

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Michael G McGuire, Board Member
SECONDER:	Satish B. Mohan, Supervisor
AYES:	Mohan, Bucki, Kindel, McGuire, O'Loughlin Jr., Schratz, Ward

3. Resolution 2007-442 Adopted

7:30 PM Proposed Rezoning 3995-4145 Rensch Rd From RD to MFR-6, GMH Communities, Petitioner.

LOCAL LAW NO. 9 - 2007

**TOWN OF AMHERST
COUNTY OF ERIE, STATE OF NEW YORK**

A LOCAL LAW AMENDING CHAPTER 203 OF THE TOWN OF AMHERST CODE, KNOWN AS THE ZONING ORDINANCE SO AS TO CHANGE THE ZONING MAP DISTRICTS OF 3995, 4005, 4025, 4035, 4045, 4065, 4075, 4085, 4095, 4105, 4130, 4140, AND 4145 RENSCH ROAD FROM RESEARCH DEVELOPMENT (“RD”) TO MULTI-FAMILY RESIDENTIAL DISTRICT SIX (“MFR-6”)

Be it enacted by the Town Board of the Town of Amherst as follows:

Section 1. Title.

This Local Law shall be referred to as, “A Local Law Amending The Zoning Map For Rensch Road Districts From RD To MFR-6.”

Section 2. Legislative Findings and Intent.

Pursuant to the statutory powers vested in the Town Board of the Town of Amherst (hereinafter the “Town”), to regulate and control land use and to adopt a Zoning Code and Map together with amendments thereto and pursuant to its powers pursuant to Chapter 203 of the Town Code known as the Zoning Ordinance, the “Town” hereby states its intent to amend the Zoning Code and Map for the properties know as 3995, 4005, 4025, 4035, 4045, 4065, 4075, 4085, 4095, 4105, 4130, 4140, and 4145 Rensch Road from Research Development (“RD”) to Multi-Family Residential (“MFR-6”).

The Town Board of the Town of Amherst finds that the health, safety, and welfare of the Town of Amherst will be promoted by rezoning the parcels for the following reasons:

The Town Board finds that the properties covered by this Local Law are currently zoned RD and this zoning classification has resulted in a severe hardship to the current property owners. Eleven (11) of the thirteen (13) parcels that are the subject of the proposed amendment to the Bicentennial Comprehensive Plan consist of detached single-family homes on individual lots. The existing residential use of these parcels is “nonconforming” since residential uses are not permitted within the RD zoning classification. The existing nonconforming status of the homes on Rensch Road makes it much more difficult for a prospective purchaser to obtain financing from a bank. Lenders are often not willing to finance the purchase of the nonconforming homes because the nonconforming status jeopardizes the value of a home that serves as collateral for the loan.

The Town Board finds that the properties covered by this Local Law have not been developed for research and development purposes despite the fact that they have been zoned RD for more than thirty (30) years. The Town Board rezoned the thirteen (13) parcels to RD more than three decades ago due to their proximity to the then new University at Buffalo campus. During this time, none of the parcels have been developed for research and development purposes despite the fact that they are located in close proximity to the North Campus of the University at Buffalo. The owner of the two large vacant parcels located at 4080 and 4145 Rensch Road has actively attempted to develop these properties in accordance with the existing RD zoning classification. However, these efforts have been unsuccessful and at no point during the past thirty years has the University at Buffalo attempted to collaborate or provide assistance to the current property owners so that they could sell their property for research and development purposes. In the thirty plus years since the zoning of these properties as “RD,” the University at Buffalo has not offered a single proposal for the development of these sites for uses consistent with their RD zoning. In fact, there is not one plan to develop any of these parcels in a manner consistent with RD zoning filed for review before any reviewing body of the Town of Amherst. The Town Board finds that it is necessary to rezone these properties in order to provide realistic opportunities for development that are consistent with the needs of the Town of Amherst and its residents.

The Town Board further finds that the list of expressly permitted land uses within the RD zoning classification includes a wide assortment of high intensity uses that often include round-the-clock operations as well as high volume truck traffic. Pursuant to Section 4-9 of the Zoning Code, the list of expressly permitted industrial uses includes:

(i.) Compounding, manufacturing, and assembly facilities for:

- Automotive and boating accessories;
- Clothing and textile products;
- Electrical and equipment and appliances;
- Food and beverage products;
- Household items including furniture;
- Musical, scientific, medical, dental or photographic instruments, equipment or supplies;
- Office equipment;
- Panels, sheets, tubes or rods;
- Pharmaceutical products, cosmetics or toiletries;
- Printing, publishing and engraving;

Recreation equipment or toys;

- (ii.) Experimental, research and testing facilities;
- (iii.) Research and development facilities;
- iv.) Small-scale experimental pilot Comprehensive Plan plant operating operation;
- v.) Warehousing and storage service; and
- vi.) Whole distribution facilities.

Any of the above expressly permitted uses of property zoned RD would be incompatible with the existing single-family homes on Rensch Road. The development of any of the parcels in accordance with the RD zoning classification would make it even more difficult for the existing homeowners to sell their homes in the future and it would also have a negative impact on the residents' quality of life.

The Town Board finds that there is a shortage of housing available for students of UB and the proposed rezoning will provide a suitable location for student housing at a location directly adjacent to the UB North Campus. Information obtained from UB's website indicates that there were 27,200 students in fall of 2005 and that 7,200 (26.4%) of these students reside on campus. UB has announced plans to increase the number of students by 3,000 by 2011 with a long-term goal of increasing its enrollment to 35,000 students. Currently, the University is unable to meet the demand for on-campus housing of its resident student population. It has been required to house its overflow of resident students in local motels for months at a time.

The University has not come forward with a single proposal to permanently address its current shortage of on-campus residences, nor has it articulated a plan to provide on-campus housing for the proposed 8,000-10,000 additional students it expects to admit over the next several years. The Town Board finds that the overflow of students seeking on-campus housing from the University at Buffalo is only likely to increase and that the University at Buffalo has not made public any plan to absorb this increase. Therefore, the town must take steps to redress the issue or it will face the well-known and obvious public health and safety concerns attendant to overcrowded off-campus student housing. These public health and safety concerns include, but are not limited to: noise problems, accumulation of garbage and refuse, overcrowding in houses leading to dangerous conditions during emergency evacuations, parking problems, crime problems, and numerous other concerns.

The Town Board finds that this rezoning will allow for the planned development of student housing in the vicinity of the University at Buffalo that will absorb the overflow of students that the University at Buffalo cannot house and help avoid the health and safety problems associated with student overcrowding.

The Town Board finds that the proposed rezonings will result in a positive fiscal impact for the Town of Amherst. The proposed student housing project will not receive any financial assistance from the Amherst Industrial Development Agency. The estimated annual property taxes will be approximately \$500,000.00. The proposed project will not require the Town to expend any funds for infrastructure improvements and the Project Sponsor will provide on-site security services based on input from the Town of Amherst Police Department. The Bicentennial Comprehensive Plan recognizes the importance of the Town retaining and

increasing its tax base and the proposed student housing community will assist the Town in increasing the tax base. Moreover, the Town will face additional costs associated with increased off-campus housing whether or not the zoning is approved because the University at Buffalo has a housing shortage and has no plan for addressing it. Orderly planning will minimize the effects on the Town and the additional tax revenue will help pay for costs that the Town will incur in dealing with the safety and health issues associated.

Section 3. Amendment of Zoning Code.

The Town Board hereby amends Chapter 203 of the Town Code, known as the Zoning Ordinance, so as to rezone the parcels or parts thereof of the properties known as 3995, 4005, 4025, 4035, 4045, 4065, 4075, 4085, 4095, 4105, 4130, 4140, and 4145 Rensch Road in the Town of Amherst, Erie County, New York as further described by meets and bounds in the rezoning application from Research Development (“RD”) Districts to the Multi-Family Residential (“MFR-6”) Districts as set forth in the aforementioned Zoning Ordinance. Further, the town amends its zoning map to reflect the rezoning of the aforesaid parcels from “RD” to “MFR-6” zoning.

Section 4. Amherst Zoning Map.

The Town Board hereby amends its zoning map by changing from RD to MFR-6 the zoning of the following properties:

PROPOSED PROPERTY REZONING DESCRIPTION NO.’S 4130, 4140 & 4080 RENSCH ROAD

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie and State of New York, being part of Lot 79, Township 12, Range 7 of the Holland Land Company’s Survey bounded and described as follows:

Beginning at a point in the westerly line of Rensch Road (49.5’ wide), distant 738.7 feet more or less south of the north line of Lot 79, said point being in the northerly line of lands now or formerly conveyed to Jeffrey B. Brooks;

Thence westerly along the northerly line of lands conveyed to said Jeffrey B. Brooks a distance of 225.25 feet more or less to the northwest corner of lands conveyed to said Jeffrey B. Brooks;

Thence southerly along the westerly line of lands conveyed to said Jeffrey B. Brooks a distance of 90.00 feet more or less to a point in the northerly line of lands now or formerly conveyed to Daniel P. Hull, said point being the southwest corner of lands conveyed to said Jeffrey B. Brooks;

Thence westerly along the northerly line of lands conveyed to said Daniel P. Hull a distance of 115.65 feet more or less to a point in the easterly line of lands appropriated by the People of the State of New York for Lockport Expressway, Section 1;

Thence southerly along the easterly line of said Lockport Expressway, Section 1 a distance of 1174.99 feet more or less to the north line of lands conveyed to Niagara Mohawk Power

Corporation by deed recorded in the Erie County Clerk's Office in Liber 8975 of Deeds at page 455;

Thence easterly along the north line of said lands conveyed to Niagara Mohawk Power Corporation a distance of 121.41 feet more or less to an angle point in said line;

Thence southeasterly along the northeasterly line of said lands conveyed to Niagara Mohawk Power Corporation a distance of 182.74 feet more or less to a point in the west line of lands conveyed to John R. Jakala by deed recorded in the Erie County Clerk's Office in Liber 11083 of Deeds at page 3560;

Thence northerly along the west line of said Jakala's lands a distance of 107.8 feet more or less to a point in the south line of lands conveyed to John R. Jakala by deed recorded in the Erie County Clerk's Office in Liber 10929 of Deeds at page 3683;

Thence westerly along said south line of said Jakala's lands a distance of 2.57 feet more or less to the southwest corner of said lands;

Thence northerly along said west line of said Jakala's lands a distance of 308.59 feet more or less to the northwest corner of lands conveyed to John R. Jakala by deed recorded in the Erie County Clerk's Office in Liber 9552 of Deeds at page 344;

Thence easterly along the north line of said Jakala's lands a distance of 310.86 feet more or less to a point in the westerly line of Rensch Road;

Thence northerly along the westerly line of Rensch Road a distance of 824.00 feet more or less to the Point of Place of Beginning containing 12.65 acres of land, more or less.

PROPOSED PROPERTY REZONING DESCRIPTION NO.'S 3995, 4005, 4025, 4035, 4045, 4065, 4075, 4095, 4105 & 4145 RENSCH ROAD

Also, ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie and State of New York, being part of Lot 79, Township 12, Range 7 of the Holland Land Company's Survey bounded and described as follows:

Beginning at the point of intersection of the southerly and easterly lines of Rensch Road (49.5' wide), said point also being the northwest corner of Sub-Lot 1 as shown on a map filed in the Erie County Clerk's Office under Cover 2078;

Thence easterly along the southerly line of Rensch Road a distance of 500.24 feet more or less to the northwest corner of Sublot 6 as shown on said map;

Thence southerly along the west line of Sublot 6 a distance of 200 feet to the south line of said Sublot 6;

Thence easterly along the south line of Sublot 6 a distance of 80 feet to the southeast corner of said Sublot 6;

Thence northerly along the east line of Sublot 6 a distance of 200 feet to the southerly line of Rensch Road;

Thence easterly along the southerly line of Rensch Road a distance of 168.76 feet more or less to the southwest line of lands acquired by the People of the State of New York for Sweet Home Road, Map 69, Parcel 72;

Thence southeasterly along said southwest line a distance of 34.31 feet more or less to a point in the westerly line of Sweet Home Road;

Thence southerly along the westerly line of Sweet Home Road a distance of 525.17 feet more or less to an angle point;

Thence southwesterly along the westerly line of Sweet Home Road a distance of 65.16 feet more or less to a point in the north line of lands conveyed to Center for Inquiry, Inc.;

Thence westerly along said north line of Center for Inquiry, Inc.'s lands a distance of 552.13 feet more or less to a point in the east line of lands now or formerly owned by Robert A. Cipresso;

Thence northerly along said Cipresso's lands a distance of 40 feet more or less to the north line of said Cipresso's lands;

Thence westerly along the north line of said Cipresso's lands a distance of 200 feet more or less to a point in the easterly line of Rensch Road;

Thence northerly along the easterly line of Rensch Road a distance of 543.46 feet more or less to the Point or Place of Beginning containing 10.00 acres of land, more or less.

Section 5. Validity.

This Local Law is adopted under the authority granted to the Town Board of the Town of Amherst pursuant to §§10(1)(ii)(a)(12), 20 and 27 of the Municipal Home Rule Law and §264 of the Town Law of the State of New York.

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

Section 6. Effective Date.

This Local Law shall take effect immediately when it is filed in the Office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law and published pursuant to Section 130 of the Town Law and Chapter 28 of the Code of the Town of Amherst.

Kindel/O'Loughlin, close the public hearing and approve with an issuance of a negative declaration and amend the plan.

orporate Representatives from GMH Properties presented to the Town Board.

Sean Hopkins, Hopkins, Garas & Sorgi, presented to the Town Board.

The following people spoke:

1. Attorneys from Hodgson and Russ.
2. Professors from University of Buffalo.
3. Judy Colton
4. Milt Kader
5. Lester Busdiecker
6. James Kennedy
6. Bill Schlagel
7. Sharon Schlagel
8. Diane Busdiecker
9. Matthew Marota
10. Steven Carmina
11. Jim Kirby
12. Daniel Kim
13. Thomas Frank
14. Gene Tyne
15. John Askey

RESULT:	ADOPTED [6 TO 1]
MOVER:	William L. Kindel, Board Member
SECONDER:	William A. O'Loughlin Jr., Board Member
AYES:	Mohan, Kindel, McGuire, O'Loughlin Jr., Schratz, Ward
NAYS:	Deborah Bruch Bucki

VI. SUSPENSION OF RULES:

This is an opportunity for residents to comment on any matter regarding Town Government other than those pertinent to Public Hearings. Speakers will be limited to 3 minutes.

Mohan/Kindel, open 7-0

1. Bill Starks, re: Moratorium.
2. George Richmond, re: Campaign speech.
3. Steve Hunt, re: Moratorium.
4. Milt Kader, re: Reist Grist Mill.
5. Lois Schreiber, re: Preservation of open space, tree program and bird conservation.
6. Resident, re: Historic preservation open space resolution.
7. Ed Schunk, re: Open space resolution.
8. Resident, re: Trees.
9. thomas Frank, re: Waterways.
10. John Ciminelli, re: Occupancy rate in the Town of Amherst.
11. Peter Warn, re: Demolition of 108 Mill, natureview plan, State Park and Dann Lake for birds and open space index.
12. Carl Montante, re: Moratorium of office space.
13. Colleen Bogdan, re: Bonding.