



## Phillips Lytle LLP

Via E-Mail and Hand Delivery

June 22, 2026

Town of Amherst  
Town Board and Planning Board  
ATTN: Daniel Ulatowski, Assistant Planning Director  
5583 Main Street  
Williamsville, New York, 14221

Re: 3765 Sheridan Drive  
Application for Zoning Map Amendment  
Proposed Multifamily Development

Dear Supervisor Lavin, Chairperson Chmiel, and Members of the Town Board and Planning Board:

We represent LMK Realty Associates, LLC (“**Developer**” or “**Applicant**”) in connection with the proposed development of two, three-story multi-family residential apartment buildings with on-site parking and other related site improvements (“**Project**”) located at 3765 Sheridan Drive (SBL: 67.12-5-79)<sup>1</sup> (“**Site**”) in the Town of Amherst (“**Town**”). Under the Code of the Town of Amherst’s Zoning Ordinance Chapter 203 (“**Zoning Ordinance**”) and the Town of Amherst Zoning Map (“**Zoning Map**”), the Site is currently split-zoned between the Deep Corridor 3 (“**DC-3**”) and Residential District 3 (“**R-3**”) zoning districts. To facilitate the proposed Project, Applicant is first seeking approval from the Town of Amherst Town Board (“**Town Board**”), in accordance with Zoning Ordinance § 8-3 and based upon input and feedback from Town staff, to rezone the Site to the Multifamily Residential District Five (“**MFR-5**”) zoning district (“**Zoning Amendment**”).

On behalf of the Developer, we submit this letter with supporting documentation to request the Zoning Amendment and detail its adherence to the Comprehensive Plan and Zoning Ordinance (“**Application**”). Applicant respectfully submits that the Project

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<sup>1</sup> Applicant is proposing a portion of the parking lot to be located on the adjacent property at 3755 Sheridan Drive (SBL: 67.12-5-80) that it currently owns.

ATTORNEYS AT LAW

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and Zoning Amendment is consistent with both the Comprehensive Plan and Zoning Ordinance, and the Zoning Amendment will allow the Project to proceed with further applications, including site plan approval and any required area variances, for the proposed development, which is well suited for the Site and meeting the Town's goals and residential needs. As such, enclosed herewith you will find a check for \$1,265 for the associated filing fee, along with eleven (11) copies of the Application with the following exhibits attached hereto and made part hereof:

- Exhibit A:** Concept Development Plan
- Exhibit B:** Conceptual Rendering
- Exhibit C:** Survey
- Exhibit D:** Legal Description
- Exhibit E:** Draft Local Law
- Exhibit F:** Short Environmental Assessment Form
- Exhibit G:** Rezoning Application Form

#### PROJECT DETAILS

Applicant: LMK Realty Associates, LLC

Applicant Address: 8525 Porter Road  
Niagara Falls, New York 14304

Attorney Contact: Phillips Lytle LLP  
Kimberly Nason, Esq.  
One Canalside  
125 Main Street  
Buffalo, New York 14203  
(716) 504-5784  
knason@phillipslytle.com

Project Location: 3765 Sheridan Drive  
Amherst, New York 14226

Parcel ID: SBL: 67.12-5-79



Zoning Districts: Deep Corridor 3 (DC-3) and Residential District 3 (R-3)

