Amherst Town Board

Budget Meeting of the Town Board

Minutes

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

Francina J. Spoth
Town Clerk

Monday, October 25, 2021 | **7:00 PM** | **Amherst Municipal Building**

I. IN MEMORY

II. INVOCATION

Councilmember Bucki

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL:

7:00 PM Meeting called to order on October 25, 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	
Daryl Bramer	Town of Amherst	Comptroller	Present	
Stanley J. Sliwa	Town of Amherst	Town Attorney	Present	
Daniel J. Ulatowski	Town of Amherst	Assistant Planning Director/ZEO	Present	
Jeffrey S. Burroughs	Town of Amherst	Town Engineer	Present	
Lynda Juul	Town of Amherst	Director of Finance	Present	
Patrick G. Lucey	Town of Amherst	Highway Superintendent	Present	

V. MINUTES APPROVAL

1. Monday, October 18, 2021

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

VI. PROCLAMATIONS AND ANNOUNCEMENTS

VII. PUBLIC HEARINGS

Speakers will be limited to 3 minutes.

1. Resolution 2021-946

Capital Improvement Program (CIP) 2022-2027

The 2022-2027 CIP is available for viewing at the Planning Department, the Town Clerk's Office, and on the Town of Amherst Website (as part of the Town's Overall Budget). The 2021-26 CIP can be found on the following page:

<https://www.amherst.ny.us/content/departments.php?dept_id=dept_15&div_id=div_22&menu_id=menu_22>

10/25/2021
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 7:04 PM.

Supervisor Kulpa gave a brief presentation.

The following speaker addressed the Board:
Don Smith, N. Long St. - planning department projects, total amount of bonding

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

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

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

2. Resolution 2021-947

Town of Amherst 2022 Budget

Presentation of the Supervisor's tentative budget without Town Board modifications for the fiscal year beginning January 1, 2022. The 2022 Budget is available for viewing at the Williamsville, Clearfield, Audubon, and Eggertsville-Snyder Libraries, the Comptroller's and Town Clerk's Offices, and the Town of Amherst Website.

<https://www.amherst.ny.us/content/departments.php?dept_id=dept_07&div_id=div_09&menu_id=menu_05>

10/25/2021
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 7:20 PM.

Supervisor Kulpa gave a brief presentation

The following speaker addressed the Board:
Don Smith, N. Long St. - questioning the total budget numbers from 2021 to 2022

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the hearing, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was closed at 7:45 PM.

A motion to set a Decision Date for November 8, 2021 was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

RESULT:	**DECISION DATE [UNANIMOUS]**	**Next: 11/8/2021 7:00 PM**
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Deborah Bruch Bucki, Councilmember	
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala	

VIII. PERSONAL APPOINTMENTS TO BOARDS & COMMITTEES

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

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

1. 9/11 Commemoration Committee

Membership is unlimited.

2. Amherst Committee on Disabilities (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)

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 (4), Youth vacancies (0)

31. Zoning Board of Appeals

Membership is full.

IX. PUBLIC EXPRESSION

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

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

The following speaker addressed the Board:
Don Smith, N. Long St. - numerous issues

There were no further speakers from the public, therefore Supervisor Kulpa moved to close Public Expression, seconded by Deptuy Supervisor Berger and unanimously approved 5-0. Public Expression was closed at 7:50 PM

X. CONSENT AGENDA

XI. COUNCILMEMBER RESOLUTIONS

A. SUPERVISOR KULPA:

B. DEPUTY SUPERVISOR BERGER:

1. Resolution 2021-948

Red Alert Upgrades

WHEREAS, the Amherst Central Fire Alarm Office utilizes Alpine Software, also known as Red Alert, for dispatching and record keeping; and

WHEREAS, the Amherst Fire Chiefs Association has requested the addition of 2 modules to be added to the dispatching software; and

WHEREAS, the additional modules would allow the Red Alert system to expand aiding in the pre-planning of buildings.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board approves the transfer of $17,000.00 from Avoidable Alarm Fund T-2999.4002 to A3020.4110.

10/25/2021
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

C. COUNCILMEMBER BUCKI:

D. COUNCILMEMBER LAVIN:

E. COUNCILMEMBER SZUKALA:

1. Resolution 2021-949

Set Public Hearing Date – New Subdivision Traffic Control Signing Amending Resolution 2021-910

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."

Miller's Crossing

"The tee intersection of Streamsong Court and New Road is hereby designated as a stop intersection and a stop sign shall be installed at the southwest corner."

and,

"The tee intersection of Streamsong Court and Autumn Meadows Lane is hereby designated as a stop intersection and a stop sign shall be installed at the northwest corner."

The Preserve at Glen Meadow

"The tee intersection of Glen Meadow Drive and Dodge Road is hereby designated as a stop intersection and a stop sign shall be installed at the northeast corner."

and,

"The tee intersection of Glen Meadow Drive and Glen Meadow Drive South is hereby designated as a stop intersection and a stop sign shall be installed at the southeast corner."

Fair Woods Estates

"The tee intersection of Fair Woods Drive and Heim Road is hereby designated as a stop intersection and a stop sign shall be installed at the northeast corner."

10/25/2021

A motion to approve was made by Councilmember Szukala, seconded by Councilmember

Lavin and unanimously approved 5-0.

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

XII. DEPARTMENT HEAD RESOLUTIONS AND REPORTS

A. TOWN ATTORNEY:

1. Resolution 2021-950

License Agreement - 238 Oakbrook Drive (Reszel) (CRS #2956)

AGENDA ITEM : OCTOBER 25th, 2021

TO: **Town Board**

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

DATE: **October 20, 2021**

RE: **Request for License Agreement (CRS #2956)**
Installation of Fence
Property Located At:
238 Oakbrook Drive, Williamsville, New York 14221

Kindly adopt a resolution authorizing the Supervisor to execute the attached License Agreement pending successful routing of the Contract Routing System.

The owners of the above-referenced property are seeking permission to utilize existing fence posts to install a new fence that encroaches into Town-owned easements, the details and stipulations of which are more fully described in the License Agreement.

This request was reviewed and approved by the Engineering Department and Highway Department.

Thank you for your consideration.

NMB:hs
Attachment
c: Kathy Cooper, Deputy Town Clerk
(w/attachment, **Agenda Item: October 25th, 2021**)
Timothy Lucey, General Crew Chief (*w/attachment*)
Brian J. Armstrong, EIT, Assistant Municipal Engineer *(w/attachment)*

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

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

2. Resolution 2021-951

Road Dedication - Miller's Crossing, Phase I

AGENDA ITEM : OCTOBER 25TH, 2021

TO: **Town Board**

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

DATE: **October 20, 2021**

RE: **Road Dedication - Miller's Crossing, Phase I**

Kindly adopt a resolution authorizing the Supervisor to accept the roads in Phase 1 of Miller's Crossing and to execute any and all documents that are required to effectuate the dedication pending: (1) successful review of the Contract Routing System; and (2) subject to final approval by the Town Attorney's Office.

Thank you.

SJS:nmb
c: Kathy Cooper, Deputy Town Clerk
(**Agenda Item - October 25th, 2021**)
Jeffery D. Palumbo, Esq.

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

3. Resolution 2021-952

Settlement of Article 7 Matter - Summerset Apts. LLC V. Town of Amherst, Et Al.

AGENDA ITEM : OCTOBER 25th, 2021

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Senior Deputy Town Attorney**

DATE: **October 20, 2021**

RE: **Settlement of Article 7 Matter**
Summerset Apts. LLC

Kindly adopt a resolution authorizing the following:

(1) Settlement of the above matter as detailed in the attached Consent Order; and

(2) Authorizing Senior Deputy Town Attorney Samuel A. Alba, Esq. to sign the attached Consent Order as the Attorney for the Respondent, Town of Amherst.

Thank you.

SJS:nmb
Attachment
c: Kathy Cooper, Deputy Town Clerk
(*w/attachment,* **Agenda Item : October 25th, 2021**)

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

B. TOWN CLERK:

1. Resolution 2021-953

Amusement License - Benderson Development

Request by Benderson Development for a First Class Amusement License to hold events from November 4 - 7 for a LL Bean Grand Opening and visit with Santa & carolers & Santa's train on days November 17, December 4, 11 & 18.
Supervising Code Enforcement Officer recommends a fee of $400.00.

The following conditions apply:

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

9. The applicant must abide by Chapter 138 of the Town of Amherst Code regarding noise.

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

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

2. Resolution 2021-954

New Firefighter for the North Bailey Fire Company

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

Ryan Woodard
4505 Chestnut Ridge Rd
Amherst, NY 14228

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

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

C. ASSESSOR:

D. BUILDING/BUILDING MAINTENANCE:

E. CENTRAL ALARM:

F. COMPTROLLER:

1. Resolution 2021-955

2022 Budget Amendments

The attached file has recommended 2022 budget amendment(s).

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

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

2. Resolution 2021-956

2022 Budget Other Items

Please see the attached file for 2022 Other Items ($442,263.55). These items are added to the tax bill of the property owner and Erie County Real Property Tax Department requires Town Board approval adopting special Town charges.

10/25/2021

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

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

3. Resolution 2021-957

Budget Transfers and Amendments

For Oct 25, 2021 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 10/20/2021
Re: Various Department Budget Transfers / Amendments

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

BUDGET TRANSFERS - 2021

FROM: ***TO:***

BUDGET AMENDMENTS - 2021

INCREASE: ***INCREASE:***

A3649.04589 ARPA - Federal Emergency Aid $2,135.80 A3649.2150 Building Improvements $2,135.80
To increase the budget for APD Emergency Generator installation CRS# 2936 change order #1 using American Rescue Plan Act funds.

N0001.20085 Amherst HOME 21/22 $170,685.00 N2156.4000 ARP Admin & Planning $170,685.00
To set up the budget for CRS #2944 HOME American Rescue Plan Grant Agreement.

N2155.02785 Amherst HOME Rental- PI $7,599.56 N2155.4000 Contractual $7,599.56
N2154.02785 Amherst Admin- PI $844.40 N2154.4003 Admin $844.40
To recognize Community Development program income from 2424 Kensington, Amherst.

10/25/2021

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

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

G. CONTRACT COMPLIANCE:

H. COURT:

I. ECONOMIC DEVELOPMENT:

J. EMERGENCY SERVICES:

K. ENGINEERING:

L. FINANCE:

M. HIGHWAY

1. Resolution 2021-958

CONTRACT EXTENSION BID #2020021 - Truck and Heavy Duty Equipment Parts and Repair CRS # Below

WHEREAS, BID # 2020021, Highway Department, Truck and Heavy Duty Equipment Parts and Repairs allows the contract to be extended for a period of twelve (12) months at the same terms and conditions; and

WHEREAS, the Highway Department is requesting approval for the extension of the contract under Resolution 2020-803 from 10/06/2021 to 10/05/2022; and

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Highway Department to extend as follows the contracts with Baschmann Services, Inc. (CRS# 2933); George & Swede Sales and Service (CRS# 2951); Fleet Maintenance, Inc. (CRS#2939); Vantage Equipment LLC (CRS# 2932); Cummins, Inc. (CRS# 2940); and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the extension for the five (5) vendors subject to the Contract Routing System and the approval of the Town Attorney.

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

N. HUMAN RESOURCES:

1. Resolution 2021-959

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 26, 2021 at an annual salary of $47,180, Grade 13, Step A for Molly Rosowski.

Replacing an employee who resigned.

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

2. Resolution 2021-960

Recreation Attendant-PT/Youth & Recreation

Recreation Attendant-PT/Youth & Recreation, Effective October 26, 2021, Temporary, $12.50 ph, Step 1 for Daniella Sutherland.

Due to reduced availability of current staff.

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

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

3. Resolution 2021-961

Assistant Code Enforcement Officer/Building Department

Please appoint an Assistant Code Enforcement Officer to the Building Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective October 26, 2021 at an annual salary of $45,099, Grade 12, Step A for Conrad Nagel, Jr.

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

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

4. Resolution 2021-962

Senior Maintenance Worker/Youth & Recreation

Please appoint a Senior Maintenance Worker to the Youth & Recreation Department. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective October 26, 2021 at an hourly rate of $25.50, Step J for James Wendling.

This is a promotion for an employee currently serving as a Maintenance Worker.

Replacing an employee who retired.

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

O. INFORMATION TECHNOLOGY:

1. Resolution 2021-963

Advance 2000 Statement of Work - CRS #2942

Please authorize the Supervisor to sign an agreement with Advance 2000 for the period of October 25, 2021 through October 18, 2023. This agreement is for specialized technical support on an as needed basis. This agreement has successfully completed the contract routing process.

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

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

P. PLANNING:

1. Resolution 2021-964

Sidewalk Waiver Request, SWW-2021-04

Sidewalk Waiver Request - SWW-2021-04; Property Located at 600 Park Club Lane (SBL# 68.15-1-7). HDJ Builders Inc., Petitioner.

The subject request has been reviewed by the Planning and Engineering Departments. Attached find the reviews from both departments which give their recommendations.

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

2. Resolution 2021-965

Sidewalk Waiver Request, SWW-2021-05

Sidewalk Waiver Request, SWW-2021-05; Property located at 337 North French Road (SBL# 26.19-2-18). Michael DiNatale, Petitioner.

The subject request has been reviewed by the Planning and Engineering Departments. Attached find the reviews from both departments which give their recommendations.

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

3. Resolution 2021-966

Sidewalk Waiver Request, SWW-2021-06

Sidewalk Waiver Request, SWW-2021-06; Property located at 42 Pinebrook Avenue (SBL# 56.19-4-19.2). John P. Kromer, Petitioner.

The subject request has been reviewed by the Planning and Engineering Departments. Attached find the reviews from both departments which give their recommendations.

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

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

Q. POLICE:

R. SENIOR SERVICES:

S. YOUTH AND RECREATION:

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: 11/8/2021 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.

RESULT:	**TABLED (NO VOTE)**	**Next: 11/8/2021 7:00 PM**

3. 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: 11/8/2021 7:00 PM**

XIV. COMMUNICATIONS

XV. SUSPENSION OF RULES

Supervisor Kulpa moved to open Suspension of Rules to bring forth 3 unlisted items. The motion was seconded by Deputy Supervisor Berger and unanimously approved 5-0. Suspension of Rules was opened at 7:58 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 8:01 PM.

1. Communication 2021-108

Set Public Hearing Date - Rezoning of 1789 Dodge Road

Suspension to Town Board Agenda Item October 25, 2021

TO: **Amherst Town Board**

FROM: **Sean Hopkins, Esq.**

DATE: **October 25, 2021**

RE: **Set Public Hearing Date - Rezoning of 1789 Dodge Road**

Request to set a public hearing on November 22, 2021 for the rezoning of 1789 Dodge Road from SA to R-3.

10/25/2021
A motion to approve was made by Deputy Supervisor Berger, seconded by Councilmember Bucki and unanimously approved 5-0.

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

2. Resolution 2021-967

Authorization of the Supervisor to Sign an Intragovernmental Agreement - (CRS #2962)

Suspension to Town Board Agenda Item October 25, 2021

TO: **Amherst Town Board**

FROM: **Mary-Diana Pouli, Executive Director**

DATE: **October 25, 2021**

RE: **Authorization of the Supervisor to sign an Intragovernmental Agreement - (CRS #2962)**

WHEREAS, Sweet Home Central School District has approved an Intragovernmental Agreement at their School Board meeting 10/19/2021 with a 7-0 vote; and

WHEREAS, the Amherst IDA approved the PIF related to the agreement 5-0 (with 2 members absent) on 10/22/2021.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board approve the Amherst Town Supervisor sign the Intragovernmental Agreement with Sweet Home Central School District (CRS #2963).

10/25/2021
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

3. Resolution 2021-968

Authorization of the Supervisor to Sign a Lease Agreement (CRS #2963)

Suspension to Town Board Agenda Item October 25, 2021

TO: **Amherst Town Board**

FROM: **Mary-Diana Pouli, Executive Director**

DATE: **October 25, 2021**

RE: **Authorization of the Supervisor to sign a Lease Agreement (CRS #2963)**

BE IT RESOLVED that the Amherst Town Board approve rescinding Resolution 2021-817 and contract CRS #2894, which was approved by the Amherst Town Board on 9/13/2021; and

BE IT FURTHER RESOLVED that the Amherst Town Supervisor sign the Lease Agreement between the Town of Amherst and ACC OP LLC (CRS #2963), pending successful completion of the contract routing process.

10/25/2021
A motion to approve was made by Deputy Supervisor Berger, seconded by Councilmember Szukala and unanimously approved 5-0.

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

XVI. PUBLIC IMPROVEMENT PERMITS

XVII. PUBLIC EXPRESSION #2

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 8:01 PM.

There were no speakers from the public, therefore Supervisor Kulpa moved to close Public Expression, seconded by Councilmember Bucki and unanimously approved 5-0. Public Expression was closed at 8:01 PM

XVIII. ADJOURNMENT

At 8:01 PM a motion to adjourn to Executive Session to discuss 2 matters was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

- Contract Negotiation on Acquisition of Land
- Opioid Litigation

Deputy Supervisor Berger motioned to end Executive Session at 8:27 PM. The motion was seconded by Councilmember Szukala and unanimously approved 5-0.

There being no further business to come before the Town Board, Supervisor Kulpa moved to adjourn, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The Town Board meeting of October 25, 2021 was adjourned at 8:28 PM.

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

Francina J. Spoth
Town Clerk

Meeting: 10/25/21 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 24951 **RESOLUTION 2021-946** **ADOPTED**

Capital Improvement Program (CIP) 2022-2027

The 2022-2027 CIP is available for viewing at the Planning Department, the Town Clerk's Office, and on the Town of Amherst Website (as part of the Town's Overall Budget). The 2021-26 CIP can be found on the following page:

<https://www.amherst.ny.us/content/departments.php?dept_id=dept_15&div_id=div_22&menu_id=menu_22>

10/25/2021
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 7:04 PM.

Supervisor Kulpa gave a brief presentation.

The following speaker addressed the Board:
Don Smith, N. Long St. - planning department projects, total amount of bonding

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

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

FINANCIAL IMPACT:

TBD

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Jacqualine Berger, Deputy Supervisor
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: 10/25/21 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 24950 **RESOLUTION 2021-947** **DECISION DATE**

Town of Amherst 2022 Budget

Presentation of the Supervisor's tentative budget without Town Board modifications for the fiscal year beginning January 1, 2022. The 2022 Budget is available for viewing at the Williamsville, Clearfield, Audubon, and Eggertsville-Snyder Libraries, the Comptroller's and Town Clerk's Offices, and the Town of Amherst Website.

<https://www.amherst.ny.us/content/departments.php?dept_id=dept_07&div_id=div_09&menu_id=menu_05>

10/25/2021
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 7:20 PM.

Supervisor Kulpa gave a brief presentation

The following speaker addressed the Board:
Don Smith, N. Long St. - questioning the total budget numbers from 2021 to 2022

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the hearing, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was closed at 7:45 PM.

A motion to set a Decision Date for November 8, 2021 was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

FINANCIAL IMPACT:

TBD

RESULT:	**DECISION DATE [UNANIMOUS]**	**Next: 11/8/2021 7:00 PM**
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: 10/25/21 07:00 PM
Department: Councilmembers
Initiated by: **Jacqualine Berger**
Co-Sponsored by:

DOC ID: 24948 **RESOLUTION 2021-948** **ADOPTED**

Red Alert Upgrades

WHEREAS, the Amherst Central Fire Alarm Office utilizes Alpine Software, also known as Red Alert, for dispatching and record keeping; and

WHEREAS, the Amherst Fire Chiefs Association has requested the addition of 2 modules to be added to the dispatching software; and

WHEREAS, the additional modules would allow the Red Alert system to expand aiding in the pre-planning of buildings.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board approves the transfer of $17,000.00 from Avoidable Alarm Fund T-2999.4002 to A3020.4110.

10/25/2021
A motion to approve was made by Deputy Supervisor Berger, seconded by Councilmember Bucki and unanimously approved 5-0.

FINANCIAL IMPACT:

A cost not to exceed $17,000.00.

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: 10/25/21 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 24952 **RESOLUTION 2021-949** **ADOPTED**

Set Public Hearing Date – New Subdivision Traffic Control Signing Amending Resolution 2021-910

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."

Miller's Crossing

"The tee intersection of Streamsong Court and New Road is hereby designated as a stop intersection and a stop sign shall be installed at the southwest corner."

and,

"The tee intersection of Streamsong Court and Autumn Meadows Lane is hereby designated as a stop intersection and a stop sign shall be installed at the northwest corner."

The Preserve at Glen Meadow

"The tee intersection of Glen Meadow Drive and Dodge Road is hereby designated as a stop intersection and a stop sign shall be installed at the northeast corner."

and,

"The tee intersection of Glen Meadow Drive and Glen Meadow Drive South is hereby designated as a stop intersection and a stop sign shall be installed at the southeast corner."

Fair Woods Estates

"The tee intersection of Fair Woods Drive and Heim Road is hereby designated as a stop intersection and a stop sign shall be installed at the northeast corner."

10/25/2021

A motion to approve was made by Councilmember Szukala, seconded by Councilmember Lavin and unanimously approved 5-0.

FINANCIAL IMPACT:

none

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Michael Szukala, Councilmember
SECONDER:	Shawn Lavin, 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

Attachment: reso 2021-910 (RES-2021-949 : Set Public Hearing Date – New Subdivision Traffic Control Signing)

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

Francina J. Spoth
Town Clerk

Meeting: 10/25/21 07:00 PM
Department: Town Attorney
Initiated by: **Nicole M. Burroughs**
Co-Sponsored by:

DOC ID: 24941 **RESOLUTION 2021-950** **ADOPTED**

License Agreement - 238 Oakbrook Drive (Reszel) (CRS #2956)

AGENDA ITEM : OCTOBER 25th, 2021

TO: **Town Board**

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

DATE: **October 20, 2021**

RE: **Request for License Agreement (CRS #2956)**
Installation of Fence
Property Located At:
238 Oakbrook Drive, Williamsville, New York 14221

Kindly adopt a resolution authorizing the Supervisor to execute the attached License Agreement pending successful routing of the Contract Routing System.

The owners of the above-referenced property are seeking permission to utilize existing fence posts to install a new fence that encroaches into Town-owned easements, the details and stipulations of which are more fully described in the License Agreement.

This request was reviewed and approved by the Engineering Department and Highway Department.

Thank you for your consideration.

NMB:hs
Attachment
c: Kathy Cooper, Deputy Town Clerk
(w/attachment, **Agenda Item: October 25th, 2021**)
Timothy Lucey, General Crew Chief (*w/attachment*)
Brian J. Armstrong, EIT, Assistant Municipal Engineer *(w/attachment)*

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

FINANCIAL IMPACT:

$150.00 - Fee For License Agreement

$80.00 - ECCO Filing Fee

Both fees paid to the Town in one check by homeowners - $230.00

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

Return to: Town of Amherst Town Attorney's Office
5583 Main Street
Williamsville, New York 14221

TOWN OF AMHERST
LICENSE AGREEMENT

THIS AGREEMENT, made as of this 25th day of October, 2021, between the Town of Amherst, a municipal corporation existing under and by virtue of the laws of the State of New York, having its principal office at 5583 Main Street, Williamsville, New York 14221, Party of the First Part, hereinafter referred to as the "Town" and

Erin N. Reszel and Justin C. Reszel
238 Oakbrook Drive
Williamsville, New York 14221
SBL: 56.14-1-27

Parties of the Second Part hereinafter referred to as the "Owners."

WITNESSETH:

WHEREAS, the Owners are presently the owners of following described premises:

All of that tract or parcel of land, situate in the Town of Amherst, County of Erie and State of New York, being part of Lot No. 49, Township 12, Range 7 of the Holland Land Company's Survey and further distinguished as Subdivision Lot No. 46 as shown on a map entitled "Oakbrook Community Part Two" filed in the Erie County Clerk's Office under Cover No. 2348.

It is more commonly known as:

238 Oakbrook Drive
Williamsville, New York 14221
SBL: 56.14-1-27

WHEREAS, the Town became the holder of a Sanitary Easement and Storm Sewer Easement as shown on the Subdivision Map filed in the Erie County Clerk's Office under Cover No. 2348. Said sanitary easement and storm sewer easements are shown on the survey attached hereto as Exhibit "A;"

TBA : 10.25.2021
Address : 238 Oakbrook Drive
Owner Name : Reszel

Attachment: Reszel.238OakbrookLicenseAgree-10202021094511 (RES-2021-950 : License Agreement - 238 Oakbrook Drive (Reszel) (CRS

WHEREAS, the Owners desire to utilize a portion of the aforementioned easement area:

To encroach into the existing sanitary easement and storm sewer easement to replace an existing chain link fence, utilizing the existing posts for said chain link fence and attaching wood slats to those existing posts

as shown on a survey labeled Exhibit "A" attached hereto and made part hereof. Said fence is to be installed in accordance with the stipulations set forth in this agreement.

WHEREAS, the intended use as hereinafter provided does not interfere with the municipal purpose of which said Sanitary Sewer Easement and Storm Sewer Easement was acquired;

NOW, THEREFORE, in consideration of the premises and the sum of One Dollar ($1.00) paid to the Town, the receipt whereof is hereby acknowledged, and the covenants and promises hereinafter set forth the parties agree as follows:

The Town does hereby grant to the Owners, their successors, distributees and assigns a license and/or privilege to install, maintain, and use a portion of the Sanitary Sewer Easement and Storm Sewer area as shown on Exhibit "A" subject to the following conditions:

a. No devices, equipment or structures shall be installed or placed within the said easement areas without prior approval of the Town apart from the authority granted to the Owners through this agreement;

b. The use of this License Agreement in the Sanitary Sewer Easement area and Storm Sewer Easement area shall not interfere or restrict the operation, maintenance, repair and/or reconstruction of the Sanitary Sewer and Storm Sewer Facilities;

c. If it becomes necessary to remove said encroachment for the purposes of repair and/or reconstruction of the Sanitary Sewer and Storm Sewer facilities, the cost of the removal and reinstallation of said improvements shall be at the expense of the Owners, their successors, distributees and assigns.

d. If at any time the Sanitary Sewer and/or Storm Sewer facilities are exposed, unearthed or damaged, the Town shall be promptly notified and allowed inspection of the easement areas.

TBA : 10.25.2021
Address : 238 Oakbrook Drive
Owner Name : Reszel

Attachment: Reszel.238OakbrookLicenseAgree-10202021094511 (RES-2021-950 : License Agreement - 238 Oakbrook Drive (Reszel) (CRS

The Owners shall defend, indemnify and hold harmless the Town from any and all claims or causes of action arising out of the use and exercise of this agreement.

This Agreement shall commence on the 25th day of October, 2021 and shall automatically extend for one (1) year periods unless the same is cancelled as herein provided below:

Either party may cancel this Agreement by giving sixty (60) days written notice to the other of such cancellation and during said sixty (60) days cancellation shall remove the fence and any other structures or personal property within the easement areas and shall restore same to the condition that existed prior to the installation of the dock/deck at the rear of the home.

This Agreement shall ensure to the benefit of the parties, hereto, their successors, distributees, and assigns.

IN WITNESS WHEREOF, the parties to this Agreement have executed the same before a licensed Notary Public, on the date referenced below.

TOWN OF AMHERST

_____

Brian J. Kulpa
Supervisor

PROPERTY OWNERS

Erin M Reszel

Erin N. Reszel

J.R.R

Justin C. Reszel

TBA : 10.25.2021
Address : 238 Oakbrook Drive
Owner Name : Reszel

Attachment: Reszel.238OakbrookLicenseAgree-10202021094511 (RES-2021-950 : License Agreement - 238 Oakbrook Drive (Reszel) (CRS

STATE OF NEW YORK }
COUNTY OF ERIE }SS:

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

_____
Notary Public

STATE OF NEW YORK }
COUNTY OF ERIE }SS:

On the 19th day of October in the year 2021 before me, the undersigned, personally appeared, **Erin N. Reszel**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to within the instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

MARCUS DARBY
NOTARY PUBLIC STATE OF NEW YORK
ERIE COUNTY
LIC. #01DA6406922
COMM. EXP. 4/27/2024

STATE OF NEW YORK }
COUNTY OF ERIE }SS:

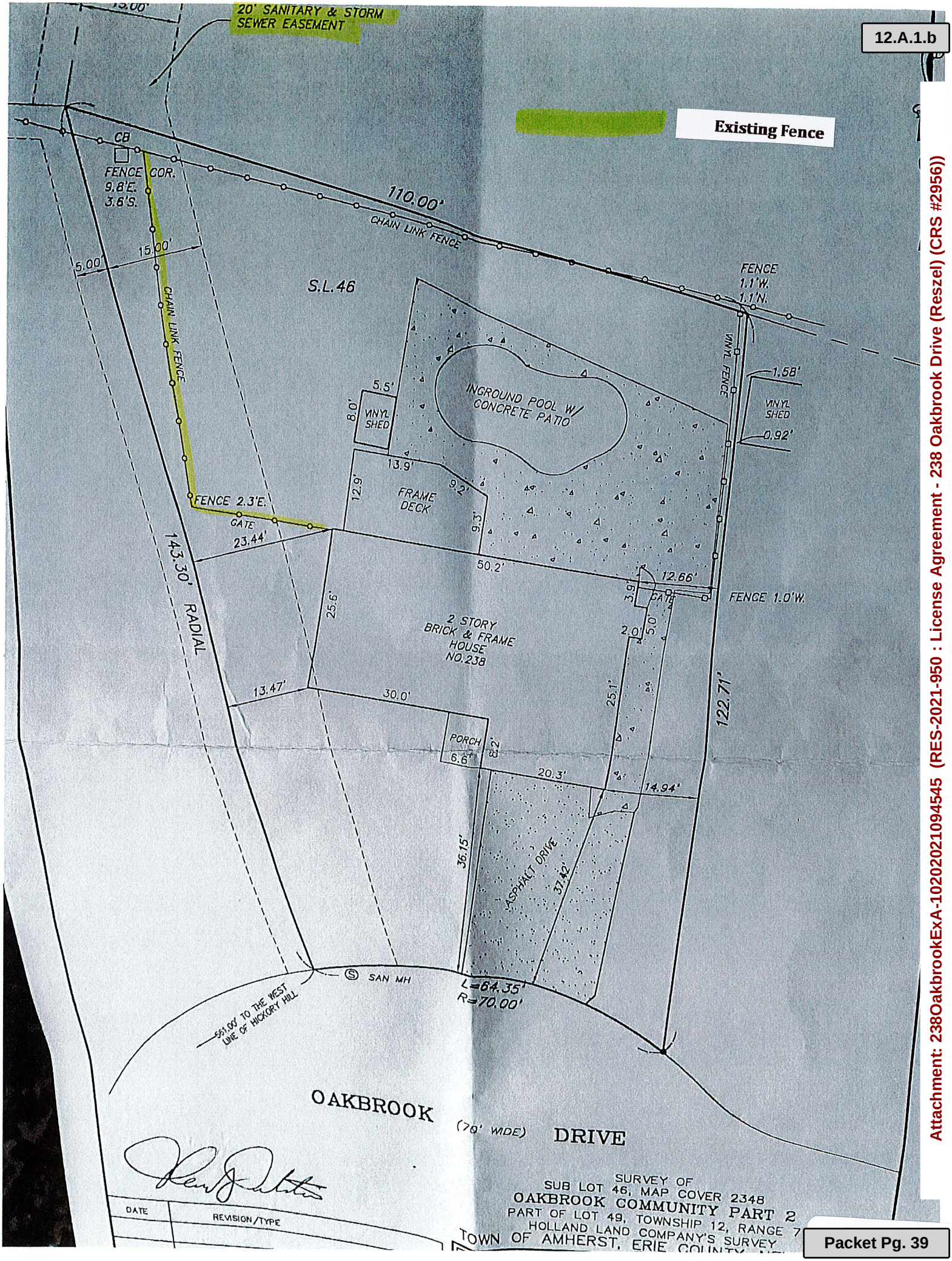
On the 19th day of October in the year 2021 before me, the undersigned, personally appeared, **Justin C. Reszel**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to within the instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

MARCUS DARBY
NOTARY PUBLIC STATE OF NEW YORK
ERIE COUNTY
LIC. #01DA6406922
COMM. EXP. 4/27/2024

TBA : 10.25.2021
Address : 238 Oakbrook Drive
Owner Name : Reszel

Attachment: Reszel.238OakbrookLicenseAgree-10202021094511 (RES-2021-950 : License Agreement - 238 Oakbrook Drive (Reszel) (CRS



Attachment: 238OakbrookExA-10202021094545 (RES-2021-950 : License Agreement - 238 Oakbrook Drive (Reszel) (CRS #2956))

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

Francina J. Spoth
Town Clerk

Meeting: 10/25/21 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24942 **RESOLUTION 2021-951** **ADOPTED**

Road Dedication - Miller's Crossing, Phase I

AGENDA ITEM : OCTOBER 25TH, 2021

TO: **Town Board**

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

DATE: **October 20, 2021**

RE: **Road Dedication - Miller's Crossing, Phase I**

Kindly adopt a resolution authorizing the Supervisor to accept the roads in Phase 1 of Miller's Crossing and to execute any and all documents that are required to effectuate the dedication pending: (1) successful review of the Contract Routing System; and (2) subject to final approval by the Town Attorney's Office.

Thank you.

SJS:nmb
c: Kathy Cooper, Deputy Town Clerk
(**Agenda Item - October 25th, 2021**)
Jeffery D. Palumbo, Esq.

10/25/2021
A motion to approve 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

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

Francina J. Spoth
Town Clerk

Meeting: 10/25/21 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A Alba**
Co-Sponsored by:

DOC ID: 24940 **RESOLUTION 2021-952** **ADOPTED**

Settlement of Article 7 Matter - Summerset Apts. LLC V. Town of Amherst, Et Al.

AGENDA ITEM : OCTOBER 25th, 2021

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Senior Deputy Town Attorney**

DATE: **October 20, 2021**

RE: **Settlement of Article 7 Matter**
Summerset Apts. LLC

Kindly adopt a resolution authorizing the following:

(1) Settlement of the above matter as detailed in the attached Consent Order; and

(2) Authorizing Senior Deputy Town Attorney Samuel A. Alba, Esq. to sign the attached Consent Order as the Attorney for the Respondent, Town of Amherst.

Thank you.

SJS:nmb
Attachment
c: Kathy Cooper, Deputy Town Clerk
(*w/attachment,* **Agenda Item : October 25th, 2021**)

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

Assessment.

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

At a Special Term of the Supreme Court, Erie County, held at 25 Delaware Avenue, Buffalo, New York, on the ____ day of _____, 2021.

PRESENT: HON. EMILIO COLAIACOVO, J.S.C.
Presiding

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

SUMMERSET APTS. LLC

Petitioner,

v.

CONSENT ORDER

TOWN OF AMHERST

Index No.: 806968/2020
809657/2021

Respondent,

AND

SWEET HOME CENTRAL SCHOOL DISTRICT

Intervenor.

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

The above-entitled special proceedings involving real property tax certiorari for the premises owned by Petitioner in the Town of Amherst, New York, known as 65-107 W. Summerset Lane in Amherst, New York, S.B.L. #26.10-1-19 for the tax 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 Attorney

Attachment: AMH 20007 Consent Order Summerset Apartments (RES-2021-952 : Settlement of Article 7 Matter - Summerset Apts. LLC V. Town

Attachment: AMH 20007 Consent Order Summerset Apartments (RES-2021-952 : Settlement of Article 7 Matter - Summerset Apts. LLC V. Town

for the Town of Amherst, the Attorney for the Sweet Home Central School District, and the Attorney for Petitioner, and it further appearing that the assessment of premises in the Town of Amherst provides the basis for the imposition of ad valorem taxes assessed by the Town of Amherst, the Sweet Home Central School District, and the County of Erie it is hereby

ORDERED, STIPULATED, AND ADJUDGED that the property tax certiorari for the tax year 2020-2021 for the premises at 65-107 W. Summerset Lane be discontinued and withdrawn without costs and allowances to either party as against the other, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax year 2021-2022 for the premises at 65-107 W. Summerset Lane be set at $2,464,000 assessed value, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax years 2022-2023, 2023-2024 and 2024-2025 for the premises at 65-107 W. Summerset Lane be set at $2,800,000 fair market value, equalized to assessed value by multiplying that value by the applicable equalization rate for the 2022-2023 tax year, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the provisions of Section 727 of the Real Property Tax Law shall apply to the aforementioned tax years. In the event of a revaluation or update within the period governed by Real Property Tax Law §727, the Assessor

Attachment: AMH 20007 Consent Order Summerset Apartments (RES-2021-952 : Settlement of Article 7 Matter - Summerset Apts. LLC V. Town

shall be permitted to adjust the assessment, but any such adjusted assessment shall not exceed the equalized full market value on the prior year's final assessment roll, and it is further

ORDERED, STIPULATED, AND ADJUDGED that said Petitioner in any instrument or agreement transferring any part or all of the subject property or any interest 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 Consent Order and that such covenant shall be deemed to run with the land for the tax periods embraced by the terms thereof, and it is further

ORDERED, STIPULATED, AND ADJUDGED that in the event that the assessment is increased for any stated year at a level higher than provided herein when there has been no assessable addition or improvement to the property, Petitioner retains the right to reinstate and reinstitute its Article 7 proceedings herein settled with respect to that parcel only, and Respondents waive any objection based upon statute of limitations grounds, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the fiscal officers of the Town of Amherst, the Sweet Home Central School District, the County of Erie, and any other taxing unit affected by the above assessment reductions shall apply such adjusted assessment and determine any overpayment of taxes, and in the event of overpayment, refund the overpayment with statutory interest within 45 days by official check payable to the order of Wolfgang & Weinmann,

Attachment: AMH 20007 Consent Order Summerset Apartments (RES-2021-952 : Settlement of Article 7 Matter - Summerset Apts. LLC V. Town

as attorneys and agents for Petitioner, accompanied by a calculation sheet, such attorneys to hold the proceeds as trust funds for appropriate distribution, and are to remain subject to the further jurisdiction of this Court relative to their attorney's lien pursuant to Judiciary Law Section 475, or in the event that any such tax payment has not been paid, issue corrected tax bills which reflect the proper reduced assessment for the property, with a copy of corrected tax bills sent to the attorneys for Petitioner, said corrected tax bills to be paid without interest or penalty if paid within 45 days of receipt of said corrected bills, with the exception that:

(A) Petitioner waives all 2020-2021 property tax refunds

(B) Petitioner waives 2021-2022 property tax refunds from the Sweet Home Central School District;

and it is further

ORDERED, STIPULATED, AND ADJUDGED that this Court shall retain jurisdiction over this proceeding pending the expiration of the periods herein recited, and that all applications to enforce any or all of the terms of this Consent Order shall be brought by motion before this Court, and it is further

ORDERED, STIPULATED, AND ADJUDGED that Petitioner shall have the right to seek specific enforcement of this Order, Stipulation and Judgment by all means provided by law, and it is further

ORDERED, STIPULATED, AND ADJUDGED that this Order, Stipulation and Judgment hereby constitutes and represents the entire understanding and agreement amongst the parties, and the full settlement of the tax certiorari herein; there are no costs or disbursements awarded to, by or against any party, and upon compliance with the terms of this Order, Stipulation and Judgment, the proceedings herein shall be, and the same hereby are, settled and discontinued with prejudice.

_____
HON. EMILIO COLAIACOVO, J.S.C.

DATED:

The parties consent to be bound by the terms of this Court Order by subscribing hereunto their names and legal authority:

FOR PETITIONER
SUMMERSET APTS. LLC

By: _____
TREVOR P. DUFFY, ESQ.
Attorney for Petitioner

Date: _____

FOR RESPONDENT
TOWN OF AMHERST

By: _____
SAMUEL A. ALBA, ESQ.
Attorney for Respondent

Date: _____

FOR PETITIONER
SUMMERSET APTS. LLC

By:_____
SAL CURELLA
As Agent

Date: _____

FOR INTERVENOR SWEET HOME
CENTRAL SCHOOL DISTRICT

By: _____
JOHN K. ROTTARIS, ESQ.
Attorney for Intervenor

Date: _____

Attachment: AMH 20007 Consent Order Summerset Apartments (RES-2021-952 : Settlement of Article 7 Matter - Summerset Apts. LLC V. Town

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

Francina J. Spoth
Town Clerk

Meeting: 10/25/21 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 24949 **RESOLUTION 2021-953** **ADOPTED**

Amusement License - Benderson Development

Request by Benderson Development for a First Class Amusement License to hold events from November 4 - 7 for a LL Bean Grand Opening and visit with Santa & carolers & Santa's train on days November 17, December 4, 11 & 18.
Supervising Code Enforcement Officer recommends a fee of $400.00.

The following conditions apply:

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

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

FINANCIAL IMPACT:

Income to the Town.

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

TOWN OF AMHERST
BUILDING DEPARTMENT
INTER-DEPARTMENTAL CORRESPONDENCE
5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221

PHONE: (716) 631-7080
FAX: (716) 631-7192

Mark S. Berke, P.E.
Commissioner of Building

Agenda Item

DATE: October 20, 2021

TO: Town Board

FROM: Douglas Gesel, Supervising Code Enforcement Officer

RE: Amusement License for 1565-1703 Niagara Falls Boulevard- LL Bean

In response to the Amusement License Application dated 9/24/2021, from Daniel Gaeta, I recommend the approval of his request for First Class outdoor events at the above noted address.

The fee for such an event is set be the Town Board, the fee can be from $5.00 to $50.00 per day, or fraction thereof.
With the events being held for 4 days from 10:00am until 5:00pm in the parking lot and court yard area of the address noted above, I would recommend a fee of $50.00 per day.
Dates and types of events:
LL Bean Grand Opening
November 4-7, 2021

I would recommend that the following conditions be stated:

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

Douglas Gesel, Supervising Code Enforcement Officer

cc: Fran Spoth, Town Clerk, Mark Berke P.E. Commissioner of Building, Bryan Parnell, Senior Fire Inspector

Attachment: DOC102021-10202021145415 (RES-2021-953 : Amusement License - Benderson Development)

TOWN OF AMHERST
BUILDING DEPARTMENT
INTER-DEPARTMENTAL CORRESPONDENCE
5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221

PHONE: (716) 631-7080
FAX: (716) 631-7192

Mark S. Berke, P.E.
Commissioner of Building

Agenda Item

DATE: October 19, 2021

TO: Town Board

FROM: Douglas Gesel, Supervising Code Enforcement Officer

RE: Amusement License for 1565-1703 Niagara Falls Boulevard – CHRISTMAS FESTIVITIES

In response to the Amusement License Application dated 9/24/2021, from Daniel Gaeta, I recommend the approval of his request for First Class outdoor events at the above noted address.

The fee for such an event is set be the Town Board, the fee can be from $5.00 to $50.00 per day, or fraction thereof.
With the events being held over multiple weekends / days from 11:00am until 4:00pm in the parking lot and court yard area of the address noted above, I would recommend a fee of $50.00 per day.
Dates and types of events:
Visit Santa, carolers in court yard & Santa's train in parking lot
November 27, December 4, December 11, December 18, 2021

I would recommend that the following conditions be stated:

- That all fire lanes be kept clear at all times.
- For any tents in excess of 400 square feet being used, a fire prevention tent permit must be obtained.
- All temporary power must be code compliant.
- Bathroom facility must be made available & accessible.
- Off street parking must be available and on site accessible parking must be maintained.
- Fire Department access must be maintained at all times in the event of an emergency.
- Events with 1,000 guests or more will require "Crowd Managers" per the 2020 FCNYS.
- The applicant must abide by Chapter 138 of the Town of Amherst Code regarding noise.

Please contact me if you have any questions regarding this response.

Douglas Gesel, Supervising Code Enforcement Officer

cc: Fran Spoth, Town Clerk, Mark Berke P.E. Commissioner of Building, Bryan Parnell, Senior Fire Inspector

Attachment: DOC102021-10202021145415 (RES-2021-953 : Amusement License - Benderson Development)

Koller, Timothy

From: Scott Chamberlin <[redacted]>
Sent: Thursday, September 30, 2021 3:16 PM
To: Koller, Timothy
Cc: Gesel, Doug; Parnell, Bryan; Lynch, Melissa
Subject: Re: Amusement Lic - Benderson Development

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

The Police Department has no objections to this request.

Best,

Chief Scott P. Chamberlin
Town of Amherst Police Department
500 John James Audubon Parkway
Amherst, NY 14228
(716)689-1351
[redacted]

On Thu, Sep 30, 2021 at 11:42 AM Koller, Timothy <tkoller@amherst.ny.us> wrote:

MEMORANDUM

Date: September 30, 2021

To: Scott Chamberlin, Chief of Police, Doug Gesel, Supv. Code Enforcement Officer & Bryan Parnell, Senior Fire Inspector

From: Timothy Koller, Deputy Town Clerk

Re: Amusement License

Attached is an application from Daniel Gaeta, Benderson Development, to hold events at The Boulevard at 1565-1703 Niagara Falls Boulevard. The events will be held from November 1, 2021 through January 7, 2021.

Please review and send any written comments back to me as soon as possible so we can place this on the earliest Town Board Agenda. Thank you for your cooperation.

Timothy J. Koller

Attachment: DOC102021-10202021145415 (RES-2021-953 : Amusement License - Benderson Development)

Town of Amherst
Amusement License Application

Organization or Resident: Benderson Development Company, LLC

Address of Event: The Boulevard
1565-1703 Niagara Falls Blvd
Amherst, NY 14228

Describe Event: LL Bean Grand Opening Event - Friday through Sunday, November 5 - 7, 2021
Visit with Santa and Carolers - Saturday, November 27, 2021; Saturday, December 4, 11, 18, 2021
Holiday Decor - November 1, 2021 through January 7, 2022

List All Dates: LL Bean Grand Opening Event - November 5 - 7, 2021
Visit with Santa and Carolers - November 27, 2021; December 4, 11, 18, 2021
The Santa Train - November 27, 2021; December 4, 11, 18, 2021
Holiday Decor - November 1, 2021 through January 7, 2022

Number of Occasions: 8

Time (Start & End): 11:00AM to 4:00 PM

PLEASE ATTACH A SITE PLAN WITH DESIGNATED AREA FOR EVENT

Name of Organizer Daniel Gaeta Cell (716) 225-3647

Address 570 Delaware Avenue
Buffalo, NY 14202 EMAIL DJG@BENDERSON.COM

Phone Number (716)225-3647

Signature of Organizer

Date 9/24/2021

Office use only:
Submitted to Police & Building _____
Fee determined by Town Board _____
Business or Resident notified _____
Payment Rcvd _____
License issued and mailed out _____

Attachment: DOC102021-10202021145415 (RES-2021-953 : Amusement License - Benderson Development)

TOWN OF AMHERST
FIRE SAFETY DIVISION
5583 MAIN STREET
WILLIAMSVILLE, NY 14221

(p) (716) 631—7140
(f) (716) 631-7192
bparnell@amherst.ny.us
amherst.ny.us/firesafety

Memorandum

Date: 10/6/2021

From: Bryan W. Parnell

Sr. FireInspector

To: Doug Gesel

Re: Amusement License

1. Fire lanes must be maintained at all times.
   -Benderson will ensure that fire lanes are maintained at all times
2. Crowd Managers are required for crowds over 1000.
   -Security company will be utilized if crowd exceeds 1000
3. What is the procedure for the train in the event of an emergency in the area of the train route?
   -Train will safely pull off of drive lane to allow access for emergency personnel
4. If tents over 400 square feet are used a tent permit is required.
   -There will not be a tent that is over 400 square feet
5. Please provide a detailed layout of the Holiday Décor including location and exits from businesses.
   -Labeled site plan attached

RECEIVED
OCT 19 2021
TOWN OF AMHERST
BUILDING DEPT

Attachment: DOC102021-10202021145415 (RES-2021-953 : Amusement License - Benderson Development)

BENDERSON
DEVELOPMENT

- 2021 Schedule of Events
The Boulevard
1561-1703 Niagara Falls Blvd.
Amherst, NY 14228

LL Bean Grand Opening Event

- 11/5, 11/6 and 11/7
- 11:00am to 4:00pm
- See site plan for location of event

Visit with Santa and Carolers

- 11/27, 12/4, 12/11 and 12/18
- 11:00 am to 3:00 pm
- In The Courtyard (see site plan for location)

The Santa Train

- 11/27, 12/4, 12/11 and 12/18
- See site plan for route

Holiday Decor

- The artificial tree will go up between November 1 and November 26 and will be taken down on January 7, 2022

Attachment: DOC102021-10202021145415 (RES-2021-953 : Amusement License - Benderson Development)

AMHERST GRAND OPENING WEEKEND *at a glance DRAFT*

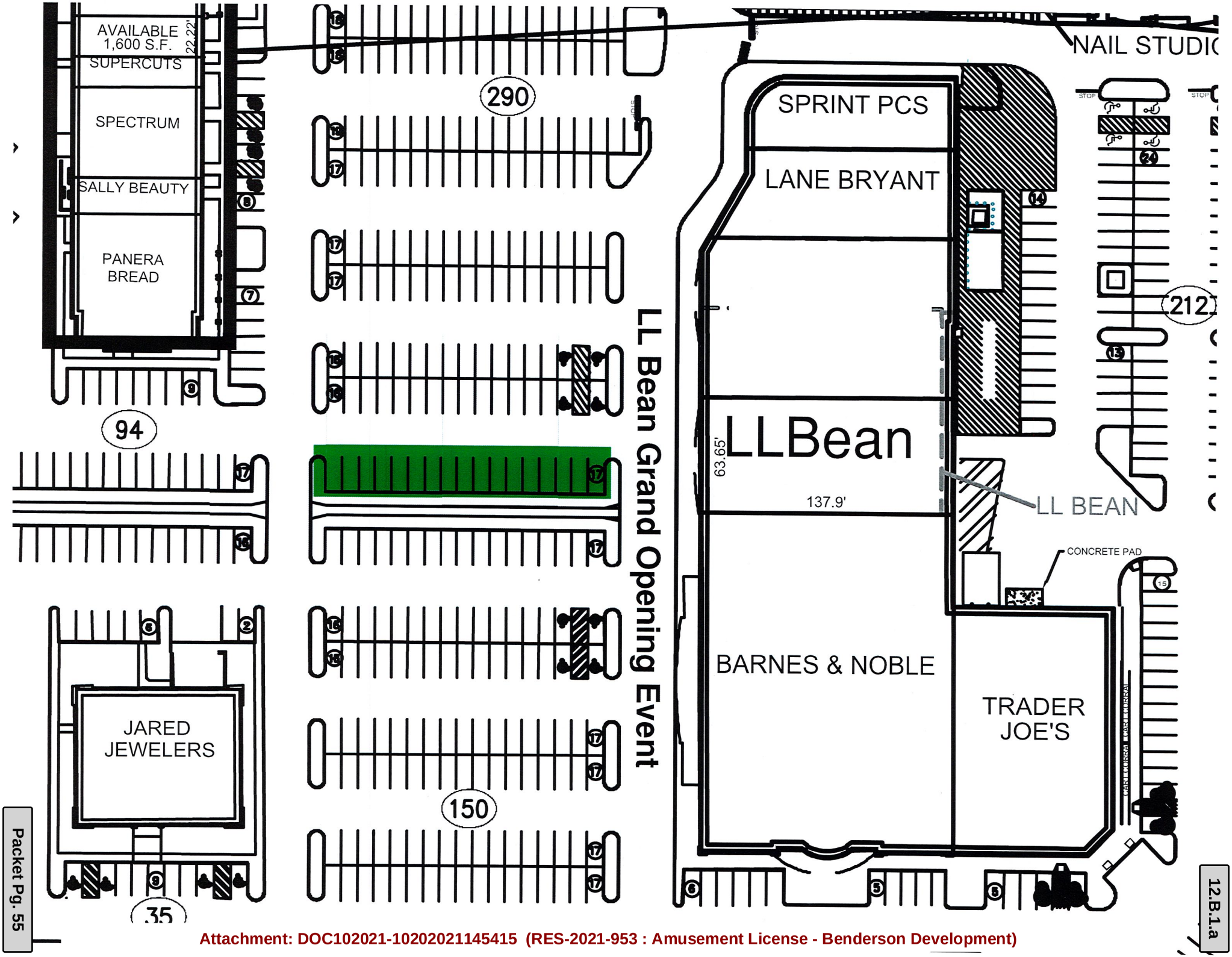
Thursday, November 4:
10 am – 8 pm: Mastercard Best Customer Shopping Event
4 pm – 5 pm: VIP/Media Reception

Friday, November 5:
9 am: Gift Card Giveaway
10 am – 4 pm: Grand Opening Celebration
Base camp
- Fun and games for all ages
-FREE local apple cider and make your own s'mores
-Take a pic with the L.L.Bean Bootmobile
-Enter to win $500 gift card

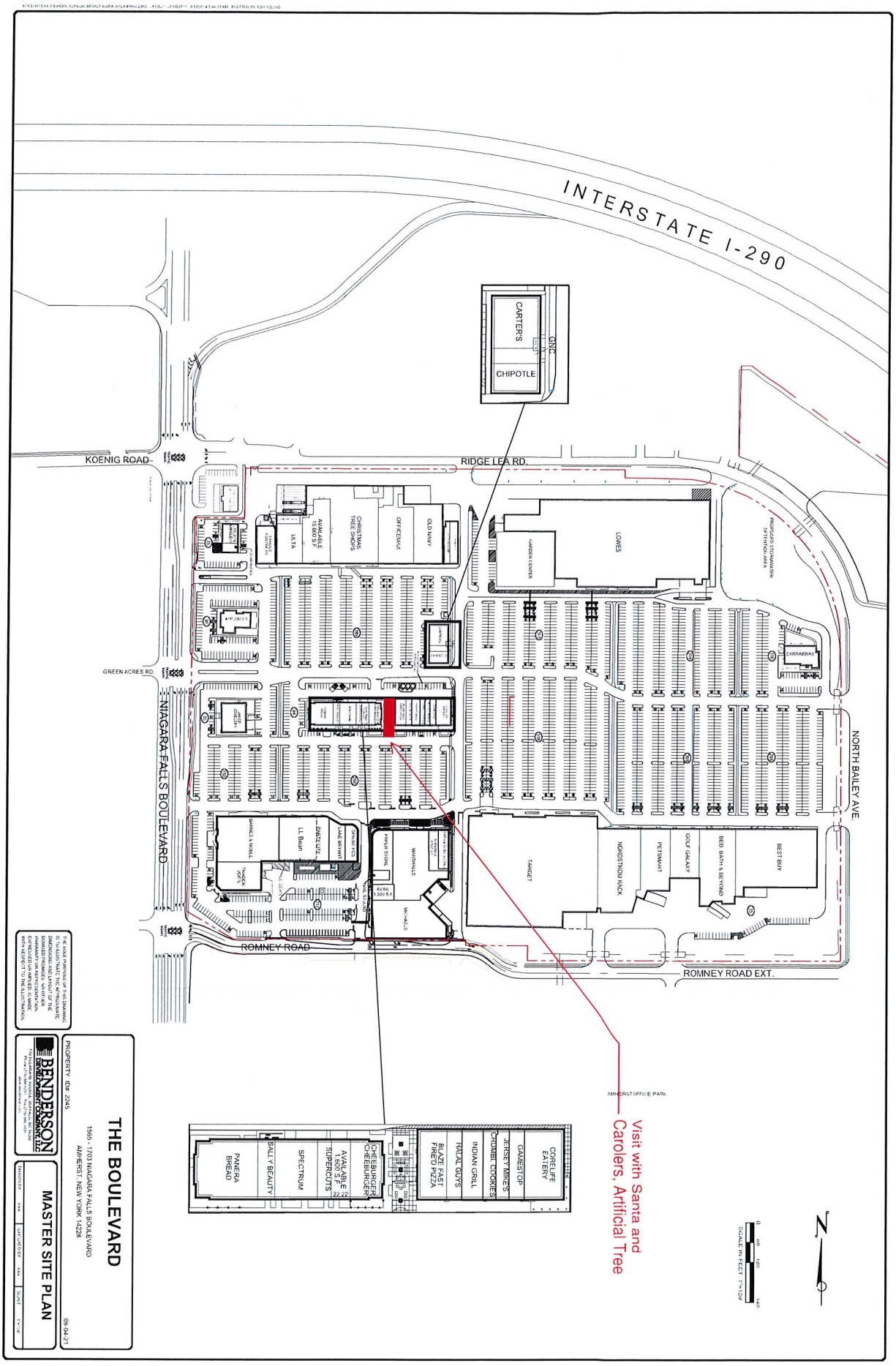
Saturday, November 6:
10 am – 4 pm: GO Celebration

Sunday, November 7:
11 am – 3 pm: GO Celebration

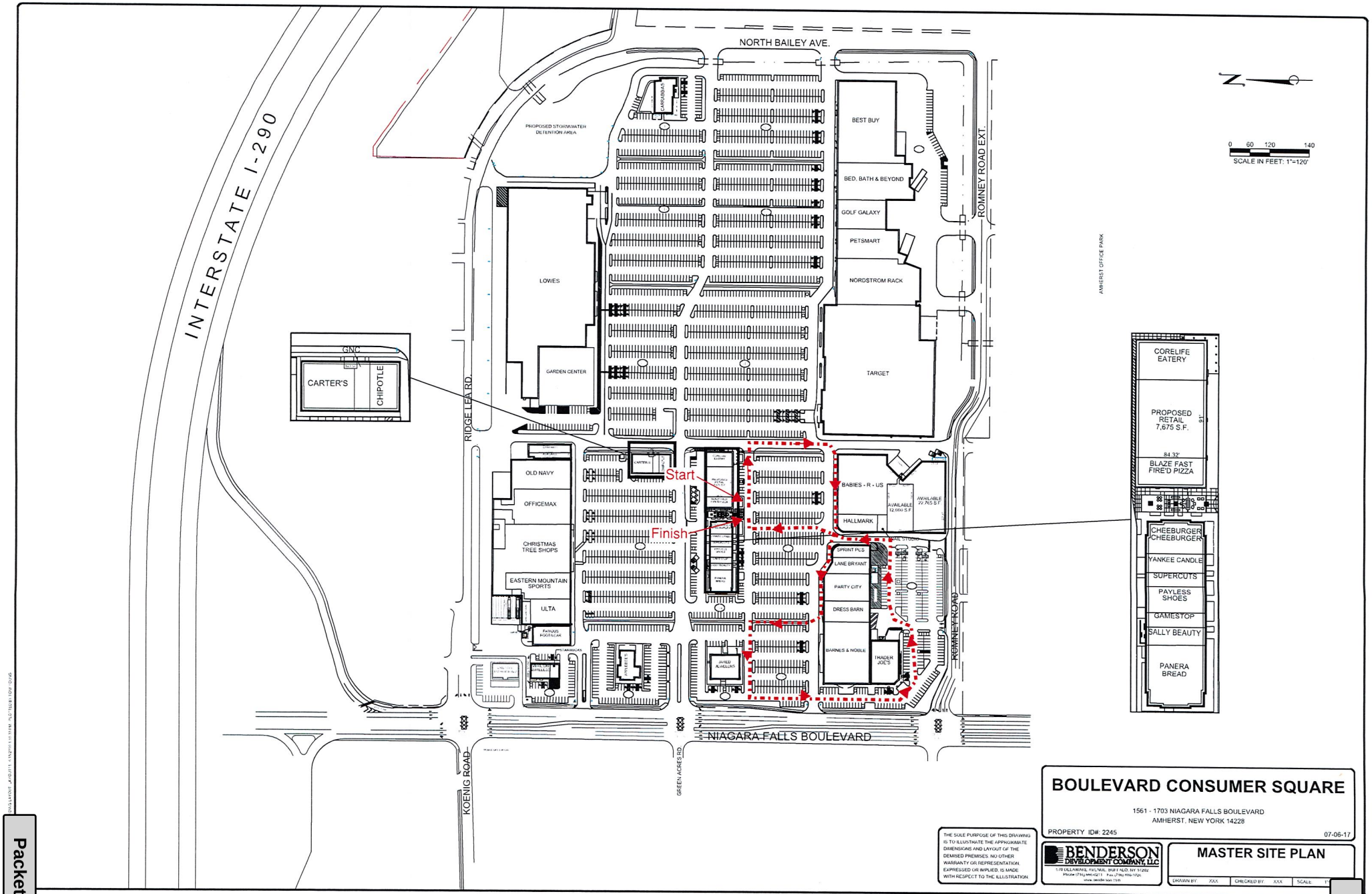
Attachment: DOC102021-10202021145415 (RES-2021-953 : Amusement License - Benderson Development)



Attachment: DOC102021-10202021145415 (RES-2021-953 : Amusement License - Benderson Development)



Attachment: DOC102021-10202021145415 (RES-2021-953 : Amusement License - Benderson Development)


INTERSTATE I-290
NORTH BAILEY AVE.
PROPOSED STORMWATER DETENTION AREA
BEST BUY
BED, BATH & BEYOND
GOLF GALAXY
PETSMART
NORDSTROM RACK
TARGET
ROMNEY ROAD EXT.
AMHERST OFFICE PARK
LOWES
GARDEN CENTER
RIDGE LEA RD.
GNC
CARTER'S
CHIPOTLE
OLD NAVY
OFFICEMAX
CHRISTMAS TREE SHOPS
EASTERN MOUNTAIN SPORTS
ULTA
Start
Finish
BABIES - R - US
HALLMARK
SPRINT PCS
LANE BRYANT
PARTY CITY
DRESS BARN
BARNES & NOBLE
TRADER JOE'S
ROMNEY ROAD
CORELIFE EATERY
PROPOSED RETAIL 7,675 S.F.
BLAZE FAST FIRE'D PIZZA
CHEEBURGER CHEEBURGER
YANKEE CANDLE
SUPERCUTS
PAYLESS SHOES
GAMESTOP
SALLY BEAUTY
PANERA BREAD
NIAGARA FALLS BOULEVARD
KOENIG ROAD
GREEN ACRES RD
SCALE IN FEET: 1"=120'
BOULEVARD CONSUMER SQUARE
1561 - 1703 NIAGARA FALLS BOULEVARD
AMHERST, NEW YORK 14228
PROPERTY ID#: 2245
07-06-17
THE SOLE PURPOSE OF THIS DRAWING IS TO ILLUSTRATE THE APPROXIMATE DIMENSIONS AND LAYOUT OF THE DEMISED PREMISES. NO OTHER WARRANTY OR REPRESENTATION, EXPRESSED OR IMPLIED, IS MADE WITH RESPECT TO THE ILLUSTRATION.
BENDERSON DEVELOPMENT COMPANY, LLC
MASTER SITE PLAN

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

Francina J. Spoth
Town Clerk

Meeting: 10/25/21 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 24930 **RESOLUTION 2021-954** **ADOPTED**

New Firefighter for the North Bailey Fire Company

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

Ryan Woodard
4505 Chestnut Ridge Rd
Amherst, NY 14228

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

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

TOWN OF AMHERST
VOLUNTEER FIRE DEPARTMENT MEMBERSHIP
RESIDENCY VERIFICATION FORM

I, Ryan woodard (name of applicant), am an applicant to be a member of North Bailey Fire co (name of fire company to which the applicant has applied).

