

A regular Town Board Meeting of the Town of Hamburg, County of Erie and State of New York was held at the Town Hall, S-6011 South Park Avenue, Hamburg, New York on the 10th day of December 2007.

TOWN BOARD MEMBERS

PRESENT:

Steven J. Walters	Supervisor
D. Mark Cavalcoli	Councilman
Joan A. Kesner	Councilwoman
Thomas Quatroche, Jr.	Councilman
Richard A. Smith	Councilman

OTHERS PRESENT: Catherine A. Rybczynski, Town Clerk; Richard Boehm, Deputy Town Attorney; Mary Dosch, Sr. Account Clerk; James Connelly, Highway Superintendent; Carmen Kesner, Chief of Police; John Farrell, Director of Senior Services; Drew Reilly, Planning Consultant; Gerald Koenig, Planning Board Chairman; Martin Denecke, Director of Recreation; Gerard Kapsiak, Town Engineer; Kurt Allen, Supervising Code Enforcement Officer; Tim Ellis, Traffic Safety Coordinator

Pledge of Allegiance was recited.

Information on fire exits was provided.

Supervisor Walters starts the meeting with an award honoring Connor Pelkey for dialing 911 and saving the life of his mother. The 911 call was played for all in attendance.

Chief Kesner awards Connor Pekley with the Hamburg's first Little Hero's Award. Dispatcher Sweetland was awarded the Meritorious Service Award.

Councilman Cavalcoli announces the Beautification Awards as follows:

- a) Pizza Hut - Wing St.
- b) Bella Day Spa
- c) Heidi Hair Craft
- d) Purses by Danielle
- e) Chiachia & Fleming

Councilman Cavalcoli also thanks Jim Connolly and his crew for the work and the lighting committee and employees for lighting up Town Hall and decorating.

1.

On a motion of Councilman Smith, seconded by Councilman Quatroche, the following resolution was

ADOPTED Ayes 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes 0

RESOLVED, that the Town Board approve the minutes of the following meetings:

November 19, 2007 Town Board Meeting
December 3, 2007 Work Session

2.

On a motion of Councilman Cavalcoli, seconded by Councilwoman Kesner, the following resolution was

ADOPTED Ayes 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes 0

BE IT RESOLVED, that the New Era Cap Company request for rezoning be removed from the table.

3.

On a motion of Councilman Cavalcoli, seconded by Supervisor Walters, the following resolution was

ADOPTED Ayes 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes 0

WHEREAS, the Town of Hamburg received a rezoning application from New Era Cap Company for a parcel of land located at 4817 Lake Avenue from M-1 to C-2; and

WHEREAS, in compliance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Hamburg Town Board has reviewed this rezoning request; and

WHEREAS, the rezoning of the property will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public and is consistent with social and economic consideration;

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Hamburg, County of Erie and State of New York, being part of Lot 35, Township 10, and Range 7 of the Buffalo Creek Reservation, bounded and described as follows:

BEGINNING at a point in the southerly line of Lake Avenue, as widened, at the southeast corner of land conveyed to the County of Erie by deed recorded in the Erie County Clerk’s Office in Liber 7784 of Deeds at page 336 on April 9, 1973, said point of beginning being 38.22 feet south of a point in the north line of said Lot No. 35, distant 333.64 feet westerly from the northeast corner of said Lot No. 35; thence southerly along the west line of land conveyed to James Colangelo and Nicholas Pasquarelle by deed recorded in the Erie County Clerk’s Office in Liber 4225 of Deeds at page 570 on November 12, 1947 a distance of 236.78 feet to the southwest corner of lands conveyed to Colangelo and Pasquarelle as aforesaid; thence easterly along the south line of land conveyed to Colangelo and Pasquarelle aforesaid, a distance of 46 feet to a point; running thence southerly at right angles, 579 feet to a point; running thence northerly at right angles, 808.11 feet to a point in the southerly line of Lake Avenue, as widened, in the south line of said lands conveyed to the County of Erie by deed aforesaid; running thence easterly along said southerly line of Lake Avenue, as widened, being along the southerly line of lands conveyed to the County of Erie by deed aforesaid, 504.14 feet more or less to the point or place of beginning.

5., 6., 7.

On a motion of Supervisor Walters, seconded by Councilman Quatroche, the following resolutions were

TABLED	Ayes 0	
	Noes 5	Walters, Cavalcoli, Kesner, Quatroche, Smith

BE IT RESOLVED, that the Stephen Dolber request for rezoning be removed from the table.

6.

WHEREAS, the Town of Hamburg received a rezoning application from Stephen Dolber for a parcel of land located at 5363 Southwestern Boulevard to be rezoned from R-2 to C-2; and

WHEREAS, in compliance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Hamburg Town Board has reviewed this rezoning request; and

WHEREAS, the rezoning of the property will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public and is consistent with social and economic consideration;

NOW, THEREFORE, BE IT RESOLVED, that the Town of Hamburg has determined that the proposed rezoning is not anticipated to result in any significant effect on the environment and that a Negative Declaration is hereby issued.

BE IT FURTHER RESOLVED, that the Supervisor be authorized to sign the Environmental Assessment Form.

7.

WHEREAS, the Town of Hamburg received a rezoning application from Stephen Dolber for a parcel of land located at 5363 Southwestern Boulevard from R-2 to C-2, and

WHEREAS, the Code Review Committee has reviewed the application and found merit in the rezoning of this property; and

WHEREAS, the Hamburg Town Board did refer this rezoning request to the Planning Board for its review and recommendation; and

WHEREAS, on October 17, 2007 the Hamburg Planning Board did issue a positive recommendation to the Town Board with conditions regarding this request; and

WHEREAS, on November 19, 2007 the Town of Hamburg Town Board held the required public hearing and received comments from the public; and

WHEREAS, the requested rezoning is in compliance with the Town of Hamburg Comprehensive Plan; and,

WHEREAS, the Hamburg Town Board has issued a Negative Declaration;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Hamburg hereby rezones the parcel located at 5363 Southwestern Boulevard from R-2 to C-2 with the following conditions:

1. There will be no vehicular access to Abel Road.
2. No automotive uses will be allowed on the property, including sales, services, gasoline stations.
3. An appropriate landscaped buffer will be provided along Abel Rd. (to be approved during Site Plan Approval).

BE IT FURTHER RESOLVED, that the zoning code of the Town of Hamburg be amended as follows:

To amend Local Law #10 of the year 1986 of the code of the Town of Hamburg entitled “Zoning” to provide for a change in the boundary of the zoning map whereby the zoning is changed from R-2 to C02 for property located at 5363 Southwestern Blvd. and further described as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Hamburg, County of Erie and State of New York, being part of Lot 29, Township 9, Range 8 of the Holland Land Company’s Survey, bounded and described as follows:

BEGINNING at the southeast corner of Lot 29 in Able Road;

Thence westerly along the south line of Lot 29 a distance of 417.8 feet;

Thence northwest at right angles to Southwestern Boulevard 148.0 feet to the southeast line of Southwestern Boulevard;

Thence N 53 23' 28" E along the southeast line of Southwester Boulevard 448.86 feet;

Thence N 53 23' 18" E along the southeast line of Southwestern Boulevard 193.0 feet to the east line of Lot 29;

Thence southerly along the east line of Lot 29 a distance of 502.55 feet to the point of beginning.

8.

On a motion of Councilman Cavalcoli, seconded by Councilman Smith, the following resolution was

ADOPTED	Ayes 3	Walters, Cavalcoli, Smith
	Noes 2	Kesner, Quatroche

WHEREAS, the Town of Hamburg Town Board established itself as Lead Agency, pursuant to Part 617.6 NYCRR Article 8 of the Environmental Conservation Law (State Environmental Quality Review [SEQR]), for the Lowe’s Home Improvement Center and issued a Positive Declaration on October 23, 2006, requiring an Environmental Impact Statement; and,

WHEREAS, the Town Board accepted the DEIS as complete on July 16, 2007 and held a public hearing and meeting regarding the Lowe’s Home Improvement Center Draft Environmental Impact Statement (DEIS) on September 24, 2007; and,

WHEREAS, the Town of Hamburg Town Board accepted agency and public comments and established their list of Substantive Comments to be addressed in the FEIS on October 1, 2007; and,

WHEREAS, The Town of Hamburg has established a Final Environmental Impact Statement (FEIS) for the proposed Lowe's Home Improvement Center that addresses all Substantive Comments.