### PROJECT AND SITE DESCRIPTION

The Project proposes the development of the 1.86-acre Site with two, three story residential apartment buildings that will include twenty-four (24) units in each building, for a total of forty-eight (48) units. There will be approximately twelve (12) one bedroom units and approximately thirty-six (36) two-bedroom units. The Project will also include on-Site parking with sixty (60) parking spaces and sixteen (16) garage spaces, for a total of seventy-six (76) parking spaces. The Project includes interconnected sidewalks, landscaping, and perimeter fencing along the east and south property lines of the Site. Site access remains consistent, with the Site accessed from Sheridan Drive via a shared access drive with the adjacent parcel also owned by the Developer, which currently includes a Bassett Furniture store. The Project will also have access to existing walkways, bicycle lanes, and bus stops located along Sheridan Drive. The Project will not impact the existing drive north of the Site which provides access to the Northtown dealership parking lot that is located to the east of the Site. The two proposed apartment buildings will be aligned north to south and situated on the easternmost portion of the Site. The proposed parking garage is situated in the southwest portion of the Site. There is also one non-jurisdictional wetland located in the southwest portion of the Site that will not be impacted by the Project. See **Exhibit A (Concept Development Plan)** and **Exhibit B (Conceptual Rendering)**.

The proposed Zoning Amendment and the Project design, as explained above, were developed in collaboration with and during the course of multiple conversations with Town staff since January 2026, which included the Town of Amherst Planning Department ("**Planning Department**"), Town of Amherst Zoning Enforcement Officer ("**ZEO**"), Town Engineer, and Town fire officials. The proposed Project's design and details were revised to incorporate Town feedback, and the proposed Zoning Amendment to MFR-5 were all based upon input received from Town staff. Those Project design considerations included limiting the height to three-stories, and dividing the building complex into two separate buildings. We note that in prior Project iterations the Applicant originally proposed a design compliant with MFR-5 height requirements, but based upon feedback from the Town, the current proposed height of the Project is approximately 40 feet in order to incorporate the Town's preference for a



peaked design. Developer also worked with Town fire officials to ensure that local fire and emergency services have sufficient access and turnaround space for their vehicles, as well as safe and efficient access to all units and all sides of the two buildings. Fencing was added along the eastern and southern perimeter of the Site, with incorporated landscaping throughout the Site, in order to blend in and buffer the Project from adjacent single-family residential homes. See **Exhibit A (Concept Development Plan)** and **Exhibit B (Conceptual Rendering)**.

The Site is bounded to the north by Sheridan Drive with commercial businesses, motor sales businesses, and some multi-family residential apartments further north. Directly west and adjacent to the Site is the Basset Furniture store. Garnet Park is located just west of the Site, and the Northtown dealership parking lot and some single-family residential properties are located to the east of the Site. To the south of the Site is an existing wooded area and then further south are single-family residential properties. See **Exhibit A (Concept Development Plan)**, **Exhibit B (Conceptual Rendering)**, **Exhibit C (Survey)**, and **Exhibit D (Legal Description)**.

The Site is currently split zoned between the DC-3 zoning district, located in the front portion of the Site along Sheridan and the R-3 zoning district, located in the back portion of the Site. In accordance with the 2018 Town of Amherst Bicentennial Comprehensive Plan, adopted January 2, 2007 and amended in December 2020 ("**Comprehensive Plan**"), the Site is designated as a commercial/mixed use area per Figure 6 "Conceptual Land Use Plan," and the Site is also located in the suburban corridor per Figure 6-A "Commercial and Mixed Use Designation."

The surrounding zoning districts around the Site include the DC-3 zoning district and Recreation Conservation District ("**RC**") to the west. There are properties to the north of the Site that are zoned General Business District ("**GB**"), Motor Service District ("**MS**"), as well as some other MFR-5 zoned properties. To the east of the Site, there are properties zoned MS and R-3, while a majority of the properties located south of the Site are zoned R-3. Accordingly, with a mix of various zoning districts, the Project and Zoning Amendment will be compatible and consistent with the existing zoning footprint that surrounds and extends beyond the Site. The proposed Project is highly compatible with the surrounding area as a transition between single family residential homes and more commercial development. The proposed Project will not only provide landscaping and buffering from the single family residential homes, but will help to



meet the Town's mixed-use goals. See **Exhibit A (Concept Development Plan)** and **Exhibit B (Conceptual Rendering)**.

