



October 22, 2022

Town Board  
Town of Florida  
214 Fort Hunter Road  
Amsterdam, NY 12010  
Attention: Eric Mead, Town Supervisor

RE: Nadler/Francisco PUD Application  
Appeal of Planning Board's Unfavorable Report

Dear Town Board Members:

For the last several months, we have attempted to work alongside the Town of Florida's Planning Board as it gave consideration to the application for a commercial-industrial Planned Unit Development District under Section 6.1 of the Town of Florida's Zoning Ordinance. The Town Board referred the application to the Planning Board on May 16, 2022.

We understand that this application represents the first time the Town has "tested" the regulation. While the regulation itself may be cumbersome, we do not think the lack of clarity in the regulation is grounds for the issuance of an unfavorable report. The basis for the Planning Board's assertions leaves us no choice but to appeal to the Town Board under Section 6.1-5A (6).

## CONTEXT

At the September 12, 2022, regularly scheduled Planning Board meeting, we agreed to subsequently attend what was referred to as a joint Planning Board and Town Board workshop that was anticipated to work through a number of ideas that had been previously discussed and also provide more technical response to any remaining issues the Planning Board members had raised that evening. At that meeting, the Board concluded that the application was now complete and the joint workshop would assist in the deliberations that would lead to a favorable or unfavorable report. Although nothing was received, we had encouraged Board members to transmit prior to the workshop any additional questions to us through Emily Staley.

On September 28, 2022, upon arrival to the workshop we learned that the Town Board would not be participating. We also learned that the Planning Board also had placed the proposed wind turbine project on the agenda. The Nadler PUD was placed second on the agenda and likely contributed to the Planning Board becoming weary as there was considerable material to review and the meeting was running long.

Our development team came prepared to exchange ideas and work collaboratively with the Planning Board to create alternative concepts that had been raised in direct response to public comments but not yet graphically depicted. We believed that since this was one of the concerns raised during previous Planning Board meetings, the workshop would be the appropriate setting. We also were expecting to review the results of the economic impact report to discuss financial benefits of the project as this was also raised during the previous meeting.

In reality, the workshop was primarily a discussion among Planning Board members. We were called upon only to clarify or respond to a limited number of topics. There was not any ongoing exchange of ideas or focused discussion of specific issues.

At the close of the workshop, it was apparent that the Planning Board had not had time to review and discuss all of the materials and discuss the specific decision criteria within the regulation. Attorney Slezak reminded the Board that it would need to provide specific details related to a favorable or unfavorable report. After the workshop, I approached Attorney Slezak to express concern that the Board may feel rushed in rendering an opinion and offered to postpone the appearance at the upcoming Planning Board meeting which was only a few days away (October 3<sup>rd</sup>). She was told to make the request with Emily Staley. Mick Mullins placed two calls to her office to request postponement.

Although the application still appeared on the agenda for the Planning Board's October 3<sup>rd</sup> meeting, we assumed that the application would not be decided that evening and would be postponed as requested. This is why the Development Team was not in attendance. However, the Planning Board proceeded with a brief discussion of some of the decision criteria and then issued an "unfavorable" decision. This decision was made despite the lack of an actionable resolution made as a motion or specific language outlining the reasons for issuance of an unfavorable vote. The reasons for issuance were developed after the Planning Board Meeting and issued on October 13, 2022.

## THE PLANNING BOARD'S REPORT

Section 6.1-5(6) of the Town of Florida Zoning Ordinance states that *"An unfavorable report shall state clearly the reasons therefor (sic) and, if appropriate, point out to the applicant what might be necessary in order to receive a favorable report."*

The Planning Board's issuance of its October 13, 2022, unfavorable report to the Town Board cited the following reasons for its issuance of an unfavorable report:

- A. The Planned Unit Development legislation and plan is vaguely written and it is difficult to answer the objectives positively as set forth in Section 6.1-1(B);
- B. The sketch plan, as presented, does not meet the objectives set forth in Section 6.1-1(B); and
- C. The sketch plan as presented, does contradict the Town of Florida's Comprehensive Plan and Zoning Ordinance and, both of these documents also conflict and contradict the Planned Unit Development regulations.

The basis for the Planning Board's assertions leaves us no choice but to appeal to the Town Board under Section 6.1-5A (6). Four key points summarize why the Town Board should concur with this appeal:

1. Despite presenting the Objectives (Section 6.1-1(B) and reasons for the Findings (Section 6.1-5(A)(5) to the Planning Board multiple times, and the Planning Board initiating a review of the content of the Objectives and Findings, the unfavorable report did not make any reference to these decision criteria. We believe the Town Board should take these under consideration and provide us the opportunity to demonstrate how these criteria can be met and if the Town Board has other ideas, that we are afforded the opportunity to discuss the merits of alternatives.

