

State Environmental Quality Review  
**Findings Statement**

Pursuant to Article 8 (State Environmental Quality Review Act - SEQRA) of the Environmental Conservation Law and 6 NYCRR Part 617, the Town of Amherst Town Board as the Lead or an Involved Agency makes the following findings.

**Name of Action:** Westwood Neighborhood

**Description of Action:**

The Property is currently zoned Recreational Conservation District ("RC"), and the Applicant requested the Property to be rezoned as follows to allow for the creation of the Westwood Neighborhood:  
134.79 +/- acres from RC to Traditional Neighborhood Development District ("TND");  
5.13 +/- acres from RC to Multifamily Residential District Seven ("MFR-7"); and  
1.16 +/- acres from RC to General Business District ("GB")  
This Project is the subject of the Final Generic Environmental Impact Statement ("FGEIS"), which was issued on November 20, 2017.

**Location:**

772 North Forest Road (Portion) and 375, 385 & 391 Maple Road, Town of Amherst, Erie County, New York 14221.

**Agency Jurisdiction:**

Lead Agency

**Date Final Environmental Impact Statement Filed:**

November 20, 2017

**Facts and Conclusions Relied on to Support the Decision:**

See attached Statement of Findings and Decision dated December 11, 2017.

**Certification To Deny :**

Having considered the draft and final Environmental Impact Statement and having considered the preceding written facts and conclusions relied on to meet the requirements of 6 NYCRR Part 617.11, this Statement of Findings certifies that:

1. The requirements of 6 NYCRR Part 617 have not been met; and
2. Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is the one that does not avoid or minimize adverse environmental impacts to the maximum extent practicable, and that adverse impacts will not be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.
3. (And if applicable) Consistent with the applicable policies of Article 42 of the Executive Law, as implemented by 19 NYCRR Part 600.5, this action will not achieve a balance between the protection of the environment and the need to accommodate social and economic considerations.

Name of Agency

*Steven Scandess*  
Dr. Barry A. Weinstein

*[Signature]*  
\_\_\_\_\_  
Signature of Responsible Official

\_\_\_\_\_  
Name of Responsible Official

*Deputy*

Supervisor  
\_\_\_\_\_  
Title of Responsible Official

December 11, 2017

\_\_\_\_\_  
Date

Address of Agency

5583 Main Street  
Amherst, New York 14221

cc: Other Involved Agencies  
Applicant

Re-Set Form

AMHERST TOWN BOARD  
FINDINGS STATEMENT  
ON WESTWOOD NEIGHBORHOOD REZONING APPLICATION  
December 11, 2017

**1.0 Introduction**

**1.1 Project Description**

Mensch Capital Partners, LLC ("Applicant") submitted an application for Amended Rezoning and Planned Unit Development ("Application") for the Westwood Neighborhood Project to be located at 772 North Forest Road, and 375, 385 and 391 Maple Road ("Property") dated July 14, 2014. The Application was subsequently amended three times, with the final revision submitted on March 20, 2017, which was the subject of the Final Generic Environmental Impact Statement ("FGEIS"). A Notice of Completion of the FGEIS was issued on November 20, 2017.

The 170 +/- acre Property is currently zoned Recreational Conservation District ("RC"), and the Applicant requested portions of the Property to be rezoned as follows to allow for the creation of the Westwood Neighborhood:

134.79 +/- acres from RC to Traditional Neighborhood Development District ("TND");

5.13 +/- acres from RC to Multifamily Residential District Seven ("MFR-7"); and

1.16 +/- acres from RC to General Business District ("GB")

A Conceptual Master Plan dated March 20, 2017, is attached as Attachment 1. This Master Plan shows the proposed zoning districts. As stated on the Master Plan, the buildings depicted are intended to be illustrative of a specific use and presents the maximum number of units and square footages for the proposed Project. The actual design and precise building footprints will be specified and approved consistent with the Town's established site plan and subdivision review processes for each of the components depicted on the plan.

The Conceptual Master Plan sets forth the following maximum numbers of the various components of the Project:

FGEIS Conceptual Master Plan

Proposed Townhouse Units:	130 Townhomes
Proposed Multi-Family Residential Units:	180 Multi-Family Residential Units
Proposed Larger Patio Homes:	26 Larger Patio Homes



Proposed Smaller Patio Homes:	57 Smaller Patio Homes
Proposed Single Family Homes:	41 Single Family Homes
Proposed Senior Independent Living Units:	104 Senior Independent Living Units
	(Note: Does not include the 200 assisted living units)
Proposed Hotel Bedrooms:	130 Hotel Rooms
Proposed Mixed-Use Residential Units	212 Multi-Family Residential Units in Mixed-Use Buildings

## 1.2 Rezoning Application

The Project requires a zone change as requested in the Application to allow for the proposed development details. The Town Board's issuance of the requested zone changes is just the first of many steps in the approval process.

The Applicant submitted the initial Rezoning/Planned Unit Development (PUD) Application to the Town pursuant to Town of Amherst Code Section 8-3 for the MFR-7 and GB districts, pursuant to Section 8-4 for Planned Unit Development District portion of the Property on July 14, 2014, together with the initial DGEIS. The first revision of the Rezoning/PUD Application was submitted on October 7, 2016. On December 19, 2016, the Applicant submitted a second revised "Amended Rezoning and Planned Unit Development Application" along with a revised Conceptual Master Plan that reflects project modifications based on comments received. On March 20, 2017, the Applicant submitted a third revised "Amended Rezoning and Planned Unit Development Application" and Conceptual Master Plan that reflected project modifications that are the subject of the FGEIS.

Pursuant to Section 8-3-3 and Section 8-4-3, the Planning Director shall prepare a report that reviews the rezoning request in light of any reports, recommendations, applicable plans and the general requirements of this Zoning Ordinance. According to those sections of the zoning law, a copy of the report has been provided to the Planning Board.

Pursuant to Section 8-3-4 and Section 8-4-4, the Planning Board shall schedule a public hearing on the applications and within 62 days following the close of the public hearing, the Planning Board shall furnish to the Town Board and Applicant either its findings that the proposed rezoning is generally consistent with the Comprehensive Plan and the regulations, standards and purpose of this Ordinance or a finding of any failure of such compliance and a recommendation that the rezoning be approved, disapproved or modified. Sections 8-3-5 and Sections 8-4-5 set forth the review criteria that the Planning Board must consider and make findings. To date, the Planning Board has not yet issued its recommendations pursuant to Sections 8-3-4 and Sections 8-4-4.

