

Town of Hamburg
Planning Board Work Session
July 5th, 2006

The Town of Hamburg Planning Board met for a Work Session on Wednesday, July 5th, 2006 at 7:30 p.m. in the Conference Room at S-6122 South Park Avenue. Those attending included: Chairman Gerard Koenig, Vice-Chairman David Phillips, Secretary Paul Eustace, Sasha Yerkovich, Karen Rogers, Steve McCabe & Richard Taber. Others attending included: Councilman Cavalcoli, Attorney Don McKenna, Attorney Michael Fruth, Drew Reilly, and Terry Dubey, Stenographer.

Walmart Super Center - Benderson Project - Brierwood - Southwestern Blvd.

Mr. Steve Cleason, and Neal Madden, Attorney for Wal-Mart, appeared before the Planning Board with an environmental document of an expanded Part 3 of the Environmental Assessment form. Also submitted is the minor subdivision requirement, which will require a hearing. Mr. Cleason asked if a Public Hearing could be held for the next meeting so as to receive other comments from the public as opposed to getting comments on the last minute.

Chairman Koenig responded that he feels this would be premature. The Planning Board would like to absorb the material that has been presented and be educated enough to answer questions when asked by the public. Also, the public hearing should be set for a separate night.

Mr. Phillips noted that it was his opinion that the south driveway on Rogers was to be closed. Yet, nothing states this in the traffic studies. Mr. Taber stated that the figures don't match up and he is concerned that the applicant is under estimating the traffic flow on Rogers Road and Route 5. The numbers seem low.

Mr. Cleason informed the Board that Phase II shows the full build out. They have also made some modifications to the drawing and moved the parking to the other side of the bank and opened up the green area. It was suggested that the applicant should consider some type of fencing. A question was raised as to whether a driveway could be made in the back to accommodate the problem of Timothy Rhodes that he could enter and exit from the Wal-mart property. Mr. Cleason responded that he will check the bank lease to see if this can be accomplished.

A copy of the document is to be sent to Tim Ellis, Traffic Safety Coord. for review. Also, the Town Board may want an independent consultant to work on the traffic study. Also, there should Consideration is to be given about the south side driveway closing on Rogers Road. Mr. Taber suggested that an investigation should be made into developing a left turn lane on Rogers due to the fact that cars could stack up due to the railroad crossing.

Mr. McCabe noted that the information that is in the appendices should be brought up front to highlight the crucial points. The best way to accomplish this is thru an Executive Summary and what mitigations are proposed for traffic, drainage, flooding, reduction of runoff, etc. Documents should be submitted to the Conservation Board, Engineering, and the Fire Department. Councilman Cavalcoli requested that copies be submitted to the Town Board. Item to be on July 19th.

TOWN OF HAMBURG

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JAMES F. CONNOLLY

TO : Planning Board

FROM : Engineering Dept.

DATE : 7/5/06

SUBJ : 7/5/06 PLANNING BOARD WORK SESSION AGENDA
Wal-Mart & Benderson Projects
Brierwood Plaza - Southwestern Blvd.

We have not received any new information on the above referenced projects.
Therefore, our previous 5/17/06 comments remain the same.

Gerard M. Kapsiak, P.E.

Town Engineer

Richard J. Lardo

Principal Engineer

Law: 7-5-06 meeting

June 30, 2006

Donald McKenna, Esq.
728 Ellicott Square Building
Buffalo, NY 14203

Re: *Hamburg Planning Board: Proposed Brierwood Plaza Redevelopment
SEQRA Determination*

Dear Mr. McKenna:

We represent Wal-Mart in connection with this proposed project. Wal-Mart has previously provided a proposed site plan for its project, a long-form SEQRA environmental assessment form, and supporting information. Benderson Development will retain a portion of the plaza and Benderson has submitted a sketch plan application depicting how it may redevelop its portion of the plaza. The Wal-Mart and Benderson applications are by unrelated applicants; involve plans with different levels of detail; are capable of progressing independently of each other; and involve different potential time tables for "build out". Nevertheless, the Planning Board is considering the potential environmental impacts of the two applications together in making its SEQRA determination. Under separate cover an additional Environmental Assessment document is being provided to the Board and its consultants which provides further information on the Wal-Mart and Benderson projects.

The Board has indicated its desire to act as SEQRA lead agency for this project, and has contacted all other potentially involved agencies for the purpose of conducting a coordinated review. We understand no other agency has objected to the Board acting as lead agency.

The next order of business for the Board as lead agency would be to make a determination of significance whether the applications require completion of an environmental impact statement ("positive declaration"), or whether there is sufficient information establishing that the project, as currently proposed, includes design elements designed to avoid significant environmental impacts such that no further environmental review is required ("negative declaration").

The proposed re-development of Brierwood is a Type I action pursuant to the SEQRA regulations. However, as noted in the NYSDEC SEQR Handbook (November 1992), the fact that a project is Type I does not automatically mean that a positive declaration is appropriate. "SEQR responsibilities for Type I actions may be met by a well-documented negative declaration." SEQR Handbook at page 15 (copy enclosed). Many large scale projects have been determined to be appropriate for negative declarations. The courts routinely uphold negative declarations for large and/or controversial projects where the lead agency demonstrates that it has complied with the "hard look" test of identifying relevant environmental concerns, taking a hard look at such issues, and explaining why such issues do not have negative environmental impacts. See, e.g., *Cathedral Church of St. John the Divine v. Dormitory Authority*, 224 A.D.2d 95, 645 N.Y.S.2d 637 (3d Dep't 1996), *app. denied*, 89 N.Y.2d 802, 653 N.Y.S.2d 279 (1996) (upholding negative declaration for construction of a 13-story addition to a nursing home); *Save the Pine Bush v. Planning Board of Town of Guilderland*, 217 A.D.2d 767, 629 N.Y.S.2d 124 (3d Dep't 1995), *app. denied*, 87 N.Y.2d 803, 639 N.Y.S.2d 310 (1995) (upholding negative declaration for residential subdivision on 106 acres); *Real Estate Board of New York, Inc. v. City of New York*, 157 A.D.2d 361, 556 N.Y.S.2d 853 (1st Dep't 1990) (upholding negative declaration for zoning amendment affecting 12 city blocks and encompassing 8 million square feet); *Iroquois Central School Dist. V. Zagata*, 241 A.D. 2d 945, 945, 662 N.Y.S.2d 282, 283 (4th

Dept. 1997) (upholding negative declaration for mining permit and quoting *Cathedral Church of St. John the Divine, Village of Poquott v. Cahill*, 11 A.D.3d 536, 541, 782 N.Y.S.2d 823, 828 (2nd Dept 2004) (upholding negative declaration for expansion of power plant). Negative Declarations for new Wal-Mart Supercenters on "green sites" have also been upheld by the courts. See *Wilkinson v. Planning Board of Town of Thompson*, 255 A.D.2d 738, 680 N.Y.S. 2d 710 (3d Dept 1998); *Oates v. Village of Watkins Glen*, 290 A.D.2d 758, 736 N.Y.S.2d 478 (3d Dep't 2002). Copies of those decisions are enclosed. A recent redevelopment of Camillus Plaza in suburban Syracuse also involved with SEQRA negative declaration.

We believe that the original EAF and supplemental materials submitted to the Board provide a rational basis to justify a SEQRA negative declaration for this redevelopment and reuse of an existing commercial facility. We understand this is a matter for the Board's discretion, but we wanted to confirm that a positive declaration was not required here "as a matter of law".

Thank you for your consideration of this letter.

Sincerely,

Harter, Secrest & Emery LLP

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NDM:sef
Enclosure

cc: Michael Fruth, Esq.
Andrew C. Reilly, P.E.
Todd Markevich, P.E.
Mr. Anthony Battista

bcc: Peter Giovenco, P.E.



HARTER • SECREST & EMERY • LLP
ATTORNEYS AND COUNSELORS
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June 30, 2006

Mr. Gerard Koenig, Chairman
Town of Hamburg Planning Board
4602 Milestrip Road
Blasdelle, NY 14219

*Re: Re-development of Brierwood Plaza
(Wal-Mart Project and Benderson Sketch Plan)*

Dear Mr. Koenig:

We are the attorneys for Wal-Mart. Pursuant to the discussions at recent Planning Board meetings, enclosed please find an additional Environmental Assessment document to supplement previous information provided by Wal-Mart and/or Benderson. We are also forwarding copies of this report to the other members of the Planning Board and to the Board's consultants.

Taken together, the Wal-Mart and Benderson applications would provide for the re-development of the Brierwood Plaza. The Wal-Mart and Benderson applications are by unrelated applicants, involve plans of different level of detail; are capable of progressing independently of each other; and involve different potential timetables for "build out". However, the Planning Board, as SEQR Lead Agency, is considering the potential environmental impacts of the entire Brierwood Plaza re-development. The enclosed Environmental Assessment is submitted to assist the Planning Board in that review.

We look forward to discussing the Wal-Mart and Benderson proposals and the enclosed Environmental Assessment at the Board's work session on July 5 and at the Board's July 19 meeting.

Very truly yours,

HARTER, SECREST & EMERY LLP

Neal D. Madden

Partner

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NDM:sef
Enclosures

cc: Planning Board Members
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Michael Fruth, Esq.
Andrew Reilly, Town Planner
Gerard M. Kapsiak, P.E., Town Engineer
Terry Dubey
Todd Markevich, P.E., APD Engineers
Anthony Battista, Benderson Development



06/27/2006 02:14 PM

CC:
Subject: Fwd: Email from "The Sun"

Subject Email to "The Sun"

Notice to Walmart and the Town of Hamburg Planning Board:

After taking off of work several times to attend the Town meetings about Walmart going in next to my house, I am disgusted. I live on Southwestern Blvd. next to the bank where the Walmart is going in. I have made it very clear to the planning board that my family and freinds will be in danger. Not because of the road getting widened but because there will also be a 200' turning lane 30' from my living room. I will need to cross 3 lanes of traffic to get out of my driveway. For the last 7 years I delt with the snowplows coming close to hitting my house and cars with debree, they will surly hit my house and cars and anyone in the drive way for now on. When I brought this up at the meeting the board said it was the "D.O.T 's decision" to put it in. I talked with them . The D.O.T. engeingeer said "the developer paid the Town to install the turning lane" and then the Town paid the D.O.T. to do it. If this is how the Town is going to look out for it's redsidents then I won't be living here long. I love where I live but not if it means my family is in harms way. A copy of this will be sent to each of the Planning Board members and to Walmart as a Notice that if anything happens to a person or property from a result of the turning lane or from the snowplows. They are responsible and neglagent for not looking out for a residents welfare.

Timothy P. Rohde
5334 Southwestern Blvd.
Hanburg New Youk 14075

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I. Introduction and Purpose

This Environmental Assessment has been prepared in compliance with Article 8 of the New York State Environmental Conservation Law, the State Environmental Quality

Review (SEQR) Act, and its implementing regulations at NYCRR Part 617. It is intended for use by the Lead Agency in the determination of environmental significance for the proposed action.

This Environmental Assessment is considering the redevelopment of Brierwood Square in two separate phases. Phase I is the proposed Wal-Mart Supercenter. This includes demolition of 156,347± square feet (sf) of the existing 208,661± sf plaza to construct a 205,000± sf Wal-Mart Supercenter and a 0.95± acre outparcel. The Phase I project includes the provision of paved parking, highway access points, utilities, and a stormwater management system to support the proposed use. Phase II development involves the redevelopment of the remaining portion of Brierwood Square. The "sponsor" of Phase II is Benderson Development ("Seller"). The Wal-Mart and Benderson applications are by unrelated applicants; involve plans of different level of detail; are capable of progressing independently of each other; and involve different potential time tables for "build out". Nevertheless, the Planning Board has considered the potential environmental impacts of the two applications together in making this determination.

The project is located on the north side of Southwestern Boulevard (NYS Route 20) in the Town of Hamburg, Erie County, approximately 500 feet east of its intersection with Rogers Road, as shown as shown on the Project Location Map in Figure 1. The existing development contains 43.7± acres which will be subdivided to facilitate the 27.84± acre Wal-Mart Parcel, a Wal-Mart 0.95± acre outparcel, 0.51± acre bank parcel to be retained by seller, and 14.39± acres to be retained by the seller.

The site currently contains a nearly vacant commercial strip plaza with associated pavement and utilities that was constructed in 1959. The northeastern portion of the site is comprised of brushland, forest and wetlands. The proposed Wal-Mart parcels will have approximately 830 feet of frontage on Southwestern Boulevard. The seller's parcel has approximately 275 feet of frontage on Southwestern Boulevard and approximately 925 feet of frontage on Rogers Road.

The proposed overall Site Plan for Phase I and Phase II is shown in Figure 4. The Wal-Mart Supercenter is planned to consist of a single story building containing approximately 205,000± sf of floor area plus an attached seasonal, fenced outdoor garden area. The building will contain interior sections for retail sales, grocery, pharmacy, tire-lube express, garden center, photo center, hair salon, bank, snack bar and vision center. The garden center will include a fenced and covered open-air display on the building's east side with entry from within the main building. A drive-through pharmacy pick up is planned for the west side of the building.

A Wal-Mart Tire Lube Express (TLE), containing 7 service bays, will be located near the building's northeast corner. The Tire Lube Express services are limited to oil changes, tire services, battery services and other light auto maintenance. No muffler, brake, transmission or similar work is done in the Wal-Mart Tire Lube Express.

Loading docks serving both the grocery and dry goods operations will be located on the

north side, or rear, of the Wal-Mart Supercenter building.

The Wal-Mart Supercenter building exterior is proposed to be constructed of masonry block and have a flat roof. The two main entrances will be located on the south side. The proposed building has been designed to be aesthetically pleasing and capture some of the "Greek Revival" architecture that is displayed at the Brierwood Country Club. Columns and other special architectural features will be included in this design. An architectural elevation is included in Figure 11. The use of precast columns to create a gabled portico at these entrances help to define the style and historic vernacular of this building. Also by incorporating the use of classic materials such as common red brick, stone textured block, and pre-cast stone the elevation is broken down into smaller scaled elements. The elevation is further broken down into smaller proportions by the use of brick pilasters.

The proposed Wal-Mart construction also includes the provision of paved parking for 983 vehicles (1,013 vehicles, if required), a three-lane signalized access drive onto Southwestern Boulevard, a three-lane secondary access drive to Southwestern Boulevard, access to Rogers Road through the Benderson property (Phase II) adjacent to the west, utilities and stormwater management facilities to support the proposed uses, lighting and landscaping. More details on these elements of the development are presented in the draft Part 3 of the Environmental Assessment Form (EAF) contained later in this document.

The proposed Phase II includes five buildings: retail/restaurant approximately 68,000 sf, retail/restaurant approximately 15,700 sf, retail/restaurant approximately 8,560 sf, retail/restaurant approximately 5,600 sf, and office space approximately 11,200 sf. Primary access to this property will be off a single entrance off Rogers Road as well as Wal-Mart's western driveway. Additionally, there will be two cross access points between Phase I and Phase II. Phase II is proposing approximately 600 paved parking spaces. The owner of Phase II has proposed an architectural design consistent with the Wal-Mart design.

Construction and operation of Phase I requires Site Plan, Special Use Permit (building over 100,000 sf and limited automotive service area, Tire Lube Express (TLE)) and Subdivision Approval from the Town of Hamburg Planning Board as well as other approvals as detailed in Part 1 of the Environmental Assessment Form, which is contained in Section II of this report. The Town of Hamburg Planning Board is acting as Lead Agency for this environmental review.

