

VOLUME 1 OF APPENDICES OF
DRAFT ENVIRONMENTAL IMPACT STATEMENT

DATE:

July 11, 2024

LOCATION
OF PROJECT SITE:

0 Big Tree Road & 0 Wilson Drive

LEAD AGENCY:

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

PROJECT SPONSOR:

Wetzl Development,
LLC

Sean Hopkins, Esq.
Hopkins Sorgi & McCarthy PLLC
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Williamsville, NY 14221
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Carmina Wood Design
487 Main Street
Buffalo, NY 14203

List of Appendices:

VOLUME 1:

Appendix A: **Part 1 of the Full Environmental Assessment Form Prepared by the Project Sponsor dated January 11, 2021 and Parts 2 and 3 of the Full Environmental Assessment Form Prepared by the Town of Hamburg Planning Board dated May 2021**

Appendix B: **Positive Declaration Issued by the Planning Board on September 15, 2021**

Appendix C: **Final Scoping Document Issued by Planning Board March 15, 2023**

Appendix D: **Correspondence Related to Project Positive Declaration**

D1: Correspondence Before Positive Declaration:

1. Letter from Sean Hopkins to Sarah desJardins dated September 09, 2021 with attached Exhibit 1 consisting of Updated Riparian Buffer Plan [Drawing RB-100] dated September 09, 2021, prepared by Earth Dimensions, Inc.
2. Letter from Sean Hopkins to Sarah desJardins dated August 26, 2021, consisting of project support letter from Arthur Wiscik of 4755 Big Tree Road dated August 25, 2021
3. E-mail from Edward Rutkowski of NYS Department of Transportation to Sarah desJardins, dated August 18, 2021, consisting of two comments relating to the Conceptual Site Plan [Drawing C-100] dated June 1, 2021
4. Letter from Sean Hopkins to Planning Board Chairman William Clark, regarding Wetzel Project SEQRA Submission, dated August 18, 2021
5. Letter from Chris Wood, P.E. to Planning Board, consisting of a summary of the manner by which runoff from impervious surfaces on the Project Site will be properly handled dated August 13, 2021
6. Letter from Sean Hopkins to Sarah desJardins dated June 21, 2021 with attached f Exhibit 1 – Reduced Size Copy of Updated Concept Site Plan Prepared by Carmina Wood Morris DPC, Drawing C-100 dated June 1, 2021
7. Glenn Wetzl Letter to Planning Board certifying only organic fertilizer will be used for the project dated June 9, 2021

8. Letter from Christopher Wood, P.E., to Town Planning Board consisting of response to Question 3c of Part 2 of the Full EAF regarding dredging more than 100cy of material from a wetland or water body dated June 8, 2021
9. Letter from Sean Hopkins to Sarah desJardins dated June 3, 2021 with attached Exhibit 1 consisting of the No Impact Determination Letter of Josalyn Ferguson, Ph.D of the NYS office of Parks, Recreation and Historic Preservation dated June 02, 2021
10. Letter from Sean Hopkins to Sarah desJardins dated May 02, 2021, submitting the Cultural Resources Report prepared by UB Anthropology Dept. dated April 29, 2021
11. Letter from Sean Hopkins to Sarah desJardins dated April 10, 2021, submitting the Jurisdictional Determination issued by the US Army Corps of Engineers dated April 9, 2021
12. Memorandum from the Conservation Advisory Board to the Town Planning Board dated March 29, 2021
13. Letter from Sean Hopkins to Sarah desJardins dated March 19, 2021 consisting of an enclosed letter from Christopher Fiume of the Erie County Division of Sewer Management dated March 10, 2021 verifying capacity of the ECSD #3 Collection System after review of the DSCA.
14. Letter from Timothy German of the Erie County DEP to Sarah desJardins dated February 11, 2021 consisting of lead concurrence of the Erie County DEP and with comments related to the Project including additional comments by Joseph McNamera, Assistant Sanitary Engineer for the Erie County Division of Sewerage Management ("ECDSM")
15. Letter from Sarah Gatti of the Erie County DEP to Sarah desJardins dated February 11, 2021 consisting of concurrence by the Erie County DEP that the Town of Hamburg act as Lead Agency for the Project and provided comments related to the Project including additional comments by Joseph McNamera, Assistant Sanitary Engineer for EC DSM
16. Letter from Sean Hopkins to the Planning Board dated February 8, 2021, consisting of Proposed Zoning Conditions
17. Town of Hamburg Planning Board Notice of Lead Agency Solicitation Letter dated January 12, 2021
18. Letter from Sean Hopkins to Tom Zimmerman dated November 11, 2020, consisting of a copy of the Concept Plan [Drawing C-100 - dated November 02, 2020].

19. Letter from Sean Hopkins to Sarah desJardins dated November 10, 2020, consisting of an updated project submission
20. Letter from Sean Hopkins to William Clark dated November 9, 2020, consisting of an updated Concept Plan dated November 02, 2020 and attached Exhibits 1 to 3
21. E-mail from Sarah desJardins to Sean Hopkins dated October 8, 2020, consisting of an outreach effort made by Sarah desJardins to the Sled HSC snowmobile organization dated October 8, 2020

D2: Correspondence After Issuance of Positive Declaration:

1. Letter from Sean Hopkins to Joshua Rogers dated May 17, 2023, containing a copy of the Nationwide Permit No. 29 issued by the USACE dated May 11, 2023
2. E-mail from Casey Gordon, NYSDOT to Joshua Rogers of Wendel Companies dated March 15, 2023, consisting of three comments pertaining to the project
3. Letter from Michelle Woznick, NYS DEC Deputy Permit Admin., to Joshua Rogers, Wendel Companies, dated March 15, 2023, containing the response by the NYS DEC pertaining to the Draft Scoping Document
4. Letter from Sean Hopkins to Sarah desJardins dated January 31, 2023, containing the Draft Scoping Document submitted on behalf of Wetzl Development, LLC for review by the Planning Board
5. Letter from Sean Hopkins to Sarah desJardins dated September 18, 2021, requesting a copy of the positive declaration issued by the Town of Hamburg Planning Board dated September 15, 2021

Appendix E: Minutes of Meetings of the Town of Hamburg Planning Board

1. Minutes of Planning Board Meeting on March 15, 2023
2. Minutes of Planning Board Meeting on March 01, 2023
3. Minutes of Planning Board Meeting on June 16, 2021
4. Minutes of Planning Board Meeting on June 02, 2021
5. Minutes of Planning Board Meeting on May 19, 2021
6. Minutes of Planning Board Meeting on May 05, 2021
7. Minutes of Planning Board Meeting on February 17, 2021
8. Minutes of Planning Board Meeting on February 02, 2021

9. Minutes of Planning Board Meeting on October 07, 2020
10. Minutes of Planning Board Meeting on June 16, 2021

Appendix F: Minutes of Meetings of the Town of Hamburg Town Board

1. Minutes of the Town Board Meeting on March 22, 2021
2. Minutes of the Town Board Meeting on October 05, 2020

Appendix G: Project Alternatives Plans

G1: Alternative Plan 1: Conceptual Site Plan consisting of mix-Use commercial development with subdivision, Drawing C-100, prepared by Christopher Wood, P.E. of Carmina Wood Morris dated December 07, 2021

G2: Alternative Plan 2: Preferred Alternative - Conceptual Site Plan consisting of multi-family development with 20.1 acres of As-of-Right Plan, Drawing C-100, prepared by Christopher Wood, P.E. of Carmina Wood Morris dated June 01, 2021

G3: Alternative Plan 3: Conceptual Site Plan with Multi-Family Development with Sub-division, Drawing C-100, prepared by Christopher Wood, P.E. of Carmina Wood Morris dated August 25, 2020

Appendix H: Downstream Sanitary Sewer Capacity Analysis (DSCA) by Christopher Wood, P.E. of Carmina Wood Morris dated January 5, 2021

VOLUME 2:

Appendix I: Traffic Impact Study prepared by SRF Associates dated April 2, 2021

Appendix J: Storm Water Management Summary Letter of Christopher Wood, P.E., of Carmina Wood Design dated April 18, 2024

Appendix K: Letter from Sean Hopkins to Sarah desJardins dated September 9, 2021 with Exhibits 1 and 2, consisting of the Riparian Buffer Plan dated September 9, 2021 and the Method of Riparian Buffer Design as prepared by Earth Dimensions Inc. dated September 9, 2021.

Appendix L: Wetland Delineation Report prepared by Earth Dimensions, Inc. dated June 11, 2020

Appendix M: Jurisdictional Determination issued by the United States Army Corps of Engineers dated May 13, 2021

Appendix N: Cultural Resources Report prepared by UB Anthropology Dept. dated April 29, 2021

Appendix O: Habitat Assessment Report prepared by Earth Dimensions; Inc. dated November 15, 2021

Appendix P: No Impact Determination Letter issued by Josalyn Ferguson, Ph.D. of the New York State Office of Parks, Recreation and Historic Preservation dated June 2, 2021

Appendix Q: Jurisdictional Federal Wetland Permit Application prepared by Earth Dimensions, Inc. dated December 23, 2021

Appendix R: Nationwide Permit issued by the United States Army Corps of Engineers on May 11, 2023

Appendix S: Amended Rezoning Application dated January 11, 2020 with Exhibits 1 to 5 as follows:

Exhibit 1: Description of Requested Rezoning and Proposed Project

Exhibit 2: Survey of Project Site as Prepared by Creekside Boundary Land Surveying, PLLC

Exhibit 3: Concept Site Plan [Drawing C-100 – Date: 11-02-20] as Prepared by Carmina Wood Morris DPC

Exhibit 4: Parcel Reports for 0 Big Tree Road and 0 Wilson Road from Erie County GIS

Exhibit 5: Legal Description of Property to be Rezoned from R-1 to R-3, prepared by Creekside Boundary Land Surveying, PLLC

Appendix A

Full Environmental Assessment Form
Parts 1, 2, and 3

APPENDIX A

**Full Environmental Assessment Form
Part 1 - Project and Setting**

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

Instructions for Completing Part 1

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

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

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

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Proposed Residential Project		
Project Location (describe, and attach a general location map): 0 Big Tree Road and 0 Wilson Drive - Town of Hamburg - Erie County		
Brief Description of Proposed Action (include purpose or need): <p>The proposed ("action") consists of a residential project to be developed on a portion of the approximately 42.6 acre Project Site consisting of 156 attached 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 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. The project is an Unlisted action pursuant to SEQRA since the impacts cross the thresholds for a Type I action contained in 6 NYCRR Part 617.4 of the SEQRA Regulations. The Project Sponsor is requesting that the Town of Hamburg Town Board issue a negative declaration pursuant to SEQRA since the proposed residential project will not result in any potentially significant adverse environmental impacts.</p>		
Name of Applicant/Sponsor: Seven Corners Development c/o Sean Hopkins, Esq., Hopkins Sorgi & McCarthy PLLC		Telephone: 510-4338 E-Mail: shopkins@hsr-legal.com
Address: 5500 Main Street, Suite 343		
City/PO: Williamsville		State: NY Zip Code: 14221
Project Contact (if not same as sponsor; give name and title/role):		Telephone: E-Mail:
Address:		
City/PO:		State: Zip Code:
Property Owner (if not same as sponsor): Seven Corners Development		Telephone: E-Mail:
Address: 316 Hillsdale Avenue East		
City/PO: Toronto		State: Ontario Zip Code: MS41T8

B. Government Approvals

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

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No or Village Board of Trustees	Town Board - Rezoning of Portion of the Project Site	November 21, 2020
b. City, Town or Village <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Planning Board or Commission	Planning Board - Site Plan Approval	To be determined
c. City, Town or <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Village Zoning Board of Appeals		
d. Other local agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Building Department - Building Permits	To be determined
e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	ECWA - Backflow Approval; ECHD - Water and Sanitary Sewer; ECDSM - DSAC Approval	To be determined
f. Regional agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
g. State agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	NYSDEC - SPDES Approval; NYSDOT - Highway Work Permit	To be determined
h. Federal agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Nationwide Permit - U.S. Army Corps of Engineers	To be determined
i. Coastal Resources.		
ii. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
iii. Is the project site located in a community with an approved Local Waterfront Revitalization Program?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
iii. Is the project site within a Coastal Erosion Hazard Area?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

C. Planning and Zoning

C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the Yes No only approval(s) which must be granted to enable the proposed action to proceed?

- If Yes, complete sections C, F and G.
- If No, proceed to question C.2 and complete all remaining sections and questions in Part 1

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site Yes No where the proposed action would be located?

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action Yes No would be located?

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Yes No Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?)

If Yes, identify the plan(s):

NYS Heritage Areas:West Erie Canal Corridor

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, Yes No or an adopted municipal farmland protection plan?

If Yes, identify the plan(s):

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. If Yes, what is the zoning classification(s) including any applicable overlay district?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
The Project Site is zoned C-1 Local Retail Business District and R-1 Single-Family Residence District.	
b. Is the use permitted or allowed by a special or conditional use permit?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
c. Is a zoning change requested as part of the proposed action? If Yes, i. What is the proposed new zoning for the site? R-3 Multifamily District	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
C.4. Existing community services.	
a. In what school district is the project site located? Frontier School District	
b. What police or other public protection forces serve the project site? Town of Hamburg Police Department	
c. Which fire protection and emergency medical services serve the project site? Armour.	
d. What parks serve the project site? There are various parks in the Town of Hamburg that will be accessible to the future residents of the proposed residential project.	

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? Residential project consisting of attached residential units for lease.		
b. a. Total acreage of the site of the proposed action?	42.5 acres	[The proposed project includes
b. Total acreage to be physically disturbed?	20 +/- acres	20.3 acres of Permanent Open Space.]
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?	42.5 acres	
c. Is the proposed action an expansion of an existing project or use? i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
d. Is the proposed action a subdivision, or does it include a subdivision? If Yes, i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
ii. Is a cluster/conservation layout proposed?		<input type="checkbox"/> Yes <input type="checkbox"/> No
iii. Number of lots proposed?		
iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____		
e. Will the proposed action be constructed in multiple phases?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
i. If No, anticipated period of construction:	months	
ii. If Yes: • Total number of phases anticipated	2	
• Anticipated commencement date of phase 1 (including demolition)	July month 2021 year	
• Anticipated completion date of final phase	Oct month 2023 year	
• Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases:	_____	

f. Does the project include new residential uses? If Yes, show numbers of units proposed.				<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
One Family		Two Family	Three Family	Multiple Family (four or more)
Initial Phase	66
At completion of all phases	156
g. Does the proposed action include new non-residential construction (including expansions)? If Yes,				<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
i. Total number of structures 1				
ii. Dimensions (in feet) of largest proposed structure: 15' height; 50' width; and 70' length				
iii. Approximate extent of building space to be heated or cooled: 3390 square feet				
h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? If Yes,				<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
i. Purpose of the impoundment: Storm water management				
ii. If a water impoundment, the principal source of the water: <input checked="" type="checkbox"/> Ground water <input type="checkbox"/> Surface water streams <input type="checkbox"/> Other specify: Storm water runoff from impervious surfaces on the Project Site.				
iii. If other than water, identify the type of impounded/contained liquids and their source. Not applicable.				
iv. Approximate size of the proposed impoundment. Volume: TBD million gallons; surface area: 1.3 +/- acres				
v. Dimensions of the proposed dam or impounding structure: N/A height; length				
vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): Impoundment is an excavation and does not constitute a regulated dam.				
D.2. Project Operations				
a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)				
If Yes:				
i. What is the purpose of the excavation or dredging?				
ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?				
• Volume (specify tons or cubic yards): _____				
• Over what duration of time? _____				
iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. _____				
iv. Will there be onsite dewatering or processing of excavated materials? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, describe. _____				
v. What is the total area to be dredged or excavated? _____ acres				
vi. What is the maximum area to be worked at any one time? _____ acres				
vii. What would be the maximum depth of excavation or dredging? _____ feet				
viii. Will the excavation require blasting? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
ix. Summarize site reclamation goals and plan: _____				
b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
If Yes:				
i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): The project will result in a 0.04 acre impact to the 7.52 acres of the jurisdictional federal wetlands on the Project Site.				

Copies of the Wetland Delineation Report prepared by Earth Dimensions, Inc. dated June 11, 2020 have been previously submitted to both the Town of Hamburg and the United States Army Corps of Engineers ("USACE").

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:
The project will result in a 0.04 acre impact to the 7.52 acres of the jurisdictional federal wetlands on the Project Site.

iii. Will the proposed action cause or result in disturbance to bottom sediments? Yes No

If Yes, describe:

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation? Yes No

If Yes:

• acres of aquatic vegetation proposed to be removed: _____

• expected acreage of aquatic vegetation remaining after project completion: _____

• purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____

• proposed method of plant removal: _____

• if chemical/herbicide treatment will be used, specify product(s): _____

v. Describe any proposed reclamation/mitigation following disturbance: _____

c. Will the proposed action use, or create a new demand for water? Yes No

If Yes:

i. Total anticipated water usage/demand per day: 40,040 gpd gallons/day

ii. Will the proposed action obtain water from an existing public water supply? Yes No

If Yes:

• Name of district or service area: ECWA

Yes No

• Does the existing public water supply have capacity to serve the proposal? Yes No

• Is the project site in the existing district? Yes No

• Is expansion of the district needed? Yes No

• Do existing lines serve the project site? Yes No

iii. Will line extension within an existing district be necessary to supply the project? Yes No

If Yes:

• Describe extensions or capacity expansions proposed to serve this project: _____

• Source(s) of supply for the district: _____

Yes No

iv. Is a new water supply district or service area proposed to be formed to serve the project site? Yes No

If Yes:

• Applicant/sponsor for new district: _____

• Date application submitted or anticipated: _____

• Proposed source(s) of supply for new district: _____

v. If a public water supply will not be used, describe plans to provide water supply for the project: _____

N/A

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: N/A gallons/minute.

d. Will the proposed action generate liquid wastes? Yes No

If Yes:

i. Total anticipated liquid waste generation per day: 40,040 gpd gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each):
Sanitary wastewater

iii. Will the proposed action use any existing public wastewater treatment facilities? Yes No

If Yes:

• Name of wastewater treatment plant to be used: Southtowns Advanced WWTP

Yes No

• Name of district: ECSD 3

Yes No

• Does the existing wastewater treatment plant have capacity to serve the project? Yes No

• Is the project site in the existing district? Yes No

Yes No

• Is expansion of the district needed? Yes No

- Do existing sewer lines serve the project site? Yes No
- Will a line extension within an existing district be necessary to serve the project? Yes No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? Yes No

If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- What is the receiving water for the wastewater discharge? _____

v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans):

N/A

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____

None _____

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? Yes No

If Yes:

i. How much impervious surface will the project create in relation to total size of project parcel?

_____ Square feet or 9.2 acres (impervious surface)

_____ Square feet or 42.5 acres (parcel size)

ii. Describe types of new point sources. Driveways and roofs

iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?

Stormwater runoff from impervious surfaces on the Project Site will be conveyed into the on-site stormwater management system that will be designed and installed in accordance with the stringent stormwater quality and quantity standards of the NYS Dept. of Environmental Conservation.

- If to surface waters, identify receiving water bodies or wetlands: _____
- Will stormwater runoff flow to adjacent properties? Yes No

iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? Yes No

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? Yes No

If Yes, identify:

- i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)
- ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)
- iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, Yes No or Federal Clean Air Act Title IV or Title V Permit?

If Yes:

i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) Yes No

ii. In addition to emissions as calculated in the application, the project will generate:

- _____ Tons/year (short tons) of Carbon Dioxide (CO₂)
- _____ Tons/year (short tons) of Nitrous Oxide (N₂O)
- _____ Tons/year (short tons) of Perfluorocarbons (PFCs)
- _____ Tons/year (short tons) of Sulfur Hexafluoride (SF₆)
- _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (HFCs)
- _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes:	
i. Estimate methane generation in tons/year (metric): _____	
ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____	
i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): _____	
j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If Yes:	
i. When is the peak traffic expected (Check all that apply): <input type="checkbox"/> Morning <input type="checkbox"/> Evening <input type="checkbox"/> Weekend	
<input type="checkbox"/> Randomly between hours of _____ to _____.	
ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____	
iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____	
iv. Does the proposed action include any shared use parking? <input type="checkbox"/> Yes <input type="checkbox"/> No	
v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe:	
vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? <input type="checkbox"/> Yes <input type="checkbox"/> No	
vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? <input type="checkbox"/> Yes <input type="checkbox"/> No	
viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? <input type="checkbox"/> Yes <input type="checkbox"/> No	
k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? [Note: No applicable. Residential project only.] <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If Yes:	
i. Estimate annual electricity demand during operation of the proposed action: _____	
ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): _____	
iii. Will the proposed action require a new, or an upgrade, to an existing substation? <input type="checkbox"/> Yes <input type="checkbox"/> No	
l. Hours of operation. Answer all items which apply.	
i. During Construction:	
<ul style="list-style-type: none"> • Monday - Friday: 7:00 a.m. to 8:00 p.m. • Saturday: 7:00 a.m. to 5:00 p.m. • Sunday: Only as needed • Holidays: Not Applicable 	
ii. During Operations:	
<ul style="list-style-type: none"> • Monday - Friday: Not Applicable • Saturday: Not Applicable • Sunday: Not Applicable • Holidays: Not Applicable 	

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If yes:	
i. Provide details including sources, time of day and duration:	<u>There will be temporary unavoidable noise impacts associated with construction activities in furtherance of the proposed residential project.</u>
ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Describe: <u>Existing wooded areas will be removed to facilitate the project.</u>	
n. Will the proposed action have outdoor lighting?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If yes:	
i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:	<u>The on-site lighting will comply with the lighting standards contained in the Zoning Code and will be dark sky compliant. There will not be any lighting spillover onto contiguous properties.</u>
ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Describe: <u>Existing wooded areas will be removed to facilitate the project.</u>	
o. Does the proposed action have the potential to produce odors for more than one hour per day?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures:	
p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes:	
i. Product(s) to be stored	
ii. Volume(s) _____ per unit time _____ (e.g., month, year)	
iii. Generally, describe the proposed storage facilities:	
q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes:	
i. Describe proposed treatment(s):	
ii. Will the proposed action use Integrated Pest Management Practices?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes:	
i. Describe any solid waste(s) to be generated during construction or operation of the facility:	
• Construction: _____ tons per _____ (unit of time)	
• Operation: _____ tons per _____ (unit of time)	
ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:	
• Construction: _____	
• Operation: _____	
iii. Proposed disposal methods/facilities for solid waste generated on-site:	
• Construction: _____	
• Operation: _____	

s. Does the proposed action include construction or modification of a solid waste management facility? If Yes:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____	
ii. Anticipated rate of disposal/processing:	<ul style="list-style-type: none"> • _____ Tons/month, if transfer or other non-combustion/thermal treatment, or • _____ Tons/hour, if combustion or thermal treatment
iii. If landfill, anticipated site life: _____ years	
t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes:	
i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____	
ii. Generally describe processes or activities involving hazardous wastes or constituents: _____	
iii. Specify amount to be handled or generated _____ tons/month	
iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____	
v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If Yes: provide name and location of facility: _____	
If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: _____	

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

Urban Industrial Commercial Residential (suburban) Rural (non-farm)
 Forest Agriculture Aquatic Other (specify): Erie County Community College

ii. If mix of uses, generally describe:

There are a mixture of uses in the vicinity of the Project Site including commercial and residential uses.

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	0	9.2	+9.2
• Forested	30.58	10.82	-19.76
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	2.2	0	-2.2
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)	2.2	2.2	0
• Wetlands (freshwater or tidal) [Federal wetlands]	7.52	7.48	-0.04
• Non-vegetated (bare rock, earth or fill)	0	0	0
• Other Describe: <u>lawn/landscaping/storm water management</u>	0	12.8	+12.8

c. Is the project site presently used by members of the community for public recreation?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
i. If Yes: explain: _____	
d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If Yes,	
i. Identify Facilities: Erie County Community College.	
e. Does the project site contain an existing dam?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes:	
i. Dimensions of the dam and impoundment:	
• Dam height: _____ feet	
• Dam length: _____ feet	
• Surface area: _____ acres	
• Volume impounded: _____ gallons OR acre-feet	
ii. Dam's existing hazard classification: _____	
iii. Provide date and summarize results of last inspection: _____ _____	
f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes:	
i. Has the facility been formally closed?	
• If yes, cite sources/documentation: _____	
ii. Describe the location of the project site relative to the boundaries of the solid waste management facility: _____	
iii. Describe any development constraints due to the prior solid waste activities: _____	
g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes:	
i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred: _____	
h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes:	
i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply:	
<input type="checkbox"/> Yes – Spills Incidents database	Provide DEC ID number(s): _____
<input type="checkbox"/> Yes – Environmental Site Remediation database	Provide DEC ID number(s): _____
<input type="checkbox"/> Neither database	_____
ii. If site has been subject of RCRA corrective activities, describe control measures: _____	
iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If yes, provide DEC ID number(s): _____	
iv. If yes to (i), (ii) or (iii) above, describe current status of site(s): _____	

v. Is the project site subject to an institutional control limiting property uses?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						
<ul style="list-style-type: none"> If yes, DEC site ID number: _____ Describe the type of institutional control (e.g., deed restriction or easement): _____ Describe any use limitations: _____ Describe any engineering controls: _____ Will the project affect the institutional or engineering controls in place? _____ Explain: _____ _____ _____ 		<input type="checkbox"/> Yes <input type="checkbox"/> No						
E.2. Natural Resources On or Near Project Site								
a. What is the average depth to bedrock on the project site? _____		>10 ft. feet						
b. Are there bedrock outcroppings on the project site? _____		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						
If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %								
c. Predominant soil type(s) present on project site:		<table> <tr> <td>Niagara Silt Loam</td> <td>40 %</td> </tr> <tr> <td>Darien Silt Loam</td> <td>35 %</td> </tr> <tr> <td>Collamer Silt Loam</td> <td>25 %</td> </tr> </table>	Niagara Silt Loam	40 %	Darien Silt Loam	35 %	Collamer Silt Loam	25 %
Niagara Silt Loam	40 %							
Darien Silt Loam	35 %							
Collamer Silt Loam	25 %							
d. What is the average depth to the water table on the project site? Average: _____		>5 ft. feet						
e. Drainage status of project site soils:		<table> <tr> <td><input type="checkbox"/> Well Drained:</td> <td>_____ % of site</td> </tr> <tr> <td><input checked="" type="checkbox"/> Moderately Well Drained:</td> <td>25 % of site</td> </tr> <tr> <td><input checked="" type="checkbox"/> Poorly Drained</td> <td>75 % of site</td> </tr> </table>	<input type="checkbox"/> Well Drained:	_____ % of site	<input checked="" type="checkbox"/> Moderately Well Drained:	25 % of site	<input checked="" type="checkbox"/> Poorly Drained	75 % of site
<input type="checkbox"/> Well Drained:	_____ % of site							
<input checked="" type="checkbox"/> Moderately Well Drained:	25 % of site							
<input checked="" type="checkbox"/> Poorly Drained	75 % of site							
f. Approximate proportion of proposed action site with slopes:		<table> <tr> <td><input checked="" type="checkbox"/> 0-10%:</td> <td>100 % of site</td> </tr> <tr> <td><input type="checkbox"/> 10-15%:</td> <td>_____ % of site</td> </tr> <tr> <td><input type="checkbox"/> 15% or greater:</td> <td>_____ % of site</td> </tr> </table>	<input checked="" type="checkbox"/> 0-10%:	100 % of site	<input type="checkbox"/> 10-15%:	_____ % of site	<input type="checkbox"/> 15% or greater:	_____ % of site
<input checked="" type="checkbox"/> 0-10%:	100 % of site							
<input type="checkbox"/> 10-15%:	_____ % of site							
<input type="checkbox"/> 15% or greater:	_____ % of site							
g. Are there any unique geologic features on the project site? _____		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						
If Yes, describe: _____ _____								
h. Surface water features.								
i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? _____		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No						
ii. Do any wetlands or other waterbodies adjoin the project site? _____		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No						
If Yes to either i or ii, continue. If No, skip to E.2.i.								
iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? _____		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No						
iv. For each identified regulated wetland and waterbody on the project site, provide the following information:								
<ul style="list-style-type: none"> Streams: Name 837-235 Lakes or Ponds: Name _____ Wetlands: Name Federal Waters, Federal Waters, Federal Waters,... Wetland No. (if regulated by DEC) _____ 		Classification C Classification _____ Approximate Size 7.52						
v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? _____		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No						
If yes, name of impaired water body/bodies and basis for listing as impaired: _____ Name - Pollutants - Uses: Rush Creek and trib - Pathogens; Nutrients - Recreation; Public Bathing; Aquatic Life								
i. Is the project site in a designated Floodway? _____ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No								
j. Is the project site in the 100-year Floodplain? _____ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No								
k. Is the project site in the 500-year Floodplain? _____ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No								
l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						
If Yes:								
i. Name of aquifer: _____								

m. Identify the predominant wildlife species that occupy or use the project site: Typical suburban species		
n. Does the project site contain a designated significant natural community? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
If Yes:		
i. Describe the habitat/community (composition, function, and basis for designation): _____		
ii. Source(s) of description or evaluation: _____		
iii. Extent of community/habitat:		
<ul style="list-style-type: none"> • Currently: _____ acres • Following completion of project as proposed: _____ acres • Gain or loss (indicate + or -): _____ acres 		
o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
If Yes:		
i. Species and listing (endangered or threatened): _____ _____		
p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
If Yes:		
i. Species and listing: _____ _____		
q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
If yes, give a brief description of how the proposed action may affect that use: _____ _____		
E.3. Designated Public Resources On or Near Project Site		
a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
If Yes, provide county plus district name/number: _____		
b. Are agricultural lands consisting of highly productive soils present? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
<ul style="list-style-type: none"> i. If Yes: acreage(s) on project site? _____ ii. Source(s) of soil rating(s): _____ 		
c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
If Yes:		
<ul style="list-style-type: none"> i. Nature of the natural landmark: <input type="checkbox"/> Biological Community <input type="checkbox"/> Geological Feature ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____ _____ 		
d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
If Yes:		
<ul style="list-style-type: none"> i. CEA name: _____ ii. Basis for designation: _____ iii. Designating agency and date: _____ 		

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? Yes No

If Yes:

i. Nature of historic/archaeological resource: Archaeological Site Historic Building or District

ii. Name: _____

iii. Brief description of attributes on which listing is based: _____

f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? Yes No

g. Have additional archaeological or historic site(s) or resources been identified on the project site? Yes No

If Yes:

i. Describe possible resource(s): _____

ii. Basis for identification: _____

h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? Yes No

If Yes:

i. Identify resource: _____

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____

iii. Distance between project and resource: _____ miles.

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? Yes No

If Yes:

i. Identify the name of the river and its designation: _____

ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? Yes No

F. Additional Information

Attach any additional information which may be needed to clarify your project.

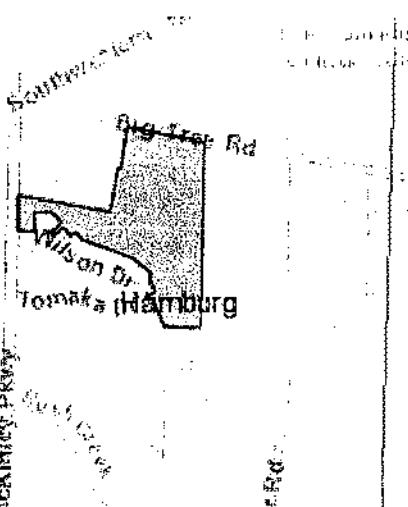
If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Wetzl Development, LLC Date January 11, 2021

Signature Deean Hopkins Title Attorney for Project

 <p>Map showing the Tonawanda Creek area, including Big Creek Rd, Tonawanda Creek, and surrounding roads. The map is a detailed street map of the region.</p>	<p>Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.</p>
 <p>Map showing the Great Lakes region, including Lake Ontario, Lake Erie, Lake Huron, Lake Michigan, and Lake Superior. Major cities labeled include Toronto, Detroit, Cleveland, Pittsburgh, Philadelphia, Albany, Boston, and Montreal. The map also shows parts of Canada and the United States.</p>	
<p>Source: USGS, Intimap, INCREMENTP, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (OpenStreetMap contributors, and the GIS User Community)</p>	

B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	Yes
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	NYS Heritage Areas:West Erie Canal Corridor
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	No
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	Yes
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.iv [Surface Water Features - Stream Name]	837-235
E.2.h.iv [Surface Water Features - Stream Classification]	C
E.2.h.iv [Surface Water Features - Wetlands Name]	Federal Waters
E.2.h.v [Impaired Water Bodies]	Yes
E.2.h.v [Impaired Water Bodies - Name and Basis for Listing]	Name - Pollutants - Uses:Rush Creek and trib - Pathogens;Nutrients - Recreation;Public Bathing;Aquatic Life

E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	No
E.2.k. [500 Year Floodplain]	No
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	No
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

DRAFT

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

Agency Use Only [If applicable]

 Project : Weitz
 Date : May 2021

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

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

Tips for completing Part 2:

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

1. Impact on Land

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

 NO YES

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

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may involve construction on land where depth to water table is less than 3 feet.	E2d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may involve construction on slopes of 15% or greater.	E2f	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface.	E2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material.	D2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may involve construction that continues for more than one year or in multiple phases.	D1e	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including tree removal/loss of foliage).	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 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, removal 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 in any water bodies within or downstream of the site. (See Part 1. E.2.h)	E2h	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j. The proposed action may involve the application of pesticides or herbicides into any water body.	D2g, E2h	<input 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: _____

4. Impact on groundwater

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

NO

YES

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

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may require new water supply wells, or create additional demand on supplies from existing water supply wells.	D2c	<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, E2f	<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)

NO

YES

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

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in development in a designated floodway.	E2i	<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: _____

NO

YES

6. Impacts on Air

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

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

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

7. Impact on Plants and Animals

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

NO

YES

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

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

e. The proposed action may diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect.	E3c	<input 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 overwintering 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, E1b	<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 I. 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: i. Seasonally (e.g., screened by summer foliage, but visible during other seasons) ii. Year round	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: i. Routine travel by residents, including travel to and from work ii. Recreational or tourism based activities	E3h E2g, 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: 0-1/2 mile 1/2-3 mile 3-5 mile 5+ mile	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 I. 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. Source: _____	E3g	<input checked="" type="checkbox"/>	<input type="checkbox"/>

d. Other impacts: _____

e. If any of the above (a-d) are answered "Moderate to large impact may occur", continue with the following questions to help support conclusions in Part 3:

- i. The proposed action may result in the destruction or alteration of all or part of the site or property.
- ii. The proposed action may result in the alteration of the property's setting or integrity.
- 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, E3g, E3f	<input type="checkbox"/>	<input checked="" type="checkbox"/>
E3e, E3f, E3g, E1a, E1b	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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 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 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 checked="" type="checkbox"/>	<input type="checkbox"/>
b. The site of the proposed action is currently undergoing remediation.	E1g, E1h	<input checked="" 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 checked="" 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 checked="" 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 checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action involves construction or modification of a solid waste management facility.	D2q, E1f	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may result in the unearthing of solid or hazardous waste.	D2q, E1f	<input checked="" 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 checked="" 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 checked="" 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 checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>
m. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

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 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 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, E1b	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action is located in an area characterized by low density development that will require new or expanded public infrastructure.	C4, D2c, D2d D2j	<input 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 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 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 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 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 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 type="checkbox"/>
g. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

Full Environmental Assessment Form
Part 3 - Evaluation of the Magnitude and Importance of Project Impacts
and
Determination of Significance

Part 3 provides the reasons in support of the determination of significance. The lead agency must complete Part 3 for every question in Part 2 where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.

Based on the analysis in Part 3, the lead agency must decide whether to require an environmental impact statement to further assess the proposed action or whether available information is sufficient for the lead agency to conclude that the proposed action will not have a significant adverse environmental impact. By completing the certification on the next page, the lead agency can complete its determination of significance.

