



August 18, 2021

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

Re: Proposed Residential Project - 0 Big Tree Road & 0 Wilson Drive  
Applicant/Project Sponsor: Wetzl Development, LLC  
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 Wetzl Development, LLC (“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 multifamily project to be located on a portion of the approximately 42 acres of vacant land at 0 Big Tree Road and 0 Wilson Drive (the “Project Site”) pursuant to the State Environmental Quality Review Act (“SEQRA”).<sup>1</sup>

**I. Brief Project Description:**

The Project Sponsor is seeking to amend the zoning classification of 16.4 acres of the approximately 42 acre Project Site from C-1 Local Retail Business District (“C-1”) to R-3 Multifamily District (“R-3”) and approximately 6 acres of the Project Site from R-1 Single-Family Residence District (“R-1”) to R-3 to accommodate the proposed residential project consisting of attached residential units for lease.<sup>2</sup>

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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> A copy of the Amended Rezoning Application with Exhibits “1” to “6” dated January 11, 2021 that included a completed Part 1 of the Full Environmental Assessment Form at Exhibit “6” was provided at Exhibit “24” 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 as follows: “The proposed (‘action’) consists of a residential project to be developed on a portion of the approximately 42.5 acre Project Site consisting of 156 attached residential units for lease and all related site improvements as depicted on the Concept Site Plan [Drawing C-100] prepared by Carmina Wood Morris DPC. The project includes an amendment of the zoning classification 22.4 acres of the Project Site from C-1 Local Retail Business District and R-1 Single-Family Residence District to R-3 Multifamily District. The proposed action has been defined broadly to include all required discretionary approvals and permits as well as all

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The proposed project as depicted on the most recently updated Concept Site Plan [Drawing C-100] first presented to the Planning Board during its meeting on June 2, 2021 consists of 150 units for lease with one curb cut onto Big Tree Road.<sup>3</sup> The proposed multifamily buildings are limited to one-story and two-story buildings with attached garages. There will be approximately 20.1 acres of Permanent Open Space provided including the portions of the Project Site behind existing homes on the north side of Wilson Drive. The Permanent Open Space will be subject to a Declaration of Restrictions to be recorded at the Erie County Clerk's Office to ensure it permanently remains undeveloped. A copy of the current Concept Site Plan [Drawing C-100] depicting the layout of the proposed project including the approximately 20.1 acres of Permanent Open Space, which is shaded green, is provided at Exhibit "7".

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 project began on January 12, 2021 with the issuance of a lead agency solicitation letter that included a copy the 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 any concerns that the project may result in any potentially significant adverse environmental impacts.

**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, the subcommittee of the Planning Board determined the proposed project may result in some moderate to large impacts requiring additional consideration. The questions in Part 2 of the Full

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proposed site improvements including the multifamily buildings [maximum of two-stories]; a clubhouse; garage buildings; internal access aisles and parking spaces; 2 curb cuts onto Big Tree Road, which is NYS Highway; lighting; landscaping; a minor wetland impact; 20.1 acres of Permanent Open Space [to remain undeveloped]; and all required utility connections and improvements."

<sup>3</sup> The project layout was modified based on input received from Ed Rutkowski of the NYDOT regarding the review of the Traffic Impact Study prepared by SRF Associates by replacing the two previously proposed driveway connections to Big Tree Road with a single driveway opposite the existing multifamily project on the opposite side of Big Tree Road. This modification resulted in the density of the project being reduced from 156 to 150 units.

<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 12, 2021 was provided at Exhibit "23" of the Project Documentation submission dated April 23, 2021.

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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 3c: The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body.<sup>8</sup>

Question 3d: 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.<sup>9</sup>

Question 3e: The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.<sup>10</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>11</sup>

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<sup>6</sup> The relevant Part 1 of the Full EAF Question is D1e.

<sup>7</sup> The relevant Part 1 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 future Site Application review process for the proposed project. 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 multifamily project will not result on any potentially significant erosion impacts. The Project Sponsor provided the Planning Board with a letter dated June 9, 2021 confirming that only organic fertilizer will be utilized on the Project Site in connection with the maintenance of landscaping and lawns. A copy of this letter is provided at Exhibit “9”.

<sup>8</sup> The relevant Part 1 of the Full EAF Question is D2a. The proposed minor wetland impact of 0.04 acres will result in the dredging of approximately 190 cubic yards of fill per the letter from Christopher Wood, P.E. of Carmina Wood Morris DPC to the Planning Board dated June 8, 2021.

<sup>9</sup> The relevant Part 1 of the Full EAF Question is E2h.

<sup>10</sup> The relevant Part 1 of the Full EAF Questions are D2a and D2h.

<sup>11</sup> The relevant Part 1 of the Full EAF Question is D2e.

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>12</sup>

**7. Impacts on Plants and Animals:** The proposed action may result in a loss of flora or fauna.

Question 7g: 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.<sup>13</sup>

Question 7h: The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat.<sup>14</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>15</sup>

**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.

Question 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 stormwater storage, nutrient cycling, wildlife habitat.<sup>16</sup>

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

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<sup>12</sup> The relevant Part 1 of the Full EAF Question is E2h.

<sup>13</sup> The relevant Part 1 of the Full EAF Question is E2m. It is important to mention the responses to Questions E2n, E2o and E2p of Part 1 of the Full EAF dated January 11, 2021 that was prepared utilizing the EAF Mapper on the NYSDEC website indicated as follows:

- The Project Site does not contain a designated significant natural community;
- The Project Site does not contain any species of plant or animal that is listed by the federal government or NYS endangered or threatened, nor does it contain any areas identified as habitat for an endangered or threatened species; and
- The Project Site does not contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern.

<sup>14</sup> The relevant Part 1 of the Full EAF Question is E1b.

<sup>15</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 June 2, 2021 is provided at Exhibit “10”.

<sup>16</sup> The relevant Part 1 of the Full EAF Questions are E1b, E2h, E2m, E2o, E2n and E2p.

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.

Question 14d: The proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed.<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>

**18. Consistency with Community Character:** The proposed project is inconsistent with the existing community character.

Question 18f: Proposed action is inconsistent with the character of the existing natural landscape.<sup>21</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

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<sup>17</sup> The relevant Part 1 of the Full EAF Question is D2j.

<sup>18</sup> The relevant Part 1 of the Full EAF Question is D2j.

<sup>19</sup> The relevant Part 1 of the Full Question is D1g.

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

<sup>21</sup> The relevant Part I of the Full EAF Questions are C2, C3, E1a, E1b, E2g and E2h. During the meeting of the Planning Board held on June 16, 2021, Kaitlin McCormick indicated “[T]he challenge with this parcel in terms of community character is that it is adjacent to commercial uses, vacant land that is zoned commercial, agricultural land and an existing residential development.”

- Cumulative Impact<sup>22</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.

**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.”

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<sup>22</sup> The reference to cumulative impacts pertains to the cumulative impacts of the proposed multifamily project and the proposed Manko residential subdivision. 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.

**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>23</sup>
- **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>24</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>25</sup>

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<sup>23</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.”

<sup>24</sup> Within the text on Page 275 of the FEAf 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>25</sup> Within the text on Page 276 of the FEAf 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.

- 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>26</sup>

**Likelihood of Impact:**

Pages 278 of the FEAF 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>27</sup>
- Possibly will Occur: These are impacts that are possible, but not likely occur.<sup>28</sup>

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- 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>26</sup> Within the text on Page 276 of the FEAF 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

<sup>27</sup> Within the text on Page 278 of the FEAF 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>28</sup> Within the text on Page 278 of the FEAF 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."

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- Probably will Occur: These are impacts that are very likely to occur.<sup>29</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 3d, 3e, 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: Long term – area should be managed by property owner and deed restrictions.
- Likelihood of Impact: Possibly will occur – uncertainty regarding implementation of riparian corridor restoration and design of stormwater facilities.
- Importance of Impact: Very Important.
- Potentially Significant: Yes – design commitments may adjust this.
- Cumulative Impact: Yes.

**Project Sponsor’s Response**: The project will result in a minor impact of 0.04 acres to the approximately 7.52 acres of jurisdictional federal wetlands on the Project Site.<sup>30</sup> On-site mitigation for the minor wetland impact is not required per the standards of the United States Army Corps of Engineers (“USACE”) since the wetland impact is limited to less than 1/10<sup>th</sup> of an acre.

The 7.48 acres of jurisdictional federal wetlands located on the Project Site that will not be impacted will be permanently protected via the recording of a Declaration of Restrictions to be recorded at the Erie County Clerk’s Office. The proposed project as originally presented to the Planning Board included an eighteen (18) lot residential subdivision for detached single-family homes that would have been included a public roadway connecting to Wilson Drive. The previously proposed project would have resulted in a wetland impacts of 0.30 acres.<sup>31</sup> However,

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<sup>29</sup> Within the text on Page 278 of the FEAF 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.”

<sup>30</sup> A copy of the Jurisdictional Determination issued by the United States Army Corps of Engineers on May 13, 2021 is provided at Exhibit “12”.

<sup>31</sup> A copy of the original plan for the proposed project that included an eighteen (18) lot residential subdivision is provided at Exhibit “8”. The reasons the Project Sponsor believes the current project layout is preferable to the previous layout that included as eighteen (18) lot residential subdivision were as follows: 1. The updated Concept Plan eliminates the previously proposed eighteen (18) lot residential subdivision with a proposed public roadway connecting to Wilson Drive; 2. By eliminating the previously proposed eighteen (18) lot residential subdivision, the concern raised by the Planning Board during its meeting on

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based on input received from the Planning Board and nearby residents, the previously proposed residential subdivision was eliminated such that the project will result in only 0.04 acre of wetland impacts and will include approximately 20.1 acres of Permanent Open Space.

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>32</sup> A copy of the Riparian Buffer Planting Plan prepared by Earth Dimensions, Inc. is attached as Exhibit “13”.

The riparian buffer to be established for Stream 1 will have a width of 25 ft. on each side of Stream 1 and will include 81 trees [5 types] and 66 shrubs [3 types].<sup>33</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 Stream 1.

There is not uncertainty regarding the design and installation of an on-site stormwater management system. 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 projects that will result in greater than one (1) acre of disturbance. A summary of the stormwater management system to be installed in connection with the development of a portion of the Project Site as a multifamily project is included in a letter prepared by Christopher Wood, P.E., of Carmina Wood Morris dated August 13, 2021 provided at Exhibit “14”.

In connection with the project, 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

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October 7, 2020 regarding the potential for encroachments into the jurisdictional federal wetlands is no longer applicable; 3. The elimination of the previously proposed eighteen (18) lot residential subdivision results in the elimination of the public roadway connecting to Wilson Drive, which is beneficial to the Town from a fiscal perspective since the residential project would no longer include any on-site public infrastructure improvements; 4. The updated Concept Plan increases the amount of Permanent Open Space to 20.1 acres, or nearly 50% of the Project Site; 5. The updated Concept Plan reduces the impact to the jurisdictional wetlands from 0.30 acres to only 0.04 acres; and 6. The updated Concept Plan would result in substantial Permanent Open Space behind all of the existing homes on the relevant portion of Wilson Drive. The rear boundary of the closest residential lot on Wilson Drive to the closest boundary of the portion of the Project to be rezoned to R-3 would be 200 ft.

<sup>32</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>33</sup> The Riparian Buffer Planting Plan prepared by Earth Dimensions, Inc. is for both the portion of the Stream 1 that bisects the Project Site as well as the Manko residential subdivision site to the east of the Project Site.

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summary of the Post Construction Operation & Maintenance Procedures for the on-site stormwater management system as prepared by Carmina Wood Morris DPC 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 will provide calculations demonstrating the stormwater 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 for the project will need to be reviewed and approved by GHD in connection with the future Site Plan Application review process prior to the commencement of any on-site construction activities. As a result of the requirement to comply with the applicable stringent stormwater quality and quantity standards, the proposed project will not result in any potentially significant drainage impacts.

