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, August 9, 2021 | **7:00 PM** | **Amherst Municipal Building**

I. IN MEMORY

Donald E. Burkard

II. INVOCATION

Councilmember Bucki

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL:

7:00 PM Meeting called to order on August 9, 2021 at Amherst Municipal Building, 5583 Main Street, Williamsville, NY.

Attendee Name	Organization	Title	Status	Arrived
Brian J. Kulpa	Town of Amherst	Supervisor	Present	
Jacqualine Berger	Town of Amherst	Deputy Supervisor	Present	
Deborah Bruch Bucki	Town of Amherst	Councilmember	Present	
Shawn Lavin	Town of Amherst	Councilmember	Present	
Michael Szukala	Town of Amherst	Councilmember	Present	
Francina J. Spoth	Town of Amherst	Town Clerk	Present	
Kathleen Cooper	Town of Amherst	Deputy Town Clerk	Present	
Stanley J. Sliwa	Town of Amherst	Town Attorney	Present	
Daryl Bramer	Town of Amherst	Comptroller	Present	
Jeffrey S. Burroughs	Town of Amherst	Town Engineer	Present	
Patrick G. Lucey	Town of Amherst	Highway Superintendent	Present	
Daniel J. Ulatowski	Town of Amherst	Principal Planner	Present	

V. MINUTES APPROVAL

1. Monday, July 26, 2021

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

2. Monday, August 02, 2021

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

VI. PROCLAMATIONS AND ANNOUNCEMENTS

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.

8/09/2021

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 7:06 PM.

Jeffery Palumbo, Esq. addressed the Town Board. David Capretto answered questions.

There were no 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 7:12 PM.

A motion to set a Decision Date for Sept. 13th was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

RESULT:	**DECISION DATE [UNANIMOUS]**	**Next: 9/13/2021 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.

8/09/2021
A motion to adjourn until Sept. 13th was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0. The public hearing was adjourned at 7:13 PM.

RESULT:	**ADJOURNED [UNANIMOUS]**	**Next: 9/13/2021 7:00 PM**
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Deborah Bruch Bucki, Councilmember	
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala	

3. Resolution 2021-623

Amherst Agriculture and Farmland Protection Plan CRS #1134

WHEREAS, the Town Board authorized the Supervisor to sign a contract with the New York State Department of Agriculture and Markets for preparation of a Farmland Protection Plan on December 10, 2018, and

WHEREAS, the Town contracted with Wendel and their subcontractors WWS Planning and Camoin 310 on January 23, 2020, to complete the Farmland Protection Plan, and

WHEREAS, the Plan was prepared with input from the 18-member Agriculture and Farmland Protection Steering Committee and the Planning Department, and

WHEREAS, the Plan was adopted by the Erie County Agricultural Board on June 24, 2021, now therefore be it

RESOLVED, that the Town Board adopts the 2021 Amherst Agriculture and Farmland Protection Plan in its entirety.

Please note that the full DRAFT Plan is available for review on the Town's Website at the following link (copy & paste):
https://www.amherst.ny.us/pdf/planning/farmland/210714_full_draft.pdf

You may also find the DRAFT Plan and a presentation of the Plan by the project consultant from July 26th on the project Website at (copy & paste):
https://www.amherst.ny.us/content/projects.php?dept_id=dept_15&proj_id=proj_14&neworder=00

7/26/2021
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 3:12 PM.

Roberta Rappoccio, Associate Planner, and Wendy E. Weber Salvati, WWS Planning, presented to the Board.

There were no speakers from the public, therefore Supervisor Kulpa moved to adjourn the public hearing, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was adjourned at 3:43 PM.

8/09/2021
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 7:14 PM.

Jane Cox, Harlem Road questioned if this is a land use hearing

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the public hearing, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was closed at 7:16 PM.

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

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

4. Resolution 2021-678

10060 & 10090 Transit Road Rezoning

DRAFT RESOLUTION
(August 9, 2021)

Adoption of Local Law to Amend the Zoning Map
(10060 & 10090 Transit Road & Z-2019-06)

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 June 24, 2021 that the proposed Center 2.5 District (CTR-2.5), Multifamily Residential District Five (MFR-5) and Residential District Three (R-3) zoning at 10060 & 10090 Transit Road 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 conditions:

1. An agricultural data statement be provided with any application for development as required by Erie County Department of Environment and Planning (ECDEP).

2. That the subject area be removed from Agricultural District 17 - Amherst prior to submittal of any application for site development as required by ECDEP.

3. As required by New York State Department of Transportation (NYSDOT) a revised Traffic Impact Study (TIS) be provided with any application for development.

4. That the Petitioner address concerns of the New York State Department of Transportation (NYSDOT) during future development review.

8/09/2021
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 7:16 PM.

Jeffery Palumbo, Esq. presented and answered questions from the Board.

The following speakers addressed the Town Board:
Matt Fitzgerald, Esq., Phillips Lytle LLP, spoke in opposition on behalf of the Ransom Oaks Community Corp. and their several concerns

Colleen Bogdan, 108 Summershade Ct. - Questioned detailed reports that are not included or signed off by Engineer; Spot rezoning; not consistent with neighborhood; the neighborhood is opposed
Steve Massaro, 1116 Smith Rd. - Flooding problems; grossly oversized project; traffic
William Klein, 28 Oak Hill Ct. - Water tables; traffic on Smith; cut through on Ruby Lane.; home values
Colleen Daumen, 418 Glen Oak Dr. - Additional stress of traffic, water, sewage & to fire departments
Rick Mullaney, 25 Honey Suckle Way - Voiced his concerns

There were no further speakers from the public, therefore Supervisor Kulpa moved to adjourn the public hearing until Sept. 13th, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was adjourned at 8:04 PM.

RESULT:	**ADJOURNED [UNANIMOUS]**	**Next: 9/13/2021 7:00 PM**
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Jacqualine Berger, Deputy Supervisor	
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala	

5. Resolution 2021-679

6842 & 6846 Main Street (Portions) Rezoning

DRAFT RESOLUTION
(06/07/2021)

Adoption of Local Law to Amend the Zoning Map
(Portions of 6842 & 6846 Main Street, Z-2021-05)

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 June 24, 2021 that the proposed Deep Corridor 5 District (DC-5) zoning at portions of 6842 & 6846 Main Street 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 conditions;

1. That the maximum allowed building height on the portion of the subject rezoning area currently addressed 6842 Main Street shall be limited to 2 stories with a peak height of 35 ft. and recorded as deed restrictions on the land.

2. That the maximum allowed building height on the portion of the subject rezoning area currently addressed 6846 Main Street shall be a maximum of 4 stories with peak height of 60 ft. and recorded as deed restrictions on the land.

8/09/2021

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 8:07 PM.

Sean W. Hopkins, Esq. presented.

There were no speakers from the public, therefore Supervisor Kulpa moved to close the public hearing, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was closed at 8:24 PM. Supervisor Kulpa then motioned to set a decision date for Sept. 13th, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

RESULT:	**DECISION DATE [UNANIMOUS]**	**Next: 9/13/2021 7:00 PM**
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Jacqualine Berger, Deputy Supervisor	
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala	

6. Resolution 2021-680

Local Law to Amend RD District

Adoption of Local Law to Amend the Zoning Text
Permitted Uses in the RD and GI District
(ZTA-2021-01)

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 June 24, 2021 that the proposed amendment to the Permitted Uses in the Research and Development (RD) district is consistent with the adopted Bicentennial Comprehensive Plan, as amended, and be it further

RESOLVED, that Section 4-11-2(A) (General Industrial District) of the Zoning Ordinance be amended to include "truck was and truck repair facility" as a permitted use,

subject to the use standards established in Section 6-4-14 of the Zoning Ordinance, and be it further

RESOLVED, that to the extent the proposed zoning text amendment 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 203-8-5 of the Town Code (Zoning), the Town Board adopts Local Law (#) to amend the Town Zoning text.

8/09/2021
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 8:26 PM.

Daniel Ulatowski, Assistant Planning Director, presented.

There were no speakers from the public, therefore Supervisor Kulpa moved to close the public hearing, seconded by Councilmember Lavin and unanimously approved 5-0. The public hearing was closed at 8:28 PM.

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

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

7. Resolution 2021-681

Abandonment and Sale of S. Linden Drive - SEQR (Negative Declaration)

Public Hearing for the abandonment and sale of S. Linden Drive, a Paper Street, together with previously authorized Resolution 2021-468 (attached) giving Supervisor authority to execute Neg. Dec.

8/09/2021
A motion to withdraw the resolution was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

RESULT:	**WITHDRAWN**

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 (4)

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 (1)

Village vacancy

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 (5)

Adult vacancies (5), Youth vacancies (0)

31. Zoning Board of Appeals

Membership is full.

IX. PUBLIC EXPRESSION

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

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 8:30 PM.

The following speakers addressed the Town Board:
Tom Frank, Main St. - Miscellaneous items

David Gaeddert, 606 Longmeadow Rd. - Approves of benches and improvements to corner parcel at Kenmore & Niagara Falls Blvd.
Madeeha Almashhadan, 864 Wehrle Dr. - Is pleased that the Abandonment and Sale of S. Linden Dr. (Public Hearing #7) was Withdrawn by the Board
Dan Rider, 38 Garden Pkwy. - Still waiting for Westwood appraisals from 7/4 FOIL request

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 8:42 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 2021-682

Extension of Interim Policy for Exterior Dining

WHEREAS, the Covid-19 Health Emergency continues to impact the community's existing restaurants; and

WHEREAS, the Town has established an interim administrative temporary permit approval policy to permit the Building Commissioner to review requests for temporary outdoor dining provisions, which include tented seating areas, to supplement dining capacity adjustments on the interior of the restaurant and promote social distancing, and

WHEREAS, the Town Building Department currently has an operating permit which will be utilized to administer permit approvals for the temporary policy with an associated flat permit fee of one hundred dollars,

NOW, THEREFORE BE IT RESOLVED, I, Brian J. Kulpa, Supervisor of the Town of Amherst, by virtue of the authority vested in me by the constitution and the laws of the State of New York, do hereby authorize the extension of the interim policy for exterior dining through December 31, 2021.

8/09/2021
Consent

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

B. DEPUTY SUPERVISOR BERGER:

1. Resolution 2021-683

Amherst Youth Board Appointment

WHEREAS, the Amherst Youth Board (Youth Board) is an organization offering varied services in support of children, youth and families living in the Town of Amherst. Chartered by the Amherst Town Board and New York State Executive Law, the agency is governed by a policy-making board of 23 citizen volunteers, comprising both adults and youth; and

WHEREAS, members are appointed by the Amherst Town Board for three-year terms and participate in decisions affecting programming, policies, funding and public relations for youth programs and services.

WHEREAS, the Youth Board also relies on the efforts and contributions of citizen volunteers in its programs. Many different volunteer opportunities are available, and may be tailored to individual needs; and

WHEREAS, Dawn Cwierley has attended a meeting, met with the Youth & Recreation Department director and expressed interest in serving on the Amherst Youth Board, that currently has a vacancy.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board appoints adult member Dawn Cwierley to her first term to end December 31, 2023.

8/09/2021
Consent

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

C. COUNCILMEMBER BUCKI:

D. COUNCILMEMBER LAVIN:

E. COUNCILMEMBER SZUKALA:

1. Resolution 2021-684

Set Public Hearing Date – All-Way Stop at Dawnbrook Lane & Morningstar Court

Please schedule a public hearing on September 13, 2021 to install a third stop sign at the intersection of Dawnbrook Lane & Morningstar Court making it an all-way stop intersection.

> "The intersection of Dawnbrook Lane & Morningstar Court is hereby designated as an all-way stop intersection and stop signs shall be installed on all legs of the intersection."

8/09/2021
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 2021-685

Town of Amherst Highway Department Gas Pump Repairs (Bond Resolution - $550,000)

AGENDA ITEM -AUGUST 9TH, 2021

TO: **Town Board**

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

DATE: **August 4, 2021**

RE: **2021-2026 C.I.P.**

Town of Amherst Highway Department Gas Pump Repairs
Bond Resolution - $550,000.00

Kindly take the following action with respect to the above bond request:

(1) Adopt the attached SEQR determination for the above project as determined by the Town of Amherst Planning Department; and

(2) Adopt the attached bond resolution authorizing the issuance of $550,000.00 in serial bonds for the above-referenced Town improvement.

The adoption of the bond resolution does ***not*** require a public hearing to be held because the improvement is a Town improvement not involving a special district.

Also attached is the Map Plan and Report which provides further detail on the scope of the project together with an Affidavit of the Town Engineer certifying as to the useful life of the Highway Department Gas Pump Repairs.

Thank you.

SJS:nmb
Attachments
c: Kathy Cooper, Deputy Town Clerk
(w/attachments, **Agenda Item - August 9th, 2021**)
Daryl C. Bramer, Comptroller *(w/attachments)*
Lynda Juul, Director of Finance *(w/attachments)*
Dan Howard, Director of Planning *(w/attachments)*
Ellen M. Kost, Assistant Director of Planning *(w/attachments)*
Jeffrey S. Burroughs, PE, Town Engineer (*w/attachments*)
Patrick M. Lucey, Superintendent of Highways (*w/attachments*)

8/09/2021
A motion to adopt the SEQR determination was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. A motion to approve the Bond resolution was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved via Roll Call vote 5-0.

RESULT:	**ROLL CALL VOTE (ADOPTED) [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Jacqualine Berger, Deputy Supervisor
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

2. Resolution 2021-686

Athletic Fields Replacement Project - Williamsville Junior Football (Bond Resolution - $2,482,900)

AGENDA ITEM -AUGUST 9TH, 2021

TO: Town Board

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

DATE: August 4, 2021

RE: 2021-2026 C.I.P.
Athletic Fields Replacement Project
Williamsville Junior Football Game and Practice Fields
Bond Resolution - $2,482,900.00

Kindly take the following action with respect to the above bond request:

(1) Adopt the attached SEQR determination for the above project as determined by the Town of Amherst Planning Department; and

(2) Adopt the attached bond resolution authorizing the issuance of $2,482,900.00 in serial bonds for the above-referenced Town improvement.

The adoption of the bond resolution does ***not*** require a public hearing to be held because the improvement is a Town improvement not involving a special district.

Also attached is the Map Plan and Report which provides further detail on the scope of the project.

Thank you.

SJS:nmb
Attachment
c: Kathy Cooper, Deputy Town Clerk
(w/attachment, **Agenda Item - August 9th, 2021**)
Daryl C. Bramer, Comptroller *(w/attachment)*
Lynda Juul, Director of Finance *(w/attachment)*
Dan Howard, Director of Planning *(w/attachment)*
Ellen M. Kost, Assistant Director of Planning *(w/attachment)*
Jeffrey S. Burroughs, PE, Town Engineer (*w/attachment*)

8/09/2021
A motion to adopt the SEQR determination was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. A motion to approve the Bond resolution was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved via Roll Call vote 5-0.

RESULT:	**ROLL CALL VOTE (ADOPTED) [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Jacqualine Berger, Deputy Supervisor
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

3. Resolution 2021-687

Agreement Between Town of Amherst and Buffalo Christian Church (CRS #2796)

AGENDA ITEM : AUGUST 9TH, 2021

TO: **Town Board**

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

DATE: **August 4, 2021**

RE: **Agreement With Buffalo Christian Church (CRS #2796)**

Kindly adopt a resolution authorizing the Supervisor to execute the attached Easement Agreement between the Town of Amherst and Buffalo Christian Church for access and maintenance of easements as more fully detailed in the attached agreement.

Thank you.

SJS:nmb
Attachment
c: Kathy Cooper, Deputy Town Clerk
(*w/attachment,* **Agenda Item - August 9th, 2021**)

8/09/2021
Consent

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

4. Resolution 2021-688

Engagement Letter with Harris Beach PLLC (CRS #2811)

AGENDA ITEM - AUGUST 9TH, 2021

TO: **Town Board**

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

DATE: **August 4, 2021**

RE: **Engagement Letter - Harris Beach PLLC**
Land Use Relative to Oxford and Princeton Apartments and
MJ Peterson PILOTS (CRS #2811)
Term 1.1.21-12.31.22

Kindly adopt a resolution authorizing the Supervisor to execute the attached Engagement Letter and Agreement with Harris Beach PLLC for land use matters involving Oxford and Princeton Apartments and MJ Peterson PILOTS from July 1st, 2021 through and including December 31st, 2022 pending successful completion of the Contract Routing System.

Thank you.

SJS:nmb
Attachment
c: Kathy Cooper, Deputy Town Clerk
(*w/attachment*, **Agenda Item - August 9th, 2021**)

8/09/2021
A motion to adopt was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0. Scrivener's error to agreement will be rectified.

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

5. Resolution 2021-689

Assignment and Assumption Agreement - Antares Golf L.L.C. and Amherst Golf Management LLC (CRS #2809)

AGENDA ITEM : AUGUST 9TH, 2021

TO: **Town Board**

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

DATE: **August 4, 2021**

RE: **Assignment and Assumption Agreement - CRS #2809**
Antares Golf, L.L.C. and Amherst Golf Management, LLC

Kindly adopt a resolution authorizing the Supervisor to agree to the terms of the above agreement by executing the agreement where indicated.

Thank you.

SJS:nmb
Attachment
c: Kathy Cooper, Deputy Town Clerk
(*w/attachment,* **Agenda Item - August 9th, 2021**)

8/09/2021
Consent

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

6. Resolution 2021-690

Princeton Amherst Preservation HDFC - PILOT Agreement - CRS #2819

AGENDA ITEM - AUGUST 9, 2021

TO: **Town Board**

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

DATE: **August 4, 2021**

RE: **Princeton Amherst Preservation Housing Development Fund Company, Inc. and Princeton Amherst Preservation, LP - Request for a PILOT Agreement pursuant to Section 577 of Article 11 of Private Housing Fund - CRS #2819**

Kindly adopt the following resolution with respect to the above matter:

WHEREAS, Princeton Amherst Preservation Housing Development Fund Company, Inc., ("HDFC") a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York, 14228, and Princeton Amherst Preservation, L.P., ("Partnership") a New York Limited Partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York, 14228 have requested that the Town of Amherst Town Board enter into a PILOT Agreement for 304 affordable living apartments ("Project") located at 165 Princeton Road, Amherst, New York, 14226, bearing SBL #79.24-1-1 (the "Property"); and

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is, or will become, the beneficial and equitable owner of an affordable housing project consisting of approximately 304 affordable living apartments located in the Town of

Amherst, Erie County, New York, located at 165 Princeton Road; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article XI of the Private Housing Finance Law of the State of New York (the "PHFL"); and

WHEREAS, the HDFC is the general partner of the Partnership; and

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low-income; and

WHEREAS, the Project is intended to be **affordable to low** income households, and **affordability** of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town, the County and the School District for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town recognizes that the Partnership and the HDFC may enter into an educational contribution agreement or similar type of agreement with the School District whereby the Partnership and the HDFC provide financial support directly to the School District, and upon the execution of such an agreement the Town, per the direction of the School District, agrees to reduce the payments in lieu of property taxes to be otherwise provided to the School District under this Agreement as so provided for herein.

WHEREAS, HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of twenty (20) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office, a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Amherst Central School District.

THEREFORE, BE IT RESOLVED, the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions as set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT Agreement between Princeton Amherst Preservation Housing Development Fund Company, Inc. and Princeton Amherst Preservation, LP, the Town of Amherst, Erie County, and the Amherst

Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;

2. The PILOT Agreement is subject to review and approval by the Amherst Central School District; and

3. Pending successful completion of the contract routing system.

SJS:lcg
c: Kathy Cooper, Deputy Town Clerk
(w/attachment, **AGENDA ITEM : AUGUST 9, 2021)**
David Marrano, Town Assessor (w/attachment)

RESULT:	**WITHDRAWN**

7. Resolution 2021-691

Oxford Amherst Preservation HDFC - PILOT - CRS #2818

AGENDA ITEM - AUGUST 9, 2021

TO: **Town Board**

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

DATE: **August 4, 2021**

RE: **Oxford Amherst Preservation Housing Development Fund Company, Inc. and Oxford Amherst Preservation, L.P. Request for a PILOT Agreement pursuant to Section 577 of Article 11 of Private Housing Fund - CRS #2818**

Kindly adopt the following resolution with respect to the above matter:

WHEREAS, Oxford Amherst Preservation Housing Development Fund Company, Inc., ("HDFC") a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York, 14228, and Oxford Amherst Preservation, L.P. ("Partnership") a New York Limited Partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York, 14228 have requested that the Town of Amherst Town Board enter into a PILOT Agreement for 316 affordable living apartments ("Project") located on Allenhurst Road, Amherst, New York, 14226, bearing SBL #67.71-4-22 (the "Property"); and

WHEREAS, the HDFC is, or will become, the legal or record owner, and the Partnership is or will become the beneficial and equitable owner, of an affordable housing project consisting of approximately 316 affordable living apartments located in the Town of

Amherst, Erie County, New York, located on Allenhurst Road; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article XI of the Private Housing Finance Law of the State of New York (the "PHFL"); and

WHEREAS, the HDFC is the general partner of the Partnership; and

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low-income; and

WHEREAS, the Project is intended to be **affordable to low** income households, and **affordability** of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town, the County and the School District for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town recognizes that the Partnership and the HDFC may enter into an educational contribution agreement or similar type agreement with the School District whereby the Partnership and the HDFC provide financial support directly to the School District, and upon the execution of such an agreement the Town, per the direction of the School District, agrees to reduce the payments in lieu of property taxes to be otherwise provided to the School District under this Agreement as so provided for herein.

WHEREAS, HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of twenty (20) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office, a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Amherst Central School District.

THEREFORE, BE IT RESOLVED, the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions as set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT Agreement between Oxford Amherst Preservation Housing Development Fund Company, Inc. and Oxford Amherst Preservation, LP, the Town of Amherst, Erie County, and the Amherst

Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;

2. The PILOT Agreement is subject to review and approval by the Amherst Central School District; and

3. Pending successful completion of the contract routing system.

SJS:lcg
c: Kathy Cooper, Deputy Town Clerk
(w/attachment, **AGENDA ITEM : AUGUST 9, 2021)**
David Marrano, Town Assessor (w/attachment)

RESULT: WITHDRAWN

8. Resolution 2021-692

Brewster Amherst Preservation HDFC - PILOT - CRS #2820

AGENDA ITEM - AUGUST 9, 2021

TO: Town Board

FROM: Stanley J. Sliwa, Esq.
Town Attorney

DATE: August 4, 2021

RE: Brewster Amherst Preservation Housing Development Fund Company, Inc. and Brewster Amherst Preservation, L.P. - Request for a PILOT Agreement pursuant to Section 577 of Article 11 of Private Housing Fund - CRS #2820

Kindly adopt the following resolution with respect to the above matter:

WHEREAS, Brewster Amherst Preservation Housing Development Fund Company, Inc. ("HDFC") a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York, 14228, and Brewster Amherst Preservation, L.P., ("Partnership") a New York Limited Partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York, 14228 have requested that the Town of Amherst Town Board enter into a PILOT Agreement for 16 affordable living apartments ("Project") located at 910-937 Robin Road, Amherst, New York, 14221, bearing SBL #41.10-3-18 and 501-511 Robin and Little Robin Road, Amherst, New York, 14221, bearing SBL #41.03-1-69 (collectively, the "Property"); and

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is, or will become, the beneficial and equitable owner of an affordable housing

project consisting of approximately 16 affordable living apartments located in the Town of Amherst, Erie County, New York, located at the Property; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article XI of the Private Housing Finance Law of the State of New York (the "PHFL"); and

WHEREAS, the HDFC is the general partner of the Partnership; and

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low-income; and

WHEREAS, the Project is intended to be **affordable to low** income households, and **affordability** of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town, the County and the School District for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of twenty (20) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office, a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Williamsville Central School District.

THEREFORE, BE IT RESOLVED, the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions as set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT Agreement between Brewster Amherst Preservation Housing Development Fund Company, Inc. and Brewster Amherst Preservation, LP, the Town of Amherst, Erie County, and the Williamsville Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;

2. The PILOT Agreement is subject to review and approval by the Williamsville Central School District; and

3. Pending successful completion of the contract routing system.

SJS:lcg
c: Kathy Cooper, Deputy Town Clerk
(w/attachment, **AGENDA ITEM : AUGUST 9, 2021)**
David Marrano, Town Assessor (w/attachment)

RESULT: WITHDRAWN

9. Resolution 2021-693

Parkside Amherst Preservation HDFC - PILOT - CRS #2821

AGENDA ITEM - AUGUST 9, 2021

TO: Town Board

FROM: Stanley J. Sliwa, Esq.
Town Attorney

DATE: August 4, 2021

RE: Parkside Amherst Preservation Housing Development Fund Company, Inc. and Parkside Amherst Preservation, L.P. - Request for a PILOT Agreement pursuant to Section 577 of Article 11 of Private Housing Fund - CRS #2821

Kindly adopt the following resolution with respect to the above matter:

WHEREAS, Parkside Amherst Preservation Housing Development Fund Company, Inc. ("HDFC") a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York, 14228, and Parkside Amherst Preservation, L.P. ("Partnership") a New York Limited Partnership with an address of 200 John James Boulevard Parkway, Suite 300, Amherst, New York, 14228 have requested that the Town of Amherst Town Board enter into a PILOT Agreement for 180 affordable living apartments ("Project") located at 302-332 Evans Road, Amherst, New York, 14221, bearing SBL #41.03-1-68 (the "Property"); 825-862 Robin Road, Amherst, New York, 14221, bearing SBL #41.11-3-1; 101-128 Robin Road, Amherst, New York, 14221, bearing SBL #41.03-1-60; 301-326 Robin Road, Amherst, NY, 14221, bearing SBL #41.03-1-60; and 801-824 Robin Road, Amherst, New York, 14221, bearing SBL #41-11-3-5 (collectively, the "Property"); and

WHEREAS, the HDFC is, or will become, the legal or record owner, and the Partnership is, or will become, the beneficial and equitable owner of an affordable housing project consisting of approximately 180 affordable living apartments located in the Town of Amherst, Erie County, New York, located at the Property; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article XI of the Private Housing Finance Law of the State of New York (the "PHFL"); and

WHEREAS, the HDFC is the general partner of the Partnership; and

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low-income; and

WHEREAS, the Project is intended to be **affordable to low** income households, and **affordability** of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town, the County and the School District for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of twenty (20) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office, a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Williamsville Central School District.

THEREFORE, BE IT RESOLVED, the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions as set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT Agreement between Parkside Amherst Preservation Housing Development Fund Company, Inc. and Parkside Amherst Preservation, LP, the Town of Amherst, Erie County, and the Amherst Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;

2. The PILOT Agreement is subject to review and approval by the Williamsville Central School District; and

3. Pending successful completion of the contract routing system.

SJS:lcg
c: Kathy Cooper, Deputy Town Clerk
(w/attachment, **AGENDA ITEM : AUGUST 9, 2021)**
David Marrano, Town Assessor (w/attachment)

RESULT: WITHDRAWN

10. Resolution 2021-694

Settlement of Tax Certiorari Matter - ARCP OFC Amherst, NY, LLC

AGENDA ITEM : AUGUST 9TH, 2021

TO: Town Board

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

DATE: August 4, 2021

RE: Settlement of Tax Certiorari Matter
ARCP OFC Amherst NY, LLC c/o Ingram Micro (1759 Wehrle Drive)

Kindly adopt the following resolution with respect to the above matter:

WHEREAS, ARCP OFC Amherst NY, LLC (ARCP) has duly and timely commenced a proceeding pursuant to Article 7 of the Real Property Tax Law (RPTL) against the Assessor for the Town of Amherst and the Town of Amherst to review and challenge the assessment of real property owned by ARCP for the 2020-2021 and 2021-2022 tax years for premises located 1759 Wehrle Drive, bearing SBL #81.01-1-16; and

WHEREAS, the parties, through their counsel and with the input of the Assessor for the Town of Amherst have had extensive discussions regarding the settlement of the proceedings; and

WHEREAS, the Assessor for the Town of Amherst and the Town Attorney have reviewed, agreed and approved the contents of the Stipulated Consent Judgment attached hereto; and

BE IT RESOLVED, that the Town Board determines that the proposed settlement is reasonable and appropriate and that the terms of the same are reasonable; and

BE IT FURTHER RESOLVED that the resolution and settlement of this matter along the lines stated in the attached Stipulated Consent Judgment in the best interest of the Town of Amherst; and

BE IT FURTHER RESOLVED that the Town Attorney and the Assessor for the Town of Amherst are hereby and authorized and directed to execute the attached Stipulated Consent Judgment and are further authorized and directed to take all other necessary and appropriate steps needed to implement the settlement.

SJS:LG
Attachment
c: Kathy Cooper, Deputy Town Clerk
(w/attachment, **AGENDA ITEM : August 9th, 2021)**
David Marrano, Town Assessor (w/attachment)

8/09/2021
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 2021-695

Authorization for Pre-Payment to DXO Communications of Buffalo, Inc.

We are requesting approval for and directive to the Comptroller for pre-payment to DXO Communications of Buffalo, Inc. for the mailing of the 2021 School Tax Bills ($12,447.00) and for the 2021 School Tax Receipts ($9,681.00).

8/09/2021
Consent

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

2. Resolution 2021-696

Amusement License - Canterbury Woods

Request by Hammerl Amusements for a Sixth Class Amusement License for August 27 & 28 from 5 PM - 9 PM. Supervising Code Enforcement Officer recommends a fee of $100.

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 the vehicle.
2. That all fire lanes be kept clear at all times.
3. Temporary generator power must obtain a permit and be code compliant.
4. Bathroom facility must be made available and accessible.
5. On site accessible parking must be maintained.
6. Fire Department access must be maintained at all times in the event of an emergency.
7. Events with 1,000 guests or more will require "Crowd Managers" that are in compliance with Chapter 4 of the 2020 FCNYS
8. The applicant must abide by Chapter 138 of the Town of Amherst Code regarding noise.
9. Fire Extinguishers must be accessible throughout.
10. Tents exceeding 400 square feet require a Fire Prevention permit.

8/09/2021
Consent

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

3. Resolution 2021-697

New Firefighter for Getzville Fire Company

The new firefighter for the Getzville Fire Company lives in the Town of Amherst and resides within the Getzville Fire District.

Tyler Nelson
301 Robin Road
Amherst, NY 14228

8/09/2021
Consent

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

4. Resolution 2021-698

New Firefighter for East Amherst Fire Department

The new firefighter for the East Amherst Fire Department lives in the Town of Amherst and resides within the East Amherst Fire District.

Michael Lombardo
825 Casey Road
E. Amherst, NY 14051

8/09/2021
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 2021-699

Budget Transfers and Amendments

For August 9, 2021 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 8/4/2021
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:***
KP2028.4979 WPCF Lab Equip. - Contingency $2,500	KP2028.4972 Construction Expense $2,500
Per Department request.	

A7141.4240 Clearfield - Trucks, Tractors, Equip. $138.40 A7143.4240 No. Amherst $138.40
A7253.4120 Ice Rink - Training $450.00 A7145.4130 Recreation - Training $450.00
Per Department request.

BUDGET AMENDMENTS - 2021

INCREASE: ***INCREASE:***

N1854.03089 State Grant- Aid $17,731.00 N1854.4000 State Grant Contractual $15,396.00
N1854.1000 State Grant Personal Svc $2,169.07
N1854.8030 State Grant FICA $165.93
To recognize Community Development income from NYS AHC Grant Check #1Q62.

N2044.02785 Cheektowaga Home - PI $4,500.00 N2044.4000 Contractual $4,500.00
N2049.02785 Cheektowaga Home Admin $500.00 N2049.4003 Admin $500.00
To recognize Community Development program income from 92 Yeager Drive, Cheektowaga.

A3510.05001 Animal Control - Refund of C/Y Exp. $635 A3510.4110 Contractual $635
To recognize overpayment of kennel fees and return funds to budget.

A3120.05001 Police- Refund of C/Y Exp. $50.00 A3120.4017 Range Supplies $50.00
To recognize range fees and increase expenditure for maintenance of Range.

A3120.02617 Police - Auction Revenue $8,590 A3120.4430 Rnge, Photo, Sewer, Misc. $8,590
To recognize proceeds from auction and increase miscellaneous expense.

A3120.02680 Police - Insurance Reimb. $28,872.96 A3120.4230 Passenger Vehicles $28,872.96
To recognize insurance proceeds and increase expenditures for repair of damaged vehicles.

N2023.02785 CDBG & VG - PI $800.00 N2023.4000 Contractual $800.00
N2025.02785 CDBG Admin - PI $200.00 N2025.1000 Personal Services $185.79
N2025.8030 FICA $14.21
To recognize Community Development program income from 6 Campus Drive, Amherst.

8/09/2021
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 2021-700

Award Bid #2021021 - Rolls Royce Turbine Power Generator Inspection/Service/Repair - CRS #2795

WHEREAS, the Contract Compliance and Administration Department received bids on June 24, 2021 for Bid #2021021 Rolls Royce Turbine Power Generator Inspection/Service/Repair; and

WHEREAS, the bid process resulted in responses from one (1) vendor, as per the attached

bid tabulation form;

NOW, THEREFORE BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this bid to OnPower, Inc.; and

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

8/09/2021
Consent

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

2. Resolution 2021-701

Amendment to Kitchen Exhaust Cleaning Contract CRS #2803 (Orig CRS/CMS #1331/1620)

WHEREAS, the Contract Compliance and Administration Department is requesting approval of an Amendment to the Kitchen Exhaust Systems Cleaning contract to add service at the Audubon Golf Course Club House, as per the attached Scope of Work;

NOW, THEREFORE, BE IT RESOLVED, The Town Board approves the Amendment to the Kitchen Exhaust Systems Cleaning Contract with Indoor Air Professionals; and

BE IT FURTHER RESOLVED, the Supervisor is authorized to sign the Amendment with Indoor Air Professionals.

8/09/2021
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 2021-702

2021-2026 CIP Amendment Revision Youth and Recreation Department Athletic Fields Replacement Project

At the July 26, 2021 Town Board meeting under resolution 2021-657, the Engineering Department recommended the following CIP amendment relative to the above referenced project. The request was approved by the Town Board; however, there was an error in the request as the project was approved as YR-10A, a project identifier that was previously added to the 2021-2026 CIP for the procurement of golf course maintenance equipment. In that, please approve this revised 2021-20126 CIP amendment request as project **YR-11A**.

CIP No.	Project Description	2021 Funding Allocation	2021 Revised Funding Allocation
~~YR-10A~~ **YR-11A**	Athletic Fields Replacement Project	$ 0	$ 3,800,000 LA $ 2,400,000 X
	Total	**$ 0**	**$6,200,000**

Thank you.

8/09/2021
Consent

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

2. Resolution 2021-703

Amherst Police Training Center Shooting Range - Change Order #2 & Final Goodwin Electric Corp. CRS No 2801

We are requesting that the Town Board consider approval of the above referenced Change Order, which increases to the overall contract amount by $845.00. This change

order is required for additional switching and wiring to enhance the functionality of the shooting range by adding a full-dark mode within the range space for training purposes.

Funding is available for this change order from the project bond account KP2009.4972.

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

Thank you for considering this request.

8/09/2021
Consent

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

3. Resolution 2021-704

WPCF Sludge Storage Building - Electrical Contract No-Cost Time Extension CRS 2807

The Engineering Department requests the Town Board approve the above referenced Change Order, which calls for a no-cost time extension until September 30, 2021 for Industrial Power and Lighting Corp. for the above-referenced project. There are no ancillary costs associated with this request. This request has successfully completed the contract review process.

May we have your approval to award Industrial Power and Lighting Corp. the above referenced Change Order? Thank you for considering this request.

8/09/2021
Consent

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

4. Resolution 2021-705

WPCF Sludge Storage Building - Mechanical Contract No-Cost Time Extension John W. Danforth Company CRS 2806

The Engineering Department requests the Town Board approve the above referenced Change Order, which calls for a no-cost time extension until September 30, 2021 for John W. Danforth Company for the above-referenced project. There are no ancillary costs associated with this request. This request has successfully completed the contract review process.

May we have your approval to award John W. Danforth Company the above referenced Change Order? Thank you for considering this request.

8/09/2021
Consent

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

5. Resolution 2021-706

WPCF Sludge Storage Building - General Contract Change Order No. 3 Building Innovation Group, Inc. CRS 2808

We are requesting the Town Board approve the above referenced Change Order No. 3, which calls for a $17,941.00 increase in the contract price, and a time extension in order to complete this work. The projects substantial completion date of August 14, 2021 will be extended to September 30, 2021. This Change Order will cover the costs associated with replacing the damaged concrete blocks in the electrical vault with new reinforced concrete blocks, cleaning out the vault of any debris and inspection of the electrical feeder cables that were struck by damaged concrete blocks. The project's revised contract price will be $1,167,692.00. This request has successfully completed the contract review process.

Funding for this request is available from account KP1721-4972.

May we have your approval to award Building Innovation Group Inc. the above referenced Change Order? Thank you for considering this request.

8/09/2021
Consent

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

6. Resolution 2021-707

Geotechnical Engineering Services for the North Amherst Rec Center CRS No. 2726

The Engineering Department is requesting the Town Board authorize the Town Supervisor to sign the attached agreement between the Town of Amherst and Terracon Consultants-NY, Inc., to provide Geotechnical Engineering services for the North Amherst Recreation Center.

The amount of the agreement is $10,750.00 and funding is available from account T2107 - 4001. We are also requesting this agreement be retroactive with services commencing on July 7, 2021. This request has been approved in the contract routing system.

Thank you for your consideration of this request.

8/09/2021
Consent

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

L. FINANCE:

1. Resolution 2021-708

Authorize Vendors for Amherst Market at Bassett Park - CRS #2794 & 2813

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 #2794 The Soul in Bloom
CRS #2813 Mini Italia's Bistro & Sweets

8/09/2021
Consent

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

M. HIGHWAY

1. Resolution 2021-709

Authorize Supervisor to Sign Contract to Piggyback- NAPA Auto Parts-GPC CRS #2793

NOW THEREFORE BE IT RESOLVED, that the Town of Amherst is approved to piggyback on the NJPA/Sourcewell contract with NAPA Auto Parts - GPC for automotive and truck replacement parts and tires with related equipment, auto-body and paint products, tools and equipment, specialty parts, accessories and service items.

Contract term is 5/19/2021 through 5/19/2025 for #032521-GPC.

NOW THEREFORE BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to sign this contract subject to the Contract Routing System CRS #2793 and the approval of the Town Attorney.

8/09/2021
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 2021-710

Detective Sergeant/Police Department

Please appoint a Detective Sergeant to the Police Department. Temporary, effective August 10, 2021, at an annual salary of $95,745 for Peter Crofut.

This appointment fills a vacancy and is a promotion for an employee currently serving as Detective.

8/09/2021
Consent

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

2. Resolution 2021-711

School Crossing Guard - PT/Police

School Crossing Guard - PT/Police Department, Effective August 10, 2021, Temporary, $13.38 ph, Step 3 for Joyce LaGreca.

Replacing an employee who recently passed away.

8/09/2021
Consent

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

3. Resolution 2021-712

School Crossing Guard - PT/Police Department

School Crossing Guard - PT/Police Department, Effective August 10, 2021, Temporary, $12.50 ph, Step 1 for Kelly Rummings.

Replacing an employee who resigned.

8/09/2021
Consent

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

4. Resolution 2021-713

Laborer/Youth & Recreation

Please appoint a Laborer to the Youth & Recreation Department. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective August 10, 2021, at an hourly wage of $16.68 ph, Step A for Connor Geraci.

Contingent upon completing all pre-employment requirements.

8/09/2021
Consent

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

5. Resolution 2021-714

Construction Project Manager

Please appoint an exempt Construction Project Manager to the Building Department. Provisional, pending satisfactory completion of a Civil Service Examination. Effective August 10, 2021, at an annual salary of $91,954.77, Grade 2, Step I of the Exempt Non-Department Head salary schedule for Daniel Reilly.

8/09/2021
Consent

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

O. INFORMATION TECHNOLOGY:

P. PLANNING:

1. Resolution 2021-715

To Authorize the Supervisor to Sign the HUD 2021 Community Development Block Grant Contract (CDBG) CRS #2814

WHEREAS, the Town has approved and submitted an Action Plan delineating the use of Community Development Block Grant funds (CDBG) for Fiscal Year 2021 (April 1, 2021 to March 31, 2022) to address housing and community development needs identified in the 5-Year Consolidated Plan; and

WHEREAS, the US Department of Housing and Urban Development (HUD) has approved the Town's 2021 Annual Action Plan and budget, now, therefore, be it

RESOLVED that the Amherst Town Board hereby authorizes the Supervisor, as official representative of the Town in submitting the Action Plan and amendments thereto, all understandings and assurances contained therein, to execute the CDBG contract with the Department of Housing and Urban Development subject to satisfactory completion of the contract routing system.

8/09/2021
Consent

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

2. Resolution 2021-716

To Authorize the Supervisor to Sign the HUD 2021 HOME Investment Partnerships Program Contract (HOME) CRS #2815

WHEREAS, the Town has approved and submitted an Action Plan delineating the use of Home Investment Partnerships Program funds (HOME) for Fiscal Year 2021 (April 1, 2021 to March 31, 2022) to address housing and community development needs identified in the 5-Year Consolidated Plan; and

WHEREAS, the US Department of Housing and Urban Development (HUD) has approved the Town's 2021 Action Plan and budget, now, therefore, be it

RESOLVED, that the Amherst Town Board hereby authorizes the Supervisor, as official representative of the Town in submitting the Action Plan and amendments thereto, and all understandings and assurances contained therein, to execute the HOME contract with the Department of Housing and Urban Development subject to satisfactory completion of the contract routing system.

8/09/2021
Consent

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

3. Resolution 2021-717

Authorization for the Supervisor to Sign and Submit the Application for Federal Assistance to Continue the Family Self Sufficiency Program (FSS)

WHEREAS, the Town of Amherst is the lead entity to the Erie County Public Housing Authority (PHA) Consortium; and

WHEREAS, the Erie County PHA Consortium provides a Family Self Sufficiency (FSS) Program as part of the Housing Choice Voucher Program funded by the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, the Town contracts with Belmont Housing Resources for WNY to administer the day-to-day management of the PHA programming, including any grant writing required; and

WHEREAS, HUD requires an administrative directive requiring the Town, as the PHA lead, to directly submit the grant application and application for federal assistance for the FSS Program in Grants.gov; and

WHEREAS, Belmont has prepared the 2022 FSS grant application in the amount of $268,375 in Grants.gov for the Town to submit before August 27, 2021; now therefore

BE IT RESOLVED, that the Town Board of the Town of Amherst formally authorizes the Supervisor to sign and submit the Application for Federal Assistance for the 2022 Family Self Sufficiency Program for the Erie County Public Housing Authority Consortium in the Grants.gov system.

8/09/2021
Consent

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

Q. POLICE:

R. SENIOR SERVICES:

1. Resolution 2021-718

Baked Good Products - Midstate Bakery Distributors, Inc. (CRS ID #2749)

WHEREAS, Erie 1 BOCES recently awarded its bid for Bread Products to Midstate Bakery Distributors, Inc.; and

WHEREAS, the Erie 1 BOCES bid requires the winning responder to allow all political subdivisions, municipalities, county, school districts, other BOCES, and not-for-profit organizations all authorized under the General Municipal Laws of the State of New York, to purchase any goods and/or services awarded as a result of that bid; and

WHEREAS, the Department of Senior Services wishes to piggyback off of the Erie 1 BOCES bid and enter with Midstate Bakery Distributors, Inc. for bread products; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign a contract with Midstate Bakery Distributors, Inc. subject to successful completion of the contract routing process.

8/09/2021
Consent

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

S. YOUTH AND RECREATION:

1. Resolution 2021-719

Summer Concert (OCC) CRS #2792

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and O'Connell & Company for a concert in Bassett Park on August 18, 2021.

8/09/2021
Consent

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

2. Resolution 2021-720

Standard Maintenance Agreement CRS #2798

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and EBC HR & Payroll Solutions, Inc. for timekeeping software.

8/09/2021
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: 8/23/2021 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: 8/23/2021 3:00 PM**

XIV. COMMUNICATIONS

1. Communication 2021-85

Opposition to Rezoning of Harding Road

Letter of opposition from John and Rosanne McGovern.

8/09/2021
Referred to Planning, Town Attorney, and the public hearing record.

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

2. Communication 2021-86

Request to Overnight at Amherst Veterans Canal Park

WNY resident to bike, hike, and kayak the Erie Canal would like permission to overnight at Amherst Veterans Canal Park.

8/09/2021
Consent to grant request and refer to Police.

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

3. Communication 2021-87

Notices of Petition to Review Tax Assessments

The following Notices of Petition to Review Tax Assessments were received at the Town Clerk's office:

Kamal Enterprises Inc.
Premier Place Improvements, LLC
G&I IX Empire Williamsville Place, LLC
Strathmore, LLC and Ben Kendig
J.C. Penney Corporation, Inc., J.C. Penney Properties, Inc. and Penney Property Sub Holdings LLC
PNY II, LLC
Target #1011
Amherst Care Group LLC
Walgreen Eastern Co., Inc./570 Associates VIII, LLC/ Benderson Randall
Walgreen Eastern Co., Inc./Sec Main Union Assoc. LLC
North Buffalo Lodging Ventures LLC
Niagara Villas, Inc.
Getzville Plaza 2006 LLC
Public Storage Prop VI
Public Storage Inc.
SCF RC Funding III LLC
MBR Management of Amherst, LLC
One John James Holdings LLC, 2099 Niagara Falls Blvd LLC & 7616 Transit Holdings LLC
Sadeq Ahmed
4400 Maple LLC
Propitious Enterprises, LLC
Flint Road, LLC
McDonald's USA LLC
The Board of Managers, Chateau at Avalon Meadows Condominium

Board of Managers, Patios at Windstone Condominium
Sheridan Center LLC
Samuel & Joanne Shatkin Jr, Carol Todaro, Cynthia P. Louvullo & Mary E. Jacobi
Lisa Friedman & Scott Friedman, Todd Levine & Raul Vazquez
Key Bank National Association a/k/a 4020 Sheridan Drive
Heathwood Properties, LLC and/or Heathwood Assisted Living at Williamsville, Inc.
Joseph F. Fasanello
Spindrift Property Associates II, LLC & Spindrift Property Associates III, LLC
U/B Commons a/k/a U/B Commons, Inc.
David J Luzon
Jonathan Bevilacqua
Mohammad Qasaymeh
Summerset Apts. LLC
Prisha Realty LLC
Architectural Elements LLC
Sheridan Hotel LLC
3D Sheridan LLC
HRB Hotels, Inc.
Windsor Park Retail Center a/k/a WP Properties LLC a/k/a WRSB Development Co. LLC a/k/a WRSB Dev Co LLC
3140 Sheridan Drive LLC, Alberta Properties, LLC & Sheridan/Carmen LLC
281 Meyer Rd LLC
Uniland Partnership of Delaware LP
Uniland Federal Center Inc.
Uniland Partnership of Delaware LP & Univest II Corporation
Uniland Partnership of Delaware LP
Interwest Holdings I LLC, successor in interest to The Uniland Partnership of Delaware LP
4459 Bailey Avenue, LLC
111 Saint Gregory Court, LLC
425 Centerpointe Corporate Park LLC & The Ciminelli Network LP
ARCP OFC Amherst NY, LLC c/o Ingram Micro
Tim Donut US Limited Inc. for Amusements of WNY Inc.
Tim Donut US Limited Inc.
Tim Donut US Limited Inc. for Springbank Develops Inc.
EGATE-93, LLC
B.K.V. Realty Co., LLC
93 NYRPT, LLC
1551 NFB, LLC for BG Lockport LLC
Golden Triangle Assoc LLC
Tim Donut US Limited Inc. for Amusements of WNY Inc.
Twenty Flint Road LLC
Amelia J. Habib
Noor M. Shah
HAH Holdings LLC
335GB LLC

Petitions are available for review in the Town Clerk's office.

8/09/2021
Referred to the Town Attorney and the Assessor.

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

4. Communication 2021-88

Notice of Claim: Project Resources Group on Behalf of Charter Spectrum Vs. Town of Amherst

8/09/2021
Referred to the 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

Deputy Supervisor Berger moved to open Suspension of Rules to bring forth 2 unlisted items. The motion was seconded by Councilmember Lavin and unanimously approved 5-0. Suspension of Rules was opened at 8:49 PM.

There being no further business requiring Suspension of Rules, Supervisor Kulpa moved to close, seconded by Councilmember Bucki and unanimously approved 5-0. Suspension of Rules was closed at 8:52 PM.

1. Resolution 2021-721

To Authorize the Planning Department to Expend Funds from the Trust Account for the Veterans Memorial

Suspension to Town Board Agenda Item August 9, 2021

TO: Amherst Town Board

FROM: **Daniel C. Howard, AICP, Planning Director**

DATE: **August 9, 2021**

RE: **Veterans Memorial Trust Account**

Purpose: To authorize the Planning Department to expend funds from the Trust Account for the Veterans Memorial consistent with Town Board resolution RES-2011-871 for the purpose of engraving the names of Veterans on the Veterans Memorial and performing stone maintenance services.

WHEREAS, the Town of Amherst Town Board established the Town of Amherst Veterans Memorial in 2011; and

WHEREAS, the names of Veterans are engraved on the Memorial at the request of the veterans or their families and a fee of $200 is charged per name that includes $139 for engraving with the remaining amount deposited into a Trust Account for repairs and maintenance; and

WHEREAS, the Town of Amherst has Leon Komm and Sons under contract to complete stone and masonry service repairs and maintenance at $140 per hour in 2021, and

WHEREAS, the Veterans Memorial needs repairs to the existing stone joints at the seating areas and the Memorial wall itself; and

WHEREAS, Leon Komm and Sons can make these repairs to the joints within approximately 1 day of work.

NOW, THEREFORE BE IT RESOLVED that the Amherst Town Board hereby authorizes the Planning Department to not exceed $2,000.00 from the Veterans Memorial Trust Account T-4017-4002 for the purpose of stone maintenance services related to repairs to stone joints on the Amherst Veterans Memorial.

8/09/2021
A motion to approve was made by Deputy Supervisor Berger, seconded by Councilmember Lavin and unanimously approved 5-0.

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

2. Resolution 2021-722

Waiver of Actual And/Or Potential Conflict of Interest Harris Beach PLLC

Suspension to Town Board Agenda Item August 9, 2021

TO: **Amherst Town Board**

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

DATE: **August 9, 2021**

RE: **Waiver of Actual and/or Potential Conflict of Interest**
Harris Beach PLLC

Kindly adopt a resolution authorizing the Supervisor to execute the attached waiver acknowledging that although Harris Beach PLLC has a conflict with the Town of Amherst and M.J. Peterson, Harris Beach PLLC is authorized to provide representation of the Town of Amherst on the matters outlined in the attached letter and furthermore, the Town of Amherst waives any actual or potential conflicts of interested arising from said representation.

8/09/2021
A motion to approve was made by Deputy Supervisor Berger, seconded by Councilmember Lavin and unanimously approved 5-0.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Jacqualine Berger, Deputy Supervisor
SECONDER:	Shawn Lavin, 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 8:52 PM.

There were no speakers from the public, therefore Supervisor Kulpa moved to close Public Expression, seconded by Councilmember Bucki and unanimously approved 5-0. Public Expression was closed at 8:52 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 August 9, 2021 was adjourned at 8:53 PM.

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 23440 **RESOLUTION 2021-569** **DECISION DATE**

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.

8/09/2021

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 7:06 PM.

Jeffery Palumbo, Esq. addressed the Town Board. David Capretto answered questions.

There were no 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 7:12 PM.

A motion to set a Decision Date for Sept. 13th was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

RESULT:	**DECISION DATE [UNANIMOUS]**	**Next: 9/13/2021 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 Mlosek

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

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

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)

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

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.

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

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.

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

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.

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

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.

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

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.

Signature of Petitioner
Jeffery D. Palumbo

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.

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

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:\Cur\Plan\Applications2007\Rezoning & Comp Plan Amend App
10/08

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

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

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

Town Zoning Code and Comprehensive Plan Rezoning Analysis

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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

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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

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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

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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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e. 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

PRINT FORM

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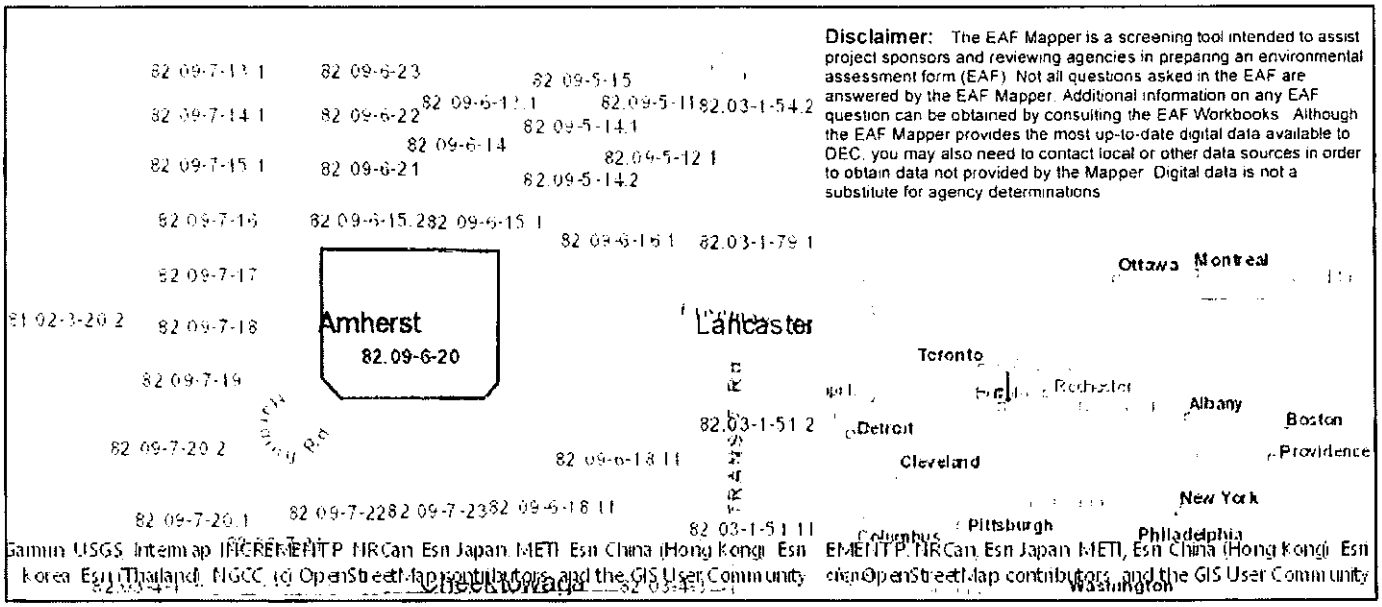
EAF Mapper Summary Report

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

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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

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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

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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:

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Return To Results

Refine This Search

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Town Supplemental Environmental Assessment Form

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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.)

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Existing Boundary Survey

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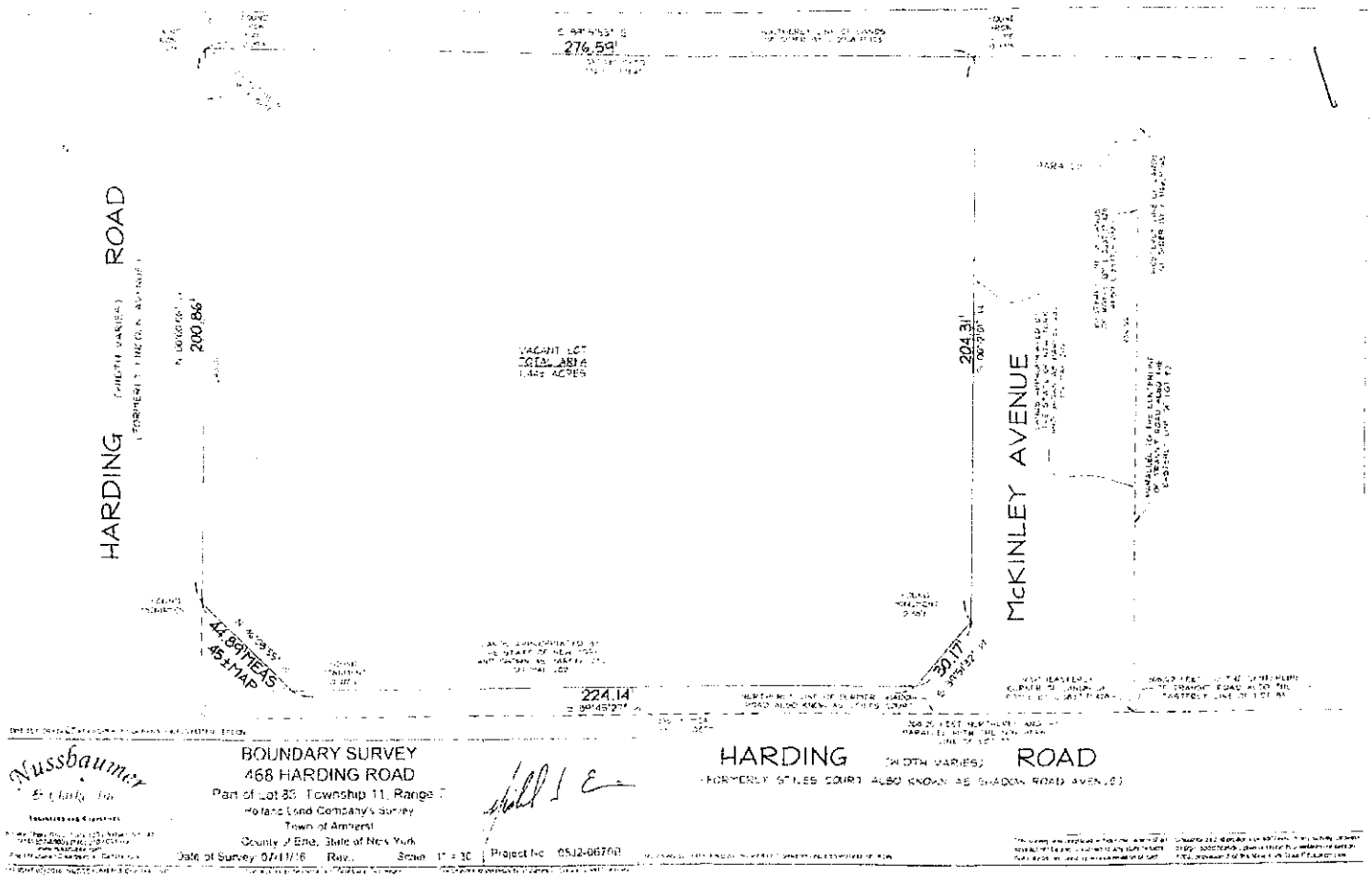

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Legal Description of Property to be Rezoned

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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.

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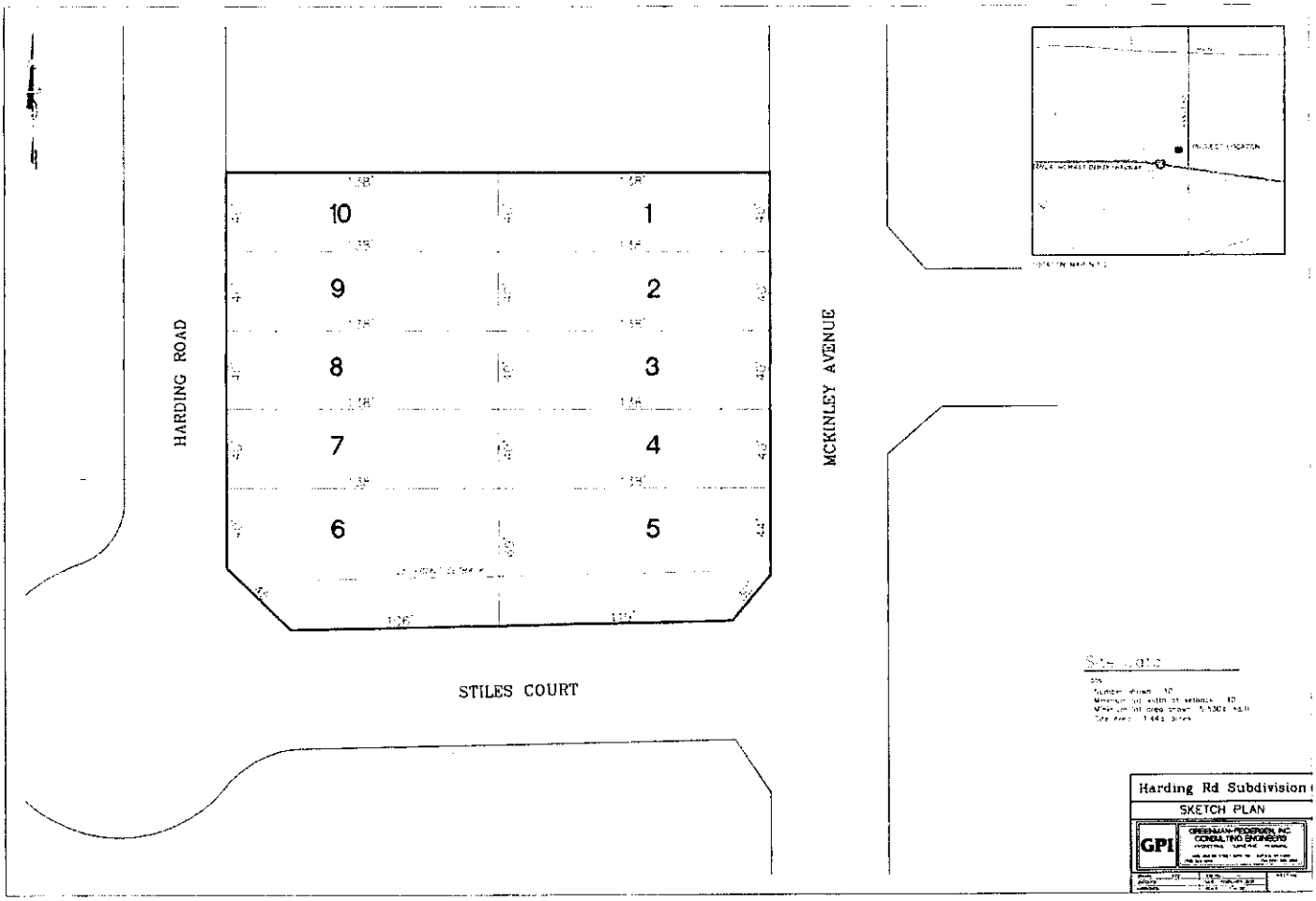
Preliminary Concept Plan

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)

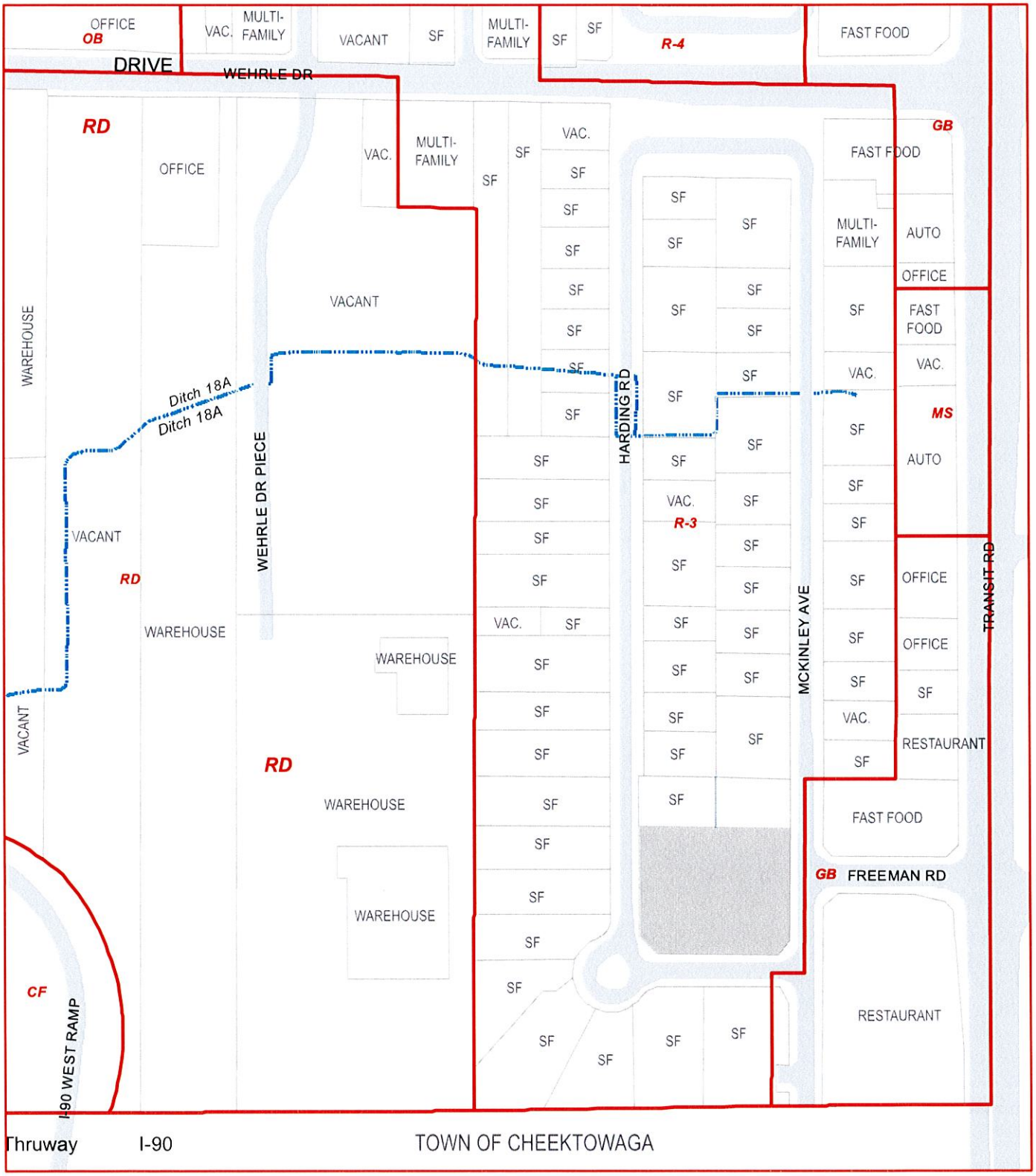
AUTHORIZATION

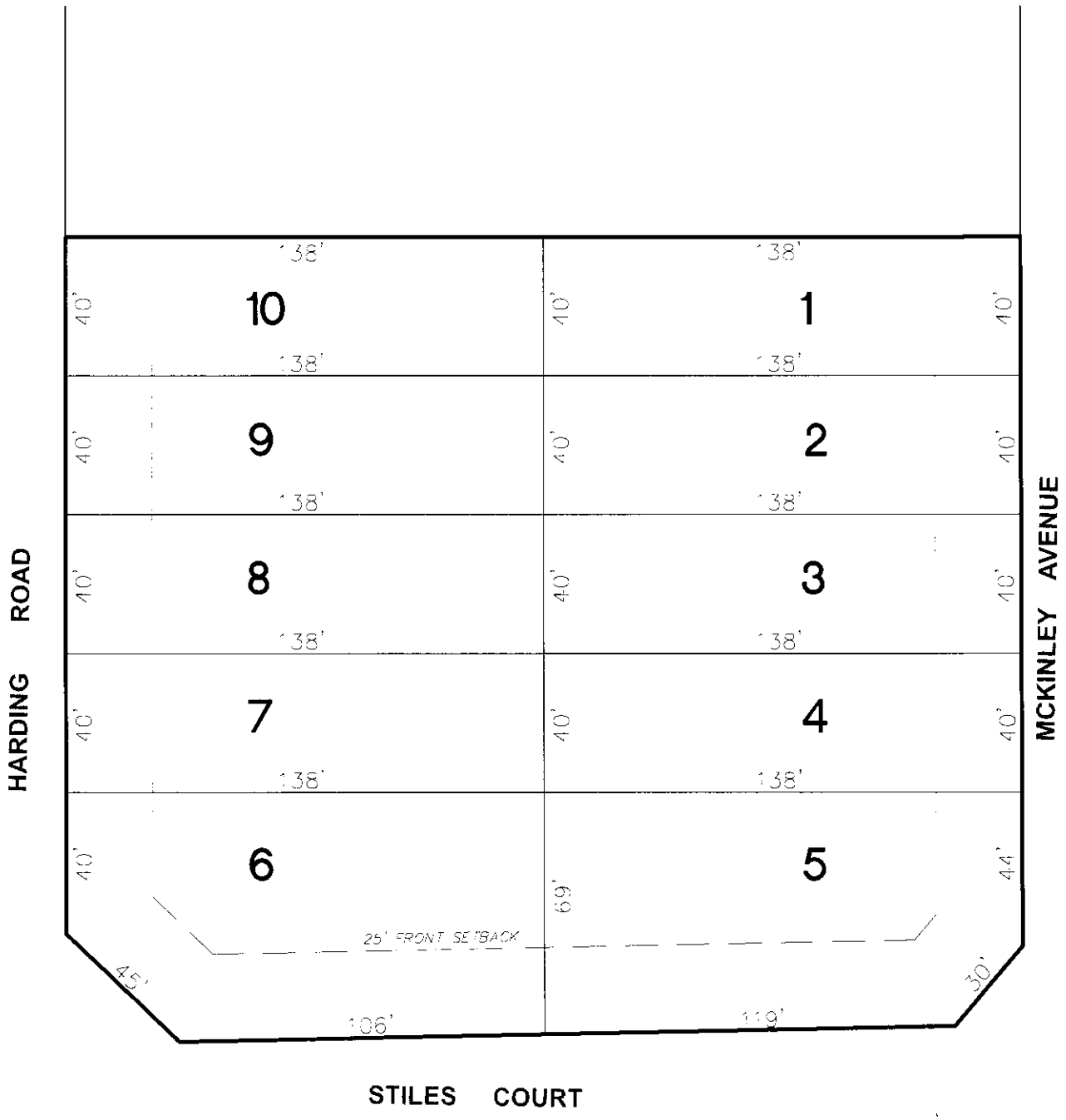
Lori M. Grabenstatter, record property owner of 468 Harding Road, 82.09-6-20, in the Town of Amherst hereby authorize Forbes Capretto Homes by the law firm of Barclay Damon LLP, to file an application, along with any necessary supporting documentation, with the Town of Amherst in connection with approvals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


OFFICE
OB
DRIVE
VAC.
MULTI-FAMILY
VACANT
SF
MULTI-FAMILY
SF
SF
R-4
FAST FOOD
WEHRLE DR
RD
OFFICE
VAC.
MULTI-FAMILY
SF
VAC.
SF
SF
SF



CONCEPT PLAN

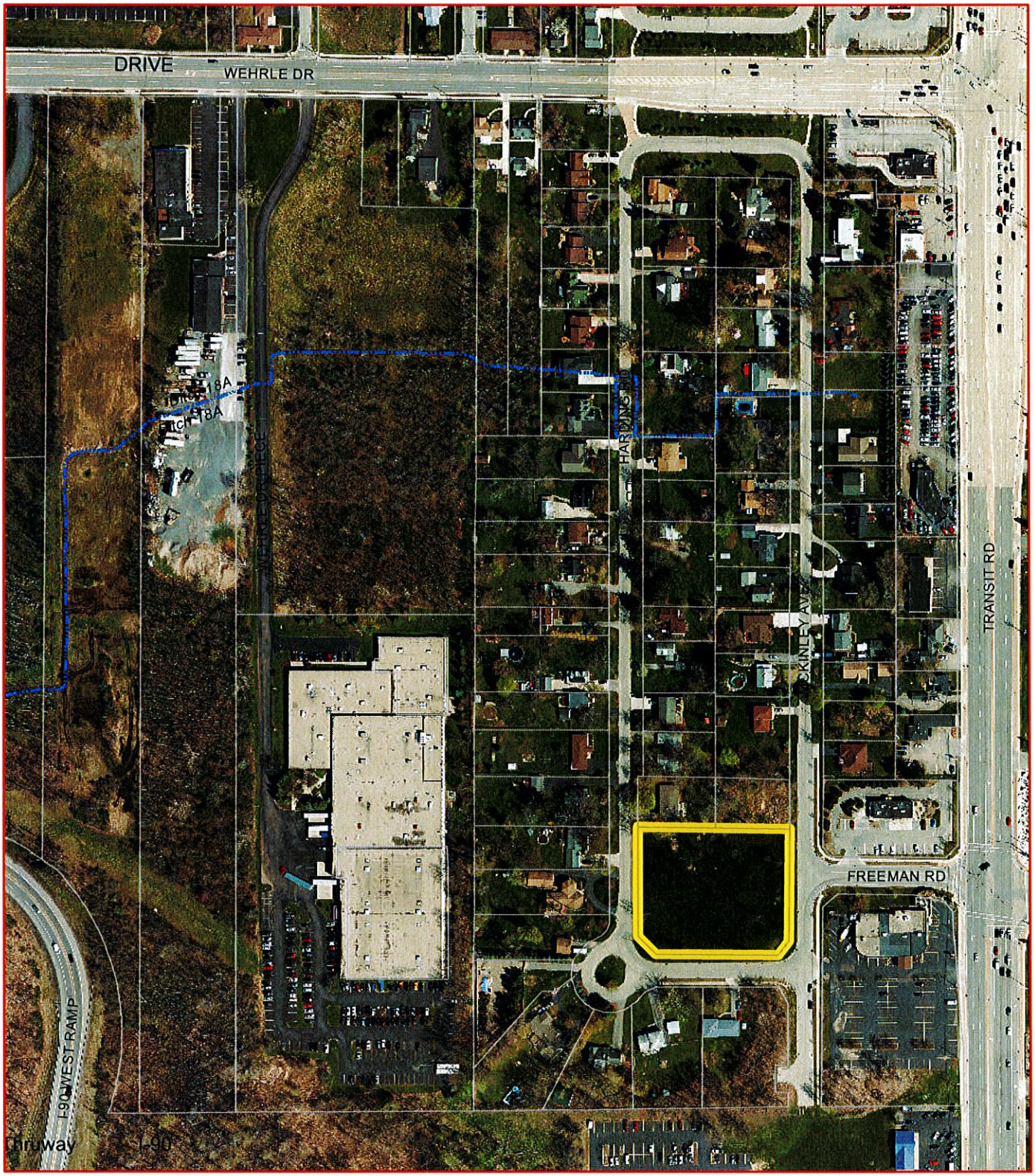
Z-2020-13
468 Harding Road
Received: 3/2/21

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: _____ **Date:** 5/6/21

Schregel, ATSB

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
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.**

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

RECEIVED
MAY - 3 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

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

MEMORANDUM April 20, 2021

RECEIVE
APR 29 2021
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
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**.

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: Nothing 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:** 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

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)
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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**.

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).

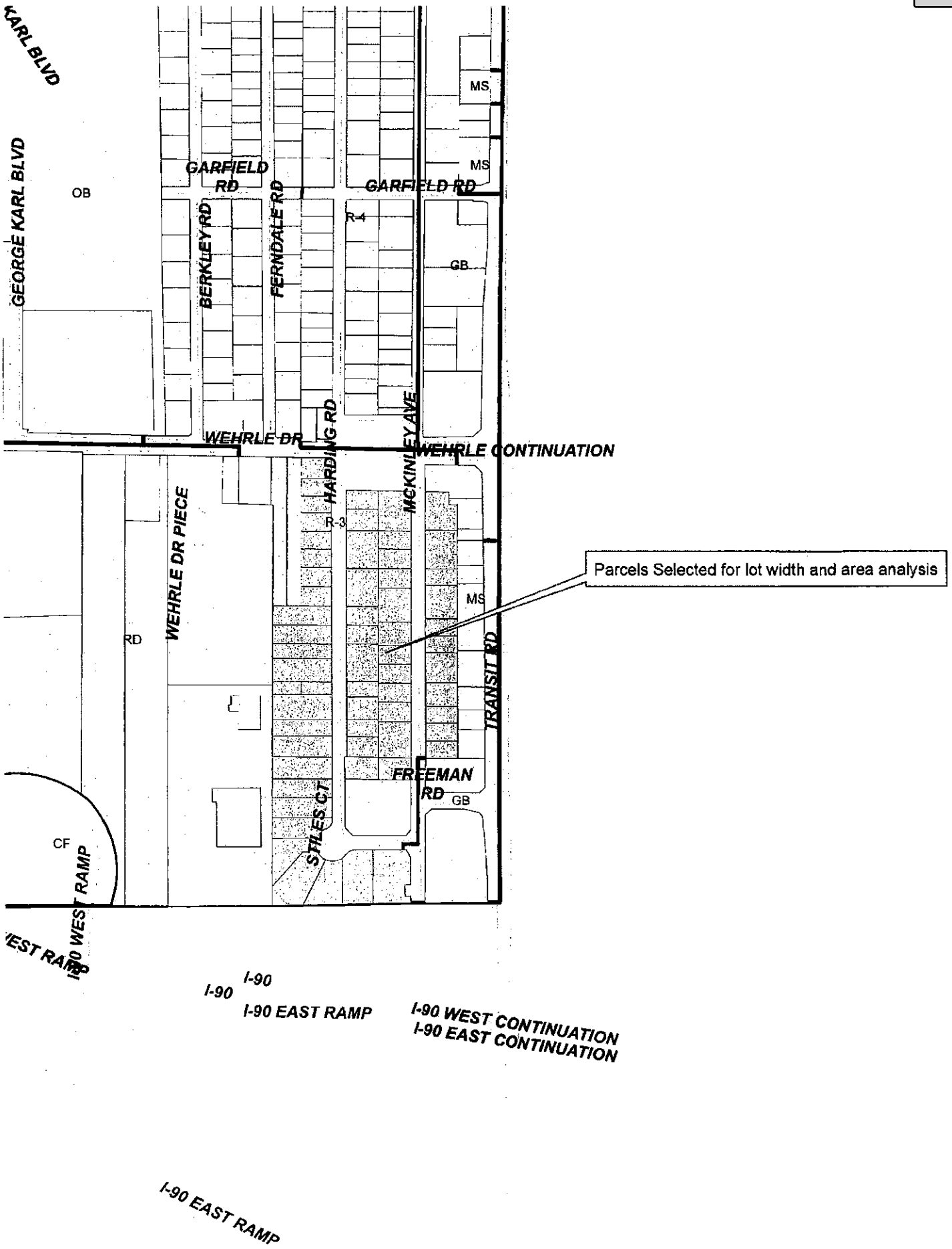
If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

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
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

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 opposed to this rezone if the end Result is Residential Properties with Condominium Tax Status If not Condominium Tax status, we would support

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:** 4/22/21

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 Rapoccio, 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.
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)

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

August 2, 2021

Amherst Town Hall
5583 Main Street
Williamsville, NY 14221

Subject: Rezoning of Harding Road

Dear Supervisor Kulpa and Town Board Members,

Our names are Rosanne and John McGovern and we live at [redacted] McKinley Ave in Williamsville. Our letter is in opposition to the request by Forbes Capretto Homes to rezone the property at 468 Harding Rd from R-3 to TR-3. We ask that you keep the zoning to R-3.

The change to TR-3 would allow not only higher density housing but also allow a new owner of the property to build public and civic facilities. These facilities could include public utility structures, solar energy systems, telecommunication facilities, houses of worship, common recreational buildings and private schools or day-care centers. None of these uses would be welcome in our residential neighborhood. Once the zoning is changed, it will be very difficult to change it back. We want to avoid present and future owners to have a gateway to build anything other than standard lot size, single family residential homes.

There are Businesses all around us. It seems like our neighbors have been fighting for years to keep the quality of life in our little community safe and appealing. Yes, development is a way to generate revenue but it should not be at the cost and well being of our neighborhood. We ask that before you make a final decision, look at what would be best for us, as Amherst residents, not the tax revenue it would generate.

We will not repeat all the comments from speakers, Mark, Kathleen and John, who spoke at the Monday, July 12th Town Board Meeting but we agree with their views in preserving the character of our McKinley/Harding circle.

Please listen to our voices. Keep the zoning of Harding Rd at R-3.
Thank you.

Sincerely,
John McGovern
Rosanne McGovern
Rosanne McGovern

AUG 03 '21 PM 2:55 RCVD

Attachment: McGovern letter of opposition (RES-2021-569 : Rezoning of 468 Harding Road)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 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.

8/09/2021

A motion to adjourn until Sept. 13th was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0. The public hearing was adjourned at 7:13 PM.

RESULT:	**ADJOURNED [UNANIMOUS]**	**Next: 9/13/2021 7:00 PM**
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Deborah Bruch Bucki, 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.

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Full Environmental Assessment Form Prepared pursuant to the State Environmental Quality Review Act ("SEQRA") with Attached Page 5[a] & Attachment "A"

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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

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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):

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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?
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):

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

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

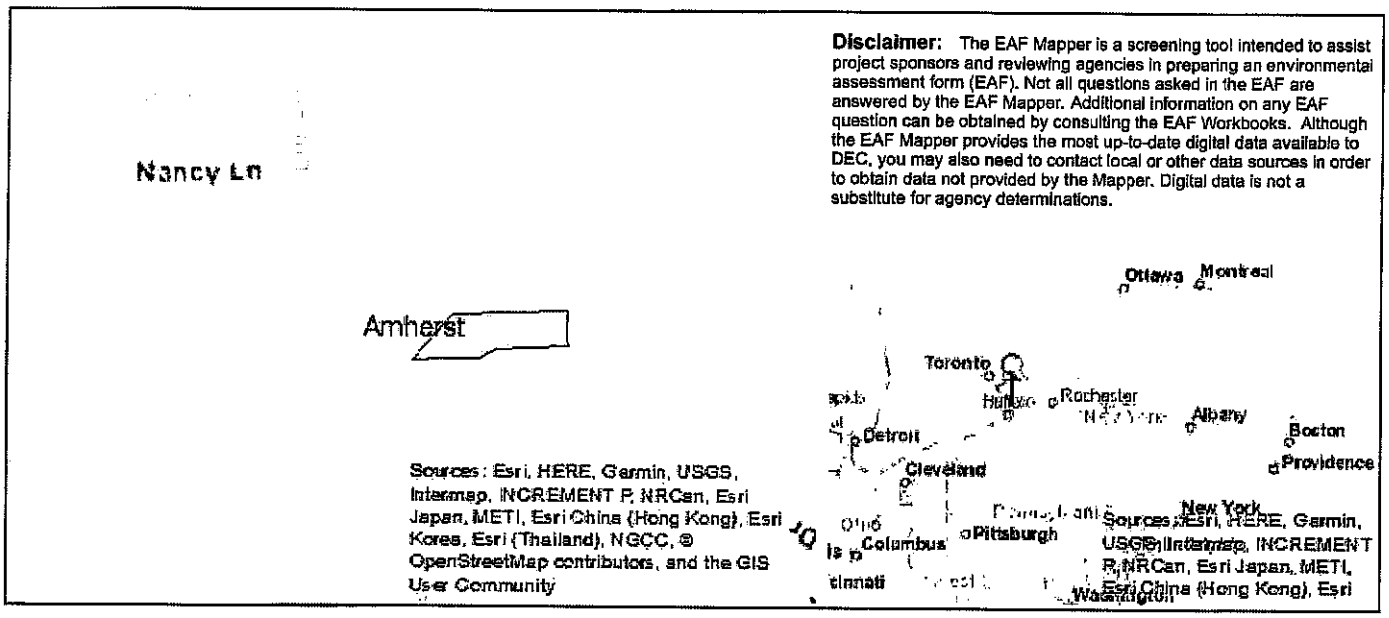
Signature _____ Title Attorney for Applicant/Project Sponsor

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

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)

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)

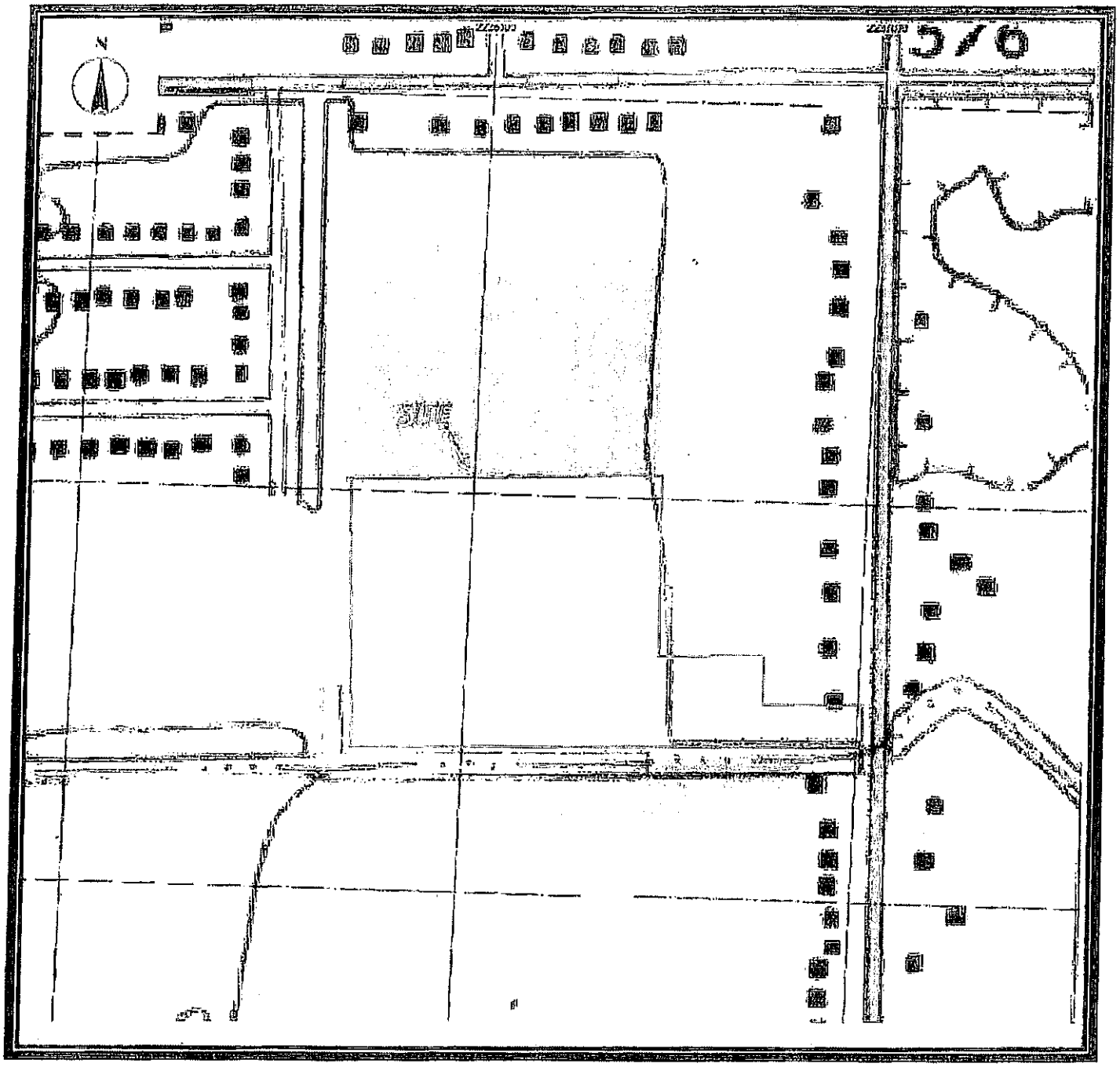


FIGURE 1: USGS 7.5 MINUTE TOPOGRAPHICAL MAP

Tonawanda East Quadrangle / 2002 DeLorme

520 Campbell Boulevard

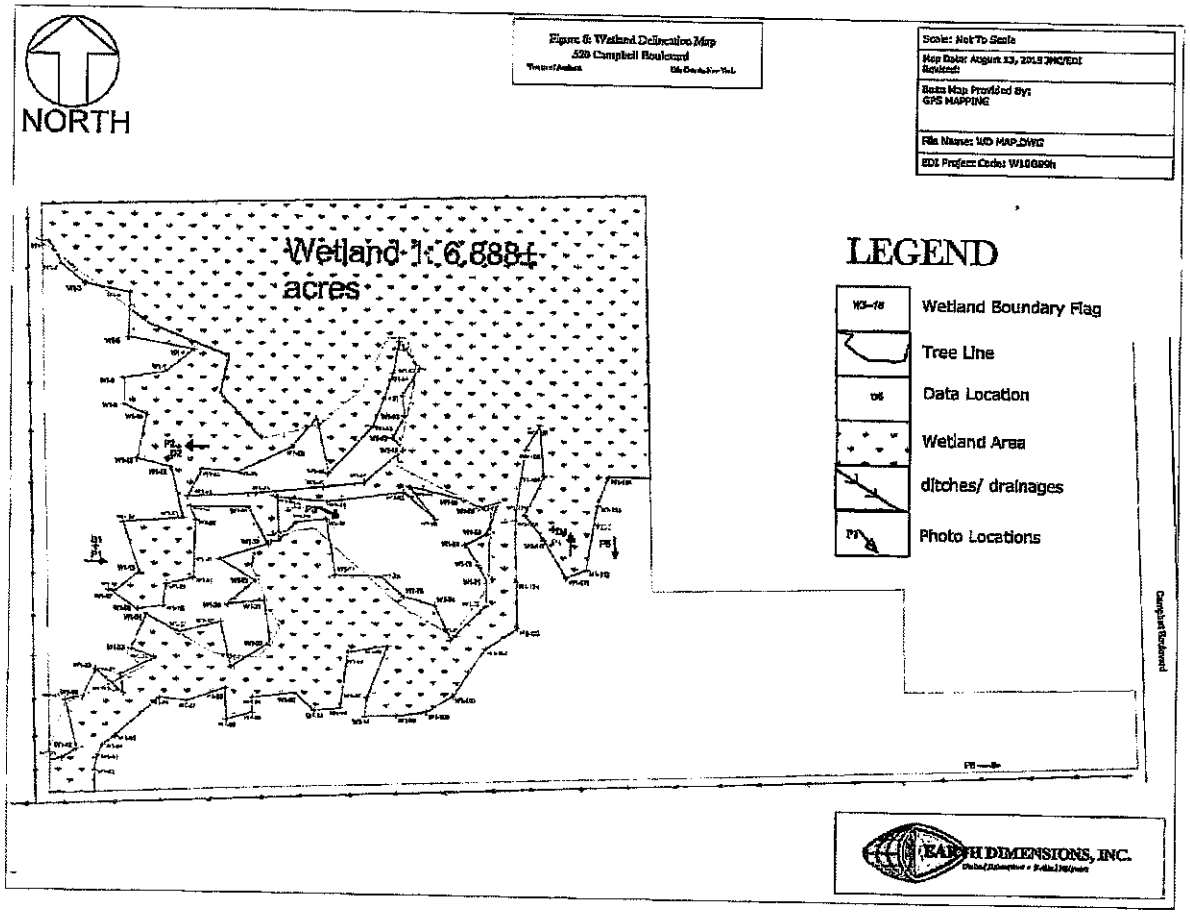
Town of Amherst, Erie County, New York

Ciminelli Real Estate Corporation
D/A Processing No. 2001-00067
Erie County, NY
Sheet 1 of 2

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:

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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)

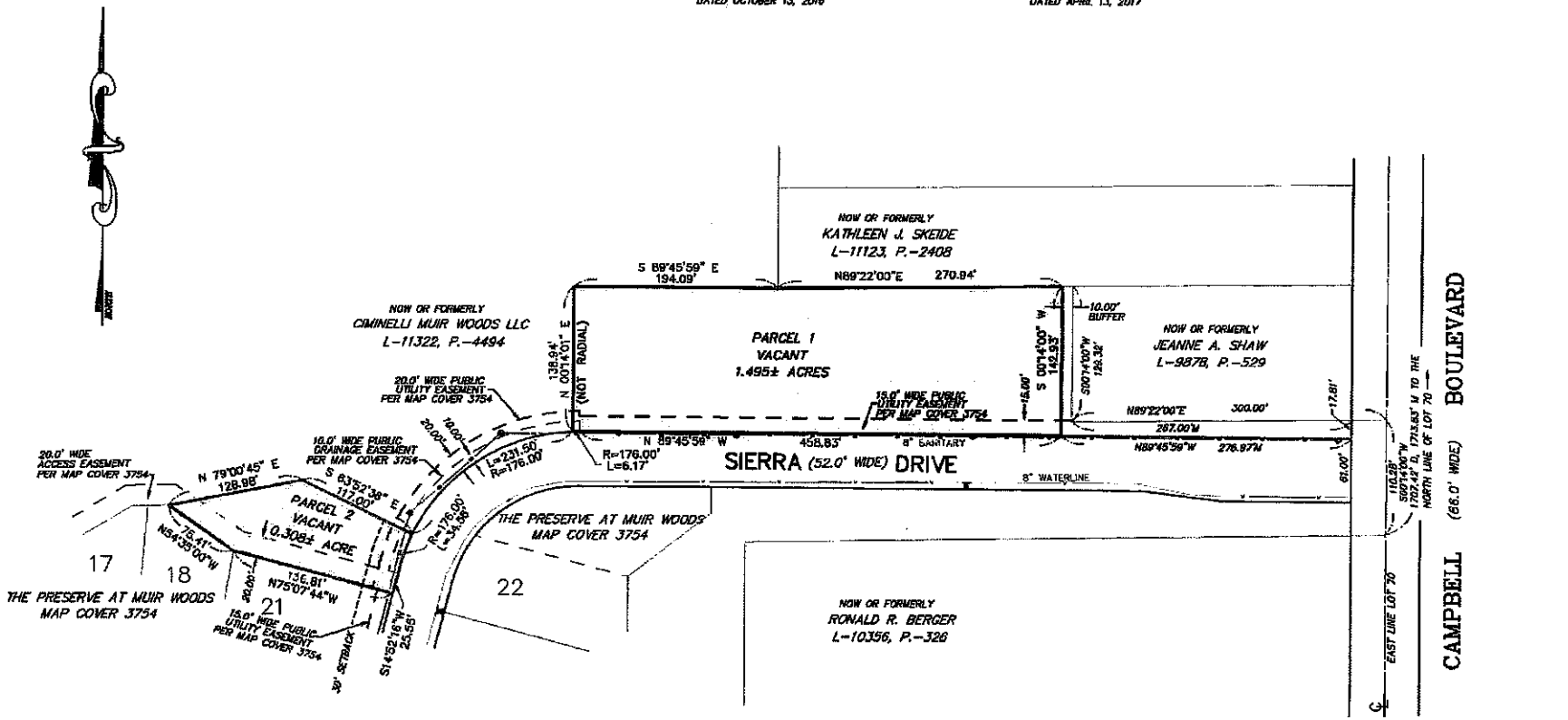
Exhibit 2 – Survey of Portion of 520 Campbell Boulevard to be Reclassified from New Community District – Suburban Agriculture ("NCD-SA") to New Community District – Neighborhood District ("NCD-ND") as Prepared by GPI Engineering, Landscape, Architecture & Surveying, LLP [11" x 17"]

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

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. 10-3300159 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'

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.

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

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.

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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.

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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)

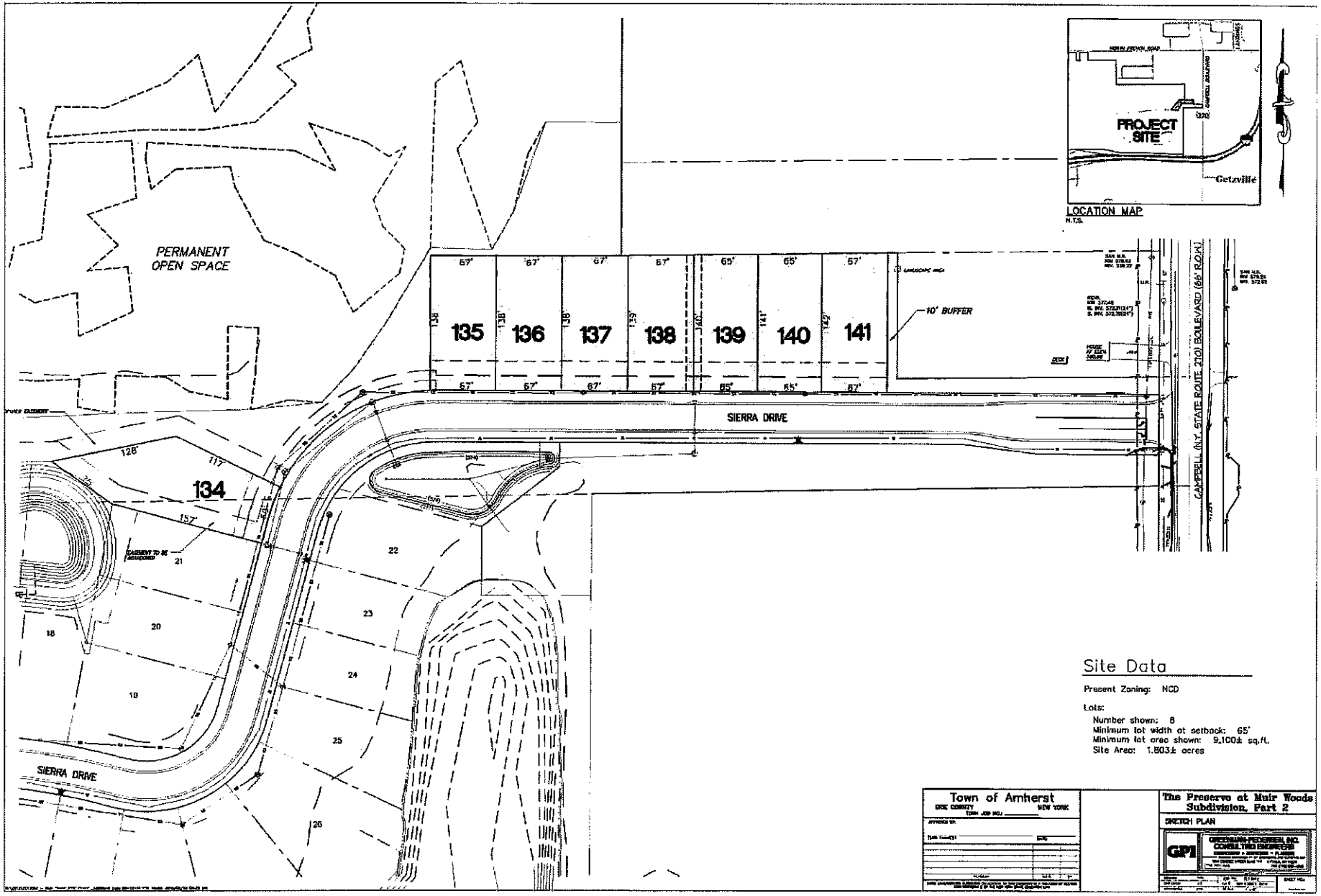
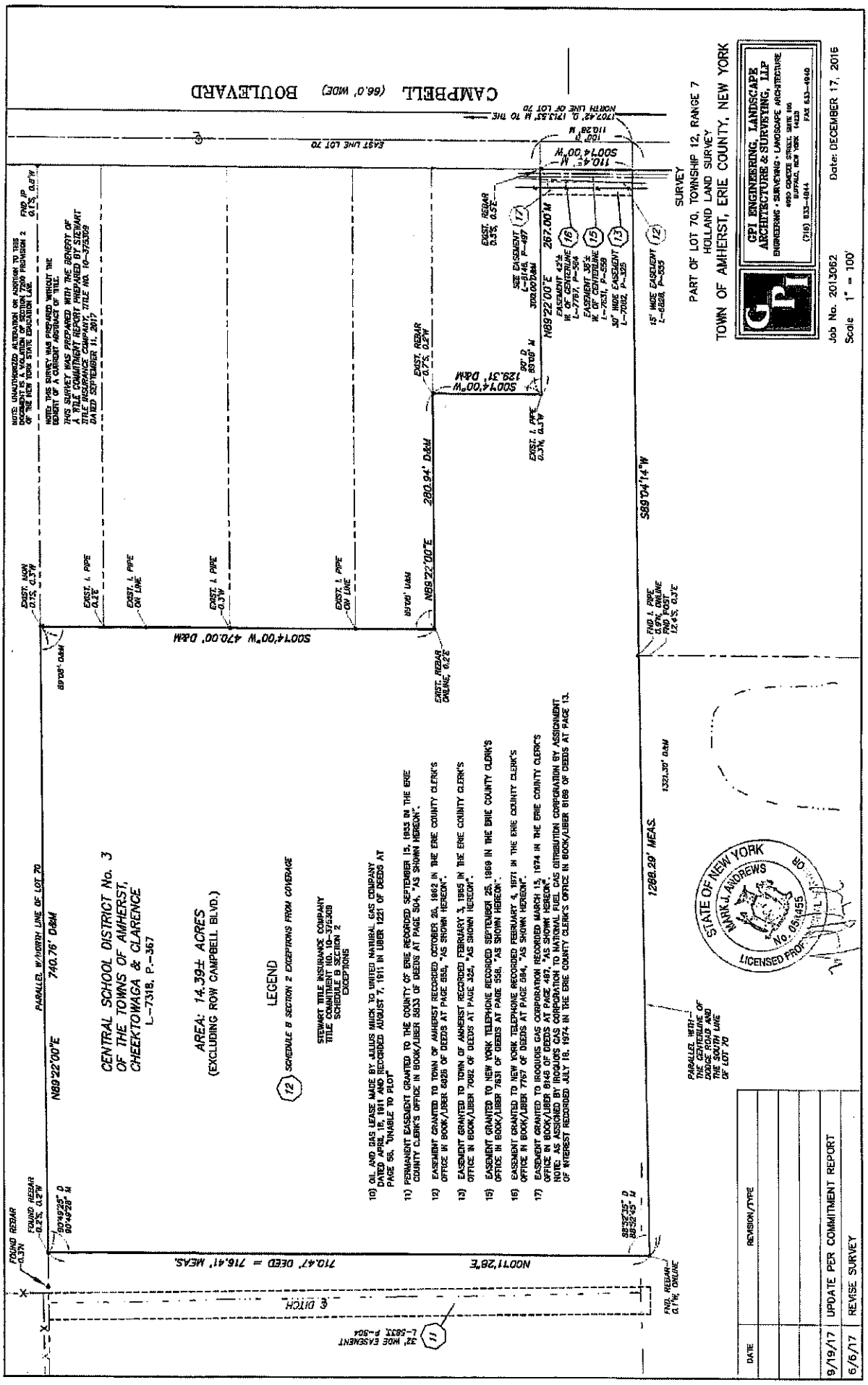

PERMANENT
OPEN SPACE
135
136
137
138
139
140
141
10' BUFFER
SIERRA DRIVE
134
CAMPBELL (N.Y. STATE ROUTE 210) BOULEVARD (66' R.O.W.)
PROJECT SITE
Getzville
LOCATION MAP
N.T.S.
Site Data
Present Zoning: NCD
Lots:
Number shown: 8
Minimum lot width at setback: 65'
Minimum lot area shown: 9,100± sq.ft.
Site Area: 1.803± acres
Town of Amherst
The Preserve at Muir Woods Subdivision, Part 2
SKETCH PLAN

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

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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.

Parcel at 520 Campbell Boulevard - Designated as Appropriate for Single Family Residential

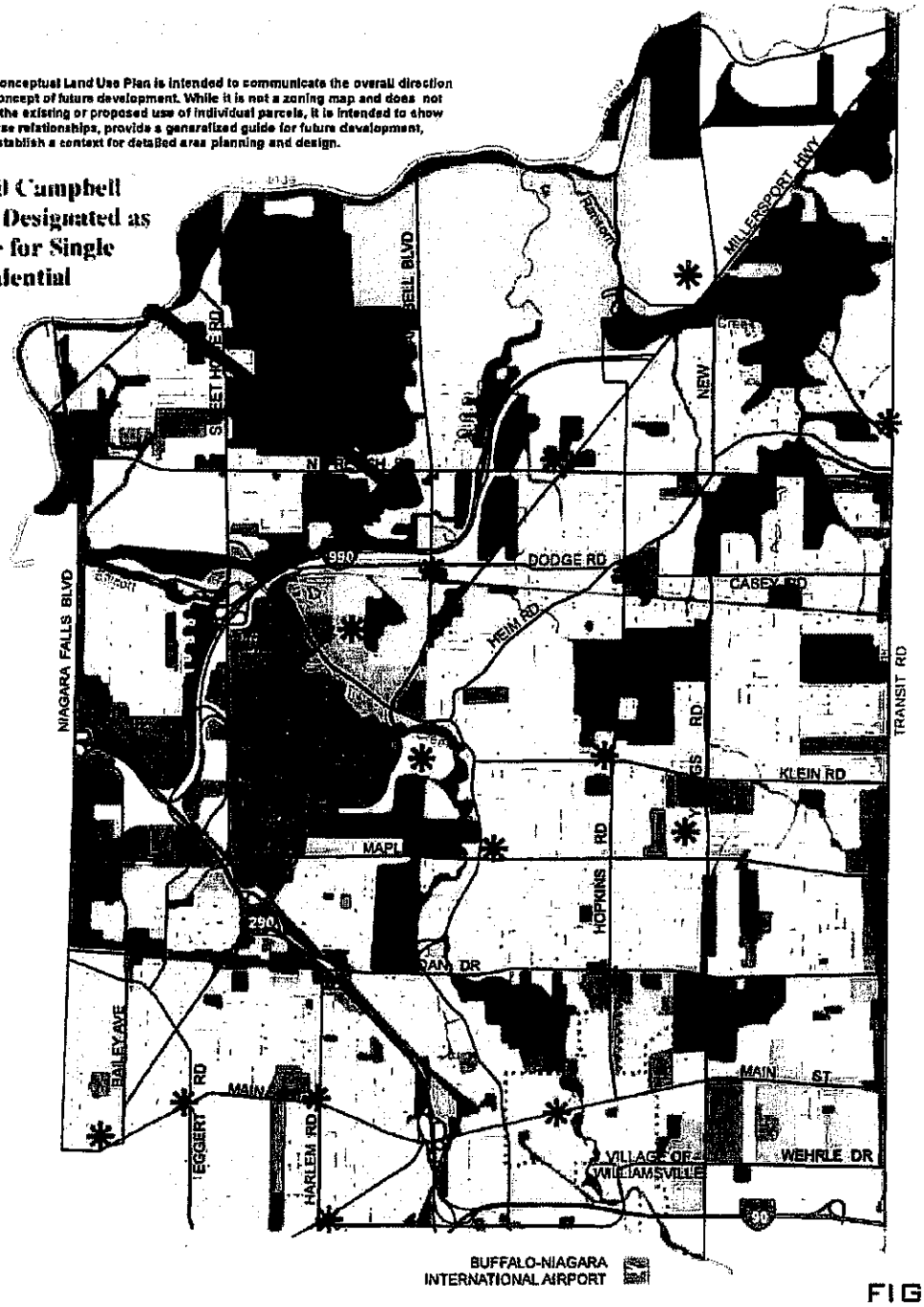


FIGURE 6

Rural Residential
Single Family Residential
Mixed Residential
Medium Residential
Commercial - Retail
Commercial - Office
Industrial - Office
Mixed Use
Community Facilities
Educational Campus
Recreation, Open Space & Greenways
Agriculture
Transportation
Surface Water
Mixed Use / Activity Centers
Village of Williamsville Boundary

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 2015

0 0.25 0.5 0.75 1 1.25 Miles

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)

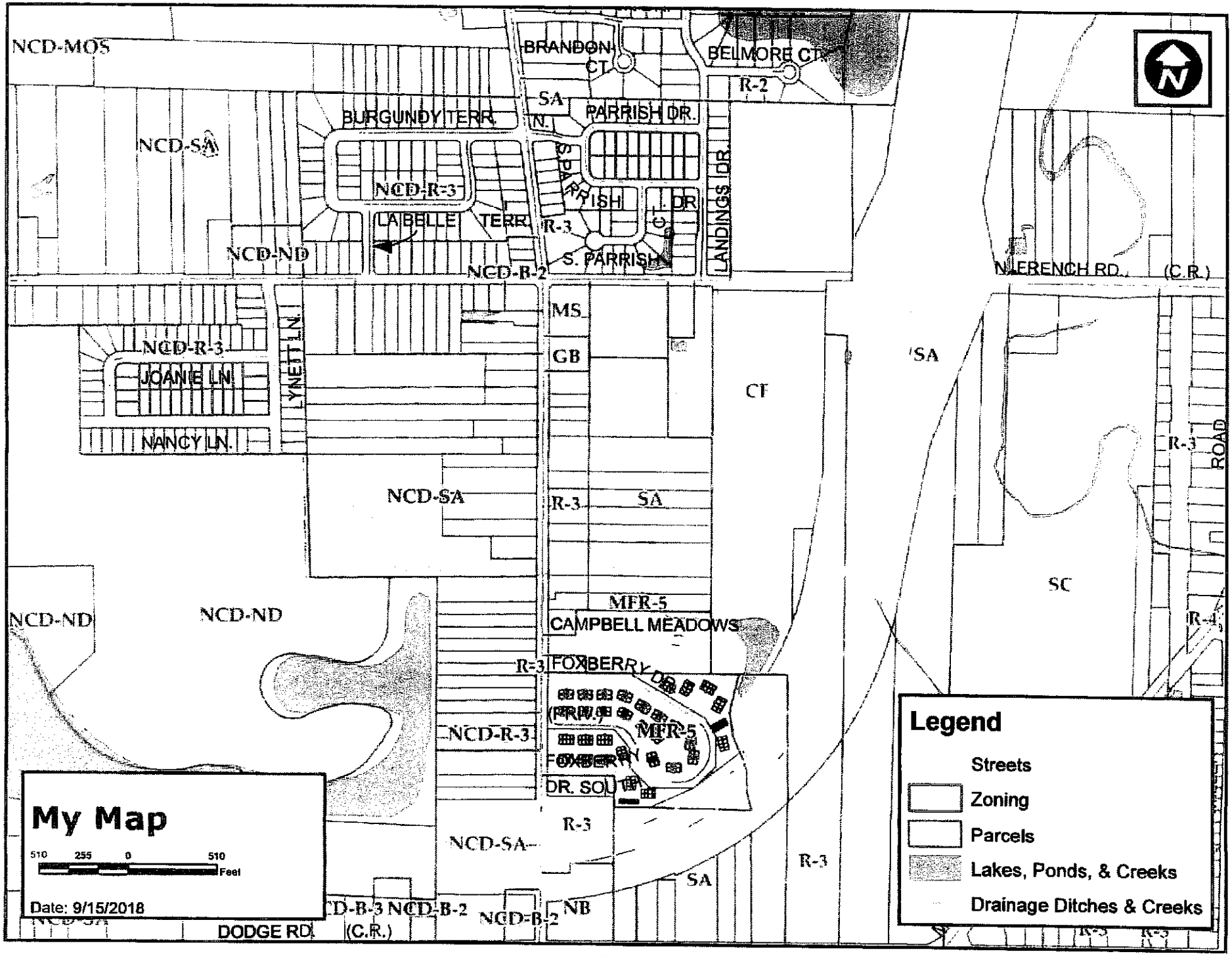
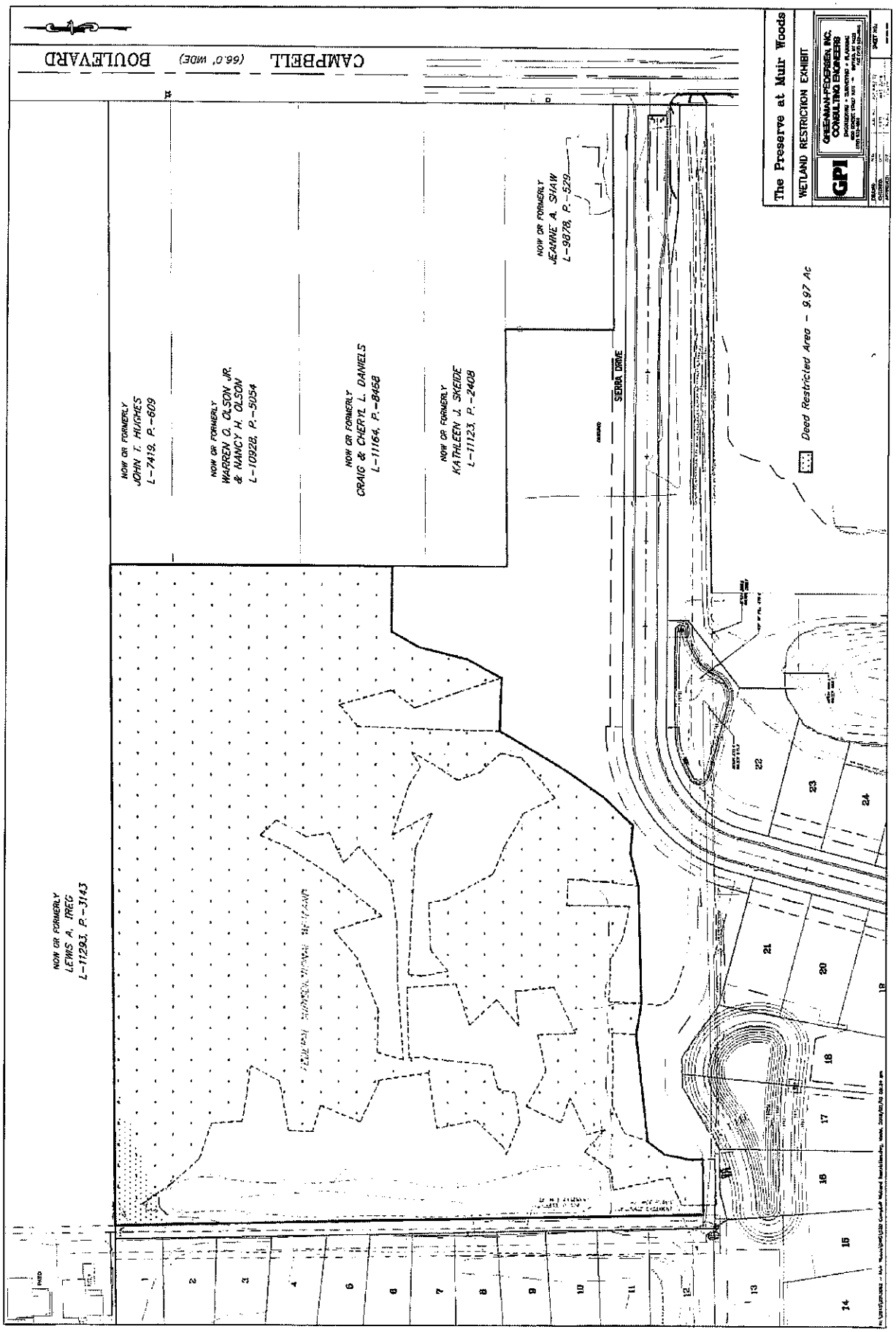

NCD-MOS
BRANDON CT.
BELMORE CT.
R-2
SA
N.
PARRISH DR.
BURGUNDY TERR.
NCD-SA
NCD-R-3
LA BELLE TERR.
R-3
S. PARRISH CT.
LANDINGS DR.
NCD-ND
NCD-R-2
S. PARRISH DR.
N. FRENCH RD. (C.R.)
MS
NCD-R-3
GB
LYNETT LN.
JOANIE LN.
NANCY LN.
CT
SA
R-3
ROAD
NCD-SA
R-3
SA
SC
MFR-5
NCD-ND
NCD-ND
CAMPBELL MEADOWS
R-4
R-3
FOXBERRY DR.
(PRIV.)
MFR-5
NCD-R-3
FOXBERRY
DR. SOUTH
R-3
NCD-SA
R-3
SA
NB
NCD-B-2
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

Ciminelli Real Estate Corp.

PROPERTY LOCATION

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:

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)

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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:

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 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

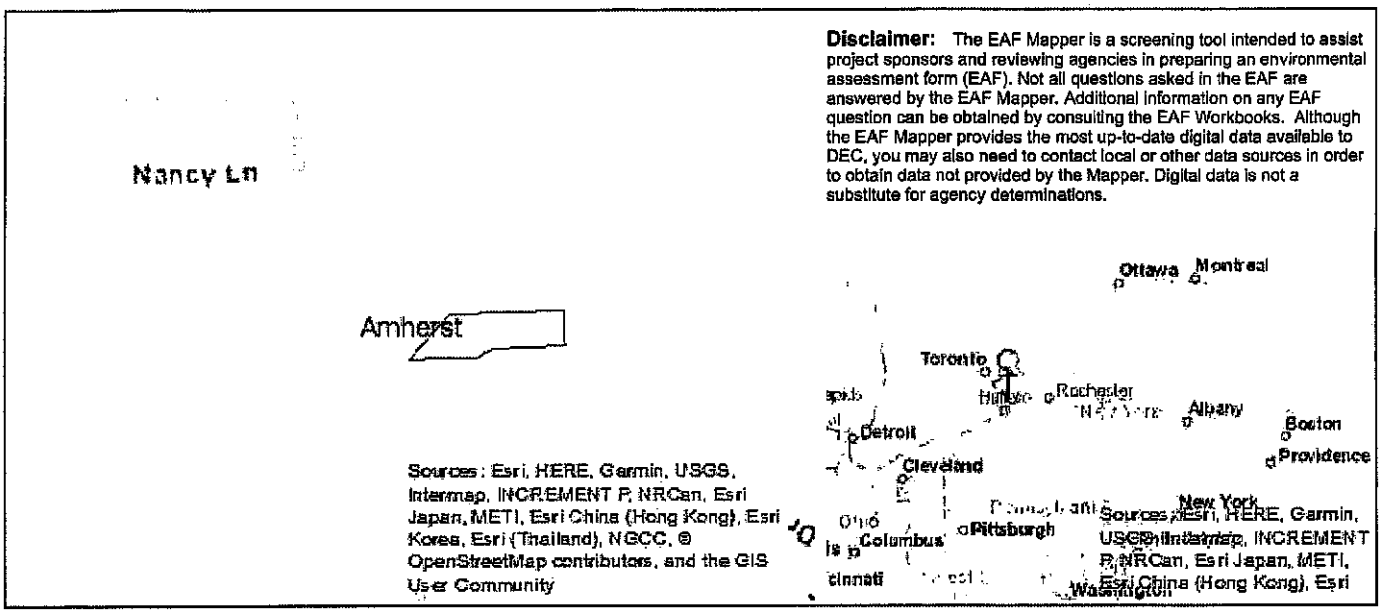
Signature _____ Title Attorney for Applicant/Project Sponsor

Sean W. Hopkins, Esq.

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)

GGE GLYNN GROUP
ENGINEERING & ARCHITECTURE, PLLC

Civil • Geotechnical
Structural • Architecture
Material Testing • Consulting

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

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.

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	BLOWS ON SAMPLER							DESCRIPTION AND CLASSIFICATION	WATER TABLE AND REMARKS
	SN REC	0/6	6/12	12/18	18/24	N	LITH		
	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		0.2	
				7					
					6				
	2	19							
	11		18			33		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				2.3	
					16				
	3	4							
5	15		7			19		Extremely moist brown (SILTY-SAND) with mostly very fine to fine size sand, little silt, compact, thinly bedded, (SM).	
				12				grades downward to 2.5	
					15				
	4	9							
	23		8			18			
				10					
					14				
	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			grades downward to 8.0	
	6	6							
	20		4			8		Extremely moist gray (SILTY-CLAY) with trace sand, stiff, soft below 12.0 feet, thiny laminated with very thin coarse silt lenses, (CL).	
				4					
					4				
	7	3							
	19		2			4			
				2					
					4				
	8	3							
15	20		4			7			
				3					
					3				
	9	4							
	23		3			6			
				3					
20					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.

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

Attachment: Z-2021-03_TB_Letter_071221 520 Campbell (RES-2021-570 : Reclassify a Portion of 520 Campbell Boulevard)

EARTH DIMENSIONS, INC.