Reasons Supporting This Determination:

To complete this section:

- Identify the impact based on the Part 2 responses and describe its magnitude. Magnitude considers factors such as severity, size or extent of an impact.
- Assess the importance of the impact. Importance relates to the geographic scope, duration, probability of the impact occurring, number of people affected by the impact and any additional environmental consequences if the impact were to occur.
- The assessment should take into consideration any design element or project changes.
- Repeat this process for each Part 2 question where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.
- Provide the reason(s) why the impact may, or will not, result in a significant adverse environmental impact
- For Conditional Negative Declarations identify the specific condition(s) imposed that will modify the proposed action so that no significant adverse environmental impacts will result.
- Attach additional sheets, as needed.

~~SEARCHED~~

Determination of Significance - Type 1 and Unlisted Actions

SEQR Status: Type 1 Unlisted

Identify portions of EAF completed for this Project: Part 1 Part 2 Part 3

Wetzel 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 cu 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

Wetzl 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.	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.	Definitely will occur - with the notable size of this project it will create an increased traffic demand.	Very Important	Yes	Yes
14 – Impact on	Moderate Impact	Long-term – increase	Definitely will Occur	Low Importance –	No	Yes

Positive Declaration
Issued by Town of Hamburg Planning Board
Designated Lead Agency

Town of Hamburg
Planning Board Meeting
September 15, 2021

Minutes

The Town of Hamburg Planning Board met for a Work Session at 6:30 P.M., followed by a Regular Meeting at 7:00 P.M. on Wednesday, September 15, 2021 in Room 7B of Hamburg Town Hall. Those attending included Chairman William Clark, Vice-Chairwoman Kaitlin McCormick, Doug Schawel, Bob Mahoney and Megan Comerford.

Others in attendance included Town Planners Andrew Reilly and Sarah desJardins, as well as Planning Board Attorney Jennifer Puglisi and Town Engineer Camie Jarrell.

Excused: Al Monaco, Dennis Chapman

WORK SESSION

John Brokx – Requesting Site Plan Approval of a proposed new pole barn to be located at 6302 Moncton Drive

John Brokx, applicant, stated that he would like to construct a new warehouse for his electrical contracting business. He noted that it will be a close match to the color of the existing building on the site.

Mr. Brokx stated that he will keep his vans and supplies in the new warehouse.

In response to a question from Mr. Mahoney, Mr. Brokx stated that all of his work is done off site and deliveries will be made to the warehouse during daytime hours.

It was determined that the new building will not be located in the New York State wetlands or the 100-foot buffer area.

Chairman Clark made a motion, seconded by Mrs. Comerford, to schedule a public hearing to be held on October 6, 2021. Carried.

Board members agreed that the Planning Department should prepare draft resolutions for the October 6, 2021 meeting.

Engineering Department comments have been filed with the Planning Department.

REGULAR MEETING

David Braasch - Requesting a Special Use Permit to operate an Air B & B at 4708 Clifton Parkway

Chairman Clark stated that this project would remain on the table as the applicant was not ready to present the requested information.

Bob Johnson - Requesting Site Plan Approval of a proposal to construct a brewery/restaurant on vacant land adjacent to 4046 Lake Shore Road

1. The proposed project may have a significant adverse impact on surface water (stream corridor running through the north end of the site).
2. The project may have a potentially significant adverse impact on agricultural resources.
3. The project may have a potentially significant adverse impact on transportation.
4. The proposed project may have a significant adverse impact on and is not consistent with the character and quality of the existing area and neighborhood; and

Whereas, the Hamburg Planning Board, in accordance with the State Environmental Quality Review Act (SEQRA) has determined that the proposed approval of the proposed Parker Road subdivision may include the potential for at least one significant adverse environmental impact.

Now, Therefore, Be It Resolved, that the Hamburg Planning Board hereby issues a Positive Declaration and authorizes the Planning Board Chairman to sign the EAF, which will act as the SEQR Positive Declaration; and

Be It Further Resolved that the Hamburg Planning Board authorizes the Planning Department to file the proper Notices concerning this determination.

Be It Further Resolved that the Hamburg Planning Board will begin the EIS process once the applicant submits a draft scoping document.”

As the vote on the motion was four (4) ayes and one (1) nay (Mr. Schawel), the motion carried.

Chairman Clark stated that he believes that Mr. Chapman and Mr. Monaco were leaning towards a Positive Declaration.

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

Chairman Clark stated that the previously discussed CAB memo dealt with this project as well as the Manko project.

Attorney Sean Hopkins, representing the applicant, stated that the proposal is for 150 apartment units with one (1) curb cut to Big Tree Road.

Attorney Hopkins noted that the New York State Department of Transportation (NYSDOT) has indicated that neither this project, nor the Manko project, will result in any potentially significant adverse traffic impacts on the State highway system.

Attorney Hopkins stated that although C-1 is the existing zoning classification on the portion of the site that is developable, the Town of Hamburg did produce a report indicating that there is no demand currently for speculative commercial development. He noted that what is proposed for this site would be much better in terms of community character than a commercial project such as a big-box retail project.

Attorney Hopkins stated that the applicant has addressed via multiple submissions the topics or impacts that the Board has identified as potentially significant. He noted that the riparian buffer plan was updated so that the entire creek corridor that crosses both this project and the Manko project would be protected.

Attorney Hopkins noted that a letter was prepared by Chris Wood, project engineer, in August 2021 addressing how the applicant would comply with the strict NYSDEC standards for storm water management.

Attorney Hopkins stated that he proposed several zoning conditions as follows:

- The applicant would convey a conservation easement to the Town of Hamburg for the 20.1 acres of permanent open space.
- The applicant would deed restrict that 20.1 acres of open space from any future development.
- No building on the site shall be located within 200 feet of the closest residential lot on Wilson Drive.
- The on-site storm water management system will comply with the NYSDEC's storm water quality and quantity standards.

Attorney Hopkins stated that the applicant would also welcome a condition relative to the riparian buffer.

Attorney Hopkins stated that based on the submission made on August 18, 2021, those topics that were identified as being potentially significant were addressed in great detail.

Attorney Hopkins stated that the applicant has spent considerable time with the owner of 4755 Big Tree Road, adjacent to the project site, and the property owner provided a support letter on August 26, 2021. He further noted that the adjacent property owner would like screening in the form of evergreen trees and the applicant has agreed to that.

Attorney Hopkins stated that this property has been on the market for a few decades and from a community character perspective this proposed use would be better than a commercial project. He further noted that based on a market study performed for the applicant, there is more than adequate for these units.

Chairman Clark stated that the Planning Board could issue a Negative Declaration and a recommendation to the Town Board on the rezoning request.

Ms. McCormick stated that there are impacts that the subcommittee has identified and the SEQR decision must be independent of the recommendation on the project to the Town Board.

Chairman Clark made the following motion, seconded by Ms. McCormick:

“Whereas, the Town of Hamburg received a rezoning application from Wetzl Development, LLC for the rezoning of 16.4 acres of land from C-1 to R-3 and 6 acres of land from R-1 to R-3 in order to construct 150 multi-family units south of Big Tree Road adjoining areas off of Wilson Drive); and

Whereas, the Hamburg Town Board referred this application to the Planning Board for review and recommendation on the rezoning application; and

Whereas, the Hamburg Planning Board reviewed the application and revisions to the application at meetings from September 7, 2020 to September 2021; and

Whereas, in accordance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Hamburg Planning Board, after being authorized by the Town Board, and after the Town Board conducted a Coordinated Review process, assumed Lead Agency designation; and

Whereas, the Hamburg Planning Board has received input from various Involved and Interested Agencies and Town departments and held public meetings on the application; and

Whereas, the Hamburg Planning Board has reviewed the EAF submitted by the applicant, comments and input from the Planning Department, Planning Board members, other Involved Agencies and the public and information submitted by the applicant on the project and revisions to the project and has considered cumulative impacts from an adjoining proposed project and

has reviewed the Town of Hamburg's Zoning Code and Comprehensive Plan; and

Whereas, in accordance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Hamburg Planning Board has completed part 2 of the FEA and analyzed those impacts identified in Part 2 as potentially "moderate to large" in an expanded Part 3 document and reviewed the criteria for determining significance in accordance with Section 617.7 of SEQR and has determined the following:

1. The proposed project may have a significant adverse impact on surface water (stream corridor running through the north end of the site, and wetlands in the area).
2. The project may have a potentially significant adverse impact on plants and animals as the site contains important habitats.
3. The project may have a significant adverse impact on open space and the ecosystems of this area.
4. The project may have a potentially significant adverse impact on transportation.
5. The rezoning/ project may not be consistent with the Town's Comprehensive Plan
6. The proposed project may have a significant adverse impact on the natural landscape and may not be consistent with the character and quality of the existing area and neighborhood.

And,

Whereas, the Hamburg Planning Board, in accordance with the State Environmental Quality Review Act (SEQRA) has determined that the proposed approval of the proposed Wetzl rezoning application and the subsequent development of a 150 unit multi-family housing development may include the potential for at least one significant adverse environmental impact.

Now, Therefore, Be It Resolved, that the Hamburg Planning Board hereby issues a Positive Declaration and authorizes the Planning Board Chairman to sign the EAF, which will act as the SEQR Positive Declaration; and

Be It Further Resolved that the Hamburg Planning Board authorizes the Planning Department to file the proper Notices concerning this determination.

Be It Further Resolved that the Hamburg Planning Board will begin the EIS process once the applicant submits a draft scoping document."

As the vote on the motion was four (4) ayes and one (1) nay (Mr. Schawel), the motion carried.

OTHER BUSINESS

Ms. McCormick made a motion, seconded by Mrs. Comerford, to approve the September 1, 2021 minutes. Carried.

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

Respectfully submitted,
Megan Comerford, Secretary

Appendix C

Scoping Document Issued by Planning

Sept.

INTRODUCTION:

On September 15, 2021, the Town of Hamburg Planning Board, as the Lead Agency, determined that the proposed residential project to be located on a portion of the approximately the approximately of 42.5 acres of vacant land located 0 Big Tree Road and 0 Wilson Drive (the “Project Site”) may result in potentially significant adverse environmental impacts and issued a Positive Declaration pursuant to the State Environmental Quality Review Act (“SEQRA”), requiring the submission of a Draft Environmental Impact Statement by the Project Sponsor.

This Scoping Document sets forth the content of the Draft Environmental Impact Statement (“DEIS”) that the Project Sponsor shall prepare for the purpose of evaluating the environmental impacts of the proposed residential subdivision. The Scoping Document provides a general description of the proposed action, an overview of the environmental review process pursuant to SEQRA, discussion of the potentially significant adverse environmental impacts that were identified within the Positive Declaration issued by the Planning Board on September 15, 2021 and resulting from the scoping process that must be evaluated by the Project Sponsor in the DEIS, the extent of information needed to adequately address each identified potentially significant adverse environmental impacts, identification of potential mitigation measures, reasonable alternatives to the proposed action to be evaluated, identification of information to be included in the Appendices of the DEIS, and issues and concerns raised that have been determined to be not relevant or to not pertain to potentially significant adverse environmental impacts.

This Scoping Document has been prepared by the Project Sponsor in accordance with the requirements of the State Environmental Quality Review Act (“SEQRA”) and the implementing regulations as promulgated by the New York State Department Environmental Conservation (“SEQRA Regulations”). This Final Scoping Document is being issued by the Town of Hamburg

Planning Board, in its capacity as the designated Lead Agency for the coordinated environmental review of the proposed action pursuant to SEQRA.

2.0 SITE LOCATION AND DESCRIPTION OF PROPOSED ACTION:

The proposed project ("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. The project includes an amendment of the zoning classification of approximately 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 remaining approximately 20 acres of the Project Site consisting of land zoned R-1 Single-Family Residence District would consist of Permanent Open Space.

The proposed action was defined broadly within the completed Part 1 of the Full Environmental Assessment Form to include all required discretionary approvals and permits as well as all 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; the creation of approximately 20.1 acres of Permanent Open Space; and all required utility connections and improvements.

3.0 REVIEW PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT (“SEQRA”):

The State Environmental Quality Review Act (“SEQRA”) provides a process for the consideration of potentially significant adverse environmental impacts resulting from a proposed action requiring one or more discretionary approvals and/or permits. Discretionary decisions of a state, regional, or local agency to approve, fund, or directly undertake an action that may affect the environment are subject to review under the SEQRA. It is the intent of the SEQRA that protection

and enhancement of the environment and community resources be balanced with social and economic factors in the decision-making process.

3.1 Project Classification and Lead Agency Designation:

The Town of Hamburg Planning Board classified the Project as an Unlisted Action for the purposes of environmental review based on a determination that the impacts of the proposed action do not cross any of the thresholds for a Type I action contained in 6 NYCRR Part 617.4. While not required by the SEQRA Regulations, the Town of Hamburg Planning Board decided to conduct a coordinated environmental review of the Project. A lead agency solicitation letter was issued to involved and interested agencies on January 12, 2021. None of the involved agencies objected to the Planning Board's request to be the lead agency.

In accordance with 6 NYCRR Part 617.7, based on its review of all agency comments, the completed Part 1 of the Full Environmental Assessment Form and application materials (including reports and studies) submitted by the Project Sponsor, and the completion of Part 2 and 3 of the Full Environmental Assessment Form, the Planning Board considered the potential environmental impacts of the proposed action and determined the action may result in significant adverse environmental impacts and that a Draft Environmental Impact Statement ("DEIS") must be prepared. The Town of Hamburg Planning Board issued a Positive Declaration on September 15, 2021 and determined that the proposed action may include potentially significant environmental impacts to:

- Surface water consisting of the stream corridor and wetlands;
- Plants and animals;
- Open space and ecosystems;
- Transportation;
- Consistency with the Town of Hamburg Comprehensive Plan; and

- Community character¹
- They also identified potential cumulative impacts with the adjoining proposed Parker Road subdivision.

3.2 Purpose of the Scoping Process:

The Town of Hamburg Planning Board, as the designated Lead Agency, has decided to conduct scoping for the Project. The purpose of the scoping process is to identify the potentially significant adverse environmental impacts to be evaluated in the DEIS and eliminate consideration of those impacts that are irrelevant or insignificant. The objectives of project scoping are as follows:

- Identify potentially significant adverse environmental impacts;
- Identify limits or extent of DEIS;
- Identify information needed to adequately address impacts;
- Identify potential mitigation measures;
- Identify the range of reasonable alternatives; and
- Eliminate irrelevant or insignificant issues.

On January 31, 2023, the Project Sponsor submitted a draft Scoping Document to the Town of Hamburg. As part of the DEIS process, and in accordance with 6 NYCRR Part 617.8 of the

¹ The relevant portion of the resolution adopted by the Planning Board during its meeting on September 15, 2021 stated as follows: “Whereas, in accordance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Hamburg Planning Board has completed part 2 of the FEAF and analyzed those impacts identified in Part 2 as potentially “moderate to large” in an expanded Part 3 document and reviewed the criteria for determining significance in accordance with Section 617.7 of SEQR and has determined the following: 1. The proposed project may have a significant adverse impact on surface water (stream corridor running through the north end of the site, and wetlands in the area). 2. The project may have a potentially significant adverse impact on plants and animals as the site contains important habitats. 3. The project may have a significant adverse impact on open space and the ecosystems of this area. 4. The project may have a potentially significant adverse impact on transportation. 5. The rezoning/ project may not be consistent with the Town’s Comprehensive Plan. 6. The proposed project may have a significant adverse impact on the natural landscape and may not be consistent with the character and quality of the existing area and neighborhood.”

SEQRA Regulations, the Town of Hamburg Planning Board conducted a public scoping meeting on March 1, 2023 at the Town of Hamburg Town Hall. The public scoping session provided the public and involved and interested agencies with the opportunity to provide input regarding the potentially significant environmental impacts to be evaluated in the DGEIS.

The public scoping process ensures that the DEIS will be a concise, accurate, and complete document upon which all involved and interested Agencies can evaluate and issue decisions regarding discretionary approvals and permits needed for the proposed project. By including the public, as well as other agencies in the scoping process, the lead agency can obtain additional information and specialized knowledge that may reduce the likelihood of additional issues arising during the public review period for the DEIS. It is the responsibility of the Town of Hamburg Planning Board, as the designated Lead Agency, to complete the scoping process and issue the Final Scoping Document.

3.3 Lead Agency, Involved Agencies and Interested Agencies:

Pursuant to SEQRA, there are three types of agencies: the Lead Agency, Involved Agencies and Interested Agencies. The Lead Agency is the Involved Agency that has the responsibility, under SEQRA, to conduct the environmental review process for a proposed action. The Town of Hamburg Planning Board was previously designated as the Lead Agency for the proposed action because it has jurisdiction with respect to issuing a future decision on a site plan application for the Project. It is important to mention that the Town of Hamburg Town Board concurred that the Planning Board should be designated lead agency.

Involved agencies are agencies that have jurisdiction to fund, approve, or directly undertake an action. The involved agencies for the environmental review of the Project are as follows:

- New York State Department of Environmental Conservation (“NYSDEC”)
- New York State Department of Transportation (“NYSDOT”)
- New York State Office of Parks, Recreation and Historic Preservation (“SHPO”)
- Erie County Water Authority
- Erie County Division of Sewerage Management
- Erie County Health Department

Interested agencies consist of federal agencies and agencies that do not have jurisdiction with respect to discretionary approvals or permits for a proposed action, but that may want to participate in the environmental review process because of their expertise or concern regarding the proposed action. For the Project, interested agencies include but may not be limited to:

- United States Army Corps of Engineers
- Erie County Department of Environment and Planning
- Town of Hamburg Building Inspector
- Town of Hamburg Engineering Department

4.0 CONTENT OF THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS):

6 NYCRR Part 617.9(b) of the SEQRA Regulations sets forth the minimum content that should be included in a DEIS. The subject areas expected to be included in the DEIS for the proposed project are described below.

4.1 Cover Sheet and Table of Contents:

4.2 Executive Summary:

The Executive Summary should provide a brief summary of the Draft Environmental Impact Statement.

4.3 Introduction:

The introduction should provide a summary of the Project, including the following topics:

- Project location and setting;
- Project description (including proposed actions, changes to the site, acreage to

developed, etc.);

- Purpose and objectives of the Project;
- Public need and benefits of the Project;
- Project History including environmental review pursuant to SEQRA,
- Site layout and design;
- Phasing of the proposed project;
- On-site traffic circulation;
- Utilities and stormwater management facilities;
- Site access (existing and proposed); and
- Regulatory compliance, including zoning and required project approvals and permits.
- The adjoining proposed project and other proposed projects in the area

4.4 Existing Conditions of the Project Site:

The existing conditions section of the DEIS should present a narrative discussion of each subject area to provide for a sufficient understanding of the potential impacts of the proposed action and how they may affect the environment, such as:

- Topographic setting of the Project Site;
- Wetlands subject to the jurisdiction of the United States Army Corps of Engineers;
- Existing environmental conditions of the Project Site;
- Existing terrestrial and aquatic ecology, including any endangered, threatened, or special concern species;
- Existing surface and ground water resources;
- Existing mapped floodway and 100 yr. floodplain boundaries;
- Existing means of site drainage and stormwater management;
- Existing land uses on the Project Site and in the vicinity of the Project Site;
- Existing zoning and other land use regulations governing the use of the Project Site;
- Existing utilities;
- Existing solid waste disposal services;
- Existing air quality, noise, and lighting levels on the Project Site;
- Existing traffic patterns and conditions in the vicinity of the Project Site;
- Existing community and emergency services for the Project Site (schools, police and

- fire protection);
- Existing historical, archaeological, or cultural resources on the Project Site; and
- Existing neighborhood character and setting.

4.5 Evaluation Potentially Significant Adverse Environmental Impacts:

This section of the DGEIS should provide a detailed discussion of the identified potentially significant adverse environmental impacts of the Project, the severity of the impacts, and the practical mitigation measures that could reduce the magnitude of identified potentially significant adverse environmental impacts. This section should also address all substantive concerns regarding potentially significant adverse environmental impacts raised during the public scoping process.

4.5.1 Impact on Land:

A. Summary:

This section should provide a detailed discussion of all the physical impacts the Project will have on the Project Site including, but not limited to:

- Location and description of the Project Site;
- Description of proposed infrastructure improvements;
- Discussion of the proposed use of the Project Site;
- Existing topography;
- Proposed grading and fill requirements for the Project;
- Removal of existing vegetation and topsoil;
- Construction related impacts and procedures, including temporary impacts; and
- Construction phasing of the project

4.5.2 Impact on Surface Water and Ground Water Resources:

A. Summary:

This section should provide a detailed discussion of the project's impact to any water resources and on drainage/ stormwater management of the site including, but not limited to:

- Provide a preliminary Engineer's Report that demonstrates the ability to satisfy the NYSDEC's stringent stormwater quality and quantity standards and that demonstrates the proposed action will not result in adverse drainage impacts;
- Location, type, and discussion of existing and proposed stormwater management facilities;
- Describe maintenance of the required on-site stormwater management facilities;
- Impacts to federal and all wetland areas (including non-jurisdictional wetlands);
- Impacts to existing floodways or regulated 100-yr. floodplains;
- Any temporary impacts to surface waters due to construction activities; and
- Impacts to ground water resources
- Coordinate with the Hamburg CAB on protection of the creek and its watershed in this area.

4.5.3 Impact on Plants and Animals:

A. Summary:

This section should provide a detailed discussion of the potential impacts of the proposed project on plants and animals including any endangered, threatened, or special concern species. This section should also include any impacts related to the Northern Long Eared Bat (NLEB) and its new designation.

4.5.4 Impact on Transportation:

A. Summary:

This section should provide a detailed discussion and analysis of potential traffic impacts and shall include a summary of the Traffic Impact Study ("TIS") prepared by SRF Associates, that also includes an analysis of the potential traffic impacts of the proposed Parker Road residential subdivision. This section should identify all potential impacts that the Project will have on the transportation system including but not limited to:

- Traffic projections for the proposed project;
- Information on proposed trip generation and distribution and intersection operations; and

- Discussion of proposed vehicular access to the Project Site;
- The TIS may need to be updated based on its age and to accommodate additional information from the new Bills stadium study and to reflect cumulative impacts from the adjoining proposed subdivision.

4.5.5 Impact on Energy/ Utility Facilities:

A. Summary:

This section should provide a detailed discussion of the potential impacts of the Project on the utility system and whether capacity exists for this project including, but not limited to:

- Proposed energy usage, projected water demand figures, and projected sanitary sewer calculations;
- Impacts to the existing stormwater and sanitary sewers and water;
- Emergency access requirements; and,
- Location and description of all on-site and off-site utility improvements.
- Public water evaluations should be coordinated with ECWA, and public sewer issues coordinated with the County Sewer district.

4.5.6 Noise and Odor Impacts:

A. Summary:

This section should provide a discussion on the noise and odor impacts anticipated from this project including, but not limited to:

- All potential noise and odor sources associated with construction activities in furtherance of the Project.

4.5.7 Impact on Public Health:

A. Summary:

This section should provide a detailed discussion of how the public health, safety, and welfare of the neighborhood will be impacted by the proposed project including, but not limited

to impacts to vehicular and pedestrian safety.

4.5.8 Impact on Growth and Character of Community or Neighborhood:

A. Summary:

This section should provide a detailed discussion regarding the manner by which the project fits into the context of the surrounding area and how it will impact the character of the community including, but not limited to:

- A description of how the changes in land use on the Project Site will impact the surrounding neighborhood;
- A summary of how activities on the Project Site, such as construction activities, lighting, odors, noise, etc., will impact nearby residential uses;
- Consistency of the Project with the Comprehensive Plan and the goals of the community;
- How the project fits or is impacted by the proposed new Bills stadium;
- The consistency of the Project with the applicable standards contained in the Town of Hamburg Zoning Code;
- Impacts on community services such as fire and police protection, schools, parks & recreation, etc.;
- Potential impacts and accommodation of snowmobile trails in this area;
- Impact on local government finances and tax revenues;
- How the Project could potentially impact future development trends in the Town; and,
- Any public funds to be used for this project or any improvements related to the Project.

5.0 UNAVOIDABLE ADVERSE ENVIRONMENTAL IMPACTS:

6.0 EVALUATION OF MITIGATION MEASURES:

The Draft Environmental Impact Statement should include a discussion of the identified potentially significant adverse environmental impacts and a description of the proposed mitigation measures to be implemented to minimize the identified potentially significant impacts to the

maximum extent practicable. If mitigation measures are adequately addressed in the discussion of the identified environmental impacts in Section 4 of the DGEIS, this section can act as a summary.

Minimum mitigations to be evaluated include extra protection around the creek, dedication of lands/conservation easements, sidewalks and trails, traffic mitigations, landscaping and screening, restriction on the use of herbicides and pesticides, protection of site features, higher level of stormwater design, avoidance of all wetland areas, infrastructure improvements, creation of recreation lands, accommodation of snowmobile trail, and construction impact mitigations (routes, time periods, etc.).

7.0 PROJECT ALTERNATIVES:

A discussion of on-site alternatives to the proposed action should be included, such as:

- No Action Alternative: an evaluation of the potential adverse and beneficial impacts that would result in the reasonable, foreseeable future if the proposed action was not undertaken.
- As of Right Development: The development of the Project Site in accordance with its existing zoning classifications.
- Project Layout alternatives: Layout of the site to minimize impacts.

8.0 CUMULATIVE IMPACTS:

The impacts of the proposed action in the context of the pending Parker Road residential subdivision and the new Bills Stadium. It is important to mention that the proposed project is not functionally dependent on the proposed Parker Road residential subdivision.

9.0 GROWTH INDUCING IMPACTS:

The proposed action could potentially result in significant impacts on the growth and character of the surrounding neighborhood and the Town of Hamburg. An analysis of the possible growth inducing aspects of the proposed action must be provided.

10.0 POTENTIAL IMPACTS DETERMINED TO BE INSIGNIFICANT:

Under 6 NYCRR Part 617 of the SEQRA Regulations, the Lead Agency is responsible for eliminating consideration of those impacts and concerns that have been identified during the scoping process that are determined to be irrelevant or insignificant either because they are not legally relevant to the environmental review of the proposed action, they are not environmentally significant, or they have been adequately addressed prior to the scoping process. These issues and concerns should not be included in the DEIS. No specific issues were identified during scoping as being insignificant.

11.0 INFORMATION TO BE INCLUDED IN THE APPENDICES OF THE DEIS:

The DEIS shall provide sufficient detail to enable the reader to understand, interpret, and evaluate the existing conditions, potential impacts, mitigation measures, and alternative project scenarios. The Appendices shall contain copies of studies and reports that supplement and support the narrative in the DEIS. The methodologies and results of the studies and technical reports shall be summarized and explained in the DEIS. Only site-specific documents that are not readily available to the public should be included as appendices to the DEIS. The following are examples of documents to be included in the Appendices:

- All application materials;
- Parts 1, 2 and 3 of the Full Environmental Assessment Form (“EAF”);
- Positive Declaration issued by the Planning Board on September 15, 2021;
- Final Scoping Document;
- Correspondence related to the Project (including correspondence with other agencies, advisory boards and Town departments received after the positive declaration);
- Minutes of Meetings of the Town of Hamburg Planning Board;
- Minutes of Meetings of the Town of Hamburg Town Board;

- Conceptual Plan for the identified alternative to the Project;
- Traffic Impact Study and any updates;
- Downstream Sanitary Sewer Capacity Analysis (“DSCA”);
- Storm Water Pollution Prevention Plan (“SWPPP”);
- Preliminary Engineer’s Report;
- Wetland Delineation Report prepared by Earth Dimension, Inc.;
- Jurisdictional Determination issued by the United States Army Corps of Engineers dated April 9, 2021;
- Cultural Resources Report prepared by the UB Department of Anthropology;
- Habitat Assessment Report prepared by Earth Dimensions, Inc. dated November 15, 2021;
- No impact determination letter issued by Josalyn Ferguson, Ph.D. of the New York State Office of Parks, Recreation and Historic Preservation dated June 2, 2021.
- Information from the Parker Road project and from the Bills stadium project;

Correspondence Related to Project Post- Declaration

Correspondence Before the Post-Declaration

Appendix D1

From Sean Hopkins to Sarah desJardins
September 09, 2021

ing of Exhibit 1 - Updated Riparian Buff
ing RB-100 dated September 09
red by Earth Di



September 9, 2021

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

Re: Proposed Wetzl Multifamily Project & Proposed Manko Residential Subdivision
Applicants/Project Sponsors: Wetzl Development, LLC & David Manko
Town of Hamburg Planning Board

Dear Sarah:

This letter is being submitted on behalf of Wetzl Development, LLC and David Manko in connection with the proposed residential projects being reviewed by the Planning Board. During the meeting of the Planning Board held on August 18th, Jody Celeste of Earth Dimensions presented the Riparian Buffer Plan presented by Earth Dimensions, Inc. for the protection of the stream corridor that bisects portions of both project sites.

The Planning Board provided input regarding the Riparian Buffer Plan presented on August 18th including a request that the plan be updated to include the portion of the stream corridor closest to Parker Road that is not part of the Manko subdivision project site and Earth Dimensions, Inc. was also asked to provide an overview of the methodology utilized in preparing the Riparian Buffer Plan.

Attached as Exhibit “1” is an updated version the Riparian Buffer Plan [Drawing RB -100 – Date: 09/09/21] that depicts the riparian buffer being extended to include the portion of the stream closest to Parker Road. The plan has also been updated to reflect that with the exception of a small segment of the stream corridor on the Wetzl project site, the riparian buffer will have a width of 25 ft. on each side of the stream corridor. The stream corridor has an approximate width of 4 ft. A small segment of the riparian buffer on the Wetzl project site will have a width of 10 ft. on each side of the stream corridor as it crosses between two of the proposed multifamily buildings. The planting schedule for the riparian buffer is included on the Riparian Buffer Plan [Drawing RB -100 – Date: 09/09/21] and the proposed plantings consist of a diverse mixture of trees and shrubs selected by Earth Dimensions.

Attached as Exhibit “2” is a narrative prepared by Jody Celeste of Earth Dimension, Inc. providing an overview of the methodology utilized with the respect to the design of the proposed riparian buffer. As set forth in the narrative, the objectives of the proposed riparian buffer are to protect the stream channel, trap sediments, pollutants and runoff, provide shade to the channel and stabilize the soils to prevent erosion.

The Project Sponsors have made a deliberate effort over the course of many months to incorporate input received by the Planning Board into the design of both projects. The implementation of a riparian buffer as depicted on the updated Riparian Buffer Plan ensures the proposed projects will

Correspondence to Sarah desJardins

September 9, 2021

Page 2 of 2

not result in any adverse environmental impacts to the tributary to Rush Creek that bisects portions of both project sites.

If there are any questions regarding the updated Riparian Buffer Plan or the extensive documentation previously submitted by the Project Sponsors in connection with the coordinated environmental reviews of each of the proposed projects pursuant to the State Environmental Quality Review Act (“SEQRA”), 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.

cc: William Clark, Chairman
Doug Schawel, Planning Board
Kaitlin McCormick, Planning Board
Al Monaco, Planning Board
Bob Mahoney, Planning Board
Dennis Chapman, Planning Board
Meghan Comerford, Planning Board
Jennifer Puglisi, Esq., Planning Board Attorney
Camie Jarrell, P.E., Project Engineer, GHD
Andrew C. Reilly, PE, AICP, Planning Department
Glenn Wetzl [Via e-mail and mail]
David Manko [Via e-mail and mail]
Jody Celeste, Ecologist, Earth Dimensions, Inc. [Via e-mail]
Christopher Wood, P.E., Carmina Wood Morris DPC [Via e-mail]

Appendix A
Letter from Sean Hopkins to Sarah desJardins
dated August 26, 2021,

Project support letter from A
4755 Rd



August 26, 2021

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

Re: Proposed Wetzl Multifamily
Applicant/Project Sponsor: Wetzl Development, LLC
Town of Hamburg Planning Board
File No. 10011.10

Dear Sarah:

Enclosed is a project support letter from Arthur Wiscik of 4755 Big Tree Road. The property at 4755 Big Tree Road is contiguous to the Project Site. Mr. Wetzl recently met him to discuss the proposed multifamily project and the project layout will incorporate evergreen trees along the shared property boundary.

If you have any questions regarding this letter 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

A handwritten signature in blue ink that reads "Sean W. Hopkins".

Sean W. Hopkins, Esq.

cc: William Clark, Chairman
Doug Schawel, Planning Board
Kaitlin McCormick, Planning Board
Al Monaco, Planning Board
Bob Mahoney, Planning Board
Dennis Chapman, Planning Board
Meghan Comerford, Planning Board
Jennifer Puglisi, Esq., Planning Board Attorney
Camie Jarrell, P.E., Project Engineer, GHD
Andrew C. Reilly, PE, AICP, Planning Department
Glenn Wetzl [Via e-mail and mail]
Christopher Wood, P.E., Carmina Wood Morris DPC [Via e-mail]

HOPKINS SORGI & MCCARTHY PLLC

Attorneys at Law

5500 Main Street, Suite 343 • Williamsville, New York 14221

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August 25, 2021

To Whom it May Concern,

I am in support of the Wetzl apartment project proposed next door to my property at 4755 Big Tree Road, Hamburg.

Mr. Wetzl and I discussed screening between the properties. I would like to see 5-foot pine trees used as screening.

Regards,

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

Arthur Wiscik

4755 Big Tree Road

Hamburg, NY 14075

Appendix A
from Edward Rutkowski of NYS Department of Transportation to Sarah desJardins of the Town of Poughkeepsie
dated August 18, 2021

to comment

Sean Hopkins

From: Rutkowski, Edward (DOT) <Edward.Rutkowski@dot.ny.gov>
Sent: Wednesday, August 18, 2021 4:15 PM
To: sdesjard@townofhamburgny.com
Cc: Sean Hopkins
Subject: Wetzl Development, LLC - Rezoning of Portion of 0 Big Tree Road & 0 Wilson Drive - Town of Hamburg - 10011.12
Attachments: Concept Plan-Drawing C-100-Date-06-02-21.pdf; Traffic Impact Study-SRF Associates-04-02-21.pdf; Rutkowski-Ltr-Traffic Impact Study-04-03-21.pdf

Sara,

New York State Department of Transportation (NYSDOT) reviewed the attached documents and has the following comments:

- NYSDOT concurs conceptually with the Site Plan which proposes one point of access on Big Tree Road.
- A NYSDOT Highway Work Permit will be required for the work located within the State Highway Right-of-Way. More detailed plans will be required for the Highway Work Permit application. Additional site engineering review will be performed as part of the Highway Work Permit process. This correspondence does not constitute approval for the purpose of a Highway Work Permit. The applicant should direct the Highway Work Permit application and/or questions to:

Ronald Frei, South Erie Assistant Resident Engineer
New York State Department of Transportation
3754 Lakeview Road, Hamburg, New York 14075
(716) 649-2157 | ronald.frei@dot.ny.gov

If you have any questions please contact me either by phone or email.

Sincerely,
Ed

Edward S. Rutkowski, P.E.
New York State Department of Transportation
100 Seneca Street, Buffalo, New York 14203
(716) 847-3575 | Edward.Rutkowski@dot.ny.gov
www.dot.ny.gov



Appendix D1-1

from Sean Hopkins to Planning Board Chair
William Clark,
regarding the Wetzel Project SEQRA Sub-



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”).¹

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.²

¹ 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.”

² 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

Correspondence to William Clark, Planning Board Chairman

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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.³ 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.⁴

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.⁵ 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

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."

³ 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.

⁴ 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".

⁵ 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.

Correspondence to William Clark, Planning Board Chairman

August 18, 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.⁶

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

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.⁸

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.⁹

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

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.¹¹

⁶ The relevant Part 1 of the Full EAF Question is D1e.

⁷ 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”.

⁸ 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.

⁹ The relevant Part 1 of the Full EAF Question is E2h.

¹⁰ The relevant Part 1 of the Full EAF Questions are D2a and D2h.

