

October 7, 2025

Lisa Porter Czechowicz
Deputy Regional Permit Administrator, Division of Environmental Permits
New York State Department of Environmental Conservation
700 Delaware Avenue
Buffalo, NY 14209

**Re: 716 Sports Fieldhouse Complex
330 Maple Road
Town of Amherst, Erie County, New York**

Dear Ms. Czechowicz:

716 Sports Complex, LLC retained LaBella Associates, D.P.C. (LaBella) to prepare a letter discussing the potential exemption from the newly established NYS wetland regulations (effective January 1, 2025) for “large” projects (as defined in 6 NYCRR § 621.4) until July 1, 2028, at the 716 Sports Fieldhouse Complex to be located at 330 Maple Road in the Town of Amherst, Erie County, New York.

On December 31, 2024, NYSDEC announced the adoption of final revisions to its freshwater wetlands regulations, 6 NYCRR Part 664. The revised regulations took effect on January 1, 2025. These regulations implement amendments that the New York State Legislature enacted in 2022 to Article 24 of the Environmental Conservation Law (ECL)—the State’s Freshwater Wetlands Act (FWA)—which greatly expanded NYSDEC’s jurisdiction over freshwater wetlands throughout the state.

The revised regulations include grandfathering provisions for projects that received one of the following approvals before January 1, 2025:

- Acceptance of a Final Environmental Impact Statement by a lead agency pursuant to the NYSDEC SEQRA regulations
- A negative declaration for a SEQRA Type I or Unlisted action
- A written site plan approval from a local government; or
- Those who received, before January 1, 2025, either a freshwater wetlands permit, verification, or a notification from NYSDEC that their freshwater wetlands application was complete

The Town of Amherst Planning Board issued a Findings Statement for the development of the Project Site as a commercial project on June 18, 2009 and also granted Site Plan Approval for the development the project site. A copy of the Findings Statement and Site Plan Resolution are attached as Exhibit 1. The FEIS for the development of the Project Site was issued by the Town on December 17, 2007

Additionally, the contamination on the relevant portions of the Project Site was previously remediated per the requirements of the NYSDEC Brownfield Clean Up Program. A copy of the Certificate of Completion issued by the NYSDEC dated May 7, 2012 is provided at Exhibit 2.



It is of LaBella's professional opinion that this project falls under one of the grandfathering provisions and should be exempt from the newly established freshwater wetland regulations.

Respectfully submitted,
LaBella Associates

Alex Molik
Environmental Project Manager

cc: Brian J. Kulpa, Supervisor
Daniel Howard, AICP, Planning Department
Steven Bengart, Esq., Town Attorney
Sean Hopkins, Esq., Hopkins Sorgi & McCarthy PLLC
Dave Johnson, LaBella
Dr. Brian McGrath, 716 Sports Complex, LLC

Exhibit 1



Town of Amherst Planning Department

Erie County, New York



Satish B. Mohan
Supervisor

Eric W. Gillert, AICP
Planning Director

Gary Black, AICP
Assistant Planning Director

SITE PLAN REVIEW
PROPOSED "UNIVERSITY TOWN CENTER" MIXED-USE DEVELOPMENT
330 MAPLE ROAD
(SP-7-09)

CERTIFICATION OF FINDINGS

Having considered the Draft and Final EIS documents, and having considered the preceding written facts and conclusions relied upon to meet the requirements of 6 NYCRR 617, this Statement of Findings certifies that:

1. The requirements of 6 NYCRR Part 617 have been met;
2. Consistent with the social, economic and other essential considerations from among the reasonable alternatives thereto, the action **approved** is one which minimizes or avoids adverse environmental effects to the maximum extent practicable; including the effects disclosed in the Environmental Impact Statements, and
3. Consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the Environmental Impact Statement process will be minimized or avoided by incorporating as conditions to the decision those mitigative measures which were identified as practicable.

TOWN OF AMHERST

Name of Agency


Signature of Responsible Official

CATHARINE M. WEISS

Name of Responsible Official

PLANNING BOARD CHAIR
Title of Responsible Official

6/25/2009
Date

5583 MAIN STREET, WILLIAMSVILLE, NY 14221

Address of Agency

STATEMENT OF FINDINGS

RESOLUTION

WHEREAS, following the February 2, 2007 submittal of a Draft Environmental Impact Statement (DEIS) prepared by Trowbridge & Wolf Landscape Architects on behalf of the petitioner Benderson Development Company, LLC, the DEIS was accepted by the Town Board on June 4, 2007. The DEIS was submitted for the proposed rezoning from CF and R-3 to GB and MFR-6 and development of 33.326± acres of land located at 218 & 330 Maple Road. On June 28, 2007, the Planning Board held a public hearing on the DEIS and the rezoning request and recommended approval of the subject petition. Subsequently, a public hearing on the DEIS and rezoning request was held by the Town Board on September 4, 2007. A Final Environmental Impact Statement (FEIS) was accepted by the Town Board on December 17, 2007, and a Notice of Completion of the FEIS was filed on December 26, 2007. The rezoning area was subsequently reduced in size to 28.44± acres to retain a CF zoned frontage and create a conservation project along Maple Road and to retain a portion of the existing R-3 zoning district on Maple Road.

WHEREAS, the Planning Board and the Town Board have considered the content of the DEIS, the FEIS, and all other documents and comments and submissions made during and after the hearings.

