this reason, our geotechnical report may include clauses that identify the limits of Empire's responsibility, or that may describe other limitations specific to a project. These clauses are intended to help all parties recognize their responsibilities and to assist them in assessing risks and decision making. Empire would be pleased to discuss these clauses and to answer any questions that may arise.

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

March 3, 2021

Brian J. Kulpa, Supervisor
Town of Amherst Town Board
5583 Main Street
Williamsville, NY 14221

Re: Application to Reclassify 2160 and 2170 North Forest Road from
NCD-SA to NCD-ND and to Amend the Audubon Development Plan [Z-2020-06]
Applicant/Project Sponsor: Coromandel Estates Amherst LLC
File 10181.1

Dear Supervisor Kulpa and Councilmembers:

This letter is being submitted on behalf of Applicant for the purpose of submitting an updated Concept Site Plan incorporating modifications to the project layout made based on input received during the public hearing held by the Town Board on February 22nd as well as additional modifications made for the purpose of improving the layout of the proposed residential project.

Attached as Exhibit "1" is the updated Concept Site Plan [Drawing AS-101 – Date: 03/01/21] prepared by Christina Barmosz of Silvestri Architects PC incorporating the following modifications to the project layout:

1. The previously proposed stormwater basin on the western portion of the Project Site adjacent to the property at 2180 North Forest Road has been eliminated;

2. The dumpster enclosure has been relocated from the western portion of the Project Site to the eastern portion of Project Site. Additionally, screening has been added on the exterior edges of the dumpster enclosure;

3. The previously proposed two-story eight-unit building has been replaced with 2 two-story four-unit buildings;

4. The proposed covered patio with a fire pit has been relocated so that it will between the 2 two-story four-unit buildings;

5. Landscaping and a fence has been added along the western boundary of the Project that is contiguous to 2180 North Forest Road;

6. Landscaping has been added along the North Forest Road frontage of the Project Site;

7. The parking to be provided on the Project Site has been increased from 17 spaces to 23 spaces (2.88 parking spaces per unit) consistent with the zoning condition recommended by the Planning Board on January 21st in connection with its issuance of a favorable

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

recommendation to the Town Board stating: "That the petitioner include additional parking spaces beyond the 17 spaces shown on the concept plan at the site plan stage.[1]"

Attached as Exhibit "2" are copies of the project update letters to interested property owners dated March 2nd that included an 11" x 17" size copy of the updated Concept Site Plan. The updated Concept Plan demonstrates the concerted effort that has been made by the project team to incorporate input received from the public during the public hearing held on February 22nd.

The Town Board will be holding continuation of the virtual public hearing in connection with the pending request to reclassify the Project Site from NCD-SA to NCD-ND and to amend the Audubon Development Plan during its meeting on Monday, March 8th at 7:00 p.m. The Applicant is requesting that the Town Board adopt a resolution during its upcoming meeting for the purpose of issuing a negative declaration pursuant to the State Environmental Quality Review Act ("SEQRA") and approving the requested reclassification of the Project Site from NCD-SA to NCD-ND and an amendment of the Audubon New Community Development Plan.

If you have any questions regarding this letter or the attached documentation, please feel free to contact me at 510-4338 or via e-mail at shopkins@hsr-legal.com.

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

Sean W. Hopkins, Esq.

cc: Jacqualine Berger, Deputy Supervisor
Deborah Bruch Bucki RN PhD, Councilmember
Shawn Lavin, Councilmember
Michael Szukala, Councilmember
Francina J. Spoth, Town Clerk
Kathy Cooper, Deputy Town Clerk
Stanley J. Sliwa, Esq., Town Attorney
Ellen Kost, AICP, Assistant Planning Director
Thiru Vikram, Coromandel Estates Amherst LLC
Christina Barmosz, Silvestri Architects PC
Christopher Wood, P.E., Carmina Wood Morris DPC

[1] During its meeting on January 21st, the Planning Board adopted a resolution by a unanimous 7-0 vote recommending that the Town Board: 1. Issue a negative declaration pursuant to SEQRA; 2. Approve the reclassification of the Project Site from NCD-SA to NCD-ND; and, 3. Approve Amendment #73 to the Audubon New Community District Development Plan. The Planning Board findings in support of its favorable recommendation were as follows: A. The proposed Revision to the Development Plan meets the intent and objectives of a New Community District as expressed in Subsection 1-1.1; B. The proposed Revision to the Development Plan meets all the requirements of Section 5-2-3 through 5-2-6; C. The proposed Revision to the Development Plan is conceptually sound in that it meets present and future community needs; D. There are or will be adequate services and utilities available or proposed to be made available in the construction of the development; and, E. The proposed Amendment to the Development Plan is consistent with the Town Comprehensive Plan.

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

Exhibit 1 – Updated Concept Site Plan [Drawing AS-101 – Date: 03/01/21] Prepared by Christina Barmosz of Silvestri Architects PC

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon



SITE DATA:

SITE AREA - 2.35 ACRES

CURRENT ZONING - NCD-SA
REZONING - NCD-ND

SETBACKS PROVIDED -
FRONT - 50'-0"
SIDE - 20'-0"

PROPOSED

2 - 2-STORY - 4 UNIT APARTMENT BUILDINGS

Parking:
8 GARAGES
15 PARKING SPACES

NOTICE

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NORTH FOREST APARTMENTS

2160-2170 North Forest Rd
Amherst, ny

ISSUE:

SA PROJECT TEAM: PRINCIPAL P.Silvestri
PROJ. ARCH. S. Hunt DRAFTER W. Manhardt
JOB CAPT. _____ INTERIORS K. Hamann

SEAL:

TITLE:

CONCEPT SITE PLAN

SILVESTRI
ARCHITECTS · PC
1321 MILLERSPORT HWY PH. 716.691.0300
AMHERST, NY 14221 FAX. 716.691.4773

SA JOB #: 20060.02
DATE: 03/01/21

DRAWING #: AS-101

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

Exhibit 2 – Project Update Letters to Residents dated March 2, 2021

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

HSM

March 2, 2021

Joan Amico
1936 North Forest Road
Williamsville, NY 14221

Re: Application to Reclassify 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and to Amend the Audubon Development Plan [Z-2020-06]
Applicant/Project Sponsor: Coromandel Estates Amherst LLC
File 10181.1

Dear Ms. Amico:

This letter is being sent to you to provide you with a project update. Based on the input received during the virtual public hearing held by the Town Board on February 22nd, the layout of the proposed project has been updated.

An 11" x 17" size copy of the updated Concept Site Plan [Drawing AS-101 – Date: 03/01/21] is enclosed depicting the following modifications to the project layout:

1. The previously proposed stormwater basin on the western portion of the Project Site adjacent to the property at 2180 North Forest Road has been eliminated;

2. The dumpster enclosure has been relocated from the western portion of the Project Site to the eastern portion of Project Site. Additionally, screening has been added on the exterior edges of the dumpster enclosure;

3. The previously proposed two-story eight-unit building has been replaced with 2 two-story four-unit buildings;

4. The proposed covered patio with a fire pit has been relocated so that it will between the 2 two-story four-unit buildings;

5. Landscaping and a fence has been added along the western boundary of the Project that is contiguous to 2180 North Forest Road; and

6. Landscaping has been added along the North Forest Road frontage of the Project Site.

The Town Board will be holding continuation of the virtual public hearing in connection with the pending request to reclassify the Project Site from NCD-SA to NCD-ND and to amend the Audubon Development Plan during its meeting on **Monday, March 8th at 7:00 p.m.**

If the Town Board approves the pending application, then the next step in the project review process will be to seek Site Plan approval from the Planning Board once the fully engineered plans

HOPKINS SORGI & MCCARTHY PLLC
Attorneys at Law
5500 Main Street, Suite 343 • Williamsville, New York 14221
Direct: 716-510-4338 • E-mail: shopkins@hsr-legal.com • www.hsr-legal.com

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

and related technical documentation have been prepared by Carmina Wood Morris DPC, the project engineering firm.

Please feel free to contact me with any questions at 510-4338 or via e-mail at shopkins@hsr-legal.com if you have any questions regarding this letter or the enclosed updated Concept Site Plan.

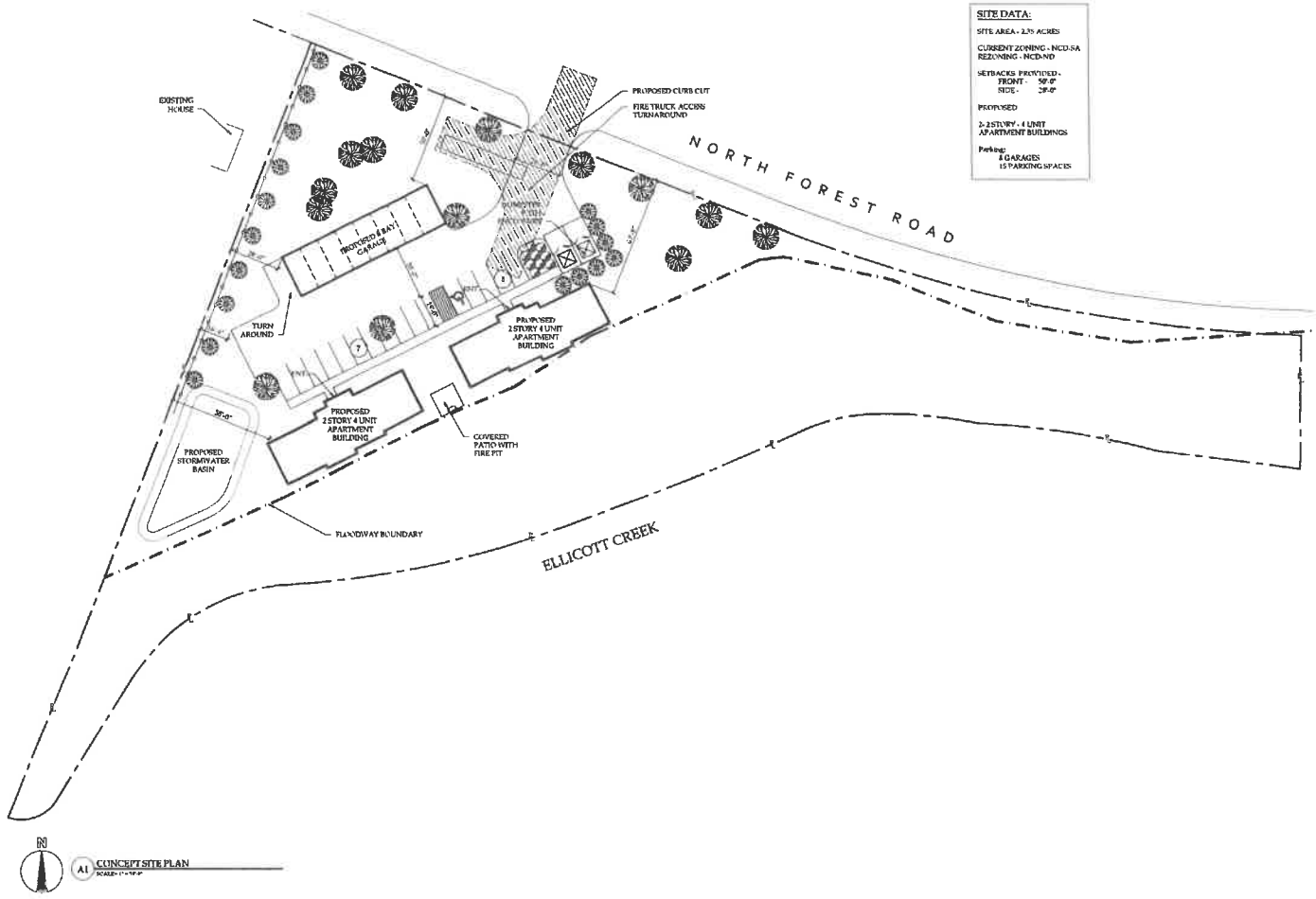
Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

Sean W. Hopkins, Esq.

Enc. 11" x 17" copy updated Concept Site Plan [Drawing AS-101 – Date: 03/01/21]

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon



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NORTH FOREST APARTMENTS

2160-2170 North Forest Rd
Amherst, ny

ISSUE

SA PROJECT TEAM: PRINCIPAL P.Silvestri
PROJ. ARCH. S.Hurd DRAFTER W.Maybaroft
FOR CAPT. _____ INTERIORS K.Hansen

SEAL:

TITLE:

CONCEPT SITE PLAN

SILVESTRI
ARCHITECTS · PC
1321 A BLASDELL HWY PH. 716.891.0900
AMHERST NY 14221 FAX 716.891.4773

SA JOB #: 20060.02
DATE: 03/01/21
DRAWING #: AS-101

HSM

March 2, 2021

Joseph Hausbeck
2180 North Forest Road
Williamsville, NY 14221

Re: Application to Reclassify 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and to Amend the Audubon Development Plan [Z-2020-06]
Applicant/Project Sponsor: Coromandel Estates Amherst LLC
File 10181.1

Dear Mr. Hausbeck:

This letter is being sent to you to provide you with a project update. Based on the input received during the virtual public hearing held by the Town Board on February 22nd, the layout of the proposed project has been updated.

An 11" x 17" size copy of the updated Concept Site Plan [Drawing AS-101 – Date: 03/01/21] is enclosed depicting the following modifications to the project layout:

1. The previously proposed stormwater basin on the western portion of the Project Site adjacent to the property at 2180 North Forest Road has been eliminated;

2. The dumpster enclosure has been relocated from the western portion of the Project Site to the eastern portion of Project Site. Additionally, screening has been added on the exterior edges of the dumpster enclosure;

3. The previously proposed two-story eight-unit building has been replaced with 2 two-story four-unit buildings;

4. The proposed covered patio with a fire pit has been relocated so that it will between the 2 two-story four-unit buildings;

5. Landscaping and a fence has been added along the western boundary of the Project that is contiguous to 2180 North Forest Road; and

6. Landscaping has been added along the North Forest Road frontage of the Project Site.

The Town Board will be holding continuation of the virtual public hearing in connection with the pending request to reclassify the Project Site from NCD-SA to NCD-ND and to amend the Audubon Development Plan during its meeting on **Monday, March 8th at 7:00 p.m.**

If the Town Board approves the pending application, then the next step in the project review process will be to seek Site Plan approval from the Planning Board once the fully engineered plans

HOPKINS SORGI & MCCARTHY PLLC
Attorneys at Law
5500 Main Street, Suite 343 • Williamsville, New York 14221
Direct: 716-510-4338 • E-mail: shopkins@hsr-legal.com • www.hsr-legal.com

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

and related technical documentation have been prepared by Carmina Wood Morris DPC, the project engineering firm.