**Subcommittee's Draft Part 3 Determinations for Questions 7g and 7f of Part 2 of the Full EAF ("Impacts on Plants and Animals"):**

- Magnitude of Impact: Moderate/Large Impact - Impact limited to Project parcel, however, over 10 acres of land will be converted from forested land; limited similar habitat outside of the parcel. Potential for conversion of interior habitat to edge habitat.
- Duration of Impact: Long-term/permanent - due to grading, placement of permanent structures

- Likelihood of Impact: Definitely will occur. Project cannot happen without clearing and grading the land.
- Importance of Impact: Very Important.
- Potentially Significant: Yes.
- Cumulative Impact: Yes.

**Project Sponsor's Response:** The project will result in the development of a portion of the Project Site but there will be approximately 20.1 acres of Permanent Open Space (including 7.48 acres of jurisdictional federal wetlands) that will continue to provide suitable habitat for typical suburban species. It is important to mention that the responses to Questions E2n, E2o and E2p of Part 1 of the Full EAF dated January 11, 2021 prepared utilizing the EAF Mapper on the NYSDEC website indicated as follows:

- The Project Site does not contain a designated significant natural community;
- The Project Site does not contain any species of plant or animal that is listed by the federal government or NYS endangered or threatened, nor does it contain any areas identified as habitat for an endangered or threatened species; and
- The Project Site does not contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern.

Given that none of the categories of protected resources set forth above exist on the Project Site and that approximately 20.1 acres of the Project Site will consist of Permanent Open Space to remain permanently undeveloped that will provide suitable wildlife habitat for typical suburban species, the project will not result potentially significant adverse environmental impacts on plants and animals.

**Subcommittee's Draft Part 3 Determinations for Question 11a of the Full EAF (“Impact on Open Space and Recreation”):**

- Magnitude of Impact: Moderate/Large Impact – Impact limited to Project parcel, however, over 10 acres of land will be converted from forested land; limited similar habitat outside of the parcel. Potential for conversion of interior habitat to edge habitat.
- Duration of Impact: Long-term/permanent - due to grading, placement of permanent structures.
- Likelihood of Impact: Definitely will occur. Project cannot happen without clearing and grading the land.
- Importance of Impact: Very Important.
- Potentially Significant: Yes.

- Cumulative Impact: No.

**Project Sponsor's Response:** It is important to mention the response to Question C2c of Part 1 of the Full EAF dated January 11, 2021 prepared by the Project Sponsor indicated the Project Site is not “located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland plan.”

The Project Site consist entirely of privately owned land that is not available for authorized public use and that is also not a designated open space or recreational resource. It is also important to mention that the Project Site is not identified as an open space or recreational resource within the Town of Hamburg Parks & Recreation Master Plan dated August 2017. According to the Parks & Recreation Master Plan, the Town has adequate parkland for recreational resources.<sup>34</sup>

In preparing the draft of Part 2 of the Full EAF, the subcommittee did not determine that the proposed multifamily project may result in a potentially significant adverse impact to recreational or open space resources. Instead, the subcommittee's draft response to Question 11a was moderate/large. Question 11a of Part 2 of the Full EAF states as follows: “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.”<sup>35</sup>

The Project Sponsor's position regarding these categories of identified potential adverse environmental impacts are provided within this submission and the previous documentation submitted in connection with coordinated environmental review of the proposed project pursuant to SEQRA. The Project Sponsor does not believe the proposed project will result in any potentially significant adverse environmental impacts in terms of open space or recreation.

**Subcommittee's Draft Part 3 Determinations for Question 13 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

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<sup>34</sup> See Page B.1-1 of the Town of Hamburg Parks & Recreation Master Plan. The generally accepted national standard for parks planning is frequently cited as 10 acres per 1,000 persons (citing to the National Recreation of Parks Association). By this standard, the Town of Hamburg has a wealth of park land. The population of the Town of Hamburg was 56,936 in 2010, and is estimated to be 57,144 currently. With over 1,545 acres of parkland and open space in the Town, not counting Village or County-owned properties, the Town of Hamburg greatly exceeds the standard, with approximately 27 acres of parkland per 1,000 residents.

<sup>35</sup> See Page 7 of the draft of Part 2 of the Full EAF provided at Exhibit “5”.

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.<sup>36</sup>

- 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 multifamily project and the Manko residential subdivision 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>37</sup>

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

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<sup>36</sup> The reference to “ICU” was intended to be Level of Service (“LOS”). As described on Page 4 of the Traffic Impact Study prepared by SRF Associates, capacity analysis is a technique used for determining a measure of effectiveness for a section of roadway and/or intersection based on the number of vehicles during a specific time period. The measure of effectiveness used for the capacity analysis is referred to as a Level of Service (“LOS”). Levels of Service are calculated to provide an indication of the amount of delay that a motorist experiences while traveling along a roadway or through an intersection. Since the most amount of delay to motorists usually occurs at intersections, capacity analysis focuses on intersections, as opposed to highway segments. Six Levels of Service are defined for analysis purposes. They are assigned letter designations, from "A" to "F", with LOS "A" representing the conditions with little to no delay, and LOS "F" conditions with very long delays. Suggested ranges of service capacity and an explanation of Levels of Service are included in the Appendices of the Traffic Impact Study.

<sup>37</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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- Parker Road/Marilyn Drive<sup>38</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>39</sup> The accident analysis conducted by SRF Associates is also provided in Section IV of the Traffic Impact Study.<sup>40</sup>

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>41</sup>

<sup>38</sup> See Page 1 of the Traffic Impact Study prepared by SRF Associates dated April 2, 2021.

<sup>39</sup> See Page 3 of the Traffic Impact Study prepared by SRF Associates dated April 2, 2021.

<sup>40</sup> See Pages 3 to 5 of the Traffic Impact Study prepared by SRF Associates dated April 2, 2021.

<sup>41</sup> See Page 5 of the Traffic Impact Study prepared by SRF Associates dated April 2, 2021.

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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>42</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>43</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 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:

<sup>42</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>43</sup> See Page 8 of the Traffic Impact Study prepared by SRF Associates dated April 2, 2021.

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>44</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 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".

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<sup>44</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.

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 the Full EAF (“Consistency with Community Plans”):**

- Magnitude of Impact: Moderate Impact.
- Duration of Impact: Long-term - rezoning is unlikely to change after the apartment complex is built. Use likely to remain in place for decades into the future.
- Likelihood of Impact: Definitely will Occur if Rezoning is Approved - Project does not match existing zoning.
- Importance of Impact: Very Important.
- Potentially Significant: Yes.
- Cumulative Impact: No.

**Project Sponsor’s Response:**

The proposed multifamily project will result in long-term impacts associated with the proposed multifamily project that will include approximately 20.1 acres of Permanent Open Space to remain permanently undeveloped. In evaluating the proposed project for consistency with community plans, it is important to mention that the proposed amendment of the zoning classification of 16.4 acres of the approximately 42 acre Project Site from C-1 Local Retail Business District (“C-1”) to R-3 Multifamily District (“R-3”) and approximately 6 acres of the Project Site from R-1 Single-Family Residence District (“R-1”) to R-3 to accommodate the project will result in an overall reduction of intensity of the allowable uses of the Project Site given that the existing C-1 zoning classification of 16.4 acres of the Project Site would allow a wide assortment of commercial uses that would be more intensive than the proposed multifamily project consisting exclusively of one-story and two-story buildings.<sup>45</sup>

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<sup>45</sup> Pursuant to Section 280-70 of the Zoning Code (titled “Permitted uses and structures”), the uses and structures permitted in the C-1 District are as follows: A. Principal uses and structures (less than 15,000 square feet or as noted): (1) Principal uses and structures permitted in the NC District, except Use Group 1 (no residential housing shall be permitted), and principal uses and structures permitted in the HC District. (2) The following uses, when conducted entirely within an enclosed building: (a) Retail sales, but not

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The Project Sponsor believes it also important for consideration to be given to the recently completed analysis conducted by the Town demonstrating there is currently not demand for new commercial space for office or retail uses.

Below is a summary of relevant information to be considered in evaluating whether the proposed multifamily project is consistent with community plans including 2007 Comprehensive Plan Update dated June 2008 (the “Comprehensive Plan”). It is important to mention that Section 3.0 of the Comprehensive Plan (titled “Goals and Objectives”) indicates that open space protection is one of the Town’s planning objectives and also that protection of existing residential neighborhoods from encroachment by incompatible uses via buffering is a planning objective.<sup>46</sup> Additionally, Section 3.0 of the Comprehensive Plan encourages a variety of residential housing types in the Town to create a diverse living environment for people at all income and age levels.

Map 2-2 of the Comprehensive Plan is titled “Land Use Map” and indicates the Project Site currently consists of “Vacant Land. A color copy of Map 2-2 is provided at Exhibit “19”. Map 2-4 of the Comprehensive Plan is titled “Environmental Constraints” and the only constraint indicated for the Project Site is a small area of 100 yr. floodplain associated with the tributary to Rush Creek.<sup>47</sup>

Map 2-6 of the Comprehensive Plan is titled “Existing Zoning” and depicts the Project Site as being zoned both C-1 and R-1. 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 “18”. Additionally, a color aerial photograph of the parcels in the vicinity of the Project Site with nearby land uses labelled is provided at Exhibit “17”. The Project Site is located in an area with a mixture of land uses and a mixture of zoning classifications including an existing apartment project directly across the street on the north side of Big Tree Road within a large area zoned R-3.

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including any use first permitted in the C-2 or M District. (b) Dry-cleaning and pressing establishments, limited to 2,000 square feet of floor area per establishment. (c) Eating or drinking establishments, provided that any entertainment shall be limited to television, radio or music, and further provided that no sale of alcoholic beverages for consumption on the premises shall be permitted on any lot where the principal building is less than 500 feet from a side lot line that abuts any R District boundary. (d) Garden center (indoor use only, see special use permit for outdoor display). (3) Hotels or motels, subject to the above restrictions on eating and drinking establishments. (4) Banks and drive-through banks, provided that at least five reservoir spaces are provided on the lot for each drive-in teller’s window. Such reservoir spaces shall be exclusive of required parking spaces. (5) Racquetball clubs, squash courts, health spas and related physical fitness facilities. (6) The following uses by special use permit authorized by the Planning Board: (a) Nursery schools and day-care centers. (b) Garden center (with outdoor display/storage).

<sup>46</sup> Although the proposed multifamily project consisting exclusively of single-story and two-story buildings that will not be incompatible with nearby land uses including the existing residential subdivision directly to the south of the Project Site, the project will accomplish these planning goals and objectives by providing approximately 20.1 acres of Permanent Open Space to remain undeveloped which will serve as a permanent buffer that in particular will benefit the owners of homes on the north side of Wilson Drive.

<sup>47</sup> The Project Sponsor proposes to establish a riparian buffer along the edges of this tributary to Rush Creek based on input received from the Planning Board in connection with the coordinated environmental review of the proposed project pursuant to SEQRA.