WHEREAS, on April 9, 2009 Buffalo-Maple Road, LLC submitted an application and supporting materials for site plan review of a mixed-use development at 330 Maple Road entitled "University Town Center." The project reviewed by Town departments and relevant outside agencies included the following:

- Site Development Drawings; Carmina Wood Morris, PC dated September 2008, resubmitted 4/9/09 including sheets C-1 through C-6.9 and L100 through L103.
- Architectural Drawings; Dorsky Hodgson Parrish Yue Architects, dated 9/12/08 and revised 4/9/09 including sheets CS and A-1 through A-15.
- Traffic Impact Study, FRA Engineering, dated January 2007 and revised April 9, 2009 (including Trip Generation Comparison and Shared Parking Analysis prepared by SRF Associates dated April 2009).
- Wetland Delineation Report, Earth Dimensions, Inc.; dated December 26, 2006.
- Stormwater Pollution Prevention Plan; Carmina Wood Morris PC, dated April 2009.
- Geotechnical Engineering Report; Barron & Associates, PC, dated December 21, 2006.
- Engineer's Report; Carmina Wood Morris, PC dated 4/7/09.
- Architectural Design Guidelines; Dorsky Hodgson Parrish Yue, Architects.
- Letter regarding traffic impacts; FRA Engineering dated June 12, 2009.

WHEREAS, the residential component of the overall development project to be located on the MFR-6 zoned portion of the site is not included in this site plan review. When submitted, it will be fully reviewed in accordance with the provisions of 6NYCRR Section 617.9 and all previous Statements of Findings issued by the Town for the rezoning and/or site plan review of the overall development.

NOW THEREFORE THE PLANNING BOARD FINDS AND DETERMINES THAT:

1. The project has been reviewed in accordance with the specific conditions and criteria consistent with 6 NYCRR Sections 617.7, 617.9, 617.11, and 617.12 set forth in the Findings adopted by the Town Board for the rezoning of the subject property on June 2, 2008. The site plan submitted has been determined to be in general compliance with those Findings. If in the future the project is amended in a way which does not conform with these Findings, a Supplemental Findings Statement, a supplement to the FEIS, or a Negative Declaration shall be prepared to comply with 6 NYCRR Section 617.9.
2. The proposed mixed-use office, commercial, community facility and residential development as presented in the FEIS is consistent with the intent and objectives of the Zoning Ordinance.
3. Adequate services and utilities must be available prior to occupancy. Review and approval of services and utilities by the Town agencies will be required for site plan approval.
4. Development will be consistent with all other applicable laws, rules and regulations.
5. **Traffic and Transportation** (FEIS Section 2.12)

Site specific requirements shall be established by the Town, County and State, as appropriate, as development applications are reviewed. The Project Sponsor shall be responsible for any traffic mitigation required for development of the project site. All improvements will be made subject to the review and approval of the NYS Department of Transportation, Erie County Department of Public Works - Highways Division and the Town of Amherst, as applicable.

A revised Traffic Impact Study (TIS) by FRA Engineering, including a Trip Generation Comparison and Shared Parking Analysis prepared by SRF Associates, was submitted along with the site plan application. That analysis concludes that the traffic impacts to the study area intersections will be less than those identified under the conceptual plan considered at the rezoning stage.

The Planning Board, as Lead Agency for site plan review, requires that the Project Sponsor comply with the following mitigation measures during the development of the project site. The Project Sponsor will be responsible for all costs associated with these mitigations.

The Project Sponsor will post a bond in the amount of \$650,000 at the time an application for building permit is submitted for implementing potential future mitigation alternatives. The bond will cover the following mitigations: traffic calming in the Fairways Subdivision located on the south side of Maple Road, connecting sidewalks, and improvements at the Maple Road/North Forest Road intersection necessary as a direct result of the proposed development (other than the southbound dual left turn lane).

Based on Town estimates, the traffic calming in the Fairways Subdivision will not exceed \$75,000 of the total bond amount. The remaining \$575,000 will be allocated for the sidewalk and Maple Road/North Forest Road intersection mitigation to be undertaken in conjunction with the Erie County Department of Public Works as stated in its June 18, 2009 letter.

Maple Road at Westernmost and Easternmost Driveways

- An exclusive eastbound left turn lane will be provided in the existing center two-way left turn lane of Maple Road.

Maple Road at Western Signalized Driveway and Donna Lea Boulevard

- An exclusive eastbound left turn lane into the development will be installed.
- An exclusive westbound left turn lane to Donna Lea Boulevard will be installed.
- An exclusive westbound right turn lane (deceleration lane) into the development will be installed.
- The western signalized driveway into the development will include a raised median.
- A semi-actuated traffic signal will be installed. The signal will include an advance green left-turn phase for the eastbound approach. Traffic from the site driveway and from Donna Lea Boulevard will proceed concurrently on the same green phase. The new signal will be semi-actuated with vehicle detection on the driveway, Donna Lea Boulevard and the eastbound left turn lane.
- Pedestrian accommodations (signals, crosswalks, pushbuttons, ramps, etc.) will be provided for crossing Maple Road.
- The new traffic signal will be coordinated with the new signal at the eastern signalized driveway and with the existing signal at Maplemere Road.

Maple Road at Eastern Signalized Driveway

- An exclusive eastbound left turn lane into the development will be installed.
- An exclusive westbound right turn lane (deceleration lane) into the development will be installed.
- The eastern signalized driveway into the development will include a raised median.
- A new traffic signal will be installed.
- Pedestrian accommodations (signals, crosswalks, pushbuttons, ramps, etc.) will be provided for crossing Maple Road.
- The new traffic signal will be coordinated with the new signal at the western signalized driveway and with the existing signal at Maplemere Road.

Maple Road at Millersport Highway Northbound Off-Ramp

- A second right turn lane will be constructed at the northbound off-ramp approach to Maple Road.
- An adjustment will be made to the existing signal timings in accordance with NYSDOT standards.

Maple Road at North Forest Road

- A southbound 2nd left turn lane will be installed from North Forest Road to Maple Road.
- The existing signal timings will be adjusted as needed to meet demand.
- The Erie County DPW anticipates installing a westbound exclusive right turn lane from North Forest Road to Maple Road in 2009.
- Costs associated with any other mitigation required by the Lead Agency other than the items specified above will be covered by the \$575,000 allocated from the \$650,000 bond.

