

**DEVELOPMENT AGREEMENT
218-330 MAPLE ROAD**

THIS AGREEMENT, made this ___ day of ____, 2008 by and between the Town of Amherst, a municipal corporation organized under the State of New York (“Town”) and Benderson Development Company, LLC, Buffalo-Maple Road, LLC and Buffalo-Anderson Associates, LLC, having an office for the transaction of business at 570 Delaware Avenue, Buffalo, New York 14202 (collectively, the “Developer”).

W I T N E S S E T H:

WHEREAS, the Developer proposes construction of a mixed use multifamily residential and commercial project with a conservation project on property located at 218 and 330 Maple Road (the “Project”); and

WHEREAS, the Developer prepared a Draft Environmental Impact Statement and Final Environmental Impact Statement to analyze the potential significant environmental impacts of the Project; and

WHEREAS, the Town Board as SEQRA Lead Agency, adopted a SEQRA Findings Statement that identified certain measures necessary to minimize the potential significant adverse impacts of the Project; and

WHEREAS, the Amherst Town Board will attach as a condition of approval for the Project, that the Developer agree to the terms of this Agreement and construct the Project in accordance herewith.

NOW, THEREFORE, in consideration of the mutual promises herein made, the parties hereto do mutually covenant and agree as follows:

1. The Town Board and the Developer intend to restrict the development of the property as follows:

A. To provide for new, greenfield development of fully integrated, mixed-use, pedestrian oriented neighborhoods that encourage walkability and minimize traffic congestion, sprawl, infrastructure costs and environmental degradation based on the following principles:

(i) An identifiable center with edges that are consistent in design, scale and context with the surrounding neighborhood;

(ii) Uses and housing types are mixed or in close proximity to one another;

(iii) Density is highest in the center of the district and decreases with distance from the center;

- (iv) Serve as a foci of community activity in Amherst;
- (v) Are designed to encourage walking and biking, as alternatives to automobile trips;
- (vi) Streets are interconnected; and
- (vii) Provide for the possible future connection to Millersport Highway.

B. To provide for a mixed residential-commercial use within GB that has the appearance of a project within the Traditional Neighborhood Development District without limiting this development Project to the “Dimensional Standards” or the “General Development Standards” set forth in Section 5-6 of the Town of Amherst Zoning Law. To achieve this goal the architectural guidelines attached as **Exhibit “1”** will be implemented by the Town Planning Board during site plan review.

2. Site Development Requirements and Restrictions

The Developer shall comply with the following:

A. Secure all applicable governmental permits and approvals, including but not limited to site plan approval, building permits, sewer permits, driveway curb cut permits and deceleration lane approvals, stormwater SPDES permits and certificates of occupancy.

B. The development of the property shall be generally consistent with the plan dated April ____, 2008 submitted by Developer on April 29, 2008, considered and approved by the Town Board attached as **Exhibit “2”**. No single retail user shall be greater than 50,000 square feet in size. No other retail user shall exceed 35,000 square feet in size. As the plan shows, the maximum height of buildings to the front of the Project towards Maple Road is 35 feet and to the rear of the Project is 50 feet. All four (4) sides of the commercial buildings will have high quality finish materials.

C. The Developer shall comply with all mitigation measures set forth in the Statement of Findings adopted by the Town Board on ____, 2008 which are all incorporated herein by reference.

D. The Developer, specifically Buffalo-Maple Road LLC and Buffalo-Anderson Associates, LLC shall file in the Erie County Clerk’s Office the Declaration of Restrictions in form and substance as attached hereto as **Exhibit “3”**.

E. The Developer shall monitor the conservation project area portion of the site, which extends across the Maple Road frontage as shown on the plan attached as **Exhibit “2”**, at least annually, and replace dead plantings, maintain pathways and public amenities at its own cost and expense.

F. Any transfer of development rights will subject the transferee to the terms of this agreement, the Declaration of Restrictions, the SEQRA Statement of Findings and Resolution approving the rezoning of the site.

G. The Developer shall provide a \$500,000 bond to ensure completion of the identified traffic mitigation measures in the SEQRA Statement of Findings.

H. The Developer of the Project will cooperate with efforts by the Town to provide access from the Project Site to Millersport Highway. The Developer will construct the connecting road if the Town provides the necessary property rights and any other approvals required for such construction.

I. If commencement of construction associated with the Project does not occur within three (3) years, the property will revert to the prior zoning classifications.

J. No pole signs, as defined in the Amherst Zoning Law, shall be constructed on the Property.

3. Amendment of Agreement:

This Agreement may be altered or amended only by a written instrument setting forth such changes signed by all parties to this Agreement.

4. New York Law:

This Agreement shall be governed by the laws of the State of New York.

Town of Amherst

By: _____
SATISH MOHAN, Supervisor

Benderson Development Company, LLC

By: _____

Buffalo-Maple Road, LLC

By: _____

Buffalo-Anderson Associates, LLC

By: _____

