

**TOWN OF NEWSTEAD**  
**Newstead Commons, LLC**  
**Multi-Family Residential Dwellings**  
**13711 Main Road**  
**Site Plan Approval**

The following resolution was offered by Councilman \_\_\_\_\_  
Who moved its adoption, seconded by Councilman \_\_\_\_\_

**WHEREAS** the Town of Newstead received a site plan dated February 24, 2022 for construction of (7) 2-Story multi-family dwellings and (42) garages in two phases. Initial phase is (2) 2-Story buildings with garages. Future phase will be (5) 2-Story buildings with garages. Number of acres to be disturbed is 6.4 acres out of a total 29.7 acres at 13711 Main Road in the C-2 and Overlay Districts of the Town of Newstead, and

**WHEREAS** the Planning Board reviewed the proposed site plan and voted unanimously on May 23, 2022 to recommend approval to the Town Board, and

**WHEREAS** according to 6 NYCRR part 617 of the implementing regulations pertaining to Article 8 SEQR of the Environmental Conservation Law, the Town Board has determined that the proposed action is a Type I under SEQR with a coordinated review, and

**WHEREAS** the Town Board held a public hearing on June 27, 2022 and heard comments from several residents with concerns regarding lighting, water, drainage, traffic, mosquitos, and wildlife.

**WHEREAS** Erie County Planning was notified of this action as required under section 239-m of General Municipal Law, and replied on April 27, 2022 as follows:

- According to the Erie-Niagara Framework for Regional Growth (2006), this project is located in a Rural Area. The Rural Area encourages, "limited development and reinvestment in rural centers and discourages the conversion of rural and agricultural lands".
- The subject parcel is enrolled in Erie County's Clarence-Newstead Agricultural District #14. Conversion to non-farm use is contrary to the intent of the NYS Agricultural District program.
- The Town of Newstead and Village of Akron Joint comprehensive Plan Update (2018) recommends the promotion of, "alternative, multi-generational housing opportunities while protecting the character of the community."

- Affordable housing options should be seriously considered in final development plans. Affordable housing is generally defined as housing on which the occupant pays no more than 30 percent of their income for housing costs.
- The applicant must coordinate with the Erie County Department of Health for approval of septic systems.
- The applicant should consider including sidewalks for internal circulation.

**WHEREAS** on June 27, 2022 Erie County Water Authority responded as follows:

- The Authority will need to review and approve detailed plans and specifications relating to the delivery of water to determine and mitigate conflicts with Authority facilities prior to bidding/construction of the multi-family development project.

**WHEREAS** on July 12, 2022 NYS Agriculture and Markets responded as follows:

- Because the proposed action will occur within an agricultural district, protection of farmland in the wake of public projects that benefit the residents of a municipality is a priority of the Department of Agriculture and Markets.

**WHEREAS** on July 15, 2022 NYSDOT responded as follows:

- NYSDOT Highway Work Permit will be required for proposed work located within the State highway Right-of Way. More detailed plans will be required for the Highway Work Permit application.

**WHEREAS** on July 18, 2022 New York State Dept. of Environmental Conservation responded. See attached letter regarding the following comments:

- If any project activities will involve land disturbance of 1 acre or more, the project sponsor, owner or operator is required to obtain a State Pollutant Discharge Elimination System General Permit for Stormwater Discharges from the Construction Activity (GP-0-20-001).
- This project site appears to be within an archaeologically sensitive area.
- Northern long-eared bat (*Myotis septentrionalis*), a NYS Threatened Species, occurs in the area of this project.
- Impacts to the agricultural district should be considered during the review of this action.
- Hydric soils were identified within the proposed project site. The project sponsor should consult with the United States Department of the Army, Corps of Engineers Office.

**WHEREAS** on July 21, 2022 New York State Dept. of Public Works responded and had no comment on the proposed project.

**WHEREAS** on August 1, 2022 Erie County Department of Health responded as follows:

- The proposed onsite wastewater treatment system must be reviewed and approved by the Erie County Department of Health. The review will be a joint review with the New York State Department of Environmental Conservation.
- The proposed sewage daily flow rate for the project is currently less than 10,000 gpd. Should the project proposed daily flow rate change and increase above 10,000 gpd, the complete review will be handled by the New York State Department of Environmental Conservation.
- If public improvements are needed to the public water supply, the improvements must be reviewed and approved by the Erie County Department of Health.

**NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:**

1. That the Town Board of the Town of Newstead, after considering the action proposed herein, in reviewing the Environmental Assessment Form, reviewing the criteria contained in Section 617.11 of the Rules and Regulations of the SEQRA Regulations and thoroughly analyzing the project with respect to potential environmental concerns, determines that final approval of the site plan application will not have a significant effect on the environment, the annexed Negative Declaration is hereby approved, the Town Clerk is hereby authorized and directed to make the appropriate filings in accordance with the provision of the General Regulations of the Department of Environmental conservation, and the Town Supervisor is hereby authorized and directed to sign the Environmental Assessment Form and to check the box thereon indicating that the proposed action will not result in any significant adverse impacts.
2. That the Town Board of the Town of Newstead hereby approves the site plan application dated \_\_\_\_\_, 2022.
3. That this resolution shall take effect immediately.

The above resolution was duly put to a roll call vote on August 8, 2022, the results of which are as follows:

Supervisor Cummings \_\_\_\_\_  
Councilman Burke \_\_\_\_\_  
Councilman Dugan \_\_\_\_\_  
Councilman Jendrowski \_\_\_\_\_  
Councilwoman Pope \_\_\_\_\_

**NEGATIVE DECLARATION**  
**Notice of Determination of Non-Significance**  
**Dated: August 8, 2022**

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act-SEQR) of the Environmental Conservation Law.

The Town of Newstead, as most local permitting authority, has determined that the proposed action described below will not have a significant effect on the environment and that a Draft Environmental Impact Statement will not be prepared.

**Name of Action:** Site plan application  
**SEQR Status:** Type I – Coordinated Review  
**Description of Action:** Construct (7) 2-Story Multi-Family Residential Dwellings with (42) garages  
**Location:** 13711 Main Road – Newstead Commons, LLC

**Reasons Supporting this Determination:**

1. The Town Board concludes that the proposed project will not adversely affect the natural resources of the State and/or health, safety, and that welfare of the public and will be consistent with social and economic considerations.

For further information:

Contact Person: Scott Rybarczyk, Senior Stormwater Engineer  
Wendel  
375 Essjay Road, Suite 200  
Williamsville, NY 14221  
716.688.0766  
[scottry@wd-ae.com](mailto:scottry@wd-ae.com)

**TOWN OF NEWSTEAD**

**8-LOT MAJOR SUBDIVISION WITH NO PUBLIC IMPROVEMENT**

**HICKORY TREE ESTATES, LLC  
11149 KELLER ROAD & UTLEY ROAD**

**NEGATIVE DECLARATION AND APPROVAL OF SUBDIVISION PLAT**

THE FOLLOWING RESOLUTION WAS OFFERED BY  
COUNCILMEMBER \_\_\_\_\_, WHO MOVED ITS ADOPTION,  
SECONDED BY COUNCILMEMBER \_\_\_\_\_

**WHEREAS**, the Town of Newstead has received a modified final subdivision plat from Hickory Tree Estates, LLC for subdividing the 48-acre property, creating eight (8) new residential building lots with no public improvement fronting on both Keller Road and Utley Road, in the R-A zone, and

**WHEREAS**, in consultation with the Town Engineer, it has been determined that the modified plan is substantially similar to the original plan, and

**WHEREAS, the Town Engineer** recommended approval in a memo dated April 1, 2022 with the comments;

(1) The maintenance agreement developed shall be executed upon deed transfer to the new lot owner. A copy of the signed agreement shall be provided to the Town of Newstead.

Additional comments provided as recommendations, but not requirements; include the following:

(2) Any proposed home on Lot 8 will require creative solutions to get an approved building permit. The construction of this home must not impact the regulated ditch north of the home while also including enough space for a septic system and the proposed dry retention pond.

(3) The proposed design in this subdivision plan shows minimal land disturbance by keeping the homes the minimum distance required from the right-of-way. We anticipate that the individual owners will want longer driveways with additional disturbance. Under these conditions, the design of the individual dry Site

detention areas will be undersized, and redesign of these detention areas will be required before receiving a building permit, and

**WHEREAS, the Newstead Planning Board** reviewed the application and unanimously voted to recommend approval of the major subdivision to the Town Board on February 28, 2022, and

**WHEREAS,** this project is an unlisted action under SEQRA with coordinated review, and

**WHEREAS,** in consultation with the Town Engineer, the modified plan is anticipated to have the same or lesser environmental impact than the original plan, such that further review is not indicated, and

**WHEREAS, The Erie County Department of Environment & Planning** reviewed on March 24, 2022 and submitted the attached on April 22, 2022, and

