



TOWN OF AMHERST PLANNING DEPARTMENT

Application for Rezoning

For Official Use

File #: _____ Acreage _____ Fee \$ _____

Address Verified by
Assessor's Office

VERIFIED BY DATE

Application Received
by Planning Department

ACCEPTED BY DATE

Materials Checked by
Zoning Enforcement
Officer

CHECKED BY DATE

Materials & Fee Paid
to Town Clerk

ACCEPTED BY DATE

Fill In Applicable Fees

2 ACRES OR LESS

\$1,250.

2 – 20 ACRES

**\$1,250 + \$250/acre or fraction
thereof over 2 acres** (fractions of an acre
to be counted as 1 acre)

21 – 30 ACRES

**\$5,700 + \$150/acre or fraction
thereof over 21 acres** (fractions of an acre
to be counted as 1 acre)

OVER 30 ACRES

**\$6,900 + \$75/acre or fraction
thereof over 30 acres** (fractions of an acre
to be counted as 1 acre)

**Request for Relief of / Change to Conditions
of Zoning Approval**

\$1,200.

AFFIDAVIT FEE FOR PUBLIC HEARING

\$15.

TOTAL FEE: \$ _____

7. Petitioner's interest in property

Option to purchase
Owner
X Other (explain) Affiliate Company

8. The following are all others having an interest in this application and join herein with the petitioner named above: (describe extent of interest; attach sheets as needed)

N/A

9. Attach Survey and Legal description of land to be rezoned. The Survey must be prepared by a New York State Licensed Land Surveyor.

10. Said property has the following deed restrictions or covenants: (attach copy)

Liber Page

11. Information on proposed project:

A. Description of the character of the proposed development: Please see the attached Letter of Intent

B. Rationale for rezoning request:

1. Why was this site chosen? Please see the attached Letter of Intent

2. Why cannot land be used with the existing zoning? Please see the attached Letter of Intent

3. How will this rezoning impact surrounding properties? Please see the attached Letter of Intent

4. How will this rezoning impact the school system? Please see the attached Letter of Intent

12. Quantitative Data:

- A. Total # of dwelling units N/A
- B. Distribution of dwelling units by type N/A
- C. Gross Residential Density per acre N/A
- D. Total amount of Open Space 0
- E. Proposed Non-Residential Floor Area 0

13. Development Schedule:

Start April 2024
 Finish April 2025
 Stages (# of) 1 of 1

14. If any portion of the proposed development is planned to be sold or leased, please describe:

N/A

15. Open Space ownership and maintenance provisions (if applicable):

N/A

16. Basis for Findings (Sec. 8-3-5 of the Town Zoning Code) (Attach sheets and supplemental materials as necessary.)

A. The proposed zoning and development plan must be generally consistent with the policies of the Comprehensive Plan and the Town Zoning Ordinance.

- 1. State in detail why the proposed zoning is consistent with the adopted Town of Amherst Bicentennial Comprehensive Plan. Cite specific sections, maps, and/or figures in the Plan that support the proposed zoning at this location (The Comprehensive Plan document is available at the Planning Department, Town Clerk's Office, Amherst libraries, or at www.amherst.ny.us). Add sheets as needed.

Please see the attached Letter of Intent

- 2. Pursuant to NYS Town Law Section 272a(11), "All Town land use regulations must be in accordance with a comprehensive plan adopted pursuant to this Section." The Amherst Town Board adopted the Bicentennial Comprehensive Plan pursuant to NYS Town Law 272 on January 2, 2007. If the rezoning is approved, the Town Board may require the Plan to be amended, as applicable.

Cite all text, maps, or figures that must be amended to support the proposed zoning at this location (attach pages as necessary) and provide detailed suggested amendments.