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10G99j HOLE NO. B-1-18 SURF. ELEVATION _

PROJECT 520 Campbell Boulevard LOCATION North Side of Access Road

Town of Amherst, Erie County, NY

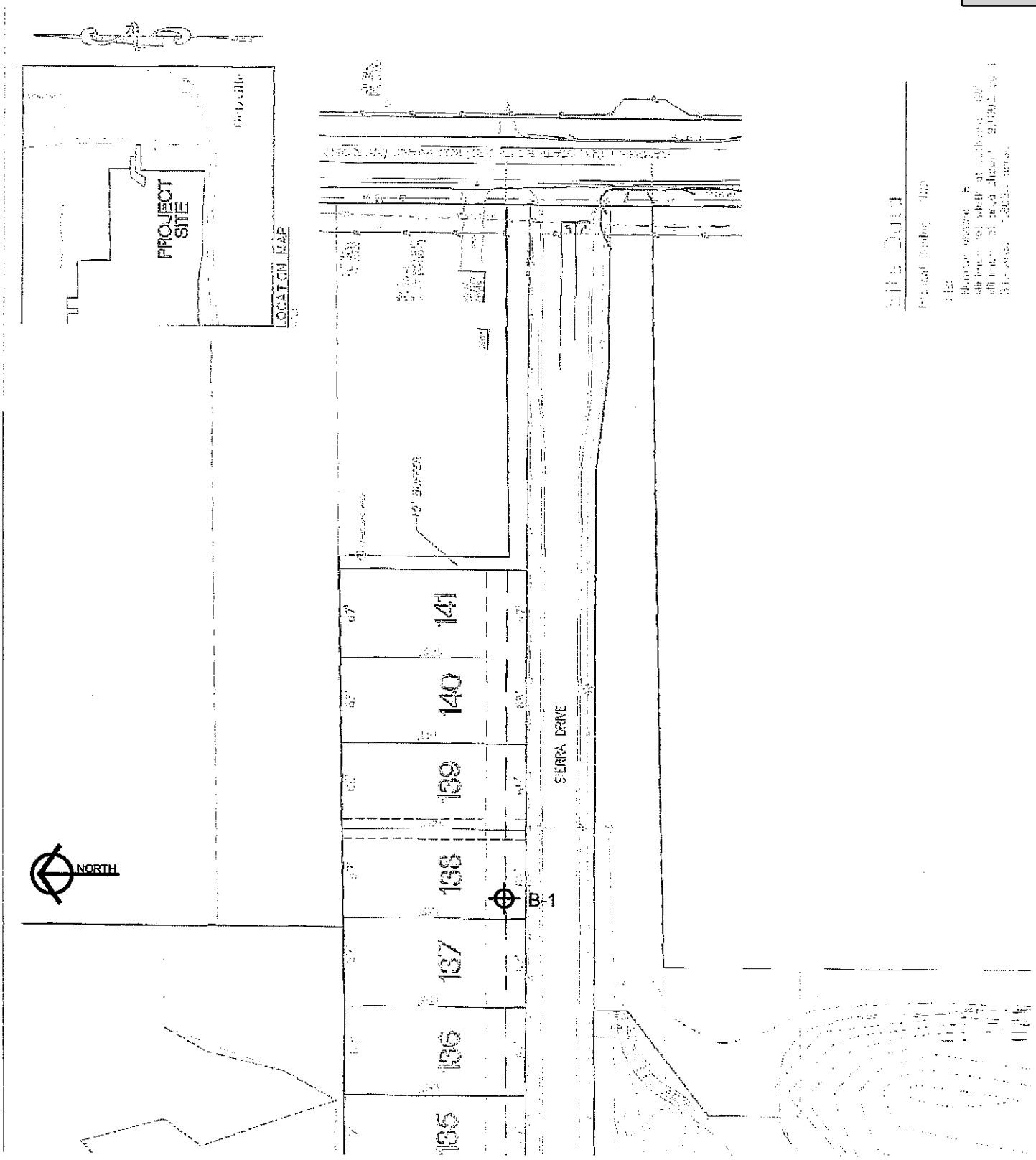
CLIENT Glynn Group Engineering & Architecture, PLLC DATE STARTED 09/25/18 COMPLETED 09/25/18

DEPTH IN FT	SN REC	0/6	6/12	12/18	18/24	N	LITH	DESCRIPTION AND CLASSIFICATION	WATER TABLE AND REMARKS
								Extremely moist gray (SILTY-CLAY) with trace sand, stiff, soft below 12.0 feet, thiny laminated with very thin coarse silt lenses, (CL).	
	10	2							
	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

ENGINEERING & ARCHITECTURE, PLLC

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)

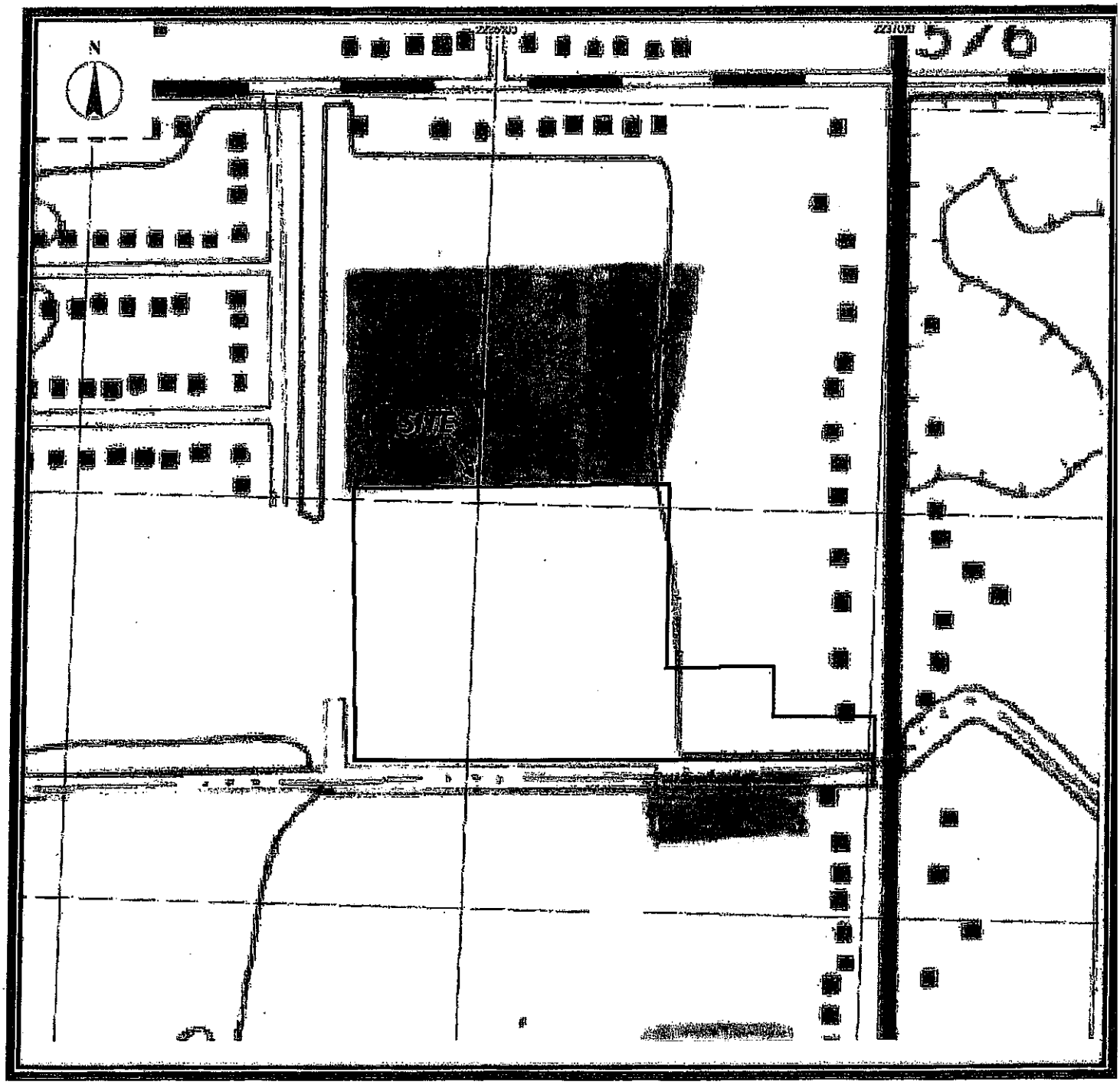


FIGURE 1: USGS 7.5 MINUTE TOPOGRAPHICAL MAP

Tonawanda East Quadrangle / 2002 DeLorme

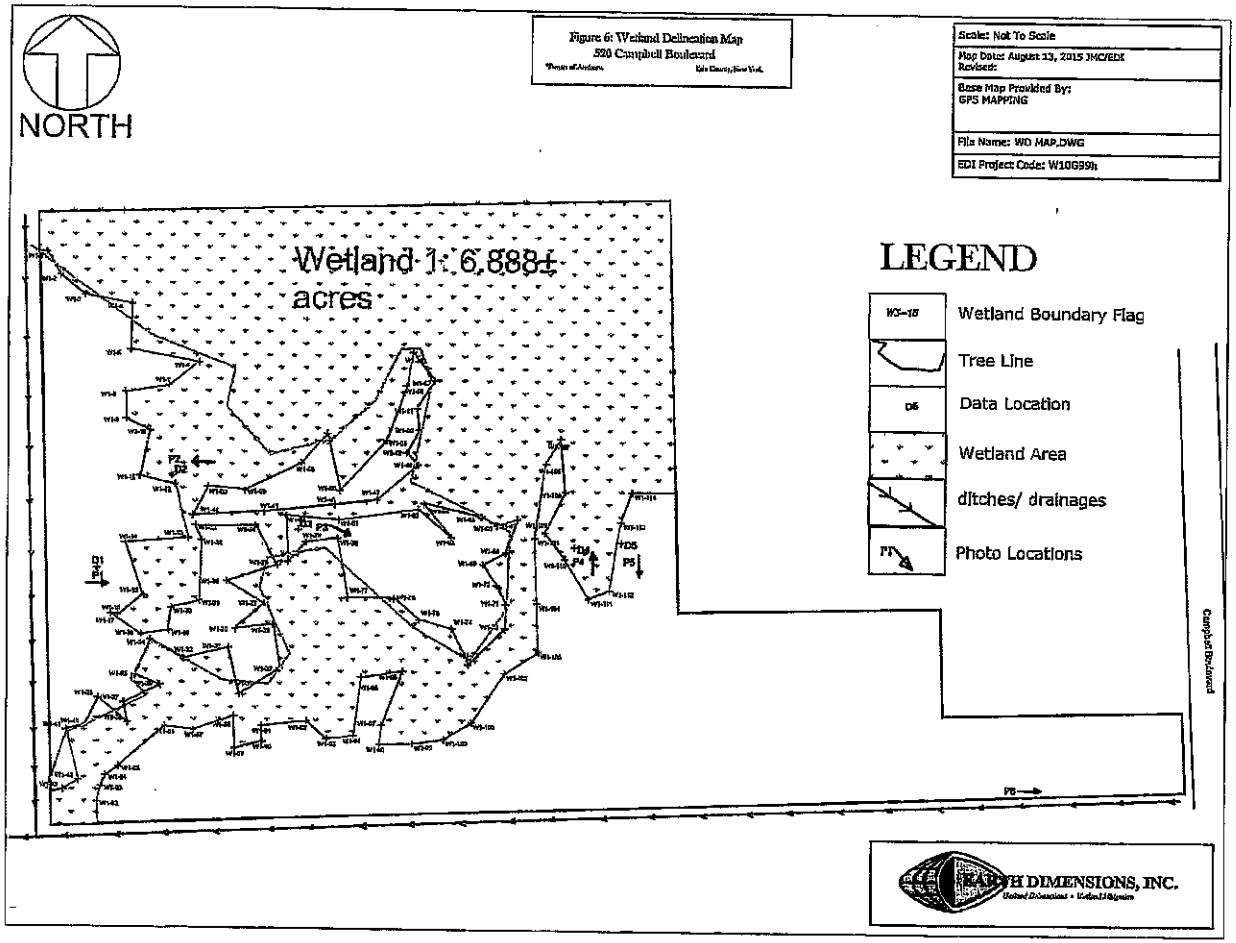
520 Campbell Boulevard

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:

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. Crannon 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)

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.

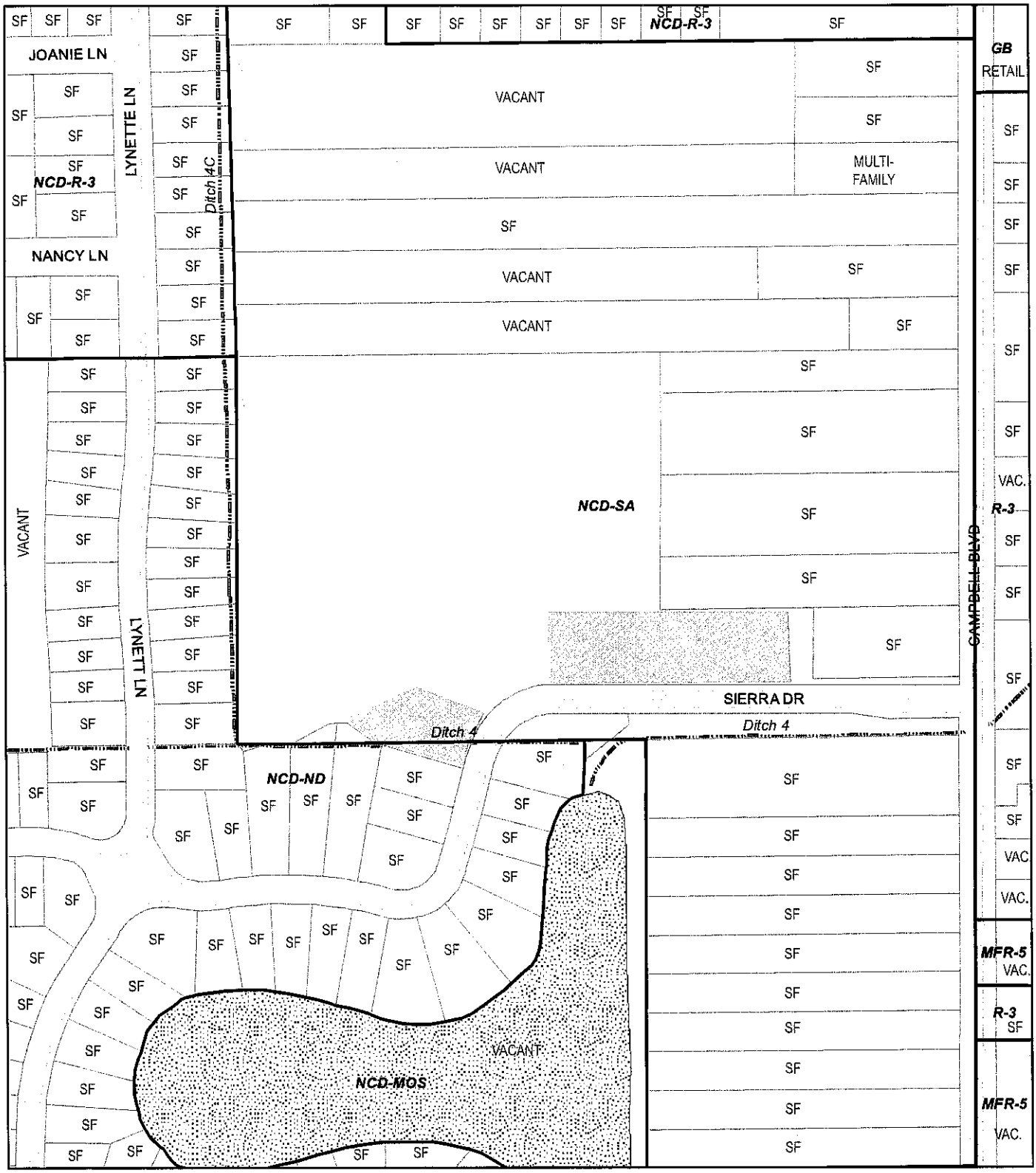
The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

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)



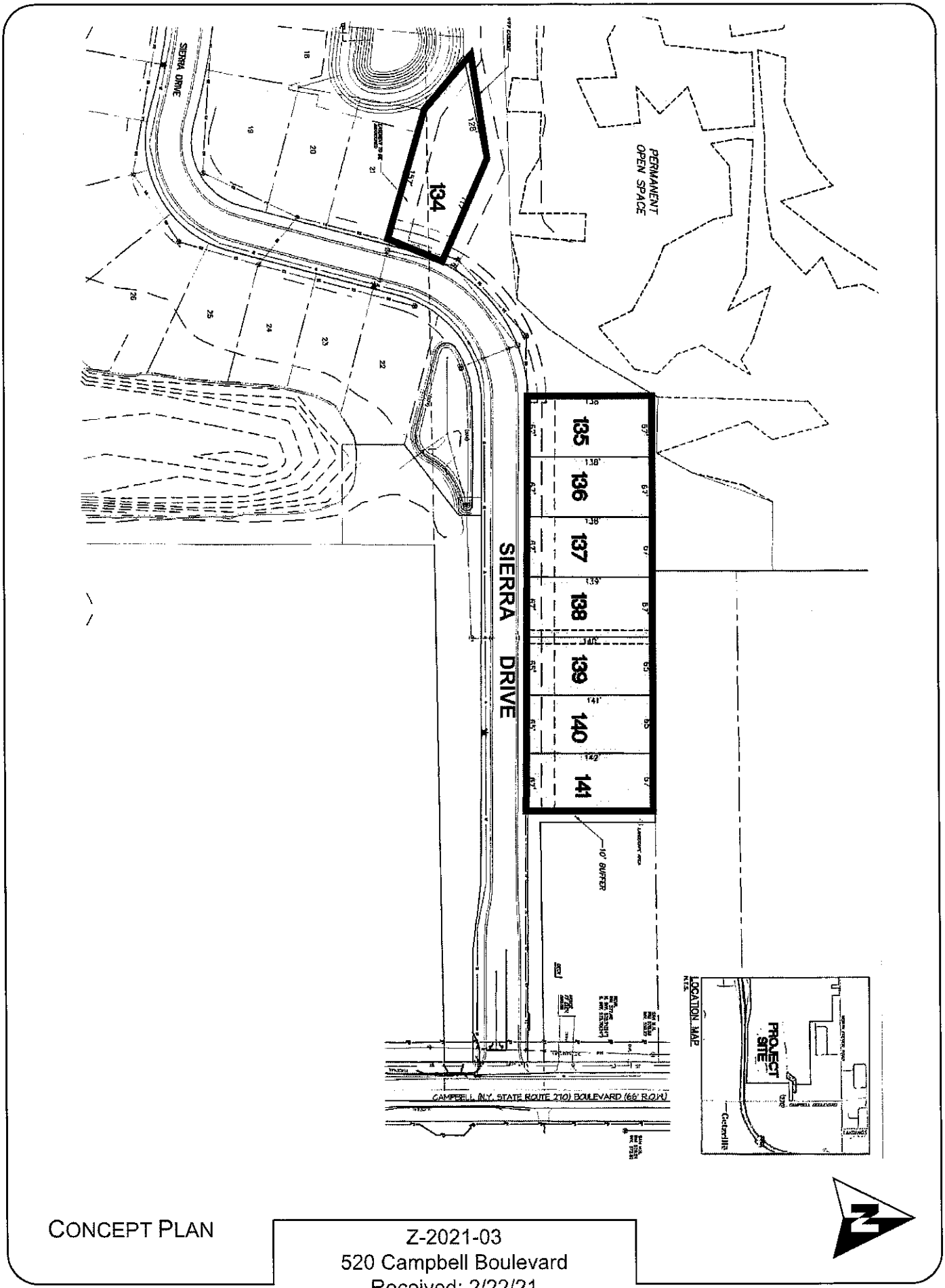
Z-2021-03

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** 6:30 pm **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

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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Edward Rutkowski, SEQR Review Coordinator, NYSDOT
Williamsville School District
NYSDEC

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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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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? N/A.

If you do not, briefly state why: _____.

General comments relative to your agency interests: Non 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*

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)
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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: _____

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
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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

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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

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
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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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Integrated Review Coordinator, ECDEP
Edward Rutkowski, SEQR Review Coordinator, NYSDOT
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
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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
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NYSDEC

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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: 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

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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)

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: 08/09/21 07:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 23523 **RESOLUTION 2021-623** **ADOPTED**

Amherst Agriculture and Farmland Protection Plan CRS #1134

WHEREAS, the Town Board authorized the Supervisor to sign a contract with the New York State Department of Agriculture and Markets for preparation of a Farmland Protection Plan on December 10, 2018, and

WHEREAS, the Town contracted with Wendel and their subcontractors WWS Planning and Camoin 310 on January 23, 2020, to complete the Farmland Protection Plan, and

WHEREAS, the Plan was prepared with input from the 18-member Agriculture and Farmland Protection Steering Committee and the Planning Department, and

WHEREAS, the Plan was adopted by the Erie County Agricultural Board on June 24, 2021, now therefore be it

RESOLVED, that the Town Board adopts the 2021 Amherst Agriculture and Farmland Protection Plan in its entirety.

Please note that the full DRAFT Plan is available for review on the Town's Website at the following link (copy & paste):
https://www.amherst.ny.us/pdf/planning/farmland/210714_full_draft.pdf

You may also find the DRAFT Plan and a presentation of the Plan by the project consultant from July 26th on the project Website at (copy & paste):
https://www.amherst.ny.us/content/projects.php?dept_id=dept_15&proj_id=proj_14&neworder=00

7/26/2021
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 3:12 PM.

Roberta Rappoccio, Associate Planner, and Wendy E. Weber Salvati, WWS Planning, presented to the Board.

There were no speakers from the public, therefore Supervisor Kulpa moved to adjourn the public hearing, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was adjourned at 3:43 PM.

8/09/2021
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 7:14 PM.

Jane Cox, Harlem Road questioned if this is a land use hearing

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the public hearing, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was closed at 7:16 PM.

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

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, A
Planning Directo

Daniel J. Ulatowski, A
Assistant Planning Dir

Town Board Agenda of August 9, 2021

August 4, 2021

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

Subject: DRAFT Farmland Protection and Agricultural Development Plan

Honorable Members:

At its meeting of July 26, 2021 the Town Board adjourned the Public Hearing on the DRAFT Farmland Protection and Agricultural Development Plan to its meeting of August 9, 2021.

Please note that the full DRAFT Plan is available for review on the Town's Website at the following link:
https://www.amherst.ny.us/pdf/planning/farmland/210714_full_draft.pdf

You may also find the DRAFT Plan and a presentation of the Plan by the project consultant from July 26th on the project Website at:
https://www.amherst.ny.us/content/projects.php?dept_id=dept_15&proj_id=proj_14&neworder=00

Please contact me with any questions.

Very truly yours,

DANIEL C. HOWARD, AICP
Planning Director

DH/ac
X:\Special_Projects\Farmland\AG Farmland Protection 2019\Ag Plan TB letter 080921.docx

Attachment: ag plan tb letter 080921 (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

Wendel WD Architecture, Engineering, Surveying & Landscape Architecture, P.C.

12.5

Town of Amherst
Planning/Grant Services Term Contract Task Order

AN AGREEMENT being made as of the 13 day of December, 2019, by and between ~~WENDEL,~~ (hereinafter referred to as "contractor"), with its principal office and place of business located 375 Essjay Road, Suite 200, Williamsville, NY 14221, and the Town of Amherst, a municipal corporation of the State of New York, (herein, referred to as the "Town") with its principal place of business located at 5583 Main Street, Williamsville, New York 14221.

WHEREAS, in accordance with Town policy, sealed proposals were received by the Town of Amherst, Director of Contract Compliance on March 7, 2019 at 3:00 P.M. for the Provision of a Three Year Term Agreement for Professional Planning/ Grant Services (RFP No.201902) and Contractor's Bid/RFP was submitted in accordance with the Bid/RFP specifications and was one of the selected responsible RFP's submitted and a contract was awarded by the Town of Amherst, in accordance with the provisions contained in the RFP to the Contractor for the attached job proposal

NOW, THEREFORE, the Town does hereby authorize the Contractor to perform the work referenced in the attached job proposal with the same to be governed by the terms and conditions of the AGREEMENT between the Town and Contractor dated , 2019:

CRS# 1381

Task Order # 2

Task Order Value ($) 47,537.82

Budget Account # B8022 $25,000.00
KP19134971 $22,537.82

Planning Department — Daniel Howard, AICP Department Head

Department Head Endorsement — 12/11/19 Date

Agreed to and Accepted by:

Wendel WD Architecture, Engineering, Surveying & Landscape Architecture, P.C.

~~WENDEL~~

Print Name of Company

By: _____
Signature

JESSE F. WENDELL, PRINCIPAL

Printed name

Date: 12/5/2019

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Required Attachments:
Task Order Proposal/Scope
Schedule of Task Completion
Pricing proposal based upon rates from original RFP #201902

cc: Planning Director

6/12/19

Attachment: 2019-12 Signed Task Order (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

STATE AGENCY (Name & Address):

Department of Agriculture & Markets

10B Airline Drive
Albany, NY 12235

BUSINESS UNIT/DEPT. ID: AGM01

CONTRACT NUMBER: AGM01-T00061GG-3000000

CONTRACT TYPE:

- [ ] Multi-Year Agreement
- [ ] Simplified Renewal Agreement
- [X] Fixed Term Agreement

CONTRACTOR SFS PAYEE NAME:

AMHERST TOWN OF

TRANSACTION TYPE:

- [X] New
- [ ] Renewal
- [ ] Amendment

CONTRACTOR DOS INCORPORATED NAME:

Amherst, Town of

PROJECT NAME:

Town of Amherst Agriculture and farmland Protection Planning Grant

CONTRACTOR IDENTIFICATION NUMBERS:

NYS Vendor ID Number: 1000003949

Federal Tax ID Number: 166002157

DUNS Number (if applicable): 030212336

AGENCY IDENTIFIER:

CFDA NUMBER (Federally Funded Grants Only):

CONTRACTOR PRIMARY MAILING ADDRESS:

5583 MAIN ST
WILLIAMSVILLE, NY 14221

CONTRACTOR PAYMENT ADDRESS:

- [X] Check if same as primary mailing address

CONTRACT MAILING ADDRESS:

- [X] Check if same as primary mailing address

CONTRACTOR STATUS:

- [ ] For Profit
- [X] Municipality, Code:
- [ ] Tribal Nation
- [ ] Individual
- [ ] Not-for-Profit

Charities Registration Number:

Exemption State/Code:

- [ ] Sectarian Entity

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

CURRENT CONTRACT TERM:

From: 03/01/2018 To: 02/28/2020

CURRENT CONTRACT PERIOD:

From: 03/01/2018 To: 02/28/2020

AMENDED TERM:

From: To:

AMENDED PERIOD:

From: To:

CONTRACT FUNDING AMOUNT

(Multi-year - enter total projected amount of the contract; Fixed Term/Simplified Renewal - enter current period amount):

CURRENT: $25,000.00

AMENDED:

FUNDING SOURCE(S)

- [X] State
- [ ] Federal
- [ ] Other

FOR MULTI-YEAR AGREEMENTS ONLY - CONTRACT AND FUNDING AMOUNT:

(Out years represents projected funding amounts)

#	CURRENT PERIOD	CURRENT AMOUNT	AMENDED PERIOD	AMENDED AMOUNT
1				
2				
3				
4				
5				

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

ATTACHMENTS PART OF THIS AGREEMENT:

Attachment A:

- [X] A-1 Program Specific Terms and Conditions
- [ ] A-2 Federally Funded Grants

Attachment B:

- [X] B-1 Expenditure Based Budget
- [ ] B-2 Performance Based Budget
- [ ] B-3 Capital Budget
- [ ] B-4 Net Deficit Budget
- [ ] B-1 (A) Expenditure Based Budget (Amendment)
- [ ] B-2 (A) Performance Based Budget (Amendment)
- [ ] B-3 (A) Capital Budget (Amendment)
- [ ] B-4 (A) Net Deficit Budget (Amendment)

Attachment C: Work Plan

Attachment D: Payment and Reporting Schedule

Other:

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

IN WITNESS THEREOF, the parties hereto have electronically executed or approved this Master Contract on the dates below their signature.

In addition, I, acting in the capacity as Contractor, certify that I am the signing authority, or have been delegated or designated formally as the signing authority by the appropriate authority or officials, and as such I do agree, and I have the authority to agree, to all of the terms and conditions set forth in the Master Contract, including all appendices and attachments. I understand that (i) payment of a claim on this Master Contract is conditioned upon the Contractor's compliance with all applicable conditions of participation in this program and (if I am acting in the capacity as a not-for profit Contractor) the accuracy and completeness of information submitted to the State of New York through the Gateway vendor prequalification process and (ii) by electronically indicating my acceptance of the terms and conditions of the Master Contract, I certify that (a) to the extent that the Contractor is required to register and/or file reports with the Office of Attorney General's Charities Bureau ("Charities Bureau"), the Contractor's registration is current, all applicable reports have been filed, and the Contractor has no outstanding requests from the Charities Bureau relating to its filings and (b) all data and responses in the application submitted by the Contractor are true, complete and accurate. I also understand that use of my assigned User ID and Password on the State's contract management system is equivalent to having placed my signature on the Master Contract and that I am responsible for any activity attributable to the use of my User ID and Password. Additionally, any information entered will be considered to have been entered and provided at my direction. I further certify and agree that the Contractor agrees to waive any claim that this electronic record or signature is inadmissible in court, notwithstanding the choice of law provisions.

CONTRACTOR:

AMHERST TOWN OF

By: _____

_____

Printed Name

Title: _____

Date: _____

In addition, the party below certifies that it has verified the electronic signature of the Contractor to this Master Contract.

STATE AGENCY:

Department of Agriculture & Markets

_____

By: _____

_____

Printed Name

Title: _____

Date: _____

ATTORNEY GENERAL'S SIGNATURE
APPROVED AS TO FORM

By: _____

Printed Name

Title: _____

Date: _____

STATE COMPTROLLER'S SIGNATURE

By: _____

Printed Name

Title: _____

Date: _____

Contract Number: # AGM01-T00061GG-3000000

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

STATE OF NEW YORK
MASTER CONTRACT FOR GRANTS

This State of New York Master Contract for Grants (Master Contract) is hereby made by and between the State of New York acting by and through the applicable State Agency (State) and the public or private entity (Contractor) identified on the face page hereof (Face Page).

WITNESSETH:

WHEREAS, the State has the authority to regulate and provide funding for the establishment and operation of program services, design or the execution and performance of construction projects, as applicable and desires to contract with skilled parties possessing the necessary resources to provide such services or work, as applicable; and

WHEREAS, the Contractor is ready, willing and able to provide such program services or the execution and performance of construction projects and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services or work, as applicable, required pursuant to the terms of the Master Contract;

NOW THEREFORE, in consideration of the promises, responsibilities, and covenants herein, the State and the Contractor agree as follows:

STANDARD TERMS AND CONDITIONS

I. GENERAL PROVISIONS

A. Executory Clause: In accordance with Section 41 of the State Finance Law, the State shall have no liability under the Master Contract to the Contractor, or to anyone else, beyond funds appropriated and available for the Master Contract.

B. Required Approvals: In accordance with Section 112 of the State Finance Law (or, if the Master Contract is with the State University of New York (SUNY) or City University of New York (CUNY), Section 355 or Section 6218 of the Education Law), if the Master Contract exceeds $50,000 (or $85,000 for contracts let by the Office of General Services, or the minimum thresholds agreed to by the Office of the State Comptroller (OSC) for certain SUNY and CUNY contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount including, but not limited to, changes in amount, consideration, scope or contract term identified on the Face Page (Contract Term), it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the New York Attorney General Contract Approval Unit (AG) and OSC. If, by the Master Contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds $10,000, it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the AG and OSC.

***Budget Changes*:** An amendment that would result in a transfer of funds among program activities or budget cost categories that does not affect the amount, consideration, scope or other terms of such contract may be subject to the approval of the AG and OSC where the amount of such modification is, as a portion of the total value of the contract, equal to or greater than ten percent for contracts of less than five million dollars, or five percent for contracts of more than

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

five million dollars; and, in addition, such amendment may be subject to prior approval by the applicable State Agency as detailed in Attachment D (Payment and Reporting Schedule).

C. Order of Precedence:

In the event of a conflict among (i) the terms of the Master Contract (including any and all attachments and amendments) or (ii) between the terms of the Master Contract and the original request for proposal, the program application or other attachment that was completed and executed by the Contractor in connection with the Master Contract, the order of precedence is as follows:

1. Standard Terms and Conditions
2. Modifications to the Face Page
3. Modifications to Attachment A-2[1], Attachment B, Attachment C and Attachment D
4. The Face Page
5. Attachment A-2[2], Attachment B, Attachment C and Attachment D
6. Modification to Attachment A-1
7. Attachment A-1
8. Other attachments, including, but not limited to, the request for proposal or program application

D. Funding: Funding for the term of the Master Contract shall not exceed the amount specified as "Contract Funding Amount" on the Face Page or as subsequently revised to reflect an approved renewal or cost amendment. Funding for the initial and subsequent periods of the Master Contract shall not exceed the applicable amounts specified in the applicable Attachment B form (Budget).

E. Contract Performance: The Contractor shall perform all services or work, as applicable, and comply with all provisions of the Master Contract to the satisfaction of the State. The Contractor shall provide services or work, as applicable, and meet the program objectives summarized in Attachment C (Work Plan) in accordance with the provisions of the Master Contract, relevant laws, rules and regulations, administrative, program and fiscal guidelines, and where applicable, operating certificate for facilities or licenses for an activity or program.

F. Modifications: To modify the Attachments or Face Page, the parties mutually agree to record, in writing, the terms of such modification and to revise or complete the Face Page and all the appropriate attachments in conjunction therewith. In addition, to the extent that such modification meets the criteria set forth in Section I.B herein, it shall be subject to the approval of the AG and

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

[1] To the extent that the modifications to Attachment A-2 are required by Federal requirements and conflict with other provisions of the Master Contract, the modifications to Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).

[2] To the extent that the terms of Attachment A-2 are required by Federal requirements and conflict with other provisions of the Master Contract, the Federal requirements of Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).

OSC before it shall become valid, effective and binding upon the State. Modifications that are not subject to the AG and OSC approval shall be processed in accordance with the guidelines stated in the Master Contract.

G. Governing Law: The Master Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

H. Severability: Any provision of the Master Contract that is held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof; provided, however, that the parties to the Master Contract shall attempt in good faith to reform the Master Contract in a manner consistent with the intent of any such ineffective provision for the purpose of carrying out such intent. If any provision is held void, invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

I. Interpretation: The headings in the Master Contract are inserted for convenience and reference only and do not modify or restrict any of the provisions herein. All personal pronouns used herein shall be considered to be gender neutral. The Master Contract has been made under the laws of the State of New York, and the venue for resolving any disputes hereunder shall be in a court of competent jurisdiction of the State of New York.

J. Notice:

1. All notices, except for notices of termination, shall be in writing and shall be transmitted either:

   a) by certified or registered United States mail, return receipt requested;

   b) by facsimile transmission;

   c) by personal delivery;

   d) by expedited delivery service; or

   e) by e-mail.

2. Notices to the State shall be addressed to the Program Office designated in Attachment A-1 (Program Specific Terms and Conditions).

3. Notices to the Contractor shall be addressed to the Contractor's designee as designated in Attachment A-1 (Program Specific Terms and Conditions).

4. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or e-mail, upon receipt.

5. The parties may, from time to time, specify any new or different e-mail address, facsimile number or address in the United States as their address for purpose of receiving notice under the

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

Master Contract by giving fifteen (15) calendar days prior written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under the Master Contract. Additional individuals may be designated in writing by the parties for purposes of implementation, administration, billing and resolving issues and/or disputes.

K. Service of Process: In addition to the methods of service allowed by the State Civil Practice Law & Rules (CPLR), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. The Contractor shall have thirty (30) calendar days after service hereunder is complete in which to respond.

L. Set-Off Rights: The State shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold, for the purposes of set-off, any moneys due to the Contractor under the Master Contract up to any amounts due and owing to the State with regard to the Master Contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of the Master Contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State Agency, its representatives, or OSC.

M. Indemnification: The Contractor shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the Contractor or its subcontractors pursuant to this Master Contract. The Contractor shall indemnify and hold harmless the State and its officers and employees from claims, suits, actions, damages and cost of every nature arising out of the provision of services pursuant to the Master Contract.

N. Non-Assignment Clause: In accordance with Section 138 of the State Finance Law, the Master Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet, or otherwise disposed of without the State's previous written consent, and attempts to do so shall be considered to be null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract, let pursuant to Article XI of the State Finance Law, may be waived at the discretion of the State Agency and with the concurrence of OSC, where the original contract was subject to OSC's approval, where the assignment is due to a reorganization, merger, or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that the merged contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless the Master Contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

O. Legal Action: No litigation or regulatory action shall be brought against the State of New York, the State Agency, or against any county or other local government entity with funds provided under the Master Contract. The term "litigation" shall include commencing or threatening to commence a lawsuit, joining or threatening to join as a party to ongoing litigation, or requesting any relief from

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

any of the State of New York, the State Agency, or any county, or other local government entity. The term "regulatory action" shall include commencing or threatening to commence a regulatory proceeding, or requesting any regulatory relief from any of the State of New York, the State Agency, or any county, or other local government entity.

P. No Arbitration: Disputes involving the Master Contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

Q. Secular Purpose: Services performed pursuant to the Master Contract are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.

R. Partisan Political Activity and Lobbying: Funds provided pursuant to the Master Contract shall not be used for any partisan political activity, or for activities that attempt to influence legislation or election or defeat of any candidate for public office.

S. Reciprocity and Sanctions Provisions: The Contractor is hereby notified that if its principal place of business is located in a country, nation, province, state, or political subdivision that penalizes New York State vendors, and if the goods or services it offers shall be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that it be denied contracts which it would otherwise obtain.[3]

T. Reporting Fraud and Abuse: Contractor acknowledges that it has reviewed information on how to prevent, detect, and report fraud, waste and abuse of public funds, including information about the Federal False Claims Act, the New York State False Claims Act, and whistleblower protections.

U. Non-Collusive Bidding: By submission of this bid, the Contractor and each person signing on behalf of the Contractor 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 or her knowledge and belief that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive binding certification on the Contractor's behalf.

V. Federally Funded Grants and Requirements Mandated by Federal Laws: All of the Specific Federal requirements that are applicable to the Master Contract are identified in Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws) hereto. To the extent that the Master Contract is funded in whole or part with Federal funds or mandated by Federal laws, (i) the provisions of the Master Contract that conflict with Federal rules, Federal regulations, or Federal program specific requirements shall not apply and (ii) the Contractor agrees to comply with all applicable Federal rules, regulations and program specific requirements including, but not limited to, those provisions that are set forth in Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws) hereto.

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

[3]As of October 9, 2012, the list of discriminatory jurisdictions subject to this provision includes the states of Alaska, Hawaii, Louisiana, South Carolina, West Virginia and Wyoming. Contact NYS Department of Economic Development for the most current list of jurisdictions subject to this provision.

II. TERM, TERMINATION AND SUSPENSION

A. Term: The term of the Master Contract shall be as specified on the Face Page, unless terminated sooner as provided herein.

B. Renewal:

1. *General Renewal*: The Master Contract may consist of successive periods on the same terms and conditions, as specified within the Master Contract (a "Simplified Renewal Contract"). Each additional or superseding period shall be on the forms specified by the State and shall be incorporated in the Master Contract.

2. *Renewal Notice to Not-for-Profit Contractors*:

a) Pursuant to State Finance Law §179-t, if the Master Contract is with a not-for-profit Contractor and provides for a renewal option, the State shall notify the Contractor of the State's intent to renew or not to renew the Master Contract no later than ninety (90) calendar days prior to the end of the term of the Master Contract, unless funding for the renewal is contingent upon enactment of an appropriation. If funding for the renewal is contingent upon enactment of an appropriation, the State shall notify the Contractor of the State's intent to renew or not to renew the Master Contract the later of: (1) ninety (90) calendar days prior to the end of the term of the Master Contract, and (2) thirty (30) calendar days after the necessary appropriation becomes law. Notwithstanding the foregoing, in the event that the State is unable to comply with the time frames set forth in this paragraph due to unusual circumstances beyond the control of the State ("Unusual Circumstances"), no payment of interest shall be due to the not-for-profit Contractor. For purposes of State Finance Law §179-t, "Unusual Circumstances" shall not mean the failure by the State to (i) plan for implementation of a program, (ii) assign sufficient staff resources to implement a program, (iii) establish a schedule for the implementation of a program or (iv) anticipate any other reasonably foreseeable circumstance.

b) Notification to the not-for-profit Contractor of the State's intent to not renew the Master Contract must be in writing in the form of a letter, with the reason(s) for the non-renewal included. If the State does not provide notice to the not-for-profit Contractor of its intent not to renew the Master Contract as required in this Section and State Finance Law §179-t, the Master Contract shall be deemed continued until the date the State provides the necessary notice to the Contractor, in accordance with State Finance Law §179-t. Expenses incurred by the not-for-profit Contractor during such extension shall be reimbursable under the terms of the Master Contract.

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C. Termination:

1. *Grounds*:

a) Mutual Consent: The Master Contract may be terminated at any time upon mutual written consent of the State and the Contractor.

b) Cause: The State may terminate the Master Contract immediately, upon written notice of termination to the Contractor, if the Contractor fails to comply with any of the terms and conditions of the Master Contract and/or with any laws, rules, regulations, policies, or procedures that are applicable to the Master Contract.

c) Non-Responsibility: In accordance with the provisions of Sections IV(N)(6) and (7) herein, the State may make a final determination that the Contractor is non-responsible (Determination of Non-Responsibility). In such event, the State may terminate the Master Contract at the Contractor's expense, complete the contractual requirements in any manner the State deems advisable and pursue available legal or equitable remedies for breach.

d) Convenience: The State may terminate the Master Contract in its sole discretion upon thirty (30) calendar days prior written notice.

e) Lack of Funds: If for any reason the State or the Federal government terminates or reduces its appropriation to the applicable State Agency entering into the Master Contract or fails to pay the full amount of the allocation for the operation of one or more programs funded under this Master Contract, the Master Contract may be terminated or reduced at the State Agency's discretion, provided that no such reduction or termination shall apply to allowable costs already incurred by the Contractor where funds are available to the State Agency for payment of such costs. Upon termination or reduction of the Master Contract, all remaining funds paid to the Contractor that are not subject to allowable costs already incurred by the Contractor shall be returned to the State Agency. In any event, no liability shall be incurred by the State (including the State Agency) beyond monies available for the purposes of the Master Contract. The Contractor acknowledges that any funds due to the State Agency or the State of New York because of disallowed expenditures after audit shall be the Contractor's responsibility.

f) Force Majeure: The State may terminate or suspend its performance under the Master Contract immediately upon the occurrence of a "force majeure." For purposes of the Master Contract, "Force majeure" shall include, but not be limited to, natural disasters, war, rebellion, insurrection, riot, strikes, lockout and any unforeseen circumstances and acts beyond the control of the State which render the performance of its obligations impossible.

2. *Notice of Termination*:

a) Service of notice: Written notice of termination shall be sent by:

(i) personal messenger service; or

(ii) certified mail, return receipt requested and first class mail.

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b) Effective date of termination: The effective date of the termination shall be the later of (i) the date indicated in the notice and (ii) the date the notice is received by the Contractor, and shall be established as follows:

(i) if the notice is delivered by hand, the date of receipt shall be established by the receipt given to the Contractor or by affidavit of the individual making such hand delivery attesting to the date of delivery; or

(ii) if the notice is delivered by registered or certified mail, by the receipt returned from the United States Postal Service, or if no receipt is returned, five (5) business days from the date of mailing of the first class letter, postage prepaid, in a depository under the care and control of the United States Postal Service.

3. ***Effect of Notice and Termination on State's Payment Obligations*:**

a) Upon receipt of notice of termination, the Contractor agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the State.

b) The State shall be responsible for payment on claims for services or work provided and costs incurred pursuant to the terms of the Master Contract. In no event shall the State be liable for expenses and obligations arising from the requirements of the Master Contract after its termination date.

4. *Effect of Termination Based on Misuse or Conversion of State or Federal Property*:

Where the Master Contract is terminated for cause based on Contractor's failure to use some or all of the real property or equipment purchased pursuant to the Master Contract for the purposes set forth herein, the State may, at its option, require:

a) the repayment to the State of any monies previously paid to the Contractor; or

b) the return of any real property or equipment purchased under the terms of the Master Contract; or

c) an appropriate combination of clauses (a) and (b) of Section II(C)(4) herein.

Nothing herein shall be intended to limit the State's ability to pursue such other legal or equitable remedies as may be available.

D. Suspension: The State may, in its discretion, order the Contractor to suspend performance for a reasonable period of time. In the event of such suspension, the Contractor shall be given a formal written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor shall comply with the particulars of the notice. The State shall have no obligation to reimburse Contractor's expenses during such suspension period. Activities may resume at such time as the State issues a formal written notice authorizing a resumption of performance under the Master Contract.

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III. PAYMENT AND REPORTING

A. Terms and Conditions:

1. In full consideration of contract services to be performed, the State Agency agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page.

2. The State has no obligation to make payment until all required approvals, including the approval of the AG and OSC, if required, have been obtained. Contractor obligations or expenditures that precede the start date of the Master Contract shall not be reimbursed.

3. Contractor must provide complete and accurate billing invoices to the State in order to receive payment. Provided, however, the State may, at its discretion, automatically generate a voucher in accordance with an approved contract payment schedule. Billing invoices submitted to the State must contain all information and supporting documentation required by Attachment D (Payment and Reporting Schedule) and Section III(C) herein. The State may require the Contractor to submit billing invoices electronically.

4. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the head of the State Agency, in the sole discretion of the head of such State Agency, due to extenuating circumstances. Such electronic payment shall be made in accordance with OSC's procedures and practices to authorize electronic payments.

5. If travel expenses are an approved expenditure under the Master Contract, travel expenses shall be reimbursed at the lesser of the rates set forth in the written standard travel policy of the Contractor, the OSC guidelines, or United States General Services Administration rates. No out-of-state travel costs shall be permitted unless specifically detailed and pre-approved by the State.

6. Timeliness of advance payments or other claims for reimbursement, and any interest to be paid to Contractor for late payment, shall be governed by Article 11-A of the State Finance Law to the extent required by law.

7. Article 11-B of the State Finance Law sets forth certain time frames for the Full Execution of contracts or renewal contracts with not-for-profit organizations and the implementation of any program plan associated with such contract. For purposes of this section, “Full Execution” shall mean that the contract has been signed by all parties thereto and has obtained the approval of the AG and OSC. Any interest to be paid on a missed payment to the Contractor based on a delay in the Full Execution of the Master Contract shall be governed by Article 11-B of the State Finance Law.

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B. Advance Payment and Recoupment:

1. Advance payments, which the State in its sole discretion may make to not-for-profit grant recipients, shall be made and recouped in accordance with State Finance Law Section 179(u), this Section and the provisions of Attachment D (Payment and Reporting Schedule).

2. Initial advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the first day of the Contract Term or, if renewed, in the period identified on the Face Page. Subsequent advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the dates specified in Attachment D (Payment and Reporting Schedule).

3. For subsequent contract years in multi-year contracts, Contractor will be notified of the scheduled advance payments for the upcoming contract year no later than 90 days prior to the commencement of the contract year. For simplified renewals, the payment schedule (Attachment D) will be modified as part of the renewal process.

4. Recoupment of any advance payment(s) shall be recovered by crediting the percentage of subsequent claims listed in Attachment D (Payment and Reporting Schedule) and Section III(C) herein and such claims shall be reduced until the advance is fully recovered within the Contract Term. Any unexpended advance balance at the end of the Contract Term shall be refunded by the Contractor to the State.

5. If for any reason the amount of any claim is not sufficient to cover the proportionate advance amount to be recovered, then subsequent claims may be reduced until the advance is fully recovered.

C. Claims for Reimbursement:

1. The Contractor shall submit claims for the reimbursement of expenses incurred on behalf of the State under the Master Contract in accordance with this Section and the applicable claiming schedule in Attachment D (Payment and Reporting Schedule).

Vouchers submitted for payment shall be deemed to be a certification that the payments requested are for project expenditures made in accordance with the items as contained in the applicable Attachment B form (Budget) and during the Contract Term. When submitting a voucher, such voucher shall also be deemed to certify that: (i) the payments requested do not duplicate reimbursement from other sources of funding; and (ii) the funds provided herein do not replace funds that, in the absence of this grant, would have been made available by the Contractor for this program. Requirement (ii) does not apply to grants funded pursuant to a Community Projects Fund appropriation.

2. Consistent with the selected reimbursement claiming schedule in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the appropriate following provisions:

a) Quarterly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

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The Contractor shall submit to the State Agency quarterly voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

b) Monthly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency monthly voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

c) Biannual Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency biannually voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

d) Milestone/Performance Reimbursement:[4] Requests for payment based upon an event or milestone may be either severable or cumulative. A severable event/milestone is independent of accomplishment of any other event. If the event is cumulative, the successful completion of an event or milestone is dependent on the previous completion of another event.

Milestone payments shall be made to the Contractor when requested in a form approved by the State, and at frequencies and in amounts stated in Attachment D (Payment and Reporting Schedule). The State Agency shall make milestone payments subject to the Contractor's satisfactory performance.

e) Fee for Service Reimbursement:[5] Payment shall be limited to only those fees specifically agreed upon in the Master Contract and shall be payable no more frequently than monthly upon submission of a voucher by the contractor.

f) Rate Based Reimbursement:[6] Payment shall be limited to rate(s) established in the Master Contract. Payment may be requested no more frequently than monthly.

g) Scheduled Reimbursement:[7] The State Agency shall generate vouchers at the frequencies and amounts as set forth in Attachment D (Payment and Reporting Schedule), and service reports shall be used to determine funding levels appropriate to the next annual contract period.

[4] A milestone/ performance payment schedule identifies mutually agreed-to payment amounts based on meeting contract events or milestones. Events or milestones must represent integral and meaningful aspects of contract performance and should signify true progress in completing the Master Contract effort.
[5] Fee for Service is a rate established by the Contractor for a service or services rendered.
[6] Rate based agreements are those agreements in which payment is premised upon a specific established rate per unit.
[7] Scheduled Reimbursement agreements provide for payments that occur at defined and regular intervals that provide for a specified dollar amount to be paid to the Contractor at the beginning of each payment period (i.e. quarterly, monthly or bi-annually). While these payments are related to the particular services and outcomes defined in the Master Contract, they are not dependent upon particular services or expenses in any one payment period and provide the Contractor with a defined and regular payment over the life of the contract.

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h) Interim Reimbursement: The State Agency shall generate vouchers on an interim basis and at the amounts requested by the Contractor as set forth in Attachment D (Payment and Reporting Schedule).

i) Fifth Quarter Payments:[8] Fifth quarter payment shall be paid to the Contractor at the conclusion of the final scheduled payment period of the preceding contract period. The State Agency shall use a written directive for fifth quarter financing. The State Agency shall generate a voucher in the fourth quarter of the current contract year to pay the scheduled payment for the next contract year.

3. The Contractor shall also submit supporting fiscal documentation for the expenses claimed.

4. The State reserves the right to withhold up to fifteen percent (15%) of the total amount of the Master Contract as security for the faithful completion of services or work, as applicable, under the Master Contract. This amount may be withheld in whole or in part from any single payment or combination of payments otherwise due under the Master Contract. In the event that such withheld funds are insufficient to satisfy Contractor's obligations to the State, the State may pursue all available remedies, including the right of setoff and recoupment.

5. The State shall not be liable for payments on the Master Contract if it is made pursuant to a Community Projects Fund appropriation if insufficient monies are available pursuant to Section 99-d of the State Finance Law.

6. All vouchers submitted by the Contractor pursuant to the Master Contract shall be submitted to the State Agency no later than thirty (30) calendar days after the end date of the period for which reimbursement is claimed. In no event shall the amount received by the Contractor exceed the budget amount approved by the State Agency, and, if actual expenditures by the Contractor are less than such sum, the amount payable by the State Agency to the Contractor shall not exceed the amount of actual expenditures.

7. All obligations must be incurred prior to the end date of the contract. Notwithstanding the provisions of Section III(C)(6) above, with respect to the final period for which reimbursement is claimed, so long as the obligations were incurred prior to the end date of the contract, the Contractor shall have up to ninety (90) calendar days after the contract end date to make expenditures; provided, however, that if the Master Contract is funded, in whole or in part, with Federal funds, the Contractor shall have up to sixty (60) calendar days after the contract end date to make expenditures.

D. Identifying Information and Privacy Notification:

1. Every voucher or New York State Claim for Payment submitted to a State Agency by the Contractor, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property, must include the Contractor's Vendor Identification Number assigned by the Statewide Financial System, and any or all of the following identification numbers: (i) the Contractor's Federal employer identification number,

[8] Fifth Quarter Payments occurs where there are scheduled payments and where there is an expectation that services will be continued through renewals or subsequent contracts. Fifth Quarter Payments allow for the continuation of scheduled payments to a Contractor for the first payment period quarter of an anticipated renewal or new contract.

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(ii) the Contractor's Federal social security number, and/or (iii) DUNS number. Failure to include such identification number or numbers may delay payment by the State to the Contractor. Where the Contractor does not have such number or numbers, the Contractor, on its voucher or Claim for Payment, must provide the reason or reasons for why the Contractor does not have such number or numbers.

2. The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. The personal information is requested by the purchasing unit of the State Agency contracting to purchase the goods or services or lease the real or personal property covered by the Master Contract. This information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York, 12236.

E. Refunds:

1. In the event that the Contractor must make a refund to the State for Master Contract-related activities, including repayment of an advance or an audit disallowance, payment must be made payable as set forth in Attachment A-1 (Program Specific Terms and Conditions). The Contractor must reference the contract number with its payment and include a brief explanation of why the refund is being made. Refund payments must be submitted to the Designated Refund Office at the address specified in Attachment A-1 (Program Specific Terms and Conditions).

2. If at the end or termination of the Master Contract, there remains any unexpended balance of the monies advanced under the Master Contract in the possession of the Contractor, the Contractor shall make payment within forty-five (45) calendar days of the end or termination of the Master Contract. In the event that the Contractor fails to refund such balance the State may pursue all available remedies.

F. Outstanding Amounts Owed to the State: Prior period overpayments (including, but not limited to, contract advances in excess of actual expenditures) and/or audit recoveries associated with the Contractor may be recouped against future payments made under this Master Contract to Contractor. The recoupment generally begins with the first payment made to the Contractor following identification of the overpayment and/or audit recovery amount. In the event that there are no payments to apply recoveries against, the Contractor shall make payment as provided in Section III(E) (Refunds) herein.

G. Program and Fiscal Reporting Requirements:

1. The Contractor shall submit required periodic reports in accordance with the applicable schedule provided in Attachment D (Payment and Reporting Schedule). All required reports or other work products developed pursuant to the Master Contract must be completed as provided by the agreed upon work schedule in a manner satisfactory and acceptable to the State Agency in order for the Contractor to be eligible for payment.

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2. Consistent with the selected reporting options in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the following applicable provisions:

a) If the Expenditure Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with one or more of the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:

(i) *Narrative/Qualitative Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a report, in narrative form, summarizing the services rendered during the quarter. This report shall detail how the Contractor has progressed toward attaining the qualitative goals enumerated in Attachment C (Work Plan). This report should address all goals and objectives of the project and include a discussion of problems encountered and steps taken to solve them.

(ii) *Statistical/Quantitative Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a detailed report analyzing the quantitative aspects of the program plan, as appropriate (e.g., number of meals served, clients transported, patient/client encounters, procedures performed, training sessions conducted, etc.)

(iii) *Expenditure Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a detailed expenditure report, by object of expense. This report shall accompany the voucher submitted for such period.

(iv) *Final Report*: The Contractor shall submit a final report as required by the Master Contract, not later than the time period listed in Attachment D (Payment and Reporting Schedule) which reports on all aspects of the program and detailing how the use of funds were utilized in achieving the goals set forth in Attachment C (Work Plan).

(v) *Consolidated Fiscal Report* (CFR): The Contractor shall submit a CFR, which includes a year-end cost report and final claim not later than the time period listed in Attachment D (Payment and Reporting Schedule).

b) If the Performance-Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:

(i) *Progress Report*: The Contractor shall provide the State Agency with a written progress report using the forms and formats as provided by the State Agency, summarizing the work performed during the period. These reports shall detail the Contractor's progress toward attaining the specific goals enumerated in Attachment C (Work Plan). Progress reports shall be submitted in a format prescribed in the Master Contract.

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(ii) *Final Progress Report*: Final scheduled payment is due during the time period set forth in Attachment D (Payment and Reporting Schedule). The deadline for submission of the final report shall be the date set forth in Attachment D (Payment and Reporting Schedule). The State Agency shall complete its audit and notify the Contractor of the results no later than the date set forth in Attachment D (Payment and Reporting Schedule). Payment shall be adjusted by the State Agency to reflect only those services/expenditures that were made in accordance with the Master Contract. The Contractor shall submit a detailed comprehensive final progress report not later than the date set forth in Attachment D (Payment and Reporting Schedule), summarizing the work performed during the entire Contract Term (i.e., a cumulative report), in the forms and formats required.

3. In addition to the periodic reports stated above, the Contractor may be required (a) to submit such other reports as are required in Table 1 of Attachment D (Payment and Reporting Schedule), and (b) prior to receipt of final payment under the Master Contract, to submit one or more final reports in accordance with the form, content, and schedule stated in Table 1 of Attachment D (Payment and Reporting Schedule).

H. Notification of Significant Occurrences:

1. If any specific event or conjunction of circumstances threatens the successful completion of this project, in whole or in part, including where relevant, timely completion of milestones or other program requirements, the Contractor agrees to submit to the State Agency within three (3) calendar days of becoming aware of the occurrence or of such problem, a written description thereof together with a recommended solution thereto.

2. The Contractor shall immediately notify in writing the program manager assigned to the Master Contract of any unusual incident, occurrence, or event that involves the staff, volunteers, directors or officers of the Contractor, any subcontractor or program participant funded through the Master Contract, including but not limited to the following: death or serious injury; an arrest or possible criminal activity that could impact the successful completion of this project; any destruction of property; significant damage to the physical plant of the Contractor; or other matters of a similarly serious nature.

IV. ADDITIONAL CONTRACTOR OBLIGATIONS, REPRESENTATIONS AND WARRANTIES

A. Contractor as an Independent Contractor/Employees:

1. The State and the Contractor agree that the Contractor is an independent contractor, and not an employee of the State and may neither hold itself out nor claim to be an officer, employee, or subdivision of the State nor make any claim, demand, or application to or for any right based upon any different status. Notwithstanding the foregoing, the State and the Contractor agree that if the Contractor is a New York State municipality, the Contractor shall be permitted to hold itself out, and claim, to be a subdivision of the State.

The Contractor shall be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries and management of its project personnel. These functions shall be carried out in accordance with the provisions of the Master Contract, and all applicable Federal and State laws and regulations.

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2. The Contractor warrants that it, its staff, and any and all subcontractors have all the necessary licenses, approvals, and certifications currently required by the laws of any applicable local, state, or Federal government to perform the services or work, as applicable, pursuant to the Master Contract and/or any subcontract entered into under the Master Contract. The Contractor further agrees that such required licenses, approvals, and certificates shall be kept in full force and effect during the term of the Master Contract, or any extension thereof, and to secure any new licenses, approvals, or certificates within the required time frames and/or to require its staff and subcontractors to obtain the requisite licenses, approvals, or certificates. In the event the Contractor, its staff, and/or subcontractors are notified of a denial or revocation of any license, approval, or certification to perform the services or work, as applicable, under the Master Contract, Contractor shall immediately notify the State.

B. Subcontractors:

1. If the Contractor enters into subcontracts for the performance of work pursuant to the Master Contract, the Contractor shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the State under the Master Contract. No contractual relationship shall be deemed to exist between the subcontractor and the State.

2. If requested by the State, the Contractor agrees not to enter into any subcontracts, or revisions to subcontracts, that are in excess of $100,000 for the performance of the obligations contained herein until it has received the prior written permission of the State, which shall have the right to review and approve each and every subcontract in excess of $100,000 prior to giving written permission to the Contractor to enter into the subcontract. All agreements between the Contractor and subcontractors shall be by written contract, signed by individuals authorized to bind the parties. All such subcontracts shall contain provisions for specifying (1) that the work performed by the subcontractor must be in accordance with the terms of the Master Contract, (2) that nothing contained in the subcontract shall impair the rights of the State under the Master Contract, and (3) that nothing contained in the subcontract, nor under the Master Contract, shall be deemed to create any contractual relationship between the subcontractor and the State. In addition, subcontracts shall contain any other provisions which are required to be included in subcontracts pursuant to the terms herein.

3. If requested by the State, prior to executing a subcontract, the Contractor agrees to require the subcontractor to provide to the State the information the State needs to determine whether a proposed subcontractor is a responsible vendor.

4. If requested by the State, when a subcontract equals or exceeds $100,000, the subcontractor shall submit a Vendor Responsibility Questionnaire (Questionnaire).

5. If requested by the State, upon the execution of a subcontract, the Contractor shall provide detailed subcontract information (a copy of subcontract will suffice) to the State within fifteen (15) calendar days after execution. The State may request from the Contractor copies of subcontracts between a subcontractor and its subcontractor.

6. The Contractor shall require any and all subcontractors to submit to the Contractor all financial claims for Services or work to the State agency, as applicable, rendered and required supporting documentation and reports as necessary to permit Contractor to meet claim deadlines and documentation requirements as established in Attachment D (Payment and Reporting

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Schedule) and Section III. Subcontractors shall be paid by the Contractor on a timely basis after submitting the required reports and vouchers for reimbursement of services or work, as applicable. Subcontractors shall be informed by the Contractor of the possibility of non-payment or rejection by the Contractor of claims that do not contain the required information, and/or are not received by the Contractor by said due date.

C. Use Of Material, Equipment, Or Personnel:

1. The Contractor shall not use materials, equipment, or personnel paid for under the Master Contract for any activity other than those provided for under the Master Contract, except with the State's prior written permission.

2. Any interest accrued on funds paid to the Contractor by the State shall be deemed to be the property of the State and shall either be credited to the State at the close-out of the Master Contract or, upon the written permission of the State, shall be expended on additional services or work, as applicable, provided for under the Master Contract.

D. Property:

1. Property is real property, equipment, or tangible personal property having a useful life of more than one year and an acquisition cost of $1,000 or more per unit.

a) If an item of Property required by the Contractor is available as surplus to the State, the State at its sole discretion, may arrange to provide such Property to the Contractor in lieu of the purchase of such Property.

b) If the State consents in writing, the Contractor may retain possession of Property owned by the State, as provided herein, after the termination of the Master Contract to use for similar purposes. Otherwise, the Contractor shall return such Property to the State at the Contractor's cost and expense upon the expiration of the Master Contract.

c) In addition, the Contractor agrees to permit the State to inspect the Property and to monitor its use at reasonable intervals during the Contractor's regular business hours.

d) The Contractor shall be responsible for maintaining and repairing Property purchased or procured under the Master Contract at its own cost and expense. The Contractor shall procure and maintain insurance at its own cost and expense in an amount satisfactory to the State Agency, naming the State Agency as an additional insured, covering the loss, theft or destruction of such equipment.

e) A rental charge to the Master Contract for a piece of Property owned by the Contractor shall not be allowed.

f) The State has the right to review and approve in writing any new contract for the purchase of or lease for rental of Property (Purchase/Lease Contract) operated in connection with the provision of the services or work, as applicable, as specified in the Master Contract, if applicable, and any modifications, amendments, or extensions of an existing lease or purchase prior to its execution. If, in its discretion, the State disapproves of any

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Purchase/Lease Contract, then the State shall not be obligated to make any payments for such Property.

g) No member, officer, director or employee of the Contractor shall retain or acquire any interest, direct or indirect, in any Property, paid for with funds under the Master Contract, nor retain any interest, direct or indirect, in such, without full and complete prior disclosure of such interest and the date of acquisition thereof, in writing to the Contractor and the State.

2. For non-Federally-funded contracts, unless otherwise provided herein, the State shall have the following rights to Property purchased with funds provided under the Master Contract:

a) For cost-reimbursable contracts, all right, title and interest in such Property shall belong to the State.

b) For performance-based contracts, all right, title and interest in such Property shall belong to the Contractor.

3. For Federally funded contracts, title to Property whose requisition cost is borne in whole or in part by monies provided under the Master Contract shall be governed by the terms and conditions of Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws).

4. Upon written direction by the State, the Contractor shall maintain an inventory of all Property that is owned by the State as provided herein.

5. The Contractor shall execute any documents which the State may reasonably require to effectuate the provisions of this section.

E. Records and Audits:

1. *General*:

a) The Contractor shall establish and maintain, in paper or electronic format, complete and accurate books, records, documents, receipts, accounts, and other evidence directly pertinent to its performance under the Master Contract (collectively, Records).

b) The Contractor agrees to produce and retain for the balance of the term of the Master Contract, and for a period of six years from the later of the date of (i) the Master Contract and (ii) the most recent renewal of the Master Contract, any and all Records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under the Master Contract. Such Records may include, but not be limited to, original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted:

(i) personal service expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, cash and check disbursement records including copies of money orders and the like, vouchers and invoices, records of contract labor, any and all records listing payroll and the money value of non-cash advantages provided to employees, time cards, work schedules and logs, employee personal history folders,

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detailed and general ledgers, sales records, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

(ii) payroll taxes and fringe benefits: cancelled checks, copies of related bank statements, cash and check disbursement records including copies of money orders and the like, invoices for fringe benefit expenses, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

(iii) non-personal services expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, and cost allocation plans, if applicable.

(iv) receipt and deposit of advance and reimbursements: itemized bank stamped deposit slips, and a copy of the related bank statements.

c) The OSC, AG and any other person or entity authorized to conduct an examination, as well as the State Agency or State Agencies involved in the Master Contract that provided funding, shall have access to the Records during the hours of 9:00 a.m. until 5:00 p.m., Monday through Friday (excluding State recognized holidays), at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying.

d) The State shall protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records, as exempt under Section 87 of the Public Officers Law, is reasonable.

e) Nothing contained herein shall diminish, or in any way adversely affect, the State's rights in connection with its audit and investigatory authority or the State's rights in connection with discovery in any pending or future litigation.

2. *Cost Allocation*:

a) For non-performance based contracts, the proper allocation of the Contractor's costs must be made according to a cost allocation plan that meets the requirements of OMB Circulars A-87, A-122, and/or A-21. Methods used to determine and assign costs shall conform to generally accepted accounting practices and shall be consistent with the method(s) used by the Contractor to determine costs for other operations or programs. Such accounting standards and practices shall be subject to approval of the State.

b) For performance based milestone contracts, or for the portion of the contract amount paid on a performance basis, the Contractor shall maintain documentation demonstrating that milestones were attained.

3. *Federal Funds*: For records and audit provisions governing Federal funds, please see Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws).

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F. Confidentiality: The Contractor agrees that it shall use and maintain personally identifiable information relating to individuals who may receive services, and their families pursuant to the Master Contract, or any other information, data or records marked as, or reasonably deemed, confidential by the State (Confidential Information) only for the limited purposes of the Master Contract and in conformity with applicable provisions of State and Federal law. The Contractor (i) has an affirmative obligation to safeguard any such Confidential Information from unnecessary or unauthorized disclosure and (ii) must comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

G. Publicity:

1. Publicity includes, but is not limited to: news conferences; news releases; public announcements; advertising; brochures; reports; discussions or presentations at conferences or meetings; and/or the inclusion of State materials, the State's name or other such references to the State in any document or forum. Publicity regarding this project may not be released without prior written approval from the State.

2. Any publications, presentations or announcements of conferences, meetings or trainings which are funded in whole or in part through any activity supported under the Master Contract may not be published, presented or announced without prior approval of the State. Any such publication, presentation or announcement shall:

a) Acknowledge the support of the State of New York and, if funded with Federal funds, the applicable Federal funding agency; and

b) State that the opinions, results, findings and/or interpretations of data contained therein are the responsibility of the Contractor and do not necessarily represent the opinions, interpretations or policy of the State or if funded with Federal funds, the applicable Federal funding agency.

3. Notwithstanding the above, (i) if the Contractor is an educational research institution, the Contractor may, for scholarly or academic purposes, use, present, discuss, report or publish any material, data or analyses, other than Confidential Information, that derives from activity under the Master Contract and the Contractor agrees to use best efforts to provide copies of any manuscripts arising from Contractor's performance under this Master Contract, or if requested by the State, the Contractor shall provide the State with a thirty (30) day period in which to review each manuscript for compliance with Confidential Information requirements; or (ii) if the Contractor is not an educational research institution, the Contractor may submit for publication, scholarly or academic publications that derive from activity under the Master Contract (but are not deliverable under the Master Contract), provided that the Contractor first submits such manuscripts to the State forty-five (45) calendar days prior to submission for consideration by a publisher in order for the State to review the manuscript for compliance with confidentiality requirements and restrictions and to make such other comments as the State deems appropriate. All derivative publications shall follow the same acknowledgments and disclaimer as described in Section IV(G)(2) (Publicity) hereof.

H. Web-Based Applications-Accessibility: Any web-based intranet and Internet information and applications development, or programming delivered pursuant to the Master Contract or procurement shall comply with New York State Enterprise IT Policy NYS-P08-005, Accessibility

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Web-Based Information and Applications, and New York State Enterprise IT Standard NYS-S08-005, Accessibility of Web-Based Information Applications, as such policy or standard may be amended, modified or superseded, which requires that State Agency web-based intranet and Internet information and applications are accessible to person with disabilities. Web content must conform to New York State Enterprise IT Standards NYS-S08-005, as determined by quality assurance testing. Such quality assurance testing shall be conducted by the State Agency and the results of such testing must be satisfactory to the State Agency before web content shall be considered a qualified deliverable under the Master Contract or procurement.

I. Non-Discrimination Requirements: Pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that the Master Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under the Master Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under the Master Contract. The Contractor shall be subject to fines of $50.00 per person per day for any violation of Section 220-e or Section 239 of the Labor Law.

J. Equal Opportunities for Minorities and Women; Minority and Women Owned Business Enterprises: In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if the Master Contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of $25,000.00, whereby a contracting State Agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting State Agency; or (ii) a written agreement in excess of $100,000.00 whereby a contracting State Agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of $100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the Contractor certifies and affirms that (i) it is subject to Article 15-A of the Executive Law which includes, but is not limited to, those provisions concerning the maximizing of opportunities for the participation of minority and women-owned business enterprises and (ii) the following provisions shall apply and it is Contractor's equal employment opportunity policy that:

1. The Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status;

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2. The Contractor shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts;

3. The Contractor shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

4. At the request of the State, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative shall not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative shall affirmatively cooperate in the implementation of the Contractor's obligations herein; and

5. The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants shall be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

The Contractor shall include the provisions of subclauses 1 – 5 of this Section (IV)(J), in every subcontract over $25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (Work) except where the Work is for the beneficial use of the Contractor. Section 312 of the Executive Law does not apply to: (i) work, goods or services unrelated to the Master Contract; or (ii) employment outside New York State. The State shall consider compliance by the Contractor or a subcontractor with the requirements of any Federal law concerning equal employment opportunity which effectuates the purpose of this section. The State shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such Federal law and if such duplication or conflict exists, the State shall waive the applicability of Section 312 of the Executive Law to the extent of such duplication or conflict. The Contractor shall comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

K. Omnibus Procurement Act of 1992: It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises, as bidders, subcontractors and suppliers on its procurement contracts.

1. If the total dollar amount of the Master Contract is greater than $1 million, the Omnibus Procurement Act of 1992 requires that by signing the Master Contract, the Contractor certifies the following:

a) The Contractor has made reasonable efforts to encourage the participation of State business enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

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b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

c) The Contractor agrees to make reasonable efforts to provide notification to State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of the Master Contract and agrees to cooperate with the State in these efforts.

L. Workers' Compensation Benefits:

1. In accordance with Section 142 of the State Finance Law, the Master Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of the Master Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

2. If a Contractor believes they are exempt from the Workers Compensation insurance requirement they must apply for an exemption.

M. Unemployment Insurance Compliance: The Contractor shall remain current in both its quarterly reporting and payment of contributions or payments in lieu of contributions, as applicable, to the State Unemployment Insurance system as a condition of maintaining this grant.

The Contractor hereby authorizes the State Department of Labor to disclose to the State Agency staff only such information as is necessary to determine the Contractor's compliance with the State Unemployment Insurance Law. This includes, but is not limited to, the following:

1. any records of unemployment insurance (UI) contributions, interest, and/or penalty payment arrears or reporting delinquency;

2. any debts owed for UI contributions, interest, and/or penalties;

3. the history and results of any audit or investigation; and

4. copies of wage reporting information.

Such disclosures are protected under Section 537 of the State Labor Law, which makes it a misdemeanor for the recipient of such information to use or disclose the information for any purpose other than the performing due diligence as a part of the approval process for the Master Contract.

N. Vendor Responsibility:

1. If a Contractor is required to complete a Questionnaire, the Contractor covenants and represents that it has, to the best of its knowledge, truthfully, accurately and thoroughly completed such Questionnaire. Although electronic filing is preferred, the Contractor may

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obtain a paper form from the OSC prior to execution of the Master Contract. The Contractor further covenants and represents that as of the date of execution of the Master Contract, there are no material events, omissions, changes or corrections to such document requiring an amendment to the Questionnaire.

2. The Contractor shall provide to the State updates to the Questionnaire if any material event(s) occurs requiring an amendment or as new information material to such Questionnaire becomes available.

3. The Contractor shall, in addition, promptly report to the State the initiation of any investigation or audit by a governmental entity with enforcement authority with respect to any alleged violation of Federal or state law by the Contractor, its employees, its officers and/or directors in connection with matters involving, relating to or arising out of the Contractor's business. Such report shall be made within five (5) business days following the Contractor becoming aware of such event, investigation, or audit. Such report may be considered by the State in making a Determination of Vendor Non-Responsibility pursuant to this section.

4. The State reserves the right, in its sole discretion, at any time during the term of the Master Contract:

a) to require updates or clarifications to the Questionnaire upon written request;

b) to inquire about information included in or required information omitted from the Questionnaire;

c) to require the Contractor to provide such information to the State within a reasonable timeframe; and

d) to require as a condition precedent to entering into the Master Contract that the Contractor agree to such additional conditions as shall be necessary to satisfy the State that the Contractor is, and shall remain, a responsible vendor; and

e) to require the Contractor to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity. By signing the Master Contract, the Contractor agrees to comply with any such additional conditions that have been made a part of the Master Contract.

5. The State, in its sole discretion, reserves the right to suspend any or all activities under the Master Contract, at any time, when it discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor shall be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the State issues a written notice authorizing a resumption of performance under the Master Contract.

6. The State, in its sole discretion, reserves the right to make a final Determination of Non-Responsibility at any time during the term of the Master Contract based on:

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a) any information provided in the Questionnaire and/or in any updates, clarifications or amendments thereof; or

b) the State's discovery of any material information which pertains to the Contractor's responsibility.

7. Prior to making a final Determination of Non-Responsibility, the State shall provide written notice to the Contractor that it has made a preliminary determination of non- responsibility. The State shall detail the reason(s) for the preliminary determination, and shall provide the Contractor with an opportunity to be heard.

O. Charities Registration: If applicable, the Contractor agrees to (i) obtain not-for-profit status, a Federal identification number, and a charitable registration number (or a declaration of exemption) and to furnish the State Agency with this information as soon as it is available, (ii) be in compliance with the OAG charities registration requirements at the time of the awarding of this Master Contract by the State and (iii) remain in compliance with the OAG charities registration requirements throughout the term of the Master Contract.

P. Consultant Disclosure Law:[9] If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services, then in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

Q. Wage and Hours Provisions: If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

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[9] Not applicable to not-for-profit entities.

Attachment A-1

Specific Terms and Conditions of this Agreement

These special conditions apply to the administrative aspects of this Agreement. These special conditions cannot be changed.

I. AGENCY SPECIFIC TERMS AND CONDITIONS

RESPONSIBILITY REQUIREMENTS

A. The **Department** is required to undertake an affirmative review of the responsibility of any vendor to which it proposes to make a funding agreement award. Such review shall be designed to provide reasonable assurances that the proposed **Contractor** is responsible. In undertaking such review, the **Department** must comply with the following standards:

   a. In all cases, the **Department** must consider any information that has come to its attention from the proposed **Contractor** or any other source that would raise issues concerning the proposed **Contractor's** responsibility.

   b. In the case of any funding agreement valued at $100,000 or more, the **Department** must affirmatively require disclosure by the proposed **Contractor** of all information that the **Department** reasonably deems relevant to a determination of responsibility by completing a Vendor Responsibility Questionnaire.

B. The **Contractor** shall at all times during the **Agreement** term remain responsible. The **Contractor** agrees, if requested by Commissioner or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

C. The Commissioner or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this **Agreement**, at any time, when he or she discovers information that calls into question the responsibility of the **Contractor**. In the event of such suspension, the **Contractor** will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the **Contractor** must comply with the terms of the suspension order. **Agreement** activity may resume at such time as the Commissioner or his or her designee issues a written notice authorizing a resumption of performance under the **Agreement**.

D. Upon written notice to the **Contractor**, and a reasonable opportunity to be heard with appropriate Commissioner officials or staff, the **Agreement** may be

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terminated by Commissioner or his or her designee at the **Contractor's** expense where the **Contractor** is determined by the Commissioner or his or her designee to be non-responsible. In such event, the Commissioner or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

CONFLICT OF INTEREST

A. Organizational Conflict of Interest. To the best of the **Contractor's** knowledge and belief, the **Contractor** warrants that there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, as herein defined, or that the **Contractor** has disclosed all such relevant information to the **Department**.

1. An organizational conflict of interest exists when the nature of the work to be performed under this Agreement may, without some restriction on future activities, impair or appear to impair the **Contractor's** objectivity in performing the work for the **Department**.

2. The **Contractor** agrees that if an actual, or potential organizational conflict of interest is discovered at any time after award, whether before or during performance, the **Contractor** will immediately make a full disclosure in writing to the **Department**. This disclosure shall include a description of actions which the **Contractor** has taken or proposes to take, after consultation with the **Department**, to avoid, mitigate, or minimize the actual or potential conflict.

3. To the extent that the work under this funding agreement requires access to personal, proprietary or confidential business or financial data of persons or other companies, and as long as such data remains proprietary or confidential, the **Contractor** shall protect such data from unauthorized use and disclosure and agrees not to use it to compete with such companies.

B. Personal Conflict of Interest. The following provisions with regard to management or professional level employee personnel performing under this Agreement shall apply until the earlier of the termination date of the affected employee(s) or the duration of the Agreement.

1. A personal conflict of interest is defined as a relationship of an employee, subcontractor employee, or consultant with an entity that may impair or appear to impair the objectivity of the employee, subcontractor employee, or consultant in performing the work associated with this Agreement. The **Contractor** agrees to notify the **Department** immediately of any actual or potential personal conflict of interest with regard to any such person working on or having access to information regarding this Agreement, as soon as **Contractor** becomes aware of such conflict. The **Department** will notify the **Contractor** of the appropriate action to be taken.

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2. The **Contractor** agrees to advise all management or professional level employees involved in the work of this Agreement, that they must report any personal conflicts of interest to the **Contractor**. The **Contractor** must then advise the **Department** which will advise the **Contractor** of the appropriate action to be taken.

3. Unless waived by the **Department**, the **Contractor** shall certify annually that, to the best of the **Contractor's** knowledge and belief, all actual, apparent or potential conflicts of interest, both personal and organizational, as defined herein, have been reported to the **Department**. Such certification must be signed by a senior executive of the **Contractor** and submitted in accordance with instructions provided by the **Department**. Along with the annual certification, the **Contractor** shall also submit an update of any changes in any conflict of interest plan submitted with its proposal for this Agreement. The initial certification shall cover the one-year period from the date of award for this Agreement, and all subsequent certifications shall cover successive annual periods thereafter. The certification is to be submitted no later than 45 days after the close of the previous certification period covered.

4. In performing this Agreement, the **Contractor** recognizes that its employees may have access to data, either provided by the **Department** or first generated during Agreement performance, of a sensitive nature which should not be released without **Department** approval. If this situation occurs, the **Contractor** agrees to obtain confidentiality agreements from all affected employees working on requirements under this Agreement including subcontractors and consultants. Such agreements shall contain provisions which stipulate that each employee agrees not to disclose, either in whole or in part, to any entity external to the **Department**, any information or data provided by the **Department** or first generated by the **Contractor** under this Agreement, any site-specific cost information, or any enforcement strategy without first obtaining the written permission of the **Department**. If a **Contractor**, through an employee or otherwise, is subpoenaed to testify or produce documents, which could result in such disclosure, the **Contractor** must provide immediate advance notification to the **Department** so that the **Department** can authorize such disclosure or have the opportunity to take action to prevent such disclosure. Such agreements shall be effective for the life of this Agreement and for a period of five (5) years after completion of this Agreement.

C. Remedies. The **Department** may terminate this Agreement in whole or in part, if it deems such termination necessary to avoid an organizational or personal conflict of interest, or an unauthorized disclosure of information. If the **Contractor** fails to make required disclosures or misrepresents relevant information to the **Department**, the **Department** may terminate the Agreement, or pursue such other remedies as may be permitted by the terms of other applicable provisions of this Agreement regarding termination.

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D. The **Contractor** will be ineligible to make a proposal or bid on a funding agreement for which the **Contractor** has developed the statement of work or the solicitation package.

E. The **Contractor** agrees to insert in each subcontract or consultant agreement placed hereunder provisions which shall conform substantially to the language of this clause, including this paragraph (e), unless otherwise authorized by the **Department**.

PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE FUNDING AGREEMENTS: REQUIREMENTS AND PROCEDURES

I. General Provisions

A. The **Department** is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 ("MWBE Regulations") for all State funding agreements as defined therein, with a value (1) in excess of $25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of $100,000 for real property renovations and construction.

B. The **Contractor** to the subject funding agreement (the "Agreement") agrees, in addition to any other nondiscrimination provision of the Agreement and at no additional cost to the **Department**, to fully comply and cooperate with the **Department** in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women ("EEO") and contracting opportunities for certified minority and women-owned business enterprises ("MWBEs"). **Contractor's** demonstration of "good faith efforts" pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the "Human Rights Law") or other applicable Federal, State or local laws.

C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Appendix or enforcement proceedings as allowed by the Agreement.

II. Agreement Goals

A. For purposes of this procurement, the **Department** hereby establishes an overall goal of 0% for Minority and Women-Owned Business Enterprises ("MWBE") participation, 0% for Minority-Owned Business Enterprises ("MBE") participation and 0% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs).

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B. For purposes of providing meaningful participation by MWBEs on the Agreement and achieving the Agreement Goals established in Section II-A hereof, **Contractor** should reference the directory of New York State Certified MBWEs found at the following internet address:

http://www.esd.ny.gov/mwbe.html

Additionally, **Contractor** is encouraged to contact the Division of Minority and Woman Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Agreement.

C. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, **Contractor** must document "good faith efforts" to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Agreement. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the **Contractor** acknowledges that if **Contractor** is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Agreement, such a finding constitutes a breach of contract and the **Contractor** shall be liable to the **Department** for liquidated or other appropriate damages, as set forth herein.

III. Equal Employment Opportunity (EEO)

A. **Contractor** agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the "Division"). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.

B. **Contractor** shall comply with the following provisions of Article 15-A:

1. **Contractor** and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
2. The **Contractor** shall submit an EEO policy statement to the **Department** within seventy two (72) hours after the date of the notice by **Department** to award the Agreement to the **Contractor**.
3. If **Contractor** or Subcontractor does not have an existing EEO policy statement, the **Department** may provide the **Contractor** or Subcontractor a

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model statement (see Form MWBE/EEO1 – Minority and Women-Owned Business Enterprises Equal Employment Opportunity Policy Statement).

4. The **Contractor's** EEO policy statement shall include the following language:

   a. The **Contractor** will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
   b. The **Contractor** shall state in all solicitations or advertisements for employees that, in the performance of the Agreement, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
   c. The **Contractor** shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the **Contractor's** obligations herein.
   d. The **Contractor** will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Agreement.

C. Form MWBE/EEO2- Staffing Plan

To ensure compliance with this Section, the **Contractor** shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Agreement by the specified categories listed, including ethnic background, gender, and Federal occupational categories. **Contractors** shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the Agreement.

D. Form MWBE/EEO3 - Workforce Employment Utilization Report ("Workforce Report")

1. Once an Agreement has been awarded and during the term of that Agreement, Contractor is responsible for updating and providing notice to the Department of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the Agreement to report

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

the actual workforce utilized in the performance of the Agreement by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.

2. Separate forms shall be completed by Contractor and any subcontractor performing work on the Agreement.
3. In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Agreement from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Agreement. When the workforce to be utilized on the Agreement cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the Agreement.

E. Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

IV. MWBE Utilization Plan

A. The **Contractor** represents and warrants that **Contractor** has submitted an MWBE Utilization Plan (MWBE/EEO4) either prior to, or at the time of, the execution of the Agreement.

B. **Contractor** agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Agreement pursuant to the prescribed MWBE goals set forth in Section III-A of this Appendix.

C. **Contractor** further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Agreement. Upon the occurrence of such a material breach, the **Department** shall be entitled to any remedy provided herein, including but not limited to, a finding of **Contractor** non-responsiveness.

V. Waivers

A. For Waiver Requests **Contractor** should use Form MWBE/EEO5 – Waiver Request.

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

B. If the **Contractor**, after making good faith efforts, is unable to comply with MWBE goals, the **Contractor** may submit a Request for Waiver form documenting good faith efforts by the **Contractor** to meet such goals. If the documentation included with the waiver request is complete, the **Department** shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.

C. If the **Department**, upon review of the MWBE Utilization Plan and updated Quarterly MWBE **Contractor** Compliance Reports determines that **Contractor** is failing or refusing to comply with the Agreement goals and no waiver has been issued in regards to such non-compliance, the **Department** may issue a notice of deficiency to the **Contractor**. The **Contractor** must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Agreement Goals.

VI. Quarterly MWBE Contractor Compliance Report

Contractor is required to submit a Quarterly MWBE **Contractor** Compliance Report (Form MWBE/EEO6) to the **Department** by the 10th day following each end of quarter over the term of the Agreement documenting the progress made towards achievement of the MWBE goals of the Agreement.

VII. Liquidated Damages - MWBE Participation

A. Where the Department determines that Contractor is not in compliance with the requirements of the Agreement and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay to the Department liquidated damages.

B. Such liquidated damages shall be calculated as an amount equaling the difference between:
   1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
   2. All sums actually paid to MWBEs for work performed or materials supplied under the Agreement.

C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the **Department**, **Contractor** shall pay such liquidated damages to the **Department** within sixty (60) days after they are assessed by the **Department** unless prior to the expiration of such sixtieth day, the **Contractor** has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the **Department**.

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

The forms referenced above can be found at http://www.agriculture.ny.gov/MWBE.html.

PROJECT INSURANCE CONSIDERATIONS

A. The Contractor agrees to procure and maintain at its own expense and without expense to the Department until final acceptance by the Department of the services covered by this Agreement, insurance of the kinds and amounts applicable to the project work plan, hereinafter provided by insurance companies licensed to do business in the State of New York, covering all operations under this Agreement.

B. Upon execution of this Agreement, the Contractor shall furnish to the Department a certificate or certificates, in form satisfactory to the Department, showing that it has complied with this Article, which certificate or certificates shall provide that the policies shall not be changed or canceled until thirty (30) days written notice has been given to the Department. The certificate shall list the Department and the State of New York as additional insureds, except with respect to worker's compensation and disability coverage. The insurance certificate(s) must contain an endorsement in writing added to and made part of the insurance contract for the purpose of changing the original terms such that the Department and the State of New York are added as additional insureds. In addition, the applicable insurance policy number(s) referenced on the ACCORD form must be referenced on the endorsement. A copy of the endorsement page, showing the Department and the State of New York as additional insureds, must be provided to the Department. This Agreement shall be void and of no effect unless the Contractor procures the required insurance policies and maintains them until acceptance of the work. The kinds and amounts of insurance required are as follows:

1. Policy covering the obligations of the Contractor in accordance with the provisions of the Worker's Compensation Law, Employers Liability, and Disability Benefits.

   The *only* forms which are accepted as proof of Workers' Compensation Insurance are as follows:

FORM #	FORM TITLE
C-105.2	Certificate of Workers' Compensation Insurance
CE-200	Certificate of Attestation of Exemption – (no employees)
U-26.3	State Insurance Fund Version of the C-105.2 form
SI-12	Certificate of Workers' Compensation Self-Insurance
GSI-105.2	Certificate of Participation in Worker's Comp Group Self-Insurance

   The *only* forms which are accepted as proof of Disability Benefit Insurance are as follows:

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

FORM #	FORM TITLE
DB-120.1	Certificate of Disability Benefit Insurance
DB-120.2	Certificate of Participation in Disability Benefits Group Self-insurance
DB-155	Certificate of Disability Benefit Self-Insurance
CE-200	Certificate of Attestation of Exemption – (no employees)

An ACORD form is **NOT** an acceptable proof of Workers' Compensation coverage. **ALL THE ABOVE REFERENCED FORMS, EXCEPT CE-200, SI-12 & DB-155 MUST NAME**: The New York State Department of Agriculture and Markets, Division of Land and Water Resources, 10B Airline Drive, Albany, NY 12235, as the Entity Requesting Proof of Coverage (Entity being listed as the Certificate Holder).

Additional information can be obtained at the Worker's Compensation website: http://www.wcb.ny.gov/content/main/Employers/Employers.jsp.

2. The **Contractor** shall require that any subcontractors hired, carry insurance with the same limits and provisions as provided herein.

AMENDMENTS / EXTENSIONS

A. The Agreement may be amended and/or extended by mutual written consent of all parties. Amendment forms will be incorporated into this Agreement and will not take effect until approved by all State agencies and final approval by the Office of State Comptroller, if applicable. Agreement amendments may be conditioned upon funds being re-appropriated in the State Budget each state fiscal year to the **Department**.

II. PROGRAM SPECIFIC TERMS AND CONDITIONS

A. Applications

Pursuant to NYCCR 390.5(c) the following criteria will be used by the Commissioner in determining approval of applications:

- The responsiveness of the grant application to the analytical factors required under AML § 324(-a);
- The degree to which the need for agricultural protection by the county (municipality) is substantiated by facts and trends;
- The adequacy of the plan of work (e.g., does it relate to the needs identified, is it logically constructed, and can it be accomplished within the timeframe predicted);
- The qualifications of the principals who will be developing the plan;

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

- The reasonableness of the estimated cost of developing the plan versus the work to be performed;
- Overall compliance with procedural requirements of AML article 25-AAA; and
- The completeness of the application.

B. Plan Requirements

1. County Agricultural and Farmland Protection Plan Requirements

Pursuant to Agriculture and Markets Law §324 and Administrative Rule 1 NYCCR 390.3, as summarized in Circular 1500, development or revision of a County Agricultural and Farmland Protection Plan must include:

- A statement of the Counties goal(s) with respect to agriculture and farmland protection;
- An identification and analysis of the lands or areas proposed to be protected, including the following factors:
    - Value to the agricultural economy of the County;
    - Open space value;
    - Consequences of possible conversion;
    - Level of conversion pressure on the lands or areas proposed to be protected;
    - Maps are *not* mandatory, but may be useful to clearly illustrate strategies.
- Description of activities, programs, and strategies intended to be used by the County to promote continued agricultural use, including how they are going to be financed;
- A description of efforts to support the successful transfer of agricultural land from existing owners to new owners and operators, especially new and beginning farmers; intended to be used by the county to promote continued agricultural use, which may include but not be limited to revisions to the county's comprehensive plan pursuant to General Municipal Law §239-d or §239-l;
- A description or identification of other municipal and county planning and land use programs, if any, such as economic development, zoning and comprehensive land use planning, which may be shown to complement and be consistent with, the county agricultural and farmland protection plan, as well as identification of any municipal and county plans, policies or objectives which are not consistent with or conflict with the plan.
- The County Agricultural and Farmland Protection Board shall conduct at least one public hearing for public input regarding such agricultural and farmland protection plan;

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

- The County Agricultural and Farmland Protection Board shall undertake specific efforts to involve members of the farming community in the planning process, and to assure that the final plan is made available to the farm community for comment before it is approved;
- The County Agricultural and Farmland Protection Board shall consult with the Department throughout the process;
- Plans of work must be completed within 18 months to be eligible for State matching grants under this program, unless said period is extended by written agreement between the county and the department; however, the county legislative body need not approve the final plan within 18 months; and
- The County legislative body shall submit the plan to the Commissioner of the NYS Department of Agriculture and Markets for approval. The Commissioner shall act upon the plan within 45 days of receipt of the document, and notify the county legislative body of the plan's approval or disapproval. A copy of the Commissioner's decision shall be sent to the chair of the County Agriculture and Farmland Protection Board.

1.1 County Final Plan Review and Approval

Pursuant to Administrative Rule 390.3(c), the following criteria shall be used by the Commissioner to determine the acceptability of a County agriculture and farmland protection plan:

- The consistency of the plan with State agriculture and farmland protection plans, policies, and objectives; and State environmental plans, policies, and objectives; and State comprehensive plans, policies, and objectives;
- The consistency of the plan with county and municipal plans, policies, and objectives which could affect:
    - the practicality of the plan
    - the extent to which the plan satisfies the analytical factors addressed under AML §324;
    - the adequacy of substantiating date, information and facts;
    - the cost implications of the protection measures identified in the plan; and,
    - whether the county legislative body has approved the plan.

2. Municipal Agricultural and Farmland Protection Plan

Pursuant to Agriculture and Markets Law §324 and Administrative Rule 1 NYCCR 390.4, as summarized in Circular 1500, the development or revision of a Municipal Agricultural and Farmland Protection Plan shall include:

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

- A statement of the municipalities goal(s) with respect to agriculture and farmland protection;
- An identification and analysis of the lands or areas proposed to be protected, including the following factors:
    - Value to the agricultural economy of the municipality;
    - Open space value;
    - Consequences of possible conversion;
    - Level of conversion pressure on the lands or areas proposed to be protected;
    - Maps are *not* mandatory, but may be useful to clearly illustrate strategies.
- Description of activities, programs, and strategies intended to be used by the municipality to promote continued agricultural use, including how they are going to be financed;
- A description of efforts to support the successful transfer of agricultural land from existing owners to new owners and operators, especially new and beginning farmers; which may include but not limited to revisions to the municipality's comprehensive plan pursuant to General Municipal Law(GMU) § 272a of town law and GMU §7-722 of the village law, as appropriate.
- A description or identification of other municipal and county planning and land use programs, if any, such as economic development, zoning and comprehensive land use planning, which may be shown to complement and be consistent with, the municipal agricultural and farmland protection plan, as well as identification of any municipal and county plans, policies or objectives which are <u>not</u> consistent with or conflict with the plan.
- The municipality shall conduct at least one public hearing for public input regarding such agricultural and farmland protection plan;
- The municipality shall undertake specific efforts to involve members of the farming community in the planning process;
- The municipality shall consult with the Department throughout the process;
- The municipality shall submit the proposed plan to the municipal legislative body and the agricultural and farmland protection board for the county in which the municipality is located for approval; however, the municipal legislative body need not approve the final plan within 24 months;
- The municipal agricultural and farmland protection plan must be submitted by the municipality to the Commissioner of the NYS Department of Agriculture and Markets for approval.

2.1 Final Municipal Plan Review and Approval

Pursuant to Administrative Rule 390.4(c), the following criteria shall be used by the Commissioner to determine the acceptability of a municipal agriculture and

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

farmland protection plan:

- The consistency of the plan with State agriculture and farmland protection plans, policies, and objectives; and State environmental plans, policies, and objectives; and State comprehensive plans, policies, and objectives;

- The consistency of the plan with county and municipal plans, policies, and objectives which could affect:
    - the practicality of the plan
    - the extent to which the plan satisfies the analytical factors addressed under AM § 324-a;
    - the adequacy of substantiating date, information and facts;
    - the cost implications of the protection measures identified in the plan; and,
    - whether the municipal legislative body and County Agriculture and Farmland Protection Board has approved the plan.

EVIRONMENTAL PROTECTION FUND ACKNOWLEDGEMENT

If applicable, in recognition of a portion of the Department funds utilized for the work completed under this Agreement, the Contractor agrees to acknowledge in any communication to the public, that such funding was provided from the Environmental Protection Fund as administered by the New York State Department of Agriculture and Markets.

NOTIFICATIONS

Notices to the Department shall be addressed to:

Jeff Kehoe, Land Trust Grants Program Manager
New York State Department of Agriculture and Markets
Division of Land and Water Resources
10B Airline Drive
Albany, New York 12235

Other communications to the Department regarding the work associated with this Agreement, including required project deliverables, may be directed to Jeff Kehoe via email (jeffrey.kehoe@agriculture.ny.gov) or telephone (518-457-4626).

Notices to the **Contractor** shall be addressed to the primary mailing address that appears on the face page of this Agreement.

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

ATTACHMENT B-1 EXPENDITURE BASED BUDGET

SUMMARY

PROJECT NAME: Town of Amherst Agriculture and farmland Protection Planning Grant

CONTRACTOR SFS PAYEE NAME: AMHERST TOWN OF

CONTRACT PERIOD: From: 03/01/2018

To: 02/28/2020

CATEGORY OF EXPENSE	GRANT FUNDS	MATCH FUNDS	MATCH %	OTHER FUNDS	TOTAL
1. Personal Services					
a) Salary	$0.00	$1,667.00	0 %	$0.00	$1,667.00
b) Fringe	$0.00	$0.00	0 %	$0.00	$0.00
Subtotal	$0.00	$1,667.00	0 %	$0.00	$1,667.00
2. Non Personal Services					
a) Contractual Services	$25,000.00	$6,667.00	26 %	$0.00	$31,667.00
b) Travel	$0.00	$0.00	0 %	$0.00	$0.00
c) Equipment	$0.00	$0.00	0 %	$0.00	$0.00
d) Space/Property & Utilities	$0.00	$0.00	0 %	$0.00	$0.00
e) Operating Expenses	$0.00	$0.00	0 %	$0.00	$0.00
f) Other	$0.00	$0.00	0 %	$0.00	$0.00
Subtotal	$25,000.00	$6,667.00	26 %	$0.00	$31,667.00
TOTAL	$25,000.00	$8,334.00	33 %	$0.00	$33,334.00

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

ATTACHMENT B-1 EXPENDITURE BASED BUDGET

PERSONAL SERVICES DETAIL

SALARY					
POSITION TITLE	**ANNUALIZED SALARY PER POSITION**	**STANDARD WORK WEEK (HOURS)**	**PERCENT OF EFFORT FUNDED**	**NUMBER OF MONTHS FUNDED**	**TOTAL**
Town of Amherst Planning Department	$60,000.00				$1,667.00
				Subtotal	$1,667.00
TOTAL FRINGE					
				PERSONAL SERVICES TOTAL	$1,667.00

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

ATTACHMENT B-1 - EXPENDITURE BASED BUDGET
NON-PERSONAL SERVICES DETAIL

CONTRACTUAL SERVICES - TYPE/DESCRIPTION	TOTAL
Planning Consultant	$31,667.00
TOTAL	$31,667.00

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

ATTACHMENT B-1 - EXPENDITURE BASED BUDGET
NON-PERSONAL SERVICES DETAIL

TRAVEL - TYPE/DESCRIPTION	TOTAL
TOTAL	

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

EQUIPMENT - TYPE/DESCRIPTION	TOTAL
TOTAL	

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

SPACE/PROPERTY EXPENSES: RENT - TYPE/DESCRIPTION	TOTAL
TOTAL	

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

SPACE/PROPERTY EXPENSES: OWN - TYPE/DESCRIPTION	TOTAL
TOTAL	

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

TYPE/DESCRIPTION OF UTILITY EXPENSES	TOTAL
TOTAL	

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

OPERATING EXPENSES - TYPE/DESCRIPTION	TOTAL
TOTAL	

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

OTHER - TYPE/DESCRIPTION	TOTAL
TOTAL	

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

ATTACHMENT C - WORK PLAN

SUMMARY

PROJECT NAME: Town of Amherst Agriculture and farmland Protection Planning Grant

CONTRACTOR SFS PAYEE NAME: AMHERST TOWN OF

CONTRACT PERIOD: From: 03/01/2018

To: 02/28/2020

Project Summary: A high-level overview of the project, including the overall goal and desired outcomes.
This project will result in a locally adopted, State approved Municipal Agriculture and Farmland Protection Plan for the Town of Amherst, Erie County, New York.

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

ATTACHMENT C - WORK PLAN

DETAIL

Objective	
1	Municipal Agriculture and Farmland Protection Plan

Tasks	
1.1	Pre-Planning Conference - Vendor hosts a pre-planning training seminar to be conducted by Farmland Protection Planning Grants Program staff, and shall include all key personnel involved in plan development.
	Performance Measures
1.1.1	Pre-Planning Conference - To be conducted within 6 months after award date.

Tasks	
1.2	Draft Plan - Vendor compiles draft of required plan components including maps to be submitted as the Draft Plan.
	Performance Measures
1.2.1	Draft Plan - To be submitted within 24 months of award date.

Tasks	
1.3	Final Plan - Vendor compiles the finalized Plan and local and county adopting resolutions to be submitted as part of the Final Plan.
	Performance Measures
1.3.1	Final Plan - To be submitted within sixty days of end of contract period.

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

ATTACHMENT D

PAYMENT AND REPORTING SCHEDULE

I. **PAYMENT PROVISIONS**

In full consideration of contract services to be performed the State Agency agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page hereof. All payments shall be in accordance with the budget contained in the applicable Attachment B form (Budget), which is attached hereto.

A. Advance Payment, Initial Payment and Recoupment Language (if applicable):

1. The State Agency will make an advance payment to the Contractor, during the initial period, in the amount of 25 percent (25%) the budget as set forth in the most recently approved applicable Attachment B form (Budget).

2. The State Agency will make an initial payment to the Contractor in the amount of ___ percent (___%) of the annual budget as set forth in the most recently approved applicable Attached B form (Budget). This payment will be no later than ___ days from the beginning of the budget period.

3. Scheduled advance payments shall be due in accordance with an approved payment schedule as follows:

Period	Amount	Due Date

4. Recoupment of any advance payment(s) or initial payment(s) shall be recovered by crediting (100%) of subsequent claims and such claims will be reduced until the advance or initial payment is fully recovered within the contract period.

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

B. Interim and/or Final Claims for Reimbursement

Claiming Frequency: Quarterly Reimbursement

Number of Days/Claims: 30

For Quarterly, Monthly and Biannual Reimbursement Claim Frequency, the above field represents the number of days after the claim period that the claim is due to the State from the Grantee.

For Interim Reimbursement as Requested by Contractor the Number of Days/Claims is not applicable.

For all other selected Claim Frequency, the Number of Days/Claims represents the number of claims due under the contract and listed in the table below.

Expenditure Period Dates		Due Date
From	To	

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

II. REPORTING PROVISIONS

A. Expenditure-Based Reports (select the applicable report type):

[X] Narrative/Qualitative Report

The Contractor will submit, on a quarterly basis, not later than 30 days from the end of the quarter, the report described in Section III(G)(2)(a)(i) of the Master Contract

[ ] Statistical/Quantitative Report

The Contractor will submit, on a quarterly basis, not later than ___ days from the end of the quarter, the report described in Section III(G)(2)(a)(ii) of the Master Contract.

[ ] Expenditure Report

The Contractor will submit, on a quarterly basis, not later than ___ days after the end date for which reimbursement is being claimed, the report described in Section III(G)(2)(a)(iii) of the Master Contract.

[X] Final Report

The Contractor will submit the final report as described in Section III(G)(2)(a)(iv) of the Master Contract, no later than 60 days after the end of the contract period.

[ ] Consolidated Fiscal Report (CFR) [1]

The Contractor will submit the CFR on an annual basis, in accordance with the time frames designated in the CFR manual. For New York City contractors, the due date shall be May 1 of each year; for Upstate and Long Island contractors, the due date shall be November 1 of each year.

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

[1] The Consolidated Fiscal Reporting System is a standardized electronic reporting method accepted by Office of Alcoholism & Substance Services, Office of Mental Health, Office of Persons with Developmental Disabilities and the State Education Department, consisting of schedules which, in different combinations, capture financial information for budgets, quarterly and/or mid-year claims, an annual cost report, and a final claim. The CFR, which must be submitted annually, is both a year-end cost report and a year-end claiming document.

B. Progress-Based Reports

1. Progress Reports

The Contractor shall provide the report described in Section III(G)(2)(b)(i) of the Master Contract in accordance with the forms and in the format provided by the State Agency, summarizing the work performed during the contract period (See Table 1 below for the annual schedule).

2. Final Progress Report

Final scheduled payment will not be due until ___ days after completion of agency's audit of the final expenditures report/documentation showing total grant expenses submitted by vendor with its final invoice. Deadline for submission of the final report is ___. The agency shall complete its audit and notify vendor of the results no later than ___. The Contractor shall submit the report not later than ___ days from the end of the contract.

C. Other Reports

The Contractor shall provide reports in accordance with the form, content and schedule as set forth in Table 1.

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

TABLE 1 - REPORTING SCHEDULE

PROGRESS REPORT #	PERIOD COVERED		Due Date
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			

III. SPECIAL PAYMENT AND REPORTING PROVISIONS

Attachment: original contract (RES-2021-623 : Amherst Agriculture and Farmland Protection Plan)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 23525 **RESOLUTION 2021-678** **ADJOURNED**

10060 & 10090 Transit Road Rezoning

DRAFT RESOLUTION
(August 9, 2021)

Adoption of Local Law to Amend the Zoning Map
(10060 & 10090 Transit Road & Z-2019-06)

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 June 24, 2021 that the proposed Center 2.5 District (CTR-2.5), Multifamily Residential District Five (MFR-5) and Residential District Three (R-3) zoning at 10060 & 10090 Transit Road 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 conditions:

1. An agricultural data statement be provided with any application for development as required by Erie County Department of Environment and Planning (ECDEP).

2. That the subject area be removed from Agricultural District 17 - Amherst prior to submittal of any application for site development as required by ECDEP.

3. As required by New York State Department of Transportation (NYSDOT) a revised Traffic Impact Study (TIS) be provided with any application for development.

4. That the Petitioner address concerns of the New York State Department of Transportation (NYSDOT) during future development review.

8/09/2021
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 7:16 PM.

Jeffery Palumbo, Esq. presented and answered questions from the Board.

The following speakers addressed the Town Board:
Matt Fitzgerald, Esq., Phillips Lytle LLP, spoke in opposition on behalf of the Ransom Oaks Community Corp. and their several concerns
Colleen Bogdan, 108 Summershade Ct. - Questioned detailed reports that are not included or signed off by Engineer; Spot rezoning; not consistent with neighborhood; the neighborhood is opposed
Steve Massaro, 1116 Smith Rd. - Flooding problems; grossly oversized project; traffic
William Klein, 28 Oak Hill Ct. - Water tables; traffic on Smith; cut through on Ruby Lane.; home values
Colleen Daumen, 418 Glen Oak Dr. - Additional stress of traffic, water, sewage & to fire departments
Rick Mullaney, 25 Honey Suckle Way - Voiced his concerns

There were no further speakers from the public, therefore Supervisor Kulpa moved to adjourn the public hearing until Sept. 13th, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was adjourned at 8:04 PM.

RESULT:	**ADJOURNED [UNANIMOUS]**	**Next: 9/13/2021 7:00 PM**
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Jacqualine Berger, Deputy Supervisor	
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala	

D R A F T (August 9, 2021)

SEQR

NEGATIVE DECLARATION

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency: Town of Amherst
Town Board

Project: Z-2019-06

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 action.

Description of Action: Rezoning of 29.21± acres of land from Suburban Agriculture District (SA) and Motor Service District (MS) to 2.95± acres of Center 2.5 District (CTR-2.5), 12.73 ± acres of Multifamily Residential District Five (MFR-5) and 13.57 ± acres of Residential District Three (R-3) to allow for the future use and development of the site for, four mixed-use buildings fronting on Transit Road which would include 23,400± sq. ft. of commercial space in the proposed CTR-2.5 zoning district; 28 single family lots and 7 townhouse buildings in the proposed MFR-5 zoning district; and 26 single family lots in the proposed R-3 zoning district area.

Location: 10060 & 10090 Transit Road, Town of Amherst, Erie County, New York

Petitioner: Forbes Capretto Homes

Attachment: Z-2019-06_Draft Neg Dec_Transit 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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 29.21± acres of land from Suburban Agriculture District (SA) and Motor Service District (MS) to 2.95± acres of Center 2.5 District (CTR-2.5), 12.73 ± acres of Multifamily Residential District Five (MFR-5) and 13.57 ± acres of Residential District Three (R-3) to allow for the future use and development of the site for, four mixed-use buildings fronting on Transit Road which would include 23,400± sq. ft. of commercial space in the proposed CTR-2.5 zoning district; 28 single family lots and 7 townhouse buildings in the proposed MFR-5 zoning district; and 26 single family lots in the proposed R-3 zoning district area 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 April 20, 2021 reviewed the application and EAF submitted on March 31, 2021 and Stormwater Management System Summary Report received on March 9, 2021, and had no objection to or comments. The Engineering Department notes that upon subsequent development submissions for this development the petitioner will be required to expand the hydraulics modeling report to indicate similar analysis for Town ditch 26D1 from a point 2,000 feet upstream of the Transit Road culvert through the proposed development and downstream to its confluence with Black Creek 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 May 18, 2021 reviewed the application and EAF submitted on March 31, 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.

Attachment: Z-2019-06_Draft Neg Dec_Transit 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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 rezoning from SA and MS to CTR-2.5, MFR-5 and R-3. Neighboring uses are residential and commercial and zoned SA, R-3 and General Business District (GB); therefore, the project is consistent with surrounding land use.

6. The proposed rezoning to CTR-2.5, MFR-5 and R-3 for the proposed four mixed-use buildings which would include 23,400± sq. ft. of commercial space, 54 single family lots and 7 townhouse buildings will not cause a major change in the use of either the quantity or type of energy.

7. The rezoning to CTR-2.5, MFR-5 and R-3 for the proposed four mixed-use buildings fronting on Transit Road which would include 23,400± sq. ft. of commercial space, 54 single family lots and 7 townhouse buildings will not create any hazard to human health.

8. The rezoning to CTR-2.5, MFR-5 and R-3 may cause a substantial change in the use, or intensity of use, of land particularly agricultural, land which is being actively used. However, the proposed four mixed-use buildings which would include 23,400± sq. ft. of commercial space, 54 single family lots and 7 townhouse buildings will be consistent with the scale of surrounding land uses.

9. The rezoning to CTR-2.5, MFR-5 and R-3 for the proposed four mixed-use buildings which would include 23,400± sq. ft. of commercial space, 54 single family lots and 7 townhouse buildings will increase the number of people using the site over its previous level of use.

10. The Town Traffic/Safety Board on May 12, 2021 reviewed the application and EAF submitted on March 31, 2021 and Traffic Impact Study received on March 9, 2021 and had no objection to and recommends that the internal street network be designed to calm and discourage cut-through traffic. The New York State Department of Transportation on May 24, 2019 commented that the proposed uses shown on the Concept Plan, with additional traffic generated by the proposed development may have a significant impact to traffic on the State Highway System, requiring a Traffic Impact Study to be prepared. Additionally, NYSDOT will allow only one curb cut/roadway to service this site along Transit Road and it should be located opposite Lapp Road. All indications are that through any mitigation required by the traffic study or implementation of NYSDOT requirements 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 May 18, 2021, Engineering on April 20, 2021, Traffic/Safety Board on May 12, 2021, Assessor on April 5, 2021, Fire Chiefs' Council on April 7-2021, and Right-of-Way Agent on April 2, 2021 along with outside agencies including Erie County Department of Environment & Planning on May 24, 2019, and New York State

Attachment: Z-2019-06_Draft Neg Dec_Transit 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

Department of Transportation on May 24, 2021. These reviews have not identified any significant environmental issues and indicate that the rezoning request 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

BK/SM/ac

X:\Current_Planning\Files\Rezonings\2019\Z-2019-06_(10060_&_10090_Transit_Rd)_2019\Z-2019-06_Draft Neg Dec_080921.docx

cc: Amherst Town Clerk
Amherst Building Department
ECDEP
NYSDEC
NYSDOT
Forbes Capretto Homes, 470 Cayuga Rd., Cheektowaga, NY 14225
Jeffrey Palumbo, Esq, Barclay Damon, LLP, 9276 Main St., Ste. 3, Clarence, NY 14031

Attachment: Z-2019-06_Draft Neg Dec_Transit 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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 10060 TRANSIT ROAD and 10090 TRANSIT ROAD FROM SA/MS TO R3/MFR5/CTR-2.5 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 10060 Transit Road and 10090 Transit Road."

Section 2. Legislative Findings and Intent.

The Town Board of the Town of Amherst finds that an application to rezone 10060 Transit Road and 10090 Transit Road from SA – Suburban Agricultural / MS – Motor Services to R-3 Residential 3 / MFR-5 – Multifamily Residential District 5 / CTR-2.5 – Center 2.5 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 SA – Suburban Agricultural / MS – Motor Services to R-3 Residential 3 / MFR-5 – Multifamily Residential District 5 / CTR-2.5 – Center 2.5 the zoning of 10060 Transit Road and 10090 Transit Road, **subject to any conditions imposed by the authorizing resolution**; legally described as follows:

LANDS TO BE REZONED TO R-3

ALL 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. 57 in Township 13 and Lot No. 102 in Township 12, Range 7 of the Holland Land Company's Survey and bounded and described as follows:

BEGINNING at a point in the northeasterly line of Smith Road being (66.0 feet wide) said point being the southwest corner of Sublot 2 as shown on a map filed in the Erie County Clerk's office

Attachment: LL for 10060 & 10090 -2 Transit Road (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

under Map cover 2044;

THENCE southeasterly along said northeasterly line of Smith Road a distance of 224.73 feet to an angle point;

THENCE southeasterly continuing along said northeasterly line of Smith Road a distance of 159.64 feet to the southwest corner of Sublot 5 as shown on said Map Cover 2044;

THENCE easterly on a line parallel with the north line of said Lot No. 102 a distance of 239.60 to a point in the centerline of a ditch;

THENCE southeasterly along the centerline of said ditch a distance of 468 feet more or less to a point;
THENCE through the property of lands conveyed to Herbert A. Lotter and Theresa P. Lotter by deed recorded in liber 11153 of deeds at page 5058 the following three (3) courses and distances:

1) Northeasterly along the centerline of a ditch more or less a distance of 284
   feet more or less to a point;
2) Northeasterly a distance of 197 feet more or less to a point;
3) Northerly 244 feet more or less to a point on a northerly line of said Lotter's
   land;

THENCE northerly on a line parallel with said west line of Transit Road a distance of 180.00 feet to a point;

THENCE westerly on a line parallel with the south line said Lot No. 57 a distance of 976.52 feet to the point;

THENCE southerly on a line forming an interior angle of 90%00' a distance of 208.92 feet to the point;

THENCE westerly on a line parallel with the south line said Lot No. 57 a distance of 250 feet to the point of BEGINNING.

LANDS TO BE REZONED TO MFR-5

ALL 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. 57 in Township 13 and Lot No. 102 in Township 12, Range 7 of the Holland Land Company's Survey and bounded and described as follows:

COMMENCING at a point in the westerly line of Transit Road being (66.0 feet wide) said point being the southeast corner of Sublot 21 as shown on a Subdivision Map filed in the Erie County Clerk's office under Map cover 2044;

Attachment: LL for 10060 & 10090 -2 Transit Road (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

THENCE westerly on a line parallel with the south line said Lot No. 57 a distance of 205.12 feet to the point of BEGINNING.

THENCE southerly on a line parallel with said west line of Transit Road being 205.00 feet westerly at right angles from said west line a distance of 626.40 feet to a point;

THENCE westerly parallel with the north line of said Lot No. 102 a distance of 917 feet more or less the centerline of a ditch;

THENCE northerly along the centerline of said ditch a distance of 192 feet more or less to a point;

THENCE through the property of lands conveyed to Herbert A. Lotter and Theresa P. Lotter by deed recorded in liber 11153 of deeds at page 5058 the following three (3) courses and distances:

1) Northeasterly along the centerline of a ditch more or less a distance of 284 feet
   more or less to a point;
2) Northeasterly a distance of 197 feet more or less to a point;
3) Northerly 244 feet more or less to a northerly corner of said Lotter's land;

THENCE easterly on a line parallel with the south line said Lot No. 57 a distance of 460.00 feet to the point;

THENCE southerly on a line parallel with said west line of Transit Road a distance of 120.00 feet to a point;

THENCE easterly on a line parallel with the south line said Lot No. 57 a distance of 44.88 feet to the point of BEGINNING.

LANDS TO BE REZONED TO CTR-2.5

ALL 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. 57 in Township 13 and Lot No. 102 in Township 12, Range 7 of the Holland Land Company's Survey and bounded and described as follows:

BEGINNING at a point in the westerly line of Transit Road being (66.0 feet wide) said point being the southeast corner of Sublot 21 as shown on a Subdivision Map filed in the Erie County Clerk's office under Map cover 2044;

THENCE southerly along said easterly line of Transit Road a distance of 626.40 feet to the southeast corner of Sublot 16 as shown on said Map cover 2044;

THENCE westerly parallel with the north line of said Lot No. 102 a distance of 205.12 feet to a point;

Attachment: LL for 10060 & 10090 -2 Transit Road (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

THENCE northerly on a line parallel with said west line of Transit Road being 205.00 feet westerly at right angles from said west line a distance of 626.40 feet to a point;

THENCE easterly on a line parallel with the south line of said Lot No. 57 a distance of 205.12 feet to the point of BEGINNING.

BEGINNING at a point in the northeasterly line of Smith Road being (66.0 feet wide) said point being the southwest corner of Sublot 2 as shown on a map filed in the Erie County Clerk's office under Map cover 2044;

THENCE through the property of lands conveyed to Herbert A. Lotter and

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 for 10060 & 10090 -2 Transit Road (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

Amherst

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

Brian J. Kulpa
Supervisor

Daniel C. Howard, A
Planning Directo

Daniel J. Ulatowski, A
Assistant Planning Dir

Town Board Agenda of August 9, 2021

July 30, 2021

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

Subject: Request to rezone 29.21± acres of land from Suburban Agriculture District (SA) and Motor Service District (MS) to Center 2.5 District (CTR-2.5), Multifamily Residential District Five (MFR-5) and Residential District Three (R-3); property located at 10060 & 10090 Transit Road. Forbes Capretto Homes, Petitioner. (Z-2019-06).

Honorable Members:

The subject properties comprise a 29.21± acre irregularly shaped area located on the west side of Transit Road, 1,370± ft. north of Smith Road opposite Lapp Road in the Town of Clarence. The subject properties have 626.4± ft. of frontage on Transit Road, 384.37± frontage on Smith Road and 50± ft. of frontage at the southern terminus of Ruby Lane. The requested CTR-2.5 zoned area is 2.95 ± acres, the MFR-5 zoned area is 12.73 ± acres, and the R-3 zoned area is 13.57 ± acres.

The site located at 10060 Transit Road is vacant land currently used for agricultural purposes with the southwest portion characterized by a successional wooded area. The site located at 10090 Transit Road is occupied by a 3 bedroom, 2,259 sq. ft. single-family residence, detached garage and small garage/storage building near Transit Road.

The parcel located at 10060 Transit Road is currently located in the Erie County Agricultural District.

Town Ditch #26D1 "*Hickory Creek*" crosses through the center and along the west sides of this property close to the Smith Road frontage. Town Ditch #26D1A which is an unnamed ditch from Clarence runs under Transit Road, enters the site in the southwest corner and intersects Town Ditch #26D1 in the western portion of the property.

Transit Road is a NYSDOT highway designated as a major arterial roadway; Smith Road is an Erie County highway designated as a collector roadway.

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

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

Honorable Town Board

Rezone land from SA & MS to CTR-2.5, MFR-5 & R-3
property located at 10060 & 10090 Transit Road
Agenda of August 9, 2021

Based upon the concept plan provided the purpose of this request is to allow for the future development of four mixed-use buildings fronting on Transit Road which would include 23,400± sq. ft. of commercial space in the proposed CTR-2.5 zoning district; 28 single family lots and 7 townhouse buildings in the proposed MFR-5 zoning district; and 26 single family lots in the proposed R-3 zoning district area. The proposed roadway network shows a central roadway connecting Transit Road to Smith Road, a private roadway/driveway servicing the town house portion of the proposed development that connects Transit Road to the proposed central roadway, and a connection from the central roadway to the existing terminus of Ruby Lane.

The subject properties were zoned Suburban Agriculture (SA) and Motor Service (MS) with adoption of the Town-wide zoning map and ordinance on January 19, 1976.

The Town Board on September 20, 2020 amended the Town of Amherst Bicentennial Comprehensive Plan to extend the commercial/mixed use designation from its terminus at the intersection of Smith and Transit Roads northerly to encompass the frontage of the subject parcels (BCPA-2019-01).

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

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 proposed subject R-3 zoned area and a portion of the proposed MFR-5 zoned area and mixed use development for the proposed CTR-2.5 zoned area.

INTENT AND OBJECTIVES OF THE ZONING ORDINANCE

The proposed rezoning is consistent with Section 1-2-2K of the Zoning Ordinance 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 subject property is surrounded by residential uses to the north, south and west that are zoned Suburban Agriculture District (SA) and Residential District Three (R-3). Since an extension of the mixed-use zoning would extend from the Swormville Center to the north along Transit Road, it is considered compatible with other similar uses along this corridor.

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 and the Town has been established as the Lead Agency for the subject

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

Honorable Town Board

Rezone land from SA & MS to CTR-2.5, MFR-5 & R-3
property located at 10060 & 10090 Transit Road
Agenda of August 9, 2021

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.

OTHER CONSIDERATIONS

To address issues and or concerns raised by the Erie County Department of Environment and Planning (ECDEP) and the New York State Department of Transportation (NYSDOT) as part of this rezoning request the following conditions should be incorporated into any approval of the rezoning action:

1. An agricultural data statement be provided with any application for development as required by Erie County Department of Environment and Planning (ECDEP).

2. That the subject area be removed from Agricultural District 17 – Amherst prior to submittal of any application for site development as required by ECDEP.

3. As required by New York State Department of Transportation (NYSDOT) a revised Traffic Impact Study (TIS) be provided with any application for development.

4. That the Petitioner address concerns of the New York State Department of Transportation (NYSDOT) during future development review.

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/SM/ac
Att.
X:\Current_Planning\Files\Rezonings\2019\Z-2019-06_(10060_&_10090_Transit_Rd)_2019\Z-2019-06_Town_Bd_Letter_07302021.doc
cc: Stanley Sliwa, Town Attorney

Planning Board Approval June 24, 2021
Ayes 4; Noes 2 (Chmiel, Penberthy), Absent (Gelber)

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

TOWN OF AMHERST
PLANNING BOARD
ZONING RESOLUTION
Z-2019-06

PETITIONER

Forbes Capretto Homes
c/o Jeffery Palumbo
9276 Main Street, Suite 3
Clarence, NY 14031

PROPERTY LOCATION

10060 & 10090 Transit Rd.

WHEREAS the Town of Amherst Planning Board on Thursday, May 20, 2021 held a virtual public hearing on the proposed rezoning of 29.21± acres of land from Suburban Agriculture District (SA) and Motor Service District (MS) to Center 2.5 District (CTR-2.5), Multifamily Residential District Five (MFR-5) and Residential District Three (R-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 generally consistent with policies of the Comprehensive Plan and the Zoning Ordinance and is consistent with the Conceptual Land Use Plan which projects single family residential development for the proposed subject R-3 zoned area and a portion of the proposed MFR-5 zoned area and mixed use development for the proposed CTR-2.5 zoned area in this area of the Town.

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

C. The proposal is compatible with the present zoning and conforming uses of nearby property and to the character of the neighborhood.

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

E. The proposed change does tend to improve the balance of uses, or meets a specific demand in the Town.

F. Review by the US Army Corps of Engineers under Section 404 of the Clean Water Act is required since hydric/potentially hydric soils have been identified on the parcel.

