

GREAT LAKES ENVIRONMENTAL & SAFETY CONSULTANTS, INC.



February 8, 2008

Mr. Mike DePriest
Benderson Development Company
570 Delaware Ave.
Buffalo, NY 14202

RE: Phase 1 Environmental Site Assessment
5220 Camp Road, Hamburg, New York
Natural Gas Well #31029036240000

Dear Mr. DePriest:

Based on our review of available records, the natural gas well #31029036240000 located at 5220 Camp Road, Hamburg, New York, is no longer present. NYS Department of Environmental Conservation website shows the well's status as inactive (see attached). Also, contact made with the NYS DEC Oil and Gas Division revealed NYS DEC records for the well show it as inactive status as of the year 2000. A visual inspection of the site does not reveal the presence of a well, thereby assuming the well has been plugged and abandoned.

If you have any further questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Albert G. Lyons, Jr." with a small flourish at the end.

Albert G. Lyons, Jr., P.E.
Vice President

Encl.



NEW YORK STATE
DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

Home / Oil & Gas Searchable Database / Annual Well Production Data Search

Annual Well Production Data

[Go Back]

Information presented on this page is keypunched or received in an electronic format based on Annual Well Reports submitted by the well operator. This search shows production and well status information for the year 2000 to the most recent year. As time allows, the DEC will offer older production data.

API Well Number: 31029036240000

Operator: Iroquois Gas Corp.

Well Name: Pierce IGC-17

Well Type: GD

Well Status: IN

Field Name: Orchard Park-Hamburg

Formation: Medina

County Name: Erie

Town: Hamburg

Latdec: 42.74195

Longdec: -78.85303

[Export XLS](#)[Export CSV](#)

Record Count: 7 Rows: 1 to 7

API Well Number	Year	Operator	OIL (Bbls)	GAS (Mcf)	WATER (Bbls)	Months in Production	Well Type
31029036240000	2000	Iroquois Gas Corp.					GD
31029036240000	2001	Iroquois Gas Corp.		0.00		0	GD
31029036240000	2002	Iroquois Gas Corp.	0.00	0.00	0.00	0	GD
31029036240000	2003	Iroquois Gas Corp.					GD
31029036240000	2004	Iroquois Gas Corp.					GD
31029036240000	2005	Iroquois Gas Corp.	0.00	0.00	0.00	0	GD
31029036240000	2006	Iroquois Gas Corp.		0.00	0.00	0	GD

Benderson

MEMORANDUM

TO: Hamburg Town Board
FROM: Drew Reilly, Planning Dept.
DATE: February 5, 2007
SUBJECT: Camp Road – Commerce Park Issues .

Please find attached the resolution approving the rezoning of the back part of the Commerce Park property on Camp Road. The rezoning included seven conditions that were placed on the future development of this site. These conditions would need to be addressed in relation to any proposed project that involves these lands.

Because these were conditions placed by the Town Board, we would like your input on these, prior to continuing any discussions about development on these lands.

Whereas, The Town of Hamburg has received a petition from M.J. Peterson, Inc. for the rezoning of 45.88 + or - acres of property located to the west of the existing Commerce Place Park, from R-A (Residential Agricultural) to C-2 (General Commercial), and

Whereas, the Planning Board has reviewed the project and recommended its approval to the Town Board, and

Whereas, the Town Board has held the appropriate public hearings and has determined that the project will not have a significant effect on the environment and issued a Negative Declaration under the State Environmental Quality Review Act and

Whereas, the Town wishes to approve the proposed rezoning for the following reasons and with the following conditions:

Supporting Reasons

1. The proposed "Phase 2" of Commerce Park has a long history with the Town and is in conformance with the recently adopted update to the Town's Comprehensive Plan. One of the main goals of this plan is to direct C-1 and C-2 type commercial businesses to the regional commercial areas around the Thruway exits.

2. The preservation of 16 + or-acres of land around Berrick's Creek, and the required buffers (undisturbed areas) of the lots, will help in achieving some of the goals of the Open Space/Recreation Plan. These "preserved" lands will also help in achieving another of the Comprehensive Plan objectives which is to buffer the commercial uses along Camp Rd. from surrounding residential lands.

3. The proposed park layout affords the opportunity to increase buffers further in site development and allows for the continuation of the roadway into the adjoining commercial Industrial property (Improving traffic patterns at a future time).

Conditions on the Rezoning

1. A contract regarding traffic issues/improvements be entered into between the Town and the applicant (binding to all future property owners).

a. Updated traffic information to be provided for each site development application.

b. When thresholds/warrants determined by the Town and agreed to by the NYSDOT are met, the applicant agrees to pay for any necessary improvements.

c. The applicant shall meet all the requirements of the NYSDOT and site plans shall include the improvements necessary at Camp, including signage.

2. A contract or agreement acceptable to the Town from both the applicant for maintenance of the emergency means of egress must be provided. The agreement must include provisions for maintaining the entrance/exit accessible to emergency vehicles, and maintenance of a barrier/gate to restrict regular (non emergency vehicle) access.

The agreement shall also include a provision that binds current and future land owners to allow access across this property, once a road is constructed that connects the stub road in Commerce Park to Camp Road to the west of the Thruway.

3. Amend the drawing to show 150' buffering to the easterly adjacent lots (74-78) in the Country Woods Subdivision. Amend the description of the rezoned lands so as they do not include the Conservation lands and the buffers along the west property lines. The applicant will receive credit of these donated lands to any lot coverage requirements.

4. Provide language (permanent conservation easement) or action item (Dedication to the Town), regarding the preservation of the sixteen (16 + or -) acres of land and the buffer areas identified on the plan. For any dedication, an easement from the lots or Commerce Place must be given to the Town for access to the lands being dedicated

5. Development of the site will be approved in phases as sales demand. It is the intent of this phasing to minimize the disturbance of the site until warranted by construction. No permits for clearing the site will be issued prior to site plan approval.

6. Development of the commercial lots abutting the Country Woods residential lots will maximize the protection of trees near the mandatory buffers (i.e. maximize development towards Commerce Place road). If the development/disturbance must approach the buffer along the Country Woods side, then the developer of the park must install a line of evergreen trees as directed by the Planning Board during site plan approval.

7. The applicant will provide a deed with the following deed restrictions.

.Commercial outdoor uses are prohibited (i.e. no outdoor retail sales, drive-in movie theatres, outdoor restaurant facilities, etc.)

.No structures over 35 feet in height along the adjacent lots to the Country Woods Subdivision.

.No automotive uses (sales or service)

Now, Therefore, Be It Resolved, that the zoning code of the Town of Hamburg be amended as follows:

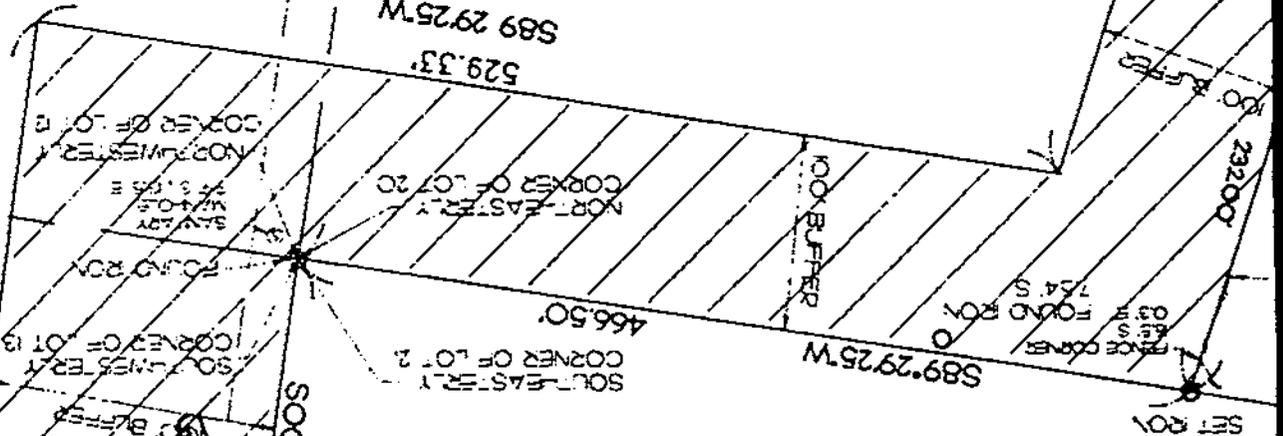
To amend Local Law #10 of the year (1986 (Chapter 29) of the Code of the Town of Hamburg entitled "Zoning". To provide for a change in the boundaries of the zoning map whereby the zoning is changed from R-A (Residential Agricultural) to C-2 (General Commercial) for the property located to the west of Commerce Place as described as follows:

426.97'
S09 39'53"W

720.00' DEED NEAR MEAS.

529.33'
S89 29'25"W

S89 29'25"W



500'23'43"E

EASTERN LINE OF LOT 21
WESTERN LINE OF LOT 20
P. 9226

564.30' DEED
564.25' MEAS

WESTERN LINE OF LOT 13

BUFFER AREA
(405 ACRES +/-)

395.72'
MUNO ROW

325.44'
MUNO ROW

664.25'
S00 23'43"E

Carthy Woods Subd.



BENDERSON DEVELOPMENT COMPANY, INC.

570 Delaware Avenue • Buffalo, New York 14202 •
Phone (716) 886-0211 • Fax (716) 886-1026

LETTER OF TRANSMITTAL

Date: May 11, 2007
Project: Hamburg Crossings
Re: Rezone Submittal

Job Number: 4148

TO: Drew Reilly
Town of Hamburg
S-1600 South Park Ave
Hamburg, NY 14075

CC:

We are sending you the following items:

COPIES	DATE	NUMBER	DESCRIPTION
5	5/11/07		Rezoning Application
5	5/11/07		Long Environmental Assessment Form
5	9/20/06		Site Survey
10	4/23/07	4148MMTB1	Concept Site Plan
1	5/10/07	898840	Rezoning application fees

REMARKS: For your use. Please call with questions.