WHEREAS, The action to be carried out is the one that avoids or minimizes, to the maximum extent practicable, adverse environmental impacts disclosed in the DEIS and FEIS and that adverse environmental impacts will be minimized or avoided, to the maximum extent practicable, by incorporating, as conditions to this decision, those mitigating measures that were identified as practicable.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Hamburg issues the attached Findings Statement for the Lowe's Home Improvement Center project; and

BE IT FURTHER RESOLVED, that the Findings Statement provides a rationale for the Town Board's decision regarding environmental impacts associated with the proposed action; and,

BE IT FURTHER RESOLVED, that the Findings Statement certifies that the requirements of 6 NYCRR Part 617 pertaining to Article 8 of the Environmental Conservation Law (State Environmental Quality Review [SEQR] have been met; and,

BE IT FINALLY RESOLVED, that the Town Board authorizes the Town of Hamburg Planning Department to complete the appropriate paperwork and filing requirements.

Drew Reilly explains that they went through a process of approximately six months. The questions were answered and are addressed in the findings statement. This is a resolution to approve those positive findings which are findings in favor of the project is either mitigated or found that the impacts aren't significant.

Councilman Cavalcoli questions if this resolution only accepts the findings and identifies and authorizes that these findings in fact represent the best mitigation possible for this project.

Councilman Quatroche thanks the applicant for taking the amount of time they took in addressing these issues. He still has some strong concerns regarding the out parcels. This project has done an outstanding job making sure the adjacent homeowner's needs have been met. He doesn't agree with the mitigation of findings to rezone at this time.

Councilwoman Kesner adds that this evening she will not support anything to advance this project. Her concerns today are the same as the first day she learned of this plan. She thanks Mr. Pohlman for working so hard to try to advance this project. Her concern is the effect of the

character of the Roundtree neighborhood. There are too many vacant stores and plazas around to move this. She hears the citizen’s concerns with regard to this. She will not support this due to the issue of the empty store fronts here in the Town, and this will set the tone for a ripple effect of another Niagara Falls Blvd.

Councilman Smith thanks the developers along with the Planning, Engineering and Traffic Safety Departments for taking a hard look at the traffic conditions. The State has agreed to put in a signal in at the one driveway location to help control the traffic. Many of the original concerns he has had with this project have been put aside through mitigation and that’s why he seconds the motion.

Supervisor Walters adds that he agrees with Councilman Smith. The biggest concern he had was the traffic signal to control traffic going in and out.

Councilman Cavalcoli notes that he supports this resolution. Growth has to be controlled and consistent. The Town needs to have the tax base stabilized with some sort of commercial or industrial development. This project is worth moving forward and he supports it.

9.

On a motion of Councilman Cavalcoli, seconded by Councilman Smith, the following resolution was

ADOPTED	Ayes 3	Walters, Cavalcoli, Smith
	Noes 2	Kesner, Quatroche

WHEREAS, the Town of Hamburg has received an application for rezoning, Special Use Permit and Site Plan Approval from Morada Bay Associates, LLC for the rezoning of 36.15 acres of vacant land located on the northeast corner of Southwestern Boulevard and Sowles Road, the construction of a 139,410+/- square foot Lowe’s Home Improvement Center and two outparcel developments that will each accommodate approximately 7,500 square feet of commercial uses such as banks, restaurants, retail; and,

WHEREAS, the Town of Hamburg Town Board, as Lead Agency, issued a Determination of Significance for a Positive Declaration for this project on October 23, 2006, requiring the completion of an Environmental Impact Statement; and,

WHEREAS, the Town Board issued a Positive Findings on December 10, 2007 in accordance with the State Environmental Quality Review Process, and

WHEREAS, the Town Board has held the appropriate public hearings, and

WHEREAS, the proposed development and requested rezoning is in compliance with the Town of Hamburg Comprehensive Plan

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Code of the Town of Hamburg be amended as follows:

To amend Local Law #10 of the year 1986 of the code of the Town of Hamburg entitled "Zoning" to provide for a change in the boundary of the zoning map whereby the zoning is changed from R-2 and R-3 to C-2 for approximately 36.15 acres of property located off of Southwestern Boulevard with the following conditions and as illustrated on the attached map and further described at the end of this resolution:

Conditions:

1. The buffers illustrated in the site plan included in the EIS, will be maintained in their natural state by the owners of the property. A conservation easement will be granted to the Town of Hamburg to help enforce this restriction and the owners of the site will provide a copy of a deed restriction on the property illustrating this "presentation".
2. Drainage design will be in accordance with the EIS statements of reduction in flows to the adjoining properties and be approved by the Town Engineer during final design.
3. The final design of the outparcels are dependent on the resolution of the issues outlined in the November 14, 2007 letter from the NYSDEC. If these issues cannot be resolved, the parcels may need to be reconfigured, reduced or eliminated.
4. The outparcels will be developed as described in the EIS, and not include any automotive uses (car sales, repair, gasoline stations, etc.)
5. The final Architectural design of the building will need to be approved by the Town Board with input from the Planning Board.
6. A traffic signal, restricted secondary access point and all of the other transportation improvements be installed as outlined in the FEIS and Findings Statement.
7. A Site Plan and Special Use Permit including all of the mitigations identified in the FEIS and Findings Statement be approved by the Planning Board.

All that tract or parcel of land situate in part of Town Lot 14, Township 9, Range 8, of the Holland Land Company's Survey, Town of Hamburg, County of Erie, State of New York, and being more particularly bounded and described as follows:

Beginning at a point on the easterly right-of-way line of Oregon Avenue (50.0' R.O.W.) at the northwest corner of lands now or formerly owned by Santino & Mary Carnevale having Tax Account # 170.66-02-17; thence

1. N00°32'16"E, a distance of 500.02 feet to a point; thence
2. S89°59'24"W, a distance of 198.51 feet to a point; thence

3. N00°49'30"E, a distance of 1,261.02 feet to a point; thence
4. N89°59'33"E, a distance of 1,104.33 feet to a point; thence
5. S00°19'30"W, a distance of 424.83 feet to a point; thence
6. S00°00'27"E, a distance of 744.30 feet to a point; thence
7. S55°45'17"W, a distance of 257.43 feet to a point; thence
8. N69°46'58"W, a distance of 28.22 feet to a point; thence
9. S55°45'17"W, a distance of 45.93 feet to a point; thence
10. S69°46'58"E, a distance of 28.22 feet to a point; thence
11. S55°45'17"W, a distance of 748.40 feet to a point; thence
12. S89°59'24"W, a distance of 56.93 feet to the point and place of beginning. Containing 36.848 acres of land, more or less.

10.