The pending action is classified as a Type I action pursuant to SEQR, requiring the preparation and distribution of a Long EAF Form and a coordination environmental review. This Environmental Assessment document includes the completed EAF Part 1 and Part 2 and 3 for use by the Lead Agency in making a determination of environmental significance.

Section IV of this Environmental Assessment includes an evaluation of potential impacts of the proposed project. Detailed supporting documentation is provided in the Appendices to this Environmental Assessment.

Benefits resulting from the project include the creation of new jobs in the community, the elimination of a mostly vacant commercial property, improved stormwater management and water quality controls, improved utility capacities in the area, enhanced visual appearance of the retail area and an overall improvement in the project site's adherence to the overlay districts regulations and purposes. Overall, the redevelopment of the existing nearly empty retail site will upgrade the function and appearance of an important commercial location within the Town of Hamburg, and offer consumers the retail choice of goods and services provided by a Wal-Mart Supercenter.

Based upon the data and analysis contained herein, it is concluded that the proposed site development, including all highway and utility improvements, will not result in any detrimental environmental impacts of significance.

II. Long Environmental Assessment Form – Part 1

III. Long Environmental Assessment Form – Part 2

(To be provided by the Town Planning Board)

IV. Environmental Assessment

A. Project Description

Phase I - Wal-Mart Supercenter

1. Buildings and Parking

As previously mentioned, the existing site contains a large, relatively vacant plaza and small bank, with associated asphalt parking and utilities. The northeastern portion of the site is comprised of brushland, forest, and wetlands. Surrounding properties include apartments and a golf course to the north and residential to the east. Throughout the years, the existing plaza has had many different types of uses, with 23 store fronts occupied by various tenants including the following large commercial businesses: K-Mart, Hans and Kelly Department Store, Bells grocery store, Loblaws Department Store, D& K Stores, Montgomery Wards and Sears. In addition, other uses such as restaurants, bakeries, butcher shop, and bars were also former tenants of the plaza.

The proposed project includes the demolition of 156,347[±] square feet (sf) of the existing 208,661[±] sf plaza to construct a 205,000[±] sf Wal-Mart Supercenter and a 0.95[±] acre outparcel. The demolition of the building will be done in such that all asbestos and lead paint will be disposed of properly as per New York State Department of Health (NYSDOH) and New York State Department of Environmental Conservation

(NYSDEC).

The proposed Site Plan for the overall project is shown in Figure 4. The Wal-Mart Supercenter is planned to consist of a single story building containing approximately 205,000 sf of floor area plus an attached seasonal, fenced outdoor garden area. The building will contain interior sections for retail sales, grocery, pharmacy, tire-lube express, garden center, photo center, hair salon, bank, snack bar and vision center. The garden center will include a fenced and covered open-air display on the building's east side with entry from within the main building. A drive-through pharmacy pick up is planned for the west side of the building.

A Wal-Mart Tire Lube Express (TLE), containing 7 service bays, will be located near the building's northeast corner. The TLE operation of the proposed project will be in compliance with Special Use Permit zoning codes. The TLE is intended to service automobiles and does not perform heavy automotive repairs. These services include the installation of products sold within the store such as wiper blades, tires, and batteries. The TLE may also offer services such as oil changes, rotating tires, adding fuel injector cleaner and auto fluid checks. All waste batteries, tires, and oils will be stored inside and disposed of through licensed handlers to prevent run-off.

All storage systems for oils, grease and other potentially toxic substances from the TLE will meet or exceed state and federal standards. All such facilities are monitored on a daily basis by trained, on-site personnel. A store specific spill prevention, control and countermeasure plan and spill response plan will be prepared within one month prior to the store opening. These plans will be completed in compliance with federal and state requirements with adequate equipment provided to contain and clean-up small quantity spills. Local personnel are backed-up with a twenty-four hour a day centralized Wal-Mart maintenance department that handles any contingencies, outdoor spills and provides for outside service firms for clean-up. The TLE facility connects all floor drains and sumps to an oil separator that is then connected to the sanitary sewer system. If the sanitary provider will not accept this connection, the Applicant will incorporate a closed loop system where water will be store in a tank and pumped out for off-site disposal at a legal receiving site.

Loading docks serving both the grocery and dry goods operations will be located on the north side, or rear, of the Wal-Mart Supercenter building.

The Wal-Mart Supercenter building exterior is proposed to be constructed of masonry block and have a flat roof. The two main entrances will be located on the south side. The proposed building has been designed to be aesthetically pleasing and capture some of the "Greek Revival" architecture that is displayed at the Brierwood Country Club. An architectural elevation is included in Figure 11. The use of precast columns to create a gabled portico at these entrances helps to define the style and historic vernacular of this building. Also by incorporating the use of classic materials such as common red brick, stone textured block, and pre-cast stone the elevation is broken down into smaller scaled elements. The elevation is further broken down into smaller proportions by the use of brick pilasters.

The proposed construction also includes the provision of paved parking for 983 vehicles (1,013 vehicles, if required), providing an overall parking ratio of 4.80 parking spaces per 1,000 sf of floor area (4.94/1,000 sf, if required). The bulk of these spaces, 848, will be located on the south side of the Wal-Mart Supercenter building between the main building entrance and the Southwestern Boulevard frontage. This will be supplemented by approximately 63 spaces on the building's east side near the Garden Center and TLE and 72 spaces (102 if required) to be located on the buildings west side.

As part of this project, the existing Bank of America will remain (and will continue to be owned by Seller), although the access, parking configuration, and drive-thru routing will be altered. The most current layout includes parking for 26 vehicles, which has been relocated to the north side of the bank to provide direct access to the main entrance via sidewalks. The parking stalls previously shown adjacent to the east property line have been removed, as there were concerns raised regarding impacts to the neighboring property. This relocation of parking will now allow for provisions of a 16' wide lawn buffer between the asphalt drive and the east property line. In addition to the relocated parking, access to the bank has been revised from the current unrestricted open curb cut along the main entrance to the plaza, to a more controlled, 24' wide curb cut toward the northeast corner of the building. This will improve overall safety for the access to Southwestern Boulevard, as vehicles will no longer be queuing in the driveway to enter the bank. Access to the bank drive-thru window will be from the northeast drive, with vehicles continuing to the front of the building, circling the proposed landscaped island, performing the transaction at the bank window, and then heading back out of the bank parking lot.

A seasonal outdoor display of garden materials is proposed for an approximately 20,000 sf area of the parking lot on the building's east side. This will result in a seasonal reduction in parking by approximately 96 spaces, thus reducing the overall parking ratio to 4.33 (4.47 if required) parking spaces per thousand sf of floor area. The outdoor display is utilized during the growing season, from approximately mid-April through October. Since the peak parking demand for a Wal-Mart facility occurs during the Christmas holiday shopping season, November through late December, the reduced parking for the seasonal outdoor display does not adversely affect operations.

The main parking area in the front of the Wal-Mart Supercenter building includes a landscaped island at the main entry drive, diverting traffic around the perimeter of the parking field rather than cutting straight through the parking bays. In addition, the parking lot has one continuous island running out from the grocery side main building entrance and another at the general merchandise main building entrance and bisecting the entire parking field. These measures will tend to discourage motorists from cutting diagonally through the parking lot.

Snow and ice removal will be conducted as for any other large complex in this area. Snowplows will be utilized to clear parking lots, access drives and, in conjunction with manual shoveling, walkways. Sufficient areas for snow storage exist on the north and east sides of the Wal-Mart Supercenter building and parking lot. In the event of severe

snow volumes, private contractors will be utilized to remove snow from the site. Limited amounts of deicing salt will be utilized on walkways leading into and out of the Wal-Mart Supercenter building.

2. Site Access

Access to the site will be provided via two driveway entries on Southwestern Boulevard and cross access to Rogers Road through the Benderson property (Phase II) to the west. The primary entrance will be near the existing bank at the existing curb cut via a signalized, three lane access point onto Southwestern Boulevard. This access driveway and signal will be approximately 1,200 feet east of the signalized intersection of Southwestern Boulevard and Rogers Road. The main access drive will provide one entering and two existing traffic lanes. At the intersection, Southwestern Boulevard will be provided with a dedicated left turn lane for eastbound vehicles and a dedicated westbound right-turn lane for vehicles entering the site.

The second access point will be a stop-controlled three-lane driveway connecting to Southwestern Boulevard at the location of the existing curb cut at a point approximately 550 feet east of the Southwestern Boulevard and Rogers Road intersection. This access point will provide one entering and two exiting lanes. At the intersection, Southwestern Boulevard will be provided with a dedicated left turn lane for eastbound vehicles and a dedicated westbound right-turn lane for vehicles entering the site.

A detailed evaluation of the adequacy and safety of the proposed access is contained in the Traffic Impact Study prepared by SRF and Associates contained in Appendix C to this Environmental Assessment.

3. Zoning

The existing zoning of the project site is C2 – General Commercial. In addition, the proposed Project Site is located in the Town of Hamburg's Southwestern Boulevard Overlay District (SBOD). Surrounding lands on the north side of the site are zoned R1 and R3, Single Family and Multi-Family Residence. The property to the west (Benderson property, Phase II) is also zoned C2-General Commercial. To the east of the site is zoned R3, Multi-Family Residence. To the south of Southwestern Boulevard the properties are zoned C2-General Commercial and R2-Single Family Residence, attached.

Permitted principal uses in C-2 zoning districts with a size limitation of 100,000 sf include retail sales and eating or drinking establishments. Uses permitted by Special Use Permit include permitted uses greater than 100,000 sf, and automotive repair services (including oil change and tire shops). Based on the size of the 0.55± acre outparcel uses within a C-2 zoning district would typically include small retail stores and eating or drinking establishments. A Special Use Permit would need to be acquired from the Town for such uses as a car wash or filing station.

The applicable bulk requirements in this district and the corresponding proposed

conditions are as follows:

	Required	Proposed Wal-Mart	Bank
Front Building Setback	50' (1)	566'+/-	68'+/-**
Side Building Setback (E/W)	30' WM, 5' Bank (2)	339'+/-, 135'+/-	44'+/-**, 5.5'+/-
Rear Building Setback	30' WM, 10' Bank (3)	105'+/-	71'+/-
Front Parking Setback	50'	51'	114'+/-
Minimum Lot Width	100'	414.4'+/- WM	102'+/-
	100'	152.7'+/- Outparcel	N/A
Maximum Lot Coverage	85%	67%+/-	66.1%+/-
Minimum Interior Green Space	5%	7.6%	8.2%
Maximum Building Height	35'	30'+/-	15'+/-**

(1) Required front yard in C-2 Zone shall be 40'. Required front yard (including parking setback) per Southwestern Boulevard Overlay District is 50'.

(2) Required side yard shall be 0', unless where a side yard is provided, it shall be no less than 5'. Any side yard abutting an R District boundary shall have a 20' yard or the height of the principal building, whichever is greater. Where a side yard is used for vehicular ingress/egress, it shall be at least 12' (either) or 25' (both).

(3) Required rear yard shall be 10', unless along an R District boundary, in which case, same requirements as side yard.

** Pre-existing condition.

As detailed in the table, the proposed project meets or exceeds all the applicable requirements under the current zoning of the site.

4. Land Use

Existing land uses in the immediate project vicinity include commercial uses to the south and west and residential uses to the north and east. To the north of the site is an existing apartment complex. To the east of the site are existing single family homes and an apartment complex. The Benderson property (Phase II) to the west is zoned for General Commercial and is part of the existing plaza.

Based upon the above, the proposed Wal-Mart development is appropriate for the site and consistent with surrounding land uses.

5. Signage

A final signage plan has not been developed for the proposed Wal-Mart Supercenter development since it will depend, in part, on the building architectural treatment preferred by the Town. However, signage that is typically proposed for Wal-Mart buildings is shown in Appendix A.

Wal-Mart proposes supplementing building-mounted signage with a pylon-mounted sign near the existing Southwestern Boulevard signalized entrance, which will identify the site

facility near the eastern portion of the plaza.

Phase II – Remainder of Brierwood Square

Detailed plans for Phase II are not yet available. The owner of the plaza has provided a concept sketch plan which was incorporated in the overall Site Plan. As more detailed plans are presented, the Phase II applicant will be required to demonstrate compliance with applicable setback requirements.

The proposed Phase II includes five buildings: retail/restaurant approximately 68,000 sf, retail/restaurant approximately 15,700 sf, retail/restaurant approximately 8,560 sf, retail/restaurant approximately 5,600 sf, and office space approximately 11,200 sf. Primary access to this property will be off a single entrance off Rogers Road as well as Wal-Mart's western driveway. Additionally, there will be two cross access points between Phase I and Phase II. Phase II is proposing approximately 600 paved parking spaces. The owner of Phase II has proposed an architectural design consistent with the Wal-Mart design, as shown in Figure 12.

It is anticipated that Phase II will propose two pylon signs, one at Southwestern Boulevard and the second along Rogers Road. Specific locations, sizes and architectural appearance will be subject to the end users and overall final configuration of Phase II.

B. Utilities

Phase I - Wal-Mart Supercenter

Public water supply and sewage disposal facilities are available at the proposed project site and it is proposed that the site be served by these existing facilities.

Water will be supplied via a tap into an existing 8 inch Erie County Water Authority main located along the north side of Southwestern Boulevard. This 8 inch main currently traverses north into the site servicing both the existing bank and plaza located on this property.

It is proposed that a portion of the water main servicing the existing plaza would be removed. Water for the site will be supplied by an 8 inch pipe to be looped around the Wal-Mart Supercenter building and tapped into the existing 8 inch service approximately 480± feet into the site within the proposed parking field. A lateral will connect the 8 inch looped line in through the rear of the Wal-Mart Supercenter building. A 2 inch water line would be stubbed at the outparcel from the watermain running along the entrance to the site. The Wal-Mart service would also connect to the existing service to the remainder of the plaza on the Benderson property (Phase II).

The water demands projected for the new Wal-Mart Supercenter are detailed in the table below, and are based on information gathered from existing Wal-Mart stores usage:

Domestic Demand	
Average use	7,300 gpd *
Peak Demand	130 gpm @ 39 psi
Fire Flows	
Peak Demand	1600 gpm @ 47 psi
gpd = gallons per day	
gpm = gallons per minute	
psi = pounds per square inch	

*This demand does not account for water usage in the garden center, which during peak periods, is found to be approximately 200 gpd. This demand also assumes no irrigation is being installed for lawn and landscaping areas, which is correct for this project.

The existing plaza is serviced by a 10 inch clay sanitary sewer flowing from the plaza to the property to the north. Sewage disposal will be provided by connection to this existing 10 inch Town of Hamburg gravity sewer. A portion of the existing service to plaza will be removed and the new service will be connected near the northern property line. The new line will extend around the south, west and north sides of the Wal-Mart Supercenter building. A 6 inch lateral will connect from the new 8 inch line to the Wal-Mart building at two locations, one on the west side and one on the north side. A 6 inch sewer lateral will be installed from the existing 6 inch line servicing the bank, to the proposed outparcel. The proposed sewer will also connect to the existing sanitary sewer servicing the Phase II property as well as the existing service to the bank.

As per the Town of Hamburg Engineering Department, it is understood that sanitary capacity under normal conditions is acceptable. However, during storm events, the capacity is compromised due to groundwater infiltration into the sewer system. As such, it is proposed to photograph/video inventory approximately 1200' to 1500' of the 10 inch clay sanitary sewer lateral flowing from the plaza to the connection with Rogers Road sewer. The existing on-site sanitary sewer lateral will be removed, and new PVC piping will be installed to the property line. The remainder of the existing lateral (between the property line and connection with Rogers Road sewer), will either receive a liner system or will be removed with installation of a new sewer. The final decision regarding the treatment of the off-site lateral will be based on the results of the video survey, which would be available in early July of 2006. In either case, the installation of new piping in combination with the proposed liner system will improve the infiltration problem currently occurring.