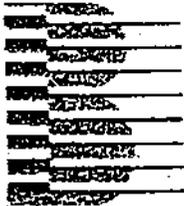
Sincerely,

Sarah Kupiec
Right to Build Coordinator
Benderson Development Company, LLC
Phone – 716-878-9454
Cell – 716-864-7877

TO: Traffic Safety Advisory Board, Scranton Fire Chief
FROM: Sarah desJardins, Town of Hamburg Planning Department
RE: Proposed Benderson project on Camp Road
DATE: 5/16/07

Enclosed please find the concept site plan for the proposed Hamburg Crossings project to be located at 5220 Camp Road. The applicant is requesting a rezoning of +/- 20 acres of the +/- 80-acre parcel from C-1 and M-2 to C-2. The Town Board would appreciate any input you may have regarding this proposal. If you have any questions or concerns, please call the Planning Department at 649-2023. Thank you.

Sarah desJardins
Planning Department



BENDERSON DEVELOPMENT COMPANY, INC.

570 Delaware Avenue • Buffalo, New York 14202 •

Phone (716) 886-0211 • Fax (716) 886-1026

LETTER OF TRANSMITTAL

Date: May 29, 2007
Project: Hamburg Crossings
Re: Revised Rezone Submittal

Job Number: 4148

TO: Drew Reilly
Town of Hamburg
S-1600 South Park Ave
Hamburg, NY 14075

CC: _____

RECEIVED

MAY 30 2007

TOWN OF HAMBURG
PLANNING DEPT.

We are sending you the following items:

COPIES	DATE	NUMBER	DESCRIPTION
5	5/11/07		Rezoning Application
5	5/11/07		Long Environmental Assessment Form
5	9/20/06		Site Survey
10	4/23/07	4148MMTB1	Concept Site Plan
1	5/10/07	898840	Rezoning application fees

REMARKS: For your use. Please call with questions. Enclosed please find the revised site plan with the corrected zoning boundary lines based on conversations with the Town of Hamburg and our surveyor, TVGA.

Sincerely,

Sarah Kupiec
Right to Build Coordinator
Benderson Development Company, LLC
Phone - 716-878-9454
Cell - 716-864-7877

TOWN OF HAMBURG

ENGINEERING DEPARTMENT

6100 South Park Avenue • Hamburg, New York 14075 • (716) 649-6111, Ext. 2350 • Fax (716) 649-2522
e-mail: engineering@townofhamburgny.com

Supervisor
STEVEN J. WALTERS

Councilmen
D. MARK CAVALCOLI
JOAN A. KESNER
THOMAS J. QUATROCHE, JR.
RICHARD A. SMITH

Town Engineer
GERARD M. KAPSIK, P.E.

TO: Planning Board

FROM: Engineering Dept.

DATE: 6/6/07

SUBJ.: 6/6/07 PLANNING BOARD WORK SESSION
Proposed Rezoning - Hamburg Crossings

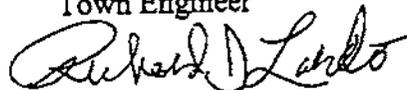
The following are review comments on a concept site plan dated 4/23/07 and received on 5/30/07. This plan was revised after 4/23/07 and the date was not changed:

- (1) We have not received the legal description for the proposed rezoning.
- (2) The zoning boundary along a portion of the west line of the project is not correctly located.
- (3) Engineering and utility issues will need to be addressed by the developer.

All comments are to be satisfactorily addressed for approval.



Gerard M. Kapsiak, P.E.
Town Engineer



Richard J. Lardo
Principal Engineer



Town Attorney
VINCENT J. SORRENTINO

Town Clerk
CATHERINE A. RYBCZYNSKI

Supt. of Highways
JAMES F. CONNOLLY

PB 6/6/07

Lucas 14-lot Subdivision

Mr. Frank Russo, applicant, and Mr. Keith Marquis of Marquis Engineering appeared before the Board on behalf of the proposed subdivision.

Mr. Reilly stated that this subdivision was proposed a number of years ago but could not be acted on because of a problem with the sewers being extended. He further noted that the Engineering Department has indicated that the sewer problem is not yet resolved, although it will be resolved soon. Mr. Russo stated that it is his understanding that the plans and financing are in place for the sewer to be extended.

Chairman Koenig confirmed with the applicant that this subdivision layout has not changed from the layout presented previously.

Chairman Koenig stated that a public hearing will be scheduled for July 18, 2007. Engineering Department comments are attached.

Benderson Development ("Hamburg Crossings")

Mr. Tony Battista appeared before the Board on behalf of the project.

Mr. Reilly informed the Board that this is a request to rezone land from M-2 to C-2, a positive declaration will be issued by the Town Board and a draft Environmental Impact Statement will be prepared by the applicant. He further stated that the applicant will be looking for input and direction from the Planning Board regarding the project.

Mr. Reilly explained that when the Town approved Commerce Park and rezoned the property to C-2, conservation areas were designated in the back of the property and the zoning of these conservation areas was to remain R-A. Benderson is also offering large buffer zones in the back of the area it proposes to develop and Mr. Reilly stated that the Board should think about whether the Town should rezone those buffer areas to R-A to be consistent with the existing buffer zones in the area that are already zoned R-A.

Mr. Reilly noted that the Engineering Department has indicated that the plans for this project and the plans for the proposed Holiday Inn Express project do not match up regarding the location of the roadway that will connect the two projects.

Mr. Battista stated that the applicant is in the process of performing a Traffic Impact Study.

Mr. Taber asked Mr. Battista why so many buildings are proposed when there are so many existing vacant buildings in Town. Mr. Battista responded that it is the nature of the business and that development is tenant-driven. He further

stated that Benderson is talking to prospective tenants for the anchor buildings and the rest of the project will be developed in phases, depending upon demand. The hotel would be owned by Benderson and provide approximately 110 rooms.

Mr. Taber asked Mr. Battista if the design of this project could include walkability for the customers. Mr. Battista responded that walkability would be difficult in a project this size because the parking ratios for the anchor tenants have to be met by the developer, which will require large amounts of paved areas.

Engineering Department comments are attached.

Silvestri Architects - Request for site plan approval of a Holiday Inn Express to be located at 3565 Commerce Place.

It was determined that the Engineering Department has indicated that before this project is approved, the road must be designed and approved. It was further determined that the applicant received a height variance from the Zoning Board of Appeals in April 2007, as well as a variance for the front yard setback.

Chairman Koenig stated that this project will be on the Board's next meeting agenda for further review.

Engineering Department comments are attached.

Villas at Brierwood

Mr. Eric Krull appeared before the Board on behalf of the proposal.

Chairman Koenig stated that Mr. McCabe has submitted written input on the draft Environmental Impact Statement and that the other members of the Board have expressed their opinions previously. Mr. McCabe's comments were given to Mr. Krull to address in the Final Environmental Impact Statement.

Mr. Krull stated that the Town Board held a public hearing on the proposal and only a few people attended. He further stated that the applicant is working on the FEIS and will incorporate any comments received from the public and the Boards into the document and address those comments received. It was determined that the public comment period will remain open until June 14, 2007.

Additional Business

The Board determined that its July meetings will be held on July 11 and July 18, and its August meetings will be held on August 1 and August 15.

Sarah desJardins*Hamburg Crossing*

From: "Andrew Reilly" <areilly@wd-ae.com>
To: "Sarah Kupiec" <SarahKupiec@benderson.com>
Cc: "Sarah desJardins" <sdesjard@townofhamburgny.com>
Sent: Wednesday, June 13, 2007 10:20 AM
Attach: Wal-Mart Final Scoping Document 6-4-07.doc
Subject: RE: revised site plan

Sarah,

Please find attached a sample of a scoping document. Typically, the applicant supplies information like what is in sections 2 and 4 of this sample. The Lead Agency (us) will take care of the other sections. Your section 4 would just identify the potential impacts, what you will study, how you will study, what mitigations you may look at, and alternatives. Obviously, we would add the "issues that come up during scoping".

Your document does not need to be as formal as the sample I gave you; the Town will create the formal document. Just label yours draft scope, have a project description, and the information described above as section 4.

As per our discussion, the below e-mail represents the most up to date site plan I have electronically.

Andrew C. Reilly, P.E., AICP

WENDEL DUCHSCHERER
ARCHITECTS & ENGINEERS

140 John James Audubon Parkway • Suite 201
Amherst • New York 14228
P 716.688.0766
F 716.625.6825

e-mail: areilly@wd-ae.com
web: www.wd-ae.com

CONFIDENTIALITY NOTICE: This e-mail is confidential and is intended only for the person(s) named above. Its contents may also be protected by privilege, and all rights to privilege are expressly claimed and not waived. If you have received this e-mail in error, please call us immediately and destroy the entire e-mail. If this e-mail is not intended for you, any reading, distribution, copying or disclosure of this e-mail is strictly prohibited.

From: Sarah Kupiec [mailto:SarahKupiec@benderson.com]
Sent: Tuesday, May 29, 2007 1:54 PM
To: Andrew Reilly
Cc: Bill Rae; Jim Rumsey
Subject: FW: revised site plan

Drew,

Per your request, Attached please find the revised site plan with the corrected zoning boundary lines based on conversations with the Town of Hamburg and our surveyor, TVGA. Revised copies of the site plan, survey, long environmental form and application will be dropped off to the Town of Hamburg Planning Department tomorrow morning. If you should have any questions please give me a call.

Thank you,
 Sarah Kupiec
 Right to Build Coordinator
 Benderson Development Company, LLC
 570 Delaware Avenue
 Buffalo, NY 14202
 716-878-9454
 fax- 716-886-1026

6/13/2007

**NOTICE
SEQR: LEAD AGENCY DESIGNATION
TOWN OF HAMBURG**

This notice is filed pursuant to 6 NYCRR Part 617 pertaining to Article 8 of the Environmental Conservation Law (State Environmental Quality Review (SEQR)).

Date: June 8, 2007
Lead Agency: Town of Hamburg Town Board
Name of Action: Hamburg Crossings
Applicant: Benderson Development Company, LLC
570 Delaware Avenue
Buffalo, NY 14202

Description of Action: Development of a 79.93 acre site, formally of Leisure Land, a truck stop, and a Days Inn, into a retail/ restaurant/ hotel center called Hamburg Crossings. The proposed development consists of the rezoning of 9.11 acres of land zoned Local Retail Business District, C-1, and 10.85 acres of land zoned Light Industrial District, M-2, to General Commercial District, C-2. Approximately 48.0 acres will remain as C-2 zoning and approximately 12.0 acres will remain zoned as Residential- Agriculture District, R-A, that, in addition to other lands, will total 17.4 acres of land to be dedicated to the Town of Hamburg as a conservation easement along the southern and western boundary of the property. Development of the site will consist of 652,815+/- square feet of retail, restaurant, and hotel uses. The development proposes to utilize two existing access points onto Camp Road (SR 75) and provide 3,219 parking spaces.