On a motion of Supervisor Walters, seconded by Councilman Quatroche, the following resolution was

ADOPTED Ayes 5 Walters, Cavalcoli, Kesner, Smith, Quatroche
 Noes 0

BE IT RESOLVED, that the Town Board approve the following personnel changes in the Building & Grounds Department:

1.	Darling, Paul	Working Crew Chief	Terminate	12/31/07
2.	Obad, Louis	Crew Leader	Terminate	12/31/07
3.	Granica, Michael	Maintenance Worker	Terminate	12/31/07
4.	Fisher, Pamela	Heavy Motor Equipment Operator	Terminate	12/31/07
5.	Sortisio, Chris	Heavy Motor Equipment Operator	Terminate	12/31/07
6.	Sullivan, Pat	Special Laborer	Terminate	12/31/07
7.	Granville, Pat	Motor Equipment Operator (LEO)	Terminate	12/31/07
8.	Ziobro, Scott	Laborer	Terminate	12/31/07
1.	Darling, Paul	Maintenance Worker	01/01/08	\$23.54
2.	Obad, Louis	Motor Equipment Operator (LEO)	01/01/08	\$22.45
3.	Granica, Michael	Heavy Motor Equipment Operator	01/01/08	\$22.99

4.	Fisher, Pamela	Laborer	01/01/08	\$21.88
5.	Sortisio, Chris	Laborer	01/01/08	\$21.88
6.	Sullivan, Pat	Laborer	01/01/08	\$21.88
7.	Granville, Pat	Laborer	01/01/08	\$19.70

Mr. Connolly, Highway Superintendent, notes that it is important for the public to realize how this is a big change and a significant improvement for the people of Hamburg and their sewer systems but it is a sensitive thing when these things happen. There will be a savings resulting for the people of Hamburg, but it effects the workers as well.

11.

On a motion of Councilman Cavalcoli, seconded by Supervisor Walters, the following resolution was

ADOPTED Ayes 5 Walters, Cavalcoli, Kesner, Smith, Quatroche
 Noes 0

WHEREAS, the Town of Hamburg Police solicited bids for a voting receiver system for the Town Police Radio System.

AND WHEREAS, two bids were received, same being:

Saia Communications	FM Communications
100 Stradtman Street	1914 Colvin Blvd.
Buffalo, NY 14206	Tonawanda, NY 14150
\$14, 219.75	\$13,885.00

THEREFORE, BE IT RESOLVED, that the Town Board authorizes the Police Department to purchase the voting receiver system from the lowest bidder, FM Communications, of Tonawanda, NY

Chief Kesner notes that with Police portable radios there are certain areas in the Town where there are dead spots. One will be placed in the north end and one in the south end of Town to improve communications for the department.

12.

On a motion of Supervisor Walters, seconded by Councilman Smith, the following resolution was

ADOPTED Ayes 5 Walters, Cavalcoli, Kesner, Smith, Quatroche
 Noes 0

WHEREAS, a study report on the effects of global warming on the Great Lakes has recently been issued by the National Wildlife Foundation, which presents the findings of various research groups and concludes that the Lake Erie water level could be nearly two feet lower by 2030 as a result of climate change and the increased demand for water associated with it; and

WHEREAS, the Hamburg Town Board and the Hamburg Shoreline Revitalization Committee are very concerned about this situation and the adverse effects that it would result in on our shoreline, drinking water systems, shipping, boating, fishing, and other recreational uses; and

WHEREAS, the Great Lakes - St. Lawrence River Basin Water Resources Compact has been developed by representatives of the eight States that border the Great Lakes, and endorsed by the Governors of each of the eight States. When enacted, this Compact will:

- Set environmental standards for managing new or increased water withdrawal proposals.
- Prohibit water diversions out of the basin, with limited exceptions.
- Establish protection for all the waters of the Great Lakes Basin, including tributary streams, rivers, and groundwater.
- Direct each State to establish water conservation programs.
- Establish public participation opportunities.
- Preserve the rights of each State to enact stronger protections.

THEREFORE BE IT RESOLVED, that the Hamburg Town Board expresses its support for the Great Lakes - St. Lawrence River Basin Water Resources Compact, and requests the New York State Legislature and United States Congress to ratify the Compact as soon as possible, in order to help preserve, protect, and restore the Great Lakes, and prevent the diversion of water from the Great Lakes to other parts of the country.

BE IT FURTHER RESOLVED, that the Town Clerk is requested to send certified copies of this resolution to Senator Charles Schumer, Senator Hillary Clinton, Congressman Brian Higgins, Senator William Stachowski, Assemblyman Jack Quinn, and the four Co-Chairpersons of the Congressional Great Lakes Task Force (Congressmen Vernon Ehlers, John Dingell, and Mark Kirk, and Congresswoman Louise Slaughter).

Councilman Smith notes he has had the privilege of working on this compact group for ten years, and is very happy and proud that the Board is in favor of it. This is a very important compact that must be signed and adhered to in the future to protect the Great Lakes

New York Contractors, Inc. of Rochester, New York in the amount of \$524,220, that the Town Supervisor is authorized to sign the contractual agreement with their firm, and that the Town Engineer is to issue the Notice of Award and Notice to Proceed at the appropriate times. Funding for this work is to be from bonds which have been issued for this project, as authorized by a bond resolution adopted by the Town Board on February 13, 2006.

17.

On a motion of Councilwoman Kesner, seconded by Supervisor Walters, the following resolution was

ADOPTED Ayes 5

Walters, Cavalcoli, Kesner, Smith, Quatroche
Noes 0

BE IT RESOLVED, that the Town Board approve the purchase of the annual software maintenance agreement with ESRI, Inc. For ArcGIS software for the following department: Assessing, Engineering, Building Inspection and Emergency Management. Total cost is \$1,168.00.

AND BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to sign the agreement.

18.

On a motion of Supervisor Walters, seconded by Councilwoman Kesner, the following resolution was

ADOPTED

Ayes 5 Walters, Cavalcoli, Kesner, Smith, Quatroche
Noes 0

WHEREAS the Town of Hamburg, in collaboration with the Village of Blasdell and Village of Hamburg, seeks grant monies in an amount not to exceed \$260,000 to rehabilitate the Town's Planning Department to accommodate a single Code Enforcement and Planning Department all within the Building Department in the Town of Hamburg;

WHEREAS: the Town of Hamburg, in collaboration with the Village of Blasdell and Village of Hamburg, are committed to reducing the cost of municipal services, while remaining committed to providing enhanced levels of code enforcement services in all three municipalities;

WHEREAS the Town of Hamburg, in collaboration with the Village of Blasdell and Village of Hamburg, are seeking capital funds to create a central Code Enforcement Department and Planning Department all within the Building Department in the Hamburg Town Hall for this consolidation to achieve municipal cost savings and property tax relief;

WHEREAS the Town of Hamburg, in collaboration with the Village of Blasdell and Village of Hamburg, will share in the decision-making processes related to the Code Enforcement Office;

WHEREAS the Hamburg Town Board has already begun providing consolidated Code Enforcement Department services for the Village of Blasdell and Village of Hamburg, and as such, support a consolidated Code Enforcement Office with services to be provided by the Town of Hamburg;

WHEREAS the Town of Hamburg will serve as the lead agency for the purposes of securing and administering this grant, and

WHEREAS the Town of Hamburg will provide the 10% cash match required by this grant, in an amount not to exceed \$26,000;

NOW, THEREFORE BE IT RESOLVED, that the Town of Hamburg acknowledges that Supervisor Steven J. Walters act as the Lead Applicant Contact Person to represent the Town of Hamburg and its partners to execute all financial and administrative processes related to the 2007-2008 Shared Municipal Services Incentive Grant with the Town of Hamburg, the Village of Hamburg, the Village of Blasdell, and New York State Department of State to make capital improvements required to consolidate the Code Enforcement Office for the Town of Hamburg, the Village of Hamburg and the Village of Blasdell.

Supervisor Walters notes that this is the renovations that this Town Board has previously approved in October where money was allocated for this application.

19.

On a motion of Councilman Quatroche, seconded by Supervisor Walters, the following resolution was

ADOPTED Ayes 5 Walters, Cavalcoli, Kesner, Smith, Quatroche
 Noes 0

RESOLVED, that the Town Board approve the personnel changes in the Building & Grounds Department as follows:

1. Grys, John	Laborer P/T	11/30/07	Terminate
2. Kales, George	Laborer P/T	11/30/07	Terminate
3. Scott, Joseph	Laborer P/T	11/30/07	Terminate
4. Figiel, Stanley	Laborer P/T	11/30/07	Terminate
5. Connolly, Thomas	Laborer P/T	11/30/07	Terminate
6. Gerken, John	Laborer P/T	11/30/07	Terminate

20.