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

TOWN OF AMHERST
PLANNING BOARD
ZONING RESOLUTION
Z-2019-06

PETITIONER	PROPERTY LOCATION
Forbes Capretto Homes	10060 & 10090 Transit Rd.

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 recommends to the Town Board in accordance with Section 8-3-4 of the Zoning Ordinance, that the rezoning request be approved.

The foregoing resolution was adopted by the Town of Amherst Planning Board, June 24, 2021; moved by - Giuliani; seconded by - Gilmour; ayes 4, noes 2 (Chmiel, Penberthy); absent 1 (Gelber).

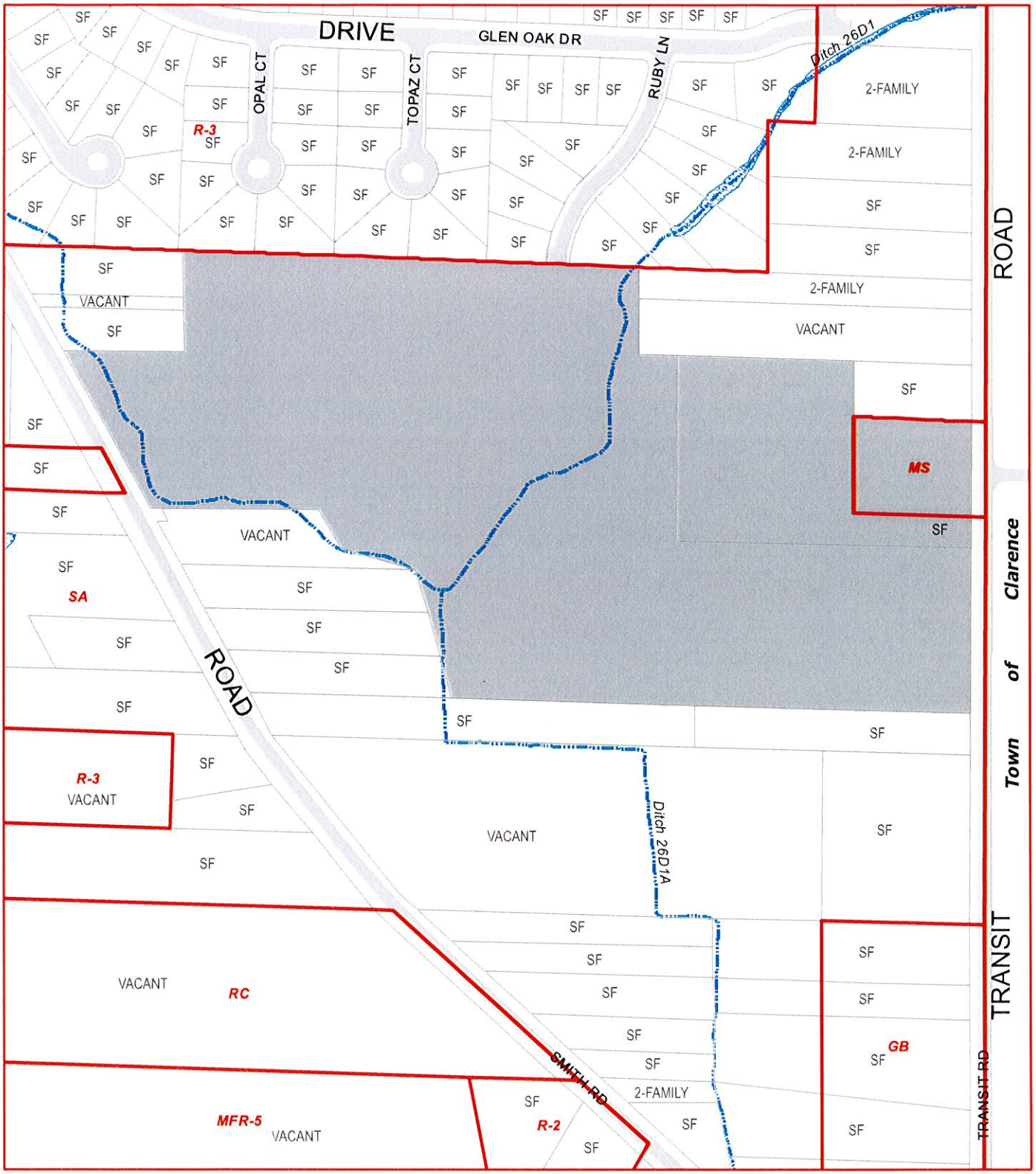
Robert J. Gilmour, Chair

7-1-21
Date

SM/bf
X:\Current_Planning\Files\Rezonings\2019\Z-2019-06_(10060_&_10090_Transit_Rd)_2019\Z-2019-06_Resolution_062421.doc
cc: Town Clerk
Commissioner of Building
Highway Superintendent
Town Engineer
Traffic/Safety Coordinator
Jeff Palumbo, Barclay Damon, 9276 Main St., Suite 3, Clarence, NY 14031
Ken Zollitsch, Greenman-Pedersen, Inc., 4950 Genesee St., Suite 100, Buffalo, NY 14225

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

JUL02'21 AM10:04 RCVD



Z-2019-06

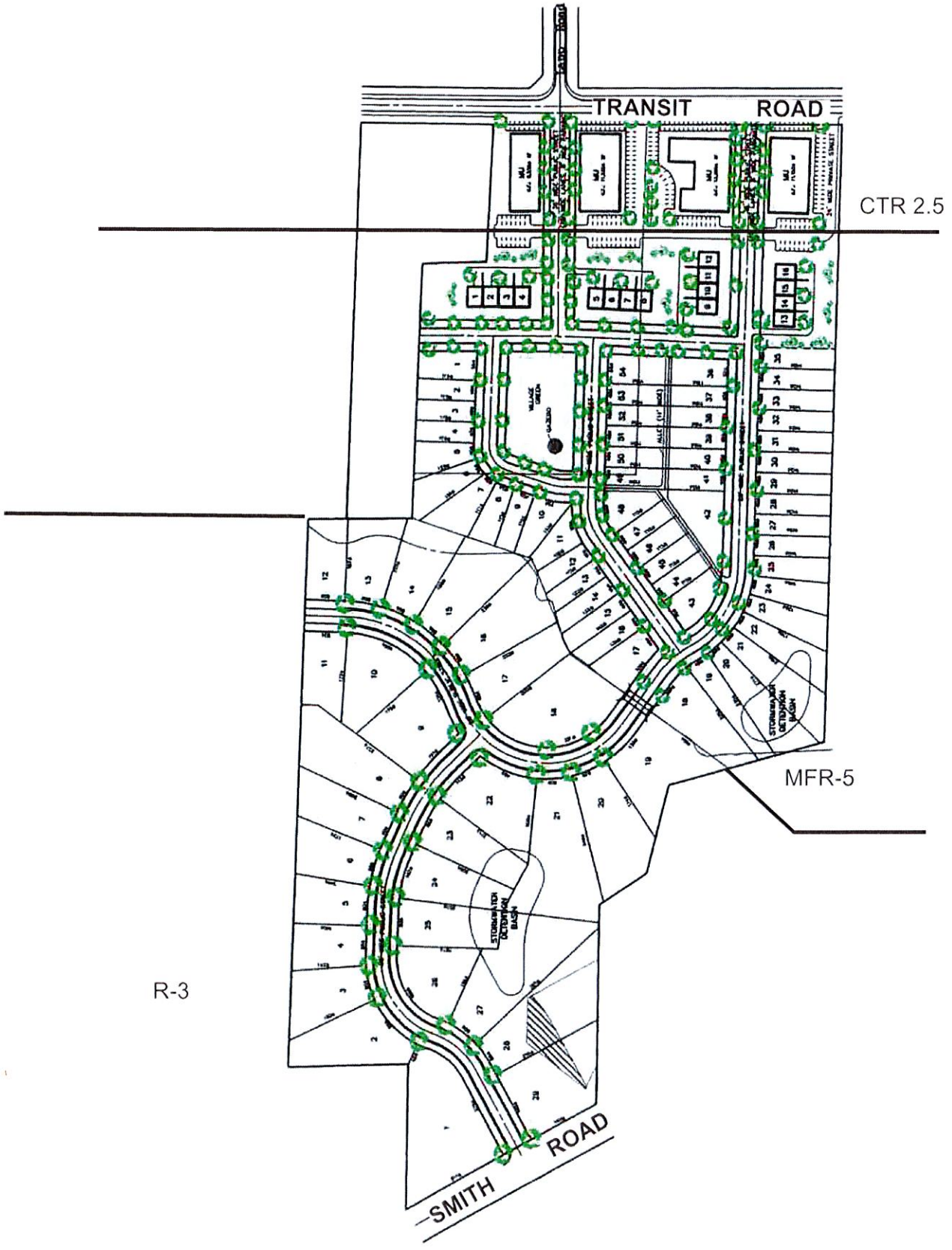
Request to Rezone 29.21+/- AC of Land from SA & MS to CTR-2.5, MFR-5, R-3
Property Located at 10060 & 10090 Transit Road

Forbes Capretto Homes, Petitioner
June 24, 2021

10060 & 10090 Transit Road

Prepared by the Town of Amherst Planning Department

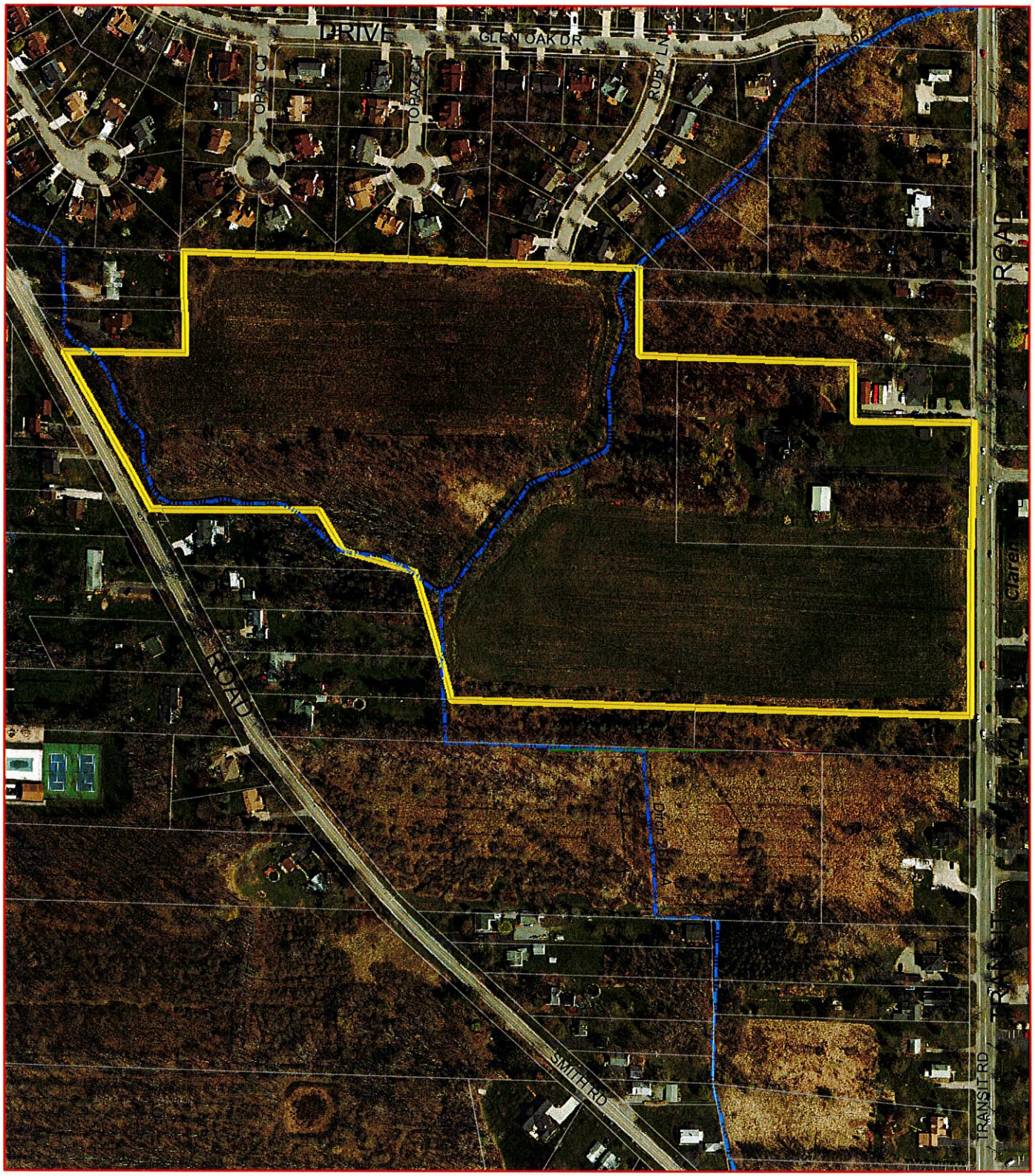
Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)



CONCEPT PLAN

Z-2019-06
10060 & 10090 Transit Road
Received: 5/13/2021

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)



Z-2019-06

Request to Rezone 29.21+/- AC of Land from SA & MS to CTR-2.5, MFR-5, R-3
Property Located at 10060 & 10090 Transit Road

Forbes Capretto Homes, Petitioner
June 24, 2021

10060 & 10090 Transit Road

Prepared by the Town of Amherst Planning Department

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

AMENDED APPLICATION 3-26-21

TOWN OF AMHERST PLANNING DEPARTMENT

Application for Rezoning Review and, if required Comprehensive Plan Amendment

For Official Use

File #: Z-2019-06 **Acreage** 29.21 acres **Fee $** 7,215.00

Address Verified by Assessor's Office _____ VERIFIED BY DATE

Materials Accepted by Town Clerk & Fee Paid 4/17/19 ACCEPTED BY DATE

Materials Checked by Building Dept. _____ RECEIVED BY DATE

Materials Received by Planning Dept. 4/17/19 RECEIVED BY DATE

		Fill In Applicable Fees
2 ACRES OR LESS	**$1,250**	_____
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**		7,200
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:	$7,215	

REVISED
MAR 31 2021
TOWN OF AMHERST
PLANNING DEPT.

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

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

TO BE COMPLETED BY APPLICANT

1. **Petitioner:** Name: Forbes Capretto Homes c/o Barclay Damon LLP

Address: 9276 Main Street, Suite 3

Clarence, New York 14031
City State Zip Code

Phone: 716-858-3728 Fax: 716-858-2728

E Mail JPALUMBO@BARCLAYDAMON.COM

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

From: SA/MS District

To: R3 / MFR5 / CTR-2.5 District

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

10060/10090 Transit Road, E. Amherst, NY 14051

SBL #: 29.01-2-5.1& 29.01-2-5.2

4. **Area of land to be rezoned** (in acres): 29.21 acres

5. **Owner of Land:**

Name: Fritz Lotter/The Estate of Theresa Lotter

Address: c/o John Robshaw, Attorney at Law

Telephone: 716-633-4030

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

Name: Jeffery D. Palumbo, Esq. of Barclay Damon, LLP

Address: SEE ABOVE

City State Zip Code

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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

_____ Option to purchase

_____ Owner

X _____ Other (explain) Contract to purchase

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)

n/a

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:

Mixed use commercial/residential with variety of attached/ detached multi and single family housing proposed.

B. Rationale for rezoning request:

1. Why was this site chosen? Location on major corridor. Access to desirable community services & facilities.

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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

As the Comprehensive Plan designates this area for mixed-use development, it is evident that it is not attractive for large lot, single family development, the only residential development allowed in an SA zoning district. Its location on Transit Road and adjacent to the Swormville Village Center also makes it desirable for mixed-use development.See Comprehensive Plan 3.3.3/Exhibit A.

3. How will this rezoning impact surrounding properties?

It won't, as the parcel is adjacent to a large R-3 district to the north and west, and various MFR and GB districts exist to the north and south, particularly along Transit Rd (see Exhibit C).

4. How will this rezoning impact the school system?

As the proposed development includes a large residential component, it will expand the tax base with minimal impact on the school system.

12. Quantitative Data:

A. Total # of dwelling units 120

B. Distribution of dwelling units by type 52 single/68 multifamily

C. Gross Residential Density per acre MFR-5/R3: 3.6

D. Total amount of Open Space 2.0 acres

E. Proposed Non-Residential Floor Area +/- 23,400 SF

13. Development Schedule:

Start Fall 2021

Finish November 2025

Stages (# of) 2-3

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

Standard apartment/commercial leases.

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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. <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.

Land is within the Mixed Use/Activity Center, which is designed to provide for added economic incentive and flexibility for reuse, offer higher density housing choices and a more compact livable and walkable environment. Section 3.3.3. The Town's comprehensive plan suggests that the "village center" attributes of Swormville should be reinforced through encouragement of compatible mixed and commercial uses, which the proposed project provides. The project, which proposes close to 150 residential units along with close to 50,000 sf of commercial space, is exactly the type of development that could reinvigorate the village potential of the Swormville area.

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.

Figure 6 should be amended to include the subject property, is now part of the identified Village Center. See Conceptual Land Use Map and identified mixed-use center attached hereto as Exhibit B.

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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

Insures orderly and beneficial residential development. Proposal will provide adequate open space and promotes coordinated development in relation to the surrounding properties. Therefore, it is aesthetically harmonious with the surrounding areas and structures and will not negatively increase the intensity of uses in the area. Finally, it represents a higher density pedestrian friendly development that transitions to lower density in harmony with surrounding properties generally consistent with the policies of the comprehensive plan (see above).

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

1. Sanitary Sewer Sewer service district 16
2. Storm Sewer/Drainage Storm sewer will be design within site and drain to adjacent existing storm sewers.
3. Water Water service available from Town of Amherst
4. Other

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

As indicated above and represented in attached zoning map, this parcel is surrounded by single family residential zoning in various densities, and is also located upon a major commercial corridor and adjacent to a proposed mixed-use center. Accordingly, the proposed zoning is compatible and in conformity with the present uses and character of the neighborhood.

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

As evidenced by the existing zoning in the area and objectives advanced in the comprehensive plan, the subject parcel is better suited for the proposed use.

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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

Meets the ever-increasing demand for single-family homes in the Town and provides the mixed-use component desired for this area of the Town.

17. The petitioner encloses herewith the sum of $7,215.00 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.

Signature of Petitioner

Subscribed and sworn to before me this 26th day of March, 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.

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

EXHIBIT A

Exhibit A

In 2016 the Town engaged the Code Studio Team to prepare an analysis of existing commercial and mixed use areas in the Comprehensive Plan with a particular focus on clarifying and improving the hierarchy of commercial centers and mixed use centers in the Town. As set forth in its May 17, 2016 Memorandum, the SA district is not appropriate in commercial centers of mixed use areas. Further, the Town's existing MFR and Commercial districts lack the density needed to generate housing projects that are conducive to walkability and compatible with adjacent mixed use. As a result, the Town, on or about September 3, 2019, adopted Section 5A, Mixed Use District.

On or about September 21, 2020 the Town Board amended the Town Comprehensive Plan to include the Transit Road frontage into the Mixed Use District.

Section 5A-3 of the Zoning Code provides for various "Retrofit Districts" that are intended for parcels of land that are designated commercial and mixed-use activity centers in the Town's 2018 Comprehensive Plan. The Center 2.5 District (CTR-2.5) is intended to create new walkable mixed-use places with human-scaled internal streets. Its residential uses include attached and multi-family dwelling, and commercial uses include office, personal service, restaurant and retail sales and service. (5.8). New development in the CTR-2.5 district can range from 1-2.5 stories in height and requires a minimum of 5% open space area.

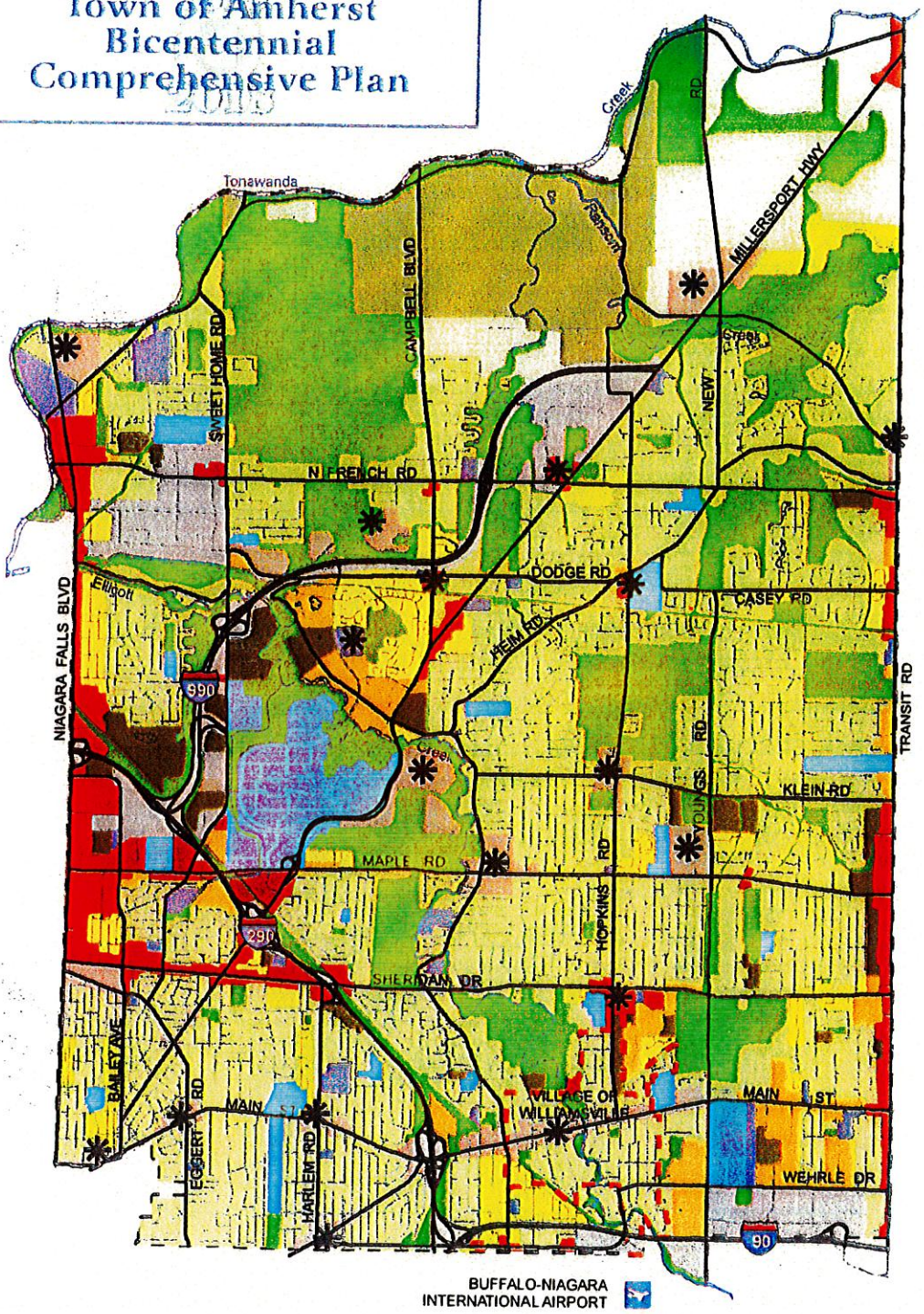
As set forth in the Town's 2018 Comprehensive Plan and Conceptual Land Use Plan, Swormville is considered a "Mixed Use" Center, for which higher density housing choices and a more compact livable and walkable environment is desired. The Comprehensive Plan suggests that the "village center" attributes of Swormville should be reinforced through encouragement of compatible mixed and commercial uses, which the proposed project provides. Zoning the proposed mixed-use portion of the property to CTR-2.5 and to be in accord with the Comprehensive Plan will achieve the objectives within the Comprehensive Plan while allowing the Town to better control development specifics to ensure consistency with its new development standards.

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

EXHIBIT B

Town of Amherst Bicentennial Comprehensive Plan



CONCEPTUAL LAND USE PLAN

FIGURE 6

- Rural Residential
- Single Family Residential
- Mixed Residential
- Medium Residential
- Commercial - Retail
- Commercial - Office
- Industrial - Office
- Mixed Use
- Community Facilities
- Educational Campus
- Recreation, Open Space & Greenways
- Agriculture
- Transportation
- Surface Water
- Mixed Use / Activity Centers
- Municipal Boundary
- Village of Williamsville Boundary

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

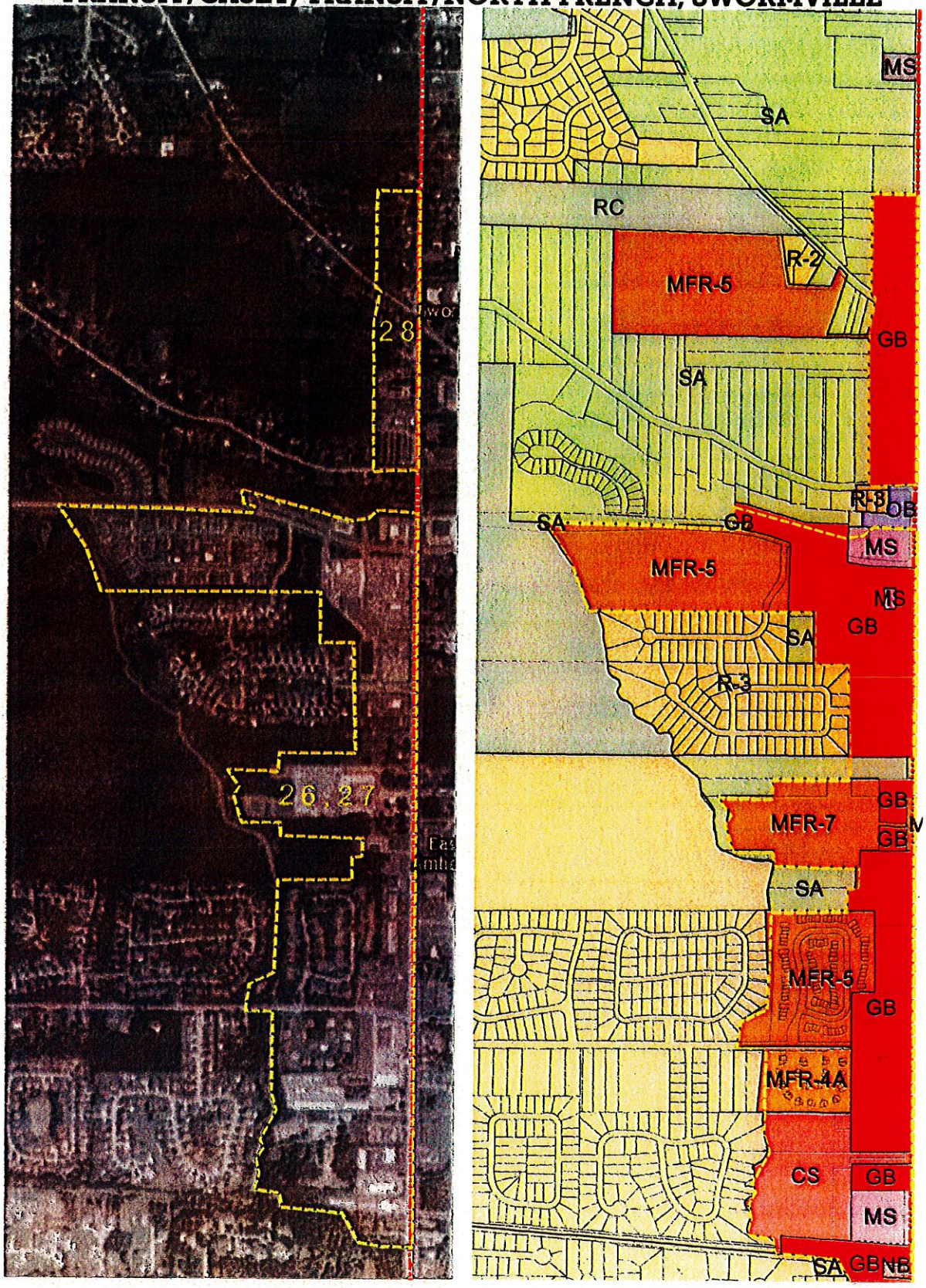
Date: March, 2009

N

0 0.25 0.5 0.75 1 1.25 Miles

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

26, 27, 28
TRANSIT/CASEY, TRANSIT/NORTH FRENCH, SWORMVILLE



Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

Code Studio • East Village #107 • 1200 East 11th Street • Austin, Texas 78702 • 512-478-2200 • lee@code-studio.com

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

EXHIBIT C

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

AUTHORIZATION

Fritz Lotter, record property owner of the property located at 10090 Transit Road and 50% record property owner of the property located at 10060 Transit Road in the Town of Amherst, New York (individually and collectively, the "Property"), hereby gratuitously authorizes the law firm of Barclay Damon, LLP to file a rezoning application for both Properties, along with any and all necessary supporting documentation, including any additional applications or submittals required, with the Town of Amherst, in connection with the approvals sought for the Property. Fritz Lotter shall in no way be responsible for any charges, costs, expenses, legal fees, filing fees, etc. associated with the above work, whether to Barclay Damon LLP, or anyone else, under any legal theory in law or equity. Nothing in this Authorization shall in any way imply or create any agreement, contract, option etc. regarding the property at 10090 Transit Road, Amherst, NY between Fritz Lotter and any other person, entity or party.

By: _____
Fritz Lotter

Dated: 4/15/19

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

AUTHORIZATION

The Executors of the Estate of Theresa Lotter, record property owner of 50% of the property located at 10060 Transit Road in the Town of Amherst, New York (the "Property"), hereby authorizes the law firm of Barclay Damon, LLP to file a rezoning application for the Property, along with any and all necessary supporting documentation, including any additional applications or submittals required, with the Town of Amherst, in connection with the approvals sought for the Property.

By: Heidi A Wieczorek
Heidi A. Wieczorek

Title: Co-Executor

Dated: 4-15-2019

18347390.1

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

AMENDED

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 1is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Ashley Green		
Project Location (describe, and attach a general location map): 10060 (24.21 acres) & 10090 (5 acres) Transit Road		
Brief Description of Proposed Action (include purpose or need): Rezoning of two parcels (29.21 acres total) from SA/MS to R-3/MFR-5 (old code) / CTR-2.5 (new code) to accommodate proposed mixed use development with townhomes, single family lots and approximately 23,400 +/- sf of commercial space.		
Name of Applicant/Sponsor: Barclay Damon LLP on behalf of Forbes Capretto Homes	Telephone: 716-858-3878 E-Mail: jpalumbo@barclaydamon.com	
Address: 9276 Main Street		
City/PO: Clarence	State: NY	Zip Code: 14031
Project Contact (if not same as sponsor; give name and title/role): Jeffery D. Palumbo, Esq.	Telephone: E-Mail:	
Address: see above		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor): Mr. Fritz Lotter/The Estate of Theresa Lotter	Telephone: E-Mail:	
Address: c/o John Robshaw Attorney at Law		
City/PO:	State:	Zip Code:

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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	Town of Amherst Town Board - rezoning approval	4/15/19
b. City, Town or Village Planning Board or Commission ☑Yes ☐No	Town of Amherst Planning Board - rezoning recommendation	4/15/19
c. City, Town or Village Zoning Board of Appeals ☐Yes ☑No		
d. Other local agencies ☐Yes ☑No		
e. County agencies ☐Yes ☑No		
f. Regional agencies ☐Yes ☑No		
g. State agencies ☑Yes ☐No	NYSDOT Permits, NYSDEC SWPPP and I/I Approval	
h. Federal agencies ☑Yes ☐No	Potential Army Corps Permit	

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-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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?
SA - suburban agriculture

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? R-3/MFR-5 / CTR-2.5

C.4. Existing community services.

a. In what school district is the project site located? Williamsville

b. What police or other public protection forces serve the project site?
Amherst

c. Which fire protection and emergency medical services serve the project site?
Swormville

d. What parks serve the project site?
Dann Lake

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)? Mixed use: residential/commercial

b. a. Total acreage of the site of the proposed action? 29.21 acres
b. Total acreage to be physically disturbed? +/- 27.21 acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 29.21 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)
Single detached Family Residential
ii. Is a cluster/conservation layout proposed? ☐ Yes ☑ No
iii. Number of lots proposed? 52
iv. Minimum and maximum proposed lot sizes? Minimum 6,500 sq ft Maximum 42,000 sq ft

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 2-3
- Anticipated commencement date of phase 1 (including demolition) Sept month 2021 year
- Anticipated completion date of final phase Nov month 2025 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-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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	52			30
At completion of all phases	68			61

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

If Yes,

i. Total number of structures 4

ii. Dimensions (in feet) of largest proposed structure: 35 +/- height; 65 +/- width; and 100 +/- length

iii. Approximate extent of building space to be heated or cooled: 23,400 +/- 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 detention

ii. If a water impoundment, the principal source of the water: ☐ Ground water ☐ Surface water streams ☑Other specify: Stormwater runoff associated with new impervious surfaces at 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: _____ million gallons; surface area: 1.5± 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): Proposed stormwater facilities will be excavated from existing earth.

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): Federal Wetland

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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:
Two of the proposed residential lots will encroach upon wetland/buffer. Permits will be obtained and appropriate measures will be employed to preserve existing wetland in accordance with permit conditions.

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: 48,900 ± 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: Amherst Water District
- 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 of waterlines into site to service proposed single family homes and commercial buildings
- Source(s) of supply for the district: Erie County Water Authority

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: 32,600 ± 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: Amherst Wastewater Treatment Plant #16
- Name of district: Amherst Sewer 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 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: Extension of sanitary sewer into project site.

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 6.3 acres (impervious surface)

_____ Square feet or 29.2 acres (parcel size)

ii. Describe types of new point sources. Outlets from stormwater facilities

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)?

To be determined by final design, but expected to be directed to several on-site storm water management facilities before discharging to tributary to Black Creek

- If to surface waters, identify receiving water bodies or wetlands: Tributary to Black 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): GARBAGE COLLECTIONS, RETAIL DELIVERIES ESTIMATED AT 10-15/DAY JS

iii. Parking spaces: Existing 0 Proposed 150 Net increase/decrease INC. 150

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:
Normal Residential and commercial space usage

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

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: 7-5
- Saturday: 7-5
- Sunday: 7-5
- Holidays: 7-5

ii. During Operations:
- Monday - Friday: 8-8
- Saturday: 8-8
- Sunday: 8-8
- Holidays: 8-8

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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:

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 lighting, street lighting and fixtures on buildings. Parking lot lighting to be dark sky compliant.

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):

POSSIBLE PESTICIDE LAWN TREATMENT JC

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 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): _____

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	0.2±	6.3±	+ 6.1±
• Forested	3.4±	1.0±	- 2.4±
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	23.5±	1.0±	- 22.5±
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)	0.3±	1.2±	+ 0.9±
• Wetlands (freshwater or tidal)	0	0	0
• Non-vegetated (bare rock, earth or fill)	0	0	0
• Other Describe: Lawns and landscaping	1.8±	19.7±	+ 17.9±

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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? 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:

Cv - Cosad loamy fine sand	70 %
NfA - Niagara silt loam	28 %
Od - Odessa silt loam	2 %

d. What is the average depth to the water table on the project site? Average: 0.5-1.5 feet

e. Drainage status of project site soils:
☐ Well Drained: ____% of site
☐ Moderately Well Drained: ____% 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 837-48 Classification C
- 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:Ransom Creek, Lower, and tribs – Pathogens;D.O./Oxygen Demand – Recreation;Aquatic Life

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:
Local Birds, Squirrels

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: AG DISTRICT V7

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 Barclay Damon LLP Date March 26, 2021

Signature _____ Title Attorney

Jeffery D. Palumbo

PRINT FORM

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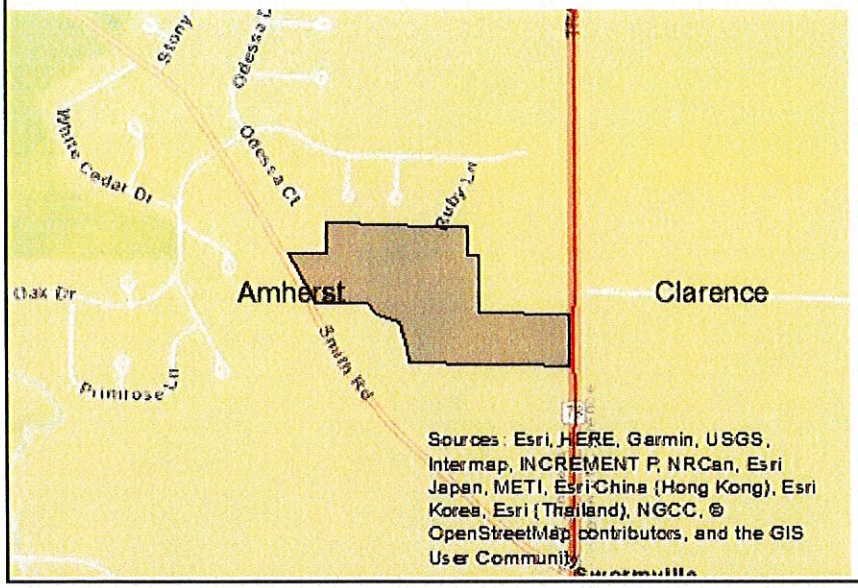
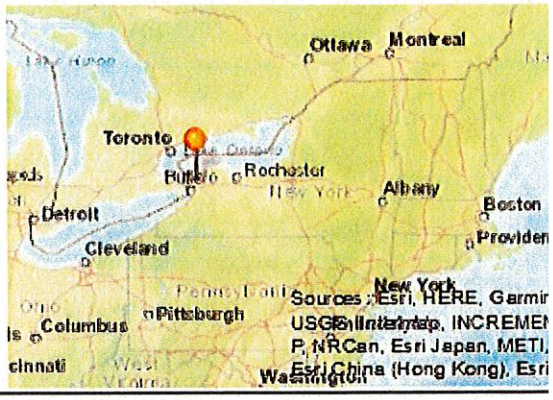
EAF Mapper Summary Report

Sunday, April 14, 2019 6:36 PM



Disclaimer: The EAF Mapper is a screening tool intended to assis project sponsors and reviewing agencies in preparing an environment 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. Althoug 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 ord 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]	837-48
E.2.h.iv [Surface Water Features - Stream Classification]	C
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:Ransom Creek, Lower, and tribs – Pathogens;D.O./Oxygen Demand – Recreation;Aquatic Life

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E.2.i. [Floodway]	No
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]	No
E.3.i. [Designated River Corridor]	No

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TOWN OF AMHERST ATTACHMENT
State Environmental Quality Review
ENVIRONMENTAL ASSESSMENT FORM

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
Cosad	Severe	Severe	Severe	Severe	Moderate
Niagara	Severe	Severe	Severe	Severe	Severe
Odessa	Severe	Severe	Severe	Severe	Severe

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:
   Not Applicable.

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: **Not Applicable.**

   (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: **214 trips during weekday P.M. peak travel hour.**

   Source: ITE – TripGen 2013, see attached printout

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:

    31,750 gpd average flow 129,154 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-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

Trip Generation Summary - Alternative 1
Average Weekday Driveway Volumes

Project: Ashley Green
Alternative: Alternative 1

Open Date: 4/16/2019
Analysis 4/16/2019

ITE	Land Use	Average Daily Trips			AM Peak Hour Adjacent Street Traffic			PM Peak Hour Adjacent Street Traffi		
		Enter	Exit	Total	Enter	Exit	Total	Enter	Exit	Tota
210	SFHOUSE 1	138	138	276	6	16	22	18	11	29
	29 Dwelling Units									
221	LRAPT 1	149	148	297	4	17	21	17	9	26
	45 Occupied Dwelling Units									
231	LRCONDO 1				3	8	11	7	5	12
	16 Dwelling Units									
233	LUXCONDO 1				7	23	30	19	11	30
	54 Occupied Dwelling Units									
826	CENTERSPECIALTY 1	953	953	1906				51	66	117
	43 Gross Leasable Area 1000 SF									
	Unadjusted Driveway Volume	1240	2193	3146	20	64	84	112	102	214
	Unadjusted Pass-By Trips	0	0	0	0	0	0	0	0	0
	Internal Capture Trips	0	0	0	0	0	0	44	44	88
	Adjusted Driveway Volume	1240	2193	3146	20	64	84	68	58	126
	Adjusted Pass-By Trips	0	0	0	0	0	0	0	0	0
	Adjusted Volume Added to Adjacent Streets	1240	2193	3146	20	64	84	68	58	126

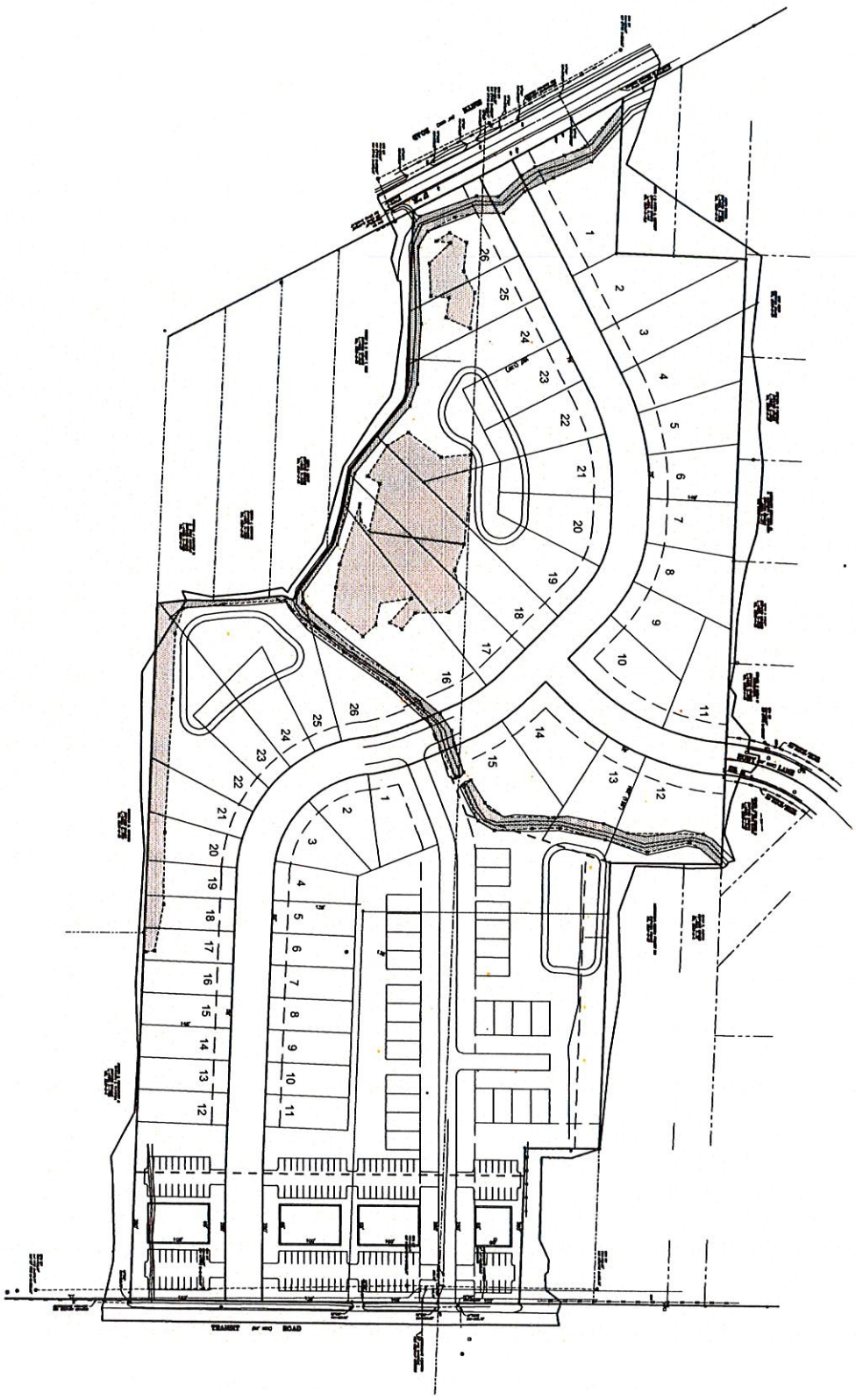
Total AM Peak Hour Internal Capture = 0 Percent

Total PM Peak Hour Internal Capture = 41 Percent

Source: Institute of Transportation Engineers, Trip Generation Manual 9th Edition, 2012

TRIP GENERATION 2013, TRAFFICWARE, LLC

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)



SHEET NO. 1	CONCEPT PLAN	SCALE: 1"=80'	DRAWN BY: DRAWN
		DATE: OCTOBER 2020	CHECKED BY: CHECKED
		DWG NO.: DWGNO	JOB NO.: 2020096
	ASHLEY GREEN TOWN OF AMHERST	NO. REVISIONS:	BY DATE

GPI Greenman-Pedersen, Inc.
Engineering and Construction Services
In Western New York:
BUFFALO (716) 633-4844 • ROCHESTER (585) 486-4859 • JAMESTOWN (716) 488-2803

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

7485-B

APRIL 12, 2019

LANDS TO BE REZONED TO MFR-5
MULTIFAMILY RESIDENTIAL DISTRICT 5

ALL 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. 57 in Township 13 and Lot No. 102 in Township 12, Range 7 of the Holland Land Company's Survey and bounded and described as follows:

COMMENCING at a point in the westerly line of Transit Road being (66.0 feet wide) said point being the southeast corner of Sublot 21 as shown on a Subdivision Map filed in the Erie County Clerk's office under Map cover 2044;

THENCE westerly on a line parallel with the south line said Lot No. 57 a distance of 205.12 feet to the point of BEGINNING.

THENCE southerly on a line parallel with said west line of Transit Road being 205.00 feet westerly at right angles from said west line a distance of 626.40 feet to a point;

THENCE westerly parallel with the north line of said Lot No. 102 a distance of 917 feet more or less the centerline of a ditch;

THENCE northerly along the centerline of said ditch a distance of 192 feet more or less to a point;

THENCE through the property of lands conveyed to Herbert A. Lotter and Theresa P. Lotter by deed recorded in liber 11153 of deeds at page 5058 the following three (3) courses and distances:

1) Northeasterly along the centerline of a ditch more or less a distance of 284 feet more or less to a point;
2) Northeasterly a distance of 197 feet more or less to a point;
3) Northerly 244 feet more or less to a northerly corner of said Lotter's land;

THENCE easterly on a line parallel with the south line said Lot No. 57 a distance of 460.00 feet to the point;

THENCE southerly on a line parallel with said west line of Transit Road a distance of 120.00 feet to a point;

THENCE easterly on a line parallel with the south line said Lot No. 57 a distance of 44.88 feet to the point of BEGINNING.

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

7485-C

APRIL 12, 2019

LANDS TO BE REZONED TO R-3
RESIDENTIAL DISTRICT 3

ALL 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. 57 in Township 13 and Lot No. 102 in Township 12, Range 7 of the Holland Land Company's Survey and bounded and described as follows:

BEGINNING at a point in the northeasterly line of Smith Road being (66.0 feet wide) said point being the southwest corner of Sublot 2 as shown on a map filed in the Erie County Clerk's office under Map cover 2044;

THENCE southeasterly along said northeasterly line of Smith Road a distance of 224.73 feet to an angle point;

THENCE southeasterly continuing along said northeasterly line of Smith Road a distance of 159.64 feet to the southwest corner of Sublot 5 as shown on said Map Cover 2044;

THENCE easterly on a line parallel with the north line of said Lot No. 102 a distance of 239.60 to a point in the centerline of a ditch;

THENCE southeasterly along the centerline of said ditch a distance of 468 feet more or less to a point;

THENCE through the property of lands conveyed to Herbert A. Lotter and Theresa P. Lotter by deed recorded in liber 11153 of deeds at page 5058 the following three (3) courses and distances:

1) Northeasterly along the centerline of a ditch more or less a distance of 284 feet more or less to a point;
2) Northeasterly a distance of 197 feet more or less to a point;
3) Northerly 244 feet more or less to a point on a northerly line of said Lotter's land;

THENCE northerly on a line parallel with said west line of Transit Road a distance of 180.00 feet to a point;

THENCE westerly on a line parallel with the south line said Lot No. 57 a distance of 976.52 feet to the point;

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

THENCE southerly on a line forming an interior angle of 90°-00' a distance of 208.92 feet to the point;

THENCE westerly on a line parallel with the south line said Lot No. 57 a distance of 250 feet to the point of BEGINNING.

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

Amherst

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

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

RECEIVED
MAR 08 2021
TOWN OF AMHERST
PLANNING DEPT.

MEMORANDUM February 18, 2021

TO: Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
Edward Rutkowski, SEQR Review Coordinator, NYSDOT
Garrett Hacker, Erie County DPW Highways Division

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

SUBJECT: REQUEST TO REZONE 29.21± ACRES OF LAND FROM **SA & MS TO CTR-2.5, TR-3 & R-3, Z-2019-06**; PROPERTY LOCATED **10060 & 10080 TRANSIT ROAD**. FORBES CAPRETTO HOMES, PETITIONER

TRAFFIC IMPACT STUDY:
Received February 10, 2021

REVIEW:

Do you agree with all statements made? YES, WITH CONDITION.

If you do not, briefly state why: _____

General comments relative to your agency interests: INTERNAL STREET NETWORK MUST BE CHANGED to DISCOURAGE CUT-THROUGH TRAFFIC (EG. ROUNDABOUT OR T-INTI

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\2019\Z-2019-06_(10060_&_10090_Transit_Rd)_2019\Z-2019-06_TIS_Transmittal_021821.doc
cc: Scott A. Marshall, Principal Planner

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

Amherst

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

RECEIVED
APR 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 31, 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
Williamsville School District

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

SUBJECT: REQUEST TO REZONE 29.21± ACRES OF LAND FROM **SA & MS TO CTR-2.5, MFR-5 & R-3, Z-2019-06**; PROPERTY LOCATED **10060 & 10090 TRANSIT ROAD**. FORBES CAPRETTO HOMES C/O JEFFREY PALUMBO, PETITIONER.

REVISED APPLICATION AND ENVIRONMENTAL ASSESSMENT FORM
Received **March 31, 2021**

This rezoning application revises the zoning districts that were requested in a previous application received in April 2019 for the same property.

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:** 4/7/21

C. Schregel

EK/bf
X:\Current_Planning\Files\Rezonings\2019\Z-2019-06_(10060_&_10090_Transit_Rd)_2019\Z-2019-06_Rev_Application_and_Environmental_Assessment_033121.doc
cc: Scott A. Marshall, Principal Planner

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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 05 2021
TOWN OF AMHERST
PLANNING DEPT.

RECEIVED
MAR 31 2021
TOWN ATTORNEY

MEMORANDUM March 31, 2021

FROM

TO:

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)
4/4/21 (ad) ✓ Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Integrated Review Coordinator, ECDEP
Edward Rutkowski, SEQR Review Coordinator, NYSDOT
Williamsville School District

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

SUBJECT: REQUEST TO REZONE 29.21± ACRES OF LAND FROM **SA & MS TO CTR-2.5, MFR-5 & R-3, Z-2019-06**; PROPERTY LOCATED **10060 & 10090 TRANSIT ROAD**. FORBES CAPRETTO HOMES C/O JEFFREY PALUMBO, PETITIONER.

REVISED APPLICATION AND ENVIRONMENTAL ASSESSMENT FORM
Received **March 31, 2021**

This rezoning application revises the zoning districts that were requested in a previous application received in April 2019 for the same property.

REVIEW:

Do you agree with all statements made? yes, agree with all statements made.

If you do not, briefly state why: _____

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:** 4/4/21

EK/bf
X:\Current_Planning\Files\Rezonings\2019\Z-2019-06_(10060_&_10090_Transit_Rd)_2019\Z-2019-06_Rev_Application_and_Environmental_Assessment_033121.doc
cc: Scott A. Marshall, Principal Planner

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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 01 2021
TOWN OF AMHERST
BUILDING DEPT

MEMORANDUM March 31, 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
Williamsville School District

RECEIVED
APR 05 2021
TOWN OF AMHERST
PLANNING DEPT.

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

SUBJECT: REQUEST TO REZONE 29.21± ACRES OF LAND FROM **SA & MS TO CTR-2.5, MFR-5 & R-3, Z-2019-06**; PROPERTY LOCATED **10060 & 10090 TRANSIT ROAD**. FORBES CAPRETTO HOMES C/O JEFFREY PALUMBO, PETITIONER.

REVISED APPLICATION AND ENVIRONMENTAL ASSESSMENT FORM
Received **March 31, 2021**

This rezoning application revises the zoning districts that were requested in a previous application received in April 2019 for the same property.

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: _____

General comments relative to your agency interests: Floodplain & Federal Wetlands on Parcels

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:** 4-5-21

EK/bf
X:\Current_Planning\Files\Rezonings\2019\Z-2019-06_(10060_&_10090_Transit_Rd)_2019\Z-2019-06_Rev_Application_and_Environmental_Assessment_033121.doc
cc: Scott A. Marshall, Principal Planner

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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 31, 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
Williamsville School District

4/4/21 E: Ellen Kost
From: Dave Marrano
cc: L. Walker
cc: Emc

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

SUBJECT: REQUEST TO REZONE 29.21± ACRES OF LAND FROM **SA & MS TO CTR-2.5, MFR-5 & R-3, Z-2019-06**; PROPERTY LOCATED **10060 & 10090 TRANSIT ROAD**. FORBES CAPRETTO HOMES C/O JEFFREY PALUMBO, PETITIONER.

REVISED APPLICATION AND ENVIRONMENTAL ASSESSMENT FORM
Received **March 31, 2021**

This rezoning application revises the zoning districts that were requested in a previous application received in April 2019 for the same property.

REVIEW:

Do you agree with all statements made? Yes w/ Comment below

If you do not, briefly state why: Assessor has No Issue EXCEPT if Re-Zone allows Third Residential Units with Condominium Tax Status can be sold.

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:** 4/4/21

EK/bf
X:\Current_Planning\Files\Rezonings\2019\Z-2019-06_(10060_&_10090_Transit_Rd)_2019\Z-2019-06_Rev_Application_and_Environmental_Assessment_033121.doc
cc: Scott A. Marshall, Principal Planner

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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 12, 2021

TO: Jeffrey Burroughs, Town Engineer
Vaishali Reberholt, PE, Stormwater Management Officer (Eng.)

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

SUBJECT: REQUEST TO REZONE 29.21± ACRES OF LAND FROM **SA & MS TO CTR-2.5, TR-3 & R-3, Z-2019-06**; PROPERTY LOCATED **10060 & 10080 TRANSIT ROAD.** FORBES CAPRETTO HOMES, PETITIONER

HYDRAULIC SUMMARY REPORT/STORMWATER MANAGEMENT SYSTEM SUMMARY REPORT:
Received March 9, 2021

REVIEW:

Do you agree with all statements made? Yes.

If you do not, briefly state why: _____.

General comments relative to your agency interests: Provide pretreatment before retention pond & Equipment access to post-construction measures for long term maintenance.

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:** 3/31/21

EK/ac
X:\Current_Planning\Files\Rezonings\2019\Z-2019-06_(10060_&_10090_Transit_Rd)_2019\Z-2019-06_SWPPP_Transmittal_031221.doc
cc: Scott A. Marshall, Principal Planner

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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

RECEIVED
MAY 28 2019
TOWN OF AMHERST
PLANNING DEPT.

May 23, 2019

Z-2019-06

Ms. Ellen Kost, Assistant Planning Director
Town of Amherst
5583 Main Street
Williamsville, New York 14221

Dear Ms. Kost:

SEQR Lead Agency Designation
Ashley Green Mixed-Use Development
10060 & 10090 Transit Road
Town of Amherst, Erie County

This is to acknowledge receipt of your April 26, 2019 notice which requested State Environmental Quality Review Act (SEQR) Lead Agency status for the above-noted project. The Department concurs that the Town of Amherst should act as SEQR Lead Agency since the environmental impacts of the proposal are primarily of local significance. However, please be advised of the following:

1. 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 (503 Kensington Avenue, Buffalo, New York 14214, telephone: 716/961-6800), which acts as our agent, 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. Recent wet weather flow monitoring data and proposed new development flow should be analyzed relative to theoretical capacity at key nodes in the downstream sewer system and at pump stations (if any) to determine if capacity exists.

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

Recent wet weather system flow data can consist of:

- Comprehensive information from recent Sanitary Sewer System Evaluation Studies, or

- Wet weather data collected at (minimum of 3) key downstream nodes specified by the municipality.
    - This dated information can consist of instantaneous flow measurements, or continuous flow or sewer depth measurements obtained during significant wet weather events, preferably during high groundwater conditions. Peak sewer flow recording methods are an acceptable method to collect this information.
    - Depth or flow measurements should continue until a significant wet weather event occurs, but would not have to extend beyond three months. A significant wet weather event is considered to be a daily rainfall amount of ½" or greater.

The Downstream Sewer Capacity Analysis must also contain a narrative and a detailed map showing the downstream routing of sewers from the proposed project site to the Wastewater Treatment Plant. Line sizes, theoretical capacity, and pump stations must be identified and included in the analysis.

This Downstream Sewer Capacity Analysis, as well as any required infiltration and inflow (I/I) rehabilitation offset work at a 4:1 ratio, should be part of the Project's Engineering Report. These items must be received as part of a complete sanitary sewer extension plan submission. The Town of Amherst shall coordinate the information contained in this submission. If adequate capacity is not available, the sewer extension will not be approved until an acceptable remediation plan is developed.

As stated in the attached June 1, 2018 letter from this Department to both the Town of Amherst and ECSD#5, there are existing serious sewer capacity issues during peak storm flows in the sanitary sewers on Dodge and Transit Roads. There may be sanitary sewer capacity issues for large sewer extension projects planning to tie into these trunk sewers.

The above guidance will help in the preparation of a complete Sewer Extension submission, which will facilitate our review. If you have any questions or require additional information, please contact this Department's Division of Water (telephone: 716/851-7070), or the Erie County Health Department.

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

2. Since project activities will involve land disturbance of 1 acre or more, the project sponsor, owner or operator is required to obtain a State Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activity (GP-0-15-002). This General Permit requires the project sponsor, owner or operator to control stormwater runoff according to a Stormwater Pollution Prevention Plan (SWPPP), which is to be prepared prior to filing a Notice of Intent (NOI) and prior to commencement of the project. More information on General Permit GP-0-15-002, as well as the NOI form, is available on the Department's website at www.dec.ny.gov/chemical/43133.html. Information on permitting requirements and preparation of a necessary Stormwater Pollution Prevention Plan (SWPPP) is available on the Department's website at www.dec.ny.gov/chemical/8468.html.

   The Town of Amherst is designated as an MS4 community. The project sponsor, owner or operator of a construction activity that is subject to the requirements of regulated, traditional land use control MS4 shall have their SWPPP reviewed and accepted by the MS4 community. The "MS4 SWPPP Acceptance" form must be signed by the principle executive officer or ranking elected official from the MS4 community, or by a duly authorized representative of that person, and submitted along with the NOI, to the Department at NOTICE OF INTENT, NYSDEC, Bureau of Water Permits, 625 Broadway,4th Floor, Albany, New York 12233-3505, telephone: 518/402-8111 to receive Department approval before construction commences.

3. Note that the United States Army Corps of Engineers (USACE) has authority under federal law to regulate waterbodies and wetlands. If the proposed project will impact the on-site tributary (Black Creek) or on-site federally regulated wetlands, the project sponsor should contact USACE (1776 Niagara Street, Buffalo, New York 14207, telephone: 716/879-4330) as early as possible in the planning process to determine if the project will require a USACE permit. Depending on federal permitting, a Water Quality Certification (WQC) may be required from this Department.

4. The project site includes 100-year floodplain based on the Federal Emergency Management Agency's (FEMA) Panel No. 3602260004D and Panel No. 3602260007E. It is recommended that the project be designed to comply with the relevant Town code pertaining to floodplains and floodways.

5. Please be aware that if asbestos exists in any building(s) to be demolished, the protection of workers is regulated by the New York State Department of Labor (716/847-7126) and Occupational Safety and Health Administration (OSHA)

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

716/684-3891. In addition, the disposal of friable (readily crumbled and brittle) asbestos is regulated by this Department under 6 NYCRR Part 360-2.17(p). For more information on the disposal of friable asbestos, please contact Mr. Peter Grasso (716/851-7220) at this Department.

The presence of elemental mercury and/or lead in any building(s) being demolished is also a concern of the Department. Mercury is found in many different common items such as fluorescent lights and electrical switches, while lead is mainly found in older paints (pre-1980). For guidance on the proper handling and disposal of mercury and/or lead, please contact our Region 9 Division of Environmental Remediation at 716/851-7220 or visit the Department's Mercury webpage at http://www.dec.ny.gov/chemical/285.html.

If you have any questions, please feel free to contact me or Michelle Woznick at 716/851-7165.

Sincerely,

David S. Denk
Regional Permit Administrator

Enclosure

MRW; ml

ecc: Mr. Jeffrey Palumbo, Barclay Damon LLP
Mr. Richard Rink, NYSDEC Division of Water
Ms. Molly De Tine, NYSDEC Division of Water
Ms. Rebecca Wightman, Erie County Department of Health
Mr. Jeffrey Burroughs, Town of Amherst

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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

April 29, 2019

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

SUBJECT:	Comprehensive Plan Amendment:	**BCPA-2019-01**
	Rezoning Application Review:	**Z-2019-06**
	Proposed:	Mixed-Use Development
	Property located at:	**10060 & 10090 Transit Road**
	Application received:	April 17, 2019
	Representative:	Barclay Damon LLP

Dear Sir/Madam:

Please correct or complete the following items on the Full Environmental Assessment Form submitted with the application:

- Item D.2.e.iv: Please complete.
- Item D.2.j.ii & iii: Please complete.
- Item D.2.q: Indicate if pesticides will be used after construction for lawn maintenance.
- Item E.1.b: The change for lawns and landscaping should show as an increase of 13.5 acres.

Very truly yours,

Daniel C. Howard, AICP
Planning Director

DH/EK/ac
X:\Current_Planning\Files\Bicentennail Comp Plan Amends\BCPA-2019-01 (10060_&_10090_Transit)\Planning Review_4.29.19.doc

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Water, Region 9
270 Michigan Avenue, Buffalo, NY 14203-2915
P: (716) 851-7070 | F: (716) 851-7009
www.dec.ny.gov

June 1, 2018

Jeffrey Burroughs, P.E.
Town Engineer
1100 N. Forest Road
Amherst, New York 14221

Matt Salah, P.E.
Coordinator Sewer Construction Projects
Erie County Division of Sewage Management
95 Franklin Street
Buffalo, New York 14202

Dear Mr. Burroughs and Mr. Salah:

Sewer Extension Development
Tributary to Dodge Road Sewer
Town of Amherst and E.C.S.D. #5

On May 23, 2018 we received the downstream sewer capacity assessment (DSCA) for the proposed Fox Creek Phase III Development, located at 9540 Transit Road in Town of Amherst, NY. Although this project is in Erie County Sewer District #5 (ECSD#5), it is proposed to be sewered via all Town of Amherst (TOA) sewers. The flow monitoring for this project captured a 1.33 in. rain event on 4/16/18. On the previous two days, the rain totaled 0.82 in.

The installed flow meter on Dodge Road (Node 3 for this project) showed a peak surcharge condition of 91.75 inches. The surcharge condition above the 24" pipe was 67.75 in. or 5.67 ft. above the top of the pipe in the MH on Dodge Road. A similar surcharge condition was metered in the 8" pipe on Thornbury Drive (Node 2), just upstream of the Dodge Road location. After discussions with the consultants for the Fox Creek Project, and the company that provided the metering service, they affirmed their belief that the information provided was accurate and that the surcharge condition did exist at that approximate level.

This is a considerable surcharge condition that suggests significant I/I and the potential for overflows and basement backups. A better understanding of the peak wastewater flows in the Dodge Road Sewer is needed. After appropriate consideration, the Department has

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

determined that the Fox Creek Project, as well as other projects received for review prior to June 1, 2018, may move forward to gain necessary sewer extension approvals, provided that Erie County DSM and the TOA agree to perform additional flow monitoring and I/I identification and elimination as outlined below.

ECSD#5:

- Must install a flow meter at Dodge Road and Transit Road that accurately meters and records flows through the metering MH including the accurate recording of surcharges on at least a daily basis.

- Must agree to immediately initiate performing SSES/**Inflow** Investigative Work in ECSD#5 along with performing the necessary remediation identified by the investigative work.

Town of Amherst:

- Must also install metering on a temporary basis on Dodge Road for at least one year. This flowmeter must also accurately record surcharges on at least a daily basis.

- Must develop a long-term plan for conveying and/or reducing flow from this area to prevent surcharges, basement backups and potential overflows.

Please note that sewer extension projects received after June 1, 2018 in the area tributary to the Dodge Road Sewer may be reviewed but will not be considered for approval until the above flow monitoring is in place and programs are actively undertaken to identify and eliminate inflow sources in the areas tributary to the Dodge Road Sewer. A summary of the peak metering data along with a summary of the inflow investigative and remedial work must be submitted to the Department twice a year [June, December] by both the TOA and ECSD#5 for development to continue in this area.

If you have any questions regarding this letter or wish to meet to discuss it, please contact me.

Sincerely,

Richard A. Rink

Richard A. Rink, P.E.
Environmental Engineer 2

RAR/tml
cc: Mr. Jeffrey Konsella, NYSDEC, Regional Water Engineer
Ms. Rebecca Whiteman, ECHD
Ms. Jennifer Delaney, ECHD

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

Marshall, Scott

BCPH -2019-01

From: Rutkowski, Edward (DOT) <Edward.Rutkowski@dot.ny.gov>
Sent: Friday, May 24, 2019 10:52 AM
To: Kost, Ellen
Cc: Marshall, Scott; Palumbo, Jeffery D.
Subject: RE: 10060 & 10090 Transit Rd, Proposed Amendment to Comp Plan ~ Residential, Office an Commercial Uses, Town of Amherst
Attachments: 10060-10090 Transit Rd.pdf

Ellen,

I have some additional comments on this project; although not necessarily an issue relative to approving the Amendment to the Comprehensive Plan, but NYSDOT will allow only one curb cut/roadway to service this site and it should be located opposite Lapp Road. Also, the Concept Plan shows parking spaces on Transit Road, partially within th Right-of-Way and it appears that access to these spaces would be directly from Transit Road. If that is the intent, NYSDOT would not permit parking with direct access from Transit Road and the parking spaces should be located entirely within the applicant's property. If the Amendment is approved, the Site Plans would need to be designed to reflect these comments.

If you have any questions, please feel free to contact me either by phone or email.

Sincerely,
Ed

From: Rutkowski, Edward (DOT)
Sent: Thursday, May 23, 2019 4:41 PM
To: Kost, Ellen <EKost@amherst.ny.us>
Cc: Marshall, Scott <SMarshall@amherst.ny.us>; Palumbo, Jeffery D. <jpalumbo@barclaydamon.com>
Subject: 10060 & 10090 Transit Rd, Proposed Amendment to Comp Plan ~ Residential, Office and Commercial Uses, Town of Amherst

Ellen,

New York State Department of Transportation (NYSDOT) reviewed the information submitted for the subject project an has the following comment:

- The EAF states that the action will not result in a substantial increase in traffic. Based on the proposed uses shown on the Concept Plan, the additional traffic generated by the proposed development may have a significant impact to traffic on the State Highway System and a Traffic Impact Study should be prepared for our review.

If you have any questions, please contact me either by email or phone.

Sincerely,
Ed Rutkowski

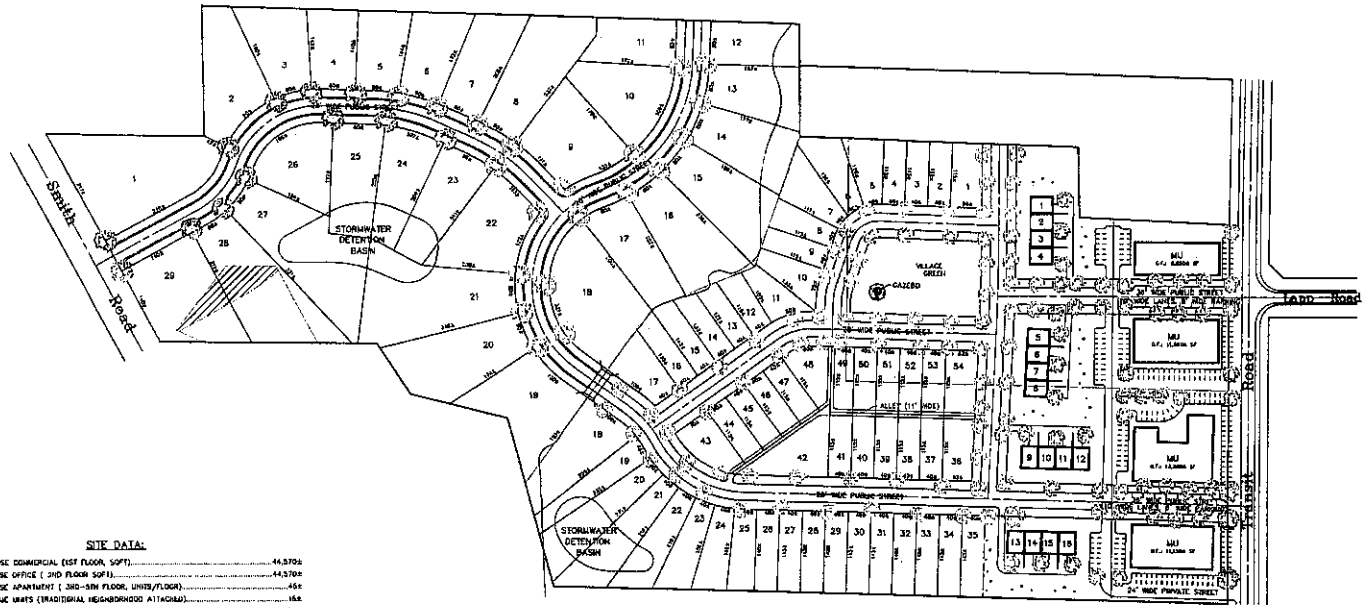
Edward S. Rutkowski, P. E.
SEQR/Site Plan Review Coordinator

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

NYSDOT - Region 5
100 Seneca Street
Buffalo, New York 14203
716-847-3575

NEW YORK STATE OF OPPORTUNITY | Department of Transportation

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)



SITE DATA:

MIXED USE COMMERCIAL (1ST FLOOR, SQFT)	44,570±
MIXED USE OFFICE (2ND FLOOR SQFT)	44,570±
MIXED USE APARTMENT (3RD-5TH FLOOR, UNITS/FLOOR)	45±
TOWNHOME UNITS (TRADITIONAL NEIGHBORHOOD ATTACHED)	15±
SINGLE FAMILY (TRADITIONAL NEIGHBORHOOD DETACHED)	54±
SINGLE FAMILY (R2)	29±
REQUIRED PARKING	0 MINIMUM
PROVIDED PARKING (ON-STREET, TRANSIT ROAD)	42±
PROVIDED PARKING (ON-STREET, NEIGHBORHOOD)	32±
PROVIDED PARKING (MU, REAR)	117±
PROVIDED PARKING (TOTAL)	191±

RECEIVED
APR 17 2019
TOWN OF AMHERST
PLANNING DEPT.

Community Design & Development

Town of Amherst
ERIE COUNTY, NEW YORK

Ashley Green
10060 & 10090 Transit Road, Amherst
ERIE COUNTY, NEW YORK STATE

CONCEPT PLAN

SHEET NO.
1 of 1

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

RECEIVED
MAY 24 2019
TOWN OF AMHERST
PLANNING DEPT.

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

May 22, 2019

Ellen M. Kost
Assistant Planning Director
Town of Amherst
5583 Main Street
Amherst, NY 14221

Re: **Rezoning for Subdivision – Lead Agency**

Location: **10060 & 10090 Transit Road**
Review No.: **ZR-19-279**

Dear Ms. Kost:

The County of Erie (the "County") has reviewed the above-referenced project (the "Project") referred to us by the Town o Amherst on April 26, 2019. The County offers the following comments based upon its review of the Project:

- The entire project site was included into Agricultural District 17 – Amherst during the 2016 Agricultural District Ope Enrollment period. Please amend the long form EAF to note this (section E.3.).
- Although the property is not currently in agricultural use, an agricultural data statement must be provided whe proposing subdivisions on property located within agricultural districts or within 500 feet of an active farmin operation within an agricultural district. In this case both are true. Copies of the agricultural data statement must b forwarded to the owners of identified farms, as well as the County Planning Division.
- Agricultural District 17 – Amherst is up for review in April 2023. At that time the Town or the property owner ca petition for the removal of these parcels.
- Erie County DEP has no issue with the Town of Amherst serving as Lead Agency in this matter.

This review pertains to the above-referenced municipal ordinance submitted to the Erie County Department of Environment an Planning. This letter should not be considered sufficient for any county approvals. The Town and/or developer must still obtai any other permits and regulatory approvals applicable to this Project.

Sincerely,

Elias Reden
Planner

Erie County | Environment & Planning
95 Franklin St., 1007 | Buffalo, NY 14202
P:(716) 858-1911 | F:(716) 858-7248

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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 May 13, 2021

RECEIVED
MAY 19 2021
TOWN OF AMHERST
PLANNING DEPT.

TO: Daniel Ulatowski, Zoning Enforcement Officer
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Stan Sliwa, Town Attorney (Local Law Only)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Francina Spoth, Town Clerk

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

SUBJECT: REQUEST TO REZONE 29.21± ACRES OF LAND FROM **SA & MS TO CTR-2.5, MFR-5 & R-3, Z-2019-06**; PROPERTY LOCATED **10060 & 10080 TRANSIT ROAD**. FORBES CAPRETTO HOMES, PETITIONER.

REVISED SURVEY & LEGAL DESCRIPTION:
Received May 13, 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:** 5/18/21

EK/SM/bf
X:\Current_Planning\Files\Rezonings\2019\Z-2019-06_(10060_&_10090_Transit_Rd)_2019\Z-2019-06_Rev_Transmittal_051321.doc
cc: Scott A. Marshall, Principal Planner
Jeff Palumbo, Barclay Damon, 9276 Main St., Suite 3, Clarence, NY 14031
Ken Zollitsch, Greenman-Pedersen, Inc., 4950 Genesee St., Suite 100, Buffalo, NY 14225

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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 May 13, 2021

TO: Daniel Ulatowski, Zoning Enforcement Officer
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Stan Sliwa, Town Attorney (Local Law Only)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Francina Spoth, Town Clerk

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

SUBJECT: REQUEST TO REZONE 29.21± ACRES OF LAND FROM **SA & MS TO CTR-2.5, MFR-5 & R-3, Z-2019-06;** PROPERTY LOCATED **10060 & 10080 TRANSIT ROAD.** FORBES CAPRETTO HOMES, PETITIONER.

REVISED SURVEY & LEGAL DESCRIPTION:
Received May 13, 2021

REVIEW:

Do you agree with all statements made? SURVEY & LEGAL DESCRIPTIONS.

If you do not, briefly state why: CORRECTED AS REQUESTED

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:** 5/24/2021

EK/SM/bf
X:\Current_Planning\Files\Rezonings\2019\Z-2019-06_(10060_&_10090_Transit_Rd)_2019\Z-2019-06_Rev_Transmittal_051321.doc

cc: Scott A. Marshall, Principal Planner
Jeff Palumbo, Barclay Damon, 9276 Main St., Suite 3, Clarence, NY 14031
Ken Zollitsch, Greenman-Pedersen, Inc., 4950 Genesee St., Suite 100, Buffalo, NY 14225

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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 31, 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
Williamsville School District

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

SUBJECT: REQUEST TO REZONE 29.21± ACRES OF LAND FROM **SA & MS TO CTR-2.5, MFR-5 & R-3, Z-2019-06**; PROPERTY LOCATED **10060 & 10090 TRANSIT ROAD**. FORBES CAPRETTO HOMES, PETITIONER.

REVISED APPLICATION AND ENVIRONMENTAL ASSESSMENT FORM
Received **March 31, 2021**

This rezoning application revises the zoning districts that were requested in a previous application received in April 2019 for the same property.

REVIEW:

Do you agree with all statements made? Yes.

If you do not, briefly state why: Petitioner must correct the attached rezoning map exhibit to be consistent with his/her rezoning request.

General comments relative to your agency interests: Any rezoning approval should be conditioned on the protection of the existing forest community and the maintenance of the creek in its natural state.

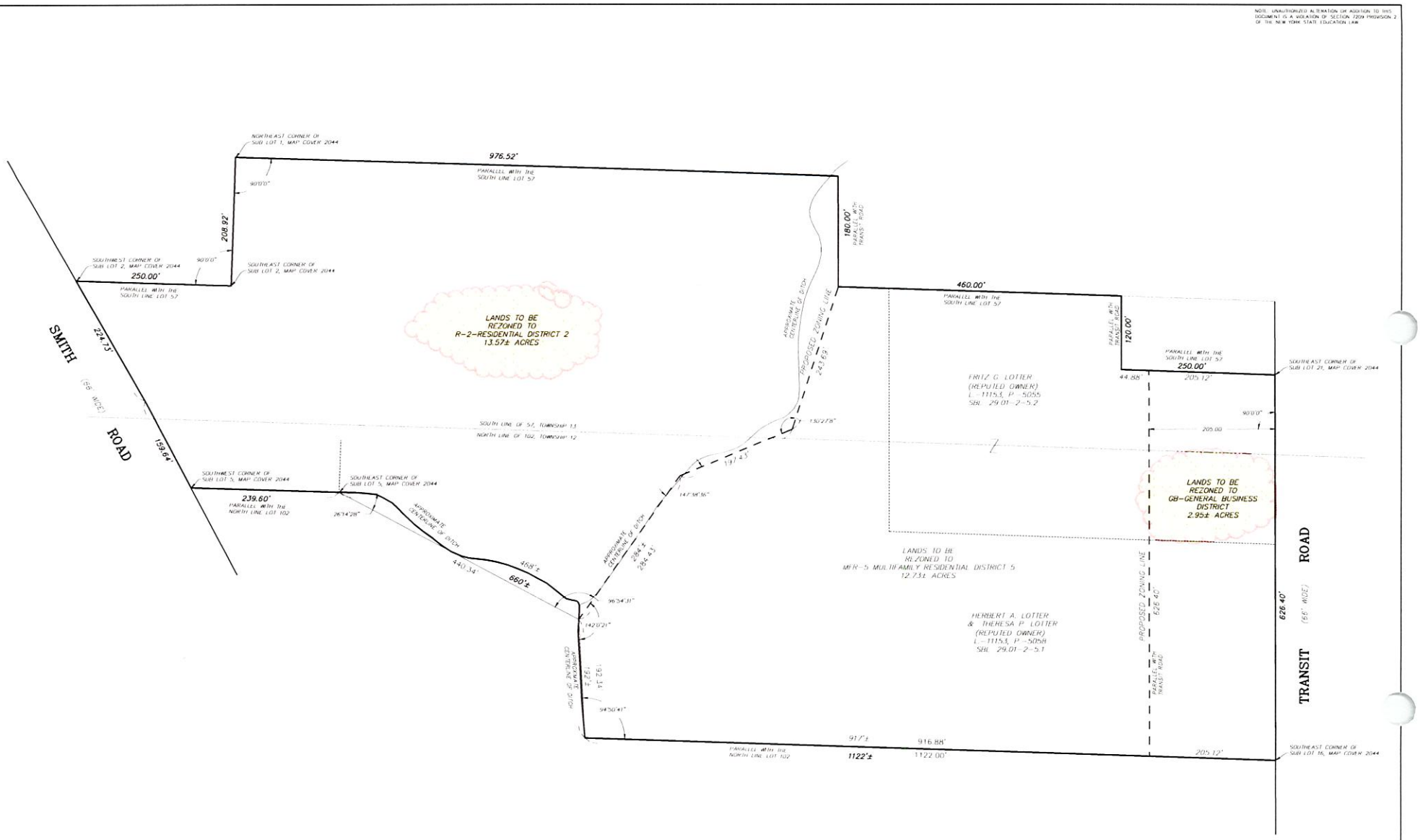
If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.) _____

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

Signature: _____ **Date:** 05/11/2021

EK/bf
X:\Current_Planning\Files\Rezonings\2019\Z-2019-06_(10060_&_10090_Transit_Rd)_2019\Z-2019-06_Rev_Application_and_Environmental_Assessment_033121.doc
cc: Scott A. Marshall, Principal Planner

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)



REFERENCES:

1) BOUNDARY SURVEY PREPARED BY BISSELL STONE ASSOCIATES ENGINEERING AND LAND SURVEYING P.C. JOB NO. 55124-1, DATED MAY 6, 2008 LAST REVISED MAY 21, 2008.

2) BOUNDARY SURVEY PREPARED BY BISSELL STONE ASSOCIATES ENGINEERING AND LAND SURVEYING P.C. JOB NO. 55124-2, DATED MAY 6, 2008 LAST REVISED MAY 21, 2008.

3) SUBDIVISION MAP COVER 2044

RE-ZONING MAP
PART OF LOT 57, TOWNSHIP 13, RANGE 7
AND PART OF LOT 102, TOWNSHIP 12, RANGE 7
HOLLAND LAND COMPANY
TOWN OF AMHERST, ERIE COUNTY, NEW YORK

DATE	REVISION/TYPE

GPI ENGINEERING, LANDSCAPE ARCHITECTURE SURVEYING, LLP
ENGINEERING • SURVEYING • LANDSCAPE ARCHITECTURE
4950 GENESEE STREET, SUITE 100
BUFFALO, NEW YORK 14225
(716) 633-4844 FAX 633-4940

Job No. 7485 Date: APRIL 12, 2019
Scale: 1" = 100' Tax No. 29.01-3-5.1 & 5.2

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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

February 18, 2021

TO: Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
Edward Rutkowski, SEQR Review Coordinator, NYSDOT
Garrett Hacker, Erie County DPW Highways Division

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

SUBJECT: REQUEST TO REZONE 29.21± ACRES OF LAND FROM **SA & MS TO CTR-2.5, TR-3 & R-3, Z-2019-06**; PROPERTY LOCATED **10060 & 10080 TRANSIT ROAD**. FORBES CAPRETTO HOMES, PETITIONER

TRAFFIC IMPACT STUDY:
Received February 10, 2021

REVIEW:

Do you agree with all statements made?
Yes. We have no traffic related comments to the TIS as presented.

If you do not, briefly state why: _____

General comments relative to your agency interests: We have no comments regarding this TIS as presented. However, if NYSDOT does not approve both access drives on Transit Road, we will need to see a revised TIS before we can give approval.

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:** 4/21/21
ECDPW

EK/ac
X:\Current_Planning\Files\Rezonings\2019\Z-2019-06_(10060_&_10090_Transit_Rd)_2019\Z-2019-06_TIS_Transmittal_021821.doc
cc: Scott A. Marshall, Principal Planner

RECEIVED
APR 21 2021
TOWN OF AMHERST
PLANNING DEPT.

5583 Main Street • Williamsville • New York • 14221 • (716) 631-7051 • Fax (716) 631-7153

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

TOWN OF AMHERST

ENGINEERING DEPARTMENT

ERIE COUNTY – NEW YORK

JEFFREY S. BURROUGHS, P.E. – TOWN ENGINEER

DATE: April 20, 2021

TO: Ellen M. Kost, AICP – Assistant Planning Director

From: Brian J. Armstrong, EIT – Assistant Municipal Engineer

SUBJECT: Ashley Green Subdivision Request to Rezone 29.21 Acres of Land from SA & MS to CTR-2.5, MFR-5 & R-3, Z-2019-06
Town of Amherst Project No. 840127A

ADDRESS: 10060 & 10090 Transit Road

PETITIONER: Forbes Capretto Homes

Do you agree with all statements made: Yes

If you do not, briefly state why: N/A

General Comments relative to your agency interests: The petitioner's stormwater analysis and hydraulics report is very thorough and well-presented, clearly indicating that the proposed development-related improvements will have no significant impact on the Ransom Creek and Black Creek floodplains as per Town standards for floodplain developments. Upon subsequent development submissions for this development, the petitioner will however be required to expand the hydraulics modeling report to indicate similar analysis for Town Ditch 26D1 from a point 2,000 feet upstream of the Transit Road culvert, through the proposed development and downstream to its confluence with Black Creek. Assuming similar results, this ana ysis will then fully confirm that the proposed development will have no significant impacts on the entire watershed surrounding this development.

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

Signature: _____ **Date:** 4/20/21

RECEIVED
APR 20 2021
TOWN OF AMHERST
PLANNING DEPT.

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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 Directo

RECEIVED
Williamsville Central School District
APR 07 2021
Asst Superintendent for
Finance & Management Services

MEMORANDUM March 31, 2021

RECEIVED
APR 14 2021
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
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
Williamsville School District

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

SUBJECT: REQUEST TO REZONE 29.21± ACRES OF LAND FROM **SA & MS TO CTR-2.5, MFR-5 & R-3, Z-2019-06**; PROPERTY LOCATED **10060 & 10090 TRANSIT ROAD**. FORBES CAPRETTO HOMES C/O JEFFREY PALUMBO, PETITIONER.

REVISED APPLICATION AND ENVIRONMENTAL ASSESSMENT FORM
Received **March 31, 2021**

This rezoning application revises the zoning districts that were requested in a previous application received in April 2019 for the same property.

REVIEW:

Do you agree with all statements made? No comments at this time.

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:** 4/9/21

EK/bf
X:\Current_Planning\Files\Rezonings\2019\Z-2019-06_(10060_&_10090_Transit_Rd)_2019\Z-2019-06_Rev_Application_and_Environmental_Assessment_033121.doc
cc: Scott A. Marshall, Principal Planner

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

Amherst

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

RECEIVED
APR 09 2021
TOWN OF AMHERST
PLANNING DEPT.

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

MEMORANDUM March 31, 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
Williamsville School District

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

SUBJECT: REQUEST TO REZONE 29.21± ACRES OF LAND FROM **SA & MS TO CTR-2.5, MFR-5 & R-3, Z-2019-06**; PROPERTY LOCATED **10060 & 10090 TRANSIT ROAD**. FORBES CAPRETTO HOMES C/O JEFFREY PALUMBO, PETITIONER.

REVISED APPLICATION AND ENVIRONMENTAL ASSESSMENT FORM
Received **March 31, 2021**

This rezoning application revises the zoning districts that were requested in a previous application received in April 2019 for the same property.

REVIEW:

Do you agree with all statements made? N/A

If you do not, briefly state why: N/A

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: /s/ Stanley Sliwa **Date:** 4/8/21

EK/bf
X:\Current_Planning\Files\Rezonings\2019\Z-2019-06_(10060_&_10090_Transit_Rd)_2019\Z-2019-06_Rev_Application_and_Environmental_Assessment_033121.doc
cc: Scott A. Marshall, Principal Planner

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

Z-2019-06
10060-1009
Transc

COMMUNICATION 2021-69
COMPLETED DOC ID: 23369

Daumen - Opposition to Forbes/Capretto Project

Email from Francis and Colleen Daumen voicing their concerns with respect to the Forbes/Capretto project planned on the parcel at 10600 Transit Road.

6/21/2021
Referred to Planning.

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

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

Cooper, Kathy

Subject: FW: Forbes/ capretto project @10060 Transit Road

From: Colleen daumen <
Date: 6/6/21 8:56 PM (GMT-05:00)
To: "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>, "Lucey, Patrick G." <plucey@amherst.ny.us>
Subject: Forbes/ capretto project @10060 Transit Road

Attention:
Brian Kulpa
J Berger
D. Bucki
S. Lavin
M. Szukala
Forbes/ Capretto Homes

We are writing this letter to inform the Town of Amherst Supervisor, Town Board, Town planning board as well as Forbes Capretto
Builders that they will be held responsible for any and all traffic accidents, pedestrian injuries, basement and sewage backups that may occur as a result of them moving forward on an ill thought out and self serving project planned on parcel at 10060 Transit Road. The 1200+ families of Ransom Oaks's have seen numerous accidents as well as a pedestrian death on Smith road ...specifically Smith and Glen oak drive.. The current heavy traffic on the 2 lane Smith and Transit Roads will only worsen the congestion and potential incidents. Entrances on Transit and Smith as well as a planned intrusion from our development on Ruby lane will further endanger our community.
Moving on to the next concern, we have also had yard , basement and road flooding as well as sewage back up due to the already overwhelmed system. This has been exacerbated since the Dockside community was wedged into a shrinking available town land space. It is my understanding from the sewage plant that some codes may not have been followed there!
The Swormville fire Department is unable to service more than a 3 story structure as well due to the fact they have no appropriate ladder truck.
To conclude..
This is an election year and when the candidates speak of being there for Amherst residents, let's hope their actions meet their words. Our residents are prepared to sign petitions and rally if needed to stop the project. There is plenty of open land in other towns of Erie County. Please stop this over development.
Francis and Colleen Daumen

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

RECEIVED
MAY 10 2021
TOWN OF AMHERST
PLANNING DEPT.

Francis X. Daumen
418 Glen Oak Dr., East Amherst, NY 14051

Francis X. Daumen
Securities Registered Principal
Financial Advisor

Telephone: 716-689-4761
Fax: 716-689-4761
Cell: 716-983-5494
fdaumen@ae.cadaretgrant.com

May 5, 2021

Amherst Planning Board

5583 Main Street

Williamsville NY 14221

Dear Sir:

In response to your recent latter egarding the rezone and building plan for 10060 and 10090 Transit Road, I am sending you a list of questions and concerns for this project. As a side note, must every square inch of Amherst be built upon?

Question and concerns:

1. Flooding from the creek that runs from Transit behind Ransom Oaks and eventually along Smith Road through the golf course. It is constantly choked with weeds that you should clean annually. It is a major source of flooding and adding many new properties will only make the problem worse.
2. I was told by the head of the sewage treatment plant that there is a major issue with pumping new, large amounts of waste along Smith to the lift pump found on the corner of Smith and New. New increased volume would not be able to be handled. He also mentioned that the large Dockside development never completed the sewer line to handle their waste as promised and they have constant issues.
3. The traffic at Smith and Transit is a huge problem today. In the morning traffic is backed up several signal changes. There have been numerous accidents at that corner. Adding multiple homes would change a problem into a nightmare.
4. Has the core of engineers done a sewage study along with a water/ground study yet? Has anyone done a traffic assessment?

It is impossible to believe that the Planning Board cannot see the many problems this proposed plan brings to East Amherst.

Sincerely yours,

Francis X. Daumen

Securities are offered through Cadaret Grant & Co., Inc. member FINRA/SIPC
One Lincoln Center, Syracuse, NY 13202 315-471-2191
Francis X. Daumen and Cadaret Grant & Co., Inc. are separate entities

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 23526 **RESOLUTION 2021-679** **DECISION DATE**

6842 & 6846 Main Street (Portions) Rezoning

DRAFT RESOLUTION
(06/07/2021)

Adoption of Local Law to Amend the Zoning Map
(Portions of 6842 & 6846 Main Street, Z-2021-05)

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 June 24, 2021 that the proposed Deep Corridor 5 District (DC-5) zoning at portions of 6842 & 6846 Main Street 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 conditions;

1. That the maximum allowed building height on the portion of the subject rezoning area currently addressed 6842 Main Street shall be limited to 2 stories with a peak height of 35 ft. and recorded as deed restrictions on the land.

2. That the maximum allowed building height on the portion of the subject rezoning area currently addressed 6846 Main Street shall be a maximum of 4 stories with peak height of 60 ft. and recorded as deed restrictions on the land.

8/09/2021
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 8:07 PM.

Sean W. Hopkins, Esq. presented.

There were no speakers from the public, therefore Supervisor Kulpa moved to close the public hearing, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was closed at 8:24 PM. Supervisor Kulpa then motioned to set a decision date for Sept. 13th, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

RESULT:	**DECISION DATE [UNANIMOUS]**	**Next: 9/13/2021 7:00 PM**
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Jacqualine Berger, Deputy Supervisor	
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala	

D R A F T (August 9, 2021)

SEQR

NEGATIVE DECLARATION

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency:	Town of Amherst Town Board	**Project**: Z-2021-05
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:	Unlisted action.
Description of Action:	Rezoning of 2.58± acres of land from General Business District (GB) to Deep Corridor 5 District (DC-5) to allow for the future use and development of a mixed use (commercial and residential) project on the site.
Location:	Portions of 6842 and 6846 Main Street. Town of Amherst, Erie County, New York
Petitioner:	MEL Investors, LLC

Attachment: Z-2021-05_Draft Neg Dec_Main 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

Reasons Supporting This Determination

Based on information submitted by the applicant, including a Short 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 2.58± acres of land from General Business District (GB) to Deep Corridor 5 District (DC-5) for a proposed mixed use development 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 June 28, 2021 reviewed the application and EAF submitted on June 16, 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 April 22, 2021 reviewed the application and EAF submitted on April 19, 2021 and has no objection or comments on the proposed rezoning.

4. The project is within an area identified by the State as potentially containing significant cultural or archeological resources, prior to any soil disturbance or construction activities The NYS Office of Parks, Recreation, Historic Preservation will review the project and determined that there will be no impact on or will it impair the character or quality of important historical resources. A Phase 1 Cultural Resources Investigation dated January 2012 was prepared by Panamerican Consultants Inc. which concluded that there were no cultural resources identified and no cultural resources will be impacted by the proposed development.

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 rezoning from General Business District (GB) to Deep Corridor 5 District (DC-5) Neighboring uses are commercial developments and single family residences zoned General Business District (GB) and Multifamily Residential Distract Five (MFR-5); therefore, the project is consistent with surrounding land use.

Attachment: Z-2021-05_Draft Neg Dec_Main 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

6. The proposed rezoning to Deep Corridor 5 District (DC-5) for a proposed mixed use development will not cause a major change in the use of either the quantity or type of energy.

7. The rezoning to Deep Corridor 5 District (DC-5) for the proposed mixed-use development will not create any hazard to human health.

8. The rezoning to Deep Corridor 5 District (DC-5) 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 mixed-use development will be consistent with the scale of surrounding land uses.

9. The rezoning to Deep Corridor 5 District (DC-5) for the proposed mixed-use development 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 June 30, 2021 indicates that significant negative traffic impacts are not expected to result from the proposed project.

11. Coordinated review of the project has been undertaken by Town Departments including Building on April 22, 2021, Engineering on June 28, 2021, Traffic/Safety Board on June 30, 2021, and Assessor on June 25, 2021 along with the outside agency Erie County Department of Environment and Planning on May 25, 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

BK/SM /ac
X:\Current_Planning\Files\Rezonings\2021\Z-2021-05_(6842 & 6846 Main St)_2021\Z-2021-05_Draft Neg Dec_080921.docxcc:
Amherst Town Clerk
Amherst Building Department
ECDEP
MEL Investors, LLC
Sean Hopkins

Attachment: Z-2021-05_Draft Neg Dec_Main 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

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 PORTIONS OF 6842 AND 6846 MAIN STREET FROM GB TO DC-5 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 Portions of 6842 and 6846 Main Street from GB to DC-5 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 portions of 6842 and 6846 Main Street from GB to DC-5 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 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 GB to DC-5, the zoning of portions of 6842 and 6842 Main Street, **subject to any conditions imposed by the authorizing resolution**; legally described as follows:

ALL THAT TRACT OR PARCEL OF LAND, situated in the Town of Amherst, County of Erie and State of New York, being part of Lot 90, Township 12, Range 7 of the Holland Land Survey, bounded and described as follows:

BEGINNING at the intersection of the north line of Main Street (99.0 feet wide) with the east line of lands shown on a map of Tennyson Park Subdivision filed in the Erie County Clerk's Office under Map Cover 1922;

THENCE: N-01°-07'-54"-W, along the said east line of Map Cover 1922 and the east line of lands conveyed to Christian Metz by deed recorded in the Erie County Clerk's Office in Liber 235 of Deeds at Page 61, a distance of 769.45 feet to a point;

Attachment: Z-2021-05_Local Law-6842 & 6846 Main Updated Draft-06-14-21 (002) (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

THENCE: S-88°-18'-58"-E, a distance of 249.34 feet to the northwest corner of lands conveyed to Manufacturers & Traders Trust Co. by deed recorded in the Erie County Clerk's Office in Liber 10937 of Deeds at Page 4296;

THENCE: S-00°-59'-52"-E, along the said west line of Manufacturers & Traders Trust Co. lands, a distance of 420.19 feet to a point;

THENCE: S-89°-04'-24"-W, through lands conveyed to The Plaza at Transit LLC by deed recorded in the Erie County Clerk's Office in Liber 11353 of Deeds at Page 2540, a distance of 228.06 feet to a point;

THENCE: S-01°-07'-54"-E, continuing through said lands conveyed to The Plaza at Transit LLC, parallel with the first mentioned course distant 20.00 feet easterly therefrom measured at right angles, a distance of 338.89 feet to the north line of Main Street;

THENCE: N-88°-07'-09"-W, along the north line of Main Street, a distance of 20.03 feet to the POINT OR PLACE OF BEGINNING containing 2.585 acres be the same 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-2021-05_Local Law-6842 & 6846 Main Updated Draft-06-14-21 (002) (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

Amherst
Town of Amherst Planning Department
Erie County, New York

Brian J. Kulpa
Supervisor

Daniel C. Howard, A
Planning Directo

Daniel J. Ulatowski, A
Assistant Planning Di

Town Board Agenda of August 9, 2021

July 30, 2021

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

Subject: Request to rezone 2.58± acres of land from General Business District (GB) to Deep Corridor 5 District (DC-5); property located at 6842 & 6846 Main Street (Portion), MEL Investors, LLC, Petitioner. (Z-2021-05).

Honorable Members:

The subject property is a 2.58± acre 'L' shaped parcel located on the north side of Main Street, 440± ft. west of Transit Road. The subject area is located to the west of the existing M&T Bank office building on Transit Road and north of the existing plaza building fronting along Main Street.

The sites are predominately wooded with an open grassed area in the center of the eastern portion of the site. The remainder of the sites contain paved areas used by the adjacent businesses (8± parking spaces, turnaround and driveway) in addition to a transformer, signage and a light pole.

Main Street (Route 5) and Transit Road (Route 78) are New York State highways designated as major arterials in the Town of Amherst Bicentennial Comprehensive Plan.

A Phase 1 Cultural Resources Investigation dated January 2012 was prepared by Panamerican Consultants Inc. which concluded that there were no cultural resources identified and no cultural resources will be impacted by the proposed development.

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

The purpose of this request as indicated on the concept plan provided for the proposed development indicates the subject area would be split from two (2) Main Street parcels retaining 20 ft. of frontage on Main Street. A four story mixed use building is proposed on the eastern portion of the proposed development site consisting of 7,500 sq. ft. of first floor commercial space, 10 first floor apartments and 48 upper story apartments. On the western portion of the proposed development site a two-story 6 unit townhouse building with attached garages and two garage buildings housing 20 parking spaces (10 in each) are proposed. On-site parking is provided for 126 vehicles (26 in garages). Access to the proposed development site from both Transit Road and Main Street is proposed via existing reciprocal access agreements.

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

Honorable Town Board

Rezone land from GB to DC-5
property located at 6842 & 6846 Main St.
Agenda of August 9, 2021

The subject sites were zoned General Business District (GB) with the adoption of the Town-wide zoning map and ordinance on January 19, 1976.

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

INTENT AND OBJECTIVES OF THE COMPREHENSIVE PLAN

The request is consistent with the Town of Amherst Bicentennial Comprehensive Plan's Conceptual Land Use Plan, Figure 6 which projects commercial/mixed use development and Figure 6-A which indicates suburban corridor use for the proposed subject area. This request is also consistent with two of the objectives in Section 3.2 of the Town of Amherst Bicentennial Comprehensive Plan in that it will promote the development/revitalization of walkable, higher density, mixed-use centers surrounded by lower density development, and encourage revitalization and reinvestment in older neighborhoods and commercial corridors in Amherst.

INTENT AND OBJECTIVES OF THE ZONING ORDINANCE

The proposed rezoning is consistent with Section 1-2-2K of the Zoning Ordinance 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 zoning is consistent and compatible with surrounding development as it will provide a transitional use between the existing commercial enterprises along Transit Road and Main Street currently zoned General Business District (GB) and the residential neighborhood on Tennyson Terrace currently zoned Multi-Family Residential District Five (MFR-5).

ADEQUATE SERVICES AND UTILITIES

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

OTHER CONSIDERATIONS

The petitioner has offered the following conditions for the Town Board's consideration.

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

Honorable Town Board

Rezone land from GB to DC-5
property located at 6842 & 6846 Main St.
Agenda of August 9, 2021

1. That the maximum allowed building height on the portion of the subject rezoning area currently addressed 6842 Main Street shall be limited to 2 stories with a peak height of 35 ft. and recorded as deed restrictions on the land.

2. That the maximum allowed building height on the portion of the subject rezoning area currently addressed 6846 Main Street shall be a maximum of 4 stories with peak height of 60 ft. and recorded as deed restrictions on the land.

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

DCH/SM/ac
Att.
X:\Current_Planning\Files\Rezonings\2021\Z-2021-05_(6842 & 6846 Main St)_2021\Z-2021-05_TB_Letter_07302021.doc.docx
cc: Stanley Sliwa, Town Attorney

Planning Board Approval June 24, 2021
Ayes 6, Noes 0, Absent (Gelber)

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

TOWN OF AMHERST
PLANNING BOARD
ZONING RESOLUTION
Z-2021-05

PETITIONER

MEL Investors, LLC
c/o Sean Hopkins, Esq.
5500 Main Street, Suite 343
Williamsville, NY 14221

PROPERTY LOCATION

6842 Main St. (portion) and 6846 Main St. (portion)

WHEREAS the Town of Amherst Planning Board on Thursday, June 24, 2021 held a virtual public hearing on the proposed rezoning of land from General Business District (GB) to Deep Corridor 5 District (DC-5), 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 generally consistent with the policies of the Comprehensive Plan and the Zoning Ordinance. The proposal is also consistent with the Conceptual Land Use Plan which shows commercial/mixed-use, uses in this area of the Town.

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

C. The proposal is 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 and the proposed district.

E. The proposed change does tend to improve the balance of uses, or meets 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.

JUL02'21 AM10:02 RCVD

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

TOWN OF AMHERST
PLANNING BOARD
ZONING RESOLUTION
Z-2021-05

PETITIONER	PROPERTY LOCATION
MEL Investors, LLC	6842 Main St. (portion) and 6846 Main St. (portion)

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 recommends to the Town Board in accordance with Section 8-3-4 of the Zoning Ordinance, that the rezoning request be approved.

The foregoing resolution was adopted by the Town of Amherst Planning Board, June 24, 2021; moved by - Giuliani; seconded by - Gill; ayes 6, noes 0; absent 1 (Gelber).

Robert J. Gilmour, Chair

7-1-21
Date

SM/bf
X:\Current_Planning\Files\Rezonings\2021\Z-2021-05_(6842 & 6846 Main St)_2021\Z-2021-05_Resolution_062421.doc

cc: Town Clerk
Commissioner of Building
Highway Superintendent
Town Engineer
Traffic/Safety Coordinator
MEL Investors, LLC, c/o Sean Hopkins, Esq., 5500 Main St. Suite 343, Williamsville, NY 14221
Chris Wood, Carmina Wood Morris DPC, 487 Main St. Suite 500, Buffalo, NY 14203

JUL 02'21 AM10:02 RCVD

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

Z-2021-05

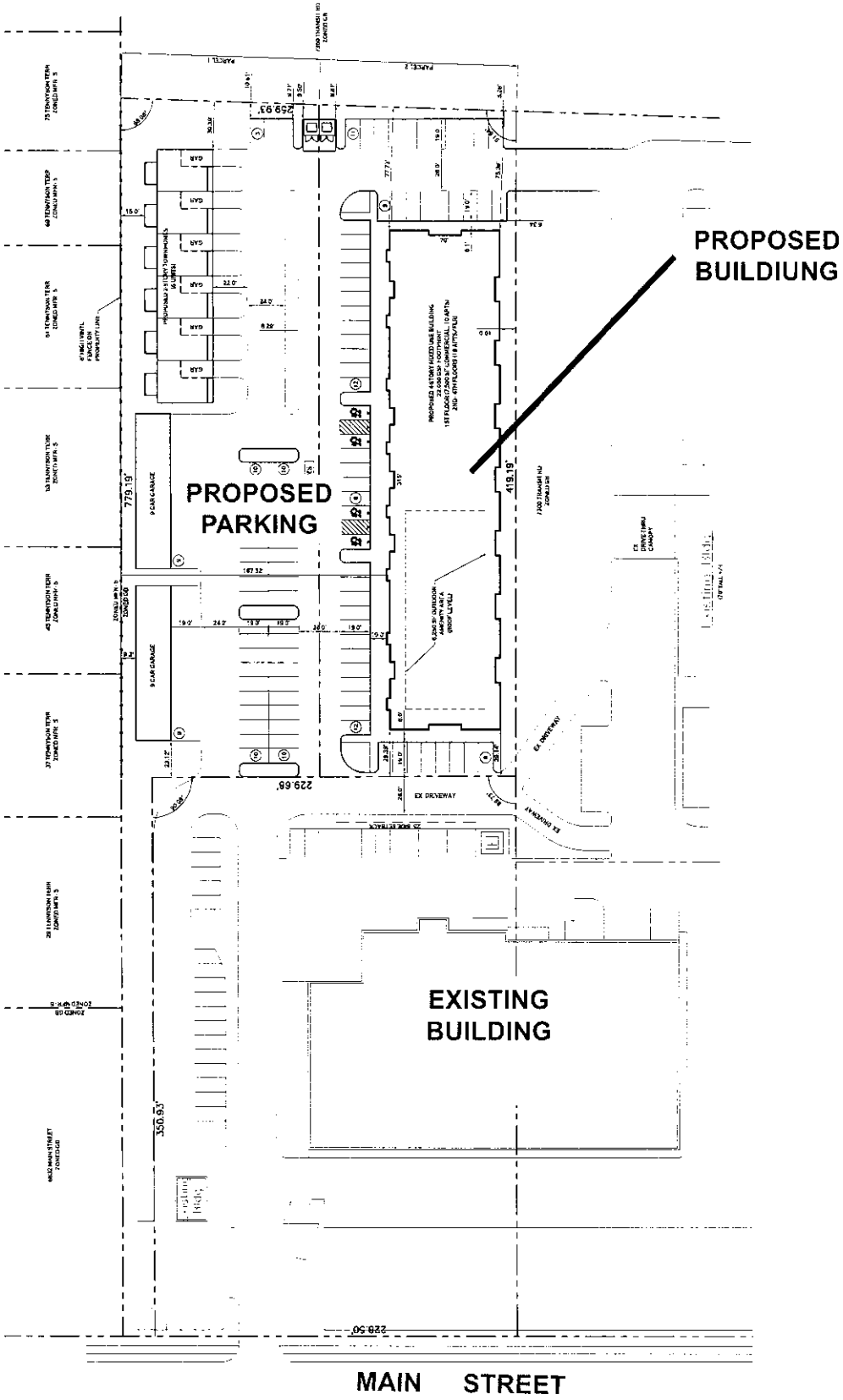
Proposed Rezoning of 2.87 Acres of Land from GB to DC-5
Property Located at 6842 Main Street (portion) and 6846 Main Street (portion)

MEL Investors LLC, Petitioner
June 24, 2021

6842 & 6846 Main Street

Prepared by the Town of Amherst Planning Department

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)



CONCEPT PLAN

Z-2021-05
6842 & 6846 Main Street
Received: 4/17/21

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

Z-2021-05

Proposed Rezoning of 2.87 Acres of Land from GB to DC-5
Property Located at 6842 Main Street (portion) and 6846 Main Street (portion)
MEL Investors LLC, Petitioner

June 24, 2021

6842 & 6846 Main Street

Prepared by the Town of Amherst Planning Department

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

Amended Rezoning Application & Supporting Documentation - Rezoning of Portions of 6842 and 6846 Main Street from GB to DC-5
Applicant: MEL Investors, LLC
Date: June 14, 2021

Original

Prepared by: Sean Hopkins, Esq.
Hopkins Sorgi & McCarthy PLLC
5500 Main Street, Suite 343
Williamsville, NY 14221
Tel: 716.510-4338
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 #: _____ **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**	$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
JUN 16 2021
TOWN OF AMHERST
PLANNING DEPT.

[Note: A completed Amended Short Full Environmental Assessment Form dated June 13, 2021 along with Page 5[a] and attachments is provided at Exhibit "2".]

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

TO BE COMPLETED BY APPLICANT

1. **Petitioner:** Name: MEL Investors, 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: GB District

To: DC-5 District

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

Portion of 6842 Main Street and Portion of 6846 Main Street

SBL #: SBL No. 70.17-3-10 and SBL No. 70.17-3-9

4. **Area of land to be rezoned** (in acres): 2.56 acres

5. **Owner of Land**:

Name: The Plaza at Transit, LLC

Address: 400 Andrews Street, Suite 500, Rochester, NY 14604

Telephone:

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

Other Representative:
Christopher Wood, P.E.
Carmina Wood Morris DPC
487 Main Street, Suite 600
Buffalo, New York 14202
Tel: 842-3165 [Ext. 103]
E-mail: cwood@cwm-ae.com

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-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

7. **Petitioner's interest in property** [Note: Authorization Letter of the Property Owner attached as Exhibit "1" of this Rezoning Application.]

_____Option to purchase

_____Owner

__X__Other (explain) The Petitioner has entered into a contract to purchase the Project Site.

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 rezoned from GB to DC-5 is attached as Exhibit "3" and a reduced size copy of the Survey of the Project Site is attached as Exhibit "4". Full size copy of the Survey is also attached.

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-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

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: 64

B. Distribution of dwelling units by type: The dwelling units will consist 58 apartments and 6 attached townhomes.

C. Gross Residential Density per acre: 25 units per acre.

D. Total amount of Open Space: 0

E. Proposed Non-Residential Floor Area: 7,500 sq. ft. first floor commercial space.

[Note: A reduced size copy of the Concept Site Plan [Drawing C-100] for the proposed mixed-use redevelopment project as prepared by Carmina Wood Morris is provided at Exhibit "7" and a full size copy is also attached. An 11" x 17" color Concept Site Plan with aerial photograph background is provided at Exhibit "10" and color conceptual buildings elevations are provided at Exhibits "11" and "12".]

13. Development Schedule:

Start: Fall 2021

Finish: 2022

Stages (# of): 1

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

The first floor commercial space and residential units will be leased.

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

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-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

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-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

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 $_____ 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: Filing fee 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 Owner signed attached as Exhibit "1".]

Counsel for Petitioner
Signature of Petitioner

Subscribed and sworn to before me this 14th day of June, 20 21

Notary Public, Erie County, New York

MARIANNE BRAUTLACHT
Notary Public, State of New Yo
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-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

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-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

Exhibit 1 – Authorization Form Signed by The Plaza at Transit, LLC

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

AUTHORIZATION

The Plaza at Transit, LLC, as the record owner of two contiguous parcels of land consisting of portions of 6842 Main Street (SBL No. 70.17-3-10) and 6846 Main Street (SBL No. 70.17-3-9) comprised of approximately 2.867 acres of land (collectively the "Project Site") hereby authorizes MEL Investors, LLC, to seek the approvals and permits required from the municipal boards of the Town of Amherst (including but not limited to rezoning an site plan approval) for the redevelopment of the Project Site as a mixed-use project (the "Project"). MEL Investors, LLC is also authorized to seek the approvals and permits required for the Project from all other involved agencies.

Date: April 19, 2021

THE PLAZA AT TRANSIT, LLC

Signature: _____

Print Name: _____

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

Exhibit 2 – Amended Short Environmental Assessment Form Prepared Pursuant to the State Environmental Quality Review Act ("SEQRA") with Attached Page 5[a] and Attachment "A"

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

Short Environmental Assessment Form
Part 1 - Project Information

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 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. 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.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information

Name of Action or Project:
Proposed Mixed-Use Redevelopment Project

Project Location (describe, and attach a location map):
Portions of 6842 and 6846 Main Street - Town of Amherst - Erie County

Brief Description of Proposed Action:
The proposed project ("action") consists of a rezoning of approximately 2.58 acres of land consisting of portions of 6842 and 6846 Main Street ("Project Site") from General Business District ("GB") to Deep Corridor 5 ("DC-5") to accommodate a proposed mixed-use redevelopment project including all proposed site improvements. A copy of the updated Concept Plan [Drawing C-100] depicting the layout of the proposed mixed-use redevelopment project as prepared by Carmina Wood Morris DPC is attached to the Rezoning Application. The proposed action has been defined broadly to include all required discretionary approvals and permits as well as all proposed site improvements including proposed four-story mixed-use building, the attached townhomes, detached garage buildings, access aisles and parking spaces, lighting, storm water management improvements and all required utility improvements. The project purpose is to redevelop the Project Site for a mixed-use project per the recommended land use in Figure 6-A of the Town's adopted Comprehensive Plan. The Project Sponsor believes the project will not result in any potentially significant adverse environmental impacts and that the issuance of a negative declaration by the designated lead agency [anticipated to be the Amherst Town Board] is both appropriate and justified.

Name of Applicant or Sponsor:	Telephone: 716.510-4338
MEL Investors, LLC c/o Sean Hopkins, Esq.	E-Mail: shopkins@hsr-legal.com

Address:
5500 Main Street, Suite 343

City/PO:	State:	Zip Code:
Williamsville	NY	14221

	NO	YES
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.	☑	☐
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: See Attachment "A" for list of required approvals and permits and involved agencies.	☐	☑

3. a. Total acreage of the site of the proposed action? 2.56 acres
   b. Total acreage to be physically disturbed? 2.56 acres
   c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 2.56 acres

4. Check all land uses that occur on, are adjoining or near the proposed action:

5. ☐ Urban ☐ Rural (non-agriculture) ☐ Industrial ☑ Commercial ☑ Residential (suburban)
   ☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other(Specify):
   ☐ Parkland

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

		NO	YES	N/A
5. Is the proposed action, a. A permitted use under the zoning regulations? b. Consistent with the adopted comprehensive plan?	[The Project Sponsor is seeking to amend the zoning classification of the Project Site from GB to DC-5 to accommodate the proposed mixed-use redevelopment project.]	☑ ☐	☐ ☑	☐ ☐

	NO	YES
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	☐	☑

	NO	YES
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	☑	☐

	NO	YES
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	☑	☐
b. Are public transportation services available at or near the site of the proposed action?	☐	☑
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	☐	☑

	NO	YES
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	☐	☑

	NO	YES
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	☐	☑

	NO	YES
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	☐	☑

	NO	YES
12. a. 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?	☑	☐
b. 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? [SHPO issued a No Impact determination letter for the Project Site in connection with a previously approved project.]	☐	☑

	NO	YES
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	☑	☐
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	☑	☐
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____		

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:

☐ Shoreline ☐ Forest ☐ Agricultural/grasslands ☐ Early mid-successional

☐ Wetland ☐ Urban ☑ Suburban

	NO	YES
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	☑	☐
16. Is the project site located in the 100-year flood plan?	☑	☐
17. Will the proposed action create storm water discharge, either from point or non-point sources?	☐	☑
If Yes, a. Will storm water discharges flow to adjacent properties?	☑	☐
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	☐	☑
If Yes, briefly describe: Storm water management improvements will be installed on the Project Site per the applicable standards.		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	☑	☐
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	☑	☐
20.Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	☑	☐

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

Applicant/sponsor/name: MEL Investors, LLC Date: June 13, 2021

Signature: Title: Attorney for Project Sponsor

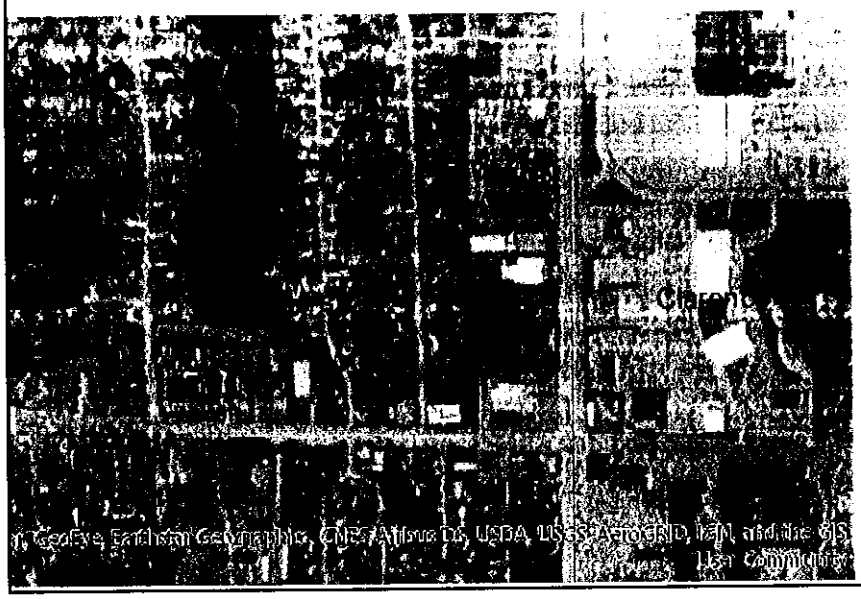
Sean W. Hopkins, Esq.

PRINT FORM

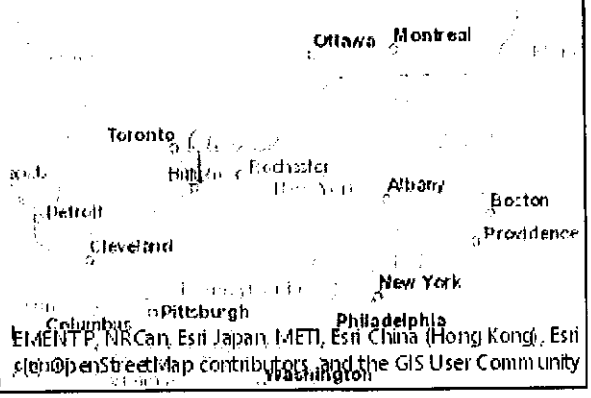
Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

EAF Mapper Summary Report

Friday, A[illegible] 16, 2021 2:16 PM



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.



Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	No
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

Exhibit 3 – Legal Description of Property to be Rezoned from General Business District ("GB") to Deep Corridor 5 District Three ("DC-5")

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

EXHIBIT 3 OF AMENDED REZONING APPLICATION

LEGAL DESCRIPTION OF PROPERTY TO BE REZONED FROM GENERAL BUSINESS DISTRICT ("GB") TO DEEP CORRIDOR 5 DISTRICT ("DC-5")

ALL THAT TRACT OR PARCEL OF LAND, situated in the Town of Amherst, County of Erie and State of New York, being part of Lot 90, Township 12, Range 7 of the Holland Land Survey, bounded and described as follows:

BEGINNING at the intersection of the north line of Main Street (99.0 feet wide) with the east line of lands shown on a map of Tennyson Park Subdivision filed in the Erie County Clerk's Office under Map Cover 1922;

THENCE: N-01°-07'-54"-W, along the said east line of Map Cover 1922 and the east line of lands conveyed to Christian Metz by deed recorded in the Erie County Clerk's Office in Liber 235 of Deeds at Page 61, a distance of 769.45 feet to a point;

THENCE: S-88°-18'-58"-E, a distance of 249.34 feet to the northwest corner of lands conveyed to Manufacturers & Traders Trust Co. by deed recorded in the Erie County Clerk's Office in Liber 10937 of Deeds at Page 4296;

THENCE: S-00°-59'-52"-E, along the said west line of Manufacturers & Traders Trust Co. lands, a distance of 420.19 feet to a point;

THENCE: S-89°-04'-24"-W, through lands conveyed to The Plaza at Transit LLC by deed recorded in the Erie County Clerk's Office in Liber 11353 of Deeds at Page 2540, a distance of 228.06 feet to a point;

THENCE: S-01°-07'-54"-E, continuing through said lands conveyed to The Plaza at Transit LLC, parallel with the first mentioned course distant 20.00 feet easterly therefrom measured at right angles, a distance of 338.89 feet to the north line of Main Street;

THENCE: N-88°-07'-09"-W, along the north line of Main Street, a distance of 20.03 feet to the POINT OR PLACE OF BEGINNING containing 2.585 acres be the same more or less.