Location: Southwest side of Camp Road (SR 75), northwest of I-90, New York State Thruway, near the interchange ramp with I-90, Town of Hamburg, Erie County, New York.

As the most local agency with permitting authority, the Town of Hamburg Town Board wishes to declare Lead Agency and conduct a coordinated review of the proposal.

Other potential Involved Agencies identified are:

New York State Department of Environmental Conservation
New York State Department of Transportation
New York State Thruway Authority
Erie County Department of Environment and Planning
Erie County Water Authority
Erie County Health Department
Town of Hamburg Planning Board

Other potential Interested Agencies identified are:

United States Army Corps of Engineers
Town of Hamburg Zoning Board of Appeals
Town of Hamburg Building Inspector
Town of Hamburg Engineering Department
Town of Hamburg Highway Department
Village of Hamburg

A preliminary review of the proposed action indicates that it is a SEQR:

Type 1: Land Use Plan Adoption
(check, if Yes) Comprehensive Resource Management

- Initial Adoption of a Zoning Ordinance
- Zoning, Change of Allowable Uses > 25 Acres
- Change in Zoning for a Type I Action
- Acquisition, Sale, or other Transfer of 100 or more contiguous Acres
- Residential Construction:
 - At least 10 units in municipalities that have not adopted zoning or subdivision regulations
 - At least 50 units not to be connected to existing public water or sewer
 - (Population < 150,000) at least 250 units
 - (Population between 150,000 and 1 million) at least 1,000 units
 - (Population > 1 million) at least 2,500 units
- Physical Alteration of at Least 10 Acres
- 2 MGD of Water Use
- Parking for at least 1,000 Cars
- (Population < 150,000) a building with >100,000 SF Gross Floor Area
- (Population > 150,000) a building with >240,000 SF Gross Floor Area
- Structure exceeding 100' Above Ground Level
- Agricultural District, Exceed 25% Above
- Historic Site
- Public Park Land
- Critical Environmental Area
- Other

Unlisted Action

The attached Part I of the full Environmental Assessment Form has been filed by the applicant.

Please notify us by **Monday, July 9, 2007**, if your agency objects to the Town of Hamburg Town Board acting as Lead Agency or if you have any specific comments or concerns regarding the project at the contact listed below. If there are no objections to the Town Board acting as Lead Agency, they anticipate making a Determination of Significance on the Hamburg Crossing project for a **Positive Declaration** at their regularly scheduled meeting on **Monday, July 16, 2007**.

Contact Person:

Andrew C. Reilly, P.E., AICP
Town of Hamburg Planning Department
S6100 South Park Avenue
Hamburg, NY 14075
(716) 649-2023 or (716) 688-0766



John L. Buono
Chairman

**New York State Thruway Authority
New York State Canal Corporation**

455 Cayuga Road, Suite 800, Cheektowaga, NY 14225-1901
www.nysthruway.gov



Michael R. Fleischer
Executive Director
TDD/TTY 1-800-253-6244

June 22, 2007

Mr. Andrew C. Reilly, P.E., AICP
Town of Hamburg Planning Consultant
S6100 South Park Avenue
Hamburg, New York 14075

RE: SEQR Coordinated Review
Hamburg Crossings
Notice of Lead Agency
Town of Hamburg, Erie County

RECEIVED

JUN 28 2007

TOWN OF HAMBURG
PLANNING DEPT.

Dear Mr. Reilly:

After our review of the material sent with your June 8, 2007 letter, we concur that the Hamburg Town Board should act as the Lead Agency for the aforementioned project. Based on a cursory review of the proposed project materials submitted, this project does appear to have potential impacts on Thruway facilities.

We would like to be updated on the status of the project. We are currently reviewing the traffic study for this development as submitted by Benderson Development and expect to provide comments to the Town and NYSDOT shortly. We would like to be advised of the Town of Hamburg and NYSDOT's comments on the study's recommendations. We also request review of the project plans when they become available for review.

Please be advised the New York State Thruway Authority has no present or future intention of constructing a noise barrier in the vicinity of the proposed project. To review our Traffic Noise Policy and our Thruway Noise Barrier Prioritization Study, we encourage you to visit our web site at www.nysthruway.gov.

If you have any questions, please feel free to contact us at (716) 635-6218.

Sincerely,



Paul Zakrzewski
Capital Program Manager

2:cs

cc Mr. Ed Rutkowski - NYSDOT, Planning and Program Management



RECEIVED

JUL 05 2007

Eliot Spitzer
Governor

Carol Ash
Commissioner

New York State Office of Parks,
Recreation and Historic Preservation

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

www.nysparks.com

June 29, 2007

William Rae
Benderson Development Company, Inc.
570 Delaware Avenue
Buffalo, New York 14202

Re: SEQRA
Hamburg Crossings Retail Development
Camp Road
HAMBURG, Erie County
07PR03387

Dear Mr. Rae:

Thank you for requesting the comments of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the project in accordance with the New York State Parks, Recreation and Historic Preservation Law, Section 14.09.

Based upon this review, it is the OPRHP's opinion that your project will have No Impact upon cultural resources in or eligible for inclusion in the State and National Register of Historic Places.

If further correspondence is required regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,

Ruth L. Pierpont
Director

CC: Michael A. Cinquino



STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
REGION FIVE
100 SENECA STREET
BUFFALO, NY 14203
www.nysdot.gov

RECEIVED
Jul 16 2007
TOWN OF HAMBURG
PLANNING DEPT.

ALAN E. TAYLOR, P.E.
REGIONAL DIRECTOR

ASTRID C. GLYNN
COMMISSIONER

July 13, 2007

Andrew Reilly
Town of Hamburg Planning Department
S-6100 South Park Avenue
Hamburg, New York 14075

RE: SEQR/SITE PLAN REVIEW
Hamburg Crossings
Camp Road
Town of Hamburg

Dear Mr. Reilly:

We reviewed the information submitted for the subject development and have the following comments:

- We concur with the Lead Agency designation.
- The Environmental Assessment Form (EAF) indicates that the a Traffic Study was prepared. We look forward to reviewing the study when it is submitted to the Department. As this project progresses we will also need to review detailed site plans, a drainage plan and storm water management calculations.

If you have any questions or comments, please contact me at 847-3575.

Very truly yours,

EDWARD S. RUTKOWSKI, P.E.
SEQR/Site Plan Review Coordinator

ESR/HAL/lis

cc: Benderson Development

Pre-fall Joan Kerner

**A RESOLUTION BY THE
TOWN OF HAMBURG TOWN BOARD
FOR DETERMINATION OF SIGNIFICANCE FOR A POSITIVE DECLARATION**

WHEREAS, the Town of Hamburg has received an application for rezoning and site plan review from Benderson Development Company, LLC for the development of 652,815+/- square feet of retail/ restaurant/ hotel space called Hamburg Crossings; and,

WHEREAS, the subject parcel consists of 79.93 acres located on the southwest side of Camp Road, northwest of I-90, New York State Thruway, near the interchange ramp with I-90, in the Town of Hamburg, Erie County, New York; and,

WHEREAS, the proposed development consists of the rezoning of 9.11 acres of land zoned Local Retail Business District, C-1, and 10.85 acres of land zoned Light Industrial District, M-2, to General Commercial District, C-2. Approximately 48.0 acres will remain as C-2 zoning and approximately 12.0 acres will remain zoned as Residential- Agriculture District, R-A, that, in addition to other lands, will total 17.4 acres of land to be dedicated to the Town of Hamburg as a conservation easement along the southern and western boundary of the property; and,

WHEREAS, the Town of Hamburg Town Board has declared its intent to act as Lead Agency on May 14, 2007, pursuant to Part 617.6 NYCRR Article 8 of the Environmental Conservation Law (State Environmental Quality Review [SEQR]), and conducted a coordinated review of the project; and,

WHEREAS, no objections to the Town Board acting as Lead Agency were received.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Hamburg Town Board declares itself Lead Agency and determines that this project may result in significant environmental impacts as identified in the attached Positive Declaration and Part II of the Environmental Assessment Form; and,

BE IT FURTHER RESOLVED, that that Town Board has decided that a Determination of Significance be made for a Positive Declaration; and,

BE IT FURTHER RESOLVED, that the applicant, Benderson Development Company, LLC shall prepare an Environmental Impact Statement (EIS) in conformance with the SEQR regulations to fully evaluate the potential impacts associated with this proposed project; and,

BE IT FURTHER RESOLVED, that the Town Board authorizes the Town of Hamburg Planning Board to complete the appropriate paperwork and filing requirements; and,

BE IT FINALLY RESOLVED, that the Town Board sets a public scoping meeting regarding this action for _____, 2007 at _____pm in the Hamburg Town Hall.



#4148

July 17, 2007

**SUBJECT: SEQR COORDINATED REVIEW
NOTICE OF POSITIVE DECLARATION
TOWN OF HAMBURG
HAMBURG CROSSINGS**

To All Involved and Interested Agencies:

As a potential Involved or Interested Agency, you are being provided the Determination of Significance for a Positive Declaration, Part 2 of the Full Environmental Assessment Form (EAF), and supporting documentation regarding the proposed Hamburg Crossings project in the Town of Hamburg.

The Town Board of the Town of Hamburg, as Lead Agency, has reviewed all comments and considered the impacts, pursuant to Part 617.7 NYCRR Article 8 of the Environmental Conservation Law (State Environmental Quality Review [SEQR]), and has determined that the proposed project will have a significant environmental impact. The Town Board issued a Determination of Significance for a Positive Declaration at their regularly scheduled meeting on Monday, July 16, 2007 and therefore, an Environmental Impact Statement (EIS) will be required.

The Town Board will hold a public scoping meeting on Wednesday, August 1, 2007 at 6:00pm at the Hamburg Town Hall to gather input on potential significant environmental impacts associated with this project and determine what information should be included in the Draft EIS.

Please mail any concerns or requests for additional information to:

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

Sincerely,

Andrew C. Reilly, P.E., AICP

Enclosure

State Environmental Quality Review
Determination of Significance
POSITIVE DECLARATION
Notice of Intent to Prepare a Draft EIS

Date: July 17, 2007

This notice is issued 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, has determined that the proposed action described below may have a significant impact on the environment and that a Draft Environmental Impact Statement (DEIS) will be prepared.