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Map 2-10 of the Comprehensive Plan is titled “Generalized Future Land Use” and properties in the vicinity of the Project Site are depicted as being appropriate for the following uses: Business (Regional Local), Residential (Single-Family) and Residential (High Density Mixed). It is important to mention that Map 2-10 is not intended to precise with the respect to the future use of specific parcels.<sup>48</sup>

In evaluating whether the proposed multifamily project is consistent with community plans, consideration should be given to the zoning conditions proposed by the Project Sponsor for the consideration of the Planning Board in connection with its issuance of a recommendation to the Town Board. The Project Sponsor is proposing five (5) zoning conditions as set forth in a letter submitted to the Planning Board dated February 8, 2021.<sup>49</sup> The proposed zoning conditions are as follows:

1. The Applicant shall convey a Conservation Easement to the Town of Hamburg for the 20.1 acres of Permanent Open Space of the Project Site to remain zoned R-1 Single-Family Residence District (“R-1”) as depicted on the Concept Site Plan [Drawing C-100] prepared by Carmina Wood Morris DPC dated February 4, 2021.<sup>50</sup> The content of the Conservation Easement shall be reviewed and approved by the Town Attorney’s Office prior to recording at the Erie County Clerk’s Office.
2. A Declaration of Restrictions shall be recorded at the Erie County Clerk’s Office for the 20.1 acres of Permanent Open Space of the Project Site to remain zoned R-1 Single-Family Residence District (“R-1”) as depicted on the Concept Site Plan [Drawing C-100] prepared by Carmina Wood Morris DPC dated February 4, 2021.<sup>51</sup> The Declaration of Restrictions shall include language expressly stating there shall not be any buildings, roadways or driveways constructed within the Permanent Open Space including any roadway or driveway connections to the portions of the Project Site with frontage on Wilson Road. The content of the Declaration of Restrictions shall be reviewed and approved by the Town Attorney’s Office prior to recording at the Erie County Clerk’s Office.
3. There shall not be any buildings located on the portion of the Project Site to be rezoned R-3 Multifamily District (“R-3”) located within two hundred feet (200’) of the rear property line of the existing residential lots on Wilson Road.
4. The Project Sponsor shall be required to obtain a Nationwide Permit from the United States Army Corps of Engineers (“USACE”) for the proposed impact of 0.04 acres of jurisdictional wetlands as depicted on the Concept Site Plan [Drawing C-100] prepared by Carmina Wood Morris DPC dated February 4, 2021 prior to impacting the wetland area.

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<sup>48</sup> The Project Site is depicted as being in a “Developed Area” per the Framework for Regional Growth Policy Areas map provided at Exhibit “23”.

<sup>49</sup> A copy of this letter is provided at Exhibit “16”.

<sup>50</sup> Condition No. 1 will need to be updated to reflect the most current Concept Site Plan [Drawing C-100] prepared by Carmina Wood Morris DPC.

<sup>51</sup> Condition No. 2 will need to be updated to reflect the most current Concept Site Plan [Drawing C-100] prepared by Carmina Wood Morris DPC.

5. The on-site stormwater management to be installed in connection with the residential project shall comply with the stringent stormwater quality and quantity standards of the New York State Department of Environmental Conservation (“NYSDEC”) including the handling of a 100 yr. storm event. Verification of compliance this condition shall occur in connection the future review of a site plan application for the proposed residential project.

In summary, it is the Project Sponsor’s position that consistency with community plans does not represent a potentially significant adverse environmental impact for purpose of the coordinated environmental review of the proposed project pursuant to SEQRA.

**Subcommittee’s Draft Part 3 Determinations for Question 18 of the Full EAF (“Consistency with Consistency with Community Character”):**

- Magnitude of Impact: Moderate Impact
- Duration of Impact: Long-term - permanent conversion of the natural environment on site to developed apartment complex.
- Likelihood of Impact: Definitely will Occur if approved
- Importance of Impact: Very Important.
- Potentially Significant: Yes.
- Cumulative Impact: No.

**Project Sponsor’s Response:** The project will result in the permanent conversion of approximately 22 acre of the 42 acre Project Site to a multifamily project as depicted on the Concept Site Plan prepared by Carmina Wood Morris DPC. However, the project will also result in long-term community character benefits resulting from approximately 20.1 acres of the Project Site, including the areas directly behind existing homes on the north side of Wilson Drive and nearly all of the on-site jurisdictional wetlands being Permanent Open Space that will be protected via the recording of a Declaration of Restrictions at the Erie County Clerk’s Office.

There are a mixture of land uses and zoning classifications in the vicinity of the Project Site as depicted on the color aerial photograph provided at Exhibit “17”. In evaluating the proposed project in terms of consistency with community character, the Project Sponsor’s requests that the Planning Board consider the following:

- The project will require Site Plan Approval from the Planning Board, which ensures the project will comply with all applicable technical standards since the fully engineered plans, Engineer’s Report and SWPPP will need to be reviewed and approved by GHD in its capacity as the Town Engineer.
- The project will result in approximately 20.1 acres of Permanent Open Space to remain permanently undeveloped including the entire portion of the Project Site that is contiguous to existing single-family homes.

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- The project consists exclusively of single-story and two-story buildings with attached garages and the maximum number of units per building is limited to eight (8) units.
- The project will result in any lighting spillover onto contiguous parcels. All lighting will be dark-sky compliant and appropriately shielded. A Photometric Plan will be submitted for review and approval in connection with the future Site Plan Application review process.

**Conclusion:**

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

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  
Glenn Wetzl, Wetzl Development, LLC  
Christopher Wood, P.E., Carmina Wood Morris DPC

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## **EXHIBIT 1**

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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.

Attorney Hopkins stated that the snowmobile club has indicated that the snowmobile trail will not be located on this site.

Mr. Reilly stated that the Town Code requires that 500 sq.ft. of recreation area be provided per unit and additionally that 5% of land must be dedicated to the Town for recreation purposes or a payment in lieu of that land will be required.

In response to a question from Ms. McCormick, Mr. Wood stated that the goal in designing the site is that no dirt leaves the site because of the expense.

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

## **OTHER BUSINESS**

Chairman Clark stated that a letter was received from Mr. & Mrs. Fadale, 5337 Abel Road, indicating that the fence that was required as part of the approved Site Plan for the adjacent Jim Cleary self-storage project on Southwestern Boulevard and Abel Road is not necessary in their opinion.

Mr. Schawel stated that a fence is not necessary and Mr. Cleary should not have to install it. It was determined that the Fadales are the only affected neighbors.

Board members agreed that Mr. Cleary does not have to install the fence that was on the approved Site Plan.

Chairman Clark stated that a Draft Scoping Document was received from the Broadway Group regarding the proposed Dollar General store on Southwestern Boulevard and Heltz Road. He stated that the Final Scoping Document will be voted on at the Board's June 16, 2021 meeting and submitted on or before Friday, June 18, 2021. He further stated that a draft of the Final Scoping Document will be sent to Planning Board members before June 11, 2021 and therefore the public Scoping Meeting should be held on June 2, 2021.

Board members discussed when and where the public Scoping Meeting should be held.

Mrs. Comerford made a motion, seconded by Mr. Schawel, to approve the April 21, 2021 minutes. Carried.

Mr. Schawel made a motion, seconded by Mr. Mahoney, to adjourn the meeting. The meeting was adjourned at 9:30 P.M.

Respectfully submitted,  
Megan Comerford, Secretary  
May 13, 2021

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## **EXHIBIT 2**

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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.

Ms. McCormick asked Attorney Hopkins to submit a phasing plan that also shows where stockpiling would take place during construction.

- 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 she wanted to make clear to everyone that there is a substantial (25 – 30 acres) area of clearing proposed for this project.

Ms. McCormick asked Mr. Wood to provide the amount of material that would be removed from the wetland area.

- 3d 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.
- 3e The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.
- 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.
- 3i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action.

Ms. McCormick stated that the sub-committee did not have enough information to answer 3j (The proposed action may involve the application of pesticides or herbicides in or around any water body.) She asked for additional information regarding whether pesticides or herbicides would be used on the property.

- 7g 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.
- 7h The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat.
- 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.
- 11a 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.
- 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.

Ms. McCormick stated that the sub-committee did not have enough information to answer the questions in section 14 (Impact on Energy). She asked Attorney Hopkins to provide information so that 14c and 14d can be addressed by the sub-committee.

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 impacts of greatest concern to the sub-committee are the ones related to work within or adjacent to wetlands and waterbodies, as well as the large scale conversion of forested and vegetated land to impervious surface and buildings.

Chairman Clark asked Board members if there are cumulative impacts from this project and the Manko subdivision that should be discussed.

Ms. McCormick responded that the cumulative impacts identified by the sub-committee so far are as follows:

- Erosion and sediment control and the work in the waterbodies
- Traffic analysis
- Downstream sewer capacity
- Consistency with community character and consistency with community plans

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

**The Broadway Group – Planning Board to discuss draft Scoping Document for the Environment Impact Statement for the Dollar General store proposed on vacant land on southwest corner of Southwestern Boulevard and Heltz Road**

Chairman Clark stated that the applicant's draft Scoping Document will be accepted and a public scoping session regarding the submitted draft Scoping Document will be scheduled for June 2, 2021.

Chairman Clark made the following motion, seconded by Mr. Mahoney:

"Whereas, the Town of Hamburg Planning Board received a Site Plan application from the Broadway Group, LLC for the construction of a Dollar General store and related accessory uses on Southwestern Boulevard and its intersection with Heltz Road; and

Whereas, the Hamburg Planning Board reviewed the application and revisions to the applicant at meetings of August 2020 to January 2021; and

Whereas, in accordance with Part 617 of the Implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQR) of the Environmental Conservation Law, the Hamburg Planning Board initiated a SEQR Coordinated Review process for this Unlisted Action and established the Planning Board as Lead Agency; and

Whereas, the Hamburg Planning Board, in accordance with the State Environmental Quality Review Act, determined that the proposed approval of a Site Plan and construction of a Dollar General may include the potential for at least one significant adverse environmental impact and therefore issued a Positive Declaration; and

Whereas, the EIS process would start once the applicant submits a draft Scoping Document and such document has been received by the Town.

Now, Therefore, Be It Resolved that the Hamburg Planning Board accepts the draft Scoping Document submitted by the applicant as it meets the minimum requirements of the SEQR law and sets a public Scoping Meeting on the draft Scoping Document at Hamburg Town Hall, 6100 South Park Avenue, Hamburg, New York at 6:00 P.M. on June 2, 2021." Carried.

**OTHER BUSINESS**

Chairman Clark stated that he heard that there was an audit of New York State Planning Boards and most of them failed in their notice requirements for posting documents for their meetings. He stated that he would ask Attorney Puglisi to research what the Planning Boards are required to post for their meetings and whether the Hamburg Planning Board is meeting those requirements.

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## **EXHIBIT 3**

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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**

Chris Wood, project engineer, showed Board members an updated Concept Plan for the project, as well as the No Impact letter from the New York State Office of Parks, Recreation and Historic Preservation.

Attorney Hopkins stated that a comprehensive traffic impact study was prepared by SRF Associates both for this project and the proposed Manko subdivision. He stated that Edward Rutkowski, SEQR Site Plan Coordinator for the New York State Department of Transportation (NYSDOT), indicated that he does not see any issues related to traffic impacts themselves on the State Highway system, but that the NYSDOT's policy is to limit or restrict access onto State highways. Mr. Rutkowski noted that the Site Plan should be revised to only provide one (1) driveway onto Big Tree Road and that the applicant should attempt to line it up with the apartment development on the north side of the road.

Attorney Hopkins stated that the Site Plan was revised to reflect Mr. Rutkowski's input, which results in a reduction in the number of proposed units from 156 to 150.

Attorney Hopkins stated that once he receives the final draft of Part II of the EAF from the sub-committee, he will make a comprehensive submission.

Attorney Hopkins stated that as he understands it, the cumulative impacts that have been identified by the sub-committee are as follows:

1. Traffic - A Traffic Impact Study was submitted.
2. Sanitary sewer capacity – A downstream sanitary sewer capacity analysis report was performed for both this project and the proposed Manko subdivision by Carmina Wood Morris and on March 10, 2021 it was approved by the Erie County Division of Sewerage Management. That analysis was done based on wet weather conditions. Both projects would have to comply with the New York State Department of Environmental Conservation's Inflow and Infiltration mitigation requirements. The storm water management system for this project is completely separate from that of the proposed Manko subdivision

project and will comply with the applicable standards both storm water quality and storm water quantity.

3. Community character – No access is proposed from this development to Wilson Drive or Tomaka Drive. 20.1 acres of permanent open space is proposed that would be subject to a conservation easement and a declaration of restrictions. A riparian buffer will be proposed along the ditch that runs through the property.

Attorney Hopkins stated that the layout complies with Appendix D of the New York State Fire Code and the buildings would be fully sprinklered. He noted that a Jurisdictional Determination was submitted issued by the U.S. Army Corps of Engineers dated June 11, 2021 that agreed with the results of the wetland delineation prepared by Earth Dimensions. He further stated that Wetland 1, which is 7.51 acres, is jurisdictional and the 1,153 feet of linear ditch that bisects the site is also jurisdictional, but Wetland 2, 3 and 4 are not subject to Federal jurisdiction.