The proposed Wal-Mart Supercenter sanitary demand would be roughly equivalent to the average daily demand for domestic water. As previously mentioned, this demand is 7,300 gpd, and is calculated by taking averages of existing store usage over periods of time. This calculated flow provides a more accurate demand than utilizing NYSDEC established demands (0.1 gpd/sf), and therefore is utilized as the projected demand.

The proposed outparcel's sanitary demand would be dependent on the final tenant, but for purposes of this report, a 5,000 sf restaurant would be developed on the property. Based on demands per NYSDEC for various building usages, the following sanitary demands would be anticipated for the outparcel:

Restaurant: 5,000 sf total of which 50% seating (assumed) = 2,500 sf
Assume 1 seat/25 sf = 100 seats
(100 seats)(35 gpd/seat) = 3,500 gpd

Based on information from Benderson, and established demands per NYSDEC for various building usages, the following sanitary demands would be anticipated for the Phase II development:

Retail: (87,981 sf)(0.1gpd/sf) = 8,798 gpd

Restaurant: 9,776 sf total of which 50% seating (assumed) = 4,888 sf
Assume 1 seat/25 sf = 196 seats
(196 seats)(35 gpd/seat) = 6,860 gpd

Office: (11,200 sf)(0.1gpd/sf) = 1,120 gpd

Total: 8,798 gpd + 6,860 gpd + 1,120 gpd = 16,778 gpd

Since the existing bank will remain as part of this plaza, its demands will not be considered in this analysis. Therefore, it is anticipated that the total proposed development (Wal-Mart, outparcel, Phase II) would require a sanitary demand of 27,578 gpd.

Throughout the years, the existing plaza has had many different types of uses, with 23 store fronts occupied by various tenants including the following large commercial businesses: K-Mart, Hans and Kelly Department Store, Bells grocery store, Loblaws Department Store, D& K Stores, Montgomery Wards and Sears. In addition, other uses such as restaurants, bakeries, butcher shop, and bars were also tenants of the plaza. Although it is difficult to determine exact demands, based on review of previous lease agreements and square footages, we would approximate 15,000 sf of restaurant usage and 193,661 sf of retail usage may have been operating at the same time. This usage would yield a sanitary demand of approximately 29,866 gpd using the same logic as the Phase II development demands. Therefore, the proposed sanitary demands would be similar to prior usages.

The existing 8 inch gas line extends from Rogers Road behind the plaza servicing the existing buildings at approximately 5 connections. The proposed service would be relocated behind the proposed Wal-Mart Supercenter with one connection to the building at the rear of the store. A 2 inch gas service will be extended from the service at the north property line to the outparcel limits.

The existing electric and telephone service runs overhead from Rogers Road behind the existing plaza and runs to the east property line and then southerly along this property line until it connects with the existing service along the north side of Southwestern Boulevard. The plaza is serviced via underground electric and telephone from these overhead lines. The proposed electric and telephone service will be connected similar to this; however the overhead lines running through the site will need to be relocated to the northern property line behind the proposed Wal-Mart Supercenter. From these overhead lines, underground electric and telephone will be extending from a pole to the proposed building. The proposed outparcel will receive electric and telephone service from the existing service running along the north side of Southwestern Boulevard.

Based upon the above and existing uses of the plaza, the proposed Wal-Mart Supercenter development is appropriate for the site and the impacts to the utility infrastructure should

be negligible, given the proposed investigation and replacement/lining of the sewer lateral.

Other utilities such as natural gas, water, electric, and phone are currently serving the existing plaza, and should have capacity to serve the proposed developments. The existing water service to the plaza comes from a watermain located along Southwestern Boulevard. It is anticipated that the proposed project will tie into this main on the property, and install new watermain as required. Existing natural gas, electric, and phone are all provided off Rogers Road. The proposed project will tie into the existing services on the property as required.

C. Traffic

A detailed Traffic Impact Study has been prepared for the proposed development by SRF & Associates of Rochester, NY. The complete Traffic Impact Study is contained in Appendix C to this Environmental Assessment.

The Traffic Impact Study includes a description and evaluation of the existing highway network serving the site, a projection of the additional traffic to be generated by the proposed building expansion, an evaluation of the impact of this additional traffic on the roadway operating characteristics, and an identification and evaluation of measures to minimize or avoid the identified impacts. A summary of this information is provided in this section. For more details, reference should be made to the full Traffic Impact Study in Appendix C.

1. Existing Highway Network

The study area roadway system identified for investigation includes the portion of Southwestern Boulevard (NYS Route 20) between Amsdell Road to the west, Route 75 to the east, Rogers Road between Southwestern Boulevard to the south, and Route 5 to the north. Eleven (11) existing intersections are studied in detail in this report and are as follows:

1. NYS Route 20/Amsdell Road (signalized)
2. NYS Route 20/Rogers Road (signalized)
3. NYS Route 20/Abel Street (unsignalized)
4. NYS Route 20/Route 75 (signalized)
5. Rogers Road/Cloverbank Road (unsignalized)
6. Rogers Road /north site drive (unsignalized)
7. Rogers Road /south site drive (unsignalized)
8. NYS Route 20/west site drive (unsignalized)
9. NYS Route 20/east site drive (unsignalized)
10. Route 5 / Rogers Road (signalized)
11. Route 5 / Amsdell Road (signalized)

The lane geometry at each of the study intersections, including the NYSDOT improvements currently under construction, is depicted in the full Traffic

Impact Study.

Southwestern Blvd (NYS Route 20) is owned and maintained by NYSDOT within the vicinity of the project. The highway is functionally classified as an east/west urban principal arterial highway with a posted speed limit of 50 mph in the vicinity of the site. According to the most recent traffic volume data collected by NYSDOT in 2005, the annual average daily traffic (AADT) along Southwestern Boulevard between Amsdell Road and Route 75 is 22,808 vehicles per day (vpd).

Rogers Road (CR 464) is a north-south roadway that provides a connection between Lakeshore Road (NYS Route 5) to the north and Pleasant Avenue (CR 122) to the south. The posted speed limit in the vicinity of the study area is 35 mph.

Amsdell Road (CR 122) is a north-south roadway that provides a connection between Lakeshore Road (NYS Route 5) to the north and Pleasant Avenue (CR 104) to the south. The posted speed limit in the vicinity of the study area is 35 mph.

Pedestrian facilities will be constructed within the study area as part of the current NYSDOT construction project. No transit service is currently provided in the vicinity of the site.

2. Existing Traffic Volumes and Operating Characteristics

Weekday PM (4:00-6:00pm) and Saturday midday (11:30am-1:30pm) peak traffic counts were collected by SRF & Associates (SRF) at the study area intersections identified above

Peak hour volumes at all of the study area intersections, other than the four site driveways and Southwestern Boulevard/Abel Street, were collected on October 21 and 22, 2005. Peak hour volumes at the four site driveways and at the Southwestern Boulevard/Abel Street intersection were collected on April 7 and 8, 2006. Data was collected at the intersections along Route 5 on June 2 and June 3, 2006.

Traffic volumes collected by SRF along Southwestern Boulevard are lower than recent traffic data supplied by NYSDOT (prior to the highway improvement project) due to construction. As expected, due to construction, the traffic volumes collected by SRF along Route 5 are higher than recent traffic data supplied by NYSDOT. As directed by NYSDOT, adjustments were made to data collected by SRF to more closely represent traffic volumes prior to construction on Route 5 & Southwestern Boulevard. The existing adjusted peak hour volumes are depicted in the full Traffic Impact Study.

Existing Average Daily Traffic (ADT) information was obtained from the

NYSDOT Traffic Volume Report. The ADT volumes on the study roadways is illustrated in the full Traffic Impact Study.

3. Project Trip Generation

To determine the additional traffic attributable to the development as defined, vehicle trips entering and exiting the site. Trip Generation, 7th Edition is used as a reference for this information. The trip rate for the peak hour of the generator may or may not coincide in time or volume with the trip rate for the peak hour of adjacent street traffic. Volumes generated during the peak hour of adjacent street traffic, in this case, the PM and Saturday peaks, represent a more critical volume when analyzing the capacity of the system; those intervals will provide the basis of this analysis. The expected traffic from the proposed Wal-Mart development is shown in the table below. Calculations for the proposed Benderson Phase II development are presented in the full Traffic Impact Study.

SITE GENERATED TRAFFIC VOLUMES AND ADJUSTMENTS

Site	D/ADJUST		MENTS	
	JUSTME	NTS		DJUST
Site	AT P	EAK	000	E
EXIT ENTER EXIT	ject	ed S	ite	Gene
d Volumes	579	5	84	7
-use Trips 10%(8%)	58	58	0	62
Pass by Trip	521	526	719	681

%

(20%) -156 -158 -144 -136 Resulting Primary Trips 365 368

545 4. Post-Development Traffic Volumes and Operating Characteristi
The projected full development design hour traffic volumes were develop
ed for each peak by combining the future background traffic conditions and proj
ected site generated volumes to yield the total traffic conditions expecte
d at full development. The total weekday PM and Saturday midday peak ho
ur volumes anticipated

for the proposed development are shown in the full Traffic Impact Study.
Roadway segment and intersection analyses were performed on the critical el
ents that comprise the adjacent street network. Link/arterial analyses are provid

ed for the Southwestern

Boulevard arterial section within the study area. 5. Traffic Conclusions
The following list details specific recommendati

ons to be considered as a result of the Wal-Mart Supercenter de
velopment: 1. Signal timing adjustments may be needed at the

development.

2. Reconstruct the existing westerly site drive to provide one lane entering and two lanes exiting.
3. Provide 275' of storage for an exclusive eastbound left turn lane on Southwestern Boulevard at the westerly site driveway.
4. Reconstruct existing easterly site drive to provide one lane entering and 2 lanes exiting (one left and one right turn lane).
5. Provide 350' of storage for an exclusive eastbound left turn lane on Southwestern Boulevard at the easterly site driveway.
6. The recommended westbound right turn lane on Southwestern Boulevard at the east site drive should be constructed to provide 326' (230' for storage and 96' taper).
7. Construct a new multi-phase, 3-color traffic signal at the easterly site driveway intersection with Southwestern Boulevard.
8. All recommended roadway and intersection improvements on Southwestern Boulevard are subject to review and approval by NYSDOT.

In addition to the impacts from the Wal-Mart development (including outparcel), analysis of the Benderson Phase II development has also been reviewed. Traffic calculations and impacts are described in detail in the full Traffic Impact Study.

In addition to incorporating these above recommendations into the project, the Applicant has also included pedestrian sidewalks throughout the proposed Wal-Mart Supercenter parcel to address traffic safety concerns. As part of the ongoing NYSDOT improvements to Southwestern Boulevard, sidewalks will also be constructed along Southwestern Boulevard.

Truck Traffic

Trucks will travel to and from the new Wal-Mart Supercenter to make deliveries for the general merchandise portion of the store and the grocery portion of the store. Trucks traveling to the site will typically exit from the NYS Thruway (Interstate 90), travel north along Camp Road to Southwestern Boulevard (NYS Route 20). Truck loading docks are proposed to be located at the rear, or north side, of the building. Trucks will be able to enter the plaza at one of the two entrances along Southwestern Boulevard (NYS Route 20) and exit the site via the one signalized Southwestern Boulevard (NYS Route 20) intersection. This pattern will allow the trucks to safely exit the plaza with the assistance of the signalized intersection.

Delivery frequency will fluctuate depending on demand, store activity, location, and season, as described below.

The delivery schedule for a Wal-Mart Supercenter is typically 3 semi-tractor trailers, 2 for grocery delivery and one for general merchandise delivery per day. This normally increases during the holiday season depending on sales demands. Wal-Mart normally restricts these deliveries to 6 AM to 10 PM in residentially sensitive areas. In addition to the Wal-Mart truck deliveries there are +/-20 single unit trucks to supply brand specific merchandise such as soda, chips, milk etc. These deliveries are typically made during day time business hours.

D. Grading, Drainage and Stormwater Management

A complete Stormwater Management Report has been prepared by the project site engineer, APD Engineering, and is contained in Appendix D to this Environmental Assessment. The report details the proposed stormwater management system for the development and includes calculations of the existing and post-development hydrologic conditions. A summary of the report findings is contained in this section. For more detail, reference should be made to the full report in Appendix D.

1. Existing Conditions

The existing site (including Phase II of the project) is mostly developed with a retail shopping center, bank, and associated impervious area covering approximately 59% of the site. There are some lawn areas adjacent to Southwestern Boulevard and Rogers Road, but the majority of the remainder of the property is wooded. There are also unlisted existing wetlands located along the east property line.

The existing site elevations range from a low of approximately 689 feet above sea level to a high of approximately 745 feet above sea level. The topography slopes from the intersection of Southwestern Boulevard and Rogers Road to the northeast corner of the site, with slopes across the pavement averaging approximately 5%. Stormwater flows to the low wetlands at the northeast portion of the site, and eventually flows to Erie Lake.

Based on mapping by the United States Department of Agriculture Natural Resources

Conservation Service, NRCS, (formerly Soil Conservation Service or SCS), the subject site is comprised of Urban land as well as five soil types designated as Canadice silty clay loam, Churchville silt loam, Manlius shaly silt loam, Niagara silt loam, and Remsen silty clay loam. The SCS classifies these soil types as hydrologic soil groups C and D. Based on a geotechnical evaluation and completed borings, results are consistent with this classification. There were some areas of high rock discovered, however it is not anticipated that this will impact proposed excavations. Based on preliminary coring information, the rock seems to be rippable shale, and therefore we would not anticipate blasting if rock were encountered during excavations. If blasting was required, chemical blasting would be utilized to minimize any impacts to neighboring properties in regards to noise and vibrations.

Under existing conditions, the majority of runoff sheet flows across the property in a northeasterly direction towards existing swales and wetlands located on and off-site to the north. The remainder of runoff directly sheet flows off-site to the northwest and northeast. The site also receives discharge from a NYSDOT storm sewer, which collects runoff associated with Southwestern Boulevard as well as upstream properties to the south.

For purposes of the hydrologic analysis, the site was divided into three drainage areas. The first, designated area "A", comprises the majority of the site including the proposed building and impervious pavement, and has been further divided into six sub drainage areas. This area is collected by proposed storm sewers and directed to one of the two proposed stormwater management areas, and is then discharged to the existing wetlands at the northeastern portion of the property.

The remaining drainage areas, designated as area "B" and area "C", include runoff from lawn and wooded areas that is directed off-site to the northwest and northeast respectively. A description of drainage areas 1 and 2 is contained in the Stormwater Management Report found in Appendix D.

Under the existing conditions, the stormwater collection system does not allow for any detention time nor peak flow attenuation. Furthermore, the site does not provide water quality benefits and therefore does not meet the current NYSDEC stormwater design requirements. Quantitative estimates of the existing runoff discharge rates are presented in the next section for comparison to the post-development discharge rates.