Please feel free to contact me with any questions at 510-4338 or via e-mail at shopkins@hsr-legal.com if you have any questions regarding this letter or the enclosed updated Concept Site Plan.

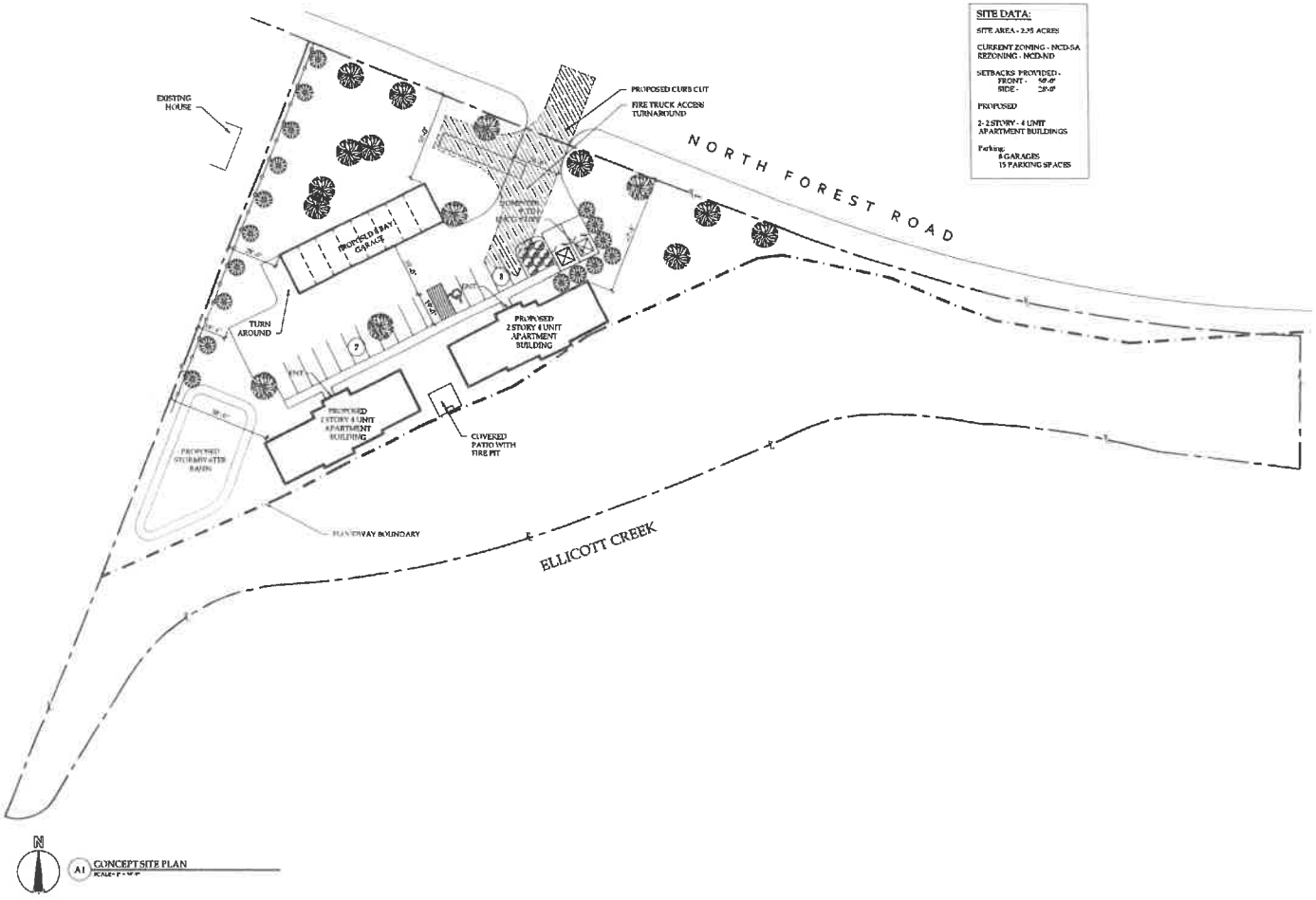
Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

Sean W. Hopkins, Esq.

Enc. 11" x 17" copy updated Concept Site Plan [Drawing AS-101 – Date: 03/01/21]

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon



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NORTH FOREST APARTMENTS

2160-2170 North Forest Rd
Amherst, ny

ISSUE:

SA PROJECT TEAM: PRINCIPAL P.Silvestri
PROJ. ARCH. S.Hunt DRAFTER W.Manhardt
JOB CAPT. INTERIORS K.Hermann

SEAL:

TITLE:

CONCEPT SITE PLAN

SILVESTRI
ARCHITECTS · PC
1301 MILLERSPORT HWY PH. 716.691.0800
AMHERST NY 14221 FAX 716.691.4773

SA JOB #: 20060.02
DATE: 03/01/21
DRAWING #: AS-101

HSM

March 2, 2021

Fran Cummings
2200 North Forest Road
Williamsville, NY 14221

Re: Application to Reclassify 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and to Amend the Audubon Development Plan [Z-2020-06]
Applicant/Project Sponsor: Coromandel Estates Amherst LLC
File 10181.1

Dear Ms. Cummings:

This letter is being sent to you to provide you with a project update. Based on the input received during the virtual public hearing held by the Town Board on February 22nd, the layout of the proposed project has been updated.

An 11" x 17" size copy of the updated Concept Site Plan [Drawing AS-101 – Date: 03/01/21] is enclosed depicting the following modifications to the project layout:

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HOPKINS SORGI & MCCARTHY PLLC
Attorneys at Law
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and related technical documentation have been prepared by Carmina Wood Morris DPC, the project engineering firm.

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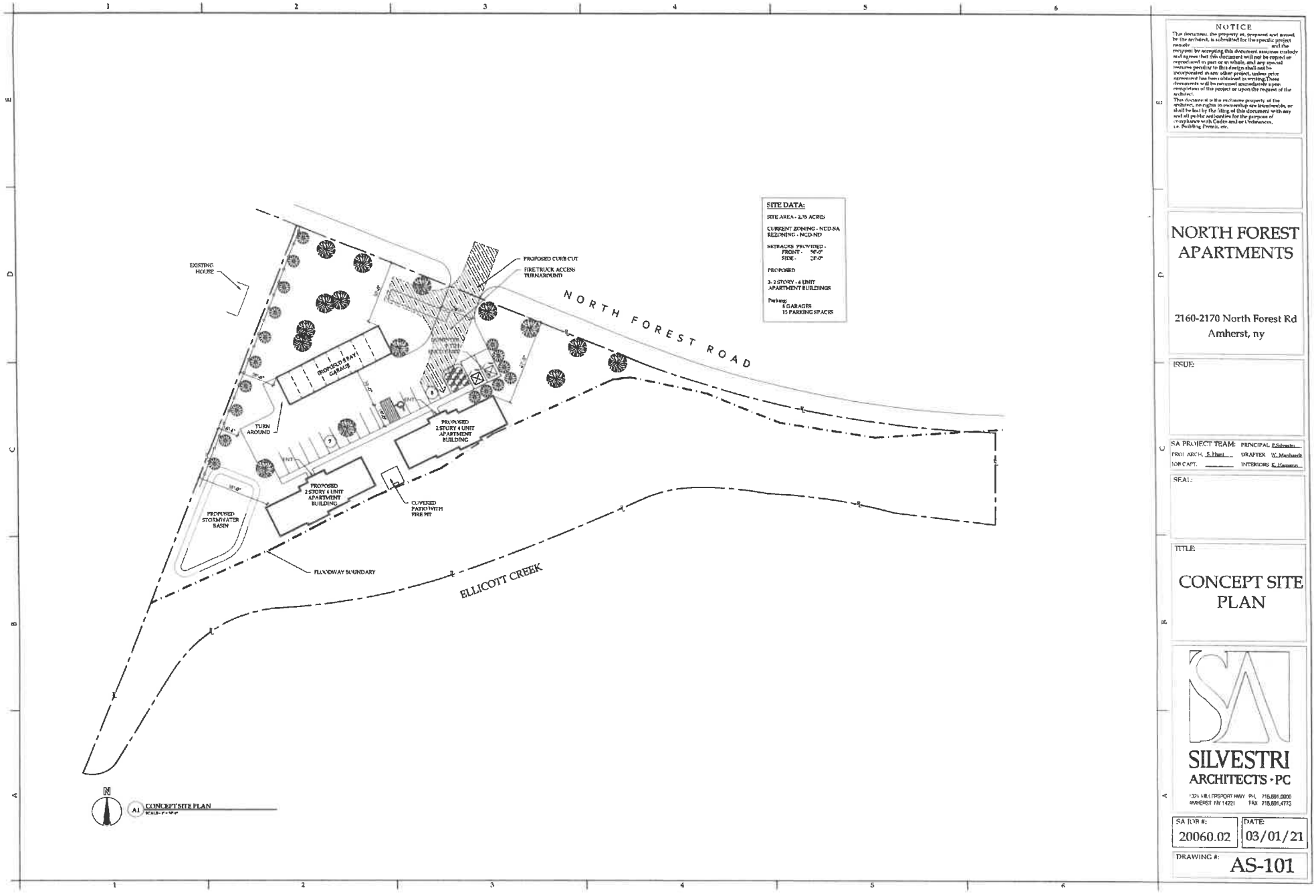
Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

Sean W. Hopkins, Esq.

Enc. 11" x 17" copy updated Concept Site Plan [Drawing AS-101 – Date: 03/01/21]

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon



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NORTH FOREST APARTMENTS

2160-2170 North Forest Rd
Amherst, ny

ISSUE:

SA PROJECT TEAM: PRINCIPAL P.Silvestri
PROJ. ARCH. S. Hunt DRAFTER W. Manhardt
JOB CAPT. _____ INTERIORS K. Hamann

SEAL:

TITLE:

CONCEPT SITE PLAN

SILVESTRI
ARCHITECTS · PC
1324 MILITARY/SPORT HWY PH. 716.691.0000
AMHERST NY 14221 FAX 716.691.4773

SA JOB #: 20060.02
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HSM

March 2, 2021

Karen Macris
2230 North Forest Road
Williamsville, NY 14221

Re: Application to Reclassify 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and to Amend the Audubon Development Plan [Z-2020-06]
Applicant/Project Sponsor: Coromandel Estates Amherst LLC
File 10181.1

Dear Karen:

This letter is being sent to you to provide you with a project update. Based on the input received during the virtual public hearing held by the Town Board on February 22nd, the layout of the proposed project has been updated.

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If the Town Board approves the pending application, then the next step in the project review process will be to seek Site Plan approval from the Planning Board once the fully engineered plans

HOPKINS SORGI & MCCARTHY PLLC
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and related technical documentation have been prepared by Carmina Wood Morris DPC, the project engineering firm.

Please feel free to contact me with any questions at 510-4338 or via e-mail at shopkins@hsr-legal.com if you have any questions regarding this letter or the enclosed updated Concept Site Plan.

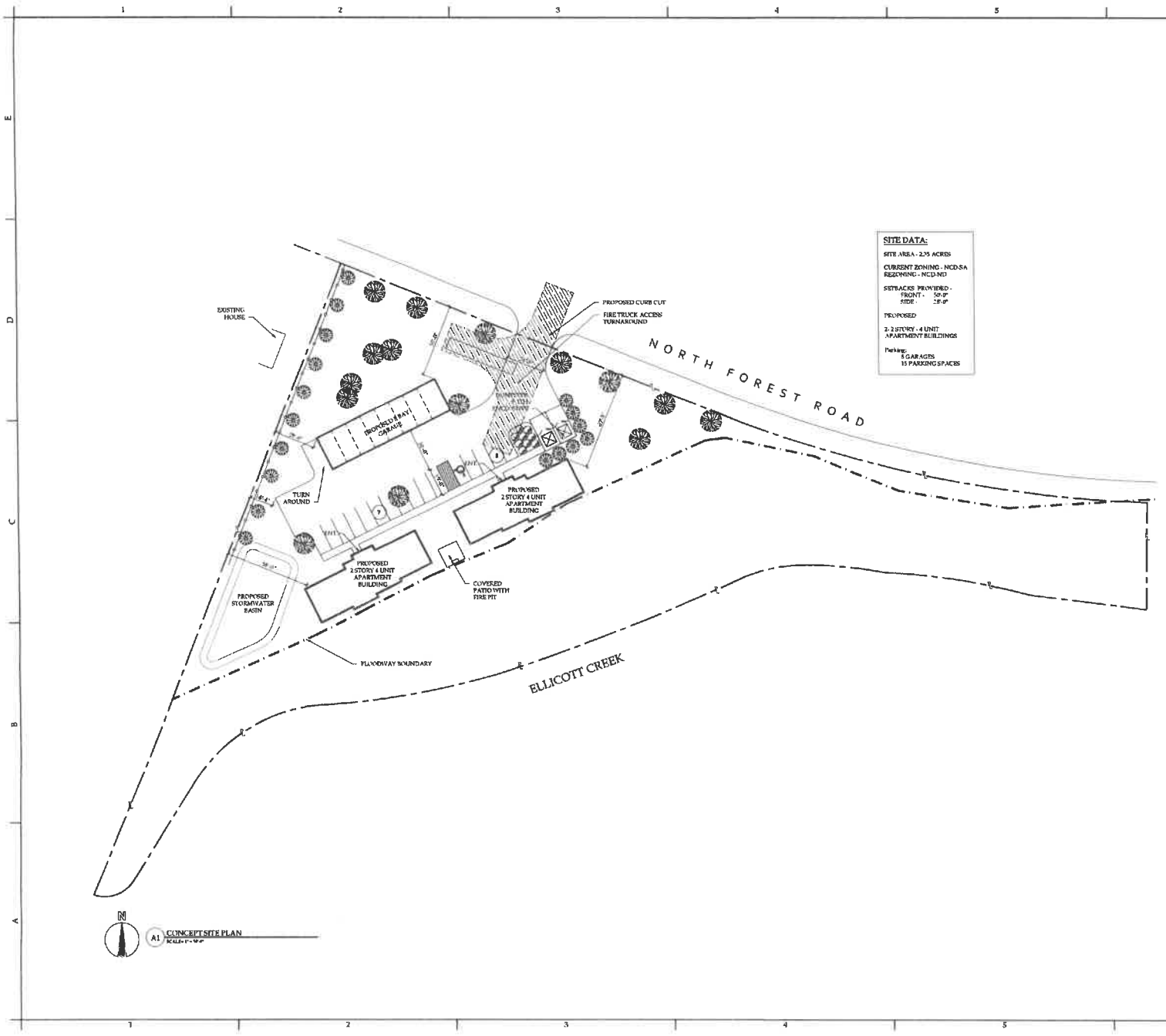
Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

Sean W. Hopkins, Esq.