 Please see the attached Letter of Intent

- 3. State why the proposed zoning is consistent with intent and objectives (Sec. 1-2-2) of the Zoning Ordinance:

 Please see the attached Letter of Intent

B. Adequate Services and Utilities are available or are proposed to be made available with the construction of the development:

- 1. Sanitary Sewer Existing
- 2. Storm Sewer/Drainage Existing
- 3. Water Existing
- 4. Other _____

C. Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood:

 Please see the attached Letter of Intent

D. Suitability of the subject property for uses permitted by the current versus the proposed district:

 Please see the attached Letter of Intent

E. Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town:

 Please see the attached Letter of Intent

- 17. The petitioner encloses herewith the sum of \$ 1,265 to pay the fee, and consents to the placement of a sign(s) at the described location identifying this request for a period of time to be determined by the Town Clerk.
- 18. The undersigned certifies that all information required to be disclosed pursuant to Section 809 of the General Municipal Law (see below) is as follows:

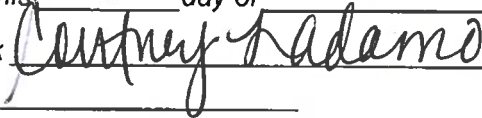
The undersigned swears or affirms that all statements made herein are true, that all drawings submitted correctly show the situation involved in this petition.



 Signature of Petitioner

Subscribed and sworn to before me this 9 day of October, 2023

Notary Public, Erie County, New York



COURTNEY L. ADAMO
 Notary Public-State of New York
 No. 01AD6413282
 Qualified in Niagara County
 Commission Expires January 25, 2025

N.Y.S. General Municipal Law - Section 809 Disclosure in certain applications:

- 1. Every application, petition or request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or official map, license or permit, pursuant to the provision of any ordinance, local law, rule or regulation constituting the zoning and planning regulations of a municipality shall state the name, residence and the nature and extent of the interest of any state office or any office or employee of such municipality or of a municipality of which such municipality is a part, in the person, partnership or association making such application, petition or request (hereinafter called the applicant) to the extent known to such applicant.
- 2. For the purpose of this section an officer or employee shall be deemed to have an interest in the applicant when he, his spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them
 - (a) is the applicant, or
 - (b) is an officer, director, partner or employee of the applicant, or
 - (c) legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant, or
 - (d) is a party to an agreement with such an applicant, express or implied, whereby he may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such applicant, petition or request.
- 3. In the county of Nassau the provisions of subdivisions one and two of this section shall also apply to a party officer. "Party Officer" shall mean any person holding any position or office, whether by election, appointment or otherwise, in any party as defined by subdivision four or section two of the election law.
- 4. Ownership of less than five per cent of the stock of a corporation whose stock is listed on the New York or American Stock Exchanges shall not constitute an interest for the purposes of this section.
- 5. A person who knowingly and intentionally violates this section shall be guilty of a misdemeanor.

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. 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.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information				
Name of Action or Project:				
Project Location (describe, and attach a location map):				
Brief Description of Proposed Action:				
Name of Applicant or Sponsor:		Telephone:		
		E-Mail:		
Address:				
City/PO:		State:	Zip Code:	
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:			NO <input type="checkbox"/>	YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action? _____ acres				
b. Total acreage to be physically disturbed? _____ acres				
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres				
4. Check all land uses that occur on, are adjoining or near the proposed action:				
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)				
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):				
<input type="checkbox"/> Parkland				

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
12. a. 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? b. 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?	NO <input type="checkbox"/> <input type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO <input type="checkbox"/> <input type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/>	

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest Agricultural/grasslands Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, <ul style="list-style-type: none"> a. Will storm water discharges flow to adjacent properties? b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe:	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
<p>I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</p> <p>Applicant/sponsor/name: _____ Date: _____</p> <p>Signature: <u>Matthew Carter</u> Title: _____</p>		

October 4, 2023

VIA HAND DELIVERYBrian J. Kulpa, Town Supervisor
Town of Amherst
5583 Main Street
Williamsville, NY 14221**Re: Proposed Rezoning
6000 – 6040 North Bailey Ave, Amherst, New York (BDC: 1723)**

Dear Mr. Kulpa and Members of the Town Board:

In connection with the above-referenced property, please accept this letter and the enclosed application materials in support of our request to rezone a portion of the parcel located at 6000 – 6040 North Bailey Ave (portion of “Amherst Development Park”) from the Research and Development District (“RD”) to General Industrial District (“GI”).

In connection with the above-referenced property, Benderson Development Company, LLC and Delta Sonic Carwash Systems, Inc. is seeking to relocate its offices from downtown Buffalo to Amherst. As part of this proposal, both companies are seeking to relocate approximately 250 employees to Amherst.