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

Exhibit 4 – Reduced Size Copy of Survey of Project Site as Prepared by GPI Engineering & Surveying

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

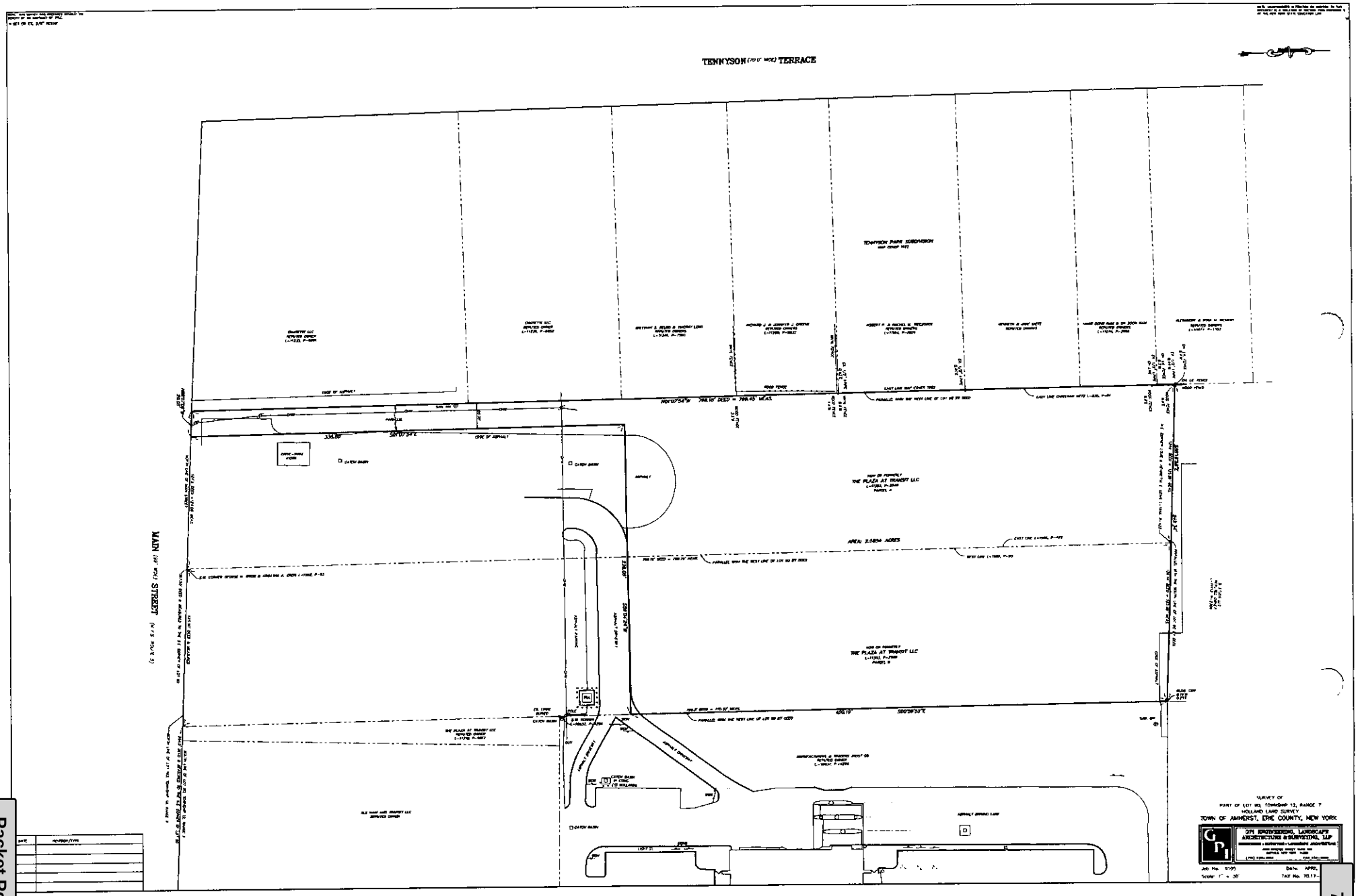

TENNYSON (70'± WIDE) TERRACE
MAIN (66'± WIDE) STREET
THE PLAZA AT TRANSIT LLC
AREA: 2.5834 ACRES
SURVEY OF
PART OF LOT 80, TOWNSHIP 12, RANGE 7
HOLLAND LAND SURVEY
TOWN OF AMHERST, ERIE COUNTY, NEW YORK
GPI SURVEYING, LANDSCAPE ARCHITECTURE & SURVEYING, LLP

Exhibit 5 – Responses to Questions 11A & 11B of the Rezoning Application

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

EXHIBIT 5 OF AMENDED REZONING APPLICATION

REZONING OF PORTIONS OF 6842 AND 6846 MAIN STREET FROM GB TO DC-5

Question 11(A): **Description of the character of the proposed development:**

Response to Question 11(A): The proposed infill mixed-use redevelopment project on approximately 2. 2.585 acres of the portions of the parcels at 6842 and 6846 Main Street ("Project Site") will be upscale in character and will feature a four-story mixed use building on the eastern portion of the Project Site on the parcel at 6846 Main Street consisting of 7,500 sq. ft. of first floor commercial space and 10 first floor apartments with 48 upper story apartments, a residential building containing 6 attached townhome units, and an accessory buildings with ten garage spaces each.[1] A full size copy of the updated Concept Site Plan [Drawing C-100] is attached and a reduced size copy is also attached as Exhibit "7". An 11" x 17" copy of the color Concept Plan with aerial photograph background is provided at Exhibit "10" Additionally, 11" x 17" size copies of the conceptual color renderings for both the proposed four-story mixed-use building and the two-story townhome building are attached as Exhibits "11" and "12".

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 requested rezoning from GB to DC-5 given that Figure 6-A of the adopted Comprehensive designates the Project Site as appropriate as Suburban Corridor. A copy of Figure 6-A of the Comprehensive Plan is attached as Exhibit "8".

---

[1] A new parcel will be created consisting of the rear portions of 6842 and 6846 Main Street. A full size survey of the Project Site is attached and a reduced size copy of the Survey is attached as Exhibit "4".

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

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 General Business District ("GB"), a zoning classification which expressly permit mixed-use project, but would require excessive parking to be provided and would not allow any apartments to be located in the first floor of the mixed-use building. The Planning Board previously approved a Site Plan for a commercial project consisting of a warehouse/office building that would have been located on the western portion of the Project Site much closer to the east boundary of the lots on Tennyson Terrace than the proposed mixed-use building. A copy of the previously approved Site Plan is attached as Exhibit "9".

Question 11(B)(3): How will this rezoning impact surrounding properties?

Response to Question 11(B)(3): The requested rezoning of the Project Site from GB to DC-5 to accommodate the proposed mixed-use project will not result in any potentially significant adverse impacts on surrounding properties. The Project Sponsor will be providing screening along the western boundary of the Project Site a Landscape Plan prepared by a licensed landscape architect will be submitted in connection with the future submission of a Site Plan Application.

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 property taxes that will be generated on an annual basis will be substantially higher than the current property taxes. The proposed mixed-use project will potentially generate some demand for educational services provided by the Williamsville Central School District but will have positive fiscal impacts since the annual school taxes will exceed the cost of educational services for school age children of the owners of the detached single-family homes.

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

Exhibit 6 – Responses to Questions 16A, 16B, 16D & 16E of the Rezoning Application

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

EXHIBIT 6 OF AMENDED REZONING APPLICATION

REZONING OF PORTIONS OF 6842 AND 6846 MAIN STREET FROM GB TO DC-5

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] On December 14, 2020, the Town Board most recently adopted an amendments to the Bicentennial Comprehensive Plan.

Figure 6-A of the adopted Bicentennial Comprehensive Plan is the titled Commercial and Mixed-Use Designations and it depicts the Project Site as a Suburban Corridor. A copy of Figure 6A of the Comprehensive Plan is provided at Exhibit "9". Additionally, Figure 6 of the Bicentennial Comprehensive Plan is the Conceptual Land Use Plan for the Town and it depicts the Project Site as being appropriate for "Commercial / Mixed-Use" development. The Conceptual Land Use Plan is intended to communicate the overall direction and concept of future development in the Town of Amherst.

---

[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-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

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 does not believe that the proposed rezoning of the Project Site from GB to DC-5 to accommodate the proposed mixed-use redevelopment project requires an amendment to the adopted Bicentennial 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 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 rezoning of the Project Site from GB to DC-5 to accommodate the proposed mixed-use redevelopment 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-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

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 rezoning of the Project Site from GB to DC-5 to accommodate the mixed-use redevelopment project will be consistent with the objective of protecting the character and value of existing land uses. The proposed rezoning will allow the Project Site to be utilized as a mixed-use project, which 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 rezoning of the Project Site from GB to DC-5 and the proposed mixed-use project will not be inconsistent with this objective.

C. To prevent overcrowding of land;

Response: The proposed mixed-use project will not result in the overcrowding of land. The project is consistent with the type of development designated as appropriate for the Project Site.

D. To prevent excessive concentration of population and to prevent spare and uncoordinated development;

Response: The proposed rezoning of the Project Site from GB to DC-5 will not result in excessive concentration of population and the mixed-use project represents an example of coordinated 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 responses to the Questions in Section 16 of the Rezoning Application set forth previously in this Exhibit "6" demonstrate that the proposed rezoning is consistent with the policies of the Comprehensive Plan.

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

F. To protect persons and property from damage and injury due to fire or flood;

Response: The Site Plan Application 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 mixed-use project will not increase the likelihood of damage and injury due to fire and flood. The proposed mixed-use 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 rezoning and the proposed mixed-use project will not be inconsistent with this objective. There are not significant natural features located on the Project Site.

H. To assure that structure and land use arrangements are aesthetically harmonious with nearby areas and structures.

Response: The development of the Project Site as mixed-use project in a manner consistent with the Concept Plan [Drawing C-100] will be 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 mixed-use project will have vehicular access to both Main Street and Transit Road. No new driveway connection to the roadway network are being proposed.

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

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 to service the proposed mixed-use project.

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 rezoning of the Project Site from GB to DC-5 is consistent with this objective since the infill mixed-use project is consistent with the policies contained in the Comprehensive Plan. Conceptual Elevations Plans for the proposed the proposed four-story mixed-use building and the two-story townhome building as prepared by Carmina Wood Morris are provided at Exhibits "11" and "12".

L. To accomplish the specific intents and goals set forth in the introduction to the respective sections.

Response: The proposed rezoning of the Project Site from GB to DC-5 will be 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 rezoning and the proposed mixed-use 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 rezoning of the Project Site from GB to DC-5 is compatible with the present zoning and conforming uses of nearby properties and the character of the neighborhood. The Project Site is currently zoned GB which would allow the proposed mixed-

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

use project but would require excessive parking to be provided and would not permit any first floor residential units.

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 suitable for uses permitted by both the existing GB zoning classification and the proposed DC-5 zoning classification.

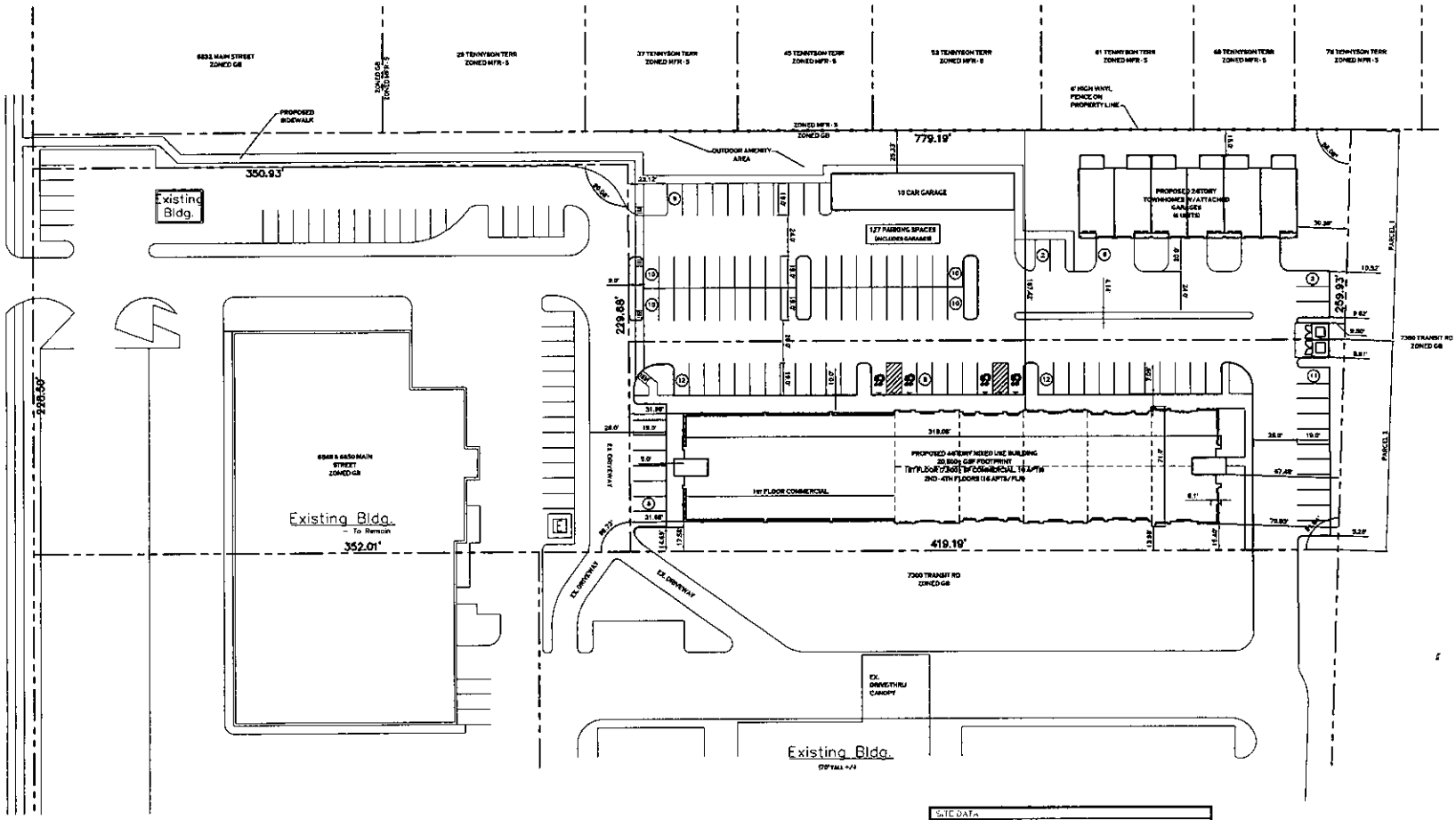
Question 16(E): **Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town:**

Response to Question 16(D): The proposed change in the zoning classification of the Project Site from GB to DC-5 to accommodate the proposed mixed-use project will have positive impacts on the balance of uses in the Town by providing first floor commercial space and residential uses at an infill location in a portion of the Town that has been designated as appropriate for mixed-use infill redevelopment as proposed by the Project Sponsor.

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

Exhibit 7 – Reduced Size Copy of the Concept Site Plan [Drawing C-100] as Prepared by Carmina Wood Morris DPC [Note: Full Size Copy of the Concept Plan is also attached]

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)



N SITE PLAN
SCALE: 1"=30'

SITE DATA		
SITE AREA = 2.58 AC (COMBINED PARCEL 1 & PARCEL 2)		
ZONED: GB (GENERAL BUSINESS). REZONED TO DC-5		
USE: PROPOSED MIXED USE MULTI-TENANT BUILDING & TOWNHOMES		
SETBACKS - BUILDING	REQUIRED	PROVIDED
FRONT		>20 FT
SIDE - ABUTTING NON-RES.		13.98' MIN.
SIDE - ABUTTING RES.		15.0' MIN.
REAR - ABUTTING NON-RES.		67.48' MIN.
REAR - ABUTTING RES.		N/A
SETBACKS - PARKING		
FRONT		>15 FT
SIDE (ABUTTING RES / NON-RES)		N/A / 9.9' MIN.
REAR (ABUTTING RES / NON-RES)		N/A / 5.28' MIN.
GREENSPACE		
INTERIOR GREENSPACE:		X.XX (X.X AC)
MAX. BUILDING HEIGHT		45 FT ±

PARKING CALCULATION (PER Section 5A-9-1)

RETAIL SALES: (2,500 GSF)
REQ'D: 2.5 PER 1,000 SF
REQ'D = (2500/ 1000) x 2.5 = 10 SPACES REQ'D

OFFICE: (2,500 GSF)
REQ'D: 2.5 PER 1,000 SF
REQ'D = (2500/ 1000) x 2.5 = 10 SPACES REQ'D

RESTAURANT: (2,500 GSF)
REQ'D: 2.5 PER 1,000 SF
REQ'D = (2500/ 1000) x 2.5 = 10 SPACES REQ'D

APARTMENTS/TOWNHOMES:
REQ'D: 1 SPACE PER 3-BEDROOM UNIT
REQ'D = 64 UNITS x 1 = 64 SPACES REQ'D

TOTAL PARKING SPACES REQUIRED = 94 SPACES

PARKING SPACES PROVIDED: (110 SPACES PROVIDED)
(16 GARAGE SPACES)
(127 TOTAL SPACES)

NOTE: BOUNDARY AND TOPOGRAPHIC INFORMATION PROVIDED BY OTHERS. CARMINA WOOD MORRIS, D.P.C. ASSUMES NO RESPONSIBILITY FOR ITS ACCURACY.

30 0 30 60 FT.

Carmina Wood Morris

REVISIONS:
No. Description Date

PROJECT NAME:
Site Development Plans for:
Mixed Use Development
6842 & 6846 Main St
Amherst, NY

Date: 6/3/21
Drawn by: C. Wood
Scale: As Noted

DRAWING NAME:
Concept Site Plan

DRAWING NO.
C-100
Project no.: 21.xxx

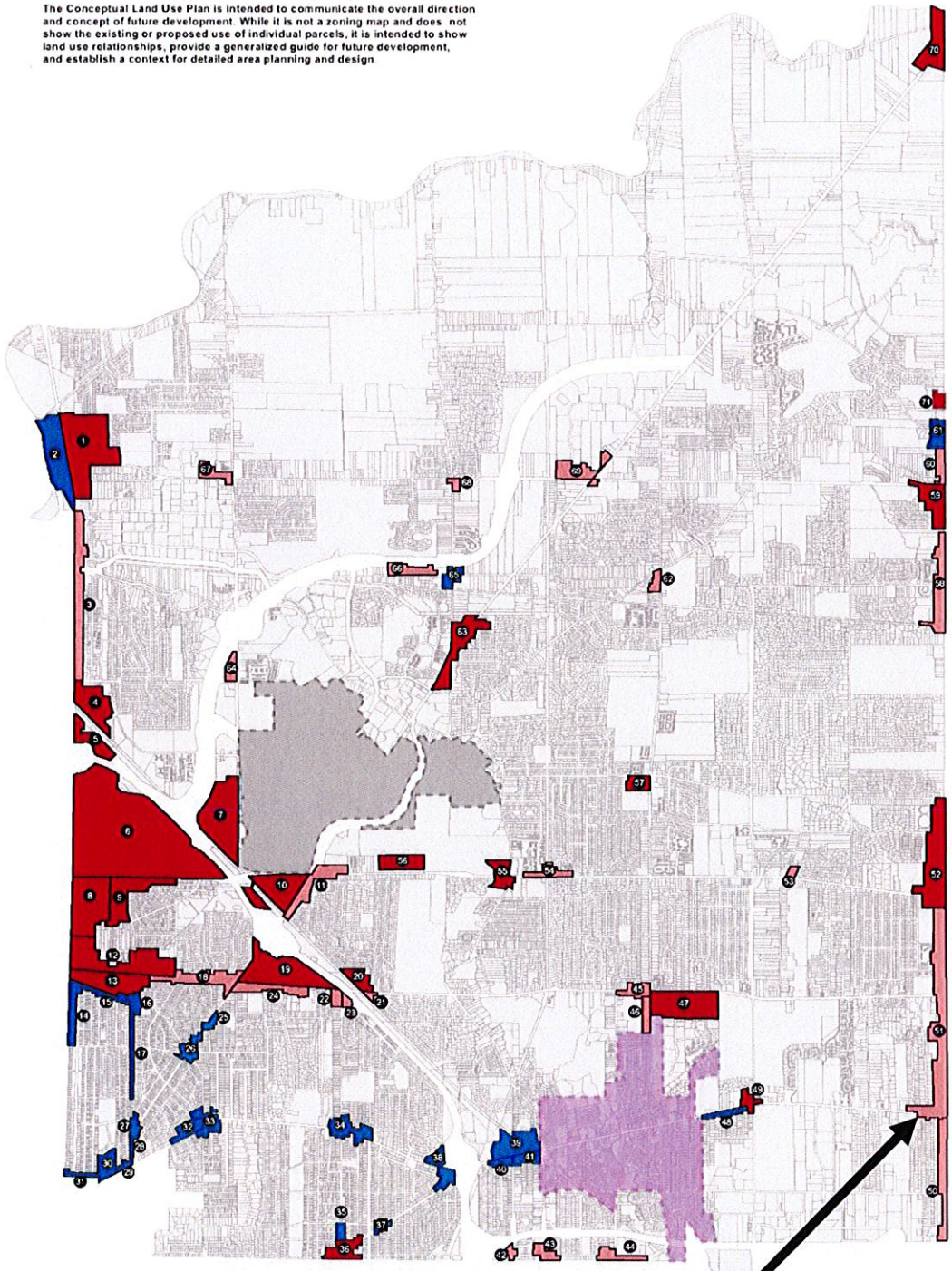
© Carmina Wood Morris DPC

Exhibit 8 – Color Copy of Figure 6-A of the Bicentennial Comprehensive Plan

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

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.



1. Wegmans (NFB)
2. Walgreens (NFB)
3. NFB / Elliott Creek Strip
4. Home Depot (NFB)
5. Innsepers Lane
6. Consumer Square / Ridge Lea
7. University Place
8. Boulevard Mall
9. Wegmans (Alberta)
10. Golden Triangle
11. Maple / Amherst Manor
12. Walmart (Sheridan)
13. Northtown Plaza
14. NFB Strip
15. Eggert Strip
16. Eggert / Bailey
17. Bailey Strip
18. Sheridan / Millersport Strip
19. Northtown Auto (Sheridan)
20. Sheridan / Sunrise - North Side
21. Sheridan / Sunrise - South Side
22. Sheridan / Harlem - West Side
23. Sheridan / Harlem - East Side
24. Sheridan / Getzville Strip
25. Millersport / Arcado
26. Six Corners
27. Bailey / Grover Cleveland
28. Bailey Live Work
29. Main / Bailey
30. University Plaza
31. Kenmore Avenue
32. Eggertsville (Main / Eggert - West Side)
33. Eggertsville (Main / Eggert - East Side)
34. Snyder (Main / Harlem)
35. Harlem Strip
36. Harlem / Kensington
37. Kensington / Saratoga
38. Main / Kensington
39. West of Village - North of Main
40. West of Village - South of Main (West Side)
41. West of Village - South of Main (East Side)
42. Wehrle / South Forest
43. Wehrle / South Union
44. Wehrle / Cayuga
45. Sheridan / Hopkins
46. Evans Strip
47. Williamsville Place
48. Main Strip
49. Main / Youngs
50. Transit / Wehrle
51. Transit from Main to Maple
52. Transit / Maple
53. Maple / Ayer
54. Maple Strip
55. Maple / North Forest
56. Gun Club
57. Clearfield Plaza
58. Transit / Casey
59. Transit / North French
60. Transit / Dodge
61. Swormville
62. Hopkins / Dodge
63. Getzville Plaza
64. Sweet Home / Skinnersville
65. Campbell / Dodge
66. Dodge Strip
67. Sweet Home / North French
68. Campbell / North French
69. Crosspointe
70. Transit / Millersport
71. Transit Strip

Project Site designated as "Suburban Corridor"

FIGURE 6-A

Commercial and Mixed-Use Designations

- Suburban Center
- Suburban Corridor
- Traditional Areas
- Village of Williamsville
- University at Buffalo

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: December 2020

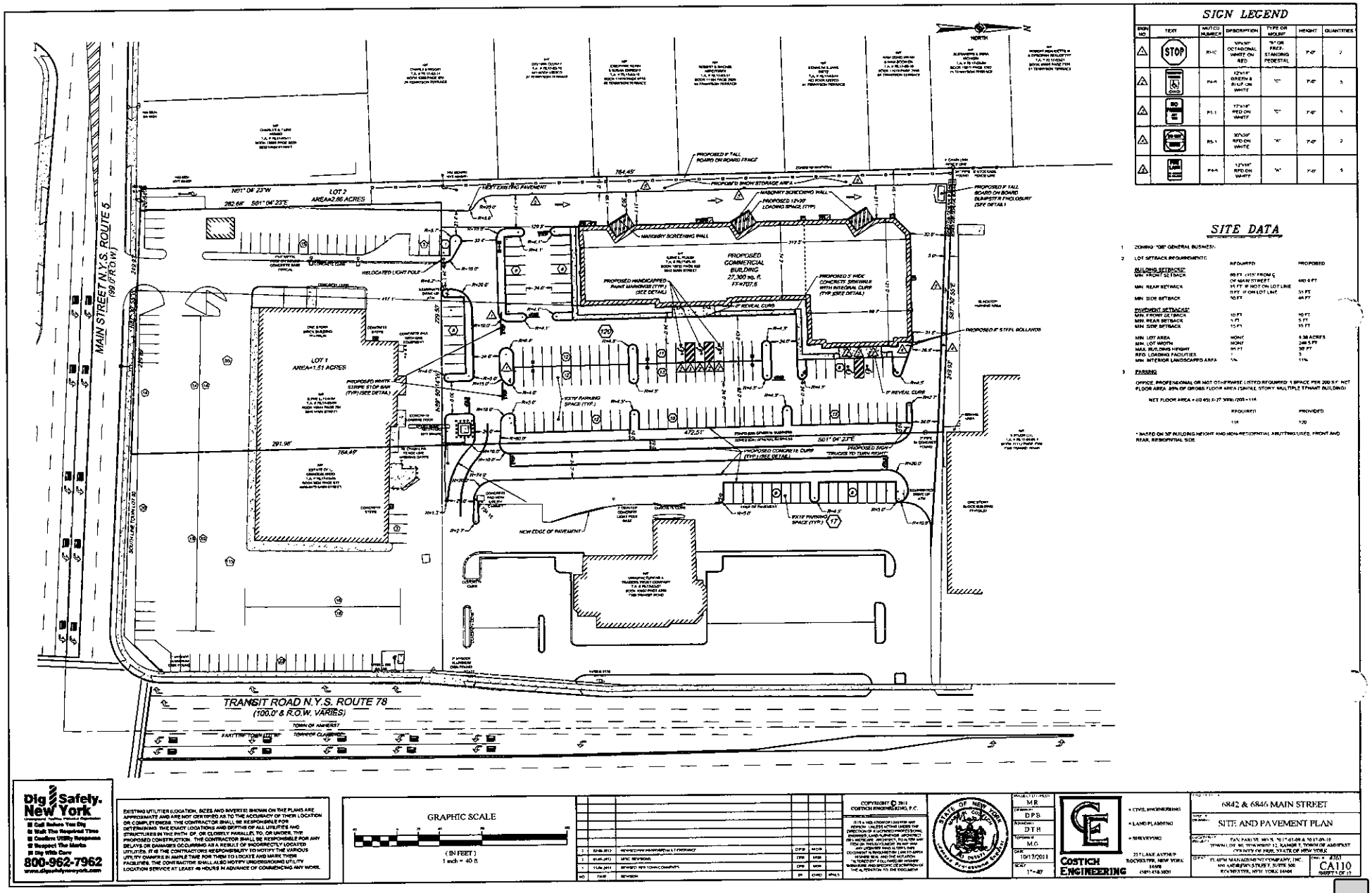
N

0 0.2 0.4 0.6 0.8 1 Miles

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

Exhibit 9 – Site Plan for Previously Proposed Commercial Project as Prepared by Costich Engineering dated February 6, 2021

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)



SIGN LEGEND

SIGN NO.	TEXT	MUTCD NUMBER	DESCRIPTION	TYPE OF MOUNT	HEIGHT	QUANTITIES
A	STOP	R1-1	30"X30" OCTAGONAL WHITE ON RED	79" OR FREE STANDING PEDESTAL	7'-0"	2
A		R4-7	12"X18" GREEN & BLUE ON WHITE	"	7'-0"	1
A	NO	R3-1	12"X18" RED ON WHITE	"	7'-0"	1
A		R5-1	30"X30" RED ON WHITE	"	7'-0"	2
A		R4-8	12"X18" RED ON WHITE	"	7'-0"	5

SITE DATA

1 ZONING: "GB" GENERAL BUSINESS

2 LOT SETBACK REQUIREMENTS:

	REQUIRED	PROPOSED
BUILDING SETBACKS:		
MIN. FRONT SETBACK	80 FT. (15 FT FROM ROW OF MAIN STREET	460.6 FT
MIN. REAR SETBACK	15 FT. IF NOT ON LOT LINE 0 FT. IF ON LOT LINE	33 FT
MIN. SIDE SETBACK	10 FT	44 FT
PAVEMENT SETBACKS:		
MIN. FRONT SETBACK	10 FT	10 FT
MIN. REAR SETBACK	5 FT	5 FT
MIN. SIDE SETBACK	15 FT	15 FT
MIN. LOT AREA	NONE	4.38 ACRES
MIN. LOT WIDTH	NONE	248.5 FT
MAX. BUILDING HEIGHT	60 FT	30' FT
REQ. LOADING FACILITIES	1	3
MIN. INTERIOR LANDSCAPED AREA	10%	11%

3 PARKING

OFFICE, PROFESSIONAL OR NOT OTHERWISE LISTED REQUIRED: 1 SPACE PER 200 S.F. NET FLOOR AREA. 20% OF GROSS FLOOR AREA (SINGLE STORY MULTIPLE TENANT BUILDING)

NET FLOOR AREA = 60,450 S.F. (MIN.) (20% = 11K

	REQUIRED	PROVIDED
	116	120

* BASED ON 30' BUILDING HEIGHT AND NON-RESIDENTIAL ABUTTING USES, FRONT AND REAR, RESIDENTIAL SIDE

Dig Safely. New York
Call Before You Dig
Wait The Required Time
Confirm Utility Response
Respect The Marks
Dig With Care
800-962-7962
www.digsafelynewyork.com

EXISTING UTILITIES (LOCATION, SIZES AND INVERTS) SHOWN ON THE PLANS ARE APPROXIMATE AND ARE NOT CERTIFIED AS TO THE ACCURACY OF THEIR LOCATION OR COMPLETENESS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DETERMINING THE EXACT LOCATIONS AND DEPTHS OF ALL UTILITIES AND STRUCTURES IN THE PATH OF OR CLOSELY PARALLEL TO, OR UNDER, THE PROPOSED CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DELAYS OR DAMAGES OCCURRING AS A RESULT OF INCORRECTLY LOCATED UTILITIES. IT IS THE CONTRACTORS RESPONSIBILITY TO NOTIFY THE VARIOUS UTILITY OWNERS IN AMPLE TIME FOR THEM TO LOCATE AND MARK THEIR FACILITIES. THE CONTRACTOR SHALL ALSO NOTIFY UNDERGROUND UTILITY LOCATION SERVICE AT LEAST 48 HOURS IN ADVANCE OF COMMENCING ANY WORK.

GRAPHIC SCALE
(IN FEET)
1 inch = 40 ft.

NO	DATE	REVISION	BY	CHKD
3	02-06-2012	REVISED PER TOWN COMMENTS	DPB	MGR
2	01-06-2012	MINOR REVISIONS	DPB	MGR
1	11-06-2011	REVISED PER TOWN COMMENTS	DPB	MGR

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STATE OF NEW YORK — MARK G. COSTICH — LICENSED PROFESSIONAL ENGINEER

PROJECT DIRECTOR	MR
DESIGNED	DPB
DRAWN BY	DTH
CHECKED BY	MG
DATE	10/17/2011
SCALE	1"=40'

COSTICH ENGINEERING
217 LAKE AVENUE
ROCHESTER, NEW YORK 14608
(585) 458-3020

* CIVIL ENGINEERING
* LAND PLANNING
* SURVEYING

6842 & 6846 MAIN STREET

SITE AND PAVEMENT PLAN

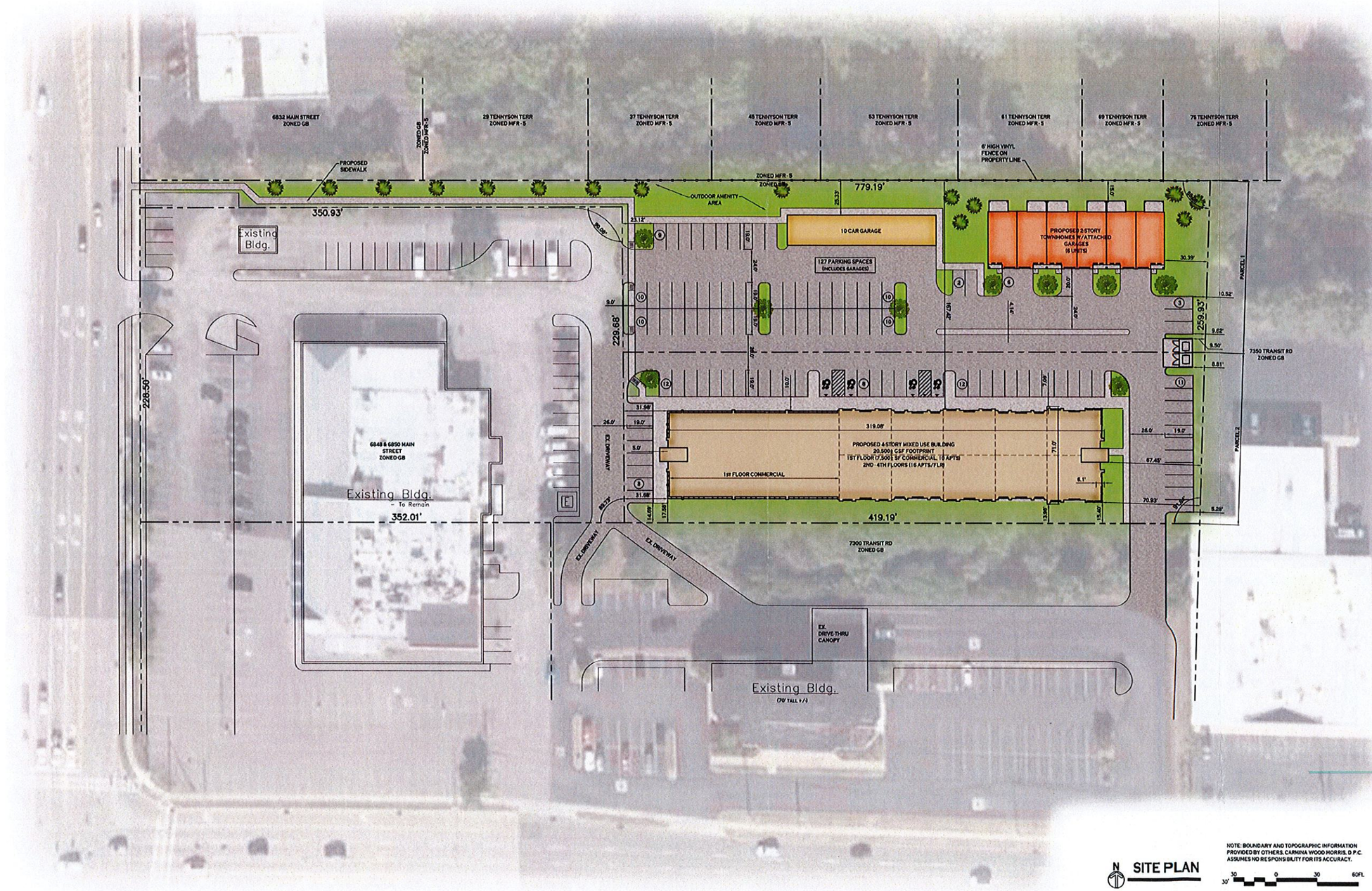
TAX PARCEL NO.'S: 16.17-61-9 & 16.17-61-10
TOWN LOT NO. 90, 10TH RESRVD LT, RANGE 7, TOWN OF ASHFIELD
CITY/CITY OF PREP., STATE OF NEW YORK

OWNER: FL 48TH MANAGEMENT COMPANY, INC.
100 ANDREWS STREET, SUITE 500
ROCHESTER, NEW YORK 14604

PROJECT NO. 4761
SHEET 1 OF 1 CA110

Exhibit 10: Color Concept Plan with Aerial Photograph Background prepared by Carmina Wood Morris DPC dated June of 2021 [11" x 17"]

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)



SITE RENDERING

Carmina · Wood · Morris DPC

BLISS

Mixed Use Development

6842 & 6846 Main Street | Amherst, NY

June 2021

1

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

Exhibit 11 – Color Conceptual Elevation Plan [Drawing A-100] for Proposed Four-Story Mixed Use Building as Prepared by Carmina Wood Morris DPC

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

1 / A-100 TRANSIT ROAD ELEVATION
SCALE: 3/32" = 1'-0"

2 / A-100 MAIN STREET ELEVATION
SCALE: 3/32" = 1'-0"

3 / A-100 EXTERIOR PERSPECTIVE
SCALE: NTS

Carmina Wood Morris DPC
487 Main Street Suite 600
Buffalo, New York 14203
P 716.842.3105
F 716.842.0263

PRELIMINARY
NOT FOR CONSTRUCTION

PROFESSIONAL SEAL

REVISIONS:

No.	Description	Date

BLISS

PROJECT NAME:
Concept Documents for:
Mixed Use Development
6842 and 6846 Main Street
Amherst, New York

Issued for Approval:	06.04.2021
Drawn By:	BJS
Checked By:	BJS

DRAWING NAME:
Mixed Use Concept Elevations

DRAWING NO.
A-100

Project N

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

Exhibit 12: Color Conceptual Elevation Plan [Drawing A-101] for Proposed Two-Story Townhome Building as Prepared by Carmina Wood Morris DPC

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

1 A-101 TRANSIT ROAD ELEVATION
SCALE: 3/32" = 1'-0"

3 A-101 EXTERIOR PERSPECTIVE
SCALE: NTS

Carmina Wood Morris DPC
487 Main Street Suite 600
Buffalo, New York 14203
P 716.842.3105
F 716.842.0263

PRELIMINARY
NOT FOR CONSTRUCTION

PROFESSIONAL SEAL

REVISIONS:
No. Description Date

BLISS

PROJECT NAME:
Concept Documents for:
Mixed Use Development
6842 and 6846 Main Street
Amherst, New York

Issued for Approval: 06.04.2021
Drawn By: BJS
Checked By: BJS

DRAWING NAME:
Townhome Concept Elevations

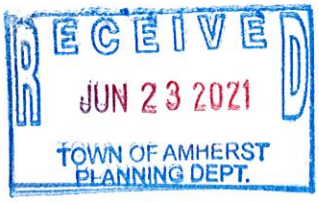
DRAWING NO.
A-101

Project N

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

HSM

June 23, 2021



Ellen Kost, AICP, Assistant Planning Director
Town of Amherst Planning Department
5583 Main Street
Williamsville, New York 14221

Re: Amended Rezoning Application & Supporting Documentation
Rezoning of Portions of 6842 and 6846 Main Street from GB to DC-5 [Z-2021-05] – Town of Amherst
Applicant/Project Sponsor: MEL Investors, LLC c/o Paul Bliss
File No. 10003.56

Dear Ellen:

Enclosed are twelve (12) full size copies of the updated Concept Site Plan [Drawing C-100 – Date: 06/22/21] prepared by Christopher Wood of Carmina Wood Morris DPC for purpose of modifying the location of the two-story attached townhome building (6 units) and the two single-story garage buildings (20 total spaces) on the western boundary of the Project Site contiguous to properties zoned MFR-5 so that these structures will comply with the required setback of thirty feet (30') as measured to the rear portion of the patios behind the six-unit townhome building and the required setback of twenty feet (20') for the two garage buildings. A reduced size copy of the updated Concept Site Plan [Drawing C-100 – Date: 06/22/21] is attached as Exhibit "1".

Per the discussion during the meeting held at the Planning Department on June 17th, the Project Sponsor is proposing two (2) zoning conditions for the consideration of the Planning Board in connection with its review of the pending request to amend the zoning classification of portions of 6842 and 6846 Main Street from GB to DC-5 as follows:

1. The maximum allowed building height on the portion of 6842 Main Street shall be 2 stories with peak height of 35 ft.

2. The maximum allowed building height on the portion of 6846 Main Street shall be 4 stories with peak height of 60 ft.

With respect to 2nd proposed zoning condition, it is important to mention that the existing GB zoning classification allows a building with a height of up to sixty-five feet (65') and the proposed DC-5 zoning classification allows a five-story building with a building height of up to seventy-five feet (75').

If you have any questions regarding this letter or the enclosed updated Concept Site Plan, please feel free to contact me at 510-4338 or via e-mail at shopkins@hsr-legal.com.

Thank you for your continued cooperation.

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: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

Sean W. Hopkins, Esq.

Enc.
cc: 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]

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

Exhibit 1 – Reduced Size Copy of the Updated Concept Site Plan [Drawing C-100 – Date: 06/22/21] as Prepared by Carmina Wood Morris DPC

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

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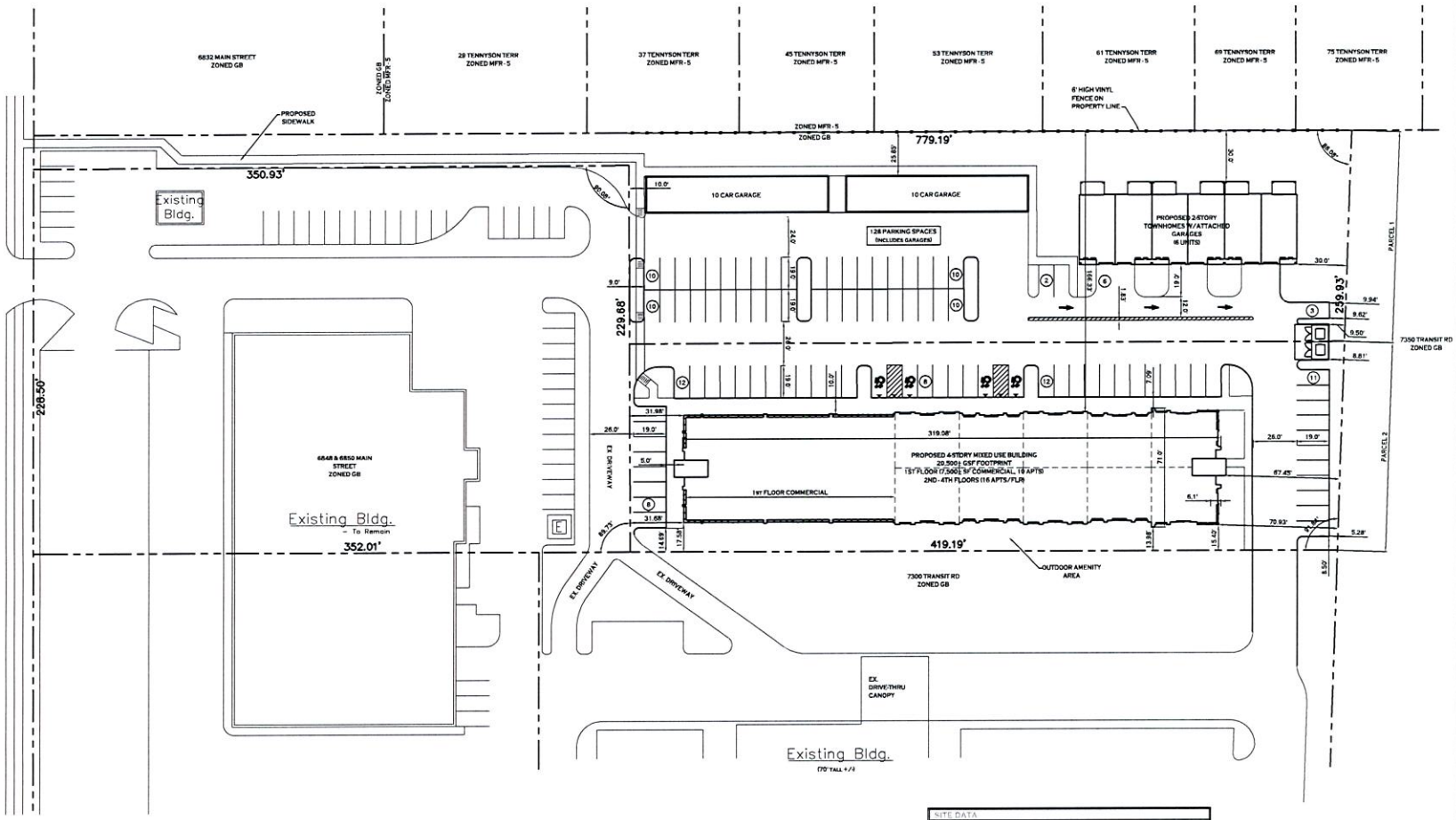
TOWN OF AMHERST
PLANNING DEPT.



N SITE PLAN
SCALE: 1"=30'

SITE DATA		
SITE AREA = 2.58 AC (COMBINED PARCEL 1 & PARCEL 2)		
ZONED: GB (GENERAL BUSINESS). REZONED TO DC - 5		
USE: PROPOSED MIXED USE MULTI-TENANT BUILDING & TOWNHOMES		
SETBACKS - BUILDING	REQUIRED	PROVIDED
FRONT	10 FT	> 10 FT
SIDE (3 STORIES / > 3 STORIES)	30 FT/60 FT	30.0' / 166.33'
REAR (3 STORIES / > 3 STORIES)	30 FT/60 FT	30.0' / 67.45'
ACCESSORY STRUCT.	20 FT	25.85'
SETBACKS - PARKING		
FRONT		> 15 FT
SIDE		8.50' MIN.
REAR		5.28' MIN.
GREENSPACE		
INTERIOR GREENSPACE:		X.XX % (X.X AC)
MAX. BUILDING HEIGHT	5 STORIES / 75'	4 STORIES / 45' ±

PARKING CALCULATION (PER SECTION 5A-9-1)
RETAIL SALES: (2,500 GSF)
REQ'D: 2.5 PER 1,000 SF
REQ'D = (2500 / 1000) x 2.5 = 10 SPACES REQ'D
OFFICE: (2,500 GSF)
REQ'D: 2.5 PER 1,000 SF
REQ'D = (2500 / 1000) x 2.5 = 10 SPACES REQ'D
RESTAURANT: (2,500 GSF)
REQ'D: 2.5 PER 1,000 SF
REQ'D = (2500 / 1000) x 2.5 = 10 SPACES REQ'D
APARTMENTS/TOWNHOMES:
REQ'D: 1 SPACE PER 2-BDRM UNIT
REQ'D = 64 UNITS ± 1 = 64 SPACES REQ'D
TOTAL PARKING SPACES REQUIRED = 94 SPACES
PARKING SPACES PROVIDED: (109) 9'x19' SPACES PROVIDED (17 GARAGE SPACES (126) TOTAL SPACES

NOTE: BOUNDARY AND TOPOGRAPHIC INFORMATION PROVIDED BY OTHERS, CARMINA WOOD MORRIS, D.P.C. ASSUMES NO RESPONSIBILITY FOR ITS ACCURACY.

30 0 30 60FT

RECEIVED
JUN 23 2021
TOWN OF AMHERST
PLANNING DEPT.

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Carmina Wood Morris DPC
487 Main Street Suite 600
Buffalo, New York 14203
P: 716.842.3196
F: 716.842.0263

REVISIONS:
No. Description Date

PROJECT NAME:
Site Development Plans for:
Mixed Use Development
6842 & 684[illegible] Main St
Amherst, N[illegible]

Date: 6/22/21
Drawn by: C. Wood
Scale: As Noted

DRAWING NAME:
Concept Site Plan

DRAWING NO.
C-10
Project no.: 21.xxx

Packet Pg. 479

7.5.c

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

Amherst

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

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

MEMORANDUM June 24, 2021

RECEIVED
JUL 07 2021
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
Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
Bryan Parnell, Fire Chiefs' Association (c/o Bldg)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent ademopoulos@amherst.ny.us
Francina Spoth, Town Clerk

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

SUBJECT: REQUEST TO REZONE 2.87± ACRES OF LAND FROM **GB TO DC-5**;
PROPERTY LOCATED **6842 & 6846 MAIN STREET (PORTIONS).**
MEL INVESTORS LLC, PETITIONER. **Z-2021-05**

REVISED APPLICATION
Received June 16, 2021

RECEIVED
JUN 24 2021
TOWN OF AMHERST
BUILDING DEPT.

REVISED CONCEPT PLAN
Received June 23, 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.) Accessible Parking must Comply with Section 1106 of the BCNYS - Accessible dwelling unit must Comply with Section 1107 of the BCNYS.

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

Signature: Doug Gesel **Date:** 7-7-21

EK/SM/bf
X:\Current_Planning\Files\Rezonings\2021\Z-2021-05_(6842 & 6846 Main St)_2021\Z-2021-05_Rev_Plans_Transmittal_062421.doc

cc: Scott Marshall, Principal Planner
Sean Hopkins, Esq., Hopkins Sorgi & McCarthy PLLC, 5500 Main St. Suite 343, Williamsville, NY 14221
Chris Wood, Carmina Wood Morris DPC, 487 Main St. Suite 500, Buffalo, NY 14203

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

AMHERST HIGHWAY DEPARTMENT

1042 North Forest Road Williamsville, New York 14221

Patrick Lucey
Superintendent of Highways
plucey@amherst.ny.us

Paul Anderson
Deputy Highway Superintendent
panderson@amherst.ny.us

PHONE (716) 631-7117

FAX (716) 631-7265

www.amherst.ny.us

RECEIVED
JUL 07 2021
TOWN OF AMHERST
PLANNING DEPT.

July 6, 2021

To: Ellen Kost, AICP, Associate Planner

From: Patrick Lucey, Superintendent of Highways PR

Re: REQUEST TO REZONE 2.87 ACRES OF LAND FROM **GB TO DC-5;**
PROPERTY LOCATED AT **6842 & 6846 MAIN STREET (PORTIONS).**
MEL INVESTORS LLC, PETITIONER.. **Z-2021-05**

REVISED APPLICATION & REVISED CONCEPT PLAN

After review relative to Highway Department concerns, the plan is approved as submitted.

/ke
C: Daniel Ulatowski, AICP, Zoning Enforcement Officer
Douglas Gesel, Supervising Code Enforcement Officer
Jeffrey Burroughs, Town Engineer
Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
Dave Marrano, Town Assessor
Bryan Parnell, Fire Chiefs Association (c/o Building)
Ann Demopoulos, Deputy Town Attorney, ROW Agent
Francina Spoth, Town Clerk
Scott A Marshall, Principal Planner
Sean Hopkins, Esq., Hopkins, Sorgi & McCarthy, PLLC
5500 Main Street, Suite 343, Williamsville, NY 14221
Chris Wood, Carmina Wood Morris, DPC, 487 Main Street
Suite 500, Buffalo, NY 14203

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

Amherst

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

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

RECEIVED
JUN 24 2021
TOWN ATTORNEY

MEMORANDUM June 24, 2021

RECEIVED
JUL 01 2021
TOWN OF AMHERST
PLANNING DEPT.

TO: From:
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)
Bryan Parnell, Fire Chiefs' Association (c/o Bldg)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent ademopoulos@amherst.ny.us
Francina Spoth, Town Clerk

7/1
~~6/24~~/21

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

SUBJECT: REQUEST TO REZONE 2.87± ACRES OF LAND FROM **GB TO DC-5**;
PROPERTY LOCATED **6842 & 6846 MAIN STREET (PORTIONS)**.
MEL INVESTORS LLC, PETITIONER. **Z-2021-05**

REVISED APPLICATION
Received June 16, 2021

REVISED CONCEPT PLAN
Received June 23, 2021

REVIEW:

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

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:** 6/24/21 7/1/21

EK/SM/bf
X:\Current_Planning\Files\Rezonings\2021\Z-2021-05_(6842 & 6846 Main St)_2021\Z-2021-05_Rev_Plans_Transmittal_062421.doc
cc: Scott Marshall, Principal Planner
Sean Hopkins, Esq., Hopkins Sorgi & McCarthy PLLC, 5500 Main St. Suite 343, Williamsville, NY 14221
Chris Wood, Carmina Wood Morris DPC, 487 Main St. Suite 500, Buffalo, NY 14203

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

Amherst

2011.054

Town of Amherst Planning Department

Erie County, New York

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

TOWN OF AMHERST
ENGINEERING
DEPARTMENT
21 JUN 25 A 11:50

MEMORANDUM

June 24, 2021

RECEIVED
JUL 01 2021
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
Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
Bryan Parnell, Fire Chiefs' Association (c/o Bldg)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent ademopoulos@amherst.ny.us
Francina Spoth, Town Clerk

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

SUBJECT: REQUEST TO REZONE 2.87± ACRES OF LAND FROM **GB TO DC-5**;
PROPERTY LOCATED **6842 & 6846 MAIN STREET (PORTIONS)**.
MEL INVESTORS LLC, PETITIONER. **Z-2021-05**

REVISED APPLICATION
Received June 16, 2021

REVISED CONCEPT PLAN
Received June 23, 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: _____ **Date:** 6/30/21

EK/SM/bf
X:\Current_Planning\Files\Rezonings\2021\Z-2021-05_(6842 & 6846 Main St)_2021\Z-2021-05_Rev_Plans_Transmittal_062421.doc

cc: Scott Marshall, Principal Planner
Sean Hopkins, Esq., Hopkins Sorgi & McCarthy PLLC, 5500 Main St. Suite 343, Williamsville, NY 14221
Chris Wood, Carmina Wood Morris DPC, 487 Main St. Suite 500, Buffalo, NY 14203

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

Amherst

2011.054

Town of Amherst Planning Department Erie County, New York

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

RECEIVED
JUN 30 2021
TOWN OF AMHERST
PLANNING DEPT.

TOWN OF AMHERST
ENGINEERING
DEPARTMENT
21 JUN 25 A 11:50

MEMORANDUM June 24, 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)
Bryan Parnell, Fire Chiefs' Association (c/o Bldg)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent ademopoulos@amherst.ny.us
Francina Spoth, Town Clerk

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

SUBJECT: REQUEST TO REZONE 2.87± ACRES OF LAND FROM **GB TO DC-5**;
PROPERTY LOCATED **6842 & 6846 MAIN STREET (PORTIONS)**.
MEL INVESTORS LLC, PETITIONER. **Z-2021-05**

REVISED APPLICATION
Received June 16, 2021

REVISED CONCEPT PLAN
Received June 23, 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:** 6/28/21

EK/SM/bf
X:\Current_Planning\Files\Rezonings\2021\Z-2021-05_(6842 & 6846 Main St)_2021\Z-2021-05_Rev_Plans_Transmittal_062421.doc
cc: Scott Marshall, Principal Planner
Sean Hopkins, Esq., Hopkins Sorgi & McCarthy PLLC, 5500 Main St. Suite 343, Williamsville, NY 14221
Chris Wood, Carmina Wood Morris DPC, 487 Main St. Suite 500, Buffalo, NY 14203

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

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
JUN 25 2021
TOWN OF AMHERST
PLANNING DEPT.

MEMORANDUM June 24, 2021

To: Ellen Kost
From: Dave Marrano
Date 6/25/21

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)
Bryan Parnell, Fire Chiefs' Association (c/o Bldg)
Arin Demopoulos, Deputy Town Attorney, Right-of-Way Agent ademopoulos@amherst.ny.us
Francina Spoth, Town Clerk

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

SUBJECT: REQUEST TO REZONE 2.87± ACRES OF LAND FROM **GB TO DC-5**;
PROPERTY LOCATED **6842 & 6846 MAIN STREET (PORTIONS)**.
MEL INVESTORS LLC, PETITIONER. **Z-2021-05**

66.00 - 70.17-3-10
3-9

REVISED APPLICATION
Received June 16, 2021

REVISED CONCEPT PLAN
Received June 23, 2021

REVIEW:

Do you agree with all statements made? Yes.

If you do not, briefly state why: _____

General comments relative to your agency interests: Would Request a Merge of these two parcels

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:** 6/25/21

EK/SM/bf
X:\Current_Planning\Files\Rezonings\2021\Z-2021-05_(6842 & 6846 Main St)_2021\Z-2021-05_Rev_Plans_Transmittal_062421.doc

cc: Scott Marshall, Principal Planner
Sean Hopkins, Esq., Hopkins Sorgi & McCarthy PLLC, 5500 Main St. Suite 343, Williamsville, NY 14221
Chris Wood, Carmina Wood Morris DPC, 487 Main St. Suite 500, Buffalo, NY 14203

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

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 24, 2021

TO: Daniel Ulatowski, Principal Planner Our copy
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)
Bryan Parnell, Fire Chiefs' Association (c/o Bldg)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent ademopoulos@amherst.ny.us
Francina Spoth, Town Clerk

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

SUBJECT: REQUEST TO REZONE 2.87± ACRES OF LAND FROM **GB TO DC-5**;
PROPERTY LOCATED **6842 & 6846 MAIN STREET (PORTIONS)**.
MEL INVESTORS LLC, PETITIONER. **Z-2021-05**

REVISED APPLICATION
Received June 16, 2021

REVISED CONCEPT PLAN
Received June 23, 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:** 7/12/2021

EK/SM/bf
X:\Current_Planning\Files\Rezonings\2021\Z-2021-05_(6842 & 6846 Main St)_2021\Z-2021-05_Rev_Plans_Transmittal_062421.doc
cc: Scott Marshall, Principal Planner
Sean Hopkins, Esq., Hopkins Sorgi & McCarthy PLLC, 5500 Main St. Suite 343, Williamsville, NY 14221
Chris Wood, Carmina Wood Morris DPC, 487 Main St. Suite 500, Buffalo, NY 14203

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

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-21-285

Received: 4/30/21

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** June 17 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 portions of 6842 and 6846 Main Street

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) Request to rezone 2.8 acres from GB to DC-5

8. Other remarks: (ID#, SBL#, etc.) Z-2021-05

9. Submitted by: Thomas Voigt, Assistant Planner April 28, 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 4/30/21. **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: Dan M. Neel **Date:** 5/25/21

Attachment: Z-2021-05 Town Board letter Main St. 2 080921 (RES-2021-679 : 6842 & 6846 Main Street Rezoning)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 23527 **RESOLUTION 2021-680** **ADOPTED**

Local Law to Amend RD District

Adoption of Local Law to Amend the Zoning Text
Permitted Uses in the RD and GI District
(ZTA-2021-01)

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 June 24, 2021 that the proposed amendment to the Permitted Uses in the Research and Development (RD) district is consistent with the adopted Bicentennial Comprehensive Plan, as amended, and be it further

RESOLVED, that Section 4-11-2(A) (General Industrial District) of the Zoning Ordinance be amended to include "truck was and truck repair facility" as a permitted use, subject to the use standards established in Section 6-4-14 of the Zoning Ordinance, and be it further

RESOLVED, that to the extent the proposed zoning text amendment 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 203-8-5 of the Town Code (Zoning), the Town Board adopts Local Law (#) to amend the Town Zoning text.

8/09/2021
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 8:26 PM.

Daniel Ulatowski, Assistant Planning Director, presented.

There were no speakers from the public, therefore Supervisor Kulpa moved to close the public hearing, seconded by Councilmember Lavin and unanimously approved 5-0. The public hearing was closed at 8:28 PM.

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

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

Attachment: ZTA-2021-01 Draft Neg Dec RD 080921 (RES-2021-680 : Local Law to Amend RD District)

D R A F T (08/09/2021)

SEQR

NEGATIVE DECLARATION

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency:	Town of Amherst Town Board	**Project**:	ZTA-2021-01
Address:	5583 Main Street Williamsville, NY 14221 (716) 631-7051	**Date**:	August 9, 2021

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: Zoning Text Amendment

SEQR Status: The subject request is a Type I action, FEAF Parts 1 & 2 completed.

Description of Action: The proposed text amendment will expand the uses in the Research and Development (RD) and General Industrial (GI) Districts. Truck washing and repair will be allowed as a permitted use and be required to meet a set of commercial use standards. These standards will promote a more efficient and aesthetically pleasing site, providing protection to adjacent land uses and provide added support to logistics/e-commerce-oriented land uses.

Location: Town of Amherst, Erie County, New York

Petitioner: Town of Amherst

Reasons Supporting This Determination

Based on information submitted by the applicant, including a Full Environmental Assessment Form (FEAF) - Parts 1 and 2, and a text amendment application, a preliminary staff analysis was undertaken. Compared to the criteria listed in Section 617.7, all indications are that the proposed text amendment to the permitted uses in the Research and Development (RD) and General Industrial (GI) districts 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. Specific impacts to these resources will be reviewed when a development proposal is received.

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 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 proposed text amendment will comply with all other regulations of the Town Zoning Ordinance.

4. The action may affect an area identified by the State as potentially containing significant cultural or archeological resources. Specific impacts to these resources will be reviewed when a development proposal is received.

5. The action will not impair the character or quality of important aesthetic resources or of existing community or neighborhood character. Specific projects will be assessed for consistency with surrounding land use during site plan review.

6. The action will not cause a major change in the use of either the quantity or type of energy.

7. The action will not create any hazard to human health.

8. The text amendment 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. Specific projects will be assessed for consistency with the scale of surrounding land uses during site plan review.

9. The action will not significantly increase the number of people using sites over their previous level of use.

Attachment: ZTA-2021-01 Draft Neg Dec RD 080921 (RES-2021-680 : Local Law to Amend RD District)

10. Significant negative traffic impacts will not result from the proposed text amendment. Specific impacts to traffic will be reviewed when a development proposal is received.

11. Coordinated reviews of the action have been undertaken by Town Departments including Building on November 13, 2020 and Engineering on November 16, 2020 and the Erie County Department of Environment & Planning on November 16, 2020**.** These reviews have not identified any significant environmental issues and indicate that the action 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

DU/ac
X:\Current_Planning\Files\Text Amendments\ZTA-2021\ZTA-2021-01\ZTA-2021-01 Draft Neg Dec 080921.docx
cc: Amherst Town Clerk
Amherst Building Department
ECDEP

Attachment: ZTA-2021-01 Draft Neg Dec RD 080921 (RES-2021-680 : Local Law to Amend RD District)

Amherst

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

Brian J. Kulpa
Supervisor

Daniel C. Howard, A
Planning Directo

Daniel J. Ulatowski, A
Assistant Planning Di

Town Board Agenda of August 9, 2021

July 30, 2021

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

Subject: Request Zoning Code Text Amendment: Local Law to Amend the Zoning Ordinance, Amendments to the Permitted Uses in the RD and GI District, ZTA-2021-01. Town of Amherst, Petitioner.

Honorable Members:

The Town of Amherst Zoning Code was adopted by the Town Board on May 1, 2006 with an effective date of May 23, 2006. This proposed amendment includes provisions to permit the accommodation of Truck service, wash and repair as a permitted use within the Research and Development (RD) and General Industrial (GI) zoning districts when certain standards are met; and to eliminate the 25,000 S.F. gross floor area limit for uses in the Research and Development district.

DRAFT LOCAL LAW

(underline=added text, ~~strikethrough~~ = deleted text)

D R A F T
LOCAL LAW NO. _____ -2021
TOWN OF AMHERST
COUNTY OF ERIE, STATE OF NEW YORK

A Local Law Making Amendments To Chapter 203 Of The Code Of The Town Of Amherst, Also Known As The Zoning Code As Adopted By Local Law 6-2006.

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

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

Honorable Town Board

Request Zoning Code Text Amendment: Local Law to Amend the Zoning Ordinance, Amendments to the Permitted Uses in the RD District, ZTA-2021-01. Agenda of August 9, 2021

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

Section 1. Title.

This Local Law shall be referred to as, "A Local Law Amending Chapter 203 of the Code of The Town of Amherst, Research and Development District."

Section 2. Purpose

The purpose of this Local Law is to provide provisions to permit the accommodation of Truck service, wash and repair as a permitted use within the Research and Development (RD) and the General Industrial (GI) zoning district when certain standards are met.

Section 3.

Chapter 203 of the Code of the Town of Amherst is amended as follows:

§ 2-4. Specific Terms

TRUCK WASH AND TRUCK REPAIR FACILITY

An establishment engaged in the washing, servicing, and repair of commercial trucks. Such uses may engage in truck-related: tire servicing and repair, but not recapping or regrooving; replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like; radiator cleaning and flushing; washing and polishing; greasing and lubrication; providing and repairing of pumps and lines; minor servicing and repair of carburetors; wiring repairs; adjusting and repairing brakes; minor motor adjustments; vehicle inspection.

Uses permissible at a truck wash and truck repair facility do not include the rental of motor vehicles, sale of motor vehicle fuel or parts, major mechanical and body work, straightening of body parts, painting, welding or storage of vehicles not in operating condition.

§ 4-9. Research and Development District (RD)

§4-9-1. Purpose. To provide areas within the Town for the location of research and development, related production activities, light manufacturing, offices, and related training schools on sufficient land to permit efficient development. Such districts shall be designed and located in such a way that they shall neither encroach upon surrounding uses nor shall surrounding uses interfere with the efficient development of these activities. The RD district is designed to encourage the development of a balanced employment mix within the Town and improve the

Town's tax base while providing sufficient educational opportunities to contribute to the training of the workforce and thereby meet the employment needs of businesses locating in the Town.

4-9-2. Principal and Special Uses.

A. Permitted Uses and Structures.

RD	Permitted	Special Use	Standards
OPEN USES			
No open uses allowed			
RESIDENTIAL USES			
No residential uses allowed			
PUBLIC AND CIVIC USES			
Day-care center	✓		§ 6-3-2
Minor utilities	✓		
Place of worship	✓		§ 6-3-3
Public utility service structure or facility		✓	§ 6-3-4
Public works construction yard [Added 12-7-2009 by L.L. No. 19-2009]	✓		§ 6-3-5
Telecommunication facility		✓	§ 6-7
COMMERCIAL			
Ambulance Service [Added 2-24-2014 by L.L. No.3-2014]	✓		
Bank	✓		
Dog day care facility [Added 10-17-2011 by L.L. No. 25-2011]	✓		§ 6-4-13 [Amended 11-5-1 by LL No. 17-2012]
Medical laboratory testing service	✓		
Office	✓		

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

Training school such as technical, trade, vocational or business	✓		
Truck service, wash, and repair	✓		§6-4--14
INDUSTRIAL			
Compounding, manufacturing and assembly of: Automobile and boating accessories from previously prepared materials Clothing or other textile products Electrical and electronic equipment and appliances Food and beverage products Household items, furniture Musical, scientific, medical, dental or photographic instruments, equipment or supplies Office equipment Panels, sheets, tubes or rods Pharmaceutical products, cosmetics or toiletries Printing, publishing and engraving Recreation equipment or toys	✓		
Experimental, research and testing facility	✓		
Ground-mounted solar energy systems, Tier III [Added 12-11-2017 by L.L. No. 24-2017]		✓	§ 6-10
Ground-mounted solar energy systems, Tier II [Added 12-11-2017 by L.L. No. 24-2017]	✓		§ 6-10
Research development facility	✓		
Tier I experimental pilot plant operation [Amended 12-11-2017 by L.L. No. 24-2017]	✓		
Warehousing and storage service	✓		
Wholesale distribution facility	✓		

4-9-3. Accessory Uses and Structures.

A. **Permitted Accessory Uses and Structures**. The following accessory uses and structures incidental to any permitted principal use are allowed subject to the requirements of § 6-8, Accessory Uses or Part 7, General Development Standards.

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

RD Permitted Accessory Uses and Structures	Standards
Convenience Retail Service	§ 6-8-4
Day-care center	
Landscaping	§ 7-2
Off-street parking, loading, and stacking	§ 7-1
Production operation accessory to a research or testing operation	
Restaurant without drive-through	§ 6-8-10
Retail sale of products assembled or stored on-site	§ 6-8-11
Solar energy systems [Added 12-11-2017 by L.L. No. 24-2017]	§ 6-10
Signs	§ 7-8
Small wind energy system [Added 8-17-2009byL.L.No.12-2009]	§ 6-8-14
Other uses and structures customarily incidental to the principal use	

B. **Dimensional Standards.** The dimensional standards for an accessory use or structure shall be the same as those for the principal use in §4-9-2B.

4-11-2. Principal and Special Use

A. Permitted Uses and Structures

GI	Permitted	Special Use	Standards
OPEN USES			
No open uses allowed			
RESIDENTIAL USES			
No residential uses allowed			
PUBLIC AND CIVIC USES			
Day-care center	✓		§ 6-3-2
Minor utilities	✓		
Place of worship	✓		§ 6-3-3

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

Public utility service structure or facility		✓	§ 6-3-4
Public works construction yard [Added 12-7-2009 by L.L. No. 19-2009]	✓		§ 6-3-5
Telecommunication facility		✓	§ 6-7
COMMERCIAL			
Bank	✓		
Building materials sales and service	✓		
Business, driving, martial arts and other trade schools	✓		
Business services including sign company, window cleaning and other dwelling and building services	✓		
Contracting or construction	✓		
Electrical and household appliance repair service	✓		
Job and newspaper printing	✓		
Laundering, dry cleaning, and dyeing services	✓		
Medical laboratory testing service	✓		
Motor vehicles repair [Added 3-7-2016 by L.L. No. 5-2016]	✓		
Office	✓		
Outdoor storage	✓		
Trailer and motor vehicle sales and rental	✓		
Training school such as technical, trade, vocational and business	✓		
Truck service, wash, and repair	✓		§6-4--14
INDUSTRIAL			

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

Automobile junkyard	✓		
Blending, mixing and packaging of: Detergents, disinfectants, fungicides, ink, insecticides, soap and related household and industrial chemical compounds		✓	
Compounding, manufacturing and assembly of: Automobile and boating accessories from previously prepared materials Clothing or other textile products Electrical and electronic equipment and appliances Food and beverage products Household items Furniture Merchandise from previously prepared materials Musical, scientific, medical, dental or photographic instruments, equipment or supplies Office equipment Panels, sheets, tubes or rods Pharmaceutical products, cosmetics or toiletries Printing, publishing and engraving Recreation equipment or toys		✓	
Experimental, research and testing facility	✓		
Ground-mounted solar energy systems, Tier II [Added 12-11-2017 by L.L. No. 24-2017]	✓		§ 6-10
Research development facility	✓		
Tier I experimental pilot plant operation [Amended 12-11-2017 by L.L. No. 24-2017]	✓		
Warehousing and storage service	✓		
Wholesale distribution facility	✓		

§ 6-4. Commercial Use Standards

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

Honorable Town Board

Request Zoning Code Text Amendment: Local Law to Amend the Zoning Ordinance, Amendments to the Permitted Uses in the RD District, ZTA-2021-01. Agenda of August 9, 2021

Section to be added:

6-4-14. Truck Servicing, Repair, and Washing. Truck servicing, repair, and washing, when permitted in a RD District or GI District, shall comply with the following standards.

A. Any retail sales area shall be limited to 15% of the gross floor area of the principal structure.
B. Vehicle maintenance or repair facilities must maintain a minimum distance separation of 150 feet to any residential dwelling building. Such distance may be increased during site plan review approval by the Planning Board or Planning Director as applicable, but not to exceed 300 feet to mitigate for potential noise and odor.
C. Overhead doors shall not face a residential district and doors will be closed except for entry and exit of vehicles.
D. The following uses and activities are not allowed:
    (1) The sale or dispensing of fuel.
    (2) The servicing, repair, and washing of fuel cargo tanker trucks.
    (3) Vehicle sales.
    (4) Outdoor dining.
    (5) Outdoor speakers.
    (6) Truck stop related lodging and showers.
    (7) Unenclosed overnight vehicle parking and vehicle storage that is not directly related to truck servicing and repair work.
E. All on-site vehicle parking, loading, stacking, and circulation areas shall be paved, curbed, screened, follow the standards established in Part 7, and comply with the following additional standards.
    (1) Site access and internal circulation shall be designed to prevent conflicts with passenger vehicles and minimize the need for the backing up of trucks.
    (2) Shared parking is not allowed.
    (3) Wheel stops or other permanent barriers shall be installed to prevent vehicles from encroaching on building structures, required setbacks, and landscaping.
    (4) The minimum setback to paved areas facing a public roadway shall be 25 feet.
    (5) A minimum vertical clearance of 18 feet is required under overhead utility line spans.
    (6) A minimum vertical clearance of 14 feet is required under any other roof structure or building projection.

~~§ 6-5. Industrial Use Standards~~

~~6-5-1. **Research and Development Uses.** Research and development uses listed in the district tables in Part 4 shall be permitted provided that no such use shall occupy more than 15 percent of the gross floor area of the occupant space within which it is located and no such use shall exceed 25,000 square feet of the gross floor area of the building.~~

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

Honorable Town Board

Request Zoning Code Text Amendment: Local Law to Amend the Zoning Ordinance, Amendments to the Permitted Uses in the RD District, ZTA-2021-01. Agenda of August 9, 2021

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

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 Section 130 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

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 changes have no policy implications; therefore, the proposed changes do not alter the Zoning Ordinance's consistency with the Comprehensive Plan. The proposed changes are consistent with Section 3.3.4 of the Comprehensive Plan addressing Office and Industrial Uses. The addition of truck washing and repair as allowed uses will assist in promoting the goals of the Office and Industrial land use by establishing commercial use standards as well as allowing a use supportive of industry, e-commerce, and logistics.

INTENT AND OBJECTIVES OF THE ZONING ORDINANCE

The provision of truck washing and repair as allowed uses is consistent with the intent of the Zoning Ordinance. The intent of the Research and Development (RD) and General Industrial (GI) Districts is to "provide areas in the Town for the location of research and development, related production activities, light manufacturing, offices, and related training schools on sufficient land to permit efficient development." Truck washing and repair are activities that are ancillary to the main objectives of the Research and Development (RD) and General Industrial (GI) Districts and therefore should be considered a 'related production activity.' These new provisions also permit complimentary uses that are supportive of warehousing and distribution facilities that are evolving with contemporary logistics and e-commerce businesses. The intent of the RD District also states "Such districts shall be designed and located in such a way that they shall neither encroach upon surrounding land uses…," outlining the need for the commercial use standards associated with the newly allowed truck wash and repair.

SEQR

This is a Type 1 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

Honorable Town Board

Request Zoning Code Text Amendment: Local Law to Amend the Zoning Ordinance, Amendments to the Permitted Uses in the RD District, ZTA-2021-01.
Agenda of August 9, 2021

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/TV/ac
Att.
X/Current Planning/Files/Text Amendments/ZTA-2021-01/TB Letter_08.09.21
cc: Stanley Sliwa, Town Attorney

Planning Board Approval – June 24, 2021
Ayes 6, noes 0; absent 1 (Gelber)

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

TOWN OF AMHERST
PLANNING BOARD
ZONING TEXT AMENDMENTS
ZTA-2021-01

PETITIONER
Town of Amherst
5583 Main Street
Williamsville, NY 14221

WHEREAS the Town of Amherst Planning Board on Thursday, June 24, 2021 held a virtual public hearing on the proposed amendment to the allowed uses in the Research and Development (RD) District, and

WHEREAS the Planning Board has reviewed materials regarding the text amendments proposal, and

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

WHEREAS per Section 203 - 8-5-5(A) & (B) of the Town Code, the Planning Board finds that:

1. The proposed text amendment is consistent with the remainder of the Zoning Ordinance, including, specifically, the following purpose statements as found in Section 1-2-2:
   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;
   b. 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;
   c. To assure that structure and land use arrangements are aesthetically harmonious with nearby areas and structures;
   d. 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
   e. To guide the future development of the town so as to bring about the gradual conformity of land, structures and uses generally consistent with the policies of the Comprehensive Plan
   f. To accomplish the specific intents and goals set forth in the introduction to the respective sections.

2. The proposed text amendment represents a revision necessitated by changing circumstances and practices over time.

3. The proposed text amendment does not correct an error in the Ordinance.

JUL02'21 AM10:03 RCVD

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

TOWN OF AMHERST
PLANNING BOARD
ZONING TEXT AMENDMENTS
ZTA-2021-01

PETITIONER
Town of Amherst

4. The proposed text amendment does not revise the Ordinance to comply with state or federal statutes or case law.

5. The proposed text amendment advances the public health, safety or welfare and is consistent with the Zoning Ordinance.

6. The proposed text amendment is generally consistent with the policies of the Comprehensive Plan.

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 request be approved with the following condition:

1. That §4-11-2(A) of the Zoning Ordinance be amended to include "truck wash and truck repair facility" as a permitted use, subject to the use standards established in §6-4-14 of the Zoning Ordinance.

The foregoing resolution was adopted by the Town of Amherst Planning Board, June 24, 2021; moved by - Chmiel; seconded by - Guliani; ayes 6, noes 0; absent - Gelber.

Robert J. Gilmour, Planning Board Chair

7-1-21
Date

TV/ac
X:\Current_Planning\Files\Text Amendments\ZTA-2021\ZTA-2021-01\ZTA-2021-01_ Resolution _062421.doc
cc: Town Clerk
Traffic/Safety Coordinator
Commissioner of Building
Highway Superintendent
Town Engineer
Town Attorney

JUL 02'21 AM10:02 RCVD

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

TOWN OF AMHERST PLANNING DEPARTMENT

Comprehensive Plan And Zoning Text Amendment Application

File # ZTA-2021-01

1. Amend Comprehensive Plan ☐
2. Zoning Code Text Amendment ☒
3. Other ☐ _____

PETITIONER:

- ☒ Town Board
- ☐ Planning Board
- ☐ Zoning Board of Appeals
- ☐ Commissioner of Building
- ☐ Planning Director

Sections Proposed to be Amended: (Attach sheets as necessary.)

Section 2 – Definitions
Section 4-9 – Research and Development District (RD)
Section 6-4 - Truck Servicing, Repair, and Washing
Section 6-5- Industrial Use Standards

Description of Amendments: (Attached sheets as necessary.)

Amendments to the permitted uses in the RD district

Materials Received by Planning Department

TV — RECEIVED BY
5/25/21 — DATE

Materials Filed with Town Clerk

_____ ACCEPTED BY
_____ DATE

P/Currplan/Application Comp Plan & Zoning Text Amend.

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

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 1is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Zoning Text Amendment (RD District Update)		
Project Location (describe, and attach a general location map): Town-wide		
Brief Description of Proposed Action (include purpose or need): Amend the permitted uses in the Research Development District (RD) in the Town of Amherst Zoning Ordinance (Chapter 203 of Town Code) to allow truck wash, service, and repair a permitted use with performance standards within the RD zoning district.		
Name of Applicant/Sponsor: Town of Amherst	Telephone: (716) 631-7051 E-Mail:	
Address: 5583 Main Street		
City/PO: Williamsville	State: New York	Zip Code: 14201
Project Contact (if not same as sponsor; give name and title/role): Thomas Voigt, Assistant Planner	Telephone: (716) 631-7051 E-Mail: tvoigt@amherst.ny.us	
Address: 5583 Main Street		
City/PO: Williamsville	State: New York	Zip Code: 14201
Property Owner (if not same as sponsor):	Telephone: E-Mail:	
Address:		
City/PO:	State:	Zip Code:

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

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 Board (Legislative Approval)	
b. City, Town or Village Planning Board or Commission ☑Yes ☐No	Planning Board (Advisory)	June 18, 2021
c. City, Town or Village Zoning Board of Appeals ☐Yes ☐No		
d. Other local agencies ☐Yes ☑No		
e. County agencies ☐Yes ☑No		
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):

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: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

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?
Research & Development (RD)

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? _____

C.4. Existing community services.

a. In what school district is the project site located? Sweet Home, Williamsville, Amherst, Clarence

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?
Snyder, Main-Transit, East Amherst, Getzville, North Amherst, Swormville, Ellicott Creek, North Bailey, Eggertsville, Willliamsville

d. What parks serve the project site?
All Town of Amherst parks

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)?

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

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

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				
At completion of all phases				

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: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

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: _____ 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: _____
- 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: _____ 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: _____
- Name of 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? ☐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 _____ acres (impervious surface)

_____ Square feet or _____ acres (parcel size)

ii. Describe types of new point sources. _____

_____

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)?

_____

_____

- 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 meth (including, but not limited to, sewage treatme lants, 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: _____

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: _____
- Saturday: _____
- Sunday: _____
- Holidays: _____

ii. During Operations:

- Monday - Friday: _____
- Saturday: _____
- Sunday: _____
- Holidays: _____

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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:

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:

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: _____ 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: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

s. Does the proposed action include construction ( )odification of a solid waste management faci( ) ☐ Yes

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): _____

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			
• 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: _____			

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

c. Is the project site presently used by members of 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):

_____
_____

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

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? _____ 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: _____ _____%
_____ _____%
_____ _____%

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

e. Drainage status of project site soils: ☐ Well Drained: _____% of site
☐ Moderately Well Drained: _____% of site
☐ Poorly Drained _____% of site

f. Approximate proportion of proposed action site with slopes: ☐ 0-10%: _____% 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: _____

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

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

F. Additional Information

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

See Attachment "A"

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 Daniel C. Howard Date May 25, 2021

Signature _____ Title Planning Director

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

PRINT FORM

Attachment "A"

D R A F T
LOCAL LAW NO. _____ -2021

TOWN OF AMHERST
COUNTY OF ERIE, STATE OF NEW YORK

A Local Law Making Amendments To Chapter 203 Of The Code Of The Town Of Amherst, Also Known As The Zoning Code As Adopted By Local Law 6-2006.

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 the Code of The Town of Amherst, Research and Development District."

Section 2. Purpose

The purpose of this Local Law is to provide provisions to permit the accommodation of Truck service, wash and repair as a permitted use within the Research and Development (RD) zoning district when certain standards are met.

Section 3.

Chapter 203 of the Code of the Town of Amherst is amended as follows:

§ 2-4. Specific Terms

TRUCK WASH AND TRUCK REPAIR FACILITY

An establishment engaged in the washing, servicing, and repair of commercial trucks. Such uses may engage in truck-related: Tire servicing and repair, but not recapping or regrooving; Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like; Radiator cleaning and flushing; Washing and polishing; Greasing and lubrication; Providing and repairing of pumps and lines; Minor servicing and repair of carburetors; Wiring repairs; Adjusting and repairing brakes; Minor motor adjustments; Vehicle inspection.

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

Uses permissible at a truck wash and truck repair facility do not include the rental of motor vehicles, sale of motor vehicle fuel or parts, major mechanical and body work, straightening of body parts, painting, welding or storage of vehicles not in operating condition.

§ 4-9. Research and Development District (RD)

§4-9-1. Purpose. To provide areas within the Town for the location of research and development, related production activities, light manufacturing, offices, and related training schools on sufficient land to permit efficient development. Such districts shall be designed and located in such a way that they shall neither encroach upon surrounding uses nor shall surrounding uses interfere with the efficient development of these activities. The RD district is designed to encourage the development of a balanced employment mix within the Town and improve the Town's tax base while providing sufficient educational opportunities to contribute to the training of the workforce and thereby meet the employment needs of businesses locating in the Town.

4-9-2. Principal and Special Uses.

A. Permitted Uses and Structures.

RD	Permitted	Special Use	Standards
OPEN USES			
No open uses allowed			
RESIDENTIAL USES			
No residential uses allowed			
PUBLIC AND CIVIC USES			
Day-care center	✓		§ 6-3-2
Minor utilities	✓		
Place of worship	✓		§ 6-3-3
Public utility service structure or facility		✓	§ 6-3-4
Public works construction yard [Added 12-7-2009 by L.L. No. 19-2009]	✓		§ 6-3-5

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Telecommunication facility		✓	§ 6-7
COMMERCIAL			
Ambulance Service [Added 2-24-2014 by L.L. No.3-2014]	✓		
Bank	✓		
Dog day care facility [Added 10-17-2011 by L.L. No. 25-2011]	✓		§ 6-4-13 [Amended 11-5-12 by LL No. 17-2012]
Medical laboratory testing service	✓		
Office	✓		
Training school such as technical, trade, vocational or business	✓		
Truck service, wash, and repair	✓		§6-4--14
INDUSTRIAL			
Compounding, manufacturing and assembly of: Automobile and boating accessories from previously prepared materials Clothing or other textile products Electrical and electronic equipment and appliances Food and beverage products Household items, furniture Musical, scientific, medical, dental or photographic instruments, equipment or supplies Office equipment Panels, sheets, tubes or rods Pharmaceutical products, cosmetics or toiletries Printing, publishing and engraving Recreation equipment or toys	✓		
Experimental, research and testing facility	✓		
Ground-mounted solar energy systems, Tier III [Added 12-11-2017 by L.L. No. 24-2017]		✓	§ 6-10

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

Ground-mounted solar energy systems, Tier II [Added 12-11-2017 by L.L. No. 24-2017]	✓		§ 6-10
Research development facility	✓		
Tier I experimental pilot plant operation [Amended 12-11-2017 by L.L. No. 24-2017]	✓		
Warehousing and storage service	✓		
Wholesale distribution facility	✓		

4-9-3. Accessory Uses and Structures.

A. **Permitted Accessory Uses and Structures**. The following accessory uses and structures incidental to any permitted principal use are allowed subject to the requirements of § 6-8, Accessory Uses or Part 7, General Development Standards.

RD Permitted Accessory Uses and Structures	**Standards**
Convenience Retail Service	§ 6-8-4
Day-care center	
Landscaping	§ 7-2
Off-street parking, loading, and stacking	§ 7-1
Production operation accessory to a research or testing operation	
Restaurant without drive-through	§ 6-8-10
Retail sale of products assembled or stored on-site	§ 6-8-11
Solar energy systems [Added 12-11-2017 by L.L. No. 24-2017]	§ 6-10
Signs	§ 7-8
Small wind energy system [Added 8-17-2009 by L.L. No. 12-2009]	§ 6-8-14
Other uses and structures customarily incidental to the principal use	

B. **Dimensional Standards.** The dimensional standards for an accessory use or structure shall be the same as those for the principal use in §4-9-2B.

§ 6-4. Commercial Use Standards

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

Section to be added:

6-4-14. Truck Servicing, Repair, and Washing. Truck servicing, repair, and washing, when permitted in a RD District, shall comply with the following standards.

A. Any retail sales area shall be limited to 15% of the gross floor area of the principal structure.
B. Vehicle maintenance or repair facilities must maintain a minimum distance separation of 150 feet to any residential dwelling building. Such distance may be increased during site plan review approval by the Planning Board or Planning Director as applicable, but not to exceed 300 feet to mitigate for potential noise and odor.
C. Overhead doors shall not face a residential district and doors will be closed except for entry and exit of vehicles.
D. The following uses and activities are not allowed:
    (1) The sale or dispensing of fuel.
    (2) The servicing, repair, and washing of fuel cargo tanker trucks.
    (3) Vehicle sales.
    (4) Outdoor dining.
    (5) Outdoor speakers.
    (6) Truck stop related lodging and showers.
    (7) Unenclosed overnight vehicle parking and vehicle storage that is not directly related to truck servicing and repair work.
E. All on-site vehicle parking, loading, stacking, and circulation areas shall be paved, curbed, screened, follow the standards established in Part 7, and comply with the following additional standards.
    (1) Site access and internal circulation shall be designed to prevent conflicts with passenger vehicles and minimize the need for the backing up of trucks.
    (2) Shared parking is not allowed.
    (3) Wheel stops or other permanent barriers shall be installed to prevent vehicles from encroaching on building structures, required setbacks, and landscaping.
    (4) The minimum setback to paved areas facing a public roadway shall be 25 feet.
    (5) A minimum vertical clearance of 18 feet is required under overhead utility line spans.
    (6) A minimum vertical clearance of 14 feet is required under any other roof structure or building projection.

~~§ 6-5. **Industrial Use Standards**~~

~~**6-5-1. Research and Development Uses.** Research and development uses listed in the district tables in Part 4 shall be permitted provided that no such use shall occupy more than 15 percent of the gross floor area of the occupant space within which it is located and no such use shall exceed 25,000 square feet of the gross floor area of the building.~~

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

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 Section 130 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

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Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

Agency Use Only [If applicable]

Project : ZTA-2021-01

Date : May 25, 2021

Full Environmental Assessment Form
Part 2 - Identification of Potential Project Impacts

Part 2 is to be completed by the lead agency. Part 2 is designed to help the lead agency inventory all potential resources that could be affected by a proposed project or action. We recognize that the lead agency's reviewer(s) will not necessarily be environmental professionals. So, the questions are designed to walk a reviewer through the assessment process by providing a series of questions that can be answered using the information found in Part 1. To further assist the lead agency in completing Part 2, the form identifies the most relevant questions in Part 1 that will provide the information needed to answer the Part 2 question. When Part 2 is completed, the lead agency will have identified the relevant environmental areas that may be impacted by the proposed activity.

If the lead agency is a state agency **and** the action is in any Coastal Area, complete the Coastal Assessment Form before proceeding with this assessment.

Tips for completing Part 2:

- Review all of the information provided in Part 1.
- Review any application, maps, supporting materials and the Full EAF Workbook.
- Answer each of the 18 questions in Part 2.
- If you answer **"Yes"** to a numbered question, please complete all the questions that follow in that section.
- If you answer "**No**" to a numbered question, move on to the next numbered question.
- Check appropriate column to indicate the anticipated size of the impact.
- Proposed projects that would exceed a numeric threshold contained in a question should result in the reviewing agency checking the box "Moderate to large impact may occur."
- The reviewer is not expected to be an expert in environmental analysis.
- If you are not sure or undecided about the size of an impact, it may help to review the sub-questions for the general question and consult the workbook.
- When answering a question consider all components of the proposed activity, that is, the "whole action".
- Consider the possibility for long-term and cumulative impacts as well as direct impacts.
- Answer the question in a reasonable manner considering the scale and context of the project.

1. Impact on Land

Proposed action may involve construction on, or physical alteration of, the land surface of the proposed site. (See Part 1. D.1)

☑ NO ☐ YES

If "Yes", answer questions a - j. If "No", move on to Section 2.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may involve construction on land where depth to water table is less than 3 feet.	E2d	☐	☐
b. The proposed action may involve construction on slopes of 15% or greater.	E2f	☐	☐
c. The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface.	E2a	☐	☐
d. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material.	D2a	☐	☐
e. The proposed action may involve construction that continues for more than one year or in multiple phases.	D1e	☐	☐
f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides).	D2e, D2q	☐	☐
g. The proposed action is, or may be, located within a Coastal Erosion hazard area.	B1i	☐	☐
h. Other impacts: _____		☐	☐

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2. Impact on Geological Features

The proposed action may result in the modification or destruction of, or inhibit access to, any unique or unusual land forms on the site (e.g., cliffs, dunes, minerals, fossils, caves). (See Part 1. E.2.g) ☑ NO ☐ YES

If "Yes", answer questions a - c. If "No", move on to Section 3.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Identify the specific land form(s) attached: _____ _____	E2g	☐	☐
b. The proposed action may affect or is adjacent to a geological feature listed as a registered National Natural Landmark. Specific feature: _____	E3c	☐	☐
c. Other impacts: _____ _____		☐	☐

3. Impacts on Surface Water

The proposed action may affect one or more wetlands or other surface water bodies (e.g., streams, rivers, ponds or lakes). (See Part 1. D.2, E.2.h) ☑ NO ☐ YES

If "Yes", answer questions a - l. If "No", move on to Section 4.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may create a new water body.	D2b, D1h	☐	☐
b. The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water.	D2b	☐	☐
c. The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body.	D2a	☐	☐
d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body.	E2h	☐	☐
e. The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.	D2a, D2h	☐	☐
f. The proposed action may include construction of one or more intake(s) for withdrawal of water from surface water.	D2c	☐	☐
g. The proposed action may include construction of one or more outfall(s) for discharge of wastewater to surface water(s).	D2d	☐	☐
h. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies.	D2e	☐	☐
i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action.	E2h	☐	☐
j. The proposed action may involve the application of pesticides or herbicides in or around any water body.	D2q, E2h	☐	☐
k. The proposed action may require the construction of new, or expansion of existing, wastewater treatment facilities.	D1a, D2d	☐	☐

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l. Other impacts: _____ _____		☐	☐

4. Impact on groundwater

The proposed action may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer. (See Part 1. D.2.a, D.2.c, D.2.d, D.2.p, D.2.q, D.2.t) ☑ NO ☐ YES

If "Yes", answer questions a - h. If "No", move on to Section 5.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may require new water supply wells, or create additional demand on supplies from existing water supply wells.	D2c	☐	☐
b. Water supply demand from the proposed action may exceed safe and sustainable withdrawal capacity rate of the local supply or aquifer. Cite Source: _____	D2c	☐	☐
c. The proposed action may allow or result in residential uses in areas without water and sewer services.	D1a, D2c	☐	☐
d. The proposed action may include or require wastewater discharged to groundwater.	D2d, E2l	☐	☐
e. The proposed action may result in the construction of water supply wells in locations where groundwater is, or is suspected to be, contaminated.	D2c, E1f, E1g, E1h	☐	☐
f. The proposed action may require the bulk storage of petroleum or chemical products over ground water or an aquifer.	D2p, E2l	☐	☐
g. The proposed action may involve the commercial application of pesticides within 100 feet of potable drinking water or irrigation sources.	E2h, D2q, E2l, D2c	☐	☐
h. Other impacts: _____ _____		☐	☐

5. Impact on Flooding

The proposed action may result in development on lands subject to flooding. (See Part 1. E.2) ☑ NO ☐ YES

If "Yes", answer questions a - g. If "No", move on to Section 6.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in development in a designated floodway.	E2i	☐	☐
b. The proposed action may result in development within a 100 year floodplain.	E2j	☐	☐
c. The proposed action may result in development within a 500 year floodplain.	E2k	☐	☐
d. The proposed action may result in, or require, modification of existing drainage patterns.	D2b, D2e	☐	☐
e. The proposed action may change flood water flows that contribute to flooding.	D2b, E2i, E2j, E2k	☐	☐
f. If there is a dam located on the site of the proposed action, is the dam in need of repair, or upgrade?	E1e	☐	☐

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g. Other impacts: _____ _____		☐	☐

6. Impacts on Air

The proposed action may include a state regulated air emission source. (See Part 1. D.2.f., D.2.h, D.2.g) ☑NO ☐YES

If "Yes", answer questions a - f. If "No", move on to Section 7.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. If the proposed action requires federal or state air emission permits, the action may also emit one or more greenhouse gases at or above the following levels:			
i. More than 1000 tons/year of carbon dioxide (CO_2)	D2g	☐	☐
ii. More than 3.5 tons/year of nitrous oxide (N_2O)	D2g	☐	☐
iii. More than 1000 tons/year of carbon equivalent of perfluorocarbons (PFCs)	D2g	☐	☐
iv. More than .045 tons/year of sulfur hexafluoride (SF_6)	D2g	☐	☐
v. More than 1000 tons/year of carbon dioxide equivalent of hydrochloroflourocarbons (HFCs) emissions	D2g	☐	☐
vi. 43 tons/year or more of methane	D2h	☐	☐
b. The proposed action may generate 10 tons/year or more of any one designated hazardous air pollutant, or 25 tons/year or more of any combination of such hazardous air pollutants.	D2g	☐	☐
c. The proposed action may require a state air registration, or may produce an emissions rate of total contaminants that may exceed 5 lbs. per hour, or may include a heat source capable of producing more than 10 million BTU's per hour.	D2f, D2g	☐	☐
d. The proposed action may reach 50% of any of the thresholds in "a" through "c", above.	D2g	☐	☐
e. The proposed action may result in the combustion or thermal treatment of more than 1 ton of refuse per hour.	D2s	☐	☐
f. Other impacts: _____ _____		☐	☐

7. Impact on Plants and Animals

The proposed action may result in a loss of flora or fauna. (See Part 1. E.2. m.-q.) ☑NO ☐YES

If "Yes", answer questions a - j. If "No", move on to Section 8.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may cause reduction in population or loss of individuals of any threatened or endangered species, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2o	☐	☐
b. The proposed action may result in a reduction or degradation of any habitat used by any rare, threatened or endangered species, as listed by New York State or the federal government.	E2o	☐	☐
c. The proposed action may cause reduction in population, or loss of individuals, of any species of special concern or conservation need, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2p	☐	☐
d. The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or the Federal government.	E2p	☐	☐

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e. The proposed action may diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect.	E3c	☐	☐
f. The proposed action may result in the removal of, or ground disturbance in, any portion of a designated significant natural community. Source: _____	E2n	☐	☐
g. The proposed action may substantially interfere with nesting/breeding, foraging, or over-wintering habitat for the predominant species that occupy or use the project site.	E2m	☐	☐
h. The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat. Habitat type & information source: _____ _____	E1b	☐	☐
i. Proposed action (commercial, industrial or recreational projects, only) involves use of herbicides or pesticides.	D2q	☐	☐
j. Other impacts: _____ _____		☐	☐

8. Impact on Agricultural Resources

The proposed action may impact agricultural resources. (See Part 1. E.3.a. and b.) ☑ NO ☐ YES

If "Yes", answer questions a - h. If "No", move on to Section 9.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may impact soil classified within soil group 1 through 4 of the NYS Land Classification System.	E2c, E3b	☐	☐
b. The proposed action may sever, cross or otherwise limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc).	E1a, E1b	☐	☐
c. The proposed action may result in the excavation or compaction of the soil profile of active agricultural land.	E3b	☐	☐
d. The proposed action may irreversibly convert agricultural land to non-agricultural uses, either more than 2.5 acres if located in an Agricultural District, or more than 10 acres if not within an Agricultural District.	E1b, E3a	☐	☐
e. The proposed action may disrupt or prevent installation of an agricultural land management system.	E1 a, E1b	☐	☐
f. The proposed action may result, directly or indirectly, in increased development potential or pressure on farmland.	C2c, C3, D2c, D2d	☐	☐
g. The proposed project is not consistent with the adopted municipal Farmland Protection Plan.	C2c	☐	☐
h. Other impacts: _____		☐	☐

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9. Impact on Aesthetic Resources

The land use of the proposed action are obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource. (Part 1. E.1.a, E.1.b, E.3.h.)

☑ NO ☐ YES

If "Yes", answer questions a - g. If "No", go to Section 10.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Proposed action may be visible from any officially designated federal, state, or local scenic or aesthetic resource.	E3h	☐	☐
b. The proposed action may result in the obstruction, elimination or significant screening of one or more officially designated scenic views.	E3h, C2b	☐	☐
c. The proposed action may be visible from publicly accessible vantage points: i. Seasonally (e.g., screened by summer foliage, but visible during other seasons) ii. Year round	E3h	☐ ☐	☐ ☐
d. The situation or activity in which viewers are engaged while viewing the proposed action is: i. Routine travel by residents, including travel to and from work ii. Recreational or tourism based activities	E3h E2q, E1c	☐ ☐	☐ ☐
e. The proposed action may cause a diminishment of the public enjoyment and appreciation of the designated aesthetic resource.	E3h	☐	☐
f. There are similar projects visible within the following distance of the proposed project: 0-1/2 mile ½ -3 mile 3-5 mile 5+ mile	D1a, E1a, D1f, D1g	☐	☐
g. Other impacts: _____		☐	☐

10. Impact on Historic and Archeological Resources

The proposed action may occur in or adjacent to a historic or archaeological resource. (Part 1. E.3.e, f. and g.)

☑ NO ☐ YES

If "Yes", answer questions a - e. If "No", go to Section 11.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may occur wholly or partially within, or substantially contiguous to, any buildings, archaeological site or district which is listed on the National or State Register of Historical 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.	E3e	☐	☐
b. The proposed action may occur wholly or partially within, or substantially contiguous to, an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory.	E3f	☐	☐
c. The proposed action may occur wholly or partially within, or substantially contiguous to, an archaeological site not included on the NY SHPO inventory. Source: _____	E3g	☐	☐

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d. Other impacts: _____		☐	☐
e. If any of the above (a-d) are answered "Moderate to large impact may occur", continue with the following questions to help support conclusions in Part 3:			
i. The proposed action may result in the destruction or alteration of all or part of the site or property.	E3e, E3g, E3f	☐	☐
ii. The proposed action may result in the alteration of the property's setting or integrity.	E3e, E3f, E3g, E1a, E1b	☐	☐
iii. The proposed action may result in the introduction of visual elements which are out of character with the site or property, or may alter its setting.	E3e, E3f, E3g, E3h, C2, C3	☐	☐

11. Impact on Open Space and Recreation

The proposed action may result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan.
(See Part 1. C.2.c, E.1.c., E.2.q.)
If "Yes", answer questions a - e. If "No", go to Section 12.

☑ NO ☐ YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in an impairment of natural functions, or "ecosystem services", provided by an undeveloped area, including but not limited to stormwater storage, nutrient cycling, wildlife habitat.	D2e, E1b E2h, E2m, E2o, E2n, E2p	☐	☐
b. The proposed action may result in the loss of a current or future recreational resource.	C2a, E1c, C2c, E2q	☐	☐
c. The proposed action may eliminate open space or recreational resource in an area with few such resources.	C2a, C2c E1c, E2q	☐	☐
d. The proposed action may result in loss of an area now used informally by the community as an open space resource.	C2c, E1c	☐	☐
e. Other impacts: _____		☐	☐

12. Impact on Critical Environmental Areas

The proposed action may be located within or adjacent to a critical environmental area (CEA). (See Part 1. E.3.d)
If "Yes", answer questions a - c. If "No", go to Section 13.

☑ NO ☐ YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in a reduction in the quantity of the resource or characteristic which was the basis for designation of the CEA.	E3d	☐	☐
b. The proposed action may result in a reduction in the quality of the resource or characteristic which was the basis for designation of the CEA.	E3d	☐	☐
c. Other impacts: _____		☐	☐

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13. Impact on Transportation
The proposed action may result in a change to existing transportation systems. ☑ NO ☐ YES
(See Part 1. D.2.j)
If "Yes", answer questions a - f. If "No", go to Section 14.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Projected traffic increase may exceed capacity of existing road network.	D2j	☐	☐
b. The proposed action may result in the construction of paved parking area for 500 or more vehicles.	D2j	☐	☐
c. The proposed action will degrade existing transit access.	D2j	☐	☐
d. The proposed action will degrade existing pedestrian or bicycle accommodations.	D2j	☐	☐
e. The proposed action may alter the present pattern of movement of people or goods.	D2j	☐	☐
f. Other impacts: _____		☐	☐

14. Impact on Energy
The proposed action may cause an increase in the use of any form of energy. ☑ NO ☐ YES
(See Part 1. D.2.k)
If "Yes", answer questions a - e. If "No", go to Section 15.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action will require a new, or an upgrade to an existing, substation.	D2k	☐	☐
b. The proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two-family residences or to serve a commercial or industrial use.	D1f, D1q, D2k	☐	☐
c. The proposed action may utilize more than 2,500 MWhrs per year of electricity.	D2k	☐	☐
d. The proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed.	D1g	☐	☐
e. Other Impacts: _____			

15. Impact on Noise, Odor, and Light
The proposed action may result in an increase in noise, odors, or outdoor lighting. ☑ NO ☐ YES
(See Part 1. D.2.m., n., and o.)
If "Yes", answer questions a - f. If "No", go to Section 16.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may produce sound above noise levels established by local regulation.	D2m	☐	☐
b. The proposed action may result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center, or nursing home.	D2m, E1d	☐	☐
c. The proposed action may result in routine odors for more than one hour per day.	D2o	☐	☐

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d. The proposed action may result in light shining onto adjoining properties.	D2n	☐	☐
e. The proposed action may result in lighting creating sky-glow brighter than existing area conditions.	D2n, E1a	☐	☐
f. Other impacts: _____		☐	☐

16. Impact on Human Health

The proposed action may have an impact on human health from exposure to new or existing sources of contaminants. (See Part 1.D.2.q., E.1. d. f. g. and h.) ☑ NO ☐ YES

If "Yes", answer questions a - m. If "No", go to Section 17.

	Relevant Part I Question(s)	No,or small impact may occur	Moderate to large impact may occur
a. The proposed action is located within 1500 feet of a school, hospital, licensed day care center, group home, nursing home or retirement community.	E1d	☐	☐
b. The site of the proposed action is currently undergoing remediation.	E1g, E1h	☐	☐
c. There is a completed emergency spill remediation, or a completed environmental site remediation on, or adjacent to, the site of the proposed action.	E1g, E1h	☐	☐
d. The site of the action is subject to an institutional control limiting the use of the property (e.g., easement or deed restriction).	E1g, E1h	☐	☐
e. The proposed action may affect institutional control measures that were put in place to ensure that the site remains protective of the environment and human health.	E1g, E1h	☐	☐
f. The proposed action has adequate control measures in place to ensure that future generation, treatment and/or disposal of hazardous wastes will be protective of the environment and human health.	D2t	☐	☐
g. The proposed action involves construction or modification of a solid waste management facility.	D2q, E1f	☐	☐
h. The proposed action may result in the unearthing of solid or hazardous waste.	D2q, E1f	☐	☐
i. The proposed action may result in an increase in the rate of disposal, or processing, of solid waste.	D2r, D2s	☐	☐
j. The proposed action may result in excavation or other disturbance within 2000 feet of a site used for the disposal of solid or hazardous waste.	E1f, E1g E1h	☐	☐
k. The proposed action may result in the migration of explosive gases from a landfill site to adjacent off site structures.	E1f, E1g	☐	☐
l. The proposed action may result in the release of contaminated leachate from the project site.	D2s, E1f, D2r	☐	☐
m. Other impacts: _____			

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17. Consistency with Community Plans

The proposed action is not consistent with adopted land use plans. (See Part 1. C.1, C.2. and C.3.) ☑ NO ☐ YES

If "Yes", answer questions a - h. If "No", go to Section 18.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action's land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s).	C2, C3, D1a E1a, E1b	☐	☐
b. The proposed action will cause the permanent population of the city, town or village in which the project is located to grow by more than 5%.	C2	☐	☐
c. The proposed action is inconsistent with local land use plans or zoning regulations.	C2, C2, C3	☐	☐
d. The proposed action is inconsistent with any County plans, or other regional land use plans.	C2, C2	☐	☐
e. The proposed action may cause a change in the density of development that is not supported by existing infrastructure or is distant from existing infrastructure.	C3, D1c, D1d, D1f, D1d, E1b	☐	☐
f. The proposed action is located in an area characterized by low density development that will require new or expanded public infrastructure.	C4, D2c, D2d D2j	☐	☐
g. The proposed action may induce secondary development impacts (e.g., residential or commercial development not included in the proposed action)	C2a	☐	☐
h. Other: _____ _____		☐	☐

18. Consistency with Community Character

The proposed project is inconsistent with the existing community character. (See Part 1. C.2, C.3, D.2, E.3) ☑ NO ☐ YES

If "Yes", answer questions a - g. If "No", proceed to Part 3.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may replace or eliminate existing facilities, structures, or areas of historic importance to the community.	E3e, E3f, E3g	☐	☐
b. The proposed action may create a demand for additional community services (e.g. schools, police and fire)	C4	☐	☐
c. The proposed action may displace affordable or low-income housing in an area where there is a shortage of such housing.	C2, C3, D1f D1g, E1a	☐	☐
d. The proposed action may interfere with the use or enjoyment of officially recognized or designated public resources.	C2, E3	☐	☐
e. The proposed action is inconsistent with the predominant architectural scale and character.	C2, C3	☐	☐
f. Proposed action is inconsistent with the character of the existing natural landscape.	C2, C3 E1a, E1b E2g, E2h	☐	☐
g. Other impacts: _____ _____		☐	☐

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D R A F T
LOCAL LAW NO. _____ -2021

TOWN OF AMHERST
COUNTY OF ERIE, STATE OF NEW YORK

A Local Law Making Amendments To Chapter 203 Of The Code Of The Town Of Amherst, Also Known As The Zoning Code As Adopted By Local Law 6-2006.

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 the Code of The Town of Amherst, Research and Development District."

Section 2. Purpose

The purpose of this Local Law is to provide provisions to permit the accommodation of Truck service, wash and repair as a permitted use within the Research and Development (RD) zoning district when certain standards are met.

Section 3.

Chapter 203 of the Code of the Town of Amherst is amended as follows:

§ 2-4. Specific Terms

TRUCK WASH AND TRUCK REPAIR FACILITY

An establishment engaged in the washing, servicing, and repair of commercial trucks. Such uses may engage in truck-related: Tire servicing and repair, but not recapping or regrooving; Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like; Radiator cleaning and flushing; Washing and polishing; Greasing and lubrication; Providing and repairing of pumps and lines; Minor servicing and repair of carburetors; Wiring repairs; Adjusting and repairing brakes; Minor motor adjustments; Vehicle inspection.

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

Uses permissible at a truck wash and truck repair facility do not include the rental of motor vehicles, sale of motor vehicle fuel or parts, major mechanical and body work, straightening of body parts, painting, welding or storage of vehicles not in operating condition.

§ 4-9. Research and Development District (RD)

§4-9-1. Purpose. To provide areas within the Town for the location of research and development, related production activities, light manufacturing, offices, and related training schools on sufficient land to permit efficient development. Such districts shall be designed and located in such a way that they shall neither encroach upon surrounding uses nor shall surrounding uses interfere with the efficient development of these activities. The RD district is designed to encourage the development of a balanced employment mix within the Town and improve the Town's tax base while providing sufficient educational opportunities to contribute to the training of the workforce and thereby meet the employment needs of businesses locating in the Town.

4-9-2. Principal and Special Uses.

A. Permitted Uses and Structures.

RD	Permitted	Special Use	Standards
OPEN USES			
No open uses allowed			
RESIDENTIAL USES			
No residential uses allowed			
PUBLIC AND CIVIC USES			
Day-care center	✓		§ 6-3-2
Minor utilities	✓		
Place of worship	✓		§ 6-3-3
Public utility service structure or facility		✓	§ 6-3-4
Public works construction yard [Added 12-7-2009 by L.L. No. 19-2009]	✓		§ 6-3-5

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

Telecommunication facility		✓	§ 6-7
COMMERCIAL			
Ambulance Service [Added 2-24-2014 by L.L. No.3-2014]	✓		
Bank	✓		
Dog day care facility [Added 10-17-2011 by L.L. No. 25-2011]	✓		§ 6-4-13 [Amended 11-5-12 by LL No. 17-2012]
Medical laboratory testing service	✓		
Office	✓		
Training school such as technical, trade, vocational or business	✓		
Truck service, wash, and repair	✓		§6-4--14
INDUSTRIAL			
Compounding, manufacturing and assembly of: Automobile and boating accessories from previously prepared materials Clothing or other textile products Electrical and electronic equipment and appliances Food and beverage products Household items, furniture Musical, scientific, medical, dental or photographic instruments, equipment or supplies Office equipment Panels, sheets, tubes or rods Pharmaceutical products, cosmetics or toiletries Printing, publishing and engraving Recreation equipment or toys	✓		
Experimental, research and testing facility	✓		
Ground-mounted solar energy systems, Tier III [Added 12-11-2017 by L.L. No. 24-2017]		✓	§ 6-10

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

Ground-mounted solar energy systems, Tier II [Added 12-11-2017 by L.L. No. 24-2017]	✓		§ 6-10
Research development facility	✓		
Tier I experimental pilot plant operation [Amended 12-11-2017 by L.L. No. 24-2017]	✓		
Warehousing and storage service	✓		
Wholesale distribution facility	✓		

4-9-3. Accessory Uses and Structures.

A. **Permitted Accessory Uses and Structures**. The following accessory uses and structures incidental to any permitted principal use are allowed subject to the requirements of § 6-8, Accessory Uses or Part 7, General Development Standards.

RD Permitted Accessory Uses and Structures	**Standards**
Convenience Retail Service	§ 6-8-4
Day-care center	
Landscaping	§ 7-2
Off-street parking, loading, and stacking	§ 7-1
Production operation accessory to a research or testing operation	
Restaurant without drive-through	§ 6-8-10
Retail sale of products assembled or stored on-site	§ 6-8-11
Solar energy systems [Added 12-11-2017 by L.L. No. 24-2017]	§ 6-10
Signs	§ 7-8
Small wind energy system [Added 8-17-2009 by L.L. No. 12-2009]	§ 6-8-14
Other uses and structures customarily incidental to the principal use	

B. **Dimensional Standards.** The dimensional standards for an accessory use or structure shall be the same as those for the principal use in §4-9-2B.

§ 6-4. Commercial Use Standards

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

Section to be added:

6-4-14. Truck Servicing, Repair, and Washing. Truck servicing, repair, and washing, when permitted in a RD District, shall comply with the following standards.

A. Any retail sales area shall be limited to 15% of the gross floor area of the principal structure.
B. Vehicle maintenance or repair facilities must maintain a minimum distance separation of 150 feet to any residential dwelling building. Such distance may be increased during site plan review approval by the Planning Board or Planning Director as applicable, but not to exceed 300 feet to mitigate for potential noise and odor.
C. Overhead doors shall not face a residential district and doors will be closed except for entry and exit of vehicles.
D. The following uses and activities are not allowed:
    (1) The sale or dispensing of fuel.
    (2) The servicing, repair, and washing of fuel cargo tanker trucks.
    (3) Vehicle sales.
    (4) Outdoor dining.
    (5) Outdoor speakers.
    (6) Truck stop related lodging and showers.
    (7) Unenclosed overnight vehicle parking and vehicle storage that is not directly related to truck servicing and repair work.
E. All on-site vehicle parking, loading, stacking, and circulation areas shall be paved, curbed, screened, follow the standards established in Part 7, and comply with the following additional standards.
    (1) Site access and internal circulation shall be designed to prevent conflicts with passenger vehicles and minimize the need for the backing up of trucks.
    (2) Shared parking is not allowed.
    (3) Wheel stops or other permanent barriers shall be installed to prevent vehicles from encroaching on building structures, required setbacks, and landscaping.
    (4) The minimum setback to paved areas facing a public roadway shall be 25 feet.
    (5) A minimum vertical clearance of 18 feet is required under overhead utility line spans.
    (6) A minimum vertical clearance of 14 feet is required under any other roof structure or building projection.

~~§ 6-5. **Industrial Use Standards**~~

~~**6-5-1. Research and Development Uses.** Research and development uses listed in the district tables in Part 4 shall be permitted provided that no such use shall occupy more than 15 percent of the gross floor area of the occupant space within which it is located and no such use shall exceed 25,000 square feet of the gross floor area of the building.~~

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

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 Section 130 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

X:\Current_Planning\Files\Text Amendments\ZTA-2021\ZTA-2021-01\RD Update_Local Law.docx

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

AMHERST HIGHWAY DEPARTMENT

1042 North Forest Road Williamsville, New York 14221

Patrick Lucey
Superintendent of Highways
plucey@amherst.ny.us

Paul Anderson
Deputy Highway Superintendent
panderson@amherst.ny.us

PHONE (716) 631-7117

FAX (716) 631-7265

www.amherst.ny.us

RECEIVED
JUN 16 2021
TOWN OF AMHERST
PLANNING DEPT.

June 10, 2021

To: Ellen Kost, AICP, Associate Planner

From: Patrick Lucey, Superintendent of Highways PL

Re: PROPOSED LOCAL LAW TO AMEND THE ZONING ORDINANCE; AMENDMENTS TO THE RESEARCH AND DEVELOPMENT (RD) DISTRICT ZTA-2021-01, TOWN OF AMHERST, PETITIONER.

After review relative to Highway Department concerns, the plan is approved as submitted.

/ke
C: Daniel Ulatowski, AICP, Zoning Enforcement Officer
Douglas Gesel, Supervising Code Enforcement Officer
Jeffrey Burroughs, Town Engineer
Bryan Parnell, Fire Chiefs Association (c/o Building)
Stanley Sliwa, Town Attorney
ECDEP
NYSDEC
Town of Tonawanda
Town of Cheektowaga
Town of Clarence
Town of Pendelton
City of Buffalo

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

RECEIVED
JUN 08 2021
TOWN OF AMHERST
PLANNING DEPT.

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-21-366

Received: 5/27/2021

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** June 17, 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

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) Changes to Research + Development District

8. Other remarks: (ID#, SBL#, etc.) ZTA-2021-01

9. Submitted by: Thomas Voigt, Assistant Planner May 26, 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 6/1/21. **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: [signature] **Date:** 6/7/21

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 9
270 Michigan Avenue, Buffalo, NY 14203-2915
P: (716) 851-7165 | F: (716) 851-7168
www.dec.ny.gov

SENT VIA EMAIL

June 3, 2021

Ellen Kost
Town of Amherst Planning Department
5583 Main Street
Williamsville, New York 14750-0414

Dear Ellen Kost:

SEQR LEAD AGENCY DESIGNATION
ZONING ORDINANCE AMENDMENTS TO
RESEARCH AND DEVELOPMENT DISTRICT
TOWN OF AMHERST, ERIE COUNTY

This Department has reviewed the Town of Amherst request for Lead Agency status on the Zoning Ordinance Amendments to the Research and Development District. NYSDEC agrees that the Town should act as the SEQR Lead Agency. This Department is not an involved agency and does not have any specific comments regarding the zoning ordinance amendments.

Thank you for providing this office the opportunity to review the proposed zoning amendments. If you have any questions, please feel free to contact Mr. Mark Passuite or me at 716/851-7165.

Respectfully,

David S. Denk

David S. Denk
Regional Permit Administrator

MFP

NEW YORK STATE OF OPPORTUNITY | Department of Environmental Conservation

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

RECEIVED
MAY 26 2021
TOWN OF AMHERST
PLANNING DEPT.

TOWN OF AMHERST
ENGINEERING DEPARTMENT

ERIE COUNTY – NEW YORK

JEFFREY S. BURROUGHS, P.E., TOWN ENGINEER

May 26, 2021

TO: Ellen Kost, AICP – Assistant Planning Director
Douglas Gesel – Senior Code Enforcement Officer
Daniel Ulatowski., Zoning Enforcement Officer
Patrick Lucey - Highway Superintendent
Stanley Sliwa, Esq. – Town Attorney

FROM: Brian J. Armstrong, EIT – Assistant Municipal Engineer

SUBJECT: Local Law to Amend the Zoning Ordinance
Amendments to the Research and Development (RD) District
ZTA-2021-01

PETITIONER: Town of Amherst

- At this time, we take no exceptions with the proposed amendments

BJA/sld

Attachment: ZTA-2021-01 Town Board letter RD District 2 089921 (RES-2021-680 : Local Law to Amend RD District)

ENGINEERING OFFICE – SEWER MAINTENANCE
1100 N. FOREST ROAD
WILLIAMSVILLE, N.Y. 14221
(716) 631-7154 FAX: (716) 631-7222

WASTEWATER TREATMENT FACILITY – ENVIRONMENTAL CONTROL
455 TONAWANDA CREEK ROAD
AMHERST, N.Y. 14228
(716) 691-9771 FAX: (716) 691-4496

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Town Attorney
Initiated by: **Ann Demopoulos**
Co-Sponsored by:

DOC ID: 24594 **RESOLUTION 2021-681** **WITHDRAWN**

Abandonment and Sale of S. Linden Drive - SEQR (Negative Declaration)

Public Hearing for the abandonment and sale of S. Linden Drive, a Paper Street, together with previously authorized Resolution 2021-468 (attached) giving Supervisor authority to execute Neg. Dec.

8/09/2021
A motion to withdraw the resolution was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

None for the purposes of this resolution.

RESULT:	**WITHDRAWN**

D R A F T

SEQR

NEGATIVE DECLARATION

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency: Town of Amherst
Town Board

Project: Abandonment/Sale of Town Right-of-Way – South Linden Street (paper street) (SR-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: Abandonment / Sale of Town Right-of-Way (South Linden Street)

SEQR Status: Unlisted action

Description of Action: Abandonment and sale of a Town right-of-way known as South Linden Street (a paper street) which extends from Wehrle Drive to McIntire Road.

Location: North side of Wehrle Drive (adjacent to 864 Wehrle Drive); Town of Amherst, Erie County, New York

Petitioner: Town of Amherst

Attachment: SEQRNegDecS.Linden-08042021114245 (RES-2021-681 : Abandonment and Sale of S. Linden Drive - SEQR (Negative Declaration))

Reasons Supporting This Determination

Based on information submitted by the applicant, a preliminary staff analysis was undertaken. Compared to the criteria listed in Section 617.7, all indications are that the proposed request for abandonment of an unimproved Town right-of-way 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.

2. The action will result in the removal of some vegetation or fauna if the land is developed. The action is not expected to result in significant adverse impacts to fish or wildlife species, habitats or other natural resources.

3. The action is not expected to create any material conflict with the Town Comprehensive Plan.

4. The action is within an area identified by the State as potentially containing significant cultural or archeological resources. An archaeological assessment will be required when the site is under review for development to ensure 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.

6. The abandonment/sale of the Town right-of-way will not cause a major change in the use of either the quantity or type of energy.

7. The abandonment/sale of Town right-of-way will not create any hazard to human health.

8. The abandonment/sale of the Town right-of-way 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 action will not affect the scale of surrounding land uses, as it is within an established single-family neighborhood that is zoned R-3.

9. The abandonment/sale of the Town right-of-way will not significantly increase the number of people using the site over its previous level of use.

Attachment: SEQRNegDecS.Linden-08042021114245 (RES-2021-681 : Abandonment and Sale of S. Linden Drive - SEQR (Negative Declaration))

10. Significant negative traffic impacts are not expected to result from the proposed action. The South Linden Street right-of-way will have direct access to Wehrle Drive, a County minor arterial.

11. Reviews of the request have been undertaken by Town Departments including Engineering, Highway, Traffic/Safety Board, Assessor, Fire Chiefs, Attorney and Right-of-Way Agent. These reviews have not identified any significant environmental issues and indicate that the action 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.

D. Stone, ASST. PLANNING DIRECTOR — 8/9/2021
Signature & title of preparer — date

_____ _____
Brian J. Kulpa, Supervisor — date

cc: Amherst Town Clerk
Amherst Building Department
Amherst Town Attorney
Amherst Highway Superintendent

Attachment: SEQRNegDecS.Linden-08042021114245 (RES-2021-681 : Abandonment and Sale of S. Linden Drive - SEQR (Negative Declaration))

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

Francina J. Spoth
Town Clerk

Meeting: 06/07/21 07:00 PM
Department: Town Attorney
Initiated by: **Ann Demopolous**
Co-Sponsored by:

DOC ID: 23355 **RESOLUTION 2021-468** **ADOPTED**

Abandonment and Sale of S. Linden Drive (Paper Street)

AGENDA ITEM : JUNE 7TH, 2021

TO: **Town Board**

FROM: **Ann Demopolous, Esq., Deputy Town Attorney**

DATE: **June 1, 2021**

RE: **Authorization to Commence Abandonment Proceedings and Authorization To Sell S. Linden Drive (Paper Street)**

Kindly adopt the following resolution with respect to the above matter:

RESOLVED, the Town Board authorizes the Town Attorney's Office to begin abandonment proceedings for S. Linden Drive, a paper street; and

RESOLVED, the Town Board authorizes the Supervisor to execute any and all documents associated with the preparation and pursuit of the abandonment proceeding; and

RESOLVED, that pursuant to New York State Highway Law Section 205, the Town Board hereby directs the Town of Amherst Superintendent of Highways to certify to the abandonment of the above paper street once abandonment proceedings have been initiated and followed through to completion by executing the attached Certificate of Abandonment; and

RESOLVED, that the Town Board and Town Supervisor also execute the attached Certificate of Abandonment after considering and approving the Resolution herein and once abandonment proceedings have been initiated and followed through to completion; and

RESOLVED, that the Town Board adopt the draft SEQR Negative Declaration attached hereto for both the abandonment and sale of S. Linden Drive (Paper Street) and authorize the Town Supervisor to execute the draft Negative Declaration;

NOW, THEREFORE BE RESOLVED, that to avoid undue hardship to any abutting or adjacent landowner, any required easements will be approved subject to review by the Town Attorney; and

THEREFORE BE IT FURTHER RESOLVED, the preparation of any Easement Agreement(s) will be the responsibility of the buyer(s)/landowner(s); and

BE IT FURTHER RESOLVED, that once the abandonment proceedings have been finalized and the paper street is deemed abandoned, that the Town Board authorize the Town Attorney's Office to proceed with the sale of the paper street to interested parties.