2. Proposed Conditions

The Stormwater Management Plan utilizes the latest stormwater management guidelines from NYSDEC's "New York State Stormwater Management Design Manual" to mitigate stormwater runoff for both quantity and quality. The primary practice utilized for this site (as classified in Table 5.1 in the NYS Stormwater Management Design Manual) includes the use of a wet extended detention pond, although additional practices are used to enhance water quality further, including oil hoods and sumps

The proposed project will include the construction of stormwater management areas,

which will provide attenuation for the 10-year and 100-year storm events, and also provide water quality treatment which was previously not available on the existing site. In addition, there is a small outparcel being proposed whose future use may include restaurants, banks, and smaller retail stores, etc. Although this outparcel will remain undeveloped at the time of construction of the Wal-Mart Supercenter, for purposes of this report, the land cover has been considered as 85% impervious.

Under proposed drainage conditions, the project site has been divided into three main drainage areas (A - C) with three analysis points, see the Stormwater Management Report in Appendix D for additional information. The total analysis area encompasses the entire site as well as the existing bank and a portion of on-site run-on. Similar drainage patterns will be utilized under proposed conditions, except that the majority of stormwater will be captured through a series of inlets and storm sewer, and directed to a proposed stormwater management system prior to discharging to existing wetlands. The proposed contours have been designed with a minimum 1% grade and a maximum 3% grade for impervious areas (1% minimum and 1V:2.5H maximum for lawn areas).

Drainage area "A" is approximately 29± acres in size and includes sub drainage areas "A1", "A2.1", "A2.2", "A2.3", "A2.4" and "A2.5". Drainage area "A1" includes a small area of run-off that flows directly into the wetlands to the north of the site. Drainage area A2.1 includes all of the proposed impervious Wal-Mart development, the outparcel and small portions of lawn. Drainage area "A2.2" consists of primarily of the bank and associated pavement and lawn. Drainage area "A2.3" consists of off-site run-on and sheet flow into the small pond. Areas A2.2 and A2.3 will be directed toward the small stormwater management area to the southeast and then discharged to the existing wetlands to the north. Drainage area "A2.4" consist of the area that sheet flows into the large pond. Areas A2.1 and A2.4 will be directed toward the large stormwater management area to the north, and then discharged to the existing wetlands to the northeast. Drainage area "A2.5" consists of the wetland area that sheet flows off-site to the north. For the purposes of comparison, analysis point "A" will be taken just north of the site where the off-site stormwater discharges from the two on-site wetlands converge. Additional information can be found in the Stormwater Management Report, Appendix D.

Stormwater runoff for impervious area is collected by a proposed series of inlets and storm sewer within the paved parking areas. Some of these inlets are designed to be offset from the main storm sewer trunk, which allows for incorporation of oil hoods within the inlets. The oil hoods will trap floatables as well as light weight fluids (oils, fuels, etc.) that may be on the pavement surface.

The collected stormwater is then directed to the two proposed stormwater management areas, which has been designed as a wet extended detention pond (as classified in Table 5.1 in the NYS Stormwater Management Design Manual). Stormwater will enter the proposed pond at the constructed forebay located at the southwest end of the stormwater facility, which has been designed as per NYSDEC requirements to hold a minimum 10% of the required water quality volume. This forebay will allow initial particle settling and sedimentation. The stormwater then meanders through the shallow open water area and

flows to the deep pool located at the north end of the stormwater management facility. This area is utilized both as permanent stormwater retention and stormwater detention.

The outlet structure for the large proposed stormwater management area has been designed incorporating a 18" low flow orifice and a sloped overflow grate (refer to detail located in Appendix E) to allow for controlled discharge to the existing wetlands along the northeast property line. The low flow orifice has been set at elevation 691.5, with the overflow grate set at elevation 696.0. The outlet pipe from the outlet structure will be a 30" storm sewer, and this storm sewer will discharge to the existing wetlands to the northeast of the site. The spillway elevation of the pond is set at 697.25.

The small proposed stormwater management area will utilize an 18" pipe to discharge to the existing wetlands adjacent to the small pond. The invert of this pipe will be set at 701.0' and the spillway elevation is 702.5'.

The stormwater management areas have been sized in accordance with NYSDEC regulations to allow for storage volume of a 90% storm, through both retention and detention. The normal water surface elevation of the stormwater facilities is maintained at 691.5' for the large pond and 701.0' for the small pond which provides the required water quality volume as stormwater retention. The stormwater management area has also been sized in accordance with the channel protection volume requirements for the 1-year storm event. Additional information can be found in the Stormwater Management Report, Appendix D.

The stormwater management area is designed with 3H:1V grades (dry areas and 2H:1V for wet areas in the large pond), and incorporates an 8-11' wide aquatic bench and a 10' wide safety bench for the large pond and a 5' wide aquatic bench and a 10' wide safety bench for the small pond (ponding less than 18"). Other required pond geometry has been accounted for including the minimum length to width ratios as well as minimum surface area to drainage area ratios.

The proposed stormwater management facilities have been designed with emergency spillways, which in the event of complete failure, would allow stormwater to discharge to the existing wetlands to the north and west of these facilities prior to flooding the parking lot and building. Stormwater would only discharge in this fashion for storm events greater than the 100-year storm event, or under complete failure of the proposed stormwater management system. In addition to the overflow grates and spillways, other safety considerations have been made including maintaining 1' or less of ponding for the site drainage structures prior to relief as well as enclosing the wet ponds with a six foot high chain link fence.

Drainage area "B" is approximately 1+/- acre in size and includes the berm/lawn area to the north of the site. This area sheet flows to off-site to the north in a similar fashion to existing conditions. For purposes of comparison, proposed off-site stormwater runoff to the north will serve as analysis point "B". Additional information can be found in the Stormwater Management Report, Appendix D.

Drainage area "C" is approximately 1.2+/- acres in size and includes the stormwater runoff from the site sheet flows across the property in a northerly direction. For purposes of comparison, proposed off-site stormwater runoff to the north will serve as analysis point "C". Additional information can be found in the Stormwater Management Report, Appendix D.

The quantitative impact of the proposed development is evaluated by comparing the proposed peak discharge to the existing peak discharge for the 10-year and 100-year design storms. The existing site contains no measures for stormwater attenuation or detention, while the proposed stormwater management system restricts flow to allow for proper treatment times, while adequate storage capacity allows for the required detention of excess stormwater. As shown in the Table below, peak discharge runoff to the existing wetlands as well as the sheet flow runoff to the northeast of the property has been reduced for the 10-year, and 100-year storm events. As noted below, the peak runoff for Area "B" has increased slightly from the existing conditions. The proposed development has also been designed to compare the proposed peak discharge for the 25-year storm to the existing peak discharge for the 10-year storm.

The proposed stormwater management system also provides qualitative improvements. The existing site discharges to existing wetlands directly from pavement runoff. Under proposed conditions, all impervious runoff associated with the site (including roof runoff) undergoes various stages of water quality treatment. This includes oil hoods and sumps within the drainage structures, particle settling in the stormwater management area forebay, vegetative uptake in the open water area, and additional sedimentation in wet pool areas.

As previously mentioned, the stormwater runoff from the adjacent Benderson property will be treated via a proposed pond. Although this pond has not yet been designed, we assume that they will detain the stormwater in this pond and discharge onto the Wal-Mart property at or below the existing levels.

Therefore, not only has the proposed development provided sufficient mitigation to minimize adverse impacts on downstream properties, drainage patterns, and existing drainage structures, it has provided water quality improvements not previously realized on the site.

The following table provides a comparison of peak discharge rates under the existing and proposed conditions.

	1-year Storm (2.1 in/event)		10-year Storm (3.6 in/event)		25-year Storm (4.0 in/event)		100-year Storm (4.9 in/event)	
	Exist (cfs)	Prop (cfs)	Exist (cfs)	Prop (cfs)	Exist (cfs)	Prop (cfs)	Exist (cfs)	Prop (cfs)
"A" North	18.54	15.41	42.15	27.47	48.68	30.82	63.45	51.19
"B" Northwest	0.35	0.71*	1.39	2.23*	1.74	2.70*	2.58	3.79*
"C" Northeast	0.46	0.51*	1.72	1.91*	2.10	2.33*	3.02	3.36*

* Although there is no significant increase in size, based on the methods used for computation of time of concentration and peak flow, these areas yield a higher proposed peak discharge rate. Although the peak runoff has increased for this area, it should be noted that all three areas converge to the north of the site and the total peak runoff for these areas has been decreased from the existing conditions.

Values above were generated from Intelisolve's Hydraflow Hydrographs computer model.

E. Wetlands

A wetland delineation has been completed for the overall proposed project site (Phase I and Phase II) by Terrestrial Environmental Specialists, Inc. The complete delineation report is contained in Appendix E to this Environmental Assessment. A summary of the findings is given in this section. For more detail, reference should be made to the complete report in Appendix E.

The wetland boundaries were delineated using the federal criteria for vegetation, soils, and hydrology (Environmental Laboratory 1987, Reed 1988, USSCS 1989, and USDA NRCS 1998).

There are no mapped New York State Department of Environmental Conservation (NYSDEC) freshwater wetlands or United States Fish and Wildlife Service National Wetlands Inventory (NWI) wetlands indicated on the site. The Erie County Soil Survey indicates that much of the site is urban land, with the undeveloped portions containing Canadice silt loam, a hydric soil, and Churchville, Niagara, and Remsen soils, which have potential for hydric inclusions.

While the NWI Map for this area does not indicate the presence of federal-jurisdictional wetlands, an on-site delineation did. Two wetlands were delineated on the site and are identified as Wetlands A and B, they total 3.1 acres. This wetland delineation has been submitted to the US Army Corps of Engineers (USACE) for determination of jurisdiction. A field verification site visit by the USACE is anticipated to be performed in July 2006. A more detailed description of each wetland areas is as follows.

Wetland A

Wetland A is a 2.6-acre scrub-shrub/deciduous forest wetland and intermittent stream. It is located in the northeastern portion of the site. The intermittent stream drains north from the site and connects to an unnamed tributary to Lake Erie.

(*Fraxinus pennsylvanica*), and smooth buckthorn were the dominant shrubs. Fowl mannagrass (*Glyceria striata*) was a dominant in the herbaceous layer.

The young deciduous forest portion of Wetland A contains red maple (*Acer rubrum*), American elm (*Ulmus americana*), and green ash. Herbaceous vegetation included rough bluegrass (*Poa trivialis*), rough avens (*Geum laciniatum*), and fowl mannagrass.

Hydric soils were indicated by soil samples with low matrix chromas and mottles. Wetland hydrology was indicated by watermarks, sediment deposits, and drainage patterns in the wooded portions of the wetland. Standing water was recorded in the intermittent stream.

Wetland B

Wetland B as delineated is a 0.5-acre intermittent drainage swale and scrub-shrub wetland. It appears that most of Wetland B consists of ditches dug to convey stormwater from the original plaza. There is an approximately 36-inch culvert that discharges into Wetland B at its south end. As a result, portion of Wetland B may be considered a created ditch. The perimeter of Wetland B contains side castings from the ditch.

Wetland plants in Wetland B included rice cutgrass (*Leersia oryzoides*), watercress (*Rorippa nasturtium-aquaticum*), and beggar-ticks (*Bidens frondosa*). The shrub portion of the wetland contained green ash and silky dogwood. Narrow-leaf cattail (*Typha angustifolia*) was in the herbaceous layer.

Wetland soil samples exhibited low matrix chromas with mottles. Wetland hydrology was noted by standing water ranging from 2 to 5 inches in depth and drainage patterns.

As part of a consequence of the Wal-Mart Supercenter construction, 0.04± acres of Wetland A and 0.38± acres of Wetland B on the project site will be filled and utilized for site development.

It is our opinion that Wetland B should be determined non-jurisdictional by USACE. This wetland area is an un-maintained, manmade drainage swale that was constructed to channel stormwater from the shopping plaza.

When the USACE conducts their field visit to confirm the delineation and the size of the loss of wetland area has been determined, mitigation for the loss is proposed to be provided adjacent to the northeast and contiguous with this existing wetland area. The Applicant proposes to compensate for the loss of these aquatic resources and their functions in accordance with current USACE regulations and guidelines pursuant to Section 404 of the Clean Water Act. Specifically, the USACE-Buffalo District's *Mitigation and Monitoring Guidelines* (USACE 2004) will be used to ensure that an appropriate and practicable mitigation plan is developed. The goal of the mitigation plan is to create a compensatory mitigation area that replaces the unavoidable loss to aquatic-resource function as a result of construction of the proposed project. The goal of the

mitigation plan will be to provide a replacement ratio of 2:1.

Given the nature of the wetland areas to be impacted by the proposed project, and the mitigation measures proposed, the environmental impact to the proposed loss of wetland area on the site will be insignificant.

F. Cultural Resources

An investigation and evaluation of potential impacts to cultural resources, archaeological and historical, has been completed for the project site by Chris Hazel, RPA of H.A.Z.E.x. The applicant received a letter dated June 28, 2006 from the New York State Office of Parks, Recreation and Historic Preservations (SHPO), which states that the project will have "no impact upon historic properties in or eligible for inclusion in the State and National Registers of Historic Places". This section provides a summary of the results of the Phase IB Archeological Report. Excerpts from the report are also contained in Appendix F as well as a copy of the SHPO clearance letter. The Phase IA and IB report is not included in this DEIS in an attempt to protect information on off-site archaeological sites that may be damaged by unauthorized investigators if their location be generally known.

The cultural resource investigation consisted of a records check for documented resources in the area, a survey of structures and physical conditions on the site and surrounding area, coarse grid subsurface testing over all non-wetland areas of the project site, and tight grid subsurface shovel testing in the area of the site suspected of having historic artifacts.

A total of 249 subsurface test pit locations were examined within the project area. There were 11 surface examinations at subsurface test pit locations. A total of 207 subsurface test pits were excavated into subsoil. A total of 9 subsurface test pits or surface examination locations were positive for historic and/or recent materials.

No prehistoric artifacts were found. "Recent" materials including golf balls, shingles, drain pipes, plastic, plastic combs, brick, asphalt, concrete, late 20th Century container glass, pull tabs, pepper packs, metal fragments, and railroad ties were distinguished from historic and/or chronologically sensitive items. This recent material was noted in the field and not collected nor included in further analyses. All artifacts were scattered diffusely across the project area and were not associated to any features.

Only one item was identified that may be considered historically significant and was mixed with other recent refuse which may indicate a dumping of materials and not an actual on-site source. This material was found in the Phase II area located along the property boundary adjacent to the residential apartment complex to the north. If SHPO considered this area to be significant, this area could be avoided during Phase II development. A single Whiteware sherd comprised the entirety of the chronologically identifiable items and dates to any time within the 19th or 20th Centuries (Stelle, Peyton, and Stocker 1989). This artifact came from Transect 1 ST 4 and was a part of a large surface collection which contained many modern artifacts such as golf balls, modern container glass, shingles, pepper packets, plastic, asphalt and shingle. This area of

surface collection was located approximately 20 meters from the back of the apartment buildings on the north side of the project area and approximately 5 meters from the utility lines. Due to the general and recent nature of the collection and lack of association to any cultural sites no artifacts were retained from this survey.

G. Visual Impacts

The existing visual setting of the overall project site can be characterized as a run down plaza with badly deteriorated asphalt. Most viewers of the site will be motorists traveling on the adjacent Southwestern Boulevard with a lesser number of viewers being motorists on Rogers Road. The Wal-Mart building will be set back from the highway frontage by approximately 570 feet. After project completion, there will be a large enhancement to the existing site through heavy landscaping (as very little is existing) as well as an aesthetically pleasing architectural building.

