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, October 18, 2021 | **7:00 PM** | **Amherst Municipal Building**

I. IN MEMORY

II. INVOCATION

Deputy Supervisor Berger

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL:

7:00 PM Meeting called to order on October 18, 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	
Timothy Koller	Town of Amherst	Deputy Town Clerk	Present	
Mark S. Berke	Town of Amherst	Building Commissioner	Present	
Laurie Stillwell	Town of Amherst	Director of Community Development	Present	
Daniel J. Ulatowski	Town of Amherst	Assistant Planning Director/ZEO	Present	
Stanley J. Sliwa	Town of Amherst	Town Attorney	Present	
Lynda Juul	Town of Amherst	Director of Finance	Present	
Jeffrey S. Burroughs	Town of Amherst	Town Engineer	Present	
Patrick G. Lucey	Town of Amherst	Highway Superintendent	Present	

V. MINUTES APPROVAL

1. Monday, October 04, 2021

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

VI. PROCLAMATIONS AND ANNOUNCEMENTS

VII. PUBLIC HEARINGS

Speakers will be limited to 3 minutes.

1. 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.

9/13/2021

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 7:25 PM.

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

There were no speakers from the public, therefore Supervisor Kulpa moved to adjourn the public hearing and set a decision date for October 18th. The motion was seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was adjourned at 7:30 PM.

10/18/2021

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 7:03 PM.

Jeffery Palumbo, Esq. provided an update and answered questions from the Board.

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 7:05 PM.

RESULT:	HEARING CLOSED	Next: 10/25/2021 7:00 PM

2. Resolution 2021-905

Public Hearing - WPCF Bldg./Equip. Infrastructure Improvements (Bond Resolution $2,100,000)

AGENDA ITEM : OCTOBER 18TH, 2021

TO: **Town Board**

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

DATE: **October 13, 2021**

RE: **2021 Town of Amherst Water Pollution Control Facility**
Building and Equipment Infrastructure - Phase 3
2021-2026 C.I.P. - Project No. E-46
Bond Resolution - $2,100,000

The above-referenced matter is scheduled for a Public Hearing on October 18, 2021 at 7:00 p.m. In this regard, kindly adopt a resolution (1) Adopting the attached SEQR determination for the above project as determined by the Town of Amherst Planning Department **prior to the Public Hearing being deemed closed**; and (2) Adopting the attached bond documents **once the Public Hearing has been deemed closed**.

For ease of reference and to provide detailed information regarding the bond action, also attached is the Map Plan and Report for the project.

Thank you.

SJS:nmb
Attachments
c: Kathy Cooper, Deputy Town Clerk
(*w/attachments,* **Agenda Item: October 18th, 2021**)
Daryl C. Bramer, Town Comptroller *(w/attachments)*
Lynda Juul, Director of Finance *(w/attachments)*
Daniel C. Howard, AICP, Assistant Director of Planning *(w/attachments)*
Jeffrey S. Burroughs, PE, Town Engineer *(w/attachments)*

10/18/2021
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 7:12 PM.

Jeffrey S. Burroughs, Town Engineer, presented.

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

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 7:16 PM.

A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved via Roll Call vote 5-0.

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

3. Resolution 2021-906

Local Law Amending Chapter 83, Building Construction Administration

Public Hearing with respect to a Local Law Amending Chapter 83, Building Construction Administration.

10/18/2021

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 7:17 PM.

Mark Berke, Building Commissioner, presented the changes to the local law.

The following speaker addressed the Town Board:
Jane Cox, Harlem Rd. - questioned the process of imposing fines

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 7:22 PM.

A motion to adopt 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

4. Resolution 2021-907

The First of Two Public Hearings Required by the U.S. Department of Housing and Urban Development for the Town's FY 2022 Community Development Annual Action Plan

First public hearing on the 2022 Annual Action Plan for the Amherst-Cheektowaga-Tonawanda HOME Consortium.

10/18/2021
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 7:23 PM.

Laurie Stillwell, Associate Planner, 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 7:28 PM.

RESULT:	**HEARING CLOSED**

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 (3)

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 (1)**

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 (1)**
    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 (4)

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 Bucki and unanimously approved 5-0. Public Expression was opened at 7:28 PM.

The following speakers addressed the Town Board:
Tom Frank, Main St. - Ellicott Creek watershed
Chris Drongosky, 105 Amherstdale - referendum on westwood property
Jane Cox, Harlem Rd. - budget hearing dates

There were no additional 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 7:42 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:

B. DEPUTY SUPERVISOR BERGER:

1. Resolution 2021-908

Appointment to the Arts & Culture in Public Places in Amherst Board

WHEREAS, Town of Amherst created the Arts & Culture in Public Places Board to promote public art and culture within the town and to collaborate and cooperate with various and appropriate individuals, groups, associations, organizations and institutions concerned with art and culture; and

WHEREAS, to promote, ensure and enhance the function, object and mission of the visual and performing arts; and

WHEREAS, the Arts & Culture in Public Places Board, also known as Arts & Culture, consists of nine (9) members, each serving a term of two (2) years; and

WHEREAS, Maureen Cilano has expressed interest in serving on the Arts & Culture Board and has attended a meeting(s).

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board appoints Maureen Cilano for her first term to conclude December 31, 2023.

10/18/2021
Consent

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

C. COUNCILMEMBER BUCKI:

1. Resolution 2021-909

Congressional Redistricting

WHEREAS, because of the federal decennial census, New York State must redraw district lines for the United States House of Representatives; and

WHEREAS, the New York State Independent Redistricting Commission is presently accepting public comment on the redrawing of congressional districts in New York State; and

WHEREAS, since 2013, most residents of the town of Amherst have lived in the 26th Congressional District, although a substantial number of residents in Amherst's northeast corner reside in the 27th Congressional District; and

WHEREAS, given the fact that Amherst is the largest town in upstate New York, placement of a majority of its citizens within the 26th District has been wholly and entirely proper, given that the town remains a first-ring Buffalo suburb and contains a mix of suburban neighborhoods with many shared interests with neighboring municipalities in the 26th District; and

WHEREAS, given the substantial uniformity of interest among the residents of the Town of Amherst, it would make sense to unify the Town within one congressional district during the redistricting process; and

WHEREAS, from 2003 to 2012, nearby municipalities such as Buffalo, the Town and City of Tonawanda, Niagara Falls and other areas were situated within the "Earmuff District," which connected these areas to metropolitan and suburban Rochester many dozens of miles to the east; and

WHEREAS, the "Earmuff District" stretched from the east side of Buffalo, north through the Town and City of Tonawanda, north to Niagara Falls, through Niagara, Lewiston and Porter, then east across the shores of Lake Ontario, through portions of 10 towns in Niagara, Orleans and Monroe counties, including the City of Rochester and additional towns to Rochester's southeast; and

WHEREAS, placement of Amherst into a district situated substantially in Erie County would promote the generally accepted criteria for good government redistricting, particularly in terms of compactness and preservation of communities of interest; and

WHEREAS, draft maps have recently circulated in various publications which have suggested that the State of New York is considering the creation of an "Earmuff District" that would reunite the aforementioned areas, among other Niagara Frontier localities, with the City of Rochester; and

WHEREAS, it is incumbent upon this Town Board to make its voice heard on behalf of Town residents as critical decision-making lies ahead in terms of congressional redistricting.

NOW, THEREFORE, BE IT RESOLVED that in the congressional redistricting process, the Town of Amherst calls upon the decision-making authorities, including, but not limited to the New York State Independent Redistricting Commission, the New York State Legislative Task Force on Demographic Research and Reapportionment and/or the New York State

Legislature to place the entirety of the town of Amherst within one and only one congressional district; and

BE IT FURTHER RESOLVED that the Amherst Town Board does hereby discourage any effort to re-establish a so-called "Earmuff District" connecting any portion of the Niagara Frontier to the City of Rochester, and does hereby encourage aforementioned decision-making authorities to reject all efforts to re-establish a so-called "Earmuff District," or any district which seeks to similarly connect the Buffalo and Rochester metropolitan areas; and

BE IT FINALLY RESOLVED that certified copies of this Resolution be sent to the New York State Independent Redistricting Commission (250 Broadway, 22nd Floor, New York, NY 10007), the New York State Legislative Task Force on Demographic Research and Reapportionment (250 Broadway, Suite 2100, New York, NY 10007), the Speaker of the New York State Assembly and the Majority Leader of the New York State Senate, and to the local offices of the Representatives in Congress in New York's 26th and 27th Congressional Districts.

10/18/2021
Consent

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

D. COUNCILMEMBER LAVIN:

E. COUNCILMEMBER SZUKALA:

1. Resolution 2021-910

Set Public Hearing Date – New Subdivision Traffic Control Signing

The local roadways of Gesel Woods, The Preserve at Muir Woods, Miller's Crossing, The Preserve at Glen Meadows, and Fair Woods Estates subdivisions are either dedicated or in the process of being dedicated to the Town of Amherst as public roadways and are in need of traffic control devices (signs). As such, please set a public hearing on November 22, 2021 to install traffic signs at the following locations:

Gesel Woods

"The tee intersection of Gesel Lane and Ayer Road is hereby designated as a stop intersection and a stop sign shall be installed at the southwest corner."

The Preserve at Muir Woods

"The tee intersection of Founders Lake Court and Sierra Drive is hereby designated as a stop intersection and a stop sign shall be installed at the southeast corner."

and,

"The tee intersection of Founders Lake Court and Lynette Lane is hereby designated as a stop intersection and a stop sign shall be installed at the northwest corner."

and,

"The intersection of Sierra Drive and Lynette Lane be signed as a roundabout with one-way signage and yield signs on all approaching legs."

10/18/2021
Consent

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

XII. DEPARTMENT HEAD RESOLUTIONS AND REPORTS

A. TOWN ATTORNEY:

1. Resolution 2021-911

2021 Athletic Fields Replacement Project - Amended Bond Resolution - $1,700,000)

AGENDA ITEM - OCTOBER 18TH, 2021

TO: **Town Board**

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

DATE: **October 13, 2021**

RE: **2021-2026 C.I.P. - YR-11A**
Athletic Fields Replacement Project
Amended Bond Resolution - $1,700,000

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

(1) Adopt the attached SEQR Negative Declaration - Notice of Determination of Non-Significance for the above project as determined by the Town of Amherst Planning Department; and

(2) Adopt the attached amended bond resolution authorizing the issuance of

$1,700,000.00 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.

Thank you.

SJS:nmb
Attachments
c: Kathy Cooper, Deputy Town Clerk
(w/attachment, **Agenda Item - October 18th, 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*)

10/18/2021
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 2021-912

Stonham Place Townhomes Sanitary Sewer Easement (CRS #2946)

AGENDA ITEM : OCTOBER 18TH, 2021

TO: **Town Board**

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

DATE: **October 12, 2021**

RE: **Stonham Place Townhomes**
Sanitary Sewer Easement (CRS #2946)
The Marrano/Marc-Equity Corporation to the Town of Amherst

Kindly adopt a resolution authorizing the Supervisor to accept the above-referenced

easement and to execute any and all documents that are required to effectuate the establishment of the sanitary sewer easement pending: (1) successful review of the Contract Routing System; and (2) final approval by the Town Attorney's Office.

Thank you.

SJS:nmb
Attachments
c: Kathy Cooper, Deputy Town Clerk
(*w/attachment,* **Agenda Item - October 18th, 2021**)
Jeff Palumbo, Barclay Damon LLP (**Via E-Mail**, *w/attachment*)

10/18/2021
Consent

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

3. Resolution 2021-913

Stonham Way and Stonham Place Access Easement (CRS #2947)

AGENDA ITEM : OCTOBER 18TH, 2021

TO: **Town Board**

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

DATE: **October 12, 2021**

RE: **Stonham Place Townhomes**
Stonham Way/Stonham Place
Access Easement (CRS #2947)
The Marrano Marc-Equity Corporation and Town of Amherst

Kindly adopt a resolution authorizing the Supervisor to execute the attached agreement: (1) successful review of the Contract Routing System; and (2) final approval by the Town Attorney's Office.

Thank you.

SJS:nmb
Attachment
c: Kathy Cooper, Deputy Town Clerk

(*w/attachment,* **Agenda Item - October 18th, 2021**)
Jeff Palumbo, Barclay Damon LLP (**Via E-Mail**, *w/attachment*)

10/18/2021
Consent

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

4. Resolution 2021-914

Grant of Easement (TOA to Niagara Mohawk - 400 and 460 Wehrle Drive) (CRS #2941)

AGENDA ITEM : OCTOBER 18TH, 2021

TO: **Town Board**

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

DATE: **October 13, 2021**

RE: **Grant of Easement (TOA To Niagara Mohawk) (CRS #2941)**
400 and 460 Wehrle Drive

Kindly adopt a resolution authorizing the Supervisor to execute the attached Grant of Easement pending the successful completion of the Contract Routing System.

The Engineering Department reviewed the Exhibit map to ensure that it accurately reflected the information detailed in the Grant of Easement.

Thank you for your consideration.

NMB:hs
Attachment
c: Kathy Cooper, Deputy Town Clerk
(w/attachment, **Agenda Item: October 18th, 2021**)
Christopher P. Schregel, Project Manager *(w/attachment)*

10/18/2021
Consent

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

5. Resolution 2021-915

Settlement of Article 7 - Uniland Federal Center, Inc. V. Assessor of the Town of Amherst, Et Al.

AGENDA ITEM : OCTOBER 18th, 2021

TO: **Town Board**

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

DATE: **October 13, 2021**

RE: **Settlement of Article 7 Matter**
Uniland Federal Center, Inc. v. Assessor the Town of Amherst, et al.

Kindly adopt a resolution authorizing the following:

(1) Settlement of the above matter as detailed in the attached Stipulation and Agreement; and

(2) Authorizing Senior Deputy Town Attorney Samuel A. Alba, Esq. to sign the attached Stipulation and Agreement as the Attorney for the Respondents.

Thank you.

SJS:nmb
Attachment
c: Kathy Cooper, Deputy Town Clerk
(*w/attachment,* **Agenda Item : October 18th, 2021**)

10/18/2021
Consent

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

6. Resolution 2021-916

Approval of Counsel for Child Victim Act Litigation - Webster Szanyi LLP (CRS #2948)

AGENDA ITEM - OCTOBER 18th, 2021

TO: **Town Board**

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

DATE: **October 12, 2021**

RE: **Approval of Counsel for Child Victim Act Litigation**
Retainer Agreement With Webster Szanyi LLP (CRS #2948)

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

WHEREAS, the Town of Amherst has been sued in a case entitled LG 70 DOE v. Town of Amherst, Mathewson McCarthy Baseball and Babe Ruth League Baseball, Erie County Index Number 810847/2021 for alleged molestation by a former employee during the time period from 1977-1991; and

WHEREAS, the Town Attorney sent out a request for proposal (RFP) for legal services from experienced attorneys to represent the Town relative to this matter; and

WHEREAS, four (4) responses to the RFP were received and reviewed by the Town Attorney; and

WHEREAS, the selection of a law firm to handle this matter will ensure that the Town of Amherst receives the best legal services in an expeditious cost-effective manner; and

WHEREAS, the Town Attorney has reviewed the responses to the RFP and has interviewed these firms;

BE IT RESOLVED, that upon the recommendation of the Town Attorney and pursuant to Town Law §20(2), the Town Board hereby approves the selection of Webster Szanyi LLP to represent the Town of Amherst relative to the LG 70 DOE matter; and

BE IT FURTHER RESOLVED, the Town Board hereby authorizes the Town Supervisor to execute the attached Retainer Agreement with Webster Szanyi LLP at the following rates upon successful completion of the Contract Routing System:

$265.00 per hour for Partners
$225.00 per hour for Senior Associates
$205.00 per hour for Associates
$115.00 per hour for Paralegals

BE IT FURTHER RESOLVED, this Retainer Agreement shall remain in effect until the ultimate conclusion of the LG 70 DOE matter.

SJS:lcg
Attachment
c: Kathy Cooper, Deputy Town Clerk
(*w/attachment*, Agenda Item - October 18th, 2021)

10/18/2021
Consent

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

7. Resolution 2021-917

Travel Request - Town Attorney to Attend Fall Meeting of NYSBA - Ithaca, New York

AGENDA ITEM : OCTOBER 18TH, 2021

TO: **Town Board**

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

DATE: **October 13, 2021**

RE: **Travel Request**
Local and State Government Law Joint Fall Meeting (NYSBA)
Ithaca, New York

Kindly adopt a resolution authorizing the Town Attorney to travel to Ithaca, New York from October 22, 2021 through and including October 25, 2021 to attend the Local and State Government Law Joint Fall Meeting of the New York State Bar Association (NYSBA).

The total cost for the employee is estimated to be $1,333.07 which includes registration, hotel stay, tolls, parking and per diems.

Funding for this request is available in accounts A1420.4010, A1420.4040, A1420.4050 and A1420.4120.

Thank you for considering this request.

SJS:nmb:hs
Attachments
c: Kathy Cooper, Deputy Town Clerk
(*w/attachments,* **Agenda Item - October 18th, 2021**)
Lynda Juul, Director of Finance (*w/attachments)*

Daryl C. Bramer, Comptroller (*w/attachments)*

10/18/2021
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 2021-918

New Firefighter for the East Amherst Fire Department

New firefighter for the East Amherst Fire Department lives in the Town of Clarence and her place of employment is in the East Amherst Fire District.

Lynn Buczkowski
6015 Newhouse Road
E. Amherst, NY 14051

10/18/2021
Consent

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

2. Resolution 2021-919

Snowplow Permits

JK Quality Enterprises #0042
James Kelsch
169 Stuewe Rd
Getzville, NY 14068

Your Personal Gardener, LLC #0043-#0044
Guy Zee

2560 Eggert Rd
Tonawanda, NY 14050

Canella Enterprises, Inc. #0045-#0046
Joseph P Canella
187 Roxbury Park
East Amherst, NY 14051

ACS Outdoor Services, LTD. #0047
Jarrick Shaw
5637 Beattie Avenue
Lockport, NY 14094

Hassle Free Landscaping & Snowplowing #0048-#0049
Joseph R Oishei, Jr.
P. O. Box 1283
Amherst, NY 14226

10/18/2021
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 2021-920

Budget Transfers and Amendments

For Oct 18, 2021 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 10/13/2021
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:***
N2139.4000 Amherst Acquisition $28,000.00 N2121.4000 Amherst Rehab $32,000.00 *Requested per Department.*	N2137.4000 Amherst Infrastructure $60,000.00
N2029.4000 Supportive Services $3,475.35 *Requested per Department.*	N2021.4000 Amherst CDBG Rehab $3,475.35
N1855.4000 Amherst HOME Rental $10,000.00 *Requested per Department.*	N1840.4000 Amherst HOME Rehab $10,000.00
N1944.4000 Cheektowaga HOME Rehab $3,246.00 *Requested per Department.*	N1947.4000 Cheektowaga Closing Cost $3,246.00
A7253.2150 Ice Rink- Bldg Improv & Equip $4,000.00 *Requested per Department.*	A7253.4220 Bldgs & Grounds $4,000.00
KP2014.4978 TW Security Improvements - Interest $750 *Transfer from interest expense to building improvements for KP2014 Town Wide Security Improvements.*	KP2014.2150 Building Improvements $750

BUDGET AMENDMENTS - 2021

INCREASE:	***INCREASE:***
N2123.02785 CDBG & VG PI $6,129.60 N2125.02785 CDBG & VG Admin $1,532.40 *To recognize Community Development program income from 105 Cherrywood, Amherst.*	N2123.4000 Admin $6,129.60 N2125.1000 Personal Services $1,423.50 N2125.8030 FICA $108.90
KP2116.02770 Knox Box - Other Revenue $70,382.50 *To recognize revenue from the Knox Box project and increase expenditures.*	KP2116.1000 Personal Services $5,000.00 KP2116.8030 FICA $382.50 KP2116.2150 Equipment $65,000.00
N2144.02785 Cheek HOME Rehab $10,206.90 N2149.02785 Cheek HOME Admin $1,134.10 *To recognize Community Development program income from 106 Southcrest, Cheektowaga.*	N2144.4000 Contractual $10,206.90 N2149.4003 Admin $1,134.10
N2144.02785 Cheek HOME Rehab $17,298.00 N2149.02785 Cheek HOME Admin $1,922.00 *To recognize Community Development program income from 388 French, Cheektowaga.*	N2144.4000 Contractual $17,298.00 N2149.4003 Admin $1,922.00
N2150.02785 Tonawanda HOME- PI $40,940.67 N2153.02785 Tonawanda Admin- PI $4,548.96 *To recognize Community Development program income from 49 Benefield, Tonawanda.*	N2150.4000 Contractual $40,940.67 N2153.4003 Admin $4,548.96
N2123.02785 CDBG & VG PI $170.00 *To recognize Community Development program income from 169 Hillcrest, Amherst.*	N2123.4000 Admin $170.00
N2123.02785 CDBG & VG PI $800.00 N2125.02785 CDBG & VG Admin $200.00 *To recognize Community Development program income from 6 Campus, Amherst.*	N2123.4000 Admin $800.00 N2125.1000 Personal Services $185.79 N2125.8030 FICA $14.21
N2140.02785 Amherst HOME- PI $6,750.00 N2154.02785 Amherst Admin- PI $750.00 *To recognize Community Development program income from 120 Windermere, Amherst.*	N2140.4000 Contractual $6,750.00 N2154.4003 Admin $750.00

10/18/2021
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 2021-921

Contract Extension - Curbside Shredding - CRS #2943 (Original CRS/CMS #2174/2259)

WHEREAS, the Town currently participates in Erie County Bid #219167-002 with Shred-Text, Inc.; and

WHEREAS, this contract was extended by Erie County through October 31, 2023, under the same prices, terms and conditions as the original agreement;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the extension of the Town contract through October 31, 2023; and

BE IT FURTHER RESOLVED, The Town Board authorizes the Supervisor to sign the two-year contract extension Shred Text, Inc.

10/18/2021
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 2021-922

Community Policing & Training Facility Emergency Generator Install - Change Order No. 1 CRS 2936

We are requesting the Town Board consider approval of this resolution authorizing the Supervisor to sign the above referenced Change Order, which increases the overall contract amount by $2,135.80. Due to a building utility conflict, the code-required egress doors must be installed in an alternative location requiring additional concrete for the associated pathway from the doors to the parking area. Also associated with this change order is a no-cost extension of the substantial completion date for the project due to supply-chain related delivery delays. Upon approval by the Board, the new substantial completion date shall be extended to January 15, 2022.

Funding for this contract shall be from American Rescue Plan Act funding; Account A3649.2150.

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

Thank you for considering this request.

10/18/2021
Consent

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

2. Resolution 2021-923

US Geological Survey Joint Funding Agreement CRS 2949

We are requesting Town Board approval and permission for the Supervisor to sign the above referenced Joint Funding Agreement. This agreement is for the operation and maintenance of the gaging stations with telemetry at Ellicott Creek below Williamsville (04218518) and Tonawanda Creek Rapids (04218000). The term of this agreement is October 1, 2021 to September 30, 2022.

The gaging stations are used by the Town for flood studies, and also to forecast the possibility of impending flooding. The water level monitors located in Ellicott Creek and Tonawanda Creek are extremely beneficial and necessary for our Town's flood monitoring.

The Town of Amherst's share for the upcoming term will be $12,160.00 and the Town of Clarence's will be $2,830.00. U.S. Geological Survey contributions for this agreement are $5,070.00 for a combined total of $20,060.00. Funds are available in Account H-8000-4110. This request has successfully completed the contract review process. Thank you for considering our request.

10/18/2021
Consent

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

3. Resolution 2021-924

Award of Bid - Amherst Girls Softball Fields - Amendment to Resolution Occhino Corp.

At the Town Board meeting of September 8, 2021, the above referenced contract was awarded for an incorrect amount of $1,955,222 to Occhino Corp (see attached resolution 2021-786).

Given the above, please reauthorize the award of this contract to Occhino Corp., 2650 Seneca Street, West Seneca, NY, 14224 in the amount of $1,954,623 to include the base bid and alternate bid item 3 (deduct for Town construction of storm line) and authorize the Town Supervisor to execute the contract associated with the bid award.

Funding for this contract shall be from project account T2107-4001.

10/18/2021
Consent

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

4. Resolution 2021-925

WPCF Emergency Liquid Oxygen Delivery CRS 2937

The Engineering Department, WPCF division is requesting that the Town Board approve an emergency purchase made with HAUN Welding Supply for the delivery of two loads of bulk liquid oxygen. The WPCF, during its five-year oxygen plant turnaround, experienced unforeseen delays while making the necessary repairs. In order to meet permit regulations and keep our WPCF in compliance, we needed to obtain enough liquid oxygen to safety run and to bring our oxygen plant back on line. We reached out to multiple liquid oxygen delivery companies, and out of these companies, we only found one company that could supply us with the product we needed. With the help of the TOA Contract Compliance Department, we currently have a bid out for bulk liquid oxygen delivery and hope to award shortly.

At this time, the WPCF would like to ask the Town Board for approval to pay HAUN Welding Supply for the product received under Haun Invoice numbers 7856841 and 7856726 totaling $11,190.51.

Funds for this request are available in G9916-4960.

This request has successfully completed the contract review process.

Thank you for considering this request.

10/18/2021
Consent

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

L. FINANCE:

M. HIGHWAY

1. Resolution 2021-926

Authorize Supervisor to Sign Contract with VCS-Visual Computer Solutions, Inc - CRS #2928

NOW THEREFORE BE IT RESOLVED, that the Town of Amherst approves the contract with VCS-Visual Computer Solutions, Inc software for the time keeping and scheduling software system that is compatible with Town's MUNIS system.

The Town of Amherst contract is for the period 11/01/2021 through 10/31/2022 and includes the SAAS renewal time keeping service to include time sheets and scheduling.

NOW THEREFORE BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to sign this contract that is subject to the Contract Routing System CRS #2928 and approval of the Town Attorney.

10/18/2021
Consent

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

2. Resolution 2021-927

Authorize the Purchase of One (1) KUBOTA RTV520 Utility Vehicle CRS #2945

NOW THEREFORE BE IT RESOLVED, the Town Board authorizes the purchase of one (1) KUBOTA RTV 520 mid size utility vehicle.

The purchase is from NIAGARA IMPLEMENT, INC., 2337 LOCKPORT-OLCOTT ROAD, NEWFANE, NY 14108 for $8,676.22 per SOURCEWELL/NYS-OGS CONTRACT.

NOW THEREFORE BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to sign this purchase. This purchase is subject to the Contract Routing System (CRS #2945) and approval of the Town Attorney.

10/18/2021
Withdrawn

RESULT:	**WITHDRAWN**

N. HUMAN RESOURCES:

1. Resolution 2021-928

Clerk Typist/Court

Please appoint a Clerk Typist to the Court. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective October 19, 2021 at an annual salary of $27,861, Grade 2, Step A for Lexie Kiffer.

This is a promotion for an employee currently serving as Messenger.

10/18/2021
Consent

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

2. Resolution 2021-929

Senior Refuse Control Officer/Highway

Please appoint a Senior Refuse Control Officer to the Highway Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective October 19, 2021 at an annual salary of $67,577, Grade 15, Step G for Ryan Licata.

This is a Permanent appointment for an employee who has been serving Provisionally.

10/18/2021
Consent

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

3. Resolution 2021-930

Recreation Attendant - PT/Youth & Recreation (7 Positions)

Recreation Attendant - PT/Youth & Recreation (7 positions), Effective October 19, 2021, Temporary, $12.50 ph, Step 1 for Sydnee J. Alston, Lily C. Busler, Helena M. Gilsey, Nicolas M. Lafornara, Connor J. Merrifield, Makayla A. Mills and Kyriakista I. Scime.

Filling vacant positions due to reduced availability of current part-time staff.

10/18/2021
Consent

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

4. Resolution 2021-931

Recreation Attendant-PT/Youth & Recreation (2 Positions)

Recreation Attendant-PT/Youth & Recreation (2 positions), Effective date October 19, 2021, Temporary, $13.00 ph, Step 1 for Cara M. Wolcott and Mikayla R. Lojacono.

Filling vacant positions due to reduced availability of current part-time staff.

10/18/2021
Consent

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

5. Resolution 2021-932

Recreation Attendant - PT/Youth & Recreation

Recreation Attendant - PT/Youth & Recreation, Effective date October 19, 2021, Temporary, $12.80 ph, Step 2 for Annika E. Straight.

Filling a vacant position due to reduced availability of current part-time staff.

10/18/2021
Consent

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

6. Resolution 2021-933

Recreation Attendant - PT/Youth & Recreation

Recreation Attendant - PT/Youth & Recreation, Effective October 19, 2021, Temporary, $13.10 ph, Step 3 for Jared A. Burns.

Filling a vacant position due to reduced availability of current part-time staff.

10/18/2021
Consent

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

7. Resolution 2021-934

Recreation Attendant - PT/Youth & Recreation

Recreation Attendant - PT/Youth & Recreation, Effective October 19, 2021, Temporary, $13.40 ph, Step 4 for Claire M. Mullane.

Filling a vacant position due to reduced availability of current part-time staff.

10/18/2021
Consent

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

8. Resolution 2021-935

Detective/Police Department

Please appoint a Detective to the Police Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective October 19, 2021 at an annual salary of $93,139.

This is a promotion for an employee serving as Police Officer.
Replacing an employee who retired.

10/18/2021
Withdrawn

RESULT:	**WITHDRAWN**

9. Resolution 2021-936

Public Safety Dispatcher/Police Department

Please appoint a Public Safety Dispatcher to the Police Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective October 19, 2021 at an annual salary of $47,180, Grade 13, Step A for Stephen J. Wisniewski.

This is a Permanent appointment for an employee who has been serving Provisionally.

10/18/2021
Consent

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

10. Resolution 2021-937

Laborer - PT/Police

Laborer - PT/Police, Effective October 19, 2021, Temporary, $12.99 ph, Step 1 for Joseph M. Novak.

Contingent upon completing all pre-employment requirements.

Replacing an employee who was hired full time.

10/18/2021
Consent

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

11. Resolution 2021-938

Laborer/Youth & Recreation (2 Positions)

Please appoint two (2) Laborers to the Youth & Recreation Department. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective October 19, 2021, at an hourly rate of $16.68, Step A for Jose A. Olivera and Nicolas Will.

Contingent upon completing all pre-employment requirements.

Replacing an employee who transferred to another department.
Replacing an employee who resigned.

10/18/2021
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 2021-939

To Change the Date of the January 2022 Planning Board Meeting

WHEREAS, the Town Board set the Planning Board meeting schedule for 2021 at its meeting of January 4, 2021, and set the January 2022 meeting for January 20, 2022.

WHEREAS, the Planning Department is requesting the January 20, 2022 Planning Board meeting to be rescheduled to January 13, 2022, now therefore be it

RESOLVED, that the Town Board approves changing the January 2022 Planning Board meeting to January 13, 2022.

10/18/2021
Consent

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

2. Resolution 2021-940

Execute the HUD HOME-ARP Grant Agreement for Planning & Administration CONTRACT #2944

WHEREAS, the Amherst-Cheektowaga-Tonawanda (ACT) HOME Consortium has received a special appropriation of funds under the American Rescue Plan Act's HOME Investment Partnerships Program (HOME-ARP) for FY 2021; and

WHEREAS, utilization of HOME-ARP grant funds requires up-front planning and administration to program requirements and amend the ACT HOME Consortium's Consolidated Plan; and

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) allows up to 5% of the appropriation to be expended up-front to complete the necessary planning and program requirements; now therefore, be it

RESOLVED, the Town Board of the Town of Amherst authorizes the Town Supervisor, subject to the satisfactory completion of the contract routing process, to execute the HOME-ARP Grant Agreement with HUD for an amount not to exceed $170,685.00 for the period of April 1, 2021 through September 30, 2030.

10/18/2021
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 2021-941

Early Voting Polling Location Lease Agreement (CRS 2934)

Authorize the Supervisor to sign an agreement between the Town of Amherst and the Erie County Board of Elections to use the Center for Senior Services as an early voting polling place from October 23-31.

10/18/2021
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 2021-942

Sheltering Agreement - Mill CRS #2919

Authorize the Supervisor to sign an agreement between the Town of Amherst (Youth & Recreation Department) and the Williamsville Central School District for use of the Williamsville Youth & Family Center by Mill Middle School in case of an emergency.

10/18/2021
Consent

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

2. Resolution 2021-943

ID Card Fees

Set Resident ID Card fees at $8.00 per person for 2022-2024 (an increase of $3.00). These fees have been reviewed and approved by the Amherst Recreation Commission. The last fee increase was over 20 years ago.

10/18/2021
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Jacqualine Berger
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: 10/25/2021 7:00 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.

1/18/2022
A motion was made by Supervisor Kulpa to remove from Unfinished Business, seconded by Councilmember Bucki and unanimously approved 5-0.

A motion was made by Supervisor Kulpa to schedule a public hearing for the February 28th

Town Board meeting, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

RESULT:	**TABLED (NO VOTE)**	**Next: 10/25/2021 7:00 PM**

XIV. COMMUNICATIONS

1. Communication 2021-104

Request for Public Hearing to Amend the Comprehensive Plan 4252-4258 Ridge Lea Road

Request from James A. Boglioli, Esq. to schedule a public hearing to Amend the Comprehensive Plan for 4252-4258 Ridge Lea Road.

This hearing has been scheduled for November 22, 2021.

10/18/2021
Consent

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

2. Communication 2021-105

Fireworks Noise in Amherst and Surrounding Areas

The attached letters are from residents in the Amherst community and surrounding areas regarding the recent fireworks at Country Club of Buffalo.

10/18/2021
Referred to Town Attorney & Building.

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

3. Communication 2021-106

Commentary Regarding Harding Road

The attached email mentions action regarding Harding Road rezoning.

10/18/2021
Referred to Town Attorney & Planning.

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

4. Communication 2021-107

Summons & Complaint: Lee Fang Vs Town of Amherst

10/18/2021
Referred to Town Attorney.

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

XV. PUBLIC IMPROVEMENT PERMITS

XVI. SUSPENSION OF RULES

Supervisor Kulpa moved to open Suspension of Rules to bring forth 2 unlisted items. The motion was seconded by Deputy Supervisor Berger and unanimously approved 5-0. Suspension of Rules was opened at 7:44 PM.

There being no further business requiring Suspension of Rules, Deputy Supervisor Berger moved to close, seconded by Councilmember Bucki and unanimously approved 5-0. Suspension of Rules was closed at 7:46 PM.

1. Resolution 2021-944

The Preserve at Muir Woods - Phase III

Suspension to Town Board Agenda Item October 18, 2021

TO: **Amherst Town Board**
FROM: **Jeffrey S. Burroughs, P.E., Town Engineer**
DATE: **October 18, 2021**
RE: **The Preserve at Muir Woods - Phase III**

TOA Job 2005.008A - The Preserve at Muir Woods - Phase III Public Improvement Permit No. #3070 - Waterline
This is to certify that the referenced waterline construction has been completed in accordance with plans and specifications, and we recommend that the same be accepted. A Maintenance Bond for a period of two (2) years in the amount of $20,000.00, representing 25% of the cost of construction will be forwarded to the Town Clerk.

TOA Job 2005.008A - The Preserve at Muir Woods - Phase III Public Improvement Permit No. #3072 - Paving & Curbing
This is to certify that the referenced paving and curbing construction has been completed in accordance with the plans and specifications, and we recommend that the same be accepted. A Maintenance Bond for a period of two (2) years in the amount of $86,785.00, representing 25% of the cost of construction will be forwarded to the Town Clerk.

TOA Job 2005.008A - The Preserve at Muir Woods - Phase III Public Improvement Permit No. #3069 - Sanitary Sewer
This is to certify that the referenced sanitary sewer construction has been completed in accordance with the plans and specifications, and we recommend that the same be accepted. A Maintenance Bond for a period of two (2) years in the amount of $51,250.00, representing 25% of the cost of construction will be forwarded to the Town Clerk.

TOA Job 2005.008A - The Preserve at Muir Woods - Phase III Public Improvement Permit No. #3071 - Storm Sewer
This is to certify that the referenced storm sewer construction has been completed in accordance with the plans and specifications, and we recommend that the same be accepted. A Maintenance Bond for a period of two (2) years in the amount of $30,000.00, representing 25% of the cost of construction will be forwarded to the Town Clerk.

10/18/2021
A motion to approve was made by Deputy Supervisor Berger, seconded by Councilmember Bucki and unanimously approved 5-0.

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

2. Resolution 2021-945

Road Dedication – the Preserve at Muir Woods, Phase 3

SUSPENSION AGENDA ITEM : OCTOBER 18TH, 2021

TO: **Town Board**

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

DATE: **October 18, 2021**

RE: **Road Dedication - The Preserve at Muir Woods, Phase 3**

Kindly adopt a resolution authorizing the Supervisor to accept the roads in Phase 3 of The Preserve at Muir Woods and to execute any and all documents that are required to effectuate the dedication pending: (1) successful review of the Contract Routing System; (2) submission of the required maintenance bonds to the satisfaction of the Engineering Department; and (3) subject to final approval by the Town Attorney's Office.

Thank you.

SJS:nmb
c: Kathy Cooper, Deputy Town Clerk
(**Suspension Agenda Item - October 18th, 2021**)
Sean W. Hopkins, Esq.

10/18/2021
A motion to approve was made by Deputy Supervisor Berger, seconded by Councilmember Bucki and unanimously approved 5-0.

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

XVII. PUBLIC EXPRESSION #2

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

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

A motion to open Public Expression was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Public Expression was opened at 7:46 PM.

The following speaker addressed the Town Board:
Chris Drongosky, 105 Amherstdale - golf course upkeep and maintenance

There were no further 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 7:51 PM.

XVIII. ADJOURNMENT

There being no further business to come before the Town Board, Supervisor Kulpa moved to adjourn, seconded by Councilmember Lavin and unanimously approved 5-0. The Town Board meeting of October 18, 2021 was adjourned at 7:51 PM.

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 23525 **RESOLUTION 2021-678** **HEARING CLOSED**

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.

9/13/2021
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 7:25 PM.

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

There were no speakers from the public, therefore Supervisor Kulpa moved to adjourn the public hearing and set a decision date for October 18th. The motion was seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was adjourned at 7:30 PM.

10/18/2021
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 7:03 PM.

Jeffery Palumbo, Esq. provided an update and answered questions from the Board.

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 7:05 PM.

RESULT:	**HEARING CLOSED**	**Next: 10/25/2021 7:00 PM**

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

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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.

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.

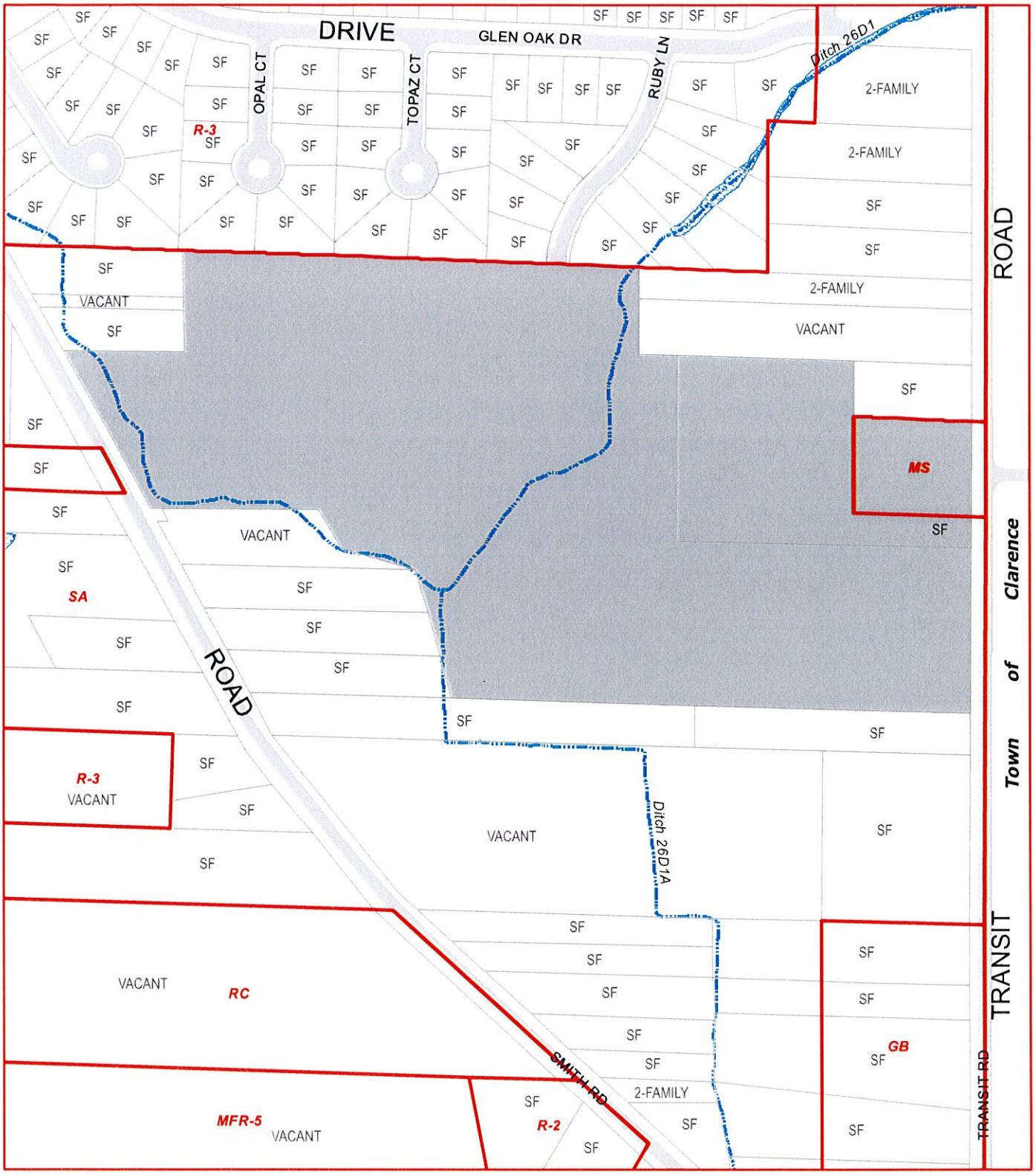
The foregoing resolution was adopted by the Town of Amherst Planning Board, June 24, 2021; moved by - Giuliani; seconded by - Gilmour; ayes 4, noes 2 (Chmiel, Penberthy); absent 1 (Gelber).

Robert J. Gilmour, Chair — Date: 7-1-21

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

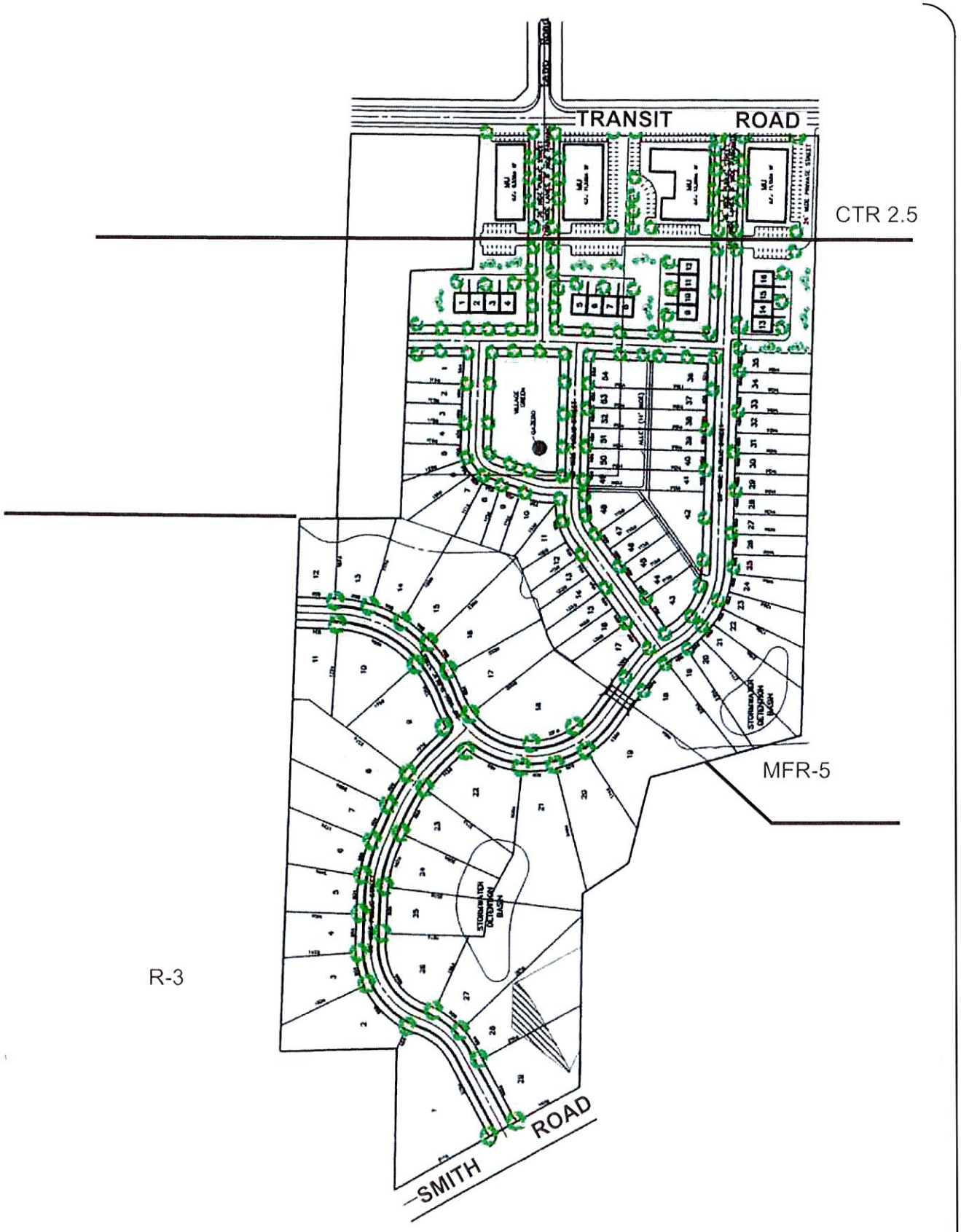
Request to Rezone 29.21+/- AC of Land from SA & MS to CTR-2.5, MFR-5, R-3
Property Located at 10060 & 10090 Transit Road

Forbes Capretto Homes, Petitioner
June 24, 2021

10060 & 10090 Transit Road

Prepared by the Town of Amherst Planning Department

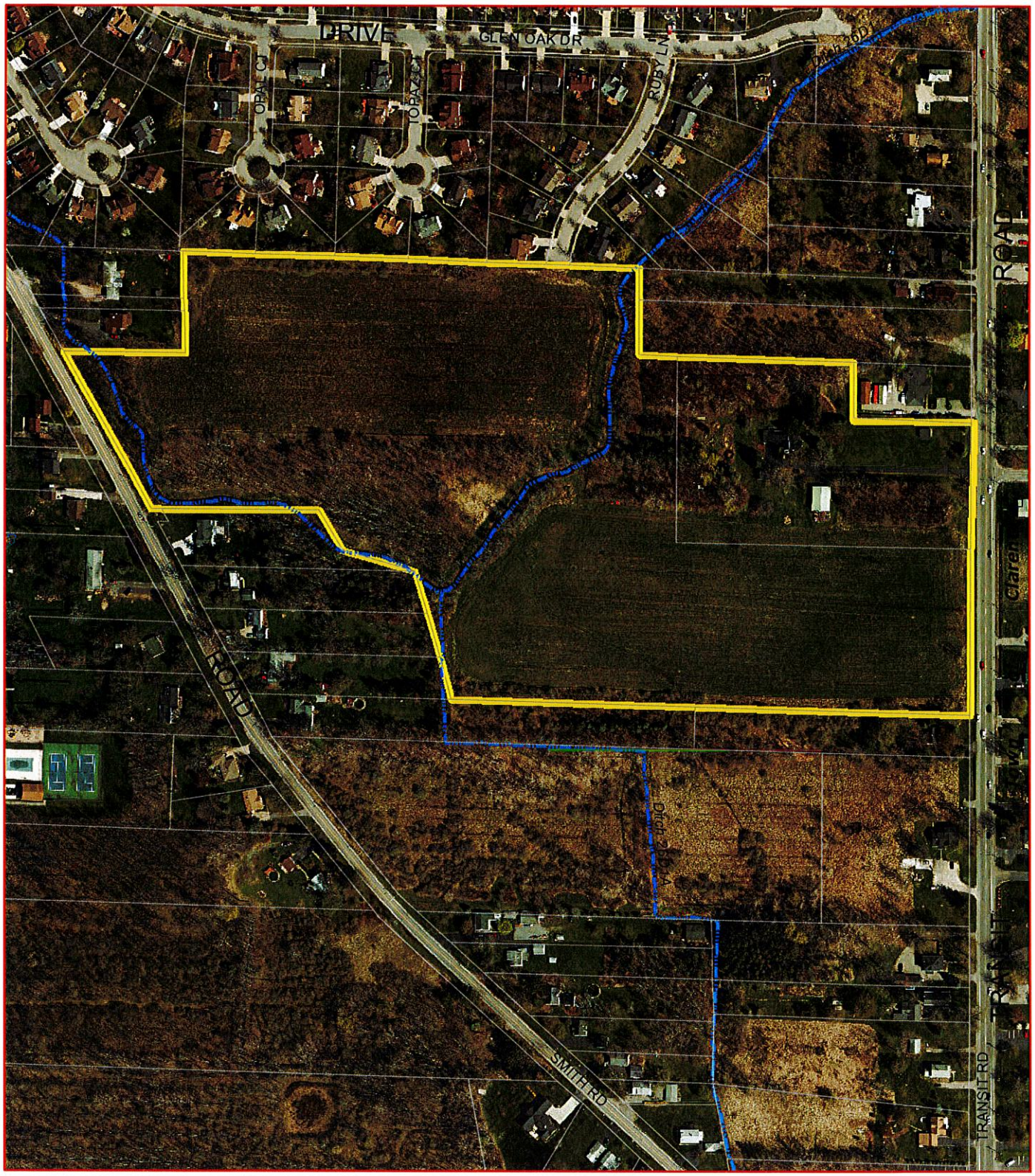
Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)



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#01MU507729
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.

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.

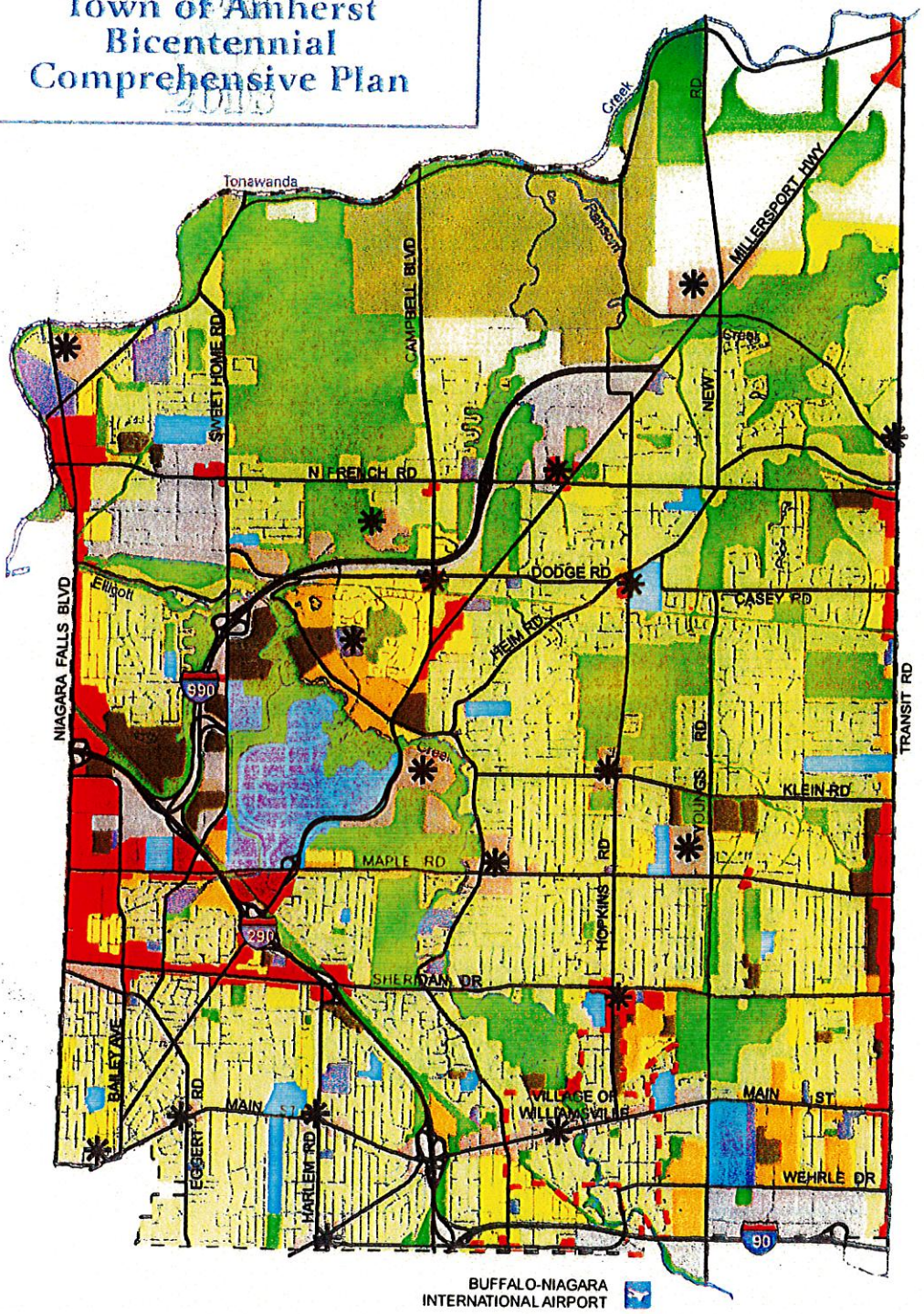
As set forth in the Town's 2018 Comprehensive Plan and Conceptual Land Use Plan, Swormville is considered a "Mixed Use" Center, for which higher density housing choices and a more compact livable and walkable environment is desired. The Comprehensive Plan suggests that the "village center" attributes 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, UR8 Corporation and Wallace Roberts & Todd, LLC

Map Compiled by the Town of Amherst Planning Department

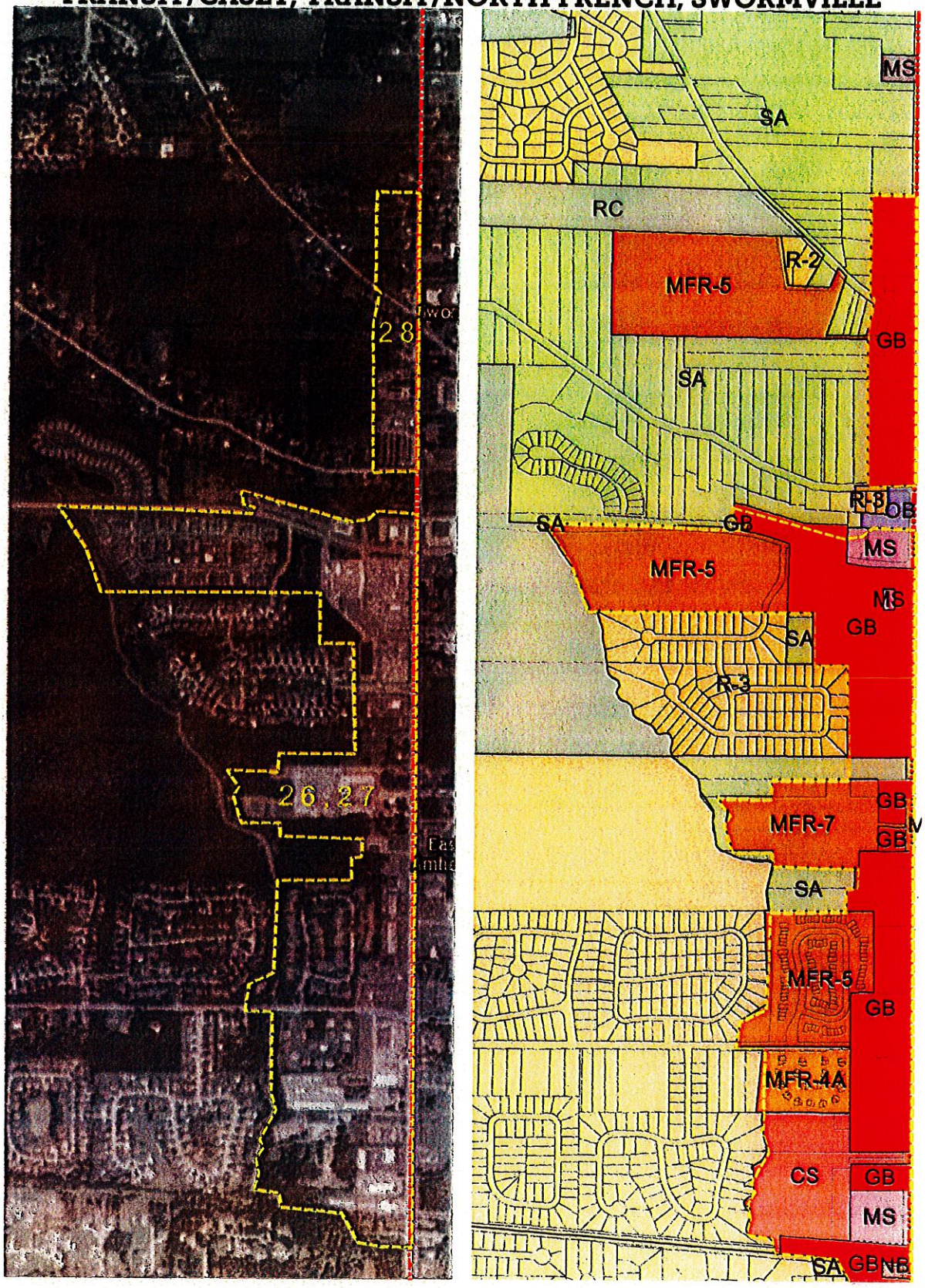
Date: March, 2009

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)

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):

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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?
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: _____

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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	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

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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:
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: _____

REVISED
MAY 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)

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

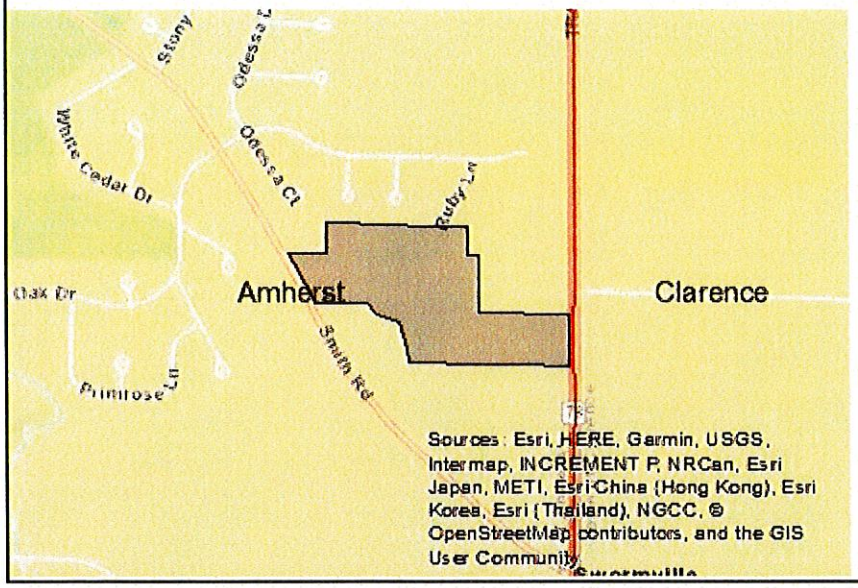
Jeffery D. Palumbo

PRINT FORM

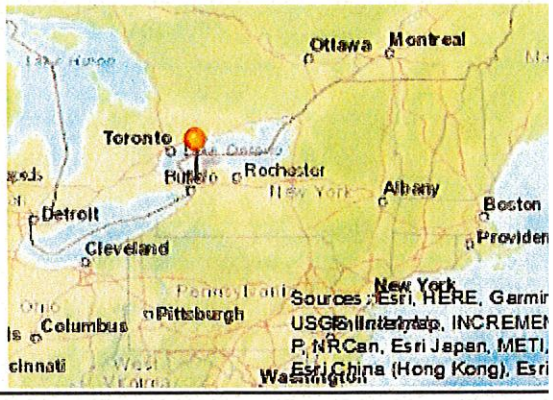
Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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

Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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

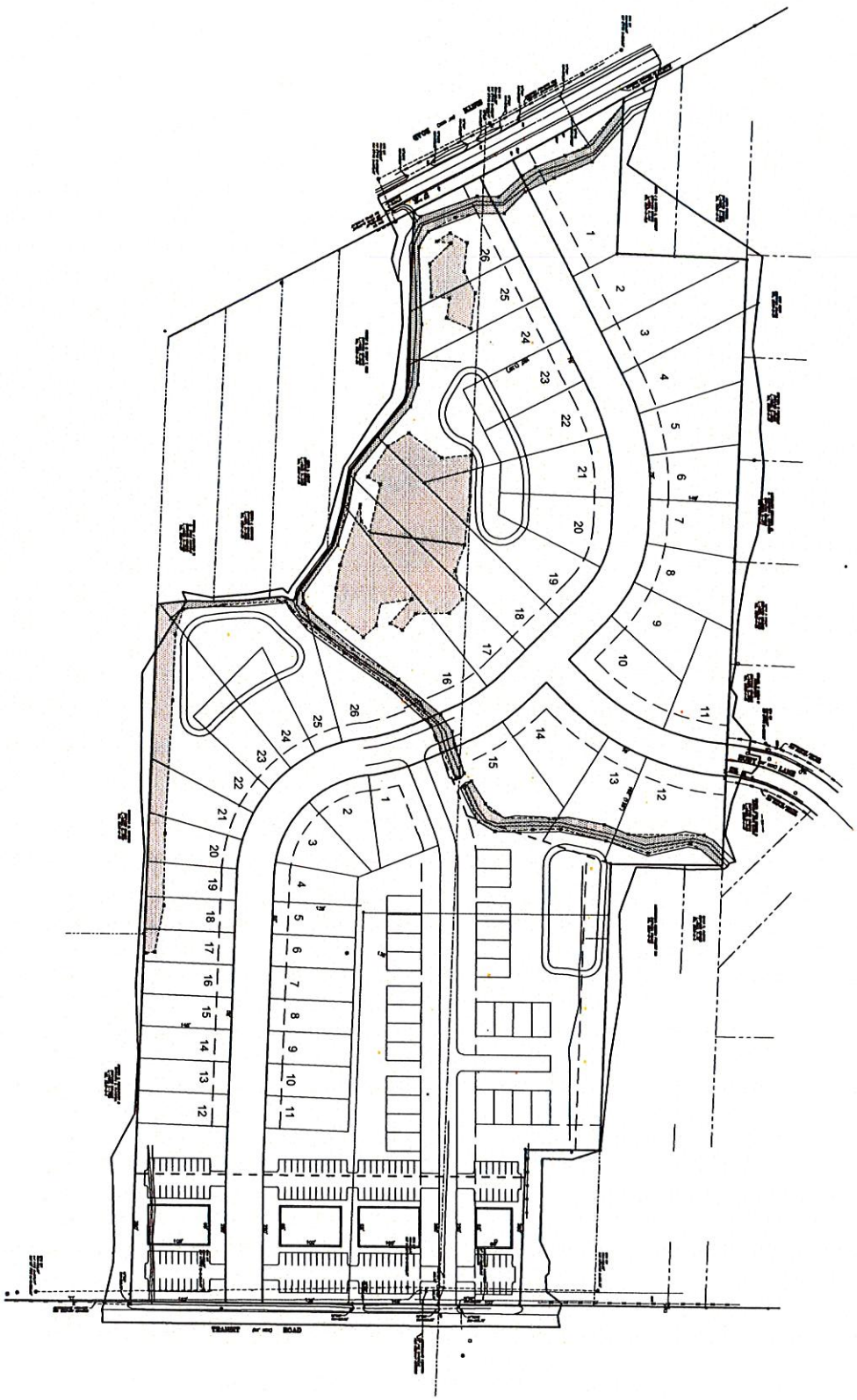
ITE	Land Use	Average Daily Trips			AM Peak Hour Adjacent Street Traffic			PM Peak Hour Adjacent Street Traffi		
		Enter	Exit	Total	Enter	Exit	Total	Enter	Exit	Tota
210	SFHOUSE 1	138	138	276	6	16	22	18	11	29
	29 Dwelling Units									
221	LRAPT 1	149	148	297	4	17	21	17	9	26
	45 Occupied Dwelling Units									
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

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

TOWN OF AMHERST ENGINEERING DEPARTMENT
2021 MAR 19 P 2:58
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)
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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)
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Stan Sliwa, Town Attorney (Local Law Only)
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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 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

4/4/21 To: Ellen Kost From: Dave Marrano CC: L. Wulfe CMC

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

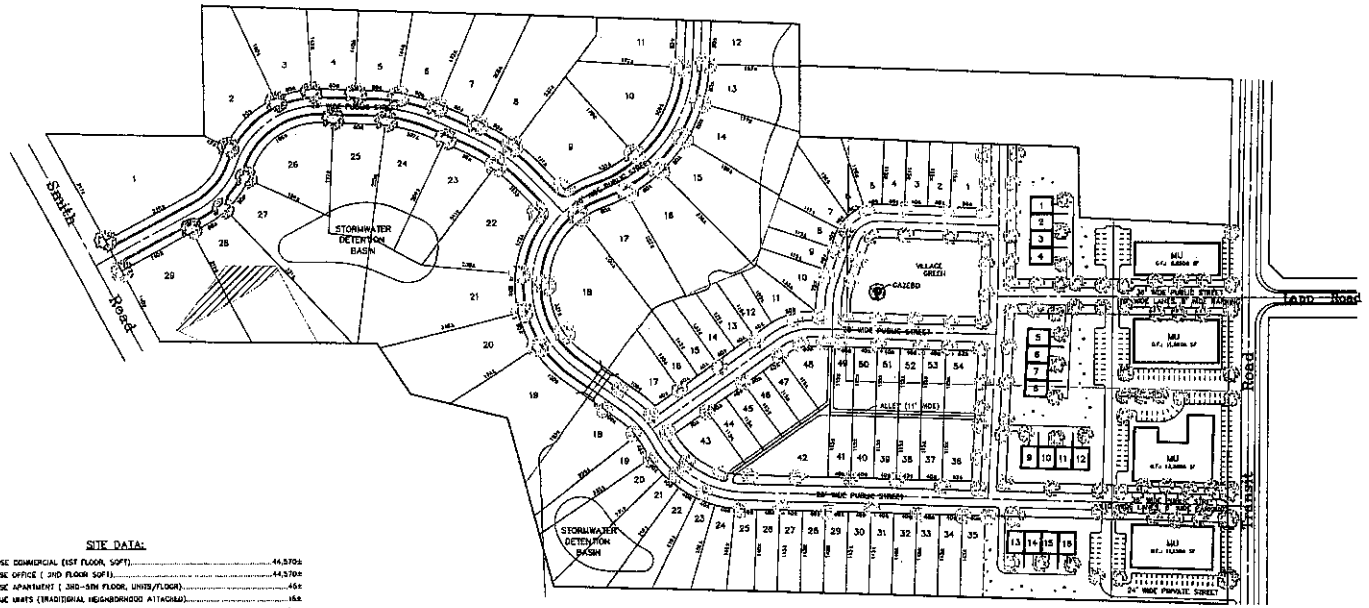
Edward S. Rutkowski, P. E.
SEQR/Site Plan Review Coordinator

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

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.

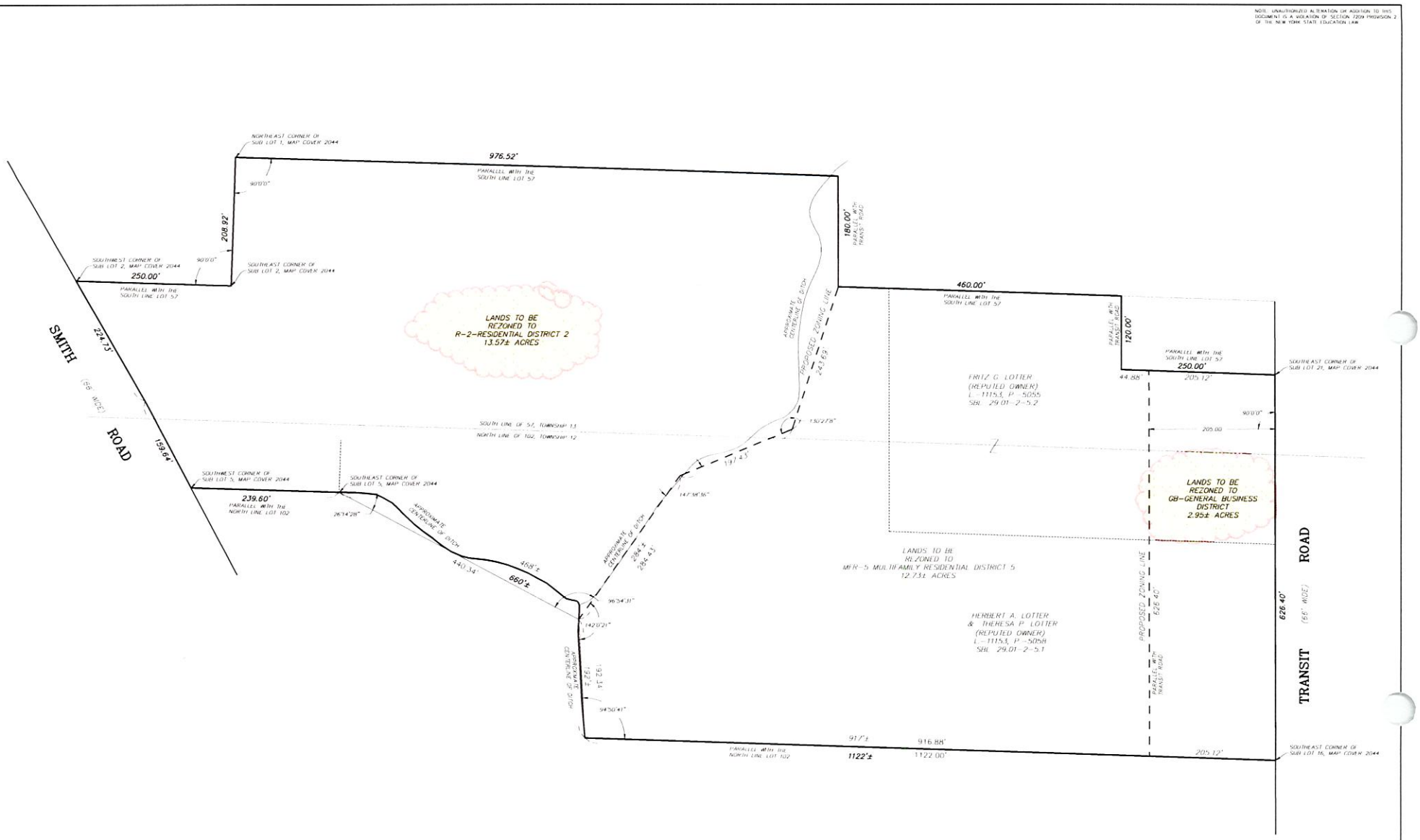
If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.) _____

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

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

DATE	REVISION/TYPE

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

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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)

Ransom Oaks Community Corporation 101 Ransom Oaks Drive East Amherst, NY 14051

Town of Amherst Town Board
Municipal Building (Town Hall)
5583 Main Street
Williamsville, NY 14221

August 6, 2021

Re: Forbes Capretto Rezoning Proposal

Dear Chairman Kulpa and Members of the Town Board:

We are writing to you on behalf of the Ransom Oaks Community Corporation (the "**Community**") located in the Town of Amherst (the "**Town**"). As you know, the Community consists of 1,130 residences, and is adjacent to the proposed Forbes Capretto Homes ("**Forbes Capretto**" or "**Applicant**") rezoning/redevelopment project site at 10060 and 10090 Transit Road, East Amherst, NY, 14051 ("**Rezoning Site**"). As you are aware, the Applicant has proposed to rezone certain property within the Town to construct a mixed-use commercial and residential development. The Community adamantly urges the Town to reject this proposal.

The Community has reviewed the rezoning request, which we understand consists of a proposal to: rezone 29.21 acres from S-A (Suburban Agricultural) and MS (Motor Service District) to R-3 (Residential District Three, 13.57 acres), MFR-5 (Multifamily Residential District Five, 12.73 acres, and CTR-2.5 (Retrofit Zoning District 2.95 acres), all for the currently-stated purpose of constructing a "mixed use commercial/ residential with [a] variety of attached/detached multi and single family housing" development (collectively, the "**Project**"). The Project would result in 120 new dwelling units (52 single family and 68 multifamily).[1]

First and foremost, we appreciate your time in reviewing and your consideration of the issues raised in this letter.

[1] We respectfully note that the Project application materials reviewed by the Planning Board contained a number of outdated documents and references, which make it unclear whether the Applicant is proposing 120 units or as many as 150.

Attachment: Ransom Oaks Opposition Letter (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

Based on a review of: (i) documentation submitted by the Applicant to the Town Planning Board, including information presented at public hearings; (ii) materials provided by the Applicant to the Community's representatives; and (iii) relevant provisions of the Zoning Ordinance of the Town ("**Zoning Code**") and the Town's Bicentennial Comprehensive Plan, amended December 14, 2020 ("**Comprehensive Plan**"), the Community feels very strongly that an approval by the Town allowing the Applicant to continue forward with the Project would be devastating to the Community and its residents, both immediately and in the long-term. The Community's reasoning is set forth below.

I. The Proposed Project is Inconsistent with the Comprehensive Plan

Through its submissions, the Applicant asserts that the Project is consistent with the Comprehensive Plan. However, the documents submitted by the Applicant offer very little in terms of details, and instead rely on generalized statements and conclusory language in an attempt to establish this purported consistency.

For instance, the rezoning documentation submitted by the Applicant states that the Comprehensive Plan encourages (at the Rezoning Site) "compatible mixed and commercial uses, which the proposed project provides." However, the rezoning submission to the Planning Board seems to rely on an outdated version of the Comprehensive Plan's Conceptual Land Use Plan ("**Land Use Plan**"). The Applicant sites to the Town's 2018 version of the Comprehensive Plan and to the March 2009 version of the Land Use Plan (see Exhibits A and B of Applicant's Planning Board submission). As discussed further below, the vast majority of the Rezoning Site appears to be designated as single-family residential (and open/green space), and not mixed-use, as asserted in the rezoning application. The current Comprehensive Plan contains an updated Land Use Plan dated December 2020, and *the Applicant should not be able to rely on an inapplicable/outdated version of the Comprehensive Plan in attempting to establish the Project's consistency with the same.*

There are two key reasons why the Project is, in fact, inconsistent with the current Comprehensive Plan, and as such, should be rejected by the Town:

1) The Project calls for multi-family residential and commercial development in an area identified primarily for single-family residential development (see Comprehensive Plan Figure 6, Land Use Plan).

Attachment: Ransom Oaks Opposition Letter (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

Contrary to the Applicant's assertions, the Rezoning Site is mostly within the single-family residential area on the Land Use Plan, with smaller portions of the Rezoning Site being within areas designated as (a) recreation, open space & greenways and (b) commercial/mixed use. The Community notes that the Applicant's submissions do not appear to identify any specific proposed recreation, open space or greenway areas or plans. Even more, the Comprehensive Plan recommends that "new infill development" in single-family residential areas should be "consistent with the established character of surrounding/connected neighborhoods." In this case, the Project is not consistent with the established (primarily) single-family residential nature of the Community, as it proposes both multi-family residential and commercial development. In fact, the Comprehensive Plan states (referring to an area slightly south of the Project):

> As an example, to the north of North French Road there exists a large area of large, deep frontage lots that reflects a rural development pattern. While this area is zoned for single-family development at higher densities, the pattern of land parcels does not lend itself to land assembly and efficient subdivision development. Therefore, in spite of the suburban zoning and the availability of utilities and public facilities, the area designated for single-family use north of North French Road should strive to retain much of its low-density rural pattern and character, avoiding long uninterrupted strips of housing.

While the lot referred to in the Comprehensive Plan is not the same as the Rezoning Site, the directive of the Comprehensive Plan remains the same - land development must reflect sensible, low-density, single-family residential development. The Project, by contrast, proposes a majority of multifamily units, and only 2 acres of open space.

> 2) The Project would disrupt the "neighborhood fabric and quality of life" by allowing undesired commercial intrusion into an area designated as single-family residential (see Comprehensive Plan section 3.3.1).

The rezoning documentation provides no discussion as to what types of commercial uses may accompany the Project, which understandably makes the Community apprehensive about a blanket approval for the desired rezoning. This is especially true because the CTR 2.5 district "is intended to provide for a variety of retail, service and commercial uses, as well as multi-family residences or offices."

Attachment: Ransom Oaks Opposition Letter (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

If the Project is approved, the Community believes it is important to point out each of the non-residential uses that are permitted by right in the CTR 2.5 district, thus, having the potential to be constructed as part of the Proposed Project[2]: (1) ambulance service; (2) business college, commercial school; (3) college, university; (4) day care*; (5) passenger station; (6) place of worship; (7) public utility service structure or facility*; (8) school, elementary/secondary; (9) utility, minor; (10) animal care*; (11) drive-through facility*; (12) lodging; (13) medical; (14) office; (15) personal service; (16) recreation, indoor; (17) restaurant; (18) restaurant with outdoor dining*; (19) retail sales and service; (20) vehicle sales, indoor; and (21) all uses and structures customarily incidental to a principal use.

Suffice it to say, approval of the Project opens the door to many potential uses that are not compatible with the character of the Community or surrounding areas. Even if the Applicant has no intention to develop any of the above commercial uses at the Rezoning Site, a future owner of the subject parcels could decide to establish one or more of these uses. At a minimum, the Town should, as a practice, consider rejecting rezoning petitions that do not clearly limit the types of commercial establishments that are proposed to be developed in largely residential areas.

Further, the development schedule provided for the Project suggests that development will span over four years. The fact that the rezoning of the Rezoning Site results in four years' worth of development activity immediately abutting residential neighborhoods is further evidence that the rezoning will impact the adjacent communities.

II. The Proposed Project is Not Consistent with the Intent and Objectives of the Zoning Code

Sections 1-2-1 and 1-2-2 of the Zoning Code set forth the purposes and objectives of the same in order to clearly identify the priorities of the Town as it pertains to land development and public health and safety, including the convenience, comfort, prosperity, and general welfare of its citizens. Although the Applicant asserts that the Proposed Project is consistent with the Zoning Code's intent and objectives, the Community quickly identified several objectives incompatible with the Proposed Project that should result in the Town rejecting the rezoning petition.

[2] A "*" denotes those uses which are permitted but subject to supplemental use standards.

Attachment: Ransom Oaks Opposition Letter (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

The following Zoning Code objectives (under section 1-2-2) are not supported by the Proposed Project:

- Subsection 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"

  Without outright rejecting or conditioning any potential approval of the Proposed Project, the rezoning will not ensure orderly and beneficial development nor will it protect the single-family residential values or character of the Community.

- Subsections C and D - "To prevent overcrowding of the land" and "To prevent excessive concentration of population and to prevent sparse and uncoordinated development"

  The Applicant is proposing to construct a mixed-use development that will likely consist of multi-family residential and commercial establishments in an area that is well established and designated primarily as single-family residential. The Proposed Project could very easily lead to overcrowding of the Community given the close proximity between the two, and due to the proposed connecting roads.

- Subsection 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"

  As discussed further below, the Proposed Project will create more street congestion and more instances of automobile/pedestrian interactions, thus, leading to streets that are less safe and less attractive to future potential Community residents.

- Subsection K - "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"

Attachment: Ransom Oaks Opposition Letter (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

As discussed in detail above, the Proposed Project is not consistent with the policies of the Comprehensive Plan. For example, the Center 2.5 District "is intended to provide for a variety of retail, service and commercial uses, as well as multi-family residences or offices."

III. The Proposed Project Creates Traffic and Safety Issues

The Proposed Project intends to establish a new road that would connect directly from Transit Road, a high-traffic State Route, to Ruby Lane, a local road within the Community. This development would bring higher levels of traffic in an otherwise quiet and low-traffic, residential street, increasing the likelihood of dangerous pedestrian-automobile interactions. If approved, the Proposed Project would connect commercial establishments and multi-family residential homes to streets that have enjoyed the single-family residential nature of the community. As the new development would necessarily increase traffic flow through a residential street, Community residents would be faced with: (a) busier and noisier streets with higher levels of traffic originating from outside of the Community; and (b) streets that are undoubtedly more dangerous to children and other pedestrians.

IV. The Proposed Project Presents a Stormwater and Flooding Hazard

According to a Stormwater Management System Summary Report dated February 2021 and prepared by Greenman-Pederson, Inc. ("**Stormwater Report**"), the Project would increase impervious surface coverage of the Rezoning Site from 1.4% to 41.2%, a 29-fold increase. The Rezoning Site consists of wetlands, which act as a natural drainage area for rainwater, including from surface water runoff. However, if developed, detention ponds would need to be constructed (3 of them, according to the Stormwater Report) in order to collect and detain stormwater runoff generated from the Project. Even so, the Community (and Erie County in general) recently received near-record amounts of rainwater over the last month, and Community residents have reported valid concerns regarding any new development's impact on potential flooding issues.

Conclusion

In sum, the proposed Project would be a detriment to the Community, which is a long-established planned neighborhood of primarily single-family homes, and also patio homes, condos and town homes. Our Community markets itself as a peaceful, friendly, and private residential community ideal for relaxation and recreation for families,

Attachment: Ransom Oaks Opposition Letter (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

children and adults. The Community feels very strongly that the proposed redevelopment is premature and, if rushed through, will have lasting impacts on these important qualities, including negative impacts to aesthetics, property values, and residents' quality of life they currently enjoy as part of the Community.

Accordingly, we urge the Town to deny the rezoning petition as proposed in order to avoid potentially costly and long lasting harmful impacts to the Community.

Sincerely,

Christopher Bogdan
President, Ransom Oaks Community Corporation

Attachment: Ransom Oaks Opposition Letter (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: 10/18/21 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24885 **RESOLUTION 2021-905** **ROLL CALL VOTE (ADOPTED)**

Public Hearing - WPCF Bldg./Equip. Infrastructure Improvements (Bond Resolution $2,100,000)

AGENDA ITEM : OCTOBER 18TH, 2021

TO: **Town Board**

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

DATE: **October 13, 2021**

RE: **2021 Town of Amherst Water Pollution Control Facility Building and Equipment Infrastructure - Phase 3**
2021-2026 C.I.P. - Project No. E-46
Bond Resolution - $2,100,000

The above-referenced matter is scheduled for a Public Hearing on October 18, 2021 at 7:00 p.m. In this regard, kindly adopt a resolution (1) Adopting the attached SEQR determination for the above project as determined by the Town of Amherst Planning Department **prior to the Public Hearing being deemed closed**; and (2) Adopting the attached bond documents **once the Public Hearing has been deemed closed**.

For ease of reference and to provide detailed information regarding the bond action, also attached is the Map Plan and Report for the project.

Thank you.

SJS:nmb
Attachments
c: Kathy Cooper, Deputy Town Clerk
(*w/attachments,* **Agenda Item: October 18th, 2021**)
Daryl C. Bramer, Town Comptroller *(w/attachments)*
Lynda Juul, Director of Finance *(w/attachments)*
Daniel C. Howard, AICP, Assistant Director of Planning *(w/attachments)*
Jeffrey S. Burroughs, PE, Town Engineer *(w/attachments)*

10/18/2021
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 7:12 PM.

Jeffrey S. Burroughs, Town Engineer, presented.

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

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 7:16 PM.

A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved via Roll Call vote 5-0.

FINANCIAL IMPACT:

Bond Resolution - $2,100,000

RESULT:	**ROLL CALL VOTE (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, AI
Planning Director

Daniel J. Ulatowski, AI
Assistant Planning Dire

Transmitted electronically

MEMORANDUM September 21, 2021

TO: Jeffery Burroughs, P.E. Town Engineer

FROM: Daniel J. Ulatowski, AICP, Assistant Planning Director

RE: SEQR Determination – Water Pollution Control Facility
Building and Equipment Infrastructure – Phase 3
TOA Project No. E-46

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)\2021_WPCF_Phase 3_E-46.docx

cc:
Stanley J. Sliwa, Esq., Town Attorney
Daryl Bramer, Comptroller
Daniel Howard, Planning Director

Attachment: SEQR.2021_WPCF_Phase 3_E-46 (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure Improvements Ph. 3 (Bond

EXTRACT OF MINUTES

Meeting of the Town Board of the

Town of Amherst, in the County of Erie, New York

October 18, 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 October 18, 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

* * *

The Supervisor stated that a public hearing had been called for this meeting at the Town Hall, 5583 Main Street, Williamsville, New York, at 7 o'clock P.M. (Prevailing Time) to consider the increase and improvement of facilities of Consolidated Sanitary Sewer District, at the estimated total cost of $2,100,000, consisting of WPCF Building and Equipment Infrastructure – Phase 3 & Sludge Minimization Project Design required in connection therewith, as described in the map, plan and report dated September 19, 2021 (CIP Project No. E-46) prepared by the Town Engineering Department; and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law. The Town Clerk presented affidavits showing that the Notice of said public

Attachment: CertExMinsROAfterPH (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure Improvements Ph. 3 (Bond Resolution

hearing had been duly published and posted pursuant to the provisions of Article 12 of the Town Law.

The Supervisor stated that the hearing in the said matter was now open and asked if there were any interested persons present who desired to be heard. The following persons appeared in favor of such increase and improvement of facilities of said District:

The following persons appeared in opposition to such increase and improvement of facilities:

The Supervisor inquired as to whether there were any other persons present who wished to be heard. No one appeared, whereupon the Supervisor declared the public hearing closed.

Attachment: CertExMinsROAfterPH (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure Improvements Ph. 3 (Bond Resolution

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 of Minutes of a meeting of the Town Board of said Town of Amherst duly called and held on October 18, 2021, has been compared by me with the original minutes as officially recorded in my office as Town Clerk, and is a true, complete and correct copy thereof and of the whole of said original minutes.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town of Amherst this 18th day of October, 2021.

(SEAL)

Francina J. Spoth, Town Clerk
Town of Amherst

Attachment: CertExMinsROAfterPH (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure Improvements Ph. 3 (Bond Resolution

BOND RESOLUTION OF THE TOWN OF AMHERST, NEW YORK, ADOPTED OCTOBER 18, 2021, APPROPRIATING $2,100,000 FOR THE INCREASE AND IMPROVEMENT OF FACILITIES OF CONSOLIDATED SANITARY SEWER DISTRICT, AND AUTHORIZING THE ISSUANCE OF BONDS OF SAID TOWN IN THE PRINCIPAL AMOUNT OF $2,100,000 TO FINANCE SAID APPROPRIATION

Offered by: _____

Seconded By: _____

Recital

WHEREAS, following preparation of a map, plan and report and an estimate of cost for the increase and improvement of facilities of Consolidated Sanitary Sewer District (herein referred to as the "District"), in the Town of Amherst (herein called the "Town"), in the County of Erie, New York, and after a public hearing duly called and held, the Town Board of the Town determined that it is in the public interest to increase and improve the facilities of the District, and ordered that such facilities be so increased and improved;

Now, therefore, be it

RESOLVED BY THE TOWN BOARD OF THE TOWN OF AMHERST, IN THE COUNTY OF ERIE, NEW YORK (by the favorable vote of not less than two-thirds of all the members of said Board) AS FOLLOWS:

Section 1. The Town hereby appropriates the amount of $2,100,000 for the increase and improvement of facilities of the District, consisting of WPCF Building and Equipment

Attachment: CertBondReso (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure Improvements Ph. 3 (Bond Resolution

Infrastructure – Phase 3 & Sludge Minimization Project Design in connection therewith, as described in the map, plan and report dated September 19, 2021 (CIP Project No. E-46) prepared by the Town Engineering Department. The estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is $2,100,000. The plan of financing includes the issuance of $2,100,000 bonds of the Town to finance said appropriation and the assessment, levy and collection of assessments upon the several lots and parcels of land within the District which the Town Board shall deem especially benefited by said facilities, so much upon and from each as shall be in just proportion to the amount of benefit which the improvement shall confer upon the same.

Section 2. Bonds of the Town are hereby authorized to be issued in the principal amount of $2,100,000 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 appropriation.

Section 3. The following additional matters are hereby determined and stated:

(a) The period of probable usefulness of the class of objects or purposes for which said bonds are authorized to be issued, within the limitations of Section 11.00 a. 4 of the Law, is forty (40) 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. 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.

Attachment: CertBondReso (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure Improvements Ph. 3 (Bond Resolution

(c) The proposed maturity of the serial 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 said bonds shall contain the recital of validity prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation said bonds shall be general obligations of the Town, payable as to both principal and interest by a 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 issued in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

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 the renewals of said bond anticipation notes, and as to executing contracts for credit enhancements and providing for substantially level or declining annual debt service, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

Attachment: CertBondReso (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure Improvements Ph. 3 (Bond Resolution

Section 6. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation 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.

Section 7. This resolution shall take effect immediately and the Town Clerk is hereby authorized and directed to publish the foregoing bond resolution, in summary, in *"The Amherst Bee,"* a newspaper having a general circulation in said Town, which newspaper is hereby designated as the official newspaper of the Town for such publication, together with the Town Clerk's statutory notice in the form prescribed by Section 81.00 of the Local Finance Law of the State of New York.

Attachment: CertBondReso (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure Improvements Ph. 3 (Bond Resolution

The adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

Supervisor Brian J. Kulpa	voting _____
Councilwoman Jacqualine Berger	voting _____
Councilwoman Deborah Bruch Bucki	voting _____
Councilman Shawn Lavin	voting _____
Councilman Michael R. Szukala	voting _____

The Resolution was declared adopted.

Attachment: CertBondReso (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure Improvements Ph. 3 (Bond Resolution

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 resolution of the Town Board of said Town adopted at a meeting duly called and held on October 18, 2021, has been compared by me with the original resolution 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 resolution.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town of Amherst this 18th day of October, 2021.

(SEAL)

Francina J. Spoth, Town Clerk
Town of Amherst

Attachment: CertBondReso (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure Improvements Ph. 3 (Bond Resolution

At a meeting of the Town Board of the Town of Amherst, in the County of Erie, New York, held at the Town Hall, 5583 Main Street, Williamsville, New York, on the 18th day of October, 2021.

PRESENT:

Hon. Brian J. Kulpa, Supervisor
Jacqualine Berger, Councilwoman
Deborah Bruch Bucki, Councilwoman
Shawn Lavin, Councilman
Michael R. Szukala, Councilman

In the Matter

of the

Increase and Improvement of Facilities of Consolidated Sanitary Sewer District, in the Town of Amherst, in the County of Erie, New York, pursuant to Section 202-b of the Town Law

Offered by: _____

Seconded By: _____

RESOLUTION AND
ORDER AFTER PUBLIC
HEARING

WHEREAS, the Town Board of the Town of Amherst (herein called the "Town"), in the County of Erie, New York, on behalf of Consolidated Sanitary Sewer District (herein referred to as the "District"), has caused the Town Engineering Department, engineers duly licensed by the State of New York (the "Engineer"), to prepare a map, plan and report dated

Attachment: CertResoOrderAfterPH (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure Improvements Ph. 3 (Bond Resolution

Attachment: CertResoOrderAfterPH (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure Improvements Ph. 3 (Bond Resolution

September 19, 2021 (CIP Project No. E-46), for the increase and improvement of facilities of the District, consisting of WPCF Building and Equipment Infrastructure – Phase 3 & Sludge Minimization Project Design required in connection therewith as described in said report; and

WHEREAS, the Engineer has estimated that the cost of such increase and improvement of facilities shall be $2,100,000 and said map, plan and report have been filed with the Town Board; and

WHEREAS, the Town Board adopted an Order describing in general terms the proposed increase and improvement of such facilities, specifying the estimated cost thereof, and stating the Town Board would meet to hear all persons interested in said increase and improvement of facilities on October 18, 2021 at 7 o'clock P.M. (Prevailing Time) at the Town Hall, 5583 Main Street, Williamsville, New York; and

WHEREAS, a Notice of such public hearing was duly published and posted pursuant to the provisions of Article 12 of the Town Law; and

WHEREAS, such public hearing was duly held by the Town Board on the 18th day of October, 2021 at 7 o'clock P.M. (Prevailing Time) at the Town Hall, 5583 Main Street, Williamsville, New York, with considerable discussion on the matter having been had and all persons desiring to be heard having been heard, including those in favor of and those in opposition to said increase and improvement of such facilities; and

WHEREAS, the Town Board, as lead agency, has given due consideration to the impact that the project described herein may have on the environment and has determined that such project is a Type II project which will not result in any significant adverse environmental impacts, pursuant to the State Environmental Quality Review Act (SEQRA), constituting Article 8 of the Environmental Conservation Law, and 6 N.Y.C.R.R., Regulations Part 617.5;

Now, therefore, be it

DETERMINED, that it is in the public interest to increase and improve the facilities of the District as hereinabove described, at the estimated total cost of $2,100,000; and it is hereby

ORDERED, that the facilities of the District shall be so increased and improved and that the Engineer shall prepare plans and specifications and make a careful estimate of the expense of said increase and improvement of such facilities and, with the assistance of the Town Attorney, shall prepare a proposed contract for such increase and improvement of facilities of the District, which plans and specifications, estimate and proposed contract shall be presented to the Town Board as soon as possible; and it is hereby

FURTHER ORDERED, that the expense of said increase and improvement of facilities shall be financed by the issuance of $2,100,000 bonds of the Town, and the cost of said increase and improvement of facilities, including payment of principal of and interest on said bonds, shall be paid by the assessment, levy and collection of assessments upon the several lots and parcels of land within the District which the Town Board shall deem especially benefited by said facilities, so much upon and from each as shall be in just proportion to the amount of benefit which the improvement shall confer upon the same; and it is hereby

FURTHER ORDERED, that the Town Clerk record, or cause to be recorded, a certified copy of this Resolution and Order After Public Hearing in the office of the Clerk of Erie County within ten (10) days after adoption thereof.

DATED: October 18, 2021

(SEAL)

TOWN BOARD OF THE TOWN OF AMHERST

Attachment: CertResoOrderAfterPH (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure Improvements Ph. 3 (Bond Resolution

The adoption of the foregoing Resolution and Order was duly put to a vote on roll call, which resulted as follows:

Supervisor Brian J. Kulpa	voting _____
Councilwoman Jacqualine Berger	voting _____
Councilwoman Deborah Bruch Bucki	voting _____
Councilman Shawn Lavin	voting _____
Councilman Michael R. Szukala	voting _____

The Resolution and Order were declared adopted.

Attachment: CertResoOrderAfterPH (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure Improvements Ph. 3 (Bond Resolution

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 resolution and order of the Town Board of said Town adopted at a meeting duly called and held on October 18, 2021, has been compared by me with the original resolution and order 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 resolution and order.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town of Amherst this 18th day of October, 2021.

(SEAL)

Francina J. Spoth, Town Clerk
Town of Amherst

Attachment: CertResoOrderAfterPH (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure Improvements Ph. 3 (Bond Resolution

Attachment: 2021 WPCF MPR Infrastructure Ph III (FINAL) 09-21-2021 (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure

Town of Amherst

Engineering Department

Water Pollution Control Facility

BUILDING AND EQUIPMENT INFRASTRUCTURE – PHASE 3

2021 – 2026 Capital Improvement Program
Project E-46

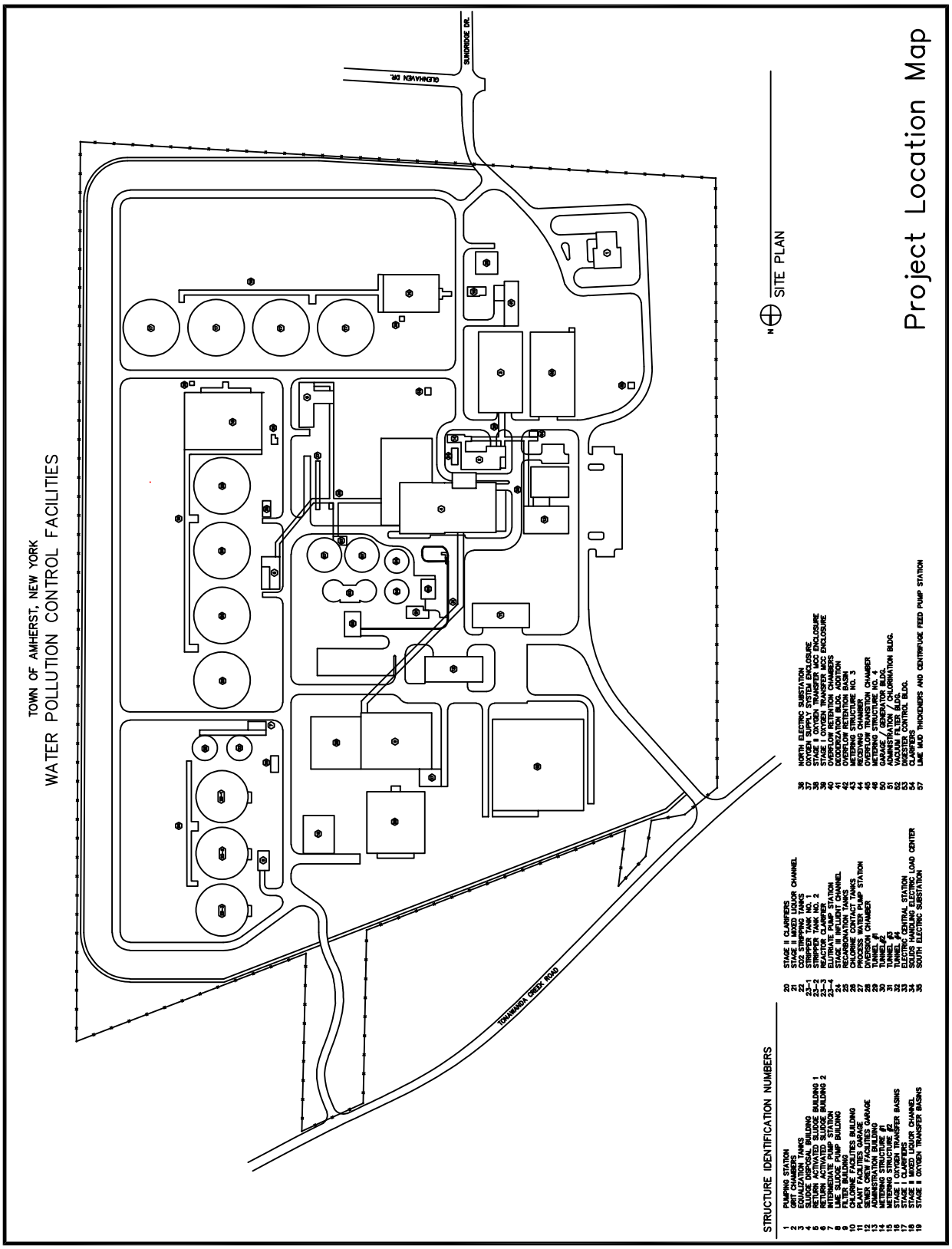
Map, Plan & Report
September 19, 2021

Contents:

- Existing Conditions
- Proposed Scope of Improvements
- Financial / Taxation Summary
- Project Site / Location Plan
- Town of Amherst Planning Department SEQR Determination

Town of Amherst Engineering Department
Engineering Support Division
1100 North Forest Road
Williamsville, NY 14221
(716) 631 - 7154 / Fax: (716) 631 - 7222

WATER POLLUTION CONTROL FACILITIES SITE PLAN:



Attachment: 2021 WPCF MPR Infrastructure Ph III (FINAL) 09-21-2021 (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure

Attachment: 2021 WPCF MPR Infrastructure Ph III (FINAL) 09-21-2021 (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure

1.0 FACILITY DESCRIPTION

The Town of Amherst (Town) WPCF, located at 455 Tonawanda Creek Road, has been in operation since the 1970s. The WPCF processes wastewater from the Towns of Amherst and Clarence, and the Village of Williamsville. This facility is a pure oxygen activated sludge treatment plant which provides preliminary, primary, and secondary treatment, as well as tertiary filtration. Plant effluent is seasonally disinfected with sodium hypochlorite and dechlorinated prior to discharge into Tonawanda Creek.

The WPCF is rated at a monthly average flow of 48 MGD according to the Town's State Pollution Discharge Elimination System (SPDES) Permit. In addition, the Town's High Flow Management Plan, High Flow Procedures state that Stage I treatment must sustain a minimum peak flow of 85 MGD, while Stage II must be capable of sustaining a minimum peak treatment capacity of 60 MGD.

2.0 WPCF BUILDING AND EQUIPMENT INFRASTRUCTURE – PHASE 3 & SLUDGE MINIMIZATION PROJECT DESIGN

2.1 EXISTING CONDITIONS

The WPCF has 57 buildings and structures on the premises with many of them housing equipment that is critical for plant operation. Most of the site structures were built in the late 1970s and are beginning to show signs of deterioration. Many of these deteriorations are presenting safety hazards or causing further damage to Town property.

In 2019, the Town hired a consultant to perform a building condition survey of the existing facilities at the WPCF. The survey report contained a description of the building systems surveyed, their observed condition, and recommended repairs. From the consultant's observations, they concluded that the many of the structures had deteriorating exterior building envelopes. These issues being failing roof systems, deteriorating parapet walls & precast wall panels, brick spalling and cracked or missing joint sealant.

The goal of this project will be to reduce safety concerns, improve building efficiency, and extend the life of various structures. In addition, essential equipment will be replaced in order to provide reliable equipment that will not interrupt the plant process.

This project will focus on the following areas of improvements, but are not limited to:

INFRASTRUCTURE CONSTRUCTION:

Roof System Rehabilitation:

Presently there are a number of buildings located at the WPCF with roof systems that are in failure mode for numerous reasons. Some roof areas have leaking and or ponding issues due to deficient drainage system installation, skylight failure and/or degradation over time. All buildings roofs with failures will be addressed with an entire roof replacement.

Parapet Wall & Precast Wall Panel Repair / Rehabilitation:

From the 2019 building condition survey, the consultant observed that multiple buildings had existing precast concrete wall panels and parapet walls that were failing. Most of the structures were built in the late 1970s, and over time some of these walls have deteriorated due to cracked sealant joints, rusted steel lintels, misaligned anchor fasteners, failing wall flashing and no protective capping on the parapet walls.

In late April 2020, a precast panel forming part of the east parapet of Building 4 detached from the building and fell to the ground. It was observed that the roof system had failed in this area, and the anchorage that held the panel in place had corroded. In order to safe guard personal and other structures, the Town installed multiple anchor bolts on each of the precast panels in this section of the building.

Ultimately, all buildings with failing parapet walls and precast wall panels will need to be addressed with repairs or full replacements.

Concrete Tank Repair:

The WPCF utilizes various reinforced concrete tanks in their plant process. These tanks were constructed in the late 1970s are in need of repair due to deterioration of sealant system and concrete spall. Some of the major tanks that are need of repair include the Overflow Retention Basin, Chlorine Contact Tanks and the Oxygen Transfer Basins.

#6 Diesel Tank Remediation:

Three (3) 50,000-gallon No. 6 fuel oil underground storage tanks (UST) were installed in 1980, and are located north of WPCF Building No. 4. The tanks fueled the WPCF incinerators for a few years after installation, and have been out of service since that time.

The Town was notified by the NYSDEC that these tanks were improperly out of service. New York Codes, Rules and Regulations (NYCRR) requires when a UST is out of service for more than twelve months, the facility must permanently close the UST. The Town is currently working with a design consultant to permanently close these three (3) tanks in accordance with 6 NYCRR Part 613.

Fence Replacement:

Security fencing surrounds the entire perimeter of the WPCF property. Fencing is also used in various locations on the plant site to protect vital equipment. Some of the fencing and gates are deteriorating, and are in need of replacement.

INFRASTRUCTURE EQUIPMENT:

Grit Collector Mechanisms and Equipment:

During the preliminary treatment, sewage is pumped to three (3) aerated grit collectors which utilize compressed air to suspend organic material while the grit settles for removal.

Attachment: 2021 WPCF MPR Infrastructure Ph III (FINAL) 09-21-2021 (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure

In 2018, the three (3) centrifugal blowers and the piping for the air diffusers were replaced in the grit collector system. Currently, the chain & flight systems in the grit collectors are constantly in need of repair, and have surpassed their life expectancy. The components of the chain & flight systems will need to be replaced.

Sludge Screen Replacement Components:

The WPCF utilizes two (2) sludge screens in the solids handling process to remove additional rags and dry solids from the wastewater sludge. This equipment helps protect equipment, reduces blockages and increases the efficiency of downstream treatment processes. The screens also generate a drier material that is easier and cheaper to handle and transport.

This equipment often requires regular maintenance due to its frequent use. Having replacement components available onsite will limit the amount of downtime of this equipment.

Screw Conveyor Components:

The facility utilizes screw conveyor systems throughout the treatment process. They are needed in the process to remove rags, debris, grit and solid sludge from the raw sewage. If a conveyor fails in one of these systems, then that part of the process will be held up until that conveyor is back in service. It is critical to have screw conveyor components available to make quick maintenance repairs.

Intermediate Pump Station VFDs:

The WPCF Intermediate Pumping Station, Structure No. 7, operates three vertical turbine type pumps. Flow is conveyed to the Intermediate Pumping Station wet well from the Stage 2 Clarifiers. The wastewater is lifted by the vertical turbine pumps, and discharged to an open channel prior to going into the filtration building and exiting the plant.

The intermediate pumps operate with variable frequency drives (VFD) which control the speed of the motors. The existing VFDs were installed in 2003, and have surpassed their life expectancy. The VFD equipment will need to be replaced.

Uninterrupted Power Source (UPS) Replacement:

This equipment is an electrical apparatus that provides emergency power to a load when the main power source fails. Building No. 13 has a UPS system in place to provide backup power to enable all SCADA systems to stay online, monitor & record data that is necessary for State regulations. The UPS also provides emergency lighting & power for the building. This building is manned 24 - 7, along with the UPS there is a backup emergency generator which responds in minutes of a blackout. The gap between power loss and generated power will be covered by the UPS until the emergency backup generator power is established to the Plant.

The average life expectancy of a UPS system is typically 10 – 15 years, and the current system is approximately 20 years old. During a recent power outage, the UPS equipment experienced a failure which then caused damage to server components. The parts to repair the UPS are obsolete and costly. In order to provide reliable backup power to the Building No. 13 the UPS system should be replaced.

Attachment: 2021 WPCF MPR Infrastructure Ph III (FINAL) 09-21-2021 (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure

Portable Dewatering Pumps:

Temporary portable pumps are used at the facility to dewater tanks and bypass systems during maintenance and repairs. These pumps are also used for bypassing flows for maintenance or emergency purposes at lift station sites throughout the Town.

Currently, the facility has existing pumps that have surpassed their life expectancy, and are in need of costly repairs. The portable pumps will need to be replaced.

INFRASTRUCTURE SOFTWARE:

Hach Water Information Management Solution (WIMS) Upgrade:

This software is utilized by the facility to provide a complete picture of the wastewater system to the plant operators. WIMS provides a central secure database, manages complex equations, intelligent modeling tools to predict and prevent disruptions, and reporting data to regulatory agencies.

While working with the manufacturer Hach, it was determined that purchasing the current version of the WIMS software is more cost effective than paying the fees for the outdated support contract.

This project will provide the following improvements to the facility's infrastructure, equipment and software.

2.1.1 SCOPE OF IMPROVEMENTS

INFRASTRUCTURE CONSTRUCTION:

Roof System Rehabilitation:

Replace failing roof systems throughout the facility. These roof replacements will include complete correction of all critical design details including all insulation, flashing, drainage, curb details, and any other associated components of the roof system.

Parapet Wall & Precast Wall Panel Repair / Rehabilitation:

Rehabilitate or replace failing parapet walls and precast wall panels throughout the facility. This scope will also include any other improvements needed to the building's envelope.

Concrete Tank Repair:

Repair concrete and any other associated appurtenances on deteriorating tanks through the facility.

#6 Diesel Tank Remediation:

Permanently close the three (3) underground storage tanks in accordance with New York Codes, Rules and Regulations.

Fence Replacement:

Attachment: 2021 WPCF MPR Infrastructure Ph III (FINAL) 09-21-2021 (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure

Replace sections of existing fencing and utility gates. This work will also include replace to the communications, power & controls and all other associated appurtenances.

INFRASTRUCTURE EQUIPMENT:

Grit Collector Mechanisms and Equipment:

Provide upgrades and replacements to the chain & flight systems in the grit collectors. These improvements will include various components of the chain & flights, electrical controls, flow meters, level sensors, communications and any other associated appurtenances.

Sludge Screen Replacement Components:

Provide upgrades and replacements to various components of the sludge screen system and any other associated appurtenances.

Screw Conveyor Components:

Provide upgrades and replacements to various components of the screw conveyor systems and any other associated appurtenances.

Intermediate Pump Station VFDs:

Replace the existing variable frequency drives on the intermediate pumps with new equipment.

Uninterrupted Power Source (UPS):

Replace the existing UPS system located in Building No. 13, and all other associated appurtenances.

Portable Dewatering Pumps:

The facility will procure multiple portable dewatering pumps and all other associated appurtenances.

INFRASTRUCTURE SOFTWARE:

Hach Water Information Management Solution (WIMS) Upgrade:

Upgrade our existing outdated software and database to the current release. This upgrade will also include remote training, updating the DMR reporting that is produced through the software, configuring the connection between the WIMS program and our SCADA network, and all other associated appurtenances.

Attachment: 2021 WPCF MPR Infrastructure Ph III (FINAL) 09-21-2021 (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure

2.1.2 FINANCING

The WPCF Building and Equipment Infrastructure, Phase 3 Project and Sludge Minimization Design Project will be completed during 2021 - 2022. The work described above will be bonded against the Consolidated Sanitary Sewer District at a *total project cost* of $2,100,000. The above project can be characterized as a replacement-in-kind project.

FINANCIAL SUMMARY:

Estimated Construction Costs	$ 1,345,000
Estimated Equipment Costs	$390.000
Estimated Software Costs	$25,000
Engineering Fees	$ 300,000
Legal / Administrative /Interest	$ 10,500
Contingencies	$ 29,500
Total Amount to be bonded	**$ 2,100,000**

It is important to note that the above project costs are estimates only and the department reserves the ability to maneuver funding between projects as necessary.

2.1.3 TAX IMPACTS

Taxation Summary:

- Current Bond Request: $ 2,100,000
- Bond Term: 20 years
- Annual Tax Impacts: $0.014 per year, per $1,000 AV
- Typical Property Taxation Impacts: $2.88 per year, per $200,000 property

Attachment: 2021 WPCF MPR Infrastructure Ph III (FINAL) 09-21-2021 (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure

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 September 21, 2021

TO: Jeffery Burroughs, P.E. Town Engineer

FROM: Daniel J. Ulatowski, AICP, Assistant Planning Director

RE: SEQR Determination – Water Pollution Control Facility
Building and Equipment Infrastructure – Phase 3
TOA Project No. E-46

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)\2021_WPCF_Phase 3_E-46.docx

cc:
Stanley J. Sliwa, Esq., Town Attorney
Daryl Bramer, Comptroller
Daniel Howard, Planning Director

Attachment: 2021 WPCF MPR Infrastructure Ph III (FINAL) 09-21-2021 (RES-2021-905 : Public Hearing - WPCF Bldg./Equip. Infrastructure

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 24921 **RESOLUTION 2021-906** **ADOPTED**

Local Law Amending Chapter 83, Building Construction Administration

Public Hearing with respect to a Local Law Amending Chapter 83, Building Construction Administration.

10/18/2021
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 7:17 PM.

Mark Berke, Building Commissioner, presented the changes to the local law.

The following speaker addressed the Town Board:
Jane Cox, Harlem Rd. - questioned the process of imposing fines

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 7:22 PM.

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

LOCAL LAW NO. ____-2021

TOWN OF AMHERST

COUNTY OF ERIE, STATE OF NEW YORK

A Local Law Amending Chapter 83 Of The Code Of The Town of Amherst, Known As "Building Construction Administration," With Respect To Violations and Penalties For Offenses Related To Non-Compliance With Section 83-9-5, "Sidewalks"

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 83 Of The Code Of The Town of Amherst, Known As "Building Construction Administration," With Respect To Violations and Penalties for Offenses Related To Non-Compliance With Section 83-9-5, "Sidewalks."

Section 2. Purpose.

The purpose of this Local Law shall be to amend Chapter 83 of the Code of the Town of Amherst, specifically Section 83-1-5, for violations and penalties for offenses related to non-compliance with Section 83-9-5, "Sidewalks."

Section 3.

Section 83-1-5, Part 1, is hereby amended as follows:

§ 83-1-5 **Violations; penalties for offenses.**

5-1. It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, equip, use, or occupy any building or other structure regulated hereunder, or portion thereof, or to store, handle, or use hazardous substances, materials or devices in violation of the Uniform Code or Energy Code, this chapter or other applicable law or ordinance or any regulation or rule promulgated by the Commissioner of Building in accordance with applicable laws, or to fail in any manner to comply with a notice, directive or compliance order of the Commissioner of Building or his representative issued pursuant to the New York Executive Law, the New York Energy Code or this chapter, or to construct, alter, use or occupy any building, structure, or premises regulated hereunder, or part thereof, or to store, handle or use hazardous substances,

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: proposed LL ch 83 (RES-2021-906 : Local Law Amending Chapter 83 Building Construction Administration)

materials or devices in a manner not permitted by an approved building permit, fire prevention permit, operating permit, certificate of occupancy or certificate of compliance or in strict accordance with the approved plans and specifications.

5-2. It shall be unlawful for any person, firm or corporation to install, or cause to be installed, or to alter or repair electrical wiring for light, cooling, heat or power in a manner not permitted by an approved electrical permit.

5-3. It shall be unlawful for any person, firm or corporation to connect, or cause to be connected, electrical wiring in or on properties for light, cooling, heat or power to any source of electrical supply prior to authorization of the Commissioner of Building.

5-4. Any person having been served with a compliance order pursuant to the provisions of 19 NYCRR Chapter XXXIII, Subchapter A or B, or this chapter who shall fail to comply with it within 30 days after such service or within the time frame fixed by the Commissioner of Building for compliance, and any owner, builder, engineer, architect, tenant, contractor, subcontractor, construction superintendent or other agencies or any other person taking part or assisting in the construction, repair, alteration or use of any building, other structure or equipment regulated by 19 NYCRR Chapter XXXIII, Subchapter A or B, or this chapter, or any person storing, handling or using hazardous substances, materials or devices, in violation of 19 NYCRR Chapter XXXIII, Subchapter A or B, or this chapter or any lawful compliance order, notice, directive, permit or certificate of the Commissioner of Building or his representative made thereunder, shall be punishable:

A. By a fine of not more than $1,000 per day of violation or imprisonment not exceeding one year, or both, for a violation of 19 NYCRR Chapter XXXIII, Subchapter A, Part 1225, or any order made pursuant thereto. Each day that such violation continues shall be deemed a separate offense punishable as such.

B. By a fine of not more than $250 per day of violation or imprisonment for a period not exceeding 15 days, or both, for all other violations of 19 NYCRR Chapter XXXIII, Subchapter A or B, or this chapter. Each day that such violation continues shall be deemed a separate offense punishable as such.

C. Except as otherwise provided for by this Chapter or State Law, any violation by a person, firm, corporation, or other entity of Section 83-9-5, as amended from time to time, shall be deemed a violation punishable by the following penalties: **[Added 4-11-2011 by L.L. No. 8-2011]**

Attachment: proposed LL ch 83 (RES-2021-906 : Local Law Amending Chapter 83 Building Construction Administration)

~~Strikethrough~~ = Deleted language; Underline = Added language

(1) For Property in Residential Districts:

(a) First violation ~~$25~~ $100;

(b) Second violation within 12 months of the first violation, ~~$50~~ $200;

(c) Each subsequent violation within 12 months of the first violation, ~~$100.00~~ $200, and

(2) For Property in Nonresidential Districts:

(a) First violation ~~$75~~ $250;

(b) Second violation within 12 months of the first violation, ~~$150~~ $500;

(c) Each subsequent violation within 12 months of the first violation, ~~$250.00~~ $500.

5-5. Any person who, without a valid license or registration, engages in any occupation or activity which under this chapter requires a license or registration shall be guilty of an offense punishable by a fine not exceeding $250 or imprisonment for a period not exceeding 15 days, or both. **[Amended 4-11-2011 by L.L. No. 6-2011]**

5-6. Whenever a person, firm or corporation shall be convicted for a second time of a violation of the Uniform Code, Energy Code or this chapter, any license or registration then held by such person, firm or corporation pursuant to this chapter shall be deemed revoked. **[Amended 4-11-2011 by L.L. No. 6-2011]**

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: proposed LL ch 83 (RES-2021-906 : Local Law Amending Chapter 83 Building Construction Administration)

~~Strikethrough~~ = Deleted language; Underline = Added language

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 24920 **RESOLUTION 2021-907** **HEARING CLOSED**

The First of Two Public Hearings Required by the U.S. Department of Housing and Urban Development for the Town's FY 2022 Community Development Annual Action Plan

First public hearing on the 2022 Annual Action Plan for the Amherst-Cheektowaga-Tonawanda HOME Consortium.

10/18/2021
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 7:23 PM.

Laurie Stillwell, Associate Planner, 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 7:28 PM.

FINANCIAL IMPACT:

Adoption of the proposed resolution involves no monetary consideration and will have no impact on the Town Budget or tax rate.

RESULT:	**HEARING CLOSED**

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Councilmembers
Initiated by: **Jacqualine Berger**
Co-Sponsored by:

DOC ID: 24892 **RESOLUTION 2021-908** **ADOPTED**

Appointment to the Arts & Culture in Public Places in Amherst Board

WHEREAS, Town of Amherst created the Arts & Culture in Public Places Board to promote public art and culture within the town and to collaborate and cooperate with various and appropriate individuals, groups, associations, organizations and institutions concerned with art and culture; and

WHEREAS, to promote, ensure and enhance the function, object and mission of the visual and performing arts; and

WHEREAS, the Arts & Culture in Public Places Board, also known as Arts & Culture, consists of nine (9) members, each serving a term of two (2) years; and

WHEREAS, Maureen Cilano has expressed interest in serving on the Arts & Culture Board and has attended a meeting(s).

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board appoints Maureen Cilano for her first term to conclude December 31, 2023.

10/18/2021
Consent

FINANCIAL IMPACT:

None.

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

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Councilmembers
Initiated by: **Deborah Bruch Bucki**
Co-Sponsored by: **Supervisor Kulpa, Deputy Supervisor Berger**

DOC ID: 24908 **RESOLUTION 2021-909** **ADOPTED**

Congressional Redistricting

WHEREAS, because of the federal decennial census, New York State must redraw district lines for the United States House of Representatives; and

WHEREAS, the New York State Independent Redistricting Commission is presently accepting public comment on the redrawing of congressional districts in New York State; and

WHEREAS, since 2013, most residents of the town of Amherst have lived in the 26th Congressional District, although a substantial number of residents in Amherst's northeast corner reside in the 27th Congressional District; and

WHEREAS, given the fact that Amherst is the largest town in upstate New York, placement of a majority of its citizens within the 26th District has been wholly and entirely proper, given that the town remains a first-ring Buffalo suburb and contains a mix of suburban neighborhoods with many shared interests with neighboring municipalities in the 26th District; and

WHEREAS, given the substantial uniformity of interest among the residents of the Town of Amherst, it would make sense to unify the Town within one congressional district during the redistricting process; and

WHEREAS, from 2003 to 2012, nearby municipalities such as Buffalo, the Town and City of Tonawanda, Niagara Falls and other areas were situated within the "Earmuff District," which connected these areas to metropolitan and suburban Rochester many dozens of miles to the east; and

WHEREAS, the "Earmuff District" stretched from the east side of Buffalo, north through the Town and City of Tonawanda, north to Niagara Falls, through Niagara, Lewiston and Porter, then east across the shores of Lake Ontario, through portions of 10 towns in Niagara, Orleans and Monroe counties, including the City of Rochester and additional towns to Rochester's southeast; and

WHEREAS, placement of Amherst into a district situated substantially in Erie County would promote the generally accepted criteria for good government redistricting, particularly in terms of compactness and preservation of communities of interest; and

WHEREAS, draft maps have recently circulated in various publications which have suggested that the State of New York is considering the creation of an "Earmuff District" that would reunite the aforementioned areas, among other Niagara Frontier localities, with the City of Rochester; and

WHEREAS, it is incumbent upon this Town Board to make its voice heard on behalf of Town residents as critical decision-making lies ahead in terms of congressional redistricting.

NOW, THEREFORE, BE IT RESOLVED that in the congressional redistricting process, the Town of Amherst calls upon the decision-making authorities, including, but not limited to the New York State Independent Redistricting Commission, the New York State Legislative Task Force on Demographic Research and Reapportionment and/or the New York State Legislature to place the entirety of the town of Amherst within one and only one congressional district; and

BE IT FURTHER RESOLVED that the Amherst Town Board does hereby discourage any effort to re-establish a so-called "Earmuff District" connecting any portion of the Niagara Frontier to the City of Rochester, and does hereby encourage aforementioned decision-making authorities to reject all efforts to re-establish a so-called "Earmuff District," or any district which seeks to similarly connect the Buffalo and Rochester metropolitan areas; and

BE IT FINALLY RESOLVED that certified copies of this Resolution be sent to the New York State Independent Redistricting Commission (250 Broadway, 22nd Floor, New York, NY 10007), the New York State Legislative Task Force on Demographic Research and Reapportionment (250 Broadway, Suite 2100, New York, NY 10007), the Speaker of the New York State Assembly and the Majority Leader of the New York State Senate, and to the local offices of the Representatives in Congress in New York's 26th and 27th Congressional Districts.

10/18/2021
Consent

FINANCIAL IMPACT:

None.

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

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Councilmembers
Initiated by: **Michael Szukala**
Co-Sponsored by:

DOC ID: 24917 **RESOLUTION 2021-910** **ADOPTED**

Set Public Hearing Date – New Subdivision Traffic Control Signing

The local roadways of Gesel Woods, The Preserve at Muir Woods, Miller's Crossing, The Preserve at Glen Meadows, and Fair Woods Estates subdivisions are either dedicated or in the process of being dedicated to the Town of Amherst as public roadways and are in need of traffic control devices (signs). As such, please set a public hearing on November 22, 2021 to install traffic signs at the following locations:

Gesel Woods

"The tee intersection of Gesel Lane and Ayer Road is hereby designated as a stop intersection and a stop sign shall be installed at the southwest corner."

The Preserve at Muir Woods

"The tee intersection of Founders Lake Court and Sierra Drive is hereby designated as a stop intersection and a stop sign shall be installed at the southeast corner."

and,

"The tee intersection of Founders Lake Court and Lynette Lane is hereby designated as a stop intersection and a stop sign shall be installed at the northwest corner."

and,

"The intersection of Sierra Drive and Lynette Lane be signed as a roundabout with one-way signage and yield signs on all approaching legs."

10/18/2021
Consent

FINANCIAL IMPACT:

None.

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

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24896 **RESOLUTION 2021-911** **ROLL CALL VOTE (ADOPTED)**

2021 Athletic Fields Replacement Project - Amended Bond Resolution - $1,700,000)

AGENDA ITEM - OCTOBER 18TH, 2021

TO: **Town Board**

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

DATE: **October 13, 2021**

RE: **2021-2026 C.I.P. - YR-11A**
Athletic Fields Replacement Project
Amended Bond Resolution - $1,700,000

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

(1) Adopt the attached SEQR Negative Declaration - Notice of Determination of Non-Significance for the above project as determined by the Town of Amherst Planning Department; and

(2) Adopt the attached amended bond resolution authorizing the issuance of $1,700,000.00 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.

Thank you.

SJS:nmb
Attachments
c: Kathy Cooper, Deputy Town Clerk
(w/attachment, **Agenda Item - October 18th, 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*)

10/18/2021

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:

Amended Bond Resolution - $1,700,000

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, AICP
Planning Director

Daniel J. Ulatowski, AICP
Assistant Planning Director

AUG20'21 AM11:29 RCVD

SEQR
Negative Declaration

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency: Town of Amherst
Planning Board

Project: SP-1990-08_H

Address: 5583 Main Street
Williamsville, NY 14221
(716) 631-7051

Date: August 19, 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: Site Plan Review

SEQR Status: Type 1 Action

Description of Action: Lou Gehrig Youth Baseball & Softball improvements including the expansion of the outfield limits with warning tracks, new field lighting and electrical service, fencing, foul poles, backstops, dugouts, portable bleachers, NCAA regulation bullpens, scoreboard, sound system and a shed. Work will include the site improvements not specifically stated above, including, stormwater, utilities, grading, lighting, paving, and landscaping.

Location: 550 Smith Road (portion), Amherst, Erie County

Petitioner: Town of Amherst

Attachment: 2021AthFieldsReplaceAmended.SEQR-10122021095019 (RES-2021-911 : 2021 Athletic Fields Replacement Project - (Amended

AUG20'21 AM11:29 RCVD

Reasons Supporting This Determination

Based on information submitted by the applicant including a Full Environmental Assessment Form (EAF) - Part I, (as amended) and a complete site plan application, a preliminary staff analysis was undertaken. Compared to the criteria listed in Section 617.7, all indications are that this action 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 Engineering Department on August 18, 2021 reviewed the Grading, Drainage and Utility Plans submitted on August 6, 2021, Engineer's Report submitted on August 6, 2021, the Erosion Control Plan submitted on August 6, 2021 and The Stormwater Pollution Prevention Plan (SWPPP) submitted on August 6, 2021 was also reviewed. Based on its review of these documents, the Department has determined that the project has or will have met all applicable requirements and has no objection to its approval.

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. The Planning Department reviewed a Site Plan submitted on August 6, 2021 and determined that it meets or exceeds Zoning Ordinance requirements for greenspace. The Site Plan has or will have met all Zoning Ordinance and Town requirements for landscaping.

3. The project is not expected to create any material conflict with the Town Comprehensive Plan. The Building Department in their review of August 9, 2021 and the Planning Department in their review of August 17, 2021 have reviewed the application documents and determined in that the subject project has or will have met all International Building Code – 2018 and Zoning Ordinance regulations.

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 project is located in the Recreation Conservation zoning district (RC); neighboring uses are open space, parkland, recreational facilities, single family and multifamily residential within the Recreation Conservation District (RC), Suburban Agriculture District (SA) and Multifamily Residential District Five (MFR-5); therefore, the project is consistent with surrounding land use.

Attachment: 2021AthFieldsReplaceAmended.SEQR-10122021095019 (RES-2021-911 : 2021 Athletic Fields Replacement Project - (Amended

AUG20'21 AM11:29 RCVD

6. The proposed subject development will include the expansion of the outfield limits with warning tracks, new field lighting and electrical service, fencing, foul poles, backstops, dugouts, portable bleachers, NCAA regulation bullpens, scoreboard, sound system and a shed which will not cause a major change in the use of either the quantity or type of energy.

7. The project will not create any hazard to human health. The Fire Chief's Association on August 13, 2021, reviewed the project and has no objection to the approval of the site plan, as all requirements of this agency has or will have been met.

8. The project 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 expansion of the outfield limits with warning tracks, new field lighting and electrical service, fencing, foul poles, backstops, dugouts, portable bleachers, NCAA regulation bullpens, scoreboard, sound system and a shed will be consistent with the scale of surrounding land uses.

9. The function of the proposed expansion of the outfield limits with warning tracks, new field lighting and electrical service, fencing, foul poles, backstops, dugouts, portable bleachers, NCAA regulation bullpens, scoreboard, sound system and a shed 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 dated August 5, 2021 and Erie County Dept. of Public Works –Highways Division dated August 16, 2021 indicates that significant negative traffic impacts are not expected to result from the proposed project.

11. A coordinated review of the project has been undertaken by Town Departments including, in addition to those mentioned above, Assessor on August 5, 2021, Plumbing Division on August 4, 2021, and Right-of-Way Agent on August 5, 2021. These reviews did not identify any potential significant adverse environmental issues and indicated 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 cause significant negative environmental impacts.

Attachment: 2021AthFieldsReplaceAmended.SEQR-10122021095019 (RES-2021-911 : 2021 Athletic Fields Replacement Project - (Amended

AUG20'21 AM11:29 RCVD

Planning Board Approval
Moved by: Giuliani; Seconded by: Gelber Ayes 7; Noes 0

signature & title of preparer Date

Robert J. Gilmour, Planning Board Chair 8-19-21, Date

SM/ac
X:\Current_Planning\Files\Site Plans\1990\SP-1990-08_H_(550_Smith_Rd)_2021\SP-1990-08H_SEQR_Neg_Declaration_081921.docx
cc: Amherst Town Clerk
Building Department
Engineering
Fire Chiefs'
Highway
Traffic/Safety
ECDEP
NYSDEC
NYSDOT
Jeffrey Burroughs, Engineering Department
Eric Guzdek, Youth and Recreation
Leanne Voit, Wendel, 375 Essjay Rd., Suite 200, Williamsville, NY 14221

Attachment: 2021AthFieldsReplaceAmended.SEQR-10122021095019 (RES-2021-911 : 2021 Athletic Fields Replacement Project - (Amended

Attachment: 2021AthFieldsReplaceAmendedMPR-10122021094959 (RES-2021-911 : 2021 Athletic Fields Replacement Project - (Amended 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

Rev. 10/7/21

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: 2021AthFieldsReplaceAmendedMPR-10122021094959 (RES-2021-911 : 2021 Athletic Fields Replacement Project - (Amended 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

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).

Remaining project funding may be utilized to construct additional improvements at the facility including vehicle parking and a field house/concession building, or for other ancillary costs related to the project.

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).

Remaining project funding may be utilized to install wetland mitigation measures as defined by the NYSDEC wetland permit, or for other ancillary costs related to the project.

FINANCIAL SUMMARY:

Williamsville Junior Football Field Relocation

Professional Service Costs (Construction Phase Services)	$ 45,000
Estimated Construction Costs:	
Williamsville Junior Football Game Fields Relocation	$ 1,592,459
Legal / Administrative	$ 10,500
Project Contingency	$ 452,041
Total Amount to be Financed (bond)	**$ 2,100,000**

The original bond amount was $2,482,900 with a 15-year PPU. This bond is being reduced by $382,900. New bond amount of $2,100,000 will have a 15-year PPU.

NCAA Baseball Diamond Relocation

Professional Service Costs (Construction Phase Services)	$ 45,000
Estimated Construction Costs:	
NCAA Baseball Diamond Relocation	$ 1,531,725
Legal / Administrative	$ 8,500
Project Contingency	$ 114,775
Total Amount to be Financed (bond)	**$ 1,700,000***

**** The original bond amount was $1,317,100 with a 15-year PPU. This bond is being increased by $382,900. The newly authorized amount of $382,900 will have a 5-year PPU.***

TAXATION SUMMARY:

Bond Amount:	$ 3,417,100
Bond Term:	15 Years
Annual Tax Impacts:	$.0289 per $1,000 AV (General Fund)
Typical Property Taxation Impact:	$5.7721 per $200,000 property
Bond Amount:	$ 382,900
Bond Term:	5 Years
Annual Tax Impacts:	$.0081 per $1,000 AV (General Fund)
Typical Property Taxation Impact:	$1.6153 per $200,000 property

Attachment: 2021AthFieldsReplaceAmendedMPR-10122021094959 (RES-2021-911 : 2021 Athletic Fields Replacement Project - (Amended Bond

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: 2021AthFieldsReplaceAmendedMPR-10122021094959 (RES-2021-911 : 2021 Athletic Fields Replacement Project - (Amended Bond

Amherst

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

Brian J. Kulpa
Supervisor

Daniel C. Howard, AICP
Planning Director

Daniel J. Ulatowski, AICP
Assistant Planning Director

AUG20'21 AM11:29 RCVD

SEQR
Negative Declaration

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency:	Town of Amherst Planning Board	**Project:**	SP-1990-08_H
Address:	5583 Main Street Williamsville, NY 14221 (716) 631-7051	**Date:**	August 19, 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: Site Plan Review

SEQR Status: Type 1 Action

Description of Action: Lou Gehrig Youth Baseball & Softball improvements including the expansion of the outfield limits with warning tracks, new field lighting and electrical service, fencing, foul poles, backstops, dugouts, portable bleachers, NCAA regulation bullpens, scoreboard, sound system and a shed. Work will include the site improvements not specifically stated above, including, stormwater, utilities, grading, lighting, paving, and landscaping.

Location: 550 Smith Road (portion), Amherst, Erie County

Petitioner: Town of Amherst

Attachment: 2021AthFieldsReplaceAmendedMPR-10122021094959 (RES-2021-911 : 2021 Athletic Fields Replacement Project - (Amended Bond

AUG20'21 AM11:29 RCVD

Reasons Supporting This Determination

Based on information submitted by the applicant including a Full Environmental Assessment Form (EAF) - Part I, (as amended) and a complete site plan application, a preliminary staff analysis was undertaken. Compared to the criteria listed in Section 617.7, all indications are that this action 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 Engineering Department on August 18, 2021 reviewed the Grading, Drainage and Utility Plans submitted on August 6, 2021, Engineer's Report submitted on August 6, 2021, the Erosion Control Plan submitted on August 6, 2021 and The Stormwater Pollution Prevention Plan (SWPPP) submitted on August 6, 2021 was also reviewed. Based on its review of these documents, the Department has determined that the project has or will have met all applicable requirements and has no objection to its approval.

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. The Planning Department reviewed a Site Plan submitted on August 6, 2021 and determined that it meets or exceeds Zoning Ordinance requirements for greenspace. The Site Plan has or will have met all Zoning Ordinance and Town requirements for landscaping.

3. The project is not expected to create any material conflict with the Town Comprehensive Plan. The Building Department in their review of August 9, 2021 and the Planning Department in their review of August 17, 2021 have reviewed the application documents and determined in that the subject project has or will have met all International Building Code – 2018 and Zoning Ordinance regulations.

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 project is located in the Recreation Conservation zoning district (RC); neighboring uses are open space, parkland, recreational facilities, single family and multifamily residential within the Recreation Conservation District (RC), Suburban Agriculture District (SA) and Multifamily Residential District Five (MFR-5); therefore, the project is consistent with surrounding land use.

Attachment: 2021AthFieldsReplaceAmendedMPR-10122021094959 (RES-2021-911 : 2021 Athletic Fields Replacement Project - (Amended Bond

AUG20'21 AM11:29 RCVD

6. The proposed subject development will include the expansion of the outfield limits with warning tracks, new field lighting and electrical service, fencing, foul poles, backstops, dugouts, portable bleachers, NCAA regulation bullpens, scoreboard, sound system and a shed which will not cause a major change in the use of either the quantity or type of energy.

7. The project will not create any hazard to human health. The Fire Chief's Association on August 13, 2021, reviewed the project and has no objection to the approval of the site plan, as all requirements of this agency has or will have been met.

8. The project 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 expansion of the outfield limits with warning tracks, new field lighting and electrical service, fencing, foul poles, backstops, dugouts, portable bleachers, NCAA regulation bullpens, scoreboard, sound system and a shed will be consistent with the scale of surrounding land uses.

9. The function of the proposed expansion of the outfield limits with warning tracks, new field lighting and electrical service, fencing, foul poles, backstops, dugouts, portable bleachers, NCAA regulation bullpens, scoreboard, sound system and a shed 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 dated August 5, 2021 and Erie County Dept. of Public Works –Highways Division dated August 16, 2021 indicates that significant negative traffic impacts are not expected to result from the proposed project.

11. A coordinated review of the project has been undertaken by Town Departments including, in addition to those mentioned above, Assessor on August 5, 2021, Plumbing Division on August 4, 2021, and Right-of-Way Agent on August 5, 2021. These reviews did not identify any potential significant adverse environmental issues and indicated 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 cause significant negative environmental impacts.