Enc. 11" x 17" copy updated Concept Site Plan [Drawing AS-101 – Date: 03/01/21]

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NORTH FOREST APARTMENTS

2160-2170 North Forest Rd
Amherst, ny

ISSUE:

SA PROJECT TEAM: PRINCIPAL P. Silvestri
PROJ. ARCH. S. Hynd DRAFTER W. Manhardt
JOB CAPT. _____ INTERIORS K. Hamann

SEAL:

TITLE:

CONCEPT SITE PLAN

SILVESTRI
ARCHITECTS - PC
1321 AIRLEPSPORT HWY PH. 716.691.0000
AMHERST NY 14221 FAX 716.691.4773

SA JOB #: 20060.02
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Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

Public Hearing – Town of Amherst Town Board

Request to Approve Amendment #73 of the Audubon New Community Development Plan to Reclassify 2.35 acres of Land from NCD-SA to NCD-ND

Address: 2160 & 2170 North French Road

Petitioner: Coromandel Estates Amherst, LLC

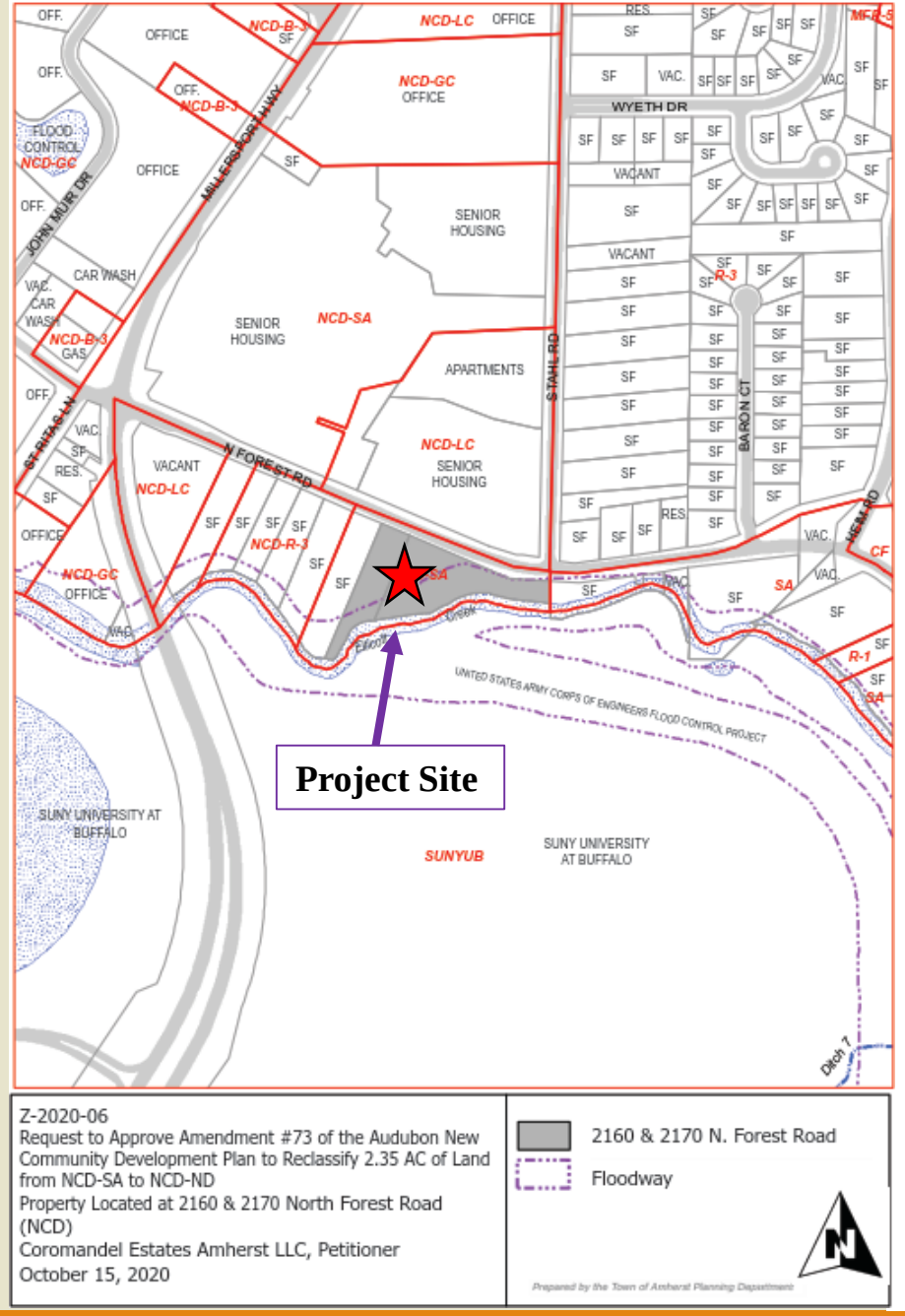
(Z-2020-06)

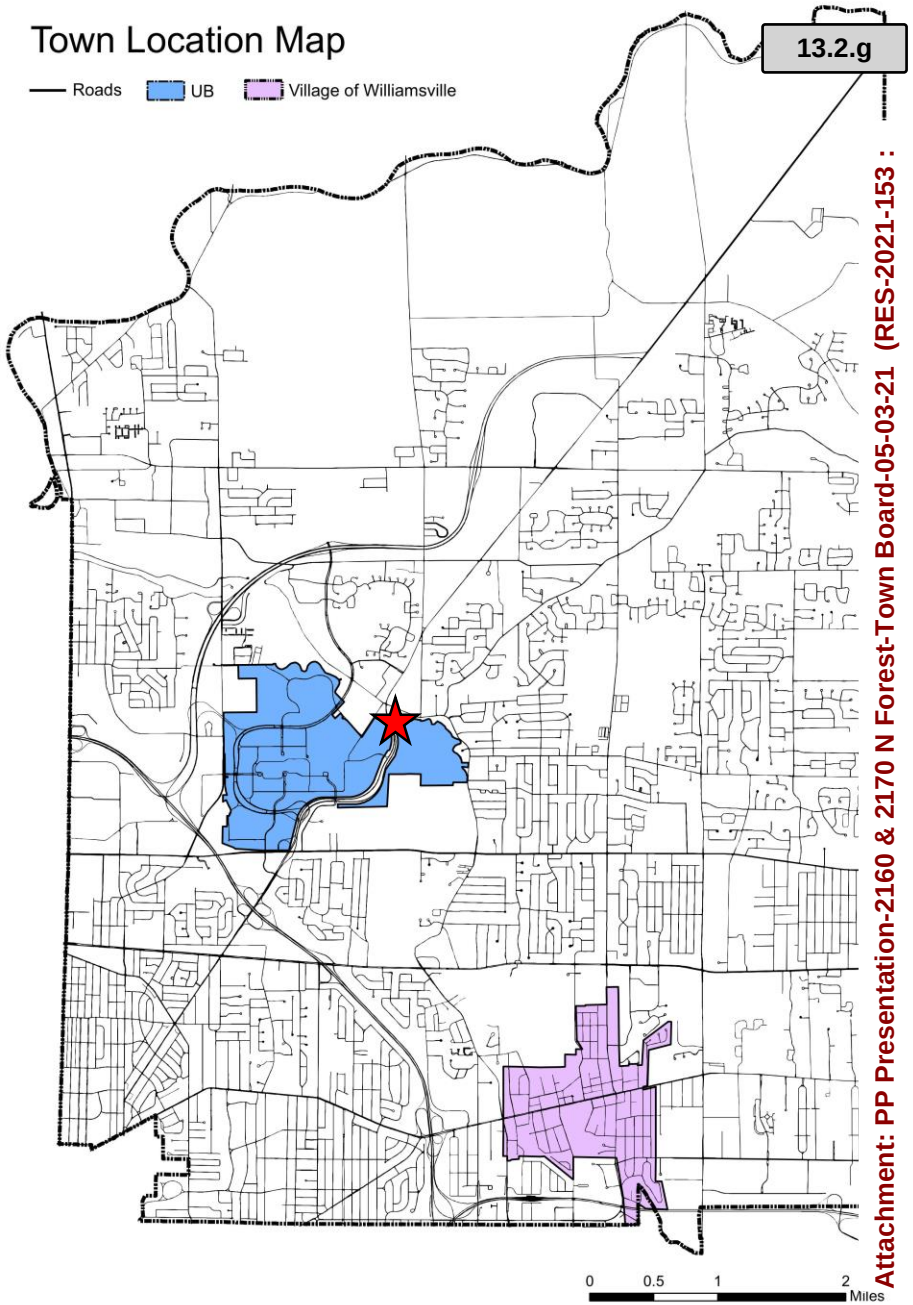
Location:

- South side of N Forest Road, approximately 900± feet southeast of the intersection of Millersport Hwy and N Forest Road; and located at the southwest corner of Stahl Road and N Forest Road intersection

Zoning: New Community District – Suburban Agriculture ("NCD-SA")

Proposed Reclassification: New Community District – Neighborhood District ("NCD-ND"





13.2.g

Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :)

Continuation of the Public Hearings held on February 22nd and April 5th [Not requesting issuance of a decision this evening]

Parcel Size:
2.35± acres

Neighboring Uses:

- Vacant land zoned NCD-SA adjacent to the east
- Single Family residential zoned NCD-R3 to the west and north east
- Asbury Pointe Retirement Community – Zoned NCD-LC to the North
- Vacant land owned by SUNY to the south on the opposite side of Ellicott Creek



Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

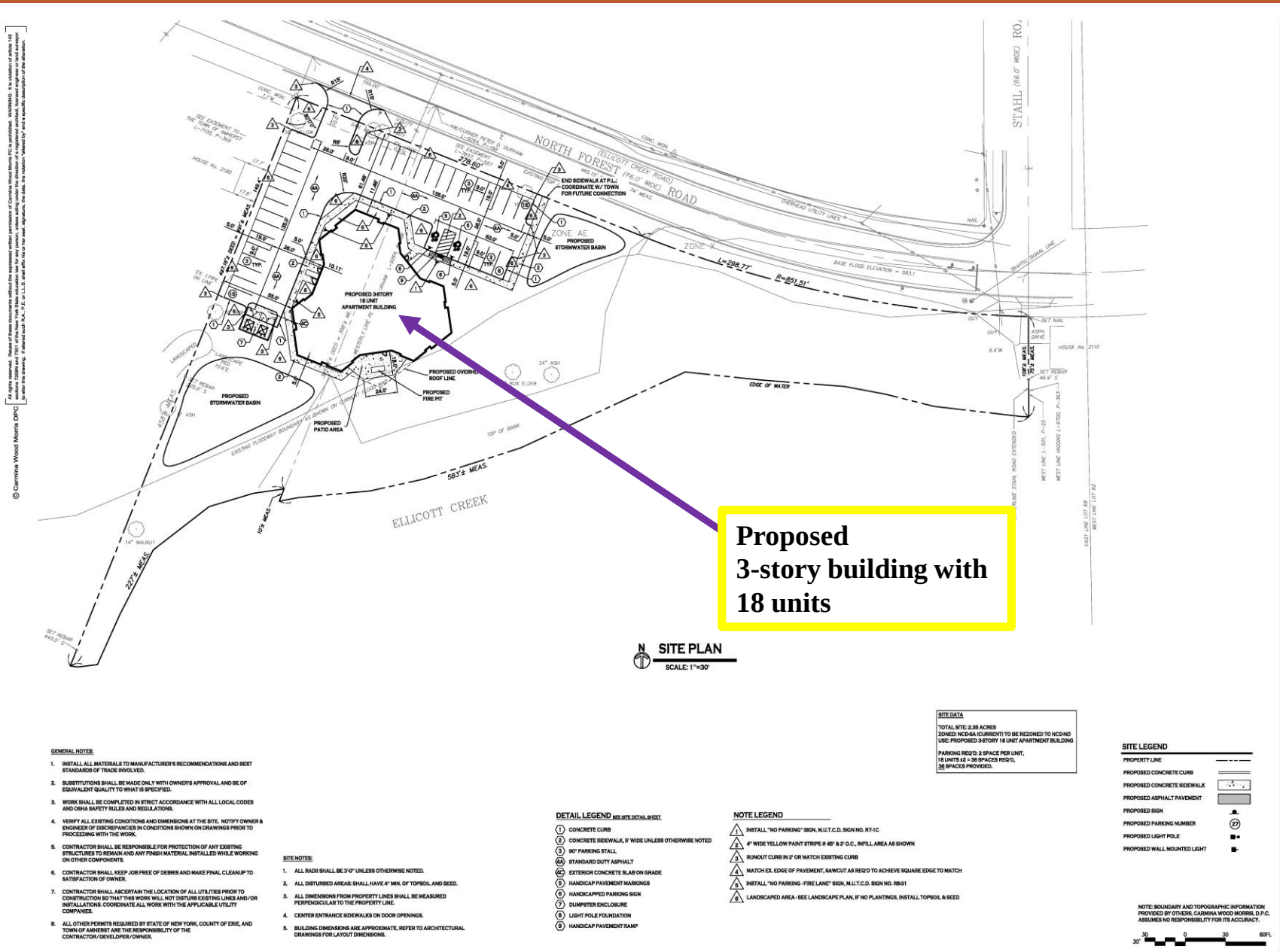
Project Description:

- Request to reclassify 2.35 acres of land from NCD-SA to NCD-ND, and a request to approve Amendment #73 of the Audubon New Community Development Plan
- Two 2-story multi-family building consisting of 8 attached residential units for lease and related site improvements.
- One driveway onto North Forest Road, access aisles, water and sanitary sewer lines and other necessary utility connections are included on the updated Concept Plan.
- The project is a Type I Action due to the proximity of the project site to Ellicott Creek, which is a flowing watercourse-any project within 100 ft. of a flowing watercourse is to be classified as Type I action per Town Local Law adopted in 1982.
- Letters with updated copy of the Concept Plan send to the individuals who spoke during the virtual public hearing held by the Town Board on February 22nd.

Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

Original Concept Plan:

- 3-story building with 18 units and 36 parking spaces
- The originally proposed project layout updated based on input received regarding the original Concept Plan



Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

Concept Plan Presented on February 22nd:

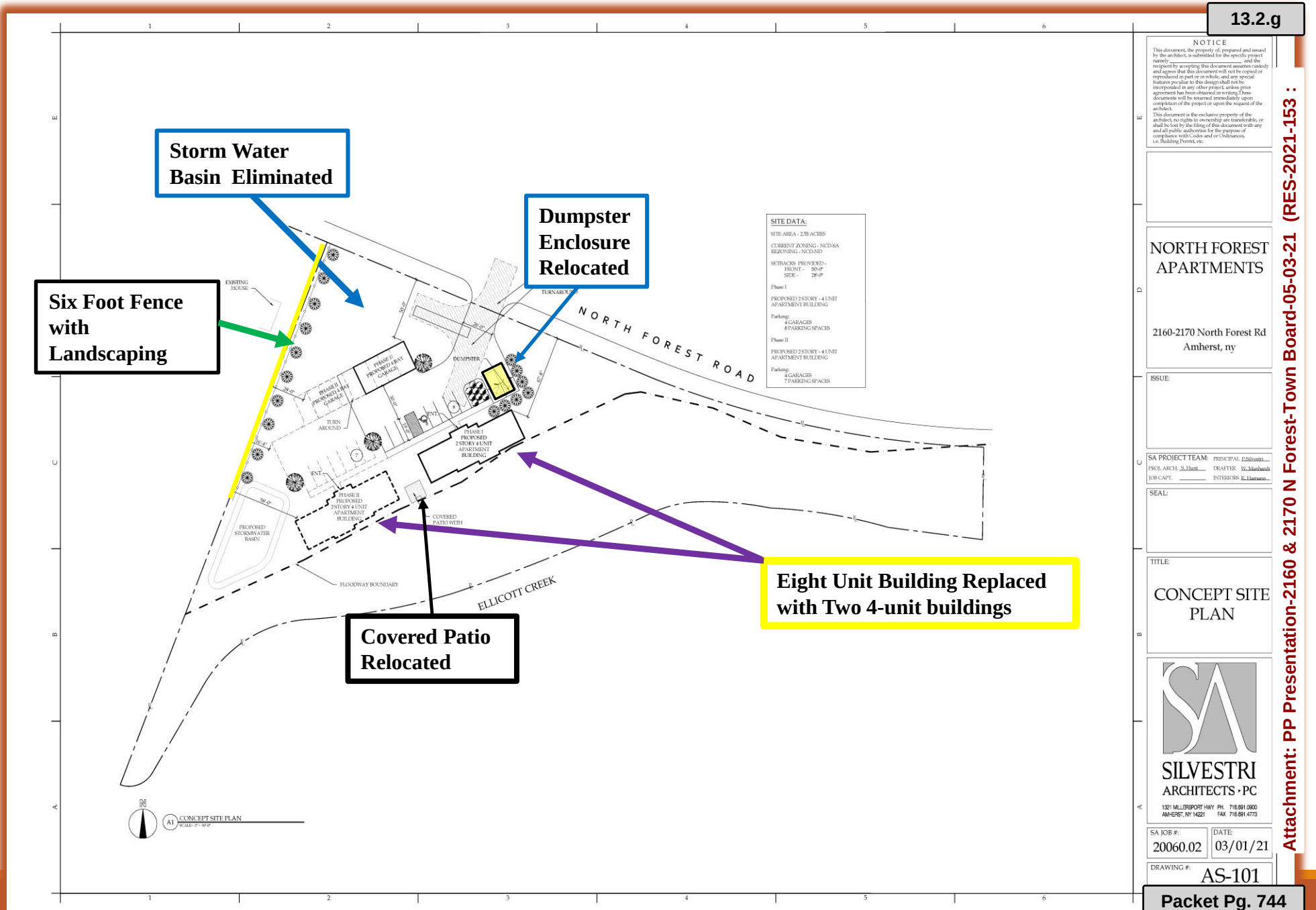
- Project layout had been updated based on input received regarding the original Concept Plan
- 2-story building with 8 units and 16 parking spaces [Density reduced by 56%]
- Low Density: 3.4 units per acre
- No impact to the regulated floodway



Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

Updated Concept Plan presented during the Public Hearing on April 5th:

- Two 2-story buildings with 23 parking spaces [8 garage spaces] – 2.87 spaces per unit
- Stormwater basin eliminated along North Forest Road frontage
- Covered patio relocated
- Dumpster enclosure relocated
- 6 foot fence with landscaping added along property line with 2180 North Forest Road
- No impact on the regulated floodway



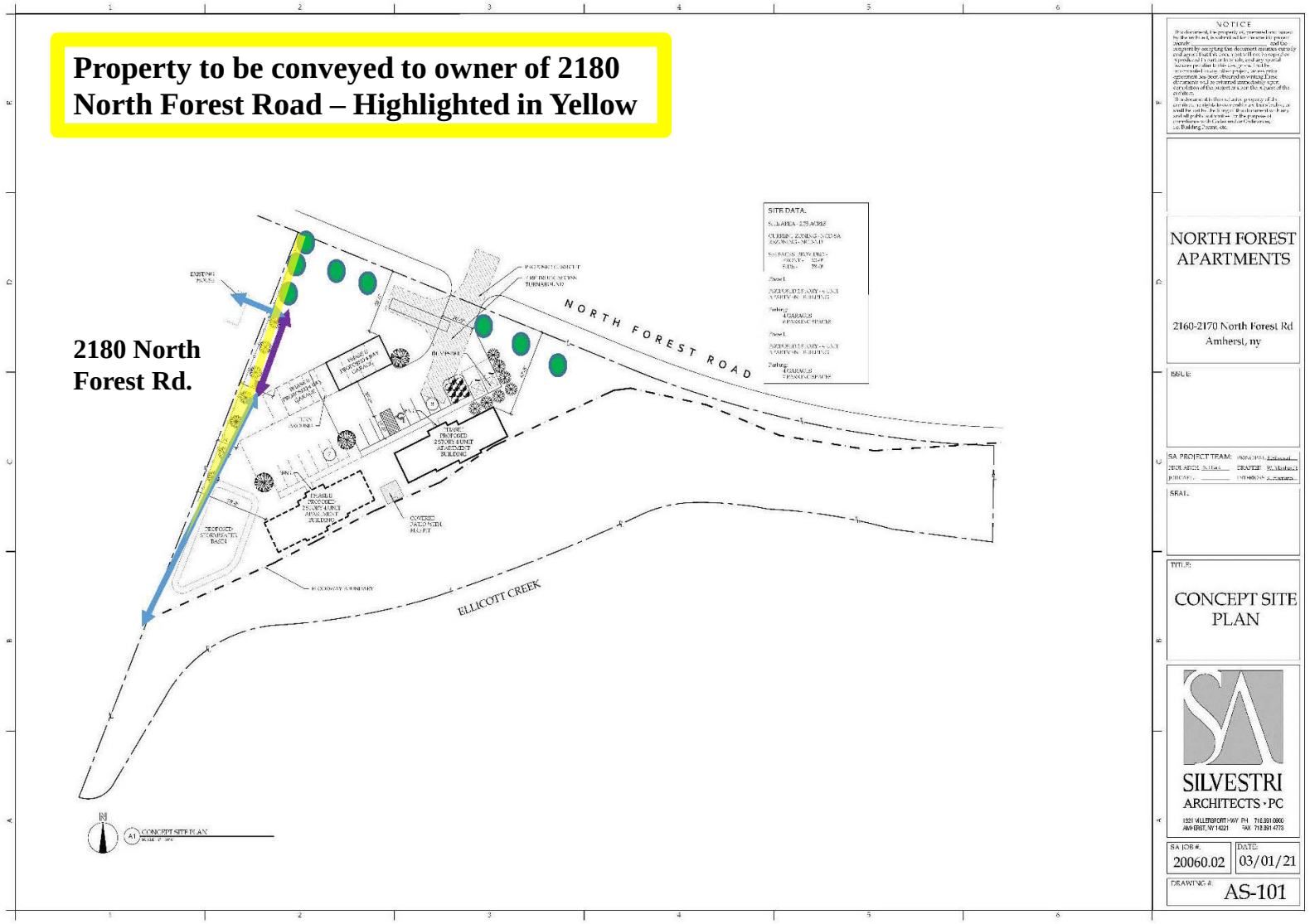
Updated Concept Plan:

Green: Landscaping along frontage of shared property line with 2180 North Forest Road and along North Forest Road frontage of the Project Site

Purple: 6 ft. fence beginning at front of home on 2180 North Forest Road located 15 ft. from existing property line

Blue: Ranch style open fence with height of approx. 3 ft. [same fence to be attached to existing home on adjacent property]

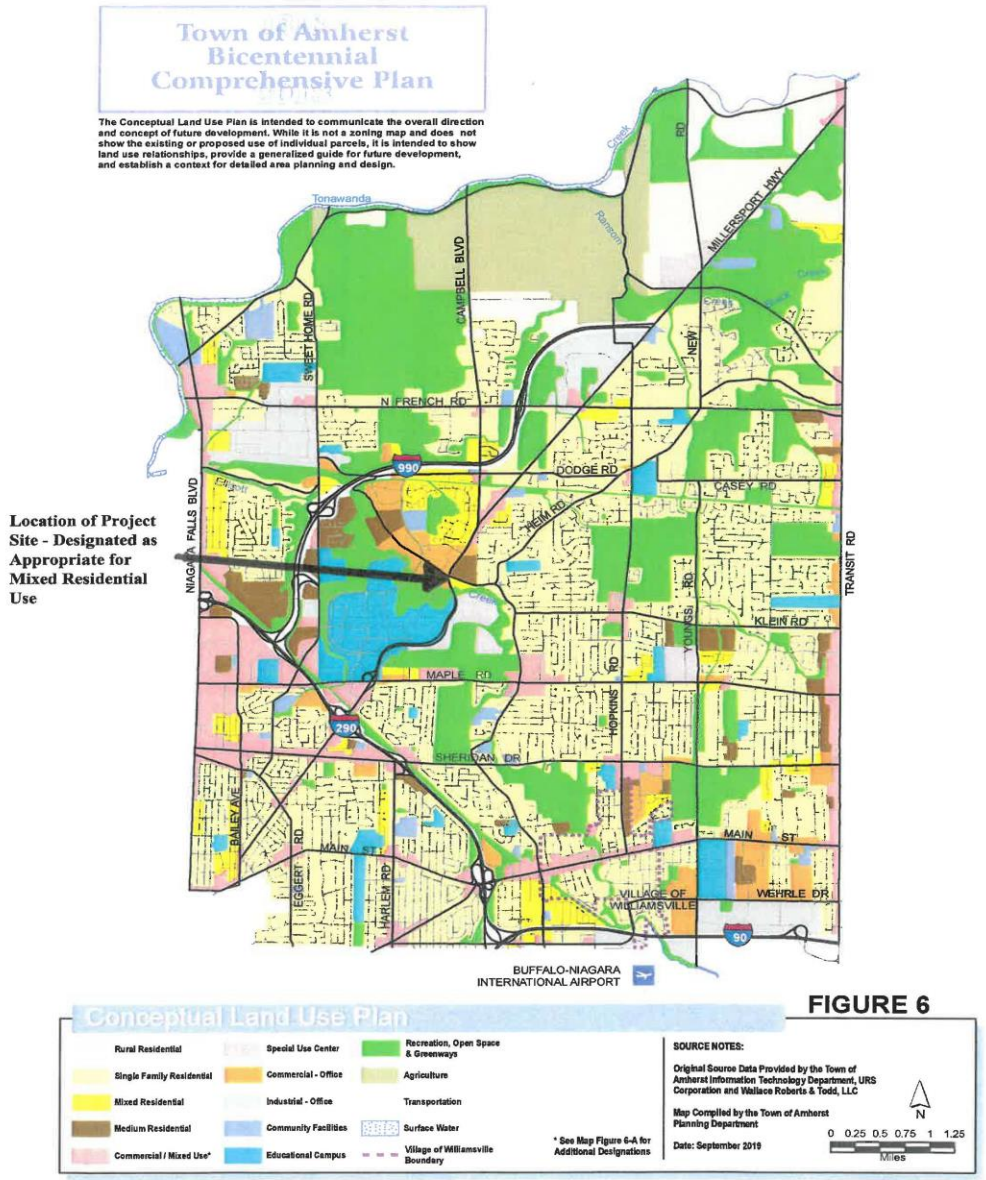
Yellow: 15 ft. of property to be conveyed to owner of 2180 North Forest Road upon the Applicant obtaining site plan approval and closing on the purchase of the Project Site.



Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

Reclassification of Project Site from NCD-SA to NCD-ND:

- Recommended land use per Figure 6 of the Comprehensive Plan is Mixed Residential Use
- Mixed-Residential land use category is described in Chapter 3 of the Comprehensive Plan as being appropriate for a residential density of 4-12 units per acre - The density of the proposed project is only 3.4 units per acre.
- "Although longstanding policy has tended to favor low-density, single-family residential use, recent development trends have seen a substantial increase in the amount of new multi-family housing. The need for higher density housing will grow along with the component of the population that will increasingly choose smaller housing types, including retirees, empty nesters, singles, and other smaller household types."
- Current NCD-SA zoning is not consistent with the adopted Comprehensive Plan
- NCD-SA zoning only allow for agricultural uses and single-family dwellings on large lots.



Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

State Environmental Quality Review Act ("SEQRA"):

- SEQRA's substantive requirements:
  - Identify the potential environmental impacts,
  - Hard Look at the identified impacts, and
  - Issue SEQRA determination supported by a reasoned elaboration
- Type I action due to proximity to Ellicott Creek
- Density reduced from 18 unit to 8 units [3.4 unit per acre – Density of 3.5 units per acre allowed in the R-3 zoning district]
- **No development in the regulated floodway – A floodplain development permit will be required from the Building Department**
- **No lighting spillover onto adjacent properties [Photometric Plan will be submitted with the Site Plan Application]**
- **The project is not a student housing project nor a short-term rental project**
- No wetlands per the Wetland Investigation Letter of Scott Livingstone of Earth Dimensions dated July 7, 2020
- Traffic: Single driveway onto North Forest Road - The trip generation rate for the peak weekday hour for the 8 proposed apartments per the ITE Trip Generation Report is 4.48 trips

Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

State Environmental Quality Review Act ("SEQRA"):

- No impact determination letter issued by the NYS Office of Parks, Recreation and Historic Preservation on October 30, 2020
- On-site stormwater management system will comply with the stringent stormwater water quality and quantity standards of the New York State Dept. of Environmental Conservation including handling of a 100 yr. storm event
- Fully engineered plans, Engineer's Report and SWPPP will be required with future submission of a Site Plan Application
- Geotechnical Report prepared by Empire Geo Engineering Services dated September 17, 2020 – foundation design and site improvement based on soil conditions per NYS Building Code requirements

Approximate Depth and Elevation of Top of Bedrock

Test Boring	Approximate GroundSurface Elevation (feet)	Depth / Elevation ofTop of Bedrock (feet)
B-1	582.3	25.2 / 557.1 (C)
B-2	581.1	26.0 / 555.1 (AR)
B-3	579.5	26.5 / 553.0 (AR)
B-4	578.1	24.4 / 553.7 (C)
B-1 (2014)	581 +/-	26.0 / 555.0 (AR)
B-1 (Feb. 2020)	580.0	27.7 / 552.3 (AR)

WMA ENGINEERING DPC|DBA
EMPIRE GEO TECHNICAL ENGINEERING SERVICES

CORPORATE/ BUFFALO OFFICE
5167 South Park Avenue
Hamburg, NY 14075
Phone: (716) 649-8110
Fax: (716) 649-8051

ALBANY OFFICE
PO Box 2199
Ballston Spa, NY 12020

5 Knabner Road
Mechanicville, NY 12118
Phone: (518) 899-7491
Fax: (518) 899-7496

CORTLAND OFFICE
60 Miller Street
Cortland, NY 13045
Phone: (607) 758-7182
Fax: (607) 758-7188

ROCHESTER OFFICE
535 Summit Point Drive
Henrietta, NY 14467
Phone: (585) 359-2730
Fax: (585) 359-9668

September 17, 2020
Project No. WB-20-105
(SJB Project No. BE-20-105)

Postwork Capital
c/o Buffalo Automation
10236 Transit Road
East Amherst, New York
14051

Attn. Mr. Thiru Vikram, CEO

Re: Geotechnical Engineering Report
Proposed Elysium Apartment Complex
2160 North Forest Road
Town of Amherst, New York

Dear Mr. Vikram:

WMA Engineering DPC, dba Empire Geotechnical Engineering Services (Empire), is pleased to submit the enclosed Geotechnical Engineering Report for the above referenced project. We have also e-mailed you an electronic copy (pdf file format) of this report, for your use and for distribution. Please contact me should you have any questions or wish to discuss this report. Thank you for considering Empire for this work and we look forward to working with you through the completion of this project.

Sincerely,

WMA Engineering DPC, dba
Empire Geotechnical Engineering Services

Thomas R. Seider, P.E.
Geotechnical Engineer

Enc.: Geotechnical Engineering Report

A Woman Owned Firm

Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

Planning Board's Recommendation:

- Planning Board held a public hearing on January 21st
- The Planning Board adopted a resolution by a unanimous 7-0 vote recommending that the Town Board:
  - Issue a negative declaration pursuant to SEQRA,
  - Approve the reclassification of the Project Site from NCD-SA to NCD-ND, and
  - Approve Amendment #73 to the Audubon New Community District Development Plan
- The Planning Board recommended the following condition: "That the petition include additional parking spaces beyond the 17 spaces shown on the concept plan at the site plan stage."
- Planning Board's findings in support of its favorable recommendation were as follows:
  - A. The proposed Revision to the Development Plan meets the intent and objectives of a New Community District as expressed in Subsection 1-1.1.
  - B. The proposed Revision to the Development Plan meets all the requirements of Section 5-2-3 through 5-2-6.
  - C. The proposed Revision to the Development Plan is conceptually sound in that it meets present and future community needs.
  - D. There are or will be adequate services and utilities available or proposed to be made available in the construction of the development.
  - E. **The proposed Amendment to the Development Plan <u>is consistent</u> with the Town Comprehensive Plan.**

Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

Conclusion:

- Requesting that the Town Board:
  - 1. Issue a negative declaration pursuant to SEQRA,
  - 2. Approve the reclassification of the Project Site from NCD-SA to NCD-ND subject to appropriate conditions, and
  - 3. Approve Amendment #73 to the Audubon New Community District Development Plan subject to the condition recommended by the Planning Board as follows: “That the petition include additional parking spaces beyond the 17 spaces shown on the concept plan at the site plan stage.” [The updated Concept Plan depicts 23 parking spaces]
- Questions…

Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

3 May 2021

Francina J. Spoth, Town Clerk
Town of Amherst
5583 Main Street
Williamsville, New York 14221

Via email to: fspoth@amherst.ny.us

Re: Public Hearing of the Town Board held on May 3, 2021
Request to Amend the Land Use Classification of 2160 and 2170 North Forest Road

To: MEMBERS of the TOWN BOARD:

Kindly accept my apology for my inability to communicate via zoom last evening. I was able to hear portions of the proceedings, but whether "muted" or "unmuted", was simply unable to be heard. This particular problem was a first for me and was extremely frustrating. I did hear that the hearing was being closed, but I ask your indulgence in considering the following comments I intended to make last evening.

I did meet at the property with Mr. Hopkins to discuss some issues my wife and I had specific to our ownership of the adjoining property. Mr. Hopkins was extremely professional and concessions were made regarding those issues. However, the resolution of the matter was complicated further by the Petitioner's new proposal to do the development in phases. We strongly object to that process. The dust, dirt, noise and inconvenience of construction would be unbearable if it had to be endured twice. I note that the developer wishes to avail itself of all hours of construction operations allowable under law, including Sundays, if needed. Under the circumstances, two phases of construction would be one too many. It should also be noted that the Petitioner's prior concept plans for more units did not require more than one phase. Why two phases should be necessary for a smaller project is perplexing.

That being said, my neighbors and I remain opposed to this project as it is simply too big and the intended use is simply incompatible with the character of the neighborhood as a single family development. I believe we have provided ample justification for this Board to deny the proposed petition. Please consider the following points:

- This is an apartment complex which belongs on the West side of Millersport Highway – not the East side. The West side is inundated with similar projects. The East side is fully developed with single family homes, with the sole exception of this one vacant parcel which sits in the middle of single family homes.

- A similar proposal for the corner of North Forest and Millersport (a commercial highway) was not approved. It is inconsistent to allow the same type of project further up North Forest.

Attachment: Town of AMHERST BOARD LTR - Hausbeck (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

- The majority of the site (more than 50%) is in a floodway and cannot be developed even if the petition was to be approved.

- If 8 units were to be approved for the remaining 1.1 acres, the project would have a de facto density of 7.3, well in excess of the maximum density of 5 allowable under the Town Zoning Ordinance 5-2-6.

- The Petitioner's repeated assertion that the proposal is "consistent" with the Town's Comprehensive Plan is simply **not** binding on this Board. The Plan clearly states that it is intended to be **"flexible".** The Plan is **not** a zoning map and it is **not** meant to dictate land use.

In addition to the above, we have raised a number of issues about whether the site itself is suitable for this type of development due to documented flooding, documented erosion issues, and documented uncontrolled and un-engineered filling of portions of the site which were at one time part of Ellicott Creek.

The Board is certainly within its rights to reject the petition and I urge it to do so.

Thank you for your consideration.

Sincerely,

Joseph Hausbeck

Attachment: Town of AMHERST BOARD LTR - Hausbeck (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Town Clerk
DOC ID: 23450

COMMUNICATION 2021-71 **APPROVED**

Request for Public Hearing to Rezone 10060 & 10090 Transit Road

Request from Jeffery Palumbo, Esq. to schedule a public hearing for the rezoning of 10060 & 10090 Transit Road.

This hearing has been scheduled for August 9, 2021.

7/12/2021
Consent

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

BARCLAY DAMON LLP

Jeffery D. Palumbo
Partner

June 28, 2021

Via Email – kcooper@amherst.ny.us
and First Class Mail

Kathy Cooper, Deputy Town Clerk
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Re: Request to Rezone 10060 & 10090 Transit Road [Z-2019-06]
Petitioner: Forbes Capretto Homes

Dear Kathy:

Please be advised that our office represents the Petitioner in connection with the above-referenced matter. I would respectfully request that the Town Board, at its meeting of July 12, 2021, schedule a public hearing on this Petition for August 9, 2021 at 7:00 p.m.

I thank you in advance for your anticipated cooperation.

Very truly yours,

Jeffery D. Palumbo

JDP:cck
Cc: Supervisor Brian Kulpa (bkulpa@amherst.ny.us)
Jacqualine G. Berger (jberger@amherst.ny.us)
Deborah Bruch Bucki RN, PhD (dbucki@amherst.ny.us)
Shawn A. Lavin (slavin@amherst.ny.us)
Michael Szukala (mszukala@amherst.ny.us)
Dave Capretto (dcapretto@forbeshomes.com)

9276 Main Street -- Suite 3 -- Clarence, New York 14031-1913 barclaydamon.com
jpalumbo@barclaydamon.com Direct: 716.858.3728 Fax: 716-759-9131

Attachment: Request for Public Hearing-Ltr to Kathy Cooper (COM-2021-71 : Request for Public Hearing to Rezone 10060 & 10090 Transit Road)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Town Clerk
DOC ID: 23460

COMMUNICATION 2021-72

APPROVED

Request for Public Hearing to Rezone Portions of 6842 & 6846 Main Street

Request from Sean Hopkins, Esq. for a public hearing with respect to the rezoning of portions of 6842 & 6846 Main Street from GB to DC-5.

This hearing has been scheduled for August 9, 2021.

7/12/2021
Consent

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Attachment: Cooper-Ltr-Request to Schedule Public Hearing-06-25-21 (COM-2021-72 : Request for Public Hearing - 6842 & 6846 Main Street)

June 25, 2021

Kathy Cooper, Deputy Town Clerk
Town of Amherst Town Clerk's Office
5583 Main Street
Williamsville, NY 14221

Re: Request to Schedule Public Hearing - Rezoning of Portions of 6842 and 6846 Main Street from GB to DC-5 [Z-2021-05]
Town of Amherst Town Board
Applicant/Project Sponsor: MEL Investors, LLC c/o Paul Bliss
File No. 10003.56

Dear Kathy:

This letter is being submitted on behalf of MEL Investors, LLC ("Applicant") to request that the Town Board adopt a resolution during its next meeting on Monday, July 12th for the purpose of scheduling a public hearing in connection with the pending request to amend the zoning classification of 2.56 acres of property consisting of portions of 6842 and 6846 Main Street (the "Project Site") from GB to DC-5 to accommodate a proposed mixed-use project.

During its meeting on Thursday, June 24th, the Planning Board held a public hearing and adopted a resolution by a unanimous vote recommending that the Town Board issue a negative declaration pursuant to the State Environmental Quality Review Act ("SEQRA") and approve the rezoning of the Project Site from GB to DC-5 subject to two (2) conditions.

It would be appreciated if the public hearing can be scheduled for the meeting of the Town Board to be held on **Monday, August 9th at 7:00 p.m.**

Please feel free to contact me at 510-4338 or via e-mail at shopkins@hsr-legal.com if you have any questions this letter.

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

Sean W. Hopkins, Esq.

cc: Ellen Kost, AICP, Assistant Planning Director [Via mail]
Paul Bliss, MEL Investors, LLC [Via e-mail and mail]
Christopher Wood, P.E., Carmina Wood Morris DPC [Via e-mail]
Brian J. Slevar, AIA, Carmina Wood Morris DPC [Via e-mail]

HOPKINS SORGI & MCCARTHY PLLC
Attorneys at Law
5500 Main Street, Suite 343 • Williamsville, New York 14221
Direct: 716-510-4338 • E-mail: shopkins@hsr-legal.com • www.hsr-legal.com

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Town Clerk
DOC ID: 23474

COMMUNICATION 2021-73

APPROVED

Permission for Sign Placement and Fee Waiver - Amherst Symphony Orchestra

Request from Lee Brusino to place three (3) signs, one at the Clearfield Recreation Center at Hopkins Road, one at Town Highway Department at 450 Maple Road and one at the Harlem Road Community Center, 4255 Harlem Road to promote the Amherst Symphony Orchestra's concert on August 3rd. He is also requesting waiver of the sign permit fee.

The Building Department approves sign placement and recommends fee waiver.

7/12/2021
Consent

FINANCIAL IMPACT:

Sign permit fee

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

July 6, 2021

Dear Francina Spoth,

I am requesting permission from the Town of Amherst to place roadside signage (3), one at the Clearfield Recreation Center at Hopkins Road, one at Town Highway Department at 450 Maple Road and one at the Harlem Road Community Center, 4255 Harlem Road. I am also requesting permission that the fees be waived.

The roadside signage will be used for the Amherst Symphony Orchestra to promote the concert on Tuesday, August 3rd. Signage would be placed one week prior to each concert.

Thank you for your time and consideration. Please let me know what is decided.

Lee Brusino

VP Promotions

Amherst Symphony Orchestra

Attachment: Amherst Symphony Orchestra Request (COM-2021-73 : Permission for Sign Placement and Fee Waiver - Amherst Symphony

Cooper, Kathy

Subject: FW: Request for sign permits and waiver

From: Gesel, Doug <DGesel@amherst.ny.us>
Sent: Wednesday, July 7, 2021 7:16 AM
To: Cooper, Kathy <Kcooper@amherst.ny.us>; Berke, Mark S. <mberke@amherst.ny.us>
Subject: RE: Request for sign permits and waiver

Kathy

As of now there are no conflicts with the placement or dates for the signage.

The Building Department recommends approval for waiver of fees.

Please remind the organization that they will need to file a Temporary Sign Permit Application for each location for the required dates before the signs are installed

Douglas Gesel
Supervising Code Enforcement Officer
Town of Amherst Building Department
(716) 631-7120
(716) 631-7192 Fax
Dgesel@Amherst.ny.us

From: Cooper, Kathy
Sent: Tuesday, July 06, 2021 2:52 PM
To: Berke, Mark S. <mberke@amherst.ny.us>; Gesel, Doug <DGesel@amherst.ny.us>
Subject: Request for sign permits and waiver

Mark & Doug,

Attached please find a request from Lee Brusino, Amherst Symphony requesting permission for sign placement and waiver of a sign permit. Kindly send your response to me as soon as you are able as this has to be placed on the agenda for tomorrow.

