



August 18, 2021

William Clark, Chairman  
Town of Hamburg Planning Board  
6100 South Park Avenue  
Hamburg, New York 14075

Re: Proposed Parker Road Subdivision  
Applicant/Project Sponsor: David Manko  
Town of Hamburg Planning Board  
File No. 10011.10

Dear Chairman Clark and Members of the Planning Board:

This letter is being submitted on behalf of David Manko (“Project Sponsor”) for the purpose of providing the Planning Board with additional information regarding certain categories of environmental impacts identified by the Planning Board in connection with its coordinated environmental review of the proposed residential subdivision to be located on an approximately 35.3 acre site with frontage Parker Road (the “Project Site”) pursuant to the State Environmental Quality Review Act (“SEQRA”).<sup>1</sup>

**I. Brief Project Description:**

The Project Sponsor proposes to develop the Project Site a residential subdivision consisting of detached single-family home on individual lots. The Project Site is R-1 Single-Family Residence District (“R-1”), which expressly permits detached single-family dwellings per Section 280-31A(2) of the Zoning Code.

The Project Sponsor’s preference is to develop the Project Site as a clustered residential subdivision consisting of sixty (60) lots for detached single-family homes as depicted on the Concept Site Plan – Clustered [Drawing C-100] prepared by Carmina Wood Morris DPC.<sup>2</sup> A copy

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<sup>1</sup> The intent of SEQRA is set forth in 6 NYCRR Part 617.1(d) as follows: “It was the intention of the Legislature that the protection and enhancement of the environment, human and community resources should be given appropriate weight with social and economic considerations in determining public policy, and that those factors be considered together in reaching decisions on proposed activities. Accordingly, it is the intention of this Part that a suitable balance of social, economic and environmental factors be incorporated into the planning and decision-making processes of state, regional and local agencies. It is not the intention of SEQR that environmental factors be the sole consideration in decision-making.”

<sup>2</sup> The nearby property owners that have participated in the review process for the proposed residential subdivision have expressed a clear preference for the Project Sponsor’s preferred clustered subdivision layout which will preserve the Parker Road frontage of the Project Site as Permanent Open Space (total of 15.30 acres of Permanent Open Space proposed) and result in seven (7) fewer single-family homes than the subdivision layout for a non-clustered residential subdivision. The clustered subdivision layout also includes an on-site recreational trail with a length of 3,800 linear feet and will result in substantially less

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of the Concept Site Plan depicting the proposed clustered subdivision layout is provided at Exhibit “7”. Pursuant to the proposed clustered layout, the minimum lot size is 10,500 sq. ft. and each of the lots will have a minimum depth of 140 ft. Copies of the Typical Lot Layout Plans [Drawings LL-100 and LL-101] as prepared by Carmina Wood Morris DPC depicting the layout of four (4) potential models of homes and related improvements on the clustered residential lots are provided at Exhibit “15”.

If the Planning Board does not authorize the proposed clustered subdivision layout consisting of sixty (60) lots along with 15.30 acres of Permanent Open Space as proposed, the proposed residential subdivision will consist of sixty-seven (67) lots for detached single family homes without the proposed 15.3 acres of Permanent Open Space. A copy of the Concept Site Plan depicting sixty-seven (67) lots for detached single-family homes as expressly permitted in the R-1 zoning district is provided at Exhibit “8”.<sup>3</sup>

During its recent meetings, the Planning Board discussed the “drafts” of Parts 2 and 3 of the Full Environmental Assessment Form prepared by the subcommittee of the Planning Board and the status of the coordinated environmental review of the proposed project pursuant to SEQRA.<sup>4</sup>

The coordinated environmental review of the proposed residential subdivision began on January 11, 2021 with the issuance of a lead agency solicitation letter by the Planning Board that included a completed Part 1 of the Full Environmental Assessment Form (“Part 1 of Full EAF”) and other relevant project documentation.<sup>5</sup> It is important to mention that none of the involved agencies that have participated in the coordinated environmental review of the proposed project pursuant to SEQRA have expressed concerns the proposed residential subdivision may result in any potentially significant adverse environmental impacts.

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total impervious surface (2,800 linear feet of roadways versus 4,100 linear feet) than if the Project Site is developed pursuant to an As-of-Right layout based on the existing R-1 zoning classification consisting of sixty-seven (67) lots.

<sup>3</sup> A copy of the Preliminary Plat Application and supporting documentation dated January 5, 2021 that included a completed Part 1 of the Full Environmental Assessment Form was provided at Exhibit “28” of the Project Documentation submission dated April 23, 2021. Within the completed Part 1 of the Full Environmental Assessment Form, the proposed action was described broadly to include all proposed site improvements as well as all required discretionary approvals and permits from involved agencies.

<sup>4</sup> Copies of the relevant portions of the minutes of the meetings of the Planning Board held on May 5, 2021, May 19, 2021, June 2, 2021 and June 16, 2021 are provided at Exhibits “1”, “2”, “3” and “4”. Drafts of Part 2 of the Full Environmental Assessment Form (“Part 2 of Full EAF”) and the draft of the Table of Part 3 Considerations as prepared by the subcommittee of the Planning Board are attached as Exhibits “5” and “6”.

<sup>5</sup> A copy of the lead agency solicitation letter dated January 11, 2021 was provided at Exhibit “25” of the Project Documentation submission dated April 23, 2021.

**II. Summary of “Draft” of Part 2 of the Full Environmental Assessment Form as Prepared by the Subcommittee of the Planning Board:**

Based on the eighteen (18) categories of potential impacts contained within Part 2 of the Full EAF Form, the subcommittee of the Planning Board indicated the Project may result in some moderate to large impacts requiring additional consideration.

The questions in Part 2 of the Full EAF that the subcommittee determined may result in moderate to large impacts are listed below as follows:

1. **Impact on Land:** Proposed action may involve construction on, or physical alteration of, the land surface of the proposed site.

Question 1e: The proposed action may involve construction that continues for more than one year or in multiple phases.<sup>6</sup>

Question 1f: The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides).<sup>7</sup>

3. **Impact on Surface Water:** The proposed action may affect one or more wetlands or other surface waterbodies (e.g., streams, rivers, ponds or lakes).

Question 3e: The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.<sup>8</sup>

Question 3h: The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies.<sup>9</sup>

Question 3i: The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action.<sup>10</sup>

Question 3j: The proposed action may involve the application of pesticides or herbicides in or around any water body.<sup>11</sup>

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<sup>6</sup> The relevant Part I of the Full EAF Question is D1e.

<sup>7</sup> The relevant Part I of the Full EAF Questions are D2e and D2q. The Project Sponsor acknowledges that the submission and approval of a Stormwater Pollution Prevention Plan (“SWPPP”) will be required in connection with the review process for the proposed residential subdivision. The SWPPP will need to be reviewed and approved by GHD in its capacity as the Town Engineer. The approval of the SWPPP and compliance with the applicable standards contained the SWPPP will ensure that construction activities in furtherance of the proposed residential subdivision will not result on any potentially significant erosion impacts.

<sup>8</sup> The relevant Part I of the Full EAF Questions are D2a and D2h.

<sup>9</sup> The relevant Part I of the Full EAF Question is D2e.

<sup>10</sup> The relevant Part I of the Full EAF Question is E2h.

<sup>11</sup> The relevant Part I of the Full EAF Questions are D2q and E2h.

**8. Impacts on Agricultural Resources:** The proposed action may result in a loss of flora or fauna.

Question 8c: The proposed action may result in the excavation or compaction of the soil profile of active agricultural land.<sup>12</sup>

Question 8d: The proposed action may irreversibly convert agricultural land to non-agricultural uses, either more than 2.5 acres if located in an Agricultural District, or more than 10 acres if not within an Agricultural District.<sup>13</sup>

Question 8c: The proposed action may disrupt or prevent installation of an agricultural land management system.<sup>14</sup>

Question 8f: The proposed action may result, directly or indirectly, in increased development potential or pressure on farmland.<sup>15</sup>

**10. Impact on Historic and Archaeological Resources:** The proposed action may occur in or adjacent to a historic or archaeological resource.

Question 10b: The proposed action may occur wholly or partially within, or substantially contiguous to, an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory.<sup>16</sup>

**13. Impact on Transportation:** The proposed action may result in a change to existing transportation systems.

Question 13a: Projected traffic increase may exceed capacity of existing road network.<sup>17</sup>

Question 13e: The proposed action may alter the present pattern of movement of people or goods.<sup>18</sup>

**14. Impact on Energy:** The proposed action may cause an increase in the use of any form of energy.

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<sup>12</sup> The relevant Part I of the Full EAF Question is E3b.

<sup>13</sup> The relevant Part I of the Full EAF Questions are E1b and E3a.

<sup>14</sup> The relevant Part I of the Full EAF Questions are E1a and E1b

<sup>15</sup> The relevant Part I of the Full EAF Questions are C2c, C3, D2c and D2b.

<sup>16</sup> The relevant Part I of the Full EAF Question is E3f. A copy of the No Impact determination letter issued by the New York State Office of Parks, Recreation and Historic Preservation dated October 9, 2020 is provided at Exhibit “9”.

<sup>17</sup> The relevant Part I of the Full EAF Question is D2j.

<sup>18</sup> The relevant Part I of the Full EAF Question is D2j.

Question 14b: The proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two-family residences or to serve a commercial or industrial use.<sup>19</sup>

**17. Consistency with Community Plans:** The proposed action is not consistent with adopted land use plans.

Question 17c: The proposed action is inconsistent with any County plans, or other regional land use plans.<sup>20</sup>

**III. Summary of “Draft” of Part 3 Considerations as Prepared by the Subcommittee of the Planning Board and the Project Sponsor’s Responses:**

Within the draft of the Table titled “Part 3 Considerations” prepared by the subcommittee of the Planning Board, each of the responses to the questions in the draft of Part 2 of the Full EAF that the subcommittee determined may result in a moderate to large impact were categorized based on the following criteria:

- Magnitude of Impact;
- Duration of Impact;
- Likelihood of Impact;
- Importance of Impact;
- Potentially Significant; and
- Cumulative Impact<sup>21</sup>

Page 272 of the Full Environmental Assessment Form (FEAF) Workbook (the “FEAF Workbook”) published by the NYSDEC states that the key characteristics that should be assessed in determining significance are “magnitude”, “duration” and likelihood (probability). A summary of the relevant information contained in the FEAF Workbook regarding these criteria is provided below.

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<sup>19</sup> The relevant Part 1 of the Full Questions are D1f, D1q and D2k.

<sup>20</sup> The relevant Part 1 of the Full Question is C2.

<sup>21</sup> The reference to cumulative impacts pertains to the cumulative impacts of the proposed residential subdivision and the proposed Wetzl multifamily project. Cumulative impacts are described on Page 80 of the 4<sup>th</sup> edition of the SEQR Handbook published by the NYSDEC as follows: “Cumulative impacts occur when multiple actions affect the same resource(s). These impacts can occur when the incremental or increased impacts of an action, or actions, are added to other past, present, and reasonably foreseeable future actions. Cumulative impacts can result from a single action or from two or more individually minor but collectively significant actions taking place over time. Cumulative impacts do not have to all be associated with one sponsor or applicant. They may include indirect or secondary impacts, long-term impacts, and synergistic effects.” It is important to mention that the two proposed projects are not functionally dependent on each other.

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**Magnitude of Impact:**

Page 275 of the FEAf Workbook provides a description of the process to be utilized by a lead agency in determining the magnitude of a potential impact. Moderate and Large Impacts are described on Pages 275-276 of the FEAf Workbook as follows:

- **Moderate Impact:** These are impacts that are of a size that will likely result in more impacts on one or more environmental resources but are more localized, and not regional in nature. Moderate impacts can occur when the project affects a portion of a parcel or even a larger area extending to a small area just beyond the parcel. Moderate environmental impacts may be either isolated (only in one location), or of neighborhood concern. An impact of moderate magnitude would likely affect a moderate number of people. Size in acreage or people affected is not the only aspect of magnitude, however. If a project affects a small area of land, but the resource being impacted is locally rare, for example, then the actual impact may be large. When reviewing an impact's magnitude, the reviewing agency should consider the size of the impact and resource, as well as the scope and context of the project. A proposed project that impacts a small number of people may also be considered a moderate impact. The resources affected by a moderated impact may often have broad local concern and often are activities or resources that are regulated or protected by some local, state, or national agency.
- **Large Impact:** “These are impacts that may cover larger areas beyond the parcel in the neighborhood or community or impact larger numbers of people. As described above related to a moderately sized impact, size in acres is not the only aspect of this either. Impacts on large areas of land, or on a large number of people however, would usually be classified as a 'large' impact. The resources affected by a large impact often have broad local or regional concern and often are activities or resources that are regulated or protected by some local, state, or national agency.”

**Duration of Impact:**

Pages 276-277 of the FEAf Workbook discuss the categories to be utilized by a lead agency in determining the duration of a potential impact being evaluated in Part 3 of the Full EAF. The four (4) durational categories are as follows:

- **Short-term Impact:** Some actions may have short-term impacts. These are often due to the initial land disturbance or construction phase. Short-term impacts can occur for a few days, weeks or several months, and then improve quickly. In this case, short-term impacts may be of minor or negligible importance in a long time frame. It is very important to evaluate the duration of an impact in the context and scope of a project. A short-term impact in one situation may not be significant, but in other cases, may be very significant.<sup>22</sup>

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<sup>22</sup> Within the text on Page 275 of the FEAf Workbook, it states that “An example of a short-term impact would be stock-piling topsoil and placement of erosion control methods in one location during construction of a structure. After construction, the topsoil would be graded and re-seeded or landscaped. Short-term impacts would occur due to the initial disturbance of soil and vegetation, but within several weeks, it would be replaced.”

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- **Medium-term Impact:** Some actions may have impacts that last longer but that are still not permanent or irreversible. Medium-term impacts can be measured in months, over several seasons, or perhaps a few years, but have an end-point where the conditions improve and adverse impacts dissipate. Depending on the context and scale of the project, as well as the other features evaluated in Part 3, medium-term impacts could have minor or large significance.<sup>23</sup>
- **Long-term Impact:** These are impacts that last for years, or last as long as the activity that generates the impact continues to take place. Some projects continually impact the environment in an adverse way while the activity takes place, but then the environment improves if the operation ceases. Other actions may occur only for a short period of time, but the impacts last a very long time and it takes years for the environment to recover.<sup>24</sup>
- **Irreversible Impact:** These are impacts that occur where the environment can't return to its original state at any time or in any way. Use of nonrenewable resources may be irreversible since it is unlikely that the resource can be used again. Impacts that generally commit future generations to similar uses may also be considered irreversible impacts. Projects where there is no potential for future restoration are also considered irreversible. In some cases, there may be difficulty distinguishing between a long-term impact and one that is irreversible, but generally, irreversible impacts are those that permanently result in an adverse change.<sup>25</sup>

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<sup>23</sup> Within the text on Page 275 of the FEA F Workbook, it states that “An example of a medium-term impact might be construction of an access way using a single culvert over a small, non-regulated stream that has wooded stream banks. Construction of the culvert and driveway will require removal of some additional stream-side vegetation and disturbance to the water flow. Thus it could affect water temperature (by removal of the trees), increase turbidity, change water flow, and reduce habitats for fish and invertebrates. In this example, there could be both short-term and medium-term impacts. After construction, the water flow and turbidity issues would dissipate, but the changes to the stream bank and stream bottom habitats could last months or seasons before the vegetation returns and habitats re-formed. If the applicant included stream bank and stream bottom restoration, use of best management practices for stream corridors, and re-planting of deciduous trees, then the adverse impacts could be moderated in duration.

<sup>24</sup> Within the text on Page 276 of the FEA F Workbook, it states that examples of long-term impacts are as follows:

- Adverse changes in air quality while a manufacturing use operates, or continual production of noise levels above ambient levels while the use operates. Should the manufacturing cease operations, the air pollution and noise impacts end. Removal of large acreages of forest lands on a portion of a parcel to be planted in grass would likely be considered long term impact, even though the forest might regenerate if maintenance of the lawn stopped and trees were allowed to re-grow.
- A chemical spill that pollutes water or soils that would take decades before the natural resources are recovered.
- A large residential construction project with multiple phases could last a decade once built, actual construction sequences might be deemed moderate, but the long lasting effect of the constructed property may be viewed as long term.

<sup>25</sup> Within the text on Page 276 of the FEA F Workbook, it states that examples of irreversible impacts are as follows:

- The extinction of an animal or plant species
- Conversion of prime farmland soils to residential use
- Construction of a structure that permanently alters a scenic view in a negative way

**Likelihood of Impact:**

Pages 278 of the FEAFF Workbook state that for each potential impact being evaluated in Part 3 of the Full EAF, the lead agency needs to decide if the impact will be unlikely to occur, will possibly occur, or will probably occur. Given the nature of the project, some impacts may be very likely to occur while others may possibly occur, and others are unlikely to occur. The lead agency may decide that unlikely impacts may be of large magnitude or long duration but are ultimately not significant because they are so unlikely to actually occur. In other cases, an unlikely impact may carry such a high risk that the reviewing agency may decide it is very significant.

- **Unlikely to Occur:** These are impacts that have a very low chance of occurring now or in the future.<sup>26</sup>
- **Possibly will Occur:** These are impacts that are possible, but not likely occur.<sup>27</sup>
- **Probably will Occur:** These are impacts that are very likely to occur.<sup>28</sup>

Within the draft of the “Part 3 Considerations” table prepared by the subcommittee of the Planning Board, the Planning Board determined based on its responses to the questions in the draft of the Part 2 of the Full EAF, that the project may result in some potentially significant adverse environmental impacts that are described in more detail below.

**Subcommittee’s Draft Part 3 Determinations for Questions 3h and 3i of Part 2 of the Full EAF (“Impact on Surface Water”):**

- **Magnitude of Impact:** Large impact – surface waters onsite regulated by the USACE and on 303(d) list; potential downstream impacts to Rush Creek.
- **Duration of Impact: AS OF RIGHT:** Irrecoverable – private landowner actions may be difficult to manage and grading/disturbance to backyards may occur. CLUSTER: Long Term – area should be managed by HOA and deed restrictions
- **Likelihood of Impact:** Possibly will Occur – residential lots surround regulated waterbody; difficult to control individual user actions along regulated surface water – multiple property

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<sup>26</sup> Within the text on Page 278 of the FEAFF Workbook, it states that an example of an impact unlikely to occur “could be a spillage of a toxic chemical used in a manufacturing process. There is an extremely low probability of this occurring, in part because of protocols used in handling such materials.”

<sup>27</sup> Within the text on Page 278 of the FEAFF Workbook, it states that an example of an impact that possibly will occur “would be the growth inducing aspects of a new 100-lot subdivision development in a city that has had very slow growth and is not near an urbanized area. The residential development may create consumer demands that will influence and promote development in another location in the community. There is the potential for impacts to the community long-term, but may possibly occur given the character and economy of the area.”

<sup>28</sup> Within the text on Page 278 of the FEAFF Workbook, it states that an example of an impact that probably will occur “would be loss of fisheries due to a dredging operation throughout a water body that supports warm water fish species that require shallow water to survive.”

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owners. CLUSTER: Possibly will Occur – uncertainty regarding implementation of riparian corridor restoration and design of stormwater facilities.

- Importance of Impact: Very Important.
- Potentially Significant: Yes – design refinements ongoing may adjust this.
- Cumulative Impact: Yes.

**Project Sponsor's Response:** The project will result not result in any impacts to the approximately 0.644 acre of jurisdictional federal wetland located on the northern portion of the Project Site.<sup>29</sup> Pursuant to the Project Sponsor's preferred clustered subdivision layout consisting of 60 lots for detached single family homes, the approximately 0.644 acre jurisdictional wetland will be located in the 15.30 acres of Permanent Open Space that will be owned and maintained by a homeowner's association to be formed. Pursuant to the layout for the alternative 67 lot residential subdivision as expressly permitted by the existing R-1 zoning classification, the approximately 0.644 acre jurisdictional wetland will be located on the northern portion of Lot No. 13 on the northern side of the tributary to Rush Creek.

