



August 14, 2017

Jeff Burroughs, P.E., Town Engineer
Town of Amherst Engineering Department
1100 North Forest Road
Williamsville, NY 14221

Re: Amended Rezoning & Planned Unit Development Application
Project Name: Westwood Neighborhood
Project Site: 772 North Forest Road, 375, 385 & 391 Maple Road
Applicant/Project Sponsor: Mensch Capital Partners, LLC

Dear Mr. Burroughs:

The purpose of this letter is to formally request a meeting with you to discuss the current status of the sanitary sewer capacity analysis during wet weather conditions with respect to the proposed Westwood Project.

As the Engineering Department is aware, there is sanitary sewer capacity to handle the projected sanitary sewer flows from the proposed Westwood Project during normal conditions. The Project Site is located in Amherst Sewer District #16 and is serviced by existing sanitary sewer infrastructure along both Maple Road and Sheridan Drive, which further connect to additional sewer interceptors to the north, including those along Amherst Manor Drive and Sweet Home Road on their way to the Town's Wastewater Treatment Plant.

As you may recall, on May 10, 2017 you issued a Memorandum to the Planning Department identifying concerns with regards to the proposed routing for the sanitary sewer service for the Westwood Project along Sweet Home Road due to the wet weather events that occurred in April and May of 2017. A copy of your Memorandum dated May 10, 2017 is attached as Exhibit "A". As a result of the comments in your Memorandum dated May 10, 2017, the continuation of the public hearing held by the Planning Board on January 19, 2017 was cancelled.¹ During its meeting on May 18, 2017, the Planning Board voted to adjourn its continued review of the pending requested rezoning of portions of the Project Site from RC to TND, GB & MFR-7 "...until such time that all outstanding Engineering conditions are met."

Subsequent to your Memorandum dated May 10, 2017, the Town of Amherst contracted with TECsmith to install sanitary sewer monitoring equipment in the vicinity of Sweet Home Road and Chestnut Ridge Road to conduct further flow analysis to evaluate the Engineering Department's

¹ During its meeting on January 19, 2017, the Planning Board voted to adjourn the public hearing on the rezoning of portions of the Project Site from RC to TND, GB & MFR-7 "...pending favorable review from Town departments/other agencies regarding proposed stormwater and sanitary sewer components, the updated traffic analysis, and the effect of this project on the carrying capacity of Ellicott Creek including determination on the need for a hydraulic analysis."

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concerns regarding the function of the Chestnut Ridge Road diversion sewer and the Sweet Home Road sanitary sewer interceptor during wet weather events.

I believe that the Town of Amherst experienced a few recent “significant wet weather events” with daily rainfall of 0.5 inches or greater, as defined by the New York State Department of Environmental Conservation (“NYSDEC”), in its 2014 Sewer Extension Application Guidelines and Related I/I Flow Offset Requirements. In checking the recent weather reports, significant wet weather events occurred on June 18th and June 27th, although there may be additional significant wet weather events identified based on data obtained from the rain gauge at the Engineering Department’s office.

On June 29, 2017, following a public hearing consisting of your presentation to the Town Board, the Town Board voted to amend Chapter 160 of the Code of the Town of Amherst, which is the Local Sewer Use Law. The approved amendments of the Local Sewer Use Law created a sewer remediation fund and a proposed infiltration and inflow (“I/I”) mitigation table and fee structure. The change also introduces a section calling for inspections at the time of sale for homes to address introductions of stormwater from the drainage systems of homes into the Town’s sanitary sewer system, which contribute to the Town’s existing documented I/I issues. Since the Town enacted this change to the Local Sewer Use Law, we have been working with Wendel Companies, our consulting engineer for sanitary sewer design s to evaluate its effect on the Westwood Project.

On July 19, 2017, following multiple requests for the sewer monitoring data by me via e-mail, at your direction, I submitted a Freedom of Information Law request to the Town of Amherst Clerk’s Office. On July 31, 2017, you transmitted via e-mail the data from TECsmith’s monitoring on June 18th and June 27th at the sanitary sewer locations identified above. Since receiving the updated sanitary sewer flow data received on July 31st, we have been working with Wendel Companies to verify there is sufficient capacity along the proposed Sweet Home Road routing during wet weather conditions for the Westwood Project.

As the Engineering Department is aware, along with evaluating the Sweet Home Road routing, we also have participated in discussions with the University of Buffalo on another route for the proposed sanitary sewer line for the Westwood Project which would go along Amherst Manor Drive and tie into the existing line on Augspurgen Drive. In addition to these two proposed routes, since the project was pulled from the May Planning Board agenda, our team has been exploring additional innovative sanitary sewer solutions which we would like to discuss with you.

Furthermore, we also understand from the Buffalo News article today that the Planning Board is waiting for a report from your office on whether the downstream sanitary sewer system around Westwood has enough capacity to handle the increased flow from the Westwood Project, and that report is expected within the next month or so. The first we learned about a report being prepared by the Engineering Department regarding the capacity of the downstream sanitary sewer system during wet weather conditions was based on a telephone conversation between Stan Sliwa, Esq., Town Attorney, and Sean Hopkins, Esq., the Project Sponsor’s counsel, on August 10th.

We would also like to discuss this anticipated report with you in person.

