

State Environmental Quality Review
Findings Statement

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

Name of Action: Amherst Central Park Conceptual Development Plan - Planned Unit Development

Description of Action:

The action involves the adoption of a Planned Unit Development and implementation of a Conceptual Development Plan for the Amherst Central Park, a proposed 171+/- acre community park, formerly utilized as a private golf course.

Location:

772 North Forest Road, 385 and 391 Maple Road, Amherst, NY

Agency Jurisdiction:

Approve the PUD Application

Date Final Environmental Impact Statement Filed:

December 4, 2023

Facts and Conclusions Relied on to Support the Decision:

See attached.

Certification To Approve/Fund/Undertake :

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 been met; and
2. Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is the one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse 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.
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 achieve a balance between the protection of the environment and the need to accommodate social and economic considerations.

Name of Agency



Signature of Responsible Official

Brian Kulpa

Name of Responsible Official

Supervisor

Title of Responsible Official

December 18, 2023

Date

Address of Agency

5583 Main Street
Williamsville, NY 14221

cc: Other Involved Agencies
Applicant

**AMHERST TOWN BOARD FINDINGS STATEMENT
AMHERST CENTRAL PARK
PUD CONCEPTUAL DEVELOPMENT PLAN
December 18, 2023**

1.0 INTRODUCTION

The Town of Amherst, NY (“Town”) proposes adoption of a conceptual development plan for a planned unit development (“PUD”) for the conversion of an approximately 170.5± acre parcel located at 772 North Forest Road and 385 & 391 Maple Road (“Property”) to a community park to include cultural, recreational and civic public spaces (“Amherst Central Park”, “Park”, “ACP”).

Development of the Property by a private developer for a project known as the Westwood Neighborhood (sometimes referred to herein as the “Mixed-Use Project”) was formerly the subject of a Generic Environmental Impact Statement (GEIS). Based on the Lead Agency’s GEIS Findings Statement, the Mixed-Use Project was denied. Section 1.1 summarizes the findings and basis of denial for that project.

The Property was subsequently sold to the Town. The Town initiated a public planning process to re-examine the needs and purpose for the Property and to develop a new alternative action that would better serve the community. A new conceptual development plan based on the PUD process (“PUD Plan”) was prepared to develop the Property as the Amherst Central Park, as summarized in Section 1.2.

With the original GEIS analysis and supporting studies as a foundation and pursuant to the State Environmental Quality Review Act (SEQRA), the Town as Lead Agency prepared a Supplemental Generic Environmental Impact Statement (SGEIS) to evaluate the Plan. The SGEIS evaluation found that no significant environmental impacts were anticipated to result from the Project, as summarized in Section 1.3.

1.1 Westwood Neighborhood GEIS

The Property was formerly the location of the Westwood County Club and was the subject of a GEIS in 2017 to evaluate a private development proposed by the owner, at that time Mensch Capital Partners LLC (Mensch). The action in the GEIS, known as the “Westwood Neighborhood”, proposed a mixed-use development including 41 single-family residences, 83 patio homes, 310 attached townhomes and apartments, and 212 multi-family residential units in mixed use buildings, as well as a mix of commercial uses including shops, restaurants, businesses and offices, a four-story hotel, and senior living components (assisted and independent living apartments). The proposed action included the following rezoning requests from the existing RC (Recreation Conservation) District to:

- 134.79± acres from Recreation Conservation Zoning District (“RC”) to Traditional Neighborhood Development Zoning District (“TND”);



- 5.13± acres from RC to Multifamily Residential Zoning District Seven ("MFR-7"); and
- 1.16± acres from RC to General Business Zoning District ("GB").

The GEIS was reviewed by the Town Board as Lead Agency over a period spanning July 2014 to December 2017, including three amended submittals. The Final Generic Environmental Impact Statement (FGEIS) was issued in November 2017, and the GEIS Findings issued by the Lead Agency in December 2017 certified that:

- The requirements of 6 NYCRR Part 617 had not been met; and
- Adverse impacts would 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.
- The action would not achieve a balance between the protection of the environment and the need to accommodate social and economic considerations.

The GEIS Findings Statement was based on a number of considerations, notably:

- Insufficient sanitary sewer capacity and significant constraints on increasing that capacity.
- Traffic impacts associated with new commercial development in an area not previously planned for such development.
- Extensive new roadway and signal construction to address traffic impacts.
- Impacts associated with wetlands, hardwood swampland, floodplains, and Ellicott Creek.
- Conversion of land zoned RC to higher-density uses as housing and commercial development.
- Incompatibility of the proposed uses with surrounding neighborhoods.
- Loss of open space.
- A protracted construction period for roadways; infrastructure; and multiple patio and single-family homes, townhomes, apartments, and completion of mixed use and office buildings.

Based on the Lead Agency's GEIS Findings Statement, the Westwood Neighborhood application was denied.