At the time the draft of the Table of the Part 3 Considerations was prepared by the subcommittee of the Planning Board, there was uncertainty regarding implementation of riparian corridor restoration. At the request of the Planning Board, the Project Sponsor will be establishing a riparian buffer with native plantings along the portion of the existing stream that bisects a portion of the Project Site to be developed.<sup>30</sup> A copy of the Riparian Buffer Planting Plan prepared by Earth Dimensions, Inc. is attached as Exhibit "12".

The riparian buffer to be established for the tributary of Rush Creek will have a width of 25 ft. on each side of tributary and will include 81 trees [5 types] and 66 shrubs [3 types].<sup>31</sup> The implementation of the plantings as depicted on the Riparian Buffer Planting Plan will ensure the project does not result in any significant adverse environmental impacts to the portion of the tributary of Rush Creek located on the Project Site.

There is not uncertainty regarding the design and installation of an on-site stormwater management system since the Project Sponsor will be installing a stormwater management system that complies with both the stringent stormwater quality and quantity standards of the NYSDEC that apply to

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<sup>29</sup> A copy of the Jurisdictional Determination issued by the United States Army Corps of Engineers on May 13, 2021 is provided at Exhibit "11".

<sup>30</sup> On Page 13 of the Wetland Delineation Report prepared by Earth Dimensions, Inc. dated June 11, 2020, Stream 1 is identified as Rush Creek and flows westerly through the northern portion of the site. This perennial channel is identified as a Class C stream by NYSDEC standards. The substrate consists of cobble and gravel, with dense woody vegetation along the banks. Within the project area, Stream 1 is approximately 4 feet wide with an average water depth of 18 inches. A copy of the Wetland Delineation Report prepared by Earth Dimensions, Inc. dated June 11, 2020 was provided at Exhibit "57" of the Project Documentation submitted dated April 23, 2021.

<sup>31</sup> The Riparian Buffer Planting Plan prepared by Earth Dimensions, Inc. is for both the portion of the tributary of Rush Creek that bisects the northern portion of Project Site as well as the proposed Wetzl multifamily project on land adjacent to the Project Site.

projects that will result in greater than 1 acre of disturbance. A summary of the stormwater management system to be implemented in connection with the development of the Project Site as a residential subdivision is included in a letter prepared by Christopher Wood, P.E., of Carmina Wood Morris dated February 11, 2021 is provided at Exhibit “13”.<sup>32</sup> Under either the clustered layout (60 lots) or the As-of-Right layout (67 lots), the portions of the Project Site consisting of stormwater management areas will be owned and maintained by a Homeowner’s Association. In connection with the proposed subdivision, a Stormwater Agreement will be recorded at the Erie County Clerk’s Office to ensure long-term maintenance of the on-site stormwater management system. A summary of the Post Construction Operation & Maintenance Procedures for the on-site stormwater management system is provided below as follows:

1. On a quarterly basis, perform the following:
  - a. Inspect catch basins, storm piping and detention basin for debris
  - b. Inspect catch basins and storm piping for accumulation of sediment
  - c. Remove and properly dispose of any collected debris from structures
  - d. Flush storm sewers with water, if necessary to remove accumulated sediment
  - e. Inspect grasses/landscaped areas for unvegetated areas or areas with less than 80% healthy stand of grass and reseed and mulch as necessary. Water areas daily if reseeded through July and August.
2. Maintain all lawn areas by regular mowing, including the grassed slopes of the wet pond and grassed swale. Any eroded areas shall be re-graded, seeded and mulched immediately.
3. The detention basin shall be inspected annually.
4. The proposed bioretention area is to be maintained as required by the New York State Stormwater Management Design Manual and as a component of the property landscaping and shall be maintained on a regular basis. Mulching, weeding and plant replacement shall occur on an annual basis. Sediment must be removed when accumulation depth exceeds one inch. Any erosion of the bioretention berm must be repaired as soon as possible to prevent diversion around the bioretention area.

It is important to reiterate that the Engineer’s Report to be prepared by Carmina Wood Morris DPC in connection with the subdivision review process will provide calculations demonstrating the stormwater management system to be constructed as part of the residential subdivision will comply with the applicable stringent stormwater quality and quantity standards of the New York State Department of Environmental Conservation (“NYSDEC”) SPDES General Permit for Stormwater Discharges from Construction Activity Permit No. GP-0-20-001 and the Town of Hamburg. The fully engineered plans, Engineer’s Report and SWPPP for the proposed residential subdivision will need to be reviewed and approved by the Camie Jarrell, P.E., of GHD (the Town’s Engineering Department) in connection with the subdivision review process prior to the

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<sup>32</sup> This letter was prepared at the time the proposed residential subdivision consisted of 67 lots for single-family homes.

commencement of any on-site construction activities. As a result of the requirement for the proposed residential subdivision to comply with the stringent applicable stormwater quality and quantity standards (under either a clustered layout or an As-of-Right layout), the proposed residential subdivision will not result in any potentially significant drainage impacts. It is important to mention that although both potential subdivision layouts will comply with the applicable stringent standards cited above, the clustered subdivision layout (60 lots) will result in less total acreage of impervious surfaces than the alternative As-of-Right subdivision layout consisting of 67 lots (5.6 acres versus 7.1 acres).

**Subcommittee's Draft Part 3 Determinations for Questions 8 of Part 2 of the Full EAF (“Impacts on Agricultural Resources”):**

- Magnitude of Impact: Moderate Impact - Impact limited to Project parcel, however, over 10 acres of land will be converted in an area not listed as an Agricultural District
- Duration of Impact: Irretrievable - due to soil compaction, grading, digging of basements, and placement of permanent structures, land unable to revert to agricultural land
- Likelihood of Impact: Definitely will occur. Project cannot happen without permanently converting agricultural land
- Importance of Impact: Fairly Important.
- Potentially Significant: Yes.
- Cumulative Impact: No.

**Project Sponsor's Response:** The Project Site is not currently being utilized for agricultural purposes and was last utilized as an active farm by the current owner's family approximately 30 years ago.<sup>33</sup> Although the Project Site was previously leased to a third party on a seasonal basis for the growing of crops as a means to assist in the payment of annual property taxes, this previous limited agricultural use did not constitute a viable long-term agricultural use that will be permanently discontinued as a result of the proposed residential subdivision.

In connection with the evaluation of the potential long-term impacts of the proposed residential subdivision on agricultural resources, it is important to mention that the Project Site is not located in or in vicinity of an Erie County Agricultural District. A map of the land located in Erie County Agricultural Districts is attached as Exhibit “18”. Additionally, the Project Site is not located in close proximity to clusters of parcels with High Agricultural Soil Values per the map from the Erie County Agricultural & Farmland Protection Plan provided at Exhibit “19”.

The Generalized Future Land Use provided at Map 2-10 of the Town’s Comprehensive Plan depicts the areas within the southern portion of the Town that have been designated as Rural

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<sup>33</sup> A copy of the letter prepared by Mark Dunford, Esq. dated August 16, 2021 confirming the Project Site is not currently being utilized for agricultural purposes and will not be utilized for agricultural purposes by the current property owner in the future is provided at Exhibit “25”.

Residential which includes agricultural uses.<sup>34</sup> Map 2-10 designates the Project Site as appropriate for Residential (Single-Family) use.

In summary, the proposed residential subdivision will not result any potentially significant adverse impacts to agricultural resources. The Project Site is no longer being utilized by a third party for the seasonal growing of crops. Given the relatively small size of the Project Site (in the context of the typical large size of sites required by most economically viable modern agricultural users), its location and its existing R-1 zoning classification, the future use of the Project Site for agricultural purposes is not economically feasible nor realistic.

**Subcommittee's Draft Part 3 Determinations for Question 13 of Part 2 of the Full EAF ("Impact on Transportation"):**

- Magnitude of Impact: Moderate Impact - potential for regional impact.
- Duration of Impact: Irreversible - Significant increase in the traffic volume with the intersection of Abbott and Big Tree receiving an ICU level of service of E for the AM commute and F for the afternoon commute, while the intersection of Parker Rd and Big Tree will have a level D for the afternoon commute. Also this project will necessitate the restriping of Big Tree to accommodate the creation of a 2 way left turn lane.
- Likelihood of Impact: Definitely will occur - with the notable size of this project it will create an increased traffic demand.
- Importance of Impact: Very Important.
- Potentially Significant: Yes.
- Cumulative Impact: Yes.

**Project Sponsor's Response:**

While the proposed residential subdivision and the proposed Wetzl multifamily project are not dependent on each other, consideration of the cumulative traffic impacts of both projects was included in the comprehensive Traffic Impact Study prepared by SRF Associates dated April 2, 2021. A copy of the Traffic Impact Study was provided at Exhibit "5" of the Project Submission dated April 23, 2021.

The Project Sponsor acknowledges that the proposed projects will result in an increase in traffic on the roadways in the vicinity of the Project Site. However, it is the professional opinion of SRF Associates based on its comprehensive traffic analysis, that the two proposed projects will not result in any potentially significant adverse traffic impacts.<sup>35</sup>

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<sup>34</sup> A color copy of Map 2-10 (titled "Generalized Future Land Use") is provided at Exhibit "23".

<sup>35</sup> Responses to the potentially significant traffic impacts resulting from the proposed projects as identified within the draft of the Table of Part 3 Considerations are provided immediately after the summary of the comprehensive Traffic Impact Study prepared by SRF Associates.

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Section II of the Traffic Impact Study provides a description of the study area that included the following existing intersections:

- Big Tree Road/Southwestern Boulevard;
- Big Tree Road/Parker Road;
- Big Tree Road/Abbott Road; and
- Parker Road/Marilyn Drive<sup>36</sup>

Section III of the Traffic Impact Study consists of a description of the existing highway system. Table I of the Traffic Impact Study provides a description of the existing roadway network within project study area. A copy of Table I of the Traffic Impact Study is provided below as follows:

**TABLE I: EXISTING HIGHWAY SYSTEM**

ROADWAY <sup>1</sup>	CLASS <sup>2</sup>	AGENCY <sup>3</sup>	SPEED LIMIT <sup>4</sup>	# OF TRAVEL LANES <sup>5</sup>	TRAVEL PATTERN/DIRECTION	EST. AADT <sup>6</sup> & SOURCE <sup>7</sup>
Southwestern Blvd (US-20)	14	NYSDOT	50	6	Two-way/Northeast-Southwest	21,267 NYSDOT (2016)
Big Tree Road (US-20A)	14	NYSDOT	45	2	Two-way/East-West	12,584 NYSDOT (2018)
Abbott Road (CR-4)	16	ECDPW	45	4	Two-way/North-South	7,586 NYSDOT (2018)
Parker Road	19	Town	30	2	Two-way/North-South	1,500 SRF (2021)
Marilyn Drive	19	Town	30	2	Two-way/East-West	280 SRF (2021)

Notes:

1. Route Name/Number: "NY" = New York; "CR" = County Road
2. State Functional Classification of Roadway (All are Urban): 14 = Principal Arterial, 16 = Minor Arterial, 19 = Local
3. Jurisdictional Agency of Roadway. "NYSDOT" = New York State Department of Transportation; "ECDPW" = Erie County Department of Public Works
4. Posted or Statewide Limit in Miles per Hour (mph).
5. Excludes turning/auxiliary lanes developed at intersections.
6. Estimated AADT in Vehicles per Day (vpd).
7. AADT Source (Year). SRF data estimated based upon an extrapolation of turning movement counts.

Section IV of the Traffic Impact Study consists of an analysis of existing traffic conditions including relevant data obtained from the GBNRTC database and the results of the turning movement counts conducted by SRF Associates at the study area intersections.<sup>37</sup> The accident analysis conducted by SRF Associates is also provided in Section IV of the Traffic Impact Study.<sup>38</sup>

<sup>36</sup> See Page 1 of the Traffic Impact Study prepared by SRF Associates dated April 2, 2021.

<sup>37</sup> See Page 3 of the Traffic Impact Study prepared by SRF Associates dated April 2, 2021.

<sup>38</sup> See Pages 3 to 5 of the Traffic Impact Study prepared by SRF Associates dated April 2, 2021.

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Section V of the Traffic Impact Study is titled “Future Area Development and Growth” and includes justification for the 0.5% annual growth rate that was utilized by SRF Associates in connection with its evaluation of the projected traffic from both projects during the A.M. and P.M. peak travel periods.<sup>39</sup>

Section VI of the Traffic Impact Study consists of the vehicular trip projections for both projects that was performed by SRF Associates utilizing the 10<sup>th</sup> edition of the Trip Generation Report published by the Institute of Transportation Engineers (“ITE”). Table IV of the Traffic Impact Study provides the total site projected generated trips for the weekday commuter AM and PM peak travel periods for both proposed projects. A copy of Table IV is provided below as follows:

**TABLE IV: SITE GENERATED TRIPS**

DESCRIPTION	ITE LUC <sup>1</sup>	SIZE	AM	PEAK HOUR	PM	PEAK HOUR
			ENTER	EXIT	ENTER	EXIT
Multifamily Project	220	156 Units	17	56	55	33
Single-Family Project	210	67 Lots	13	39	43	26
Total Site Generated Trips			30	95	98	59

Note:

1. LUC = Land Use Code.

Section VII of the Traffic Impact Study is titled “Full Development Volumes” and consists of a description of the methodology utilized by SRF Associates in calculating traffic volumes under full development conditions.<sup>40</sup>

Section VIII of the Traffic Impact Study is titled “Capacity Analysis” and provides detailed information regarding the Levels of Service at the intersections in the study area during both the A.M. and P.M. weekday travel periods. The Capacity Analysis results are set forth in detail in Table V of the Traffic Impact Study.<sup>41</sup> It is the professional opinion of SRF Associates that the Level of Service at each of the intersections in the study area under full development conditions are acceptable.

Section VIV of the Traffic Impact Study is titled “Left Turn Treatment Investigation” and consists of an analysis of whether the installation of left hand turn lanes is justified for vehicles traveling on Big Tree Road turning left into the two previously proposed driveways to access the proposed Wetzl multifamily project. It is important to mention that the two previously proposed driveways from the multifamily project onto Big Tree Road have been replaced by a single driveway

<sup>39</sup> See Page 5 of the Traffic Impact Study prepared by SRF Associates dated April 2, 2021.

<sup>40</sup> See Page 6 of the Traffic Impact Study prepared by SRF Associates dated April 2, 2021. Figure 9 of the Traffic Impact Study depicts the peak hour volumes under full development conditions at the intersections in the study area.

<sup>41</sup> See Page 8 of the Traffic Impact Study prepared by SRF Associates dated April 2, 2021.

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connection based on input received from the New York State Department of Transportation (“NYSDOT”) in connection with the coordinated environmental review of the proposed projects pursuant to SEQRA.

Section X of the Traffic Impact Study sets forth the “Conclusions and Recommendations” of SRF Associates based upon the result of its analysis of the cumulative traffic impacts of the two unrelated proposed projects as follows:

1. The proposed residential projects are expected to generate approximately 30 entering/95 exiting vehicle trips during the AM peak hour and 98 entering/59 exiting vehicle trips during the PM peak hour.
2. The existing crash investigation did not reveal inherent safety deficiencies related to the geometric design of the study area intersections.
3. The left-turn warrant investigation at the proposed driveways along Big Tree Road determined that the proposed Driveway multifamily project Big Tree Road/Proposed Multifamily Easterly Driveway during the PM peak hour was satisfied; no other peak hours at either the proposed westerly or easterly intersections for the proposed multifamily family project were satisfied.
4. At the intersection of Big Tree Road/Proposed Multifamily Westerly Driveway, the existing striping pattern should be restriped to legally accommodate drivers turning left from Big Tree Road onto the proposed driveway via a two-way left-turn lane (TWLTL) treatment. This maintains the ability for drivers to turn left onto the commercial driveway west of the proposed driveway location while accommodating drivers to exit the proposed westerly driveway.<sup>42</sup>
5. The projected traffic impacts resulting from full development of both of the proposed residential projects during both peak hours can be accommodated by the existing transportation network with the noted improvements in place.
6. For purposes of the environmental review of the proposed residential projects pursuant to the State Environmental Quality Review Act (SEQRA), it is our firm’s professional opinion that the proposed residential projects will not result in any cumulative potentially significant adverse traffic impacts to the study area intersections. Given that both proposed residential projects will not result in any cumulative potentially significant traffic impacts, our firm’s professional opinion as state above also applies to each of the two proposed residential projects if they had been evaluated separately.

Within the draft Table of Part 3 Considerations, the subcommittee of the Planning Board determined the proposed projects may result in potentially significant traffic impacts since the

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<sup>42</sup> SRF Associates has advised that based on the updated Concept Site Plan [Drawing C-100] that provides a single driveway connection to Big Tree Road, there still may a need for restriping of the existing pavement markings to allow for vehicles heading to west to turn left into the Project Site. If this is required, this improvement will be completed by the Project Sponsor. The specifics of any necessary restriping will be subject to review and approval by NYSDOT via its review of a Highway Work Permit Application.

Level of Service (“LOS”) at the intersection of Abbott Road and Big Tree Road will be “E” for the AM commute and “F” for the afternoon commute and the LOS for intersection of Parker Road and Big Tree Road will be “D” for the afternoon commute.

The Level of Service for all turning movements at the signalized intersection of Abbott Road and Big Tree Road during both the A.M. and P.M. weekday peak travel periods will be a “B” with the exception of SB Left at Abbott Road which will be a highly acceptable Level of Service of “C”. The comprehensive traffic analysis prepared by SRF Associates demonstrated the proposed projects will not result in any potentially significant adverse traffic impacts at the intersection of Abbott Road and Big Tree Road.

The Levels of Service for all turning movements at the unsignalized intersection of Big Tree Road, Parker Road and the ECC driveway will be “C” or better during both the A.M. and P.M. weekday peak travel periods with the exception of NB – Parker Road during the P.M. weekday peak travel period, which will reduce from a “C” to a “D”. This slight decrease of the LOS for only one movement at this intersection during the P.M. weekday travel period does not represent a potentially significant adverse traffic impact as confirmed by the professional opinion of SRF Associates based on its comprehensive traffic analysis of both of the proposed projects.

**Subcommittee’s Draft Part 3 Determinations for Question 17 of Part 2 of the Full EAF (“Consistency with Community Plan”):**

- Magnitude of Impact: Moderate/Large Impact.
- Duration of Impact: Irreversible – Agricultural Land will be lost. 2007 Comprehensive Plan Update states (pg 42 of PDF): “Encourage the Existence of existing, viable agricultural uses.”
- Likelihood of Impact: Definitely will Occur.
- Importance of Impact: Fairly important – 2007 Plan also states (pg 49 of the PDF): “Active Agricultural Lands and Uses are also important to preserving the aesthetic quality, as well as economic viability of the Town. A number of vital agricultural pursuits remain in the Town that should be preserved and promoted”.
- Potentially Significant: Yes.
- Cumulative Impact: No.

**Project Sponsor’s Response:** As set forth above in the Project Sponsor’s response to the draft Part 3 Determinations for Question 8 of Part 2 of the Full EAF (“Impacts on Agricultural Resources”), the Project Site is not currently being utilized for agricultural purposes. The last time the Project Site was utilized as a viable agricultural use was approximately thirty years ago.<sup>43</sup> The

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<sup>43</sup> See Correspondence of Mark J. Dunford, Esq. dated August 16, 2021 provided at Exhibit “25”.

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Project Sponsor acknowledges the statements on Pages 3-1 and 4-2 of the adopted Comprehensive Plan but notes that both statements refer to encouraging viable agricultural uses.<sup>44</sup>

The proposed development of the Project Site as a clustered residential subdivision consisting of 60 lots within 15.3 acres of Permanent Open Space is consistent with Town's planning objectives. The Project Site is properly zoned R-1 pursuant to the Town's Zoning Map.

Below is a summary of relevant information to be considered in evaluating whether the proposed residential subdivision is consistent with community plans including 2007 Comprehensive Plan Update dated June 2008 (the "Comprehensive Plan"). It is important to mention that Section 4.0 of the Comprehensive Plan (titled "Findings and Recommendations") states as follows: "Integrating areas of natural open space throughout subdivisions is also helpful to improve the look of these areas, as well as to create natural corridors for wildlife (a way of developing a connected system of open space.)"<sup>45</sup>

Map 2-2 of the Comprehensive Plan is titled "Land Use Map" and indicates the Project Site is Single Family Residential. A color copy of Map 2-2 is provided at Exhibit "20". Map 2-4 of the Comprehensive Plan is titled "Environmental Constraints" and none of the Project Site is depicted as containing wetlands or being in the 100 yr. floodplain.

