

**State Environmental Quality Review
FINDINGS STATEMENT**

**Hamburg Business Park: Rezoning and Development
Bayview Road and Southwestern Boulevard
Town of Hamburg, Erie County, New York**

Pursuant to Article 8 (State Environmental Quality Review Act – SEQR) of the Environmental Conservation Law and 6 NYCRR Part 617, the Town of Hamburg as Lead Agency, makes the following Findings:

NAME OF ACTION

Hamburg Business Park
E/F Burke Company

LOCATION

The project location is in the Town of Hamburg, Erie County, New York. It is located on a vacant parcel bounded by Bayview Road to the north, South Park Avenue (US Route 62) to the south, and lands owned by the Frontier Central School District to the west.

DESCRIPTION OF ACTION

The E/F Burke Company has proposed developing a 28-acre parcel of land into a 5-parcel business center to be known as the *Hamburg Business Park*. In order for the project to be developed as proposed, the applicant is also requesting a change in zoning from C-1 (Local Retail Business District) to C-2 (General Commercial District).

The proposed development will contain an as yet undetermined mix of general commercial, retail and service businesses. A total of five parcels, ranging in size from 2 acres to 7.5 acres are proposed, along with a new public road between Southwestern Boulevard and Bayview Road to provide access. The development will also include associated infrastructure, including two detention ponds. As currently proposed, the full build-out of the Hamburg Business Park will consist of approximately 211,500 square feet of building space. Commitments have been obtained from tenants for two of these lots: a bank/credit union and a tractor supply store, totaling 6,500 square feet and approximately 50,000 square feet respectively. It is anticipated that the three remaining lots will support an estimated total 155,000 square feet of space. Each of the proposed parcels will have adequate parking for the identified use.

In the absence of specific tenants or site plans, a Generic Environmental Impact Statement (GEIS) has been prepared on behalf of the Town of Hamburg. The objective of the GEIS is to determine and assess the potential impacts of developing the Hamburg Business Park, including the new public road, an unknown mix of general commercial/ retail and business services on the proposed five lots and associated infrastructure. It is further intended to establish appropriate mitigations for expected development, and set thresholds for when additional evaluation must be undertaken to determine if additional mitigation is warranted.

AGENCY JURISDICTION

The Town of Hamburg Town Board, as the Lead Agency, has jurisdiction over the issuance of the requested rezoning.

DATE FINAL ENVIRONMENTAL IMPACT STATEMENT FILED

The Final Generic Environmental Impact Statement was filed by the Town of Hamburg on May 8th, 2006.

FACTS AND CONCLUSIONS RELIED ON TO SUPPORT THE DECISION

These Findings consider the relevant environmental impacts, facts and conclusions disclosed in the Draft Generic Environmental Impact Statement (DGEIS) and the Final Generic Environmental Impact Statement (FGEIS). The Findings weigh and balance relevant environmental impacts with social, economic and other considerations, and provide a rationale for the Town of Hamburg's decision regarding environmental impacts associated with the proposed action. These findings also certify that the requirements of 6 NYCRR Part 617 have been met and certify that, consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action chosen is the one which avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions those mitigation measures that were identified as practicable.

Pursuant to SEQRA, the Town of Hamburg sought and received concurrence from other Involved Agencies for the Town of Hamburg to be the Lead Agency in the consideration of this proposed action. The Town issued a Positive Declaration on April 18, 2005, requiring preparation of a DGEIS. A public Scoping Meeting was held on May 2, 2005 at the Hamburg Town Hall. Substantive comments received during the public scoping session were included in the DGEIS. A DGEIS was completed and accepted by the Town on October 24, 2005. A public hearing was held on November 21, 2005, during the public comment period, which ran through December 5, 2005. Comments were received during the comment period from the Town of Hamburg; Erie County; the Chairman of the Town of Hamburg Planning Board; and the New York State Department of Transportation. Comments were summarized and

responded to in the Final Generic Environmental Impact Statement (FGEIS), including the development of a revised Traffic Impact Study, dated February 23, 2006.

The delay in the time period between the DGEIS completion and FGEIS completion was due to the applicant having to redo their traffic study per the NYSDOT.

FINDINGS AND CONCLUSIONS SUPPORTING THE DECISION

Impact on Land

The proposed project will result in an unavoidable loss of pervious surface and vegetation. Development will be phased, and there could be negative impacts associated with incomplete development and construction impacts. Also, there is shallow shale bedrock on the site, and excavation may be necessary. There are also areas of poor soils (silty-clays) which may need to be removed and replaced with fill.

Mitigative Measures:

- Stormwater pollution prevention measures will be required (see impacts on water).
- Each parcel must contain landscaping to mitigate for loss of vegetation (see aesthetic impacts).
- The construction of the road will occur immediately, as part of Phase I, to help alleviate impacts on surrounding roads and neighboring uses. See also Construction Impacts.
- A geotechnical evaluation will be required prior to the design and construction of each individual parcel to ensure adequate soils.
- Excess soils or bedrock from any parcel will not be stored on any parcel within the business park after completion of construction on the parcel. Excess materials will be disposed of properly.

Findings:

With the implementation of the proposed mitigations, there will be no significant impact.

Impact on Water

Development of the site will result in an increase in impervious area, which can have impacts on water quality. It will also result in an increase of demand for water and sewer capacity.

Mitigative Measures:

- The project must conform to New York State Stormwater Pollution Prevention Regulations, and a Stormwater Pollution Prevention Plan (SWPPP) will be required for each parcel. Proper erosion control methods will be used during construction.
- Individual site plans and stormwater plans will be subject to Town approval prior to construction. Detailed stormwater calculations will be required for each parcel.

- If water or sewer demand figures attributable to the project increase beyond the levels used in the DGEIS and FGEIS, the Town may request additional information.
- There are no wetlands on site, so no mitigative measures are required for wetlands.
- Erie County Water Authority approval will be required for water service to the development. For each proposed development parcel, a hydraulic analysis will be required. No water line extension or service tap will be allowed unless acceptable service levels are maintained for all existing customers. Design of the water system will meet capacity needs for potable water and fire flow pressures.

Findings:

With the implementation of the proposed mitigations, there will be no significant impact.

Impact on Aesthetic / Open Space Resources

The proposed project will result in an unavoidable loss of open space. Also, it is in a prominent location in the Town that the Town has sought to protect through the enactment of the South Park Overlay District and the Southwestern Boulevard Overlay District. Inappropriate development could have potential negative impacts on local aesthetic character.

Mitigative Measures

- The development must conform to the regulations of the underlying zoning and with the regulations of the South Park Overlay District and the Southwestern Boulevard Overlay District in regard to aesthetics, including architectural style, landscaping, lighting fixtures and signage in order to provide for an improved and positive image for the area. Each site is subject to individual site plan review, and the Town of Hamburg Planning Board will review each site plan to ensure compliance with these provisions, and any restrictions or requirements placed on the project by the Town Board on the rezoning of this property. Landscaping plans must be prepared and certified by a NYS licensed landscape architect.
- Appropriate architectural treatment will be required for the façade of any building that faces road frontage or is visible from a public roadway. The Tractor Supply building shall be in accordance with the rendering presented to the Town Board at their April 24, 2006 meeting. The development of the other parcel fronting Southwestern Blvd. will also have Town Board concurrence on the Architecture.
- Signage for the business park will be located at the two entrances of the proposed new public road. No other pole signs (for individual businesses) will be allowed. Directional signage will be allowed at the proposed driveway between parcel 2 and 3 on Southwestern Boulevard.

- Outdoor storage areas are not allowed, unless the Town of Hamburg Planning Board, through site plan review, determines that such display, as proposed, are consistent with the provisions of the overlay district. Any allowed outdoor open storage space will be designed so as to be connected to the main building and appear to be a continuation of the main building. Extensive landscaping and/or fencing will be used to screen the contents of any allowed outdoor storage area from public roads. As part of the site plan review process, the Town may require visual representation of proposed storage in order to assess its appropriateness. Outdoor display areas shall be limited in nature. For the Tractor Supply project, the plan should be in accordance with the site plan dated 4/26/06, and be approved by the Planning Board. For the other lot facing Southwestern Blvd., outdoor display areas are to be restricted from the frontage area and limited under site plan review to the areas directly abutting any proposed building.
- The project will provide adequate screening between the developed areas and adjacent uses, including maintaining the existing vegetative buffer along the western edge of the parcel to screen the school from the proposed development.
- Screening in other locations will be assessed as part of the site plan review process. Screening will be required around mechanical equipment (generators, air conditioning units, dumpsters, etc.) to mitigate visual and noise impacts.

Findings

With the implementation of the proposed mitigations, there will be no significant impact.

Construction Impacts

There will be temporary impacts associated with the construction of the development, including noise, construction vehicle traffic, etc.

Mitigative Measures

- The construction of the new public road through the site will occur immediately as part of Phase 1, to help alleviate impacts to surrounding roads. Construction of the roadway will also include installation of landscaping (trees, grass, etc.) to help establish a positive image for the business park. Applicant will be responsible for the maintenance of the landscaping.
- No disturbance of any individual site will occur until a site plan has been approved for that site. Each site is subject to individual site plan review, including assessment of proposed landscaping.
- Undeveloped properties within the business park will not be used to store excess construction materials or soil stockpiles (landscaped berms intended for noise or visual screening are not considered soil stockpiles).

- Vegetative buffer between the Elementary School and Parcel 5 will be retained as a noise buffer. No disturbance or removal of vegetation will occur within 50-feet of the western property line.
- All construction vehicles will be properly maintained and have sufficient muffler systems installed.
- Wherever possible, stationary noise generating activities will occur as far from the school as possible. Only necessary equipment will be on-site.
- Construction vehicles shall have variable or quieter backup alarm systems.
- Construction vehicles shall not be idling when not in use.

Findings

With the implementation of the proposed mitigations, there will be no significant impact.

Community Character Impacts

Inappropriate development in this area could have negative impacts on the community character of the area.

Mitigative Measures

- Although allowed under C-2 zoning, the following uses, which have the potential to adversely affect community character, will be prohibited at the Hamburg Business Park, as offered by the applicant: (These uses will be provided by Deed restrictions and by the Zoning Resolution.)
 - Boat and marine sales and service
 - Warehouses
 - Dairies and bottling of beverages
 - Wholesale sales and distribution
 - Commercial swimming pools
 - Theatres and drive-in theatres
 - Golf driving ranges and miniature golf
 - New or used motor vehicle sales
 - Terminals for trucking and delivery services
 - Laundry and dry-cleaning plants
 - Storage and sales of solid fuel
 - Commercial car washes
 - Filling stations, gasoline stations, automotive repair shops
 - Public garages.
- Issues addressed under aesthetics will also help to mitigate any negative impacts to community character. These include maintenance of landscaping, maintenance of appropriate buffers between the development and adjacent uses, and adherence to the regulations of the two relevant overlay districts.

- Under C-2 zoning, buildings of up to 100,000 square feet are allowed. Each parcel will be subject to site plan approval to assess the proposed development, its compatibility with the surrounding area, and its conformance with zoning requirements. All development must have adequate provisions for parking, stormwater management and landscaping. Any buildings over 100,000 square feet require a special use permit and may require a Supplemental Environmental Impact Statement.
- This assessment is based on the premise that business park will consist of five parcels as shown in the DGEIS and FGEIS. If the subdivision of the business park varies from the layout shown in Figure 3, the Town may require a Supplemental Environmental Impact Statement to assess impacts to community character.

Findings

With the implementation of the proposed mitigations, there will be no significant impact.

Traffic Impacts

Potential traffic impacts were evaluated through a Traffic Impact Study (TIS) prepared by Nussbaumer & Clarke for the applicant. Due to concerns with the first TIS, a revised TIS was prepared, which is dated February 23, 2006. The TIS was reviewed by the New York State Department of Transportation, and certain recommended mitigation measures are identified below. Because this is a generic impact statement, where specific uses are not identified and actual phasing may vary, certain thresholds assessing the need for additional mitigative measures in the future have been established.

Mitigative Measures

- ***Southwestern Boulevard (US Route 20) at the proposed new public road:***
 - A three-phase, fully actuated traffic control signal with pedestrian features will be installed at this intersection when warranted, which the TIS indicates will be upon the development of any second parcel within the park.
 - The developer or NYSDOT will be responsible for installing this traffic signal if it is warranted prior to the complete build-out of the Business Park. Installation will be subject to NYS DOT approval. DOT will assume ownership of the traffic signal and all maintenance responsibilities.
 - A stop sign will be installed by the developer to control traffic at this intersection until traffic volumes and/or traffic delays warrant the installation of the light.
 - The approach from the proposed new road to Southwestern Boulevard will have two exit lanes: a lane for vehicles turning right and a separate lane for vehicles turning left.

- **Bayview Road (CR 575) at the proposed new public road:**
 - A two-way stop-sign control will be installed by the applicant at this intersection to control traffic exiting the development.
 - The approach from the proposed new road to Bayview Road will have two exit lanes: a lane for right-turning vehicles and another lane for left-turning vehicles.
 - A left-turn slot will be provided on Bayview Road to accommodate vehicles on Bayview turning left into the new roadway, and separate them from through traffic on Bayview Road. The cost of this traffic improvement will be the responsibility of the applicant.
 - Upon completion of each phase of the business park and at full build-out, Erie County will examine the operation of this intersection to assess whether a traffic signal is warranted and whether or not the traffic projections in the TIS are accurate. The owner of the Business Park will provide updated traffic information for each phase. If a signal is warranted at this intersection, the next phase of development will not be allowed until the signal or other required improvements are installed at the costs of the owner or developer of the Business Park.

- **Southwestern Boulevard (US Route 20) at new driveway between Parcels 2 and 3:**
 - The driveway will be designed with channelizing techniques so as to prohibit left-turns out of the driveway onto US Route 20, and allow only right-turns out of the drive. Turning movements into the drive will not be restricted.

- **Southwestern Boulevard (US Route 20) at South Park Avenue (US Route 62)**
 - The applicant will work with the NYS DOT to make revisions to signal timing and phasing to alleviate delays.

- **South Park Avenue (US Route 62) at Bayview Road**
 - This intersection is currently being improved under a NYSDOT contract.
 - If full build-out conditions meet the volume or delay warrants for a new traffic signal at this intersection, the developer will be responsible for installing the traffic signal. Otherwise the existing stop sign will remain in place to control traffic movements.
 - Installation by the developer, if warranted, must be coordinated with NYSDOT, who will assume ownership of the traffic signal and all maintenance responsibilities.

- **South Park Avenue at Big Tree Road**
 - No mitigation required at this intersection.

- **Bayview Road at Berkeley Place**
 - No mitigation proposed at this intersection.

Findings

With the implementation of the proposed mitigations, there will be no significant impact.

Noise Impacts

Noise generated by the project will be based primarily on use. While any use will generate more noise impacts than the current, vacant parcel, the type of noise will depend on the amount of traffic generated and the nature of the activity occurring. The primary existing property to screen from potential noise impacts is the school property west of the parcel.

Mitigative Measures

- To mitigate potential noise impacts from the project, certain uses will not be permitted, as outlined above in the section on community character. These prohibited uses tend to have the potential to generate the greatest amount of noise.
- The placement of parking and the use of buffers and landscaping will help diminish the impact of noise. The existing vegetative buffer between parcel 5 and the school will be retained to help mitigate potential noise impacts.
- Site specific noise mitigation efforts will be addressed during individual site plan reviews. These efforts could include increased building setbacks, proper screening of noise generating equipment, such as generators or air conditioning units, proper location of loading and unloading areas, and additional landscaping and/or soil berms to mitigate potential noise.
- Mitigation for the temporary impacts of construction generated noise is discussed above in the section on construction impacts.

Findings

With the implementation of the proposed mitigations, there will be no significant impact.

UNAVOIDABLE AND IRREVERSIBLE IMPACTS

The following adverse impacts may be unavoidable and irreversible:

1. Land disturbances (clearing, grading, construction, etc.) that result in the conversion of approximately 28 acres of currently vacant land to developed space.
2. The replacement of natural vegetation and open space with impervious surfaces in the form of buildings, parking and a road, with associated loss of potential wildlife habitat.
3. Increase in the levels of car and truck traffic in the vicinity of the project site, a change in roadway alignment and the alteration of existing traffic patterns.

4. Temporary increases in noise and air emissions associated with construction activities, and increases in noise levels due to replacement of vacant land with a developed site.
5. Increase in the amount of developed space in the Town, and changes to existing land use patterns on the site.

THRESHOLDS

As a Generic Environmental Impact Statement, these Findings must set forth specific conditions and/or criteria under which future actions (site development plans) will be approved. Conditions are set forth in the previous discussions for each impact.

Findings Statements may also establish thresholds where subsequent SEQR assessment or a Supplemental EIS may be necessary to evaluate specific site or project impacts that were not adequately addressed in the Generic EIS, either because of lack of project detail or due to project change. For the proposed Hamburg Business Park, there are two areas where thresholds have been established to assess if project changes may result in new potentially significant impacts warranting additional SEQR review.

Change in Use

In the GEIS, the Hamburg Business Park is defined as construction of approximately 211,500 square feet of general commercial, retail and service businesses. Certain uses generally allowed under C-2 zoning are being prohibited in this location as part of the re-zoning. However, the range of potential uses remains relatively flexible. If site plan applications are submitted for projects that differ significantly in use and size or scale from the uses and scale described and evaluated in this GEIS, or if the property is subdivided in a configuration other than that shown in Figure 3 of the DGEIS, additional environmental assessment or a Supplemental EIS may be required. This determination can not be made until specific site development applications are submitted to the Town.

Traffic

Cumulative trip generation estimates and signal warrant analyses shall be provided as part of the site plan application for each individual site that is developed within the Hamburg Business Park. If traffic figures reach estimates that exceed the numbers provided within the Traffic Impact Study ("TIS") prepared by Nussbaumer & Clarke, Inc. for the proposed Hamburg Business Park, additional environmental assessment or a SEIS may be required.


CERTIFICATION OF FINDINGS TO APPROVE

Having considered the Draft and Final Generic EIS, and having considered the preceding written facts and conclusions relied upon to meet the requirements of 6 N.Y.C.R.R. 617.11, this Statement of Findings certifies that:

1. The requirements of 6 N.Y.C.R.R. Part 617 have been met;
2. Consistent with the social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental effects to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.

Town of Hamburg Town Board

Name of Agency



Signature of Responsible Official

Steven J. Walters

Name of Responsible Official

Supervisor

Title of Responsible Official

5-29-06

Date

S-6100 south Park Avenue, Hamburg, NY

Address of Agency