¹¹ 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.¹²

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.¹³

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

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.¹⁵

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.¹⁶

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

¹² The relevant Part 1 of the Full EAF Question is E2h.

¹³ 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.

¹⁴ The relevant Part 1 of the Full EAF Question is E1b.

¹⁵ 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”.

¹⁶ 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.¹⁷

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

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.¹⁹

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.²⁰

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.²¹

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

¹⁷ The relevant Part 1 of the Full EAF Question is D2j.

¹⁸ The relevant Part 1 of the Full EAF Question is D2j.

¹⁹ The relevant Part 1 of the Full Question is D1g.

²⁰ The relevant Part 1 of the Full Question is C2.

²¹ 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 Impact²²

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.”

²² 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 4th 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.²³
- **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.²⁴
- **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.²⁵

²³ 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.”

²⁴ 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.

²⁵ 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.²⁶

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.²⁷
- Possibly will Occur: These are impacts that are possible, but not likely occur.²⁸

- 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.

²⁶ 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

²⁷ 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."

²⁸ 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."

Correspondence to William Clark, Planning Board Chairman

August 18, 2021

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- Probably will Occur: These are impacts that are very likely to occur.²⁹

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.³⁰ 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 1/10th 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.³¹ However,

²⁹ 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.”

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

³¹ 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

Correspondence to William Clark, Planning Board Chairman

August 18, 2021

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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.³² 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].³³ 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

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.

³² 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.

³³ 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.³⁴

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.”³⁵

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

³⁴ 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.

³⁵ 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.³⁶

- 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.³⁷

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

³⁶ 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.

³⁷ 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.

Correspondence to William Clark, Planning Board Chairman

August 18, 2021

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- Parker Road/Marilyn Drive³⁸

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 ¹	CLASS ²	AGENCY ³	SPEED LIMIT ⁴	# OF TRAVEL LANES ⁵	TRAVEL PATTERN/DIRECTION	EST. AADT ⁶ & SOURCE ⁷
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.³⁹ The accident analysis conducted by SRF Associates is also provided in Section IV of the Traffic Impact Study.⁴⁰

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.⁴¹

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

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

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

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

Correspondence to William Clark, Planning Board Chairman

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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 10th 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 ¹	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.⁴²

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.⁴³ 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:

⁴² 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.

⁴³ 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.⁴⁴
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".

⁴⁴ 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.⁴⁵

⁴⁵ 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

Correspondence to William Clark, Planning Board Chairman

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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.⁴⁶ 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.⁴⁷

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.

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).

⁴⁶ 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.

⁴⁷ 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.

Correspondence to William Clark, Planning Board Chairman

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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.⁴⁸

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, 2021.⁴⁹ 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, 2021.⁵⁰ 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, 2021.⁵¹ 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.

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

⁴⁹ A copy of this letter is provided at Exhibit “16”.

⁵⁰ 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.

⁵¹ 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.

Correspondence to William Clark, Planning Board Chairman

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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

EXHIBIT 1

Reference Appendix

Meeting Minutes of the Town Planning Board

Dated 12th January 2024

EXHIBIT 2

Part 1 - Reference Appendix

Meeting Minutes of the Town Planning Board

Dated November 2023

EXHIBIT 3

Part 1 - Reference Appendix

Meeting Minutes of the Town Planning Board

Dated 12th January 2024

EXHIBIT 4

Reference Appendix

Meeting Minutes of the Town Planning Board

Dated 12th January 2024

EXHIBIT 5

Exhibit 1
Reference Appendix
to the Final Environmental Impact Statement

of the Full Environmental Assessment

Dated

EXHIBIT 6

Exhibit 1
Reference Appendix
to the Final Environmental Impact Statement

of the Full Environmental Assessment

Dated

EXHIBIT 7

**Alternative Plan 1
Preferred Alternative**

**Optimal Site Plan of Multi-Family Development
with 20.1 Acres of As of Right Plat
Drawing C-100**

EXHIBIT 8

Alternative Plan 2

Virtual Site Plan of Multi-Family Development
with Sub-Division
Drawing C-100

EXHIBIT 9

enn Wetzel Letter to the Planning Board
ing only organic fertilizer will be used
project

EXHIBIT 10

from Sean Hopkins to Sarah des
d June 3, 2021 consisting of Exhibit 1
t Determination Letter of Josalyn Fer
of the NYS office of Parks, Recreati
Historic Preservation



EXHIBIT 11

L



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)

EXHIBIT 12

From Sean Hopkins to Sarah de
April 10, 2021, containing the Jurisdi
mination by the US Army Corps of Eng
dated April 9, 2021

EXHIBIT 13

EXHIBIT 14

from Chris Wood, P.E. to Planning
ating of a summary of the manner by
from impervious surfaces on the Projec
will be properly handled
dated August 13, 2021

EXHIBIT 15

From Sean Hopkins to Sarah des
dated June 21, 2021

Requesting of Exhibit 1 – Reduced Size Co
Concept Site Plan Prepared by
Wood Morris DP
D

EXHIBIT 16

L



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 3rd 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 17th 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.

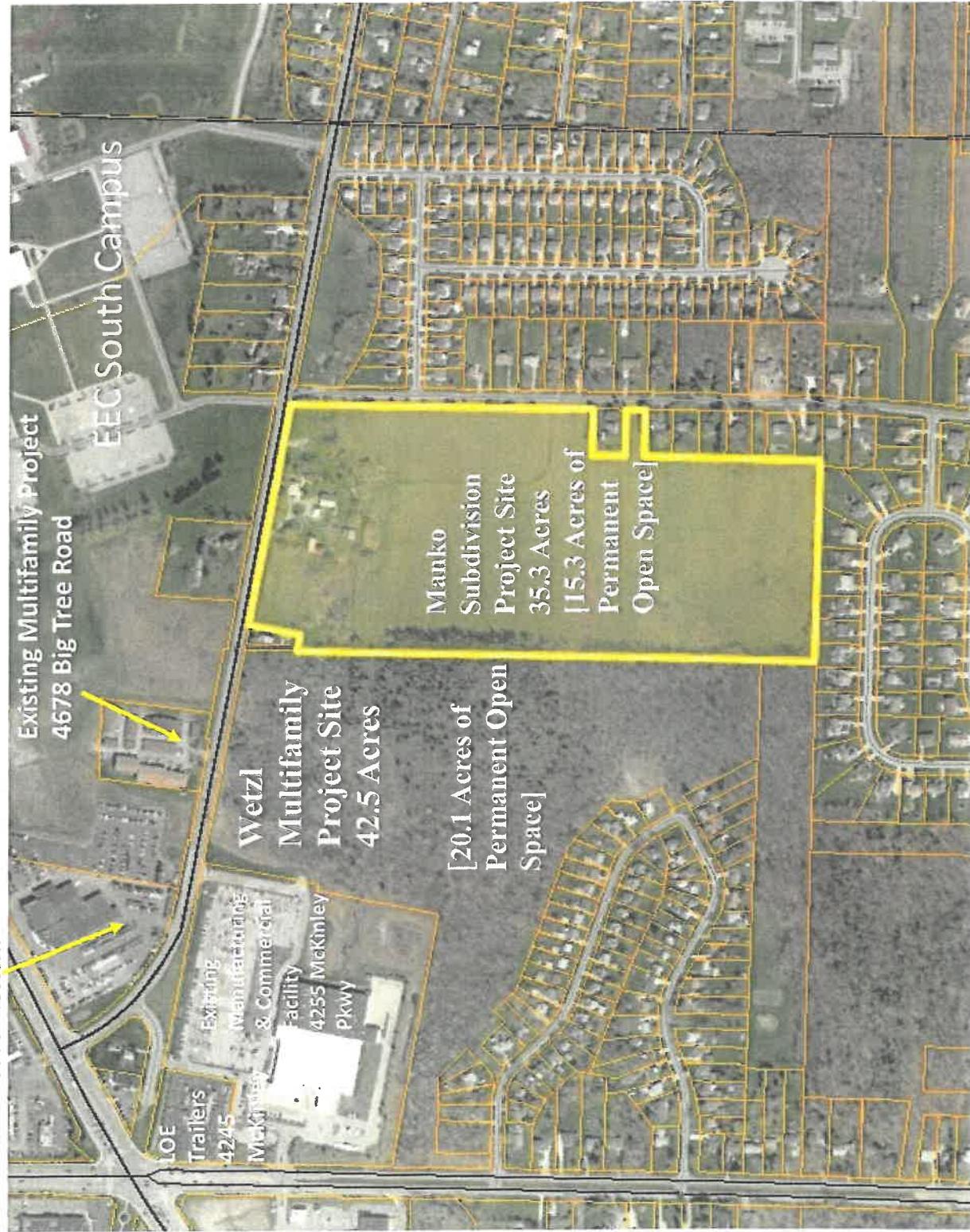
Enc.

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

EXHIBIT 17



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

EXHIBIT 18

Town of Hamburg Web Mapping Application

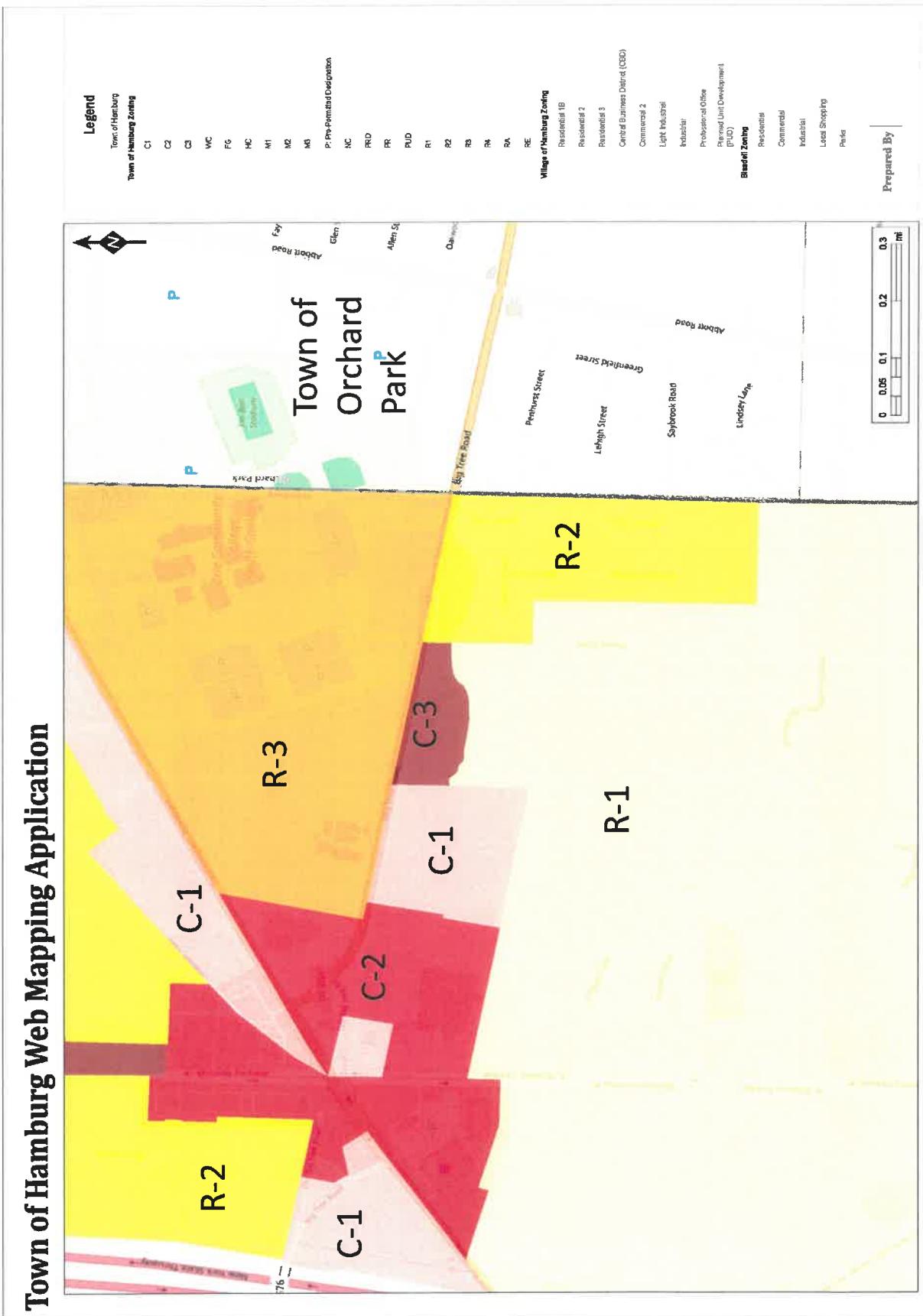


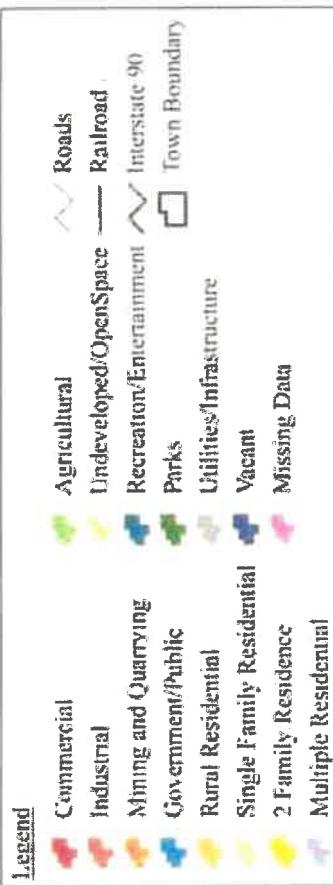
EXHIBIT 19



Town of Hamburg Land Use Map

Map: 2-2

Project Site



Lower of Orton Park

Town of Evans

0.5 Miles

EXHIBIT 20

Town of Hamburg *Environmental Constraints*

Map: 2-4

Project Site

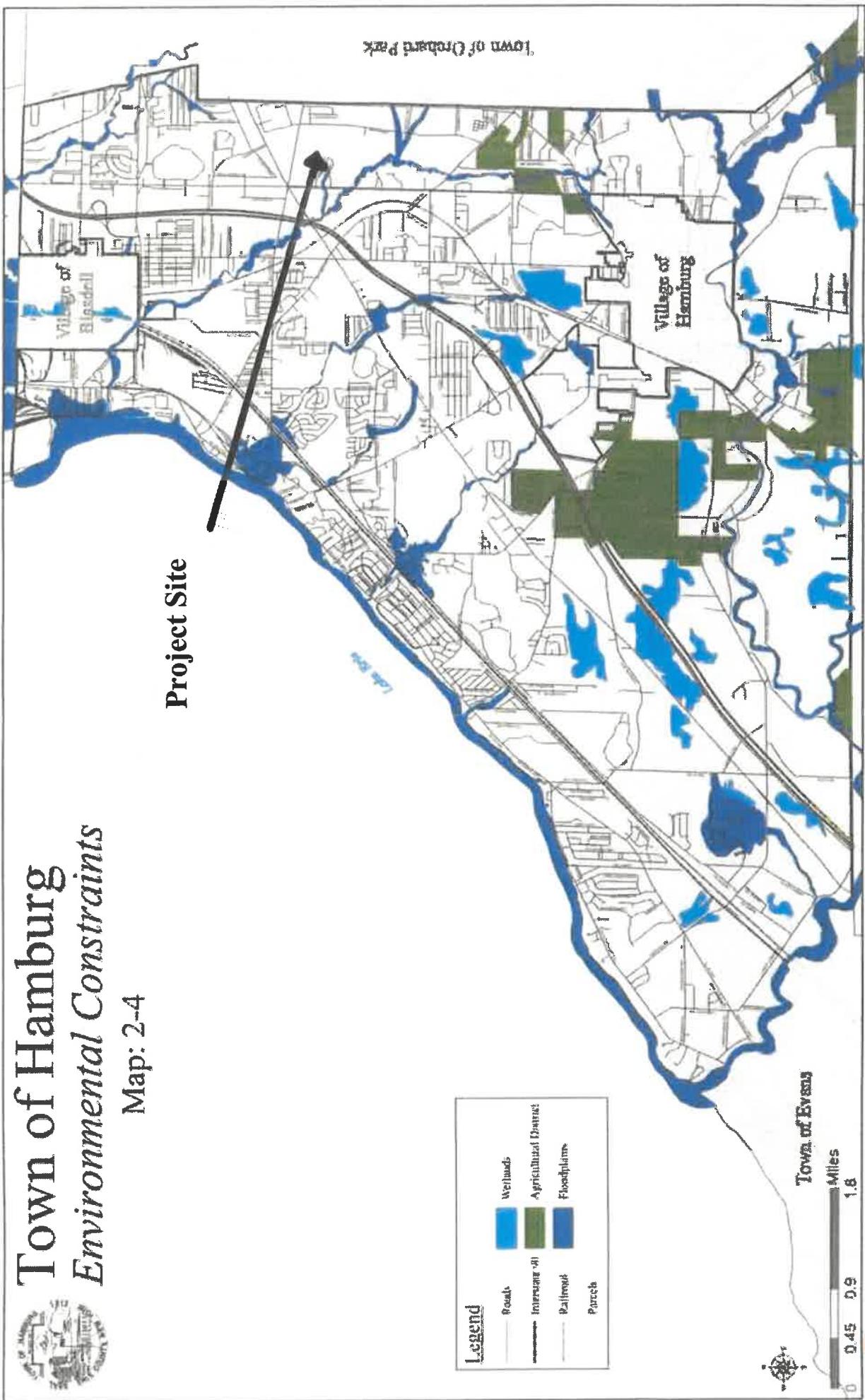


EXHIBIT 21

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		

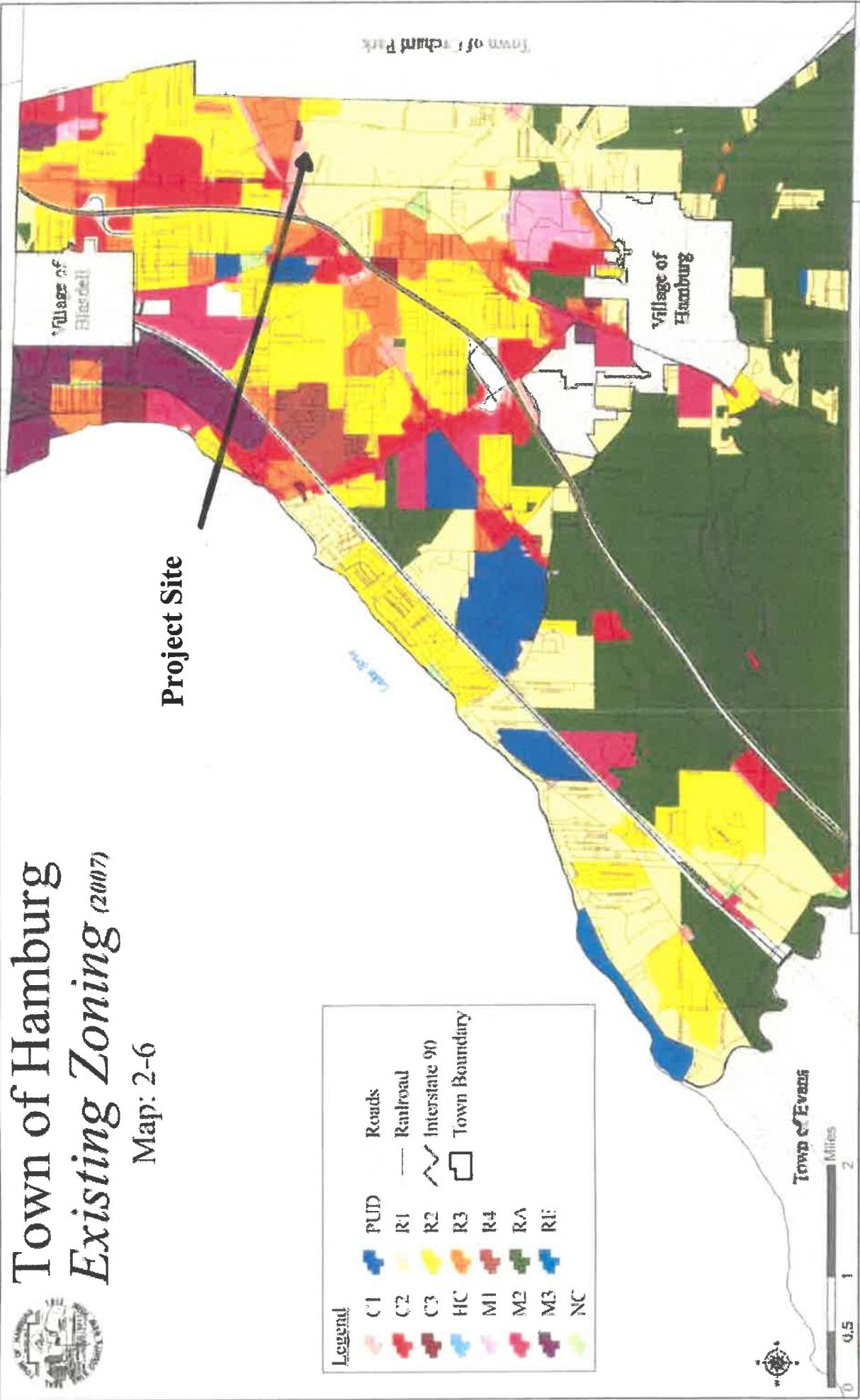


EXHIBIT 22



Town of Hamburg

Generalized Future Land Use

Map: 2-10

Project Site

Legend

Generalized Future Land Use	
Planning Mixed Use (Residential, Recreational, Business, Offices)	Roads
Rural Residential (Residential, Agricultural)	Railroad
Rural Semi-Rural Residential	Interstate 94
Residential (Single-Family)	Town Boundary
Residential (High Density) Mixed	
Business (Residential, Local)	
Business & Industry	
Village Transition Area	
Waterfront Revitalization Area	

Note: "The map is not for zoning purposes. It is a planning zoning map."

Follow of Creek Park

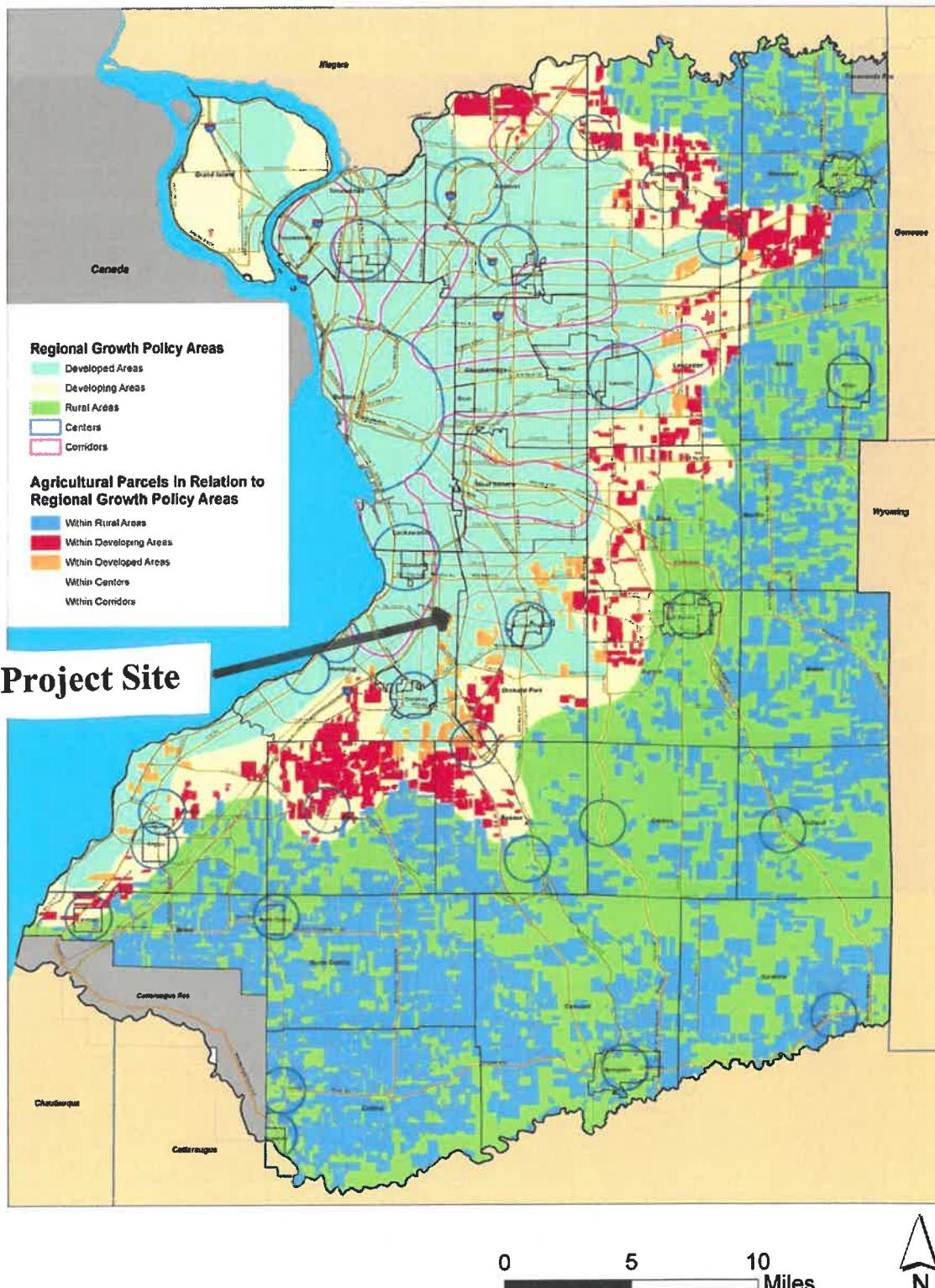
Town of Evans

0.5 1 2 Miles



EXHIBIT 23

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



SOURCE: Parcel 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

Stuart I. Brown
Associate, Inc.
A Furtado Company

from Chris Wood, P.E. to Planning.
sting of a summary of the manner by which
from impervious surfaces on the Project
will be properly handled.



Carmina • Wood • Morris ^{DPC}

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.

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.

Mr. Sean Hopkins to Sarah
dated June 21, 2021

Consisting of Exhibit 1 - Reduced Size Copy
and Concept Plan Prepared by Carmin
Morris DPC
Filing C-100 Dated June 9, 2021



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 18th, 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 2nd and June 16th. 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 14th 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.

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

A handwritten signature in blue ink that appears 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]

HOPKINS SORGI & MCCARTHY PLLC

Attorneys at Law

5500 Main Street, Suite 343 • Williamsville, New York 14221

Direct: 716-510-4338 • E-mail: shopkins@hsr-legal.com • www.hsr-legal.com

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

Wetzel Letter to Planning Board cert
organic fertilizer will be used for the n

Dated 11/11/08



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".

Glenn Wetzl

from Chris Wood, P.E., to Town Planner
consisting of response to Question 3c of
the Full EAS regarding dredging more
material from a wetland or...



Carmina • Wood • Morris ^{DPC}

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

June 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

Dear Chairman Clark and Members of the Planning Board:

During the meeting of the Planning Board held on June 2nd a question was asked regarding the cubic yards for the proposed impact to 0.04 acres of the on-site jurisdictional federal wetlands. This question was asked in connection Question 3c of Part 2 of the Full Environmental Assessment Form which states as follows: "The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body."

The minor proposed wetland impact of 0.04 acre will involve the dredging of approximately 190 cubic yards of fill and this is the only proposed impact to the jurisdictional federal wetlands on the Project Site. As has been discussed during the meetings of the Planning Board, the United States Army Corps of Engineers will not require mitigation for the proposed minor wetland impact of 0.04 acres since the threshold for mitigation is an impact of 0.10 acres or greater.

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.

Architecture Engineering Interior Design

Correspondence to William Clark

December 29, 2020

Page 2 of 2

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

Mr. Sean Hopkins to Sarah
dated June 3, 2021

ting of Exhibit 1 - No Impact Determination
of Josalyn Ferguson, Ph.D of the NYSC
Recreation and Historic Pres
Dated June 02, 2021



June 3, 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:

This letter and the attached documentation is being submitted on behalf of Wetzl Development, LLC (“Project Sponsor”) for the purpose of following up on the discussion regarding the above referenced proposed multifamily project during the meeting of the Planning Board held on Wednesday, June 2nd.

Attached as Exhibit “1” is a copy of the No Impact Determination letter issued by Josalyn Ferguson of the NYS Office of Parks, Recreation and Historic Preservation (“SHPO”) dated June 2nd based on its review of the Phase 1 Archaeological Reconnaissance Survey Report prepared by Dr. Douglas J. Perrelli of the UB Department of Anthropology dated April of 2021. A copy of the No Impact Determination letter was provided to the members of the Planning Board during its meeting on June 2nd.

The No Impact Determination letter issued by SHPO contains its determination that the proposed residential project will not have any adverse impacts on archaeological, cultural or historic resources by stating as follows:

“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.”¹

The No Impact Determination letter issued by SHPO along with the comprehensive analysis contained in the Phase 1 Archaeological Reconnaissance Survey Report prepared by Dr. Douglas J. Perrelli of the UB Department of Anthropology provides the Planning Board with information

¹ No development is proposed within the proposed 20.1 acres of Permanent Open that was not included in the extensive on-site testing area evaluated by the UB Department of Anthropology that consisted of 359 shovel test pits conducted on the relevant approximately 23 acre portion the Project Site to be developed.

Correspondence to Sarah desJardins

June 3, 2021

Page 2 of 3

to ensure a “hard look” can be taken at the potential impacts of the proposed residential project on archaeological, cultural and/or historic resources. The No Impact Determination letter dated June 2nd and the Phase 1 Archaeological Reconnaissance Survey Report prepared by Dr. Douglas J. Perrelli also demonstrates for the purpose of the coordinated environmental review of the proposed residential project pursuant to the State Environmental Quality Review Act (“SEQRA”) that the project will not result in any potentially significant adverse environmental impacts on archaeological, cultural and/or historic resources.

Attached as Exhibit “2” is a copy of the updated Concept Site Plan [Drawing C-100 – Date: 06/01/21] prepared by Christopher Wood, P.E., of Carmina Wood Morris DPC based on input provided by Edward Rutkowski, P.E., of the NYS Department of Transportation (“NYSDOT”) during my conversation with him on Thursday, May 27th. Mr. Rutkowski requested that one of the two previously proposed driveway connections to Big Tree Road, which is a NYS Highway, be eliminated per the NYSDOT’s controlled access policy.

The updated Concept Site Plan provides a single driveway connection onto Big Tree Road directly opposite the existing driveway for the multifamily project located on the north side of Big Tree Road at 4678 Big Tree Road. In order to provide a driveway connection at this location, the density of the project was reduced from 156 units to 150 units. I have e-mailed a copy of the updated Concept Site Plan to Mr. Rutkowski of NYSDOT for his review and input.

The elimination of one of the two previously proposed driveway connections from the Project Site onto Big Tree Road does not require a secondary gated emergency access connection onto Big Tree Road to be provided in order to comply with the applicable emergency access standards contained in Appendix D of the 2015 International Fire Code (titled “Fire Apparatus Access Roads”).

Section D106 of the 2015 International Fire Code does not require two separate fire apparatus access roads for multifamily project with between 101 units and 200 units if the buildings will be equipped with approved automatic sprinkler systems installed in accordance with Section 903.3.1.1 or 903.3.1.2. Each of the proposed multifamily buildings will include a code compliant automatic sprinkler system per Section D106 of the 2015 International Fire Code.

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.

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC



Sean W. Hopkins, Esq.

cc: William Clark, Planning Board Chairman
Doug Schawel, Planning Board
Kaitlin McCormick, Planning Board

Correspondence to Sarah desJardins

June 3, 2021

Page 3 of 3

Al Monaco, Planning Board

Bob Mahoney, Planning Board

Dennis Chapman, Planning Board

Meghan Comerford, Planning Board

Camie Jarrell, P.E., Project Engineer, GHD

Jennifer Puglisi, Esq., Planning Board Attorney

Glenn Wetzl [Via e-mail and mail]

Christopher Wood, P.E., Carmina Wood Morris DPC [Via e-mail]

David Kruse, SRF Associates [Via e-mail]

from Sean Hopkins to Sarah at
dated May 02, 2021,

ing the Cultural Resources Report pr
by UB Anthropology Department
dated April 29, 2021
Reference



May 2, 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:

Attached as Exhibit "1" is a copy of the Phase 1 Archaeological Reconnaissance Survey Report prepared by Dr. Douglas J. Perrelli of the UB Department of Anthropology dated April of 2021 that Chris Wood e-mailed to you on Friday, April 30th.

The Report prepared by Dr. Douglas J. Perrelli summarizes the results of the 359 shovel test pits conducted on the relevant approximately 23 acre portion the Project Site and confirms that no prehistoric or historic sites were identified. It is the professional opinion of Dr. Perrelli that no further work is recommended.

The comprehensive analysis contained in the Phase 1 Archaeological Reconnaissance Survey Report provides the Planning Board with information to ensure a "hard look" can be taken at the potential impacts of the proposed residential project on archaeological, cultural and/or historic resources. The Report also demonstrates for the purpose of the coordinated environmental review of the proposed residential project pursuant to the State Environmental Quality Review Act ("SEQRA") that the project will not result in any potentially significant adverse environmental impacts on archaeological, cultural and/or historic resources

A copy the Phase 1 Archaeological Reconnaissance Survey Report has been submitted to the New York State Department of Office Parks, Recreation and Historic Preservation ("SHPO") for its review and a copy of its comment letter will be provided to you upon receipt.

If you have any questions regarding this letter, the enclosed Phase 1 Archaeological Reconnaissance Survey or the status of the proposed project, please feel free to contact me at 510-4338 or via e-mail at shopkins@hsr-legal.com.

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

A handwritten signature in blue ink that appears to read "Sean W. Hopkins".

Sean W. Hopkins, Esq.

HOPKINS SORGI & MCCARTHY PLLC

Attorneys at Law

5500 Main Street, Suite 343 • Williamsville, New York 14221

Direct: 716-510-4338 • E-mail: shopkins@hsr-legal.com • www.hsr-legal.com

Correspondence to Sarah desJardins

May 2, 2021

Page 2 of 2

cc: Glenn Wetzl [Via e-mail and mail w/enclosure]
Scott J. Livingstone, Earth Dimensions, Inc. [Via e-mail]
Christopher Wood, P.E., Carmina Wood Morris DPC [Via e-mail]
Dr. Douglas J. Perrelli, UB Department of Anthropology

from Sean Hopkins to Sarah at
dated April 10, 2021,

Concerning the Jurisdictional Determination
US Army Corps of Engineers
dated April 09, 2021
Reference



April 10, 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:

Attached as Exhibit "1" is a copy of the Jurisdictional Determination issued by the United States Army Corps of Engineers ("USACE") dated April 9th that was received by Scott Livingstone of Earth Dimensions Inc. ("EDI").

Consistent with the Wetland Delineation Report prepared by EDI dated June 11, 2020, the USACE has determined that Wetland 1 consisting of 7.51 acres along with 1,153 linear feet of a tributary to Rush Creek are subject to federal jurisdiction and that Wetland 2 (0.11 acres), Wetland 3 (0.15 acres) and Wetland 4 (3.26 acres) are isolated, non-navigable, intrastate waters not subject to federal jurisdiction.

The proposed project has been deliberately designed to avoid impacts to the jurisdictional wetlands to the maximum extent practicable. The impact to the large jurisdictional wetland on the Project Site consisting of 7.51 acres is limited to only 0.04 acres to be impacted for a portion of the on-site stormwater management area as depicted on the Concept Site Plan [Drawing C-100 – Date: 02/04/21] that has been presented to the Planning Board during its recent meetings.

For purposes of the coordinated environmental review of the proposed multifamily project pursuant to the State Environmental Quality Review Act ("SEQRA") being conducted by the Planning Board, the Jurisdictional Determination issued by the USACE supports the Project Sponsor's position that the proposed multifamily project that includes approximately 20.1 acres of Permanent Open Space to remain permanently undeveloped will not result in any potentially significant wetland impacts.