B. Public Transportation

If this section of Maple Road becomes a route for bus service, the Developer will install an off-street "cut out" bus stop in the area of the property frontage just west of the western signalized driveway. Any site plan approvals, subject to review by the Town and Erie County DPW – Highways Division, will be obtained prior to installation.

C. Construction Vehicles

In order to avoid the adverse environmental impacts associated with construction vehicles, existing local residential streets in the Fairways Subdivision on the south side of Maple Road shall not be utilized by construction vehicles to access the project site.

D. Follow-Up Traffic Studies

To assess the adequacy of the mitigation measures detailed above and to determine the level of cut-through traffic in the neighboring Fairways Subdivision, two (2) follow-up traffic studies will be conducted for this project, and should be conducted at:

- 40% occupancy of the project, and
- either 80% occupancy or no later than one (1) year after the first study is conducted.

It shall be the responsibility of the Project Sponsor to notify the Town when these thresholds are met. The studies will be funded by the Project Sponsor and conducted by a firm selected by the Town. The studies will be reviewed by the Town Traffic-Safety Board and the Erie County Department of Public Works – Highways Division. All further mitigation measures recommended by the supplemental traffic studies will be funded and completed by the Project Sponsor.

If determined by the supplemental traffic study that cut-through traffic needs to be mitigated, the following measures shall be considered:

- improve Level of Service of the Maple Road/North Forest Road intersection, in particular the northbound approach
- remove Donna Lea Boulevard from the Maple Road intersection
- restrict traffic exiting the westernmost signalized driveway to right and left turns only
- restrict Donna Lea Boulevard between Lynn Lea and Maple Road to one-way northbound
- implement traffic calming features along the residential streets following community input

The costs associated with implementing such traffic calming alternatives will be covered by the required \$575,000 allocated from the \$650,000 bond.

6. **Soils and Environmental Issues** (FEIS Section 2.14)

The project sponsor will be responsible for all costs associated with the environmental investigation and remediation of the site to bring it to development standards as determined by the NYS Department of Environmental Conservation. Specific mitigation measures include:

- The Project Sponsor will comply with all requirements imposed by NYSDEC for the Brownfield Cleanup Program, including:
 - completion and approval by DEC of the Remedial Investigation, Feasibility Study and Work Plan
 - an excavation-and-landfill disposal remedy for the site so that all contaminants are removed in accordance with Program standards. To the extent it is technically and economically feasible, cleanup to residential standard will be completed.
- Project development will comply with Environmental Conservation Law Section 27-1415(6). While residences in this area will be above ground surface, the project sponsor will take the added precaution of removing all soil below the project area either until residential cleanup levels are met or a two foot depth is achieved.
- All contaminated soils in excess of cleanup guidance will be disposed of off-site at an approved facility at the developer's expense. All near surface soils with elevated lead and semi-volatile organic compound levels will be removed from the site to meet soil cleanup objectives (SCOs). All SCOs will meet with the approval of the DEC and will be consistent with planned end use of the site or that area of the site.
- The Geotechnical Engineering Report prepared by Barron & Associates, P.C. dated December 21, 2006 includes findings and foundation considerations for future construction of the various components of the project. The report is included as Appendix B of the FEIS.

The Town shall not grant building permit, subdivision or Public or Private Improvement Permits (PIP) approval for construction of any component of the project (buildings, parking areas or infrastructure) unless the identified limitations as discussed in the geotechnical report are adequately accounted for. The applicant shall be required to provide documentation of site-specific soil characteristics and comply with all relevant Town building codes regarding soil conditions.

Additional mitigation measures to be undertaken by the Project Sponsor may be required by the Building Department.

- In accordance with Town Board Resolution 2008-423 approved by the Board on April 21, 2008, the Project Sponsor shall remediate any off-site contamination on Town property caused by the former gun club activity as part of the current plans to remediate the site.

7. **Wetland Issues** (FEIS Section 2.62)

State Wetlands

Per Wetland Delineation Report prepared by Earth Dimensions, Inc. on December 26, 2006, there are no State wetlands on the subject property.

Federal Wetlands

The Report identified four (4) wetland areas totaling 1.17± acres on the site that are isolated and do not meet the current interpretation of Federally jurisdictional wetlands. The US Army Corps of Engineers has confirmed by letter dated September 13, 2007 that these areas are not regulated pursuant to Section 404 of the Clean Water Act.

8. **Drainage and Stormwater Management** (FEIS Section 2.8)

A Stormwater Pollution Prevention Plan (SWPPP) dated April 2009 and a Demolition & Erosion Control Plan dated 5/14/09 were prepared by Carmina Wood Morris PC and submitted by the applicant along with the site plan materials. These plans were reviewed by the Engineering Department on May 8 and June 4, 2009, respectively. They were determined to adequately address Town and Zoning Ordinance requirements and will be required to address any conditions prior to final site plan approval. All future actions related to the subject project must comply with these Findings, as summarized below.

The following measures shall be implemented by the Project Sponsor to mitigate drainage and stormwater impacts to the maximum extent practicable:

- A. The Project Sponsor shall be required to comply with the intent of the findings and recommendations of the Engineer's Report prepared by Carmina & Wood, P.C. on January 19, 2007 during the course of development.
- B. A detailed A Stormwater Pollution Prevention Plan (SWPPP), including a Sediment and Erosion Control Plan, or the various phases of the project including any related on-site drainage areas shall be submitted as specific site plans are submitted for review.

