

**Full Environmental Assessment Form
Part 1 - Project and Setting**

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either “Yes” or “No”. If the answer to the initial question is “Yes”, complete the sub-questions that follow. If the answer to the initial question is “No”, proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1 is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Proposed Mixed Use Development		
Project Location (describe, and attach a general location map): 4300 Millersport Hwy (66.8+/- acres) (See Attachment 1 - Location Map)		
Brief Description of Proposed Action (include purpose or need): The proposed mixed-use project includes proposed public roads; 38 Patio Homes, 4-unit and 2-unit Town homes and two combination commercial /residential structures. The site is zoned Traditional Neighborhood Development and is located on the north side of Millersport Hwy., within the Town of Amherst. The site is currently vacant with a mixture of brush and trees. The site has 34.84+/- acres of federally regulated wetlands, with a proposed disturbance area of 0.39+/- acres. The project includes proposed access points off of Millersport Highway, New Road and Smith Road. All proposed sanitary and storm water improvements (including on-site retention ponds) will be privately owned and operated via an HOA. All proposed waterline improvements will be public improvements. For wastewater collection, it is proposed to extend private sanitary sewer lines and construct a pump station with a forcemain connection to the public collection system along Millersport Hwy. A flow monitoring study was completed and approved by the Town of Amherst, resulting in the Town allowing sanitary service to the site, via an Out-of -District agreement. It is important to mention that the Planning Board previously issued a negative declaration for the project on February 16, 2023 [including the 2 mixed-use three-floor buildings along Millersport Highway consisting that will be Phase 2 & 3]. Phase 4 of the project has been eliminated and is included as part of the Phase 1 project described above].		
Name of Applicant/Sponsor: Cimato and Sons	Telephone: 716-688-3536	E-Mail: cimatoenterprises5647@gmail.com
Address: 9220 Transit Road		
City/PO: East Amherst	State: NY	Zip Code: 14051
Project Contact (if not same as sponsor; give name and title/role): Sean Hopkins	Telephone: 716.510-4338	E-Mail: shopkins@hsmlegal.com
Address: 5500 Main Street, Suite 343		
City/PO: Williamsville	State: NY	Zip Code: 14221
Property Owner (if not same as sponsor): Same as Applicant	Telephone:	E-Mail:
Address:		
City/PO:	State:	Zip Code:

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. (“Funding” includes grants, loans, tax relief, and any other forms of financial assistance.)		
Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Council, Town Board, <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No or Village Board of Trustees		
b. City, Town or Village Planning Board or Commission <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Planning Board - Site Plan Approval	March 22, 2024
c. City, Town or Village Zoning Board of Appeals <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Zoning Board of Appeals - setback variances	Area Variances granted on 2/13/2024
d. Other local agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	ECDPW - Highway Permit, ECHD - Sanitary Sewer/Water, ECWA - Water	TBD
f. Regional agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
g. State agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	NYSDEC - Sanitary Sewer, SPDES, Water Quality NYSDOT - strm discharge, curb cut/utility permits	NYS OPRHP - acceptance of short and long term avoidance /protection plan
h. Federal agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	USACOE - wetland permit	Pending
i. Coastal Resources.		
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
iii. Is the project site within a Coastal Erosion Hazard Area?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

C. Planning and Zoning

C.1. Planning and zoning actions.	
Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> • If Yes, complete sections C, F and G. • If No, proceed to question C.2 and complete all remaining sections and questions in Part 1 	
C.2. Adopted land use plans.	
a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, identify the plan(s): <u>NYS Heritage Areas: West Erie Canal Corridor</u> _____ _____ _____	
c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes, identify the plan(s): <u>Per NYS EAF Mapper</u> _____ _____ _____	

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. Yes No
If Yes, what is the zoning classification(s) including any applicable overlay district?
The Project Site is properly zoned Traditional Neighborhood District ("TND")

b. Is the use permitted or allowed by a special or conditional use permit? Yes No

c. Is a zoning change requested as part of the proposed action? Yes No

If Yes,
i. What is the proposed new zoning for the site? _____

C.4. Existing community services.

a. In what school district is the project site located? Williamsville Central School District

b. What police or other public protection forces serve the project site?
Town of Amherst Police Department

c. Which fire protection and emergency medical services serve the project site?
North Amherst Fire Co.

d. What parks serve the project site?
Amherst Veterans Canal Park, Nature View Park

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? Mixed Use - Patio Homes, Town homes, two Multi-story structures for combined commercial/residential use

b. a. Total acreage of the site of the proposed action? 66.8 acres
b. Total acreage to be physically disturbed? 21.8+/- acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 66.8 acres

c. Is the proposed action an expansion of an existing project or use? Yes No
i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____

d. Is the proposed action a subdivision, or does it include a subdivision? Yes No

If Yes,
i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types) _____

ii. Is a cluster/conservation layout proposed? Yes No

iii. Number of lots proposed? _____
iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

e. Will the proposed action be constructed in multiple phases? Yes No

i. If No, anticipated period of construction: _____ months
ii. If Yes: _____ **Timing for infrastructure only**
• Total number of phases anticipated 2+
• Anticipated commencement date of phase I (including demolition) Sept month 2024 year
• Anticipated completion date of final phase Sept month 2025 year
• Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

f. Does the project include new residential uses? Yes No
 If Yes, show numbers of units proposed.

	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	38	6 (townhome)		7 (townhome)
At completion of all phases	38	6 (townhome)		7(townhome) & 44 apartments

g. Does the proposed action include new non-residential construction (including expansions)? Yes No
 If Yes,

i. Total number of structures 2
 ii. Dimensions (in feet) of largest proposed structure: 3 story height; 40' width; and 80'/ 195' length
 iii. Approximate extent of building space to be heated or cooled: 66,000 +/- square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? Yes No
 If Yes,

i. Purpose of the impoundment: Stormwater management ponds
 ii. If a water impoundment, the principal source of the water: Ground water Surface water streams Other specify: stormwater runoff
 iii. If other than water, identify the type of impounded/contained liquids and their source.
 iv. Approximate size of the proposed impoundment. Volume: 2.4+/- million gallons; surface area: 2.3+/- acres
 v. Dimensions of the proposed dam or impounding structure: height; length
 vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete):
Construction of ponds will include relocation of excavated earth material to other proposed fill locations on site

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? Yes No
 (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)
 If Yes:

i. What is the purpose of the excavation or dredging? creation of stormwater ponds, roads, installation of water/storm/sanitary sewer lines
 ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?
 • Volume (specify tons or cubic yards):
 • Over what duration of time?
 iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them.
Excavated material to be re-used on site in areas where fill is needed for construction of proposed roads and structures
 iv. Will there be onsite dewatering or processing of excavated materials? Yes No
 If yes, describe.
 v. What is the total area to be dredged or excavated? acres
 vi. What is the maximum area to be worked at any one time? acres
 vii. What would be the maximum depth of excavation or dredging? feet
 viii. Will the excavation require blasting? Yes No
 ix. Summarize site reclamation goals and plan:

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? Yes No
 If Yes:

i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): Proposed development will disturb approximately 0.39+/- acres of federally regulated wetlands. A respective Joint Application for Permit has been submitted

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:
The proposed disturbance to US ACOE wetlands will be a result of placing fill within designated disturbance areas for construction of site infrastructure. Total proposed wetland disturbance area is 0.39+/- acres.

iii. Will the proposed action cause or result in disturbance to bottom sediments? Yes No
 If Yes, describe: _____

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation? Yes No
 If Yes:

- acres of aquatic vegetation proposed to be removed: _____
- expected acreage of aquatic vegetation remaining after project completion: _____
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____
- proposed method of plant removal: _____
- if chemical/herbicide treatment will be used, specify product(s): _____

v. Describe any proposed reclamation/mitigation following disturbance: _____
Proposed disturbance expected to be authorized thru issuance of a Joint Application for Permit, with mitigation expected.

c. Will the proposed action use, or create a new demand for water? Yes No
 If Yes:

i. Total anticipated water usage/demand per day: _____ Avg Daily demand 33,600 gallons/day

ii. Will the proposed action obtain water from an existing public water supply? Yes No
 If Yes:

- Name of district or service area: ECWA
- Does the existing public water supply have capacity to serve the proposal? Yes No
- Is the project site in the existing district? Yes No
- Is expansion of the district needed? Yes No
- Do existing lines serve the project site? Yes No

iii. Will line extension within an existing district be necessary to supply the project? Yes No
 If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____
Extension of public 8-inch PVC watermain thru the site with proposed connections to public water supply along Millersport Hwy & Smith Road
- Source(s) of supply for the district: Existing 8-inch waterlines along Millersport Hwy and Smith Road

iv. Is a new water supply district or service area proposed to be formed to serve the project site? Yes No
 If, Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- Proposed source(s) of supply for new district: _____

v. If a public water supply will not be used, describe plans to provide water supply for the project: _____

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes? Yes No
 If Yes:

i. Total anticipated liquid waste generation per day: _____ Avg Daily 33,600 gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): _____
domestic wastewater

iii. Will the proposed action use any existing public wastewater treatment facilities? Yes No
 If Yes:

- Name of wastewater treatment plant to be used: Amherst WWTP
- Name of district: Amherst Consolidated Sewer District - Out-of-District Agreement
- Does the existing wastewater treatment plant have capacity to serve the project? Yes No
- Is the project site in the existing district? Yes No
- Is expansion of the district needed? Yes No

Site is beyond limits of the Consolidated Sewer District and will be provided downstream wastewater collection/treatment via an Out-of-District Agreement. A downstream capacity analysis was previously completed and accepted by the Town.

- Do existing sewer lines serve the project site? Yes No
- Will a line extension within an existing district be necessary to serve the project? Yes No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? Yes No

If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- What is the receiving water for the wastewater discharge? _____

v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans):

The project will include 8-inch gravity sewers and a duplex wastewater pump station. Wastewater will be pumped into an existing 10-inch forcemain on the south side of Millersport Hwy.

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? Yes No

If Yes:

i. How much impervious surface will the project create in relation to total size of project parcel?
 _____ Square feet or 10+/- acres (impervious surface)
 _____ Square feet or 66.8 acres (parcel size)

ii. Describe types of new point sources. Project includes public roads with gutter curbs and sidewalks, patio homes and townhomes with driveways, multi-story commercial/residential structures with associated parking.

iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?

Stormwater runoff will be collected in catch basins and conveyed thru storm sewer to the on-site stormwater management ponds. Ponds will be equipped with forebays to address water quality control. Water quantity control will be addressed by controlled discharge rates from the ponds

- If to surface waters, identify receiving water bodies or wetlands: Town Ditch 26B
- Will stormwater runoff flow to adjacent properties? Yes No

iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? Yes No

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? Yes No

If Yes, identify:

i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)
Temporarily during construction with heavy equipment and delivery vehicles

ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)
Temporarily during construction with using on-site generators

iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? Yes No

If Yes:

i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) Yes No

ii. In addition to emissions as calculated in the application, the project will generate:

- _____ Tons/year (short tons) of Carbon Dioxide (CO₂)
- _____ Tons/year (short tons) of Nitrous Oxide (N₂O)
- _____ Tons/year (short tons) of Perfluorocarbons (PFCs)
- _____ Tons/year (short tons) of Sulfur Hexafluoride (SF₆)
- _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (HFCs)
- _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? Yes No

If Yes:

i. Estimate methane generation in tons/year (metric): _____

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? Yes No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): _____

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? Yes No

If Yes: Per TIS by SRF, Peak am rate is 44 entering/56 exiting, Peak pm rate 96 entering/82 exiting

i. When is the peak traffic expected (Check all that apply): Morning Evening Weekend

Randomly between hours of _____ to _____.

ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____

iii. Parking spaces: Existing 0 Proposed 110 Net increase/decrease 110

iv. Does the proposed action include any shared use parking? Yes No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: Project includes public roads with connection points to Millersport Hwy., Smith Road and New Road

vi. Are public/private transportation service(s) or facilities available within 1/2 mile of the proposed site? Yes No

vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? Yes No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? Yes No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? Yes No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: _____
Estimated electrical demand for all future residential units is 81,000 kilowatt hours annually

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): Local utility company

iii. Will the proposed action require a new, or an upgrade, to an existing substation? Yes No

l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: 7 am - 5 pm
- Saturday: _____
- Sunday: _____
- Holidays: _____

ii. During Operations:

- Monday - Friday: _____
- Saturday: _____
- Sunday: _____
- Holidays: _____

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? Yes No

If yes:

i. Provide details including sources, time of day and duration:
Monday thru Friday from 7 am to 5 pm, project site will generate noise levels above ambient due to operation of heavy equipment during construction.

ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? Yes No
Describe: Construction will involve removal of existing vegetation within a portion of the project site for construction of streets and homes/townhomes

n. Will the proposed action have outdoor lighting? Yes No

If yes:

i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:
Street lighting, 15-ft height and 150-ft spacing, in addition to outdoor lighting on individual residential units within the development

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? Yes No
Describe: Construction will involve the removal of existing vegetation within a portion of the project site for construction of streets, support infrastructure and residential units

o. Does the proposed action have the potential to produce odors for more than one hour per day? Yes No
If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures:
During construction, operation of heavy equipment and delivery trucks will generate exhaust during daily operation hours

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? Yes No

If Yes:

i. Product(s) to be stored _____

ii. Volume(s) _____ per unit time _____ (e.g., month, year)

iii. Generally, describe the proposed storage facilities: _____

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? Yes No

If Yes:

i. Describe proposed treatment(s):

ii. Will the proposed action use Integrated Pest Management Practices? Yes No

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? Yes No

If Yes:

i. Describe any solid waste(s) to be generated during construction or operation of the facility:

- Construction: _____ tons per _____ (unit of time)
- Operation : _____ 3+/- tons per _____ week (unit of time)

ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:

- Construction: _____
- Operation: _____

iii. Proposed disposal methods/facilities for solid waste generated on-site:

- Construction: _____
- Operation: HOA to contract with private waste disposal company

s. Does the proposed action include construction or modification of a solid waste management facility? Yes No
 If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii. Anticipated rate of disposal/processing:

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? Yes No
 If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

iii. Specify amount to be handled or generated _____ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? Yes No
 If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: _____

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

Urban Industrial Commercial Residential (suburban) Rural (non-farm)
 Forest Agriculture Aquatic Other (specify): _____

ii. If mix of uses, generally describe: _____

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	0	10.2	10.2
• Forested	17+/-	9.0+/-	8.0+/-
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	14.96+/-	1.6+/-	13.36+/-
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)	0	2.3	2.3
• Wetlands (freshwater or tidal)	34.84	34.45	0.39
• Non-vegetated (bare rock, earth or fill)	0		
• Other Describe: green space _____	0	9.25	9.25

c. Is the project site presently used by members of the community for public recreation? Yes No
i. If Yes: explain: _____

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? Yes No
If Yes,
i. Identify Facilities:
Amherst Baby and Childcare Center

e. Does the project site contain an existing dam? Yes No
If Yes:
i. Dimensions of the dam and impoundment:
• Dam height: _____ feet
• Dam length: _____ feet
• Surface area: _____ acres
• Volume impounded: _____ gallons OR acre-feet
ii. Dam's existing hazard classification: _____
iii. Provide date and summarize results of last inspection:

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? Yes No
If Yes:
i. Has the facility been formally closed? Yes No
• If yes, cite sources/documentation: _____
ii. Describe the location of the project site relative to the boundaries of the solid waste management facility:

iii. Describe any development constraints due to the prior solid waste activities: _____

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? Yes No
If Yes:
i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred:

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? Yes No
If Yes:
i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: Yes No
 Yes – Spills Incidents database Provide DEC ID number(s): _____
 Yes – Environmental Site Remediation database Provide DEC ID number(s): _____
 Neither database
ii. If site has been subject of RCRA corrective activities, describe control measures: _____

iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? Yes No
If yes, provide DEC ID number(s): _____
iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):

v. Is the project site subject to an institutional control limiting property uses? Yes No

- If yes, DEC site ID number: _____
- Describe the type of institutional control (e.g., deed restriction or easement): _____
- Describe any use limitations: _____
- Describe any engineering controls: _____
- Will the project affect the institutional or engineering controls in place? Yes No
- Explain: _____

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? 5.2'-13.2' per geotech feet

b. Are there bedrock outcroppings on the project site? Yes No
 If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %

c. Predominant soil type(s) present on project site:

Darien Silt Loam	_____	37 %
Orpark silt loam	_____	36 %
Hornell silt loam	_____	21 %

d. What is the average depth to the water table on the project site? Average: 0.5-1.0 ft feet

e. Drainage status of project site soils: Well Drained: _____ % of site
 Moderately Well Drained: _____ % of site
 Poorly Drained: 100 % of site

f. Approximate proportion of proposed action site with slopes: 0-10%: 100 % of site
 10-15%: _____ % of site
 15% or greater: _____ % of site

g. Are there any unique geologic features on the project site? Yes No
 If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? Yes No

ii. Do any wetlands or other waterbodies adjoin the project site? Yes No
 If Yes to either *i* or *ii*, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? Yes No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name 837-47 Classification C
- Lakes or Ponds: Name _____ Classification 34.84+/-
- Wetlands: Name Federal Wetland Approximate Size _____
- Wetland No. (if regulated by DEC) _____

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? Yes No
 If yes, name of impaired water body/bodies and basis for listing as impaired: _____

i. Is the project site in a designated Floodway? Yes No

j. Is the project site in the 100-year Floodplain? Yes No

k. Is the project site in the 500-year Floodplain? Yes No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? Yes No
 If Yes:
 i. Name of aquifer: _____

m. Identify the predominant wildlife species that occupy or use the project site: _____
 deer, coyote, fox, rabbit, squirrels _____

n. Does the project site contain a designated significant natural community? Yes No
 If Yes:
 i. Describe the habitat/community (composition, function, and basis for designation): _____
 ii. Source(s) of description or evaluation: _____
 iii. Extent of community/habitat:
 • Currently: _____ acres
 • Following completion of project as proposed: _____ acres
 • Gain or loss (indicate + or -): _____ acres

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? Yes No
 If Yes:
 i. Species and listing (endangered or threatened): _____

p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? Yes No
 If Yes:
 i. Species and listing: _____

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? Yes No
 If yes, give a brief description of how the proposed action may affect that use: _____

E.3. Designated Public Resources On or Near Project Site

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? Yes No
 If Yes, provide county plus district name/number: Erie 017

b. Are agricultural lands consisting of highly productive soils present? Yes No
 i. If Yes: acreage(s) on project site? _____
 ii. Source(s) of soil rating(s): _____

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? See letter from NYS Office of Parks and Recreation, stating No Impact Yes No
 If Yes:
 i. Nature of the natural landmark: Biological Community Geological Feature
 ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? Yes No
 If Yes:
 i. CEA name: _____
 ii. Basis for designation: _____
 iii. Designating agency and date: _____

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? Yes No

If Yes:

i. Nature of historic/archaeological resource: Archaeological Site Historic Building or District

ii. Name: _____

iii. Brief description of attributes on which listing is based: _____

f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? Yes No

During Phase I study a possible historic site was identified. The area will be avoided per short and long term plan

g. Have additional archaeological or historic site(s) or resources been identified on the project site? Yes No

If Yes:

i. Describe possible resource(s): _____

ii. Basis for identification: _____

h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? Yes No

If Yes:

i. Identify resource: _____

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____

iii. Distance between project and resource: _____ miles.

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? Yes No

If Yes:

i. Identify the name of the river and its designation: _____

ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? Yes No

F. Additional Information

Attach any additional information which may be needed to clarify your project.

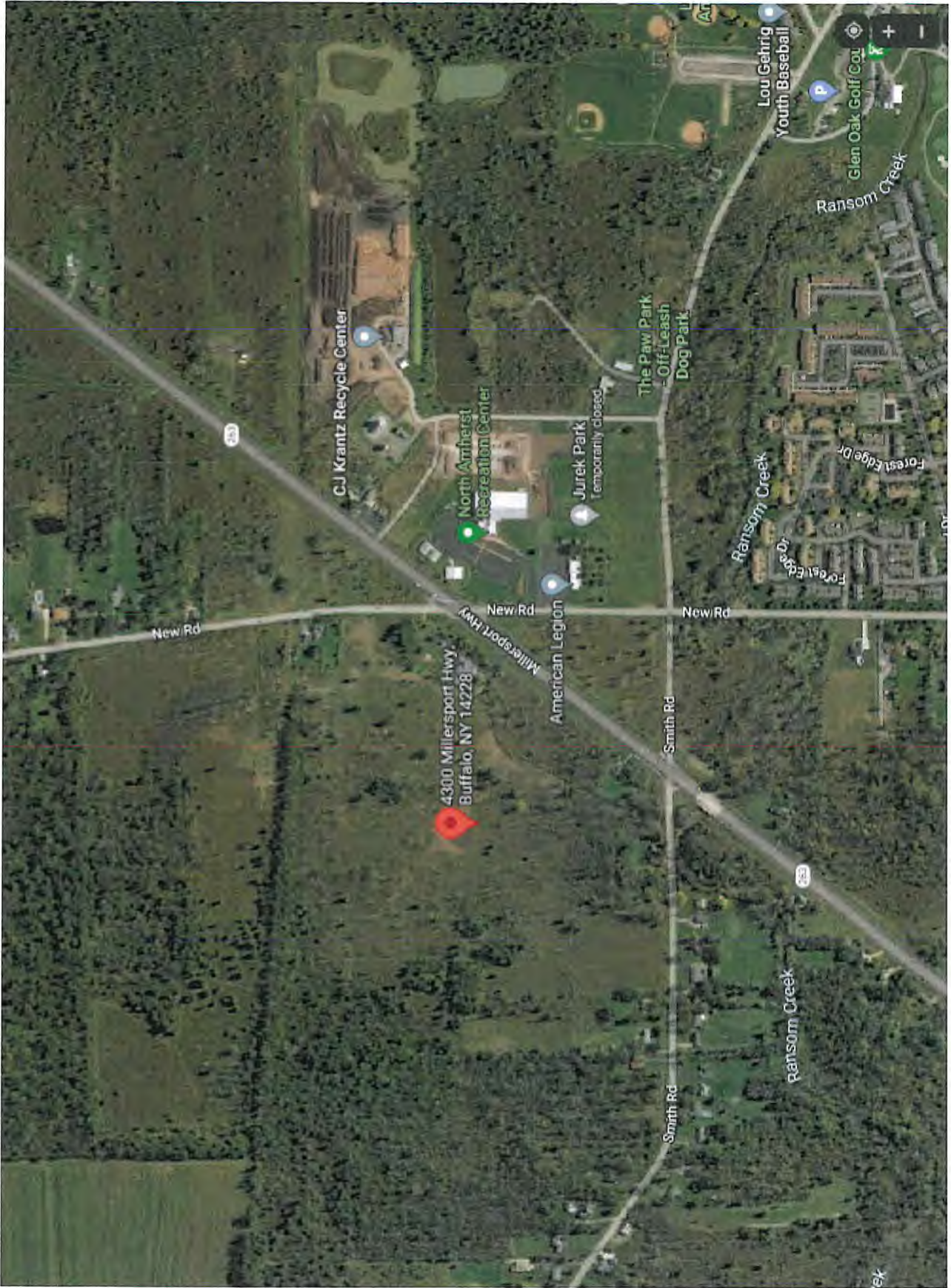
If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification




I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Cimato and Sons Date March 20, 2024

Signature *Paul Bitter, Best for Owner* Title Project Engineer

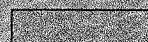


LEGEND

-  PATIO HOME
10 FOOT PATIO
-  2 - UNIT TOWN HOME
12 FOOT PATIO
-  4 - UNIT TOWN HOME
12 FOOT PATIO

ZONING - SA

WETLAND DISTURBANCE

 16,904 SF 0.39 ACRES OF DISTURBANCE

TND ZONING	
PHASE 1	
PATIO HOME UNITS (50'x50')	34 UNITS
4-UNIT TOWNHOMES	7 STRUCTURES (28 UNITS)
2-UNIT TOWNHOMES	6 STRUCTURES (12 UNITS)
TOTAL PROPOSED RESIDENTIAL UNITS IN PHASE 1 = 78 UNITS	

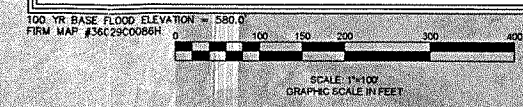
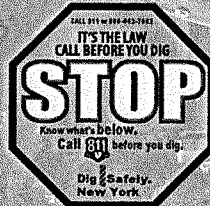
OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION (OPRHP)/NEW YORK STATE HISTORIC PRESERVATION OFFICE (SHPO) AVOIDANCE PLAN FOR THE PROTECTION OF ARCHAEOLOGICAL SITES

SHORT TERM SITE AVOIDANCE/PROTECTION

- THE SITE(S) BOUNDARY (INCLUDING BUFFER) WILL BE CLEARLY DELINEATED ON THE FINAL CONSTRUCTION PLANS AND IDENTIFIED AS "ENVIRONMENTALLY SENSITIVE AREA - NO ACCESS."
- TEMPORARY FENCING SHALL BE INSTALLED AROUND THE BOUNDARIES OF THE AVOIDANCE AREA PRIOR TO AND CLEARING OR CONSTRUCTION ACTIVITIES WITHIN THE ARE AND SHALL BE MAINTAINED UNTIL ALL CONSTRUCTION HAS CEASED.
- A PRECONSTRUCTION MEETING WITH THE CONSTRUCTION CONTRACTOR(S) IS TO BE REQUIRED TO NOTIFY THOSE IN CHARGE OF THE REQUIREMENTS TO PROTECT AND AVOID THE ARCHAEOLOGICAL SITE(S).
- UNADVERTENT CONSTRUCTION IMPACTS ARE TO BE REPORTED TO THE SHPO IMMEDIATELY. ACTIVITY SHALL CEASE IN THE VICINITY OF THE SITE, SO THE DAMAGE CAN BE ASSESSED, AND A RECOMMENDATION PROVIDED TO REMEDIATE THE SITUATION.
- EXISTING LANDSCAPE AT THE SITE(S) WILL BE MAINTAINED. ANY PROPOSED MODIFICATIONS WILL REQUIRE CONSULTATION WITH THE SHPO.
- IN THE EVENT THAT HUMAN REMAINS ARE ENCOUNTERED DURING CONSTRUCTION, ALL WORK MUST STOP IN THE VICINITY OF THE FIND AND BE REPORTED TO THE SHPO.
- AFTER CONSTRUCTION IS FULLY COMPLETED, PROTECTIVE FENCES MAY BE REMOVED.

LONG TERM SITE AVOIDANCE/PROTECTION

- STATE AND FEDERAL REGULATIONS THAT INCLUDE RESTRICTIONS ASSOCIATED WITH THIS PROJECT WILL INCLUDE PROVISIONS FOR SITE(S) AVOIDANCE/PROTECTION.
- UNAUTHORIZED ACTIVITIES WITHIN THE SITE BOUNDARIES WILL REQUIRE NOTIFICATION TO THE SHPO AT (518)237-8643.
- SHOULD IMPACTS TO THE SITE BE PROPOSED IN THE FUTURE, SHPO MUST BE CONSULTED PRIOR TO CONSTRUCTION AND THE PROJECT SUBMITTED TO OUR OFFICE FOR REVIEW AND COMMENT.



WM SCHUTT ASSOCIATES	
37 CENTRAL AVE. LANCASTER, NY 14086-2143 PH. 716-683-5961 FAX 716-683-0169 WWW.WMSCHUTT.COM	
4300 MILLERSPORT DEVELOPMENT TOWN OF AMHERST ERIE COUNTY - NEW YORK	
OVERALL SITE PLAN	
THIS SHEET ISSUED MARCH 13, 2024	
OP	
DRAWING SCALE: 1"=100'	
WSA PROJECT NO. 13027C	

DRAWING REVISIONS	
ITEM	DATE

DESIGNED BY: PNB
DRAWN BY: DLS
CHECKED BY: WES
DATE:

WARNING: THIS DRAWING IS THE PROPERTY OF WM SCHUTT ASSOCIATES. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. ANY REUSE OR REPRODUCTION OF THIS DRAWING WITHOUT THE WRITTEN PERMISSION OF WM SCHUTT ASSOCIATES IS STRICTLY PROHIBITED. © COPYRIGHT 2022 WM SCHUTT ASSOCIATES P.C.

SOIL SURVEY

Search

Basic Search: Enter keywords

Advanced Search:

Map Unit Legend

Erie County, New York (NY029)

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
Ch	Cheektowaga fine sandy loam	0.0	0.0%
Cv	Cosad loamy fine sand	13.7	20.2%
La	Lakemont silt loam, 0 to 3 percent slopes	6.8	10.0%
NfA	Niagara silt loam, 0 to 3 percent slopes	6.0	8.9%
Od	Odessa silt loam, 0 to 3 percent slopes	41.3	60.9%
Totals for Area of Interest		67.8	100.0%



Erie County, New York

Od—Odessa silt loam, 0 to 3 percent slopes

Map Unit Setting

National map unit symbol: 2wrđ8
Elevation: 260 to 1,540 feet
Mean annual precipitation: 31 to 57 inches
Mean annual air temperature: 41 to 50 degrees F
Frost-free period: 100 to 190 days
Farmland classification: Prime farmland if drained

Map Unit Composition

Odessa and similar soils: 85 percent
Minor components: 15 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Odessa

Setting

Landform: Lake terraces
Landform position (two-dimensional): Footslope
Landform position (three-dimensional): Tread
Down-slope shape: Concave
Across-slope shape: Linear
Parent material: Red clayey glaciolacustrine deposits derived from calcareous shale

Typical profile

Ap - 0 to 8 inches: silt loam
Bt/E - 8 to 10 inches: silty clay loam
Bt1 - 10 to 15 inches: silty clay
Bt2 - 15 to 25 inches: silty clay
C - 25 to 79 inches: silty clay

Properties and qualities

Slope: 0 to 3 percent
Depth to restrictive feature: More than 80 inches
Drainage class: Somewhat poorly drained
Runoff class: Very high
Capacity of the most limiting layer to transmit water (Ksat): Very low to moderately low (0.00 to 0.14 in/hr)
Depth to water table: About 6 to 18 inches
Frequency of flooding: None
Frequency of ponding: None
Calcium carbonate, maximum content: 25 percent
Available water supply, 0 to 60 inches: High (about 9.5 inches)

Interpretive groups

Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 3w

Hydrologic Soil Group: D
Ecological site: F101XY009NY - Moist Lake Plain
Hydric soil rating: No

Minor Components

Lakemont

Percent of map unit: 5 percent
Landform: Depressions
Landform position (two-dimensional): Toeslope
Landform position (three-dimensional): Tread
Down-slope shape: Concave
Across-slope shape: Concave
Hydric soil rating: Yes

Schoharie

Percent of map unit: 5 percent
Landform: Lake terraces
Landform position (two-dimensional): Summit
Landform position (three-dimensional): Tread
Down-slope shape: Convex
Across-slope shape: Convex
Hydric soil rating: No

Churchville

Percent of map unit: 3 percent
Landform: Drumlinoid ridges
Landform position (two-dimensional): Footslope
Landform position (three-dimensional): Base slope
Down-slope shape: Concave
Across-slope shape: Linear
Hydric soil rating: No

Rhinebeck

Percent of map unit: 2 percent
Landform: Lake plains
Landform position (two-dimensional): Footslope
Landform position (three-dimensional): Tread
Down-slope shape: Concave
Across-slope shape: Linear
Hydric soil rating: No

Data Source Information

Soil Survey Area: Erie County, New York
Survey Area Data: Version 21, Aug 29, 2021

Erie County, New York

Cv—Cosad loamy fine sand

Map Unit Setting

National map unit symbol: 9r18
Elevation: 200 to 800 feet
Mean annual precipitation: 36 to 48 inches
Mean annual air temperature: 45 to 50 degrees F
Frost-free period: 115 to 195 days
Farmland classification: Prime farmland if drained

Map Unit Composition

Cosad and similar soils: 75 percent
Minor components: 25 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Cosad

Setting

Landform: Lake plains
Landform position (two-dimensional): Footslope
Landform position (three-dimensional): Tread
Down-slope shape: Concave
Across-slope shape: Linear
Parent material: Sandy glaciofluvial or deltaic deposits over clayey glaciolacustrine deposits

Typical profile

H1 - 0 to 9 inches: loamy fine sand
H2 - 9 to 21 inches: loamy fine sand
H3 - 21 to 24 inches: fine sandy loam
H4 - 24 to 60 inches: silty clay

Properties and qualities

Slope: 0 to 3 percent
Depth to restrictive feature: More than 80 inches
Drainage class: Somewhat poorly drained
Capacity of the most limiting layer to transmit water (Ksat): Moderately low to moderately high (0.06 to 0.20 in/hr)
Depth to water table: About 6 to 18 inches
Frequency of flooding: None
Frequency of ponding: None
Calcium carbonate, maximum content: 15 percent
Available water supply, 0 to 60 inches: Moderate (about 7.1 inches)

Interpretive groups

Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 3w
Hydrologic Soil Group: C/D

Ecological site: F101XY006NY - Moist Outwash

Hydric soil rating: No

Minor Components

Cheektowaga

Percent of map unit: 5 percent

Landform: Depressions

Hydric soil rating: Yes

Claverack

Percent of map unit: 5 percent

Hydric soil rating: No

Odessa

Percent of map unit: 5 percent

Hydric soil rating: No

Minoa

Percent of map unit: 5 percent

Hydric soil rating: No

Lamson

Percent of map unit: 5 percent

Landform: Depressions

Hydric soil rating: Yes

Data Source Information

Soil Survey Area: Erie County, New York

Survey Area Data: Version 21, Aug 29, 2021

FEMA FIRMETTE

NOTES TO USERS

This map is for use in administering the National Flood Insurance Program. It does not necessarily identify all areas subject to flooding, particularly from local drainage sources of small size. The community map repository should be consulted for possible updated or additional flood hazard information.