### **PROPOSED ZONING MAP AMENDMENT**

Pursuant to Zoning Ordinance § 8-3-1, the boundaries of the Town's Zoning Map from time to time may be amended, supplemented, changed, or modified as provided by New York State Town Law §§ 264 and 265, and may be initiated by the property owner of the property to be rezoned. Accordingly, the Zoning Amendment may be initiated by the Developer, as the property owner, and the Town Board is tasked with reviewing and approving such requests, after receiving a recommendation from the Planning Board. *See* Zoning Ordinance §§ 8-3-4 and 8-3-6.

As described above, the Site is split zoned between the DC-3 zoning district and the R-3 zoning district. In accordance with Zoning Ordinance § 5A-3-4, the DC-3 zoning district is intended for deep corridor parcels (over 200' deep) that are appropriate for three-story buildings and have excessively long blocks that are broken up by new streets connecting within the district. The DC-3 district is intended to provide for a variety of retail, service, and commercial uses, as well as multi-family residences or offices.

The Project proposes multi-family residential apartments in the midst of a variety of commercial, retail, and residential properties, and as such, the DC-3 district is not compatible for the Project and the existing corridor along Sheridan Drive. The Project will be unable to meet the purpose of this zoning district as described in Zoning Ordinance § 5A-3-4, as well as the bulk requirements associated with the DC-3 district, such as setbacks, street type and frontage, activation, and the use of blocks. Furthermore, in accordance with the Zoning Ordinance § 203-3-6.2, multi-family attached dwellings are not a permitted use in the R-3 district. Through feedback from and collaboration with the Planning Department, and consistent with the surrounding uses and Comprehensive Plan, Developer is proposing to rezone the property into the MFR-5 zoning district in order to remove the split zoning and allow for the multi-family residential apartments that are more compatible with the current uses surrounding the Site. See **Exhibit E (Draft Local Law)**.

The MFR-5 zoning district provides for medium-density multifamily development where the relationship among buildings and between wings of a single building assures



adequate light and air to residents and protection to and from surrounding development. *See* Zoning Ordinance § 3-11. The MFR-5 zoning district permits attached dwellings, such as the proposed Project here. Through the feedback of Town staff, the proposed Project has limited the building height to three-stories, with a 40' height proposed to accommodate Town design preference, and proposes two separate buildings to allow for adequate light and air for residents, and the Project will be buffered with fencing and landscaping from those single-family residences. See **Exhibit A (Concept Development Plan)** and **Exhibit B (Conceptual Rendering)**.

Accordingly, the proposed Project incorporates initial Town feedback, and is consistent with the surrounding uses while meeting residential need in the Town. The Zoning Amendment eliminates restrictive split zoning, and is consistent with the Comprehensive Plan. Furthermore, it is more representative of the surrounding area and current developments and structures that contain a mix of commercial and residential properties, as well as other MFR-5 zoned properties just north of the Site. With this Zoning Amendment and with the proposed two three-story buildings, on-Site parking, and proposed perimeter fencing and landscaping, the Project will be visually appealing and more compatible with the other associated zoning districts and neighborhood surrounding the Site. See **Exhibit A (Concept Development Plan)** and **Exhibit B (Conceptual Rendering)**.

### REZONING ANALYSIS

In accordance with Zoning Ordinance § 8-3-5, in evaluating its recommendation, the Planning Board shall consider and make findings, and the Town Board must consider, certain approval criteria. Because a Zoning Amendment is a matter of legislative discretion, it is not controlled by any one of the approval standards, but rather on a balancing of the standards. Accordingly, below you will find the approval criteria set forth in Zoning Ordinance § 8-3-5, along with an explanation describing how each has been addressed and, as applicable, an exhibit reference directing your attention to the relevant materials.