- C. The design of the stormwater system will follow applicable NYSDEC and Town guidelines which limit the discharge following development to pre-development conditions. All runoff from the project will be collected and conveyed to the storm water detention system and will not sheet drain off-site to adjoining properties.
- D. A water quality device prior to stormwater discharge is required by NYSDEC and will be accommodated by installation of a water quality treatment system/outlet control structure approved by NYSDEC. The system will be engineered to provide 24-hour extended detention of the water quality volume.
- E. Extended detention will be provided for the one-year storm event as required by NYSDEC. This volume will be accommodated in the underground pipe detention system. The water quality treatment system/outlet control structure will be engineered to provide 24-hour extended detention.
- F. For overbank flooding, NYSDEC requires that the 10-year storm event be attenuated with detention and that the outlet be restricted to the 10-year existing storm event.
- G. The Town requires attenuation of the 25-year storm event to the existing 10-year conditions.
- H. For extreme storm protection, NYSDEC requires that the 100-year storm event will be attenuated with detention and that the outlet be restricted to the 100-year existing storm event.
- I. The proposed site grading for the project will maintain positive drainage across the site and produce no adverse drainage conditions on adjacent properties.

9. **Cultural / Archaeological Resources** (FEIS Section 2.11)

A Phase I Cultural Resources Investigation and Phase IB Addendum conducted for the project site by Panamerican Consultants, Inc. concluded that the proposed project will have no effect on cultural resources listed, or eligible for listing, in the State or National Registers of Historic Places, and that no further cultural resource investigations are recommended. A letter from the NYS Office of Parks, Recreation and Historic Preservation dated June 1, 2007 states that agency's concurrence with this finding.

10. **Economic Issues** (FEIS Section 2.15)

All infrastructure required to support the development of the project site will be installed and/or upgraded at the Project Sponsor's expense.

An Economic Analysis for the proposed project was prepared by Real Property Services, LLC in December, 2006 which is included in Appendix F of the FEIS. The conclusions of that report are:

- The proposed development is located in an area that will allow it to thrive and prosper, while elevating the character and attractiveness of the surrounding neighborhood.

- The development will add \$44,000,000± to the Town assessment base when completed, generating approximately \$1,600,000 per year in total tax revenues at 2008 levels (2007 estimated). As a comparison, the site is currently assessed at \$461,000 and generates tax revenues of less than \$17,000 per year.
- The proposed development will have no significant direct impact on costs or services to the Town or the Sweet Home Central School District.
- The development will have no significant impact on the marketability or values of nearby existing housing.
- The project will complement existing retail development in the market area and will serve to improve the overall character of the neighborhood.
- The Project Sponsor will not be seeking any tax abatement from the Amherst Industrial Development Agency for this project.

11. **Lighting / Noise / Visual Impacts** (FEIS Section 2.5)

The applicant has submitted a Site Lighting Plan dated 5/09 prepared by Carmina Wood Morris, PC, which was reviewed by the Building Department on June 18, 2009 and meets or will meet all Zoning Ordinance requirements prior to final site plan approval. All future actions related to the subject project must comply with these Findings, as summarized below.

- A. All proposed lighting for the site must conform to the Town Zoning Ordinance for height and type of lighting fixtures. A Site Lighting Plan will be required prior to site plan approval, which, according to the Ordinance must show light impacts not exceeding 0.2 foot candles adjacent to residential use and 0.5 foot candles adjacent to commercial use.

Appropriately located lighting, downward-directed lighting fixtures or hooded lighting will be used to prevent off-site light spillage on adjacent residential areas. The light fixtures and their placement will follow all Town of Amherst code requirements for usage and design. The Town Zoning Code requires a lighting plan to be submitted during the site plan review process, and the standards contained in the relevant sections of the Zoning Code regulate lighting spillover from commercial locations onto adjacent residential land uses.

Exterior site lighting will not operate 24 hours per day. The Town will review specific lighting plans in order to minimize the overnight lighting impacts.

- B. The project developer will be required to install Medium and/or High Impact Landscape Screens in accordance with the Town Zoning Ordinance. At the site plan stage, the specific location, type and size of landscaping will be thoroughly reviewed by the Town Planning Department to ensure maximum buffering of the proposed uses from existing residential properties.
- C. All landscaping will be subject to the approval of the Town Planning Department/Planning Board as required by the Zoning Ordinance.

- D. It is anticipated that the project site will be built-out in stages over many years and, as such, there is a need to impose mitigation measures for noise from construction activities to minimize this identified adverse environmental impact to the maximum extent practicable. Both temporary and long term noise impacts may result from the construction activities on the project site as well as from the proposed use of the project site.

Noise from construction-related activities, which will exceed local ambient levels for noise outside of structures, may cause some temporary annoyance to nearby residents. It is expected that this impact, caused by heavy equipment, construction vehicles and power tools, will continue throughout the duration of construction. In order to reduce this noise, the following measures will be undertaken by the Project Sponsor:

- Limit major construction activities to daytime hours
- Use of construction equipment with mufflers
- The preservation of existing vegetation to the maximum extent practicable will provide a noise barrier to existing residential areas.
- If blasting is required, the Project Sponsor will follow all requirements of the Town Blasting Ordinance

- E. Screening of proposed commercial buildings and parking lots will be provided through the creation of berms or landscaping elements on the periphery of developed areas. All landscape species, size and location will be subject to the approval of the Town Planning Department.

- F. The Project Sponsor will, to the greatest extent practicable, progressively scale building massing from south to north to provide a visually pleasing site layout as shown on the development plan.

12. **Building Height**

No structure in the proposed development shall exceed fifty (50) feet in height.

The residential (MFR-6) portion of the proposed project will feature predominately two-story, townhouse style units with garages and no single-family detached homes. A small portion of the residential development will involve single-floor units in three-story buildings. None of the proposed residential structures in the MFR-6 zoning district will exceed 35 feet in height.

Residential uses in the General Business (GB) zoned portion of the site will be upper-story units located above other allowable GB uses.

13. **Air Quality**

An Air Quality Analysis was prepared by FRA Engineering dated March 24, 2008. The analysis concludes that based on the NYS Department of Transportation's Environmental Procedure Manual, none of the project-affected intersections require detailed microscale air quality analysis, and no significant adverse air quality impacts are expected to occur as a result of the proposed project.