2. We believe that through an open exchange between our Development Team and the Town Board, conflicts and inconsistencies with the PUD regulation language can be addressed. As warranted, after due consideration, the Town Board may also utilize Section 6.1-11 to waive any portion of the PUD regulation that is not applicable.
3. We believe that an appeal would provide time to explore alternative layout options in collaboration with the Town Board and allows us to graphically demonstrate how concerns over views, function and other issues would be addressed.
4. By granting this appeal, the Town Board would be able to carefully re-consider the far-reaching implications of the Planning Board's conclusions of inconsistency and through open dialogue, discuss the merits of the application as it relates to the Comprehensive Plan.

## TECHNICAL GROUNDS FOR APPEAL

The technical grounds upon which the Applicants base their appeal of the unfavorable report are presented below.

**1. The Planning Board's report does not provide clear or specific reasons for the unfavorable finding.**

- (a) Section 6.1-1(B) sets forth a series of objectives to be considered by the Planning Board. The regulation stipulates that the objectives must be satisfied to issue a favorable report, therefore the Planning Board is required to review and discuss these objectives and determine whether the application meets these objectives.

On July 6, 2022, a written summary entitled *Planned Unit Development- Exit 27, Sketch Plan Review' Town of Florida-Montgomery County, N Y- Planning Board Decision Objectives Section 6.1-1(B)*. was electronically transmitted to Emily Staley, Town Clerk, and Attorney Deb Slezak. (See Attachment A).

During the September 12, 2022, Planning Board meeting, I referenced this document. The Planning Board appeared not to have reviewed the document nor was in possession of copies. The Planning Board did not pose questions or choose to discuss any of the details of the document at this meeting.

During the September 28, 2022 workshop, Attorney Slezak made reference to this document and advised the Planning Board that the objectives should be reviewed and discussed in order to generate either a favorable or unfavorable report to the Town Board.

After reviewing other submitted materials, Board Chair Taylor returned to this section of the ordinance and opened up a discussion among Board members. The Planning Board discussed some but not all of the Objectives and Attorney Slezak again reminded them that the Section 6.1-1(B) Objectives must be discussed prior to a decision. In her comments, she noted that the next Planning Board meeting was Monday October 3<sup>rd</sup> and if a decision was to be made, all of the objectives need to be reviewed.

- (b) In addition to the aforementioned objectives, Section 6.1-5(A)(5) of the Town's zoning ordinance sets forth a series of findings upon which the Planning Board shall base a favorable report to the Town Board.

At the September 12, 2022, regularly scheduled Planning Board meeting I submitted and presented detailed comments to demonstrate how the application would meet the stipulated criteria set forth in regarding Section 6.1-5(A)(5). (See Attachment B)

Attorney Slezak referenced these in her guidance to the Planning Board to evaluate the merits of the application during the September 28<sup>th</sup> workshop.

**2. Conflicting language and/or ambiguity in legislation and ordinances do not constitute a valid reason for an unfavorable decision.**

During the September 28, 2022 workshop, Board Chair Taylor opened up a discussion of Section 6.1 B containing objectives to be considered for issuing a report to the Town Board. The ensuing discussion raised a number of questions that pertained to the Objectives themselves and not the PUD application.

Board members began discussing the intent and relevancy of the Objectives and seemed confused with inherent conflicts in the language. For example, Objective (1) primarily involves housing (types, ownership structure, affordability). Some of the members quickly arrived at the conclusion that the proposed PUD application does not meet this objective because it does not contain housing rather than consider this specific objective as "not applicable". Others thought that this was evidence that the PUD was intended for housing and mixed-use projects only.

As the discussion continued, I pointed out that Objective (3) addresses residents' accessibility in the location of manufacturing, commercial and service areas. If the PUD ordinance was intended to be housing, then there would have been no reason to include this objective. I acknowledged that there are conflicts in certain areas of the ordinance but the responses were provided in the most relevant manner to the proposed project.

It is the Planning Board not an Applicant that holds the responsibility for interpreting and applying zoning regulations. The PUD regulation was drafted, reviewed, and approved by the Town of Florida Town Board. If vagueness was an impediment to the Planning Board making a decision, rather than directing this punitively to the application, a request for clarification from an attorney or the Town Board should have been sought.

**3. The sketch plan is part of a comprehensive application as specified by the PUD regulations and meets Section 6.1-1(B) Objectives.**

The PUD legislation constitutes a zone change and a sketch plan is but one component of the required application which also includes proposed language guiding future development that would occur under the approved PUD. The language contained within Section 6.1-1(B) does not specifically cite the "sketch plan", rather it cites the "proposed project".

The original application addressed a wide range of technical issues that dovetail with these Objectives. A separate document was prepared, submitted and presented that specifically addressed these Objectives as noted above.

Several times during Planning Board proceedings and during the public hearing, questions were raised that were relevant to site plan review not a zone change. Responses were provided commensurate with the level of technical detail required by the regulation. We discussed a number of changes to the original sketch plan to address concerns raised by the public but at no time during Planning Board meetings did Board members specifically identify issues with the sketch plan. Board members expressed general concerns, referencing public comment but did not elaborate on any issues.