- 1. The proposed zoning and development plan is generally consistent with the policies of the Comprehensive Plan and this Ordinance.**



*APPLICANT'S RESPONSE: As explained in detail above, the Applicant is proposing a Zoning Amendment in order to eliminate the restrictive split zoning and to better reflect the existing commercial and residential land uses along Sheridan Drive and surrounding the Site. The Comprehensive Plan contains specific goals, objectives, and policies related to land use development, housing, and neighborhoods. See Comprehensive Plan §§ 3.2 and 8.2. The Comprehensive Plan calls for the Town to expand mixed-use development by supporting a mix of housing and commercial use, as well as redeveloping and revitalizing underutilized and vacant properties for economically viable uses. See Policy §§ 3-1 and 3-9. The proposed rezoning of the Site to an MFR-5 zoning district is consistent with these two policies as the Zoning Amendment and Project will restore currently vacant land to an active use, by providing attractive multi-family residential facilities to an already well-established mixed-use suburban corridor in the Town. The Project will complement the surrounding neighborhood and existing land uses by limiting the height of the structures to three-stories with a peak design and separating the buildings to provide light and air to residents and protection to and from the surrounding development. See **Exhibit A (Concept Development Plan)** and **Exhibit B (Conceptual Rendering)**.*

*Furthermore, the Comprehensive Plan also calls for the Town to promote the development of a variety of housing types and encourage higher density residential uses in mixed-use developments. See Policy §§ 8-2 and 8-3. The Zoning Amendment and Project will contribute to the Town's diverse housing stock that will be located in a well-established mixed-use suburban corridor.*

*As previously stated above, the Site is designated as a commercial/mixed use area per Figure 6 "Conceptual Land Use Plan," and is also located in the suburban corridor per Figure 6-A "Commercial and Mixed Use Designation." Accordingly, the Zoning Amendment is consistent with the Town's generalized future pattern of the surrounding area as a mixed-use development of residential and commercial that will continue to support the Town's commitment to strengthening commercial and mixed-use opportunities. See Policy § 3.3.2, p. 3-33. In addition, the Zoning Amendment is consistent with the suburban corridor designation as it is located and will contribute to the common commercial and mixed-use center type along Sheridan Drive that incorporates both commercial development and adjacent single- or multi-family homes. See Policy § 3.3.2, p. 3-39. The Project will reduce impacts to the adjacent residential properties by limiting the height of the structures to three-stories with a peak design and incorporating landscaping and perimeter fencing. See **Exhibit A (Concept Development Plan)** and **Exhibit B (Conceptual Rendering)**.*



*Lastly, the Zoning Amendment is generally consistent with the intent and objectives of the Zoning Ordinance set forth in Section 1-2-2. The Zoning Amendment will eliminate the split zoning of the Site to allow for the construction of multi-family residential apartments that are more compatible with the surrounding character of a well-established mixed-use area. Applicant is proposing, based upon feedback from Town staff, two, three-story apartment buildings that blend with and are aesthetically harmonious with nearby commercial and residential areas and structures and provide a transition between areas with single family homes and commercial development.*

*The Project as currently proposed will require variances including building height<sup>2</sup>, density, front parking setback, building coverage, and landscaping. A parking waiver will also be sought from the Town ZEO as part of the site plan approval process. The requested variances are required due to the unique shape of the parcel and proposed building design as determined in consultation with Town staff, and the Applicant looks forward to additional Town feedback as the Application proceeds. With this Zoning Amendment, the Developer will be able to achieve the Town's Comprehensive Plan goals of guiding future development in this area to a gradual conformity of a mixed-use development pattern of land and structures. See **Exhibit A (Concept Development Plan)** and **Exhibit B (Conceptual Rendering)**.*

*Accordingly, for all the reasons stated above, Applicant respectfully submits that the Zoning Amendment is consistent with the policies of the Comprehensive Plan and Zoning Ordinance.*

**2. Whether or not there are adequate services and utilities available or proposed to be made available in the construction of the development.**