On a motion of Supervisor Walters, seconded by Councilman Cavalcoli, the following resolution was

ADOPTED Ayes 4 Walters, Cavalcoli, Kesner, Quatroche
 Noes 1 Smith

WHEREAS, the Frontier Central School District, in collaboration with the Village of Blasdell and the Town of Hamburg, seeks grant monies in an amount not to exceed \$80,000 for a Feasibility Study to determine the practicality, location, size and cost savings of a Shared Transportation Facility in the northern portion of the Town of Hamburg;

WHEREAS, the Frontier Central School District and its partners, the Village of Blasdell and the Town of Hamburg, are committed to investigating how a Shared Transportation Facility can increase the efficiency of transportation and related services, including but not limited to the following future projects that may result if a Shared Transportation Facility is constructed, including a shared vehicle fleet and equipment, and storage/parking for these vehicles and equipment, shared road salt and sand, shared materials and equipment, and shared maintenance personnel;

WHEREAS, the Frontier Central School District and its partners, the Village of Blasdell and the Town of Hamburg, will share in the decision-making processes related to the hiring of a consultant or consulting firm to develop this Feasibility Study and will share decisions in all matters related to this grant application and its implementation;

WHEREAS, the Frontier Central School District supports the creation of a Shared Transportation Facility with the Town of Hamburg and the Village of Blasdell, and acknowledges that this Feasibility Study is the First step in creating such a Facility;

WHEREAS, the Hamburg Town Board understands that the Frontier Central School District will serve as the lead agency for the purpose of securing and administering this grant;

WHEREAS, the Frontier Central School District and its partners, the Town of Hamburg and the Village of Blasdell will enter into a Formal Intermunicipal Agreement, which specifically details the level and extent of the services to be shared through this Feasibility Study, and if mutually agreed upon, enter into a second Intermunicipal Agreement to implement the recommendations, in whole or in part, made in the Feasibility Study;

WHEREAS, the Frontier Central School District and its partners, the Town of Hamburg and the Village of Blasdell will equally share the 10% cash match required by the SMSI Grant for the Shared Transportation Facility Feasibility Study;

NOW, THEREFORE BE IT RESOLVED, that the Town of Hamburg authorizes Frontier Central School District Superintendent, Ronald G. DeCarli, as the Applicant Contact Person to represent the Frontier Central School District, the Town of Hamburg and the Village of Blasdell in applying for and securing this grant, and execute all financial and administrative processes related to the 2007-2008 Shared Municipal Services Incentive Grant with the New York State Department of State for a Shared Transportation Facility Feasibility Study.

Councilman Smith responds that this bothers him, spending that much money, for a facility that we have not met with the departments and Frontier Central on the impact is going to be. Frontier Central is a district that runs from the Town of Eden to the Village of Blasdell and to put all the buses at one end of the district is not in the best interest of the economy of transportation. Therefore, he is not supporting the resolution at this time.

Councilman Quatroche asks for clarification on whether this will move forward unless all parties share in the cost.

Supervisor Walters responds that all parties must agree. The cost would be split three way between the Town, Frontier and the Village of Blasdell. It would be a little over \$2,500 for each.

Councilman Cavalcoli notes that at this point they are looking at the feasibility and that's what this money is for. This doesn't mean they would move forward with the project. He feels they should proceed with it.

21.

On a motion of Councilman Quatroche, seconded by Supervisor Walters, the following resolution was

ADOPTED Ayes 5 Walters, Cavalcoli, Kesner, Smith, Quatroche
 Noes 0

RESOLVED, that the Town Board approve the opening of the one bid that was received on December 10, 2007 at 2:00 p.m. for one (1) 2008 New and Unused 4X4 4-door light utility truck.

22.

On a motion of Supervisor Walters, seconded by Councilman Cavalcoli, the following resolution was

ADOPTED Ayes 5 Walters, Cavalcoli, Kesner, Smith, Quatroche
 Noes 0

TOWN BOARD DECEMBER 10, 2007
AUDIT OF CASH DISBURSEMENTS

VOUCHER #'S

OPERATING FUND:

BATCH # 157	\$123,678.15	23205
BATCH # 158	\$64,993.51	23208-23300
BATCH # 159	\$540,000.00	23207
BATCH # 160	\$105,318.95	UNPROCESSED
BATCH #		

TOTAL OPERATING FUND DISBURSEMENTS: \$833,990.61

TRUST & AGENCY:

- BATCH #
- BATCH #
- BATCH #

TOTAL TRUST & AGENCY DISBURSEMENTS: \$0.00

CAPITAL FUND DISBURSEMENTS:

BATCH # 81	\$925,000.00	23206
BATCH # 82	\$61,431.99	UNPROCESSED
BATCH #		
BATCH #		
BATCH #		

TOTAL CAPITAL FUND DISBURSEMENTS: \$986,431.99

PAYROLL:

- PR #
- PR #
- PR#

TOTAL PAYROLL DISBURSEMENTS: \$0.00

PETTY CASH \$0.00

TOTAL CASH DISBURSEMENTS SUBMITTED FOR AUDIT: \$1,820,422.60

23.

On a motion of Supervisor Walters, with a unanimous second, the following resolution was ADOPTED Ayes 5 Walters, Cavalcoli, Kesner, Smith, Quatroche
Noes 0

A proclamation recognizing D. Mark Cavalcoli on his retirement from the Town Board of the Town of Hamburg.

Councilwoman Kesner compliments Councilman Cavalcoli and thanks him for his 24 years of service to the Town of Hamburg. She thanks him for being an asset to her and her career and appreciates his guidance and wisdom and welcomed knowledge.

Councilman Quatroche notes that on December 30th there will be a celebration for Councilman Cavalcoli so he will not say goodbye. He thanks him for his wisdom, he was the ultimate peace maker both in the audience and also behind the scenes when things would get a little hot. Mark's work was an example to towns across New York State. He brought projects to the Town that probably would have never moved forward.

Councilman Smith notes that the debates they have had through the years were good ones. The town has prospered well under Councilman Cavalcoli's leadership. As his friend and mentor, he thanks him on behalf of all the residents of the Town of Hamburg.

Supervisor Walters adds that Mark was probably the first one who approached him to go over things right away after the election. He was always someone that could be counted on. Mark made the transition a smooth one for him, he was always professional and had the good of the Town in mind. He thanks him for his years of service and expresses his gratitude.

Legislator Dan Kozub extends his gratitude and thanks to Councilman Cavalcoli and Councilman Smith and awards them a proclamation.

Legislator Bob Reynolds invites Councilman Cavalcoli to come to the Ledge on the Thursday at 2:00 p.m., he has a proclamation as well for him.

James Connolly adds that he's known Mark a long time and whenever he had a political question he went to Mark and whatever Mark said to do, he wouldn't do. He wishes Councilman Cavalcoli a great retirement.

George Lee notes that there would not be a Penn Dixie Site, and Councilman Cavalcoli got the first grant for that. After that, everything blossomed. He thanks Mark for all his work.

Chief Kesner congratulates Councilman Cavalcoli on his retirement and thanks him for all his hard work for his department.

Councilman Cavalcoli thanks everyone and reflects on his 24 years of service. He thanks Councilwoman Kesner for her grant work and sharing of information and support on projects as well as her friendship. He thanks Councilman Quatroche for his leadership and management skill that he brought to the Board. He thanks Councilman Smith for all his caring on whatever he does and has inspired him along the way. He commends Supervisor Walters for his growth during the past two years and listening and sharing with the Board. He welcomes Tom Best and Kevin Smardz to the Board and asks that they do the best they possibly can for the people of Hamburg. Not to bring politics into the Town Board or the citizens to save that for the campaign trail. Look out for each and every taxpayer and give it their whole heart. To all the Department Heads he thanks them all as well as the employees and taxpayers and his wife, Anne.

Councilwoman Kesner thanks Councilman Smith for his hard work this year and service to the Town.