Name of Action: Hamburg Crossings Retail Center
Applicant: Benderson Development Company, LLC
570 Delaware Avenue
Buffalo, NY 14202

SEQR Status: Type 1

Description of Action: Development of a 79.93 acre site, formerly of Leisure Land, a truck stop, and a Days Inn, into a retail/ restaurant/ hotel center called Hamburg Crossings. The proposed development consists of the rezoning of 9.11 acres of land zoned Local Retail Business District, C-1, and 10.85 acres of land zoned Light Industrial District, M-2, to General Commercial District, C-2. Approximately 48.0 acres will remain as C-2 zoning and approximately 12.0 acres will remain zoned as Residential- Agriculture District, R-A, that, in addition to other lands, will total 17.4 acres of land to be dedicated to the Town of Hamburg as a conservation easement along the southern and western boundary of the property. Development of the site will consist of 652,815+/- square feet of retail, restaurant, and hotel uses. The development proposes to utilize two existing access points onto Camp Road and provide 3,219 parking spaces.

Location: Southwest side of Camp Road, northwest of I-90, New York State Thruway, near the interchange ramp with I-90, Town of Hamburg, Erie County, New York.

Reasons Supporting this Determination:

1. This project involves the physical alteration of at least 10 acres of land and the construction of building area greater than 100,000 square feet.
2. This project involves the rezoning of approximately 20 acres of land.
3. This project involves parking for more than 1,000 vehicles.
4. This project will likely result in changes to stormwater flow patterns that may impact the drainage systems in the area.
5. This project will likely result in significant impacts to the transportation system.
6. This project involves the dedication of lands to the Town of Hamburg.
7. This project is adjacent to a residential community to the west.
8. This project may impact the growth and character of the surrounding area.
9. Other issues of environmental concern are noted in Part 2 of the EAF, and will be clarified during the formal scoping of the DEIS.

For Further Information:

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

Project: Hamburg Crossings, Town of Hamburg, Erie County, New York

A copy of this notice sent to:

Steven J. Walters, Town Supervisor
Town of Hamburg
56100 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
56100 South Park Avenue
Hamburg, NY 14075

Peter Blaauboer, Chairman
Town of Hamburg Board of Zoning Appeals
56100 South Park Avenue
Hamburg, NY 14075

Steven J. Doleski
Regional Permit Administrator
NYSDEC, Region 9
270 Michigan Ave.
Buffalo, NY 14203-2999

Ed Rutkowski
NYS Department of Transportation, Region 5
100 Seneca Street
Buffalo, NY 14203

New York State Thruway Authority
Buffalo Division
455 Cayuga Road, Suite 800
Cheektowaga, NY 14225-4431

Andrew M. Eszak, AICP, Commissioner
Erie County Dept of Environment & Planning
Edward A. Rath County Office Building
95 Franklin Street, 10th Floor
Buffalo, NY 14202

Erie County Water Authority
350 Ellicott Square Building
295 Main Street
Buffalo, NY 14203-2494

Gerard Kapsiak, Town Engineer
Town of Hamburg Engineering Department
56100 South Park Avenue
Hamburg, NY 14075

Jim Connolly, Superintendent
Town of Hamburg Highway Department
2720 Lakeview Road
Lakeview, NY 14085

Kurt Allen
Supervising Building Inspector
Town of Hamburg
56100 South Park Avenue
Hamburg, NY 14075

John C. Loffredo, P.E., Commissioner
Erie County Dept. of Public Works
45 Oak Street
Buffalo, NY 14203

Hamburg Central School District
5305 Abbott Road
Hamburg, NY 14075

Frontier Central School District
5120 Orchard Avenue
Hamburg, NY 14075

Village of Hamburg
100 Main Street
Hamburg, NY 14075

United States Army Corp. of Engineers
Attn: Regional Director
Buffalo District
1776 Niagara Street
Buffalo, New York 14207

Benderson Development Company, LLC
570 Delaware Avenue
Buffalo, NY 14202

PART 2- PROJECT IMPACTS AND THEIR MAGNITUDE

Responsibility of Lead Agency

General Information (Read Carefully)

- ! In completing the form the reviewer should be guided by the question: Have my responses and determinations been reasonable? The reviewer is not expected to be an expert environmental analyst.
- ! The Examples provided are to assist the reviewer by showing types of impacts and wherever possible the threshold of magnitude that would trigger a response in column 2. The examples are generally applicable throughout the State and for most situations. But, for any-specific project of site other examples and/or lower thresholds may be appropriate for a Potential Large Impact response, thus requiring evaluation in Part 3.
- ! The impacts of each project, on each site, in each locality, will vary. Therefore, the examples are illustrative and have been offered as guidance. They do not constitute an exhaustive list of impacts and thresholds to answer each question.
- ! The number of examples per question does not indicate the importance of each question.
- ! In identifying impacts, consider long term, short term and cumulative effects.

Instructions (Read carefully)

- a. Answer each of the 20 questions in Part 2. Answer Yes if there will be any impact.
- b. Maybe answers should be considered as Yes answers.
- c. If answering Yes to a question then check the appropriate box (column 1 or 2) to indicate the potential size of the impact. If impact threshold equals or exceeds any example provided, check column 2. If impact will occur but threshold is lower than example, check column 1.
- d. Identifying that an impact will be potentially large (column 2) does not mean that it is also necessarily significant. Any large impact must be evaluated in PART 3 to determine significance. Identifying an impact in column 2 simply asks that it be looked at further.
- e. If reviewer has doubt about size of the impact then consider the impact as potentially large and proceed to PART 3.
- f. If a potentially large impact checked in column 2 can be mitigated by change(s) in the project to a small to moderate impact, also check the Yes box in column 3. A No response indicates that such a reduction is not possible. This must be explained in Part 3.

IMPACT ON LAND

1. Will the proposed action result in a physical change to the project site?

| [No | X | Yes

Examples that would apply to column 2

- Any construction on slopes of 15% or greater, (15 foot rise per 100 foot of length), or where the general slopes in the project area exceed 10%.
- Construction on land where the depth to the water table is less than 3 feet
- Construction of paved parking area for 1,000 or more vehicles.
- Construction on land where bedrock is exposed or generally within 3 feet of existing ground surface.
- Construction that will continue for more than 1 year or involve more than one phase or stage.
- Excavation for mining purposes that would remove more than 1,000 tons of natural material (i.e., rock or soil) per year.

	1 Small to Moderate impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
			Yes No
• Construction on land where the depth to the water table is less than 3 feet	X		X Yes No
• Construction of paved parking area for 1,000 or more vehicles.		X	X Yes No
• Construction on land where bedrock is exposed or generally within 3 feet of existing ground surface.	X		X Yes No
• Construction that will continue for more than 1 year or involve more than one phase or stage.		X	Yes X No
• Excavation for mining purposes that would remove more than 1,000 tons of natural material (i.e., rock or soil) per year.			Yes No

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
Construction or expansion of a sanitary landfill.	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Construction in a designated floodway.	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Other impacts: <u>Conservation Easement, removal of existing structures, and removal of mature trees.</u>	<input type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2. Will there be an effect to any unique or unusual land forms found on the site? (i.e., cliffs, dunes, geological formations, etc.) <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Specific land forms: _____	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
IMPACT ON WATER			
3. Will proposed action affect any water body designated as protected? (Under Articles 15, 24, 25 of the Environmental Conservation Law, ECL) <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Examples that would apply to column 2			
Developable area of site contains protected water body.	<input type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Dredging more than 100 cubic yards of material from channel of a protected stream.	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Extension of utility distribution facilities through a protected water body.	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Construction in a designated freshwater or tidal wetland.	<input type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Other Impacts: <u>Bericks Creek</u>	<input type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
4. Will proposed action affect any non-protected existing or new body of water <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Examples that would apply to column 2			
A 10% increase or decrease in the surface area of any body of water or more than a 10 acre increase or decrease	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Construction of a body of water that exceeds 10 acres of surface area	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Other Impacts: _____	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

5. Will proposed action affect surface or groundwater quality or quantity?

| | No | X | Yes

Examples that would apply to column 2

Proposed Action will require a discharge permit.

Proposed Action requires use of a source of water that does not have approval to serve proposed (project) action.

Proposed Action requires water supply from wells with greater than 45 gallons per minute pumping capacity.

Construction or operation causing any contamination of a water supply system.

Proposed Action will adversely affect groundwater.

Liquid effluent will be conveyed off the site to facilities which presently do not exist or have inadequate capacity.

Proposed Action would use water in excess of 20,000 gallons per day.

Proposed Action will likely cause siltation or other discharge into an existing body of water to the extent that there will be an obvious visual contrast to natural conditions.

Proposed Action will require the storage of petroleum or chemical products greater than 1,100 gallons

Proposed Action will allow residential uses in areas without water and/or sewer services.

Proposed Action locates commercial and/or industrial uses which may require new or expansion of existing waste treatment and/or storage facilities.

Other impacts:

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
		X	Yes X No
			Yes No
			Yes No
	X		X Yes No
	X		X Yes No
		X	X Yes No
		X	Yes X No
		X	X Yes No
		X	X Yes No
			Yes No
		X	X Yes No
			Yes No

		1	2	3
		Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change
6.	<p>Will proposed action alter drainage flow or patterns or surface water runoff? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes</p> <p>Examples that would apply to column 2</p> <ul style="list-style-type: none"> Proposed Action would change flood water flows. Proposed Action may cause substantial erosion. Proposed Action is incompatible with existing drainage patterns. Other impacts: Substantial impervious area will impact stormwater runoff 	<p><input type="checkbox"/> <input type="checkbox"/></p> <p><input checked="" type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p>	<p><input checked="" type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p> <p><input checked="" type="checkbox"/> <input type="checkbox"/></p> <p><input checked="" type="checkbox"/> <input type="checkbox"/></p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
IMPACT ON AIR				
7.	<p>Will proposed action affect air quality? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes</p> <p>Examples that would apply to column 2</p> <ul style="list-style-type: none"> Proposed Action will induce 1,000 or more vehicle trips in any given hour. Proposed action will result in the incineration of more than 1 ton of refuse per hour. Emission rate of total contaminants will exceed 5 lbs. per hour or a heat source producing more than 10 million BTU's per hour. Proposed action will allow an increase in the amount of land committed to industrial use. Proposed action will allow an increase in the density of industrial development within existing industrial areas. Other impacts: Truck deliveries to site and potential for gasoline pumps 	<p><input type="checkbox"/> <input type="checkbox"/></p>	<p><input checked="" type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p> <p><input checked="" type="checkbox"/> <input type="checkbox"/></p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
IMPACT ON PLANTS AND ANIMALS				
8.	<p>Will Proposed Action affect any threatened or endangered species? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes</p> <p>Examples that would apply to column 2</p> <ul style="list-style-type: none"> Reduction of one or more species listed on the New York or Federal list using the site, over or near the site, or found on the site. 	<p><input type="checkbox"/> <input type="checkbox"/></p>	<p><input type="checkbox"/> <input type="checkbox"/></p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>

