



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.

\$1,250.00

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.

\$15.00

TOTAL FEE:

\$ 1,265.00

TO BE COMPLETED BY APPLICANT

1. Petitioner:

Name: Michael Keller
 Address: 5391 Thompson Road

<u>Clarence</u>	<u>NY</u>	<u>14031</u>
<small>City</small>	<small>State</small>	<small>Zip Code</small>

 Phone: (716) 566-8853 Fax: _____
 E Mail: michael55@gmail.com

2. The undersigned hereby petitions the Honorable Town Board to rezone the following described property:

From: Office Building District _____
 To: MFR 4A District _____

3. Street address of land to be rezoned: (must be verified by Town Assessor's Office)
2280 Wehrle Drive, Amherst, NY 14221

SBL #: 81.12-3-16

4. Area of land to be rezoned (in acres): 0.41

5. Owner of Land:

Name: James O'Connell
 Address: 81 Oakwood Drive

<u>Amherst</u>	<u>NY</u>	<u>14221</u>
<small>City</small>	<small>State</small>	<small>Zip Code</small>

 Phone: (716) 310-1100

6. Representative (Architect, Engineer, Landscape Architect, Surveyor or Attorney):

Name: Jeffery D. Palumbo, As Attorney
 Address: 9276 Main Street, Suite 3

<u>Clarence</u>	<u>NY</u>	<u>14031</u>
<small>City</small>	<small>State</small>	<small>Zip Code</small>

 Phone: (716) 308-7211 Fax: _____
 E Mail: jpalumbo@blockandlongo.com

7. Petitioner's interest in property

Option to purchase
Owner
x Other (explain) Contingent Contract

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)

James O'Connell - Current Owner

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)

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11. Information on proposed project:

A. Description of the character of the proposed development: The proposed development will include an attractive, high end four (4) unit luxury townhome style apartment structure. Each unit will be two (2) stories in height.

B. Rationale for rezoning request:

1. Why was this site chosen? The site was chosen because of its proximity to local amenities and flourishing neighborhood.

2. Why cannot land be used with the existing zoning? The site is currently zoned Commercial Office which is inconsistent with the nearby properties. The nearby properties on Wehrle Drive include mixed business and multi-family residential use.

3. How will this rezoning impact surrounding properties? The requested re-zoning would not adversely impact the surrounding properties. As mentioned above, the re-zoning would be more compatible with the surrounding properties.

4. How will this rezoning impact the school system? The proposed multi-unit structure will assist in increasing the current property tax of the property. This will provide additional funds for the local school district.

12. Quantitative Data:

- A. Total # of dwelling units Four (4)
- B. Distribution of dwelling units by type Luxury Townhome Style Apartments
- C. Gross Residential Density per acre 9.75
- D. Total amount of Open Space +/- 0.20
- E. Proposed Non-Residential Floor Area Not Applicable

13. Development Schedule:

- Start Summer 2024
- Finish Winter 2024
- Stages (# of) One (1)

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

Owner occupied or rented.

15. Open Space ownership and maintenance provisions (if applicable):
Not Applicable

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.

See attached Exhibit A

- 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.
See attached Exhibit A

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

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

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

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

See attached Exhibit A

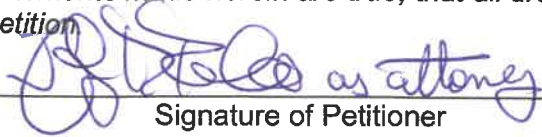
D. Suitability of the subject property for uses permitted by the current versus the proposed district: See attached Exhibit A

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

See attached Exhibit A

- 17. The petitioner encloses herewith the sum of \$ 1,265.00 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 20th day of February, 2024

Notary Public, Erie County, New York Pierce V. Young

Pierce V. Young
 Notary Public, State of New York
 Qualified in Erie County
 My Commission Expires: March 2, 2024

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.

Current Planning/Files/Application Forms 2019/Rezoning Application Form 2019

REVISED February 2021

Exhibit A

Paragraph 16(A)(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 requested amendment to allow four (4) luxury townhouse style apartment units provides a diversity of choice of property units in the area. The Wehrle Drive corridor from Transit to Youngs is characterized by a combination of medical and other office buildings, commercial development, recreational facilities, and some residential development. In addition, it will serve to enhance the community character by investing in the revitalization of an area that has not seen new housing in some time. This is consistent with the Shared Direction as set forth in Section 2.2 of the Comprehensive Plan as it enhances the diverse economy of the Town, strengthening the tax base, and using infill development as set forth therein.