Councilman Quatroche notes that Councilman Smith came out of his retirement to do this job and gave his heart and soul. He thanks him for his mentor ship and guidance and service.

Councilman Smith thanks the Town Board for giving him the honor of serving. He notes he will never stand for anyone criticizing the department heads, they are the real nuts and bolts of the whole operation to make the Town as great as it is. He wishes the two new councilmen the best of luck. He thanks everyone once again.

24.

On a motion of Councilman Cavalcoli, seconded by Councilman Smith, the following resolution was

ADOPTED Ayes 5 Walters, Cavalcoli, Kesner, Smith, Quatroche
 Noes 0

RESOLVED, that the Town Board Adjourn at 8:35 p.m.

Catherine A. Rybczynski, Town Clerk

State Environmental Quality Review
Lead Agency Findings Statement
Findings to Approve

Date: December 10, 2007

Pursuant to 6 NYCRR Part 617 pertaining to Article 8 of the Environmental Conservation Law (State Environmental Quality Review [SEQR]), The Town of Hamburg Town Board, as SEQR Lead Agency, issues the following findings:

Name of Action: Lowe's Home Improvement Center

Applicant: Morada Bay Associates, LLC
1941 David Road
West Falls, NY 14170

SEQR Status: Type 1, Positive Declaration

Description of Action: The proposed project involves the construction of a 139,410+/- square foot Lowe's Home Improvement Center and accessory 31,659+/- square foot outdoor garden display area on 36.9 acres. In addition, two outparcels are proposed at the front of the site along Southwestern Boulevard that will each accommodate approximately 7,500 square feet of commercial uses such as banks, restaurants, retail, etc. Access to the site will be from Southwestern Boulevard by way of two access drives, one full access controlled by a traffic signal and a right-in/ right-out secondary access.

The proposed project requires a rezoning of land from Single Family Residential - Attached (R-2) and Residential Multi-Family (R-3) to General Commercial (C-2). Part of the site is currently zoned C-2. The proposed project also requires a Special Use Permit because it involves a building of greater than 100,000 square feet in the C-2 Zoning District.

Location: The project site is located on the northeast corner of Southwestern Boulevard (US 62) and Sowles Road, immediately east of Oregon Road. The intersection of Southwestern Boulevard and Camp Road is to the southwest of this site.

Date FEIS Accepted as Complete: November 5, 2007

Contact: Andrew C. Reilly, P.E., AICP
Town of Hamburg Planning Department
56100 South Park Avenue
Hamburg, NY 14075
(716) 649-6111 or (716) 688-0766

Facts and Information Relied on to Support the Decision:

These Findings consider the relevant environmental, economic, and social impacts, facts, and conclusions disclosed in the Draft Environmental Impacts Statement (DEIS) and Final Environmental Impact Statement (FEIS) for the Lowe's Home Improvement Center. The Findings weigh and balance relevant environmental impacts with social, economic, and other considerations, and provide a rationale for the Town of Hamburg Town Board's decision regarding environmental impacts associated with the proposed action. These Findings also certify that the requirements of 6 NYCRR Part 617 pertaining to Article 8 of the Environmental Conservation Law (State Environmental Quality Review [SEQR]) have been met. They further certify that the action chosen is the alternative, consistent with social, economic, and other essential considerations from among the reasonable alternatives available, which avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating, as conditions, those mitigation measures that were identified as practicable.

Pursuant to 6 NYCRR Part 617 pertaining to Article 8 of the Environmental Conservation Law (State Environmental Quality Review [SEQR]), the applicant, Morada Bay Associates, LLC, submitted an application for rezoning, site plan approval, and special use permit to the Town of Hamburg. The Town of Hamburg Town Board determined that the action was a Type I Action and sought and received concurrence from other Involved and Interested Agencies to be the Lead Agency in the consideration of this proposed action. The Town Board determined that the proposed action may have a significant impact on the environment and issued a Positive Declaration on October 23, 2006, requiring the preparation of a Draft Environmental Impact Statement (DEIS). A public scoping session regarding the project was held on November 15, 2006. The applicant submitted the DEIS on June 18, 2007 and was accepted as complete by the Town Board on July 16, 2007, making it available for agency and public review and comment. A public hearing on the DEIS was held September 24, 2007 at the Hamburg Town Hall. In the creation of the FEIS, the Town Board reviewed and considered all agency and public comments and accepted the FEIS as complete on November 5, 2007. The FEIS addresses specific substantive comments raised during the public comment period and discusses changes to the project that were made to ensure that the project mitigates potential negative impacts to the fullest extent practicable.

Findings and Conclusions Supporting the Decision:

A. Potential Impacts to Land

The project site consists of five separate properties. Currently, there are two businesses (Reid Tire and Music Exchange) and two single family residential structures on the site. The majority of the site is wooded. Bisecting the site in an east-west direction is Waterfalls Village Creek, a tributary to Lake Erie.

Impacts

- The two commercial buildings (Reid Tire and Music Exchange) and one single family residence on the eastern portion of the site will be demolished.
- The proposed project will result in approximately 18.8 acres of the entire 36.9 acre site being disturbed, with the remaining 18.0 acres continuing in a natural state, including the wooded areas along the west, north, and east boundary of the site that will act as a buffer to the adjacent residential neighborhoods.
- The removal of asbestos from the Music Exchange Building will be necessary.
- The project is proposed to be constructed in two phases with the construction of the Lowe's Home Improvement Center being the first phase and the construction of the two outparcels taking place in the second phase.

Mitigations

- The single family residence on the western portion of the site contains a lifelong use exemption that will allow the structure to remain and have access to Oregon Avenue.
- Additional landscaping and greenspace will accompany the project throughout the site to bring the total amount of greenspace for the site to 22.7 acres.
- The fences, sheds, play sets that have been constructed by adjoining residents on the subject property will be permitted to remain under the project, but future intrusions onto the property will not be permitted through the covenants proposed to retain the vegetative buffer.

Findings:

The Town Board concludes that the following additional mitigation measures shall be incorporated into the project:

- The vegetative buffer will be owned and maintained by the property owner (Lowe's).
- A conservation easement shall be granted to the Town of Hamburg to preserve the vegetative buffer.
- Consideration should be given to rezoning the conservation portion of the site to Parks/ Recreation Lands (PR) Zoning District.
- A deed restriction shall be developed to ensure that the vegetative buffer will be preserved.

- Due to the impacts from the development on traffic (increases over what is permitted under present zoning) and impacts to the floodplain, wetlands, and aesthetic resources, the applicant should strongly consider elimination of the easterly outparcel.

The Town Board finds that with the mitigation measures proposed for this project, the potential impacts to land are not significant.

B. Potential Impacts to Water Resources

Bisecting the site in an east-west direction is Waterfalls Village Creek, which is a tributary to Lake Erie. There is an existing 100-year floodplain that encompasses the creek and nearby area, extending from the western portion of the property to the culvert under Southwestern Boulevard. An on-site investigation resulted in the identification of four wetland areas on the site totaling 2.341 +/- acres.

Impacts

- There is an existing 100-year floodplain that encompasses the creek and adjacent areas, extending from the western portion of the property to the culvert under Southwestern Boulevard. A portion of this floodplain will be filled to provide access to the site and to construct a parking lot over the existing culvert in the middle of the site.
- Portions of two wetlands, approximately 1.2 acres total, will be filled to provide access to the site.
- Due to the topography of the site and the locations of the catch basins, the depth of this stormwater retention pond ranges from 12 to 15 feet.