Map 2-6 of the Comprehensive Plan is titled "Existing Zoning" and depicts the Project Site as being zoned R-2. A color excerpt of the Town's Zoning Map indicating the zoning classifications of parcels in the vicinity of the Project Site is provided at Exhibit "17". Additionally, a color aerial photograph of the parcels in the vicinity of the Project Site with nearby land uses labelled is provided at Exhibit "16". The Project Site is located in an area with a mixture of land uses including nearby residential subdivisions on parcels zoned R-1 and R-2.

Map 2-10 of the Comprehensive Plan is titled "Generalized Future Land Use" indicates the Project Site is appropriate for Residential (Single-Family) use.<sup>46</sup>

**Conclusion:**

If any additional information is needed by the Planning Board in connection with its environmental review of the proposed residential subdivision pursuant to SEQRA or if there are any questions regarding this submission or the status of the proposed residential subdivision, please feel free to contact me at 510-4338 or via e-mail at [shopkins@hsmlegal.com](mailto:shopkins@hsmlegal.com).

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<sup>44</sup> Section 3-1 of the Comprehensive Plan states as follows: "Encourage the continuation of existing, viable agricultural resources." Section 4-2 of the Comprehensive Plan states as follows: "Take actions to promote and preserve viable agricultural uses and lands in the Town to support farming and other agricultural pursuits as part of the local economy."

<sup>45</sup> See Page 4-3 of the Comprehensive Plan. The adopted Comprehensive Plan recognizes the benefits of clustered subdivision layouts that result in the preservation of Permanent Open Space as the jurisdictional wetland on the Project Site as well as the tributary to Rush Creek that crosses the northern portion of the Project Site.

<sup>46</sup> The Project Site is depicted as being in a "Developed Area" per the Framework for Regional Growth Policy Areas map provided at Exhibit "24".

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Sincerely,

HOPKINS SORGI & MCCARTHY PLLC



Sean W. Hopkins, Esq.

Enc.

cc: Doug Schawel, Planning Board  
Kaitlin McCormick, Planning Board  
Al Monaco, Planning Board  
Bob Mahoney, Planning Board  
Dennis Chapman, Planning Board  
Meghan Comerford, Planning Board  
Jennifer Puglisi, Esq., Planning Board Attorney  
Camie Jarrell, P.E., Project Engineer, GHD  
Sarah desJardins, Planning Department  
Andrew C. Reilly, PE, AICP, Planning Department  
David Manko  
Christopher Wood, P.E., Carmina Wood Morris DPC

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## **EXHIBIT 1**

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**Whereas**, the Hamburg Planning Board, in accordance with the New York State Environmental Quality Review Act (SEQRA), as an Involved Agency, must issue its own Findings for the first project that needs to be approved by the Planning Board within this Business Park; and

**Whereas**, the Planning Department and Planning Board have utilized the Town Board Findings Statement to create a Findings document for the Planning Board; and

**Whereas**, the Planning Board has reviewed the project against the SEQR Findings Form created by the Planning Board; and

**Whereas**, the Hamburg Planning Board, in accordance with SEQRA, has determined that the proposed action is in accordance with the SEQR Findings and therefore will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public and is consistent with social and economic considerations.

**Now, Therefore, Be It Resolved**, that the Town of Hamburg Planning Board hereby issues the attached Positive SEQR Findings indicating that the project is not anticipated to result in any significant adverse environmental impact; and

**Be It Further Resolved** that the Planning Board Chair is authorized to sign the SEQR Findings Form, which will act as the documentation for conformance to the Findings."

Carried.

Chairman Clark made the following motion, seconded by Mrs. Comerford:

"The Planning Board, based on its issuance of a SEQR Positive Findings for this project, review of the project in accordance with Article XLIV (Site Plan Approval) and the C-2 Zoning district requirements of the Town of Hamburg's Zoning Code, having received and considered input from Town departments, committees and advisory boards, having completed the required public hearing and having the applicant amend the drawings based on the Planning Board's comments, hereby grants Conditional Site Plan approval for the Apollo Concrete project to be located On Riley Boulevard with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated April 30, 2021.
2. The final landscape plan will be approved by the Planning Department.
3. Lighting shall be shielded and dark sky compliant as shown on the plans.
4. No outdoor storage will be allowed.
5. The construction of sidewalks is waived as they are already located along the road."

Carried.

Engineering Department comments have been filed with the Planning Department.

**David Manko – Requesting Preliminary Plat Approval of a 67-lot subdivision to be located on the west side of Parker Road**

Chairman Clark thanked the subcommittee for the work it has done on these projects. He stated that the administrative work it is doing now will make it so that when the full Board

reviews the environmental documentation provided it will be able to do so much more thoroughly and efficiently.

Mr. Reilly stated that because the Wetzl request is for a rezoning, there has been no official site plan application submitted at this point in time.

Ms. McCormick stated that the Board needs the applicant to provide a conservative limit of disturbance, which would provide the Board a better tool to understand certain SEQRA issues.

Attorney Hopkins stated that the requested binders for the subcommittee were submitted and the subcommittee provided comments that pertain to the individual projects, as well as the cumulative impacts of both projects.

In response to a question from Ms. McCormick, Chris Wood, project engineer, stated that the lots that contain the ditch on the northern side of the parcel will be graded but the wetland boundaries will be respected. He noted that those lots will come with a deed restriction that shows the wetland boundary on the survey and the anticipation is that the wetland boundary will not be disturbed.

In response to a question from Ms. McCormick, Mr. Wood stated that the wetlands in the area of the ditch are there mainly because the ditch is there and not necessarily because of water flow. He stated that the ditch does not have steep side slopes, so the water from the large tributary area upstream tends to migrate sideways. He noted that the grading design will be started a few feet off the edge of the wetlands and work away from them so that grading does not occur in the wetlands.

Mr. Wood stated that the discharge from the storm water management area would continue to go to the ditch. He noted that there would be a pipe that supplies water to that wetland area. He confirmed that the storm water pond would be flowing at a rate that is at or below existing conditions.

Ms. Jarrell stated that when the Engineering Department looks at a project for the limit of disturbance, as well as being along wetlands, it asks for at a minimum an orange construction fence and signage identifying wetlands during construction.

It was determined that Mr. Wood will respond to the comments and questions submitted by the subcommittee.

In response to a question from Ms. McCormick, Mr. Wood stated that the wetland delineation for this project has been submitted and he is awaiting the determination from the U.S. Army Corps of Engineers.

Attorney Hopkins stated that to the extent the Conservation Advisory Board (CAB) has substantive comments, he would like it to provide him with documentation backing them up. He read the following memo received that day from Mark Lorquet, CAB Chairman:

"The Hamburg Conservation Advisory Board will not attend tonight's meeting. We haven't even been given any information regarding questions needed by the Planning Coordinator and we want to be prepared to answer questions to the best of our ability. Our Board was

questioned at the last meeting on Facebook about the lack of specific information. We ask the Planning Board to table for two weeks till the CAB can receive specific information from Federal agencies on open issues regarding the Manko subdivision."

Attorney Hopkins stated that no one has asked Mrs. desJardins to provide the CAB with questions and noted that there must be a misunderstanding. He stated that he is asking for something to substantiate the CAB memos on this proposed subdivision. He noted that he has asked if the memos are on behalf of one person or the entire CAB.

Attorney Hopkins stated that there is no response to many of the comments made in the CAB memos regarding this subdivision.

Ms. McCormick stated that it might be helpful for the Board, after it reviews the Part II for both this project and the Wetzl rezoning project, to review what information it already has and which items in the Part II it is still waiting for information on and then annotate a version of the Part II and review it at a later meeting.

Ms. McCormick stated that consistency with community character and consistency with community plans are two areas that she believes should be discussed by the Board as a whole.

Chairman Clark stated that at the Board's next meeting the subcommittee can do a short presentation on some of the simpler sections of the Environmental Assessment Form (EAF) it reviewed. He stated that after that the whole Board can discuss the two areas Ms. McCormick referred to above.

It was determined that the subcommittee is putting together Part Two of the EAF and will review that with the whole Board at the next meeting. Mr. Reilly noted that determining the significance of the impacts and what additional information may be needed is the harder task for the Board to tackle.

Attorney Hopkins stated that a letter will be submitted responding to Ms. McCormick's comments and questions that were received via email.

Chairman Clark made a motion, seconded by Mrs. Comerford, to table this project. Carried. Engineering Department comments have been filed with the Planning Department.

**Glenn Wetzl – Requesting rezoning of vacant land located on the south side of Big Tree Road, east of 4255 McKinley Parkway from C-1 and R-1 to R-3**

Attorney Sean Hopkins, representing the applicant, stated that the Stage One Cultural Resource Report was performed that indicates that no artifacts were recovered and therefore it was submitted to the New York State Office of Parks, Recreation and Historic Preservation. He further stated that he expects to receive a letter from that office indicating that this project will not have any adverse impacts on cultural, archeological or historic resources.

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## **EXHIBIT 2**

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Chairman Clark made a motion, seconded by Mr. Mahoney, to table this project. Carried. Engineering Department comments have been filed with the Planning Department.

**Mike Schultz – Requesting Planning Board re-review of a towing and recovery impound area at 5505 Southwestern Boulevard (Site Plan Approval and Special Use Permit granted on 11-18-20)**

Mrs. desJardins stated that Mr. Schultz had asked to be tabled to the Board's next meeting. Chairman Clark made a motion, seconded by Mrs. Comerford, to table this request. Carried.

**David Manko – Requesting Preliminary Plat Approval of a 67-lot subdivision to be located on the west side of Parker Road**

Ms. McCormick stated that the sub-committee formulated some notes that were distributed to Planning Board members regarding some of the questions that warrant discussion.

In response to a question from Chairman Clark regarding questions the Planning Board asked the applicant to address at the Board's previous meeting, Attorney Sean Hopkins, representing the applicant, stated that he wants to make one comprehensive submittal and is awaiting the final list of what information the Planning Board is requesting before he responds.

Ms. McCormick stated that the sub-committee reviewed Part II of the EAF (Environmental Assessment Form) for both this project and the rezoning request by Glenn Wetzl. She noted that it flagged some items that it thought were the larger issues and she wanted to bring those up at this meeting. She stated that these issues were considered to be "moderate" or "large".

Mr. Schawel stated for the record that he disagree with most of the issues the sub-committee thinks are potential impacts.

Ms. McCormick reviewed the following impacts listed on the EAF that the sub-committee feels are moderate to large:

- 1e. The proposed action may involve construction that continues for more than one year or in multiple phases.
- 1f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides).

Ms. McCormick stated that the above impact is one that the Conservation Advisory Board (CAB) has raised as a concern. She stated that the CAB is concerned about disturbing areas that have been previously affected by fertilizers and pesticides.

- 3h. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies.

Ms. McCormick stated that the above item is considered "moderate to large" because more than one (1) acre of land would be disturbed and a SWPPP would be required.

- 3i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action.
- 3j. The proposed action may involve the application of pesticides or herbicides in or around any water body.

- 8c. The proposed action may result in the excavation or compaction of the soil profile of active agricultural land.
- 8d. The proposed action may irreversibly convert agricultural land to non-agricultural land uses, either more than 2.5 acres if located in an Agricultural District or more than 10 acres if not within an Agricultural District.
- 8e. The proposed action may disrupt or prevent installation of an agricultural land management system.
- 8f. The proposed action may result, directly or indirectly, in increased development potential or pressure on farmland.

Ms. McCormick stated that 8.d and 8.f warrant consideration.

- 10b. The proposed action may occur wholly or partially within, or substantially contiguous to an area designated as sensitive for archeological sites on the NY State Historic Preservation Office (SHPO) archeological site inventory.

Ms. McCormick stated that because this site has been cleared by SHPO, the above impact does not necessarily warrant any further follow-up.

Ms. McCormick stated that 10.e is checked "moderate to large" but, because the site has been cleared by SHPO it is not relevant.

Regarding Impact on Open Space and Recreation, Ms. McCormick stated that the sub-committee would like input from the Planning Board as a whole on 11d ("The proposed action may result in loss of an area now used informally by the community as an open space resource").

- 13a. Projected traffic increase may exceed capacity of existing road network.
- 13e. The proposed action may alter the present pattern of movement of people or goods.
- 14b. The proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two-family residences or to serve a commercial or industrial use.

Ms. McCormick stated that the sub-committee was not given enough information to answer 14c.

Ms. McCormick stated that the sub-committee did not go through 17 (Consistency with Community Plans) or 18 (Consistency with Community Character) because it wants them to be discussion with the entire Planning Board.

Ms. McCormick stated that the impact that concerned her the most was 8d (the conversion of more than ten acres of agricultural land to non-agricultural land).

Chairman Clark stated that often more than ten acres of farmland is converted to another use. He asked how the Board should address and mitigate those impacts and asked if this is something the Board has not been doing that it should be doing.

Mr. Reilly stated that the question is whether this property is still defined as agricultural land by New York State. He noted that if it has not been farmed for a certain time period, it would not be defined as agricultural land.

Attorney Hopkins stated that the land is still being used for agricultural purposes. He noted that the property owner is allowing someone to farm the land and is receiving no financial benefit for it. He further stated that no herbicides or pesticides have been used by the existing agricultural operation in 15 years.

Attorney Hopkins stated that an impact being checked as "moderate" or "large" is not the same as it being potentially significant.

Ms. McCormick asked Mr. Wood to clarify which soil groups are present on the site.

Ms. McCormick stated that her recommendation is that Board members review Part II of the EAF and the responses arrived at by the sub-committee and be prepared to discuss whether they agree with those responses at the next meeting.

In response to a question from Chairman Clark, Mr. Schawel stated that regarding 1e, most projects take more than a year to complete. He noted that he does not think that is a moderate to large impact.

Attorney Hopkins stated that the applicant did obtain a Jurisdictional Determination from the U.S. Army Corps of Engineers that indicates that the .063-acre wetland on the site is non-jurisdictional and the 0.644-acre wetland on the site is also non-jurisdictional. He noted that therefore there would be no impacts to the wetlands that are the subject of the jurisdiction of the U.S. Army Corps of Engineers.

In response to a question from Ms. McCormick, Attorney Hopkins stated that the U.S. Army Corps of Engineers determined that 600 feet of linear ditch is subject to federal jurisdiction.

Mr. Tim Cook, 4388 Parker Road, speaking on behalf of the Parker Road and John Michael Way residents, stated that they would like the Planning Board to reconsider the cluster layout for this subdivision. He stated that the cluster layout has more green space and has a more rural look than the regular layout. He stated that the footprint would be less and would be more appealing to the area and the local residents.

Chairman Clark stated that if the cluster layout is different from what was previously denied, the Planning Board could consider it.

Attorney Hopkins showed Board members an updated conceptual cluster plan that takes into account the project proposed by Mr. Wetzl on adjacent property. He noted that the cluster plan would eliminate the frontage lots on Parker Road in order to preserve the rural character of the area and increase the percentage of open space on the site (15.38 acres or 52.3% of the site). He stated that a trail system and extensive landscaping is proposed in the permanent open space. He noted that the trail would be connected to the Wetzl project and would be accessible to residents in both projects, as well as to the public.

Attorney Hopkins stated that half of the Manko and almost half of the contiguous Wetzl site would be green space and the trail would connect to the adjacent Town-owned land.

Attorney Hopkins stated that a conceptual landscaping plan has been developed for the open space in the subdivision.

Attorney Hopkins stated that the amount of impervious surface would be reduced with the cluster layout (4,100 linear feet of roadway down to 2,800 linear feet, decreasing the amount of impervious surface associated with the building lots, etc.)

Attorney Hopkins stated that the proposed cluster lots are a minimum of 10,500 sq.ft.

Attorney Hopkins stated that none of the open space would be located on the building lots.

Attorney Hopkins stated that the revised cluster layout complies with the requirements for cluster in the Town Code.

Ms. McCormick asked for a written submission of what he had presented at this meeting, as well as a calculation of what the open space percentage would be if the storm water infrastructure is taken out of the equation.

Chairman Clark stated that he believes that the Planning Board should consider this revised cluster layout, noting that the public walking path fits in with what the Comprehensive Plan Update Committee heard from residents regarding what they want more of in Hamburg.

Chairman Clark stated that the revised cluster layout might also alleviate some of the CAB's concerns.

Ms. McCormick stated that she was not in support of the original cluster layout presented previously and she is not very interested in going back to that layout. She stated that the concern that keeps coming is the turbidity and water quality and she would like to see something that adds some sort of riparian landscaping and buffer along the whole length of the regulated waterway in this project and continuing onto the Wetzl site along the tributary.

Ms. McCormick stated that there are some issues that are not addressed by clustering, especially the loss of agricultural land.

In response to a question from Ms. McCormick, Attorney Hopkins stated that the number of lots in the cluster layout is the same as it is in the regular layout.

Attorney Hopkins reminded Board members that the Town Code allows the front yard setback in a cluster subdivision to be 20' and this cluster layout would provide 30'.

Mrs. Comerford stated that she would like to see a lot detail plan for the cluster layout.

Chairman Clark stated that the Planning Board wants to make sure that there is enough space in the rear yards for sheds, pools, etc.

Attorney Hopkins stated that the regular layout would provide 67 building lots and the cluster layout provides 60 building lots.

It was determined that a majority of the Planning Board members is willing to consider the revised cluster layout.

Chairman Clark made a motion, seconded by Mr. Chapman, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

**Glenn Wetzl – Requesting rezoning of vacant land located on the south side of Big Tree Road, east of 4255 McKinley Parkway from C-1 and R-1 to R-3**

Ms. McCormick reviewed the following impacts listed on the EAF that the sub-committee feels are moderate to large:

- 1e The proposed action may involve construction that continues for more than one year or in multiple phases.

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## **EXHIBIT 3**

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Attorney Puglisi stated that she spoke with Roger Gibson, Supervising Code Enforcement Official, about how to categorize this use and was told that this use is a nursery school and daycare facility and therefore the play area square footage requirement must be applied.

Mrs. desJardins stated that the applicant plans to apply for a variance from the size of the play area and a variance to allow the play area to be located in the front yard.

Megan Coltoniak, applicant, stated that this facility is licensed as an approved agency through the New York State Department of Education and hires special education teachers, speech pathologists, occupational therapists, music therapists, etc. to provide special educational programming to children who are not able to go to a typical preschool.

Mr. Chapman stated that he does not think the applicant should be allowed to request the variance for the size of the play area.

Mrs. Comerford read the following notice of public hearing:

"Notice is hereby given that the Town of Hamburg Planning Board will conduct a Public Hearing on a proposal by Bloom Creative Arts to operate a preschool/daycare facility at 3674 Commerce Parkway. The Public Hearing will be held on June 2, 2021 at 7:00 p.m. in Room 7B of Hamburg Town Hall."

Chairman Clark declared the public hearing open. No one spoke.

Chairman Clark declared the public hearing closed.

Chairman Clark made a motion, seconded by Ms. McCormick, to table this project to July 7, 2021. Carried.

Engineering Department comments have been filed with the Planning Department.

#### **David Manko – Requesting Preliminary Plat Approval of a 67-lot subdivision to be located on the west side of Parker Road**

Attorney Sean Hopkins, representing the applicant, submitted a letter from the farmer who has been farming this property for the past 15 years indicating that to the best of his knowledge, it has been more than 15 years since any fertilizers, pesticides, etc. have been used. Attorney Hopkins noted that the farmer has been growing organic crops there.

Attorney Hopkins stated that he is waiting for the draft Part II of the Environmental Assessment Form (EAF) prepared by the sub-committee to be finalized before he submits a response to the additional topics that were identified that will require additional analysis.

Attorney Hopkins stated that revisions were made to the proposed cluster layout based on input received at the Board's May 19, 2021 meeting as follows:

- The permanent open space, which consists of 14.65 acres, will remain in its natural state.
- The 3,800 linear feet of onsite recreational trail that is shown provides opportunities to connect to the adjacent Wetzl parcel and the adjacent Town-owned property. The trail would be accessible to the public.

- The area of the permanent open space, excluding the storm water management areas, would be 13.2 acres. The storm water management areas may not be as large as currently shown once the project is engineered.
- Scott Livingstone from Earth Dimensions will provide input on a plan to provide a riparian buffer along the ditch that bisects the site.