		1	2	3
		Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change
	Removal of any portion of a critical or significant wildlife habitat.			Yes No
	Application of pesticide or herbicide more than twice a year, other than for agricultural purposes.			Yes No
	Other impacts:			Yes No
9.	Will Proposed Action substantially affect non-threatened or non-endangered species? No X Yes			
	Examples that would apply to column 2			
	Proposed Action would substantially interfere with any resident or migratory fish, shellfish, or wildlife species.	X		X Yes No
	Proposed Action requires the removal of more than 10 acres of mature forest (over 100 years of age) or other locally important vegetation.	X		X Yes No
	Other impacts: Amount of wooded area to be removed		X	X Yes No
IMPACT ON AGRICULTURAL LAND RESOURCES				
10.	Will the Proposed action affect agricultural land resources? X No Yes			
	Examples that would apply to column 2			
	The proposed action would sever, cross or limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc.)			Yes No
	Construction activity would excavate or compact the soil profile of agricultural land.			Yes No
	The proposed action would irreversibly convert more than 10 acres of agricultural land or, if located in an Agricultural District, more than 2.5 acres of agricultural land.			Yes No

		1	2	3	
		Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change	
				Yes	No
The proposed action would disrupt or prevent installation of agricultural land management systems (e.g., subsurface drain lines, outlet ditches, strip cropping); or create a need for such measures (e.g., cause a farm field to drain poorly due to increased runoff). Other impacts: _____				Yes	No
IMPACT ON AESTHETIC RESOURCES					
11.	Will proposed action affect aesthetic resources? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (If necessary, use the Visual EAF Addendum in Section 617.20, Appendix B.) Examples that would apply to column 2				
	Proposed land uses, or project components obviously different from or in sharp contrast to current surrounding land use patterns, whether man-made or natural.		X	Yes	X No
	Proposed land uses, or project components visible to users of aesthetic resources which eliminate or significantly reduce their enjoyment of the aesthetic qualities of the resource.		X	Yes	X No
	Project components that will result in the elimination or significant screening of scenic views known to be important to the area.		X	Yes	X No
	Other impacts: <u>Adjacent to an existing residential area</u>		X	X Yes	No
IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES					
12.	Will the Proposed action impact any site or structure of historic, prehistoric, or paleontological importance? <input type="checkbox"/> No <input type="checkbox"/> Yes Examples that would apply to column 2	TBD			
	Proposed Action occurring wholly or partially within or substantially contiguous to any facility or site listed on the State or National Register of historic places.			Yes	No
	Any impact to an archaeological site or fossil located within the project site.			Yes	No
	Proposed Action will occur in an area designated as sensitive for archaeological sites on the NYS Site Inventory.			Yes	No

		1	2	3
		Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change
Other impacts: _____				Yes No
IMPACT ON OPEN SPACE AND RECREATION				
13.	Will Proposed Action affect the quantity or quality of existing or future open space or recreational opportunities? No <input checked="" type="checkbox"/> Yes			
Examples that would apply to column 2				
	The permanent foreclosure of a future recreational opportunity.		<input checked="" type="checkbox"/>	Yes <input checked="" type="checkbox"/> No
	A major reduction of an open space important to the community.		<input checked="" type="checkbox"/>	Yes <input checked="" type="checkbox"/> No
	Other impacts: <u>Existing conservation easement and wooded areas</u>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Yes No
IMPACT ON CRITICAL ENVIRONMENTAL AREA				
14.	Will Proposed Action impact the exceptional or unique characteristics of critical environmental area (CEA) established pursuant to subdivision 6 NYCRR 617.14(g)? <input checked="" type="checkbox"/> No Yes			
List the environmental characteristics that caused the designation of the CEA				
Example that would apply to column 2				
	Proposed Action to locate within the CEA?			Yes No
	Proposed Action will result in a reduction in the quantity of the resource?			Yes No
	Proposed Action will result in a reduction in the quality of the resource?			Yes No
	Proposed Action will impact the use, function or enjoyment of the resource?			Yes No
	Other impacts: _____			Yes No

IMPACT ON TRANSPORTATION

15. Will there be an effect to existing transportation systems?
 No Yes

Examples that would apply to column 2

- Alteration of present patterns of movement of people and/or goods.
- Proposed action will result in major traffic problems.
- Other impacts: Access points conflict with interchange ramp access to I-90

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
	X	X Yes No
	X	X Yes No
	X	X Yes No

IMPACT ON ENERGY

16. Will proposed action affect the community's sources of fuel or energy supply?
 No Yes

Examples that would apply to column 2

- Proposed Action will cause a greater than 5% increase in the use of any form of energy in the municipality
- Proposed Action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two family residences or to serve a major commercial or industrial use.
- Other impacts: _____

X		Yes X No
X		Yes X No
		Yes No

NOISE AND ODOR IMPACTS

17. Will there be objectionable odors, noise, vibration as a result of the Proposed Action?
 No Yes

Examples that would apply to column 2

- Blasting within 1,500 feet of a hospital, school or other sensitive facility.
- Odors will occur routinely (more than one hour per day).
- Proposed Action will produce operating noise exceeding the local ambient noise levels for noise outside of structures.
- Other impacts: _____

		Yes No
X		X Yes No
	X	X Yes No
		Yes No

IMPACT ON PUBLIC HEALTH

18. Will Proposed Action affect public health and safety?
 No Yes

Examples that would apply to column 2

- Proposed Action may cause a risk of explosion or release of hazardous substances (i.e., oil, pesticides, chemicals, radiation, etc.) in the event of accident or upset conditions, or there may be a chronic low level discharge or emission.
- Proposed Action may result in the burial of "hazardous wastes" in any form (i.e., toxic, poisonous, highly reactive, radioactive, irritating, infectious, etc.)
- Storage facilities for one million or more gallons of liquified natural gas or other flammable liquids.
- Proposed Action may result in the excavation or other disturbance within 2,000 feet of a site used for the disposal of solid or hazardous waste.
- Other impacts: _____

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change
	X	X Yes No
		Yes No
		Yes No
		Yes No
		Yes No

IMPACT ON GROWTH AND CHARACTER OF COMMUNITY OR NEIGHBORHOOD

19. Will proposed action affect the character of the existing community?
 No Yes

Examples that would apply to column 2

- The permanent population of the city, town or village in which the project is located is likely to grow by more than 5%.
- The municipal budget for capital expenditures or operating services will increase by more than 5% per year as a result of this project.
- Proposed Action will conflict with officially adopted plans or goals.
- Proposed Action will cause a change in the density of land use.
- Proposed Action will replace or eliminate existing facilities, structures, or areas of historic importance to the community.
- Development will create a demand for additional community services (e.g. schools, police and fire, etc.)

X		Yes X No
X		X Yes No
X		X Yes No
	X	Yes X No
X		X Yes No
	X	Yes X No

- Proposed Action will set an important precedent for future projects.
- Proposed Action will create or eliminate employment.
- Other impacts: Existing Southwestern Blvd Overlay District and recommended Camp Road Overlay District

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change	
	X	X Yes	No
	X	X Yes	No
	X	X Yes	No

20. Is there, or is there likely to be, public controversy related to potential adverse environmental impacts?

| | No | X | Yes

If any action in Part 2 is identified as a potential large impact or if you cannot determine the magnitude of impact, proceed to Part 3.



John L. Buono
Chairman

**New York State Thruway Authority
New York State Canal Corporation**

455 Cayuga Road, Suite 800, Cheektowaga, NY 14225-1901
www.nysthruway.gov



Michael R. Fleischer
Executive Director
TDD/TTY 1-800-253-6244

July 30, 2007

Mr. William C. Rae, Director of Engineering
Benderson Development Company, LLC
570 Delaware Avenue
Buffalo, New York 14202

Re: Hamburg Crossings Retail Center
Traffic Impact Study
Town of Hamburg, Erie County

Dear Mr. Rae:

We have reviewed the Traffic Impact Study (TIS) for the proposed Hamburg Crossings Development project as received from Benderson Development.

The current Interchange 57 configuration provides a high Level of Service (LOS) to our customers, with traffic free flowing on the ramps. Your TIS indicates a marked decrease in the LOS for our current and future customers. In addition, with the projected growth in the Southtowns area, it would be short-sighted to downgrade this interchange. For comparison purposes, consider Interchange 49, Depew. Although the current volumes at Interchange 57 are about 60 - 65% of those at Interchange 49, if future volumes at Interchange 57 started approaching those at Interchange 49, our customers could be subjected to significant delays.

For the reasons stated above, the Authority cannot support removal of the Interchange 57 ramp bridge over NY Route 75. However, we are willing to work with you and the Town on the other access option to your development site. We will wait for the official distribution of the DEIS from the Town before making formal comments on that option.

Should you have any further questions or require further assistance, please feel free to contact me at (716)635-6218.

Sincerely,

Paul Zakrzewski
Division Capital Program Manager

PZ:cs

cc Mr. Christopher Waite, NYSTA
Mr. Don Bell, NYSTA
Mr. Jeff Pegarella, NYSTA
Mr. George White, NYSTA
Mr. David J. Martin, NYSTA
Mr. Andrew Reilly, Town of Hamburg
Mr. Ed Rutkowski, NYSDOT Planning and Program Management

RECEIVED
JUL 31 2007



BENDERSON DEVELOPMENT COMPANY, INC.
 570 Delaware Avenue • Buffalo, New York 14202 •
 Phone (716) 886-0211 • Fax (716) 886-1026

LETTER OF TRANSMITTAL

Date: August 1, 2007 **Job Number:** 4148
Project: Hamburg Crossings
Re: Revised site plan Submittal

TO: Drew Reilly

 Town of Hamburg

 S-1600 South Park Ave

 Hamburg, NY 14075

CC:

We are sending you the following items:

COPIES	DATE	NUMBER	DESCRIPTION
10	6/5/07	4148TB4	Revised Concept Site Plan

REMARKS: _____
 For your use. Please call with questions.