*APPLICANT'S RESPONSE: The Site is near adequate and available services and utilities for the construction of the proposed Project. Water utilities will be interconnected with existing connections located along Sheridan Drive. Applicants will also submit a downstream sewer capacity analysis to the Town during site plan review. Lastly, storm sewer and drainage will be discharged to the existing NYSDOT system on Sheridan Drive, and Applicant will plan to construct an on-Site private storm water management system. Accordingly, it is not anticipated that the proposed Project will exceed the available infrastructure capacities. See **Exhibit A (Concept Development Plan)** and **Exhibit B (Conceptual Rendering)**.*

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<sup>2</sup> As mentioned height of the two buildings is currently proposed at approximately 40' in order to incorporate the peaked design as requested by the Town. See **Exhibit B (Conceptual Rendering)**.



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

*APPLICANT'S RESPONSE: The Zoning Amendment and Project is compatible with the present zoning and conforming uses of nearby properties and with the character of the neighborhood. As explained above, the existing zoning districts and uses surrounding the Site are a mix including RC, GB, MS, R-3, and other MFR-5 designated properties. The Zoning Amendment will be compatible and consistent with the existing zoning footprint that surrounds and extends beyond the Site. The development of the Site into multi-family residential apartments will blend in with and serve as a transition area for the existing commercial and residential structures of the nearby properties, as it will be limited to three-stories and include appropriate landscaping and fencing. Therefore, the Zoning Amendment will complement and enhance the Town's established mixed-use zoning. See **Exhibit A (Concept Development Plan)** and **Exhibit B (Conceptual Rendering)**.*

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

*APPLICANT'S RESPONSE: As previously explained above, the present zoning of the Site is split zoned between DC-3 and R-3 which restricts the type of development that is permitted on the Site. The Site is also a unique L-shaped property which limits the available development options and further is complicated by the split zoning. The DC-3 district has restrictive mixed-use design standards and bulk requirements, while the R-3 district does not permit multi-family attached dwellings. The MFR-5 zoning district addresses areas within the Town for medium-density multifamily development, and permits the development of multi-family attached dwellings, and further, was recommended by Town staff. Accordingly, the Zoning Amendment as proposed is more suitable for the Site and the proposed Project, and consistent with the Comprehensive Plan, as compared to the current zoning district designation. See **Exhibit A (Concept Development Plan)** and **Exhibit C (Survey)**.*

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

*APPLICANT'S RESPONSE: Applicant respectfully submits that the Zoning Amendment will improve the balance of uses in the Town. The Site currently sits vacant along the well-established Sheridan corridor that has grown into a mix of commercial and residential uses. The Zoning Amendment will provide a balance against the existing commercial uses and will*



*connect with, but not impact, the existing residential properties, which provides for a transition between areas with single family homes and commercial development. The proposed Project will be limited in story height to blend into the surrounding commercial and residential uses, and will include landscaping and fencing so as to not disturb those existing residential properties. See **Exhibit A (Concept Development Plan)** and **Exhibit B (Conceptual Rendering)**.*

In addition to the approval criteria, the Town's rezoning application form includes certain questions pertaining to the rationale of the Zoning Amendment. Thus, below you will find the Town's rezoning application questions as it relates to the rationale of the Zoning Amendment, along with an explanation describing how each has been addressed and, as applicable, an exhibit reference directing your attention to the relevant materials.

**1. Why was this site chosen?**

*APPLICANT'S RESPONSE: Applicant currently owns this Site, as well as the adjacent site housing the Bassett Furniture. The Site has been vacant for some time, and the Applicant has been unable to lease, sell, or develop the Site due to the unique L-shape of the Site and the restrictive and split zoning requirements. Developer seeks the Zoning Amendment in order to move forward with the proposed Project and to achieve the Town's goal in enhancing a mixed-use area while still conforming with the established commercial and residential uses nearby the Site. See **Exhibit A (Concept Development Plan)** and **Exhibit C (Survey)**.*