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Please contact me via phone at 839-4000 or via email at mroland@hamistergroup.com to set up a time to meet at your office in the near future to discuss these options, your upcoming report, and the next steps for the sanitary sewer solution for the proposed Westwood Project.

In addition, if you have any questions regarding the proposed Westwood Project, please feel free to contact me at 839-4000 or via e-mail at mroland@hamistergroup.com, Andrew Shaevel, Managing Partner for Mensch Capital Partners, LLC at 362-7880 or via e-mail at andy@menschcapitalpartners.com, or Sean Hopkins at 510-4338 or via e-mail at shopkins@hsr-legal.com.

Sincerely,

MENSCH CAPITAL PARTNERS LLC



Matthew Roland, AICP
Director of Development & Planning, Hamister Group, LLC

cc: Robert J. Gilmour, Chairperson, Planning Board
Stephanie S. Gelber, Planning Board
Dal Giuliani, Planning Board
Steven L. Herberger, Planning Board
Michele J. Johnson, Planning Board
Mary Pfeifer-Shapiro, Planning Board
Daniel J. Ulatowski, Planning Board
Dr. Barry A. Weinstein, Supervisor
Dr. Deborah Bruch Bucki, Councilmember
Ramona D. Popowich, Councilmember
Steven D. Sanders, Councilmember
Fran Spoth, Councilmember
Marjory Jaeger, Town Clerk
Eric W. Gillert, AICP, Planning Director
Daniel Howard, AICP, Assistant Planning Director
Ellen Kost, AICP, Associate Planner
Andrew Shaevel, Managing Partner, Mensch Capital Partners, LLC
Sean Hopkins, Esq., Hopkins Sorgi & Romanowski PLLC
Brad Packard, AICP, Ciminelli Real Estate Corporation
Brian M. Sibiga, P.E., Senior Environmental Engineer, Wendel Companies

EXHIBIT "A"



TOWN OF AMHERST
ENGINEERING DEPARTMENT
ERIE COUNTY – NEW YORK
JEFFREY S. BURROUGHS, P.E. – TOWN ENGINEER

May 10, 2017

TO: Ellen M. Kost, AICP – Associate Planner

FROM: Jeffrey S. Burroughs, PE – Town Engineer *JSB*

SUBJECT: Request to Rezone 141+/- Acres – Amendment I
RC to TND, MFR-7 & GB & Planned Unit Development; Z-2014-23

ADDRESS: 772 North Forest Road and 385 & 391 Maple Road
(Westwood Country Club)

PETITIONER: Mensch Capital Partners, LLC

Please accept this memo as a supplement to the prior memo written relative to the above reference subject matter by the Engineering Department (Department) on April 28, 2017.

In light of the most recent wet weather events that have occurred over the past month and after additional material facts were presented during a meeting with officials from SUNYAB, this department finds that:

- 1 The two alternatives put forward for sanitary sewer service of the development have identified the Sweet Home Road sanitary sewer interceptor as the downstream conduit for the additional flow.

Given the analysis provided in the DGEIS, the April 11, 2017 report, and also based on visual observations of the Sweet Home Road sanitary sewer interceptor during the month of April and early May, the Engineering Department is concerned with the available capacity in the Sweet Home Road sanitary sewer interceptor from its intersection with the Chestnut Ridge Road diversion sewer up to the Peanut Line interceptor. The analysis as provided by Wendel does not encapsulate a common rainfall event where the flows are recorded in the Chestnut Ridge Road diversion structure, the SUNYAB outfall sewer and the Sweet Home Road sanitary sewer interceptor from its intersection with the Chestnut Ridge Road diversion sewer to the Peanut Line interceptor. Visual observations have been made in the Sweet Home Road sanitary sewer interceptor during the April wet weather events which show surcharge levels atypical of the Sweet Home Road interceptor. The Department is concerned that there is a possibility that any available capacity in the Sweet Home Road Interceptor may be currently utilized by the Chestnut Ridge Road diversion sewer. Further flow analysis must be performed to allay the Department's concerns.

- 2 The University at Buffalo alternative identified in the DGEIS not only shares the issues identified in item 1 above, but also has additional constraints which were enumerated in a meeting with SUNYAB officials during the week of 5/1/17. It is the opinion of the SUNYAB officials that the Augspurgen Drive sanitary sewer has a capacity issue in at least one leg of the sewer and hence, the flow contribution of the proposed development will cause the Augspurgen Drive sanitary sewer to surcharge. In the opinion of the SUNYAB officials said issues must be identified and solutions must be proposed, if necessary, to alleviate this potential issue.

EXHIBIT "A"

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Unfortunately, this potential flow limiting condition cannot be confirmed until mid to late summer when the Town of Amherst will be allowed to access, clean and monitor the Augspurgen Drive sewer.

In addition, the SUNYAB officials stated that any remedial sanitary sewer work to increase capacity (such as a parallel sewer) that occurs on SUNYAB property must be owned by the Town and an agreement must be authored and executed for said improvements.

- 3 The alternative downstream plan as detailed in Figure 2-1 of the 4/11/17 Wendel report will require the construction of a much longer forcemain alignment assumedly within publicly owned right of way. The Department is requesting correspondence detailing discussions that have occurred with the various public agencies relative to permitting requirements for said construction and private ownership, operation and maintenance of the forcemain.

cc: Barry A. Weinstein, M.D. – Town Supervisor