If you have any questions regarding this letter, the attached Jurisdictional Determination or the status of the proposed project, please feel free to contact me at 510-4338 or via e-mail at shopkins@hsr-legal.com.

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC



Sean W. Hopkins, Esq.

cc: William Clark, Planning Board Chairman
Doug Schawel, Planning Board
Kaitlin McCormick, Planning Board
Al Monaco, Planning Board
Bob Mahoney, Planning Board
Dennis Chapman, Planning Board
Meghan Comerford, Planning Board
Glenn Wetzl [Via e-mail and mail]
Scott J. Livingstone, Earth Dimensions, Inc. [Via e-mail]
Christopher Wood, P.E., Carmina Wood Morris DPC [Via e-mail]

Memorandum from the Conservation Advisor
to the Town Planning Board recommending
a Positive Declaration for the Project

Dated May 2012



Hamburg Conservation Advisory Board

To advise in the development, management, and protection of the town's natural resources

MEMO

From: Town of Hamburg Conservation Advisory Board (CAB)
Date: March 29, 2021
To: William Clark, Chairman, Town of Hamburg Planning Board
Cc: Sarah desJardins, Town of Hamburg Planning Consultant
Re: Proposed Parker Road Subdivision Project 19.241 at 4825 Big Tree Road

To be read into the public minutes of the Town of Hamburg Planning Board:

After reviewing the proposed site plan for the Proposed Parker Road Subdivision Project 19.241 at 4825 Big Tree Road and walking the site on 25 March 2021, the Hamburg Conservation Advisory Board recommends and advises the Town of Hamburg Planning Department, as follows:

1. There is concern that stormwater runoff from multiple existing subdivisions is impacting the Rush Creek headwaters, local water quality, and ability of the community to participate in best uses, and that the proposed development will only exacerbate the degradation of Rush Creek. Rush Creek is on the NYS DEC Section 303(d) List of Impaired Waters for pathogens and phosphorus from combined sewer overflow, urban runoff, and municipal sources.
2. A review of stormwater detention/retention plans across the town. Who will maintain these structures? Who is responsible for keeping water quality levels in accordance with NYS DEC stormwater regulations?
3. CAB recommends a Positive Declaration, as there is concern that there is potential for significant impact.

Please read aloud and add this letter into the Town of Hamburg Planning Board minutes.

Sincerely,

Mark Lorquet, Chairman
Town of Hamburg Conservation Advisory Board
hamburgconservation@townofhamburgny.com

From Sean Hopkins to Sarah des
dated March 19, 2021
sting of an enclosed letter from Christo
me of the Erie County Division of Se
Management
n 10, 2021, verifying
collecti



March 19, 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:

Enclosed is a copy of the letter issued by Christopher Fiume of the Erie County Division of Sewerage Management ("ECDSM") dated March 10th confirming the ECDSM has reviewed the Downstream Capacity Analysis ("DSCA") dated January 5, 2021 prepared by Christopher Wood, P.E. of Carmina Wood Morris for the above referenced project and verified there is sufficient capacity in the downstream sanitary system for the peak sanitary sewer flow for the proposed residential project at 0 Big Tree Road & 0 Wilson Drive during wet weather conditions.

It is important to mention that as has been discussed during recent meetings of the Planning Board, the DSCA prepared by Christopher Wood, P.E. included the peak sanitary sewer flows for both the above referenced project and the pending Parker Road subdivision consisting of 67 residential lots for detached single-family homes.

For purpose of the Planning Board's consideration of the cumulative impacts of both proposed projects pursuant to the State Environmental Quality Review Act ("SEQRA"), the letter issued by Mr. Fiume dated March 10th confirms there is adequate downstream sanitary sewer flow for both projects during wet weather conditions per the New York State Department of Environmental Conservation ("NYSDEC") Inflow and Infiltration Policy that applies to proposed projects that will generate more than 2,500 gallons per day of sanitary sewer flow.

If you have any questions regarding this letter or the status of the proposed project, please feel free to contact me at 510-4338 or via e-mail at shopkins@hsr-legal.com.

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

A handwritten signature in blue ink that reads "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 and mail]

HOPKINS SORGI & MCCARTHY PLLC

Attorneys at Law

5500 Main Street, Suite 343 • Williamsville, New York 14221

Direct: 716-510-4338 • E-mail: shopkins@hsr-legal.com • www.hsr-legal.com



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE
DEPARTMENT OF ENVIRONMENT & PLANNING

JOSEPH L. FIEGL, P.E.
DEPUTY COMMISSIONER

THOMAS R. HERSEY, JR.
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)

In Timothy German of Erie County, Sarah desJardins dated February 11, 2018, in a meeting of concurrence by the Erie County Board of Supervisors, the Town of Hamburg act as Lead Agency, and provided comments related to the proposed project, including additional names.

Name _____



COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

February 11, 2021

Ms. Sarah desJardins
Town of Hamburg Planning Department
6100 South Park Avenue
Hamburg, NY 14075

Re: **Lead Agency Designation – Wetzl Development, LLC**

Location: **0 Big Tree Road & 0 Wilson Road**
Review No.: **M617-21-79**

Dear Ms. desJardins:

Pursuant to Article 8 of the New York Environmental Conservation Law, the County of Erie (the “County”) has reviewed the above-referenced project (the “Project”) referred to us on January 12, 2021 and consents to the Town of Hamburg acting as lead agency in the environmental review of the Project.

The Department of Environment and Planning (DEP) offers the following comments on the Project:

- The applicant and Town should ensure that connections are provided to the proposed 69-lot residential subdivision to the east, as well as to Wilson Drive. The existing development on Wilson Drive retained two connection points to allow for future connections. Providing connections to adjacent neighborhoods will improve walkability, reduce dependence on automobiles for travel, and increase access for emergency vehicles.
- The applicant should ensure that final site plans include a connection to the existing sidewalk to the west in order to facilitate pedestrian movements to and from the project site. In addition, the Town and/or the applicant should, in cooperation with NYSDOT, consider off-site improvements to increase connectivity between the project site and the adjacent Erie Community College campus. These may include a sidewalk extension and pedestrian crossing with appropriate lighting and signage. These improvements should also be coordinated with the adjacent proposed residential subdivision.
- According to the *Erie-Niagara Framework for Regional Growth* (2006), the subject property is located in a Developed Area. Projects in the Developed Area should “Support mixed land uses that encourage walkable neighborhoods and mixed-income housing.” The Framework can be found at: www.erie.gov/regionalframework.

- The *Town of Hamburg Comprehensive Plan* (2007) states “Central areas in the Town, around the Villages, near McKinley Mall, and along South Park Avenue should be considered for additional multi-family residential use.” (Section 4-3) The proposed project would be consistent with this recommendation.
- The subject property is listed as a potentially archaeologically sensitive area. The developer should consult with the State Office of Historic Preservation to ensure that archaeological resources are not impacted during construction.
- Division of Sewerage Management comments are attached.

This review pertains to the above-referenced action submitted to the Erie County Department of Environment and Planning. This should not be considered sufficient for any County approvals. The Town of Hamburg and/or the developer must still obtain any other permits and regulatory approvals applicable to this project.

Sincerely,



Timothy P. German
Planner



From: [McNamara, Joseph](#)
To: [Ortiz, Mariely](#); [Gatti, Sarah](#); ["sdesjardins@townofhamburg.com"](mailto:sdesjardins@townofhamburg.com); ["engineering@townofhamburgny.com"](mailto:engineering@townofhamburgny.com)
Cc: [Salah, Mutasem](#)
Subject: SEQRA, rezoning for SBL 160.19-2-1.1 Big Tree & Wilson Rds.
Date: Friday, January 29, 2021 11:25:51 AM

The DSM has no objection to the request for rezoning from the Town of Hamburg Department of Planning Development for the address above.

Should the proposed project move further forward the DSM has the following comments:

1. The project is located in Erie County Sewer District No.3 (ECSD #3), Town of Hamburg. Flow from this project is tributary to the ECSD #3 Sanitary Sewer System, and eventually to the Southtowns AWTP.
2. Sanitary sewer design shall be in accordance with Erie County Sewer District Rules, Regulations, and Design Requirements.
3. A Capacity Analysis Report will be required
4. I/I removal will be required.
5. DSM approval of the sanitary sewer system is required. If 8 inch or larger public sanitary sewer is proposed, Erie County Health Dept. approval is required.
6. The Design Engineer is encouraged to discuss preliminary sanitary sewer plans in advance of final sewer design.
- 7.

The above comments do not constitute DSM approval or disapproval of this project. Should you have any questions or need further information, please e-mail or call me at ext. 6697.

Joseph McNamara | Assistant Sanitary Engineer
Erie County | Div. of Sewerage Management
95 Franklin St., Room 1071 | Buffalo, NY 14202
P:+1(716)858-6697 | F:+1(716)858-6257
Joseph.McNamara@erie.gov | <http://www.erie.gov>

in Sarah Gatti of Erie County, New York, and Sarah desJardins dated February 11, 2013, and a letter of concurrence by the Erie County Board of Supervisors, the Town of Hamburg act as Lead Agency. The agency reviewed the project and provided comments related to the environmental impact, including additional comments from Namera.



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

February 11, 2021

Sarah desJardins
Town of Hamburg
6100 South Park Avenue
Hamburg, NY 14075

Re: **69-Lot Residential Subdivision**
Location: **Big Tree Road**
Review No.: **M617-21-87 / SP-21-99**

Dear Ms. desJardins:

Pursuant to New York General Municipal Law Section 239-m, and Article 8 of the New York Environmental Conservation Law, the County of Erie (the “County”) has reviewed the above-referenced project (the “Project”) referred to us on January 12, 2021 and consents to the Town of Hamburg acting as SEQR Lead Agent. The County has also reviewed the Site Plan referred to us on January 19, 2021 and offers the following comments on the Project:

- The development is designed with minimal connections to other neighborhoods. The functionality of this type of development is similar to a cul de sac design with limited to no connection to other neighborhoods and dependence on automobiles for all travel. The impact of this type of design is that geographically proximate locations are distanced by the lack of public right of way connections between adjacent neighborhoods. This type of design increases dependence on automobiles for all travel, increases congestion on roadways, and also limits timely access by emergency vehicles. Such limited access could result in portions of the subdivision being entirely inaccessible to emergency vehicles should roads and/or intersections become blocked. The *2007 Town of Hamburg Comprehensive Plan Update* recommends against this type of design when it states that “residential subdivision development...should be interconnected to create neighborhoods, rather than segmented through the construction of cul-de-sacs” (Page 50 – Findings and Recommendations).
- The Town and developer should ensure connections are provided to the proposed 156-unit market-rate apartment complex and eventually to Wilson Drive. The existing development on Wilson Drive purposely retained two connection points off Wilson Drive to allow for future connections.
- The Town and developer should, in cooperation with NYSDOT, consider off-site improvements to increase connectivity between the project site and the adjacent Erie Community College

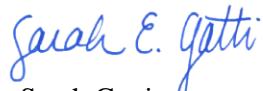
campus. These may include a sidewalk extension and pedestrian crossing with appropriate lighting and signage. These off-site improvements should be coordinated with the proposed 156-unit market-rate apartment complex located directly west of the project.

- The Town and developer should ensure appropriate pedestrian facilities (i.e., sidewalks and crosswalks) are provided throughout the development, in accordance with goal five of the *Comprehensive Plan* which notes the Town should “strive to improve and create an integrated transportation system to provide for the movement of residents, workers, visitors and goods in a safe and efficient manner”.
- Municipally-owned parkland abuts the parcel at its southwest corner. The Town and developer should consider an interconnection between the proposed subdivision and the parkland.
- The *Erie County Agriculture and Farmland Protection Plan (2012)* identifies the parcel as an active agricultural parcel with cropland. Its conversion to a residential subdivision will result in the loss of a large agricultural parcel, contrary to the intent of the *Plan*. The *Town of Hamburg Comprehensive Plan (2007)* likewise recognizes the importance of preserving agriculture. The *Comprehensive Plan* identifies “encourage[ing] the continuation of existing, viable agricultural uses” as a goal on page 42.
- The proposed action is located within the Developed Area as defined in the *Framework for Regional Growth*. Actions in the Developed Area should, “encourage walkable neighborhoods.” The Framework can be found at: www.erie.gov/regionalframework.

Comments from the Erie County Division of Sewerage Management are enclosed.

This review pertains to the above-referenced action submitted to the Erie County Department of Environment and Planning. This letter should not be considered sufficient for any county approvals. The Town and/or developer must still obtain any other permits and regulatory approvals applicable to this Project.

Sincerely,



Sarah Gatti
Senior Planner

cc: Dan Castle, Deputy Commissioner
Mark Rountree, Principal Planner

Gatti, Sarah

From: McNamara, Joseph
Sent: Wednesday, January 27, 2021 1:52 PM
To: Ortiz, Mariely; Gatti, Sarah; 'sdesjardins@townofhamburg.com'
Cc: Salah, Mutasem; 'engineering@townofhamburgny.com'
Subject: SEQRA, 4825 Big Tree SBL 160.20-2-2, 69 Lot Subdivision

Follow Up Flag: Follow up
Flag Status: Flagged

The DSM has reviewed the above noted project and has the following comments:

1. The project is located in Erie County District No. 3 (ECSD #3), Town of Hamburg. Flow from this project is tributary to ECSD #3 and eventually to the Southtowns AWTP.
2. Sanitary Sewer Design shall be in accordance with Erie County Sewer District Rules, Regulations, and Design Requirements.
3. I/I removal will be required.
4. Capacity Analysis will be required.
5. DSM approval of the sanitary sewer system is required. If 8 inch or larger public sanitary sewer is proposed, Erie County Health Dept. approval is required.
6. The Design Engineer is encouraged to discuss preliminary sanitary sewer plans in advance of completing sewer design with the DSM.

The above comments do not constitute DSM approval or disapproval of this project. Should you have any questions or need further information, please e-mail or call me at Ext. 6697.

Thanks,

Joseph McNamara | Assistant Sanitary Engineer
Erie County | Div. of Sewerage Management
95 Franklin St., Room 1075 | Buffalo, NY 14202
P:+1(716)858-6697 | F:+1(716)858-6257
Joseph.McNamara@erie.gov | <http://www.erie.gov>

Appendix D1-10

Letter from Sean Hopkins to the Planning Board
dated February 8, 2021,
Planning Proposed Zoning



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 3rd 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 17th 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

of Hamburg Planning Board Notice of
Agency Solicitation Letter

Dated: 1

NOTICE
SEQR: LEAD AGENCY DESIGNATION
TOWN OF HAMBURG PLANNING BOARD

Date: January 12, 2021

This notice has been prepared pursuant to 6 NYCRR Part 617 and Article 8 of the NYS Environmental Conservation Law (collectively "SEQRA")

The Town of Hamburg Town Board has received a complete Rezoning Application from:

Name: Wetzl Development, LLC c/o Sean Hopkins, Esq.
Hopkins Sorgi & McCarthy PLLC
5500 Main Street, Suite 343
Williamsville, New York 14221
Tel: (716) 510-4338
E-mail: shopkins@hsr-legal.com

Contact Person: Sarah desJardins, Town of Hamburg Planning Department

Phone: 649-2023

Regarding: Request for rezoning of 22.4 acres from C-1 Local Retail Business District and R-1 Single-Family Residence District to R-3 Multifamily District of the 42.5 acres of property at 0 Big Tree Road and 0 Wilson Road in the Town of Hamburg ("Project Site"). The proposed project consists 156 attached residential units for lease. Approximately 20.1 acres of the Project Site will consist of Permanent Open Space to remain undeveloped.

Description & Location of Action: 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 including but not limited to an amendment of the zoning classification of 22.4 acres of the Project Site as well as all 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. The project is an Unlisted action pursuant to SEQRA since the impacts cross the thresholds for a Type I action contained in 6 NYCRR Part 617.4 of the SEQRA Regulations. The Project Sponsor is requesting that the Town of Hamburg Town Board issue a negative declaration pursuant to SEQRA since the proposed residential project will not result in any potentially significant adverse environmental impacts.

As the most local agency with permitting authority, the Town of Hamburg Town Board wishes to declare itself Lead Agency for the purpose of conducting a coordinated environmental review of the proposed project pursuant to SEQR.

Other potential permitting agencies identified are:

(check each)

- Town Board**
- Planning Board**
- Zoning Board of Appeals**
- Highway Department, Superintendent**
- Building Department, Building Inspector**
- Water District (Erie County Water Authority)**
- Sewer District (Erie County Division of Sewerage Management)**
- Erie County Department of Public Works**
- Erie County Department of Health**
- N.Y.S. Department of Environmental Conservation**
- N.Y.S. Department of Transportation**
- State Department of Health**
- U.S. Army Corps of Engineers**
- Erie County Department of Environment and Planning (2 copies)**
- Other:** _____

Other interested agencies may be:

- County Planning Board**
- School District**
- Fire Company**
- Others (Federal, State, County):** _____

A preliminary review of the proposed action indicates that it is a SEQR Type:

- Unlisted Action**
- Type I Action (justification)**

The attached Amended Rezoning Application which includes a completed Part 1 of the Full Environmental Assessment Form dated January 11, 2021 attached at Exhibit "6" along with a copy of the Concept Site Plan [Drawing C-100] prepared by Carmina Wood Morris DPC depicting the layout of the proposed residential project at Exhibit "3" has been filed with the Town of Hamburg by the Applicant.

Please notify us within thirty (30) days (by February 11, 2021) if your agency objects to the Town of Hamburg Planning Board acting as the lead agency for a coordinated environmental review of the proposed project pursuant to SEQR. Otherwise, we will proceed with our review and issuance of a determination of significance. Any information or concerns should be mailed to the below address. If no response is received by February 11, 2021, we will assume your agency has no specific concerns about the proposed action.

For further information please contact:

Sarah K. desJardins
Town of Hamburg Planning Department
6100 South Park Avenue
Hamburg, New York 14075
Tel: 649-2023
E-mail: sdesjardins@townofhamburgny.com

er from Sean Hopkins to Tom Zimmer
dated November 11, 2020,
for a copy of the Concept Pl
C-100 d



November 11, 2020

Tom Zimmerman
4554 Tomaka Drive
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 Tom:

I am sending you this letter to follow up on our conversation after the Planning Board meeting held on November 4th. Enclosed is a copy of the updated project submission made on behalf of Wetzl Development, LLC ("Project Sponsor") for the consideration of the Planning Board during its next meeting on November 18th at 7:00 p.m. The updated project submission consists of a letter Planning Board Chairman William Clark and the members of the Planning Board dated November 9th with Exhibits "1" to "3".

I have also enclosed an 11" x 17" copy of the current Concept Plan [Drawing C-100 – Date: 11/02/20] that was presented during the Planning Board meeting on November 4th which does include any roadway connection from the Project Site to Wilson Drive. As we discussed on November 4th, none of the required approvals for the proposed residential project have been obtained and the project layout reflects a deliberate effort to minimize any impacts to existing homeowners on Wilson Drive and the nearby street including Tomaka Drive.

Please feel free to contact me at 510-4338 or via e-mail if you have any questions regarding the enclosed updated project submission or the status of the proposed residential project.

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

A handwritten signature in blue ink that reads "Sean W. Hopkins".

Sean W. Hopkins, Esq.

Enc.

cc: Glenn Wetzl [Via mail w/o enclosure]
Christopher Wood, P.E., Carmina Wood Morris DPC [Via e-mail]

HOPKINS SORGI & MCCARTHY PLLC

Attorneys at Law

5500 Main Street, Suite 343 • Williamsville, New York 14221

Direct: 716-510-4338 • E-mail: shopkins@hsr-legal.com • www.hsr-legal.com

Appendix D1-19

**Letter from Sean Hopkins to Sarah desJardins
dated November 10, 2020,
concerning the
receipt of an update.**



November 10, 2020

Sarah desJardins
Town of Hamburg 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 our telephone conversation earlier today, enclosed are nine (9) copies of the updated project submission being submitted on behalf of Wetzl Development, LLC ("Project Sponsor") for the consideration of the Planning Board during its next meeting on **November 18th at 7:00 p.m.** consisting a letter to Chairman Clark and the members of the Planning Board dated November 9th with Exhibits "1" to "3" as well as a full size copy of the updated Concept Plan [Drawing C-100 – Date: 11/02/20].

Please feel free to contact me at 510-4338 or via e-mail if you have any questions regarding the enclosed updated project submission or the status of the proposed residential project.

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

A handwritten signature in blue ink that appears to read "Sean W. Hopkins".

Sean W. Hopkins, Esq.

Enc.

cc: Glenn Wetzl
Christopher Wood, P.E., Carmina Wood Morris DPC

HOPKINS SORGI & MCCARTHY PLLC

Attorneys at Law

5500 Main Street, Suite 343 • Williamsville, New York 14221

Direct: 716-510-4338 • E-mail: shopkins@hsr-legal.com • www.hsr-legal.com

From Sean Hopkins to William Clark
November 9, 2020,
listing of an updated Concept Plan dated
November 02, 2020 and Exhibits



November 9, 2020

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 and the attached full size copy of the updated Concept Plan [Drawing C-100 – Date: 11/02/20] are 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 November 4th regarding the pending request to rezoned a portion of at 0 Big Tree Road and 0 Wilson Drive to accommodate a proposed residential project. A reduced size copy of the updated Concept Plan [Drawing C-100 – Date: 11/02/20] is attached as Exhibit “1” and a color aerial photograph of the Project Site is attached as Exhibit “2”.

I. Concept Plan Presented to the Planning Board during its Meeting on October 7, 2020:

During the meeting of the Planning Board held on October 7th, a Concept Plan was presented in connection with the request to downzone the 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”). A reduced size copy of the Concept Plan presented to the Planning Board during its meeting on October 7th is attached as Exhibit “3”.

The Concept Plan presented to the Planning Board during its meeting on October 7th depicted 104 attached residential units for lease consisting of single-story buildings and related improvements on the portion of the Project Site to be downzoned from C-1 to R-3 as well as an eighteen (18) lot residential subdivision for single-family homes on a portion of the Project Site zoned R-1 Single-Family Residence District (“R-1”). The eighteen (18) lot residential subdivision included a proposed public roadway connecting to Wilson Drive directly opposite of Tonaka Drive.

One of the comments received from the Planning Board during its meeting on October 7th based on its review of the original Concept Plan was that the residential lots for single-family homes with the proposed subdivision on the R-1 zoned portion of the Project Site include jurisdictional federal wetlands that could result in wetland encroachments by the future homeowners.¹ While

¹ The layout for the residential project as depicted on the Concept Plan presented to the Planning Board during its meeting on October 7, 2020 would result in an impact of 0.30 acres to the on-site jurisdictional federal wetlands.

Correspondence to William Clark, Planning Board Chairman

November 9, 2020

Page 2 of 4

this concern could be addressed via the recording of a Declaration of Restrictions at the Erie County Clerk's Office requiring the future homeowners to preserve the jurisdictional federal wetlands on the rear portions of the lots for single-family homes, the project team decided it was worthwhile to evaluate possible alternatives to the original Concept Plan that could potentially eliminate the wetland encroachment concern while also simultaneously increasing the amount of Permanent Open Space to be provided on the R-1 zoned portion of the Project Site located behind existing homes on Wilson Drive.

II. Updated Concept Plan Presented to the Planning Board during its Meeting on November 4, 2020:

The enclosed full size copy of the updated Concept Plan [Drawing C-100 – Date: 11/02/20] depicts the proposed modifications to the layout of the residential project as presented to the Planning Board during its meeting on November 4th. The updated Concept Plan increases the acreage to be rezoned to R-3 from 16.4 acres to 22.4 acres by including approximately 6 acres of the portion of the Project Site currently zoned R-1 within the acreage to be rezoned.

The portion of the Project Site to be rezoned to R-3 would consist of a total of 156 attached residential units for lease (2-story buildings consisting of 64 units with attached garages on the portion of the Project Site closest to Big Tree Road and single-story building consisting of 92 units with attached garages on the remaining acreage to be rezoned to R-3). Pursuant to the updated Concept Plan, the previously proposed eighteen (18) lots residential subdivision with a public roadway connecting to Big Wilson Drive would be eliminated and replaced with additional Permanent Open Space that would ensure that no development will occur behind any of the existing homes on Wilson Drive. Pursuant to the layout depicted on the updated Concept Plan, the Permanent Open Space to remain undeveloped would consist of 20.1 acres, or nearly 50% of the Project Site.

The Project Sponsor believes that the updated Concept Plan [Drawing C-100 – Date: 11/02/20] as presented during the Planning Board meeting on November 4th is preferable to the previous Concept Plan that included an eighteen (18) lot residential subdivision for several reasons including the following:

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 October 7th 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. In connection with the requested rezoning of 22.4 acres

Correspondence to William Clark, Planning Board Chairman

November 9, 2020

Page 3 of 4

of the Project Site from C-1 and R-1 to R-3, it would be acceptable to the Project Sponsor if the Planning Board recommends that the Town Board impose a zoning condition requiring that a Declaration of Restrictions be recorded at the Erie County Clerk's Office prohibiting any future residential development within the 20.1 acres of Permanent Open Space. The Declaration of Restrictions would be recorded at the Erie County Clerk's Office once the Project Sponsor acquires ownership of the Project Site.²

5. The updated Concept Plan reduces the impact to the jurisdictional wetlands from 0.30 acres to only 0.04 acres.
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.
7. The updated Concept Plan would accommodate the relocation of the snowmobile trail on the R-1 zoned portion of the Project Site.

III. Conclusion:

The updated Concept Plan will be presented to the Planning Board during its work session to be held on Wednesday, November 18th. If the Planning Board expresses a preference for the layout depicted on the updated Concept Plan that eliminates the previously proposed eighteen (18) lot residential subdivision, an Amended Rezoning Application including a completed Part 1 of the Full Environmental Assessment Form will be prepared and filed so that the Town Board can consider referring the requested rezoning of 22.4 acres of the Project Site from C-1 and R-1 to R-3 to the Planning Board for its review and a recommendation to the Town Board at a future meeting.³

Please feel free to contact me at 510-4338 or via e-mail if you have any questions regarding this letter or the enclosed updated Concept Plan [Drawing C-100 – Date: 11/02/20] for the proposed residential project.

Thank you for taking the time to review this letter and the enclosed updated Concept Plan for the proposed residential project.

² If the Town Board prefers that a Conservation Easement be conveyed to the Town containing language prohibiting any future development in the proposed 20.1 acres of Permanent Open Space, this would also be acceptable to the Project Sponsor.

³ The coordinated environmental review of the proposed residential project pursuant to the State Environmental Quality Review Act (“SEQRA”) has not yet occurred since the Project Sponsor decided to wait to submit a completed Part 1 of the Full Environmental Assessment Form until after the Planning Board expresses its preference for either the original Concept Plan presented on October 7th or the updated Concept Plan as presented on November 4th.

Correspondence to William Clark, Planning Board Chairman

November 9, 2020

Page 4 of 4

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
Christopher Wood, P.E., Carmina Wood Morris DPC

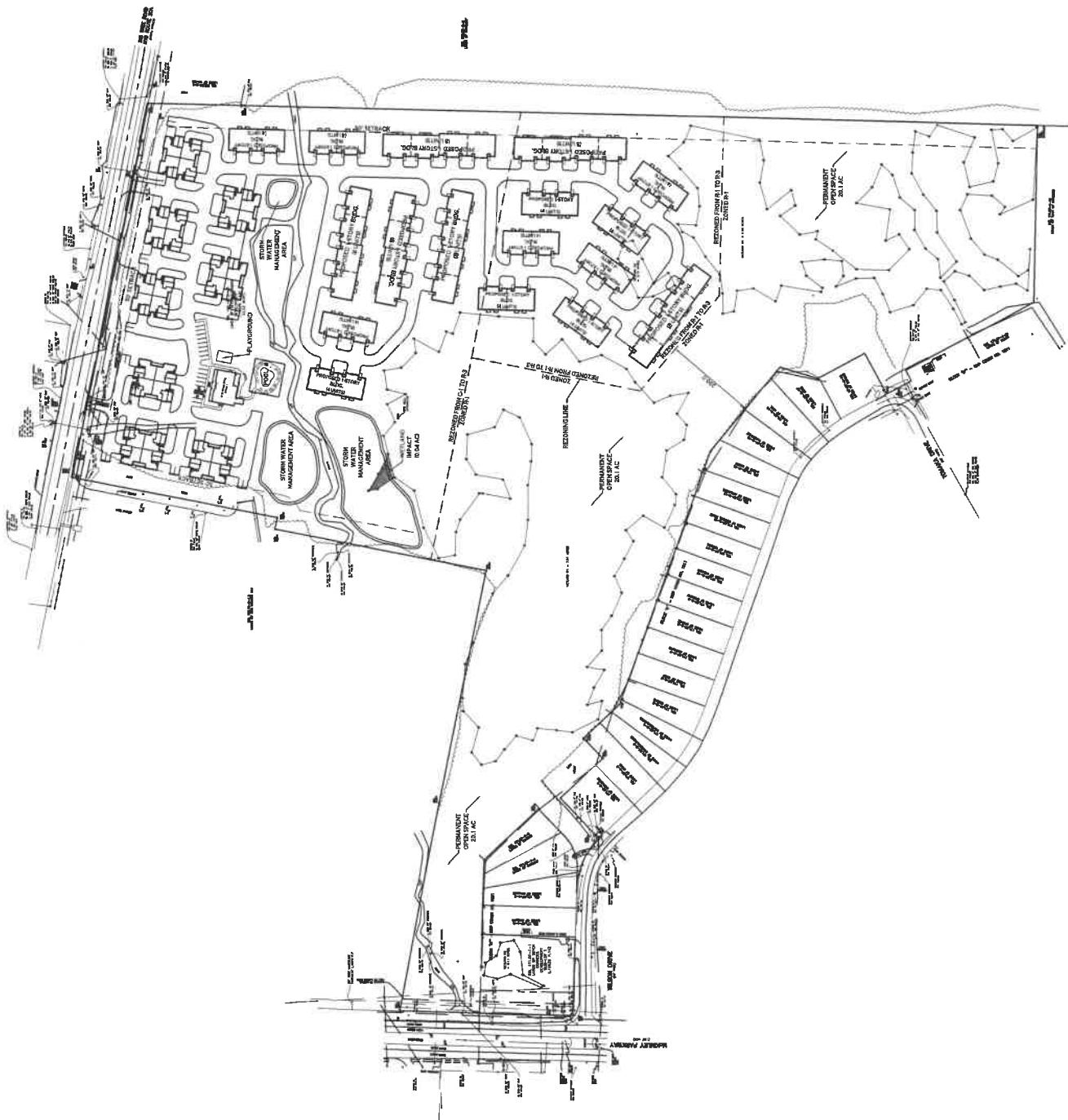
**Exhibit 1 – Updated Concept Site
Plan [Drawing C-100 – Date: 11/02/20] as
Prepared by Carmina Wood Morris DPC**



Carmina
Wood
Morris
102 Main Street
Binghamton, New York 13901
P: 601.722.2121
F: 601.722.2122

Multi-Family Development
New Construction
Big Tree Road
Town of Hamberg, New York
PROJECT NAME
REVISONS: Date: 06/06
Design: C. Wood
Scale: AS Required
DRAWING NO.: C-100
Project no.: 20.052

SITE DATA - R-3 AREA	
SITE AREA: 0.24 AC. REQUIRED TO 0.18 AC ZONED TO BE SECURED FROM TOPS, SIDE, AND BOTTOM TO ATTACHMENT POINTS. ATTACHED SURFACES MAY NOT EXCEED 10 FT. IN LENGTH.	
DESCRIPTION: RESIDENTIAL	
SURFACES: RESIDENTIAL	
STRUCTURES: RESIDENTIAL	
PERIODICAL: BETWEEN ERECTED WALLS OR PLATES. STRUCTURE OR PLATE OR PLATE	
GROUNDBREAK: INTERIOR TO PARKING AREA.	
TOTAL SITE: 0.18 AC. PARCELS: PARCELS: 0.0 SPACES FOR COLONIZATION BELOW LOT NUMBER AT FRONT LINE: 200.0 FT HON. 175.0 FT	
PERMANENT OPEN SPACE: 20.0 AC.	
RECONCILE: REFINED FROM PLAT TO 0.18 AC. PERMANENT OPEN SPACE: 20.0 AC.	



**Exhibit 2 – Color Aerial Photograph of Project
Site from Erie County GIS**



Erie County On-Line Mapping Application



Legend

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

0 0.14 0.3 Miles
WGS_1984_Web_Mercator_Auxiliary_Sphere
THIS MAP IS NOT TO BE USED FOR NAVIGATION

ERIE COUNTY
DEPARTMENT OF ENVIRONMENT & PLANNING
OFFICE OF GIS

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

1: 9,028



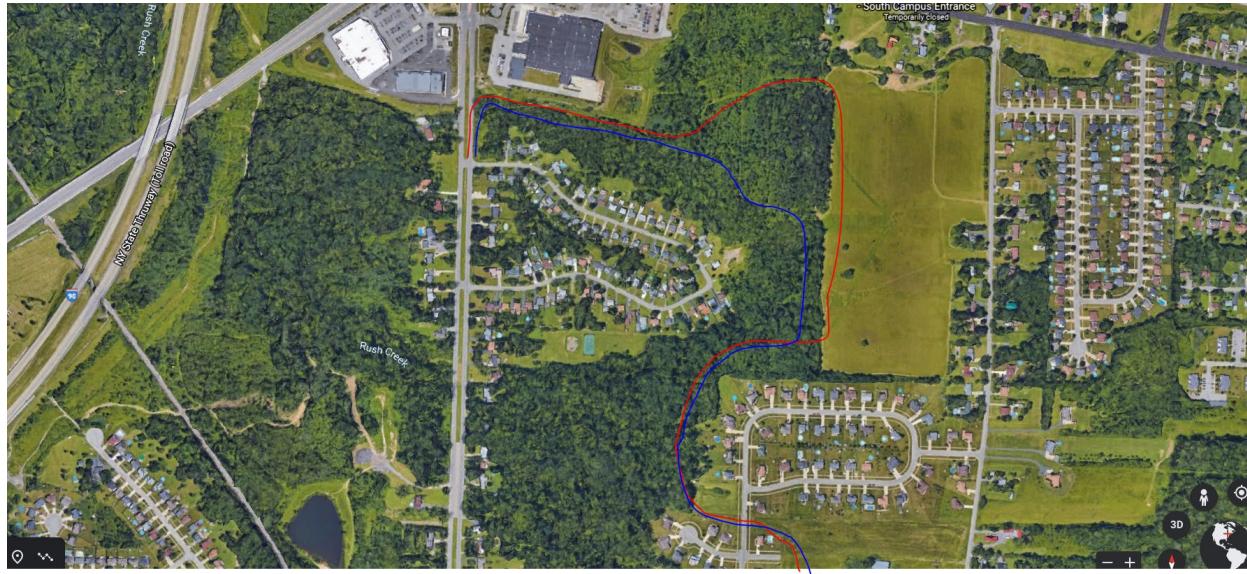
**Exhibit 3 – Concept Plan [Drawing C-100 –
Date: 08/25/20] as Prepared by Carmina
Wood Morris DPC**

from Sarah desJardins to Sean H...
dated October 08, 2020,
regarding an outreach effort made by S...
desJardins to the Sled HSC snow...
Organization d...

From: Sarah desjardins
To: Sean Hopkins
Subject: Fwd: proposed subdivision that will affect a snowmobile trail
Date: Thursday, October 08, 2020 5:56:27 PM
Attachments: image001.jpg
image002.jpg
image003.jpg

Sarah Desjardins

From: Jason Larson <jlarson@jitny.com>
Sent: Thursday, October 8, 2020 1:55 PM
To: Sarah desjardins
Subject: RE: proposed subdivision that will affect a snowmobile trail



Jason Larson

Sales Manager, JIT

Office: 716-893-6105 | Cell: 716-490-2275

jlarson@jitny.com | www.jitny.com

999 Harlem Rd, West Seneca, 14224



From: Sarah desjardins <sdesjard@townofhamburgny.com>
Sent: Thursday, October 8, 2020 1:00 PM
To: sledhc@gmail.com
Subject: proposed subdivision that will affect a snowmobile trail

Hi,

The Town of Hamburg Planning Board has received a request to develop property that has a snowmobile trail running through it. Would it be possible for me to discuss it with someone from your organization to see what the impact to the club would be?