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

*APPLICANT'S RESPONSE: As previously explained above, Applicant respectfully submits that the present zoning of the Site is split zoned between DC-3 and R-3 which restricts the type of development that is permitted on the Site. The DC-3 district has restrictive mixed-use design standards and bulk requirements, while the R-3 district does not permit multi-family attached dwellings. Accordingly, the proposed Project cannot be developed on the Site under its existing zoning district, and therefore requires the Zoning Amendment.*

**3. How will this rezoning impact surrounding properties?**

*APPLICANT'S RESPONSE: Applicant respectfully submits that the Zoning Amendment will have minimal impact to the surrounding properties, as the properties surrounding the Site and Sheridan Drive corridor are a mix of commercial and residential uses. The Project proposes screening from residential properties. Therefore, introducing the MFR-5 zoning district will not*



*adversely impact the area, but instead remedy the Site's split zoning designation and be more consistent with the Town's goal in establishing a mixed-use development area, as well as provide a transition between areas with single family homes and commercial development.*

#### **4. How will this rezoning impact the school system?**

*APPLICANT'S RESPONSE: Applicant respectfully submits that the Zoning Amendment will have minimal to no impacts to the school system. Although the Project may bring forth new Town residents, it will not create a burden on the school system given the limited number of units proposed. If anything, the Zoning Amendment, and proposed Project, will convert a vacant lot and bring additional school tax dollars to the Town.*

#### **RECOMMENDATION BY PLANNING BOARD**

Pursuant to the Zoning Ordinance § 8-3-4, the Planning Board is tasked with issuing a recommendation to approve, approve with modifications, or disapprove the Zoning Amendment, and forward the recommendation to the Town Board. Based on the forgoing, we respectfully request that the Planning Board provide a favorable recommendation to the Town Board to approve the Zoning Amendment as it is consistent with the Town's Comprehensive Plan and the regulations, standards, and purpose of the Zoning Ordinance.

#### **STATE ENVIRONMENTAL QUALITY REVIEW ACT**

Prior to taking action on an application, the New York State Environmental Quality Review Act ("SEQRA") requires a governmental agency to undertake an environmental review of a project to assess whether the action has the potential to have a significant adverse environmental impact. In this case, the action is an Unlisted Action under SEQRA. As an unlisted action pursuant to SEQRA, we understand the Town Board may conduct a coordinated review of the project (see 6 NYCRR § 617.6(b)(3)), and we respectfully request that the Town Board begin its coordinated review and establish itself as Lead Agency for purposes of SEQRA by sending notice to any interested and involved agencies. To aid the Town Board in determining whether the Zoning Amendment may have a significant adverse impact upon the environment, Applicant has submitted Short Environmental Assessment Form as provided in **Exhibit F**. Applicant respectfully submits that based upon the proposed Project details and Zoning



Amendment described above, there are no significant adverse environmental impacts and a Negative Declaration is appropriate.

**GENERAL MUNICIPAL LAW REFERRAL**

To the extent this Application requires referral under GML 239-m to the Erie County Department of Environment and Planning, we ask that this Application be so submitted.

**CONCLUSION**

Based upon the information provided herein, we respectfully submit that a rezoning of the Site to MFR-5 to facilitate the Project is appropriate and consistent with the goals of the Comprehensive Plan and Zoning Ordinance.

On behalf of Developer, we respectfully request that the Town Planning Department determine that the Application is complete, and further, that it schedule a public hearing with the Planning Board. We also request that the Planning Board recommend approval of the Application. Finally, we ask the Town Board to approve the request to rezone the Site to MFR-5. We look forward to discussing the Zoning Amendment with the Planning Board and Town Board. In the meantime, should you have any questions or require additional information to process the Application, please do not hesitate to reach out.

Very truly yours,

Phillips Lytle LLP

By /s/ *Kimberly R. Nason*

Kimberly R. Nason

KRN



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June 22, 2026

cc: Nick Massaro - via email only  
Chris Wood, P.E. - via email only

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