Attorney Hopkins stated that the applicant, as well as the nearby residents, prefers the cluster layout over the regular R-1 layout.

In response to a question from Mrs. Comerford, Chris Wood, project engineer, stated that 50% of the site would be 14.65 acres and 13.2 acres (approximately 48% of the site) of open space is proposed not including the storm water management areas.

Mr. Wood stated that when the owner agreed to sell this property to Mr. Manko, he wanted some sort of buffer between the subdivision and his remaining property. He noted that he (Mr. Wood) plans to speak with the owner to see if he would be agreeable to a buffer on the north side of the creek to serve the same purpose.

In response to a question from Chairman Clark, David Manko, applicant, stated that he believes that the property owner would be agreeable to vegetation screening instead of a berm for a buffer.

Attorney Hopkins stated that the proposed cluster lots are not all that small, noting that the R-1 zoning requires lots that are at least 15,000 sq.ft. and the cluster lots are on average 11,000 sq.ft.

Ms. McCormick stated that she would like to see a landscaping plan that details the plan for maintaining vegetation near the storm water ponds and a long term management plan for the permanent open space.

In response to a question from Chairman Clark to Board members, Ms. McCormick stated that she needs more information before she decides whether to support the cluster layout.

Mr. Wood showed Board members a lot detail plan showing the largest home the builder plans to construct. He noted that this home and a 12' X 12' shed fit on the smallest proposed lot. He stated that there would be between 50 and 55 feet between the back of the home and the five-foot rear setback line for accessory structures. He further stated that there are three (3) other models that are smaller.

Chairman Clark noted that the Planning Board's goal would be to make sure that there is enough room on the lots for accessory structures, etc. that would not require variances.

Attorney Hopkins stated that the difference between this proposed cluster subdivision and others is that no matter what the Planning Board does, property owners would have a usable back yard.

It was determined that the Planning Board would determine what the minimum setbacks would be if a cluster layout is allowed. It was further determined that the closest any two (2) homes would be to each other would be 17' and no home would be closer than 8.5' to a side property line.

Ms. McCormick asked Mr. Wood for information relative to what the trail would consist of and how and by whom it would be maintained.

In response to a question from Mr. Reilly, Attorney Hopkins stated that there are no plans to install sidewalks along Parker Road in front of the open space. He acknowledged that sidewalks will be required unless waived by the Planning Board.

Mark Lorquet, Conservation Advisory Board (CAB) Chairman, stated that the CAB would like the storm water runoff into Rush Creek reduced because there are nine (9) existing subdivisions, Clark Street, Southwestern Boulevard and McKinley Parkway that drain into Rush Creek. He stated that when the storm water containing pesticides and herbicides is released into Rush Creek, it kills all of the marine life. He stated that the CAB would like the impact of the storm water reduced on drinking water.

Mr. Wood stated that the bio-retention areas required by the New York State Department of Environmental Conservation (NYSDEC) are part of the filtration that is associated with the retention basins.

Attorney Hopkins stated that the NYSDEC requires developers to enter into and record a storm water management agreement as part of the long term maintenance plan.

Ms. Jarrell stated that all storm water management agreement must be in place through construction and must identify the entity that is in charge of it. She noted that if the owner (HOA) fails to maintain the storm water management areas, the Town can do the maintenance and charge the HOA the cost.

Mr. Lorquet stated that the CAB also is concerned about the loss of agricultural land for subdivision. He stated that the Planning Board needs to decide if it is going to continue to allow farmers to give their land to developers. He stated that the Planning Board should send a letter to the Town Board indicating that the Town must come up with a plan to preserve and protect the character of Hamburg.

Chairman Clark questioned what the Planning Board or the Town Board can legally do to stop farmers from selling their land.

Mr. Reilly noted that this property is not located in a State or County Agricultural District.

Ms. McCormick stated the loss of agricultural land has been a continued cumulative trend along Parker Road and could put pressure on the Miller farm at the southern end of Parker Road.

Mr. Reilly stated that although the sub-committee deemed the loss of agricultural land a moderate to large impact in the Part II of the Environmental Assessment Form, the Planning Board must determine if that impact is significant. He noted that this property is considered to be fragmented agricultural land.

Attorney Hopkins stated that currently this land is not being used in an economically productive agricultural way. He noted that the current owner is allowing someone to lease and use this property for some nominal value. He stated that the owner did not plan on leasing it this year but is allowing the farmer to use it at no cost because of the ongoing review process of the proposed subdivision.

Attorney Hopkins stated that the Planning Board has no legal authority to say that this land must continue to be used for agricultural purposes.

Attorney Hopkins stated that many of Mr. Lorquet's comments are on a macro level thought process. He noted that the applicant can only deal with this particular parcel and past decisions cannot be rectified.

Mr. Chapman stated that it is not true that the residents are all in favor of the cluster layout. He noted that that is not what the Planning Board heard at the public hearing.

Chairman Clark stated that he believes that the newly proposed cluster layout has much more potential and is worth the Planning Board's time than the regular layout.

Ms. McCormick stated that there is information that has been requested of the applicant that the Board would want to see before it makes a decision between the cluster layout and the regular layout.

Chairman Clark confirmed with Ms. McCormick that she wants to see a long term maintenance plan, a landscaping plan, a riparian corridor, agricultural options, information on what the plan is for sidewalks and information on traffic at intersections (adding a new intersection on Parker Road).

Mrs. Comerford stated that she is concerned about the cumulative effect of this project and the Wetzl rezoning project on traffic.

Mr. Wood stated that the Traffic Impact Study that was done considered both projects together.

Attorney Hopkins stated that he reviewed the entire Traffic Impact Study and from an overall perspective there is no substantial degradation of the overall turning movements at any of the intersections.

Ms. McCormick stated that she would like information on how the intersection and the sight lines were designed in terms of safety standards for the primary flow of traffic both at the emergency access and the main entrance.

Mr. Wood stated that the new intersection would line up with Marilyn Drive.

In response to a question from Mrs. Comerford, Mr. Reilly stated that the Planning Board could have a traffic consultant come to a meeting and talk about traffic studies and how to interpret them.

Ms. McCormick asked Board members to send comments to Mrs. desJardins by Thursday, June 10, 2021 regarding this project and consistency with land use plans and community character. She noted that the sub-committee would be meeting to discuss significance on the other items.

Mr. Reilly stated that he would like to see a visualization of what Parker Road would look like once this subdivision is constructed.

Chairman Clark made a motion, seconded by Mrs. Comerford, to table this project. Carried.

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## **EXHIBIT 4**

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run like Swiss clocks. He stated that there were never problems getting in and out of the Chick Fil A he has frequented in Nashville, TN, Manassas, VA and Erie PA. He stated that the addition of Chick Fil A would be a big help to the Raymour & Flanigan and Sketcher's. He stated that people use common sense and go to a restaurant at a different time of day if the restaurant is crowded.

Mr. David Manko stated that he supports Chick Fil A. He stated that he has gone to the Chick Fil A on Walden Avenue at many different times during the day and it always run like a Swiss watch. He stated that Chick Fil A is a very organized organization.

Chairman Clark declared the public hearing closed.

Ms. McCormick stated that the Planning Department should prepare draft Part II and III for this project.

Mr. Reilly stated that the only issued identified in Part II are traffic related.

Chairman Clark stated that the Planning Department will prepare draft resolutions for the Board's next meeting.

Chairman Clark made a motion, seconded by Mr. Mahoney, to table this project. Carried. Engineering Department comments have been filed with the Planning Department.

**David Manko – Requesting Preliminary Plat Approval of a 67-lot subdivision to be located on the west side of Parker Road**

Ms. McCormick stated that the sub-committee prepared an updated Part II of the EAF based on the Board's last meeting.

In response to a question from Chairman Clark, Ms. McCormick stated that she started filling out Section 17 of the Part II of the EAF and wanted to confirm Section 18. She stated that the sub-committee filled in a table based upon guidance from the New York State Department of Environmental Conservation (NYSDEC) for Part III.

Ms. McCormick stated that the Planning Board should review the draft of the sub-committee's preliminary Part II.

Ms. McCormick stated that regarding Section 17c (consistency with local land use plans and zoning regulations) of the Part II, the sub-committee reviewed the 2007 update to the Comprehensive Plan and there are comments in that plan indicating that the Town should be encouraging the existence of existing viable agricultural uses. She stated that the 2007 update also indicates that active agricultural lands and uses are important to preserving the aesthetic quality as well as the economic viability of the Town and a number of vital agricultural pursuits remain in the Town that should be preserved and promoted.

Ms. McCormick stated that the sub-committee considers the loss of agricultural land to be a potentially large to moderate impact.

Ms. McCormick stated that she previously asked Chris Wood, project engineer, to evaluate relative to the County storm water plan.

Attorney Hopkins stated that Town Engineer Jarrell and Mr. Wood previously agreed that what Ms. McCormick asked for is not something that can be done.

Ms. McCormick stated that Section 18's listed impacts were marked "No or small".

Ms. McCormick stated that the NYSDEC guidance for Part III suggests that Planning Boards do a table looking at each of the items from each of the questions and identifying what the magnitude of impact, the duration of impact, the likelihood of impact and the importance of impact. She noted that the sub-committee did create the table and added two (2) items (whether the impact is significant or whether or not it is contributing to cumulative impact with the Wetzl project).

Board members reviewed the sub-committee's table created.

Ms. McCormick stated that the following impacts are seen as having potential significance:

- Impact on surface water (the as of right plan has a larger impact than the cluster layout would) is pending design changes
- Impact on agricultural resources
- Impact on transportation
- Impact on consistency with community plans

Ms. McCormick stated that she is still waiting for Mr. Wood to provide the design of the riparian buffer plan.

Attorney Hopkins stated that he will prepare a response to the above impacts.

Mr. Reilly stated that he does not believe that this is an agricultural impact. He stated that this is isolated land and reaches no threshold. He stated that the agricultural land the Comprehensive Plan refers to is located in the southern part of the Town and this parcel is not viable farmland.

Ms. McCormick stated that there are farmers who actively farm land that is smaller in size than this parcel.

Ms. McCormick stated that she disagreed with Mr. Reilly.

Chairman Clark stated that this property is farmland that would be changed to another use, but whether that would trigger a Positive Declaration would depend in his mind on what mitigations are proposed.

Ms. McCormick stated that if the Planning Board determines that an impact is significant, whether or not a Board member has predetermined what mitigation would be, it would still have to go through the process.

Ms. McCormick asked Board members if they agree with what she has presented.

Chairman Clark stated that there are going to be impacts when something is built on a field. He noted that he agrees with what the sub-committee has identified as potential impacts

since buildings and roads are proposed where a field currently exists. He noted that everything that the Planning Board approves impacts community character and surface water.

Chairman Clark stated that the Board must determine what the process should be to address the above-mentioned impacts.

It was agreed that in Part III of the EAF, it must be determined if identified moderate to large impacts are considered significant and if they are, a Positive Declaration must be issued.

Mr. Reilly stated that this property is zoned R-1 for single family homes and asked how losing 35 acres of farmland is a significant impact.

Chairman Clark asked what the alternative would be to losing the farmland.

Attorney Hopkins stated that this land is not a viable farm currently, noting that it is being leased at no cost.

Mr. David Manko, applicant, stated that if he were to buy this property and turn it into a farm, it could not support its debt to be a farm.

Attorney Hopkins showed Board members a plan showing that under the cluster alternative, ample size homes can still fit on the proposed lots. He provided Board members with sample lot display plans showing four (4) different home types, driveways, possible accessory structures, etc.

In response to a question from Ms. McCormick, Mrs. desJardins stated that Roger Gibson, Supervising Code Enforcement Official, indicated that he feels that the required setbacks for this cluster subdivision should be equal to those required in the R-2 District because these proposed building lots are very similar to R-2 lots.

Mr. Reilly stated that Mark Lorquet, Conservation Advisory Board Chairman has been speaking to the applicant about how the open space should be utilized.

Attorney Hopkins reiterated the fact that the applicant's as well as the nearby neighbors' strong preference is for clustering. He stated that the overall environmental impacts would be less with clustering.

Attorney Hopkins stated that until the Planning Board resolves the issue of whether clustering will be allowed, the project engineer will not complete the fully engineered plans.

Mrs. Comerford confirmed with Attorney Hopkins that if clustering is authorized, the proposed front yard setback would be 30 feet, the proposed side yard setback would be at least 7.5 feet and the proposed rear yard setback would be at least 25 feet.

Attorney Hopkins noted that clustering requires at least a 25-foot rear yard setback and some of the proposed cluster lots would have rear yard setbacks of 51 feet or more.

Mrs. Comerford asked Attorney Hopkins to provide something that shows the largest proposed home on the smallest proposed lot.

Mr. Reilly stated that the Planning Board can determine what the setbacks will be based on the lot layout if clustering is authorized.

Chairman Clark made a motion, seconded by Mr. Chapman, to table this project. Carried. Engineering Department comments have been filed with the Planning Department.

**Glenn Wetzl – Requesting rezoning of vacant land located on the south side of Big Tree Road, east of 4255 McKinley Parkway from C-1 and R-1 to R-3**

Board members reviewed the draft Part II of the EAF prepared by the sub-committee. Ms. McCormick stated that the following impacts are seen as having potential significance:

- # 3: Impact on surface water
- # 3c: The volume of material to be dredged (over the threshold but not significant)

Ms. McCormick stated that the areas of concern that are potentially significant that are different from the Manko project EAF are as follows:

- # 7: Impact on plants and animals (over 10 acres of land would be converted from forested land)
- # 11a: The proposed action may result in an impairment of natural functions or "ecosystem services" provided by an undeveloped area, including but not limited to storm water storage, nutrient cycling, wildlife habitat.
- # 13: Impact on transportation
- # 14: Impact on energy
- # 17c: The proposed action is inconsistent with local land use plans or zoning regulations
- # 18f: Proposed action is inconsistent with the character of the existing natural landscape

Ms. McCormick asked Chairman Clark and Mr. Mahoney if there is anything they would like to see changed or disagree with regarding the draft Part II of the EAF for this project prepared by the sub-committee.

Mr. Reilly stated that # 11 (impact on open space and recreation) is referring to designated open space in an adopted plan that is important to a Town. He stated that he disagrees with the sub-committee's listing of # 11a as potentially significant.

Ms. McCormick stated that the sub-committee did consult Attorney Puglisi about what constitutes "open space" and it will provide backup regarding how they arrived at its definition.

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## **EXHIBIT 5**

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**Full Environmental Assessment Form**  
**Part 2 - Identification of Potential Project Impacts**

Agency Use Only [If applicable]

Project : Manko

Date : May 2021

**Part 2 is to be completed by the lead agency.** Part 2 is designed to help the lead agency inventory all potential resources that could be affected by a proposed project or action. We recognize that the lead agency's reviewer(s) will not necessarily be environmental professionals. So, the questions are designed to walk a reviewer through the assessment process by providing a series of questions that can be answered using the information found in Part 1. To further assist the lead agency in completing Part 2, the form identifies the most relevant questions in Part 1 that will provide the information needed to answer the Part 2 question. When Part 2 is completed, the lead agency will have identified the relevant environmental areas that may be impacted by the proposed activity.

If the lead agency is a state agency **and** the action is in any Coastal Area, complete the Coastal Assessment Form before proceeding with this assessment.

**Tips for completing Part 2:**

- Review all of the information provided in Part 1.
- Review any application, maps, supporting materials and the Full EAF Workbook.
- Answer each of the 18 questions in Part 2.
- If you answer "Yes" to a numbered question, please complete all the questions that follow in that section.
- If you answer "No" to a numbered question, move on to the next numbered question.
- Check appropriate column to indicate the anticipated size of the impact.
- Proposed projects that would exceed a numeric threshold contained in a question should result in the reviewing agency checking the box "Moderate to large impact may occur."
- The reviewer is not expected to be an expert in environmental analysis.
- If you are not sure or undecided about the size of an impact, it may help to review the sub-questions for the general question and consult the workbook.
- When answering a question consider all components of the proposed activity, that is, the "whole action".
- Consider the possibility for long-term and cumulative impacts as well as direct impacts.
- Answer the question in a reasonable manner considering the scale and context of the project.

**1. Impact on Land**

Proposed action may involve construction on, or physical alteration of, the land surface of the proposed site. (See Part 1. D.1)

NO

YES

*If "Yes", answer questions a - j. If "No", move on to Section 2.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may involve construction on land where depth to water table is less than 3 feet.	E2d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may involve construction on slopes of 15% or greater.	E2f	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface.	E2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material.	D2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may involve construction that continues for more than one year or in multiple phases.	D1e	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides).	D2e, D2q	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. The proposed action is, or may be, located within a Coastal Erosion hazard area.	B1i	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

## 2. Impact on Geological Features

The proposed action may result in the modification or destruction of, or inhibit access to, any unique or unusual land forms on the site (e.g., cliffs, dunes, minerals, fossils, caves). (See Part 1. E.2.g)

*If "Yes", answer questions a - c. If "No", move on to Section 3.*

NO

YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Identify the specific land form(s) attached: _____	E2g	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may affect or is adjacent to a geological feature listed as a registered National Natural Landmark. Specific feature: _____	E3c	<input type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

## 3. Impacts on Surface Water

The proposed action may affect one or more wetlands or other surface water bodies (e.g., streams, rivers, ponds or lakes). (See Part 1. D.2, E.2.h)

*If "Yes", answer questions a - l. If "No", move on to Section 4.*

NO

YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may create a new water body.	D2b, D1h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water.	D2b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body.	D2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body.	E2h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.	D2a, D2h	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. The proposed action may include construction of one or more intake(s) for withdrawal of water from surface water.	D2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may include construction of one or more outfall(s) for discharge of wastewater to surface water(s).	D2d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies.	D2e	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action.	E2h	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j. The proposed action may involve the application of pesticides or herbicides in or around any water body.	D2q, E2h	<input type="checkbox"/>	<input checked="" type="checkbox"/>
k. The proposed action may require the construction of new, or expansion of existing, wastewater treatment facilities.	D1a, D2d	<input checked="" type="checkbox"/>	<input type="checkbox"/>

I. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>
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#### 4. Impact on groundwater

The proposed action may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer.  
(See Part 1. D.2.a, D.2.c, D.2.d, D.2.p, D.2.q, D.2.t)

*If "Yes", answer questions a - h. If "No", move on to Section 5.*

NO  YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may require new water supply wells, or create additional demand on supplies from existing water supply wells.	D2c	<input type="checkbox"/>	<input type="checkbox"/>
b. Water supply demand from the proposed action may exceed safe and sustainable withdrawal capacity rate of the local supply or aquifer. Cite Source: _____	D2c	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may allow or result in residential uses in areas without water and sewer services.	D1a, D2c	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may include or require wastewater discharged to groundwater.	D2d, E2l	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in the construction of water supply wells in locations where groundwater is, or is suspected to be, contaminated.	D2c, E1f, E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may require the bulk storage of petroleum or chemical products over ground water or an aquifer.	D2p, E2l	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may involve the commercial application of pesticides within 100 feet of potable drinking water or irrigation sources.	E2h, D2q, E2l, D2c	<input type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

#### 5. Impact on Flooding

The proposed action may result in development on lands subject to flooding.  
(See Part 1. E.2)

*If "Yes", answer questions a - g. If "No", move on to Section 6.*

NO  YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in development in a designated floodway.	E2i	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in development within a 100 year floodplain.	E2j	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in development within a 500 year floodplain.	E2k	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in, or require, modification of existing drainage patterns.	D2b, D2e	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may change flood water flows that contribute to flooding.	D2b, E2i, E2j, E2k	<input type="checkbox"/>	<input type="checkbox"/>
f. If there is a dam located on the site of the proposed action, is the dam in need of repair, or upgrade?	E1e	<input type="checkbox"/>	<input type="checkbox"/>

g. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>
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#### 6. Impacts on Air

The proposed action may include a state regulated air emission source.  
(See Part 1. D.2.f., D.2.h, D.2.g)

*If "Yes", answer questions a - f. If "No", move on to Section 7.*

NO

YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. If the proposed action requires federal or state air emission permits, the action may also emit one or more greenhouse gases at or above the following levels: i. More than 1000 tons/year of carbon dioxide (CO <sub>2</sub> ) ii. More than 3.5 tons/year of nitrous oxide (N <sub>2</sub> O) iii. More than 1000 tons/year of carbon equivalent of perfluorocarbons (PFCs) iv. More than .045 tons/year of sulfur hexafluoride (SF <sub>6</sub> ) v. More than 1000 tons/year of carbon dioxide equivalent of hydrochlorofluorocarbons (HFCs) emissions vi. 43 tons/year or more of methane	D2g D2g D2g D2g D2g D2h	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
b. The proposed action may generate 10 tons/year or more of any one designated hazardous air pollutant, or 25 tons/year or more of any combination of such hazardous air pollutants.	D2g	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may require a state air registration, or may produce an emissions rate of total contaminants that may exceed 5 lbs. per hour, or may include a heat source capable of producing more than 10 million BTU's per hour.	D2f, D2g	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may reach 50% of any of the thresholds in "a" through "c", above.	D2g	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in the combustion or thermal treatment of more than 1 ton of refuse per hour.	D2s	<input type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

#### 7. Impact on Plants and Animals

The proposed action may result in a loss of flora or fauna. (See Part 1. E.2. m.-q.)