Potential impacts to air quality resulting from fugitive dust generated during construction activities will be minimized by the following measures:

- seeding and/or mulching exposed soils as soon as practicable and in accordance with the requirements and applicable regulations promulgated by the NYSDEC
- grading roadways and covering them with gravel during construction, periodically regrading, compacting and replacing gravel as necessary as determined by the Town
- wetting down temporary roads to be constructed on the project site during construction of the build-out of the project as needed throughout the duration of construction activities and as determined by the Town.

14. Land Use

The proposed development will follow the program summarized below as depicted in the concept plans and DEIS:

USE	DEVELOPMENT PROGRAM (not to exceed)
Specialty retail	225,000± sq. ft.
Restaurant	35,000± sq. ft.
Office	12,000± sq. ft.
Community theater	4,000± sq. ft.
Total	276,000± sq. ft.
Upper-story apartments –	64± units
Hotel	125± rooms
Residential (MFR-6 portion of site)	75± units

*(See Section 18, Supplemental Environmental Impact Statement)

The following additional limitations will be in effect for the subject development and included in a Declaration of Restrictions recorded in the County Clerk's office:

- No single retail user shall be greater than 50,000 square feet in size.
- There shall be no freestanding drive-thru fast food restaurants.
- There shall be no freestanding drive-thru pharmacies.

The following findings outlining the project's consistency with the Comprehensive Plan, as stated in the Planning Board Resolution to the Town Board dated June 28, 2007, have been made:

- a. The proposed development is consistent with the Plan's "key initiative" for Amherst to become a "knowledge-based community". The plan recommends that the Town "work with the University at Buffalo to create mixed use activity centers around the periphery of the campus", consistent with the proposed development (pg. 11).
- b. The site is located in the section of Maple Road that has proximity to the UB North Campus, an area identified in the Comprehensive Plan's University Focal Planning Area where re-use or redevelopment of properties is encouraged (p. 154).

- c. The proposed mixed-use development will be compatible with the existing mix of uses along Maple Road. The Comprehensive Plan recognizes the "concentration of commercial service located to the south [of the UB campus] along Maple Road" (p. 151).
- d. The project will be located on Maple Road, which classification as a major arterial road recognizes its function and capacity to serve as the site of the proposed project.
- e. The proposed project will provide an economic benefit to the Town.
- f. The subject site is inappropriate for a development consisting solely of residential uses due to its location on a major arterial road and its proximity to non-residential uses including the Pepsi Center and the UB stadium.
- g. The proposed development will serve as a buffer between the existing Pepsi Center and UB stadium and the existing residences on the south side of Maple Road.

15. **Pedestrian / Bicycle Trails** (FEIS Section 2.2)

An area 101 feet in depth and measuring 4.5± acres along the entire project frontage on Maple Road will be a petitioner-owned and maintained conservation project devoted to greenspace and a public walkway as depicted in the Plan received May 20, 2009. The location, design, size and type of landscaping and walkway materials will be subject to Town approval.

A public trail system currently exists along Ellicott Creek which connects to the University of Buffalo campus and is used by members of the adjacent neighborhoods as well as the UB community for walking and biking. The distance from the trail to the project site is approximately 0.25 miles along Maple Road or roughly a 10-minute walk. Future connection, subject to Town approval, includes an extension to the proposed mixed-use center, via a sidewalk on the north side of Maple Road. This walkway, while currently existing in the public right-of-way, will be improved for the entire length of the subject Maple Road parcel.

The location of specific connections has been shown on the site plans submitted for development of the subject property as requested by the Town.

It is anticipated that construction of direct trail connections to the subject property and any connections to Town property (i.e. Pepsi Center) will be the responsibility of the developer. Maintenance responsibility and security costs will be the responsibility of the town.

16. **Infrastructure**

All sanitary sewer, water and storm sewer systems installed or improved for the project, including lift station improvements, will be undertaken by the Project Sponsor at their cost and will be required to meet all Town, County and State requirements.

17. **Bond**

The Project Sponsor will post a bond in the amount of \$650,000 at the time a building permit application is submitted for implementing potential future traffic mitigation alternatives. The bond will cover the following mitigations: traffic calming in the Fairways Subdivision located on the south side of Maple Road, connecting sidewalks, and improvements at the Maple Road/North Forest Road intersection necessary as a direct result of the proposed development (other than the southbound dual left turn lane). The cost of all other traffic mitigation measures will be borne by the Project Sponsor.

Based on Town estimates, the traffic calming in the Fairways Subdivision will not exceed \$75,000 of the total bond amount. The remaining \$575,000 will be allocated for the sidewalk and Maple Road/North Forest Road intersection mitigation to be undertaken in conjunction with the Erie County Department of Public Works as stated in its June 18, 2009 letter.

18. **Architectural Design Guidelines**

All construction on the site will be in accordance with the Architectural Design Guidelines approved by the Town Board on June 3, 2007 as part of the rezoning of the property and approved by the Planning Board as part of site plan review.

19. **Supplemental Environmental Impact Statement**

The development plan submitted by the applicant along with the rezoning application in 2007 was intended to be conceptual in nature, intended to present a general development scenario for the property to be rezoned. That conceptual plan showed a feasible layout scheme for buildings, parking and roadways, but was not intended to depict the detailed layout required to be shown at the site plan review stage. Accordingly, the site plan submitted by the applicant for site plan review in April 2009 reflects certain modifications to the conceptual plan included with the rezoning application in 2007. These modifications have been reflected in the updated supporting documentation submitted along with the site plan application including a revised Traffic Impact Study.