Thank you,

Kathy

Kathy Cooper
Deputy Town Clerk
Town of Amherst

Attachment: Sign permits & fee waiver (COM-2021-73 : Permission for Sign Placement and Fee Waiver - Amherst Symphony Orchestra)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Town Clerk
DOC ID: 23462

COMMUNICATION 2021-74

APPROVED

Request for Fee Waiver - Congregation Brith Hadoshah

Request for waiver of the fire safety inspection fee for a Congregation Brith Hadoshah's annual picnic to be held on August 22nd.

The Building Department recommends approval of the fee waiver.

7/12/2021
Consent

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

CONGREGATION BRITH HADOSHAH

50 Alberta Dr.

Amherst, NY 14226

873-8986

Brian Kulpa, Supervisor Town of Amherst

Francina Spoth, Town clerk

June 25, 2021

To the Amherst Town Board;

We are planning to have a picnic on our grounds on Sunday, August 22 (with a rain date for August 29) beginning at 2 p.m. We plan to put up a small (20 x 30) tent (without sides) for shade with some tables and chairs. We are asking for a waiver of the fire safety inspection fee as this is a local religious organization and the event is for our congregants and some neighbors. There is no fee to attend and neither will there be any fundraising activity at this event. Thank you.

Sincerely,

Rabbi Frank Lowinger

Attachment: picnic waiver (COM-2021-74 : Request for Fee Waiver - Congregation Brith Hadoshah)

Cooper, Kathy

Subject: FW: Picnic tent

From: Gesel, Doug <DGesel@amherst.ny.us>
Sent: Tuesday, July 6, 2021 10:30 AM
To: Cooper, Kathy <Kcooper@amherst.ny.us>
Cc: Parnell, Bryan <BPARNELL@amherst.ny.us>; Berke, Mark S. <mberke@amherst.ny.us>
Subject: RE: Picnic tent

Kathy Cooper and Town Board members,

The Building Department recommends approval of the request for a waiver of fees for a Fire Preventions- tent permit for CONGREGATION BRITH HADOSHAH for their event on August 22, 2021 (rain date of August 29, 2021) starting at 2:00 pm.

The following conditions must be met:

1. Fire Lanes must be maintained at all times
2. Events with over 1,000 people will require crowd managers in compliance with the 2020 Fire Code of NYS.
3. A Fire Prevention – Tent Permit is required to be obtained

Douglas Gesel
Supervising Code Enforcement Officer
Town of Amherst Building Department
(716) 631-7120
(716) 631-7192 Fax
Dgesel@Amherst.ny.us

From: Cooper, Kathy
Sent: Friday, June 25, 2021 1:35 PM
To: Berke, Mark S. <mberke@amherst.ny.us>
Cc: Spoth, Francina <fspoth@amherst.ny.us>; Gesel, Doug <DGesel@amherst.ny.us>
Subject: FW: Picnic tent

Hi Mark,

Attached please find a request from CONGREGATION BRITH HADOSHAH for a fire permit fee waiver. Kindly respond (to me) with your recommendation prior to July 7th as this will be on the next Town Board agenda.

Thank you,
Kathy

From: info@shalombuffalo.org <info@shalombuffalo.org>
Sent: Friday, June 25, 2021 12:49 PM
To: Spoth, Francina <fspoth@amherst.ny.us>
Subject: Picnic tent

Hello;
I am attaching a letter asking for a waiver of the fire inspection fee for our annual picnic. It has been the practice that it needs to be on the next agenda. Thank you.
Margaret

Attachment: Picnic waiver (COM-2021-74 : Request for Fee Waiver - Congregation Brith Hadoshah)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Town Clerk
DOC ID: 23431

COMMUNICATION 2021-75 **REFERRED**

Resident Concerns - 468 Harding Road

Emails from Rose Walker.

7/12/2021
Referred to Planning, Planning Board, Zoning Board, Traffic Safety, Town Attorney, and to be entered into rezoning file.

RESULT:	**REFERRED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Cooper, Kathy

Subject: FW: Planning board.. concerning Harding rd..

-----Original Message-----
From: Carrato, Amy <acarrato@amherst.ny.us>
Sent: Thursday, June 17, 2021 1:06 PM
To: TownClerkDL <townclerk@amherst.ny.us>
Subject: FW: Planning board.. concerning Harding rd..

The email below is regarding Z-2020-13, 486 Harding Road. This will be on the July 12 Town Board agenda.

Amy

-----Original Message-----
From: Rose Walker
Sent: Thursday, June 17, 2021 10:10 AM
To: Carrato, Amy <acarrato@amherst.ny.us>
Subject: Planning board.. concerning Harding rd..

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

I'm very concerned about this 10 houses on 468 Harding rd, It will not be in the best interest for our street.. and now, they want to put sidewalks in... they wanted to do that when they reconstructed Transit/Whrele .. and when they connected McKinley/Harding. No sidewalks because we have to maintain them with snow removal.. no one wanted them .. and I still don't want them.. I'm doing my own driveway now in my 70's..and that would be an added work.. not only that—we lose frontage of our property.. I reside 441 Harding.. thank you for taking the time to read this.. Rose
Sent from my iPad

Attachment: 468 Harding - Walker (COM-2021-75 : Resident Concerns - 468 Harding Road)

Cooper, Kathy

From: Carrato, Amy
Sent: Monday, June 21, 2021 9:22 AM
To: Cooper, Kathy
Subject: FW: 468 Harding rd..Williamsville

This one too...

-----Original Message-----
From: Rose Walker <rorow45@hotmail.com>
Sent: Friday, June 18, 2021 12:36 PM
To: Carrato, Amy <acarrato@amherst.ny.us>
Subject: 468 Harding rd..Williamsville

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

Grabber complaining about lights from Russell Park.. ok town board.. what about his landscaping supplies he has on his lots behind fence..and in garage.. and for ForbesCapretto homes saying what's four more houses.. we live here not him. Grabber says 5 houses are ok with it, but it's NOT the majority.. we live here too.. we've had issues with Grabber before when he wanted to re-zone..
Sent from my iPad

Attachment: Rose Walker 468 Harding (COM-2021-75 : Resident Concerns - 468 Harding Road)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Councilmembers
DOC ID: 23509

COMMUNICATION 2021-76 **REFERRED**

Rezoning of 468 Harding Road

Resident speaks for neighborhood regarding 468 Harding Road rezoning.

7/12/2021
Referred to Planning, Planning Board, Zoning Board, Traffic Safety, Town Attorney, and to be entered into rezoning file.

RESULT:	**REFERRED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

-------- Original message --------
From: Mary Dolata [redacted]
Date: 7/7/21 11:21 AM (GMT-05:00)
To: "Kulpa, Brian J." <bkulpa@amherst.ny.us>
Cc: "Berger, Jacqualine" <jberger@amherst.ny.us>, "Bucki, Debbie" <dbucki@amherst.ny.us>, "Lavin, Shawn A." <slavin@amherst.ny.us>, "Szukala, Michael" <mszukala@amherst.ny.us>
Subject: Zoning at 468 Harding Rd

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Amherst Town Board Members,
:

Prior to the meeting on July 12, 2021 we wish to convey our opposition to the request to amend the zoning for the property at 468 Harding Rd. Contrary to statements made by the builder the addition of 10 homes to a 1.44 acre property is not "characteristic of the neighborhood". We ourselves, and the neighbors on either side of us, have .5 acres on our property. On the entire length of our side of Harding Rd from the property in question to the Wehrle Drive there are only 11 homes.

To my knowledge all of the homes on Harding and McKinley except one are owner occupied. Several of them for over 30 years with the same owner. In speaking with neighbors there are concerns these small and inexpensive houses- relative to other homes built here in the past 20 years- would attract investors and become rental properties. This is also not characteristic of the neighborhood and would change the dynamic of an established and older neighborhood.

Our neighborhood was reconfigured several years ago with access to Wehrle closed off and all traffic from both streets must now exit onto Freeman and then Transit Rd. Adding in traffic from Dunkin Donuts and the Protocol, which is currently a COVID testing site, as well as the possible addition of traffic from the Big Ditch Brewery creates a lot for such a small intersection. There is another home currently being constructed adjacent to the 468 Harding property so in reality this would be an 11 home addition if this is approved. If these small homes have more than one vehicle parking will be an issue as on street parking is banned overnight in the winter months and parking vehicles on both sides of our narrow streets makes it difficult to drive down. The current property owner has said the new homes will not affect those of us down the street, but as previously stated we must all go past that property to exit the neighborhood. This affects every homeowner and it is frustrating that we have not all been provided with notices re: the meetings concerning this request to rezone. Thank you for your consideration to this matter.

Sincerely,

Thomas and Mary Dolata
[redacted]
Williamsville, NY 14221

Attachment: COMMUNICATION 468 Harding Rd Dolata redacted 20210712 (COM-2021-76 : Rezoning of 468 Harding Road)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Councilmembers
DOC ID: 23437

COMMUNICATION 2021-77 **REFERRED**

Residents Requesting an Update to Youngs Road Extension

Stonebridge Homeowners Association is requesting an update to the Youngs Road Extension project.

7/12/2021
Referred to Planning and Town Attorney.

RESULT:	**REFERRED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Attachment: COMMUNICATIONS Stonebridge HOA Youngs Rd Ext redacted 20210712 (COM-2021-77 : Residents Requesting an Update to

-------- Original message --------
From: Eskinder Tefera [redacted]
Date: 6/21/21 11:46 AM (GMT-05:00)
To: Stonebridge Estates HOA <stonebridgeestateshoaamherst@gmail.com>
Cc: "Kulpa, Brian J." <bkulpa@amherst.ny.us>, "Berger, Jacqualine" <jberger@amherst.ny.us>, "Bucki, Debbie" <dbucki@amherst.ny.us>, "Lavin, Shawn A." <slavin@amherst.ny.us>, "Szukala, Michael" <mszukala@amherst.ny.us>, countyexecutive@erie.gov, Biju & Salini Mannazhath [redacted] Jason & Michelle Gant [redacted] Felicia Williamson [redacted] Jeff & Tracey Peterson [redacted] contact@dec.ny.gov
Subject: Re: Youngs Road Extention- Opposition Letter from Stonebridge Estates HOA

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Supervisor Kulpa and Council members,

The residents of Stonebridge estates are looking for an update on the concerns that we brought to your attention on the letter dated April 2, 2021 and the subsequent discussion of the matter at the April's monthly Town of Amherst Board meeting.

We have not heard from your office to date nor have we seen any action taken to address the concerns that we brought to your attention. Can you kindly provide us with an update of the Town's plan to address the concerns of 25 tax paying residents of Stonebridge Estates.

Sincerely,

Eskinder Tefera

On Fri, Apr 2, 2021 at 6:37 PM Stonebridge Estates HOA <stonebridgeestateshoaamherst@gmail.com> wrote:

Via Email and US Mail
Stonebridge Estates HOA
Realty Performance Group, Prop. Mngr.
52 South Union Road
Williamsville, NY 14221

April 1, 2021

Dear Town of Amherst Council members: Mr Kulpa, Mrs. Berger, Mrs. Bucki, Mr. Lavin & Mr. Szukala and Mark Poloncarz, Erie County Executive:

We are the Board of Directors for the Stonebridge Estates HOA in East Amherst (the new development at the Casey & Youngs Rd intersection). We are writing today to express our concern and opposition to the Youngs Road extension. We have heard that this potential extension has been “on the books for over 30 years” and we as a community of 25 single family homes would like to formally oppose any such extension of Youngs Road. We, as a community, would like to see this empty lot / paper street with an final house to complete our development for the safety of our children and the esthetics of our community.

The Stonebridge Estates community is filled with over 25 families and 30 children that are frequently seen playing outside, running, biking and scootering all over our small neighborhood. They enjoy a sense of freedom to run through the streets and sidewalks and between each of our two cul de sacs due to the low frequency of outside traffic. We, as the parents of these children, truly love this freedom and sense of security our development provides to us. We do not want the Town to

create a main road through the center of our small neighborhood that would increase car volume and hence an immediate danger for our children.

Also, the five homes that are on Youngs Road are extremely close to the road, as are all our homes, and to extend Youngs Road, which is a heavily trafficked road through our community would cause serious safety concerns for our homes and for our families. The speed alone, in which traffic seems to flow on Youngs Road, would be detrimental to our families safety and quiet enjoyment of our small close-knit neighborhood.

In addition, this area is backed by wetlands that we were told would not be developed upon and the majority of us that have lots that back up to these wetlands chose this area for this specific reason. We do not want any type of development behind our homes and we want to protect and preserve the wetlands that are there now.

Finally, we as paying taxpayers vehemently oppose any such extension of Youngs Road. Please kindly advise us of any upcoming town / board meetings that we can specifically address our concerns to all council members. You can speak directly to our board President, Tracey Peterson at 1(619)994-5856 or contact us via this email (stonebridgeestateshoaamherst@gmail.com)

Thank you for your time and service to our community.

Kind regards,

Stonebridge Estate HOA
Tracey Peterson, President [redacted]
Jason Gant, Vice President [redacted]
Biju Mannazhath, Secretary [redacted]
Felicia Williamson, Treasurer [redacted]
Eskinder Tefera, Member at Large [redacted]

Members of the community:
Cheryl Divita, [redacted]
RUTAO YAO & JING L. KANG, [redacted]
Dale & Angela Menzies , [redacted]
Hasanul Islam & F. Hossain, [redacted]
GEON KIM, [redacted]
Vinicius A. Vasconcellos, [redacted]
Surendra Mohan & A. Gupta, [redacted]
REBECCA GERMROTH, [redacted]
Chris & Elizabeth LaFleur, [redacted]
KEVIN & ELIZABETH BRZEZINSKI, [redacted]
Eric Masasu & Liu Yan, [redacted]
M. Kathiravelu & R. Rajkumaran, [redacted]
SUDHAKAR KURA, [redacted]
Richard L & Kristin Hilton, [redacted]
Erickson & Jessica Neilans, [redacted]
MALVINDER S. CHEEMA, [redacted]
Earl R. Good & Loreen Rae Good, [redacted]
Aravind & Kirtana Yeluripat, [redacted]
ALI & QURATUL RAJA, [redacted]
Srinivasa Rao Bhagavatula, [redacted]

Attachment: COMMUNICATIONS Stonebridge HOA Youngs Rd Ext redacted 20210712 (COM-2021-77 : Residents Requesting an Update to

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Councilmembers
DOC ID: 23447

COMMUNICATION 2021-78 **REFERRED**

Pedestrian Entrance Concerns

Resident expresses concerns about pedestrian entrance for Amherst Central Park at Frankhauser Road.