1.2 PUD Plan

The PUD Conceptual Development Plan (sometimes referred to herein as the “PUD Plan”) includes the following features:

- Ice Ribbon and Ice Rink, approximately 25,000 SF
- Inclusive Playground, approximately 12,500 SF
- Splash Pad, approximately 6,100 SF
- Public Plaza, approximately 20,000 sf, including a Winter Market, approximately 5,000 SF (buildings)
- Renovation of the former clubhouse into a Community Building, approximately 2,500 SF addition to existing (approximately 44,500 SF total at completion, including basement and all floors), to provide services including space for a Universal Pre-Kindergarten (UPK) program
- Outdoor Amphitheater, approximately 3,300 SF
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- Construction of required mechanical buildings, public restrooms, parking lots, and supportive utilities such as storm sewers and stormwater management features, sanitary sewers, water, fiber optic cables, electric and natural gas service

The northern portion of the Property is slated for natural-passive recreation along with preservation of existing ponds, wetlands and hardwood areas.

Amherst Central Park Facility Improvements Review Process for the PUD

The Town is developing the Park pursuant to the PUD Process set forth in Section 6-9 of the Zoning Code, as the Property is in excess of 30 acres. As set forth in Zoning Code 6-9-1, the purpose of the PUD Process is to permit coordinated development that allows flexibility to respond to market demands. Pursuant to Zoning Code 6-9-2, the Town Board intends to adjust the regulations, standards and criteria of the Zoning Ordinance as part of the PUD Process for the Amherst Central Park to implement the



Conceptual Development Plan and to apply to future improvements that are not part of the Conceptual Development Plan.

1.3 SGEIS Prepared for the PUD Plan

The Town Board prepared a PUD Application, as amended on October 12, 2023 (“PUD Application”), pursuant to Town of Amherst Code Section 8-4 for the Planned Unit Development District portion of the Property. The PUD Application included a Conceptual Development Plan that reflects development of the Property.

Pursuant to Section 8-4-3, the Planning Director prepared a report that reviews the PUD application in light of any reports, recommendations, applicable plans and the general requirements of the Zoning Ordinance. In accordance with the zoning law, a copy of the report was provided to the Planning Board.

Pursuant to Section 8-4-4, the Planning Board held a public hearing on the PUD application on November 16, 2023 and following the close of the public hearing, the Planning Board prepared and furnished to the Town Board its findings that the PUD application is generally consistent with the Comprehensive Plan and the regulations, standards and purpose of the Ordinance and a recommendation that the PUD application be approved. Pursuant to Sections 8-4-5, the Planning Board made findings that the proposed conceptual development plan meets the objectives of the RC district in which the PUD is located.

Pursuant to Section 8-4-6, the Town Board held a public hearing on the pending PUD Application on December 4, 2023.



2.0 THE SEQRA PROCESS

The Amherst Town Board, as Lead Agency prepared a Supplemental Final Generic Environmental Impact Statement (FSGEIS).

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 SGEIS and its Findings should also include the thresholds and conditions that would trigger the need for supplemental determinations of significance or site-specific EISs. Lastly, SGEISs and their Findings provide 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, FGEIS, SEQRA Findings, DSGEIS, and FSGEIS are incorporated by reference in their entirety into these Supplemental SEQRA Findings.

Under the SEQRA regulations, this Supplemental Findings Statement must:

- consider the relevant environmental impacts, facts and conclusions disclosed in the FSGEIS;
- weigh and balance relevant environmental impacts with social, economic and other considerations;
- provide a rationale for the Town Board's decision;
- certify that the requirements of SEQRA have been met; and
- 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.



3.0 FINDINGS

3.1 Land Use and Zoning

- (a) The Property is zoned Recreational Conservation District (“RC”). As noted in Section 6-9-2, the PUD process is designed to apply the PUD criteria, standards and regulations to result in the optimum development and use of land in the Town. The criteria are intended to ensure full consideration of every planning element pertinent to the objectives of the PUD Process and the Comprehensive Plan. Conditions placed on individual use areas of a PUD may supersede regulations elsewhere in the Zoning code. Section 6-9 of the code sets forth design standards to guide PUD developments.
- (b) The PUD plan is consistent with the “Open Space” provisions at 6-9-3(E), by providing:
- i. Uncovered and unpaved lands or water areas in public, common or private ownership,
 - ii. Large areas of land in a natural state;
 - iii. Areas for active and passive recreation;
 - iv. Parks and large landscaped or wooded areas;
 - v. Drainage, runoff areas and flood plain areas and areas for stormwater storage and protection of water quality;
 - vi. Connectors between major open space areas;
 - vii. Pedestrian and bicycle circulation systems;
 - viii. Areas for preservation of wildlife, woodlands, wetlands and outstanding natural features, including geologic and topographic;
 - ix. Areas for public or private recreation, public education, community and cultural facilities when approved by the Town Board; and
 - x. Conservation facilities and areas.
- (c) The precise layout of improvements set forth in the Conceptual Development Plan, including the necessary signage and ancillary park improvements, will be the subject of an ACP Facility Improvement Review process for this Town-owned PUD to be implemented by the Director of Facilities and the ACP Planning Team.
- (d) The ACP Planning Team shall be made up of the Director of Facilities (which title is responsible for all Town-owned facilities), Town Engineer, Town Architect, Building Commissioner, Planning Director and a Police/Fire representative.