Following completion of the Planning Board review and upon written request by the Applicant, the Town Board can schedule a public hearing on the pending Application. If the Applicant does not request a public hearing with six (6) months after the Planning Board makes its report, the application shall be deemed withdrawn.



If the zone changes are approved by the Town Board, the precise building locations and footprints would be identified as part of the site plan and subdivision review process for each of the components of the Project.

## **2.0 The SEQRA Process**

The Amherst Town Board, as Lead Agency is charged with the preparation of the Final Generic Environmental Impact Statement (FGEIS), which has specific deadlines under SEQRA. The DGEIS, which was deemed complete on December 28, 2015, was required to be available for public comment for a minimum of 30 calendar days. SEQRA required the hearing to be held within 60 calendar days after the DGEIS was deemed complete. Finally, the Town Board was obligated to allow written comments for at least 10 days after the close of the public hearing, if it chose to hold a SEQRA public hearing, which it did. The DGEIS was available for public comment for over one year and eight months, which resulted in numerous comments to the three versions of the Project, which culminated in the March 2017 Project that was the subject of the FGEIS. A SEQRA public hearing was held on September 18, 2017 on the final Project, and the public comment period was open until October 2, 2017. The Town Board prepared the FGEIS to respond to the over 400 comments and issued the Notice of Completion of the FGEIS on November 20, 2017.

It is important to note that the Town Board issued a Notice of Completion for the DGEIS for the Project, which is by definition, more general and conceptual in nature than a site-specific EIS. A GEIS is appropriate for this proposed Project, as the only approval pending before the Town Board is a request to rezone the Property, and not approval for the overall Project. The GEIS discusses the logic and rationale for the choices advanced in the GEIS and was based upon the conceptual master plan proposed by the Applicant. The GEIS identified the important elements of the natural resource base as well as the existing and projected cultural features, pattern and character. GEISs are commonly used for phased residential development and planned unit developments such as this proposed Project.

GEISs and their Findings are particularly useful in setting forth the conditions, criteria or thresholds under which future site-specific actions may be undertaken. A GEIS and their Findings should also include the thresholds and conditions that would trigger the need for supplemental determinations of significance or site-specific EISs. Lastly, GEISs and their Findings provides for sound environmental planning and consideration of mitigation measures and alternatives at a time when there is greater flexibility.

All documents referenced herein, including, but not limited to the DGEIS and FGEIS, are incorporated by reference in their entirety into these SEQRA Findings.

Under the SEQRA regulations, this Findings Statement must:



1. consider the relevant environmental impacts, facts and conclusions disclosed in the FEIS;
2. weigh and balance relevant environmental impacts with social, economic and other considerations;
3. provide a rationale for the Town Board's decision;
4. certify that the requirements of SEQRA have been met; and
5. certify that consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that 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 to the decision those mitigative measures that were identified as practicable.

## **2.1 Summary of the Environmental Impacts associated with the Project.**

The Project involves various environmental impacts that are discussed more fully below. The most significant environmental impacts to be discussed in detail fit into the following categories:

- Sanitary Sewer Capacity and Stormwater Management
- Traffic;
- Land Use and Zoning; and
- Community Character.

The above-referenced Environmental Impacts are discussed in further detail below, along with the remaining environmental impacts associated with the proposed Project.

## **3.0 Findings**

### **3.1 Topography, Geology and Soils**

- a) The Applicant was accepted into the New York State Brownfield Cleanup Program (BCP) as a "Volunteer," and executed a Brownfield Cleanup Agreement with the New York State Department of Environmental Conservation ("NYSDEC") in March 2015. The Applicant is a Volunteer because its liability to conduct the remediation arises based upon its status as the current owner of the site.
- b) The first step in the BCP is to conduct a Remedial Investigation (RI) of the Site, which defines the nature and extent of the contamination on the entire Site. An RI generally includes both soil and groundwater sampling. Mensch submitted the RI Work Plan in early 2015, which was approved by NYSDEC in October 2015. Instead of implementing the full RI Work Plan, however, Mensch conducted initial and supplemental Pilot Studies. According to the

report on the Supplemental Pilot Study dated January 18, 2017, the results will be used to refine the Site-wide RI Work Plan. Once the RI is completed, a Remedial Work Plan ("RWP") will be prepared and approved by NYDSEC. The RWP will detail the steps necessary to complete the remediation of the Site.

- c) The BCP sets forth cleanup tracks, with Track 1 for unrestricted use, Track 2 for unrestricted use with generic soil cleanup objectives, Track 3 for restricted use with modified soil cleanup objectives, and Track 4 for restricted use with site-specific soil cleanup objectives. The Applicant stated at the Public Hearing that the intent is to clean up the Property to the unrestricted standard, which would be a Track 1 remediation.
- d) The Applicant has stated that the contaminated soil will be removed as part of the site preparatory work. The Applicant anticipates a balance of remaining cut and fill soils, and as a result the Applicant will not need to export or import any soils, with the exception of the contaminated soil to be removed. The contaminated soil will be properly disposed of in accordance with the approved RWP.
- e) The Applicant is obligated to comply with the NYSDEC-approved Citizen Participation Plan ("CPP") in completing the steps required by the BCP. As required by the CPP, documents related to the Property can be found at the document repository, which is at the Williamsville Branch, Amherst Library located at 5571 Main Street, Williamsville, NY.
- f) The Applicant must complete the remediation and receive the Certificate of Completion ("COC") for the Property by December 31, 2019 in order to meet the current deadline to receive the more favorable Brownfield tax credits.

## **3.2 Water Resources**

### **3.2.1 Wetlands**

- a) With regard to wetlands, the wetland boundary delineations were initially confirmed by the US Army Corps of Engineers (ACOE) in 2013. Based on subsequent ACOE review and site re-evaluation, ACOE issued a new jurisdictional determination to the Applicant on July 21, 2016. This determination was coordinated with both USEPA and Corps of Engineers Headquarters in accordance with current requirements. The new jurisdictional determination adds Channel 1 as a regulated water of the US, and reaffirms that Ellicott Creek is a regulated water of the US. In addition, the new determination confirms that the features identified as Wetlands 1-10 are not regulated and are outside of the Corps jurisdiction.



- b) An ACOE Wetlands permit application and NYSDEC Water Quality Certification permit application will be prepared and submitted respectively if they are determined to be needed.
- c) The Applicant intends to enlarge the existing ponds on the Property comprised of non-jurisdictional wetlands, which represents a long-term environmental benefit associated with the proposed project.
- d) Any grading activities within regulated wetlands associated with Ellicott Creek will require a permit from the USACE and the NYSDEC.

