

(Submit in Triplicate)

Fee: \$150.00

PETITION

TO AMEND THE ZONING MAP OF THE TOWN OF AURORA, NEW YORK

TO: THE TOWN BOARD OF THE TOWN OF AURORA, NEW YORK

Pursuant to Article IX of the Zoning Ordinance of the Town of Aurora, the undersigned owner(s) and petitioner(s) hereby request that the Zoning Map of the Town of Aurora, be amended as follows:

I. JJL Bros LLC, by John Lattanzio, Member

Name (First) (Middle Initial) (Last)

2. Location of property to be rezoned: 1342 Quaker Road, Town of Aurora, NY; SBL No. 163.03-1-14.1

3. Area, in square feet, of the property to be rezoned: 47,828.88 square feet (1.098 acres)

Dimension of the property to be rezoned: Irregularly Shaped -- See Survey at Exhibit 1

4. If the petitioner is not the owner of the property:

Petitioner is Owner

Owner's Name and Address

Owner's Name and Address

What is the interest of the petitioner in the proposed rezoning?

Owner of Real Property

5. Petitioner understands and agrees to furnish any of the following if requested by the Town Board or its agencies: An accurate survey map prepared by a licensed surveyor showing all dimensions, including interior angles or bearing of lines, and the location, proposed use and height of all buildings; location of all parking and truck loading areas, with access and egress drives thereto; location of outdoor storage, if any; location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences; description of method of sewage disposal and location of such facilities; location and size of all signs; location and proposed development of buffer areas; location and design of lighting facilities; and the amount of building area proposed for retail sales, if any.

6. Attach the legal description of the property to be rezoned. See attached Exhibit 2

7. Present zoning classification of the property: RR -- Rural Residential

8. Proposed zoning classification of the property: C2 -- Commercial

9. Present use of the property: Restaurant and Storage

10. Proposed use of the property: Restaurant and Storage

11. Description of uses on all adjacent properties and a general description of the type of neighborhood in which the subject property is located: Adjacent Uses: West: Residential;
North: Vacant Land and Residential; East: Animal Clinic / Residential; South: Residential.
Project Site is located on NYS Route 20 A. Neighborhood is mixed of single family residential
on large and smaller lots including a residential subdivision, vacant land and an animal clinic.

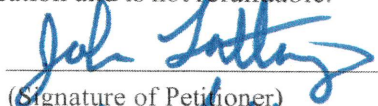
12. Names and Addresses of Owners of Abutting Properties:

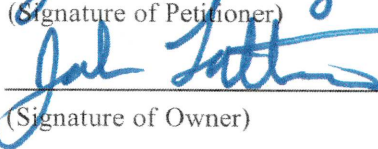
1. Christopher W. Frick & Lindsay A. Frick: 1352 Quaker Road, Town of Aurora, NY
2. Arkadiy D. Bilgovskiy: 1320 Quaker Road, Town of Aurora, NY
3. Gerald E. Zajac & Judith M. Zajac: 5 Stewart Court, Town of Aurora, NY
4. David Janca: 1392 Quaker Road, Town of Aurora, NY
5. _____
6. _____
7. _____

13. Additional information which the petitioner believes will assist the Town Board in its consideration of this request for rezoning: See attached Grounds for Rezoning at Exhibit 3 and
see attached Environmental Assessment Form at Exhibit 4.

14. Petitioner(s) acknowledge that payment of the application fee is for administrative and advertising expense to the Town as a result of this application and in no way relates to either approval or disapproval of the application and is not refundable.

Date: 11.20.2024


(Signature of Petitioner)


(Signature of Owner)

STATE OF NEW YORK ;
COUNTY OF ERIE } SS:

On this 20th day of November, 2024 personally appeared before me

John Lattanzio, Member of JLL Bros LLC

536 Dorrance Avenue, Buffalo, NY 14218

(Name)

(Address)

the petitioner, to me known to be the same person described in and who signed and executed the foregoing petition and who duly acknowledged to me the execution of the same for the purpose therein mentioned.