The project site is within the view of some residential structures (including apartment complexes). Views of the site from the apartment complex to the north are generally screened by earth berms, vegetation, and a sound wall. The intent of the berming and sound wall in the rear of the property is to provide a buffer 10' above the proposed finish floor elevation of the Wal-Mart. The frontage along Southwestern Boulevard has been heavily landscaped, and therefore views from this roadway are relatively screened. Views from Rogers Road will be dependent upon the future development and landscaping of Phase II. Views from the existing two story house on Southwestern Boulevard (near the existing bank) will be similar to the existing conditions however slightly enhanced because the Wal-Mart Supercenter will be shifted to the north about 60 feet from where the existing plaza is located. The proposed landscaping will also further enhance the view from the residence as well as Southwestern Boulevard.

The two main entrances of the Wal-Mart will be located on the south side. The proposed building has been designed to be aesthetically pleasing and capture some of the "Greek Revival" architecture that is displayed at the Brierwood Country Club. An architectural elevation is included in Figure 11. The use of precast columns to create a gabled portico at these entrances help to define the style and historic vernacular of this building. Also by incorporating the use of classic materials such as common red brick, stone textured block, and pre-cast stone the elevation is broken down into smaller scaled elements. The elevation is further broken down into smaller proportions by the use of brick pilasters. The height of the plaza will be approximately 31 feet above ground surface which is approximately 12 feet lower than the highest peak of the current plaza, which is approximately 43 feet.

The proposed Phase II architectural treatment is intended to complement the Wal-Mart architecture. Proposed conceptual elevations have been provide in Figure 12.

In general, the significance of the visual impact of a development project depends primarily upon three factors. These are the degree of change that has occurred, the visibility of the project to the viewing public, and the degree to which the completed project is unique or unusual for the area in which it is located.

In the present case, the change of appearance of the site will not be substantial. The site is already zoned and used commercially. Some of the sites surrounding this property are also used commercially. The appearance on the site of a national brand, commercial retail operation will be consistent with the visual appearance of other commercial properties in the area.

With respect to a change in appearance, the NYSDEC notes that "mere visibility, even startling visibility of a project" is not a threshold for aesthetic impact. "Instead a project, by virtue of its visibility, must clearly interfere with or reduce the public's enjoyment and/or appreciation of the appearance of an inventoried resource". It is noted that there are no inventoried resources, such as parks or recognized scenic vistas, located in the project site vicinity.

It is concluded that the visual appearance of the site will not change substantially; no visual impacts of community significance will result from the proposed development.

Landscaping will be upgraded as part of the redevelopment, and will conform whenever feasible to all relevant and applicable provisions of the Southwestern Boulevard Commercial Overlay District requirements, including Sections 280-120 A. (4), (5) and (6) (a). The detailed Landscaping Plan is included as Figure 9.

The proposed landscaping is concentrated in the most visible areas near the Southwestern Boulevard frontage and the northern portion of the site adjacent to the residential apartment complex. This includes landscaped entries, tree-lined driveway islands entering the site from Southwestern Boulevard, and curbed landscaped islands in the parking field. In addition, this project will incorporate a large earthen berm with a variety of plantings for screening throughout all seasons, as well a sound barrier for added screening.

As per the Southwestern Boulevard Commercial Overlay District, one tree is required per 30 feet of frontage, side and rear yard dimension, and a minimum ground cover area of not less than 10% of the total area to be developed. Therefore, the required total tree count for the site (Phase I) is approximately 271 trees. As depicted in our Landscaping Plan (see Figure 9), our total tree count is currently 275. The plantings include deciduous shade trees, ornamentals, shrubs and ground cover. The Applicant is willing to work with the Town on the final landscaping layout and planting species.

Lighting

As part of the project, all site lighting fixtures will be upgraded and will conform to all relevant and applicable provisions of the code. The proposed lighting plan is shown in Figure 10. Nineteen (19) light poles currently located throughout the existing parking area adjacent to Southwestern Boulevard will be removed and twenty-nine (29) new light poles will be installed to replace them. The proposed lighting system will consist of 39' poles mounted on 3' concrete base for a total height of 42' above the parking lot finish grade. Single, twin or triple headed fixtures will be provided depending on the portion of the parking lot being lit.

The most critical area for lighting will be in the rear area of the Wal-Mart Supercenter, which is adjacent to an existing residential area. The three (3) poles located at the rear of the Wal-Mart Supercenter will be 22' poles mounted on 3' concrete base for a total height of 25' above the parking lot finish grade. These lights will be 400 watt lights versus the 1000 watt lights used for the remainder of the parking field. There are two poles proposed to be installed adjacent to the north and west of the Bank of America parcel. The closest pole will be approximately 120 feet from the property line and not directly adjacent to the residential parcel.

To minimize lighting trespass and glare on the adjacent properties, the Applicant has selected the Magnusquare Series from Hubbell Lighting, Inc. for the lighting fixtures on this site. These fixtures have specially designed reflectors and a flat lens that achieve full cut-off classification as defined by the Illuminating Engineering Society of North America (IESNA). IESNA classifies full cutoff light fixtures as ones that do not shine light at or above an angle of 90°. The resulting effect on the neighboring properties is minimal, shown on the lighting plan shown in Figure 10. The selection of these specific light fixtures mitigates the effects that the addition of new light poles in the redeveloped site would potentially have on neighboring residential properties. The proposed lighting levels adjacent to residential areas will be less than or equal to existing conditions.

H. Noise Impacts

Existing Noise

The project site is an existing retail shopping plaza that is only partially occupied. It is generally bordered by other commercial properties and roadways on the east, south and west. Along the northern site property line is an existing apartment complex containing multiple, two story apartment buildings. Three of these building are adjacent to the portion of the site slated to be redeveloped with the Wal-Mart Supercenter.

Existing noise conditions on the project site have been characterized through an identification of the noise sources present and their locations, supplemented by direct measurements to quantify ambient noise levels. The existing noise levels can generally be characterized as typical for sites located in suburban areas, in close proximity to an important arterial highway with significant through traffic and some commercial activity.

The dominant noise source at the site is traffic flow along the adjacent Southwestern Boulevard and, to a lesser extent, Rodgers Road. This traffic noise will vary by time of day and day of week in direct proportion of the volume and character of the traffic flow. Other sources are the commercial activities located on the site, presently only partially occupied, as well as commercial activity at nearby properties fronting on Southwestern Boulevard and typical residential noise sources located to the north of the site.

The most critical times for potential noise impact from the redevelopment and occupation of this site with a Wal-Mart Supercenter are the evening and late night hours, when additional noise sources may impact the adjacent residential area located to the north. For this reason, existing noise levels were measured during these periods.

Existing noise levels were obtained on the project site on during the later afternoon and evening of May 23, 2006. The measurements are intended to characterize the ambient noise level at the rear, or north, property line as this is the most sensitive location in terms of project impact. Therefore, the noise measurement location chosen is on the Wal-Mart side of the property line near the adjacent residential buildings and close to the proposed Wal-Mart Supercenter truck turn-around and loading dock.

The ambient noise measurements were made over two periods on May 23, 2006. The first occurred during the peak afternoon traffic hours from approximately 4:30 pm through 6:45 pm. The second measurement period ran from approximately 8 pm through 11 pm. These measurements capture peak traffic noise levels due to pass-by traffic flow as well as the typical evening and nighttime ambient noise level along the site's northern property line.

All measurements were made with a Quest Noise Pro dosimeter, which logged the A-weighted, equivalent and maximum noise levels on a one minute basis. The one-minute equivalent noise level and the one-minute maximum noise level for both measurement periods are shown in Appendix G. It is noted that the one-minute equivalent noise level corresponds to an average noise level over the each one-minute of the measurement period while the maximum is the highest one-second sound occurring over the same measurement period.

The one-minute noise data was utilized to form hourly equivalent (L_{eq}) and hourly maximum (L_{max}) noise levels for the entire noise measurement period. These hourly values are contained in the following table and shown in graphical form in Appendix G.

Time (duration)	L_{eq} (1-hr) in dBA	L_{max} in dBA
4:30-5:30 pm	55.4	78.3
5:30-6:30 pm	52.9	71.2
8-9 pm	52.9	69.6
9-10 pm	49.5	71.2
10-11pm	51.3	70.2

As can be seen from the data, and as expected, the L_{eq} noise level at the site drops off from approximately 55 dBA during the peak afternoon traffic period to approximately 50 dBA during the nighttime hours. Corresponding to this is a drop off in the maximum noise level (L_{max}) from approximately 78 dBA during the peak traffic hour to approximately 70 dBA during the nighttime hours.

Noise Impacts

The initial phase of the proposed redevelopment of this site will include a Wal-Mart Supercenter, which will be located approximately 104 feet from the northern property line at its closest point. In addition to the proposed Wal-Mart Supercenter, additional retail and/or office uses may be developed on the western portion of the plaza property (Phase II) sometime in the future. This noise impact analysis will primarily focus on the effect of the Wal-Mart Supercenter operation, but will contain a discussion of the likely impacts of further development that may occur. The noise analysis also provides a comparison to the noise impact of the re-occupation of the existing shopping plaza buildings in their current configuration and location.

Noise sources typical for commercial retail operations, including the proposed Wal-Mart Supercenter, include parking lot access and activity by customers, the operation of heating ventilating and air conditioning equipment, loading dock activities, trash compactors, and delivery truck access to the building and any loading docks.

Of particular concern for this application are the impacts of these noise sources on the residential apartments located immediately north of the site. These residential buildings are the only sensitive receptors located in the project site vicinity.

To assess likely impacts on the residential buildings, modeling is done of the noise level expected at a property line location adjacent to the apartment buildings with the proposed Wal-Mart Supercenter in operation. This post-development noise level is then compared to the existing ambient noise levels measured at the site and to those that would likely occur with the reoccupation of the shopping plaza in its current configuration. Finally, impacts on the residential area are discussed under the assumption that further retail and/or office development occurs on the western portion of the plaza site (Phase II) that would not be occupied by the Wal-Mart Supercenter.

Upon project completion, the proposed Wal-Mart Supercenter will introduce several distinct noise sources to the site. Of most importance for locations near the northern property line are the loading docks, truck access to the loading docks, trash compactors, and the operation of HVAC equipment, especially refrigeration compressors. Parking lot noise due to vehicular access and customer activities will be less important since the

building itself will provide an effect barrier for any noise originating in the front of the Supercenter building.

By contrast, additional noise sources to be introduced to the northern portion of the site with the reoccupation of the existing shopping plaza include parking lot noise from patron vehicles and customer movement, HVAC equipment at the buildings, and loading dock activity and truck access. It is noted that the existing loading docks serving the site are located along the northern walls of the existing retail buildings. The dominant noise source for the northern property area from a reoccupation of the existing retail buildings will be parking lot noise since the buildings and loading docks are distant from the north property line and the loading dock noise for the type of businesses present will be quite low during the late day and evening hours.

To assess impacts, the operating noise level and location of each of the noise sources is identified and quantified for the case of a reoccupation of the existing buildings and the case of the operation of a new Wal-Mart Supercenter. The noise is then propagated to a receptor location on the northern property line adjacent to the existing apartment buildings.

Noise emission levels for the loading dock area, trash compactors, HVAC equipment and main parking lot have been obtained from measurements at an operating Wal-Mart Supercenter location in Gates, NY. Truck noise along the rear access drive of the building is based upon the Federal Highway Administration Highway Traffic Noise Prediction Model. All source noise levels were obtained during peak day time hours. To be conservative, noise levels for nighttime hours are assumed to be the same with the exception of the truck traffic accessing the loading docks. For this, a day time peak of 5 tractor-trailer trucks per hour is assumed, while for night conditions one tractor-trailer per hour is assumed. The assumption of 5 trucks per hour accessing the loading area, even during the day, is high. For the case of the reoccupation of the existing retail buildings, only parking lot noise is utilized and it is assumed to be located in the southern portion of the parking lot, closest to the largest retail building entrance.

The hourly equivalent and maximum sound emission levels utilized for the analysis for each identified source during daytime and night time periods are as follows.

Source	At Distance (feet)	Day Time		Night Time	
		Leq (1 hr) (dBA)	L _{max} (dBA)	Leq (1 hr) (dBA)	L _{max} (dBA)
loading docks	30	62	76.3	62	76.3
trash compactor	50	57	57	57	57
HVAC equipment	100	63.8	63.8	63.8	63.8
main parking lot	20	59.2	75.2	59.2	75.2
truck access drive	50	54.3	75.6	47.3	75.6

The L_{eq} and L_{max} levels above are based upon conservative operating assumptions and should be considered maximums. The assumption of 5 trucks per hour accessing the loading area, even during the day, is high. The operation of the trash compactor and HVAC units are also assumed to operate continuously, although in reality they operate on only an intermittent basis. Finally, it is expected that the noise emanating from the loading dock areas will be significantly lower during nighttime hours. However, for analysis purposes, it is assumed to be the same, day or night.

The noise from the above sources is propagated to the north property line receptor location. Noise levels decrease with distance from a given source. This is due to geometric spreading of the sound, absorption by the atmosphere, and any attenuation provided by intervening barriers and/or vegetation. For this analysis, only geometric spreading of the sound with distance is first considered. A further noise attenuation is expected due to the atmosphere and vegetation, but is not included in this analysis to be conservative.

To mitigate potential noise impacts to the residential apartment buildings, a combination of an earthen berm and a sound barrier wall are proposed to be located near and parallel to the northern property line in the area where the apartment buildings are located. The exact location and extent of the berm and sound barrier wall are shown on the project engineering site plans.

The attenuation of sound pressure levels with distance due to geometric spreading from a source is given by:

$$L_p(r_2) = L_p(r_1) - 20 \log_{10}(r_2/r_1)$$

Where $L_p(r_2)$ = sound pressure level at a distance r_2 from the source (dB)
 $L_p(r_1)$ = reference sound pressure level at a distance r_1 (dB)

With the construction of the proposed Wal-Mart Supercenter, additional attenuation of sound will occur due to the earth berm and sound barrier wall proposed for the northern property line near the adjacent apartment buildings. The additional noise attenuation due to these mitigation features is given by:

$$A_b = 20 \log_{10}\{(2 \pi N)^{1/2} / \tanh((2 \pi N)^{1/2})\} + 5$$

Where A_b = barrier attenuation
 N = Fresnel number = $2 \delta / \lambda \approx 3.21 \delta$

δ = difference in the diffracted and direct source to receptor path length (m)

Utilizing the propagation relation, the noise sources expected with the reoccupation of the existing retail buildings and those expected with the operation of the proposed Wal-Mart Supercenter are propagated to the northern property line adjacent to the existing residential apartment buildings. For the Wal-Mart Supercenter additional attenuation is included due to the presence of the berm and sound barrier. To be conservative, the entire berm/sound wall system is modeled on the basis of combined 10 foot high combination of barrier wall and berm, even though the berm portion will be approximately one foot higher and berms generally have a higher attenuation than equivalent height solid wall. Calculation worksheets for the noise propagation are contained in Appendix G to this Environmental Assessment.