Attachment: Reso2021.468S.Linden-08032021133332 (RES-2021-681 : Abandonment and Sale of S. Linden Drive - SEQR (Negative Declaration))

AD:nmb
Attachment
c: Kathy Cooper, Deputy Town Clerk
(*w/attachment,* **Agenda Item : June 7th, 2021**)
Dan Howard, Director of Planning (*w/attachment)*
Ellen Kost, AICP, Assistant Planning Director (*w/attachment)*
Patrick G. Lucey, Superintendent of Highways (*w/attachment)*

6/07/2021
Consent

FINANCIAL IMPACT:

None for the purposes of this resolution.

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

Attachment: Reso2021.468S.Linden-08032021133332 (RES-2021-681 : Abandonment and Sale of S. Linden Drive - SEQR (Negative Declaration))

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 24597 **RESOLUTION 2021-682** **ADOPTED**

Extension of Interim Policy for Exterior Dining

WHEREAS, the Covid-19 Health Emergency continues to impact the community's existing restaurants; and

WHEREAS, the Town has established an interim administrative temporary permit approval policy to permit the Building Commissioner to review requests for temporary outdoor dining provisions, which include tented seating areas, to supplement dining capacity adjustments on the interior of the restaurant and promote social distancing, and

WHEREAS, the Town Building Department currently has an operating permit which will be utilized to administer permit approvals for the temporary policy with an associated flat permit fee of one hundred dollars,

NOW, THEREFORE BE IT RESOLVED, I, Brian J. Kulpa, Supervisor of the Town of Amherst, by virtue of the authority vested in me by the constitution and the laws of the State of New York, do hereby authorize the extension of the interim policy for exterior dining through December 31, 2021.

8/09/2021
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 – June 8, 2020
Guidelines for Temporary Outside Dining Permit

Attachment: Guidelines for Temporary Outside Dining Permit (RES-2021-682 : Extension of Interim Policy for Exterior Dining)

Purpose:

The Town of Amherst has approved an interim administrative approval to allow expanded outdoor seating provisions for those restaurants that have been affected by a required reduction in capacity during the COVID-19 public health emergency. Given the unprecedented situation caused by COVID-19, the economic implications to restaurant owners and employees, and the social desires of restaurant patrons, the Town will temporarily suspend zoning requirements to allow for exterior dining areas for existing established restaurants that currently have seating. The temporary relaxation of zoning requirements is meant to provide some economic relief for restaurants by allowing the use of exterior areas, including lawn areas and underutilized parking areas to further increase capacity lost by the social distancing requirements. This interim administrative approval has been authorized by Town Executive order and will be administered by the Building Commissioner.

Temporary permits will be valid from the date of approval and authorized not to exceed 90 days. Such permits are revocable for cause, including but not limited to: changes in the health emergency, a revocation of approval by the landowner/landlord, failure to abide by permit conditions, repeated nuisance complaints or impairment to public health and safety.

Permit Eligibility:

- ☐ Existing restaurants with seating.
- ☐ Business has a current assembly/operating permit.
- ☐ Property does not have any open fire, building, zoning or commercial property maintenance violations.
- ☐ Business has current Erie County Health Dept. permit to serve food.
- ☐ Business has updated NYS Liquor License for outside consumption.

Requirements/Limitations:

- ☐ Landlord/building owner must provide a signed revocable letter of approval to authorize use of exterior area chosen and a plan exhibit showing authorized area.
- ☐ Restaurant owner must provide a legible dimensioned plan that meets the drawing requirement standards shown on page 3 of this document, which shall include a detailed seating plan and any barrier protection from vehicles.
- ☐ Exterior activities will be limited to food and drink consumption seated at a table. Standing assembly and live entertainment will not be permitted under this interim permit approval process. Temporary exterior seating and interior seating shall not exceed current posted capacity.
- ☐ Exterior element protection will be limited to the use of patio umbrellas. Use of tents and similar enclosure structures will not be permitted.

Requirements/Limitations continued:

- ☐ Cooking outside, or the use of heaters and fire pits, candles and any open flame devices will not be permitted under this temporary permit.
- ☐ Use of temporary patio or decorative lighting must be identified on the plan and, be UL approved and meet the minimum requirements of the National Electric Code for their installation and use.
- ☐ Locations of dining areas may not obstruct Fire/EMS vehicular access routes or other firefighting features, including but not limited to: FDC valves, hydrants and required exits and knox boxes.
- ☐ Barrier protection must be employed to avoid vehicular conflicts.
- ☐ When patrons are provided with take out for consumption outside, a plan for refuse collection and table disinfection control must be identified.
- ☐ Only existing restroom facilities shall be utilized. The use of porta-poties shall not be approved under this permit. Waterless hand sanitizer stations may be employed outside as necessary.
- ☐ A fire inspection shall be required prior to occupancy.
- ☐ All ADA and accessibility standards shall be met and maintained.
- ☐ Additional fire extinguishers may be required as directed during fire inspection.
- ☐ Applicant must provide a copy of their business safety plan (NY Forward Safety Plan Template) utilizing the states web portal found by this URL https://forward.ny.gov/ny-forward
- ☐ Applicant must provide two representative photographs of proposed area:
  1. Viewing area from nearest curb line at street
  2. Viewing area from approximately 20 feet away

Resources:

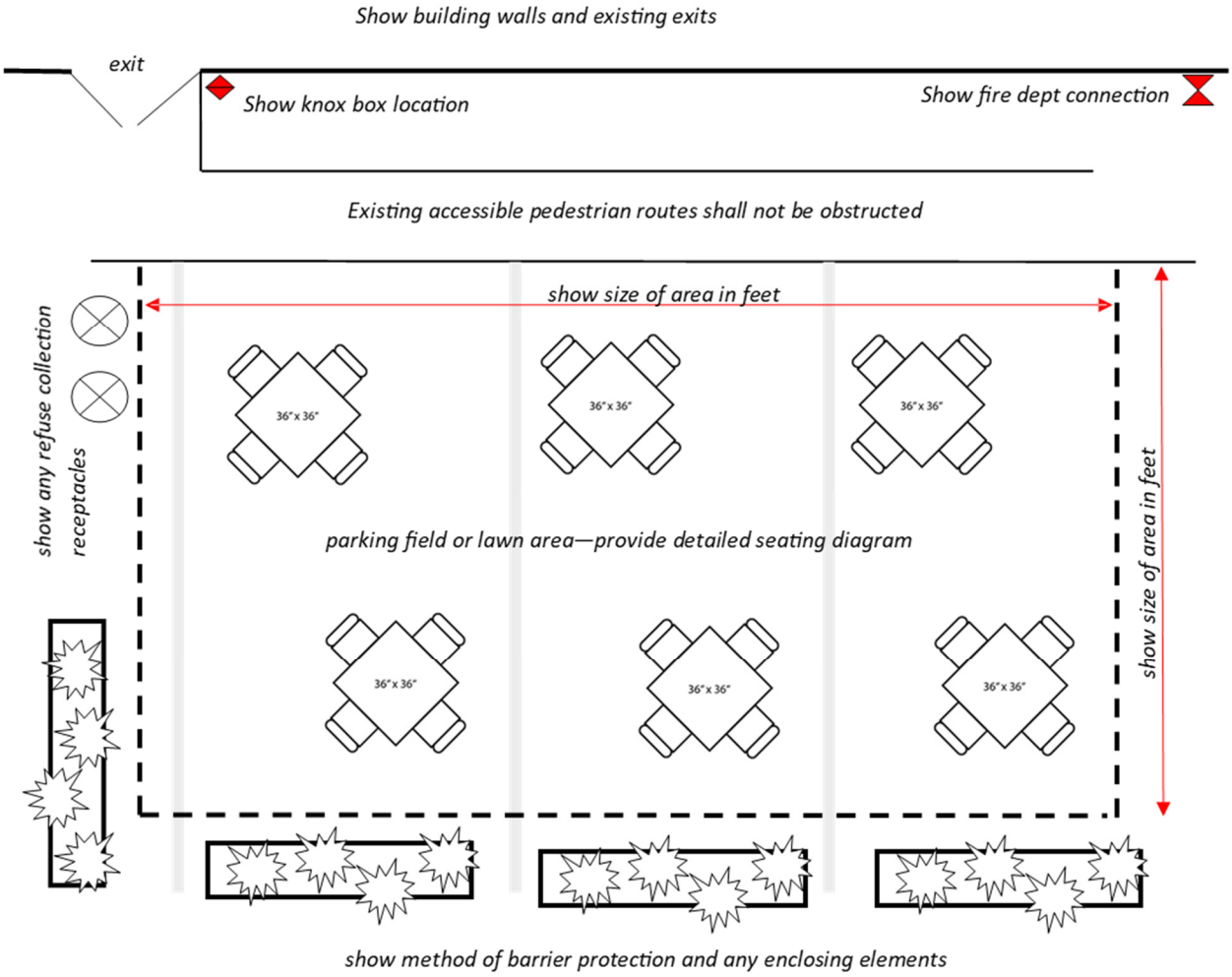
New York State Industry Guidance and Reopening https://forward.ny.gov/ny-forward

National Restaurant Association – Reopening Guidance

https://restaurant.org/downloads/pdfs/business/covid19-reopen-guidance.pdf

Attachment: Guidelines for Temporary Outside Dining Permit (RES-2021-682 : Extension of Interim Policy for Exterior Dining)

Plan Requirements/Sample:



Attachment: Guidelines for Temporary Outside Dining Permit (RES-2021-682 : Extension of Interim Policy for Exterior Dining)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Councilmembers
Initiated by: **Jacqualine Berger**
Co-Sponsored by:

DOC ID: 24582 **RESOLUTION 2021-683** **ADOPTED**

Amherst Youth Board Appointment

WHEREAS, the Amherst Youth Board (Youth Board) is an organization offering varied services in support of children, youth and families living in the Town of Amherst. Chartered by the Amherst Town Board and New York State Executive Law, the agency is governed by a policy-making board of 23 citizen volunteers, comprising both adults and youth; and

WHEREAS, members are appointed by the Amherst Town Board for three-year terms and participate in decisions affecting programming, policies, funding and public relations for youth programs and services.

WHEREAS, the Youth Board also relies on the efforts and contributions of citizen volunteers in its programs. Many different volunteer opportunities are available, and may be tailored to individual needs; and

WHEREAS, Dawn Cwierley has attended a meeting, met with the Youth & Recreation Department director and expressed interest in serving on the Amherst Youth Board, that currently has a vacancy.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board appoints adult member Dawn Cwierley to her first term to end December 31, 2023.

8/09/2021
Consent

FINANCIAL IMPACT:

None.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Jacqualine Berger, Deputy 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: 08/09/21 07:00 PM
Department: Councilmembers
Initiated by: **Michael Szukala**
Co-Sponsored by:

DOC ID: 24627 **RESOLUTION 2021-684** **ADOPTED**

Set Public Hearing Date – All-Way Stop at Dawnbrook Lane & Morningstar Court

Please schedule a public hearing on September 13, 2021 to install a third stop sign at the intersection of Dawnbrook Lane & Morningstar Court making it an all-way stop intersection.

> "The intersection of Dawnbrook Lane & Morningstar Court is hereby designated as an all-way stop intersection and stop signs shall be installed on all legs of the intersection."

8/09/2021
Consent

FINANCIAL IMPACT:

None.

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: 08/09/21 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24600 **RESOLUTION 2021-685** **ROLL CALL VOTE (ADOPTED)**

Town of Amherst Highway Department Gas Pump Repairs (Bond Resolution - $550,000)

AGENDA ITEM -AUGUST 9TH, 2021

TO: **Town Board**

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

DATE: **August 4, 2021**

RE: **2021-2026 C.I.P.**
Town of Amherst Highway Department Gas Pump Repairs
Bond Resolution - $550,000.00

Kindly take the following action with respect to the above bond request:

(1) Adopt the attached SEQR determination for the above project as determined by the Town of Amherst Planning Department; and

(2) Adopt the attached bond resolution authorizing the issuance of $550,000.00 in serial bonds for the above-referenced Town improvement.

The adoption of the bond resolution does ***not*** require a public hearing to be held because the improvement is a Town improvement not involving a special district.

Also attached is the Map Plan and Report which provides further detail on the scope of the project together with an Affidavit of the Town Engineer certifying as to the useful life of the Highway Department Gas Pump Repairs.

Thank you.

SJS:nmb
Attachments
c: Kathy Cooper, Deputy Town Clerk
(w/attachments, **Agenda Item - August 9th, 2021**)
Daryl C. Bramer, Comptroller *(w/attachments)*
Lynda Juul, Director of Finance *(w/attachments)*
Dan Howard, Director of Planning *(w/attachments)*
Ellen M. Kost, Assistant Director of Planning *(w/attachments)*
Jeffrey S. Burroughs, PE, Town Engineer (*w/attachments*)
Patrick M. Lucey, Superintendent of Highways (*w/attachments*)

8/09/2021
A motion to adopt the SEQR determination was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. A motion to approve the Bond

resolution was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved via Roll Call vote 5-0.

FINANCIAL IMPACT:

Bond Resolution - $550,000

RESULT:	**ROLL CALL VOTE (ADOPTED) [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Jacqualine Berger, Deputy Supervisor
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Amherst

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

Brian J. Kulpa
Supervisor

Daniel C. Howard, AI
Planning Director

Daniel J. Ulatowski, AI
Assistant Planning Dire

Transmitted electronically

MEMORANDUM August 3, 2021

TO: Jeffery S. Burroughs, PE Town Engineer

FROM: Daniel J. Ulatowski, AICP, Assistant Planning Director

RE: SEQR Determination – Highway Department Gas Pump Repairs
2021-2026 C.I.P. Project H-2

The Planning Department has reviewed the Map, Plan & Report for the subject project and has determined it to be a Type II action under the provisions of SEQR according to Part 617.5. Therefore, no further environmental work is required.

Please contact our office if you have any questions.

X:\Special_Projects\SEQR_Engineering & Other TOA\Type_II_Actions_(PJ-2015-001)\Highway Dept Gas Pump Repairs_CIP Project H-2.docx

cc: Stanley J. Sliwa, Esq., Town Attorney
Daryl Bramer, Comptroller
Daniel Howard, Planning Director
Patrick Lucey, Hwy. Supt.

Attachment: SEQRHighway Dept Gas Pump Repairs_CIP Project H-2 (RES-2021-685 : Town of Amherst Highway Department Gas Pump Repairs

EXTRACT OF MINUTES

Meeting of the Town Board of the

Town of Amherst, in the

County of Erie, New York

August 9, 2021

* * *

A regular meeting of the Town Board of the Town of Amherst, in the County of Erie, New York, was held at the Town Hall, 5583 Main Street, Williamsville, New York, on August 9. 2021.

There were present:	Hon. Brian J. Kulpa, Supervisor; and
Board members:	Jacqualine Berger, Councilwoman Deborah Bruch Bucki Councilwoman Shawn Lavin, Councilman Michael R. Szukala, Councilman
There were absent:	
Also present:	Francina J. Spoth, Town Clerk

* * *

_____ offered the following resolution and moved its adoption:

Attachment: CertBondReso (RES-2021-685 : Town of Amherst Highway Department Gas Pump Repairs (Bond Resolution - $550,000))

BOND RESOLUTION OF THE TOWN OF AMHERST, NEW YORK, ADOPTED AUGUST 9, 2021, AUTHORIZING HIGHWAY DEPARTMENT GAS PUMP REPAIRS, STATING THE ESTIMATED TOTAL MAXIMUM COST THEREOF IS $550,000, APPROPRIATING SAID AMOUNT FOR SUCH PURPOSE, AND AUTHORIZING THE ISSUANCE OF BONDS IN THE PRINCIPAL AMOUNT OF $550,000 TO FINANCE SAID APPROPRIATION

THE TOWN BOARD OF THE TOWN OF AMHERST, IN THE COUNTY OF ERIE, NEW YORK, HEREBY RESOLVES (by the favorable vote of not less than two-thirds of all the members of said Town Board) AS FOLLOWS:

Section 1. The Town of Amherst, in the County of Erie, New York (herein called the "Town"), is hereby authorized to undertake Highway Department Gas Pump Repairs, as described in the map, plan and report dated July 2021, prepared by the Town Engineering Department (2021-2026 Capital Improvement Program Project H-2). The estimated total maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is $550,000 and said amount is hereby appropriated for such purpose. The plan of financing includes the issuance of bonds in the aggregate principal amount of $550,000 to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Bonds of the Town in the principal amount of $550,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law"), to finance said objects or purposes as set forth in section 1 hereof.

Attachment: CertBondReso (RES-2021-685 : Town of Amherst Highway Department Gas Pump Repairs (Bond Resolution - $550,000))

Section 3. The following additional matters are hereby determined and declared:

(a) The period of probable usefulness applicable to the class of objects or purposes for which said $550,000 bonds are authorized to be issued, within the limitations of Section 11.00 a. 35 of the Law and the Affidavit of the Town Engineer, is fifteen (15) years.

(b) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Town for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

(c) The proposed maturity of the bonds authorized by this resolution will exceed five (5) years.

Section 4. Each of the bonds authorized by this resolution, and any bond anticipation notes issued in anticipation of the sale of said bonds, shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds, and any notes issued in anticipation of said bonds, shall be general obligations of the Town, payable as to both principal and interest by general tax upon all the taxable real property within the Town. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds, and any notes issued in anticipation of the sale of said bonds, and provision shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds, and any notes in anticipation thereof to mature in such year, and (b) the payment of interest to be due and payable in such year.

Attachment: CertBondReso (RES-2021-685 : Town of Amherst Highway Department Gas Pump Repairs (Bond Resolution - $550,000))

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 of the Law relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the Town Board relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and as to the execution of agreements for credit enhancements, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

Section 6. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

(a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or

(b) the provisions of law which should be complied with at the date of the publication of such resolution, or a summary thereof, are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

(c) such obligations are authorized in violation of the provisions of the constitution.

Attachment: CertBondReso (RES-2021-685 : Town of Amherst Highway Department Gas Pump Repairs (Bond Resolution - $550,000))

Section 7. This bond resolution is subject to a permissive referendum and the Town Clerk is hereby authorized and directed, within fifteen (15) days after the adoption of this resolution, to cause to be published, in full, in "The Amherst Bee," a newspaper having a general circulation within said Town and hereby designated the official newspaper of the Town for such publication and posted on the sign board of the Town maintained pursuant to the Town Law, a Notice in substantially the following form:

Attachment: CertBondReso (RES-2021-685 : Town of Amherst Highway Department Gas Pump Repairs (Bond Resolution - $550,000))

TOWN OF AMHERST. NEW YORK

PLEASE TAKE NOTICE that on August 9. 2021, the Town Board of the Town of Amherst, in the County of Erie, New York, adopted a bond resolution entitled:

> "BOND RESOLUTION OF THE TOWN OF AMHERST, NEW YORK, ADOPTED AUGUST 9. 2021, AUTHORIZING HIGHWAY DEPARTMENT GAS PUMP REPAIRS, STATING THE ESTIMATED TOTAL MAXIMUM COST THEREOF IS $550,000, APPROPRIATING SAID AMOUNT FOR SUCH PURPOSE, AND AUTHORIZING THE ISSUANCE OF BONDS IN THE PRINCIPAL AMOUNT OF $550,000 TO FINANCE SAID APPROPRIATION,"

an abstract of which bond resolution concisely stating the purpose and effect thereof, being as follows:

FIRST: AUTHORIZING said Town is authorized to undertake Highway Department Gas Pump Repairs, as described in the map, plan and report dated July 2021, prepared by the Town Engineering Department (2021-2026 Capital Improvement Program Project H-2); STATING the estimated total maximum cost thereof, including preliminary costs, and costs incidental thereto and the financing thereof, is $550,000; APPROPRIATING said amount for such purpose; and STATING the plan of financing includes the issuance of bonds in the principal amount of $550,000 to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon;

SECOND: AUTHORIZING the issuance of bonds in the principal amount of $550,000 pursuant to the Local Finance Law of the State of New York (the "Law") to finance said appropriation;

THIRD: DETERMINING and STATING the period of probable usefulness applicable to the purpose for which said bonds are authorized to be issued is fifteen (15) years; the proceeds of said bonds and any bond anticipation notes issued in anticipation thereof may be applied to reimburse the Town for expenditures made after the effective date of this bond resolution for the purpose for which said bonds are authorized; and the proposed maturity of said bonds will exceed five (5) years;

FOURTH: DETERMINING that said bonds, and any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes shall be general obligations of the Town; and PLEDGING to their payment the faith and credit of the Town;

FIFTH: DELEGATING to the Supervisor the powers and duties as to the issuance of said bonds, and any bond anticipation notes issued in anticipation of said bonds, or the renewals thereof; and

Attachment: CertBondReso (RES-2021-685 : Town of Amherst Highway Department Gas Pump Repairs (Bond Resolution - $550,000))

SIXTH: DETERMINING that the bond resolution is subject to a permissive referendum.

DATED: August 9. 2021

FRANCINA J. SPOTH,
Town Clerk

Section 8. The Town Clerk is hereby authorized and directed to cause said bond resolution to be published, in summary, after said bond resolution shall take effect, in the newspaper referred to in Section 7 hereof, and hereby designated the official newspaper for said publication, together with a Notice in substantially the form as provided by Section 81.00 of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York.

* * *

Attachment: CertBondReso (RES-2021-685 : Town of Amherst Highway Department Gas Pump Repairs (Bond Resolution - $550,000))

The adoption of the foregoing resolution was seconded by _____and duly put to a vote on roll call, which resulted as follows:

AYES:

NOES:

The resolution was declared adopted.

****

Attachment: CertBondReso (RES-2021-685 : Town of Amherst Highway Department Gas Pump Repairs (Bond Resolution - $550,000))

CERTIFICATE

I, FRANCINA J. SPOTH, Town Clerk of the Town of Amherst, in the County of Erie, State of New York, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the Town Board of said Town of Amherst duly called and held on August 9. 2021, has been compared by me with the original minutes as officially recorded in my office in the Minute Book of said Town Board and is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relate to the subject matters referred to in said extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town of Amherst this _____day of August, 2021.

(SEAL)

_____
Town Clerk

Attachment: CertBondReso (RES-2021-685 : Town of Amherst Highway Department Gas Pump Repairs (Bond Resolution - $550,000))

AFFIDAVIT OF POSTING

STATE OF NEW YORK)
:ss:
COUNTY OF ERIE)

FRANCINA J. SPOTH, being duly sworn, deposes and says:

That she is and at all times hereinafter mentioned she was the duly elected, qualified and acting Town Clerk of the Town of Amherst, State of New York;

That on _____, 2021, she has caused to be conspicuously posted and fastened up a Notice setting forth an abstract of the bond resolution duly adopted by the Town Board on August 9. 2021, a copy of which is annexed hereto and made a part hereof, on the sign board of the Town maintained pursuant to the Town Law.

_____
Town Clerk

Subscribed and sworn to before me
this _____ day of August, 2021.

_____
Notary Public, State of New York

Attachment: CertBondReso (RES-2021-685 : Town of Amherst Highway Department Gas Pump Repairs (Bond Resolution - $550,000))

Attachment: AffTwnEng.HighwayFuelPPU-08042021104933 (RES-2021-685 : Town of Amherst Highway Department Gas Pump Repairs (Bond

AFFIDAVIT OF ENGINEER

STATE OF NEW YORK)
:ss:
COUNTY OF ERIE)

JEFFREY BURROUGHS, being duly sworn, deposes and says:

That he is and at all times hereinafter mentioned he was the duly qualified and Town Engineer licensed by the State of New York for the Town of Amherst (the "Town");

That in his capacity as Engineer he has requested financing for replacement of the Town's Highway Department Gas Pump Repairs 2021-2026 C.I.P. Project H-2, he is familiar with the engineering specifications and useful life of such motor vehicle fuel system, and that he has determined that the useful life of the replacement Highway Department Gas Pump Repairs to be procured by the Town is at least fifteen years.

Town Engineer

Subscribed and sworn to before me
this 3rd day of August, 2021.

Notary Public, State of New York

NICOLE MARIA BURROUGHS
Notary Public, State of New York
No. 01BU6040745
Qualified in Erie County
Commission Expires 4-24-2022

Attachment: MPR_TOA_MotorVehicleFuelSystemUpgrade_rev1 (RES-2021-685 : Town of Amherst Highway Department Gas Pump Repairs

Town of Amherst

HIGHWAY DEPARTMENT GAS PUMP REPAIRS

2021 - 2026 C.I.P. Project H-2

MAP, PLAN & REPORT

JULY 2021

Rev. 8/2/21

Contents:

- **GENERAL INFORMATION**
- **FACILITY DESCRIPTION**
  - Existing Fuel System
- **SCOPE OF IMPROVEMENTS**
  - Proposed Fuel System Upgrades
- **FINANCING**
- **TAX IMPACTS**
- **SEQR DETERMINATION**
- **PROJECT LOCATION PLAN – FIGURE 1**

Town of Amherst Engineering Department
Engineering Support Division
1100 North Forest Road
Williamsville, NY 14221
(716) 631 - 7154 / Fax: (716) 631 - 7222

Attachment: MPR_TOA_MotorVehicleFuelSystemUpgrade_rev1 (RES-2021-685 : Town of Amherst Highway Department Gas Pump Repairs

1.0 GENERAL INFORMATION

This Map, Plan & Report pertains to the rehabilitation of the Town of Amherst Highway Department's motor vehicle fuel system. A detailed description of the project and the financial impact is included in the body of this report.

1.1 FACILITY DESCRIPTION

The Town of Amherst (Town) Highway Department is located at 1042 North Forest Road and serves as an operations hub for a variety of services provided by the department including but not limited to refuse control, snow removal, road maintenance and storm water management. This facility also serves as the re-fueling location for town, emergency service and specified contractor vehicles. Please see Figure 1 for a site location map for this project.

2.0 PROJECT DESCRIPTION- EXISTING AND PROPOSED FUEL SYSTEM UPGRADES

a. Existing Fuel System

The current fuel system includes (1) one gasoline dispensing island equipped with (2) two dispensers, (1) one diesel dispensing island equipped with two (2) dispensers, and a canopy that covers both islands which is equipped with a dry chemical fire suppression system. The existing fuel dispensing system is in need of rehabilitation/reconstruction with portions of the facility out of compliance with current state and federal bulk petroleum storage regulations.

2.1 SCOPE OF IMPROVEMENTS

a. Proposed Fuel System Upgrades

This project will consist of upgrades and replacements to various components of the existing fuel system. Improvements will include, but not limited to: replacement of both dispensing islands (island forms, concrete, dispensers, dispenser accessories, card readers, and dispenser sumps), submersible pumps, the leak detection system (controller, sump and interstitial tank sensors, in-tank level probes, overfill alarm and acknowledgement switch, and mechanical line leak detectors), supply line piping between the submersible pumps and dispensers, spill containment fill boxes, and tank area manhole covers and frames. Also included in the scope of work is the installation of a new 500-gallon diesel exhaust fluid above ground storage tank with heater and two dispensers, two temporary fuel tanks for the construction phase, electrical work to accomplish these upgrades and installations, and site restoration. As far as the dry chemical fire suppression system, a complete replacement of this system is part of the scope of services and includes new controls, alarms, heat sensors, and battery backup.

2.1.2 FINANCING

The TOA Highway Department Motor Vehicle Fuel System Upgrades project will be designed and installed during 2021-2022. The work described above will be bonded against the Highway Fund at a *total project cost* of $550,000.

FINANCIAL SUMMARY:

Estimated Construction Costs	$500,000
Engineering Fees	$47,750
Legal / Administrative /Interest	$ 2,750
Total Amount to be bonded	**$ 550,000**

2.1.3 TAX IMPACTS

Taxation Summary:

- Current Bond Request: $ 550,000
- Bond Term: 15 years
- Annual Tax Impacts: $0.0046 per year, per $1,000 AV
- Typical Property Taxation Impacts: $0.93 per year, per $200,000 property

3.0 SEQR DETERMINATION

The Town of Amherst Planning Department has determined that this project is a Type 2 SEQR action. The Planning Department correspondence is attached to this MPR.

Attachment: MPR_TOA_MotorVehicleFuelSystemUpgrade_rev1 (RES-2021-685 : Town of Amherst Highway Department Gas Pump Repairs

FIGURE 1

Attachment: MPR_TOA_MotorVehicleFuelSystemUpgrade_rev1 (RES-2021-685 : Town of Amherst Highway Department Gas Pump Repairs

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24601 **RESOLUTION 2021-686** **ROLL CALL VOTE (ADOPTED)**

Athletic Fields Replacement Project - Williamsville Junior Football (Bond Resolution - $2,482,900)

AGENDA ITEM -AUGUST 9TH, 2021

TO: **Town Board**

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

DATE: **August 4, 2021**

RE: **2021-2026 C.I.P.**
Athletic Fields Replacement Project
Williamsville Junior Football Game and Practice Fields
Bond Resolution - $2,482,900.00

Kindly take the following action with respect to the above bond request:

(1) Adopt the attached SEQR determination for the above project as determined by the Town of Amherst Planning Department; and

(2) Adopt the attached bond resolution authorizing the issuance of $2,482,900.00 in serial bonds for the above-referenced Town improvement.

The adoption of the bond resolution does ***not*** require a public hearing to be held because the improvement is a Town improvement not involving a special district.

Also attached is the Map Plan and Report which provides further detail on the scope of the project.

Thank you.

SJS:nmb
Attachment
c: Kathy Cooper, Deputy Town Clerk
(w/attachment, **Agenda Item - August 9th, 2021**)
Daryl C. Bramer, Comptroller *(w/attachment)*
Lynda Juul, Director of Finance *(w/attachment)*
Dan Howard, Director of Planning *(w/attachment)*
Ellen M. Kost, Assistant Director of Planning *(w/attachment)*
Jeffrey S. Burroughs, PE, Town Engineer (*w/attachment*)

8/09/2021
A motion to adopt the SEQR determination was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. A motion to approve the Bond

resolution was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved via Roll Call vote 5-0.

FINANCIAL IMPACT:

Bond Resolution - $2,482,900

RESULT:	**ROLL CALL VOTE (ADOPTED) [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Jacqualine Berger, Deputy Supervisor
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala

Amherst

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

Brian J. Kulpa
Supervisor

Daniel C. Howard, AI
Planning Director

Daniel J. Ulatowski, AI
Assistant Planning Dire

Transmitted electronically

MEMORANDUM August 3, 2021

TO: Jeffery S. Burroughs, PE Town Engineer

FROM: Daniel J. Ulatowski, AICP, Assistant Planning Director

RE: SEQR Determination – Athletic Fields Replacement Project
2021-2026 C.I.P. Project YR-11A
Williamsville Junior Football Association Field Relocation

The Planning Department has reviewed the Map, Plan & Report for the subject project and has determined it to be a Type II action under the provisions of SEQR according to Part 617.5. Therefore, no further environmental work is required.

Please contact our office if you have any questions.

X:\Special_Projects\SEQR_Engineering & Other TOA\Type_II_Actions_(PJ-2015-001)\Williamsville Junior Football_CIP YR-11A.docx

cc: Stanley J. Sliwa, Esq., Town Attorney
Daryl Bramer, Comptroller
Daniel Howard, Planning Director

Attachment: SEQRWilliamsville Junior Football_CIP YR-11A (RES-2021-686 : Athletic Fields Replacement Project - Williamsville Junior Football

Attachment: CertBondReso (RES-2021-686 : Athletic Fields Replacement Project - Williamsville Junior Football (Bond Resolution - $2,482,900))

EXTRACT OF MINUTES

Meeting of the Town Board of the

Town of Amherst, in the

County of Erie, New York

August 9, 2021

* * *

A regular meeting of the Town Board of the Town of Amherst, in the County of Erie, New York, was held at the Town Hall, 5583 Main Street, Williamsville, New York, on August 9. 2021.

There were present:	Hon. Brian J. Kulpa, Supervisor; and
Board members:	Jacqualine Berger, Councilwoman Deborah Bruch Bucki Councilwoman Shawn Lavin, Councilman Michael R. Szukala, Councilman
There were absent:	
Also present:	Francina J. Spoth, Town Clerk

* * *

_____ offered the following resolution and moved its adoption:

Attachment: CertBondReso (RES-2021-686 : Athletic Fields Replacement Project - Williamsville Junior Football (Bond Resolution - $2,482,900))

BOND RESOLUTION OF THE TOWN OF AMHERST, NEW YORK, ADOPTED AUGUST 9, 2021, AUTHORIZING THE RELOCATION OF WILLIAMSVILLE JUNIOR FOOTBALL ASSOCIATION GAME AND PRACTICE FIELDS PROJECT, STATING THE ESTIMATED TOTAL MAXIMUM COST THEREOF IS $2,482,900, APPROPRIATING SAID AMOUNT FOR SUCH PURPOSE, AND AUTHORIZING THE ISSUANCE OF BONDS IN THE PRINCIPAL AMOUNT OF $2,482,900 TO FINANCE SAID APPROPRIATION

THE TOWN BOARD OF THE TOWN OF AMHERST, IN THE COUNTY OF ERIE, NEW YORK, HEREBY RESOLVES (by the favorable vote of not less than two-thirds of all the members of said Town Board) AS FOLLOWS:

Section 1. The Town of Amherst, in the County of Erie, New York (herein called the "Town"), is hereby authorized to undertake the Relocation of Williamsville Junior Football Association Game and Practice Fields Project, as described in the map, plan and report dated July 2021, prepared by the Town Engineering Department (2021-2026 Capital Improvement Program Project YR-11A). The estimated total maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is $2,482,900 and said amount is hereby appropriated for such purpose. The plan of financing includes the issuance of bonds in the aggregate principal amount of $2,482,900 to finance said appropriation, application of proceeds from an anticipated Amherst Central Park Infrastructure Fund, and to the extent necessary the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Bonds of the Town in the principal amount of $2,482,900 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law"), to finance said objects or purposes as set forth in section 1 hereof.

Attachment: CertBondReso (RES-2021-686 : Athletic Fields Replacement Project - Williamsville Junior Football (Bond Resolution - $2,482,900))

Section 3. The following additional matters are hereby determined and declared:

(a) The period of probable usefulness applicable to the class of objects or purposes for which said $2,482,900 bonds are authorized to be issued, within the limitations of Section 11.00 a. 19(c) of the Law, is fifteen (15) years.

(b) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Town for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

(c) The proposed maturity of the bonds authorized by this resolution will exceed five (5) years.

Section 4. Each of the bonds authorized by this resolution, and any bond anticipation notes issued in anticipation of the sale of said bonds, shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds, and any notes issued in anticipation of said bonds, shall be general obligations of the Town, payable as to both principal and interest by general tax upon all the taxable real property within the Town. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds, and any notes issued in anticipation of the sale of said bonds, and provision shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds, and any notes in anticipation thereof to mature in such year, and (b) the payment of interest to be due and payable in such year.

Attachment: CertBondReso (RES-2021-686 : Athletic Fields Replacement Project - Williamsville Junior Football (Bond Resolution - $2,482,900))

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 of the Law relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the Town Board relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and as to the execution of agreements for credit enhancements, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

Section 6. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

(a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or

(b) the provisions of law which should be complied with at the date of the publication of such resolution, or a summary thereof, are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

(c) such obligations are authorized in violation of the provisions of the constitution.

Attachment: CertBondReso (RES-2021-686 : Athletic Fields Replacement Project - Williamsville Junior Football (Bond Resolution - $2,482,900))

Section 7. This bond resolution is subject to a permissive referendum and the Town Clerk is hereby authorized and directed, within fifteen (15) days after the adoption of this resolution, to cause to be published, in full, in "The Amherst Bee," a newspaper having a general circulation within said Town and hereby designated the official newspaper of the Town for such publication and posted on the sign board of the Town maintained pursuant to the Town Law, a Notice in substantially the following form:

Attachment: CertBondReso (RES-2021-686 : Athletic Fields Replacement Project - Williamsville Junior Football (Bond Resolution - $2,482,900))

TOWN OF AMHERST. NEW YORK

PLEASE TAKE NOTICE that on August 9. 2021, the Town Board of the Town of Amherst, in the County of Erie, New York, adopted a bond resolution entitled:

"BOND RESOLUTION OF THE TOWN OF AMHERST, NEW YORK, ADOPTED AUGUST 9. 2021, AUTHORIZING THE RELOCATION OF WILLIAMSVILLE JUNIOR FOOTBALL ASSOCIATION GAME AND PRACTICE FIELDS PROJECT, STATING THE ESTIMATED TOTAL MAXIMUM COST THEREOF IS $2,482,900, APPROPRIATING SAID AMOUNT FOR SUCH PURPOSE, AND AUTHORIZING THE ISSUANCE OF BONDS IN THE PRINCIPAL AMOUNT OF $2,482,900 TO FINANCE SAID APPROPRIATION,"

an abstract of which bond resolution concisely stating the purpose and effect thereof, being as follows:

FIRST: AUTHORIZING said Town is authorized to undertake the Relocation of Williamsville Junior Football Association Game and Practice Fields Project, as described in the map, plan and report dated July 2021, prepared by the Town Engineering Department (2021-2026 Capital Improvement Program Project YR-11A); STATING the estimated total maximum cost thereof, including preliminary costs, and costs incidental thereto and the financing thereof, is $2,482,900; APPROPRIATING said amount for such purpose; and STATING the plan of financing includes the issuance of bonds in the principal amount of $2,482,900 to finance said appropriation, application of proceeds from an anticipated Amherst Central Park Infrastructure Fund, and to the extent necessary the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon;

SECOND: AUTHORIZING the issuance of bonds in the principal amount of $2,482,900 pursuant to the Local Finance Law of the State of New York (the "Law") to finance said appropriation;

THIRD: DETERMINING and STATING the period of probable usefulness applicable to the purpose for which said bonds are authorized to be issued is fifteen (15) years; the proceeds of said bonds and any bond anticipation notes issued in anticipation thereof may be applied to reimburse the Town for expenditures made after the effective date of this bond resolution for the purpose for which said bonds are authorized; and the proposed maturity of said bonds will exceed five (5) years;

FOURTH: DETERMINING that said bonds, and any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes shall be general obligations of the Town; and PLEDGING to their payment the faith and credit of the Town;

FIFTH: DELEGATING to the Supervisor the powers and duties as to the issuance of said bonds, and any bond anticipation notes issued in anticipation of said bonds, or the renewals thereof; and

SIXTH: DETERMINING that the bond resolution is subject to a permissive referendum.

DATED: August 9. 2021

FRANCINA J. SPOTH,
Town Clerk

Section 8. The Town Clerk is hereby authorized and directed to cause said bond resolution to be published, in summary, after said bond resolution shall take effect, in the newspaper referred to in Section 7 hereof, and hereby designated the official newspaper for said publication, together with a Notice in substantially the form as provided by Section 81.00 of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York.

* * *

Attachment: CertBondReso (RES-2021-686 : Athletic Fields Replacement Project - Williamsville Junior Football (Bond Resolution - $2,482,900))

The adoption of the foregoing resolution was seconded by _____and duly put to a vote on roll call, which resulted as follows:

AYES:

NOES:

The resolution was declared adopted.

****

Attachment: CertBondReso (RES-2021-686 : Athletic Fields Replacement Project - Williamsville Junior Football (Bond Resolution - $2,482,900))

Attachment: CertBondReso (RES-2021-686 : Athletic Fields Replacement Project - Williamsville Junior Football (Bond Resolution - $2,482,900))

CERTIFICATE

I, FRANCINA J. SPOTH, Town Clerk of the Town of Amherst, in the County of Erie, State of New York, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the Town Board of said Town of Amherst duly called and held on August 9. 2021, has been compared by me with the original minutes as officially recorded in my office in the Minute Book of said Town Board and is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relate to the subject matters referred to in said extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town of Amherst this _____day of August, 2021.

(SEAL)

_____
Town Clerk

AFFIDAVIT OF POSTING

STATE OF NEW YORK)
:ss:
COUNTY OF ERIE)

FRANCINA J. SPOTH, being duly sworn, deposes and says:

That she is and at all times hereinafter mentioned she was the duly elected, qualified and acting Town Clerk of the Town of Amherst, State of New York;

That on _____, 2021, she has caused to be conspicuously posted and fastened up a Notice setting forth an abstract of the bond resolution duly adopted by the Town Board on August 9. 2021, a copy of which is annexed hereto and made a part hereof, on the sign board of the Town maintained pursuant to the Town Law.

_____
Town Clerk

Subscribed and sworn to before me

this _____ day of August, 2021.

_____
Notary Public, State of New York

Attachment: CertBondReso (RES-2021-686 : Athletic Fields Replacement Project - Williamsville Junior Football (Bond Resolution - $2,482,900))

Attachment: MPR - Athletic Field Replacements_rev2 (RES-2021-686 : Athletic Fields Replacement Project - Williamsville Junior Football (Bond

Town of Amherst
Youth & Recreation Department

Athletic Fields Replacement Project

2021 - 2026 C.I.P. Project YR-11A

Map, Plan & Report

July 2021

Rev. 8/3/21

CONTENTS:

- Approved 2021 - 2026 CIP Project YR-11A
- Introduction/Existing Conditions
- Proposed Scope
  - Williamsville Junior Football Association Field Relocation
  - Audubon Recreation Complex NCAA Baseball Diamond Relocation
- Financial / Taxation Summary
- SEQR Determination
- Exhibits (Figure 1, Figure 2, Figure 3, Figure 4)

Prepared by
Town of Amherst Engineering Department
1100 North Forest Rd.
Williamsville, NY 14221
(716) 631-7154

Attachment: MPR - Athletic Field Replacements_rev2 (RES-2021-686 : Athletic Fields Replacement Project - Williamsville Junior Football (Bond

APPROVED 2021-2026 CIP AMENDMENT:

At the Amherst Town Board Meeting of July 26, 2021 (and amended at the August 9, 2021 Town Board Meeting), the Town Board approved the amendment of the 2021-2026 CIP to include funding for YR-11A, Athletic Fields Replacement Project. This newly approved project encompasses three subprojects, two of which are to be funded through bond action proceeds and the third is to be funded via the trust and agency account established for the replacement of facilities displaced by the partial sale of lands included in the Audubon Recreation Complex. Those projects are:

- Williamsville Junior Football Association Field Relocation (bond funding)
- Audubon Recreation Complex NCAA Baseball Diamond Relocation (bond funding)
- Amherst Girls Softball Field Relocation (trust and agency account funding)

It is important to note that the above two bond funded projects will be requested as independent bond actions with the NCAA Baseball Diamond lagging two weeks due to the SEQR status of the project.

It is also anticipated that the bond principal and interest payments will be covered via reimbursement from the Pilot Increment Financing proceeds.

INTRODUCTION / EXISTING CONDITIONS:

As the Town of Amherst plans for the creation of a central park at the former Westwood Country Club property, components of the Audubon Recreation Complex will be swapped to acquire the former Westwood Country Club property. In this particular phase of the plan, the sale of a portion of Audubon Recreation Complex to UBMD in the upper northwest quadrant of the complex will necessitate the decommissioning of the football and practice fields for Williamsville Junior Football Association, the decommissioning of the NCAA Baseball Diamond and the decommissioning of three Amherst Girls' softball fields (see Figure 1).

PROPOSED SCOPE:

Williamsville Junior Football Association Field Relocation

This project will entail construction of a new game field and practice field on the east side of the North Amherst Recreation Center at 4415 Millersport Highway (see Figure 2). It is planned that the construction of new fields in this location will entail the following scope of work: grading and construction of an underdrain/storm water management system, installation of an irrigation system, construction of bleachers and perimeter fencing, installation of repurposed goal posts, installation of field lighting and associated electrical improvements and public address system installation. In addition, additional facility enhancements will include concrete walks for pedestrian access from the facility's adjacent parking lots (see Figure 3).

NCAA Baseball Diamond Relocation

This project will entail the reconstruction of an existing ninety foot baseball diamond at the Lou Gehrig Youth Baseball facility site located at 50 Dann Road (see Figure 2). It is planned that the reconstruction work will meet NCAA Division 2 standard. Improvements to the baseball

diamond will entail the following scope of work: minor grading work, construction of a new perimeter fence and warning track system and backstop, construction of new dugouts, construction of new bullpens, construction of a field lighting system, including a new electrical service, installation of bleachers and installation of a repurposed scoreboard from the ninety foot baseball diamond at the Audubon Recreation Complex (see Figure 4).

FINANCIAL SUMMARY:

Williamsville Junior Football Field Relocation

Professional Service Costs (Construction Phase Services)	$ 26,500
Estimated Construction Costs:	
Williamsville Junior Football Game Field Relocation	$ 1,325,000
Williamsville Junior Football Practice Field Relocation	$ 981,000
Total Construction Costs	$ 2,332,500
Legal / Administrative	$ 12,400
Project Contingency	$ 138,000
Total Amount to be Financed (bond)	**$ 2,482,900**

NCAA Baseball Diamond Relocation

Professional Service Costs (Construction Phase Services)	$ 5,500
Estimated Construction Costs:	
NCAA Baseball Diamond Relocation	$ 1,231,000
Total Construction Costs	$ 1,236,500
Legal / Administrative	$ 6,600
Project Contingency	$ 74,000
Total Amount to be Financed (bond)	**$ 1,317,100**

Please note that the above project costs above are estimates only and funding may be moved between projects if necessary.

TAXATION SUMMARY:

Total Bond Amount:	$ 3,800,000
Bond Term:	15 Years
Annual Tax Impacts:	$0.032 per $1,000 AV (General Fund)
Typical Property Taxation Impact:	$6.42 per $200,000 property

SEQR DETERMINATION:

The Town of Amherst Planning Department has determined that the Williamsville Junior Football Field Replacement project is a Type 2 SEQR action and that the NCAA Baseball Diamond Relocation project is a Type 1 SEQR action due to the local law which requires such when disturbing NYDEC wetlands adjacent areas (100 foot buffer area). The Planning Department correspondence is attached to this MPR.

Attachment: MPR - Athletic Field Replacements_rev2 (RES-2021-686 : Athletic Fields Replacement Project - Williamsville Junior Football (Bond

TOWN OF AMHERST

Erie County, New York

Figure 1 - Audubon Recreation Complex 500 Maple Road

250 125 0 250

Feet

Attachment: MPR - Athletic Field Replacements_rev2 (RES-2021-686 : Athletic Fields Replacement Project - Williamsville Junior Football (Bond

TOWN OF AMHERST

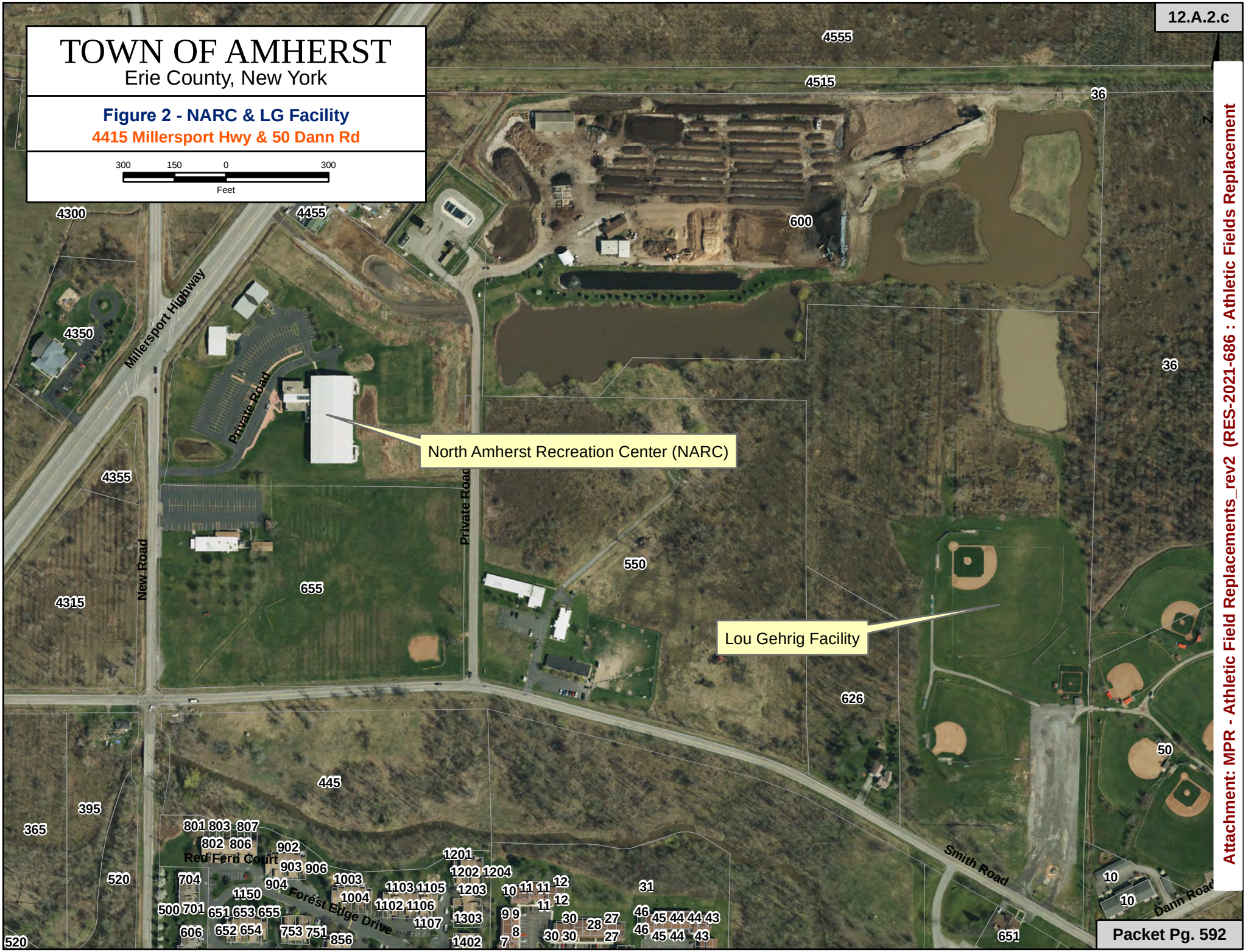
Erie County, New York

Figure 2 - NARC & LG Facility

4415 Millersport Hwy & 50 Dann Rd

300 150 0 300

Feet

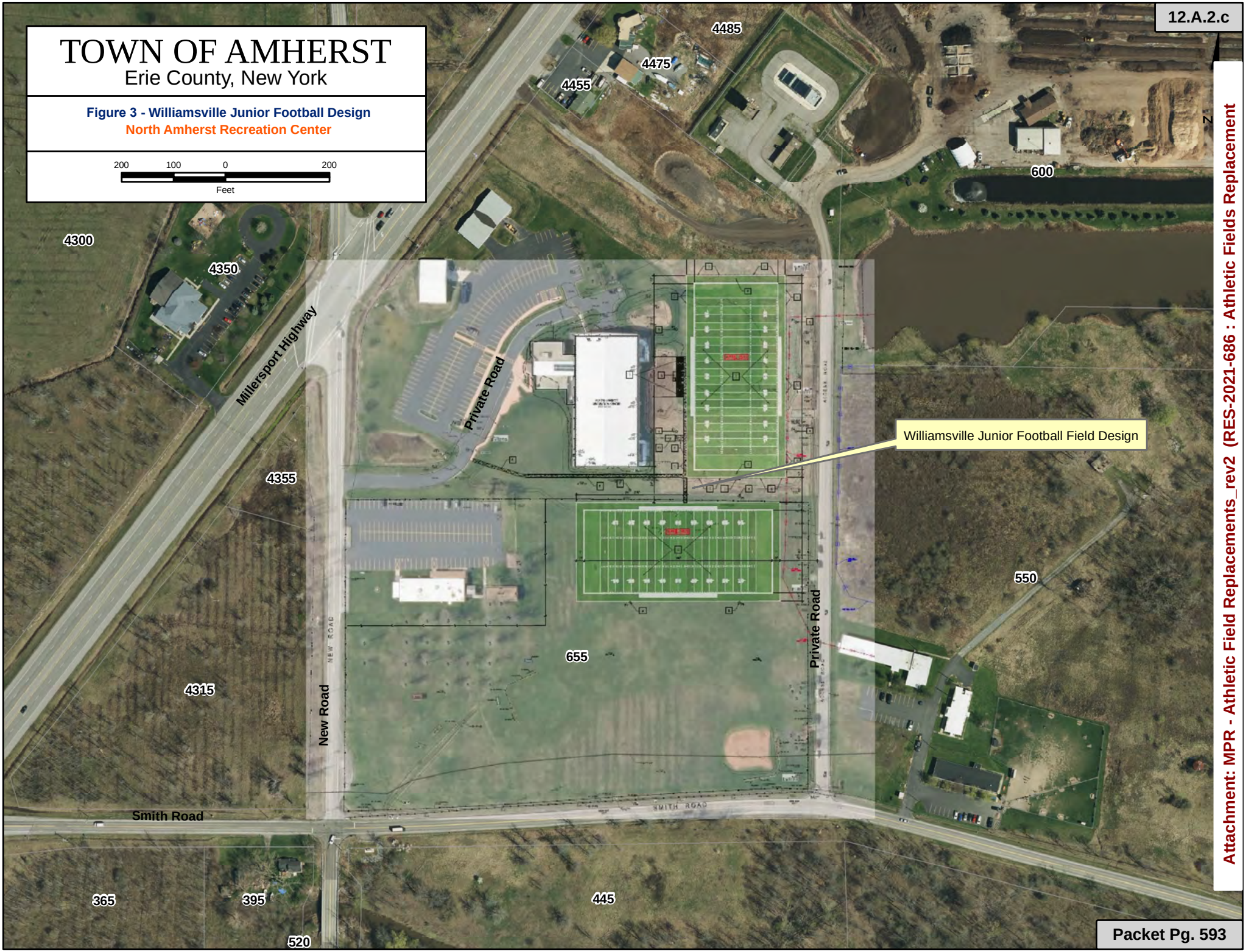


Attachment: MPR - Athletic Field Replacements_rev2 (RES-2021-686 : Athletic Fields Replacement

TOWN OF AMHERST
Erie County, New York

Figure 3 - Williamsville Junior Football Design
North Amherst Recreation Center

200 100 0 200
Feet



Attachment: MPR - Athletic Field Replacements_rev2 (RES-2021-686 : Athletic Fields Replacement

TOWN OF AMHERST
Erie County, New York

Figure 4 - NCAA Diamond Design
Lou Gehrig Facility

150 75 0 150
Feet

Lou Gehrig Field Design

36
550
626
50
Smith Road

Attachment: MPR - Athletic Field Replacements_rev2 (RES-2021-686 : Athletic Fields Replacement

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24602 **RESOLUTION 2021-687** **ADOPTED**

Agreement Between Town of Amherst and Buffalo Christian Church (CRS #2796)

AGENDA ITEM : AUGUST 9TH, 2021

TO: **Town Board**

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

DATE: **August 4, 2021**

RE: **Agreement With Buffalo Christian Church (CRS #2796)**

Kindly adopt a resolution authorizing the Supervisor to execute the attached Easement Agreement between the Town of Amherst and Buffalo Christian Church for access and maintenance of easements as more fully detailed in the attached agreement.

Thank you.

SJS:nmb
Attachment
c: Kathy Cooper, Deputy Town Clerk
(*w/attachment,* **Agenda Item - August 9th, 2021**)

8/09/2021
Consent

FINANCIAL IMPACT:

None for the purposes of this resolution.

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

Attachment: BfloChristianChurchCRS2796-08032021113528 (RES-2021-687 : Agreement Between Town of Amherst and Buffalo Christian

AGREEMENT

THIS AGREEMENT, made this _____ day of August, 2021, by and between the Buffalo Chinese Christian Church, a religious corporation having its principal place of worship presently located at 763 Englewood Avenue, Kenmore, New York 14223, (hereinafter Church) and the Town of Amherst, a municipal corporation existing by virtue of the State of New York having its principal place of business at 5583 Main Street, Williamsville, New York 14221 (hereinafter Town).

WITNESSETH

WHEREAS, the Church is under contract to purchase all that tract or parcel of land situated in the Town of Amherst, County of Erie and State of New York, being part of Lot 12, Township 12, Range 7 of the Holland Land Company's Survey and fronting on the north side of the highway known as Main Street and bounded easterly by a highway known as Burroughs Drive and westerly by the land of the Town of Amherst; and

WHEREAS, the Church anticipates closing the purchase upon receiving the approval of the Attorney General, which is expected to be issued in the near future; and

WHEREAS, the Town has constructed a public library on its property to the west of property of the Church.

WHEREAS, the Town seeks the right and easement to install to operate, maintain and make necessary repairs in connection a six inch (6") storm sewer located on the Church's property; and

WHEREAS, the Town further seeks the right to install and use a driveway in, over and across the property of the Church; and

WHEREAS, the Church seeks the right and privilege to use the library parking lot for the parking of vehicles owned and operated by members and guests of the Church.

NOW, THEREFORE, in consideration of the mutual promises of the parties hereto, and for other good and valuable consideration, the parties agree as follows:

FIRST: The Church hereby grants unto the Town an easement to install, maintain and repair a sixteen foot (16') driveway in, over and across a strip of land sixteen feet (16') in width, the southerly line of which is parallel to and thirty-one feet (31') south of the north property line of the Church and further a right-of-way for the public use to pass and repass along and over said driveway with or without automobiles or other vehicles, or on foot, for the purpose of ingress and egress to and from the property of the Town.

SECOND: The Church hereby grants to the Town the permanent right and easement to construct, reconstruct, operate, maintain and repair a six inch (6") storm sewer upon, under and across a strip of land ten feet (10') in width, the southerly line of which is parallel to and 16 feet (16') south of the north line of the property of Church.

THIRD: The Church reserves the right to relocate both the said sixteen foot (16') driveway and six inch (6") storm sewer line at its own expense, subject to the approval and compliance with the specifications of the Town.

FOURTH: The Town covenants and agrees that it will hold the Church harmless against all claims, damages or causes of action for damages arising after the date of this instrument and will indemnify the Church from all such suits, orders, decrees or judgments entered therein on account of injury to a person, property or loss of life sustained by reason of the use of said driveway by the public for ingress and egress to the property of the Town

Attachment: BfloChristianChurchCRS2796-08032021113528 (RES-2021-687 : Agreement Between Town of Amherst and Buffalo Christian

for the purpose of using the library facilities or anything in connection with said library together with the use or operation, maintenance and repair of said driveway or library.

FIFTH: The Town covenants and agrees that it will hold the Church harmless against all claims, damages, or causes of action for damages arising after the date of this instrument and will indemnify the Church from all such suits, orders, decrees or judgments entered therein on account of injury to person, property or loss of life sustained by the use or the operation, maintenance and repair of said six inch (6") storm sewer line by the Town.

SIXTH: The Town hereby grants the right and privilege to use the library parking lot for the parking of vehicles owned or operated by members and guests of the Church.

SEVENTH: The Church covenants and agrees that it will hold the Town harmless against all claims, damages or causes of action for damages arising from the date of this instrument and will indemnify the Town for all such suits, orders, decrees or judgments entered therein on account of injury to person, property or loss of life sustained by reason of the use of said parking lot by the members or guests of the Church.

EIGHTH: This Agreement shall become effective upon the recording of the deed which transfers the Property to the Church.

[Remainder of page blank. Signature page follows.]

Attachment: BfloChristianChurchCRS2796-08032021113528 (RES-2021-687 : Agreement Between Town of Amherst and Buffalo Christian

IN WITNESS WHEREOF, the parties hereto have hereunto caused these presents to be executed by their duly authorized officers and their corporate seals hereunto affixed the day and year first above written.

By: _____
Trustee
Buffalo Chinese Christian Church

_____
Trustee
Buffalo Chinese Christian Church

_____
Trustee
Buffalo Chinese Christian Church

By: _____
Brian J. Kulpa, Supervisor
Town of Amherst

State of New York)
County of _____) ss:

On the _____day of _____ in the year____, before me, the undersigned notary public, personally appeared **Brian Kulpa**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

Attachment: BfloChristianChurchCRS2796-08032021113528 (RES-2021-687 : Agreement Between Town of Amherst and Buffalo Christian

State of New York)
County of Erie) ss:

On the 14th day of July in the year 2021, before me, the undersigned notary public, personally appeared Job Hurtszman, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Alyssa Marie Gross, Esq.
Notary Public #02GR6208285
County of Erie, State of New York
Commission Expires 06/29/2025

Notary Public

State of New York)
County of Erie) ss:

On the 15th day of July in the year 2021, before me, the undersigned notary public, personally appeared Eric Wu, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

State of New York)
County of Erie) ss:

MICHELLE R. SCHMIDT
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Sept. 25, 2021

On the 15th day of July in the year 2021, before me, the undersigned notary public, personally appeared Edwin Hardenburg, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Alyssa Marie Gross, Esq.
Notary Public #02GR6208285
County of Erie, State of New York
Commission Expires 06/29/2025

Notary Public

Attachment: BfloChristianChurchCRS2796-08032021113528 (RES-2021-687 : Agreement Between Town of Amherst and Buffalo Christian

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24603 **RESOLUTION 2021-688** **ADOPTED**

Engagement Letter with Harris Beach PLLC (CRS #2811)

AGENDA ITEM - AUGUST 9TH, 2021

TO: **Town Board**

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

DATE: **August 4, 2021**

RE: **Engagement Letter - Harris Beach PLLC**
Land Use Relative to Oxford and Princeton Apartments and MJ Peterson PILOTS (CRS #2811)
Term 1.1.21-12.31.22

Kindly adopt a resolution authorizing the Supervisor to execute the attached Engagement Letter and Agreement with Harris Beach PLLC for land use matters involving Oxford and Princeton Apartments and MJ Peterson PILOTS from July 1st, 2021 through and including December 31st, 2022 pending successful completion of the Contract Routing System.

Thank you.

SJS:nmb
Attachment
c: Kathy Cooper, Deputy Town Clerk
(*w/attachment*, **Agenda Item - August 9th, 2021**)

8/09/2021
A motion to adopt was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0. Scrivener's error to agreement will be rectified.

FINANCIAL IMPACT:

All attorneys billed at a blended rate of $255.00/hr., with the exception of Kirstie Means, who is billed at $230.00/hr. (A1420.4090)

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

HARRIS BEACH PLLC
ATTORNEYS AT LAW

LARKIN AT EXCHANGE
726 EXCHANGE STREET, SUITE 1000
BUFFALO, NEW YORK 14210
716.200.5050

ROBERT G. MURRAY
MEMBER
DIRECT: 716.200.5180
FAX: 716.200.5201
BMURRAY@HARRISBEACH.COM

July 29, 2021

Town of Amherst
Attn: Stanley J. Sliwa, Esq., Town Attorney
Amherst Municipal Building
5583 Main Street
Williamsville, New York 14221

RE: Engagement Letter for Legal Services Between Harris Beach PLLC and Town of Amherst

Dear Mr. Sliwa:

This letter summarizes the proposed terms of Harris Beach PLLC's (the "Firm") representation of the Town of Amherst ("Client"); including the scope of services the Firm will provide Client pursuant to this engagement and the agreed-upon fee and billing arrangements and will run from July 1, 2021 to December 31, 2022. Unless otherwise set forth herein, the Firm's representation will be limited to Client only, and does not extend to any separate or differing interests of Client's officers, directors, owners, subsidiaries, affiliates, agents, employees, or family members, or to any other potentially-interested or related parties (individually "Affiliate," and collectively, "Affiliates").

Scope of Engagement. The Firm agrees to provide legal counsel to Client with regard to the following (the "Matter"): (i) Dispute with ACSD on AV reduction for Oxford Village Townhomes and Princeton Court Apartments; and (ii) MJ Peterson PILOTS. The Firm will represent Client to the best of its ability, but does not guarantee any particular result. We will provide only legal services in connection with the Matter, and are not providing, and you will not look to the Firm or rely on us for, business, investment, insurance, accounting or other such non-legal services.

This engagement letter constitutes the entire agreement between the Firm and Client regarding the Matter described herein and supersedes any prior written or oral statements or agreements made by the Firm or Client. If Client desires legal counsel on an issue outside the scope of the Matter, or to change any other terms of this letter, the Firm may agree to provide such counsel or different terms, but only after executing a separate agreement with Client (which may be communicated by e-mail). Unless expressly included in the foregoing description of the Matter, the Matter does not include any appeals that may arise from the Matter. Please also note that the Firm does not engage in lobbying activities on behalf of any client.

Client agrees that the Firm may disclose the fact of its representation of Client, including in materials that the Firm uses to describe its practices and expertise.

Firm Personnel; Principal Contact. Bob Murray will be responsible for the supervision of the Matter, but Client is engaging the Firm as a whole and not any individual attorney. He can be reached at (phone) 716-200-5180; (cell) 716-208-8328; (email) bmurray@harrisbeach.com. As necessary or appropriate, the Firm will draw upon the talents and experience of other Firm

Attachment: HarrisBeachEngagementLtr-08032021124141 (RES-2021-688 : Engagement Letter with Harris Beach PLLC (CRS #2811))

attorneys, professionals, and staff in providing services relating to the Matter, and from time-to-time may also utilize the services of contract lawyers or third-party consultants. These individuals will be billed at their standard hourly rates unless otherwise stated below.

Fee Arrangement. The Firm's fee is generally based on the time spent by the attorneys and legal assistants who work on the Matter. Currently, our hourly rates range from $390-$700 for members and senior counsel, $210-$380 for associates and other attorneys and $100-$225 for paralegals. Matters will be billed at a discounted blended rate of $255.00 per hour for all attorneys except Kirstie Means shall bill at $230 per hour. Paralegals will be billed at an hourly rate of $125 per hour.

We will charge for all time spent representing Client's interests, including, by way of example, telephone and office conferences with Client or Client's representatives, co-counsel, opposing counsel, fact witnesses, consultants (if any), and others; conferences among our legal and paralegal personnel; participation in discovery; factual investigation; legal research; responding to Client requests for additional information; preparation of letters, pleadings, and other documents; and attendance at depositions, hearings, mediations, closings, trials, or other proceedings; and travel (both local and out of town). Hourly charges are applied to total time devoted to client representation, including travel time (when necessary) and reasonable time spent waiting for in-person and virtual court appearances to begin.

We will, at Client's request, provide fee estimates. However, such estimates are provided only for Client's information; they are not guarantees and are not binding on the Firm. Actual costs might be higher or lower than the estimated amount depending on a host of factors, including, for example, number and types of motions filed; whether proceedings such as trials, hearings, or closings are delayed or postponed; scope and extent of discovery; and the amount of assistance Client is able to provide the Firm in areas such as collection of information, documents, and electronically stored information, the location of witnesses, etc. In the event a dispute arises between Client and the Firm regarding fees, Client may have the right to arbitrate that dispute pursuant to Part 137 of the Rules of the Chief Administrator of the Courts, a copy of which will be provided to Client upon request.

Other Charges. In addition to the Firm's fees for rendering professional services, Client shall be responsible for, and Firm invoices will include, separate charges for performing services such as photocopying, scanning, delivery charges, long distance telephone calls, facsimile transmissions, specialized computer applications, travel, preparing responses to Client's auditors, and other expenses and services incurred incidentally to the performance of the Firm's legal services. Client shall also be responsible for payment of any expenses and disbursements incurred by the Firm on Client's behalf (*i.e.*, transcription fees, filing fees, expert witness fees, etc.), which will be billed to Client with the Firm's invoice. Based on the nature of the expense, the Firm may also request that Client pay or advance the fee directly to the person/entity requesting/charging the same. The Firm shall promptly notify Client of any significant expense that is incurred in connection with the Matter.

Should Client ever issue a litigation hold to the Firm for a matter unrelated to the Firm (*e.g.*, due to a subpoena or litigation/threatened litigation in which the Firm is not a party or

Attachment: HarrisBeachEngagementLtr-08032021124141 (RES-2021-688 : Engagement Letter with Harris Beach PLLC (CRS #2811))

potential party), Client shall reimburse the Firm for its reasonable costs expended in complying with such litigation hold.

Billing Cycle and Retainer. The Firm generally requires its clients to deposit a retainer for legal services against which the Firm bills and collects fees and disbursements. The Firm has waived the requirement for an initial retainer with respect to this Matter, but reserves the right to require one if deemed appropriate in the future. Fees for legal services and other charges are billed monthly and are payable within 30 days of Client's receipt of the Firm's invoice.

If Client ever overpays an invoice, Client agrees that the Firm may apply such overpayment to any outstanding fees and expenses or to Client's next bill, with notice to Client as to how the Firm applied the overpayment. If there are no outstanding fees or expenses and no work in progress, the Firm shall refund the overpayment to Client.

If Client has any questions relating to the Firm's services or the charges, we will be pleased to discuss them with Client at the earliest possible time after receipt of the billing statement, since the matters will be freshest in our memory at that time. Accordingly, Client agrees to notify us in writing or email within 30 days of receiving our billing statement if Client disputes any entry for legal services or charges on any billing statement. In the absence of any written objections thereto within 30 days of Client's receipt of a billing statement, Client will be deemed to have accepted and acknowledged the billing statement as correct through the period covered by the billing statement.

Termination of Engagement. Either party may terminate the engagement described herein at any time for any reason by providing the other party written notice, subject, on the Firm's part, to the rules of professional conduct. No such termination, however, will relieve Client of the obligation to pay the legal fees owed to the Firm for services performed and other charges owed to the Firm through the date of termination. After the Firm's completion of legal services to Client, changes may occur in applicable laws or regulations that could have an impact upon Client's future rights and liabilities. Unless Client engages the Firm after completion of the Matter to provide additional advice on issues relating specifically to the Matter, the Firm has no continuing obligation to advise Client with respect to future legal developments, whether relating to the Matter or otherwise.

Conclusion of Representation; Disposition of Client Documents. Unless previously terminated, the Firm's representation of Client with respect to the Matter will conclude when the Firm sends Client the last invoice for services rendered in the Matter. Following such conclusion, any otherwise nonpublic information Client has supplied to the Firm that is retained by the Firm will be kept confidential in accordance with applicable rules of professional conduct. At Client's request, the Firm will return Client's papers and property promptly after receipt of payment for any outstanding fees and costs. If Client does not make such a request within 90 days following the conclusion of the engagement set forth herein, Client agrees and understands that any materials left with the Firm after the engagement ends may be retained or destroyed at the Firm's discretion.

Please note that "materials" include paper files and information in other storage media, including, but not limited to, voicemail, e-mail, and other electronic files, printer files, copier

Attachment: HarrisBeachEngagementLtr-08032021124141 (RES-2021-688 : Engagement Letter with Harris Beach PLLC (CRS #2811))

files, video files, and other formats. The Firm reserves the right to make, at its expense, copies of all documents generated or received by the Firm in the course of its representation. The Firm will retain its files pertaining to the Matter. These Firm files include, for example, Firm administrative records; internal lawyers' work product, such as drafts, notes, and internal memoranda; and legal and factual research, including memos and investigative reports prepared by or for the internal use of lawyers. The Firm will retain all remaining documents for a certain period of time, but reserves the right for various reasons, including the minimization of unnecessary storage expenses, to destroy or otherwise dispose of them within a reasonable time after the conclusion of the engagement set forth herein. This paragraph also applies to any client materials being held or stored by a third-party vendor.

Client Cooperation. Client agrees to cooperate fully with the Firm and to provide promptly all information known or available to Client relevant to the Firm's representation of Client, as well as any updates or changes to Client's contact information. Such cooperation is essential, as the Firm will, of necessity, be relying on the completeness and accuracy of the information Client provides to the Firm when performing services on Client's behalf. Should Client not fully cooperate with the Firm, both the efficiency and economy of the Firm's representation of Client may suffer.

Communication with Client and Confidentiality. Unless Client directs otherwise, the Firm will use unencrypted e-mail as the primary means of communication with Client, and Client shall inform the Firm of which e-mail address(es) the Firm should use for such communication. The Firm may also use cellular telephones (including smart phones) and facsimile machines to communicate with Client. Texting is not a preferred method of communication, but may be used on a limited basis to communicate non-sensitive information to Client. The Firm will take reasonable steps to protect the confidentiality of Firm-Client communications, but, unless applicable law provides otherwise, the Firm will not be responsible for disclosures of Client's confidential information occurring from the use of such communication technologies. Client agrees to notify the Firm if Client has any requests or requirements regarding the Firm's methods of communication with Client that differ from the foregoing.

Consistent with applicable rules of professional conduct, the Firm will employ reasonable physical, technical, and administrative safeguards to protect the confidentiality of all information related to the Matter. The Firm utilizes a document management system that stores electronic information in the cloud and that employs industry standard safeguards to protect that information. By agreeing to the terms of this engagement letter, Client consents to the Firm storing Client's files in the cloud and acknowledges that, as with any technology, such storage creates some risk of inadvertent or unauthorized disclosure of confidential information (e.g., bad acts perpetrated by cyber criminals).

Possible Conflicts. Conflicts of interest will be handled as required by applicable rules of professional conduct. Unless otherwise agreed, for the purpose of determining whether a conflict of interest exists, it is only Client that the Firm represents, and not any of its Affiliates. Client agrees not to give the Firm any confidential information regarding any Affiliate unless: (a) that Affiliate has separately engaged the Firm to perform services on that Affiliate's behalf; or (b) such information is essential to the engagement set forth herein.

Attachment: HarrisBeachEngagementLtr-08032021124141 (RES-2021-688 : Engagement Letter with Harris Beach PLLC (CRS #2811))

HARRIS BEACH PLLC
ATTORNEYS AT LAW

Choice of Law and Venue. Both the terms of this engagement letter and the attorney-client relationship it creates between Client and Harris Beach shall be governed by the laws of the State of New York (including the New York Rules of Professional Conduct), without giving effect to the conflicts of law principles thereof. Any claim, suit, action, dispute, or proceeding arising out of, or with respect to, this engagement letter or the legal services provided hereunder (collectively, for purposes of this paragraph only, "claim") shall be brought in a New York State court situated in Monroe County, New York, or in the United States District Court for the Western District of New York, and no other. Client hereby consents to personal jurisdiction and venue in those courts for the purpose of any claim and waives Client's rights to bring any claim in any other court or jurisdiction. However, this Paragraph shall not interfere with Client's right to pursue fee arbitration as permitted by Part 137 of the Rules of the Chief Administrator of the Courts.

Please contact me directly with any questions regarding this engagement letter. Otherwise, if this proposal is acceptable, please so indicate by returning a countersigned copy of this engagement letter. Consistent with its policy, the Firm reserves the right to delay commencement of work on this Matter until Client has signed and returned this engagement letter to us. However, any services rendered by the Firm in connection with the Matter prior to Client signing below shall be governed by the terms of this letter.

We appreciate the opportunity to represent, and look forward to working with Town of Amherst in this Matter.

Sincerely,

HARRIS BEACH PLLC

By: Robert G. Murray
Robert G. Murray

Agreed and Accepted
this ___ day of _____, 2021.

TOWN OF AMHERST

By: _____
Brian J. Kulpa, Town Supervisor

RGM:kad

Attachment: HarrisBeachEngagementLtr-08032021124141 (RES-2021-688 : Engagement Letter with Harris Beach PLLC (CRS #2811))

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24604 **RESOLUTION 2021-689** **ADOPTED**

Assignment and Assumption Agreement - Antares Golf L.L.C. and Amherst Golf Management LLC (CRS #2809)

AGENDA ITEM : AUGUST 9TH, 2021

TO: **Town Board**

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

DATE: **August 4, 2021**

RE: **Assignment and Assumption Agreement - CRS #2809**
Antares Golf, L.L.C. and Amherst Golf Management, LLC

Kindly adopt a resolution authorizing the Supervisor to agree to the terms of the above agreement by executing the agreement where indicated.

Thank you.

SJS:nmb
Attachment
c: Kathy Cooper, Deputy Town Clerk
(*w/attachment,* **Agenda Item - August 9th, 2021**)

8/09/2021
Consent

FINANCIAL IMPACT:

None for the purposes of this resolution.

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

Attachment: AssignmentAssumptionAntaresAmherstGolfMgmt (RES-2021-689 : Assignment and Assumption Agreement - Antares Golf L.L.C.

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of June 23, 2021, by and between ANTARES GOLF, L.L.C., a Virginia limited liability company (the "Assignor" or "Antares"), and AMHERST GOLF MANAGEMENT, LLC, a Virginia limited liability company registered to do business in New York (the "Assignee"), provides:

W I T N E S S E T H:

WHEREAS, Assignor entered into a Management Agreement, dated March 24, 2021, with the Town of Amherst (the "Owner") for the operation and management of Audubon Golf Course, located at 500 Maple Road, Audubon Golf Course Par 3, located at 475 Maple Road and Oakwood Golf Course, located at 3575 Tonawanda Creek Road (collectively referred to as the "Courses"), a copy of which is attached hereto as Exhibit A (the "Agreement");

WHEREAS, Assignor formed Assignee as its wholly-owned subsidiary for the primary purpose of carrying out the terms of the Agreement;

WHEREAS, pursuant to Section 16, Paragraph G of the Agreement, Antares may assign its duties and obligations under the Agreement to its subsidiary; and

WHEREAS, Assignor desires to assign the Agreement to Assignee and the Assignee has agreed to accept such assignment and assume all of the liabilities and obligations of the Assignor thereunder; and

WHEREAS, it is the parties' intention to reflect the assignment and assumption of the Agreement by the execution and delivery of this Agreement between the Assignor and the Assignee.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and with intent to be legally bound, the Assignor and the Assignee hereby agree as follows:

1. Assignment by Assignor. The Assignor hereby assigns, transfers, contributes and conveys to the Assignee all of the Assignor's right, title and interest in, to and under the Agreement.

2. Acceptance and Assumption by Assignee. The Assignee hereby (a) accepts the assignment of the Agreement and (b) assumes, becomes responsible for, and agrees to discharge, observe, perform, undertake and satisfy all of the terms, conditions, covenants and obligations of Assignor contained in the Agreement arising from and after the effective date of this

Assignment. Notwithstanding anything to the contrary above, Assignor shall not be released from any of its obligations, responsibilities or liabilities under the Agreement.

3. Applicable Law. This Assignment and Assumption Agreement shall be construed and enforced in accordance with the laws (other than the conflict of law rules) of the Commonwealth of Virginia.

4. Counterparts. This Assignment and Assumption Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument.

[Signature Page Follows]

Attachment: AssignmentAssumptionAntaresAmherstGolfMgmt (RES-2021-689 : Assignment and Assumption Agreement - Antares Golf L.L.C.

IN WITNESS WHEREOF, the undersigned have executed, or caused this Agreement to be executed by an authorized representative, under seal as of the date first above written.

ANTARES GOLF, LLC
a Virginia limited liability company

By: _____
Jay M. McGrath, Vice President

By: _____
Ruth E. Engle, President

AMHERST GOLF MANAGEMENT, LLC
a Virginia limited liability company

By: _____
Jeffrey L. Hansen, Secretary

AGREED TO BY:

TOWN OF AMHERST

By: _____

Attachment: AssignmentAssumptionAntaresAmherstGolfMgmt (RES-2021-689 : Assignment and Assumption Agreement - Antares Golf L.L.C.

Attachment: Town of Amherst - Mgmt. Agreement Exp 3.7.2026 FULLY EXECUTED (RES-2021-689 : Assignment and Assumption Agreement -

TOWN OF AMHERST
GOLF MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT ("Agreement") is made as of this 24th day of March, 2021 by and between ANTARES GOLF, LLC ("Antares"), d/b/a Indigo Golf Partners, a Virginia limited liability company, having an address at 12700 Sunrise Valley Drive, Suite 300, Reston, Virginia 20191 and TOWN OF AMHERST ("Owner"), a New York municipal corporation, having an address at 5583 Main Street, Williamsville, New York, 14221.

WHEREAS, Owner owns multiple golf facilities, to include certain real property commonly known as Audubon Golf Course, currently an 18-hole golf course, clubhouse, driving range and other amenities located at 500 Maple Road and a 9-hole golf course and clubhouse located at 475 Maple Road (Audubon & Par 3), and Oakwood Golf Course ("Oakwood"), currently a 9-hole golf course and clubhouse located 3575 Tonawanda Creek Road (collectively referred to as "Courses"); and

WHEREAS, Owner solicited requests for qualifications from the public for operation of the Courses, attached hereto as Exhibit A, and Antares was selected as the most qualified respondent based on the response, attached hereto as Exhibit B; and

WHEREAS, Owner desires to utilize the services and experience of Antares in connection with the management and operation of all golf related aspects of the Courses, and Antares desires to render such services, upon the terms and conditions set forth in this Agreement; and

WHEREAS, Antares intends to form a wholly owned single-purpose subsidiary entity registered to do business in the state of New York, Amherst Golf Management, LLC, ("AAGM") for the purpose of performing some or all of the services outlined herein; and

WHEREAS, nothing in this Agreement shall be construed or interpreted to mean that Antares and AGM are alter egos of each other; and

WHEREAS, the parties hereto acknowledge and agree that the formation and performance of AGM shall not relieve Antares or Owner from any of their respective duties, obligations, and responsibilities set forth herein;

NOW, THEREFORE, in consideration of the covenants and agreements of the parties contained herein it is mutually agreed to as follows:

1. **DEFINITIONS.** The following terms, as used in this Agreement, shall have the following meaning, unless otherwise set out in this Agreement.

   A. "AGM". Amherst Golf Management, LLC, a wholly owned subsidiary of Antares Golf, LLC to perform some or all of the services at the Courses.

   B. Annual Budget and Program: Documents presented by Antares for the operation of the Courses to the Owner as part of the Owner's annual budget process, including but not limited to the following: Annual Business Plan and Operating Budget, Agronomic Plan and Marketing Plan.

   C. Antares: Antares Golf, LLC. a Virginia Limited Liability Company.

   D. Audubon & Par 3: Currently an 18-hole golf course, clubhouse, driving range and other amenities located at 500 Maple Road, and a 9-hole par 3 golf course and clubhouse located at 475 Maple Road

   E. "Courses": Audubon & Par 3 and Oakwood Golf Course located in Amherst, New York.

F. Fiscal Year: January 1st to December 31st.

G. Golf Courses: Public golf course commonly known as Audubon & Par 3, and Oakwood.

H. Gross Revenue: All revenues and income of any nature derived directly or indirectly from the Courses or from the use or operation thereof, including green fees, gross sales proceeds from the sale of green fees, memberships or annual passes to the Courses, monthly dues from annual pass holders of the Courses, rental fees for golf carts, golf Courses and other rental items, net lesson fees, range balls, merchandise sales, restaurant/concession stand sales, income or interest derived from the Courses bank account, and the proceeds paid for any business interruption, use, occupancy or similar insurance policy claim. Excluded from "Gross Revenue" are any credits or refunds made to customers, guests or patrons; any sums and credits received by Owner for lost or damaged merchandise; any sales taxes, excise taxes, gross receipt taxes, admission taxes, entertainment taxes, amusement taxes, tourist taxes or charges; any proceeds from the sale or other disposition of the Courses, Furniture, Fixtures & Equipment (FF&E), or other capital assets; any property and/or liability insurance proceeds; any proceeds of financing or refinancing of the Courses; and amounts contributed by Owner pursuant to the terms of this Agreement. Gross Revenues shall be determined on an accrual basis and in accordance with generally acceptable accounting principles ("GAAP").

I. Key Personnel: The Director of Golf/General Manager for Audubon & Par 3.

J. Minimum Funds Balance: The minimum dollar amount of the budget for all Operating Expenses for each month for the Courses, as set forth in the Annual Budget and Program approved by the Owner. At no time shall the Minimum Funds Balance be less than fifty thousand dollars ($50,000).

K. Net Operating Income: Gross Revenue from the Courses, minus all operating expenses which are attributable (in accordance with generally accepted accounting principles) to the use and operation of the Courses, including, without limitation: employee costs, operating expenses, Centralized Services, the Base Management Fees, expense reimbursements, all insurance costs related to the operation of the Courses, personal property taxes (limited to an amount allocable to the Courses), and golf cart leases and operating costs; provided, however, such expenses shall not include any charges for amortization, depreciation, capital expenditures, debt service, and State and Federal income taxes, Owner distributions or overhead allocations, or any Incentive Management Fees paid to Antares hereunder.

L. Oakwood: Commonly referred to as Oakwood Golf Course. Currently a 9-hole golf course and Clubhouse located 3575 Tonawanda Creek Road.

M. Operating Expense: All of the costs attributable to the operation of the Courses, including but not limited to: Base Management Fees, Incentive Management Fees, payroll, payroll taxes, benefits, employee related costs, insurance, supplies, marketing materials, services, utilities, merchandise for resale, maintenance and repair, service agreements, and real and personal property taxes levied on the Courses.

N. Working Capital: Funds utilized to pay Operating Expenses of the Courses.

2. **TERM OF AGREEMENT.** The term of this Agreement shall commence upon contract approval by the Town of Amherst, anticipated to be March 8, 2021 ("Effective Date"), and unless terminated as provided for herein, shall expire five (5) years from the Effective Date ("Initial Term") on March 7, 2026, and thereafter shall renew for two successive periods of three (3) years (each such period being an "Extension Term") upon written mutual agreement by Owner and Antares no later than one

Attachment: Town of Amherst - Mgmt. Agreement Exp 3.7.2026 FULLY EXECUTED (RES-2021-689 : Assignment and Assumption Agreement -

hundred twenty (120) days prior to the expiration date of the term immediately preceding the possible Extension Term.

3. **APPOINTMENT OF ANTARES AS MANAGER.** From and after the Effective Date, Owner hereby grants to Antares the right, subject to Owner's input, to supervise, direct and control the management and operation of the Courses for and on the account of Owner. Antares hereby accepts said grant and agrees that it shall supervise and direct the management and operation of the Courses, all pursuant to and in accordance with the terms of this Agreement, and Owner shall reasonably cooperate so as to permit Antares to carry out its duties hereunder. Antares agrees to work cooperatively with Town-appointed personnel and/or committee members on various aspects of management, including but not limited to hiring of key personnel, course fees, and an agronomic plan.

4. **ANTARES GOLF, LLC SERVICES.** Services rendered by Antares to Owner shall be as follows: Subject to the terms of this Agreement, Antares, as an independent contractor, shall have the sole and exclusive right to operate and manage the Courses. Owner and Antares agree that they shall cooperate reasonably with each other to permit Antares to carry out its duties under this Agreement. Antares shall have the responsibility and authority to provide general operational management services for the Courses, including, without limitation, the following services:

A. Employees. All personnel employed at the Courses, shall at all times be employees of AGM which shall solely enjoy supervise, direct and control their activities at the Courses. AGM shall, as an Operating Expense of the Courses, hire, promote, supervise, direct and train all AGM employees at the Courses, fix their compensation and fringe benefits, and, generally, establish and maintain all policies relating to employment and employment benefits. Employees wishing to participate in the benefits program shall adhere to the requirements of the Antares benefits program with respect to required contributions, deductibles and eligibility based upon position classification and employee tenure. AGM employee files shall always be the sole property of AGM. All costs of every kind and nature pertaining to all employees at the Courses arising out of the employer-employee relationship, including, without limitation, salaries, fringe benefits, bonuses, recruitment, background processing, relocation costs, training, performance management, employment-related legal costs, and costs incurred in connection with governmental laws and regulations and insurance rules, including those relating to post employment costs for benefits, health insurance, cobra payments, and any payouts of unused vacation at termination of employment, shall be an Operating Expense paid from the Operating Account (as defined in Paragraph 5 below), and Owner shall reimburse, defend, indemnify and hold harmless Antares from all costs, expenses, liabilities and claims incurred in connection therewith unless said costs, expenses, liabilities, and claims incurred were due to AGM and/or Antares' gross negligence, fraud, or willful misconduct. If an employee of Antares or an affiliate of Antares that is not employed at the Courses is assigned temporarily or on a part-time basis to perform services at the Courses, such employee's salary (including employee benefits and taxes) in proportion to the period of time such employee dedicates to the Courses, and actual expenses incurred traveling to and from the Courses shall be reimbursed to Antares by the Courses. Owner shall have the opportunity to provide input and feedback on hiring of Key Personnel.

Owner shall not, without the written consent of Antares, offer employment to, hire or employ any Antares or AGM employee or individual who has been an Antares or AGM employee at any time during the six (6) month period prior to the proposed offer of employment or hiring by Owner. The obligations under this Paragraph 4A shall remain effective from the Effective Date through a period of one (1) year after the termination of this Agreement. The obligations under this Paragraph 4A shall survive the termination of this Agreement.

Attachment: Town of Amherst - Mgmt. Agreement Exp 3.7.2026 FULLY EXECUTED (RES-2021-689 : Assignment and Assumption Agreement -

B. Inventory – Merchandise and Items for Re-sale. Antares shall, as an Operating Expense of the Courses, obtain merchandise for the pro shop at the Courses, all in accordance with the Annual Budget and Program.

C. Supervision. Antares shall supervise and manage the Courses operations to include golf pro shop, maintenance, membership sales efforts, practice facilities, administration, and other ancillary services (such as pool, tennis and fitness, if applicable) at the Courses.

D. Equipment. Except as set forth in Paragraph 13, Antares shall, in preparation of the Annual Budget and Program as set forth in Paragraph 4H, develop a list of required equipment and a purchase/lease schedule and maintain in good working condition and order the physical plant and equipment at the Courses, including the golf course and all physical structures which are part of the Courses, and all vehicles and other maintenance equipment necessary to the maintenance and operation of the Courses in the normal course of business.

E. Purchasing and Procurement. With respect to the duties and responsibilities of Antares as set forth in this Paragraph 4, Antares shall be considered an agent of the owner only for the procurement, on behalf of the Owner and as an Operating Expense of the Courses, all operating supplies, operating equipment, inventories and services as are deemed necessary by Antares and/or Owner to the normal and ordinary course of operation of the Courses and to operate the Courses in accordance with the Annual Budget and Program. In purchasing operating supplies, operating equipment, inventories (including merchandise to be sold in the golf shop) and services for the Courses, Antares may utilize its purchasing procurement services and/or other group buying techniques involving other Courses managed by Antares, provided that the cost thereof shall be competitive, and all purchases shall comply with the Town's Procurement Policy in effect at the time of purchase. Antares may receive and retain a minor fee or support from vendors and service providers for staff education purposes in exchange for Antares' services in making the benefit of volume purchases available to the Courses or negotiating and implementing the arrangements with such vendors or providers, provided that any fee or compensation paid to Antares is separate and apart from any discounts or pricing off invoice available to the Courses. **Any available discount, rebate, fee or compensation which is directly attributable to the purchases made by Antares for the operation of the Courses shall be remitted directly to the Courses from the vendor.**

F. Consultation. Except as provided in Paragraph 4A pertaining to the assignment by Antares of temporary or part-time Antares personnel, Antares shall, as part of its services hereunder and without additional compensation, make its staff available to Owner upon request for consultation regarding the Courses, including, but not limited to capital improvements or projects which may include modifications to the vertical structures or golf course.

G. Marketing. Antares shall create, direct, and implement an annual golf marketing plan for the Courses as part of the Annual Budget and Program. The marketing plan for the Courses will include a market analysis, a summary of golf programs to include rates, membership structure (if applicable), and strategies for increasing acquisition, engagement and yield with the purpose of achieving the budgeted financial goals and other marketing-related goals for all Courses departments.

Antares shall, as an Operating Expense of the Courses, as part of its standard marketing operation, obtain and manage:

1. Marketing systems, including internet (web site, e-mail, e-commerce); electronic tee sheet program (reservation system, customer database, POS); credit card processing; and branding materials (graphic design, collateral, photography);

Attachment: Town of Amherst - Mgmt. Agreement Exp 3.7.2026 FULLY EXECUTED (RES-2021-689 : Assignment and Assumption Agreement -

2. Customer acquisition programs, including advertising (print, electronic, display); direct marketing (direct mail, broadcast e-mail); promotional offers; and community and vendor partnerships and sponsorships;
3. Customer retention programs, including special events and programs; promotional offers; and membership events and programs;
4. Sales programs, including outing, membership, and event sales management; and
5. Quality assurance programs, including customer surveying; 'secret shopper' on-site visits and telephone sales calls.
6. Web site development, management and hosting (via the Antares or future DBA name of Antares Digital Network – a proprietary web hosting and content management system)
7. Social media and online reputation management (via various third party and proprietary tools.
8. Creative design services (via Antares' in-house design firm)

Certain of these programs in items 6, 7 and 8 above will result in incremental charges that will be designated as "Centralized Services" defined in paragraph 7F below. In accordance with Antares policy, these charges will a) be approved as part of the annual budgeting process and b) without markup and profit to Antares.

Antares shall coordinate and oversee all third-party contractors' work in connection with the production and implementation of these programs. Antares shall also include, as appropriate, the Courses as a participant in Antares-shared marketing programs, including regional and national advertising and promotions, round sharing and referrals through the reservation system, and use of the name and mark 'Managed by Antares Golf.'

Furthermore, the Courses shall be included in Antares' shared marketing database. This database is an aggregated customer database for all participating Courses and other Antares owned marketing efforts (such as World's Largest Golf Outing, Golf Fore Women, Buffalo Agency). Participating Courses can target customers in the database based on a variety of demographic attributes (location, age, behaviors, etc.). To participate, the Courses must "share" its own database with the larger cooperative. All customer information will remain "blind" to other Courses. The Courses may opt Out of the shared marketing database by initialing here _____.

All advertising fees and promotional fees paid by third parties to the Courses shall belong to and constitute Gross Revenues (defined below) of the Courses.

H. Accounting. Antares or AGM, as appropriate under separate agreements, shall pay all vendors of the Courses subject to the availability of funds in the Accounts after payment of the Management Fee and, when applicable in accordance with the terms of the Agreement, the Management Incentive Fee. Antares shall provide separate budgeting, bookkeeping and reporting services to Owner for the Courses. Copies of all books and records shall be kept at the Courses. All books, records, software, data, programs, manuals and the like shall remain the property of Owner and Antares shall be entitled, but not obligated, to keep a copy of said books, records, software, data, programs, manuals and the like for its own records as it desires.

1. Reporting. Antares shall prepare and deliver to Owner, in accordance with Antares standard procedures and format, on an accrual basis and generally accepted accounting principles (GAAP) for the single purpose subsidiary entity AGM, regular monthly and annual financial statements which shall include an operating level balance sheet (bank account balances, inventory, accounts payable, accounts receivable if applicable, accrued payables, gift certificate balances and paid in capital from Owner), a profit and loss statement for the current month and year to date activity, accounts payable listing, general ledger activity and comments

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regarding monthly activity and variances to the Annual Budget. Upon Owner's request, Antares shall provide all accounting data and reports in electronic form. Antares shall not be responsible for the accounting or tax reporting requirements of the Owner, including but not limited to, the depreciation, amortization or addition of assets and equipment, Owner's equity, debt service principal, loan amortization, accounting treatment relating to any full or partially refundable membership initiation fees or deposits, or payment of any invoices which relate to a period prior to the Effective Date. Owner shall provide Antares opening entry data for the balance sheet within 15 days of the Effective Date.

Final monthly operating statements shall be furnished to Owner by the 20th day following the last day of each month, and annual operating statements shall be furnished by the 45th day following the last day of each fiscal year. At Owner's discretion, the annual operating statement shall be audited and prepared by a certified public accountant chosen by Owner, the cost of which shall be an Operating Expense of the Courses. This audit shall be performed at the Courses site, and Antares shall make every reasonable effort to comply with the auditor's requests.

2. Annual Budget and Program. Antares shall prepare and deliver to Owner no later than November 1st of each year (except for the first full or partial fiscal year when Antares shall prepare and deliver to Owner no later than thirty (30) days after the Effective Date) for the following fiscal year: (a) an Annual Operating Budget, including revenues and operating expenses and labor burden (to include rates of pay, incentive or commission structures) for each department of the Courses; a merchandise buying plan for the pro shop; a comparison to the annual operating budget for the immediately preceding year and a projection of anticipated monthly revenues and expenses and cash flows for the Courses for the following fiscal year, including, without limitation, a reasonable contingency and anticipated Working Capital requirements for the Courses for the year; (b) a recommended capital expenditures budget for the next fiscal year; (c) a Policies and Procedures Outline for the Courses, including, without limitation, operating policies, proposed hours of operation, policies related to complimentary golf course and Courses use by Owner's representatives and employees, standards for operations and quality of service standards; (d) an Agronomic Plan including staffing assumptions, chemical and fertilization applications including planned agronomic practices; (e) Marketing Plan as described in Paragraph 4G (collectively, the "Annual Budget and Program"). Antares and Owner shall use their mutual best efforts to agree upon the Annual Budget and Program for the following year on or before fiscal year end. **Owner shall have the final approval and final decision-making authority over the Annual Budget and Program**. Owner shall provide Antares written confirmation of its approval of the Annual Budget and Program within thirty (30) days of Antares' submission of the Annual Budget and Program to Owner. If the Owner does not provide the written approval or rejection within the aforementioned thirty (30) day period, the Annual Budget and Program shall be deemed approved.

Owner acknowledges that the financial and operational performance of the Courses could be affected by circumstances or events beyond Antares and/or AGM's control. Antares shall not be deemed to have made any guarantee, warranty, or representation with the Annual Budget and Program. Under no circumstances shall Owner have any claim or cause of action against Antares in the event that the financial goals, targets, and benchmarks established in the Annual Budget and Program are not met or achieved.

Each party may, from time to time, propose to the other party, in writing, during the course of the year, such changes or amendments to the Annual Budget and

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Program as such party may consider necessary or appropriate, and Antares and Owner shall use their mutual best efforts to act upon such proposal within thirty (30) days after such proposal is made provided any such change or amendment shall be subject to Owner's prior written approval. If the Owner fails to provide written approval or rejection of Antares' proposed changes or amendments to the Annual Budget and Program within thirty (30) days after such proposal is made, said changes shall be deemed approved. Antares shall secure the prior approval of Owner for total expenditures which exceed the total expenditure amount approved in the Annual Budget and Program, however, as necessary, (i) Antares has the ability to allocate funds from individual expense line item to another expense line item within the Annual Budget and Program, and (ii) expenditures which will exceed any line item in the Annual Budget and Program by Ten Thousand Dollars ($10,000), so long as all such expenditures do not exceed in the aggregate the entire Annual Budget and Program, except for expenditures necessary in the event of emergencies for which prompt notice will be given to Owner.

3. Payroll and Benefits. Antares, on behalf of AGM, shall establish, administer, and maintain the payroll procedure and systems for the AGM employees at the Courses and shall be responsible for overseeing the benefits to, and handling the appropriate payroll deductions for, individual employees. Benefits will be limited to vacations, sick leave, medical insurance coverage, and 401(k) plan, as approved by Owner pursuant to the Annual Budget and Program. All employees of the Courses shall be employees of AGM, and AGM shall comply with applicable Federal and State employment laws.

4. Vendor Accounts. Antares shall utilize existing vendor accounts, which are in the name of Owner whenever possible. If necessary, Antares shall coordinate with Owner and appropriate vendors to establish any new vendor accounts with appropriate credit limits applied for on behalf of and in the name of the Owner. Antares and/or AGM shall act as Agent for the Owner with regard to payment of vendors, and Owner accepts full responsibility to pay all vendors who provide goods and/or services to or on behalf of the Courses.

l. IT Services. Antares shall create, direct, and implement IT activities and functionality, in a safe and stable manner, for the Courses. Antares shall, as an Operating Expense of the Courses, obtain and manage:

1. Networking Infrastructure. The hardware and software resources of an entire network that enable network connectivity, communication, operations and management of a computer environment. The entire network infrastructure is interconnected, and can be used for internal communications, external communications or both. The entire network infrastructure may include routers, switches, wireless routers, cables, network operations and management software, operating systems, firewall and network security applications, network connectivity (cable, T-1 Lines, DSL, satellite, wireless, IP addressing, etc.)

2. Telephone Systems. The electronic transmission of voice, fax, or other information between parties including the use of **VoIP (voice over Internet Protocol)** for the delivery of voice communications over the Internet. This includes voice, fax, SMS, and/or voice-messaging applications that are transported via a network.

3. Hardware and Software to include the physical components that make up a computer system and then the software that runs on those physical components.

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4. Virus and Malware Protection software designed to prevent viruses, worms and Trojan horses from getting onto a computer as well as remove any malicious software code that has already infected a computer.

5. Network Intrusion Protection software application that monitors network or system activities for malicious activities. Intrusion detection and prevention systems are primarily focused on identifying possible malicious incidents, logging information about them, and reporting attempts.

6. Network Monitoring is the use of a system that constantly monitors the computer network for slow or failing components and notifies the network administrator (via email, SMS or other alarms) in case of outages.

   i. PCI Compliance. Antares will review the network and work with Owner as part of the start-up and transition process in order to determine necessary steps to achieve compliance with the Payment Card Industry Data Security Standards ("PCI DSS") at the Courses. PCI DSS is a set of requirements designed to ensure that all companies that process, store or transmit credit card information maintain a secure environment with focus on improving payment account security throughout the transaction process.

7. IT Service Reimbursement As part of the Annual Business Plan there shall be a monthly support fee for the remote support of the IT services as referenced. If the issue cannot be resolved remotely and requires Antares corporate based personnel to be onsite at the Courses, Antares IT Services shall be paid an amount equal to One hundred dollars ($100.00) per hour and necessary hardware upgrades/software installation without mark-up or profit to Antares.

Antares shall coordinate and oversee all third-party contractors' work, if cost effective and appropriate, in connection with the implementation of these programs.

J. Operating Expenses and Owner's Remittance.

1. Minimum Funds Balance. At the end of each calendar month, after paying the Operating Expenses of the Courses, beginning with the Management Fees (including Base Management Fees and Incentive Management Fees), and other expenses authorized by Owner, Antares shall remit directly to Owner all amounts (if any) then in the Operating Account (as hereinafter described) in excess of the Minimum Funds Balance (as hereinafter described) by wire transfer or on line transfer to an account as Owner may from time to time designate by written notice to Antares (the "Owner's Remittance").

   As used herein, the Minimum Funds Balance for the Courses shall be defined as the dollar amount of the total budget for all Operating Expenses (as set forth in the Annual Budget and Program) for the month following the current month within the Term of the Agreement. At no time shall the Minimum Funds Balance be less than fifty thousand dollars ($50,000).

2. Operating Expenses. Antares shall pay all Operating Expenses for the Courses from the Operating Account which expenses shall include, but not be limited to, Management Fees (including Base Management Fees, Incentive Management Fees, and Centralized Services), payroll, payroll taxes, benefits, employee related costs, insurance, supplies, marketing materials, services, utilities, maintenance and repair, service agreements, and real and personal property taxes levied on the Courses. Antares will collect from and remit on behalf of Owner, sales, use, value-included and excise taxes on sales and rentals at the Courses. Owner is required

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to ensure that sufficient Working Capital is present in the Operating Account to enable Antares and/or AGM to pay, on behalf of Owner, all Operating Expenses. In all events, Owner is responsible to pay all Operating Expenses in the event Antares or AGM is unable to pay all or any part of the Operating Expenses for any reason. Antares will not pay Federal or State income taxes levied on Owner. Under no circumstances shall Antares or AGM be liable for Federal, State, or local taxes of any kind whatsoever levied against Owner or the Property in relation to Courses ownership, leasing, or operations.

3. Initial Funding. Until such time as the Annual Budget and Program are approved by Owner, Owner gives Antares approval to operate the facility in accordance with this Agreement and in Antares best judgment after consultation with Owner. Owner shall provide initial funding in the amount of fifty thousand dollars ($50,000) for operations prior to approval of the Annual Budget and Program (the "Initial Funding") and shall at all times ensure that the Minimum Funds Balance is maintained in the Operating Account upon contract execution. If operating revenues are insufficient to cover expenses, upon Antares' notifying Owner of such operating revenue shortfall, Owner shall have five (5) days to deposit into the Operating Account the funds necessary to cover such deficits and to restore the Minimum Funds Balance. If Owner does not provide the necessary Working Capital, Antares may, but shall not be responsible to, cover any or all Operating Expenses. Owner shall reimburse Antares for all such amounts paid by Antares plus pay to Antares interest on such amounts paid by Antares within five (5) days of Antares providing notice to Owner that Antares paid such amounts. The interest to be paid shall be the legal judgment rate of interest for the State of Illinois and shall begin as of the date Antares paid such amounts and run until Owner pays Antares in full. Owner further shall be responsible to pay all late fees, interest, and other amounts charged by vendors and other parties who supply labor, services or materials to the Courses and to whom such amounts are owed.

K. Owner's Meeting. Antares shall, periodically, consult with the Owner regarding the Courses and its operations at a reasonable time, date and place designated by Owner.

L. Limitations. Antares shall obtain Owner's prior written approval for (i) contracts in excess of ten thousand dollars ($10,000), (ii) contracts in excess of twelve (12) months in duration unless the same can be terminated upon thirty (30) days written notice without cost or fee to Owner, and (iii) contracts with affiliates of Antares.

M. Assignment of Operations. Forty five (45) days after the applicable termination effective date of this Agreement, Antares and/or AGM, as appropriate, shall assign to Owner or Owner's designee, and Owner or Owner's designee shall accept said assignment of, all operating accounts, vendor accounts, inventory, accounts receivable, and accounts payable, which transfer shall be completed upon Antares and/or AGM receiving all fees due pursuant to this Agreement.

5. ACCOUNTS. Antares shall establish the following business checking accounts for the Courses as appropriate: (a) an "Operating Account" and (b) an "On Site Account," (collectively, the "Accounts"), for use in its management and operation of the Courses. Antares and AGM shall be authorized to access and use the Accounts in compliance with the Annual Budget and Program and the terms of this Agreement, and the Town shall have full viewability into the accounts. All revenues, receipts, and funds deposited into the Accounts from time to time by Owner, Antares or AGM shall be defined as and constitute Working Capital herein. Antares and/or AGM shall cause all revenues and receipts to be deposited into the Deposit Account or, if no Deposit Account exists, into the Operating Account, on a daily basis. Antares and/or AGM shall use the Operating Account to pay all expenses and costs, including but not limited to Operating Expenses, of the Courses and shall transfer funds from the Deposit Account to the Operating Account (if a Deposit Account exists) as necessary to

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pay such expenses and costs. Antares and/or AGM shall maintain in the On-Site Account, if such an account exists, an amount to be used for minor Courses expenses and costs. Nothing in this Agreement shall be construed to require Antares to provide any Working Capital or any sums into any of the Accounts out of its own funds.

Upon cancellation or termination of this Agreement for any reason, Antares and/or AGM shall continue to have the right to access and use the Accounts to satisfy all Operating Expenses, starting with the Base Management Fee and Incentive Management Fee, incurred through the applicable termination effective date, as well as all applicable fees, including any Cancellation Fee, Termination Fee or Sale Termination Fee. Antares and/or AGM's right to access and use the Accounts shall continue for forty-five (45) days after the applicable termination effective date, at which time Antares' and AGM's rights to access and use the Accounts shall be immediately revoked and all funds in the Accounts shall be immediately paid over to Owner. Upon direction from Owner from time to time, Antares shall invest or deposit funds in the Accounts in accordance with Owner's direction provided that the Owner's direction is compliant with the Annual Budget and Program and the terms of this Agreement and does not prohibit or impede Antares' or AGM's ability to pay all Operating Expenses and applicable fees. Antares shall establish, administer and maintain the point of sale and credit card procedures and systems for the depositing of revenues into such Accounts on a daily basis.

6. **INSURANCE.** Antares shall secure and maintain a separate general liability, crime, D & O, and workman's compensation, and disability insurance coverage for the Courses as set forth in **Exhibit C**, provided Antares has continued access and control of the property constituting the Courses. These coverages, limits and deductibles set forth in **Exhibit C** are subject to change each policy year. Antares shall provide written notice to owner in the event of a coverage, limit, and/or deductible change. In no event shall liability insurance be less than $1M per occurrence, $2M aggregate and $5M umbrella coverage.

Owner shall notify Antares in writing if Owner desires to have any property insured through Antares Master Insurance policy. The written notice must be delivered to AGM such that it is received by Antares 30 days prior to the effective date of such coverage. Owner shall be liable for the payment of the premiums of said insurance for so long as Owner shall own the Courses during the term of this Agreement. The coverage shall be terminated upon termination of the Agreement.

Such policies shall name Antares, AGM, Owner, and any applicable third parties as additional insureds under such policies. **The policy shall also state that the coverage provided to Owner shall be primary and non-contributory** All insurance policies required hereunder shall contain a provision requiring the insurer to notify Antares, AGM, Owner and other named insureds at least thirty (30) days in advance of any cancellation or termination of such policy and satisfactory waiver of subrogation provisions. Antares' secured coverages shall not include D & O coverage for Owner. Except as provided for elsewhere in this Paragraph, Antares shall be responsible for securing and maintaining all of the insurance policies required hereunder, provided, however, that Antares shall have no obligation to pay such premiums from its own funds. Antares shall obtain competitive bids for the coverage each year. Antares contemplates that it will secure such insurance as a part of a blanket policy; the premiums attributable to the Courses shall be determined by making a reasonable allocation based on the relation of the amount of insurance carried for the Courses to the total policy amount provided for other Antares Courses in the blanket policy, and the blanket policies shall have coverage in the amounts set forth in **Exhibit C**. These coverages, limits and deductibles are subject to change each policy year. In no event shall liability insurance be less than $1M per occurrence, $2M aggregate and $5M umbrella coverage. Antares shall provide written notice to Owner in the event of a coverage, limit, and/or deductible change. The premiums for any and all such policies shall be paid from the Operating Account to be provided by Owner pursuant to Paragraph 5 hereof and in accordance with the Annual Budget and Program, or by Owner in the event there is insufficient Working Capital available.

7. **COMPENSATION AND FEES.**

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A. Base Management Fee. For its services hereunder, Antares shall be paid a Base Management Fee (the "Base Management Fee") of Seven Thousand Two Hundred and Fifty dollars ($7,250.00) per month. The Base Management Fee is inclusive of a Redevelopment Fee for the redevelopment of Oakwood, Audubon, or other Town golf amenities. The Redevelopment portion shall be negotiated from year to year based on redevelopment occurring at that time. The Base Management Fee shall be payable on the fifth day of each month from the Operating Account. The Base Management Fee shall be a net fee to Antares and shall not include Courses expenditures as provided for in this Paragraph 7 or any other Operating Expenses. Commencing on January 1, 2023, and for each subsequent year and possible Extension Term thereafter, the Base Management Fee shall increase two percent (2%) over the immediately preceding year for the term of the Agreement.

B. Incentive Management Fee. In addition to the Base Management Fee, Antares shall be entitled to earn an Incentive Management Fee for each full Fiscal Year during the Term. For Fiscal Year 2021 and each year thereafter, Antares shall receive an amount calculated as twenty percent (20%) of the positive Net Operating Income (the "Incentive Management Fee"). Notwithstanding anything to the contrary in this Paragraph 7, the Incentive Management Fee earned by Antares in any Fiscal Year shall not exceed fifty percent (50%) of the Base Management Fee paid to Antares for that Fiscal Year, inclusive of the Redevelopment Fee. The Incentive Management Fee earned for a Fiscal Year shall be paid no later than seventy-five (75) days after the Fiscal Year end of the Fiscal Year immediately following the Fiscal Year for which it is calculated and in which it was earned.

All Base Management Fees and Incentive Management Fees during the term shall be paid to Antares from the Operating Account as Operating Expenses. Owner shall pay directly to Antares any fees not payable until after the expiration or termination of this Agreement. Any Base Management Fee not received by the fifth (5th) day of the month, any Incentive Management Fee not received within seventy five (75) days after the Fiscal Year end, and any other sums due under this Agreement and not paid when due (including, but not limited to reimbursement for Centralized Services as defined in Paragraph 7C below and Operating expenses as described in Section 1l) shall be delinquent (hereafter, "Past Due Amount") and subject, without notice or demand, to late fees and interest as follows:

1. Late Fee. A late fee of Five Percent (5%) of the amount due shall be added to and shall become a part of any Past Due Amount.

2. Interest. Any Past Due Amount not received within ten (10) days of its due date shall bear interest from the date payment was due until the date paid in full at the then-current judgment rate of interest of the State of Illinois,

3. Collection Fees and Costs. In the event any Past Due Amount is not received within ten (10) days of its due date, Owner shall pay to Antares or AGM, as appropriate, all costs of collection, including reasonable attorneys' fees.

C. Start-up Travel. For changes requested by Owner, during the initial ninety (90) days of the agreement, Antares' IT, Human Resources, and Regional Support corporate based employees shall be reimbursed for all reasonable travel-related expenses, including airfare, automobile (mileage reimbursement or rental car), lodging, and meals, in connection with the start-up and transition of the Club to Antares. Such reimbursement shall not exceed three thousand dollars ($3,000).

D. Ongoing Travel. After the Start-up Travel period of 90 days - Antares' corporate based employees shall be reimbursed for all reasonable travel-related expenses, including airfare, automobile (mileage reimbursement or rental car), lodging, and meals, in connection with its services hereunder pursuant to the approved line item in the approved

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Annual Budget and Program, provided that any such expenses shall be appropriately allocated among other facilities benefited by such travel. Antares shall provide documentation of all expenses in a form acceptable to Owner. Such reimbursement shall not exceed Nine Thousand Dollars ($9,000) per Fiscal Year.

E. Owner's Review. Antares' services herein shall include management and oversight of the turn-key accounting function as set forth in Paragraph 4H, and upon reasonable notice (which may be verbal) representatives of Owner shall have the right, at any time during normal business hours, to review all of Antares' books and records including the general ledger, accounts payable, income statement, balance sheet, and budget variance reports relating to the Courses including, without limitation, Antares' work papers related to Antares' preparation of operating statements. All expenses related to any such review shall be borne exclusively by Owner unless such review reveals an overpayment of any fees or other amounts in which case Antares shall pay for the review. Owner's exercise of its right of review or to dispute any fee or expense reimbursement claimed by Antares shall not delay payment of the undisputed portion thereof by Owner within the time frames set forth herein. Payment by Owner of a fee or other amount hereunder shall not constitute a waiver of Owner's right to subsequently dispute the amount thereof. If Owner and Antares determine that any portion of the Base Management Fee or any other amount was improperly paid to Antares, Antares shall refund such improperly paid fee together with interest thereon from the time when such fee was paid to Antares. If there is any dispute between the parties regarding whether or not any payments of the Base Management Fee or any other amount were proper, such disputes shall be resolved by a court of competent jurisdiction as set forth in Paragraph 14D.

F. Centralized Services. Antares may cause to be furnished to the Courses certain services ("Centralized Services") which, in Antares' experience, are able to be furnished in a more cost effective and efficient manner on a central or regional basis to golf facilities managed by Antares. The costs to provide such services shall be aggregated and billed to the Courses by Antares rather than via a third-party vendor. Centralized Services shall be approved as part of the Annual Budget and Program. Antares represents that this reimbursement amount shall consist of an amount not exceeding the actual cost of the services without mark-up or profit to Antares including salary and employee benefit costs, cost of equipment used in performing such services, and overhead costs of the home office or any regional or other local office providing such services. A full list of anticipated Centralized Services is included in Appendix D.

8. CAPITAL EXPENDITURES. The cost of all Capital Improvements shall be deemed to include any / item purchased in connection with the operation of the Courses which:

A. Has an economic useful life in excess of one (1) year, and

B. Has a cost in excess of two thousand five hundred dollars ($2,500).

All Capital Expenditures for Capital Improvements shall be the responsibility of Owner and all decisions as to whether or not to undertake any capital improvements projects or otherwise in respect of any capital improvements shall be made by Owner in consultation with Antares.

9. DEFAULT AND REMEDIES.

A. Owner Default. The following shall constitute an event of default ("Event of Default") by Owner under this Agreement:

1. Failure to timely pay Antares any fees, compensation, or reimbursement due Antares pursuant to this Agreement;

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2. Failure to timely provide Initial Funding, Minimum Funds Balance, and/or Working Capital;

3. Failure by Owner to perform any material obligation set out in this Agreement, including, but not limited to, failing to consult with Antares regarding budgets or capital improvements and failing to cooperate in good faith with Antares regarding budgets or capital improvements;

4. Assignment by Owner for the benefit of its creditors, or becoming a party for more than thirty (30) days to any voluntary or involuntary insolvency proceedings or bankruptcy proceedings or reorganization; or

5. Interference or lack of cooperation by Owner which hinders or renders Antares and/or AGM unable to fulfill its obligations under this Agreement as objectively determined by Antares.

B. Antares Default. The following shall constitute an event of default ("Event of Default") by Antares under this Agreement:

1. Failure to maintain the amenities of the Courses in an objectively reasonably good condition, not including failures resulting from abnormal weather conditions, acts of God, or other events or conditions beyond the reasonable control of Antares;

2. Failure to operate the Courses in accordance with the approved Annual Budget and Program;

3. Failure of Antares to perform any material obligations set forth in this Agreement; or

4. Assignment for the benefit of its creditors, or becoming a party for more than thirty (30) days to any voluntary or involuntary insolvency proceedings or bankruptcy proceedings or reorganization.

C. Notice and Cure. When either party to this Agreement believes that the other party (the "Defaulting Party") has committed an Event of Default, it shall give written notice thereof to the Defaulting Party. The written notice must clearly state that it is a notice of default and provide a detailed description of the alleged default. The written notice will not be deemed a proper notice until sufficient detail to clearly and fully inform the Defaulting Party of the alleged default is provided. The Defaulting Party shall have ten (10) calendar days from the date of the proper notice to cure the default unless the default is a non-monetary default and, due to weather, growing conditions or other factors beyond the reasonable control of the Defaulting party, requires more time to cure. In order to qualify for a longer cure period, the Defaulting Party must earnestly begin to cure within thirty (30) calendar days from the date of the notice to cure and diligently pursue such cure. In no event will the Defaulting Party have more than sixty (60) days from the date of the notice in the aggregate to cure a non-monetary default. Notwithstanding anything to the contrary, neither Owner nor Antares shall be entitled to any further notice and cure period for a default in the event (i) that same default occurs more than two (2) times in any twelve (12) month period and (ii) two (2) previous proper notices and cure periods were provided to the Defaulting Party for that same default.

D. Rights upon Default. If the Defaulting Party does not cure the default within the grace period provided in Paragraph 9C above, the party complaining of the default (the "Complaining Party") may terminate this Agreement. To terminate this Agreement for default, the Complaining Party must issue a written notice of termination to the Defaulting Party clearly stating the basis for the termination and the Defaulting Party's failure to cure the alleged default (the "Default Termination Notice"). The termination shall be effective

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thirty (30) days after the date of the Default Termination Notice, provided such notice was properly delivered (the "Default Termination Effective Date"). At any time after the Default Termination Effective Date and within the applicable statute of limitations, the parties may pursue all rights and remedies available in law or equity, including payment of accrued amounts pursuant to Paragraph 7 hereof. Notwithstanding any contrary provisions herein, Antares' rights to recover damages from Owner shall be limited to the sum of (i) accrued and unpaid Base Management Fees and Incentive Management Fees as of the applicable termination effective date, and other amounts due hereunder, including, if applicable, all amounts to fully pay all sums due to third party vendors who provided goods or services to the Courses, along with all accrued late fees, interest, and any attorney's fees and costs incurred in collecting or attempting to collect such unpaid amounts; (ii) actual damages for damages sustained prior to the applicable termination effective date; and (iii) the Cancellation Fee, Termination Fee or Sale Termination Fee, if applicable (defined below) as fixed, agreed liquidated damages and not as a penalty (it being agreed by the parties that Antares' damages would be extremely difficult to measure and that the Cancellation Fee, Termination Fee and Sale Termination Fee have been agreed upon, after negotiations, as a reasonable estimate of such damages). The parties also agree that notwithstanding any contrary provision hereof, Owner's damages shall be limited as provided in Paragraph 14A, if any be proven. In no event will Antares or Owner be subject to any consequential, special, punitive or similar damages, each party hereby waiving any right it may have to seek or claim such damages.

10. TERMINATION AND CANCELLATION.

A. Either party may terminate this Agreement upon the occurrence of an Event of Default by the other party as provided in Paragraph 9D above. In the event Owner terminates this Agreement based on an alleged Event of Default and it is later determined that no Event of Default occurred or that the termination was improper for any reason, the termination for default shall be deemed a termination for Owner's convenience.

B. Cancellation Fee; Default by Owner. In the event Antares terminates this Agreement due to the default of Owner and Antares is not in default, Owner shall pay to Antares, within forty five (45) days of the Default Termination Effective Date, a cancellation fee based on the year in which termination occurs (the "Cancellation Fee"). The Cancellation Fee will be in addition to any Base Management Fees and Incentive Management Fees paid or owing to Antares prior to the Default Termination Effective Date.

The Cancellation Fee shall be calculated as: the amount determined by taking the sum of the Base Management Fee for the prior Fiscal Year, then multiplying that quantity times the remaining years (including fractional years) in the Initial Term of the Agreement, and then multiplying that second quantity times seventy-five percent (75%). The above formula will apply during any Extension Term based upon the remaining years in the Extension Term. Provided, however, the Cancellation Fee pursuant to this Paragraph 10B shall not be less than three months management fees, nor more than one-hundred thousand dollars ($100,000). The parties agree that the Cancellation Fee is not duplicative of any other damages which Antares may recover in the event of a default by Owner.

C. Owner's Reserved Right of Termination for Cause. **Owner shall have the right to terminate the Agreement, without the payment of a Termination Fee or Cancellation Fee,** if, in any two (2) consecutive Fiscal Years (commencing with the 2022 Fiscal Year as the first year in any measurement period), Net Operating Income does not equal or exceed seventy-five percent (75%) of budgeted Net Operating Income for each of the such consecutive Fiscal Years. Owner may exercise such termination right by providing written notice to Antares within thirty (30) calendar days after Owner's receipt of the final determination of Net Operating Income for the second (2nd) of such Fiscal Years (either via the Antares prepared annual operating statement in Paragraph 4H; provided, however,

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that the methodology for calculation of Net Operating Income shall be as defined herein and shall be consistently applied to any Fiscal Years used in comparison). Failure to give such notice within such thirty (30) day period shall be deemed to be a waiver by Owner of its right to terminate based on the Fiscal Years in question, but shall not be deemed to be a waiver of such right with respect to subsequent Fiscal Years. Should Owner elect to terminate this Agreement based on this Paragraph 10C, said termination will be effective thirty (30) calendar days after the date of the written notice, provided such notice was properly delivered.

In the event Owner elects to exercise its right of termination for cause, Antares shall have the right, but not the obligation, to nullify such termination by paying to Owner, within thirty (30) calendar days of Antares' receipt of Owner's termination notice, the aggregate amount by which actual Net Operating Income for the applicable Fiscal Years was less than seventy-five percent (75%) of budgeted Net Operating Income for such Fiscal Years (the "Cure Amount").

For purposes of determining whether seventy-five percent (75%) of budgeted Net Operating Income has been achieved in a Fiscal Year, budgeted Net Operating Income shall be subject to adjustment for force majeure events or expenses that are agreed upon by Owner and Antares not to be within the control of Antares (i.e. utility rates, real estate taxes, irrigation water charges, insurance premiums or extraordinary items).

D. Termination Fee: Owner's Termination for Convenience. After Fiscal Year ending 2023, Owner may terminate the Agreement upon ninety (90) days prior written notice to Antares and payment of a Termination Fee. The termination shall be effective ninety (90) days after the date of the written notice, provided such notice was properly delivered (the "Convenience Termination Effective Date"). The Termination Fee must be paid to Antares within 45 days of the Convenience Termination Effective Date. The Termination Fee will be in addition to any Base Management Fees and Incentive Management Fees paid or owing to Antares prior to the Convenience Termination Effective Date.

The Termination Fee shall be calculated as: the amount determined by taking the sum of the Base Management Fee for the prior Fiscal Year, then multiplying that quantity times the remaining years (including fractional years) in the Initial Term of the Agreement, and then multiplying that second quantity times seventy-five percent (75%). The above formula will apply during any Extension Term based upon the remaining years in the Extension Term. Provided, however, the Termination Fee pursuant to this Paragraph 10D shall not be less than three months management fees, and no greater than one-hundred thousand dollars ($100,000).

E. Sale Termination Fee: Sale of Courses. In the event of a sale or transfer of the Courses to any third-party, Owner shall have the unilateral right to terminate this Agreement at any time on ninety (90) days prior written notice, subject to the provisions set forth below (the "Sale Termination Effective Date"). In the event of such unilateral termination due to the sale or transfer of the Courses and Antares not being in default under this Agreement, Antares shall continue to manage the Courses until the sale of the Courses as evidenced by a transfer of title. Upon sale of the Courses, Antares shall be paid a Sale Termination Fee equal to seventy-five percent (75%) of remaining Base Management Fees in the Initial Term of the Agreement. Provided, however, the Termination Fee pursuant to this paragraph 10E shall not be less than three months management fees, and no greater than one-hundred thousand dollars ($100,000). The above formula will apply during any Extension Term based upon the remaining years in the Extension Term. Sale Termination Fee will be in addition to any Base Management Fees and Incentive Management Fees paid or owing to Antares prior to or as of the date of sale of Courses. However, if Antares is retained by the new owner under similar terms and conditions of this Agreement acceptable to Antares, no Sale Termination Fee shall be paid to Antares.

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F. No Waiver. By terminating this Agreement in accordance with this Paragraph 10, neither party shall be deemed to have waived any action it might have, in law or equity, by reason of a breach of or default under this Agreement.

G. Proprietary Material. Upon termination or cancellation of this Agreement, for any reason or under any circumstances, Antares' (i) proprietary software and computer programs relating to accounting, operations, marketing, and forecasting, (ii) operations and employee training materials and manuals of Antares and (iii) the information and processes related to and used by Antares in the marketing and agronomic plan shall remain the sole property of Antares and shall be removed by Antares upon termination of this Agreement. Additionally, any actual or implied association of the Courses or Facility with Antares, Antares Golf, LLC, or future DBA name of Antares, shall cease upon termination.

H. Transition. Provided that Antares and AGM have received, in full, payment of all fees due to them pursuant to this Agreement, including but not limited to all Base Management Fees, Incentive Management Fees, Cancellation Fee, Termination Fee and/or Sale Termination Fee, Antares and AGM shall, without additional payment by the Owner, cooperate beyond the applicable termination effective date with Owner and any replacement manager for a reasonable period after the applicable termination effective date (all parties hereto agree that a reasonable period is not less than two (2) weeks and not more than four (4) weeks) to facilitate the orderly transition of the management of the Courses.

11. **USE OF COURSES.** During the term of this Agreement, the Courses shall be a private or semi-private facility unless otherwise provided and agreed to in the Annual Budget and Program.

12. **LIQUOR LICENSE.** Subject to any relevant New York Alcoholic Beverage Control ("ABC") licensing requirements, Owner, or AGM shall maintain at all times (except for the application period) a valid liquor license on the premises, and all of the parties hereto shall comply with all relevant ABC laws regarding the use of such license.

13. **FORCE MAJEURE; CONDEMNATION; FIRE AND OTHER CASUALTY.** If all or any portion of the Courses is destroyed by fire, flood, high winds, or other casualty, or taken by eminent domain, such damage, destruction, or condemnation shall not be a cause for termination hereunder by either party unless such damage or destruction results in the whole or a substantial part of the Courses being unusable for its intended purpose for a period of one year or longer or, in the case of such total or substantial damage or destruction, Owner shall decide not to (i) cause the Borrower, while the Borrower is the owner of the Courses, to rebuild the damaged portion of the Courses, or (ii) if Owner is still the appointed Owner, rebuild the damaged portion of the Courses, then in any such event, this Agreement shall terminate on written notice from Owner to Antares of such termination and neither party shall have any further rights or obligations hereunder. Notwithstanding the foregoing, if:

A. As a result of any damage or destruction to, or condemnation of, any part of the Courses, or

B. Otherwise due to causes beyond Antares' reasonable control (and so long as Antares uses all reasonable diligence to cure such inability), Antares shall be unable to perform its obligations hereunder in respect of the operation of the Courses, Owner and Antares shall use their mutual best efforts to agree upon an amendment to the Annual Budget and Program, including, without limitation, the working capital provisions thereof, to allow payment of necessary Courses expenses (including, without limitation, Courses employee expenses) until such damage or destruction is repaired or such inability is cured and, if the parties are unable to agree on such an amendment within twenty (20) business days after Antares shall have given Owner notice of the occurrence of such event, Antares shall have the right to terminate this Agreement by notice to Owner of such termination and neither party shall have any further rights or obligations hereunder. In the event of a force majeure, there is no Cancellation Fee or Termination Fee due to Antares.

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C. State of Emergency: In the event that there is a state of emergency declared by any governmental agency which impacts the operations of The Audubon Courses, including but not limited to, the Federal Government, State of Connecticut, county, or local municipality, which results in the suspension of operations or the prohibition of use of the premises due to a state of emergency, then the obligations of the parties to this Agreement shall be suspended with no penalty and the monthly Management Fee shall be revised to reflect the reduction in scope of services.

14. INDEMNIFICATION AND LIABILITY.

A. Indemnity:

1. To the fullest extent permitted by law, Antares will defend, indemnify and hold Owner harmless from and against any claims, losses, expenses, costs, suits, actions, proceedings, demands or liabilities that are asserted against, or sustained or incurred by Owner, including without limitation, court costs and reasonable attorneys' fees, incurred by Owner because of Antares' breach of this Agreement or because of legal actions or regulatory violations arising out of Antares' activities undertaken under this Agreement as well as all other matter arising out of Antares' activities undertaken under this Agreement.

2. To the fullest extent permitted by law, Owner will defend, indemnify, and hold Antares and/or AGM harmless, from and against any and all liability, loss, cost, damage, penalties, claims, causes of action, proceedings and expense, including without limitation, court costs and reasonable attorneys' fees, incurred by Antares and/or AGM or imposed on Antares or AGM - a) by reason of the Owner's negligence related to the performance of Owner's duties under this Agreement; b) related to any claims by any employee, independent contractor, vendor, party to a contract for services to Owner, investor, customer, patron, or resident for actions related to the Courses that arose prior to the Effective Date of this Agreement, c) related to any environmental claims pertaining to the Courses arising out of Owner's negligence or as identified in Exhibit E, and d)related to late payments or lack of payments to vendors or other payees who supply labor, services or materials to the Courses who have not been timely paid or paid at all for reasons outside of Antares' control resulting in late fees or any other penalties against Antares or AGM.

3. 3. Recovery upon an indemnity contained in this Agreement shall be reduced dollar-for-dollar by any applicable insurance collected by the party demanding indemnification. The scope of all indemnities contained in this Agreement includes any and all costs and expenses, including reasonable attorney fees and costs, properly incurred in connection with any proceedings to defend any indemnified claim, or to enforce the indemnity, or both. All indemnification obligations under this Agreement shall survive the expiration or any termination of this Agreement.

B. It is expressly understood and agreed that Owner is solely responsible for the payment of all fees, expenses, indemnities and reimbursements due hereunder or otherwise in connection with services performed by Antares and/or AGM pertaining to the Courses, including management and payment of employees, and neither Antares nor AGM shall have any liability or responsibility of any kind whatsoever with respect thereto or with respect to any other amounts payable to, or in respect of, Antares or AGM in connection with this engagement or any other services performed by Antares and/or AGM. All Operating Expenses, including but not limited to employee-related costs (e.g. salaries, wages, payroll taxes, insurance premiums, 401k funding, payments under COBRA, FMLA, employment-related administrative and legal claims or lawsuits), insurance premiums,

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taxes, vendor invoices, and all other costs associated with the Courses are solely the responsibility of Owner, whether incurred before, during, or after the term of this Agreement; and Owner shall fully indemnify Antares for all losses, including legal fees and costs, in accordance with the terms of Paragraph 14A above.

C. Legal Actions. Legal counsel for Antares and Owner shall cooperate in the defense or prosecution of any action pertaining to the Courses. Antares shall not institute or defend any legal action or retain counsel affecting the Courses without Owner's consent. Antares shall forward all legal notices or notices of a financial nature which relate to the Courses, to Owner at the address listed under Paragraph 16J. Antares shall advise and assist Owner in instituting or defending, as the case may be, in the name of Courses, Owner, and/or Antares, but in any event expressly as a Courses expense, all actions arising out of the operation of the Courses, and any and all legal actions or proceedings to collect charges, third party payments, rents, or other incomes for Antares, Owner, or the Courses, or to lawfully evict or dispossess tenants or other persons in possession there under, or to lawfully cancel, modify, or terminate any lease, license, or concession agreement in the event of default thereof, or to defend any action brought against Owner, unless otherwise directed by the Owner. Antares shall assist Owner to take the acts necessary to protect or litigate to a final decision in any appropriate court or forum, as a Courses expense, and any violation, order, rule, or regulation affecting the Courses.

D. Choice of Law and Venue. Whereas Antares' principal place of business is in the Commonwealth of Virginia, and the Courses are located in New York, the parties agree that this Agreement shall be governed by and construed in accordance with the laws of New York. The parties also agree that any dispute between them in any way arising out of or pertaining to this Agreement shall be exclusively brought in the Supreme Court for Erie County, New York or in the United States District Court for the Western District of New York, The parties agree to submit to the jurisdiction of those courts.

E. Liability of Antares and Owner.

1. Other persons. Antares shall not be responsible for the acts or omissions of any of Owner's other contractors or any subcontractor, or any employees of Owner, or any persons representing Owner performing any services for or in connection with the Courses, or any consultants or other persons engaged by Owner with respect thereto, unless and only to the extent Antares is supervising, or should be supervising the same, and Antares shall be responsible only for the performance of Antares' obligations hereunder in accordance with the terms hereof.

15. CONFIDENTIALITY.

A. Work performed by Antares and its agents or assigns pursuant to this Agreement (including, without limitation, any correspondence, analysis, reports and related materials prepared), constitutes confidential and privileged work product, and Antares' communications thereon with Owner or their respective employees or counsel or other professionals retained by Owner (each an "Owner Person") constitute confidential and privileged communications which are intended to have the full protections of the work product doctrine, proprietary business privilege, attorney-client privilege and all other applicable privileges. Accordingly, Antares agrees that it will not provide such oral or written reports or other work product or disclose such communications to any person other than Owner, except as may be otherwise requested by Owner.

B. Antares agrees that all information, not publicly available, which is received by it from Owner in connection with this engagement, will be treated confidentially by Antares, except as required by process of law or as otherwise requested by Owner. In the event Antares is required to disclose any of such information pursuant to process of law, Antares agrees to

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provide Owner with prompt notice so that Owner may seek appropriate remedies, including a protective order. In any event, Antares and its agents, representatives, and employees will furnish only that portion of the information that is legally required to be disclosed.

C. Owner shall retain exclusive rights to ownership of all work output hereunder. Work output includes reports issued pursuant to this Agreement, but excludes, among other things, all working papers of Antares, any correspondence, memoranda, calculations, processes, notes, etc. that Antares may have used in the development of the reports above or such working papers or in the performance of any work covered by an authorization under this Agreement.

16. GENERAL PROVISIONS.

A. Entire Agreement. This Agreement represents the entire understanding and agreement between the parties with respect to the subject matter hereof, and supersedes all other negotiations, understandings, and representations (if any) made by and between such parties.

B. Written Amendments. The provisions of this Agreement may only be amended or supplemented in a writing signed by both parties.

C. Further Amendments. The parties hereby agree from time to time to execute and deliver such further instruments and documents, and do all such other acts and things, which may be convenient or necessary to more effectively and completely, carry out the intentions of the Agreement.

D. Compliance with Laws. Antares shall, at all times, operate, use, and conduct the business of the Courses in a lawful manner and in full compliance with all applicable governmental laws, ordinances, rules and regulations, and maintain all licenses and permits relating to the Courses, with Owner's full cooperation, in full force and effect and cooperate and endeavor to obtain all licenses and permits first required after the commencement of the term of this Agreement required in connection with the management, use, and operation of the Courses.

E. Environmental Laws. Except as related to or arising out of Exhibit E attached hereto, Owner represents to Antares that no hazardous materials have been released into the environment, or have been deposited, spilled, discharged, placed or disposed of at or within the Courses in violation of any Environmental Law (as defined below), nor except as expressly disclosed and described by Owner to Antares has the Courses been used at any time by any person as a landfill or a disposal site for hazardous materials or for garbage, waste or refuse of any kind. Owner also represents, to the best of Owner's knowledge, that there are no underground storage tanks of any nature on the Courses (fuel, propane, gas etc.). Owner does not have any knowledge of asbestos-containing products within the Courses.

For the purposes of this Agreement, "Environmental Law" shall mean: All applicable Federal, State, county or local (or other political subdivision thereof) laws, statutes, codes, acts, ordinances, orders, rules, regulations, directives, judgments, decrees, injunctions, directions, permits, licenses, authorizations, decisions and determinations issued, adopted or enacted by any judicial, legislative, regulatory, administrative or executive body of any governmental or quasi-governmental authority, department, branch, division, agency or entity exercising functions of or pertaining to any government having jurisdiction affecting the Courses, or any licenses and permits of any governmental authorities, from time to time applicable to the Courses or any part thereof regarding hazardous materials.

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F. Binding. All of the terms and provisions of this Agreement shall be binding and inure to the benefit of the parties and their respective permitted successors and assigns. This Agreement is solely for the benefit of the parties hereto and not for the benefit of any third party.

G. Assignment. Antares may assign or transfer this Agreement and/or may delegate its duties and obligations under this Agreement to Antares' Subsidiary.

H. Subordination and Estoppel. This Agreement shall be subject and subordinate at all times to the lien of any mortgage (or any such instrument providing a security interest) which may now exist or may hereafter be executed in any amount for which the Courses or any portion thereof is specified as security. Owner agrees to use its commercially reasonable best efforts to obtain from Lender a non-disturbance agreement in Lender's standard form reasonably acceptable to Antares.

Within ten (10) days of any such written request which Owner may make from time to time, Antares shall execute and deliver to Owner a statement in a form reasonably satisfactory to Owner certifying that this Agreement is unmodified and in full force and effect (or if there have been modifications hereto, that this Agreement is in full force and effect, as modified, and stating the date and nature of such modification), the date to which the Base Management Fee and Incentive Management Fee have been paid, the fact that there are no current defaults under this Agreement by Owner or Antares, except as specified in Antares' statement, and such other matters reasonably requested by Owner.

I. Right to Pledge. Any provision herein contained to the contrary notwithstanding, Owner shall have the right to assign all or any portion of its right, title and interest in, to and under this Agreement and in and to the Courses, by way of mortgage or security agreement, in order to secure the repayment of construction and/or permanent loans made for the purpose of financing all or any portion of its costs relating to the acquisition of the Courses and the construction of the golf course, clubhouse and improvements thereon, as well as loans for working capital provided that the Owner shall, upon execution of any such mortgage or security agreement, promptly deliver a true copy of such mortgage or security agreement to Antares. The mortgagee or other secured party, and their respective assigns, may enforce such mortgage or security agreement and may acquire title to the Courses and Owner's interest under this Agreement in any lawful way, and may take possession of the encumbered assets, or cause any person having the relationship of an independent contractor to the mortgagee or secured party to take possession of the encumbered assets, and upon foreclosure thereof (or in the event of any sale thereof in lieu of foreclosure) may without further consent of Antares sell and assign the Courses, free and clear of this Agreement. The mortgagee or secured party or its assigns and any independent contractor to the mortgagee or secured party shall be liable to perform the obligations of Owner hereunder only during the period such person has title to the Courses and Owner's interest hereunder and this Agreement is in effect but in no event shall such person have any responsibility or liability for the payment of the Termination Fee or the Cancellation Fee.

J. Notices. All notices, requests, consents and other communications required or permitted to be given under this Agreement shall be in writing; shall be given only by hand delivery during normal business hours, first-class registered or certified mail, postage prepaid, return receipt requested, or overnight delivery service with FedEx or United Parcel Service; and shall be addressed to the parties in the manner set forth below. All notices shall be conclusively deemed to have been properly delivered, (i) upon receipt when hand delivered successfully during normal business hours, (ii) upon the third (3rd) business day after delivery if the notice has been deposited in an authorized receptacle of the United States Postal Service as first-class, registered or certified mail, postage prepaid, with a return receipt requested (provided that the sender has in its possession the return receipt to prove actual delivery or to prove an address change occurred without proper notice), or (ii) one

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(1) business day after the notice has been deposited with either FedEx or United Parcel Service to be delivered by overnight delivery (provided that the sending party receives a confirmation of actual delivery from the courier).

In the case of Antares:

Antares Golf, LLC.
12700 Sunrise Valley Drive, Suite 300
Reston, VA 20191
Attention: Legal Department
Telephone: 703.761.1444
Facsimile: 703.893.3504

With copy to:

Troon Golf, LLC
15044 N. Scottsdale Road, Suite 300
Scottsdale, AZ 85254
Attn: Jeff Hansen, SVP & Associate General Counsel
Telephone: 480-477-0439
Email: jhansen@troon.com

In the case of Owner:

Town of Amherst
Attn: Director of Finance
5583 Main Street
Williamsville, NY 14221
Telephone: (716) 631-7073Facsimile: N/A

With copy to:

Town of Amherst
Attn: Town Attorney
5583 Main Street
Williamsville, NY 14221
Telephone: (716) 631-7030
Facsimile:

or to such other address as either party may designate by written notice complying with the terms of this Paragraph.

K. Headings. The headings contained in this Agreement are for convenience of reference only, and shall not limit or otherwise affect in any way the meaning or interpretation of this Agreement.

L. Invalidity. If any provision of this Agreement or any other agreement entered into pursuant hereto is contrary to, prohibited by or deemed invalid or unenforceable under applicable law or regulation, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited, invalid or unenforceable, but the remainder of such provision, and this Agreement shall not be invalidated or rendered unenforceable thereby, and shall be given full force and effect so far as possible.

M. No Waiver. The failure or delay of either party at any time to require performance by the other party of any provision of this Agreement shall not affect the right of such party to subsequently require performance of that provision or to exercise any right, power or

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remedy hereunder. Waiver by either party of a breach of any provision of this Agreement shall not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right, power or remedy under this Agreement.

N. No Partnership. Nothing in this Agreement shall be construed to create a partnership or joint venture between the parties. The parties acknowledge that the relationship of Antares to Owner is that of an independent contractor.

O. No Exclusive Remedy. No remedy herein conferred upon either party is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

P. Authority. Each party hereby represents to the other party that it has the right, power, authority, and financial ability to enter into this Agreement and to perform its obligations under this Agreement, and that it is not restricted by contract or otherwise from entering into and performing this Agreement.

Q. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, collectively and separately, shall constitute on and the same agreement.

(SIGNATURE PAGE FOLLOWS)

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IN WITNESS WHEREOF, the parties executed this Agreement as of the date first above written.

TOWN OF AMHERST

By: _____ Date: 3/25/21
Brian J. Kulpa, Supervisor

ANTARES GOLF, LLC

By: _____ Date: 3/24/21
Michael Cutler, Senior Vice President

By: _____ Date: 3/24/21
R. Alexander Elmore, President

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EXHIBIT A
TOWN OF AMHERST RFQ #2020-2

Attachment: Town of Amherst - Mgmt. Agreement Exp 3.7.2026 FULLY EXECUTED (RES-2021-689 : Assignment and Assumption Agreement -

EXHIBIT B
ANTARES RESPONSE TO RFQ

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EXHIBIT C
INSURANCE SCHEDULE

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EXHIBIT D
CENTRALIZED SERVICES

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EXHIBIT E
PHASE II ENVIRONMENTAL REPORT

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24628 **RESOLUTION 2021-690** **WITHDRAWN**

Princeton Amherst Preservation HDFC - PILOT Agreement - CRS #2819

AGENDA ITEM - AUGUST 9, 2021

TO: **Town Board**

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

DATE: **August 4, 2021**

RE: **Princeton Amherst Preservation Housing Development Fund Company, Inc. and Princeton Amherst Preservation, LP - Request for a PILOT Agreement pursuant to Section 577 of Article 11 of Private Housing Fund - CRS #2819**

Kindly adopt the following resolution with respect to the above matter:

WHEREAS, Princeton Amherst Preservation Housing Development Fund Company, Inc., ("HDFC") a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York, 14228, and Princeton Amherst Preservation, L.P., ("Partnership") a New York Limited Partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York, 14228 have requested that the Town of Amherst Town Board enter into a PILOT Agreement for 304 affordable living apartments ("Project") located at 165 Princeton Road, Amherst, New York, 14226, bearing SBL #79.24-1-1 (the "Property"); and

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is, or will become, the beneficial and equitable owner of an affordable housing project consisting of approximately 304 affordable living apartments located in the Town of Amherst, Erie County, New York, located at 165 Princeton Road; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article XI of the Private Housing Finance Law of the State of New York (the "PHFL"); and

WHEREAS, the HDFC is the general partner of the Partnership; and

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low-income; and

WHEREAS, the Project is intended to be **affordable to low** income households, and

affordability of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town, the County and the School District for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town recognizes that the Partnership and the HDFC may enter into an educational contribution agreement or similar type of agreement with the School District whereby the Partnership and the HDFC provide financial support directly to the School District, and upon the execution of such an agreement the Town, per the direction of the School District, agrees to reduce the payments in lieu of property taxes to be otherwise provided to the School District under this Agreement as so provided for herein.

WHEREAS, HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of twenty (20) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office, a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Amherst Central School District.

THEREFORE, BE IT RESOLVED, the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions as set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT Agreement between Princeton Amherst Preservation Housing Development Fund Company, Inc. and Princeton Amherst Preservation, LP, the Town of Amherst, Erie County, and the Amherst Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;

2. The PILOT Agreement is subject to review and approval by the Amherst Central School District; and

3. Pending successful completion of the contract routing system.

SJS:lcg
c: Kathy Cooper, Deputy Town Clerk
(w/attachment, **AGENDA ITEM : AUGUST 9, 2021)**
David Marrano, Town Assessor (w/attachment)

FINANCIAL IMPACT:

PILOT

RESULT:	**WITHDRAWN**

Attachment: PILOT-Princeton Housing Assoc (4837-4931-3012 2) (RES-2021-690 : Princeton Amherst Preservation HDFC - PILOT Agreement -

AGREEMENT FOR PAYMENT IN LIEU OF TAXES

Between and Among

PRINCETON AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.
AND
PRINCETON AMHERST PRESERVATION, L.P.

And

TOWN OF AMHERST, NEW YORK
COUNTY OF ERIE, NEW YORK
AND
AMHERST CENTRAL SCHOOL DISTRCT, NEW YORK

THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES (this "***Agreement***") is made and entered into as of _____ ___, 2021 by and between **PRINCETON AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.,** a New York not-for-profit corporation organized pursuant to Article XI of the Private Housing Finance Law with an address of 200 John James Audubon Parkway, Suite 300, Amherst, NY 14228 (the "***HDFC***"), and **PRINCETON AMHERST PRESERVATION, L.P.,** a New York limited partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, NY 14228 (the "***Partnership***"), the **TOWN OF AMHERST**, a municipal corporation with an address of 5583 Main Street, Williamsville, New York 14221 (the "***Town***"), the **COUNTY OF ERIE**, a municipal corporation with an address of 95 Franklin Street, Buffalo, New York 14202 (the "***County***") and the **AMHERST CENTRAL SCHOOL DISTRICT**, a school district with an address of 105 Casey Road, East Amherst, New York 14051 (the "***School District***"). The HDFC, Partnership, Town, County, and School District are each a "***Party***" and are collectively referred to herein as the "***Parties***".

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is or will become the beneficial and equitable owner, of an affordable housing project consisting of approximately 304 affordable living apartments (the "***Project***") located in the Town of Amherst, Erie County, New York, located at 165 Princeton Road (Tax Map No. 79.24-1-1) (the "***Property***"); and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article XI of the Private Housing Finance Law of the State of New York (the "PHFL"); and

WHEREAS, the HDFC is the general partner of the Partnership; and

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low-income; and

WHEREAS, the Project is intended to be affordable to low income households, and **affordability** of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town, the County and the School District for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town, by Resolution Number _____ of the Town Board, adopted on _____, approved such an exemption and authorized this Agreement to be executed on behalf of the Town by the Town Supervisor; and

WHEREAS, the County, by Resolution Number _____ of the Erie County Legislature, adopted on _____ __, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the County; and

WHEREAS, the School District, by Resolution Number _____ of the School Board, adopted on _____ ____, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the School District; and

WHEREAS, the Town recognizes that the Partnership and the HDFC may enter into an educational contribution agreement or similar type of agreement with the School District whereby the Partnership and the HDFC provide financial support directly to the School District, and upon the execution of such an agreement the Town, per the direction of the School District, agrees to reduce the payments in lieu of property taxes to be otherwise provided to the School District under this Agreement as so provided for herein.

NOW THEREFORE, in exchange for the mutual commitments set forth herein and other good and valuable consideration, the Parties agree as follows:

1. **Tax Exemption.** The Parties agree that the Project qualifies for a real property tax exemption pursuant to section 577 of the PHFL and the Town hereby exempts from local and municipal taxes, including school taxes, other than assessments for local improvements, one hundred percent (100%) of the value of the Project and the Property, including both land and improvements. "***Local and Municipal Taxes***" shall mean any and all real estate taxes levied by the County, the Town, the School District (collectively, the "***Taxing Jurisdictions***"). The Parties understand that the exemption extended pursuant to section 577 of the PHFL and this Agreement does not include exemption from special assessments, special ad valorem levies, improvement district charges or similar tax equivalents. This Agreement shall not limit or restrict the HDFC's or the Partnership's right to apply for or obtain any other tax exemption to which it might be entitled upon the expiration of this Agreement.

2. **Obligation of the Partnership, for itself and the HDFC, to Make**

Attachment: PILOT-Princeton Housing Assoc (4837-4931-3012 2) (RES-2021-690 : Princeton Amherst Preservation HDFC - PILOT Agreement -

Payments in Lieu of Taxes. So long as the aforementioned exemption remains in place, the Partnership, for itself and the HDFC, shall make annual payments in lieu of taxes ("***PILOT Payments***") to the Town in the amounts set forth in ***Schedule "A"***, as attached hereto and made a part hereof, in satisfaction of all real property taxes. The annual PILOT Payments shall commence upon the Town's next taxable status date (the "***Commencement Date***"). The Parties agree that no refund of any real property taxes levied upon the Property prior to the Commencement Date shall be sought or claimed on account of the exemption made effective pursuant to this Agreement.

3. **Requirements of the Partnership and the HDFC.**

a. The tax exemption provided by this Agreement will continue for a term of twenty (20) years, unless sooner terminated by law or mutual agreement upon prior written consent of the Parties, provided that the Partnership and the HDFC continue to operate the Project and the Property as low income housing in conformance with Article XI of the PHFL and for so long as a municipality-aided, state-aided and/or federally-aided mortgage is outstanding on the Project.

b. The HDFC and the Partnership shall provide the Town such information concerning their operations and the operations of the Project in form and substance as may from time to time be reasonably requested. Such information shall include, but shall not be limited to, General Certificates of the HDFC and the Partnership and the annual financial statements of the HDFC and the Partnership from the calendar year immediately preceding the fiscal year in which payments are due.

c. The HDFC and the Partnership shall permit the Comptroller of the Town to audit their books and records within fourteen (14) days after receiving a written request from the Town.

4. **Taxing Authorities and Amounts**.

a. The Partnership, for itself and the HDFC, shall make annual PILOT Payments as follows:

i. A fixed annual PILOT Payment to the Town in the amounts as stated in ***Schedule "A"***, as attached hereto and made a part hereof, in satisfaction of all real property taxes.

ii. In addition to the payments set forth in Schedule A, the Partnership, for itself and the HDFC, will be responsible for paying all special assessments, special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

iii. At the expiration of the twenty (20) year term, this Agreement will cease to have any effect on the real property taxes due with respect to the Project and the Property will be taxed in accordance with applicable law unless otherwise extended or modified pursuant to a separate written agreement

b. The PILOT Payments shall be payable annually. Each annual PILOT Payment shall be made on or before January 31st of each year and shall be delivered to the Town Clerk's Office, 5583 Main Street, Williamsville, New York 14221.

Attachment: PILOT-Princeton Housing Assoc (4837-4931-3012 2) (RES-2021-690 : Princeton Amherst Preservation HDFC - PILOT Agreement -

c. The Partnership shall prepare, or cause to be prepared, all documents and forms required under this Agreement.

d. Notwithstanding the Partnership's and the HDFC's obligations under this Agreement, and the Town's obligations as so described within this Agreement, should the Partnership and the HDFC enter into an educational contribution or other similar type agreement whereby the Partnership and the HDFC provide financial support directly to the School District (the "Education Contribution"), upon (i) submission of such agreement to the Town, and (ii) written notice of same to be provided to the Town specifically describing the terms and the amount of the Education Contribution, the PILOT Payment obligations thereafter to be made to the School District under this Agreement and Schedule A shall be reduced by an amount equal to the Education Contribution to be provided pursuant to such educational contribution or other similar type agreement, provided that such reduction shall not exceed the School District's respective share of the PILOT Payment as set forth in Schedule A. Such reduction shall become effective upon the Town's next taxable status date after notice of at least (30) days is provided by the School District.

5. **Effect of Fulfillment of the Requirement.** Once having paid the amounts required by this Agreement when due, the Partnership and the HDFC shall not be required to pay any real property taxes for which such PILOT Payments have been made, except special assessments, special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

6. **Defaults in Payment in Lieu of Taxes.** In the event the Partnership, for itself and the HDFC, fails to make PILOT Payments as herein required when due, the amount or amounts not so paid shall be a lien on the Project and the Property in the same manner that delinquent real property taxes would be and continue as an obligation of the Partnership and the HDFC until fully paid. In addition, the Partnership, for itself and the HDFC, shall pay the appropriate taxing authority's or authorities' interest and penalties on the unpaid amount or amounts accruing at the same times and at the interest rates as if such amounts were delinquent real property taxes. In addition to any other remedies available to them for the collection of delinquent real property taxes, including, without limitation, in rem proceedings, the Town, the County and the School District may exercise any other remedies available, and such remedies shall be cumulative and the exercise of any remedy shall not be an action of remedies under law.

7. **Events of Default and Termination of Tax Exemption.**

a. An event of default (***"Event of Default"***) shall be defined as (l) failure of the Partnership, for itself and the HDFC, to make any payment required under this Agreement when due, (2) the Partnership's and/or HDFC's failure to provide any notice as required by this Agreement to the Town and/or the Taxing Jurisdictions, (3) the HDFC's failure to qualify, or continue to qualify, for a real property tax exemption for the Project in accordance with section 577 of the PHFL, or (4) the transfer of title or beneficial ownership of any portion of the Project or the Property, without the consent of the Town.

b. Upon the occurrence of an Event of Default the Partnership and/or HDFC shall have ten (10) days after the receipt of Notice from the Town regarding such default to cure such default. In the event the Partnership and/or HDFC has not cured such default or defaults within such ten (10) day time period, then the exemption from

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real property taxes described herein shall be deemed to have been terminated as of the taxable status date of the Town's immediately preceding fiscal year.

c. Upon a termination of the exemption from real property taxes due to an Event of Default, the Partnership and the HDFC shall be liable for real property taxes on a pro-rata basis from and after the Town's taxable status date immediately preceding the Event of Default and the statutory lien applicable to such real property taxes shall be deemed in effect as of the lien date normally applicable to such year's real property taxes, unless a separate basis for a real property tax exemption then exists for the benefit of the HDFC.

d. Upon an Event of Default, the Partnership and HDFC shall, upon demand, pay to the Town all reasonable attorney's fees and related costs incurred in securing adherence to the terms of this Agreement.

e. Any termination of the exemption from real property taxes due to an Event of Default shall not void the liability of the HDFC or the Partnership for any unpaid PILOT Payments required by this Agreement prior to such termination.

8. **Waiver.** No waiver or modification of this Agreement shall be valid unless in writing and duly executed by the Parties, and no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation arising out of or affecting this Agreement, or the rights or obligations of any Party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. No failure or delay on the part of the Town to exercise any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

9. **Modification**. Neither this Agreement nor any provision hereof may be amended, modified, waived, discharged or terminated, except by an instrument in writing duly executed and agreed to by the Parties hereto.

10. **Counterparts**. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile or portable document format (PDF) transmission shall constitute effective execution and delivery of this Agreement as to the parties hereto and may be used in lieu of the original Agreement and signature pages for all purposes.

11. **Notices.** All notices, demands, requests, consents or other communications required or permitted to be given or made under the PILOT shall be in writing and addressed to the following:

If to the Town:

Town Attorney's Office
Attn: Stanley J. Sliwa, Esq.
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Town Supervisor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

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Town Assessor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

If to the HDFC
or the Partnership: Oxford Amherst Preservation Housing Development Fund Company, Inc.
200 John James Audubon Parkway
Suite 300
Amherst, NY 14228

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If to Erie County: Erie County Attorney's Office
95 Franklin Street
Buffalo, New York 14202

If to the School District: Amherst Central School District
105 Casey Road
East Amherst, New York 14051

12. **Pay Equity.** The Partnership and the HDFC shall comply with Erie County Executive Order 13 (2014) and agree to complete the Erie County Equal Pay Certificate attached hereto as ***Schedule "B"*** and made a part hereof. The Partnership and HDFC 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 Partnership and the HDFC, their 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 conforming the HDFC's and the Partnership'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 Agreement and may constitute grounds for determining that the Partnership and/or HDFC are not qualified to participate in future Town contracts.

13. **Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon the Parties. Each of the Parties represents and warrants that the execution, delivery and performance of this Agreement has been duly authorized and does not require any other consent or approval, does not violate any article, by-law or organizational document or any law, rule, regulation, order, writ, judgment or decree by which it is bound, and will not result in or constitute a default under any indenture, credit agreement, or any other agreement or instrument to which any of them is a party. Each Party represents that this Agreement shall constitute the legal, valid and binding agreement of the Parties enforceable in accordance with its terms.

14. **Amendments.** This Agreement may not be amended, changed, modified, altered or terminated without the prior written consent of each of the Parties hereto.

15. **Assignments.** This Agreement may not be assigned in whole or in part without the prior written consent of the Town upon application made at least forty-five (45) days prior to a regularly scheduled meeting of the Town Board. A transfer in excess of fifty percent (50%) of the equity voting interests of the HDFC and/or the Partnership (including all parent and subsidiary companies and including the ultimate taxpayer(s) owning or controlling the Project and the Property) shall be deemed an assignment and require the prior written consent of the Town. Any assignment, if and once approved, shall be on the following conditions, as of the time of such assignment: (i) no assignment shall relieve the HDFC or the Partnership from primary liability for any of their obligations hereunder; (ii) the assignee shall assume the obligations of the HDFC and/or the Partnership hereunder to the extent of the interest so assigned; (iii) the HDFC and/or the Partnership shall, within ten (10) days after the delivery thereof, furnish or cause to be furnished to the Town a true and complete copy of such assignment and the instrument of assumption and related documents associated with Approved Assignment; (iv) the Project shall continue to be operated in compliance with Article XI of the PHFL; and (v) if the Town shall so request, as of the purported effective date of any such assignment, the HDFC and/or the Partnership at its or their sole cost shall furnish to the Town an opinion, in form and substance satisfactory to the Town as to any or all of the items

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(i), (ii) and (iv) above. Any such assignment shall be subject to the review and approval by the Town and approval as to form by the Town Attorney with any such cost to be paid by the HDFC and/or the Partnership, including reasonable attorneys' fees, and shall contain such terms and conditions as reasonably required by the Town and its counsel.

16. **Applicable Law.** This Agreement shall be governed, construed and enforced in accordance with the laws of the State of New York for contracts to be wholly performed therein.

17. **Section Headings Not Controlling.** The headings of the several sections in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Agreement.

18. **Severability.** If any provision of this Agreement or its application is held invalid or unenforceable to any extent, the remainder of this Agreement shall remain in full force and effect and the application of that provision to other persons or circumstances shall be enforced to the greatest extent permitted by law.

19. **Entire Agreement.** This Agreement constitutes the entire agreement of the Parties relating to PILOT Payments with respect to the Project and the Property and supersedes all prior contracts and/or agreements, whether oral or written, with respect thereto.

20. **Authority To Execute.** Any individual executing this Agreement on behalf of a Party represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of such Party, and this Agreement is binding upon such Party in accordance with its terms.

{Rest of Page Left Intentionally Blank}

Attachment: PILOT-Princeton Housing Assoc (4837-4931-3012 2) (RES-2021-690 : Princeton Amherst Preservation HDFC - PILOT Agreement -

(Signature Page for Agreement For Payment In Lieu Of Taxes)

IN WITNESS WHEREOF, the Town, County, School District, Partnership, and HDFC have duly executed this Agreement as of the day and year first above written.

COUNTY OF ERIE
("COUNTY")

BY: _____

Mark C. Poloncarz, County Executive
Maria R. Whyte, Deputy County Executive

Date: _____

TOWN OF AMHERST
("TOWN")

BY:

Brian J. Kulpa, Supervisor

Date:

Approved as to content
for Erie County:

BY: _____

Thomas Hersey, Commissioner
Department of Planning
& Economic Development

Date: _____

Approved as to content for
the Town of Amherst:

BY:

David Marrano, Assessor

Date:

Approved as to form for
Erie County:

BY: _____

Kristen M. Walder, Esq.
Assistant County Attorney

Date: _____

Approved as to form for the
Town of Amherst:

BY:

Stanley J. Sliwa, Esq.,
Town Attorney

Date:

Attachment: PILOT-Princeton Housing Assoc (4837-4931-3012 2) (RES-2021-690 : Princeton Amherst Preservation HDFC - PILOT Agreement -

(Signature Page for Agreement For Payment In Lieu Of Taxes)

AMHERST CENTRAL SCHOOL DISTRICT

By: _____
Name:
Title:

Date: _____

PRINCETON AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.

By: _____
Matthew Finkle, Vice President

Date:_____

PRINCETON AMHERST PRESERVATION, L.P.
By: Princeton Amherst MJP GP, LLC,
its co-general partner

By: _____
Victor L. Peterson III, President

Date:_____

By: Princeton Amherst Related GP, LLC,
its co-general partner

By: _____
Matthew Finkle, Vice President

Date: _____

Attachment: PILOT-Princeton Housing Assoc (4837-4931-3012 2) (RES-2021-690 : Princeton Amherst Preservation HDFC - PILOT Agreement -

SCHEDULE A

PRINCETON AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.
PILOT PAYMENTS

(See attached)

Attachment: PILOT-Princeton Housing Assoc (4837-4931-3012 2) (RES-2021-690 : Princeton Amherst Preservation HDFC - PILOT Agreement -

	Name	SBL#	Address	
	Princeton	79.24-1-1	165 Princeton	
	Current Assessment $8,100,000			
		Units	Rate per unit	Total
		304	$500	$152,000
Note Year denotes start of Tax Cycle. Example "2022" is 2022-2023 School (September) and 2023 Town &County(January)	2.5% Escalator	25%	25%	50%
YEAR	PILOT AMOUNT	ERIE COUNTY	SCHOOL DISTRICT	TOWN OF AMHERST
2022	$152,000	$38,000	$38,000	$76,000
2023	$155,800	$38,950	$38,950	$77,900
2024	$159,695	$39,924	$39,924	$79,848
2025	$163,687	$40,922	$40,922	$81,844
2026	$167,780	$41,945	$41,945	$83,890
2027	$171,974	$42,994	$42,994	$85,987
2028	$176,273	$44,068	$44,068	$88,137
2029	$180,680	$45,170	$45,170	$90,340
2030	$185,197	$46,299	$46,299	$92,599
2031	$189,827	$47,457	$47,457	$94,914
2032	$194,573	$48,643	$48,643	$97,286
2033	$199,437	$49,859	$49,859	$99,719
2034	$204,423	$51,106	$51,106	$102,212
2035	$209,534	$52,383	$52,383	$104,767
2036	$214,772	$53,693	$53,693	$107,386
2037	$220,141	$55,035	$55,035	$110,071
2038	$225,645	$56,411	$56,411	$112,822
2039	$231,286	$57,821	$57,821	$115,643
2040	$237,068	$59,267	$59,267	$118,534
2041	$242,995	$60,749	$60,749	$121,497
TOTAL	$1,115,934	$970,697	$970,697	$1,941,394

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SCHEDULE B

ERIE COUNTY EQUAL PAY CERTIFICATE

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 _____[title of corporate office/position] of _____ [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____

_____

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24629 **RESOLUTION 2021-691** **WITHDRAWN**

Oxford Amherst Preservation HDFC - PILOT - CRS #2818

AGENDA ITEM - AUGUST 9, 2021

TO: **Town Board**

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

DATE: **August 4, 2021**

RE: **Oxford Amherst Preservation Housing Development Fund Company, Inc. and Oxford Amherst Preservation, L.P. Request for a PILOT Agreement pursuant to Section 577 of Article 11 of Private Housing Fund - CRS #2818**

Kindly adopt the following resolution with respect to the above matter:

WHEREAS, Oxford Amherst Preservation Housing Development Fund Company, Inc., ("HDFC") a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York, 14228, and Oxford Amherst Preservation, L.P. ("Partnership") a New York Limited Partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York, 14228 have requested that the Town of Amherst Town Board enter into a PILOT Agreement for 316 affordable living apartments ("Project") located on Allenhurst Road, Amherst, New York, 14226, bearing SBL #67.71-4-22 (the "Property"); and

WHEREAS, the HDFC is, or will become, the legal or record owner, and the Partnership is or will become the beneficial and equitable owner, of an affordable housing project consisting of approximately 316 affordable living apartments located in the Town of Amherst, Erie County, New York, located on Allenhurst Road; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article XI of the Private Housing Finance Law of the State of New York (the "PHFL"); and

WHEREAS, the HDFC is the general partner of the Partnership; and

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low-income; and

WHEREAS, the Project is intended to be **affordable to low** income households, and **affordability** of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town, the County and the School District for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town recognizes that the Partnership and the HDFC may enter into an educational contribution agreement or similar type agreement with the School District whereby the Partnership and the HDFC provide financial support directly to the School District, and upon the execution of such an agreement the Town, per the direction of the School District, agrees to reduce the payments in lieu of property taxes to be otherwise provided to the School District under this Agreement as so provided for herein.

WHEREAS, HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of twenty (20) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office, a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Amherst Central School District.

THEREFORE, BE IT RESOLVED, the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions as set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT Agreement between Oxford Amherst Preservation Housing Development Fund Company, Inc. and Oxford Amherst Preservation, LP, the Town of Amherst, Erie County, and the Amherst Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;

2. The PILOT Agreement is subject to review and approval by the Amherst Central School District; and

3. Pending successful completion of the contract routing system.

SJS:lcg
c: Kathy Cooper, Deputy Town Clerk
(w/attachment, **AGENDA ITEM : AUGUST 9, 2021)**
David Marrano, Town Assessor (w/attachment)

FINANCIAL IMPACT:

PILOT

RESULT:	**WITHDRAWN**

AGREEMENT FOR PAYMENT IN LIEU OF TAXES

Between and Among

OXFORD AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.
AND
OXFORD AMHERST PRESERVATION, L.P.

And

TOWN OF AMHERST, NEW YORK
COUNTY OF ERIE, NEW YORK
AMHERST CENTRAL SCHOOL DISTRICT, NEW YORK

THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES (this "***Agreement***") is made and entered into as of _____ ___, 2021 by and between **OXFORD AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.**, a New York not-for-profit corporation organized pursuant to Article XI of the Private Housing Finance Law with an address of 200 John James Audubon Parkway, Suite 300, Amherst, NY 14228 (the "***HDFC***"), and **OXFORD AMHERST PRESERVATION, L.P.,** a New York limited partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, NY 14228 (the "***Partnership***"), the **TOWN OF AMHERST**, a municipal corporation with an address of 5583 Main Street, Williamsville, New York 14221 (the "***Town***"), the **COUNTY OF ERIE**, a municipal corporation with an address of 95 Franklin Street, Buffalo, New York 14202 (the "***County***") and the **AMHERST CENTRAL: SCHOOL DISTRICT**, a school district with an address of 105 Casey Road, East Amherst, New York 14051 (the "***School District***"). The HDFC, Partnership, Town, County, and School District are each a "***Party***" and are collectively referred to herein as the "***Parties***".

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is or will become the beneficial and equitable owner, of an affordable housing project consisting of approximately 316 affordable living apartments (the "***Project***") located in the Town of Amherst, Erie County, New York, located at _____ Allenhurst Road (Tax Map No. 67.71-4-22) (the "***Property***"); and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article XI of the Private Housing Finance Law of the State of New York (the "PHFL"); and

WHEREAS, the HDFC is the general partner of the Partnership; and

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low-income; and

WHEREAS, the Project is intended to be affordable to low income households, and affordability of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

Attachment: PILOT-Oxford Village (4824-9888-4852 3) (RES-2021-691 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

WHEREAS, pursuant to section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town, the County and the School District for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town, by Resolution Number _____ of the Town Board, adopted on _____, approved such an exemption and authorized this Agreement to be executed on behalf of the Town by the Town Supervisor; and

WHEREAS, the County, by Resolution Number _____ of the Erie County Legislature, adopted on _____ __, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the County; and

WHEREAS, the School District, by Resolution Number _____ of the School Board, adopted on _____ ____, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the School District; and

WHEREAS, the Town recognizes that the Partnership and the HDFC may enter into an educational contribution agreement or similar type agreement with the School District whereby the Partnership and the HDFC provide financial support directly to the School District, and upon the execution of such an agreement the Town, per the direction of the School District, agrees to reduce the payments in lieu of property taxes to be otherwise provided to the School District under this Agreement as so provided for herein.

NOW THEREFORE, in exchange for the mutual commitments set forth herein and other good and valuable consideration, the Parties agree as follows:

1. **Tax Exemption.** The Parties agree that the Project qualifies for a real property tax exemption pursuant to section 577 of the PHFL and the Town hereby exempts from local and municipal taxes, including school taxes, other than assessments for local improvements, one hundred percent (100%) of the value of the Project and the Property, including both land and improvements. "***Local and Municipal Taxes***" shall mean any and all real estate taxes levied by the County, the Town, the School District (collectively, the "***Taxing Jurisdictions***"). The Parties understand that the exemption extended pursuant to section 577 of the PHFL and this Agreement does not include exemption from special assessments, special ad valorem levies, improvement district charges or similar tax equivalents. This Agreement shall not limit or restrict the HDFC's or the Partnership's right to apply for or obtain any other tax exemption to which it might be entitled upon the expiration of this Agreement.

2. **Obligation of the Partnership, for itself and the HDFC, to Make Payments in Lieu of Taxes.** So long as the aforementioned exemption remains in place, the Partnership, for itself and the HDFC, shall make annual payments in lieu of taxes ("***PILOT***

Attachment: PILOT-Oxford Village (4824-9888-4852 3) (RES-2021-691 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

Payments") to the Town in the amounts set forth in ***Schedule "A"***, as attached hereto and made a part hereof, in satisfaction of all real property taxes. The annual PILOT Payments shall commence upon the Town's next taxable status date (the "***Commencement Date***"). The Parties agree that no refund of any real property taxes levied upon the Property prior to the Commencement Date shall be sought or claimed on account of the exemption made effective pursuant to this Agreement.

3. **Requirements of the Partnership and the HDFC.**

a. The tax exemption provided by this Agreement will continue for a term of twenty (20) years, unless sooner terminated by law or mutual agreement upon prior written consent of the Parties, provided that the Partnership and the HDFC continue to operate the Project and the Property as low income housing in conformance with Article XI of the PHFL and for so long as a municipality-aided, state-aided and/or federally-aided mortgage is outstanding on the Project.

b. The HDFC and the Partnership shall provide the Town such information concerning their operations and the operations of the Project in form and substance as may from time to time be reasonably requested. Such information shall include, but shall not be limited to, General Certificates of the HDFC and the Partnership and the annual financial statements of the HDFC and the Partnership from the calendar year immediately preceding the fiscal year in which payments are due.

c. The HDFC and the Partnership shall permit the Comptroller of the Town to audit their books and records within fourteen (14) days after receiving a written request from the Town.

4. **Taxing Authorities and Amounts.**

a. The Partnership, for itself and the HDFC, shall make annual PILOT Payments as follows:

i. A fixed annual PILOT to the Town in the amounts as stated in ***Schedule "A"***, as attached hereto and made a part hereof, in satisfaction of all real property taxes.

ii. In addition to the payments set forth in Schedule A, the Partnership, for itself and the HDFC, will be responsible for paying all special assessments, special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

iii. At the expiration of the twenty (20) year term, this Agreement will cease to have any effect on the real property taxes due with respect to the Project and the Property will be taxed in accordance with applicable law unless otherwise extended or modified pursuant to a separate written agreement

b. The PILOT Payments shall be payable annually. Each annual PILOT Payment shall be made on or before January 31st of each year and shall be delivered to the Town Clerk's Office, 5583 Main Street, Williamsville, New York 14221.

c. The Partnership shall prepare, or cause to be prepared, all documents and forms required under this Agreement.

Attachment: PILOT-Oxford Village (4824-9888-4852 3) (RES-2021-691 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

d. Notwithstanding the Partnership's and the HDFC's obligations under this Agreement, and the Town's obligations as so described within this Agreement, should the Partnership and the HDFC enter into an educational contribution or other similar type agreement whereby the Partnership and the HDFC provide financial support directly to the School District (the "Education Contribution"), upon (i) submission of such agreement to the Town, and (ii) written notice of same to be provided to the Town specifically describing the terms and the amount of the Education Contribution, the PILOT Payment obligations thereafter to be made to the School District under this Agreement and Schedule A shall be reduced by an amount equal to the Education Contribution to be provided pursuant to such educational contribution or other similar type agreement, provided that such reduction shall not exceed the School District's respective share of the PILOT Payment as set forth in Schedule A. Such reduction shall become effective upon the Town's next taxable status date after notice of at least (30) days is provided by the School District.

5. **Effect of Fulfillment of the Requirement.** Once having paid the amounts required by this Agreement when due, the Partnership and the HDFC shall not be required to pay any real property taxes for which such PILOT Payments have been made, except special assessments, special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

6. **Defaults in Payment in Lieu of Taxes.** In the event the Partnership, for itself and the HDFC, fails to make PILOT Payments as herein required when due, the amount or amounts not so paid shall be a lien on the Project and the Property in the same manner that delinquent real property taxes would be and continue as an obligation of the Partnership and the HDFC until fully paid. In addition, the Partnership, for itself and the HDFC, shall pay the appropriate taxing authority's or authorities' interest and penalties on the unpaid amount or amounts accruing at the same times and at the interest rates as if such amounts were delinquent real property taxes. In addition to any other remedies available to them for the collection of delinquent real property taxes, including, without limitation, in rem proceedings, the Town, the County and the School District may exercise any other remedies available, and such remedies shall be cumulative and the exercise of any remedy shall not be an action of remedies under law.

7. **Events of Default and Termination of Tax Exemption.**

a. An event of default (***"Event of Default"***) shall be defined as (l) failure of the Partnership, for itself and the HDFC, to make any payment required under this Agreement when due, (2) the Partnership's and/or HDFC's failure to provide any notice as required by this Agreement to the Town and/or the Taxing Jurisdictions, (3) the HDFC's failure to qualify, or continue to qualify, for a real property tax exemption for the Project in accordance with section 577 of the PHFL, or (4) the transfer of title or beneficial ownership of any portion of the Project or the Property, without the consent of the Town.

b. Upon the occurrence of an Event of Default the Partnership and/or HDFC shall have ten (10) days after the receipt of Notice from the Town regarding such default to cure such default. In the event the Partnership and/or HDFC has not cured such default or defaults within such ten (10) day time period, then the exemption from real property taxes described herein shall be deemed to have been terminated as of the taxable status date of the Town's immediately preceding fiscal year.

Attachment: PILOT-Oxford Village (4824-9888-4852 3) (RES-2021-691 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

c. Upon a termination of the exemption from real property taxes due to an Event of Default, the Partnership and the HDFC shall be liable for real property taxes on a pro-rata basis from and after the Town's taxable status date immediately preceding the Event of Default and the statutory lien applicable to such real property taxes shall be deemed in effect as of the lien date normally applicable to such year's real property taxes, unless a separate basis for a real property tax exemption then exists for the benefit of the HDFC.

d. Upon an Event of Default, the Partnership and HDFC shall, upon demand, pay to the Town all reasonable attorney's fees and related costs incurred in securing adherence to the terms of this Agreement.

e. Any termination of the exemption from real property taxes due to an Event of Default shall not void the liability of the HDFC or the Partnership for any unpaid PILOT Payments required by this Agreement prior to such termination.

8. **Waiver.** No waiver or modification of this Agreement shall be valid unless in writing and duly executed by the Parties, and no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation arising out of or affecting this Agreement, or the rights or obligations of any Party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. No failure or delay on the part of the Town to exercise any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

9. **Modification.** Neither this Agreement nor any provision hereof may be amended, modified, waived, discharged or terminated, except by an instrument in writing duly executed and agreed to by the Parties hereto.

10. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile or portable document format (PDF) transmission shall constitute effective execution and delivery of this Agreement as to the parties hereto and may be used in lieu of the original Agreement and signature pages for all purposes.

11. **Notices.** All notices, demands, requests, consents or other communications required or permitted to be given or made under the PILOT shall be in writing and addressed to the following:

If to the Town:

Town Attorney's Office
Attn: Stanley J. Sliwa, Esq.
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Town Supervisor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Town Assessor
Town of Amherst

Attachment: PILOT-Oxford Village (4824-9888-4852 3) (RES-2021-691 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

5583 Main Street
Williamsville, NY 14221

If to the HDFC
or the Partnership: Oxford Amherst Preservation Housing Development Fund Company, Inc.
200 John James Audubon Parkway
Suite 300
Amherst, NY 14228

If to Erie County: Erie County Attorney's Office
95 Franklin Street
Buffalo, New York 14202

Attachment: PILOT-Oxford Village (4824-9888-4852 3) (RES-2021-691 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

If to the School District: Amherst Central School District
105 Casey Road
East Amherst, New York 14051

12. **Pay Equity.** The Partnership and the HDFC shall comply with Erie County Executive Order 13 (2014) and agree to complete the Erie County Equal Pay Certificate attached hereto as ***Schedule "B"*** and made a part hereof. The Partnership and HDFC 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 Partnership and the HDFC, their 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 conforming the HDFC's and the Partnership'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 Agreement and may constitute grounds for determining that the Partnership and/or HDFC are not qualified to participate in future Town contracts.

13. **Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon the Parties. Each of the Parties represents and warrants that the execution, delivery and performance of this Agreement has been duly authorized and does not require any other consent or approval, does not violate any article, by-law or organizational document or any law, rule, regulation, order, writ, judgment or decree by which it is bound, and will not result in or constitute a default under any indenture, credit agreement, or any other agreement or instrument to which any of them is a party. Each Party represents that this Agreement shall constitute the legal, valid and binding agreement of the Parties enforceable in accordance with its terms.

14. **Amendments.** This Agreement may not be amended, changed, modified, altered or terminated without the prior written consent of each of the Parties hereto.

15. **Assignments.** This Agreement may not be assigned in whole or in part without the prior written consent of the Town upon application made at least forty-five (45) days prior to a regularly scheduled meeting of the Town Board. A transfer in excess of fifty percent (50%) of the equity voting interests of the HDFC and/or the Partnership (including all parent and subsidiary companies and including the ultimate taxpayer(s) owning or controlling the Project and the Property) shall be deemed an assignment and require the prior written consent of the Town. Any assignment, if and once approved, shall be on the following conditions, as of the time of such assignment: (i) no assignment shall relieve the HDFC or the Partnership Company from primary liability for any of their obligations hereunder; (ii) the assignee shall assume the obligations of the HDFC and/or the Partnership hereunder to the extent of the interest so assigned; (iii) the HDFC and/or the Partnership shall, within ten (10) days after the delivery thereof, furnish or cause to be furnished to the Town a true and complete copy of such assignment and the instrument of assumption and related documents associated with Approved Assignment); (iv) the Project shall continue to be operated in compliance with Article XI of the PHFL; and (v) if the Town shall so request, as of the purported effective date of any such assignment, the HDFC and/or the Partnership at its or their sole cost shall furnish to the Town an opinion, in form and substance satisfactory to the Town as to items (i), (ii) and (iv) above. Any such assignment shall be subject to the review and approval by the Town and approval as to form by the Town Attorney with any such cost to be paid by the HDFC and/or the Partnership, including reasonable attorneys' fees, and shall contain such terms and conditions as reasonably required by the Town and its counsel.

Attachment: PILOT-Oxford Village (4824-9888-4852 3) (RES-2021-691 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

16. **Applicable Law.** This Agreement shall be governed, construed and enforced in accordance with the laws of the State of New York for contracts to be wholly performed therein.

17. **Section Headings Not Controlling.** The headings of the several sections in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Agreement.

18. **Severability.** If any provision of this Agreement or its application is held invalid or unenforceable to any extent, the remainder of this Agreement shall remain in full force and effect and the application of that provision to other persons or circumstances shall be enforced to the greatest extent permitted by law.

19. **Entire agreement.** This Agreement constitutes the entire agreement of the Parties relating to PILOT Payments with respect to the Project and the Property and supersedes all prior contracts and/or agreements, whether oral or written, with respect thereto.

20. **Authority To Execute.** Any individual executing this Agreement on behalf of a Party represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of such Party, and this Agreement is binding upon such Party in accordance with its terms.

{Rest of Page Left Intentionally Blank}

Attachment: PILOT-Oxford Village (4824-9888-4852 3) (RES-2021-691 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

(Signature Page for Agreement For Payment In Lieu Of Taxes)

IN WITNESS WHEREOF, the Town, County, School District, Partnership, and HDFC have duly executed this Agreement as of the day and year first above written.

COUNTY OF ERIE
("COUNTY")

BY: _____

Mark C. Poloncarz, County Executive
Maria R. Whyte, Deputy County Executive

Date: _____

TOWN OF AMHERST
("TOWN")

BY:

Brian J. Kulpa, Supervisor

Date:

Approved as to content
for Erie County:

BY: _____

Thomas Hersey, Commissioner
Department of Planning
& Economic Development

Date: _____

Approved as to content for
the Town of Amherst:

BY:

David Marrano, Assessor

Date:

Approved as to form for
Erie County:

BY: _____

Kristen M. Walder, Esq.
Assistant County Attorney

Date: _____

Approved as to form for the
Town of Amherst:

BY:

Stanley J. Sliwa, Esq.,
Town Attorney

Date:

Attachment: PILOT-Oxford Village (4824-9888-4852 3) (RES-2021-691 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

(Signature Page for Agreement For Payment In Lieu Of Taxes)

AMHERST CENTRAL SCHOOL DISTRICT
("SCHOOL DISTRICT")

By: _____
Name:
Title:

Date: _____

OXFORD AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.

By: _____
Matthew Finkle, Vice President

Date:_____

OXFORD AMHERST PRESERVATION, L.P.,
By: Oxford Amherst MJP GP, LLC.
its co-general partner

By: _____
Name:
Title:

Date:_____

By: Oxford Amherst Related GP, LLC
its co-general partner

By: _____
Matthew Finkle, Vice President

Date: _____

Attachment: PILOT-Oxford Village (4824-9888-4852 3) (RES-2021-691 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

SCHEDULE A

OXFORD AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC. PILOT PAYMENTS

(See Attached)

Attachment: PILOT-Oxford Village (4824-9888-4852 3) (RES-2021-691 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

Name	SBL#	Address	
Oxford Apartments	67.71-4-22	Allenhurst Road	
Current Assessment $10,800,000			
	Units	Rate per unit	Total
	316	$750	$237,000

Note Year denotes start of Tax Cycle. Example "2022" is 2022-2023 School (September) and 2023 Town &County(January)	2.5% Escalator	25%	25%	50%
YEAR	PILOT AMOUNT	ERIE COUNTY	SCHOOL DISTRICT	TOWN OF AMHERST
2022	$237,000	$59,250	$59,250	$118,500
2023	$242,925	$60,731	$60,731	$121,463
2024	$248,998	$62,250	$62,250	$124,499
2025	$255,223	$63,806	$63,806	$127,612
2026	$261,604	$65,401	$65,401	$130,802
2027	$268,144	$67,036	$67,036	$134,072
2028	$274,847	$68,712	$68,712	$137,424
2029	$281,719	$70,430	$70,430	$140,859
2030	$288,761	$72,190	$72,190	$144,381
2031	$295,981	$73,995	$73,995	$147,990
2032	$303,380	$75,845	$75,845	$151,690
2033	$310,965	$77,741	$77,741	$155,482
2034	$318,739	$79,685	$79,685	$159,369
2035	$326,707	$81,677	$81,677	$163,354
2036	$334,875	$83,719	$83,719	$167,437
2037	$343,247	$85,812	$85,812	$171,623
2038	$351,828	$87,957	$87,957	$175,914
2039	$360,624	$90,156	$90,156	$180,312
2040	$369,639	$92,410	$92,410	$184,820
2041	$378,880	$94,720	$94,720	$189,440
TOTAL	$1,115,934	$1,513,521	$1,513,521	$3,027,042

Attachment: PILOT-Oxford Village (4824-9888-4852 3) (RES-2021-691 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

SCHEDULE B

ERIE COUNTY EQUAL PAY CERTIFICATE

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____

_____

Attachment: PILOT-Oxford Village (4824-9888-4852 3) (RES-2021-691 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24630 **RESOLUTION 2021-692** **WITHDRAWN**

Brewster Amherst Preservation HDFC - PILOT - CRS #2820

AGENDA ITEM - AUGUST 9, 2021

TO: **Town Board**

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

DATE: **August 4, 2021**

RE: **Brewster Amherst Preservation Housing Development Fund Company, Inc. and Brewster Amherst Preservation, L.P. - Request for a PILOT Agreement pursuant to Section 577 of Article 11 of Private Housing Fund - CRS #2820**

Kindly adopt the following resolution with respect to the above matter:

WHEREAS, Brewster Amherst Preservation Housing Development Fund Company, Inc. ("HDFC") a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York, 14228, and Brewster Amherst Preservation, L.P., ("Partnership") a New York Limited Partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York, 14228 have requested that the Town of Amherst Town Board enter into a PILOT Agreement for 16 affordable living apartments ("Project") located at 910-937 Robin Road, Amherst, New York, 14221, bearing SBL #41.10-3-18 and 501-511 Robin and Little Robin Road, Amherst, New York, 14221, bearing SBL #41.03-1-69 (collectively, the "Property"); and

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is, or will become, the beneficial and equitable owner of an affordable housing project consisting of approximately 16 affordable living apartments located in the Town of Amherst, Erie County, New York, located at the Property; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article XI of the Private Housing Finance Law of the State of New York (the "PHFL"); and

WHEREAS, the HDFC is the general partner of the Partnership; and

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low-income; and

WHEREAS, the Project is intended to be **affordable to low** income households, and **affordability** of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town, the County and the School District for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of twenty (20) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office, a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Williamsville Central School District.

THEREFORE, BE IT RESOLVED, the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions as set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT Agreement between Brewster Amherst Preservation Housing Development Fund Company, Inc. and Brewster Amherst Preservation, LP, the Town of Amherst, Erie County, and the Williamsville Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;

2. The PILOT Agreement is subject to review and approval by the Williamsville Central School District; and

3. Pending successful completion of the contract routing system.

SJS:lcg
c: Kathy Cooper, Deputy Town Clerk
(w/attachment, **AGENDA ITEM : AUGUST 9, 2021)**

David Marrano, Town Assessor (w/attachment)

FINANCIAL IMPACT:

PILOT

RESULT:	**WITHDRAWN**

Attachment: PILOT-Brewster Project (WCSD) (4847-7724-5428 1) (RES-2021-692 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

AGREEMENT FOR PAYMENT IN LIEU OF TAXES

Between and Among

BREWSTER AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.,
AND
BREWSTER AMHERST PRESERVATION, L.P.,

and

THE TOWN OF AMHERST, NEW YORK
COUNTY OF ERIE, NEW YORK
WILLIAMSVILLE CENTRAL SCHOOL DISTRICT, NEW YORK

THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES (this "***Agreement***") is made and entered into as of _____ ___, 2021 by and between **BREWSTER AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.**, a New York not-for-profit corporation organized pursuant to Article XI of the Private Housing Finance Law with an address of 200 John James Audubon Parkway, Suite 300, Amherst, NY 14228 (the "***HDFC*** "), and **BREWSTER AMHERST PRESERVATION, L.P.,** a New York limited partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, NY 14228 (the "***Partnership***"), and the **TOWN OF AMHERST**, **NEW YORK**, a municipal corporation with an address of 5583 Main Street, Williamsville, Erie County, New York 14221 (the "***Town***"), the **COUNTY OF ERIE**, a municipal corporation with an address of 95 Franklin Street, Buffalo, New York 14202 (the "***County***") and the **WILLIAMSVILLE CENTRAL SCHOOL DISTRICT**, a school district with an address of 105 Casey Road, East Amherst, New York 14051 (the "***School District***"). The HDFC, Partnership, Town, County, and School District are each a "***Party***" and are collectively referred to herein as the "***Parties***".

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is or will become the beneficial and equitable owner, of an affordable housing project consisting of approximately 216 affordable living apartments (the "***Project***") located in the Town of Amherst, Erie County, New York, at 910-937 Robin Road (Tax Map No. 41.10-3-18) and 501-511 Robin and Little Robin Road (Tax Map No. 41.03-1-69) (collectively, the "***Property***"); and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article XI of the Private Housing Finance Law of the State of New York (the "PHFL"); and

WHEREAS, the HDFC is the general partner of the Partnership; and

Attachment: PILOT-Brewster Project (WCSD) (4847-7724-5428 1) (RES-2021-692 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low-income; and

WHEREAS, the Project is intended to be affordable to low income households, and affordability of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town, the County and the School District for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town, by Resolution Number _____ of the Town Board, adopted on _____, approved such an exemption and authorized this Agreement to be executed on behalf of the Town by the Town Supervisor; and

WHEREAS, the County, by Resolution Number _____ of the Erie County Legislature, adopted on _____ __, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the County; and

WHEREAS, the School District, by Resolution Number _____ of the School Board, adopted on _____ ___, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the School District.

NOW THEREFORE, in exchange for the mutual commitments set forth herein and other good and valuable consideration, the parties agree as follows:

1. Tax Exemption. The Parties agree that the Project qualifies for a real property tax exemption pursuant to section 577 of the PHFL and the Town hereby exempts from local and municipal taxes, including school taxes, other than assessments for local improvements, one hundred percent (100%) of the value of the Project and the Property, including both land and improvements. "***Local and Municipal Taxes***" shall mean any and all real estate taxes levied by the County, the Town, the School District (collectively, the "***Taxing Jurisdictions***"). The Parties

understand that the exemption extended pursuant to section 577 of the PHFL and this Agreement does not include exemption from special assessments, special ad valorem levies, improvement district charges or similar tax equivalents. This Agreement shall not limit or restrict the HDFC's or the Partnership's right to apply for or obtain any other tax exemption to which it might be entitled upon the expiration of this Agreement.

2. Obligation of the Partnership, for itself and the HDFC, to Make Payments in Lieu of Taxes. So long as the aforementioned exemption remains in place, the Partnership, for itself and the HDFC, shall make annual payments in lieu of taxes ("***PILOT Payments***") to the Town in the amounts set forth in ***Schedule "A"***, as attached hereto and made a part hereof, in satisfaction of all real property taxes. The annual PILOT Payments shall commence upon the Town's next taxable status date (the "***Commencement Date***"). The Parties agree that no refund of any real property taxes levied upon the Property prior to the Commencement Date shall be sought or claimed on account of the exemption made effective pursuant to this Agreement.

3. Requirements of the Partnership and the HDFC.

a. The tax exemption provided by this Agreement will continue for a term of twenty (20) years, unless sooner terminated by law or mutual agreement upon prior written consent of the Parties, provided that the Partnership and the HDFC continue to operate the Project and the Property as low income housing in conformance with Article XI of the PHFL and for so long as a municipality-aided, state-aided and/or federally-aided mortgage is outstanding on the Project.

b. The HDFC and the Partnership shall provide the Town such information concerning their operations and the operations of the Project in form and substance as may from time to time be reasonably requested. Such information shall include, but shall not be limited to, General Certificates of the HDFC and the Partnership and the annual financial statements of the HDFC and the Partnership from the calendar year immediately preceding the fiscal year in which payments are due.

c. The HDFC and the Partnership shall permit the Comptroller of the Town to audit their books and records within fourteen (14) days after receiving a written request from the Town.

4. Taxing Authority and Amounts.

a. The Partnership, for itself and the HDFC, shall make annual PILOT Payments as follows:

i. A fixed annual PILOT Payment to the Town in the amounts as stated in ***Schedule "A"***, as attached hereto and made a part hereof, in satisfaction of all real property taxes.

Attachment: PILOT-Brewster Project (WCSD) (4847-7724-5428 1) (RES-2021-692 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

ii. In addition to the payments set forth in Schedule A, the Partnership, for itself and the HDFC, will be responsible for paying all special assessments, special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

iii. At the expiration of the twenty (20) year term, this Agreement will cease to have any effect on the real property taxes due with respect to the Project and the Property will be taxed in accordance with applicable law unless otherwise extended or modified pursuant to a separate written agreement

b. The PILOT Payments shall be payable annually. Each annual PILOT Payment shall be made on or before January 31st of each year and shall be delivered to the Town Clerk's Office, 5583 Main Street, Williamsville, New York 14221.

c. The Partnership shall prepare, or cause to be prepared, all documents and forms required under this Agreement.

5. Effect of Fulfillment of the Requirement. Once having paid the amounts required by this Agreement when due, the HDFC and the Partnership shall not be required to pay any real property taxes for which such PILOT Payments have been made, except special assessments, special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

6. Defaults in Payment in Lieu of Taxes. In the event the Partnership, for itself and the HDFC, fails to make PILOT Payments as herein required when due, the amount or amounts not so paid shall be a lien on the Project and the Property in the same manner that delinquent real property taxes would be and continue as an obligation of the Partnership and the HDFC until fully paid. In addition, the Partnership, for itself and the HDFC, shall pay the appropriate taxing authority's or authorities' interest and penalties on the unpaid amount or amounts accruing at the same times and at the interest rates as if such amounts were delinquent real property taxes. In addition to any other remedies available to them for the collection of delinquent real property taxes, including, without limitation, in rem proceedings, the Town, the County and the School District may exercise any other remedies available, and such remedies shall be cumulative and the exercise of any remedy shall not be an action of remedies under law.

7. Events of Default and Termination of Tax Exemption.

a. An event of default (***"Event of Default"***) shall be defined as (l) failure of the Partnership, for itself and the HDFC, to make any payment required under this Agreement when due, (2) the Partnership's and/or HDFC's failure to provide any notice as required by this Agreement to the Town and/or the Taxing Jurisdictions, (3) the HDFC's failure to qualify, or continue to qualify, for a real property tax exemption for the Project in accordance with section 577 of the PHFL, or (4) the transfer of title or beneficial ownership of any portion of the Project or the Property, without the consent of the Town.

b. Upon the occurrence of an Event of Default the Partnership and/or HDFC shall have ten (10) days after the receipt of Notice from the Town regarding such default

Attachment: PILOT-Brewster Project (WCSD) (4847-7724-5428 1) (RES-2021-692 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

to cure such default. In the event the Partnership and/or HDFC has not cured such default or defaults within such ten (10) day time period, then the exemption from real property taxes described herein shall be deemed to have been terminated as of the taxable status date of the Town's immediately preceding fiscal year.

c. Upon a termination of the exemption from real property taxes due to an Event of Default, the Partnership and the HDFC shall be liable for real property taxes on a pro-rata basis from and after the Town's taxable status date immediately preceding the Event of Default and the statutory lien applicable to such real property taxes shall be deemed in effect as of the lien date normally applicable to such year's real property taxes, unless a separate basis for a real property tax exemption then exists for the benefit of the HDFC.

d. Upon an Event of Default, the Partnership and HDFC shall, upon demand, pay to the Town all reasonable attorney's fees and related costs incurred in securing adherence to the terms of this Agreement.

e. Any termination of the exemption from real property taxes due to an Event of Default shall not void the liability of the HDFC or the Partnership for any unpaid PILOT Payments required by this Agreement prior to such termination.

8. Waiver. No waiver or modification of this Agreement shall be valid unless in writing and duly executed by the Parties, and no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation arising out of or affecting this Agreement, or the rights or obligations of any Party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. No failure or delay on the part of the Town to exercise any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

9. Modification. Neither this Agreement nor any provision hereof may be amended, modified, waived, discharged or terminated, except by an instrument in writing duly executed and agreed to by the Parties hereto.

10. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile or portable document format (PDF) transmission shall constitute effective execution and delivery of this Agreement as to the parties hereto and may be used in lieu of the original Agreement and signature pages for all purposes.

11. Notices. All notices, demands, requests, consents or other communications required or permitted to be given or made under the PILOT shall be in writing and addressed to the following:

If to the Town: Town Attorney's Office
Attn: Stanley J. Sliwa, Esq.

Attachment: PILOT-Brewster Project (WCSD) (4847-7724-5428 1) (RES-2021-692 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

Town of Amherst
5583 Main Street
Williamsville, NY 14221

Town Supervisor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Town Assessor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

If to the HDFC or the Partnership: Brewster Amherst Preservation Housing Development Fund Company, Inc.
200 John James Audubon Parkway
Suite 300
Amherst, NY 14228

If to Erie County: Erie County Attorney's Office
95 Franklin Street
Buffalo, New York 14202

If to the School District: Amherst Central School District
105 Casey Road
East Amherst, New York 14051

12. Pay Equity. The HDFC and the Partnership shall comply with Erie County Executive Order 13 (2014) and agree to complete the Erie County Equal Pay Certificate attached hereto as ***Schedule "B"*** and made a part hereof. The HDFC and the Partnership 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 HDFC and the Partnership, their 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 conforming the HDFC's and the Partnership'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 Agreement and may constitute grounds for determining that the HDFC and/or the Partnership are not qualified to participate in future Town contracts.

13. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Parties. Each of the Parties represents and warrants that the execution, delivery and performance of this Agreement has been duly authorized and does not require any other consent or approval, does not violate any article, by-law or organizational document or any law, rule,

Attachment: PILOT-Brewster Project (WCSD) (4847-7724-5428 1) (RES-2021-692 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

regulation, order, writ, judgment or decree by which it is bound, and will not result in or constitute a default under any indenture, credit agreement, or any other agreement or instrument to which any of them is a party. Each Party represents that this Agreement shall constitute the legal, valid and binding agreement of the Parties enforceable in accordance with its terms.

14. Amendments. This Agreement may not be amended, changed, modified, altered or terminated without the prior written consent of each of the Parties hereto.

15. Assignments. This Agreement may not be assigned in whole or in part without the prior written consent of the Town upon application made at least forty-five (45) days prior to a regularly scheduled meeting of the Town Board. A transfer in excess of fifty percent (50%) of the equity voting interests of the HDFC and/or the Partnership (including all parent and subsidiary companies and including the ultimate taxpayer(s) owning or controlling the Project and the Property) shall be deemed an assignment and require the prior written consent of the Town. Any assignment, if and once approved, shall be on the following conditions, as of the time of such assignment: (i) no assignment shall relieve the HDFC or the Partnership Company from primary liability for any of their obligations hereunder; (ii) the assignee shall assume the obligations of the HDFC and/or the Partnership hereunder to the extent of the interest so assigned; (iii) the HDFC and/or the Partnership shall, within ten (10) days after the delivery thereof, furnish or cause to be furnished to the Town a true and complete copy of such assignment and the instrument of assumption and related documents associated with Approved Assignment); (iv) the Project shall continue to be operated in compliance with Article XI of the PHFL; and (v) if the Town shall so request, as of the purported effective date of any such assignment, the HDFC and/or the Partnership at its or their sole cost shall furnish to the Town an opinion, in form and substance satisfactory to the Town as to items (i), (ii) and (iv) above. Any such assignment shall be subject to the review and approval by the Town and approval as to form by the Town Attorney with any such cost to be paid by the HDFC and/or the Partnership, including reasonable attorneys' fees, and shall contain such terms and conditions as reasonably required by the Town and its counsel.

16. Applicable Law. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of New York for contracts to be wholly performed therein.

17. Section Headings Not Controlling. The headings of the several sections in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Agreement.

18. Severability. If any provision of this Agreement or its application is held invalid or unenforceable to any extent, the remainder of this Agreement shall remain in full force and effect and the application of that provision to other persons or circumstances shall been forced to the greatest extent permitted by law.

19. Entire Agreement. This Agreement constitutes the entire agreement of the Parties relating to PILOT Payments with respect to the Project and the Property and supersedes all prior contracts and/or agreements, whether oral or written, with respect thereto.

Attachment: PILOT-Brewster Project (WCSD) (4847-7724-5428 1) (RES-2021-692 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

20. Authority to Execute. Any individual executing this Agreement on behalf of a Party represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of such Party, and this Agreement is binding upon such Party in accordance with its terms.

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Attachment: PILOT-Brewster Project (WCSD) (4847-7724-5428 1) (RES-2021-692 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

(Signature Page for Agreement For Payment In Lieu Of Taxes)

IN WITNESS WHEREOF, the HDFC, the Partnership and the Town have duly executed this Agreement as of the day and year first above written.

IN WITNESS WHEREOF, the Town, County, School District, Partnership, and HDFC have duly executed this Agreement as of the day and year first above written.

COUNTY OF ERIE
("COUNTY")

BY: _____
Mark C. Poloncarz, County Executive
Maria R. Whyte, Deputy County Executive

Date: _____

TOWN OF AMHERST
("TOWN")

BY: _____
Brian J. Kulpa, Supervisor

Date: _____

Approved as to content
for Erie County:

BY: _____
Thomas Hersey, Commissioner
Department of Planning
& Economic Development

Date: _____

Approved as to content for
the Town of Amherst:

BY: _____
David Marrano, Assessor

Date: _____

Approved as to form for
Erie County:

BY: _____
Kristen M. Walder, Esq.
Assistant County Attorney

Date: _____

Approved as to form for the
Town of Amherst:

BY: _____
Stanley J. Sliwa, Esq.,
Town Attorney

Date: _____

Attachment: PILOT-Brewster Project (WCSD) (4847-7724-5428 1) (RES-2021-692 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

(Signature Page for Agreement For Payment In Lieu Of Taxes)

WILLIAMSVILLE CENTRAL SCHOOL DISTRICT
("SCHOOL DISTRICT")

By: _____
Name:
Title:

Date: _____

BREWSTER AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.

By: _____
Matthew Finkle, Vice President

Date: _____

BREWSTER AMHERST PRESERVATION, L.P.,

By: Brewster Amherst MJP GP, LLC,
its managing general partner

By: _____
Victor L. Peterson III, President

Date: _____

By: Brewster Amherst Related GP, LLC,
its co-general partner

By: _____
Matthew Finkle, Vice President

Date: _____

Attachment: PILOT-Brewster Project (WCSD) (4847-7724-5428 1) (RES-2021-692 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

SCHEDULE A

BREWSTER AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.

(See Attached)

Attachment: PILOT-Brewster Project (WCSD) (4847-7724-5428 1) (RES-2021-692 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

	Name	SBL#	Address	
	Brewster Mews	41.10-3-18 &41.03-1-69	910-937 Robin & 501-511 Robin	
		Units	Rate per unit	Total
		216	$850	$183,600
	2.5% Escalator	25%	25%	50%

YEAR	PILOT AMOUNT	ERIE COUNTY	SCHOOL DISTRICT	TOWN OF AMHERST
2022	$183,600	$45,900	$45,900	$91,800
2023	$188,190	$47,048	$47,048	$94,095
2024	$192,895	$48,224	$48,224	$96,447
2025	$197,717	$49,429	$49,429	$98,859
2026	$202,660	$50,665	$50,665	$101,330
2027	$207,727	$51,932	$51,932	$103,863
2028	$212,920	$53,230	$53,230	$106,460
2029	$218,243	$54,561	$54,561	$109,121
2030	$223,699	$55,925	$55,925	$111,849
2031	$229,291	$57,323	$57,323	$114,646
2032	$235,024	$58,756	$58,756	$117,512
2033	$240,899	$60,225	$60,225	$120,450
2034	$246,922	$61,730	$61,730	$123,461
2035	$253,095	$63,274	$63,274	$126,547
2036	$259,422	$64,855	$64,855	$129,711
2037	$265,908	$66,477	$66,477	$132,954
2038	$272,555	$68,139	$68,139	$136,278
2039	$279,369	$69,842	$69,842	$139,685
2040	$286,353	$71,588	$71,588	$143,177
2041	$293,512	$73,378	$73,378	$146,756
TOTAL	$1,115,934	$1,172,500	$1,172,500	$2,345,000

Attachment: PILOT-Brewster Project (WCSD) (4847-7724-5428 1) (RES-2021-692 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

Attachment: PILOT-Brewster Project (WCSD) (4847-7724-5428 1) (RES-2021-692 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

SCHEDULE B

ERIE COUNTY EQUAL PAY CERTIFICATE

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 _____[title of corporate office/position] of _____ [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____

_____

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24631 **RESOLUTION 2021-693** **WITHDRAWN**

Parkside Amherst Preservation HDFC - PILOT - CRS #2821

AGENDA ITEM - AUGUST 9, 2021

TO: **Town Board**

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

DATE: **August 4, 2021**

RE: **Parkside Amherst Preservation Housing Development Fund Company, Inc. and Parkside Amherst Preservation, L.P. - Request for a PILOT Agreement pursuant to Section 577 of Article 11 of Private Housing Fund - CRS #2821**

Kindly adopt the following resolution with respect to the above matter:

WHEREAS, Parkside Amherst Preservation Housing Development Fund Company, Inc. ("HDFC") a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York, 14228, and Parkside Amherst Preservation, L.P. ("Partnership") a New York Limited Partnership with an address of 200 John James Boulevard Parkway, Suite 300, Amherst, New York, 14228 have requested that the Town of Amherst Town Board enter into a PILOT Agreement for 180 affordable living apartments ("Project") located at 302-332 Evans Road, Amherst, New York, 14221, bearing SBL #41.03-1-68 (the "Property"); 825-862 Robin Road, Amherst, New York, 14221, bearing SBL #41.11-3-1; 101-128 Robin Road, Amherst, New York, 14221, bearing SBL #41.03-1-60; 301-326 Robin Road, Amherst, NY, 14221, bearing SBL #41.03-1-60; and 801-824 Robin Road, Amherst, New York, 14221, bearing SBL #41-11-3-5 (collectively, the "Property"); and

WHEREAS, the HDFC is, or will become, the legal or record owner, and the Partnership is, or will become, the beneficial and equitable owner of an affordable housing project consisting of approximately 180 affordable living apartments located in the Town of Amherst, Erie County, New York, located at the Property; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article XI of the Private Housing Finance Law of the State of New York (the "PHFL"); and

WHEREAS, the HDFC is the general partner of the Partnership; and

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low-income; and

WHEREAS, the Project is intended to be **affordable to low** income households, and **affordability** of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town, the County and the School District for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of twenty (20) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office, a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Williamsville Central School District.

THEREFORE, BE IT RESOLVED, the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions as set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT Agreement between Parkside Amherst Preservation Housing Development Fund Company, Inc. and Parkside Amherst Preservation, LP, the Town of Amherst, Erie County, and the Amherst Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;

2. The PILOT Agreement is subject to review and approval by the Williamsville Central School District; and

3. Pending successful completion of the contract routing system.

SJS:lcg
c: Kathy Cooper, Deputy Town Clerk

(w/attachment, **AGENDA ITEM : AUGUST 9, 2021)**
David Marrano, Town Assessor (w/attachment)

FINANCIAL IMPACT:

PILOT

RESULT:	**WITHDRAWN**

Attachment: PILOT-Parkside Project (WCSD) (4838-2507-1860 2) (RES-2021-693 : Parkside Amherst Preservation HDFC - PILOT - CRS #2821)

AGREEMENT FOR PAYMENT IN LIEU OF TAXES

Between and Among

PARKSIDE AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.
AND
PARKSIDE AMHERST PRESERVATION, L.P.,

and

THE TOWN OF AMHERST, NEW YORK
COUNTY OF ERIE, NEW YORK
WILLIAMSVILLE CENTRAL SCHOOL DISTRICT, NEW YORK

THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES (this "***Agreement***") is made and entered into as of _____ ___, 2021 by and between **PARKSIDE AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.**, a New York not-for-profit corporation organized pursuant to Article XI of the Private Housing Finance Law with an address of 200 John James Audubon Parkway, Suite 300, Amherst, NY 14228 (the "***HDFCHDFC*** "), and **PARKSIDE AMHERST PRESERVATION, L.P.,** a New York limited partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, NY 14228 (the "***Partnership***"), and the **TOWN OF AMHERST**, **NEW YORK**, a municipal corporation with an address of 5583 Main Street, Williamsville, Erie County, New York 14221 (the "***Town***"), the **COUNTY OF ERIE**, a municipal corporation with an address of 95 Franklin Street, Buffalo, New York 14202 (the "***County***") and the **WILLIAMSVILLE CENTRAL: SCHOOL DISTRICT**, a school district with an address of 105 Casey Road, East Amherst, New York 14051 (the "***School District***"). The HDFC, Partnership, Town, County, and School District are each a "***Party***" and are collectively referred to herein as the "***Parties***".

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is or will become the beneficial and equitable owner, of an affordable housing project consisting of 180 affordable living apartments (the "***Project***") located in the Town of Amherst, Erie County, New York, at 302-332 Robin Road (Tax Map No. 41.03-1-68), 825-862 Robin Road (Tax Map No. 41.11-3-1), 101-128 Robin Road (Tax Map No. 41.03-1-60), 301-326 Robin Road (Tax Map No. 41.03-1-6-) and 801-824 Robin Road (Tax Map No. 41.11-3-5) (collectively, the "***Property***"); and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article XI of the Private Housing Finance Law of the State of New York (the "PHFL"); and

WHEREAS, the HDFC is the general partner of the Partnership; and

Attachment: PILOT-Parkside Project (WCSD) (4838-2507-1860 2) (RES-2021-693 : Parkside Amherst Preservation HDFC - PILOT - CRS #2821)

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low-income; and

WHEREAS, the Project is intended to be affordable to low income households, and affordability of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town, the County and the School District for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town, by Resolution Number _____ of the Town Board, adopted on _____, approved such an exemption and authorized this Agreement to be executed on behalf of the Town by the Town Supervisor; and

WHEREAS, the County, by Resolution Number _____ of the Erie County Legislature, adopted on _____ __, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the County; and

WHEREAS, the School District, by Resolution Number _____ of the School Board, adopted on _____ ___, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the School District.

NOW THEREFORE, in exchange for the mutual commitments set forth herein and other good and valuable consideration, the parties agree as follows:

1. Tax Exemption. The Parties agree that the Project qualifies for a real property tax exemption pursuant to section 577 of the PHFL and the Town hereby exempts from local and municipal taxes, including school taxes, other than assessments for local improvements, one hundred percent (100%) of the value of the Project and the Property, including both land and improvements. "***Local and Municipal Taxes***" shall mean any and all real estate taxes levied by

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the County, the Town, the School District (collectively, the "***Taxing Jurisdictions***"). The Parties understand that the exemption extended pursuant to section 577 of the PHFL and this Agreement does not include exemption from special assessments, special ad valorem levies, improvement district charges or similar tax equivalents. This Agreement shall not limit or restrict the HDFC's or the Partnership's right to apply for or obtain any other tax exemption to which it might be entitled upon the expiration of this Agreement.

2. Obligation of the Partnership, for itself and the HDFC, to Make Payments in Lieu of Taxes. So long as the aforementioned exemption remains in place, the Partnership, for itself and the HDFC, shall make annual payments in lieu of taxes ("***PILOT Payments***") to the Town in the amounts set forth in ***Schedule "A"***, as attached hereto and made a part hereof, in satisfaction of all real property taxes. The annual PILOT Payments shall commence upon the Town's next taxable status date (the "***Commencement Date***"). The Parties agree that no refund of any real property taxes levied upon the Property prior to the Commencement Date shall be sought or claimed on account of the exemption made effective pursuant to this Agreement.

3. Requirements of the Partnership and the HDFC.

a. The tax exemption provided by this Agreement will continue for a term of twenty (20) years, unless sooner terminated by law or mutual agreement upon prior written consent of the Parties, provided that the Partnership and the HDFC continue to operate the Project and the Property as low income housing in conformance with Article XI of the PHFL and for so long as a municipality-aided, state-aided and/or federally-aided mortgage is outstanding on the Project.

b. The HDFC and the Partnership shall provide the Town such information concerning their operations and the operations of the Project in form and substance as may from time to time be reasonably requested. Such information shall include, but shall not be limited to, General Certificates of the HDFC and the Partnership and the annual financial statements of the HDFC and the Partnership from the calendar year immediately preceding the fiscal year in which payments are due.

c. The HDFC and the Partnership shall permit the Comptroller of the Town to audit their books and records within fourteen (14) days after receiving a written request from the Town.

4. Taxing Authority and Amounts.

a. The Partnership, for itself and the HDFC, shall make annual PILOT Payments as follows:

i. A fixed annual PILOT to the Town in the amounts as stated in ***Schedule "A"***, as attached hereto and made a part hereof, in satisfaction of all real property taxes.

ii. In addition to the payments set forth in Schedule A, the Partnership, for itself and the HDFC, will be responsible for paying all special assessments, special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

iii. At the expiration of the twenty (20) year term, this Agreement will cease to have any effect on the real property taxes due with respect to the Project and the Property will be taxed in accordance with applicable law unless otherwise extended or modified pursuant to a separate written agreement

b. The PILOT Payments shall be payable annually. Each annual PILOT Payment shall be made on or before January 31st of each year and shall be delivered to the Town Clerk's Office, 5583 Main Street, Williamsville, New York 14221.

c. The Partnership shall prepare, or cause to be prepared, all documents and forms required under this Agreement.

5. Effect of Fulfillment of the Requirement. Once having paid the amounts required by this Agreement when due, the HDFC and the Partnership shall not be required to pay any real property taxes for which such PILOT Payments have been made, except special assessments, special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

6. Defaults in Payment in Lieu of Taxes. In the event the Partnership, for itself and the HDFC, fails to make PILOT Payments as herein required when due, the amount or amounts not so paid shall be a lien on the Project and the Property in the same manner that delinquent real property taxes would be and continue as an obligation of the Partnership and the HDFC until fully paid. In addition, the Partnership, for itself and the HDFC, shall pay the appropriate taxing authority's or authorities' interest and penalties on the unpaid amount or amounts accruing at the same times and at the interest rates as if such amounts were delinquent real property taxes. In addition to any other remedies available to them for the collection of delinquent real property taxes, including, without limitation, in rem proceedings, the Town, the County and the School District may exercise any other remedies available, and such remedies shall be cumulative and the exercise of any remedy shall not be an action of remedies under law.

7. Events of Default and Termination of Tax Exemption.

a. An event of default (***"Event of Default"***) shall be defined as (l) failure of the Partnership, for itself and the HDFC, to make any payment required under this Agreement when due, (2) the Partnership's and/or HDFC's failure to provide any notice as required by this Agreement to the Town and/or the Taxing Jurisdictions, (3) the HDFC's failure to qualify, or continue to qualify, for a real property tax exemption for the Project in accordance with section 577 of the PHFL, or (4) the transfer of title or beneficial ownership of any portion of the Project or the Property, without the consent of the Town.

b. Upon the occurrence of an Event of Default the Partnership and/or HDFC shall have ten (10) days after the receipt of Notice from the Town regarding such default

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to cure such default. In the event the Partnership and/or HDFC has not cured such default or defaults within such ten (10) day time period, then the exemption from real property taxes described herein shall be deemed to have been terminated as of the taxable status date of the Town's immediately preceding fiscal year.

c. Upon a termination of the exemption from real property taxes due to an Event of Default, the Partnership and the HDFC shall be liable for real property taxes on a pro-rata basis from and after the Town's taxable status date immediately preceding the Event of Default and the statutory lien applicable to such real property taxes shall be deemed in effect as of the lien date normally applicable to such year's real property taxes, unless a separate basis for a real property tax exemption then exists for the benefit of the HDFC.

d. Upon an Event of Default, the Partnership and HDFC shall, upon demand, pay to the Town all reasonable attorney's fees and related costs incurred in securing adherence to the terms of this Agreement.

e. Any termination of the exemption from real property taxes due to an Event of Default shall not void the liability of the HDFC or the Partnership for any unpaid PILOT Payments required by this Agreement prior to such termination.

8. Waiver. No waiver or modification of this Agreement shall be valid unless in writing and duly executed by the Parties, and no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation arising out of or affecting this Agreement, or the rights or obligations of any Party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. No failure or delay on the part of the Town to exercise any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

9. Modification. Neither this Agreement nor any provision hereof may be amended, modified, waived, discharged or terminated, except by an instrument in writing duly executed and agreed to by the Parties hereto.

10. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile or portable document format (PDF) transmission shall constitute effective execution and delivery of this Agreement as to the parties hereto and may be used in lieu of the original Agreement and signature pages for all purposes.

11. Notices. All notices, demands, requests, consents or other communications required or permitted to be given or made under the PILOT shall be in writing and addressed to the following:

If to the Town: Town Attorney's Office
Attn: Stanley J. Sliwa, Esq.

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Town of Amherst
5583 Main Street
Williamsville, NY 14221

Town Supervisor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Town Assessor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

If to the HDFC or the Partnership: Oxford Amherst Preservation Housing Development Fund Company, Inc.
200 John James Audubon Parkway
Suite 300
Amherst, NY 14228

If to Erie County: Erie County Attorney's Office
95 Franklin Street
Buffalo, New York 14202

If to the School District: Amherst Central School District
105 Casey Road
East Amherst, New York 14051

12. Pay Equity. The HDFC and the Partnership shall comply with Erie County Executive Order 13 (2014) and agree to complete the Erie County Equal Pay Certificate attached hereto as ***Schedule "B"*** and made a part hereof. The HDFC and the Partnership 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 HDFC and the Partnership, their 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 conforming the HDFC's and the Partnership'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 Agreement and may constitute grounds for determining that the HDFC and/or the Partnership are not qualified to participate in future Town contracts.

13. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Parties. Each of the Parties represents and warrants that the execution, delivery and performance of this Agreement has been duly authorized and does not require any other consent

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or approval, does not violate any article, by-law or organizational document or any law, rule, regulation, order, writ, judgment or decree by which it is bound, and will not result in or constitute a default under any indenture, credit agreement, or any other agreement or instrument to which any of them is a party. Each Party represents that this Agreement shall constitute the legal, valid and binding agreement of the Parties enforceable in accordance with its terms.

14. Amendments. This Agreement may not be amended, changed, modified, altered or terminated without the prior written consent of each of the Parties hereto.

15. Assignments. This Agreement may not be assigned in whole or in part without the prior written consent of the Town upon application made at least forty-five (45) days prior to a regularly scheduled meeting of the Town Board. A transfer in excess of fifty percent (50%) of the equity voting interests of the HDFC and/or the Partnership (including all parent and subsidiary companies and including the ultimate taxpayer(s) owning or controlling the Project and the Property) shall be deemed an assignment and require the prior written consent of the Town. Any assignment, if and once approved, shall be on the following conditions, as of the time of such assignment: (i) no assignment shall relieve the HDFC or the Partnership Company from primary liability for any of their obligations hereunder; (ii) the assignee shall assume the obligations of the HDFC and/or the Partnership hereunder to the extent of the interest so assigned; (iii) the HDFC and/or the Partnership shall, within ten (10) days after the delivery thereof, furnish or cause to be furnished to the Town a true and complete copy of such assignment and the instrument of assumption and related documents associated with Approved Assignment); (iv) the Project shall continue to be operated in compliance with Article XI of the PHFL; and (v) if the Town shall so request, as of the purported effective date of any such assignment, the HDFC and/or the Partnership at its or their sole cost shall furnish to the Town an opinion, in form and substance satisfactory to the Town as to items (i), (ii) and (iv) above. Any such assignment shall be subject to the review and approval by the Town and approval as to form by the Town Attorney with any such cost to be paid by the HDFC and/or the Partnership, including reasonable attorneys' fees, and shall contain such terms and conditions as reasonably required by the Town and its counsel.

16. Applicable Law. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of New York for contracts to be wholly performed therein.

17. Section Headings Not Controlling. The headings of the several sections in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Agreement.

18. Severability. If any provision of this Agreement or its application is held invalid or unenforceable to any extent, the remainder of this Agreement shall remain in full force and effect and the application of that provision to other persons or circumstances shall been forced to the greatest extent permitted by law.

19. Entire Agreement. This Agreement constitutes the entire agreement of the Parties relating to PILOT Payments with respect to the Project and the Property and supersedes all prior contracts and/or agreements, whether oral or written, with respect thereto.

20. Authority To Execute. Any individual executing this Agreement on behalf of a Party represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of such Party, and this Agreement is binding upon such Party in accordance with its terms.

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Attachment: PILOT-Parkside Project (WCSD) (4838-2507-1860 2) (RES-2021-693 : Parkside Amherst Preservation HDFC - PILOT - CRS #2821)

(Signature Page for Agreement For Payment In Lieu Of Taxes)

IN WITNESS WHEREOF, the HDFC, the Partnership and the Town have duly executed this Agreement as of the day and year first above written.

IN WITNESS WHEREOF, the Town, County, School District, Partnership, and HDFC have duly executed this Agreement as of the day and year first above written.

COUNTY OF ERIE
("COUNTY")

BY: _____
Mark C. Poloncarz, County Executive
Maria R. Whyte, Deputy County Executive

Date: _____

TOWN OF AMHERST
("TOWN")

BY: _____
Brian J. Kulpa, Supervisor

Date: _____

Approved as to content
for Erie County:

BY: _____
Thomas Hersey, Commissioner
Department of Planning
& Economic Development

Date: _____

Approved as to content for
the Town of Amherst:

BY: _____
David Marrano, Assessor

Date: _____

Approved as to form for
Erie County:

BY: _____
Kristen M. Walder, Esq.
Assistant County Attorney

Date: _____

Approved as to form for the
Town of Amherst:

BY: _____
Stanley J. Sliwa, Esq.,
Town Attorney

Date: _____

Attachment: PILOT-Parkside Project (WCSD) (4838-2507-1860 2) (RES-2021-693 : Parkside Amherst Preservation HDFC - PILOT - CRS #2821)

(Signature Page for Agreement For Payment In Lieu Of Taxes)

WILLIAMSVILLE CENTRAL SCHOOL DISTRICT
("SCHOOL DISTRICT")

By: _____
Name:
Title:

Date: _____

PARKSIDE AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.

By: _____
Matthew Finkle, Vice President

Date: _____

PARKSIDE AMHERST PRESERVATION, L.P.,

By: Parkside Amherst MJP GP, LLC,
its managing general partner

By: _____
Victor L. Peterson III, President

Date: _____

By: Parkside Amherst Related GP, LLC,
its co-general partner

By: _____
Matthew Finkle, Vice President

Date: _____

Attachment: PILOT-Parkside Project (WCSD) (4838-2507-1860 2) (RES-2021-693 : Parkside Amherst Preservation HDFC - PILOT - CRS #2821)

SCHEDULE A
PARKSIDE ASSOCIATES
PILOT PAYMENTS

(See Attached)

Attachment: PILOT-Parkside Project (WCSD) (4838-2507-1860 2) (RES-2021-693 : Parkside Amherst Preservation HDFC - PILOT - CRS #2821)

Name	SBL#	Address	
Parkside Associates	41.03-1-68 , 41.11-3-1 , 41.03-1-51 , 41.03-1-60 , 41.11-3-5	302-332 Robin , 825-862 Robin , 101-128 Robin , 301-326 Robin , 801-824 Robin	
	Units	Rate per unit	Total
	180	$625	$112,500

	2.5% Escalator	25%	25%	50%
YEAR	PILOT AMOUNT	ERIE COUNTY	SCHOOL DISTRICT	TOWN OF AMHERST
2022	$112,500	$28,125	$28,125	$56,250
2023	$115,313	$28,828	$28,828	$57,656
2024	$118,195	$29,549	$29,549	$59,098
2025	$121,150	$30,288	$30,288	$60,575
2026	$124,179	$31,045	$31,045	$62,089
2027	$127,283	$31,821	$31,821	$63,642
2028	$130,466	$32,616	$32,616	$65,233
2029	$133,727	$33,432	$33,432	$66,864
2030	$137,070	$34,268	$34,268	$68,535
2031	$140,497	$35,124	$35,124	$70,249
2032	$144,010	$36,002	$36,002	$72,005
2033	$147,610	$36,902	$36,902	$73,805
2034	$151,300	$37,825	$37,825	$75,650
2035	$155,082	$38,771	$38,771	$77,541
2036	$158,960	$39,740	$39,740	$79,480
2037	$162,934	$40,733	$40,733	$81,467
2038	$167,007	$41,752	$41,752	$83,503
2039	$171,182	$42,796	$42,796	$85,591
2040	$175,462	$43,865	$43,865	$87,731
2041	$179,848	$44,962	$44,962	$89,924
TOTAL	$1,115,934	$718,443	$718,443	$1,436,887

Attachment: PILOT-Parkside Project (WCSD) (4838-2507-1860 2) (RES-2021-693 : Parkside Amherst Preservation HDFC - PILOT - CRS #2821)

Attachment: PILOT-Parkside Project (WCSD) (4838-2507-1860 2) (RES-2021-693 : Parkside Amherst Preservation HDFC - PILOT - CRS #2821)

SCHEDULE B
ERIE COUNTY EQUAL PAY CERTIFICATE
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____

_____

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24590 **RESOLUTION 2021-694** **ADOPTED**

Settlement of Tax Certiorari Matter - ARCP OFC Amherst, NY, LLC

AGENDA ITEM : AUGUST 9TH, 2021

TO: **Town Board**

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

DATE: **August 4, 2021**

RE: **Settlement of Tax Certiorari Matter**
ARCP OFC Amherst NY, LLC c/o Ingram Micro (1759 Wehrle Drive)

Kindly adopt the following resolution with respect to the above matter:

WHEREAS, ARCP OFC Amherst NY, LLC (ARCP) has duly and timely commenced a proceeding pursuant to Article 7 of the Real Property Tax Law (RPTL) against the Assessor for the Town of Amherst and the Town of Amherst to review and challenge the assessment of real property owned by ARCP for the 2020-2021 and 2021-2022 tax years for premises located 1759 Wehrle Drive, bearing SBL #81.01-1-16; and

WHEREAS, the parties, through their counsel and with the input of the Assessor for the Town of Amherst have had extensive discussions regarding the settlement of the proceedings; and

WHEREAS, the Assessor for the Town of Amherst and the Town Attorney have reviewed, agreed and approved the contents of the Stipulated Consent Judgment attached hereto; and

BE IT RESOLVED, that the Town Board determines that the proposed settlement is reasonable and appropriate and that the terms of the same are reasonable; and

BE IT FURTHER RESOLVED that the resolution and settlement of this matter along the lines stated in the attached Stipulated Consent Judgment in the best interest of the Town of Amherst; and

BE IT FURTHER RESOLVED that the Town Attorney and the Assessor for the Town of Amherst are hereby and authorized and directed to execute the attached Stipulated Consent Judgment and are further authorized and directed to take all other necessary and appropriate steps needed to implement the settlement.

SJS:LG
Attachment

c: Kathy Cooper, Deputy Town Clerk
(w/attachment, **AGENDA ITEM : August 9th, 2021)**
David Marrano, Town Assessor (w/attachment)

8/09/2021
Consent

FINANCIAL IMPACT:

Assessment

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

At a Special Term of the Supreme Court, held in
and for the County of Erie at Buffalo, New York
on the _____day of _____, 2021.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

In the Matter of the Application of
ARCP OFC Amherst NY, LLC
c/o Ingram Micro,

Petitioner,

v.

BOARD OF ASSESSMENT REVIEW AND/OR ASSESSOR OF THE TOWN OF AMHERST AND THE TOWN OF AMHERST, ERIE COUNTY, NEW YORK.

Respondents.

Index Number
807668/2020
809614/2021

Hon. Henry J. Nowak J.S.C.

CONSENT JUDGMENT

The above petitioners having heretofore served and filed the Petitions and Notices to review the tax assessments fixed by the TOWN OF AMHERST for the assessment years 2020 and 2021, upon certain real property constituting an assessment parcel and designated as Tax Map Nos.: 81.01-1-16 on the Official Assessment Map of the TOWN OF AMHERST, and

The issues of these proceedings having duly come on for trial at an IAS Term of this Court, and the petitioner having appeared by JAMES T. RYAN, III, ESQ., of STAVITSKY & ASSOCIATES LLC, and the respondents having appeared by STANLEY J. SLIWA, ESQ., Counsel for the TOWN OF AMHERST, and Intervenor-Respondents, Williamsville Central School District having appeared by MICHAEL B. RISMAN, ESQ. of HODGSON RUSS, LLP and the parties having made their settlement, it is

ORDERED, that the assessments on the above-referenced property be and the same are hereby reduced, corrected and fixed for the assessment years as follows:

PARCEL 81.01-1-16

Tax Year	Current Assessment	Amount of Reduction	Revised Assessment
2020	$21,450,000	$0	$21,450,000
2021	$21,450,000	$1,025,000	$20,425,000

and so reduced and confirmed, it is further

Attachment: ARCP.OFCConsentJudgment (RES-2021-694 : Settlement of Tax Certiorari Matter - ARCP OFC Amherst, NY, LLC)

ORDERED, ADJUDGED AND DECREED, that no petition for the review of the assessment of the subject property shall be filed for the 2022, 2023 and 2024 tax years if the assessment for these years shall be $20,425,000, provided however, the Assessor shall have the right to change the future assessment for any of the permissible reasons set forth in section 727 of the Real Property Tax Law, and the petitioner shall have the corresponding right to file a petition for the review of the changed assessment. The foregoing provisions shall apply notwithstanding the possible future appeal or invalidation of section 727 of the Real Property Tax Law; and it is further

ORDERED, ADJUDGED AND DECREED that the officer or officers having custody of the assessment rolls upon which the above-mentioned assessments and any taxes levied thereon are entered shall correct the said entries in conformity with this Order and shall note upon the margin of said rolls, opposite said entries, that the same have been corrected by the authority of this Order, and it is further

ORDERED, ADJUDGED AND DECREED, that in the event that taxes are unpaid and have already been billed in accordance with the original assessed valuation, the officer or officers having custody of the assessment rolls shall promptly forward to the Petitioner a new bill or bills taxing said petitioner on the basis of the final total assessed valuation agreed to hereto, and it is further

ORDERED, ADJUDGED AND DECREED that Petitioner waives all refund otherwise owed under the provisions of this Consent Judgment, and it is further

ORDERED AND DIRECTED that these proceedings are discontinued with prejudice and without costs or disbursements against either party.

Dated: Buffalo, New York

_____ ___, 2021

Enter,

_____

Hon. Henry J. Nowak J.S.C.

Attachment: ARCP.OFCConsentJudgment (RES-2021-694 : Settlement of Tax Certiorari Matter - ARCP OFC Amherst, NY, LLC)

SIGNING AND ENTRY OF THE WITHIN ORDER IS HEREBY CONSENTED TO:

Stavitsky & Associates, LLC
By: James T. Ryan, III, Esq.
Attorneys for Petitioner
350 Passaic Ave
Fairfield, New Jersey 07004
Dated:

Town of Amherst
By: Stanley J. Sliwa, Esq.
Town Attorney, Town of Amherst
Attorneys for Respondents
Senior Deputy Attorney
5583 Main Street
Williamsville, New York 14221
Dated:

David C. Marrano, SCA
Assessor, Town of Amherst
Dated:

7/28/2021

Hodgson Russ, LLP
By: Michael B. Risman, Esq.
Attorneys for Intervenor-Respondents
Williamsville Central School District
The Guaranty Building
140 Pearl Street, Suite 100
Buffalo, New York 14202
Dated:

Attachment: ARCP.OFCConsentJudgment (RES-2021-694 : Settlement of Tax Certiorari Matter - ARCP OFC Amherst, NY, LLC)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Town Clerk
Initiated by: **Francina J. Spoth**
Co-Sponsored by:

DOC ID: 24578 **RESOLUTION 2021-695** **ADOPTED**

Authorization for Pre-Payment to DXO Communications of Buffalo, Inc.

We are requesting approval for and directive to the Comptroller for pre-payment to DXO Communications of Buffalo, Inc. for the mailing of the 2021 School Tax Bills ($12,447.00) and for the 2021 School Tax Receipts ($9,681.00).

8/09/2021
Consent

FINANCIAL IMPACT:

$12,447.00 Postage for the mailing of the 2021 School Tax Bills from A1410 4020.

$9, 681.00 Postage for the mailing of the 2021 School Tax Receipts from A 1410 4020.

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

Invoice #	B36797pstg	**Customer:**	Town of Amherst Town Clerks Office 5583 Main St Amherst NY 14221
Invoice Date:	21-Jul-21		

Postage

Quantity	Services	Rate Per Pc	Amount
27,000	**Postage Invoice** First-Class Postage for 2021 School Tax Bills DXO COMMUNICATIONS of Buffalo, Inc. ***Checks made payable to:*** DXO Communications of Buffalo ***Send remittance to:*** DXO Communications of Buffalo 4444 Broadway Ste 2 Depew NY 14043	$ 0.461	**$ 12,447.00**
		Balance Due	**$ 12,447.00**

Attachment: DXO 2021 School tax bills (RES-2021-695 : Authorization for Pre-Payment to DXO Communications of Buffalo, Inc.)

Invoice #	B36799pstg	**Customer:**	Town of Amherst Town Clerks Office 5583 Main St Amherst NY 14221
Invoice Date:	21-Jul-21		

Postage

Quantity	Services	Rate Per Pc	Amount
21,000	**Postage Invoice** First-Class Postage for 2021 School Tax Bill Receipts	$ 0.461	**$ 9,681.00**
	Checks made payable to: DXO Communications of Buffalo ***Send remittance to:*** DXO Communications of Buffalo 4444 Broadway Ste 2 Depew NY 14043		
		Balance Due	**$ 9,681.00**

Attachment: DXO 2021 School tax receipts (RES-2021-695 : Authorization for Pre-Payment to DXO Communications of Buffalo, Inc.)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 24585 **RESOLUTION 2021-696** **ADOPTED**

Amusement License - Canterbury Woods

Request by Hammerl Amusements for a Sixth Class Amusement License for August 27 & 28 from 5 PM - 9 PM. Supervising Code Enforcement Officer recommends a fee of $100.

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 the vehicle.
2. That all fire lanes be kept clear at all times.
3. Temporary generator power must obtain a permit and be code compliant.
4. Bathroom facility must be made available and accessible.
5. On site accessible parking must be maintained.
6. Fire Department access must be maintained at all times in the event of an emergency.
7. Events with 1,000 guests or more will require "Crowd Managers" that are in compliance with Chapter 4 of the 2020 FCNYS
8. The applicant must abide by Chapter 138 of the Town of Amherst Code regarding noise.
9. Fire Extinguishers must be accessible throughout.
10. Tents exceeding 400 square feet require a Fire Prevention permit.

8/09/2021
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 28, 2021

TO: Town Board

FROM: Douglas Gesel, Supervising Code Enforcement Officer

RE: Amusement License for 705 Renaissance Drive, Canterbury Woods

In response to the Amusement License Application dated June 8, 2021 from Hammerl Amusements,

I recommend the approval of his request for Sixth 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 $50.00 to $150.00 per day, or fraction thereof.

With the event being held on Friday August 27 and Saturday August 28, 2021 from 5:00 pm until 9:00pm each day on a grass area of the address noted above, I would recommend a fee of $50.00 per day.

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.
- Temporary generator power must obtain a permit and be code compliant.
- Bathroom facility must be made available & accessible.
- On site accessible parking must be maintained.
- 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.

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: DOC072921-07292021100225 (RES-2021-696 : Amusement License - Canterbury Woods)

TOWN OF AMHERST
FIRE SAFETY DIVISION
5583 MAIN STREET
WILLIAMSVILLE, NY 14221

(p) (716) 631-7140
(f) (716) 631-7192
bparnell@amherst.ny.us
amherst.ny.us/firesafety

Memorandum

Date: 7/22/2021

From: Bryan W. Parnell
Sr. Fire Inspector

To: Timothy Koller

Re: Amusement License

1. Fire Lanes and fire department access must be maintained at all times.
2. Fire extinguishers must be accessible throughout.
3. Crowd over 1000 people require trained crowd managers per 2020 IFC.
4. Tents exceeding 400 square feet require a Fire Prevention Permit.
5. The use of the generator will require a generator permit from the electrical division.
6. Mobile food vehicles require a Town Permit for mobile food vending.

Attachment: DOC072921-07292021100225 (RES-2021-696 : Amusement License - Canterbury Woods)

Koller, Timothy

From: Scott Chamberlin <[redacted]
Sent: Wednesday, July 21, 2021 1:05 PM
To: Koller, Timothy
Subject: Re: Amusement License - Canterbury Woods

Follow Up Flag: Follow up
Flag Status: Flagged

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.

No issues with this from the Police Department perspective.

SC

Chief Scott P. Chamberlin
Town of Amherst Police Department
500 John James Audubon Parkway
Amherst, NY 14228
(716)689-1351
[redacted]

On Tue, Jul 20, 2021 at 9:05 AM Koller, Timothy <tkoller@amherst.ny.us> wrote:

MEMORANDUM

Date: July 20, 2021

To: Scott Chamberlin, Chief of Police &, Mark Berke, Building Commissioner & Bryan Parnell, Senior Fire Inspector

From: Timothy Koller, Deputy Town Clerk

Re: Amusement License

Attached is a request from Hammerl Amusements to run a family/employee picnic with rides, games and food vendors on August 27 and 28 at Canterbury Woods, 205 Renaissance Drive. 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

Attachment: DOC072921-07292021100225 (RES-2021-696 : Amusement License - Canterbury Woods)

Town of Amherst
Amusement License Application

Organization or Resident: CANTERBURY WOODS

Address of Event: 705 RENAISSANCE DR. WILLIAMSVILLE NY.

Describe Event: RIDES, GAMES & FOOD VENDORS FOR A FAMILY/EMPLOYEE PICNIC

List All Dates: FRI 8/27/21 & SAT 8/28/21
day/month/year & day of week

Number of Occasions: 1

Time (Start & End): 5-9pm

PLEASE ATTACH A SITE PLAN WITH DESIGNATED AREA FOR EVENT

Name of Organizer HAMMERL AMUSEMENTS

Address P.O. BOX 40 WILLIAMSVILLE NY 14231

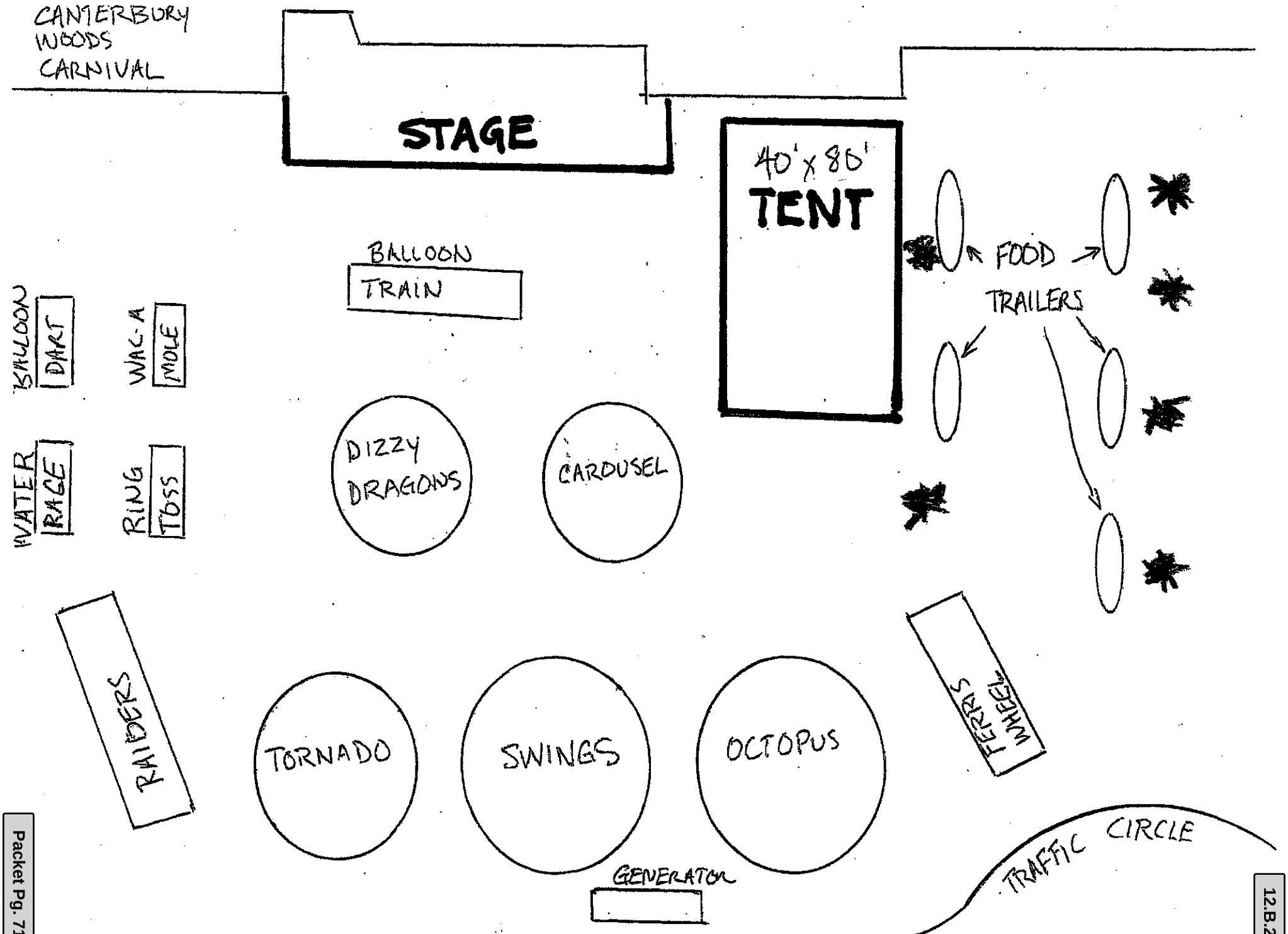
Phone Number 716-741-9518

Signature of Organizer Lynn Ritchie

Date 6/8/21

Office use only:
Submitted to Police & Building _____
Fee determined by Town Board _____
Business or Resident notified _____
Payment Rcvd _____
License issued and mailed out _____

Attachment: DOC072921-07292021100225 (RES-2021-696 : Amusement License - Canterbury Woods)



Attachment: DOC072921-07292021100225 (RES-2021-696 : Amusement License - Canterbury Woods)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 24584 **RESOLUTION 2021-697** **ADOPTED**

New Firefighter for Getzville Fire Company

The new firefighter for the Getzville Fire Company lives in the Town of Amherst and resides within the Getzville Fire District.

Tyler Nelson
301 Robin Road
Amherst, NY 14228

8/09/2021
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: Tyler Nelson

Applicant Home Address: 301 Robin Road

Under penalty of perjury I, Tyler Nelson affirm I am an applicant to be a member of the, Getzville (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: Tyler Nelson

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: Corporate Secretary

Date: 7/28/2021

Submit this completed form to:
Amherst Town Clerk
5583 Main Street
Williamsville, NY 14221

Attachment: Tyler Nelson Residency (RES-2021-697 : New Firefighter for Getzville Fire Company)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 24605 **RESOLUTION 2021-698** **ADOPTED**

New Firefighter for East Amherst Fire Department

The new firefighter for the East Amherst Fire Department lives in the Town of Amherst and resides within the East Amherst Fire District.

