

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY
Minutes of the 477th Meeting
March 18, 2016 – 8:30 am
Agency Offices, 4287 Main Street

The meeting of the above captioned Agency was called to order by Chairman Carlton Brock.

PRESENT: Carlton Brock
Michele Marconi
Aaron Stanley
E. Marshal Wood
Steven Sanders
Edward Stachura
Michael Szukala
James Allen, Executive Director
Nathan Neill, Esq.

GUESTS: AIDA Staff
Terrance Gilbride, Esq., Hodgson Russ
David Chiazza, Iskalo Development
Matt Roland, Iskalo Development
Justin Ried, The Bonadio Group
David Robinson, Buffalo News
David Tytka, Uniland Development Company
Jim Fink, Business First

Chairman Brock called the meeting to order and reminded everyone that the meeting was being audio recorded.

MINUTES

The minutes of the February 2016 meeting were approved as presented.

BILLS & COMMUNICATIONS

There were no Bills & Communications presented at this meeting.

TREASURER'S REPORT

The Treasurer's Report for February 2016 was approved as presented.

PUBLIC COMMENT

There was no public comment at this meeting.

EXECUTIVE DIRECTOR'S REPORT

1. **Update of Data for Comp Plan Update-** All proposals are in and the work is anticipated to commence in mid-April.
2. **ECIDA Policy Committee-** The ECIDA Policy Committee met on March 10, 2016 and presentations regarding the Framework for Regional Growth and the One Region Forward Plan

were made to the committee. AIDA Board members Aaron Stanley and Ed Stachura were present for the presentations.

- 3. The Framework for Regional Growth** presentation was made by Deputy County Executive Maria Whyte and Buffalo Niagara Partnership Vice President Laura Smith. It was noted that the Framework was adopted by the Erie County Legislature in 2007 to serve as a guide for future land use planning throughout the Buffalo Niagara region. The Framework emphasizes that to continue the growth patterns of the previous 20 years would cost the taxpayers nearly \$1 billion for new infrastructure and therefore result in increased taxes for a population that was slowly declining (or at best remaining stable). Rather, the Framework suggested that all new development be confined to areas designated **Developed, Developing and Undeveloped**. The ratio of new development should occur as follows: **70% developed; 15% developing and 15% undeveloped (in Village centers and hamlets)**. It was noted that all municipal comprehensive land use plans developed since early 2000 are in compliance with the Framework, and that is true of the Town of Amherst Bi-Centennial Comprehensive Plan.

Hal Morse, the Executive director of the Greater Buffalo Niagara Regional Transportation Council made the presentation on the **One Region Forward Plan**. The plan is another tool to help the region plan and develop its future. The planning exercise cost \$2 million and was funded by HUD, EPA and the U.S. Department of Transportation. Over 700 organizations participated in the development of the plan and more than 5,000 citizens were involved in the development of the various scenarios to be used to achieve consensus in the development of our future. As part of the planning effort, four scenarios were developed: (1) Business as Usual-Keep Doing What We're Doing; (2) Sprawling Smarter; (3) A Region of Villages and (4) Back to the City. These choices are not meant to be "either/or propositions but, the choices we make do have consequences. And part of the project has been to develop metrics to determine how we are doing and to help re-direct our efforts if necessary or to encourage us to continue in a path that the residents of our region wants.

I do not think enough time was given to either of the issues and I would like to recommend that a forum be convened to discuss these issues further. Several members of the Policy committee agree with that suggestion.

If any of the Board would like an electronic or hard copy of either or both of these documents, please let us know.