Modifications to the 2009 site plan from the conceptual plan submitted at rezoning are:

- Building I has been identified for potential use as an 1,800 seat movie theater, an allowable use in the GB zoning district. The building does not exceed the 50,000 sq. ft. maximum as required by the Findings issued by the Town Board for the rezoning action. The revised Traffic Impact Study includes a Trip Generation Comparison and Shared Parking Analysis prepared by SRF Associates which includes the movie theater traffic. That analysis concludes that the traffic impacts to the study area intersections will be less than those identified under the previously proposed plan.
- The site plan includes the development of 64 upper-story apartments to be located in Buildings A and C. While residential units were referenced in the Town Board Findings Statement issued in June 2008, they were not specifically included in the Traffic Impact Study as part of the GB zoned portion of the site. The Trip Generation Comparison and Shared Parking Analysis prepared by SRF Associates in April 2009 does include the

apartment units. As indicated above, that analysis concludes that the traffic impacts to the study area intersections will be less than those identified under the previously proposed plan.

- The MFR-6 zoned portion of the development site (including 218 Maple Road) has been omitted from this site plan review. This area was shown on the conceptual plan submitted at rezoning as the location of up to 75 townhouse/condominium units. When the applicant submits the MFR-6 residential portion of this project for approval, a revised traffic analysis must be included for the Planning Board's consideration to determine if significant environmental impacts will be created and if a Supplemental Environmental Impact Statement is required.
- A three-story parking structure identified as Building H is included in the site plan. Although the conceptual plan submitted at rezoning showed surface parking but did not show a parking structure, the Planning Board concludes that the structure poses no new significant environmental impacts as it is within the height restrictions outlined by the Findings issued by the Town Board, and any potential visual impacts will be mitigated through design and landscaping as shown on submitted plans.

After review of the site plan materials by the Town and outside agencies and consideration of the above modifications to the site plan from the 2007 conceptual plan, the Planning Board has determined that there are no new significant environmental impacts related to this project that have not been previously identified or which would require the preparation of a Supplemental Environmental Impact Statement. The Board has further determined that it has adequate information to evaluate all of the relevant benefits and potential impacts of the project and to issue this Statement of Findings.

20. Evaluation of Future Actions

In accordance with SEQR regulations, upon application to the Town for development of the project site that requires the submittal of an Environmental Assessment Form, the Town will be required to determine if the potential adverse environmental impacts associated with the development have been adequately identified and evaluated in the DEIS, FEIS and this Findings Statement, and whether the proposed development exceeds any of the thresholds and/or requirements contained in this Findings Statement. This determination must be made by the Town prior to the issuance of any discretionary land use approvals by the Town for the proposed development.

The following scenarios are put forth in Section 617.10(c) & (d) of the SEQR regulations:

- A. If the Town determines that the proposed action is in conformance with the conditions and thresholds in the FEIS or the Findings Statement, then no further environmental review pursuant to SEQR will be required;
- B. If the Town determines that the proposed action is adequately addressed in the FEIS, but is not addressed or not adequately addressed in the Findings Statement, then an amended Findings Statement must be prepared;

- C. If the Town determines that the proposed action was not addressed, or was not adequately addressed, in the FEIS, but it will not result in any significant environmental impacts, then a negative declaration must be prepared; or
- D. If the Town determines that the proposed action was not addressed, or was not adequately addressed, in the FEIS, and the action may have one or more significant adverse environmental impacts, then a supplement to the FEIS must be prepared.

TOWN OF AMHERST
PLANNING BOARD
SITE PLAN RESOLUTION
SP-7-09

PETITIONER

Buffalo-Maple Road, LLC
570 Delaware Avenue
Buffalo, NY 14202

PROPERTY LOCATION

330 Maple Road,
ROV 06/23/09 PM 4:23

WHEREAS the Town of Amherst Planning Board on Thursday, May 21, 2009 held a public hearing on a Site Plan for the "University Town Center" mixed-use development, and

WHEREAS the Planning Board reviewed the plans and specifications for the proposed project, and

WHEREAS the Site Plan was referred to the Town's various review agencies, and

WHEREAS, in accordance with Section 8-7-8 of the Zoning Ordinance, the Planning Board finds that:

- A. The site plan includes usable space for active and passive recreation, including pedestrian connections.
- B. The site plan includes a 101 ft. wide conservation area as open space lands for public use, and the petitioner will provide an easement for such use.
- C. School sites and facilities are adequate to accommodate the proposed site plan.
- D. The site plan includes potential future access points to allow connection to Millersport Highway.

WHEREAS, in accordance with Section 8-7-9 of the Zoning Ordinance, the Planning Board finds that:

- A. The proposed site plan is generally consistent with the concept plan submitted at the time of rezoning and the intent of the Town board Resolution issued at rezoning and the Town Board State of Findings.
- B. The proposed site plan is consistent with the purpose and specific requirements of the Zoning Ordinance and generally consistent with the policies of the Comprehensive Plan.
- C. Adequate services and utilities will be available prior to occupancy.
- D. The site plan is consistent with all other applicable laws.

TOWN OF AMHERST
PLANNING BOARD
SITE PLAN RESOLUTION
SP-7-09

PETITIONER

Buffalo-Maple Road, LLC

PROPERTY LOCATION

330 Maple Road

ROVD JUN25/09 PM 4:29

- E. Consistent with Findings issued by the Town Board's Statement of Findings dated July 3, 2008 and that proposed changes to the plan do not result in any significant impacts not considered in that Statement of Findings. (*See attached Planning Board Statement of Findings, Section 19.*)
- F. Under Section 404 of the Clean Water Act, the US Army Corps of Engineers has determined that it has no jurisdiction.
- G. A full review of the residential development to be located on the MFR-6 zoned portion of the overall development site will be conducted in accordance with the provisions of 6NYCRR Section 617.9 and all previous Statements of Findings issued by the Town for the rezoning and/or site plan review of the overall development.