Our development team came to the Planning Board's September 28<sup>th</sup> workshop with trace paper, design markers and base maps in anticipation of working with members to illustrate ideas, address concerns and graphically depict potential alternatives. We anticipated this type of exchange because the idea of a "charrette" was brought up during the September 12<sup>th</sup> Planning Board meeting. While the decision was made to structure the meeting as a workshop, Board members did express desire to better understand the layout and orientation of buildings. Concern over a solar array in the event the PUD was not passed was also raised. We had anticipated that during the workshop we would be able to discuss ways to mitigate concerns not only graphically but eventually through edit to the proposed PUD language.

**4. Consistency with the Comprehensive Plan has been repeatedly demonstrated and the one issue that was raised during public comment was specifically addressed.**

A number of documents have been submitted to demonstrate consistency with Florida's Comprehensive Plan (February 1996; amended February 2011) and noted that the Plan effectively strikes a compromising balance between the protection of the town's rural character and providing the opportunity for commercial and industrial development. Previously submitted documents include the original application, the response to public comments (Attachment C), and within the narrative responses to the Objectives in Section 6.1-1(B) and Findings in Section 6.1-5(A)(5).

The Planning Board has not provided any explanation of its determination that the sketch plan as presented, contradicts the Town of Florida's Comprehensive Plan. Similarly, the Planning Board's unfavorable report cites contradiction with the Zoning Ordinance yet provides no specific citations or explanation.

Furthermore, the unfavorable report declares that both the Comprehensive Plan and the Zoning Ordinance "conflict and contradict the Planned Unit Development regulations." Essentially, the Planning Board is criticizing its own regulations while failing to cite specifics, and ultimately applying this perspective punitively to oppose the application. The basis of this assertion is unclear, and there appears to be no record that this discussion occurred publicly.

The only inconsistency with the Comprehensive Plan that has been raised pertained to a comment from the public and this comment was directly addressed in the response to public hearing comments and again in the narrative addressing the Findings. At the beginning of the September 28<sup>th</sup> workshop, Chairman Taylor provided an overview of

the Comprehensive Plan and the history of the evolution of its policies. He stated that the Nadler PUD was consistent with Comprehensive Plan. The discussion among other Board members that followed did not lead to a conclusion that the PUD or the sketch plan were inconsistent with the Comprehensive Plan.

We greatly appreciate your time and consideration of this appeal and look forward to working with you.

Respectfully,



Valarie Ferro, AICP  
Representing the Applicants

Attachments

## ATTACHMENT A

**Planned Unit Development- Exit 27**  
**Sketch Plan Review**  
**Town of Florida-Montgomery County, NY**  
**Planning Board Decision Objectives Section 6.1-1(B)**

It is respectfully submitted that the proposed PUD would meet the Planning Board's objectives for issuing a favorable report to the Town Board for the following reasons:

**Objective:** Whether the project provides a choice in the types of environment, occupancy tenure (e.g., individual ownership, condominium leasing), types of housing and sizes and community facilities available to existing and potential residents at all economic levels.

**Project Compliance:** The proposed PUD achieves this objective by providing a flexible development proposal that could include multiple uses allowed in the C-1,C-2 and IBP zoning districts. This is consistent with the goal of approved PUD's to provide "flexible land use and design regulations to provide for the rezoning of land to permit the establishment of areas in which diverse uses may be brought together in a compatible and unified plan of development, which shall be in the interest of the general welfare of the public. See Zoning Ordinance § 6.1-1(A)(1).

**Objective:** Whether the project provides more usable open space and recreation and the linkage of open space areas.

**Project Compliance:** The Project Site encompasses approximately 508 acres, approximately 25% of which will be developed with the remaining area left vacant or landscaped as part of the development. The Applicant additionally proposes to donate 25 acres along North Chuctanunda Creek, which serves as the western property boundary, to conservation purposes. This open space will preserve sensitive riparian areas and floodplain and would provide a link to a future greenway connection to the Mohawk River and associated trails.

**Objective:** Whether the project provides more convenience to residents in the location of manufacturing, commercial and service areas, if applicable.

**Project Compliance:** Development associated with the proposed PUD will provide convenient additional job opportunities in a range of job classifications, many of which will include employer-provided training. The Project Site, located immediately to the south of Exit 27 on NYS Route 30, provides a viable location for needed commercial/industrial development and employment opportunities in the Town, while limiting potential impacts on surrounding residential and agricultural uses. Further, the Nadler PUD will be located adjacent to Exit 27 of the Thruway and the City of Amsterdam, thus facilitating access and the extension of supporting sewer and water infrastructure. The location of the PUD for residents provides not only the convenience of accessibility but also increased employment opportunities.

**Objective:** Whether the project provides for the preservation of trees, outstanding natural topographic and geologic features and prevention of soil erosion.