- 4. NYSEDC Webinar** was held on March 2 in our conference room and it was attended by Board members Michele Marconi and Marsh Wood. In addition, we had representatives of the Lancaster IDA (including the new Lancaster Town Supervisor), the Clarence IDA, the Hamburg IDA and Nathan Neill, Dave Mingoia and me. I thought parts of the webinar were helpful but the information sent by NYSEDC seems sufficient for us to revise our documents, applications, and policies by the June 15, 2016 deadline. We have already begun drafting the revisions but some of the other IDAs in the state are experiencing difficulties.
- 5. Presentation of CGR Report-** We presented the CGR Economic Impact Report to the Town Board in their work session on Monday 3/14/16. Dr. Kent Gardner made the presentation and he and I fielded the questions that the Board had. The first question had to do with the issue of "how do you know these projects wouldn't have happened anyway?" The answer is that you don't really

know but Kent cited work that CGR has done in the past that indicates that approximately 80% of all projects would not have happened; 20% would have (or did) but some that did were significantly different than originally proposed. The Supervisor brought up the Senior Housing project at Maple and Ayer that had been turned down by the IDA but went ahead anyway. I pointed out that the project we turned down was a middle-income senior apartment project that, according to the developer couldn't be done without incentives. The project they ended up building was a high-end senior housing project which did not need incentives because the market could afford the higher rents. Additionally, there was a question regarding methodology that was handled very well by Dr. Gardner.

6. **Amherst Comprehensive Plan and Zoning Project-** A joint meeting of the Project Working Committee and the Technical Advisory committee was held in Village Hall on March 8, 2016. The committee members were introduced and a summary of the project was given by the Project Manager from Code Studio, Lee Einsweiler. Mr. Einsweiler mentioned that there are 3 goals for the project: (1) **To rationalize** the zoning codes in all commercial areas; (2) **Develop “Form Based Codes”** for the purpose of redevelopment; and, (3) **To do a complete diagnosis of the current** zoning codes, as they have not been looked at in over 10 years. He further emphasized that the rewriting of the code will be confined to the commercial areas only, residential codes will not be rewritten. **Attached, please find the Project Overview and a list of both committee rosters.** Einsweiler said his work should be complete in approximately 14 months at which time it will be sent to the town board for adoption.
7. **Projects:** There were **no new inquiries from projects not eligible** for Agency assistance this month. We are however working with 3 potential projects, one of which will be on the April Executive Committee agenda for consideration by the full board at the April meeting if the value of the benefits being sought are below \$100,000, thus not requiring a public hearing. If the budget indicates benefits over \$100,000, the project will probably be moved to the May agenda. The other two applicants will likely be before the board later this spring or early summer.

COMMITTEE REPORTS

Audit Committee – met on Tuesday, March 15th to discuss the draft 2015 Audited Financial Statements with staff and AIDA/ADC auditors from The Bonadio Group.

Justin Reid, of The Bonadio Group gave an overview of the 2015 audit results. He noted that there was no need for a Management Letter. He also noted that an Assessment of Internal Controls was completed. He said that there were no material weaknesses, but noted that with only a staff of four, it was not an optimal situation. He also said that it was good that the Board has oversight policies in place for the Treasurer to review bank statements, receipts, etc.

Upon a motion by Marshall Wood, seconded by Edward Stachura and aye votes from Brock, Marconi, Stanley, Sanders, Szukala it was

RESOLVED, THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT ACCEPT THE 2015 AUDITED FINANCIAL STATEMENTS.

NEW BUSINESS

I. Authorization Resolution

APPLICANT

Iskalo 5000 Main LLC
Iskalo 5010 Main LLC
5166 Main St
Amherst, NY 14221

PROJECT LOCATION

5000 Main St
5010 Main St

PROJECT ELIGIBILITY

- The purposes of an industrial development agency shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreation facilities per Section 858 of General Municipal Law.
- The Countywide Eligibility Policy allows for incentives for hotel development in Town designated Enhancement Areas.
- The project complies with the Town of Amherst Comprehensive Plan as it maintains and grows the tax base through a high quality development leveraging existing infrastructure.

REQUEST

The applicant is requesting assistance to amend and refinance their 2012 Leaseback Transaction at a cost not to exceed \$19,925,000 and the amount of mortgage(s) not to exceed \$16,000,000. The original project approved in December 2012 involved the renovation and equipping of an existing hotel/restaurant facility along with a 1,700 square foot expansion thereon and was in the amount of \$9,885,750. Project(s) are located at 5000 Main Street and 5010 Main Street, within the Amherst Central School District.