Michael Lombardo
825 Casey Road
E. Amherst, NY 14051

8/09/2021
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: Michael Lombardo

Applicant Home Address: 825 Casey Rd E. Amherst 14051

Under penalty of perjury I, Michael Lombardo affirm I am an applicant to be a member of the, East Amherst (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: Michael Lombardo

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: Kenneth Bush

Title: PRESIDENT

Date: 8-2-2021

Submit this completed form to:
Amherst Town Clerk
5583 Main Street
Williamsville, NY 14221

Attachment: Lombardo residency form 8.2.21 (RES-2021-698 : New Firefighter for East Amherst Fire Department)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Comptroller
Initiated by: **Daryl Bramer**
Co-Sponsored by:

DOC ID: 24608 **RESOLUTION 2021-699** **ADOPTED**

Budget Transfers and Amendments

For August 9, 2021 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 8/4/2021
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:***
KP2028.4979 WPCF Lab Equip. - Contingency $2,500	KP2028.4972 Construction Expense $2,500
Per Department request.	
A7141.4240 Clearfield - Trucks, Tractors, Equip. $138.40	A7143.4240 No. Amherst $138.40
A7253.4120 Ice Rink - Training $450.00	A7145.4130 Recreation - Training $450.00
Per Department request.	

BUDGET AMENDMENTS - 2021

INCREASE:	***INCREASE:***
N1854.03089 State Grant- Aid $17,731.00	N1854.4000 State Grant Contractual $15,396.00 N1854.1000 State Grant Personal Svc $2,169.07 N1854.8030 State Grant FICA $165.93
To recognize Community Development income from NYS AHC Grant Check #1Q62.	
N2044.02785 Cheektowaga Home - PI $4,500.00	N2044.4000 Contractual $4,500.00
N2049.02785 Cheektowaga Home Admin $500.00	N2049.4003 Admin $500.00
To recognize Community Development program income from 92 Yeager Drive, Cheektowaga.	
A3510.05001 Animal Control - Refund of C/Y Exp. $635	A3510.4110 Contractual $635
To recognize overpayment of kennel fees and return funds to budget.	
A3120.05001 Police- Refund of C/Y Exp. $50.00	A3120.4017 Range Supplies $50.00
To recognize range fees and increase expenditure for maintenance of Range.	
A3120.02617 Police - Auction Revenue $8,590	A3120.4430 Rnge, Photo, Sewer, Misc. $8,590
To recognize proceeds from auction and increase miscellaneous expense.	
A3120.02680 Police - Insurance Reimb. $28,872.96	A3120.4230 Passenger Vehicles $28,872.96
To recognize insurance proceeds and increase expenditures for repair of damaged vehicles.	
N2023.02785 CDBG & VG - PI $800.00	N2023.4000 Contractual $800.00
N2025.02785 CDBG Admin - PI $200.00	N2025.1000 Personal Services $185.79 N2025.8030 FICA $14.21
To recognize Community Development program income from 6 Campus Drive, Amherst.	

8/09/2021
Consent

FINANCIAL IMPACT:

See descriptions.

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: 08/09/21 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 24579 **RESOLUTION 2021-700** **ADOPTED**

Award Bid #2021021 - Rolls Royce Turbine Power Generator Inspection/Service/Repair - CRS #2795

WHEREAS, the Contract Compliance and Administration Department received bids on June 24, 2021 for Bid #2021021 Rolls Royce Turbine Power Generator Inspection/Service/Repair; and

WHEREAS, the bid process resulted in responses from one (1) vendor, as per the attached bid tabulation form;

NOW, THEREFORE BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this bid to OnPower, Inc.; and

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

8/09/2021
Consent

FINANCIAL IMPACT:

G9916-4960; Amount TBD

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

Bid #2021021 Rolls Royce Turbine Generator							
		Low Bidder		OnPower, Inc.			
			Vendor Name:				
Item #	QTY	U/M		Unit Price using Lebanon, Ohio Technician - See Notes	Total Price using Lebanon, Ohio Technician - See Notes	Unit Price using Rochester Technician - see Notes	Total Price using Rochester Technician - see Notes
1	2	EA	Semi-Annual Inspection Service Charge	$8,330.00	$16,660.00	$4,386.00	$8,772.00
2	2	EA	Scheduled Service – Half Day	$5,270.00	$10,540.00	$1,401.00	$2,802.00
2A	4	EA	Scheduled Service – Full Day	$6,165.00	$24,660.00	$2,221.00	$8,884.00
3	2	EA	Emergency Call-In Service – Half Day	$7,320.00	$14,640.00	$2,016.00	$4,032.00
3A	2	EA	Emergency Call-In Service – Full Day	$8,625.00	$17,250.00	$3,246.00	$6,492.00
4	$20,000.00	%	A percentage markup over the awarded vendors cost. This would be for the TOA to purchase parts, materials and components to maintain the safe operation of our turbine generator and associated equipment as further detailed within this bid document. ($20,000.00 x35% Mark Up = $27,000	35%	$27,000.00	35%	$27,000.00
5	$2,000.00	%	Specialized Equipment Mark Up ($2,000.00 x 20% Mark Up =$2,400)	20%	$2,400.00	20%	$2,400.00
6	$4,000.00	%	Sub-Contractor Mark Up ($4,000.00 x 15% Mark Up =$4,600)	15%	$4,600.00	15%	$4,600.00

NOTES:

Per Tom Dean's discussion with Steve Falty at OnPower, the current Technician located in Rochester, NY is planning to retire, however, that date is unknown.

After the current Technician from Rochester retires, Technicians will then travel from Lebanon, Ohio, which will reflect higher pricing for service.

There are two service rate columns reflecting rates for the Technician coming from Lebanon, Ohio and the rate for the Technician traveling from Rochester, NY.

Attachment: Bid Tab 2021021 Rolls Royce Turbine Generator (RES-2021-700 : Award Bid #2021021 - Rolls

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 24615 **RESOLUTION 2021-701** **ADOPTED**

Amendment to Kitchen Exhaust Cleaning Contract CRS #2803 (Orig CRS/CMS #1331/1620)

WHEREAS, the Contract Compliance and Administration Department is requesting approval of an Amendment to the Kitchen Exhaust Systems Cleaning contract to add service at the Audubon Golf Course Club House, as per the attached Scope of Work;

NOW, THEREFORE, BE IT RESOLVED, The Town Board approves the Amendment to the Kitchen Exhaust Systems Cleaning Contract with Indoor Air Professionals; and

BE IT FURTHER RESOLVED, the Supervisor is authorized to sign the Amendment with Indoor Air Professionals.

8/09/2021
Consent

FINANCIAL IMPACT:

A6772-7250 $1,495.00

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

Indoor Air Professionals, In
Quality Care For Your Indoor Air

08/03/21

Mr. Dan Rizzo
Town of Amherst
5583 Main St
Williamsville, NY 14221

Re: Kitchen Exhaust and Building Exhaust Ductwork Cleaning 2021 – Audobon Golf Course – 500 ~~Main St~~ Maple Road – IAP #Q202107735

On-Site Observations

Based on our walkthrough (July 2021) of the kitchen exhaust and building exhaust systems, we are pleased to re-quote the kitchen exhaust system cleaning for the above referenced facility. Enclosed please find our scope of work and proposal per your request.

Recommendations

We recommend a thorough cleaning of the exhaust systems every year and also a 6 month cleaning of the hoods only to remove debris buildup, reduce airflow restrictions, and prevent any fire hazards.

We appreciate this opportunity to submit this quote, and look forward to being of service to the Larkin Development Group. Should you have any questions regarding this proposal, please feel free to contact out office.

Sincerely,
Indoor Air Professionals Inc

Robert Leddon ASCS VSMR WRT ASD
Project Manager

North America's Largest Staff of Certified Professionals

Attachment: Quote Indoor Air Professionals rev (RES-2021-701 : Amendment to Kitchen Exhaust Cleaning Contract - CRS #2803 (Orig

Indoor Air Professionals, In
Quality Care For Your Indoor Air

08/03/21

SCOPE OF WORK

Audobon Golf Course

ITEM #1: Kitchen Exhaust Cleaning

- **Hand-clean/Steam-clean (degrease)** one (1) kitchen exhaust ductwork system to include the following:
    1. One (1) roof-mount exhaust fan.
    2. One (1) kitchen exhaust hood.
    3. Ductwork connecting the fan and the hood.

ITEM #2: Building Exhaust Cleaning

- **Clean** two (2) building exhaust ductwork systems to include the following:
    1. Two (2) roof-mount exhaust fan.
    2. Nine (9) exhaust air grilles.
    3. Ductwork connecting the fans and the grilles.

PROJECT COSTS

The proposed costs, not including tax, to perform the above work in ITEM #1 are……..$1495.00

NOTES:

- **Projects will be managed by a NADCA Certified Air System Cleaning Specialist (ASCS).**
- Our prices include labor, materials, and supervision. These prices will remain firm and effective for 30 days, after which time reference should be made to this office. Sales tax **is not** included.
- We will need to coordinate the ductwork access areas with your facility in order to eliminate any delays in starting the project.

GENERAL CONDITIONS

Services are provided under the terms of Indoor Air Professionals, Inc. standard *General Conditions* agreement. This agreement contains a limitation of liability clause. Client consents to all terms.

TERMS

Payment is net 30 days after completion of the project. Interest rate fee of 1.5% per month will be charged on any balance after due date.

ACCEPTANCE

If the above meets with your approval, please indicate your acceptance in the space provided below and provide us with a purchase order referencing our quote number.

_____ _____ _____

Approved By Date Purchase Order Number

Re: Kitchen Exhaust and Building Exhaust Ductwork Cleaning 2021 – Audobon Golf Course – 500 ~~Main St~~ Maple Road – IAP #Q202107735

Attachment: Quote Indoor Air Professionals rev (RES-2021-701 : Amendment to Kitchen Exhaust Cleaning Contract - CRS #2803 (Orig

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24619 **RESOLUTION 2021-702** **ADOPTED**

2021-2026 CIP Amendment Revision Youth and Recreation Department Athletic Fields Replacement Project

At the July 26, 2021 Town Board meeting under resolution 2021-657, the Engineering Department recommended the following CIP amendment relative to the above referenced project. The request was approved by the Town Board; however, there was an error in the request as the project was approved as YR-10A, a project identifier that was previously added to the 2021-2026 CIP for the procurement of golf course maintenance equipment. In that, please approve this revised 2021-20126 CIP amendment request as project **YR-11A**.

CIP No.	Project Description	2021 Funding Allocation	2021 Revised Funding Allocation
~~YR-10A~~ **YR-11A**	Athletic Fields Replacement Project	$ 0	$ 3,800,000 LA $ 2,400,000 X
	Total	**$ 0**	**$6,200,000**

Thank you.

8/09/2021
Consent

FINANCIAL IMPACT:

$6,200,000.00

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: 08/09/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24620 **RESOLUTION 2021-703** **ADOPTED**

Amherst Police Training Center Shooting Range - Change Order #2 & Final Goodwin Electric Corp. CRS No 2801

We are requesting that the Town Board consider approval of the above referenced Change Order, which increases to the overall contract amount by $845.00. This change order is required for additional switching and wiring to enhance the functionality of the shooting range by adding a full-dark mode within the range space for training purposes.

Funding is available for this change order from the project bond account KP2009.4972.

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

Thank you for considering this request.

8/09/2021
Consent

FINANCIAL IMPACT:

$845.00; KP2009-4972

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

Contract Administration
G701 Change Order

Distribution List 12.K.2.a

- **Owner** ☑
- **Architect** ☐
- **Contractor** ☑
- **Field** ☐
- **Other** ☐

Project: Amherst Police Training Center
Shooting Range Improvements

To Contractor: Goodwin Electric Corp.

Change Order No. EC-2
Date: 08/01/21
Project No. 2018.036A
Contract Date: 07-06-20
Contract Name: Electrical Construction

THE CONTRACT IS CHANGED AS FOLLOWS

1. Installation of an additional switch and wiring to enable a full-dark mode within the range space. $ 845.00

Total **$ 845.00**

The Original Contract Sum:	**$179,200.00**
Net change by previously authorized Change Orders:	$18,050.09
The Contract Sum prior to this Change Order was:	**$197,250.09**
The Contract Sum will be increased by this Change Order in the amount of:	$ 845.00
The new Contract Sum including this Change order will be:	**$198,095.09**
The Contract Time will be changed by:	(0) days.
The date of Substantial Completion as of the date of this Change Order therefore is:	Unchanged

NOTE: *This summary does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon in writing by both the Owner and Contractor, In which case a Change Order is executed to supersede the Construction Change Directive.*

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR, AND OWNER

Architect	Contractor	Owner
N/A	Goodwin Electrical Corp.	Town of Amherst
Address	**Address**	**Address**
N/A	201 S. Youngs Rd. Williamsville, NY 14221	5583 Main St. Williamsville, NY 14221
By: (Signature)	**By: (Signature)**	**By: (Signature)**
N/A		
Date:	**Date:**	**Date:**

NOTE: *This document is a facsimile of The American Instituite of Architects standard Change Order Form G701, and is being used at the election of the Architect in place of the standard Change Order Form G701. This document shall serve as a Change Order to modify the contract indicated above as stipulated in the Contract Documents, and shall serve the same purpose as the standard Change Order Form G701 . By signing this document all parties agree that this document shall serve as the required documentation for the contract changes indicated above, and agree to honor this document as though it were Change Order Form G701.*

Attachment: Goodwin Change Order 02 Form (RES-2021-703 : Amherst Police Training Center Shooting Range - Change Order #2 & Final)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24622 **RESOLUTION 2021-704** **ADOPTED**

WPCF Sludge Storage Building - Electrical Contract No-Cost Time Extension CRS 2807

The Engineering Department requests the Town Board approve the above referenced Change Order, which calls for a no-cost time extension until September 30, 2021 for Industrial Power and Lighting Corp. for the above-referenced project. There are no ancillary costs associated with this request. This request has successfully completed the contract review process.

May we have your approval to award Industrial Power and Lighting Corp. the above referenced Change Order? Thank you for considering this request.

8/09/2021
Consent

FINANCIAL IMPACT:

N/A

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

Change Order

PROJECT: *(Name, address and Project File No.)*

CHANGE ORDER: **# 1**

DATE: 7-28-21

WPCF: Sludge Storage Building – Electrical Contract

Project No. **2017.002A**

TO CONTRACTOR: *(Name and address)*

Industrial Power and Lighting Corp.
60 Depot Street
Buffalo, NY 14206

The Contract is changed as follows:

(*Include, where applicable, any undisputed amount attributable to previously executed construction Change Directives*)

1. Requesting that the project substantial completion date of August 14, 2021 be extended to September 30, 2021.

All other terms and conditions remain the same.

The original (Contract Sum) (~~Guaranteed Maximum Price~~) was	$ 212,000.00
The net change by previously authorized Change Orders	$ 0.00
The (Contract Sum) (~~Guaranteed Maximum Price~~) prior to this Change Order was	$ 212,000.00
The (Contract Sum) (~~Guaranteed Maximum Price~~) will be (~~increased~~) (~~decreased~~) (unchanged) by this Change Order in the amount of	$ 0.00
The new (Contract Sum) (~~Guaranteed Maximum Price~~) including this Change Order will be	$ 212,000.00
The Contract Time will be (increased) (~~decreased~~) (~~unchanged~~) by	(47) days
The date of Substantial Completion as of the date of this Change Order therefore is	September 30, 2021

(Note: This change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive).

NOT VALID UNTIL SIGNED BY THE ENGINEER, CONTRACTOR AND OWNER.

ENGINEER (*Firm name*)	CONTRACTOR (*Firm name*)	OWNER (*Firm name*)
DiDonato Associates Engineering and Architecture, P.C.	Industrial Power and Lighting Corp.	Town of Amherst
ADDRESS: 689 Main Street, Buffalo, NY 14203	ADDRESS: 60 Depot Street, Buffalo, NY 14206	ADDRESS: 5583 Main Street, Williamsville, NY 14221
BY (*Signature*)	BY (*Signature*)	BY (*Signature*)
(*Typed name*)	(*Typed name*)	(*Typed name*): Brian J. Kulpa
DATE	DATE	DATE

Attachment: Change Order Form IPL (RES-2021-704 : WPCF Sludge Storage Building - Electrical Contract Time Extension)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24623 **RESOLUTION 2021-705** **ADOPTED**

WPCF Sludge Storage Building - Mechanical Contract No- Cost Time Extension John W. Danforth Company CRS 2806

The Engineering Department requests the Town Board approve the above referenced Change Order, which calls for a no-cost time extension until September 30, 2021 for John W. Danforth Company for the above-referenced project. There are no ancillary costs associated with this request. This request has successfully completed the contract review process.

May we have your approval to award John W. Danforth Company the above referenced Change Order? Thank you for considering this request.

8/09/2021
Consent

FINANCIAL IMPACT:

N/A

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

Change Order

PROJECT: *(Name, address and Project File No.)*

CHANGE ORDER: **# 1**

DATE: 7-28-21

WPCF: Sludge Storage Building – Mechanical Contract

Project No. **2017.002A**

TO CONTRACTOR: *(Name and address)*

John W. Danforth Company
300 Colvin Woods Parkway
Tonawanda, NY 14150

The Contract is changed as follows:

(*Include, where applicable, any undisputed amount attributable to previously executed construction Change Directives*)

1. Requesting that the project substantial completion date of August 14, 2021 be extended to September 30, 2021.

All other terms and conditions remain the same.

The original (Contract Sum) (~~Guaranteed Maximum Price~~) was	$ 154,800.00
The net change by previously authorized Change Orders	$ 0.00
The (Contract Sum) (~~Guaranteed Maximum Price~~) prior to this Change Order was	$ 154,800.00
The (Contract Sum) (~~Guaranteed Maximum Price~~) will be (~~increased~~) (~~decreased~~) (unchanged) by this Change Order in the amount of	$ 0.00
The new (Contract Sum) (~~Guaranteed Maximum Price~~) including this Change Order will be	$ 154,800.00
The Contract Time will be (increased) (~~decreased~~) (~~unchanged~~) by	(47) days
The date of Substantial Completion as of the date of this Change Order therefore is	September 30, 2021

(Note: This change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive).

NOT VALID UNTIL SIGNED BY THE ENGINEER, CONTRACTOR AND OWNER.

ENGINEER (*Firm name*)	CONTRACTOR (*Firm name*)	OWNER (*Firm name*)
DiDonato Associates Engineering and Architecture, P.C.	John W. Danforth Company	Town of Amherst
ADDRESS: 689 Main Street, Buffalo, NY 14203	ADDRESS: 300 Colvin Woods Parkway, Tonawanda, NY 14150	ADDRESS: 5583 Main Street, Williamsville, NY 14221
BY (*Signature*)	BY (*Signature*)	BY (*Signature*)
(*Typed name*)	(*Typed name*)	Brian J. Kulpa (*Typed name*)
DATE	DATE	DATE

Attachment: Change Order #1 Form - Danforth (RES-2021-705 : WPCF Sludge Storage Building - Mechanical Contract Time Extension)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24625 **RESOLUTION 2021-706** **ADOPTED**

WPCF Sludge Storage Building - General Contract Change Order No. 3 Building Innovation Group, Inc. CRS 2808

We are requesting the Town Board approve the above referenced Change Order No. 3, which calls for a $17,941.00 increase in the contract price, and a time extension in order to complete this work. The projects substantial completion date of August 14, 2021 will be extended to September 30, 2021. This Change Order will cover the costs associated with replacing the damaged concrete blocks in the electrical vault with new reinforced concrete blocks, cleaning out the vault of any debris and inspection of the electrical feeder cables that were struck by damaged concrete blocks. The project's revised contract price will be $1,167,692.00. This request has successfully completed the contract review process.

Funding for this request is available from account KP1721-4972.

May we have your approval to award Building Innovation Group Inc. the above referenced Change Order? Thank you for considering this request.

8/09/2021
Consent

FINANCIAL IMPACT:

$17,941.00; KP1721-4972

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

Change Order

PROJECT: *(Name, address and Project File No.)*

CHANGE ORDER: **# 3**

DATE: 7-28-21

WPCF: Sludge Storage Building – General Contract

Project No. **2017.002A**

TO CONTRACTOR: *(Name and address)*

Building Innovation Group Inc.
107 Lincoln Parkway
East Rochester, NY 14445

The Contract is changed as follows:

(*Include, where applicable, any undisputed amount attributable to previously executed construction Change Directives*)

1. Contractor to repair electrical vault and inspect the electrical feeder cables. As per Contractor's proposal (RFP GC-03R1 Vault Repair) dated 7/13/21.
2. Requesting that the project substantial completion date of August 14, 2021 be extended to September 30, 2021.

All other terms and conditions remain the same.

The original (Contract Sum) (~~Guaranteed Maximum Price~~) was	$ 1,145,527.00
The net change by previously authorized Change Orders	$ 4,224.00
The (Contract Sum) (~~Guaranteed Maximum Price~~) prior to this Change Order was	$ 1,149,751.00
The (Contract Sum) (~~Guaranteed Maximum Price~~) will be (increased) (~~decreased~~) (~~unchanged~~) by this Change Order in the amount of	$ 17,941.00
The new (Contract Sum) (~~Guaranteed Maximum Price~~) including this Change Order will be	$ 1,167,692.00
The Contract Time will be (increased) (~~decreased~~) (~~unchanged~~) by	(47) days
The date of Substantial Completion as of the date of this Change Order therefore is	September 30, 2021

(Note: This change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive).

NOT VALID UNTIL SIGNED BY THE ENGINEER, CONTRACTOR AND OWNER.

ENGINEER (*Firm name*)	CONTRACTOR (*Firm name*)	OWNER (*Firm name*)
DiDonato Associates Engineering and Architecture, P.C.	Building Innovation Group Inc.	Town of Amherst
ADDRESS: 689 Main Street, Buffalo, NY 14203	ADDRESS: 107 Lincoln Parkway, East Rochester, NY 14445	ADDRESS: 5583 Main Street, Williamsville, NY 14221
BY (*Signature*)	BY (*Signature*)	BY (*Signature*)
(*Typed name*)	(*Typed name*)	(*Typed name*): Brian J. Kulpa
DATE	DATE	DATE

Attachment: Change Order #3 - Building Innovation (RES-2021-706 : WPCF Sludge Storage Building - General Contract Change Order No. 3)

BUILDING INNOVATION GROUP
GENERAL CONTRACTORS
107 Lincoln Parkway
East Rochester, NY 14445
Phone 585-586-6710 Fax 585-586-6714

7/13/21 Revised
Amherst Sludge Storage
455 Tonawanda Creek Rd.
Amherst, NY 14228

Attn: Mike Hitzel
Re: RFP GC-03R1 Vault Repair

Dear Mr. Hitzel

Building Innovation Group is pleased to present you with the following proposal for cost associated with RFP GC-03 Vault Repair per attached construction directive and attached A-402 drawing. I have broken down the entire directive into each task and phase. Each attached proposal has been numbered to correspond with the itemized breakdown below. Building Innovation group is willing to work to a Time and Material Guaranteed Maximum Price to allow any potential savings to be passed onto the Town of Amherst. No electrical repair work has been included in this proposal. It is intended that the existing concrete vault cover will be re-installed on the new CMU walls. No new vault cover or accessories have been included.

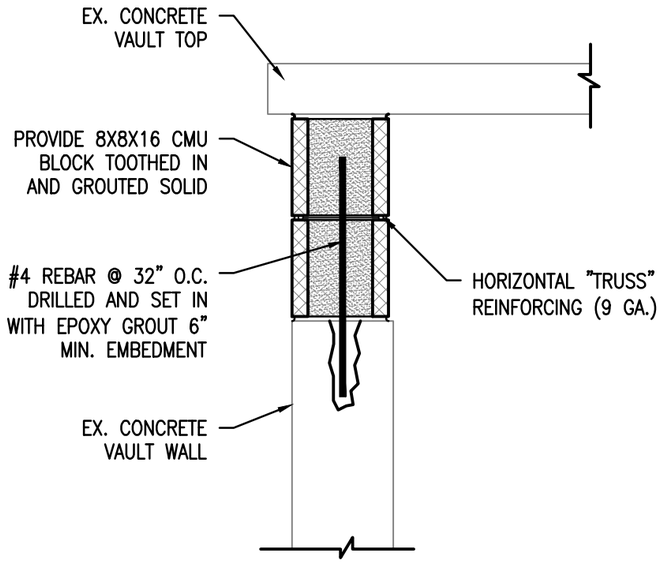
~~1. Asphalt and Subbase Removal. *(subject to negotiation)*~~		~~$ 2,691.00~~
2. Vault Shoring and Protection From Within Vault.		$ 2,755.00
3. Hoist Vault Cover.		$ 1,564.00
4. Demo & Remove Existing CMU.		$ 2,028.00
5. Install Temp Cover and Fencing.		$ 4,019.00
6. Install New CMU.		$ 3,078.00
7. Inspect and Clean Vault.		$ 2,755.00
8. Place Vault Cover.		$ 1,564.00
~~9. Backfill and Paving. *(subject to negotiation)*~~		~~$ 6,044.00~~
	Subtotal	$ 17,763.00
	~~BIG 10% O&P~~	~~$ 2,650.00~~
		$ 17,763.00
	Bond 1%	$ 178.00
	Total Add	**$ 17,941.00**

Sincerely,

Eric T

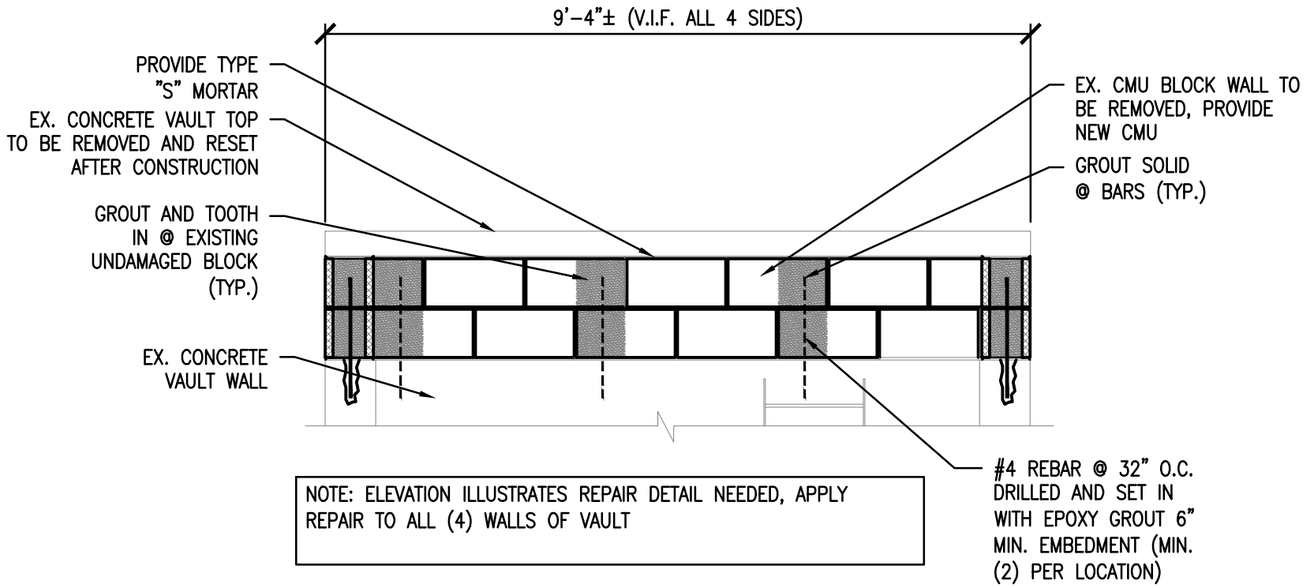
Eric Trumble
Project Manager

Attachment: BIG Proposal (RFP GC-03R1) 7-13-21 (RES-2021-706 : WPCF Sludge Storage Building - General Contract Change Order No. 3)



2 **SECTION**

SCALE: 1"=1'-0"



1 **VAULT ELEVATION**

SCALE: 1/2"=1'-0"

GENERAL NOTES

-CONTRACTOR IS RESPONSIBLE FOR THE DESIGN AND INSTALLATION OF ALL SHORING OF THE EXISTING STRUCTURE REQUIRED TO PERFORM THE WORK. SHORING IS REQUIRED, BUT IS NOT LIMITED TO, LOCATIONS WHERE EXISTING CMU WALLS ARE BEING REMOVED AND WHERE NEW FOUNDATIONS ARE BEING INSTALLED UNDER EXISTING WALLS.

-THE STRUCTURE IS DESIGNED TO BE SELF-SUPPORTING AND STABLE AFTER THE CONSTRUCTION IS FULLY COMPLETED. IT IS SOLELY THE CONTRACTOR'S RESPONSIBILITY TO DETERMINE ERECTION PROCEDURE AND SEQUENCE AND TO INSURE THE SAFETY OF THE STRUCTURE AND ITS COMPONENT PARTS DURING ERECTION. THIS INCLUDES THE ADDITION OF WHATEVER SHORING, SHEETING, TEMPORARY BRACING, GUYS OR TIEDOWNS WHICH MIGHT BE NECESSARY. SUCH MATERIAL SHALL REMAIN THE CONTRACTOR'S PROPERTY AFTER COMPLETION OF THE PROJECT.

-CONTRACTOR SHALL BE CERTIFIED TO WORK IN CONFINED SPACES AND PROVIDE ALL NECESSARY SAFETY AND LIFE SAVING EQUIPMENT WHILE WORKING IN VAULT

-VAULT CONTAINS LIVE WIRE/CABLING AND SHALL BE PROTECTED DURING CONSTRUCTION. PROVIDE ALL NECESSARY PROTECTION FOR WIRES AND EMPLOYEE PERSONAL WHILE WORKING IN CONFINED SPACE.

-IF WORK IS PERFORMED FROM THE EXTERIOR, CONTRACTOR SHALL SAW CUT AND REMOVE EXISTING ASPHALT PAVEMENT AND SUBBASE MATERIALS. CONTRACTOR SHALL RESTORE ASPHALT PAVEMENT ONCE REPAIRS ARE COMPLETED. DURING REPAIR WORK THE CONTRACTOR SHALL PROVIDE PROTECTION OF EXISTING ELECTRICAL WIRE AND COMPONENTS INSIDE THE VAULT.

DIDONATO ENGINEERING & ARCHITECTURAL PROFESSIONALS
699 Main Street Buffalo, NY 14203
P 716 656-1900 F 716 656-1987 www.didonato.com

TOWN OF AMHERST
SLUDGE STORAGE BUILDING
AMHERST, NEW YORK
VAULT REPAIR

REVISIONS

DRAWN BY:	SCALE:
MJH	AS NOT
CHECKED BY:	DATE:
DSS	6/17/

DWG. NO.

A-402

NOTE: UNAUTHORIZED ALTERATION OR ADDITION TO THIS DOCUMENT IS A VIOLATION OF SECTION 7209, PROVISION 2 OF THE NEW YORK STATE EDUCATION L

DIDONATO PROJECT No. 19-3029

Attachment: BIG Proposal (RFP GC-03R1) 7-13-21 (RES-2021-706 : WPCF Sludge Storage Building - General Contract Change Order No. 3)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24626 **RESOLUTION 2021-707** **ADOPTED**

Geotechnical Engineering Services for the North Amherst Rec Center CRS No. 2726

The Engineering Department is requesting the Town Board authorize the Town Supervisor to sign the attached agreement between the Town of Amherst and Terracon Consultants-NY, Inc., to provide Geotechnical Engineering services for the North Amherst Recreation Center.

The amount of the agreement is $10,750.00 and funding is available from account T2107 - 4001. We are also requesting this agreement be retroactive with services commencing on July 7, 2021. This request has been approved in the contract routing system.

Thank you for your consideration of this request.

8/09/2021
Consent

FINANCIAL IMPACT:

$10,750.00; T2107-4001

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

June 10, 2021

Terracon

Town of Amherst Engineering Department
1100 North Forest Road
Williamsville, NY 14221

Attn: Mr. Jeffrey Burroughs – Town Engineer
P: (716) 631-7154
E: jburroughs@amherst.ny.us

Re: Proposal for Geotechnical Engineering Services
North Amherst Recreation Center
4415 Millersport Hwy
Amherst, New York
Terracon Proposal No. PJ5215145

Dear Mr. Burroughs:

We appreciate the opportunity to submit this proposal to Town of Amherst Engineering Department to provide Geotechnical Engineering services for the above referenced project. The following are exhibits to the attached Agreement for Services.

Exhibit A	Project Understanding
Exhibit B	Scope of Services
Exhibit C	Compensation and Project Schedule
Exhibit D	Site Location and Nearby Geotechnical Data
Exhibit E	Anticipated Exploration Plan

Our base fee to perform the Scope of Services described in this proposal is $10,750.
See Exhibit C for more details of our fees and consideration of additional services.

Your authorization for Terracon to proceed in accordance with this proposal can be issued by signing and returning a copy of the attached Agreement for Services to our office.

Sincerely,
Terracon Consultants - NY, Inc.

Charles B. Guzzetta
Office Manager

Attachment: Terracon proposal (RES-2021-707 : Geotechnical Engineering Services for the North Amherst Rec Center)

Reference Number: PJ52151

AGREEMENT FOR SERVICES

This **AGREEMENT** is between Town of Amherst NY ("Client") and Terracon Consultants - NY, Inc. ("Consultant") for Services to be provided by Consulta for Client on the NARC Youth Football Facility & LG Baseball Complex project ("Project"), as described in Consultant's Proposal dated 06/10/20 ("Proposal"), including but not limited to the Project Information section, unless the Project is otherwise described in Exhibit A to this Agreement (whi section or Exhibit is incorporated into this Agreement).

1. **Scope of Services.** The scope of Consultant's services is described in the Proposal, including but not limited to the Scope of Services sectic ("Services"), unless Services are otherwise described in Exhibit B to this Agreement (which section or exhibit is incorporated into this Agreemen Portions of the Services may be subcontracted. Consultant's Services do not include the investigation or detection of, nor do recommendations Consultant's reports address the presence or prevention of biological pollutants (e.g., mold, fungi, bacteria, viruses, or their byproducts) or occupa safety issues, such as vulnerability to natural disasters, terrorism, or violence. If Services include purchase of software, Client will execute a separa software license agreement. Consultant's findings, opinions, and recommendations are based solely upon data and information obtained by ar furnished to Consultant at the time of the Services.
2. **Acceptance/ Termination.** Client agrees that execution of this Agreement is a material element of the consideration Consultant requires execute the Services, and if Services are initiated by Consultant prior to execution of this Agreement as an accommodation for Client at Client request, both parties shall consider that commencement of Services constitutes formal acceptance of all terms and conditions of this Agreemer Additional terms and conditions may be added or changed only by written amendment to this Agreement signed by both parties. In the event Clie uses a purchase order or other form to administer this Agreement, the use of such form shall be for convenience purposes only and any additional conflicting terms it contains are stricken. This Agreement shall not be assigned by either party without prior written consent of the other party. Eith party may terminate this Agreement or the Services upon written notice to the other. In such case, Consultant shall be paid costs incurred and fe earned to the date of termination plus reasonable costs of closing the Project.
3. **Change Orders.** Client may request changes to the scope of Services by altering or adding to the Services to be performed. If Client so request Consultant will return to Client a statement (or supplemental proposal) of the change setting forth an adjustment to the Services and fees for tl requested changes. Following Client's review, Client shall provide written acceptance. If Client does not follow these procedures, but instead direct authorizes, or permits Consultant to perform changed or additional work, the Services are changed accordingly and Consultant will be paid for this wo according to the fees stated or its current fee schedule. If project conditions change materially from those observed at the site or described Consultant at the time of proposal, Consultant is entitled to a change order equitably adjusting its Services and fee.
4. **Compensation and Terms of Payment.** Client shall pay compensation for the Services performed at the fees stated in the Proposal, includi but not limited to the Compensation section, unless fees are otherwise stated in Exhibit C to this Agreement (which section or Exhibit is incorporat into this Agreement). If not stated in either, fees will be according to Consultant's current fee schedule. Fee schedules are valid for the calendar year which they are issued. Fees do not include sales tax. Client will pay applicable sales tax as required by law. Consultant may invoice Client at lea monthly and payment is due upon receipt of invoice. Client shall notify Consultant in writing, at the address below, within 15 days of the date of tl invoice if Client objects to any portion of the charges on the invoice, and shall promptly pay the undisputed portion. Client shall pay a finance fee 1.5% per month, but not exceeding the maximum rate allowed by law, for all unpaid amounts 30 days or older. Client agrees to pay all collection-relat costs that Consultant incurs, including attorney fees. Consultant may suspend Services for lack of timely payment. It is the responsibility of Client determine whether federal, state, or local prevailing wage requirements apply and to notify Consultant if prevailing wages apply. If it is later determin that prevailing wages apply, and Consultant was not previously notified by Client, Client agrees to pay the prevailing wage from that point forward, as well as a retroactive payment adjustment to bring previously paid amounts in line with prevailing wages. Client also agrees to defend, indemnify, a hold harmless Consultant from any alleged violations made by any governmental agency regulating prevailing wage activity for failing to pay prevaili wages, including the payment of any fines or penalties.
5. **Third Party Reliance.** This Agreement and the Services provided are for Consultant and Client's sole benefit and exclusive use with no third pa beneficiaries intended. Reliance upon the Services and any work product is limited to Client, and is not intended for third parties other than those w have executed Consultant's reliance agreement, subject to the prior approval of Consultant and Client.
6. **LIMITATION OF LIABILITY. CLIENT AND CONSULTANT HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH TH PROJECT, INCLUDING CONSULTANT'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF TH ASSOCIATED RISKS. TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF CONSULTANT (AND IT RELATED CORPORATIONS AND EMPLOYEES) TO CLIENT AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE GREATER O $50,000 OR CONSULTANT'S FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNE AND EXPERT FEES) ARISING OUT OF CONSULTANT'S SERVICES OR THIS AGREEMENT. PRIOR TO ACCEPTANCE OF THIS AGREEMEN AND UPON WRITTEN REQUEST FROM CLIENT, CONSULTANT MAY NEGOTIATE A HIGHER LIMITATION FOR ADDITIONA CONSIDERATION IN THE FORM OF A SURCHARGE TO BE ADDED TO THE AMOUNT STATED IN THE COMPENSATION SECTION OF TH PROPOSAL. THIS LIMITATION SHALL APPLY REGARDLESS OF AVAILABLE PROFESSIONAL LIABILITY INSURANCE COVERAG CAUSE(S), OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY. THIS LIMITATION SHALL NO APPLY TO THE EXTENT THE DAMAGE IS PAID UNDER CONSULTANT'S COMMERCIAL GENERAL LIABILITY POLICY.**
7. **Indemnity/Statute of Limitations.** Consultant and Client shall indemnify and hold harmless the other and their respective employees from a against legal liability for claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are legally determined to caused by their negligent acts, errors, or omissions. In the event such claims, losses, damages, or expenses are legally determined to be caused by t joint or concurrent negligence of Consultant and Client, they shall be borne by each party in proportion to its own negligence under comparative fa principles. Neither party shall have a duty to defend the other party, and no duty to defend is hereby created by this indemnity provision and such du is explicitly waived under this Agreement. Causes of action arising out of Consultant's Services or this Agreement regardless of cause(s) or the thec of liability, including negligence, indemnity or other recovery shall be deemed to have accrued and the applicable statute of limitations shall commen to run not later than the date of Consultant's substantial completion of Services on the project.
8. **Warranty.** Consultant will perform the Services in a manner consistent with that level of care and skill ordinarily exercised by members of t profession currently practicing under similar conditions in the same locale. **EXCEPT FOR THE STANDARD OF CARE PREVIOUSLY STATE CONSULTANT MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO CONSULTANT'S SERVICES AN CONSULTANT DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES O MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
9. **Insurance.** Consultant represents that it now carries, and will continue to carry: (i) workers' compensation insurance in accordance with the laws the states having jurisdiction over Consultant's employees who are engaged in the Services, and employer's liability insurance ($1,000,000); commercial general liability insurance ($1,000,000 occ / $2,000,000 agg); (iii) automobile liability insurance ($1,000,000 B.I. and P.D. combined sing limit); and (iv) professional liability insurance ($1,000,000 claim / agg). Certificates of insurance will be provided upon request. Client and Consulta shall waive subrogation against the other party on all general liability and property coverage.

Attachment: Terracon proposal (RES-2021-707 : Geotechnical Engineering Services for the North Amherst Rec Center)

Reference Number: PJ52

10. **CONSEQUENTIAL DAMAGES.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR LOSS OF PROFITS OR REVENUE; LOSS USE OR OPPORTUNITY; LOSS OF GOOD WILL; COST OF SUBSTITUTE FACILITIES, GOODS, OR SERVICES; COST OF CAPITAL; OR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES.
11. **Dispute Resolution.** Client shall not be entitled to assert a Claim against Consultant based on any theory of professional negligence unless until Client has obtained the written opinion from a registered, independent, and reputable engineer, architect, or geologist that Consultant has viol the standard of care applicable to Consultant's performance of the Services. Client shall provide this opinion to Consultant and the parties endeavor to resolve the dispute within 30 days, after which Client may pursue its remedies at law. This Agreement shall be governed by and const according to New York law.
12. **Subsurface Explorations.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or e exploratory services. Client understands Consultant's layout of boring and test locations is approximate and that Consultant may deviate a reason distance from those locations. Consultant will take reasonable precautions to reduce damage to the site when performing Services; however, C accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically include the Services.
13. **Testing and Observations.** Client understands that testing and observation are discrete sampling procedures, and that such procedures indi conditions only at the depths, locations, and times the procedures were performed. Consultant will provide test results and opinions based on tests field observations only for the work tested. Client understands that testing and observation are not continuous or exhaustive, and are conducte reduce - not eliminate - project risk. Client shall cause all tests and inspections of the site, materials, and Services performed by Consultant to be tir and properly scheduled in order for the Services to be performed in accordance with the plans, specifications, contract documents, and Consulta recommendations. No claims for loss or damage or injury shall be brought against Consultant by Client or any third party unless all tests inspections have been so performed and Consultant's recommendations have been followed. Unless otherwise stated in the Proposal, Client assu sole responsibility for determining whether the quantity and the nature of Services ordered by Client is adequate and sufficient for Client's inter purpose. Client is responsible (even if delegated to contractor) for requesting services, and notifying and scheduling Consultant so Consultant perform these Services. Consultant is not responsible for damages caused by Services not performed due to a failure to request or sche Consultant's Services. Consultant shall not be responsible for the quality and completeness of Client's contractor's work or their adherence to project documents, and Consultant's performance of testing and observation services shall not relieve Client's contractor in any way from responsibility for defects discovered in its work, or create a warranty or guarantee. Consultant will not supervise or direct the work performed by Clie contractor or its subcontractors and is not responsible for their means and methods. The extension of unit prices with quantities to establish a t estimated cost does not guarantee a maximum cost to complete the Services. The quantities, when given, are estimates based on contract docum and schedules made available at the time of the Proposal. Since schedule, performance, production, and charges are directed and/or controllec others, any quantity extensions must be considered as estimated and not a guarantee of maximum cost.
14. **Sample Disposition, Affected Materials, and Indemnity.** Samples are consumed in testing or disposed of upon completion of the tes procedures (unless stated otherwise in the Services). Client shall furnish or cause to be furnished to Consultant all documents and information kn or available to Client that relate to the identity, location, quantity, nature, or characteristic of any hazardous waste, toxic, radioactive, or contamina materials ("Affected Materials") at or near the site, and shall immediately transmit new, updated, or revised information as it becomes available. Cl agrees that Consultant is not responsible for the disposition of Affected Materials unless specifically provided in the Services, and that Clier responsible for directing such disposition. In no event shall Consultant be required to sign a hazardous waste manifest or take title to any Affec Materials. Client shall have the obligation to make all spill or release notifications to appropriate governmental agencies. The Client agrees Consultant neither created nor contributed to the creation or existence of any Affected Materials conditions at the site and Consultant shall not be respons for any claims, losses, or damages allegedly arising out of Consultant's performance of Services hereunder, or for any claims against Consultant a generator, disposer, or arranger of Affected Materials under federal, state, or local law or ordinance.
15. **Ownership of Documents.** Work product, such as reports, logs, data, notes, or calculations, prepared by Consultant shall remain Consulta property. Proprietary concepts, systems, and ideas developed during performance of the Services shall remain the sole property of Consultant. F shall be maintained in general accordance with Consultant's document retention policies and practices.
16. **Utilities.** Unless otherwise stated in the Proposal, Client shall provide the location and/or arrange for the marking of private utilities and subterran structures. Consultant shall take reasonable precautions to avoid damage or injury to subterranean structures or utilities. Consultant shall not responsible for damage to subterranean structures or utilities that are not called to Consultant's attention, are not correctly marked, including by a ut locate service, or are incorrectly shown on the plans furnished to Consultant.
17. **Site Access and Safety.** Client shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence a complete the Services and will execute any necessary site access agreement. Consultant will be responsible for supervision and site safety measu for its own employees, but shall not be responsible for the supervision or health and safety precautions for any other parties, including Client, Clie contractors, subcontractors, or other parties present at the site. In addition, Consultant retains the right to stop work without penalty at any ti Consultant believes it is in the best interests of Consultant's employees or subcontractors to do so in order to reduce the risk of exposure to coronavirus. Client agrees it will respond quickly to all requests for information made by Consultant related to Consultant's pre-task planning and assessment processes. Client acknowledges its responsibility for notifying Consultant of any circumstances that present a risk of exposure to coronavirus or individuals who have tested positive for COVID-19 or are self-quarantining due to exhibiting symptoms associated with the coronaviru

Consultant:	Terracon Consultants, Inc.	Client:	Town of Amherst NY
By:	Date: 6/10/2021	By:	Date:
Name/Title:	Charles B. Guzzetta / Office Manager II	Name/Title:	Jeffrey Burroughs / Town Engineer
Address:	461 Tonawanda St Buffalo, NY 14207-2627	Address:	1100 North Frst Williamsville, NY 14221
Phone:	(716) 398-7040 Fax: (716) 398-7041	Phone:	Fax:
Email:	Chuck.Guzzetta@terracon.com	Email:	jburroughs@amherst.ny.us

Attachment: Terracon proposal (RES-2021-707 : Geotechnical Engineering Services for the North Amherst Rec Center)

EXHIBIT A - PROJECT UNDERSTANDING

Our Scope of Services is based on our understanding of the project as described by the Town of Amherst and the expected subsurface conditions as described below. We have not visited the project site to confirm the information provided. Aspects of the project, undefined or assumed, are highlighted as shown below. We request the design team verify all information prior to our initiation of field exploration activities.

Site Location and Anticipated Conditions

Item	Description
Parcel Information	The project is located at 4415 Millersport Hwy and off Smith Road in Amherst, New York.
Existing Improvements	Existing buildings, baseball field, parking and drive areas
Current Ground Cover	Grass fields, asphalt paved parking lot
Existing Topography	Relatively flat
Site Access	We expect the site, and all exploration locations, are accessible with our truck-mounted drilling equipment.
Expected Subsurface Conditions	Our experience near the vicinity of the proposed development or geologic maps indicates subsurface conditions consist of lacustrine silt and clay soils.

Planned Construction

Item	Description
Information Provided	RFP emailed to Terracon on June 4, 2021.
Project Description	Construction of a Youth Football Facility adjacent to the North Amherst Recreation Center and improvements to the 90-foot diamond at the Lou Gehrig Baseball Complex.
Proposed Structures	Athletic field improvements and light poles
Estimated Start of Construction	Month 20XX

Attachment: Terracon proposal (RES-2021-707 : Geotechnical Engineering Services for the North Amherst Rec Center)

EXHIBIT B - SCOPE OF SERVICES

Our proposed Scope of Services consists of field exploration, laboratory testing, and engineering/project delivery. These services are described in the following sections.

Field Exploration

Town of Amherst prescribed the following boring locations and depths:

Number of Borings	Planned Boring Depth (feet) [1]	Planned Location
4 (B-1, B-2, B-3, B-4)	10 or auger refusal	Main Football Field area
2 (B-5, B-6)	30 or auger refusal	
5 infiltration tests	1 (proposed subgrade)	
1 (B-7)	30 or auger refusal	Practice Football Field area
1 (B-8)	30 or auger refusal	Softball Field area
1 perc test	2 or auger refusal	Stormwater area
3	30 or auger refusal	Lou Gehrig Baseball Field area

1. Below ground surface.

Boring Layout and Elevations: We will use handheld GPS equipment to locate borings with an estimated horizontal accuracy of +/-20 feet. Field measurements from existing site features may be utilized. If available, approximate elevations will be obtained by interpolation from a site specific, surveyed topographic map.

Subsurface Exploration Procedures: We will advance soil borings with a truck-mounted drill rig using continuous flight augers (solid stem and/or hollow stem, as necessary, depending on soil conditions). Five samples will be obtained in the upper 10 feet of each boring and at intervals of 5 feet thereafter. Soil sampling is typically performed using thin-wall tube and/or split-barrel sampling procedures. The split-barrel samplers are driven in accordance with the standard penetration test (SPT). The samples will be placed in appropriate containers, taken to our soil laboratory for testing, and classified by a Geotechnical Engineer. In addition, we will observe and record groundwater levels during drilling and sampling.

Upon encountering bedrock or refusal-to-drilling conditions, rock coring (using NQ/NX rock core barrel) may be performed at the borings. A minimum of 5 feet of rock coring may be performed at each boring. Water will be used as a drilling fluid for rock coring and the spent water will be discharged on site. Our compensation and budget considers water is available on-site.

Our exploration team will prepare field boring logs as part of standard drilling operations including sampling depths, penetration distances, and other relevant sampling information. Field logs include

Attachment: Terracon proposal (RES-2021-707 : Geotechnical Engineering Services for the North Amherst Rec Center)

visual classifications of materials encountered during drilling, and our interpretation of subsurface conditions between samples. Final boring logs, prepared from field logs, represent the Geotechnical Engineer's interpretation, and include modifications based on observations and laboratory tests.

Property Disturbance: We will backfill borings with auger cuttings upon completion. Pavements will be patched with cold-mix asphalt and/or ready mixed concrete, as appropriate. Our services do not include repair of the site beyond backfilling our boreholes, and cold patching existing pavements. Excess auger cuttings will be dispersed in the general vicinity of the borehole. Because backfill material often settles below the surface after a period, we recommend boreholes to be periodically checked and backfilled, if necessary. We can provide this service, or grout the boreholes for additional fees, at your request.

Infiltration Testing: Infiltration testing is performed by the double-ring infiltrometer test method on the proposed athletic field subgrade elevation.

Percolation Testing: Percolation testing is performed by NYSDOH test method.

Safety

We will rely on the client to secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and for securing site access agreements. We will be responsible for supervision and site safety measures for our own employees, but we will not be responsible for the supervision or health and safety precautions for any third parties, including the client's contractors, subcontractors, or other parties present at the site.

In addition, we retain the right to stop work without penalty at any time we believe it is in the best interest of our employees or subcontractors to do so in order to reduce the risk of exposure to the Coronavirus. The client agrees they will respond quickly to all requests for information of any circumstances that present a risk of exposure to the coronavirus or individuals who have tested positive for COVID-19 or are self-quarantining due to exhibiting symptoms associated with the coronavirus.

Terracon is not aware of environmental concerns at this project site that would create health or safety hazards associated with our exploration program; thus, our Scope considers standard OSHA Level D Personal Protection Equipment (PPE) appropriate. Our Scope of Services does not include environmental site assessment services, but identification of unusual or unnatural materials encountered while drilling will be noted on our logs and discussed in our report.

Exploration efforts require borings (and possibly excavations) into the subsurface, therefore Terracon will comply with local regulations to request a utility location service through DigSafely NY. We will consult with the owner/client regarding potential utilities, or other unmarked

Attachment: Terracon proposal (RES-2021-707 : Geotechnical Engineering Services for the North Amherst Rec Center)

underground hazards. Based upon the results of this consultation, we will consider the need for alternative subsurface exploration methods, as the safety of our field crew is a priority.

Private utilities should be marked by the owner/client prior to commencement of field exploration. Terracon will not be responsible for damage to private utilities not disclosed to us. If the owner/client is unable to accurately locate private utilities, Terracon can assist the owner/client by coordinating or subcontracting with a private utility locating services. Fees associated with the additional services are not included in our current Scope of Services and will be forwarded to our client for approval prior to initiating. The detection of underground utilities is dependent upon the composition and construction of the utility line; some utilities are comprised of non-electrically conductive materials and may not be readily detected. The use of a private utility locate service would not relieve the owner of their responsibilities in identifying private underground utilities.

Site Access: Terracon must be granted access to the site by the property owner. By acceptance of this proposal, without information to the contrary, we consider this as authorization to access the property for conducting field exploration in accordance with the Scope of Services.

Laboratory Testing

The project engineer will review field data and assign laboratory tests to understand the engineering properties of various soil and rock strata. Exact types and number of tests cannot be defined until completion of field work. The anticipated laboratory testing may include the following:

- Water content
- Atterberg limits
- Topsoil nutrient testing

Our laboratory testing program often includes examination of soil samples by an engineer. Based on the material's texture and plasticity, we will describe and classify soil samples in accordance with the Unified Soil Classification System (USCS).

If bedrock samples are obtained, rock classification will be conducted using locally accepted practices for engineering purposes; petrographic analysis (if performed) may reveal other rock types. Rock core samples typically provide an improved specimen for this classification. Boring log rock classification is determined using the Description of Rock Properties.

Engineering and Project Delivery

Results of our field and laboratory programs will be evaluated by a professional engineer. The engineer will develop a geotechnical site characterization, perform the engineering calculations necessary to evaluate foundation alternatives, and develop appropriate geotechnical engineering design criteria for earth-related phases of the project.

Attachment: Terracon proposal (RES-2021-707 : Geotechnical Engineering Services for the North Amherst Rec Center)

Your project will be delivered using our ***GeoReport®*** system. Upon initiation, we provide you and your design team the necessary link and password to access the website (if not previously registered). Each project includes a calendar to track the schedule, an interactive site map, a listing of team members, access to the project documents as they are uploaded to the site, and a collaboration portal. The typical delivery process includes the following:

- Project Planning – Proposal information, schedule and anticipated exploration plan will be posted for review and verification
- Site Characterization – Findings of the site exploration
- Geotechnical Engineering – Recommendations and geotechnical engineering report

When utilized, our collaboration portal documents communication, eliminating the need for long email threads. This collaborative effort allows prompt evaluation and discussion of options related to the design and associated benefits and risks of each option. With the ability to inform all parties as the work progresses, decisions and consensus can be reached faster. In some cases, only minimal uploads and collaboration will be required, because options for design and construction are limited or unnecessary. This is typically the case for uncomplicated projects with no anomalies found at the site.

When services are complete, we upload a printable version of our completed geotechnical engineering report, including the professional engineer's seal and signature, which documents our services. Previous submittals, collaboration and the report are maintained in our system. This allows future reference and integration into subsequent aspects of our services as the project goes through final design and construction.

The geotechnical engineering report will provide the following:

- Boring logs with field and laboratory data
- Infiltration and percolation test data
- Stratification based on visual soil (and rock) classification
- Groundwater levels observed during and after the completion of drilling
- Site Location and Exploration Plans
- Subsurface exploration procedures
- Description of subsurface conditions
- Recommended foundation options and engineering design parameters
- Estimated settlement of foundations
- Seismic site classification
- Subgrade preparation/earthwork recommendations

Additional Services

In addition to the services noted above, the following are often associated with geotechnical engineering services. Fees for services noted above do not include the following:

Attachment: Terracon proposal (RES-2021-707 : Geotechnical Engineering Services for the North Amherst Rec Center)

Review of Plans and Specifications: Our geotechnical report and associated verbal and written communications will be used by others in the design team to develop plans and specifications for construction. Review of project plans and specifications is a vital part of our geotechnical engineering services. This consists of review of project plans and specifications related to site preparation, foundation, and pavement construction. Our review will include a written statement conveying our opinions relating to the plans and specifications' consistency with our geotechnical engineering recommendations.

Observation and Testing of Pertinent Construction Materials: Development of our geotechnical engineering recommendations and report relies on an interpretation of soil conditions. This is based on widely spaced exploration locations, and assuming construction methods will be performed in a manner sufficient to meet our expectations and is consistent with recommendations made at the time the geotechnical engineering report is issued. We should be retained to conduct construction observations, and perform/document associated materials testing, for site preparation, foundation, and pavement construction. This allows a more comprehensive understanding of subsurface conditions and necessary documentation of construction, to confirm and/or modify (when necessary) the assumptions and recommendations made by our engineers.

Perform Environmental Assessments: Our Scope for this project does not include, either specifically or by implication, an environmental assessment of the site intended to identify or quantify potential site contaminants. If the client/owner is concerned about the potential for such conditions, an environmental site assessment should be conducted. We can provide a proposal for an environmental assessment, if desired.

Attachment: Terracon proposal (RES-2021-707 : Geotechnical Engineering Services for the North Amherst Rec Center)

Terracon

EXHIBIT C - COMPENSATION AND PROJECT SCHEDULE

Compensation

Based upon our understanding of the site, the project as summarized in Exhibit A, and our planned Scope of Services outlined in Exhibit B, our base fee is shown in the following table:

Task	Lump Sum Fee
Subsurface Exploration, Laboratory Testing, Geotechnical Consulting & Reporting	$10,750

Additional services not part of the base fee include the following:

Additional Services (see Exhibit B)	Lump Sum Fee	Initial for Authorization
Private Utility Locate Service [1]	$2,500	
Plans and Specifications Review	$250	
Construction Materials Testing Services	TBD	

1. If the owner/client is unable to accurately locate private utilities, we can subcontract a private utility locating firm and/or utilize geophysical equipment, if necessary. The detection of underground utilities is dependent upon the composition and construction of utility lines. Some utilities are comprised of non-electrically conductive materials and may not be readily detected. The use of a private locate service does not relieve the owner of their responsibilities in identifying private underground utilities.

Our Scope of Services does not include services associated with site clearing, wet ground conditions, tree or shrub clearing, or repair of/damage to existing landscape. If such services are desired by the owner/client, we should be notified so we can adjust our Scope of Services.

Unless instructed otherwise, we will submit our invoice(s) to the address shown at the beginning of this proposal. If conditions are encountered that require Scope of Services revisions and/or result in higher fees, we will contact you for approval, prior to initiating services. A supplemental proposal stating the modified Scope of Services as well as its effect on our fee will be prepared. We will not proceed without your authorization.

Project Schedule

We developed a schedule to complete the Scope of Services based upon our existing availability and understanding of your project schedule. However, this does not account for delays in field exploration beyond our control, such as weather conditions, permit delays, or lack of permission to access the boring locations. In the event the schedule provided is inconsistent with your needs, please contact us so we may consider alternatives.

Attachment: Terracon proposal (RES-2021-707 : Geotechnical Engineering Services for the North Amherst Rec Center)

Terracon

GeoReport® Delivery	Posting Date from Notice to Proceed [1, 2]
Project Planning	2 days
Site Characterization	15 days
Geotechnical Engineering	25 days

1. Upon receipt of your notice to proceed we will activate the schedule component of our ***GeoReport***® website with specific, anticipated calendar days for the three delivery points noted above as well as other pertinent events such as field exploration crews on-site, etc.
2. We will maintain a current calendar of activities within our ***GeoReport***® website. In the event of a need to modify the schedule, the schedule will be updated to maintain a current awareness of our plans for delivery.

Attachment: Terracon proposal (RES-2021-707 : Geotechnical Engineering Services for the North Amherst Rec Center)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Finance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 24616 **RESOLUTION 2021-708** **ADOPTED**

Authorize Vendors for Amherst Market at Bassett Park - CRS #2794 & 2813

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 #2794	The Soul in Bloom
CRS #2813	Mini Italia's Bistro & Sweets

8/09/2021
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: 08/09/21 07:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 24580 **RESOLUTION 2021-709** **ADOPTED**

Authorize Supervisor to Sign Contract to Piggyback- NAPA Auto Parts-GPC CRS #2793

NOW THEREFORE BE IT RESOLVED, that the Town of Amherst is approved to piggyback on the NJPA/Sourcewell contract with NAPA Auto Parts - GPC for automotive and truck replacement parts and tires with related equipment, auto-body and paint products, tools and equipment, specialty parts, accessories and service items.

Contract term is 5/19/2021 through 5/19/2025 for #032521-GPC.

NOW THEREFORE BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to sign this contract subject to the Contract Routing System CRS #2793 and the approval of the Town Attorney.

8/09/2021
Consent

FINANCIAL IMPACT:

Town Wide

Various

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 NAPA Auto Parts (Genuine Parts Company)
And the Town of Amherst permitting the Town of Amherst to participate in the purchase of :

Sourcewell-NJPA
National Joint Powers Alliance and NAPA-Genuine Parts Company
Contract # 032521 - GPC
Maturity Date 05/19/2025

Automotive and Truck Replacement Parts and Tires with Related Equipment,
Auto-Body and Paint Products, Tools and Equipment, Specialty Parts ,
Accessories and Service Items.

from NAPA-Auto Parts with NJPA/SOURCEWELL,
BID REFERENCE # RFP 0032521-GPC dated 5/19/2021 to 5/19/2025

Agreed to and Accepted by:

NAPA Auto Parts-Genuine Parts Company

By: _____
Signature

H. PAUL HENDERSON III COMMERCIAL SALES REP
Print Name and Title

Date: 7/20/21

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Attachment: NAPA CONTRACT (RES-2021-709 : Authorize Supervisor to Sign Contract to Piggyback- NAPA Auto Parts-GPC CRS # 2793)

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: NAPA CONTRACT (RES-2021-709 : Authorize Supervisor to Sign Contract to Piggyback- NAPA Auto Parts-GPC CRS # 2793)

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,

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:

NAPA

Print Name of Company

By: _____

Signature

H. PAUL HENDERSON III

Printed name

Date: 7/20/21

Agreed to and Accepted by:

Town of Amherst

By: _____

Brian J. Kulpa, Supervisor

Date: _____

Revised 12.30.19 SJS

Attachment: NAPA CONTRACT (RES-2021-709 : Authorize Supervisor to Sign Contract to Piggyback- NAPA Auto Parts-GPC CRS # 2793)

CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY): 01/07/2021

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 South, Inc. Atlanta GA Office 3550 Lenox Road NE Suite 1700 Atlanta GA 30326 USA	CONTACT NAME: PHONE (A/C, No, Ext): 866-283-7122 FAX (A/C, No.): 800-363-0105 E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A:	Old Republic Insurance Company	24147
INSURER B:	Safety National Casualty Corp	15105
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

INSURED
GENUINE PARTS CO & SUBSIDIARIES -
NAPA, Motion, Balkamp, Altrom,
Rayloc, Supply Source Enterprises,
General Tool & Supply etal
2999 Wildwood Parkway
Atlanta GA 30339 USA

COVERAGES **CERTIFICATE NUMBER:** 570085701466 **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			MWZY31404820	09/01/2020	09/01/2021	EACH OCCURRENCE	$2,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$1,000,000
							MED EXP (Any one person)	$5,000
							PERSONAL & ADV INJURY	$2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$3,000,000
	X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$3,000,000
	OTHER:							
A	AUTOMOBILE LIABILITY			MWTB 314047-20	09/01/2020	09/01/2021	COMBINED SINGLE LIMIT (Ea accident)	$5,000,000
	X ANY AUTO						BODILY INJURY (Per person)	
	OWNED AUTOS ONLY / HIRED AUTOS ONLY / SCHEDULED AUTOS / NON-OWNED AUTOS ONLY						BODILY INJURY (Per accident)	
							PROPERTY DAMAGE (Per accident)	
	UMBRELLA LIAB OCCUR						EACH OCCURRENCE	
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	
	DED RETENTION							
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			LDS4049768	01/01/2021	01/01/2022	X PER STATUTE OTH-	
B	ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: N	N/A		AOS SP4064315	01/01/2021	01/01/2022	E.L. EACH ACCIDENT	$1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below			Excess WC - OH			E.L. DISEASE-EA EMPLOYEE	$1,000,000
				SIR applies per policy terms & conditions			E.L. DISEASE-POLICY LIMIT	$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Town of Amherst is included as Additional Insured in accordance with the policy provisions of the General Liability policy.

CERTIFICATE HOLDER

Town of Amherst
5593 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

Aon Risk Services South Inc

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The ACORD name and logo are registered marks of ACORD

Attachment: NAPA CONTRACT (RES-2021-709 : Authorize Supervisor to Sign Contract to Piggyback- NAPA Auto Parts-GPC CRS # 2793)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & address of Insured (use street address only) GENUINE PARTS COMPANY 2999 WILDWOOD PARKWAY ATLANTA, GA 30339 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 404-442-5780 1c. NYS Unemployment Insurance Employer Registration Number of Insured 1d. Federal Employer Identification Number of Insured or Social Secu Number 580254510
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 USA	3a. Name of Insurance Carrier Safety National Casualty Corporation 3b. Policy Number of entity listed in box "1a" LDS4049768 3c. Policy effective period 01/01/2021 to 01/01/2022 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 nonpayment of premiums that cancel the policy or elimin the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) **Otherwise, this Certificate is vali for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in b "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, e 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 the 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: Seth A. Smith
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: [signature] 02/01/2021
(Signature) (Date)

Title: Executive Vice President Underwriting

Telephone Number of authorized representative or licensed agent of insurance carrier: 1-888-995-5300

Please Note: Only insurance carriers and their licensed agents are authorized to issue the C-105.2 form. Insurance brokers are authorized to issue it.

C-105.2 (9-17)
www.wcb.ny.gov

Attachment: NAPA CONTRACT (RES-2021-709 : Authorize Supervisor to Sign Contract to Piggyback- NAPA Auto Parts-GPC CRS # 2793)

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 Carri

1a. Legal Name & Address of Insured (use street address only) Automotive Parts Group 2401 Wehrle Drive Buffalo, New York 14221 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 58-0254510
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" NYD075587 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.

Date Signed February 2, 2021 By _____

(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carr

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 Disabili and Paid Family Leave Benefits Law. It must be mailed for completion to the Workers' Compensation Board, Plans Acceptan 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: NAPA CONTRACT (RES-2021-709 : Authorize Supervisor to Sign Contract to Piggyback- NAPA Auto Parts-GPC CRS # 2793)

IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York provision was added to the State Finance Law (SFL), Section 165-a, effective April 12, 2012. Under t Act, the Commissioner of the Office of General Services (OGS) will develop a list (prohibited entities lis of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). Th list is posted on the OGS website.

By submitting a response to this solicitation, or by assuming the responsibility under Contract/Lease awarded hereunder, Bidder/Contractor/Vendor (or any assignee) certifies that it will n 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 seekir to renew or extend a Contract/Lease (or assume responsibility of a Contract/Lease awarded must certi at the time the Contract/Lease is renewed, extended or assigned that it is not included on the prohibite entities list.

During the term of the Contract/Lease, should the Town of Amherst (Town) receive informatio that a person is in violation of the above-referenced certification, the Town will offer the person a opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in th investment which is in violation of the Act within 90 days after the determination of such violation, the the Town shall take such action as appropriate including, but not limited to, imposing sanctions, seekin 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 entit that appears on the prohibited entities list prior to the award of a Contract/Lease, and to pursue responsibility review with respect to any entity that is awarded a Contract/Lease and appears on th prohibited entities list after Contract/Lease award.

Company Name: NAPA

Signature: [signature]

Print Name: H. PAUL HENDERSON III

Title: COMMERCIAL SALES REP

Date: 7/21/21

Sworn To Before Me This
21st Day of July, 2021
Vandana Bansal
Notary Public

VANDANA BANSAL
Notary Public, State of New York
Qualified in Erie County
Reg. No. 01BA6147929
My Commission Expires 6/19/2022

Revised 4.2017

Attachment: NAPA CONTRACT (RES-2021-709 : Authorize Supervisor to Sign Contract to Piggyback- NAPA Auto Parts-GPC CRS # 2793)

Sourcewell

Sourcewell Awarded Contract

NAPA Auto Parts – Fleet Parts Supply

Aftermarket Vehicle Parts

#032521-GPC

Maturity Date: 05/19/2025

Products & Services

Products & Services

Sourcewell contract 032521-GPC gives access to the following types of goods and services:

COVID-19 Update

- Parts for automobiles & light trucks
- Parts for medium & heavy duty trucks
- Parts for agriculture, farm, lawn, & garden equipment
- Off highway & industrial vehicle parts
- Recreational & marine vehicle parts
- Technician training
- Shop management training
- Multiple distribution channels
- Machine shop service at select NAPA stores

NAPA store locator

Attachment: NAPA CONTRACT (RES-2021-709 : Authorize Supervisor to Sign Contract to Piggyback- NAPA Auto Parts-GPC CRS # 2793)

NAPA ProLink online ordering portal

Become a Member

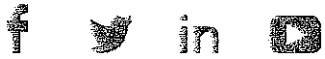
Simply complete the online application or contact the Membership Team at membership@sourcewell-mn.gov or 877-585-9706.

Search Vendors & Contracts

General Contracts

ezIQC Contracts

Sourcewell's website may contain links to nongovernment websites being provided as a convenience and for informational purposes only. Sourcewell neither endorses nor guarantees, in any way, the external organization's services, advice, or products included in these website links. Sourcewell bears no responsibility for the accuracy, legality, or timeliness of any content on the external site or for that of subsequent links. All questions related to content on external sites should be addressed directly to the host of that particular website.



Sourcewell for Vendors →

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Attachment: NAPA CONTRACT (RES-2021-709 : Authorize Supervisor to Sign Contract to Piggyback- NAPA Auto Parts-GPC CRS # 2793)

Sourcewell

Sourcewell
Awarded Contract

NAPA Auto Parts – Fleet Parts Supply

Aftermarket Vehicle Parts

#032521-GPC

Maturity Date: 05/19/2025

Contract Documents

Contract Documents

Aftermarket Vehicle Parts and Supplies

Contract #032521-GPC
Effective 05/19/2021 - 05/19/2025

Contract Documentation

- **Request for Proposal (RFP)** (252.71 KB)
- **Contract** (526.08 KB)

Competitive Solicitation Documentation

- **Proof of Publication** (3.19 MB)
- **Proposal Opening Record Page** (155.29 KB)

Attachment: NAPA CONTRACT (RES-2021-709 : Authorize Supervisor to Sign Contract to Piggyback- NAPA Auto Parts-GPC CRS # 2793)

- **Proposal Evaluation** (147.15 KB)
- **Evaluation Committee Comment & Review** (171.63 KB)
- **Board Resolutions** (703.09 KB)

Become a Member

Simply complete the online application or contact the Membership Team at membership@sourcewell-mn.gov or 877-585-9706.

Search Vendors & Contracts

General Contracts

ezIQC Contracts

Sourcewell's website may contain links to nongovernment websites being provided as a convenience and for informational purposes only. Sourcewell neither endorses nor guarantees, in any way, the external organization's services, advice, or products included in these website links. Sourcewell bears no responsibility for the accuracy, legality, or timeliness of any content on the external site or for that of subsequent links. All questions related to content on external sites should be addressed directly to the host of that particular website.

Attachment: NAPA CONTRACT (RES-2021-709 : Authorize Supervisor to Sign Contract to Piggyback- NAPA Auto Parts-GPC CRS # 2793)

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Attachment: NAPA CONTRACT (RES-2021-709 : Authorize Supervisor to Sign Contract to Piggyback- NAPA Auto Parts-GPC CRS # 2793)

DocuSign Envelope ID: 4A0FFFB4-90AA-402C-ABCB-20CD3DC76165

Proposal Evaluation
Aftermarket Vehicle Parts and Supplies RFP #032521

	Possible Points	Automotive Parts Services Group (The Group)	Auto-Wares Inc.	Beecher Emission Solution Technologies, LLC	Capital Filtrations Inc	Diesel Laptops, LLC	ELLIOTT AUTO SUPPLY CO INC	General Motors ACDelco	Genuine Parts Company dba NAPA Auto Parts	IEH Auto Parts LLC
Conformance to RFP Requirements	50	39	33	38	37	33	40	40	44	44
Pricing	400	323	281	291	311	261	326	311	336	330
Financial Viability and Marketplace Success	75	58	53	61	51	55	58	61	68	65
Ability to Sell and Deliver Service	100	77	64	68	59	69	79	83	90	83
Marketing Plan	50	34	31	36	34	33	39	38	46	44
Value Added Attributes	75	55	51	53	56	44	56	50	64	64
Warranty	50	42	38	40	39	36	42	42	41	43
Depth and Breadth of Offered Equipment, Products, or Services	200	181	165	131	139	105	173	163	184	175
Total Points	1,000	809	717	708	726	636	813	788	872	848
Rank Order		7	15	16	14	17	6	9	1	2

	Possible Points	Imperial Supplies Holdings Inc	Interstate Batteries, INC.	Jasper Engine Exchange	New York Bus Sales, LLC	O'Reilly Auto Enterprises LLC	Paccar Parts (PACCAR, Inc.)	Wastebuilt Environmental Solutions LLC	Whelen Engineering Company Inc.
Conformance to RFP Requirements	50	40	36	42	43	40	39	35	37
Pricing	400	334	334	336	326	333	286	312	321
Financial Viability and Marketplace Success	75	64	56	64	57	59	64	57	60
Ability to Sell and Deliver Service	100	83	79	82	74	83	83	79	78
Marketing Plan	50	42	34	43	40	40	35	40	33
Value Added Attributes	75	64	60	59	60	60	66	39	57
Warranty	50	41	40	41	41	43	39	37	38
Depth and Breadth of Offered Equipment, Products, or Services	200	163	134	169	154	175	168	155	141
Total Points	1,000	831	773	836	795	833	780	754	765
Rank Order		5	11	3	8	4	10	13	12

DocuSigned by:
James Voelker
15F8CCFFA61E4A8...
James Voelker, CPCM, CFCM, Procurement Lead Analyst

DocuSigned by:
Michael Munoz
B8029ME4D25E4B...
Michael Munoz, CPPB, Procurement Analyst

DocuSigned by:
Stephanie Haataja
7555A3F37EB5496...
Steff Haataja, CPIM, Procurement Analyst

DocuSigned by:
Tom Sharbonno
D12C686EFE81466...
Tom Sharbonno, Procurement Analyst

Sourcewell RFP #032521 Aftermarket Vehicle Parts and Supplies

Sourcewell 9074 Pricing Profile - United States Version

Bidder Name: NAPA Auto Parts U.S. (Genuine Parts Company)

Catalog Website: www.napaprolink.com

CATEGORY	DESCRIPTION	% DISCOUNT Off List
1	AIR CONDITIONING	50%
2	ALTERNATORS AND STARTERS	50%
3	BATTERIES	43%
4	BEARING, BALL AND ROLLER	50%
5	BELTS AND HOSES	43%
6	BRAKES	50%
7	ELECTRICAL AND IGNITION	50%
8	EMISSIONS AND EXHAUST	60%
9	ENGINE AND DRIVE TRAIN	50%
10	FILTERS, OIL, GAS, AIR & TRANSMISSION	56%
11	GASKETS AND SEALS	51%
12	HEATING AND COOLING (ENGINE)	50%
13	LAMPS AND LIGHTING AND MIRRORS	51%
14	OILS AND LUBRICANTS; REG. & SYN.	50%
15	PUMPS, FUEL AND WATER	49%
16	SUSPEN., SHOCKS, STRUTS, & STEER.	48%
17	WIPERS/WASHERS	50%
18	SHOP SUPPLIES & EQUIPMENT	45%
19	WINTER ACCESSORIES	52%

Note: '**% DISCOUNT off of List**' is approximate as the actual profile calculation is based on a different base factor and could vary by product line by line/family by family.

Attachment: NAPA CONTRACT (RES-2021-709 : Authorize Supervisor to Sign Contract to Piggyback- NAPA Auto Parts-GPC CRS # 2793)

Sourcewell RFP #032521 Aftermarket Vehicle Parts and Supplies

Sourcewell 9074 Pricing Profile - Canada Version

Bidder Name: NAPA Auto Parts Canada (UAP Inc.)

Catalog Website: www.napaprolink.ca

CATEGORY	DESCRIPTION	% DISCOUNT off List
1	AIR CONDITIONING	44%
2	ALTERNATORS AND STARTERS	37%
3	BATTERIES	41%
4	BEARING, BALL AND ROLLER	41%
5	BELTS AND HOSES	43%
6	BRAKES	42%
7	ELECTRICAL AND IGNITION	37%
8	EMISSIONS AND EXHAUST	36%
9	ENGINE AND DRIVE TRAIN	37%
10	FILTERS, OIL, GAS, AIR & TRANSMISSION	49%
11	GASKETS AND SEALS	46%
12	HEATING AND COOLING (ENGINE)	40%
13	LAMPS AND LIGHTING AND MIRRORS	47%
14	OILS AND LUBRICANTS; REG. & SYN.	8%
15	PUMPS, FUEL AND WATER	42%
16	SUSPEN., SHOCKS, STRUTS, & STEER.	38%
17	WIPERS/WASHERS	38%
18	SHOP SUPPLIES & EQUIPMENT	14%
19	WINTER ACCESSORIES	26%

Note: '**% DISCOUNT off of List**' is approximate as the actual profile calculation is based on a different base factor and could vary by product line by line/family by family.

Attachment: NAPA CONTRACT (RES-2021-709 : Authorize Supervisor to Sign Contract to Piggyback- NAPA Auto Parts-GPC CRS # 2793)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24593 **RESOLUTION 2021-710** **ADOPTED**

Detective Sergeant/Police Department

Please appoint a Detective Sergeant to the Police Department. Temporary, effective August 10, 2021, at an annual salary of $95,745 for Peter Crofut.

This appointment fills a vacancy and is a promotion for an employee currently serving as Detective.

8/09/2021
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: 08/09/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24595 **RESOLUTION 2021-711** **ADOPTED**

School Crossing Guard - PT/Police

School Crossing Guard - PT/Police Department, Effective August 10, 2021, Temporary, $13.38 ph, Step 3 for Joyce LaGreca.

Replacing an employee who recently passed away.

8/09/2021
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: 08/09/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24596 **RESOLUTION 2021-712** **ADOPTED**

School Crossing Guard - PT/Police Department

School Crossing Guard - PT/Police Department, Effective August 10, 2021, Temporary, $12.50 ph, Step 1 for Kelly Rummings.

Replacing an employee who resigned.

8/09/2021
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: 08/09/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24598 **RESOLUTION 2021-713** **ADOPTED**

Laborer/Youth & Recreation

Please appoint a Laborer to the Youth & Recreation Department. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective August 10, 2021, at an hourly wage of $16.68 ph, Step A for Connor Geraci.

Contingent upon completing all pre-employment requirements.

8/09/2021
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: 08/09/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24609 **RESOLUTION 2021-714** **ADOPTED**

Construction Project Manager

Please appoint an exempt Construction Project Manager to the Building Department. Provisional, pending satisfactory completion of a Civil Service Examination. Effective August 10, 2021, at an annual salary of $91,954.77, Grade 2, Step I of the Exempt Non-Department Head salary schedule for Daniel Reilly.

8/09/2021
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
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Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 24610 **RESOLUTION 2021-715** **ADOPTED**

To Authorize the Supervisor to Sign the HUD 2021 Community Development Block Grant Contract (CDBG) CRS #2814

WHEREAS, the Town has approved and submitted an Action Plan delineating the use of Community Development Block Grant funds (CDBG) for Fiscal Year 2021 (April 1, 2021 to March 31, 2022) to address housing and community development needs identified in the 5-Year Consolidated Plan; and

WHEREAS, the US Department of Housing and Urban Development (HUD) has approved the Town's 2021 Annual Action Plan and budget, now, therefore, be it

RESOLVED that the Amherst Town Board hereby authorizes the Supervisor, as official representative of the Town in submitting the Action Plan and amendments thereto, all understandings and assurances contained therein, to execute the CDBG contract with the Department of Housing and Urban Development subject to satisfactory completion of the contract routing system.

8/09/2021
Consent

FINANCIAL IMPACT:

Adoption of the proposed resolution involves no local monetary consideration and will have no impact on the Town Budget or tax rate. The contract represents inflow of funds to Community Development.

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, Sup r
Daniel C. Howard, Planning Direct
Daniel J. Ulatowski P
Assistant Planning D or

August 4, 2021

Agenda of August 9, 2021

Honorable Town Board
5583 Main Street
Williamsville, NY 14221

Subject: Authorization for the Supervisor to sign the HUD Contract for the FY 2021 Community Development Block Grant Funds (CDBG)

Dear Councilmembers:

The 2021 Annual Action Plan and budget for the use of Community Development Block Grant (CDBG) and HOME Investment Partnership Grant (HOME) funds in the Town was adopted at the Town Board meeting of February 1, 2021 (res #2021-144) and submitted to the US Department of Housing and Urban Development (HUD) in May 2021. A proposed resolution authorizing the Supervisor to sign the HUD 2021 CDBG grant agreement is attached for your consideration.

The final budget allocations were provided by HUD in May 2021 and were higher for the CDBG program and for the HOME program. The Town will receive $640,103.00 in CDBG and $941,899.00 in HOME funds.

Thank you for your assistance with this matter.

Very truly yours,

Daniel J. Ulatowski, AICP
Assistant Planning Director

X:\Community Development\New Structure\ANNUAL PLAN\Data 2020\TB_CDBG_contractltr._6.8.20.docx

Attachment: hud letter-08042021101431 (RES-2021-715 : U.S. Dept. of Housing & Urban Development 2021 CDBG Contract)

Funding Approval/Agreement

Title I of the Housing and Community Development Act (Public Law 930383)
HI-00515R of 20515R

U.S. Department of Housing and Urban Development
Office of Community Planning and Development
Community Development Block Grant Program

OMB Approval No. 2506-0193
exp 5/31/201

12.P.1.b

1. Name of Grantee (as shown in item 5 of Standard Form 424)	3a. Grantee's 9-digit Tax ID Number	3b. Grantee's 9-digit DUNS Number
Amherst Town, NY	166002157	030212336
2. Grantee's Complete Address (as shown in item 5 of Standard Form 424) 5583 Main Street Williamsville, NY 14221-0000	4. Date use of funds may begin (mm/dd/yyyy)	
	5a. Project/Grant No. 1 **B-21-MC-36-0010**	6a. Amount Approved **$640,103**
	5b. Project/Grant No. 2	6b. Amount Approved

Grant Agreement: This Grant Agreement between the Department of Housing and Urban Development (HUD) and the above named Grantee is made pursuant to the authority of Title I of the Housing and Community Development Act of 1974, as amended, (42 USC 5301 et seq.). The Grantee's submissions for Title I assistance, the HUD regulations at 24 CFR Part 570 (as now in effect and as may be amended from time to time), and this Funding Approval, including any special conditions, constitute part of the Agreement. Subject to the provisions of this Grant Agreement, HUD will make the funding assistance specified here available to the Grantee upon execution of the Agreement by the parties. The funding assistance specified in the Funding Approval may be used to pay costs incurred after the date specified in item 4 above provided the activities to which such costs are related are carried out in compliance with all applicable requirements. Pre-agreement costs may not be paid with funding assistance specified here unless they are authorized in HUD regulations or approved by waiver and listed in the special conditions to the Funding Approval. The Grantee agrees to assume all of the responsibilities for environmental review, decision making, and actions, as specified and required in regulations issued by the Secretary pursuant to Section 104(g) of Title I and published in 24 CFR Part 58. The Grantee further acknowledges its responsibility for adherence to the Agreement by sub-recipient entities to which it makes funding assistance hereunder available.

U.S. Department of Housing and Urban Development (By Name)		Grantee Name (Contractual Organization)	
William T. O'Connell		Amherst Town (Town of Amherst)	
Title CPD Director		Title Supervisor, Town of Amherst, NY	
Signature	Date (mm/dd/yyyy) 07/30/2021	Signature	Date (mm/dd/yyyy)

7. Category of Title I Assistance for this Funding Action:	8. Special Conditions (check one)	9a. Date HUD Received Submission (mm/dd/yyyy) 03/25/2021	10. check one
Entitlement, Sec 106(b)	☐ None ☒ Attached	9b. Date Grantee Notified (mm/dd/yyyy) 07/30/2021	☒ a. Orig. Funding Approval ☐ b. Amendment Amendment Number
		9c. Date of Start of Program Year (04/01/2021)	

11. Amount of Community Development Block Grant

	FY 2021		
a. Funds Reserved for this Grantee	$640,103		
b. Funds now being Approved			
c. Reservation to be Cancelled (11a minus 11b)			

12a. Amount of Loan Guarantee Commitment now being Approved	12b. Name and complete Address of Public Agency
N/A	

Loan Guarantee Acceptance Provisions for Designated Agencies:
The public agency hereby accepts the Grant Agreement executed by the Department of Housing and Urban Development on the above date with respect to the above grant number(s) as Grantee designated to receive loan guarantee assistance, and agrees to comply with the terms and conditions of the Agreement, applicable regulations, and other requirements of HUD now or hereafter in effect, pertaining to the assistance provided it.

12c. Name of Authorized Official for Designated Public Agency

Title

Signature

HUD Accounting use Only

Batch	TAC	Program	Y	A	Reg	Area	Document No.	Project Number	Category	Amount	Effective Date (mm/dd/yyyy)	F
	153 176											
			Y					Project Number		Amount		
			Y					Project Number		Amount		

Date Entered PAS (mm/dd/yyyy)	Date Entered LOCCS (mm/dd/yyyy)	Batch Number	Transaction Code	Entered By	Verified By

86 1/30162 EC1 PoACD 4 BFY 1 0206 $640103

Attachment: GA_2021 Amherst BG Agmnt_8.4.21 (RES-2021-715 : U.S. Dept. of Housing & Urban Development 2021 CDBG Contract)

8. Special Conditions.

(a) The **period of performance** for the funding assistance specified in the Funding Approval ("Funding Assistance") shall begin on the date specified in item 4 and shall end on September 1, 2027. The Grantee shall not incur any obligations to be paid with such assistance after September 1, 2027.

(b) The Recipient shall attach a schedule of its indirect cost rate(s) in the format set forth below to the executed Agreement that is returned to HUD. The Recipient shall provide HUD with a revised schedule when any change is made to the rate(s) described in the schedule. The schedule and any revisions HUD receives from the Recipient shall be incorporated herein and made a part of this Agreement, provided that the rate(s) described comply with 2 CFR part 200, subpart E.

Administering Department/Agency	Indirect cost rate	Direct Cost Base
_____	_____%	_____
_____	_____%	_____
_____	_____%	_____
_____	_____%	_____
_____	_____%	_____

Instructions: The Recipient must identify each agency or department of the Recipient that will carry out activities under the grant, the indirect cost rate applicable to each department/agency (including if the de minimis rate is used per 2 CFR §200.414(f)), and the type of direct cost base to which the rate will be applied (for example, Modified Total Direct Costs (MTDC)). Do not include indirect cost rates for subrecipients.

(c) In addition to the conditions contained on form HUD 7082, the grantee shall comply with requirements established by the Office of Management and Budget (OMB) concerning the Dun and Bradstreet Data Universal Numbering System (DUNS); the System for Award Management (SAM.gov.); the Federal Funding Accountability and Transparency Act as provided in 2 CFR part 25, Universal Identifier and General Contractor Registration; and 2 CFR part 170, Reporting Subaward and Executive Compensation Information.

(d) The grantee shall ensure that no CDBG funds are used to support any Federal, State, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use. For the purposes of this requirement, public use shall not be construed to include economic development that primarily benefits private entities.

Attachment: GA_2021 Amherst BG Agmnt_8.4.21 (RES-2021-715 : U.S. Dept. of Housing & Urban Development 2021 CDBG Contract)

Any use of funds for mass transit, railroad, airport, seaport or highway projects as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water- related and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfield as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Public Law 107–118) shall be considered a public use for purposes of eminent domain.

(e) The Grantee or unit of general local government that directly or indirectly receives CDBG funds may not sell, trade, or otherwise transfer all or any such portion of such funds to another such entity in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under title I of the Act.

(f) E.O. 12372-Special Contract Condition - Notwithstanding any other provision of this agreement, no funds provided under this agreement may be obligated or expended for the planning or construction of water or sewer facilities until receipt of written notification from HUD of the release of funds on completion of the review procedures required under Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs, and HUD's implementing regulations at 24 CFR Part 52. The recipient shall also complete the review procedures required under E.O. 12372 and 24 CFR Part 52 and receive written notification from HUD of the release of funds before obligating or expending any funds provided under this agreement for any new or revised activity for the planning or construction of water or sewer facilities not previously reviewed under E.O. 12372 and implementing regulations.

(g) CDBG funds may not be provided to a for-profit entity pursuant to section 105(a)(17) of the Act unless such activity or project has been evaluated and selected in accordance with Appendix A to 24 CFR 570 - "Guidelines and Objectives for Evaluating Project Costs and Financial Requirements." (Source - P.L. 113-235, Consolidated and Further Continuing Appropriations Act, 2015, Division K, Title II, Community Development Fund).

Attachment: GA_2021 Amherst BG Agmnt_8.4.21 (RES-2021-715 : U.S. Dept. of Housing & Urban Development 2021 CDBG Contract)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 24611 **RESOLUTION 2021-716** **ADOPTED**

To Authorize the Supervisor to Sign the HUD 2021 HOME Investment Partnerships Program Contract (HOME) CRS #2815

WHEREAS, the Town has approved and submitted an Action Plan delineating the use of Home Investment Partnerships Program funds (HOME) for Fiscal Year 2021 (April 1, 2021 to March 31, 2022) to address housing and community development needs identified in the 5-Year Consolidated Plan; and

WHEREAS, the US Department of Housing and Urban Development (HUD) has approved the Town's 2021 Action Plan and budget, now, therefore, be it

RESOLVED, that the Amherst Town Board hereby authorizes the Supervisor, as official representative of the Town in submitting the Action Plan and amendments thereto, and all understandings and assurances contained therein, to execute the HOME contract with the Department of Housing and Urban Development subject to satisfactory completion of the contract routing system.

8/09/2021
Consent

FINANCIAL IMPACT:

Adoption of the proposed resolution involves no local monetary consideration and will have no impact on the Town Budget or tax rate. The contract represents inflow of funds to Community Development.

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, Sup r
Daniel C. Howard, Planning Direct
Daniel J. Ulatowski P
Assistant Planning D or

August 4, 2021

Agenda of August 9, 2021

Honorable Town Board
5583 Main Street
Williamsville, NY 14221

Subject: Authorization for the Supervisor to sign the HUD Contract for the FY 2021 Community Development Block Grant Funds (CDBG)

Dear Councilmembers:

The 2021 Annual Action Plan and budget for the use of Community Development Block Grant (CDBG) and HOME Investment Partnership Grant (HOME) funds in the Town was adopted at the Town Board meeting of February 1, 2021 (res #2021-144) and submitted to the US Department of Housing and Urban Development (HUD) in May 2021. A proposed resolution authorizing the Supervisor to sign the HUD 2021 CDBG grant agreement is attached for your consideration.

The final budget allocations were provided by HUD in May 2021 and were higher for the CDBG program and for the HOME program. The Town will receive $640,103.00 in CDBG and $941,899.00 in HOME funds.

Thank you for your assistance with this matter.

Very truly yours,

Daniel J. Ulatowski, AICP
Assistant Planning Director

X:\Community Development\New Structure\ANNUAL PLAN\Data 2020\TB_CDBG_contractltr._6.8.20.docx

Attachment: hud letter-08042021101431 (RES-2021-716 : U.S. Dept. of Housing & Urban Development 2021 HOME Contract)

Funding Approval and HOME Investment Partnerships Agreement

Title II of the National Affordable Housing Act

Assistance Listings #14.239 – HOME Investment Partnerships Program

1. Grantee Name (must match name associated with 3b.) and Address Town of Amherst 5583 Main Street Williamsville, NY 14221-0000	2. Grant Number (Federal Award Identification Number (FAIN) **M21-DC360511**	
	3a Tax Identification Number 166002157	3b. Unique Entity Identifier (formerly DUNS) 030212336
	4. Appropriation Number 861/40205	5. Budget Period Start and End Date **FY 2021 through FY 2029**

6. Previous Obligation (Enter "0" for initial FY allocation)		$0.00
a. Formula Funds	$	
b. Community Housing Development Org. (CHDO) Competitive	$	
7. Current Transaction (+ or -)		$941,899
a. Formula Funds	$941,899	
1. CHDO (For deobligations only)	$	
2. Non- CHDO (For deobligations only)	$	
b. CHDO Competitive Reallocation or Deobligation	$	
8. Revised Obligation		$
a. Formula Funds	$	
b. CHDO Competitive Reallocation	$	

9. Special Conditions (check applicable box)

☒ Not applicable ☐ Attached

10. **Federal Award Date (HUD Official's Signature Date)**

(mm/dd/yyyy) 07/30/2021

11. Indirect Cost Rate*

Administering Agency/Dept.	Indirect Cost Rate	Direct Cost Base
___	___%	
___	___%	
___	___%	
___	___%	

12. Period of Performance

Date in Box #10 - 09/01/2029

* If funding assistance will be used for payment of indirect costs pursuant to 2 CFR 200, Subpart E-Cost Principles, provide the name of the department/agency, its indirect cost rate (including if the de minimis rate is charged per 2 § CFR 200.414), and the direct cost base to which the rate will be applied. Do not include cost rates for subrecipients.

This Agreement between the Department of Housing and Urban Development (HUD) and the Grantee is made pursuant to the authority of the HOME Investment Partnerships Act (42 U.S.C. 12701 et seq.). The Grantee's approved Consolidated Plan submission/Application, the HUD regulations at 24 CFR Part 92 (as is now in effect and as may be amended from time to time) and this HOME Investment Partnership Agreement, form HUD-40093, including any special conditions, constitute part of this Agreement. Subject to the provisions of this Agreement, HUD will make the funds for the Fiscal Year specified, available to the Grantee upon execution of this Agreement by the parties. All funds for the specified Fiscal Year provided by HUD by formula reallocation are covered by this Agreement upon execution of an amendment by HUD, without the Grantee's execution of the amendment or other consent. HUD's payment of funds under this Agreement is subject to the Grantee's compliance with HUD's electronic funds transfer and information reporting procedures issued pursuant to 24 CFR 92.502. To the extent authorized by HUD regulations at 24 CFR Part 92, HUD may, by its execution of an amendment, deobligate funds previously awarded to the Grantee without the Grantee's execution of the amendment or other consent. The Grantee agrees that funds invested in affordable housing under 24 CFR Part 92 are repayable when the housing no longer qualifies as affordable housing. Repayment shall be made as specified in 24 CFR Part 92. The Grantee agrees to assume all of the responsibility for environmental review, decision making, and actions, as specified and required in regulation at 24 CFR 92.352 and 24 CFR Part 58.

The Grantee must comply with the applicable requirements at 2 CFR part 200 that are incorporated by the program regulations, as may be amended from time to time. Where any previous or future amendments to 2 CFR part 200 replace or renumber sections of part 200 that are cited specifically in the program regulations, activities carried out under the grant after the effective date of the part 200 amendments will be governed by the 2 CFR part 200 requirements as replaced or renumbered by the part 200 amendments.

The Grantee shall comply with requirements established by the Office of Management and Budget (OMB) concerning the Universal Numbering System and System for Award Management (SAM) requirements in Appendix I to 2 CFR part 200, and the Federal Funding Accountability and Transparency Act (FFATA) in Appendix A to 2 CFR part 170.

The Period of Performance for the funding assistance shall begin on the date specified in item 12 and shall end on September 1st of the 5th fiscal year after the expiration of the period of availability for obligation. Funds remaining in the account will be cancelled and thereafter not available for obligation or expenditure for any purpose. Per 31 U.S.C. 1552. The Grantee shall not incur any obligations to be paid with such assistance after the end of the Period of Performance.

13. For the U.S. Department of HUD (Name and Title of Authorized Official) William T. O'Connell, CPD Director	14. Signature x	15. Date 07/30/2021
16. For the Grantee (Name and Title of Authorized Official) Brian J. Kulpa, Supervisor, Town of Amherst, NY	17. Signature x	18. Date / /

19. Check one:

☒ Initial Agreement ☐ Amendment #

20. Funding Information: *HOME* *REG 0206*

Source of Funds	Appropriation Code	PAS Code	Amount
2021	861/40205	HMF (J)	$935,601
2020	860/30205	HMF (H)	$5,704
2019	869/20205	HMF (G)	$ 594

Attachment: GA_2021 Amherst HM agmnt_8.4.21 (RES-2021-716 : U.S. Dept. of Housing & Urban Development 2021 HOME Contract)

General Instructions: This Agreement is used for one of three purposes: 1) the initial Agreement between HUD and the Participating Jurisdiction (PJ) that obligates HOME formula funds; 2) the initial Agreement between HUD and the PJ/entity that obligates Community Housing Development Organization (CHDO) competitive reallocation funds; 3) the amendment to the Agreement that deobligates an amount of a PJ/entity's HOME funds previously obligated because of a reduction of funds by HUD.

For all initial Agreements - The Agreement (HUD-40093) must have an original or electronic signature by the appropriate HUD official, who is usually the Community Planning and Development (CPD) Director in the Field Office. After the HUD official signs the Agreement, it must be sent to the jurisdiction (or entity) for signature. The jurisdiction (or entity) must sign or electronically sign the Agreement and should retain a copy for its records. The jurisdiction (or entity) must return the signed Agreement to the HUD Field Office. The HUD Field Office must forward the executed Agreement to the CFO National Accounting Center for recording and retain a copy for the Field Office files.

For amendments to the Agreement that deobligate funds because of a reduction by HUD - after notification from the Headquarters' Office of Affordable Housing (OAHP) to proceed, the Agreement (HUD-40093) must be signed or electronically signed by the appropriate HUD official, who is usually the CPD Director in the Field Office. It is not necessary to have the jurisdiction sign the form. The Field Office should send one copy to the jurisdiction (or entity) for its records. Forward the HUD signed amendment to the CFO National Accounting Center to initiate the deobligation. email a copy to Headquarters, OAHP, Financial and Information Services Division so that Headquarters can track the deobligation. Retain a copy for the Field Office files.

1. Participant Name and Address. The participating jurisdiction's (or entity's) name and address as shown in Box 4 of Standard Form 424.

2. Grant Number. The applicable grant number assigned by the HUD for the PJ/entity that corresponds to the fiscal year source of funds for this transaction.

3a. Tax Identification Number. Enter the Tax (Employer). Identification Number (TIN) shown in Box 8b of Standard Form 424. For jurisdictions (or entities) that are already participating in the HOME Program, this must be the TIN associated with the jurisdiction (or entity) for the HOME Program.

3b. Unique Entity Identifier. The identifier required for SAM registration to uniquely identify business entities shown in Box 8c of Standard Form 424 (formerly known as DUNS). For jurisdictions (or entities) that are already participating in the HOME Program, this must be the Unique Entity Identifier associated with the jurisdiction (or entity) for the HOME Program.

4. Appropriation Number. The Appropriation Number from the HUD-185 sub-assigning funds for the Fiscal Year source of funds for this transaction.

5. Budget Start and End Date. Indicate the fiscal years of funds for this transaction. NOTE: For Amendments to an agreement, a separate form must be completed for each FY's funds.

Attachment: GA_2021 Amherst HM agmnt_8.4.21 (RES-2021-716 : U.S. Dept. of Housing & Urban Development 2021 HOME Contract)

6. **Previous Obligation.** Enter the total amount of funds that have been previously obligated for this participant for this FY source of funds.
   a. **Formula Funds.** Enter the total amount of formula funds previously obligated to the participant. If this is the funding approval form for the participant's initial allocation for the fiscal year, the amount will be "0". If this is a funding approval form for reallocating or deobligating funds, enter the amount from Box 7 of the previously submitted form HUD-40093 for the FY identified in Box 5.
   b. **Community Housing Development Organization (CHDO) Competitive Reallocation.** Enter the amount of funds previously obligated to the PJ/entity by competition for CHDOs. If this is a funding approval form for reallocating or deobligating funds previously allocated by competition for CHDOs, enter the amount from Box 7 of the previously submitted form HUD-40093 for the FY identified in Box 5.

7. **Current Transaction.** Enter the total amount of funds for this action. Indicate a deobligation either by placing parentheses around the amount deobligated or a minus sign before the amount deobligated.
   a. **Formula Funds.** Of the amount indicated in Box 7, indicate the amount that is for formula funds. If this is a formula fund deobligation, show the distribution of that amount of funds in Box 7a.1 CHDO funds and/or Box 7a.2 non-CHDO funds.
      1. **CHDO.** Of the amount indicated in Box 7a, indicate the amount that is CHDO funds. If none, enter "0." Note: If this is a CHDO competitive reallocation, enter the amount in 7b.
      2. **Non-CHDO.** Of the amount indicated in Box 7a, indicate the amount that is Non-CHDO funds. If none, enter "0.

   b. **CHDO Competitive Reallocation or Deobligation.** Of the amount indicated in Box 7, indicate the amount that is reallocated or deobligated from the CHDO competition funds.

8. **Revised Obligation.** Enter the total amount of funds available to the jurisdiction (or entity) after this transaction (Box 6 plus/minus Box 7).
   a. **Formula Funds.** Enter the total amount of formula funds available to the participating jurisdiction after this transaction (Box 6a plus/minus Box 7a).
   b. **CHDO Competitive Reallocation.** Enter the total amount of funds available to the PJ/entity as a competitive reallocation for CHDOs after this transaction (Box 6b plus/minus Box 7b).

9. **Special Conditions.** If applicable, check the box and attach any special conditions that are part of the Agreement.

10. **Federal Award Date.** This is the date of obligation which is the **initial date of the HUD Authorized Official's signature** (Box 15) This field is **not** required if the Agreement is being amended for a deobligation because of a reduction by HUD.

Attachment: GA_2021 Amherst HM agmnt_8.4.21 (RES-2021-716 : U.S. Dept. of Housing & Urban Development 2021 HOME Contract)

11. **Indirect Cost Rate.** If funding assistance will be used for payment of indirect costs pursuant to 2 CFR 200, Subpart E-Cost Principles, provide the name of the department/agency, its indirect cost rate (including if the de minimis rate is charged per 2 § CFR 200.414(f)), and the direct cost base to which the rate will be applied (for example, Modified Total Direct Costs (MTCD)). The Recipient also shall provide HUD with a revised schedule if changes occur, and shall become incorporated herein. If there are more than four agencies/departments carrying out activities with the Funding Assistance, attach a list with the additional agencies/departments that will carry out activities with the Funding Assistance. Do not include indirect cost rates for subrecipients.

12. **Period of Performance.** Performance begins on the **initial Date of the HUD Authorized Official's signature** (Box 15 and Box 10) and ends on September 1st of the 5th fiscal year after the expiration of the period of availability for obligation.

13. **For the U.S. Department of HUD (Name and Title of Authorized Official).** Enter the name and title of the HUD official who is authorized to sign the Agreement on behalf of HUD. This is usually the Field Office CPD Director.

14. **Signature**. The authorized HUD official signs the Agreement here.

15. **Date.** Enter the date the authorized HUD official signed the form. In the case of initial agreements, this date must be the same date as the notification date to headquarters in GMP-R to begin the Congressional release process. This is also the same date as the **Federal Award Date**, date of obligation (Box 10).

16. **For the Participating Jurisdiction/Entity (Name and Title of Authorized Office).** Enter the name and title of the official authorized to sign on behalf of the participating jurisdiction/entity. This is not required if the Agreement is being amended for a deobligation because of a reduction by HUD.

17. **Signature of PJ/Entity Official.** The PJ/entity official signs the Agreement here. This is not required if the Agreement is being amended for a deobligation because of a reduction by HUD.

18. **Date.** Enter the date the PJ/Entity official signs the Agreement. This is not required if the Agreement is being amended for a deobligation because of a reduction by HUD.

19. **Type of Agreement.** Check either Initial Agreement or Amendment #. If an amendment, indicate the amendment number.

20. **Funding Information.** For each source year of funding, the following information is provided: Source year of Funds, Appropriation Code, PAS Code with fiscal year indicator code, and amount.

Attachment: GA_2021 Amherst HM agmnt_8.4.21 (RES-2021-716 : U.S. Dept. of Housing & Urban Development 2021 HOME Contract)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 24621 **RESOLUTION 2021-717** **ADOPTED**

Authorization for the Supervisor to Sign and Submit the Application for Federal Assistance to Continue the Family Self Sufficiency Program (FSS)

WHEREAS, the Town of Amherst is the lead entity to the Erie County Public Housing Authority (PHA) Consortium; and

WHEREAS, the Erie County PHA Consortium provides a Family Self Sufficiency (FSS) Program as part of the Housing Choice Voucher Program funded by the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, the Town contracts with Belmont Housing Resources for WNY to administer the day-to-day management of the PHA programming, including any grant writing required; and

WHEREAS, HUD requires an administrative directive requiring the Town, as the PHA lead, to directly submit the grant application and application for federal assistance for the FSS Program in Grants.gov; and

WHEREAS, Belmont has prepared the 2022 FSS grant application in the amount of $268,375 in Grants.gov for the Town to submit before August 27, 2021; now therefore

BE IT RESOLVED, that the Town Board of the Town of Amherst formally authorizes the Supervisor to sign and submit the Application for Federal Assistance for the 2022 Family Self Sufficiency Program for the Erie County Public Housing Authority Consortium in the Grants.gov system.

8/09/2021
Consent

FINANCIAL IMPACT:

Adoption of the proposed resolution involves the request for grant funds from the U.S. Department of Housing and Urban Development and will have no monetary 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 C. Howard,
Planning Direct
Daniel J. Ulatowski,
Assistant Planning D

August 1, 2021

Agenda of August 9, 2021

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

Subject: Authorization for the Supervisor to sign the application for federal assistance to continue the Family Self Sufficiency Program (FSS)

Honorable Members:

The U.S. Department of Housing and Urban Development's (HUD) Family Self Sufficiency (FSS) Program has been provided for the last 25 years through our Erie County Public Housing Authority (PHA) Consortium Administrator, Belmont Housing Resources for WNY. Over those years Belmont has applied to receive funding for the FSS Program on behalf of the PHA. Amherst is the Lead Municipality for the Erie County Public Housing Authority and the program currently serves over 280 low-income households.

Recently, HUD completed an administrative rule change requiring the PHA itself to apply for the funding and to act as signatory on the forms. As a result, to receive funding for FY 2022 the Town must now submit the funding application and Supervisor Kulpa must sign all documentation as the Authorizing (signatory) Official for the Town.

Attached please find the Application for Federal Assistance Forms, as well as information on the program provided by Belmont Housing Resources for WNY. Should you have any questions please contact Laurie Stillwell, at lstillwell@amherst.ny.us. or (716) 631-7050.

Very truly yours,

Daniel J. Ulatowski, AICP
Assistant Planning Director

Att.
cc: Town Attorney

X:\Community Development\New Structure\PHA\Family Self Sufficiency\2021 FSS Funding\2021 FSS Town Board Letter - 8.9.21.docx

Attachment: signed fss-08042021104451 (RES-2021-717 : To Authorize the Supervisor to Sign the FSS Application)

BELMONT HOUSING
RESOURCES FOR WNY

Central Office
1195 Main Street
Buffalo, NY 14209
716-884-7791
Fax: 716-884-8026

Niagara County Office
33 Spruce Street
North Tonawanda, NY 14120
716-213-2784
Fax: 716-213-2787

Town of Amherst

Brian J. Kulpa, Town Supervisor

Belmont Housing Resources for WNY, Inc is the agent who administers the Housing Choice Voucher Program (HCV) on behalf of the Erie County PHA Consortium, Amherst Town Lead.

Through HCV, Belmont offers the Family Self-Sufficiency (FSS) program. FSS is a voluntary economic independence program that was legislated by Congress in 1990 to help HCV families reduce the need for public assistance and rental subsidies. Established at Belmont in 1994, it is currently one of nearly 900 FSS programs nationwide. Adult family members can voluntarily sign up for FSS, entering into a personalized education, training, and career goal plan with a program coordinator. FSS Coordinators provide participants with referrals for child care, employment opportunities, child support issues, civil litigation, and food pantries. We are considered and rated by HUD as a high performer, with an average of 235 enrolments between 2019 and 220. We were one of the first PHA that offered FSS 256 years ago and in that time assisted 1355 clients, with 525 graduates, 132 of which purchased homes.

The target population for this program is HCV holders with young children, including families who are asset-limited, income-constrained, living in areas of concentrated poverty, veterans, and new or long-term unemployed.

Belmont employs three full-time counselors for which we have receive HUD FSS renewal funding annually through the HUD NOFA. We submitted an application for $268,375 for 2022 funding. Previously they allowed us to apply as the applicant, however they are no longer allowing agents to apply on behalf of the PHA and the PHA must be the applicant and the signatory. Funds would still be drawn down directly to Belmont.

Attached please find a paper copy of the amended application for your signature. You can return it to Belmont and we will submit to HUD. Once the award is made, it will require you to accept it in Grant Solutions.

Attachment: Belmont FSS Funding Program Details (RES-2021-717 : To Authorize the Supervisor to Sign the FSS Application)

Applicant/Recipient Disclosure/Update Report

U.S. Department of Housing and Urban Development

OMB Approval No. 2510-0011 (exp. 11/30/2018)

Instructions. (See Public Reporting Statement and Privacy Act Statement and detailed instructions on page 2.)

Applicant/Recipient Information

Indicate whether this is an Initial Report ☑ **or an Update Report** ☐

1. Applicant/Recipient Name, Address, and Phone (include area code):
Erie County PHA Consortium, Town of Amherst Lead Applicant, 5583 Main Street, Williamsville, NY 14221
7168847791

2. Social Security Number or Employer ID Number:
16-6002157

3. HUD Program Name
Family Self-Sufficiency Program

4. Amount of HUD Assistance Requested/Received
268,375

5. State the name and location (street address, City and State) of the project or activity:
2393 Main Street, Buffalo, NY 14214

Part I Threshold Determinations

1. Are you applying for assistance for a specific project or activity? These terms do not include formula grants, such as public housing operating subsidy or CDBG block grants. (For further information see 24 CFR Sec. 4.3).
☐ **Yes** ☑ **No**

2. Have you received or do you expect to receive assistance within the jurisdiction of the Department (HUD) , involving the project or activity in this application, in excess of $200,000 during this fiscal year (Oct. 1 - Sep. 30)? For further information, see 24 CFR Sec. 4.9
☐ **Yes** ☑ **No**.

If you answered "**No**" to either question 1 or 2, **Stop**! You do not need to complete the remainder of this form.
However, you must sign the certification at the end of the report.

Part II Other Government Assistance Provided or Requested / Expected Sources and Use of Funds.

Such assistance includes, but is not limited to, any grant, loan, subsidy, guarantee, insurance, payment, credit, or tax benefit.

Department/State/Local Agency Name and Address	Type of Assistance	Amount Requested/Provided	Expected Uses of the Funds

(**Note**: Use Additional pages if necessary.)

Part III Interested Parties. You must disclose:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds $50,000 or 10 percent of the assistance (whichever is lower).

Alphabetical list of all persons with a reportable financial interest in the project or activity (For individuals, give the last name first)	Social Security No. or Employee ID No.	Type of Participation in Project/Activity	Financial Interest in Project/Activity ($ and %)

(**Note**: Use Additional pages if necessary.)

Certification

Warning: If you knowingly make a false statement on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosures of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.
I certify that this information is true and complete.

Signature:	Date: (mm/dd/yyyy)
X	

Attachment: Applicant_information (RES-2021-717 : To Authorize the Supervisor to Sign the FSS Application)

Public reporting burden for this collection of information is estimated to average 2.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless that collection displays a valid OMB control number.

Privacy Act Statement. Except for Social Security Numbers (SSNs) and Employer Identification Numbers (EINs), the Department of Housing and Urban Development (HUD) is authorized to collect all the information required by this form under section 102 of the Department of Housing and Urban Development Reform Act of 1989, 42 U.S.C. 3531. Disclosure of SSNs and EINs is voluntary. HUD is authorized to collect this information under the Housing and Community Development Act of 1987 42 U.S.C.3543 (a). The SSN or EIN is used as a unique identifier. The information you provide will enable HUD to carry out its responsibilities under Sections 102(b), (c), and (d) of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235, approved December 15, 1989. These provisions will help ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. They will also help ensure that HUD assistance for a specific housing project under Section 102(d) is not more than is necessary to make the project feasible after taking account of other government assistance. HUD will make available to the public all applicant disclosure reports for five years in the case of applications for competitive assistance, and for generally three years in the case of other applications. Update reports will be made available along with the disclosure reports, but in no case for a period generally less than three years. All reports, both initial reports and upd reports, will be made available in accordance with the Freedom of Information Act (5 U.S.C. §552) and HUD's implementing regulations at 24 CFR Part 15 HUD will use the information in evaluating individual assistance applications and in performing internal administrative analyses to assist in the managemer of specific HUD programs. The information will also be used in making the determination under Section 102(d) whether HUD assistance for a specific hou project is more than is necessary to make the project feasible after taking account of other government assistance. You must provide all the required information. Failure to provide any required information may delay the processing of your application, and may result in sanctions and penalties, including imposition of the administrative and civil money penalties specified under 24 CFR §4.38.

Note: This form only covers assistance made available by the Department. States and units of general local government that carry out responsibilities under Sections 102(b) and (c) of the Reform Act must develop their own procedures for complying with the Act.

Instructions

Overview.

A. Coverage. You must complete this report if:
(1) You are applying for assistance from HUD for a specific project or activity **and** you have received, or expect to receive, assistance from HUD in excess of $200,000 during the during the fiscal year;
(2) You are updating a prior report as discussed below; or
(3) You are submitting an application for assistance to an entity other than HUD, a State or local government if the application is required by statute or regulation to be submitted to HUD for approval or for any other purpose.

B. Update reports (filed by "Recipients" of HUD Assistance): General. All recipients of covered assistance must submit update reports to the Department to reflect substantial changes to the initial applicant disclosure reports.

Line-by-Line Instructions.

Applicant/Recipient Information.
All applicants for HUD competitive assistance, must complete the information required in blocks 1-5 of form HUD-2880:

1. Enter the full name, address, city, State, zip code, and telephone number (including area code) of the applicant/recipient. Where the applicant/recipient is an individual, the last name, first name, and middle initial must be entered.
2. Entry of the applicant/recipient's SSN or EIN, as appropriate, is optional.
3. Applicants enter the HUD program name under which the assistance is being requested.
4. Applicants enter the amount of HUD assistance that is being requested. Recipients enter the amount of HUD assistance that has been provided and to which the update report relates. The amounts are those stated in the application or award documentation. NOTE: In the case of assistance that is provided pursuant to contract over a period of time (such as project-based assistance under section 8 of the United States Housing Act of 1937), the amount of assistance to be reported includes all amounts that are to be provided over the term of the contract, irrespective of when they are to be received.
5. Applicants enter the name and full address of the project or activity for which the HUD assistance is sought. Recipients enter the name and full address of the HUD-assisted project or activity to which the update report relates. The most appropriate government identifying number must be used (e.g., RFP No.; IFB No.; grant announcement No.; or contract, grant, or loan No.) Include prefixes.

Part I. Threshold Determinations - Applicants Only

Part I contains information to help the applicant determine whether the remainder of the form must be completed. **Recipients filing Update Reports should not complete this Part.**

If the answer to ***either*** questions 1 or 2 is No, the applicant need not complete Parts II and III of the report, but must sign the certification at the end of the form.

Part II. Other Government Assistance and Expected Sources and Uses of Funds.

A. Other Government Assistance. This Part is to be completed by both applicants and recipients for assistance and recipients filing update reports. Applicants and recipients must report any other government assistance involved in the project or activity for which assistance is sought. Applicants and recipients must report any other government assistance involved in the project or activity. Other government assistance is defined in note 4 on the last page. For purposes of this definition, other government assistance is expected to be made available if, based on an assessment of all the circumstances involved, there are reasonable grounds to anticipate that the assistance will be forthcoming.

Both applicant and recipient disclosures must include all other government assistance involved with the HUD assistance, as well as any other government assistance that was made available before the request, but that has continuing vitality at the time of the request. Examples of this latter category include tax credits that provide for a number of years of tax benefits, and grant assistance that continues to benefit the project at the time of the assistance request.

The following information must be provided:

1. Enter the name and address, city, State, and zip code of the government agency making the assistance available.
2. State the type of other government assistance (e.g., loan, grant, loan insurance).
3. Enter the dollar amount of the other government assistance that is, or is expected to be, made available with respect to the project or activities for which the HUD assistance is sought (applicants) or has been provided (recipients).
4. Uses of funds. Each reportable use of funds must clearly identify the purpose to which they are to be put. Reasonable aggregations may be used, such as "total structure" to include a number of structural costs, such as roof, elevators, exterior masonry, etc.

B. Non-Government Assistance. Note that the applicant and recipient disclosure report must specify all expected sources and uses of funds - both from HUD ***and any other source*** - that have been or are to be, made available for the project or activity. Non-government sources of

Attachment: Applicant_information (RES-2021-717 : To Authorize the Supervisor to Sign the FSS Application)

funds typically include (but are not limited to) foundations and private contributors.

Part III. Interested Parties.

This Part is to be completed by both applicants and recipients filing update reports. Applicants must provide information on:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds $50,000 or 10 percent of the assistance (whichever is lower).
   Note: A financial interest means any financial involvement in the project or activity, including (but not limited to) situations in which an individual or entity has an equity interest in the project or activity, shares in any profit on resale or any distribution of surplus cash or other assets of the project or activity, or receives compensation for any goods or services provided in connection with the project or activity. Residency of an individual in housing for which assistance is being sought is not, by itself, considered a covered financial interest.

The information required below must be provided.

1. Enter the full names and addresses. If the person is an entity, the listing must include the full name and address of the entity as well as the CEO. Please list all names alphabetically.
2. Entry of the Social Security Number (SSN) or Employee Identification Number (EIN), as appropriate, for each person listed is optional.
3. Enter the type of participation in the project or activity for each person listed: i.e., the person's specific role in the project (e.g., contractor, consultant, planner, investor).
4. Enter the financial interest in the project or activity for each person listed. The interest must be expressed both as a dollar amount and as a percentage of the amount of the HUD assistance involved.

Note that if any of the source/use information required by this report has been provided elsewhere in this application package, the applicant need not repeat the information, but need only refer to the form and location to incorporate it into this report. (It is likely that some of the information required by this report has been provided on SF 424A, and on various budget forms accompanying the application.) If this report requires information beyond that provided elsewhere in the application package, the applicant must include in this report all the additional information required.

Recipients must submit an update report for any change in previously disclosed sources and uses of funds as provided in Section I.D.5., above.

Notes:

1. All citations are to 24 CFR Part 4, which was published in the Federal Register. [April 1, 1996, at 63 Fed. Reg. 14448.]
2. Assistance means any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan or mortgage, that is provided with respect to a specific project or activity under a program administered by the Department. The term does not include contracts, such as procurements contracts, that are subject to the Fed. Acquisition Regulation (FAR) (48 CFR Chapter 1).
3. See 24 CFR §4.9 for detailed guidance on how the threshold is calculated.
4. "Other government assistance" is defined to include any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance from the Federal government (other than that requested from HUD in the application), a State, or a unit of general local government, or any agency or instrumentality thereof, that is, or is expected to be made, available with respect to the project or activities for which the assistance is sought.
5. For the purpose of this form and 24 CFR Part 4, “person” means an individual (including a consultant, lobbyist, or lawyer); corporation; company; association; authority; firm; partnership; society; State, unit of general local government, or other government entity, or agency thereof (including a public housing agency); Indian tribe; and any other organization or group of people.

Attachment: Applicant_information (RES-2021-717 : To Authorize the Supervisor to Sign the FSS Application)

OMB Number: 4040-0004
Expiration Date: 12/31/2022

Application for Federal Assistance SF-424

* 1. Type of Submission:
- [ ] Preapplication
- [x] Application
- [ ] Changed/Corrected Application

* 2. Type of Application:
- [x] New
- [ ] Continuation
- [ ] Revision

* If Revision, select appropriate letter(s):

* Other (Specify):

* 3. Date Received: Completed by Grants.gov upon submission.

4. Applicant Identifier:

5a. Federal Entity Identifier: NY091

5b. Federal Award Identifier:

State Use Only:

6. Date Received by State:

7. State Application Identifier:

8. APPLICANT INFORMATION:

* a. Legal Name: Erie County PHA Consortium, Town of Amherst Lead Applicant

* b. Employer/Taxpayer Identification Number (EIN/TIN): 16-6002157

* c. Organizational DUNS: 0302123360000

d. Address:

* Street1: 5583 Main Street
Street2:
* City: Amherst
County/Parish: Erie County
* State: NY: New York
Province:
* Country: USA: UNITED STATES
* Zip / Postal Code: 14221-5488

e. Organizational Unit:

Department Name:

Division Name:

f. Name and contact information of person to be contacted on matters involving this application:

Prefix: Mr.
* First Name: Brian
Middle Name: J.
* Last Name: Kulpa
Suffix:

Title: Town of Amherst Supervisor

Organizational Affiliation: Town of Amherst

* Telephone Number: 716-631-7000
Fax Number:

* Email: bkulpa@amherst.ny.us

Attachment: SF 424 2021_8.4.21_RB (RES-2021-717 : To Authorize the Supervisor to Sign the FSS Application)

Application for Federal Assistance SF-424

*** 9. Type of Applicant 1: Select Applicant Type:**

L: Public/Indian Housing Authority

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

* Other (specify):

*** 10. Name of Federal Agency:**

US Department of Housing and Urban Development

11. Catalog of Federal Domestic Assistance Number:

14.896

CFDA Title:

Family Self-Sufficiency Program

*** 12. Funding Opportunity Number:**

FR-6400-N-04

* Title:

2021 Family Self-Sufficiency – Renewal NOFA

13. Competition Identification Number:

FR-6400-N-04

Title:

2021 Family Self-Sufficiency – Renewal NOFA

14. Areas Affected by Project (Cities, Counties, States, etc.):

Add Attachment | Delete Attachment | View Attachment

*** 15. Descriptive Title of Applicant's Project:**

NY091 Family Self-Sufficiency Program

Attach supporting documents as specified in agency instructions.

Add Attachments | Delete Attachments | View Attachments

Attachment: SF 424 2021_8.4.21_RB (RES-2021-717 : To Authorize the Supervisor to Sign the FSS Application)

Application for Federal Assistance SF-424

16. Congressional Districts Of:

* a. Applicant: NY-026 * b. Program/Project: NY-026

Attach an additional list of Program/Project Congressional Districts if needed.