Attorney Hopkins stated that the only impact to the wetlands would be .04 acres and because that is less than 1/10 acre, per the US. Army Corps of Engineers' regulations the applicant is not required to provide on-site or off-site mitigation.

In response to a question from Ms. McCormick, Mr. Wood responded that 190 cubic yards would be moved out of the wetland area.

Glenn Wetzl, applicant, stated that only organic lawn treatments would be used on the lawns in the development.

Ms. McCormick asked the applicant to quantify the projected electricity usage for the project.

In response to a question from Ms. McCormick, Mr. Wood stated that the total square footage of buildings would be approximately 150,000 sq.ft.

Ms. McCormick asked for an explanation of the NYDOT's comments regarding access to this site and what the changes are to the plan as a result.

In response to a question from Mrs. Comerford, Mr. Wood stated that 150 garages are proposed, as well as 168 open parking spaces. He further stated that the average size of the apartments would be 1,000 sq.ft.

Ms. McCormick asked Board members to send comments to the Planning Department regarding # 7g of Part II of the EAF ("The proposed action may substantially interfere with nest-

ing/breeding, foraging or over-wintering habitat for the predominant species that occupy or use the project site") and # 7h ("The project action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat").

Ms. McCormick asked Board members to provide their opinion on the project's consistency with community plans and community character.

In response to a question from Chairman Clark, Attorney Hopkins stated that originally two (2) curb cuts were proposed onto Big Tree Road. He noted that Mr. Edward Rutkowski from the NYSDOT indicated that neither this project nor the proposed Manko Subdivision would have any adverse impact on the State highway system. He stated that Mr. Rutkowski further reminded him of the NYSDOT's policy regarding controlled access and noted that the NYSDOT would prefer than one of the two (2) proposed curb cuts be eliminated and the resultant single curb cut be located opposite the existing apartment development on the north side of Big Tree Road.

Attorney Hopkins stated that the updated Site Plan shows the relocated single curb cut. He noted that a dedicated left-hand turn and a dedicated right-hand turn are provided for vehicles exiting the site.

Attorney Hopkins noted that eliminating a curb cut and relocating the remaining curb cut results in the loss of six (6) units.

In response to a question from Ms. McCormick, Mr. Lorquet stated that he is concerned about preserving the character of the community and the integrity of the Lake Erie watershed and the Rush Creek corridor.

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

## **OTHER BUSINESS**

Mr. Schawel made a motion, seconded by Mr. Monaco, to adjourn the meeting. The meeting was adjourned at 9:00 P.M.

Respectfully submitted,  
Megan Cornerford, Secretary

June 17, 2021

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## **EXHIBIT 4**

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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.

Ms. McCormick stated that the challenge with this parcel in terms of community character is that it is adjacent to commercial uses, vacant land that is zoned commercial, agricultural land and an existing residential development.

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

**OTHER BUSINESS**

Mrs. Comerford made a motion, seconded by Mr. Chapman, to approve the May 19, 2021 minutes. Carried.

Ms. McCormick made a motion, seconded by Mrs. Comerford, to adjourn the meeting. The meeting was adjourned at 9:40 P.M.

Respectfully submitted,

Megan Comerford, Secretary

July 6, 2021

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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 :	Wetzl
Date :	June 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)

NO

YES

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

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Identify the specific land form(s) attached: _____	E2g	<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)

NO

YES

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

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may create a new water body.	D2b, D1h	<input type="checkbox"/>	<input checked="" 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 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 type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input 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"/>

1. 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: _____	_____	_____	□	□
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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	□ □ □ □ □ □	□ □ □ □ □ □
b. The proposed action may generate 10 tons/year or more of any one designated hazardous air pollutant, or 25 tons/year or more of any combination of such hazardous air pollutants.	D2g	□	□
c. The proposed action may require a state air registration, or may produce an emissions rate of total contaminants that may exceed 5 lbs. per hour, or may include a heat source capable of producing more than 10 million BTU's per hour.	D2f, D2g	□	□
d. The proposed action may reach 50% of any of the thresholds in "a" through "c", above.	D2g	□	□
e. The proposed action may result in the combustion or thermal treatment of more than 1 ton of refuse per hour.	D2s	□	□
f. Other impacts: _____		□	□

#### 7. Impact on Plants and Animals

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

*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	☒	□
b. The proposed action may result in a reduction or degradation of any habitat used by any rare, threatened or endangered species, as listed by New York State or the federal government.	E2o	☒	□
c. The proposed action may cause reduction in population, or loss of individuals, of any species of special concern or conservation need, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2p	☒	□
d. The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or the Federal government.	E2p	☒	□

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 checked="" 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 checked="" 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 checked="" 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 checked="" type="checkbox"/>
i. Proposed action (commercial, industrial or recreational projects, only) involves use of herbicides or pesticides.	D2q	<input checked="" 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, Elb	<input 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 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 type="checkbox"/>
e. The proposed action may disrupt or prevent installation of an agricultural land management system.	E1a, E1b	<input type="checkbox"/>	<input 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 type="checkbox"/>
g. The proposed project is not consistent with the adopted municipal Farmland Protection Plan.	C2c	<input 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 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 checked="" type="checkbox"/>
b. The proposed action may result in the loss of a current or future recreational resource.	C2a, E1c, C2c, E2q	<input checked="" 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 checked="" 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 checked="" 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.  
(See Part 1. D.2.j)

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

NO

YES

	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.  
(See Part 1. D.2.k)

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

NO

YES

	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 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, D1g, D2k	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may utilize more than 2,500 MWhrs per year of electricity.	D2k	<input 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 type="checkbox"/>	<input checked="" 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.  
(See Part 1. D.2.m., n., and o.)

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

NO

YES

	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 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 checked="" 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 type="checkbox"/>	<input checked="" type="checkbox"/>
g. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

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## **EXHIBIT 6**

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## Wetzl 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 – just the parcel will be affected	Medium to Long Term (depending on 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 – just the parcel will be affected	Medium to Long Term (depending on 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 – Item c	Moderate Impact – exceeds threshold (~190 cy of material to be dredged)	Short Term – Duration of excavation to be limited	Probably will Occur	Low Importance – small volume, material to be reused on site	No	No
3 – Impact on	Large Impact –	Long Term – area	Possibly will Occur –	Very Important	Yes – design	Yes

OCT 11 2021

Wetzel Subdivision – Part 3 Considerations

Surface Water – Items d, e, h, and i	Surface waters onsite regulated by the USACE and on 303(d) list; potential downstream impacts to Rush Creek	should be managed by property owner and deed restrictions	uncertainty regarding implementation of riparian corridor restoration and design of stormwater facilities	commitments may adjust this.
7 – Impact on Plants and Animals	Moderate/Large Impact – impact limited to Project parcel, however, over 10 acres of land will be converted from forested land; limited similar habitat outside of the parcel. Potential for conversion of interior habitat to edge habitat.	Long-term/permanent – due to grading, placement of permanent structures	Definitely will occur. Project cannot happen without clearing and grading the land.	Very Important Yes
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
11 – Impact on Open Space and Natural Areas	Moderate/Large Impact – impact	Long-term/permanent – due to grading,	Definitely will occur. Project cannot	Very Important Yes No

X

✓ N/A

## Wetzel Subdivision – Part 3 Considerations

Recreation – Item a	limited to Project parcel, however, over 10 acres of land will be converted from forested land; limited similar habitat outside of the parcel. Potential for conversion of interior habitat to edge habitat.	placement of permanent structures	happen without clearing and grading the land.	Yes	Very Important	Yes	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 afternoon commute. Also this project will necessitate the restriping of Big Tree to accommodate the creation of a 2 way left turn lane.	Definitely will occur - with the notable size of this project it will create an increased traffic demand.				
14 – Impact on Transportation	Moderate Impact	Long-term – increase	Definitely will Occur	Low Importance –	No	Yes	

### Wetzl Subdivision – Part 3 Considerations

Energy	– exceeds threshold area of new building heated/cooled	in energy use to accommodate the new buildings	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	Very Important	Yes	No
17 – Consistency with Community Plan	Moderate/Large Impact – project requires a rezoning from commercial to residential.	Long-term – rezoning is unlikely to change after the apartment complex is built. Use likely to remain in place for decades into the future.	Definitely will Occur if Rezoning is Approved – Project does not match existing zoning	Very Important	Yes	No
18 – Consistency with Community Character	Moderate Impact	Long-term – permanent conversion of the natural environment on site to developed apartment complex	Definitely will Occur if approved	Very Important	Yes	No



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## **EXHIBIT 7**

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## **EXHIBIT 8**

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Carmina  
Wood  
Morris<sup>PC</sup>  
407 Main Street, Suite 400  
Buffalo, New York 14202  
P 716.842.2202

407 Main Street, Suite 400  
Buffalo, New York 14202  
P 716.842.2202

Multi-Family Development  
New Construction  
Big Tree Road  
Town of Hamburg, New York

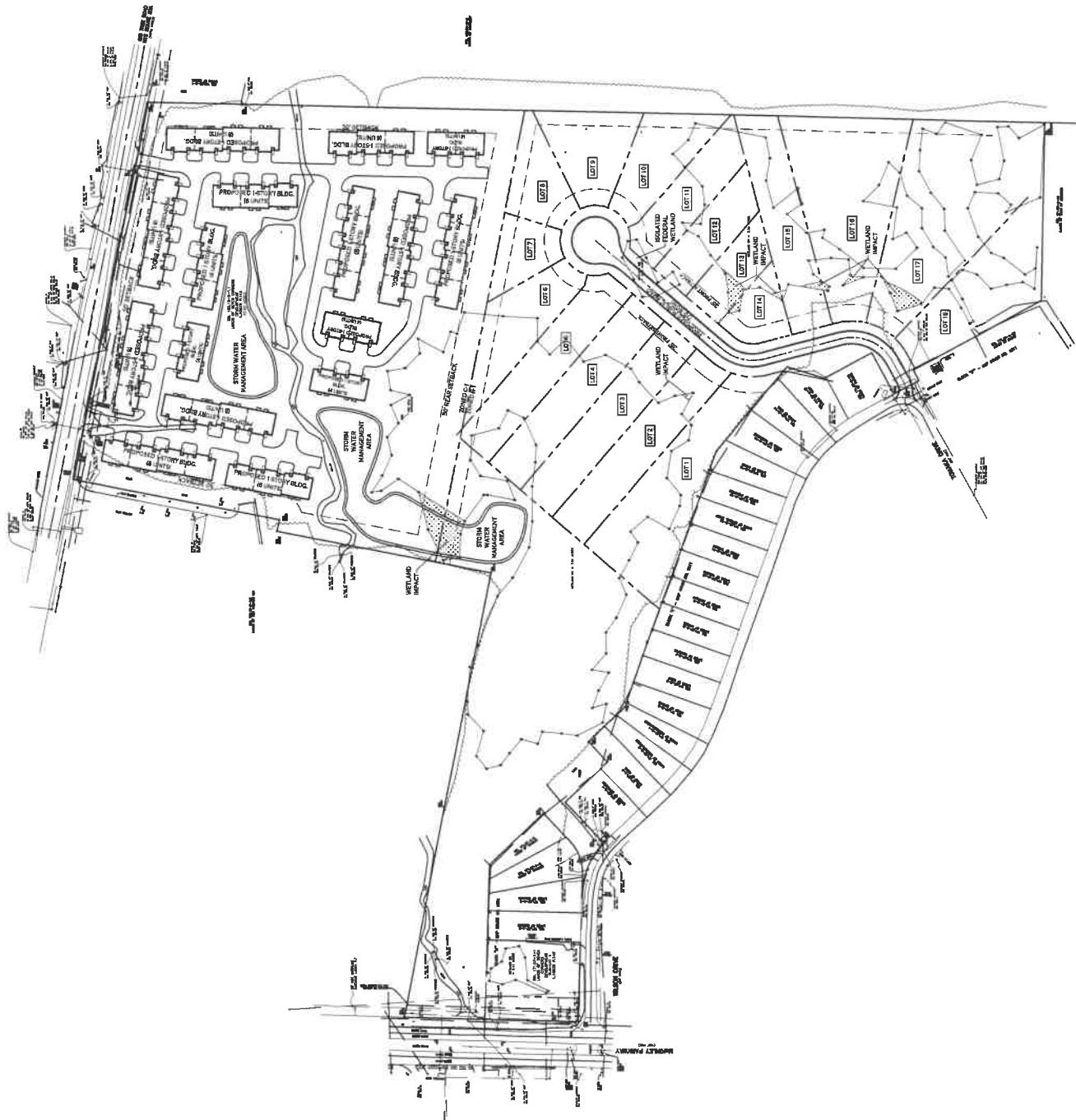
Project Name: New Construction

Drawing No.: C-100  
Project No.: 20.0652

NOTE: BOUNDARY AND DIMENSIONS SHOWN ARE APPROXIMATE AND ARE FOR INFORMATION ONLY.  
ASME B31.12010 IS THE ACCURACY.