Regarding “Aesthetic/Community Character” as set forth in the Comprehensive Plan, the rezoning will only add to the renowned beauty, character, and environmental quality of the Town. A first-class townhome style development seeks to “raise the bar” by adding a new lifestyle choice in an underserved area.

The “Revitalization” section of the Comprehensive Plan will also be enhanced as this proposal injects new life and new investment into the Town by providing a diverse choice of living for “empty nesters,” young professionals, or others seeking limited maintenance options.

This amendment is also consistent with the “Governance” section as the townhome style apartments do not introduce inconsistency or unfairness in zoning and land use.

Paragraph 16(A)(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.

The proposed rezoning is consistent with the Comprehensive Plan.

Paragraph 16(A)(3): State why the proposed zoning is consistent with intent and objectives (Sec. 1-2-2) of the Zoning Ordinance.

(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 rezoning is consistent with the objective of protecting the character and value of the existing land uses. The project adds a new, diverse housing option that will match the surrounding area and is an orderly and beneficial development.

(B) To provide adequate open spaces for light, air, and outdoor uses to include public, common and private open space areas.

The proposed rezoning is consistent with this objective.

(C) To prevent overcrowding of the land.

The proposed rezoning will not result in overcrowding of the land.

(D) To prevent excessive concentration of population and to prevent sparse and uncoordinated development.

The proposed rezoning will not cause excessive concentration of population and the project is a coordinated development effort.

(E) 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.

Please see the answer to Paragraph 16(A)(1) above regarding consistency with the Comprehensive Plan.

(F) To protect persons and property from damage and injury due to fire or flood.

The project will not increase the likelihood of damage and injury due to fire or flood. The townhomes will be constructed in accordance with New York State Building Code including the fire and flood standards included therein.

(G) To preserve and protect significant natural features and vegetation, thereby preventing ecological damage and visual blight which occur when those features or vegetation are eliminated or substantially altered to serve development purposes only.

The proposed rezoning is consistent with this objective.

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

The proposed rezoning will enhance the beauty and character of the area. The project calls for high end townhome style apartments that will match the sophistication of the surrounding buildings in a residential structure.

(I) 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 project will have direct access to Wehrle Road, and no additional traffic congestion is anticipated.

(J) 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.

The property has access to sanitary sewers and water lines along with public utilities to service the project.

(K) To guide the future development of the town so as to bring about the gradual conformity of land, structures and uses generally consistent with the policies of the Comprehensive Plan.

Please see the answer to Paragraph 16(A)(1) above regarding consistency with the Comprehensive Plan.

(L) To accomplish the specific intents and goals set forth in the introduction to the respective sections.

The proposed rezoning is consistent with this objective.

(M) To protect the community from visual pollution resulting from the unregulated use of signs and other advertising devices.

The proposed rezoning will not result in pollution from the unregulated use of signs and other advertising devices.

(N) Based upon evaluation by the State of New York, the Town Board declares that the use of land for hydrofracking would endanger the health, safety, and general welfare of the community.

Not Applicable.

Paragraph 16(C): Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood.

The proposed rezoning adds diverse housing and investment to the established neighborhood and does so with a context sensitive architectural and site design. The current Commercial Office designation is unworkable in today's environment. There are a multitude of empty office buildings in the immediate area. The proposed rezoning seeks to have the property classified as Mixed Residential. Mixed Residential is appropriate for roads like Wehrle Drive and as a buffer to more traditional single-family neighborhoods. This project coincides with the Mixed Residential classification as defined in the Comprehensive Plan.

Paragraph 16(D): Suitability of the subject property for uses permitted by the current versus the proposed district.

The property is suitable for uses allowed under the Commercial Office designation and the proposed Mixed Residential classification.

Paragraph 16(E): Whether the proposed change tends to improve the balance of uses or meets a specific demand in the Town.

The proposed rezoning will have positive impacts on the balance of uses in the Town and meets a specific demand. The four (4) townhouse style apartment units will offer diversity of choice and provide much needed housing options in the area. Moreover, there will not be another empty office building in the immediate vicinity.