I can be reached via email or via phone at 649-2023. Thank you!

Sarah desjardins
Planning Department
Town of Hamburg

Appendix D2

Evidence After the Positive Response

Appendix D2

Evidence After the Positive Response

Letter from Sean Hopkins to Joshua Rogo
dated May 17, 2023,

Enclosed is a copy of the Nationwide Permit No. 2
issued by the USACE
dated May 11, 2023.



May 17, 2023

Joshua Rogers, Planner
Town of Hamburg Planning Department
6100 South Park Avenue
Hamburg, New York 14075

Re: Proposed Wetzl Multifamily Project
Applicant/Project Sponsor: Wetzl Development, LLC
Town of Hamburg Planning Board
File No. 10001.12

Dear Josh:

Enclosed is a copy of the Nationwide Permit No. 29 as issued by the United States Army Corps of Engineers (“USACE”) on May 11, 2023 for the purpose of authorizing impacts to 0.04 acres of jurisdictional federal wetlands and 40 linear feet of Rush Creek in connection with the proposed multifamily project

Please feel free to contact me with any questions at 716.510-4338 or via e-mail.

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

A handwritten signature in blue ink that reads "Sean W. Hopkins".

Sean W. Hopkins, Esq.

Enc.

cc: Andrew C. Reilly
Glenn Wetzl, Wetzl Development, LLC [Via mail w/enclosure]
Christopher Wood, P.E., Carmina Wood Design
Scott Livingstone, Earth Dimensions Inc.



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

May 11, 2023

Regulatory Branch

SUBJECT: Application No.: 2020-00749, Nationwide Permit No.: 29 as Published in the Federal Register, Volume 86, No. 8 on Jan. 13, 2021 and No. 245 on Dec. 27, 2021

Glenn Wetzl
7071 Liebler Road
Colden, NY 14033

Mr. Wetzl:

This pertains to your proposal to permanently fill 0.04 acres of federally jurisdictional wetland and impact 40 linear feet of Rush Creek with culvert installation for the construction of a residential development, located at 0 Big Tree Road, in the Town of Hamburg, County of Erie and State of New York. Center coordinates: 42° 46' 0.768"N and -78° 48' 21.312"W.

I have evaluated the impacts associated with your proposal, and have concluded that they are authorized by the enclosed Nationwide Permit (NWP) provided that the attached conditions are satisfied.

Verification of the applicability of this NWP is valid until March 14, 2026 unless the NWP is modified, suspended, revoked, or the activity complies with any subsequent permit modification. Please note in accordance with 33 CFR part 330.6(b), that if you commence or are under contract to commence an activity in reliance of the permit prior to the date this NWP expires, is suspended or revoked, or is modified such that the activity no longer complies with the terms and conditions, you have twelve months from the date of permit modification, expiration, or revocation to complete the activity under the present terms and conditions of the permit, unless the permit has been subject to the provisions of discretionary authority.

It is your responsibility to remain informed of changes to the NWP program. A public notice announcing any changes will be issued when they occur and will be available for viewing at our website: <http://www.lrb.usace.army.mil/Missions/Regulatory.aspx>. Finally, note that if your activity is not undertaken within the defined period or the project specifications have changed, you must immediately notify this office to determine the need for further approval or reverification.

Your initiation of work as authorized by the enclosed NWP acknowledges your acceptance of the general and special conditions contained therein. This affirmation is limited to the attached NWP and associated WQC, and does not obviate the need to obtain any other project specific Federal, state, or local authorization. Specifically, you may need to obtain Article 15 (Protection of Water), Article 24 (Freshwater Wetland), and/or Article 34 (Coastal Erosion Management) authorization from the New York State DEC.

Regulatory Branch

SUBJECT: Application No.: 2020-00749, Nationwide Permit No.: 29 as Published in the Federal Register, Volume 86, No. 8 on Jan. 13, 2021 and No. 245 on Dec. 27, 2021

In addition to the general conditions attached to the NWP, your attention is directed to the following Special Conditions which are also appended at the end of the NWP.

1. To reduce any potential adverse effects on the federally-endangered Northern long-eared bat (*Myotis septentrionalis*), trees (woody stems > 3 inches Diameter at Breast Height) must not be cut between April 1 and September 30 of any year.

Questions pertaining to this matter should be directed to me at 716-879-4346, by writing to the following address: U.S. Army Corps of Engineers Regulatory Branch, 1776 Niagara Street, Buffalo, New York, 14207 or by e-mail at: martin.h.crosson@usace.army.mil.

Sincerely,

Martin Crosson 5/11/2023

Martin Crosson
Biologist

COMPLETION FORM / COMPLIANCE CERTIFICATION

Each permittee who receives a Nationwide Permit (NWP) verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and any compensatory mitigation.

APPLICANT:	POINT OF CONTACT:	File No.: 2020-00749
Glenn Wetzl	Scott Livingstone	File Closed: May 11, 2023
7071 Liebler Road	Earth Dimensions, Inc.	NWP No.: 29
Colden, NY 14033	1091 Jamison Road	
	Elma, NY 14059	

Upon completion of the activity authorized by this permit and any required compensatory mitigation sign this certification and return it to the address listed below within 30 days of project completion.

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, revocation, and/or assessment of administrative penalties.

The permittee shall certify the completion of the authorized work and mitigation:

- a. The authorized work was done in accordance with the NWP authorization, including any general, regional, or activity specific conditions.
- b. The implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, this certification must include the documentation required by 33 CFR 332.3(1)(3) to confirm that the permittee secured the appropriate number and resource type of credits.

Glenn Wetzl

Date

Permittee Telephone Number: _____

Project Location/Description/Authorized Impacts: fill 0.04 acres of federally jurisdictional wetland; impact 40 linear feet of Rush Creek with culvert installation; construction of a residential development, located at 0 Big Tree Road, in the Town of Hamburg, County of Erie and State of New York. Center coordinates: 42° 46' 0.768"N and -78° 48' 21.312"W.

Return completed form to: LRB.Regulatory.PermitCompliance@usace.army.mil (Preferred)

Or Mail to: Mr. David Leput
Regulatory Branch
U.S. Army Corps of Engineers
1776 Niagara Street
Buffalo, NY 14207

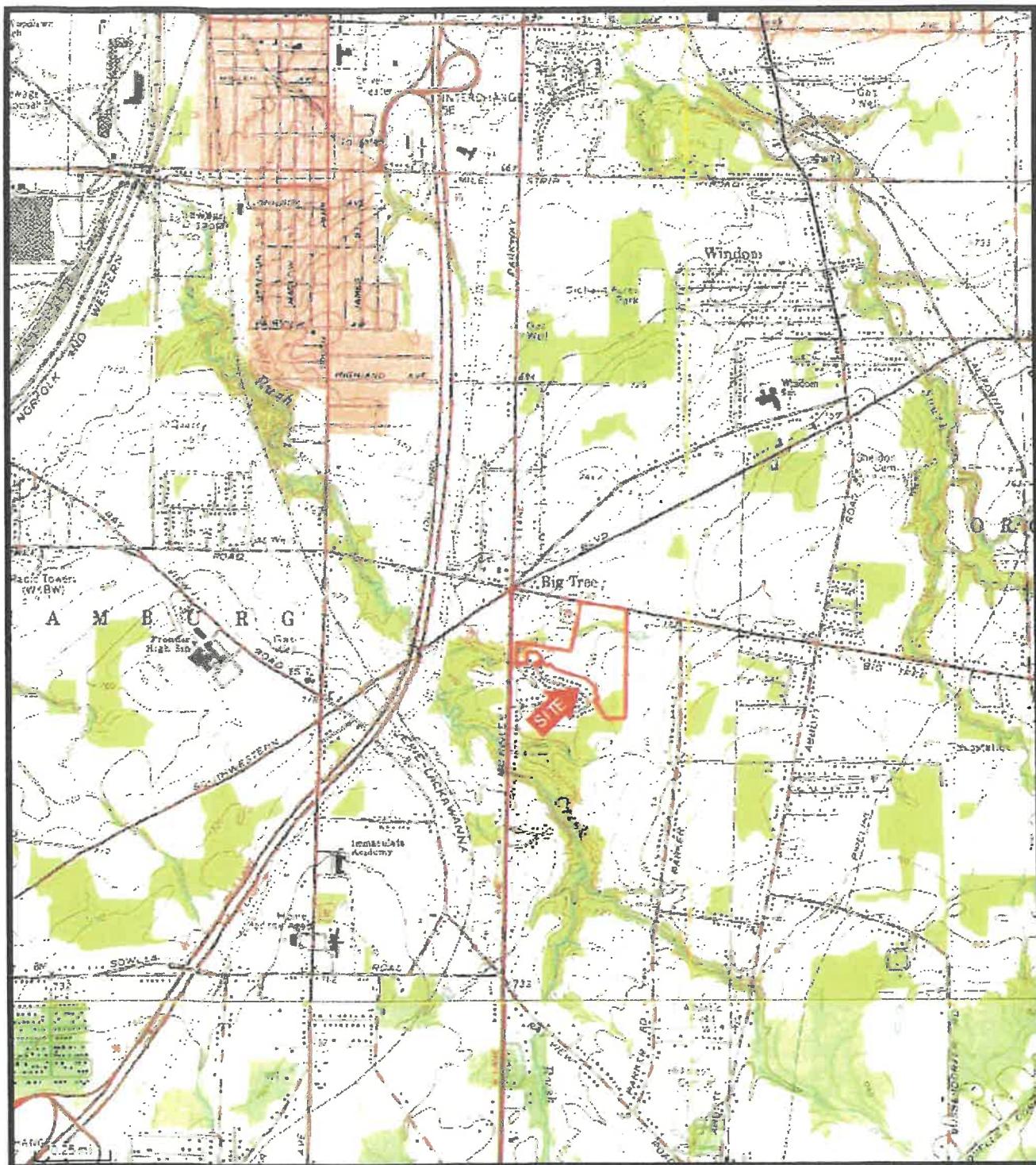


FIGURE 1: USGS 7.5 MINUTE TOPOGRAPHICAL MAP

Buffalo SE Quadrangle / 2002 DeLorme

0 Big Tree Road & 0 Wilson Drive

Town of Hamburg, Erie County, New York

USACE Permit No.: 2020-00749

Glenn Wetzl

Erie County New York

Sheet 1 of 2

USACE Permit No.: 2020-00749
Glenn Wetzl
Erie County New York
Sheet 2 of 2



NOTE: BACKLASH AND TOOTH-SLIP INFORMATION PROVIDED BY OTHER CARRIAGE WOOD MANUFACTURERS ARE NOT RECOMMENDED FOR ITS ACCURACY.

PROJECT NAME:		REVISIONS:	
New Construction		No.	Description
Proposed Development		Date	
Big Tree Road			
Town of Hamburg, New York			
DRAWING NO.	Carmine Wood		
C-100	Morris		
Project No.: 200-002	Date Drawn:	1922/2	Architect:
Drawn By:	At No.:		
DRAWING NAME:	Concept Site Plan		



**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and
Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Expiration March 14, 2026**

Table of Contents:

- A. Nationwide Permits Index**
- B. Nationwide Permit 29 – Residential Developments**
 - Specific NWP terms and notification requirements
 - Buffalo & New York Districts Specific NWP Regional Conditions
 - Specific NWP Water Quality Certification
 - NYSDOS Specific NWP Coastal Zone Consistency Determination
- C. Nationwide Permit General Conditions 1-32**
- D. District Engineer's Decision**
- E. Further Information**
- F. Definitions**
- G. Buffalo and New York District Regional General Conditions A-F (applicable to all NWPs)**
- H. NYSDEC General Water Quality Conditions (applicable to all NWPs for which Water Quality Certification has been provided)**
- I. NYSDOS Coastal Zone Management Consistency Additional Information (applicable to all projects located within the NYS Coastal Zone)**
- J. Information on Nationwide Permit Verification**
- K. Agency Contact Information**

ENCLOSURE 1: New York State Regulatory District Boundary Map

ENCLOSURE 2: NYC Water Supply – East of Hudson Watershed (for NY District Regional Conditions)

ENCLOSURE 3: Commercial Mooring Buoy Application Additional Information (for NY District Regional Conditions – not applicable within Buffalo District)

ENCLOSURE 4: Incident Report of Sea Turtle Take (for NY District Regional Conditions – not applicable within Buffalo District)

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and
Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Expiration March 14, 2026**

A. Nationwide Permits Index:

- 12. Oil or Natural Gas Pipeline Activities
- 21. Surface Coal Mining Activities
- 29. Residential Developments
- 39. Commercial and Institutional Developments
- 40. Agricultural Activities
- 42. Recreational Facilities
- 43. Stormwater Management Facilities
- 44. Mining Activities
- 48. Commercial Shellfish Mariculture Activities
- 50. Underground Coal Mining Activities
- 51. Land-Based Renewable Energy Generation Facilities
- 52. Water-Based Renewable Energy Generation Pilot Projects
- 55. Seaweed Mariculture Activities
- 56. Finfish Mariculture Activities
- 57. Electric Utility Line and Telecommunications Activities
- 58. Utility Line Activities for Water and Other Substances

B. Nationwide Permits

29. Residential Developments. Discharges of dredged or fill material into non-tidal waters of the United States for the construction or expansion of a single residence, a multiple unit residential development, or a residential subdivision. This NWP authorizes the construction of building foundations and building pads and attendant features that are necessary for the use of the residence or residential development. Attendant features may include but are not limited to roads, parking lots, garages, yards, utility lines, storm water management facilities, septic fields, and recreation facilities such as playgrounds, playing fields, and golf courses (provided the golf course is an integral part of the residential development).

The discharge must not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters.

Subdivisions: For residential subdivisions, the aggregate total loss of waters of United States authorized by this NWP cannot exceed 1/2-acre. This includes any loss of waters of the United States associated with development of individual subdivision lots.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. (See general condition 32.) (Authorities: Sections 10 and 404)

Permit-specific Regional Conditions (Buffalo and New York Districts):

- a. The proposed impacts to waters of the United States shall include those direct impacts associated with construction of the proposed project, as well as any indirect impacts which may occur as a result of the project (e.g., filling waters of the United States to increase size of usable yard space, impacts to existing hydrologic regimes, etc.).
- b. This NWP may not be used in New York State for the discharge of dredged or fill material into open water areas of lakes or rivers which converts the area to dry land.
- c. Whenever a multiple-lot subdivision is submitted to the Corps of Engineers for review, it must be designed, to the maximum extent practicable, such that wetlands are not located on the resulting individual lots. If the applicant cannot design the subdivision in accordance with this requirement, the Pre-Construction Notification (PCN) must include a discussion as to why this requirement cannot be accomplished, along with a detailed description as to how the wetland areas on each individual lot will be adequately protected.
 - i. All areas within the multiple-lot subdivision that are components of compensatory mitigation, including

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and
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waters of the United States and associated upland buffers, must be covered by a conservation easement or other legal protective covenant.

ii. For all other waters of the United States, following completion of work authorized by this nationwide permit, a copy of this permit and regional conditions, along with permit drawings showing the locations of waters of the United States, must be provided with the deed to all individual lots that will contain waters of the United States.

New York District Only Permit-specific Regional Conditions:

d. This NWP is not applicable for activities located in the following areas:

1. The Great Swamp in Putnam and Dutchess Counties
2. Mianus River and adjacent wetlands
3. Harbor Herons System in Staten Island, New York. For additional information on the Harbor Herons System, please see the New York State Department of Environmental Conservation website at: https://www.dec.ny.gov/docs/wildlife_pdf/bcahherons.pdf or contact the Trust for Public Land at the following address:

The Trust for Public Land
Mid-Atlantic Regional Office
666 Broadway
New York, N.Y. 10012

e. Within Essential Fish Habitat (EFH) or within areas supporting anadromous fish migration and spawning, as discussed in Section G-E.8. below, sediment removal and pile and sheet pile/cofferdam installation and removal shall be avoided from March 1 to June 30 of any year. Work within cofferdams can proceed any time during the year provided that the cofferdams are installed or removed outside of the seasonal work restriction. Justification must be submitted as part of the required PCN if a variance of this seasonal work window is requested.

Section 401 Water Quality Certification (WQC):

The WQC has been denied for this NWP by the following certifying authorities:

- i. New York State Department of Public Services (NYSDPS) for activities that relate to the construction and operation of major natural gas or electric transmission facilities undertaken pursuant to New York State Public Service Law (PSL) Article VII.
- ii. New York State Office of Renewable Energy Siting (NYSORES) for activities that relate to the construction and operation of major renewable electric generating facilities undertaken pursuant to New York State Executive Law Article 6, Section 94-C.
- iii. New York State Board on Electric Generation Siting and the Environment (Siting Board) for activities that relate to new and repowered or modified major electric generating facilities of 25 megawatts or more undertaken pursuant to PSL Article 10.
- iv. U.S. Environmental Protection Agency (USEPA), as the certifying agency for the seven federally recognized Indian Nations in New York (Cayuga Nation, Onondaga Nation, Oneida Nation of Indians, Seneca Nation of Indians, Shinnecock Indian Nation, Tonawanda Seneca Nation, and Tuscarora Nation) for all activities occurring on these tribal lands.
- v. Saint Regis Mohawk Tribe for all activities occurring on Saint Regis Mohawk Tribal land.

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and
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The New York State Department of Environmental Conservation (NYSDEC) has granted blanket WQC, for those activities not outlined above, provided that the project complies with all the Special Conditions listed below and General Conditions listed below in Section H. Where the Special Conditions differ from the General Conditions, the Special Conditions shall prevail.

NYSDEC WQC NWP #29 Special Condition:

- a) This certification does not authorize the construction of new residential development projects in wetlands located within a FEMA designated 100-year floodplain.

Any party proposing to conduct the activities authorized by this NWP where the WQC has been denied or that cannot comply with all of the NYSDEC WQC conditions must apply for and obtain an individual WQC or waiver thereof from the appropriate certifying authority. Refer to Section K below for agency contact information.

New York State Department of State Coastal Zone Management Consistency Determination:

Pursuant to 15 CFR Parts 930.41 and 930.43, the New York State Department of State (NYSDOS) objected to the USACE's consistency determination for this NWP anywhere in the New York coastal area. Activities authorized pursuant to this Nationwide Permit shall be submitted to NYSDOS for review by the applicant. NYSDOS will review the proposed activities pursuant to 15 CFR Part 930 Subpart D. NYSDOS concurrence with an applicant's consistency certification shall not be presumed unless NYSDOS fails to concur with or object to an applicant's consistency certification within six (6) months of commencement of NYSDOS' review of an applicant's consistency certification and all necessary data and information in accordance with 15 CFR § 930.62 or § 930.63. See Section I below for further information.

C. Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.

- (b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.
- (c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area,

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and
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unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Structures and Fills. Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

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15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers. (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. Permittees shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: <http://www.rivers.gov/>.

17. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which “may affect” a listed species or critical habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of “effects of the action” for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding “activities that are reasonably certain to occur” and “consequences caused by the proposed action.”

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated

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critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. For activities where the non-Federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have "no effect" on listed species (or species proposed for listing or designated critical habitat (or critical habitat proposed for such designation), or until ESA section 7 consultation or conference has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation or conference with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWPs.

(e) Authorization of an activity by an NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.nmfs.noaa.gov/pr/species/esa/> respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties. (a) No activity is authorized under any NWP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

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(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)(1)). If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect.

(d) Where the non-Federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (AHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the AHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

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21. Discovery of Previously Unknown Remains and Artifacts. Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by an NWP, they must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

- (a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.
- (b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed by permittees in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after she or he determines that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

- (a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).
- (b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.
- (c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.
- (d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for

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losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f).)

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). If permittee-responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

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(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state or federal, dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. (a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed discharge must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires pre-construction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

(c) The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

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26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its CWA section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:

(a) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

(b) If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed their respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States for the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

(Transferee)

(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement

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of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

- (a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;
- (b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and
- (c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a “USACE project”), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification.

(a) **Timing.** Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

- (1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or
- (2) 45 calendar days have passed from the district engineer’s receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is “no effect” on listed species or “no potential to cause effects” on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee’s right to

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proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed activity;
- (3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;
- (4) (i) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures.
 - (ii) For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs.
 - (iii) Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);
- (5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial and intermittent streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;
- (6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.
- (7) For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such

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designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the "study river" (see general condition 16); and

(10) For an NWP activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.

(c) **Form of Pre-Construction Notification:** The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) **Agency Coordination:**

(1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iii) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated

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with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

D. District Engineer's Decision

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the single and complete crossings of waters of the United States that require PCNs to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings of waters of the United States authorized by an NWP. If an applicant requests a waiver of an applicable limit, as provided for in NWPs 13, 36, or 54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects.

2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by an NWP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

3. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for NWP activities with smaller impacts, or for impacts to other types of waters. The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed activity are no more than minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are no more than minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR

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332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure that the NWP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the NWP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will provide a timely written response to the applicant. The response will state that the NWP activity can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

4. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the applicant either: (a) that the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the activity is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse environmental effects, the activity will be authorized within the 45-day PCN period (unless additional time is required to comply with general conditions 18, 20, and/or 31), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

E. Further Information

1. District engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project (see general condition 31).

F. Definitions

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory mitigation: The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

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Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Direct effects: Effects that are caused by the activity and occur at the same time and place.

Discharge: The term “discharge” means any discharge of dredged or fill material into waters of the United States.

Ecological reference: A model used to plan and design an aquatic habitat and riparian area restoration, enhancement, or establishment activity under NWP 27. An ecological reference may be based on the structure, functions, and dynamics of an aquatic habitat type or a riparian area type that currently exists in the region where the proposed NWP 27 activity is located. Alternatively, an ecological reference may be based on a conceptual model for the aquatic habitat type or riparian area type to be restored, enhanced, or established as a result of the proposed NWP 27 activity. An ecological reference takes into account the range of variation of the aquatic habitat type or riparian area type in the region.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

High Tide Line: The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Independent utility: A test to determine what constitutes a single and complete non-linear project in the Corps Regulatory Program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Indirect effects: Effects that are caused by the activity and are later in time or farther removed in distance, but are still reasonably foreseeable.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. The loss of stream bed includes the acres of stream bed that are permanently adversely affected by filling or excavation because of the

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regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters or wetlands for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities that do not require Department of the Army authorization, such as activities eligible for exemptions under section 404(f) of the Clean Water Act, are not considered when calculating the loss of waters of the United States.

Navigable waters: Waters subject to section 10 of the Rivers and Harbors Act of 1899. These waters are defined at 33 CFR part 329.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open water: For purposes of the NWPs, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of flowing or standing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of “open waters” include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: The term ordinary high water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Perennial stream: A perennial stream has surface water flowing continuously year-round during a typical year.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification: A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

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Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands next to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 23.)

Shellfish seeding: The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

Single and complete linear project: A linear project is a project constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waterbodies at separate and distant locations. The term “single and complete project” is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

Single and complete non-linear project: For non-linear projects, the term “single and complete project” is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete non-linear project must have independent utility (see definition of “independent utility”). Single and complete non-linear projects may not be “piecemealed” to avoid the limits in an NWP authorization.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

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Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized jurisdictional stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tidal wetland: A tidal wetland is a jurisdictional wetland that is inundated by tidal waters. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line.

Tribal lands: Any lands title to which is either: 1) held in trust by the United States for the benefit of any Indian tribe or individual; or 2) held by any Indian tribe or individual subject to restrictions by the United States against alienation.

Tribal rights: Those rights legally accruing to a tribe or tribes by virtue of inherent sovereign authority, unextinguished aboriginal title, treaty, statute, judicial decisions, executive order or agreement, and that give rise to legally enforceable remedies.

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: For purposes of the NWPs, a waterbody is a "water of the United States." If a wetland is adjacent to a waterbody determined to be a water of the United States, that waterbody and any adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)).

G. Buffalo and New York District General Regional Conditions
These conditions apply to ALL Nationwide Permits.

G-A. Construction Best Management Practices (BMPs): Unless specifically approved otherwise through issuance of a variance by the District Engineer, the following BMPs must be implemented to the maximum degree practicable, to minimize erosion, migration of sediments, and adverse environmental impacts. Note that at a minimum, all erosion and sediment control and stormwater management practices must be designed, installed and maintained throughout the entire construction project in accordance with the latest version of the *New York Standards and Specifications for Erosion and Sediment Control* and the *New York State Stormwater Management Design Manual*. These documents are available at: <http://www.dec.ny.gov/chemical/29066.html> and <http://www.dec.ny.gov/chemical/29072.html>, respectively. Prior to the discharge of any dredged or fill material into waters of the United States, including wetlands, authorized by NWP, the permittee must install and maintain erosion and sedimentation controls in and/or adjacent to wetlands or other waters of the United States.

1. All synthetic erosion control features (e.g., silt fencing, netting, mats), which are intended for temporary use during construction, shall be completely removed and properly disposed of after their initial purpose has been served. Only natural fiber materials, which will degrade over time, may be abandoned in place.

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2. Materials resulting from trench excavation for utility line installation or ditch reshaping activities which are temporarily sidecast or stockpiled into waters of the United States must be backfilled or removed to an upland area within 30 days of the date of deposition. Note: Upland options shall be utilized prior to temporary placement within waters of the U.S., unless it can be demonstrated that it would not be practicable or if the impacts of complying with this upland option requirement would result in more adverse impacts to the aquatic environment.
3. For trenching activities in wetlands the applicant shall install impermeable trench dams or trench breakers at the wetland boundaries and every 100 feet within wetland areas to prevent inadvertent drainage of wetlands or other waters of the United States.
4. Dry stream crossing methods (e.g., diversion, dam and pump, flume, bore) shall be utilized for culvert or other pipe, or utility installations to reduce downstream impacts from turbidity and sedimentation. This may require piping or pumping the stream flow around the work area and the use of cofferdams.
5. No in-stream work shall occur during periods of high flow, except for work that occurs in dewatered areas behind temporary diversions, cofferdams, or causeways.
6. Construction access and staging areas shall be by means that avoid or minimize impacts to aquatic sites (e.g. use of upland areas for access & staging, floating barges, mats, etc.). Discharges of fill material associated with the construction of temporary access roads, staging areas and work pads in wetlands shall be placed on filter fabric. All temporary fills shall be removed upon completion of the work and the disturbed area restored to pre-construction contours, elevations and wetland conditions, including cover type. All vegetation utilized in the restoration activity shall consist of native species.
7. All return flow from dredged material disposal areas shall not result in an increase in turbidity in the receiving water body that will cause a substantial visible contrast to natural conditions. (See NWP #16)
8. For activities involving the placement of concrete into waters of the U.S., the permittee must employ watertight forms. The forms shall be dewatered prior to the placement of the concrete. The use of tremie concrete is allowed, provided that it complies with New York State water quality standards.
9. New stormwater management facilities shall be located outside of waters of the U.S. A variance of this requirement may be requested with the submission of a PCN. The PCN must include justification which demonstrates that avoidance and minimization efforts have been met.
10. To the maximum extent practicable, the placement of fill in wetlands must be designed to maintain pre-construction surface water flows/conditions between remaining on or off-site waters and to prevent draining of the wetland or permanent hydrologic alteration. This may require the use of culverts and/or other measures. Furthermore, the activity must not restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters). The activity may alter the pre-construction flows/conditions if it can be shown that it benefits the aquatic environment (i.e. wetland restoration and/or enhancement).
11. Stone aprons and scour protection placed in streams shall not extend higher than the stream bed in order to create a uniform grade and shall be filled with native stream bed material and supplemented with similarly sized material, if needed, to fill interstitial spaces to maintain water flow on the surface of the stream bed.

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G-B. CULVERTS

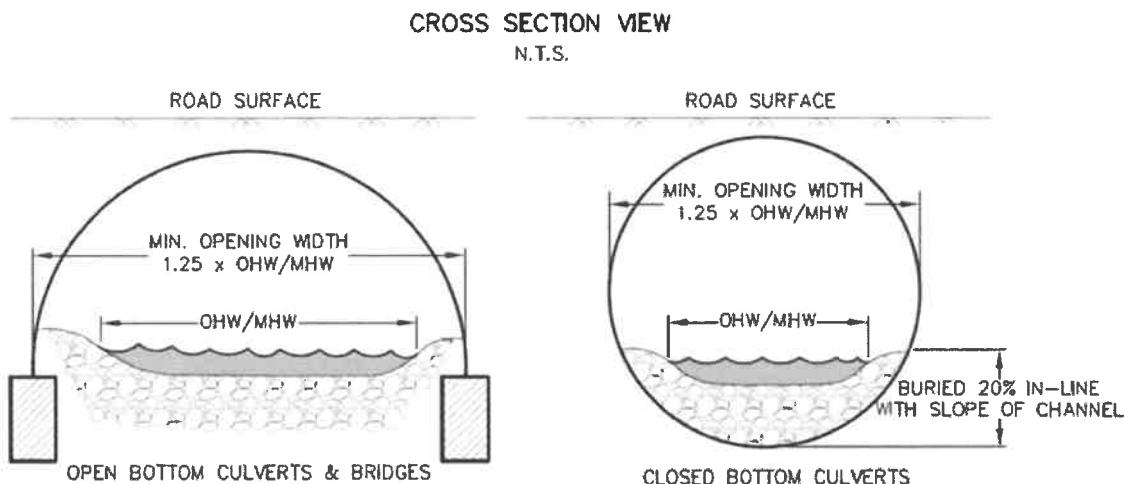
1. ALL NEW OR REPLACEMENT CULVERTS IN STREAMS, to the extent they are regulated, shall be constructed/installed in accordance with the following, in order to ensure compliance with NWP General Condition #2 – Aquatic Life Movement and #9 – Management of Water Flows:

- a. Size: Bank-full flows shall be accommodated through maintenance of the existing bank-full channel cross sectional dimensions within a single culvert. Bank-full width is generally considered to be the top width at the stage where a stream begins to overtop its banks and spread into the floodplain. A bottomless culvert or bridge must be used to span the stream channel where practicable. If the stream cannot be spanned, the culvert width shall be minimum of 1.25 times width of the stream channel at the ordinary high water, which is generally equivalent to the width of the channel during the 2-year design storm.
- b. Depth: To maintain low flow and aquatic life movement within culverts with a bottom, the culvert invert, including end sections, must be embedded. Specifically, the culvert must be installed with its bottom buried below the grade of the stream bed, as measured at the average low point, to a depth of a minimum of 20 percent of the culvert vertical rise (height) throughout the length of the culvert. (Note: When not practicable to do so due to small culvert size, it is acceptable to allow natural deposition to cover the interior of the culvert bed following placement of the culvert invert to the 20% depth.)
- c. The dimension, pattern, and profile of the stream above and below the stream crossing shall not be permanently modified by changing the width or depth of the stream channel.
- d. The culvert bed slope shall remain consistent with the slope of the adjacent stream channel.

Note 1: Use of the requirements alone will not satisfy the need for proper engineering and design. In particular, appropriate engineering is required to ensure structures are sized and designed to provide adequate capacity (to pass various flood flows) and stability (bed, bed forms, footings and abutments, both upstream and downstream). It is the permittee's responsibility to ensure the structure is appropriately designed.

Note 2: This condition does not apply to temporary culverts used for construction access that are in place for less than one construction season. However, compliance with General Conditions #2 and #9 still applies.

Note 3: For further guidance on identification of the Ordinary High Water mark, please see Regulatory Guidance Letter 05-05 available at: <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Guidance-Letters/>.



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Pre-Construction Notification (PCN) Requirements:

A PCN is required for projects that do not meet all of the above requirements. In addition to the PCN requirements of General Condition #32, the PCN must include the following information:

- i. A statement indicating which of the above requirements will not be met by the proposed project;
- ii. Information as to why the use of such structures or measures would not be practicable;
- iii. A brief description of the stream discussing:
 - Site specific information (i.e. stream bed slope, type and size of stream bed material, stream type, existing natural or manmade barriers, etc.) assessed to determine appropriate culvert design and to ensure management of water flows and aquatic life movement.
 - Evaluation of the replacement for its impacts on: downstream flooding, upstream and downstream habitat (in-stream habitat, wetlands), potential for erosion and headcutting, and stream stability.
 - Flow/storm event the proposed culvert is designed to pass (2-year, 50-year, etc.)
- iv. Cross sections of the stream used to calculate the stream bed low point and ordinary high water width, consisting of:
 - Stream channel cross sections shall be taken at proximal locations to the crossing location to determine the average of the lowest points in elevation of the stream bed and the average width at ordinary high water.
 - For new crossing locations, the average values from at least three measurements (project location and straight sections of the stream upstream and downstream) shall be used.
 - For replacement of an existing structure, the average values from at least two cross sections (straight sections of the stream upstream and downstream from the existing structure representative of the natural channel) shall be used. Note: sections should not be taken in the immediate vicinity of the structure as the channel width may be affected by the structure and not provide an accurate representation of the natural channel.
 - This average low point shall be used to ensure low flow is maintained through the culvert and from which all embedment depths are measured.
 - If the above cross section method was not practicable to use, an alternative method may be utilized. The PCN shall include justification for the method used including the data used and an explanation as to how it provides an equivalent measure.
- v. An evaluation of the effects the crossing would have on aquatic life movement and/or water flows; and
- vi. Mitigation measures that will be employed to minimize these effects. Mitigation measures may include, but are not limited to baffles, weirs, roughened channels, and grade control structures

A variance of the requirement(s) will be issued by the Corps if it can be demonstrated that the proposal would meet General Conditions #2 & #9 and would result in a less environmentally damaging practicable alternative (e.g. If compliance with any of the requirement(s) would result in detrimental impacts to the aquatic system then an alternate design should be proposed and a variance request submitted which outlines how compliance with the general conditions will be met.).

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2. ALL CULVERT REHABILITATION PROJECTS IN STREAMS, to the extent they are regulated, not including culvert replacement projects (See 1 above), shall be constructed in accordance with the following, in order to ensure compliance with NWP General Condition #2 – Aquatic Life Movement and #9 – Management of Water Flows:

- a. An evaluation of the existing culvert shall be conducted prior to the proposed culvert rehabilitation to determine if the existing culvert is in compliance with NWP GC #2 and #9. Specifically, the culvert shall be evaluated regarding its effect upon aquatic life movements and low/ high water flow. If the above requirements in General Regional Condition B.1 (a)-(e) are met, then the culvert is considered in compliance with NWP General Conditions #2 & # 9. (Potential evaluation methods to consider include: North Atlantic Aquatic Connectivity Collaborative (NAACC) (Note: Projects should not result in a reduction of the NAACC passability score by reducing passage or creating a barrier), US Forest Service Aquatic Organism Passage FishXing, etc.)
- b. A PCN is not required for projects that utilize cured-in-place pipe lining or other repair activities that do not raise the existing invert elevation such that it causes an impediment to the passage of either aquatic life movement or water flow, unless there is an existing impediment which will not be corrected by the proposed repair.
- c. A PCN is required for any culvert rehabilitation project that includes a culvert which is not in compliance with GC #2 and/or #9 (i.e. impedes aquatic life movement or water flow) and which will not be corrected by the proposed repair.
- d. A PCN is required for culvert rehabilitation projects which will involve pipe slip lining or other activities, including concrete invert paving and concrete lining that raise the existing invert elevation such that it causes an impediment to the passage of low flow or aquatic life movement. Slip lining is defined as the insertion of a smaller diameter pipe into an existing pipe by pulling, pushing, or spiral winding.