Sincerely,



Sarah Kupiec
 Right to Build Coordinator
 Benderson Development Company, LLC
 Phone – 716-878-9454
 Cell – 716-864-7877

RECEIVED
 AUG 12 2007
 TOWN OF HAMBURG
 PLANNING DEPT.

Mr. Cleason stated that Wal-Mart is waiting for a jurisdictional letter and permit regarding the isolated wetlands from the Army Corps of Engineers. He further noted that a retaining wall has been added as part of the mitigation for the Army Corps of Engineers to reduce some of the impacts of the wetlands. Additionally, he showed the Board slightly revised elevations of the building.

Mr. Taber stated that he would like the residents of Hamburg to be aware of the fact that it is the County, and not the Planning Board, that is omitting the installation of the left turn lane from Rogers Road at this time.

Fadale Two-Lot Subdivision

Elizabeth Fadale appeared before the Board on behalf of the proposed subdivision.

Mr. Reilly stated that the applicant is requesting approval of a two-lot subdivision on Heltz Road and that she will be asking the Board for a recommendation for one or more variances from the Zoning Board of Appeals because, as the subdivision plat shows currently, neither lot meets the Town Code requirement for lot area in the R-A zone. He further stated that the R-A zoning district requires two acre lots and that the applicant proposes to subdivide a three-acre parcel into two lots. He advised the applicant that she must decide whether to ask for a variance for both lots (as shown, neither lot meets the lot size requirement) or reduce the acreage of the lot with the existing home on it so that the newly created lot has the required two acres. Mrs. Fadale responded that she will make that decision and revise the plat map accordingly, if necessary, before the Board's next meeting.

Mr. Reilly reminded the Board that it can send a positive recommendation, a negative recommendation or no recommendation to the Zoning Board of Appeals.

Mr. Phillips made a motion, seconded by Mr. Eustace, to schedule a public hearing for this request for August 15, 2007. Carried.

Engineering Department comments are attached.

Hamburg Crossings

Mr. Reilly stated that the Scoping Session for this project was held earlier that evening (August 1, 2007) and that no one from the public attended. He asked the Planning Board members to review the draft Scoping document prepared by the applicant and provide input on the document at the Board's next meeting.

Legal Notice

The Town of Hamburg Town Board will hold a public scoping meeting regarding the proposed Hamburg Crossings retail project located at 5220 Camp Road on **Wednesday, August 1, 2007 at 6:00pm in Room 7B of the Hamburg Town Hall**. This meeting is not a meeting to show support of or opposition to the project, but is intended to gather input on concerns and potential impacts associated with this project, what mitigation alternatives should be considered, and to determine what information and studies should be included in the Draft Environmental Impact Statement (DEIS). No formal action on the site plan will be taken at this meeting.

Mar.
Traffic Safety Advisory Board - Minutes -August 2, 2007
Meeting was called to order by Tim Ellis

Attendance:

Present: Tim Ellis, Joe Kleinfelder, Pat Ryan, Carole Gillette, Gerry Koenig, John Tarnish

Excused: Gene Paolini, Pat Bapst,

Absent: Jim Voye, Lindsay Dunne

1. Minutes from July 5th, 2007 approved

Motion> by: Carole Gillette / Second by: Joe Kleinfelder For 6 / Against 0

2. Old business:

a. REF: Columbia & Pittsburgh St. in Carnegie>

Motion> by: Joe Kleinfelder / Second by: Gerry Koenig For 5 / Against 1

Change the intersection from a two way to a Four Way Stop (R1-1's with R1-3's added. Also add stop ahead signage (W2-15) on Columbia.

Justifications for the change> from the Uniform Manual of Traffic Control Devices> Intersection Experience: Section 211.2-4 and Unusual Conditions: Section 211.2-5.

b. REF: Durham & Windsor Terr. >

Motion> by: Carole Gillette / Second by: Joe Kleinfelder For 6 / Against 0

Change the intersection from a one way to a Four Way Stop (R1-1's with R1-3's added). Also add stop ahead signage (W2-15) on Durham Rd.

Justifications for the change> from the Uniform Manual of Traffic Control Devices> Intersection Experience: Section 211.2-4, Unusual Conditions: Section 211.2-5 and traffic volume change: Section 211.2-1

c. REF: Camp Rd Development -(Hamburg Crossings) old Leisureland site. The board again recommended the removal of the Thruway Cloverleaf, to replace >with a signalized intersection, similar to the improved Exit 56. This would provide for safe entrance/exits as this development progresses and improve the overall traffic situation on both sides of Camp Rd (Rt 75) in this area.

The board also recommended that the following intersections be included in the overall traffic study by the developer, as there traffic situations will change as this site is developed. Intersections: Rt 20 & Camp Rd., Columbia St. @ Camp Rd., Dartmouth St. @ Camp Rd., Commerce @ Camp Rd., Sunset Dr @ Camp Rd., Deacon St @ Camp Rd., Scranton Rd @ Camp Rd., Elmview @ Camp Rd. and Legion Dr @ Camp Rd.

1. The Board acknowledges that Condition No. 4 (bank parking area and landscaping) and Condition No. 5 (landscaping plan) have been reviewed and approved by the Hamburg Engineering and/or Planning Department.
2. The Board acknowledges that Condition No. 11 (final architectural plans subject to approval of the Building and Planning Departments) has been satisfied and that the building elevations attached hereto are the final approved architectural plans for the proposed Wal-Mart building.
3. The Planning Board acknowledges that the portion of Condition No. 12 requiring Wal-Mart to install a left turn lane at the existing entrance on Rogers Road at the time of the construction of Wal-Mart cannot be performed by Wal-Mart because of the decision of ECDH (the agency with jurisdiction over Rogers Road). The Board further acknowledges that completion of such left turn lane was NOT identified in the approved traffic study as being a mitigation required for the Wal-Mart Project.
4. All other provisions of the Board's December 20, 2006 approval resolutions shall remain as previously adopted.

Carried.

Mr. Reilly stated that Erie County Department of Environment & Planning requested that an additional 239-M form be submitted to them regarding the above. The 239-M was submitted by the Planning Department and a response was received from the County indicated it has no comment.

Hamburg Crossings

Mr. Reilly reminded the Board that at its previous meeting he distributed to the members the proposed Scoping Document prepared by the applicant. He had asked the members to review the document and provide the Planning Department with comments on the document.

Chairman Koenig noted that, at its August 2, 2007 meeting, the Traffic Safety Advisory Board recommended that the Thruway cloverleaf be removed and replaced with a signalized intersection. He further noted that the TSAB also recommended that the following intersections be included in the traffic study:

- Route 20 and Camp Road
- Columbia Street at Camp Road
- Dartmouth Street at Camp Road

- Commerce at Camp Road
- Sunset Drive at Camp Road
- Deacon Street at Camp Road
- Scranton Road at Camp Road
- Elmview at Camp Road
- Legion Drive at Camp Road

Chairman Koenig stated that one intersection that was left out of the above list is Camp Road at the Thruway. Mr. Reilly noted that his staff is setting up a meeting with the NYSDOT to make sure that the above list is complete and that there are not additional intersections the NYSDOT would like studied.

Mr. Taber asked how the removal of asbestos will be monitored when the existing structures on the property are demolished. Mr. Reilly responded that the Environmental Impact Statement can indicate that the asbestos will be removed to state standards.

Mr. Phillips made a motion, seconded by Mr. Eustace, to table this project. Carried.

Steel Winds II Wind Energy Facility proposal

Mark Mitskovski, project manager for the Steel Winds II project, Elizabeth Santacrosse from EME Environmental, Attorney Adam Walters from Philips Lytle and Paul Curran and Tim Ryan from BQ Energy appeared on behalf of the project.

Mr. Reilly reminded the Board that this project is proposed across municipal boundaries and that, because SEQRA reviews cannot be segmented, only one jurisdiction can be Lead Agency under SEQR for this project. The City of Lackawanna solicited for Lead Agency status and the Town of Hamburg objected because it felt more information about the application was needed before it gave up its right to be Lead Agency. Subsequently, the Town of Hamburg reviewed the application and responded to the City of Lackawanna that Hamburg will allow Lackawanna to be Lead Agency.

Mr. Reilly stated that the Planning Board will have regulatory power over the part of the project that is proposed in the Town of Hamburg.

Mr. Mitskovski stated that they had a productive meeting with the City of Lackawanna earlier on August 15, 2007 and the City of Lackawanna indicated that it will take into consideration any comments or concerns the Hamburg Planning Board has on the Steel Winds II application.

**A RESOLUTION BY THE
TOWN OF HAMBURG TOWN BOARD
ESTABLISHING THE SCOPING DOCUMENT FOR DEVELOPMENT OF THE
HAMBURG CROSSING RETAIL CENTER
DRAFT ENVIRONMENTAL IMPACT STATEMENT**

WHEREAS, the Town of Hamburg has received an application for rezoning and site plan review from Benderson Development Company, LLC for the development of 652,815+/- square feet of retail/ restaurant/ hotel space called Hamburg Crossings Retail Center; and,

WHEREAS, the applicant submitted a draft scoping document to the Town on July 25, 2007 outlining the content of the Draft Environmental Impact Statement (DEIS); and,

WHEREAS, the Town Board, as Lead Agency, held a public scoping session on August 1, 2007 to allow comment on the content and scope of the DEIS.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Hamburg Town Board, in accordance with SEQR, has established the attached final scoping document, incorporating the comments of Involved and Interested Agencies and the public, to guide the development of the DEIS; and,

BE IT FURTHER RESOLVED, that that applicant, Benderson Development Company, LLC, shall prepare a DEIS in compliance with the established scoping document.



Carmina & Wood, P.C.

Architecture
Engineering

Interior Design

Steven J. Carmina
Christopher Wood
Jonathan H. Morris

September 13, 2007

Ms. Natalie Kemycnyj FAX 858-6257
Erie County Department of Environment and Planning
Division of Sewerage Management
95 Franklin Street
Buffalo, New York 14202

Re: Hamburg Crossing
5220 Camp Road @ I-90
Hamburg, NY

Dear Natalie,

We are currently working on a commercial development located on the west side of Camp Road (NYS Route 75), north of the NYS Thruway in the Town of Hamburg. A portion of the project property is currently occupied by a former truck plaza and a bus garage, both of which will be demolished. The development will be comprised of approximately 652,815 g.s.f. of retail/restaurant space and a hotel with approximately 115 rooms. This development would produce an average daily sewage generation of 79,082 gpd based on the NYSDEC standards. We would be tying into the existing 30" RCP sewer located in an easement along the west line of our property.