- (e) When future improvements are proposed within Amherst Central Park, the Town will take a stepwise approach to review as outlined in the ACP Facility Improvement Review process.
 - i. Minor Facilities Improvement Plans will be those that involve construction of less than 4,000 square feet and other Type II SEQRA actions.
 - ii. Improvements specified in the Conceptual Development Plan will be reviewed in accordance with the ACP Facility Improvement Review Process. Improvements not specified in the Conceptual Development Plan, but allowed within the underlying RC zoning, will be reviewed in accordance with the ACP Facility Improvement Review process.
 - iii. Improvements not specified in the Conceptual Development Plan and not allowed by the underlying RC zoning will require amendment of the PUD by the Town Board.
- (f) The Amherst Central Park is consistent with the adopted Bicentennial Comprehensive Plan.
- (g) The Amherst Central Park is consistent with the adopted Local Waterfront Revitalization Program.

3.2 Physical Alteration of Land Surface

- (a) The Property will be developed consistent with the PUD Application, which represents the maximum anticipated development of the Amherst Central Park.
- (b) The Amherst Central Park will include the improvements, with associated development areas, listed in Section 1.2.
- (c) The extent of physical alteration to land, at approximately 25 acres, would be substantially less than the 145 acres proposed for the Mixed-Use Alternative.
- (d) The PUD Plan focusses development on the southern portion of the Property and generally preserves the existing natural character and habitat in the northern portion, with the exception of certain enhancements (e.g. pollinator garden) and low impact improvements as shown in the PUD Plan.
- (e) Given adherence to stormwater regulations and code requirements, no substantial impacts due to physical alteration of the land surface were identified. Therefore, no mitigation measures are required.

3.3 Surface Water

3.3.1 Wetlands

- a) With regard to wetlands, the wetland boundary delineations were initially confirmed by the United States Army Corps of Engineers (USACE) in 2013. Based on subsequent USACE



review and site re-evaluation, the USACE issued a new jurisdictional determination on July 21, 2016. The new jurisdictional determination added Channel 1 as a regulated water of the United States (US), and reaffirmed that Ellicott Creek is a regulated water of the US. In addition, the new determination confirmed that the features identified as Wetlands 1-10 were not regulated and were outside of USACE jurisdiction.

- b) In light of proposed PUD and regulatory developments since the 2012 delineation and subsequent Joint Determination, the Town commissioned a new wetland delineation report that would allow USACE and New York State Department of Environmental Conservation (NYSDEC) to determine their jurisdictional authority on the Property, pursuant to Section 404 of the Clean Water Act and Articles 15 (Protection of Waters) and 24 (Freshwater Wetlands) of the New York State Environmental Conservation Law. One additional wetland was identified onsite, compared to the September 2012 wetland delineation and evaluation report. Subsequently, Stream 3 was redesignated as wetland, bringing total wetlands onsite to twelve. NYSDEC affirmed that none of the wetlands are within their jurisdiction.
- c) In the Mixed Use Alternative, approximately 4.17± acres of non-regulated wetlands and Ellicott Creek (a state-regulated water body) would be impacted. This Alternative required construction of a 5-acre stormwater management “lake” which would permanently replace varied wetland types (emergent marsh, scrub-shrub, and forested wetlands) with open water managed for stormwater treatment and retention.
- d) In contrast, the Amherst Central Park concept includes the filling in of an approximately 0.17± acre wetland located along the southern edge of the Property, approximately a 95% reduction in impacts to non-regulated wetlands compared to the Mixed Use Alternative. The filling and/or modification of the on-site non-jurisdictional wetlands would result in direct and permanent impacts to the water quality of those resources. However, the small non-jurisdictional wetlands that will be impacted are not regulated by the USACE or the NYSDEC and these impacts will be isolated to each specific non-jurisdictional wetland.
- e) Wetlands 11 and 12, located in the southwestern portion of the Property and identified in the Amherst Central Park Plan for expansion into a larger pond may be subject to federal permitting if that water is connected to other waters. A jurisdictional determination has been requested from USACE and implementation of the PUD conceptual design will comply with associated regulatory requirements.
- f) Further, in the long-term, the Amherst Central Park is expected to contribute to an improvement in localized water quality through improved stormwater runoff management and infiltration control.

3.3.2 Stormwater Management

- (a) The Town will use Best Management Practices (“BMPs”), to be implemented pursuant to the Stormwater Pollution Prevention Plan (“SWPPP”), to prevent erosion and sedimentation into Ellicott Creek and other off-site locations. For example, areas of disturbed soils and spoil



piles will be protected with appropriate erosion and sedimentation controls in order to avoid the potential for sedimentation into Ellicott Creek. Therefore no substantial impacts to stormwater are anticipated.

3.3.3 Flood Hazard Zones

- (a) In contrast to the previously evaluated Mixed-Use Alternative, the PUD Plan will not impact flood hazard zone areas.