Add Attachment | Delete Attachment | View Attachment

17. Proposed Project:

* a. Start Date: 01/01/2021 * b. End Date: 12/31/2021

18. Estimated Funding ($):

* a. Federal	$268,375.00
* b. Applicant	0.00
* c. State	0.00
* d. Local	0.00
* e. Other	0.00
* f. Program Income	0.00
* g. TOTAL	$268,375.00

*** 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

☐ a. This application was made available to the State under the Executive Order 12372 Process for review on .

☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.

☒ c. Program is not covered by E.O. 12372.

*** 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**

☐ Yes ☒ No

If "Yes", provide explanation and attach

Add Attachment | Delete Attachment | View Attachment

21. *By signing this application, I certify (1) to the statements contained in the list of certifications and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

☒ ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: Mr. * First Name: Brian

Middle Name: J.

* Last Name: Kulpa

Suffix:

* Title: Town of Amherst Supervisor

* Telephone Number: 716-631-7000 Fax Number:

* Email: bkulpa@amherst.ny.us

* Signature of Authorized Representative: Completed by Grants.gov upon submission. * Date Signed: Completed by Grants.gov upon submission.

Attachment: SF 424 2021_8.4.21_RB (RES-2021-717 : To Authorize the Supervisor to Sign the FSS Application)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Senior Services
Initiated by: **Brian Bray**
Co-Sponsored by:

DOC ID: 24607 **RESOLUTION 2021-718** **ADOPTED**

Baked Good Products - Midstate Bakery Distributors, Inc. (CRS ID #2749)

WHEREAS, Erie 1 BOCES recently awarded its bid for Bread Products to Midstate Bakery Distributors, Inc.; and

WHEREAS, the Erie 1 BOCES bid requires the winning responder to allow all political subdivisions, municipalities, county, school districts, other BOCES, and not-for-profit organizations all authorized under the General Municipal Laws of the State of New York, to purchase any goods and/or services awarded as a result of that bid; and

WHEREAS, the Department of Senior Services wishes to piggyback off of the Erie 1 BOCES bid and enter with Midstate Bakery Distributors, Inc. for bread products; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign a contract with Midstate Bakery Distributors, Inc. subject to successful completion of the contract routing process.

8/09/2021
Consent

FINANCIAL IMPACT:

A6773-4000 Amount TBD

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

Amherst Center for Senior Services

BRIAN KULPA
Supervisor, Town of Amherst

BRIAN BRAY
Director, Senior Services

370 John James Audubon Pkwy • Amherst, New York • 14228
Phone (716) 636-3050 Fax (716) 636-3060

PURCHASE OF BREAD PRODUCTS PIGGYBACKING AGREEMENT

Let this document stand as an Agreement between Midstate Bakery Distributors, Inc., and the Town of Amherst permitting the Town of Amherst to participate in the purchase of bread products from Midstate Bakery Distributors, Inc. under Erie 1 BOCES Bread Product Cooperative Bid – Effective July 1, 2021 – June 30, 2022, vendor # _____. Delivery included.

Agreed to and Accepted by:

Midstate Bakery Distributors, Inc.

By: _____
Signature

Harry Wyman
Printed Name

General Manager
Title

July 6, 2021
Date

Agreed to and Accepted by:

Town of Amherst

_____
Signature

_____
Printed Name

_____
Title

_____
Date

Attachment: Midstate Contract (RES-2021-718 : Baked Good Products - Midstate Bakery Distributors, Inc. (CRS ID # 2749))

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: Midstate Contract (RES-2021-718 : Baked Good Products - Midstate Bakery Distributors, Inc. (CRS ID # 2749))

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: Midstate Contract (RES-2021-718 : Baked Good Products - Midstate Bakery Distributors, Inc. (CRS ID # 2749))

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:

Midstate Bakery Distributors, Inc
Print Name of Company

By: _____
Signature

Harry Wyman, GM
Printed name

Date: _____

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: Midstate Contract (RES-2021-718 : Baked Good Products - Midstate Bakery Distributors, Inc. (CRS ID # 2749))

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 24587 **RESOLUTION 2021-719** **ADOPTED**

Summer Concert (OCC) CRS #2792

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and O'Connell & Company for a concert in Bassett Park on August 18, 2021.

8/09/2021
Consent

FINANCIAL IMPACT:

A7142.4150;$1,000.00

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

29 June 2021

Mary Kate O'Connell
O'Connell & Company
3200 Elmwood Avenue
Tonawanda, NY 14217

Dear Mary Kate O'Connell, O'Connell & Company

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:_____.

O'Connell & Company 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, August 18, 2021
Time:	7:00-8:30p.m.
Location:	Bassett Park Amphitheater with rain site of Clearfield Community Center
Fee:	$1,000.00 (check payable to O'Connell & Company)

Attachment: O'Connell & Company Summer Concert 2021 (RES-2021-719 : Summer Concert (OCC) CRS#2792)

Name of Entity:
Identify Type of Business Entity:
(e.g. Individuals, D/B/A, Corporation, Partnership, Association, Club, etc.)

Agreed to and approved:

*Mary Kate O'Connell — 7/20/21
Name — Date

Exec/Art Director O'Connell & Company
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: O'Connell & Company Summer Concert 2021 (RES-2021-719 : Summer Concert (OCC) CRS#2792)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 24592 **RESOLUTION 2021-720** **ADOPTED**

Standard Maintenance Agreement CRS #2798

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and EBC HR & Payroll Solutions, Inc. for timekeeping software.

8/09/2021
Consent

FINANCIAL IMPACT:

A7145.4110;$3,596.00

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

EBC HR & PAYROLL SOLUTIONS, INC

331 John James Audubon Pkwy, Amherst, NY 14228
Telephone: (716) 689-0511 Fax: (716) 656-2099

301 Ohio Street Suite 250, Buffalo, NY 14204
Telephone: (716) 674-7900 Fax: (716) 674-9350

STANDARD MAINTENANCE AGREEMENT
(Electronic Time System)

Town of Amherst Youth & Recreation Department
1615 Amherst Manor Drive
Williamsville, New York 14221

COVERAGE DATES: 8/25/2021 THROUGH 8/24/2022

HARDWARE/SOFTWARE COVERED: (See Addendum)

Signature to this Agreement authorizes EBC HR & Payroll Solutions, Inc (EBC), formerly operating as ComputerSearch Corporation, to maintain the hardware/software listed in the Addendum. Customer agrees to pay the total charge of **$3,596.00** for the period noted above and from year to year thereafter unless this agreement is terminated by either party, as herein provided. For such service, Customer will pay the amount shown above IN ADVANCE, and for each subsequent annual renewal period, Customer will pay IN ADVANCE, the current established annual charges on newly issued contracts.

All hardware/software listed in Addendum must be included in the maintenance agreement in order for coverage to be in effect. It is understood that the listed software & hardware at the date hereof is properly installed and configured and the equipment is in good operating condition. Technical support will be provided only to trained personnel. Remote access is required for software support; requests for onsite software support will be billed at our standard hourly rate. Service shall be rendered during normal working hours: 8:00 AM and 4:30 PM Monday through Friday, excluding holidays. All service rendered outside such hours will be considered Emergency Service and invoiced at twice the *standard hourly rate, (minimum two hours). Travel/mileage expense for such service will be invoiced in addition to the above amount. For equipment older than 6 years old, please see the terms and conditions below.

In consideration of the above, EBC agrees to:

- Provide telephone, remote control software and on-site hardware support as needed **(10 hrs maximum per year)**.
- Respond within eight (8) working hours from the time a service request is received.
- In general, EBC assumes responsibility for the satisfactory operation of the hardware/software.
- Allow use of Contract hours for items such as:
  - Trouble-shooting software or hardware issues
  - Obtaining answers to operational or functionality questions
  - Programming adjustments
  - Re-Installation or moving of software/hardware
  - Hardware or software updates within the current version
  - Training or re-training company employees on system functionality
- Provide a 10% Maintenance Discount on Billable Parts and Labor
- Provide a 5% discount on software enhancements and system add-ons
- Provide a 35% discount off the *standard hourly rate
- When available, FREE access to product webinars
- Grant one (1) maintenance inspection per year on both hardware and software. Customer must call EBC to schedule
- **For equipment older than 6 years**, the LABOR ONLY is covered, and a 10% Maintenance Discount is applied on Billable Parts. You have the option of purchasing a REPLACEMENT at 25% off the list pricing.

Not covered by this agreement:

- Service necessary due to accident, fire, water, abuse, power fluctuations, or for any cause external to the hardware/software.
- Requests for on-site service due to daylight savings time adjustments are not covered.
- Code adjustments to the software provided by other vendors are not included.

It is understood that EBC will not assume any liability for any accidents to or caused by the equipment. It is further agreed that any repairs or adjustments made by any person other than an authorized representative will relieve EBC from responsibility under this Agreement. This authorization is subject to acceptance by EBC and is not assignable without consent by same. Charges for maintenance agreements are non-refundable. Remaining contract time expires on coverage "Through" date and does not roll over to renewed contract.

Approved by:
EBC HR & Payroll Solutions, Inc

Signature 7/26/21
Signature Date

Town of Amherst Youth & Recreation Department

Signature

Print Name Date

Attachment: EBC HR & Payroll (RES-2021-720 : Standard Maintenance Agreement CRS#2798)

Town of Amherst Youth & Recreation Department

ADDENDUM

Software:

(1) Infotronics Attendance Enterprise Software: 150 Employee Capacity, 5 User, Version 2.3, Serial#787670131

Hardware:

(5) Infotronics Model RSI HP2000EXL Hand Punch Readers, Ethernet, Serial#1489828, 1490405, 1491746, 1491747, 1491748

*Standard Hourly Rate: $198.00/Hour

Attachment: EBC HR & Payroll (RES-2021-720 : Standard Maintenance Agreement CRS#2798)

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: EBC HR & Payroll (RES-2021-720 : Standard Maintenance Agreement CRS#2798)

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: EBC HR & Payroll (RES-2021-720 : Standard Maintenance Agreement CRS#2798)

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:

EBC HR & Payroll Solutions Inc
Print Name of Company

By: Sean Unkraft
Signature

Sean Unkraft
Printed name

Date: 7/26/21

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Revised 12.30.19 SJS

Attachment: EBC HR & Payroll (RES-2021-720 : Standard Maintenance Agreement CRS#2798)

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: EBC HR & PAYROLL SOLUTIONS

Signature: [signature]

Print Name: SEAN UNLAUFT

Title: CFO

Date: 7/26/21

Sworn To Before Me This

26th Day of July, 2021

[signature]

Notary Public

WENDY M SCHABER
NOTARY PUBLIC #01SC6295226
STATE OF NEW YORK
COMMISSION ENDS 12/30/2021

Revised 4.2017

Attachment: EBC HR & Payroll (RES-2021-720 : Standard Maintenance Agreement CRS#2798)

EBCHR&P-01 JSOMMER

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 7/26/2021

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
Walsh Duffield Companies, Inc.
801 Main St.
Buffalo, NY 14203

CONTACT NAME: Jonathan Sommer, CPCU, CEBS
PHONE (A/C, No, Ext): (716) 362-7338 FAX (A/C, No):
E-MAIL ADDRESS: jsommer@walshduffield.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Selective Ins. Co. of S.C.	19259
INSURER B : Graphic Arts Mutual Insurance	25984
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
EBC HR & Payroll Solutions, Inc; ComputerSearch Corporation
301 Ohio St
Buffalo, NY 14204

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		S 2399915	6/1/2021	6/1/2022	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 500,000
							MED EXP (Any one person)	$ 15,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 3,000,000
	X POLICY [X] PRO-JECT [X] LOC						PRODUCTS - COMP/OP AGG	$ 3,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY							
	X ANY AUTO						COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	OWNED AUTOS ONLY / SCHEDULED AUTOS			S 2399915	6/1/2021	6/1/2022	BODILY INJURY (Per person)	$
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB [X] OCCUR						EACH OCCURRENCE	$ 5,000,000
	EXCESS LIAB CLAIMS-MADE			S 2399915	6/1/2021	6/1/2022	AGGREGATE	$ 5,000,000
	DED [X] RETENTION $ 10,000							$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N						PER STATUTE / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) [N]	N/A		5306739	1/1/2021	1/1/2022	E.L. EACH ACCIDENT	$ 500,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 500,000
							E.L. DISEASE - POLICY LIMIT	$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Town of Amherst Highway is added as additional insured with respect to the General Liability per form CG7300NY, if required by executed written contract or agreement, to the extent provided therein.

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.

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Attachment: EBC HR & Payroll (RES-2021-720 : Standard Maintenance Agreement CRS#2798)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (use street address only) **EBC HR & Payroll Solutions, Inc.** **301 Ohio St** **Buffalo, NY 14204** 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 **(716) 689-0511** 1c. NYS Unemployment Insurance Employer Registration Number of Insured 1d. Federal Employer Identification Number of Insured or Social Security Number 84-4298773
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 **Graphic Arts Mutual Insurance** 3b. Policy Number of Entity Listed in Box "1a" **5306739** 3c. Policy effective period 1/1/2021 to 1/1/2022 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".

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. 7/26/2021
(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: EBC HR & Payroll (RES-2021-720 : Standard Maintenance Agreement CRS#2798)

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: EBC HR & Payroll (RES-2021-720 : Standard Maintenance Agreement CRS#2798)

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)

EBC HR & PAYROLL SOLUTIONS, INC.
301 OHIO ST SUITE 250
BUFFALO NY 14204

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) 674-7900

1c. Federal Employer Identification Number of Insured or Social Security Number

20 1291783

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 14211

3a. Name of Insurance Carrier

The Guardian Life Insurance Company of America

3b. Policy Number of Entity Listed in Box "1a"

00975011

3c. Policy effective period

01/01/2020 to 12/31/2021

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 12/08/2020 By Raymond J Marra
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number 1-888-278-4542 Name and Title Raymond J. Marra - Senior Vice President, Group and Worksite Products

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: EBC HR & Payroll (RES-2021-720 : Standard Maintenance Agreement CRS#2798)

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 my 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: EBC HR & Payroll (RES-2021-720 : Standard Maintenance Agreement CRS#2798)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 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: 8/23/2021 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,

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**

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

~~Strikethrough~~ = Deleted language; Underline = Added language

(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 hereir so state and explain.

(9) List any position you held within the last 5 years as an officer of any political committe or political organization. The term "political organization" includes any independen 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 norma 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	Involvemen 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: 08/09/21 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: 8/23/2021 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:
Virginia Hancock	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

Attachment: Draft Local Law-Reclassification of 2160 2170 North Forest Road-08-24-20 (RES-2021-153 : 2160 & 2170 Request to Rezone and

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

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: Commandel 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:

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

- 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)

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

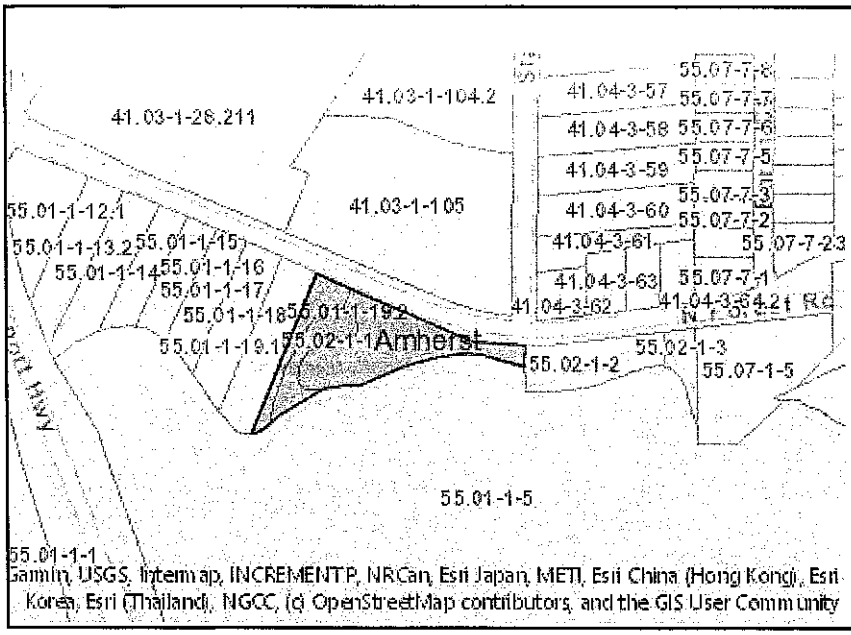
Signature _____ Title Counsel for Project Sponsor

PRINT FORM

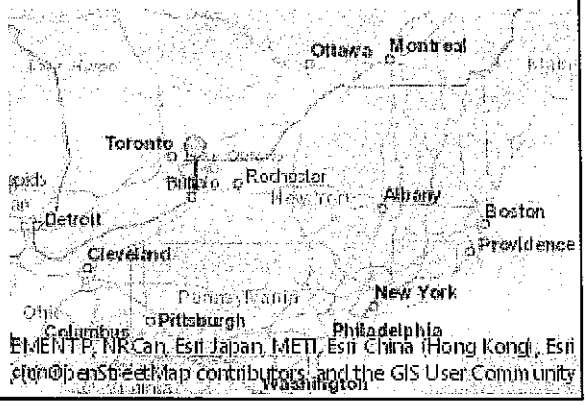
Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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.

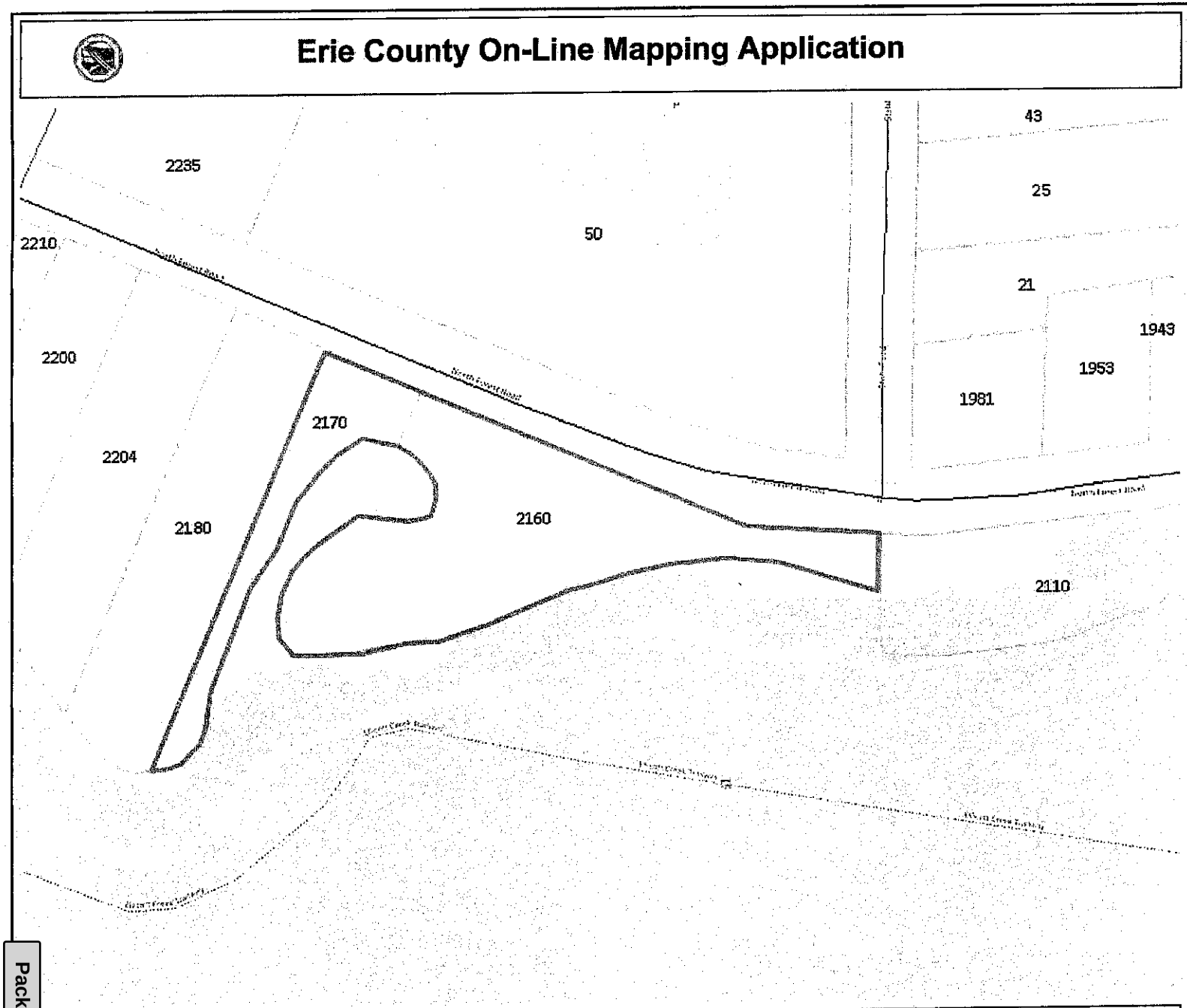
Very truly yours,
Earth Dimensions, Inc.

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)

Erie County On-Line Mapping Application



0.04 0.1 Miles

/GS_1984_Web_Mercator_Auxiliary_Sphere
HIS MAP IS NOT TO BE USED FOR NAVIGATION

ERIE COUNTY
DEPARTMENT OF ENVIRONMENT & PLANNING
OFFICE OF GIS

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

1: 2,257

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;

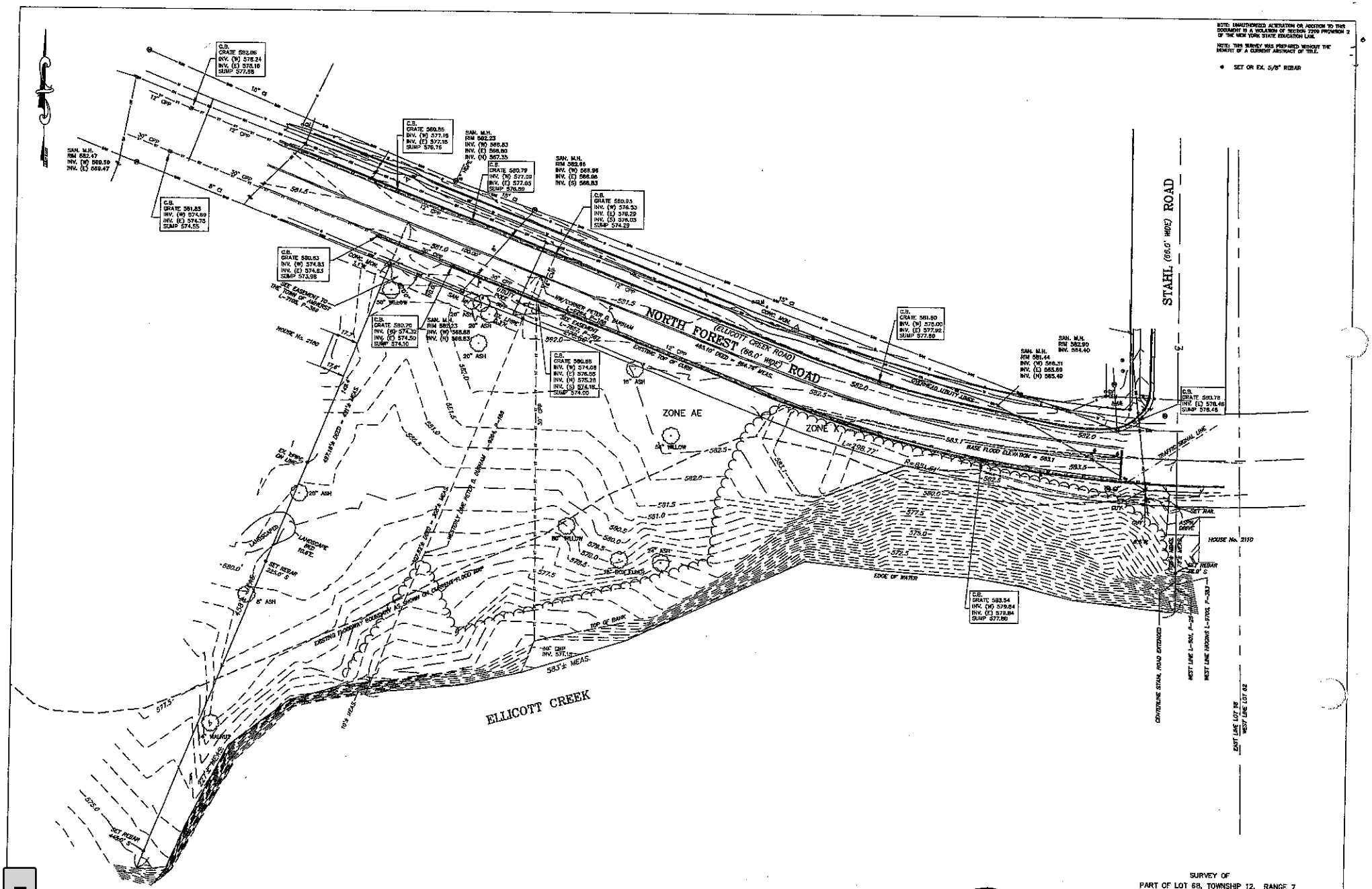
THENCE: Northerly along a line parallel with the west line of said Peter D. Durham lands distant 100.00 feet westerly therefrom measured at right angles, a distance of 491 feet more or less to the centerline of North Forest Road;

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
E	RE-SURVEY
F	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-7952, P-307 – AS SHOWN

STATE OF NEW YORK MARK L. ANDREWS 050495 LICENSED LAND SURVEYOR

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 CONSHOR STREET, SUITE 100
BUFFALO, NEW YORK 14228
(716) 633-4844 FAX 633-4846

Job No. 5083-BOUNDARY Date: JUNE 24, 2014
Scale 1" = 40' Tax No.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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)

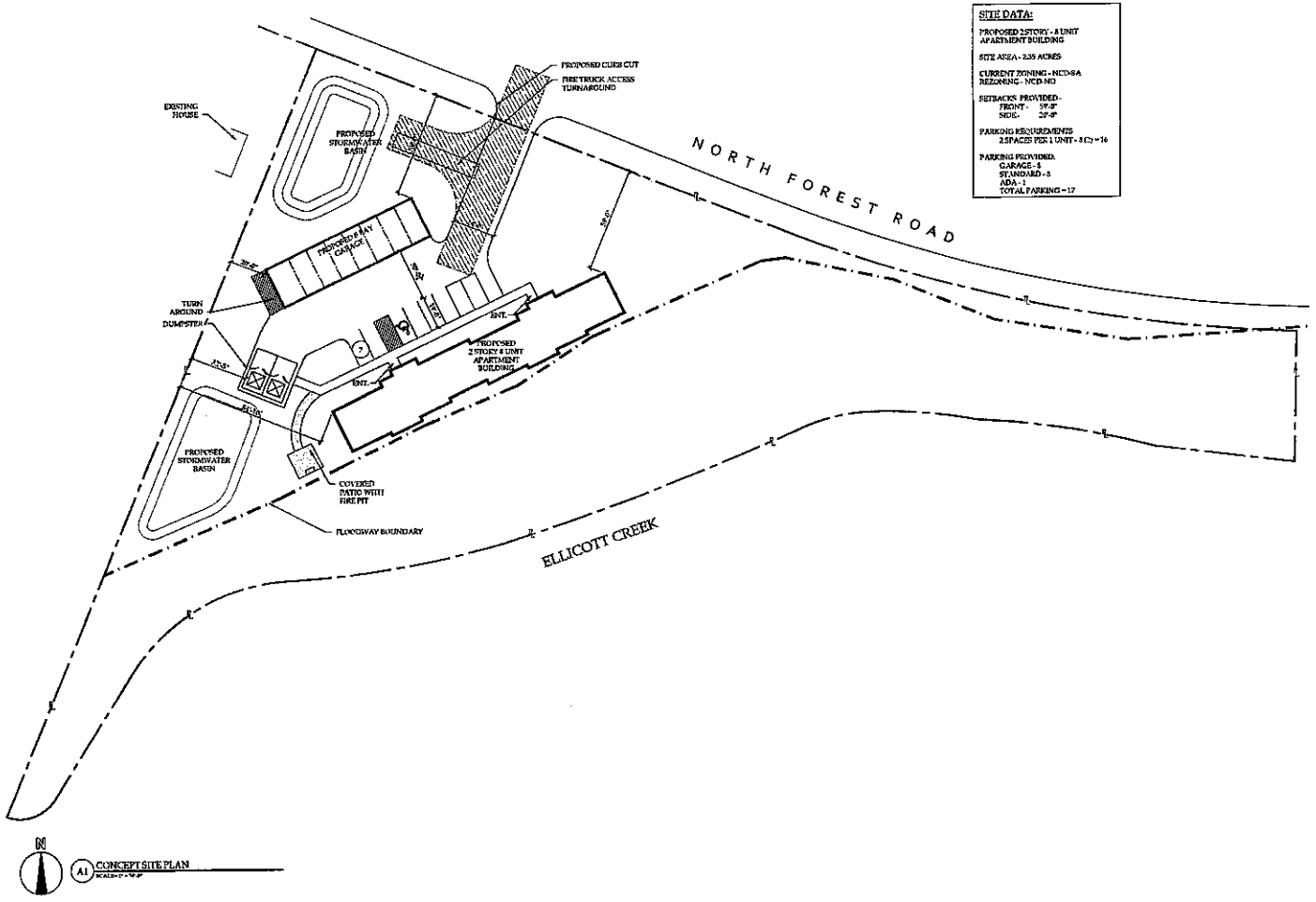
Question 16(E): **Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town:**

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)



N

A1 CONCEPT SITE 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. Hamann

SEAL:

TITLE:

CONCEPT SITE PLAN

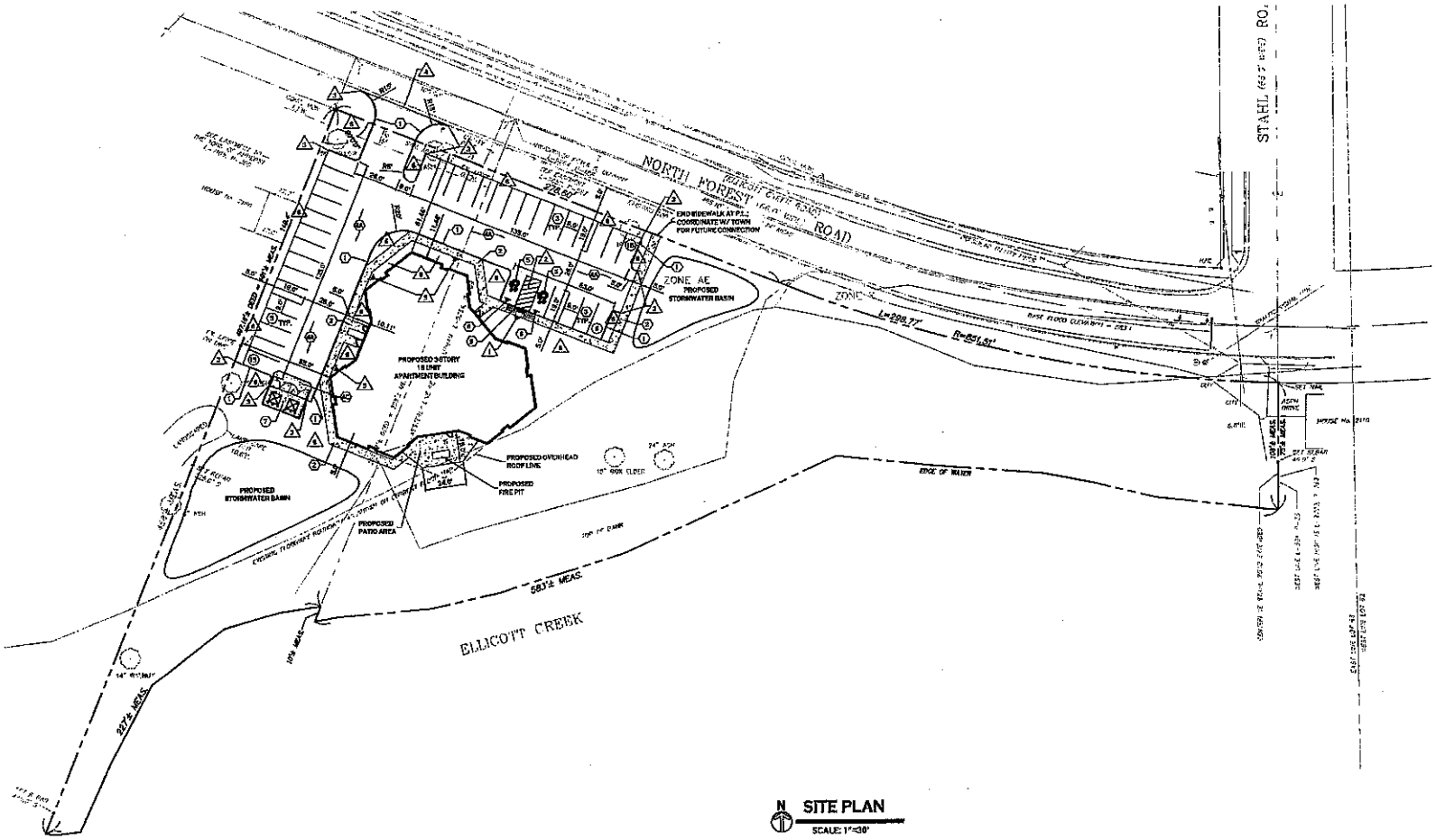
SILVESTRI
ARCHITECTS • PC
1321 MILLERSPORT HWY PH. 716.691.0909
AMHERST, NY 14221 FAX 716.691.4773

SA JOB #: 20060.02
DATE: 12/16/20
DRAWING #: AS-101

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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'

© Carmina Wood Morris DPC All plans, renders, floor plans, elevations and other documents prepared by Carmina Wood Morris DPC (collectively, the "Documents") are the property of Carmina Wood Morris DPC and are protected by copyright and other intellectual property laws. Unauthorized use of the Documents is prohibited. Carmina Wood Morris DPC retains all common law, statutory and other reserved rights, including the copyright thereto. Any reproduction, modification, distribution or public display of the Documents without the express written permission of Carmina Wood Morris DPC is strictly prohibited. Violators will be prosecuted to the fullest extent of the law.

SITE DATA

TOTAL SITE 2.36 ACRES
ZONED: HC/BA CURRENTLY TO BE REZONED TO HC/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.

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
4A. 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

A. INSTALL "NO PARKING" SIGN, M.U.T.C.D. SIGN NO. R7-1C
A. 4" WIDE YELLOW PAINT STRIPE @ 45° @ 2'0 O.C., INFILL AREA AS SHOWN
A. BOX OUT CURB IN 2' OR MATCH EXISTING CURB
A. MATCH EX. EDGE OF PAVEMENT, SAWCUT AS REQ'D TO ACHIEVE SQUARE EDGE TO MATCH
A. INSTALL "NO PARKING - FIRE LANE" SIGN, M.U.T.C.D. SIGN NO. R8-3
A. LANDSCAPED AREA - SEE LANDSCAPE PLAN. IF NO PLANTINGS, INSTALL TOPSOIL & SEED

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 OTHERS. CARMINA WOOD MORRIS, D.P.C. ASSUMES NO RESPONSIBILITY FOR ITS ACCURACY.

30 0 30 60FT.

Carmina Wood Morris DPC
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

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

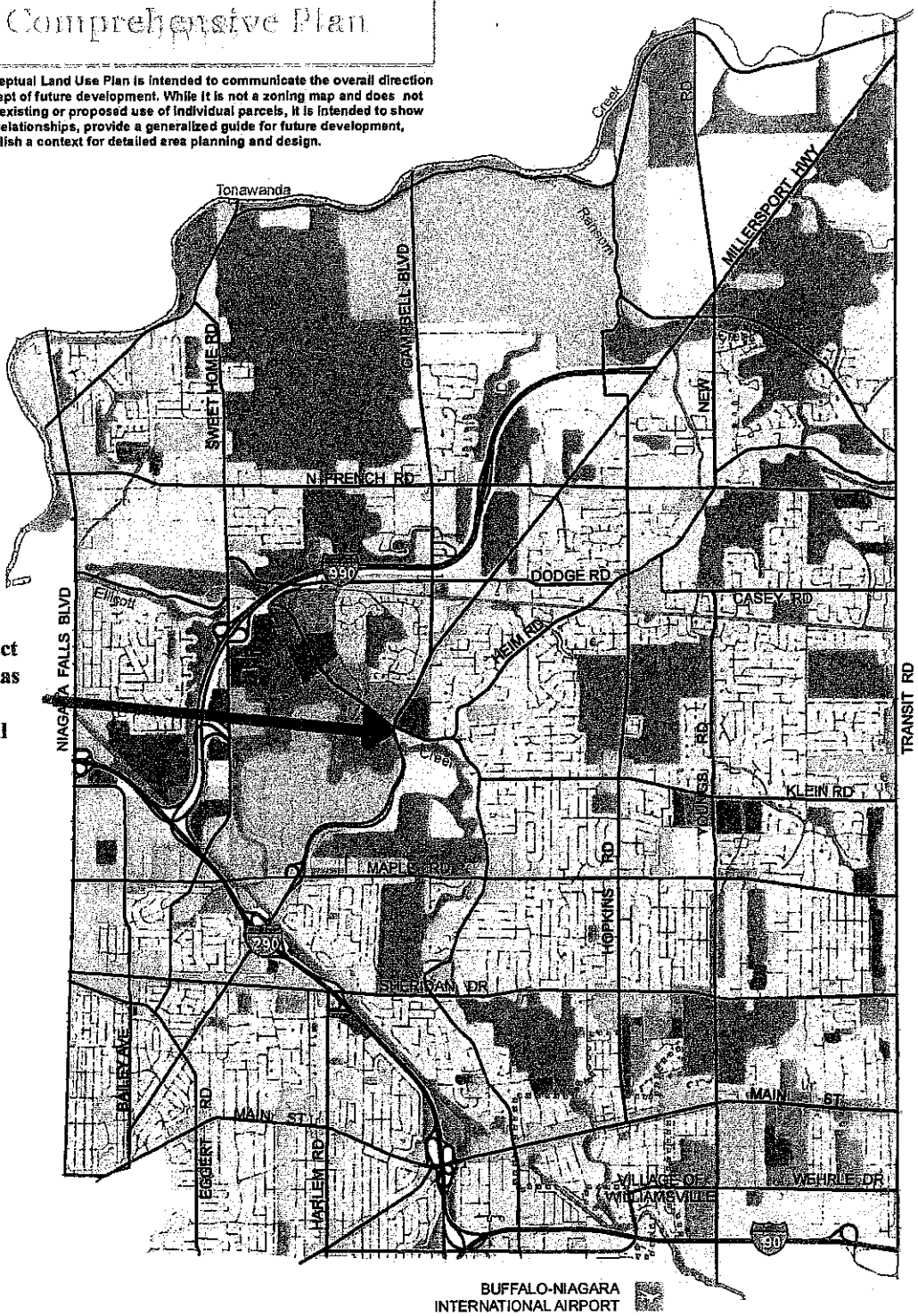


FIGURE 6

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

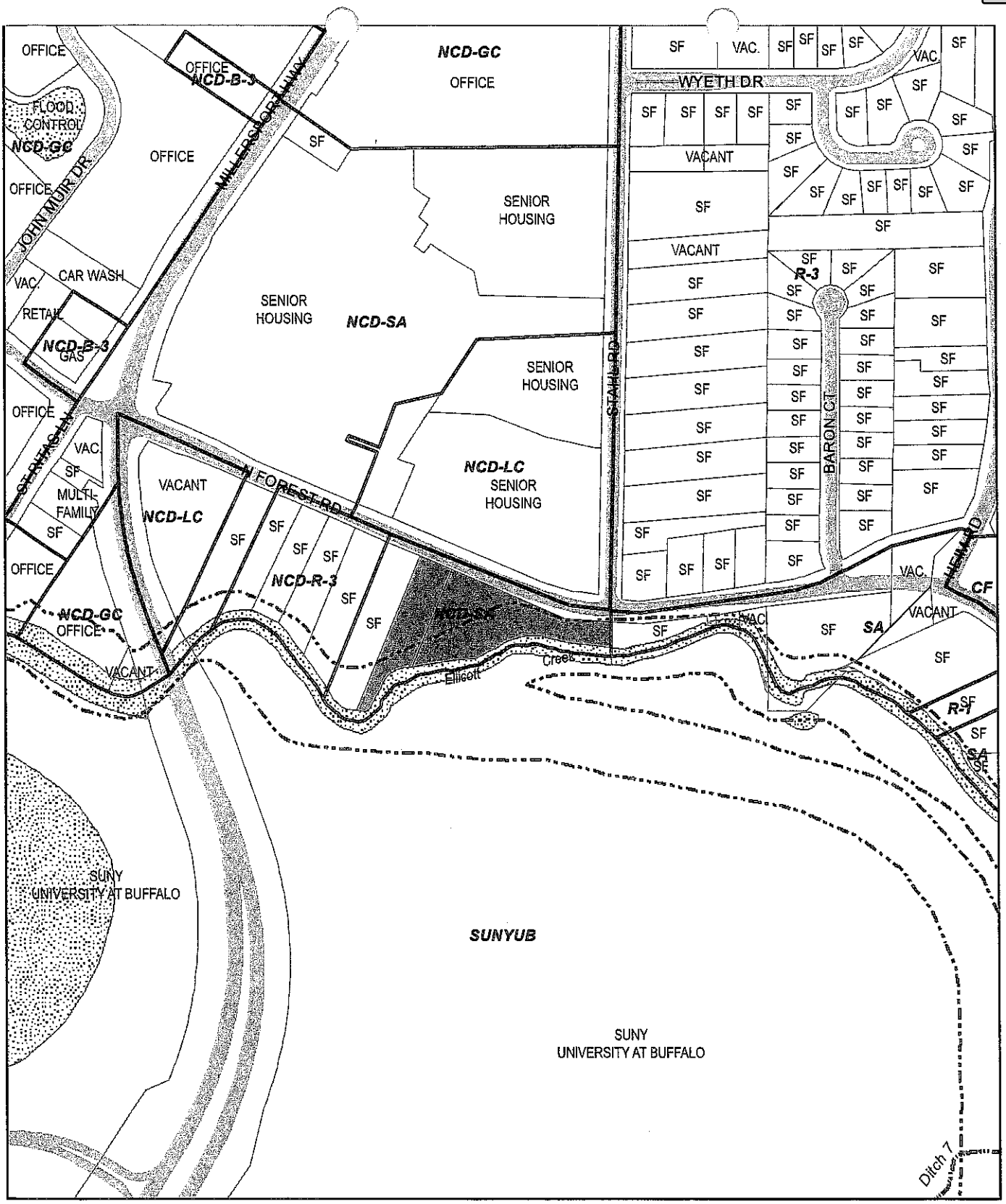
Map Compiled by the Town of Amherst Planning Department

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

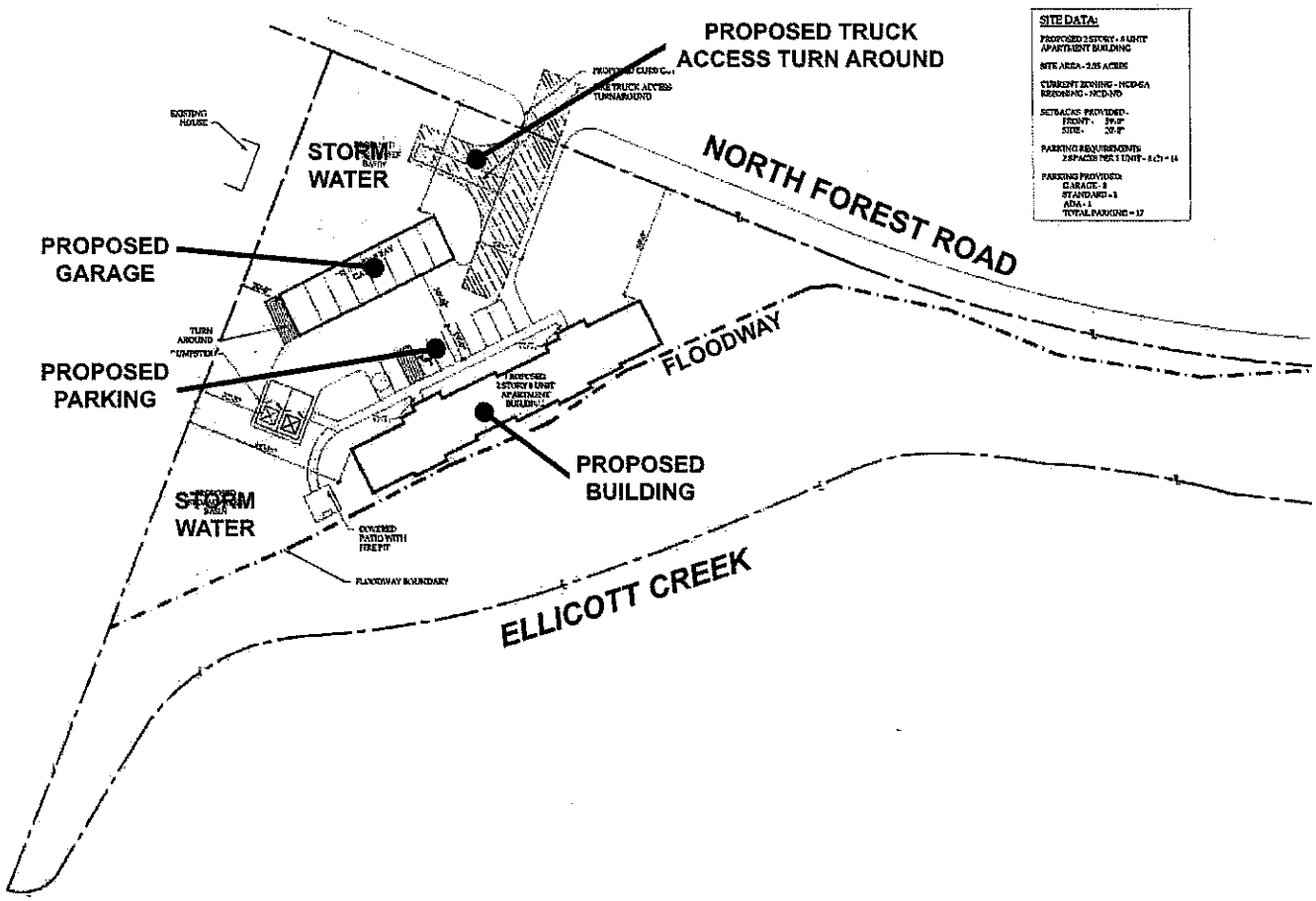
January 21, 2021

2160 & 2170 North Forest

Floodway Boundary

Prepared by the Town of Amherst Planning Department

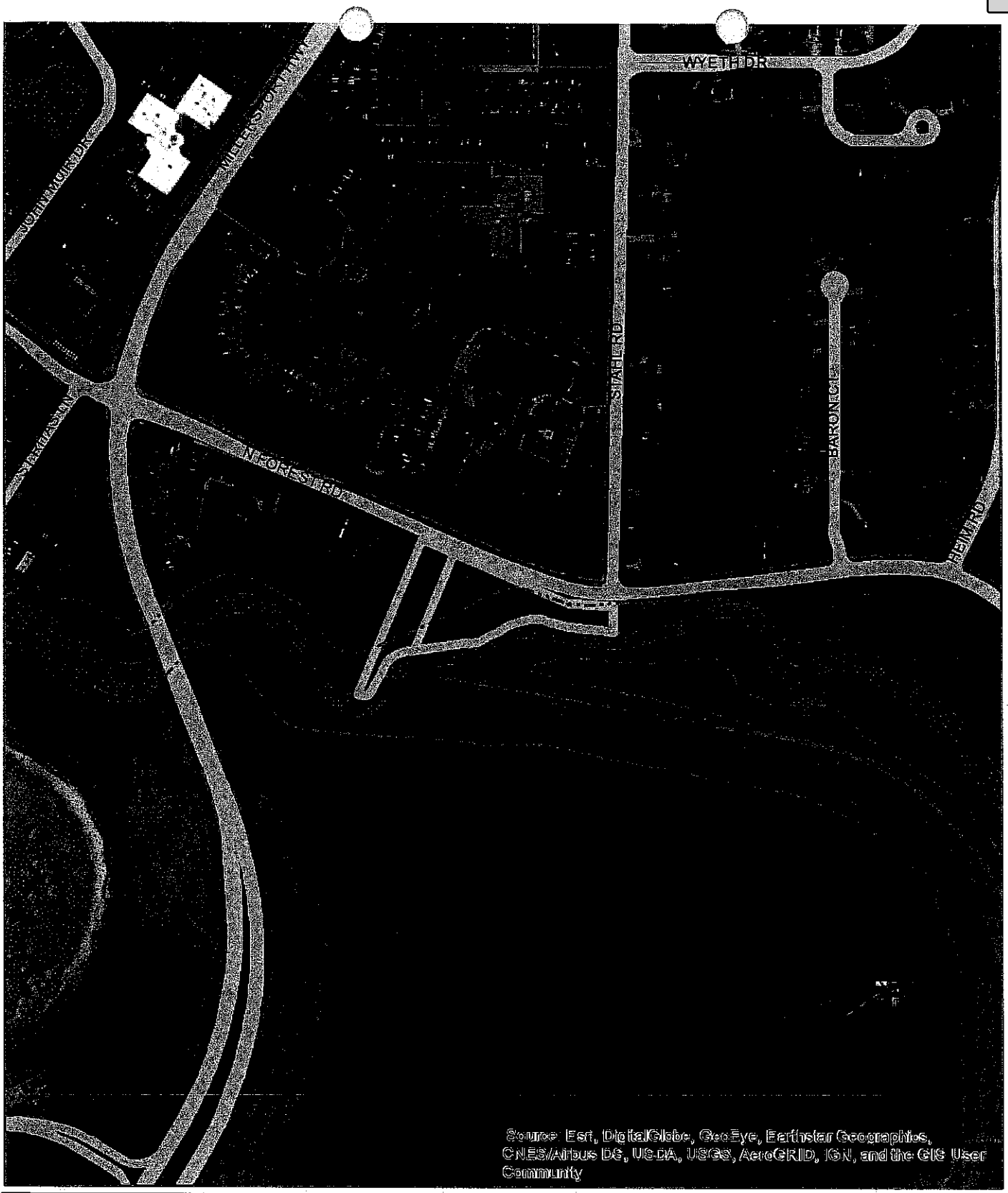
Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)



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
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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

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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 21 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
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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: 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
Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
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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*

RECEIVED
DEC 31 2020
TOWN OF AMHERST
PLANNING DEPT.

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

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

cc: Scott Marshall, Principal Planner
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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 21 2020
TOWN OF AMHERST
PLANNING DEPT.

TO: Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
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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
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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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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
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
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)

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

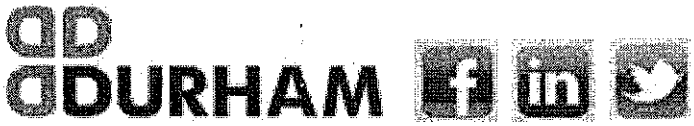
CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

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



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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 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. Specific Issues applicable to the Neighborhood:

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

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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 Beaber 2204 N. Forest Rd.
Donna J Beaber 2204 N. Forest Rd.
Ina Dennis Cummings 2220 N. Forest Rd.
Sterling Lawson 1881 N. Forest Rd
Joan Amico, 1936 North Forest, Wmv NY 14221
Steve Amico, 1936 North Forest, AMY 14221

October 2020

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)

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.

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

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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☐ ROCHESTER OFFICE
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Henrietta, NY 14467
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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

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)

WMA ENGINEERING DPC|DBA
EMPIRE GEOTECHNICAL
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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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FIGURE 1 – SITE LOCATION 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)

APPENDIX C – FILL MATERIAL AND EARTHWORK RECOMMENDATIONS

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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)

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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.

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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.

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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.

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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.

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)

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.

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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:

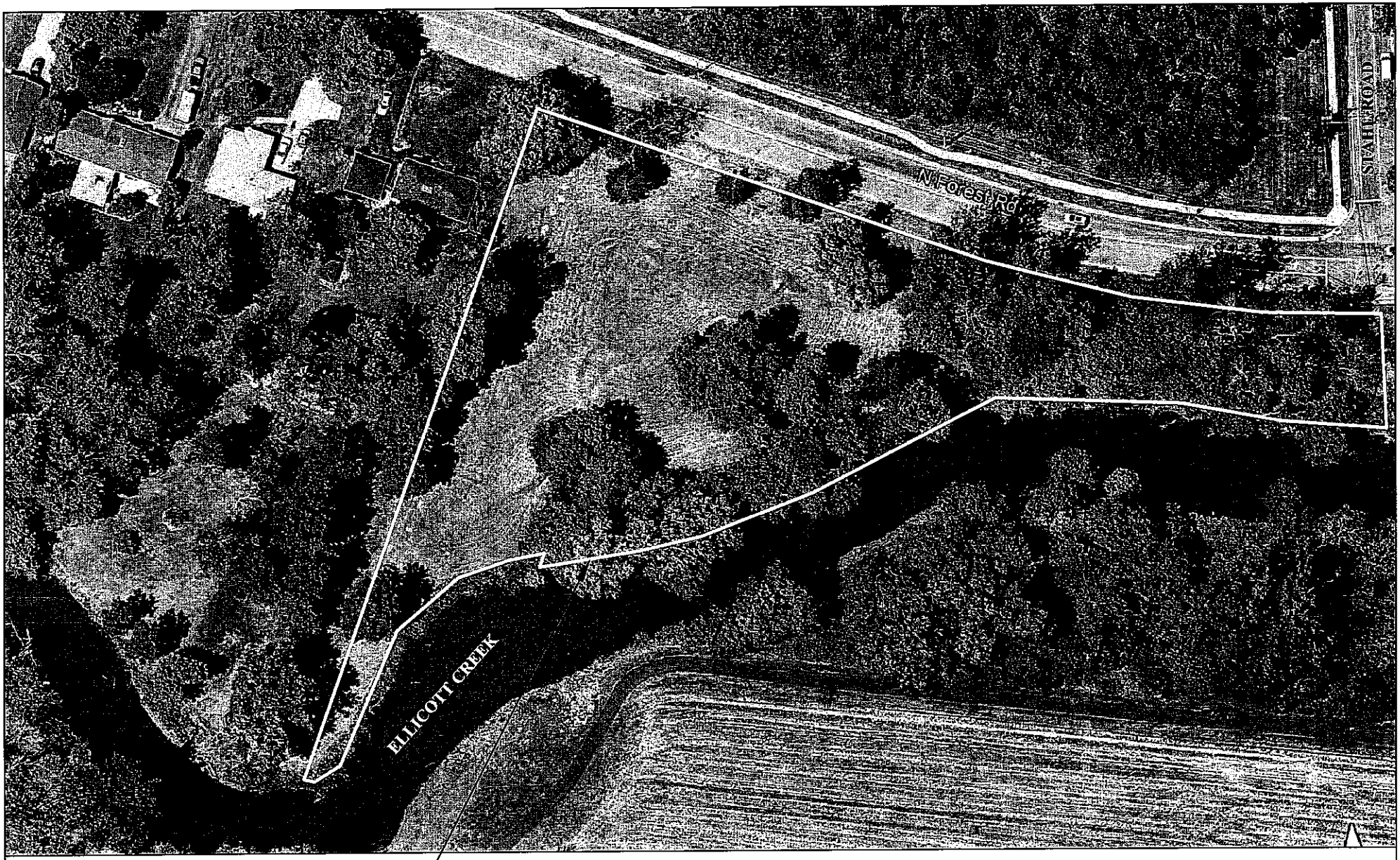
WMA Engineering DPC
dba Empire Geotechnical Engineering Services

Thomas R. Seider, P.E.
Senior Geotechnical Engineer

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

FIGURES

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)



APPROXIMATE SITE LOCATION

N

WMA ENGINEERING DPC|DBA
EMPIRE GEOTECHNICAL
ENGINEERING SERVICES

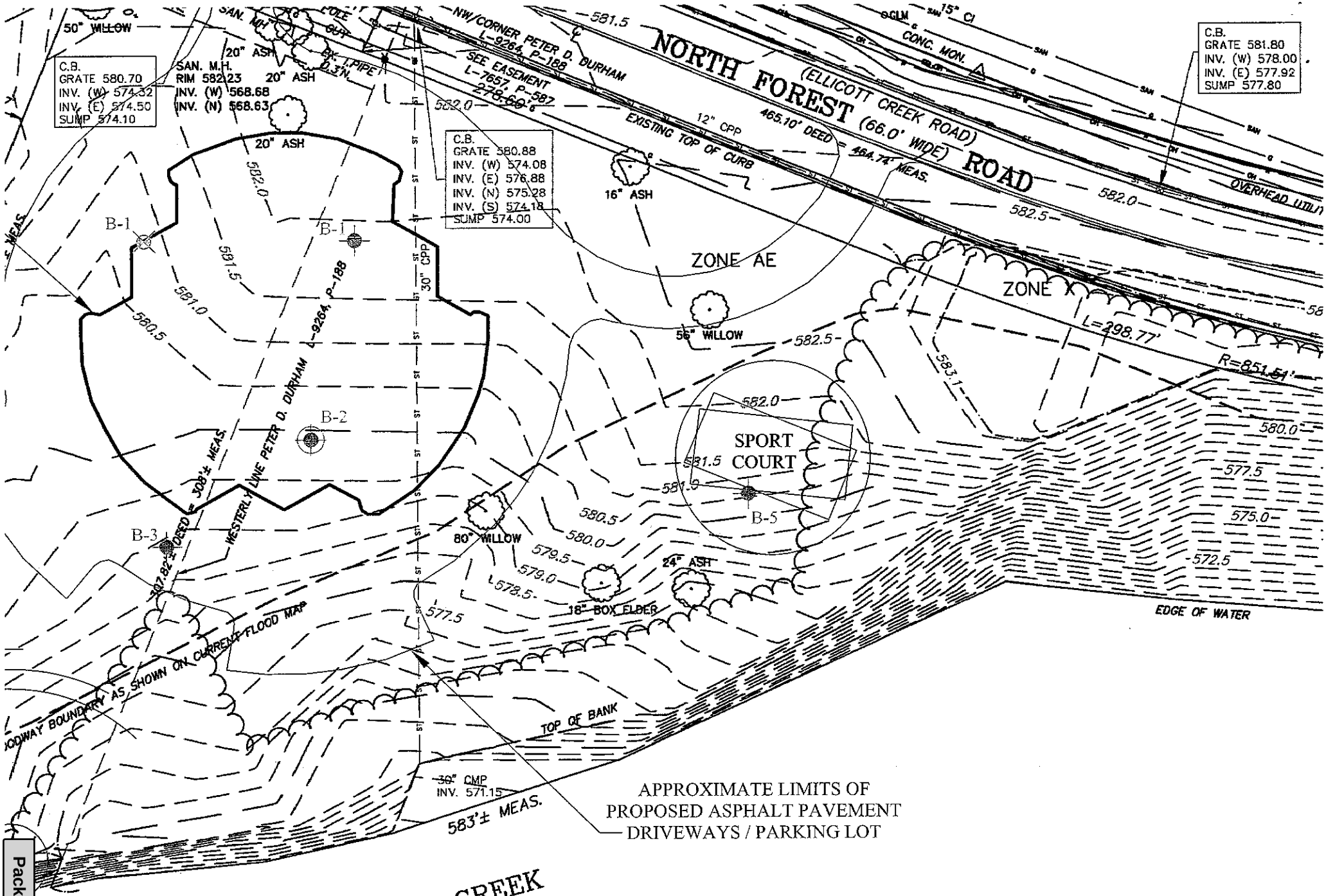
PROPOSED ELYSIUM APARTMENT COMPLEX
2160 NORTH FOREST ROAD
TOWN OF AMHERST, NEW YORK

	DR BY: WMA	SCALE: NTS	PROJECT NO.: WB-20-105

NOTE:

SI

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)



NOTE:

B-1 INDICATES APPROXIMATE LOCATION AND DESIGNATION OF TEST BORING

FIGURE DEVELOPED FROM JUNE 24, 2014

N

PROPOSED ELVS

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)

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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.

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

DATE

STARTED _____

FINISHED _____

SHEET ____ OF ____

SJB SERVICES, INC. SUBSURFACE LOG

PROJ. No. _____

HOLE No. _____

SURF. ELEV. _____

G.W. DEPTH _____

PROJECT _____ LOCATION _____

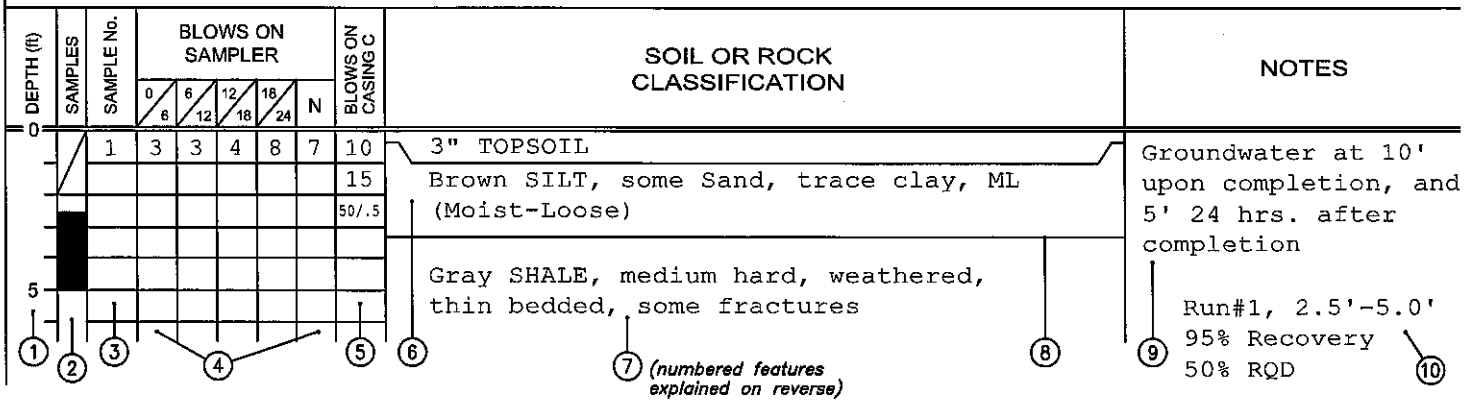


TABLE I

⁄	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			One piece of coarse GRAVEL (moist, FILL)	WOH = Weight of Hammer and Rods
		6	5		13		
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

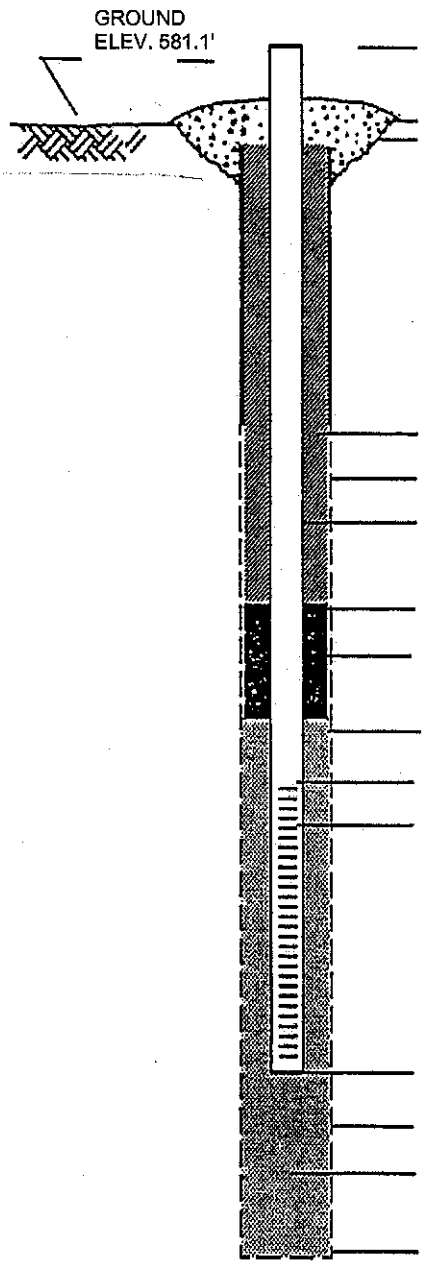
METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

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,	
		2	3		5	tr.brick	
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	WOH = Weight of Hammer and Rods
		WOH	WOH		WOH	moist-wet partings	
	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	Sample #13: Poor Recovery, possible weathered bedrock
						(moist, v.compact, SM)	
	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

NOTICE

This document, the property of, prepared and issued by the architect, is submitted for the specific project namely _____ and the recipient by accepting this document assumes custody and agrees that this document will not be copied or reproduced in part or as 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.

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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;

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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.

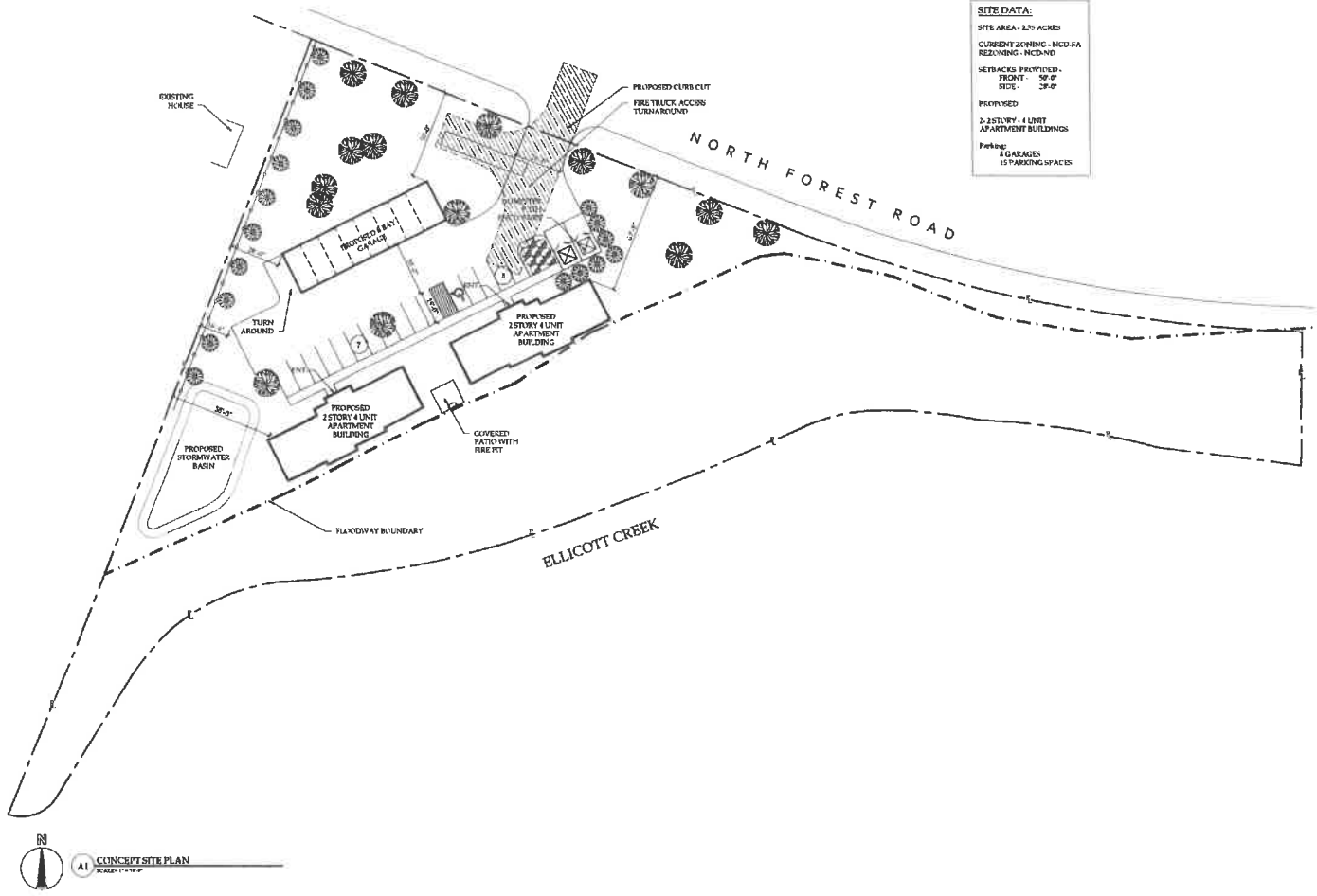
Sincerely,

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.Masharoff
SUB CAPT. _____ INTERIORS K.Hansen

SEAL:

TITLE:

CONCEPT SITE PLAN

SILVESTRI
ARCHITECTS · PC
1291 MILITARY RD PH. 716.691.0900
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

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:

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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.

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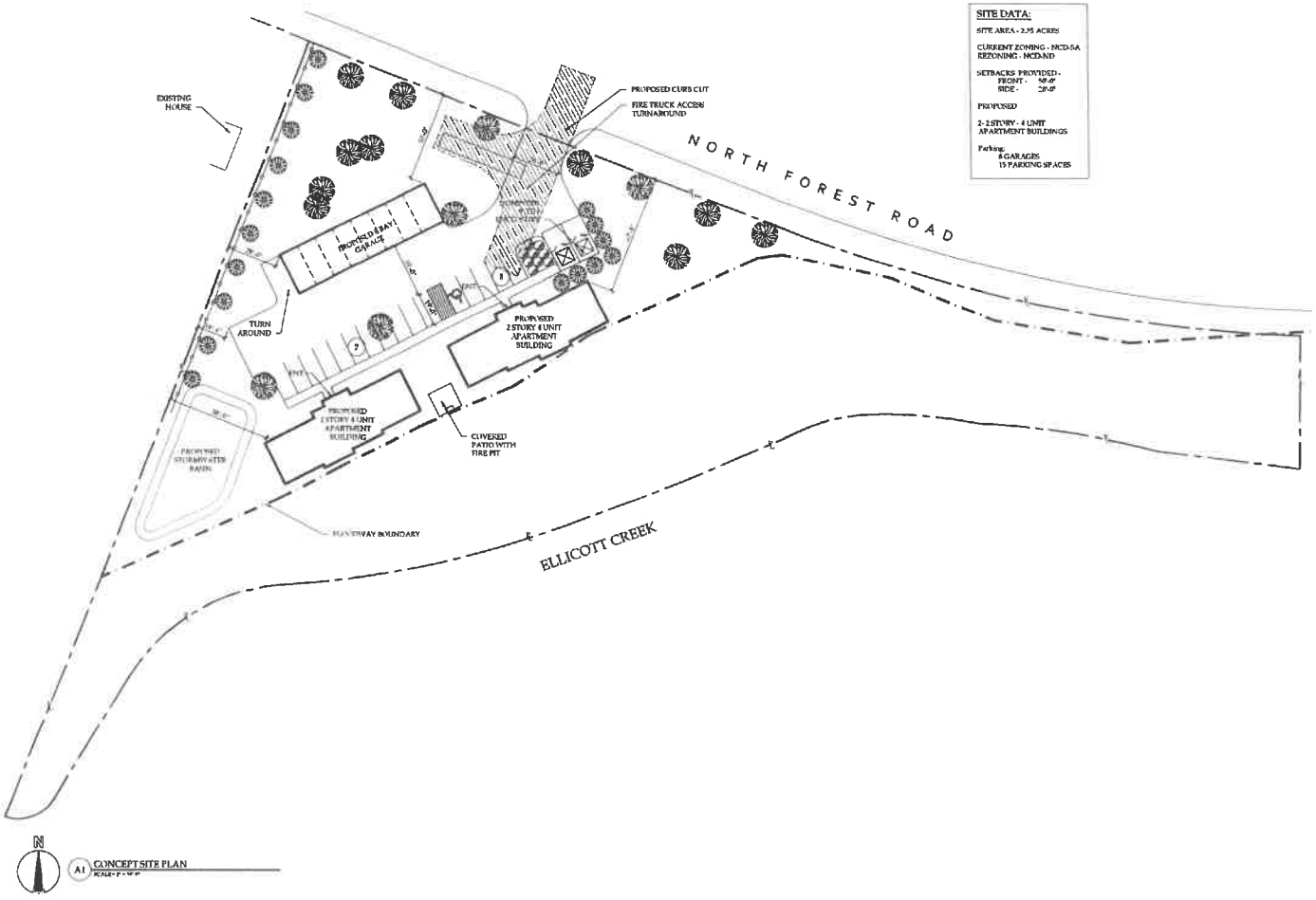

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NORTH FOREST APARTMENTS

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.

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and related technical documentation have been prepared by Carmina Wood Morris DPC, the project engineering firm.

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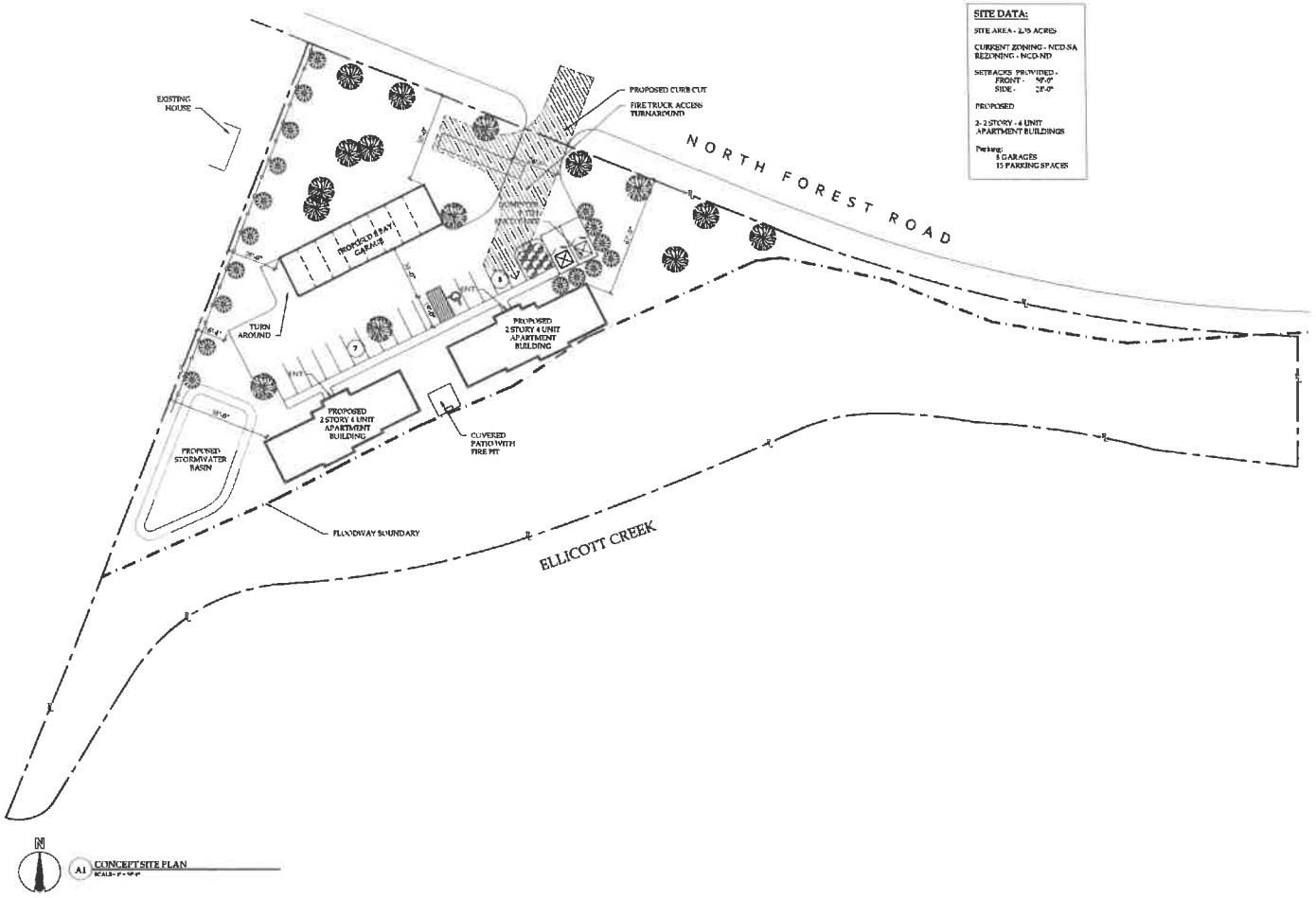

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NORTH FOREST APARTMENTS

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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DRAWING #: AS-101

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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:

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Sean W. Hopkins, Esq.

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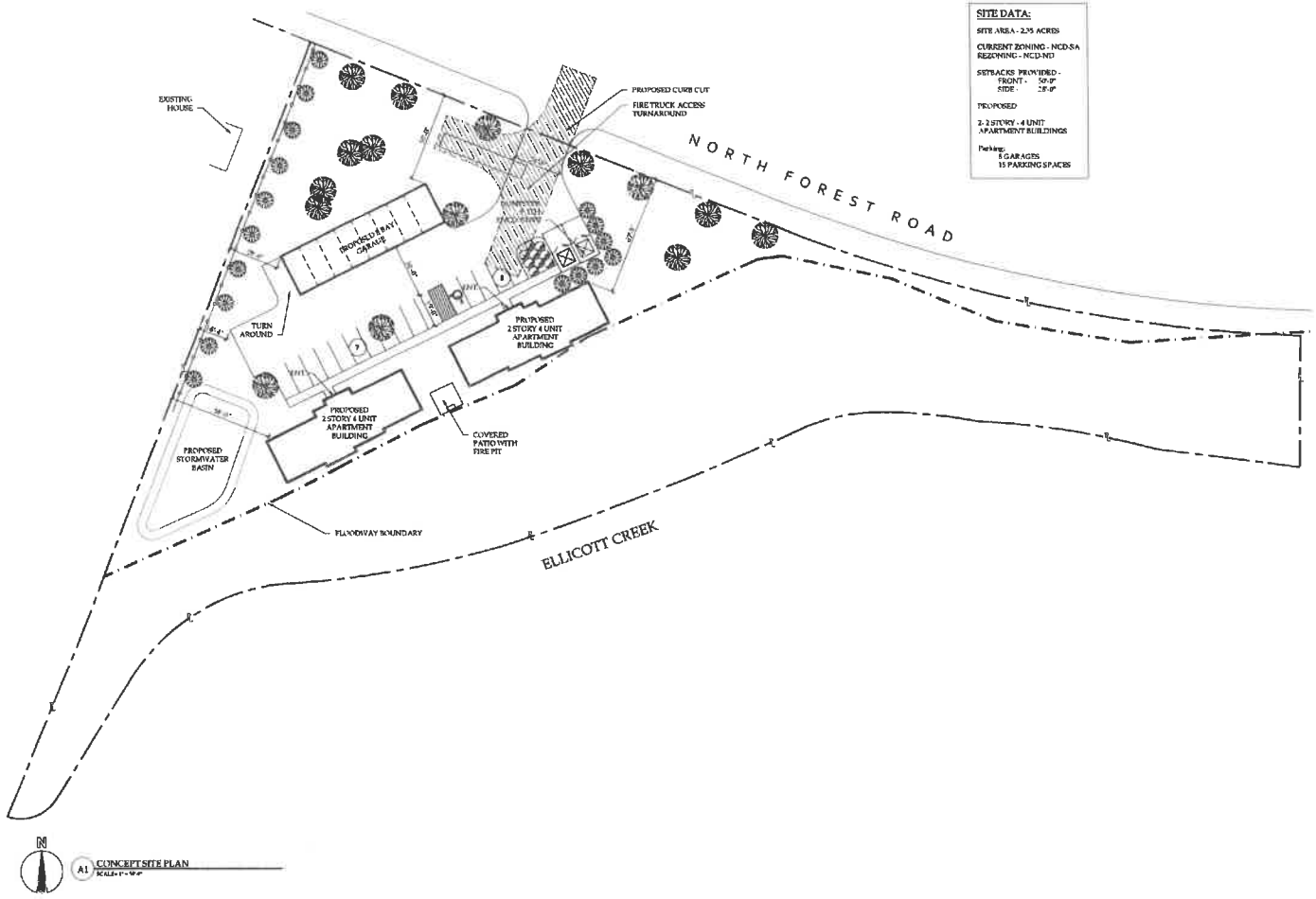

A1 CONCEPT SITE PLAN

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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. Manlowski
JOB CAPT. _____ INTERIORS K. Hamann

SEAL:

TITLE:

CONCEPT SITE PLAN

SILVESTRI
ARCHITECTS - PC
1321 AIRLEFSPORT HWY PH. 716.691.0000
AMHERST NY 14221 FAX 716.691.4773

SA JOB #: 20060.02
DATE: 03/01/21
DRAWING #: AS-101

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)

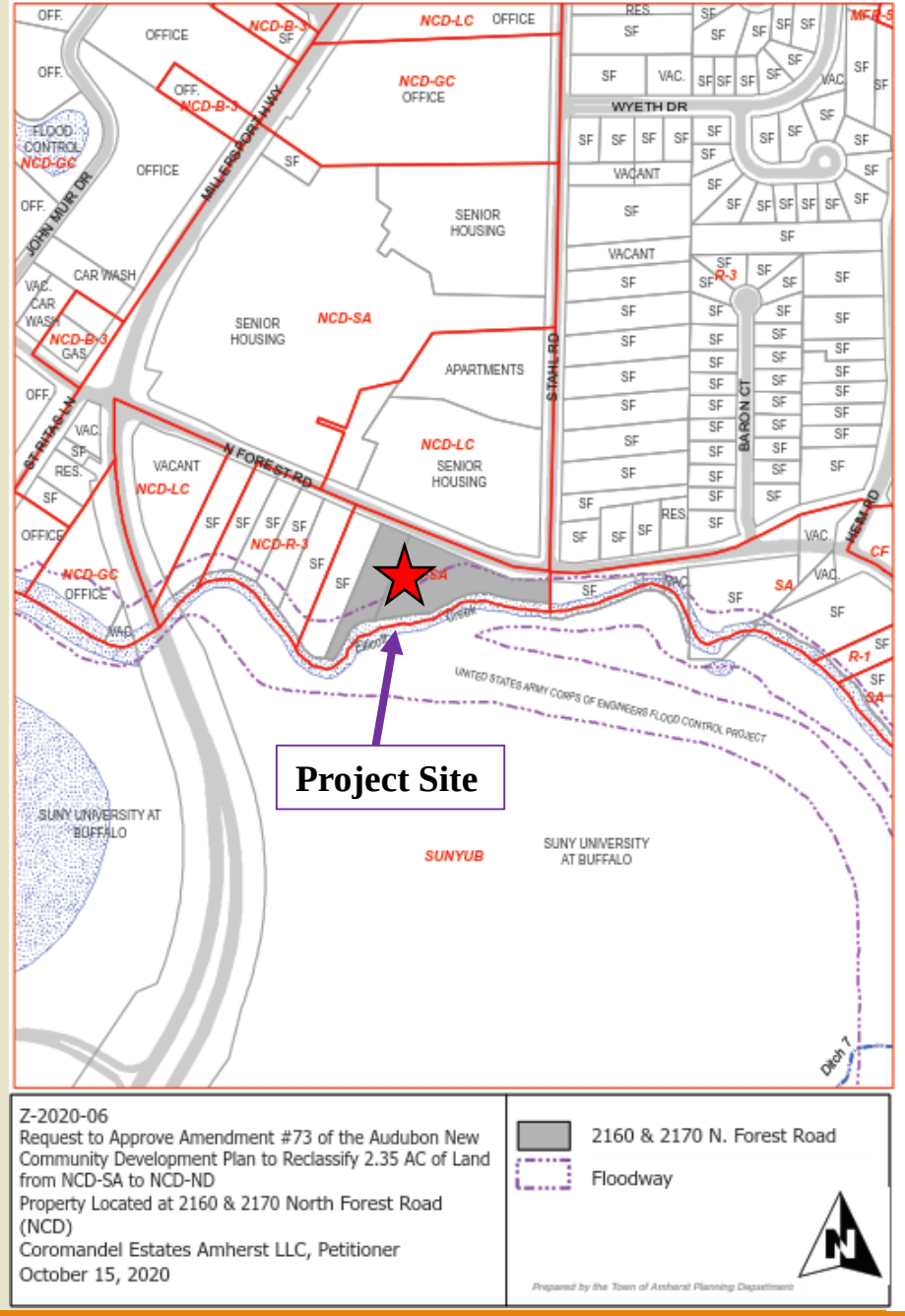
Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

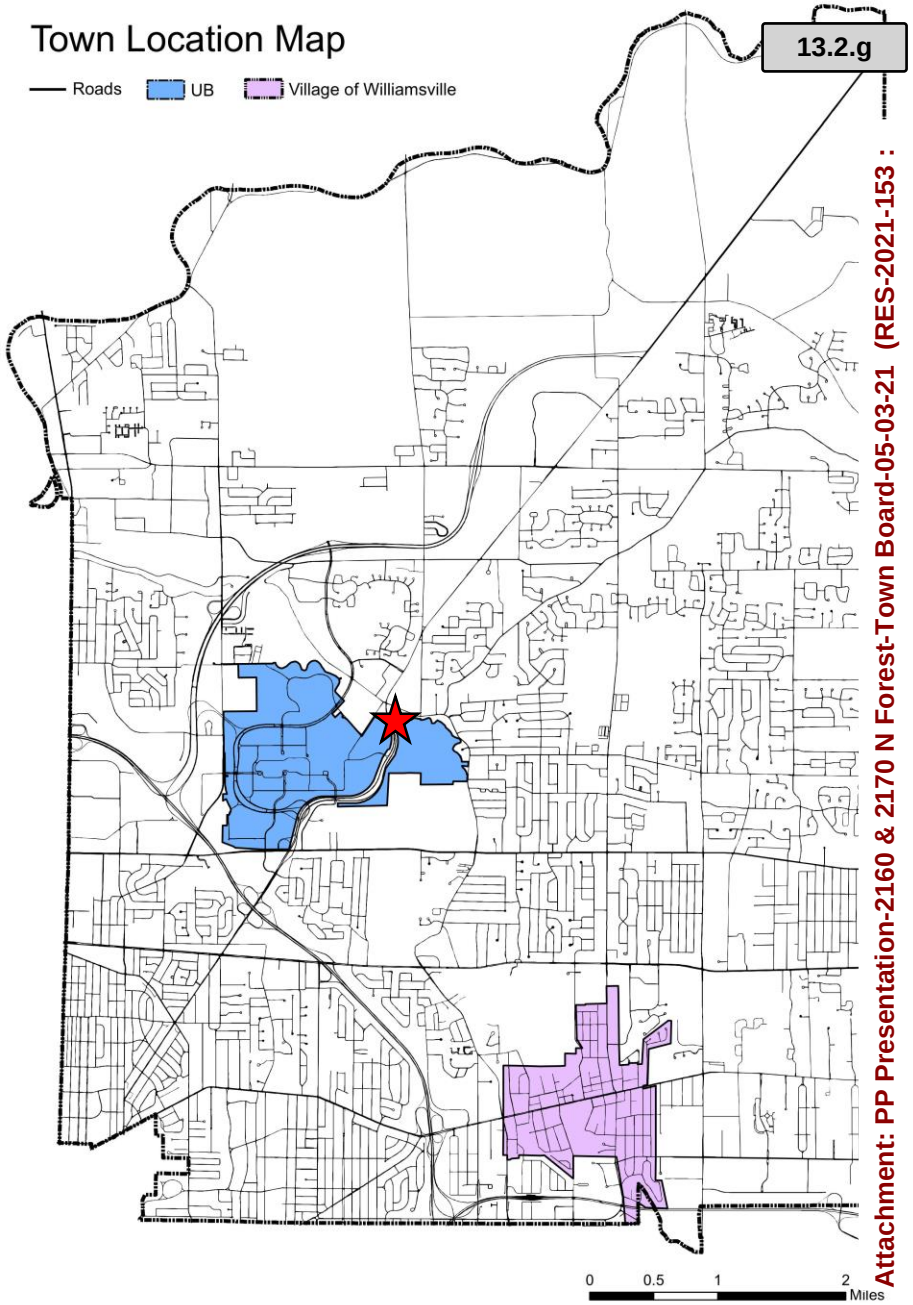
Location:

- 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 :

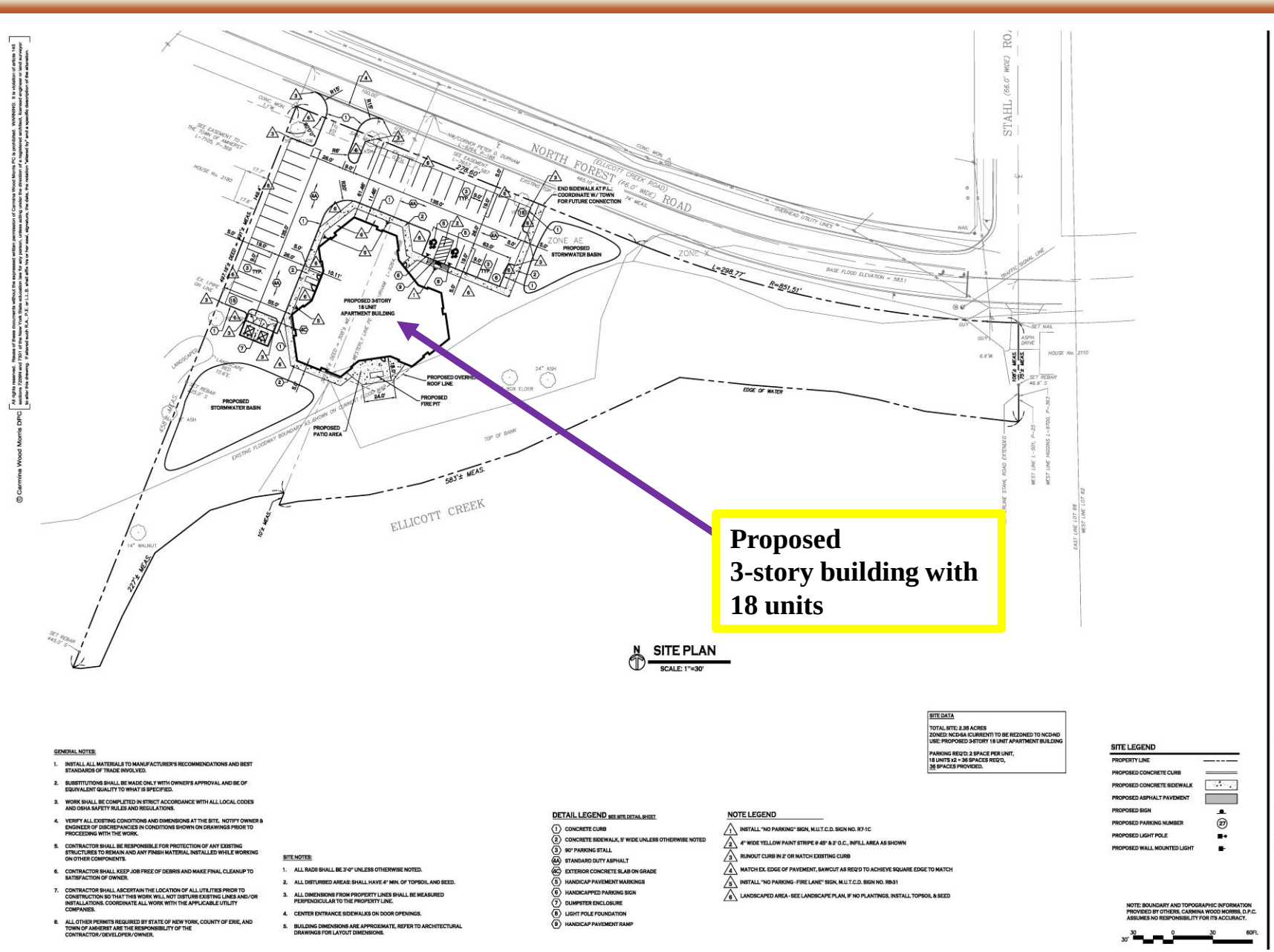
Project Description:

- 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



Carmina Wood Morris DPC
487 Main Street Suite 800
Buffalo, New York 14203
P 716.842.3155
F 716.842.0263

REVISIONS:
No. Description Date

PROJECT NAME:
Site Development Plans for:
Proposed 3-Story Apartment bldg
2160 - 2170 North Forest 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

Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :)

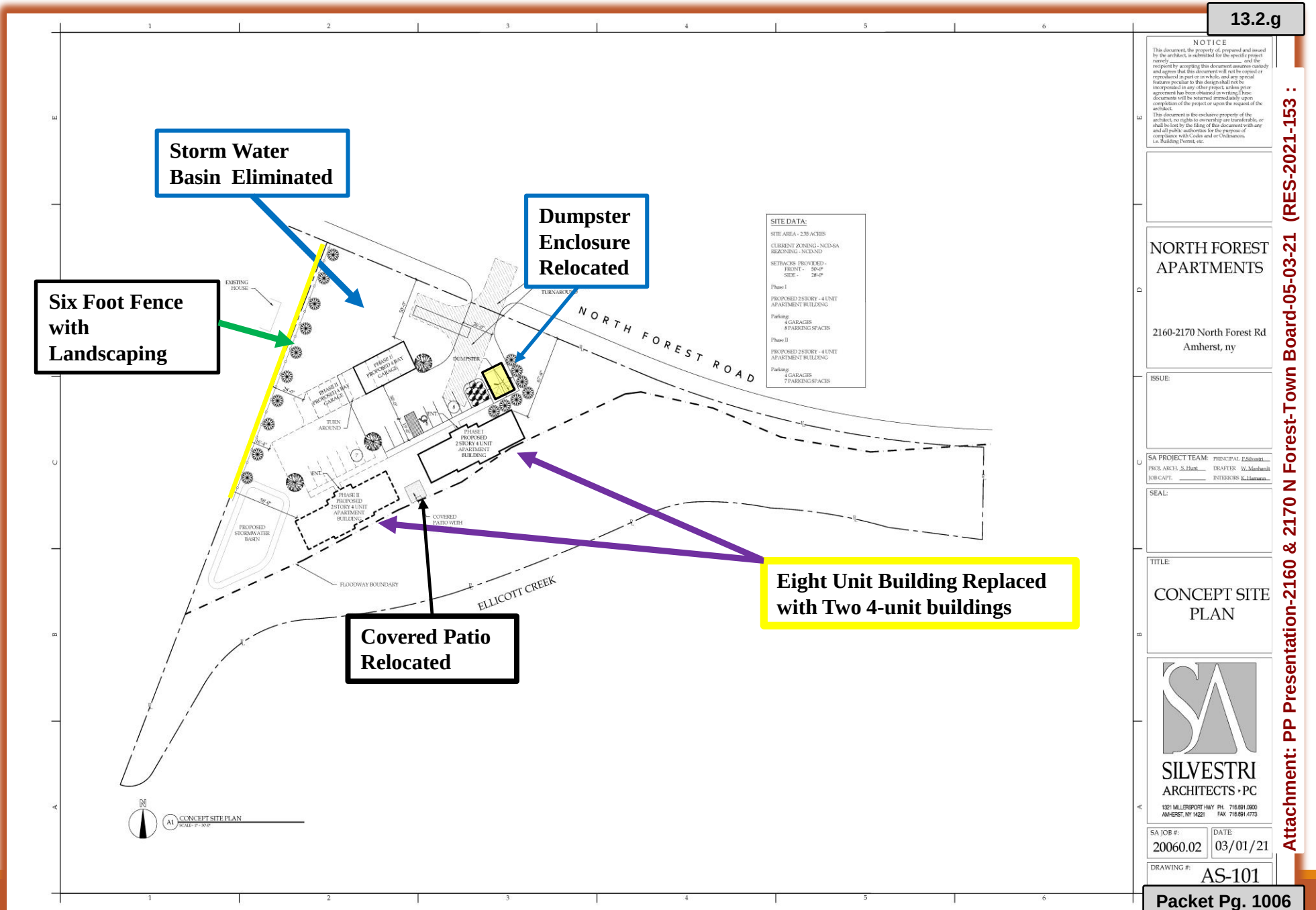
Concept Plan Presented on February 22nd:

- 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



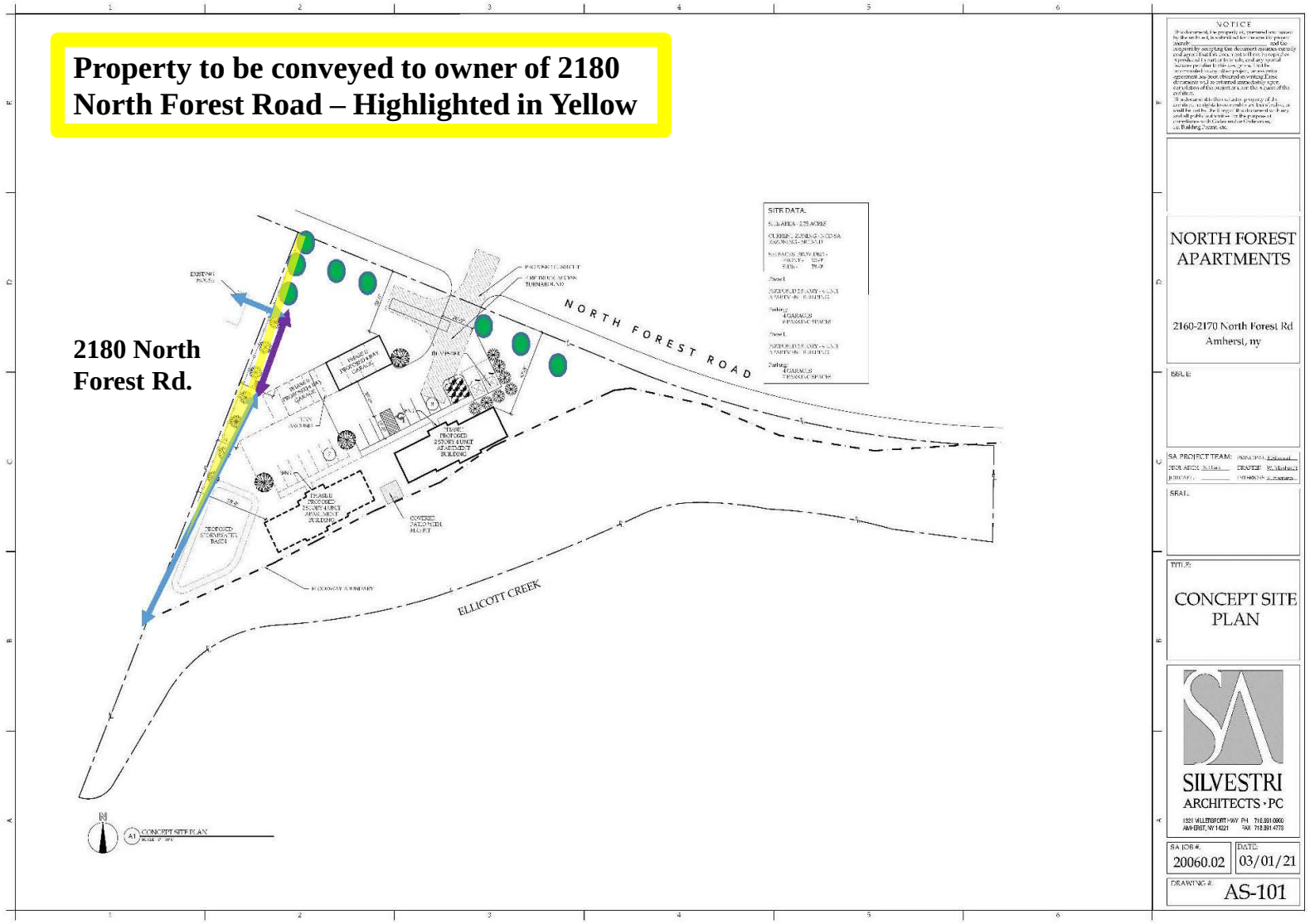
Updated Concept Plan:

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]

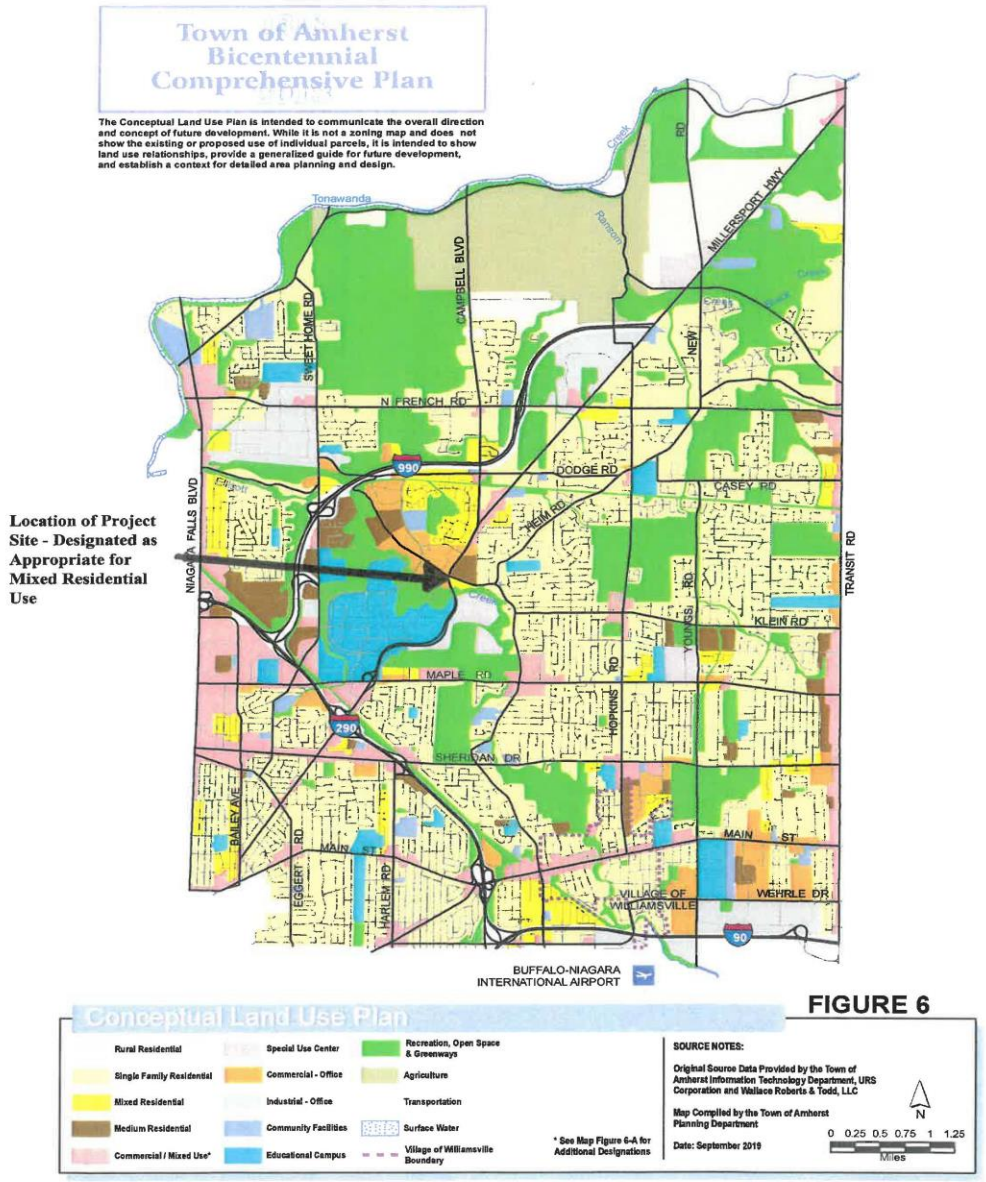
Yellow: 15 ft. of property to be conveyed to owner of 2180 North Forest Road upon the Applicant obtaining site plan approval and closing on the purchase of the Project Site.



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: 08/09/21 07:00 PM
Department: Town Clerk
DOC ID: 24632

COMMUNICATION 2021-85 **REFERRED**

Opposition to Rezoning of Harding Road

Letter of opposition from John and Rosanne McGovern.

8/09/2021
Referred to Planning, Town Attorney, and the public hearing record.

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

August 2, 2021

Amherst Town Hall
5583 Main Street
Williamsville, NY 14221

Subject: Rezoning of Harding Road

Dear Supervisor Kulpa and Town Board Members,

Our names are Rosanne and John McGovern and we live at [redacted] McKinley Ave in Williamsville. Our letter is in opposition to the request by Forbes Capretto Homes to rezone the property at 468 Harding Rd from R-3 to TR-3. We ask that you keep the zoning to R-3.

The change to TR-3 would allow not only higher density housing but also allow a new owner of the property to build public and civic facilities. These facilities could include public utility structures, solar energy systems, telecommunication facilities, houses of worship, common recreational buildings and private schools or day-care centers. None of these uses would be welcome in our residential neighborhood. Once the zoning is changed, it will be very difficult to change it back. We want to avoid present and future owners to have a gateway to build anything other than standard lot size, single family residential homes.

There are Businesses all around us. It seems like our neighbors have been fighting for years to keep the quality of life in our little community safe and appealing. Yes, development is a way to generate revenue but it should not be at the cost and well being of our neighborhood. We ask that before you make a final decision, look at what would be best for us, as Amherst residents, not the tax revenue it would generate.

We will not repeat all the comments from speakers, Mark, Kathleen and John, who spoke at the Monday, July 12th Town Board Meeting but we agree with their views in preserving the character of our McKinley/Harding circle.

Please listen to our voices. Keep the zoning of Harding Rd at R-3.
Thank you.

Sincerely,
John McGovern
Rosanne McGovern
Rosanne McGovern

AUG 03 '21 PM 2:55 RCVD

Attachment: McGovern letter of opposition (COM-2021-85 : Rezoning of Harding Road)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Councilmembers
DOC ID: 24614

COMMUNICATION 2021-86 **APPROVED**

Request to Overnight at Amherst Veterans Canal Park

WNY resident to bike, hike, and kayak the Erie Canal would like permission to overnight at Amherst Veterans Canal Park.

8/09/2021
Consent to grant request and refer to Police.

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

August 3, 2021

Dear Amherst Town Board Members:

My son Jeremy is planning on kayaking the entire Erie Canal, starting at the end of this month in Canalside in Buffalo and finishing in Albany. This kayaking trip will be the third and final leg of his “Triple End-to-End” of the Erie Canal: his journey to bike, hike, and kayak the entire length of the canal. With the biking and hiking portion completed, he’s now busy planning for what will likely be the most challenging of the three trips. I plan to accompany him for the first week of the trip, starting either August 28 or 29th, and we are looking at possible places to camp along the canal for the first night of the trip. Our start time will be delayed due to the Black Rock Lock opening later on the weekends (11:00am), which will make it difficult to cover the 35 miles to Lockport before sunset. We would like to get approval to camp overnight (one night) at the Amherst Veterans Canal Park, as the location and launch site would be an ideal stopping point for the first night. Jeremy is an Eagle Scout and we both have considerable backpacking experience, so we are very knowledgeable in the principles of Leave No Trace and would only be pitching two small tents, would not have a campfire, and would make sure to leave the area exactly as we found it. I appreciate your consideration of this request and am happy to address any questions or concerns.

Jessica Graham & Jeremy Kocsis

[redacted]

Jeremy after biking (left) and later hiking (right) the entire Erie Canal Trail

Attachment: COMMUNICATION Letter to TOA Bd Graham-Kocsis overnite park permission redacted 20210809 (COM-2021-86 : Request to

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Town Clerk
DOC ID: 24589

COMMUNICATION 2021-87 **REFERRED**

Notices of Petition to Review Tax Assessments

The following Notices of Petition to Review Tax Assessments were received at the Town Clerk's office:

Kamal Enterprises Inc.
Premier Place Improvements, LLC
G&I IX Empire Williamsville Place, LLC
Strathmore, LLC and Ben Kendig
J.C. Penney Corporation, Inc., J.C. Penney Properties, Inc. and Penney Property Sub Holdings LLC
PNY II, LLC
Target #1011
Amherst Care Group LLC
Walgreen Eastern Co., Inc./570 Associates VIII, LLC/ Benderson Randall
Walgreen Eastern Co., Inc./Sec Main Union Assoc. LLC
North Buffalo Lodging Ventures LLC
Niagara Villas, Inc.
Getzville Plaza 2006 LLC
Public Storage Prop VI
Public Storage Inc.
SCF RC Funding III LLC
MBR Management of Amherst, LLC
One John James Holdings LLC, 2099 Niagara Falls Blvd LLC & 7616 Transit Holdings LLC
Sadeq Ahmed
4400 Maple LLC
Propitious Enterprises, LLC
Flint Road, LLC
McDonald's USA LLC
The Board of Managers, Chateau at Avalon Meadows Condominium
Board of Managers, Patios at Windstone Condominium
Sheridan Center LLC
Samuel & Joanne Shatkin Jr, Carol Todaro, Cynthia P. Louvullo & Mary E. Jacobi
Lisa Friedman & Scott Friedman, Todd Levine & Raul Vazquez
Key Bank National Association a/k/a 4020 Sheridan Drive
Heathwood Properties, LLC and/or Heathwood Assisted Living at Williamsville, Inc.
Joseph F. Fasanello
Spindrift Property Associates II, LLC & Spindrift Property Associates III, LLC
U/B Commons a/k/a U/B Commons, Inc.
David J Luzon
Jonathan Bevilacqua
Mohammad Qasaymeh
Summerset Apts. LLC
Prisha Realty LLC
Architectural Elements LLC
Sheridan Hotel LLC
3D Sheridan LLC
HRB Hotels, Inc.

Windsor Park Retail Center a/k/a WP Properties LLC a/k/a WRSB Development Co. LLC a/k/a WRSB Dev Co LLC
3140 Sheridan Drive LLC, Alberta Properties, LLC & Sheridan/Carmen LLC
281 Meyer Rd LLC
Uniland Partnership of Delaware LP
Uniland Federal Center Inc.
Uniland Partnership of Delaware LP & Univest II Corporation
Uniland Partnership of Delaware LP
Interwest Holdings I LLC, successor in interest to The Uniland Partnership of Delaware LP
4459 Bailey Avenue, LLC
111 Saint Gregory Court, LLC
425 Centerpointe Corporate Park LLC & The Ciminelli Network LP
ARCP OFC Amherst NY, LLC c/o Ingram Micro
Tim Donut US Limited Inc. for Amusements of WNY Inc.
Tim Donut US Limited Inc.
Tim Donut US Limited Inc. for Springbank Develops Inc.
EGATE-93, LLC
B.K.V. Realty Co., LLC
93 NYRPT, LLC
1551 NFB, LLC for BG Lockport LLC
Golden Triangle Assoc LLC
Tim Donut US Limited Inc. for Amusements of WNY Inc.
Twenty Flint Road LLC
Amelia J. Habib
Noor M. Shah
HAH Holdings LLC
335GB LLC

Petitions are available for review in the Town Clerk's office.

8/09/2021
Referred to the Town Attorney and the Assessor.

RESULT:	**REFERRED [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: 08/09/21 07:00 PM
Department: Town Clerk
DOC ID: 24574

COMMUNICATION 2021-88 **REFERRED**

Notice of Claim: Project Resources Group on Behalf of Charter Spectrum Vs. Town of Amherst

8/09/2021
Referred to the Town Attorney.

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

5690 DTC Blvd., Suite 650E
Greenwood Village, CO 80111
Phone: 720-500-9664
Fax: (303) 379-7284

Outside Plant Damage Recovery

June 7, 2021

Amherst Town Highway Department
Damage Claims
1042 N Forest Road
Amherst, NY 14221

RE: Damaged Facilities: Charter Spectrum
Site Location: Johnathan Place and Ellicott Creek, Amherst , NY 14228
Damage Date: May 13, 2021
PRG Claim# CHS-95946
Confirmation Code – 6EHXZ

To Whom It May Concern:

Project Resources Group has been retained by Charter Spectrum to assist in recovering costs associated with repairing and replacing Charter Spectrum facilities damaged by third parties. It is our primary responsibility to investigate damages and recover the costs of repairing and replacing the compromised facilities.

It has been determined that **Amherst Town Highway Department** is responsible for the damage to Charter Spectrum facilities referenced above that occurred on **May 13, 2021.**

We understand that while **driving a dump truck** at the above referenced address, **Amherst Town Highway Department** hit and damaged cable owned and operated by Charter Spectrum.

****Payment is due upon receipt.**

You may also make payment via a credit card; please see the attached form for completion. **To make an online payment please visit https://opdpayments.prgconsulting.net and use claim number and confirmation code listed above.**

Enclosed is an invoice itemizing the charges incurred for this damage. **Please make your check in the amount of $3,818.94 payable to Charter Communications and mail it to the attention of:**

Charter Communications
PO Box 955871
St Louis, MO 63195-5871

If you have questions or require additional information, please contact me at 720-500-9664. Thank you for your prompt attention to this matter.

Sincerely,

Lydia Bell, Claims Specialist
Project Resources Group Inc. - Outside Plant Damage Recovery Division
Direct: 720-500-9664
lbell@prgconsulting.net
Encl – Documentation & Available Photos

Attachment: DOC072221-07222021141932 (COM-2021-88 : NOC: Project Resources Vs TOA)

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 24642 **RESOLUTION 2021-721** **ADOPTED**

To Authorize the Planning Department to Expend Funds from the Trust Account for the Veterans Memorial

Suspension to Town Board Agenda Item August 9, 2021

TO: **Amherst Town Board**

FROM: **Daniel C. Howard, AICP, Planning Director**

DATE: **August 9, 2021**

RE: **Veterans Memorial Trust Account**

Purpose: To authorize the Planning Department to expend funds from the Trust Account for the Veterans Memorial consistent with Town Board resolution RES-2011-871 for the purpose of engraving the names of Veterans on the Veterans Memorial and performing stone maintenance services.

WHEREAS, the Town of Amherst Town Board established the Town of Amherst Veterans Memorial in 2011; and

WHEREAS, the names of Veterans are engraved on the Memorial at the request of the veterans or their families and a fee of $200 is charged per name that includes $139 for engraving with the remaining amount deposited into a Trust Account for repairs and maintenance; and

WHEREAS, the Town of Amherst has Leon Komm and Sons under contract to complete stone and masonry service repairs and maintenance at $140 per hour in 2021, and

WHEREAS, the Veterans Memorial needs repairs to the existing stone joints at the seating areas and the Memorial wall itself; and

WHEREAS, Leon Komm and Sons can make these repairs to the joints within approximately 1 day of work.

NOW, THEREFORE BE IT RESOLVED that the Amherst Town Board hereby authorizes the Planning Department to not exceed $2,000.00 from the Veterans Memorial Trust Account T-4017-4002 for the purpose of stone maintenance services related to repairs to stone joints on the Amherst Veterans Memorial.

8/09/2021

A motion to approve was made by Deputy Supervisor Berger, seconded by Councilmember Lavin and unanimously approved 5-0.

FINANCIAL IMPACT:

The proposed expenditures will have no fiscal impact to the Town as the funds have or will have been deposited into Trust Account T-4017-4002 prior to the engraving and maintenance work. The expenditures will not exceed $2,000 for the current fiscal year.

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

Amherst

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

Brian J. Kulpa
Supervisor

Daniel C. Howard, AI
Planning Director

Daniel J. Ulatowski, AI
Assistant Planning Dire

MEMORANDUM August 4, 2021

TO: Amherst Town Board

FROM: Daniel C. Howard, AICP, Planning Director

SUBJECT: Approval to Spend Funds - Veterans Memorial -2021

Stonework of the Veterans Memorial is in need of repairs to stone/masonry joints. Leon Komm and Sons has an existing agreement with the Town to provide engraving and stone maintenance services at the Memorial. Staff from Leon Komm and Sons will be at the Memorial to engrave the names of Veterans during the week of August 9th and can make needed repairs to joints between the granite blocks that top the Memorial Wall and the two sitting walls.

We are respectfully requesting the authorization to expend up to $2,000.00 from the Trust Account T4017 : 4002 for Komm to make the stonework repairs while they are on site to do the engraving. A DRAFT resolution is attached.

Financial Impact: T4017-4002 not to exceed additional $2,000.00.

Thank you for your consideration of this request.

DH/ac
X:\Special_Projects\Memorials\Veterans Memorial\Veterans Memorial TB memo 080921.docx

Attachment: SUSPENSION Cover letter Veterans Memorial fund use 20210809 (RES-2021-721 : To Authorize the Planning Department to

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

Francina J. Spoth
Town Clerk

Meeting: 08/09/21 07:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 24641 **RESOLUTION 2021-722** **ADOPTED**

Waiver of Actual And/Or Potential Conflict of Interest Harris Beach PLLC

Suspension to Town Board Agenda Item August 9, 2021

TO: **Amherst Town Board**

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

DATE: **August 9, 2021**

RE: **Waiver of Actual and/or Potential Conflict of Interest Harris Beach PLLC**

Kindly adopt a resolution authorizing the Supervisor to execute the attached waiver acknowledging that although Harris Beach PLLC has a conflict with the Town of Amherst and M.J. Peterson, Harris Beach PLLC is authorized to provide representation of the Town of Amherst on the matters outlined in the attached letter and furthermore, the Town of Amherst waives any actual or potential conflicts of interested arising from said representation.

8/09/2021
A motion to approve was made by Deputy Supervisor Berger, seconded by Councilmember Lavin and unanimously approved 5-0.

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

HARRIS BEACH PLLC
ATTORNEYS AT LAW

LARKIN AT EXCHANGE
726 EXCHANGE STREET, SUITE 1000
BUFFALO, NEW YORK 14210
716.200.5050

ROBERT G. MURRAY
MEMBER
DIRECT: 716.200.5180
FAX: 716.200.5201
BMURRAY@HARRISBEACH.COM

August 4, 2021

Town of Amherst
Attn: Stanley J. Sliwa, Esq., Town Attorney
Amherst Municipal Building
5583 Main Street
Williamsville, New York 14221

Re: Waiver of Actual and/or Potential Conflict of Interest

Dear Mr. Sliwa:

This letter follows up on my conversations with you regarding Harris Beach's prospective representation of Town of Amherst ("you") with regard to (i) Dispute with ACSD on AV reduction for Oxford Village Townhomes and Princeton Court Apartments; and (ii) MJ Peterson PILOTS (the "Prospective Matter"). As we discussed, you are aware that Harris Beach also currently represents MJ Peterson ("Current Client") in matters including employment matters (the "Existing Matters"). Given the nature of the work you have asked us to perform in the Prospective Matter, and based on information you have provided us, we do not believe there is any conflict of interest that compromises you or Current Client or precludes us from assisting both you in the Prospective Matter and continuing to assist Current Client in the Existing Matters. We will also seek a waiver from Current Client, and our representation of you in the Prospective Matter is contingent upon Current Client's consent to same.

Nonetheless, because of our ongoing relationship with Current Client, who is involved in the Prospective Matter, this letter seeks your acknowledgment and authorization of Harris Beach's representation of you in connection with the Prospective Matter and a waiver of any actual or potential conflicts of interest arising from that representation, including those described in this letter.

- ***Notice of Professional Duties***

Under laws and rules governing lawyers' professional responsibility to clients, our firm owes various duties to both you and Current Client, including duties of care, loyalty, and confidentiality. We reasonably believe that our representation, respectively, of you, in connection with the Prospective Matter and of the Current Client in the Existing Matters does not involve issues of confidentiality that would be breached and that each representation will not adversely affect the relationships of our firm with the other client. In addition, the individual attorneys who would represent you in the Prospective Matter would not include any attorneys who perform work for Current Client. Our firm will provide competent and diligent representation to you in the Prospective Matter and also be able to continue our representation of the Current Client in the Existing Matters.

Attachment: SUSPENSION Letter Town of Amherst - Conflict Waiver (4846-3386-2132 1) 20210809 (RES-2021-722 : Waiver of Actual And/Or

- ***Notice of Potential Benefits and Risks***

The Rules governing the professional conduct of lawyers also require that we disclose to you the potential benefits and risks of consenting to the conflicts of interest described herein. As to benefits, if you are reasonable in granting conflict waivers where your interests are not in jeopardy, it may be easier for our firm to solicit waivers on behalf of you when you need them. In addition, you know that we are very loyal to our clients, and we like to represent our clients when they ask us to. We will certainly try to do the same for you if you ask us to take on a matter that presents a conflict.

There is also some risk inherent in consenting to any conflict of interest. In some instances, it is possible that a law firm could advance a client's interests with less vigor or perhaps overlook certain arguments on a client's behalf when the opposing party is also a client of that firm (albeit in an unrelated matter). However, we have no reason to believe such a situation would arise here and would not be requesting this waiver from you if we did.

- ***Request for Consent***

By signing this letter, you agree to waive: (1) any claim you may have to disqualify Harris Beach in its ongoing or future representation of Current Client in the Existing Matters; and (2) any potential or actual conflicts of interest that may arise by virtue of Harris Beach representing both you in the Prospective Matter and Current Client in the Existing Matters. In addition, if in the future applicable ethics rules should require Harris Beach to cease its representation of you in the Prospective Matter, you agree that Harris Beach may continue to represent Current Client and any related entities in the Existing Matters.

Please acknowledge your concurrence with these understandings and statements by signing your name in the space provided below and forwarding the countersigned version to us. Of course, to the extent you believe it is necessary to consult independent, outside counsel in consideration of this request, we encourage you to do so. Your consent to this waiver is entirely voluntary, and you may instead decline and seek alternative counsel.

Thank you for your consideration.

Very truly yours,

HARRIS BEACH PLLC

By: Robert G. Murray
Robert G. Murray

[CLIENT SIGNATURE FOLLOWS ON NEXT PAGE]

Attachment: SUSPENSION Letter Town of Amherst - Conflict Waiver (4846-3386-2132 1) 20210809 (RES-2021-722 : Waiver of Actual And/Or

HARRIS BEACH PLLC
ATTORNEYS AT LAW

AGREED AND CONSENTED:

TOWN OF AMHERST

By: _____
Brian J. Kulpa, Town Supervisor

Attachment: SUSPENSION Letter Town of Amherst - Conflict Waiver (4846-3386-2132 1) 20210809 (RES-2021-722 : Waiver of Actual And/Or