*If "Yes", answer questions a - j. If "No", move on to Section 8.*

NO

YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may cause reduction in population or loss of individuals of any threatened or endangered species, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2o	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in a reduction or degradation of any habitat used by any rare, threatened or endangered species, as listed by New York State or the federal government.	E2o	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may cause reduction in population, or loss of individuals, of any species of special concern or conservation need, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2p	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or the Federal government.	E2p	<input type="checkbox"/>	<input type="checkbox"/>

e. The proposed action may diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect.	E3c	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result in the removal of, or ground disturbance in, any portion of a designated significant natural community. Source: _____	E2n	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may substantially interfere with nesting/breeding, foraging, or over-wintering habitat for the predominant species that occupy or use the project site.	E2m	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat. Habitat type & information source: _____	E1b	<input type="checkbox"/>	<input type="checkbox"/>
i. Proposed action (commercial, industrial or recreational projects, only) involves use of herbicides or pesticides.	D2q	<input type="checkbox"/>	<input type="checkbox"/>
j. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

#### 8. Impact on Agricultural Resources

The proposed action may impact agricultural resources. (See Part 1. E.3.a. and b.)

*If "Yes", answer questions a - h. If "No", move on to Section 9.*

NO

YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may impact soil classified within soil group 1 through 4 of the NYS Land Classification System.	E2c, E3b	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may sever, cross or otherwise limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc).	E1a, E1b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in the excavation or compaction of the soil profile of active agricultural land.	E3b	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. The proposed action may irreversibly convert agricultural land to non-agricultural uses, either more than 2.5 acres if located in an Agricultural District, or more than 10 acres if not within an Agricultural District.	E1b, E3a	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. The proposed action may disrupt or prevent installation of an agricultural land management system.	E1a, E1b	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. The proposed action may result, directly or indirectly, in increased development potential or pressure on farmland.	C2c, C3, D2c, D2d	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. The proposed project is not consistent with the adopted municipal Farmland Protection Plan.	C2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

**9. Impact on Aesthetic Resources**

The land use of the proposed action are obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource. (Part 1. E.1.a, E.1.b, E.3.h.)

*If "Yes", answer questions a - g. If "No", go to Section 10.*

NO

YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Proposed action may be visible from any officially designated federal, state, or local scenic or aesthetic resource.	E3h	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the obstruction, elimination or significant screening of one or more officially designated scenic views.	E3h, C2b	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may be visible from publicly accessible vantage points: <ul style="list-style-type: none"> <li>i. Seasonally (e.g., screened by summer foliage, but visible during other seasons)</li> <li>ii. Year round</li> </ul>	E3h	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
d. The situation or activity in which viewers are engaged while viewing the proposed action is: <ul style="list-style-type: none"> <li>i. Routine travel by residents, including travel to and from work</li> <li>ii. Recreational or tourism based activities</li> </ul>	E3h E2q, E1c	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
e. The proposed action may cause a diminishment of the public enjoyment and appreciation of the designated aesthetic resource.	E3h	<input type="checkbox"/>	<input type="checkbox"/>
f. There are similar projects visible within the following distance of the proposed project: <ul style="list-style-type: none"> <li>0-1/2 mile</li> <li>1/2 -3 mile</li> <li>3-5 mile</li> <li>5+ mile</li> </ul>	D1a, E1a, D1f, D1g	<input type="checkbox"/>	<input type="checkbox"/>
g. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

**10. Impact on Historic and Archeological Resources**

The proposed action may occur in or adjacent to a historic or archaeological resource. (Part 1. E.3.e, f. and g.)

*If "Yes", answer questions a - e. If "No", go to Section 11.*

NO

YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may occur wholly or partially within, or substantially contiguous to, any buildings, archaeological site or district which is listed on the National or State Register of Historical Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places.	E3e	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may occur wholly or partially within, or substantially contiguous to, an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory.	E3f	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. The proposed action may occur wholly or partially within, or substantially contiguous to, an archaeological site not included on the NY SHPO inventory.	E3g	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Source: \_\_\_\_\_

d. Other impacts: _____		<input checked="" type="checkbox"/>	<input type="checkbox"/>
If any of the above (a-d) are answered "Moderate to large impact may occur", continue with the following questions to help support conclusions in Part 3:			
i. The proposed action may result in the destruction or alteration of all or part of the site or property.	E3e, E3g, E3f	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii. The proposed action may result in the alteration of the property's setting or integrity.	E3e, E3f, E3g, E1a, E1b	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii. The proposed action may result in the introduction of visual elements which are out of character with the site or property, or may alter its setting.	E3e, E3f, E3g, E3h, C2, C3	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### 11. Impact on Open Space and Recreation

The proposed action may result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan.

(See Part 1. C.2.c, E.1.c., E.2.q.)

*If "Yes", answer questions a - e. If "No", go to Section 12.*

NO       YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in an impairment of natural functions, or "ecosystem services", provided by an undeveloped area, including but not limited to stormwater storage, nutrient cycling, wildlife habitat.	D2e, E1b E2h, E2m, E2o, E2n, E2p	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the loss of a current or future recreational resource.	C2a, E1c, C2c, E2q	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may eliminate open space or recreational resource in an area with few such resources.	C2a, C2c E1c, E2q	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in loss of an area now used informally by the community as an open space resource.	C2c, E1c	<input type="checkbox"/>	<input type="checkbox"/>
e. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

#### 12. Impact on Critical Environmental Areas

The proposed action may be located within or adjacent to a critical environmental area (CEA). (See Part 1. E.3.d)

*If "Yes", answer questions a - c. If "No", go to Section 13.*

NO       YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in a reduction in the quantity of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in a reduction in the quality of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

**13. Impact on Transportation**

The proposed action may result in a change to existing transportation systems.

NO

YES

(See Part 1. D.2.j)

*If "Yes", answer questions a - f. If "No", go to Section 14.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Projected traffic increase may exceed capacity of existing road network.	D2j	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. The proposed action may result in the construction of paved parking area for 500 or more vehicles.	D2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action will degrade existing transit access.	D2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action will degrade existing pedestrian or bicycle accommodations.	D2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may alter the present pattern of movement of people or goods.	D2j	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

**14. Impact on Energy**

The proposed action may cause an increase in the use of any form of energy.

NO

YES

(See Part 1. D.2.k)

*If "Yes", answer questions a - e. If "No", go to Section 15.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action will require a new, or an upgrade to an existing, substation.	D2k	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two-family residences or to serve a commercial or industrial use.	D1f, D1q, D2k	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. The proposed action may utilize more than 2,500 MWhrs per year of electricity.	D2k	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed.	D1g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Other Impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

**15. Impact on Noise, Odor, and Light**

The proposed action may result in an increase in noise, odors, or outdoor lighting.

NO

YES

(See Part 1. D.2.m., n., and o.)

*If "Yes", answer questions a - f. If "No", go to Section 16.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may produce sound above noise levels established by local regulation.	D2m	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center, or nursing home.	D2m, E1d	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in routine odors for more than one hour per day.	D2o	<input type="checkbox"/>	<input type="checkbox"/>

d. The proposed action may result in light shining onto adjoining properties.	D2n	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in lighting creating sky-glow brighter than existing area conditions.	D2n, E1a	<input type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

#### 16. Impact on Human Health

The proposed action may have an impact on human health from exposure to new or existing sources of contaminants. (See Part 1.D.2.q., E.1. d. f. g. and h.)  
*If "Yes", answer questions a - m. If "No", go to Section 17.*

NO

YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action is located within 1500 feet of a school, hospital, licensed day care center, group home, nursing home or retirement community.	E1d	<input type="checkbox"/>	<input type="checkbox"/>
b. The site of the proposed action is currently undergoing remediation.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
c. There is a completed emergency spill remediation, or a completed environmental site remediation on, or adjacent to, the site of the proposed action.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
d. The site of the action is subject to an institutional control limiting the use of the property (e.g., easement or deed restriction).	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may affect institutional control measures that were put in place to ensure that the site remains protective of the environment and human health.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action has adequate control measures in place to ensure that future generation, treatment and/or disposal of hazardous wastes will be protective of the environment and human health.	D2t	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action involves construction or modification of a solid waste management facility.	D2q, E1f	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may result in the unearthing of solid or hazardous waste.	D2q, E1f	<input type="checkbox"/>	<input type="checkbox"/>
i. The proposed action may result in an increase in the rate of disposal, or processing, of solid waste.	D2r, D2s	<input type="checkbox"/>	<input type="checkbox"/>
j. The proposed action may result in excavation or other disturbance within 2000 feet of a site used for the disposal of solid or hazardous waste.	E1f, E1g E1h	<input type="checkbox"/>	<input type="checkbox"/>
k. The proposed action may result in the migration of explosive gases from a landfill site to adjacent off site structures.	E1f, E1g	<input type="checkbox"/>	<input type="checkbox"/>
l. The proposed action may result in the release of contaminated leachate from the project site.	D2s, E1f, D2r	<input type="checkbox"/>	<input type="checkbox"/>
m. Other impacts: _____			

**17. Consistency with Community Plans**

The proposed action is not consistent with adopted land use plans.  
(See Part 1. C.1, C.2. and C.3.)

*If "Yes", answer questions a - h. If "No", go to Section 18.*

NO

YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action's land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s).	C2, C3, D1a E1a, E1b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action will cause the permanent population of the city, town or village in which the project is located to grow by more than 5%.	C2	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action is inconsistent with local land use plans or zoning regulations.	C2, C2, C3	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. The proposed action is inconsistent with any County plans, or other regional land use plans.	C2, C2	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may cause a change in the density of development that is not supported by existing infrastructure or is distant from existing infrastructure.	C3, D1c, D1d, D1f, D1d, Elb	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action is located in an area characterized by low density development that will require new or expanded public infrastructure.	C4, D2c, D2d D2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may induce secondary development impacts (e.g., residential or commercial development not included in the proposed action)	C2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Other: _____		<input type="checkbox"/>	<input type="checkbox"/>

**18. Consistency with Community Character**

The proposed project is inconsistent with the existing community character.  
(See Part 1. C.2, C.3, D.2, E.3)

*If "Yes", answer questions a - g. If "No", proceed to Part 3.*

NO

YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may replace or eliminate existing facilities, structures, or areas of historic importance to the community.	E3e, E3f, E3g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may create a demand for additional community services (e.g. schools, police and fire)	C4	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may displace affordable or low-income housing in an area where there is a shortage of such housing.	C2, C3, D1f D1g, E1a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may interfere with the use or enjoyment of officially recognized or designated public resources.	C2, E3	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action is inconsistent with the predominant architectural scale and character.	C2, C3	<input type="checkbox"/>	<input type="checkbox"/>
f. Proposed action is inconsistent with the character of the existing natural landscape.	C2, C3 E1a, E1b E2g, E2h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

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## **EXHIBIT 6**

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## Manko Subdivision – Part 3 Considerations

Question	Magnitude of Impact	Duration of Impact	Likelihood of Impact	Importance of Impact	Potentially Significant	Cumulative Impact
1 – Impact on Land – Item e	Moderate Impact – the entire parcel will be affected	Medium to Long Term (depending on subdivision build out)	Definitely will Occur	Low Importance – area is an existing agricultural parcel that is plowed several times of year. Construction will require SWPPP and SWPPP inspections to manage offsite impacts.	No	Yes
1 – Impact on Land – Item f	Moderate Impact – the entire parcel will be affected	Medium to Long Term (depending on subdivision build out)	Definitely will Occur	Low Importance – area is an existing agricultural parcel that is plowed several times of year. Construction will require SWPPP and SWPPP inspections to manage offsite impacts.	No	Yes
3 – Impact on Surface Water – Items h and i	Large Impact – surface waters onsite regulated by the USACE and on 303(d) list; potential	AS OF RIGHT: Irrecoverable – private landowner actions may be difficult to manage and grading/disturbance	AS OF RIGHT: Probably will Occur – residential lots surround regulated waterbody; difficult to control individual	Very Important	Yes – design refinements ongoing may adjust this	Yes

**Manko Subdivision – Part 3 Considerations**

downstream impacts to Rush Creek	to backyards may occur	user actions along regulated surface water – multiple property owners	<b>CLUSTER: Possibly will Occur – uncertainty regarding implementation of riparian corridor restoration and design of stormwater facilities</b>	Yes
3 – Impact on Surface Water – Item j	Large Impact – surface waters onsite regulated by the USACE and on 303(d) list; potential downstream impacts to Rush Creek	Long Term	<b>AS OF RIGHT:</b> Probably will Occur – residential lots surround regulated waterbody; difficult to control individual user spraying and activities along regulated surface water – multiple property owners	Very Important

**Manko Subdivision – Part 3 Considerations**

			design of stormwater facilities			
8 – Impact on Agricultural Resources	Moderate Impact – impact limited to Project parcel, however, over 10 acres of land will be converted in an area not listed as an Agricultural District	Irrecoverable – due to soil compaction, grading, digging of basements, and placement of permanent structures, land unable to revert to agricultural land	Definitely will occur. Project cannot happen without permanently converting agricultural land.	Fairly Important	Yes	No
10 – Impact on Historic and Archeological Resources	Moderate Impact – impact limited to Project parcel which is identified as potentially archeologically significant	Irreversible – disturbance on this parcel would eliminate its status as sensitive for archeological sites	Unlikely to Occur – Phase 1B testing did not identify any potentially significant archeological resources; OPRHP concurred with findings of study	Low Importance	No	Yes
13 – Impact on Transportation	Moderate Impact – potential for regional impact	Irreversible – Significant increase in the traffic volume with the intersection of Abbott and Big Tree receiving an ICU level of service of E for the AM commute and F for the afternoon commute, while the intersection of Parker rd and Big Tree will have a level D for the	Definitely will occur – with the notable size of this project it will create an increased traffic demand.	Very Important	Yes	Yes

**Manko Subdivision – Part 3 Considerations**

14 – Impact on Energy	Moderate Impact – exceeds threshold for number of new residences	afternoon commute. Also this project will necessitate the restriping of Big Tree to accommodate the creation of a 2 way left turn lane.	Long-term – increase in energy use to accommodate the homes for the reasonably foreseeable planning horizon	Definitely will Occur	Low Importance – no additional transmission lines needed other than local distribution lines; no new substation proposed; new buildings will adhere to applicable local and state energy codes
17 – Consistency with Community Plan	Moderate/Large Impact		Irreversible – Agricultural Land will be lost. 2007 Comprehensive Plan Update states (pg 42 of PDF): “Encourage the Existence of existing, viable agricultural uses.”	Definitely will Occur	Fairly Important – 2007 Plan also states (pg 49 of PDF): “Active Agricultural Lands and Uses are also important to preserving the aesthetic quality, as well as economic viability of the Town. A number of vital agricultural

Manko Subdivision – Part 3 Considerations

pursuits remain in the Town that should be preserved and promoted."

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## **EXHIBIT 7**

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**Carmina  
Wood  
Morris<sup>inc</sup>**

4107 Main Street Suite 600  
Buffalo, New York 14203  
P: 716.842.3185  
F: 716.842.0003

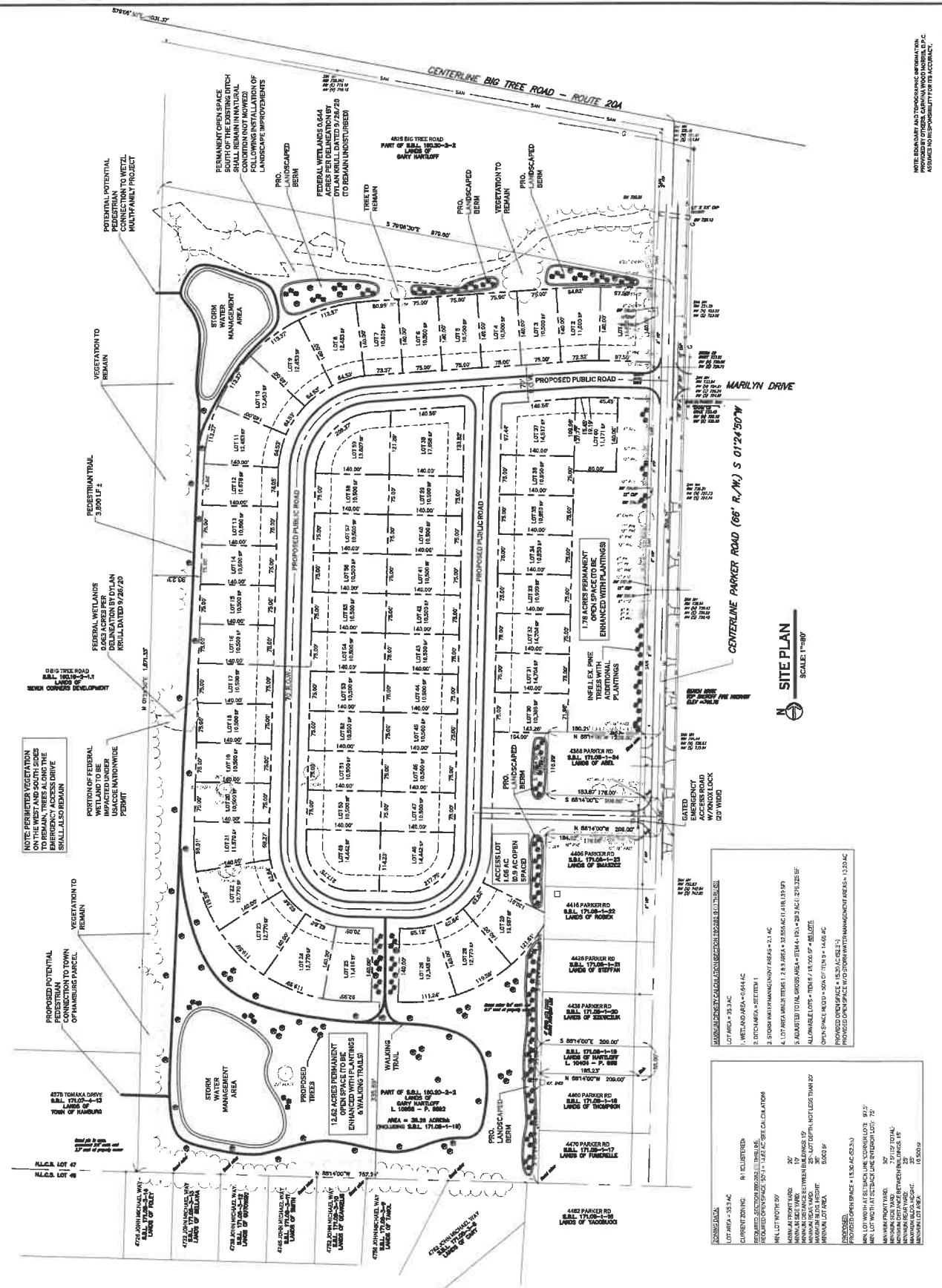
## Single Family Subdivision

### New Construction

**DRAWING NAME:**  
**Concept Site**  
**Plan - Clustered**

DRAWING NO. C-100

NOTE: BOUNDARY AND TOPOGRAPHIC INFORMATION  
PROVIDED BY OTHERS. CARMINA WOOD MORRIS, D.P.C.  
ASSUMES NO RESPONSIBILITY FOR ITS ACCURACY.