3.4 Transportation

- (a) For the 2017 GEIS, the Town found that the Traffic Impact Study (TIS) prepared by the applicant for the Mixed-Use Alternative was insufficient to determine that mitigation for the substantial increase in traffic was sufficient. However, proposed mitigation was proposed to include at least: (1) construction of new roadways and internal connections; (2) multiple revisions to existing roadways, turn lanes and entrances; (3) multiple new or revised signals; (4) parking lot mitigation measures including shared parking use between proposed uses.
- (b) In order to identify and evaluate the potential traffic impacts of the proposed Amherst Central Park, the Town commissioned a new TIS, including evaluation of traffic volumes and level of service, safety, bicycle/pedestrian circulation, and public transit. While signalization of the Sheridan Drive entrance was still recommended, along with pedestrian/bicycle and transit improvements, the recommended mitigation is substantially less in scope than mitigation required for the Mixed Use Alternative.
- (c) Access roads, parking, and bicycle/pedestrian access will be implemented in accordance with the PUD development standards at 6-9-3 (A) Off-Street Parking and Loading and (C) Local Circulation System. As stated in 6-9-3, the standards are designed to “*encourage convenience in accessibility to these uses through provision of pedestrian and bicycle pathways and public transportation services and to achieve the efficient sharing of parking and loading facilities by multiple uses.*” The standards are designed to address pedestrian and bicyclist accessibility and safety while promoting efficient circulation and providing site-appropriate landscaping and screening.
- (d) The ACP Planning Team will coordinate with the NYSDOT, Erie County DPW, the Niagara Frontier Transportation Authority (NFTA) and the Town Traffic Safety Board to identify and design mobility improvements that provide access to and movement within the Park. The Town will work with these agencies to obtain the required permits for Park transportation improvements.



3.5 Human Health

- (a) Since purchase of the Property in April of 2023, the Town has been in continuous communications with the New York State Department of Environmental Conservation (NYSDEC) towards executing a regulatory order which will provide for NYSDEC oversight during the development of the entire Amherst Central Park. The consent order will include NYSDEC-approved work plans for further investigation of the Property consistent with the intended use for active and passive recreation. All NYSDEC requirements for remediation for the intended use, including health and safety plans during site activities, will be completed consistent with NYSDEC-approved work plans.

3.6 CUMULATIVE IMPACTS

- (a) Development of the Amherst Central Park would result in cumulative benefits associated with the proximity of new improvements to the existing Audubon Park and the contribution of the Park toward achieving Town goals for development of parks and path networks according to the Bicentennial Comprehensive Plan and the Recreation and Parks Master plan.
- (b) As is the case with any development project, the proposed development of the Amherst Central Park will result in certain unavoidable short-term and long-term adverse impacts, including short-term construction impacts and long-term changes in the land use and character of the Property. The Town believes the Amherst Central Park Conceptual Development Plan will adequately address these changes and will result overall in positive community character impacts and other planning objectives outlined in the Comprehensive Plan.
- (c) The Amherst Central Park will not result in any direct or potentially significant growth inducing impacts. The Property is located within a developed portion of the Town that is currently served by a full complement of utilities including sanitary sewer lines, water lines and other existing utility infrastructure, which have adequate capacity to service the Amherst Central Park. The increases in traffic volumes associated with the Amherst Central Park on the roadway network in the vicinity of the Property have been properly accounted for within the 2023 TIS.



4.0 THRESHOLDS FOR FUTURE ENVIRONMENTAL REVIEW OF RELATED ACTIONS

The establishment of thresholds for the future environmental review of related improvements in the Amherst Central Park that are not set forth in the DSGEIS is an important component of these Findings. Examples of possible future related actions (aka improvements) may include changes to the Conceptual Development Plan or development in the northern section of the Property in a manner that is not entirely consistent with the approved Conceptual Development Plan. This may occur given that the layout of the improvements as depicted on the Conceptual Development Plan is conceptual in nature. Instead, the layout as depicted on the Conceptual Development Plan is meant to depict the anticipated components of the Amherst Central Park and the maximum potential development that could occur without the need for additional environmental review(s) pursuant to SEQRA. The precise layout of improvements will be the subject of an ACP Facility Improvement Review Process for this Town-owned PUD. The future improvements will be reviewed in accordance with the process established in the PUD Application.

The thresholds for environmental review for future improvements not included in the DSGEIS are intended to provide a framework for the Lead Agency and interested agencies to utilize to ensure compliance with the procedural and substantive requirements of SEQRA.

4.1 Thresholds for the Development of the Property

The Property will be developed consistent with the PUD Application and associated Conceptual Development Plan, which represents the maximum anticipated development of the Amherst Central Park.

1. As discussed above, the Amherst Central Park will include the following:
 - Ice Ribbon and Ice Rink, approximately 25,000 SF
 - Inclusive Playground, approximately 12,500 SF
 - Splash Pad, approximately 6,100 SF
 - Public Plaza, approximately 20,000 SF including a Winter Market, approximately 5,000 SF (buildings)
 - Renovation of the former clubhouse into a Community Building, approximately 2,500 SF addition to existing (approximately 44,500 SF total at completion, including basement and all floors), to provide services including space for a Universal Pre-Kindergarten (UPK) program
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- Ancillary park improvements such as playgrounds, gardens/greenhouses, pedestrian access/pathways, educational kiosks and access drives as shown conceptually on the PUD plan.
- Construction of required mechanical buildings, public restrooms, parking lots, and supportive utilities such as storm sewers and stormwater management features, sanitary sewers, water, fiber optic cables, electric and natural gas service.