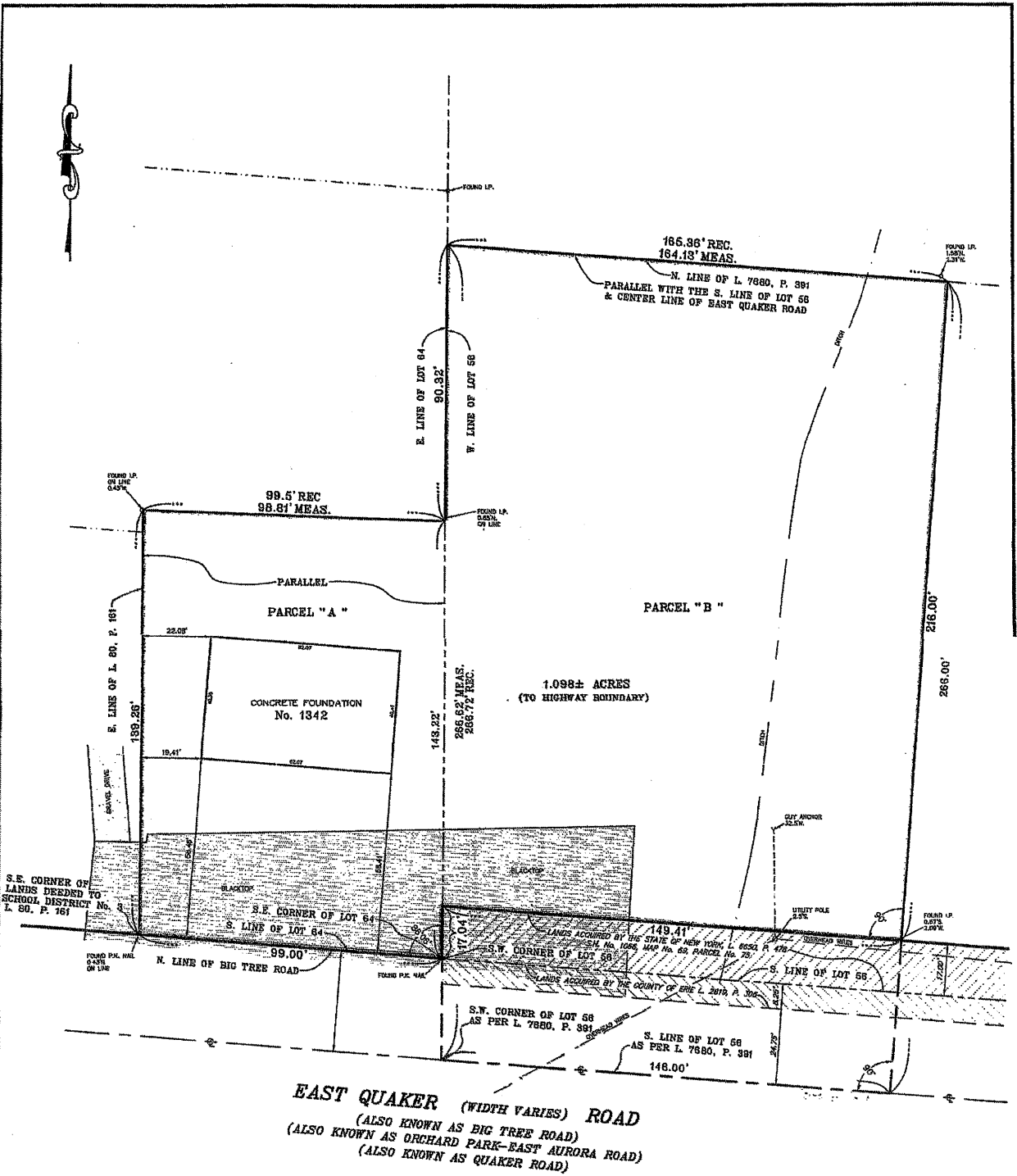


(Notary Public)

PETER J. SORGI
Notary Public, State of New York
No. 02SO6102438
Qualified in Erie County
My Commission Expires 12-08-~~2025~~ 2027

Exhibit 1

Survey



PART OF LOTS 56 & 64, TOWNSHIP 9, RANGE 6, HOLLAND LAND COMPANY'S SURVEY, TOWN OF AURORA, COUNTY OF ERIE, STATE OF NEW YORK

SURVEY WAS PREPARED WITHOUT THE
BY OR AS ASSISTANT OF TITLE AND IS
NOT TO ANY STATE OF FACTS AND IS
CREATED BY AN EXAMINATION OF RECORDS.

FORWARDED ALLEGATION OF AGENCIES TO ANY
BY DISTRICT ENGINEER, SUPERVISOR, PLAN OR
RE IS A VIOLATION OF SECTION 1700, PARAGRAPH
THE NEW YORK STATE EDUCATION LAW.