Date: 2/20/2020  
C. Wood  
AS Noted  
Scale: 100'-0"

Drawing Name: Concept Site Plan



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## **EXHIBIT 9**

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7071 Liebler Road • Colden, NY 14033  
Phone/Fax: (716) 941-3348  
cynwetzl@gmail.com

4701 Southwestern Blvd. • Hamburg, NY 14075  
Phone: (716) 649-3499 • Fax: (716) 649-3774  
glenn@wetzldevelopment.com

June 9, 2021

Town of Hamburg  
Planning Board  
6100 South Park Avenue  
Hamburg, NY 14075

Re: Use of Organic Fertilizer Statement

Chairman Clark and Members of the Planning Board:

Per the request during the meeting of the Planning Board held on June 2nd, this letter is being submitted to certify that only organic fertilizer will be utilized in connection with the multifamily project at 0 Big Tree Road & 0 Wilson Drive.

Sincerely,

Wetzl Development LLC

A handwritten signature in black ink, appearing to read "Glenn Wetzl".

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## **EXHIBIT 10**

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## Parks, Recreation, and Historic Preservation

ANDREW M. CUOMO  
Governor

ERIK KULLESEID  
Commissioner

June 2, 2021

Glenn Wetzl  
7071 Liebler Road  
Colden, NY 14033

Re: DEC  
4701 Big Tree Road Subdivision  
4701 Big Tree Road, Hamburg, Erie County, NY  
15PR02909

Dear Glenn Wetzl:

Thank you for requesting the comments of the Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the Phase I Archaeological Reconnaissance report prepared by the University at Buffalo's Archaeological Survey (Whalen & Lackos, April 2021; 21SR00274) in accordance with the New York State Historic Preservation Act of 1980 (section 14.09 of the New York Parks, Recreation, and Historic Preservation Law). These comments are those of the Division for Historic Preservation and relate only to Historic/Cultural resources.

This project review is specific to the Area of Potential Effects (APE) examined during the above-noted survey, and as outlined in the attached figure from the report. Based on this review, OPRHP understands no archaeological cultural resources were identified during the above-noted investigation, and thus no further archaeological investigations are warranted. It is, therefore, OPRHP's opinion that no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by this project. Should the project design be changed and ground-disturbing impacts outside of the survey area be proposed (see attached), OPRHP recommends further consultation with this office.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Ferguson".

Josalyn Ferguson, Ph.D.  
Scientist Archaeology

*via email only*

c.c. Doug Perrelli, UB

*Attach.*



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## **EXHIBIT 11**

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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

March 10, 2021

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

RE: Erie County Sewer District No. 3 (ECSD #3) – DSCA Review  
Multi-Family Development, near the corner of Big Tree and McKinley 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 140,000 gallons per day.

The required I&I remedial work for the proposed peak flow of 96.6 gpm is 13 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, appearing to read "Christopher Fiume".

Christopher Fiume  
Assistant Sanitary Engineer

cc: M. Salah / 3.2.5.Capacity Analysis  
C. Jarrell (GHD – Hamburg Town Engineer)

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## **EXHIBIT 12**

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

April 9, 2021

Regulatory Branch

SUBJECT: Approved Jurisdictional Determination for Department of the Army Processing No. LRB-2020-00749

Mr. Glen Wetzl  
7071 Liebler Road  
Colden, New York 14033

Dear Mr. Wetzl:

I have reviewed your request for an approved jurisdictional determination (JD) for the 42.5-acre subject parcel located at 0 Big Tree Road and 0 Wilson Road, in the Town of Hamburg, Erie County, New York.

Enclosed is an approved JD which verifies the limits of waters of the U.S. within the subject parcel as depicted on Sheets 1-2 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 and as depicted on the attached map: Rush Creek and Wetland 1. 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 resources are not waters of the U.S. as noted on the attached Interim Approved Jurisdictional Determination Form: Wetlands 2, 3, and 4. Therefore, these aquatic resources are 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 these aquatic resources.

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-2020-00749

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:

Suzanne Chubb  
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: 513-684-7261 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 June 8, 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 716-879-4308, by writing to the following address: U.S. Army Corps of Engineers, 7413 County House Road, Auburn, New York 13021, or by e-mail at: [Heather.L.Adams@usace.army.mil](mailto:Heather.L.Adams@usace.army.mil)

Sincerely,



Heather Adams  
Biologist

Enclosures

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

Applicant: Glen Wetzl	File Number: LRB-2020-00749	Date: 4/9/2021
Attached is:		See Section below
<input type="checkbox"/> INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)		A
<input type="checkbox"/> PROFFERED PERMIT (Standard Permit or Letter of permission)		B
<input type="checkbox"/> PERMIT DENIAL		C
<input checked="" type="checkbox"/> APPROVED JURISDICTIONAL DETERMINATION		D
<input type="checkbox"/> PRELIMINARY JURISDICTIONAL DETERMINATION		E
<p><b>SECTION I -</b> The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <a href="http://www.usace.army.mil/CECW/Pages/reg_materials.aspx">http://www.usace.army.mil/CECW/Pages/reg_materials.aspx</a> or Corps regulations at 33 CFR Part 331.</p>		
<p><b>A: INITIAL PROFFERED PERMIT:</b> You may accept or object to the permit.</p> <ul style="list-style-type: none"> <li>● <b>ACCEPT:</b> 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.</li> <li>● <b>OBJECT:</b> 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.</li> </ul>		
<p><b>B: PROFFERED PERMIT:</b> You may accept or appeal the permit</p> <ul style="list-style-type: none"> <li>● <b>ACCEPT:</b> 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.</li> <li>● <b>APPEAL:</b> 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.</li> </ul>		
<p><b>C: PERMIT DENIAL:</b> 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.</p>		
<p><b>D: APPROVED JURISDICTIONAL DETERMINATION:</b> You may accept or appeal the approved JD or provide new information.</p> <ul style="list-style-type: none"> <li>● <b>ACCEPT:</b> 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.</li> <li>● <b>APPEAL:</b> 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.</li> </ul>		
<p><b>E: PRELIMINARY JURISDICTIONAL DETERMINATION:</b> 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.</p>		

**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:

Heather Adams  
U.S. Army Corps of Engineers  
1776 Niagara Street  
Buffalo, New York 14207  
716-879-4308  
Heather.L.Adams@usace.army.mil

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

Suzanne Chubb  
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: 513-684-7261 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:
----------------------------------	-------	-------------------



**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): [4/9/2021](#)

ORM Number: [LRB-2020-00749](#)

Associated JDs: [N/A](#)

Review Area Location<sup>1</sup>: State/Territory: [NY](#) City: [Hamburg](#) County/Parish/Borough: [Erie](#)

Center Coordinates of Review Area: Latitude [42.76688](#) Longitude [-78.80592](#)

**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
<a href="#">N/A.</a>	<a href="#">N/A.</a>	<a href="#">N/A.</a>	<a href="#">N/A.</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
<a href="#">N/A.</a>	<a href="#">N/A.</a>	<a href="#">N/A.</a>	<a href="#">N/A.</a>

**Tributaries ((a)(2) waters):**

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
<a href="#">Rush Creek</a>	<a href="#">1153</a>	<a href="#">linear feet</a>	<a href="#">Rush Creek is a perennial tributary that flows into Lake Erie, a traditionally navigable water.</a>

<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 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.



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

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 1	7.51	acre(s)	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature.

**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 2	0.11	acre(s)	(b)(1) Non-adjacent wetland.
Wetland 3	0.15	acre(s)	(b)(1) Non-adjacent wetland.

<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  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)) <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
			NRCS/USDA Web Soil Survey "Flood Frequency Class" rating is "none" which means flooding is not probable. The chance of flooding is nearly 0 percent in any year. All resources reviewed support the determination that the wetland doesn't directly abut an a(1)-a(3) waters, are not separated from an a(1)-a(3) waters by a natural or man-made feature and are not adjacent to an a(1)-a(3) waters.
Wetland 4	3.26	acre(s)	(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.

Information submitted by, or on behalf of, the applicant/consultant: [Wetland Delineation Report submitted 6/11/2020](#)

This information is sufficient for purposes of this AJD.

Rationale: Wetland delineation was submitted with accurate, completed data sheets, photographs, NWI map, web soil survey with hydric soil ratings and other supporting information.

- Data sheets prepared by the Corps: Title(s) and/or date(s).
- Photographs: Aerial: Google earth images from 1985 through 2018
- Corps site visit(s) conducted on: [10/6/2020](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [ORM Number\(s\)](#) and date(s).
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Erie County](#), reviewed on [4/9/2021](#)
- USFWS NWI maps: [Reviewed on 4/9/2021](#)