The northern portion of the Property is slated for natural-passive recreation along with preservation of existing ponds, wetlands and hardwood areas.

2. Amherst Central Park will be developed in a manner that is consistent with the approved Conceptual Development Plan in accordance with the ACP Facility Improvement Review Process set forth in the PUD Application for this Town-owned Amherst Central Park PUD.

4.2 Review of Future Improvements

When future improvements are proposed within Amherst Central Park, the Town will take a stepwise approach to review in accordance with the ACP Facility Improvement Review Process, which also addresses compliance with SEQRA:

- If the future proposed improvement is substantially different than set forth in the PUD Application (e.g. area footprint (square feet) of use greater than 20%, or a change in type of use), then such use should be treated as a new proposed improvement.
- If the proposed improvement is set forth in the Conceptual Development Plan, then no additional SEQRA review is required before the Planning Director or Town Board acts.
- If the proposed improvement is not set forth in the Conceptual Development Plan, but constitutes a SEQRA Type II Action, no additional review is required before the Planning Director or Town Board acts.
- If the proposed improvement is not set forth in the Conceptual Development Plan, but constitutes a SEQRA Type I Action, a new Supplemental EIS or SGEIS will likely be required by the Town Board.
- If the proposed improvement is not set forth in the Conceptual Development Plan, but constitutes a SEQRA Unlisted Action, the Town Board will assess whether the potential environmental impacts associated with the improvement have been adequately addressed within the SGEIS, and the Supplemental Findings Statements.

In making this determination, the Lead Agency will need to determine whether the proposed Park Improvement is consistent with this SGEIS and Supplemental Findings to be issued. Specifically,

1. If the Town Board determines that the future improvement will be carried out in conformance with the thresholds established in the SGEIS or Supplemental Findings Statement, then no further SEQRA compliance will be required;



2. If the Town Board determines that the future improvement was adequately addressed in the SGEIS but not adequately addressed in the Supplemental Findings Statement, then an amended Supplemental Findings Statement must be prepared;
3. If the Town Board determines that the future improvement is not addressed, or not adequately addressed, in the SGEIS, but it will not result in any significant adverse environmental impact, then a negative declaration must be prepared; or
4. If the Town Board determines that the future improvement is not addressed, or is not adequately addressed, in the SGEIS and may have one or more significant adverse environmental impacts, then a supplement to the SGEIS must be prepared.¹

¹ See 6 NYCRR Part 617.10(d).



5.0 CERTIFICATION

The members of the Town Board have considered the relevant environmental impacts, facts and conclusions set forth in the FSGEIS, 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.

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 avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse 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, and

The requirements of 6 NYCRR Part 617 have been met.

Attachment: PUD Application 10/12/23



**AMHERST TOWN BOARD FINDINGS STATEMENT
AMHERST CENTRAL PARK
PUD CONCEPTUAL DEVELOPMENT PLAN
December 18, 2023**

1.0 INTRODUCTION

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- Incompatibility of the proposed uses with surrounding neighborhoods.
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1.2 PUD Plan

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Conceptual Development Plan and to apply to future improvements that are not part of the Conceptual Development Plan.

1.3 SGEIS Prepared for the PUD Plan

The Town Board prepared a PUD Application, as amended on October 12, 2023 (“PUD Application”), pursuant to Town of Amherst Code Section 8-4 for the Planned Unit Development District portion of the Property. The PUD Application included a Conceptual Development Plan that reflects development of the Property.

Pursuant to Section 8-4-3, the Planning Director prepared a report that reviews the PUD application in light of any reports, recommendations, applicable plans and the general requirements of the Zoning Ordinance. In accordance with the zoning law, a copy of the report was provided to the Planning Board.

Pursuant to Section 8-4-4, the Planning Board held a public hearing on the PUD application on November 16, 2023 and following the close of the public hearing, the Planning Board prepared and furnished to the Town Board its findings that the PUD application is generally consistent with the Comprehensive Plan and the regulations, standards and purpose of the Ordinance and a recommendation that the PUD application be approved. Pursuant to Sections 8-4-5, the Planning Board made findings that the proposed conceptual development plan meets the objectives of the RC district in which the PUD is located.

Pursuant to Section 8-4-6, the Town Board held a public hearing on the pending PUD Application on December 4, 2023.



2.0 THE SEQRA PROCESS

The Amherst Town Board, as Lead Agency prepared a Supplemental Final Generic Environmental Impact Statement (FSGEIS).

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 SGEIS and its Findings should also include the thresholds and conditions that would trigger the need for supplemental determinations of significance or site-specific EISs. Lastly, SGEISs and their Findings provide 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, FGEIS, SEQRA Findings, DSGEIS, and FSGEIS are incorporated by reference in their entirety into these Supplemental SEQRA Findings.

Under the SEQRA regulations, this Supplemental Findings Statement must:

- consider the relevant environmental impacts, facts and conclusions disclosed in the FSGEIS;
- weigh and balance relevant environmental impacts with social, economic and other considerations;
- provide a rationale for the Town Board's decision;
- certify that the requirements of SEQRA have been met; and
- 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.



