



TOWN OF AMHERST
APPLICATION & REVIEW
PROCEDURE
REZONING

MATERIALS MUST BE PROVIDED IN AN ELECTRONIC FORMAT THAT CONTAINS PDF FILES OF THE APPLICATION, EAF, CONCEPTUAL DEVELOPMENT PLAN, SURVEY, ANY OTHER SUPPORTING INFORMATION, AND A WORD DOCUMENT OF THE LOCAL LAW. THIS MUST BE SUBMITTED WITH YOUR APPLICATION.

APPLICATIONS WILL NOT BE TRANSMITTED WITHOUT THIS ELECTRONIC INFORMATION.

THIS ALSO APPLIES TO REVISED MATERIALS THAT ARE SUBMITTED.

This application package includes the following:

- Application Procedures
- Application Form & Checklist
- Appendix A Town of Amherst EAF Addendum
- Appendix B Criteria for Required 8½" x 11" Sketches
- Appendix C Erie Sewer District No. 5 – Commercial / Industrial New & Existing Buildings Requirements
- Appendix D Draft Local Law Form
- Appendix E Submittal of Revised Survey & Legal Description Form

- **IMPORTANT** -

1. Applicant obtains application from the Planning Department, 5583 Main Street, Williamsville, NY 14221, by phoning (716) 631-7051 or on-line at www.amherst.ny.us (keyword: Planning).

The application shall be executed or consented to in writing by persons having legal standing as defined in Section 8-2-2 of the Zoning Ordinance.

2. A pre-submittal consultation with Planning Department staff is *strongly recommended* prior to submitting an application. The pre-submittal meeting gives the applicant an opportunity to discuss with staff such items as:
 - consistency of the proposed rezoning with the adopted Bicentennial Comprehensive Plan
 - determining what specific information will be required to be submitted with the application
 - identifying and discussing issues that must be addressed as part of the SEQR review.

An appointment is required for all meetings with Planning Department staff.

3. The rezoning petition is subject to the requirements of 6 NYCRR Part 617, State Environmental Quality Review Act (SEQR), and Chapter 104 of the Town of Amherst Code, as amended. The Environmental Assessment Form (EAF) must assess the cumulative impacts associated with the rezoning (and the Comprehensive Plan amendment, if applicable). The Town Board cannot make a SEQR determination unless a complete EAF is submitted along with the Town of Amherst EAF Addendum (attached Appendix A) and any required supplementary information, such as traffic impact studies, archaeological reports, wetland delineations or geotechnical reports. SEQR issues may be discussed with Planning Department staff at a recommended pre-submittal meeting. Unlisted Actions require a Short EAF; Type I Actions require a Full EAF. The following is a link to the NYSDEC website and fillable forms with instructions: <http://www.dec.ny.gov/permits/6191.html>.
4. Submittal of an application grants permission to Town staff and Board members to access the parcel(s) under consideration.
5. The rezoning request must be put in the form of a Local Law and submitted both as a paper copy and in electronic form as a Microsoft Word document. See Appendix D, attached.

APPLICATION PROCEDURES

1. Applicant prepares and submits one complete application with attachments to the Planning Department for review prior to filing.
2. After approval for filing by the Planning Department, the applicant files **thirteen (13)** copies of the completed application and attachments with the Planning Department and submits the required fee and one copy of the application package to the Town Clerk. (See Schedule of Fees on first page of application and make checks payable to: Town of Amherst.) Each package must be collated, with larger sheets folded into no larger than 9" x 12" size. The following information must be included in each application package:
 - A completed, signed and notarized application form with all required attachments
 - A conceptual development plan, drawn to scale (no larger than 24" X 36" in size)
 - An 8 ½" X 11" reduction of the conceptual development plan
 - Boundary survey prepared by a NYS licensed land surveyor that shows the acreage of the parcel, acreage of the area to be rezoned, zoning of adjacent properties and all other typical survey data
 - A legal description of the area proposed to be rezoned
 - The legal description in the form of a draft local law (see Appendix D) and provided **as a Word document**
 - A completed and signed Environmental Assessment Form (EAF), including any required supplementary reports such as traffic studies, geotechnical reports, archaeological surveys, or wetland delineation reports
3. The applicant returns a copy of the filing receipt to the Planning Department.
4. The Planning Department transmits copies of the application and materials for a review by:
 - Commissioner of Building
 - Town Engineer
 - Superintendent of Highways
 - Traffic / Safety Board
 - Fire Chiefs' Association
 - Town Attorney
 - Zoning Enforcement Officer
 - Other Town and outside Agencies, as applicable
5. Each agency completes its review and notifies the Planning Department in writing of its comments or recommendations as required by the Zoning Ordinance.
6. The Town makes an environmental assessment of the project to determine whether a draft Environmental Impact Statement (EIS) is required. The applicant will be advised in the event that a draft EIS is required and afforded the opportunity to prepare it. If he/she declines, the Planning Board will prepare the draft EIS at the applicant's expense. A public hearing will be held concurrently with all public hearings on the application itself.
7. The following procedures are established for submittal of revised documents: **All such documents must be provided in electronic format in addition to hard copies.**
 - A. **Revised Survey / Legal Description.** **Thirteen (13)** copies of any proposed revisions to the Survey or Legal Description must be approved and submitted to the Planning Department. The Planning Department will transmit one copy of the revised Survey/Legal Description to the Town Clerk and to review agencies as required. The corresponding local law must also be updated and provided. **APPENDIX "E", "Revised Survey / Legal Description submittal form"** must accompany the revised documents.