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

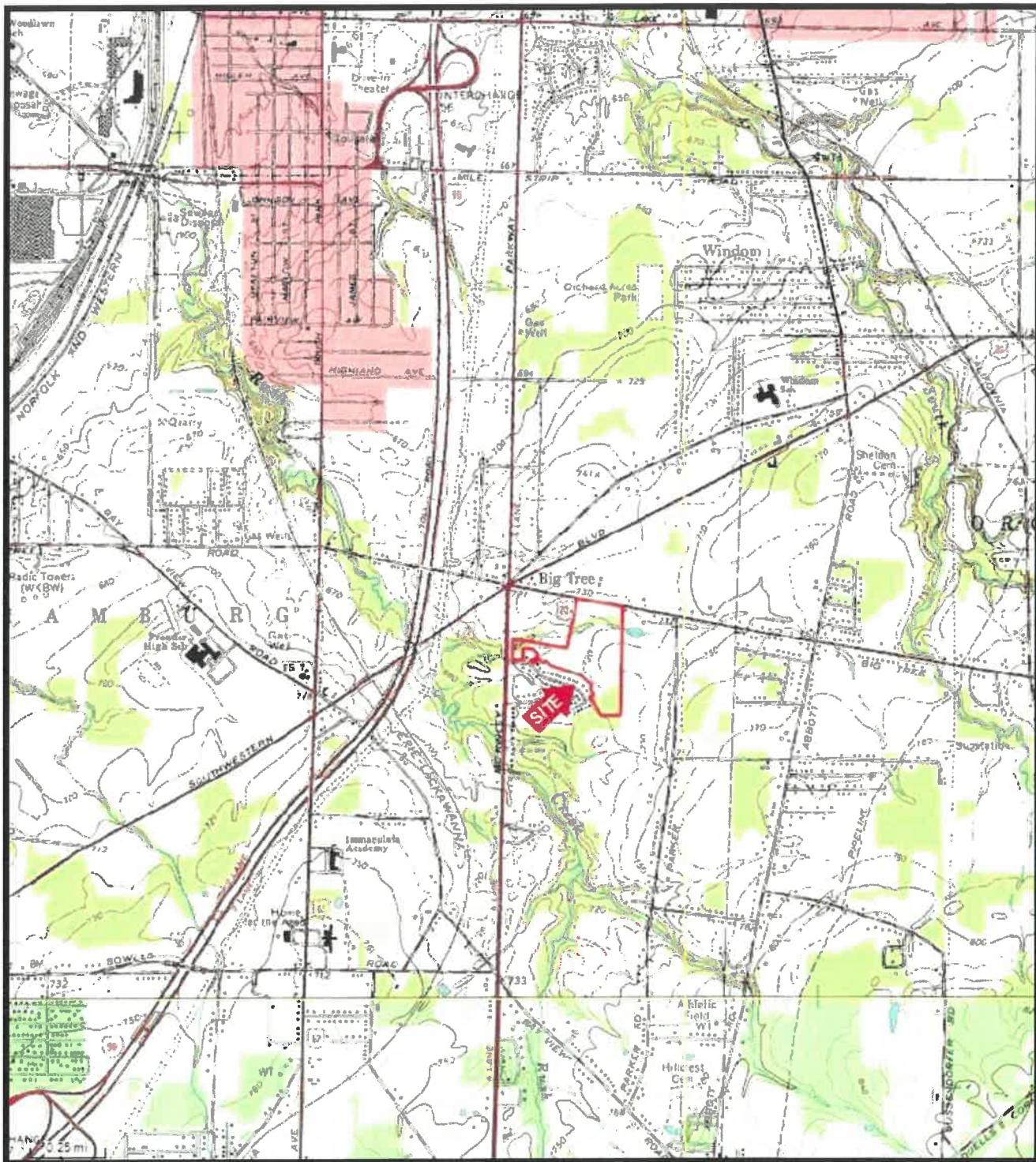
**USGS topographic maps: Buffalo SE**

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

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

**B. Typical year assessment(s): N/A**

**C. Additional comments to support AJD: N/A**



**FIGURE 1: USGS 7.5 MINUTE TOPOGRAPHICAL MAP**

Buffalo SE Quadrangle / 2002 DeLorme

0 Big Tree Road & 0 Wilson Drive

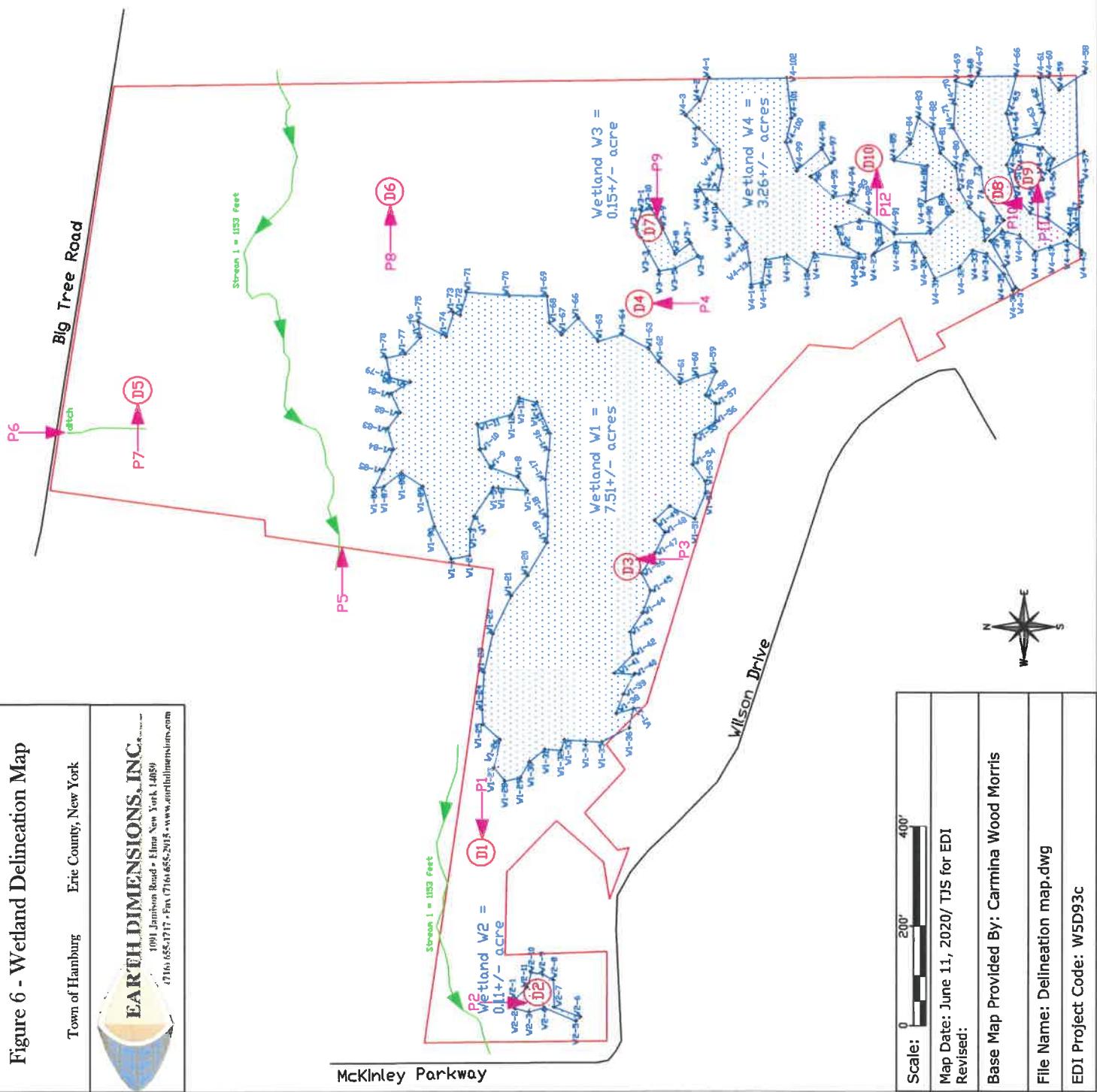
Town of Hamburg, Erie County, New York

Glen Wetzl  
LRB-2020-00749  
Sheet 1 of 2

Figure 6 - Wetland Delineation Map

Town of Hambleton Erie County, New York

**EARTH DIMENSIONS, INC.**  
1091 Jamison Road • Elmsford, New York 10523  
(716) 655-1717 Fax (716) 655-2915 [www.earthdimensions.com](http://www.earthdimensions.com)



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## **EXHIBIT 13**

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## **EXHIBIT 14**

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**Carmina • Wood • Morris**<sup>DPC</sup>

487 Main Street Suite 600 Buffalo, New York 14203 P: 716.842.3165 F: 716.842.0263 W: cwm-ae.com

August 13, 2021

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

Re: Proposed Multifamily Project – 0 Big Tree Road and 0 Wilson Road  
Applicant/Project Sponsor: Wetzl Development, LLC  
Town of Hamburg Planning Board

Dear Chairman Clark and Members of the Planning Board:

This letter has been prepared for the purpose of providing the Planning Board with a summary of the manner by which runoff from impervious surfaces on the Project Site will be properly handled. In connection with the coordinated environmental review of the proposed multifamily project pursuant to SEQRA, questions have been raised regarding potential stormwater impacts. As a result of the need to install an on-site stormwater management complying the stringent applicable standards, the proposed project will not result in any potentially significant adverse stormwater impacts.

In connection with the Planning Board's evaluation of potential stormwater runoff impacts, it is important to mention that 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 multifamily 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 Camie Jarrell, P.E., of GHD (the Town's Engineering Department) in connection with the future Site Plan Application review 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.

Architecture Engineering Interior Design

## **I. Storm Water Design Narrative:**

A storm water collection system is proposed for the impervious surfaces including the driveway connection to Big Tree Road, access aisles, parking spaces and the proposed multifamily buildings and clubhouse. This system will consist of catch basins placed on the Project Site to collect runoff from impervious surfaces. 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 Project Site runoff under existing conditions is generally towards the ditch that crosses the site from east to west. In the developed condition, any developed areas will be conveyed to the storm water management area and ultimately discharge to the existing ditch. This will prevent water from the developed areas of the site from sheet draining offsite. The discharge from the storm water management area will be controlled by our engineered outlet control structures 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.

### **Detention System:**

The proposed storm water management area will consist of bioretention areas followed by dry detention basins which will provide runoff reduction, volume attenuation and water quality treatment. The Concept Plan for the proposed multifamily project prepared by our firm shows the storm water management areas located along the existing ditch on the north and south sides. These locations will maintain the general drainage paths similar to existing conditions. These storm water management areas will be designed based on the applicable stringent standards to ensure they provide adequate stormwater runoff capacity.

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 multifamily project.

**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. Standard SMP's include bioretention which will be incorporated into this project.

**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.

This project will incorporate several Runoff Reduction techniques such as:

- Preservation of natural resources;
- Implementation of riparian buffers; and
- Tree planting

**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 structures 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 structures 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 structures 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 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 multifamily development 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, the installation of an on-site stormwater management system complying with the applicable stringent stormwater quality and quantity standards as described above, ensures the proposed multifamily project 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 GHD in its capacity as the Town Engineer 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 multifamily project.

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  
Camie Jarrell, P.E., Project Engineer, GHD  
Sarah desJardins, Planning Department  
Andrew C. Reilly, P.E., AICP, Planning Department  
Glenn Wetzl, Wetzl Development, LLC  
Sean Hopkins, Esq.

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## **EXHIBIT 15**

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June 21, 2021

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

Re: Proposed Residential Project - 0 Big Tree Road & 0 Wilson Drive  
Applicant/Project Sponsor: Wetzl Development, LLC  
Town of Hamburg Planning Board  
File No. 10011.10

Dear Sarah:

Pursuant to your request on Friday, June 18<sup>th</sup>, enclosed are ten (10) full size copies of the most recently updated Concept Plan [Drawing C-100 – Date: 06/01/21] depicting a single driveway connection to Big Tree Road as requested by the NYS Department of Transportation as presented to the Planning Board during its meeting on June 2<sup>nd</sup> and June 16<sup>th</sup>. The updated Concept Plan resulted in the density of the proposed multifamily project being reduced from 156 to 150 units. A reduced size copy of the updated Concept Plan is also attached as Exhibit “1”.

I most recently spoke to Edward Rutkowski, P.E., of the NYS Department of Transportation on Monday, June 14<sup>th</sup> and he indicated that his agency has not yet completed its review of the updated Concept Plan.

If you have any questions regarding this letter or the status of the proposed residential 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

A handwritten signature in black ink, appearing to read "Sean W. Hopkins".

Sean W. Hopkins, Esq.

Enc.

cc: Glenn Wetzl [Via e-mail and mail]  
Christopher Wood, P.E., Carmina Wood Morris DPC [Via e-mail]

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**Exhibit 1 – Reduced Size Copy of  
Updated Concept Plan Prepared by  
Carmina Wood Morris DPC  
[Drawing C-100 - Date: 06/01/21]**

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## **EXHIBIT 16**

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February 8, 2021

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

Re: Proposed Residential Project - 0 Big Tree Road & 0 Wilson Drive  
Applicant/Project Sponsor: Wetzl Development, LLC  
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 Wetzl Development, LLC ("Project Sponsor") for the purpose of following up on the discussion during the meeting of the Planning Board held on Wednesday, February 3<sup>rd</sup> regarding the pending request to amend the zoning classifications of portions of 0 Big Tree Road and 0 Wilson Drive ("Project Site") to accommodate the proposed residential project.

As the Planning Board is aware, the Project Sponsor is seeking to amend the zoning classification of 16.4 acres of the approximately 42 acre Project Site from C-1 Local Retail Business District ("C-1") to R-3 Multifamily District ("R-3") and approximately 6 acres of the Project Site from R-1 Single-Family Residence District ("R-1") to R-3 to accommodate the proposed residential project.