I affirm under penalty of perjury that I presently reside at the following address:

4505 Chestnut Ridge rd
Amherst, Ny 14228

☒ Which is in the fire district applied to or territory outside the fire district which is afforded fire protection by the fire department of the fire district or fire company pursuant to contract.

☐ Is outside the district or territory provided protection by the district or fire company, but by reason of my residence in the vicinity or my usual occupation I will be available to render active service as a volunteer based on the following grounds:

R A woodard
Signature of Applicant

Attachment: DOC101821-10182021134230 (RES-2021-954 : New Firefighter for the North Bailey Fire Company)

STATEMENT OF VOLUNTEER FIRE COMPANY OFFICIAL

The address of the applicant listed above is within the Fire Protection District or territory protected by such Fire Protection District to which he/she is applying, namely North Bailey Fire Co (name of fire company) or such applicant lives outside the district but is able to render service by virtue of his residence and/or employment and such is allowed by the fire district and/or company by laws. We have verified the applicant's address or employment where applicable by examining their driver's license or other document such as a lease, utility bill, pay stub or other suitable document.

Joseph P Adam
Signature

Title : Secretary

Date: 10/14/2021

Please submit this completed residency verification form to:

Amherst Town Clerk
5583 Main Street
Williamsville, New York 14221

Attachment: DOC101821-10182021134230 (RES-2021-954 : New Firefighter for the North Bailey Fire Company)

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

Francina J. Spoth
Town Clerk

Meeting: 10/25/21 07:00 PM
Department: Comptroller
Initiated by: **Daryl Bramer**
Co-Sponsored by:

DOC ID: 24929 **RESOLUTION 2021-955** **ADOPTED**

2022 Budget Amendments

The attached file has recommended 2022 budget amendment(s).

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

FINANCIAL IMPACT:

Net Increase $6,093.00

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

Town of Amherst
2022 Budget Amendments

		Increase	Decrease
G9000.01001	Real Property Taxes	6,093.00	
G9000.02375	Pretreatment Charges (Revenue)		6,093.00
			-
		$ 6,093.00	*$ 6,093.00*

Attachment: 2022 Budget Amendments (RES-2021-955 : 2022 Budget Amendments)

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

Francina J. Spoth
Town Clerk

Meeting: 10/25/21 07:00 PM
Department: Comptroller
Initiated by: **Daryl Bramer**
Co-Sponsored by:

DOC ID: 24936 **RESOLUTION 2021-956** **ADOPTED**

2022 Budget Other Items

Please see the attached file for 2022 Other Items ($442,263.55). These items are added to the tax bill of the property owner and Erie County Real Property Tax Department requires Town Board approval adopting special Town charges.

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

N/A

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

Town of Amherst
2022 Budget
Other Items

Other Items:	**Code**	**Charge**	**Interest**	**2022 Total**	**2021 Total**	**2020 Total**	**2019 Total**	**2018 Total**
Delinquent Water Bills - ECWA	22018	-	-	-	4,621.93	8,088.50	16,187.31	9,759.66
Delinquent Sewer Bills-Village	22003	3,441.14	344.13	3,785.27	840.75	1,517.51	1,421.23	2,952.22
Code Violations	22962	70,857.68	7,085.78	77,943.46	68,481.20	46,945.45	158,355.79	79,551.29
RPTL 520	22017	69,382.82	-	69,382.82	91,923.13	67,494.06	60,895.49	68,630.07
Pretreatment Charges	22600	271,152.00	-	271,152.00	271,502.00	272,502.00	274,051.00	275,701.00
Omitted Tax	22970	-	-	-	3,696.30	212.61	-	-
		$ 414,833.64	$ 7,429.91	$ 422,263.55	$ 441,065.31	$ 396,760.12	$ 510,910.83	$ 436,594.25

Attachment: 2022 Budget Other Items (RES-2021-956 : 2022 Budget Other Items)

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

Francina J. Spoth
Town Clerk

Meeting: 10/25/21 07:00 PM
Department: Comptroller
Initiated by: **Daryl Bramer**
Co-Sponsored by:

DOC ID: 24937 **RESOLUTION 2021-957** **ADOPTED**

Budget Transfers and Amendments

For Oct 25, 2021 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 10/20/2021
Re: Various Department Budget Transfers / Amendments

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

BUDGET TRANSFERS - 2021

FROM: ***TO:***

BUDGET AMENDMENTS - 2021

INCREASE: ***INCREASE:***

A3649.04589 ARPA - Federal Emergency Aid $2,135.80 A3649.2150 Building Improvements $2,135.80
To increase the budget for APD Emergency Generator installation CRS# 2936 change order #1 using American Rescue Plan Act funds.

N0001.20085 Amherst HOME 21/22 $170,685.00 N2156.4000 ARP Admin & Planning $170,685.00
To set up the budget for CRS #2944 HOME American Rescue Plan Grant Agreement.

N2155.02785 Amherst HOME Rental- PI $7,599.56 N2155.4000 Contractual $7,599.56
N2154.02785 Amherst Admin- PI $844.40 N2154.4003 Admin $844.40
To recognize Community Development program income from 2424 Kensington, Amherst.

10/25/2021

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

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: 10/25/21 07:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 24927 **RESOLUTION 2021-958** **ADOPTED**

CONTRACT EXTENSION BID #2020021 - Truck and Heavy Duty Equipment Parts and Repair CRS # Below

WHEREAS, BID # 2020021, Highway Department, Truck and Heavy Duty Equipment Parts and Repairs allows the contract to be extended for a period of twelve (12) months at the same terms and conditions; and

WHEREAS, the Highway Department is requesting approval for the extension of the contract under Resolution 2020-803 from 10/06/2021 to 10/05/2022; and

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Highway Department to extend as follows the contracts with Baschmann Services, Inc. (CRS# 2933); George & Swede Sales and Service (CRS# 2951); Fleet Maintenance, Inc. (CRS#2939); Vantage Equipment LLC (CRS# 2932); Cummins, Inc. (CRS# 2940); and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the extension for the five (5) vendors subject to the Contract Routing System and the approval of the Town Attorney.

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

Town Wide

Various

TBD

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Jacqualine Berger, Deputy Supervisor
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: 10/06/20 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 22350 **RESOLUTION 2020-803** 10/20/21 **ADOPTED**

Award Bid #2020021 - Truck and Heavy Duty Equipment Parts and Repair - CRS #2184, 2185, 2186, 2187, 2188

WHEREAS, the Contract Compliance and Administration Department received bids on July 23, 2020 for Bid #2020021, Truck and Heavy Duty Equipment Parts and Repair; and

WHEREAS, the bid process resulted in responses from seven (7) vendors, as per the attached bid tabulation form;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this bid as follows: Baschmann Services, Inc. (CRS #2184); George & Swede Sales and Service (CRS #2185); Fleet Maintenance, Inc. (CRS #2186); Vantage Equipment LLC (CRS #2187); Cummins, Inc. (CRS #2188); and

BE IT FURTHER RESOLVED, that because some of these vendors deal with the same manufacturers, it is the Department's responsibility to use the vendor with the lowest cost related to their specific purchase/repair; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contracts with Baschmann Services, Inc., George and Swede Sales and Service, Fleet Maintenance, Inc., Vantage Equipment LLC and Cummins, Inc.

10/06/2020
Consent

FINANCIAL IMPACT:

Town Wide - Various Accounts - Amount TBD

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

Attachment: Truck and HD Equipment (RES-2021-958 : CONTRACT EXTENSION BID #2020021-Truck and Heavy Duty Equipment Parts and

2933 2939 2932 2940

Bid #2020021 Truck & Heavy Duty Equipment Parts & Repair

Item No.	U/M	Low Bidder / Vendor Name:	CRS#2184 II		EC		EC		CRS#2182 III		CRS#2187		CRS#2188		CRS#2185 III	
			Baschmann		Valley Tire		Buffalo Truck Center		Fleet Maintenance		Vantage Equipment		Cummins Inc.		George & Swede	
1	Hour	Labor Rate Per Hour	$105.00		$135.00		$129.00		$140.00		$147.00		$130.00		$100.00	
2	Each	Towing Cost	$240 ea. Way												$150.00	
3	Each	Road Call Fee	$2.50/ Mile		$135/Call		$162.00		$250.00		$210.00		$2/mile + Labor Costs		$2.89/Mile	
4	%	Parts Cost - Cost Plus % will only be allowed when a Manufacturers List Price is not available.	Primary List Minus %	Secondary Cost Plus Mak Up %	Primary List Minus %	Secondary Cost Plus Mak Up %	Primary List Minus %	Secondary Cost Plus Mak Up %	Primary List Minus %	Secondary Cost Plus Mak Up %	Primary List Minus %	Secondary Cost Plus Mak Up %	Primary List Minus %	Secondary Cost Plus Mak Up %	Primary List Minus %	Seconda Cost Plu Mak Up
			0%	35%			25%	25%	25%	20%	0%	30%	20%		8%	25%
5	Months	Duration of Warranty	6 Months		12 Months		12 Months		12 Months		12 Months		12 Months		3 Months	
6		List Manufacturers or brands that you are an authorized dealer for	Kobelco, ASV, Carlton, Hitachi, Felling Trailers, Eager Beaver Trailers, Perkins, Anaconda Screens				Isuzu Truck, Hino Truck, Mack, Volvo, Cummins		Freightliner, Western Star, Sterling, Ottawa, Cummins, Detroit Diesel, Caterpiller on Highway, Allison		Volvo, Gradall, Mecalac, SDLG, Holms, Mauldan		Cummins, FleetGuard, Valvoline, Onan		Hyundai, Linkbelt, Laymore, Yanmar, Interstate Trailers, Cummins	
7		Name of Collision Time Used	Motors				Mitchell		Mitchell		N/A					

NOTES:
Valley Tire - No entry for #2, #4, #6 & #7. Under #4, they added Orings for OTR TIRes $25.00

Attachment: Truck and HD Equipment (RES-2021-958 : CONTRACT EXTENSION BID #2020021-Truck and Heavy Duty Equipment Parts and

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

Francina J. Spoth
Town Clerk

Meeting: 10/25/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24932 **RESOLUTION 2021-959** **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 26, 2021 at an annual salary of $47,180, Grade 13, Step A for Molly Rosowski.

Replacing an employee who resigned.

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

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

Francina J. Spoth
Town Clerk

Meeting: 10/25/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24939 **RESOLUTION 2021-960** **ADOPTED**

Recreation Attendant-PT/Youth & Recreation

Recreation Attendant-PT/Youth & Recreation, Effective October 26, 2021, Temporary, $12.50 ph, Step 1 for Daniella Sutherland.

Due to reduced availability of current staff.

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

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

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

Francina J. Spoth
Town Clerk

Meeting: 10/25/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24943 **RESOLUTION 2021-961** **ADOPTED**

Assistant Code Enforcement Officer/Building Department

Please appoint an Assistant Code Enforcement Officer to the Building Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective October 26, 2021 at an annual salary of $45,099, Grade 12, Step A for Conrad Nagel, Jr.

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

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

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

Francina J. Spoth
Town Clerk

Meeting: 10/25/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24944 **RESOLUTION 2021-962** **ADOPTED**

Senior Maintenance Worker/Youth & Recreation

Please appoint a Senior Maintenance Worker to the Youth & Recreation Department. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective October 26, 2021 at an hourly rate of $25.50, Step J for James Wendling.

This is a promotion for an employee currently serving as a Maintenance Worker.

Replacing an employee who retired.

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

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

Francina J. Spoth
Town Clerk

Meeting: 10/25/21 07:00 PM
Department: Information Technology
Initiated by: **David J. Willer**
Co-Sponsored by: **Councilmember Shawn Lavin**

DOC ID: 24934 **RESOLUTION 2021-963** **ADOPTED**

Advance 2000 Statement of Work - CRS #2942

Please authorize the Supervisor to sign an agreement with Advance 2000 for the period of October 25, 2021 through October 18, 2023. This agreement is for specialized technical support on an as needed basis. This agreement has successfully completed the contract routing process.

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

FINANCIAL IMPACT:

to be determined (on an as needed basis)

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

Time and Material Labor Rates

Town of Amherst

September, 2021

Attachment: advance 2000-001 (RES-2021-963 : Advance 2000 Statement of Work - CRS #2942)

CONFIDENTIALITY NOTE: The information contained in this report document is for the exclusive use of the client specified above and may contain confidential, privileged and non-disclosable information. If the recipient of this report is not the client or addressee, such recipient is strictly prohibited from reading, photocopying, distributing or otherwise using this report or its contents in any way

(800) 238-2621
info@advance2000.com
Advance2000.com

Objective

Advance 2000 will provide time and material labor rates for the Town of Amherst.

Summary

Advance 2000 Services Summary

Time and Material Rates

Advance 2000 will provide the following services for Town of Amherst.

- Time and Material Labor Rates
- Rates will be for Remote and On-Site Work
- Rates will be good for 24 Months Beginning October 19, 2021 through October 18, 2023
- Rates are for Non-Contractual work during regular hours of 8AM and 5 PM Eastern Standard Time and Overtime Rates for After-Hours, Weekends and Holidays

Town of Amherst Summary

In order for this project to succeed, it is understood that Town of Amherst will provide the following:

- Access to PBXs
- Provide access to workstations, servers and server room/closet as required
- Supply logons and passwords as needed
- Lockable room accessible by Advance 2000 personnel for storage and assembly of equipment
- Remote access as needed
- Disclose any known hardware and software issues including but not limited to data corruption, missing/damaged install media/license keys, peripheral incompatibility, lost passwords are not included and may incur additional cost
- Verify adequate cooling and A/C requirements
- Access to all wiring closets, cabling blocks and buildings necessary
- All wiring requirements for the system including copper, fiber and AC power
- All environmental requirements in accordance with the manufacturer recommendations
- A list of key contacts that can be called for assistance at any time, 24/7
- A list of safety and environmental requirements for the office that our installers must comply with
- Adequate Access to the facilities including after hours as required

Attachment: advance 2000-001 (RES-2021-963 : Advance 2000 Statement of Work - CRS #2942)

Time and Material Labor Rates (Contract from 10-19-2021-10-18-2023)

On-Site Labor per hour	(Monday-Friday 8AM-5PM)	**$160.00**
Remote Labor per hour	(Monday-Friday 8AM-5PM)	**$80.00**
On-Site Labor per hour	(After Hours, Weekends, Holidays)	**$240.00**
Remote Labor per hour	(After Hours, Weekends, Holidays)	**$120.00**

Advance 2000 will be pleased to start work on your project as soon as you provide the formal authorization below. As always, Advance 2000 will be pleased to answer any questions you may have regarding this proposal.

I hereby authorize the above work to be carried out in accordance with the prices and terms of the face thereof.

Authorization

	Advance2000, Inc.	**Town of Amherst**
Name	David Kunkel	
Title	CFO	
Signature		
Date	10-5-21	

Attachment: advance 2000-001 (RES-2021-963 : Advance 2000 Statement of Work - CRS #2942)

Addendum to Contract Major Exposure

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Contractors or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Contractor shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Contractor its officers, agents, subcontractors, and/or employees as well as the negligence, active or passive, of the Contractor, its officers, agents, subcontractors, and/or employees.

4. Contractor shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Contractor shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Contractor shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate. Umbrella coverage shall be in an amount of at least ~~$5,000,000.00~~ $3,000,000.00 DAK

(c) Contractor shall furnish the above insurances, including subcontractors' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Contractor shall ensure all its subcontractors, if any, have obtained all the above insurances and shall also assure that any policy procured by any subcontractor or sub-subcontractor shall name the Town as an additional insured on a primary and non-contributory basis.

Attachment: advance 2000-001 (RES-2021-963 : Advance 2000 Statement of Work - CRS #2942)

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

6. No Assignment: In accordance with the provisions of section 109 of the General Municipal Law, the Contractor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Contractor shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Contractor, in accordance with its status as an independent Contractor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

Attachment: advance 2000-001 (RES-2021-963 : Advance 2000 Statement of Work - CRS #2942)

9. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules, regulations or ordinances for any state other than New York State, to the laws, statutes, rules, regulations or ordinances for any county other than Erie County, New York or to the laws, statutes, rules, regulations or ordinances for any municipality other than the Town of Amherst, then the laws, statutes, rules, regulations or ordinances for New York State, Erie county and/or the Town of Amherst shall apply as applicable. Any and all legal action necessary to enforce the Agreement will be venued in Supreme Court, Erie County, New York or in the United States District Court for the Western District of New York, Buffalo Division.

10. It is hereby acknowledged that performance of this Contract will be undertaken in accordance with the specifications and pricing on which the bid was submitted.

Authority for execution on behalf of Town: The Supervisor has executed this Agreement pursuant to a Resolution adopted by the Town Board of the Town, at a meeting thereof held on _____. Brian J. Kulpa, the Supervisor whose signature appears hereafter, is duly authorized and empowered to execute this instrument and enter into such an Agreement on behalf of the Town as a result of that Resolution. This instrument shall be executed in triplicate. At least one (1) copy shall be permanently filed, after execution thereof, in the office of the Town Clerk of Town.

Agreed to and Accepted by:

ADVANCE 2000 INC
Print Name of Company

By: _____
Signature

David Kunkel
Printed name

Date: 10-13-21

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: advance 2000-001 (RES-2021-963 : Advance 2000 Statement of Work - CRS #2942)

IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a provision was added to the State Finance Law (SFL), Section 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will develop a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). This list is posted on the OGS website.

By submitting a response to this solicitation, or by assuming the responsibility under a Contract/Lease awarded hereunder, Bidder/Contractor/Vendor (or any assignee) certifies that it will not utilize on such Contract/Lease any subcontractor that is identified on the prohibited entities list.

Additionally, Bidder/Contractor/Vendor is advised that any Bidder/ Contractor/Vendor seeking to renew or extend a Contract/Lease (or assume responsibility of a Contract/Lease awarded must certify at the time the Contract/Lease is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract/Lease, should the Town of Amherst (Town) receive information that a person is in violation of the above-referenced certification, the Town will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the Town shall take such action as appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor/Vendor in default.

The Town reserves the right to reject any Contract/Lease or request for assignment for an entity that appears on the prohibited entities list prior to the award of a Contract/Lease, and to pursue a responsibility review with respect to any entity that is awarded a Contract/Lease and appears on the prohibited entities list after Contract/Lease award.

Company Name: Advance 2000 Inc

Signature: [signature]

Print Name: David Kunkel

Title: CFO

Date: 10-5-21

JACK M. FOX
Comm. Exp. 07-25-2023
NOTARY PUBLIC
Comm. No. 02FO4829671
ERIE COUNTY, STATE OF NEW YORK

Sworn To Before Me This
5th Day of October 2021

[signature]
Notary Public

Revised 4.2017

Attachment: advance 2000-001 (RES-2021-963 : Advance 2000 Statement of Work - CRS #2942)

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

Francina J. Spoth
Town Clerk

Meeting: 10/25/21 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 24945 **RESOLUTION 2021-964** **ADOPTED**

Sidewalk Waiver Request, SWW-2021-04

Sidewalk Waiver Request - SWW-2021-04; Property Located at 600 Park Club Lane (SBL# 68.15-1-7). HDJ Builders Inc., Petitioner.

The subject request has been reviewed by the Planning and Engineering Departments. Attached find the reviews from both departments which give their recommendations.

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

None

RESULT:	**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

Town Board Agenda of October 25, 2021

MEMORANDUM October 18, 2021

TO: Fran Spoth, Town Clerk
Honorable Town Board

FROM: Daniel C. Howard, AICP, Planning Director

SUBJECT: SIDEWALK WAIVER REQUEST – **SWW-2021-04**
Property Located at **600 Park Club Lane** (SBL# 68.15-1-7). HDJ Builders Inc., Petitioner.

The subject request has been reviewed by the Planning and Engineering Departments and **will be placed on the October 25, 2021 Town Board agenda under the Planning Director's report** for decision by the Board. Attached find the reviews from both departments which give their recommendations.

Should you have any questions please contact this office at 631-7051.

Thank you.

DH/TV/ac
Att. Engineering & Planning Department Reviews
X:\Current_Planning\Files\Sidewalk Waivers\SWW 2021\SWW-2021-04\SWW-2021-04_Req. for TB Agenda_102521.doc
cc: Daniel J. Ulatowski, Assistant Planning Director
Stanley Sliwa, Town Attorney
Building Department
Chris Schregel, Engineering Department
HDJ Builders Inc., 8272 County Rd., E. Amherst, NY 14051

Attachment: SWW-2021-04 (RES-2021-964 : Sidewalk Waiver Request, SWW-2021-04)

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

MEMORANDUM **October 18, 2021**

TO: Daniel C. Howard, AICP, Planning Director

FROM: Planning Department, Thomas J. Voigt, Assistant Planner TV

SUBJECT: Sidewalk Waiver Request, **SP-2021-04**; property located at **600 Park Club Lane** (SBL # 68.15-1-7) adjacent to the Morningside Heights Subdivision. HDJ Builders, Petitioner.

The subject property is located 0.27 ± miles south of the intersection of Sheridan Drive and North Forest Road at the northwest corner of Park Club Lane and North Forest Road. This parcel has ±265 feet of frontage on Park Club Lane and ±237 feet of frontage on North Forest Road. North Forest Road is a county highway and Park Club Lane is a local roadway, designated as a collector in Figure 9 of the Town of Amherst Comprehensive Plan.

The area is residential in character and is comprised of single-family homes on large lots which is consistent with the Town of Amherst Comprehensive Plan that represents the area as single-family residential.

The petitioner is requesting that the required sidewalk along the north side of Park Club Lane and the west side of North Forest Road, be waived. The petitioner claims that the sidewalk is not necessary as no other homes on the north or south side of Park Club Lane or the east or west side of North Forest Road in close proximity, have sidewalks.

The installation of sidewalks at the subject location is consistent with the Town of Amherst Comprehensive Plan Goal 6.2 to achieve an efficient, multi-modal, transportation system that accommodates the automobile, maintains neighborhood character, and emphasizes alternative means of travel, including walking, biking, and public transportation. It is also consistent with Policy 6.8 that aims to develop a comprehensive pedestrian network of sidewalks, crosswalks and trails by eliminating discontinuities in the current network and providing linkages between neighborhoods and major pedestrian destinations such as schools and mixed-activity centers.

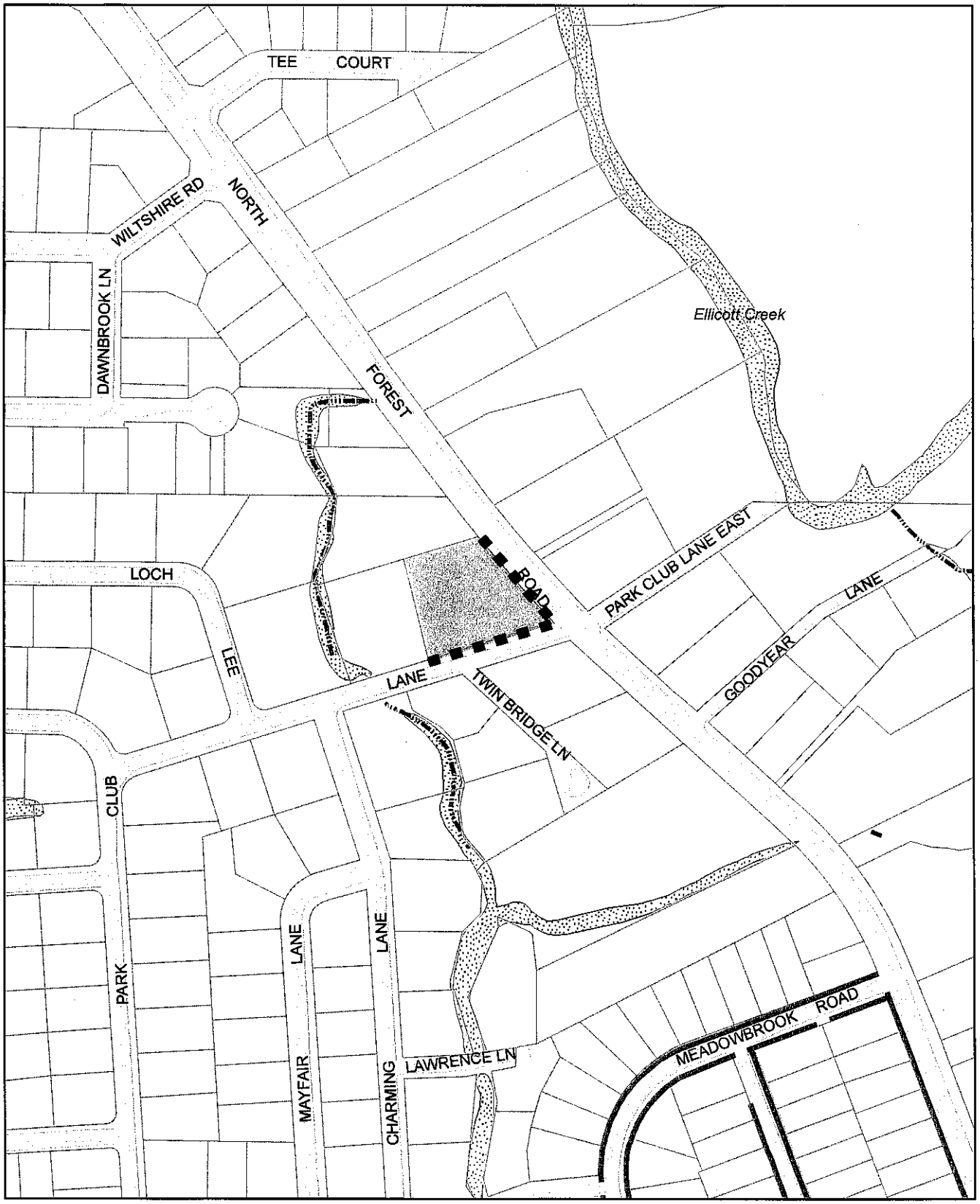
Upon field inspection by staff and represented in the attached sketch, sidewalks are not present in the immediate area of the subject property and would not connect to an existing sidewalk network. The roadway segments along the north side of Park Club Lane and the west side of North Forest Road have no upright curbs, narrow shoulder areas, and have open drainage ditches that are adjacent to the roadway.

Based upon the above and the lack of sidewalks on the north side of Park Club Lane and the west side of North Forest Road from Meadowbrook Road to the subject property, it is this department's recommendation that the subject request be **granted** with the stipulation that the sidewalks be installed at the owner's expense if required by the Town Board at a future time.

Additionally, due to the residential composition of the neighborhood and the portion of North Forest Road, from Sheridan Drive to North Union Road, the Town may wish to request that Erie County install sidewalks along the North Forest Road corridor with any future roadway improvements.

TV/ac
Att.
X:\Current_Planning\Files\Sidewalk Waivers\SWW 2021\SWW-2021-04\SWW-2021-04_PD Review_101821.doc
cc: HDJ Builders Inc., 8272 County Rd., E. Amherst, NY 14051

Attachment: SWW-2021-04 (RES-2021-964 : Sidewalk Waiver Request, SWW-2021-04)



SWW-2021-04

Sidewalk Waiver Request
Property Located at 600 Park Club Lane

HDJ Builders, Inc., Petitioner

June 30, 2021

600 Park Club Lane

Requested Sidewalk Waiver Location

Existing Public Sidewalk

Attachment: SWW-2021-04 (RES-2021-964 : Sidewalk Waiver Request, SWW-2021-04)

RECEIVED
JUL 09 2021
TOWN OF AMHERST
PLANNING DEPT.

TOWN OF AMHERST

TRAFFIC SAFETY BOARD

MUNICIPAL BUILDING – 5583 MAIN STREET, WILLIAMSVILLE, NEW YORK 14221
TRAFFIC SAFETY COORDINATOR - TELEPHONE 631-7154 - FAX 631-7222

MICHAEL SZUKALA
Councilmember & Liaison Officer

ERIC FRAAS
Chairman

DANIEL J. RIDER, P.E.
Vice Chairman

CHRISTOPHER P. SCHREGEL
Traffic Safety Coordinator

MEMBERS

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KRISTIN GOSS
GREG DIONNE

DEPT. LIAISONS

THOMAS VOIGHT
Planning

CAPT. KEVIN BROWN
Police

JOE FRESE
Building

AL SPOTH
Highway

July 8, 2021
Correction July 9, 2021

TO: Daniel Howard, AICP, Planning Director

FROM: Christopher P. Schregel – Traffic Safety Coordinator

SUBJECT: Sidewalk Waiver Request – **SWW-2021-04**
(SBL# 68.15 -1-7)

ADDRESS: 600 Park Club Lane

PETITIONER HDJ Builders Inc.

X **SIDEWALK WAIVER REQUEST IS**

X **APPROVED**

Attachment: SWW-2021-04 (RES-2021-964 : Sidewalk Waiver Request, SWW-2021-04)

Community Service For Over 60 years
ATSB

CPS
Cc Mark S. Berke, Commissioner of Buildings
Francina J. Spoth, Town Clerk
HDJ Builders Inc. 8272 County Road. East Amherst, NY 14051

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

Francina J. Spoth
Town Clerk

Meeting: 10/25/21 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 24946 **RESOLUTION 2021-965** **ADOPTED**

Sidewalk Waiver Request, SWW-2021-05

Sidewalk Waiver Request, SWW-2021-05; Property located at 337 North French Road (SBL# 26.19-2-18). Michael DiNatale, Petitioner.

The subject request has been reviewed by the Planning and Engineering Departments. Attached find the reviews from both departments which give their recommendations.

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

None

RESULT:	**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

Town Board Agenda of October 25, 2021

MEMORANDUM October 19, 2021

TO: Fran Spoth, Town Clerk
Honorable Town Board

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

SUBJECT: Sidewalk Waiver Request, **SWW-2021-05**; Property located at **337 North French Road** (SBL# 26.19-2-18). Michael DiNatale, Petitioner.

The subject request has been reviewed by the Planning and Engineering Departments and **will be placed on the October 25, 2021 Town Board agenda under the Planning Director's report** for decision by the Board. Attached find the reviews from both departments which give their recommendations.

Should you have any questions please contact Roberta Rappoccio, Associate Planner, at 631-7051.

Thank you.

DH/RR/ac
Att. Engineering & Planning Department Reviews
X:\Current_Planning\Files\Sidewalk Waivers\Forms\Req. for TB Agenda.doc
cc: Daniel J. Ulatowski, Assistant Planning Director
Stanley Sliwa, Town Attorney
Building Department
Chris Schregel, Engineering Department
Michael DiNatale, 337 N. French Road, Amherst, NY 14228

Attachment: SWW-2021-05 (RES-2021-965 : Sidewalk Waiver Request, SWW-2021-05)

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

MEMORANDUM **October 19, 2021**

TO: Daniel C. Howard, AICP, Planning Director

FROM: Planning Department, Roberta Rappoccio, Associate Planner

SUBJECT: Sidewalk Waiver Request, **SWW-2021-05**; property located at **337 North French Road** (SBL #26.19-2-18), Michael DiNatale, Petitioner.

The subject property is located 0.6± miles east of the intersection of North French Road and Niagara Falls Boulevard and approximately 330± feet southwest of where North French Road converges with East Robinson Road and Sundridge Drive. This parcel has 100 feet of frontage on the south side of North French Road. This portion of North French Road is a town highway designated as a local roadway in Figure 9 of the Town of Amherst Bicentennial Comprehensive Plan.

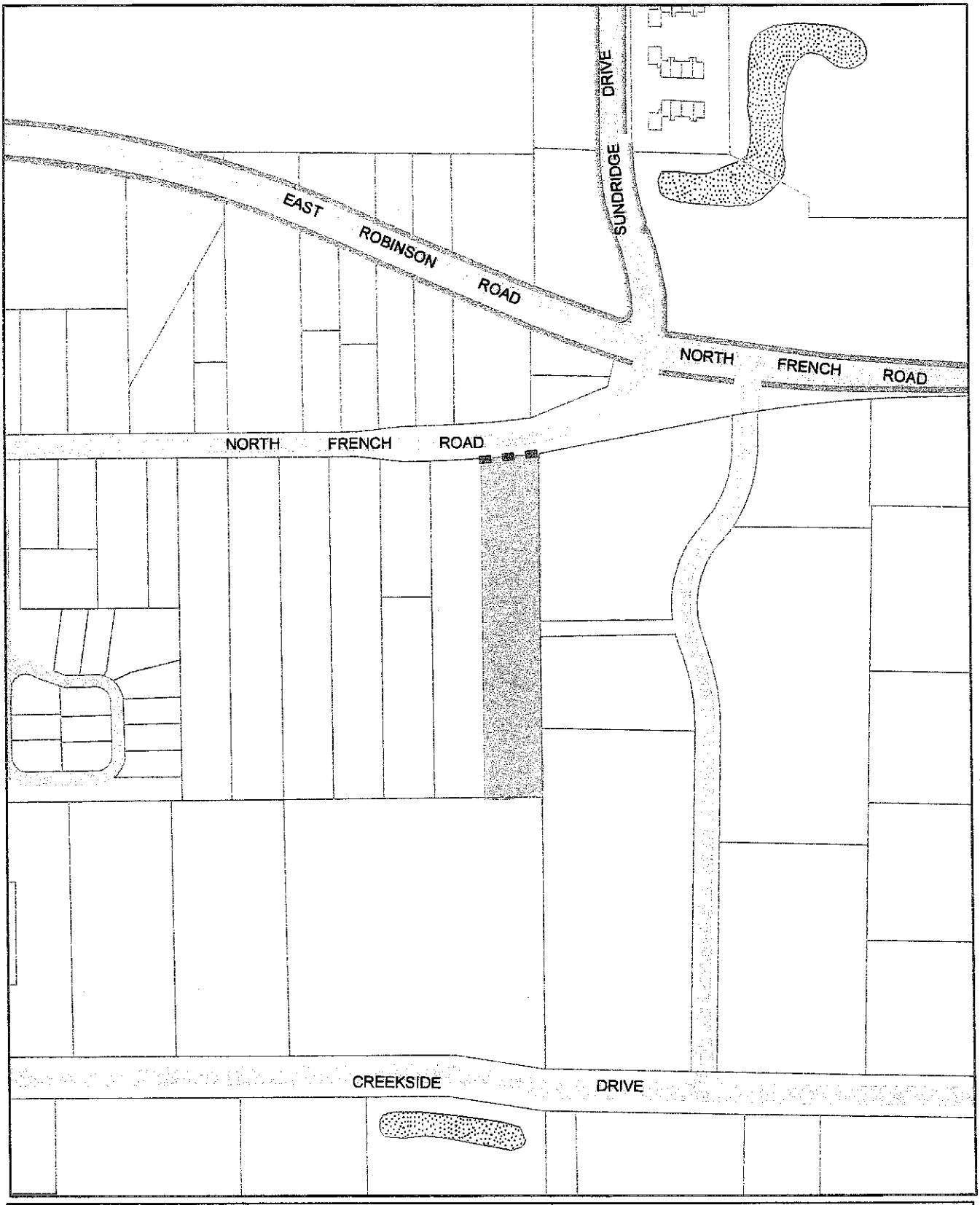
The petitioner is requesting that the required sidewalk along the south side of North French Road, be waived as the petitioner claims that a sidewalk is not needed because there are no sidewalks on either side of the roadway along this portion of North French Road.

There are currently no sidewalks along the entire north and south sides of this portion of North French Road from Niagara Falls Boulevard to Sundridge Drive as illustrated in the attached sketch. The roadway segment adjacent to the subject address has upright curbs, a closed drainage system and minimal shoulders. The majority of North French Road in the subject area does not have upright curbs has an open drainage system and minimal shoulder areas.

Based upon the above, it is this Department's recommendation that the subject request be granted with the stipulation that sidewalks be installed at the owner's expense at such future time they may be deemed necessary by the Town Board.

RR/ac
Att:
X:\Current_Planning\Files\Sidewalk Waivers\SWW 2021\SWW-2021-05\SWW-2021-05_PD Review_10-19-21.doc
cc: Michael DiNatale, 337 North French Road, Amherst, NY 14228

Attachment: SWW-2021-05 (RES-2021-965 : Sidewalk Waiver Request, SWW-2021-05)



SWW-2021-05

Sidewalk Waiver Request
Property Located at 337 North French Road

Michael DiNatale, Petitioner

August 9, 2021

337 North French Road

Requested Sidewalk Waiver Location

Existing Public Sidewalk

Attachment: SWW-2021-05 (RES-2021-965 : Sidewalk Waiver Request, SWW-2021-05)

RECEIVED
AUG 20 2021
TOWN OF AMHERST
PLANNING DEPT.

TOWN OF AMHERST

TRAFFIC SAFETY BOARD

MUNICIPAL BUILDING – 5583 MAIN STREET, WILLIAMSVILLE, NEW YORK 14221
TRAFFIC SAFETY COORDINATOR - TELEPHONE 631-7154 - FAX 631-7222

MICHAEL SZUKALA
Councilmember &
Liaison Officer

ERIC FRAAS
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Traffic Safety Coordinator

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KEVIN CANTWELL
KRISTIN GOSS
GREG DIONNE

DEPT. LIAISONS

THOMAS VOIGHT
Planning

CAPT. KEVIN BROWN
Police

JOE FRESE
Building

AL SPOTH
Highway

August 19, 2021

TO: Daniel Howard, AICP, Planning Director

FROM: Christopher P. Schregel – Traffic Safety Coordinator

SUBJECT: Sidewalk Waiver Request – **SWW-2021-05**
(SBL# 26.19-2-18)

ADDRESS: 337 North French Road

PETITIONER Michael DiNatale

X **SIDEWALK WAIVER REQUEST IS**

X **APPROVED AS SUBMITTED**

Community Service For Over 60 years
ATSB

CPS
Cc Mark S. Berke, Commissioner of Buildings
Francina J. Spoth, Town Clerk
Town Attorney
Michael DiNatale, 337 North French Road, Amherst, NY 14228

Attachment: SWW-2021-05 (RES-2021-965 : Sidewalk Waiver Request, SWW-2021-05)

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

Francina J. Spoth
Town Clerk

Meeting: 10/25/21 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 24947 **RESOLUTION 2021-966** **ADOPTED**

Sidewalk Waiver Request, SWW-2021-06

Sidewalk Waiver Request, SWW-2021-06; Property located at 42 Pinebrook Avenue (SBL# 56.19-4-19.2). John P. Kromer, Petitioner.

The subject request has been reviewed by the Planning and Engineering Departments. Attached find the reviews from both departments which give their recommendations.

10/25/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

FINANCIAL IMPACT:

None

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

Amherst

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

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Daniel J. Ulatowski, AICP
Assistant Planning Director

Town Board Agenda of October 25, 2021

MEMORANDUM October 18, 2021

TO: Fran Spoth, Town Clerk
Honorable Town Board

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

SUBJECT: Sidewalk Waiver Request, **SWW-2021-06**; Property located at **42 Pinebrook Avenue** (SBL# 56.19-4-19.2). John P. Kromer, Petitioner.

The subject request has been reviewed by the Planning and Engineering Departments and **will be placed on the October 25, 2021 Town Board agenda under the Planning Director's report** for decision by the Board. Attached find the reviews from both departments which give their recommendations.

Should you have any questions please contact this office at 631-7051.

Thank you.

DH/TV/ac
Att. Engineering & Planning Department Reviews
X:\Current_Planning\Files\Sidewalk Waivers\SWW 2021\SWW-2021-06\SWW-2021-06_Req. for TB Agenda 102521.doc
cc: Daniel J. Ulatowski, Assistant Planning Director
Stanley Sliwa, Town Attorney
Building Department
Chris Schregel, Engineering Department
John P. Kromer, 735 Erie Street, Lancaster, NY 14086

Attachment: SWW-2021-06 (RES-2021-966 : Sidewalk Waiver Request, SWW-2021-06)

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

MEMORANDUM October 18, 2021

TO: Daniel C. Howard, AICP, Planning Director

FROM: Planning Department, Thomas J. Voigt, Assistant Planner TV

SUBJECT: Sidewalk Waiver Request, **SP-2021-06**; property located at **42 Pinebrook Avenue** (SBL # 56.19-4-19) in the Sheridan Drive Acres Subdivision. John Kromer, Petitioner.

The subject property is located ±350 feet west of the intersection of Pinebrook Avenue and Country Parkway at the northeast corner of Pinebrook Avenue and Jack Road. This parcel has ±120 feet of frontage on Pinebrook Avenue and ±180 feet of frontage on Jack Road. Both Pinebrook Avenue and Jack Road are designated as local streets in Figure 9 of the Town of Amherst Comprehensive Plan.

The area is residential in character and is comprised of single-family homes on large lots which is consistent with the Town of Amherst Comprehensive Plan that represents the area as single-family residential.

The petitioner is requesting that the portion of sidewalk along the north side of Pinebrook Avenue and the east side of Jack Road, be waived as the petitioner claims that the sidewalk is not necessary as no other homes on the north or south side of Pinebrook Avenue or the east or west side of Jack Road have sidewalks.

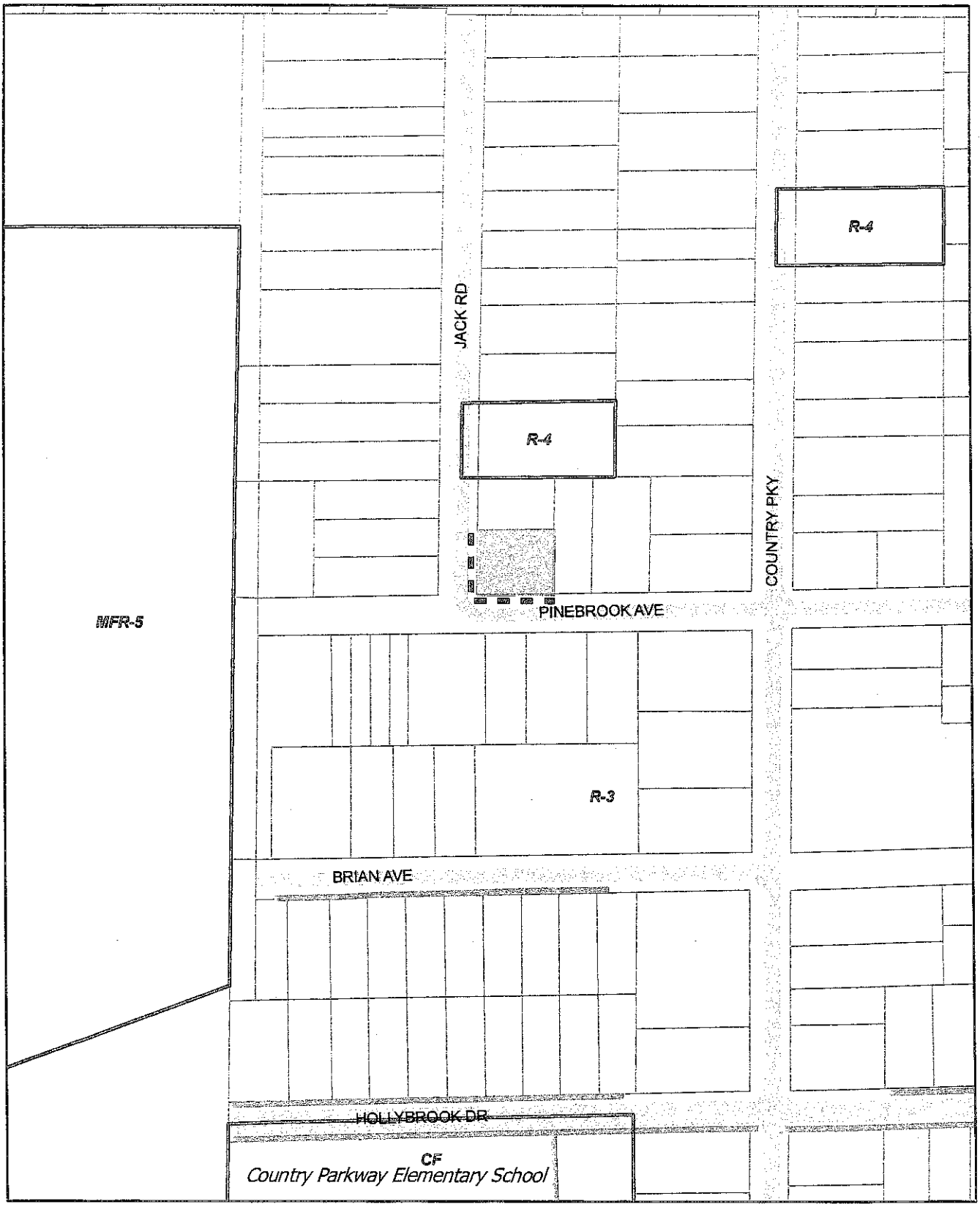
The installation of sidewalks at the subject location is consistent with the Town of Amherst Comprehensive Plan Goal 6.2 to achieve an efficient, multi-modal, transportation system that accommodates the automobile, maintains neighborhood character, and emphasizes alternative means of travel, including walking, biking, and public transportation. The installation of sidewalks is also consistent with Policy 6.8 that aims to develop a comprehensive pedestrian network of sidewalks, crosswalks and trails by eliminating discontinuities in the current network and providing linkages between neighborhoods and major pedestrian destinations such as schools and mixed-activity centers.

Upon field inspection by staff as represented in the attached sketch, sidewalks are not present on the entirety of Pinebrook Avenue or Jack Road. The installation of sidewalks at the subject location would not connect to an existing sidewalk network. The roadway segments along Pinebrook Avenue and Jack Road have no upright curbs and no road shoulder areas. There are no current plans for substantial improvements to these roadways by the Town.

Based upon the above and the lack of sidewalks on the north side of Pinebrook Avenue and the east side of Jack Road, it is this department's recommendation that the subject request be **granted** with the stipulation that the sidewalks be installed at the owner's expense if required by the Town Board at a future time.

TV/ac
Att.
X:\Current_Planning\Files\Sidewalk Waivers\SWW 2021\SWW-2021-06\SWW-2021-06_PD_reveiw_TV101821.doc
cc: John P. Kromer, 735 Erie Street, Lancaster, NY 14086

Attachment: SWW-2021-06 (RES-2021-966 : Sidewalk Waiver Request, SWW-2021-06)



SWW-2021-06

Sidewalk Waiver Request
Property Located at 42 Pinebrook Avenue

John P. Kramer, Petitioner

September 9, 2021

42 Pinebrook Avenue

Existing Public Sidewalk

Requested Sidewalk Waiver Location

Attachment: SWW-2021-06 (RES-2021-966 : Sidewalk Waiver Request, SWW-2021-06)

TOWN OF AMHERST
ENGINEERING DEPARTMENT
ERIE COUNTY – NEW YORK
JEFFREY S. BURROUGHS, P.E., TOWN ENGINEER

September 21, 2021

RECEIVED
SEP 23 2021
TOWN OF AMHERST
PLANNING DEPT.

TO: Daniel C. Howard, AICP, Planning Director

FROM: Christopher P. Schregel – Project Manager

SUBJECT: Sidewalk Waiver Request, SWW-2021-06

LOCATION: 42 Pinebrook Avenue

PETITIONER: John P. Kromer

Recommendation:
The Engineering Department recommends that this sidewalk waiver request be **Denied.**

Reason:
There are no physical obstructions that prevent the installation of a 4 foot wide sidewalk and there is sufficient right-of-way..

Note: Engineering Department review is solely based on constructability. Sidewalk network connectivity and usefulness to pedestrian travel is not considered as part of this specific review.

Attachment: SWW-2021-06 (RES-2021-966 : Sidewalk Waiver Request, SWW-2021-06)

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

Francina J. Spoth
Town Clerk

Meeting: 10/25/21 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: 11/8/2021 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,

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.

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

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.

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§ 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

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(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,

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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.

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§ 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:

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(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

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(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

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(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

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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

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(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

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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

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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:

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(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,

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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.

§19-2~~1~~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

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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.

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

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: 10/25/21 07:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 22856 **RESOLUTION 2021-153** **TABLED (NO VOTE)**

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

DRAFT RESOLUTION
(2/22/21)

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

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

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

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

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

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

2/22/2021
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0. The public hearing was opened at 7:32 PM.

Sean Hopkins, Esq. presented.

The following speakers addressed the Town Board:
Joseph Hausbeck, 2180 N. Forest Rd. - Spoke in opposition; does not fit the concept of the neighborhood; submitted a letter listing various concerns

Fran Cummings, 2200 N. Forest Rd. - Voiced her concerns; property floods; traffic
Karen Macris, 2230 N. Forest Rd. - Asked questions; concern of dorm-like apartments; dumpster location and noise

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

3/8/2021

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

4/5/2021

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

Sean Hopkins, Esq. presented updated plans.

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

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

4/19/2021

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

5/03/2021

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

Sean Hopkins, Esq. presented updated plans.

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

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

RESULT:	**TABLED (NO VOTE)**	**Next: 11/8/2021 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:
Rosemary Blando	2180 North Forest Rd

Attachment: protest petition 2160 n forest-03042021095641 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

Town of Amherst, NY
Office of the Assessor
David C. Marrano SCA Assessor

5583 Main Street
Williamsville, New York 14221
Phone: (716) 631-7038
www.amherst.ny.us
dmarrano@amherst.ny.us

Memorandum

March 4, 2021

To: Francina Spoth, Town Clerk
Re: Petition – 2160 & 2170 North Forest Road

The protest petition for 2170 North Forest Road has been signed by the required property owners of one of Zoning Ordinance section XXI, Article 2. The signature(s) satisfied test 2. The Super Majority calculations are based on three tests:

1. 20% or more of the owners signed a petition
2. **20% of the AREA surround said rezoning within 100 feet has signed a petition**
3. 20% of the AREA within 100 feet directly across the street from said rezoning has signed a petition

Therefore a super majority vote will be required to enact the change in zoning, as it relates to 2170 North Forest Road.

2160 North Forest Road has not been signed by the required property owners to satisfy the Zoning Ordinance referenced above, as it relates to the 3 aforementioned tests.

Should you have questions, please feel free to contact me.

Cheryl E. Walfrand
Senior Real Property Appraiser

cc: David C. Marrano
Assessor

Attachment: protest petition 2160 n forest-03042021095641 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

D R A F T (2/22/21)

SEQR

NEGATIVE DECLARATION

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency:	Town of Amherst Town Board	**Project**: Z-2020-06
Address:	5583 Main Street Williamsville, NY 14221 (716) 631-7051	**Date**:

This notice is issued pursuant to Part 617 and Local Law #3-82, as amended, of the implementing regulations pertaining to Article 8 (State Environmental Quality Review) of the Environmental Conservation Law.

The Lead Agency has determined that the proposed action described below will not have a significant adverse effect on the environment.

Title of Action:	Rezoning Request.
SEQR Status:	Type I
Description of Action:	Rezoning of 2.35± acres of land from NCD-SA to NCD-ND to allow a proposed 2-story, 8-unit apartment building.
Location:	2160 & 2170 North Forest Road (NCD), Town of Amherst, Erie County, New York
Petitioner:	Coromandel Estates Amherst, LLC

Attachment: Z-2020-06_draft TB Neg Dec_2160 & 2170_2.22.21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

Reasons Supporting This Determination

Based on information submitted by the applicant, including a Full Environmental Assessment Form (EAF) - Part 1, a complete rezoning application, and concept plan, a preliminary staff analysis was undertaken. Compared to the criteria listed in Section 617.7, all indications are that the proposed rezoning of 2.35± acres of land from NCD-SA to NCD-ND for a proposed 2-story, 8-unit apartment building will not have a significant impact on the environment, as follows:

1. The action is not expected to cause a substantial adverse change in existing air quality, ground or surface water quality or quantity, or noise levels; a substantial increase in solid waste production; or a substantial increase in the potential for erosion, flooding, leaching or drainage problems. The Town Engineering Department on December 24, 2020 reviewed the application and EAF submitted on December 18, 2020, and had no objection or comments on the proposed rezoning. The Building Department requires that a floodplain development permit be obtained prior to final site plan approval.

2. The action will not result in the removal or destruction of large quantities of vegetation or fauna; or in significant adverse impacts to fish or wildlife species, habitats or other natural resources. A Landscape/Tree preservation Plan shall be required of the applicant upon submittal of a site plan application for development of the site at which stage all landscape requirements of the Zoning Ordinance will be met.

3. The action is not expected to create any material conflict with the Town Comprehensive Plan. The project will comply with all regulations of the Town Zoning Ordinance before final site plan approval is granted. The Town Building Department on January 13, 2021 reviewed the application and EAF submitted on December 18, 2020, and has no objection or comments on the proposed rezoning.

4. The property is within an area identified by the State as potentially containing significant cultural or archeological resources. A Phase I Archaeological Reconnaissance Survey was conducted in October 2020 by the University at Buffalo's Department of Anthropology. The report concluded that no prehistoric or historic sites were identified and recommended no further work. The NYS Office of Parks, Recreation and Historic Preservation's letter of October 30, 2020 concurred that the action will not impair the character or quality of important historical resources.

5. The action will not impair the character or quality of important aesthetic resources or of existing community or neighborhood character. The subject request is for reclassification from NCD-SA to NCD-ND. This property is in an area of Town with a variety of residential uses. The majority of this area is occupied by single-family homes, however, directly across North Forest Road from this site is the Beechwood Senior Residence/Asbury Pointe development. Within the past few years, apartment developments have been constructed further west along North Forest Road, most notably the "Muir Lake" apartments between Millersport Highway and John James Audubon Parkway. Therefore, the project is considered consistent with surrounding land use.

Attachment: Z-2020-06_draft TB Neg Dec_2160 & 2170_2.22.21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

6. The proposed reclassification to NCD-ND for the proposed 2-story, 8-unit apartment building will not cause a major change in the use of either the quantity or type of energy.

7. The reclassification to NCD-ND for the proposed 2-story, 8-unit apartment building will not create any hazard to human health.

8. The reclassification to NCD-ND will not cause a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses. The proposed 2-story, 8-unit apartment building will be consistent with the scale of surrounding land uses.

9. The reclassification to NCD-ND for the proposed 2-story, 8-unit apartment building will not significantly increase the number of people using the site over its previous level of use.

10. Review by the Town Traffic/Safety Board on December 30, 2020 and the NYS Department of Transportation on November 28, 2020 indicate that significant negative traffic impacts are not expected to result from the proposed project.

11. Coordinated reviews of the project have been undertaken by Town Departments including Building on January 13, 2021, Engineering on December 24, 2020, Attorney on January 4, 2021, Traffic/Safety Board on December 30, 2020, Assessor on December 23, 2020, and Right-of-Way Agent on December 29, 2020, along with outside agencies including the NYS Department of Environmental Conservation on January 22, 2021 and the Williamsville School District on December 28, 2020. These reviews have not identified any significant environmental issues and indicate that the proposal will not have a significant damaging impact on the environment.

12. Issues not specifically mentioned above and/or those not specifically reviewed were not raised by Town departments, outside agencies or the public and are not determined to be causing significant negative environmental impacts.

_____ _____
Signature & title of preparer date

_____ _____
Brian J. Kulpa, Supervisor date

EK/ac
X:\Current_Planning\Files\Rezonings\2020\Z-2020-06_(2160 &_2170_North_Forest_Rd_NCD)_2020\Z-2020-06_draft TB Neg Dec_2.22.21.docx
cc: Amherst Town Clerk
Amherst Building Department
ECDEP
NYSDEC

Attachment: Z-2020-06_draft TB Neg Dec_2160 & 2170_2.22.21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

Attachment: Draft Local Law-Reclassification of 2160 2170 North Forest Road-08-24-20 (RES-2021-153 : 2160 & 2170 Request to Rezone and

LOCAL LAW NO. _____-201_

TOWN OF AMHERST
COUNTY OF ERIE, STATE OF NEW YORK

A LOCAL LAW AMENDING CHAPTER 203 OF THE TOWN OF AMHERST CODE, KNOWN AS THE ZONING ORDINANCE, TO REZONE/RECLASSIFY 2160 AND 2170 NORTH FOREST ROAD FROM NCD-SA TO NCD-ND AND TO AMEND THE AUDUBON DEVELOPMENT PLAN AND TO AMEND THE ZONING MAP ACCORDINGLY.

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

Section 1. Title.

This Local Law shall be referred to as, "A Local Law Amending Chapter 203 of Town of Amherst Code, Known As The Zoning Ordinance, to Rezone/Reclassify 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and to Amend The Audubon Development Plan and to Amend The Zoning Map Accordingly".

Section 2. Legislative Findings and Intent.

The Town Board of the Town of Amherst finds that an application to rezone/reclassify 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and Amend the Audubon Development Plan and to Amend the Zoning Map Accordingly has been filed and is in proper order. The Town Board further finds that the request including the rezoning/reclassification and the amendment of the Audubon Development Plan is consistent with the Comprehensive Plan.

Section 3. Amherst Zoning Map.

The Town Board hereby: 1.) amends its Zoning Map which is incorporated by reference in the Town Zoning Code by amending/reclassifying from NCD-SA to NCD-ND the parcels at 2160 and 2170 North Forest Road; and 2.) amending the Audubon Development Plan, both being **subject to any conditions imposed by the authorizing resolution**; legally described as follows:

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie, State of New York, being part of Lot 68, Township 12, Range 7 of the Holland Land Survey so-called and further bounded and described as follows.

BEGINNING at the intersection of the centerline of Stahl Road (66.0 feet wide) with the centerline of North Forest Road (66.0 feet wide):

THENCE: Southerly, along the centerline of Stahl Road extended southerly, a

distance of 108 feet more or less to the north bank of Ellicott Creek;

THENCE: Westerly along said north bank of Ellicott Creek, a distance of 583 feet more or less to the west line of lands conveyed to Peter D. Durham by deed recorded in the Erie County Clerk's Office in Liber 9264 of Deeds at page 188;

THENCE: Northerly along said west line of Peter D. Durham lands, a distance of 10 feet more or less to the north bank of Ellicott Creek;

THENCE: Westerly and southerly along said north bank of Ellicott Creek, a distance of 227 feet more or less to a point distant 100 feet westerly from the said west line of Peter D. Durham lands as measured at right angles;

THENCE: Northerly along a line parallel with the west line of said Peter D. Durham lands distant 100.00 feet westerly therefrom measured at right angles, a distance of 491 feet more or less to the centerline of North Forest Road;

THENCE: Easterly, along said centerline of North Forest Road, a distance of 564.74 feet to the POINT OR PLACE OF BEGINNING.

Section 4. Validity.

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

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

Section 5. Effective Date.

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

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

Attachment: Draft Local Law-Reclassification of 2160 2170 North Forest Road-08-24-20 (RES-2021-153 : 2160 & 2170 Request to Rezone and

Amherst

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

Brian J. Kulpa
Supervisor

Daniel C. Howard, A
Planning Directo

Ellen M. Kost, AICP
Assistant Planning Dir

Town Board Agenda of February 22, 2021

February 9, 2021

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

Subject: Amendment #73 to the Audubon New Community District Development Plan to reclassify 2.35± acres of land from NCD-SA to NCD-ND; property located at 2160 & 2170 North Forest Road (NCD). Z-2020-06.

Honorable Members:

The subject property consists of two lots and forms a 2.35± acre irregularly shaped area located on the south side of North Forest Road, just west of the Stahl Road intersection. The site has 278.60± ft. of frontage and a depth of 497.16± ft. The site is vacant and partially wooded.

The south boundaries of the two lots are directly adjacent to Ellicott Creek, and the Ellicott Creek floodway extends onto both properties. A preliminary wetland investigation by Earth Dimensions, Inc. in July 2020 did not identify any federal jurisdictional wetlands or NYS wetlands on the subject properties. North Forest Road is a County collector.

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

The purpose of this request is to reclassify the land to allow a 2-story, 8-unit apartment building. The concept plan shows the building in the central portion of the site, with 17 parking spaces in front of the building, eight (8) of which are proposed to be in a free-standing garage. Parking would be accessed by one driveway to North Forest Road approximately in the center of the site. Space for emergency vehicle turnaround is shown between the building and the road. The plan also shows a covered patio with fire pit on the west side of the building and a dumpster location west of the building. Two stormwater basins are proposed near the north and south ends of the west property line. All development is shown outside the Ellicott Creek floodway.

The property was zoned New Community District – Suburban Agriculture (NCD-SA) with adoption of the Town-wide zoning ordinance and maps in 1976. No other requests are on file.

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

continued . .

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

A) **EXTENT TO WHICH THE PROPOSED AMENDMENT MEETS THE INTENT AND OBJECTIVES OF A NEW COMMUNITY DISTRICT AS EXPRESSED IN SECTION 5-2-2 OF THE ZONING ORDINANCE.**

The proposed revision to the development plan addresses the following objectives of the Zoning Ordinance.