Preconstruction Notification (PCN) Requirements:

In addition to the PCN requirements of General Condition #32, the PCN must include the following information:

- i. A summary of the evaluation required in Item a. above including average ordinary high water channel width and a discussion of the impediment(s) to aquatic life movement and/or water flow.
- ii. Information as to how the proposal will mitigate for the impediment. Mitigation measures may include, but are not limited to baffles, weirs, roughened channels, and grade control structures.

G-C. No regulated activity authorized by a Nationwide Permit can cause the loss of areas classified as a bog or fen in the State of New York, as determined by the Buffalo or the New York District Corps of Engineers, due to the scarcity of this habitat in New York State and the difficulty with in-kind mitigation. The Districts will utilize the following document in the classification:

Reschke, C. March 2014. *Ecological Communities of New York State. Second Edition*. New York Natural Heritage Program, New York State Department of Environmental Conservation, Latham, N.Y. This document is available at the following location: <https://www.dec.ny.gov/animals/29384.html>.

G-D. National Wild and Scenic Rivers (NWSR): The Upper Delaware River has been designated as a National Wild and Scenic River from the confluence of the East and West Branches below Hancock, New York, to the existing railroad bridge immediately downstream of Cherry Island in the vicinity of Sparrow Bush, New York. Also, the portion of the Genesee River located within Letchworth Gorge State Park, beginning at the southern boundary of the park and extending downstream to the Mt. Morris Dam, was designated by Congress as a permanent Study River in the Genesee River Protection Act of 1989. In accordance with General Condition #16, no activity may occur within a NWSR, including Study Rivers, unless the National Park Service (NPS) has determined in writing that the proposed work will not adversely affect the NWSR designation or study status. Therefore, a PCN is

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required for any NWP which would impact the designated portions of the Genesee River or the Upper Delaware River, unless NPS has previously indicated the project will not adversely affect the waterway. (Note: the applicant may not commence work under any NWP until the NPS determines in writing that the project will not adversely affect the NWSR even if 45-days have passed since receipt of the PCN package.) Information regarding NWSR may be found at: <https://www.rivers.gov/new-york.php>

G-E. For all proposals requiring a pre-construction notification (PCN), in addition to the requirements in General Condition 32, the applicant should also include: (Note: inclusion of the materials will help expedite PCN review timeline.)

1. New York State/USACE Joint Application Form: The application form shall be completed and signed and shall clearly indicate that the submission is a PCN.

Buffalo District: <http://www.lrb.usace.army.mil/Missions/Regulatory/Application-Forms/>

New York District: <https://www.nan.usace.army.mil/Missions/Regulatory/Obtaining-a-Permit/>

2. Drawings: The PCN must include legible, project drawings on 8.5" x 11" paper. Full size drawings may be submitted in addition to the 8.5" x 11" plans to aid in the application review. Three types of illustrations are needed to properly depict the work to be undertaken. These illustrations or drawings are a Vicinity Map (i.e. a location map such as a USGS topographical map), a Plan View, and a Cross-Section Map. Each illustration should identify the project, the applicant, and the type of illustration (vicinity map, plan view or cross section). The Vicinity Map shall provide the location of the entire project site. In addition, each illustration should be identified with a figure or attachment number. The location map shall include the Latitude and Longitude or UTM coordinates of the project. For linear projects, the PCN shall include a map of the entire project including a delineation of all waters of the U.S. within the corridor. Aquatic resource information shall be submitted using the Cowardin Classification System mapping conventions (e.g. PFO, PEM, etc.)

3. Color photographs: The photos should be sufficient to accurately portray the project site, keyed to a location map and not taken when snow cover is present.

4. Avoidance and Minimization: The PCN should include a written narrative explaining how avoidance and minimization of temporary impacts and permanent losses of waters of the U.S. were achieved on the project site (i.e. site redesign, reduction in scope, alternate methods, etc.). It should include a description of the proposed construction practices that would be implemented to perform the proposed work and a description of the reasonably foreseeable direct and indirect effects to waters of the U.S. from the proposed construction practices.

5. Mitigation (See General Conditions 23 & 32(b)(6)): The PCN should include at least a conceptual compensatory mitigation plan for all projects resulting in the loss of greater than 1/10th of an acre of wetlands and/or 3/100th of an acre of stream. Mitigation conceptual plans submitted with the PCN must include the following information at a minimum: proposed compensation type (bank or in-lieu fee credit, restoration, creation, preservation, etc.), location and brief discussion on factors considered for site selection (i.e. soils, water source, potential for invasive species, etc.), amount proposed per resource type and a discussion of how the proposal will compensate for aquatic resource functions and services lost as a result of the project.

Note 1: All mitigation projects must comply with the Federal Regulations on compensatory mitigation (33 CFR 332) entitled "Compensatory Mitigation for Losses of Aquatic Resources: Final Rule", dated April 10, 2008, which is available at: https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/mitig_info/ and any applicable District Guidelines.

Note 2: Although a conceptual mitigation plan may be sufficient for the purposes of a PCN submission, a detailed mitigation plan must be approved by the Corps before any jurisdictional work may occur on the project site.

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Note 3: If more than 0.10 acres of designated EFH habitat (as discussed in Section G-E.8. below) would be impacted such that habitat would be lost, compensatory mitigation at a minimum ratio of 1:1 is required. A ratio of more than 1:1 may be required depending upon the ecological value of the habitat to be lost or degraded and the form of compensatory mitigation proposed to be provided.

Note 4: For additional information regarding natural stream channel design, please refer to <https://www.epa.gov/cwa-404/natural-stream-channel-design-techniques-and-review> for the Natural Stream Channel Design Techniques and Review Checklist as developed by U.S. EPA and U.S. Fish and Wildlife Service.

6. Nationwide Rivers Inventory: The PCN should indicate if a river segment listed within the National Park Service Nationwide Rivers Inventory (NRI) is located within the proposed project area. NRI river segments are potential candidates for inclusion in the National Wild and Scenic River System (See General Condition #16). For project areas containing a listed NRI segment, the PCN shall also include a statement as to how adverse effects to the river have been avoided or mitigated. The list is available at: <http://www.nps.gov/ncrc/programs/rca/nri/states/ny.html>.

7. Historic or Cultural Resources: In accordance with General Condition 20, a PCN is required for any non-federal activity which may have the potential to cause effects to any historic properties* listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places (NR). Please refer to General Condition 20 for submission requirements. In addition, all PCNs should include:

- a) A written statement indicating if any such properties may be affected by the proposed project.
- b) A copy of any completed archaeology or building/structure survey reports. If a survey has not been performed, the statement shall include a list of resources checked in the determination.
- c) Copies of any available correspondence from the New York State Office of Parks, Recreation, and Historic Preservation State Historic Preservation Officer (SHPO) regarding historic properties.
- d) Copies of any available correspondence from federally recognized Indian Nations regarding historic properties that may be affected by the project.
- e) Projects with ground disturbance may have the potential to cause effects to buried historic properties, regardless of occurring outside SHPO designated archaeological sensitive areas. Therefore, the PCN shall indicate if the ground disturbance will occur in any areas of previously undisturbed soil. For areas with prior disturbance, the PCN shall include a brief narrative describing the disturbance and its limit (i.e. type of disturbance, size of area with current undisturbed soil, size of area with existing disturbed soils, when the disturbance occurred, an estimate on how deep the soil disturbance extends, etc.) as well as photos of the existing ground disturbance.
- f) Above ground buildings/structures that are over 50 years old and potentially affected by the project will need to be assessed to determine if they are eligible for the NR. The PCN shall: identify any structures present in the project area, which have not already been subject to SHPO review, include photos of the structures, and describe how the project would/would not affect them.

* - see NWP definition section for further clarification

Note 1: Information regarding historic properties may be found at: <https://cris.parks.ny.gov>. In addition, assistance regarding the determination of the presence of historic or cultural resources at or near the project site should be directed to SHPO.

Note 2: as stated in General Condition 20, if any listed, eligible or potentially eligible properties are present, the applicant shall not begin the activity until notified by the district engineer in writing either that

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the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

8. Endangered Species and Essential Fish Habitat (EFH): In accordance with General Condition #18, non-federal applicants must submit a PCN if any listed species or designated critical habitat might be affected or is in the vicinity of the activity (See Note 2 below), or if the activity is located in designated critical habitat. Please refer to General Condition #18 for submission requirements. In addition, all PCNs should include:

- a) a written statement and documentation concerning any Essential Fish Habitat (EFH) and any federally listed or proposed Threatened, Endangered, or Candidate (TE&C) species or designated and/or proposed critical habitat that might be affected or located in the vicinity of the project (See Note 2 below).
- b) an official TE&C species list printed within 90 days of the PCN submission, and a copy of any correspondence from the U.S. Fish and Wildlife Service (USFWS) and/or National Oceanic and Atmospheric Administration Fisheries Service (NOAA-Fisheries), regarding the potential presence of TE&C species on the project site. An applicant should use the USFWS Information for Planning and Consultation (IPAC) website (<https://ecos.fws.gov/ipac>) as the primary resource to determine if there may be listed Threatened or Endangered species. Information on NOAA-Fisheries (NMFS) species (both TE&C and EFH) can be found at: <https://www.greateratlantic.fisheries.noaa.gov/>. Region-specific information on NMFS species (both TE&C and EFH) can be found at: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/habitat-conservation/essential-fish-habitat-consultations-greater-atlantic-region>. Region-specific ESA information can be found at: <https://www.fisheries.noaa.gov/topic/consultations#endangered-species-act-consultations>.
- c) For projects where TE&C species are listed, a discussion of potential TE&C species habitat within the project site (See USFWS T&E website for species habitat information). <https://www.fws.gov/northeast/nyfo/es/section7.htm>
- d) If there is potential habitat for any TE&C species within the project site the following, as applicable, shall be submitted:
 - i. The results of any habitat surveys and presence/absence surveys. Note: all surveys should be coordinated with the USFWS and/or NOAA-Fisheries (NMFS) prior to initiation.
 - ii. A detailed description of the proposed project, including secondary impacts and approximate proposed project construction schedule of project activities (e.g. land clearing, utilities, stormwater management).
 - iii. A description of the natural characteristics of the property and surrounding area (e.g. forested areas, freshwater wetlands, open waters, and soils) and a description of surrounding land use (residential, agricultural, or commercial).
 - iv. A description of the area to be impacted by the proposed project (including the species, typical sizes (d.b.h.) and number or acres of trees to be removed, substrate of stream, etc.).
 - v. The location of the above referenced property and extent of any project related activities or discharges clearly indicated on a copy of a USGS 7.5-minute topographic quadrangle (quad) with the name of the quad(s) and latitude/longitude clearly labeled.
 - vi. A description of conservation measures to avoid, minimize and/or mitigate impacts to listed species.

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Note 1: There are no known TE&C species or EFH species under the jurisdiction of the NOAA-Fisheries (NMFS) within the Buffalo District. Therefore, all Buffalo District requests for information regarding the presence of TE&C species should be directed to the USFWS. In addition, no EFH review is necessary within the following New York District counties: Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Otsego, Schenectady, Schoharie and Warren.

Note 2: Please refer to the following websites for further guidance and information relating to regulatory permits & TE&C species in New York, including protocols for defining 'vicinity' for the Indiana and Northern long-eared bats:

Buffalo District: <http://www.lrb.usace.army.mil/Missions/Regulatory/Endangered-Species/Endangered-Species-New-York/>

New York District: <https://www.nan.usace.army.mil/Missions/Regulatory/Nationwide-Permits/>

Note 3: General Condition #18 is emphasized, ... "For activities where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have "no effect" on listed species or critical habitat, or until ESA section 7 consultation has been completed. **If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.**"

Note 4: Where a PCN is required for Essential Fish Habitat consultation, refer to the following links for the Essential Fish Habitat Assessment Worksheet and Mapper utilized to inform the preparation of the worksheet:

- EFH Assessment Worksheet: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/habitat-conservation/essential-fish-habitat-assessment-consultations>
- EFH Mapper: <https://www.habitat.noaa.gov/protection/efh/efhmapper/>

Note 5: Where information is required for submerged aquatic vegetation (SAV) in the permit area or within 50 feet of the proposed work, please utilize the following map data:

- NYS Department of State SAV data: <http://opdgig.dos.ny.gov/#/search/SAV>
- NYS GIS Clearinghouse (for SAV data in the Hudson River):
<http://gis.ny.gov/gisdata/inventories/details.cfm?DSID=1209>
and <http://gis.ny.gov/gisdata/inventories/details.cfm?DSID=1350>

9. PCNs should be submitted electronically, if possible, in accordance with the instructions provided on the Districts' websites. When submitted by hard copy, without an electronic submission, then multiple copies of the PCN must be provided as follows:

- a) One (1) additional copy of the PCN package shall be provided to USACE for coordination with Department of Defense Siting Clearinghouse (See NWP # 39, 51, 52 & 57 Notes) for:
 - i. overhead utility lines proposed under NWP #57 and
 - ii. any activity that involves the construction of a wind energy generating structure, solar tower, or overhead transmission lines proposed under NWP #39, 51 or 52
- b) Two (2) additional copies of the PCN package shall be provided to USACE when the project is located within the New York City Watershed, for coordination with the New York City Department of Environmental Protection.

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c) Five (5) additional copies of the PCN package shall be submitted to USACE for agency coordination in accordance with General Condition # 32(d)(2) for:

- i. All NWP activities that result in the loss of greater than 1/2-acre of waters of the United States,
- ii. NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites;
- iii. NWP 54 activities in excess of 500 linear feet or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

G-F. CRITICAL RESOURCE WATERS

In accordance with NWP General Condition (GC) #22, certain activities in Critical Resource Waters cannot be authorized under the NWP program or would require a PCN (see GC #22 for a list of the NWP activities that are either excluded or require a PCN).

Critical Resource Waters in New York State include the following:

1. **East-of-Hudson portion of the New York City Water Supply:** This area includes portions of Dutchess, Putnam and Westchester Counties as delineated on Enclosure 2.
2. **Hudson River National Estuarine Research Reserves (NERR):** The Hudson River NERR consists of four components: Piermont Marsh, Iona Island, Tivoli Bay, and Stockport Flats.

H. NYSDEC General Water Quality Certification (WQC) Conditions applicable to all NWPs for which WQC has been provided are as follows:

1. **Non-contamination of Waters** - All necessary precautions shall be taken to preclude contamination of any waters of the United States by suspended solids, resins, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate, inadvertent returns of drilling muds ("frac-outs") or any other environmentally deleterious materials associated with the project.
2. **Installation and Replacement of Culverts** - To be covered under this blanket Water Quality Certification, all the following criteria must be met for culvert installations and replacements:
 - a) Culverts shall be designed to pass a storm event with an annual chance of 2% or less (i.e., 50-year storm event or greater) such that the water surface remains below the top of the inlet opening.
 - b) All culverts with closed bottoms and culvert pipes must be appropriately embedded. Round culverts must be installed so that at least 20% of the culvert's vertical height is embedded below the existing stream bed at the outlet end of the culvert.
 - c) Width of the structure must be a minimum of 1.25 times (1.25X) width of the Mean High-Water Channel.
 - d) The slope of the stream bed within or under the culvert shall remain consistent with the slope of the adjacent stream channel. For slopes greater than 3%, an open bottom culvert must be used.
 - e) This culvert must not be located under a roadway that provide sole access to "Critical Facilities"².
 - f) This certification does not authorize culvert rehabilitation projects that involve slip lining, invert paving, or similar treatments.
 - g) This certification does authorize the rehabilitation of culverts utilizing Cure in Place Pipe Lining (CIPP) or concrete spray lining for culverts which currently meet Nationwide Permit General Condition # 2 - Aquatic Life Movements.

² Critical Facilities are defined as facilities designed for bulk storage of chemicals, petrochemicals, hazardous or toxic substances or floatable materials; hospitals, rest homes, correctional facilities, dormitories, patient care

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facilities; major power generation, transmission or substation facilities, except for hydroelectric facilities; major communications centers, such as civil defense centers; or major emergency service facilities, such as central fire and police stations. (See 6 NYCRR Part 502.4(a)(17).)

3. Discharges and Disturbances Limits - The following discharge and disturbance limits apply to this certification:

- For NWP 5, 7, 13, 14, 15, 18, 19, 23, 25, 29, 31, 32, 34, 36, 37, 39, 40, 42, 45, 46, 48, 51, 57, and non-maintenance activities under NWP 43 the following discharge limits apply:
 - a) Temporary or permanent discharges of dredged or fill material into wetlands and other waters of the United States must not exceed ¼ acre;
 - b) Temporary or permanent impacts (i.e., loss) to stream beds, lake shorelines, and ocean shorelines must not exceed 300 linear feet; and
 - c) The discharge area limit under paragraph (a) plus the equivalent stream, lake, or ocean impact area limit under paragraph (b) must not exceed ¼ acre total.
- For NWP 3, 4, 6, 20, 22, 27, 30, 33, 41 and maintenance activities under NWP 43, this certification authorizes discharges and disturbances up to the limit of the respective Nationwide Permit or regional conditions, whichever is most restrictive.
- If a project requiring coverage under two or more Nationwide Permits results in a temporary or permanent discharge or disturbance, the most restrictive threshold applies to the project.

4. Bulkheads - Activities involving bulkheads are restricted as follows:

- a) This certification does not authorize the construction of new bulkheads or vertical walls.
- b) This certification does not authorize the waterward extension of existing bulkheads, except where minimally necessary to reface the bulkhead when in-place replacement is not feasible.
- c) New toe-stone protection may not extend more than 36 inches waterward from the existing bulkhead face.

5. Maintenance of Water Levels - This certification does not authorize any activity that results in a permanent water level alteration in waterbodies, such as draining or impounding, except for activities authorized by NWP 27.

6. Dewatering - Dewatering activities must be conducted in the following manner:

- a) Authorized dewatering is limited to immediate work areas that are within coffer dams or otherwise isolated from the larger waterbody or waters of the United States.
- b) Dewatering must be localized and must not drain extensive areas of a waterbody or reduce the water level such that fish and other aquatic organisms are killed, or their eggs and nests are exposed to desiccation, freezing or depredation in areas outside of the immediate work site.
- c) Cofferdams or diversions shall not be constructed in a manner that causes or exacerbates erosion of the bed or banks of a waterbody.
- d) All dewatering structures must be permanently removed, and disturbed areas must be graded and stabilized immediately following completion of work. Return flows from the dewatering structure shall be as visibly clear as the receiving waterbody.

7. Horizontal and Directional Drilling - For projects that involve horizontal or directional drilling, the permittee must prepare and implement a plan that addresses prevention, containment and cleanup of inadvertent drilling fluid returns or “frac-outs”.

8. Endangered or Threatened Species - This certification does not authorize discharges likely to result in the take or taking of any species listed as endangered or threatened in 6 NYCRR Part 182.5 (a) or (b) or discharges likely to destroy or adversely modify the habitat of such listed species. To be eligible for coverage under this certification, applicants must either verify that the activity is outside of the occupied habitat of such species or, if located within the habitat of such species, obtain a determination from the NYS Department of Conservation Regional Office that the proposed activity is not likely to result in the take or taking of any species listed as endangered or threatened species listed in 6 NYCRR Part 182. Information on New York State endangered or threatened species may be obtained from

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the NYS Department of Environmental regional offices, the New York Natural Heritage Program in Albany, New York or on the DEC website at <https://www.dec.ny.gov/animals/38801.html>.

9. Rare Mollusks - This certification does not authorize disturbances or discharges to waters of the United States that support mollusks listed as S-1 or S-2 on the New York State Natural Heritage database, unless DEC staff have determined that the project location does not contain mussels listed as S-1 or S-2 on the Natural Heritage database.

10. Prohibition Period for In-water Work - In-water work is prohibited in cold water trout fisheries (waterbodies classified under Article 15 of New York State Environmental Conservation Law with a "t" or "ts" designation), beginning October 1 and ending May 31.

To determine if the prohibition period is in effect for a particular water, contact the Regional Natural Resources Supervisor in the appropriate New York State Department of Environmental Conservation regional office. Water classification values can be found on the DEC's Environmental Resource Mapper available on the Department's website at <https://gisservices.dec.ny.gov/gis/erm/>. Work windows may be altered by the Regional Natural Resources Supervisor or their designee.

11. Significant Coastal Fish and Wildlife Habitats - This certification does not authorize any discharge occurring in a designated Significant Coastal Fish and Wildlife Habitat area pursuant to 19 NYCRR Part 602 (NYCRR, Title 19, Chapter XIII, Waterfront Revitalization of Coastal Areas and Inland Waterways).
<https://www.dos.ny.gov/odp/programs/consistency/scfwhabitats.html>

12. Coastal Erosion Hazard Areas - This certification does not authorize projects that disturb greater than ¼ acre or 300 linear feet of waters of the United States within mapped Coastal Erosion Hazard Areas, as identified in New York State Environmental Conservation Law Article 34, and its implementing regulations, 6 NYCRR Part 505.
<https://www.dec.ny.gov/lands/86541.html>

13. Wild, Scenic and Recreational Rivers - This certification does not authorize activities in any Wild, Scenic or Recreational River pursuant to 6 NYCRR Part 666 or state designated Wild, Scenic or Recreational River corridors.
<https://www.dec.ny.gov/permits/6033.html>

14. Federal Energy Regulatory Commission - This certification does not authorize activities regulated by the United States Federal Energy Regulatory Commission (FERC). An individual Section 401 Water Quality Certification from DEC is required for all projects regulated by FERC.

15. Preventing the Spread of Aquatic Invasive Species - To prevent the unintentional introduction or spread of invasive species, the permittee must ensure that all construction equipment be cleaned of mud, seeds, vegetation and other debris before entering any approved construction areas within waters of the United States. When using construction equipment, projects authorized under this Certification shall take reasonable precautions to prevent the spread of aquatic invasive species as required under the provisions in ECL § 9-1710.

16. Utility Projects - The following restrictions and conditions apply to activities involving utility projects:

- a) This certification does not authorize maintenance or other activities associated with hydroelectric power generation projects.
- b) This certification does not authorize the construction of substation facilities or permanent access roads in wetlands or within the Federal Emergency Management Agency mapped 100-year floodplain.
- c) Excess materials resulting from trench excavation must be permanently removed from the waters of the United States and contained so that they do not re-enter any waters of the United States.

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and
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Expiration March 14, 2026**

**I. New York State Department of State (NYSDOS) Coastal Zone Management Consistency Determination
Additional Information (applicable to all NWPs located within or affecting the NYS Coastal Zone):**

Where NYSDOS has objected to the USACE consistency determination, as outlined in the specific NWP listing in Section B above, the applicant must submit a request for an individual consistency determination to NYSDOS.

Further Information:

- Unless NYSDOS issues consistency concurrence or USACE has determined that NYSDOS concurrence is presumed, NWPs are not valid within the Coastal Zone.
- All consistency concurrence determination requests must be submitted directly to NYSDOS with a copy provided to USACE with any required Preconstruction Notification submissions.
- Limits of the coastal zone and details regarding NYSDOS submission requirements, including application forms can be obtained at: <https://www.dos.ny.gov/odp/programs/consistency/index.html>
- For additional information regarding the NYSDOS Coastal Zone Management program, their application forms, and requirements, please contact NYSDOS. See Section K for NYSDOS contact information.

J. INFORMATION ON NATIONWIDE PERMIT VERIFICATION

Verification of the applicability of these Nationwide Permits is valid until March 14, 2026 unless the Nationwide Permit is modified, suspended revoked, or the activity complies with any subsequent permit modification.

It is the applicant's responsibility to remain informed of changes to the Nationwide Permit program. A public notice announcing any changes will be issued when they occur and will be available for viewing at our website: <http://www.lrb.usace.army.mil/Missions/Regulatory.aspx>.

Please note in accordance with 33 CFR part 330.6(b), that if you commence or are under contract to commence an activity in reliance of the permit prior to the date this Nationwide permit expires, is suspended or revoked, or is modified such that the activity no longer complies with the terms and conditions, you have twelve months from the date of permit modification, expiration, or revocation to complete the activity under the present terms and conditions of the permit, unless the permit has been subject to the provisions of discretionary authority.

Possession of this permit does not obviate you of the need to contact all appropriate state and/or local governmental officials to ensure that the project complies with their requirements.

Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Expiration March 14, 2026

K. AGENCY CONTACT INFORMATION

NYS Board on Electric Generation Siting and the Environment (Siting Board)

Three Empire State Plaza
Albany, NY 12223-1350
(518)949-0798
Email: Houtan.moaveni@dps.ny.gov
www.dps.ny.gov/SitingBoard

NYS Department of Environmental Conservation
www.dec.ny.gov

NYS DEC REGION 1

Regional Permit Administrator
SUNY @ Stony Brook
50 Circle Road
Stony Brook, NY 11790-3409
(631) 444-0365

NYS DEC REGION 2

Regional Permit Administrator
1 Hunter's Point Plaza
47-40 21st Street
Long Island City, NY 11101-5407
(718) 482-4997

NYS DEC REGION 3

Regional Permit Administrator
21 South Putt Corners Road
New Paltz, NY 12561-1620
(845) 256-3054

NYS DEC REGION 4

Regional Permit Administrator
1130 North Westcott Road
Schenectady, NY 12306-2014
(518) 357-2069

NYS DEC REGION 4 Sub-Office

Deputy Regional Permit Administrator
65561 State Hwy 10
Stamford, NY 12167-9503
(607) 652-7741

NYS DEC REGION 5

Regional Permit Administrator
PO Box 296
1115 Route 86
Ray Brook, NY 12977-0296
(518)897-1234

NYS DEC REGION 5 Sub-Office

Deputy Regional Permit Administrator
PO Box 220
232 Golf Course Rd
Warrensburg, NY 12885-0220
(518) 623-1281

NYS DEC REGION 6

Regional Permit Administrator
317 Washington Street
Watertown, NY 13601-3787
(315) 785-2245

NYS DEC REGION 6 Sub-Office

Deputy Regional Permit Administrator
207 Genesee Street, Room 1404
Utica, NY 13501-2885
(315) 793-2555

NYS DEC REGION 7

Regional Permit Administrator
615 Erie Blvd. West, Room 206
Syracuse, NY 13204-2400
(315)426-7438

NYS DEC REGION 8

Regional Permit Administrator
6274 E. Avon - Lima Road
Avon, NY 14414-9519
(585) 226-5400

NYS DEC REGION 9

Regional Permit Administrator
270 Michigan Avenue
Buffalo, NY 14203-2915
(716) 851-7165

NYS DEC REGION 9 Sub-Office

Deputy Regional Permit Administrator
182 East Union Street, Suite 3
Allegany, NY 14706-1328
(716) 372-0645

NYS Department of Public Service (NYS DPS)

Three Empire State Plaza
Albany, NY 12223-1350
(518)949-0798
Email: Houtan.moaveni@dps.ny.gov
www.dps.ny.gov

Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Expiration March 14, 2026

NYS Department of State (NYSDOS)

Office of Planning, Development
And Community Infrastructure
Consistency Review Unit
One Commerce Plaza
99 Washington Avenue, Suite 1010
Albany, NY 12231-00001
(518) 474-6000
Email: cr@dos.ny.gov
<https://www.dos.ny.gov/odp/programs/consistency/index.html>

NYS Office of Renewable Energy Siting (ORES)

Empire State Plaza
240 State Street
P-1 South, J Dock
Albany, NY 12242
www.ores.ny.gov
518-949-0798
Email: houtan.moaveni@ores.ny.gov

Saint Regis Mohawk Tribe

Water Resources Program
449 Frogtown Road
Akwasasne, NY 13655
www.srmt-nsn.gov

US Army Corps of Engineers

(For DEC Regions 1, 2 and 3)
US Army Corps of Engineers, NY District (NAN)
ATTN: Regulatory Branch, Room 16-406
26 Federal Plaza
New York, NY 10278-0090
For DEC Regions 1 & 2 - (917) 790-8511
For DEC Region 3 - (917) 790-8411
Email: CENAN-PublicNotice@usace.army.mil

(For DEC Regions 4, 5)
US Army Corps of Engineers, NY District (NAN)
Upstate Regulatory Field Office
ATTN: CENAN-OP-RU, Bldg. 10, 3rd Floor North
1 Buffington Street, Watervliet Arsenal
Watervliet, NY 12189-4000
(518) 266-6350 - Permits Processing Team
(518) 266-6360 - Compliance & Enforcement Team
Email: cenan.rfo@usace.army.mil

NAN Electronic Application Email:
CENAN-R-Permit-App@usace.army.mil
NAN website: <http://www.nan.usace.army.mil>

(For DEC Regions 6, 7, 8, 9)
US Army Corps of Engineers, Buffalo District (LRB)
ATTN: Regulatory Branch
1776 Niagara Street
Buffalo, NY 14207-3199
(716) 879-4330

LRB Electronic Application Email:
LRB.NewYork.RegActions@usace.army.mil
website: www.lrb.usace.army.mil/Missions/Regulatory/

US Environmental Protection Agency Region 2

Wetlands Protection Section
290 Broadway, 24th Floor
New York, NY 10007
212-637-3838
Email: Region2_CWA404@epa.gov

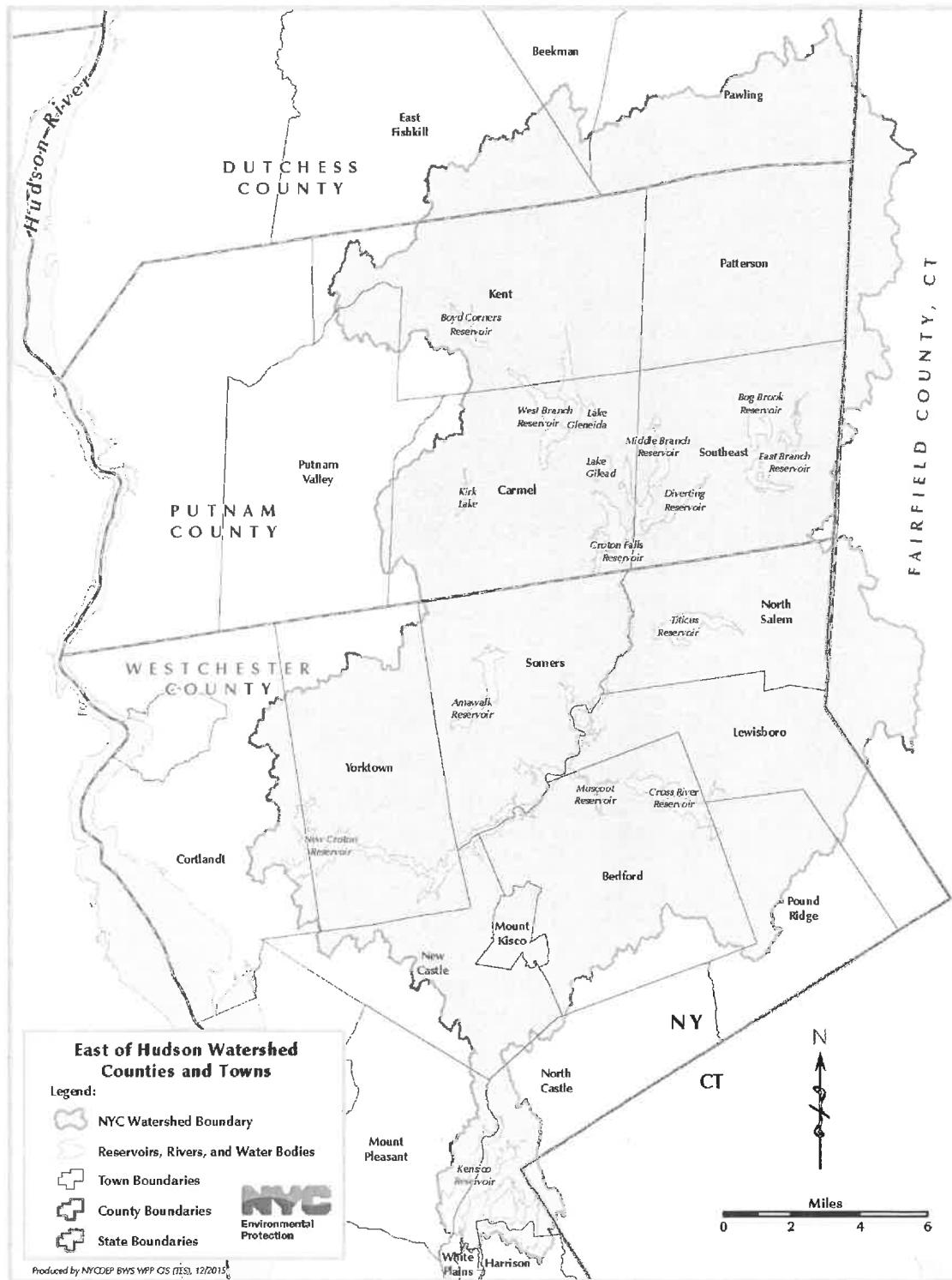
**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and
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U.S. Army Corps of Engineers
Regulatory Districts
in New York State



**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and
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ENCLOSURE 2



**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and
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Expiration March 14, 2026**

ENCLOSURE 3



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT
JACOB K. JAVITS FEDERAL BUILDING
28 FEDERAL PLAZA
NEW YORK NEW YORK 10278-0090

REGULATORY BRANCH

Attn: _____

Commercial Mooring Buoy Application Additional Information

Permit Application Number NAN-_____

Company Name: _____ Phone: _____
Attn: _____
Address: _____

Initial Renewal
If Renewal, USCG Permit No. _____

Purpose: _____

LOCATION OF MOORING:

Anchorage: _____ Chart: _____ On Scene Depth (ft.): _____

Position*: _____ N _____ W

MOORING BUOY DATA:

No. of anchors: _____ Lbs. per anchor: _____ Type: _____

Chain size (in.): _____ Scope (yds.): _____

Pennant length (yds.): _____ Circ. /dia. (in.): _____ Type: _____

VESSEL/BARGE DATA:

Max size (LxBxD): _____ x _____ x _____ Max No. of barges: _____

Configuration (# abreast x # astern): _____ x _____ Watch circle** (yds.): _____

Swing Radius (yards): _____

* Please provide a copy of the NOAA chart showing your proposed mooring buoy location and the swing radius; also identify the Anchorage Ground, if applicable

** Watch Circle = $\sqrt{(length\ of\ scope)^2 - (water\ depth)^2}$

Swing Radius = $(Watch\ circle) + (Barge(s)\ length\ astern) + (Pendant\ length(s)) + (10\% \ of\ swing\ radius)$. You must maintain an additional 10% of your Swing Radius from any adjacent mooring buoy Swing Radius for safety and maneuvering.

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ENCLOSURE 4

**Incident Report of Sea Turtle Take
U.S. Army Corps of Engineers, New York District**

Date _____ Time (specimen found) _____

Species Taken: Loggerhead Kemp's ridley Leatherback
 Green Unknown turtle Other
(please circle and describe how specimen was identified in Comments)

Animal: Alive / Dead (please circle)
Specimen Decomposition: FRESH SLIGHTLY MODERATELY SEVERELY
Approximate length _____ Approximate width _____
(please designate cm/m or inches)

Condition of specimen/description of animal

Animal tagged: YES / NO (please circle and record all tag numbers)
Tag # _____

Photograph attached: YES / NO (please circle)
(please label species, date, geographic site and name on photo back)

Fate of animal _____

Geographic Site _____
Location: Lat/Long _____
Approx. depth of gear _____

Location where animal found (leader, anchor line, buoy line, etc.)

Thickness and type of line (if applicable) _____
Mesh size and type of net (if applicable) _____
Debris in gear? _____

Weather conditions _____

Water temp: Surface _____ Below midwater (if known) _____
Tide state (Ebb or Flood) _____
Entanglement on downcurrent or upcurrent side of net? _____

Comments/other (include justification on how species was identified)

Observer's Name _____ Permit # _____
Notwithstanding any other provision of the law, no person is required to respond to,
nor shall any person be subject to a penalty for failure to comply with, a collection
of information subject to the requirements of the Paperwork Reduction Act, unless that
collection of information displays a currently valid Office of Management and Budget
Control Number.