### **3.2.2 Stormwater Management**

- a) Since the project activities will involve land disturbance of 1 acre or more, the Applicant, owner or operator is required to obtain a State Pollutant Discharge Elimination System General permit for Stormwater Discharge from Construction Activity (GP-0-15-002)
- b) With regard to stormwater, the Applicant will need to present detailed stormwater calculations at the time of site plan review that demonstrate that the Project will be compliant with the SDPES General Permit for Construction Activities that is current at the time the project goes into construction and Town Drainage Policy. The study will address water quality, flood prevention and runoff reduction. Further, the analysis will include an analysis of groundwater depth in relation to stormwater infiltration.
- c) The Applicant has confirmed that a storm water pump station will not be needed.
- d) A detailed hydraulic analysis that accounts for the water elevations in Ellicott Creek must accompany future applications.
- e) The Stormwater Pollution Prevention Plan will use best management practices consistent with the SPDES Permit.

### **3.2.3 Stream Disturbance Permit**

- a) The Stormwater Management Plan and C&S Companies Letter of 03/17/2017 contemplates discharging the lake and the northern pond separately to Ellicott Creek. These discharge points may require channelization once the discharge rates are determined. This work would most likely impact the stream bank. Depending on the height of the discharge points, the Project Sponsor may need to seek a stream disturbance permit from the ACOE.



- b) The Applicant indicates that the lake and "town park" are to be maintained by a "master association" though access easements will be granted to the Town of Amherst. The maintenance responsibility for the stormwater features needs to be clearly documented between the Town and Applicant.

### 3.2.4 Floodplain

- a) Portions of the project lie within a 100-year floodplain as illustrated in Exhibit K of the March 20, 2017 Revised Conceptual Master Plan, a copy of which is attached as Attachment 2. Any floodplain volume that is filled as part of this Project will need to be compensated for elsewhere on the Property. This will also require verification that the flood plain/floodway elevations upstream and downstream of the project remain unchanged. This plan will need the final approval of the local flood plain administrator and FEMA, should a letter of Map Revision due to fill (LOMR) be required.
- b) The floodway is determined as being that area where the flood elevation would increase by one foot if the floodplain is filled above the mean 100-year flood elevation.
- c) Approval of any floodplain filling should require a hydraulic analysis to determine what impact the proposed filling will have on 100-year flood elevation and the extent of flooding in the Ellicott Creek Corridor. Specifically, that analysis should determine the extent and depth of any additional flooding in those areas currently developed.
- d) The Applicant has stated that the final design will not increase the floodplain elevations within the regulated floodway and on-site storage capacity for impacts to the regulated 100-yr. floodplain associated with Ellicott Creek will be provided to compensate for impacts to the 100-yr. floodplain as depicted on the current Conceptual Master Plan.
- e) Detention ponds may not hold water continuously, however the terms are often used interchangeably. The proposed pond features are proposed to hold water at all times and may have a wetland edge to treat drainage. These features need to have an adequate upstream tributary drainage area to maintain a healthy water body.
- f) The impact of any filling should be assessed in terms of impact in existing development and not just floodway flood elevations.
- g) Potential impacts to the creek will be mitigated based on the Town Drainage Policy and the SPDES General Permit requirements.

### 3.3 Biological Resources

- a) The stand of hardwood trees located in the northwest portion of the property has existed since 1927. This stand of hardwoods will remain as they are not included in any of the proposed development footprints. This will be addressed during the Site Plan and Subdivision Review process.
- b) The Applicant shall preserve as much hardwood swamp as possible.
- c) The number of trees to be removed and those to remain will be addressed during the Site Plan Review process. The landscaping plan will include native species and/or non-invasive species. The information will be provided and reviewed during the Site Plan and Subdivision Review process.
- d) The Applicant will address the need to spray for mosquitos as part of the Site Plan and Subdivision review process once site grading and pond maintenance issues are better known.

### 3.4 Land Use and Zoning

- a) The Application before the Lead Agency is to rezone approximately 140 acres of the 170 +/- acre Property that is currently zoned Recreational Conservation District ("RC") to allow for the Project. The majority of the Property would be rezoned to Traditional Neighborhood Development District ("TND") to allow for a number of mixed use components of the Project. The TND is proposed to surround an approximate 1 acre portion that must be rezoned to General Business District ("GB") to allow for the construction of the hotel. Finally, approximately 5 acres would be rezoned to Multifamily Residential District Seven ("MFR-7") to allow for the residential components, mainly at the northern end of the Property.
- b) As proposed, the overall Project is too dense for the surrounding neighborhoods and is not consistent with the adopted Bicentennial Comprehensive Plan in that the Property is not designated as a Mixed-Use Activity Center.
- c) The Property has never been a commercial area in Amherst, and its development would create a new commercial center that was not envisioned when the Comprehensive Plan was adopted.
- d) The Project is mainly residential on the northern portion of the Property, with the commercial components concentrated on the southern-most portion of the Property. To the extent that alternatives to the proposed Project are proposed for future consideration, it is noted that the proposed GB zoning, one of the most intense commercial districts available in the Town, is not

appropriate for the Property or consistent with surrounding development/zoning. Inserting a GB use in the midst of a TND development conflicts with the overall concept of the TND.

- e) Further, the current mix of uses, scale and density of the southern-most portion of the Project is not compatible with the character of the surrounding neighborhoods, which is a requirement of the TND. The office and commercial uses of the Project contrast with the previous golf course use and with the surrounding residential neighborhood.
- f) The Project meets some mixed-use objectives as described in the Comprehensive Plan, but the overall Project is too dense and incompatible with the surrounding neighborhoods.
- g) With regard to the residential components of the Project that are generally located on the northern portion of the Property, it is noted that a residential use of the Property is more consistent with the surrounding neighborhoods. The details associated with any future residential development project would need to be reviewed in the context of a revised Application for rezoning to accommodate that proposed residential use.
- h) The majority of the Project is subject to the Town of Amherst's Planned Unit Development ("PUD") review process, which will establish specific unit counts, bulk and area requirements, as well as conditions and restrictions for the proposed Project. These restrictions will be considered as conditions precedent to the issuance of building permits and certificates of occupancy for the buildings proposed. Those conditions may or may not be included into a "Development Agreement," which is not referenced in the Town of Amherst Code. A Sample Development Agreement was provided by the Applicant and located in Exhibit N of the March 20, 2017 Revised Conceptual Master Plan. It is possible that a Development Agreement could be used to bind the Town and Applicant (including subsequent owners) to specific uses, densities, bulk and area requirements and design criteria locations.