The results of the analysis for the north property line receptor location are summarized in the following two tables:

Noise Levels and Changes at Northern Property Line Receptor (Berm and Sound Barrier at 6 feet above grade)						
		With Existing Retail		With New Wal-Mart		
	Ambient	Level	Change	Level	Change	Change From Existing Retail
Daytime Leq	55.4	57.6	2.2	59.4	4.0	1.8
Nighttime Leq	49.5	55.0	5.5	57.2	7.7	2.2
Daytime Lmax	78.3	78.4	0.1	79.3	1.0	0.8
Nighttime Lmax	70.2	71.1	0.9	74.4	4.2	3.3

Noise Levels and Changes at Northern Property Line Receptor (Berm and Sound Barrier at 10 feet above grade)						
		With Existing Retail		With New Wal-Mart		
	Ambient	Level	Change	Level	Change	Change From Existing Retail
Daytime Leq	55.4	57.6	2.2	55.9	0.5	-1.7
Nighttime Leq	49.5	55.0	5.5	50.9	1.4	-4.1
Daytime Lmax	78.3	78.4	0.1	78.4	0.1	-0.1
Nighttime Lmax	70.2	71.1	0.9	70.7	0.5	-0.4

As is evident by the results, the L_{eq} noise levels will increase with the proposed Wal-Mart by approximately 4.0 dBA during the daytime and 7.7 dBA at night over existing conditions with the berm and sound barrier at 6.0 feet above grade. This is due to the fact that truck noise emanates from a height that is approximately 8.0 feet above grade. With the berm and sound barrier height increased to 10.0 feet above grade, the increase over ambient noise level is reduced to 0.5 dBA for the daytime and 1.4 dBA for the nighttime. At this berm and barrier height, the noise levels at the northern property line are also less than those that would occur if the existing shopping plaza were to be reoccupied in its existing configuration.

To provide a yardstick by which to evaluate the sound level projections, guidance values and recommended ambient noise levels as utilized by a number of Federal and New York State agencies are summarized in the following table.

<u>Federal Highway Administration</u>	
L _{eq} (1 hr) Exterior	67 dBA
L ₁₀ (1 hr) Exterior	70 dBA
<u>Federal Aviation Administration</u>	
L _{dn} (day-night equivalent sound level)	65 dBA
<u>NYSDEC</u>	
Ambient Noise Levels sufficient to protect public health and welfare and not create an annoyance (L _{dn})	55 dBA
Maximum Ambient Noise Levels in non-industrial settings (L _{eq})	65 dBA
<u>NYS Department of Transportation</u>	
L _{eq} (1 hr) Exterior	67 dBA
L ₁₀ (1 hr) Exterior (10% exceedence value)	70 dBA

In addition to the above guidelines, the NYSDEC policy on noise states that changes in hourly equivalent sound level of 0-3 dBA resulting from a proposed project should result in no noticeable impact while increases from 3-6 dBA have the potential for adverse noise impact only in cases where the most sensitive of receptors are present. Sound increases of more than 6 dBA may require a closer analysis of impact potential depending on existing sound levels and the character of the surrounding land use and receptors.

As indicated in the results of the noise analysis, the increase in noise level at the northern property line will be less than 3.0 dBA with a 10-foot high berm and sound wall.

As noted earlier in this section, the western portion of the project site (Phase II) may be subject to further retail and/or office development. In general, such development will generate similar or less noise than the proposed Wal-Mart Supercenter. Therefore, if such further development does occur, mitigation measures similar to those provided on the Wal-Mart portion of the property should be incorporated to keep noise levels within acceptable limits at the adjacent apartment complex.

The Phase II construction is proposed to consist of less intensive office use (typical business operating hours, limited truck deliveries) and a stormwater basin adjacent to the apartment complex to the north, which should provide additional buffering from the adjacent residential apartment complex. Construction details (including specific landscaping, berms and buffering) of the proposed Phase II are not available at this time.

As previously indicated, some areas of high rock were discovered; however, it is not anticipated that this will impact proposed excavations. Based on preliminary coring information, the rock appears to be rippable shale, which would not require blasting. If blasting was required, chemical blasting would be utilized to minimize any impacts to neighboring properties in regards to noise.

Based upon the analysis above and the proposed noise mitigation measures, no significant noise impacts will occur as a result of the new Wal-Mart Supercenter development.

I. Social and Economic Setting

Jobs

Development and operation of the proposed new Wal-Mart Supercenter will generate both temporary construction-related and permanent jobs. The construction of the Wal-Mart Supercenter will generate approximately 100-150 temporary construction jobs. These will be of varying duration and will range in type of job from project management to skilled trades to laborers.

being full time. Full-time employment with Wal-Mart is defined as a minimum of 34 hours per week. Full time associates in New York earn an average of \$10.17 per hour. Wal-Mart will relocate employees in good standing with the company to the new store. The majority of new employment will be hired locally.

The estimated construction and permanent jobs related to Phase II are difficult to predict as it is contemplated to be built out over a period of time and will depend upon final tenant occupancy.

Empty Store

The current Wal-Mart store location has no proposed use at this time. However, Wal-Mart Realty, a division of Wal-Mart Stores Inc., focuses on finding new uses for former Wal-Mart stores including the sale or lease of the facility. The Wal-Mart Realty group has returned more than 50 million sf of space to productive use within the past four years.

Because of the vacant building's location, value and because of the negative economic effects of a "dark store", Wal-Mart Realty has made it a priority to find new productive uses for its unoccupied buildings. Maintaining unused stores also consumes large amounts of money that could be better spent.

The Wal-Mart Realty staff includes accountants, architects, asset managers, real estate professionals, attorneys, maintenance professionals, engineers, financial analysts, HVAC and refrigeration technicians, store planners, etc. The staff coordinates the sale or lease of structures from beginning to end, working with future tenants or purchasers to create their facility.

With abundant parking spaces, excellent locations and adaptable infrastructures, vacant Wal-Mart stores have been redeveloped as communications complexes, technical colleges, call centers, car dealerships, banks, medical centers, and other retail stores.

J. Community Services

The existing law enforcement in this area consists of the Town of Hamburg Police Department. Based on information obtained from the Town of Hamburg Police Department Internet website, the force includes 65 sworn Police Officers, 20 Public Safety Dispatchers (12 full-time, 8 part-time), 3 Dog Control Officers (2 full-time & 1 part-time) and 4 full-time Clerical. The Town Police Department is a full service Department providing for the complete public safety needs of the community including police protective services, emergency medical dispatch, police and fire dispatch and dog control enforcement services. The department operates a highly successful Neighborhood Watch Program; a DARE program which reaches pupils from 5th grade and up; Crime Prevention program and community Policing; Youth Bureau services; Youthful Offender Task Force services and Traffic Safety programs which reach over 7,000 pupils yearly. The patrol force is supplemented by the Detective Bureau, which provides follow-up investigation for all major crimes and includes a Juvenile Bureau; Arson Investigation Unit and in-service training bureau. An Accident Investigation Unit also provides services by the department as well. The Town of Hamburg's patrol force is also

supplemented by the Emergency Service Unit which consists of the Under Water Recovery Team ("URT"), Emergency Response Team ("ERT"), and the Critical Incident Management Team ("CIM"). These units work independently, however, members cross train in other areas of expertise and are able to supplement each other. The Under Water Recovery Team ("URT") consists of 10 divers utilized for water related emergencies requiring surface rescue, body recovery, evidence recovery or water accident management and investigation. The Emergency Response Team ("ERT") consists of 11 tactical and 9 support officers utilized when a situation requires the use of special weapons and tactics, including hostage negotiations. The Critical Incident Management Team ("CIM") consists of 8 officers utilized when a situation requires, a command post, coordination of multi agency response or the utilization of additional manpower to control a situation which is out of the normal realm of patrol duties.

Fire protection is provided in this area by the Lake Shore Volunteer Fire Company, Inc., which has two stations that would respond to the project site at 4591 Lake Shore Road and 5585 Southwestern Boulevard. The fire department has 2 engines, 1 rescue truck, 1 light rescue truck and 1 ambulance. In addition to these pieces of equipment, the department has mutual aid assistance from neighboring departments. Since the group is privately funded they are responsible to provide adequate services to the area. They are reimbursed for their services directly by the victim or the victim's insurance company.

During the course of the preparation of this Environmental Assessment, emergency service providers were contacted to discuss potential issues of concern with the proposed redevelopment project site. According to Chief Paul Wilson of the Lake Shore Volunteer Fire Company, Inc., he would ask for additional mutual aid support from neighboring fire departments.

Based on a phone interview with Detective Sergeant Bill Scully, the police department currently patrols the empty plaza so with the construction of the new Wal-Mart Supercenter, there should be no additional patrolling of the area. Detective Sergeant Scully also indicated that with the construction of the Wal-Mart Supercenter he anticipates an increase of calls to the plaza for such things as car lock-outs, shoplifting and potentially more traffic accidents due to the increased traffic.

As described in Section C, the impacts identified as a result of increased traffic in the area, both from normal growth and from the development of the Wal-Mart Supercenter, will be resolved by the mitigation measures proposed as part of the redevelopment project. The police also deal with issues of shoplifting and bad checks at the existing Wal-Mart facility, and this is not expected to change at the new Supercenter facility.

The access drives into and around the Wal-Mart Supercenter have been designed with appropriate turning radii and width to allow large vehicles, such as fire trucks, to maneuver readily through the project site. Prior to final approval, the site plan will be made available to fire service providers for review of the accessibility and maneuverability of site driveways and access roads.

As part of enhancing community services provided in the area, the Applicant has been in

contact with the Niagara Frontier Transportation Authority (NFTA) about extending the current bus route to the proposed Wal-Mart Supercenter. If the NFTA provides service to the proposed Supercenter, Wal-Mart will continue working with the NFTA to incorporate the bus stop shelter in the appropriate location depending on the final site layout.

K. Air Quality and Odors

Air Quality

Ambient air quality at the Site is good, and is typical of suburban and rural regions of western New York State. Continuous ambient air quality monitoring is conducted by the NYSDEC at several locations in the Buffalo area. Air quality data for 2004 is presented in the Regional Air Quality Data table below along with the applicable standards. As can be seen from the data presented in the Air Quality Report, all measured quantities are below applicable air quality standards, except for ozone. Ozone is a regional air quality problem present throughout western New York and southern Ontario.

Regional Air Quality Data

	Measured Data During 2004	National and State Standard
Sulfur Dioxide*		
Highest running 3-hr average	.045 ppm	0.5 ppm
Maximum 24-hr average	0.013 ppm	0.14 ppm
Inhalable Particulates* (< 2.5 microns)		
3 year average of annual means	11 ug/m ³	15 ug/m ³
3 year average of 98 percent percentile value	34 ug/m ³	65 ug/m ³
Carbon Monoxide**		
Maximum 1-hr average	2.8 ppm	35 ppm
Maximum 8-hr average	1.8 ppm	9.0 ppm
Ozone		
Maximum 1-hr average	0.090 ppm	0.12 ppm
3 yr average of 4 th highest daily max 8-hr average	0.089 ppm	0.080 ppm
ppm = parts per million		
Source: 2004 Annual New York State Air Quality Report		

Potential air quality impacts from the proposed development are directly related to emissions from the proposed building, and emissions from vehicles attracted to the Site due to the presence of the proposed retail store. There is also the potential for odors to be generated by diesel trucks and food waste. Emissions released from these sources are addressed below as On-Site Emissions. Additionally, vehicle emissions associated with Site access traffic flow can have an air quality impact and will be addressed below as Off-Site Emissions.

Off-Site Emissions

Off-Site emissions due to motor vehicle traffic have the potential to result in air quality impacts if the increase in traffic volume is sufficient to cause a significant degradation in roadway or intersection operations. The potential impact of the proposed Wal-Mart development is evaluated in this section through the use of the NYSDOT Environmental Procedures Manual. Step 1 of the screening procedure consists of a Level of Service (LOS) Screening. Any intersection or roadway segment exhibiting a LOS of C or better does not require any further analysis. A review of the Traffic Impact Study for the proposed Site reveals that the proposed plaza access intersections on Southwestern Boulevard and Rodgers Road will all have a LOS C or better upon completion of the current NYSDOT Route 20, Southwestern Boulevard Reconstruction Project, with the exception of the West Site Drive and Southwestern Boulevard intersection. A mitigation measure has been recommended to provide two exit lanes (one left turn and one right turn lane) and one entrance lane at West Site Drive. Additionally, motorists experiencing longer delays may opt to use other plaza exits.

Based upon the results of step 1 of the screening procedure all but one plaza intersection achieve a LOS C or better, and it is anticipated that the mitigation recommendation will reduce delays at West Site Drive. No further analysis is warranted as the slightly longer delays at one intersection will not result in a significant air quality impact at the Site.

On-Site Emissions

There are two basic On-Site sources of air emissions; combustion of natural gas for heat and the operation of customer and delivery motor vehicles. Based upon the sources occurring at the Site, two potentially important indicator air pollutants are analyzed to estimate the degree to which air quality impacts may be significant. The indicator pollutants are carbon monoxide (CO), and volatile organic compounds (VOC's). CO and VOC are characteristic products of light-duty vehicle (automobile) emissions; VOC is a characteristic emission from heavy-duty diesel vehicles; and CO is a characteristic emission product of natural gas combustion. Conservative estimates are presented in this section for each of these pollutants under peak emission conditions. For estimating purposes peak hour traffic volume is used, actual average day time hourly traffic volumes are typically many times lower, and of course night traffic volumes are even lower.

Air emissions due to combustion at a retail facility are generally insignificant. Combustion is only utilized for heating and hot water production purposes. Such emissions are very low and, to the extent that electricity is utilized for any portion of the heating or hot water demand, emissions will be proportionately reduced.

Estimates of the emissions from the operation of the building's heating and hot water equipment have been completed. Wal-Mart has found that its Supercenter facilities create a combustion gas load of approximately $11,642 \times 10^3$ British thermal units per hour (BTU/hr) under peak conditions. Utilizing US Environmental Protection Agency (EPA) emission factors for natural gas combustion, the following peak emission rates have been calculated for carbon monoxide (CO), volatile organic compounds (VOC) and PM_{2.5} as shown in the table below.

Peak Natural Gas Combustion Emission Rates		
	<u>EPA Emission Rate</u> (lb/10 ⁶ BTU)	<u>Peak Facility Emission Rate</u> in grams per second (g/s)
CO	0.08235	0.12105
VOC	0.005392	0.007926
PM _{2.5}	5.882 x 10 ⁻⁴	8.65 x 10 ⁻⁴

To put these emission rates into perspective, it is noted that the US EPA estimates that a single idling automobile will emit at a rate of approximately 0.103 g/s of CO, 0.0059 g/s of VOC and 7.3 x 10⁻⁴ g/s of particulate matter when idling. Thus, the peak hour direct emission rate of the entire Wal-Mart facility will be of approximately the same magnitude as that from a single idling automobile. Emissions of this level over the project site are completely insignificant and will have no measurable impact on ambient air quality.

Automobiles and trucks accessing and making deliveries to the Site are another On-Site source of emissions. Worst-case emissions from these sources are based upon peak hour customer traffic volumes accessing the Site, as well as emissions from trucks accessing and utilizing the loading dock area at the rear of the proposed Wal-Mart Supercenter building.

Emissions for the light duty vehicles (autos) are based upon a peak hour driveway traffic flow of 780 vehicles per hour (vph), with an average on-Site vehicle travel distance of 1,000 feet at an average speed of 15 miles per hour (mph) plus an additional 15 seconds of idle time per vehicle. It is estimated that on average the emission source, the vehicle engine, is operating for approximately 5 minutes per trip. The corresponding figures for trucks are 9 heavy-duty diesel trucks traveling an average of 550 feet at an average 10 mph plus 3 minutes of idling time, or approximately 10 minutes of engine operation. The 3 minutes of idling time is an approximation of the time necessary to maneuver and stop at the loading docks. Continuous idling of trucks is not permitted by Wal-Mart and does not represent anticipated operations at the new Wal-Mart Supercenter facility.

To be conservative, emissions for all vehicles are based upon US EPA idling vehicle emission rates for winter conditions. This is a conservative approach since idling emissions are higher than running emissions and since winter emissions from vehicles are higher than at other times of the year.