James L. Shisler

RESURVEY		
DATE	JOB	DESCRIPTION

JAMES L. SHISLER, L.S., P.C.
PROFESSIONAL LAND SURVEYOR
WWW.SHISLERSURVEYORS.COM

P.O. BOX 518
EAST AURORA, NEW YORK 14052-0518

PHONE: (716) 659-1058
FAX: (716) 659-1984

DRAWN BY: TAK SCALE: 1" = 20'
CHECKED BY: J.S. DATE: 5/28/09

JOB NO.: 09202 SHEET: D-2265

Exhibit 2

Legal Description

Legal Description

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Aurora, County of Erie and State of New York, being part of Lot Number 64, Township 9, Range 6 of the Holland Land Company's Survey, described as follows:

BEGINNING at the southeast corner of Lot Number 64, which is located in the north line of Big Tree Road a/k/a Quaker Road and Orchard Park-East Aurora Road; thence west along the south line of Lot Number 64 which south line is also the north line of Big Tree Road a/k/a Quaker Road a/k/a Orchard Park-East Aurora Road, a distance of 99 feet to the southeast corner of lands deeded to School District No. 3 of the Town of Aurora, by deed recorded in the Erie County Clerk's Office in Liber 80 of Deeds at page 161; thence north on a line parallel with the east line of said Lot Number 64 and along the east line of said School District property and the continuation northerly thereof, 139.26 feet; thence east in a straight line, 99.5 feet to a point in the east line of said Lot Number 64, which point is 143.22 feet north of the point of beginning as measured along said east line; thence north south and along the east line of said Lot Number 64, a distance of 143.22 feet to the point of beginning.

And

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Aurora, County of Erie and State of New York, being part of Lot Number 56, Township 9, Range 6 of the Holland Land Company's Survey described as follows:

BEGINNING at the southwest corner of said Lot Number 56, which is located at the north line of Big Tree Road a/k/a Quaker Road a/k/a Orchard Park-East Aurora Road; running thence easterly along the southerly line of said Lot Number 56 and north line of Big Tree Road a/k/a Quaker Road a/k/a Orchard Park-East Aurora Road 146 feet; thence northerly at right angles to said southerly line of Lot Number 56 and the north line of Big Tree Road a/k/a Quaker Road a/k/a Orchard Park-East Aurora Road 266 feet; thence westerly parallel with said southerly line of Lot Number 56, 165.36 feet more or less to the westerly line of said Lot Number 56; thence southerly along the westerly line of Lot Number 56, 266.72 feet more or less to the southwesterly corner of Lot Number 56 and the point or place of beginning.

EXCEPTING therefrom that part taken by the State of New York under Notice of Appropriation recorded in the Erie County Clerk's Office on May 31, 1961 in Liber 6650 of Deeds at page 478.

ALSO EXCEPTING that part lying within the bounds of Quaker Road also known as Orchard Park-East Aurora Road and Big Tree Road as now laid out, including the parcel conveyed to the County of Erie by deed recorded in the Erie County Clerk's Office October 10, 1938 in Liber 2819 of Deeds at page 306

Exhibit 3

Grounds for Rezoning



Grounds For Rezoning of 1342 Quaker Road, Town of Aurora, NY

The Legal Criteria for a Rezoning is set forth in New York Town Law § 272-a(11)(a) which states that "All land use regulations must be in accordance with a comprehensive plan adopted pursuant to the section."

The Town of Aurora does not have an adopted Comprehensive Plan. There is a Regional Comprehensive Plan for the Town of Aurora as well as the Village of East Aurora and the Towns of Elma, Holland and Wales. While the Regional Comprehensive Plan was never adopted by the Town of Aurora, it is at times used as a guide, however the Regional Comprehensive Plan offers no guidance on this Rezoning Petition.

The Property has been used for business uses since the 1980s with uses as an automotive sales lot, gas station, pool supply store, convenience store and its current use as a restaurant.

The Property is currently zoned RR – Rural Residential which does not allow for the current use or any of the previous uses, thus the Property's use is nonconforming.