### **3.5 Recreational and Visual Resources**

- a) The following aspects of the Project comport with the Amherst Bicentennial Development Plan:
  - Total open space preservation acreage totals 81.6 acres. Existing wooded areas on the site, most notably areas in the west and central sections of the Property will be preserved;
  - The pond areas in the center of the site presents a usable and attractive public space;



- A multi-purpose field is proposed in the central pond area that takes advantage of proximity to Ellicott Creek; and
  - The proposed trail system is located in a manner to increase accessibility and connectivity.
- b) The main thoroughfare through the development should be designed using Complete Street principles to facilitate safe and direct bicycle and pedestrian transportation from Maple Road to the intersection of Sheridan Drive and North Forest Road. Any multi use trail included as part of the roadway design should be separated from the roadway and be consistently located on only one side of the roadway to prevent bicycles and pedestrians from having to cross vehicle travel lanes.
- c) The Applicant intends to form a Master Association to collect dues and fees from the various components uses of the Project, and the Master Association shall be responsible for exterior maintenance of the entire Property, once construction is completed. This responsibility for exterior maintenance will include the cost of maintenance of the proposed park and lake.
- d) The Applicant has also indicated it may also execute one or more access easements for the purposes of providing public access to the various public components of the Project, including the park and lake. This access easement would be recorded in the Erie County Clerk's Office.
- e) All privately owned open spaces and trails should be designated as common area to be maintained by the Master Association.
- f) The Town Board may consider having some of the land covered by the Master Association be dedicated to the Town of Amherst if it is deemed appropriate.

### **3.6 Transportation**

#### **3.6.1 Applicant Traffic Impact Study (TIS)**

The Applicant has prepared a Traffic Impact Study (TIS) per the DGEIS Scope that addressed:

- Existing Conditions including base traffic volumes, existing congestion conditions and accident analysis;
- Projected Trip Generation per use including internal and pass-by trips. The mixed-use site consists of many different uses (commercial/residential/hotel/park) with the highest traffic generators being the commercial and residential components; and

- Projected trip distributions and trip diversions within the project study area. The site generated traffic has been overlaid on the existing highway network based on existing travel patterns. In addition, the construction of a north-south roadway within the site has the potential to divert trips from the surrounding highway network.

### 3.6.2 Applicant Proposed Traffic Mitigation Measures

Based on the February 2017 TIS the following mitigation measures were proposed by the Applicant:

- a) Construction of a new north-south roadway between Sheridan Drive and Maple Road in combination with a new internal connection to North Forest Road will allow traffic that is currently using North Forest Road to divert to the new north-south roadway
  - i. The proposed new north south public roadway connecting Sheridan Drive and Maple Road should be designed to provide two lanes of exiting traffic and two lanes of entering traffic to both facilitate traffic movements and to achieve the desired alignment with the existing Fenwick Road. The throat length of the driveway should be designed to accommodate vehicle queues exiting the site and reduce vehicle blockages of internal circulation roadways; therefore a minimum uninterrupted throat length of 200 ft. is recommended.
- b) Construction of a proposed roundabout at North Forest Road and the east-west site roadway
- c) Installation of a right-turn lane at the Sheridan Drive/Fenwick Road/Proposed Driveway. The right turn lane should provide 425' of storage space with a 75' taper.
- d) A one-way enter only connection from Frankhauser Road will provide direct access to the site from the neighborhood to the west eliminating the need to use Sheridan Drive. This connection will provide neighborhood access to the proposed traffic signal at the Sheridan Drive/Fenwick Road/Proposed Driveway intersection which will facilitate removal of the traffic signal at Frankhauser/Sheridan as requested by NYSDOT. Neighborhood residents would also ultimately be able to travel directly from the neighborhood to North Forest Road. It is not clear that the one-way enter only would not cause unintended consequences which must be addressed.
- e) Improvements at the Sheridan Drive intersection with North Forest Road include: installing a westbound right turn lane, providing an additional northbound through lane by combining the northbound through and right turn movements in the curb lane, optimizing the signal timings and

coordination offsets and increasing the length of the southbound right-turn lane.

- f) Install a new traffic signal at the proposed public roadway connection on Maple Road when the new roadway is constructed.
- g) Install a new traffic signal at the proposed public roadway on Sheridan Drive when the driveway is constructed. The new traffic signal should be coordinated with the existing traffic signal network along Sheridan Drive to the west of the project site.
- h) Removal of the existing traffic signal at the intersection of Frankhauser Road and Sheridan Drive at the same time a traffic signal is installed at the intersection of the proposed north-south roadway connection and Sheridan Drive may cause unintended consequences which must be addressed.
- i) Create dual westbound right turns by combining the right and left turn movements in the current left turn lane and optimizing signal timings at the Harlem Road and the I-290 off-ramp. This mitigation is proposed as pavement marking changes.
- j) Re-stripe the northbound off-ramp from Millersport Highway to Maple Road to provide a right turn only lane and left/thru/right turn lane. This will allow for dual right turn movements onto Maple Road eastbound.
- k) Restriping the two-way left-turn lane to accommodate dedicated left-turn lanes entering the proposed driveway along Maple Road and the existing Sheridan Drive/Fenwick Road intersection.
- l) Optimization of signal coordination offsets for the two Millersport Highway ramp signals.
- m) Optimize the signal timings and coordination of the intersections of North Forest Road/Maple Road and Sheridan Drive/Mill Road.

#### Applicant Proposed Parking Space Mitigation

- a) Consideration should be given to reducing the number of parking spaces constructed onsite given the mixed-use nature of the proposed neighborhood, potential for nonvehicular trips, and the potential for shared parking between different categories of land uses with differing peak parking demands. The use of shared parking reduces the amount of impervious surfaces and prevents parking areas from having more parking spaces than needed to service a project with a mixture of land uses with differing peak parking demands.