**Project Compliance:** In the development of the preliminary concept plan, care was taken to avoid mature vegetation and steep slopes. Erosion and sedimentation controls are specific requirements of local, county and State regulations and will be incorporated into future site plans submitted to the Planning Board.

**Objective:** Whether the project provides for a creative use of land and related physical development which allows an orderly transition of land.

**Project Compliance:** Given the proximity of the project to I-90, the project provides a creative use of the lands involved that maximizes the Town's economic development goals and provides a transition



to its goals of protecting the agricultural heritage of the Town. The project provides a proactive approach to providing continued economic growth in the Town of Florida while guiding development to an area that minimizes disruption to or impacts on established neighborhoods; minimizes through-traffic due to the location near Exit 27 of the Thruway; and places development near other more intensive land uses. The anticipated development will also leave \_\_ acres as undeveloped.

**Objective:** Whether the project provides for an efficient use of land resulting in smaller networks of utilities and services, thereby lowering housing costs.

**Proposed Compliance:** All proposed development in the project will be located in close proximity providing for maximum efficiency of the extension of utilities and services for the project, but also affording additional opportunities for extension of services to other properties outside of the proposed PUD.

**Objective:** Whether the project provides a development pattern in harmony with the objectives of the Comprehensive Plan.

**Proposed Compliance:** A primary tenet running throughout the Town of Florida's Comprehensive Plan (February 1996; amended February 2011) is the protection of the town's rural character while providing the opportunity for commercial and industrial development. The judicious creation of a new industrial development area along NYS Route 30 next to I-90 Exit 27 such as the proposed Nadler PUD would provide additional and much-needed commercial/industrial development and employment opportunities while limiting the impacts on surrounding residential and agricultural uses. In the proposed location, the Nadler PUD would further the overall goals of the Town's comprehensive plan. See PUD application for additional details.

**Objective:** Whether the project provides a more desirable environment than would be possible through the strict application of other articles of this chapter.

**Project Compliance:** The proposed project will provide for the concentration of development allowed by the Zoning Ordinance on the 508 acres comprising the Project Site, making it possible to limit development to only 25% of the project acreage and to leave larger, intact areas of the Project Site undeveloped. This supports the better management of stormwater from development on the Project Site, more organized landscaping of fringe areas around development and the conservation of larger areas of open space.

**Objective:** Whether the project provides scenic vistas, historic sites, and prevents disruption of natural drainage patterns.

**Project Compliance:** The proposed project will be designed to minimize impacts on aesthetic and historic resources. Requirements of the State Historic Preservation Office will be met to ensure protection of historic resources and development of the project will limit visual impacts of the project to the extent practicable.

**Objective:** Whether the project utilizes landscaping and building design to present a sense of community, of integrated color schemes, architectural styles and layout.

**Project Compliance:** As designed, the project will be landscaped to provide visual aesthetic appeal and vegetative screening where warranted. Buildings will be designed with color schemes to minimize stark contrasts with adjacent landscape. Non-reflective materials will be used to eliminate glare.

## ATTACHMENT B

**Nadler Planned Unit Development- Exit 27  
Sketch Plan Review  
Town of Florida-Montgomery County, NY  
Planning Board Meeting September 12, 2022**

**Comments Regarding Planned Unit Developments Section 6.1-5 Applications and zoning approvals-  
Valarie Ferro, AICP**

Based on the technical information submitted to the Planning Board, and in consideration of the comments heard during the 11 July 2022 Public Hearing, the issuance of a Favorable report can be supported by the Planning Board as follows:

**(a) That the proposal meets the intent and objectives of planned unit development.**

The applicant has thoroughly addressed the intent and objectives of the proposed planned unit development specified in Section 6.1-1(B) and detailed in the attached document entitled, *Planned Unit Development- Exit 27, Sketch Plan Review' Town of Florida-Montgomery County, N Y- Planning Board Decision Objectives Section 6.1-1(B)*. This document was electronically transmitted to Emily Staley and Deb Slezak on 6 July 2022.

**(b) That the proposal meets all the general requirements in this article.**

Section 6.1-2 outlines the General Requirements of a PUD which the proposed Nadler meets as follows:

Ownership.

- The land included in the proposed Project area may be owned, leased or controlled either by a single person or corporation, or by a group of individuals or corporations.

*The Nadler PUD project area includes six parcels owned individually by two owners.*

- An application must be filed by the owner or jointly by owners of all property included in a project.

The request for the Nadler PUD was submitted on behalf of the owners (represented by Mullins Realty and Winstanley Enterprises).

Minimum area. The minimum area for a PUD shall be 25 contiguous acres of land.

The proposed PUD project Area includes 508 acres although a large portion will remain in its natural state or be landscaped as part of the development to provide buffers from adjacent properties.