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and
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Appendix A

SPECIAL CONDITION

1. To reduce any potential adverse effects on the federally-endangered Northern long-eared bat (*Myotis septentrionalis*), trees (woody stems > 3 inches Diameter at Breast Height) must not be cut between April 1 and September 30 of any year.

Appendix B
from Casey Gordon, NYSDOT to Joshua K.
Wendel Companies
dated March 15, 2023,

Three corp

From: [Joshua Rogers](#)
To: [Sean Hopkins](#)
Subject: Fw: 2023-30 - 0 Big Tree Rd - Wetzl Apartments Draft Scoping Document - NYSDOT Initial Response
Date: Thursday, March 16, 2023 3:48:28 PM
Attachments: [image003.png](#)

From: dot.sm.r05.SEQR <dot.sm.r05.SEQR@dot.ny.gov>
Sent: Wednesday, March 15, 2023 9:07 AM
To: jrogers@wendelcompanies.com <jrogers@wendelcompanies.com>; Joshua Rogers <jrogers@townofhamburgny.gov>
Subject: 2023-30 - 0 Big Tree Rd - Wetzl Apartments Draft Scoping Document - NYSDOT Initial Response

Good afternoon Joshua,

The New York State Department of Transportation (NYSDOT) has reviewed the documentation provided for [PROJECT NAME AND DESCRIPTION] and has the following comments:

- The draft scope document for an upcoming DEIS mentions a TIS is to be prepared for the site, please include traffic counts and potential impacts in the TIS scope extending out to the State Highway system
- NYSDOT requests that the most recent site plans for this development be sent over for review and an extension for comments on the DEIS scope pending a review of the current site plan as proposed
- Please continue to include NYSDOT on further updates on this development

Respectfully,
Casey Gordon
Transportation Analyst
Planning and Program Management

New York State Department of Transportation, Region 5

100 Seneca Street, Buffalo, NY 14203

(716) 847-3580

Casey.Gordon@dot.ny.gov

www.dot.ny.gov



From: Joshua Rogers <jrogers@wendelcompanies.com>

Sent: Thursday, March 9, 2023 3:12 PM
To: Hill, David J. (DOT) <David.Hill@dot.ny.gov>
Subject: Wetzl Apartments Draft Scoping Document

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Hello,
Please find attached a cover letter and the draft scoping document for the Wetzl Apartments project in the Town of Hamburg.

Thanks,
Joshua T. Rogers
Planner



ARCHITECTURE | ENGINEERING | ENERGY EFFICIENCY | CONSTRUCTION MANAGEMENT

Wendel, Centerpointe Corporate Park, 375 Essjay Road, Suite 200, Williamsville, NY 14221
p. 716.688.0766 **tf.** 877.293.6335 **e.** jrogers@wendelcompanies.com **w.** wendelcompanies.com

CONFIDENTIALITY NOTICE: This email transmission is confidential and is intended only for the person(s) named above. Any distribution, copying or disclosure of this email is strictly prohibited.

From Michelle Woznick, NYS DEC Deputy
Administrator,
to Joshua Rogers, Wendel Companies,
dated March 15, 2023,

Response to

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 9
700 Delaware Avenue, Buffalo, NY 14209
P: (716) 851-7165 | F: (716) 851-7168
www.dec.ny.gov

SENT VIA EMAIL

March 15, 2023

Joshua Rogers
Wendel Companies
6100 South Park Avenue
Hamburg, New York 14075

Dear Joshua Rogers:

Draft Scoping Document
Wetzl Development LLC
Big Tree Road Residential Development
SBL Nos. 160.19-2-1.1 and 171.07-1-1
Town of Hamburg, Erie County

The New York State Department of Environmental Conservation (NYSDEC) has received and reviewed your March 9, 2023 letter and the enclosed Draft Scoping Document prepared for the above-referenced project. The Draft Scoping Document addresses the environmental concerns relevant to NYSDEC's jurisdiction, including stormwater, sewer extension, and water quality considerations. The Draft Environmental Impact Statement should acknowledge NYSDEC's jurisdiction in these areas.

Thank you for the opportunity to review this project. If you have any questions regarding this letter, please feel free to contact Michelle Woznick at 716/851-7165 or Michelle.Woznick@dec.ny.gov.

Respectfully,



Michelle R. Woznick
Deputy Permit Administrator

MRW

Letter from Sean Hopkins to Sarah desJardins
dated January 31, 2023,

Re: the Draft Scoping Document on the
Proposed Expansion of the
Port of Wetaskiwin



January 31, 2023

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

Re: Proposed Wetzl Multifamily Project
Applicant/Project Sponsor: Wetzl Development, LLC
Town of Hamburg Planning Board
File No. 10001.12

Dear Sarah:

Enclosed is the Draft Scoping Document being submitted on behalf of Wetzl Development, LLC for review by the Planning Board.

The Project Sponsor is requesting that the Planning Board adopt a resolution during its meeting to be held on Wednesday, February 15th for the purpose of scheduling a public scoping session during its meeting to be held on Wednesday, March 1st at 7:00 p.m.

Please feel free to contact me with any questions at 716.510-4338 or via e-mail.

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

A handwritten signature in blue ink that reads "Sean W. Hopkins".

Sean W. Hopkins, Esq.

Enc.

cc: Andrew C. Reilly [Via e-mail]
Joshua Rogers, Wendel Companies [Via e-mail]
Glenn Wetzl, Wetzl Development, LLC
Christopher Wood, P.E., Carmina Wood Design

HOPKINS SORGI & MCCARTHY PLLC

Attorneys at Law

5500 Main Street, Suite 343 • Williamsville, New York 14221

Direct: 716-510-4338 • E-mail: shopkins@hsmlegal.com • www.hsmlegal.com

INTRODUCTION:

On September 15, 2021, the Town of Hamburg Planning Board, as the Lead Agency, determined that the proposed residential project to be located on a portion of the approximately the approximately of 42.5 acres of vacant land located 0 Big Tree Road and 0 Wilson Drive (the “Project Site”) may result in potentially significant adverse environmental impacts and issued a Positive Declaration pursuant to the State Environmental Quality Review Act (“SEQRA”), requiring the submission of a Draft Environmental Impact Statement by the Project Sponsor.

This Scoping Document sets forth the content of the Draft Environmental Impact Statement (“DEIS”) that the Project Sponsor shall prepare for the purpose of evaluating the environmental impacts of the proposed residential subdivision. The Scoping Document provides a general description of the proposed action, an overview of the environmental review process pursuant to SEQRA, discussion of the potentially significant adverse environmental impacts that were identified within the Positive Declaration issued by the Planning Board on September 15, 2021 and resulting from the scoping process that must be evaluated by the Project Sponsor in the DEIS, the extent of information needed to adequately address each identified potentially significant adverse environmental impacts, identification of potential mitigation measures, reasonable alternatives to the proposed action to be evaluated, identification of information to be included in the Appendices of the DEIS, and issues and concerns raised that have been determined to be not relevant or to not pertain to potentially significant adverse environmental impacts.

This Draft Scoping Document has been prepared by the Project Sponsor in accordance with the requirements of the State Environmental Quality Review Act (“SEQRA”) and the implementing regulations as promulgated by the New York State Department Environmental Conservation (“SEQRA Regulations”). The Final Scoping Document will be issued by the Town

of Hamburg Planning Board, in its capacity as the designated Lead Agency for the coordinated environmental review of the proposed action pursuant to SEQRA.

2.0 SITE LOCATION AND DESCRIPTION OF PROPOSED ACTION:

The proposed project ("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. The project includes an amendment of the zoning classification of approximately 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 remaining approximately 20 acres of the Project Site consisting of land zoned R-1 Single-Family Residence District would consist of Permanent Open Space.

The proposed action was defined broadly within the completed Part 1 of the Full Environmental Assessment Form to include all required discretionary approvals and permits as well as all 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; the creation of approximately 20.1 acres of Permanent Open Space; and all required utility connections and improvements.

3.0 REVIEW PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT (“SEQRA”):

The State Environmental Quality Review Act (“SEQRA”) provides a process for the consideration of potentially significant adverse environmental impacts resulting from a proposed action requiring one or more discretionary approvals and/or permits. Discretionary decisions of a state, regional, or local agency to approve, fund, or directly undertake an action that may affect the environment are subject to review under the SEQRA. It is the intent of the SEQRA that protection

and enhancement of the environment and community resources be balanced with social and economic factors in the decision-making process.

3.1 Project Classification and Lead Agency Designation:

The Town of Hamburg Planning Board classified the Project as an Unlisted Action for the purposes of environmental review based on a determination that the impacts of the proposed action do not cross any of the thresholds for a Type I action contained in 6 NYCRR Part 617.4. While not required by the SEQRA Regulations, the Town of Hamburg Planning Board decided to conduct a coordinated environmental review of the Project. A lead agency solicitation letter was issued to involved and interested agencies on January 12, 2021. None of the involved agencies objected to the Planning Board's request to be the lead agency.

In accordance with 6 NYCRR Part 617.7, based on its review of all agency comments, the completed Part 1 of the Full Environmental Assessment Form and application materials (including reports and studies) submitted by the Project Sponsor, and the completion of Part 2 and 3 of the Full Environmental Assessment Form, the Planning Board considered the potential environmental impacts of the proposed action and determined the action may result in significant adverse environmental impacts and that a Draft Environmental Impact Statement ("DEIS") must be prepared. The Town of Hamburg Planning Board issued a Positive Declaration on September 15, 2021 and determined that the proposed action may include potentially significant environmental impacts to:

- Surface water consisting of the stream corridor and wetlands;
- Plants and animals;
- Open space and ecosystems;
- Transportation;
- Consistency with the Town of Hamburg Comprehensive Plan; and

- Community character¹

3.2 Purpose of the Scoping Process:

The Town of Hamburg Planning Board, as the designated Lead Agency, has decided to conduct scoping for the Project. The purpose of the scoping process is to identify the potentially significant adverse environmental impacts to be evaluated in the DEIS and eliminate consideration of those impacts that are irrelevant or insignificant. The objectives of project scoping are as follows:

- Identify potentially significant adverse environmental impacts;
- Identify limits or extent of DEIS;
- Identify information needed to adequately address impacts;
- Identify potential mitigation measures;
- Identify the range of reasonable alternatives; and
- Eliminate irrelevant or insignificant issues.

On _____, 2023, the Project Sponsor submitted a draft Scoping Document to the Town of Hamburg. As part of the DEIS process, and in accordance with 6 NYCRR Part 617.8 of the SEQRA Regulations, the Town of Hamburg Planning Board conducted a public scoping

¹ The relevant portion of the resolution adopted by the Planning Board during its meeting on September 15, 2021 stated as follows: “Whereas, in accordance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Hamburg Planning Board has completed part 2 of the FEAF and analyzed those impacts identified in Part 2 as potentially “moderate to large” in an expanded Part 3 document and reviewed the criteria for determining significance in accordance with Section 617.7 of SEQR and has determined the following: 1. The proposed project may have a significant adverse impact on surface water (stream corridor running through the north end of the site, and wetlands in the area). 2. The project may have a potentially significant adverse impact on plants and animals as the site contains important habitats. 3. The project may have a significant adverse impact on open space and the ecosystems of this area. 4. The project may have a potentially significant adverse impact on transportation. 5. The rezoning/ project may not be consistent with the Town’s Comprehensive Plan. 6. The proposed project may have a significant adverse impact on the natural landscape and may not be consistent with the character and quality of the existing area and neighborhood.”

meeting on _____, 2023 at the Town of Hamburg Town Hall. The public scoping session was held by the Planning Board on _____, 2023 in order to provide the public and involved and interested agencies with the opportunity to provide input regarding the potentially significant environmental impacts to be evaluated in the DGEIS.

The public scoping process ensures that the DEIS will be a concise, accurate, and complete document upon which all involved and interested Agencies can evaluate and issue decisions regarding discretionary approvals and permits needed for the proposed project. By including the public, as well as other agencies in the scoping process, the lead agency can obtain additional information and specialized knowledge that may reduce the likelihood of additional issues arising during the public review period for the DEIS. It is the responsibility of the Town of Hamburg Planning Board, as the designated Lead Agency, to complete the scoping process and issue the Final Scoping Document.

3.3 Lead Agency, Involved Agencies and Interested Agencies:

Pursuant to SEQRA, there are three types of agencies: the Lead Agency, Involved Agencies and Interested Agencies. The Lead Agency is the Involved Agency that has the responsibility, under SEQRA, to conduct the environmental review process for a proposed action. The Town of Hamburg Planning Board was previously designated as the Lead Agency for the proposed action because it has jurisdiction with respect to issuing a future decision on a site plan application for the Project. It is important to mention that the Town of Hamburg Town Board concurred that the Planning Board should be designated lead agency.

Involved agencies are agencies that have jurisdiction to fund, approve, or directly undertake an action. The involved agencies for the environmental review of the Project are as follows:

- New York State Department of Environmental Conservation (“NYSDEC”)
- New York State Department of Transportation (“NYSDOT”)
- New York State Office of Parks, Recreation and Historic Preservation (“SHPO”)
- Erie County Water Authority
- Erie County Division of Sewerage Management
- Erie County Health Department

Interested agencies consist of federal agencies and agencies that do not have jurisdiction with respect to discretionary approvals or permits for a proposed action, but that may want to participate in the environmental review process because of their expertise or concern regarding the proposed action. For the Project, interested agencies include but may not be limited to:

- United States Army Corps of Engineers
- Erie County Department of Environment and Planning
- Town of Hamburg Building Inspector
- Town of Hamburg Engineering Department

4.0 CONTENT OF THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS):

6 NYCRR Part 617.9(b) of the SEQRA Regulations sets forth the minimum content that should be included in a DEIS. The subject areas expected to be included in the DEIS for the proposed project are described below.

4.1 Cover Sheet and Table of Contents:

4.2 Executive Summary:

The Executive Summary should provide a brief summary of the Draft Environmental Impact Statement.

4.3 Introduction:

The introduction should provide a summary of the Project, including the following topics:

- Project location and setting;
- Project description (including proposed actions, changes to the site, acreage to

developed, etc.);

- Purpose and objectives of the Project;
- Public need and benefits of the Project;
- Project History including environmental review pursuant to SEQRA,
- Site layout and design;
- Phasing of the proposed project;
- On-site traffic circulation;
- Utilities and stormwater management facilities;
- Site access (existing and proposed); and
- Regulatory compliance, including zoning and required project approvals and permits.

4.4 Existing Conditions of the Project Site:

The existing conditions section of the DEIS should present a narrative discussion of each subject area to provide for a sufficient understanding of the potential impacts of the proposed action and how they may affect the environment, such as:

- Topographic setting of the Project Site;
- Wetlands subject to the jurisdiction of the United States Army Corps of Engineers;
- Existing environmental conditions of the Project Site;
- Existing terrestrial and aquatic ecology, including any endangered, threatened, or special concern species;
- Existing surface and ground water resources;
- Existing mapped floodway and 100 yr. floodplain boundaries;
- Existing means of site drainage and stormwater management;
- Existing land uses on the Project Site and in the vicinity of the Project Site;
- Existing zoning and other land use regulations governing the use of the Project Site;
- Existing utilities;
- Existing solid waste disposal services;
- Existing air quality, noise, and lighting levels on the Project Site;
- Existing traffic patterns and conditions in the vicinity of the Project Site;
- Existing community and emergency services for the Project Site (schools, police and fire protection);

- Existing historical, archaeological, or cultural resources on the Project Site; and
- Existing neighborhood character and setting.

4.5 Evaluation Potentially Significant Adverse Environmental Impacts:

This section of the DGEIS should provide a detailed discussion of the identified potentially significant adverse environmental impacts of the Project, the severity of the impacts, and the practical mitigation measures that could reduce the magnitude of identified potentially significant adverse environmental impacts. This section should also address all substantive concerns regarding potentially significant adverse environmental impacts raised during the public scoping process.

4.5.1 Impact on Land:

A. Summary:

This section should provide a detailed discussion of all the physical impacts the Project will have on the Project Site including, but not limited to:

- Location and description of the Project Site;
- Description of proposed infrastructure improvements;
- Discussion of the proposed use of the Project Site;
- Existing topography;
- Proposed grading and fill requirements for the Project;
- Removal of existing vegetation and topsoil;
- Construction related impacts and procedures, including temporary impacts; and
- Construction phasing of the project

4.5.2 Impact on Surface Water and Ground Water Resources:

A. Summary:

This section should provide a detailed discussion of the project's impact to any water resources and on drainage/ stormwater management of the site including, but not limited to:

- Provide a preliminary Engineer's Report that demonstrates the ability to satisfy the

NYSDEC's stringent stormwater quality and quantity standards and that demonstrates the proposed action will not result in adverse drainage impacts;

- Location, type, and discussion of existing and proposed stormwater management facilities;
- Describe maintenance of the required on-site stormwater management facilities;
- Impacts to federal wetlands;
- Impacts to existing floodways or regulated 100-yr. floodplains;
- Any temporary impacts to surface waters due to construction activities; and
- Impacts to ground water resources

4.5.3 Impact on Plants and Animals:

A. Summary:

This section should provide a detailed discussion of the potential impacts of the proposed project on plants and animals including any endangered, threatened, or special concern species.

4.5.4 Impact on Transportation:

A. Summary:

This section should provide a detailed discussion and analysis of potential traffic impacts and shall include a summary of the Traffic Impact Study ("TIS") prepared by SRF Associates, that also includes an analysis of the potential traffic impacts of the proposed Parker Road residential subdivision. This section should identify all potential impacts that the Project will have on the transportation system including but not limited to:

- Traffic projections for the proposed project;
- Information on proposed trip generation and distribution and intersection operations; and
- Discussion of proposed vehicular access to the Project Site;

4.5.5 Impact on Energy/ Utility Facilities:

A. Summary:

This section should provide a detailed discussion of the potential impacts of the Project on

the utility system and whether capacity exists for this project including, but not limited to:

- Proposed energy usage, projected water demand figures, and projected sanitary sewer calculations;
- Impacts to the existing stormwater and sanitary sewers and water;
- Emergency access requirements; and,
- Location and description of all on-site and off-site utility improvements.

4.5.6 Noise and Odor Impacts:

A. Summary:

This section should provide a discussion on the noise and odor impacts anticipated from this project including, but not limited to:

- All potential noise and odor sources associated with construction activities in furtherance of the Project.

4.5.7 Impact on Public Health:

A. Summary:

This section should provide a detailed discussion of how the public health, safety, and welfare of the neighborhood will be impacted by the proposed project including, but not limited to impacts to vehicular and pedestrian safety.

4.5.8 Impact on Growth and Character of Community or Neighborhood:

A. Summary:

This section should provide a detailed discussion regarding the manner by which the project fits into the context of the surrounding area and how it will impact the character of the community including, but not limited to:

- A description of how the changes in land use on the Project Site will impact the surrounding neighborhood;
- A summary of how activities on the Project Site, such as construction activities, lighting, odors, noise, etc., will impact nearby residential uses;

- Consistency of the Project with the Comprehensive Plan and the goals of the community;
- The consistency of the Project with the applicable standards contained in the Town of Hamburg Zoning Code;
- Impacts on community services such as fire and police protection, schools, parks & recreation, etc.;
- Impact on local government finances and tax revenues;
- How the Project could potentially impact future development trends in the Town; and,
- Any public funds to be used for this project or any improvements related to the Project.

5.0 EVALUATION OF MITIGATION MEASURES:

The Draft Environmental Impact Statement should include a discussion of the identified potentially significant adverse environmental impacts and a description of the proposed mitigation measures to be implemented to minimize the identified potentially significant impacts to the maximum extent practicable. If mitigation measures are adequately addressed in the discussion of the identified environmental impacts in Section 4 of the DGEIS, this section can act as a summary.

6.0 PROJECT ALTERNATIVES:

A discussion of on-site alternatives to the proposed action should be included, such as:

- No Action Alternative: an evaluation of the potential adverse and beneficial impacts that would result in the reasonable, foreseeable future if the proposed action was not undertaken.
- As of Right Development: The development of the Project Site in accordance with its existing zoning classifications.

7.0 CUMULATIVE IMPACTS:

The impacts of the proposed action in the context of the pending Parker Road residential subdivision. It is important to mention that the proposed project is not functionally dependent on the proposed Parker Road residential subdivision.

8.0 GROWTH INDUCING IMPACTS:

The proposed action could potentially result in significant impacts on the growth and character of the surrounding neighborhood and the Town of Hamburg. An analysis of the possible growth inducing aspects of the proposed action must be provided.

9.0 POTENTIAL IMPACTS DETERMINED TO BE INSIGNIFICANT:

Under 6 NYCRR Part 617 of the SEQRA Regulations, the Lead Agency is responsible for eliminating consideration of those impacts and concerns that have been identified during the scoping process that are determined to be irrelevant or insignificant either because they are not legally relevant to the environmental review of the proposed action, they are not environmentally significant, or they have been adequately addressed prior to the scoping process. These issues and concerns should not be included in the DEIS.

10. INFORMATION TO BE INCLUDED IN THE APPENDICES OF THE DEIS:

The DEIS shall provide sufficient detail to enable the reader to understand, interpret, and evaluate the existing conditions, potential impacts, mitigation measures, and alternative project scenarios. The Appendices shall contain copies of studies and reports that supplement and support the narrative in the DEIS. The methodologies and results of the studies and technical reports shall be summarized and explained in the DEIS. Only site-specific documents that are not readily available to the public should be included as appendices to the DEIS. The following are examples of documents to be included in the Appendices:

- All application materials;
- Parts 1, 2 and 3 of the Full Environmental Assessment Form (“EAF”);
- Positive Declaration issued by the Planning Board on September 15, 2021;
- Final Scoping Document;
- Correspondence related to the Project;
- Minutes of Meetings of the Town of Hamburg Planning Board;

- Minutes of Meetings of the Town of Hamburg Town Board;
- Conceptual Plan for the identified alternative to the Project;
- Traffic Impact Study;
- Downstream Sanitary Sewer Capacity Analysis (“DSCA”);
- Storm Water Pollution Prevention Plan (“SWPPP”);
- Preliminary Engineer’s Report;
- Wetland Delineation Report prepared by Earth Dimension, Inc.;
- Jurisdictional Determination issued by the United States Army Corps of Engineers dated April 9, 2021;
- Cultural Resources Report prepared by the UB Department of Anthropology;
- Habitat Assessment Report prepared by Earth Dimensions, Inc. dated November 15, 2021;
- No impact determination letter issued by Josalyn Ferguson, Ph.D. of the New York State Office of Parks, Recreation and Historic Preservation dated June 2, 2021

er from Sean Hopkins to Sarah desJardins,
dated September 18, 2021,

requesting a copy of the positive declaration
made by the Town of Hamburg Planning
dated September 17, 2021.



September 18, 2021

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

Re: Proposed Wetzl Multifamily Project
Applicant/Project Sponsor: Wetzl Development, LLC
Town of Hamburg Planning Board
File No. 10001.12

Dear Sarah:

Pursuant to our telephone conversations on Thursday, September 16th and Friday, September 17th, it would be greatly appreciated if you would provide me with a copy of the positive declaration issued by the Town of Hamburg Planning Board pursuant to the State Environmental Quality Review Act ("SEQRA") during its meeting on Wednesday, September 15th.

I will be submitting a Draft Scoping Document for the consideration of the Planning Board in advance of its next meeting to be held on Wednesday, October 6th at 7:00 p.m.

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

A handwritten signature in blue ink that reads "Sean W. Hopkins".

Sean W. Hopkins, Esq.

cc: William Clark, Chairman
Doug Schawel, Planning Board
Kaitlin McCormick, Planning Board
Al Monaco, Planning Board
Bob Mahoney, Planning Board
Dennis Chapman, Planning Board
Meghan Comerford, Planning Board
Jennifer Puglisi, Esq., Planning Board Attorney
Camie Jarrell, P.E., Project Engineer, GHD
Andrew C. Reilly, PE, AICP, Planning Department
Glenn Wetzl [Via and mail]
Christopher Wood, P.E., Carmina Wood Morris DPC [Via e-mail]

HOPKINS SORGI & MCCARTHY PLLC

Attorneys at Law

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Appendix E

Meeting Minutes of the Town of Hambleton Planning Board

- Meeting Minutes of the Planning Board_June 02, 2021
- Meeting Minutes of the Planning Board_May 19, 2021
- Meeting Minutes of the Planning Board_May 05, 2021
- Meeting Minutes of the Planning Board_February 17, 2021
- Meeting Minutes of the Planning Board_February 02, 2021
- Meeting Minutes of the Planning Board_October 07, 2020

Appendix E-1

Meeting Minutes of the Planning Board

March 15, 2023

Attorney Pavia stated that a berm could be considered, as well as additional trees in the buffer areas. He further stated that all of the chemicals used by this car wash would be biodegradable. He noted that the car wash would be a closed loop system, meaning that the vast majority of the water that would be used would be recycled.

Attorney Pavia noted for the record that his client did not remove all the trees on this site. He noted that Mavis Auto Center removed those trees.

Mr Bobseine stated that the issues still outstanding are as follows:

- Additional landscaping in the front of the site
- Additional landscaping/buffering along the southern side of the site
- Revisions to the renderings of the buildings regarding the colors matching those of Walmart

Chairman Clark made a motion, seconded by Ms. Grohachan, to table this project to the Planning Board's April 19, 2023 meeting and authorize the Planning Department to prepare draft resolutions to be returnable on April 19, 2023. Carried.

Engineering Department comments have been filed with the Planning Department.

Planning Board to issue the final Scoping Document for proposed project by Glenn Wetzl to be constructed on a portion of approximately 42.5 acres of vacant located at 0 Big Tree Road and 0 Wilson Road

Mr. Rogers stated that comments were received on March 15, 2023 from the New York Department of Conservation (DEC) that were typical and from the New York State Department of Transportation (DOT) indicating that it will review the traffic impact study.

Chairman Clark made the following motion, seconded by Ms. Gronachan:

"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, acting as SEQR Lead Agency, issued a Positive Declaration on the Glenn Wetzl project (proposed rezoning and multi-family development) located off of Big Tree Road; and

Whereas, the applicant submitted a draft Scoping Document and the Planning Board held a Public Scoping Meeting on March 1, 2023 and has received input from other individuals and Interested Agencies; and

Whereas, the Planning Board, with the Planning Department, has completed the final Scoping Document.

Therefore, Be It Resolved that the Planning Board issues the final Scoping Document as amended but will continue to take any input from any Involved and Interested Agencies and any additional comments will be addressed in the draft Environmental Impact Statement."

Carried.

Appendix E 1

Meeting Minutes of the Planning Board

March 01, 2023

Chairman Clark stated that when the SRC briefly reviewed this project at its January 2023 meeting, members thought that instead of building two-story townhouses they would like to see a three-story building where the townhouses are on the second and third floor and the first floor is used for commercial uses that are waterfront enhanced or waterfront dependent. He noted that the SRC thought this would be a good way to maintain public access to the lake in that area.

Attorney Hopkins stated that he would speak to the owner about the SRC's suggestion.

Board members discussed whether the SRC's suggestion is something they would agree with.

Chairman Clark made a motion, seconded by Ms. Gronachan, to table this project to the Board's April 6, 2023 meeting. Carried.

Engineering Department comments have been filed with the Planning Department.

~~Session - Proposed 156-unit multi-family housing development by Glenn Wetzl to be constructed on a portion of approximately 42.5 acres of vacant land, located at 0 Big Tree Road and 0 Wilson Drive.~~

Attorney Sean Hopkins, representing the applicant, stated that the Planning Board last reviewed this rezoning request on September 15, 2021. He noted that at that time the Planning Board issued a Positive Declaration pursuant to SEQR and as a result a draft Scoping Document was submitted on January 30, 2023.

Attorney Hopkins stated that in 2020 the layout being contemplated was a residential subdivision that would connect to Wilson Drive on property that is zoned correctly for that use and a multi-family project on the remainder of the property. He noted that the multi-family project would be located on a portion of the property that is currently zoned C-1 and would require a rezoning to R-3. He stated that based on feedback received from the property owners in the Wilson Drive area, the residential portion of the project was eliminated entirely and the multi-family portion of the project was expanded (approximately four (4) additional acres).

Attorney Hopkins stated that the project as it is currently proposed consists of 156 units (single story and two (2) story buildings). He noted that the applicant had a market study done and is confident there is ample demand for this type of product. He noted that the balance of the site, which is approximately 20.1 acres and includes all of the area behind the properties on Wilson Drive, would be open space. He stated that this open space would include a stub street that is located on Wilson Drive, meaning that there would be no development in an area that was clearly envisioned as a residential subdivision.

Attorney Hopkins stated that the applicant is requesting a rezoning to R-3 of 20.4 acres. He further stated that only .04 acres of the approximately 7.52 acres of jurisdictional wetlands on the site would be impacted. He noted that the open space would remain permanently undeveloped and a declaration of restrictions would be recorded at the Erie County Clerk's office to ensure for the benefit of the Town, the U.S. Army Corps of Engineers and the adjoining property owners that no development would ever occur.

Attorney Hopkins stated that because a Positive Declaration was issued, the applicant must show the different alternatives. He noted that the applicant's preferred alternative is what is cur-

rently being proposed. He stated that one of the other alternatives would be the layout that was initially proposed in 2020, but the property owners on Wilson Drive made it very clear they were not supportive of it.

Attorney Hopkins stated that the third alternative would be what is permitted by the existing zoning. He stated that approximately 16 acres could consist of two (2) drive-thru restaurants, as well as a series of retail and office buildings (approximately 100,000 sq.ft.). He noted that the problem with this alternative is that there is no suggestion that there is a demand for those uses. He stated that in this alternative, there would also be a residential subdivision connected to Wilson Drive on the portion of the property currently zoned R-1.

Attorney Hopkins stated that when one looks at environmental impacts, the third alternative would have some serious drawbacks as follows:

- It would result in much more traffic during both the AM and PM weekday period
- It would result in additional impervious surfaces
- It would result in additional wetland impacts
- It would eliminate the option of a riparian buffer that not only crosses the adjacent Manko subdivision site, but also would cross this site

Attorney Hopkins stated that the riparian buffer is provided in the currently proposed layout.

Attorney Hopkins stated that since this project was last reviewed by the Planning Board (September 2021), the demand for this type of multi-family units for lease is much greater than it was then and the demand for stand-alone commercial space is much less than it was then.

Attorney Hopkins noted that Glenn Wetzl, applicant, buys property, constructs the project and manages it himself.

Attorney Hopkins listed the potentially significant adverse environmental impacts identified by the Planning Board in the Positive Declaration as follows:

- Wetlands
- Surface water, specifically the stream corridor
- Plants and animals
- Open space and ecosystems of this area
- Transportation
- The rezoning project may not be consistent with the Town's Comprehensive Plan
- The proposed project may have a significant adverse environmental impact on the natural landscape and may not be consistent with the character and quality of the existing area and neighborhood

Attorney Hopkins stated that the impact on surface water has been addressed with the proposal of the riparian buffer. He further stated that Earth Dimensions has prepared a Habitat Study that will be included in the draft EIS. He stated that with the exception of the possible presence of the Northern Long Eared Bat, which is true almost everywhere in western New York, there are no protected plants or animal species on the site. He noted that the applicant's preferred plan preserves 20.1 acres of green space, including those areas on the site that are the most sensitive.

Attorney Hopkins stated that SRF Associates prepared a Traffic Impact Study (TIS) that looked at the cumulative impacts of both this project and the adjacent proposed Manko subdivision. He noted that the TIS has been reviewed by the DOT and the project layout reflects its input.

Attorney Hopkins stated that since last reviewing this proposal, the Town of Hamburg has adopted a Comprehensive Plan Update and there were no changes to the designation or the recommended land uses for this particular site.

Attorney Hopkins stated that the applicant can address the last criteria through the mitigation measures proposed.

Attorney Hopkins stated that all of the professionally prepared reports and studies that were previously submitted, as well as the minutes of the many meetings of the Planning Board related to this project, will be included in the DEIS.

In response to a comment from Ms. McCormick, Attorney Hopkins stated that the applicant may be restricted as to when tree clearing can be performed because of the existing of the Northern Long Eared Bat.

Ms. McCormick stated that the updated guidance from the U.S. Fish & Wildlife Service regarding the above should be include in the DEIS.

In response to a question from Ms. Gronachan, Mr. Wood stated that there would only be one (1) entrance to this development. He noted that originally two (2) were proposed but as a result of the traffic study the DOT required the removal of one (1) of them.

Attorney Hopkins noted that at one point the applicant proposed a gated emergency access to Wilson Drive, but the nearby property owners could not be convinced that at some point that access would not become a full access to the development.

In response to a question from Ms. McCormick, Mr. Wood stated that the access to the development would consist of two (2) entrance lanes and one (1) exit lane.

It was determined that no secondary fire access is required.

Ms. Gronachan stated that she is impressed with the project and has never seen so much open green space associated with a project. She noted that it is obvious that there has been a lot of work and commitment on the part of the applicant.

Attorney Hopkins noted that although the Planning Board is the SEQR Lead Agency on this project and is responsible for issuing the SEQR Determination, as well as a recommendation on the rezoning, the rezoning decision lies with the Town Board. He stated that the Town Board held a public hearing on this rezoning request in 2021 and there were no negative comments made at that time.

In response to a question from Mr. Chapman, Mr. Wood stated that there is a snowmobile trail that runs from McKinley Parkway through this parcel and onto the Manko subdivision parcel. He noted that the trail would be located approximately 175 to 180 feet from the nearest unit.

In response to a question from Ms. Grohachan, Mr. Wood stated that the distance from the properties on Wilson Drive to the relocated snowmobile trail would be 50 feet. He noted that he will have to work with the snowmobile club to determine the exact location of the trail on the development site.

In response to a question from Ms. Valenti, Attorney Hopkins stated that the request is to rezone 16.4 acres from C-1 to R-3 and approximately 4.5 acres from R-1 to R-3. He noted that the remaining 20.1 acres zoned R-1 would retain that zoning classification.

In response to a question from Ms. Valenti, Mr. Wood stated that there would be sidewalks around the community building but at this point no interior sidewalks are proposed. He further stated that he does not believe there are sidewalks along Big Tree Road in the area of this development.

Ms. McCormick stated that her recollection is that the Planning Board previously discussed installing sidewalks along Big Tree Road in this area, knowing that they would not connect to anything but in the hope that, as other developments change, the Town would have the opportunity to connect them.

Mr. Wood stated that if sidewalks were to be installed along Big Tree Road, they would also be provided from the community building to Big Tree Road in the event that school buses stop there.

Ms. Valenti stated that she would like the DEIS to not only include potential impacts to federal wetlands, but instead potential impacts to all wetlands.

Chairman Clark asked if anyone in the public wanted to speak on the submitted draft Scoping Document. The following people spoke:

- Tim Zimmerman stated that he lives on Tomaka Drive and has spoken to most of the residents of his street, as well as Wilson Drive, and the consensus seems to be that the project as proposed is the best proposal for something to be built on this site. He stated that the residents like the fact that the green space will be preserved and the access to Wilson Drive will not be used.
- Laura Podkulski, 4332 McKinley Parkway, stated that she believes that the snowmobile trail has been broken, noting that she has not seen any snowmobiles on it. She asked if the fire departments will be able to handle this amount of units.

Ms. McCormick asked Attorney Hopkins to include in the DEIS a discussion of the community services in the area, as well as the cumulative impacts of the new stadium.

Chairman Clark stated that the public scoping session was closed.

Chairman Clark made a motion, seconded by Mr. Chapman, to schedule a vote on the final Scoping Document for March 15, 2023 meeting. Carried.

Appendix E
Meeting Minutes of the Planning Board

June 16, 2021

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

Appendix E

Meeting Minutes of the Planning Board

June 02, 2021

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 Comerford, Secretary

June 17, 2021

Appendix E-3

Meeting Minutes of the Planning Board

May 19, 2021

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.