Utilizing the above factors, the following emission rates are found for the vehicles accessing the Site under peak hour conditions:

Peak Hour Vehicle Air Emission Rates

<u>Pollutant</u>	<u>Total Auto Pk Hr Emissions Rate</u> (g/s)	<u>Total Truck Pk Hr Emissions Rate</u> (g/s)	<u>Total Emissions Rate for All Vehicles</u> (g/s)
CO	7.6	0.055	7.655
VOC	0.43	0.008	0.438

existing levels of emissions in the general vicinity of the Site, particularly emissions from vehicle traffic on Southwestern Boulevard (NYS Route 20) fronting the Site. In effect, emission levels are anticipated to be approximately the same as under previous conditions of operation at the Site when it was fully occupied as Brierwood Square. In conclusion, emissions from vehicles accessing the Wal-Mart Supercenter are not significant and will not have a negative impact on ambient air quality at the Site or neighboring properties.

Other Air Quality Considerations - Odors

The existing project site can be characterized as a run down plaza with badly deteriorated asphalt. However, historically, this 208,661± sf plaza was a vibrant thriving plaza occupied by various tenants including the following large commercial businesses: K-Mart, Hans and Kelly Department Store, Bells grocery store, Loblaws Department Store, D& K Stores, Montgomery Wards and Sears.

The delivery schedule for a Wal-Mart Supercenter is typically 3 semi-tractor trailers (2 for grocery delivery and one for general merchandise) per day. This normally increases during the holiday season depending on sales demands. Wal-Mart normally restricts these deliveries to 6 AM to 10 PM in residentially sensitive areas. In addition to the Wal-Mart truck deliveries there are +/-20 single unit trucks to supply brand specific merchandise such as soda, chips, milk etc. These deliveries are typically made during day time business hours. It is considered likely that between all of the prior tenants of the plaza, truck deliveries either occurred at a similar or more frequent rate than the proposed Wal-Mart truck delivery schedule.

Also, it is assumed that historic truck emissions that occurred at the plaza compared to emissions that may occur from Wal-Mart Supercenter delivery trucks (compliant with current strict emission standards), were much higher than today.

Wal-Mart is a strong and supportive participant in an EPA emissions reduction program, The SmartWay Transport Partnership. A voluntary initiative, SmartWay increases the United States' energy efficiency and energy security while reducing air pollution and greenhouse gas emissions.

While the State of New York has a 5 minute idle limit, Wal-Mart has a goal of a 3 minute idle period, which is an approximation of the time necessary to maneuver and stop at the loading docks. Wal-Mart has also set a goal of the installation of Auxiliary Power Units (APUs) in 100% of its fleet by May 1, 2006. APUs typically consume only between 0.05 and 0.2 gallons of fuel per hour and can provide heat, air conditioning, and power without running the main engine, thereby further reducing diesel emissions.

Wal-Mart has agreed to administer anti-idling training to company drivers, post "no idling" signs at all of its 4,000 facilities in the United States and notify its contracted delivery companies of its anti-idling policy.

While the ambient odor levels are consistent with that to be expected from a developed commercial property that is primarily retail and service oriented, the most noticeable odors can be generated by food service businesses and any outside garbage dumpsters

associated with restaurants and retail locations.

Food preparation within Wal-Mart Supercenter facilities is minimal, consisting primarily of support operations for the snack bar. Large scale deep-frying or baking, the principal sources of odors for food preparation facilities, do not occur in Wal-Mart Supercenters. Hence, odors from food preparation should be negligible and should not be detectable beyond any property line.

The only changes to vehicular access will occur on the southern portion of the Wal-Mart Supercenter property in the vicinity of the main access driveways and main parking field. These areas are quite distant from the residential areas west of the site and will be blocked from them by the presence of the new Wal-Mart Supercenter building. Given these factors, odors associated with motor vehicle use and access on the site will be negligible at the residential area.

Solid waste disposal at the proposed Wal-Mart Supercenter facility will be accomplished via closed compactor units which are emptied regularly. One unit is proposed to be located on the west side of the store for general merchandise, and the other is proposed to be located on the north side of the building for grocery. Based on Wal-Mart's operating experience, closed compactor units have not been found to emit odors detectable beyond several yards of the unit, even under the worst of conditions. Since the closest trash compactor will be located over 85 feet from any property line, odors from them will not be detectable for off-site receptors.

It is concluded that the proposed Wal-Mart Supercenter will not produce any significant impacts related to odors.

L. Alternatives

Wal-Mart respectfully submits that this Assessment and other materials submitted demonstrate that the Brierwood redevelopment project, as proposed, does NOT have significant adverse impacts on the environment. If the Planning Board, as SEQRA Lead Agency makes the same determination, there would be no legal basis under SEQRA for conducting an alternatives analysis. Nevertheless, the following alternatives discussion is provided for the Lead Agency's consideration.

1. No Action

The "No Action" alternative consists of the denial of the site plan application and no development of the project at the site. This alternative does not meet the Applicant's goal to provide expanded goods and services to this market area.

The no-action alternative will avoid all potential environmental impacts identified as resulting from this project. This will be accompanied by the loss of all benefits of the project including the expansion of local retail competition, increases in fiscal benefits to the Town and School District, and the expansion of local job opportunities.

The No Action alternative would have its own environmental impacts – principally the continuation of a rundown and partially occupied shopping plaza.

On the basis of the above, the No Action alternative is not the preferred alternative.

2. Use of the Existing Wal-Mart Site

The most obvious alternative location for the proposed Supercenter use is the existing Wal-Mart site located approximately 3.9 mile northeast of the proposed project site. The approximately 20.02-acre property contains an approximately 131,425 sf Wal-Mart store offering traditional dry goods, clothing and, partially in an outdoor storage area, garden and home landscaping supplies.

Unfortunately, the existing Wal-Mart property is not of sufficient size to accommodate a Wal-Mart Supercenter building, required parking and associated stormwater systems. Figure 13 shows the existing site area with the project footprint superimposed. It is very clear that the building and associated parking cannot be accommodated on the existing Wal-Mart property due to its size and the presence of the federal wetlands located to the southeast of the building. A substantial portion of the existing site is restricted from any development by a document recorded in the Erie County Clerk's Office (see Appendix H). Even if this site was large enough to support and expansion, the need to close the existing Wal-Mart facility for an extended period during the site preparation and construction of the new Supercenter would be highly detrimental to both Wal-Mart and its customers.

3. Other Potential Sites

Beyond the existing site, which is not feasible to expand, Wal-Mart has no other properties under control within this municipality or the market area identified for this facility. SEQR specifically provides that "site alternatives may be limited to parcels owned by, or under option to, a private project sponsor" (6 NYCRR Section 617.9(b)(5) (v)).

The proposed project site is well suited for the proposed Supercenter and has no physical conditions that would limit the construction or operation of the facility.

Given the above, no further evaluation of alternative sites is warranted and it is concluded that the proposed site is suitable and appropriate for the proposed project.

4. Alternative Layout on the Project Site

Several alternative site layouts were considered as part of the development of the proposed site plan. These are outlined in this section, along with the rationale for the currently proposed design.

Alternative layouts, as shown in Figure 14, can be achieved with the proposed Wal-Mart building rotated ninety degrees to face either toward the east or the west. While

physically feasible, such layouts are not desirable for the following reasons:

- The side of the building would be placed much closer the Southwestern Boulevard frontage, presenting a less visually pleasing appearance from the highway.
- Additional wetlands would be disturbed to provide a feasible site layout.
- The parking field in front of the store would be too shallow and not provide enough parking.
- Loading and service areas would be clearly visible from the highway.
- The orientation would reduce the total area available on the sides of the buildings. This would result in either a reduction in the setback and landscaping along the highway frontage.
- This orientation is not consistent with most of the other commercial developments in the area.
- This orientation would prevent a future cross access with the adjacent proposed commercial plaza to the west.
- This orientation is less desirable for Wal-Mart in terms of visibility and appearance from the Southwestern Boulevard frontage.

For the above reasons, rotating the building on the site was rejected as a desirable alternative.

5. Alternative of Reduced Building Size

Wal-Mart has smaller Supercenter building designs. During the development process, the Wal-Mart project team carefully matches the proposed building size to the available site conditions and to the retail market to be served. The existing Wal-Mart store in Hamburg consists of approximately 131,000 sf and does not include a full service grocery. The proposed Supercenter, at approximately 205,000 sf, is well matched to the site's physical size and location; includes a complete grocery operation; will provide greater shopper choice and convenience and, in Wal-Mart's judgment, is appropriate to meet the market in this area. An arbitrary reduction in size of the proposed Wal-Mart store would not meet the objectives of the project sponsor. Development of the Wal-Mart portion of the site with a different mix of uses is not an alternative that would meet Wal-Mart's objectives. The proposed Phase II project does propose a mix of retail, restaurant and office uses.

The proposed project site is located within an existing run down plaza with badly deteriorated asphalt that is only partially occupied and in need of several building upgrades to improve the building aesthetics. By redeveloping the existing plaza within an existing commercially zoned area, the Town will be preserving the rural/residential character of other areas. Wal-Mart's redevelopment and reuse of the existing site is "smart growth" at its best. The proposed project will not only remedy and improve upon existing site conditions, thereby bringing the site into conformity with local and State laws, but will also avoid development of another heretofore undeveloped, "green" parcel of property in the Town of Hamburg.

Hopevale Sketch - Extension off Heatherwood

Mike Borowiak, of Nussbaumer & Clarke, appeared before the Planning Board on the sketch for Hopevale Townhomes to be located off Heatherwood. Comments from Engineering asked for a 50' turn around, and an emergency access. Mr. Borowiak stated that the emergency access will loop into Howard Road and be gated.

Mr. Reilly stated that there are 2 issues to be addressed; namely, the surface water problem and the wetlands. Mr. Borowiak responded that the wetlands study has been completed and they are looking for subdivision approval. Applicant to proceed to preliminary plat.

Parker Commons Patio Homes - Parker Road

Mr. Mike Borowiak appeared before the Planning Board on a cluster development for patio homes on Parker Road. Applicant is proceeding toward preliminary plat. Public hearing is set for July 19th, 2006.

Village Line 4 Lot Subdivision -

The rezoning has been passed and the applicant is proceeding to subdivision of 4 lots. This is considered a major subdivision. Public Hearing has been set for July 19th, 2006 at 7:45 p.m.

Mission Hills Development - Camp Road

Nothing new has been submitted. This is a sketch plan for single unit townhouses, or zero lot line townhouses. Two issues have been brought up. One is that the neighbors from Brook Gardens want a larger buffer, and the Conservation Board has stated that there are larger wetlands than originally stated. A supplemental impact statement will be required. Item will not be on for the July 19th meeting.

Duff's Restaurant to locate in Cracker Barrel.

The applicant appeared before the Planning Board to re-use a closed restaurant into a new restaurant. They would like to renovate the inside with a game room, in a warehouse style. Anticipated opening would be in November. Applicant is to get in touch with Kurt Allen for a site plan waiver.

Southampton Commons - Big Tree Road

Mr. Alan Nigro presented two drawings of a proposed condo complex to be located on Big Tree Road. A wetlands delineation is required as there are many drainage problems in that area. Mr. Nigro stated that they are considering a new private road. Two sketches were presented; one

TOWN OF HAMBURG

ENGINEERING DEPARTMENT

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Town Engineer

GERARD M. KAPSIK, P.E.



Town Attorney

VINCENT J. SORRENTINO

Town Clerk

CATHERINE A. RYBCZYNSKI

Supt. of Highways

JAMES F. CONNOLLY

TO : Planning Board

FROM : Engineering Dept.

DATE : 7/5/06

SUBJ : 7/5/06 PLANNING BOARD WORK SESSION AGENDA
Hopevale Town Homes - Heatherwood Drive

The following are review comments on a sketch plan dated May 12, 2006:

- (1) The site is located in a sanitary sewer district. A downstream sewer capacity analysis is necessary to be performed in compliance with NYSDEC requirements.
- (2) The Erie County Water Authority (ECWA) should be contacted to determine if there is adequate pressure and flow to service the site.
- (3) The proposed one outlet street layout exceeds the maximum street length of 500 feet, required in Town Subdivision Regulations Section 230-22. A secondary or emergency outlet should be provided.
- (4) The segment of the private drive to the south is to terminate as a 50 feet radius cul-de-sac.
- (5) Stormwater detention will be required for the project.
- (6) The private road is to have a minimum asphalt pavement width of 26 feet.

All comments are to be satisfactorily addressed for approval.

Gerard M. Kapsiak, P.E.

Town Engineer

Richard J. Lardo

Principal Engineer

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Supt. of Highways
JAMES F. CONNOLLY

TO: Planning Board

FROM: Engineering Dept.

DATE: 7/5/06

SUBJ: 7/5/06 PLANNING BOARD WORK SESSION AGENDA
Parker Commons Subdivision

The following are review comments on a preliminary plat plan dated 6/2/06 and last revised on 6/23/06::

- (1) The site is tributary to Erie County Sewer District No. 3 (ECSD No.3). The district should be contacted to determine if there is sufficient available capacity in their system to service the site.
- (2) The Erie County Water Authority (ECWA) should be contacted to determine if there is adequate pressure and flow to service the site.
- (3) Storm water detention will be required for the development. Label the detention area on the plan.
- (4) The proposed street horizontal curves are to have a minimum radius of 150 feet, as required in Section 230-22. We have no objection to the proposed layout provided that a 15 mph speed limit be noted on the plan and posted.
- (5) Provide a detail drawing for the proposed landscape berm.
- (6) We have received an acceptable survey and legal description for the subdivision.

All comments are to be satisfactorily addressed for approval.

Handwritten signature of Gerard M. Kapsiak in black ink.

Gerard M. Kapsiak, P.E.

Town Engineer

Handwritten signature of Richard J. Lardo in black ink.

Richard J. Lardo

Principal Engineer

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Supt. of Highways

JAMES F. CONNOLLY

TO: Planning Board

FROM: Engineering Dept.

DATE: 7/5/06

SUBJ: 7/5/06 PLANNING BOARD WORK SESSION AGENDA
Village Line Minor Subdivision - Lakeview Road

The following are review comments on a preliminary plat plan dated 1/6/06 and last revised on 6/16/06:

- (1) The legal description and survey for the project are acceptable.
- (2) Public sanitary sewer and water service is available along Lakeview Road.
- (3) The site is located in and subject to the requirements of the South Central Overlay District.
- (4) The adjacent parcels do not have public sidewalk. We have no objection to waiving the sidewalk requirement.
- (5) We have no objection to waiving the filing of a Map Cover for the project.
- (6) Per the conditions of the 6/12/06 rezoning for this property, a drainage plan for the subdivision is to be submitted for review and approval by the Town Engineering Dept.

All comments are to be satisfactorily addressed for approval.

Gerard M. Kapsiak, P.E.

Town Engineer

Richard J. Lardo

Principal Engineer

June 28, 2006

To: Planning Board

From: Sarah

Subject: Hamburg Village Line 4 lot subdivision

- Located in the South Central Hamburg Overlay Dist.
- Is classified as a major subdivision
- lot width at building line must be 50% greater than the R-1 requirement (90 plus 45 = 135 feet).
- All trees to be removed must be shown on the drawing.
- Plans must be submitted clearly delineating the vegetative areas of the site that will be preserved and those areas that will be disturbed for the construction of homesites, driveways and septic systems

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Town Clerk
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Supt. of Highways
JAMES F. CONNOLLY

TO : Planning Board

FROM : Engineering Dept.