Objectives

2-2A *A varied choice in the types of environment, occupancy, tenure, types and cost of housing, lot sizes, and community facilities available to existing and potential Town residents.*

The proposed project consists of a 2-story, 8-unit apartment building with 17 parking spaces in front of the building, eight (8) of which will be in a free-standing garage. One driveway to North Forest Road is shown in the central portion of the site. Two stormwater basins are proposed near the west property line. All development is shown outside the Ellicott Creek floodway.

The Assessor's office agrees with all statements made in the application and has no issue with the rezoning since units will be leased and not sold with condominium tax status.

The Building Department has approved the rezoning as submitted.

2-2B *Extensive usable open space and recreation areas, appropriate in terms of location, size and suitability of intended function.*

No usable open space or recreation areas are proposed with this project. The Ellicott Creek floodway, which extends onto these properties, will remain as open space and is prohibited by FEMA regulations from containing any structures.

2-2C *The provision of commercial, office or industrial uses of substantial real property tax productivity intended to support the financing of additional educational, municipal, and other public services required as a result of the development.*

No commercial, office or industrial uses are proposed with this project.

2-2D *Convenience in location of Commercial and Service Areas*

The closest commercial/service areas to the subject property are located on Millersport Highway (0.5 miles) and on Maple Road (1.5 miles). These include gas stations and a variety of restaurants. The UB North campus, on the opposite side of Ellicott Creek, also offers commercial services.

2-2E *The preservation of such features as trees, outstanding natural topography and geological features; the prevention of soil erosion; and the comprehensive design of storm water retention and proper drainage systems.*

As most of the wooded areas in the southern and eastern portions of these properties are within the Ellicott Creek floodway, they are proposed to remain undisturbed.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

The NYS Department of Environmental Conservation concurs that the Town of Amherst should act as SEQR Lead Agency and has the following comments:

1. Note that Ellicott Creek has a water classification and standard of B. Therefore, any physical alteration (ie, land clearing, filling, drainage pipe/ditch installation, etc.) to the bed or banks (within 50 feet of the stream) will require an Article 15, Title 5, Protection of Waters Permit from the NYSDEC.

2. The project site is located near a NYS Flood Control Easement, specifically Amherst Ellicott Creek Flood Control Project. Use of this easement requires an Article 16 Flood Control Land Use Permit from the NYSDEC.

3. The site is located within the designated 100-year floodplain per the Federal Emergency Management Agency's (FEMA) Firm Map No. 36029C0069H. The proposed project should be designed in accordance with all applicable local municipal laws for flood damage reduction. In addition, Ellicott Creek has a regulatory floodway, and any encroachment into floodway, including fill, requires an engineering analysis that demonstrates a 0.0' rise in the base flood elevation before a permit can be issued. Based on submitted plans, it also appears that the proposed patio/fire pit area is within the floodway and may require a separate floodplain development permit.

4. If any project activities will involve land disturbance of 1 acre or more, the project sponsor is required to obtain a State Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activity.

5. This proposed project requires a sanitary sewer connection that is designed to convey 2,500 gallons/day or more of municipal sewage and is therefore considered a sanitary sewer extension. The Erie County Health Department will be the approving agency. A detailed Downstream Sewer Capacity Analysis must be performed and submitted for the proposed project as part of the Project's Engineering Report.

6. Portions of this project area are located on hydric soils. The project sponsor should contact the United States Department of the Army, Corps of Engineers (COE) to ensure that the project will not involve federally regulated wetlands or any other approval from that agency. If Federal Wetlands are involved, the COE may require Water Quality Certification from DEC.

7. The project site appears to be within an archaeologically sensitive area based on information obtained through the Cultural Resources Information System (CRIS) on the NYS Office of Park, Recreation and Historic Preservation's (OPRHP) website. As part of the SEQR process, this concern should be evaluated, unless it can be verified by appropriate documentation that the sites have been significantly disturbed in a way that would destroy potential artifacts. Note: If any of the described Department approvals are required, an appropriate archaeological investigation must be conducted in order to satisfy the NYS Historic Preservation Act.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

2-2F *The creative use of land and related physical development which allows an orderly transition of land from rural to urban uses.*

The subject properties are located within an area of Town with a variety of residential uses. The majority of this area is occupied by single-family homes, however, directly across North Forest Road from this site is the Beechwood Senior Residence/Asbury Pointe development. Within the past few years, apartment developments have been constructed further west along North Forest Road, most notably the "Muir Lake" apartments between Millersport Highway and John James Audubon Parkway.

The ROW Agent agrees with all statements made in the application and notes that an easement to the Town of Amherst on this property (liber 7105, page 369) should continue to be in effect and be reduced to an agreement.

2-2G *An efficient use of land resulting in smaller networks of utilities and streets and lessened burden of traffic on streets and highways thereby lowering utility and maintenance costs borne by new development.*

As the floodway is located on nearly half of the subject site, the concept plan submitted with this application shows the development limited to the central portion of the site. One driveway to North Forest Road is shown in the center of the site.

The Engineering Department, Traffic-Safety Board and Fire Chiefs' Association agree with all statements made in the application. The Highway Department review is pending.

NYSDOT reviewed the project, concurred with the Town acting as Lead Agency, and stated that the proposed project will not have a significant impact to traffic on the State Highway System.

The Erie County DPW – Highways Division concurs with the Town of Amherst being the Lead Agency for this project and has the following comments:

Permit Requirements:

1. The Developer will be required to apply for and obtain an Erie County Highway Work Permit for Utility Work Perm-2 for construction within the North Forest Road highway right-of-way.

2. The Developer will be required to apply for and obtain an Erie County Highway Work Permit for Non-Utility Work, Perm 3 for construction of a new entrance drive within the North Forest Road highway right-of-way.

Traffic Concerns:

1. A Traffic Impact Study may be needed due to the close proximity of the project to the intersection of North Forest and Stahl Road.

2-2H *Creation and preservation of natural and man-made features which will give increased environmental quality, encourage uses which will maintain high environmental quality and provide an attractive community design.*

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

The most important natural feature on this development site is the Ellicott Creek floodway, which according to FEMA regulations cannot hold structures of any kind. The wooded areas in the southern and eastern portions of the site within the floodway are therefore proposed to remain undisturbed.

This project is in an archaeologically sensitive location based on NYS mapping. A Phase I Archaeological Reconnaissance Survey was conducted in October 2020 by the Department of Anthropology at the University at Buffalo. The survey found that no historic or prehistoric sites were identified and recommended no further work. The NYS Office of Parks, Recreation and Historic Preservation concurs with the report's conclusion that no further archaeological investigations are warranted, and their opinion is that no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by this project.

2-2I *Guidance and control of development in Flood Hazard Areas so that life and property both within and without such areas are protected.*

The Building Department is responsible for administering all flood code provisions; that department has no issue with the proposed rezoning but notes that a floodplain permit will be required. Town mapping from 2019 shows this property within the existing flood hazard area.

2-2J *Increased safety for all modes of travel, including pedestrian and bicycle.*

There are no sidewalks on North Forest Road in the vicinity of this project, and the petitioner does not propose to install any. An internal sidewalk is shown around the proposed building and parking lot but does not extend to the road.

The Williamsville Central School District notes that the District has received information on this project and placed it on file, and that a future bus stop will be located at a driveway entrance at North Forest Road in accordance with District policy.

2-2K *An appropriate balancing or accommodation of the effect of major public or private development elsewhere in the Town or its vicinity.*

While the proposed 8-unit apartment building presents a denser development than the nearby single-family lots, it is consistent with the adjacent Beechwood Senior Residence/Asbury Pointe development across North Forest Road. The property is close to the UB North Campus on the opposite side of Ellicott Creek. The development can also be expected to supplement the off-campus housing stock for faculty, staff and students. The developer has stated that these units are intended to be marketed to professionals who often work remotely.

2-2L *Sufficient civic and community facilities, carefully integrated with adjoining areas.*

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

There are no civic or community facilities proposed with this project; adequate civic and community facilities are located in the area.

2-2M *Provision for the orderly updating of long-term, large-scale development plans to reflect changing circumstances within an overall, Town-approved planning framework.*

The Comprehensive Plan's Conceptual Land Use Plan (Figure 6) indicates Mixed Residential use for the section of North Forest Road between Stahl Road and Millersport Highway. The Mixed Residential designation is aimed at projects with densities of 4 – 12 units/acre. The subject project will result in a density of 3.4 units/acre.

The requested change is generally compatible with the character of development in the area, although the other comparable developments are not located on the 'creek side' of North Forest Road. The 3-story, 90-unit "Muir Lake" apartments between Millersport Highway and J. J. Audubon Parkway, as well as the Beechwood/Asbury senior residence, do not back up to Ellicott Creek. It should be noted that the subject site is within the boundary of the Town's Local Waterfront Revitalization Program (LWRP) currently in progress. This project would require another level of review for consistency with waterfront policies if the LWRP was adopted by the Town (adoption is not expected within the next year).

2-2N *A more desirable environment than would be possible through the strict application of other sections of this Zoning Ordinance.*

The current zoning of New Community District – Suburban Agriculture (NCD-SA) allows single family dwellings only. The proposed development of the site includes 8 apartment units that would not be allowed under the current zoning classification. The demand for student housing in the area surrounding the UB campus makes this a desirable location for apartment use.

B) EXTENT TO WHICH THE PROPOSED DEVELOPMENT PLAN MEETS ALL THE REQUIREMENTS OF SUBSECTIONS 5-2-4, 5-2-5, and 5-2-6 OF THE ZONING ORDINANCE.

5-2-4 Location of NCD Not applicable (pertains to entire existing NCD within the Town).

5-2-5 Permitted Uses

5-2-5A(2) Neighborhood District. This classification includes primarily residential areas designed to provide living space for families and individuals. Ancillary uses designed to conveniently serve residents may be located within them. The classification includes:

a. Residences and dwelling units of every type, except as otherwise specified in this subsection.
b. Fraternity and sorority houses, dormitories, hostels and boardinghouses.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

c. Small convenience retail and service facilities, except for automobile drive-in restaurants, and ancillary office facilities designed to serve the needs of residents of the neighborhood.
d. Public or quasi-public facilities, including schools and day-care centers, religious buildings and other community facilities.
e. Recreation facilities, open space areas, and personal training facilities.
f. Special limited commercial services and facilities not already included in the above uses, storage yards, and open equipment structures.

5-2-5B Use Mixture: Not applicable.

5-2-6 Dimensional Standards

5-2-6A The overall residential density of an NCD shall not exceed five (5) dwelling units per gross acre. This density regulation applies to the entire New Community District (4,121± acres) within the Town. Although the density of the proposed development is 3.4 units/acre, it would not bring the overall NCD density beyond the threshold of 5 units/acre.

5-2-6B Dwelling Unit Area. Information not provided. All dwelling units and rooms included in a dwelling are required to have sufficient floor area to satisfy the applicable minimum floor area requirements of the State Building Construction Code or the Town Building Code, whichever is applicable. This requirement will need to be met.

5-2-6C Minimum Area. Not applicable

5-2-6D Building Arrangements. The proposed development will result in a 2-story, 8-unit apartment building in the central portion of the site. The proposed 17 parking spaces will result in 2 spaces/unit, the minimum required by code elsewhere in the Town.

C) THE PROPOSED DEVELOPMENT PLAN IS CONCEPTUALLY SOUND IN THAT IT MEETS PRESENT AND FUTURE COMMUNITY NEEDS

The requested NCD-ND classification and proposed project concept will generally result in a sound development plan for the subject area; however, the concept should include space for overflow parking beyond that required for residents of the development. Section 5-2-7A(8) in the Zoning Ordinance states that "Off-street parking, loading, and stacking spaces shall be provided so as to prevent overflow of parked or standing vehicles onto public or common vehicular or pedestrian rights-of-way."

D) THERE ARE ADEQUATE SERVICES AND UTILITIES AVAILABLE OR PROPOSED TO BE MADE AVAILABLE IN THE CONSTRUCTION OF THE DEVELOPMENT.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

All services and utilities are or will be made available with this development.

E) THE PROPOSED DEVELOPMENT PLAN IS CONSISTENT WITH THE TOWN COMPREHENSIVE PLAN

The proposed project generally complies with the locational and use criteria in the Comprehensive Plan for land near a university campus.

SEQR

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

RECOMMENDATION

The Planning Board recommends that your Honorable Body concur with the Planning Board's findings relative to SEQR and issue the attached Negative Declaration, and that the subject request be **approved** based on the attached resolution.

Very truly yours,

DANIEL C. HOWARD, AICP
Planning Director

DH/EK/ac
Att.
X:\Current_Planning\Files\Rezonings\2020\Z-2020-06_(2160 &_2170_North_Forest_Rd_NCD)_2020\Z-2020-06_TB Letter_2.22.21.docx
cc: Stanley Sliwa, Town Attorney

Planning Board Approval – January 21, 2021
Ayes 7; Noes 0

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

TOWN OF AMHERST
PLANNING BOARD RESOLUTION
AMENDMENT #73 TO THE AUDUBON DEVELOPMENT PLAN
Z-2020-06

PETITIONER
Coromandel Estates Amherst LLC
c/o Sean Hopkins, Esq.
Hopkins Sorgi & McCarthy PLLC
5500 Main St., Suite 343
Williamsville, NY 14221

PROPERTY LOCATION
2160 & 2170 North Forest Road (NCD)

JAN29'21 AM 8:32 RCVD

WHEREAS the Town of Amherst Planning Board on Thursday, January 21, 2021 held a public hearing on Amendment #73 to the Audubon New Community District Development Plan to classify the subject property as suitable for use as an apartment development, and

WHEREAS the Planning Board has reviewed the Amendment plans and supporting documentation, and

WHEREAS the Amendment has been referred to the various Town review agencies, and

WHEREAS the Planning Board finds that:

A. The proposed Revision to the Development Plan meets the intent and objectives of a New Community District as expressed in Subsection 1-1.1.

B. The proposed Revision to the Development Plan meets all the requirements of Section 5-2-3 through 5-2-6.

C. The proposed Revision to the Development Plan is conceptually sound in that it meets present and future community needs.

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

E. The proposed Amendment to the Development Plan is consistent with the Town Comprehensive Plan.

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

NOW THEREFORE BE IT RESOLVED that the Planning Board, in accordance with Section 8-15-2 of the Zoning Ordinance offers a positive report and recommends Town Board approval of Amendment #73 to the Audubon Development Plan with the following condition:

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

TOWN OF AMHERST
PLANNING BOARD RESOLUTION
AMENDMENT #73 TO THE AUDUBON DEVELOPMENT PLAN
Z-2020-06

PETITIONER
Coromandel Estates Amherst LLC

PROPERTY LOCATION
2160 & 2170 North Forest Road (NCD)

JAN29'21 AM 8:33 RCVD

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

The foregoing resolution was adopted by the Town of Amherst Planning Board, January 21, 2021; moved by Chmiel; seconded by Giuliani; ayes 7, noes 0.

Robert J. Gilmour, Chair — Date 1/28/21

EK/ac
X:\Current_Planning\Files\Rezonings\2020\Z-2020-06_(2160 &_2170_North_Forest_Rd_NCD)_2020\Z-2020-06_resolution_012121.doc
cc: Commissioner of Building
Town Engineer
Highway Superintendent
Traffic/Safety Coordinator
Coromandel Estates Amherst LLC, c/o Sean Hopkins, 5500 Main St., Suite 343, Williamsville, NY 14221
Thiru Vikram, c/o Coromandel Estates LLC, 4515 Chestnut Ridge Road, Unit 106, Amherst NY 14228
Chris Wood, Carmina Wood Morris, 487 Main St., Suite 500, Buffalo NY 14203
Christina Barmosz, Silvestri Architects, 1321 Millersport Hwy., Amherst, NY 14221
David Pawlik, Creative Structures Services, 550 Seneca St., Suite 100, Buffalo NY 14204

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amended Application - Reclassification 2160 and 2170 North Forest Road and to Amend the Audubon Development Plan
Date: December 17, 2020

Applicant: Commandel Estates
Amherst LLC c/o Sean Hopkins, Esq.
5500 Main Street, Suite 343
Williamsville, NY 14221
Tel: 716.510-4338
E-mail: shopkins@hsr-legal.com

Original

TOWN OF AMHERST PLANNING DEPARTMENT

Application for Rezoning Review and, if required Comprehensive Plan Amendment

For Official Use

File #: Z-2020-06 **Acreage** — **Fee $** -0-

Address Verified by Assessor's Office _____ VERIFIED BY DATE

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

Materials Checked by Building Dept. _____ RECEIVED BY DATE

Materials Received by Planning Dept. _____ RECEIVED BY DATE

		Fill In Applicable Fees
2 ACRES OR LESS	**$1,250**	$1,250.00
2 – 20 ACRES **$1,250 + $250/acres or fraction thereof over 2 acres**		$250.00
20 – 30 ACRES **$5,700 + $150/acre or fraction thereof over 20 acres**		____
OVER 30 ACRES **$6,900 +$75/acre or fraction thereof over 30 acres**		____
Request for Relief of/Change to Conditions of Zoning Approval	Z-2020-06, 2160 & 2170 N. Forest Rd. (LCD) **$ 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.

[Note: A completed Amended Part 1 of the Full Environmental Assessment Form prepared pursuant to the State Environmental Quality Review Act ("SEQRA") is attached as Exhibit "2" of this Application.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

TO BE COMPLETED BY APPLICANT

1. **Petitioner:** Name: Coromandel Estates Amherst LLC

Address: c/o Sean Hopkins, Esq.
5500 Main Street, Suite 343
Williamsville, New York 14221
City State Zip Code

Phone: 510-4338 Fax:

E Mail shopkins@hsr-legal.com

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

From: NCD-SA District

To: NCD-ND District

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

2160 and 2170 North Forest Road

SBL #: 55.02-1-2 and 55.01-1-19.2

4. **Area of land to be rezoned** (in acres): 2.35

5. **Owner of Land:**

Name: Allen and Kristen Guerin

Address: 270 Rosedale Boulevard, Amherst, NY 14226

Telephone:

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

Name: Sean W. Hopkins, Esq.

Address: 5500 Main Street, Suite 343
Williamsville, New York 14221
Tel: 716.510-4338 - E-mail: shopkins@hsr-legal.com
City State Zip Code

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

_____Option to purchase

_____Owner

__X__Other (explain) Petitioner has entered into a contract to purchase the Project Site. A signed Authorization Form is attached as Exhibit 1 of this Amended Application.

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

Not Applicable.

9. **Attach Survey and Legal description of land to be rezoned. The Survey must be prepared by a New York State Licensed Land Surveyor.** The legal description of property to be reclassified is attached as Exhibit "3" and a full size copy of the Survey prepared by GPI dated dated July 13, 2020 is attached. A reduced size copy of the Survey is also attached as Exhibit "4".

10. **Said property has the following deed restrictions or Covenants:** (attach copy) Not Applicable.

Liber _____ Page _____

11. **Information on proposed project:**

A. Description of the character of the proposed development:

See Exhibit 5.

B. Rationale for rezoning request:

1. Why was this site chosen?

See Exhibit 5.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

See Exhibit 5.

3. How will this rezoning impact surrounding properties?

See Exhibit 5.

4. How will this rezoning impact the school system?

See Exhibit 5.

12. Quantitative Data:

A. Total # of dwelling units 8
[The density of the proposed project has been reduced from 18 units to 8 units.]

B. Distribution of dwelling units by type Attached residential units for lease

C. Gross Residential Density per acre 3.40 units per acre

D. Total amount of Open Space Approximately 1 acre of greenspace and landscaping

E. Proposed Non-Residential Floor Area Not Applicable

13. Development Schedule:

Start Spring/Summer 2021

Finish 2022

Stages (# of) 1

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

The attached residential units will be leased to residential tenants.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

Greenspace and landscaping will be privately owned and maintained.

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

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

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

See Exhibit 6.

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

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

See Exhibit 6.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

See Exhibit 6.

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

1. Sanitary Sewer
   Yes.
2. Storm Sewer/Drainage
   Yes.
3. Water
   Yes.
4. Other Yes.

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

See Exhibit 6.

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

See Exhibit 6.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

See Exhibit 6.

17. The petitioner encloses herewith the sum of $ 1,515.00 to pay the fee, and consents to the placement of a sign(s) at the described location identifying this request for a period of time to be determined by the Town Clerk.
[The filing fee was previously paid .]

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

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

[Note: Authorization letter of property owners dated August 18, 2020 is attached to this Application.]

Counsel for Petitioner
Signature of Petitioner

Subscribed and sworn to before me this 17th day of December, 20 20

Notary Public, Erie County, New York

MARIANNE BRAUTLACHT
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 01/14/20

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

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

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

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

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

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

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

P/CurrPlan/Applications2007/Rezoning & Comp Plan Amend App.
10/08

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 1 – Authorization Form of Property Owners dated August 18, 2020

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Authentisign ID: 5F5EDAC5-6B0F-4377-B19F-0884A050FD33

AUTHORIZATION

Allen Guerin and Kristen Guerin, as the record owners of the parcels of land located at 2160 North Forest Road [SBL No. 55.02-1-1] and 2170 North Forest Road [SBL No. 55.01-1-19.2] in the Town of Amherst (collectively the "Project Site") hereby authorizes Postwork Capital LLC and its consultants to seek a rezoning and all other required governmental approvals from the municipal boards of the Town of Amherst in connection with a proposed multifamily project to be located on the Project Site.

Date: August 18, 2020 Signature: Authentisign Allen Guerin 08/19/2020
8/19/2020 9:14:43 AM EDT
Print Name: Allen Guerin

Date: August 18, 2020 Signature: Authentisign Kristen Guerin 08/19/2020
Print Name: Kristen Guerin

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 2 – Amended Part 1 of Full Environmental Assessment Form Prepared Pursuant to the State Environmental Quality Review Act ("SEQRA") with Attachments "A" and "B"

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amended Part 1 of Full Environmental Assessment Form with Attachments
Date: December 17, 2020

Full Environmental Assessment Form Part 1 - Project and Setting

Prepared By: Sean Hopkins, Esq.
Hopkins Sorgi & McCarthy PLLC
5500 Main Street, Suite 343
Williamsville, NY 14221
Tel: 510-4338
E-mail: shopkins@hsr-legal.com

Instructions for Completing Part 1

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

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

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

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Proposed Multifamily Project		
Project Location (describe, and attach a general location map): 2160 and 2170 North Forest Road - Town of Amherst - Erie County		
Brief Description of Proposed Action (include purpose or need): The proposed action involves an amendment of the land use classification of 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and an amendment of the Audubon Development Plan to accommodate the development of the Project Site as a three-story multifamily building consisting of 8 attached residential units for lease and all related site improvements as depicted on the Concept Site Plan prepared by Silvestri Architects, P.C. The proposed action has been defined broadly to include the construction of the proposed two-story multifamily building as well as all necessary site improvements including: parking spaces, a curb cut onto North Forest Road, access aisles, water and sanitary sewer lines as well as utility connections. Although the proposed project ("action") will not cross of any of the thresholds for a Type I action contained in 6 NYCRR Part 617.4. of SEQRA Regulations, it is a Type I action due the proximity of the Project Site to Ellicott Creek, which is a flowing watercourse, pursuant to a local law adopted by the Town of Amherst in 1982. The local law requires projects within 100 ft. of a flowing watercourse to be classified as Type I action. Given that the proposed project will not result in any potentially significant adverse environmental impacts, the issuance of a negative declaration pursuant to SEQRA is appropriate.		
Name of Applicant/Sponsor: Coromandel Estates Amherst LLC c/o Sean Hopkins, Esq.	Telephone: 716.510-4338 E-Mail: shopkins@hsr-legal.com	
Address: 5500 Main Street, Suite 343		
City/PO: Williamsville	State: NY	Zip Code: 14221
Project Contact (if not same as sponsor; give name and title/role): Same as Above.	Telephone: E-Mail:	
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor): Allen and Kristen Guerin	Telephone: E-Mail:	
Address: 270 Rosedale Boulevard		
City/PO: Amherst	State: NY	Zip Code: 14226

REVISED
DEC 18 2020
TOWN OF AMH
PLANNING DEPT.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, or Village Board of Trustees ☑Yes ☐No	Town of Amherst Town Board - Reclassification NCD Property and Amend. of Audubon Dev. Plan	August 24, 2020
b. City, Town or Village Planning Board or Commission ☑Yes ☐No	Planning Board - Site Plan Approval	To be Determined
c. City, Town or Village Zoning Board of Appeals ☐Yes ☑No		
d. Other local agencies ☑Yes ☐No	Building Dept. - Building and Floodplain Permits; Stormwater Permit - Eng. Dept.	To be Determined
e. County agencies ☑Yes ☐No	ECDPW - Curb cut onto North Forest Road; ECWA - Water	To be Determined
f. Regional agencies ☐Yes ☑No		
g. State agencies ☑Yes ☐No	NYSDEC - DSCA and SPDES Permit and NYSOPRHP - Cultural resource review	To be Determined
h. Federal agencies ☐Yes ☑No		

i. Coastal Resources.

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

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

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

C. Planning and Zoning

C.1. Planning and zoning actions.

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

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

C.2. Adopted land use plans.

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

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

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

If Yes, identify the plan(s):

NYS Heritage Areas:West Erie Canal Corridor

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

If Yes, identify the plan(s):

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

C.3. Zoning

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

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

c. Is a zoning change requested as part of the proposed action? ☑ Yes ☐ No
If Yes,
i. What is the proposed new zoning for the site? NCD-ND

C.4. Existing community services.

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

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

c. Which fire protection and emergency medical services serve the project site?
Getzville Volunteer Fire Department

d. What parks serve the project site?
There are various Town parks that will be accessible to future residents of the project.

D. Project Details

D.1. Proposed and Potential Development

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

b. a. Total acreage of the site of the proposed action? 2.35 acres
b. Total acreage to be physically disturbed? 1.3 +/- acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 2.35 acres

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

d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☑ No
If Yes,
i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

ii. Is a cluster/conservation layout proposed? ☐ Yes ☐ No
iii. Number of lots proposed? _____
iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

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

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

f. Does the project include new residen... uses? ☑ Yes ☐ No
If Yes, show numbers of units proposed.

	One Family	Two Family	Three Family	Multiple Family (four or more)
Initial Phase				8
At completion of all phases				8

g. Does the proposed action include new non-residential construction (including expansions)? ☐ Yes ☑ No
If Yes,
i. Total number of structures _____
ii. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length
iii. Approximate extent of building space to be heated or cooled: _____ square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? ☑ Yes ☐ No
If Yes,
i. Purpose of the impoundment: Stormwater management.
ii. If a water impoundment, the principal source of the water: ☐ Ground water ☐ Surface water streams ☑ Other specify: Runoff from impervious surfaces to be located on the Project Site.
iii. If other than water, identify the type of impounded/contained liquids and their source.
iv. Approximate size of the proposed impoundment. Volume: TBD million gallons; surface area: 0.3 acres
v. Dimensions of the proposed dam or impounding structure: n/a height; _____ length
vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete):
impoundment is an excavation, a dam is not required

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? ☐ Yes ☑ No
(Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)
If Yes:
i. What is the purpose of the excavation or dredging? _____
ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?
- Volume (specify tons or cubic yards): _____
- Over what duration of time? _____

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them.
iv. Will there be onsite dewatering or processing of excavated materials? ☐ Yes ☐ No
If yes, describe. _____
v. What is the total area to be dredged or excavated? _____ acres
vi. What is the maximum area to be worked at any one time? _____ acres
vii. What would be the maximum depth of excavation or dredging? _____ feet
viii. Will the excavation require blasting? ☐ Yes ☐ No
ix. Summarize site reclamation goals and plan: _____

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? ☐ Yes ☑ No
If Yes:
i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____

Attached as Attachment "A" of this Amended Part 1 of the Full EAF is a wetland investigation letter prepared by Scott Livingstone of Earth Dimensions, Inc. dated July 7, 2020 confirming there are not any wetland subject to the jurisdiction of either of the NYS Dept. of Environmental Conservation of the United States Army Corps of Engineers located on the Project Site.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

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

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

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

v. Describe any proposed reclamation/mitigation following disturbance:

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

i. Total anticipated water usage/demand per day: 1,850 gallons/day

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

- Name of district or service area: ECWA
- Does the existing public water supply have capacity to serve the proposal? ☑Yes ☐No
- Is the project site in the existing district? ☑Yes ☐No
- Is expansion of the district needed? ☐Yes ☑No
- Do existing lines serve the project site? ☑Yes ☐No

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

- Describe extensions or capacity expansions proposed to serve this project:
- Source(s) of supply for the district:

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

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

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

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

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

i. Total anticipated liquid waste generation per day: 1,850 gallons/day

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

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

- Name of wastewater treatment plant to be used: Town of Amherst Waste Water Treatment Plan on Tonawanda Creek Road
- Name of district: Town of Amherst Consolidated Sanitary Sewer District
- Does the existing wastewater treatment plant have capacity to serve the project? ☑Yes ☐No
- Is the project site in the existing district? ☑Yes ☐No
- Is expansion of the district needed? ☐Yes ☑No

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

If Yes:

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

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

If Yes:

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

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

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

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

If Yes:

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

_____ Square feet or 0.5 acres (impervious surface)

_____ Square feet or 2.35 acres (parcel size)

ii. Describe types of new point sources. roof, parking lot

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

Private on-site storm water management area. Discharge will be to Ellicott Creek.

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

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

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

If Yes, identify:

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

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

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

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

If Yes:

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

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

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

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

If Yes:

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

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

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

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

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

If Yes:

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

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

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

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

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

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

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

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

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

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: Typical energy usage for a project of this type

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

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

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

i. During Construction:

- Monday - Friday: 7:00 a.m. to 7:00 p.m.
- Saturday: 8:00 a.m. to 5:00 p.m.
- Sunday: As needed
- Holidays: Not Applicable

ii. During Operations:

- Monday - Friday: Not Applicable
- Saturday: Not Applicable
- Sunday: Not Applicable
- Holidays: Not Applicable

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

If yes:

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

There will be short-term unavoidable noise impacts during the construction of the project that will result from construction equipment.

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

Describe: _____

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

If yes:

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

Parking lot lights, 15' mounting height, dark sky compliant, minimum of 30' from nearest residence.

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

Describe: _____

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

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

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

If Yes:

i. Product(s) to be stored _____

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

iii. Generally, describe the proposed storage facilities: _____

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

If Yes:

i. Describe proposed treatment(s):

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

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

If Yes:

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

- Construction: 3 tons per week (unit of time)
- Operation : 2 tons per month (unit of time)

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

- Construction: at the discretion of the contractor
- Operation: Project will follow town of Amherst recycling program

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

- Construction: NYSDEC approved landfill
- Operation: NYSDEC approved landfill

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s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☑ No
If Yes:
i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____
ii. Anticipated rate of disposal/processing:
- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐ Yes ☑ No
If Yes:
i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

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

iii. Specify amount to be handled or generated _____ tons/month
iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☐ No
If Yes: provide name and location of facility: _____

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

E. Site and Setting of Proposed Action

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

a. Existing land uses.
i. Check all uses that occur on, adjoining and near the project site.
☐ Urban ☐ Industrial ☑ Commercial ☑ Residential (suburban) ☐ Rural (non-farm)
☐ Forest ☐ Agriculture ☐ Aquatic ☑ Other (specify): Asbury Pointe Retirement Community
ii. If mix of uses, generally describe:
There are a mixture of land uses in the vicinity of the Project Site including single-family homes, the Asbury Pointe Retirement Community and the Audubon Women's Health Medical Office.

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	0	0.9	+0.9
• Forested	.5	.5	0
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	1.8	.4	-1.4
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)			
• Wetlands (freshwater or tidal)	0	0	0
• Non-vegetated (bare rock, earth or fill)	0	0	0
• Other Describe: lawn/landscaping		0.3	+1.4

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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:
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): _____

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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:
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.]

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

n. Does the project site contain a designated significant natural community? ☐Yes ☑No
If Yes:
i. Describe the habitat/community (composition, function, and basis for designation):
ii. Source(s) of description or evaluation:
iii. Extent of community/habitat:
- Currently: _____ acres
- Following completion of project as proposed: _____ acres
- Gain or loss (indicate + or -): _____ acres

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

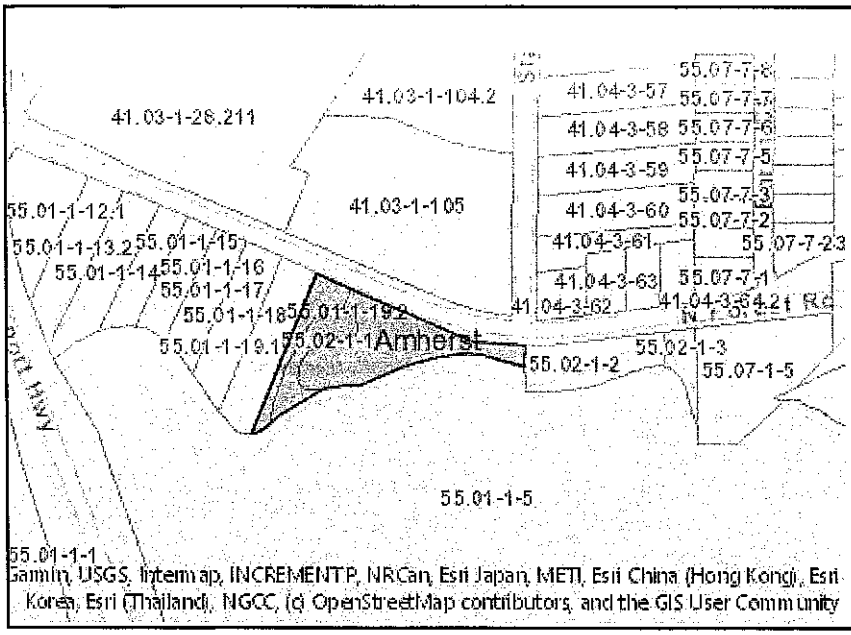
Signature _____ Title Counsel for Project Sponsor

PRINT FORM

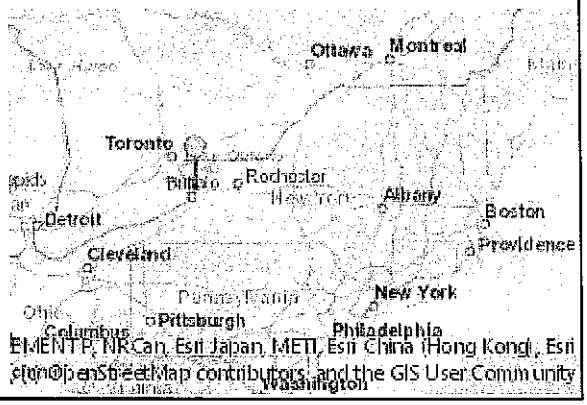
Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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.

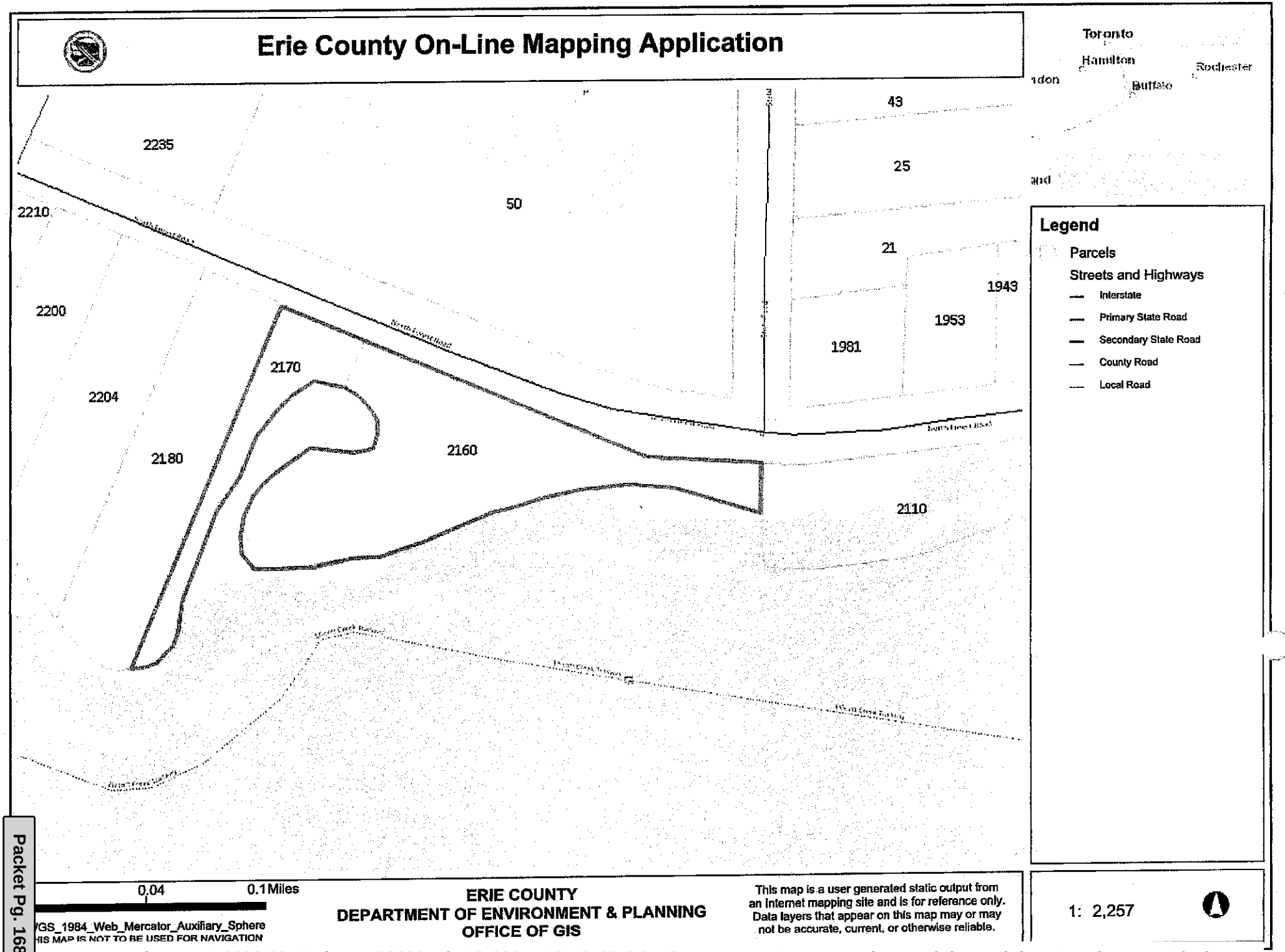
Very truly yours,
Earth Dimensions, Inc.

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



Attachment "B" of Amended Part 1 of Full Environmental Assessment Form – No Impact Determination Letter of Josalyn Ferguson of the New York State Office of Parks, Recreation and Historic Preservation dated October 30, 2020

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

NEW YORK STATE OF OPPORTUNITY | Parks, Recreation, and Historic Preservation

ANDREW M. CUOMO
Governor

ERIK KULLESEID
Commissioner

October 30, 2020

Roberta Rappoccio
Associate Planner
Town of Amherst, NY Planning Department
5583 Main Street
Amherst, NY 14221

Re: DEC
Rezoning for 18-Unit 3-story New Construction Project
2160 North Forest Rd, Amherst, Erie County, NY
20PR05460
Z-2020-06

Dear Roberta Rappoccio:

Thank you for requesting the comments of the Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the Phase I Archaeological Reconnaissance Survey report prepared by the University at Buffalo's Archaeological Survey (Whalen & Angelini, October 2020; 20SR00539) in accordance with the New York State Historic Preservation Act of 1980 (section 14.09 of the New York Parks, Recreation, and Historic Preservation Law). These comments are those of the Division for Historic Preservation and relate only to Historic/Cultural resources.

Based on this review, it is OPRHP's understanding that no archaeological sites were identified during the above-noted investigation, and we concur with the report's conclusion that no further archaeological investigations are warranted. It is, therefore, OPRHP's opinion that no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by this project. Should the project design be changed OPRHP recommends further consultation with this office.

If you have any questions, I can be reached via e-mail at Josalyn.Ferguson@parks.ny.gov.

Sincerely,

Josalyn Ferguson, Ph.D.
Scientist Archaeology

via email only

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 3 – Legal Description of Property to be Reclassified from NCD-SA to NCD-ND

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

EXHIBIT 3 OF AMENDED APPLICATION

LEGAL DESCRIPTION OF PROPERTY TO BE RECLASSFIED FROM NCD-SA TO NCD-ND – 2160 AND 2170 NORTH FOREST ROAD

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie, State of New York, being part of Lot 68, Township 12, Range 7 of the Holland Land Survey so-called and further bounded and described as follows.

BEGINNING at the intersection of the centerline of Stahl Road (66.0 feet wide) with the centerline of North Forest Road (66.0 feet wide):

THENCE: Southerly, along the centerline of Stahl Road extended southerly, a distance of 108 feet more or less to the north bank of Ellicott Creek;

THENCE: Westerly along said north bank of Ellicott Creek, a distance of 583 feet more or less to the west line of lands conveyed to Peter D. Durham by deed recorded in the Erie County Clerk's Office in Liber 9264 of Deeds at page 188;

THENCE: Northerly along said west line of Peter D. Durham lands, a distance of 10 feet more or less to the north bank of Ellicott Creek;

THENCE: Westerly and southerly along said north bank of Ellicott Creek, a distance of 227 feet more or less to a point distant 100 feet westerly from the said west line of Peter D. Durham lands as measured at right angles;

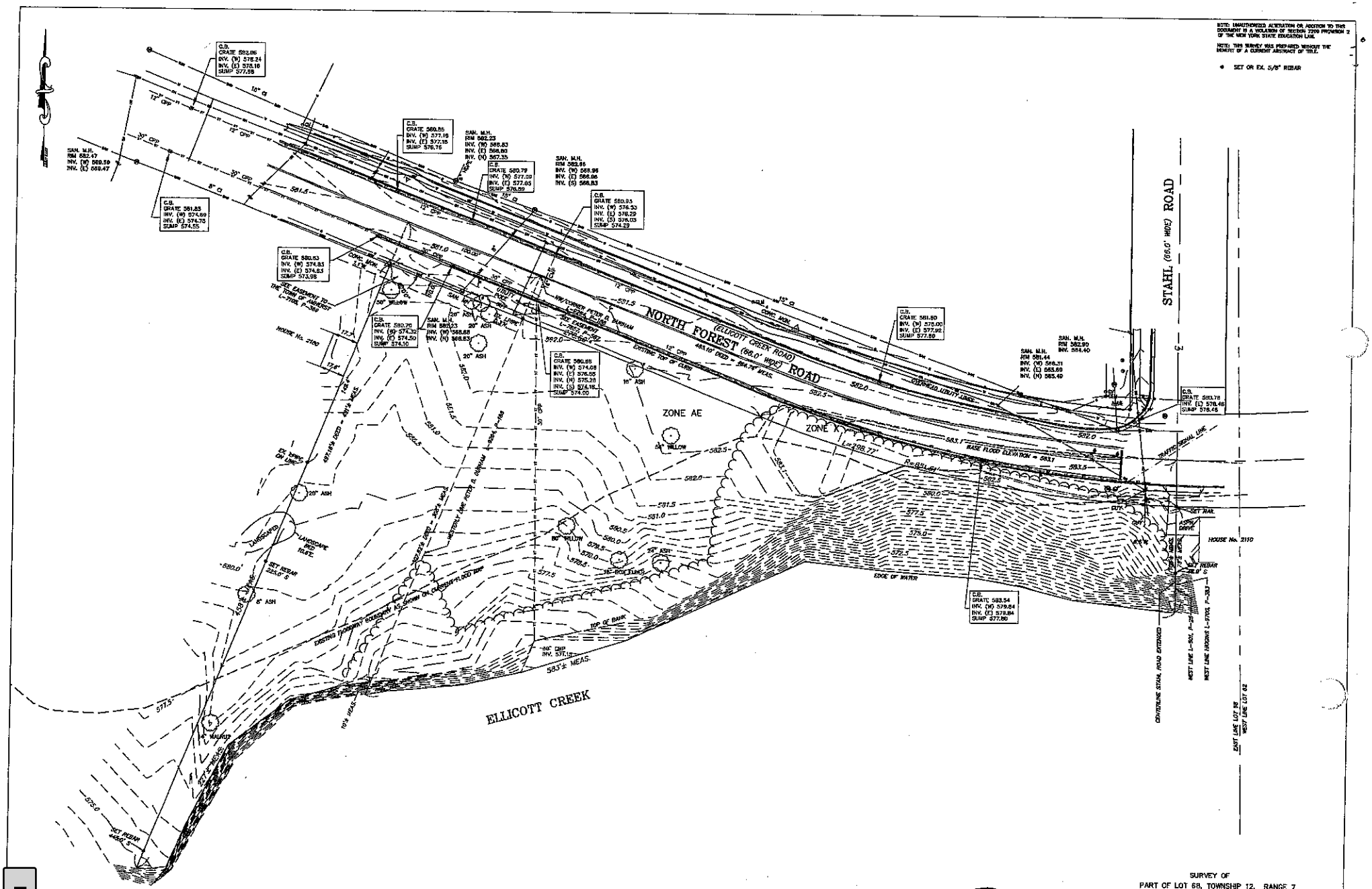
THENCE: Northerly along a line parallel with the west line of said Peter D. Durham lands distant 100.00 feet westerly therefrom measured at right angles, a distance of 491 feet more or less to the centerline of North Forest Road;

THENCE: Easterly, along said centerline of North Forest Road, a distance of 564.74 feet to the POINT OR PLACE OF BEGINNING.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 4 – Reduced Size Copy of Survey of 2160 and 2170 North Forest Road as Prepared by GPI Surveying dated July 13, 2020

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)



	REVISION/TYPE
D	UPDATE SURVEY AND TOPOGRAPHY
C	RE-SURVEY
B	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 050435 LICENSED LAND SURVEYOR

SURVEY OF
PART OF LOT 68, 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 633-4840

Job No. 5083-BOUNDARY Date: JUNE 24, 2014
Scale 1" = 40' Tax No.

Exhibit 5 – Responses to Questions 11A & 11B of the Rezoning Application

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

EXHIBIT 5

AMENDED APPLICATION TO RECLASSIFY 2160 AND 2170 NORTH FOREST ROAD FROM NCD-SA TO NCD-ND

Question 11(A): **Description of the character of the proposed development:**

Response to Question 11(A): The modified layout of the proposed residential project is depicted on the updated Concept Site Plan prepared by Silvestri Architects P.C. A full size copy of the updated Concept Site Plan [Drawing AS-101 – Date: 12/16/20] is attached to this Amended Application and a reduced size copy is also provided at Exhibit "7". The updated layout of the proposed residential project consists of a two-story building consisting of eight (8) units for lease with related site improvements as depicted on the updated Concept Site Plan. It is important to mention that the updated Concept Plan reflects a deliberate effort made by the project team to reduce the density of the proposed multifamily project that previously consisted of a three-story building with eighteen (18) units. A copy of the previous Concept Plan for the project as prepared by Carmina Wood Morris DPC is provided at Exhibit "8" of this Amended Application.

It is important to mention that the layout of the proposed project as depicted on the updated Concept Site Plan provided is not meant to represent the final layout of the proposed project since modifications may be necessary based on the project review process and the preparation of fully engineered plans.

Question 11(B)(1): **Rationale for rezoning request: 1. Why was this site chosen?**

Response to Question 11(B)(1): The Project Site is an appropriate location for the proposed project given its location on North Forest Road in an area that consist of a mixture of uses and zoning

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

classifications. The Project Site was listed for sale and the Petitioner has entered into a contract to purchase the Project Site.

Question 11(B)(2): Why cannot land be used with the existing zoning?

Response to Question 11(B)(2): The Project Site is currently zoned NCD-SA. The allowable uses of property zoned NCD-SA are extremely limited given that the NCD-SA classification is intended for agricultural uses in rural areas.

Question 11(B)(3): How will this rezoning impact surrounding properties?

Response to Question 11(B)(3): The requested reclassification of the Project Site from NCD-SA to NCD-ND to accommodate the proposed residential project will not result in any potentially significant adverse impacts on surrounding properties. The density of the proposed residential project has been reduced from eighteen (18) units to eight (8) units as depicted on the updated Concept Plan prepared by Silvestri Architects P.C. [Drawing AS-101 – Date: 12/16/20]. An effort has been to reduce the density of the residential project and also to design the residential project to minimize environmental impacts associated with the proximity of Ellicott Creek. A completed Amended Part 1 of the Full Environmental Assessment Form prepared pursuant to the State Environmental Quality Review Act ("SEQRA") is attached as Exhibit "2".

Question 11(B)(4): How will this rezoning impact the school system?

Response to Question 11(B)(4): The proposed project will have positive impacts on the school district since the project will generate annual property taxes to be received by taxing jurisdictions. The proposed project will not generate a substantial demand for educational services.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 6 – Responses to Questions 16A, 16B, 16D & 16E of the Rezoning Application

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

EXHIBIT 6

AMENDED APPLICATION TO RECLASSIFY 2160 AND 2170 NORTH FOREST ROAD FROM NCD-SA TO NCD-ND

Question 16(A)(1): **State in detail why the proposed zoning is consistent with the adopted Town of Amherst Bicentennial Comprehensive Plan. Cite specific sections, maps and/or figures in the plan that support the proposed zoning at this location.**

Response to Question 16(A)(1): The request to reclassify the Project Site from NCD-SA to NCD-ND to accommodate the proposed residential project consisting of eighteen attached units for lease is consistent with the adopted Bicentennial Comprehensive Plan. The Town of Amherst adopted the Bicentennial Comprehensive Plan in January of 2007 after completing a lengthy planning process that included numerous public meetings and public hearings involving the Comprehensive Plan Advisory Committee, the Planning Board and the Town Board.[1] On September 3, 2019, the Town Board most recently adopted an amendments to the Bicentennial Comprehensive Plan. The Comprehensive Plan is intended to guide future growth and redevelopment in the Town.

Figure 6 of the Bicentennial Comprehensive Plan is the Conceptual Land Use Plan and it depicts the Project Site as being appropriate for "Mixed Residential" use. A copy of Figure 6 of the Comprehensive Plan is provided at Exhibit "9". The Conceptual Land Use Plan is intended to communicate the overall direction and concept of future development in the Town of Amherst. The Mixed-Residential land use category is described in Chapter 3 of the Comprehensive Plan as

[1] A copy of the resolution adopted by the Town Board on January 2, 2007 for the purpose of adopting the Bicentennial Comprehensive Plan pursuant to Town Law Section 272-a is included at the beginning of the Comprehensive Plan. This resolution recites the lengthy planning history that incorporated numerous opportunities for public input as well as a coordinated environmental review pursuant to SEQRA that involved the preparation a Generic EIS and the issuance of a Findings Statement.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

being appropriate for a residential density of 4-12 units per acre the density of the proposed project is 7.66 units per acre.

Question 16(A)(2): Cite all text, map, and/or figures that must be amended to support the proposed zoning at this location and provide detailed suggested amendments.

Response to Question 16(A)(2): The adopted Comprehensive Plan does not need to be amended to accommodate the requested reclassification of the Project Site from NCD-SA to NCD-ND.

Question 16(A)(3): State why the proposed zoning is consistent with intent and objectives (Sec. 1-2-2) of the Zoning Ordinance:

Response to Question 16(A)(3): Section 1-2-1 of the Zoning Code is titled "Purpose" and it states as follows:

> *"The purpose of this Zoning Ordinance and the intent of the legislative authority in its adoption is to promote the environment of the town and its public health, safety, convenience, comfort, prosperity and the general welfare by regulating the use of buildings, other structures and land for residences, open space, public facilities, business, services, industry or other purposes; by regulating and restricting the bulk, height, design, building coverage and location of structures; by regulating and limiting population density; and for the aforesaid purposes, to divide the land within the limits of the town into districts of such number and dimensions generally consistent with the policies of the Comprehensive Plan and to provide procedures for the administration and amendment of said Zoning Ordinance."*

The request reclassification of the Project Site from NCD-SA to NCD-ND to accommodate the proposed residential project is consistent with the "Purpose" of the Zoning Code. Section 1-2-2 of the Zoning Code sets forth the objectives of the Zoning Code. This section of the Zoning Code lists thirteen (13) objectives that are discussed below as follows:

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

A. To protect the character and values of residential, institutional and public uses, business, commercial and manufacturing uses and to insure their orderly and beneficial development;

Response: The proposed project will be consistent with the objective of protecting the character and value of existing land uses and represents orderly and beneficial development.

B. To provide adequate open spaces for light, air and outdoor uses to include public, common and private open space areas;

Response: The proposed project is consistent with this objective.

C. To prevent overcrowding of land;

Response: The proposed residential project will not result in the overcrowding of land.

D. To prevent excessive concentration of population and to prevent spare and uncoordinated development;

Response: The proposed residential project will not result in an excessive concentration of population. The proposed residential project is not an example of uncoordinated development.

E. To regulate and control the location and spacing of buildings on the lot and in relation to the surrounding property generally consistent with the policies of the Comprehensive Plan.

Response: The requested reclassification of the Project Site from NCD-SA to NCD-ND and the proposed residential project are consistent with the policies of the Comprehensive Plan.

F. To protect persons and property from damage and injury due to fire or flood;

Response: The Site Plan review process will trigger the need for an Engineer's Report and SWPPP prepared by a licensed engineer to be prepared for review and approval by the Town's Engineering Department. The residential project will not increase the

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

likelihood of damage and injury due to fire and flood. The proposed project will be constructed per the stringent requirements of the NYS Building Code including the fire safety standards contained therein.

G. To preserve and protect significant natural features and vegetation, thereby preventing ecological damage and visual blight which occur when those features or vegetation are eliminated or substantially altered to serve development purposes only.

Response: The proposed residential project will not be inconsistent with this objective.

H. To assure that structure and land use arrangements are aesthetically harmonious with nearby areas and structures.

Response: The development of the Project Site in a manner consistent with the updated Concept Site Plan depicting a two-story building with 8 units will result in a residential project that is aesthetically harmonious with nearby areas and structures.

I. To regulate the location of buildings and intensity of uses in relation to streets according to plans so as to cause the least interference with and be damaged least by traffic movements and hence result in lessened street congestion and improved public safety.

Response: The proposed residential project will not result in any potentially significant traffic impacts and only curb cut will be provided onto North Forest Road, which is an Erie County Highway. The potential traffic impacts of the proposed project will be evaluated in connection with the coordinated environmental review of the project pursuant to SEQRA.

J. To establish zoning patterns that insure economical extensions for sewers, water supply waste disposal and other public utilities, as well as development of recreation, schools and other public facilities;

Response: The Project Site has access to sanitary sewer and water lines as well as necessary public utilities.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

K. To guide the future development of the town so as to being the gradual conformity of land, structures and uses generally consistent with the policies of the Comprehensive Plan.

Response: The proposed reclassification of the Project Site from NCD-SA to NCD-ND is consistent with this objective since the project is generally consistent with the recommended land use category of "Mixed Residential" as well as the planning objectives and policies in the Comprehensive Plan.

L. To accomplish the specific intents and goals set forth in the introduction to the respective sections.

Response: The proposed residential project is consistent with this objective.

M. To protect the community from visual pollution resulting from the unregulated use of signs and other advertising devices.

Response: The proposed residential project will not be inconsistent with this objective.

Question 16(C): Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood:

Response to Question 16(C): The proposed project is compatible with the present zoning and conforming uses of nearby properties and the character of the neighborhood.

Question 16(D): Suitability of the subject property for uses permitted by the current versus the proposed district:

Response to Question 16(D): The Project Site is not suitable for agricultural uses allowed in the NCD-SA district given its size, location and nearby land uses.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

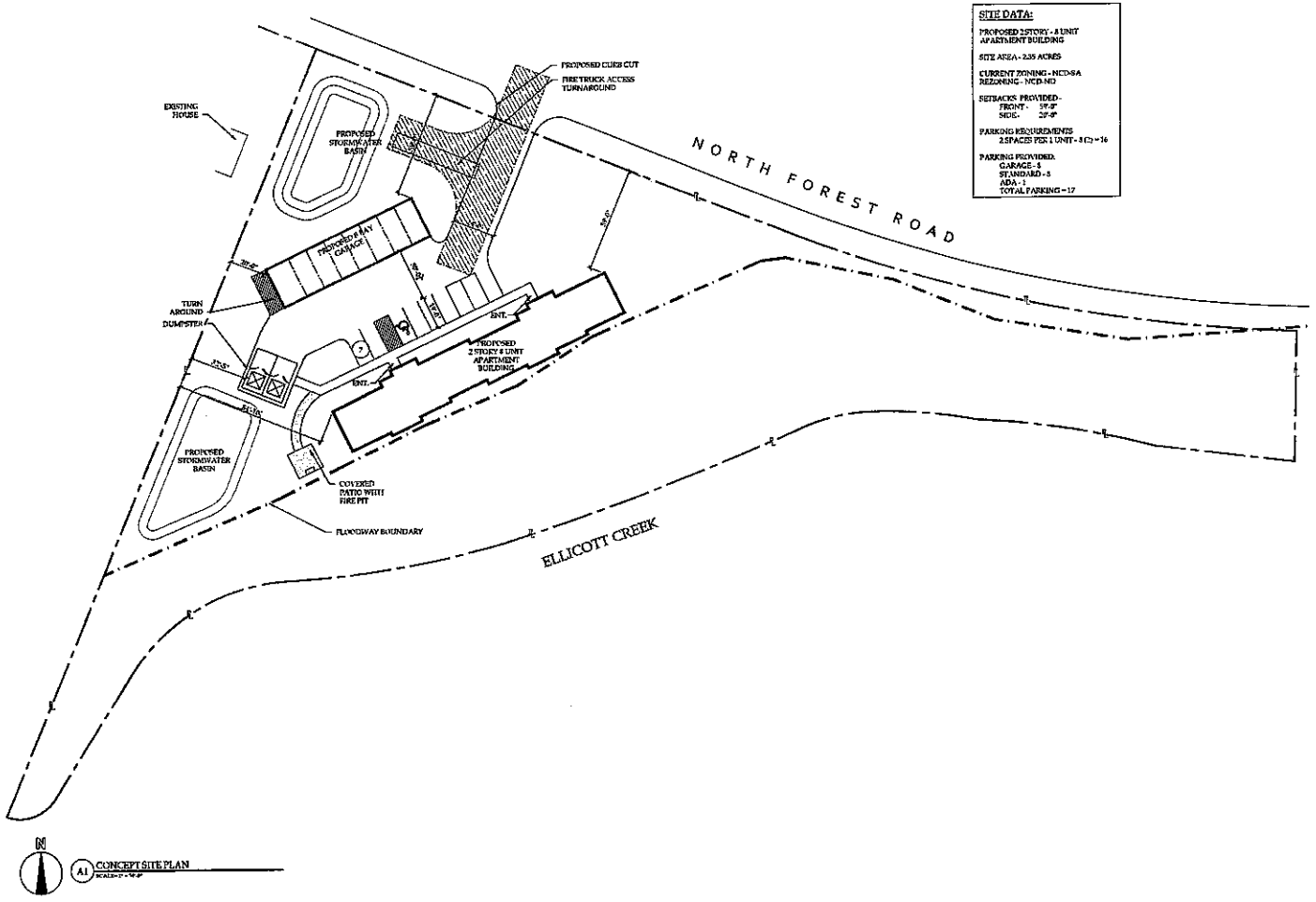
Question 16(E): **Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town:**

Response to Question 16(D): The requested reclassification of the Project Site from NCD-SA to NCD-ND to accommodate the proposed residential project will have positive impacts on the balance of uses in the Town since there is demand for upscale attached residential units for lease in the Town.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 7 – Reduced Size Copy of the Updated Concept Site Plan for the Proposed Project as Prepared by Silvestri Architects PC [Drawing AS-101 – Date: 12/16/20] [Note: A full size copy of Updated Concept Site Plan is also attached to this Amended Application]

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)



NOTICE

This document, the property of, prepared and issued by the architect, is submitted for the specific project named _____ and the recipient by accepting this document assumes custody and agrees that this document will not be copied or reproduced in part or in whole, and any special features peculiar to this design shall not be incorporated in any other project, unless prior agreement has been obtained in writing. These documents will be returned immediately upon completion of the project or upon the request of the architect.

This document is the exclusive property of the architect, no rights to ownership are transferable, or shall be lost by the filing of this document with any and all public authorities for the purpose of compliance with Codes and or Ordinances, i.e. Building Permit, etc.