Mitigations

- Floodplain mitigation will include sizing the new culvert to adequately pass the flood water without impacting upstream or downstream facilities, decreasing the stormwater discharge rate between the existing and the proposed improvements, grading the site to provide no net loss of floodway volume, locating any new potential building outside of the base flood elevation, providing flood proofing of buildings and utilities, and the utilization of flood resistant materials.
- An off-site wetland mitigation replacement area of 2.5 acres will be developed at the Town Nike Base site.
- Following the construction of the Lowe's and other improvements to the site, stormwater runoff from new impervious areas will be conveyed to one of two stormwater retention facilities.
- After site improvements, the amount of stormwater conveyed off-site will be reduced. Pinewood Drive residents will realize a 27% reduction in the peak overland stormwater flow rates and the Heatherwood Drive residents will see a 34% - 35% reduction.
- The stormwater management facilities are designed to provide water quality and overflow protection. The design of the stormwater management facilities are in conformance with the

New York State Department of Environment and Conservation
Phase II Stormwater Permit Program and the NYS Stormwater
Management Design Manual.

- Temporary and permanent erosion control measures will be put in place to limit the amount of sediment buildup in on-site and downstream waterways.
- The outparcels will be developed as to minimize the impacts to the flood plain. If during design, the development cannot meet the requirements/issues raised in the NYSDEC letter dated 11/14/07, the outparcels will be re-designed or eliminated. Final site plan approval of the outparcels will not take place until these issues are resolved.

Findings:

The Town Board finds that with the construction of the stormwater management facilities and other mitigation measures proposed for this project, the potential impacts to water resources are not significant.

C. Potential Impacts to Utilities

Currently there is water service to the site provided by Erie County Water Authority (ECWA). Service extensions to the buildings will be constructed from the water main along Southwestern Boulevard. Sanitary sewer service to the site is provided by the Town of Hamburg Sewer District. Extensions will be constructed from the existing 8" main sewer line along Southwestern Boulevard.

Impacts

- A typical Lowe's store utilizes approximately 2,500 gallons of water per day. The proposed outparcels are estimated to use a combined 10,500 gallons of water per day, bringing the estimated total water consumption for the site to 13,000 gallons per day.
- The proposed Lowe's and outparcel developments are estimated to produce a combined 13,000 gallons per day of wastewater.

Mitigations

- Minor improvements to the water main between the site and Sowles Road as well as the construction of a 200 foot bypass main just west of Sowles Road at a meter location will be constructed to meet required fire suppression demands, and be approved by the Town's Engineering Department.
- Five fire hydrants will be placed around the perimeter of the Lowe's.
- The County and Town have indicated that sufficient sanitary sewer capacity exists.

Findings:

The Town Board finds that with the mitigation measures proposed for this project, the potential impacts to utilities are not significant.

D. Potential Impacts to Air Quality

The total concentrations of emissions produced by the site coupled with the existing ambient air quality of the area are well under the state and federal standards for air quality.

Impacts

- The project will result in direct and indirect emissions caused by HVAC units, truck deliveries, vehicle trips, and other activities.
- The project will result in the following peak hour emission rates 1.) Carbon Monoxide (CO) - 1.373 grams per second (g/s), 2.) Volatile Organic Compounds (VOC) - 0.101 g/s. 3.) Particulate Matter of 2.5 microns (PM 2.5) - 0.054 g/s.

Mitigations

- Dust control measures will be put into effect during construction and restrictions on the idling of delivery trucks will be put in place to limit emissions.

Findings:

The Town Board finds that with the mitigation measures proposed for this project, the potential impacts to air quality are not significant.

E. Potential Impacts to Aesthetic Resources

The proposed construction and appearance of the developer's preferred building will be similar to a typical Lowe's consisting of beige masonry facades with parapet walls to hide rooftop HVAC units. The Lowe's building will be approximately 456 feet wide by 356 feet deep and 31 feet in height. The gabled peak at the entrance to the store will reach a height of 48 feet. The outdoor garden center will be located directly east of the store and enclosed by fencing. Occasionally, products will be displayed outside of the fenced area along the sidewalk area.

An existing vegetative buffer will be preserved around the sides and rear of the building providing a minimum buffer of 200 feet, with up to 350 feet between the rear of the building and adjacent residential lots.

Impacts

- The proposed construction and appearance of the applicant's preferred building will be similar to a typical Lowe's consisting of beige masonry facades with parapet walls to hide rooftop HVAC units.
- A Visual Assessment Study was conducted for this project and concluded that the existing wooded areas will sufficiently screen the building from neighboring properties and that the building will only be visible from Southwestern Boulevard.
- There are currently no specific plans for the development of the outparcels.
- The building signage will include a 348 square foot "Lowe's" sign, a 60 square foot "Indoor Lumber Yard" sign, and a 44

square foot "Garden Center" sign, totaling approximately 452 square feet.

- A free standing yard sign is proposed along Southwestern Boulevard at the entrance to Lowe's. The yard sign will be 18 feet high and include a brick encased base and monument sign for "Lowe's" and the two outparcel tenants.
- Lighting of the site will be from 1,000-watt metal halide fixtures atop 35 foot poles.

Mitigations

- The minimum distance between the Lowe's building and any adjacent residential lot is 200 feet, with up to 350 feet between the rear of the building and adjacent residential lots. The buffer area will be retained in its vegetative state.
- In addition to the existing wooded areas, additional landscaping will be provided around the perimeter of the disturbed area, within the front setback along Southwestern Boulevard, around the stormwater retention basins, and within the parking areas, and greenspace will be retained along portions of the creek and wetlands.

Findings:

The Town Board concludes that the following additional mitigation measures shall be incorporated into the project:

- The design and architecture of the building presented by the applicant is not acceptable. The applicant has agreed to work with the Town on the design and architecture of the building. A condition will be that the applicant will present three (3) alternative renderings for the design and architecture of the building that make it unique to the Town. The Town will then comment on the alternative renderings.
- The applicant has agreed to comply with The Southwestern Boulevard Overlay District which requires one street tree for each 30 feet of frontage to be planted within the 50-foot front setback. The site shall include 33 street trees.
- The Town will rezone the buffer areas to PR.

The Town Board finds that as a condition of the applicant providing acceptable alternative renderings of the design and architecture of the building, alternative designs for the yard sign, and meeting the tree requirement, along with the other mitigation measures proposed for this project, the potential impacts to aesthetic resources are not significant.

F. Potential Impacts to Transportation

The site is located on the north side of Southwestern Boulevard. Exclusive access to the site is derived from two access located on Southwestern Boulevard. The main access driveway will be located at the eastern portion of the site and a traffic signal is proposed at this location. This access driveway will consist of one entering lane and two exiting lanes, consisting of a right and left turn lane. Eastbound and westbound left turn lanes will be provided on Southwestern Boulevard. Additionally a westbound right turn lane into

the site will be constructed. There is also a secondary right-in/right-out channelized access proposed for the western portion of the site.

The secondary site access driveway is located on the western side of the site. Access at this location will be utilized only as a secondary access to the site. Therefore, it will be a restricted access allowing only right in / right out movements. There will be a deceleration lane provided for traffic using this secondary access, to provide safe maneuvering out of the traffic flow on Southwestern Boulevard.

Impacts

- This development, at full build out (Lowe's and outparcels), is projected to generate an average of 293 vehicle trips per PM peak hour and 516 vehicle trips per Saturday peak hour. Taking into account the pass-by trips attracted to the site, the total new traffic generated by the site is reduced to an average of 185 vehicle trips in the PM peak hour and an average of 371 vehicle trips in the Saturday peak hour.
- The Lowe's is expected to generate about ten truck deliveries each day. Trucks will access the site through the main driveway and load/ unload at the rear of the building.
- There will be parking provided for 787 vehicles on the entire site, 633 for the Lowe's and 154 for the two outparcels.
- Occasionally, bulk products and garden supplies are often stored on the sidewalk and in portions of the parking area.
- The Southwestern Boulevard/ Camp Road intersection will experience an additional 4.3 seconds of delay during the PM peak hour, with an additional 4.4 seconds of delay for the Saturday peak hour. These additional seconds of delay do not change the operation of the intersection and will be noticed very little by the average vehicle in the traffic flow.
- Vehicles making left turns from Oregon Avenue to eastbound Southwestern Boulevard may experience increased delays and safety concerns.

Mitigations

- Traffic signal timing adjustments will be provided at the intersection of Southwestern Boulevard and Camp Road.
- NYS DOT is implementing a coordinated signal system that uses wired and wireless connections to transmit data between the signals on Southwestern Boulevard. This coordination enhances signal operation and efficiency.
- The project will include the construction of a 275 foot long left turn lane on eastbound Southwestern Boulevard at the main access driveway.
- The project will include the construction of a 250 foot long right turn lane on westbound Southwestern Boulevard at the main access driveway.
- A new traffic signal is proposed at the intersection of Southwestern Boulevard and the new main access driveway.

- A secondary restricted right-in / right-out access with a deceleration will be implemented.
- The secondary access will be designed with a split mouth design and mountable median to limit the possibilities of illegal turn maneuvers at this access driveway.
- The Heatherwood Drive stub-out will not be extended as a result of this project due to the preservation of the vegetative buffer.
- A sidewalk connection will be constructed between the existing sidewalk along Southwestern Boulevard and the site, and extend throughout the site.

Findings:

The Town Board concludes that the following additional mitigation measures shall be incorporated into the project:

- A follow up traffic study will be completed to Town and NYSDOT requirements after the first outparcel is developed and before the second parcel is developed.

The Town Board finds that of the applicant by limiting access to the secondary access driveway, providing a traffic signal at the main drive and providing other small scale mitigation measures proposed for this project, the potential impacts to transportation are not significant.

G. Potential Impact to Energy

Electricity to the site will be provided by National Grid with natural gas supplied by National Fuel. Both utilities have indicated they can sufficiently service the site and the project is not anticipated to have an impact on either service.

Findings:

The Town Board finds that the potential impacts on energy are not significant. The Town Board would like the applicant to pursue the "green building" components outlined by the applicant in the FEIS.

H. Potential Noise and Odor Impacts

It is anticipated that this project will generate noise levels similar to those existing currently on site and will not exceed those found in nearby areas.

Impacts

- The noise study conducted for the project concluded that the highest one-hour average sound level observed was 49 dBA at a second story receptor located on Pineview Drive. The highest maximum sound level was 60 dBA experienced at the same receptor on Pineview Drive. The highest 8-hour average sound level at night is 42 dBA observed at this receptor on Pineview Drive.
- The noise produced by the Lowe's compounded with the existing noise levels of the site produced noise levels that exceed the 60 dBA threshold, therefore, further mitigation is needed to minimize the potential noise impacts and to meet the goals of the NYSDEC and Chapter 175 of the Town of Hamburg Code.
- Truck deliveries to the store are generally taken from 7:00am to 4:00pm.

- The greatest potential for odor emissions is from potential restaurant uses on the outparcels, which are not expected to be significant.

Mitigations

- Two sound barrier walls of approximately 10 feet in height will be constructed along portions of the sides and rear of the site to meet NYSDEC and Town standards for noise reduction.
- Truck deliveries to the site will be prohibited between the hours of 11:00pm and 5:00am and truck anti-idling areas will be incorporated to keep noise producing operations to a minimum.
- The businesses will use self-contained dumpsters and truck anti-idling provisions.

Findings:

The Town Board concludes that the following additional mitigation measures shall be incorporated into the project:

- The site shall become an anti-idling area for heavy duty diesel trucks.
- The site shall incorporate regulations restricting the use of back up and other noise sensors on delivery trucks, dumpsters, snow plows, etc.

The Town Board finds that with the additional noise mitigation measures proposed for this project, the potential noise impacts are not significant.

H. Potential Impacts to Public Health and Safety

Impacts

- A majority of the police calls related to the Lowe's are expected to be in response to larceny or shoplifting calls. The Lowe's, including the outparcels, is expected to produce 23 police calls a year.
- Calls for the fire department could be classified into three categories, emergency medical response, responding to automated fire alarms, and actual fires. The Lowe's, including outparcels, is expected to produce 11 fire calls a year.

Mitigations

- The self-contained dumpsters and use of sealed compactor/storage units that will be utilized by Lowe's will help to deter rodents.
- The stormwater retention ponds are designed to retain water of approximately four feet deep which may provide a habitat for mosquito predators and reduce the probability that they become a breeding ground for insects.
- Stormwater sewers will consist of slopes that will prevent ponding in pipes and maintenance of stormwater facilities and retention areas will be conducted regularly.

- The stormwater retention ponds will be enclosed by a four (4) foot aesthetically pleasing fence (to be approved during site plan approval).

Findings:

The Town Board finds that with the mitigation measures proposed for this project, the potential impacts to public health and safety are not significant.

I. Impact on Growth and Character of the Community

The present zoning of the property includes General Commercial (C-2), Residential Multi-Family (R-3) and Single Family Residential-Attached (R-2). The applicant is requesting a rezoning of the entire site to General Commercial (C-2).

This site is located within the Central Hamburg Area with the frontage along Southwestern Boulevard located in the Regional Commercial Area, as identified in the Town of Hamburg 2010 Comprehensive Plan, which recommends that the Regional Commercial Area along Southwestern Boulevard continue as a commercial area with improved buffer and setback requirements from adjacent residential properties. The site also lies within the Southwestern Boulevard Overlay District.

The building is larger in overall size than the neighboring uses, but the large amount of vegetative buffer that will remain make this project less invasive than some of the existing smaller uses and properties along Southwestern Boulevard. There are many uses in the vicinity of this project in which the buildings are located much closer to Southwestern Boulevard and the lot coverage for the properties on the southside of Southwestern Boulevard are much closer to the zoning requirement maximum of 85%. The proposed Lowe's Home Improvement Center, with its large setbacks and smaller lot coverage (38%), is consistent with the present commercial uses along the southside of Southwestern Boulevard.

The applicant has reviewed eight alternative underdeveloped and abandoned sites, including Leisure Land/ Camp Road, Southshore Golf Course, Sites on Camp Road - North of Southwestern Boulevard, South Park Avenue - Vacant Retail Plaza, Camp Road - Across from the Holiday Inn, Camp Road at Scranton Road, Brierwood Plaza - Southshore Plaza, and the chosen site, Southwestern Boulevard at Sowles Road. It was concluded that the Southwestern Boulevard site is the best site for this facility based on location, growth, accessibility, infrastructure, vegetation, and buffering.

A previous rezoning request on Southwestern Boulevard just to the northeast of this site involved a rezoning from R-2 to C-1 and included a 200' buffer to adjacent residential properties (this rezoning was withdrawn at approval time).

Impacts

- The size of the property proposed to be rezoned to C-2 and the building area are somewhat larger in overall size than the neighboring uses.
- Rezoning of the property to C-2 and development as a Lowe's Home Improvement Center and two outparcels will result in a

slightly higher traffic generation than would be generated if the property were developed under the existing zoning.

Mitigations

- The rezoning of this site to C-2 and the proposed development into a Lowe's and two outparcel commercial developments complies with the Town of Hamburg 2010 Comprehensive Plan, which calls for this area to continue as a regional commercial area with improved buffer and setback requirements from adjacent residential properties.
- The Comprehensive Plan does not allow for the continuation of large commercial uses further northeast along Southwestern Boulevard.
- The existing 200 to 300 foot wooded area that is to be preserved around the east, north, and west sides of the Lowe's building will act as a buffer between the Lowe's and adjacent residential properties.
- The presence of the Southwestern Boulevard Overlay District will provide additional requirements to ensure that the site is adequately landscaped and aesthetically pleasing.
- The development of the outparcels are subject to site plan review. The exact location, size, and intensity of the development may change once a potential user is identified.

Findings:

The Town Board finds that with the mitigation measures proposed for this project, and with consideration given to eliminating one of the outparcels, that the project will not significantly impact the growth and character of the area. Additionally, the Town Assessor conducted a schematic vacancy study of the Town and found that with the redevelopment of Brierwood Plaza, the Town's vacancy rates are lower than the national average and are in the "needed" range.

Conclusion:

After evaluating the environmental, economic, and social impacts of the proposed Lowe's Home Improvement Center development, the Town of Hamburg Town Board is adopting the feasible, prudent, and practicable alternative that best balances environmental impacts with social, economic, and other essential considerations, and that allows for mitigation of all environmental impacts to the greatest extent reasonable and practicable.

Certification of Findings to Approve:

Having considered the Draft and Final Environmental Impact Statement, and having considered the preceding written facts and conclusions relied on to meet the requirements of 6 NYCRR Part 617.11, this Statement of Findings certifies that:

1. The Town Board has considered the relevant environmental impacts, facts, and conclusions disclosed in the DEIS and the FEIS and their supporting materials;
2. The Town Board has weighed and balanced the relevant environmental impacts with social, economic, and other considerations;
3. The requirements of 6 NYCRR Part 617 pertaining to Article 8 of the Environmental Conservation Law (State Environmental Quality Review [SEQR]) have been met; and
4. Consistent with social, economic, and other essential considerations from among the reasonable alternatives available, the action to be carried out is the one that avoids or minimizes, to the maximum extent practicable, adverse environmental impacts disclosed in the DEIS and FEIS, and that adverse environmental impacts will be minimized or avoided to the maximum extent practicable by incorporating, as conditions to this decision, those mitigating measures that were identified as practicable.

Filing:

The Town's designees are hereby directed to file and distribute this findings statement as required by 6 NYCRR Part 617 pertaining to Article 8 of the Environmental Conservation Law (State Environmental Quality Review [SEQR]).

Certification:

These findings were adopted by majority vote of the Town Board of the Town of Hamburg at a duly called meeting held on November 19, 2007.

Town of Hamburg Town Board

Name of Agency

Signature of Responsible Official

Town Supervisor

Title of Responsible Official

Steven J. Walters

Name of Responsible Officer

December 10, 2007

Date

Town of Hamburg, S6100 South Park Avenue, Hamburg , NY 14075

Address of Agency

A copy of this notice sent to:

Steven J. Walters, Town Supervisor
Town of Hamburg
S6100 South Park Avenue
Hamburg, NY 14075

Town Board Members:
D. Mark Cavalcoli, Councilman
Dick Smith, Councilman
Joan A. Kesner, Councilwoman
Thomas J. Quatroche, Jr., Councilman

Gerard Koenig, Chairman
Town of Hamburg Planning Board
S6100 South Park Avenue
Hamburg, NY 14075

Peter Blaauboer, Chairman
Town of Hamburg Board of Zoning
Appeals
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Hamburg, NY 14075

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Edward S. Rutkowski, P.E.
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Jim Connolly, Superintendent
Town of Hamburg Highway Department
2720 Lakeview Road
Lakeview, NY 14085

Kurt Allen
Supervising Building Inspector
Town of Hamburg
S6100 South Park Avenue
Hamburg, NY 14075

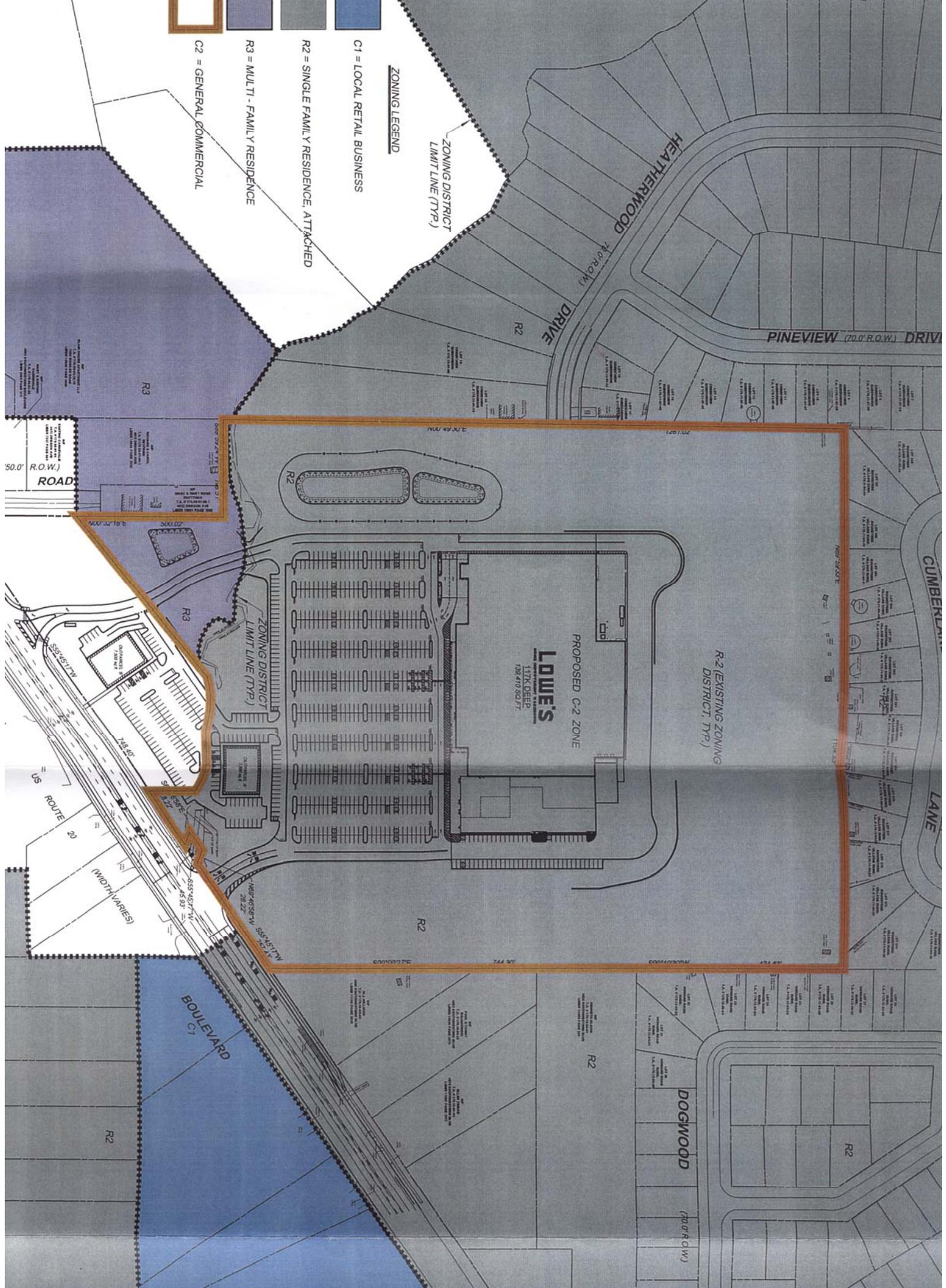
Catherine A. Rybczynski, Town Clerk
Town of Hamburg
S6100 South Park Avenue
Hamburg, NY 14075

Morada Bay Associates, LLC
1941 David Road
West Falls, NY 14170

- C1 = LOCAL RETAIL BUSINESS
- R2 = SINGLE FAMILY RESIDENCE, ATTACHED
- R3 = MULTI - FAMILY RESIDENCE
- C2 = GENERAL COMMERCIAL

ZONING LEGEND

ZONING DISTRICT LIMIT LINE (TYP.)



PROPOSED C-2 ZONE

LOWE'S

117K DEEP
138,470 SQ. FT.

R-2 EXISTING ZONING DISTRICT, TYP.

ZONING DISTRICT LIMIT LINE (TYP.)

ZONING DISTRICT LIMIT LINE (TYP.)

BOULEVARD C1

DOGWOOD (70.0' R.O.W.)

50.0' R.O.W. ROAD

US ROUTE 20

(WIDTH VARIES)

R2

R2

R2

R3

R2

R2

R2

R2

PINEVIEW (70.0' R.O.W.) DRIVE

HEATHERWOOD DRIVE

CUMBERLAND LANE

LANE