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## **EXHIBIT 8**

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## **EXHIBIT 9**

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## Parks, Recreation, and Historic Preservation

ANDREW M. CUOMO  
Governor

ERIK KULLESEID  
Commissioner

October 9, 2020

Mr. Charles Vandrei, Agency Historic Preservation Officer  
NYS Environmental Conservation, Division of Lands and Forests  
625 Broadway  
Albany, NY 12233-4255

Re: DEC  
Residential Subdivision Construction Project (12.1 ha (30 ac) of 14.7 ha (36.3 ac) Parcel)  
Parker Road, Hamburg, Erie County, NY  
20PR05658

Dear Mr. Vandrei:

Thank you for requesting the comments of the Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP). The Archaeology Unit has reviewed the Phase I Archaeological Reconnaissance Survey report prepared by UB's Archaeological Survey (Whalen & Lackos, September 2020; 20SR00472) 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 archaeological Historic/Cultural resources.

Based upon this review, it is OPRHP's understanding that the Native American Parker Road Site (USN 02915.000516) was identified during the above noted investigation. OPRHP has determined that this site is not eligible to the State or National Registers of Historic Places. The Archaeology Unit therefore has no further concerns for impacts to archaeological sites and no further archaeological investigations are warranted. Should the project design be changed OPRHP recommends further consultation with this office.

An outstanding request for additional information from Ms. Jennifer Walkowski of OPRHP's Survey and Evaluation Unit remains incomplete. Please continue to consult with Ms. Walkowski regarding this project.

If you have any questions, I can be reached via e-mail at [Josalyn.Ferguson@parks.ny.gov](mailto:Josalyn.Ferguson@parks.ny.gov).

Sincerely,

A handwritten signature in black ink that appears to read "Ferguson".

Josalyn Ferguson, Ph.D.  
Scientist Archaeology

*via email only*

c.c. Christopher Wood, Carmina Wood Morris  
c.c. Kathryn Whalen, UB Archaeological Survey

c.c. David Manko, Parker Road Developers

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## **EXHIBIT 10**

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## COUNTY OF ERIE

MARK C. POLONCARZ

THOMAS R. HERSEY, JR.  
COMMISSIONER

COUNTY EXECUTIVE  
DEPARTMENT OF ENVIRONMENT & PLANNING

JOSEPH L. FIEGL, P.E.  
DEPUTY COMMISSIONER

December 18, 2020

Rami Herzallah, EIT  
Carmina Wood Morris  
487 Main St., Suite 500  
Buffalo, NY 14203

RE: Erie County Sewer District No. 3 (ECSD #3) – DSCA Review  
4825 Parker Road, near Route 20A in the Town of Hamburg

Dear Mr. Herzallah,

The Erie County Department of Environment and Planning - Division of Sewerage Management (ECDEP-DSM) reviewed the Downstream Capacity Analysis (DSCA) submitted for the above mentioned project in the Town of Hamburg and concurs with your analysis that there is sufficient capacity in the system for the proposed peak flow of approximately 92,000 gallons per day.

The required I&I remedial work for this development is 9 lateral replacements.

The DSM will forward the Engineer's Certification and this letter to the Health Department during the coordinated review process.

The DSCA verifies capacity in the ECSD #3 collection system. This letter does not constitute approval or disapproval of this project. If not already done, please submit for review and approval the Sanitary Sewer Plans and Engineer's Report to Matt Salah, P.E., ECDEP-DSM, 95 Franklin Street, Room 1034, Buffalo, NY 14202.

Please contact me with any questions or concerns at (716) 858-6586.

Sincerely,

A handwritten signature in blue ink that reads "C. Fiume".

Christopher Fiume  
Assistant Sanitary Engineer

cc: M. Salah / 3.2.5.Capacity Analysis  
Camie Jarrell, P.E. (GHD, Town Engineer)

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## **EXHIBIT 11**

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DEPARTMENT OF THE ARMY  
BUFFALO DISTRICT, CORPS OF ENGINEERS  
1776 NIAGARA STREET  
BUFFALO, NEW YORK 14207-3199

May 13, 2021

Regulatory Branch

SUBJECT: Approved Jurisdictional Determination for Department of the Army Processing No. LRB-2020-01359

Erik Krull  
Wetlands Investigation Co.  
503 Maynard Drive  
Amherst, NY 14226

Dear Mr. Krull:

I have reviewed your request, submitted on behalf of Parker Rd. Development, LLC., for an approved jurisdictional determination (JD) on an approximately 36.3-acre parcel of land located west of Parker Road, in the Hamburg, Erie County, New York (Sheet 1 of 2).

Enclosed is an approved JD which verifies the limits of waters of the U.S. within the subject parcel as depicted on Sheet 2 of 2. This approved JD will remain valid for a period of five (5) years from the date of this correspondence unless new information warrants revision of the approved JD before the expiration date. At the end of this period, a new aquatic resource delineation and JD will be required.

I have determined that the following aquatic resources are waters of the U.S. as noted on the attached Interim Approved Jurisdictional Determination Form: Tributary to Rush Creek and Wetland B. Therefore, these aquatic resources are regulated under Section 404 of the Clean Water Act. Department of the Army authorization is required if you propose a discharge of dredged or fill material in these waters of the U.S.

I have determined that the following aquatic resource is not a water of the U.S. as noted on the attached Interim Approved Jurisdictional Determination Form: Wetland A. Therefore, this aquatic resource is not regulated under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act of 1899. Department of the Army authorization is not required if you propose work or propose a discharge of dredged or fill material in this aquatic resource.

Further, this delineation/determination has been conducted to identify the limits of the Corps Clean Water Act jurisdiction for the particular site identified in your request. This delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are United States Department of Agriculture (USDA) program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resource Conservation Service prior to starting work.

Regulatory Branch

SUBJECT: Approved Jurisdictional Determination for Department of the Army Processing No. LRB-2020-01359

If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal the above JD, you must submit a completed RFA form within 60 days of the date on this letter to the Great Lakes/Ohio River Division Office at the following address:

Jacob Siegrist  
Regulatory Appeals Review Officer  
US Army Corps of Engineers  
Great Lakes and Ohio River Division  
550 Main Street, Room 10-714  
Cincinnati, Ohio 45202-3222  
Phone: 513-684-2699 Fax: 513-684-2460

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete; that it meets the criteria for appeal under 33 C.F.R. part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by July 13, 2021.

It is not necessary to submit an RFA to the Division office if you do not object to the determination in this letter.

Questions pertaining to this matter should be directed to me at 716-879-4339, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, or by e-mail at: [keith.c.sendziak@usace.army.mil](mailto:keith.c.sendziak@usace.army.mil)

Sincerely,

*Keith C. Sendziak*

Keith C. Sendziak  
Biologist

Enclosures

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND  
REQUEST FOR APPEAL**

Applicant: Parker Rd. Development, LLC.	File Number: 2020-01359	Date: 5/13/2021
Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
<input checked="" type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

**SECTION I** - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at [http://www.usace.army.mil/CECW/Pages/reg\\_materials.aspx](http://www.usace.army.mil/CECW/Pages/reg_materials.aspx) or Corps regulations at 33 CFR Part 331.

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT:** You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**E: PRELIMINARY JURISDICTIONAL DETERMINATION:** You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process you may contact:

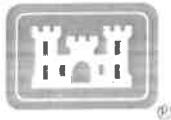
Keith Sendziak  
U.S. Army Corps of Engineers  
1776 Niagara Street  
Buffalo, New York 14207  
716-879-4339  
keith.c.sendziak@usace.army.mil

If you only have questions regarding the appeal process you may also contact:

Jacob Siegrist  
Regulatory Appeals Review Officer  
US Army Corps of Engineers  
Great Lakes and Ohio River Division  
550 Main Street, Room 10-714  
Cincinnati, Ohio 45202-3222  
Phone: 513-684-2699 Fax: 513-684-2460

**RIGHT OF ENTRY:** Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent:	Date:	Telephone number:
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**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

**I. ADMINISTRATIVE INFORMATION**

Completion Date of Approved Jurisdictional Determination (AJD): 12-MAY-2021

ORM Number: LRB-2020-01359

Associated JDs: LRB-2020-00749

Review Area Location<sup>1</sup>:

State/Territory: NY City: Hamburg County/Parish/Borough: Erie

Center Coordinates of Review Area: Latitude 42.76537 Longitude -78.80251

**II. FINDINGS**

**A. Summary:** Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- There are "navigable waters of the United States" within Rivers and Harbors Act jurisdiction within the review area (complete table in section II.B).
- There are "waters of the United States" within Clean Water Act jurisdiction within the review area (complete appropriate tables in section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in section II.D).

**B. Rivers and Harbors Act of 1899 Section 10 (§ 10)<sup>2</sup>**

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A	N/A	N/A	N/A

**C. Clean Water Act Section 404**

Territorial Seas and Traditional Navigable Waters ((a)(1) waters)<sup>3</sup>

(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A	N/A	N/A	N/A

Tributaries ((a)(2) waters):

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
tributary to Rush Creek	600 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	According to the Buffalo SE USGS Quad, this tributary is identified as intermittent. However, during the field visit, water was observed flowing within the tributary. Cobble/gravel substrate with riffle/pool complexes were observed. The tributary was approximately 5-10 feet in width and water depth ranged from a few inches to a few feet. According to the Antecedent

<sup>1</sup> Map(s)/Figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

<sup>3</sup> A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

<sup>4</sup> Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

<sup>5</sup> Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



**U.S. ARMY CORPS OF ENGINEERS  
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			Precipitation Tool (See Section III B below for additional data), the site visit was conducted during a period of drier than normal precipitation. Based on observed flow, channel width, and water depth, coupled with the precipitation data, leads to the conclusion that this is a perennial tributary.
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**Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):**

(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
N/A	N/A	N/A	N/A

**Adjacent wetlands ((a)(4) waters):**

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland B	0.644 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland B was observed to physically abut the tributary to Rush Creek, an a(2) perennial tributary.

**D. Excluded Waters or Features**

**Excluded waters ((b)(1) – (b)(12))<sup>4</sup>:**

Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Wetland A	0.063 acres	(b)(1) Non-adjacent wetland	Wetland A extends offsite to the west. An AJD was issued on April 9, 2021 for the immediately adjacent parcel to the west (LRB-2020-00749) that includes the offsite portion of Wetland A. That AJD determined the offsite portion of Wetland A is an excluded b(1) non-adjacent wetland. As such, the onsite portion of Wetland A is also considered an excluded b(1) non-adjacent wetland.

**III. SUPPORTING INFORMATION**

**A. Select/enter all resources** that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

X Information submitted by, or on behalf of, the applicant/consultant: *Wetland Delineation for Parker Rd., Hamburg, NY 14075, prepared for Parker Rd. Development, LLC, prepared by Wetlands Investigation Co., May & September 2020.*

This information is sufficient for purposes of this AJD.

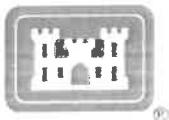
<sup>1</sup> Map(s)/Figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

<sup>3</sup> A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

<sup>4</sup> Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

<sup>5</sup> Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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Rationale: N/A.

- Data sheets prepared by the Corps: *Title(s) and/or date(s)*.
- Photographs: (NA, aerial, other, aerial and other) *Title(s) and/or date(s)*.
- Corps Site visit(s) conducted on: *November 18, 2020*.
- Previous Jurisdictional Determinations (AJDs or PJDs): *LRB-2020-00749*.
- Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*
- USDA NRCS Soil Survey: *Title(s) and/or date(s)*.
- USFWS NWI maps: *Title(s) and/or date(s)*.
- USGS topographic maps: *Buffalo SE, 7.5 min Quad*.

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

**B. Typical year assessment(s):** The subject parcel's latitude/longitude was entered into the Antecedent Precipitation Tool (APT) which was used to determine average precipitation, total precipitation over the 90 days preceding the Corps' site visit, and whether the site visits were conducted under dry, normal or wet conditions. The APT pulled precipitation data from the nearest weather station – Buffalo. The APT shows that normal precipitation is between the 30th (2.2") and 70th (5.0") percentiles. The APT indicates that 0-30 days prior to the site visit precipitation was 3.1" which is between the 30<sup>th</sup> and 70<sup>th</sup> percentiles. Thirty to 60 days prior to the visit the APT indicates that precipitation was 3.7" which is also between the 30<sup>th</sup> and 70<sup>th</sup> percentiles, and 60 to 90 days prior precipitation was 1.6" which is below the 30th percentile. Therefore, one to two months prior to the site visit precipitation was normal and three months prior to the site visit precipitation was considered below normal for that time of year.

The APT, using a weighted approach, indicates that the site visit was conducted during a period of below normal precipitation.

**C. Additional comments to support AJD:** The tributary to Rush Creek flows into Rush Creek, which flows into Lake Erie, an a(1) navigable waterway.

<sup>1</sup> Map(s)/Figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

<sup>3</sup> A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

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<sup>5</sup> Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.

# Erie County On-Line Mapping Application



Toronto  
Hamilton  
Niagara  
Burlington  
Rochester

and

## Legend

Streets and Highways

- Interstate
- Primary State Road
- Secondary State Road
- County Road
- Local Road

Sheet 1 of 2



0 0.96 1.9 Miles  
WGS\_1984 Web Mercator, Auxiliary\_Sphere  
THIS MAP IS NOT TO BE USED FOR NAVIGATION

ERIE COUNTY  
DEPARTMENT OF ENVIRONMENT & PLANNING  
OFFICE OF GIS

This map is a user generated static output from  
an Internet mapping site and is for reference only.  
Data layers that appear on this map may or may  
not be accurate, current, or otherwise reliable.

1: 60,950



# Sheet 2 of 2 Wetland Boundary Map - Parker Rd. Hamburg NY



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## **EXHIBIT 12**

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## **EXHIBIT 13**

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February 11, 2021

William Clark, Chairman  
Town of Hamburg Planning Board  
6100 South Park Avenue  
Hamburg, New York 14075

Re: Proposed 67 Lot Residential Subdivision – West Side of Parker Road  
Preliminary Plat Application  
Applicant/Project Sponsor: David Manko  
Town of Hamburg Planning Board

Dear Chairman Clark and Members of the Planning Board:

During the meeting of the Planning Board held on February 3<sup>rd</sup>, there was discussion regarding Comment No. 6 as contained in the Memorandum of the Hamburg Conservation Advisory Board dated December 19, 2020 relative to the on-site stormwater management system to be installed in connection with the proposed residential subdivision. Comment No. 6 as contained in the CAB Memorandum states as follows:

6. This development will be adding stress and hardship on Rush Creek that flows to Lake Erie. There are several large subdivisions in the Parker Rd area that dump stormwater into the Rush Creek that is protected by New York State DEC. State law prohibits upper developments from creating hardship on lower land owners by directing drainage from Stormwater onto lower property owners and streams.

**Response to Comment No. 6:** The Engineer's Report to be prepared by our firm will provide calculations that confirm that the storm water management system to be constructed as part of the project will comply with the applicable stringent stormwater quality and quantity standards of the New York State Department of Environmental Conservation ("NYSDEC") SPDES General Permit for Stormwater Discharges from Construction Activity Permit No. GP-0-20-001 and the Town of Hamburg. The fully engineered plans, Engineer's Report and SWPPP will need to be reviewed and approved by the town engineer Camie Jarrell, P.E., of GHD in connection with the Preliminary Plat Approval process prior to the commencement of any on-site construction activities.

The following sections of this letter provide a summary of the manner by which runoff from the impervious surfaces within the project will be handled.

**I. Storm Water Design Narrative:**

A storm water collection system is proposed for the impervious surfaces including the roadways, driveways and the single-family homes. This system will consist of catch basins placed along the new public road to collect runoff from the development. Roof downspouts from the homes will be connected to this system. The proposed catch basins will be connected by a series of storm pipes which will convey the runoff to the storm water management areas. The storm water management areas will be designed in accordance with the New York State Department of Environmental Conservation ("NYSDEC") Stormwater Management Design Manual. These areas will provide both water quality and water quantity storage components.

The existing drainage path of the development is split between the north and south. The north portion sheet drains to the existing on-site creek. The south portion of the site sheet drains to the existing swale on the adjacent Town of Hamburg property to the southwest. In the developed condition, any developed areas will be conveyed to the storm water management areas and ultimately discharge to the existing ditch in the northwest corner of the property. This will prevent water from our developed areas from sheet draining offsite and ensure it is treated and detained. The discharge from the storm water management area will be controlled by our engineered outlet control structure to not exceed the current existing rate of runoff to the existing ditch under all storm events which include the 10 year, 25 year & 100 year storm events. The south portion of the site will be handled in a similar manner as the north and will discharge to the existing swale.

**Detention System:**

The proposed storm water management areas will consist of a bioretention area followed by a dry detention basin which will provide runoff reduction, volume attenuation and water quality treatment. The current Preliminary Plat prepared by our firm shows the storm water management area in the northwest corner of the property, this location has been selected based on an evaluation of on-site topography and the Project Site as explained above. A similar storm water management area will also be constructed in the southwest corner of the site for the same reason stated above.

The NYSDEC Stormwater Management Design Manual requires (5) five different criteria be considered when designing a storm water management system. Those criteria are Water Quality, Runoff Reduction Volume, Channel Protection, Overbank Flooding and Extreme Storm Protection. Below is a summary of each item and how it will be incorporated into the proposed subdivision.

**Water Quality:**

The NYSDEC requires water quality treatment prior to discharge. The goal of the design will be to achieve 100% of the water quality volume requirement by applying a practice recognized in the design manual, a Standard SMP with Runoff Reduction capacity. For this project, the standard SMP will be the implementation of a bioretention area.

**Runoff Reduction Volume:**

As stated above, the goal is for the total water quality volume for the site to be reduced by the implementation of a Standard SMP used to achieve the Water quality requirement. The design methodology will be based on the NYSDEC Stormwater Management Design Manual five-step process for Stormwater Management Planning as outlined in Chapter 3.

**Channel Protection:**

The NYSDEC requires that extended detention be provided for the proposed 1-year storm event. The storage volume will be accommodated in the proposed storm water management areas and the outlet will be restricted through the use of an engineered outlet structure designed in accordance with NYSDEC criteria.

**Overbank Flooding:**

The NYSDEC requires that the 10-year proposed storm event be attenuated with detention and that the outlet be restricted to the 10-year existing storm event. The storage volume will be accommodated in the proposed storm water management areas and the outlet will be restricted through the use of an engineered outlet structure designed in accordance with NYSDEC criteria.

**Extreme Storm Protection:**

The NYSDEC requires that the 100-year proposed storm event be attenuated with detention and that the outlet be restricted to the 100-year existing storm event. The storage volume will be accommodated in the proposed storm water management areas and the outlet will be restricted through the use of an engineered outlet structure designed in accordance with NYSDEC criteria.

**Design Criteria:**

Storm pipes: 10-year storm

Detention: Designed to contain the 1-year, 10-year, 25-year, 50-year and the 100-year 24-hour design storms for the post-development peak rates of runoff, while restricting the outflow rate equal to the 1-year, 10-year, 25-year, 50-year and the

**Correspondence to William Clark**

**Page 4 of 4**

100-year 24-hour design storms for the pre-development peak rates of runoff respectively.

In accordance with Town of Hamburg and NYSDEC requirements a Notice of Intent and Stormwater Pollution Prevention Plan ("SWPPP") will be prepared for the proposed project due to the total disturbance of greater than one (1) acre.

As demonstrated by the above overview, the proposed residential subdivision will include storm water management improvements per the applicable stringent standards of both the Town of Hamburg and the NYSDEC. This will ensure that the project will not result in any potentially significant drainage or flooding impacts.

**II. Conclusion:**

As outlined in detail above, there are stringent standards that ensure the proposed residential subdivision will not result in any potentially significant adverse drainage impacts.

The fully engineered plans, Engineer's Report and SWPPP will need to be reviewed by the Town's consultant and involved agencies to confirm compliance with the applicable stormwater quality and quantity standards of the NYSDEC.

Please contact me at 842-3165 (Ext. 103) with any questions regarding this letter or the proposed residential subdivision.