7/12/2021
Referred to the Central Park Task Force.

RESULT:	**REFERRED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

To: Town of Amherst Board Members: Brian J. Kulpa, Supervisor, Jacqualine G. Berger, Deputy Supervisor, Deborah Bruch Bucki, Shawn A. Lavin, Michael Szukala

To: Town of Amherst Planning Board Members: Robert J. Gilmour, Chairperson, Stephanie S. Gelber, Dal Giuliar Michael J. Chmiel, BrittanyLee Penberthy, Harbinder Singh Gill, Joseph P. Raffaele, Jr.

To: Ellen Kost, Assistant Planning Director

To: Angela Rossi, Director of Strategic Planning

To: Eric Fraas, Chairman, Amherst Traffic Safety Board

To: Amherst Central Park Guidance Task Force Members: Brian J. Kulpa, Deborah Bruch Bucki, Jonathan Dande Chairperson, John Askey, Richard Duquin, Tim Gardner, Nathan Hartrich, Jennifer Snyder-Haas, Mark Alnutt, Anthony Bannon, Enid Edelman, Melissa Abel, Mary-Diana Pouli, Randall Kramer, Quin Bushen, Chris Obrien

From: Robert J. Yunkes [redacted] (25 year resident)

MAY 2021 > PRESERVE PRECIOUS GREENSPACE !!! : WESTWOOD PARK OF AMHERST CENTRAL PARK

MORE MAJOR REASONS TO DELETE PEDESTRIAN ENTRANCE !!!

ON FRANKHAUSER TO 170 ACRE WESTWOOD - WOULD HANDLE HUGE NUMBERS OF DAILY VISITORS !!

MY FOCUS TODAY IS THE SAME AS LAST MONTH'S AND IN MY LETTERS C MARCH & APRIL TO CONTINUE TO CONVINCE YOU TO DELETE & ELIMINATE THE NEW PROPOSED VERY UNSAFE VERY DANGEROUS VERY DISRUPTIVE PEDESTRIAN ENTRANCE ON FRANKHAUSER ROAD TO THE NEW PROPOSED 170 ACRE WESTWOOD – WHICH IF PUT IN WOULD BE HANDLING HUGE NUMBERS OF DAILY VISITORS !!!

AS PREVIOUSLY NOTED, SINCE THE PANDEMIC, PASSIVE PARKS USAGE IS UP 40 % LOCALLY AND GOLF USAGE IS UP 30 % TO 60 % LOCALLY ! THES BOOMING RATES OF INCREASE MEAN THE ALREADY VERY HIGH VERY UNSAFE VERY DANGEROUS VERY DISRUPTIVE RISKS OF A NEW FRANKHAUSER PEDESTRIAN ENTRANCE ARE THAT VERY MUCH HIGHER ! (REF. OLMSTEAD PARKS CONSERVATORY & BUSINESS FIRST NEWSPAPE

******VERY IMPORTANT QUESTION*** >**

PLEASE ASK YOURSELF IF YOU WOULD WANT AN UNSAFE DANGEROUS DISRUPTIVE PUBLIC PARK ENTRANCE TO THE 170 ACRE WESTWOOD WHICH WOULD BE HANDLING HUGE NUMBERS OF DAILY VISITORS LOCATED IN FRONT OF YOUR HOUSE ? I BELIEVE YOUR ANSWER WILL BE

A LOUD RESOUNDING ABSOLUTE NO !!!

Attachment: COMMUNICATION 052021 Robert Yunkes Correspondence redacted 20210712 (COM-2021-78 : Pedestrian Entrance Concerns)

AT THIS TIME I AM ALSO ASKING TO BE ABLE TO MAKE THIS PRESENTATION TO THE AMHERST CENTRAL PARK TASK FORCE GROUP AT THEIR NEXT MEETING – THIS MEETING SHOULD BE OPEN TO ZOOM ACCESS FOR ALL OF THE PUBLIC & NEIGHBORHOOD INPUT !

AS PREVIOUSLY NOTED, IT HAS BEEN MY UNDERSTANDING FOR THE PAST (7) YEARS THAT THERE WOULD BE NO OPENINGS OF ANY KIND ON THE VERY DANGEROUS FRANKHAUSER ! NEW PEDESTRIAN ENTRANCES OR ROADS OR TRAILS OR WALKWAYS OR PARKING LOTS INTER-CONNECTING TO FRANKHAUSER OR FAIRWAYS OR NORTH FOREST ARE NOT NEEDED & NOT WANTED ! EXISTING ENTRANCES ARE MORE THAN SUFFICIENT AND ADDING A SOLAR POWERED ELECTRIC TROLLEY FROM UB TO WESTWOOD WOULD ADD TO EFFICIENCY !

ALSO AS PREVIOUSLY NOTED, I CAN PERSONALLY TESTIFY & CONFIRM AS TO HOW VERY UNSAFE VERY DANGEROUS VERY DISRUPTIVE THIS PEDESTRIAN ENTRANCE WOULD BE BECAUSE FOR (25) YEARS I HAVE LIVED IN MY HOUSE AT THIS EXACT SECTION OF FRANKHAUSER WHERE A PEDESTRIAN ENTRANCE IS PROPOSED !
I HAVE ADDED (3) MORE MAJOR REASONS (TO THE (8) PREVIOUS) FOR NO PEDESTRIAN ENTRANCE ! (SEE BELOW) I VERY VERY VERY STRONGLY ASK & URGE YOU TO DELETE & ELIMINATE THE FRANKHAUSER PEDESTRIAN ENTRANCE FROM YOUR PROPOSAL !!!

ADDITIONAL (3) MAJOR REASONS FOR NO PEDESTRIAN ENTRANCE ON FRANKHAUSER :

9. NEIGHBORHOOD RESIDENTS ARE 100% AGAINST FRANKHAUSER ENTRANCE !!! NEIGHBORHOOD RESIDENTS INPUT ON FRANKHAUSER, FAIRWAYS, SUNRISE, DONNA LEA IS 100% VERY VERY VERY NEGATIVE AGAINST THE NEW PROPOSED FRANKHAUSER ENTRANCE > EXAMPLES:
" WE AGREE 100% WITH ALL YOU DETAILED ", " WE AGREE 100% "
" WE ARE CONCERNED ALSO ", " WE TOTALLY AGREE WITH YOU ! ",
" ABSOLUTELY NO TO THE ENTRANCE ON FRANKHAUSER RD ! ",
" FRANKHAUSER ENTRANCE WOULD BE VERY DISRUPTIVE & UNSAFE ! ",
" WE DO NOT WANT IT ! - THAT IS A DANGEROUS INTERSECTION ! "
" WE HAVE EMAILED THE TOWN BOARD AS WELL ", " ALL MY SUPPORT ! "
" PED ENTRANCE WOULD BE VERY DANGEROUS–USE MAIN ENTRANCES ! "

10. PROPOSED FRANKHAUSER ENTRANCE GOES AGAINST AMHERST PARKS & RECREATION MASTER PLAN DIRECTIVE !!! > MASTER PLAN FOCUSES ON " SAFETY, SECURITY, PLEASANT SETTINGS "...STATES THAT THESE " ARE THE PRIMARY DRIVERS FOR WHY RESIDENTS CHOOSE TO VISIT PARKS " AND " ARE VITAL REASONS TO RECREATE " ! THE PROPOSED FRANKHAUSER ENTRANCE WOULD HAVE THE OPPOSITE EFFECT AND GO AGAINST THIS DIRECTIVE ! – WOULD BE VERY UNSAFE VERY DANGEROUS VERY DISRUPTIVE AND RUIN THE SAFETY SECURITY AND PLEASANT SETTINGS OF MY NEIGHBORHOOD AS WELL AS OF THE PROPOSED WEST[illegible]

Attachment: COMMUNICATION 052021 Robert Yunkes Correspondence redacted 20210712 (COM-2021-78 : Pedestrian Entrance Concerns)

11. PROPOSED FRANKHAUSER ENTRANCE GOES AGAINST AMHERST BICENTENIAL COMPREHENSIVE PLAN DIRECTIVE !!! > COMPREHENSIVE PLAN FOCUSES ON " MAINTAINING AND ENHANCING THE ESTABLISHED CHARACTER AND EXCEPTIONAL QUALITY OF LIFE...THIS WILL BE THE PRIMARY CHALLENGE FOR THE FUTURE " BASED ON " LIVABILITY, COMMUNITY CHARACTER AND SHARED DIRECTION " !
THE PLAN DIRECTIVE IS TO " PRESERVE INTEGRITY & CHARACTER OF ITS NEIGHBORHOODS ! "... " ENSURE RESPECT FOR THE CHARACTER & QUALITY OF LIFE OF AMHERST'S RESIDENTIAL COMMUNITIES "..." TO PRESERVE NEIGHBORHOOD CHARACTER " !
THE PROPOSED FRANKHAUSER ENTRANCE WOULD HAVE THE OPPOSITE EFFECT ! – WOULD BE VERY UNSAFE VERY DANGEROUS VERY DISRUPTIVE AND RUIN THE INTEGRITY CHARACTER AND QUALITY OF LIFE OF MY NEIGHBORHOOD COMMUNITY AS WELL AS OF THE PROPOSED WESTWOOD FOR ALL THE REASONS I HAVE LISTED (#1 - 8 PREVIOUS) AND (#9 – 11 TODAY) !

SUMMARY OF PREVIOUS (8) MAJOR REASONS FOR NO PEDESTRIAN ENTRANCE ON FRANKHAUSER :

1. TO ELIMINATE THE VERY DANGEROUS PANDEMIC / COVID VERY UNSAFE INCREASED RISK OF PARK VISITORS CONTACTING WITH NEIGHBORHOOD CITIZENS.
2. TO ELIMINATE THE VERY DANGEROUS VERY UNSAFE VEHICLE ACCIDENT RISK BECAUSE FRANKHAUSER, FAIRWAYS AND NORTH FOREST ARE VERY DANGEROUS WINDING ROADS.
NOTE : THE METAL GUARDRAIL SAFETY BARRIER ALONG THIS VERY DANGEROUS SECTION OF FRANKHAUSER IS A PERMANENTLY INSTALLED PHYSICAL BARRIER THANKFULLY PREVENTING ANY PEDESTRIAN ENTRANCE FROM BEING CONSTRUCTED !
3. TO ELIMINATE THE VERY DANGEROUS VERY UNSAFE INCREASED CRIME RISK !
4. TO ELIMINATE THE VERY DANGEROUS VERY UNSAFE RISK OF CHILDREN GETTING LOST !
5. TO ELIMINATE THE TERRIBLE DISRUPTIVE INCREASED TRAFFIC AND INCREASED CONGESTION AND INCREASED SMOG WHICH WOULD OCCUR !
6. TO ELIMINATE THE TERRIBLE DISRUPTIVE PARKING & STANDING & WAITING PROBLEMS BECAUSE VISITORS WOULD BE PARKING STANDING WALKING ALL OVER THE NEIGHBORHOOD
7. TO ELIMINATE TERRIBLE PROBLEM OF REDUCED PROPERTY VALUES FOR OUR HOMES ! - NOTE : WITH NO PEDESTRIAN ENTRANCE PROPERTY VALUES WILL INCREASE !
8. TO ELIMINATE TERRIBLE HIGHER PROPERTY TAX RATES RESULTING FROM MAJOR REASON NUMBER (7) TERRIBLE REDUCED PROPERTY VALUES !

AN ADDITIONAL VERY DISRUPTIVE MAJOR REASON TO DELETE THIS PEDESTRIAN ENTRANCE IS THE PROBABLE MANY LAWSUITS AGAINST THE TOWN OF AMHERST WHICH COULD RESULT FROM ANY ONE OF THE (11) MAJOR REASONS LISTED ABOVE !

IN CLOSING I VERY VERY VERY STRONGLY AGAIN ASK AND URGE YOU TO DELETE AND ELIMINATE THE PROPOSED FRANKHAUSER PEDESTRIAN ENTRANCE !!!

THANK YOU VERY MUCH FOR YOUR ATTENTION !
SINCERELY, ROBERT J. YUNKES

Attachment: COMMUNICATION 052021 Robert Yunkes Correspondence redacted 20210712 (COM-2021-78 : Pedestrian Entrance Concerns)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Town Clerk
DOC ID: 23455

COMMUNICATION 2021-79 **REFERRED**

Summons and Complaint: Federal National Mortgage Association ("Fannie Mae") Et Al. Vs. Town of Amherst Et Al.

7/12/2021
Referred to Town Attorney.

RESULT:	**REFERRED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

----------X

FEDERAL NATIONAL MORTGAGE ASSOCIATION ("FANNIE MAE"), A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE UNITED STATES OF AMERICA

Plaintiff,

vs

PUBLIC ADMINISTRATOR OF ERIE COUNTY, JOSEPH WILLIAM MCKEOWN AS HEIR TO THE ESTATE OF GARNET ELIZABETH RYDER AS SURVIVING SPOUSE OF RICHARD M. RYDER, MICHELLE RYDER AS HEIR TO THE ESTATE OF RICHARD M. RYDER, MARK RYDER AS HEIR TO THE ESTATE OF RICHARD M. RYDER, SHARON SCHANK AS HEIR TO THE ESTATE OF RICHARD M. RYDER, TAMMY RYDER AS HEIR TO THE ESTATE OF RICHARD M. RYDER, MICHELLE RYDER AS HEIR TO THE ESTATE OF RICHARD M. RYDER, JR., STARR RYDER AS HEIR TO THE ESTATE OF RICHARD M. RYDER, JR., FREEDOM RYDER AS HEIR TO THE ESTATE OF RICHARD M. RYDER, JR., SKYE RYDER AS HEIR TO THE ESTATE OF RICHARD M. RYDER, JR., SUNN RYDER AS HEIR TO THE ESTATE OF RICHARD M. RYDER, JR., FPHOENIX RYDER AS HEIR TO THE ESTATE OF RICHARD M. RYDER, JR., STONE RYDER AS HEIR TO THE ESTATE OF RICHARD M. RYDER, JR., TOWN OF AMHERST, PEOPLE OF THE STATE OF NEW YORK

JOHN DOE (Those unknown tenants, occupants, persons or corporations or their heirs, distributees, executors, administrators, trustees, guardians, assignees, creditors or successors claiming an interest in the mortgaged premises.)

Defendant(s).