Information on the Project:**A. Description of the Character of the Proposed Development**

Delta Sonic Carwash Systems, Inc. (hereinafter “Delta Sonic”) currently has operations in three states: New York, Pennsylvania and Illinois. As part of these operations, Delta Sonic fabricates parts for the car wash facilities, as well as stores and ships products to all of the car wash facilities. Delta Sonic maintains warehouse space throughout Western New York to meet this need. Delta Sonic is proposing to consolidate all its warehouse and distribution facilities on a single property in Amherst. As part of that process, Delta Sonic is seeking to utilize the existing 35,700 s.f. building at the Amherst Development Park for its Soap Blending Facility. This facility will take packaged bulk manufactured soaps and other cleaning agents are brought to the facility by drum, tote, and bulk truck, to be stored and or blended for centralized storage and distribution to all Delta Sonics.

Delta Sonic will be making a significant investment in its new Amherst Campus. In addition to relocating jobs from the surrounding area to this property, Delta Sonic will be creating new job opportunities as Delta Sonic continues to expand its business. Delta Sonic has recently opened new locations in Niagara Falls Blvd. in Amherst and in Oswego, Illinois and is currently under construction with a new location in Victor, NY. In addition, we have numerous remodeling projects being proposed, as well as expansions to existing facilities. This will result in continued growth and opportunity at the new Amherst campus.

B. Rationale for the Rezoning Request**1. Why was the site chosen?**

The site is owned by the Benderson family who also owns and operates Delta Sonic. The site is in the RD zoning district. It is currently improved with buildings with uses that are consistent with those permitted in the RD zoning district. The building is existing and no new construction is required and the site is entirely surrounded by commercial properties. In addition, Delta Sonic utilizes the Thruway (I-90) to distribute its products and materials and the site has easy access to the I-290, and therefore easy access to the I-90.

2. Why cannot land be used with the existing zoning?

The land is currently being used for uses permitted by the RD zoning. The GI zoning will allow the soap blending facility which is not permitted under the RD zoning which will then allow Delta Sonic to consolidate its facilities within one location.

3. How will this rezoning impact the surrounding properties?

The proposed rezoning will not have a negative impact on the surrounding properties. In fact, the properties to the east, west and north are all large shopping centers owned and operated by Benderson Development. To the south are the Boulevard Towers which have a significant setback from the project site. Further, the proposed zoning district is existing RD zoning district, therefore resulting in no negative impacts. Further, the proposed Delta Sonic campus will integrate and be consistent with the future development of the remainder of the property.

4. How will this rezoning impact the school system?

This rezoning will have a positive impact on the school system. It will increase school taxes while not imposing any burden on the school system.

Basis for Findings (Sec. 8-3-5 of the Town Code).**A. The proposed zoning and development plan must be generally consistent with the policies of the Comprehensive Plan and the Town Zoning Ordinance.****1. State in detail why the proposed zoning is consistent with the adopted Town of Amherst Bicentennial Comprehensive Plan.**

The proposed project meets Economic Development goals, policies and objectives as identified in the Comprehensive Plan. As noted in the introduction of Comprehensive Plan Section 5.0 “since the Town’s industrial and retail sectors are expected to grow more modestly... steps must be taken in the coming years to ensure these sectors remain stable.” That section continues that this process should include “the construction of new space that allows for flexibility for tenants.”

Comprehensive Plan Section 5.2 provides “A Town with a strong tax base and ample economic opportunities for a diverse base of employers and employees, housed in attractive, state of the art commercial developments in convenient and accessible locations.” The project as proposed will

improve the tax base in Amherst. Further it will bring a number of employees to the area and is conveniently located in proximity to the I-290, I-990 and Niagara Falls Blvd. As noted on page 5-3 of the Comprehensive Plan “studies have shown that Industrial development partially subsidize(s) the cost of providing high quality facilities and services. Without such development, the burden on the residential taxpayers would be significantly higher.”

Further, Comprehensive Plans section 3.3 at Tables 1 and 2 provide that the for the existing land use, industrial accounts for 1.0% (Table 1) and that the plan seeks to have industrial-office land use account for 3.2%. This project helps achieve that goal.