Sincerely,

CARMINA WOOD MORRIS, DPC



R. Christopher Wood, P.E.

cc: Doug Schawel, Planning Board  
Kaitlin McCormick, Planning Board  
Al Monaco, Planning Board  
Bob Mahoney, Planning Board  
Dennis Chapman, Planning Board  
Meghan Comerford, Planning Board  
Jennifer Puglisi, Esq., Planning Board Attorney  
Sarah desJardins, Planning Department  
Camie Jarrell, P.E., Project Engineer, GHD  
Andrew C. Reilly, PE, AICP, Planning Department  
David Manko  
Sean Hopkins, Esq

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## **EXHIBIT 14**

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May 27, 2021

Sarah desJardins  
Town of Hamburg Planning Department  
6100 South Park Avenue  
Hamburg, New York 14075

**Re:** Parker Road Residential Subdivision  
Preliminary Plat Review - Town of Hamburg Planning Board  
File No. 20028.7

Dear Sarah:

Attached as Exhibit "1" is an 11" x 17" size copy of the updated Concept Plan prepared by Carmina Wood Morris DPC [Drawing C-100 – Date: 05/24/21] depicting the proposed clustered layout for the proposed Parker Road residential subdivision.

The proposed clustered subdivision layout consists of 60 lots for detached single-family homes with a minimum size of 11,000 sq. ft. and includes the removal of the six (6) previously proposed residential lots along Parker Road depicted on the Preliminary Plat Plan submitted with the Preliminary Plat Application and supporting documentation. An 11" x 17" size copy of the Preliminary Plat Plan [Drawing C-100 – Date: 12/17/20] submitted with the Preliminary Plat Application is attached as Exhibit "2".

The layout of the clustered subdivision has been updated based on the discussion during the Planning Board meeting held on May 19<sup>th</sup> to incorporate the following:

1. The permanent open space has been labelled as stating it will remain in its natural condition - will not be mowed. The permanent open space consists of 14.65 acres (52.3% of the Project Site);
2. The on-site recreational trail will have a length of 3,800 linear feet; and
3. A calculation has been added to the permanent open space site data table indicating the permanent open space will consist of 13.2 acres if the approximately 2.1 acres of stormwater management areas are excluded.

Per the input received during the Planning Board meeting on May 19<sup>th</sup>, we have asked Earth Dimensions, Inc. ("EDI") to provide input regarding establishing a natural riparian buffer consisting of native planting along the portion of the existing ditch that bisects a portion of the Project Site. Once EDI has provided its input regarding providing a riparian buffer along the ditch, the Planning Board will be provided with an update regarding this topic.

Christopher Wood is in the process of preparing residential lot detail plans showing potential layouts for future detached single-family homes and related improvements on the clustered lots.

**Correspondence to Sarah desJardins**

**May 27, 2021**

**Page 2 of 2**

The lot detail plans will be presented to the Planning Board during its upcoming meeting on Wednesday, June 2<sup>nd</sup>.

If you have any questions regarding the enclosed updated Concept Plan or the status of the proposed project, please feel free to contact me at 510-4338 or via e-mail at [shopkins@hsr-legal.com](mailto:shopkins@hsr-legal.com).

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC



Sean W. Hopkins, Esq.

Enc.

cc: William Clark, Planning Board Chairman  
Doug Schawel, Planning Board  
Kaitlin McCormick, Planning Board  
Al Monaco, Planning Board  
Bob Mahoney, Planning Board  
Dennis Chapman, Planning Board  
Meghan Comerford, Planning Board  
Jennifer Puglisi, Esq., Planning Board Attorney  
Dave Manko [Via mail]  
Christopher Wood, P.E., Carmina Wood Morris DPC [Via e-mail]

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**Exhibit 1 – 11” x 17” Size Copy of Updated  
Concept Plan for Clustered Subdivision  
Layout [Drawing C-100 – Date: 05/24/21] as  
Prepared by Christopher Wood, P.E. of  
Carmina Wood Morris DPC**

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Carmina  
Wood  
Morris

## Single Family Subdivision

**Single Fam**  
New Construction  
Parker Rd & Rte 20A  
Hamburgh, New York

**Concept Site**  
**DRAWING NAME:** \_\_\_\_\_  
Date: \_\_\_\_\_ Drawn by: \_\_\_\_\_  
Scale: \_\_\_\_\_  
524/27  
C. Wood  
As Shaded

DRAWING NO. C-100 Project no. 10-241

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**Exhibit 2 - 11" x 17" Size Copy of Preliminary  
Plat Plan [Drawing C-100 – Date: 12/17/20] as  
Prepared by Christopher Wood, P.E. of  
Carmina Wood Morris DPC**

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## **EXHIBIT 15**

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## **EXHIBIT 16**

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## Erie County On-Line Mapping Application



0 0.14 0.3 Miles  
WGS 1984 Web Mercator Auxiliary Sphere  
THIS MAP IS NOT TO BE USED FOR NAVIGATION

1: 9,028  
A  
This map is a user generated static output from an internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

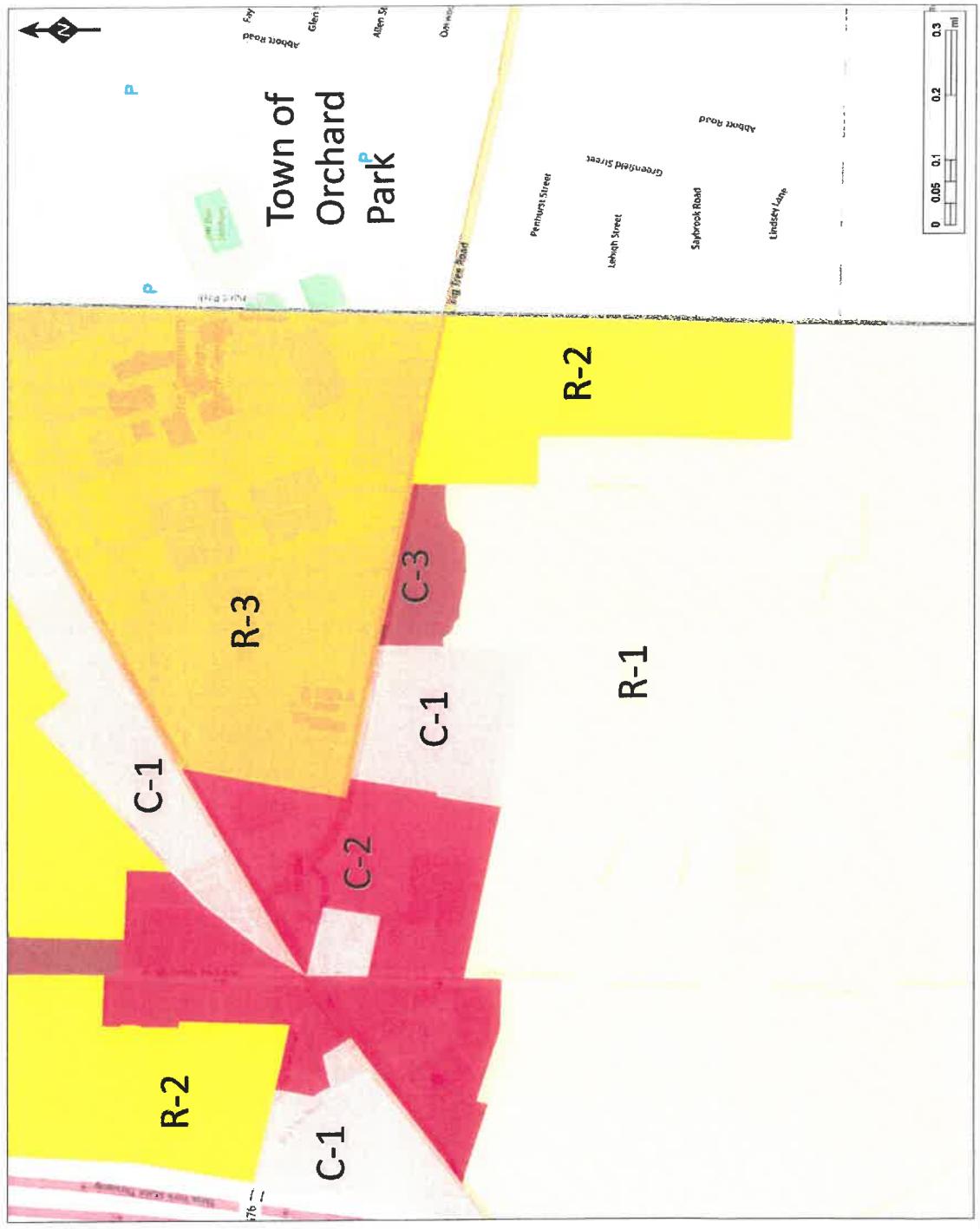
ERIE COUNTY  
DEPARTMENT OF ENVIRONMENT & PLANNING  
OFFICE OF GIS

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## **EXHIBIT 17**

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## Town of Hamburg Web Mapping Application

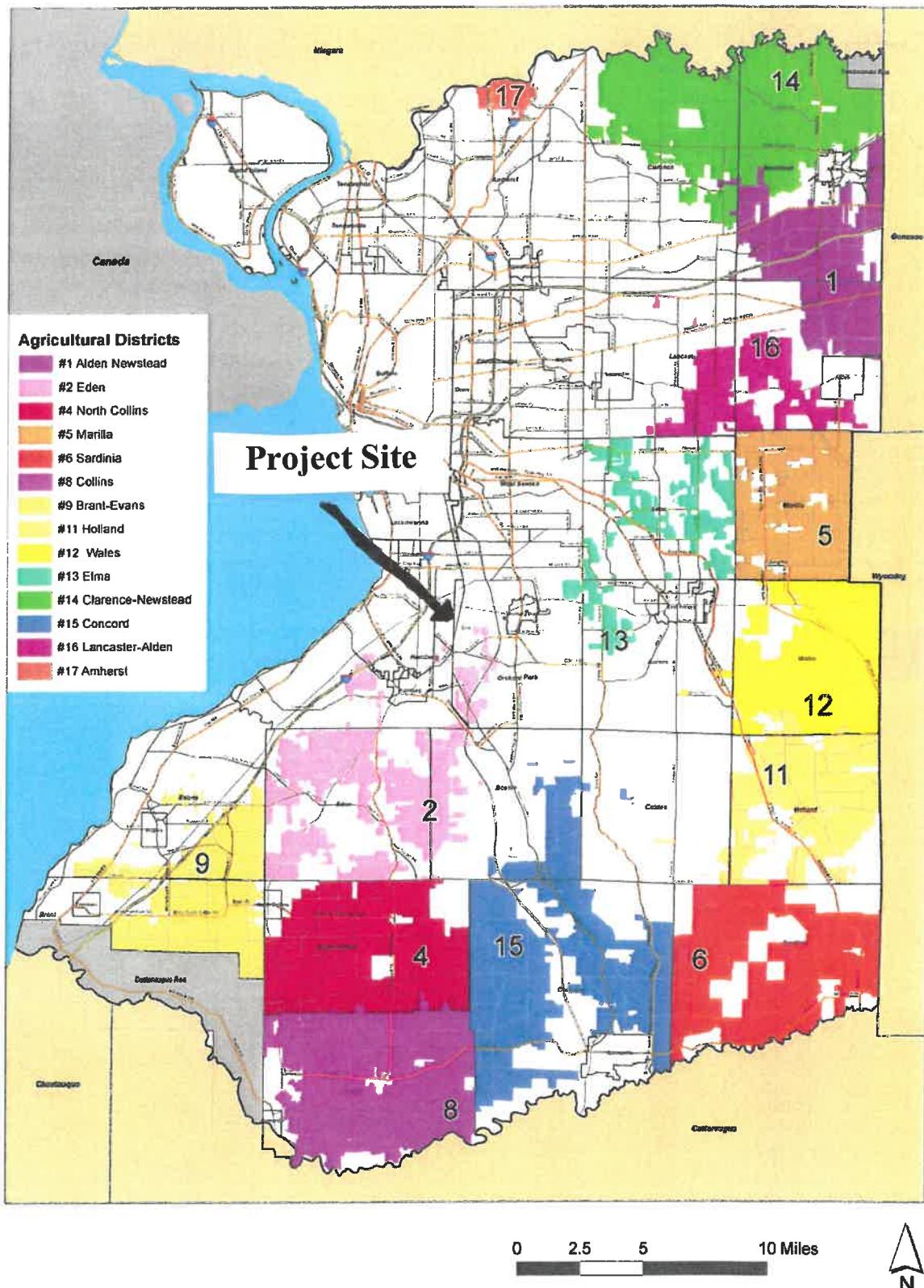


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## **EXHIBIT 18**

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Erie County, NY Agricultural & Farmland Protection Plan  
Land in Erie County Agricultural Districts



SOURCE:  
Erie County Department of Environment and Planning,  
Division of Planning  
Office of Geographic Information Services

Includes parcels added during yearly enrollment periods

CREATED: December 20, 2011  
REVISED July 27, 2012



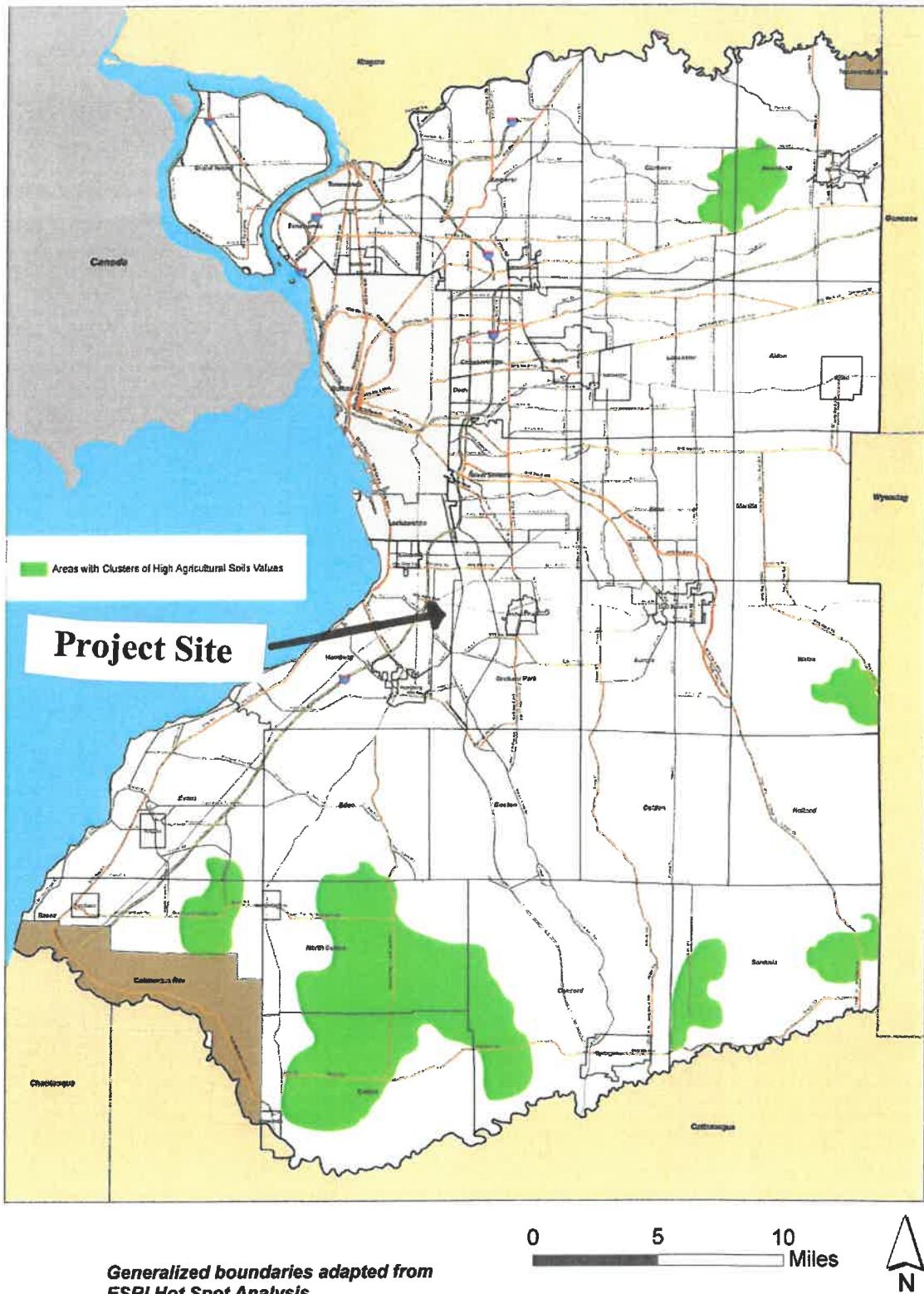
Stuart I. Brown  
President  
LaBella Company

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## **EXHIBIT 19**

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## Clusters of Parcels with High Agricultural Soils Values



SOURCE: Parcel data points provided by Erie County Department of Environment and Planning.  
Agricultural parcels identified based on presence of cropland by Stuart I. Brown Associates and Erie County NRCS.  
Generalized cluster area boundaries by Stuart I. Brown Associates, adapted from rendering of agricultural soils values by  
ESRI ArcMap Hot Spot Analysis Tool.

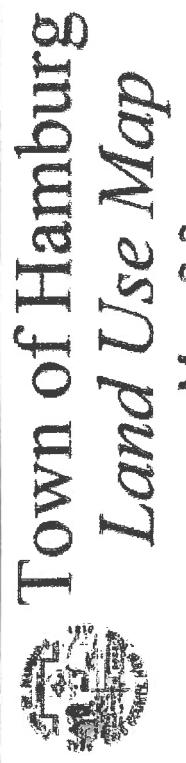
CREATED: December 20, 2011  
REVISED: April 2, 2012

 **Stuart I. Brown**  
Associate, Inc.  
LaBella Company

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## **EXHIBIT 20**

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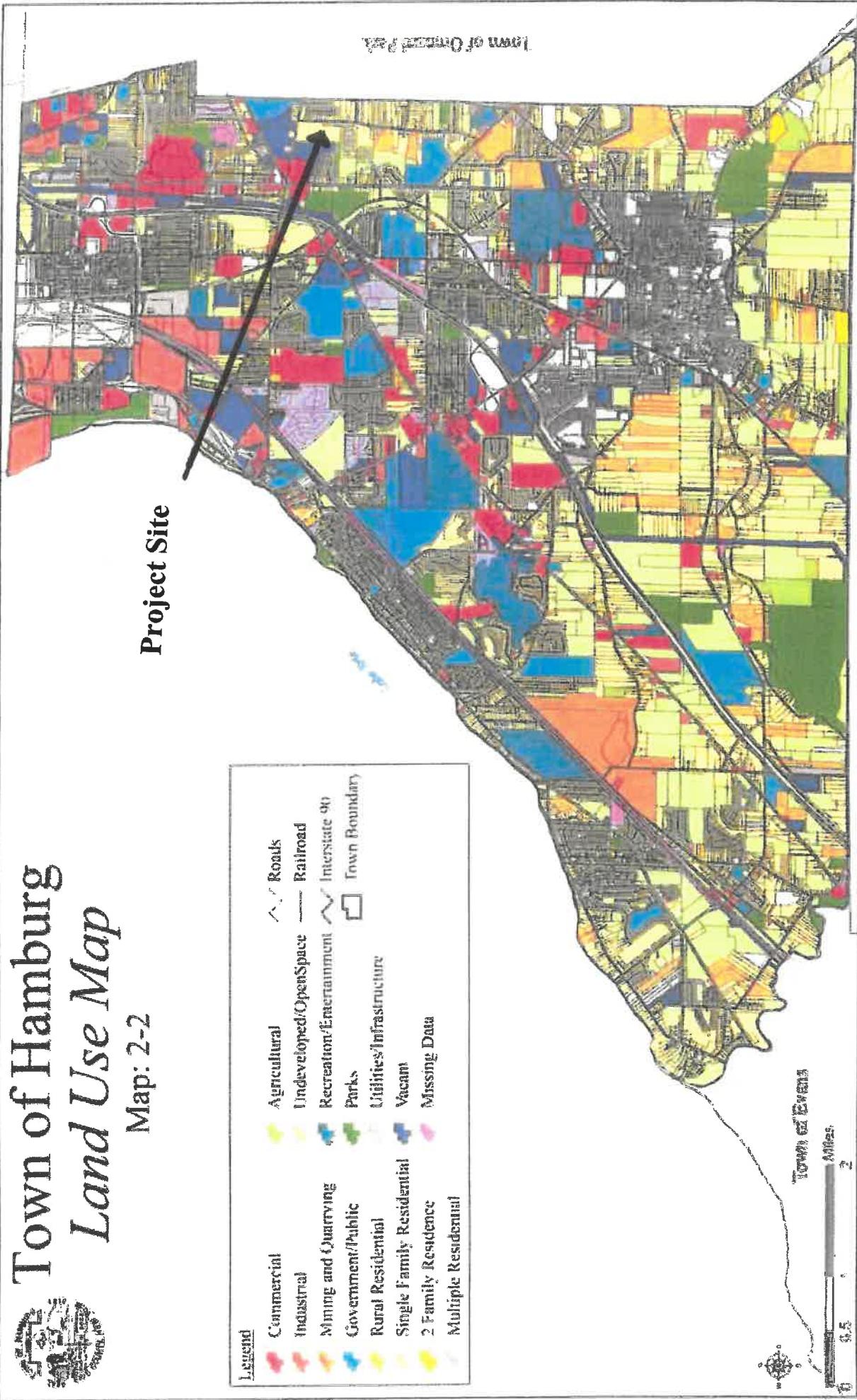