NOW THEREFORE BE IT RESOLVED, that in accordance with 6 NYCRR, Part 617 and Local Law #3-82, as amended, the Planning Board adopts the Statement of Findings attached hereto, and

NOW THEREFORE BE IT FURTHER RESOLVED, that the Planning Board approves the "Architectural Guidelines – University Town Center" in accordance with the requirement included in the Development Agreement adopted by the Town Board at the time of rezoning of the subject property, and

NOW THEREFORE BE IT FURTHER RESOLVED, that Coordinated Sign Plans and Minor Site Plans may be approved by the Planning Director if the Planning Director determines that they are consistent with the Architectural Guidelines and all other Zoning Ordinance requirements, and

NOW THEREFORE BE IT FURTHER RESOLVED, that the Planning Board, in accordance with Section 8-7 of the Zoning Ordinance **approves** said Site Plan subject to the following conditions:

1. That the consideration of signs be specifically excluded from this approval since no sign details were presented.
2. That any lights used to illuminate the property be equipped with adjustable hoods to control light spread and direction so as not to create any nuisance to nearby properties, and that lights not exceed 25 feet in total height from finished grade.

TOWN OF AMHERST
PLANNING BOARD
SITE PLAN RESOLUTION
SP-7-09

PETITIONER

Buffalo-Maple Road, LLC

PROPERTY LOCATION

330 Maple Road

RCVD JUN25'09 PM 4:28

3. That all dumpsters/trash containers and all mechanical equipment, utility structures, multiple meter boards, generators, and similar appurtenances, including those which are mounted on any part of a primary structure shall be appropriately screened with a fence, wall, and/or landscaping. Provide gate on dumpster enclosure that shall be closed whenever dumpster is not being serviced, enclosure shall be high enough to screen the dumpster(s) within.
4. That as-built record drawings, including location of utilities, be provided to the Engineering Department prior to issuance of a Certificate of Occupancy by the Building Department.
5. The subject development will be constructed in general compliance with the design manual entitled "Architectural Design Guidelines University Town Center," prepared by Dorsky Hodgson Parrish Yue, architects.
6. That the issues raised by the Building Department in its memorandum dated June 18, 2009 be addressed with the exception that if the Zoning Code is amended at some future time to permit fabric awnings, that awnings materials may be consistent with the Code, as amended.
7. That the issues raised in items #4, 9, 18, 19, and 22 of the Planning Department memorandum dated May 1, 2009 be addressed.
8. That the issue raised by the Engineering Department in its review of the Stormwater Pollution Prevention Plan dated May 8, 2009 be addressed.
9. That the necessary Erie County Division of Highways approval documents relative to the proposed storm drainage plan and construction activities within the Maple Road right-of-way be provided to the Engineering Department.
10. That the Erie County Division of Highways review the proposed traffic signal timing as recommended in the June 18, 2009 letter from FRA-TY LIN International Company and that the petitioner comply with any recommendations.

TOWN OF AMHERST
PLANNING BOARD
SITE PLAN RESOLUTION
SP-7-09

PETITIONER

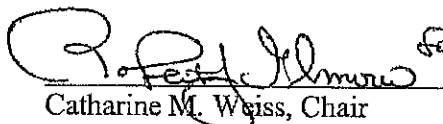
Buffalo-Maple Road, LLC

PROPERTY LOCATION

330 Maple Road
RCVD JUN25'09 PM 4:29

The foregoing resolution was adopted by the

Town of Amherst Planning Board, June 18, 2009.

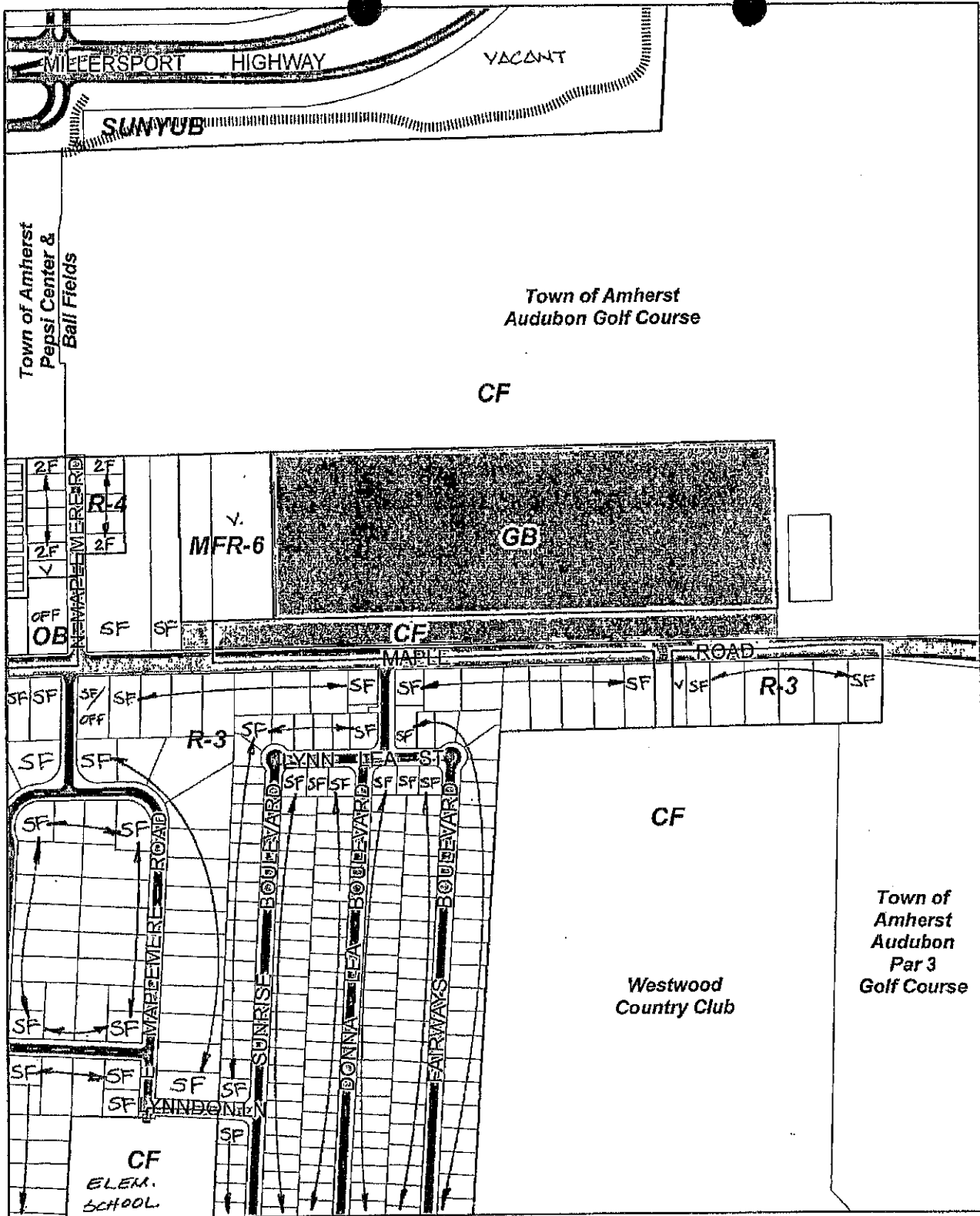
 for 6/25/2009
Catharine M. Weiss, Chair Date