**(c) That the proposal is conceptually sound in that it meets a community need and it conforms to accepted design principles in the proposed functional roadway system, land use configuration, open space system, drainage system and scale of the elements, both absolutely and to one another.**

The proposed Nadler PUD meets a continuing need for commercial and industrial sites to provide tax revenue and potential jobs. Available sites are becoming scarce, and the location adjacent to the NYS Thruway directs development where it can be supported by infrastructure rather than within the town on local roads that weave through neighborhoods. The current tax base is dominated by single family homes that continue to increase the number of school-aged children, thereby necessitating an increase in school taxes which Florida residents pay directly. Measured development such as this PUD will help lessen this burden.

The development arising from this zone change will be carried out with all the necessary utilities, stormwater handling, and roadway improvements required under the Town's Zoning regulations. The concept as originally proposed depicts a functional system of building and site improvements but these will be further defined through the Town's site plan approval process. Furthermore, site plan review allows refinement of the design plans as the review process unfolds; and as specified Section 6.16 of PUD regulations, the Planning Board also has the authority to review the site plan in relation to the original sketch plan.

**(d) That there are adequate services and utilities available or proposed to be made available in the construction of the development.**

For development to occur, the existing utilities must be extended. This is why coordination with the City and Montgomery County was initiated early. In March 2021, City of Amsterdam officials were given an overview of the project, and the City indicated that there was adequate capacity in the City of Amsterdam's water and sewer system to support the proposed development. And would welcome an expansion.

Interest in the expansion of utilities was recognized years before the idea of this PUD was conceived. In January 2006, John M. McDonald Engineering P. C. completed an engineering study for the City of Amsterdam entitled, "Water and Sewer Expansion to the South". In January 2019 Prime AE (who acquired McDonald in 2015) on behalf of the City of Amsterdam, completed an analysis of routing of water and sewer to the south side of Exit 27 via a directional bore under the NYS Thruway. With renewed interest in Exit 27 development, Prime updated it analysis in March 2021.

The site plan application for each proposed development site within the PUD will require a thorough examination of water and sewer service and capacity analyses. Development cannot proceed without the extension of utilities.

**(e) That the proposal is in accordance with the Comprehensive Plan and furthers the policies, goals and/ or objectives of the Comprehensive Plan.**

The original application narrative outlines the Proposed Nadler PUD's consistency with the Comprehensive Plan. Consistency was also summarized in the Applicant's response to public comment.

The Comprehensive Plan sets forth recommendations to retain the rural character of town by preserving farming and agriculturally used lands. In examining the Town's land use and development trends over the last 25 years, the amount of land remaining in agricultural use has remained the same or has slightly increased despite the addition of several industrial/manufacturing facilities properties. This fact is based on a GIS analysis carried out by the Montgomery County Planning Department.

The Town's rural character has been preserved because the Planning Board has followed the Comprehensive Plan to achieve a balance of agriculturally-zoned land, which does allow development, and commercial/industrial development. Page 63 of the 1996 Comprehensive Plan directly acknowledges the need for this balance.

The percentage of agricultural land in town has not changed since the Comprehensive Plan amendments despite the addition of several industrial developments. The town is approximately 60% now as it was in 2011. Though only 2% of Florida residents are employed in agriculturally-related work, the Town has retained its agricultural character and will likely do so because there are only very specific areas that industrial and commercial end-users have interest—that is along Route 5s, because that is where the original business park zone was established, and around Exit 27. There is based on specific siting criteria for not only warehousing/distribution but also industrial.

The proposed Nadler PUC does not conflict with the 2011 Amendments as some vocal opponents have suggested. Chapter 8. Future Zoning Issues presents considerations for future amendments to the zoning ordinance. *Issue #7 Future Commercial/Industrial Development in Town*, references industrial growth would continue to be concentrated in the IBP District. There is no mention of restricting development elsewhere but throughout the Plan and its amendments, preserving the agricultural character of the town was a major goal, as was the need to continue to attract business, grow the tax base, and provide new (and now emerging) employment opportunities for residents.

Issue #7 also addresses the desire to create a “downtown” or an area of concentrated commercial activity at the Route 30/Route 161 split by creating a “Mixed Use Hamlet District”. Presently, the area is designated as C-1 Commercial. No mixed use is specified in the C-1 Zone. The proposed Nadler PUD would not prohibit or interfere with the rezoning of this area or its subsequent development if there was a market for a 30 to 40-foot structure at that intersection and there was adequate site distance and utilities to support it.

## ATTACHMENT C



17 Computer Drive West  
Albany, NY 12205  
518.438.9900

70 Linden Oaks, Third Floor, Suite 15  
Rochester, NY 14625  
585.866.1000

**Via Email**

August 1, 2022

Town of Florida  
Planning Board  
214 Fort Hunter Road  
Amsterdam, NY 12010

Attention: Michael Taylor, Chairman

**Re: Response to Comments Summary  
Nadler Farms  
Route 30**

Dear Mr. Taylor,

On behalf of our client, Winstanley Construction Management, we are pleased to submit this response to comments summary to the Town of Florida Planning Board for the above referenced project. This summary is in response to the various issues/concerns raised at the Town of Florida Planning Board's meeting on July 11, 2022, as noted below with our responses in italics.