Attachment: 2021AthFieldsReplaceAmendedMPR-10122021094959 (RES-2021-911 : 2021 Athletic Fields Replacement Project - (Amended Bond

AUG20'21 AM11:29 RCVD

Planning Board Approval
Moved by: Giuliani; Seconded by: Gelber Ayes 7; Noes 0

Principal Planner Aug 19 2021
signature & title of preparer Date

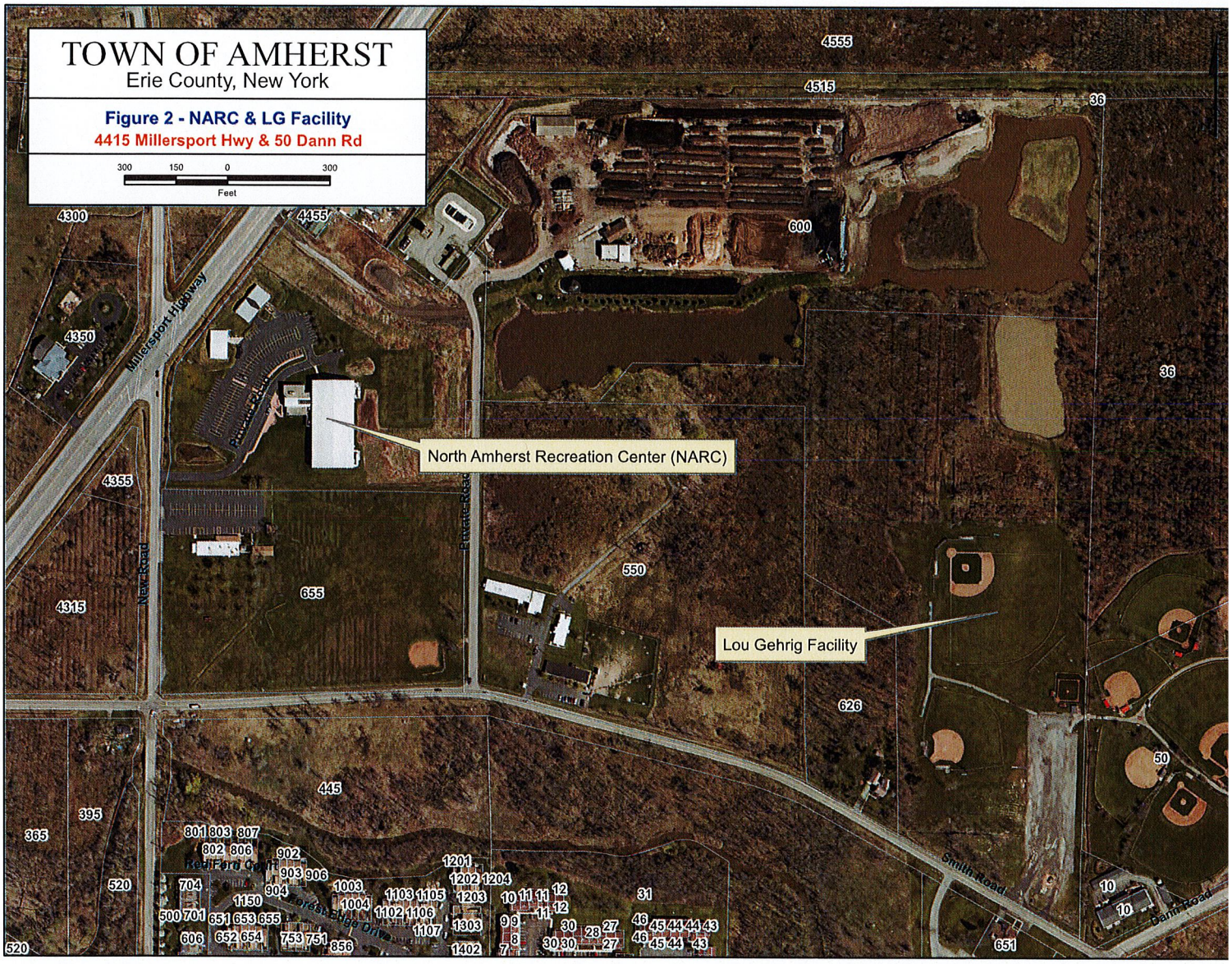
8-19-21
Robert J. Gilmour, Planning Board Chair Date

SM/ac
X:\Current_Planning\Files\Site Plans\1990\SP-1990-08_H_(550_Smith_Rd)_2021\SP-1990-08H_SEQR_Neg_Declaration_081921.docx
cc: Amherst Town Clerk
Building Department
Engineering
Fire Chiefs'
Highway
Traffic/Safety
ECDEP
NYSDEC
NYSDOT
Jeffrey Burroughs, Engineering Department
Eric Guzdek, Youth and Recreation
Leanne Voit, Wendel, 375 Essjay Rd., Suite 200, Williamsville, NY 14221

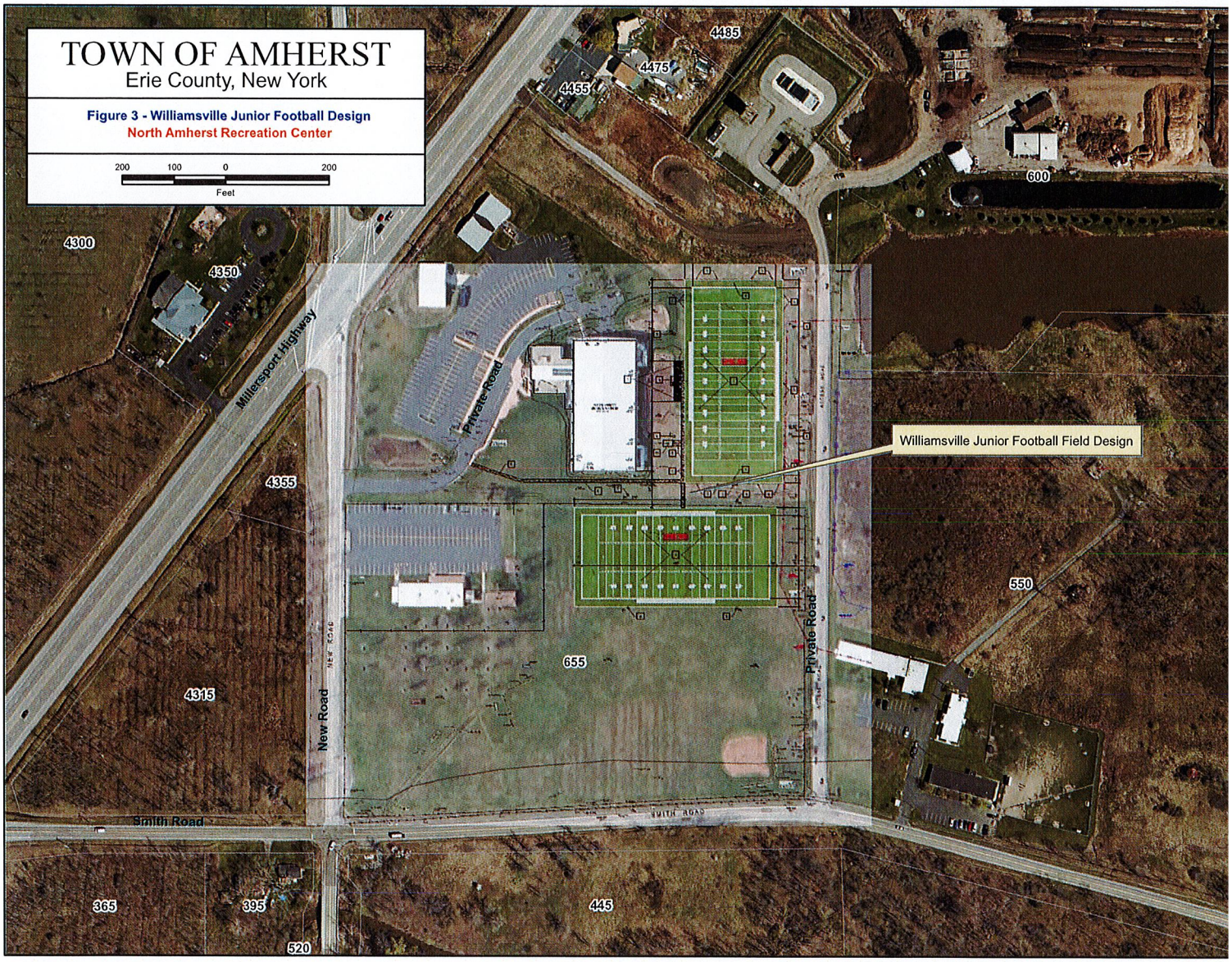
Attachment: 2021AthFieldsReplaceAmendedMPR-10122021094959 (RES-2021-911 : 2021 Athletic Fields Replacement Project - (Amended Bond



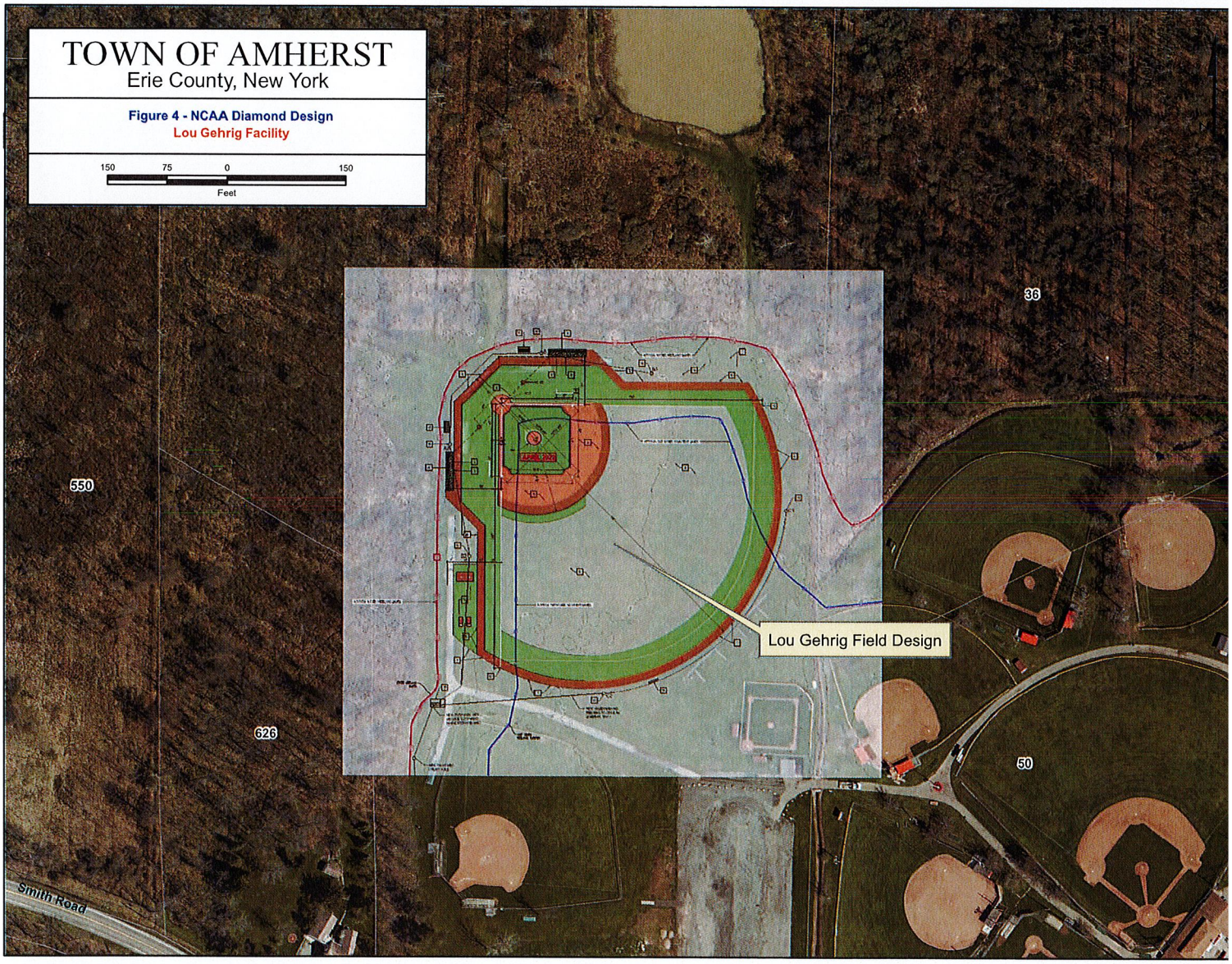
Attachment: 2021AthFieldsReplaceAmendedMPR-10122021094959 (RES-2021-911 : 2021 Athletic Fields Replacement Project - (Amended Bond



Attachment: 2021AthFieldsReplaceAmendedMPR-10122021094959 (RES-2021-911 : 2021 Athletic Fields Replacement Project - (Amended Bond



Attachment: 2021AthFieldsReplaceAmendedMPR-10122021094959 (RES-2021-911 : 2021 Athletic Fields Replacement Project - (Amended Bond



Attachment: 2021AthFieldsReplaceAmendedMPR-10122021094959 (RES-2021-911 : 2021 Athletic Fields Replacement Project - (Amended Bond

EXTRACT OF MINUTES

Meeting of the Town Board of the

Town of Amherst, in the

County of Erie, New York

October 18, 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 October 18, 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-2021-911 : 2021 Athletic Fields Replacement Project - (Amended Bond Resolution - $1,700,000))

BOND RESOLUTION OF THE TOWN OF AMHERST, NEW YORK, ADOPTED OCTOBER 18, 2021, AUTHORIZING ADDITIONAL FINANCING FOR THE RELOCATION OF THE NCAA BASEBALL DIAMOND PROJECT, STATING THE ESTIMATED TOTAL MAXIMUM COST THEREOF IS $1,700,000, APPROPRIATING $382,900 FOR SUCH PURPOSE, IN ADDITION TO THE $1,317,100 PREVIOUSLY APPROPRIATED THEREFOR; AND AUTHORIZING THE ISSUANCE OF $382,900 BONDS TO FINANCE SAID ADDITIONAL APPROPRIATION

WHEREAS, the Town Board has heretofore duly authorized the Relocation of NCAA Baseball Diamond Project, at the estimated maximum cost of $1,317,000, which amount was appropriated therefor pursuant to the Bond Resolution duly adopted on August 23, 2021, and it has now been determined that the cost of such project has increased and it is necessary to increase the appropriation therefor to $1,700,000;

WHEREAS, the Town Board has heretofore duly authorized the Relocation of Williamsville Junior Football Association Game and Practice Fields Project, at the estimated maximum cost of $2,482,900, which amount was appropriated therefor pursuant to the Bond Resolution duly adopted on August 9, 2021 (the "WGFA Bond Resolution") and it has now been determined that the cost of such project has decreased and it is necessary to decrease the appropriation therefor to $2,100,000;

Now, therefore, be it

RESOLVED BY THE TOWN BOARD OF THE TOWN OF AMHERST, IN THE COUNTY OF ERIE, NEW YORK (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 relocation of NCAA Baseball Diamond Project, as described in the map, plan and report dated July 2021, as revised August 3, 2021 and further revised October 7, 2021, prepared by the Town Engineering Department (2021-2026

Attachment: CertBondReso (RES-2021-911 : 2021 Athletic Fields Replacement Project - (Amended Bond Resolution - $1,700,000))

Capital Improvement Program Project YR-11A). The revised estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is $1,700,000 and $382,900 is hereby appropriated therefor, in addition to the $1,317,100 previously appropriated pursuant to the bond resolution adopted by the Town Board on August 23, 2021 (the "Previously Appropriated Funds"). The plan of financing includes the expenditure of the Previously Appropriated Funds and the issuance of bonds in the principal amount of $382,900 and any bond anticipation notes issued in anticipation of the sale of said bonds to finance said additional 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 $382,900 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 appropriation.

Section 3. The following additional matters are hereby determined and declared:

(a) The period of probable usefulness applicable to the objects or purposes for which said bonds are authorized to be issued, within the limitations of Section Sections 11.00 a. 19(c) of the Law, is fifteen (15) years, however it is hereby determined that the maximum term of such bonds will not exceed five (5) years from the date of the first borrowing hereunder.

(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

Attachment: CertBondReso (RES-2021-911 : 2021 Athletic Fields Replacement Project - (Amended Bond Resolution - $1,700,000))

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 not 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.

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

Attachment: CertBondReso (RES-2021-911 : 2021 Athletic Fields Replacement Project - (Amended Bond Resolution - $1,700,000))

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 WGFA Bond Resolution is hereby amended by revising all references to the $2,482,900 authorized principal amount of bonds in the title and body thereof to the authorized principal amount of $2,100,000. Except as specifically modified in this Section 6, all provisions of the WGFA Bond Resolution shall remain in full force and effect.

Section 7. 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.

Section 8. This bond resolution shall take effect immediately, and the Town Clerk is hereby authorized and directed to publish the foregoing resolution, in summary, together with a Notice attached in substantially the form prescribed by Section 81.00 of the Law in the

Attachment: CertBondReso (RES-2021-911 : 2021 Athletic Fields Replacement Project - (Amended Bond Resolution - $1,700,000))

"Amherst Bee," a newspaper having a general circulation within said Town and hereby designated as the official newspaper of the Town for such publication.

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-2021-911 : 2021 Athletic Fields Replacement Project - (Amended Bond Resolution - $1,700,000))

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 October 18, 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 October, 2021.

(SEAL)

_____
Town Clerk

Attachment: CertBondReso (RES-2021-911 : 2021 Athletic Fields Replacement Project - (Amended Bond Resolution - $1,700,000))

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24897 **RESOLUTION 2021-912** **ADOPTED**

Stonham Place Townhomes Sanitary Sewer Easement (CRS #2946)

AGENDA ITEM : OCTOBER 18TH, 2021

TO: **Town Board**

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

DATE: **October 12, 2021**

RE: **Stonham Place Townhomes**
Sanitary Sewer Easement (CRS #2946)
The Marrano/Marc-Equity Corporation to the Town of Amherst

Kindly adopt a resolution authorizing the Supervisor to accept the above-referenced easement and to execute any and all documents that are required to effectuate the establishment of the sanitary sewer easement pending: (1) successful review of the Contract Routing System; and (2) final approval by the Town Attorney's Office.

Thank you.

SJS:nmb
Attachments
c: Kathy Cooper, Deputy Town Clerk
(*w/attachment,* **Agenda Item - October 18th, 2021**)
Jeff Palumbo, Barclay Damon LLP (**Via E-Mail**, *w/attachment*)

10/18/2021
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

SANITARY SEWER EASEMENT
STONHAM PLACE TOWNHOMES

WITNESSETH that THE MARRANO/MARC-EQUITY CORPORATION, a Florida corporation, having an address at 2730 Transit Road, West Seneca, New York 14224, hereinafter referred to as "Grantor", in consideration of One Dollar and no more ($1.00 and no more) receipt of which is hereby acknowledged, hereby grants unto to TOWN OF AMHERST SANITARY SEWER DISTRICT NO. 16 with an address at 5583 Main Street, Williamsville, New York 14221, the "Grantee", their successors and assigns, the right, privilege and authority to construct, replace, reconstruct, relocate, operate, repair, maintain, inspect and, at its pleasure, add to and remove sanitary sewer lines, pumping stations, lift stations and all other appurtenances thereto, in, upon, under and across those lands of Grantor as described in Schedule A attached hereto and as shown as shaded areas on the Easement Map attached hereto as Schedule B, prepared by Greenman-Pedersen, Inc. and being Job No. 2019014.00 dated August 6, 2021.

The Grantor hereby agrees that no permanent structure may be built within the permanent easement except where said easement is within a dedicated right-of-way and said structure is necessary for the construction, operation and/or maintenance thereof; and except where prior written permission is obtained from the Grantee.

Together with the right, title and interest of Grantor in the improvements now situated therein, or installed hereafter as approved by the grantee, including without limitation, all pipes, pumping stations, valves and all other appurtenances related to the sanitary sewerage system.

This Easement shall apply to all interests now owned or hereafter acquired by Grantor in the above-described property.

Grantor agrees to indemnify and save harmless the County, Town, its officers, employees, agents, successors and assigns from all claims, liability, costs and expense including reasonable attorney's fees in the defense of same for loss or damage to property and for injuries to or deaths of persons arising out of the construction or presence of said improvement.

IN WITNESS WHEREOF, the Grantor hereby sets his hand and seal this ____ day of _____, 2021.

THE MARRANO/MARC-EQUITY CORPORATION

By: _____
David DePaolo, Vice President

STATE OF NEW YORK)
) SS:
COUNTY OF ERIE)

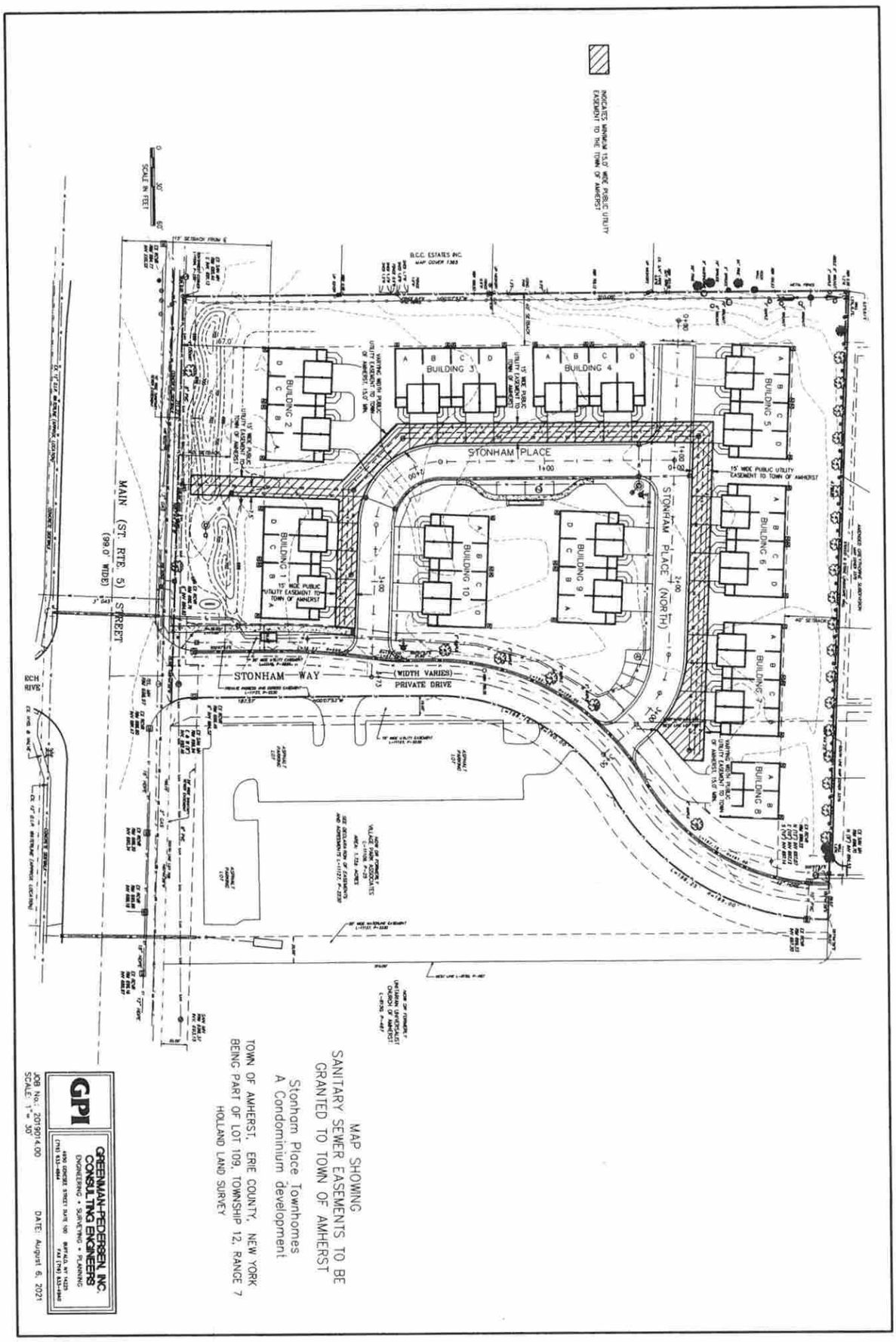
On this ____ day of _____ in the year 2021 before me, the undersigned, a Notary Public in and for said State, personally appeared David DePaolo, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

Attachment: Sanitary Sewer Easement_2021_09_08_1032 (RES-2021-912 : Stonham Place Townhomes Sanitary Sewer Easement (CRS #2946))

SCHEDULE A

Exhibit Map



23184782.1

Attachment: Sanitary Sewer Easement_2021_09_08_1032 (RES-2021-912 : Stonham Place Townhomes

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24899 **RESOLUTION 2021-913** **ADOPTED**

Stonham Way and Stonham Place Access Easement (CRS #2947)

AGENDA ITEM : OCTOBER 18TH, 2021

TO: **Town Board**

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

DATE: **October 12, 2021**

RE: **Stonham Place Townhomes**
Stonham Way/Stonham Place
Access Easement (CRS #2947)
The Marrano Marc-Equity Corporation and Town of Amherst

Kindly adopt a resolution authorizing the Supervisor to execute the attached agreement: (1) successful review of the Contract Routing System; and (2) final approval by the Town Attorney's Office.

Thank you.

SJS:nmb
Attachment
c: Kathy Cooper, Deputy Town Clerk
(*w/attachment,* **Agenda Item - October 18th, 2021**)
Jeff Palumbo, Barclay Damon LLP (**Via E-Mail**, *w/attachment*)

10/18/2021
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

ACCESS EASEMENT

THIS AGREEMENT made as of this _____ day of _____, 2021, by and between THE MARRANO / MARC-EQUITY CORPORATION, a Florida Corporation with offices at 2730 Transit Road, West Seneca, New York, 14224, Grantor, and the TOWN OF AMHERST, a municipal corporation with offices at 5883 Main Street, Williamsville, New York 14221, Grantee:

WITNESSETH:

That the Grantor, for and in consideration of the sum of One Dollar ($1.00) paid by the Grantee grant and release and convey to the parties of the Second part, its successors and assigns:

The perpetual easement to Grantee for the purpose of accessing the portion of lands conveyed to the Grantor by deed recorded in Liber _____ of Deeds at page _____, more particularly described as follows:

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. 109, Township 12, Range 7 of the Holland Land company's Survey and being more particularly as follows:

Being the areas referenced as up to 28' Wide Access Easement along Stonham Way and Stonham Place as depicted on an Access Easement Map prepared by Greenman-Pedersen, Inc. dated December 2020, job no. BUF-2019014.00 attached hereto as Exhibit A.

The Grantee shall have free ingress and egress to the above mentioned easement for all of the purposes of the easement.

The Grantee hereby agrees to repair any damage caused to the above mentioned easement, not encompassed by the work itself, by the operations of the Grantee, its agents, contractors or employees, and after disturbing land surfaces subject to the right-of-way or easement adjacent to the work done to restore these areas as nearly as practicable to their original condition.

RESERVING, HOWEVER, to the Grantor the use of the easement except for the erection of buildings, fences or other structures or the planting of trees or shrubs on the, provided the use shall not, it the opinion of the Grantee, interfere with the rights herein granted.

TO HAVE AND TO HOLD the easement herein granted unto the Grantee, its successors and assigns, including all installations and appurtenances.

AND the Grantor covenants as follows:

FIRST: That the Grantor is seized of the premises in fee simple, and good right to convey the same.

SECOND: That the Grantee shall quietly enjoy the right-of-way and easements.

THIRD: That the premises are free and clear from all encumbrances.

Attachment: Access Easement_2021_09_08_1032 (RES-2021-913 : Stonham Way and Stonham Place Access Easement (CRS #2947))

FOURTH: That the Grantor will execute or procure any further necessary assurances of the title to the right-of-way and easements.

This indenture shall be binding on the respective executors, administrators, successors and assigns of the respective parties.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals as of the day and year first above written.

THE MARRANO / MARC-EQUITY CORPORATION

By:_____
David DePaolo, Vice President

TOWN OF AMHERST

By:_____
Brian Kulpa, Supervisor

STATE OF NEW YORK)
) SS.:
COUNTY OF ERIE)

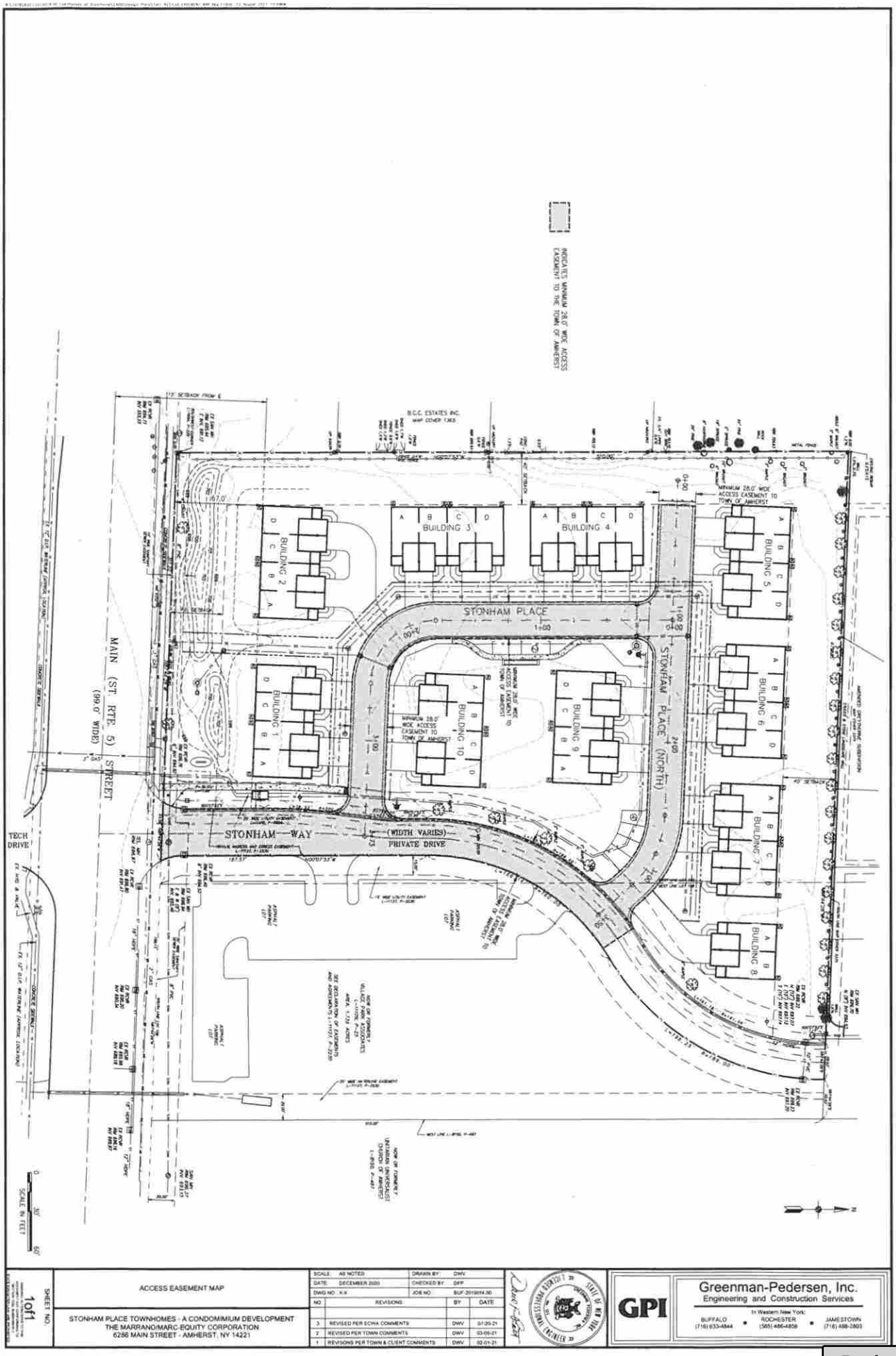
On the _____ day of _____ in the year 2021, before me, the undersigned, personally appeared, David DePaolo, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

STATE OF NEW YORK)
) SS.:
COUNTY OF ERIE)

On the _____ day of _____ in the year 2021, before me, the undersigned, personally appeared, Brian Kulpa, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Attachment: Access Easement_2021_09_08_1032 (RES-2021-913 : Stonham Way and Stonham Place Access Easement (CRS #2947))



Attachment: Access Easement_2021_09_08_1032 (RES-2021-913 : Stonham Way and Stonham Place Access Easement (CRS #2947))

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24886 **RESOLUTION 2021-914** **ADOPTED**

Grant of Easement (TOA to Niagara Mohawk - 400 and 460 Wehrle Drive) (CRS #2941)

AGENDA ITEM : OCTOBER 18TH, 2021

TO: **Town Board**

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

DATE: **October 13, 2021**

RE: **Grant of Easement (TOA To Niagara Mohawk) (CRS #2941)**
400 and 460 Wehrle Drive

Kindly adopt a resolution authorizing the Supervisor to execute the attached Grant of Easement pending the successful completion of the Contract Routing System.

The Engineering Department reviewed the Exhibit map to ensure that it accurately reflected the information detailed in the Grant of Easement.

Thank you for your consideration.

NMB:hs
Attachment
c: Kathy Cooper, Deputy Town Clerk
(w/attachment, **Agenda Item: October 18th, 2021**)
Christopher P. Schregel, Project Manager *(w/attachment)*

10/18/2021
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

GRANT OF EASEMENT

TOWN OF AMHERST, a Municipal Corporation having a mailing address of 5583 Main Street, Williamsville, New York, 14221 (hereinafter referred to as "Grantor"), for consideration of One Dollar ($1.00), and/or other valuable consideration paid, the receipt and sufficiency of which are hereby acknowledged under seal, hereby grants to **NIAGARA MOHAWK POWER CORPORATION**, a New York corporation, having an address at 144 Kensington Avenue, Buffalo, New York, 14214 (hereinafter referred to as "Grantee"), for Grantee and its lessees, licensees, successors, and assigns, the perpetual right and easement as described in Section 1 below (the "Easement") in, under, through, over, across, and upon the Grantor's land, as described in Section 2 below (the "Grantor's Land").

Section 1 – Description of the Easement. The "Easement" granted by the Grantor to the Grantee consists of a perpetual easement and right-of-way, with the right, privilege, and authority to:

a. Construct, reconstruct, relocate, extend, repair, maintain, operate, inspect, patrol, and, at its pleasure, remove any poles or lines of poles, supporting structures, cables, crossarms, overhead and underground wires, guys, guy stubs, insulators, transformers, braces, fittings, foundations, anchors, lateral service lines, communications facilities, and other fixtures and appurtenances (collectively, the "Facilities"), which the Grantee shall require now and from time to time, for the transmission and distribution of high and low voltage electric current and for the transmission of intelligence and communication purposes, by any means, whether now existing or hereafter devised, for public or private use, in, upon, over, under, and across that portion of the Grantor's Land described in Section 3 below (the "Easement Area"), and the highways abutting or running through the Grantor's Land, and to renew, replace, add to, and otherwise change the Facilities and each and every part thereof and the location thereof within the Easement Area, and utilize the Facilities within the Easement Area for the purpose of providing service to the Grantor and others;

b. From time to time, without further payment therefor, clear and keep cleared, that portion of Grantor's Land described in Section 3 below (the "Trimming Easement Area") of any and all trees, limbs, branches, roots or vegetation and trim and remove danger trees adjacent to the Easement Area that, in the opinion of the Grantee may jeopardize the integrity of the Grantee's electric distribution facilities; Grantee shall follow accepted arboricultural standards which may require Grantor to make pruning cuts closer to the tree stems, outside the 10-foot easement area.

c. Excavate or change the grade of the Grantor's Land as is reasonable, necessary, and proper for any and all purposes described in this Section 1; provided, however, that the Grantee will, upon completion of its work, backfill and restore any excavated areas to reasonably the same condition as existed prior to such excavation; and

d. Pass and repass along the Easement Area to and from the adjoining lands and pass and repass over, across, and upon the Grantor's Land to and from the Easement Area, and construct, reconstruct, relocate, use, and maintain such footbridges, causeways, and ways of access, if any, thereon, as is reasonable and necessary in order to exercise to the fullest extent of the Easement.

Section 2 – Description of Grantor's Land. The "Grantor's Land" is described in certain Deeds recorded in the Erie County Clerk's Office on June 29, 1966 in Liber 7248 of Deeds at Page 189 and on May 4, 2010 in Liber 11181 of Deeds at Page 3995 and consists of land described as being part of Tax Parcel Nos. **80.14-11-14.1 and 80.15-1-50.12** of the Town of Amherst, County of Erie, State of New York, and part of Lot No. 31, Township 11, Range 7, of the Holland Land Company's Survey, commonly known as **400 and 460 Wehrle Drive.**

Section 3 – Location of the Easement Area. The "Easement Area" shall consist of a portion of the Grantor's Land twenty feet (20') in width throughout its extent, the centerline of the Easement Area being the centerline of the Facilities. The general location of the Easement Area is shown on the sketch entitled Exhibit A, which sketch is attached hereto and recorded herewith, copies of which are in the possession of the Grantor and the Grantees. The final and definitive location(s) of the Easement Area shall become established by and upon the final installation and erection of the Facilities by the Grantees in substantial compliance with Exhibit A hereto. The "Trimming Easement Area" shall be a strip of land measured ten (10) feet from the outermost electric conductor on each side of the line.

Section 4 – Facilities Ownership. It is agreed that the Facilities shall remain the property of the Grantee, its successors and assigns.

Section 5 – General Provisions. The Grantor, for itself, its heirs, legal representatives, successors, and assigns, hereby covenants and agrees with the Grantee that no act will be permitted within the Easement Area which is inconsistent with the Easement hereby granted; no buildings or structures, or replacements thereof or additions thereto, swimming pools, or obstructions will be erected or constructed above or below grade within the Easement Area; no trees shall be grown, cultivated,

Attachment: GrantOfEasement400.460WehrleDrive-10072021114708 (RES-2021-914 : Grant of Easement (TOA to Niagara Mohawk - 400 and 460

or harvested, and no excavating, mining, or blasting shall be undertaken within the Easement Area without the prior written consent of the Grantee; the Easement shall not be modified nor the Easement Area relocated by the Grantor without the Grantee's prior written consent; the present grade or ground level of the Easement Area will not be changed by excavation or filling.

The Grantee, its successors and assigns, are hereby expressly given and granted the right to assign this Easement, or any part thereof, or interest therein, and the same shall be divisible between or among two or more owners, as to any right or rights created hereunder, so that each assignee or owner shall have the full right, privilege, and authority herein granted, to be owned and enjoyed either in common or severally. This Grant of Easement shall at all times be deemed to be and shall be a continuing covenant running with the Grantor's Land and shall inure to and be binding upon the successors, heirs, legal representatives, and assigns of the parties named in this Grant of Easement.

IN WITNESS WHEREOF, the Grantor has duly executed this Grant of Easement under seal this _____ day of _____, 20___.

TOWN OF AMHERST

By: _____
Print ***(sign here)***
Name: _____

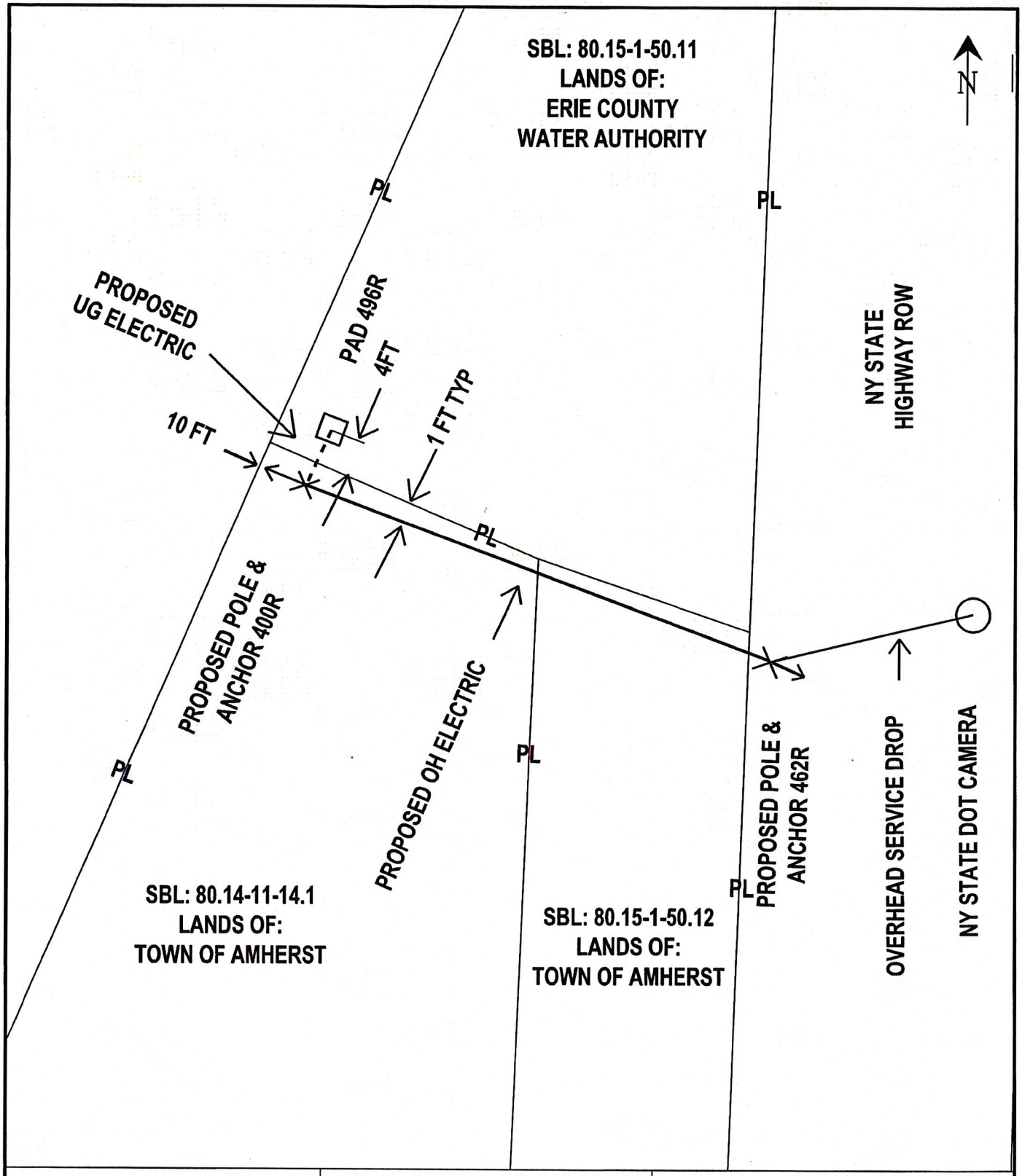
Print Title: _____

State of _____)
) ss:
County of _____)

On the ____ day of _____ in the year 20___, before me, the undersigned, personally appeared_____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

Attachment: GrantOfEasement400.460WehrleDrive-10072021114708 (RES-2021-914 : Grant of Easement (TOA to Niagara Mohawk - 400 and 460



WR 30383252	EASEMENT SKETCH - EXHIBIT A	NOT TO SCALE
COUNTY OR ERIE TOWN OF AMHERST	LANDS OF TOWN OF AMHERST	nationalgrid

Attachment: GrantOfEasement400.460WehrleDrive-10072021114708 (RES-2021-914 : Grant of Easement (TOA to Niagara Mohawk - 400 and 460

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A Alba**
Co-Sponsored by:

DOC ID: 24894 **RESOLUTION 2021-915** **ADOPTED**

Settlement of Article 7 - Uniland Federal Center, Inc. V. Assessor of the Town of Amherst, Et Al.

AGENDA ITEM : OCTOBER 18th, 2021

TO: **Town Board**

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

DATE: **October 13, 2021**

RE: **Settlement of Article 7 Matter**
Uniland Federal Center, Inc. v. Assessor the Town of Amherst, et al.

Kindly adopt a resolution authorizing the following:

(1) Settlement of the above matter as detailed in the attached Stipulation and Agreement; and

(2) Authorizing Senior Deputy Town Attorney Samuel A. Alba, Esq. to sign the attached Stipulation and Agreement as the Attorney for the Respondents.

Thank you.

SJS:nmb
Attachment
c: Kathy Cooper, Deputy Town Clerk
(*w/attachment,* **Agenda Item : October 18th, 2021**)

10/18/2021
Consent

FINANCIAL IMPACT:

Assessment.

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

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION UNDER ARTICLE 7 OF THE REAL PROPERTY TAX LAW

BY

UNILAND FEDERAL CENTER INC,

Petitioner,

vs.

STIPULATION & AGREEMENT

DAVID MARRANO, ASSESSOR OF THE TOWN OF AMHERST

Index Nos.: 807681/2020
809313/2021

AND

THE BOARD OF ASSESSMENT REVIEW OF THE TOWN OF AMHERST, COUNTY OF ERIE AND STATE OF NEW YORK,

Respondents,

AND

WILLIAMSVILLE CENTRAL SCHOOL DISTRICT,

Intervenor-Respondent.

FOR REVIEW OF THE 2020-2021 AND 2021-2022 TAX ASSESSMENT OF CERTAIN REAL PROPERTY IN THE SAID TOWN OF AMHERST, NEW YORK

The above entitled proceedings involving tax assessment review for the premises known as 6126 Main Street, Amherst, New York, bearing S.B.L. No. 69.18-7-39, for the assessment years 2020-2021 and 2021-2022 having progressed for trial, and negotiations for settlement having been conducted and said settlement having been approved and recommended by the Town Attorney for the Town of Amherst, the Attorney for the Petitioner, and the Attorney for the Williamsville Central School District, and it further appearing that the assessment of

Attachment: Uniland Federal Center ScannedDocument (RES-2021-915 : Settlement of Article 7 - Uniland Federal Center, Inc. V. Assessor of

premises in the Town of Amherst provides the basis for imposition of taxes assessed by the County of Erie, Town of Amherst, it is hereby

FIRST: **STIPULATED AND AGREED**, that the above-entitled proceedings for the tax assessment review for the tax years 2020-2021 be and hereby are withdrawn and discontinued; and it is further

SECOND: **STIPULATED AND AGREED**, that assessed value for the parcel known as 6126 Main Street, Amherst, New York, bearing S.B.L. No. 69.18-7-39, shall be reduced from $464,000 to $396,000 for the tax years 2021-2022, 2022-2023, 2023-2024, and 2024-2025; and it is further

THIRD: **STIPULATED AND AGREED**, that the Assessor for the Town of Amherst shall apply such adjusted assessments to the 2021-2022, 2022-2023, 2023-2024, and 2024-2025 Final Assessment Rolls; and it is further

FOURTH: **STIPULATED AND AGREED,** that the Williamsville Central School District shall apply such adjusted assessments to the Petitioner's 2021-2022 school tax bill; and it is further

FIFTH: **STIPULATED AND AGREED,** in the event that any part of the 2021-2022 Williamsville Central School District tax bill has been issued to the Petitioner, but is not yet due, then the Williamsville Central School District shall issue a corrected tax bill to the Petitioner that reflects said reduced assessment, to be paid within eight (8) days of receipt by Petitioner, without interest or penalty; and it is further

SIXTH: **STIPULATED AND AGREED,** that said Petitioner in any instrument or agreement transferring all of the subject property therein shall covenant with any grantee, transferee, and mortgagee and their respective distributees, successors and/or assigns that they shall be bound by the terms of this Stipulation and that such covenant shall be

Attachment: Uniland Federal Center ScannedDocument (RES-2021-915 : Settlement of Article 7 - Uniland Federal Center, Inc. V. Assessor of

deemed to run with the land for the tax periods embraced by the terms thereof; and be it further

SEVENTH: **STIPULATED AND AGREED**, that the provisions of Section 727 of the Real Property Tax Law shall apply to this Order, with the exception of 727 (1) and 727 (2); and it is further

EIGHTH: **STIPULATED AND AGREED**, that this Court shall retain jurisdiction over this proceeding pending the expiration of this annexed Stipulation, and that all applications to enforce any or all of the terms of the Stipulation shall be brought before this Court; and be it further

NINTH: **STIPULATED AND AGREED**, that these proceedings are discontinued with prejudice, without costs or disbursements against either party.

Petitioner Uniland Federal Center, Inc.

By: _____
Michael J. Hughes, Esq.
Attorney for Petitioner

Date: _____, 2021

Respondent Town of Amherst

By: _____
Sam Alba, Esq.
Attorney for Respondents

Date: _____, 2021

Intervenor-Respondent Williamsville Central School District

By: _____
Michael B. Risman, Esq.
Attorney for Intervenor-Respondent

Date: 10/4, 2021

Attachment: Uniland Federal Center ScannedDocument (RES-2021-915 : Settlement of Article 7 - Uniland Federal Center, Inc. V. Assessor of

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION UNDER
ARTICLE 7 OF THE REAL PROPERTY TAX LAW

BY

UNILAND FEDERAL CENTER INC,

Petitioner,

vs.

ORDER

DAVID MARRANO, ASSESSOR
OF THE TOWN OF AMHERST

Index Nos.: 807681/2020
809313/2021

AND

THE BOARD OF ASSESSMENT REVIEW OF
THE TOWN OF AMHERST, COUNTY OF
ERIE AND STATE OF NEW YORK,

Respondents,

AND

WILLIAMSVILLE CENTRAL SCHOOL DISTRICT,

Intervenor-Respondent.

FOR REVIEW OF THE 2020-2021 AND 2021-2022 TAX
ASSESSMENT OF CERTAIN REAL PROPERTY IN
THE SAID TOWN OF AMHERST, NEW YORK

The above entitled proceedings involving tax assessment review for the premises known as 6126 Main Street, Amherst, New York, bearing S.B.L. No. 69.18-7-39, for the assessment years 2020-2021 and 2021-2022 having progressed for trial, and negotiations for settlement having been conducted and said settlement having been approved and recommended by the Town Attorney for the Town of Amherst, the Attorney for the Petitioner, and the Attorney for the Williamsville Central School District, and it further appearing that the assessment of

Attachment: Uniland Federal Center ScannedDocument (RES-2021-915 : Settlement of Article 7 - Uniland Federal Center, Inc. V. Assessor of

premises in the Town of Amherst provides the basis for imposition of taxes assessed by the County of Erie, Town of Amherst, it is hereby

ORDERED, that the above-entitled proceedings for the tax assessment review for the tax years 2020-2021 be and hereby are withdrawn and discontinued; and it is further

ORDERED, that assessed value for the parcel known as 6126 Main Street, Amherst, New York, bearing S.B.L. No. 69.18-7-39, shall be reduced from $464,000 to $396,000 for the tax years 2021-2022, 2022-2023, 2023-2024, and 2024-2025; and it is further

ORDERED, that the Assessor for the Town of Amherst shall apply such adjusted assessments to the 2021-2022, 2022-2023, 2023-2024, and 2024-2025 Final Assessment Rolls; and it is further

ORDERED, that the Williamsville Central School District shall apply such adjusted assessments to the Petitioner's 2021-2022 school tax bill; and it is further

ORDERED, in the event that any part of the 2021-2022 Williamsville Central School District tax bill has been issued to the Petitioner, but is not yet due, then the Williamsville Central School District shall issue a corrected tax bill to the Petitioner that reflects said reduced assessment, to be paid within eight (8) days of receipt by Petitioner, without interest or penalty; and it is further

ORDERED, that said Petitioner in any instrument or agreement transferring all of the subject property therein shall covenant with any grantee, transferee, and mortgagee and their respective distributees, successors and/or assigns that they shall be bound by the terms of this Stipulation and that such covenant shall be deemed to run with the land for the tax periods embraced by the terms thereof; and be it further

ORDERED, that the provisions of Section 727 of the Real Property Tax Law shall apply to this Order, with the exception of 727 (1) and 727 (2); and it is further

Attachment: Uniland Federal Center ScannedDocument (RES-2021-915 : Settlement of Article 7 - Uniland Federal Center, Inc. V. Assessor of

ORDERED, that this Court shall retain jurisdiction over this proceeding pending the expiration of this annexed Stipulation, and that all applications to enforce any or all of the terms of the Stipulation shall be brought before this Court; and be it further

ORDERED, that these proceedings are discontinued with prejudice, without costs or disbursements against either party.

Dated:_____

_____
Hon. Sheila A. DiTullio, A.J.S.C.

Attachment: Uniland Federal Center ScannedDocument (RES-2021-915 : Settlement of Article 7 - Uniland Federal Center, Inc. V. Assessor of

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24905 **RESOLUTION 2021-916** **ADOPTED**

Approval of Counsel for Child Victim Act Litigation - Webster Szanyi LLP (CRS #2948)

AGENDA ITEM - OCTOBER 18th, 2021

TO: **Town Board**

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

DATE: **October 12, 2021**

RE: **Approval of Counsel for Child Victim Act Litigation**
Retainer Agreement With Webster Szanyi LLP (CRS #2948)

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

WHEREAS, the Town of Amherst has been sued in a case entitled LG 70 DOE v. Town of Amherst, Mathewson McCarthy Baseball and Babe Ruth League Baseball, Erie County Index Number 810847/2021 for alleged molestation by a former employee during the time period from 1977-1991; and

WHEREAS, the Town Attorney sent out a request for proposal (RFP) for legal services from experienced attorneys to represent the Town relative to this matter; and

WHEREAS, four (4) responses to the RFP were received and reviewed by the Town Attorney; and

WHEREAS, the selection of a law firm to handle this matter will ensure that the Town of Amherst receives the best legal services in an expeditious cost-effective manner; and

WHEREAS, the Town Attorney has reviewed the responses to the RFP and has interviewed these firms;

BE IT RESOLVED, that upon the recommendation of the Town Attorney and pursuant to Town Law §20(2), the Town Board hereby approves the selection of Webster Szanyi LLP to represent the Town of Amherst relative to the LG 70 DOE matter; and

BE IT FURTHER RESOLVED, the Town Board hereby authorizes the Town Supervisor to execute the attached Retainer Agreement with Webster Szanyi LLP at the following rates upon successful completion of the Contract Routing System:

$265.00 per hour for Partners

$225.00 per hour for Senior Associates
$205.00 per hour for Associates
$115.00 per hour for Paralegals

BE IT FURTHER RESOLVED, this Retainer Agreement shall remain in effect until the ultimate conclusion of the LG 70 DOE matter.

SJS:lcg
Attachment
c: Kathy Cooper, Deputy Town Clerk
(*w/attachment*, Agenda Item - October 18th, 2021)

10/18/2021
Consent

FINANCIAL IMPACT:

$265.00 per hour for Partners; $225.00 per hour for Senior Associates; $205.00 per hour for Associates;$115.00 per hour for Paralegals

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

WEBSTER SZANYI LLP

Shannon B. O'Neill
Associate

October 12, 2021

Via Email Only ssliwa@amherst.ny.us
Stanley J. Sliwa, Esq.
Town Attorney
Town of Amherst
Amherst Municipal Building
5583 Main Street
Williamsville, NY 14221

Re: LG 70 Doe v. Town of Amherst, et al.

Dear Mr. Sliwa:

Thank you for selecting Webster Szanyi LLP to represent the Town of Amherst Defendants in connection with the above-captioned matter. Our conflicts check reveals that there is no conflict with this firm representing the Town of Amherst in this matter. The terms of our representation will be as follows and shall be limited to the instant matter.

Rates, Expenses, and Invoices.

Our billing rates for this matter will be as follows:

- $265 per hour for partners;
- $225 per hour for senior associates;
- $205 per hour for the associates; and
- $115 per hour for paralegal.

Our fees reflect the value of our services that are based on hourly billing rates that take into account the complexity of the matter, the skill and experience required to perform the services, the anticipated commitment of time, the value of the case and other factors. Our rates are reviewed annually and may be increased during the course of litigation.

We will bill you monthly for fees and other charges including all disbursements incurred by us on your behalf. We reserve the right to forward any invoices for external disbursements exceeding $500.00 to you for direct payment. You agree to pay our invoices within 30 days of receipt. In the event that our invoices are

424 Main Street, Suite 1400 • Buffalo, New York 14202
Tel: (716) 842-2800 • Fax: (716) 845-6709
soneill@websterszanyi.com

Attachment: Retainer 10-12-21 with Webster (RES-2021-916 : Approval of Counsel for Child Victim Act Litigation - Webster Szanyi LLP (CRS

not paid within 30 days, we reserve the right to charge interest of 1.5% per month on any outstanding amount due.

Duty of Cooperation. You, of course, agree to cooperate with us in defending against this matter and/or in connection with legal services on which you may consult us. You should never give a statement to anyone regarding this matter without first obtaining our consent.

Litigation Hold. Under applicable law, you have a duty to preserve any records or documents, including electronically-stored information ("ESI"), that you may have in connection with this matter. This obligation applies not only to paper documents, but also to ESI, such as email and other electronically saved documents or information. We are asking you to preserve any and all such information and it is important you do so.

Termination of Representation. You may terminate our representation at any time by notifying us. Your termination of our services will not affect your responsibility for payment of outstanding statements and accrued fees and expenses incurred before termination or incurred thereafter in connection with an orderly transition of the matters. If such termination occurs, your papers and property will be returned to you promptly upon receipt of payment for outstanding fees and costs. Our own files pertaining to this matter will be retained. The firm's files include, for example, firm administrative records, time and expense reports, personnel and staffing materials, and credit and accounting records; and internal lawyers' work product such as drafts, notes, internal memoranda, and legal and factual research, including investigative reports prepare by or for the internal use of lawyers.

We may withdraw from representation if you fail to fulfill your obligations under this agreement, including your obligation to pay our fees and expenses, or as permitted or required under any applicable standards of professional conduct or rules of court, or upon our reasonable notice to you. We will take such steps as are reasonably practicable to protect your interest during any transition and reserve the right to charge attorney fees for time spent during any such transition. We certainly anticipate that we will see this matter through to conclusion.

Conclusion or Representation; Disposition of Documents. Unless previously terminated, our representation in this matter will terminate upon our sending you our final statement for services rendered in this matter. At your request, your papers and property will be returned to you upon receipt of payment for outstanding fees and costs. Our own file pertaining to the matter will be retained by the firm. All such documents retained by the firm will be transferred to the person responsible for administering our records retention program. For various reasons, including the minimization of unnecessary storage expenses, we reserve the right to destroy or otherwise dispose of any such documents or other materials retained by us within a reasonable time after the termination of the engagement. Depending on the resolution

Attachment: Retainer 10-12-21 with Webster (RES-2021-916 : Approval of Counsel for Child Victim Act Litigation - Webster Szanyi LLP (CRS

of your matter (verdict, settlement, etc.), we may dispose of more or less materials, but we will maintain relevant materials for seven years following the conclusion of our representation, after which time all of the materials will be disposed of without further notice to you unless you contact us prior to this time and request that the materials be returned to you.

Post-Engagement Matters. You are engaging the firm to provide legal services in connection with a specific matter. After the matter concludes, changes may occur in the applicable law or regulations that could have an impact upon your future rights and liabilities. Unless you engage us after completion of the matter to provide additional advice on issues arising from the matter, the firm has no continuing obligation to advise you with respect to future legal developments.

Statement of Client's Rights. We are enclosing a Statement of Client's Rights which applies to all lawyers in New York State. Please contact me immediately if you ever feel that we are not living up to these requirements.

Disagreements or Disputes. In the event of a dispute concerning our services or bills, you agree that New York Law will apply and further agree to arbitrate or litigate all disputes between us in Erie County, New York. In this regard, the Bar Association of Erie County provides for the arbitration of fee disputes between lawyers and their clients, if clients wish to arbitrate such disputes. Please feel free to contact the Bar Association of Erie County (telephone number 852-8687) if you have any questions concerning this service. In the unlikely event of a dispute concerning our services or bills, you agree that (1) you consent to the jurisdiction of the New York State Supreme Court; (2) New York law will apply; (3) the sole venue for resolution of any dispute shall be Erie County, New York, regardless of the method of dispute resolution; (4) we have advised you that you may choose to arbitrate disputes through the Erie County Bar Association; and (5) you will pay all costs and attorneys' fees associated with our collection efforts of any unpaid invoice, cost, or attorney fee charged in connection with our representation.

Governing Law. This engagement letter, and all matters arising in connection with it, shall be governed by the law of the State of New York without regard to conflict of law principles.

Conflicts. Please be aware that the firm represents many other companies and individuals. It is possible that during the time that we are representing you, some of our present or future clients could have matters which may be adverse to you. In the event a conflict arises, before representing either party to the conflict, we agree to obtain prior approval from the Town of Amherst Board. You agree that any such approval will not be unreasonably delayed or withheld.

Attachment: Retainer 10-12-21 with Webster (RES-2021-916 : Approval of Counsel for Child Victim Act Litigation - Webster Szanyi LLP (CRS

If you accept the terms of this engagement, please sign in the place provided below and return the original letter to me. Our work for you will not begin until we receive back a signed copy of this letter.

Thank you for your confidence in us. We look forward to working with you.

Very truly yours,

WEBSTER SZANYI LLP

Shannon B. O'Neill

SBO:lmd
Enclosure

Agreed to and accepted:

By: _____
Stanley J. Sliwa, Esq.
Town Attorney

Date: October __, 2021

Agreed to and accepted:

By: _____
Brian J. Kulpa
Town Supervisor

Date: October __, 2021

Attachment: Retainer 10-12-21 with Webster (RES-2021-916 : Approval of Counsel for Child Victim Act Litigation - Webster Szanyi LLP (CRS

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24910 **RESOLUTION 2021-917** **ADOPTED**

Travel Request - Town Attorney to Attend Fall Meeting of NYSBA - Ithaca, New York

AGENDA ITEM : OCTOBER 18TH, 2021

TO: **Town Board**

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

DATE: **October 13, 2021**

RE: **Travel Request**
Local and State Government Law Joint Fall Meeting (NYSBA)
Ithaca, New York

Kindly adopt a resolution authorizing the Town Attorney to travel to Ithaca, New York from October 22, 2021 through and including October 25, 2021 to attend the Local and State Government Law Joint Fall Meeting of the New York State Bar Association (NYSBA).

The total cost for the employee is estimated to be $1,333.07 which includes registration, hotel stay, tolls, parking and per diems.

Funding for this request is available in accounts A1420.4010, A1420.4040, A1420.4050 and A1420.4120.

Thank you for considering this request.

SJS:nmb:hs
Attachments
c: Kathy Cooper, Deputy Town Clerk
(*w/attachments,* **Agenda Item - October 18th, 2021**)
Lynda Juul, Director of Finance (*w/attachments)*
Daryl C. Bramer, Comptroller (*w/attachments)*

10/18/2021
Consent

FINANCIAL IMPACT:

Estimated - $1,333.07 To Include registration, hotel stay, tolls, parking and per diems (A1420.4010, A1420.4040, A1420.4050, A1420.4120)

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

SECTION MEETING

OCTOBER 23 - 25, 2021

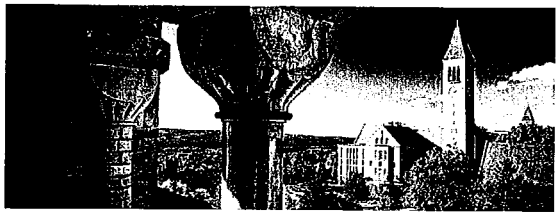
Environmental & Energy Law And Local & State Government Law Joint Fall 2021 Meeting

CLE Progr... CLE Program Cat... Environmental & Energy La...

Environmental & Energy Law And Local & State Government Law Joint Fall 2021 Meeting

Attachment: NYSBAFallJointMtgDetails.IthacaNY (RES-2021-917 : Travel Request - Town Attorney to Attend Fall Meeting of NYSBA - Ithaca,

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Return to the list

Register Here

Creative Environmental Planning for Redevelopment and Renewable Projects

SHARE

Hotel reservation deadline at the discounted rate is Friday, October 8. Room block is limited. To make a reservation:

Booking link: https://be.synxis.com/?hotel=27455&chain=10328&rate=NYSBAR102321&arrive=10/23/2021
Booking code: NYSBAR102321
or call Statler reservations: 1-800-541-2501

Masks are required at the Statler Hotel regardless of vaccination status.

Meeting Registration Cancellations: Required by October 15 to qualify for a full or partial refund. Contact Amy Jasiewicz at: ajasiewicz@nysba.org

Thank you to our sponsors!

ROUX www.rouxinc.com SESI CONSULTING ENGINEERS Hawkins DELAFIELD & WOOD LLP

KNAUFSHAW Hodgson Russ ATTORNEYS

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Start Date: **October 23, 2021**

End Date: **October 25, 2021**

Start Time: **2:00 PM**

End Time: **10:00 AM**

Areas Of Professional Practice Credit(s):

6.0

Ethics and Professionalism Credit(s):

1.0

Total Credit(s): **7.0**

Address:

The Statler Hotel at Cornell University
130 Statler Drive
Ithaca, NY 14853

Agenda

Saturday, October 23, 2021

12:00 p.m. – 1:30 p.m.
Environmental & Energy Law Section Executive

Attachment: NYSBAFallJointMtgDetails.IthacaNY (RES-2021-917 : Travel Request - Town Attorney to Attend Fall Meeting of NYSBA - Ithaca,

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Committee Luncheon
Meeting

Taylor Room, The Statler

1:30 p.m. – 6:00 p.m.
Conference Check-In / Registration

Conference Foyer, The Statler

2:00 p.m. – 5:00 p.m. Joint Programming | Environmental & Energy Law and Local & State Government Law Sections

The Amphitheater, The Statler

2:00 p.m. – 2:55 p.m. Siting Renewable Energy & Other Natural Resource Intense Projects – Are Host Community Benefit Agreements helping to Overcoming NIMBY (Not In My Backyard) Opposition

Upstate New York now provides most of the State's

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drinking water, waste disposal facilities, renewable energy siting locations, and local organic farm-produced food. This program will explore the impacts taking place in upstate New York and the Host Community Benefit Agreements necessary to continue this trend.

1.0 Credit in Areas of Professional Practice

3:00 p.m. – 3:55 p.m.
Cannabis – Is Your Community Going to Opt in or Out?

Local governments will face many choices as the new Marihuana Regulation and Taxation Act, Chapter 92 of the Laws of 2021 is gradually implemented. The most immediate decision is whether to opt out, and thus prohibit retail dispensary and delivery licenses through the adoption of a local law by

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December 31, 2021. Given that regulations governing license applications and operations will not likely be finalized by the end of the year, some municipalities may opt out, knowing that such decisions can be reversed at any time in the future. Those not opting out will face decisions about whether to revise their zoning, as well as commenting on any license applications proposed for their jurisdiction. This panel will explore the pros and cons of opting in or out by the end of this year.

1.0 Credit in Areas of Professional Practice

3:55 p.m. – 4:05 p.m. Break

4:05 p.m. – 5:00 p.m.

Brownfield Redevelopment in Environmental Justice

Attachment: NYSBAFallJointMtgDetails.IthacaNY (RES-2021-917 : Travel Request - Town Attorney to Attend Fall Meeting of NYSBA - Ithaca,

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Communities – Hear from the Developers Successfully Implementing these Projects

This distinguished group of developers will discuss their NYS Brownfield Cleanup Projects in some of the most challenging NYS brownfield environmental justice areas, and how they overcame financing and other challenges through use of the Brownfield Cleanup Program and other strategies. The group will also discuss why the BCP should be extended next year to continue to enable these projects in EJ areas throughout the State.

1.0 Credit in Areas of Professional Practice

6:00 p.m. – 7:00 p.m.

Reception

The Terrance Lounge

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7:00 p.m. - 9:00 p.m. Buffet

Dinner & Trivia

The Terrace Restaurant

Sunday, October 24, 2021

7:30 a.m. – 9:00 a.m.

Breakfast

Conference

Foyer

9:00 a.m. – 12:00 p.m.

Environmental & Energy

Law Section Programming

Ballroom

(See below for concurrent Local & State Governmental Law Section breakout sessions)

9:00 a.m. – 9:55 a.m. PFAS Was Found in Our Drinking Water Supply – What Do We Do Now?!

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This panel will discuss Newburgh's discovery of a new type of contamination known as "PFAS" in its drinking water supply and how it has been struggling to find solutions to clean up its contaminated water supply and find alternative sources of water in the interim. In addition, the panel will explore remedial technologies available to remove PFAS contamination from drinking water supplies and any grant programs available to help municipalities pay for such remediation systems.

1.0 Credit Areas of Professional Practice

10:00 a.m. – 10:55 a.m. The Brownfield Opportunity Area (BOA) Program – What is Working and What is Not Working

The NYS BOA Program is now 17 years old and there

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are 122 Designated BOA Areas, yet only 4 BCP Projects have taken advantage of the extra tax credits afforded to BOA Areas. This panel, which works actively on facilitating BOAs through NYS, will have a candid dialogue about what implementation strategies have proven successful to attract developers to BOA Areas and when BOA Plans become large binders on a shelf. The panel will also discuss future BOA funding opportunities for new municipalities to participate in this Brownfield Area planning program.

1.0 Credit Areas of Professional Practice

10:55 a.m. – 11:05 a.m.

Break

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11:05 a.m. – 12:00 p.m. The Impact of Climate Change, the Energy Transition and Executive Order 14008 on Petrostates (Petroleum Producing Nations) in Developing Economies

A world-renowned speaker on Climate Change, Environmental Justice and the Renewable Energy Transition, Law Professor Tracy-Lynn Field will discuss how the energy transition of the Biden Administration has created a new landscape of opportunities and challenges for developing economies and the U.S., particularly as it relates to U.S. funding of natural gas as a transition fuel and infrastructural developments for renewable energy projects. This session shall discuss funding from Wall Street and other U.S. financial institutions involved in funding renewable energy projects in the U.S. and globally.

1.0 Credit Areas of Professional Practice

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9:00 a.m. – 12:00 p.m.

Local & State Government Law Section Breakout sessions

Amphitheater

(See above for concurrent Environmental & Energy Law Section breakout sessions)

9:00 a.m. - 9:55 a.m.

Emerging Trends in Municipal Innovation

This panel will discuss unique solutions to persistent governmental challenges. In the post-COVID world, GovTech and the climate crisis have emerged as critical focus areas for municipalities. From open municipal data and litigation risk to green building mandates and enforcement,

Attachment: NYSBAFallJointMtgDetails.IthacaNY (RES-2021-917 : Travel Request - Town Attorney to Attend Fall Meeting of NYSBA - Ithaca,

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come see the municipal frontier at this panel.

1.0 Credit Areas of Professional Practice

10:00 a.m. -10:55 a.m.
Coming Back to the Office – Hot Topics in Labor Law

With mask mandates, vaccination requirements, and the like, things are changing so quickly who can predict what the hottest of topics will be by the end of October. If you want to stay on top of the shifting sands though, this is the panel to attend.

1.0 Credit Areas of Professional Practice

10:55 a.m. – 11:05 a.m.
Break

Attachment: NYSBAFallJointMtgDetails.IthacaNY (RES-2021-917 : Travel Request - Town Attorney to Attend Fall Meeting of NYSBA - Ithaca,

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11:05 a.m. -11:55 a.m.

Update on Recent Case Law and Proposed Legislation Affecting Municipalities

This session will review decisions that have been issued over the past year that have particular importance to attorneys who practice municipal law. We will also discuss proposed legislation that may be on the horizon of which municipalities should be aware.

1.0 Credit Areas of Professional Practice

12:00 p.m. – 1:00 p.m.

Crumbling Foundations In Light of the Surfside Florida Disaster – Ethical Obligations of Municipal Attorneys in Light of Impending Catastrophe

The recent Surfside building collapse in Florida has

Attachment: NYSBAFallJointMtgDetails.IthacaNY (RES-2021-917 : Travel Request - Town Attorney to Attend Fall Meeting of NYSBA - Ithaca,

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brought to light that buildings have a finite life and can collapse after a certain age without major structural repairs. And it has highlighted several failures, including governmental inspectors and local homeowners association boards. This session will discuss the professional obligations of municipal attorneys as they deal with these and related issues. Further, we will discuss the consultant's role in assisting lawyers in providing legal advice on these issues to their clients.

1.0 Credit in Ethics

1:30 p.m. – 2:00 p.m. Boxed Lunches available for pick-up at the Registration table for those who have purchased boxed lunches with their meeting registration.

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2:00 p.m. – 2:15 p.m.
Please board the Charter Bus to the Falls by 2:15 p.m.

2:15 p.m. – 4:30 p.m.
Charter bus to and from Taughannock Falls. Meet at the designated entrance to board the charter bus – scheduled departure is 2:15 p.m.

****Pre-Registration is required to reserve your seat for the shuttle.**

Taughannock Falls State Park's namesake waterfall is one of the outstanding natural attractions of the Northeast. Taughannock Falls plunges 215 feet past rocky cliffs that tower nearly 400 feet above the gorge. Gorge and rim trails offer spectacular views from above the falls and from below at the end of the gorge trail. Take a shuttle to

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the falls lookout for a beautiful view, and there is an easy flat-level walk to view the falls close up. Other trails are available for the more adventurous. Shuttle bus will depart the falls to return to the hotel at 3:30 p.m. and 4:30 pm. The Falls are approximately a 20 minute drive from the hotel.

6:00 p.m. – 7:00 p.m.
Reception

Ballroom Foyer

7:00 p.m. - 9:00 p.m. Buffet Dinner & Trivia

Ballroom

Entertainment by our very own Phil Bousquet, Mike Tyzsko, Dwight Kanyuck and Rachel Partington with "rock the conference" with a few tunes!

Monday, October 25, 2021

7:30 a.m. – 9:00 a.m.
Breakfast

Attachment: NYSBAFallJointMtgDetails.IthacaNY (RES-2021-917 : Travel Request - Town Attorney to Attend Fall Meeting of NYSBA - Ithaca,

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Ballroom Foyer

8:00 a.m. – 10:00 a.m.

Brownfield Taskforce

Legislation Update

Discussion

Ballroom

Summary of Presentation to be Made at the Bar Executive Committee Meeting Following this Conference on October 29, 2021 Cooperstown, NY & Strategy for getting the bill passed during the 2022 legislative session.

This is a non-CLE session.

Conference Adjourns.

Program Faculty

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Format: **In-Person**

Product Code: **ENVILSGLFA21**

Section Member Price:	**$175.00**	
NYSBA Member Price:	**$295.00**	Join (or renew) for special member pricing
Non-Member Price:	**$425.00**	

Sponsoring Committee Group

Environmental & Energy Law Section

Local And State Government Law Section

NYSBA Program Policies

Accommodations for Persons with Disabilities

Attachment: NYSBAFallJointMtgDetails.IthacaNY (RES-2021-917 : Travel Request - Town Attorney to Attend Fall Meeting of NYSBA - Ithaca,

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Out of State Accreditation Information

Tuition Assistance Policy

NEW YORK STATE BAR ASSOCIATION

Subscribe for Updates from NYSBA

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Phone: 518-463-3200
1 Elk Street, Albany, NY 12207

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TRAVEL EXPENSE APPROVAL / REIMBURSEMENT FORM

☐ $250 or LESS and under 75 miles — Department Head Approval ONLY Required

☒ $250 + or greater than 75 miles — Department Head AND Town Board Approval Required

Revised 2/22/2021

NAME	Employee #	Department	Phone Number
Stanley J. Sliwa	8751	Law	7166317030

Destination and Purpose of Trip

Date of Departure	Date of Return	Destination	Purpose/Justification
10/22/2024	10/25/2021	Ithaca NY	Fall Meeting - Local + State Govt Law - NYSBA

Expenses	Estimated	Budget A/C #	Actual
Transportation:			
Mileage 148 @ $0.56	$ 82.88	A1420.4050	
Tolls	$ 30.00	A1420.4040	
Parking 3@$15.00	$ 45.00	A1420.4040	
Local Transportation (bus/taxi)			
Plane/Rail/Bus			
Lodging:			
# nights 3 @ $245	$ 745.00	A1420.4040	
Meals:			
IRS Per Diem Per Day: $			
1st & Last Day of Travel @ 75%			
# Breakfasts @ $			
# Lunches @ $			
# Dinners 1 @ $134.00	$ 134.00	A1420.4040	
# Incidentals @ $			
Registration/Conference Fee	$ 175.00	A1420.4120	
Other			
Subtotal	$ 1,211.88		
Contingency - 10% of subtotal or $200	$ 121.19		N/A
TOTAL	$ 1,333.07		N/A

Request Approved By:

Department Head Signature

Date

I hereby certify that I have expended the above itemized amounts for business purposes for the Town of Amherst. Required receipts are attached.

Employee Signature — Date

Print Employee Name

Reimbursement Approved By:

Department Head Signature — Date

Town Board :

Town Board Resolution & Date

Complete Shaded Area
For Expense Reimbursement

Attachment: NYSBAFallJointMtg.TravelApprovalForm-10132021104345 (RES-2021-917 : Travel Request - Town Attorney to Attend Fall Meeting

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 24869 **RESOLUTION 2021-918** **ADOPTED**

New Firefighter for the East Amherst Fire Department

New firefighter for the East Amherst Fire Department lives in the Town of Clarence and her place of employment is in the East Amherst Fire District.

Lynn Buczkowski
6015 Newhouse Road
E. Amherst, NY 14051

10/18/2021
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: Lynn Buczkowski

Applicant Home Address: 6015 NEWHOUSE ROAD, E. AMHERST, NY 14051

Under penalty of perjury I, Lynn Buczkowski affirm I am an applicant to be a member of the, EAST AMHERST FIRE DEPT (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: Lynn Buczkowski

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 Russ

Title: PRESIDENT

Date: 10-4-2021

Submit this completed form to:
Amherst Town Clerk
5583 Main Street
Williamsville, NY 14221

Attachment: LBuczkowski residency verification 10.4.21 (RES-2021-918 : New Firefighter for the East Amherst Fire Department)

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 24909 **RESOLUTION 2021-919** **ADOPTED**

Snowplow Permits

JK Quality Enterprises #0042
James Kelsch
169 Stuewe Rd
Getzville, NY 14068

Your Personal Gardener, LLC #0043-#0044
Guy Zee
2560 Eggert Rd
Tonawanda, NY 14050

Canella Enterprises, Inc. #0045-#0046
Joseph P Canella
187 Roxbury Park
East Amherst, NY 14051

ACS Outdoor Services, LTD. #0047
Jarrick Shaw
5637 Beattie Avenue
Lockport, NY 14094

Hassle Free Landscaping & Snowplowing #0048-#0049
Joseph R Oishei, Jr.
P. O. Box 1283
Amherst, NY 14226

10/18/2021
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

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Comptroller
Initiated by: **Daryl Bramer**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 24907 **RESOLUTION 2021-920** **ADOPTED**

Budget Transfers and Amendments

For Oct 18, 2021 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 10/13/2021
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:***
N2139.4000 Amherst Acquisition $28,000.00 N2121.4000 Amherst Rehab $32,000.00 *Requested per Department.*	N2137.4000 Amherst Infrastructure $60,000.00
N2029.4000 Supportive Services $3,475.35 *Requested per Department.*	N2021.4000 Amherst CDBG Rehab $3,475.35
N1855.4000 Amherst HOME Rental $10,000.00 *Requested per Department.*	N1840.4000 Amherst HOME Rehab $10,000.00
N1944.4000 Cheektowaga HOME Rehab $3,246.00 *Requested per Department.*	N1947.4000 Cheektowaga Closing Cost $3,246.00
A7253.2150 Ice Rink- Bldg Improv & Equip $4,000.00 *Requested per Department.*	A7253.4220 Bldgs & Grounds $4,000.00
KP2014.4978 TW Security Improvements - Interest $750 *Transfer from interest expense to building improvements for KP2014 Town Wide Security Improvements.*	KP2014.2150 Building Improvements $750

BUDGET AMENDMENTS - 2021

INCREASE:	***INCREASE:***
N2123.02785 CDBG & VG PI $6,129.60 N2125.02785 CDBG & VG Admin $1,532.40 *To recognize Community Development program income from 105 Cherrywood, Amherst.*	N2123.4000 Admin $6,129.60 N2125.1000 Personal Services $1,423.50 N2125.8030 FICA $108.90
KP2116.02770 Knox Box - Other Revenue $70,382.50 *To recognize revenue from the Knox Box project and increase expenditures.*	KP2116.1000 Personal Services $5,000.00 KP2116.8030 FICA $382.50 KP2116.2150 Equipment $65,000.00
N2144.02785 Cheek HOME Rehab $10,206.90 N2149.02785 Cheek HOME Admin $1,134.10	N2144.4000 Contractual $10,206.90 N2149.4003 Admin $1,134.10

To recognize Community Development program income from 106 Southcrest, Cheektowaga.

N2144.02785 Cheek HOME Rehab $17,298.00 N2144.4000 Contractual $17,298.00
N2149.02785 Cheek HOME Admin $1,922.00 N2149.4003 Admin $1,922.00
To recognize Community Development program income from 388 French, Cheektowaga.

N2150.02785 Tonawanda HOME- PI $40,940.67 N2150.4000 Contractual $40,940.67
N2153.02785 Tonawanda Admin- PI $4,548.96 N2153.4003 Admin $4,548.96
To recognize Community Development program income from 49 Benefield, Tonawanda.

N2123.02785 CDBG & VG PI $170.00 N2123.4000 Admin $170.00
To recognize Community Development program income from 169 Hillcrest, Amherst.

N2123.02785 CDBG & VG PI $800.00 N2123.4000 Admin $800.00
N2125.02785 CDBG & VG Admin $200.00 N2125.1000 Personal Services $185.79
N2125.8030 FICA $14.21
To recognize Community Development program income from 6 Campus, Amherst.

N2140.02785 Amherst HOME- PI $6,750.00 N2140.4000 Contractual $6,750.00
N2154.02785 Amherst Admin- PI $750.00 N2154.4003 Admin $750.00
To recognize Community Development program income from 120 Windermere, Amherst.

10/18/2021
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: 10/18/21 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 24890 **RESOLUTION 2021-921** **ADOPTED**

Contract Extension - Curbside Shredding - CRS #2943 (Original CRS/CMS #2174/2259)

WHEREAS, the Town currently participates in Erie County Bid #219167-002 with Shred-Text, Inc.; and

WHEREAS, this contract was extended by Erie County through October 31, 2023, under the same prices, terms and conditions as the original agreement;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the extension of the Town contract through October 31, 2023; and

BE IT FURTHER RESOLVED, The Town Board authorizes the Supervisor to sign the two-year contract extension Shred Text, Inc.

10/18/2021
Consent

FINANCIAL IMPACT:

Town Wide - Various Accounts - Amount TBD

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

TOWN OF AMHERST

Erie County, New York

SUPERVISOR
Brian J. Kulpa
716-631-7032

DEPUTY SUPERVISOR/COUNCILMEMBER
Jacqualine Berger

COUNCILMEMBERS
Deborah Bruch Bucki, RN, PhD
Shawn Lavin
Michael Szukala

Shred-Text, Inc. agrees to hold prices and extend the current contract with the Town of Amherst (Erie County Bid #219167-002) for Curbside Shredding (CRS-CMS ID #2174/2259).

This contract will be extended for a two-year period from October 31, 2021 through October 31, 2023.

SIGNED:

Shred Text, Inc.

DATED 10/5/2021

Brian J. Kulpa, Supervisor
Town of Amherst

DATED

Attachment: Shred Text Extension CRS (RES-2021-921 : Contract Extension - Curbside Shredding - CRS #2943 (Original CRS/CMS #2174/2259))

COUNTY OF ERIE
DIVISION OF PURCHASE
MEMORANDUM

To: All Using Departments

From: Jamie Kucewicz, Buyer

Date: September 20, 2019

Subject: CURBSIDE SHREDDING

Bid No.: 219167-002

Effective Dates: Extended through October 31, 2023

Vendor: SHRED-TEXT, INC.
106 Crimson Woods Court
Rochester, NY 14626

Telephone: (585) 247-5250

Contact: Rosanne Bonin

Pricing: per attached document

Attachment: Shred Text Extension CRS (RES-2021-921 : Contract Extension - Curbside Shredding - CRS #2943 (Original CRS/CMS #2174/2259))

12.G.1.a

COUNTY OF ERIE
MARK C. POLONCARZ
COUNTY EXECUTIVE

DIVISION OF PURCHASE
VALLIE M. FERRARACCIO
DIRECTOR

August 30, 2021

Shred-Text, Inc.
106 Crimson Woods Court
Rochester, NY 14626
Attn: Rosanne Bonin

Re: Bid #219167-002 – "Curbside Shredding"

Dear Ms. Bonin:

The County of Erie wishes to extend this agreement for an additional contract period, through October 31, 2023, under the same prices, terms and conditions as the original agreement.

Extension is provided for per paragraph 26, Page 5 of 6 of the "Instructions to Bidders". This offer is for your immediate consideration and acceptance. Please indicate below whether you agree to extend or do not wish to extend. Please respond within seven days upon receipt of this request.

After approval and execution by the County, a fully signed copy will be returned to you for your files.

X Yes, I agree to extend ____ No, I do not wish to extend

Company Name: Shred Text Inc.

Representative (Please print): Rosanne Bonin Title: President

Signature: _____ Date: 9/1/2021

Sincerely,

James D. Kucewicz
Buyer

Vallie M. Ferraraccio
Director of Purchase

9/7/2021
DATE

Attachment: Shred Text Extension CRS (RES-2021-921 : Contract Extension - Curbside Shredding - CRS #2943 (Original CRS/CMS #2174/2259))

EXHIBIT "F"

County of Erie

MARK C. POLONCARZ
COUNTY EXECUTIVE

DIVISION OF PURCHASE

STANDARD AGREEMENT

This AGREEMENT, made as of the 16th DAY OF AUGUST, 2019

by and between SHRED-TEXT, INC.

of 106 CRIMSON WOODS COURT, ROCHESTER, NY 14626

herein after referred to as the Contractor, and the County of Erie, a municipal corporation of the State of New York, hereinafter referred to as the County:

WHEREAS, in accordance with public open competitive bidding, sealed proposals were received and publicly opened by the County of Erie, Division of Purchase

on AUGUST 15, 2019 at 11:00AM

for: CURBSIDE SHREDDING

WHEREAS, the bid of the Contractor submitted in accordance therewith, comprising various costs for various services, was the lowest responsible bid submitted; and

WHEREAS, a contract is hereby awarded to the Contractor by the County, in accordance with the provisions therein contained; and

WHEREAS, the Notice to Bidders and Specifications make provisions for entering into a proper and suitable contract in connection therewith;

NOW, therefore, the Contractor does hereby for its heirs, executors, administrators and successors agree with the County of Erie that, the Contractor shall for the consideration mentioned, and in the manner set forth in Accepted Invitation to Bid No. 219167-002 , Specifications and Provisions of Law annexed hereto and forming a part of this contract, furnish the equipment and materials and perform the work and services described in the Accepted Bid for the above sum.

Attachment: Shred Text Extension CRS (RES-2021-921 : Contract Extension - Curbside Shredding - CRS #2943 (Original CRS/CMS #2174/2259))

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

DIVISION OF PURCHASE

INVITATION TO BID

Bids, as stated below, will be received and publicly opened by the Division of Purchase in accordance with the attached specifications. FAX bids are unacceptable. Bids must be submitted in a sealed envelope to:

County of Erie
Division of Purchase
Attention: JAMES D. KUCEWICZ, BUYER (716) 858-6336
95 Franklin Street, Room 1254
Buffalo, New York 14202-3967

NOTE: Lower left hand corner of envelope MUST indicate the following:

BID NUMBER: 219167-002

OPENING DATE: AUGUST 15, 2019 TIME: 11:00 AM

FOR: CURBSIDE SHREDDING

SHRED-TEXT
106 CRIMSON WOODS COURT
ROCHESTER NY 14626

NAME OF BIDDER: _____

If you are submitting other Invitations to Bid, each bid must be enclosed in a separate envelope.

Following EXHIBITS are attached to and made a part of the bid specifications, and part of any agreement entered into pursuant to this Invitation to Bid:

X	EXHIBIT "A" - Assignment of Public Contracts
X	EXHIBIT "B" - Purchases by Other Local Governments or Special Districts
____	EXHIBIT "C" - Construction/Reconstruction Contracts
____	EXHIBIT "D" - Bid Bond (Formal Bid)
N/A	EXHIBIT "E" - Bid Bond (Informal Bid)
X	EXHIBIT "EP" - Equal Pay Certification
X	EXHIBIT "F" - Standard Agreement
X	EXHIBIT "G" - Non-Collusive Bidding Certification
X	EXHIBIT "H" - MBE/ WBE Commitment
X	EXHIBIT "IC" - Insurance CLASSIFICATION "A"
____	EXHIBIT "P" & EXHIBIT "PBI" - Performance Bond
____	EXHIBIT "PW" - NYS Prevailing Wage
____	EXHIBIT "Q" - Confined Space Program Certification

(Rev 1/00)

Attachment: Shred Text Extension CRS (RES-2021-921 : Contract Extension - Curbside Shredding - CRS #2943 (Original CRS/CMS #2174/2259))

County of Erie

DIVISION OF PURCHASE
BID SPECIFICATIONS

BID NO 219167-002

ITEM NO	QUANTITY	UM	CATALOG NO./DESCRIPTION	UNIT PRICE	TOTAL PRICE
			Erie County is seeking a vendor to provide curbside shredding of		
			confidential records for various County operated locations		
			per the attached specifications.		
			Contract will run from November 1, 2019 to October 31, 2021.		
			Pricing and Evaluation for Award		
			Price per Initial Tote Setup	-0-	
			Price per Service Visit Flat Rate	$60.	$60
	4	96-gal	# of totes included in service visit 4		
	1	96-gal	Price per each additional tote per visit $ 15.00	$15.00	
	20	12" x 4 15 box	Price per One-time Service Visit (file purge)	$75.00	$75.00
			# of standard storage file boxes included in service visit 20		
	1	12" x 4 15 box	Price per each additional box per visit $ 4.00	$4.00	

NOTE: Bid results cannot be given over the phone. All requests for bid results should be submitted in writing or faxed to.

ERIE COUNTY DIVISION OF PURCHASE
Freedom of Information Officer
95 Franklin Street, Rm. 1254
Buffalo, NY 14202
FAX #: **716/858-6465**

NAME OF BIDDER Shred Text Inc.

(Rev 9/95)

Attachment: Shred Text Extension CRS (RES-2021-921 : Contract Extension - Curbside Shredding - CRS #2943 (Original CRS/CMS #2174/2259))

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

DIVISION OF PURCHASE

TO: ALL BIDDERS

FROM: James D. Kucewicz, Buyer
Erie County Division of Purchase

DATE: July 30, 2019

SUBJECT: **ADDENDUM NO. 1** **Erie County Bid #219167-002**
Curbside Shredding

The attention of all bidders is directed to the following changes in the above bid:

****

There are currently four locations that have regularly scheduled pick-ups. They are:

290 Main Street, Buffalo, NY 14202 (7 totes)

43 Court Street, Buffalo, NY 14202 (4 totes)

460 Main Street, Buffalo, NY 14202 (4 totes)

Appletree Business Park, Cheektowaga, NY 14227 (12 totes)

These are the sites with a current need for shredding services. Prices are to be good for any Erie County location, however.

****

Attachment: Shred Text Extension CRS (RES-2021-921 : Contract Extension - Curbside Shredding - CRS #2943 (Original CRS/CMS #2174/2259))

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Engineering Services
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24912 **RESOLUTION 2021-922** **ADOPTED**

Community Policing & Training Facility Emergency Generator Install - Change Order No. 1 CRS 2936

We are requesting the Town Board consider approval of this resolution authorizing the Supervisor to sign the above referenced Change Order, which increases the overall contract amount by $2,135.80. Due to a building utility conflict, the code-required egress doors must be installed in an alternative location requiring additional concrete for the associated pathway from the doors to the parking area. Also associated with this change order is a no-cost extension of the substantial completion date for the project due to supply-chain related delivery delays. Upon approval by the Board, the new substantial completion date shall be extended to January 15, 2022.

Funding for this contract shall be from American Rescue Plan Act funding; Account A3649.2150.

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

Thank you for considering this request.

10/18/2021
Consent

FINANCIAL IMPACT:

A3649-2150; $2,135.80

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

AIA® Document G701™ – 2017

Change Order

PROJECT:	CONTRACT INFORMATION:	CHANGE ORDER INFORMATION:
Community Policing & Training Facility *Emergency Generator Installation* *Project #2018.036C*	*Contract For: Town of Amherst*	Change Order Number: 1 Date: 10/5/21
OWNER: *Town of Amherst*	**ENGINEER:** *Buffalo Engineering*	**CONTRACTOR:** *Frey Electric Construction Co., Inc.*

The Contract is changed as follows:

Install new ingress/egress double doors in an alternative location requiring additional concrete and also extend the substantial completion date until January 15, 2022 due to supply-chain related delivery delays.

The original Contract Sum was	$ 243,000.00
The net change by previously authorized Change Orders	$ 0.00
The Contract Sum prior to this Change Order was	$ 243,000.00
The Contract Sum will be increased by this Change Order in the amount of	$ 2,135.80
The new Contract Sum, including this Change Order, will be	$ 245,135.80
The SUBSTANTIAL COMPLETION Contract Time will be changed) by	(58) days.

NOTE: This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that 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 ARCHITECT, CONTRACTOR AND OWNER.

ENGINEER *(Buffalo Engineering)*	CONTRACTOR *(Frey Electric Construction)*	OWNER *(Town of Amherst)*
SIGNATURE	SIGNATURE	SIGNATURE
PRINTED NAME AND TITLE	PRINTED NAME AND TITLE	PRINTED NAME AND TITLE
DATE	DATE	DATE

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

AIA Document G701™ – 2017. Copyright © 1979, 1987, 2000, 2001 and 2017 by The American Institute of Architects. **All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** Purchasers are permitted to reproduce ten (10) copies of this document when completed. To report copyright violations of AIA Contract Documents, e-mail The American Institute of Architects' legal counsel, copyright@aia.org.

Change Request Proposal

FREY ELECTRIC CONSTRUCTION CO.

Project: 21-4998-00 / Amherst Comm Police Gener
5583 Main St.
Williamsville, NY 14221

Customer: Town Of Amherst

Change request number: 1001

Description: Cost to relocate new egress door to the west side of the building. Excavation, backfill & subbase, form & pour sidewalk with 6x6 mesh, backfill and grade area. Credit given for not removing metal siding. All per site discussion and attached sketch

Notice to Proceed

Submitted date:
Received date:

Status: Quoted
Origination date: 09/02/21 9/3/21 Revision

Quotation Quote is valid for 30 days

Submitted date: 09/02/21
Due date:
Submitted amount: 2,135.80
Requested days delay: 0

Notes

Subcontractor cost $ 2,034.10
Markup 5% $ 101.70

Revenue Detail

Billing Item	Description	Revenue
		2,135.80
	Total Revenue For CR 1001	**2,135.80**

Approvals

Customer: Town Of Amherst

Authorized Representative: _____

By: _____

Date: _____

Contractor: Frey Electric Construction

Project Manager: Eric Frandsen

By: _____

Date: 9-3-21

Attachment: Frey Change Order (RES-2021-922 : Community Policing & Training Facility Emergency Generator Install - Change Order No. 1)

PCC CHANGE PROPOSAL / APPROVAL

Project No. & Name:	Architect Name:	Owner Project No.:	CP #
21-021 - Frey - Amherst Police Generator	Buffalo Engineering PC	2018.36C	01- R1

General Contractor: Picone Construction Corporation

Credit for not removing metal siding

Add for Relocation of South Entrance to West Side of Building
Excavation, Backfill & Subbase, Form Pour Sidewalk with 6x6 Mesh, Backfill and Grade Area

R1 Change Requested 9/2/2021 - PCC increased credit + reduced site work cost as a compromise.
If still not agreeable, we recommend the site work be done on a T+M basis.

We assume this changed work will be completed during originally contracted project schedule
No additional costs have been included in the Proposal for our additional Supervision and General Requirement fees
We reserve our right to add theses costs if work is done outside of originally contracted project schedule

Cost Details:

PCC Labor (Siding Removal Credit - 8 hrs x $75 / hr = $600 + 150)		$ (750.00)
PCC Materials, Equipment & Other Costs (supporting detailed Estimate attached)		$ 0.00
Purchase Orders (supporting detailed Proposal(s) attached)		
Company / Category of Work	Amount	
	$ 0.00	
	$ 0.00	
	$ 0.00	
Purchase Orders Subtotal:		$ 0.00
Subtotal - Labor, Mtl, Equip & PO:		$ (750.00)
G. C. Overhead & Profit Markup @:	0%	$ 0.00
Subcontracts (supporting detailed Proposal(s) attached)		
Company / Category of Work	Amount	
Double A	$ 2,531.00	
	$ 0.00	
	$ 0.00	
Subcontracts Subtotal:		$ 2,531.00
Contractors Commission on Total of Subcontracts @:	10%	$ 253.10
Subtotal:		$ 2,034.10
Performance & Payment Bond Cost Fee (if applicable):	0.00%	$ 0.00
TOTAL CHANGE PROPOSAL AMOUNT:		$ 2,034.10

Time Extension (supporting documentation attached) Calendar Days 00

Contractor:	Architect:	Owner:
Picone Construction Corp.		
Proposed By:	Approved By:	Approved By:
S. MacDonald		
Date: 9/3/21	Date:	Date:

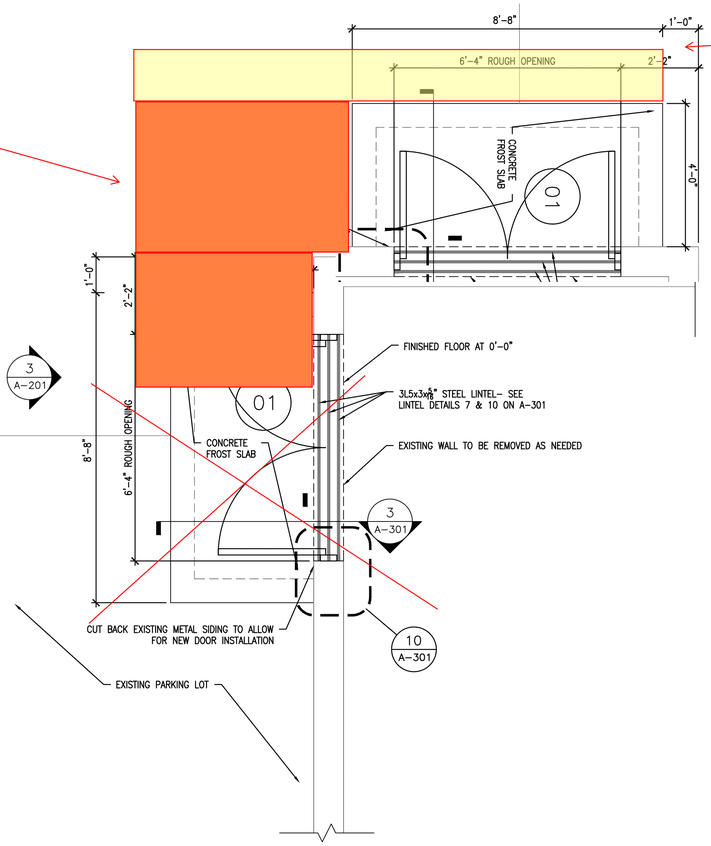
File Location: M:\01 - Projects in Progress\21-021 - Frey Electric - Amherst Comm Policing Generator\Crspdnc w Architect\B - Change Proposals\CP 01 - Exterior Door Relocation\21-021 - CP 01- R1 -for Door Relocation
Updated: 9/3/2021

Attachment: Frey Change Order (RES-2021-922 : Community Policing & Training Facility Emergency Generator Install - Change Order No. 1)

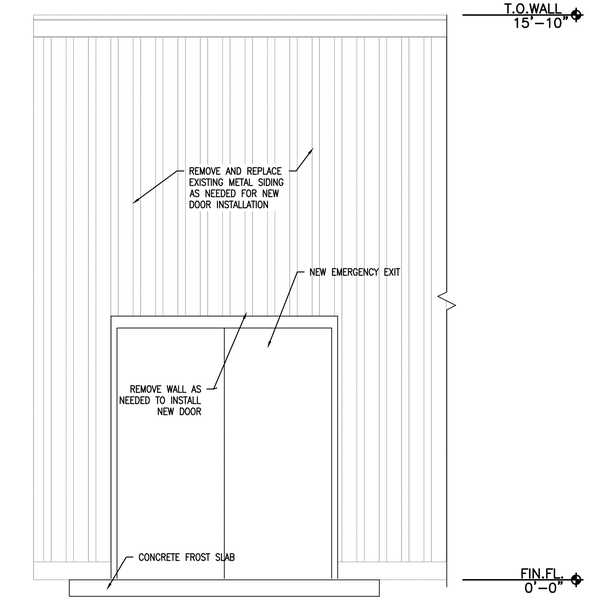
Town has requested that the door be moved to the west side of the building with additional concrete walkway path to asphalt parking

Additional concrete path

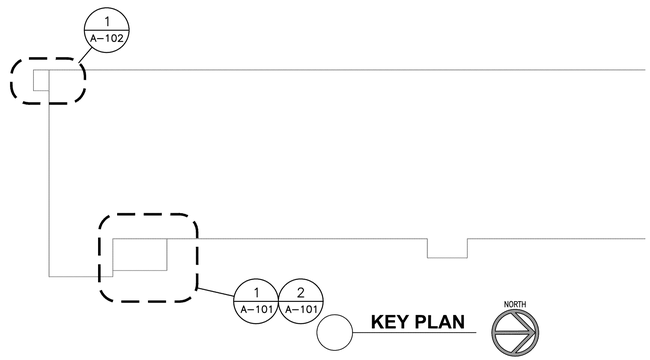
May need to extend concrete to allow for foot travel around open doors



1 **PARTIAL FIRST FLOOR PLAN**
SCALE: 1/2"=1'-0"



2 **SOUTH ELEVATION**
SCALE: 1/2"=1'-0"



KEY PLAN

BUFFALO ENGINEERING, P.C.
MECHANICAL/ELECTRICAL ENGINEERS
4245 UNION RD. SUITE No. 204
BUFFALO, NY 14225
[P] 716.633.5300 [F] 716.633.5598
WWW.BUFFALOENGINEERING.COM
BE PROJECT No. 220090

DIDONATO ENGINEERING & ARCHITECTURAL PROFESSIONALS
669 Main Street
Buffalo, NY 14203
P 716.856-5910
F 716.856-1697
www.didonato.cc

TOWN OF AMHERST
ENGINEERING DEPARTMENT
1100 NORTH FOREST ROAD
WILLIAMSVILLE, NY 14221
TOA PROJECT No. 2018.36C

TOWN OF AMHERST
COMMUNITY POLICING AND TRAINING FACILITY
EMERGENCY GENERATOR INSTALLATION
4220 BAILEY AVE - AMHERST, NY 14226

EXTERIOR DOOR DETAILS

No.	Revisions	Date
1	ISSUED FOR BID & PERMIT	06-16-2021

Stamp

STATE OF NEW YORK JOHN M. DIDONATO LICENSED PROFESSIONAL ENGINEER No. 066688

Date: 06-16-2021	Drawn By: DJM
Scale: AS NOTED	Checked By: MWB
DWG. No. A-102	

BUFFALO ENGINEERING, P.C.
These documents and their contents are the property of C.J. Brown Energy, P.C. and are issued only for the specific project noted on these drawings. Any reproductions, revisions, or modifications of these documents without the express written consent of C.J. Brown Energy, P.C. is prohibited by law.

Attachment: Frey Change Order (RES-2021-922 : Community Policing & Training Facility Emergency Generator Install - Change Order No. 1)

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Engineering Services
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24913 **RESOLUTION 2021-923** **ADOPTED**

US Geological Survey Joint Funding Agreement CRS 2949

We are requesting Town Board approval and permission for the Supervisor to sign the above referenced Joint Funding Agreement. This agreement is for the operation and maintenance of the gaging stations with telemetry at Ellicott Creek below Williamsville (04218518) and Tonawanda Creek Rapids (04218000). The term of this agreement is October 1, 2021 to September 30, 2022.

The gaging stations are used by the Town for flood studies, and also to forecast the possibility of impending flooding. The water level monitors located in Ellicott Creek and Tonawanda Creek are extremely beneficial and necessary for our Town's flood monitoring.

The Town of Amherst's share for the upcoming term will be $12,160.00 and the Town of Clarence's will be $2,830.00. U.S. Geological Survey contributions for this agreement are $5,070.00 for a combined total of $20,060.00. Funds are available in Account H-8000-4110. This request has successfully completed the contract review process. Thank you for considering our request.

10/18/2021
Consent

FINANCIAL IMPACT:

H8000-4410; $12,160.00

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

Form 9-1366
(May 2018)

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR
Water Resource Investigations

Customer #: 6000000393
Agreement #: 22LKJFA24570008
Project #: GC22LK000011000Y7
TIN #: 16-6002157

Fixed Cost Agreement YES[X] NO[ ]

THIS AGREEMENT is entered into as of the October 1, 2021, by the U.S. GEOLOGICAL SURVEY, New York Water Science Center, UNITED STATES DEPARTMENT OF THE INTERIOR, party of the first part, and the Town of Amherst party of the second part.

1. The parties hereto agree that subject to the availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation Water Resource Investigations (per attachment), herein called the program. The USGS legal authority is 43 USC 36C; 43 USC 50, and 43 USC 50b.

2. The following amounts shall be contributed to cover all of the cost of the necessary field and analytical work directly related to this program. 2(b) include In-Kind-Services in the amount of $0.00

(a) $5,070 by the party of the first part during the period October 1, 2021 to September 30, 2022

(b) $14,990 by the party of the second part during the period October 1, 2021 to September 30, 2022

(c) Contributions are provided by the party of the first part through other USGS regional or national programs, in the amount of: $0

Description of the USGS regional/national program:

(d) Additional or reduced amounts by each party during the above period or succeeding periods as may be determined by mutual agreement and set forth in an exchange of letters between the parties.

(e) The performance period may be changed by mutual agreement and set forth in an exchange of letters between the parties.

3. The costs of this program may be paid by either party in conformity with the laws and regulations respectively governing each party.

4. The field and analytical work pertaining to this program shall be under the direction of or subject to periodic review by an authorized representative of the party of the first part.

5. The areas to be included in the program shall be determined by mutual agreement between the parties hereto or their authorized representatives. The methods employed in the field and office shall be those adopted by the party of the first part to insure the required standards of accuracy subject to modification by mutual agreement.

6. During the course of this program, all field and analytical work of either party pertaining to this program shall be open to the inspection of the other party, and if the work is not being carried on in a mutually satisfactory manner, either party may terminate this agreement upon 60 days written notice to the other party.

7. The original records resulting from this program will be deposited in the office of origin of those records. Upon request, copies of the original records will be provided to the office of the other party.

8. The maps, records or reports resulting from this program shall be made available to the public as promptly as possible. The maps, records or reports normally will be published by the party of the first part. However, the party of the second part reserves the right to publish the results of this program, and if already published by the party of the first part shall, upon request, be furnished by the party of the first part, at cost, impressions suitable for purposes of reproduction similar to that for which the original copy was prepared. The maps, records or reports published by either party shall contain a statement of the cooperative relations between the parties. The Parties acknowledge that scientific information and data developed as a result of the Scope of Work (SOW) are subject to applicable USGS review, approval, and release requirements, which are available on the USGS Fundamental Science Practices website (https://www.usgs.gov/about/organization/science-support/science-quality-and-integrity/fundamental-science-practices).

Attachment: USGS Agreement (RES-2021-923 : US Geological Survey Joint Funding Agreement)

Form 9-1366
(May 2018)

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR
Water Resource Investigations

Customer #: 6000000393
Agreement #: 22LKJFA24570008
Project #: GC22LK000011000Y7
TIN #: 16-6002157

9. Billing for this agreement will be rendered **annually**. Invoices not paid within 60 days from the billing date will bear Interest, Penalties, and Administrative cost at the annual rate pursuant the Debt Collection Act of 1982, (codified at 31 U.S.C. § 3717) established by the U.S. Treasury.

USGS Technical Point of Contact

Name:	Gerard Butch Associate Director for Data
Address:	District Office - Troy 425 Jordan Road Troy, NY 12180
Telephone:	(518) 285-5673
Fax:	(518) 285-5601
Email:	gkbutch@usgs.gov

Customer Technical Point of Contact

Name:	Jeffrey Burroughs Town Engineer
Address:	1100 North Forest Road Williamsville, NY 14221
Telephone:	(716) 631-7154
Fax:	(716) 631-7222
Email:	jburroughs@amherst.ny.us

USGS Billing Point of Contact

Name:	Tracy Bristol Administrative Officer
Address:	District Office - Troy 425 Jordan Road Troy, NY 12180
Telephone:	(518) 285-5626
Fax:	(518) 285-5601
Email:	tbristol@usgs.gov

Customer Billing Point of Contact

Name:	Jeffrey Burroughs Town Engineer
Address:	1100 North Forest Road Williamsville, NY 14221
Telephone:	(716) 631-7154
Fax:	(716) 631-7222
Email:	jburroughs@amherst.ny.us

U.S. Geological Survey
United States
Department of Interior

Signature

By_____ **Date:** 07/28/2021
Name: Robert Breault
Title: Director

Town of Amherst

Signatures

By_____ **Date:** _____
Name:
Title:

By_____ **Date:** _____
Name:
Title:

By_____ **Date:** _____
Name:
Title:

Attachment: USGS Agreement (RES-2021-923 : US Geological Survey Joint Funding Agreement)

Network Cost Summary

NY081 -- Town of Amherst

For the period: 10/1/2021 to 9/30/2022

Based on FFY 2021 element costs and 1% annual inflation beyond FFY 2021

04218000 *TONAWANDA CREEK AT RAPIDS NY*

Element	Quantity	Weight	Months	Match %	Cooperator	USGS
DCPGS	1	1	12	22	$2,060	$580
PHONE	1	1	12	22	$770	$220
				Cost Share	**$2,830**	**$800**
				Station Total		**$3,630**

04218518 *ELLICOTT CREEK BELOW WILLIAMSVILLE NY*

Element	Quantity	Weight	Months	Match %	Cooperator	USGS
POWER	1	1	12	26	$570	$200
QCONT	1	1	12	26	$10,910	$3,830
TRAVL	11.7	.265	12	26	$680	$240
				Cost Share	**$12,160**	**$4,270**
				Station Total		**$16,430**
			Cost Share Grand Total		**$14,990**	**$5,070**
				Network Total		**$20,060**

Attachment: USGS Agreement (RES-2021-923 : US Geological Survey Joint Funding Agreement)

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Engineering Services
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24914 **RESOLUTION 2021-924** **ADOPTED**

Award of Bid - Amherst Girls Softball Fields - Amendment to Resolution Occhino Corp.

At the Town Board meeting of September 8, 2021, the above referenced contract was awarded for an incorrect amount of $1,955,222 to Occhino Corp (see attached resolution 2021-786).

Given the above, please reauthorize the award of this contract to Occhino Corp., 2650 Seneca Street, West Seneca, NY, 14224 in the amount of $1,954,623 to include the base bid and alternate bid item 3 (deduct for Town construction of storm line) and authorize the Town Supervisor to execute the contract associated with the bid award.

Funding for this contract shall be from project account T2107-4001.

10/18/2021
Consent

FINANCIAL IMPACT:

$1,954,623.00: T2107-4001

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

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

Francina J. Spoth
Town Clerk

Meeting: 09/13/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24753 **RESOLUTION 2021-786** **ADOPTED**

Award of Bid - Amherst Girls Softball Fields Occhino Corp.

On September 2, 2021, bids were received for the above referenced project. After review of the three (3) bids received (bid tabulation attached), the Engineering Department recommends award of this contract to Occhino Corp., 2650 Seneca Street, West Seneca, NY, 14224 in the amount of $1,955,222.00 to include the base bid and alternate bid item 3 (deduct for Town construction of storm line) and authorize the Town Supervisor to execute the contract(s) associated with the bid award.

Funding for this contract shall be from project account T2107-4001.

May we have your approval to award the above contract and also authorization of the Town Supervisor to execute the contract associated with the bid award?

9/13/2021
Consent

FINANCIAL IMPACT:

$1,955,222.00; T2107-4001

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

Attachment: AGS Resolution & Bid Tab (RES-2021-924 : Award of Bid - Amherst Girls Softball Fields - Amendment to Resolution)

PROJECT : Town of Amherst - Amherst Girls Softball Fields
TOA Project No: 2021.035B
DATE : Thursday, September 2, 2021

TABULATION OF BIDS
PAGE 1

ITEM #	DESCRIPTION	QTY	UNITS	NO. 1 Northeast Diversification, Inc. Lancaster, New York 14086 YES UNIT PRICE	NO. 1 EXTENDED TOTAL	NO. 2 Greenauer Blacktop, Inc. West Seneca, New York 14224 YES UNIT PRICE	NO. 2 EXTENDED TOTAL	NO. 3 Occhino Corp. West Senca, New York 14224 Yes UNIT PRICE	NO. 3 EXTENDED TOTAL
Item No. 1	Amherst Girls Softball Fields: Contract documents and specifications	1	LS	2,057,000.00	2,057,000.00	2,409,000.00	2,409,000.00	1,889,000.00	1,889,000.00
Item No. 2	Additional Unclassified Excacation (per spec 312000.1.3.F.1)	25	CY	625.00	625.00	1,500.00	1,500.00	65.00	1,625.00
Item No. 3	Additional Drainage Material (per spec 312000.2.1.G)	25	CY	45.00	1,125.00	818.13	818.13	40.00	1,000.00
Item No. 4	Contingency Allowance	1	Allow	85,000.00	85,000.00	85,000.00	85,000.00	85,000.00	85,000.00
				Subtotal No. 1 Amount = $	**$2,143,750.00**	Subtotal No. 1 Amount = $	**$2,496,318.13**	Subtotal No. 1 Amount = $	**$1,976,625.00**
Item No. 5	Alternate 1: Plastic Fence Caps	1	LS	30,000.00	30,000.00	28,160.00	28,160.00	28,860.00	28,860.00
				Subtotal No. 2 Amount = $	2,173,750.00	Subtotal No. 2 Amount = $	2,524,478.13	Subtotal No. 2 Amount = $	2,005,485.00
Item No. 6	Alternate 2: ADD Black Coated Vinyl Fencing DEDUCT Galvanized Fencing (Provide Cost Difference)	3020	LF	27,000.00	27,000.00	14,920.00	14,920.00	7.90	23,858.00
				Subtotal No. 3 Amount = $	2,200,750.00	Subtotal No. 3 Amount = $	2,539,398.13	Subtotal No. 3 Amount = $	2,029,343.00
Item No. 7	Alternate 3: 10" HDPE Storm Sewer Trunk & Appurtenances	570	LF	16,500.00	-16,500.00	21,403.00	-21,403.00	-38.60	-22,002.00
				CONTRACTOR TOTAL=:$	**$2,184,250.00** 0	CON TOTAL=$	**$2,517,995.13** 0	CON TOTAL=$	**$2,007,341.00** 0
				ACTUAL TOTAL=:$	$2,184,250.00	ACT TOTAL=$	$2,517,995.13	ACT TOTAL=$	$2,007,341.00
MIN BID =	2007341.00			BID RANKING	2	BID RANKING	3	BID RANKING	1

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Engineering Services
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24915 **RESOLUTION 2021-925** **ADOPTED**

WPCF Emergency Liquid Oxygen Delivery CRS 2937

The Engineering Department, WPCF division is requesting that the Town Board approve an emergency purchase made with HAUN Welding Supply for the delivery of two loads of bulk liquid oxygen. The WPCF, during its five-year oxygen plant turnaround, experienced unforeseen delays while making the necessary repairs. In order to meet permit regulations and keep our WPCF in compliance, we needed to obtain enough liquid oxygen to safety run and to bring our oxygen plant back on line. We reached out to multiple liquid oxygen delivery companies, and out of these companies, we only found one company that could supply us with the product we needed. With the help of the TOA Contract Compliance Department, we currently have a bid out for bulk liquid oxygen delivery and hope to award shortly.

At this time, the WPCF would like to ask the Town Board for approval to pay HAUN Welding Supply for the product received under Haun Invoice numbers 7856841 and 7856726 totaling $11,190.51.

Funds for this request are available in G9916-4960.

This request has successfully completed the contract review process.

Thank you for considering this request.

10/18/2021
Consent

FINANCIAL IMPACT:

G9916-4960; $11,190.51

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

Town of Amherst
Emergency Purchase Documentation Form

This form is to be completed for all emergency purchases made that contravene the Town's Purchasing Policy. You must contact the Supervisor (or Deputy Supervisor in the Supervisors absence) to obtain his/her approval prior to making the purchase. This form must be completed and submitted to the Town Board at the first work session following the Emergency purchase. A copy should also be submitted to the Town Attorney and Contract Compliance & Administration Department.

An exception to the competitive bidding requirements exists for emergency situations (GML §103[4]). There are three basic statutory criteria to be met in order to fall within this exception. These are that (1) the situation arises out of an accident or other unforeseen occurrence or condition; (2) the circumstances affect public buildings, public property, or life, health, safety or property of the political subdivision's residents; and (3) the situation requires immediate action which cannot await competitive bidding.

Generally, there must be a present, immediate and existing condition which is creating an imminent threat or danger and which requires such immediate action that a further delay to comply with competitive bidding requirements is so detrimental to the public interest that it overcomes the strong public policy in favor of bidding. Further, because the emergency must arrive out of an accident or unforeseen occurrence, it is doubtful a local government may invoke the emergency exception in a situation which the result of inaction or dilatory behavior on the part of local officials and which, therefore, could have been foreseen in time to advertise for bids.

Even when a governing board passes a resolution that a public emergency exists, the public interest dictates that purchases are made at the lowest possible costs, seeking competition by informal solicitation of quotes or otherwise, to the extent practical under the circumstances.

1. Date of Emergency Purchase: 10-1-2021
2. Date you received approval from the Supervisor: 10-1-2021
3. Date of Town Board work session where Board is notified: 10-18-2021
4. Amount of Emergency Purchase. Please provide a detailed listing of items purchased and the cost of each (attach additional detail if necessary): EST @ $10,000.00 FOR DELIVERED BULK LIQUID OXYGEN.
5. Is there adequate funding in your current operating budget to cover this purchase? Identify budget Org/Object: G7916-4960
6. Please describe the circumstances that resulted in the need to make an emergency purchase without following the Town's Purchasing Policy: WE EXPERIENCED UNFORSEEN DELAYS IN MAKING CRITICAL REPAIRS DURING OUR 5 YR O² PLANT TURNAROUND. THESE DELAYS CAUSED US TO DEPLETE OUR O² STORAGE THAT IS CRITICAL TO START THE PLANT BACK UP.
7. Please describe what steps were taken to ensure the lowest cost for the Emergency Purchase. If none, please explain why your department was prevented from doing so: REACHED OUT TO MULTIPLE COMPANIES AND HAVA WAS THE ONLY COMPANY THAT COULD PROVIDE IMMEDIATE DELIVERY
8. Department Head Signature: _____ Date: 10-1-2021

CC: Town Board, Town Attorney, Contract Compliance & Administration

For Contract Compliance & Administration Use Only
Date of Town Board Resolution: Emergency Purchase Tracking/Res #:

Attachment: Haun Emergency Purchase Form (RES-2021-925 : WPCF Emergency Liquid Oxygen Delivery)

AGREEMENT

Let this document stand as an Agreement between Haun Welding Supply and the Town of Amherst permitting the Town of Amherst to procure the delivery of two loads of bulk liquid oxygen as stated on the attached quote. The term of this contract will be from October 10, 2021 through December 31, 2021.

Agreed to and Accepted by:

Haun Welding Supply

By: _____
Signature

Gregory C. Stone
Printed name

Regional Sales Manager
Title

Date: 10-5-2021

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Attachment: Haun Emergency Purchase Form (RES-2021-925 : WPCF Emergency Liquid Oxygen Delivery)

HAUN
WELDING SUPPLY INC

BUFFALO
PAGE: 1

QUOTE

Date: 10/05/21
Quote #: 0174232
Customer #: 201087
Expiration Date: 12/04/21

To:

TOWN OF AMHERST WPCF
455 TONAWANDA CREEK RD
AMHERST NY 14228

WASTE WATER TREATMENT
TOWN OF AMHERST WPCF
455 TONAWANDA CREEK ROAD
AMHERST NY 14228

Attn:TOM DEAN

Salesperson	Reference	Payment Terms	Due Date
JAMES V. BIEGAS	EMERG BULK O2	NET 30 DAYS	11/04/21

Part Number	Quantity	U/M	Description	Unit Price	Line Total
110-OXYLSB	5889.67	EACH	BULK LIQUID OXYGEN DELVD	.8846	5210.00
100-S	5889.67	CYL	FUEL SURCHARGE	.0384	226.16
100-S	5889.67	CYL	POWER SURCHARGE	.041	241.48
140-CC	1	EACH	COMPLIANCE CHARGE	38.000	38.00
				QUOTE TOTAL:	5715.64

(PLUS SALES TAX IF APPLICABLE)

QUOTED BY: GREG G STORIE gstorie@thehaunedge.com

To accept this quote sign here and return _____

Thank you for this opportunity to quote!
300 Woodward Ave, Kenmore NY 14217

Phone: (716) 630-9353
Fax: (716) 630-1563

Attachment: Haun Emergency Purchase Form (RES-2021-925 : WPCF Emergency Liquid Oxygen Delivery)

HAUN
WELDING SUPPLY INC

BUFFALO
PAGE: 1

QUOTE

Date: 10/05/21
Quote #: 0174233
Customer #: 201087
Expiration Date: 12/04/21

To:

TOWN OF AMHERST WPCF
455 TONAWANDA CREEK RD
AMHERST NY 14228

WASTE WATER TREATMENT
TOWN OF AMHERST WPCF
455 TONAWANDA CREEK ROAD
AMHERST NY 14228

Attn:TOM DEAN

Salesperson	Reference	Payment Terms	Due Date
JAMES V. BIEGAS	BOLK O2 DEL	NET 30 DAYS	11/04/21

Part Number	Quantity	U/M	Description	Unit Price	Line Total
110-OXYLSB	5639.90	EACH	BULK LIQUID OXYGEN DELVD	.8846	4989.06
100-S	5639.90	CYL	FUEL SURCHARGE	.0384	216.57
100-S	5639.90	CYL	POWER SURCHARGE	.041	231.24
140-CC	1	EACH	COMPLIANCE CHARGE	38.000	38.00
				QUOTE TOTAL:	5474.87

(PLUS SALES TAX IF APPLICABLE)

QUOTED BY: GREG G STORIE gstorie@thehaunedge.com

To accept this quote sign here and return _____

Thank you for this opportunity to quote!
300 Woodward Ave, Kenmore NY 14217

Phone: (716) 630-9353
Fax: (716) 630-1563

Attachment: Haun Emergency Purchase Form (RES-2021-925 : WPCF Emergency Liquid Oxygen Delivery)

WELDING SUPPLY INC

www.TheHaunEdge.com PAGE: 1

BUFFALO INVOICE

300 WOODWARD AVE
KENMORE NY 14217
(716) 630-9353

No.: 7856841

Page:
Date:10/08/21
Ship Via:
F.O.B.:DEST
Terms:NET 30 DAYS

Cust. No. 201087

Bill To:
TOWN OF AMHERST WPCF
455 TONAWANDA CREEK RD
AMHERST NY 14228

Ship To:
WASTE WATER TREATMENT
TOWN OF AMHERST WPCF
455 TONAWANDA CREEK ROAD
AMHERST NY 14228
000

22.98260810G1

REMIT TO: HAUN WELDING SUPPLY INC 5921 COURT STREET ROAD, SYRACUSE NY 13206 (315) 463-5241
Federal ID# 15-0600299

Purchase Order No.	Order Date	Shipping Date	Slsmn	Entered	Cash	Charge	Picked	Our Order No.
TOM DEAN	10/08/21	10/08/21	46			XXX		7856762

Line	Quantity Ordered	Shipped	B.O.	Unit	Description	CYL RTN	Unit Price	Extended Price
001	5639.	5639.		EAC	110-OXYLSB BULK LIQUID OXYGEN DELVD		.8846	4989.06
002	5639.	5639.		CYL	100-S FUEL SURCHARGE		.0384	216.57
003	5639.	5639.		CYL	100-S POWER SURCHARGE		.041	231.24
004	1	1		EAC	140-CC COMPLIANCE CHARGE		38.00	38.00
							SUB TOTAL:	5474.87
					TAX ID# 16-6002157		TOTAL:	5474.87

PLEASE PAY BY EMAILED INVOICE
NO OTHER COPY WILL BE MAILED

Attachment: Haun Emergency Purchase Form (RES-2021-925 : WPCF Emergency Liquid Oxygen Delivery)

WELDING SUPPLY INC

www.TheHaunEdge.com PAGE: 1

BUFFALO INVOICE

300 WOODWARD AVE
KENMORE NY 14217
(716) 630-9353

No.: 7856726

Page:
Date:10/08/21
Ship Via:
F.O.B.:DEST
Terms:NET 30 DAYS

Cust. No. 201087

Bill To:
TOWN OF AMHERST WPCF
455 TONAWANDA CREEK RD
AMHERST NY 14228

Ship To:
WASTE WATER TREATMENT
TOWN OF AMHERST WPCF
455 TONAWANDA CREEK ROAD
AMHERST NY 14228
000

22.98260810G1

REMIT TO: HAUN WELDING SUPPLY INC 5921 COURT STREET ROAD, SYRACUSE NY 13206 (315) 463-5241
Federal ID# 15-0600299

Purchase Order No.	Order Date	Shipping Date	Slsmn	Entered	Cash	Charge	Picked	Our Order No.
TOM DEAN	10/08/21	10/08/21	46			XXX		7856642

Line	Quantity Ordered	Quantity Shipped	Quantity B.O.	Unit	Description	CYL RTN	Unit Price	Extended Price
001	5889.	5889.		EAC	110-OXYLSB BULK LIQUID OXYGEN DELVD		.8846	5210.00
002	5889.	5889.		CYL	100-S FUEL SURCHARGE		.0384	226.16
003	5889.	5889.		CYL	100-S POWER SURCHARGE		.041	241.48
004	1	1		EAC	140-CC COMPLIANCE CHARGE		38.00	38.00
							SUB TOTAL:	5715.64
					TAX ID# 16-6002157		TOTAL:	5715.64

PLEASE PAY BY EMAILED INVOICE
NO OTHER COPY WILL BE MAILED

Attachment: Haun Emergency Purchase Form (RES-2021-925 : WPCF Emergency Liquid Oxygen Delivery)

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 24864 **RESOLUTION 2021-926** **ADOPTED**

Authorize Supervisor to Sign Contract with VCS-Visual Computer Solutions, Inc - CRS #2928

NOW THEREFORE BE IT RESOLVED, that the Town of Amherst approves the contract with VCS-Visual Computer Solutions, Inc software for the time keeping and scheduling software system that is compatible with Town's MUNIS system.

The Town of Amherst contract is for the period 11/01/2021 through 10/31/2022 and includes the SAAS renewal time keeping service to include time sheets and scheduling.

NOW THEREFORE BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to sign this contract that is subject to the Contract Routing System CRS #2928 and approval of the Town Attorney.

10/18/2021
Consent

FINANCIAL IMPACT:

H8000	4110	$2,500.00
H4068	4000	$2,500.00
.B8560	4110	$2,000.00
D5142	4110	$2,000.00
A5010	4110	$500.00
A3310	4110	$500.00
D5110	4110	$500.00
D5130	4110	$500.00
E9997	4110	$500.00
C3621	4110	$194.70
TOTAL		$11,694.70

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

Visual Computer Solutions, Inc.
4400 US Highway 9 South
Suite 3500
Freehold, NJ 07728
(732) 730-9009
www.vcssoftware.com

Invoice 16456

BILL TO
Town of Amherst
Highway Department
1042 North Forest Road
Williamsville, NY 14221

DATE	PLEASE PAY	DUE DAT
09/01/2021	$11,694.70	10/31/202

SALES REP
HS

QTY	DESCRIPTION	PRICE EACH	AM
166	**SaaS Renewal Services** SaaS-Renewal Services for term of November 2021 to October 2022	55.62	9,23
166	**SaaS Renewal Services** SaaS-Renewal Services for term of November 2021 to October 2022 - Timesheet Calculator	14.83	2,46

VCS accepts payments via ACH:
Account #69437016
Routing #021052053

TOTAL DUE $11,694.

THANK

VISUAL COMPUTER SOLUTIONS INC.

By: Nicholas Tetro
Signature

Nicholas Tetro
Print Name

Finance
Title

Date: 9/22/21

TOWN OF AMHERST

By: _____
Brian J Kulpa
Supervisor

Date: _____

Attachment: DOC093021-09302021083347 (RES-2021-926 : Authorize Supervisor to Sign Contract with VCS-Visual Computer Solutions, Inc -

Consultant Minor Exposure Addendum to Contract

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Consultants or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Consultant shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Consultant its officers, agents, sub-Consultants, and/or employees as well as the negligence, active or passive, of the Consultant, its officers, agents, sub-Consultants, and/or employees.

4. Consultant shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Consultant shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Consultant shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate.

(c) Consultant shall furnish the above insurances, including sub-Consultants' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Consultant shall ensure all its sub-Consultants, if any, have obtained all the above insurances and shall also assure that any policy procured by any sub-Consultant or sub-sub Consultant shall name the Town as an additional insured on a primary and non-contributory basis.

Attachment: DOC093021-09302021083347 (RES-2021-926 : Authorize Supervisor to Sign Contract with VCS-Visual Computer Solutions, Inc -

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

6. No Assignment: In accordance with the provisions of Section 109 of the General Municipal Law, the Consultant is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Consultant shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Consultant, in accordance with its status as an independent Consultant, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

9. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules, regulations or ordinances for any state other than New York State, to the laws, statutes, rules, regulations

Attachment: DOC093021-09302021083347 (RES-2021-926 : Authorize Supervisor to Sign Contract with VCS-Visual Computer Solutions, Inc -

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 9/22/21. 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:

Visual Computer Solutions, Inc.
Print Name of Company

By: Nicholas Tetro
Signature

Nicholas Tetro
Printed name

Date: 9/22/21

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Revised 12.30.19 SJS

Attachment: DOC093021-09302021083347 (RES-2021-926 : Authorize Supervisor to Sign Contract with VCS-Visual Computer Solutions, Inc -

IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New Yorl 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 li of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). Tl 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: Visual Computer Solutions Inc.

Signature: [signature]

Print Name: Nicholas Tetro

Title: France

Date: 9/22/21

Sworn To Before Me This

22 Day of September, 2021

[signature]

Notary Public

Cathy L Leone
Notary Public
New Jersey
My Commission Expires 2-3-24
No. 2382104

Revised 4.2017

Attachment: DOC093021-093020210833347 (RES-2021-926 : Authorize Supervisor to Sign Contract with VCS-Visual Computer Solutions, Inc -

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 09/22/2021

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	CONTACT NAME: Frank Schiliro	
NorthEast Insurance Services 4400 Route 9 South Suite 3300 Freehold NJ 07728	PHONE (A/C, No, Ext): (732) 972-1771	FAX (A/C, No): (732) 577-1578
	E-MAIL ADDRESS: FSchiliro@northeastins.com	

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Selective Ins. Co. of America	12572
INSURER B : National Casualty Insurance Co.	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
VISUAL COMPUTER SOLUTIONS, INC DBA JOBS FOR BLUE
4400 US HIGHWAY 9 STE 3500
FREEHOLD NJ 07728-4232

COVERAGES **CERTIFICATE NUMBER:** CL2142313418 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	[X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [X] PRO-JECT [ ] LOC [ ] OTHER:			S 2388035	05/23/2021	05/23/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG [ ]	$ 2,000,000 $ $ 10,000 $ Included $ 4,000,000 $ 4,000,000 $
A	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [X] HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY [ ]			S 2388035	05/23/2021	05/23/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) [ ]	$ 2,000,000 $ $ $ $
A	[X] UMBRELLA LIAB [X] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [X] RETENTION $ 0			S 2388035	05/23/2021	05/23/2022	EACH OCCURRENCE AGGREGATE [ ]	$ 1,000,000 $ 1,000,000 $
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N [ ] If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					[ ] PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ $ $
B	Errors & Omissions/Cyber Liability			EKO3372812	04/10/2021	04/10/2022	Per Ocurrence Aggregate Deductible	$2,000,000 $3,000,000 $2,500

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

Town of Amherst, NY
5583 Main Street
Williamsville NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Joseph M Lyndenmire

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The ACORD name and logo are registered marks of ACORD

Attachment: DOC093021-093020210833347 (RES-2021-926 : Authorize Supervisor to Sign Contract with VCS-Visual Computer Solutions, Inc -

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYY
09/23/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. TH
CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIE
BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZE
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 endorse
If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement c
this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Mary Storti c/o Paychex Insurance Agency, Inc. 150 Sawgrass Drive Rochester, NY 14620	CONTACT NAME: PHONE (A/C, No, Ext): (877) 266-6850 FAX (A/C, No): E-MAIL ADDRESS: pbscerts@paychex.com
	INSURER(S) AFFORDING COVERAGE — NAIC #
	INSURER A : American Zurich Insurance Company — 40142
INSURED Paychex Business Solutions, LLC Labor Contractor, for co-employees of: VISUAL COMPUTER SOLUTIONS INC 911 Panorama Trail South Rochester, NY 14625	INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** 21FL0951018943 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIO
INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH TH
CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERM
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	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	CLAIMS-MADE OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$
	OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$
	DED RETENTION $							$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N: N If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		WC 12-68-594-01	06/01/2021	06/01/2022	X PER STATUTE / OTH-ER	
							E.L. EACH ACCIDENT	$ 2,000,0
							E.L. DISEASE - EA EMPLOYEE	$ 2,000,0
							E.L. DISEASE - POLICY LIMIT	$ 2,000,0
				Location Coverage Period:	06/01/2021	06/01/2022	Client# 07208982-NJ	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Coverage is provided for only those co-employees of, but not subcontractors to:
VISUAL COMPUTER SOLUTIONS INC
4400 US HIGHWAY 9 SOUTH STE 3500
FREEHOLD, NJ 07728
c105.2

CERTIFICATE HOLDER

Town of Amherst NY
5583 Main Street
Willamsville, 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

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Attachment: DOC093021-093020210833347 (RES-2021-926 : Authorize Supervisor to Sign Contract with VCS-Visual Computer Solutions, Inc -

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 24895 **RESOLUTION 2021-927** **WITHDRAWN**

Authorize the Purchase of One (1) KUBOTA RTV520 Utility Vehicle CRS #2945

NOW THEREFORE BE IT RESOLVED, the Town Board authorizes the purchase of one (1) KUBOTA RTV 520 mid size utility vehicle.

The purchase is from NIAGARA IMPLEMENT, INC., 2337 LOCKPORT-OLCOTT ROAD, NEWFANE, NY 14108 for $8,676.22 per SOURCEWELL/NYS-OGS CONTRACT.

NOW THEREFORE BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to sign this purchase. This purchase is subject to the Contract Routing System (CRS #2945) and approval of the Town Attorney.

10/18/2021
Withdrawn

FINANCIAL IMPACT:

A7110

4470

$8,676.22

RESULT:	**WITHDRAWN**

New York State Contract PC# 69404

RTV520-A WEB QUOTE #2145105
Date: 9/15/2021 9:59:59 AM

-- Customer Information --
Walsh, Shawn
Town of Amherst Highway Dept.
shamus1968@gmail.com
716-983-9372

Quote Provided By
NIAGARA IMPLEMENT INC.
Doug Harrell
2337 LOCKPORT-OLCOTT RD
NEWFANE, NY 14108
email: Doug@niagaraimplement.com
phone: 7165680166

-- Standard Features --

Kubota

V Series RTV520-A (Orange)

*** EQUIPMENT IN STANDARD MACHINE ***

GASOLINE ENGINE
Model Kubota GZ520-E3F-UV
2 cyl, 4 cycle OHC
Water cooled
Electronic fuel injection (EFI)
27.8 cu. in.
+17.4 Net Eng HP

TRANSMISSION
Variable Hydro Transmission
Forward Speeds:
Low 0 - 10 mph
High 0 - 25 mph
Reverse 0 - 10 mph
Rear differential lock

FLUID CAPACITY
Fuel Tank 5.0 gal
Cooling 1.3 qts
Engine 1.43 qts
Transmission 2.38 gal
Brake Fluid 0.21

SAFETY EQUIPMENT
OSHA 1928.52 ROPS and seat belt
Rear Wheel Hand Parking Brake
Spark Arrestor Muffler
Sound Level - operator's Ear 81.9 dBA
@ max. rpms

TIRES AND WHEELS
ATV Tire F 24 x 9 - 12, 6 ply
R 24 x 11 - 12, 6 ply

DIMENSIONS
Width 54.7 in
Height 74.0 in
Length 105.1 in
Wheelbase 70.8 in
Tow Capacity 1168 lbs
Ground Clearance F/R 8.1 in/6.7 in

CARGO BOX
Width 40.6 in
Length 33.7 in
Depth 11.4 in
Load Capacity 441 lbs
Vol. Capacity 9.0 cu ft

OPERATING FEATURES
Rack and Pinion Steering
VHT Plus Transmission
Front Independent Suspension
Rear Semi-independent Suspension
Brakes - Front/Rear Dry Disc
Rear Brake Lights / Front Headlights
2" Hitch Receiver - Front & Rear

-- Custom Options --

RTV520-A Base Price:	$9,899.00
Configured Price:	$9,899.00
State of New York Discount:	($2,177.78)
SUBTOTAL:	$7,721.22
Dealer Assembly:	$0.00
Freight Cost:	$555.00
PDI:	$400.00
Total Unit Price:	$8,676.22
Quantity Ordered:	1
Final Sales Price:	$8,676.22

Purchase Order Must Reflect the Final Sales Price

To order, place your Purchase Order directly with the quoting dealer

***All equipment specifications are as complete as possible as of the date on the quote. Additional attachments, options, or accessories may be added (or deleted) at the discounted price.** All specifications and prices are subject to change. Taxes are not included. The PDI fees and freight for attachments and accessories quoted may have additional charges added by the delivering dealer. These charges will be billed separately. Prices for product quoted are good for 60 days from the date shown on the quote. All equipment as quoted is subject to availability.

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Attachment: NIAGARA IMPLEMENT (RES-2021-927 : Authorize the Purchase of One (1) KUBOTA RTV520 Utility Vehicle)

For Earth, For Life
Kubota

KUBOTA TRACTOR CORPORATION

FIND A DEALER (/FIND-A-DEALER)

UTILITY VEHICLES (/UTILITY-VEHICLES)

CONSTRUCTION (/CONSTRUCTION) HAY/FARM IMPLEMENTS (/FARM-IMPLEMENTS)

NEW PRODUCTS (/NEW-PRODUCTS)



RTV520

MID-SIZE UTILITY VEHICLES

MSRP AS LOW AS§

$9,899.00



(https://www.kubotausa.com/finance/special-offers/detail/kubota-mid-size-rtv-500---new-purchase-special-offers)

Attachment: NIAGARA IMPLEMENT (RES-2021-927 : Authorize the Purchase of One (1) KUBOTA RTV520 Utility Vehicle)

AGREEMENT

Let this document stand as an Agreement between NIAGARA IMPLEMENT INC.
2337 Lockport - Olcott Road, Newfane, New York 14108
And the Town of Amherst permitting the Town of Amherst to participate in the purchase of :

SOURCEWELL/ NJPA / NYS-OGS - KUBOTA TRACTOR CORPORATION
Contract # PC69404
Maturity Date 05/31/2023

EQUIPMENT: ONE UTILITY VEHICLE RTV 520

from NIAGARA IMPLEMNT INC. with UTILITY VEHICLE-RTV 520 with NJPA/SOURCEWELL, NYS-OGS, GROUP 40625, AWARD PGB-22792, CONTRACT PC69404 with date of maturity 05/31/2023.

Agreed to and Accepted by:

NIAGARA IMPLEMENT INC.

By: _____
Signature

MATTHEW KETCH
Print Name

Secretary
Title

Date: 9/22/2021

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Attachment: NIAGARA IMPLEMENT (RES-2021-927 : Authorize the Purchase of One (1) KUBOTA RTV520 Utility Vehicle)

Addendum to Contract VENDOR NOT ON SITE

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Vendors or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Vendor shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Vendor its officers, agents, sub-Vendors, and/or employees as well as the negligence, active or passive, of the Vendor, its officers, agents, sub-Vendors, and/or employees.

4. No Assignment: In accordance with the provisions of Section 109 of the General Municipal Law, the Vendor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

5. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Vendor shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

Attachment: NIAGARA IMPLEMENT (RES-2021-927 : Authorize the Purchase of One (1) KUBOTA RTV520 Utility Vehicle)

6. The Vendor, in accordance with its status as an independent Vendor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

7. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules, regulations or ordinances for any state other than New York State, to the laws, statutes, rules, regulations or ordinances for any county other than Erie County, New York or to the laws, statutes, rules, regulations or ordinances for any municipality other than the Town of Amherst, then the laws, statutes, rules, regulations or ordinances for New York State, Erie county and/or the Town of Amherst shall apply as applicable. Any and all legal action necessary to enforce the Agreement will be venued in Supreme Court, Erie County, New York or in the United States District Court for the Western District of New York, Buffalo Division.

8. It is hereby acknowledged that performance of this Contract will be undertaken in accordance with the specifications and pricing on which the bid was submitted.

This instrument shall be executed in triplicate. At least one (1) copy shall be permanently filed, after execution thereof, in the office of the Town Clerk of Town.

Agreed to and Accepted by:

NIAGARA IMPLEMENT
Print Name of Company

By: _____
Signature

DOUGLAS HARRELL
Printed name

Date: 9/28/21

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Revised 12.30.19 SJS

Attachment: NIAGARA IMPLEMENT (RES-2021-927 : Authorize the Purchase of One (1) KUBOTA RTV520 Utility Vehicle)

IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New Yo provision was added to the State Finance Law (SFL), Section 165-a, effective April 12, 2012. Under Act, the Commissioner of the Office of General Services (OGS) will develop a list (prohibited entities of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). list is posted on the OGS website.

By submitting a response to this solicitation, or by assuming the responsibility unde Contract/Lease awarded hereunder, Bidder/Contractor/Vendor (or any assignee) certifies that it will 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 seek to renew or extend a Contract/Lease (or assume responsibility of a Contract/Lease awarded must cer at the time the Contract/Lease is renewed, extended or assigned that it is not included on the prohibi entities list.

During the term of the Contract/Lease, should the Town of Amherst (Town) receive informati that a person is in violation of the above-referenced certification, the Town will offer the person opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in t investment which is in violation of the Act within 90 days after the determination of such violation, th the Town shall take such action as appropriate including, but not limited to, imposing sanctions, seeki 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 ent 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 t prohibited entities list after Contract/Lease award.

Company Name: Niagara Implement Inc.

Signature: [signature]

Print Name: Matthew Kelch

Title: President

Date: 10-7-2021

KAREN A. FRYE
Notary Public, State of New York
Qualified in Niagara County
Reg. # 01FR5030525
My Commission Expires 8-16-2022

Sworn To Before Me This
7th Day of October, 20 21

[signature]
Notary Public

Attachment: NIAGARA IMPLEMENT (RES-2021-927 : Authorize the Purchase of One (1) KUBOTA RTV520 Utility Vehicle)

State Contract Award Notices - Commodities

Heavy Equipment Sourcewell Piggyback (Statewide)	
Award Document {Updated / Revised}	**Contract Period:** Various - See Contractor Info
Contract Updates	**Group:** 40625 **Award:** PGB-22792
Contractor Information	**Use of Contracts:** All State Agencies and Political Subdivisions
Equipment {Excel}	**Contact Person:** Jacqueline Burke **Telephone:** (518) 486-1821
How To Use	Contract Issued: July 08, 2014 **Contract Updated: September 16, 2021**
Historical Details	
Customer Service	

Description:
This award includes a wide variety of heavy duty equipment including but not limited to aerial lift trucks, backhoes, compaction rollers, compressors, dozers, graders, excavators, mowing tractors and mowing attachments.

Install Free Adobe Acrobat Reader for PDF Documents
The above PDF files are available in text by calling Customer Services at (518) 474-6717.

Attachment: NIAGARA IMPLEMENT (RES-2021-927 : Authorize the Purchase of One (1) KUBOTA RTV520 Utility Vehicle)

NEW YORK STATE OF OPPORTUNITY. | Office of General Services
Procurement Services

Corning Tower, Empire State Plaza, Albany, NY 12242 | https://ogs.ny.gov/procurement | customer.services@ogs.ny.gov | 518-474-6717

Contractor Information Summary

Updated: September 09, 2021

Group 40625 – HEAVY DUTY EQUIPMENT (Statewide)

Award Number: PGB-22792 **Contract Period** *See Below for Specific Contract Periods*

For a list of available equipment types for each Contractor, please click here:
https://online.ogs.ny.gov/purchase/spg/pdfdocs/4062522792Equipment.pdf

OGS CONTRACT NUMBER	CONTRACTOR INFORMATION		CONTRACT SPECIFICS
PC68200	**Alamo Group (TX), Inc.** **DBA Alamo Industrial** 1502 East Walnut St. Seguin, TX 78155 **Federal ID:** 742362509 **NYS Vendor ID:** 1000058230	**Contract Period:** 08/08/2018 to 10/02/2022	Contractor and Pricing Information Terms & Conditions
PC68526	**Altec Industries, Inc.** Suite 110 33 Inverness Center Parkway Birmingham, AL 35242 **Federal ID:** 630362926 **NYS Vendor ID:** 1000009606	**Contract Period:** 02/13/2020 to 03/14/2022	Contractor and Pricing Information Terms & Conditions
PC68218	**Atlantic Machinery, Inc.** 2628 Garfield Ave. Silver Spring, MD 20910 **Federal ID:** 521190648 **NYS Vendor ID:** 1100147906	**Contract Period:** 09/21/2018 to 02/20/2022	Contractor and Pricing Information Terms & Conditions
PC69406	**Caterpillar Inc.** 100 NE Adams St. Peoria IL 61629 **Federal ID:** 370602744 **NYS Vendor ID:** 1100137599	**Contract Period:** 05/20/2021 to 05/13/2023	Contractor and Pricing Information Terms & Conditions
PC68956	**Cives Corporation** **DBA Viking Cives (USA)** 1431 Mill Street Harrisville, NY 13648 **Federal ID:** 160955800 **NYS Vendor ID:** 1000007605	**Contract Period:** 12/24/2019 to 10/29/2022	Contractor and Pricing Information Terms & Conditions

Attachment: NIAGARA IMPLEMENT (RES-2021-927 : Authorize the Purchase of One (1) KUBOTA RTV520 Utility Vehicle)

NEW YORK STATE OF OPPORTUNITY. | Office of General Services
Procurement Services

Corning Tower, Empire State Plaza, Albany, NY 12242 | https://ogs.ny.gov/procurement | customer.services@ogs.ny.gov | 518-474-6717

Contractor Information Summary

Updated: September 09, 2021

Group 40625 – HEAVY DUTY EQUIPMENT (Statewide)

Award Number: PGB-22792 **Contract Period** *See Below for Specific Contract Periods*

For a list of available equipment types for each Contractor, please click here:
https://online.ogs.ny.gov/purchase/spg/pdfdocs/4062522792Equipment.pdf

OGS CONTRACT NUMBER	CONTRACTOR INFORMATION		CONTRACT SPECIFICS
PC69396	**Clark Equipment Company** **DBA Bobcat Company** 250 East Beaton Drive West Fargo, ND 58078 **Federal ID:** 380425350 **NYS Vendor ID:** 1000009236	**Contract Period:** 05/20/2021 to 05/31/2023	Contractor and Pricing Information Terms & Conditions
PC69204	**Clark Equipment Company** **DBA Doosan Portable Power** 1293 Glenway Drive Statesville, NC 28625-9218 **Federal ID:** 380425350 **NYS Vendor ID:** 1000009236	**Contract Period:** 10/22/2020 to 06/17/2023	Contractor and Pricing Information Terms & Conditions
PC69377	**CNH Industrial America, LLC** **(Agriculture)** 700 State Street Racine, WI 53404 **Federal ID:** 760433811 **NYS Vendor ID:** 1100123548	**Contract Period:** 03/16/2021 to 12/30/2023	Contractor and Pricing Information Terms & Conditions
PC69383	**CNH Industrial America, LLC** **(Construction)** 700 State Street Racine, WI 53404 **Federal ID:** 760433811 **NYS Vendor ID:** 1100123548	**Contract Period:** 04/01/2021 to 05/13/2023	Contractor and Pricing Information Terms & Conditions
PC68131	**Deere & Company** 2000 John Deere Run Cary, NC 27513 **Federal ID:** 362382580 **NYS Vendor ID:** 1000009176	**Contract Period:** 05/16/2018 to 05/18/2022	Contractor and Pricing Information Terms & Conditions

Attachment: NIAGARA IMPLEMENT (RES-2021-927 : Authorize the Purchase of One (1) KUBOTA RTV520 Utility Vehicle)

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Corning Tower, Empire State Plaza, Albany, NY 12242 | https://ogs.ny.gov/procurement | customer.services@ogs.ny.gov | 518-474-6717

Contractor Information Summary

Updated: September 09, 2021

Group 40625 – HEAVY DUTY EQUIPMENT (Statewide)

Award Number: PGB-22792 **Contract Period** *See Below for Specific Contract Periods*

For a list of available equipment types for each Contractor, please click here:
https://online.ogs.ny.gov/purchase/spg/pdfdocs/4062522792Equipment.pdf

OGS CONTRACT NUMBER	CONTRACTOR INFORMATION		CONTRACT SPECIFICS
PC69378	**Deere & Company** 2000 John Deere Run Cary, NC 27513 **Federal ID:** 362382580 **NYS Vendor ID:** 1000009176	**Contract Period:** 03/16/2021to 12/30/2023	Contractor and Pricing Information Terms & Conditions
PC68466	**Falcon Road Maintenance Equipment, LLC.** 2600 W Salzburg Freeland, MI 48623 **Federal ID:** 472654196 **NYS Vendor ID:** 1100158088	**Contract Period:** 12/20/2018 to 10/02/2022	Contractor and Pricing Information Terms & Conditions
PC69232	**Felling Trailers, Inc.** 1525 Main Street South Sauk Centre, MN 56378 **Federal ID:** 411329390 **NYS Vendor ID:** 1100157965	**Contract Period:** 12/10/2020 to 05/16/2023	Contractor and Pricing Information Terms & Conditions
PC69150	**Gradall Industries Inc (Gradall)** 406 Mill Avenue S.W. New Philadelphia OH 44663 **Federal ID:** 742660540 **NYS Vendor ID:**1100121209	**Contract Period:** 6/15/2019 to 5/31/2023	Contractor and Pricing Information Terms & Conditions
PC68449	**Gradall Industries, Inc. (Vacall)** 406 Mill Avenue S.W. New Philadelphia, OH 44663 **Federal ID:** 742660540 **NYS Vendor ID:** 1100121209	**Contract Period:** 12/20/2018 to 02/20/2022	Contractor and Pricing Information Terms & Conditions

Attachment: NIAGARA IMPLEMENT (RES-2021-927 : Authorize the Purchase of One (1) KUBOTA RTV520 Utility Vehicle)

NEW YORK STATE OF OPPORTUNITY. | Office of General Services
Procurement Services

Corning Tower, Empire State Plaza, Albany, NY 12242 | https://ogs.ny.gov/procurement | customer.services@ogs.ny.gov | 518-474-6717

Contractor Information Summary

Updated: September 09, 2021

Group 40625 – HEAVY DUTY EQUIPMENT (Statewide)

Award Number: PGB-22792 **Contract Period** *See Below for Specific Contract Periods*

For a list of available equipment types for each Contractor, please click here:
https://online.ogs.ny.gov/purchase/spg/pdfdocs/4062522792Equipment.pdf

OGS CONTRACT NUMBER	CONTRACTOR INFORMATION		CONTRACT SPECIFICS
PC69052	**Henderson Products, Inc.** 1085 South 3rd Street Manchester, IA 52057 **Federal ID:** 271184835 **NYS Vendor ID:** 1000034909	**Contract Period:** 03/16/2020 to 10/29/2022	Contractor and Pricing Information Terms & Conditions
PC68962	**JA Larue, Inc.** 3003 Watt Avenue Quebec City, QC G1X3W2 **Federal ID:** 300431656 **NYS Vendor ID:** 1100143510	**Contract Period:** 02/06/2020 to 10/29/2022	Contractor and Pricing Information Terms & Conditions
PC69235	**JCB, Inc.** 2000 Bamford Blvd Pooler, GA 31322 **Federal ID:** 520907423 **NYS Vendor ID:** 1000018096	**Contract Period:** 01/07/2021 to 05/31/2023	Contractor and Pricing Information Terms & Conditions
PC69403	**John Deere Shared Services** **DBA John Deere Construction Retail Sales** 1515 5th Avenue Moline, IL 61205 **Federal ID:** 363387700 **NYS Vendor ID:** 1000044783	**Contract Period:** 05/20/2021 to 05/13/2023	Contractor and Pricing Information Terms & Conditions
PC69404	**Kubota Tractor Corporation** 1000 Kubota Drive Grapevine, TX 76051 **Federal ID:** 952801513 **NYS Vendor ID:** 1100162991	**Contract Period:** 06/30/2021 to 05/31/2023	Contractor and Pricing Information Terms & Conditions

Attachment: NIAGARA IMPLEMENT (RES-2021-927 : Authorize the Purchase of One (1) KUBOTA RTV520 Utility Vehicle)

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Contractor Information Summary

Updated: September 09, 2021

Group 40625 – HEAVY DUTY EQUIPMENT (Statewide)

Award Number: PGB-22792 **Contract Period** *See Below for Specific Contract Periods*

For a list of available equipment types for each Contractor, please click here:
https://online.ogs.ny.gov/purchase/spg/pdfdocs/4062522792Equipment.pdf

OGS CONTRACT NUMBER	CONTRACTOR INFORMATION		CONTRACT SPECIFICS
PC68527	**Morbark, LLC** 8507 S. Winn Rd. P.O. Box 1000 Winn, MI 48896 **Federal ID:** 382805772 **NYS Vendor ID:** 1000044812	**Contract Period:** 09/04/2019 to 05/18/2022	Contractor and Pricing Information Terms & Conditions Dealer Area Representation Tree Care Dealer Area Representation Industrial
PC69161	**RPM Tech Inc.** 1318 Principale St-Valerien-de-Milton, Quebec Canada JOH2BO **Federal ID:** 981521239 **NYS Vendor ID:** 1100243801	**Contract Period:** 08/6/2020 to 10/29/2022	Contractor and Pricing Information Terms & Conditions
PC69050	**Schwarze Industries, Inc.** 1055 Jordan Road Huntsville, AL 35811 **Federal ID:** 630727445 **NYS Vendor ID:** 1100213939	**Contract Period:** 02/10/2020 to 02/20/2022	Contractor and Pricing Information Terms & Conditions
PC68233	**Textron, Inc. dba Jacobsen** **A division of Textron Inc.** 1451 Marvin Griffin Rd. Augusta, GA 30906 **Federal ID:** 050315468 **NYS Vendor ID:** 1100019546	**Contract Period:** 01/10/2019 to 08/18/2021	Contractor and Pricing Information Terms & Conditions
PC68896	**The Toro Company** 8111 Lyndale Ave. South Bloomington, MN 55420-1196 **Federal ID:** 410580470 **NYS Vendor ID:** 1100137208	**Contract Period:** 10/01/2019 to 05/18/2022	Contractor and Pricing Information Terms & Conditions

Attachment: NIAGARA IMPLEMENT (RES-2021-927 : Authorize the Purchase of One (1) KUBOTA RTV520 Utility Vehicle)

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Contractor Information Summary

Updated: September 09, 2021

Group 40625 – HEAVY DUTY EQUIPMENT (Statewide)

Award Number: PGB-22792 **Contract Period** *See Below for Specific Contract Periods*

For a list of available equipment types for each Contractor, please click here:
https://online.ogs.ny.gov/purchase/spg/pdfdocs/4062522792Equipment.pdf

OGS CONTRACT NUMBER	CONTRACTOR INFORMATION		CONTRACT SPECIFICS
PC68687	**Trail King Industries** 300 East E Norway Ave. Mitchell, SD 57301 **Federal ID:** 460320593 **NYS Vendor ID:** 1100162815	**Contract Period:** 12/24/2019 to 02/11/2023	**Contractor and Pricing Information** **Terms & Conditions**
PC69437	**Volvo Construction Equipment North America, LLC** 304 Volvo Way Shippensburg, PA 17257 **Federal ID:** 221582040 **NYS Vendor ID:** 1100260175	**Contract Period:** 08/24/2021 to 05/13/2023	**Contractor and Pricing Information** **Terms & Conditions**

Attachment: NIAGARA IMPLEMENT (RES-2021-927 : Authorize the Purchase of One (1) KUBOTA RTV520 Utility Vehicle)

Group 40625– Award 22792, Heavy Equipment

Kubota Tractor Corporation

Contractor and Pricing Information

June 30, 2021

Contract #	Contractor & Address	Centralized Contract Contacts	Federal ID NYS Vendor ID
NYS Contract: PC69404 **Sourcewell Contract:** 040319-KBA	Kubota Tractor Corporation 1000 Kubota Drive Grapevine, TX 76051	Name: Rusty Pugh Title: Manager - Municipal and New Business Phone: (817) 716-3587 Email: rusty.pugh@kubota.com	**Federal ID** 952801513 **NYS Vendor ID** 1100162991
Business Hours: Monday to Friday 8:00am – 5:00pm EST; Saturday and Sunday Closed			

Expedited Orders

Name: Tyler Knudson
Title: National Accounts Operations Manager
Phone: (888) 458-2682
Direct Phone: (817) 948-7364
Fax: (844) 582-1581
Email: tyler.knudson@kubota.com

Contract Pricelist and Discounts

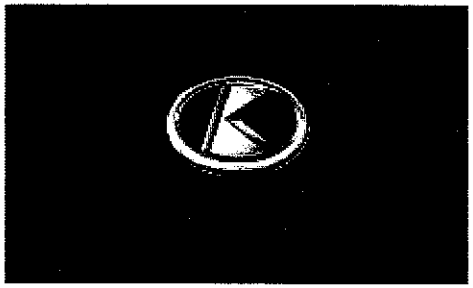
NOTE: Price shall include all customs duties and charges. Shipping costs from the shipping point may be added to invoice for the product, with a copy of the freight bill. Shipping costs are to be prepaid by Contractor and such orders are to be shipped on an F.O.B. destination basis. Contractor shall provide the Authorized User with an estimate of shipping charges prior to placement of an order. All such orders shall be shipped by the most economical method for the proper delivery of the product unless special instructions are stated on the Purchase Order by the Authorized User.

Note: Kubota Tractor Corporation is the contractor. Purchase orders shall reference the NYS Contract number and may be issued directly to the authorized reseller. The authorized reseller may also invoice the authorized contract user. The Contractor will continue to assume full responsibility for all the terms and conditions of the contract.

Payment/Ordering Information

Does Contractor offer Electronic Access Ordering (EDI)?	No
Does Contractor accept the NYS Procurement Card for orders not to exceed $50,000?	Yes
Does Contractor offer Prompt Payment Discounts?	No

Attachment: NIAGARA IMPLEMENT (RES-2021-927 : Authorize the Purchase of One (1) KUBOTA RTV520 Utility Vehicle)



Sourcewell

Awarded Contract

Equipment Type	Model	Series	Discount
Construction Equipment	Excavators	U	24%
Construction Equipment	Wheel Loaders	R	24%
Construction Equipment	Compact track Loaders	SVL	24%
Tractors	Tractors	B	22%
Turf	Residential/Commercial Mower	F	22%
Tractors	Tractors	L	22%
Utility Vehicles	Utility Vehicle	RTV	22%
Turf	Residential/Commercial Mower	T	22%

Attachment: NIAGARA IMPLEMENT (RES-2021-927 : Authorize the Purchase of One (1) KUBOTA RTV520 Utility Vehicle)

Authorized Resellers

Note: Kubota Tractor Corporation is the contractor and has authorized their Resellers listed below to accept purchase orders, ship orders, service, and provide parts for their products. The Authorized Reseller may also invoice the authorized contract user. Kubota Tractor Corporation will continue to assume full responsibility for all the terms and conditions of the contract.

Dealer Name	Address	City	ST	Zip	Phone	Fax	FEIN #	VID#	SB
ABELE TRACTOR AND EQUIPMENT CO INC.	72 EVERETT RD.	ALBANY	NY	12205	(518) 438-4444	(518) 438-5751	14-1454171	1000013783	YES
ABLE EQUIPMENT RENTAL, INC.	1050 GRAND BLVD.	DEER PARK	NY	11729	(631) 841-3333	(631) 841-6666	20-5564433	1000005930	YES
ADMAR SUPPLY COMPANY INC.	1394 MILITARY RD.	BUFFALO	NY	14217	(716) 873-8000	(716) 873-8455	16-1022882	1000015224	YES
ADMAR SUPPLY COMPANY INC.	7800 BREWERTON RD.	CICERO	NY	13039	(315) 433-5000	(315) 431-0548	16-1022882	1000015224	YES
ADMAR SUPPLY COMPANY INC.	449 COMMERCE RD	VESTAL	NY	13850	(607) 798-0333	(607) 798-0833	16-1022882	1000015224	YES
ADMAR SUPPLY COMPANY INC.	2390 ROCHESTER RD	CANANDAIGUA	NY	14425	(585) 396-0031	(585) 396-0038	16-1022882	1000015224	YES
THOMAS GADD INC DBA ALEXANDER EQUIPMENT	3266 BUFFALO ST.	ALEXANDER	NY	14005	(585) 591-2955	(585) 547-3754	16-1169563	1000007835	YES
BENTLEY BROS., INC.	13936 STATE ROUTE 31	ALBION	NY	14411-9510	(585) 589-9610	(585) 589-2114	16-0978718	1000007638	YES
BENTLEY BROS., INC.	5605 BROCKPORT SPENCERPORT RD.	BROCKPORT	NY	14420	(585) 391-3571	(585) 391-3573	16-0978718	1000007638	YES
DRAGOONS FARM EQUIPMENT INC.	2507 ROUTE 11	MOOERS	NY	12958	(518) 238-7110	(518) 236-6528	16-1200637	1000007867	YES
EMERICH SALES & SERVICE INC.	187 VALENTINE RD.	CHARLTON	NY	12019	(518) 399-8574	(518) 384-1363	14-1767918	1100012504	YES
EMPIRE TRACTOR	1437 RT 318	WATERLOO	NY	13165	(315) 539-7000	(315) 539-7200	16-1577844	1000029517	YES
EMPIRE TRACTOR	ROUTE 371	ATLANTA	NY	14808	(585) 534-5935	(585) 534-5511	16-1577844	1000029517	YES
EMPIRE TRACTOR	638 STATE ROUTE 13	CORTLAND	NY	13045	(607) 753-9656	(607) 753-9662	16-1577844	1000029517	YES
EVANS EQUIPMENT CO INC.	RT 12 BOX 438	REMSEN	NY	13438	(315) 831-3091	(315) 831-4183	15-0508834	1000014631	YES

Dealer Name	Address	City	ST	Zip	Phone	Fax	FEIN #	VID#	SB
JOHN S. BLAZEY, INC.	111 HOLMES ST.	PALMYRA	NY	14522	(315) 597-5121	(315) 597-5689	15-0611533	1100195840	YES
LAMB & WEBSTER, INC.	601 WEST MAIN ST.	SPRINGVILLE	NY	14141	(716) 592-4923	(716) 592-4927	16-0967729	1000007626	YES
LAMB & WEBSTER, INC.	4397 SR-98	NORTH JAVA	NY	14113	(585) 535-7671	(585) 535-0408	16-0967729	1000007626	YES
LAMB & WEBSTER, INC.	5304 STATE ROUTE 417	WOODHULL	NY	14898	(607) 458-5200	(607) 458-5100	16-0967729	1000007626	YES
NELSON R. JANOWSKI DBA NELS TRACTOR	3611 WATKINS RD.	PINE VALLEY	NY	14872	(607) 796-9087	(607) 796-0589	16-1301486	1100053058	YES
NIAGARA IMPLEMENT	2337 LOCKPORT-OLCOTT RD.	NEWFANE	NY	14108-9510	(716) 778-7513	(716) 778-9744	16-1067744	1100005239	YES
NIAGARA IMPLEMENT	8655 TRANSIT RD.	EAST AMHERST	NY	14051	(716) 568-0166	(716) 568-0054	16-1067744	1100005239	YES
RANDALL IMPLEMENTS CO INC.	177 W. WALTON BLVD.	FULTONVILLE	NY	12072	(518) 853-4500	(518) 853-3917	14-1496341	1000006760	YES
R E & H J MCQUEEN INC.	2991 STATE HWY. 5S	WOLCOTT	NY	14590	(315) 587-4429	(315) 587-2003	15-0582553	1100127420	YES
SALEM FARM SUPPLY, INC.	5109 STATE ROUTE 22	SALEM	NY	12865	(518) 854-7424	(518) 854-3057	14-1470854	1000027349	YES
SAXBY IMPLEMENT CORP.	180 VICTOR MENDON RD.	MENDON	NY	14506	(585) 624-2938	(585) 624-2943	16-0737777	1000014811	YES
SHARON SPRINGS GARAGE, INC.	6799 STATE HIGHWAY 23	ONEONTA	NY	13820	(607) 432-8411	(607) 432-2642	16-1156812	1000015461	YES
SHARON SPRINGS GARAGE, INC.	1375 HIGHWAY ROUTE 20	SHARON SPRINGS	NY	13459	(518) 284-2346	(518) 284-2774	16-1156812	1000015461	YES
SHARON SPRINGS GARAGE, INC.	1175 HOOSICK RD.	TROY	NY	12180	(518) 279-9709	(518) 279-9739	16-1156812	1000015461	YES
SNELL EQUIPMENT	6698 STATE HWY. 56	POTSDAM	NY	13676	(315) 265-5753	(315) 265-0146	16-1122677	1000028690	YES
SNELL EQUIPMENT	3878 STATE ROUTE 11	MALONE	NY	12953	(518) 521-3457	(315) 265-0146	16-1122677	1000028690	YES
SOUTHERN TIER TRAILER SALES, INC.	4018 N. MAIN ST. EXT.	JAMESTOWN	NY	14701	(716) 985-4600	(716) 985-4740	16-1599390	1000016376	YES
WALLDROFF FARM EQUIPMENT INC.	22537 MURROCK CIRCLE	WATERTOWN	NY	13601	(315) 788-1115	(315) 782-4852	16-1037694	1000007697	YES
WESTCHESTER TRACTOR, INC.	60 INTERNATIONAL BLVD.	BREWSTER	NY	10509	(845) 278-7766	(845) 278-4431	13-2858396	1000006235	YES
WHITES FARM SUPPLY INC.	962 STATE RT. 12	WATERVILLE	NY	13480	(315) 841-4181	(315) 841-4743	15-0622271	1000007398	YES
WHITES FARM SUPPLY INC.	8207 STATE ROUTE 26	LOWVILLE	NY	13367	(315) 376-0300	(315) 376-0301	15-0622271	1000007398	YES
WHITES FARM SUPPLY INC.	4154 STATE ROUTE 31	CANASTOTA	NY	13032	(315) 697-2214	(315) 697-8024	15-0622271	1000007398	YES

Attachment: NIAGARA IMPLEMENT (RES-2021-927 : Authorize the Purchase of One (1) KUBOTA RTV520 Utility Vehicle)

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24866 **RESOLUTION 2021-928** **ADOPTED**

Clerk Typist/Court

Please appoint a Clerk Typist to the Court. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective October 19, 2021 at an annual salary of $27,861, Grade 2, Step A for Lexie Kiffer.

This is a promotion for an employee currently serving as Messenger.

10/18/2021
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: 10/18/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24870 **RESOLUTION 2021-929** **ADOPTED**

Senior Refuse Control Officer/Highway

Please appoint a Senior Refuse Control Officer to the Highway Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective October 19, 2021 at an annual salary of $67,577, Grade 15, Step G for Ryan Licata.

This is a Permanent appointment for an employee who has been serving Provisionally.

10/18/2021
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: 10/18/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24874 **RESOLUTION 2021-930** **ADOPTED**

Recreation Attendant - PT/Youth & Recreation (7 Positions)

Recreation Attendant - PT/Youth & Recreation (7 positions), Effective October 19, 2021, Temporary, $12.50 ph, Step 1 for Sydnee J. Alston, Lily C. Busler, Helena M. Gilsey, Nicolas M. Lafornara, Connor J. Merrifield, Makayla A. Mills and Kyriakista I. Scime.

Filling vacant positions due to reduced availability of current part-time staff.

10/18/2021
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: 10/18/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24875 **RESOLUTION 2021-931** **ADOPTED**

Recreation Attendant-PT/Youth & Recreation (2 Positions)

Recreation Attendant-PT/Youth & Recreation (2 positions), Effective date October 19, 2021, Temporary, $13.00 ph, Step 1 for Cara M. Wolcott and Mikayla R. Lojacono.

Filling vacant positions due to reduced availability of current part-time staff.

10/18/2021
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: 10/18/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24876 **RESOLUTION 2021-932** **ADOPTED**

Recreation Attendant - PT/Youth & Recreation

Recreation Attendant - PT/Youth & Recreation, Effective date October 19, 2021, Temporary, $12.80 ph, Step 2 for Annika E. Straight.

Filling a vacant position due to reduced availability of current part-time staff.

10/18/2021
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: 10/18/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24877 **RESOLUTION 2021-933** **ADOPTED**

Recreation Attendant - PT/Youth & Recreation

Recreation Attendant - PT/Youth & Recreation, Effective October 19, 2021, Temporary, $13.10 ph, Step 3 for Jared A. Burns.

Filling a vacant position due to reduced availability of current part-time staff.

10/18/2021
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: 10/18/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24878 **RESOLUTION 2021-934** **ADOPTED**

Recreation Attendant - PT/Youth & Recreation

Recreation Attendant - PT/Youth & Recreation, Effective October 19, 2021, Temporary, $13.40 ph, Step 4 for Claire M. Mullane.

Filling a vacant position due to reduced availability of current part-time staff.

10/18/2021
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: 10/18/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24900 **RESOLUTION 2021-935** **WITHDRAWN**

Detective/Police Department

Please appoint a Detective to the Police Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective October 19, 2021 at an annual salary of $93,139.

This is a promotion for an employee serving as Police Officer.
Replacing an employee who retired.

10/18/2021
Withdrawn

RESULT:	**WITHDRAWN**

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24901 **RESOLUTION 2021-936** **ADOPTED**

Public Safety Dispatcher/Police Department

Please appoint a Public Safety Dispatcher to the Police Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective October 19, 2021 at an annual salary of $47,180, Grade 13, Step A for Stephen J. Wisniewski.

This is a Permanent appointment for an employee who has been serving Provisionally.

10/18/2021
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: 10/18/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24903 **RESOLUTION 2021-937** **ADOPTED**

Laborer - PT/Police

Laborer - PT/Police, Effective October 19, 2021, Temporary, $12.99 ph, Step 1 for Joseph M. Novak.

Contingent upon completing all pre-employment requirements.

Replacing an employee who was hired full time.

10/18/2021
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: 10/18/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24916 **RESOLUTION 2021-938** **ADOPTED**

Laborer/Youth & Recreation (2 Positions)

Please appoint two (2) Laborers to the Youth & Recreation Department. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective October 19, 2021, at an hourly rate of $16.68, Step A for Jose A. Olivera and Nicolas Will.

Contingent upon completing all pre-employment requirements.

Replacing an employee who transferred to another department.
Replacing an employee who resigned.

10/18/2021
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: 10/18/21 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 24923 **RESOLUTION 2021-939** **ADOPTED**

To Change the Date of the January 2022 Planning Board Meeting

WHEREAS, the Town Board set the Planning Board meeting schedule for 2021 at its meeting of January 4, 2021, and set the January 2022 meeting for January 20, 2022.

WHEREAS, the Planning Department is requesting the January 20, 2022 Planning Board meeting to be rescheduled to January 13, 2022, now therefore be it

RESOLVED, that the Town Board approves changing the January 2022 Planning Board meeting to January 13, 2022.

10/18/2021
Consent

FINANCIAL IMPACT:

None

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

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 24904 **RESOLUTION 2021-940** **ADOPTED**

Execute the HUD HOME-ARP Grant Agreement for Planning & Administration CONTRACT #2944

WHEREAS, the Amherst-Cheektowaga-Tonawanda (ACT) HOME Consortium has received a special appropriation of funds under the American Rescue Plan Act's HOME Investment Partnerships Program (HOME-ARP) for FY 2021; and

WHEREAS, utilization of HOME-ARP grant funds requires up-front planning and administration to program requirements and amend the ACT HOME Consortium's Consolidated Plan; and

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) allows up to 5% of the appropriation to be expended up-front to complete the necessary planning and program requirements; now therefore, be it

RESOLVED, the Town Board of the Town of Amherst authorizes the Town Supervisor, subject to the satisfactory completion of the contract routing process, to execute the HOME-ARP Grant Agreement with HUD for an amount not to exceed $170,685.00 for the period of April 1, 2021 through September 30, 2030.

10/18/2021
Consent

FINANCIAL IMPACT:

This is a grant award with no match requirements. The resolution will, therefore, have no impact on the Town's current 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 Di

October 12, 2021

Agenda of October 18, 2021

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

Subject: To Execute the HUD HOME-ARP Grant Agreement for Planning & Administration funding.

Honorable Members:

The American Rescue Plan Act of 2021 awarded the Amherst-Cheektowaga-Tonawanda (ACT) HOME Consortium a special appropriation of $3.4 Million to provide housing, services, and shelter to individuals experiencing homelessness and other vulnerable populations. Funding was allocated to Participating Jurisdictions of HUD's HOME Investment Partnerships Program for Fiscal Year 2021.

In order to utilize the funding, the ACT Consortium must amend its Consolidated Plan to outline service needs and gaps, and the direct programing proposed to address the situation. Understandably, this will take some up-front planning work. At this time, HUD is allowing HOME-ARP recipients to use up to five percent of their total award for administrative and planning costs to complete this up-front planning.

Attached for your consideration is a resolution authorizing the Town Supervisor to execute the Fiscal Year 2021 HOME-ARP Grant Agreement for the 5% administrative and planning costs. Upon approval of the amended Consolidated Plan, HUD will amend the grant agreement allowing the Town to utilize the full amount of the grant award.

If you have any questions, please reach out to Laurie Stillwell at lstillwell@amherst.ny.us or (716) 631-7050.

Very truly yours,

Daniel C. Howard, AICP
Planning Director

Enc.
X:\Community Development\New Structure\HOME-ARP\Grant Agreement - Admin Planning 1\Grant Agreement - TB Ltr 10.18.21.docx

Attachment: arp letter-10122021154146 (RES-2021-940 : To Execute a HUD HOME-ARP Agreement)

U.S. Department of Housing and Urban Development
Buffalo Office
465 Main Street
Buffalo, New York 14203-1780
(716) 551-5755

September 22, 2021

Ms. Laurie Stillwell
Community Development Director
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Dear Ms. Stillwell:

The American Rescue Plan Act of 2021 appropriated $5 billion to provide housing, services, and shelter to individuals experiencing homeless and other vulnerable populations, to be allocated by formula to jurisdictions that qualified for HOME Investment Partnerships Program allocations in Fiscal Year 2021. On September 13, 2021, the Department published a notice, titled: *Requirements for the Use of Funds in the HOME-American Rescue Plan Program* (the Notice), which you are encouraged to review to assist in developing your program. Enclosed is the Grant Agreement for the HOME Investment Partnerships – America Rescue Plan (HOME-ARP) program:

In accordance with the Notice, and the HOME ARP Grant Agreement, a Participating Jurisdiction (PJ), as of the Federal Award Date, may use up to five percent of its total award for administrative and planning costs. Once your HOME-ARP Allocation Plan is approved by HUD, the remaining award will be made available.

HOME Investment Partnerships - American Rescue Plan
(HOME-ARP) **$ 170,685.00**

Transmittal of this Grant Agreement does not constitute approval of the activities described in your HOME-ARP Allocation Plan. You are reminded that you, as the PJ, are responsible for ensuring that all grant funds are used in accordance with all program requirements. An executed Grant Agreement is a legally binding agreement between the Department of Housing and Urban Development and the Amherst Consortium.

To establish a Line of Credit for the HOME-ARP award, it will be necessary for your agency to sign, execute and return one (1) copy of the Grant Agreement. If there is a need to add or remove individuals authorized to access the Integrated Disbursement Information System (IDIS), please submit an IDIS Online Access Request Form (HUD 27055). Also, please ensure the IDIS Online Access Request Form is notarized and returned to this office with your Grant Agreement. Additionally, if there is a need to establish or change the depository account where these funds are to be wired, a Direct Deposit Sign-Up form (SF-1199A) must be completed by your financial institution and returned to this office with a copy of a voided check.

Attachment: GA_HMARP 2021 Amherst initial trns ltr 5 percent (RES-2021-940 : To Execute a HUD HOME-ARP Agreement)

You are reminded that certain activities are subject to the provisions of 24 CFR Part 58 (**Environmental Review Procedures**). Funds for such activities may not be obligated or expended until HUD has approved the release of funds in writing. A request for release of funds (RROF) must be accompanied by an environmental certification, and until the RROF is approved and notification is received, no HUD funds should be committed. If the project or activity is exempt per 24 CFR 58.34 or categorically excluded (except in extraordinary circumstances), no RROF is required.

Please execute two (2) copies of the HOME-ARP Grant Agreement with electronic signatures. In response to COVID-19, HUD authorizes you to electronically execute the grant agreement with your electronic signature. Return one (1) of the agreements to this office to the attention of Lisa Mrzygut at: Lisa.B.Mrzygut@hud.gov. Maintain a copy of the agreement with your original signature on-site in your program files.

HUD congratulates the Amherst Consortium on its grant award, and we look forward to assisting you in accomplishing your programs goals. If you have any questions or need further information of assistance, please contact Mary Ann Oliver, Senior CPD Representative at 716-646-7022 or MaryAnn.Oliver@hud.gov.

Sincerely,

William T. O'Connell
Director
Community Planning and
Development Division

Enclosures

cc: Susan Fitzpatrick, Community Development Assistant

Attachment: GA_HMARP 2021 Amherst initial trns ltr 5 percent (RES-2021-940 : To Execute a HUD HOME-ARP Agreement)

HOME ARP Grant Agreement

Title II of the Cranston-Gonzalez National Affordable Housing Act

Assistance Listings #14.239 – HOME Investment Partnerships Program

1. Grantee Name and Address Amherst Town Consortium 5583 Main Street Williamsville, NY 14221-0000	2. Grant Number (Federal Award Identification Number (FAIN) **M21-DP360511** 3a Tax Identification Number 166002157 3b. Unique Entity Identifier (formerly DUNS) 030212336 4. Appropriation Number 861/50205 5. Budget Period Start and End Date FY 2021 – 09/30/2030

6. Previous Obligation (Enter "0" for initial FY allocation)		$0
a. Formula Funds	$	
7. Current Transaction (+ or -)		$3,413,700.00
a. Administrative and Planning Funds Available on Federal Award Date	**$170,685.00**	
b. Balance of Administrative and Planning Funds	$341,370.00	
c. Balance of Formula Funds	$2,901,645.00	
8. Revised Obligation		$
a. Formula Funds	$	

9. Special Conditions (check applicable box)
☐ Not applicable ☐ Attached

10. **Federal Award Date (HUD Official's Signature Date)**
09/20/2021

11. Indirect Cost Rate*

Administering Agency/Dept.	Indirect Cost Rate	Direct Cost Base
	%	
	%	
	%	
	%	

12. Period of Performance
Date in Box #10 - 09/30/2030

* 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.

The HOME-ARP Grant Agreement (the "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.) and Section 3205 of the American Rescue Plan (P.L. 117-2) (ARP). HUD regulations at 24 CFR part 92 (as may be amended from time to time), the CPD Notice entitled "Requirements for the Use of Funds in the HOME-American Rescue Plan Program" (HOME-ARP Implementation Notice), the Grantee's HOME-ARP allocation plan (as of the date of HUD's approval), and this HOME-ARP Grant Agreement, form HUD-40093a, including any special conditions (in accordance with 2 CFR 200.208), constitute part of this Agreement. 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 and the HOME-ARP Implementation Notice. 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 HOME-ARP activities under the HOME-ARP Implementation Notice are repayable in accordance with the requirements of the HOME-ARP Implementation Notice. 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, as well as the HOME-ARP Implementation Notice.

The Grantee must comply with the applicable requirements at 2 CFR part 200, as amended, that are incorporated by the program regulations and the HOME-ARP Implementation Notice, 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 or HOME-ARP Implementation Notice, activities carried out under the grant after the effective date of the 2 CFR 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.

Funds remaining in the grantee's Treasury account after the end of the budget period 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 Budget Period.

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 09/22/2021
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 ARP* *2021 (K)* *Region 0206*

Source of Funds	Appropriation Code	PAS Code	Amount
2021	861/50205	HMX	$3,413,700.00

Attachment: GA_HMARP 2021 Amherst GA (RES-2021-940 : To Execute a HUD HOME-ARP Agreement)

21. Additional Requirements: These additional requirements are attached and incorporated into this Agreement. The Grantee agrees to these additional requirements on the use of the funds in 7., as may be amended from time to time by the Secretary.

a) As of the Federal Award Date, the Grantee may use up to the amount identified in 7.a. of this Agreement for eligible administrative and planning costs in accordance with the HOME-ARP Implementation Notice.
b) Until the date of HUD's acceptance of the Grantee's HOME-ARP allocation plan, the Grantee agrees that it will not obligate or expend any funds for non-administrative and planning costs, in accordance with the HOME-ARP Implementation Notice.
c) In accordance with the HOME-ARP Implementation Notice, as of the date of acceptance by HUD of the Grantee's HOME-ARP allocation plan, HUD shall make the amount identified in line 7. of this Agreement available to the Grantee.
d) If the Grantee does not submit a HOME-ARP allocation plan or if the Grantee's HOME-ARP allocation plan is not accepted within a reasonable period of time, as determined by HUD, the Grantee agrees that all costs incurred and HOME-ARP funds expended by the Grantee will be ineligible costs and will be repaid with non-Federal funds.

22. Special Conditions

Attachment: GA_HMARP 2021 Amherst GA (RES-2021-940 : To Execute a HUD HOME-ARP Agreement)

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Senior Services
Initiated by: **Brian Bray**
Co-Sponsored by:

DOC ID: 24865 **RESOLUTION 2021-941** **ADOPTED**

Early Voting Polling Location Lease Agreement (CRS 2934)

Authorize the Supervisor to sign an agreement between the Town of Amherst and the Erie County Board of Elections to use the Center for Senior Services as an early voting polling place from October 23-31.

10/18/2021
Consent

FINANCIAL IMPACT:

Revenue of $900 (A6772-2410)

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

ERIE COUNTY BOARD OF ELECTIONS
134 WEST EAGLE STREET
BUFFALO, NEW YORK 14202
elections.erie.gov

Jeremy J. Zellner, *Commissioner*
Ralph M. Mohr, *Commissioner*

Town of Amherst
Attn: Supervisor Brian Kulpa
5583 Main St
Williamsville, NY 14221

Early Voting Polling Location(s): Amherst Senior Center

Supervisor Brian Kulpa:

Please complete the highlighted areas on the attached lease documents and return to the Board of Elections to the attention of Katie Kamieniarz in the envelope provided. Any edits to contact information can be made directly on the document. Also enclosed for your records is a 2021 Letter of Insurance for Erie County.

An electronic copy can also be sent to Katherine.Dinkuhn@erie.gov. If you have any questions regarding this document, you can contact Katie at the previously stated email or 716-858-6835. Your prompt response is greatly appreciated.

Best,

Jeremy J. Zellner, Commissioner of Elections
Ralph M. Mohr, Commissioner of Elections

Attachment: Board of Elections - Early Voting (RES-2021-941 : Early Voting Polling Location Lease Agreement (CRS 2934))

EARLY VOTING
Polling Location Lease Agreement

CITY/TOWN & DISTRICTS

This agreement, made on the _____(date), by and between **Town of Amherst (VN 107656),** hereinafter known and referred to as the **OWNER**, and the Board of Elections for the County of Erie, hereinafter referred to as the **TENANT**.

Witnesseth that the said OWNER has agreed to let, and by these presents, does hereby grant, demise and let unto the said TENANT the following described premises:

LOCATION: **Amherst Senior Center**
ADDRESS: **370 John James Audobon Pkwy, Amherst, NY 14228**

The area to be leased is a room or location that has been pre-approved by the Board of Elections within the building suitable for registration and voting and which is as close as possible to a convenient entrance to such a building that provides access, by ramp or otherwise, to physically disabled voters.

PERSON IN CHARGE: Brian Kulpa
PHONE NUMBER: 631-7032
EMAIL: bkulpa@amherst.ny.us

BUILDING OPENER: Brian Bray
CUSTODIAN: Brian Bray
PHONE NUMBER: 716-258-0131

As a place to hold official voter registrations and conduct elections in accordance with provisions of the New York State Election Law on the date(s) listed below:

EARLY VOTING DATES: OCTOBER 23, 2021 TO OCTOBER 31, 2021

For Early Voting Dates that occur during weekdays, the TENANT is to have uninterrupted use and possession of the leased area on each said date from 11:30am, being one-half hour prior to the opening of the polls until 9:30pm, being one half-hour after the closing of the polls or until the inspectors have completed their work, whichever shall be later.

For Early Voting Dates that occur on Saturday and/or Sunday, the TENANT is to have uninterrupted use and possession of the leased area on each said date from 11:30am, being one-half hour prior to the opening of the polls until 6:30pm, being one half-hour after the closing of the polls or until the inspectors have completed their work, whichever shall be later.

In the event an election is delayed or continues as a result of a common disaster to another date, the OWNER agrees to make available the leased area to the TENANT on said subsequent date.

The OWNER hereby agrees to open the building for delivery and pick up of the voting machine(s) on a date mutually agreed to by the parties, between the third and sixth day prior to the election and between the first and fourth day following the election.

The TENANT agrees to pay the owner the following total rental for the entire early voting time period: **$900.00**

The OWNER hereby promises, covenants and acknowledges as follows:

a. to furnish necessary light, heat and, if available, cooling, to the leased area;
b. to provide twelve chairs and four tables no less than 48" in length for each machine delivered to the leased area;
c. to ensure that the leased area is accessible to the public during the times heretofore specified and that the doors are opened;
d. that there is a functional restroom facility available for use by employees of the tenant during said day; and
e. that political contributions by the OWNER of a polling place are prohibited and that it is a misdemeanor for such OWNER to make, offer or promise any such political contribution as an inducement for the leasing of these premises.

Attachment: Board of Elections - Early Voting (RES-2021-941 : Early Voting Polling Location Lease Agreement (CRS 2934))

The TENANT hereby promises, covenants and acknowledges as follows:

a. not to use said premises or any part thereof for any purpose other than the official voter registration and election functions;
b. not to let or sign over said premises, or any part thereof, to another without the prior written consent of the OWNER;
c. to punctually pay said rent as the same accrues; and
d. to take special care that no damage happens to the building or any improvements or fixtures therein.

A breach of any promise or covenant made by the TENANT shall be reported by the OWNER to the commissioners of the Erie County Board of Elections as soon as practicable. If any damage shall occur to the leased premises as a result of the negligence of the TENANT or any of its agents or employees, the TENANT hereby agrees to cooperate with the OWNER in filing a claim for damages with the County of Erie. The County does not assume liability for the OWNER's obligation to maintain and operate the property, building, premises and ingress/egress thereto in a safe condition. Any reported incident related to election operations will be investigated and evaluated by Erie County in cooperation with the lessor.

The commissioners of the Board of Elections, no later than 4 weeks following the receipt of the fully executed lease agreement and the conclusion of the election, shall transmit to the Erie County Comptroller a voucher, in the form required by said comptroller, requesting prompt payment of the rental due to the OWNER in the amount stated above.

In the event that following the execution of this lease agreement, the premises shall become damage, restricted or placed under repair to such an extent that the leased area is no longer suitable for the conduct of voter registration and election, the TENANT shall have the right to terminate this lease agreement.

IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals the day and year first above mentioned.

ERIE COUNTY BOARD OF ELECTIONS:

_____
Ralph M. Mohr, Commissioner of Elections

_____
Jeremy J. Zellner, Commissioner of Elections

OWNER: **Town of Amherst**

BY: _____

PRINT NAME: _____

Attachment: Board of Elections - Early Voting (RES-2021-941 : Early Voting Polling Location Lease Agreement (CRS 2934))

COUNTY OF ERIE

MICHAEL A. SIRAGUSA
COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE

JEREMY C. TOTH
FIRST ASSISTANT COUNTY ATTORNEY

February 25, 2021

RE: Self-Insurance – 2021 Polling Sites

To Whom it May Concern:

Please be advised that the County of Erie has a program of Risk Management Self Insurance for Automobile Liability, General Liability, Medical Malpractice and Workers' Compensation coverage. The Erie County Legislature annually appropriates funds for the payment of losses and provides a program of loss prevention and employee safety and health training with regard to its participation in authorized activities.

In the event of any accident, personal injury or incident, the County requires that its Claims Office be notified immediately by calling (716) 858-2200 or writing to this office in care of the Law Department, 95 Franklin Street, Room 1634, Buffalo, New York 14202.

Under no circumstances is it to be presumed that the County of Erie will assume any liability merely as the result of being notified of an incident, nor is this letter intended to be evidence of the existence of "insurance coverage" for the County for any particular incident and is subject to annual renewal or renotification. Also, for your information, the County is a tax-exempt entity.

If there are any questions regarding the County's Program of Risk Management Self Insurance, please refer them directly to the Claims Office.

Thank you.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: _____
Martin A. Polowy
Assistant County Attorney

MAP/jls

Attachment: Board of Elections - Early Voting (RES-2021-941 : Early Voting Polling Location Lease Agreement (CRS 2934))

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by: **Deputy Supervisor Jacqualine Berger**

DOC ID: 24898 **RESOLUTION 2021-942** **ADOPTED**

Sheltering Agreement - Mill CRS #2919

Authorize the Supervisor to sign an agreement between the Town of Amherst (Youth & Recreation Department) and the Williamsville Central School District for use of the Williamsville Youth & Family Center by Mill Middle School in case of an emergency.

10/18/2021
Consent

FINANCIAL IMPACT:

None

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

Mill Middle School
505 Mill Street
Williamsville, NY 14221
716-626-8300
716-626-8326 (fax)

Mrs. Lori Jonas
Principal
ljonas@williamsvillek12.org
Mrs. Hillary Weir
Assistant Principal
hweir@williamsvillek12.org

WILLIAMSVILLE CENTRAL SCHOOL DISTRICT

MILL MIDDLE SCHOOL SHELTERING AGREEMENT

This agreement is made on the on _____, 2021 by and between WILLIAMSVILLE CENTRAL SCHOOL DISTRICT, with principal offices for the conducting of its business as a central school district in the Town of Amherst, New York at 105 Casey Road, East Amherst, New York (the "District") and **TOWN OF AMHERST** with a principal office for the conducting of its activities and affairs located at 5583 Main St Amherst, NY 14221 (hereinafter referred to as the **"TOWN OF AMHERST"), is** as follows:

WHEREAS, the District may have a need from time to time because of unforeseen circumstances to obtain the use of off-site facilities for the conducting of its student classes and/or activities or to use the same as a temporary shelter of its students and have outside facilities available to it on an emergency as-needed basis; and

WHEREAS, the **TOWN OF AMHERST** has various facilities under its possession and control, particularly including the gym, main hall, coffeehouse, and restrooms located in the **WILLIAMSVILLE YOUTH & FAMILY CENTER in WILLIAMSVILLE, NY** and

WHEREAS, the **TOWN OF AMHERST** is willing to make its aforesaid facilities available to District on as as-needed and as-requested basis so long as such facilities are available at the time of District's request for the use of the same; and

NOW, THEREFORE, upon the above and foregoing premises and the other terms, covenants and agreements hereinafter set forth in this Agreement, the parties hereto by and through their respective authorized agents and representatives, hereby agree as follows:

1. The **TOWN OF AMHERST** agrees to permit the use by District of its gym, main hall, coffeehouse, and restroom facilities located at the **WILLIAMSVILLE YOUTH & FAMILY CENTER in WILLIAMSVILLE, NY** on such emergency occasions as the same may be requested by District from *September 1, 2021* through and including *August 31, 2022* provided said facilities are otherwise not in the use or being prepared for any previously scheduled use by the Town or any of its own activities.

2. In the event District makes a request for the use of the WILLIAMSVILLE YOUTH & FAMILY CENTER, aforesaid facilities and its permitted to possess and occupy said facilities, then for each such day or per thereof, the District will pay the TOWN OF AMHERST an amount pursuant to the actual cost of any food services provided to students and staff as deemed necessary. The District will give such

Attachment: Sheltering Agreement Mill Middle (RES-2021-942 : Sheltering Agreement - Mill CRS #2919)

notice of its intention to use the TOWN OF AMHERST's facilities as is reasonably practicable, but the parties acknowledge that no particular amount of advance notice shall be required, and District's use of said facilities shall be subject only to the facilities availability at the time a request is made for the use thereof.

3. District will be solely responsible for the transportation of all students to and from the facilities and for their supervision while there and further agrees to hold harmless and indemnify the TOWN OF AMHERST from any and all losses, claims, damages, suits and/or liabilities to person or property arising from the District's use, possession and occupancy of the facilities and further agrees to name and include the TOWN OF AMHERST as an additional insured on the District's liability policies for the purpose of providing said indemnification and loss protection.

4. That neither this Agreement nor any part of provision thereof shall create or be constructed as creating any type of partnership or other principal and agent or any other type business relationship between the parties hereto, actually occupies the TOWN OF AMHERST'S aforesaid facilities.

5. That this Agreement shall be renewed every year upon the mutual consent of the parties.

IN WITNESS WHEREOF, the parties hereto, acting by and through their respective authorized agents, representatives and/or employees, have duly executed this Agreement on the day set forth above.

WILLIAMSVILLE CENTRAL SCHOOL DISTRICT

By: _____ 9/16/21
DR. DARREN BROWN-HALL, Superintendent Date

TOWN OF AMHEST

By: _____
BRIAN J. KULPA, Supervisor Date

Attachment: Sheltering Agreement Mill Middle (RES-2021-942 : Sheltering Agreement - Mill CRS #2919)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 07/21/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
NEW YORK SCHOOLS INSURANCE RECIPROCAL
333 Earle Ovington Blvd.
Uniondale NY,11553

CONTACT NAME:
PHONE (A/C, No, Ext):
FAX (A/C, No):
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : New York Schools Insurance Reciprocal	34843
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Williamsville CSD
105 Casey Road
East Amherst, NY 14051

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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	**GENERAL LIABILITY**	X		SSP WMV 001	07/01/2021	07/01/2022	EACH OCCURRENCE	$1,000,000
	X COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	$1,000,000
	CLAIMS-MADE X OCCUR						MED EXP (Any one person)	$10,000
							PERSONAL & ADV INJURY	$1,000,000
							GENERAL AGGREGATE	UNLIMITED
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG	$1,000,000
	X POLICY PRO-JECT LOC							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	
	ANY AUTO						BODILY INJURY (Per person)	$
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS / NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
A	**UMBRELLA LIAB** X OCCUR			ECL WMV 001	07/01/2021	07/01/2022	EACH OCCURRENCE	$15,000,000
	X **EXCESS LIAB** CLAIMS-MADE						AGGREGATE	UNLIMITED
	DED RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N						WC STATU-TORY LIMITS / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N / A						E.L. EACH ACCIDENT	$
	(Mandatory in NH)						E.L. DISEASE - EA EMPLOYEE	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
Certificate Holder is an Additional Insured as per the terms stated on Additional Insured Endorsement CG 20 26 04 13 - use of premises/facilities for all the District's events during the policy period.

CERTIFICATE HOLDER
Town of Amherst
5583 Main Street
Williamsville, NY 14221

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE Deborah Hepper

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Attachment: Sheltering Agreement Mill Middle (RES-2021-942 : Sheltering Agreement - Mill CRS #2919)

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by: **Deputy Supervisor Jacqualine Berger**

DOC ID: 24918 **RESOLUTION 2021-943** **ADOPTED**

ID Card Fees

Set Resident ID Card fees at $8.00 per person for 2022-2024 (an increase of $3.00). These fees have been reviewed and approved by the Amherst Recreation Commission. The last fee increase was over 20 years ago.

10/18/2021
Consent

FINANCIAL IMPACT:

Potential revenue increase to A 7145 of $20,000.00

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Jacqualine Berger
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: 10/18/21 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: 10/25/2021 7:00 PM**

LOCAL LAW NO.___ -2021

TOWN OF AMHERST

COUNTY OF ERIE, STATE OF NEW YORK

A Local Law Amending Chapter 19 of the Code of the Town of Amherst With Respect to the Code of Ethics

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

Section 1. Title.

This Local Law shall be referred to as, "A Local Law Amending Chapter 19 of The Code of The Town of Amherst With Respect To The Code of Ethics."

Section 2. Purpose

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

Section 3.

Chapter 19 of the Code of the Town of Amherst is amended as follows:

§ 19-1. Title.
This chapter may be cited as the "The Code of Ethics."

§ 19-2. Statutory authority; ~~intent.~~
The Code of Ethics is enacted pursuant to Article 18 of the General Municipal Law and in recognition of the policy of the State of New York and the Town of Amherst to maintain the highest standards of integrity in public service.

§ 19-3. Intent.
A. The Code of Ethics is intended to afford Town officers and employees guidance in conforming to ethical standards; to promote public confidence in the integrity of Town government; to require public disclosure of financial interests that may influence, or be perceived as influencing, actions of Town officers and employees; to minimize unwarranted suspicion; and, to provide for fair and effective administration of this Code. This Code of Ethics shall be in addition to all of the restrictions, standards and provisions pertaining to the conduct of Town officers and employees.

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

B. This Code of Ethics is further enacted to:

1. Establish high standards of ethical conduct for Town officers and employees.

2. Afford Town officers and employees clear guidance in conforming to such standards.

3. Promote public confidence in the integrity of Town government.

4. Require public disclosure of financial interests that may influence, or be perceived as influencing, actions of Town officers and employees.

5. Facilitate consideration of potential ethical problems before they arise.

6. Minimize unwarranted suspicion.

7. Enhance accountability of government to the people it serves.

8. Provide for fair and effective administration of this Code.

§ 19-~~3~~4. Definitions.
As used in the Code of Ethics, the following terms shall have the meanings indicated:

AGENCY
Any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau or committee of the Town of Amherst; and shall include but not be limited to the Town Board, ~~Zoning Board of Appeals, Planning Board, Traffic Safety Board, Recreation Commission, Library Board of Trustees, Board of Ethics, Government Study Committee, Youth Board, Board of Assessment Review, Senior Citizens Advisory Board, Amherst Industrial Development Agency, 9/11 Commemoration Commission, Amherst Committee on Disabilities, Amherst Community Diversity Council, Amherst Veterans Committee, Arts and Culture in Public Places Board, Board of Electrician Examiners, Board of Plumbing and Drainage Examiners, Citizens' Financial Advisory Committee, Employee Suggestion Review Committee, Energy Conservation Committee, FOIL Board, Glen Park Joint Board, Historic Preservation Commission, Information Technology Advisory Committee, Minority/Woman Owned Business in Amherst, Open Government Advisory Board, Recycling and Waste Committee~~ Amherst Committee on Disabilities, Amherst Community Diversity Council, Amherst Industrial Development Agency, Amherst Veterans Committee, Arts and Culture in Public Places Board, Board of Assessment Review, Board of Electrician Examiners, Board of Ethics, Board of Plumbing and Drainage Examiners, Citizens' Financial Advisor Committee, Design Advisory Board, Employee Suggestion Review Committee, Energy Conservation Committee, FOIL Board, Glen Park Joint Board,

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

Government Study Committee, Historic Preservation Commission, Information Technology Advisory Committee, Library Board of Trustees, Minority/Woman Owned Business, 911 Commemoration Commission, Open Government Advisory Board, Planning Board, Recreation Commission, Recycling and Waste Committee, Senior Citizens Advisory Board, Traffic Safety Board, Youth Board and Zoning Board of Appeals in Amherst, or an improvement district as provided by Article 12 of the Town Law.

APPEAR and APPEAR BEFORE
Communicating in whatever form, whether personally or through another person.

BUSINESS DEALING
Having or providing any contract, service or work with a municipality; buying, selling, renting, leasing or otherwise acquiring from or dispensing to a municipality any goods, services or property; or applying for, petitioning, requesting or obtaining any approval, grant, loan, license, permit or other privilege from the municipality.

CONFLICT OF INTEREST
A situation in which a person has a duty to more than one person or entity but could not do justice in the actual performance adverse to the interest of both parties. This also includes the situation in which the concerns or aims of two different parties or organizations are incompatible or a situation in which a person is in a position to derive personal benefits from actions or decisions made in their official capacity.

DISCRETIONARY ACT
Any action involving the exercise of judgment or discretion by a municipal officer or employee, either individually or as a member of any agency, and includes but is not limited to negotiation, approval, advice, recommendation, authorization or audit.

FAMILY MEMBER
A spouse, child, stepchild, brother, sister, parent, half-child, brother/sister-in-law, parent-in-law or dependent of a municipal officer or employee.

GIFT OR FINANCIAL BENEFIT
Money, service, loan, travel, entertainment, hospitality or any financial transaction on terms not available to the general public but shall not include normal hospitality or promotional materials if such hospitality or materials do not exceed One Hundred Dollars ($100.00) in value and are not received in circumstances in which it might reasonably be inferred that they were given with intention to influence or reward them in relation to the performance of their duties.

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

GOVERNING BODY
The Town Board of the Town of Amherst.

MINISTERIAL ACT
An action performed in a prescribed manner without the exercise of judgment or discretion as to the propriety of the act.

PAID TOWN OFFICER, EMPLOYEE OR OFFICIAL
Any Town officer, employee or official who receives a salary from the Town or who is compensated by the Town on a per-diem or hourly basis, but does not include a Town officer, employee or official who is solely reimbursed by the Town for expenses incurred in the course of his or her duties.

PARTICULAR MATTER
Any business dealing with the Town or any application therefor or any case, proceeding, determination, investigation, charge, accusation or arrest or any other matter involving a discretionary act of a Town officer or employee, but does not include the proposal, consideration or enactment of local laws, ordinances or regulations of general application.

PERSON
An individual, corporation, partnership, unincorporated association, LLC, LLP and all other legal entities.

POLITICAL PARTY
Any political party which appears on the ballot in the last biennial Town election.

RELATED PARTY
A spouse, child, parent, brother or sister of the Town officer or employee and a party with whom the Town officer or employee or his/her spouse, child, parent, brother or sister has or intends to enter into an employment, professional, business or financial relationship.

SPOUSE
A husband or wife from whom the Town officer or employee is not legally separated.

TOWN
The Town of Amherst, and includes all agencies thereof and officers, employees and officials thereof.

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

TOWN CLERK
The Clerk of the Town of Amherst.

TOWN OFFICER OR EMPLOYEE
Any officer, ~~or~~ employee, or intern of the Town of Amherst, whether paid or unpaid, including public officials and all other members of any agency in the Town of Amherst, but does not include the Town Justices, officers or employees of the Unified Court System. Volunteer firemen and civil defense volunteers shall not be deemed to be Town officers or employees.

TOWN OFFICIAL
Any Town officer, employee who has the authority, either alone or as a member of an agency/committee/board to perform discretionary acts on behalf of the Town with respect to any business dealing. "Town official" shall not include Town Justice and any Town officer or employee who performs only ministerial acts and duties.

§ 19-5. Applicability.

The requirements of this Code shall not replace but shall be in addition to all other legal requirements pertaining to the conduct of Town officers and employees. Every provision of this Code, except as expressly limited herein, shall apply to every officer and employee of the Town, whether paid or unpaid. It shall also apply to members, directors, officers and employees of any not-for-profit corporation if a majority of such corporation's members or directors serve by reason of their Town positions or if a majority of such corporation's officers or directors are appointed by one or more Town officers or bodies, such as the Amherst Industrial Development Agency. Any such not-for-profit corporation shall be deemed to be a Town agency for the purpose of this Code. The members, directors, officers and employees of any such corporation shall be deemed to be Town officers or employees for the purposes of this Code. It shall also apply to any person who is a member of a Town board, agency, commission, council or body, whether paid or unpaid, as well as to personal service/consultant contractors of Town Development Agencies defined above. This Code shall not apply to officers or employees of the Town Court of the Town of Amherst, unless adopted by their respective governing bodies. The Board of Ethics shall have discretion to grant a temporary exception to the provisions of this Chapter for any officer, employee, person, board, commission or agency to which this Chapter applies.

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

§ 19-46. General regulations.

A. No Town official or employee shall:

(1) Act as attorney, agent, broker, employee, consultant or representative for any person in connection with any business dealing that person has with the Town.

(2) Directly or indirectly, solicit any gift, or accept or receive any gift or series of gifts, having an annual aggregate value of One Hundred Dollars ($100.00) or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him or her or could reasonably be expected to influence him in the performance of his official duties or was intended as a reward for any official action on his or her part. The foregoing limitation shall not apply to campaign contributions not otherwise prohibited by law.

(3) Take or refrain from taking any action or agree to take or refrain from taking any action or induce or attempt to induce any other Town officer or employee to take or refrain from taking any action on any matter before the Town in order to obtain a pecuniary or material benefit for:

(a) Himself or herself;

(b) A family member;

(c) Any partnership, LLP or unincorporated association of which the Town officer or employee or family member, is a member or employee or in which he or she has a proprietary interest;

(d) Any corporation, LLC of which the Town officer or employee, or family member is an officer or director or of which he or she legally or beneficially owns or controls more than five percent (5%) of the outstanding stock;

(e) Any person with whom the Town official, or his or her family member, has an employment, professional, business or financial relationship; or

(f) Any person from whom the Town officer or employee or his or her spouse has received within any twelve-month period during the previous twenty-four (24) months a pecuniary or material benefit having an aggregate value greater than One Thousand Dollars and Zero

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

Cents ($1,000.00), unless said individuals make up less than five percent (5%) of a class of individuals benefitted.

(4) Appear before the agency/committee/board served by or which employs such Town officer or employee except on behalf of the Town or on his or her own behalf.

(5) Appear before the Town except on behalf of the Town or on his or her own behalf. This subsection shall only apply to officers and employees who are elected or who are paid by the Town.

(6) Appear as attorney or counsel against the interests of the Town in any matter in which the Town is a party or a complainant.

(7) Solicit any nonelected officer or employee of the Town to participate in an election campaign. This subsection shall not prohibit an elected officer from soliciting such participation from officers and employees who are appointed by and directly subordinate to such elected officer and who serve in positions which are in the exempt classification or the unclassified service under the Civil Service Law.

(8) Directly or through a person, campaign committee or other organization authorized to act on his or her behalf solicit any nonelected officer or employee of the Town to pay or promise to pay any assessment, subscription or contribution to a political party, political party organization or election campaign. This subsection shall not prohibit a general solicitation of a class of persons.

(9) Directly or through a person or campaign committee or other organization authorized to act on his or her behalf, solicit participation in an election campaign or payment or promise of payment of any assessment, subscription or contribution to a political party, political party organization or election campaign from any person who, to the knowledge of the municipal officer or employee, has or, within the previous twelve (12) months, has had any business dealing with the municipality. This subsection shall not prohibit a general solicitation of a class of persons.

(10) Directly or through a person or campaign committee or other organization authorized to act on his or her behalf, utilize Town property, the Town Seal, the Town Logo or stationery where the header or footer states the person's employment as a Town of Amherst employee, to solicit participation in an election campaign or payment or promise of payment of any assessment, subscription or contribution to a political party, political party organization or election campaign.

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

(11) Except where such disclosure is authorized by law, disclose any confidential information acquired in the course of his or her official duties or use any such information to advance the financial or other private interest of himself or herself or any other person.

(12) After termination of his or her term of office or employment with the Town, appear before the Town or receive compensation for any services rendered on behalf of any person other than the Town in relation to any particular matter upon which he or she took any discretionary act during his or her term of office or employment with the Town.

B. No partnership, LLP, LLC or corporation or unincorporated association of which a Town official is a member or employee or in which he or she has a proprietary interest nor any corporation, LLC of which he or she is an officer or director or legally or beneficially owns or controls more than five percent (5%) of the outstanding stock shall appear before the agency served by such Town official on behalf of any person other than the Town or itself.

C. No partnership, LLP or unincorporated association of which a Town official who is elected or paid by the Town is a member or employee or in which he or she has a proprietary interest nor any corporation, LLC of which he or she is an officer or director or of which he or she legally or beneficially owns or controls more than five percent (5%) of the outstanding stock shall appear before the Town on behalf of any person other than the Town or itself.

D. Nothing in this section shall be construed to prohibit a Town officer or employee or any other person from receiving a municipal service or benefit or using a municipal facility which is generally available to residents or a class of residents in the Town.

E. Nothing in this section shall be construed to prohibit any Town officer or employee listed in §11 of the Domestic Relations Law from accepting any gift or benefit having a value of One Hundred Dollars ($100.00) or less for the solemnization of a marriage by that Town officer or employee at a place other than the Town officer's or employee's normal place of business or at a time other than the officer's or employee's normal hours of business and except as may be otherwise restricted by law.

F. Nothing in this section shall be construed to prohibit a Town officer or employee from performing any ministerial act.

G. A person who knowingly violates any provision of this section may, in addition to any penalty contained in any other provisions of law, be dismissed,

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

suspended or removed from office or employment in the manner provided by law.

§ 19-~~5~~7. Transactional disclosure and recusal; definitions.

A. Whenever a Town official is requested or required to take any action on a matter before the Town and, to his or her knowledge, either the performance or nonperformance of that action would provide a pecuniary or material benefit to himself or herself or to any related person different from that which would be derived from the action by reason of its general application to a broad class of persons deriving such benefit, the Town official shall not participate in that matter unless the official's recusal prohibits Town action, then said officer or employee shall participate after full disclosure and reference to the particular legislation otherwise prohibiting Town action. The Town officer or employee also shall file promptly with his or her immediate superior, if any, and with the Town Clerk a signed statement disclosing the nature and extent of that interest.

B. For purposes of this section, the following terms shall have the meanings indicated:

RELATED PERSON

(1) A family member.

(2) Any corporation of which the municipal officer or employee is an officer or director or of which he or she legally or beneficially owns or controls more than five percent (5%) of the outstanding stock.

(3) Any person with whom the municipal officer or employee or his or her family member has an employment, business or financial relationship.

(4) Any person from whom the municipal officer or employee or his or her spouse has received within any twelve (12) month period during the previous twenty-four (24) months a pecuniary or material benefit having an aggregate value greater than One Thousand Dollars and Zero Cents ($1,000.00).

C. Nothing in this section shall be construed to prohibit a Town officer or employee from performing any ministerial act or to require a Town officer or employee to file a disclosure statement pursuant to Subsection A of this section prior to performing any ministerial act. The award of a contract by an officer or employee pursuant to the public bidding requirements of §103 of the General Municipal Law shall be deemed a ministerial act.

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

§ 19-~~6~~8. Disclosure statement.

A. Long Form Disclosures: All elected Town officials, all department heads and all Town Officials who are elected, appointed, paid or unpaid, who are members of the ~~Zoning Board of Appeals, Planning Board, Youth Board, Traffic Safety Board, Government Study Committee, Recreation Commission, Board of Assessment Review Amherst Industrial Development Agency, Board of Ethics, Board of Electrician Examiners, Board of Plumbing and Drainage Examiners, Citizens' Financial Advisory Committee, Energy Conservation Committee, FOIL Board, Historic Preservation Commission and the Open Government Advisory Board~~ Amherst Industrial Development Agency, Board of Assessment Review, Board of Plumbing and Drainage Examiners, Board of Electrician Examiners, Board of Ethics, Citizens' Financial Advisory Committee, Design Advisory Board, Energy Conservation Committee, FOIL Board, Government Study Committee, Historic Preservation Commission, Open Government Advisory Board, Planning Board, Recreation Commission, Traffic Safety Board, Youth Board and Zoning Board of Appeals shall file with the Town Clerk, who for the purpose of this section shall also be deemed the Secretary of the Board of Ethics as hereinafter set forth, a signed, annual disclosure statement within thirty (30) days of taking office and no later than April 30 of each year thereafter. Within thirty (30) days of any change in the information contained in his or her most recently filed statement, the ~~public~~ Town official shall file a signed amendment to the statement indicating the change.

B. Information to be disclosed by all those Town officials defined in Section 19-6A shall be in the following form:

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

(1) Name:

Address:
Email Address:

If married, spouse's name:

(2) (a) Title of Town position:

(b) Department, agency or other governmental entity:

(3) Do you receive any benefits, compensation or other consideration that are derive directly or indirectly from your employment or association with the Town of Amherst other than your remuneration from the Town?

Yes _____ No _____

If YES, please describe the nature, source of and amount such benefits, compensation o other consideration.

Nature	**Source**	**Amount**

(4) List the address and SBL of all real property in which you, your spouse or other famil member of your household has an ownership or other financial interest.

Name of Owner	**Address**

(5) List the name and address of any partnership, unincorporated association, corporatio business or employer of any sort of which you or your spouse is a member, officer o employee or from which you or your spouse derive income of any nature, giving you position and/or your spouse's position, if any, with such entity.

Self/Spouse	**Position**	**Organization and Address**

(6) List the name and address of any corporation, partnership, unincorporated associatio or business of which you or your spouse legally or beneficially owns or controls mor than 5% of the issued and outstanding stock or other ownership rights.

Self/Spouse	**Organization and Address**

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

(7) State any self-employment, and the general nature thereof, from which you or you spouse has derived gross income in excess of $2,000 during the previous calendar year.

Self/Spouse **General Nature**

(8) If you are unable, after reasonable effort, to obtain any of the information required 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: 10/18/21 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.

1/18/2022

A motion was made by Supervisor Kulpa to remove from Unfinished Business, seconded by Councilmember Bucki and unanimously approved 5-0.

A motion was made by Supervisor Kulpa to schedule a public hearing for the February 28th Town Board meeting, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

RESULT:	**TABLED (NO VOTE)**	**Next: 10/25/2021 7:00 PM**

TOWN OF AMHERST

TOWN CLERK'S OFFICE

5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221
(716) 631-7021
FAX (716) 631-7152
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Kathleen Cooper
Deputy Town Clerk

Timothy Koller
Deputy Town Clerk

March 3, 2021

MEMO TO: David Marrano, Town Assessor

FROM: Francina Spoth, Town Clerk

RE: Petition

The attached petition, in connection with the parcel located at 2160 and 2170 North Forest Road was received in my office. Will you kindly check if the protest has been signed by the owners of 20% or more, either of the area of the land included in such proposed change, or of the immediately adjacent extending 100 ft. therefrom, or of that directly opposite thereto, extending 100 ft. from the street frontage of such opposite land, as provided in Zoning Ordinance, section XXI, Article 2.

Attachment
cc: Town Board
Town Attorney

Attachment: protest petition 2160 n forest-03042021095641 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

To: Members of the Amherst Town Board

c/o: Town of Amherst, Office of the Town Clerk

MAR03'21 PM 1:06 RCVD

Date: March 2, 2021

In Re: Requested Amendment to Rezone Property

Located at 2160 and 2170 North Forest Road

PROTEST PETITION

Pursuant to New York Consolidated Laws, Town Law, Section 265 (1)(b), we, the undersigned, being the owners of 20% or more of the area of land immediately adjacent to the land included in the above referenced proposed change, extending 100 feet therefrom, hereby petition that any such amendment shall require the approval of at least three-fourths of the members of the town board.

NAME:	ADDRESS:
[illegible]	2180 North Forest Rd
Rosemary Blando	2180 North Forest Rd

Attachment: protest petition 2160 n forest-03042021095641 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

Town of Amherst, NY
Office of the Assessor
David C. Marrano SCA Assessor

5583 Main Street
Williamsville, New York 14221
Phone: (716) 631-7038
www.amherst.ny.us
dmarrano@amherst.ny.us

Memorandum

March 4, 2021

To: Francina Spoth, Town Clerk
Re: Petition – 2160 & 2170 North Forest Road

The protest petition for 2170 North Forest Road has been signed by the required property owners of one of Zoning Ordinance section XXI, Article 2. The signature(s) satisfied test 2. The Super Majority calculations are based on three tests:

1. 20% or more of the owners signed a petition
2. **20% of the AREA surround said rezoning within 100 feet has signed a petition**
3. 20% of the AREA within 100 feet directly across the street from said rezoning has signed a petition

Therefore a super majority vote will be required to enact the change in zoning, as it relates to 2170 North Forest Road.

2160 North Forest Road has not been signed by the required property owners to satisfy the Zoning Ordinance referenced above, as it relates to the 3 aforementioned tests.

Should you have questions, please feel free to contact me.

Cheryl E. Walfrand
Senior Real Property Appraiser

cc: David C. Marrano
Assessor

Attachment: protest petition 2160 n forest-03042021095641 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

D R A F T (2/22/21)

SEQR

NEGATIVE DECLARATION

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency:	Town of Amherst Town Board	**Project**: Z-2020-06
Address:	5583 Main Street Williamsville, NY 14221 (716) 631-7051	**Date**:

This notice is issued pursuant to Part 617 and Local Law #3-82, as amended, of the implementing regulations pertaining to Article 8 (State Environmental Quality Review) of the Environmental Conservation Law.

The Lead Agency has determined that the proposed action described below will not have a significant adverse effect on the environment.

Title of Action:	Rezoning Request.
SEQR Status:	Type I
Description of Action:	Rezoning of 2.35± acres of land from NCD-SA to NCD-ND to allow a proposed 2-story, 8-unit apartment building.
Location:	2160 & 2170 North Forest Road (NCD), Town of Amherst, Erie County, New York
Petitioner:	Coromandel Estates Amherst, LLC

Attachment: Z-2020-06_draft TB Neg Dec_2160 & 2170_2.22.21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

Reasons Supporting This Determination

Based on information submitted by the applicant, including a Full Environmental Assessment Form (EAF) - Part 1, a complete rezoning application, and concept plan, a preliminary staff analysis was undertaken. Compared to the criteria listed in Section 617.7, all indications are that the proposed rezoning of 2.35± acres of land from NCD-SA to NCD-ND for a proposed 2-story, 8-unit apartment building will not have a significant impact on the environment, as follows:

1. The action is not expected to cause a substantial adverse change in existing air quality, ground or surface water quality or quantity, or noise levels; a substantial increase in solid waste production; or a substantial increase in the potential for erosion, flooding, leaching or drainage problems. The Town Engineering Department on December 24, 2020 reviewed the application and EAF submitted on December 18, 2020, and had no objection or comments on the proposed rezoning. The Building Department requires that a floodplain development permit be obtained prior to final site plan approval.

2. The action will not result in the removal or destruction of large quantities of vegetation or fauna; or in significant adverse impacts to fish or wildlife species, habitats or other natural resources. A Landscape/Tree preservation Plan shall be required of the applicant upon submittal of a site plan application for development of the site at which stage all landscape requirements of the Zoning Ordinance will be met.

3. The action is not expected to create any material conflict with the Town Comprehensive Plan. The project will comply with all regulations of the Town Zoning Ordinance before final site plan approval is granted. The Town Building Department on January 13, 2021 reviewed the application and EAF submitted on December 18, 2020, and has no objection or comments on the proposed rezoning.

4. The property is within an area identified by the State as potentially containing significant cultural or archeological resources. A Phase I Archaeological Reconnaissance Survey was conducted in October 2020 by the University at Buffalo's Department of Anthropology. The report concluded that no prehistoric or historic sites were identified and recommended no further work. The NYS Office of Parks, Recreation and Historic Preservation's letter of October 30, 2020 concurred that the action will not impair the character or quality of important historical resources.

5. The action will not impair the character or quality of important aesthetic resources or of existing community or neighborhood character. The subject request is for reclassification from NCD-SA to NCD-ND. This property is in an area of Town with a variety of residential uses. The majority of this area is occupied by single-family homes, however, directly across North Forest Road from this site is the Beechwood Senior Residence/Asbury Pointe development. Within the past few years, apartment developments have been constructed further west along North Forest Road, most notably the "Muir Lake" apartments between Millersport Highway and John James Audubon Parkway. Therefore, the project is considered consistent with surrounding land use.

Attachment: Z-2020-06_draft TB Neg Dec_2160 & 2170_2.22.21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

6. The proposed reclassification to NCD-ND for the proposed 2-story, 8-unit apartment building will not cause a major change in the use of either the quantity or type of energy.

7. The reclassification to NCD-ND for the proposed 2-story, 8-unit apartment building will not create any hazard to human health.

8. The reclassification to NCD-ND will not cause a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses. The proposed 2-story, 8-unit apartment building will be consistent with the scale of surrounding land uses.

9. The reclassification to NCD-ND for the proposed 2-story, 8-unit apartment building will not significantly increase the number of people using the site over its previous level of use.

10. Review by the Town Traffic/Safety Board on December 30, 2020 and the NYS Department of Transportation on November 28, 2020 indicate that significant negative traffic impacts are not expected to result from the proposed project.

11. Coordinated reviews of the project have been undertaken by Town Departments including Building on January 13, 2021, Engineering on December 24, 2020, Attorney on January 4, 2021, Traffic/Safety Board on December 30, 2020, Assessor on December 23, 2020, and Right-of-Way Agent on December 29, 2020, along with outside agencies including the NYS Department of Environmental Conservation on January 22, 2021 and the Williamsville School District on December 28, 2020. These reviews have not identified any significant environmental issues and indicate that the proposal will not have a significant damaging impact on the environment.

12. Issues not specifically mentioned above and/or those not specifically reviewed were not raised by Town departments, outside agencies or the public and are not determined to be causing significant negative environmental impacts.

_____ _____
Signature & title of preparer date

_____ _____
Brian J. Kulpa, Supervisor date

EK/ac
X:\Current_Planning\Files\Rezonings\2020\Z-2020-06_(2160 &_2170_North_Forest_Rd_NCD)_2020\Z-2020-06_draft TB Neg Dec_2.22.21.docx
cc: Amherst Town Clerk
Amherst Building Department
ECDEP
NYSDEC

Attachment: Z-2020-06_draft TB Neg Dec_2160 & 2170_2.22.21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

LOCAL LAW NO. _____-201_

TOWN OF AMHERST
COUNTY OF ERIE, STATE OF NEW YORK

A LOCAL LAW AMENDING CHAPTER 203 OF THE TOWN OF AMHERST CODE, KNOWN AS THE ZONING ORDINANCE, TO REZONE/RECLASSIFY 2160 AND 2170 NORTH FOREST ROAD FROM NCD-SA TO NCD-ND AND TO AMEND THE AUDUBON DEVELOPMENT PLAN AND TO AMEND THE ZONING MAP ACCORDINGLY.

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

Section 1. Title.

This Local Law shall be referred to as, "A Local Law Amending Chapter 203 of Town of Amherst Code, Known As The Zoning Ordinance, to Rezone/Reclassify 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and to Amend The Audubon Development Plan and to Amend The Zoning Map Accordingly".

Section 2. Legislative Findings and Intent.

The Town Board of the Town of Amherst finds that an application to rezone/reclassify 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and Amend the Audubon Development Plan and to Amend the Zoning Map Accordingly has been filed and is in proper order. The Town Board further finds that the request including the rezoning/reclassification and the amendment of the Audubon Development Plan is consistent with the Comprehensive Plan.

Section 3. Amherst Zoning Map.

The Town Board hereby: 1.) amends its Zoning Map which is incorporated by reference in the Town Zoning Code by amending/reclassifying from NCD-SA to NCD-ND the parcels at 2160 and 2170 North Forest Road; and 2.) amending the Audubon Development Plan, both being **subject to any conditions imposed by the authorizing resolution**; legally described as follows:

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie, State of New York, being part of Lot 68, Township 12, Range 7 of the Holland Land Survey so-called and further bounded and described as follows.

BEGINNING at the intersection of the centerline of Stahl Road (66.0 feet wide) with the centerline of North Forest Road (66.0 feet wide):

THENCE: Southerly, along the centerline of Stahl Road extended southerly, a

Attachment: Draft Local Law-Reclassification of 2160 2170 North Forest Road-08-24-20 (RES-2021-153 : 2160 & 2170 Request to Rezone and

distance of 108 feet more or less to the north bank of Ellicott Creek;

THENCE: Westerly along said north bank of Ellicott Creek, a distance of 583 feet more or less to the west line of lands conveyed to Peter D. Durham by deed recorded in the Erie County Clerk's Office in Liber 9264 of Deeds at page 188;

THENCE: Northerly along said west line of Peter D. Durham lands, a distance of 10 feet more or less to the north bank of Ellicott Creek;

THENCE: Westerly and southerly along said north bank of Ellicott Creek, a distance of 227 feet more or less to a point distant 100 feet westerly from the said west line of Peter D. Durham lands as measured at right angles;

THENCE: Northerly along a line parallel with the west line of said Peter D. Durham lands distant 100.00 feet westerly therefrom measured at right angles, a distance of 491 feet more or less to the centerline of North Forest Road;

THENCE: Easterly, along said centerline of North Forest Road, a distance of 564.74 feet to the POINT OR PLACE OF BEGINNING.

Section 4. Validity.

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

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

Section 5. Effective Date.

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

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

Attachment: Draft Local Law-Reclassification of 2160 2170 North Forest Road-08-24-20 (RES-2021-153 : 2160 & 2170 Request to Rezone and

Amherst

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

Brian J. Kulpa
Supervisor

Daniel C. Howard, A
Planning Directo

Ellen M. Kost, AICP
Assistant Planning Dir

Town Board Agenda of February 22, 2021

February 9, 2021

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

Subject: Amendment #73 to the Audubon New Community District Development Plan to reclassify 2.35± acres of land from NCD-SA to NCD-ND; property located at 2160 & 2170 North Forest Road (NCD). Z-2020-06.

Honorable Members:

The subject property consists of two lots and forms a 2.35± acre irregularly shaped area located on the south side of North Forest Road, just west of the Stahl Road intersection. The site has 278.60± ft. of frontage and a depth of 497.16± ft. The site is vacant and partially wooded.

The south boundaries of the two lots are directly adjacent to Ellicott Creek, and the Ellicott Creek floodway extends onto both properties. A preliminary wetland investigation by Earth Dimensions, Inc. in July 2020 did not identify any federal jurisdictional wetlands or NYS wetlands on the subject properties. North Forest Road is a County collector.

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

The purpose of this request is to reclassify the land to allow a 2-story, 8-unit apartment building. The concept plan shows the building in the central portion of the site, with 17 parking spaces in front of the building, eight (8) of which are proposed to be in a free-standing garage. Parking would be accessed by one driveway to North Forest Road approximately in the center of the site. Space for emergency vehicle turnaround is shown between the building and the road. The plan also shows a covered patio with fire pit on the west side of the building and a dumpster location west of the building. Two stormwater basins are proposed near the north and south ends of the west property line. All development is shown outside the Ellicott Creek floodway.

The property was zoned New Community District – Suburban Agriculture (NCD-SA) with adoption of the Town-wide zoning ordinance and maps in 1976. No other requests are on file.

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

continued . .

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

A) **EXTENT TO WHICH THE PROPOSED AMENDMENT MEETS THE INTENT AND OBJECTIVES OF A NEW COMMUNITY DISTRICT AS EXPRESSED IN SECTION 5-2-2 OF THE ZONING ORDINANCE.**

The proposed revision to the development plan addresses the following objectives of the Zoning Ordinance.

Objectives

2-2A *A varied choice in the types of environment, occupancy, tenure, types and cost of housing, lot sizes, and community facilities available to existing and potential Town residents.*

The proposed project consists of a 2-story, 8-unit apartment building with 17 parking spaces in front of the building, eight (8) of which will be in a free-standing garage. One driveway to North Forest Road is shown in the central portion of the site. Two stormwater basins are proposed near the west property line. All development is shown outside the Ellicott Creek floodway.

The Assessor's office agrees with all statements made in the application and has no issue with the rezoning since units will be leased and not sold with condominium tax status.

The Building Department has approved the rezoning as submitted.

2-2B *Extensive usable open space and recreation areas, appropriate in terms of location, size and suitability of intended function.*

No usable open space or recreation areas are proposed with this project. The Ellicott Creek floodway, which extends onto these properties, will remain as open space and is prohibited by FEMA regulations from containing any structures.

2-2C *The provision of commercial, office or industrial uses of substantial real property tax productivity intended to support the financing of additional educational, municipal, and other public services required as a result of the development.*

No commercial, office or industrial uses are proposed with this project.

2-2D *Convenience in location of Commercial and Service Areas*

The closest commercial/service areas to the subject property are located on Millersport Highway (0.5 miles) and on Maple Road (1.5 miles). These include gas stations and a variety of restaurants. The UB North campus, on the opposite side of Ellicott Creek, also offers commercial services.

2-2E *The preservation of such features as trees, outstanding natural topography and geological features; the prevention of soil erosion; and the comprehensive design of storm water retention and proper drainage systems.*

As most of the wooded areas in the southern and eastern portions of these properties are within the Ellicott Creek floodway, they are proposed to remain undisturbed.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

The NYS Department of Environmental Conservation concurs that the Town of Amherst should act as SEQR Lead Agency and has the following comments:

1. Note that Ellicott Creek has a water classification and standard of B. Therefore, any physical alteration (ie, land clearing, filling, drainage pipe/ditch installation, etc.) to the bed or banks (within 50 feet of the stream) will require an Article 15, Title 5, Protection of Waters Permit from the NYSDEC.

2. The project site is located near a NYS Flood Control Easement, specifically Amherst Ellicott Creek Flood Control Project. Use of this easement requires an Article 16 Flood Control Land Use Permit from the NYSDEC.

3. The site is located within the designated 100-year floodplain per the Federal Emergency Management Agency's (FEMA) Firm Map No. 36029C0069H. The proposed project should be designed in accordance with all applicable local municipal laws for flood damage reduction. In addition, Ellicott Creek has a regulatory floodway, and any encroachment into floodway, including fill, requires an engineering analysis that demonstrates a 0.0' rise in the base flood elevation before a permit can be issued. Based on submitted plans, it also appears that the proposed patio/fire pit area is within the floodway and may require a separate floodplain development permit.

4. If any project activities will involve land disturbance of 1 acre or more, the project sponsor is required to obtain a State Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activity.

5. This proposed project requires a sanitary sewer connection that is designed to convey 2,500 gallons/day or more of municipal sewage and is therefore considered a sanitary sewer extension. The Erie County Health Department will be the approving agency. A detailed Downstream Sewer Capacity Analysis must be performed and submitted for the proposed project as part of the Project's Engineering Report.

6. Portions of this project area are located on hydric soils. The project sponsor should contact the United States Department of the Army, Corps of Engineers (COE) to ensure that the project will not involve federally regulated wetlands or any other approval from that agency. If Federal Wetlands are involved, the COE may require Water Quality Certification from DEC.

7. The project site appears to be within an archaeologically sensitive area based on information obtained through the Cultural Resources Information System (CRIS) on the NYS Office of Park, Recreation and Historic Preservation's (OPRHP) website. As part of the SEQR process, this concern should be evaluated, unless it can be verified by appropriate documentation that the sites have been significantly disturbed in a way that would destroy potential artifacts. Note: If any of the described Department approvals are required, an appropriate archaeological investigation must be conducted in order to satisfy the NYS Historic Preservation Act.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

2-2F *The creative use of land and related physical development which allows an orderly transition of land from rural to urban uses.*

The subject properties are located within an area of Town with a variety of residential uses. The majority of this area is occupied by single-family homes, however, directly across North Forest Road from this site is the Beechwood Senior Residence/Asbury Pointe development. Within the past few years, apartment developments have been constructed further west along North Forest Road, most notably the "Muir Lake" apartments between Millersport Highway and John James Audubon Parkway.

The ROW Agent agrees with all statements made in the application and notes that an easement to the Town of Amherst on this property (liber 7105, page 369) should continue to be in effect and be reduced to an agreement.

2-2G *An efficient use of land resulting in smaller networks of utilities and streets and lessened burden of traffic on streets and highways thereby lowering utility and maintenance costs borne by new development.*

As the floodway is located on nearly half of the subject site, the concept plan submitted with this application shows the development limited to the central portion of the site. One driveway to North Forest Road is shown in the center of the site.

The Engineering Department, Traffic-Safety Board and Fire Chiefs' Association agree with all statements made in the application. The Highway Department review is pending.

NYSDOT reviewed the project, concurred with the Town acting as Lead Agency, and stated that the proposed project will not have a significant impact to traffic on the State Highway System.

The Erie County DPW – Highways Division concurs with the Town of Amherst being the Lead Agency for this project and has the following comments:

Permit Requirements:

1. The Developer will be required to apply for and obtain an Erie County Highway Work Permit for Utility Work Perm-2 for construction within the North Forest Road highway right-of-way.

2. The Developer will be required to apply for and obtain an Erie County Highway Work Permit for Non-Utility Work, Perm 3 for construction of a new entrance drive within the North Forest Road highway right-of-way.

Traffic Concerns:

1. A Traffic Impact Study may be needed due to the close proximity of the project to the intersection of North Forest and Stahl Road.

2-2H *Creation and preservation of natural and man-made features which will give increased environmental quality, encourage uses which will maintain high environmental quality and provide an attractive community design.*

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

The most important natural feature on this development site is the Ellicott Creek floodway, which according to FEMA regulations cannot hold structures of any kind. The wooded areas in the southern and eastern portions of the site within the floodway are therefore proposed to remain undisturbed.

This project is in an archaeologically sensitive location based on NYS mapping. A Phase I Archaeological Reconnaissance Survey was conducted in October 2020 by the Department of Anthropology at the University at Buffalo. The survey found that no historic or prehistoric sites were identified and recommended no further work. The NYS Office of Parks, Recreation and Historic Preservation concurs with the report's conclusion that no further archaeological investigations are warranted, and their opinion is that no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by this project.

2-2I *Guidance and control of development in Flood Hazard Areas so that life and property both within and without such areas are protected.*

The Building Department is responsible for administering all flood code provisions; that department has no issue with the proposed rezoning but notes that a floodplain permit will be required. Town mapping from 2019 shows this property within the existing flood hazard area.

2-2J *Increased safety for all modes of travel, including pedestrian and bicycle.*

There are no sidewalks on North Forest Road in the vicinity of this project, and the petitioner does not propose to install any. An internal sidewalk is shown around the proposed building and parking lot but does not extend to the road.

The Williamsville Central School District notes that the District has received information on this project and placed it on file, and that a future bus stop will be located at a driveway entrance at North Forest Road in accordance with District policy.

2-2K *An appropriate balancing or accommodation of the effect of major public or private development elsewhere in the Town or its vicinity.*

While the proposed 8-unit apartment building presents a denser development than the nearby single-family lots, it is consistent with the adjacent Beechwood Senior Residence/Asbury Pointe development across North Forest Road. The property is close to the UB North Campus on the opposite side of Ellicott Creek. The development can also be expected to supplement the off-campus housing stock for faculty, staff and students. The developer has stated that these units are intended to be marketed to professionals who often work remotely.

2-2L *Sufficient civic and community facilities, carefully integrated with adjoining areas.*

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

There are no civic or community facilities proposed with this project; adequate civic and community facilities are located in the area.

2-2M *Provision for the orderly updating of long-term, large-scale development plans to reflect changing circumstances within an overall, Town-approved planning framework.*

The Comprehensive Plan's Conceptual Land Use Plan (Figure 6) indicates Mixed Residential use for the section of North Forest Road between Stahl Road and Millersport Highway. The Mixed Residential designation is aimed at projects with densities of 4 – 12 units/acre. The subject project will result in a density of 3.4 units/acre.

The requested change is generally compatible with the character of development in the area, although the other comparable developments are not located on the 'creek side' of North Forest Road. The 3-story, 90-unit "Muir Lake" apartments between Millersport Highway and J. J. Audubon Parkway, as well as the Beechwood/Asbury senior residence, do not back up to Ellicott Creek. It should be noted that the subject site is within the boundary of the Town's Local Waterfront Revitalization Program (LWRP) currently in progress. This project would require another level of review for consistency with waterfront policies if the LWRP was adopted by the Town (adoption is not expected within the next year).

2-2N *A more desirable environment than would be possible through the strict application of other sections of this Zoning Ordinance.*

The current zoning of New Community District – Suburban Agriculture (NCD-SA) allows single family dwellings only. The proposed development of the site includes 8 apartment units that would not be allowed under the current zoning classification. The demand for student housing in the area surrounding the UB campus makes this a desirable location for apartment use.

B) EXTENT TO WHICH THE PROPOSED DEVELOPMENT PLAN MEETS ALL THE REQUIREMENTS OF SUBSECTIONS 5-2-4, 5-2-5, and 5-2-6 OF THE ZONING ORDINANCE.

5-2-4 Location of NCD Not applicable (pertains to entire existing NCD within the Town).

5-2-5 Permitted Uses

5-2-5A(2) Neighborhood District. This classification includes primarily residential areas designed to provide living space for families and individuals. Ancillary uses designed to conveniently serve residents may be located within them. The classification includes:

a. Residences and dwelling units of every type, except as otherwise specified in this subsection.
b. Fraternity and sorority houses, dormitories, hostels and boardinghouses.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

c. Small convenience retail and service facilities, except for automobile drive-in restaurants, and ancillary office facilities designed to serve the needs of residents of the neighborhood.
d. Public or quasi-public facilities, including schools and day-care centers, religious buildings and other community facilities.
e. Recreation facilities, open space areas, and personal training facilities.
f. Special limited commercial services and facilities not already included in the above uses, storage yards, and open equipment structures.

5-2-5B Use Mixture: Not applicable.

5-2-6 Dimensional Standards

5-2-6A The overall residential density of an NCD shall not exceed five (5) dwelling units per gross acre. This density regulation applies to the entire New Community District (4,121± acres) within the Town. Although the density of the proposed development is 3.4 units/acre, it would not bring the overall NCD density beyond the threshold of 5 units/acre.

5-2-6B Dwelling Unit Area. Information not provided. All dwelling units and rooms included in a dwelling are required to have sufficient floor area to satisfy the applicable minimum floor area requirements of the State Building Construction Code or the Town Building Code, whichever is applicable. This requirement will need to be met.

5-2-6C Minimum Area. Not applicable

5-2-6D Building Arrangements. The proposed development will result in a 2-story, 8-unit apartment building in the central portion of the site. The proposed 17 parking spaces will result in 2 spaces/unit, the minimum required by code elsewhere in the Town.

C) THE PROPOSED DEVELOPMENT PLAN IS CONCEPTUALLY SOUND IN THAT IT MEETS PRESENT AND FUTURE COMMUNITY NEEDS

The requested NCD-ND classification and proposed project concept will generally result in a sound development plan for the subject area; however, the concept should include space for overflow parking beyond that required for residents of the development. Section 5-2-7A(8) in the Zoning Ordinance states that "Off-street parking, loading, and stacking spaces shall be provided so as to prevent overflow of parked or standing vehicles onto public or common vehicular or pedestrian rights-of-way."

D) THERE ARE ADEQUATE SERVICES AND UTILITIES AVAILABLE OR PROPOSED TO BE MADE AVAILABLE IN THE CONSTRUCTION OF THE DEVELOPMENT.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

All services and utilities are or will be made available with this development.

E) THE PROPOSED DEVELOPMENT PLAN IS CONSISTENT WITH THE TOWN COMPREHENSIVE PLAN

The proposed project generally complies with the locational and use criteria in the Comprehensive Plan for land near a university campus.

SEQR

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

RECOMMENDATION

The Planning Board recommends that your Honorable Body concur with the Planning Board's findings relative to SEQR and issue the attached Negative Declaration, and that the subject request be **approved** based on the attached resolution.

Very truly yours,

DANIEL C. HOWARD, AICP
Planning Director

DH/EK/ac
Att.
X:\Current_Planning\Files\Rezonings\2020\Z-2020-06_(2160 &_2170_North_Forest_Rd_NCD)_2020\Z-2020-06_TB Letter_2.22.21.docx
cc: Stanley Sliwa, Town Attorney

Planning Board Approval – January 21, 2021
Ayes 7; Noes 0

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

TOWN OF AMHERST
PLANNING BOARD RESOLUTION
AMENDMENT #73 TO THE AUDUBON DEVELOPMENT PLAN
Z-2020-06

PETITIONER
Coromandel Estates Amherst LLC
c/o Sean Hopkins, Esq.
Hopkins Sorgi & McCarthy PLLC
5500 Main St., Suite 343
Williamsville, NY 14221

PROPERTY LOCATION
2160 & 2170 North Forest Road (NCD)

JAN29'21 AM 8:32 RCVD

WHEREAS the Town of Amherst Planning Board on Thursday, January 21, 2021 held a public hearing on Amendment #73 to the Audubon New Community District Development Plan to classify the subject property as suitable for use as an apartment development, and

WHEREAS the Planning Board has reviewed the Amendment plans and supporting documentation, and

WHEREAS the Amendment has been referred to the various Town review agencies, and

WHEREAS the Planning Board finds that:

A. The proposed Revision to the Development Plan meets the intent and objectives of a New Community District as expressed in Subsection 1-1.1.

B. The proposed Revision to the Development Plan meets all the requirements of Section 5-2-3 through 5-2-6.

C. The proposed Revision to the Development Plan is conceptually sound in that it meets present and future community needs.

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

E. The proposed Amendment to the Development Plan is consistent with the Town Comprehensive Plan.

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

NOW THEREFORE BE IT RESOLVED that the Planning Board, in accordance with Section 8-15-2 of the Zoning Ordinance offers a positive report and recommends Town Board approval of Amendment #73 to the Audubon Development Plan with the following condition:

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

TOWN OF AMHERST
PLANNING BOARD RESOLUTION
AMENDMENT #73 TO THE AUDUBON DEVELOPMENT PLAN
Z-2020-06

PETITIONER
Coromandel Estates Amherst LLC

PROPERTY LOCATION
2160 & 2170 North Forest Road (NCD)

JAN29'21 AM 8:33 RCVD

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

The foregoing resolution was adopted by the Town of Amherst Planning Board, January 21, 2021; moved by Chmiel; seconded by Giuliani; ayes 7, noes 0.

Robert J. Gilmour, Chair — Date 1/28/21

EK/ac
X:\Current_Planning\Files\Rezonings\2020\Z-2020-06_(2160 &_2170_North_Forest_Rd_NCD)_2020\Z-2020-06_resolution_012121.doc
cc: Commissioner of Building
Town Engineer
Highway Superintendent
Traffic/Safety Coordinator
Coromandel Estates Amherst LLC, c/o Sean Hopkins, 5500 Main St., Suite 343, Williamsville, NY 14221
Thiru Vikram, c/o Coromandel Estates LLC, 4515 Chestnut Ridge Road, Unit 106, Amherst NY 14228
Chris Wood, Carmina Wood Morris, 487 Main St., Suite 500, Buffalo NY 14203
Christina Barmosz, Silvestri Architects, 1321 Millersport Hwy., Amherst, NY 14221
David Pawlik, Creative Structures Services, 550 Seneca St., Suite 100, Buffalo NY 14204

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amended Application - Reclassification 2160 and 2170 North Forest Road and to Amend the Audubon Development Plan
Date: December 17, 2020

Applicant: Mandel Estates Amherst LLC c/o Sean Hopkins, Esq.
5500 Main Street, Suite 343
Williamsville, NY 14221
Tel: 716.510-4338
E-mail: shopkins@hsr-legal.com

Original

TOWN OF AMHERST PLANNING DEPARTMENT

Application for Rezoning Review and, if required Comprehensive Plan Amendment

For Official Use

File #: Z-2020-06 **Acreage** — **Fee $** -0-

Address Verified by Assessor's Office _____ VERIFIED BY DATE

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

Materials Checked by Building Dept. _____ RECEIVED BY DATE

Materials Received by Planning Dept. _____ RECEIVED BY DATE

		Fill In Applicable Fees
2 ACRES OR LESS	**$1,250**	$1,250.00
2 – 20 ACRES **$1,250 + $250/acres or fraction thereof over 2 acres**		$250.00
20 – 30 ACRES **$5,700 + $150/acre or fraction thereof over 20 acres**		____
OVER 30 ACRES **$6,900 +$75/acre or fraction thereof over 30 acres**		____
Request for Relief of/Change to Conditions of Zoning Approval	**$ 1,200**	____
AFFIDAVIT FEE FOR PUBLIC HEARING	**$ 15.00**	$15.00
	TOTAL FEE:	$ 1,515.00

REVISED
DEC 18 2020
TOWN OF AMHERST
PLANNING DEPT.

Z-2020-06,
2160 & 2170 N. Forest Rd. (RCD)

[Note: A completed Amended Part 1 of the Full Environmental Assessment Form prepared pursuant to the State Environmental Quality Review Act ("SEQRA") is attached as Exhibit "2" of this Application.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

TO BE COMPLETED BY APPLICANT

1. **Petitioner:** Name: Coromandel Estates Amherst LLC

Address: c/o Sean Hopkins, Esq.
5500 Main Street, Suite 343
Williamsville, New York 14221
City State Zip Code

Phone: 510-4338 Fax:

E Mail shopkins@hsr-legal.com

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

From: NCD-SA District

To: NCD-ND District

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

2160 and 2170 North Forest Road

SBL #: 55.02-1-2 and 55.01-1-19.2

4. **Area of land to be rezoned** (in acres): 2.35

5. **Owner of Land:**

Name: Allen and Kristen Guerin

Address: 270 Rosedale Boulevard, Amherst, NY 14226

Telephone:

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

Name: Sean W. Hopkins, Esq.

Address: 5500 Main Street, Suite 343
Williamsville, New York 14221
Tel: 716.510-4338 - E-mail: shopkins@hsr-legal.com
City State Zip Code

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

_____Option to purchase

_____Owner

__X__Other (explain) Petitioner has entered into a contract to purchase the Project Site. A signed Authorization Form is attached as Exhibit 1 of this Amended Application.

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

Not Applicable.

9. **Attach Survey and Legal description of land to be rezoned. The Survey must be prepared by a New York State Licensed Land Surveyor.** The legal description of property to be reclassified is attached as Exhibit "3" and a full size copy of the Survey prepared by GPI dated dated July 13, 2020 is attached. A reduced size copy of the Survey is also attached as Exhibit "4".

10. **Said property has the following deed restrictions or Covenants:** (attach copy) Not Applicable.

Liber _____ Page _____

11. **Information on proposed project:**

A. Description of the character of the proposed development:

See Exhibit 5.

B. Rationale for rezoning request:

1. Why was this site chosen?

See Exhibit 5.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

See Exhibit 5.

3. How will this rezoning impact surrounding properties?

See Exhibit 5.

4. How will this rezoning impact the school system?

See Exhibit 5.

12. Quantitative Data:

A. Total # of dwelling units 8
[The density of the proposed project has been reduced from 18 units to 8 units.]

B. Distribution of dwelling units by type Attached residential units for lease

C. Gross Residential Density per acre 3.40 units per acre

D. Total amount of Open Space Approximately 1 acre of greenspace and landscaping

E. Proposed Non-Residential Floor Area Not Applicable

13. Development Schedule:

Start Spring/Summer 2021

Finish 2022

Stages (# of) 1

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

The attached residential units will be leased to residential tenants.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

Greenspace and landscaping will be privately owned and maintained.

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

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

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

See Exhibit 6.

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

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

See Exhibit 6.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

See Exhibit 6.

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

1. Sanitary Sewer
   Yes.
2. Storm Sewer/Drainage
   Yes.
3. Water
   Yes.
4. Other Yes.

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

See Exhibit 6.

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

See Exhibit 6.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

See Exhibit 6.

17. The petitioner encloses herewith the sum of $ 1,515.00 to pay the fee, and consents to the placement of a sign(s) at the described location identifying this request for a period of time to be determined by the Town Clerk.
[The filing fee was previously paid .]

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

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

[Note: Authorization letter of property owners dated August 18, 2020 is attached to this Application.]

Counsel for Petitioner
Signature of Petitioner

Subscribed and sworn to before me this 17th day of December, 20 20

Notary Public, Erie County, New York

MARIANNE BRAUTLACHT
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 01/14/20

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

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

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

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

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

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

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

P/CurrPlan/Applications2007/Rezoning & Comp Plan Amend App.
10/08

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 1 – Authorization Form of Property Owners dated August 18, 2020

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Authentisign ID: 5F5EDAC5-6B0F-4377-B19F-0884A050FD33

AUTHORIZATION

Allen Guerin and Kristen Guerin, as the record owners of the parcels of land located at 2160 North Forest Road [SBL No. 55.02-1-1] and 2170 North Forest Road [SBL No. 55.01-1-19.2] in the Town of Amherst (collectively the "Project Site") hereby authorizes Postwork Capital LLC and its consultants to seek a rezoning and all other required governmental approvals from the municipal boards of the Town of Amherst in connection with a proposed multifamily project to be located on the Project Site.

Date: August 18, 2020 Signature: Authentisign Allen Guerin 08/19/2020
8/19/2020 9:14:43 AM EDT
Print Name: Allen Guerin

Date: August 18, 2020 Signature: Authentisign Kristen Guerin 08/19/2020
Print Name: Kristen Guerin

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 2 – Amended Part 1 of Full Environmental Assessment Form Prepared Pursuant to the State Environmental Quality Review Act ("SEQRA") with Attachments "A" and "B"

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amended Part 1 of Full Environmental Assessment Form with Attachments
Date: December 17, 2020

Full Environmental Assessment Form Part 1 - Project and Setting

Prepared By: Sean Hopkins, Esq.
Hopkins Sorgi & McCarthy PLLC
5500 Main Street, Suite 343
Williamsville, NY 14221
Tel: 510-4338
E-mail: shopkins@hsr-legal.com

Instructions for Completing Part 1

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

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

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

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Proposed Multifamily Project		
Project Location (describe, and attach a general location map): 2160 and 2170 North Forest Road - Town of Amherst - Erie County		
Brief Description of Proposed Action (include purpose or need): The proposed action involves an amendment of the land use classification of 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and an amendment of the Audubon Development Plan to accommodate the development of the Project Site as a three-story multifamily building consisting of 8 attached residential units for lease and all related site improvements as depicted on the Concept Site Plan prepared by Silvestri Architects, P.C. The proposed action has been defined broadly to include the construction of the proposed two-story multifamily building as well as all necessary site improvements including: parking spaces, a curb cut onto North Forest Road, access aisles, water and sanitary sewer lines as well as utility connections. Although the proposed project ("action") will not cross of any of the thresholds for a Type I action contained in 6 NYCRR Part 617.4. of SEQRA Regulations, it is a Type I action due the proximity of the Project Site to Ellicott Creek, which is a flowing watercourse, pursuant to a local law adopted by the Town of Amherst in 1982. The local law requires projects within 100 ft. of a flowing watercourse to be classified as Type I action. Given that the proposed project will not result in any potentially significant adverse environmental impacts, the issuance of a negative declaration pursuant to SEQRA is appropriate.		
Name of Applicant/Sponsor: Coromandel Estates Amherst LLC c/o Sean Hopkins, Esq.	Telephone: 716.510-4338 E-Mail: shopkins@hsr-legal.com	
Address: 5500 Main Street, Suite 343		
City/PO: Williamsville	State: NY	Zip Code: 14221
Project Contact (if not same as sponsor; give name and title/role): Same as Above.	Telephone: E-Mail:	
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor): Allen and Kristen Guerin	Telephone: E-Mail:	
Address: 270 Rosedale Boulevard		
City/PO: Amherst	State: NY	Zip Code: 14226

REVISED
DEC 18 2020
TOWN OF AMH
PLANNING DEPT.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, or Village Board of Trustees ☑Yes ☐No	Town of Amherst Town Board - Reclassification NCD Property and Amend. of Audubon Dev. Plan	August 24, 2020
b. City, Town or Village Planning Board or Commission ☑Yes ☐No	Planning Board - Site Plan Approval	To be Determined
c. City, Town or Village Zoning Board of Appeals ☐Yes ☑No		
d. Other local agencies ☑Yes ☐No	Building Dept. - Building and Floodplain Permits; Stormwater Permit - Eng. Dept.	To be Determined
e. County agencies ☑Yes ☐No	ECDPW - Curb cut onto North Forest Road; ECWA - Water	To be Determined
f. Regional agencies ☐Yes ☑No		
g. State agencies ☑Yes ☐No	NYSDEC - DSCA and SPDES Permit and NYSOPRHP - Cultural resource review	To be Determined
h. Federal agencies ☐Yes ☑No		

i. Coastal Resources.
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway? ☐Yes ☑No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program? ☐Yes ☑No
iii. Is the project site within a Coastal Erosion Hazard Area? ☐Yes ☑No

C. Planning and Zoning

C.1. Planning and zoning actions.

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

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

C.2. Adopted land use plans.

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

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) ☑Yes ☐No
If Yes, identify the plan(s):
NYS Heritage Areas:West Erie Canal Corridor

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

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

C.3. Zoning

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

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

c. Is a zoning change requested as part of the proposed action? ☑ Yes ☐ No
If Yes,
i. What is the proposed new zoning for the site? NCD-ND

C.4. Existing community services.

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

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

c. Which fire protection and emergency medical services serve the project site?
Getzville Volunteer Fire Department

d. What parks serve the project site?
There are various Town parks that will be accessible to future residents of the project.

D. Project Details

D.1. Proposed and Potential Development

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

b. a. Total acreage of the site of the proposed action? 2.35 acres
b. Total acreage to be physically disturbed? 1.3 +/- acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 2.35 acres

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

d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☑ No
If Yes,
i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

ii. Is a cluster/conservation layout proposed? ☐ Yes ☐ No
iii. Number of lots proposed? _____
iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

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

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f. Does the project include new residen... uses? ☑ Yes ☐ No
If Yes, show numbers of units proposed.

	One Family	Two Family	Three Family	Multiple Family (four or more)
Initial Phase				8
At completion of all phases				8

g. Does the proposed action include new non-residential construction (including expansions)? ☐ Yes ☑ No
If Yes,
i. Total number of structures _____
ii. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length
iii. Approximate extent of building space to be heated or cooled: _____ square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? ☑ Yes ☐ No
If Yes,
i. Purpose of the impoundment: Stormwater management.
ii. If a water impoundment, the principal source of the water: ☐ Ground water ☐ Surface water streams ☑ Other specify: Runoff from impervious surfaces to be located on the Project Site.
iii. If other than water, identify the type of impounded/contained liquids and their source.
iv. Approximate size of the proposed impoundment. Volume: TBD million gallons; surface area: 0.3 acres
v. Dimensions of the proposed dam or impounding structure: n/a height; _____ length
vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete):
impoundment is an excavation, a dam is not required

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? ☐ Yes ☑ No
(Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)
If Yes:
i. What is the purpose of the excavation or dredging? _____
ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?
- Volume (specify tons or cubic yards): _____
- Over what duration of time? _____

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them.
iv. Will there be onsite dewatering or processing of excavated materials? ☐ Yes ☐ No
If yes, describe. _____
v. What is the total area to be dredged or excavated? _____ acres
vi. What is the maximum area to be worked at any one time? _____ acres
vii. What would be the maximum depth of excavation or dredging? _____ feet
viii. Will the excavation require blasting? ☐ Yes ☐ No
ix. Summarize site reclamation goals and plan: _____

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? ☐ Yes ☑ No
If Yes:
i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____

Attached as Attachment "A" of this Amended Part 1 of the Full EAF is a wetland investigation letter prepared by Scott Livingstone of Earth Dimensions, Inc. dated July 7, 2020 confirming there are not any wetland subject to the jurisdiction of either of the NYS Dept. of Environmental Conservation of the United States Army Corps of Engineers located on the Project Site.

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

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

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

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

v. Describe any proposed reclamation/mitigation following disturbance:

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

i. Total anticipated water usage/demand per day: 1,850 gallons/day

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

- Name of district or service area: ECWA
- Does the existing public water supply have capacity to serve the proposal? ☑Yes ☐No
- Is the project site in the existing district? ☑Yes ☐No
- Is expansion of the district needed? ☐Yes ☑No
- Do existing lines serve the project site? ☑Yes ☐No

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

- Describe extensions or capacity expansions proposed to serve this project:
- Source(s) of supply for the district:

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

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

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

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

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

i. Total anticipated liquid waste generation per day: 1,850 gallons/day

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

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

- Name of wastewater treatment plant to be used: Town of Amherst Waste Water Treatment Plan on Tonawanda Creek Road
- Name of district: Town of Amherst Consolidated Sanitary Sewer District
- Does the existing wastewater treatment plant have capacity to serve the project? ☑Yes ☐No
- Is the project site in the existing district? ☑Yes ☐No
- Is expansion of the district needed? ☐Yes ☑No

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

If Yes:

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

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

If Yes:

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

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

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

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

If Yes:

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

_____ Square feet or 0.5 acres (impervious surface)

_____ Square feet or 2.35 acres (parcel size)

ii. Describe types of new point sources. roof, parking lot

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

Private on-site storm water management area. Discharge will be to Ellicott Creek.

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

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

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

If Yes, identify:

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

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

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

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

If Yes:

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

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

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

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

If Yes:

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

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

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

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

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

If Yes:

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

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

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

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

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

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

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

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

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

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: Typical energy usage for a project of this type

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

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

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

i. During Construction:

- Monday - Friday: 7:00 a.m. to 7:00 p.m.
- Saturday: 8:00 a.m. to 5:00 p.m.
- Sunday: As needed
- Holidays: Not Applicable

ii. During Operations:

- Monday - Friday: Not Applicable
- Saturday: Not Applicable
- Sunday: Not Applicable
- Holidays: Not Applicable

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

If yes:

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

There will be short-term unavoidable noise impacts during the construction of the project that will result from construction equipment.

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

Describe:

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

If yes:

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

Parking lot lights, 15' mounting height, dark sky compliant, minimum of 30' from nearest residence.

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

Describe:

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

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

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

If Yes:

i. Product(s) to be stored

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

iii. Generally, describe the proposed storage facilities:

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

If Yes:

i. Describe proposed treatment(s):

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

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

If Yes:

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

- Construction: 3 tons per week (unit of time)
- Operation : 2 tons per month (unit of time)

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

- Construction: at the discretion of the contractor
- Operation: Project will follow town of Amherst recycling program

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

- Construction: NYSDEC approved landfill
- Operation: NYSDEC approved landfill

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

If Yes:

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

ii. Anticipated rate of disposal/processing:

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

iii. If landfill, anticipated site life: _____ years

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

If Yes:

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

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

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

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

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

If Yes: provide name and location of facility: _____

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

E. Site and Setting of Proposed Action

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

a. Existing land uses.

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

☐ Urban ☐ Industrial ☑ Commercial ☑ Residential (suburban) ☐ Rural (non-farm)
☐ Forest ☐ Agriculture ☐ Aquatic ☑ Other (specify): Asbury Pointe Retirement Community

ii. If mix of uses, generally describe:

There are a mixture of land uses in the vicinity of the Project Site including single-family homes, the Asbury Pointe Retirement Community and the Audubon Women's Health Medical Office.

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	0	0.9	+0.9
• Forested	.5	.5	0
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	1.8	.4	-1.4
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)			
• Wetlands (freshwater or tidal)	0	0	0
• Non-vegetated (bare rock, earth or fill)	0	0	0
• Other Describe: lawn/landscaping		0.3	+1.4

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? ☑Yes ☐No
If Yes,
i. Identify Facilities:
The Asbury Pointe Retirement Community is located at 50 Stahl Road.

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

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

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

ii. Describe the location of the project site relative to the boundaries of the solid waste management facility: _____
iii. Describe any development constraints due to the prior solid waste activities: _____

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

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

ii. If site has been subject of RCRA corrective activities, describe control measures: _____
iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? ☐Yes ☑No
If yes, provide DEC ID number(s): _____
iv. If yes to (i), (ii) or (iii) above, describe current status of site(s): _____

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

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

E.2. Natural Resources On or Near Project Site

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

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

c. Predominant soil type(s) present on project site:
Cosad loamy fine sand 100 %
_____ %
_____ %

d. What is the average depth to the water table on the project site? Average: >5 feet

e. Drainage status of project site soils:
☐ Well Drained: _____% of site
☐ Moderately Well Drained: _____% of site
☑ Poorly Drained 100 % of site

f. Approximate proportion of proposed action site with slopes:
☑ 0-10%: 100 % of site
☐ 10-15%: _____% of site
☐ 15% or greater: _____% of site

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

h. Surface water features.

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

ii. Do any wetlands or other waterbodies adjoin the project site? ☑Yes ☐No
If Yes to either *i* or *ii*, continue. If No, skip to E.2.i.

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

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

- Streams: Name 837-25 Classification B
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name Federal Waters, Federal Waters, Federal Waters,... Approximate Size _____
- Wetland No. (if regulated by DEC) _____

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? ☑Yes ☐No
If yes, name of impaired water body/bodies and basis for listing as impaired:
Name - Pollutants - Uses:Ellicott Creek, Lower, and tribs – Nutrients;Silt/Sediment – Aquatic Life

i. Is the project site in a designated Floodway? [There will not be any development in the Floodway associated with Ellicott Creek.] ☑Yes ☐No

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

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

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

[Note: Attached as Attachment "A" of this Amended Part 1 of the Full EAF is a wetland investigation letter prepared by Scott Livingstone of Earth Dimensions, Inc. dated July 7, 2020 confirming there are not any wetland subject to the jurisdiction of either of the NYS Dept. of Environmental Conservation of the United States Army Corps of Engineers located on the Project Site.]

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

n. Does the project site contain a designated significant natural community? ☐Yes ☑No
If Yes:
i. Describe the habitat/community (composition, function, and basis for designation):
ii. Source(s) of description or evaluation:
iii. Extent of community/habitat:
- Currently: _____ acres
- Following completion of project as proposed: _____ acres
- Gain or loss (indicate + or -): _____ acres

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

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

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? ☐Yes ☑No
If yes, give a brief description of how the proposed action may affect that use:

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

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

b. Are agricultural lands consisting of highly productive soils present? ☐Yes ☑No
i. If Yes: acreage(s) on project site?
ii. Source(s) of soil rating(s):

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? ☐Yes ☑No
If Yes:
i. Nature of the natural landmark: ☐ Biological Community ☐ Geological Feature
ii. Provide brief description of landmark, including values behind designation and approximate size/extent:

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? ☐Yes ☑No
If Yes:
i. CEA name:
ii. Basis for designation:
iii. Designating agency and date:

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

If Yes:

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

ii. Name: _____

iii. Brief description of attributes on which listing is based:

_____

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

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

If Yes:

i. Describe possible resource(s): _____

ii. Basis for identification: _____

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

If Yes:

i. Identify resource: _____

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

iii. Distance between project and resource: _____ miles.

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

If Yes:

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

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

[Note: A copy of the No Impact determination letter issued by the NYS Office of Parks, Recreation and Historic Preservation dated October 30, 2020 is provided at Attachment "B" of this Amended Part 1 of the Full EAF.]

F. Additional Information

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

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

G. Verification

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

Applicant/Sponsor Name Coromandel Estates Amherst LLC Date December 17, 2020

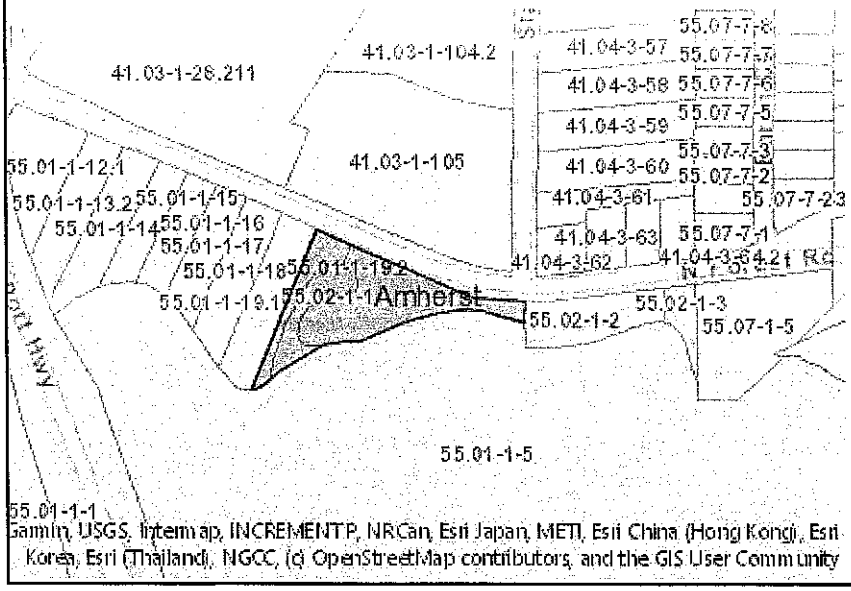
Signature _____ Title Counsel for Project Sponsor

PRINT FORM

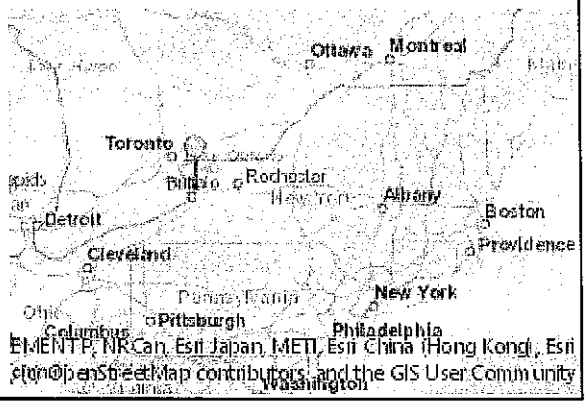
Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

EAF Mapper Summary Report

Monday, August 17, 2020 7:45 AM



Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.



B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	NYS Heritage Areas:West Erie Canal Corridor
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	No
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	Yes
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.iv [Surface Water Features - Stream Name]	837-25
E.2.h.iv [Surface Water Features - Stream Classification]	B
E.2.h.iv [Surface Water Features - Wetlands Name]	Federal Waters
E.2.h.v [Impaired Water Bodies]	Yes
E.2.h.v [Impaired Water Bodies - Name and Basis for Listing]	Name - Pollutants - Uses:Ellicott Creek, Lower, and tribs – Nutrients;Silt/Sediment – Aquatic Life

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

E.2.i. [Floodway]	Yes
E.2.j. [100 Year Floodplain]	Yes
E.2.k. [500 Year Floodplain]	Yes
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	No
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Attachment "A" of Amended Part 1 of Full Environmental Assessment Form – Wetland Investigation Letter of Scott J. Livingstone of Earth Dimensions, Inc. dated July 7, 2020

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

EARTH DIMENSIONS, INC.
* Soil & Hydrogeologic Investigations * Wetland Delineations
1091 Jamison Road, Elma NY 14059
(716) 655-1717 * Fax (716) 655-2915 www.earthdimensions.com

July 7, 2020 W4E87a

Thiru Vikram
4515 Chestnut Ridge Road
Amherst, New York 14228

Re: Preliminary Wetland Investigation – 1.9± acres
2160-2170 North Forest Road
Town of Amherst
Erie County, New York

Dear Mr. Vikram:

Earth Dimensions, Inc. (EDI) has completed a preliminary wetland investigation at the above referenced site for the purpose of identifying potential regulated wetlands and waterways. The site investigation was conducted on July 7, 2020. The attached map depicts the limits of our investigation. EDI did not identify any federally regulated wetlands as defined by the U.S. Army Corps of Engineers (USACE) Wetland Delineation Manuals within the limits of investigation. However, Ellicott Creek abuts the site on the south boundary and would be regulated by USACE under Section 404 of the Clean Water Act.

The New York State Department of Environmental Conservation (NYSDEC) On-line Resource Mapper does not depict any Freshwater Wetlands within or adjacent to the subject parcel. NYSDEC, thus, has no jurisdiction over any wetlands within the site. However, Ellicott Creek is a Class B stream and is regulated under Article 15 of New York Conservation Law.

Based on this investigation, it is our professional opinion that as long as no disturbance is proposed to the bed and banks of Ellicott Creek, your project may move forward without the need for a Section 404 permit from USACE or Article 15 permit from NYSDEC. Should your project propose impacts to the bed or banks of Ellicott Creek, we recommend that a Joint Application for permit be submitted to USACE and/or NYSDEC with a request for a Section 404 and/or an Article 15 permit, respectively.

If you have any questions, please contact our office at (716) 655-1717 or email slivingstone@earthdimensions.com.

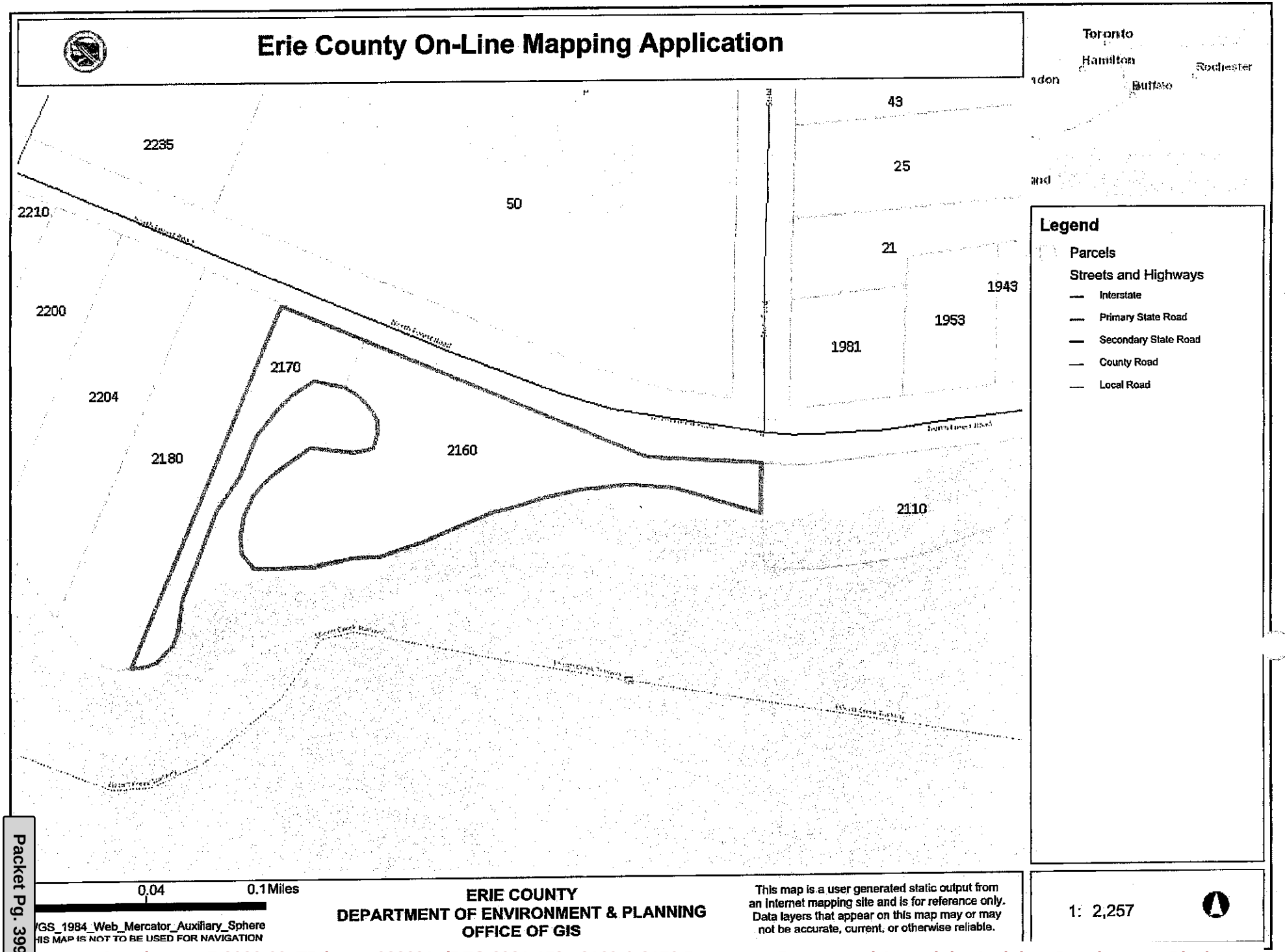
Very truly yours,
Earth Dimensions, Inc.

Scott J. Livingstone
Wetlands Operations Manager

Encl.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Erie County On-Line Mapping Application



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.

/GS_1984_Web_Mercator_Auxiliary_Sphere
HIS MAP IS NOT TO BE USED FOR NAVIGATION

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)

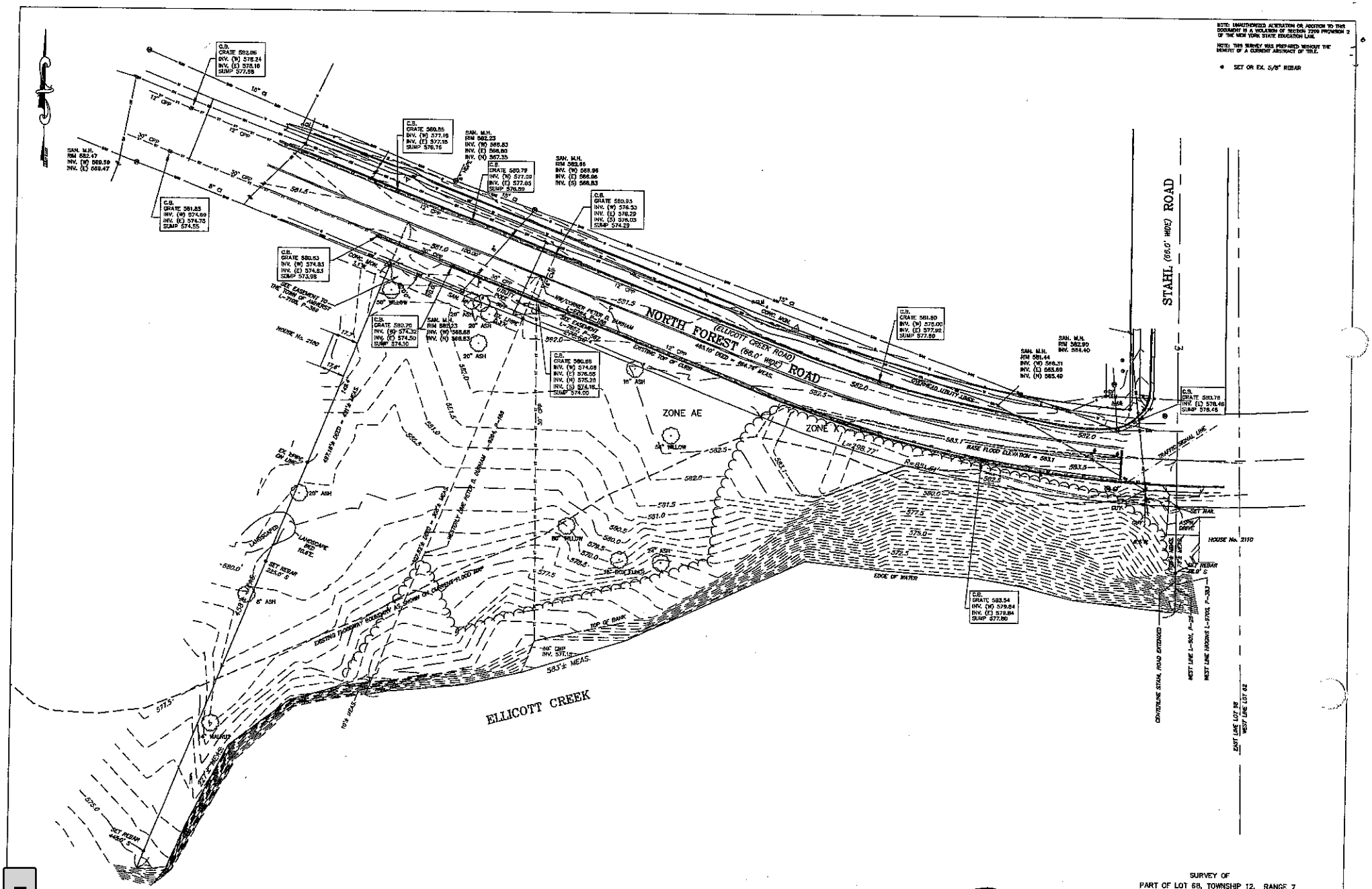

NOTE: UNAUTHORIZED ALTERATION OR ADDITION TO THIS DOCUMENT IS A VIOLATION OF SECTION 7209 PROVISION 2 OF THE NEW YORK STATE EDUCATION LAW.
NOTE: THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT ABSTRACT OF TITLE.
SET OR EX. 5/8" REBAR
NORTH FOREST (ELLICOTT CREEK ROAD) ROAD
(66.0' WIDE)
STAHL (66.0' WIDE) ROAD
ELLICOTT CREEK
ZONE AE
ZONE X
BASE FLOOD ELEVATION = 583.1
HOUSE No. 2160
HOUSE No. 2170
EDGE OF WATER
TOP OF BANK
EXISTING TOWPATH ROADWAY AS SHOWN ON CHESSUT FLOOD MAP
583'± MEAS.
SET REBAR
SET MAR.
CENTERLINE STAHL ROAD EXTENDED
EAST LINE LOT 58
WEST LINE LOT 62
WEST LINE LANDS L-9700L, P-303
WEST LINE L-901, P-35
EASEMENT TO THE TOWN OF AMHERST L-7105, P-369
EASEMENT TO NEW YORK TELEPHONE COMPANY L-7957, P-307
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.
REVISION/TYPE
UPDATE SURVEY AND TOPOGRAPHY
RE-SURVEY
REVISED FLOODWAY BOUNDARY
REFERENCES:
SEE SURVEY PREPARED BY GORDON & BRODERICK ASSOCIATES JOB No. 2-15-219
SEE SURVEY PREPARED BY GORDON & BRODERICK ASSOCIATES JOB No. 2-24-219
LETTER OF MAP REVISION (LOMR) CASE No. 95-02-015P DATED 1/11/96
FLOOD INSURANCE RATE MAP NUMBER 36029C0069H DATED JUNE 7, 2019*
*MAP NUMBER 36029C0069H DATED 6/7/19 SUPERCEDES LOMR CASE No. 95-02-015P DATED 1/11/96
EQUITY TITLE REPORT No. E18-10758T EXCEPTIONS:
EASEMENT TO THE TOWN OF AMHERST L-7105, P-369 – AS SHOWN
EASEMENT TO NEW YORK TELEPHONE COMPANY L-7957, P-307 – AS SHOWN
STATE OF NEW YORK
MARK L. ANDREWS
LICENSED LAND SURVEYOR
050415

Exhibit 5 – Responses to Questions 11A & 11B of the Rezoning Application

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

EXHIBIT 5

AMENDED APPLICATION TO RECLASSIFY 2160 AND 2170 NORTH FOREST ROAD FROM NCD-SA TO NCD-ND

Question 11(A): **Description of the character of the proposed development:**

Response to Question 11(A): The modified layout of the proposed residential project is depicted on the updated Concept Site Plan prepared by Silvestri Architects P.C. A full size copy of the updated Concept Site Plan [Drawing AS-101 – Date: 12/16/20] is attached to this Amended Application and a reduced size copy is also provided at Exhibit "7". The updated layout of the proposed residential project consists of a two-story building consisting of eight (8) units for lease with related site improvements as depicted on the updated Concept Site Plan. It is important to mention that the updated Concept Plan reflects a deliberate effort made by the project team to reduce the density of the proposed multifamily project that previously consisted of a three-story building with eighteen (18) units. A copy of the previous Concept Plan for the project as prepared by Carmina Wood Morris DPC is provided at Exhibit "8" of this Amended Application.

It is important to mention that the layout of the proposed project as depicted on the updated Concept Site Plan provided is not meant to represent the final layout of the proposed project since modifications may be necessary based on the project review process and the preparation of fully engineered plans.

Question 11(B)(1): **Rationale for rezoning request: 1. Why was this site chosen?**

Response to Question 11(B)(1): The Project Site is an appropriate location for the proposed project given its location on North Forest Road in an area that consist of a mixture of uses and zoning

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

classifications. The Project Site was listed for sale and the Petitioner has entered into a contract to purchase the Project Site.

Question 11(B)(2): Why cannot land be used with the existing zoning?

Response to Question 11(B)(2): The Project Site is currently zoned NCD-SA. The allowable uses of property zoned NCD-SA are extremely limited given that the NCD-SA classification is intended for agricultural uses in rural areas.

Question 11(B)(3): How will this rezoning impact surrounding properties?

Response to Question 11(B)(3): The requested reclassification of the Project Site from NCD-SA to NCD-ND to accommodate the proposed residential project will not result in any potentially significant adverse impacts on surrounding properties. The density of the proposed residential project has been reduced from eighteen (18) units to eight (8) units as depicted on the updated Concept Plan prepared by Silvestri Architects P.C. [Drawing AS-101 – Date: 12/16/20]. An effort has been to reduce the density of the residential project and also to design the residential project to minimize environmental impacts associated with the proximity of Ellicott Creek. A completed Amended Part 1 of the Full Environmental Assessment Form prepared pursuant to the State Environmental Quality Review Act ("SEQRA") is attached as Exhibit "2".

Question 11(B)(4): How will this rezoning impact the school system?

Response to Question 11(B)(4): The proposed project will have positive impacts on the school district since the project will generate annual property taxes to be received by taxing jurisdictions. The proposed project will not generate a substantial demand for educational services.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 6 – Responses to Questions 16A, 16B, 16D & 16E of the Rezoning Application

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

EXHIBIT 6

AMENDED APPLICATION TO RECLASSIFY 2160 AND 2170 NORTH FOREST ROAD FROM NCD-SA TO NCD-ND

Question 16(A)(1): **State in detail why the proposed zoning is consistent with the adopted Town of Amherst Bicentennial Comprehensive Plan. Cite specific sections, maps and/or figures in the plan that support the proposed zoning at this location.**

Response to Question 16(A)(1): The request to reclassify the Project Site from NCD-SA to NCD-ND to accommodate the proposed residential project consisting of eighteen attached units for lease is consistent with the adopted Bicentennial Comprehensive Plan. The Town of Amherst adopted the Bicentennial Comprehensive Plan in January of 2007 after completing a lengthy planning process that included numerous public meetings and public hearings involving the Comprehensive Plan Advisory Committee, the Planning Board and the Town Board.[1] On September 3, 2019, the Town Board most recently adopted an amendments to the Bicentennial Comprehensive Plan. The Comprehensive Plan is intended to guide future growth and redevelopment in the Town.

Figure 6 of the Bicentennial Comprehensive Plan is the Conceptual Land Use Plan and it depicts the Project Site as being appropriate for "Mixed Residential" use. A copy of Figure 6 of the Comprehensive Plan is provided at Exhibit "9". The Conceptual Land Use Plan is intended to communicate the overall direction and concept of future development in the Town of Amherst. The Mixed-Residential land use category is described in Chapter 3 of the Comprehensive Plan as

[1] A copy of the resolution adopted by the Town Board on January 2, 2007 for the purpose of adopting the Bicentennial Comprehensive Plan pursuant to Town Law Section 272-a is included at the beginning of the Comprehensive Plan. This resolution recites the lengthy planning history that incorporated numerous opportunities for public input as well as a coordinated environmental review pursuant to SEQRA that involved the preparation a Generic EIS and the issuance of a Findings Statement.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

being appropriate for a residential density of 4-12 units per acre the density of the proposed project is 7.66 units per acre.

Question 16(A)(2): Cite all text, map, and/or figures that must be amended to support the proposed zoning at this location and provide detailed suggested amendments.

Response to Question 16(A)(2): The adopted Comprehensive Plan does not need to be amended to accommodate the requested reclassification of the Project Site from NCD-SA to NCD-ND.

Question 16(A)(3): State why the proposed zoning is consistent with intent and objectives (Sec. 1-2-2) of the Zoning Ordinance:

Response to Question 16(A)(3): Section 1-2-1 of the Zoning Code is titled "Purpose" and it states as follows:

> *"The purpose of this Zoning Ordinance and the intent of the legislative authority in its adoption is to promote the environment of the town and its public health, safety, convenience, comfort, prosperity and the general welfare by regulating the use of buildings, other structures and land for residences, open space, public facilities, business, services, industry or other purposes; by regulating and restricting the bulk, height, design, building coverage and location of structures; by regulating and limiting population density; and for the aforesaid purposes, to divide the land within the limits of the town into districts of such number and dimensions generally consistent with the policies of the Comprehensive Plan and to provide procedures for the administration and amendment of said Zoning Ordinance."*

The request reclassification of the Project Site from NCD-SA to NCD-ND to accommodate the proposed residential project is consistent with the "Purpose" of the Zoning Code. Section 1-2-2 of the Zoning Code sets forth the objectives of the Zoning Code. This section of the Zoning Code lists thirteen (13) objectives that are discussed below as follows:

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

A. To protect the character and values of residential, institutional and public uses, business, commercial and manufacturing uses and to insure their orderly and beneficial development;

Response: The proposed project will be consistent with the objective of protecting the character and value of existing land uses and represents orderly and beneficial development.

B. To provide adequate open spaces for light, air and outdoor uses to include public, common and private open space areas;

Response: The proposed project is consistent with this objective.

C. To prevent overcrowding of land;

Response: The proposed residential project will not result in the overcrowding of land.

D. To prevent excessive concentration of population and to prevent spare and uncoordinated development;

Response: The proposed residential project will not result in an excessive concentration of population. The proposed residential project is not an example of uncoordinated development.

E. To regulate and control the location and spacing of buildings on the lot and in relation to the surrounding property generally consistent with the policies of the Comprehensive Plan.

Response: The requested reclassification of the Project Site from NCD-SA to NCD-ND and the proposed residential project are consistent with the policies of the Comprehensive Plan.

F. To protect persons and property from damage and injury due to fire or flood;

Response: The Site Plan review process will trigger the need for an Engineer's Report and SWPPP prepared by a licensed engineer to be prepared for review and approval by the Town's Engineering Department. The residential project will not increase the

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

likelihood of damage and injury due to fire and flood. The proposed project will be constructed per the stringent requirements of the NYS Building Code including the fire safety standards contained therein.

G. **To preserve and protect significant natural features and vegetation, thereby preventing ecological damage and visual blight which occur when those features or vegetation are eliminated or substantially altered to serve development purposes only.**

Response: The proposed residential project will not be inconsistent with this objective.

H. **To assure that structure and land use arrangements are aesthetically harmonious with nearby areas and structures.**

Response: The development of the Project Site in a manner consistent with the updated Concept Site Plan depicting a two-story building with 8 units will result in a residential project that is aesthetically harmonious with nearby areas and structures.

I. **To regulate the location of buildings and intensity of uses in relation to streets according to plans so as to cause the least interference with and be damaged least by traffic movements and hence result in lessened street congestion and improved public safety.**

Response: The proposed residential project will not result in any potentially significant traffic impacts and only curb cut will be provided onto North Forest Road, which is an Erie County Highway. The potential traffic impacts of the proposed project will be evaluated in connection with the coordinated environmental review of the project pursuant to SEQRA.

J. **To establish zoning patterns that insure economical extensions for sewers, water supply waste disposal and other public utilities, as well as development of recreation, schools and other public facilities;**

Response: The Project Site has access to sanitary sewer and water lines as well as necessary public utilities.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

K. To guide the future development of the town so as to being the gradual conformity of land, structures and uses generally consistent with the policies of the Comprehensive Plan.

Response: The proposed reclassification of the Project Site from NCD-SA to NCD-ND is consistent with this objective since the project is generally consistent with the recommended land use category of "Mixed Residential" as well as the planning objectives and policies in the Comprehensive Plan.

L. To accomplish the specific intents and goals set forth in the introduction to the respective sections.

Response: The proposed residential project is consistent with this objective.

M. To protect the community from visual pollution resulting from the unregulated use of signs and other advertising devices.

Response: The proposed residential project will not be inconsistent with this objective.

Question 16(C): Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood:

Response to Question 16(C): The proposed project is compatible with the present zoning and conforming uses of nearby properties and the character of the neighborhood.

Question 16(D): Suitability of the subject property for uses permitted by the current versus the proposed district:

Response to Question 16(D): The Project Site is not suitable for agricultural uses allowed in the NCD-SA district given its size, location and nearby land uses.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

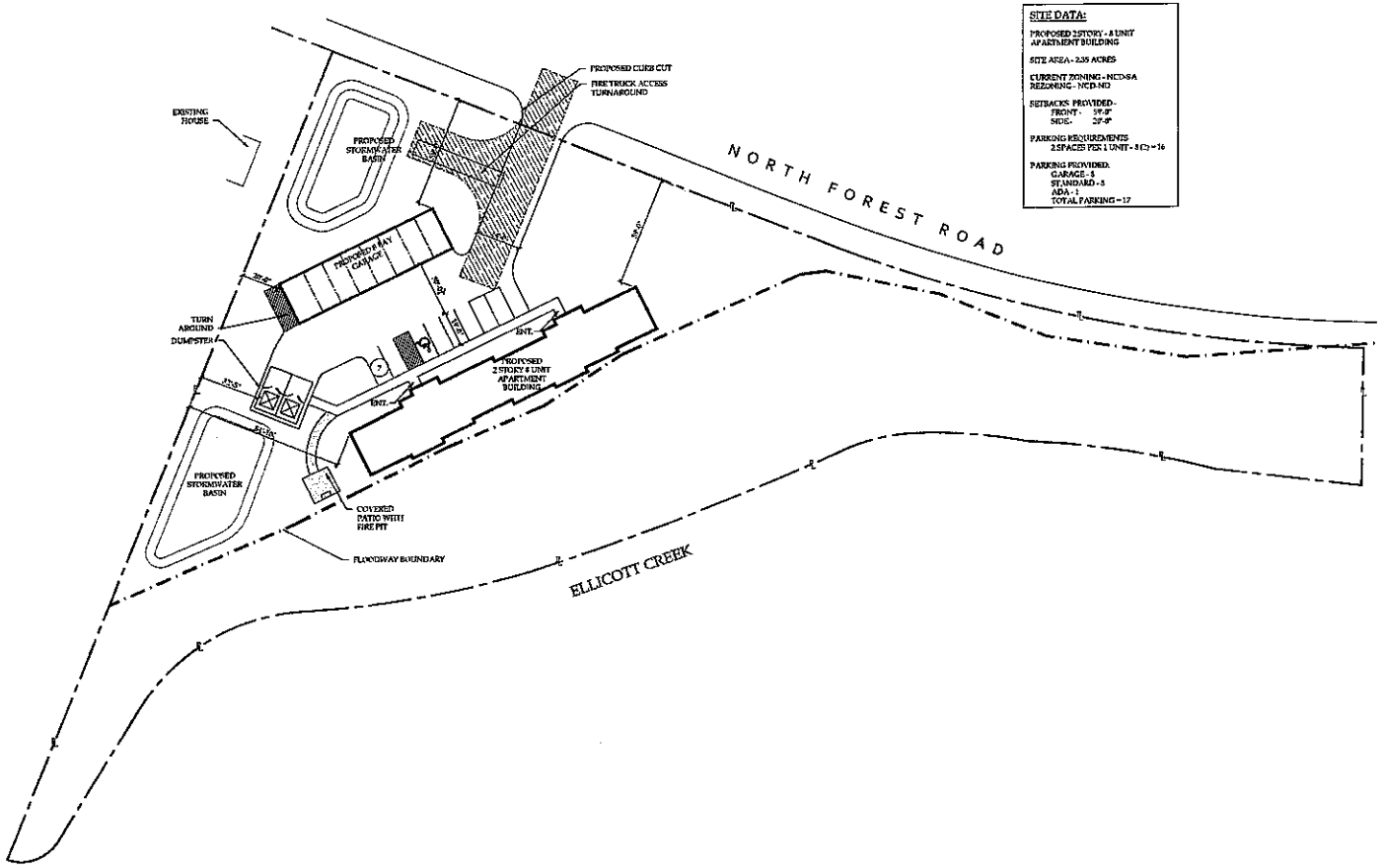
Question 16(E): **Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town:**

Response to Question 16(D): The requested reclassification of the Project Site from NCD-SA to NCD-ND to accommodate the proposed residential project will have positive impacts on the balance of uses in the Town since there is demand for upscale attached residential units for lease in the Town.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 7 – Reduced Size Copy of the Updated Concept Site Plan for the Proposed Project as Prepared by Silvestri Architects PC [Drawing AS-101 – Date: 12/16/20] [Note: A full size copy of Updated Concept Site Plan is also attached to this Amended Application]

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)



NOTICE

This document, the property of, prepared and issued by the architect, is submitted for the specific project named _____ and the recipient by accepting this document assumes custody and agrees that this document will not be copied or reproduced in part or in whole, and any special features peculiar to this design shall not be incorporated in any other project, unless prior agreement has been obtained in writing. These documents will be returned immediately upon completion of the project or upon the request of the architect.

This document is the exclusive property of the architect, no rights to ownership are transferable, or shall be lost by the filing of this document with any and all public authorities for the purpose of compliance with Codes and or Ordinances, i.e. Building Permit, etc.

NORTH FOREST APARTMENTS

2160-2170 North Forest Rd
Amherst, ny

ISSUE:

SA PROJECT TEAM: PRINCIPAL R.Silvestri
PROJ. ARCH. S.Hunt DRAFTER B.Meinhardt
JOB CAPT. _____ INTERIORS K. Hanssen

SEAL:

TITLE:

CONCEPT SITE PLAN

SILVESTRI
ARCHITECTS • PC
1321 MILLERSPORT HWY PH. 716.691.0909
AMHERST, NY 14221 FAX 716.691.4773

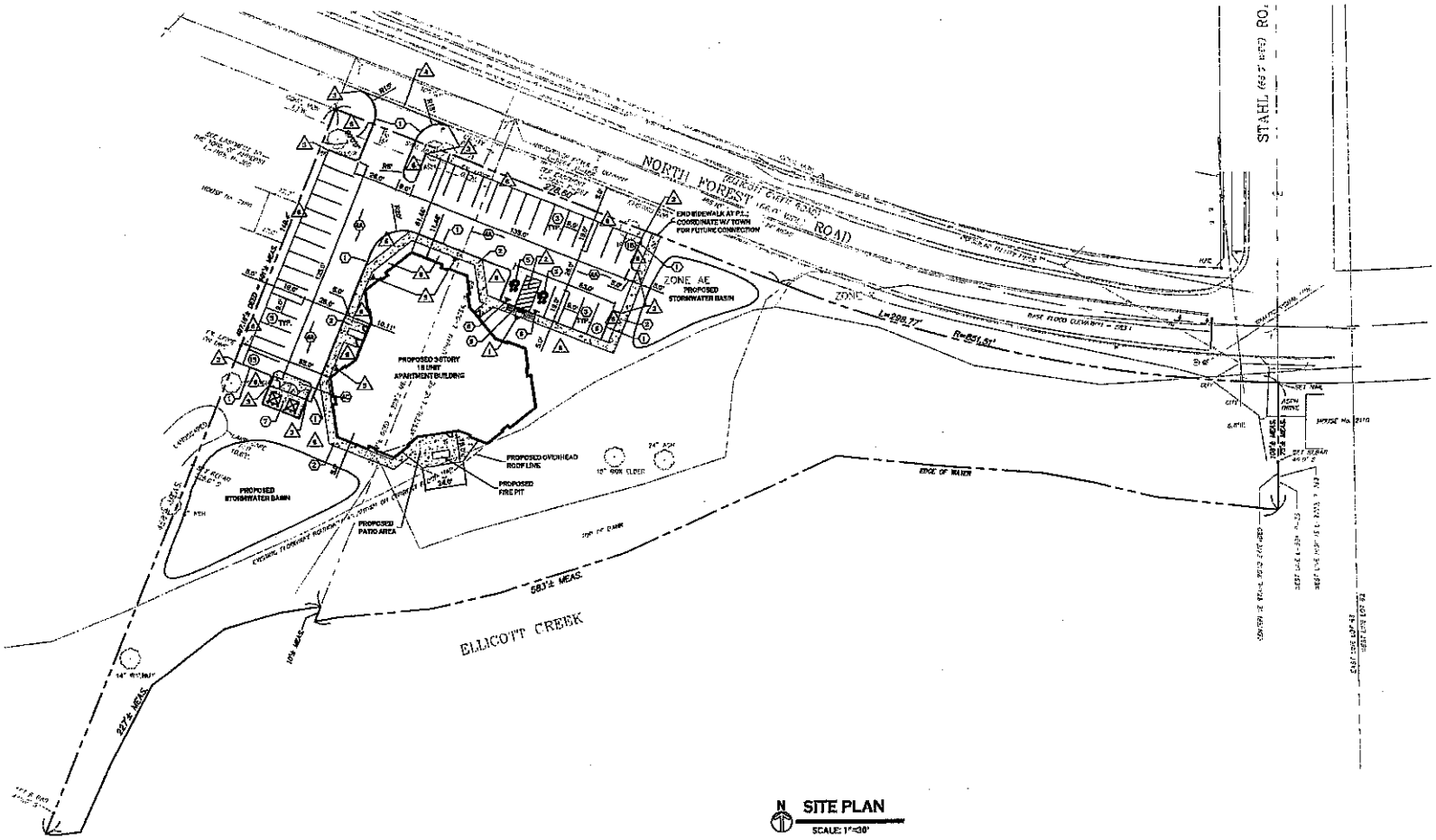
SA JOB #: 20060.02
DATE: 12/16/20

DRAWING #: AS-101

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'

SITE DATA

TOTAL SITE: 2.36 ACRES
ZONED: HC/BA (CURRENT) 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.

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.

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 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
4. 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. REMOVE 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. R9-01
A. LANDSCAPED AREA - SEE LANDSCAPE PLAN. IF NO PLANTINGS, INSTALL TOPSOIL & SEED

© Carmina Wood Morris DPC All rights reserved. Reuse of these documents without the expressed written permission of Carmina Wood Morris DPC is prohibited. Violators will be prosecuted. Violation is a violation of article 145 section 7209 of the New York State Education Law. Any alteration of this plan, unless acting under the direction of a registered architect, licensed engineer or land surveyor is in violation of the law. If altered, add the letters "ALTD" to the original seal, signature, date and state your name and title under the word "ALTERED" at the bottom of the sheet.

Carmina Wood Morris DPC
437 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 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: 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

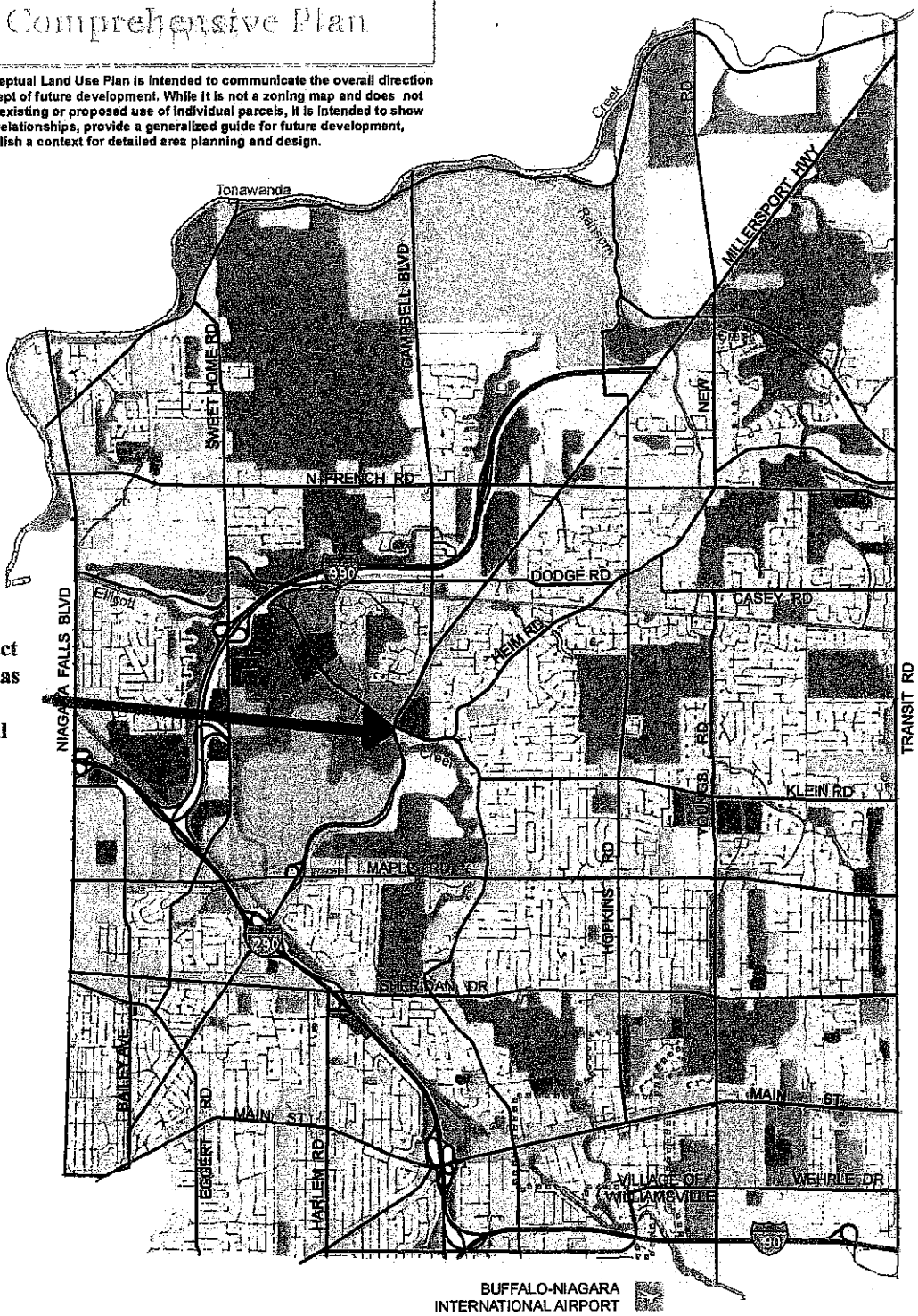


FIGURE 6

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

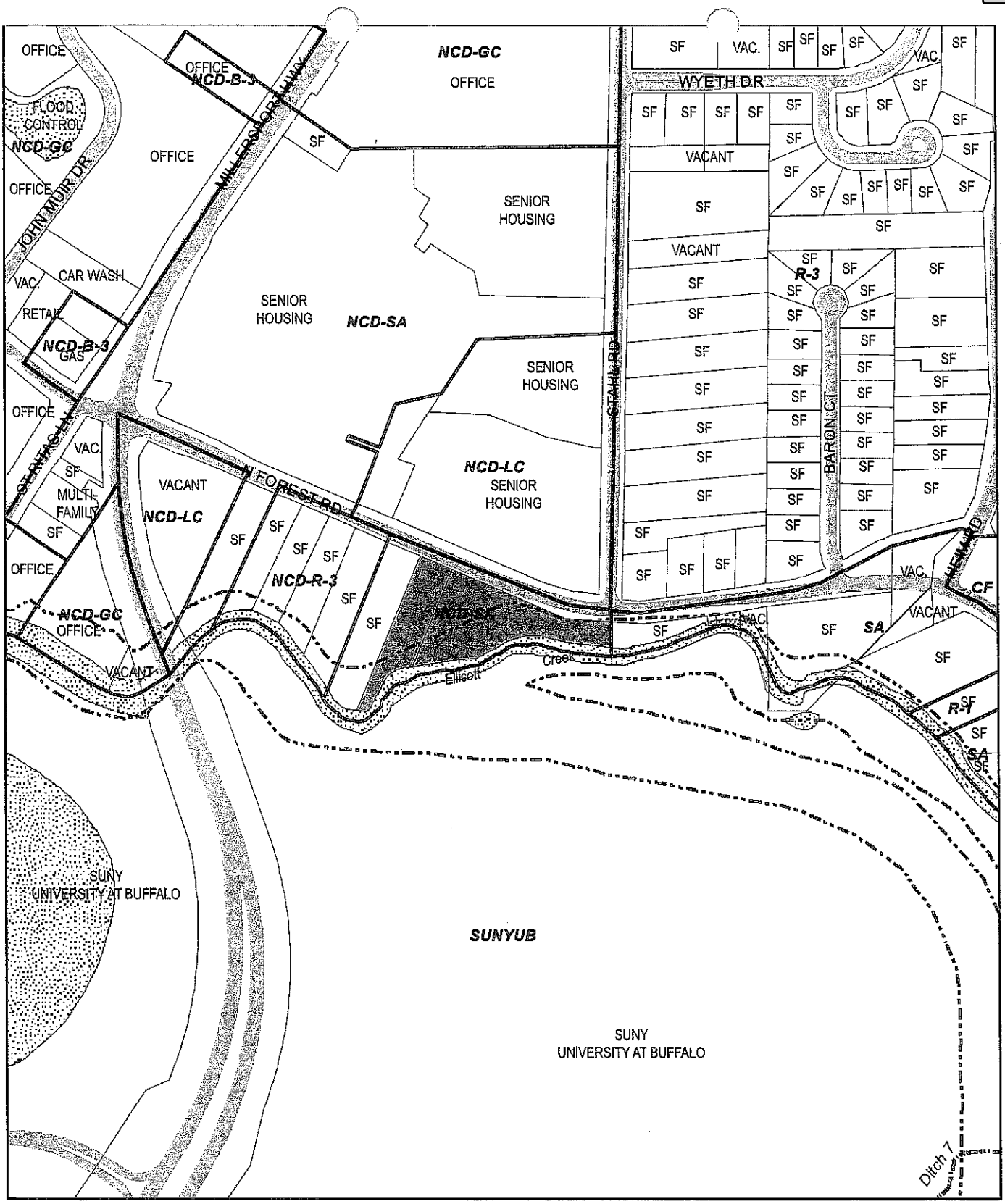
Map Compiled by the Town of Amherst Planning Department

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

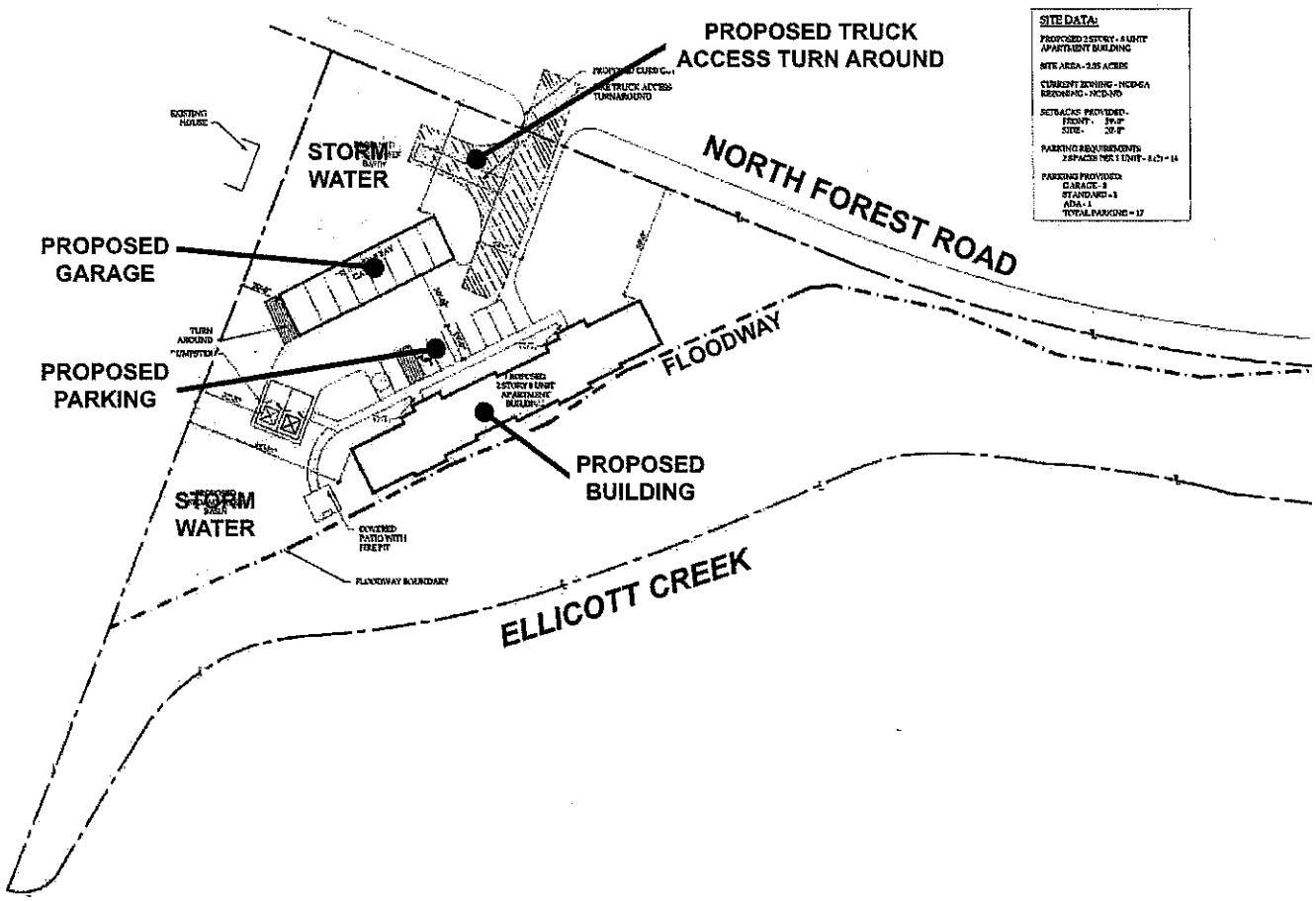
January 21, 2021

2160 & 2170 North Forest

Floodway Boundary

Prepared by the Town of Amherst Planning Department

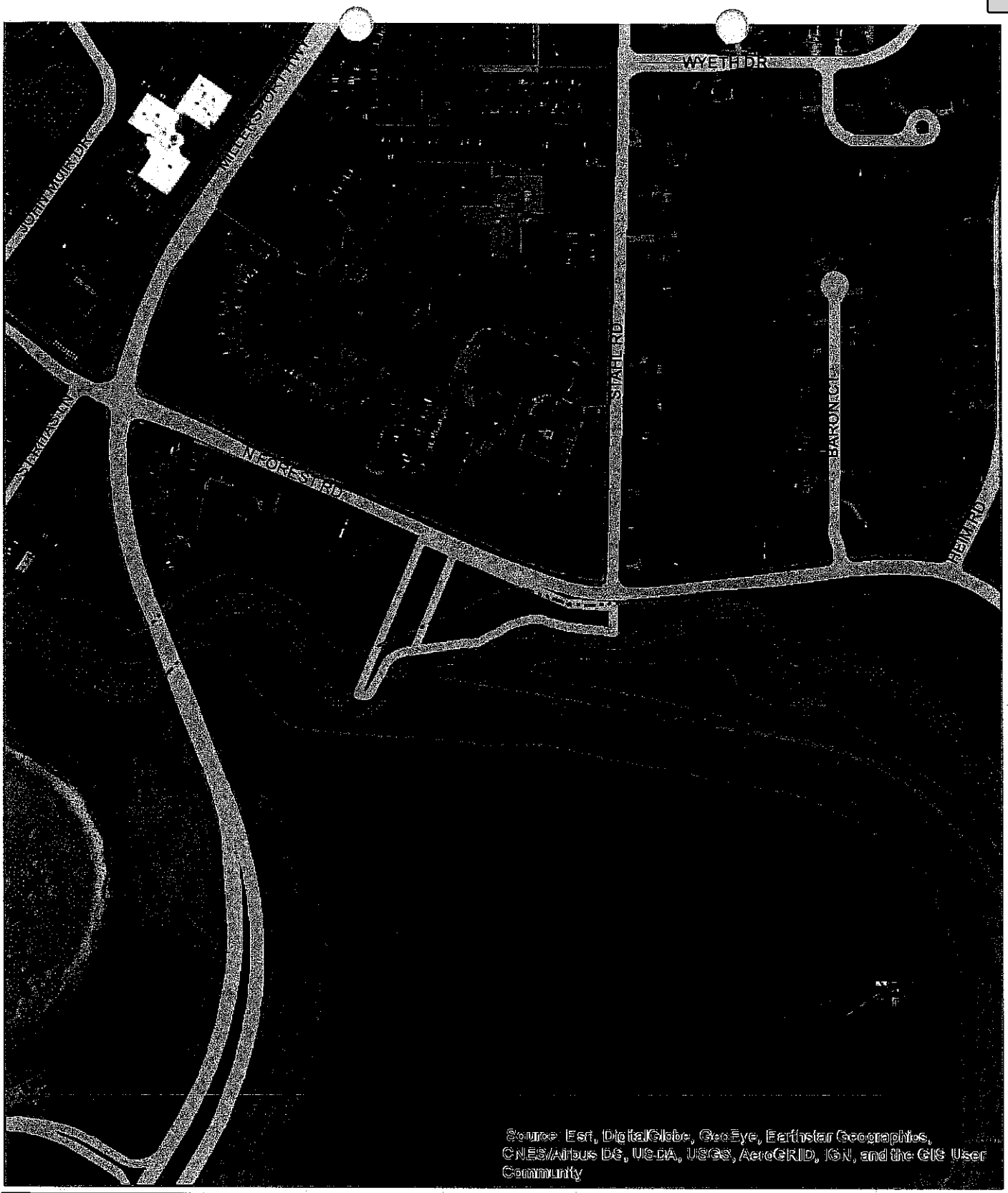
Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)



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*

RECEIVED
DEC 17 2020
TOWN ATTORNEY

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
Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
Brian Barnes, Senior GIS Analyst (Eng.) (letter only)
Bryan Parnell, Fire Chiefs' Association (c/o Bldg)
Stan Sliwa, Town Attorney (Local Law Only)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Integrated Review Coordinator, ECDEP
ECHWY
NYSDEC
Williamsville Central School District

RECEIVED
JAN 05 2021
TOWN OF AMHERST
PLANNING DEPT.

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

SUBJECT: PROPOSED AMENDMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35± ACRES OF LAND FROM **NCD-SA** TO **NCD-ND**; PROPERTY LOCATED AT **2160 and 2170 NORTH FOREST ROAD (NCD);** COROMANDEL ESTATES AMHERST, LLC, PETITIONER. **Z-2020-06**

REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: _____

General comments relative to your agency interests: None at this time

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

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

Signature: Stanley Sliwa **Date:** 1/4/2021

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

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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
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NYSDEC
Williamsville Central School District

RECEIVED
JAN 05 2021
TOWN OF AMHERST
PLANNING DEPT.

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REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: N/A

General comments relative to your agency interests: N/A

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

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

Signature: _____ **Date:** 12/29/20

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

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Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst

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

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

RECEIVED
DEC 31 2020
TOWN OF AMHERST
PLANNING DEPT.

MEMORANDUM December 18, 2020

TO: Daniel Ulatowski, Principal Planner
~~Dave Marrano~~, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
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Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Integrated Review Coordinator, ECDEP
ECHWY
NYSDEC
Williamsville Central School District

TO: Ellen Kost
From: Dave Marrano
12/23/20
See Below

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

SUBJECT: PROPOSED AMENDMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35± ACRES OF LAND FROM **NCD-SA** TO **NCD-ND**; PROPERTY LOCATED AT **2160 and 2170 NORTH FOREST ROAD (NCD);** COROMANDEL ESTATES AMHERST, LLC, PETITIONER. **Z-2020-06**

REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: No Issue.

General comments relative to your agency interests: No Issue since units will be Leased, not sold w/ Condominium Tax Status

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

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

Signature: _____ **Date:** 12/23/20

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

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Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst

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

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
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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 31 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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ECHWY
NYSDEC
Williamsville Central School District

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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

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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
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Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Integrated Review Coordinator, ECDEP
ECHWY
NYSDEC
Williamsville Central School District

RECEIVED
DEC 28 2020
TOWN OF AMHERST
PLANNING DEPT.

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

SUBJECT: PROPOSED AMENDMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35± ACRES OF LAND FROM **NCD-SA** TO **NCD-ND**; PROPERTY LOCATED AT **2160 and 2170 NORTH FOREST ROAD (NCD);** COROMANDEL ESTATES AMHERST, LLC, PETITIONER. **Z-2020-06**

REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? YES.

If you do not, briefly state why: _____

General comments relative to your agency interests: NONE

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

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

Signature: _____ **Date:** 12/24/20

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

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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 origirated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

To Whom It May Concern,

We received a notice regarding the request to rezone 2160 & 2170 N Forest Rd. We live at 2200 N Forest Rd which is 3 houses down from the proposed rezoning and would like it noted that we are definitely not in favor of a 3 story apartment building or any apartment building for that matter.

Several years ago an effort was made to rezone the corner of N Forest Rd and Millersport Hwy to a 3 story apartment building and that effort was successfully denied based on various issues such as excessive traffic which is already a terrible problem, frequent water main breaks that occur in our area and the proposed targeted tenants which would have been college students. At the time, there was a house on the property that was being rented out to college students and the loud parties and noise created many complaints that required a police response.

As well as the concerns already mentioned, the project calls for 2 retention ponds that will drain in to Ellicott Creek. We always have flooding occur on the lower portion of our property during heavy rains and we do not want additional discharge of water from other sources as we feel this will create more opportunity for additional flooding as well as perhaps change the flow of the water.

Most of the homes that would be directly impacted by the proposed apartment building would lose all backyard privacy based on the illustration provided in the rezoning request. One of the only saving graces of living on an extremely busy, noisy street is the fact that we have no rear neighbors and are able to enjoy the view of the creek as well as the natural habitat. Having a 3 story apartment building and the noise it will create just through everyday living will definitely have a negative impact on those of us nearest to it.

We will continue to remain involved in the meetings and decisions regarding this request.

Fran & Dennis Cummings

2200 N Forest Rd

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Carrato, Amy

From: Dan Boscarino <dboscarino@yahoo.com>
Sent: Tuesday, October 13, 2020 3:07 PM
To: Carrato, Amy
Subject: Property at 2160& 2170 North Forest Road Planning Board meeting October 15

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

I'm writing to voice my opinion that I'm not in favor of rezoning the property. The corner is extremely busy and less than a half a mile from a school zone. The traffic is already unbearable on weekday mornings and evenings. This is a residential neighborhood and should stay that way, with single family homes only. I cannot see how anyone could approve a zoning change.

Regards,

Daniel M. Boscarino
Carrie Boscarino
57 Baron Ct
Getzville, New York

Sent from Yahoo Mail for iPad

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Carrato, Amy

From: Rosemary Blando <rblando@durham.com>
Sent: Tuesday, October 13, 2020 8:04 AM
To: Carrato, Amy
Cc: jjh2180@verizon.net
Subject: 2160 & 2170 North Forest Rd
Attachments: Amherst final draft.docx; Signed petitions.pdf

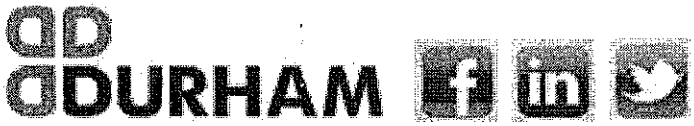
CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

Planning Board:
Attached please find our response to the request to approve **Amendment #73 of the Audubon New Community Development Plan**. This matter is scheduled to be heard as **item #3** on the Planning Board's **October 15th agenda**. Kindly acknowledge receipt via email as well as **jjh2180@vereizon.net**. My husband, Joseph Hausbeck plans to appear at the hearing, via Zoom, and requests permission to speak in rebuttal. The second attachment are (2) petitions in opposition to petitioner's request.
Thank you for your consideration,

Joseph J. Hausbeck
Rosemary Blando
Residents 2180 North Forest Rd
Williamsville, NY 14221

716.473.3972 cell

www.durhamstaffing.com



CONFIDENTIALITY NOTICE: The information contained in this email message is intended only for the personal and confidential use of the designated recipients named above. This message is an attorney-client communication or may be subject to a common interest privilege / protection, and as such, is privileged and confidential. If the reader of this message is not the intended recipient or any agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error, and that any review, dissemination, distribution or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone 716-684-3333.

This email has been checked for viruses by Avast antivirus software.
www.avast.com

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst Planning Board
5583 Main Street
Williamsville, New York 14221

Via email to: acarrato@amherst.ny.us

Re: Request to Approve Amendment #73 of the Audubon New Community Development Plan to Reclassify Property located at 2160 and 2170 North Forest Road.

To Whom It May Concern:

My wife and I are the owners and residents of 2180 North Forest Road, the property immediately adjoining the subject property. We have resided there over 23 years. We are hereby expressing our **strong opposition** to the above referenced matter which is scheduled for consideration by the Town Planning Board on Thursday, October 15th.

PROCEDURAL MATTER:

Prior to setting forth our concerns about the proposed project, I wish to raise a **procedural** concern. I am very concerned that there has been insufficient notice given of the upcoming hearing. In preparation for the hearing, I attempted to contact local residents to gauge their interest in the matter. I was advised that the Beechwood Campus and, specifically, the residents of Asbury Point, located directly across from the subject property on North Forest Road, were **not** given notice of the hearing. In addition, in speaking with the residents of eight (8) other parcels in close proximity to the subject, three (3) residents advised that they had **not** received any notice whatsoever. I attempted to contact other residents without success, perhaps because of the Covid 19 times in which we are living. I am therefore respectfully requesting that the Town insure that all reasonable efforts are made to assure that all Town Residents potentially impacted by the requested action be afforded their basic right to Notice and an Opportunity to be Heard.

SUBSTANTIVE MATTERS:

I would like to address the Request from two (2) perspectives.

I. **Character of the Neighborhood and the Subject Property:**

The property in question is the eighth parcel on the west side of North Forest Road, south of Millersport Highway. It is the last parcel on North Forest before Stahl Road and is immediately adjacent to the "zombie" property, known throughout Amherst as "that white house". The seven parcels between it and Millersport consist of six (6) single family ranch homes and one (1) one- story building, housing a Women's Medical Center. The Medical Center is on the corner of Millersport Highway (a commercial thoroughfare) and North Forest Rd. There is a substantial fenced buffer zone between the Medical Center and the first residential property, including an area dedicated to a Stormwater Management Practices Bio-retention Project, permitted by the NYS Dept. of Environmental Conservation. The rear of all the ranch homes, as well as the subject property, abut Ellicott Creek.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

It should be noted that the Medical Center required a rezoning. However, prior to that being accomplished, a different developer attempted to rezone that property to build a similar residential rental structure. That proposed redevelopment plan was objected to by the residents and was not approved by the Town. The question may therefore be asked as to why the Town should approve this application for a three-story multifamily residence on property which sits further down the same block (removed from any commercial intersection) which also presents potentially significant adverse environmental impacts.

On the opposite side of North Forest sits Asbury Point, a quiet and pristine retirement residence. Asbury Point is set back far from North Forest Road. There are dense wooded areas, landscaped areas, abundant mature trees and open greenspaces that act as a buffer between Asbury Point and North Forest Rd. The Asbury Point structure referred to by the petitioner is, indeed, three stories, but it has some underground parking. The structure, as well as its infrequently used limited surface parking area, is setback, partially concealed, and surrounded by walking paths. The building is entirely occupied by senior citizens who have a vested interest in the self-contained elderly campus. They are wonderful neighbors.

In contrast, the proposed project is a three-story, 18 unit apartment building with surface area parking for 36 cars. The site abuts our southern property line and is just 17.5 feet (+ or -) from the south wall of our home. It should be noted that the site plan describes the site as being 2.35 acres. However, the structure, surface parking and all appurtenances are "sandwiched in" on less than ½ of the "site". The remainder of the site sits in the existing floodway and is unusable. It is wooded, but sits behind the proposed development and offers no buffer between the structure and the street or our adjoining property. The "sandwiching" is so tight, that the proposed site plan reveals that portions of the proposed fire pit actually encroach into the floodway.

The site plan appears to show only a 5' "landscaped" area between the 15 parking spaces (that face our lot line and house) and the lot line itself. As the wall of our home sits approximately 17.5' from the lot line, and our home (a ranch which has no basement) sits on a concrete pad, cars will be parked 22.5' from the south wall of our house, with headlights shining in our bedroom windows. In addition, most likely because of the "sandwiching", the site plan seeks to place what appears to be a double bay dumpster extremely close to both our unfenced yard (which we use regularly throughout the spring, summer and fall) and our home. For the past 23 years we have had an unobstructed view of Ellicott Creek and the Ellicott Creek Trailway (bikepath). If this project is approved, we will have only an unobstructed view of the dumpster. We are also concerned about the potential impact of dumpster odors and the potential for rodent and pest infestation. Throughout the entire 23 years we have lived here, we have enjoyed the wildlife that regularly occupies these parcels. That wildlife includes the deer which miraculously seem to present us, each spring, with two new spotted fawns. However, it also includes the raccoon (anxiously awaiting the installation of the dumpsters) that we have observed in the tree on the property line, these are not the only potential significant adverse impacts on our property, but they are clearly indicative of the fact that this project is simple much too large for this site.

I would encourage all members of the Planning Board to personally visit the site to fully appreciate the concerns expressed.

II. <u>Specific Issues applicable to the Neighborhood:</u>

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

The proposed project is totally out of character and inconsistent with our neighborhood. It simply does not fit the site (see preceding section). The quality of life for the current residents on North Forest Road, will be adversely affected for numerous reasons. There are serious concerns over potential loss of property values; there are privacy concerns, traffic and traffic safety concerns, water issues and flooding concerns, erosion concerns, and soil and land subsidence concerns, among others.

WATER ISSUES – Over the years, the proposed site, as well as adjacent properties, have Experienced flooding issues from Ellicott Creek. During wet weather events, waters from the adjacent creek and diversion channel regularly flood portions of the proposed site, our premises, and the premises of neighbors to the north.

Prior to the construction of the Ellicott Creek diversion channel, the subject property had large depressions that used to flood regularly. Neighbors have told me that the property was actually used by local children for ice skating, and at some point a public berm was constructed along the creek in an effort to prevent the flooding. I have also been told that this berm material was later excavated and used by a prior owner of the subject property to fill the depressed areas that regularly flooded. This story may be substantiated by the following observation: on the property, there is a large old willow tree sitting about 5' deep in a rip rap well. Within that well are several plastic drain hoses, with clamps that appear to drain into the "well" area. This may be some indication of the possible depth of fill placed upon the subject property by prior owners. However, I have no idea what the composition of that fill is.

Attached to the petitioner's application for a variance is a copy of a letter from Earth Dimensions, Inc. related to a preliminary wetland investigation. That letter references an attached map which "depicts the limits of our investigation". The attached map (entitled "Erie County On-Line Mapping Application") purports to depict the subject property (2170 and 2160 North Forest Road). Please compare the configuration of the subject property shown upon that map with the configuration of the "same" property (2170 and 2160 North Forest Road) shown on the site plan. A comparison may substantiate the alleged prior flooding and the later use of fill should these questions be relevant to the question of site suitability for the proposed project.

It is my understanding that a pipe for drainage of surface water from the Asbury Point property was installed years ago, and ran under North Forest Road to what was once a culvert along the road adjoining the proposed site. Allegedly, a prior owner of the proposed site later had a 36" drainage pipe installed. That pipe bisected the proposed site and discharged the drainage water to the bank or bed of Ellicott Creek. I believe the discharge pipe itself is visible at the creek bank. However, I was unable to note any reference to that discharge system on the site plans or application documents. I have no knowledge as to whether there is any public record of this.

Based upon:

Past and current flooding issues;
The addition of ½ acre of impervious surface;
The non-use of pervious surfaces;

Lack of information regarding proposed excavations;
Lack of information regarding storm water basins and their location with respect to the topography of adjacent lands;
The discharge of storm water to Ellicott Creek; and
concerns over storm water management generally,

We have serious concern that this project will have a significant adverse environmental impact on our property and that of our neighbors to the north.

ERROSION CONCERNS - We have personally observed substantial erosion of the bank of Ellicott Creek on the site of the subject property. When we acquired our property 23 years ago, the subject property, which adjoins ours, had a large concrete wall comprised of sections of concrete attached to metal supports mounted along the creek bank. The wall was along the peninsular-like portion of the western end of the property. Over the years, due to substantial erosion of the bed behind the wall, the entire wall has fallen, section by section, into Ellicott Creek. All that currently remains of the structure are a few of the metal supports.

At the opposite end of the subject property (at the Stahl Road intersection) sits the infamous "white house". Its driveway is a matter of inches from the eastern end of the subject property. The White house (a zombie property) is generally believed to be falling into Ellicott Creek.

In our mind, concern over erosion raises an issue as to the safety and appropriateness of a construction project of this magnitude.

FLOOD CONTROL EASEMENT - Our property (which adjoins the subject property) is subject to a Flood Control Easement held by, or of interest to NYSDEC, USACOE and the TOWN of AMHERST. We assume the adjoining upstream property is, or should be, also subject to such an easement. However, I did not see it directly addressed in the petitioner's Environmental Assessment Form.

Concerns over storm water and its management (see above) would seem to have a direct impact upon any Flood Control Easement applicable to the subject property, as well as to ours.

SEWERS - The petitioner's "Application to Reclassify" represents that there is adequate sanitary Sewer capacity for the proposed project. This may not be the case. We have learned that the proposed action is considered a Sanitary Sewer Extension by the NYSDEC, and a detailed sewer capacity analysis must be performed and submitted for review and approval. Further investigation is necessary to avoid potential substantial adverse environmental impacts upon the community.

PUBLIC WATER - Again, the "Application to Reclassify" represents that adequate public water

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capacity exists. However, we can attest to the fact that, in the past, we and others in our block (North Forest Rd from Millersport Hwy to Stahl Rd) have experienced numerous interruptions in water service. These interruptions have occurred from broken pipes in our block, and have occurred principally during cold weather. Interruptions have been for long periods and have been extremely inconvenient. Ruptured pipes were the culprit and geysers with flooding of the street were common.

In August, 2016, the Town Board approved a measure to replace the water line from Stahl Road to Millersport Highway. To date, I do not believe that project has been completed. Further investigation is necessary to avoid potential adverse environmental impacts on the community.

TRAFFIC – Petition asserts that the proposed project will not result in a substantial increase in traffic above present levels. This is simply not true. Having lived on this block of North Forest for over 23 years, I am familiar with its unique problems. North Forest to Millersport Highway is a major route to the University of Buffalo. It is also the preferred route for many cars entering the Beechwood Complex on Stahl Road. It is also the route followed by large numbers of Amherst residents seeking to access the I-290 and I-990.

This block (between Millersport and Stahl) is a two way (one lane in each direction) residential street. It experiences the full impact of traffic going ***to*** the University in the morning and returning from it in the afternoon. Depending upon the time of day, the traffic can be backed up from Stahl to Millersport or from Millersport to Stahl.

As Stahl Road is the main access point for the Beechwood Complex, and ends at North Forest, traffic is also regularly backed up on Stahl Road, at the intersection. To complicate matters further, there is a serious bend on North Forest, right at the intersection. Between cars coming down North Forest and cars turning at Stahl, living on North Forest and being the first driveway from Stahl is a serious challenge. It makes it extremely difficult to find an opening in traffic long enough to enter or exit our driveway.

The proposed project seeks a curb cut for a driveway entrance onto the site. The proposed driveway is near our joint property line. It is, therefore, even closer to the Stahl Road intersection. The project allows for 36 parking places. Potentially, that makes 36 more cars attempting the same maneuvers as we must attempt and further obstructing our ability to enter and exit. This is a problem common to each of my neighbors.

It should be noted that "traffic concerns" are not limited solely to traffic flow and traffic visibility. A multi-family residential project such as this should consider the safety of pedestrians and cyclists. Due to the proximity to the University and to the Ellicott Creek Trailway (Bike Path), this stretch of North Forest Road is used regularly by both. There are no discrete bike paths along this section, and sidewalks are limited to the opposite side of North Forest. Additionally, it is questionable whether either could be practically installed along North Forest, south of the subject site, due to the proximity to the creek and its erosion issues in that area.

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SOIL ISSUES AND DEPTH TO BEDROCK – Over the years, there have been numerous efforts by individuals to acquire and build on the subject property. It is our understanding that most of the efforts involved proposed single family residences. Despite contractual agreements to purchase, none of these efforts materialized. We assume that some were discouraged because of the existence of floodplain/floodway issues. However, some failed as a result of depth to bedrock issues. Borings have been taken on a number of occasions and the results, which are unknown to us, are rumored to be unfavorable to construction due to the depth to bedrock. It should also be noted that we learned that when Asbury Point was constructed, it was necessary to drive an extraordinary number of I-beams into the ground, in places up to 40 to 50' in depth.

It is noted that the petitioner's EAF references the depth to bedrock as being "greater than 5 feet". It also identifies the soils on 100% of the site to be "cosad loamy fine sand" and 100% of the site to be poorly drained.

In light of the afore referenced information relating to prior flooding, the prior placement of fill, and existing erosion concerns, the possibility of depth to bedrock discrepancies simply reinforces our concerns relating to the integrity of the potential structure. We believe that a complete geo-technical investigation and inspection should be required. We have heard of instances of properties collapsing, in one case into a creek, within the Town of Amherst. We have no desire to see that occur next door.

CONCLUSION:

In a perfect world, the subject site would be a small neighborhood park and a continuation of the beautiful greenspace located directly across the creek from the site. It could contain a pedestrian bridge over Ellicott Creek, accessible by the general public seeking safer access to the Bike Trail, as well as the residents of Asbury Point, who, in the past, have casually strolled on this site. Possibly, a kayak launch point could serve this site as well. My wife and I, as adjoining neighbors would welcome such alternative uses. We do not oppose this proposal on the basis of change. However, the property is privately owned and we lack the power of Eminent Domain.

Based upon the foregoing considerations, we, Joseph Hausbeck and Rosemary Blando, strongly oppose approval of the petitioner's request. As 23 year residents of the site immediately adjoining the subject site, we are of the opinion that the proposed project will result in potentially significant adverse environmental impacts upon this community. Additionally, we are firmly of the belief that the applicant has failed to provide sufficient information to establish that there will be no impacts and, at the very least, a Draft Environmental Impact Statement should be required.

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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 Polanco 2180 North Forest Rd
Ann Beahen 2204 N. Forest Rd.
Donna J Beahen 2204 N. Forest Rd.
Lisa Dennis Cummings 2220 N. Forest Rd.
Sterling Lawson 1881 N. Forest Rd
Joan Amico, 1936 North Forest, Amherst NY 14221
Steve Amico, 1936 North Forest, Amherst NY 14221

October 2020

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Town of Amherst Planning Board

5583 Main Street

Williamsville, NY 14221

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George De Rosa
2220 North Forest Road, Williamsville, N.Y. 14221
Allen Miles
25 Stahl Rd, Getzville 14068 Allen Miles
[illegible]
W.R.D. 2220 N. Forest Rd. 14221
Karen Macura 2230 N FOREST RD 14221

October 2020

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Z-2020-06
2160 & 2170 N. Forest Rd

Carrato, Amy

From: Joan Amico <jamico99@gmail.com>
Sent: Wednesday, October 14, 2020 7:15 AM
To: Carrato, Amy
Subject: Planning Board Meeting 10/15 - Amendment #73 of the Audubon New Community Development Plan.

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

My husband and I received notice of the proposed rezoning of residential property on North Forest Road and I would like to speak at the Planning Board meeting on October 15 about this rezoning.

Also, please share my comments below with the board:

This stretch of North Forest is primarily a residential area. It is not a commercial area and it should not be rezoned. It seems that over the last several years, long stretches of North Forest Road have been turned into apartment buildings and other commercial properties. Do we really need to build such structures alongside and embedded between single family homes? Would you want to live in-between commercial properties? Do we even need another apartment complex in this area?

The Town of Amherst should first and foremost make decisions that are best for the residents that live in their community. Please think about the residents, people like my husband and I, when deciding to rezone this and any property.

Kindly reply back to confirm receipt of this email.

Thank-you,

Joan and Steve Amico
1936 N Forest Rd, Williamsville, NY 14221

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

GINEERING DPC|DBA
GEOTECHNICAL
INEERING SERVICES

Z-2020-06,
2160 and 2170 N. Fores

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September 17, 2020
Project No. WB-20-105
(SJB Project No. BE-20-105)

Postwork Capital

c/o Buffalo Automation
10236 Transit Road
East Amherst, New York
14051

Attn. Mr. Thiru Vikram, CEO

Re: Geotechnical Engineering Report
Proposed Elysium Apartment Complex
2160 North Forest Road
Town of Amherst, New York

Dear Mr. Vikram:

WMA Engineering DPC, dba Empire Geotechnical Engineering Services (Empire), is pleased to submit the enclosed Geotechnical Engineering Report for the above referenced project. We have also e-mailed you an electronic copy (pdf file format) of this report, for your use and for distribution. Please contact me should you have any questions or wish to discuss this report. Thank you for considering Empire for this work and we look forward to working with you through the completion of this project.

Sincerely,

WMA Engineering DPC, dba
Empire Geotechnical Engineering Services

Thomas R. Seider, P.E.
Geotechnical Engineer

RECEIVED
OCT 07 2020
TOWN OF AMHERST
PLANNING DEPT.

Enc.: Geotechnical Engineering Report

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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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



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

APPENDIX C – GEOTECHNICAL REPORT LIMITATIONS

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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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.

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The wave equation results, pile installation records and the results of the dynamic testing should be evaluated to confirm the design capacity and to possibly refine the driving criteria and pile lengths if determined necessary. It should be understood that the pile capacity provided was estimated using conventional static analyses based on engineering interpretation of the conditions disclosed by the test borings. Variations in soil conditions may occur, which can impact the actual pile installation requirements. Therefore, it is recommended that the contract documents contain provisions to make adjustments in the actual pile lengths required, should the installation conditions and field testing dictate such changes.

A qualified individual should observe all pile driving and should prepare an individual pile driving report for each pile installed. The report should include, pile number and location, hammer and cushion types, pile size and material, installed length, blows per foot, unusual conditions encountered during driving, top of pile elevation following driving and notes on any necessary re-striking.

Installed piles should be monitored for potential heaving during installation of adjacent piles. Any piles which heave should be re-driven and reseated as appropriate. Plumbness of the piles should be maintained within 1% of the total length. Any misaligned or damaged piles should be replaced. Following driving the inside of the pipe pile should be inspected, before concreting or capping, to assure that no damage occurred during driving. Any damaged piles should be removed and replaced.

4.90.3 Helical Pile Construction

Helical piles should be installed by a qualified and experienced contractor. The helical piles should be installed in a smooth continuous manner, with sufficient pressure to advance the helical piles. Alignment of the helical piles should be maintained within 1% of the total length. At least one load test should be completed to determine the helical pile capacity has been obtained with an adequate factor of safety (i.e. Factor of Safety of 2.0 or greater).

A correlation, using the torque during installation and the load testing data should be used to confirm subsequent helical piles are installed to two times the allowable design load. A qualified individual should observe the helical pile installation and prepare a report summarizing the installation process, load testing results, torque during installation, length of pile, etc.

4.90.4 Drilled Pier Foundation Construction

The drilled pier foundation construction is expected to encounter groundwater conditions near a depth of about 10 feet. Shallower zones of perched groundwater within the fill soils could also be encountered. Dewatering should be implemented as necessary to lower the groundwater within the drilled pier excavation casing in order to observe the pier excavation bottom and evaluate the bearing subgrade surface, and to allow construction in-the-dry.

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

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content. Placement of subgrade fill (Suitable Granular Fill), to raise site grades, should be observed and tested by a construction materials testing company. It is recommended that utility trenches located within pavement areas be backfilled with controlled Structural Fill.

5.00 CONCLUDING REMARKS

This report was prepared to assist in the design and construction of the proposed Elysium Apartment Complex, planned at 2160 North Forest Road, within the Town of Amherst, New York. The report has been prepared for the exclusive use of Postwork Capital, Buffalo Automation, Silvestri Architects, PC, and other members of the project design team, for specific application to this site and this project only.

The site information and recommendations were prepared based on Empire's understanding of the proposed project, as described herein, and through the application of generally accepted soils and foundation engineering practices. Empire should be consulted with any questions regarding the interpretation of the findings of our work, and/or the geotechnical considerations and recommendations presented. In addition, the recommendations presented are provided as guidance to the designer and should not be considered a project specification. No warranties, expressed or implied are made by the conclusions, opinions, recommendations or services provided.

Empire should be informed of any changes to the planned project so that it may be determined if any modifications to the information presented in this report are necessary. Empire and / or its designated representative should also be retained to review final plans and specifications and to monitor the foundation and site work construction to verify that the recommendations were properly interpreted and implemented.

Additional information regarding the use and interpretation of this report is presented in Appendix D.

Respectfully Submitted:

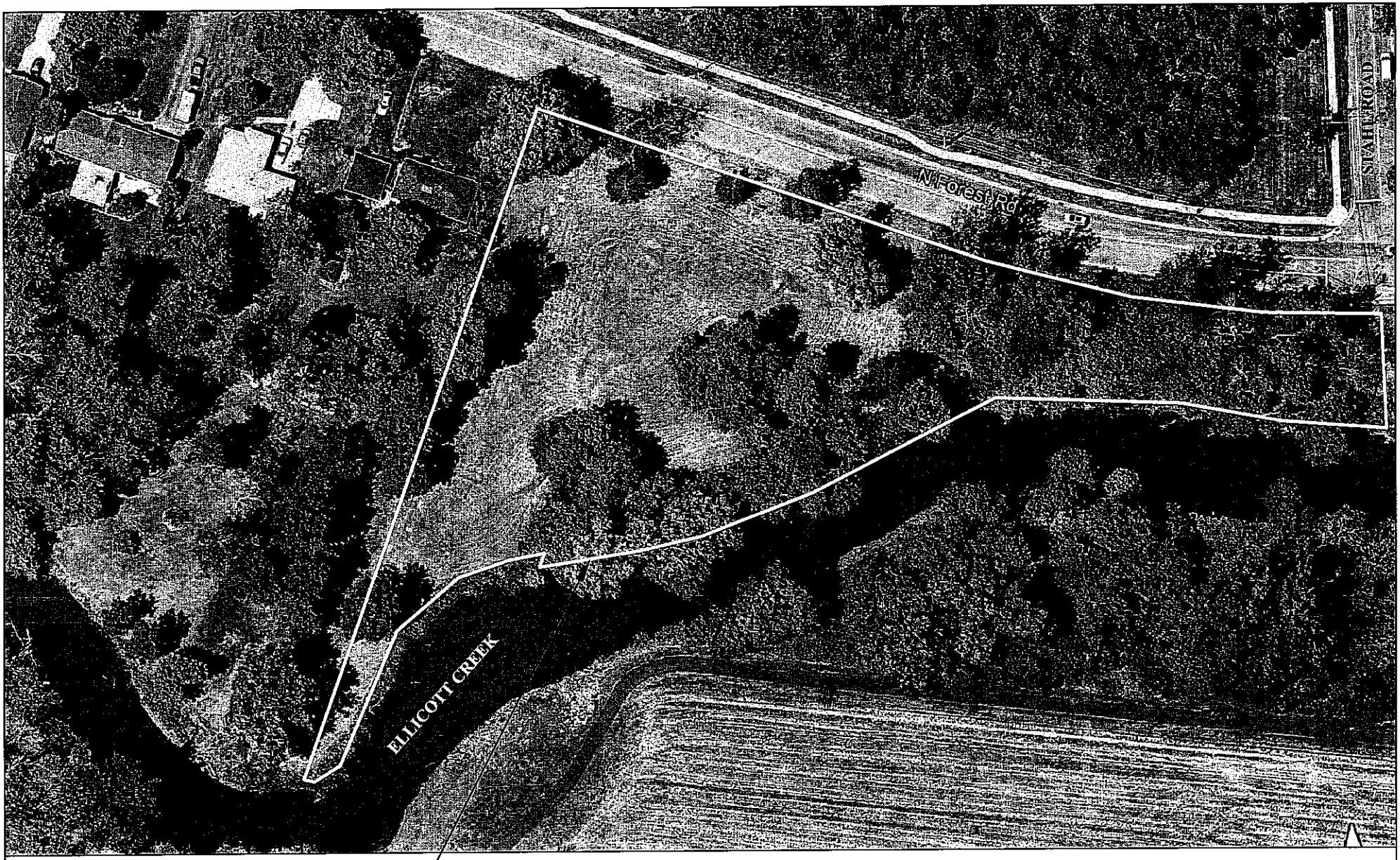
WMA Engineering DPC
dba Empire Geotechnical Engineering Services

Thomas R. Seider, P.E.
Senior Geotechnical Engineer

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

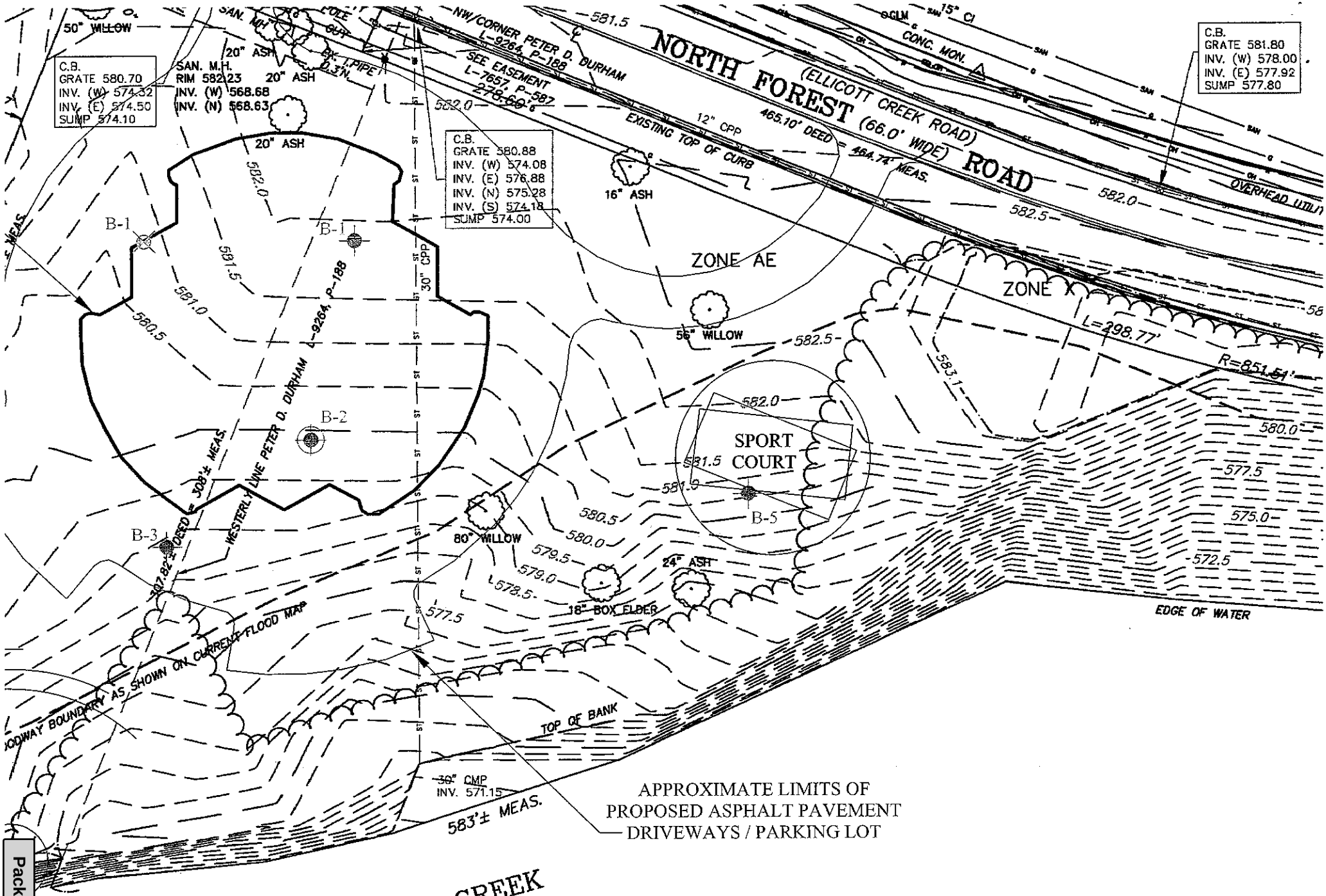
PROPOSED ELYSIUM APARTMENT COMPLEX
2160 NORTH FOREST ROAD
TOWN OF AMHERST, NEW YORK

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 ELEVS

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Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

APPENDIX A

SUBSURFACE EXPLORATION LOGS

Recently Completed Test Borings
July 2020 (B-1 through B-5)

GENERAL INFORMATION & KEY TO SUBSURFACE LOGS

The Subsurface Logs attached to this report present the observations and mechanical data collected by the driller at the site, supplemented by classification of the material removed from the borings as determined through visual identification by technicians in the laboratory. It is cautioned that the materials removed from the borings represent only a fraction of the total volume of the deposits at the site and may not necessarily be representative of the subsurface condition between adjacent borings or between the sampled intervals. The data presented of the Subsurface Logs together with the recovered samples provide a basi for evaluating the character of the subsurface conditions relative to the project. The evaluation must consider all the recorded details and their procedures to more accurately evaluate the subsurface conditions. Any evaluation of the contents of this report and recovered samples must be performed by qualified professionals. The following information defines some of the procedures and terms used of the Subsurface Logs to describe the conditions encountered, consistent with the numbered identifiers shown o the Key opposite this page.

1. The figures in the Depth column define the scale of the Subsurface Log.
2. The Samples column shows, graphically, the depth range from which a sample was recovered. See Table I for descriptions of the symbols used to represent the various types of samples.
3. The Sample No. is used for identification on sample containers and/or Laboratory Test Reports.
4. Blows on Sampler – shows the results of the "Penetration Test", recording the number of blows required to drive a split spoon sampler into the soil. The number of blows required for each six inches is recorded. The first 6 inches of penetration is considered seating drive. The number of blows required for the second and third 6 inches of penetration is termed the penetration resistance,
5. Blows on Casing – Shows the number of blows required to advance the casing a distance of 12 inches. The casing size, hammer weight, and length of drop are noted at the bottom of the Subsurface Log. If the casing is advanced by means other than driving, tl 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 tl 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 _____

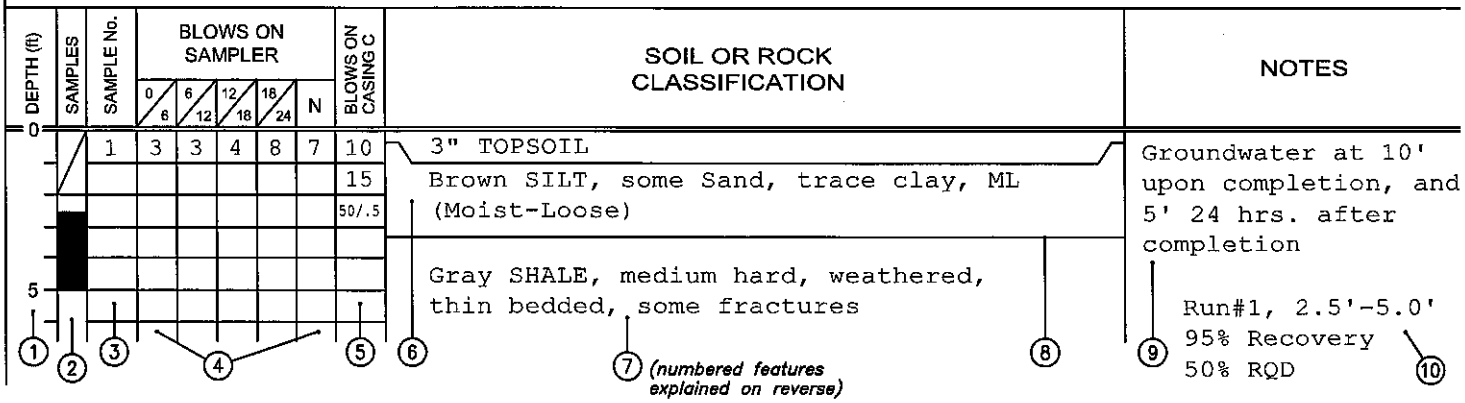


TABLE I

⁄	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				
		6	5		13	One piece of coarse GRAVEL (moist, FILL)	WOH = Weight of Hammer and Rods
5	3	3	3			Brown Silty CLAY, some f-c Sand, little fine Gravel, tr.slag, tr.organics (moist-wet, FILL)	
		3	2		6		
	4	3	3			Contains tr.gravel, tr.glass, no slag	Sample #4: Contains wood
		4	3		7		
	5	WOH	2			Dark Brown Silty CLAY, little f-m Sand, tr.organics (moist, medium, CL)	Sample #5: Exhibits an organic odor
10		2	3		4		
	6	1	1			Contains tr.sand (moist-wet, soft)	
		1	1		2		Sample #6: Contains wood
15	7	WOH	1			Contains little f-m Sand, little Organics	Sample #7: Exhibits an organic odor, contains wood
		2	1		3		
20	8	6	21			Brown fine GRAVEL, some f-c Sand, little Silty Clay (moist, v.compact, GC-GM)	REF = Sample Spoon Refusal
		35	50/0.2		56		Driller noted hard augering at 20' to 25'
25	9	50/0.2			REF		NQ '2' Size Rock Core
						Brown SHALE Rock, medium hard, sound, thickly bedded, both natural and mechanical fractures	RUN #1: 25.2' - 30.2' REC = 72% RQD = 47%
30						Becomes laminated to thickly bedded	RUN #2: 30.2' - 33.2' REC = 100% RQD = 81%
35						Boring Complete at 33.0'	No Free Standing Water encountered before coring
							Free Standing Water recorded at 1' after coring
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW

CLASSIFIED BY: Geologist

DRILLER: A. KOSKE
DRILL RIG TYPE : CME-550X
METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

DATE:
START 7/27/2020
FINISH 7/27/2020
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-2
SURF. ELEV 581.1'
G.W. DEPTH See Notes

PROJECT: PROPOSED ELYSIUM APARTMENT COMPLEX
PROJ. NO.: BE-20-105
LOCATION: 2160 NORTH FOREST ROAD
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	4	15			TOPSOIL	Driller noted topsoil at the surface
		21	19		36	Brown CONCRETE fragments, some Silty Clay, little f-c Sand (moist, FILL)	
	2	15	8				
		5	6		13	Contains little Silty Clay	Sample #1: Poor Recovery
5	3	2	2			Brown Silty CLAY, some f-c Sand, little fine Gravel, tr.organics (moist, FILL)	Sample #2: Poor Recovery
		3	6		5		
	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 (moist-wet, medium, CL)	REF = Sample Spoon Refusal
		3	3		5		
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 (wet, v.compact, GC-GM)	
		45	50/0.4		85		
25							
	9	50	50/0.2		REF		
						Boring Complete with Auger Refusal at 26.0'	No Free Standing Water reading obtained at boring completion
30							2" PVC groundwater observation well installed within completed test boring. Refer to completion record for details.
35							
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW

CLASSIFIED BY: Geologist

DRILLER: R. STEINER

DRILL RIG TYPE : CME-550X

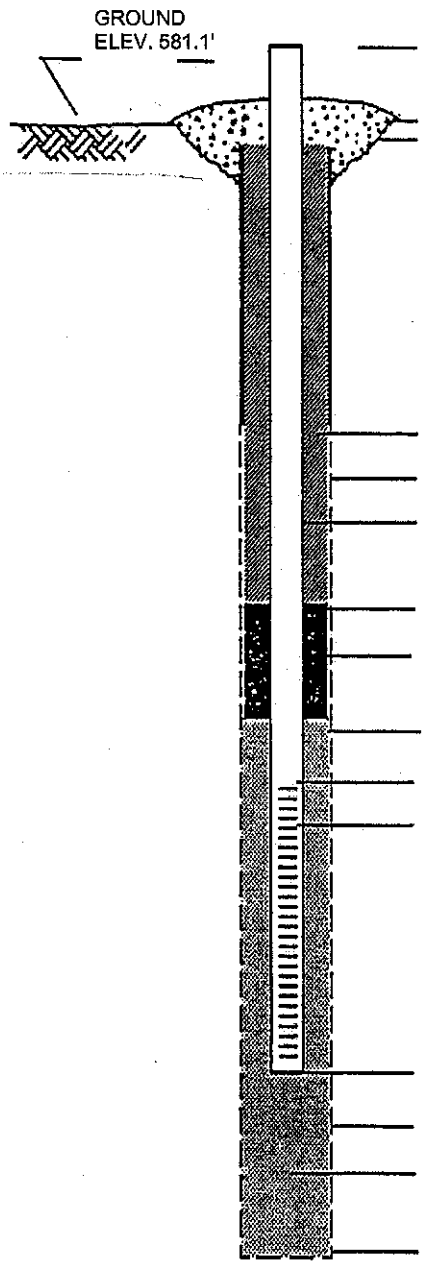
METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

MONITORING WELL COMPLETION RECORD

SJB SERVICES, INC.

WELL NUMBER: B-2	
PROJECT: Elysium Apartments	**DRILLING METHOD:** ASTM D-1586 USING HSA
PROJECT NUMBER: BE-20-105	**GEOLOGIST:** N/A
DRILLER: R. Steiner	**INSTALLATION DATE(S):** 7/27/2020



TYPE OF SURFACE SEAL:	SOIL
TYPE OF BACKFILL:	SOIL AUGER CUTTINGS
BOREHOLE DIAMETER:	7" ±
I.D. OF RISER PIPE:	2"
TYPE OF RISER PIPE:	PVC
DEPTH OF SEAL:	12'
TYPE OF SEAL:	BENTONITE CHIPS
DEPTH OF SAND PACK:	14'
DEPTH OF TOP OF SCREEN:	15.6'
TYPE OF SCREEN:	PVC
SLOT SIZE X LENGTH:	0.01' x 10'
I.D. OF SCREEN:	2"
TYPE OF SAND PACK:	No. 0 Silica Sand
DEPTH BOTTOM OF SCREEN:	25.6'
DEPTH BOTTOM OF SAND PACK:	26.0'
TYPE OF BACKFILL BELOW OBSERVATION WELL:	N/A
ELEVATION/ DEPTH OF HOLE:	26.0'

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

DATE:
START 7/24/2020
FINISH 7/24/2020
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-3
SURF. ELEV 579.5'
G.W. DEPTH See Notes

PROJECT: PROPOSED ELYSIUM APARTMENT COMPLEX
PROJ. NO.: BE-20-105
LOCATION: 2160 NORTH FOREST ROAD
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	5	6			TOPSOIL	Driller noted topsoil at the surface
		15	10		21	Brown Silty CLAY, some f-c Sand, tr.organics (moist, FILL)	
	2	8	8			Contains little fine Gravel	
		10	11		18		Sample #2: Poor Recovery
5	3	2	2			Dark Gray f-c SAND, little Silty Clay, tr.organics	
		3	4		5	(moist-wet, loose, SC-SM)	
	4	3	2			(wet)	Sample #4: Contains wood
		3	2		5		
	5	2	2			Contains some Silty Clay (v.loose)	Sample #5: Contains wood
10		1	1		3		
	6	WOH/1.0				Contains little Organics, little Silty Clay	WOH = Weight of Hammer and Rods
		WOH/1.0			WOH		
15	7	WOH/1.0				Brown Silty CLAY, some f-c Sand, little fine Gravel	
		3	5		3	(wet, soft, CL)	
							Driller noted hard augering at 18' to 26.5'
20	8	28	47			Brown fine Gravel, some f-c Sand, little Silty Clay	
		50/0.4			REF	(moist, v.compact, GC-GM)	REF = Sample Spoon Refusal
25	9	50/0.2			REF		Sample #9: No Recovery
						Boring Complete with Auger Refusal at 26.5'	Free Standing Water recorded at 21.5' at boring completion
30							
35							
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW
CLASSIFIED BY: Geologist
DRILLER: R. STEINER
DRILL RIG TYPE : CME-550X
METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

DATE:
START 7/23/2020
FINISH 7/23/2020
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-4
SURF. ELEV 578.1'
G.W. DEPTH See Notes

PROJECT: PROPOSED ELYSIUM APARTMENT COMPLEX
PROJ. NO.: BE-20-105
LOCATION: 2160 NORTH FOREST ROAD
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	1	2			TOPSOIL	Driller noted topsoil at the surface
		3	3		5	Brown Silty CLAY, some fine Gravel, little f-c Sand, tr.organics (moist, FILL)	
	2	2	5				
		10	50/0.2		15	Brown fine GRAVEL, some f-c Sand, little Concrete, little Silty Clay (moist, FILL)	
5	3	21	5				Sample #3: Contains wood
		3	3		8	Dark Brown Silty CLAY, tr.sand, tr.organics (moist, medium, CL)	
	4	4	2				Sample #4: Contains wood
		3	2		5	Contains little Organics, little f-c Sand (moist-wet) (soft)	
	5	1	1				Sample #5: Contains wood, Exhibits an organic odor
10		1	1		2		
	6	2	1			Brown Silty CLAY, little f-c Sand, tr.gravel (moist-wet, soft, CL)	
		1	2		2		
15							
	7	2	2			Contains some fine Gravel (moist, medium)	Driller noted hard augering at 18' to 22'
		4	7		6		
20							REF = Sample Spoon Refusal
	8	20	19			Brown fine GRAVEL, some f-c Sand, little Silty Clay (moist, compact, GC-GM)	
		21	25		40		NQ '2' Size Rock Core
	9	50/0			REF	22.0' to 24.4': Brown f-c GRAVEL, some f-c Sand, little Silty Clay (moist, GC-GM)	RUN #1: 22.0' - 27.0' REC = 66% RQD = 21%
25						Brown SHALE Rock, medium hard, sound, laminated to thickly bedded, both natural and mechanical fractures	
							RUN #2: 27.0' - 31.0' REC = 90% RQD = 85%
30							
						Boring Complete at 31.0'	No Free Standing Water encountered before coring
35							Free Standing Water recorded at 1' after coring
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW

CLASSIFIED BY: Geologist

DRILLER: A. KOSKE
DRILL RIG TYPE : CME-550X

METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

DATE:
START 7/24/2020
FINISH 7/24/2020
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-5
SURF. ELEV 582.0'
G.W. DEPTH See Notes

PROJECT: PROPOSED ELYSIUM APARTMENT COMPLEX
PROJ. NO.: BE-20-105
LOCATION: 2160 NORTH FOREST ROAD
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	1	4			TOPSOIL	Driller noted topsoil at the surface
		7	10		11	Brown Silty CLAY, some fine Gravel, little f-c Sand, tr.organics (moist-wet, FILL)	
	2	8	9				
		10	12		19	Brown-Black ASPHALT fragments, little Silty Clay, little fine Gravel, tr.sand (moist, FILL)	
5	3	7	10				
		15	16		25	Contains some fine Gravel, little f-c Sand, tr.silty clay tr.organics	
	4	5	5				
		6	6		11	Dark Brown Silty CLAY, tr.sand, tr.organics (moist, stiff, CL)	
	5	1	2			Contains little f-m Sand (moist-wet, medium)	Sample #5: Contains wood
10		2	2		4		
	6	1	1			Brown-Gray f-m SAND, little Silty Clay, tr.organics (moist-wet, v.loose, SC-SM)	Samples #6 & #7: Contains wood
		2	1		3		
	7	1	2			Contains tr.gravel, tr.shells	
15		2	3		4		
						Boring Complete at 15.0'	No Free Standing Water recorded at boring completion
20							
25							
30							
35							
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW

CLASSIFIED BY: Geologist

DRILLER: R. STEINER
DRILL RIG TYPE : CME-550X
METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

APPENDIX B

SUBSURFACE EXPLORATION LOGS

Previously Completed Test Borings
February 2020 (B-1)
June 2014 (B-1)

DATE:
START 2/20/2020
FINISH 2/20/2020
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-1
SURF. ELEV 580.0'
G.W. DEPTH See Notes

PROJECT: PROPOSED NEW HOME
PROJ. NO.: BE-20-010
LOCATION: 2160-2170 NORTH FOREST
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	WOH	2			TOPSOIL	Driller noted Topsoil at the surface
		3	5		5	Brown Silty CLAY, tr.sand, tr.organics (moist, FILL)	
	2	6	3			Becomes Dark Brown to Brown, Contains tr.asphalt, tr.brick	
		2	3		5		
5	3	2	2			Brown Silty CLAY, tr.gravel, tr.sand (moist-wet, FILL)	
		3	3		5		
	4	4	4			Brown Silty CLAY, tr.gravel, tr.sand, tr.organics	
		3	3		7	(moist-wet, medium, CL / Possible FILL)	
	5	1	1			Dark Brown Silty CLAY, tr.sand, tr.organics	
10		1	1		2	(moist, v.soft, CL)	
	6	WOH	WOH			Becomes Dark Brown to Dark Gray, occasional moist-wet partings	WOH = Weight of Hammer and Rods
		WOH	WOH		WOH		
	7	WOH	WOH			Red Brown Silty CLAY, some f-c Sand	
		WOH	WOH		WOH	(moist-wet, v.soft, CL)	
15	8	WOH	WOH			Contains some f-c Gravel	
		2	3		2		
	9	7	8			Contains little f-c Gravel (v.stiff)	
		8	8		16		
	10	8	12			Contains some f-c Gravel (moist)	
20		12	13		24		
	11	15	24			Contains little f-c Sand (hard)	
		17	19		41		
							REF = Sample Spoon Refusal
25							
	12	27	50/0.4		REF	Brown f-c SAND, some Silt, little f-c Gravel	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

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

recommendation to the Town Board stating: "That the petitioner include additional parking spaces beyond the 17 spaces shown on the concept plan at the site plan stage.[1]"

Attached as Exhibit "2" are copies of the project update letters to interested property owners dated March 2nd that included an 11" x 17" size copy of the updated Concept Site Plan. The updated Concept Plan demonstrates the concerted effort that has been made by the project team to incorporate input received from the public during the public hearing held on February 22nd.

The Town Board will be holding continuation of the virtual public hearing in connection with the pending request to reclassify the Project Site from NCD-SA to NCD-ND and to amend the Audubon Development Plan during its meeting on Monday, March 8th at 7:00 p.m. The Applicant is requesting that the Town Board adopt a resolution during its upcoming meeting for the purpose of issuing a negative declaration pursuant to the State Environmental Quality Review Act ("SEQRA") and approving the requested reclassification of the Project Site from NCD-SA to NCD-ND and an amendment of the Audubon New Community Development Plan.

If you have any questions regarding this letter or the attached documentation, please feel free to contact me at 510-4338 or via e-mail at shopkins@hsr-legal.com.

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

Sean W. Hopkins, Esq.

cc: Jacqualine Berger, Deputy Supervisor
Deborah Bruch Bucki RN PhD, Councilmember
Shawn Lavin, Councilmember
Michael Szukala, Councilmember
Francina J. Spoth, Town Clerk
Kathy Cooper, Deputy Town Clerk
Stanley J. Sliwa, Esq., Town Attorney
Ellen Kost, AICP, Assistant Planning Director
Thiru Vikram, Coromandel Estates Amherst LLC
Christina Barmosz, Silvestri Architects PC
Christopher Wood, P.E., Carmina Wood Morris DPC

[1] During its meeting on January 21st, the Planning Board adopted a resolution by a unanimous 7-0 vote recommending that the Town Board: 1. Issue a negative declaration pursuant to SEQRA; 2. Approve the reclassification of the Project Site from NCD-SA to NCD-ND; and, 3. Approve Amendment #73 to the Audubon New Community District Development Plan. The Planning Board findings in support of its favorable recommendation were as follows: A. The proposed Revision to the Development Plan meets the intent and objectives of a New Community District as expressed in Subsection 1-1.1; B. The proposed Revision to the Development Plan meets all the requirements of Section 5-2-3 through 5-2-6; C. The proposed Revision to the Development Plan is conceptually sound in that it meets present and future community needs; D. There are or will be adequate services and utilities available or proposed to be made available in the construction of the development; and, E. The proposed Amendment to the Development Plan is consistent with the Town Comprehensive Plan.

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

Exhibit 1 – Updated Concept Site Plan [Drawing AS-101 – Date: 03/01/21] Prepared by Christina Barmosz of Silvestri Architects PC

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon



SITE DATA:

SITE AREA - 2.35 ACRES

CURRENT ZONING - NCD-SA
REZONING - NCD-ND

SETBACKS PROVIDED -
FRONT - 50'-0"
SIDE - 20'-0"

PROPOSED

2 - 2-STORY - 4 UNIT APARTMENT BUILDINGS

Parking:
8 GARAGES
15 PARKING SPACES

NOTICE

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.

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 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

Exhibit 2 – Project Update Letters to Residents dated March 2, 2021

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

HSM

March 2, 2021

Joan Amico
1936 North Forest Road
Williamsville, NY 14221

Re: Application to Reclassify 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and to Amend the Audubon Development Plan [Z-2020-06]
Applicant/Project Sponsor: Coromandel Estates Amherst LLC
File 10181.1

Dear Ms. Amico:

This letter is being sent to you to provide you with a project update. Based on the input received during the virtual public hearing held by the Town Board on February 22nd, the layout of the proposed project has been updated.

An 11" x 17" size copy of the updated Concept Site Plan [Drawing AS-101 – Date: 03/01/21] is enclosed depicting the following modifications to the project layout:

1. The previously proposed stormwater basin on the western portion of the Project Site adjacent to the property at 2180 North Forest Road has been eliminated;

2. The dumpster enclosure has been relocated from the western portion of the Project Site to the eastern portion of Project Site. Additionally, screening has been added on the exterior edges of the dumpster enclosure;

3. The previously proposed two-story eight-unit building has been replaced with 2 two-story four-unit buildings;

4. The proposed covered patio with a fire pit has been relocated so that it will between the 2 two-story four-unit buildings;

5. Landscaping and a fence has been added along the western boundary of the Project that is contiguous to 2180 North Forest Road; and

6. Landscaping has been added along the North Forest Road frontage of the Project Site.

The Town Board will be holding continuation of the virtual public hearing in connection with the pending request to reclassify the Project Site from NCD-SA to NCD-ND and to amend the Audubon Development Plan during its meeting on **Monday, March 8th at 7:00 p.m.**

If the Town Board approves the pending application, then the next step in the project review process will be to seek Site Plan approval from the Planning Board once the fully engineered plans

HOPKINS SORGI & MCCARTHY PLLC
Attorneys at Law
5500 Main Street, Suite 343 • Williamsville, New York 14221
Direct: 716-510-4338 • E-mail: shopkins@hsr-legal.com • www.hsr-legal.com

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

and related technical documentation have been prepared by Carmina Wood Morris DPC, the project engineering firm.

Please feel free to contact me with any questions at 510-4338 or via e-mail at shopkins@hsr-legal.com if you have any questions regarding this letter or the enclosed updated Concept Site Plan.

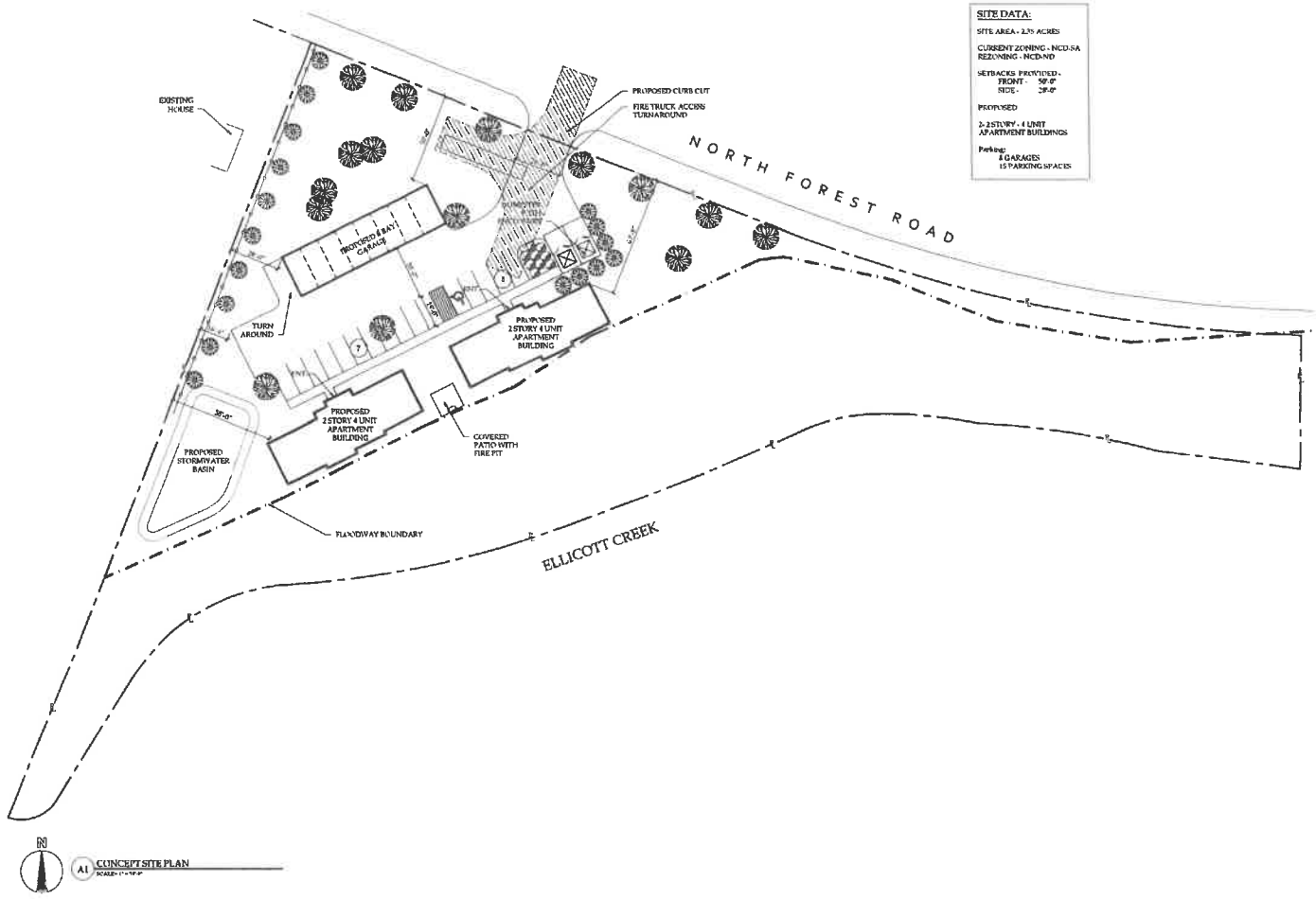
Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

Sean W. Hopkins, Esq.

Enc. 11" x 17" copy updated Concept Site Plan [Drawing AS-101 – Date: 03/01/21]

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon



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NORTH FOREST APARTMENTS

2160-2170 North Forest Rd
Amherst, ny

ISSUE

SA PROJECT TEAM: PRINCIPAL P.Silvestri
PROJ. ARCH. S.Hurd DRAFTER W.Masharoff
FOR 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:

1. The previously proposed stormwater basin on the western portion of the Project Site adjacent to the property at 2180 North Forest Road has been eliminated;

2. The dumpster enclosure has been relocated from the western portion of the Project Site to the eastern portion of Project Site. Additionally, screening has been added on the exterior edges of the dumpster enclosure;

3. The previously proposed two-story eight-unit building has been replaced with 2 two-story four-unit buildings;

4. The proposed covered patio with a fire pit has been relocated so that it will between the 2 two-story four-unit buildings;

5. Landscaping and a fence has been added along the western boundary of the Project that is contiguous to 2180 North Forest Road; and

6. Landscaping has been added along the North Forest Road frontage of the Project Site.

The Town Board will be holding continuation of the virtual public hearing in connection with the pending request to reclassify the Project Site from NCD-SA to NCD-ND and to amend the Audubon Development Plan during its meeting on **Monday, March 8th at 7:00 p.m.**

If the Town Board approves the pending application, then the next step in the project review process will be to seek Site Plan approval from the Planning Board once the fully engineered plans

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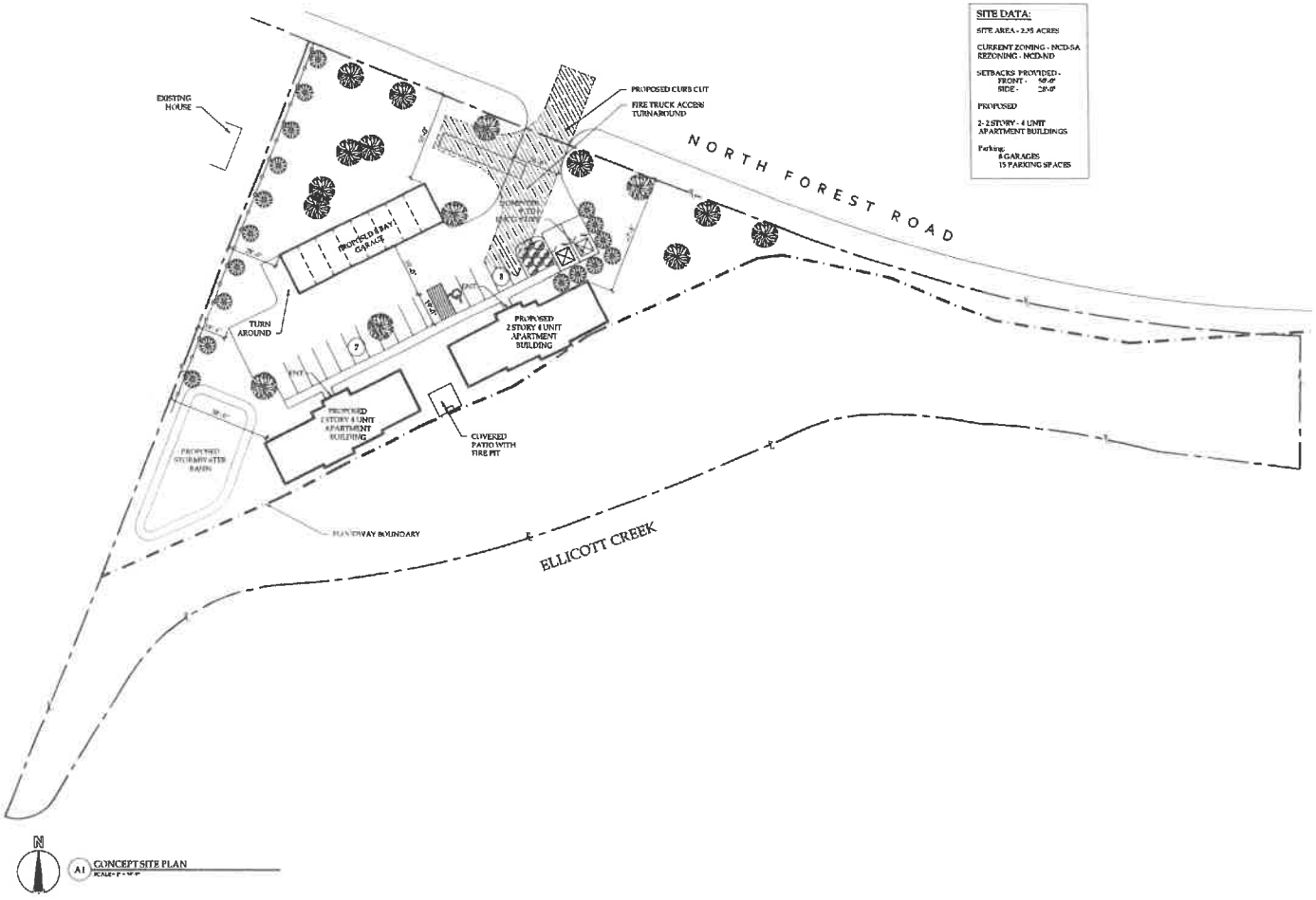
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NORTH FOREST APARTMENTS

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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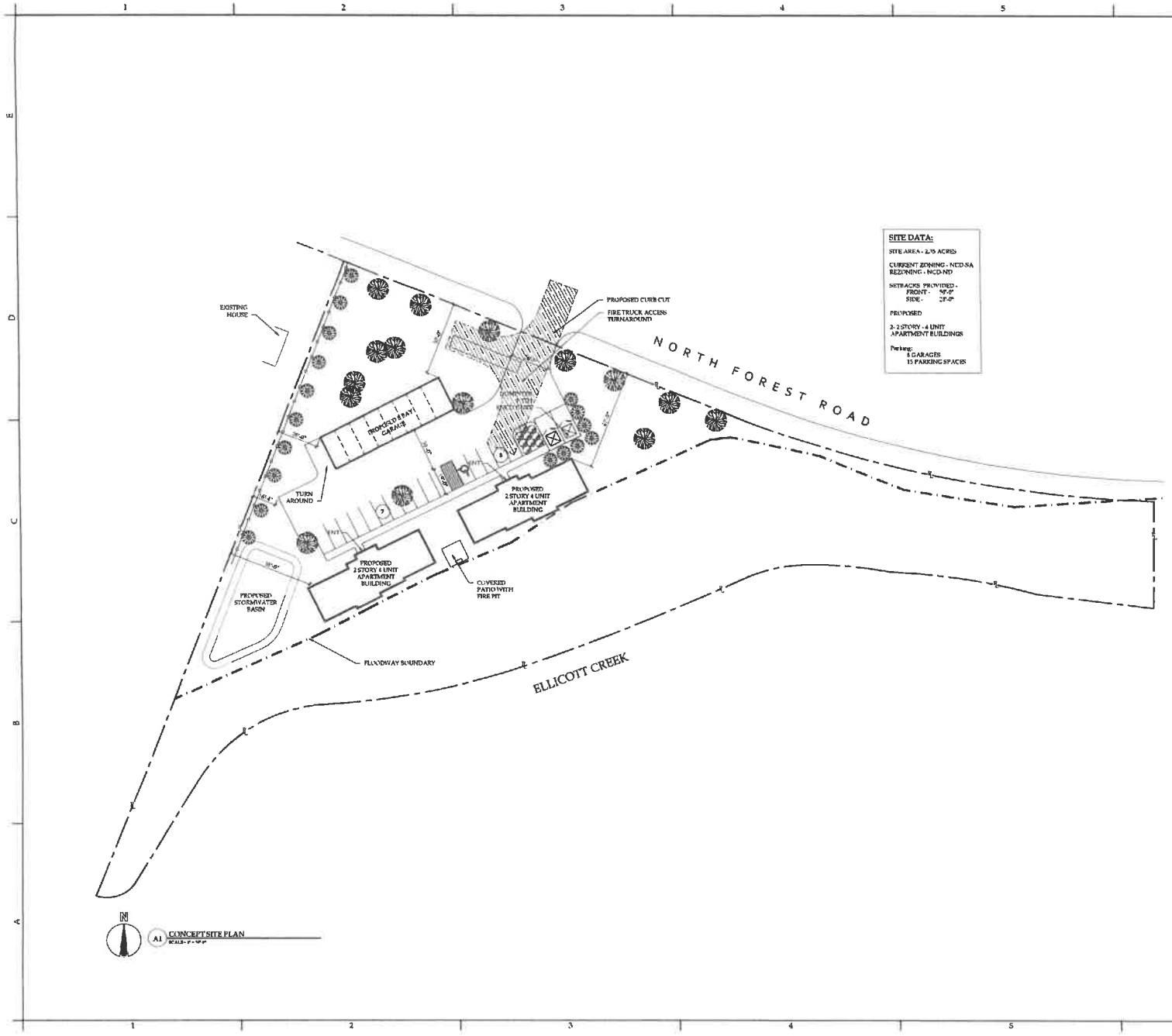
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2160-2170 North Forest Rd
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PROJ. ARCH. S.Hunt DRAFTER W.Manhardt
IOR CAPT. _____ INTERIORS K.Hamann

SEAL:

TITLE:

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AMHERST NY 14221 FAX 716.691.4773

SA JOB #: 20060.02
DATE: 03/01/21
DRAWING #: AS-101

HSM

March 2, 2021

Karen Macris
2230 North Forest Road
Williamsville, NY 14221

Re: Application to Reclassify 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and to Amend the Audubon Development Plan [Z-2020-06]
Applicant/Project Sponsor: Coromandel Estates Amherst LLC
File 10181.1

Dear Karen:

This letter is being sent to you to provide you with a project update. Based on the input received during the virtual public hearing held by the Town Board on February 22nd, the layout of the proposed project has been updated.

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and related technical documentation have been prepared by Carmina Wood Morris DPC, the project engineering firm.

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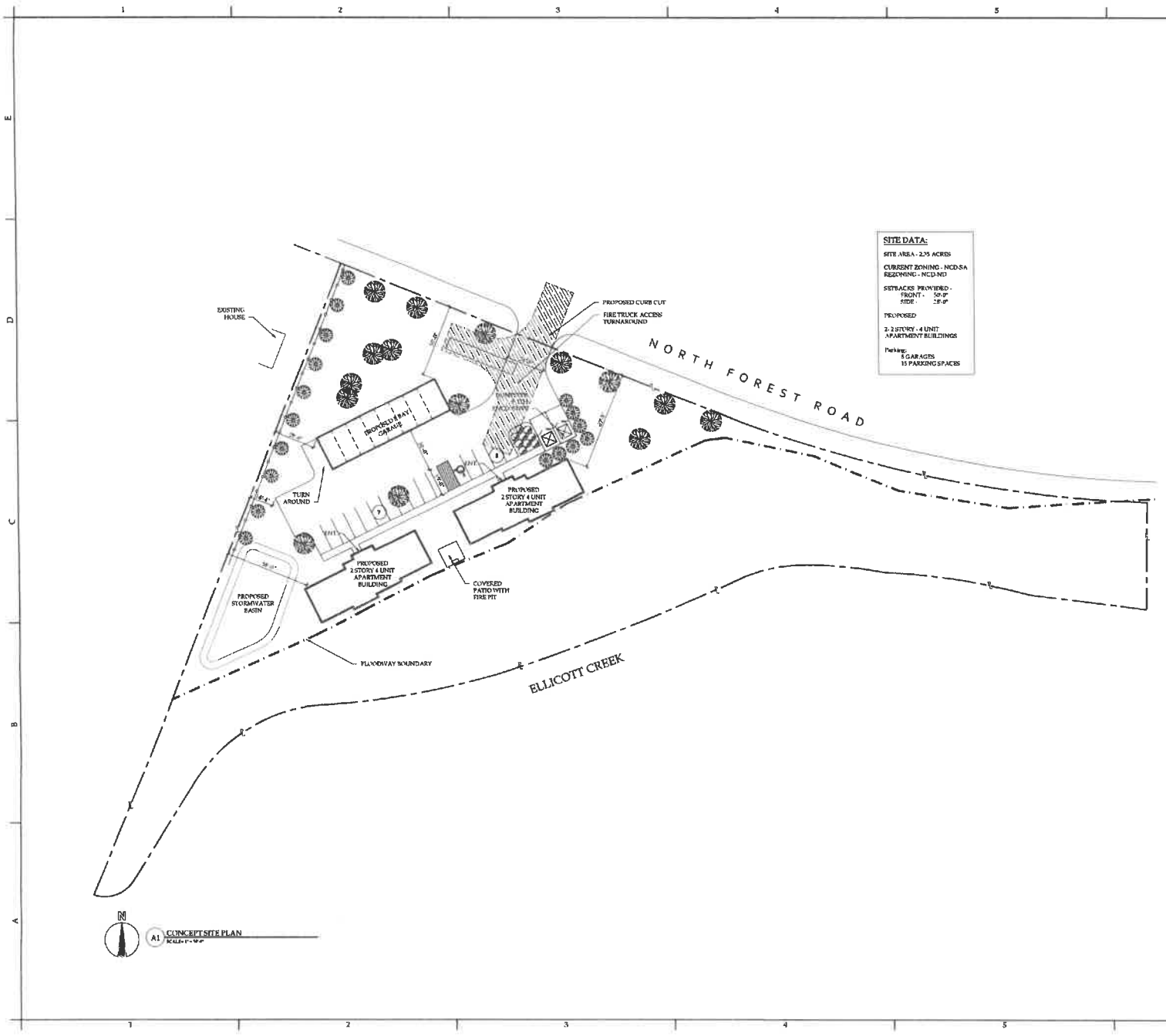
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Sean W. Hopkins, Esq.

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NORTH FOREST APARTMENTS

2160-2170 North Forest Rd
Amherst, ny

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PROJ. ARCH. S. Hynd DRAFTER W. Manhardt
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)

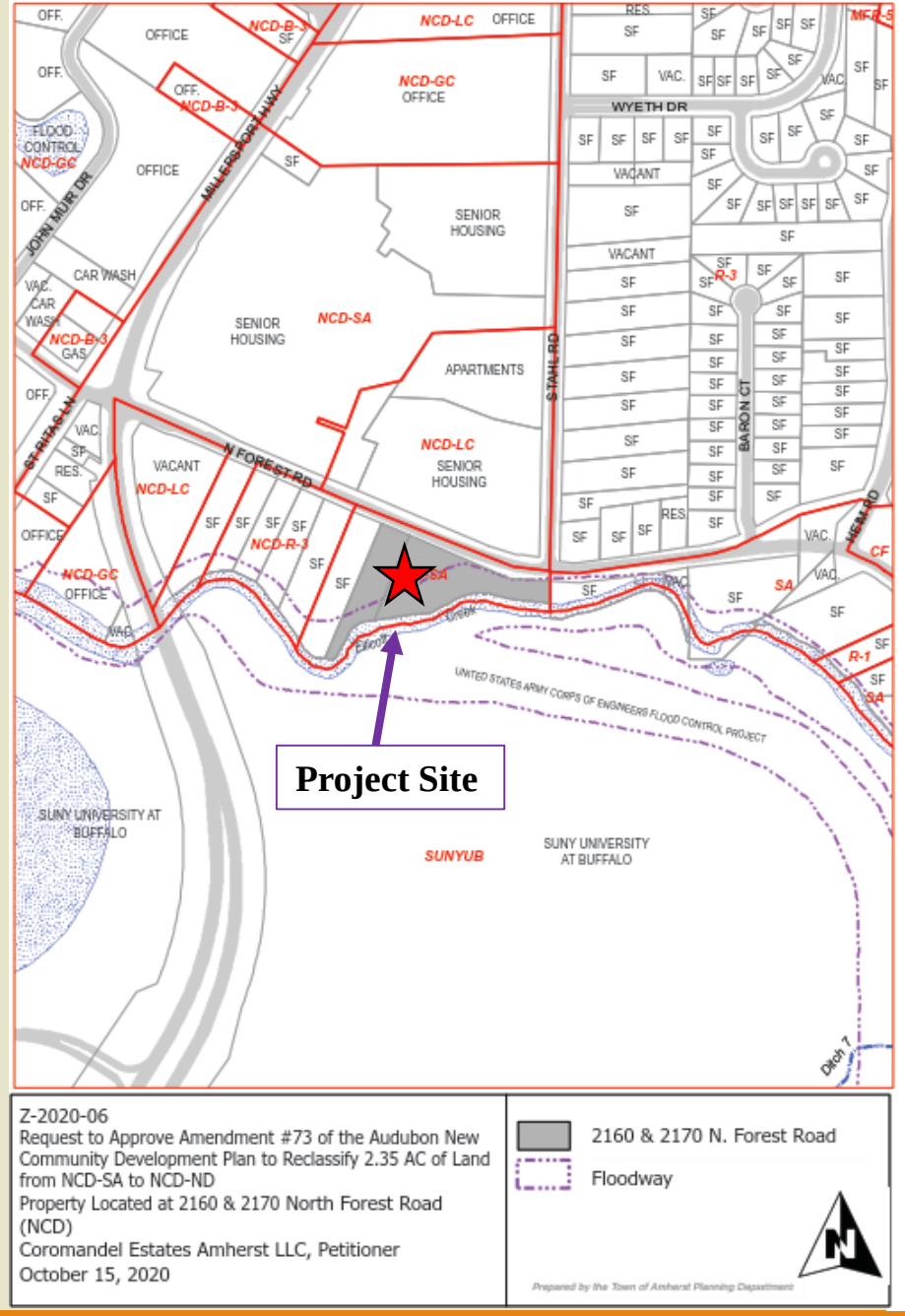
Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

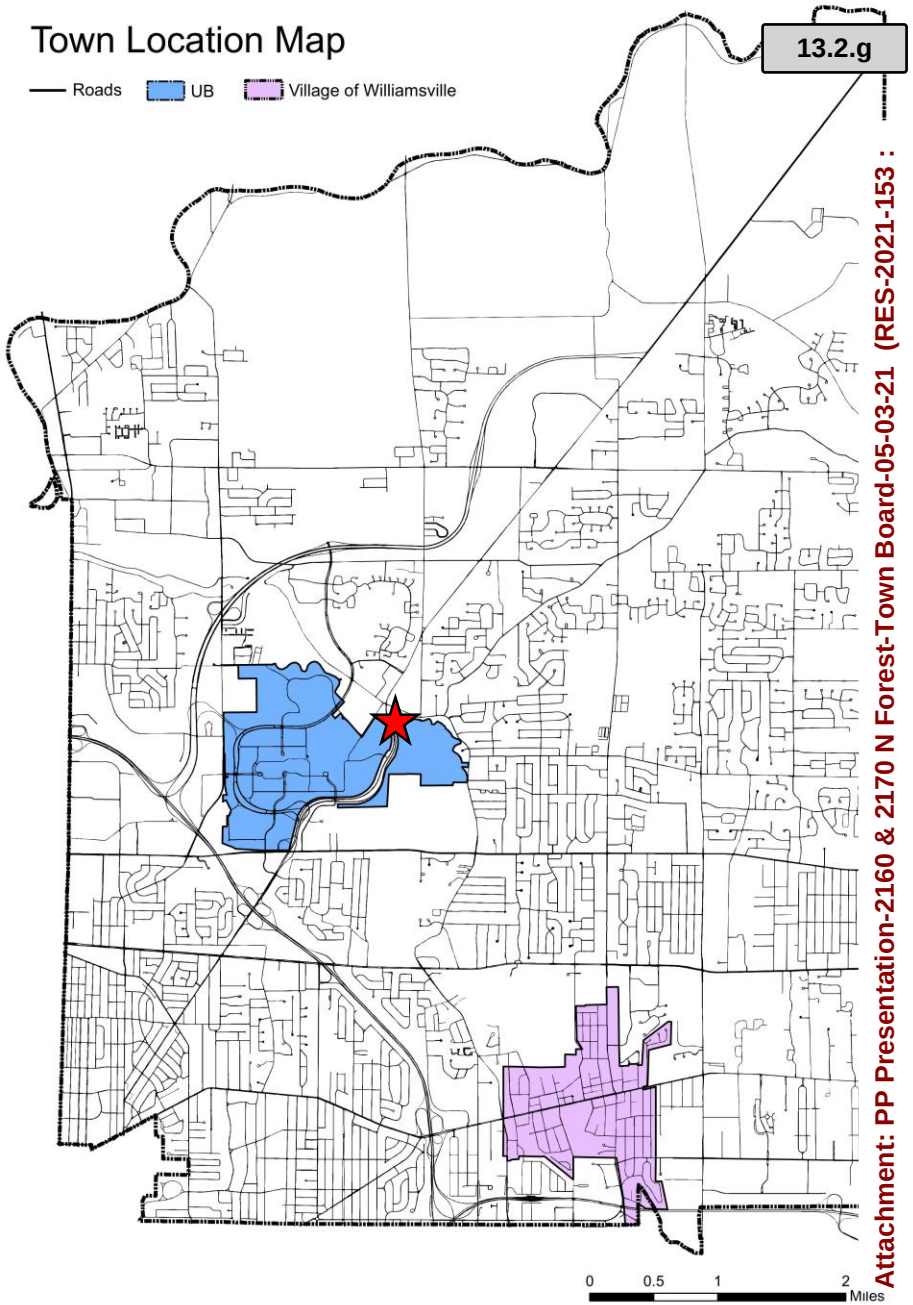
Location:

- 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 :

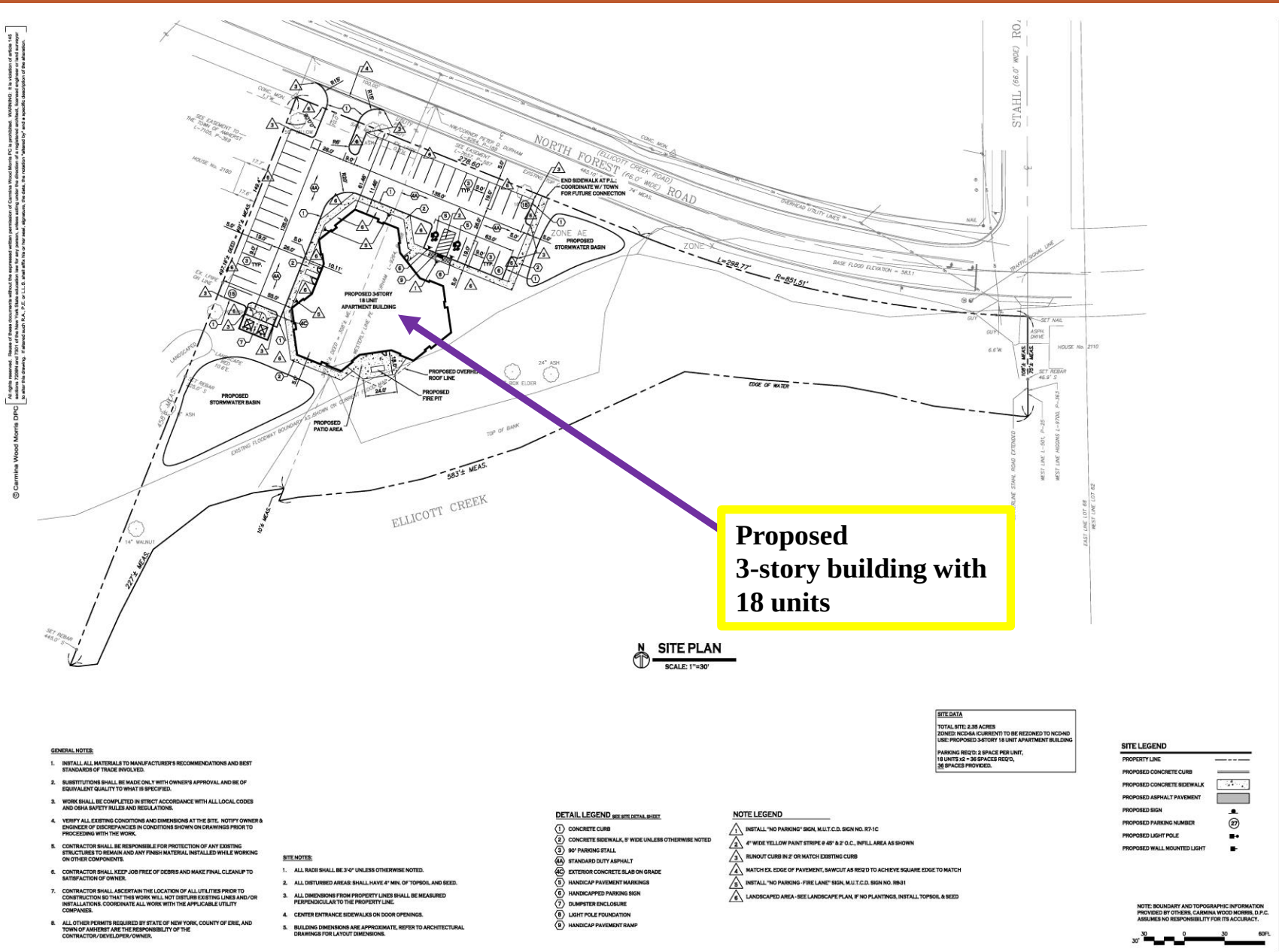
Project Description:

- 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



Concept Plan Presented on February 22nd:

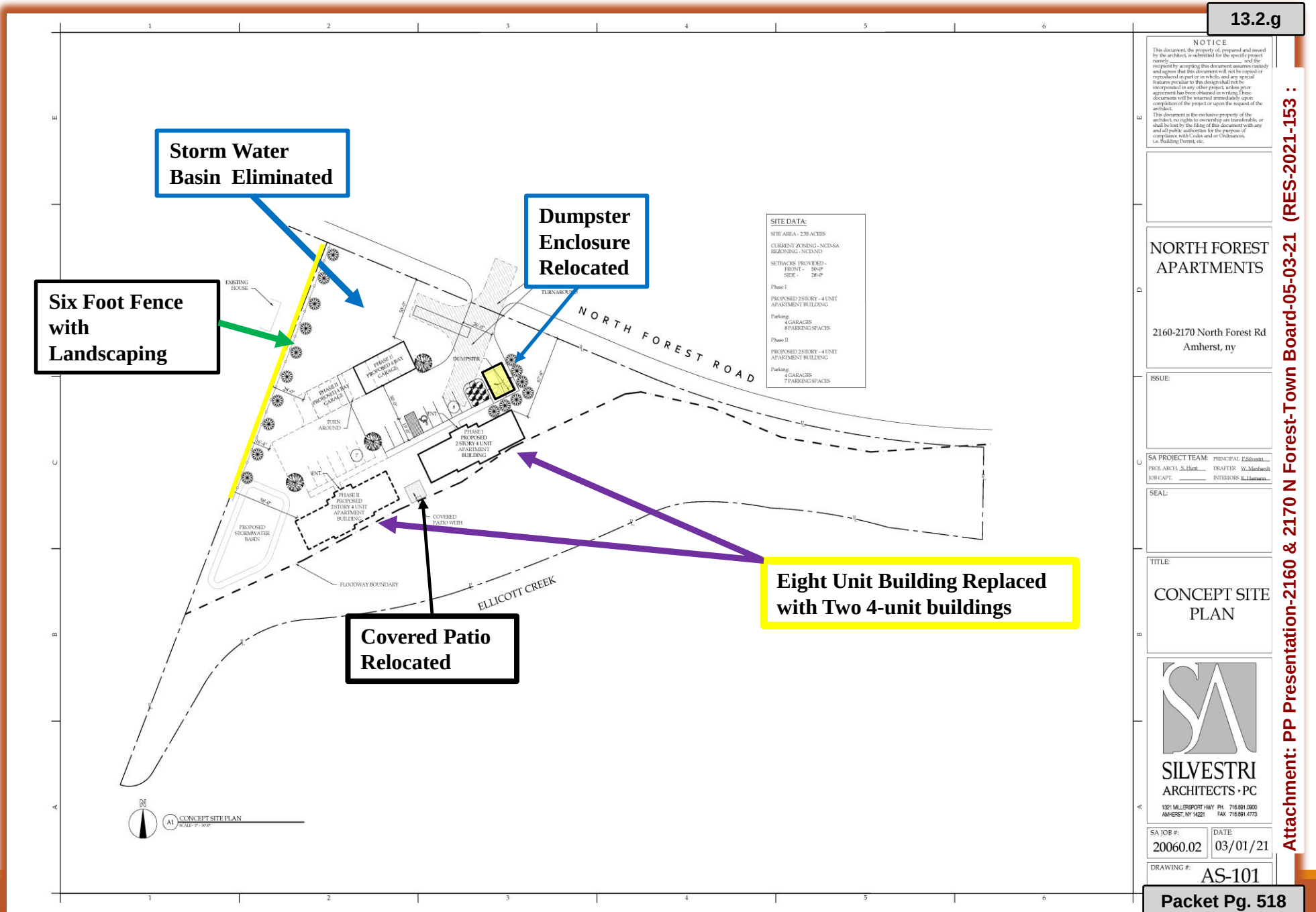
- Project layout had been updated based on input received regarding the original Concept Plan
- 2-story building with 8 units and 16 parking spaces [Density reduced by 56%]
- Low Density: 3.4 units per acre
- No impact to the regulated floodway



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



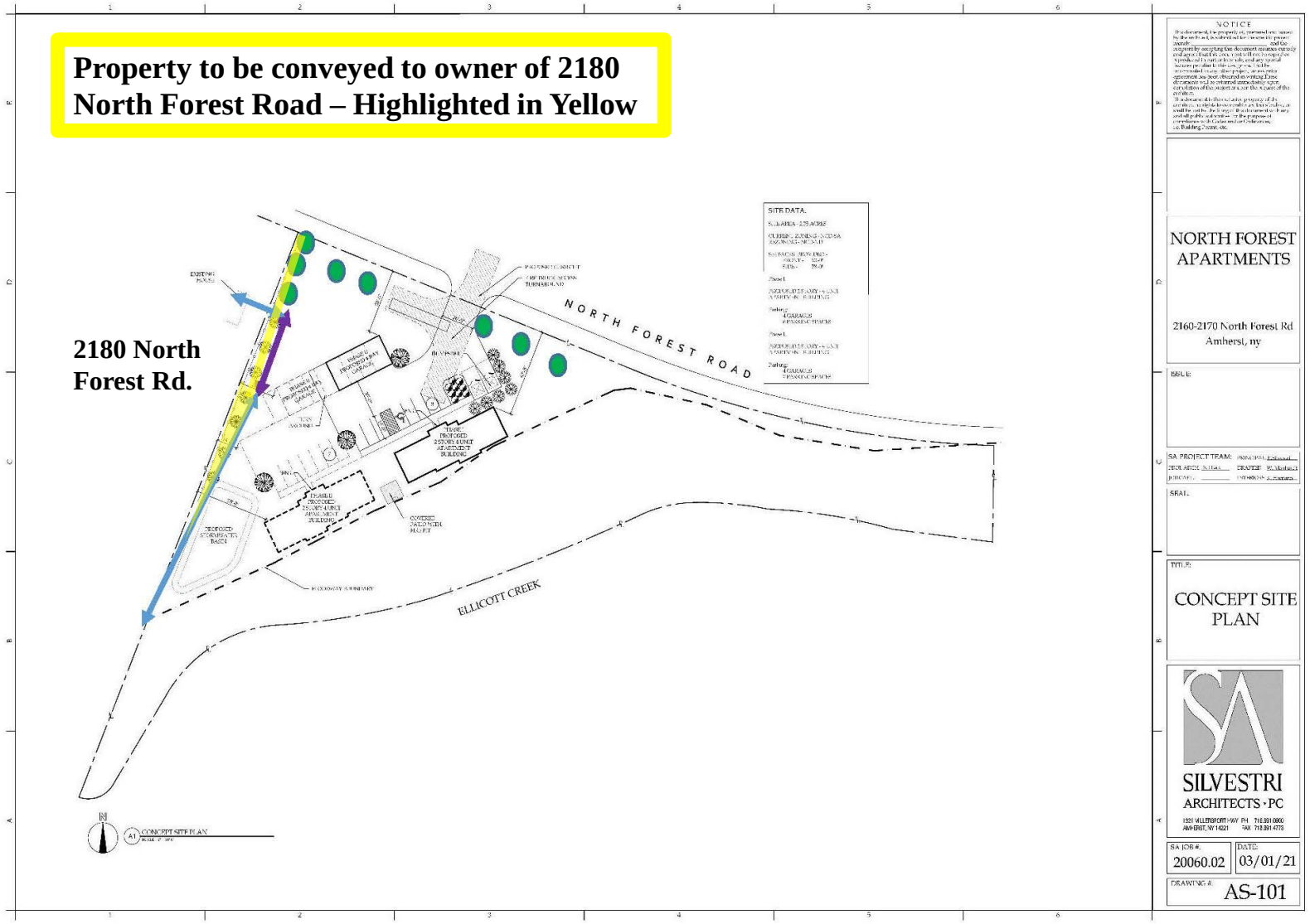
Updated Concept Plan:

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]

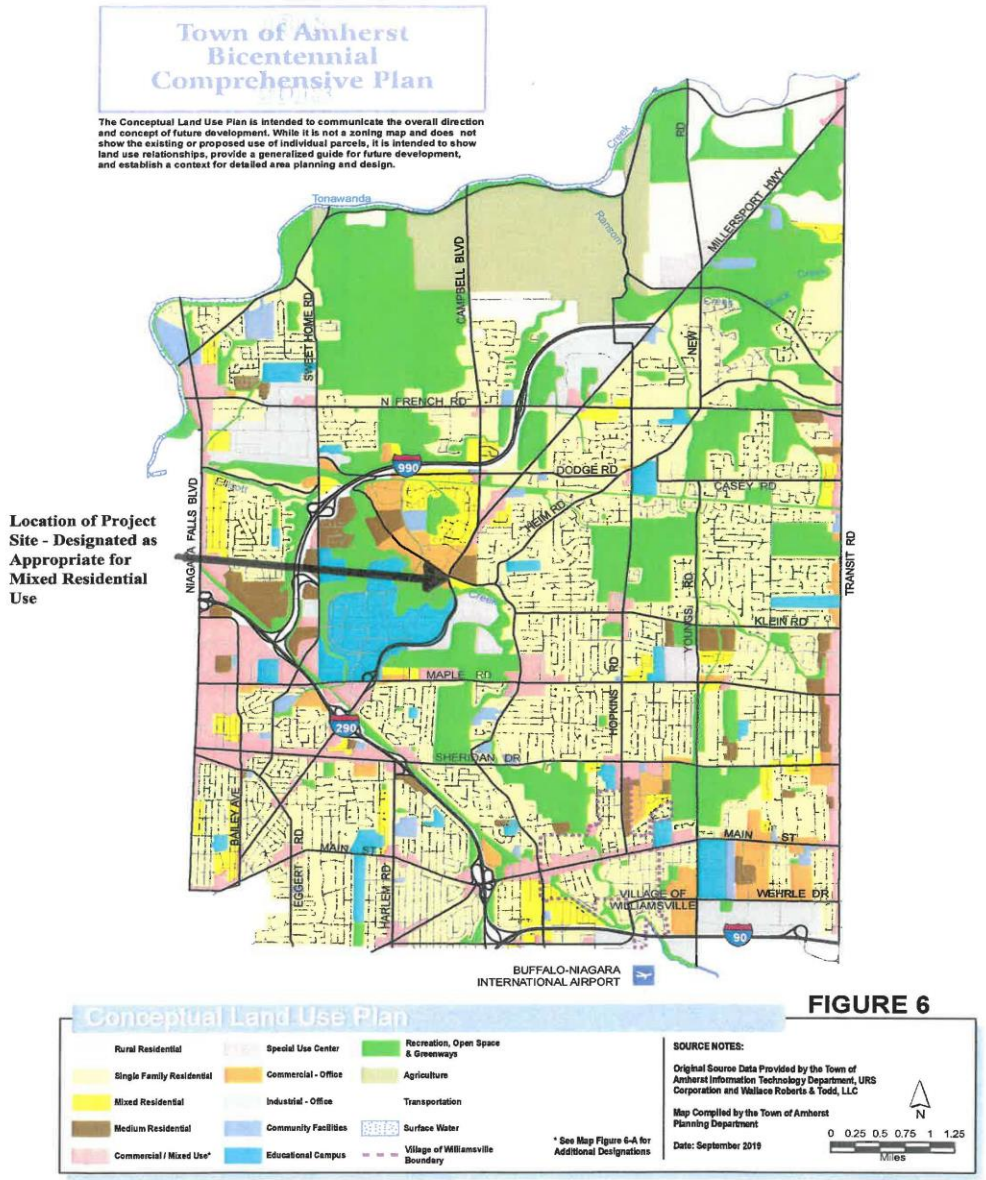
Yellow: 15 ft. of property to be conveyed to owner of 2180 North Forest Road upon the Applicant obtaining site plan approval and closing on the purchase of the Project Site.



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: 10/18/21 07:00 PM
Department: Town Clerk
DOC ID: 24922

COMMUNICATION 2021-104 **APPROVED**

Request for Public Hearing to Amend the Comprehensive Plan 4252-4258 Ridge Lea Road

Request from James A. Boglioli, Esq. to schedule a public hearing to Amend the Comprehensive Plan for 4252-4258 Ridge Lea Road.

This hearing has been scheduled for November 22, 2021.

10/18/2021
Consent

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

BENDERSON DEVELOPMENT COMPANY, LLC. • 570 Delaware Ave., Buffalo, NY 14202 • 716/886-0211• FAX 716/886-2269 • www.benderson.com

October 12, 2021

VIA HAND DELIVERY
Francina J. Spoth, Town Clerk & Receiver of Taxes
Amherst Municipal Building
5583 Main Street
Williamsville, NY 14221

RE: Request to Amend the Comprehensive Plan, BCPA -2021-01
Property Located at 4252-4258 Ridge Lea Road (BDP# 5077)

Dear Ms. Spoth:

In connection with the above-referenced application, on September 13, 2021, the Planning Board considered the request to amend the Comprehensive Plan and recommended that it be **approved** by the Town Board. We respectfully request that this matter be placed on a public hearing before the Town Board.

We look forward to working with the Town on this project. We believe this project represents a great development opportunity for this area that is consistent with the previous development of the property. If there are any questions regarding this letter, please feel free to contact me at (716) 878-9626 or jamesboglioli@benderson.com.

Thank you,
BENDERSON DEVELOPMENT COMPANY, LLC

James A. Boglioli

James A. Boglioli, Esq.
Director, Right to Build – Northeast US

Cc: Daniel C. Howard, AICP
Planning Director

Attachment: benderson Town Clerk LOI 10-12-21 (COM-2021-104 : Request for Public Hearing to Amend the Comprehensive Plan 4252-4258

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Councilmembers
DOC ID: 24902

COMMUNICATION 2021-105 **REFERRED**

Fireworks Noise in Amherst and Surrounding Areas

The attached letters are from residents in the Amherst community and surrounding areas regarding the recent fireworks at Country Club of Buffalo.

10/18/2021
Referred to Town Attorney & Building.

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

-------- Original message --------
From: Alan Bedenko [redacted]
Date: 10/12/21 11:14 AM (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>, "Spoth, Francina" <fspoth@amherst.ny.us>
Subject: Country Club of Buffalo Fireworks 10/9/21

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.

All -

I am a resident of Clarence but write to you today regarding town of Amherst business.

At the board meeting of October 4th, the board approved Resolution 2021-889, which permitted the County Club of Buffalo to hold a fireworks display that was, among other things, supposed to be completed by 11pm on Saturday October 9.

Given that nightfall is rather early at this time of year, 11pm for fireworks to end is already abnormally late.

My home is located in the Spaulding Green subdivision of Clarence, just south of Greiner Road and just to the east of Goodrich. CCB's lengthy fireworks display was heard very distinctly here and woke up everyone in my house. Although a very short burst of fireworks was set off at some time before 11, an even longer display commenced sometime after 11:15 pm in flagrant violation of the town's permit.

My information is that this was for a wedding involving the daughter of one of the Paddock family, which is quite wealthy and prominent. I also recognize that we are talking about a private club with an initiation fee equal to an amount that approaches the median household income in Erie County. As such, I assume that these people think that their wealth enables them selfishly and wantonly to disrupt and awaken people and animals as far away as Pendleton and Clarence with impunity for the sake of an unnecessarily ostentatious display.

I would ask that, in the future, requests for fireworks at the County Club of Buffalo be rejected for a period of at least a year and that, after that suspension, that their permits require displays to be over no later than 10pm.

Thank you for your kind attention to this matter.

--
Alan J. Bedenko
Email: [redacted]
Cell: [redacted]

Attachment: bedenko (COM-2021-105 : Fireworks Noise in Amherst and Surrounding Areas)

-------- Original message --------
From: [redacted]
Date: 10/10/21 2:13 PM (GMT-05:00)
To: "Kulpa, Brian J." <bkulpa@amherst.ny.us>, "Lavin, Shawn A." <slavin@amherst.ny.us>, "Szukala, Michael" <mszukala@amherst.ny.us>, "Bucki, Debbie" <dbucki@amherst.ny.us>
Cc: "Chamberlin, Scott" <schamberlin@apdny.org>
Subject: country club of buffalo fireworks 10/9/2021

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 All Responsible Parties:

You were all responsible for approving, on 10/4, fireworks at the country club of buffalo on 10/9/2021 for a wedding party. The agreement, per the attached document, that shows your approvals, was violated. The fireworks were to be completed at 11pm , they did NOT start the fireworks until 11:10 pm and ended around 11:20 pm. This is beyond the noise ordinance of the town which is in place at 11pm. I demand fines be issued to not only the country club but the family that requested them! We all pay taxes in this town and expect and demand all policies/rules to be followed no matter how well off someone is! I was going to call the police on the non-emergency line but by the time I figured out where the extremely loud fireworks were coming from they were coming to an end. It is all of your responsibilities to ensure these "permits" are followed exactly as written!!! As a tax payer I again ask that you impose fines to all parties that violated this noise ordinance!

Thank you,
Lauren Dewey

Attachment: dewey (COM-2021-105 : Fireworks Noise in Amherst and Surrounding Areas)

Koller, Timothy

From: Aaron Petritz <[redacted]>
Sent: Monday, October 11, 2021 9:42 AM
To: Spoth, Francina; Kulpa, Brian J.; McMahon, Joe
Cc: Cooper, Kathy; Schultz, Joanne A.; Uthman, Vianne; Koller, Timothy
Subject: Fireworks Display on SAT OCT 9th from 11:00 to 11:15PM

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.

As you are probably aware there was an incredibly loud fireworks display that began at 11:00PM on Saturday night and continued for over 15 minutes coming from the Country Club of Buffalo. The noise from this display was so loud nearby across Sheridan Dr., that it woke all 3 of my kids who are under the age of 10.

I would like to know who approved this application and WHY, so the thousands of voters in this area can make sure we are heard this November?

There is no reason to allow this kind of noise that late on a Saturday night in a residential neighborhood with thousands of homes and small kids who are trying to sleep. Anyone who has small children knows the struggle to get them to bed, only to have them woken up scared by the very loud explosions a few hours later.

Whatever they are "celebrating" at this private club does not give them the right to break the town noise ordinance and disrupt the sleep of thousands of local residents who live here every day and pay millions of dollars in taxes. I am not sure WHY this permit was granted, but the CCB members should be ashamed for creating this kind of chaos in our neighborhood so late at night. Apparently they believe shooting of fireworks at 11:00PM is more important than the sleep of thousands of people who live nearby.

I hope the Town will revise this code and make sure this NEVER happens again. I can not tell you how many of my neighbors were talking about this on Sunday and incredibly upset it was allowed to happen by the town and CCB members.

I look forward to your response and myself and many of the area residents will see you at the next Town Hall meeting.

Regards,
Aaron Walker
Belvoir Rd.
Amherst, NY

Attachment: walker email (COM-2021-105 : Fireworks Noise in Amherst and Surrounding Areas)

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Councilmembers
DOC ID: 24919

COMMUNICATION 2021-106 **REFERRED**

Commentary Regarding Harding Road

The attached email mentions action regarding Harding Road rezoning.

10/18/2021
Referred to Town Attorney & Planning.

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

-------- Original message --------
From: "Bucki, Debbie" <dbucki@amherst.ny.us>
Date: 10/13/21 11:29 AM (GMT-05:00)
To: [redacted]
Subject: RE: Harding Road

Dear Mr. Dolata,
Thank you for your message.
My vote on the Harding Road rezoning speaks for my position on the matter.
In light of the fact that you have contacted an Attorney, I am precluded from speaking any further about this issue.
Sincerely,
Deborah Bruch Bucki
Amherst Councilmember

Sent via the Samsung Galaxy S10, an AT&T 5G Evolution capable smartphone

-------- Original message --------
From: THOMAS DOLATA [redacted]
Date: 10/8/21 12:08 PM (GMT-05:00)
To: "Bucki, Debbie" <dbucki@amherst.ny.us>
Subject: 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.

Greetings,
Thank you for your vote on the rezoning of Harding Road.
Unfortunately we did not have the votes to defeat the proposal.
We recently spoke with Richard Lippes about bringing a lawsuit against the town about the rezoning.
Can you share any thoughts about that avenue of approach to this issue?

Respectfully
Tom Dolata
Sent from my iPhone

Attachment: COMMUNICATION DB Harding Rd redacted 20211018 (COM-2021-106 : Commentary Regarding Harding Road)

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Town Clerk
DOC ID: 24911

COMMUNICATION 2021-107 **REFERRED**

Summons & Complaint: Lee Fang Vs Town of Amherst

10/18/2021
Referred to Town Attorney.

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

14.4.a

SUPREME COURT OF STATE OF NEW YORK
COUNTY OF ERIE

Lee Fang,
Plaintiff,

v.

Town of Amherst,
Defendant.

SUMMONS

Index No.: ____/____
Date Index No. Purchased_____

To the above named Defendant

PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED to answer the complaint of the plaintiff herein and to serve a copy of your answer on the plaintiff at the address indicated below within 20 days after the service of this Summons (not counting the day of service itself), or within 30 days after service is complete if the Summons is not delivered personally to you within the State of New York.

YOU ARE HEREBY NOTIFIED THAT should you fail to answer, a judgment will be entered against you by default for the relief demanded in the complaint.

Dated: September 17, 2021

Lee Fang, Plaintiff
344 Capen Boulevard
Amherst, New York 14226
Phone: (716) 832-2954

The basis for venue:

Plaintiff's Residence is in the County Erie, the State of New York, and
Defendant is located in and has its pricipal business address in the County of Erie, the State of New York.

1

Attachment: DOC101321-10132021105304 (COM-2021-107 : Summons & Complaint: Lee Fang Vs Town of Amherst)

14.4.a

SUPREME COURT OF STATE OF NEW YORK
COUNTY OF ERIE

Lee Fang,
Plaintiff,

v.

Town of Amherst,
Defendant.

COMPLAINT

Index No.: ____/____

TO THE SUPREME COURT OF THE STATE OF NEW YORK

The complaint of the plaintiff, Lee Fang, respectfully shows and alleges as follows:

I. The Basis for Venue

1. The plaintiff herein, Lee Fang, is a resident of the County of Erie, the State of New York, and resides at 344 Capen Boulevard, Amherst, New York 14226.

2. The defendant herein, Town of Amherst, is located in the County of Erie, the State of New York, and has a principal place of business at 5583 Main Street, Williamsville, New York 14221.

II. Background

3. On or about August 17, 2020, the Highway Department of Town of Amherst (referred to as Town hereafter) performed a repaving project on Capen Boulevard (referred to as Repaving hereafter).

4. The Repaving causes damages to the reinforced concrete driveway apron (referred to as Apron hereafter) in front of plaintiff's property at 344 Capen Boulevard, Amherst, New York 14226.

5. On September 9, 2020, plaintiff filed an "INCIDENT REPORT" with Town,

Attachment: DOC101321-10132021105304 (COM-2021-107 : Summons & Complaint: Lee Fang Vs Town of Amherst)

regarding the above indicated damages caused by Repaving.

6. Town denied its responsibility and refused to remediate the above indicated damages caused by Repaving.

7. On October 29, 2020, a verified "Notice of Claim" was served on defendant.

8. On November 12, 2020, as a follow-up, a verified "Second Notice of Claim" was served on defendant.

9. After being served with Notice of Claim, defendant failed to properly serve the notice of Section 50-h hearing within ninety days from the date of filing of the notice of claim.

10. No demand for examination shall be effective against the claimant (plaintiff) if defendant failed to properly serve the notice of Section 50-h hearing within ninety days from the date of filing of the notice of claim, pursuant to the subdivision two of General Municipal Law Section 50-h.

11. As of today, no solution has been reached.

III. Duty of Care

12. When performed the Repaving, defendant owes the duty of care to everyone, including plaintiff, who lives and/or moves along the Capen Boulevard.

13. Defendant has enforced its current CURB CUT AND DRIVEWAY APRON SPECIFICATIONS (referred to as Specification hereafter) since its issuance. In doing so, the Town owes the duty of care to everyone, including plaintiff, who lives and/or moves around the Town of Amherst.

IV. Breach the Duty of Care: Count One

14. The damages caused by Repaving are:

a. The thickness of Apron lip increased from original 0.75-inch to current

Attachment: DOC101321-10132021105304 (COM-2021-107 : Summons & Complaint: Lee Fang Vs Town of Amherst)

4.5-inch, indicating that the current pavement is about 3.75-inch lower than the original pavement, i.e., a 3.75-inch pavement sinking.

b. The height of curbs on either side of the Apron increased from original four (4) inches to current excessive nine (9) inches, indicating that the top of current curb is about one and quarter (1.25) inches higher than the original curb. *(9" curb - original 4" curb - 3.75" pavement sinking = 1.25" curb rising).*

c. There is ponding runoff water in front of the Apron after rains due to current pavement being 3.75-incch lower than the original pavement.

15. Therefore, defendant breached its duty of care because: (a) the nine-inch high curbs, four-and-half-inch thick apron lip, and ponding water have rendered the driveway entrance unsafe, and (b) the unsafe driveway entrance has infringed plaintiff's right of having a safe entrance to his property.

16. When responding to plaintiff's INCIDENT REPORT, in a letter dated September 17, 2020, Town Attorney (referred to as Attorney hereafter) affirmed that "[s]imply stated, there was no defect in the construction methods utilized by the entity which installed new curbs and performed milling and paving work on Capen Boulevard in August, 2020." This statement has assumed Town's sole responsibility for the outcome of Repaving.

17. In the same letter, in trying to deny the fact that Repaving has caused the above indicated damages, Attorney further stated that "[o]ur investigation in this matter reveals that when you purchased the property in 1990, the curbs on either side of your driveway were impermissibly small. The curbs are required to be minimally 6 inches when they were 4 inches".

18. With the above statement, Attorney actually clarifies that defendant is responsible for the damages to Apron and has breached its duty of care. Because it is the defendant, not the

Attachment: DOC101321-10132021105304 (COM-2021-107 : Summons & Complaint: Lee Fang Vs Town of Amherst)

plaintiff, who owns the said curbs and pavement. Accordingly, it is defendant's sole responsibility to fulfill the duty of care of curb and pavement construction, maintenance and code compliance.

V. Breach the Duty of Care: Count Two

19. In the same letter, Attorney demanded that "[a]ccordingly, we request that you immediately obtain a curb cut for your driveway and also take the appropriate steps of assuring that the driveway apron is "flush" with the existing pavement".

20. However, Town's Specification prevents plaintiff from replacing the damaged Apron without violating the Specification and New York State Department of Transportation Specifications and Standard Sheets (referred to as NYSDOT). The reasons are described below.

21. The current Specification is erroneous because it requires that the curb height be minimally six inches. This violates NYSDOT which requires that the curb height shall be no more than six inches.

22. It is foreseeable that (a) the requirement of minimal six-inch curbs could result unlimited curb heights, such as 9", 19" and even higher, and (b) the higher the curb is above 6", the more hazardous it could be.

23. The current Specification is self-conflict because it requires that the following three conditions are to be met concurrently, which are (a) minimal six-inch (6") high curb, (b) four-and-half-inch (4.5") deep curb cut and (c) three-quarter of inch (0.75") thick apron lip. This requirement is mathematically and physically impossible to meet, because 4.5" curb cut depth plus 0.75" apron lip thickness equals to 5.25" curb height, which is smaller than 6" and is much smaller than the as-built 9" curb height as is in this case.

24. Therefore, Town has breached its duty of care since the issuing of its erroneous

Attachment: DOC101321-10132021105304 (COM-2021-107 : Summons & Complaint: Lee Fang Vs Town of Amherst)

and self-conflict Specification and is continuously breaching of its duty of care when enforcing the Specification that is known to be erroneous and self-conflict.

25. The above said error of requiring minimal 6-inches curb cut is foreseeable and avoidable had a due diligence of Code Review have been performed prior to issuing the Specification.

26. The above said self-conflict is foreseeable and avoidable had a simple math check have been performed prior to issuing the Specification.

27. Via an email dated October 16, 2020, Town issued a Specification Variation with an instruction stating that "[a]ttached are the specifications that must be followed when you install your driveway apron".

28. The said Specification Variation removes the requirement of 4.5" curb cut but maintains the as-built 9" curbs in place. Therefore, portions of apron flare along the 9" curb will be higher than 6". Therefore, the driveway entrance will still be rendered unsafe.

VI. Causation

29. But for defendant's Repaving, the plaintiff's Apron lip height would not have been increased from original 0.75" to current 4.5".

30. But for defendant's Repaving, the curbs on either side of the Apron would not have been increased from original 4" to current 9".

31. But for defendant's Repaving that caused a 3.75" pavement sinking, there would have been no ponding runoff water in front of plaintiff's Apron after rains.

32. It is foreseeable that the nine inches high curbs, four and half inches thick apron lip, and ponding water could render the driveway entrance unsafe.

33. It is foreseeable that an unsafe driveway entrance could infringe plaintiff's right

Attachment: DOC101321-10132021105304 (COM-2021-107 : Summons & Complaint: Lee Fang Vs Town of Amherst)

of having a safe entrance to his property.

34. But for defendant's Repaving project and its erroneous and self-conflict Specification, the damaged Apron would have been replaced without violating either Specifications or NYSDOT.

35. Because defendant's ownership of the pavement and curbs, only defendant has the authority and duty to remediate the damages caused by sinking pavement and 9" curbs.

VII. Damages To Plaintiff

36. The cost of removing the damaged Apron and then installing a new one will be in excess of $1,500 according to Attorney's letter dated October 22, 2020.

37. By reason of the facts and circumstance stated above, plaintiff's Apron has been damaged and rendered the entrance of plaintiff's property unsafe.

38. By reason of the facts and circumstance stated above, the plaintiff's right of a safe entrance to his property has been infringed.

39. By reason of the facts and circumstances stated above, defendant's erroneous and self-conflict Specification prevents plaintiff from replacing the damaged Apron without violating the Specification and/or NYSDOT.

40. By reason of the facts and circumstances stated above, defendant's 9" curbs prevent plaintiff from installing a safe apron.

41. By reason of the facts and circumstances stated above, only the defendant has the authority and undeniable duty to remediate the problematic pavement and nine-inch (9") high curbs, and to replace the damaged Apron with a new one.

VIII. Conclusion

42. By reason of the facts and circumstances stated above, the defendant owes the

Attachment: DOC101321-10132021105304 (COM-2021-107 : Summons & Complaint: Lee Fang Vs Town of Amherst)

duty of care to plaintiff.

43. By reason of the facts and circumstances stated above, the defendant has breached its duty of care owing to plaintiff.

44. By reason of the facts and circumstance stated above, but for defendant's breaching of its duty of care, plaintiff would not have suffered the damages that are foreseeable and avoidable.

45. By reason of the facts and circumstance stated above, the defendant has caused damages to plaintiff.

WHEREFORE, plaintiff respectfully requests orders and judgments against defendant:

1. Ordering that defendant shall, at its own cost, immediately remediate the problematic pavement and nine-inch curb.

2. Ordering that defendant shall, at its own cost, immediately remove the damaged existing Apron and install a new reinforced concrete apron in front of plaintiff's property at 344 Capen Boulevard, Amherst, New York 14226; or

3. Granting the judgment in the amount equal to the total cost of removing the damaged existing Apron and installing a new reinforced concrete apron in front of plaintiff's property at 344 Capen Boulevard, Amherst, New York 14226.

4. Granting costs and disbursements, together with any other relief that Court finds to be just and proper.

Dated: September 17, 2021

Lee Fang, Plaintiff
344 Capen Boulevard
Amherst, New York 14226
Phone: (716) 832-2954

Attachment: DOC101321-10132021105304 (COM-2021-107 : Summons & Complaint: Lee Fang Vs Town of Amherst)

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

Francina J. Spoth
Town Clerk

Meeting: 10/18/21 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 24935 **RESOLUTION 2021-944** **ADOPTED**

The Preserve at Muir Woods - Phase III

Suspension to Town Board Agenda Item October 18, 2021

TO: **Amherst Town Board**
FROM: **Jeffrey S. Burroughs, P.E., Town Engineer**
DATE: **October 18, 2021**
RE: **The Preserve at Muir Woods - Phase III**

TOA Job 2005.008A - The Preserve at Muir Woods - Phase III Public Improvement Permit No. #3070 - Waterline
This is to certify that the referenced waterline construction has been completed in accordance with plans and specifications, and we recommend that the same be accepted. A Maintenance Bond for a period of two (2) years in the amount of $20,000.00, representing 25% of the cost of construction will be forwarded to the Town Clerk.

TOA Job 2005.008A - The Preserve at Muir Woods - Phase III Public Improvement Permit No. #3072 - Paving & Curbing
This is to certify that the referenced paving and curbing construction has been completed in accordance with the plans and specifications, and we recommend that the same be accepted. A Maintenance Bond for a period of two (2) years in the amount of $86,785.00, representing 25% of the cost of construction will be forwarded to the Town Clerk.

TOA Job 2005.008A - The Preserve at Muir Woods - Phase III Public Improvement Permit No. #3069 - Sanitary Sewer
This is to certify that the referenced sanitary sewer construction has been completed in accordance with the plans and specifications, and we recommend that the same be accepted. A Maintenance Bond for a period of two (2) years in the amount of $51,250.00, representing 25% of the cost of construction will be forwarded to the Town Clerk.

TOA Job 2005.008A - The Preserve at Muir Woods - Phase III Public Improvement Permit No. #3071 - Storm Sewer
This is to certify that the referenced storm sewer construction has been completed in accordance with the plans and specifications, and we recommend that the same be accepted. A Maintenance Bond for a period of two (2) years in the amount of $30,000.00, representing 25% of the cost of construction will be forwarded to the Town Clerk.

10/18/2021
A motion to approve was made by Deputy Supervisor Berger, seconded by Councilmember Bucki and unanimously approved 5-0.

FINANCIAL IMPACT:

Maintenance Bonds for a period of two (2) years

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: 10/18/21 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 24931 **RESOLUTION 2021-945** **ADOPTED**

Road Dedication – the Preserve at Muir Woods, Phase 3

SUSPENSION AGENDA ITEM : OCTOBER 18TH, 2021

TO: **Town Board**

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

DATE: **October 18, 2021**

RE: **Road Dedication - The Preserve at Muir Woods, Phase 3**

Kindly adopt a resolution authorizing the Supervisor to accept the roads in Phase 3 of The Preserve at Muir Woods and to execute any and all documents that are required to effectuate the dedication pending: (1) successful review of the Contract Routing System; (2) submission of the required maintenance bonds to the satisfaction of the Engineering Department; and (3) subject to final approval by the Town Attorney's Office.

Thank you.

SJS:nmb
c: Kathy Cooper, Deputy Town Clerk
(**Suspension Agenda Item - October 18th, 2021**)
Sean W. Hopkins, Esq.

10/18/2021
A motion to approve was made by Deputy Supervisor Berger, seconded by Councilmember Bucki and unanimously approved 5-0.

FINANCIAL IMPACT:

n/a

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