In light of the lack of a Comprehensive Plan, caselaw and public policy should guide the decision to rezone this property:

1. New York Courts have repeatedly held that it is in the public interest to eliminate nonconforming uses in a manner which protects the rights of the owner of the subject property.¹
2. Zoning decisions are local in nature and best made by local officials who "possess the familiarity with local conditions."²

¹ Buffalo Crushed Stone, Inc. v. Town of Cheektowaga, 13 N.Y.3d 88, 97, 913 N.E.2d 394, 400, 885 N.Y.S.2d 8, 14 (2009): "Courts strive to see that "the public interest in eliminating nonconforming uses at a legally opportunistic time is placed in reasonable balance with the owner's interest in not having a property investment abruptly altered or terminated."

² Cowan v. Kern, 41 N.Y.2d 591, 599, 363 N.E.2d 305, 310, 394 N.Y.S.2d 579, 584 boards composed of representatives from the local community. Local officials, generally, possess the familiarity with local conditions necessary to make the often sensitive planning decisions which affect the development of their community. Absent arbitrariness, it is for locally selected and locally responsible officials to determine where the public interest

HOPKINS SORGI & MCCARTHY PLLC

Attorneys at Law

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hsmlegal.com

*Grounds For Rezoning of 1342 Quaker Road, Town of Aurora, NY
November 20, 2024*

3. It is a common and accepted zoning tool to rezone nonconforming properties into conformity by changing the zoning of the property to the historical and current use.³
4. The rezoning of one parcel to a zoning classification different than surrounding properties does not constitute spot zoning if there is a rational basis to the rezoning.⁴

Essentially, this rezoning decision comes down to practicality and common sense. Every town has properties that are nonconforming uses. The Town of Aurora is no different. 1342 Quaker Road has historically been a non-residential, business use. If the zoning is not changed to reflect this reality, the future use of this property will be jeopardized and given that the nature of the building itself does not lend itself to being utilized for RR – Rural Residential Uses, a likely result could be a vacant building which clearly is a detriment to not only the property owner, but the surrounding area and entire Town.

Finally, it is understood that nearby residents may have reasonable concerns that a future use could be more intense than the current use. Accordingly, the Petitioner agrees that if the rezoning is granted, the following permitted C-2 Commercial uses will be prohibited by condition of the rezoning and declaration of restrictive covenants to be recorded at the Erie County Clerk's Office:

1. Hotel, motel, and short-term rentals;
2. Funeral home or undertaking facility with no crematorium;
3. Commercial amusement and recreation establishments such as sports facilities, indoor and outdoor theaters, bingo or dance halls and nightclubs;
4. Automotive fuel filling station, automobile and truck repair, auto body repair, and agriculture equipment repair.

in zoning lies. (*McGowan v Cohalan*, 41 NY2d 434, 438, *supra*.)

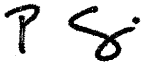
³ *Matter of Douglaston Civic Assn. v. City of New York*, 199 A.D.3d 562, 563, 159 N.Y.S.3d 23, 24, (1st Dept 2021): NY Court upholds rezoning which brought "existing properties with nonconforming lots on the rezoned block into conformity."

⁴ *Matter of Residents for Reasonable Dev. v City of New York*, 128 A.D.3d 609, 611, 11 N.Y.S.3d 116, 118 (1st Dept 2015): NY Court upholds rezoning on the basis that "the zoning map amendment does not constitute illegal spot zoning merely because it involves a single parcel only."

*Grounds For Rezoning of 1342 Quaker Road, Town of Aurora, NY
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5. New or used vehicle and equipment sales and rentals, including, but not limited to, farm equipment, snowmobiles, ATV's, trailers, motorbikes and the like.
6. Motor vehicle washing facilities.
7. Brewery, distillery, including on-site consumption; and
8. Bar, tavern.

Submitted by:

Handwritten signature of Peter J. Sorgi, consisting of the letters 'P' and 'S' with a flourish.