B. Other Revised Materials. The applicant must provide **thirteen (13)** complete sets of revised plans, reports, or materials as required to address review agency comments (recommend the applicant contact Planning staff to determine if fewer sets are needed). The revised submission should include, but is not limited to, the following:

- A cover letter addressing all comments received to date.
- Revised conceptual development plan drawings with the area of change "highlighted", along with a notation describing the change.

8. Planning Board Meeting Procedures. The applicant or representative must present the project at the public hearing before the Planning Board and be available to answer any questions at the meeting. The Planning Board may take any of the following actions:

- Adjourn the hearing to a future Planning Board meeting (hearing remains open).
- Close the public hearing and table action on the rezoning petition to the next Planning Board meeting.
- Close the public hearing and make a recommendation on the rezoning.

All determinations on matters before the Planning Board are made after all public hearings on that meeting's agenda are completed.

The Planning Board will hold both a hearing on the proposed action and a concurrent SEQR hearing. Upon receipt of all required SEQR materials, the Planning Board will make a SEQR recommendation and a recommendation on the proposed rezoning to the Town Board per the requirements of Sections 8-1, 8-2, and 8-3 of the Zoning Ordinance.

9. After the Planning Board issues its recommendation, it is the applicant's responsibility to submit a written request to the Town Clerk that a public hearing be scheduled before the Town Board. A copy of the request should also be submitted to the Planning Department.
10. A final determination on SEQR and the rezoning request will be made by the Town Board per the requirements of the Zoning Ordinance.

NOTE: Please check with the Planning Department to determine the deadline dates for filing applications. Because of the public hearing notice and departmental reviews, no zoning change application will be placed on the Planning Board agenda after the deadline for filing has closed.



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: \$ _____

TO BE COMPLETED BY APPLICANT**1. Petitioner:**

Name: LMK Realty Associates, LLC
 Address: 8525 Porter Road
Niagara Falls NY 14304
 City State Zip Code
 Phone: (716) 609-1599 Fax _____
 E Mail: Nick Massaro -- nmassaro@lmkrealty.net

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

From: DC-3 and R-3 District
 To: MFR-5 District

3. Street address of land to be rezoned: (must be verified by Town Assessor's Office)

3765 Sheridan Drive
 SBL #: 67.12-5-79

4. Area of land to be rezoned (in acres): 1.86 acres**5. Owner of Land:**

Name: LMK Realty Associates, LLC
 Address: 8525 Porter Road
Niagara Falls NY 14304
 City State Zip Code
 Phone: 716-609-1599

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

Name: Kimberly Nason, Esq.
 Address: One Canalside 125 Main Street
Buffalo NY 14203
 City State Zip Code
 Phone: 716-504-5784 Fax _____
 E Mail: knason@phillipslytle.com

7. Petitioner's interest in property

- Option to purchase
- Owner
- Other (explain) _____

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. See Exhibit C (Survey) and Exhibit D

(Legal Description)

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

Liber N/A Page

11. Information on proposed project:

A. Description of the character of the proposed development: _____

See Letter of Intent.

B. Rationale for rezoning request:

1. Why was this site chosen? _____

See Letter of Intent.

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

See Letter of Intent.

3. How will this rezoning impact surrounding properties? _____

See Letter of Intent.

4. How will this rezoning impact the school system? _____

See Letter of Intent.

12. Quantitative Data:

- A. Total # of dwelling units 48 units
- B. Distribution of dwelling units by type 12 one-bedroom and 36 two-bedroom unit
- C. Gross Residential Density per acre 25.81 units/acre
- D. Total amount of Open Space 0.75 acres
- E. Proposed Non-Residential Floor Area None

13. Development Schedule:

- Start Approx. Spring 2027
- Finish Approx. 18 months.
- Stages (# of) N/A

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.

See 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.

See Letter of Intent.