As the project progresses further we will submit detailed engineering drawings and reports. At this time please find attached a concept plan for the project along with my calculations for the sanitary sewage generation.

Please review and let me know if this flow will be acceptable to tie into this 30" sanitary sewer.

If you have any questions regarding the above, please contact me at 842-3165. Thank You.

Sincerely,
Carmina & Wood, p.c. Architecture and Engineering

Christopher Wood, PE

Cc: William Rae, Benderson

487 Main Street
Suite 500
Buffalo, NY 14203

P 716.842.3165
F 716.842.0263
W carminawood.com

308-7211



Carina & Wood, PC

HAMBURG CROSSINGS

SHT / OEL

SANITARY / WATER CALC

Sanitary 8

652,815 GSF SHIPPING CENTER
115 ROOM HOTEL

$$Q = 10.1 \text{ GPD/SF FOR S.C.}$$

$$Q = 120 \text{ GPD/ROOM FOR HOTEL}$$

$$Q = (652,815 \times 0.1) + (115 \times 120) = \underline{\underline{79,082 \text{ GPD}}}$$

* NOTE: PROPOSED RESTAURANT LOCATION
ARE NOT KNOWN AT THIS TIME, GREASE
TRAP(S) WILL BE INSTALLED WITHIN LOCATION
AND SIZE ARE DETERMINED

WATER:

* ASSUME 110% OF SEWAGE

$$Q = 1.1 \times 79,082 \text{ GPD} = \underline{\underline{86,990 \text{ GPD}}}$$

* ASSUME 12 HR DAY AVG

$$Q = 86,990 \frac{\text{GAL}}{\text{D}} \div \frac{12 \text{ hr}}{24 \text{ hr}} = 121 \text{ GPM}$$

* USE 1.8 PEAKING FACTOR

$$Q_{\text{PEAK}} = 121 \times 1.8 = \underline{\underline{218 \text{ GPM}}}$$

FIRE: 1490 GPM @ 50 PSI RESIDUAL



Carmina & Wood, P.C.

Architecture
Engineering
Interior Design

Steven J. Carmina
Christopher Wood
Jonathan H. Morris

September 13, 2007

Mr. Steve D'Amico
Erie County Water Authority
3030 Union Road
Cheektowaga, New York 14227

Re: Hamburg Crossing
5220 Camp Road @ I-90
Hamburg, NY

Dear Steve:

We are currently working on a commercial development located on the west side of Camp Road (NYS Route 75), north of the NYS Thruway in the Town of Hamburg. A portion of the project property is currently occupied by a former truck plaza and a bus garage, both of which will be demolished. The development will be comprised of approximately 652,815 g.s.f. of retail/restaurant space and a hotel with approximately 115 rooms. This development would produce an average daily domestic water usage of approximately 86,990 gpd and a peak domestic usage of 218 gpm. The required fire flow to accommodate the big box stores would be 1,490 gpm @ 50 psi residual.

We would be tying into the 12" main on Camp Road and the 8" main on Commerce Place with a private 8" combined service. We will attempt to reuse the existing 8" service to the truck plaza as the connection point to Camp Road and add an additional tap on Commerce Place to loop through the site. Both tap points will have a meter and RPZ.

As the project progresses further we will submit detailed engineering drawings and reports. At this time please find attached a concept plan for the project along with my calculations for the estimated water usage.

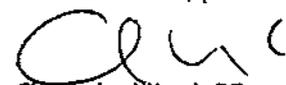
Also, we are requesting that a current hydrant flow test be performed for the 8" Commerce Place main and the 12" Camp Road main in the vicinity of our project.

Please review and respond in writing if these flows and pressures can be provided by the ECWA system.

If you should have any questions regarding this letter please contact me at (716) 842-3165.

Thank you,

Sincerely,
Carmina & Wood, p.c. Architecture and Engineering


Christopher Wood, PE

487 Main Street
Suite 500
Buffalo, NY 14203

T 716.842.3165
F 716.842.0263
W carminawood.com

Cc: William Rae, Benderson



Cannon & Wood PC

HAMBURG CROSSINGS

SHT 1 OF 1

SUMMARY OF WATER CALC.

Sanitary

652,815 GSE SHOPPING CENTER
115 ROOM HOTEL

$$Q = 10.1 \text{ GPD/SF FOR S.C.}$$

$$Q = 120 \text{ GPD/ROOM FOR HOTEL}$$

$$Q = (652,815 \times 0.1) + (115 \times 120) = \underline{79,082 \text{ GPD}}$$

* NOTE: PROPOSED RESTAURANT LOCATIONS ARE NOT KNOWN AT THIS TIME, GREASE TRAPS WILL BE INCLUDED WHEN LOCATION AND SIZE ARE DETERMINED.

Water:

* ASSUME 110% OF SEWAGE

$$Q = 1.1 \times 79,082 \text{ GPD} = \underline{86,990 \text{ GPD}}$$

* ASSUME 12 HR DAY/AUG

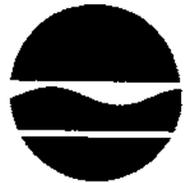
$$Q = 86,990 \frac{\text{GAL}}{\text{D}} \frac{\text{D}}{12 \text{ hr}} \frac{\text{hr}}{\text{GPM}} = 121 \text{ GPM}$$

* USE 1.8 PEAKING FACTOR

$$Q_{\text{peak}} = 121 \times 1.8 = \underline{218 \text{ GPM}}$$

FIRE: 1490 GPM @ 50 PSI RESIDUAL

New York State Department of Environmental Conservation
Division of Fish, Wildlife & Marine Resources
New York Natural Heritage Program
625 Broadway, Albany, New York 12233-4757
Phone: (518) 402-8935 • FAX: (518) 402-8925
Website: www.dec.state.ny.us



Alexander B. Grannis
Commissioner

October 2, 2007

Jody M Celeste
Earth Dimensions
1091 Jamison Road
Elma, NY 14059 ✓

OCT 5 2007
10:11 AM
DECISION

Dear Mr. Celeste:

In response to your recent request, we have reviewed the New York Natural Heritage Program databases with respect to an Environmental Assessment for a Vacant Parcel, site as indicated the map you provided, located at 5220 Camp Road, Town of Hamburg, Erie County.

We have no records of known occurrences of rare or state-listed animals or plants, significant natural communities, or other significant habitats, on or in the immediate vicinity of your site.

The absence of data does not necessarily mean that rare or state-listed species, natural communities or other significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain any information which indicates their presence. For most sites, comprehensive field surveys have not been conducted. For these reasons, we cannot provide a definitive statement on the presence or absence of rare or state-listed species, or of significant natural communities. This information should not be substituted for on-site surveys that may be required for environmental assessment.

Our databases are continually growing as records are added and updated. If this proposed project is still under development one year from now, we recommend that you contact us again so that we may update this response with the most current information.

This response applies only to known occurrences of rare or state-listed animals and plants, significant natural communities and other significant habitats maintained in the Natural Heritage Data bases. Your project may require additional review or permits; for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the appropriate NYS DEC Regional Office, Division of Environmental Permits, at the enclosed address.

Sincerely,
Tara Seoane JA
Tara Seoane, Information Services
New York Natural Heritage Program

cc: Reg. 9, Fisheries Mgr.



DEPARTMENT OF THE ARMY
BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

REPLY TO

Date November 28, 2007

Regulatory Branch

SUBJECT: Department of the Army Application No. 2007-01542

Benderson Development Company, Inc.
570 Delaware Avenue
Buffalo, New York 14202

Dear Sir or Madam:

I am writing to you in regard to your recent application for a Department of the Army jurisdictional determination and Federal wetland verification located at 5220 Camp Road, Town of Hamburg, Erie County, New York.

Section 404 of the Clean Water Act establishes Corps of Engineers jurisdiction over the discharge of dredged or fill material into waters of the United States, including wetlands, as defined in 33 CFR Part 328.3.

I am hereby verifying the Federal wetland boundary as shown on the attached wetland delineation map dated November 15, 2006. This verification was confirmed on 11/05/2007 and will remain valid for a period of five (5) years from the date of this correspondence unless new information warrants revision of the delineation before the expiration. At the end of this period, a new wetland delineation will be required if a project has not been completed on this property and additional impacts are proposed for waters of the United States. Further, this delineation/determination has been conducted to identify the limits of the Corps Clean Water Act jurisdiction for the particular site identified in this request.

Based upon my review of the submitted delineation and on-site observations, I have determined that wetland areas 1 (2.14 acres) and 2 (1.58 acres) on the subject parcel are part of a surface water tributary system to a navigable water of the United States as noted on the attached Jurisdictional Determination form. Therefore, the wetlands are regulated under Section 404 of the Clean Water Act. Department of the Army authorization is required if you propose a discharge of dredged or fill material in these areas.

In addition, I have determined that there is no clear surface water connection or ecological continuum between wetland areas 3 (3.24 acres), 4 (0.23 acres) and 5 (0.03 acres) on the parcel and a surface tributary system to a navigable water of the United States. Therefore, these waters

Regulatory Branch

SUBJECT: Department of the Army Application No. 2007-01542

are considered isolated, non-navigable, intrastate waters and not regulated under Section 404 of the Clean Water Act. Accordingly, you do not need Department of the Army authorization to commence work in these areas.

I encourage you to contact the appropriate state and local governmental officials to ensure that the proposed work complies with their requirements.

Finally, this letter contains an approved jurisdictional determination for the subject parcel. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal the above determination, you must submit a completed RFA form within 60 days of the date on this letter to the Great Lakes/Ohio River Division Office at the following address:

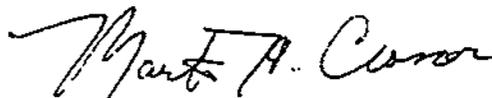
Mr. Mike Montone, Regulatory Review Officer
Great Lakes and Ohio River Division
CELRD-PDS-O
550 Main Street, Room 10032
Cincinnati, OH 45202-3222
Phone: 513-684-6212

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 C.F.R. part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by January 29, 2008.

It is not necessary to submit an RFA to the Division office if you do not object to the determination in this letter.