### 3.6.3 Lead Agency Questions on the TIS

- a) In order for the Lead Agency to determine if the proposed mitigation measures actually mitigate the anticipated traffic impacts to the maximum extent practicable, it was necessary to review the underlying assumptions made by the Applicant. Stantec, on behalf of the Town of Amherst Town Board serving as their Traffic Consultant, has reviewed the TIS results for accuracy and adequacy with regard to (1) applicable methodologies including existing conditions modelling, Institute of Transportation Engineering (ITE) trip generation, trip distributions, trip diversions and mitigation strategies, and (2) traffic Impact results to assess whether or not the results are a reasonable approximation of future traffic conditions or whether the potential traffic impacts are underestimated.
- b) Based upon this assessment, Stantec raised some questions and has requested additional information from the Applicant pertaining to the following components of the TIS:
1. Methodologies. Specifically, the application of trip generation, trip distributions and trip diversions. The ITE Trip Generation Handbook (2012) should be used for all calculations. A shared parking analysis should also have been provided to evaluate methods to reduce the overall parking required;
  2. Intersection capacity and queue (storage) lengths. Specifically, do the Applicant's proposed traffic mitigation measures adequately address future traffic conditions on the surrounding highway network;
  3. Existing Conditions. Does the traffic modelling software used in the TIS provide a reasonable approximation of existing conditions including queueing conditions;
  4. Synchro Analysis. Stantec requested that the Applicant correct traffic volume inconsistencies in the Synchro models and verify that lane widths and heavy vehicle percentages are project specific and not default values. Optimization of the Sheridan Drive coordinated corridor should evaluate the type of left turn phasing (lag vs lead) with NYSDOT confirmation of their recommendations; and
  5. Capacity Analysis. A queue analysis should be included for the "No Build" and "Build" conditions to compare the anticipated traffic impacts and clarify the impact of the additional delay at all intersections.

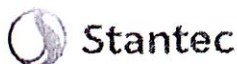
### 3.6.4 Lead Agency Conclusions on the Mitigation Measures

- a) The Lead Agency cannot agree that the traffic has been mitigated to the maximum extent practicable without confirmation of the accuracy of the TIS information. Additional information has been requested from the Applicant, which was not provided prior to the issuance of the FGEIS. Upon receipt of the additional information, including, but not limited to internal trips, accident patterns and queue lengths, the Lead Agency will be able to determine if in fact the traffic has been mitigated to the maximum extent practicable or if additional mitigation measures are warranted.
- b) With regard to the parking mitigation proposed internal to the Project, the Applicant provided a shared parking analysis, which will be reviewed in conjunction with the additional traffic data upon receipt.
- c) With regard to the Applicant's proposal to remove the Sheridan Drive/Frankhauser Road traffic signal if/when a new traffic signal is installed at the proposed South Driveway/Fenwick Road intersection, the impact of this removal on the corridor will be evaluated based on the additional analysis and information requested from the Applicant.
- d) The Project is anticipated to reach full build-out in approximately 10 years while occurring over multiple phases. Site plan modifications and/or other developments will likely be presented to the Town during this time period which could impact the future phases of development of the subject project. As a measure to better assess the actual impact of site generated traffic to the surrounding roadways, it is recommended that a post-development traffic analysis be performed pursuant to each completed phase of the development. A post-development traffic analysis will assess any additional impacts to the surrounding highway network beyond those identified in the FGEIS along with recommended improvements.
- e) At the time of site plan approval, the Applicant will work with the Planning Department to determine specific design and locations for bicycle facilities.

### 3.7 Construction Schedule

- a) The Applicant has indicated that construction of the Project will extend ten (10) years, although other statements indicate it will be completed in a shorter period of time.
- b) The Applicant has set forth a three (3) Phase construction schedule:

**Phase I:** Construction of the entire north/south road from Maple Road to Sheridan Drive, along with the related primary public sanitary sewers and





required mitigation, waterlines, drainage, lakes and all private utility infrastructure. Along with the north/south roadway, the landscaped buffers surrounding the site would be constructed. In addition, this phase would also include the roundabout along North Forest Road, the traffic signal on Maple Road, as well as the off-site transportation and sanitary sewer mitigation measures. The proposed traffic signal at Sheridan Drive will need to meet the necessary warrants from NYSDOT before it can be installed, and similarly the existing signal at Frankhauser will need to meet a series of requirements from NYSDOT before it can be removed. The Applicant will also complete the remediation of the property during this Phase I. The Applicant anticipates that this phase would take two years.

**Phase II:** Construction of necessary infrastructure improvements for individual project components. Initial construction of patio and single-family homes, hotel and senior residences, townhomes and apartments, office buildings and mixed-use buildings. Note: As part of this phase, the remaining landscaping for the construction of the public park, Focal Green and pocket parks would be constructed following the construction of the vast majority of the proposed buildings for the project. The Applicant anticipates that this phase would take one to two years.

**Phase III:** Continued construction and completion of patio and single-family homes, townhomes, apartments, and completion of mixed-use and office buildings within the Neighborhood Center. Because the homes are constructed as they are sold, the typical construction time period for a new residential neighborhood in Western New York is up to two years, which is why it may appear as though there is some overlap between Phases II and III. In addition, the construction of the mixed use and office buildings will be based on the demand for those spaces, which is why their construction was spread out between two phases. Overall, the Applicant anticipates that this phase would take one to two years as well.

- c) At the start of construction, the Applicant intends that construction vehicles will utilize the driveway off of North Forest Road until the main North-South spine road is constructed.
- d) With regards to construction staging, the Applicant envisions that the staging will occur starting at the center of the site, which will be the most efficient location on the site and also furthest from any existing residential homes. Finally, the Applicant would note that, while it utilized a ten-year construction period for the purposes of the DGEIS, it was meant to be conservative. The Applicant does not envision, nor desire a construction period lasting that long. Though it should be noted that phasing of the vertical construction may be subject to market absorption of the new uses. In any case, all disturbed soils will need to be stabilized in a permanent or temporary fashion.

### **3.8 Air Quality and Noise**

- a) The Town of Amherst recognizes that noise and air quality related impacts can be mitigated via the incorporation of a carefully developed Construction Phasing Plan. The Applicant's proposed Construction Phasing Plan is ambiguous and requires more detailed information to minimize construction related noise impacts.
- b) The Applicant states that at the start of construction, construction vehicles will utilize the driveway from North Forest Road until the main North-South spine road has been completed.
- c) The rough grading of the site, including preliminary drainage and utility infrastructure, would be installed immediately after the brownfield remediation work, both of which would be followed closely by the vertical construction for the various components of the Conceptual Master Plan, in accordance with the approved site and subdivision plans.
- d) With regards to construction staging, the Applicant states that the staging will occur starting at the center of the Property, which will be the most efficient location on the site and furthest from any existing residential homes. Finally, the Applicant notes that, while it utilized a ten-year construction period for the purposes of the DGEIS, it was meant to be conservative. The Applicant has stated that it hopes to have construction, including the remediation, completed in substantially less than the ten (10) year estimate.
- e) The Applicant will install landscaped berms along the perimeter of the Property as a buffer to the residential neighbors as part of the initial phases of construction. The landscaped berms will need to be maintained throughout the entire construction duration.

### **3.9 Community Facilities and Services**

- a) The Applicant has indicated that there are adequate fire, police and ambulance services for the Project.