The amendment involves identifying the restaurant portion of the project as Iskalo 5010 Main LLC and the allocation of \$4,543,750 of the cost and \$3,000,000 of the financing towards it. The hotel portion of the project is located at 5000 Main Street and would continue to be identified as Iskalo 5000 Main LLC and provides for the allocation of \$15,381,250 towards the cost and \$13,000,000 of the financing towards it.

The increase of the project amount from \$9,885,750 to the requested \$19,925,000 involves significant revisions to the scope and design of the project as well as unanticipated costs (including environmental remediation costs) associated with the renovation and equipping of the entire project. The application, and opinion of the applicant's counsel, indicates that the project is a tourism destination project.

The applicant maintains it pursued this redevelopment due to the project site's inclusion in a Neighborhood Enhancement Area established by the Town of Amherst and the IDA benefits that would serve to partially offset the considerable redevelopment costs that would be involved. The redevelopment plan for the property included the retention and renovation of the existing Lord Amherst hotel/restaurant due to its longstanding, familiar presence and context on this section of Main Street. The amount of investment required for renovation of the hotel/restaurant is substantially greater than what it would cost to replace it with an entirely new hotel. For reference, the estimate cost of the renovation will exceed the cost of the Hyatt Place by \$50,000 per guest room.

This project is subject to changes to IDA statute (Section 862 of Article 18-a) that went into effect in April 2013. An IDA is prohibited from granting funds to facilities whose primary purpose is retail sales, except in the case of "tourism destination projects". A "tourism destination" is defined under the law as, "a location or facility which is likely to attract a significant number of visitors from outside the economic development region". Our economic development region is the counties of Erie, Niagara, Chautauqua, Cattaraugus and Allegany.

EMPLOYMENT

The updated employment information for this project indicates that the project will create 11 full time positions and 75 part-time positions. The annual payroll at the project site is estimated at \$1,493,480 with salaries ranging from \$23,000 to \$90,000/yr.

PILOT SCHEDULE

The original project was approved for the Agency's 10-year, 485(b) Equivalent Real Property Tax Exemption, which starts at 50% abatement of improvements and decreases 5% annually. It had been estimated that during the abatement period the property would generate \$1,929,216 in property taxes broken down as follows: \$374,779 to the Town of Amherst, \$307,563 to Erie County and \$1,246,875 to the Amherst Central School District.

The increased project increases this amount significantly and would generate \$2,944,573 in property taxes during the abatement period, broken down as follows: \$624,680 to the Town of Amherst; \$439,900 to Erie County and \$1,879,993 to the Amherst Central School District.

The property currently generates \$86,879 in Town, County and School taxes. Over the term of the abatement period this would amount to \$868,793. Should the Agency proceed with this transaction, the net revenue gain over the abatement period would be an estimated \$2,075,780.

PROJECT TAX SAVINGS

The original inducement of the project estimated that the applicant will realize an estimated \$359,407 in sales tax savings, \$98,858 in mortgage tax savings and \$615,374 in property tax savings.

Should the Agency consent to the increased project value of this project, the applicant would realize an estimated additional \$399,983 in property tax savings, an additional \$537,468 in sales tax savings and \$160,000 in mortgage recording tax savings.

The public hearing for this request was held on Friday, March 4, 2016 at 8:30 am.

Executive Director Allen reminded the board that two things have changed this this project was approved by the Agency in 2012. The first being that the County-wide Eligibility Policy was amended to include a hotel policy. The new policy identifies certain instances when the AIDIA can assist in hotel projects. He noted that specifically in this instance, this hotel project was located in an Enhancement Area as defined in the county-wide eligibility policy (UTEP).

He noted the second change was in Section 862 of Article 18-A of the NYS General Municipal Law. Section 862 outlines retail restrictions. Mr. Allen said, however that while the retail restrictions are more stringent, Section 862 allows for tourism destination projects.