Response to various issues/concerns summary as follows:

**1. Agricultural District Prohibits Development**

*Several respondents stated that as residential property owners in an agricultural district they had signed a declaration to maintain their properties as farmland. It is important to note that many of those who made this declaration actually had purchased building lots created through the subdivision of land owned by the Applicants. Thus, the residential development eliminated farmland.*

*Under New York State law, a single-family home being built within an agricultural district requires the property owner to attest to the property being located within an agricultural district and that farming activities including noise, dust and odors should be expected within the district. Agricultural districts do not preserve farmland. Rather, districts provide benefits to help retain farming as a viable economic activity, thereby maintaining land in active agricultural use.*

**2. Comprehensive Plan Supports Creation of a Hamlet Not Industrial Development**

*Florida's Comprehensive Plan (February 1996; amended February 2011) effectively strikes a compromising balance between the protection of the town's rural character and providing the opportunity for commercial and industrial development.*

*Neither the original Plan nor the amendments set forth a goal or objective regarding the preference of a "hamlet" over industrial development. Rather, within the 2011 Amendments **Chapter 8: Future Zoning Ordinance Issues**, there is discussion of continued industrial development within the Industrial Business Park and as the town grows, the desire a "town*

*center” within a mixed-use format (ground floor commercial with residential/commercial in 2 to 3 stories above). This would be achieved through the creation of a “mixed Use Hamlet District.*

*The zone change for this proposed district would be focused on the Route 30/161 split not the area around Exist 27. Within the discussion of this zone change, no mention is made of the need for substantial traffic improvements and the extension of water/sewer that would be needed to support development of a size and density to achieve financial feasibility.*

*Relevant to the proposed Nadler PUD is the fact that in 2011, economic development sites were available in the business park. Eleven years later, suitable sites are growing scarce. As the State Route 5S corridor has become developed, there has been increasing questions over where growth could occur without impacting neighborhoods while being close to the required transportation network. The location of the proposed Nadler PUD meets both of these objectives.*

*As outlined in the application, the proposed Nadler PUD is also consistent with a number of the Comprehensive Plan’s Goals as follows:*

*Goal #2. Improve employment opportunities for the residents of the area.*

*Development associated with the proposed PUD will provide additional job opportunities in a range of job classifications, many of which will include employer-provided training. The Project Site, located immediately to the south of Exit 27 on NYS Route 30, provides a viable location for needed commercial/industrial development and employment opportunities in the Town, while limiting potential impacts on surrounding residential and agricultural uses. Further, the Nadler PUD will be located adjacent to Exit 27 of the Thruway and the City of Amsterdam, thus facilitating access and the extension of supporting sewer and water infrastructure.*

*Goal #3. Preserve the town's rural character and open spaces.*

*The proposed PUD is located near Exit 27 of the NYS Thruway adjacent to interchange- related development within the City of Amsterdam limits. The PUD would provide a transition from the interchange area to industrial/commercial development in close proximity to access without impacting neighborhoods or established residential areas.*

*Goal #4. Cooperate with the town's adjacent municipalities and with Montgomery County.*

*The proposed Nadler PUD would support regional economic growth, of which the Town of Florida, Montgomery County, the Greater Amsterdam School District and its residents would be beneficiaries. Working in cooperation with Montgomery County and the City of Amsterdam, water and sewer systems would be extended to support the Nadler PUD as well as existing development currently not being served.*

**3. Industrial Development Should be Kept Along Route 5S/There is No Need for More Industrial Zoned Land**

*First and foremost, the intent of the proposed PUD is to provide a foundation for flexible development interests that could include multiple uses allowed in the Town’s C-1, C-2 and IBP zoning districts. This intention would create an interchange-focused business park, and not exclusively industrial uses or warehousing/distribution. The Town of Florida’s geographic*



*proximity in relation to other metropolitan areas, and its supporting transportation network have sustained the interest for additional development sites and without a proactive strategy, the Town should anticipate on-going development pressure without the benefit of a coordinated and focused location.*

*In June 2022, the Montgomery County Business Development Center released a market strategy to focus business attraction within the specific sectors of advanced manufacturing, food manufacturing, warehousing, and logistics. The Nadler PUD would be positioned to attract development in all these sectors.*

*The original sketch plan submitted as part of this application proposes a single-story warehouse/distribution facility on the west side of NYS Route 30 of up to 2.0M SF. On the east side of Route 30 two additional buildings were depicted: a single story 400,000 SF warehouse/distribution facility and a 350,000 SF light manufacturing facility. The Applicants understand the concern over building size. In response to the comments expressed by the residents, the Applicants would consider optional footprints.*

*The Applicants also acknowledge the location of the PUD in what is considered the gateway/arrival to the town. Incorporating neighborhood commercial development within the PUD could also be considered although this land use is expected to have the longest lead time in terms of securing tenants. Arrival/Gateway signage could also be incorporated into the development.*

#### **4. Why Locate it Here? Once the Development Starts it will Continue South Along Route 30**

*The Nadler PUD is in an ideal location to limit impacts on the Town's character because of its immediate proximity to Exit 27 on I-90, access to and from the PUD from a state highway (NYS Route 30), and the orientation of proposed development towards Route 30. It should be emphasized that the Nadler PUD has a defined boundary that does not run along the entire Route 30 corridor.*

#### **5. Land Could Be Divided Up into Single Home Parcels**

*Nationwide, single-family homes have been responsible for shifting the character of land towards suburban bedroom-communities. It is a land use pattern that has had far-reaching consequences not in just terms of land-use and commuting traffic (each household has 2+ vehicles) but also uncontrolled tax increases due to the cost of public education.*

*Assuming the average per pupil cost is \$15,000 and there are 2 school-aged children per household, a small development of fifty homes over 100-acres would result in the addition of 100 children into public schools. Each new household would result in a total of \$30,000 increase in education costs. Taxes paid per household would be insufficient to cover the additional education costs and would result in the need to increase taxes.*

#### **6. Loss of Farmland Would Push Farmers Farther Out Because Agriculture Is Not Being Promoted as a Way of Life/Farmland Should Be Protected/ Agriculture Is Needed For Future Generations/Loss of Prime Farmland/Agricultural Character of the Town Would be Lost**

*Although a substantial portion of the 508 acres of land within the PUD boundary are classified as prime farmland, the development that will occur as a result of the creation of the PUD district will not measurably affect the total acreage in the town. At full build, approximately 75% of the area within the PUD district will remain in its natural state or be landscaped as part of the development. In fact, despite the last two decades of non-residential growth, the percentage of agricultural land within the Town of Florida remains the same (60%) based on a Geographic Information System land use analysis recently completed by the Montgomery County Planning Department.*

*At full build, approximately 25% of the 508-acre site will be developed. The remaining area will be left undeveloped or landscaped as part of the development. In the original application, 25 acres along North Chuctanunda Creek was to be dedicated as open space with the potential to serve as a link to a future greenway connection to the Mohawk River and associated trails.*

*Given the extensive amount of land to remain undeveloped, the Applicant would be receptive to working with the town to dedicate additional acreage to the town as open space. However, the open space dedication may remove the acreage from agriculture use.*

**7. What is In This for Us?/There Will Be No Direct Tax Benefit. /Our Property Taxes Will Keep Increasing.**

*A fiscal impact analysis prepared by DRG Advisory Service has previously been submitted to the Planning Board. The analysis was conducted using the original development program. Based on comments we heard, many residents are unaware of how the proposed development would benefit residents.*

- *The development will not increase school enrollment. This is a significant differentiator in terms of taxes because of the level of school tax levied in relation to other taxes:*

| <b>Tax Authority</b>            | <b>Rate (\$/1,000)</b> |
|---------------------------------|------------------------|
| Local Share Medicaid            | 4.164370               |
| Other NYS Mandates              | 2.508670               |
| County Services                 | 5.025400               |
| Total County                    | 11.698440              |
| Town                            | 0.000000               |
| Florida Fire District           | 0.473840               |
| Amsterdam School District       | 17.492143              |
| Source: MCRPTSA (website) & DRG |                        |

*Although there will not be an increased burden on local schools, the development is required to **pay** school taxes (see below).*

- *Using known valuation benchmarks and assuming mid-range values, the originally proposed development program will more than double the assessed value of the commercial property base in Florida and increase the industrial base by more than 50%.*

| Building                      | Size (SF)        | Assessed Value       |
|-------------------------------|------------------|----------------------|
| A – Warehouse/Distribution    | 2,000,000        | \$145,000,000        |
| B – Warehouse/Distribution    | 400,000          | \$29,000,000         |
| C – Light Manufacturing       | 350,000          | \$32,375,000         |
| Total                         | <b>2,750,000</b> | <b>\$206,375,000</b> |
| Source: DRG Advisory Services |                  |                      |

- *At the current (2022) tax rates, if completed and on the tax rolls today and fully taxable, the project would bring in new tax revenues to the various jurisdictions as follows:*

|  |                    |
|--|--------------------|
| County (total)                                     | \$2,414,266        |
| Local Share Medicaid                               | \$859,727          |
| Other NYS Mandates                                 | \$517,727          |
| County Services                                    | \$1,037,117        |
| Florida Fire District                              | \$97,789           |
| Amsterdam School District                          | \$3,609,941        |
| Total Tax Revenue                                  | <b>\$6,121,955</b> |
| Source: Montgomery County assessment records & DRG |                    |

- *Based on direct coordination with the fire chief, an estimated 60-70 emergency response calls may be associated with the new development and the cost to the fire district would range from \$44,700 to \$52,100 in total. The estimated annual tax revenue of \$97,800 to the fire district would cover this this cost.*
- *The project is anticipated to result in approximately 1,400 new jobs across a wide range of skill sets. Wages are expected to range from \$52,304 to \$104,532 based on NYS labor data. These wages translate to \$118 million annually. Further, if employees spend just 2% of their wages locally on goods and services, this will result in nearly \$2.4 million in increase sales to local businesses.*