DATE : 7/5/06

SUBJ : 7/5/06 PLANNING BOARD WORK SESSION AGENDA
Mission Hill Subdivision - Camp Road

The following are review comments on a sketch plan dated May 2006:

- (1) The site is located in a sanitary sewer district. A downstream sewer capacity analysis is necessary to be performed in compliance with NYSDEC requirements.
- (2) The Erie County Water Authority (ECWA) should be contacted to determine if there is adequate pressure and flow to service the site.
- (3) A portion of the site is not located in a water district. A water district extension may be required for this project.
- (4) The proposed one outlet street layout exceeds the maximum street length of 500 feet, required in Town Subdivision Regulations Section 230-22. A secondary or emergency outlet should be provided.
- (5) New York State Department of Transportation (NYSDOT) approval is required for work within the Camp Road right-of-way.
- (6) Stormwater detention will be required for the project.

All comments are to be satisfactorily addressed for approval.

Gerard M. Kapsiak, P.E.
Town Engineer

Richard J. Lardo
Principal Engineer

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Supt. of Highways
JAMES F. CONNOLLY

TO: Planning Board

FROM: Engineering Dept.

DATE: 7/5/06

SUBJ: 7/5/06 PLANNING BOARD WORK SESSION AGENDA
Duff's Famous Wings - 4360 Milestrip Road

We have not received a submittal for the above-referenced proposed use of this site. We have the following comments in this regard:

- (1) The Planning Board previously (4/22/1997) approved the former Cracker Barrel site plan at this location. The curbing and split rail fence shown on the approved plans have not yet been installed.
- (2) We will review any proposed revisions to the site following the receipt of a site plan for the proposed project.

All comments are to be satisfactorily addressed for approval.

Gerard M. Kapsiak, P.E.

Town Engineer

Richard J. Lardo

Principal Engineer

(Southampton Commons)

showing 96 units, and the other showing from 80 to 88. Mr. Reilly stated that Rick Lardo has some concerns with the topography of this site. The site should also be reviewed by Traffic Safety. The Conservation Board is concerned with development near the railroad tracks and would like a 100' buffer.

Vanderbilt Properties - Recommendation and report is being prepared for the Town Board. Resolution is to be made scheduling a Public Hearing and establishing Lead Agency status. Report is to include all versions of the opinion, the history of the project (minutes) Drew's memo outlying conditions of approval, secondary means of egress, etc. Mr. Phillips stated that he did an on site of the property and right next to this property he spotted cattle, which means this is still a farm area.

Notification to residents on site plans—Proposal outlined by Code Review Committee. A change in the law will be needed to better accommodate the public. Particulars are not yet worked out as to how this can be easily accomplished.

Meeting adjourned at 10:00 p.m.

Respectfully submitted,

Paul Eustace, Secretary
Planning Board

Villas At Brierwood Chronology

Date:

Information

3-13-06

Town Board referred request to the Planning Board for its Research, review and recommendation

3-15-06

Planning Board first sees the project--no input given at that time by Planning Board members or the Eng. Department.

4-5-06

Planning Board Work Session--Engineering comments are received regarding the fact that the project site is not located in a water district, the project site is located in the Southwestern Overlay District, it was yet to be determined if there is adequate water pressure and flow, and that storm water detention and a secondary access would be required.

Planning Board members' concerns revolved around the density of the project layout and the members' desire to see more green space on the site.

The Board members were made aware of the necessity to rezone the property from R-A to PUD and amend the Master Plan in order for the project to move forward.

4-19-06.

Planning Board meeting--Board members were advised by the Engineering Department that the project site is not located in a Water district, nor is it located in a sanitary sewer district. In addition, Engineering recommended that a secondary access roadway be provided.

Planning Board members told the applicant that they would like to see an emergency secondary access for fire safety purposes. Some members expressed concerns regarding the high density and minimal amount of green space in the proposal.

5-3-06

Planning Board Work Session--Engineering comments were not changed from the comments of 4-19-06. Board members' concerns remained centered around density, lack of green space and the need for a secondary entrance.

5-11-06 The Planning Board received a letter from David Stapleton of Vanderbilt Properties, Inc., which attempts to address Engineering Department review comments regarding sanitary sewer capacity, a Watermain extension, detention, a secondary access and the requirements of the Southwestern Boulevard Overlay District.

5-13-06 The Planning Board received another letter from David Stapleton of Vanderbilt Properties, Inc. explaining potential effects of a Community such as is proposed and giving the Board additional information regarding aesthetics and the demand for this type of housing.

5-17-06 Planning Board meeting—Engineering comments remained the same. Planning Board members discussed whether this type of housing is needed in Hamburg, whether it would be a sound economic benefit to the Town and whether the Town would experience a future “ripple effect” if this project is approved. Could the rezoning take place without encouraging further rezoning and development south of this site? Board members were on both sides of the issues discussed. The Planning Department was authorized do put a report together illustrating how a rezoning could be supported without encouraging future rezoning.

5-24-06 Members of the Conservation Board reviewed the site and noted the soil condition on the property. The Conservation Board members stated that, although the tree and open space preservation areas are adequate, they are not significant enough to justify a PUD in an R-A zone.

6-7-06 The Planning Board members received a memo from Planning Board member Steve McCabe outlining his concerns regarding this Proposal and his reasons for recommending against amending the comprehensive plan in order to allow this project.

6-7-06 Planning Board Work Session—Engineering comments remained the same.

The Board received a report from Drew Reilly regarding the pros and cons of amending the master plan to allow for this project.(As requested).

6-21-06 Planning Board meeting—The applicant presented figures to the Board regarding the impact this project is projected to have on the Town of Hamburg schools, traffic, water/sewer/ solid waste, and density as compared to a typical R-1 single family home

subdivision. The Planning Board received correspondence from the applicant regarding perceived positive impacts of the project on the Town. The applicant also presented photos of the proposed entrance and street scape.

Board members discussed their opinions regarding the project and Amending the master plan.

A motion was made to forward a Negative recommendation to the Town Board, but the motion failed 3-4.

A motion was made to forward a favorable recommendation to the Town Board for rezoning from R-A to PUD and to amend the Master Plan. The motion passed 4-3. Meeting minutes should be sent to the Town Board and the Planning Department's memo. Drew Reilly will also try and summarize the comments on this action.

If the Town Board, after the rezoning public hearing, requires additional input from the Planning Board, the action could be referred back to the Planning Board for additional comment.

If the project receives a rezoning, then it would have to return to the Planning Board for site plan approval.

Pre-file Cavalcoli

Resolved, that the Town Board set a Public Hearing for Vanderbilt properties rezoning from R-A, Residential Agricultural, to PUD, Planned Unit Development located on Amsdell and Southwestern Blvd. for September 18th, 2006 at 7:15 p.m. and establish Lead Agency Status by the Hamburg Town Board.

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Hamburg, County of Erie and State of New York, being part of Lots Nos. 27 and 28, Township 9, Range 8 of the Holland Land Company's Survey bounded and described as follows:

BEGINNING at a point of intersection of the center line of Amsdell Road (66 feet wide) with the northwest corner of lands convey to Joseph M. Paszkiewicz and Lisa M. Paszkiewicz, his wife by deed recorded in the Erie County Clerk's Office in Liber 10110 of Deeds at page 627; running thence southerly along the westerly line of lands so conveyed to said Paszkiewicz and along the westerly line of lands conveyed to William Craver and Darlene Craver, his wife by deed recorded in the Erie County Clerk's Office in Liber 9961 of Deeds at page 315 and along the westerly line of lands conveyed to Amy J. Wojdyla by deed recorded in the Erie County Clerk's Office in Liber 11018 of Deeds at page 6453 a measured distance of 2175.91 feet to the center line of Pleasant Avenue (66 feet wide); thence southwesterly along the centerline of Pleasant Avenue a measured distance of 213.76 feet to the southeast corner of lands conveyed to Bruce J. Reid and Linda H. Reid, his wife by deed recorded in the Erie County Clerk's Office in Liber 10904 of Deeds at page 4669; thence northerly along the easterly line of lands so conveyed to said Reid a measured distance of 166.92 feet to the south line of Lot No. 28 (also being the north line of Lot No. 27); thence westerly along the south line of Lot 28 a measured distance of 1059.22 feet to the southeast corner of lands conveyed to David S. Peters by deed recorded in the Erie County Clerk's Office in Liber 10896 of Deeds at page 7666; thence northerly along the easterly line of lands so conveyed to said Peters a measured distance of 1201.21 feet to the northeasterly corner thereof, said point on the southeasterly line of Southwestern Blvd (100 feet wide); thence northeasterly along the southeasterly line of Southwestern Blvd a measured distance of 496.32 feet to the southwesterly corner of lands conveyed to Brian P. Krystniak by deed recorded in the Erie County Clerk's Office in Liber 10215 of Deeds at page 781; thence southeasterly along the southerly line of lands so conveyed to said Krystniak a measured distance of 499.32 feet to the southeast corner of lands conveyed to said Krystniak; thence northerly along the east line of said Krystniak's land a measured distance of 262.25 feet to the southwesterly corner of lands conveyed to the Lakeshore Volunteer Fire Company, Inc., by deed recorded in Erie County Clerk's Office in Liber 8832 of Deeds at page 375; thence easterly along the south line of lands so conveyed to the said Lakeshore Volunteer Fire Company, Inc., a measured distance of 383.97 feet to the southeast corner thereof; thence northerly along the east line of said lands a measured distance of 560.88 feet to the centerline of Amsdell Road; thence southeasterly along the centerline of Amsdell Road a measured distance of 98.19 feet to the point or place of beginning.

Memorandum To: Hamburg Town Board

From: Steve McCabe, Dave Phillips, and Paul Eustace

Regarding: Proposed 148-unit "Villas at Briarwood" condominium project

July 5, 2006

This is just a brief note in response to the positive recommendation issued by the planning board at our June 21 meeting regarding the Vanderbilt Properties "Villas at Briarwood" condominium development. While we respect the recommendation approved by our colleagues, we would like to offer an explanation, both for the record and for your consideration as you make your decision, as to why we do not support an amendment to the *Town of Hamburg 2010 Comprehensive Plan* or rezoning the parcel in question to promote this development.

Since the planning board issued its recommendation to you, we have been approached by many Hamburg residents with concerns regarding any amendment to the comprehensive plan and requesting specific reasons why it is being recommended for change in this instance. Many residents have expressed concerns over issues that are not within the planning board's purview but are within the town board's, such as the significantly reduced property tax assessment levied on condominium developments within our town, or the number of high-density residential developments already under construction, approved, or in the planning stages—all within areas of the town properly zoned for such development.

While we appreciate and respect the mechanisms built into our comprehensive plan for enabling us to deviate from it, we have found no compelling reason for doing so in this instance and have identified several reasons why it would represent a substantial risk to the planning of our community. We would respectfully request that you weigh these very carefully.

Primarily, we are concerned that this project's required changes to the town's comprehensive plan and subsequent rezoning from R-A to PUD represent a significant deviation from the letter and spirit of that plan, particularly regarding the Lake View Area. While we firmly believe the project could be an asset to the town *if it were located in an appropriately zoned district within the town*, we cannot find adequate planning reasons to justify amending the comprehensive plan to facilitate the project in its proposed location.

The following are some specific concerns that underlie our recommendation against amending the comprehensive plan for this project:

This project contradicts the comprehensive plan. The comprehensive plan was drafted and approved only after a long and inclusive process of gathering citizen input, debate, and forging of a consensus for how our community would grow. Regarding the Lake View Area, the comprehensive plan states:

"Residential rezonings would only be considered for extenuating circumstances to preserve important features. The area has proper density; therefore, any rezonings should be only considered for use and not increased density."

We can discern no extenuating circumstances surrounding this project, and, to the extent that it would effectively eliminate the parcel's most important feature—greenspace—it is in clear contradiction with the comprehensive plan.

The argument has been posited that because a sewer line ending at the northwest corner of the Amsdell Road/Southwestern Boulevard intersection could be used to service the proposed project, the parcel is better suited to high-density development. This argument ignores the clear admonition in the comprehensive plan: "Do not promote extensions of sewers in this area." The fact that the extended sewer ends nearby certainly doesn't justify using its presence as justification for new development—especially given the comprehensive plan's clear admonition against allowing sewer expansion to promote high-density residential building. In fact, the comprehensive plan specifically recognizes how sewer installation will attract development and clearly warned of the potential that held for compromising and disrupting effective planning. We feel the comprehensive plan's recommendation should be heeded in this area.

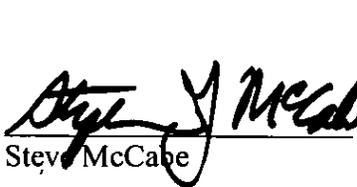
We feel the comprehensive plan should not be amended without extraordinary cause and without involving the full opportunity for input from the community. The comprehensive plan is clear in reflecting the community's intention that Lake View "retain its rural look and feel." Preventing the intrusion of R-3 zoning density into an R-A district seems to us to be precisely why we have a comprehensive plan.

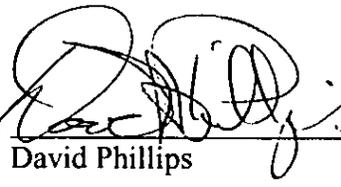
This project would effectively create a *de facto* spot-zone with more than a seven-fold increase in residential land-use density. This leap in density will create a poor transition between land uses. Up-zoning the parcel from R-A to the same density as R-3 represents a quantum jump in zoning designations. This jump from lowest density to one of the highest eliminates any prospect for the smooth transition between zoning districts that is a cornerstone of sound community planning.

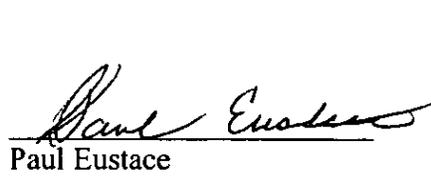
This project will intrude into the remnants of Hamburg's rural/agricultural community. While the parcel's nearest boundary to the zoning district border of Amsdell Road is only several hundred feet north, the furthest boundary of the parcel will extend more than 0.4 mile south into the Lake View Area. Moreover, if the development were to be built, it would probably require entrances and exits onto Pleasant Avenue and/or Amsdell Road, effectively impacting both. This project would effectively push the higher-density development line southward to Pleasant Avenue from Amsdell Road, further diminishing the remaining stock of greenspace in the area and, in all probability, inflating assessment valuations on neighboring farmland and open space. This seems to us to be an almost textbook-case representation of suburban sprawl.

In fact, the growth issues and concerns that were identified and alluded to in the comprehensive plan at its adoption in June 1997 and articulated in delineating the Lake View Area seem to be even more compelling and clear today, almost a decade later. We feel that the comprehensive plan needs to be upheld more strongly than ever, and we would therefore respectfully request that you do so by declining to amend the comprehensive plan to facilitate this project.

Respectfully,


Steve McCabe


David Phillips


Paul Eustace

July 5, 2006

Legal Notice
Town of Hamburg
Planning Board Work Session
July 5, 2006

The Town of Hamburg Planning Board will meet for a Work Session on Wednesday, July 5th, 2006 at 7:30 p.m. in the Conference Room at Hamburg Town Hall to discuss the following:

1. Mission Hills Single family dwelling & patio homes - Camp Road
2. Walmart & Benderson Projects - Brierwood Plaza
3. Hopevale Town Homes - D. Burke -
4. Parker Commons preliminary - Parker Rd.

New Projects:

1. Village Line 4 lot Subdivision
2. Duff's Famous Wings Restaurant to go into Cracker Barrel - Milestrip Rd.

Gerard Koenig, Chairman
Paul Eustace, Secretary
Planning Board

Dated: 6-22-06