3.0 FINDINGS

3.1 Land Use and Zoning

- (a) The Property is zoned Recreational Conservation District (“RC”). As noted in Section 6-9-2, the PUD process is designed to apply the PUD criteria, standards and regulations to result in the optimum development and use of land in the Town. The criteria are intended to ensure full consideration of every planning element pertinent to the objectives of the PUD Process and the Comprehensive Plan. Conditions placed on individual use areas of a PUD may supersede regulations elsewhere in the Zoning code. Section 6-9 of the code sets forth design standards to guide PUD developments.
- (b) The PUD plan is consistent with the “Open Space” provisions at 6-9-3(E), by providing:
- i. Uncovered and unpaved lands or water areas in public, common or private ownership,
 - ii. Large areas of land in a natural state;
 - iii. Areas for active and passive recreation;
 - iv. Parks and large landscaped or wooded areas;
 - v. Drainage, runoff areas and flood plain areas and areas for stormwater storage and protection of water quality;
 - vi. Connectors between major open space areas;
 - vii. Pedestrian and bicycle circulation systems;
 - viii. Areas for preservation of wildlife, woodlands, wetlands and outstanding natural features, including geologic and topographic;
 - ix. Areas for public or private recreation, public education, community and cultural facilities when approved by the Town Board; and
 - x. Conservation facilities and areas.
- (c) The precise layout of improvements set forth in the Conceptual Development Plan, including the necessary signage and ancillary park improvements, will be the subject of an ACP Facility Improvement Review process for this Town-owned PUD to be implemented by the Director of Facilities and the ACP Planning Team.
- (d) The ACP Planning Team shall be made up of the Director of Facilities (which title is responsible for all Town-owned facilities), Town Engineer, Town Architect, Building Commissioner, Planning Director and a Police/Fire representative.



- (e) When future improvements are proposed within Amherst Central Park, the Town will take a stepwise approach to review as outlined in the ACP Facility Improvement Review process.
 - i. Minor Facilities Improvement Plans will be those that involve construction of less than 4,000 square feet and other Type II SEQRA actions.
 - ii. Improvements specified in the Conceptual Development Plan will be reviewed in accordance with the ACP Facility Improvement Review Process. Improvements not specified in the Conceptual Development Plan, but allowed within the underlying RC zoning, will be reviewed in accordance with the ACP Facility Improvement Review process.
 - iii. Improvements not specified in the Conceptual Development Plan and not allowed by the underlying RC zoning will require amendment of the PUD by the Town Board.
- (f) The Amherst Central Park is consistent with the adopted Bicentennial Comprehensive Plan.
- (g) The Amherst Central Park is consistent with the adopted Local Waterfront Revitalization Program.

3.2 Physical Alteration of Land Surface

- (a) The Property will be developed consistent with the PUD Application, which represents the maximum anticipated development of the Amherst Central Park.
- (b) The Amherst Central Park will include the improvements, with associated development areas, listed in Section 1.2.
- (c) The extent of physical alteration to land, at approximately 25 acres, would be substantially less than the 145 acres proposed for the Mixed-Use Alternative.
- (d) The PUD Plan focusses development on the southern portion of the Property and generally preserves the existing natural character and habitat in the northern portion, with the exception of certain enhancements (e.g. pollinator garden) and low impact improvements as shown in the PUD Plan.
- (e) Given adherence to stormwater regulations and code requirements, no substantial impacts due to physical alteration of the land surface were identified. Therefore, no mitigation measures are required.

3.3 Surface Water

3.3.1 Wetlands

- a) With regard to wetlands, the wetland boundary delineations were initially confirmed by the United States Army Corps of Engineers (USACE) in 2013. Based on subsequent USACE



review and site re-evaluation, the USACE issued a new jurisdictional determination on July 21, 2016. The new jurisdictional determination added Channel 1 as a regulated water of the United States (US), and reaffirmed that Ellicott Creek is a regulated water of the US. In addition, the new determination confirmed that the features identified as Wetlands 1-10 were not regulated and were outside of USACE jurisdiction.

- b) In light of proposed PUD and regulatory developments since the 2012 delineation and subsequent Joint Determination, the Town commissioned a new wetland delineation report that would allow USACE and New York State Department of Environmental Conservation (NYSDEC) to determine their jurisdictional authority on the Property, pursuant to Section 404 of the Clean Water Act and Articles 15 (Protection of Waters) and 24 (Freshwater Wetlands) of the New York State Environmental Conservation Law. One additional wetland was identified onsite, compared to the September 2012 wetland delineation and evaluation report. Subsequently, Stream 3 was redesignated as wetland, bringing total wetlands onsite to twelve. NYSDEC affirmed that none of the wetlands are within their jurisdiction.
- c) In the Mixed Use Alternative, approximately 4.17± acres of non-regulated wetlands and Ellicott Creek (a state-regulated water body) would be impacted. This Alternative required construction of a 5-acre stormwater management “lake” which would permanently replace varied wetland types (emergent marsh, scrub-shrub, and forested wetlands) with open water managed for stormwater treatment and retention.
- d) In contrast, the Amherst Central Park concept includes the filling in of an approximately 0.17± acre wetland located along the southern edge of the Property, approximately a 95% reduction in impacts to non-regulated wetlands compared to the Mixed Use Alternative. The filling and/or modification of the on-site non-jurisdictional wetlands would result in direct and permanent impacts to the water quality of those resources. However, the small non-jurisdictional wetlands that will be impacted are not regulated by the USACE or the NYSDEC and these impacts will be isolated to each specific non-jurisdictional wetland.
- e) Wetlands 11 and 12, located in the southwestern portion of the Property and identified in the Amherst Central Park Plan for expansion into a larger pond may be subject to federal permitting if that water is connected to other waters. A jurisdictional determination has been requested from USACE and implementation of the PUD conceptual design will comply with associated regulatory requirements.
- f) Further, in the long-term, the Amherst Central Park is expected to contribute to an improvement in localized water quality through improved stormwater runoff management and infiltration control.