**WHEREAS, The Erie County Water Authority** stated the following; The private developer has identified a need for new water services requiring anticipated water usage/demand per day of approximately 3,000 gallons. Considering same, the Authority will need to review and approve detailed plans and specifications relating to the delivery of water to determine and mitigate conflicts with Authority facilities prior to bidding/construction of the 9-lot subdivision project. Nonetheless, the Authority agrees the Town is the appropriate agency to be designed as the lead agency pursuant to SEQRA

**WHEREAS, The Erie County Department of Environment and Planning** commented on the following:

- (1) According to the Erie-Niagara Framework for Regional Growth (2006), this project is located in a Rural Area. The Rural Area encourages, “limited development and reinvestment in rural centers and discourages the conversion of rural and agricultural lands”.
- (2) The Town of Newstead and Village of Akron Joint Comprehensive Plan Update (2018) generally discourages the subdivision of agricultural lands, stating on Page 70, “One of the biggest issues in the Town is availability of lands that could be subdivided into road frontage lots. The continued development of road frontage lots will adversely affect the



character of the Town, create adverse impacts to the environment and is not sustainable...”

- (3) According to the Erie County Agricultural and Farmland Protection Mapping Inventory, the subject parcel is primarily comprised of prime farmland and prime farmland if drained. Furthermore, the site is located in an area identified in the 2012 Erie County Agriculture and Farmland

Protection Plan (the “AFPP”) as having a significant cluster of high-value agricultural soils. The AFPP states, “These are excellent areas in the county for farming – the best soils, largest parcels, and highest quantity of adjacent farmland and that non-farm development should not occur on these parcels” (Page 38). The proposed subdivision as described would result in the loss of a large agricultural parcel, contrary to the intent of the AFPP.

While the applicant states that a portion of the property would be retained for agricultural use, the proposed subdivision would nonetheless result in the fragmentation of high-quality agricultural lands, reducing the overall viability of agricultural pursuits in the area. Should the subdivision be approved, a dedicated agricultural parcel with deeded road frontage should be included in order to ensure continued access by farm equipment to the interior of the site.

The subject parcel is enrolled in Erie County’s Clarence-Newstead Agricultural District #14 and currently receives an agricultural exemption. Conversion to non-farm use is contrary to the intent of NYS Agricultural District program. The applicant should be aware that payment recapture may be imposed by New York State should any part of the property be converted to non-farm use.

**WHEREAS**, since project activities will involve the land disturbance of over one acre, project sponsor is required to obtain a SPDES Permit for Stormwater Discharge from Construction activities in accordance with permit GP 0—20-001, and

**WHEREAS, Erie County Department of Health** commented on May 3, 2022, please be advised that because the project includes septic systems, approvals from ECDOH and NYSDEC are required. Approval of the septic system designs is required from the ECDOH and if the project's design flows are greater than 1,000 gpd, the project needs a SPDES permit from NYSDOH.

ECDOH approval is also required for realty subdivisions. However, if the in situ soils are not acceptable for use of conventional septic systems because of clay soil, rock, etc. a realty subdivision will not be approved, and

**WHEREAS, New York State Department of Environmental Conservation** submitted their response on June 2, 2022 (see attached), and

**WHEREAS,** On June 13, 2022, the Town Board held a public hearing to hear comments from the public with concerns regarding drainage, loss of farmland, and traffic, and

**WHEREAS,** all comments from agencies will be taken into consideration during the construction phase of this project.

**NOW, THEREFORE, BE IT RESOLVED:**

That the Town Board of the Town of Newstead, after considering the action proposed herein, in reviewing the Environmental Assessment Form, reviewing the criteria contained in Section 617.11 of the Rules and Regulations of the SEQRA Regulations and thoroughly analyzing the project with respect to potential environmental concerns, determines that final plat approval of the 8-Lot major subdivision with no public improvement will not have a significant effect on the environment, and the annexed Negative Declaration is hereby approved, provided that no construction or property site alteration shall occur before the Town receives 1) a copy of the completed septic work approval from the Erie County Department of Health; and 2) the Town issues a building permit.

**BE IT FURTHER RESOLVED,** that the Town Clerk is hereby authorized and directed to make the appropriate filings in accordance with the provisions of the



General Regulations of the Department of Environment Conservation and the Town Supervisor is hereby authorized and directed to modify as necessary and sign the Environmental Assessment form and to check the box thereon indicating that the proposed action will not result in any significant adverse impacts.