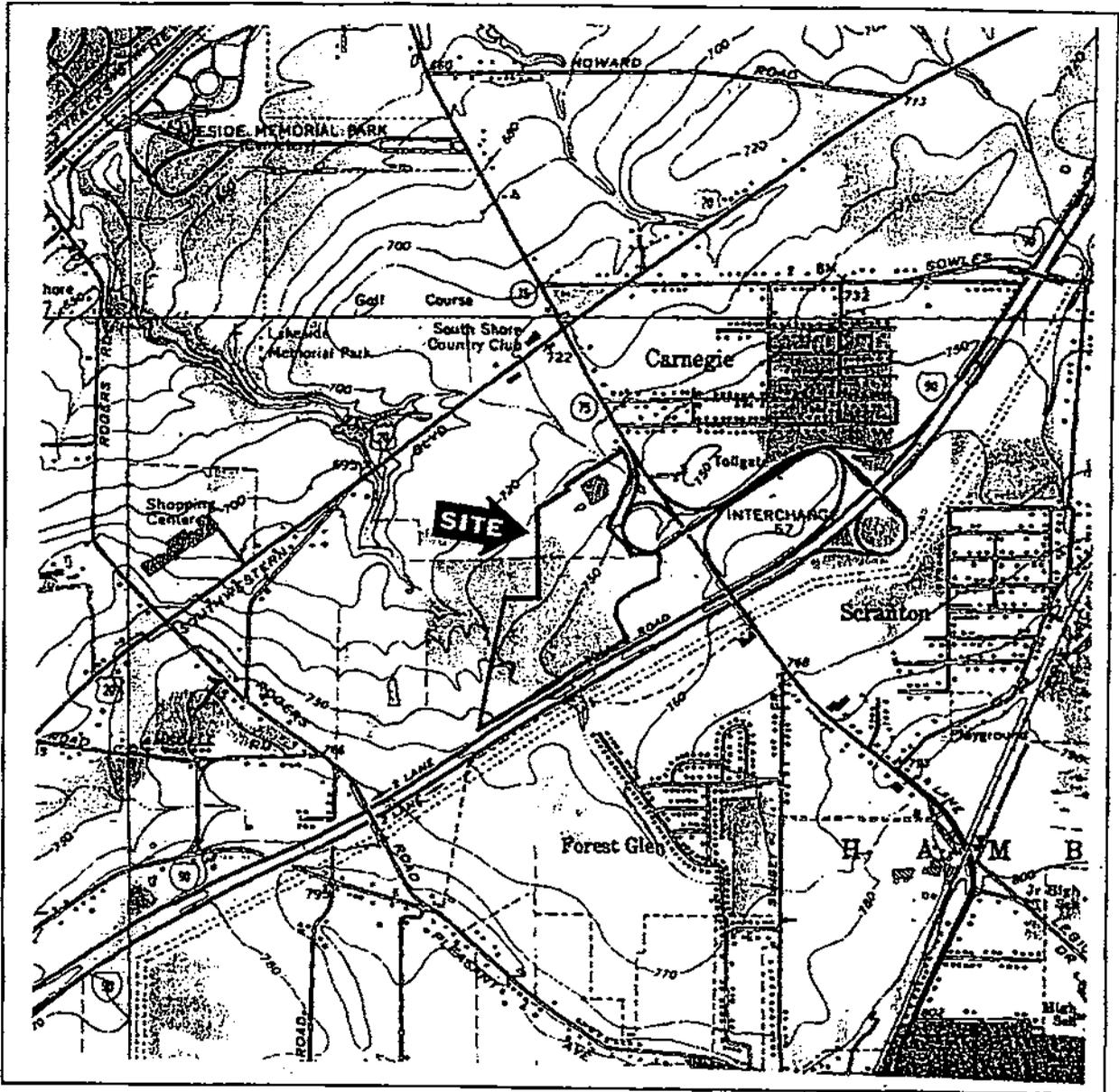
Questions pertaining to this matter should be directed to me by calling (716) 879-4346, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, or by e-mail at: martin.h.crosson@usace.army.mil

Sincerely,



Martin H. Crosson
Biologist

Enclosures



Benderson Development Co.
 D/A Processing No. 2007-01542
 Erie County, New York
 Quad: Hamburg
 Sheet 1 of 2



Figure 1: USGS 7.5 Minute Topographical Map
 Hamburg Quadrangle, DeLorme 2002

5220 Camp Road Scale: 1" = 2000'
 Town of Hamburg, Erie County, New York



Figure 7: Wetland Delineation Map

5220 Camp Road

Town of Hamburg

Erie County, New York



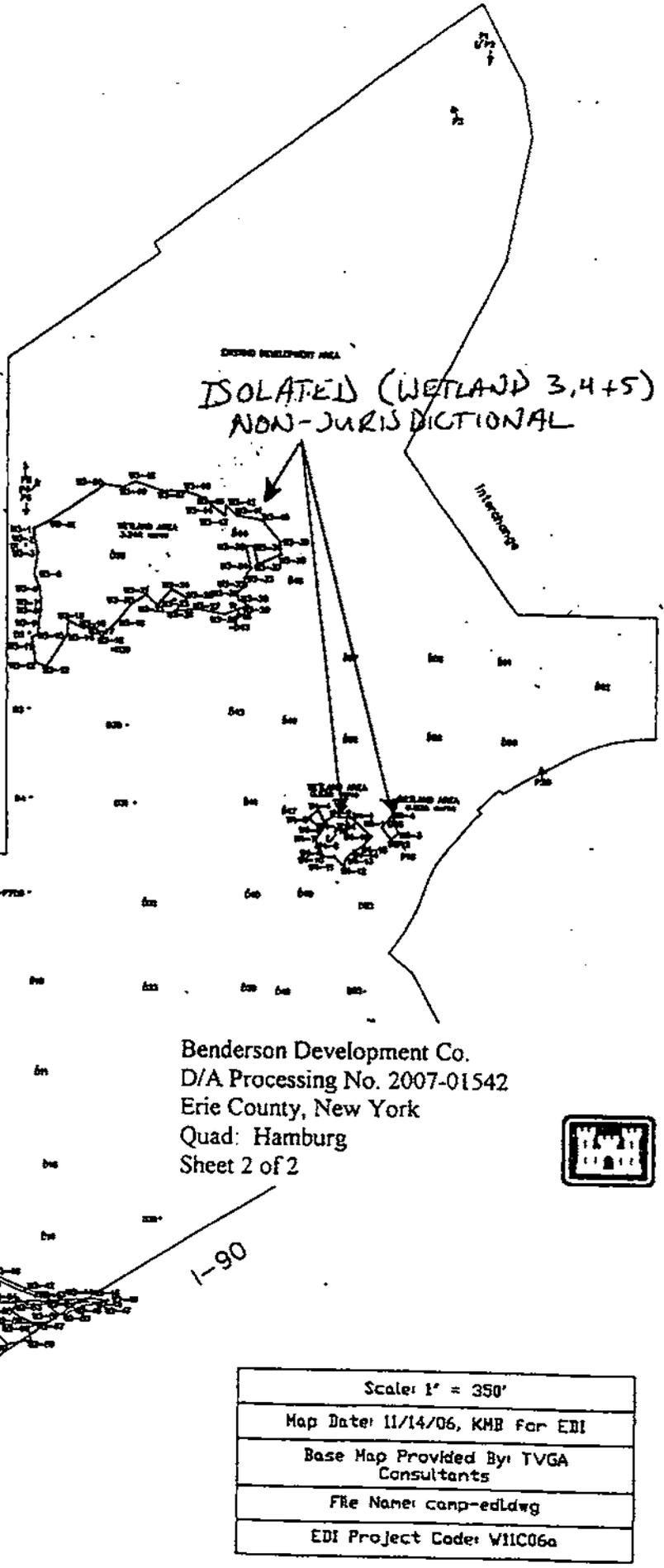
Soil and Hydrologic Investigations
Wetland Delineations

1091 Junction Road • Elmira, NY 14850
(716) 653-1717 • Fax (716) 653-8918



Wetland 1 : 2.14± acres (on-site)
Wetland 2 : 1.58± acres (on-site)
Wetland 3 : 3.24± acres
Wetland 4 : 0.23± acres
Wetland 5 : 0.03± acres
Total : 7.22± acres

- Data point
- Site boundary
- ← Tributary/Drain
- Photo point
- Wetland boundary point

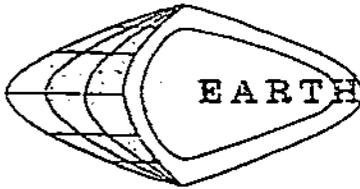


JURISDICTIONAL
WETLANDS

Benderson Development Co.
D/A Processing No. 2007-01542
Erie County, New York
Quad: Hamburg
Sheet 2 of 2



Scale: 1" = 350'
Map Date: 11/14/06, KMB for EDI
Base Map Provided By: TVGA Consultants
File Name: camp-ed1dwg
EDI Project Code: W11C06a



EARTH DIMENSIONS, INC.

Soil and Hydrogeologic Investigations • Wetland Delineations

1091 Jamison Road • Elma, NY 14059

(716) 655-1717 • FAX (716) 655-2915

Project Code: W11C06a

December 15, 2006

Ms. Diane Kozlowski
U.S. Army Corps of Engineers
Buffalo District Evaluation Section
1776 Niagara Street
Buffalo, New York 14207

RE: 5220 Camp Road
Hamburg, New York

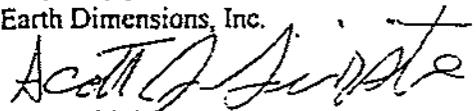
Dear Ms. Kozlowski:

On behalf of our client, Benderson Development Company, Earth Dimensions, Inc. (EDI) is submitting the attached wetland delineation report and proposed site plan for the above referenced project site. EDI identified five wetland areas totaling 7.22± acres on the 80± acre site. EDI believes wetlands 3, 4 and 5 would be considered isolated and non-jurisdictional with no significant nexus to Waters of the United States. Wetlands 1 and 2 are associated with an unnamed tributary to Lake Erie and are assumed to be under Federal Jurisdiction.

As depicted on the attached site plan, Benderson is proposing impacts to wetlands 3, 4 and 5, but will avoid wetlands 1 and 2. We are therefore requesting a jurisdictional determination and wetland boundary confirmation.

If you have any questions or require any further information, please contact our office at (716) 655-1717 or email EarthDimensions@aol.com.

Very truly yours,
Earth Dimensions, Inc.


Scott J. Livingstone
Senior Soil Scientist

encl.

cc: Bill Rae, Benderson Development Company, Inc.