Peter J. Sorgi, Esq., Project Attorney

Exhibit 4

Environmental Assessment Form

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

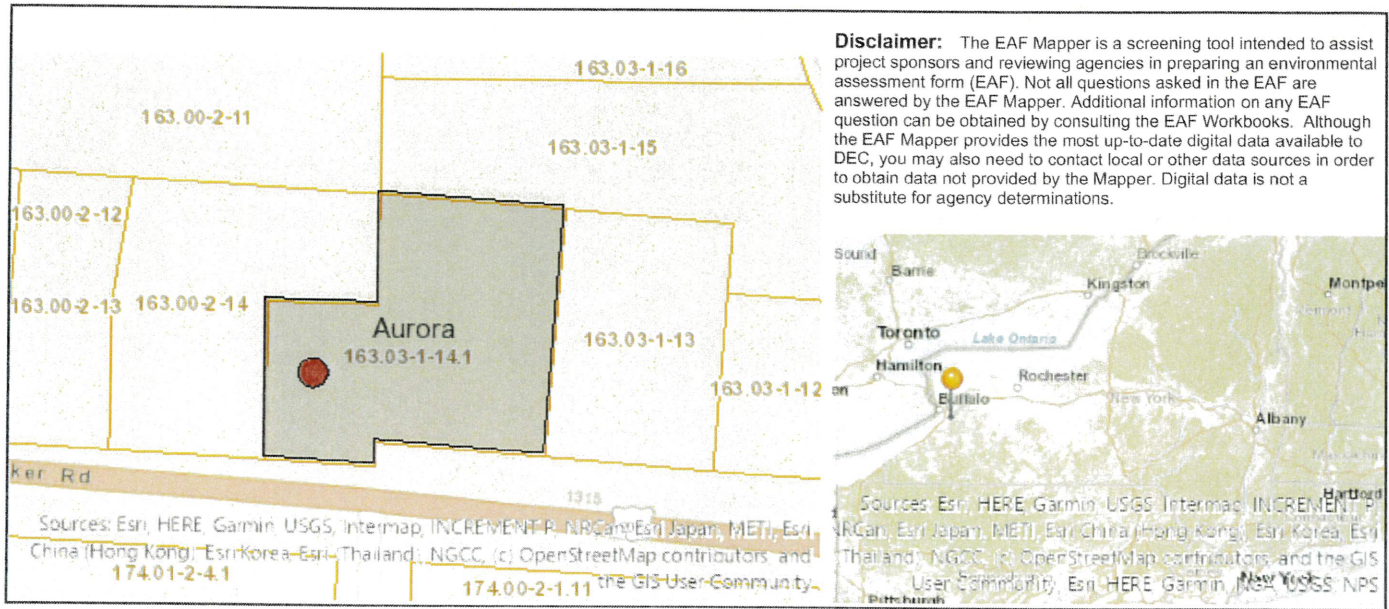
Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information			
Name of Action or Project: Proposed Rezoning of 1342 Quaker Road, Town of Aurora, NY			
Project Location (describe, and attach a location map): 1342 Quaker Road, Town of Aurora, NY			
Brief Description of Proposed Action: Petition for Rezoning of 1342 Quaker Road in Town of Aurora from RR -- Rural Residential to B2 -- Business 2. Property currently is nonconforming use which has historically been utilized for business purposes.			
Name of Applicant or Sponsor: JL Bros LLC		Telephone: 716.908.3289 (attn: Peter Sorgi, Esq.)	
Address: 536 Dorrance Avenue		E-Mail: psorgi@hsmlegal.com	
City/PO: Buffalo		State: NY	Zip Code: 14218
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:			YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action? _____ 1.098 acres b. Total acreage to be physically disturbed? _____ 0 acres c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ 1.098 acres			YES <input type="checkbox"/>
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input checked="" type="checkbox"/> Forest <input checked="" type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input checked="" type="checkbox"/> Other(Specify): horse farm <input type="checkbox"/> Parkland			

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO	YES	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?		NO
		<input type="checkbox"/>	YES
		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____		NO	YES
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. a. Will the proposed action result in a substantial increase in traffic above present levels?		NO	YES
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Are public transportation services available at or near the site of the proposed action?		<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?		<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: Not Applicable -- proposed action is petition to amend Town Zoning Map.		NO	YES
		<input type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ Not Applicable -- proposed action is petition to amend Town Zoning Map.		NO	YES
		<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ Not Applicable -- proposed action is petition to amend Town Zoning Map.		NO	YES
		<input type="checkbox"/>	<input type="checkbox"/>
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?		NO	YES
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?		NO	YES
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?		<input checked="" type="checkbox"/>	<input type="checkbox"/>
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ Not Applicable because EAF Mapper does not identify any on-site wetland or waterbody and proposed action does not alter any physical characteristics of site. NOTE THAT NYSDEC EAF MAPPING SYSTEM AUTO-FILLED IN YES TO QUESTION 13.A			

EAF Mapper Summary Report

Tuesday, November 12, 2024 1:45 PM



Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	Yes
Part 1 / Question 15 [Threatened or Endangered Animal - Name]	Bald Eagle
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No