# Town of Hamburg *Land Use Map*

Map: 2-2

Project Site

Legend	
Commercial	Agricultural
Industrial	Undeveloped/Open Space
Mining and Quarrying	Recreation/Entertainment
Government/Public	Parks
Rural Residential	Utilities/Infrastructure
Single Family Residential	Vacant
2 Family Residential	Missing Data
Multiple Residential	



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## **EXHIBIT 21**

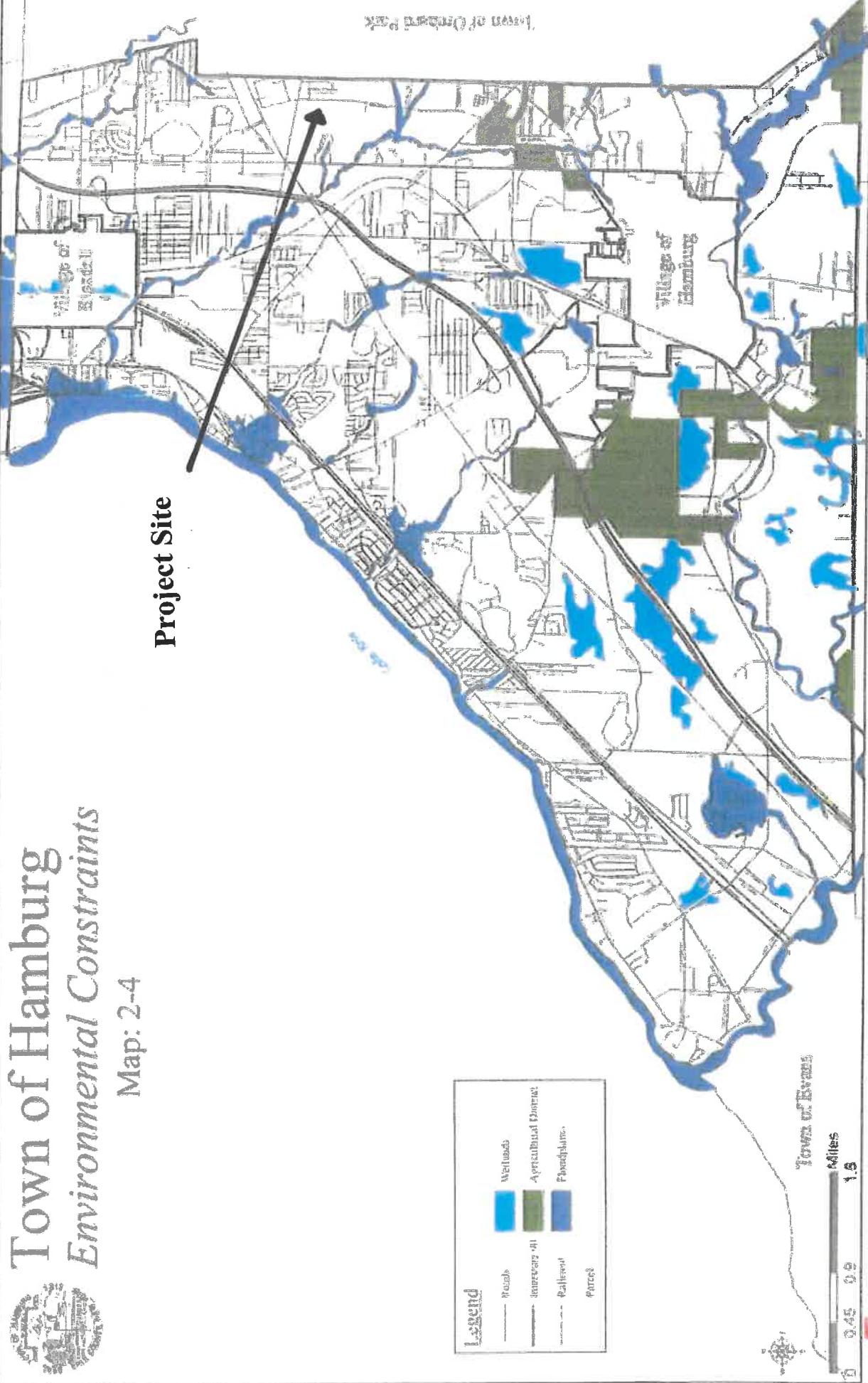
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# Town of Hamburg *Environmental Constraints*

Map: 2-4

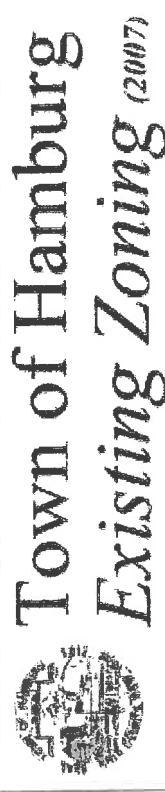
Project Site



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## **EXHIBIT 22**

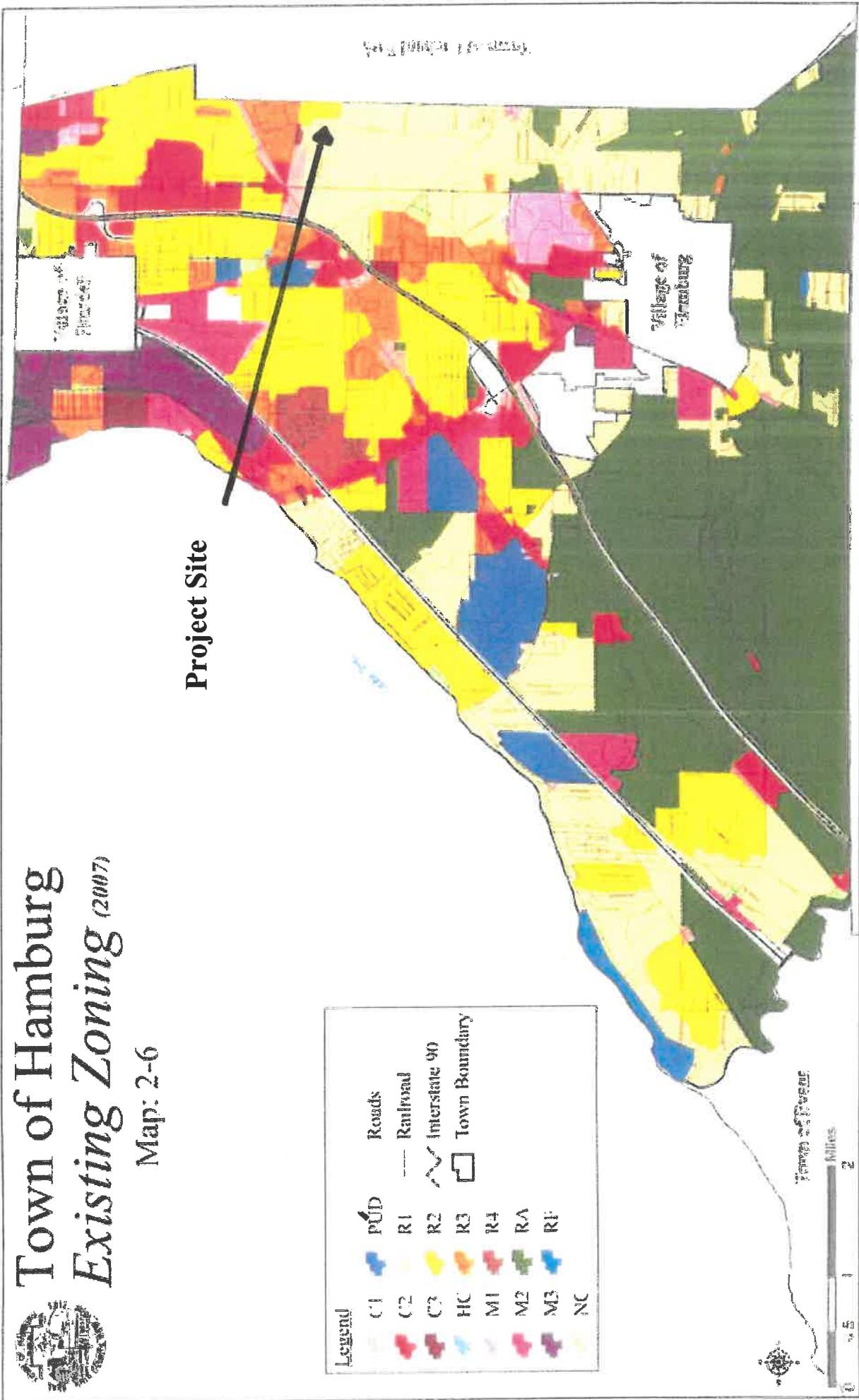
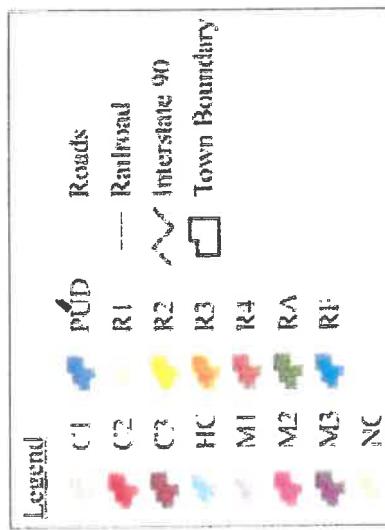
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# Town of Hamburg Existing Zoning (2007)

Map: 2-6

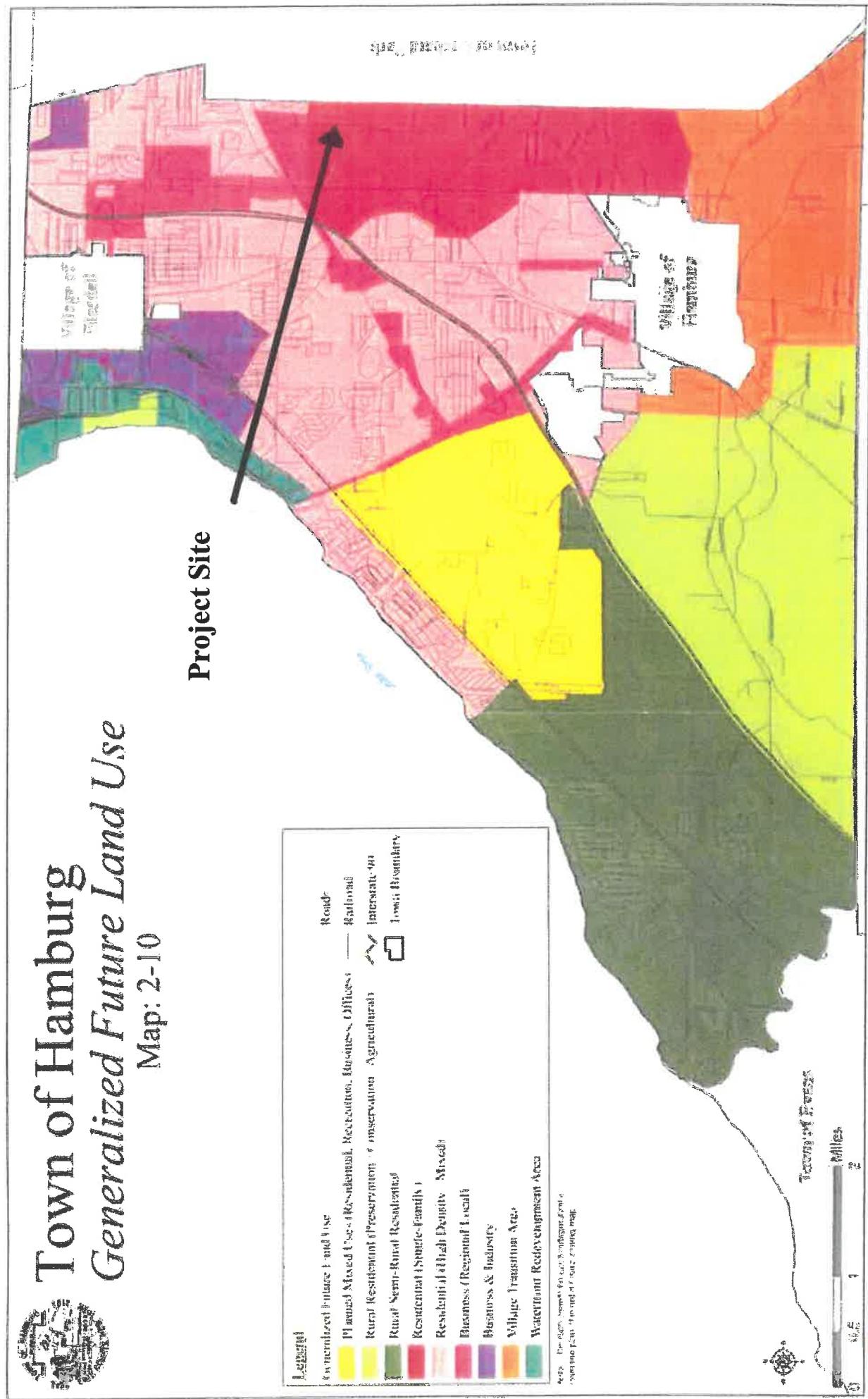
Project Site



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## **EXHIBIT 23**

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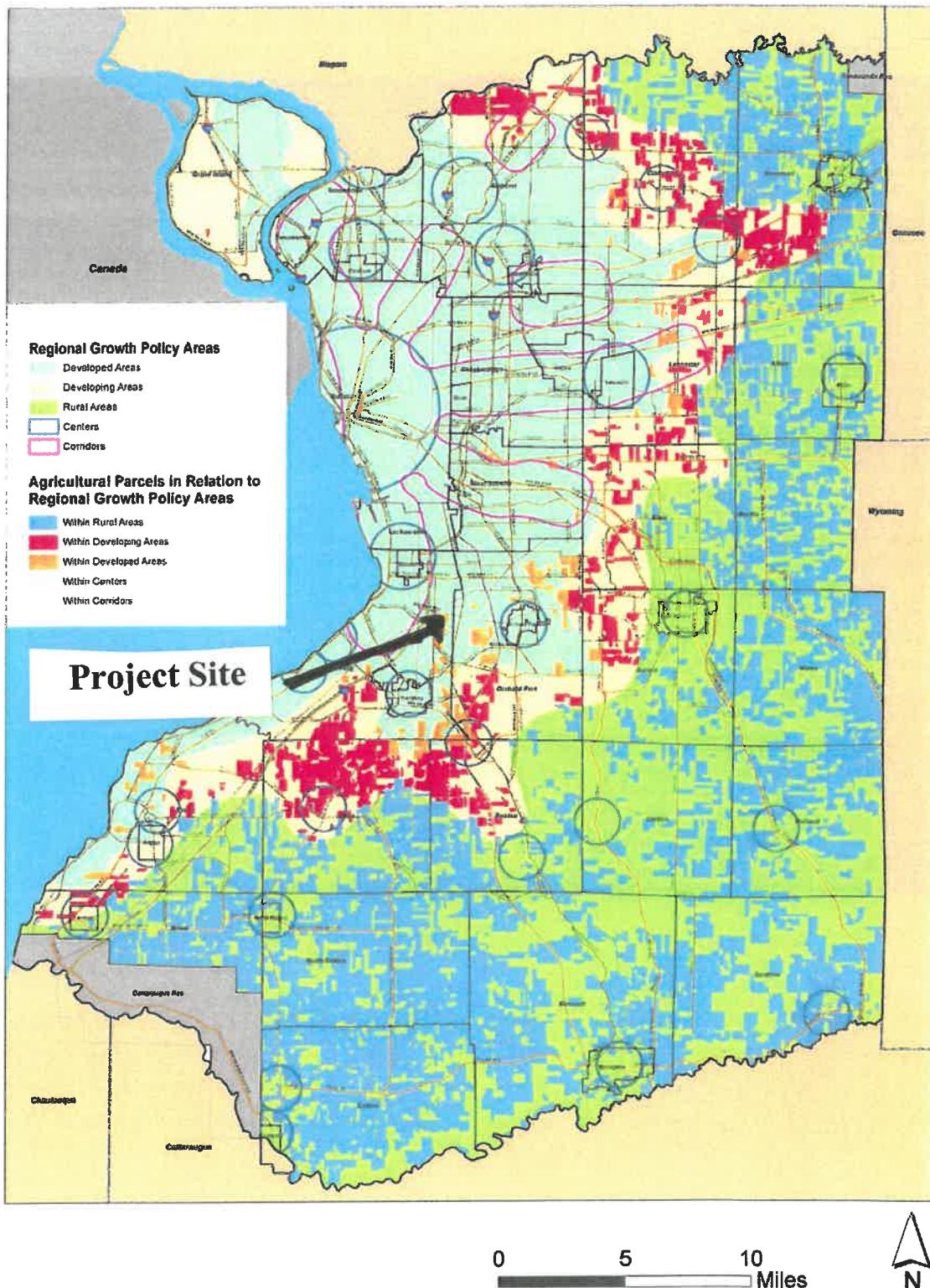


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## **EXHIBIT 24**

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Erie County, NY Agricultural & Farmland Protection Plan  
Framework for Regional Growth Policy Areas



CREATED: December 20, 2011  
REVISED: July 27, 2012



SOURCE: Parcel MapLabs and Regional Growth Policy Area boundaries provided by Erie County Department of Environment & Planning  
Agricultural Parcels identified based on the presence of cropland by Stuart I. Brown Associates and Erie County NRCS

Stuart I. Brown  
Associates  
LANDSCAPE ARCHITECTURE

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## **EXHIBIT 25**

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*Mark J. Dunford, Esq*  
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Orchard Park, New York 14127  
716 491-7890 Fax 716 662-0689  
[mdunfordlaw@aol.com](mailto:mdunfordlaw@aol.com)

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August 16, 2021

Mr. William Clark, Chairman  
Hamburg Town Planning Board  
Hamburg, NY 14075

RE: DAVID MANKO PARKER ROAD SUBDIVISION

Dear Chairman Clark:

I am writing on behalf of my client, Gary Hartloff, the owner of the property Mr. Manko has contracted to purchase and develop into the above referenced subdivision. It is my understanding that a major concern of the Planning Board is the potential loss of agricultural resources if the proposed residential subdivision is approved on my client's property is properly zoned for single family homes.

This property has been owned by my client's family for three generations and was a working farm for many years. Unfortunately as farming costs increased and it became less profitable to operate small family farms, the land's use as a farm gradually wained to the point that my client has not operated an active farm on the land for approximately 30 years. Mr. Hartloff has leased the land to farmers for the past several years for the production of corn, soybean and other crops as a means to help pay the annual property taxes. The property is not currently being utilized for agricultural purposes.

My client has no intention to operate it as a farm in the future. The land is not large enough to make it a profitable farm when competing against much larger farms in the area and my client does not wish to maintain such a large parcel that requires him to pay taxes and offers no real financial benefits. Mr. Manko's purchase of the property for a residential subdivision per the existing zoning classification will give my client financial security and remove the burden of maintaining the land.

While I understand the Board must take every opportunity to assess each aspect of a potential project such as the proposed residential subdivision, my client merely desires to have the sale of the property completed as soon as possible after all Town requirements are met. Please do not hesitate to call me with any questions you may have regarding this correspondence.

Respectfully,