In connection with the Planning Board's issuance of a recommendation to the Town, the Project Sponsor is proposing the following five (5) zoning conditions:

1. The Applicant shall convey a Conservation Easement to the Town of Hamburg for the 20.1 acres of Permanent Open Space of the Project Site to remain zoned R-1 Single-Family Residence District ("R-1") as depicted on the Concept Site Plan [Drawing C-100] prepared by Carmina Wood Morris DPC dated February 4, 2021. A copy of the Concept Site Plan is attached as Exhibit "1". The content of the Conservation Easement shall be reviewed and approved by the Town Attorney's Office prior to recording at the Erie County Clerk's Office.
2. A Declaration of Restrictions shall be recorded at the Erie County Clerk's Office for the 20.1 acres of Permanent Open Space of the Project Site to remain zoned R-1 Single-Family Residence District ("R-1") as depicted on the Concept Site Plan [Drawing C-100] prepared by Carmina Wood Morris DPC dated February 4, 2021. The Declaration of Restrictions shall include language expressly stating there shall not be any buildings, roadways or driveways constructed within the Permanent Open Space including any roadway or driveway connections to the portions of the Project Site with frontage on Wilson Road. The

**Correspondence to William Clark, Planning Board Chairman**

**February 8, 2021**

**Page 2 of 2**

content of the Declaration of Restrictions shall be reviewed and approved by the Town Attorney's Office prior to recording at the Erie County Clerk's Office.

3. There shall not be any buildings located on the portion of the Project Site to be rezoned R-3 Multifamily District ("R-3") located within two hundred feet (200') of the rear property line of the existing residential lots on Wilson Road.
4. The Project Sponsor shall be required to obtain a Nationwide Permit from the United States Army Corps of Engineers ("USACE") for the proposed impact of 0.04 acres of jurisdictional wetlands as depicted on the Concept Site Plan [Drawing C-100] prepared by Carmina Wood Morris DPC dated February 4, 2021 prior to impacting the wetland area.
5. The on-site stormwater management to be installed in connection with the residential project shall comply with the stringent stormwater quality and quantity standards of the New York State Department of Environmental Conservation ("NYSDEC") including the handling of a 100 yr. storm event. Verification of compliance this condition shall occur in connection the future review of a site plan application for the proposed residential project.

The Project Sponsor is requesting that the Planning Board adopt a resolution during its upcoming meeting on Wednesday, February 17<sup>th</sup> at 7:00 p.m. recommending approval of the pending request to amend the zoning classifications of portions of the Project Site subject to the proposed zoning conditions.

Please feel free to contact me at 510-4338 or via e-mail if you have any questions regarding this letter setting forth proposed zoning conditions for the consideration of the Planning Board.

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  
Sarah desJardins, Planning Department  
Andrew C. Reilly, PE, AICP, Planning Department  
Glenn Wetzl, Wetzl Development, LLC  
Christopher Wood, P.E., Carmina Wood Morris DPC

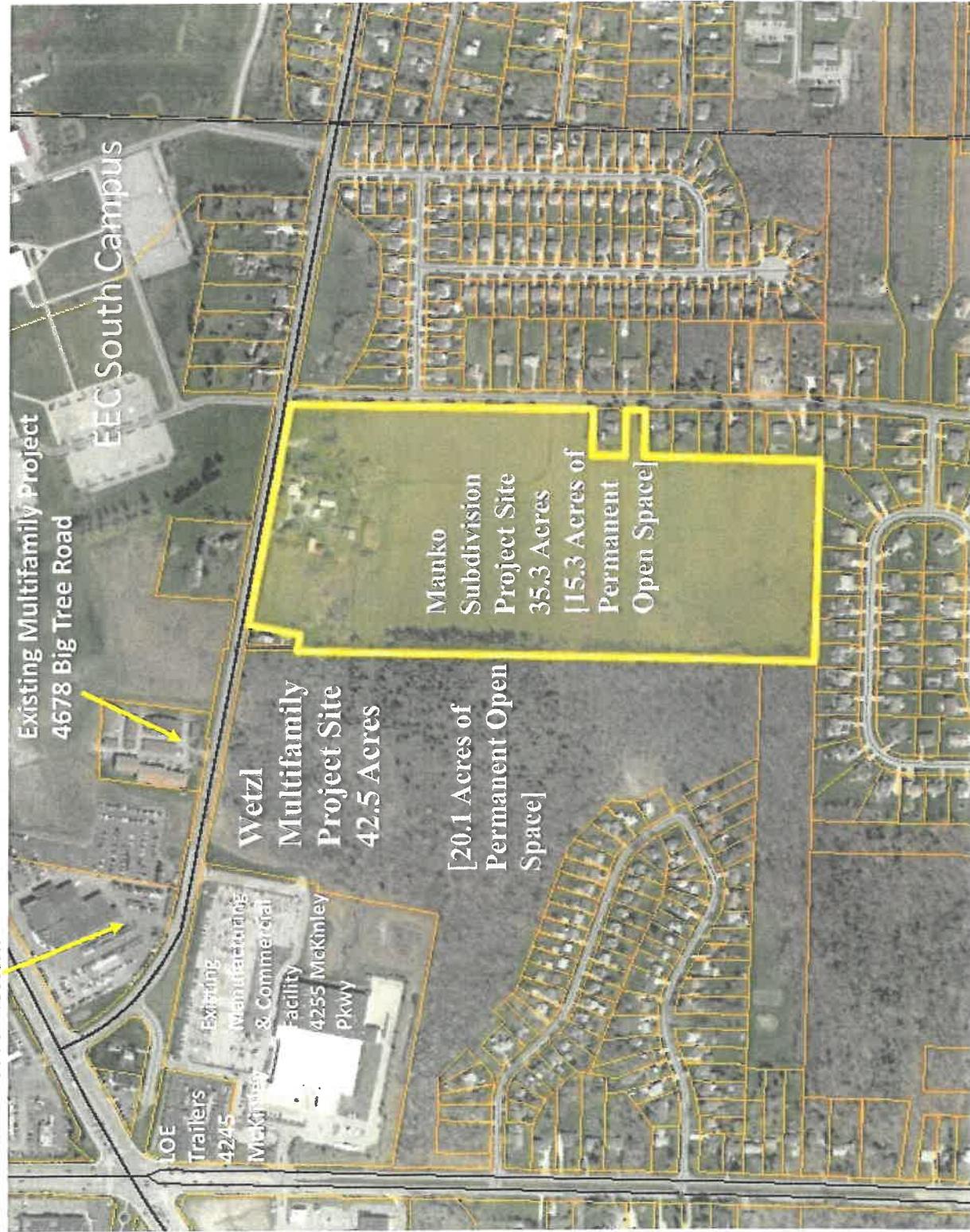
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## **EXHIBIT 17**

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## Erie County On-Line Mapping Application



### Legend

- Parcels
- Streets and Highways
- Interstate
- Primary State Road
- Secondary State Road
- County Road
- Local Road



1: 9,028

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.

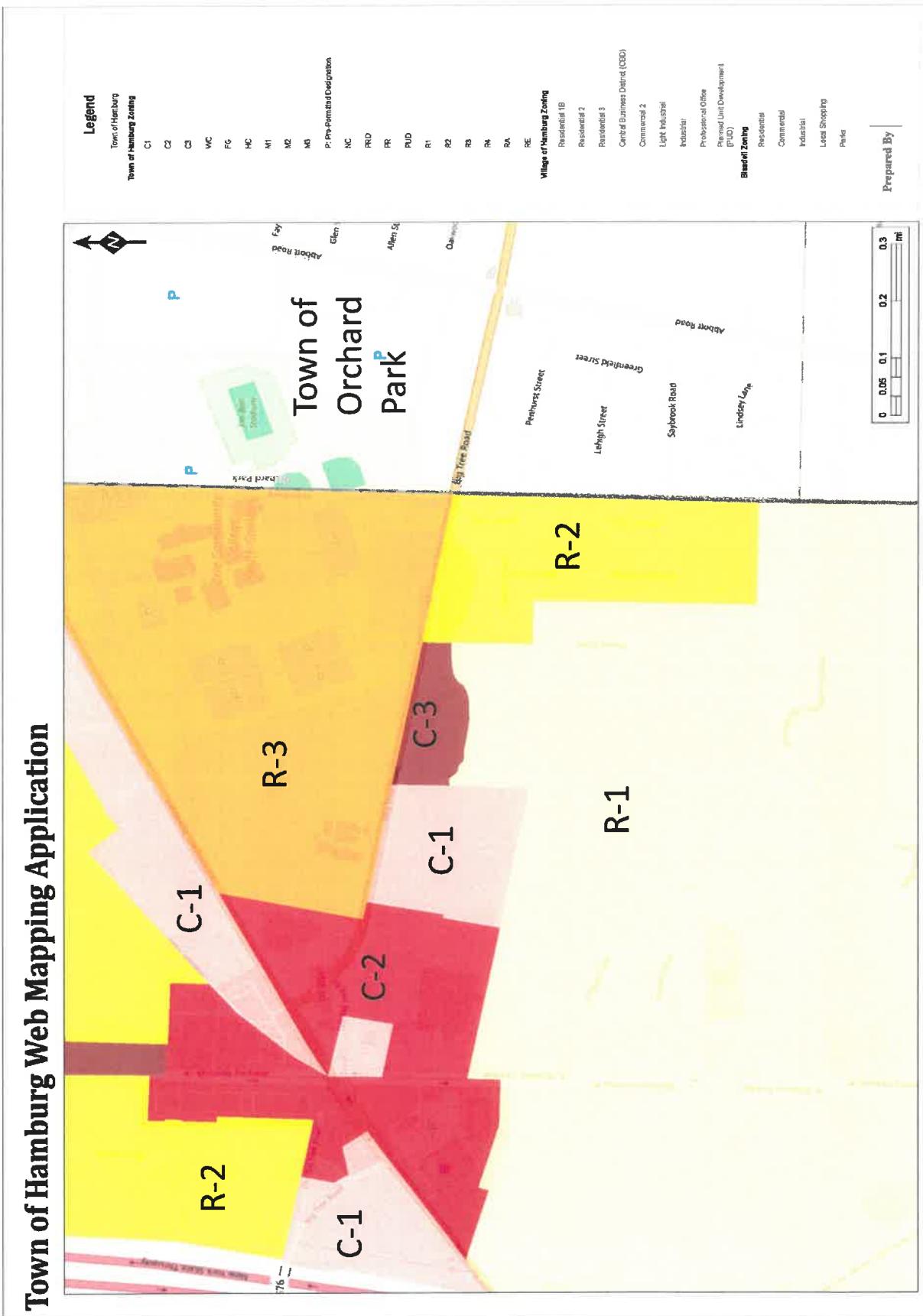
ERIE COUNTY  
DEPARTMENT OF ENVIRONMENT & PLANNING  
OFFICE OF GIS

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## **EXHIBIT 18**

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## Town of Hamburg Web Mapping Application



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## **EXHIBIT 19**

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# Town of Hamburg Land Use Map

Map: 2-2

Project Site

## Legend

Commercial	Agricultural	Undeveloped/OpenSpace	Roads	Railroad
Industrial	Mining and Quarrying	Recreation/Entertainment	Interstate 90	Town Boundary
Government/Public	Parks	Utilities/Infrastructure		
Rural Residential	Single Family Residential	Vacant		
2 Family Residential	Multiple Residential	Missing Data		