2. Pursuant to NYS Town Law section 212a(11), “all Town land use regulations must be in accordance with a comprehensive plan adopted pursuant to this section.” The Town Board adopted the Comprehensive Plan pursuant to NYS Town law 272 on January 2, 2007. If the rezoning is approved, the Town Board may require the Plan to be amended as applicable. Cite all text, map, and/or figures that must be amended to support the proposed zoning at this location and provide detailed suggested amendments.

No changes to the Comprehensive Plan are required as the requested change of zone is consistent with the Comprehensive Plan

3. State why the proposed zoning is consistent with intent and objectives (Sec. 1-2-2) of the Zoning Ordinance.

The ordinance is intended to achieve, among others, the following objectives:

- a) To protect the character and values of residential, institutional and public uses, business, commercial and manufacturing uses and to insure their orderly and beneficial development

The proposed project maintains the current character of the commercial and manufacturing uses in the area, while adding a state-of-the-art building and increasing employment opportunities in Amherst.

- b) To prevent overcrowding of the land.

The project does not result in the overcrowding of lands as it is the re-sue of an existing building.

- c) To prevent excessive concentration of population and to prevent sparse and uncoordinated development.

The project will not result in an excessive concentration of population and the development is being coordinated and laid out in conjunction with the existing development.

- d) To regulate and control the location and spacing of buildings on the lot and in relation to the surrounding property generally consistent with the policies of the Comprehensive Plan.

The project, through its design will maintain appropriate location and spacing of the buildings (so that it is generally consistent with the policies of the Comprehensive Plan.

- e) To protect persons and property from damage and injury due to fire or flood.

The project will not result in any risks of injury due to flood and fire.

- f) To assure that structure and land use arrangements are aesthetically harmonious with nearby areas and structures.

The proposed project has been designed to be aesthetically harmonious with nearby areas and structures.

- g) To regulate the location of buildings and intensity of uses in relation to streets according to plans so as to cause the least interference with and be damaged least by traffic movements and hence result in lessened street congestion and improved public safety.

The proposed project utilizes the existing roadway system and will not result in any increased congestion.

- h) To establish zoning patterns that insure economical extensions for sewers, water supply, waste disposal and other public utilities, as well as development of recreation, schools and other public facilities.

Utilities exist and are currently available at the project site.

B. Adequate Services and Utilities are available or are proposed to be made available with the construction of the development:

1. Sanitary Sewer: Sanitary sewer currently exists on-site.
2. Storm Sewer/Drainage: Storm Sewer/Drainage facilities exist on site.
3. Water: Water currently exists at the project site.
4. Other: Gas, Electric and internet also currently exist at the project site.

C. Compatibility with the present zoning and conforming uses of nearby property and the character of the neighborhood.

The surrounding area is developed with several commercial uses, including restaurant, retail, warehouse and manufacturing. The project and its zoning are compatible with SC and RD zoning. The design of the project is compatible with the surrounding zoning and uses. Further, the project will provide employment opportunities which will bring people to the area to support the abutting commercial uses.

D. Suitability of the subject property for the uses permitted by the current versus the proposed district.

This is a unique request as it seeks add a use consistent with the existing RD zoning. The proposed use – a Delta Sonic soap blending facility is very suitable for the proposed property. The building exists and has appropriate buffers. Further, the road network is in place and provide quick access to the Thruway system.

E. Whether the proposed change tends to improve the balance of uses or meets a specific Town demand.

As noted above, the proposed change and project will improve the balance of uses and meets a specific Town demand. Comprehensive Plans section 3.3 at Tables 1 and 2 provide that the for the existing land use, industrial accounts for 1.0% (Table 1) and that the plan seeks to have industrial-office land use account for 3.2%. This project helps achieve that goal.

Conclusion

We look forward to working with the Town on this project. We believe this project represents a great development opportunity for this area that is consistent with the previous development of the property. If there are any questions regarding this letter or the enclosed documentation, please feel free to contact me at (716) 878-9626 or jamesboglioli@benderson.com.

Thank you,
BENDERSON DEVELOPMENT COMPANY, LLC

James A. Boglioli

James A. Boglioli, Esq.
Director, Right to Build – Northeast US