To obtain more detailed information in areas where Base Flood Elevations (BFEs) and/or floodways have been determined, users are encouraged to consult the Flood Profiles and Floodway Data and/or Summary of Stillwater Elevations tables contained within the Flood Insurance Study (FIS) Report that accompanies this FIRM. Users should be aware that BFEs shown on the FIRM represent rounded whole-foot elevations. These BFEs are intended for flood insurance rating purposes only and should not be used as the sole source of flood elevation information. Accordingly, flood elevation data presented in the FIS Report should be utilized in conjunction with the FIRM for purposes of construction and/or floodplain management.

Coastal Base Flood Elevations shown on this map apply only landward of 0.0' North American Vertical Datum of 1988 (NAVD 88). Users of this FIRM should be aware that coastal flood elevations are also provided in the Summary of Stillwater Elevations table in the Flood Insurance Study Report for this jurisdiction. Elevations shown in the Summary of Stillwater Elevations table should be used for construction and/or floodplain management purposes when they are higher than the elevations shown on this FIRM.

Boundaries of the floodways were computed at cross sections and interpolated between cross sections. The floodways were based on hydraulic considerations with regard to requirements of the National Flood Insurance Program. Floodway widths and other pertinent floodway data are provided in the Flood Insurance Study Report for this jurisdiction.

Certain areas not in Special Flood Hazard Areas may be protected by flood control structures. Refer to Section 2.4 "Flood Protection Measures" of the Flood Insurance Study Report for information on flood control structures for this jurisdiction.

The projection used in the preparation of this map was Universal Transverse Mercator (UTM) zone 18. The horizontal datum was NAD 83, GRS 1980 spheroid. Differences in datum, spheroid, projection or UTM zones used in the production of FIRMs for adjacent jurisdictions may result in slight positional differences in map features across jurisdiction boundaries. These differences do not affect the accuracy of this FIRM.

Flood elevations on this map are referenced to the North American Vertical Datum of 1988. These flood elevations must be compared to structure and ground elevations referenced to the same vertical datum. For information regarding conversion between the National Geodetic Vertical Datum of 1929 and the North American Vertical Datum of 1988, visit the National Geodetic Survey website at <http://www.ngs.noaa.gov> or contact the National Geodetic Survey at the following address:

NGS Information Services
NOAA, NINGS12
National Geodetic Survey
SSM-C-89212
1315 East-West Highway
Silver Spring, Maryland 20910-3282
(301) 713-3242

Base map information shown on this FIRM was derived from multiple sources, including the New York State Office of Cyber Security & Critical Infrastructure Coordination, and the USDA's Farm Service Agency, Aerial Photography Field Office, dated 2015.

This map reflects more detailed and up-to-date stream channel configurations than those shown on the previous FIRM for this jurisdiction. The floodplains and floodways that were transferred from the previous FIRM may have been adjusted to conform to these new stream channel configurations. As a result, the Flood Profiles and Floodway Data tables in the Flood Insurance Study Report (which contains authoritative hydraulic data) may reflect stream channel distances that differ from what is shown on this map.

Corporate limits shown on this map are based on the best data available at the time of publication. Because changes due to annexations or de-annexations may have occurred after this map was published, map users should contact appropriate community officials to verify current corporate limit locations.

Please refer to the separately printed Map Index for an overview map of the county showing the layout of map panels, community map repository addresses, and a Listing of Communities table containing National Flood Insurance Program dates for each community as well as a listing of the panels on which each community is located.

For information on available products associated with this FIRM visit the Map Service Center (MSC) website at <http://msc.fema.gov>. Available products may include previously issued Letters of Map Change, a Flood Insurance Study Report, and/or digital versions of this map. Many of these products can be ordered or obtained directly from the MSC website.

If you have questions about this map, how to order products, or the National Flood Insurance Program in general, please call the FEMA Map Information eXchange (FMIX) at 1-877-FEMA-MAP (1-877-336-2627) or visit the FEMA website at <http://www.fema.gov/businessinfo>.



LEGEND

- SPECIAL FLOOD HAZARD AREAS (SFHAs) SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD
The 1% annual chance flood (100-year flood), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. The Special Flood Hazard Area is the area subject to flooding by the 1% annual chance flood. Areas of Special Flood Hazard include Zones A, AE, AH, AO, AR, AV, V, and VE. The Base Flood Elevation is the water-surface elevation of the 1% annual chance flood.
- ZONE A** No Base Flood Elevations determined.
- ZONE AE** Base Flood Elevations determined.
- ZONE AH** Flood depths of 1 to 3 feet (usually areas of ponding); Base Flood Elevations determined.
- ZONE AO** Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding, velocities also determined.
- ZONE AR** Special Flood Hazard Areas formerly protected from the 1% annual chance flood by a flood control system that was subsequently destroyed. Zone AR indicates that the former flood control system is being restored to provide protection from the 1% annual chance or greater flood.
- ZONE AV** Area to be protected from 1% annual chance flood by a Federal flood protection system under construction; no Base Flood Elevations determined.
- ZONE V** Coastal flood zone with velocity hazard (wave action); no Base Flood Elevations determined.
- ZONE VE** Coastal flood zone with velocity hazard (wave action); Base Flood Elevations determined.
- FLOODWAY AREAS IN ZONE AE
The floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without substantial increases in flood heights.
- OTHER FLOOD AREAS
- ZONE X** Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.
- OTHER AREAS**
- ZONE X** Areas determined to be outside the 0.2% annual chance floodplain.
- ZONE D** Areas in which flood hazards are undetermined, but possible.
- COASTAL BARRIER RESOURCES SYSTEM (CBRS) AREAS
- OTHERWISE PROTECTED AREAS (OPAs)
CBRS areas and OPAs are normally located within or adjacent to Special Flood Hazard Areas.
- 1% Annual Chance Floodplain Boundary
- 0.2% Annual Chance Floodplain Boundary
- Floodway boundary
- Zone D boundary
- CBRS and OPA boundary
- Boundary dividing Special Flood Hazard Area Zones and boundary dividing Special Flood Hazard Areas of different Base Flood Elevations, flood depths, or flood velocities.
- Base Flood Elevation line and value; elevation in feet*
- Base Flood Elevation value where uniform within zone; elevation in feet*
- *Referenced to the North American Vertical Datum of 1988
- Cross section line
- Transect line
- Culvert
- Bridge
- Geographic coordinates referenced to the North American Datum of 1983 (NAD 83) Western Hemisphere
- 3100000 FT
- 2950000 FT
- 1920m UTM
- 1000-meter Universal Transverse Mercator grid values, zone 18
- DX5510 X
- M15
- River Mile
- MAP REPOSITORIES
Refer to Map Repositories list on Map Index
- EFFECTIVE DATE OF COUNTYWIDE FLOOD INSURANCE RATE MAP - June 7, 2019
- EFFECTIVE DATE(S) OF REVISION(S) TO THIS PANEL

NATIONAL FLOOD INSURANCE PROGRAM

PANEL 0086H

FIRM
FLOOD INSURANCE RATE MAP
ERIE COUNTY,
NEW YORK
(ALL JURISDICTIONS)

PANEL 86 OF 807
(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

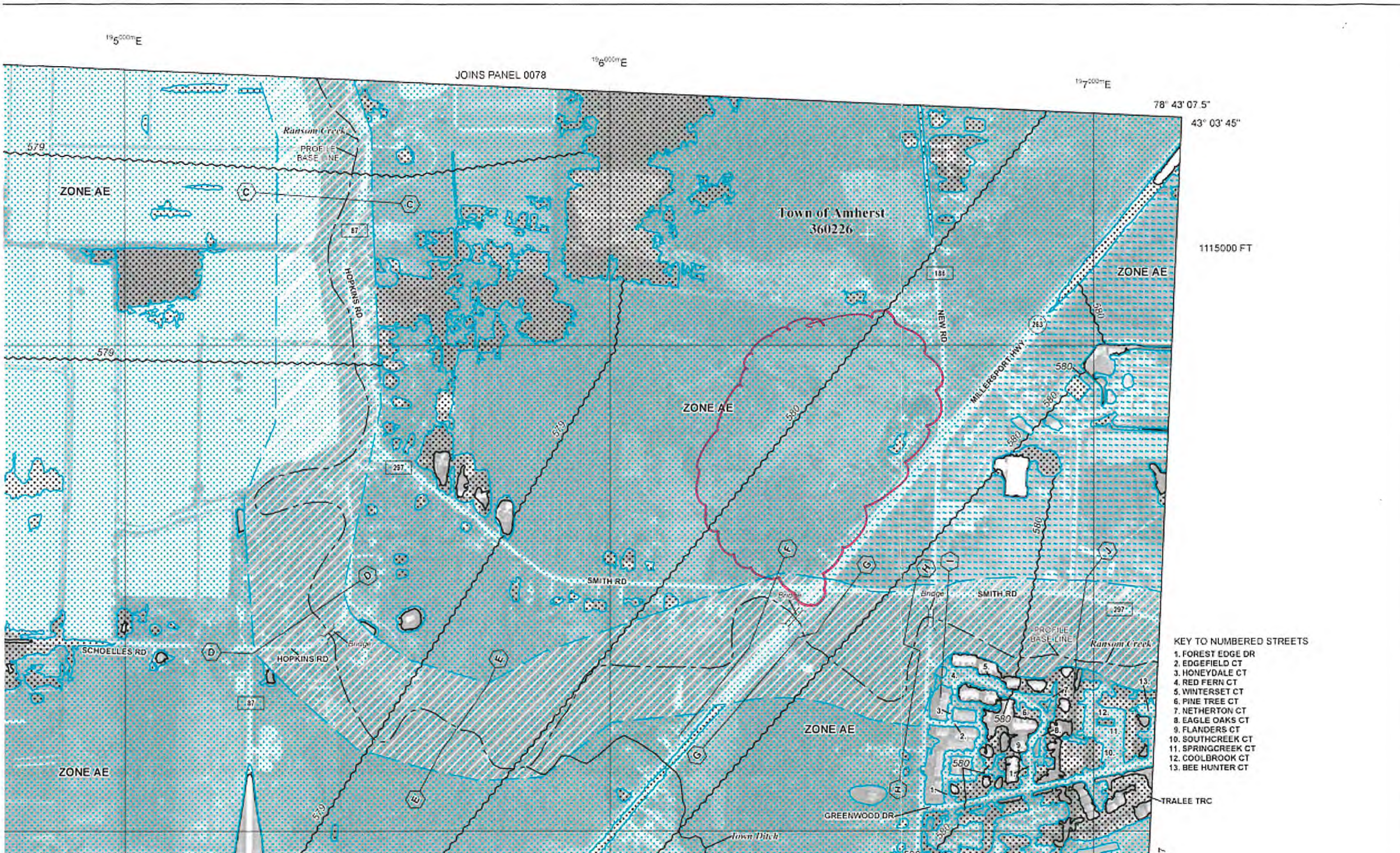
CONTAINS:

COMMUNITY	NUMBER	PANEL	SUFFIX
AMHERST TOWN CF	360226	0086	H

Notice to User: The Map Number shown below should be used when placing map orders; the Community Number shown above should be used on insurance applications for the subject community.

MAP NUMBER
360226C0086H
EFFECTIVE DATE
JUNE 7, 2019

Federal Emergency Management Agency



LEGEND

- SPECIAL FLOOD HAZARD AREAS (SFHAs) SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD
The 1% annual chance flood (100-year flood), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. The Special Flood Hazard Area is the area subject to flooding by the 1% annual chance flood. Areas of Special Flood Hazard include Zones A, AE, AH, AO, AR, A99, V, and VE. The Base Flood Elevation is the water-surface elevation of the 1% annual chance flood.
- ZONE A** No Base Flood Elevations determined.
- ZONE AE** Base Flood Elevations determined.
- ZONE AH** Flood depths of 1 to 3 feet (usually areas of ponding); Base Flood Elevations determined.
- ZONE AO** Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding, velocities also determined.
- ZONE AR** Special Flood Hazard Areas formerly protected from the 1% annual chance flood by a flood control system that was subsequently decertified. Zone AR indicates that the former flood control system is being restored to provide protection from the 1% annual chance or greater flood.
- ZONE A99** Area to be protected from 1% annual chance flood by a Federal flood protection system under construction; no Base Flood Elevations determined.
- ZONE V** Coastal flood zone with velocity hazard (wave action); no Base Flood Elevations determined.
- ZONE VE** Coastal flood zone with velocity hazard (wave action); Base Flood Elevations determined.
- FLOODWAY AREAS IN ZONE AE
The floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without substantial increases in flood heights.
- OTHER FLOOD AREAS
- ZONE X** Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.
- OTHER AREAS
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- Base Flood Elevation line and value; elevation in feet*
- Base Flood Elevation value where uniform within zone; elevation in feet*
- *Referenced to the North American Vertical Datum of 1988
- Cross section line
- Transect line
- Culvert
- Rivine

- KEY TO NUMBERED STREETS**
1. FOREST EDGE DR
 2. EDGEFIELD CT
 3. HONEYDALE CT
 4. RED FERN CT
 5. WINTerset CT
 6. PINE TREE CT
 7. NETHERTON CT
 8. EAGLE OAKS CT
 9. FLANDERS CT
 10. SOUTHCREEK CT
 11. SPRINGCREEK CT
 12. COOLBROOK CT
 13. BEE HUNTER CT

LETTER FROM NYS OFFICE OF PARKS AND RECREATION



**Parks, Recreation,
and Historic Preservation**

ANDREW M. CUOMO
Governor

ERIK KULLESEID
Commissioner

July 1, 2019

Ms. Lesta Ammons
USACE
1776 Niagara Street
Buffalo, NY 14207

Re: USACE
4300 Millerspoort Highway 67-Lot Residential Subdivision Construction Project
4300 Millerspoort Highway, Amherst, Erie County, NY
19PR01607
2006-00698

Dear Ms. Ammons:

The New York State Historic Preservation Office (SHPO) is in the process of reviewing the above noted project in accordance with Section 106 of the National Historic Preservation Act of 1966. These comments are those of the SHPO and relate only to Historic/Cultural resources.

Based upon discussions with Dr. Doug Perrelli of the University at Buffalo's Archaeological Survey, it is the SHPO's understanding that the project sponsor intends to avoid impacts to the previously identified PCI/Smith Road-1 Historic Site (USN 02902.000856) located within/adjacent to the proposed project's Area of Potential Effects (APE). The SHPO thus recommends that the attached Short- and Long-term Avoidance/Protection Plan measures be implemented to ensure the protection and preservation of the archaeological site.

Please submit 1) site construction plans with the intended site avoidance language and boundaries clearly mapped; 2) site avoidance boundary area mapped on a modified aerial photo; and 3) a written commitment from the sponsor to follow the attached OPRHP/SHPO Site Avoidance Plan for the Protection of Archaeological Sites. Once the SHPO has received these documents we will rescind our recommendation for further archaeological investigations and render our effect finding.

If you have any questions, I can be reached at 518-268-2218 or via e-mail at Josalyn.Ferguson@parks.ny.gov. Please refer to the project number (PR) noted above if further correspondence regarding this project is required.

Sincerely,

Josalyn Ferguson, Ph.D.
Scientist Archaeology

via e-mail only

Encl.

c.c. Doug Perrelli, Archaeological Survey

c.c. Scott Livingstone, Earth Dimensions

Division for Historic Preservation

P.O. Box 189, Waterford, New York 12188-0189 • (518) 237-8643 • parks.ny.gov

**Office of Parks, Recreation and Historic Preservation (OPRHP)/New York State Historic
Preservation Office (SHPO)
Avoidance Plan for the Protection of Archeological Sites**

Short Term Site Avoidance/Protection

- The site(s) boundary (including buffer) will be clearly delineated on the final construction plans and identified as “Environmentally Sensitive Area—No Access.”
- Temporary fencing shall be installed around the boundaries of the avoidance area prior to any clearing or construction activities within the APE and shall be maintained until all construction has ceased.
- A preconstruction meeting with the construction contractor(s) is to be required to notify those in charge of the requirements to protect and avoid the archaeological site(s).
- Inadvertent construction impacts are to be reported to the SHPO immediately. Activity shall cease in the vicinity of the site, so the damage can be assessed, and a recommendation provided to remediate the situation.
- Existing landscape at the site(s) will be maintained. Any proposed modifications will require consultation with the SHPO.
- In the event that human remains are encountered during construction, all work must stop in the vicinity of the find and be reported to the SHPO.
- After construction is fully completed, protective fences may be removed.

Long Term Site Avoidance/Protection

- State and federal regulations that include restrictions associated with this project will include provisions for site(s) avoidance/protection.
- Unauthorized activities within the site boundaries will require notification to the SHPO at (518) 237-8643.
- Should impacts to the site be proposed in the future, SHPO must be consulted prior to construction and the project submitted to our office for review and comment.

LETTER FROM NYSDEC – FRESHWATER WETLAND DETERMINATION

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Fish and Wildlife, Region 9
270 Michigan Avenue, Buffalo, NY 14203-2915
P: (716) 851-7010 | F: (716) 851-7005
www.dec.ny.gov

July 9, 2018

Cimato Enterprises
9220 Transit Road
Amherst, NY 14032

To Whom It May Concern:

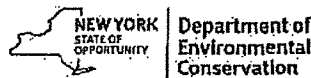
**Freshwater Wetland Determination
4300 Millersport Highway
Town of Amherst, Erie County**

This letter serves as notification that Senior Ecologist Charles Rosenberg completed a field inspection on September 6, 2017 of the wetland boundary delineation completed by Earth Dimensions, Inc., within your property, parcel #16.00-2-20. The objective of this inspection was to determine whether wetlands present within and adjacent to the parcel meet New York State Department of Environmental Conservation (DEC) criteria for state wetlands jurisdiction.

Based on this inspection, Mr. Rosenberg determined that there is currently no state-regulated freshwater wetlands jurisdiction (i.e., freshwater wetland or regulated 100-foot adjacent area) within the 4300 Millersport Highway parcel. The closest state-regulated wetland is mapped approximately 150 feet southeast of the parcel and has no evident extension within 100 feet of the parcel.

Please be aware that any future wetland map revisions by the DEC may add new state-regulated wetlands or expand existing wetlands in this general area. While there are no immediate plans to revise the DEC wetland maps in this area, the field inspection indicated that there is a fair potential that wetlands meeting DEC criteria occur on or adjacent to the parcel. If that were to happen, this parcel would then be subject to DEC wetlands jurisdiction (i.e., wetland and/or regulated 100-foot adjacent area) – see the attached wetlands brochure for more details. The DEC would notify all landowners affected by such map revision via certified mail.

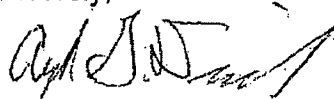
Please be advised that the U.S. Army Corps of Engineers may have wetland jurisdiction irrespective of the Department of Environmental Conservation. For more information, you may contact the Corps at:



United States Army Corps of Engineers Regulatory Branch
1776 Niagara Street
Buffalo, New York 14207
Telephone: (716) 879-4330

If you have any questions about this wetland determination, please feel free to call me in the Buffalo office at (716) 851-7050.

Sincerely,



Angela G. Driscoll
Fish & Wildlife Technician I
Region 9 - Buffalo

AGD:

Attach: Wetland Information Handout

cc: Mr. Scott Livingstone, Earth Dimensions, Inc.
No Mapped Wetland File

A Brief Description of THE FRESHWATER WETLANDS ACT and What It Means for Wetlands Landowners



What Are Freshwater Wetlands?

Wetlands are transition areas between uplands and aquatic habitats. They are known by many names, such as marshes, swamps, bogs, and wet meadows. Standing water is only one clue that a wetland may be present. The Freshwater Wetlands Act identifies wetlands on the basis of vegetation because certain types of plants outcompete others when they are in wet soils, and so are good indicators of wet conditions over time. These characteristic plants include wetland trees and shrubs, such as willows and alders; emergent plants such as cattails and sedges; aquatic plants, such as water-lily, and bog mat vegetation, such as sphagnum moss.

To be protected under the Freshwater Wetlands Act, a wetland must be 12.4 acres (5 hectares) or larger. Wetlands smaller than this may be protected if they are considered of unusual local importance. Around every wetland is an adjacent area of 100 feet that is also protected to provide a buffer for the wetland.

The U.S. Army Corps of Engineers also protects wetlands under Section 404 of the Clean Water Act, irrespective of size. Although the definition is slightly different than the state definition, the Clean Water Act protects basically the same thing -- areas of water or wet soils that support typical wetland plants.

Why Are They Valuable?

For many years, people did not recognize the value of wetlands. Consequently, New York has lost almost half of its wetlands to such activities as filling and draining. However, wetlands are valuable to the people and environment of New York State. These are some of the functions and benefits that wetlands perform:

Flood and Storm Water Control: Wetlands are important in how water moves in a watershed. They absorb, store, and slow down the movement of rain and melt water, minimizing flooding and stabilizing water flow.

Surface and Groundwater Protection: Wetlands often serve as groundwater discharge sites, maintaining base flow in streams and rivers and supporting ponds and lakes. In some places, wetlands are very important in recharging groundwater supplies.

Erosion Control: Wetlands slow water velocity and filter sediments, protecting reservoirs and navigational channels. They also buffer shorelines and agricultural soils from water erosion.

Pollution Treatment and Nutrient Cycling: Wetlands cleanse water by filtering out natural and many man-made pollutants, which are then broken down or immobilized. In wetlands, organic materials are also broken down and recycled back into the environment, where they support the food chain.

Fish and Wildlife Habitat: Wetlands are one of the most productive habitats for feeding, nesting, spawning, resting and cover for fish and wildlife, including many rare and endangered species.

Public Enjoyment: Wetlands provide areas for recreation, education and research. They also provide valuable open space, especially in developing areas where they may be the only green space remaining.

Freshwater Wetlands Act

The State Legislature passed the Freshwater Wetlands Act (Act) in 1975 with the intent to preserve, protect and conserve freshwater wetlands and their benefits, consistent with the general welfare and beneficial economic, social and agricultural development of the state. Certain activities are exempt from regulation; other activities that could have negative impact on wetlands are regulated. To conduct any regulated activity in a protected wetland or its adjacent area, a permit is required. The permit standards in the regulations require that impacts to wetlands be avoided and minimized. If the proposed activity will not seriously affect the wetland, a permit with various conditions is usually issued. If the proposed activity will affect the wetland, the benefits gained by allowing the action to occur must outweigh the wetland benefits lost, in order for a permit to be issued. Compensatory mitigation often is required for significant impacts to wetlands. This may include creating or restoring wetlands to replace the benefits lost by the proposed project.

Wetlands Are Mapped

The Act requires DEC to map all those wetlands protected by the Act so that affected landowners can be notified and as a means for other interested parties to know where jurisdictional wetlands exist. DEC prepares draft maps, notifies landowners whose property may contain protected wetlands, and provides an opportunity for a public hearing on the accuracy of the maps. DEC then reviews the comments received from the hearing, adjusts the maps if necessary, and then officially files the final maps with the clerks of all local governments. Wetlands are a changing resource, and the law makes provisions for amending the maps. However, any changes to the maps are subject to the same notice and review procedures used to prepare the initial maps.

There are no regulatory maps identifying wetlands protected by the U.S. Army Corps of Engineers under the Clean Water Act. Wetlands shown on the DEC maps usually are also protected by the Corps, but there are additional wetlands not shown on the DEC maps that are protected by the Corps but not DEC because they are smaller than 12.4 acres in size. The National Wetlands Inventory, prepared by the U.S. Fish and Wildlife Service, is a good source of information about where these smaller wetlands occur, but they are not regulatory maps and landowners should not rely on them exclusively.

Not All Wetlands Are Equal

Different wetlands provide different functions and benefits in varying degrees. The Act requires DEC to rank wetlands in one of four classes ranging from Class I, which represents the greatest benefits and is the most restrictive, to Class IV. The permit requirements are more stringent for a Class I wetland than for a Class IV wetland. Because of this, wetland classifications are important and are subject to public comment during the map hearing process.

Regulation of Wetlands

According to the Freshwater Wetlands Act, certain activities are specifically exempt from regulation and do not require a permit, whereas other activities specifically require a permit. The following lists describe the regulatory status of some common activities:

Exempt Activities - These activities do not require a wetlands permit, and include, among others:

- normal agricultural practices (except filling and clear cutting)
- recreational activities such as fishing, hunting, hiking, swimming, camping or picnicking
- ordinary, routine maintenance of existing structures, existing lawns, and similar facilities
- selectively cutting trees and harvesting fuel wood, but not clear-cutting trees or wetland vegetation

Regulated Activities with minor impacts

- installing utilities to a residence (exempt in an adjacent area)
- drilling an individual water well in an adjacent area
- replacing existing, functional bulkheads
- installing docks, piers, or wharfs

Regulated Activities with major impacts

- filling (including filling for agricultural purposes) and grading
- erecting buildings, including houses, barns, garages, commercial and industrial facilities
- restoring, modifying, or expanding existing structures
- draining, (except for agriculture), dredging, or otherwise changing water levels in wetlands, including breaching of beaver dams, constructing or removing bulkheads, dikes, or dams
- constructing roads
- applying pesticides in wetlands
- clear cutting trees or other vegetation
- mining

The Clean Water Act regulates activities in a similar manner, but has slightly different requirements. Landowners are encouraged to contact the U.S. Army Corps of Engineers if they anticipate undertaking activities in or near wet areas.

ACOE JURISDICTION DETERMINATION



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS BUFFALO DISTRICT
478 MAIN STREET
BUFFALO, NY 14202-3278

January 18, 2024

Regulatory Branch

SUBJECT: Approved Jurisdictional Determination and Delineation Verification for Department of the Army Processing No. LRB-LRB-2006-00698

Cimato Enterprises, Inc
Fred Cimato
9220 Transit Road
East Amherst, New York 14051

Dear Mr. Cimato:

I have reviewed your request for an approved jurisdictional determination (JD) for the 66.9-acre review area located at 4300 Millersport Highway, in the Town of Amherst, Erie County, NY.

I have determined that the location and extent of all aquatic resources shown on the attached map(s) accurately represent the review area conditions.

Enclosed is an approved JD which verifies the limits of waters of the U.S. within the review area as depicted on Sheet(s) 1 - 6. This approved JD will remain valid for a period of five (5) years from the date of this correspondence unless new information warrants revision of the approved JD before the expiration date. At the end of this period, a new aquatic resource delineation will be required to support any request for a new JD.

I have determined that the following aquatic resource, Stream 1 and Wetland W1, are waters of the U.S. regulated under Section 404 of the Clean Water Act as noted on the attached Approved Jurisdictional Determination Form: Memorandum for Record. Department of the Army authorization is required if you propose a discharge of dredged or fill material in these water of the U.S.

I have determined that the following aquatic resources, Wetland W2, is not waters of the U.S. as noted on the attached Approved Jurisdictional Determination Form: Memorandum for Record. Therefore, this aquatic resource is not regulated under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act of 1899. Department of the Army authorization is not required if you propose work, installation of structures, or a discharge of dredged or fill material in this aquatic resources.

Further, the delineation included herein has been conducted to identify the location and extent of the aquatic resource boundaries and/or the jurisdictional status of aquatic resources for purposes of the Clean Water Act for the review area identified in this request. This delineation and/or jurisdictional determination may not be valid for the Wetland Conservation Provisions of

Regulatory Branch

SUBJECT: Approved Jurisdictional Determination and Delineation Verification for Department of the Army Processing No. LRB-LRB-2006-00698

the Food Security Act of 1985, as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should discuss the applicability of a certified wetland determination with the local USDA service center, prior to starting work.

If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Request for Appeal (RFA) form. If you request to appeal the above JD, you must submit a completed RFA form within 60 days of the date on this letter to the Great Lakes/Ohio River Division Office at the following address:

Katherine McCafferty
Regulatory Appeals Officer
US Army Corps of Engineers
Great Lakes and Ohio River Division
550 Main Street, Room 10780
Cincinnati, Ohio 45202-3222
Phone: 513-684-2699 Fax: 513-684-2460
e-mail: katherine.a.mccafferty@usace.army.mil

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete; that it meets the criteria for appeal under 33 C.F.R. part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by March 18, 2024.

It is not necessary to submit an RFA to the Division office if you do not object to the determination in this letter.

Questions pertaining to this matter should be directed to me at (716) 879-4279 by writing to the following address: U.S. Army Corps of Engineers Regulatory Branch 478 Main Street, Buffalo, New York 14202 or by e-mail at: Joseph.M.Rowley@usace.army.mil

Sincerely,



Joseph Rowley
Physical Scientist

Enclosures

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Cimato Enterprises, Inc	File Number: LRB-2006-00698	Date: January 18, 2024
Attached is:		See Section below
<input type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
<input type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
<input type="checkbox"/>	PERMIT DENIAL WITHOUT PREJUDICE	C
<input type="checkbox"/>	PERMIT DENIAL WITH PREJUDICE	D
<input checked="" type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	E
<input type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	F

SECTION I

The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/appeals/> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C. PERMIT DENIAL WITHOUT PREJUDICE: Not appealable

You received a permit denial without prejudice because a required Federal, state, and/or local authorization and/or certification has been denied for activities which also require a Department of the Army permit before final action has been taken on the Army permit application. The permit denial without prejudice is not appealable. There is no prejudice to the right of the applicant to reinstate processing of the Army permit application if subsequent approval is received from the appropriate Federal, state, and/or local agency on a previously denied authorization and/or certification.

D: PERMIT DENIAL WITH PREJUDICE: You may appeal the permit denial

You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information for reconsideration

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice means that you accept the approved JD in its entirety and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.
- **RECONSIDERATION:** You may request that the district engineer reconsider the approved JD by submitting new information or data to the district engineer within 60 days of the date of this notice. The district will determine whether the information submitted qualifies as new information or data that justifies reconsideration of the approved JD. A reconsideration request does not initiate the appeal process. You may submit a request for appeal to the division engineer to preserve your appeal rights while the district is determining whether the submitted information qualifies for a reconsideration.

F: PRELIMINARY JURISDICTIONAL DETERMINATION: Not appealable

You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also, you may provide new information for further consideration by the Corps to reevaluate the JD.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision you may contact:

Joseph Rowley
U.S. Army Corps of Engineers
478 Main St
Buffalo, NY 14202
Joseph.M.Rowley@usace.army.mil
716-879-4279

If you have questions regarding the appeal process, or to submit your request for appeal, you may contact:

Katherine McCafferty
Regulatory Appeals Officer
US Army Corps of Engineers
Great Lakes and Ohio River Division
550 Main Street, Room 10780
Cincinnati, Ohio 45202-3222
Phone: 513-684-2699 Fax: 513-684-2460
e-mail: katherine.a.mccafferty@usace.army.mil

SECTION II – REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. Use additional pages as necessary. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation and will have the opportunity to participate in all site investigations.

<hr/> <p>Signature of appellant or agent.</p>	Date:
Email address of appellant and/or agent:	Telephone number:

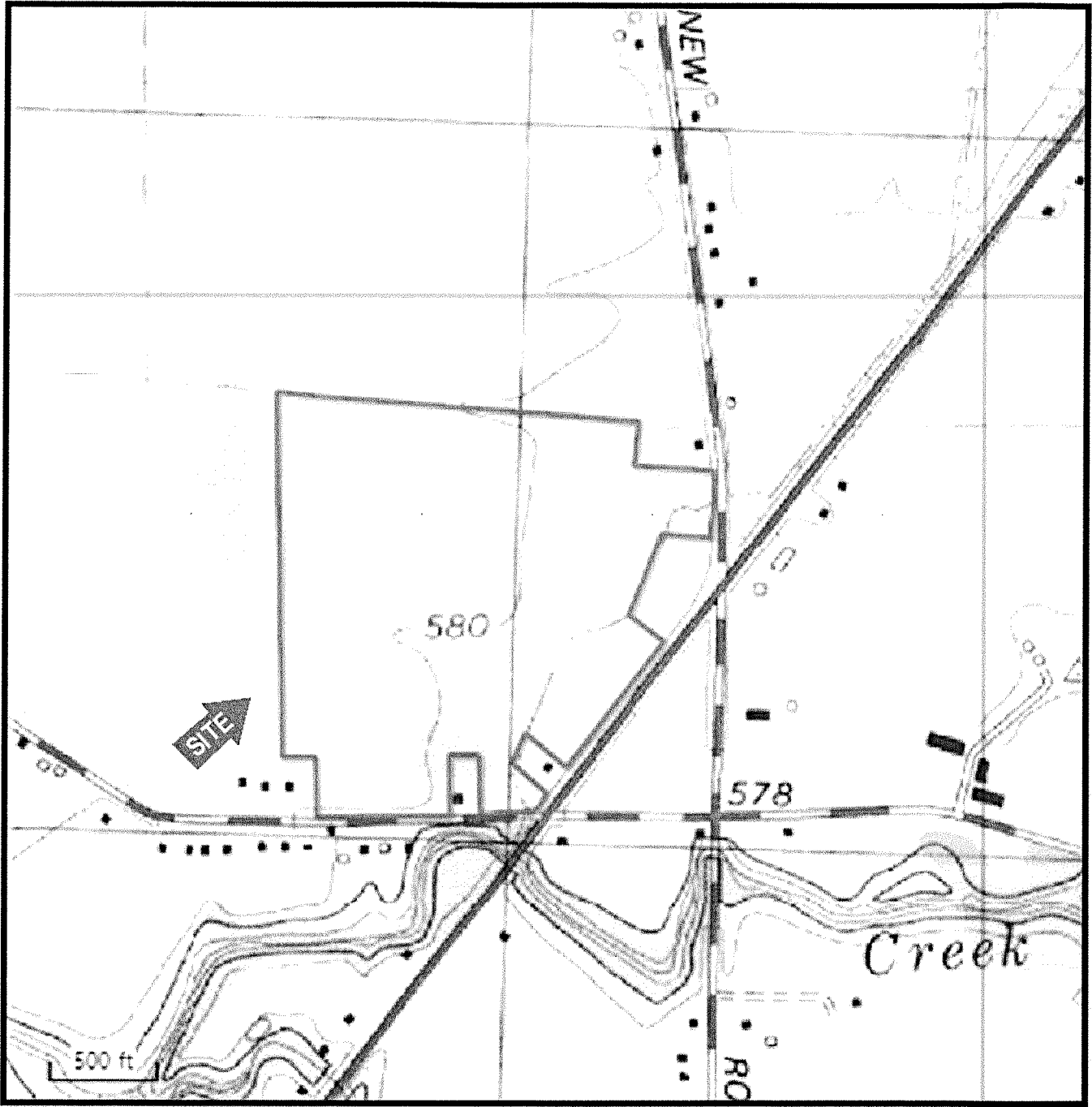


FIGURE 1: USGS 7.5 MINUTE TOPOGRAPHICAL MAP
Clarence Center Quadrangle / U.S. Geological Survey
4300 Millersport Highway
Town of Amherst, Erie County, New York



FIGURE 2: NATIONAL WETLANDS INVENTORY MAP

<http://www.fws.gov/wetlands/data/mapper.HTML> (Visited 6/21/23)

4300 Millersport Highway

Town of Amherst, Erie County, New York



FIGURE 4: NYSDEC ENVIRONMENTAL RESOURCE MAPPER

<https://gisservices.dec.ny.gov/gis/erm/> (Visited 6/21/23)

4300 Millersport Highway

Town of Amherst, Erie County, New York



FIGURE 7: DRAINAGE MAP

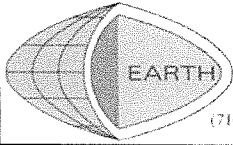
<https://streamstats.usgs.gov/ss/> (Visited 6/21/23)

4300 Millersport Highway

Town of Amherst, Erie County, New York

Figure 6 - Wetland Delineation Map

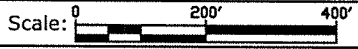
Town of Amherst Erie County, New York



EARTH DIMENSIONS, INC.
 1091 Jamison Road | Elma, NY 14059
 (716) 655-1717 | www.earthdimensions.com



4300 Millersport Highway-Cimato Enterprises
 LRB 2006-00698
 Erie County
 Sheet 6 of 6

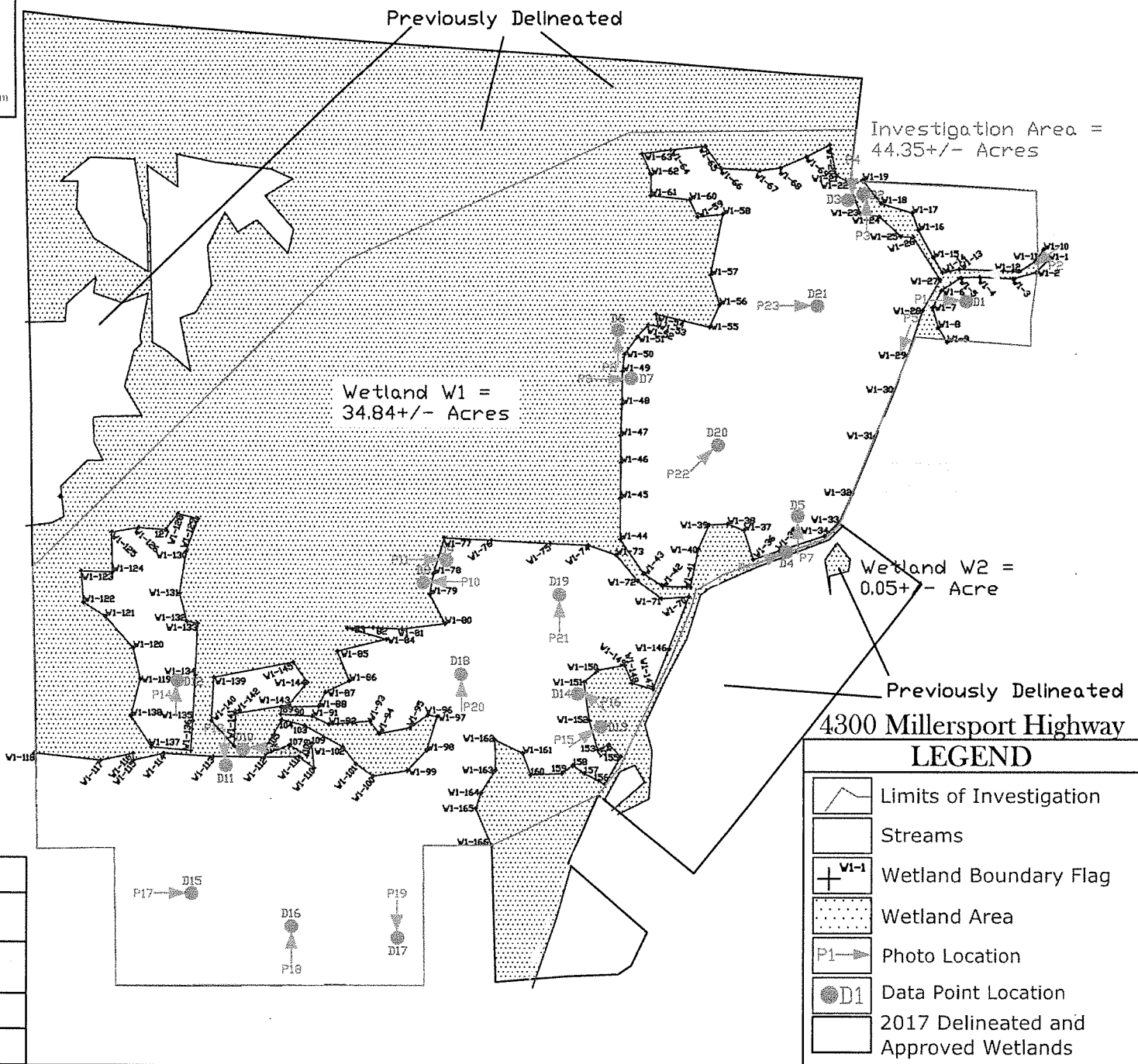


Map Date: June 29, 2023/ TJS for EDI
 Revised: September 22, 2023

Base Map Provided By: Trimble Geo 7X

File Name: Delineation Map.dwg

EDI Project Code: W1F06g





DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, BUFFALO DISTRICT
478 MAIN STREET
BUFFALO, NEW YORK 14202

CELRB-TD-R

January 18, 2024

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Approved Jurisdictional Determination in accordance with the "Revised Definition of 'Waters of the United States'"; (88 FR 3004 (January 18, 2023) as amended by the "Revised Definition of 'Waters of the United States'; Conforming" (8 September 2023) ,¹LRB-2006-00698(4300 Millersport Highway)

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.² AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.³

On January 18, 2023, the Environmental Protection Agency (EPA) and the Department of the Army ("the agencies") published the "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule"). On September 8, 2023, the agencies published the "Revised Definition of 'Waters of the United States'; Conforming", which amended the 2023 Rule to conform to the 2023 Supreme Court decision in *Sackett v. EPA*, 598 U.S., 143 S. Ct. 1322 (2023) ("*Sackett*").

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. For the purposes of this AJD, we have relied on Section 10 of the Rivers and Harbors Act of 1899 (RHA),⁴ the 2023 Rule as amended, as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

¹ While the Revised Definition of "Waters of the United States"; Conforming had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

² 33 CFR 331.2.

³ Regulatory Guidance Letter 05-02.

⁴ USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

CELRB TD-R

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), LRB-2006-00698(4300 Millersport Highway)

1. SUMMARY OF CONCLUSIONS.

- a. Provide a list of each individual feature within the review area and the jurisdictional status of each one (i.e., identify whether each feature is/is not a water of the United States and/or a navigable water of the United States).

JURISDICTIONAL

- i. LRB 2008-00698 Wetland W1, PFO/PSS 34.84 acres, Section 404
- ii. LRB 2008-00698 Stream 1, Perennial, 1,893 linear feet, Section 404

NON-JURISDICTIONAL

- iii. LRB 2008-00698 Wetland W2, PEM, 0.05 acres, non-jurisdictional

2. REFERENCES.

- a. "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule")
- b. "Revised Definition of 'Waters of the United States'; Conforming" 88 FR 61964 (September 8, 2023))
- c. *Sackett v. EPA*, 598 U.S. ___, 143 S. Ct. 1322 (2023)

3. REVIEW AREA. *The review area consists of approximately 70 acre area located at 4300 Millersport Highway, Town of Amherst, Erie County, New York (43.0561, -78.7284). Figures 1 – 6.*

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. *The nearest TNW is Tonawanda Creek (Erie Canal) 1.7 miles to the northeast (straight) of the review area.*

5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. *The jurisdictional aquatic resources below have a continuous surface water connection to an unnamed tributary to Ransom Creek which flows to the South to Ransom Creek then northeast 1.7 miles before entering Tonawanda Creek (Erie Canal), a TNW.*

CELRB TD-R

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), LRB-2006-00698(4300 Millersport Highway)

6. SECTION 10 JURISDICTIONAL WATERS⁵: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.⁶ *N/A*

7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the 2023 Rule as amended, consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the 2023 Rule as amended. The rationale should also include a written description of, or reference to a map in the administrative record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.
 - a. Traditional Navigable Waters (TNWs) (a)(1)(i): *N/A*
 - b. The Territorial Seas (a)(1)(ii): *N/A*
 - c. Interstate Waters (a)(1)(iii): *N/A*
 - d. Impoundments (a)(2): *N/A*
 - e. Tributaries (a)(3): **LRB 2006-00698 Stream 1** – is a 3-5 foot wide tributary to Ransom Creek with an established bed and banks, ordinary high water mark and is located within hydric soils. According to the delineation report and observations in the field, it was determined Stream 1 has intermittent flow. According to the NYSDEC Environmental Resource mapper, Stream 1 is classified as a Class C Stream to Ransom Creek. The Stream is also shown as an intermittent tributary

⁵ 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as "navigable in law" even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions.

⁶ This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

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to Ransom Creek on the USGS Topo Map. In addition, this observation in the field is consistent with what was reviewed and confirmed after an in-house review of the USFWS NWI map, the USGS Topo (Clarence Center Quad), aerial imagery and USDA/NRCS Soils Survey. Therefore, Stream 1 is an A(3) water as it is a permanent flowing water that is a tributary to an A(1) water, Tonawanda Creek/Erie Canal.

- f. Adjacent Wetlands (a)(4): LRB 2006-00698 Wetland 1 is a delineated 34.84 acre (on-site) wetland consisting of Palustrine forested, scrub-shrub and emergent types that extends off-site to the north, west and south. Shown in the delineation report and observations in the field, it was confirmed Wetland 1 directly abuts Stream 1, an unnamed tributary to Ransom Creek which eventually makes it way to Tonawanda Creek (Erie Canal). A review the USDA/NRCS Web Soil Survey indicates mapped hydric soils underlay both the delineated wetland and abutting tributary. Based on a review of the submitted delineation report, an in-office resource review, and the site visit, it has been determined that LRB-2006-00698 Wetland 1 has a continuous surface connection to another water of the United States, and ultimately contributing flow to Erie Canal, a Section 10 Navigable Waterway and a Traditional Navigable Waterway.
- g. Additional Waters (a)(5): *N/A*

8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

- a. Describe aquatic resources and other features within the review area identified in the 2023 Rule as amended as not “waters of the United States” even where they otherwise meet the terms of paragraphs (a)(2) through (5). Include the type of excluded aquatic resource or feature, the size of the aquatic resource or feature within the review area and describe how it was determined to meet one of the exclusions listed in 33 CFR 328.3(b).⁷ *N/A*
- b. Describe aquatic resources and features within the review area that were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the 2023 Rule as amended (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water).

LRB 2006-00698 Wetland 2 – is a 0.05 acre PEM wetland, functioning as a depressional feature located within the review area. Wetland 2 has a closed

⁷ 88 FR 3004 (January 18, 2023)

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boundary and no connectivity to a relatively permanent water. Wetland 2 was determined to be a depressional, low spot in the landscape. During the site visit, the entire boundary of Wetland 2 was walked and no evidence of a surface connection could be found to Stream 1, which is located 150 feet to the west. There was no evidence of a berm or similar natural or manmade feature separating Wetland 2 from Stream 1. The USFWS NWI map and the NYSDEC Environmental Resource Mapper do not indicate any wetlands or watercourse at the location of Wetland 2. In addition, the USGS topographic map (Clarence Center) does not show any waters at the location of Wetland 2. Based on the above information, it has been determined that Wetland 2 lacks a continuous surface connection to any other water of the United States or relative permanent water, does not abut another water of the U.S.; is not connected to another water of the U.S. by a discrete feature like a non-jurisdictional ditch, swale, pipe, or culvert; and is not separated from another water of the U.S. by a berm or barrier) and has been determined not to be waters of the United States.

9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.
- a. *Corps of Engineers site visit conducted September 20, 2023; In-house review completed November 28, 2023*
 - b. *Delineation report titled 4300 Millersport Highway prepared for Cimato Enterprises, Inc. by Earth Dimensions, Inc dated July 5, 2023*
 - c. *Aerial Imagery evaluated: Connect Explorer - <https://explorer.eagleview.com/>; oblique images dated 15 April 2013, 24 April 2016, 25 April 2020. Google Earth October 2020, May 2022, May 2023*
 - d. *National wetlands inventory map(s): <https://www.fws.gov/program/national-wetlands-inventory/wetlands-mapper> and included in the delineation report; assessed November 28, 2023.*
 - e. *U.S. Geological Survey map(s). Cite scale & quad name: <https://ngmdb.usgs.gov/topoview/viewer/> - USGS Quad: f=Fairport-NY, dated 2023, scale 1:24000; accessed November 28, 2023*
 - f. *NRCS/USDA soil survey: <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx> - accessed November 28, 2023.*

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10. OTHER SUPPORTING INFORMATION: A Preliminary Jurisdictional determination was issued for the site on January 17, 2019.

11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.



Department of
Environmental
Conservation

Office of
General Services

Department
of State



US Army Corps
of Engineers

JOINT APPLICATION FORM

For Permits for activities affecting streams, waterways, waterbodies, wetlands, coastal areas, sources of water, and endangered and threatened species.

You must separately apply for and obtain Permits from each involved agency before starting work. Please read all instructions.

1. Applications To:

>NYS Department of Environmental Conservation Check here to confirm you sent this form to NYSDEC.

Check all permits that apply: Dams and Impoundment Structures Tidal Wetlands Water Withdrawal
 Stream Disturbance 401 Water Quality Certification Wild, Scenic and Recreational Rivers Long Island Well
 Excavation and Fill in Navigable Waters Coastal Erosion Management Incidental Take of Endangered / Threatened Species
 Docks, Moorings or Platforms Freshwater Wetlands

>US Army Corps of Engineers Check here to confirm you sent this form to USACE.

Check all permits that apply: Section 404 Clean Water Act Section 10 Rivers and Harbors Act
 Is the project Federally funded? Yes No
 If yes, name of Federal Agency: _____
 General Permit Type(s), if known: NWP29 _____
 Preconstruction Notification: Yes No

>NYS Office of General Services Check here to confirm you sent this form to NYSOGS.

Check all permits that apply:
 State Owned Lands Under Water Utility Easement (pipelines, conduits, cables, etc.) Docks, Moorings or Platforms

>NYS Department of State Check here to confirm you sent this form to NYSDOS.

Check if this applies: Coastal Consistency Concurrence

2. Name of Applicant Taxpayer ID (if applicant is NOT an individual) _____

Mailing Address Post Office / City State Zip

Telephone Email

Applicant Must be (check all that apply): Owner Operator Lessee

3. Name of Property Owner (if different than Applicant) _____

Mailing Address _____ Post Office / City _____ State _____ Zip _____

Telephone _____ Email _____

For Agency Use Only | Agency Application Number: _____

4. Name of Contact / Agent
 Tom Somerville (Earth Dimensions, Inc.)
 Mailing Address: 1091 Jamison Road
 Post Office / City: Elma State: NY Zip: 14059
 Telephone: 716-655-1717 Email: tsomerville@earthdimensions.com

5. Project / Facility Name 4300 Transit Road subdivision & Townhomes Property Tax Map Section / Block / Lot Number: 16.00-2-20
 Project Street Address, if applicable: 4300 Millersport Highway Post Office / City: Amherst State: NY Zip: 14228
 Provide directions and distances to roads, intersections, bridges and bodies of water:
 The site is located on the northwest side of Millersport Highway on the west side of New Road and north side of Smith Road.
 Town Village City County: Erie Stream/Waterbody Name: Tributary to Ransom Creek
 Project Location Coordinates: Enter Latitude and Longitude in degrees, minutes, seconds:
 Latitude: 43 ° 03 ' 20.56N " Longitude: 78 ° 43 ' 41.91W "

6. Project Description: Provide the following information about your project. Continue each response and provide any additional information on other pages. Attach plans on separate pages.

a. Purpose of the proposed project:
 The project purpose is the construction of a 38 patio homes and 13 townhouses on a 66.89-acre parcel.

b. Description of current site conditions:
 The site is currently vacant and is dominated by a mown field with trees.

c. Proposed site changes:
 Proposed site changes include the development of a 38 patio homes and 13 townhouses. The project will impact 0.39 acre of federally jurisdictional wetland. A 0.59 acre wetland creation area will be created on-site.

d. Type of structures and fill materials to be installed, and quantity of materials to be used (e.g., square feet of coverage, cubic yards of fill material, structures below ordinary/mean high water, etc.):
 The proposed project encompasses an 23 acre development area on a 66.89 acre site.

e. Area of excavation or dredging, volume of material to be removed, location of dredged material placement:
 The project does not involve dredging of material.

f. Is tree cutting or clearing proposed? Yes If Yes, explain below. No
 Timing of the proposed cutting or clearing (month/year): unknown
 Number of trees to be cut: _____ Acreage of trees to be cleared: 0.5 acre

g. Work methods and type of equipment to be used:

Typical work methods will be used to complete the construction of the project. Equipment will include the use of excavators and dozers.

h. Describe the planned sequence of activities:

Following installation of erosion control devices, topsoil will be stripped within the work area and stockpiled. Earthwork and rough grading will occur followed by utility installation, building and parking lot construction and final grading/stabilization.

i. Pollution control methods and other actions proposed to mitigate environmental impacts:

Silt fencing and/or silt sock will be used to control sedimentation into the regulated wetland/waterway.

j. Erosion and silt control methods that will be used to prevent water quality impacts:

Installation of stabilized construction entrances where accessing the site from public roads. Installation of perimeter silt sock/fence, installation of the proposed detention basins to act as a sediment traps, installation of temporary inlet protection at all existing and new inlets within the work area. Disturbed areas will be topsoiled and seeded in a timely manner. An E&SC plan will be prepared in accordance with NYDEC requirements.

k. Alternatives considered to avoid regulated areas. If no feasible alternatives exist, explain how the project will minimize impacts:

The project site contains approximately 34.84 acres of federally jurisdictional wetland. The project has been designed to avoid all but 0.39 acre of wetland. Several alternatives have been explored; the least impacting to wetlands is provided as the current plan.

l. Proposed use: Private Public Commercial

m. Proposed Start Date: Estimated Completion Date:

n. Has work begun on project? Yes If Yes, explain below. No

o. Will project occupy Federal, State, or Municipal Land? Yes If Yes, explain below. No

p. List any previous DEC, USACE, OGS or DOS Permit / Application numbers for activities at this location:

LRB 2006-00698
DEC 9-1422-00452

q. Will this project require additional Federal, State, or Local authorizations, including zoning changes?

Yes If Yes, list below. No

Town of Amherst Site Plan Approval
Erie County Health Department Approval

7. Signatures.

Applicant and Owner (If different) must sign the application.

Append additional pages of this Signature section if there are multiple Applicants, Owners or Contact/Agents.

I hereby affirm that information provided on this form and all attachments submitted herewith is true to the best of my knowledge and belief.

Permission to Inspect - I hereby consent to Agency inspection of the project site and adjacent property areas. Agency staff may enter the property without notice between 7:00 am and 7:00 pm, Monday - Friday. Inspection may occur without the owner, applicant or agent present. If the property is posted with "keep out" signs or fenced with an unlocked gate, Agency staff may still enter the property. Agency staff may take measurements, analyze site physical characteristics, take soil and vegetation samples, sketch and photograph the site. I understand that failure to give this consent may result in denial of the permit(s) sought by this application.

False statements made herein are punishable as a Class A misdemeanor pursuant to Section 210.45 of the NYS Penal Law. Further, the applicant accepts full responsibility for all damage, direct or indirect, of whatever nature, and by whomever suffered, arising out of the project described herein and agrees to indemnify and save harmless the State from suits, actions, damages and costs of every name and description resulting from said project. In addition, Federal Law, 18 U.S.C., Section 1001 provides for a fine of not more than \$10,000 or imprisonment for not more than 5 years, or both where an applicant knowingly and willingly falsifies, conceals, or covers up a material fact; or knowingly makes or uses a false, fictitious or fraudulent statement.

Signature of Applicant

Date

[Handwritten Signature]

Feb 2, 2024

Applicant Must be (check all that apply): Owner Operator Lessee

Printed Name

Title

Fred Cimato

Owner

Signature of Owner (if different than Applicant)

Date

Printed Name

Title

Signature of Contact/Agent

Date

[Handwritten Signature]

2/2/24

Printed Name

Title

Thomas Somerville

Ecologist

For Agency Use Only

DETERMINATION OF NO PERMIT REQUIRED

Agency Application Number

(Agency Name) has determined that No Permit is required from this Agency for the project described in this application.

Agency Representative:

Printed Name

Title

Signature

Date