NORTH FOREST APARTMENTS

2160-2170 North Forest Rd
Amherst, ny

ISSUE:

SA PROJECT TEAM: PRINCIPAL R.Silvestri
PROJ. ARCH. S.Hunt DRAFTER B.Meinhardt
JOB CAPT. _____ INTERIORS K. Hanssen

SEAL:

TITLE:

CONCEPT SITE PLAN

SILVESTRI
ARCHITECTS • PC
1321 MILLERSPORT HWY PH. 716.691.0909
AMHERST, NY 14221 FAX 716.691.4773

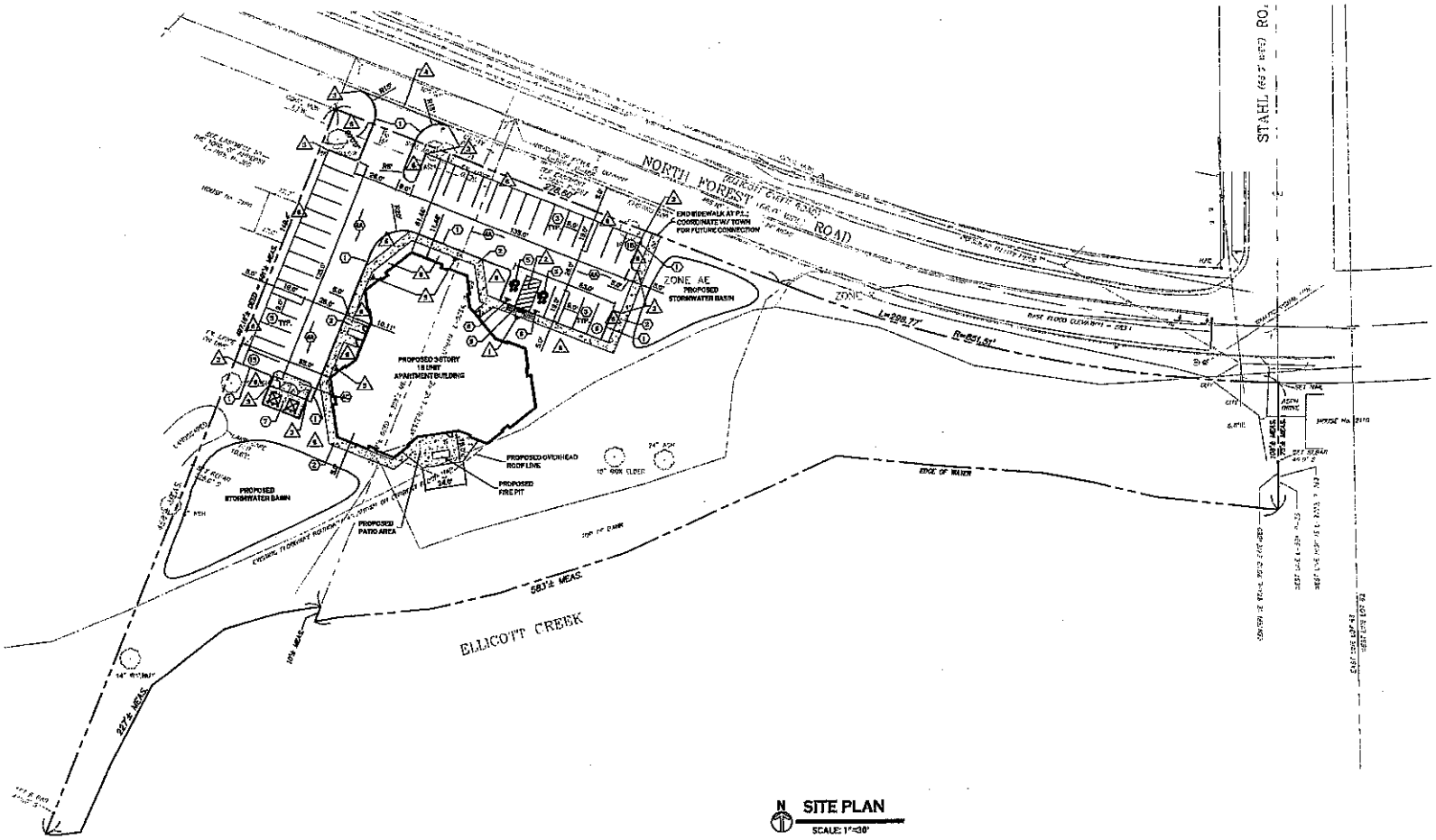
SA JOB #: 20060.02
DATE: 12/16/20

DRAWING #: AS-101

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: HCD-8A (CURRENT) TO BE REZONED TO HCD-AD
USE: PROPOSED 3-STORY 18 UNIT APARTMENT BUILDING

PARKING REQ'D: 2.0/EACH 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. CAMINA WOOD MORRIS, D.P.C. ASSUMES NO RESPONSIBILITY FOR ITS ACCURACY.

30 0 30 60FT.

GENERAL NOTES:
1. INSTALL ALL MATERIALS TO MANUFACTURER'S RECOMMENDATIONS AND BEST STANDARDS OF TRADE INVOLVED.
2. SUBSTITUTIONS SHALL BE MADE ONLY WITH OWNER'S APPROVAL AND BE OF EQUIVALENT QUALITY TO WHAT IS SPECIFIED.
3. WORK SHALL BE COMPLETED IN STRICT ACCORDANCE WITH ALL LOCAL CODES AND OSHA SAFETY RULES AND REGULATIONS.
4. VERIFY ALL EXISTING CONDITIONS AND DIMENSIONS AT THE SITE. NOTIFY OWNER & ENGINEER OF DISCREPANCIES IN CONDITIONS SHOWN ON DRAWINGS PRIOR TO PROCEEDING WITH THE WORK.
5. CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTION OF ANY EXISTING STRUCTURES TO REMAIN AND ANY FINISH MATERIAL INSTALLED WHILE WORKING ON OTHER COMPONENTS.
6. CONTRACTOR SHALL KEEP JOB FREE OF DEBRIS AND MAKE FINAL CLEANUP TO SATISFACTION OF OWNER.
7. CONTRACTOR SHALL ASCERTAIN THE LOCATION OF ALL UTILITIES PRIOR TO CONSTRUCTION SO THAT THIS WORK WILL NOT DISTURB EXISTING LINES AND/OR INSTALLATIONS. COORDINATE ALL WORK WITH THE APPLICABLE UTILITY COMPANIES.
8. ALL OTHER PERMITS REQUIRED BY STATE OF NEW YORK, COUNTY OF ERIE, AND TOWN OF AMHERST ARE THE RESPONSIBILITY OF THE CONTRACTOR / DEVELOPER / OWNER.

SITE NOTES:
1. ALL RADII SHALL BE 3'-0" UNLESS OTHERWISE NOTED.
2. ALL DISTURBED AREAS: SHALL HAVE 4" MIN. OF TOPSOIL AND SEED.
3. ALL DIMENSIONS FROM PROPERTY LINES SHALL BE MEASURED PERPENDICULAR TO THE PROPERTY LINE.
4. CENTER ENTRANCE SIDEWALKS ON DOOR OPENINGS.
5. BUILDING DIMENSIONS ARE APPROXIMATE, REFER TO ARCHITECTURAL DRAWINGS FOR LAYOUT DIMENSIONS.

DETAIL LEGEND SEE SITE DETAIL SHEET
1. CONCRETE CURB
2. CONCRETE SIDEWALK, 5' WIDE UNLESS OTHERWISE NOTED
3. 90° PARKING STALL
4A. STANDARD DUTY ASPHALT
4C. EXTERIOR CONCRETE SLAB ON GRADE
5. HANDICAP PAVEMENT MARKINGS
6. HANDICAPPED PARKING SIGN
7. DUMPSTER ENCLOSURE
8. LIGHT POLE FOUNDATION
9. HANDICAP PAVEMENT RAMP

NOTE LEGEND
A. INSTALL "NO PARKING" SIGN, M.U.T.C.D. SIGN NO. R7-1C
A. 4" WIDE YELLOW PAINT STRIPE @ 45° @ 2'0 O.C., INFILL AREA AS SHOWN
A. BOXOUT CURB IN 2' OR MATCH EXISTING CURB
A. MATCH EX. EDGE OF PAVEMENT, SAWCUT AS REQ'D TO ACHIEVE SQUARE EDGE TO MATCH
A. INSTALL "NO PARKING-FIRE LANE" SIGN, M.U.T.C.D. SIGN NO. R8-3
A. LANDSCAPED AREA - SEE LANDSCAPE PLAN. IF NO PLANTINGS, INSTALL TOPSOIL & SEED

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Camina Wood Morris DPC
457 Main Street Suite 300
Buffalo, New York 14203
P 716.842.3181
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

Exhibit 9 - Color Copy of Figure 6 of the Adopted Bicentennial Comprehensive Plan (titled "Conceptual Land Use Plan")

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Town of Amherst Bicentennial Comprehensive Plan

The Conceptual Land Use Plan is intended to communicate the overall direction and concept of future development. While it is not a zoning map and does not show the existing or proposed use of individual parcels, it is intended to show land use relationships, provide a generalized guide for future development, and establish a context for detailed area planning and design.

Location of Project Site - Designated as Appropriate for Mixed Residential Use

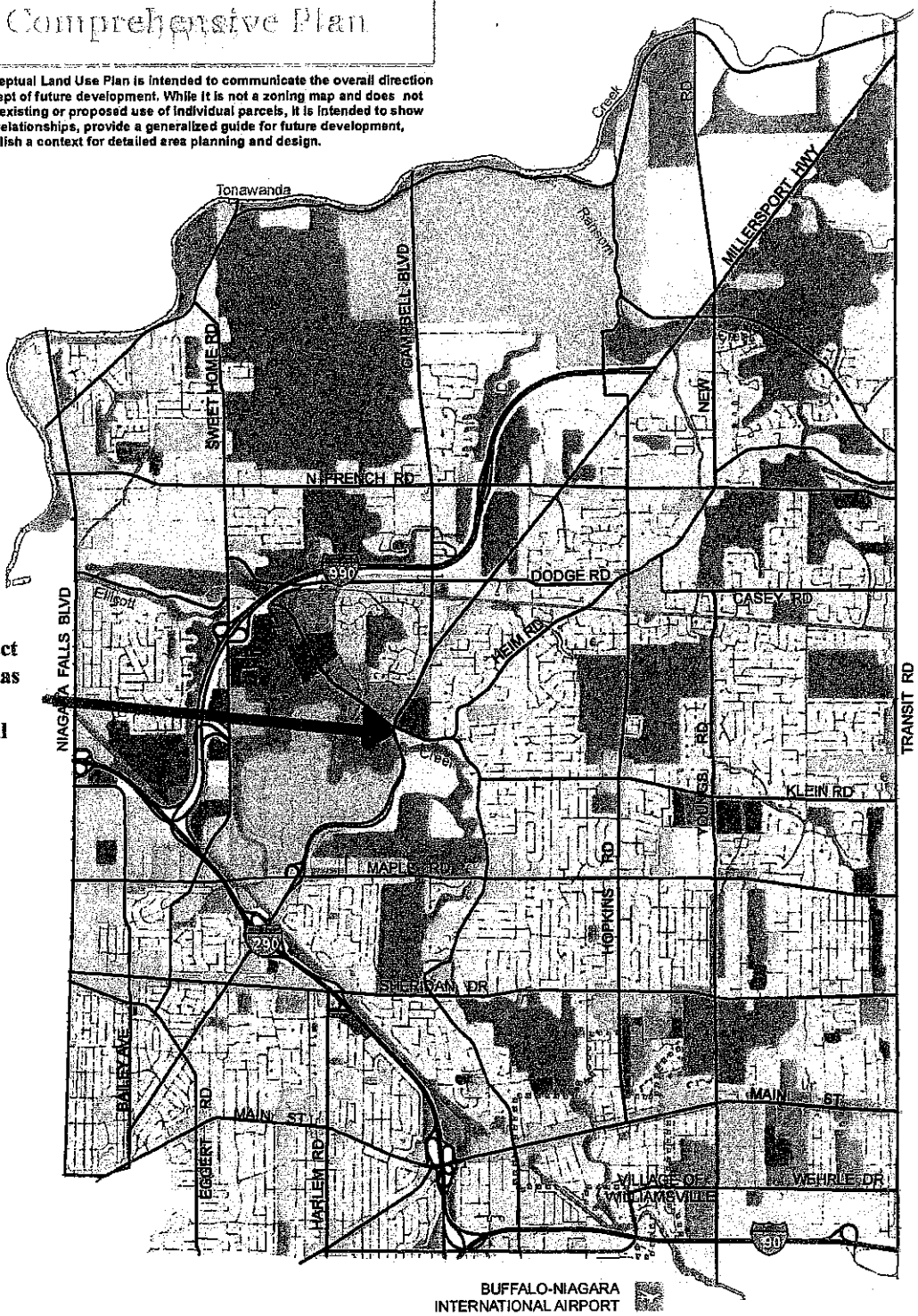


FIGURE 6

Conceptual Land Use Plan

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

* See Map Figure 6-A for Additional Designations

SOURCE NOTES:

Original Source Data Provided by the Town of Amherst Information Technology Department, URS Corporation and Wallace Roberts & Todd, LLC

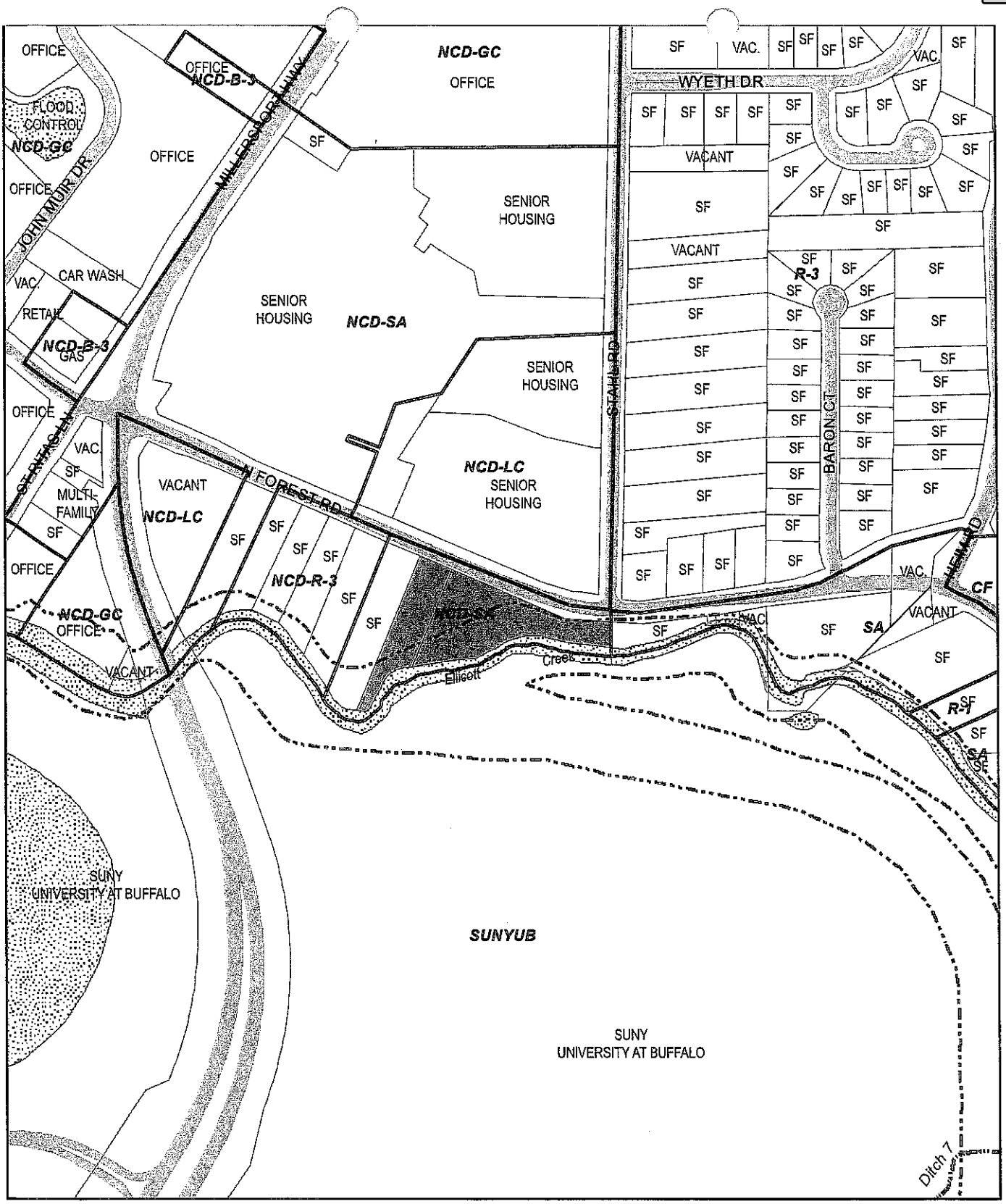
Map Compiled by the Town of Amherst Planning Department

Date: September 2019

N

0 0.25 0.5 0.75 1 1.25
Miles

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)



Z-2020-06
Proposed Amendment #73 to the Audubon New Community Development Plan to Reclassify 2.35+/- AC of Land from NCD-SA to NCD-ND
Property Located at 2160 & 2170 North Forest Road (NCD)

Coromandel Estates Amherst, LLC, Petitioner

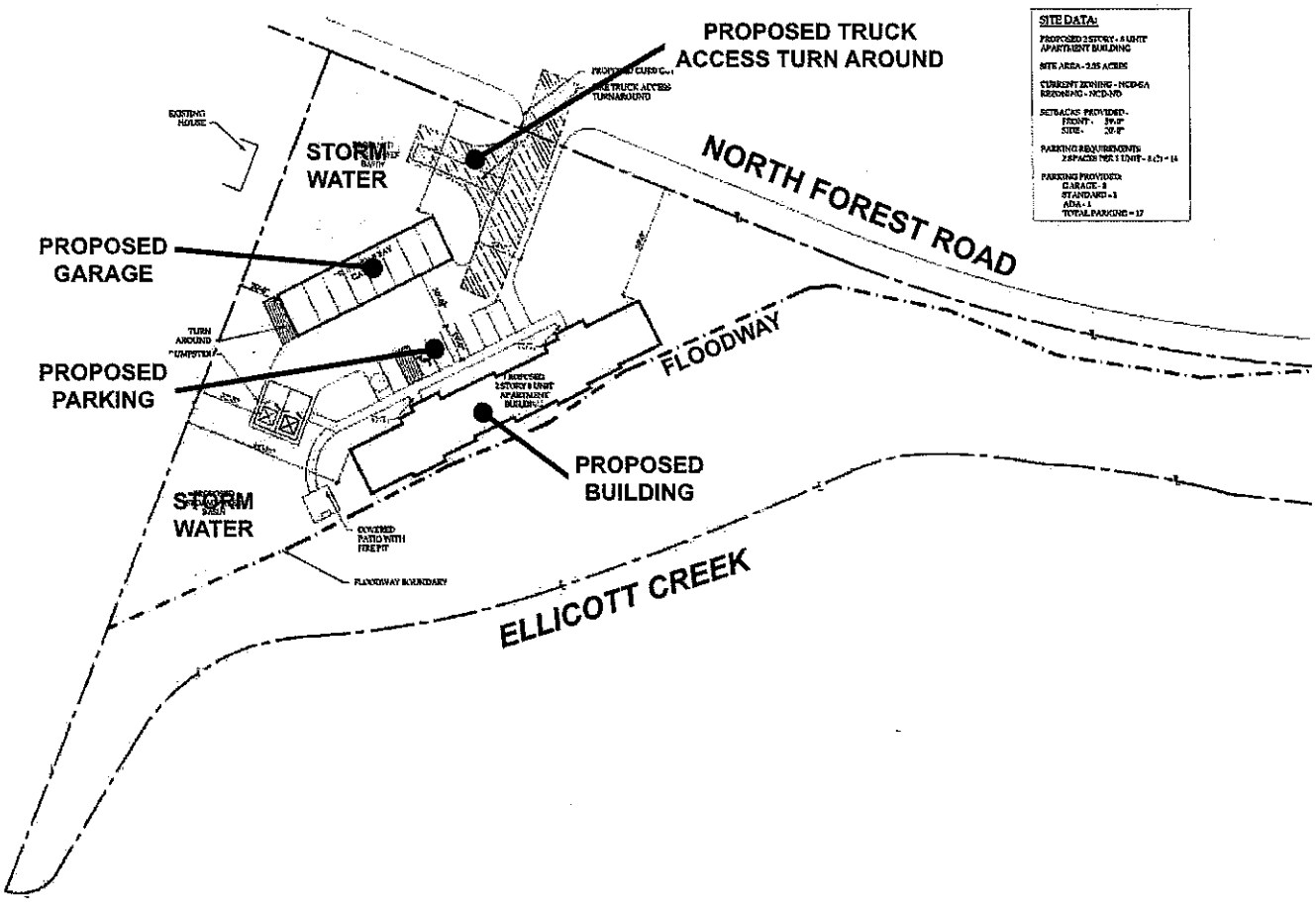
January 21, 2021

2160 & 2170 North Forest

Floodway Boundary

Prepared by the Town of Amherst Planning Department

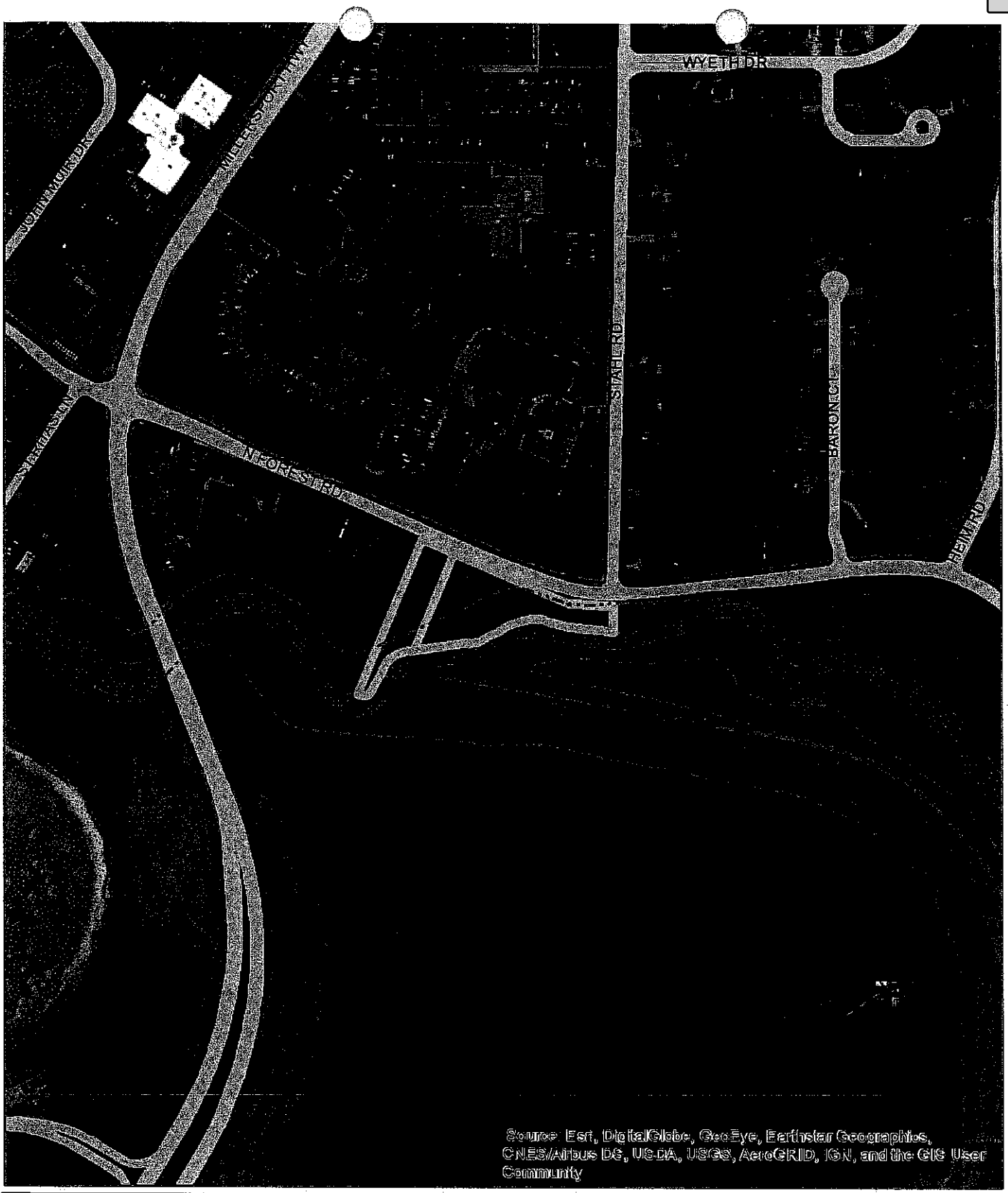
Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)



CONCEPT PLAN

Z-2020-06
2160 & 2170 North Forest Road
Received: 12/21/20

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)



Z-2020-06
Proposed Amendment #73 to the Audubon New Community Development Plan to Reclassify 2.35+/- AC of Land from NCD-SA to NCD-ND
Property Located at 2160 & 2170 North Forest Road (NCD)

Coromandel Estates Amherst, LLC, Petitioner
January 21, 2021

2160 & 2170 North Forest

Floodway Boundary

Prepared by the Town of Amherst Planning Department

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Williamsville Central Schools

Encouraging • Nurturing • Challenging

RECEIVED
SEP 22 2020
TOWN OF AMHERST
PLANNING DEPT.

September 15, 2020

Ms. Ellen Kost
Associate Planner
Town of Amherst Planning Department
5583 Main Street
Williamsville, NY 14221

RE: PROPOSED AMENTMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35 ACRES OF LAND FROM **NCD-SA** TO **NCD-ND, Z-2020-06**; PROPERTY LOCATED AT **2160 AND 2170 NORTH FOREST ROAD (NCD)**; COROMANDEL ESTATES AMHERST, LLC, PETITIONER.

Dear Ms. Kost:

The Williamsville Central School District has reviewed file number **Z-2020-06** for the request by Coromandel Estates Amherst, LLC to reclassify land for the above-named property.

Please note that the District has received this information and placed it on file. A future bus stop will be located at a driveway entrance at N. Forest Road in accordance with District policy.

Sincerely,

Thomas R. Maturski
Assistant Superintendent for Finance & Management Services

TRM/ld

cc: Coromandel Estates Amherst LLC c/o Sean Hopkins, Esq, 5500 Main St., Suite 343, Williamsville NY 14221; shopkins@hsr-legal.com
Scott Marshall, Principal Planner; smarshall@amherst.ny.us

105 Casey Road, P.O. Box 5000, East Amherst, NY 14051-5000 • Phone: (716) 626-8012, Fax: (716) 626-8017
www.williamsvillek12.org
Thomas R. Maturski, Assistant Superintendent for Finance & Management Services

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

William E. Geary, Jr.,
COMMISSIONER

DEPARTMENT OF PUBLIC WORKS
RATH BUILDING 14TH FLOOR

TELEPHONE:716.858.8300
FAX: 716.858.8228

September 27, 2020
Ms. Ellen M. Kost, AICP
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Re: Lead Agency Request
Proposed 3 Story Apartment Building
2160-2170 North Forest Road (CR-294)
(T) of Amherst, County of Erie

Dear Ms. Kost:

This Department has received your request for Lead Agency for the above referenced project and the rezoning of 2.35 acres. Erie County Department of Public Works takes no exception with the Town of Amherst being the Lead Agency for this project. This approval of Lead Agency is only from Erie County Department of Public Works and does not imply that other County Departments concur with this approval, as their response will be coming by separate letter.

Permit Requirements

The Developer will be required to apply for and obtain an Erie County Highway Work Permit for Utility Work Perm-2 for construction within the North forest Road highway right-of-way.

The Developer will be required to apply for and obtain an Erie Count Highway Work Permit for Non-Utility Work, Perm 3 for construction of a new entrance drive within the North Forest Road highway right-of-way.

Traffic Concerns

A Traffic Impact Study may be needed due to the close proximity of the project to the intersection of North Forest and Stahl Road.

We ask that you please keep us informed as this project progresses and forward design plans and reports when they become available.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Sincerely,

ERIE COUNTY DEPARTMENT OF PUBLIC WORKS

Darlene M. Svilokos, P.E.
Principal Civil Engineer

cc: Karen Hoak, Deputy Commissioner – Highways
Brian A. Rose, P.E., Supervisor of Engineering
Gina Wilkolaski, P.E., Traffic and Safety Engineer
John Dennee, Senior Highway Maintenance Engineer
File: CR-294

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 9
270 Michigan Avenue, Buffalo, NY 14203-2915
P: (716) 851-7165 I F: (716) 851-7168
www.dec.ny.gov

January 22, 2021

Ms. Ellen Kost
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Dear Ms. Kost,

SEQR Lead Agency Coordination
Audubon New Community Development
2160 and 2170 North Forest Road
Town of Amherst, Erie County

This letter is in response to your December 23, 2020 correspondence regarding the above-noted project. The revised project plan has been reviewed and the Department has no additional comments on the proposed project beyond those in the attached September 30, 2020 SEQR lead agency response letter from this agency. Thank you.

If you have any other questions, please feel free to contact Ms. Kerri Pickard-DePriest of my staff or me at 716/851-7165.

Sincerely,

David S. Denk

Digitally signed by David S. Denk
DN: cn=David S. Denk, o=NYS DEC, ou=Div. of Env. Permits, email=david.denk@dec.ny.gov, c=US
Date: 2021.01.22 14:13:13 -05'00'

David S Denk
Regional Permit Administrator

KPD

ecc: Mr. Theodore Myers, NYSDEC, Division of Water
Mr. Sean Hopkins, Esq, shopkins@hsr-legal.com

Z-2020-06

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst

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

RECEIVED
JAN 14 2021
TOWN OF AMHERST
PLANNING DEPT.

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

MEMORANDUM December 18, 2020

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

DEC 23 2020
TOWN OF AMHERST
BUILDING DEPT

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

SUBJECT: PROPOSED AMENDMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35± ACRES OF LAND FROM **NCD-SA** TO **NCD-ND;** PROPERTY LOCATED AT **2160 and 2170 NORTH FOREST ROAD (NCD);** COROMANDEL ESTATES AMHERST, LLC, PETITIONER. **Z-2020-06**

REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: _____

General comments relative to your agency interests: a floodplain development permit will be required

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

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

Signature: Doug Gesel **Date:** 1-13-21

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

cc: Scott Marshall, Principal Planner
Coromandel Estates Amherst LLC, c/o Sean Hopkins, 5500 Main St., Suite 343, Williamsville, NY 14221
Thiru Vikram, c/o Coromandel Estates LLC, 4515 Chestnut Ridge Road, Unit 106, Amherst NY 14228
Chris Wood, Carmina Wood Morris, 487 Main St., Suite 500, Buffalo NY 14203
Christina Barmosz, Silvestri Architects, 1321 Millersport Hwy., Amherst, NY 14221
David Pawlik, Creative Structures Services, 550 Seneca St., Suite 100, Buffalo NY 14204

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst

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

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

RECEIVED
DEC 17 2020
TOWN ATTORNEY

MEMORANDUM December 18, 2020

TO: Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
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Integrated Review Coordinator, ECDEP
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NYSDEC
Williamsville Central School District

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JAN 05 2021
TOWN OF AMHERST
PLANNING DEPT.

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

SUBJECT: PROPOSED AMENDMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35± ACRES OF LAND FROM **NCD-SA** TO **NCD-ND**; PROPERTY LOCATED AT **2160 and 2170 NORTH FOREST ROAD (NCD);** COROMANDEL ESTATES AMHERST, LLC, PETITIONER. **Z-2020-06**

REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: _____

General comments relative to your agency interests: None at this time

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

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

Signature: Stanley Sliwa **Date:** 1/4/2021

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

cc: Scott Marshall, Principal Planner
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David Pawlik, Creative Structures Services, 550 Seneca St., Suite 100, Buffalo NY 14204

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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
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Williamsville Central School District

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PLANNING DEPT.

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

SUBJECT: PROPOSED AMENDMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35± ACRES OF LAND FROM **NCD-SA** TO **NCD-ND**; PROPERTY LOCATED AT **2160 and 2170 NORTH FOREST ROAD (NCD);** COROMANDEL ESTATES AMHERST, LLC, PETITIONER. **Z-2020-06**

REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: N/A

General comments relative to your agency interests: N/A

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

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

Signature: _____ **Date:** 12/29/20

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

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Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst

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

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

RECEIVED
DEC 31 2020
TOWN OF AMHERST
PLANNING DEPT.

MEMORANDUM December 18, 2020

TO: Daniel Ulatowski, Principal Planner
~~Dave Marrano~~, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
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Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Integrated Review Coordinator, ECDEP
ECHWY
NYSDEC
Williamsville Central School District

TO: Ellen Kost
From: Dave Marrano
12/23/20
See Below

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

SUBJECT: PROPOSED AMENDMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35± ACRES OF LAND FROM **NCD-SA** TO **NCD-ND**; PROPERTY LOCATED AT **2160 and 2170 NORTH FOREST ROAD (NCD);** COROMANDEL ESTATES AMHERST, LLC, PETITIONER. **Z-2020-06**

REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: No Issue.

General comments relative to your agency interests: No Issue since units will be Leased, not sold w/ Condominium Tax Status

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

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

Signature: _____ **Date:** 12/23/20

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

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Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst

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

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

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TOWN OF AMHERST
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Integrated Review Coordinator, ECDEP
ECHWY
NYSDEC
Williamsville Central School District

TOWN OF AMHERST
ENGINEERING
DEPARTMENT
2020 DEC 22 P 12:51

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

SUBJECT: PROPOSED AMENDMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35± ACRES OF LAND FROM **NCD-SA** TO **NCD-ND**; PROPERTY LOCATED AT **2160 and 2170 NORTH FOREST ROAD (NCD);** COROMANDEL ESTATES AMHERST, LLC, PETITIONER. **Z-2020-06**

REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? YES

If you do not, briefly state why: _____

General comments relative to your agency interests: None At This Time

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

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

Signature: _____ **Date:** 12/30/20

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

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Amherst

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

RECEIVED
Williamsville Central School District
DEC 23 2020
Asst Superintendent for
Finance & Management Services

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

MEMORANDUM December 18, 2020

RECEIVED
DEC 21 2020
TOWN OF AMHERST
PLANNING DEPT.

TO: Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
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

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

SUBJECT: PROPOSED AMENDMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35± ACRES OF LAND FROM **NCD-SA** TO **NCD-ND**; PROPERTY LOCATED AT **2160 and 2170 NORTH FOREST ROAD (NCD);** COROMANDEL ESTATES AMHERST, LLC, PETITIONER. **Z-2020-06**

REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? In regard to site plan and SEQRA, the

If you do not, briefly state why: District does not have comments on these items

General comments relative to your agency interests: Williamsville Central School District school bus service will follow policy, presently, bus service would be at entrance of the apartment complex.

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

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

Signature: [signature] **Date:** 12/28/20

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

cc: Scott Marshall, Principal Planner
Coromandel Estates Amherst LLC, c/o Sean Hopkins, 5500 Main St., Suite 343, Williamsville, NY 14221
Thiru Vikram, c/o Coromandel Estates LLC, 4515 Chestnut Ridge Road, Unit 106, Amherst NY 14228
Chris Wood, Carmina Wood Morris, 487 Main St., Suite 500, Buffalo NY 14203
Christina Barmosz, Silvestri Architects, 1321 Millersport Hwy., Amherst, NY 14221
David Pawlik, Creative Structures Services, 550 Seneca St., Suite 100, Buffalo NY 14204

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst

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

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

TOWN OF AMHERST ENGINEERING DEPARTMENT
2020 DEC 22 P 12:37

MEMORANDUM December 18, 2020

TO: Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
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Stan Sliwa, Town Attorney (Local Law Only)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Integrated Review Coordinator, ECDEP
ECHWY
NYSDEC
Williamsville Central School District

RECEIVED
DEC 28 2020
TOWN OF AMHERST
PLANNING DEPT.

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

SUBJECT: PROPOSED AMENDMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35± ACRES OF LAND FROM **NCD-SA** TO **NCD-ND**; PROPERTY LOCATED AT **2160 and 2170 NORTH FOREST ROAD (NCD);** COROMANDEL ESTATES AMHERST, LLC, PETITIONER. **Z-2020-06**

REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? YES.

If you do not, briefly state why: _____

General comments relative to your agency interests: NONE

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

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

Signature: _____ **Date:** 12/24/20

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

cc: Scott Marshall, Principal Planner
Coromandel Estates Amherst LLC, c/o Sean Hopkins, 5500 Main St., Suite 343, Williamsville, NY 14221
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Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

RECEIVED
NOV 30 2020
TOWN OF AMHERST
PLANNING DEPT.

Kost, Ellen

From: Rutkowski, Edward (DOT) <Edward.Rutkowski@dot.ny.gov>
Sent: Saturday, November 28, 2020 12:50 PM
To: Kost, Ellen
Subject: 2160-2170 North Forest Rd, Proposed Rezoning for 18 Unit Apartment Building, Amherst
Attachments: 2160-2170 N Forest.pdf

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

Ellen,

New York State Department of Transportation (NYSDOT) reviewed the information submitted for the subject project and has the following comments:

- NYSDOT concurs with the Town of Amherst acting as the Lead Agency.
- The proposed project will not have a significant impact to traffic on the Stathe Highway System.

If you have any questions, please contact me either by email or phone.

Sincerely,
Ed Rutkowski

Edward S. Rutkowski, P. E.
SEQR/Site Plan Review Coordinator
NYSDOT - Region 5
100 Seneca Street
Buffalo, New York 14203
716-847-3575

NEW YORK STATE OF OPPORTUNITY. | Department of Transportation

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

NEW YORK STATE OF OPPORTUNITY. | Parks, Recreation, and Historic Preservation

ANDREW M. CUOMO
Governor

ERIK KULLESEID
Commissioner

October 30, 2020

Roberta Rappoccio
Associate Planner
Town of Amherst, NY Planning Department
5583 Main Street
Amherst, NY 14221

Re: DEC
Rezoning for 18-Unit 3-story New Construction Project
2160 North Forest Rd, Amherst, Erie County, NY
20PR05460
Z-2020-06

Dear Roberta Rappoccio:

Thank you for requesting the comments of the Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the Phase I Archaeological Reconnaissance Survey report prepared by the University at Buffalo's Archaeological Survey (Whalen & Angelini, October 2020; 20SR00539) in accordance with the New York State Historic Preservation Act of 1980 (section 14.09 of the New York Parks, Recreation, and Historic Preservation Law). These comments are those of the Division for Historic Preservation and relate only to Historic/Cultural resources.

Based on this review, it is OPRHP's understanding that no archaeological sites were identified during the above-noted investigation, and we concur with the report's conclusion that no further archaeological investigations are warranted. It is, therefore, OPRHP's opinion that no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by this project. Should the project design be changed OPRHP recommends further consultation with this office.

If you have any questions, I can be reached via e-mail at Josalyn.Ferguson@parks.ny.gov.

Sincerely,

Josalyn Ferguson, Ph.D.
Scientist Archaeology

via email only

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Carrato, Amy

From: ann bealer <annri35@msn.com>
Sent: Tuesday, October 06, 2020 3:26 PM
To: Carrato, Amy
Subject: Rezoning of property at 2160&2170 N. Forest Rd.

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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.

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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

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I'm writing to voice my opinion that I'm not in favor of rezoning the property. The corner is extremely busy and less than a half a mile from a school zone. The traffic is already unbearable on weekday mornings and evenings. This is a residential neighborhood and should stay that way, with single family homes only. I cannot see how anyone could approve a zoning change.

Regards,

Daniel M. Boscarino
Carrie Boscarino
57 Baron Ct
Getzville, New York

Sent from Yahoo Mail for iPad

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Carrato, Amy

From: Rosemary Blando <rblando@durham.com>
Sent: Tuesday, October 13, 2020 8:04 AM
To: Carrato, Amy
Cc: jjh2180@verizon.net
Subject: 2160 & 2170 North Forest Rd
Attachments: Amherst final draft.docx; Signed petitions.pdf

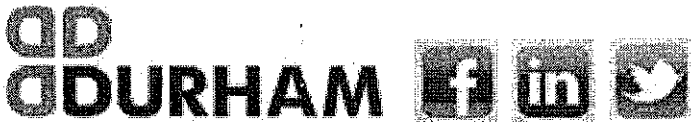
CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

Planning Board:
Attached please find our response to the request to approve **Amendment #73 of the Audubon New Community Development Plan**. This matter is scheduled to be heard as **item #3** on the Planning Board's **October 15th agenda**. Kindly acknowledge receipt via email as well as **jjh2180@vereizon.net**. My husband, Joseph Hausbeck plans to appear at the hearing, via Zoom, and requests permission to speak in rebuttal. The second attachment are (2) petitions in opposition to petitioner's request.
Thank you for your consideration,

Joseph J. Hausbeck
Rosemary Blando
Residents 2180 North Forest Rd
Williamsville, NY 14221

716.473.3972 cell

www.durhamstaffing.com



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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)

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)

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

The proposed project is totally out of character and inconsistent with our neighborhood. It simply does not fit the site (see preceding section). The quality of life for the current residents on North Forest Road, will be adversely affected for numerous reasons. There are serious concerns over potential loss of property values; there are privacy concerns, traffic and traffic safety concerns, water issues and flooding concerns, erosion concerns, and soil and land subsidence concerns, among others.

WATER ISSUES – Over the years, the proposed site, as well as adjacent properties, have Experienced flooding issues from Ellicott Creek. During wet weather events, waters from the adjacent creek and diversion channel regularly flood portions of the proposed site, our premises, and the premises of neighbors to the north.

Prior to the construction of the Ellicott Creek diversion channel, the subject property had large depressions that used to flood regularly. Neighbors have told me that the property was actually used by local children for ice skating, and at some point a public berm was constructed along the creek in an effort to prevent the flooding. I have also been told that this berm material was later excavated and used by a prior owner of the subject property to fill the depressed areas that regularly flooded. This story may be substantiated by the following observation: on the property, there is a large old willow tree sitting about 5' deep in a rip rap well. Within that well are several plastic drain hoses, with clamps that appear to drain into the "well" area. This may be some indication of the possible depth of fill placed upon the subject property by prior owners. However, I have no idea what the composition of that fill is.

Attached to the petitioner's application for a variance is a copy of a letter from Earth Dimensions, Inc. related to a preliminary wetland investigation. That letter references an attached map which "depicts the limits of our investigation". The attached map (entitled "Erie County On-Line Mapping Application") purports to depict the subject property (2170 and 2160 North Forest Road). Please compare the configuration of the subject property shown upon that map with the configuration of the "same" property (2170 and 2160 North Forest Road) shown on the site plan. A comparison may substantiate the alleged prior flooding and the later use of fill should these questions be relevant to the question of site suitability for the proposed project.

It is my understanding that a pipe for drainage of surface water from the Asbury Point property was installed years ago, and ran under North Forest Road to what was once a culvert along the road adjoining the proposed site. Allegedly, a prior owner of the proposed site later had a 36" drainage pipe installed. That pipe bisected the proposed site and discharged the drainage water to the bank or bed of Ellicott Creek. I believe the discharge pipe itself is visible at the creek bank. However, I was unable to note any reference to that discharge system on the site plans or application documents. I have no knowledge as to whether there is any public record of this.

Based upon:

Past and current flooding issues;
The addition of ½ acre of impervious surface;
The non-use of pervious surfaces;

Lack of information regarding proposed excavations;
Lack of information regarding storm water basins and their location with respect to the topography of adjacent lands;
The discharge of storm water to Ellicott Creek; and
concerns over storm water management generally,

We have serious concern that this project will have a significant adverse environmental impact on our property and that of our neighbors to the north.

ERROSION CONCERNS - We have personally observed substantial erosion of the bank of Ellicott Creek on the site of the subject property. When we acquired our property 23 years ago, the subject property, which adjoins ours, had a large concrete wall comprised of sections of concrete attached to metal supports mounted along the creek bank. The wall was along the peninsular-like portion of the western end of the property. Over the years, due to substantial erosion of the bed behind the wall, the entire wall has fallen, section by section, into Ellicott Creek. All that currently remains of the structure are a few of the metal supports.

At the opposite end of the subject property (at the Stahl Road intersection) sits the infamous "white house". Its driveway is a matter of inches from the eastern end of the subject property. The White house (a zombie property) is generally believed to be falling into Ellicott Creek.

In our mind, concern over erosion raises an issue as to the safety and appropriateness of a construction project of this magnitude.

FLOOD CONTROL EASEMENT - Our property (which adjoins the subject property) is subject to a Flood Control Easement held by, or of interest to NYSDEC, USACOE and the TOWN of AMHERST. We assume the adjoining upstream property is, or should be, also subject to such an easement. However, I did not see it directly addressed in the petitioner's Environmental Assessment Form.

Concerns over storm water and its management (see above) would seem to have a direct impact upon any Flood Control Easement applicable to the subject property, as well as to ours.

SEWERS - The petitioner's "Application to Reclassify" represents that there is adequate sanitary Sewer capacity for the proposed project. This may not be the case. We have learned that the proposed action is considered a Sanitary Sewer Extension by the NYSDEC, and a detailed sewer capacity analysis must be performed and submitted for review and approval. Further investigation is necessary to avoid potential substantial adverse environmental impacts upon the community.

PUBLIC WATER - Again, the "Application to Reclassify" represents that adequate public water

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

capacity exists. However, we can attest to the fact that, in the past, we and others in our block (North Forest Rd from Millersport Hwy to Stahl Rd) have experienced numerous interruptions in water service. These interruptions have occurred from broken pipes in our block, and have occurred principally during cold weather. Interruptions have been for long periods and have been extremely inconvenient. Ruptured pipes were the culprit and geysers with flooding of the street were common.

In August, 2016, the Town Board approved a measure to replace the water line from Stahl Road to Millersport Highway. To date, I do not believe that project has been completed. Further investigation is necessary to avoid potential adverse environmental impacts on the community.

TRAFFIC – Petition asserts that the proposed project will not result in a substantial increase in traffic above present levels. This is simply not true. Having lived on this block of North Forest for over 23 years, I am familiar with its unique problems. North Forest to Millersport Highway is a major route to the University of Buffalo. It is also the preferred route for many cars entering the Beechwood Complex on Stahl Road. It is also the route followed by large numbers of Amherst residents seeking to access the I-290 and I-990.

This block (between Millersport and Stahl) is a two way (one lane in each direction) residential street. It experiences the full impact of traffic going ***to*** the University in the morning and returning from it in the afternoon. Depending upon the time of day, the traffic can be backed up from Stahl to Millersport or from Millersport to Stahl.

As Stahl Road is the main access point for the Beechwood Complex, and ends at North Forest, traffic is also regularly backed up on Stahl Road, at the intersection. To complicate matters further, there is a serious bend on North Forest, right at the intersection. Between cars coming down North Forest and cars turning at Stahl, living on North Forest and being the first driveway from Stahl is a serious challenge. It makes it extremely difficult to find an opening in traffic long enough to enter or exit our driveway.

The proposed project seeks a curb cut for a driveway entrance onto the site. The proposed driveway is near our joint property line. It is, therefore, even closer to the Stahl Road intersection. The project allows for 36 parking places. Potentially, that makes 36 more cars attempting the same maneuvers as we must attempt and further obstructing our ability to enter and exit. This is a problem common to each of my neighbors.

It should be noted that "traffic concerns" are not limited solely to traffic flow and traffic visibility. A multi-family residential project such as this should consider the safety of pedestrians and cyclists. Due to the proximity to the University and to the Ellicott Creek Trailway (Bike Path), this stretch of North Forest Road is used regularly by both. There are no discrete bike paths along this section, and sidewalks are limited to the opposite side of North Forest. Additionally, it is questionable whether either could be practically installed along North Forest, south of the subject site, due to the proximity to the creek and its erosion issues in that area.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

SOIL ISSUES AND DEPTH TO BEDROCK – Over the years, there have been numerous efforts by individuals to acquire and build on the subject property. It is our understanding that most of the efforts involved proposed single family residences. Despite contractual agreements to purchase, none of these efforts materialized. We assume that some were discouraged because of the existence of floodplain/floodway issues. However, some failed as a result of depth to bedrock issues. Borings have been taken on a number of occasions and the results, which are unknown to us, are rumored to be unfavorable to construction due to the depth to bedrock. It should also be noted that we learned that when Asbury Point was constructed, it was necessary to drive an extraordinary number of I-beams into the ground, in places up to 40 to 50' in depth.

It is noted that the petitioner's EAF references the depth to bedrock as being "greater than 5 feet". It also identifies the soils on 100% of the site to be "cosad loamy fine sand" and 100% of the site to be poorly drained.

In light of the afore referenced information relating to prior flooding, the prior placement of fill, and existing erosion concerns, the possibility of depth to bedrock discrepancies simply reinforces our concerns relating to the integrity of the potential structure. We believe that a complete geo-technical investigation and inspection should be required. We have heard of instances of properties collapsing, in one case into a creek, within the Town of Amherst. We have no desire to see that occur next door.

CONCLUSION:

In a perfect world, the subject site would be a small neighborhood park and a continuation of the beautiful greenspace located directly across the creek from the site. It could contain a pedestrian bridge over Ellicott Creek, accessible by the general public seeking safer access to the Bike Trail, as well as the residents of Asbury Point, who, in the past, have casually strolled on this site. Possibly, a kayak launch point could serve this site as well. My wife and I, as adjoining neighbors would welcome such alternative uses. We do not oppose this proposal on the basis of change. However, the property is privately owned and we lack the power of Eminent Domain.

Based upon the foregoing considerations, we, Joseph Hausbeck and Rosemary Blando, strongly oppose approval of the petitioner's request. As 23 year residents of the site immediately adjoining the subject site, we are of the opinion that the proposed project will result in potentially significant adverse environmental impacts upon this community. Additionally, we are firmly of the belief that the applicant has failed to provide sufficient information to establish that there will be no impacts and, at the very least, a Draft Environmental Impact Statement should be required.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Town of Amherst Planning Board

5583 Main Street

Williamsville, NY 14221

We, the undersigned, being residents of North Forest Rd. between Stahl Rd and Millersport Highway, hereby **OPPOSE** the request filed by the petitioner **Coromandel Estates Amherst, LLC**, to approve amendment # 73 of the Audubon New Community Development Plan to reclassify 2.35 acres, more or less, of land located at 2160 and 2170 North Forest Rd.

Joseph Lagumbay 2160 North Forest Rd.
Rodney Rhands 2180 North Forest Rd
Ann Beahen 2204 N. Forest Rd.
Donna J Beahen 2204 N. Forest Rd.
Lisa Dennis Cummings 2220 N. Forest Rd.
Sterling Lawson 1881 N. Forest Rd
Joan Amico, 1936 North Forest, Amh NY 14221
Steve Amico, 1936 North Forest, Amh NY 14221

October 2020

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

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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

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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APPENDIX A – SUBSURFACE EXPLORATION LOGS

Recently Completed Test Borings July 2020 (B-1 through B-5)

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1.00 INTRODUCTION

1.10 GENERAL

This report presents the results of a subsurface exploration program completed by SJB Services, Inc. (SJB), and a geotechnical engineering evaluation completed by WMA Engineering DPC, dba Empire Geotechnical Engineering Services (Empire), for the proposed Elysium Apartment Complex, planned off of North Forest Road, within the Town of Amherst, New York. Postwork Capital retained SJB and Empire to complete this work, which was done in general accordance with SJB's June 29th, 2020 proposal, that was authorized on July 2, 2020.

SJB, our affiliated subsurface exploration company, recently completed five test borings and installed a groundwater observation well at the site. Prior to this investigation, SJB and Empire completed two separate subsurface investigations and prepared geotechnical evaluation reports for projects that were planned at the site. These included a proposed house in July 2014 and a proposed garage type structure in March 2020. The previous investigations each included one test boring along with some geotechnical laboratory testing. Neither of the two projects were constructed. It is our understanding that Postwork Capital has received approval to use the data developed during the first two investigations, to supplement the findings from the recently completed investigation.

Based on the findings from the recent investigation, and the two previous investigations, Empire has prepared this report, which summarizes the subsurface conditions encountered, and presents geotechnical recommendations for design and construction of the foundations, slab-on-grade floor, and pavement areas, as well as the associated site preparation work for the proposed project.

1.20 SITE AND PROJECT DESCRIPTION

The project site is located along the south side of North Forest Road, immediately west of its intersection with Stahl Road (street address 2160 North Forest Road) within the Town of Amherst, New York. As shown on Figure 1, Ellicott Creek forms the southern boundary of the project site, resulting in an irregular triangular shaped parcel, with about 550 feet of frontage along North Forest Road. As shown on Figure 2, the ground surface at the site slopes downward towards Ellicott Creek, with surface elevations ranging from about 583 feet to 570 feet.

Based on a cursory review of older USGS mapping (www.historicaerials.com), it appears Ellicott Creek formerly extended farther to the north than its current location. As discussed in later sections of this report, the fill soils encountered within the test borings could be related to site filling within the limits of the former creek location.

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The proposed apartment building will be located within the northwest corner of the site, beyond the floodway boundary, and where the site grades are more gradual. Based on the information provided by Silvestri Architects, PC, the apartment building will consist of a three story wood framed structure with an at-grade floor near the current site grades. Other than an elevator pit, no below grade structures are planned. Asphalt pavement driveways and parking areas are planned around the building. Figure 2 provides additional details about the proposed development.

2.00 SUBSURFACE EXPLORATIONS

2.10 JULY 2020 INVESTIGATION

The most recent subsurface exploration program included:

- 3 test borings completed within the limits of the proposed apartment building, designated as B-1 through B-3;
- 1 test boring completed within the southwest portion of the site, within a proposed terraced seating area, designated as B-4; and
- 1 test boring to the east of the proposed apartment building, within a future sports court area, designated as B-5.

The test boring locations were staked in the field by SJB, using a hand held global positioning system (GPS) instrument. The approximate test boring locations are shown on Figure 2. Survey level measurements were used to determine the approximate ground surface elevation at the test boring locations, using the rim of a catch basin frame within North Forest Road as a benchmark. The approximate benchmark location is shown on Figure 2, and has a reported elevation of 580.70 feet.

The recent test borings B-1 through B-5 were completed by SJB between July 23rd and July 27th, 2020, using a Central Mine Equipment (CME) model 550x, all-terrain tire mounted drill rig. Hollow stem auger and split spoon sampling techniques were used to advance the test borings through the overburden soils. Split spoon samples and Standard Penetration Test (SPT) were taken continuously from the ground surface to a depth of 12 feet, and in intervals of five feet or less for the remaining depth of the test borings. The split spoon samples and SPTs were completed general accordance with *ASTM D1586 – "Standard Test Method for Penetration Test and Split-Barrel Sampling of Soils"*.

Test borings B-1 through B-4 were advanced through the overburden until encountering the top of apparent bedrock, as identified by auger refusal, at depths of about 22 feet to 27.2 feet. After encountering auger refusal within test borings B-1 and B-4, 8 to 9 feet of rock coring was completed using an NQ'2' size core barrel, in accordance with *ASTM D 2113 – "Standard Practice for Rock Core Drilling and Sampling of Rock for Site Investigation"*. Test boring B-5 was completed to a depth of 15 feet.

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A Geologist prepared the test boring logs based on visual observations of the recovered soil and rock core samples and a review of the driller's field notes. The soil samples were described based on a visual/manual estimation of the grain size distribution, along with characteristics such as color, relative density, consistency, moisture, etc. The rock cores were also described, including characteristics such as color, rock type, hardness, weathering, bedding thickness, core recovery and rock quality designation (RQD). The test boring logs for the recently completed test borings B-1 through B-5 are presented in Appendix A, along with general information and a key of terms and symbols used to prepare the logs.

A groundwater monitoring well was installed within completed test boring B-2. The well consists of two inch diameter PVC screen and riser pipe, extending from the bottom of the test boring to above the ground surface. The sand pack extends from the bottom of the test boring up to a depth of about 14 feet. A bentonite chip seal was installed above the sand pack, with the remainder of the test boring backfilled with soil cuttings. Additional details regarding the construction of the well are shown on the Monitoring Well Completion Record, included in Appendix A, following test boring log B-2.

2.20 PREVIOUS INVESTIGATIONS

As noted, two previous investigations were completed at the site by SJB and Empire, each including one test boring along with some geotechnical laboratory testing. Test boring B-1 completed in June 2014 was drilled within the limits of the proposed apartment building. Test boring B-1 completed in February 2020 was completed within the southwest corner of the site. The approximate location of these test borings are shown on Figure 2. The test boring logs from the previous investigations, with updated ground surface elevations, are included in Appendix B. Additional information regarding the previous investigations is included in: Empire's July 11, 2014 Subsurface Exploration and Geotechnical Evaluation Report, along with the August 15, 2014 Follow-Up Information letter; and the March 14, 2020 Subsurface Exploration and Geotechnical Evaluation Report.

3.00 SUBSURFACE CONDITIONS

3.10 GENERAL

The subsurface conditions described in the following sections are based on the recently completed test borings B-1 through B-5, and previously completed test borings from 2014 and early 2020. Beneath the topsoil, fill type soils were encountered which extended to depths of about 4 feet to 10 feet. Beneath the fill, the upper indigenous soils consisted of silty clay soils, often containing intermixed organics, which extended to depths of about 18 to 20 feet. The remaining soils consisted of compact to very compact gravels and sands, which extended to the top of Shale bedrock at depths of about 25 to 28 feet. The soil and bedrock stratigraphy encountered along with the groundwater conditions observed are described in more detail below and on the test boring logs in Appendix A and Appendix B.

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3.20 FILL SOILS

Beneath the topsoil, fill type soils were encountered which extended to depths of about 4 to 10 feet. It should be expected that the depth of the fill will vary between and away from the exploration locations, and will be dependent on the original site topography and former limits of Ellicott Creek, prior to site filling and grading. As noted, based on a review of older USGS mapping, it appears Ellicott Creek formerly extended farther to the north than its current location.

The fill soils generally consisted of a reworked mixture of silty clays and sands with varying amounts of gravel and trace to little amounts of organics. Exceptions include: a layer of organic clayey silts encountered from about 4 to 6 feet within the 2014 test boring B-1; a zone of concrete fragments and soils observed within the upper four feet at test boring B-2; and a zone of asphalt fragments and soils observed from about 2 feet to 6 feet within test boring B-5. Trace amounts of glass, slag, concrete, organics, and asphalt were often observed within the fill soils. The Standard Penetration Test (SPT) "N" values obtained within the fill soils ranged from of 5 to "sample spoon refusal" (i.e. more than 50 blows required to advance the sample spoon with six inches or less of penetration). The variable nature of the fill soils, along with the variable relative density/consistency as determined from the SPT "N" values, indicate the fill soils were likely installed in an uncontrolled, non-engineered manner.

3.30 INDIGENOUS SOILS

Beneath the fill soils, and extending to depths of about 18 to 20 feet, the upper indigenous soils consisted of a mixture of silty clays and sands, often containing trace to little amounts of organics. Exception include the 15 to 17 feet deep sample from test boring B-2 which consisted predominately of organics. The silty clays and sands with organic are classified as CL, SC-SM, and OL-CL group soils using the Unified Soil Classification System (USCS). These upper indigenous soils appear to be alluvial deposited soils from Ellicott Creek. The SPT "N" values obtained within these soils ranged from "weight of hammer" (i.e. only the weight of the hammer and rods required to advance the sample spoon) to 8, indicating these soils have a "very soft" to "medium" consistency. Laboratory testing from the first two investigations indicate these soils, at depths shallower than about 12 to 14 feet, had a medium to high plasticity, a moisture content ranging from about 40% to 55%, and an organic content of about 5% to 8%.

Beneath a depth of about 18 to 20 feet, and extending to the top of bedrock at about 25 to 28 feet, the remaining indigenous soils consisted of a mixture of gravels and sands with little to some amounts of silts and clays. These soils are classified as GC-GM and SM group soils using the USCS. The SPT "N" values obtained within these deeper soils ranged from 40 to "sample spoon refusal", indicting the deeper soils have a "compact" to "very compact" relative density.

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3.40 BEDROCK

Recently completed test borings B-1 through B-4, along with test boring B-1 from 2014 and test boring B-1 from early 2020 were drilled through the overburden soils until encountering the top of apparent bedrock, as identified by auger refusal conditions. Following auger refusal within recently completed test borings B-1 and B-4, 8 feet, and 9 feet of rock coring was completed, respectively. The following table summarizes the depth and elevation where the top of bedrock was encountered, as identified by rock coring (C) or auger refusal (AR). At test boring B-4, rock coring was started at 22.0 feet. However, the upper portion of the recovered core consisted of soil, with the top of shale rock starting at a depth of about 24.4 feet.

Approximate Depth and Elevation of Top of Bedrock

Test Boring	Approximate Ground Surface Elevation (feet)	Depth / Elevation of Top of Bedrock (feet)	
B-1	582.3	25.2 / 557.1	(C)
B-2	581.1	26.0 / 555.1	(AR)
B-3	579.5	26.5 / 553.0	(AR)
B-4	578.1	24.4 / 553.7	(C)
B-1 (2014)	581 +/-	26.0 / 555.0	(AR)
B-1 (Feb. 2020)	580.0	27.7 / 552.3	(AR)

The bedrock recovered from test borings B-1 and B-4 consisted of brown, medium hard, sound, laminated to thickly bedded, Shale bedrock. The core recoveries ranged from 66% to 100%. The rock quality designation (RQD) values for the first core runs were 21% and 47%, indicating the near surface bedrock has a "very poor" to "poor" rock mass quality. The RQD values for the second core runs were 81% and 85%, indicating the deeper bedrock has a "good" rock mass quality.

3.50 GROUNDWATER

Based on the information summarized below, a general groundwater condition at the time of our investigation appears to exist near a depth of about 10 to 11 feet, or approximate elevation 570 to 571 feet, which is near the water level within Ellicott Creek.

Water level measurements were made in the test borings following the completion of overburden drilling and sampling, and are presented on the test boring logs in Appendix A and Appendix B. At test boring B-3, the depth to water was about 21.5 feet below the ground surface. Within the remaining test borings, no water was observed. Based on the water levels measured within the observation well, as described below, it appears that

groundwater did not have sufficient time to fully accumulate and stabilize in the test holes within the time that had elapsed from the completion of drilling operations and the time of the measurements.

A groundwater observation well was installed within completed test boring B-2. SJB visited the site on August 6th, 2020, at which time the depth to water within the well was about 10.0 feet below the ground surface, correlating to approximate elevation 571 feet. Following the initial measurement, about 5 gallons of water was removed from the well, lowering the water level. SJB returned to the site on September 15th, 2020, at which time the depth to water within the well was about 11.1 feet below the surface, correlating to approximate elevation 570 feet. These depths generally correspond to the depths where the collected soil samples were described as "moist to wet" or "wet".

Some of the shallower samples of fill soils within test borings B-1 and B-5, along with some shallower samples of sandier indigenous soils within test boring B-3 were described as "moist to wet". These conditions could be representative of some perched or trapped groundwater within the more granular or looser fill and indigenous soils, which overlie less permeable indigenous soils. Perched groundwater conditions can be more prevalent following heavy or extended periods of precipitation and during seasonally wet periods. It should be expected that both permanent and perched groundwater conditions could vary with location and with changes in soil conditions, precipitation, seasonal conditions, and fluctuations of the water level within Ellicott Creek.