## 8. There Will be a Loss of Tax Revenue Due to PILOT incentives and Tax Abatements.

*Tax revenue is not lost as a result of incentives and abatement because there needs to be development generating taxes before an abatement can be granted. Although the Town of Florida does not levy property tax, PILOTs do include direct payments to the Town, therefore PILOTs INCREASE contributions to the Town (as well as to the County and to the School District). Additionally, Because PILOTs are tied to defined development, the tax benefit is greater than what is currently derived from the vacant land. Furthermore, regardless of taxes being abated, wages and other revenue will continue to benefit the community.*

*Abatements are not applied in perpetuity, so in exchange for a company locating in a Montgomery County, the IDA offers a 15-year PILOT with an incremental scale of increasing taxes being paid. In the 16<sup>th</sup> year, 100% of the taxes are owed.*

*The Town of Florida also benefits from an INCREASE in the amount of shared Sales Tax revenue it receives because the apportionment distributed among the towns in the county is*

*based upon total assessed value of each respective town. The higher-valued towns, of which the Town of Florida is, would have a PUD, when developed, that would serve to further strengthen that position and result in continued and increasing revenue.*

**9. There is a Labor Shortage. How would the jobs be filled?**

*Since this is a zone change application, the Applicants cannot speak to the recruitment and training on behalf of a future end-user/tenant. This same comment has been heard a number of times in association with development along Route 5S. Montgomery County representatives have monitored labor supply and demand.*

*The abundance of employment opportunities has created higher wages and benefits and has placed an increased emphasis on quality recruitment and training. The last development constructed along Route 5S was Dollar General, who projected 430 jobs would be created. In reality, 540 jobs were created. So, not only did Dollar General exceed its projections, it is now proposing another 150,000± SF facility in that corridor, presumably after determining that labor is sufficient.*

**10. Property Values will Decrease.**

*Property values do not decrease near industrial facilities unless there is an issue related to pollution, noxious odors or blighted appearance. Highly-maintained, clean industries can actually be good neighbors and the types of uses expected to be located in the business park will meet high standards.*

*A case in point is the Joann Way/Jackie Court subdivision created after Beechnut relocated to Route 5S. The presence of Beechnut did not deter interest in lots being sold and homes being built. The homes have some of the higher assessments in town.*

**11. Tractor Trailer Traffic Will be Too Much/ Conditions on Belldons Are Already Dangerous/ There is Back-up at Exit 27 Now and the Intersection is Dangerous/ The Hill On Route 30 Will be Difficult for Trucks to Maneuver in the Winter**

*Although this is a request for a zone change not a site plan application, an initial traffic impact report has been prepared based on assumed traffic generation based on the methodology required by the NYS Department of Transportation. Route 30 is a state Road and the Exit 27 on-off ramps are under the jurisdiction of the NYS Thruway Authority. This means that no development can proceed without review and approval from these agencies.*

*If there are current road conditions that are affecting public health, safety and welfare then these conditions warrant the immediate attention of the County and State, independent of the proposed development.*

*If a zone change is approved, the site plan review process will require close coordination with the DOT. Based on the preliminary traffic study, the developer may be required to upgrade portions of Route 30, Thruway Drive, and Belldons Road and install a new signalized intersection at Route 30/Belldons Road to support safe operations of the development. During DOT review, sight distance and road grades will be examined to determine if mitigation is needed.*

*Confining development to the area adjacent to Exit 27 eliminates operational traffic from using short cuts through neighborhoods.*

## **12. Operational Impacts-Noise, Dust, etc.**

*Although the specific end-uses and building types are not known at this point, all development must adhere to local, state and federal regulations pertaining to noise, dust, water quality, air quality, hazardous material storage/handling, waste management and other operational provisions.*

## **13. Florida is an Agricultural Community/Preserve the Land for Future Generations/Landowners Should Not Sell for Development/ Development Proposals at this Particular Site Keep Coming Back Around—is There Nowhere Else to Develop?**

*Several members of the public chastised the property owners for exercising their right to sell their property. Others urged the Town to intervene and preserve the subject properties as open space.*

*However, the Town of Florida can remain an agricultural community with a rural character and allow development in suitable locations. The amount of agricultural land has remained the same (60%) since 1996 when the Comprehensive Plan was approved. Because of the extent of rural and agricultural land, the transition from agricultural/rural land to industrial and commercial in several locations has not negatively impacted the town's character.*

*The Nadler PUD at full build will occupy 25% of the total PUD district. This is exactly the type of balance needed for the town to grow while retaining its character.*

Should you have any questions or any additional needs, please do not hesitate to contact us at (518) 438-9900.

Sincerely,

**BOHLER ENGINEERING**



Steve Wilson