### **3.10 Lighting**

- a) The Applicant will be required to submit a detailed Lighting Plan during the Site Plan Review process for review and approval by the Building Department.

### **3.11 Sanitary Sewer Capacity**

- a) There is agreement that there is insufficient sanitary sewer capacity for the Project during wet weather conditions. There is an existing unavoidable



capacity bottleneck within the downstream sanitary sewers that would service the Westwood project. The downstream capacity to service the Westwood project and other projects within that sewer shed are ultimately limited to the capacity within the Sweet Home Road Interceptor.

- b) Reference is made to Section 3.12.1 in the FGEIS for a complete review of Sanitary Sewer Capacity. The following is merely a highlight of the information presented in that section, which is incorporated herein by reference.

### 3.11.1 Sewer Capacity Constraints

There are significant sewer capacity constraints in the interceptor systems downstream of the project:

- a) The 54-inch West Side Interceptor at Sheridan Drive and the I-290 has a capacity of 36.5 million gallons per day (MGD). Peak wet weather flow in this pipe is currently at 38.75 MGD.
- b) The 48-inch Hartford Road (West Side) Interceptor just upstream of its terminus with the 54-inch West Side Interceptor has a capacity of 24.6 MGD. Peak wet weather flow in this pipe is currently at 21.50 MGD.
- c) The 54-inch West Side Interceptor just downstream of the above referenced junction point has a capacity of 38.5 MGD. Peak wet weather flow in this pipe is currently at 60.95 MGD;
- d) The 54-inch West Side Interceptor transitions from a 54-inch to 60-inch pipe at Chestnut Ridge Road. The 60-inch interceptor's alignment is due north and then jogs west and then north and runs under Ellicott Creek until its terminus with the Peanut Line Interceptor. The capacity of the 60-inch interceptor is 49.1 MGD and has a peak wet weather flow of 59.80 MGD
- e) Wet weather flow is diverted from the 60-inch West Side Interceptor to the Sweet Home Road Interceptor via an existing dead ended 24-inch sewer on Chestnut Ridge Road. Diversion occurs when the 60-inch surcharges into the 21-inch pipe overflow is set at the crown elevation of the 60-inch West Side Interceptor. The flow through the diversion can be modified by the end of pipe gate valve that is currently fully open. The design flow of the diversion was calculated to be approximately 5.0 MGD (design capacity).
- f) The Amherst Manor Drive sewer is a 15-inch pipe and has a capacity of 1.7 MGD with a peak wet weather flow of 1.64 MGD.

- g) The Sweet Home Road interceptor is a 36-inch sewer that has a capacity of 9.64 MGD and a peak wet weather flow of 9.2 MGD with SUNYAB in session and the Chestnut Ridge by-pass flowing at 5.6 MGD (observed flow).

### 3.11.2 Proposed Solutions to the Constraints

The Westwood project requires 0.95 MGD (peak flow) of sewer capacity, and there is not sufficient capacity in the Sweet Home Road Interceptor during wet weather conditions. The Applicant has proposed multiple options for addressing the lack of sewer capacity in the downstream sewer, which were rejected by the Lead Agency and are set forth in detail in the FGEIS. The following are the potentially viable solutions to the capacity constraints:

#### 1. Inflow and Infiltration Reduction Alternative

In addition to the scale of the proposed Project and consequent sewer demand, infiltration of groundwater and direct inflow of storm water are also primary contributors to the lack of sewer capacity. The Town has established a policy whereby I & I mitigation projects are funded by the developer thereby providing mitigation funds for Capital Improvement Program (CIP) expenditures.

In practice the reduction of I&I is difficult to predict as it is influenced by a number of variables that range from the condition of the existing sewer, to ground water levels and the number of private and public inflow producing connections. The only way to verifiably determine the reduction in I&I is by utilizing a long-term flow monitoring program. This program would include monitoring flows under pre-construction and post-construction conditions and comparing flow rates for similar weather conditions (rainfall events). Once this additional capacity was determined to be available it could be allocated to the Westwood project and other users. This approach requires an extended phasing period for the initiation of a new user the size of the Project.

The Applicant has proposed a variation of this approach (November 14, 2017, Shaevel) and proposes to provide funds over and above the required contribution to the Town Sewer Remediation Fund. This proposal includes slip lining of 6,000 linear feet of 8" sewer tributary to the Westside Interceptor. The applicant contends that this will reduce I & I flows by 0.69 MGD.

The Town finds the following issues with this approach:

- a. Reducing flows in the Westside Interceptor may not necessarily translate to added capacity in the Sweet Home Road interceptor.

- b. The only way to verify reduction in wet weather flows is to complete pre- and post- construction monitoring.
  - c. The theoretical I & I reduction value of 8 gpm per 100 feet of 8 inch pipe lining is not conservative and in practice pipe lining may yield significantly less than the theoretical I & I reduction.
2. The Applicant proposed routing sewage from the development to the Amherst Manor Drive sewer and through the Augsperger Road sewer on the State University at Buffalo North Campus (SUNYAB) to the 36-inch interceptor sewer on Sweet Home Road.

It was determined that by increasing the Amherst Manor Drive sewer capacity and decreasing the flow rate of the Chestnut Ridge by-pass to 5.0 MGD an available capacity of 1.04 MGD may be created. The Town will need to account for existing as well as future projects.

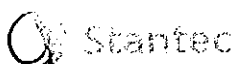
3. Parallel Collector Sewer Alternative

This alternative contemplates the construction of a new collector sewer parallel to the 36-inch Sweet Home Road sewer from the SUNYAB campus to the 60-inch Peanut Line. This would potentially increase the capacity by approximately 2 MGD and would have capacity to serve the Westwood Neighborhood as well as provide future capacity in the system for other users. Such an undertaking would require an in-depth study and the approval of NYSDEC. The cost for such a project is anticipated to be prohibitive.

### 3.11.3 Conclusion

The Town Board has determined that there currently is not sufficient sanitary sewer capacity to allow the development of the Project as proposed and that there are three potentially acceptable solutions to the sanitary sewer capacity issue:

1. Revise the Project in accordance with the sanitary sewer capacity that could be made available;
2. The Applicant can take an active role in I & I reduction, which would require an extended Project phasing period. A project phasing plan would limit the proposed use and only bring new uses on as the I & I issues are resolved and capacity confirmed by appropriate testing and monitoring of the flow rates. This alternate could also be combined with solution "1" above; and



3. The completion of a study by the Applicant for a new collector sewer parallel to Sweet Home Road could be completed to determine if it is a fiscally feasible approach. If feasible, the construction of this alternative would create the required sewer capacity.

### **3.12 Public Water System**

- a) The Applicant has shown ample points of connection to the existing water system that is owned, operated, and maintained by the Erie County Water Authority (ECWA). The Applicant shall provide documentation from ECWA of their conceptual agreement to the methodology for serving the Project.
- b) In the future Site Plan and Subdivision review, the Applicant will need to provide overall detailed calculations for the project further substantiating the system capacity. This detailed model will then be utilized to forecast available water pressures and capacities at critical locations and for specific uses in the project. Initial overall calculations demonstrating ample water pressure and capacity shall be provided to confirm the availability of this critical service.

### **3.13 Alternatives**

- a) In evaluating the Project, the Lead Agency is required to certify from among the reasonable alternatives available that the Project is one that 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 to the decision those mitigative measures that were identified as practicable. The Town Board cannot make that certification based upon the alternatives provided by the Applicant.
- b) As set forth in the FGEIS, there are environmental factors that have been identified since the Project was proposed. As a result, the Lead Agency has determined there are other reasonable alternatives to development of the Property that could and should be evaluated in further detail. For example, the Lead Agency believes the Applicant could consider a project that may include some or all of the following components:
  - eliminates the hotel, which would remove the need for the GB district, which is inconsistent with the TND District concept;
  - is consistent with the available wet weather sanitary sewer capacity;

- is a smaller scale, which is consistent with the character of the surrounding residential neighborhoods;
- c. Because a GEIS was prepared for this Project, the future alternatives will need to be reviewed in accordance with the requirements for SEQRA, which state:
1. No further SEQRA compliance is required if a subsequent proposed action will be carried out in conformance with the conditions and thresholds established for such actions in the GEIS or Findings;
  2. An amended Findings Statement must be prepared if the subsequent proposed action was adequately addressed in the GEIS but not addressed or was not adequately addressed in the Findings Statement;
  3. A Negative Declaration must be prepared if a subsequent proposed action was not addressed or was not adequately addressed in the GEIS and the subsequent action will not result in any significant environmental impact; and
  4. A Supplement to the FGEIS must be prepared if the subsequent proposed action was not addressed or was not adequately addressed in the GEIS and the subsequent action may have one or more significant adverse environmental impacts. SEQRA sets forth specific steps for preparing a Supplemental Environmental Impact Statement.

#### **4.0 Certification**

The members of the Town Board and its legal and technical consultants collectively have spent hundreds of hours in the review of the DGEIS and preparing the FGEIS and accompanying rezoning applications. During the application review, the Town Board reviewed numerous written submissions, including those submitted by the public. They have carefully reviewed, questioned and analyzed with the Town's environmental and legal consultants, the various impacts of, alternatives to, and potential mitigation measures for the Project.

The members of the Town Board have considered the relevant environmental impacts, facts and conclusions set forth in the FGEIS, and have weighed and balanced the relevant environmental impacts associated with the Project with social, economic and other considerations, which rationale has been set forth in these SEQRA Findings.

Based on its review and the record before it, the Town Board finds that the potential significant adverse environmental impacts of the Project have not been avoided or mitigated to the maximum extent practicable as outlined in this Statement of Findings.

After careful consideration of all relevant documentation and comments, the Town Board, serving as the Lead Agency, has determined that they have more than adequate information to evaluate all of the benefits and potential impacts of the Project, individually, and cumulatively. Therefore, in accordance with 6 NYCRR § 617.11, SEQRA's required balancing of potential for significant adverse environmental impacts against social, economic and other essential considerations, the Town Board hereby certifies that:

- Consistent with social economic and other essential considerations from among the reasonable alternatives available, the Project does not avoid or minimize adverse environmental impacts to the maximum extent practicable, and that adverse impacts will not be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable, and
- The requirements of 6 NYCRR Part 617 have not been met.

Attachments:

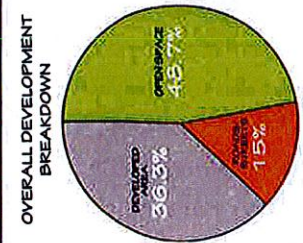
1. Concept Map dated included in the Amended Rezoning and Planned Unit Development Application dated March 20, 2017
2. Floodway and Floodplain Location Map of the Amended Rezoning and Planned Unit Development Application



# ATTACHMENT 1



Color	Building Type	Area
Orange	Office Buildings	132,000 sf (2 stories)
Yellow	Residential	15,000 sf (3 stories) per building
Light Green	a. Multi-Family Community - Condo/Apartments	2,000H - 3,000 sf (3 stories) per townhome
Light Blue	b. Townhomes (130 total)	87,600 sf (4 stories)
Light Purple	Special Uses	3,600 sf (1 story)
Light Orange	a. Inn/ Boutique Hotel	477,000 sf (3 stories)
Light Green	b. Fire Substation (Senior Service Area)	17,400 sf (2 stories)
Light Blue	Mixed-Use Development	Varies per lot type
Light Purple	a. Mixed-Use Structures	243,500 sf (3 stories)
Light Green	b. Community Clubhouse	83.3 Acres
Light Orange	Fields Home and Single-Family Home Lots	12.0 Acres
Light Blue	Senior Living Development with Garages	
Light Purple	Open/ Green Space	
Light Green	Ponds/ Stormwater Features	
Light Orange	Streets and Parking Lot	



### CONCEPTUAL MASTER PLAN

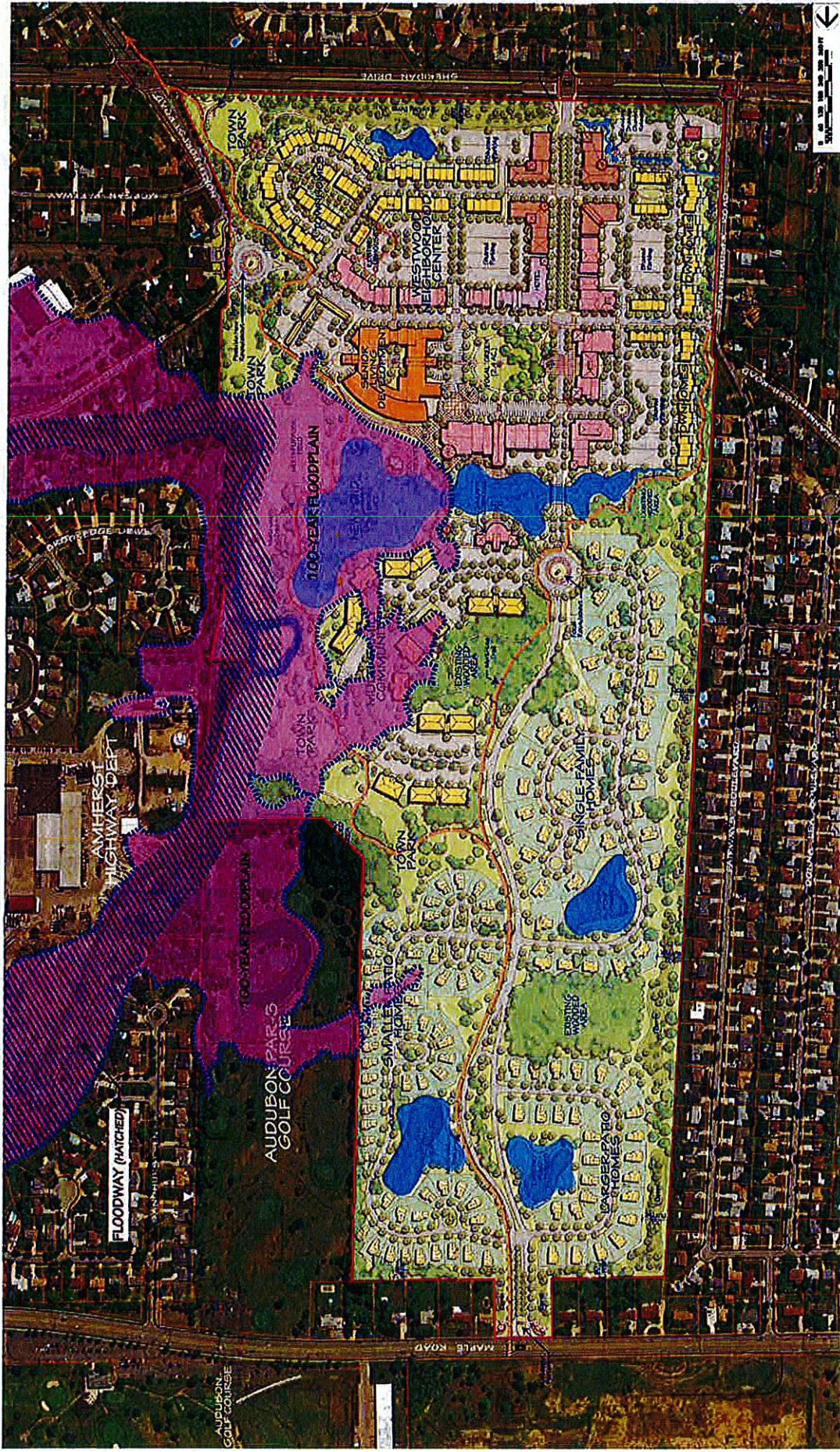
\*Notes: Buildings depicted on this Conceptual Master Plan are intended to be illustrative of a specific use. Actual design and precise building footprints will be specified and approved consistent with the site plan and subdivision review processes for each of the components depicted on the plan.

Prepared by:  
**MENSCH**  
 Capital Partners, LLC  
 March 20, 2017

A Traditional Neighborhood  
 in the heart of Amherst.

Prepared by:  
**MENSCH**  
 Capital Partners, LLC  
 March 20, 2017

# ATTACHMENT 2



*Westwood*

A Traditional Neighborhood  
in the heart of Amherst.

FEMA PRELIMINARY FLOODPLAIN AND FLOODWAY MAP

Prepared by:  
**MENSCH**  
Capital Partners, LLC



March 20, 2017

**WHEREAS**, Mensch Capital Partners, LLC (“Applicant”) submitted an application for Amended Rezoning and Planned Unit Development (“Application”) in July 2014, which was subsequently amended three times, with the final revision submitted on March 20, 2017, for the Westwood Neighborhood Project to be located at 772 North Forest Road, and 375, 385 and 391 Maple Road (“Property”), which is currently zoned Recreational Conservation District (“RC”). The Application requests the Property to be rezoned as follows:

134.79 +/- acres from RC to Traditional Neighborhood Development District (“TND”);  
5.13 +/- acres from RC to Multifamily Residential District Seven (“MFR-7”); and  
1.16 +/- acres from RC to General Business District (“GB”)

**WHEREAS**, in September 2014, the Town Board established itself as the Lead Agency;

**WHEREAS**, the Applicant submitted a Draft Generic Environmental Impact Statement (“DGEIS”) in July 2014, a revised DGEIS in February 2015 and in October 2015;

**WHEREAS**, on December 28, 2015, the Town Board made its “Determination of Adequacy” with respect to the scope and content of the DGEIS in accordance with the SEQRA regulations at 6 NYCRR §617.9;

**WHEREAS**, a Notice of Completion of the DGEIS was prepared and published in the New York State Environmental Notice Bulletin (“ENB”) on January 6, 2016; and

**WHEREAS**, the Town Board held a SEQRA public hearing on the DGEIS September 18, 2017;

**WHEREAS**, the comment period on the DGEIS closed on October 2, 2017; and

**WHEREAS**, the Town Board received over 400 written and oral comments to the DGEIS, including, but not limited to, comments from the public, Town Departments, and interested and involved agencies; and

**WHEREAS**, the Town Board, as the Lead Agency, has received and considered the comments to the DGEIS in accordance with 6 NYCRR 617.9(a)(4)(ii), and has prepared a Final Generic Environmental Impact Statement (“FGEIS”) that includes all substantive comments, including but not limited to those received from the public, Town Departments, interested and involved agencies, the Applicant, along with Lead Agency responses;

**WHEREAS**, the Town Board issued the FGEIS pursuant to 6 NYCRR 617.9(a)(8) on November 20, 2017 and distributed it in accordance with 6 NYCRR 617.12(b);

**WHEREAS**, the Town Board now seeks to issue its SEQRA Findings pursuant to 617.11(d); and

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TOWN BOARD:**

1. Based upon a thorough review of the Application and the FGEIS, the Town Board hereby issues the attached SEQRA Findings Statement, which is incorporated herein.
2. The Town Clerk shall file and maintain this Resolution and the incorporated SEQRA Findings Statement in files that are readily accessible to the public and made available on proper request.
3. The Town Clerk shall file the Statement with:
  - (i) Supervisor of the Town of Amherst, as the chief executive officer of the political subdivision in which the action would be principally located;
  - (ii) The Town Board of the Town of Amherst, as lead agency;
  - (iii) all involved agencies;
  - (iv) any person who has requested a copy; and
  - (v) with the applicant
4. This resolution shall be effective immediately.