4.00 GEOTECHNICAL RECOMMENDATIONS

4.10 GENERAL CONSIDERATIONS AND RECOMMENDATIONS

The following general geotechnical considerations and recommendations are provided to assist with planning for the design and construction of the proposed apartment complex. More detailed recommendations are presented in the subsequent sections of this report.

1. Design and construction of the proposed building will be primarily impacted by: the fill soils that extend to depths of 4 to 10 feet; the underlying soft silty clay indigenous soils which also contain organics; and the apparent perched groundwater condition within some of the fill soils and shallower indigenous soils.

2. The fill soils and the underlying silty clay and organic indigenous soils are not suitable for supporting the proposed apartment building using a conventional shallow spread foundation design. These soils are highly compressible and can also subside with time due to decomposition of the organics, resulting in excessive amounts of settlement beneath spread foundations. In addition, the softer silty clay soils are considered marginal for support of spread foundations.

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3. Considering the issues associated with spread foundations, a deep foundation system is recommended for use at this site, which will transfer the building loads through the fill and softer indigenous soils and into the "compact" to "very compact" indigenous soils, first encountered about 18 to 20 feet below the surface. Suitable deep foundation options include: driven pipe piles; helical piles; and drilled, cast-in-place pier foundations (i.e. caissons or drilled shafts).

4. The deep foundation support options will generally eliminate the settlement risks discussed above for spread foundations. However, settlement risks will still remain with regard to the ground level floor, if designed as a conventional slab-on-grade. In order to eliminate all risks associated with a ground level floor constructed over the fill soils and softer indigenous / organic soils, the floor should be constructed as a structural floor supported by a deep foundation system. We understand, however, it may not be economically practical to use a structural floor slab.

   The Owner, therefore, could consider an approach of removing a portion of the existing fill and provide some additional Subbase Stone, along with a heavy duty stabilization geotextile and geo-grid reinforcement beneath the slab-on-grade construction. This will provide for a stiffer subgrade and reduce some of the differential settlement effects, if it were to occur. There are some uncertainties with this approach, such as the potential for some long-term differential settlement, resulting from unidentified zones of unsuitable fill soils or buried organics.

   If the Owner is willing accept these risks, then we would recommend the following be implemented as minimum requirements for constructing the slab-on-grade over the existing fill soils.

   - The existing fill subgrades should be thoroughly compacted and properly proof rolled, evaluated, and prepared in accordance with our recommendations provided in Section 4.90.6.
   - Any deleterious materials, such as organics, very soft soils, construction debris, etc., which are present within the fill soils at the bottom of the subgrade excavation, should be further undercut, removed, and replaced with additional Subbase Stone.
   - The slab-on-grade floor should be constructed over a minimum 24-inch thick layer of compacted Subbase Stone / Structural Fill, that is separated from the fill soils with a suitable stabilization/separation geotextile. The Structural Fill layer should also be reinforced with two separate layers of geo-grid.
   - Additional steel reinforcing within the floor slab should be considered to help further bridge and reduce the risks of any differential subsidence effects, should they occur.

5. The installation of new fill, necessary to raise the site grades within the proposed building will result in some settlement within the fill soils and softer zones of indigenous soils, which could induce some drown drag forces on the deep foundations. Accordingly, the amount of new fill installation should be limited and be completed at least 2 to 3 months prior to the installation of the deep foundations.

6. Excavations to construct the pile caps and elevator pit could encounter some perched groundwater. Appropriate dewatering measures should be implemented to allow for construction to proceed in the dry. Undercutting the subgrade soils by about 12 to 18 inches and replacing them with Structural Fill should be considered, to provide a firm and stable working surface for construction of the pile caps, grade beams, and elevator pit.

7. Based on the subsurface conditions encountered, the site can be classified as Seismic Site Class "D" in accordance with the criteria in the New York State Building Code.

4.20 DRIVEN PIPE PILES

A driven, closed end pipe pile, is recommended for use at the site due to its lager end bearing area, compared to an H-pile. The steel pipe pile should have a yield strength of at least 50 ksi, and should have a minimum wall thickness of 0.25 inches. A steel cap plate should be used to close the end of the pile. The perimeter of the cap plate should be flush with the outer surface of the pipe pile. Driving the pipe piles open ended is not recommended. Following driving and acceptance, the pipe pile should be filled with concrete or be capped, as determined by the Structural Engineer.

The pile foundations should be driven to practical refusal, into the "compact" to "very compact" gravel and sand soils, first encountered about 18 to 20 feet below the surface. A pipe pile driven to practical refusal can be designed for an allowable axial capacity equal to 25% of the pile yield strength or 12.5 kips per square inch (ksi), whichever is less, times the cross sectional area of the pile.

Based on the above design criteria, an 8.625 inch diameter pipe pile section (Grade 50 steel), with a wall thickness of 0.25 inches and a cross sectional area of 6.6 in^2, would provide an allowable axial compressive capacity of about 41 tons per pile. The pile, however, should be driven and tested for an ultimate capacity of 82 tons. The ultimate test capacity assumes a Factor of Safety of 2.0, as required by the Building Code of New York State.

Other pipe pile sections could also be used, based on current product availability, to obtain different allowable axial capacities, provided the same design criteria as outlined above is used.

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Pile foundations driven to practical refusal within the "compact" to "very compact" gravel and sand soils, are expected to undergo insignificant total settlement, when designed and constructed in accordance with our recommendations. Driven piles should be spaced a minimum of 3 pile widths apart, or three feet, whichever is greater. At this spacing, no group reduction factor is considered necessary. All exterior pile caps and grade beams for driven pile foundations should be embedded a minimum of 4 feet below final exterior grades for frost protection.

At least 3 random piles should be dynamically tested to confirm that the pile capacity has been obtained with an adequate factor of safety (i.e. Factor of Safety of 2.0 or greater as required by the Building Code of New York State).

It is possible that obstructions could be encountered within the fill soils. Such obstructions will hinder and impact the installation of the driven piles, and therefore should be anticipated and addressed as appropriate by the pile driving contractor. Accordingly, some pre-excavation and removal of these materials may be necessary for the proper installation of the piles.

4.30 HELICAL PILES

Helical piles, often referred to as "screw piles", bearing within the "compact" to "very compact" gravel and sand soils, first encountered about 18 to 20 feet below the surface, can be used for supporting the proposed building. Helical piles consist of a steel plate formed into the shape of a helix (one pitch of a screw thread) attached to a steel shaft. Installation is accomplished by applying torque to the shaft and screwing the pile into the soil. During the installation, the torque is measured as a correlation to the design capacity.

We recommend a performance specification for the helical piles be developed (i.e. required compressive and uplift capacities). The helical pile installation contractor can then provide a suitable design and installation procedure. Variables will include the diameter of the helical plate, the use of multiple plates, embedment length, number of piles, grouting or no grouting, etc. A New York registered Professional Engineer should prepare the helical pile design.

Preliminarily, helical piles designed to bear at a depth of about 20 feet, can be designed based on an allowable end bearing capacity of 15 kips per square foot (psf). Accordingly, a 14 inch diameter helix (end area of 1.07 square feet) would be expected to develop an allowable axial capacity of about 16 kips per pile. The actual design, however, should be completed by the contractor based on the performance specification developed for the project. Exterior grade beams and pile caps should be embedded a minimum of 4 feet for frost protection.

Due to the potential for the accumulation of perched or trapped groundwater within the fill soils, and the potential flooding events, we recommend the design groundwater elevation be assumed to exist at the ground surface.

At least one load test should be completed for each helical pile type to confirm the design capacity has been obtained with an adequate factor of safety (i.e. Factor of Safety of 2.0 or greater). The load test data should be correlated to the installation torque to provide acceptance criteria for the production piles. Based on the testing results, the actual production helical pile lengths may vary and therefore such contingencies should be planned for in the installation contracts.

4.40 DRILLED PIERS

Drilled pier foundations, if used, should bear within the "compact" to "very compact" gravel and sand soils, first encountered about 18 to 20 feet below the surface. We recommend the drilled piers bear at least 2 to 3 feet into the gravel and sand soils. Therefore, the drilled piers should bear at an elevation of about 559 to 560 feet, in order to develop adequate end bearing capacity. All drilled pier foundation construction should be monitored by qualified geotechnical personnel, to ensure the drilled piers are bearing on suitable indigenous soil bearing subgrades.

The drilled pier foundations can be sized based on a maximum net allowable end bearing capacity of 15 kips per square foot. In all cases, a minimum pier diameter of 30 inches is recommended. The piers will need to be sized based on the actual column and wall loads as determined by the designer.

Drilled piers should be spaced no closer than 3 pier diameters, center to center. Exterior grade beams and pier caps for a drilled pier foundation system should be embedded a minimum of 4 feet for frost protection. It is estimated that drilled pier foundations sized and properly constructed in accordance with our recommendations above will undergo a total settlement of less than ½ inch.

4.50 ELEVATOR PIT

As noted, a general groundwater condition is expected near elevation 570 feet to 571 feet, or about 10 to 11 feet below the existing surface. However, due to the potential for the accumulation of perched or trapped groundwater within the fill soils, and the potential flooding events, we recommend the groundwater conditions be assumed to exist at the ground surface. Accordingly, the below grade elevator pit walls, should be constructed with perimeter foundation drains to intercept any groundwater that may tend to collect against the walls, and the walls should be properly damp proofed. As an alternative, the walls could be designed to resist full hydrostatic pressures acting on the structure walls and bottom slab, and be designed as a fully waterproofed structure.

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The elevator pit walls should be designed to resist "at rest" lateral earth pressures generated by the earth backfill and any temporary or permanent surcharge loads, based on the soil parameters below. These parameters are based on the wall backfill consisting of Structural Fill, as described in Appendix C. In addition, perimeter exterior foundation drains should be incorporated in the design where the walls are designed for relieved hydrostatic pressures (i.e. drained conditions).

Where a foundation drainage system is not used, the walls should be designed to resist the hydrostatic pressures as well as the lateral earth pressures acting the walls. In this case, the lateral earth pressure should be computed based on a submerged soil unit weight. In addition, the floor / bottom slab must be designed to resist the hydrostatic uplift pressure acting on it, and the depressed structure should also be fully water proofed.

Recommended Soil Parameters for Elevator Pit Wall Design

- Coefficient of "At-Rest" Lateral Earth Pressure – 0.47
- Angle of Internal Friction – 32 Degrees
- Moist Unit Weight of Soil – 140 pcf
- Submerged or Buoyant Unit Weight of Soil – 80 pcf
- Surcharge Load Lateral Coefficient – 0.50

4.60 SLAB-ON-GRADE FLOOR

4.60.1 Floor Slab with Thickened Subbase

As discussed in Section 4.10, the ground level floor can be constructed as a slab-on-grade over the existing fill soils, provided the Owner is willing to accept the risks associated with this option. These risks include the potential for some on-going, long-term settlement, and unpredictable differential settlement, because of the variable composition and density of the fill, and potentially other undetected areas of unsuitable fill soils (i.e. organics, wood, etc.).

The existing fill soil subgrades should be thoroughly compacted and properly prepared and evaluated in accordance with our recommendations in Section 4.906 prior to placement of the geotextile and Subbase Stone material. A minimum of 24 inches of Subbase Stone should be placed beneath the slab-on-grade floor. A suitable stabilization/separation geotextile, such as Mirafi 600X, should be placed over the prepared subgrades and a geo-grid reinforcement such as a TriAx TX160, should be placed over the geotextile, prior to installation of the first lift of Subbase Stone. An additional layer of geo-grid should be installed after the first 12-inches of Structural Fill has been installed.

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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.

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Alternatively, procedures for constructing the drilled piers below the groundwater elevation, can be implemented. However, there is less control during construction in-the-wet, and therefore, there may be greater risk associated with this construction procedure. If this method is used, the hole must be stabilized and the concrete must be placed in a manner that displaces slurry/water from the hole, such as a tremie method. It is recommended that the drilled piers be constructed only by a Contractor, who is qualified and experienced in such construction methods. In both cases the installation of temporary casing during drilling will be necessary to prevent the sloughing of the softer fill soils and indigenous soils into the excavations.

Initially, the excavation should extend to the proposed bearing grade. Loose soil should be removed from the bearing surface. The final bearing surface should be level or near level. Plumbness of the pier should be maintained within 1% of the total length. Casing removal during concrete placement should proceed in a manner that prevents or reduces to the extent possible, surrounding soil and water from protruding into the space that will be occupied by concrete. Qualified and experienced geotechnical personnel should monitor the drilled pier construction.

4.90.5 Excavation for Grade Beams and Pile Caps

Excavation for the pile caps and grade beams should be performed using a method, which reduces disturbance to the subgrade soils, such as a backhoe equipped with a smooth blade bucket. As noted, consideration should be given to undercutting the subgrade soils by about 12 to 18 inches and replacing them with Structural Fill, as described in Appendix C, to provide a firm and stable working surface.

Subgrades should be protected from precipitation and surface water. Water should not be allowed to accumulate on the soil subgrades and the subgrades should not be allowed to freeze, either prior to or after construction of foundations. If subgrades are not protected and degrade, they must be undercut/removed accordingly.

Excavations should be backfilled as soon as possible and prior to construction of the superstructure. It is recommended that the excavations be backfilled with a Structural Fill, as described in Appendix C.

4.90.6 Subgrade Preparation for Slab-on-Grade and Pavement Areas

The site preparation work should be performed during seasonally dry periods to minimize potential degradation of the subgrade soils and undercuts which may be required to establish a stable base for construction. It should be understood that the silty clay fill soils encountered at the site are sensitive and can degrade and lose strength when they are wet and disturbed by construction equipment traffic. Accordingly, efforts should be made to

maintain the subgrades in a dry and stable condition at all times, and minimize construction traffic directly over these soils. These efforts could include:

- Installation of drainage swales and underdrains (i.e. "French drains") to intercept and divert surface runoff and groundwater away from the construction areas;
- Proper grading and sloping of the subgrade and "sealing" of the surface with a smooth drum roller, at the end of each day or when rain is anticipated to promote runoff; and
- Restricting construction equipment traffic from traveling directly over the subgrade surfaces, especially when they are wet. Any subgrades, which become damaged, rutted or unstable should be undercut and repaired as necessary prior to placement of the overlying fill courses.

Existing trees, stumps, vegetation, topsoil, organic soils, soft or loose soils, and any other deleterious materials within the proposed slab-on-grade and pavement areas should be removed. Following stripping of the surface materials and any required excavation to the proposed subgrades, the exposed subgrades should be allowed to dry, as necessary, and then be thoroughly compacted/densified and then proof-rolled.

The subgrade compaction and proof-rolling should be performed prior to any required fill placement, using a vibratory smooth drum roller weighing at least 10 tons. The roller should be operated in the vibratory mode for compacting the subgrades and in the static mode for proof rolling. The roller should complete at least four passes over the exposed subgrades for the compaction/densification operation and at least two passes for the proof rolling evaluation.

The subgrade compaction and proof-rolling should be done under the guidance of, and observed by, a representative of Empire. Any areas, which appear wet, loose, soft, unstable or otherwise unsuitable, should be undercut. Over excavation, which may be required as the result of the proof-rolling, should be performed based on evaluation of the conditions by Empire. Resulting over-excavations should be backfilled with controlled Structural Fill. The placement of an initial lift of oversized stone fill material (i.e. "surge stone", "shot rock", etc.) encased in stabilization geotextile top and bottom, may be necessary in some cases to help stabilize the subgrades.

During construction, the Contractor should take precautions to limit construction traffic over the soil subgrades. Any subgrades, including existing soil subgrades or fill subgrades, which become damaged, rutted or unstable should be undercut and repaired as necessary prior to placement of the Subbase Stone.

Suitable Granular Fill, as described in Appendix C, can be used to raise the site grades beneath the Subbase Stone course for the slab-on-grade and pavement construction. The use of the on-site soils to raise site grades is not recommended as it is expected to be more difficult to obtain acceptable compaction and maintain stable fill subgrades (i.e. free of rutting and pumping conditions), due to its inherent finer grained composition and organic

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content. Placement of subgrade fill (Suitable Granular Fill), to raise site grades, should be observed and tested by a construction materials testing company. It is recommended that utility trenches located within pavement areas be backfilled with controlled Structural Fill.

5.00 CONCLUDING REMARKS

This report was prepared to assist in the design and construction of the proposed Elysium Apartment Complex, planned at 2160 North Forest Road, within the Town of Amherst, New York. The report has been prepared for the exclusive use of Postwork Capital, Buffalo Automation, Silvestri Architects, PC, and other members of the project design team, for specific application to this site and this project only.

The site information and recommendations were prepared based on Empire's understanding of the proposed project, as described herein, and through the application of generally accepted soils and foundation engineering practices. Empire should be consulted with any questions regarding the interpretation of the findings of our work, and/or the geotechnical considerations and recommendations presented. In addition, the recommendations presented are provided as guidance to the designer and should not be considered a project specification. No warranties, expressed or implied are made by the conclusions, opinions, recommendations or services provided.

Empire should be informed of any changes to the planned project so that it may be determined if any modifications to the information presented in this report are necessary. Empire and / or its designated representative should also be retained to review final plans and specifications and to monitor the foundation and site work construction to verify that the recommendations were properly interpreted and implemented.

Additional information regarding the use and interpretation of this report is presented in Appendix D.

Respectfully Submitted:

WMA Engineering DPC
dba Empire Geotechnical Engineering Services

Thomas R. Seider, P.E.
Senior Geotechnical Engineer

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FIGURES

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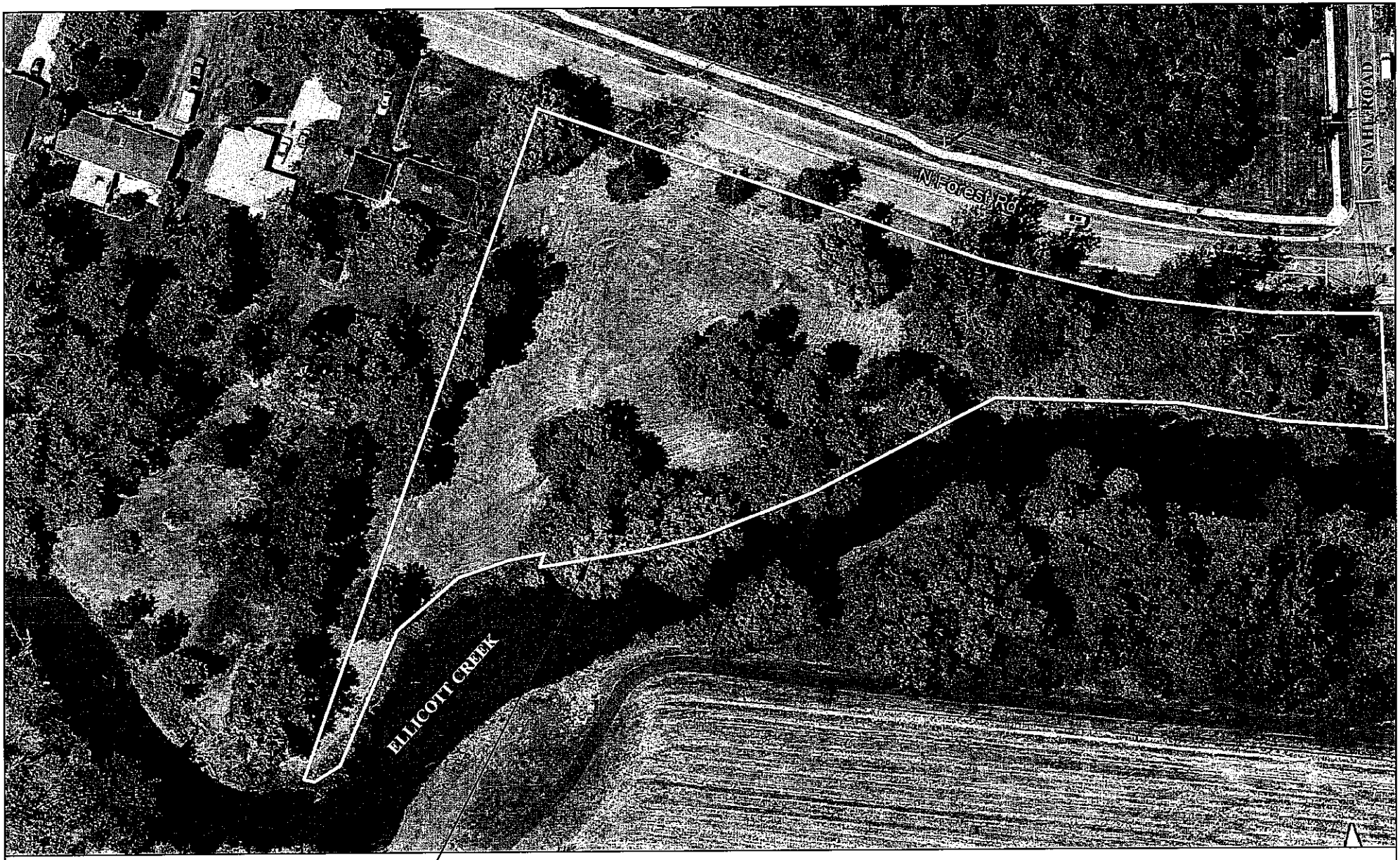

APPROXIMATE SITE LOCATION

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:

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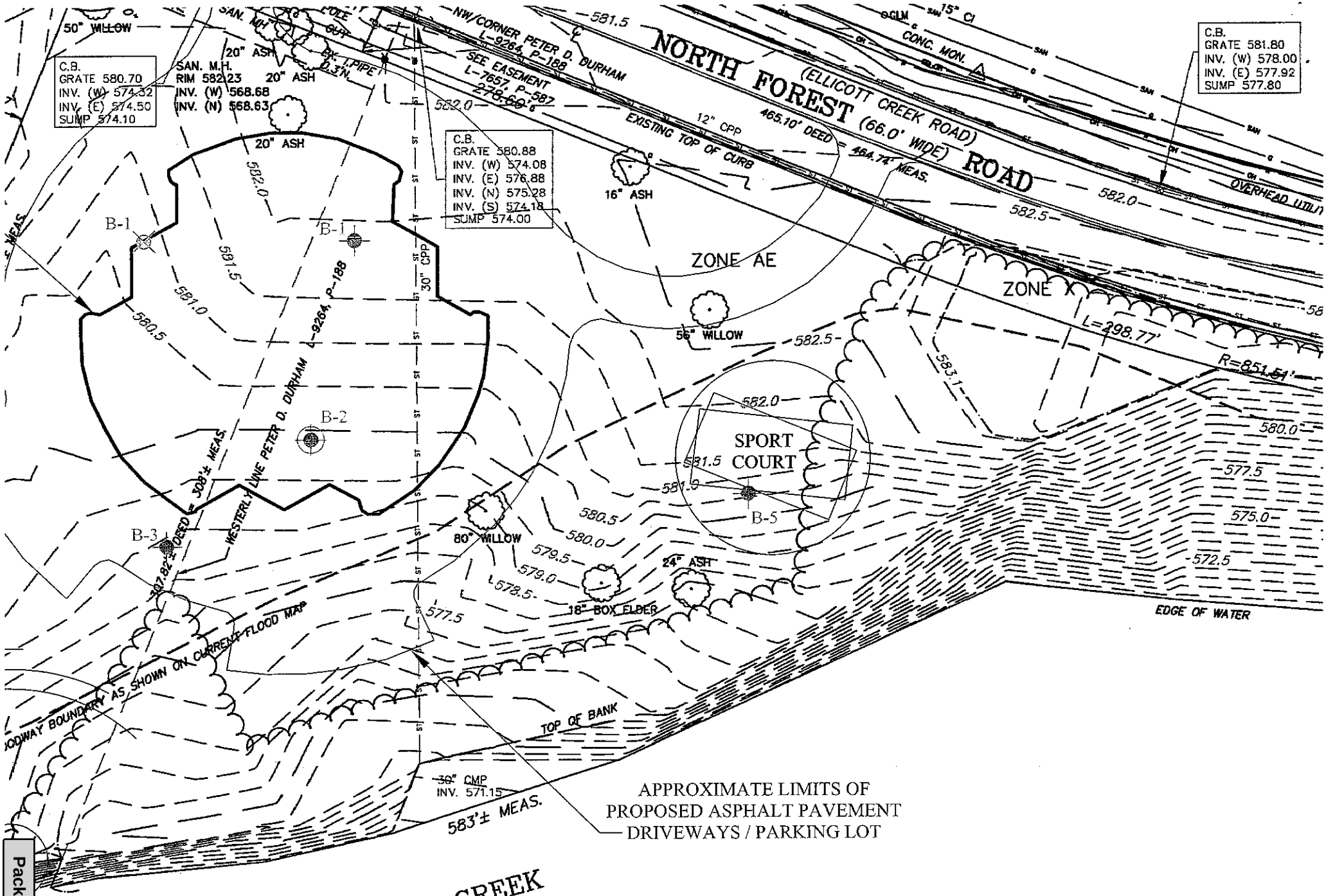

NOTE:

B-1 INDICATES APPROXIMATE LOCATION AND DESIGNATION OF TEST BORING

FIGURE DEVELOPED FROM JUNE 24, 2014

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PROPOSED ELVS

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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 _____

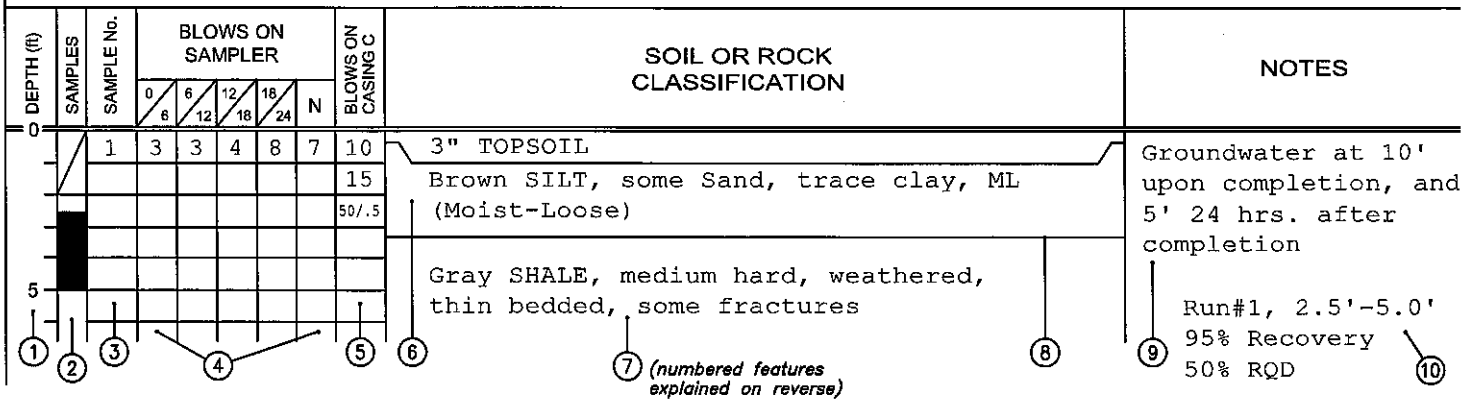


TABLE I

⁄	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			One piece of coarse GRAVEL (moist, FILL)	WOH = Weight of Hammer and Rods
		6	5		13		
5	3	3	3			Brown Silty CLAY, some f-c Sand, little fine Gravel, tr.slag, tr.organics (moist-wet, FILL)	
		3	2		6		
	4	3	3			Contains tr.gravel, tr.glass, no slag	Sample #4: Contains wood
		4	3		7		
	5	WOH	2			Dark Brown Silty CLAY, little f-m Sand, tr.organics (moist, medium, CL)	Sample #5: Exhibits an organic odor
10		2	3		4		
	6	1	1			Contains tr.sand (moist-wet, soft)	
		1	1		2		Sample #6: Contains wood
15	7	WOH	1			Contains little f-m Sand, little Organics	Sample #7: Exhibits an organic odor, contains wood
		2	1		3		
20	8	6	21			Brown fine GRAVEL, some f-c Sand, little Silty Clay (moist, v.compact, GC-GM)	REF = Sample Spoon Refusal
		35	50/0.2		56		Driller noted hard augering at 20' to 25'
25	9	50/0.2			REF		NQ '2' Size Rock Core
						Brown SHALE Rock, medium hard, sound, thickly bedded, both natural and mechanical fractures	RUN #1: 25.2' - 30.2' REC = 72% RQD = 47%
30						Becomes laminated to thickly bedded	RUN #2: 30.2' - 33.2' REC = 100% RQD = 81%
35						Boring Complete at 33.0'	No Free Standing Water encountered before coring
							Free Standing Water recorded at 1' after coring
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW

CLASSIFIED BY: Geologist

DRILLER: A. KOSKE
DRILL RIG TYPE : CME-550X

METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

DATE:
START 7/27/2020
FINISH 7/27/2020
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-2
SURF. ELEV 581.1'
G.W. DEPTH See Notes

PROJECT: PROPOSED ELYSIUM APARTMENT COMPLEX
PROJ. NO.: BE-20-105
LOCATION: 2160 NORTH FOREST ROAD
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	4	15			TOPSOIL	Driller noted topsoil at the surface
		21	19		36	Brown CONCRETE fragments, some Silty Clay, little f-c Sand (moist, FILL)	
	2	15	8				
		5	6		13	Contains little Silty Clay	Sample #1: Poor Recovery
5	3	2	2			Brown Silty CLAY, some f-c Sand, little fine Gravel,	Sample #2: Poor Recovery
		3	6		5	tr.organics (moist, FILL)	
	4	4	50/0.2		REF	Contains some fine Gravel, little f-c Sand, tr.concrete (moist-wet)	
	5	50/0			REF		Sample #5: No Recovery
10							
	6	2	2			Dark Brown Silty CLAY, little Organics, tr.sand	REF = Sample Spoon Refusal
		3	3		5	(moist-wet, medium, CL)	
15							
	7	1	2			Brown Organics, tr.sand (wet)	Sample #7: Poor Recovery, contains wood
		1	6		3		
20							
	8	31	40			Brown fine GRAVEL, some f-c Sand, little Silty Clay	
		45	50/0.4		85	(wet, v.compact, GC-GM)	
25							
	9	50	50/0.2		REF		
						Boring Complete with Auger Refusal at 26.0'	No Free Standing Water reading obtained at boring completion
30							2" PVC groundwater observation well installed within completed test boring. Refer to completion record for details.
35							
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW

CLASSIFIED BY: Geologist

DRILLER: R. STEINER

DRILL RIG TYPE : CME-550X

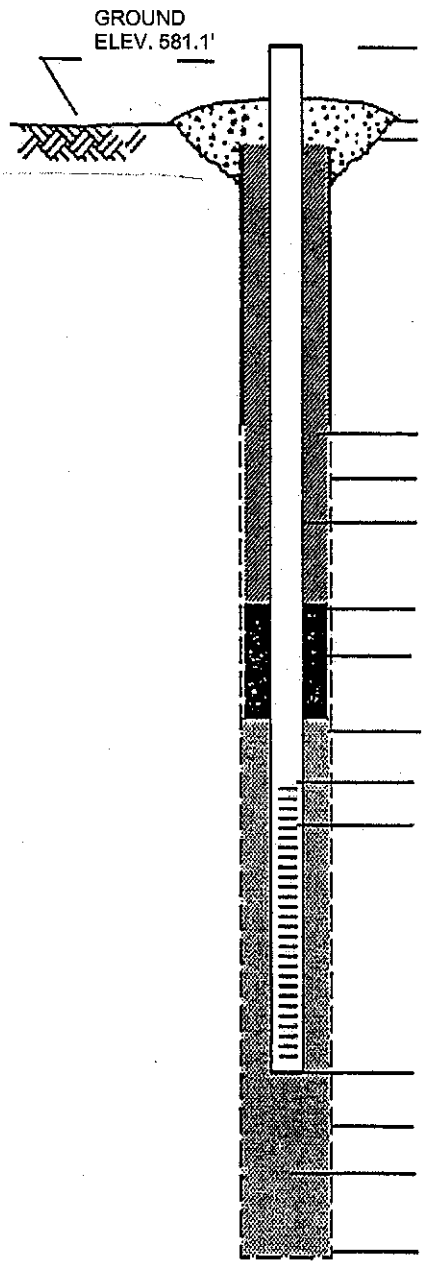
METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

MONITORING WELL COMPLETION RECORD

SJB SERVICES, INC.

WELL NUMBER: B-2	
PROJECT: Elysium Apartments	**DRILLING METHOD:** ASTM D-1586 USING HSA
PROJECT NUMBER: BE-20-105	**GEOLOGIST:** N/A
DRILLER: R. Steiner	**INSTALLATION DATE(S):** 7/27/2020



TYPE OF SURFACE SEAL:	SOIL
TYPE OF BACKFILL:	SOIL AUGER CUTTINGS
BOREHOLE DIAMETER:	7" ±
I.D. OF RISER PIPE:	2"
TYPE OF RISER PIPE:	PVC
DEPTH OF SEAL:	12'
TYPE OF SEAL:	BENTONITE CHIPS
DEPTH OF SAND PACK:	14'
DEPTH OF TOP OF SCREEN:	15.6'
TYPE OF SCREEN:	PVC
SLOT SIZE X LENGTH:	0.01' x 10'
I.D. OF SCREEN:	2"
TYPE OF SAND PACK:	No. 0 Silica Sand
DEPTH BOTTOM OF SCREEN:	25.6'
DEPTH BOTTOM OF SAND PACK:	26.0'
TYPE OF BACKFILL BELOW OBSERVATION WELL:	N/A
ELEVATION/ DEPTH OF HOLE:	26.0'

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

DATE:
START 7/24/2020
FINISH 7/24/2020
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-3
SURF. ELEV 579.5'
G.W. DEPTH See Notes

PROJECT: PROPOSED ELYSIUM APARTMENT COMPLEX
PROJ. NO.: BE-20-105
LOCATION: 2160 NORTH FOREST ROAD
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	5	6			TOPSOIL	Driller noted topsoil at the surface
		15	10		21	Brown Silty CLAY, some f-c Sand, tr.organics (moist, FILL)	
	2	8	8			Contains little fine Gravel	
		10	11		18		Sample #2: Poor Recovery
5	3	2	2			Dark Gray f-c SAND, little Silty Clay, tr.organics	
		3	4		5	(moist-wet, loose, SC-SM)	
	4	3	2			(wet)	Sample #4: Contains wood
		3	2		5		
	5	2	2			Contains some Silty Clay (v.loose)	Sample #5: Contains wood
10		1	1		3		
	6	WOH/1.0				Contains little Organics, little Silty Clay	WOH = Weight of Hammer and Rods
		WOH/1.0			WOH		
15							
	7	WOH/1.0				Brown Silty CLAY, some f-c Sand, little fine Gravel	
		3	5		3	(wet, soft, CL)	
							Driller noted hard augering at 18' to 26.5'
20							
	8	28	47			Brown fine Gravel, some f-c Sand, little Silty Clay	
		50/0.4			REF	(moist, v.compact, GC-GM)	REF = Sample Spoon Refusal
25							
	9	50/0.2			REF		Sample #9: No Recovery
						Boring Complete with Auger Refusal at 26.5'	Free Standing Water recorded at 21.5' at boring completion
30							
35							
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW

CLASSIFIED BY: Geologist

DRILLER: R. STEINER

DRILL RIG TYPE : CME-550X

METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

DATE:
START 7/23/2020
FINISH 7/23/2020
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-4
SURF. ELEV 578.1'
G.W. DEPTH See Notes

PROJECT: PROPOSED ELYSIUM APARTMENT COMPLEX
PROJ. NO.: BE-20-105
LOCATION: 2160 NORTH FOREST ROAD
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	1	2			TOPSOIL	Driller noted topsoil at the surface
		3	3		5	Brown Silty CLAY, some fine Gravel, little f-c Sand, tr.organics (moist, FILL)	
	2	2	5				
		10	50/0.2		15	Brown fine GRAVEL, some f-c Sand, little Concrete, little Silty Clay (moist, FILL)	
5	3	21	5				Sample #3: Contains wood
		3	3		8	Dark Brown Silty CLAY, tr.sand, tr.organics (moist, medium, CL)	
	4	4	2				Sample #4: Contains wood
		3	2		5	Contains little Organics, little f-c Sand (moist-wet) (soft)	
	5	1	1				Sample #5: Contains wood, Exhibits an organic odor
10		1	1		2		
	6	2	1			Brown Silty CLAY, little f-c Sand, tr.gravel (moist-wet, soft, CL)	
		1	2		2		
15							
	7	2	2			Contains some fine Gravel (moist, medium)	Driller noted hard augering at 18' to 22'
		4	7		6		
20							REF = Sample Spoon Refusal
	8	20	19			Brown fine GRAVEL, some f-c Sand, little Silty Clay (moist, compact, GC-GM)	
		21	25		40		NQ '2' Size Rock Core
	9	50/0			REF	22.0' to 24.4': Brown f-c GRAVEL, some f-c Sand, little Silty Clay (moist, GC-GM)	RUN #1: 22.0' - 27.0' REC = 66% RQD = 21%
25						Brown SHALE Rock, medium hard, sound, laminated to thickly bedded, both natural and mechanical fractures	
							RUN #2: 27.0' - 31.0' REC = 90% RQD = 85%
30							
						Boring Complete at 31.0'	No Free Standing Water encountered before coring
35							Free Standing Water recorded at 1' after coring
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW

CLASSIFIED BY: Geologist

DRILLER: A. KOSKE
DRILL RIG TYPE : CME-550X

METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

DATE:
START 7/24/2020
FINISH 7/24/2020
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-5
SURF. ELEV 582.0'
G.W. DEPTH See Notes

PROJECT: PROPOSED ELYSIUM APARTMENT COMPLEX
PROJ. NO.: BE-20-105
LOCATION: 2160 NORTH FOREST ROAD
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	1	4			TOPSOIL	Driller noted topsoil at the surface
		7	10		11	Brown Silty CLAY, some fine Gravel, little f-c Sand,	
	2	8	9			tr.organics (moist-wet, FILL)	
		10	12		19	Brown-Black ASPHALT fragments, little Silty Clay,	
5	3	7	10			little fine Gravel, tr.sand (moist, FILL)	
		15	16		25	Contains some fine Gravel, little f-c Sand, tr.silty clay	
	4	5	5			tr.organics	
		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	Samples #6 & #7: Contains wood
		2	1		3	(moist-wet, v.loose, SC-SM)	
	7	1	2			Contains tr.gravel, tr.shells	
15		2	3		4		
20						Boring Complete at 15.0'	No Free Standing Water recorded at boring completion
25							
30							
35							
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW

CLASSIFIED BY: Geologist

DRILLER: R. STEINER
DRILL RIG TYPE : CME-550X
METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

APPENDIX B

SUBSURFACE EXPLORATION LOGS

Previously Completed Test Borings
February 2020 (B-1)
June 2014 (B-1)

DATE:
START 2/20/2020
FINISH 2/20/2020
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-1
SURF. ELEV 580.0'
G.W. DEPTH See Notes

PROJECT: PROPOSED NEW HOME
PROJ. NO.: BE-20-010
LOCATION: 2160-2170 NORTH FOREST
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	WOH	2			TOPSOIL	Driller noted Topsoil at the surface
		3	5		5	Brown Silty CLAY, tr.sand, tr.organics (moist, FILL)	
	2	6	3			Becomes Dark Brown to Brown, Contains tr.asphalt, tr.brick	
		2	3		5		
5	3	2	2			Brown Silty CLAY, tr.gravel, tr.sand (moist-wet, FILL)	
		3	3		5		
	4	4	4			Brown Silty CLAY, tr.gravel, tr.sand, tr.organics	
		3	3		7	(moist-wet, medium, CL / Possible FILL)	
	5	1	1			Dark Brown Silty CLAY, tr.sand, tr.organics	
10		1	1		2	(moist, v.soft, CL)	
	6	WOH	WOH			Becomes Dark Brown to Dark Gray, occasional moist-wet partings	WOH = Weight of Hammer and Rods
		WOH	WOH		WOH		
	7	WOH	WOH			Red Brown Silty CLAY, some f-c Sand	
		WOH	WOH		WOH	(moist-wet, v.soft, CL)	
15	8	WOH	WOH			Contains some f-c Gravel	
		2	3		2		
	9	7	8			Contains little f-c Gravel (v.stiff)	
		8	8		16		
	10	8	12			Contains some f-c Gravel (moist)	
20		12	13		24		
	11	15	24			Contains little f-c Sand (hard)	
		17	19		41		
							REF = Sample Spoon Refusal
25							
	12	27	50/0.4		REF	Brown f-c SAND, some Silt, little f-c Gravel (moist, v.compact, SM)	Sample #13: Poor Recovery, possible weathered bedrock
	13	50/0.2			REF	Brown fine GRAVEL, tr.sand (moist, v.compact, GP)	
30						Boring Complete with Auger Refusal at 27.7'	No Free Standing Water encountered at boring completion
35							
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW

CLASSIFIED BY: Geologist

DRILLER: S. WOLKIEWICZ JR.

DRILL RIG TYPE : CME-550X

METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

DATE
START 6/30/2014
FINISH 6/30/2014
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-1
SURF. ELEV 581' +/-
G.W. DEPTH See Notes

PROJECT: PROPOSED RESIDENTIAL HOME
PROJ. NO.: BE-14-109
LOCATION: 2160 NORTH FOREST ROAD
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	3	4			TOPSOIL	Driller notes approx. 6" Topsoil
		5	7		9	Red-Brown and Black Silty CLAY, tr.sand, tr.gravel (moist, FILL)	
	2	5	8				
		7	10		15	Brown-Gray and Black f-m SAND, some Silt, tr.gravel (moist, FILL)	
5	3	3	3				
		4	4		7	Black Organic Clayey SILT, little f-c Sand (moist, FILL)	
	4	2	2			Gray and Black Organic Silty CLAY, tr.peat (moist, medium, OL-CL)	
		3	4		5		
	5	2	3				
10		3	3		6		
	6	2	2				
		2	2		4		
	7	3	2				
		3	4		5		
15	8	WOH/1.5				Becomes Red-Brown (wet, v.soft)	WOH = Weight of Hammer and Rods
			1		WOH		
	9	1	1				
		1	1		2	Contains little f-c Sand, tr.gravel	REF = Sample Spoon Refusal
	10	31	50/0.3		REF	Red-Brown f-m SAND and Silt, tr.gravel (moist, SM)	
20							
	11	19	23				
		21	22		44	(compact)	
25							
	12	19	50/0.4		REF		
						Boring Complete with Sample Spoon Refusal at 25.9' and Auger Refusal at 26.0'	No Free Standing Water encountered at Boring Completion
30							
35							
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW

CLASSIFIED BY: Geologist

DRILLER: A. JAKUBCZAK

DRILL RIG TYPE : CME-550X

METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

APPENDIX C

FILL MATERIAL AND EARTHWORK RECOMMENDATIONS

APPENDIX C

FILL MATERIAL AND EARTHWORK RECOMMENDATIONS

I. Material Recommendations

A. Structural Fill

Structural Fill should consist of a crusher run stone, free of clay, organics and friable or deleterious particles. As a minimum, the crusher run stone should meet the requirements of New York State Department of Transportation, Standard Specifications, Item 304.12 – Type 2 Subbase, with the following gradation requirements.

Sieve Size Distribution	Percent Finer by Weight
2 inch	100
¼ inch	25-60
No. 40	5-40
No. 200	0-10

B. Subbase Stone

The subbase stone course placed as the aggregate course beneath slab-on-grade and pavement construction should conform to the same material requirements as Structural Fill as stated above.

C. Suitable Granular Fill

Suitable soil material, well graded from coarse to fine and classified as GW, GP, GM, SW, SP or SM type soil using the Unified Soil Classification System (ASTM D-2487) and having no more than 85 percent by weight material passing the No. 4 sieve, no more than 20 percent by weight material passing the No. 200 sieve and which is generally free of particles greater than 6 inches, will be acceptable as Suitable Granular Fill. It should also be free of topsoil, asphalt, concrete rubble, wood, debris, clay and other deleterious materials.

Suitable Granular Fill can be used as foundation backfill and as subgrade fill to raise site grades beneath slab-on-grade and pavement construction. Material meeting the requirements of New York State Department of Transportation, Standard Specifications, Item 203.07 – Select Granular Fill, or Item 203.20 Select Granular Subgrade is acceptable for use as Suitable Granular Fill.

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

II. Placement and Compaction Requirements

All controlled fill placed beneath foundations, slab-on-grade construction and pavement construction should be compacted to a minimum of 95 percent of the maximum dry density as measured by the modified Proctor test (ASTM D1557). Fill placed in non-loaded grass areas can be compacted to a minimum of 90 percent of the maximum dry density (ASTM D1557).

Placement of fill should not exceed a maximum loose lift thickness of 6 to 9 inches with the exception of subbase courses beneath slab on grade and pavement construction, which can be placed in a single lift not exceeding 15 inches. The loose lift thickness should be reduced in conjunction with the compaction equipment used so that the required density is attained.

Fill should have a moisture content within two percent of the optimum moisture content at the time of compaction. Subgrades should be properly drained and protected from moisture and frost. Placement of fill on frozen subgrades is not acceptable. It is recommended that all fill placement and compaction be monitored and tested on a full-time basis by a representative of Empire Geo-Services, Inc.

III. Quality Assurance Testing

The following minimum laboratory and field quality assurance testing frequencies are recommended to confirm fill material quality and post placement and compaction conditions. These minimum frequencies are based on generally uniform material properties and placement conditions. Should material properties vary or conditions at the time of placement vary (i.e. moisture content, placement and compaction, procedures or equipment, etc.) Then additional testing is recommended. Additional testing, which may be necessary, should be determined by qualified geotechnical personnel, based on evaluation of the actual fill material and construction conditions.

A. Laboratory Testing of Material Properties

- Moisture content (ASTM D-2216) - 1 test per 4,000 cubic yards or no less than 2 tests per each material type.
- Grain Size Analysis (ASTM D-422) - 1 test per 4,000 cubic yards or no less than 2 tests per each material type.
- Liquid and Plastic Limits (ASTM D-4318) 1 test per 4,000 cubic yards or no less than 2 tests per each material type. Liquid and Plastic Limit testing is necessary only if appropriate, based on material composition (i.e. clayey or silty soils).

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

- Modified Proctor Moisture Density Relationship (ASTM D-1557) 1 test per 4,000 cubic yards or no less than 1 test per each material type. A maximum/minimum density relationship (ASTM D-4253 and ASTM D-4254) may be an appropriate substitute for ASTM D-1557 depending on material gradation.

B. Field In-Place Moisture/Density Testing (ASTM D-3017 and ASTM D-2922)

- Backfilling along trenches and foundation walls - 1 test per 50 lineal feet per lift.
- Backfilling Isolated Excavations (i.e. column foundations, manholes, etc.) 1 test per lift.
- Filling in open areas for slab-on-grade construction - 1 test per 2,500 square feet per lift.

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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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
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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 - 29'-0"

PROPOSED

2 - 2-STORY - 4 UNIT APARTMENT BUILDINGS

Parking:
8 GARAGES
15 PARKING SPACES

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NORTH FOREST APARTMENTS

2160-2170 North Forest Rd
Amherst, ny

ISSUE:

SA PROJECT TEAM: PRINCIPAL P.Silvestri
PROJ. ARCH. S. Hunt DRAFTER W. Manhardt
JOB CAPT. _____ INTERIORS K. Hamann

SEAL:

TITLE:

CONCEPT SITE PLAN

SILVESTRI
ARCHITECTS · PC
1321 MILLERSPORT HWY PH. 716.691.0900
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.

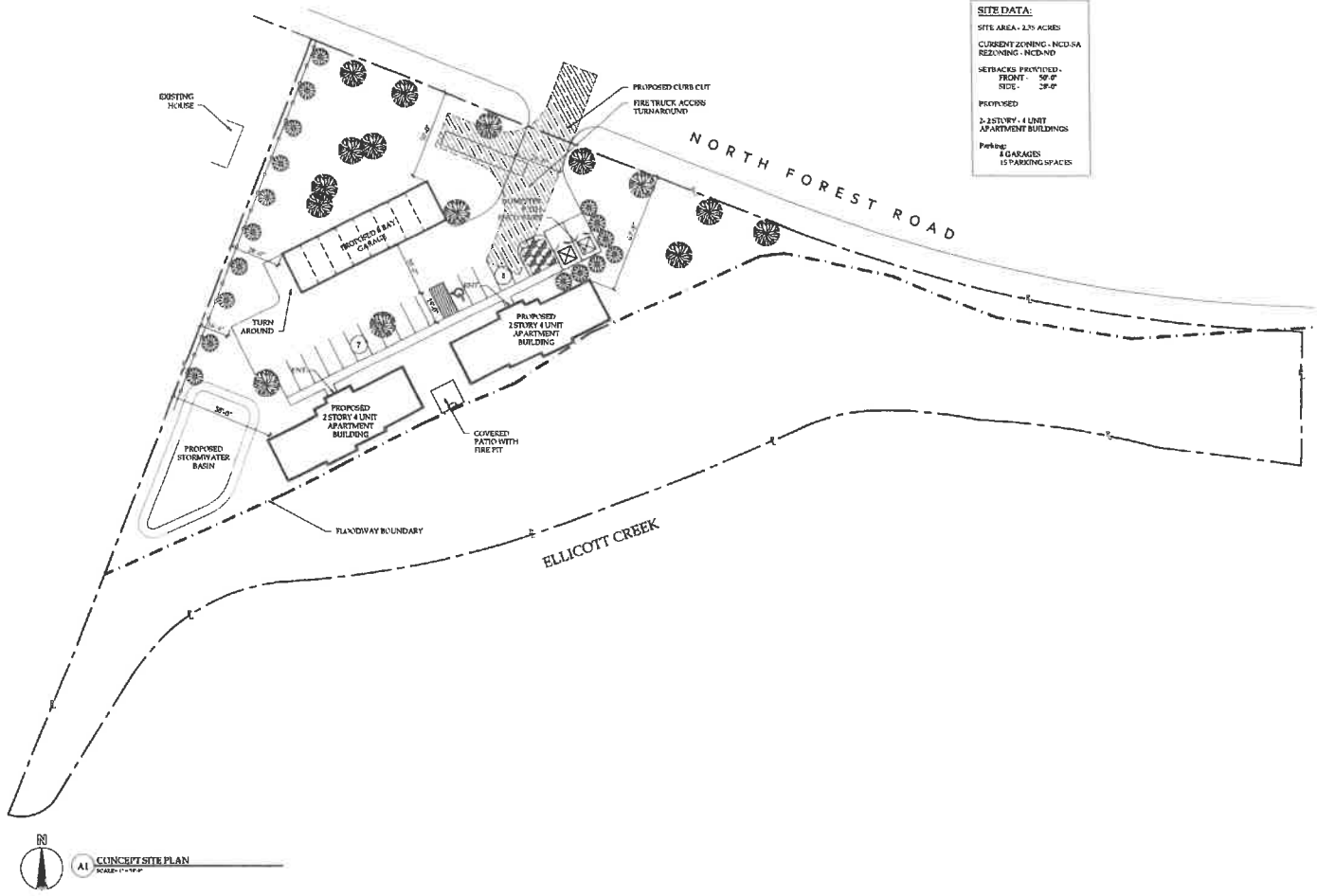
Sincerely,

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.Maybaroft
FOR CAPT. _____ INTERIORS K.Hansen

SEAL:

TITLE:

CONCEPT SITE PLAN

SILVESTRI
ARCHITECTS · PC
1291 MILITARY HWY PH. 716.691.0900
AMHERST NY 14221 FAX 716.691.4773

SA JOB #: 20060.02
DATE: 03/01/21
DRAWING #: AS-101

HSM

March 2, 2021

Joseph Hausbeck
2180 North Forest Road
Williamsville, NY 14221

Re: Application to Reclassify 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and to Amend the Audubon Development Plan [Z-2020-06]
Applicant/Project Sponsor: Coromandel Estates Amherst LLC
File 10181.1

Dear Mr. Hausbeck:

This letter is being sent to you to provide you with a project update. Based on the input received during the virtual public hearing held by the Town Board on February 22nd, the layout of the proposed project has been updated.

An 11" x 17" size copy of the updated Concept Site Plan [Drawing AS-101 – Date: 03/01/21] is enclosed depicting the following modifications to the project layout:

1. The previously proposed stormwater basin on the western portion of the Project Site adjacent to the property at 2180 North Forest Road has been eliminated;

2. The dumpster enclosure has been relocated from the western portion of the Project Site to the eastern portion of Project Site. Additionally, screening has been added on the exterior edges of the dumpster enclosure;

3. The previously proposed two-story eight-unit building has been replaced with 2 two-story four-unit buildings;

4. The proposed covered patio with a fire pit has been relocated so that it will between the 2 two-story four-unit buildings;

5. Landscaping and a fence has been added along the western boundary of the Project that is contiguous to 2180 North Forest Road; and

6. Landscaping has been added along the North Forest Road frontage of the Project Site.

The Town Board will be holding continuation of the virtual public hearing in connection with the pending request to reclassify the Project Site from NCD-SA to NCD-ND and to amend the Audubon Development Plan during its meeting on **Monday, March 8th at 7:00 p.m.**

If the Town Board approves the pending application, then the next step in the project review process will be to seek Site Plan approval from the Planning Board once the fully engineered plans

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and related technical documentation have been prepared by Carmina Wood Morris DPC, the project engineering firm.

Please feel free to contact me with any questions at 510-4338 or via e-mail at shopkins@hsr-legal.com if you have any questions regarding this letter or the enclosed updated Concept Site Plan.

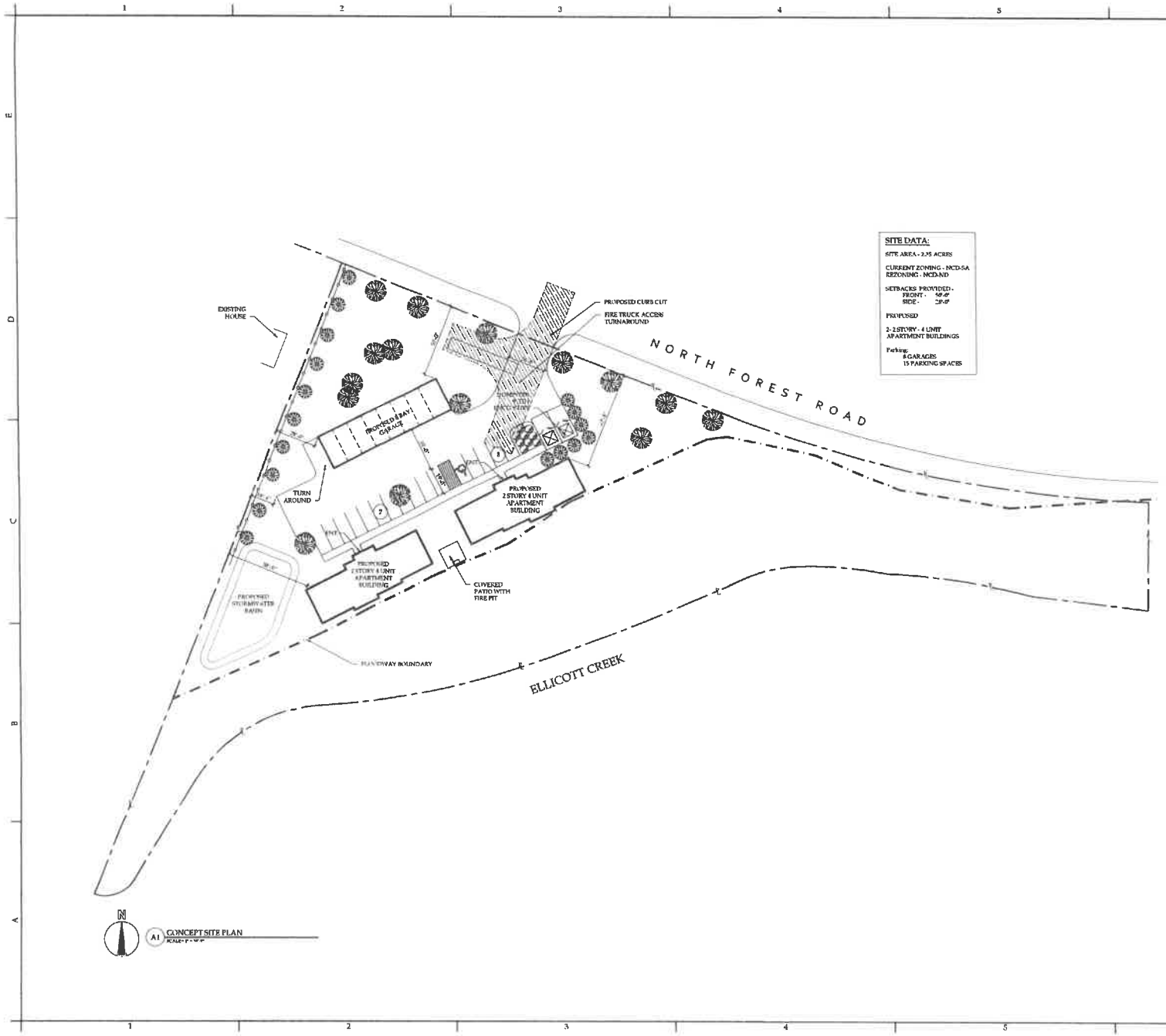
Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

Sean W. Hopkins, Esq.

Enc. 11" x 17" copy updated Concept Site Plan [Drawing AS-101 – Date: 03/01/21]

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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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:

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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

Fran Cummings
2200 North Forest Road
Williamsville, NY 14221

Re: Application to Reclassify 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and to Amend the Audubon Development Plan [Z-2020-06]
Applicant/Project Sponsor: Coromandel Estates Amherst LLC
File 10181.1

Dear Ms. Cummings:

This letter is being sent to you to provide you with a project update. Based on the input received during the virtual public hearing held by the Town Board on February 22nd, the layout of the proposed project has been updated.

An 11" x 17" size copy of the updated Concept Site Plan [Drawing AS-101 – Date: 03/01/21] is enclosed depicting the following modifications to the project layout:

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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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and related technical documentation have been prepared by Carmina Wood Morris DPC, the project engineering firm.

Please feel free to contact me with any questions at 510-4338 or via e-mail at shopkins@hsr-legal.com if you have any questions regarding this letter or the enclosed updated Concept Site Plan.

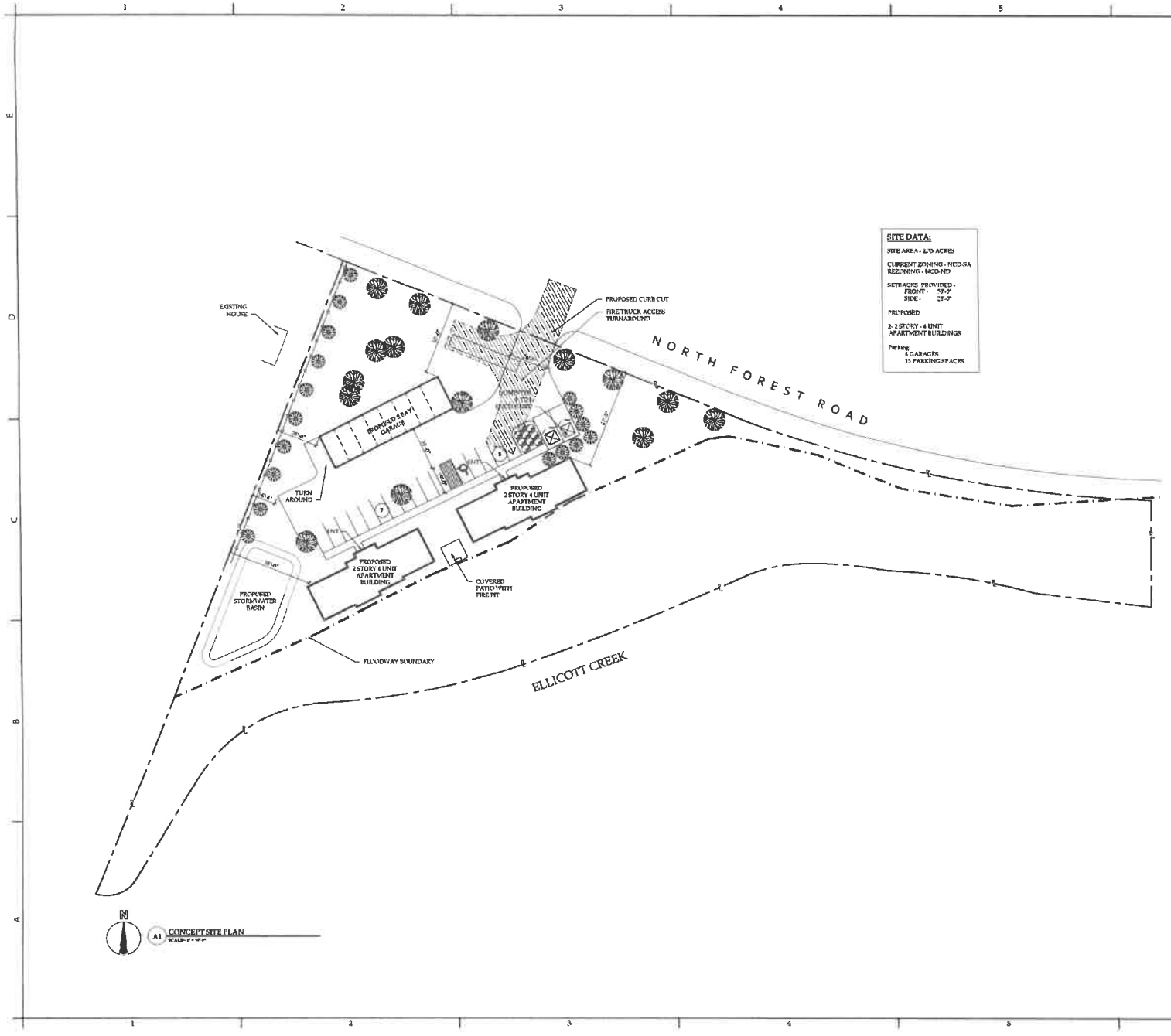
Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

Sean W. Hopkins, Esq.

Enc. 11" x 17" copy updated Concept Site Plan [Drawing AS-101 – Date: 03/01/21]

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon



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NORTH FOREST APARTMENTS

2160-2170 North Forest Rd
Amherst, ny

ISSUE:

SA PROJECT TEAM: PRINCIPAL P.Silvestri
PROJ. ARCH. S.Hunt DRAFTER W.Manhardt
JOB CAPT. _____ INTERIORS K.Hamann

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CONCEPT SITE PLAN

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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

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.

An 11" x 17" size copy of the updated Concept Site Plan [Drawing AS-101 – Date: 03/01/21] is enclosed depicting the following modifications to the project layout:

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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.

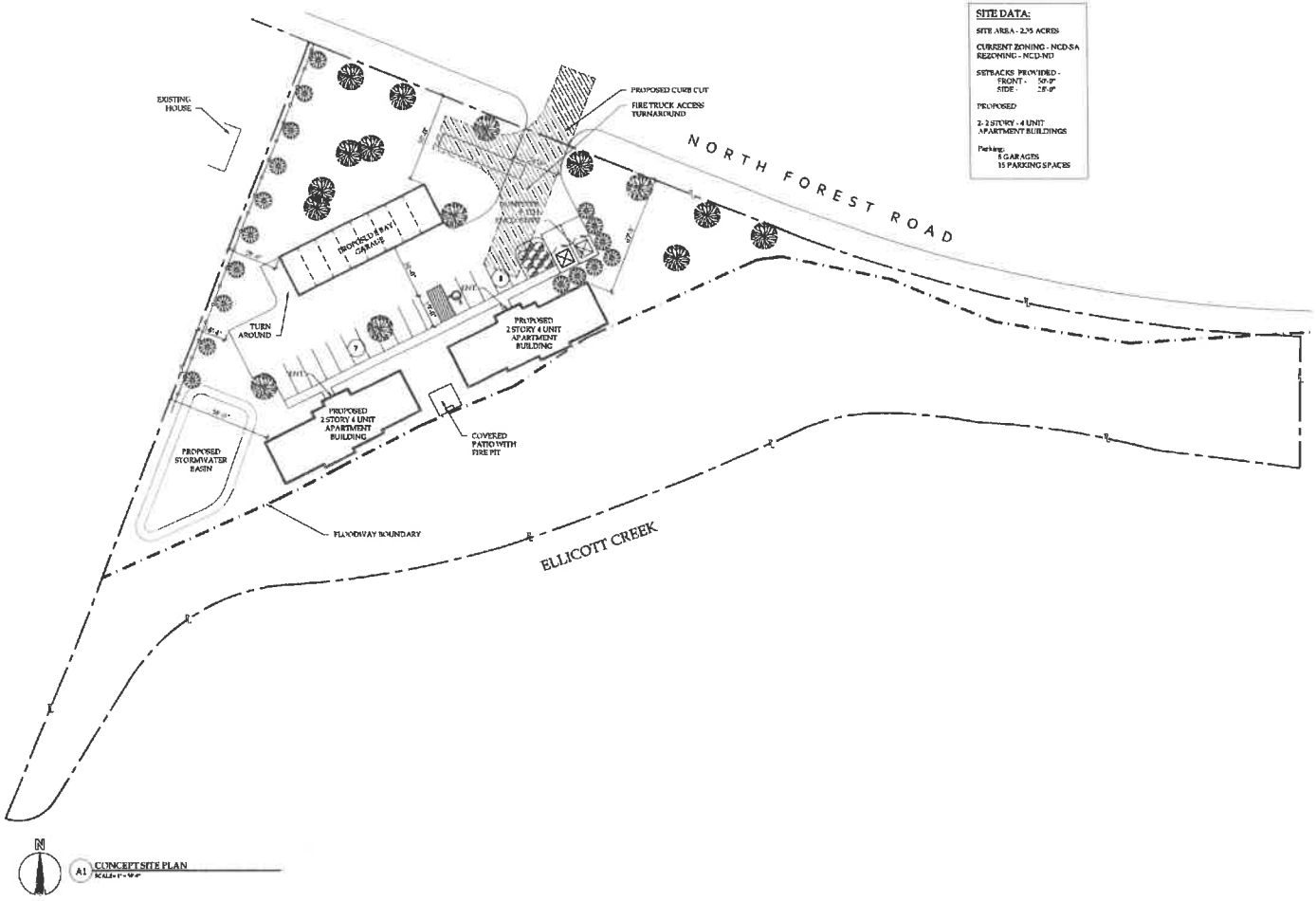
Sincerely,

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



A1 CONCEPT SITE PLAN

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 as part or as whole, and any special features pertine to this design shall not be incorporated in any other project, unless prior agreement has been obtained in writing. These documents will be returned immediately upon completion of the project or upon the request of the architect.

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NORTH FOREST APARTMENTS

2160-2170 North Forest Rd
Amherst, ny

ISSUE:

SA PROJECT TEAM: PRINCIPAL P. Silvestri
PROJ. ARCH. S. Hynd DRAFTER W. Manlowski
JOB CAPT. _____ INTERIORS K. Hamann

SEAL:

TITLE:

CONCEPT SITE PLAN

SILVESTRI
ARCHITECTS - PC
1321 AIRLEPSPORT HWY PH. 716.691.0000
AMHERST NY 14221 FAX 716.691.4773

SA JOB #: 20060.02
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)

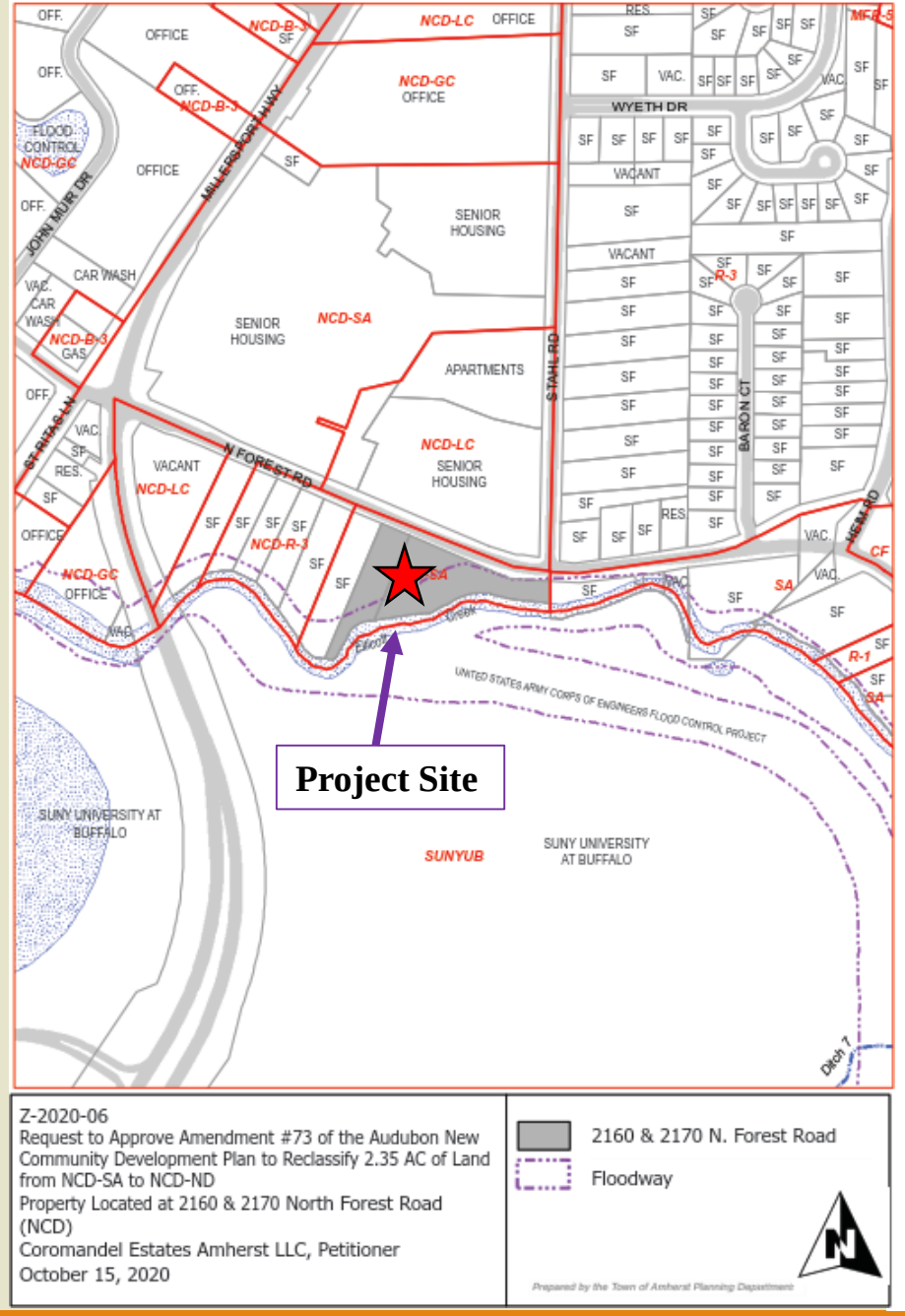
Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

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")

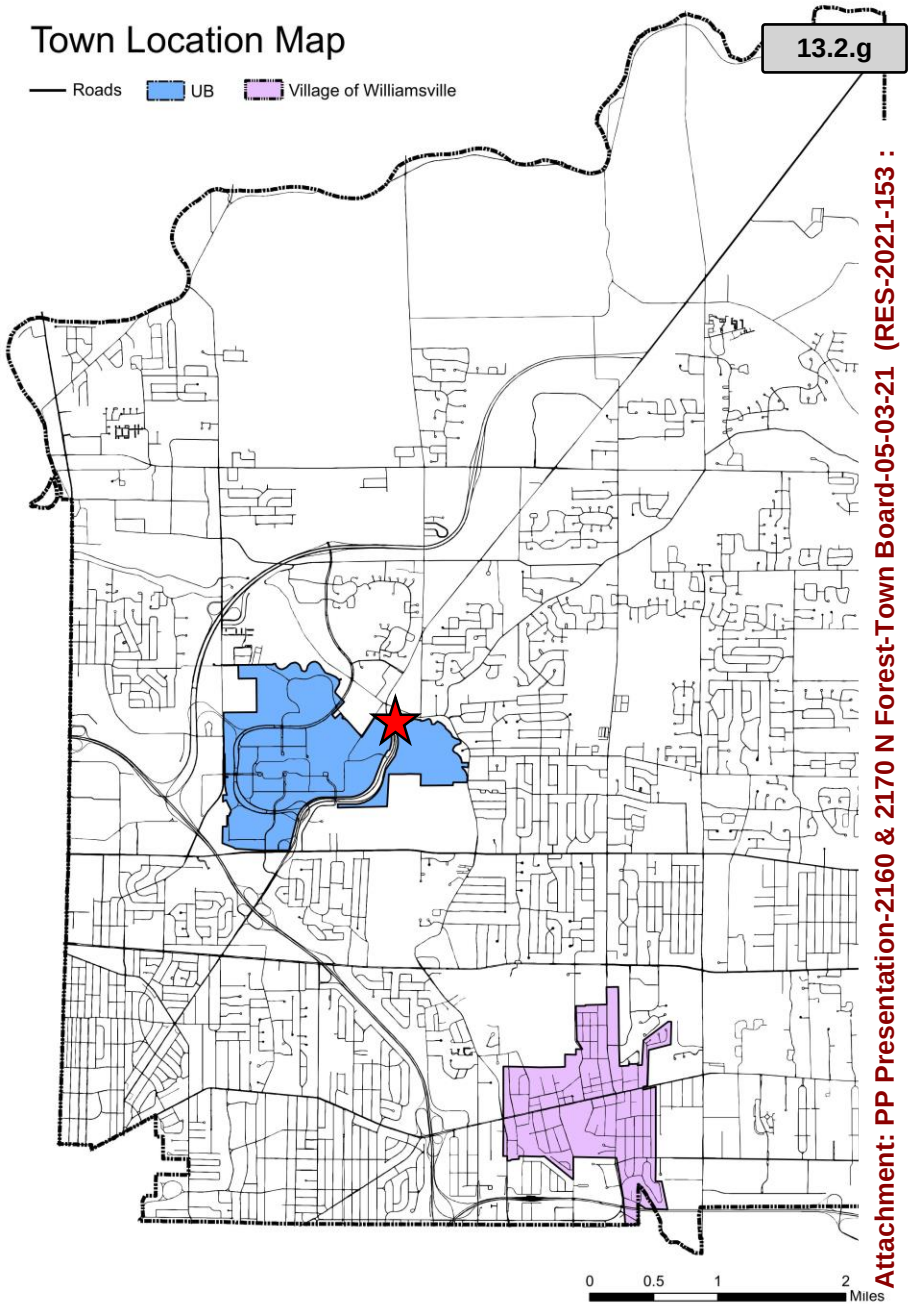
Proposed Reclassification: New Community District – Neighborhood District ("NCD-ND"



Z-2020-06
Request to Approve Amendment #73 of 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
October 15, 2020

2160 & 2170 N. Forest Road
Floodway

Prepared by the Town of Amherst Planning Department



13.2.g

Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

Continuation of the Public Hearings held on February 22nd and April 5th [Not requesting issuance of a decision this evening]

Parcel Size:
2.35± acres

Neighboring Uses:

- Vacant land zoned NCD-SA adjacent to the east
- Single Family residential zoned NCD-R3 to the west and north east
- Asbury Pointe Retirement Community – Zoned NCD-LC to the North
- Vacant land owned by SUNY to the south on the opposite side of Ellicott Creek

Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

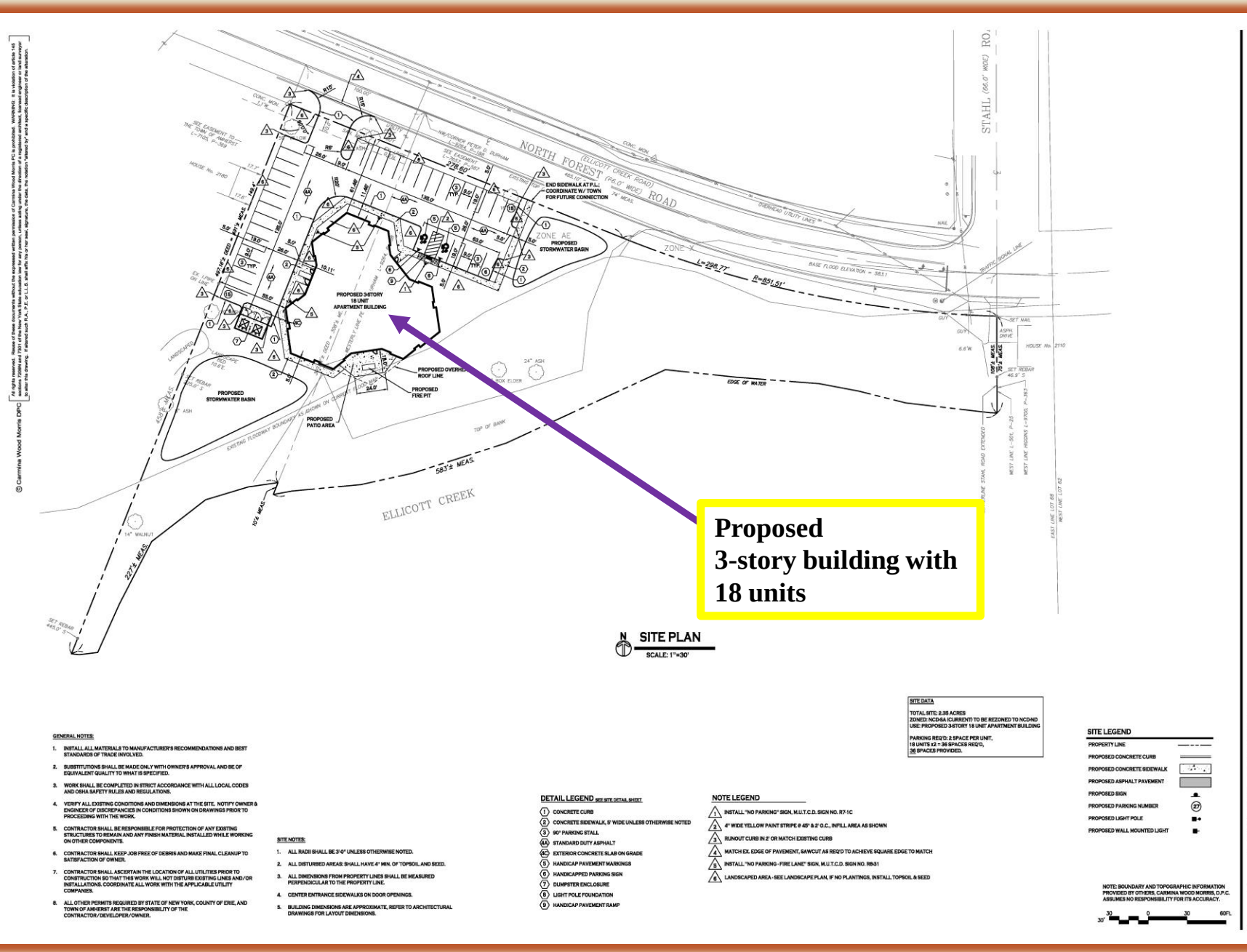
Project Description:

- Request to reclassify 2.35 acres of land from NCD-SA to NCD-ND, and a request to approve Amendment #73 of the Audubon New Community Development Plan
- Two 2-story multi-family building consisting of 8 attached residential units for lease and related site improvements.
- One driveway onto North Forest Road, access aisles, water and sanitary sewer lines and other necessary utility connections are included on the updated Concept Plan.
- The project is a Type I Action due to the proximity of the project site to Ellicott Creek, which is a flowing watercourse-any project within 100 ft. of a flowing watercourse is to be classified as Type I action per Town Local Law adopted in 1982.
- Letters with updated copy of the Concept Plan send to the individuals who spoke during the virtual public hearing held by the Town Board on February 22nd.

Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

Original Concept Plan:

- 3-story building with 18 units and 36 parking spaces
- The originally proposed project layout updated based on input received regarding the original Concept Plan



Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

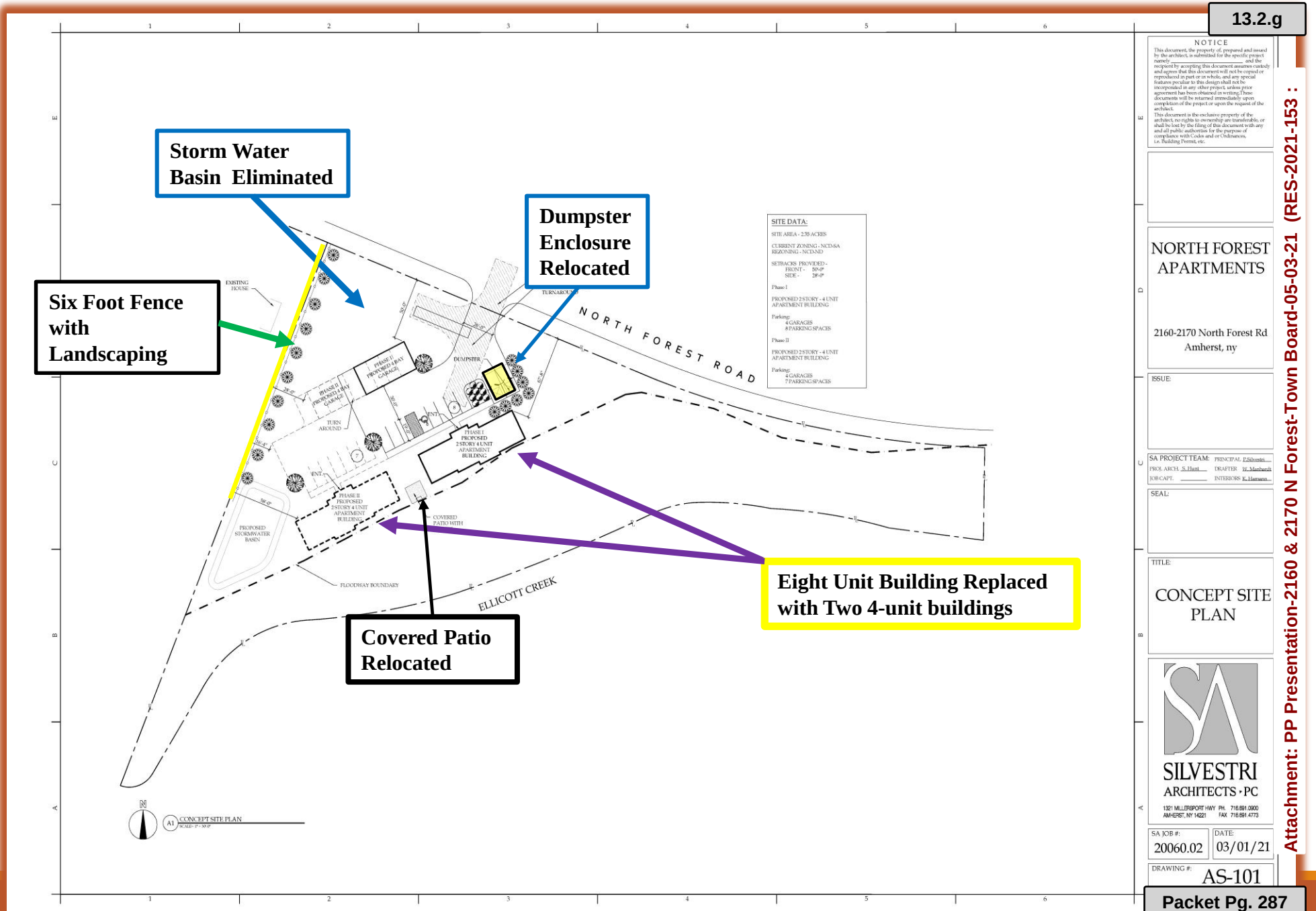
Concept Plan Presented on February 22nd:

- Project layout had been updated based on input received regarding the original Concept Plan
- 2-story building with 8 units and 16 parking spaces [Density reduced by 56%]
- Low Density: 3.4 units per acre
- No impact to the regulated floodway

Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

Updated Concept Plan presented during the Public Hearing on April 5th:

- Two 2-story buildings with 23 parking spaces [8 garage spaces] – 2.87 spaces per unit
- Stormwater basin eliminated along North Forest Road frontage
- Covered patio relocated
- Dumpster enclosure relocated
- 6 foot fence with landscaping added along property line with 2180 North Forest Road
- No impact on the regulated floodway



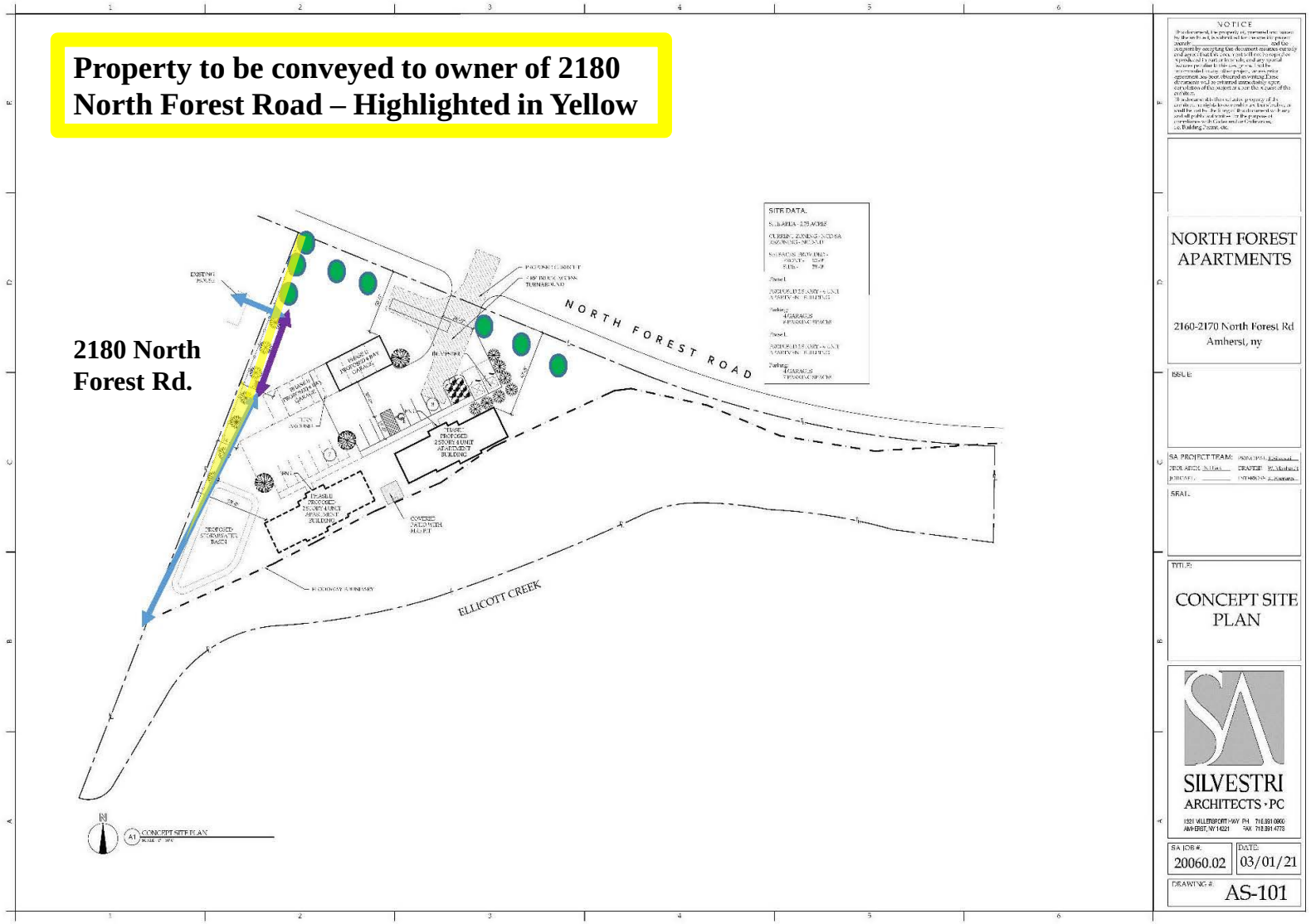
Updated Concept Plan:

Green: Landscaping along frontage of shared property line with 2180 North Forest Road and along North Forest Road frontage of the Project Site

Purple: 6 ft. fence beginning at front of home on 2180 North Forest Road located 15 ft. from existing property line

Blue: Ranch style open fence with height of approx. 3 ft. [same fence to be attached to existing home on adjacent property]

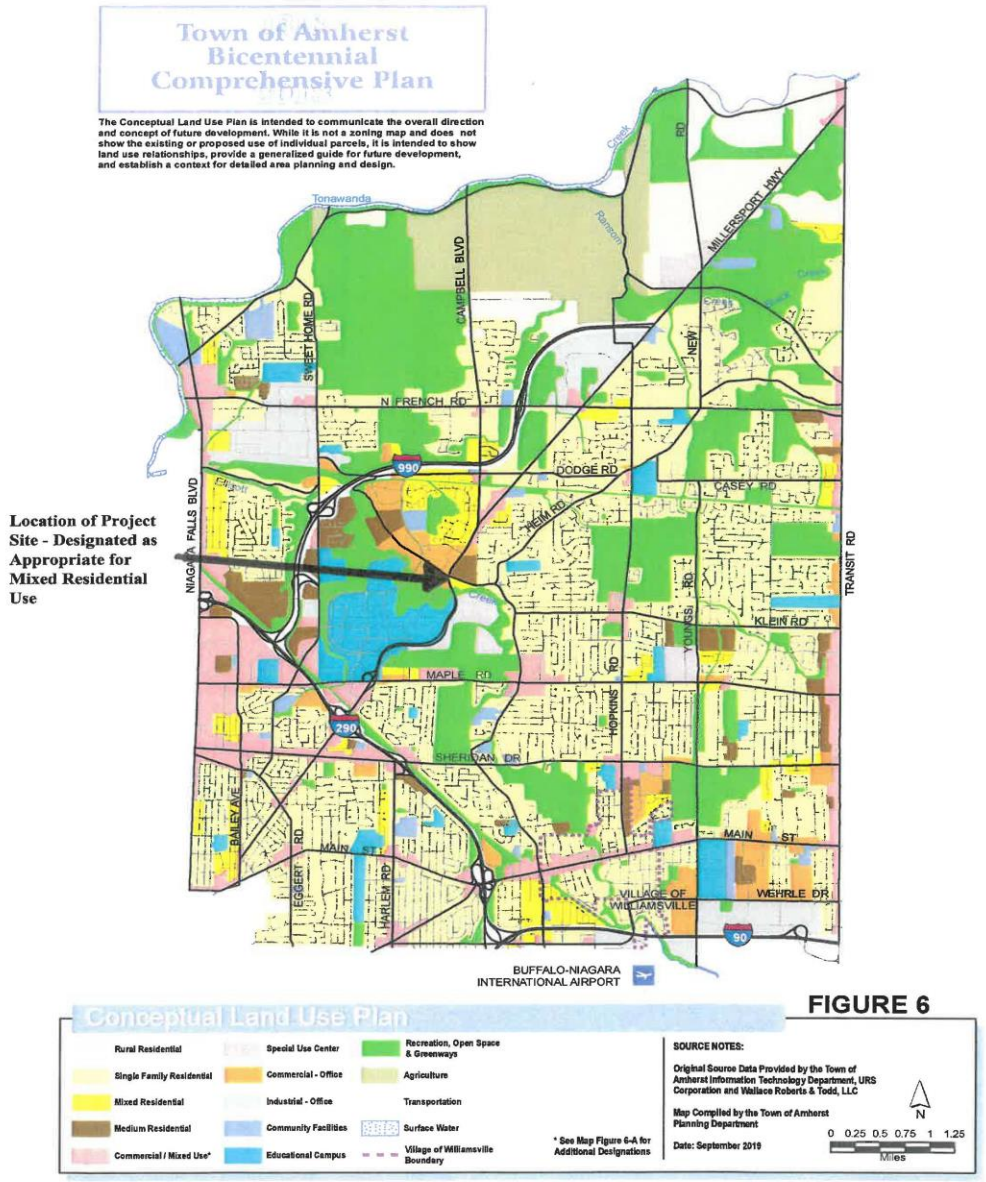
Yellow: 15 ft. of property to be conveyed to owner of 2180 North Forest Road upon the Applicant obtaining site plan approval and closing on the purchase of the Project Site.



Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

Reclassification of Project Site from NCD-SA to NCD-ND:

- Recommended land use per Figure 6 of the Comprehensive Plan is Mixed Residential Use
- Mixed-Residential land use category is described in Chapter 3 of the Comprehensive Plan as being appropriate for a residential density of 4-12 units per acre - The density of the proposed project is only 3.4 units per acre.
- "Although longstanding policy has tended to favor low-density, single-family residential use, recent development trends have seen a substantial increase in the amount of new multi-family housing. The need for higher density housing will grow along with the component of the population that will increasingly choose smaller housing types, including retirees, empty nesters, singles, and other smaller household types."
- Current NCD-SA zoning is not consistent with the adopted Comprehensive Plan
- NCD-SA zoning only allow for agricultural uses and single-family dwellings on large lots.



Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :)

State Environmental Quality Review Act ("SEQRA"):

- SEQRA's substantive requirements:
  - Identify the potential environmental impacts,
  - Hard Look at the identified impacts, and
  - Issue SEQRA determination supported by a reasoned elaboration
- Type I action due to proximity to Ellicott Creek
- Density reduced from 18 unit to 8 units [3.4 unit per acre – Density of 3.5 units per acre allowed in the R-3 zoning district]
- **No development in the regulated floodway – A floodplain development permit will be required from the Building Department**
- **No lighting spillover onto adjacent properties [Photometric Plan will be submitted with the Site Plan Application]**
- **The project is not a student housing project nor a short-term rental project**
- No wetlands per the Wetland Investigation Letter of Scott Livingstone of Earth Dimensions dated July 7, 2020
- Traffic: Single driveway onto North Forest Road - The trip generation rate for the peak weekday hour for the 8 proposed apartments per the ITE Trip Generation Report is 4.48 trips

Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

State Environmental Quality Review Act ("SEQRA"):

- No impact determination letter issued by the NYS Office of Parks, Recreation and Historic Preservation on October 30, 2020
- On-site stormwater management system will comply with the stringent stormwater water quality and quantity standards of the New York State Dept. of Environmental Conservation including handling of a 100 yr. storm event
- Fully engineered plans, Engineer's Report and SWPPP will be required with future submission of a Site Plan Application
- Geotechnical Report prepared by Empire Geo Engineering Services dated September 17, 2020 – foundation design and site improvement based on soil conditions per NYS Building Code requirements

Approximate Depth and Elevation of Top of Bedrock

Test Boring	Approximate GroundSurface Elevation (feet)	Depth / Elevation ofTop of Bedrock (feet)
B-1	582.3	25.2 / 557.1 (C)
B-2	581.1	26.0 / 555.1 (AR)
B-3	579.5	26.5 / 553.0 (AR)
B-4	578.1	24.4 / 553.7 (C)
B-1 (2014)	581 +/-	26.0 / 555.0 (AR)
B-1 (Feb. 2020)	580.0	27.7 / 552.3 (AR)

WMA ENGINEERING DPC|DBA
EMPIRE GEO TECHNICAL ENGINEERING SERVICES

CORPORATE/ BUFFALO OFFICE
5167 South Park Avenue
Hamburg, NY 14075
Phone: (716) 649-8110
Fax: (716) 649-8051

ALBANY OFFICE
PO Box 2199
Ballston Spa, NY 12020

5 Knabner Road
Mechanicville, NY 12118
Phone: (518) 899-7491
Fax: (518) 899-7496

CORTLAND OFFICE
60 Miller Street
Cortland, NY 13045
Phone: (607) 758-7182
Fax: (607) 758-7188

ROCHESTER OFFICE
535 Summit Point Drive
Henrietta, NY 14467
Phone: (585) 359-2730
Fax: (585) 359-9668

September 17, 2020
Project No. WB-20-105
(SJB Project No. BE-20-105)

Postwork Capital
c/o Buffalo Automation
10236 Transit Road
East Amherst, New York
14051

Attn. Mr. Thiru Vikram, CEO

Re: Geotechnical Engineering Report
Proposed Elysium Apartment Complex
2160 North Forest Road
Town of Amherst, New York

Dear Mr. Vikram:

WMA Engineering DPC, dba Empire Geotechnical Engineering Services (Empire), is pleased to submit the enclosed Geotechnical Engineering Report for the above referenced project. We have also e-mailed you an electronic copy (pdf file format) of this report, for your use and for distribution. Please contact me should you have any questions or wish to discuss this report. Thank you for considering Empire for this work and we look forward to working with you through the completion of this project.

Sincerely,

WMA Engineering DPC, dba
Empire Geotechnical Engineering Services

Thomas R. Seider, P.E.
Geotechnical Engineer

Enc.: Geotechnical Engineering Report

A Woman Owned Firm

Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

Planning Board's Recommendation:

- Planning Board held a public hearing on January 21st
- The Planning Board adopted a resolution by a unanimous 7-0 vote recommending that the Town Board:
  - Issue a negative declaration pursuant to SEQRA,
  - Approve the reclassification of the Project Site from NCD-SA to NCD-ND, and
  - Approve Amendment #73 to the Audubon New Community District Development Plan
- The Planning Board recommended the following condition: "That the petition include additional parking spaces beyond the 17 spaces shown on the concept plan at the site plan stage."
- Planning Board's findings in support of its favorable recommendation were as follows:
  - A. The proposed Revision to the Development Plan meets the intent and objectives of a New Community District as expressed in Subsection 1-1.1.
  - B. The proposed Revision to the Development Plan meets all the requirements of Section 5-2-3 through 5-2-6.
  - C. The proposed Revision to the Development Plan is conceptually sound in that it meets present and future community needs.
  - D. There are or will be adequate services and utilities available or proposed to be made available in the construction of the development.
  - E. **The proposed Amendment to the Development Plan <u>is consistent</u> with the Town Comprehensive Plan.**

Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

Conclusion:

- Requesting that the Town Board:
  - 1. Issue a negative declaration pursuant to SEQRA,
  - 2. Approve the reclassification of the Project Site from NCD-SA to NCD-ND subject to appropriate conditions, and
  - 3. Approve Amendment #73 to the Audubon New Community District Development Plan subject to the condition recommended by the Planning Board as follows: “That the petition include additional parking spaces beyond the 17 spaces shown on the concept plan at the site plan stage.” [The updated Concept Plan depicts 23 parking spaces]
- Questions…

Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

3 May 2021

Francina J. Spoth, Town Clerk
Town of Amherst
5583 Main Street
Williamsville, New York 14221

Via email to: fspoth@amherst.ny.us

Re: Public Hearing of the Town Board held on May 3, 2021
Request to Amend the Land Use Classification of 2160 and 2170 North Forest Road

To: MEMBERS of the TOWN BOARD:

Kindly accept my apology for my inability to communicate via zoom last evening. I was able to hear portions of the proceedings, but whether "muted" or "unmuted", was simply unable to be heard. This particular problem was a first for me and was extremely frustrating. I did hear that the hearing was being closed, but I ask your indulgence in considering the following comments I intended to make last evening.

I did meet at the property with Mr. Hopkins to discuss some issues my wife and I had specific to our ownership of the adjoining property. Mr. Hopkins was extremely professional and concessions were made regarding those issues. However, the resolution of the matter was complicated further by the Petitioner's new proposal to do the development in phases. We strongly object to that process. The dust, dirt, noise and inconvenience of construction would be unbearable if it had to be endured twice. I note that the developer wishes to avail itself of all hours of construction operations allowable under law, including Sundays, if needed. Under the circumstances, two phases of construction would be one too many. It should also be noted that the Petitioner's prior concept plans for more units did not require more than one phase. Why two phases should be necessary for a smaller project is perplexing.

That being said, my neighbors and I remain opposed to this project as it is simply too big and the intended use is simply incompatible with the character of the neighborhood as a single family development. I believe we have provided ample justification for this Board to deny the proposed petition. Please consider the following points:

- This is an apartment complex which belongs on the West side of Millersport Highway – not the East side. The West side is inundated with similar projects. The East side is fully developed with single family homes, with the sole exception of this one vacant parcel which sits in the middle of single family homes.

- A similar proposal for the corner of North Forest and Millersport (a commercial highway) was not approved. It is inconsistent to allow the same type of project further up North Forest.

Attachment: Town of AMHERST BOARD LTR - Hausbeck (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

- The majority of the site (more than 50%) is in a floodway and cannot be developed even if the petition was to be approved.

- If 8 units were to be approved for the remaining 1.1 acres, the project would have a de facto density of 7.3, well in excess of the maximum density of 5 allowable under the Town Zoning Ordinance 5-2-6.

- The Petitioner's repeated assertion that the proposal is "consistent" with the Town's Comprehensive Plan is simply **not** binding on this Board. The Plan clearly states that it is intended to be **"flexible".** The Plan is **not** a zoning map and it is **not** meant to dictate land use.

In addition to the above, we have raised a number of issues about whether the site itself is suitable for this type of development due to documented flooding, documented erosion issues, and documented uncontrolled and un-engineered filling of portions of the site which were at one time part of Ellicott Creek.

The Board is certainly within its rights to reject the petition and I urge it to do so.

Thank you for your consideration.

Sincerely,

Joseph Hausbeck

Attachment: Town of AMHERST BOARD LTR - Hausbeck (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

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

Francina J. Spoth
Town Clerk

Meeting: 10/25/21 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: 11/8/2021 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).

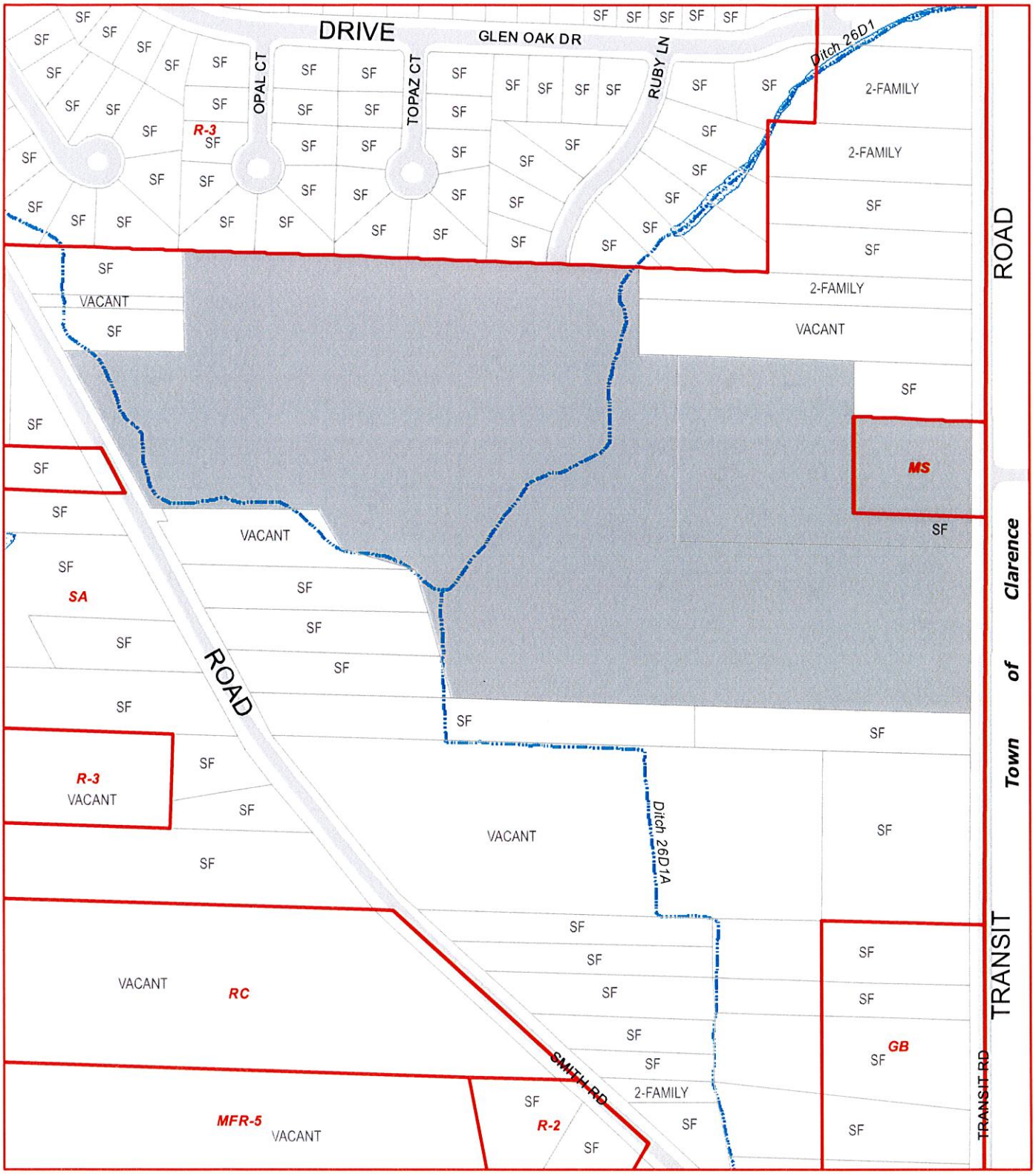
Robert J. Gilmour, Chair

7-1-21
Date

SM/bf
X:\Current_Planning\Files\Rezonings\2019\Z-2019-06_(10060_&_10090_Transit_Rd)_2019\Z-2019-06_Resolution_062421.doc
cc: Town Clerk
Commissioner of Building
Highway Superintendent
Town Engineer
Traffic/Safety Coordinator
Jeff Palumbo, Barclay Damon, 9276 Main St., Suite 3, Clarence, NY 14031
Ken Zollitsch, Greenman-Pedersen, Inc., 4950 Genesee St., Suite 100, Buffalo, NY 14225

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

JUL02'21 AM10:04 RCVD



Z-2019-06

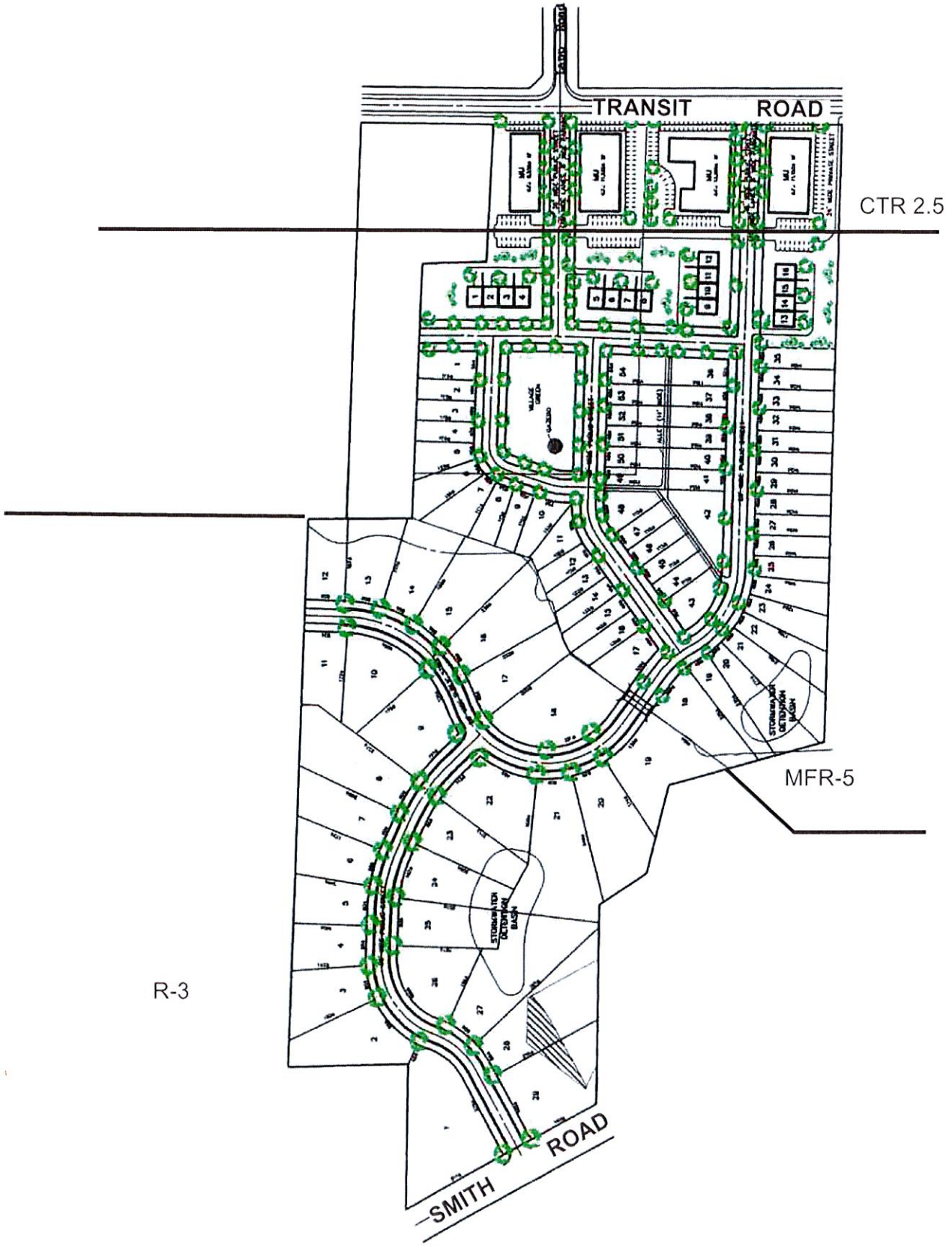
Request to Rezone 29.21+/- AC of Land from SA & MS to CTR-2.5, MFR-5, R-3
Property Located at 10060 & 10090 Transit Road

Forbes Capretto Homes, Petitioner
June 24, 2021

10060 & 10090 Transit Road

Prepared by the Town of Amherst Planning Department

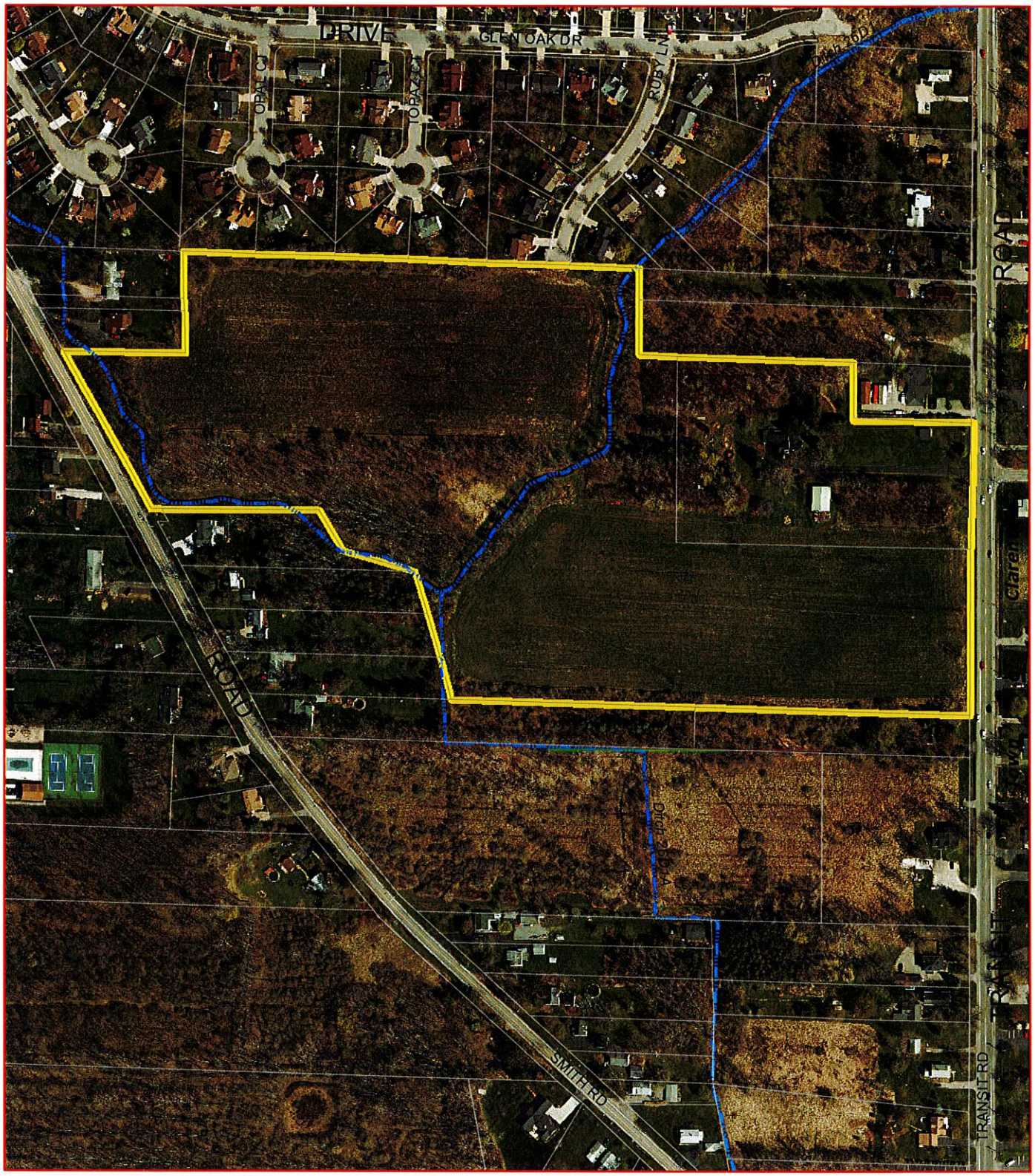
Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)



CONCEPT PLAN

Z-2019-06
10060 & 10090 Transit Road
Received: 5/13/2021

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



Z-2019-06

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

Forbes Capretto Homes, Petitioner
June 24, 2021

10060 & 10090 Transit Road

Prepared by the Town of Amherst Planning Department

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

AMENDED APPLICATION 3-26-21

TOWN OF AMHERST PLANNING DEPARTMENT

Application for Rezoning Review and, if required Comprehensive Plan Amendment

For Official Use

File #: Z-2019-06 **Acreage** 29.21 acres **Fee $** 7,215.00

Address Verified by Assessor's Office _____ VERIFIED BY DATE

Materials Accepted by Town Clerk & Fee Paid 4/17/19 ACCEPTED BY DATE

Materials Checked by Building Dept. _____ RECEIVED BY DATE

Materials Received by Planning Dept. 4/17/19 RECEIVED BY DATE

		Fill In Applicable Fees
2 ACRES OR LESS	**$1,250**	_____
2 – 20 ACRES **$1,250 + $250/acres or fraction thereof over 2 acres**		_____
20 – 30 ACRES **$5,700 + $150/acre or fraction thereof over 20 acres**		7,200
OVER 30 ACRES **$6,900 +$75/acre or fraction thereof over 30 acres**		_____
Request for Relief of/Change to Conditions of Zoning Approval	**$ 1,200**	_____
AFFIDAVIT FEE FOR PUBLIC HEARING	**$ 15.00**	15.00
TOTAL FEE:	$ 7,215	

REVISED
MAR 31 2021
TOWN OF AMHERST
PLANNING DEPT.

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

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

TO BE COMPLETED BY APPLICANT

1. **Petitioner:** Name: Forbes Capretto Homes c/o Barclay Damon LLP

Address: 9276 Main Street, Suite 3

Clarence, New York 14031
City State Zip Code

Phone: 716-858-3728 Fax: 716-858-2728

E Mail JPALUMBO@BARCLAYDAMON.COM

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

From: SA/MS District

To: R3 / MFR5 / CTR-2.5 District

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

10060/10090 Transit Road, E. Amherst, NY 14051

SBL #: 29.01-2-5.1& 29.01-2-5.2

4. **Area of land to be rezoned** (in acres): 29.21 acres

5. **Owner of Land:**

Name: Fritz Lotter/The Estate of Theresa Lotter

Address: c/o John Robshaw, Attorney at Law

Telephone: 716-633-4030

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

Name: Jeffery D. Palumbo, Esq. of Barclay Damon, LLP

Address: SEE ABOVE

City State Zip Code

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

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

_____ Option to purchase

_____ Owner

X _____ Other (explain) Contract to purchase

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

n/a

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

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

Liber _____ Page _____

11. **Information on proposed project:**

A. Description of the character of the proposed development:

Mixed use commercial/residential with variety of attached/ detached multi and single family housing proposed.

B. Rationale for rezoning request:

1. Why was this site chosen? Location on major corridor. Access to desirable community services & facilities.

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

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

As the Comprehensive Plan designates this area for mixed-use development, it is evident that it is not attractive for large lot, single family development, the only residential development allowed in an SA zoning district. Its location on Transit Road and adjacent to the Swormville Village Center also makes it desirable for mixed-use development.See Comprehensive Plan 3.3.3/Exhibit A.

3. How will this rezoning impact surrounding properties?

It won't, as the parcel is adjacent to a large R-3 district to the north and west, and various MFR and GB districts exist to the north and south, particularly along Transit Rd (see Exhibit C).

4. How will this rezoning impact the school system?

As the proposed development includes a large residential component, it will expand the tax base with minimal impact on the school system.

12. Quantitative Data:

A. Total # of dwelling units 120

B. Distribution of dwelling units by type 52 single/68 multifamily

C. Gross Residential Density per acre MFR-5/R3: 3.6

D. Total amount of Open Space 2.0 acres

E. Proposed Non-Residential Floor Area +/- 23,400 SF

13. Development Schedule:

Start Fall 2021

Finish November 2025

Stages (# of) 2-3

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

Standard apartment/commercial leases.

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

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

n/a

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

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

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

Land is within the Mixed Use/Activity Center, which is designed to provide for added economic incentive and flexibility for reuse, offer higher density housing choices and a more compact livable and walkable environment. Section 3.3.3. The Town's comprehensive plan suggests that the "village center" attributes of Swormville should be reinforced through encouragement of compatible mixed and commercial uses, which the proposed project provides. The project, which proposes close to 150 residential units along with close to 50,000 sf of commercial space, is exactly the type of development that could reinvigorate the village potential of the Swormville area.

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

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

Figure 6 should be amended to include the subject property, is now part of the identified Village Center. See Conceptual Land Use Map and identified mixed-use center attached hereto as Exhibit B.

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

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

Insures orderly and beneficial residential development. Proposal will provide adequate open space and promotes coordinated development in relation to the surrounding properties. Therefore, it is aesthetically harmonious with the surrounding areas and structures and will not negatively increase the intensity of uses in the area. Finally, it represents a higher density pedestrian friendly development that transitions to lower density in harmony with surrounding properties generally consistent with the policies of the comprehensive plan (see above).

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

1. Sanitary Sewer Sewer service district 16
2. Storm Sewer/Drainage Storm sewer will be design within site and drain to adjacent existing storm sewers.
3. Water Water service available from Town of Amherst
4. Other

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

As indicated above and represented in attached zoning map, this parcel is surrounded by single family residential zoning in various densities, and is also located upon a major commercial corridor and adjacent to a proposed mixed-use center. Accordingly, the proposed zoning is compatible and in conformity with the present uses and character of the neighborhood.

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

As evidenced by the existing zoning in the area and objectives advanced in the comprehensive plan, the subject parcel is better suited for the proposed use.

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

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

Meets the ever-increasing demand for single-family homes in the Town and provides the mixed-use component desired for this area of the Town.

17. The petitioner encloses herewith the sum of $7,215.00 to pay the fee, and consents to the placement of a sign(s) at the described location identifying this request for a period of time to be determined by the Town Clerk.

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

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

Signature of Petitioner

Subscribed and sworn to before me this 26th day of March, 2021

Notary Public, Erie County, New York

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

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

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

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

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

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

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

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

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

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.

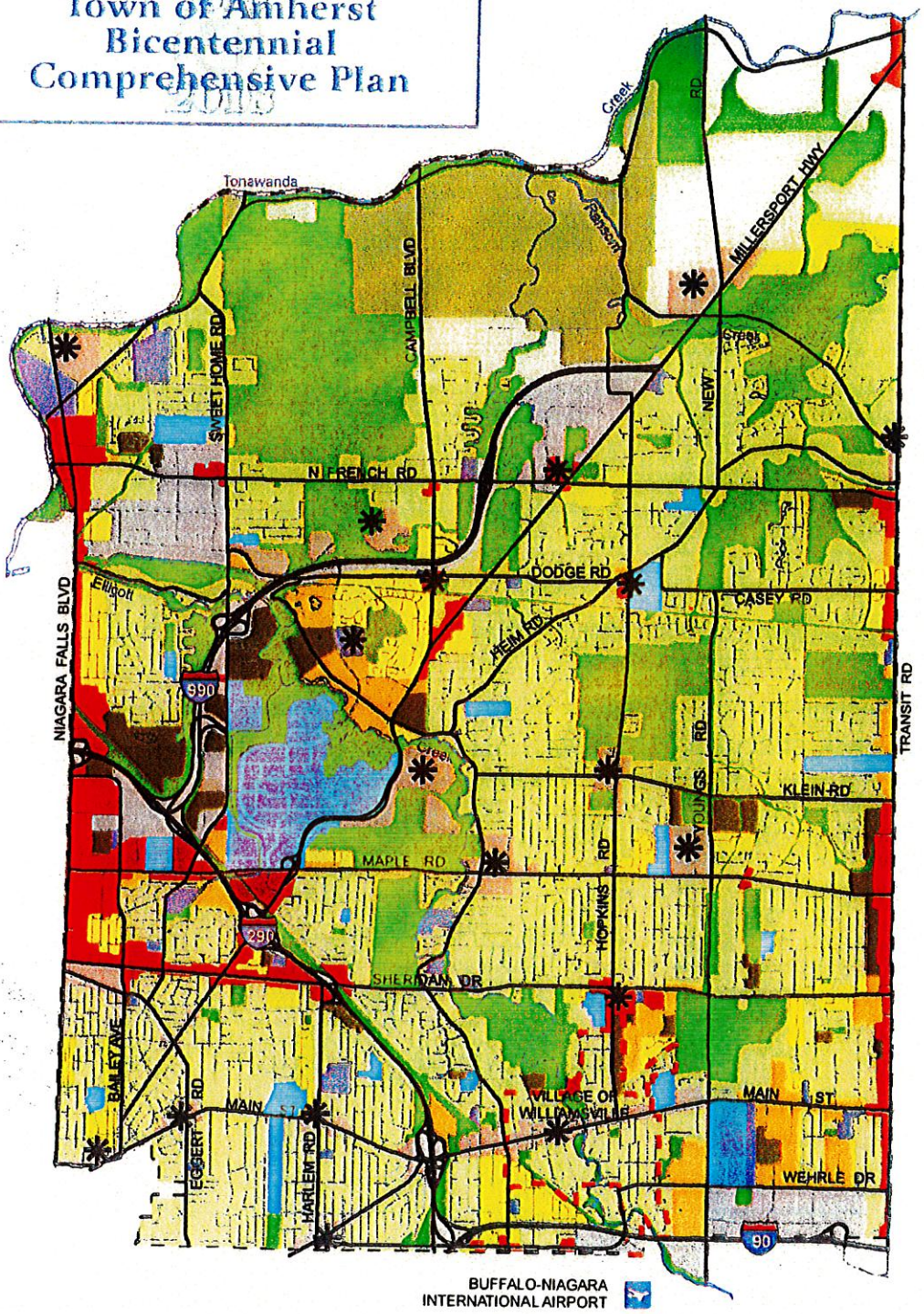
As set forth in the Town's 2018 Comprehensive Plan and Conceptual Land Use Plan, Swormville is considered a "Mixed Use" Center, for which higher density housing choices and a more compact livable and walkable environment is desired. The Comprehensive Plan suggests that the "village center" attributes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

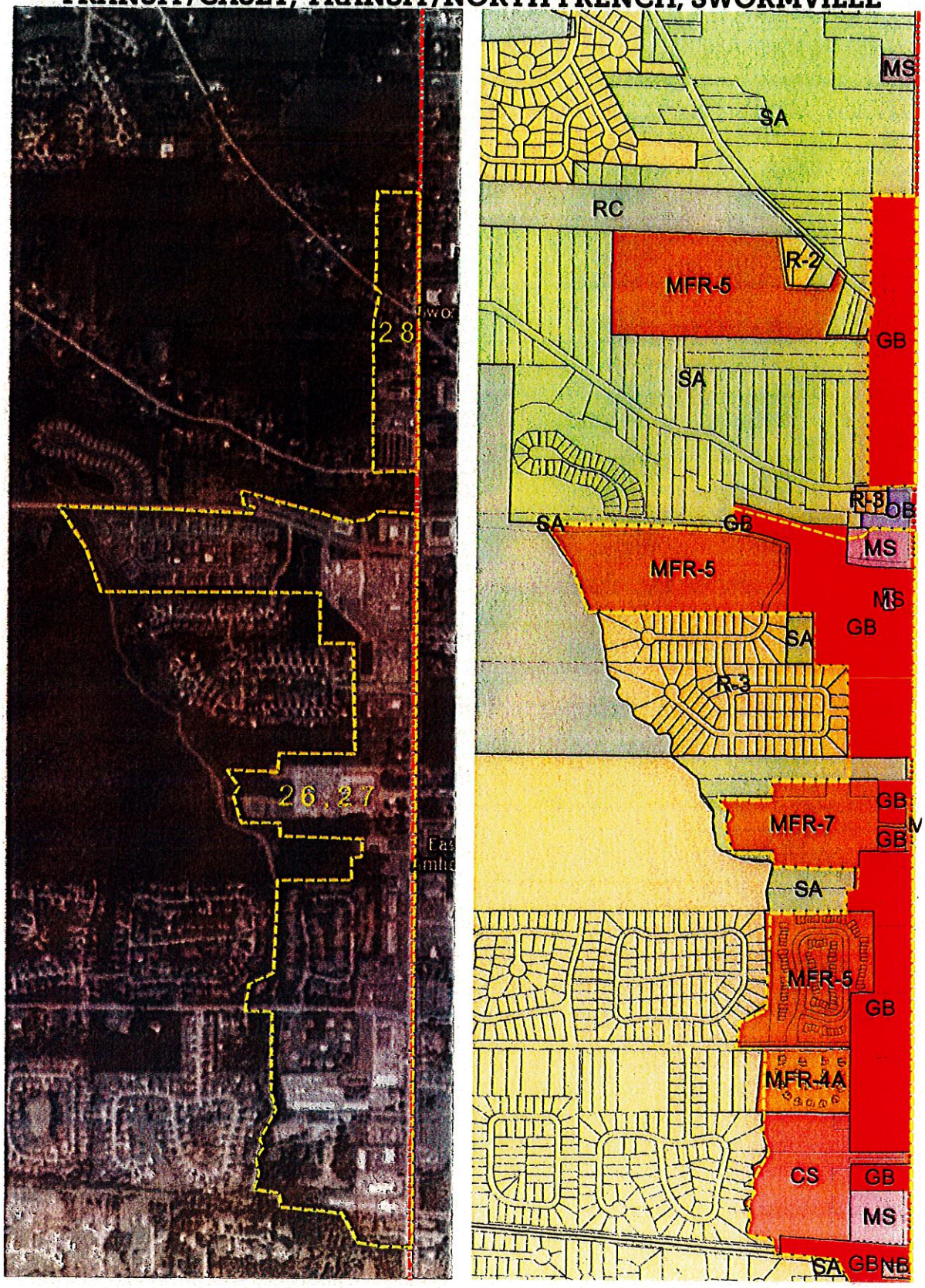
Date: March, 2009

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)

Code Studio • East Village #107 • 1200 East 11th Street • Austin, Texas 78702 • 512-478-2200 • lee@code-studio.com

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

EXHIBIT C

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

AUTHORIZATION

Fritz Lotter, record property owner of the property located at 10090 Transit Road and 50% record property owner of the property located at 10060 Transit Road in the Town of Amherst, New York (individually and collectively, the "Property"), hereby gratuitously authorizes the law firm of Barclay Damon, LLP to file a rezoning application for both Properties, along with any and all necessary supporting documentation, including any additional applications or submittals required, with the Town of Amherst, in connection with the approvals sought for the Property. Fritz Lotter shall in no way be responsible for any charges, costs, expenses, legal fees, filing fees, etc. associated with the above work, whether to Barclay Damon LLP, or anyone else, under any legal theory in law or equity. Nothing in this Authorization shall in any way imply or create any agreement, contract, option etc. regarding the property at 10090 Transit Road, Amherst, NY between Fritz Lotter and any other person, entity or party.

By: _____
Fritz Lotter

Dated: 4/15/19

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

AUTHORIZATION

The Executors of the Estate of Theresa Lotter, record property owner of 50% of the property located at 10060 Transit Road in the Town of Amherst, New York (the "Property"), hereby authorizes the law firm of Barclay Damon, LLP to file a rezoning application for the Property, along with any and all necessary supporting documentation, including any additional applications or submittals required, with the Town of Amherst, in connection with the approvals sought for the Property.

By: Heidi A Wieczorek
Heidi A. Wieczorek

Title: Co-Executor

Dated: 4-15-2019

18347390.1

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

AMENDED

Full Environmental Assessment Form
Part 1 - Project and Setting

Instructions for Completing Part 1

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

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

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

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Ashley Green		
Project Location (describe, and attach a general location map): 10060 (24.21 acres) & 10090 (5 acres) Transit Road		
Brief Description of Proposed Action (include purpose or need): Rezoning of two parcels (29.21 acres total) from SA/MS to R-3/MFR-5 (old code) / CTR-2.5 (new code) to accommodate proposed mixed use development with townhomes, single family lots and approximately 23,400 +/- sf of commercial space.		
Name of Applicant/Sponsor: Barclay Damon LLP on behalf of Forbes Capretto Homes	Telephone: 716-858-3878 E-Mail: jpalumbo@barclaydamon.com	
Address: 9276 Main Street		
City/PO: Clarence	State: NY	Zip Code: 14031
Project Contact (if not same as sponsor; give name and title/role): Jeffery D. Palumbo, Esq.	Telephone: E-Mail:	
Address: see above		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor): Mr. Fritz Lotter/The Estate of Theresa Lotter	Telephone: E-Mail:	
Address: c/o John Robshaw Attorney at Law		
City/PO:	State:	Zip Code:

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

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. CityCounsel, TownBoard , or Village Board of Trustees ☑Yes ☐No	Town of Amherst Town Board - rezoning approval	4/15/19
b. City, Town or Village Planning Board or Commission ☑Yes ☐No	Town of Amherst Planning Board - rezoning recommendation	4/15/19
c. City, Town or Village Zoning Board of Appeals ☐Yes ☑No		
d. Other local agencies ☐Yes ☑No		
e. County agencies ☐Yes ☑No		
f. Regional agencies ☐Yes ☑No		
g. State agencies ☑Yes ☐No	NYSDOT Permits, NYSDEC SWPPP and I/I Approval	
h. Federal agencies ☑Yes ☐No	Potential Army Corps Permit	

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

ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program? ☐Yes ☑No
iii. Is the project site within a Coastal Erosion Hazard Area? ☐Yes ☑No

C. Planning and Zoning

C.1. Planning and zoning actions.

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

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

C.2. Adopted land use plans.

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

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) ☑Yes ☐No
If Yes, identify the plan(s):
NYS Heritage Areas:West Erie Canal Corridor

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

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

C.3. Zoning

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

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

c. Is a zoning change requested as part of the proposed action? ☑ Yes ☐ No
If Yes,
i. What is the proposed new zoning for the site? R-3/MFR-5 / CTR-2.5

C.4. Existing community services.

a. In what school district is the project site located? Williamsville

b. What police or other public protection forces serve the project site?
Amherst

c. Which fire protection and emergency medical services serve the project site?
Swormville

d. What parks serve the project site?
Dann Lake

D. Project Details

D.1. Proposed and Potential Development

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

b. a. Total acreage of the site of the proposed action? 29.21 acres
b. Total acreage to be physically disturbed? +/- 27.21 acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 29.21 acres

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

d. Is the proposed action a subdivision, or does it include a subdivision? ☑ Yes ☐ No
If Yes,
i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)
Single detached Family Residential
ii. Is a cluster/conservation layout proposed? ☐ Yes ☑ No
iii. Number of lots proposed? 52
iv. Minimum and maximum proposed lot sizes? Minimum 6,500 sq ft Maximum 42,000 sq ft

e. Will the proposed action be constructed in multiple phases? ☑ Yes ☐ No
i. If No, anticipated period of construction: _____ months
ii. If Yes:
- Total number of phases anticipated 2-3
- Anticipated commencement date of phase 1 (including demolition) Sept month 2021 year
- Anticipated completion date of final phase Nov month 2025 year
- Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

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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

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

- 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)

REVISED
MAY 20 2021
TOWN OF PLAN

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

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

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

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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±

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

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

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

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

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

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

ii. Describe the location of the project site relative to the boundaries of the solid waste management facility:
iii. Describe any development constraints due to the prior solid waste activities: _____

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

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

ii. If site has been subject of RCRA corrective activities, describe control measures: _____
iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? ☐Yes ☑No
If yes, provide DEC ID number(s): _____
iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):

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

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

E.2. Natural Resources On or Near Project Site

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

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

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

Cv - Cosad loamy fine sand	70 %
NfA - Niagara silt loam	28 %
Od - Odessa silt loam	2 %

d. What is the average depth to the water table on the project site? Average: 0.5-1.5 feet

e. Drainage status of project site soils:
☐ Well Drained: ____% of site
☐ Moderately Well Drained: ____% of site
☑ Poorly Drained ____% of site

f. Approximate proportion of proposed action site with slopes:
☑ 0-10%: 100 % of site
☐ 10-15%: ____% of site
☐ 15% or greater: ____% of site

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

h. Surface water features.

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

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

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

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

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

- Streams: Name 837-48 Classification C
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name Federal Waters, Federal Waters, Federal Waters,... Approximate Size _____
- Wetland No. (if regulated by DEC) _____

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

If yes, name of impaired water body/bodies and basis for listing as impaired:
Name - Pollutants - Uses:Ransom Creek, Lower, and tribs – Pathogens;D.O./Oxygen Demand – Recreation;Aquatic Life

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

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

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

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

i. Name of aquifer: _____

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m. Identify the predominant wildlife species that occupy or use the project site:
Local Birds, Squirrels

n. Does the project site contain a designated significant natural community? ☐Yes ☑No
If Yes:
i. Describe the habitat/community (composition, function, and basis for designation): _____
ii. Source(s) of description or evaluation: _____
iii. Extent of community/habitat:
- Currently: _____ acres
- Following completion of project as proposed: _____ acres
- Gain or loss (indicate + or -): _____ acres

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

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

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? ☐Yes ☑No
If yes, give a brief description of how the proposed action may affect that use: _____

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

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☒Yes ☐No
If Yes, provide county plus district name/number: AG DISTRICT V7

b. Are agricultural lands consisting of highly productive soils present? ☐Yes ☑No
i. If Yes: acreage(s) on project site? _____
ii. Source(s) of soil rating(s): _____

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? ☐Yes ☑No
If Yes:
i. Nature of the natural landmark: ☐ Biological Community ☐ Geological Feature
ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? ☐Yes ☑No
If Yes:
i. CEA name: _____
ii. Basis for designation: _____
iii. Designating agency and date: _____

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

If Yes:

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

ii. Name: _____

iii. Brief description of attributes on which listing is based:

_____

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

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

If Yes:

i. Describe possible resource(s): _____

ii. Basis for identification: _____

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

If Yes:

i. Identify resource: _____

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

iii. Distance between project and resource: _____ miles.

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

If Yes:

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

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

F. Additional Information

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

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

G. Verification

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

Applicant/Sponsor Name Barclay Damon LLP Date March 26, 2021

Signature _____ Title Attorney

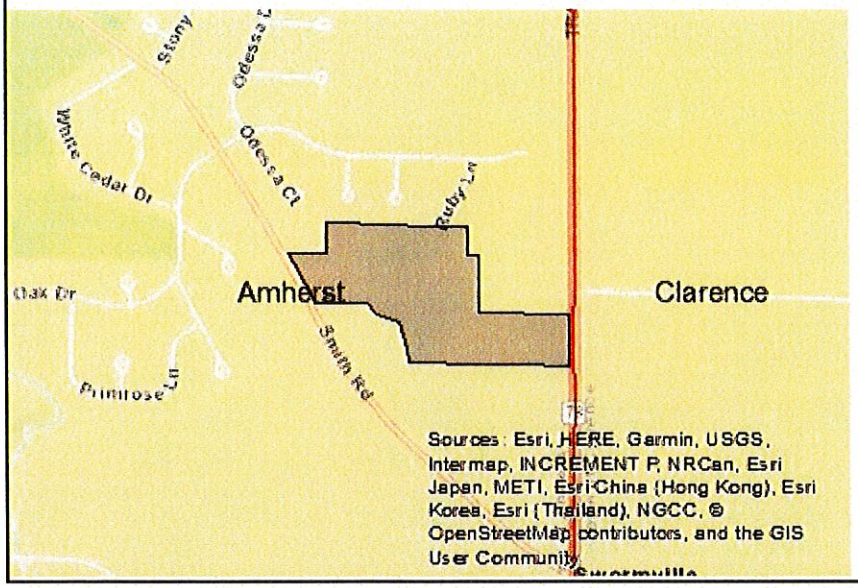
Jeffery D. Palumbo

PRINT FORM

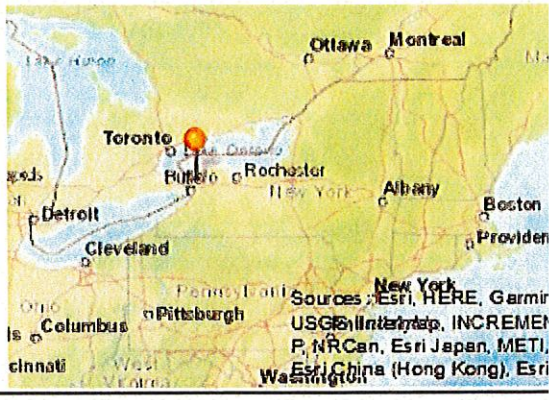
Attachment: Z-2019-06 Town Board letter Transit 2 080921 (RES-2021-678 : 10060 & 10090 Transit Road Rezoning)

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

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E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	Yes
E.2.k. [500 Year Floodplain]	Yes
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	No
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	No
E.3.i. [Designated River Corridor]	No

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

Soil Name	Shallow excavations	Dwellings without basements	Dwellings with basements	Small commercial buildings	Local roads and streets
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 <u>and</u> size of real property owned by petitioner within one (1) mile of subject proposal:
   <u>Not Applicable.</u>

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: **<u>Not Applicable.</u>**

   (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: **<u>214 trips during weekday P.M. peak travel hour.</u>**

   <u>Source: ITE – TripGen 2013, see attached printout</u>

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:

    <u>31,750</u> <u>gpd</u> average flow <u>129,154</u> <u>gpd</u> 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 Enter	Exit	Total	AM Peak Hour Adjacent Street Traffic Enter	Exit	Total	PM Peak Hour Adjacent Street Traffi Enter	Exit	Tota
210	SFHOUSE 1	138	138	276	6	16	22	18	11	29
	29 Dwelling Units									
221	LRAPT 1	149	148	297	4	17	21	17	9	26
	45 Occupied Dwelling Units									
231	LRCONDO 1				3	8	11	7	5	12
	16 Dwelling Units									
233	LUXCONDO 1				7	23	30	19	11	30
	54 Occupied Dwelling Units									
826	CENTERSPECIALTY 1	953	953	1906				51	66	117
	43 Gross Leasable Area 1000 SF									
	Unadjusted Driveway Volume	1240	2193	3146	20	64	84	112	102	214
	Unadjusted Pass-By Trips	0	0	0	0	0	0	0	0	0
	Internal Capture Trips	0	0	0	0	0	0	44	44	88
	Adjusted Driveway Volume	1240	2193	3146	20	64	84	68	58	126
	Adjusted Pass-By Trips	0	0	0	0	0	0	0	0	0
	Adjusted Volume Added to Adjacent Streets	1240	2193	3146	20	64	84	68	58	126

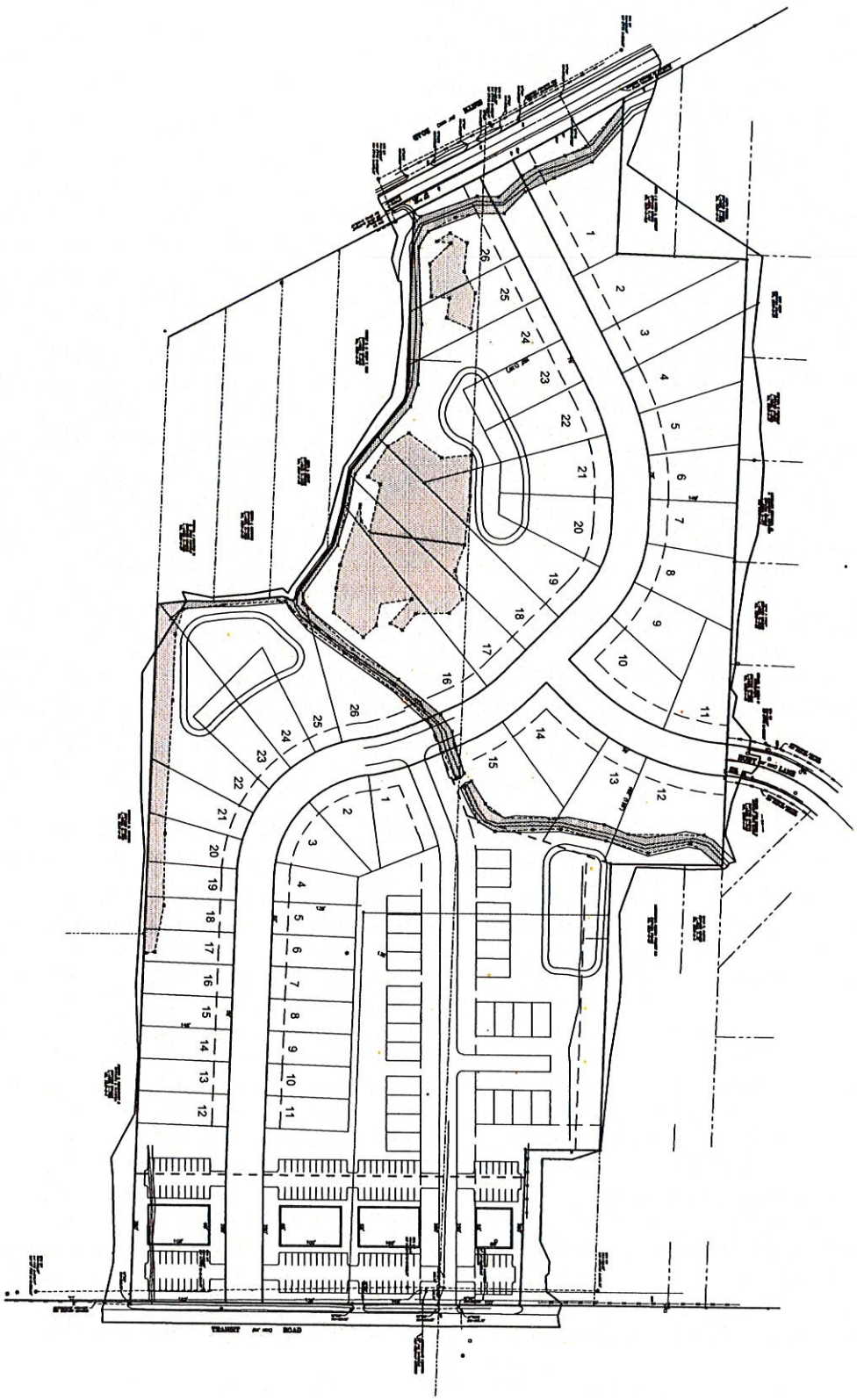
Total AM Peak Hour Internal Capture = 0 Percent

Total PM Peak Hour Internal Capture = 41 Percent

Source: Institute of Transportation Engineers, Trip Generation Manual 9th Edition, 2012

TRIP GENERATION 2013, TRAFFICWARE, LLC

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



SHEET NO. 1	CONCEPT PLAN	SCALE: 1"=80'	DRAWN BY: DRAWN	GPI	Greenman-Pedersen, Inc. Engineering and Construction Services
		DATE: OCTOBER 2020	CHECKED BY: CHECKED		In Western New York: BUFFALO (716) 633-4844 • ROCHESTER (585) 486-4859 • JAMESTOWN (716) 488-2803
	ASHLEY GREEN TOWN OF AMHERST	DWG NO.: DWGNO	JOB NO.: 2020096		
		NO.	REVISIONS:	BY	DATE

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

7485-B

APRIL 12, 2019

LANDS TO BE REZONED TO MFR-5
MULTIFAMILY RESIDENTIAL DISTRICT 5

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie and State of New York, being part of Lot No. 57 in Township 13 and Lot No. 102 in Township 12, Range 7 of the Holland Land Company's Survey and bounded and described as follows:

COMMENCING at a point in the westerly line of Transit Road being (66.0 feet wide) said point being the southeast corner of Sublot 21 as shown on a Subdivision Map filed in the Erie County Clerk's office under Map cover 2044;

THENCE westerly on a line parallel with the south line said Lot No. 57 a distance of 205.12 feet to the point of BEGINNING.

THENCE southerly on a line parallel with said west line of Transit Road being 205.00 feet westerly at right angles from said west line a distance of 626.40 feet to a point;

THENCE westerly parallel with the north line of said Lot No. 102 a distance of 917 feet more or less the centerline of a ditch;

THENCE northerly along the centerline of said ditch a distance of 192 feet more or less to a point;

THENCE through the property of lands conveyed to Herbert A. Lotter and Theresa P. Lotter by deed recorded in liber 11153 of deeds at page 5058 the following three (3) courses and distances:

1) Northeasterly along the centerline of a ditch more or less a distance of 284 feet more or less to a point;
2) Northeasterly a distance of 197 feet more or less to a point;
3) Northerly 244 feet more or less to a northerly corner of said Lotter's land;

THENCE easterly on a line parallel with the south line said Lot No. 57 a distance of 460.00 feet to the point;

THENCE southerly on a line parallel with said west line of Transit Road a distance of 120.00 feet to a point;

THENCE easterly on a line parallel with the south line said Lot No. 57 a distance of 44.88 feet to the point of BEGINNING.

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

7485-C

APRIL 12, 2019

LANDS TO BE REZONED TO R-3
RESIDENTIAL DISTRICT 3

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie and State of New York, being part of Lot No. 57 in Township 13 and Lot No. 102 in Township 12, Range 7 of the Holland Land Company's Survey and bounded and described as follows:

BEGINNING at a point in the northeasterly line of Smith Road being (66.0 feet wide) said point being the southwest corner of Sublot 2 as shown on a map filed in the Erie County Clerk's office under Map cover 2044;

THENCE southeasterly along said northeasterly line of Smith Road a distance of 224.73 feet to an angle point;

THENCE southeasterly continuing along said northeasterly line of Smith Road a distance of 159.64 feet to the southwest corner of Sublot 5 as shown on said Map Cover 2044;

THENCE easterly on a line parallel with the north line of said Lot No. 102 a distance of 239.60 to a point in the centerline of a ditch;

THENCE southeasterly along the centerline of said ditch a distance of 468 feet more or less to a point;

THENCE through the property of lands conveyed to Herbert A. Lotter and Theresa P. Lotter by deed recorded in liber 11153 of deeds at page 5058 the following three (3) courses and distances:

1) Northeasterly along the centerline of a ditch more or less a distance of 284 feet more or less to a point;
2) Northeasterly a distance of 197 feet more or less to a point;
3) Northerly 244 feet more or less to a point on a northerly line of said Lotter's land;

THENCE northerly on a line parallel with said west line of Transit Road a distance of 180.00 feet to a point;

THENCE westerly on a line parallel with the south line said Lot No. 57 a distance of 976.52 feet to the point;

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

THENCE southerly on a line forming an interior angle of 90°-00' a distance of 208.92 feet to the point;

THENCE westerly on a line parallel with the south line said Lot No. 57 a distance of 250 feet to the point of BEGINNING.

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

Amherst

Town of Amherst Planning Department — Erie County, New York

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

RECEIVED
MAR 08 2021
TOWN OF AMHERST
PLANNING DEPT.

TOWN OF AMHERST
ENGINEERING
DEPARTMENT
2021 FEB 19 P 2:58

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 @ This Time.

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

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

Signature: _____ **Date:** 4/7/21

C. Schregel

EK/bf
X:\Current_Planning\Files\Rezonings\2019\Z-2019-06_(10060_&_10090_Transit_Rd)_2019\Z-2019-06_Rev_Application_and_Environmental_Assessment_033121.doc
cc: Scott A. Marshall, Principal Planner

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

Amherst

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

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

RECEIVED
APR 05 2021
TOWN OF AMHERST
PLANNING DEPT.

RECEIVED
MAR 31 2021
TOWN ATTORNEY

MEMORANDUM March 31, 2021

FROM

TO:

TO: Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
Brian Barnes, Senior GIS Analyst (Eng.) (letter only)
Bryan Parnell, Fire Chiefs' Association (c/o Bldg)
Stan Sliwa, Town Attorney (Local Law Only)
4/4/21 (ad) ✓ Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Integrated Review Coordinator, ECDEP
Edward Rutkowski, SEQR Review Coordinator, NYSDOT
Williamsville School District

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

SUBJECT: REQUEST TO REZONE 29.21± ACRES OF LAND FROM **SA & MS TO CTR-2.5, MFR-5 & R-3, Z-2019-06**; PROPERTY LOCATED **10060 & 10090 TRANSIT ROAD**. FORBES CAPRETTO HOMES C/O JEFFREY PALUMBO, PETITIONER.

REVISED APPLICATION AND ENVIRONMENTAL ASSESSMENT FORM
Received **March 31, 2021**

This rezoning application revises the zoning districts that were requested in a previous application received in April 2019 for the same property.

REVIEW:

Do you agree with all statements made? yes, agree with all statements made.

If you do not, briefly state why: _____

General comments relative to your agency interests: N/A

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

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

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

EK/bf
X:\Current_Planning\Files\Rezonings\2019\Z-2019-06_(10060_&_10090_Transit_Rd)_2019\Z-2019-06_Rev_Application_and_Environmental_Assessment_033121.doc
cc: Scott A. Marshall, Principal Planner

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

Amherst

Town of Amherst Planning Department — Erie County, New York

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

RECEIVED
APR 01 2021
TOWN OF AMHERST
BUILDING DEPT

MEMORANDUM March 31, 2021

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

RECEIVED
APR 05 2021
TOWN OF AMHERST
PLANNING DEPT.

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

SUBJECT: REQUEST TO REZONE 29.21± ACRES OF LAND FROM **SA & MS TO CTR-2.5, MFR-5 & R-3, Z-2019-06**; PROPERTY LOCATED **10060 & 10090 TRANSIT ROAD**. FORBES CAPRETTO HOMES C/O JEFFREY PALUMBO, PETITIONER.

REVISED APPLICATION AND ENVIRONMENTAL ASSESSMENT FORM
Received **March 31, 2021**

This rezoning application revises the zoning districts that were requested in a previous application received in April 2019 for the same property.

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: _____

General comments relative to your agency interests: Floodplain & Federal Wetlands on Parcels

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

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

Signature: Doug Gesel **Date:** 4-5-21

EK/bf
X:\Current_Planning\Files\Rezonings\2019\Z-2019-06_(10060_&_10090_Transit_Rd)_2019\Z-2019-06_Rev_Application_and_Environmental_Assessment_033121.doc
cc: Scott A. Marshall, Principal Planner

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

Amherst

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

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

MEMORANDUM March 31, 2021

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

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

5583 Main Street • Williamsville • New York • 14221 • (716) 631-7051 • Fax (716) 631-7153

4/4/21 To: Ellen Kost From: Dave Marrano cc: L. Wulfe cc: Eric

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 | 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

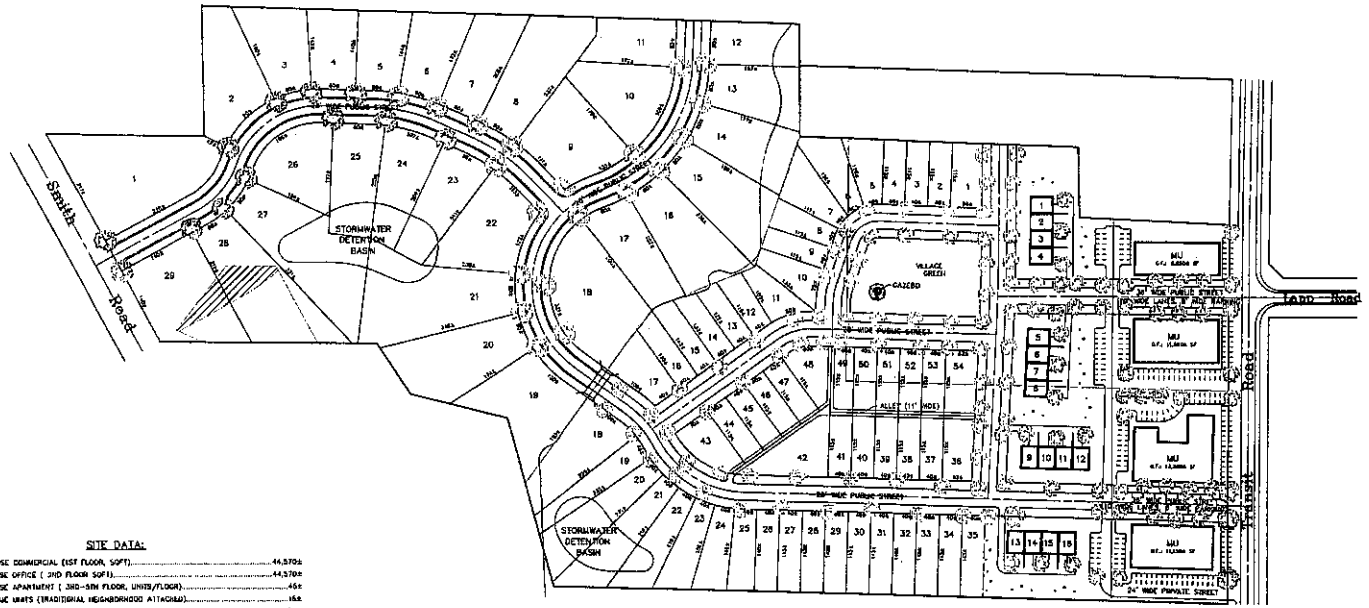
Edward S. Rutkowski, P. E.
SEQR/Site Plan Review Coordinator

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±
TOWNHOUSE 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.

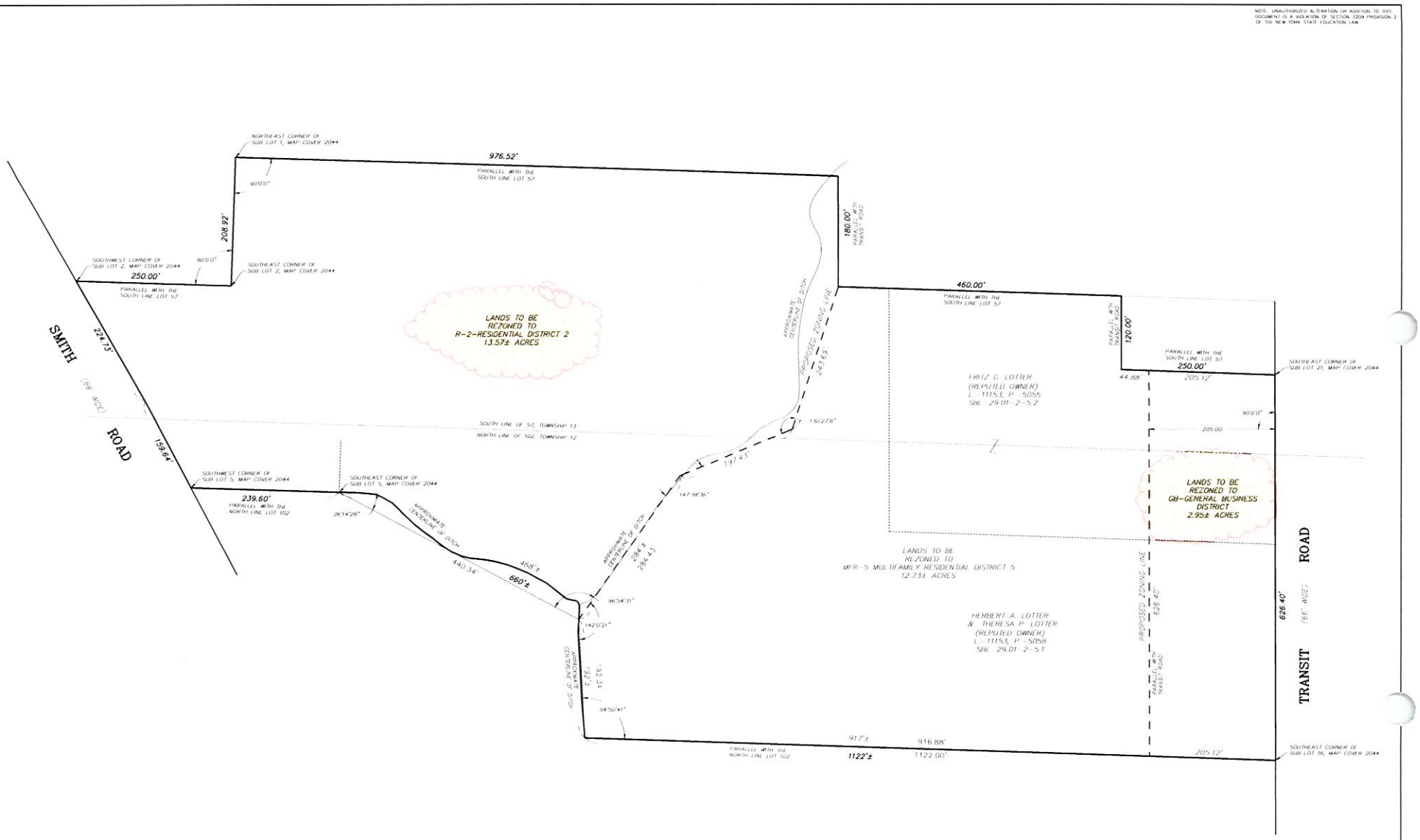
If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.) _____

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)



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

Amherst

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

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

MEMORANDUM February 18, 2021

TO: Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
Edward Rutkowski, SEQR Review Coordinator, NYSDOT
Garrett Hacker, Erie County DPW Highways Division

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

SUBJECT: REQUEST TO REZONE 29.21± ACRES OF LAND FROM **SA & MS TO CTR-2.5, TR-3 & R-3, Z-2019-06**; PROPERTY LOCATED **10060 & 10080 TRANSIT ROAD**. FORBES CAPRETTO HOMES, PETITIONER

TRAFFIC IMPACT STUDY:
Received February 10, 2021

REVIEW:

Do you agree with all statements made?
Yes. We have no traffic related comments to the TIS as presented.

If you do not, briefly state why: _____

General comments relative to your agency interests: We have no comments regarding this TIS as presented. However, if NYSDOT does not approve both access drives on Transit Road, we will need to see a revised TIS before we can give approval.

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

_____

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

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

EK/ac
X:\Current_Planning\Files\Rezonings\2019\Z-2019-06_(10060_&_10090_Transit_Rd)_2019\Z-2019-06_TIS_Transmittal_021821.doc
cc: Scott A. Marshall, Principal Planner

RECEIVED
APR 21 2021
TOWN OF AMHERST
PLANNING DEPT.

5583 Main Street • Williamsville • New York • 14221 • (716) 631-7051 • Fax (716) 631-7153

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

TOWN OF AMHERST

ENGINEERING DEPARTMENT
ERIE COUNTY – NEW YORK
JEFFREY S. BURROUGHS, P.E. – TOWN ENGINEER

DATE: April 20, 2021

TO: Ellen M. Kost, AICP – Assistant Planning Director

From: Brian J. Armstrong, EIT – Assistant Municipal Engineer

SUBJECT: Ashley Green Subdivision Request to Rezone 29.21 Acres of Land from SA & MS to CTR-2.5, MFR-5 & R-3, Z-2019-06
Town of Amherst Project No. 840127A

ADDRESS: 10060 & 10090 Transit Road

PETITIONER: Forbes Capretto Homes

Do you agree with all statements made: Yes

If you do not, briefly state why: N/A

General Comments relative to your agency interests: The petitioner's stormwater analysis and hydraulics report is very thorough and well-presented, clearly indicating that the proposed development-related improvements will have no significant impact on the Ransom Creek and Black Creek floodplains as per Town standards for floodplain developments. Upon subsequent development submissions for this development, the petitioner will however be required to expand the hydraulics modeling report to indicate similar analysis for Town Ditch 26D1 from a point 2,000 feet upstream of the Transit Road culvert, through the proposed development and downstream to its confluence with Black Creek. Assuming similar results, this ana ysis will then fully confirm that the proposed development will have no significant impacts on the entire watershed surrounding this development.

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

Signature: _____ **Date:** 4/20/21

RECEIVED
APR 20 2021
TOWN OF AMHERST
PLANNING DEPT.

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

Amherst

Town of Amherst Planning Department — Erie County, New York

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

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

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: 10/25/21 07:00 PM
Department: Town Clerk
DOC ID: 24960

COMMUNICATION 2021-108 **APPROVED**

Set Public Hearing Date - Rezoning of 1789 Dodge Road

Suspension to Town Board Agenda Item October 25, 2021

TO: **Amherst Town Board**

FROM: **Sean Hopkins, Esq.**

DATE: **October 25, 2021**

RE: **Set Public Hearing Date - Rezoning of 1789 Dodge Road**

Request to set a public hearing on November 22, 2021 for the rezoning of 1789 Dodge Road from SA to R-3.

10/25/2021
A motion to approve was made by Deputy Supervisor Berger, seconded by Councilmember Bucki and unanimously approved 5-0.

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

October 22, 2021

Kathleen Cooper, Deputy Town Clerk
Town of Amherst Town Clerk's Office
5583 Main Street
Williamsville, NY 14221

Re: Rezoning of Portion of 1789 Dodge Road from SA to R-3 [Z-2020-15]
Proposed Residential Subdivision
Applicant/Project Sponsor: Joe Rubino
File No. 10187.1

This letter is being submitted on behalf of Joe Rubino ("Project Sponsor") to request that the Town Board adopt a resolution via suspension of rules during its upcoming meeting on Monday, October 25th for the purpose of scheduling a public hearing regarding the pending request to amend the zoning classification of 1789 Dodge Road from SA to R-3 during its meeting on Monday, November 22nd at 7:00 p.m.

Please feel free to contact me at 510-4338 or via e-mail at shopkins@hsmlegal.com with any questions regarding this letter.

Thank you for your anticipated cooperation.

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

Sean W. Hopkins, Esq.

Attachment: SUSPENSION PH Attach Rezone 1789 Dodge Rd 20211025 (COM-2021-108 : Set Public Hearing Date - Rezoning of 1789 Dodge

HOPKINS SORGI & MCCARTHY PLLC
Attorneys at Law
5500 Main Street, Suite 343 • Williamsville, New York 14221
Direct: 716-510-4338 • E-mail: shopkins@hsmlegal.com • www.hsmlegal.com

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

Francina J. Spoth
Town Clerk

Meeting: 10/25/21 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 24958 **RESOLUTION 2021-967** **ADOPTED**

Authorization of the Supervisor to Sign an Intragovernmental Agreement - (CRS #2962)

Suspension to Town Board Agenda Item October 25, 2021

TO: **Amherst Town Board**

FROM: **Mary-Diana Pouli, Executive Director**

DATE: **October 25, 2021**

RE: **Authorization of the Supervisor to sign an Intragovernmental Agreement - (CRS #2962)**

WHEREAS, Sweet Home Central School District has approved an Intragovernmental Agreement at their School Board meeting 10/19/2021 with a 7-0 vote; and

WHEREAS, the Amherst IDA approved the PIF related to the agreement 5-0 (with 2 members absent) on 10/22/2021.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board approve the Amherst Town Supervisor sign the Intragovernmental Agreement with Sweet Home Central School District (CRS #2963).

10/25/2021
A motion to approve was made by Deputy Supervisor Berger, seconded by Councilmember Bucki and unanimously approved 5-0.

FINANCIAL IMPACT:

Various, various, TBD

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

Attachment: SUSPENSION Y&R attachment Intragvt Agree CRS #2962 20211025 (RES-2021-967 : Authorization of the Supervisor to Sign an

INTERGOVERNMENTAL AGREEMENT
BETWEEN THE TOWN OF AMHERST, NEW YORK
AND THE SWEET HOME CENTRAL SCHOOL DISTRICT
NORTHWEST AMHERST COMMUNITY CENTER

THIS AGREEMENT (IGA) is entered into this _____ day of October, 2021, by and between the Town of Amherst, New York ("Town") a municipal corporation duly organized and existing under the laws of State of New York, with principal offices located at 5583 Main Street, Williamsville, New York 14221 and the Sweet Home Central School District ("Sweet Home"), a municipal corporation with principal offices located at 1901 Sweet Home Road, Amherst, New York, 14228.

WHEREAS, the Town seeks to lease from Northpointe Commerce Park, LLC approximately 29,000 square feet of space located in a building having street address at 170-220 Northpointe Parkway, Amherst, New York, 14228 specifically that portion which bears a street address of 220 Northpointe Parkway, said building located at the eastern portion of parcel which bears SBL #26.04-1-32.2 said premises to be operated by the Town of Amherst as the Northwest Amherst Community Center ("NWACC"), and

WHEREAS, the Town and Bones & Guts LLC (Bones & Guts) are in the process of negotiating an Agreement whereby a medical facility (Facility) is to be built by Bones & Guts, or an affiliated organization, at 500 Maple Road (SBL #5504-1-6.1), situated in Amherst, New York, as more particularly depicted on the Survey prepared by Nussbaumer & Clarke, Inc., dated June 3, 2020, (attached hereto is Exhibit "A" and incorporated by reference) and more particularly described in a legal description annexed as Exhibit "B" (hereby incorporated by reference); and,

WHEREAS, the Town and Bones & Guts are negotiating an agreement whereby Bones & Guts will finance the construction of the Facility, with the public infrastructure (except on the

occurrence of an uncured Event of Default by the Town under this Agreement) being funded pursuant to a certain Amherst Central Park Infrastructure Fund and PILOT Application Agreement (the "Infrastructure Fund Agreement") public investment fund (PIF) between the Town, Sweet Home and the Amherst Industrial Development Agency ("AIDA") which will include a clause that ceases redirection of PILOT payments from Sweet Home to the AIDA and direct them back to Sweet Home should an Event of Default occur under the terms of this IGA not cured within the 60-day cure period provided for herein; and

WHEREAS, the Town has committed to the operation and maintenance of the NWACC at the location set forth above for at least fifteen (15) years and further agrees that residents living within the jurisdictional confines of Sweet Home, including Sweet Home residents living in the Town of Tonawanda, are able to use the NWACC to be located at the aforementioned premises on terms identical to Town residents; and

WHEREAS, the Town and Sweet Home have an expressed interest to have a community center owned and operated by the Town, separate and apart from Sweet Home, located in the northwest area of Amherst within the jurisdiction and confines of the Sweet Home with services as specified herein to be provided as joint services to the Town and Sweet Home at Town expense; and

WHEREAS, the Town and Sweet Homes have determined that the operation of the NWACC would serve a public purpose and provide a public benefit to the residents of the Town as well as the residents of Sweet Home; and,

WHEREAS, General Municipal Law §119-o (2)(a) authorizes municipal corporations to adopt mutual agreements for the performance of their respective functions, powers and duties,

Attachment: SUSPENSION Y&R attachment Intragvt Agree CRS #2962 20211025 (RES-2021-967 : Authorization of the Supervisor to Sign an

including the allocation of expense, capital expenditures and operating costs amongst themselves; and

NOW, THEREFORE, in consideration of the mutual promise and conveyance set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree to the following:

1. **Purpose.**

The purpose of this Agreement is to provide the development of the NWACC, to be leased by the Town from Northpointe Commerce Park LLC or a successor owner of the leased building, such development costs to be borne by an entity other than Sweet Home and rental expenses to be by the Town for a period of at least 15 years from opening of the NWACC to the public, and to provide a long-term user agreement between the Town and Sweet Home regarding the services to be provided at the NWACC for the benefit of the residents of the Town and the residents of Sweet Home (including those residing in the Town of Tonawanda) the costs of which will be borne solely by the Town..

2. **Obligations of Parties.**

Both parties agree to work together in a true spirit of partnership to assure that there is a united, visible and responsive leadership for the financial, administrative and managerial commitment to the development of the NWACC to provide services to Town residents as well and persons living within the jurisdictional confines of Sweet Home.

3. **Term.**

This Agreement will be for a term commencing on execution of this Agreement by both parties and culminating on the 15th anniversary of the opening of the NWACC to the public.

Attachment: SUSPENSION Y&R attachment Intragvt Agree CRS #2962 20211025 (RES-2021-967 : Authorization of the Supervisor to Sign an

4. **Services.**

A. Services to be rendered by Sweet Home include the following:

(i) Sweet Home level participation, where appropriate, in all phases of the project including meetings, presentations and public outreaches.

(ii) Provision of providing existing demographic data and participation in stakeholder and community needed assessment reports related to the NWACC.

(iii) Exploration of future funding/grant opportunities for the NWACC which Sweet Home may be eligible as a partner.

(iv) The establishment of a Family Support Center as well as al programming associated with it.

B. Services will be rendered by the Town may include, but not limited to, the following:

(i) Programming at the NWACC shall be (except for the Sweet Home Family Support Center) provided by the Town based on community need (as the result of district-wide needs assessments (to be conducted every three years at a minimum) and will be available to all Sweet Home residents. Such services shall be those determined by the Town and Sweet Home to be beneficial to, among others, school-aged children residing within the Town and the District and may include the following services: (a) child care, (b) day camps, (c) gym and other athletic programs for adults and youth, (d) teen programs, (e) workforce development, (f) flex space for

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community services, and (g) appropriate space for the operation of a Sweet Home Family Support Center which will be operated by Sweet Home.

(ii) Town Department participation, where appropriate, in all phases of the project including meetings, presentations and public outreach.

(iii) Provision of existing demographic data and participation in stakeholder and community need assessments related to the project.

(iv) Fiscal management of the project.

5. **Annual Review.**

Both the Town and Sweet Home will conduct an annual review of the NWACC project and its progress to be completed by November 30th of each calendar year and to be generated into a report which is presented to the appropriate governing entities of the Town and Sweet Home by December 31st of a calendar year.

6. **Building and Maintenance Operating Costs.**

All costs of operating and maintaining the NWACC not provided at Landlord expense shall be borne and paid for by the Town.

7. **Staffing Costs.**

All costs of staffing the NWACC for all purposes set forth in Paragraph 4.B. shall be borne by the Town except that the cost of staffing the Sweet Home Family Support Center shall be borne by Sweet Home.

8. **Events of Default and Consequences of Uncured Default.**

Each of the following shall individually constitute an Event of Default under this Agreement:

Attachment: SUSPENSION Y&R attachment Intragvt Agree CRS #2962 20211025 (RES-2021-967 : Authorization of the Supervisor to Sign an

a. The failure of the Town to enter into a lease agreement of at least 15 years from commencement of full rental payments of approximately 29,000 square feet at the Northpointe Facility located at 220 Northpointe Parkway, Amherst, New York on or before March 1, 2022, said lease to include plans and specifications for space redesign adequate to support programs designed to benefit, among others, the residents of the Town and Sweet Home which may include (a) day care; (b) gym and other athletic programming; (c) classroom space; (d) offices, including a satellite office for a Sweet Home Family Support Center; (e) space for community meeting use; and (f) summer camp programming. Purchase of the Facility by the Town will eliminate the lease agreement requirement but not the program aspirations provided for above.

b. The failure of the Town, by January 1, 2023, to complete a community-based input process for needs assessment and service delivery inclusive of meaningful input from residents of Amherst and Sweet Home.

c. The failure of the Facility to be fully operational, inclusive of services listed in Paragraph 4.B (i), above, by no later than September 1, 2023.

d. The failure of the Town to maintain the Facility compliant with all applicable laws, codes, rules and regulations and appropriate for the uses set forth above without charge to Sweet Home from the opening of the Facility to the date of expiration of this Agreement.

e. Failure of the Town to provide for the programs and activities designed to benefit the Town and Sweet Home school-aged residents and their families as determined by the Town and Sweet Home which may include the programs listed in Paragraph 4.B.(i), (except the Sweet Home Family Support Center which will be operated at Sweet Home's expense) to be operated at Town expense, for the entire 15-year term of this Agreement after opening of the Facility, with appropriate staffing by the Town for each such activity.

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f. The failure at any time of the Town to establish and maintain rules, regulations and/or protocols permitting residents of Sweet Home residing in Tonawanda to use the Facility and its programs on terms identical to those provided to residents of the Town of Amherst.

g. The lapse of the lease between the Town and the owner of the Facility at any time during the term of this Agreement, except due to purchase of the Facility by the Town of Amherst.

On the occurrence of an Event of Default, the Sweet Home shall provide the Town of Amherst with written notice of the default(s) as provided below.

In the event such default(s) is/are not cured within 60-days of receipt of notice of default, Sweet Home shall give additional written notice of the same to the Town of Amherst and the Amherst Industrial Development Agency (the "AIDA"), at which time Sweet Home shall cease to be a participant in that Certain Infrastructure Fund and PILOT Application Agreement (the "Infrastructure Fund Agreement") entered into between the Town, Sweet Home and the AIDA on even date herewith, Sweet Home shall be deemed to have withdrawn from the Infrastructure Fund Agreement and, in accordance with the provisions of Paragraph 4.2 of the Infrastructure Fund Agreement, Sweet Home's authorization permitting AIDA to redirect Sweet Home PILOT payments on properties within the Amherst Central Park or park-displaced projects shall cease immediately and all Sweet Home PILOT payments on all such projects, whether currently completed and making PILOT payments or thereafter completed shall revert back to Sweet Home, notwithstanding anything to the contrary in the Infrastructure Fund Agreement.

9. **Dispute Resolution.** Sweet Home and the Town shall attempt to resolve any dispute arising out of or relating to this IGA through negotiations between the Town Supervisor

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and the Superintendent of Sweet Home. This should include, but not limited to, disputes regarding whether any party is in default as defined by paragraph 8 of this IGA.

If the matter is not resolved by negotiation between the Town Supervisor and the Superintendent of Sweet Home within ten (10) days of receipt of a written "invitation to negotiate", which shall be sent to those persons mentioned in paragraph 9, the parties will attempt to resolve the dispute in good faith through the agreed upon arbitration procedure as set forth below.

All disputes arising out of this contract regarding whether a party is in default will be discussed between the Town Supervisor and the Superintendent of Sweet Home. Should they fail to resolve the dispute, the dispute shall be submitted to a single arbitrator for final resolution with the arbitrator's power and function limited to determining whether a party is in default. The arbitrator shall not have the power to impose any of the remedies. The procedure for selection of a single arbitrator is as follows:

The attorney for Sweet Home will send a list containing five (5) persons who appear on the most recent mediation list promulgated by the United States District Court for Western New York who have as nature of practice or area of specialization or either commercial litigation or contract. The list will be transmitted to the Town Attorney. The Town Attorney, within five (5) days of receipt of that list, shall either reject it at which point he/she shall advise the attorney for Sweet Home of the rejection, or rank the individuals on the list from one (1) to five (5) and submit the same list confidentially to the Town Attorney for the Town of Tonawanda. The attorney for Sweet Home shall at the same time submit their list, with people ranked from one (1) to five (5), confidentially to the Town Attorney for the Town of Tonawanda. At that point, the Town Attorney for the Town of Tonawanda shall advise the Town Attorney

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and the Attorney for Sweet Home of the arbitrator who received the highest ranking of both parties.

Should the Town Attorney initially reject the list, he/she shall then send a list of five (5) individuals who are on the most recent mediation list for United Stated District Court for Western New York with an area of concentration of commercial litigation or contracts to the attorney for Sweet Home. Upon receipt of this list, the Sweet Home attorney shall either accept the list or rank the individuals from one (1) to five (5), or announce that he/she is rejecting the list. If the list is not rejected by the attorney for Sweet Home, he/she shall submit the list confidentially to the Town Attorney for the Town of Tonawanda ranking the individuals from one (1) to five (5) and the Town Attorney will submit his ranked list to Town Attorney for the Town of Tonawanda. At that point, the Town Attorney for the Town of Tonawanda shall advise the parties of the arbitrator who received the highest ranking of both parties.

In the event that Sweet Home rejects the list, then the Sweet Home attorney shall then advise the Town Attorney at which point the Town of Tonawanda attorney shall have the power to select an arbitrator from the most recent mediation list maintained by United States District Court for Western New York of persons who have as nature of practice or area of specialization as specified above and advise the Town Attorney and the attorney for Sweet Home of his/her selection.

The dispute between the parties shall then proceed to a confidential arbitration which shall be conducted in Buffalo, New York. By agreeing to arbitration, both the Town and Sweet Home waive the right to resolve any such disputes through a trial by jury or judge or via an administrative proceeding.

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The arbitrator selected shall not have the power to determine any issue other than whether a party is in default of the IGA. Any and all costs and fees associated with arbitration shall be split 50/50 basis between the Town and Sweet Home. The arbitration hearing shall commence within fifteen (15) business days of the selection of the arbitrator, unless the parties otherwise agree to a different time. The arbitrator shall render his/her decision, in writing, to the Town Attorney and the attorney for Sweet Home within ten (10) business days of the conclusion of the arbitration hearing.

Nothing in this clause is intended to prevent either Sweet Home or the Town from obtaining an injunctive relief in the Supreme Court, Erie County to prevent irreparable harm pending the commencement and/or conclusion of any arbitration.

10. **Other Disputes.**

Any dispute between the parties other than whether an Event of Default by the Town has occurred and, if such an Event of Default has occurred, whether it has been cured within 60 days of notice of default from Sweet Home to the Town shall be determined by non-jury action or special proceeding venued in the County of Erie and State of New York. **Both parties hereto waive the right to trial by jury of any issue arising out of this Agreement.**

11. **Governing Law.**

This Agreement shall be governed by the laws of the State of New York exclusive of any conflict of laws, rules that could require the application of any other law.

12. **Entire Agreement; Amendment.**

This Agreement (including the Schedules attached hereto) sets forth the entire agreement and understandings of the parties with respect to the subject matter hereof and supersede

Attachment: SUSPENSION Y&R attachment Intragvt Agree CRS #2962 20211025 (RES-2021-967 : Authorization of the Supervisor to Sign an

all prior agreements, written or oral, with respect thereto. No amendment or modification of this Agreement shall be effective unless in writing and signed by all of the parties hereto.

13. **Waiver.**

No waiver by any party of any breach, default or violation of any term, warranty, representation, agreement, covenant, condition or provision hereof shall constitute a waiver of any subsequent breach, default or violation of the same or any other term, warranty, representation, agreement, covenant, condition or provision hereof.

14. **Binding Effect; No Assignment.**

The provisions of this Agreement shall bind and benefit the successors and assigns of the parties hereto, provided that no party shall assign this Agreement, or any of their rights or obligations hereunder, without the prior written consent of the other parties hereto.

15. **Notices.**

All notices given in connection with this Agreement shall be in writing and shall be delivered personally or both sent by overnight courier service and mailed to the parties at their addresses as set forth below. Notices shall be effective from the date of delivery if delivered personally, or from one (1) business day after the day of deposit with the U.S. mail and deposited with the chosen overnight courier service, if mailed and delivered by overnight courier.

All notices to the School District shall be addressed to:

Superintendent of Schools
Sweet Home Central School District
1901 Sweet Home Road
Amherst, New York 14228

All notices to the Town shall be addressed to:

Amherst Town Supervisor
5583 Main Street
Williamsville, New York 14221

Attachment: SUSPENSION Y&R attachment Intragvt Agree CRS #2962 20211025 (RES-2021-967 : Authorization of the Supervisor to Sign an

Amherst Town Attorney
5583 Main Street
Williamsville, New York 14221

Town of Amherst
Youth and Recreation Department
1615 Manor Drive
Amherst, New York 14221

Any party may change the address for notices to it by a written notice comporting with this paragraph.

16. **Severability.**

The provisions of this Agreement shall be severable, and if any clause, sentence, paragraph, provision or other part hereof shall be determined by any court of competent jurisdiction to be invalid, such determination shall not affect, impair or invalidate the remainder hereof, which remainder shall continue in full force and effect.

17. **Headings.**

The headings and captions herein are for convenience only and are not to be construed as a part of this Agreement, nor shall the same be construed as defining or limiting in any way the scope or intent of the provisions hereof.

18. **Execution: Counterparts and Electronically Transmitted Copies.**

Electronically transmitted executed copies of this Agreement shall for all purposes constitute originals. Counterpart signatures on separate pages shall cumulatively constitute execution of this Agreement by all parties and shall be treated as if executed on a single page.

SWEET HOME CENTRAL SCHOOL DISTRICT **TOWN OF AMHERST, NEW YORK**

Attachment: SUSPENSION Y&R attachment Intragvt Agree CRS #2962 20211025 (RES-2021-967 : Authorization of the Supervisor to Sign an

By: _____
Michael V. Ginestre,
Superintendent of Schools
Date: _____

By: _____
Brian J. Kulpa,
Town Supervisor
Date: _____

SWEET HOME CENTRAL SCHOOL DISTRICT BOARD OF EDUCATION

By:_____
Marianne Jasen
President, Board of Education
Date:_____

Attachment: SUSPENSION Y&R attachment Intragvt Agree CRS #2962 20211025 (RES-2021-967 : Authorization of the Supervisor to Sign an

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

Francina J. Spoth
Town Clerk

Meeting: 10/25/21 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 24959 **RESOLUTION 2021-968** **ADOPTED**

Authorization of the Supervisor to Sign a Lease Agreement (CRS #2963)

Suspension to Town Board Agenda Item October 25, 2021

TO: **Amherst Town Board**

FROM: **Mary-Diana Pouli, Executive Director**

DATE: **October 25, 2021**

RE: **Authorization of the Supervisor to sign a Lease Agreement (CRS #2963)**

BE IT RESOLVED that the Amherst Town Board approve rescinding Resolution 2021-817 and contract CRS #2894, which was approved by the Amherst Town Board on 9/13/2021; and

BE IT FURTHER RESOLVED that the Amherst Town Supervisor sign the Lease Agreement between the Town of Amherst and ACC OP LLC (CRS #2963), pending successful completion of the contract routing process.

10/25/2021
A motion to approve was made by Deputy Supervisor Berger, seconded by Councilmember Szukala and unanimously approved 5-0.

FINANCIAL IMPACT:

T 2107.4001 & A 1950.4190: $35,000.00 annually

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

LEASE AGREEMENT

THIS AGREEMENT, is made as of October 22, 2021 ("Effective Date"), between ACC OP (Maple Road) LLC with principal place of business located at 12700 Hill Country Boulevard, Suite T-200, Austin, Texas, 78738 ("Lessor") and the Town of Amherst a municipal corporation located at 5583 Main Street, Williamsville, New York 14221("Lessee"). In consideration of their mutual covenants, conditions, agreements, obligations assumed and other considerations contained herein, the parties hereto agree as follows:

1) Lessor has agreed to let, and hereby lets, and the Lessee agrees to lease, certain premises situated in the Town of Amherst, New York, located at 330 Maple Road, Williamsville, NY 14221 bearing SBL 55.03-1-10, consisting of approximately 10.14 acres of said property (hereinafter the "premises"), which is more particularly depicted in the diagram attached hereto as **Exhibit "A",** for a term commencing on the Effective Date and ending on December 31, 2026 ("Lease Termination Date"). The Lessee acknowledges and represents that it is leasing the premises in its "As-Is" condition and that the Lessor is not making any representations regarding the suitability of the premises for use by the Lessee in accordance with the terms and conditions in this Lease. The Lessee shall be responsible at its sole cost to obtain any required approvals and/or permits from municipal boards and departments of the Town of Amherst and other governmental agencies in connection with its use of the premises. The principal use of the premises by the Lessee shall be limited to recreational uses only.

2) Lease Payment: The Lessee agrees to pay One Dollar ($1.00) to Lessor as rent for the entire term of this Agreement.

3) Payment for Expenses: The Lessee shall pay for all expenses normally incurred in the management, maintenance and operation of the fields, facilities and the equipment covered by this Agreement. The Lessor shall not be responsible for any expenses related to the use of the premises during the term of the Lease. The facility, equipment and services for which the Lessee shall be financially responsible shall include, but not be limited to, charges for law enforcement officers or private security officers; charges for providing appropriate trash receptacles; charges for the removal of trash and debris arising from or resulting from the use of the premises by the Lessee; charges for providing portable toilets: extra custodial and ground maintenance; charges for phone lines and services; charges for providing bases, the home plate(s) and pitching plate(s), etc.

4) Prevention of Waste. The Lessee agrees to use all reasonable precautions to prevent waste and to prevent said premises from being destroyed or injured by fire or flooding and agrees not to throw or deposit any dirt or any objectionable matter in the areas on or about the said premises. It is specifically understood that premises leased are to be kept as clean and healthful as possible.