----------X

SUMMONS

INDEX #:

ORIGINAL FILED WITH THE CLERK ON:

MORTGAGED PREMISES:
21 Lochland Drive
Buffalo, NY 14225

SBL #: 80.19 - 12 - 21

Attachment: DOC063021-06302021111906 (COM-2021-79 : Summons & Complaint)

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in the above captioned action and to serve a copy of your Answer on the Plaintiff's attorney within twenty (20) days after the service of this Summons, exclusive of the day of service, or within thirty (30) days after completion of service where service is made in any other manner than by personal delivery within the State. The United States of America, if designated as a Defendant in this action, may answer or appear within sixty (60) days of service hereof. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

NOTICE
YOU ARE IN DANGER OF LOSING YOUR HOME

If you do not respond to this summons and complaint by serving a copy of the answer on the attorney for the mortgage company who filed this foreclosure proceeding against you and filing the answer with the court, a default judgment may be entered and you can lose your home.

Speak to an attorney or go to the court where your case is pending for further information on how to answer the summons and protect your property.

Sending a payment to your mortgage company will not stop this foreclosure action.

YOU MUST RESPOND BY SERVING A COPY OF THE ANSWER ON THE ATTORNEY FOR THE PLAINTIFF (MORTGAGE COMPANY) AND FILING THE ANSWER WITH THE COURT.

Erie County is designated as the place of trial. The basis of venue is the location of the mortgaged premises foreclosed herein.

DATED: June 9, 2021

/s/Ashley M Pascuzzi
Ashley M Pascuzzi, Esq
Gross Polowy, LLC
Attorneys for Plaintiff
1775 Wehrle Drive, Suite 100
Williamsville, NY 14221
Tel.: (716) 204-1700

Attachment: DOC063021-06302021111906 (COM-2021-79 : Summons & Complaint)

14.9.a

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

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FEDERAL NATIONAL MORTGAGE ASSOCIATION ("FANNIE MAE"), A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE UNITED STATES OF AMERICA

Plaintiff,

vs

PUBLIC ADMINISTRATOR OF ERIE COUNTY, JOSEPH WILLIAM MCKEOWN AS HEIR TO THE ESTATE OF GARNET ELIZABETH RYDER AS SURVIVING SPOUSE OF RICHARD M. RYDER, MICHELLE RYDER AS HEIR TO THE ESTATE OF RICHARD M. RYDER, MARK RYDER AS HEIR TO THE ESTATE OF RICHARD M. RYDER, SHARON SCHANK AS HEIR TO THE ESTATE OF RICHARD M. RYDER, TAMMY RYDER AS HEIR TO THE ESTATE OF RICHARD M. RYDER, MICHELLE RYDER AS HEIR TO THE ESTATE OF RICHARD M. RYDER, JR., STARR RYDER AS HEIR TO THE ESTATE OF RICHARD M. RYDER, JR., FREEDOM RYDER AS HEIR TO THE ESTATE OF RICHARD M. RYDER, JR., SKYE RYDER AS HEIR TO THE ESTATE OF RICHARD M. RYDER, JR., SUNN RYDER AS HEIR TO THE ESTATE OF RICHARD M. RYDER, JR., FPHOENIX RYDER AS HEIR TO THE ESTATE OF RICHARD M. RYDER, JR., STONE RYDER AS HEIR TO THE ESTATE OF RICHARD M. RYDER, JR., TOWN OF AMHERST, PEOPLE OF THE STATE OF NEW YORK

JOHN DOE (Those unknown tenants, occupants, persons or corporations or their heirs, distributees, executors, administrators, trustees, guardians, assignees, creditors or successors claiming an interest in the mortgaged premises.)

Defendant(s).

----------X

COMPLAINT

INDEX #:

ORIGINAL FILED WITH THE CLERK ON:

MORTGAGED PREMISES:
21 Lochland Drive
Buffalo, NY 14225

SBL #: 80.19 - 12 - 21

Attachment: DOC063021-06302021111906 (COM-2021-79 : Summons & Complaint)

The Plaintiff by its attorneys, Gross Polowy, LLC, for its complaint against the Defendant(s) alleges upon information and belief as follows:

1. Federal National Mortgage Association, ("Fannie Mae"), a corporation organized and existing under the laws of the United States of America, is the owner and holder of the subject note and mortgage. Attached hereto as Schedule A is a copy of the Lost Note Affidavit.

2. On or about February 21, 2003, Jeanne M. Ryder (who died on December 14, 2010, a resident of the county of Erie, State of New York) and Richard M. Ryder (who died on January 9, 2015, a resident of the county of Lewis, State of West Virginia) executed and delivered a Consolidated note whereby Jeanne M. Ryder and Richard M. Ryder promised to pay the sum of $64,000.00 plus interest on the unpaid amount due. The terms of the note were further modified.

3. As security for the payment of the note Jeanne M. Ryder (who died on December 14, 2010, a resident of the county of Erie, State of New York) and Richard M. Ryder (who died on January 9, 2015, a resident of the county of Lewis, State of West Virginia) duly executed and delivered a mortgage, in the amount of $50,000.00 which was recorded as follows.

Recording Date: January 28, 1997
Book 12733/Page 8621
Office of the Erie County Clerk

Plaintiff is also holder of a mortgage in the amount of $15,000.00 executed by Jeanne M. Ryder and Richard M. Ryder which was recorded as follows and mortgage tax paid thereon:

Recording Date: September 22, 2001
Book 12943/Page 5612
Office of the Erie County Clerk

Plaintiff is also holder of a mortgage in the amount of $3,457.47 executed by Jeanne M. Ryder and Richard M. Ryder which was recorded as follows and mortgage tax paid thereon:

Recording Date: February 26, 2003
Book 13052/Page 6253
Office of the Erie County Clerk

Said mortgage was consolidated with the mortgage referred to in Book 12733, Page 8621 by a Consolidation, Extension and Modification Agreement executed by Jeanne M. Ryder and Richard M. Ryder dated February 21, 2003 and recorded February 26, 2003 in Book 11030, Page 7040 in the Office of the Erie County Clerk to form a single lien in the amount of $64,000.00.

The consolidated mortgage was subsequently assigned to NATIONSTAR MORTGAGE LLC D/B/A MR. COOPER by an assignment executed on May 9, 2019 and sent for recording in the Office of the Erie County Clerk

Attachment: DOC063021-06302021111906 (COM-2021-79 : Summons & Complaint)

4. The mortgaged property is known as 21 Lochland Drive, Buffalo, NY 14225. The tax map designation is SECTION 80.19, BLOCK 12, LOT 21. Plaintiff is foreclosing the land, buildings, and other improvements located on the property. The property is more fully described in Schedule B attached to this complaint.

5. Jeanne M. Ryder and Richard M. Ryder failed to comply with the conditions of the note and mortgage by not making the payment that was due on July 1, 2015 and subsequent payments.

6. There is now due and owing on the note and mortgage the following amounts:

Principal Balance: $49,497.78
Interest Rate: 6.125%
Date Interest Accrues from: December 1, 2009

Together with accrued late charges, monies advanced for taxes, assessments, insurance, securing, inspections, posting of notices, maintenance and preservation of the property.

7. In order to protect the value of the property and its rights in the property, the Plaintiff may have to pay additional taxes, assessments, water charges, insurance premiums and other charges and the costs, allowances, expenses of sale, and reasonable attorney's fees for the foreclosure. Plaintiff requests that any amount it pays, together with interest, be included in the total amount due.

8. The defendant(s) may have an interest encumbering the property, which is either subordinate to Plaintiff's mortgage, or paid in full, equitably subordinated, or adverse to Plaintiff's mortgage. The interest of each defendant is set forth in "Schedule C" of this complaint.

9. The interest or lien of the United States of America, the State, City or local government entity is set forth in "Schedule D" of this complaint.

10. Plaintiff has complied with sections 1304 and 1306 of the Real Property Actions and Proceedings Law, and the mortgage was originated in compliance with all provisions of section 595-a of the Banking Law and any rules or regulations promulgated there under, and, if applicable, sections 6-l or 6-m of the Banking law.

11. No separate pending action was brought to recover any part of the mortgage debt or if any such action is pending final judgment for Plaintiff was not rendered and it is the intent of the Plaintiff to discontinue it.

Attachment: DOC063021-06302021111906 (COM-2021-79 : Summons & Complaint:)

WHEREFORE, PLAINTIFF DEMANDS:

a. Judgment accelerating the maturity of the debt and determining the amount due Plaintiff for principal, interest, late charges, taxes, assessments, insurance, maintenance and preservation of the property and other similar charges, together with costs, allowances, expenses of sale, reasonable attorney's fees, all with interest, pursuant to the terms of the Note and Mortgage.
b. That the property be sold at auction to the highest bidder in accordance with the referee's terms of sale.
c. That the interest of the defendant(s) and all persons claiming by or through them be foreclosed and their title, right, claim, lien, interest or equity of redemption to the property be forever extinguished.
d. That out of the sale proceeds, the Plaintiff be paid the amounts due for principal, interest, late charges, taxes, assessments, insurance, securing, inspections, posting of notices, maintenance and preservation of the property, and other similar charges, together with court costs, allowances, expenses of sale, and reasonable attorney's fees, all with interest.
e. That the property be sold in as is condition and subject to the facts an inspection or accurate survey of the property would disclose, covenants, restrictions, easements and public utility agreements of record, building and zoning ordinances and violations, and the equity of redemption of the United States of America.
f. That Plaintiff may purchase the property at the sale.
g. That a receiver be appointed for the property, if requested by Plaintiff.
h. That if the Plaintiff possesses other liens against the property, they not merge with the mortgage being foreclosed and that Plaintiff, as a subordinate lien holder, be allowed to share in any surplus proceeds resulting from the sale.
i. That the Court award Plaintiff additional relief that is just, equitable and proper.

DATED: June 9, 2021

/s/Ashley M Pascuzzi
Ashley M Pascuzzi, Esq.
Gross Polowy, LLC
1775 Wehrle Drive, Suite 100
Williamsville, NY 14221

Attachment: DOC063021-06302021111906 (COM-2021-79 : Summons & Complaint:)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Town Clerk
DOC ID: 23475

COMMUNICATION 2021-80 **REFERRED**

Notice of Claim: Niagara Mohawk Power Corporation D/B/A National Grid Vs. Town of Amherst

7/12/2021
Referred to Town Attorney.

RESULT:	**REFERRED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

In the Matter of the Claim

of

NIAGARA MOHAWK POWER CORPORATION
d/b/a NATIONAL GRID

against the

TOWN OF AMHERST

NOTICE OF CLAIM
Claim No: 30383374

Town Clerk
Town of Amherst
5583 Main Street
Williamsville, NY 14221

PLEASE TAKE NOTICE, that NIAGARA MOHAWK POWER CORPORATION d/b/a NATIONAL GRID has a claim and hereby makes claim against the TOWN OF AMHERST for property damage sustained by it, and in support thereof, claimant states:

1. The name and post office address of claimant and claimant's attorney is:

NIAGARA MOHAWK POWER
CORPORATION d/b/a
NATIONAL GRID
300 Erie Boulevard West
Syracuse, New York 13202

THOMAS F. CALLAHAN, ESQ.
175 East Old Country Road
Hicksville, New York 11801

2. This claim is for property damage sustained by claimant through the negligence of the TOWN OF AMHERST, its agents, servants, or employees, as hereinafter more particularly set forth.

3. Upon information and belief, the claim arose and the damages were sustained on the 13th day of May, 2021, when a dump truck, New York State license plate #AB5927, owned and operated by the TOWN OF AMHERST with its dump bed in the up position, struck and damaged Pole #453, owned by claimant, located on South Ellicott Creek Road, Amherst, New York.

4. As a result of the aforesaid negligence of the TOWN OF AMHERST, claimant has been damaged.

Attachment: DOC070621-07062021150336 (COM-2021-80 : NOC: National Grid Vs TOA)

5. WHEREFORE, claimant makes claim against the TOWN OF AMHERST.

Dated: July | , 2021

NIAGARA MOHAWK POWER
CORPORATION d/b/a
NATIONAL GRID

By: _____
Thomas F. Callahan

Attachment: DOC070621-07062021150336 (COM-2021-80 : NOC: National Grid Vs TOA)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 07/12/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 23519 **RESOLUTION 2021-622** **ADOPTED**

Grant Authorization to the Supervisor to Submit a U.S. Department of Transportation (USDOT) Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant Application

To: Amherst Town Board

From: Brian J. Kulpa, Town Supervisor

Date: July 12, 2021

Re: Grant authorization to the Supervisor to submit a U.S. Department of Transportation (USDOT) Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant application.

Please consider adoption of the following resolution as a suspension item to tonight's Town Board agenda.

WHEREAS, the Consolidates Appropriations Act, 2021 appropriated $1 billion to be awarded by the USDOT on a competitive basis for capital investments in surface transportation that will have a significant local or regional impact; and,

WHEREAS, the USDOT released a 2021 Notice of Funding Opportunity for the $1 billion RAISE program in FY 2021; and,

WHEREAS, The Town of Amherst with the support of Erie County, is requesting USDOT RAISE Planning Resources to transform Maple Road into a complete street to connect neighborhoods, recreation and major commercial centers; and,

WHEREAS, It is vital for the Town of Amherst and Erie County to create a comprehensive plan for the redevelopment of Maple Road to focus on safety, connectivity and accessibility which will enhance the promotion of safe public access and smart development throughout the area; and,

WHEREAS, the Town Board commits to providing the required local matching funds for the Rebuilding American Infrastructure with Sustainability and Equity (RAISE***)*** program not to exceed 20% of total project costs and to insure the timely implementation of the proposed project; and,

WHEREAS, the total project costs are estimated to be **$1,000,000**; and

NOW THEREFOR BE IT RESOLVED, Brian Kulpa, Supervisor of the Town of Amherst, is hereby authorized and directed to file an application for funds from U.S. Department of Transportation (USDOT) through their Rebuilding American Infrastructure with Sustainability and Equity (RAISE) program, and, upon approval of said application for funds to enter into and execute a project agreement with the USDOT for such financial assistance to the Town of Amherst.

7/12/2021

A motion to adopt was made by Deputy Supervisor Berger, seconded by Councilmember Bucki and unanimously approved 5-0.

FINANCIAL IMPACT:

The implementation of this project will necessitate the expenditure not to exceed $200,000 to be used as a match for the grant.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Jacqualine Berger, Deputy Supervisor
SECONDER:	Deborah Bruch Bucki, Councilmember
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala