

DRAFT RESOLUTION
05/23/08

RESOLUTION ____-2008

NOTE: There are two (2) draft resolutions attached to this agenda item: Resolution (A) is to adopt a Statement of Findings to approve and also approve the rezoning request; (B) is to adopt a Statement of Findings to deny and also deny the rezoning.
ONLY ONE RESOLUTION MAY BE APPROVED.

(A)

Purpose: To adopt the Findings Statement and the Local Law to rezone portions of 218 & 330 Maple Road.

WHEREAS, an application for rezoning of 33.326± acres of land located at 218 & 330 Maple Road was submitted by Benderson Development Co., LLC on February 2, 2007, along with a Draft Environmental Impact Statement, and

WHEREAS, the Town Board as Lead Agency is required to conduct a thorough SEQR review before a decision on the rezoning is made, and

WHEREAS, on June 28, 2007 the Town Planning Board recommended approval of the rezoning and determined it was consistent with the Town's Comprehensive Plan; and

WHEREAS, the Town prepared a Final Environmental Impact Statement (FEIS) that addresses all substantive comments received from involved and interested agencies and the public during the public review of the application; and

WHEREAS, the Town Board accepted the FEIS on December 17, 2007, and a Notice of Completion of the FEIS was filed in the Environmental Notice Bulletin on December 26, 2007; and

WHEREAS, §617.11(b) of the SEQR regulations requires that the Lead Agency issue a Findings Statement and make a decision on the proposed rezoning within 30 calendar days after the filing of the FEIS; and

WHEREAS, the Town Board requested that an independent traffic study be prepared at the applicant's expense prior to their issuing a Findings Statement and making a final decision on the application, and requested that the 30-day SEQR requirement be extended to March 3, 2008; and

WHEREAS, Benderson Development Co., LLC submitted a letter on January 14, 2008 agreeing to extend the timeframe up to and including March 3, 2008; and

WHEREAS, the Town engaged the services of Urban Engineers of New York, P.C. to review the traffic impact study for the subject project; and

WHEREAS, Urban Engineers submitted a report entitled “Review of Traffic Impact Study” on February 22, 2008; and

WHEREAS, the Town Board required additional time to adequately review the report prepared by Urban Engineers and obtain responses to many of its findings prior to voting on the subject rezoning; and

WHEREAS, Benderson Development Co., LLC submitted a letter on February 27, 2008 agreeing to extend the timeframe up to and including April 7, 2008; and

WHEREAS, the Town Board on February 27, 2008 voted to extend the timeframe required in the SEQR regulations for issuing a Findings Statement and making a decision on the rezoning application to April 7, 2008; and

WHEREAS, on March 26, 2008, Benderson Development Co., LLC submitted a revised legal description, concept plan and survey reflecting a revised area to be rezoned of 28.44± acres from 33.326± acres, along with proposed deed restrictions, and Response to “Review of Traffic Impact Study” prepared by FRA Engineering which includes their responses to the Urban Engineers’ report; and

WHEREAS, Benderson Development Co., LLC also proposed further development restrictions in support of the rezoning, including a Development Agreement and architectural standards which provide development standards, limit future use of the property and bind potential future developers; and

WHEREAS, The Town Board has evaluated these materials and determined that there are no potential significant adverse environmental impacts arising from the proposed modifications to the project, rather, impacts identified with the original project are expected to be further mitigated for the following reasons:

- ? The amount of land to be rezoned to GB is reduced and, therefore, the amount of land that may be developed as GB is more limited;
- ? Creation of the conservation project area along the site frontage of Maple Road will retain and improve the aesthetic resources for residences on Maple Road and provide community-wide benefits consistent with the Amherst Comprehensive Plan, including creation of a new open/green space for public use;
- ? The Development Agreement, deed restrictions and architectural standards provide development safeguards and benefits, including;

- Development standards for buildings and uses which will preclude “big box” development
 - Aesthetically appealing development of the property
 - Eliminating various “undesirable” uses if the proposed development does not come to fruition
 - Limiting the future use of the property that will be binding on potential future developers;
- ? The limitations placed on the development will not negatively impact the amount of real property and sales tax revenues to the Town, County and School District anticipated to be generated and the amount of jobs to be created from the Project; and

WHEREAS, the Town Board has determined that the proposed modifications to the project do not require the preparation of a Supplemental Environmental Impact Statement since the area to be rezoned has been reduced from the original submittal and now includes a buffer along the Maple Road frontage; and

WHEREAS, the Town distributed the revised documents to Town departments and the NYS Department of Transportation, Erie County Department of Public Works – Highways Division, Erie County Department of Environment and Planning, and the Town Traffic-Safety Board for review; and

WHEREAS, the Erie County Department of Environment and Planning has responded in its review under General Municipal Law Section 239-m that it had no recommendations and the project is for local concern; and

WHEREAS, Benderson Development Co., LLC submitted a letter on March 31, 2008 agreeing to extend the Town’s timeframe for issuing a Findings Statement and making a decision on the rezoning application to April 21, 2008; and

WHEREAS, Benderson Development Co., LLC has offered to have deed restrictions imposed on the proposed project to ensure that its development remains consistent with the Concept Plan and with Town objectives as stated in the Comprehensive Plan; and

WHEREAS, Benderson Development Co., LLC submitted a letter on April 16, 2008 agreeing to extend the Town’s timeframe for issuing a Findings Statement and making a decision on the rezoning application to May 5, 2008 to allow the Town to formalize the aforementioned deed restrictions; and

WHEREAS, the Town Board on April 21, 2008 voted to extend the timeframe required in the SEQR regulations for issuing a Findings Statement and making a decision on the rezoning application to May 5, 2008; and

WHEREAS, the Town has fully considered all documents submitted for the proposed rezoning and complied with the requirements of SEQRA; and

WHEREAS, the Town Board intends that the project be developed in a manner generally consistent with the criteria for the Traditional Neighborhood Development District (TND) as stated in Section 5-6-1 of the Zoning Ordinance, while not limiting the development to the Dimensional Standards stated in Section 5-6-2B or the General Development Standards in Section 5-6-4; and

WHEREAS, the development of the property shall be generally consistent with the Plan dated April 2008 submitted by Benderson Development Co., LLC on April 23, 2008; and

WHEREAS, Benderson Development Co., LLC shall be required to file within thirty (30) days of rezoning approval a Declaration of Restrictions in the form and substance as attached hereto in the Erie County Clerk's Office; and

WHEREAS, the proposed project will fully comply with all requirements stated in the attached Development Agreement, including the Architectural Design Guidelines; and

WHEREAS, all mitigation measures identified in the Statement of Findings are hereby incorporated by reference as conditions to rezoning;

NOW, THEREFORE, BE IT RESOLVED that the Town Board accepts the recommendation of the Town Planning Board that the proposed project and rezoning are consistent with the Town Comprehensive Plan; and

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Town Board determines, after reviewing the criteria in the SEQRA regulations [6 NYCRR 617.9(a)(7)], based on the above, the proposed modifications to the project do not result in any new significant adverse environmental impacts which have not been previously identified and addressed or require the preparation of a Supplemental Environmental Impact Statement for their evaluation; and

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Town Board hereby amends the Comprehensive Plan to the extent the rezoning is inconsistent with the Plan and adopts the attached Statement of Findings and approves the rezoning of the subject property as defined in the revised legal description received March 26, 2008; and

NOW, THEREFORE, BE IT ENACTED, that the Town of Amherst Zoning Ordinance and map are hereby amended and the property is hereby rezoned as more fully set forth in Local Law No. ___ of 2008, as attached hereto as Attachment 1.

Attachments: Local Law No. ____ of 2008
SEQR Statement of Findings
Declaration of Restrictions
Development Agreement and Architectural Design Guidelines

Fiscal Impact: None.

EllenK/Gun Club/TB Resolution Adopt Findings – 5.23.08

(B)

Purpose: To issue a Statement of Findings to deny the rezoning of portions of 218 & 330 Maple Road.

WHEREAS, an application for rezoning of 33.326± acres of land located at 218 & 330 Maple Road was submitted by Benderson Development Co., LLC on February 2, 2007, along with a Draft Environmental Impact Statement, and

WHEREAS, the Town Board as Lead Agency is required to conduct a thorough SEQR review before a decision on the rezoning is made, and

WHEREAS, the Town prepared a Final Environmental Impact Statement (FEIS) that addresses all substantive comments received from involved and interested agencies and the public during the public review of the application; and

WHEREAS, the Town Board accepted the FEIS on December 17, 2007, and a Notice of Completion of the FEIS was filed in the Environmental Notice Bulletin on December 26, 2007; and

WHEREAS, §617.11(b) of the SEQR regulations requires that the Lead Agency issue a Findings Statement and make a decision on the proposed rezoning within 30 calendar days after the filing of the FEIS; and

WHEREAS, the Town Board requested that an independent traffic study be prepared at the applicant's expense prior to their issuing a Findings Statement and making a final decision on the application, and requested that the 30-day SEQR requirement be extended to March 3, 2008; and

WHEREAS, Benderson Development Co., LLC submitted a letter on January 14, 2008 agreeing to extend the timeframe up to and including March 3, 2008; and

WHEREAS, the Town engaged the services of Urban Engineers of New York, P.C. to review the traffic impact study for the subject project; and

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WHEREAS, the Town distributed the revised documents to Town departments and the NYS Department of Transportation, Erie County Department of Public Works – Highways Division, Erie County Department of Environment and Planning, and the Town Traffic-Safety Board for review; and

WHEREAS, Benderson Development Co., LLC submitted a letter on March 31, 2008 agreeing to extend the Town’s timeframe for issuing a Findings Statement and making a decision on the rezoning application to April 21, 2008; and

WHEREAS, Benderson Development Co., LLC has offered to have deed restrictions imposed on the proposed project to ensure that its development remains consistent with the Concept Plan and with Town objectives as stated in the Comprehensive Plan; and

WHEREAS, Benderson Development Co., LLC submitted a letter on April 16, 2008 agreeing to extend the Town’s timeframe for issuing a Findings Statement and making a decision on the rezoning application to May 5, 2008 to allow the Town to formalize the aforementioned deed restrictions; and

WHEREAS, the Town Board on April 21, 2008 voted to extend the timeframe required in the SEQR regulations for issuing a Findings Statement and making a decision on the rezoning application to May 5, 2008; and

WHEREAS, the Town has fully considered all documents submitted for the proposed rezoning and complied with the requirements of SEQRA; and

WHEREAS, the requested General Business (GB) zoning district allows uses of a type and intensity that are inconsistent with the character of this portion of Maple Road and would extend commercial land uses in an area that is presently of a residential/recreational nature; and

WHEREAS, there is presently no suitable zoning district in the Town that is appropriate for the proposed development; and

WHEREAS, retaining the Community Facilities (CF) zoning district on the subject property is consistent with the Conceptual Land Use Plan contained in the Comprehensive Plan; and

WHEREAS, the Town Board has directed Town departments to prepare a Local Law to limit the size of “big box” retail stores, which may affect the proposed development;

NOW THEREFORE BE IT RESOLVED that the Town Board, in accordance with the provisions of SEQRA, hereby issues the attached Statement of Findings to deny the rezoning of the subject property as defined in the revised legal description received March 26, 2008.

Fiscal Impact: None.