3.3.2 Stormwater Management

- (a) The Town will use Best Management Practices (“BMPs”), to be implemented pursuant to the Stormwater Pollution Prevention Plan (“SWPPP”), to prevent erosion and sedimentation into Ellicott Creek and other off-site locations. For example, areas of disturbed soils and spoil



piles will be protected with appropriate erosion and sedimentation controls in order to avoid the potential for sedimentation into Ellicott Creek. Therefore no substantial impacts to stormwater are anticipated.

3.3.3 Flood Hazard Zones

- (a) In contrast to the previously evaluated Mixed-Use Alternative, the PUD Plan will not impact flood hazard zone areas.

3.4 Transportation

- (a) For the 2017 GEIS, the Town found that the Traffic Impact Study (TIS) prepared by the applicant for the Mixed-Use Alternative was insufficient to determine that mitigation for the substantial increase in traffic was sufficient. However, proposed mitigation was proposed to include at least: (1) construction of new roadways and internal connections; (2) multiple revisions to existing roadways, turn lanes and entrances; (3) multiple new or revised signals; (4) parking lot mitigation measures including shared parking use between proposed uses.
- (b) In order to identify and evaluate the potential traffic impacts of the proposed Amherst Central Park, the Town commissioned a new TIS, including evaluation of traffic volumes and level of service, safety, bicycle/pedestrian circulation, and public transit. While signalization of the Sheridan Drive entrance was still recommended, along with pedestrian/bicycle and transit improvements, the recommended mitigation is substantially less in scope than mitigation required for the Mixed Use Alternative.
- (c) Access roads, parking, and bicycle/pedestrian access will be implemented in accordance with the PUD development standards at 6-9-3 (A) Off-Street Parking and Loading and (C) Local Circulation System. As stated in 6-9-3, the standards are designed to “*encourage convenience in accessibility to these uses through provision of pedestrian and bicycle pathways and public transportation services and to achieve the efficient sharing of parking and loading facilities by multiple uses.*” The standards are designed to address pedestrian and bicyclist accessibility and safety while promoting efficient circulation and providing site-appropriate landscaping and screening.
- (d) The ACP Planning Team will coordinate with the NYSDOT, Erie County DPW, the Niagara Frontier Transportation Authority (NFTA) and the Town Traffic Safety Board to identify and design mobility improvements that provide access to and movement within the Park. The Town will work with these agencies to obtain the required permits for Park transportation improvements.



3.5 Human Health

- (a) Since purchase of the Property in April of 2023, the Town has been in continuous communications with the New York State Department of Environmental Conservation (NYSDEC) towards executing a regulatory order which will provide for NYSDEC oversight during the development of the entire Amherst Central Park. The consent order will include NYSDEC-approved work plans for further investigation of the Property consistent with the intended use for active and passive recreation. All NYSDEC requirements for remediation for the intended use, including health and safety plans during site activities, will be completed consistent with NYSDEC-approved work plans.

3.6 CUMULATIVE IMPACTS

- (a) Development of the Amherst Central Park would result in cumulative benefits associated with the proximity of new improvements to the existing Audubon Park and the contribution of the Park toward achieving Town goals for development of parks and path networks according to the Bicentennial Comprehensive Plan and the Recreation and Parks Master plan.
- (b) As is the case with any development project, the proposed development of the Amherst Central Park will result in certain unavoidable short-term and long-term adverse impacts, including short-term construction impacts and long-term changes in the land use and character of the Property. The Town believes the Amherst Central Park Conceptual Development Plan will adequately address these changes and will result overall in positive community character impacts and other planning objectives outlined in the Comprehensive Plan.
- (c) The Amherst Central Park will not result in any direct or potentially significant growth inducing impacts. The Property is located within a developed portion of the Town that is currently served by a full complement of utilities including sanitary sewer lines, water lines and other existing utility infrastructure, which have adequate capacity to service the Amherst Central Park. The increases in traffic volumes associated with the Amherst Central Park on the roadway network in the vicinity of the Property have been properly accounted for within the 2023 TIS.



4.0 THRESHOLDS FOR FUTURE ENVIRONMENTAL REVIEW OF RELATED ACTIONS

The establishment of thresholds for the future environmental review of related improvements in the Amherst Central Park that are not set forth in the DSGEIS is an important component of these Findings. Examples of possible future related actions (aka improvements) may include changes to the Conceptual Development Plan or development in the northern section of the Property in a manner that is not entirely consistent with the approved Conceptual Development Plan. This may occur given that the layout of the improvements as depicted on the Conceptual Development Plan is conceptual in nature. Instead, the layout as depicted on the Conceptual Development Plan is meant to depict the anticipated components of the Amherst Central Park and the maximum potential development that could occur without the need for additional environmental review(s) pursuant to SEQRA. The precise layout of improvements will be the subject of an ACP Facility Improvement Review Process for this Town-owned PUD. The future improvements will be reviewed in accordance with the process established in the PUD Application.

The thresholds for environmental review for future improvements not included in the DSGEIS are intended to provide a framework for the Lead Agency and interested agencies to utilize to ensure compliance with the procedural and substantive requirements of SEQRA.

4.1 Thresholds for the Development of the Property

The Property will be developed consistent with the PUD Application and associated Conceptual Development Plan, which represents the maximum anticipated development of the Amherst Central Park.

1. As discussed above, the Amherst Central Park will include the following:
 - Ice Ribbon and Ice Rink, approximately 25,000 SF
 - Inclusive Playground, approximately 12,500 SF
 - Splash Pad, approximately 6,100 SF
 - Public Plaza, approximately 20,000 SF including a Winter Market, approximately 5,000 SF (buildings)
 - Renovation of the former clubhouse into a Community Building, approximately 2,500 SF addition to existing (approximately 44,500 SF total at completion, including basement and all floors), to provide services including space for a Universal Pre-Kindergarten (UPK) program
 - Outdoor Amphitheater, approximately 3,300 SF
 - Community Theater Building, approximately 31,600 SF
 - New building for the Buffalo Niagara Heritage Village Museum – approximately 36,000 SF, as well as relocation of historical buildings associated with the museum, totaling approximately 20,000 SF
 - Enhancement of an existing wetland as a decorative pond and associated onsite mitigation (if required) and filling or modification of non-regulated wetlands



- Ancillary park improvements such as playgrounds, gardens/greenhouses, pedestrian access/pathways, educational kiosks and access drives as shown conceptually on the PUD plan.
- Construction of required mechanical buildings, public restrooms, parking lots, and supportive utilities such as storm sewers and stormwater management features, sanitary sewers, water, fiber optic cables, electric and natural gas service.

The northern portion of the Property is slated for natural-passive recreation along with preservation of existing ponds, wetlands and hardwood areas.

2. Amherst Central Park will be developed in a manner that is consistent with the approved Conceptual Development Plan in accordance with the ACP Facility Improvement Review Process set forth in the PUD Application for this Town-owned Amherst Central Park PUD.

4.2 Review of Future Improvements

When future improvements are proposed within Amherst Central Park, the Town will take a stepwise approach to review in accordance with the ACP Facility Improvement Review Process, which also addresses compliance with SEQRA:

- If the future proposed improvement is substantially different than set forth in the PUD Application (e.g. area footprint (square feet) of use greater than 20%, or a change in type of use), then such use should be treated as a new proposed improvement.
- If the proposed improvement is set forth in the Conceptual Development Plan, then no additional SEQRA review is required before the Planning Director or Town Board acts.
- If the proposed improvement is not set forth in the Conceptual Development Plan, but constitutes a SEQRA Type II Action, no additional review is required before the Planning Director or Town Board acts.
- If the proposed improvement is not set forth in the Conceptual Development Plan, but constitutes a SEQRA Type I Action, a new Supplemental EIS or SGEIS will likely be required by the Town Board.
- If the proposed improvement is not set forth in the Conceptual Development Plan, but constitutes a SEQRA Unlisted Action, the Town Board will assess whether the potential environmental impacts associated with the improvement have been adequately addressed within the SGEIS, and the Supplemental Findings Statements.

In making this determination, the Lead Agency will need to determine whether the proposed Park Improvement is consistent with this SGEIS and Supplemental Findings to be issued. Specifically,

1. If the Town Board determines that the future improvement will be carried out in conformance with the thresholds established in the SGEIS or Supplemental Findings Statement, then no further SEQRA compliance will be required;



2. If the Town Board determines that the future improvement was adequately addressed in the SGEIS but not adequately addressed in the Supplemental Findings Statement, then an amended Supplemental Findings Statement must be prepared;
3. If the Town Board determines that the future improvement is not addressed, or not adequately addressed, in the SGEIS, but it will not result in any significant adverse environmental impact, then a negative declaration must be prepared; or
4. If the Town Board determines that the future improvement is not addressed, or is not adequately addressed, in the SGEIS and may have one or more significant adverse environmental impacts, then a supplement to the SGEIS must be prepared.¹

¹ See 6 NYCRR Part 617.10(d).



5.0 CERTIFICATION

The members of the Town Board have considered the relevant environmental impacts, facts and conclusions set forth in the FSGEIS, 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.

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 avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse 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, and

The requirements of 6 NYCRR Part 617 have been met.

Attachment: PUD Application 10/12/23