Appendix E
Meeting Minutes of the Planning Board

May 05, 2021

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 Fadale's 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

Appendix E
Meeting Minutes of the Planning Board

February 17, 2021

6465 Railroad Avenue. The project meets the criteria established in the SEQR law as a Type II Action and therefore does not require completion of the SEQR process.

The Planning Board hereby grants Site Plan Approval for the Bob Bieber pole barn project with the following conditions:

1. Any lighting on the building will be dark-sky compliant.
2. The Site Plan will identify the colors of the building and roof."

Carried.

Public Hearing - 7:00 P.M., DPD Holdings, LLC – Requesting Site Plan Approval of a proposal to utilize the existing building at 6220 McKinley Parkway as a commercial office

In response to a question from Chairman Clark, Attorney Kevin Rautenstrauch, representing the applicant, stated that the applicants plan to adjust the existing lights on the building that shine straight out and will put shields on them so that they will shine downwards toward the site.

Chairman Clark stated that the Board of Zoning Appeals will issue a Negative Declaration on March 2, 2021.

Mrs. Comerford read the following notice of public hearing:

"Notice is hereby given that the Town of Hamburg Planning Board will conduct a Public Hearing on a proposal by DPD Holdings, LLC to utilize the existing building at 6220 McKinley Parkway as commercial office. The Public Hearing will be held on February 17, 2021 at 7:00 p.m. in Room 7B of Hamburg Town Hall."

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

Chairman Clark declared the public hearing closed.

Chairman Clark made a motion, seconded by Mr. Schawel, to table this project and authorize the planning consultants to prepare a draft resolution. Carried.

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

Attorney Hopkins stated that one of the Erie County Department of Environment & Planning's comments in response to the Town Board's request for Lead Agency status was that there should be consideration given to connecting this project with David Manko's proposed subdivision on adjacent property via the existing stub streets on Wilson Drive. He noted that based on the nearby property owners' dislike of the idea of using the stub streets and the ability to reduce wetland impacts, no connections to Wilson Drive are being proposed.

Attorney Hopkins stated that the only wetland impact would be 0.04 acres, which qualifies for a Nationwide Permit from the Army Corps of Engineers.

Mr. Reilly stated that there are two (2) projects in front of the Planning Board currently that are adjacent to one another and SEQR requires that cumulative impacts be looked at. He stated that when a recommendation is issued to the Town Board on this rezoning request, it should consider issues of the cumulative impacts on the area of traffic, connectivity of green space, etc.

Ms. McCormick stated that she feels that it will be important to consider the cumulative impacts of storm water, cumulative flows, impacts on Rush Creek and recreational impacts such as the snowmobile trail and thinks it would be a good idea to consider the environmental effects of these projects together.

Attorney Hopkins stated that, while it is appropriate to look at some of the common impacts, tying the projects hand in hand from a land use or environmental perspective is not necessary. He further stated that this site has been designed so that it can accommodate the snowmobile trail in its entirety.

Attorney Hopkins stated that pursuant to Appendix D of the New York State Fire Code, based on the number of proposed units and the fact that they would be sprinklered, no emergency access connection is required to Wilson Drive and the applicant is not proposing one.

Attorney Sean Hopkins, representing the applicant, stated that he submitted a letter to the Planning Board with five (5) proposed rezoning conditions 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) 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 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 Drive. The contents 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 (Multi-family District) located within 200 feet of the rear property line of the existing residential lots on Wilson Drive.
4. The project sponsor shall be required to obtain a Nationwide Permit from the United States Army Corp of Engineers 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-year storm event. Verification of compliance with this condition shall occur in connection with the future review of a site plan application for the proposed residential project.

Attorney Hopkins stated that the above conditions are consistent with the discussions he has had with the Planning Board over several months.

Board members agreed that it would be a wise idea to consider the environmental impacts of this project and the residential project on the adjacent property together.

Attorney Hopkins stated that the tributary to Rush Creek that runs through this site, as well as the adjacent property on which a subdivision is proposed, is also subject to federal jurisdiction so it is part of the application. He noted that as part of that, the applicant must provide assurances that that tributary's integrity will be maintained.

Mr. Reilly stated that another condition of approval of the rezoning should be that the existing gas well on the site be properly capped.

Attorney Hopkins stated that the applicant would be willing to install sidewalks along Big Tree Road.

Attorney Hopkins stated that both Mr. Wetzl and Mr. Manko will have to design and provide on his particular site a stormwater management system that complies with the applicable standards. He noted that the Town Engineer would look at each proposed system individually and make sure it complies.

Mrs. Comerford stated that the cumulative effect of this project combined with the adjacent proposed subdivision on traffic could be substantial.

Attorney Hopkins stated that the New York State Department of Transportation (NYSDOT) was provided with the Lead Agency Solicitation letter for both projects. He noted that he spoke with Ed Rutkowski from the NYSDOT recently and was informed that he does not have any particular concerns with either project from a traffic perspective.

Board members agreed that the following issues are cumulative in nature relative to this project and the proposed subdivision on adjacent property:

- Traffic
- Community character
- Stormwater
- Community services (school district capacity, fire, emergency, etc.)
- Combined capacity for water and sewer extensions
- Yard spraying

Attorney Hopkins stated that when Chris Wood, project engineer, did the downstream sanitary sewer capacity analysis for this project, he included the numbers for the proposed subdivision.

Attorney Hopkins suggested that perhaps the Planning Board should adopt a resolution asking for Lead Agency status in connection with this rezoning request. He further suggested that the Planning Board forward a recommendation on this request to the Town Board simultaneously so that the Town Board can schedule the required public hearing.

Board members agreed that they would discuss the above with the Town Board at the joint Planning Board/Town Board work session on February 22, 2021 at 5:30 PM.

It was determined that if the Town Board relinquishes Lead Agency status to the Planning Board, it will not legally be able to make a decision on the rezoning request until the Planning Board has issued a SEQR Determination.

Chairman Clark made a motion, seconded by Ms. McCormick, to recommend that the Town Board schedule a public hearing on this rezoning request. Carried.

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

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

Attorney Sean Hopkins, representing the applicant, stated that 67 of the proposed lots would be single family homes and two (2) lots would be for stormwater management purposes. He noted that a traditional R-1 subdivision is proposed with public infrastructure.

Attorney Hopkins stated that the project engineer was asked to address comment # 6 in the memo submitted to the Planning Board by the Conservation Advisory Board (CAB) in December 2020. He noted that Chris Wood, project engineer, provided a very detailed letter

Appendix E
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February 02, 2021

In response to a question from Ms. McCormick, Mr. Reilly stated that the outdoor area should be screened from South Park Avenue with fencing and landscaping.

Mr. Wood stated that the outdoor display of new equipment would be in the front of the site and the outdoor storage would be behind the six-foot chain link fence. He stated that the applicant would put screening in the chain link fence so that the stored equipment would not be visible.

Chairman Clark made a motion, seconded by Mr. Chapman, to schedule a public hearing to be held on February 17, 2021. 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 to R-3

Attorney Sean Hopkins, representing the applicant, stated that the site is 42 acres in size and 156 apartment units are proposed. He stated that 20.1 acres of the site would be designated as permanent open space to ensure that it remains undeveloped on a permanent basis.

Attorney Hopkins stated that an emergency access drive from the apartments to Wilson Drive is not required by the New York State Fire Code because less than 200 units are proposed. He stated that therefore the applicant is not proposing any public or emergency access roadway connection to Wilson Drive. He further stated that the applicant would be comfortable with a condition of the rezoning that no roadway connection will be allowed to Wilson Road from the apartment development.

Attorney Hopkins stated that the applicant is requesting that the 16.4 acres that are zoned C-1 be down zoned to R-3 and approximately six (6) acres that are zoned R-1 be rezoned to R-3. He noted that the remainder of the site would remain zoned R-1.

Attorney Hopkins stated that Chris Wood, project engineer, has submitted a downstream sewer capacity analysis to the NYSDEC.

Attorney Hopkins stated that a wetland delineation report has been submitted to the Planning Board. He noted that one of the key benefits of the updated layout is that the wetland impacts would be dramatically reduced (1/3 acre).

Attorney Hopkins stated that every homeowner on Wilson Drive whose property is adjacent to this parcel can be assured that the land behind his or her home will be permanent deeded open space.

In response to a question from Mr. Reilly, Attorney Hopkins stated that a traffic analysis was not done, but trip generation information was submitted to the New York State Department of Transportation for comments.

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

DATO Development, LLC – Requesting rezoning of 5502 Southwestern Boulevard and portions of 5486 and 5472 Southwestern Boulevard from C-1 to PUD

Attorney Sean Hopkins, representing the applicant, stated that if the proposed rezoning is approved, the parcels to be rezoned would then be consistent with the remainder of the 16.3 acre site. He noted that 182 multi-family units are proposed.

Appendix E
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October 07, 2020

Attorney Sean Hopkins, representing the applicant, stated that a Negative Declaration under SEQR was issued by the Planning Board in 2013 for the single family home development and the apartment project, so an additional SEQR determination would not be needed.

Attorney Hopkins stated that the applicant is confident that there would not be a need for the number of parking spaces provided on the previously approved plan.

In response to a question from Mrs. Comerford, Attorney Hopkins stated that every unit would have a garage plus an outside parking space, and there would be additional parking spaces throughout the complex.

Mr. Pidanick stated that there would be no storm water detention on this site because it was designed to be taken care of in conjunction with the Pleasant Development subdivision.

Ms. McCormick stated that she is concerned that the three-bedroom units would not be provided with three (3) parking spaces.

Chairman Clark stated that if someone rented a three-bedroom unit, he or she would know that only two (2) dedicated parking spaces would be guaranteed. He noted that he would not be in favor of removing green space to add more parking spaces.

Engineering Department comments have been filed by the Engineering Department.

DATO Development, LLC - Requesting rezoning of 5502 Southwestern Boulevard and portions of 5486 and 5472 Southwestern Boulevard from C-1 to PUD

Attorney Sean Hopkins, representing the applicant, stated that the rezoning is being requested in order to accommodate a multi-family project on approximately 16 acres of the existing Planned Unit Development (PUD) known as the Brierwood Village Estates PUD. He noted that these parcels to be rezoned would be included in the 16-acre project.

Attorney Hopkins stated that the project involves 182 units with a mixture of buildings, a club-house and a pool.

Attorney Hopkins stated that this will require a Coordinated SEQR Review and he will file Part One of the Full Environmental Assessment Form to the Planning Department to commence that review. He further stated that SRF Associates has been retained to prepare a traffic impact study. He noted that this is an Unlisted Action under SEQR and there are no wetlands, archeological resources or significant vegetation on the site.

It was determined that the existing driveway onto Southwestern Boulevard would serve as the entrance to the new apartment development.

Chairman Clark stated that Board members would need information regarding the original PUD and what it looked like in order to formulate a recommendation to the Town Board. Mr. Reilly stated that he will provide drawings from the original PUD and amendments to it over the years.

It was determined that the portions of 5486 and 5472 Southwestern Boulevard that are not proposed for rezoning are already zoned PUD.

It was determined that the request will be placed on the Board's November 18, 2020 agenda.

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

Attorney Sean Hopkins, representing the applicant, stated that the two (2) parcels the applicant plans to purchase total approximately 42 acres in size. He stated that the applicant will be proposing 18 single family home sites via a public roadway connection from Wilson Drive and 110 single story units for lease.

Attorney Hopkins stated that the applicant feels that single story units are needed in this part of Hamburg. He further stated that a wetland delineation was performed in June 2020 that found a relatively large federal wetland measuring 7.52 acres. He noted that the layout proposed would only impact 0.30 acres and the rest of the wetlands would be permanent open space.

Attorney Hopkins stated that the applicant is showing the Planning Board his plans for the subdivision even though the property is already properly zoned because he is required to pursuant to SEQR and because he is aware that the Wilson Drive residents' first question upon learning about the proposed rezoning will be what is planned for the southern portion of the site.

Attorney Hopkins stated that the proposal is a downzoning from C-1 to R-3, and this property has been for sale for more than a decade. He noted that he believes that it is highly unlikely that the site will ever be used commercially.

Ms. McCormick indicated that she is concerned with the large amount of wetlands on some of the proposed home lots.

Chairman Clark stated that Ms. McCormick's concerns would be discussed during the subdivision review.

Mr. Reilly stated that the Town Board's SEQR review will include both the proposed apartment development and the single family home project.

Ms. McCormick stated that her broader concern is that there could be incremental encroachment on the wetland areas by the homeowners.

Chairman Clark stated that the applicant should indicate how the wetland areas would be identified so that they are not impacted by the homeowners.

REGULAR MEETING

The Broadway Group, LLC – Requesting Site Plan Approval of a new Dollar General store to be located at 6505 Southwestern Boulevard

Tara Mathias from the Broadway Group, representing the applicant, stated that the proposed setback from the adjacent residential property to the south has been increased to 20 feet by shifting the parking area further north. She further stated that the home on that adjacent property is approximately 100 feet from the shared property line.

Ms. Mathias stated that additional information regarding the architectural design of the building was submitted to Board members, and she was looking forward to receiving input on that.

Ms. Mathias stated that she was informed that the Traffic Safety Advisory Board (TSAB) indicated that locating the driveway on Hertz Road would be a safer option than locating it on Southwestern Boulevard. She noted that she contacted the New York State Department of Transportation (NYSDOT) and was again told that locating the driveway on the side road is preferred.

Appendix F

Meeting Minutes of the Town Board

A

Appendix 1A

Meeting Minutes of the Town Board

March 22, 2021

Roger Gibson, Chief Code Enforcement Officer, Town of Hamburg R.E: Concerned about enforcement, pointed out the Board would be the avenue for residents to appeal to for relief from the code.

Mr. Gibson's points were discussed.

Supervisor Shaw inquired if any other person or persons wished to be heard regarding the item. Upon receiving no response a motion to close was offered.

Supervisor Shaw offered a motion, seconded by Councilwoman Hoak, to close the Public Hearing at 7:43 PM.

Motion to CLOSE the Public Hearing APPROVED 5 - 0

AYES - Shaw, Connolly, Farrell, Hoak, Petrie
No - 0

LEGAL NOTICE
TOWN OF HAMBURG

PLEASE TAKE NOTICE that there has been presented to the Town Board on March 8, 2021, pursuant to the Municipal Home Rule Law, a proposed local law to be known as proposed local law #1, 2021; said local law provides for the amendment of Local Law #10, 1986, Chapter 280, entitled "Zoning", and provides substantially as follows:

For the adoption of an amendment to said Zoning Code to rezone 16.4 acres of vacant land (a portion of SBL # 160.19-2-1.1) located on the south side of Big Tree Road, east of 4255 McKinley Parkway from C-1 (Local Retail District) to R-3 (Multi-Family District) in order to construct a multi-family project that includes 104 attached units.

THEREFORE, pursuant to the statutes and the provisions of the Municipal Home Rule Law, the Town Board of the Town of Hamburg will hold a public hearing on March 22, 2021 at 7:00 p.m. (local time), at which time all interested persons may be heard.

Dated: March 12, 2021

Catherine Rybczynski
Town Clerk
Town of Hamburg

Supervisor Shaw offered a motion, seconded by Councilwoman Farrell, to open the Public Hearing at 7:44 PM.

Motion to OPEN the Public Hearing APPROVED 5 - 0

AYES - Shaw, Connolly, Farrell, Hoak, Petrie
No - 0

Supervisor Shaw read the Legal Notice and then introduced Drew Reilly, Town Planner, for a presentation on the proposed law.

Mr. Reilly pointed out that the Town Board would need to hold another Public Hearing due to the Public Hearing Notice lacking information regarding the additional 6 acres.

Those who spoke are as follows:

Sean Hopkins, Esq. (Hopkins, Sorgi & McCarthy, PLLC) on behalf of the applicant, Mr. George Wetzel

Mr. Hopkins pointed out the details as follows:

- Not asking for approval this evening
- Applicant will never build on the proposed 20.1 acres of green space and stipulate such through deed restrictions filed with the Erie County Clerk's Office
- No buildings will be within 200 feet of the current houses on Wilson Dr.
- No public sewer, garbage removal, snow plowing, etc. will be required . . . all private
- Will have an on site water management system capable of handling a "100 year storm event"

Laura Pikolski, Resident - Concerned that the project will effect Rush Creek.

Mr Hopkins stated that the project would not effect the creek.

-Mark Lorquet, Chairman of the Town of Hamburg Conservation Board - Stated that the area is being heavily impacted by all of the current and planned construction in that area of the town. He disputed the notion that it would not effect Rush Creek and is concerned that the water will be compromised with fertilizers, pesticides, and other contaminants as it enters Rush Creek. He continued by pointing out that there is a breeding area near the mouth of Rush Creek that could potentially be harmed by the contaminated water. He stated that the amount of waste water would be increased in that area. Mr. Lorquet also pointed out that all of the adverse effects were going into our drinking water.

Jay Patronik, Resident - Mr. Patronik stated that he believed that part of the area being proposed for "green space" is wetland area. He then quoted a passage from the Comprehensive Zoning Plan for the Town of Hamburg. Mr. Patronik pointed out issues he was concerned about using various criteria intended for use in adjudicating Zoning Board of Appeals use and area variance requests, such as unfavorable effect on area or neighborhood, environment, etc

Mr. Hopkins responded that Mr. Patronik was using the use and area variance criteria, which is a higher standard, than the criteria to be considered for this type of request, which he stated is doing what is in the "best interest of the town."

Councilman Connolly asked for clarification regarding the change in zoning requested.

Supervisor Shaw inquired if any other person or persons wished to be heard regarding the item. Upon receiving no response a motion to adjourn was offered.

Supervisor Shaw offered a motion, seconded by Councilman Petrie, to adjourn the Public Hearing with the intention of reconvening the Public Hearing at a later date at 8:15 PM.

Motion to ADJOURN the Public Hearing APPROVED 5 - 0

AYES - Shaw, Connolly, Farrell, Hoak, Petrie
No - 0

6. Minutes of Previous Meetings

RESOLVED, the Hamburg Town Board does hereby approve the minutes of the previous meetings as follows:

Town Board Work Session of March 8, 2021
Town Board Regular Meeting of March 8, 2021

Moved: Hoak

On a motion of Councilman Hoak, seconded by Councilman Petrie, the following resolution was

ADOPTED

Ayes 5

Connolly, Farrell, Hoak, Petrie, Shaw

Nays 0

Abstain 0

7. Proclamation in Recognition of Alissa Strauss

WHEREAS, Alissa Strauss has served the Town of Hamburg with dedication throughout her term of employment; and

WHEREAS, Alissa has placed the interests of Town Government and the Hamburg Community consistently ahead of her own needs and priorities, creating an example for all Town employees to emulate; and

WHEREAS, as Personnel Director for the Town of Hamburg she has efficiently dealt with human resource issues, payroll processing, and the reconciliation of personnel issues that have laid the groundwork for a more efficient day-to-day operation of Town Government; and

WHEREAS, Alissa has won the respect and earned the friendship of fellow Department Heads and employees throughout Town Government for the professional manner in which she interacts with others on a day-to-day basis; and

WHEREAS, we who work with her sincerely appreciate the outstanding work that she has discharged for the benefit of all;

NOW THEREFORE, BE IT

RESOLVED, that the Hamburg Town Board extends congratulations to Alissa Strauss upon her attainment of a new position in the Town of West Seneca; and

BE IT FURTHER,

RESOLVED, that the Hamburg Town Board extends its best wishes for a productive and

Appendix 12

Meeting Minutes of the Town Board

October 05, 2020

BE IT FURTHER RESOLVED, that two certified copies of this resolution be provided to the Engineering Department for transmittal to the Erie County Water Authority.

MOVED: CONNOLLY

**On a motion of Councilman Connolly, seconded by Supervisor Shaw, the following resolution was
ADOPTED Ayes 5 Connolly, Farrell, Hoak, Petrie, Shaw
Nays 0
Abstain 0**

9. DATO rezoning Southwestern Boulevard

Whereas, the Town of Hamburg received a request from DATO Development, LLC to rezone portions of the properties located at 5486 and 5472 Southwestern Boulevard, as well as 5502 Southwestern Boulevard, from C-1 (Local Retail Business District) to PUD (Planned Unit Development) in order to construct a multi-family residential project consisting of 182 units; and

Whereas, the Code Review Committee reviewed the application and found merit in the rezoning of this property;

Now, Therefore, Be It Resolved, that the Hamburg Town Board hereby refers this rezoning request to the Planning Board for its review and recommendation; and

Be It Further Resolved, that the Hamburg Town Board would like to act as Lead Agency, in accordance with the New York State Environmental Quality Review Act (SEQR) and hereby authorizes the Planning Department to perform the appropriate notifications

Moved: Shaw

On a motion of Supervisor Shaw, seconded by Councilman Connolly, the following resolution was adopted:

On a motion of Supervisor Shaw, seconded by Counterman Connolly, the following resolution was
ADOPTED **Ayes 5** **Connolly, Farrell, Hoak, Petrie, Shaw**
Nays 0
Abstain 0

10. Glenn Wetzl rezoning Big Tree Road

Whereas, the Town of Hamburg received a request from Glenn Wetzl to rezone 16.4 acres of vacant land (a portion of SBL # 160.19-2-1.1) located on the south side of Big Tree Road, east of 4255 McKinley Parkway from C-1 (Local Retail District) to R-3 (Multi-Family District) in order to construct a multi-family project that includes 104 attached units; and

Whereas, the Code Review Committee reviewed the application and recommends that the Town Board entertain this rezoning request with concerns.

Now, Therefore, Be It Resolved, that the Hamburg Town Board hereby refers this rezoning request to the Planning Board for its review and recommendation; and

Be It Further Resolved, that the Hamburg Town Board would like to act as Lead Agency, in accordance with the New York State Environmental Quality Review Act (SEQRA) and hereby authorizes the Planning Department to perform the appropriate notifications.

Moved: Shaw

On a motion of Supervisor Shaw, seconded by Councilman Hoak, the following resolution was

ADOPTED Ayes 5 Connolly, Farrell, Hoak, Petrie, Shaw
Nays 0
Abstain 0

11. TWIN WILLOW PIPE RESOLUTION

WHEREAS, there are two large storm sewer pipes along the lakeshore in the Twin Willow residential neighborhood and the 58" pipe is currently blocked by significant debris causing issues and damage to the adjacent properties; and

WHEREAS, the Town has committed to adding the residents and set aside funding of work at Twin Willows; and

WHEREAS, the Town Engineer has contacted local contractors to resolve the issue and only one contractor provided a quote for the price and a commitment to complete the work this year; and

WHEREAS, the cost of the work is below that which would require competitive bidding pursuant to the General Municipal Law of the State of New York,

THEREFORE BE IT RESOLVED, that Picone Construction Corporation is authorized to complete the work at Twin Willow as outlined in their October 1, 2020 proposal at a cost of \$24,230.00. Funds available in account ____.

Moved: Connolly

**On a motion of Councilman Connolly, seconded by Supervisor Shaw, the following resolution was
ADOPTED Ayes 5 Connolly, Farrell, Hoak, Petrie, Shaw
Nays 0
Abstain 0**

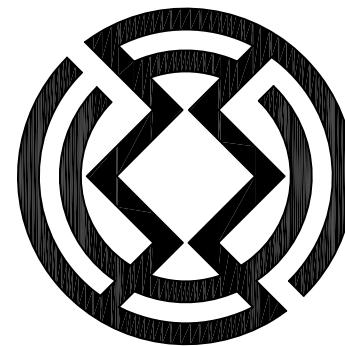
Five Conceptual Site Plans 1,

Five Plan 1: Conceptual Site Plan consisting of mix-Use commercial development with sub-division, Drawing C-100, prepared by Christopher Wood Morris dated December 07, 2021

Plan 2: Preferred Alternative - Conceptual Site Plan consisting of mixed-use development with 20.1 acres of As-of-Right Plan, Drawing C-100, prepared by P.E. of Carmina Wood Morris dated June 9, 2021

Conceptual
Plan C-100

Alternative Plan 1:
Conceptual Site Plan consisting of mix-
commercial development with sub-divis
C-100, prepared by Christoph
of Carmina Wood M



**Carmina
Wood
Morris**^{PC}
487 Main Street, Suite 600
Buffalo, New York 14203
P: 716.842.0283

Proposed Development

Big Tree Road
Town of Hamburg, New York

New Construction
PROJECT NAME:

Date: 12/7/21
Drawn by: C. Wood
Scale: AS Nod

DRAWING NAME:
Concept Site
Plan

DRAWING NO.: C-100
Project no.: 20-062

REVISIONS:	NO.:	DESCRIPTION:	DATE:
SITE DATA - R3 AREA			
		SITE AREA = 16.4 AC	
		ZONED: ZONE D-C-1	
		DESCRIPTION: COMMERCIAL DEVELOPMENT	
SETBACKS-BUILDING	REQUIRED	PROVIDED	
FRONT:	40 FT	>40 FT	
SIDE (ABUTTING COMM./RESIDENTIAL):	5 FT/40 FT	>5 FT	
REAR (ABUTTING COMM./RESIDENTIAL):	10 FT/40 FT	>10 FT	
SETBACKS-PARKING	50 FT	>50 FT	
FRONT:	5 FT	>5 FT	
SIDE:	5 FT	>5 FT	
REAR:			
GREENSPACE			
TOTAL SITE 10%:	1.21 AC	>10.0%	
INTERIOR TO PARKING AREA (5%):	0.20 AC	>5%	
PARKING # OF SPACES - SEE CALCULATION BELOW	AS DETERMINED	xxx TOTAL	
LOT FRONTAGE	BY P.B.		
LOT WIDTH AT FRONT LOT LINE:	100.0 FT MIN.	317.56 FT	



SINGLE FAMILY ZONING DATA:	
CURRENT ZONING:	R-1
LOT WIDTH AT FRONT LINE:	30
LOT WIDTH AT BUILDING LINE:	90
MINIMUM SIDE YARD:	35'
MINIMUM FRONT YARD:	10' (25' TOTAL)
MAXIMUM SIDE YARD:	30
MAXIMUM REAR YARD:	35'
MINIMUM BLDG. HEIGHT:	15,000 SF
MINIMUM LOT AREA:	100'

0.30 AC TOTAL
WETLAND IMPACT

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

100' 0' 100' 200ft.

Alternative Plan 2: Preferred Alternative - Conceptual Site Planning of multi-family development with variations of As-of-Right Plan, Drawing C- oncept prepared by Christopher Wood, P.E. and Marmina Wood M.ASCE

Alternative Plan 3:
Conceptual Site Plan with Multi-Family
Development with Sub-division, Drawing
prepared by Christopher Wood, P.E.
Carmina Wood Morris

Appendix II

Eaststream Sanitary Sewer Capacity Analysis
Prepared by Carmina Wood Morris

1



January 10, 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:

Enclosed is a copy of the Downstream Sewer Capacity Analysis Report ("DSCA") dated January 5, 2021 as prepared by Christopher Wood, P.E. of Carmina Wood Morris with a completed New York State Department of Environmental Conservation Application for Approval of Plans for a Wastewater Disposal System. Chris Wood submitted has submitted a copy of the enclosed DSCA to the Erie County Division of Management ("ECDSM") for its review.

The DSCA demonstrates that there is adequate downstream sanitary sewer capacity to service the proposed residential project during wet weather conditions per NYSDEC Inflow and Infiltration Policy that applies to proposed projects that will generate more than 2,500 gallons per day of sanitary sewer flow.

If you have any questions regarding the enclosed documentation, please feel free to contact Chris Wood at 842-3165 [Ext. 103] or via e-mail at cwm-ae.com or me at 510-4338 or via e-mail at shopkins@hsr-legal.com.

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

A handwritten signature in black ink.

Sean W. Hopkins, Esq.

Enc.

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

HOPKINS SORGI & MCCARTHY PLLC

Attorneys at Law

5500 Main Street, Suite 343 • Williamsville, New York 14221

Direct: 716-510-4338 • E-mail: shopkins@hsr-legal.com • www.hsr-legal.com



Carmina Wood Morris RPC

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

Multi-Family Development
Big Tree Road, Hamburg New York
Downstream Sewer Capacity Analysis Report

Project Description

This new site development project will consist of the construction of 1 and 2-story apartment buildings. Construction will also include on-site utility, landscaping improvements, and associated parking. The overall acreage of the site is 42.50 acres. The site is located on Big Tree Road on parcel 160.19-2-1.1 in the Town of Hamburg.

The proposed sewer for this project will tie into the existing 8" sewer along Big Tree Road. The node analysis below includes the anticipated demands of an upcoming nearby development project at Parker Road & Route 20A.

Node 1 – Big Tree Rd (10"):

Existing Peak Flow measured (overall)	=	0.942 cfs (0.507 mgd)*
Proposed Multi-Family Big Tree Rd Peak Flow	=	0.215 cfs**
Proposed Parker Road Peak Flow	=	0.141 cfs
Total Proposed Peak Flow	=	1.298 cfs
Existing Peak Flow measured (wet weather event)	=	0.842 cfs (0.453 mgd)*
Proposed Multi-Family Big Tree Rd Peak Flow	=	0.215 cfs**
Proposed Parker Road Peak Flow	=	0.141 cfs
Total Proposed Peak Flow	=	1.198 cfs

Theoretical capacity of existing 10" RCP pipe @ 3.0% = 4.108 cfs

Conclusion: The proposed peak flow is less than the capacity of the 10" pipe, therefore there is sufficient capacity. At no time during the monitoring did the flow depth exceed the pipe diameter at Node 1 of the downstream monitoring points during the rain events monitored.

Notes:

Pipe slopes, sizes and materials provided by Erie County Division of Sewerage Management

* Converted from measurements in TECSmith report dated 7/23/20

** See Sanitary Sewage Demand Calculations

**Exhibit 1 – Downstream Sewer Capacity
Analysis Report Prepared by Christopher
Wood, P.E. of Carmina Wood Morris DPC
dated January 5, 2021**



Carmina-Wood-Morris^{DPC}

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



Multi-Family Development Big Tree Road, Hamburg New York

Downstream Sewer Capacity Analysis Report

Project Description

This new site development project will consist of the construction of 1 and 2-story apartment buildings. Construction will also include on-site utility, landscaping improvements, and associated parking. The overall acreage of the site is 42.50 acres. The site is located on Big Tree Road on parcel 160.19-2-1.1 in the Town of Hamburg.

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Node 1 – Big Tree Rd (10"):

Existing Peak Flow measured (overall)	=	0.942 cfs (0.507 mgd)*
Proposed Multi-Family Big Tree Rd Peak Flow	=	0.215 cfs**
Proposed Parker Road Peak Flow	=	0.141 cfs
Total Proposed Peak Flow	=	1.298 cfs
Existing Peak Flow measured (wet weather event)	=	0.842 cfs (0.453 mgd)*
Proposed Multi-Family Big Tree Rd Peak Flow	=	0.215 cfs**
Proposed Parker Road Peak Flow	=	0.141 cfs
Total Proposed Peak Flow	=	1.198 cfs

Theoretical capacity of existing 10" RCP pipe @ 3.0% = 4.108 cfs

Conclusion: The proposed peak flow is less than the capacity of the 10" pipe, therefore there is sufficient capacity. At no time during the monitoring did the flow depth exceed the pipe diameter at Node 1 of the downstream monitoring points during the rain events monitored.

Notes:

Pipe slopes, sizes and materials provided by Erie County Division of Sewerage Management

* Converted from measurements in TECSmith report dated 7/23/20

** See Sanitary Sewage Demand Calculations

Node 2 – 4707 Milestriu Road [24"]

Existing Peak Flow measured (wet weather event)	=	8.518 cfs (4.584 mgd)*
Proposed Multi-Family Big Tree Rd Peak Flow	=	0.215 cfs**
Proposed Parker Road Peak Flow	=	0.141 cfs
Total Proposed Peak Flow	=	8.874 cfs

Theoretical capacity of existing 24" RCP pipe @ 0.15% = 9.484 cfs

Conclusion: The proposed peak flow is less than the capacity of the 24" pipe, therefore there is sufficient capacity. At no time during the monitoring did the flow depth exceed the pipe diameter at Node 2 of the downstream monitoring points during the rain events monitored.

Node 3 – McKinley Pkwy [42"]

Existing Peak Flow measured (wet weather event)	=	33.331 cfs (17.938 mgd)*
Proposed Multi-Family Big Tree Rd Peak Flow	=	0.215 cfs**
Proposed Parker Road Peak Flow	=	0.141 cfs
Total Proposed Peak Flow	=	33.687 cfs

Theoretical capacity of existing 42" RCP pipe @ 0.43% = 71.412 cfs

Conclusion: The proposed peak flow is less than the capacity of the 42" pipe, therefore there is sufficient capacity. At no time during the monitoring did the flow depth exceed the pipe diameter at Node 3 of the downstream monitoring points during the rain events monitored.

Notes:

Pipe slopes, sizes and materials provided by Erie County Division of Sewerage Management

* Converted from measurements in TECSmith report dated 7/23/20

** See Sanitary Sewage Demand Calculations

Location Map

Mulit-Family Development at Big Tree Rd



1/4/2021, 3:35:54 PM

1:9,028

0 305 610 1,220 ft
0 90 180 360 m

Parcels

Municipal Boundaries

USDA FSA, GeoEye, Maxar

Web AppBuilder for ArcGIS

USGS TNM - National Hydrography Dataset. Data Refreshed October, 2020. | NYS GIS Program Office | Telephone: (518) 242-6029 | Email: lls.sm.SAM.Maintenance@lls.ny.gov

Sanitary Demand Calculations

CARMINA WOOD MORRIS, D.P.C.
 487 MAIN STREET, SUITE 500
 BUFFALO, NEW YORK, 14203
 (716) 842-3165
 FAX (716) 842-0263

Project No.: 20.062 Date: 1/4/2020
 Project Name: Multi-Family Development
 Project Address: Big Tree Road
 Subject: Sanitary Sewer
 Sheet: 1 of 1

Sanitary Sewage Demand Calculations:

Subdivision
 220 gal/d/unit x 156 units = 34,320 gpd

*use 220 gallons per day per 2-bdrm unit

Total Site Sanitary Demand: 34,320 gpd

Find Peak Sanitary Demand:

Peakng Factor based on Population:
 Total demand: 34,320 gpd / 100 gpcd = 343 per capita

Population (P) = 343 people

Peaking Factor: $(18 + \sqrt{P}) / (4 + \sqrt{P})$ where P is in thousands

Peaking Factor = 4.05

Peak Sanitary Demand = 34,320 x 4.05 = 139,095 gpd

0.139 MGD
 0.215 cfs

Required Infiltration and Inflow Mitigation:

Peak Sanitary Flow 139,095 gpd = 96.6 gpm

4:1 offset flow per NYSDEC requirements 96.6 x 4 = 386.4 gpm req'd

Mitigation Credit

Laterals to be replaced

(13 laterals to be replaced)

TECSmith Monitoring Report

TECsmith

TECSMITH, Inc.
PO Box 383
Elma, New York 14069-0383
Tel: 716-462-0382
Fax: 716-687-1418

Date: July 23, 2020

SANITARY SEWER FLOW CAPACITY STUDY – Summary Review

Prepared For: 4825 Parker Capacity Analysis

Christopher Wood
487 Main Street, Suite 600
Buffalo, New York 14203
P: (716) 842-3165
F: (716) 842-0263

Project Name: 4825 Parker Capacity Analysis

Flow Monitoring Period: June 22, 2020 to July 20, 2020

Rain Events (> 0.5-Inches) Monitored: June 23 (0.54"), July 11 (1.21") and July 16 (0.86")

Number of Monitoring Nodes: Three (3) downstream manholes

Node Locations and Descriptions:

- Node 1 Big Tree Rd (10")
- Node 2 4707 Milestrip Rd (24")
- Node 3 McKinley Pkwy 42in (42")

Summary Conclusion:

Based on the data presented in this report, specifically the flow depth measurements recorded (see graphs below)

- At no time did the flow depth exceed pipe diameter at any of the downstream monitoring points during the rain events monitored.
- At no time during the monitoring period did the flow at any point slow or stall which would have caused a backup or flooding at the manhole.