Lower of Orton Park

Town of Evans



0.5 Miles  
1  
2

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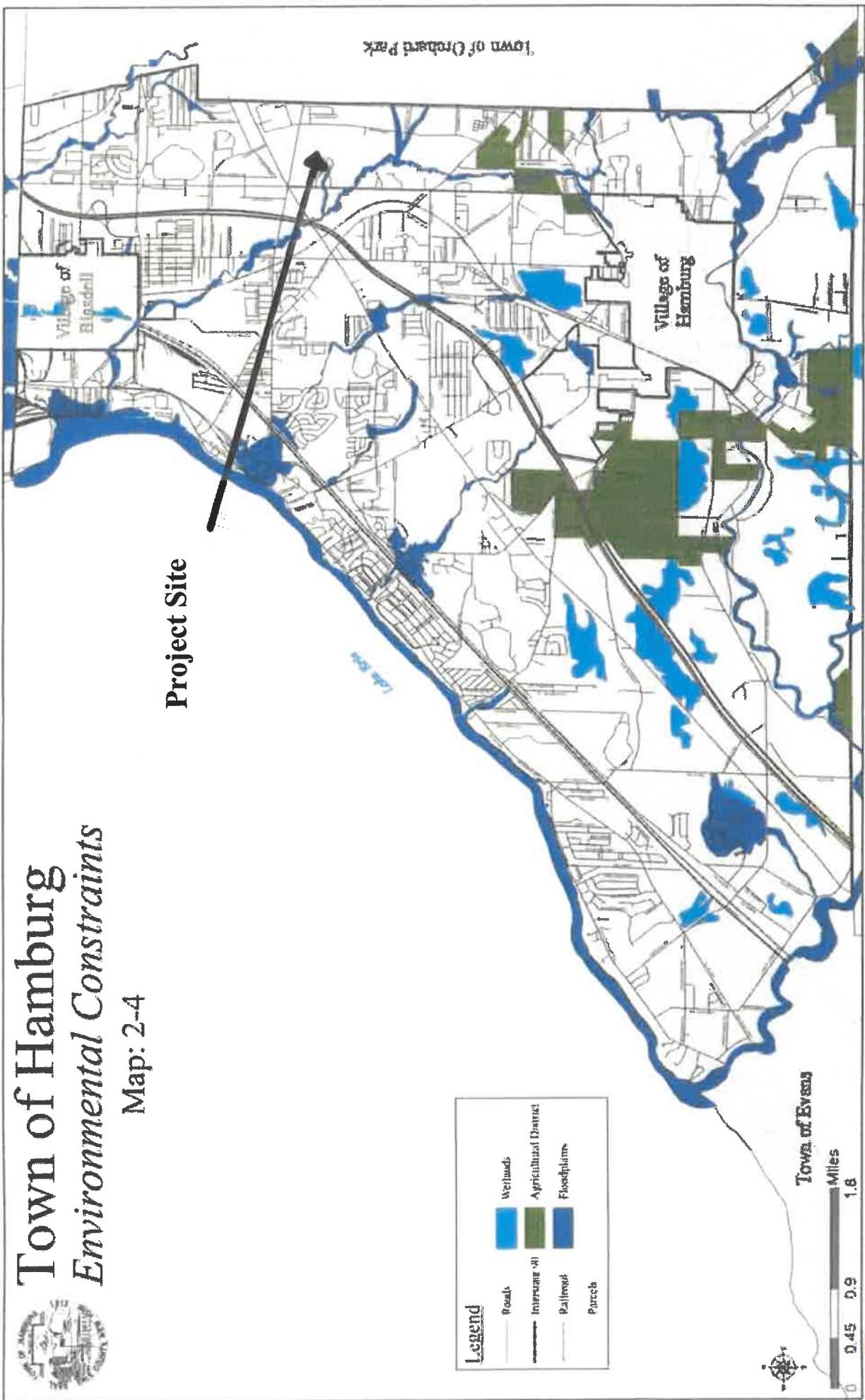
## **EXHIBIT 20**

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# Town of Hamburg *Environmental Constraints*

Map: 2-4

Project Site



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## **EXHIBIT 21**

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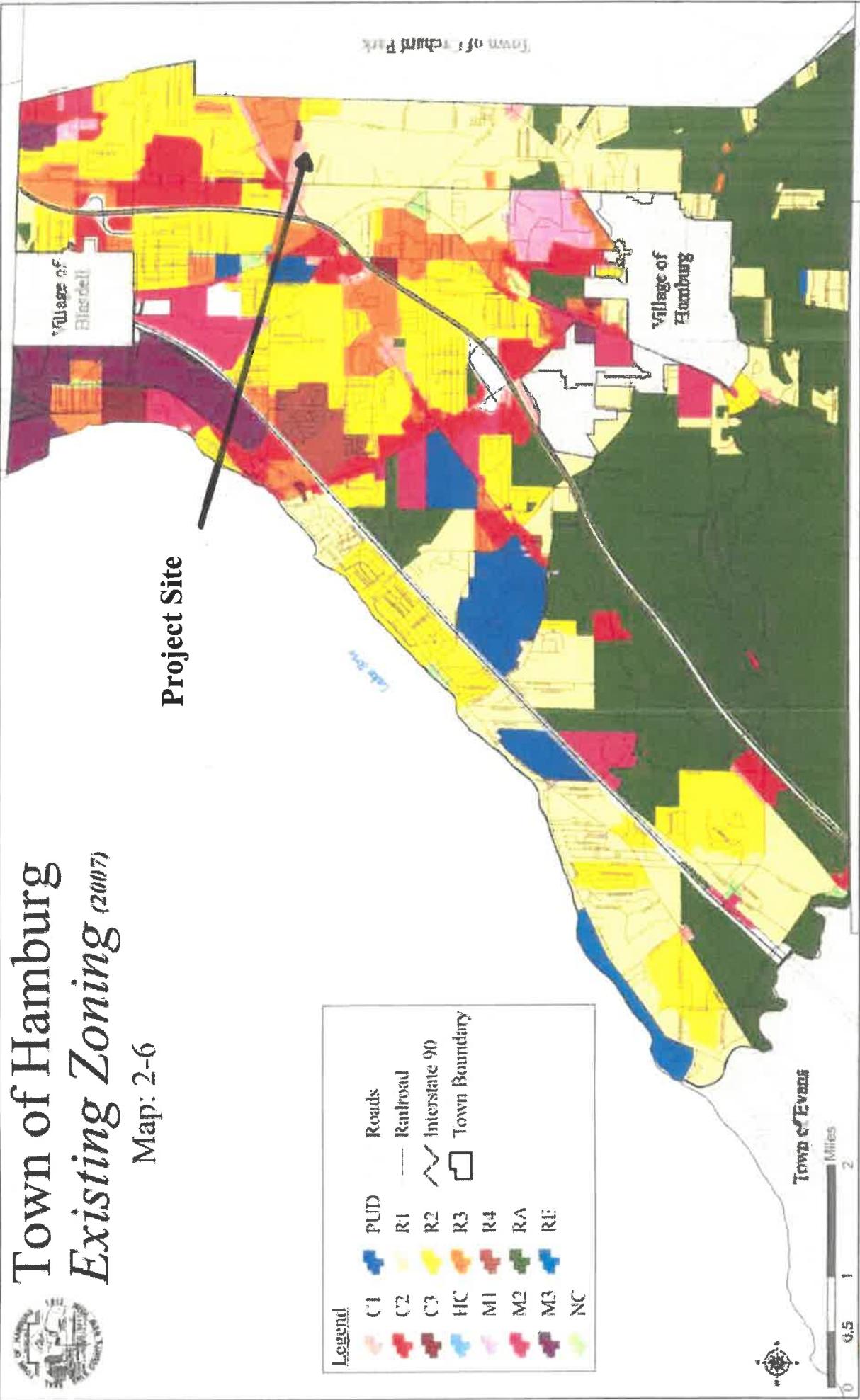
# Town of Hamburg Existing Zoning (2007)



Map: 2-6

Project Site

Legend		
C1	PUD	Roads
C2	R1	Railroad
C3	R2	Interstate 90
HC	R3	Town Boundary
M1	R4	
M2	RA	
M3	RE	
NC		



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## **EXHIBIT 22**

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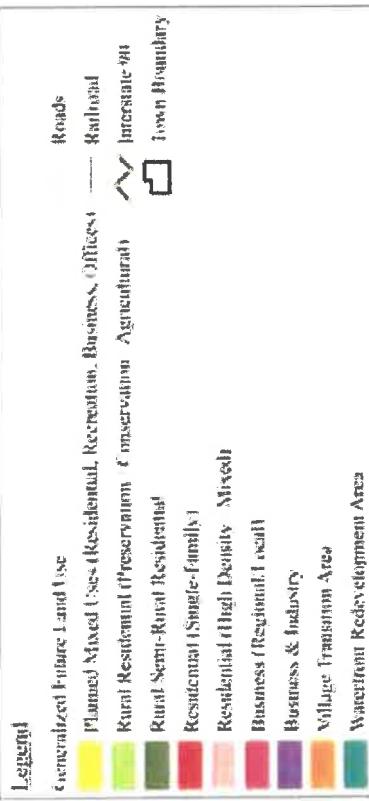


# Town of Hamburg

## Generalized Future Land Use

Map: 2-10

Project Site



Follow of Creek Park

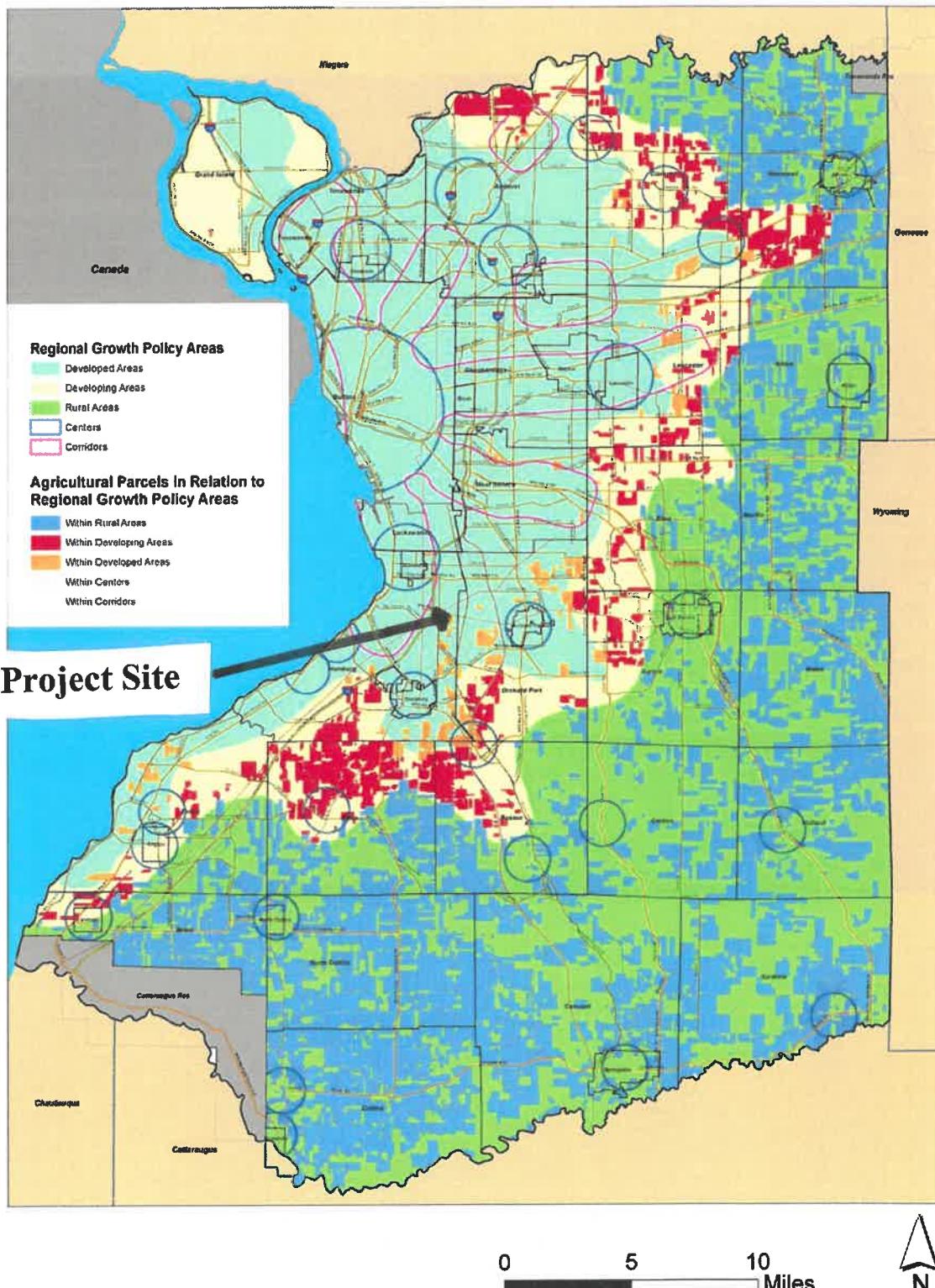


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## **EXHIBIT 23**

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



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

CREATED: December 20, 2011  
REVISED: July 27 2012

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A Furtado Company