EK/jb

P/JeanB/spblurbs/SFbl-7-09doc

cc: Town Clerk
Commissioner of Building
Town Engineer
Fire Chiefs
Traffic/Safety
Highway Superintendent
ECDEP
ECHWY
NYSDOT
Buffalo-Maple Road, LLC
Jeffery D. Palumbo, Esq.
Carmina Wood Morris, PC

Approved Plan: Carmina Wood Morris, PC
Received: May 20, 2009



SP-7-09

Proposed Mixed Use Center
330 Maple Road

Buffalo-Maple Road, LLC, Petitioner

May 21, 2009

 330 Maple Road

 Existing Bikepath



Prepared by the Town of Amherst Planning Department

Exhibit 2

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)
CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name
BUFFALO-MAPLE ROAD, LLC AND MAPLE
ROAD LODGING, LLC

Address
570 Delaware Avenue, Buffalo, NY 14202

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 8/26/12 Agreement Execution: 9/22/06 Agreement Index No.: B9-0724-06-07

Application Approval Amendment: 5/9/07

Agreement Execution Amendment: 6/18/07

SITE INFORMATION

Site No.: C915207 Site Name: 330 Maple Road Site

Site Owner: Buffalo-Maple Road, LLC

Street Address: 330 Maple Road

Municipality: Williamsville County: Erie DEC Region: 9

Site Size: 26.000 Acres

Tax Map Identification Number(s): Portion of 55-03-1-10

Percentage of site located in an EnZone: 0 - 49%

A description of the property subject to this Certificate is attached as Exhibit A and a site survey is attached as Exhibit B.

CERTIFICATE ISSUANCE

This Certificate of Completion, hereinafter referred to as the "Certificate," is issued pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law ("ECL").

This Certificate has been issued upon satisfaction of the Commissioner, following review by the Department of the final engineering report and data submitted pursuant to the Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the Site, that the applicable remediation requirements set forth in the ECL have been or will be achieved in accordance with the time frames, if any, established in the remedial work plan.

The remedial program for the Site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

Allowable Uses under the BCP: Residential, Restricted Residential, Commercial, and Industrial
Cleanup Track: Track 2: Restricted use with generic soil cleanup objectives

Tax Credit Provisions for Entities Taxable Under Article 9, 9-A, 32, and 33:

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 12 %.

Tangible Property Credit Component Rate is 12 %.

Tax Credit Provisions for Entities Taxable Under Article 22 & S Corporations:

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 10 %.

Tangible Property Credit Component Rate is 10 %.

LIABILITY LIMITATION

Upon issuance of this Certificate of Completion, and subject to the terms and conditions set forth herein, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 27-1421. The liability limitation shall run with the land, extending to the Certificate holder's successors or assigns through acquisition of title to the Site and to a person who develops or otherwise occupies the Site, subject to certain limitations as set forth in ECL Section 27-1421. The liability limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

CERTIFICATE TRANSFERABILITY

This Certificate may be transferred to the Certificate holder's successors or assigns upon transfer or sale of the Site as provided by ECL Section 27-1419.5 and 6NYCRR Part 375.1.9.

CERTIFICATE MODIFICATION/REVOCATION

This Certificate of Completion may be modified or revoked by the Commissioner following notice and an opportunity for a hearing in accordance with ECL Section 27-1419 and 6NYCRR Part 375.1.9(e) upon a finding that:

(1) either the Applicant or the Applicant's successors or assigns have failed to comply with the terms and conditions of the Brownfield Site Cleanup Agreement;

(2) the Applicant made a misrepresentation of a material fact tending to demonstrate that it was qualified as a Volunteer;

(3) either the Applicant or the Applicant's successors or assigns made a misrepresentation of a material fact tending to demonstrate that the cleanup levels identified in the Brownfield Site Cleanup Agreement were reached;

(4) there is good cause for such modification or revocation;

(5) either the Applicant or the Applicant's successors or assigns failed to manage the controls or monitoring in full compliance with the terms of the remedial program;

(6) the terms and conditions of the environmental easement have been intentionally violated or found to be not protective or enforceable.

The Certificate holder(s) (including its successors or assigns) shall have thirty (30) days within which to cure any deficiency or to seek a hearing. If the deficiency is not cured or a request for a hearing received within such 30-day period, the Certificate shall be deemed modified or vacated on the 31st day after the Department's notice.

Joseph J. Martens
Commissioner
New York State Department of Environmental Conservation

By:


Robert W. Schick, P.E., Acting Director
Division of Environmental Remediation

Date: MAY 7, 2012