5) Right to Permit Use of the Premises by Others. The Lessee will have the right without written consent of the Lessor to permit third parties to use the fields to be located

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

at the premises to conduct recreational leagues operating within the Lessee's geographic jurisdiction. Lessee shall notify the Lessor in writing of the names of these third party users no later than thirty (30) days prior to commencement of the use by such third party users and provided further that these third party users agree in writing to be bound by the indemnification obligations that the Lessee has to the Lessor as defined in Paragraph 14 of this Lease. The thirty party users shall maintain at all times during the term of their use of the fields Workers' Compensation insurance as required by New York law, Commercial General Liability insurance in the amount of at least $2,000,000 per occurrence for personal injury and advertising injury, at least $4,000,000 aggregate, with umbrella coverage of $5,000,000 with Lessor added as an additional insured on a primary and non-contributory basis to protect Lessor from against any and all claims, demands and cause of actions, arising by reason of any activities engaged in by said third party users and said activities shall not commence under this Lease until an appropriate certificate of insurance complying with the terms and conditions in this Paragraph 5 has been provided by the Lessee to the Lessor. The Lessee shall not have the right to assign or sublease the premises.

6) Field Construction: The Lessee will have the ability to construct at its sole cost and expense at the premises up to four (4) softball fields and related facilities, including but not limited to temporary improvements and structures such as back stops, fencing, toilet facilities (port-a-potties), concession stands, dugouts, spectator seating, storage facilities and any other temporary structures deemed necessary to the operation of the softball fields located at the demise premise and other improvements such as storm drainage necessary for the operation of the softball fields. Lessor shall also have the ability to permit food trucks to have temporary access to the premises only when sporting events are occurring said trucks to have access one (1) hour prior to the sporting event and one (1) hour after conclusion of the sporting event. The Lessor shall have the ability to approve and consent to the plans for the construction of said fields and fencing, etc., said approval or consent will not be unreasonably withheld delayed.

7) Removal of Improvements: As of the Lease Termination Date, unless the Lessor provides written notice to the Lessee that certain specified improvements shall remain on the premises as of the Lease Termination Date, the Lessee shall at its own expense, remove all such fields and related storm drainage, fencing, toilet facilities, concession stands, dugouts, spectator seating, storage facilities and any other temporary structures at the premises and all other improvements made to the premises and restore the premises to the condition as existed prior to commencement of the Lease. The Lessor shall also have the right to require the Lessee to remove fill brought onto the premises pursuant to Paragraph 8 of this Lease.

8) Ability to Bring Fill: Lessee shall, at its sole cost and expense, be permitted to bring clean fill onto the premises, with clean fill satisfying the requirements contained in the specification annexed hereto as **Exhibit "B".** The fill will be utilized as part of the field construction.

9) Field Maintenance: The Lessee will maintain the playing fields in a proper playing condition which will include maintenance such as lining and dragging on a regular

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basis according to game schedules, mowing grass, trimming along all fences, back stops, bleachers and lawn areas associated with the site on a minimum of a weekly basis. The Lessee will also perform sod cutting and fill in the infield as needed to keep the fields in a safe and proper playing condition.

10) Abatement of Nuisance: The Lessee agrees that it will not during the term of this Lease suffer or create any nuisance on or about the premises. The Lessee shall not commit any waste upon the premises or disturb nearby privately owned or publicly owned property. Further, during such times as the premises are used under this Lease, the Lessee and its officers, representatives, and members shall endeavor to restrain persons not affiliated with the Lessee, or affiliated with those leagues authorized by the Lessee, from committing any waste or damages upon the premises utilized by the Lessee on any property which is adjacent to the same. In the event Lessor's property or properties owned by others are damaged or destroyed as a result of abuse under this Agreement, the Lessee shall immediately reimburse Lessor for such cost as shall be incurred in repairing said damages and restoring the property to its condition prior to said use and damage. It being specifically understood that instead of reimbursing Lessor for such costs, the Lessee reserves the right to perform such repair or restoration by the use of its employees subject to an obligation for such repair or restoration to be completed in a timely manner and to the satisfaction of the Lessor.

11) Supervision of Use: Whenever the Lessee shall use the premises, the Lessee shall assure that all activities conducted therein are supervised by responsible adults who shall be familiar with the recreational programs of the Lessee and the terms and conditions contained in this Lease relative for the use of the premises.

12) Use of Portable Equipment: Portable equipment, such as storage bins, cargo containers, backstops, toilet, concession stands, bleachers and batting cages shall be permitted under this Lease. Prior to placing portable equipment on the premises, the Lessee shall submit to the Lessor plans and specifications describing, in detail, the specific portable equipment to be used and the planned locations of said portable equipment. If the use of said portable equipment is approved by the Lessor, which such permission shall not be unreasonably withheld, the Lessee may use such portable equipment on the premises designated. At the Lease Termination Date, Lessee shall remove at its sole cost and expense all such portable equipment from the premises.

13) Non-Liability for Loss: This Lease is made upon the express condition that Lessor shall be free from any and all liability and claim for damages because of any injury to persons or property, including death, resulting from or associated with the use and maintenance of the premises by the Lessee and all third party users. The Lessee hereby assumes all risk of damage to persons and property in or upon the premises, from any cause or source whatsoever connected to the negligence of the Lessee and all third party users, and to this extent the Lessee hereby waives any and all claims against Lessor for damages to persons or property on or about said premises.

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14) Indemnification: To the fullest extent permitted by New York law, Lessee shall indemnify and hold harmless Lessor from and against any and all claims, demands, causes of actions, suits, damages, counsel fees, and all other reasonable costs and expenses associated with the defense of Lessor, including costs of investigation, arising out of or incurred in defense of any claim, proceeding, or action brought for personal injury, wrongful death or property damage arising from Lessee's use of the premises, or from the conduct of Lessee's activities or from any activity, work or things done, permitted or suffered by Lessee as well as all third parties in or about the premises or elsewhere. Lessee shall further indemnify and hold harmless Lessor from and against any and all claims arising from any breach or default in the performance of any obligation on Lessee's part to be performed under the terms and conditions of this Lease, or arising from any negligence and intentional acts of the Lessee, or any of Lessee's agents, contractors, or employees, third party users, and from and against all costs, attorney's fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon. In case any action or proceeding be brought against Lessor by reason of any such claim, Lessee, upon receipt of written notice from Lessor, said notice to be forwarded to Lessee within ten (10) business days of receipt by Lessor of notice of such claim/suit/proceeding, shall defend the same at Lessee's sole cost and expense by counsel of its choice provided selection of counsel is approved in writing by Lessor, said approval shall not be unreasonably withheld, denied or delayed. Lessee, as a material part of the consideration to Lessor, hereby assumes all risk of damage to property or injury to persons, in, upon or about the premises arising from any cause and Lessee hereby waives all claims in respect thereof against Lessor. Without any limitations, the Lessee shall further save and hold harmless the Lessor from and indemnify Lessor against any and all orders, judgments and decrees which may be entered into in any suit or action related to such injuries including, but not limited, to death.

15) Insurance: The Town shall maintain at all times during the term of this Lease adequate insurance coverage including Workmen's Compensation and liability insurance, which may be provided through proof of self-insurance acceptable to Lessor (Attached as **Exhibit "C"** is the Town Board Resolution of September 29, 1986, evidencing the Town's self-insurance status), proof of excess insurance in the amount of at least $2,000,000 per occurrence for personal injury and advertising injury, at least $4,000,000 aggregate (Attached as **Exhibit "D"** is proof of such excess coverage) with Lessor named as an additional insured party on a primary and non-contributory basis, and proof of self-insurance for Workers' Compensation (Attached as **Exhibit "E"** is proof of such self-insurance status and as **Exhibit "F" is** proof of excess Workers' Compensation) in order to protect Lessor from against any and all claims, demands and cause of actions, arising by reason of any activities of the Lessee said work shall not commence under this Lease until an appropriate certificate of insurance complying with the terms and conditions in this Paragraph 15 has been provided to Lessor.

16) Default by Lessee. The following events are referred to, collectively, as "Events of Default" or, individually, as an "Event of Default":

(a) Lessee vacates or abandons the premises;

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(b) Lessee breaches any of the terms and conditions contained in this Lease and such breach continues for a period of fourteen (14) days after written notice from Lessor to Lessee or, if such breach cannot be cured reasonably within such fourteen (14) day period, if the Lessee fails to diligently commence to cure such breach within fourteen (14) days after written notice from Lessor and to complete such cure within a reasonable time thereafter.

(c) If any one or more Events of Default set forth above occurs, and Lessee fails to cure the default as set out in Paragraph 16(b), then Lessor must provide the Lessee with seven (7) days written notice of termination and upon the giving of such notice of termination and the expiration of such seven (7) day period, Lessee's right to possession of the premises shall immediately cease and this Lease will be terminated, except as to Lessee's obligations contained in Paragraphs 7 and 12 relative to removal of Improvements and Portable Equipment which shall survive the termination of this Lease by the Lessor.

17) Hazardous Materials:

(a) For purposes of this Lease, "Hazardous Materials" means any explosives, radioactive materials, hazardous wastes, hazardous substances, as well as herbicides, insecticides, and pesticides, including without limitation substances defined as "hazardous substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9657; the Hazardous Materials Transportation Act of 1975, 49 U.S.C. §§ 1801-1812; the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901-6987; or any other federal, state, or local statute, law, ordinance, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning hazardous materials, waste, or substances now or at any time hereafter in effect (collectively, "Hazardous Materials Laws").

(b) Lessee, Lessee's contractor(s) and subcontractor(s) and third party users shall not cause or permit the storage, use, generation, or disposition of any Hazardous Materials in, on, or about the premises by Lessee, its agents, employees, contractors, subcontractor and third party users unless at least fourteen (14) days prior to the use or application of fertilizers, insecticides, pesticides or other materials normally associated with the use of the premises for softball fields the MSDS for any such fertilizers, insecticide pesticides or other materials are provided to Lessor and Lessor approves, in writing the use or application of those fertilizers, insecticides, pesticides or other materials. Lessee shall not permit the premises to be used or operated in a manner that may cause the Premises to be contaminated by any Hazardous Materials in violation of any Hazardous Materials Laws. Lessee shall immediately notify the Lessor in writing of (i) any and all enforcement, cleanup, remedial, removal, or other governmental or regulatory actions instituted, completed, or threatened pursuant to any Hazardous Materials Laws relating to any Hazardous Materials affecting the Premises; and (ii) all claims made or threatened by any third party against Lessee or the Lessor relating to damage, contribution, cost recovery, compensation, loss, or injury resulting from any Hazardous Materials on or about the premises. Without Lessor's prior written consent, Lessee shall not take any remedial action or enter into any agreements or

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settlements in response to the presence of any Hazardous Materials in, on, or about the Premises.

(c) Lessee shall be solely responsible for and will defend, indemnify and hold Lessor, its agents, and employees harmless from and against all claims, costs, and liabilities, including attorneys' fees and costs, arising out of or in connection with Lessee's breach of its obligations contained in this Paragraph 17 of the Lease. Lessee shall be solely responsible for and will defend, indemnify, and hold Lessor, its agents, and employees harmless from and against any and all claims, costs, and liabilities, including attorneys' fees and costs, arising out of or in connection with the removal, cleanup, and restoration work and materials necessary to return the premises to its condition existing prior to the appearance of Lessee's Hazardous Materials on the premises. Lessee's obligations under this Paragraph 17 shall survive the expiration or any other termination of this Lease.

18) Intoxicating Beverages, Smoking, Vaping and Drugs: The Lessee shall not use, or permit to be used, in connection with its use of these premises, the smoking of cigarettes and/or cigars, use of e-cigarettes, vaping, and the use or possession of any intoxicating beverages or drugs without the specific written approval of the Lessor.

19) Notices: All notices to be given under this Lease shall be in writing and shall be effective either upon personal delivery, or being sent by e-mail with delivery and read receipt requested and received, addressed to the party to whom that such notice is given. Notice sent as above shall be deemed served 24 hours after transmission by e-mail.

Notice to Lessor shall be given to:

Chuck Caroll
American Campus Communities
12700 Hill Country Boulevard, Suite T-200
Austin, Texas, 78738
E-mail: ccarroll@americancampus.com

Jake Newman
American Campus Communities
12700 Hill Country Boulevard, Suite T-200
Austin, Texas, 78738
E-mail: jnewman@americancampus.com

Sean Hopkins, Esq.
Hopkins Sorgi & McCarthy PLLC
5500 Main Street, Suite 343
Williamsville, New York 14221
E-mail: shopkins@hsmlegal.com

Notice to Lessee shall be given to:

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

Town Attorney
5583 Main Street
Williamsville, New York 14221
E-mail: ssliwa@amherst.ny.us

Town Supervisor
5583 Main Street
Williamsville, New York 14221
E-mail: bkulpa@amherst.ny.us

Director of Youth and Recreation
Northtown Center at Amherst
1615 Amherst Manor Drive
Williamsville, New York 14221
E-mail: mpouli@amherst.ny.us

20) Property Tax Adjustment: During the term of this Lease, Lessee shall be responsible to reimburse the Lessor, within fourteen (14) days of its receipt of evidence of tax receipts from the Lessor, for the payment of all property taxes (including Town, County and School District) attributable to the portion of the parcel at 330 Maple Road constituting the premises (10.14 acres of the parcel with a size of 31.60 acres = 32% of the property tax payments). For purposes of this Paragraph 20, the payments to be made by the Lessee to the Lessor for reimbursement of property taxes shall be on a per acre basis.

21) Renewal of Lease: If both parties agree in writing, then this Lease will be renewed upon the terms and conditions to be mutually agreed upon by both parties and upon approval by the Town Board for an additional period to be agreed upon by the parties. Notice of intent to renew must be given by either party at least ninety (90) days before the termination date as specified in Paragraph 19, above. The Lessor shall determine in its sole discretion whether to approve a requested renewal of this Lease provided by the Lessee.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK
SIGNATURES ON FOLLOWING PAGE]

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease as of the day and year first above written.

ACC OP (MAPLE ROAD) LLC

By: Kim K. Voss Digitally signed by Kim Voss Date: 2021.10.22 15:48:43 -05'00'

Print Name: Kim K. Voss

Title: Vice President

TOWN OF AMHERST

By: _____

Name: Brian J. Kulpa

Title: Town Supervisor

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

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EXHIBIT "A"

Z-2014-05

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

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EXHIBIT "B"

Table 5.4(e)10 Recommended Number of Soil Samples for Soil Imported To or Exported From a Site			
Contaminant	**VOCs**	**SVOCs, Inorganics & PCBs/Pesticides**	
Soil Quantity (cubic yards)	**Discrete Samples**	**Composite**	**Discrete Samples/Composite**
0-50	1	1	3-5 discrete samples from different locations in the fill being provided will comprise a composite sample for analysis
50-100	2	1	
100-200	3	1	
200-300	4	1	
300-400	4	2	
400-500	5	2	
500-800	6	2	
800-1000	7	2	
➢ 1000	Add an additional 2 VOC and 1 composite for each additional 1000 Cubic yards or consult with DER		

(f) Compliance for soil exported from a site for reuse. For soil that is being exported from a site to locations other than permitted disposal facilities, the handling requirements are set forth in this subdivision and in paragraph 5.4(e)4.

1. Levels of contamination must not exceed the lower of the groundwater and residential use levels as shown in Appendix 5, absent a beneficial use determination issued by DEC. DER will coordinate with the Division of Solid & Hazardous Materials (DSHM), prior to the start of the remedial action, relative to whether the exported soil can be used beneficially in accordance with 6 NYCRR 360-1. The sampling and analysis requirements are set forth in paragraph 5.4(e)10.

2. The number of required samples are specified in Table 5.4(e)10 and paragraph (e)10 above, which may be modified by the DER project manager based on various factors, including the location of the site receiving the soil.

(g) Compliance for the decommissioning of monitoring wells. All monitoring wells not required for site management should be decommissioned in accordance with paragraph (d)6 above prior to DER approval of the FER.

5.5 Underground Storage Tank Closure

(a) The first step for underground storage tank (UST) closure is the identification, removal, treatment, containment and/or stabilization of the contents to prevent contaminant exposure to receptors and to prevent further movement of contaminants through any pathway as set forth herein.

1. A health and safety plan for the site is developed, as described in section 1.9, by a qualified individual in accordance with subparagraph 1.5(a)3.i.

2. Underground tank closures not performed in accordance with this section will require a certification of the closure report by a professional engineer, as described in section 1.5.

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

Constituent	Unrestricted Use	Residential Use	Restricted Residential Use	Commercial or Industrial Use	If Ecological Resources are Present
Semi-volatile Organic Compounds					
Acenaphthene	20	98	98	98	20
Acenaphthylene	100	100	100	107	NS
Anthracene	100	100	100	500	NS
Benzo(a)anthracene	1	1	1	1	NS
Benzo(a)pyrene	1	1	1	1	2.6
Benzo(b)fluoranthene	1	1	1	1.7	NS
Benzo(g,h,i)perylene	100	100	100	500	NS
Benzo(k)fluoranthene	0.8	1	1.7	1.7	NS
Chrysene	1	1	1	1	NS
Dibenz(a,h)anthracene	0.33 [3]	0.33 [3]	0.33 [3]	0.56	NS
Fluoranthene	100	100	100	500	NS
Fluorene	30	100	100	386	30
Indeno(1,2,3-cd)pyrene	0.5	0.5	0.5	5.6	NS
m-Cresol(s)	0.33 [3]	0.33 [3]	0.33 [3]	0.33 [3]	NS
Naphthalene	12	12	12	12	NS
o-Cresol(s)	0.33 [3]	0.33 [3]	0.33 [3]	0.33 [3]	NS
p-Cresol(s)	0.33	0.33	0.33	0.33	NS
Pentachlorophenol	0.8 [3]	0.8 [3]	0.8 [3]	0.8 [3]	0.8 [3]
Phenanthrene	100	100	100	500	NS
Phenol	0.33 [3]	0.33 [3]	0.33 [3]	0.33 [3]	30
Pyrene	100	100	100	500	NS
Volatile Organic Compounds					
1,1,1-Trichloroethane	0.68	0.68	0.68	0.68	NS
1,1-Dichloroethane	0.27	0.27	0.27	0.27	NS
1,1-Dichloroethene	0.33	0.33	0.33	0.33	NS
1,2-Dichlorobenzene	1.1	1.1	1.1	1.1	NS
1,2-Dichloroethane	0.02	0.02	0.02	0.02	10
1,2-Dichloroethene(cis)	0.25	0.25	0.25	0.25	NS
1,2-Dichloroethene(trans)	0.19	0.19	0.19	0.19	NS
1,3-Dichlorobenzene	2.4	2.4	2.4	2.4	NS
1,4-Dichlorobenzene	1.8	1.8	1.8	1.8	20
1,4-Dioxane	0.1 [3]	0.1 [3]	0.1 [3]	0.1 [3]	0.1
Acetone	0.05	0.05	0.05	0.05	2.2
Benzene	0.06	0.06	0.06	0.06	70
Butylbenzene	12	12	12	12	NS
Carbon tetrachloride	0.76	0.76	0.76	0.76	NS
Chlorobenzene	1.1	1.1	1.1	1.1	40
Chloroform	0.37	0.37	0.37	0.37	12
Ethylbenzene	1	1	1	1	NS
Hexachlorobenzene	0.33 [3]	0.33 [3]	1.2	3.2	NS
Methyl ethyl ketone	0.12	0.12	0.12	0.12	100
Methyl tert-butyl ether	0.93	0.93	0.93	0.93	NS
Methylene chloride	0.05	0.05	0.05	0.05	12

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

Volatile Organic Compounds (continued)					
Propylbenzene-n	3.9	3.9	3.9	3.9	NS
Sec-Butylbenzene	11	11	11	11	NS
Tert-Butylbenzene	5.9	5.9	5.9	5.9	NS
Tetrachloroethene	1.3	1.3	1.3	1.3	2
Toluene	0.7	0.7	0.7	0.7	36
Trichloroethene	0.47	0.47	0.47	0.47	2
Trimethylbenzene-1,2,4	3.6	3.6	3.6	3.6	NS
Trimethylbenzene-1,3,5	8.4	8.4	8.4	8.4	NS
Vinyl chloride	0.02	0.02	0.02	0.02	NS
Xylene (mixed)	0.26	1.6	1.6	1.6	0.26

All concentrations are in parts per million (ppm)
NS = Not Specified

Footnotes:
[1] The SCO for Hexavalent or Trivalent Chromium is considered to be met if the analysis for the total species of this contaminant is below the specific SCO for Hexavalent Chromium.
[2] The SCO is the sum of endosulfan I, endosulfan II and endosulfan sulfate.
[3] For constituents where the calculated SCO was lower than the contract required quantitation limit (CRQL), the CRQL is used as the Track 1 SCO value.
[4] This SCO is derived from data on mixed isomers of BHC.

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

Exhibit "C"

A special meeting of the Amherst Town Board, 5583 Main Street, Williamsville, New York 14221 on Monday, September 29, 1986 at 3:30 P.M.,

Roll call: John R. Sharpe, Supervisor; Richard C. Barton, Councilman; Charles W. Moses, Councilman; Harold J. Collier, Councilman; William L Kindel, Councilman; Lynn Millane, Councilman; Lawrence Southwick, Councilman

Also present: Dolores B. Shearer, Deputy Town Clerk; James M. Nesper, Town Attorney

A motion was made by Councilman Southwick, seconded by Supervisor Sharpe to approve the following resolution:

WHEREAS, the Hartford Insurance Co. has proposed a renewal of the Town's insurance policies at an annual premium of from $1.2 million to $1.8 million and,

WHEREAS, the expected cost of a self insurance program for the Town is substantially less than the price charged by Hartford and

WHEREAS, certain insurance coverages formerly available to the Town are no longer available at any price and,

WHEREAS, the limits on coverage have been reduced and,

WHEREAS, the Town Board wishes to save the taxpayers' money and believes that the risks are acceptable in accord with the September 13 memorandum from Councilman Southwick,

NOW, THEREFORE, BE IT RESOLVED that the basic liability insurance coverages from the Hartford be canceled as of the earliest feasible date and,

BE IT FURTHER RESOLVED that the umbrella policies be canceled as of October 3, 1986 and,

BE IT FURTHER RESOLVED that the workers' compensation policies be transfered to the State Insurance Fund as soon as is feasible and,

BE IT FURTHER RESOLVED that the Supervisor be authorized to sign a contract with the Gallagher-Bassett organization, or with another firm should the Gallagher-Bassett price be too high, for claims handling and

BE IT FURTHER RESOLVED that the Town retain, where feasible, insurance coverage for buildings and contents, boilers, crime, electronic data processing equipment, papers and public officials' liability and

BE IT FURTHER RESOLVED that a fund for claims be set up in the maximum allowable amount and,

BE IT FURTHER RESOLVED that the Town Attorney be authorized to engage outside counsel to defend against actions brought against the Town where such actions would have formerly been defended by the insurance company and,

BE IT FURTHER RESOLVED that the Supervisor be authorized to seek a consulting firm specializing in loss control and prevention services to be contracted for such services.

Roll call: Southwick, aye; Sharpe, aye; Kindel, no; Millane, aye; Collier, aye; Moses, no; Barton, no. Ayes, 4 Noes, 3. Approved.

A motion was made by Supervisor Sharpe, seconded by Councilman Kindel to approve the following reso lution:

WHEREAS, the Town Board of the Town of Amherst on the 29th day of September, 1986 by Resolution duly adopted, determined that it is no longer in the public interest for the Town of Amherst to purchase Automobile and General liability insurance coverage, and

WHEREAS, AS OF THE 3rd day of October 1986 the Town of Amherst will no longer be insured and thus be uninsured for Automobile liability and General liability, and

WHEREAS, there are numerous individuals, agencies, associations, partnerships and corporations servicing the

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

Town of Amherst, and/or its Special Improvement District as volunteers, and

WHEREAS, it is desirable and necessary in order to maintain the present level of services to the residents of the Town to continue to utilize the services of said volunteers,

NOW, THEREFORE, BE IT RESOLVED, that the Town of Amherst hereby holds harmless any and all individuals, associations, partnerships and corporations from any claim, action or proceeding arising out of said volunteers' services to the Town of Amherst and/or its Special Improvement District, and

BE IT FURTHER RESOLVED that the Town Attorney be authorized and directed to defend any and all said actions and proceedings as may be commenced by a third party against said volunteers, and

BE IT FURTHER RESOLVED, that the officers of the Town of Amherst be authorized and directed to take all steps necessary to carry out the intent and purpose of this resolution.

Roll call: Sharpe, aye; Kindel, aye; Moses, aye; Barton, aye; Millane, aye; Southwick, aye; Collier, aye. Ayes, 7; Noes, 0. Approved.

A motion was made by Councilman Southwick, unanimously seconded to approve the following resolution:

WHEREAS, the Town Board of the Town of Amherst on the 29th day of September, 1986 by Resolution duly adopted, determined that it is no longer in the public interest for the Town to purchase Automobile and General liability insurance coverage, and

WHEREAS, the Town of Amherst has utilized from time to time facilities, real property and assets of other municipalities, corporations partnerships, associations, and individuals in order to carry out various Town of Amherst functions and programs and

WHEREAS, it is necessary to continue to utilize said real and personal property of said entities so as to maintain the present level of services to the residents of the Town of Amherst, and

WHEREAS, as part of the consideration for the use of said real and/or personal property it has been necessary to provide a certificate of insurance naming said entities as a party insured

NOW, THEREFORE, BE IT RESOLVED, that the Supervisor with the assistance of the Town Attorney be authorized and directed to enter into "save harmless" agreements with said municipalities, corporations Partnerships, associations and individuals for the purpose of continuing to utilize said entities real or personal property for various functions and programs sponsored and administered by the Town of Amherst and/or its Special Improvement Districts. and

BE IT FURTHER RESOLVED, that the Supervisor and Town Attorney take all other necessary steps to carry out the intent and purpose of this Resolution.

Roll call: Southwick, aye; Sharpe. aye, Moses, aye; Barton, aye; Collier. aye, Millane, aye; Kindel, aye. Ayes, 7; Noes, 0. Approved.

Adjourn: 4:30 P.M.

Dolores B. Schearer
Deputy Town Clerk
Town of Amherst,
Erie County New York

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

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EXHIBIT "D"

ACORD

TOWNOFA-01

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 10/22/2021

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 License # 1009544 Lawley, LLC 361 Delaware Avenue Buffalo, NY 14202	CONTACT NAME: Luke Szudzik PHONE (A/C, No, Ext): (716) 849-4343 4343 FAX (A/C, No): (716) 849-8291 E-MAIL ADDRESS: lszudzik@lawleyinsurance.com
INSURED Town of Amherst 5583 Main Street Williamsville, NY 14221	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : Argonaut Insurance Company — 19801 INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	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)	$
								$
A	[ ] UMBRELLA LIAB [X] OCCUR						EACH OCCURRENCE	$ 10,000,00
	[X] EXCESS LIAB [ ] CLAIMS-MADE	X		4623365-10	1/1/2021	1/1/2022	AGGREGATE	$ 10,000,00
	[ ] DED [X] RETENTION $ 2,000,000							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE [ ] OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N [ ] (Mandatory in NH)	N / A					E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
ACC OP (Maple Road) LLC is listed as an Additional Insured with regards to Excess Liability as required by written contract or agreement.

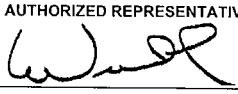
CERTIFICATE HOLDER

ACC OP (Maple Road) LLC
12700 Hill Country Road
Suite 200
Austin, TX 78738

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



ACORD 25 (2016/03)

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Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

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EXHIBIT E

RECEIVED
SEP 17 2021
TOWN OF AMHERST
HUMAN RESOURCES

NEW YORK STATE OF OPPORTUNITY. **Workers' Compensation Board**

KATHY HOCHUL
GOVERNOR

CLARISSA M. RODRIGUEZ
CHAIR

Office of the Secretary
Compliance With Workers' Compensation Law

I, Kim McCarroll, Secretary for the Workers' Compensation Board, DO HEREBY Certify that:

Name: Amherst, Town of

WCB #: W802169

Tax ID #: 16-6002157

Qual Date: 7/3/1993

has secured compensation to its employees as a self-insurer in the following manner:

Pursuant to Section 50, subdivisions 3 and 4 of the Workers' Compensation Law. (County, city, village, town, school district, fire district or other political subdivision)

The status of the self-insurer was effective as noted above and remains in full force.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Workers' Compensation Board this 13th day of September 2021.

Kim McCarroll

KIM MCCARROLL
SECRETARY

Status Confirmed By
John Scott
9/13/2021

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

EXHIBIT F

CERTIFICATE OF EXCESS INSURANCE CONTRACT FOR SELF-INSURER

SAFETY NATIONAL CASUALTY CORPORATION
Name of Excess Insurance Carrier

1832 SCHUETZ ROAD
Address

ST. LOUIS, MO 63146
City, State, Zip Code

THIS IS TO CERTIFY that a Workers' Compensation Excess Insurance Policy has been issued by this Company as follows:

The Excess Insurance Policy is now in force and the Company will give the Chair, Workers' Compensation Board, State of New York not less than thirty (30) days written notice of cancellation or of any change to be made by the Company in said Policy. Such notice shall be sent by registered or certified mail to: Workers' Compensation Board, Attention: Office of Self-Insurance, 328 State Street, Schenectady, NY 12305.

Name of Self-Insurer TOWN OF AMHERST

Address 5583 MAIN STREET, WILLIAMSVILLE, NY 14221

Policy Number SP 4064234

Policy effective date: January 01, 2021 Policy expiration date: January 01, 2022

Company's Limits of Liability ***Statutory*** each occurrence.

Self-Insurer's Retention $ 1,000,000 each occurrence.

Dated this 15 day of October , 2021

By signing this form, the authorized official certifies that the insurance carrier is authorized by the Superintendent of Financial Services to issue excess policies in New York State; the above policy contains per occurrence coverage for workers' compensation subject to the terms and conditions described above; and the above policy does not contain a corridor deductible.

EXCESS CARRIER AFFIRMATION

By signing this agreement, the signer certifies that he/she is authorized to execute this instrument on behalf of

SAFETY NATIONAL CASUALTY CORPORATION for the purposes set forth herein,

and that, pursuant to that authority, he/she is executing this instrument in the name of and on behalf of said entity as an act and deed of said entity.

Signature of Authorized Official	Executive Vice President Underwriting Title	10/15/2021 Date
Seth A. Smith Print Name of Authorized Official	(314) 995-5300 Phone #	Seth.Smith@SafetyNational.com Email

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

NEW YORK CONSENT FORM

RE: Policy No.: SP 4064234

As an authorized representative of the EMPLOYER, I hereby acknowledge that the above referenced policy issued by Safety National Casualty Corporation provides that Loss shall include Claims Expenses, and that, accordingly, the Limits of Indemnity of the policy shall be reduced and may be completely exhausted by Claims Expenses, and to the extent that policy limits are thereby exceeded, the CORPORATION shall not be liable for Claims Expenses or for the amount of statutory benefits, settlements, awards or judgments.

All other terms, conditions, agreements and stipulations remain unchanged.

Attached to and forming a part of Excess Workers' Compensation and Employers' Liability Insurance Agreement No. SP 4064234, issued by SAFETY NATIONAL CASUALTY CORPORATION of St. Louis, Missouri to TOWN OF AMHERST, dated January 01, 2021.

SAFETY NATIONAL CASUALTY CORPORATION

Secretary

President

Consented to By: _____

Name/Title
(Employer Representative)

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

SAFETY NATIONAL CASUALTY CORPORATION
1832 SCHUETZ ROAD
ST. LOUIS, MO 63146

DECLARATIONS – SPECIFIC EXCESS **SP 4064234**

Item 1. **Employer:** TOWN OF AMHERST

Address: 5583 MAIN STREET, WILLIAMSVILLE, NY 14221

Item 2. **This Agreement covers all business operations of the EMPLOYER as a Self-Insurer in the following State(s):** NEW YORK

Item 3. **Effective Date: 12:01 A.M.** January 01, 2021

Item 4. **Anniversary Date: 12:01 A.M.** January 01, 2022

Item 5. **The Service Company shall be** PMA MANAGEMENT CORP.

Item 6. CLASSIFICATIONS OF OPERATIONS	Code Number	Estimated Total Annual Remuneration/Manhours	Rate Per $ 100 Remuneration/Manhours
See Attached			
		Total Estimated Manual Premium	N/A
		SNCC Experience Modification Factor	N/A
		Total Estimated Standard Premium	N/A

Item 7. **Self-Insured Retention Per Occurrence** $ 1,000,000

Item 8. **(a) Maximum Limit of Indemnity Per Occurrence** Statutory
(b) Employers' Liability Maximum Limit of Indemnity Per Occurrence $ 2,000,000

Item 9. **Premium Rate** $ 0.278 per $100 of Payroll

Item 10. **Minimum Premium for the Liability Period** $ 134,015

Item 11. **Deposit Premium for the Payroll Reporting Period** $ 148,905

Item 12. **Payroll Reporting Period** January 01, 2021 through January 01, 2022

Item 13. **Endorsements** See Endorsement Schedule

Signed at St. Louis, Missouri on December 30, 2020

Secretary

Countersigned this day of

By: N/A

DSP-0195

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

1005 00 1101 (XWC)

ITEM 6

RE: TOWN OF AMHERST

Policy No: SP 4064234
Effective Date: 12:01 A.M. January 01, 2021

Declarations:

Item 6.

St	Classifications of Operations	Code No.	Estimated Total Annual Remuneration/ Manhours	Rate per $100 Remuneration/ Manhours	Estimated Premium
NY					
	Tree Pruning, Repairing or Trimming - All Operations to Completion & Drivers	0106	$ 692,195	N/A	N/A
	Machinery or Equipment Erection or Installation NOC - All Operations to Completion & Drivers	3724	$ 503,172		
	Sewage Disposal Plant Operation & Drivers	7580	$ 5,413,477		
	Firefighters--Volunteer--& Drivers	7711	***		
	Police Officers & Drivers	7720	$ 19,211,580		
	Automobile Gasoline and/or Service Station	8391	$ 1,847,686		
	Clerical Office Employees NOC	8810	$ 8,743,828		
	Attorney--All Employees--& Clerical, Messengers, Drivers	8820	$ 483,771		
	Building Operation--Commercial	9026	$ 872,960		
	YMCA, YWCA, YMHA or YWHA, Institution--All Employees--& Clerical	9063	$ 3,399,020		
	Park NOC--All Employees--& Drivers	9102	$ 2,712,915		
	Street Cleaning - All Operations to Completion & Drivers	9402	$ 4,984,521		
	Garbage, Ashes or Refuse Collection & Drivers	9403	$ 670,652		
	Municipal, Township, County or State Employee NOC	9410	$ 4,027,332		
			$ 53,563,109		
	Total Payroll		$ 53,563,109		

***Volunteer Exposure is contemplated within the final premium rate.

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

1004 00 1101 (XWC)

Endorsement Schedule

RE: TOWN OF AMHERST

Policy No: SP 4064234

Effective Date: **12:01 A.M.** January 01, 2021

Number	Title
0028 00 1291 (XWC)	NEW YORK CONSENT TO SERVICE OF PROCESS
0117 00 0796 (XWC)	NEW YORK POLICY CONTINUOUS UNTIL CANCELLED
0118 00 0796 (XWC)	NEW YORK BANKRUPTCY/INSOLVENCY ENDORSEMENT
0119 00 0514 (XWC)	NEW YORK CANCELLATION ENDORSEMENT
0120 00 0796 (XWC)	NEW YORK REQUIRED PROVISIONS
0121 00 0796 (XWC)	NEW YORK DIRECT ACTIONS PERMITTED AGAINST CORPORATION
0276 02 0408 (XWC)	BROAD FORM ALL STATES FOR EMPLOYEE TRAVEL
0291 00 0708 (XWC)	VOLUNTARY COMPENSATION ENDORSEMENT-PREMIUM DELINEATION
0460 00 1197 (XWC)	NEW YORK VOLUNTEER FIREFIGHTERS' BENEFITS ENDORSEMENT
0489 02 0119 (XWC)	MODIFIED CLAIMS REPORTING DUTIES
1249 00 0908 (XWC)	NEW YORK EXCLUSION OF FINES AND PENALTIES ENDORSEMENT
6000 00 0121 (XWC)	TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT ENDORSEMENT

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

0028 00 1291 (XWC)

ENDORSEMENT

NEW YORK CONSENT TO SERVICE OF PROCESS

Effective 12:01 A.M., Local Time, January 01, 2021

In consideration of the payment of premium and adherence by both parties to the terms of this Agreement, it is hereby understood and agreed as follows:

SAFETY NATIONAL CASUALTY CORPORATION appoints the Superintendent of Insurance of the State of New York, and any successor in office and duly authorized deputies, as the true and lawful attorney of SAFETY NATIONAL CASUALTY CORPORATION in and for the State of New York, upon whom all lawful process may be served in any action, suit or proceeding instituted in New York by, or on behalf of, an insured or beneficiary against said SAFETY NATIONAL CASUALTY CORPORATION, arising out of this Insurance Agreement.

All other terms, conditions, agreements and stipulations remain unchanged.

Attached to and forming a part of Excess Workers' Compensation and Employers' Liability Insurance Agreement No. SP 4064234, issued by SAFETY NATIONAL CASUALTY CORPORATION of St. Louis, Missouri to TOWN OF AMHERST, dated January 01, 2021.

SAFETY NATIONAL CASUALTY CORPORATION

Secretary

President

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

0117 00 0796 (XWC)

ENDORSEMENT

NEW YORK POLICY CONTINUOUS UNTIL CANCELLED

Effective 12:01 A.M., Local Time, January 01, 2021

In consideration of the payment of premium and adherence by both parties to the terms of this Agreement, it is hereby understood and agreed that the second paragraph of the Liability Period Section of this Agreement is deleted and replaced with the following language:

> This Agreement shall be continuous until cancellation is effected by either party, in accordance with the Cancellation Section of this Agreement.

All other terms, conditions, agreements and stipulations remain unchanged.

Attached to and forming a part of Excess Workers' Compensation and Employers' Liability Insurance Agreement No. SP 4064234, issued by SAFETY NATIONAL CASUALTY CORPORATION of St. Louis, Missouri to TOWN OF AMHERST, dated January 01, 2021.

SAFETY NATIONAL CASUALTY CORPORATION

Secretary

President

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

0118 00 0796 (XWC)

ENDORSEMENT

NEW YORK BANKRUPTCY/INSOLVENCY ENDORSEMENT

Effective 12:01 A.M., Local Time, January 01, 2021

In consideration of the payment of premium and adherence by both parties to the terms of this Agreement, it is hereby understood and agreed that the Bankruptcy or Insolvency of Employer Section of this Agreement is revised to read as follows:

Neither the insolvency nor bankruptcy of the EMPLOYER nor failure or default on the part of the EMPLOYER to comply with obligations pursuant to the Workers' Compensation Law on account of any Loss occurring during the term of this Agreement shall release the CORPORATION from its undertaking under this Agreement, but in such event the CORPORATION shall become jointly liable with the EMPLOYER for and shall pay directly to the claimant, or, at the direction of the Chair of the Workers' Compensation Board or the Board, to the persons entitled thereto, to the Chair or the Aggregate Trust Fund or to any other Special Fund provided by law, such portion of any obligation which exceeds the retention and subject to the limit(s) of liabilities stated in the Declarations. Such payment shall release the CORPORATION from liability to the same extent as if such payment had been to the EMPLOYER by way of reimbursement. Nothing in this paragraph shall be construed to give the claimant a direct right of action against the CORPORATION.

In the event of the insolvency or bankruptcy of the EMPLOYER, or the failure or default on the part of the EMPLOYER to comply with any obligations pursuant to the Workers' Compensation Law, the Chair of the Workers' Compensation Board shall be subrogated to all the rights of the EMPLOYER in enforcing the provisions of this Agreement.

All other terms, conditions, agreements and stipulations remain unchanged.

Attached to and forming a part of Excess Workers' Compensation and Employers' Liability Insurance Agreement No. SP 4064234, issued by SAFETY NATIONAL CASUALTY CORPORATION of St. Louis, Missouri to TOWN OF AMHERST, dated January 01, 2021.

SAFETY NATIONAL CASUALTY CORPORATION

Secretary

President

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

0119 00 0514 (XWC)

ENDORSEMENT

NEW YORK CANCELLATION ENDORSEMENT

Effective 12:01 A.M., Local Time, January 01, 2021

In consideration of the payment of premium and adherence by both parties to the terms of this Agreement, it is hereby understood and agreed that the first paragraph of the Cancellation Section of this Agreement is hereby deleted and replaced with the following language:

1. During the first sixty (60) days this Agreement is in effect, no cancellation shall become effective until thirty (30) days after written notice is mailed or delivered to the EMPLOYER at the mailing address shown in the Declarations and to the EMPLOYER'S authorized agent or broker.

2. After this Agreement has been in effect for sixty (60) days, unless cancelled pursuant to paragraph 1 above, or on or after the annual anniversary of the effective date of this Agreement, no notice of cancellation shall become effective until thirty (30) days after written notice is mailed or delivered to the EMPLOYER at the mailing address in the Declarations, and to the EMPLOYER'S authorized agent or broker, and such cancellation is based on one or more of the following:

   (a) Non-payment of premium, provided however, that a notice of cancellation on this ground shall inform the EMPLOYER of the amount due;

   (b) Conviction of a crime arising out of acts increasing the hazard insured against;

   (c) Discovery of fraud or material misrepresentation in the obtaining of the Agreement or in the presentation of a claim thereunder;

   (d) After issuance of the Agreement or after the last anniversary of the effective date, discovery of an act or omission, or a violation of any policy condition, that substantially and materially increases the hazard insured against, and which occurred subsequent to inception of the current Liability Period;

   (e) A determination by the New York Superintendent that continuation of the present premium volume of the CORPORATION would jeopardize the CORPORATIONS's solvency or be hazardous to the interests of the CORPORATION's insureds, its creditors or the public; or

   (f) A determination by the New York Superintendent that the continuation of the Agreement would violate, or would place the CORPORATION in violation of, any provision of New York law.

3. No notice of cancellation shall be effective unless a copy of such notice is filed by registered mail at least thirty (30) days prior to the effective date of cancellation with the Chair of the Workers' Compensation Board, 328 State Street, Schenectady, New York 12305.

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

0119 00 0514 (XWC)

ENDORSEMENT (CONTINUED)

All other terms, conditions, agreements and stipulations remain unchanged.

Attached to and forming a part of Excess Workers' Compensation and Employers' Liability Insurance Agreement No. SP 4064234, issued by SAFETY NATIONAL CASUALTY CORPORATION of St. Louis, Missouri to TOWN OF AMHERST, dated January 01, 2021.

SAFETY NATIONAL CASUALTY CORPORATION

Secretary

President

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

0120 00 0796 (XWC)

ENDORSEMENT

NEW YORK REQUIRED PROVISIONS

Effective 12:01 A.M., Local Time, January 01, 2021

In consideration of the payment of premium and adherence by both parties to the terms of this Agreement, it is hereby understood and agreed as follows:

(1) In the event the EMPLOYER cannot be located to proceed against, the CORPORATION can be made a party in place of the EMPLOYER, and shall be bound by decisions and awards of the Workers' Compensation Board; and

(2) Notice or knowledge of an Occurrence by the EMPLOYER is deemed notice or knowledge to the CORPORATION; and

(3) This Agreement covers the EMPLOYER for all of its Employees employed during the period in which the Agreement is in effect, provided the compensable injury or death happened during the Liability Period of this Agreement.

All other terms, conditions, agreements and stipulations remain unchanged.

Attached to and forming a part of Excess Workers' Compensation and Employers' Liability Insurance Agreement No. SP 4064234, issued by SAFETY NATIONAL CASUALTY CORPORATION of St. Louis, Missouri to TOWN OF AMHERST, dated January 01, 2021.

SAFETY NATIONAL CASUALTY CORPORATION

Secretary

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0121 00 0796 (XWC)

ENDORSEMENT

NEW YORK DIRECT ACTIONS PERMITTED AGAINST CORPORATION

Effective 12:01 A.M., Local Time, January 01, 2021

In consideration of the payment of premium and adherence by both parties to the terms of this Agreement, it is hereby understood and agreed as follows:

In the event that a judgment against the EMPLOYER brought to recover damages for Loss occasioned during the life of this Agreement shall remain unsatisfied at the expiration of thirty days from the serving of notice of entry of judgment upon the attorney for the EMPLOYER, or upon the EMPLOYER, and upon the EMPLOYER, then an action may, except during a stay or limited stay of execution against the EMPLOYER on such judgment, be maintained against the CORPORATION under the terms of this Agreement for the amount of such judgment not exceeding the amount of the applicable limit(s) of coverage under this Agreement.

All other terms, conditions, agreements and stipulations remain unchanged.

Attached to and forming a part of Excess Workers' Compensation and Employers' Liability Insurance Agreement No. SP 4064234, issued by SAFETY NATIONAL CASUALTY CORPORATION of St. Louis, Missouri to TOWN OF AMHERST, dated January 01, 2021.

SAFETY NATIONAL CASUALTY CORPORATION

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0276 02 0408 (XWC)

ENDORSEMENT

BROAD FORM ALL STATES FOR EMPLOYEE TRAVEL

Effective 12:01 A.M., Local Time, January 01, 2021

In consideration of the payment of premium and adherence by both parties to the terms of this Agreement, it is hereby understood and agreed that this Agreement shall include the following:

1. If the EMPLOYER undertakes operations in or, at the request of the EMPLOYER, an Employee travels to or is temporarily assigned to, any State not designated in Item 2 of the Declarations, this Agreement applies to such operations, travel or temporary assignment. Should EMPLOYER undertake operations in a state not designated in Item 2 of the Declarations, the EMPLOYER shall give notice to the CORPORATION before or within a reasonable time after the commencement of such operations. The EMPLOYER shall take whatever action is necessary to come within the Workers' Compensation and occupational disease laws of such State.

2. Should an Employee, at the direction of the EMPLOYER, travel to or be temporarily assigned to any State or States not designated in Item 2 of the Declarations, this Agreement shall provide coverage for Loss sustained by the EMPLOYER because of liability imposed upon the EMPLOYER by the Workers' Compensation or Employers' Liability Laws of such non-designated State.

3. This Agreement also applies to Loss sustained by the EMPLOYER because of liability imposed upon the EMPLOYER by the Workers' Compensation and Employers' Liability Laws of such non-designated State.

4. Any Loss covered by this Endorsement shall be subject to all the limitations of this Agreement including but not limited to the Self-Insured Retention Per Occurrence or the Limitation Per Occurrence and the Maximum Limit(s) of Indemnity of the CORPORATION for the Liability Period.

5. The word "State" as used in this Endorsement shall mean any State of the United States of America and the District of Columbia.

6. The insurance afforded by this Endorsement does not cover fines or penalties imposed on the EMPLOYER for failure to comply with the requirements of any Workers' Compensation Law.

7. All of the provisions of this Agreement, insofar as such provisions are not inconsistent herewith, are applicable to the insurance afforded by the Agreement by virtue of this Endorsement.

All other terms, conditions, agreements and stipulations remain unchanged.

Attached to and forming a part of Excess Workers' Compensation and Employers' Liability Insurance Agreement No. SP 4064234, issued by SAFETY NATIONAL CASUALTY CORPORATION of St. Louis, Missouri to TOWN OF AMHERST, dated January 01, 2021.

SAFETY NATIONAL CASUALTY CORPORATION

Secretary

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Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

0291 00 0708 (XWC)

ENDORSEMENT

VOLUNTARY COMPENSATION ENDORSEMENT-PREMIUM DELINEATION

Effective 12:01 A.M., Local Time, January 01, 2021

In consideration of the payment of premium and adherence by both parties to the terms of this Agreement, it is hereby understood and agreed that this Endorsement adds voluntary compensation insurance to this Agreement as follows:

A. Coverage

It is the intent of this endorsement to extend the coverage provided by this Agreement to non-compensated volunteer Employees, operating at the direction of the EMPLOYER, as if the volunteer Employees were subject to the Workers' Compensation and Employers' Liability Laws stipulated in the Schedule below, even though these laws may not require payment of benefits to such volunteer Employees.

This insurance applies to Loss sustained by the EMPLOYER because of bodily injury and occupational disease, including death resulting therefrom, due to Occurrences taking place within the Liability Period of this Agreement.

1. The bodily injury or occupational disease must be sustained by an Employee included in the group of Employees described in the Schedule.

2. The bodily injury or occupational disease must occur in the course of employment necessary or incidental to work in a State listed in the Schedule.

3. The bodily injury or occupational disease must occur in the United States of America, its territories or possessions or Canada and may occur elsewhere if the Employee is an American or Canadian citizen temporarily away from their home country.

B. Indemnification

The CORPORATION will indemnify the EMPLOYER for Loss in satisfaction of statutory benefits that would be imposed if the EMPLOYER and Employees described in the Schedule were subject to the Workers' Compensation Law shown in the Schedule. Naturally, indemnification for any such Loss is subject to the Self-Insured Retention Per Occurrence, Loss Fund(s) and Maximum Limit(s) of Liability as specified in the Declarations.

C. Exclusions

This insurance does not cover:

1. Any obligation imposed by a workers' compensation or occupational disease law, or any similar law.

2. Bodily injury intentionally caused or aggravated by the EMPLOYER.

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

0291 00 0708 (XWC)

ENDORSEMENT (CONTINUED)

D. Before Indemnification

Before the CORPORATION indemnifies the EMPLOYER, the injured Employee, or his legal representative in the case of his incapacity or death, must:

1. Release the EMPLOYER and the CORPORATION, in writing, of all responsibility for the injury or death.

2. Transfer to the EMPLOYER and the CORPORATION their right to recover from others who may be responsible for the injury or disease.

3. Cooperate and do everything necessary to enable the EMPLOYER and the CORPORATION to enforce the right to recover from others.

If the injured Employee, or his legal representative(s), fails to perform as required above, or if they claim damages from the EMPLOYER or the CORPORATION for the injury or disease, the CORPORATION'S duty to indemnify the EMPLOYER is immediately terminated.

E. Recovery From Others

If the CORPORATION makes a recovery from others, the CORPORATION will keep an amount equal to its expenses of recovery and the Loss paid by the CORPORATION. The CORPORATION will pay the balance to the parties entitled to payment. If the parties entitled to the benefits of this insurance make a recovery from others, they must reimburse the CORPORATION for the Loss previously paid by the CORPORATION to such parties.

F. Employers' Liability Insurance

Employers' Liability Insurance applies to Loss covered by this endorsement as though the State of employment shown in the Schedule were shown in Item 2 of the Declarations.

G. Premium

It is agreed that all persons who donate their services to the EMPLOYER will be reported for purposes of premium computation at an hourly wage of $7.25 per hour minimum, unless the work they do is similar to the work being done by a paid Employee who is receiving more than a $7.25 per hour wage, in which event the wage reported for the unpaid voluntary Employee will be the same as the wage reported for the paid Employee.

SCHEDULE

Employees	State of Employment	Designated Workers Compensation Law
Authorized volunteers, student workers, etc, while not subject to any Workers' Compensation Law. Excludes Volunteer Firefighters and Volunteer Ambulance Workers.	NEW YORK	State(s) of NEW YORK

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

0291 00 0708 (XWC)

ENDORSEMENT (CONTINUED)

All other terms, conditions, agreements and stipulations remain unchanged.

Attached to and forming a part of Excess Workers' Compensation and Employers' Liability Insurance Agreement No. SP 4064234, issued by SAFETY NATIONAL CASUALTY CORPORATION of St. Louis, Missouri to TOWN OF AMHERST, dated January 01, 2021.

SAFETY NATIONAL CASUALTY CORPORATION

Secretary

President

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0460 00 1197 (XWC)

ENDORSEMENT

NEW YORK VOLUNTEER FIREFIGHTERS' BENEFITS ENDORSEMENT

Effective 12:01 A.M., Local Time, January 01, 2021

In consideration of the payment of premium and adherence by both parties to the terms of this Agreement, it is hereby understood and agreed as follows:

To the extent the EMPLOYER retains or utilizes the services of volunteer firefighters who are subject to the protection of the New York Volunteer Firefighters' Benefit Law, Chapter 64-A, Consolidated Laws of New York (the "Volunteer Firefighters' Law"), such volunteer firefighters shall be included in the coverage provided to the EMPLOYER under this Agreement and the benefits payable under the Volunteer Firefighters' Law shall be applicable to such workers.

Accordingly, the first paragraph of the Coverage of Agreement Section of this Agreement is revised to read as follows:

This Agreement applies only to Loss sustained by the EMPLOYER because of liability imposed upon the EMPLOYER by the Workers' Compensation Laws, Employers' Liability Laws or, only to the extent coverage applies in New York, the New York Volunteer Firefighters' Benefit Law of:

(1) the State(s) designated in the Declarations, or

(2) other State(s), provided that the "Loss" shall not be greater than it would have been had liability been imposed by the State(s) specified in the Declarations,

on account of bodily injury by accident or bodily injury by occupational disease due to Occurrences taking place within the Liability Period to Employees (and, if applicable, to volunteer firefighters) engaged in the business operations specified in the Declarations and all other operations necessary, incidental or appurtenant thereto. Bodily injury includes resulting death.

In addition, paragraph (1) of the Definition Section of this Agreement is revised to read as follows:

(1) "Loss" - shall mean actual payments legally made by the EMPLOYER to Employees (or, if applicable, to volunteer firefighters) and their dependents in satisfaction of: (a) statutory benefits, (b) settlements of suits and claims, and (c) awards and judgments. "Loss" shall also include Claim Expenses, paid by the EMPLOYER, as defined in Paragraph (2) of this Section. The term "Loss" shall not include the items specifically excluded by Paragraph (3) of this Section.

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

0460 00 1197 (XWC)

ENDORSEMENT (CONTINUED)

All other terms, conditions, agreements and stipulations remain unchanged.

Attached to and forming a part of Excess Workers' Compensation and Employers' Liability Insurance Agreement No. SP 4064234, issued by SAFETY NATIONAL CASUALTY CORPORATION of St. Louis, Missouri to TOWN OF AMHERST, dated January 01, 2021.

SAFETY NATIONAL CASUALTY CORPORATION

Secretary

President

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

0489 02 0119 (XWC)

ENDORSEMENT

MODIFIED CLAIMS REPORTING DUTIES

Effective 12:01 A.M., Local Time, January 01, 2021

In consideration of the payment of premium and adherence by both parties to the terms of this Agreement, it is hereby understood and agreed as follows:

The first paragraph of **Section I. Prompt Reporting of Claims**, is deleted in its entirety and amended to read as follows:

As soon as the EMPLOYER becomes aware, the EMPLOYER must provide prompt notice to the CORPORATION of:

(a) Any claim or action where the Loss(es) for an Occurrence taking place within the Liability Period meet or exceed $ 100,000; and,

(b) the reopening of any claim in which a further award might involve liability of the CORPORATION under this Agreement.

All other terms, conditions, agreements and stipulations remain unchanged.

Attached to and forming a part of Excess Workers' Compensation and Employers' Liability Insurance Agreement No. SP 4064234, issued by SAFETY NATIONAL CASUALTY CORPORATION of St. Louis, Missouri to TOWN OF AMHERST, dated January 01, 2021. Endorsement No. 0489 02 0119 (XWC)

SAFETY NATIONAL CASUALTY CORPORATION

Secretary

President

Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

1249 00 0908 (XWC)

ENDORSEMENT

NEW YORK EXCLUSION OF FINES AND PENALTIES ENDORSEMENT

Effective 12:01 A.M., Local Time, January 01, 2021

In consideration of the payment of premium and adherence by both parties to the terms of this Agreement, it is hereby understood and agreed that paragraph 3(d) of the Definitions section is amended to read as follows:

(d) Fines or penalties assessed against the EMPLOYER;

All other terms, conditions, agreements and stipulations remain unchanged.

Attached to and forming a part of Excess Workers' Compensation and Employers' Liability Insurance Agreement No. SP 4064234, issued by SAFETY NATIONAL CASUALTY CORPORATION of St. Louis, Missouri to TOWN OF AMHERST, dated January 01, 2021.

SAFETY NATIONAL CASUALTY CORPORATION

Secretary

President

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TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT ENDORSEMENT

This endorsement addresses requirements of the Terrorism Risk Insurance Act of 2002 as amended by the Terrorism Risk Insurance Program Reauthorization Act of 2019. It serves to notify you of certain limitations under the Act, and that your insurance carrier is charging premium for losses that may occur in the event of an Act of Terrorism.

Your policy provides coverage for excess workers compensation losses caused by Acts of Terrorism, including excess workers compensation benefit obligations dictated by state law. Coverage for such losses is still subject to all terms, definitions, exclusions, and conditions in your policy, and any applicable federal and/or state laws, rules, or regulations.

Definitions

The definitions provided in this endorsement are based on and have the same meaning as the definitions in the Act. If words or phrases not defined in this endorsement are defined in the Act, the definitions in the Act will apply.

1. "Act" means the Terrorism Risk Insurance Act of 2002, which took effect on November 26, 2002, and any amendments thereto, including any amendments resulting from the Terrorism Risk Insurance Program Reauthorization Act of 2019.
2. "Act of Terrorism" means any act that is certified by the Secretary of the Treasury, in consultation with the Secretary of Homeland Security, and the Attorney General of the United States as meeting all of the following requirements:
   a. The act is an act of terrorism.
   b. The act is violent or dangerous to human life, property or infrastructure.
   c. The act resulted in damage within the United States, or outside of the United States in the case of the premises of United States missions or certain air carriers or vessels.
   d. The act has been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.
3. "Insured Loss" means any loss resulting from an act of terrorism (and, except for Pennsylvania, including an act of war, in the case of workers compensation) that is covered by primary or excess property and casualty insurance issued by an insurer if the loss occurs in the United States or at the premises of United States missions or to certain air carriers or vessels.
4. "Insurer Deductible" means, for the period beginning on January 1, 2021, and ending on December 31, 2027, an amount equal to 20% of our direct earned premiums, during the immediately preceding calendar year.

Limitation of Liability

The Act may limit our liability to you under this policy. If aggregate Insured Losses exceed $100,000,000,000 in a calendar year and if we have met our Insurer Deductible, we may not be liable for the payment of any portion of the amount of Insured Losses that exceeds $100,000,000,000; and for aggregate Insured Losses up to $100,000,000,000, we may only have to pay a pro rata share of such Insured Losses as determined by the Secretary of the Treasury.

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Attachment: SUSPENSION Y&R Attachment (CRS #2963) Lease Agreement-Executed-ACC 20211025 (RES-2021-968 : Authorization of the

Excess Workers' Compensation and Employers' Liability Insurance Policy

6000 00 0121 (XWC)

Policyholder Disclosure Notice

1. Insured Losses would be partially reimbursed by the United States Government. If the aggregate industry Insured Losses occurring in any calendar year exceed $200,000,000, the United States Government would pay 80% of our Insured Losses that exceed our Insurer Deductible.
2. Notwithstanding item 1 above, the United States Government may not have to make any payment under the Act for any portion of Insured Losses that exceed $100,000,000,000.
3. The premium charged for the coverage for Insured Losses under this policy is included in the "Deposit Premium for the Payroll Reporting Period" shown on the Declarations Page or the Schedule below.

SCHEDULE

Rate per $100 of Remuneration: $ 0.278

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective January 01, 2021 Policy No. SP 4064234 Endorsement No.

Insured TOWN OF AMHERST Premium $ Included

Insurance Company SAFETY NATIONAL CASUALTY CORPORATION

Countersigned By N/A

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SAFETY NATIONAL CASUALTY CORPORATION

PRIVACY STATEMENT

Our Commitment To Our Customers

Safety National Casualty Corporation ("Safety National") is proud to have provided quality products and services to its customers for over 50 years. We greatly appreciate the trust that you and all of our customers place in us. We protect that trust by respecting the privacy of all of our customers, both present and past. The following will explain our privacy practices so that you will understand our commitment to your privacy.

We Respect Your Privacy

When you apply to Safety National for any type of insurance, you disclose information about you to us. The collection, use and disclosure of such information is regulated by law. Safety National and its affiliates maintain physical, electronic and procedural safeguards that comply with state and federal regulations to guard your personal information. Our employees are also advised of the importance of maintaining the confidentiality of your information.

Types Of Information We Collect

Safety National obtains most of our information directly from you, your agent or broker. The application you complete, as well as any additional information you provide, generally gives us most of the details we need to know. Depending on the nature of your insurance transaction, we may need further details about you.

We may obtain information from third parties, such as other insurance or reinsurance companies, medical providers, government agencies, information clearinghouses and other public records. We may also obtain information about you from your other transactions with us, our affiliates or others.

What We Do With Your Information

Information that has been collected about you will be retained in our files. We will review your information in evaluating your request for insurance coverage, determining your rates or underwriting risk, servicing your policy or adjusting claims. We may retain information about our former customers and would disclose that information only to affiliates and to non-affiliates as described in this notice or as otherwise permitted by law.

To Whom Do We Disclose Your Information

We will not disclose any non-public, personal information about our customers or former customers, except as permitted by law. That means we may disclose information we have collected about you to the following types of third parties:

- Our affiliated companies (Members and subsidiaries of the Tokio Marine Holdings, Inc. group of companies).
- Your agent or broker.
- Parties who perform a business or insurance function for Safety National, including reinsurance, underwriting, claims administration or adjusting, investigation, loss control and computer systems companies.
- Other insurance companies or agents as reasonably necessary concerning your application, policy or claim.
- Insurance regulatory or statistical reporting agencies.
- Law enforcement or governmental authorities in connection with suspected fraud or illegal activities.
- Authorized persons as ordered by subpoena, warrant or court order, or as required by law.

We do not disclose any non-public, personal information about you to non-affiliated companies for marketing purposes or for any other purpose except those specifically allowed by law and described above.

Independent Sales Agents or Brokers

Your policy may have been placed with us through an independent agent or broker ("Sales Agent"). Your Sales Agent may have gathered information about you. The use and protection of information obtained by your Sales Agent is their responsibility, not Safety National's. If you have questions about how your Sales Agent uses or discloses your information, please contact them directly.

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