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

See 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 DSCA will be provided at site plan review.
- 2. Storm Sewer/Drainage Discharge to NYSDOT system on Sheridan with on-Site private storm water management system.
- 3. Water Connection at road.
- 4. Other _____

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

See Letter of Intent

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

See Letter of Intent

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

See 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]
Signature of Petitioner

Subscribed and sworn to before me this 18th day of June, 2026

Notary Public, Erie County, New York [Signature] Michelle Curcione
Notary Public, State of New York
Reg. No. 01CU5082255

N.Y.S. General Municipal Law - Section 809 Disclosure in certain applications: Qualified in Niagara County
Commission Expires July 21, 2029

- 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

Rezoning Application Requirements and Checklist

The following checklist outlines the information required by the Town of Amherst to accept a Rezoning application. *It is strongly recommended that you make an appointment with Planning Staff to discuss what information will be needed to address the items shown on the checklist.*

Item No.	Item	Submitted	Official use
I Application Information			
1.0	Town of Amherst Rezoning / Comprehensive Plan Amendment Application Form (available from Planning Department)	X	
1.1	Name, address, and contact information of the petitioner	X	
1.2	Name and address of property owners(s) – if different than petitioner	X	
1.3	If petitioner is different than property owner, provide statement describing interest in property and a letter from the property owner authorizing the application	X	
1.4	Identify existing and proposed zoning and acreage of area proposed to be rezoned	X	
1.5	Parcel addresses and Section, Block, and Lot (SBL) numbers of all properties proposed to be rezoned. Indicate if a portion of any parcel is involved, if applicable	X	
1.6	Statement of planning objectives to be achieved by the proposed rezoning, including the following: <ul style="list-style-type: none"> How the proposed zoning and development plan meets the objectives of the Comprehensive Plan A description of the character of the proposed development The rationale behind the assumptions that are presented 	X	
1.7	Cite specific maps and/or figures in the Comprehensive Plan that must be amended to support the proposed zoning and provide suggested amendments	X	
1.8	A general statement about how any proposed open space will be maintained (if applicable)	N/A	
1.9	A development schedule indicating the approximate date when construction is expected to begin and be completed. Identify schedule of any proposed phasing of the development (attach pages as necessary)	X	
1.10	A statement of the petitioner's intentions regarding future sale or leasing of all or portions of the proposed development	N/A	
II Survey and Legal Description			
1.0	Complete boundary survey that includes all existing structures, acreage, legal description, and easements plotted to scale by a NYS licensed land surveyor	X	
1.1	Raised/wet seal and signature of licensed surveyor	X	
1.2	Clear delineation and acreage of area to be rezoned if different than property boundary	X	
2.0	Legal Description of the total area proposed to be rezoned. (must be consistent with area shown to be rezoned on boundary survey)	X	

Item No.	Item	Submitted	Official use
III Concept Plan (if required by the Planning Board)			
1.0	Conceptual development plan drawn to scale (no larger than 24" x36" format and folded into 8 1/2" x 11" size)	X	
1.1	North arrow	X	
1.2	Scale of drawing	X	
1.3	Property lines (existing and proposed)	X	
1.4	Unique natural features and tree cover	X	
1.5	Information on land controlled by the applicant located within 500 feet of the perimeter of the area proposed to be rezoned	X	
1.6	Location of all proposed structures and other improvements	X	
1.7	Number and type of dwelling units (if applicable)	X	
1.8	Gross square feet of commercial space (if applicable)	N/A	
1.9	Maximum structure heights	X	
1.10	Architectural sketches	X	
1.11	Existing and proposed contours	X	
1.12	Existing utility systems (sanitary sewers, water, storm drainage)	X	
1.13	Location of proposed storm water detention or retention facilities	X	
1.14	Proposed land use arrangement	X	
1.15	Location of all parking, loading, stacking and interior circulation drives	X	
1.16	Location of proposed curb cuts	X	
1.17	Location of cross access drives to adjacent parcels	X	
1.18	Pedestrian circulation system	X	
1.19	Location of NYSDEC wetlands (including buffer area) and/or federal wetlands; indicate jurisdictional status	X	
1.20	Location of floodway and 100-year floodplain (if applicable)	X	
1.21	Location and purpose of any proposed easements	X	
1.22	Location and proposed development of all open spaces, including parks, playgrounds, conservation areas, and dedicated open space; indicate intended ownership of such areas	N/A	
1.23	Additional data as required by the Planning Board		
V Other Required Information			
1.0	Completed and signed Environmental Assessment Form	X	
1.1	Soil boring report and geotechnical report prepared by a qualified Professional Engineer (if applicable)		
1.2	Traffic impact study (if applicable)		
1.3	Archaeological assessment (if applicable)		
1.4	Wetland Delineation report (if applicable)		
2.0	8 1/2" X 11" reduction of concept plan drawing (see appendix B)	X	
3.0	A CD containing a PDF of the complete submittal package, including all drawings.	X	

For official use only:

Approved/Date

Town of Amherst Planning Department 5583 Main Street Williamsville-NY-14221

(716) 631-7051- Fax: (716) 631-7153

X:\Current_Planning\Application Forms 2013 Working Doc\Rezoning\Rezoning Requirements and Checklist 10-08.doc