That the Town Board does hereby approve the modified Final Subdivision Plat dated November 21, 2021 (modified on August 1, 2022)

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board held on August 8, 2022, the results of which were as follows:

Supervisor Cummings	_____
Councilman Burke	_____
Councilman Jendrowski	_____
Councilman Dugan	_____
Councilwoman Pope	_____

**NEGATIVE DECLARATION**  
**Notice of Determination of Non-Significance**

**Date August 8, 2022**

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQR) of the Environmental Conservation Law. The Town of Newstead has determined that the proposed action below will not have a significant impact on the environment and that a Draft Environmental Impact Statement will not be prepared.

Name of Action: Approval of Final Subdivision Plat  
8-Lot Major Subdivision with No Public Improvement

SEQR Status: Unlisted/Coordinated Review

Location: 11149 Keller & Utley Roads in the Town of Newstead

Description of Action: 8-Lot Major Subdivision with no Public Improvement  
48-acre parcel

Reasons Supporting this Determination:

The Town Board in making this determination reviewed the Short Environmental Assessment Form dated September 3, 2021 and concludes that although during construction, there will be increases in energy usage, noise, dust and odor and minor traffic disruptions, these will result in small to moderate impacts of limited duration and that the proposed project will not adversely affect the natural resources of the State and/or health, safety and welfare of the public and is consistent with social and economic considerations.

Contact Person: Julie Brady  
Senior Clerk Planning & Building  
Town of Newstead  
5 Clarence Center Road  
Akron, NY 14001  
Phone: 716-542-4573 Option 4

THE FOLLOWING RESOLUTION WAS OFFERED BY  
COUNCILMAN \_\_\_\_\_, WHO MOVED ITS ADOPTION,  
SECONDED BY COUNCILMAN \_\_\_\_\_

WHEREAS, the Town Board of the Town of Newstead has determined that it is necessary to redo the landscaping at the Town Hall and Library with all new plantings; and

WHEREAS, quotations were received from \_\_\_\_\_ companies which are annexed hereto and made a part hereof, summarized below as follows:

- Bergman Landscaping in the amount of \$29,296.60 combined;
- Lavocat's Nursery in the amount of \$11,225.00 combined, plus the submission of a proposal to add a retaining wall at the front hill of the Town Hall at an additional cost of \$8,825.00; and
- Diversified Landscaping in the amount of \$11,450.00 combined; and

WHEREAS, in consultation with the Town Clerk, the Town Board has determined that the new landscaping proposals from Lavocat's Nursery Inc. provide the best value and would best meet the Town's needs.

NOW, THEREFORE, be it resolved by the Town Board as follows:

1. The Town Board does hereby authorize the Town Supervisor to sign and execute a contact with Lavocat's Nursery Inc. for new landscaping at the Town Hall at a total cost of \$15,275.00, which includes the base quote of \$6,450 plus the addendum A adding a retaining wall for \$8,825, plus the cost of a semi-annual maintenance contract.
2. The Town Board does hereby authorize the Town Supervisor to sign and execute a contract with Lavocat's Nursery Inc. for new landscaping at the Library at cost of \$4,775.00, plus the cost of a semi-annual maintenance contract.
3. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a meeting of the Town Board on August 8, 2022, the results of which were as follows:

Councilman Dugan  
Councilman Burke  
Councilman Jendrowski  
Councilwoman Pope  
Supervisor Cummings

THE FOLLOWING RESOLUTION WAS OFFERED BY  
COUNCILMAN \_\_\_\_\_, WHO MOVED ITS  
ADOPTION, SECONDED BY COUNCILMAN \_\_\_\_\_

WHEREAS, the Town Board has been advised by the Town Highway Superintendent that there are several pieces of Highway Department equipment that are no longer required including the following:

- Husqvarna model 7021P - 21" cut push mower w/ Honda GCV 160 motor
- Stihl TS760 Road Saw w/ cart
- Stihl FS80 String Trimmer
- Stihl FS80 Pro String Trimmer
- Homelite HB-100 Classic Leaf Blower
- Stihl FS90R String Trimmer
- Stihl Pole Saw HT75
- Ferris Zero Turn Mower model IS32007 61" deck with bagger
- 2007 F150 Ford Pickup Truck

WHEREAS, the items outlined above are no longer needed by the Town Highway Department, and it is in the best interest of the Town to sell such items.

NOW, THEREFORE, be it resolved by the Town Board as follows:

1. The Town Board does hereby declare the above-mentioned items to be surplus property.
2. The Town Board does hereby authorize the Highway Superintendent to sell such items through Auctions International.
3. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board on August 8, 2022, the results of which were as follows:

Councilman Dugan \_\_\_\_\_  
Councilman Burke \_\_\_\_\_  
Councilman Jendrowski \_\_\_\_\_  
Councilwoman Pope \_\_\_\_\_  
Supervisor Cummings \_\_\_\_\_