Mr. Allen informed the board that Chairman Brock requested that he make a recommendation to the board for this project.

Mr. Allen provided a written recommendation that was distributed to the board. The recommendation was for approval (attached to these minutes).

Mr. Allen also informed the board that a survey was done of the membership of the NYS Economic Development Council as to how many IDAs through NYS had participated in hotel projects where the finding of tourism destination had been used as determination for eligibility. Mr. Allen stated that as of Thursday, it was reported there were 54 projects in NYS that were approved using tourism destination as eligibility.

Board member Michael Szukala questioned if anyone knew how many were not approved using the tourism destination as criteria.

Mr. Allen said he did not know.

Board member Michele Marconi noted that the 2013 amendments to Section 862 placed limitations on retail and that hotels, in her opinion should be considered as such. She stated that the law trumps the policy.

There was a motion on the question for approval by Marshall Wood, seconded by Edward Stachura.

Michael Szukala wanted to clarify if a vote of yes was to approve the project and a vote of no was to disapprove the project. He was told this was the case.

Board member Steven Sanders stated that it was his opinion that this project was clearly eligible for additional IDA assistance. He noted that the 2013 amendments in Section 862 did allow for tourism destination projects and that hotels were not precluded in what the law defined at tourism destination.

He also noted that the current AIDA hotel policy allowed for hotels located in a Town of Amherst designated Enhancement Area were also permitted.

Board member Aaron Stanley noted that he took issue with the fact that the project developer was expecting AIDA approval and should have come to the board much earlier to seek the amendment.

Board member Edward Stachura noted that he had provided the board with a memo that pointed out his thoughts on why the project should be approved (attached to these minutes).

Chairman Brock stated that there was a motion for approval of the project and requested a show of hands on those voting yes on the project amendment request. Aye votes were received from Wood, Sanders and Stachura.

Chairman Brock then requested a show of hands from those voting no for approval on the project amendment request. No votes were received from Brock, Marconi, Stanley and Szukala.

Therefore, in a vote of 4-3 against, the motion for approval for the 5000 Main Street, LLC and 5010 Main Street, LLC authorization resolution amendment request failed to pass.

II. Request for Proposal for Legal Counsel

Michael Szkukala presented the final draft of the RFP to the board. He again thanked Deputy Director Mingoia for his assistance. Attached to these minutes is the draft RFP for Legal Counsel.

Board member Marshall Wood questioned the need for the RFP because the by-laws already specify the legal requirements. He specifically took issue with the position of the Parliamentarian role outlined in the RFP. He stated that he felt it was a back door maneuver to institute Roberts Rules of Order in Agency business. He stated that he felt that the Agency was adequately represented by its current by-laws and legal counsel. He stated that by doing this, it would cost the Agency tens of thousands of dollars.

Carlton Brock noted that this was a fair process and that it was the fiduciary responsibility of the board to send out the RFP. He said there was no harm in looking and soliciting proposals.

Mr. Wood said that he was concerned with what the basis of the Parliamentarian's judgement on AIDA proceeding would be.

Michael Szukala said the board can direct the proceedings.

Mr. Wood stated that he disagreed.

There was a motion on the question to approve the Request for Legal Proposals by Aaron Stanley, seconded by Michele Marconi. Votes of aye were received from Brock, Marconi, Stanley, Sander, Stachura and Szukala. A vote of no was received from Marshall Wood. The motion passed 6-1.

III. 2015 Mission Statement and Measurement Report

Authority Mission Statement and Performance Measurements-2015 Report

Name of Public Authority: Town of Amherst Industrial Development Agency (AIDA)

Mission Statement: To promote economic diversity and quality employment opportunities, and to broaden the tax base of the Town of Amherst in order to reduce the tax burden on homeowners, while helping to maintain and enhance a high quality living environment.

Date Reaffirmed: March 18, 2016

List of Performance Goals:

Goal #1: *Promote private investment with focus on targeted industries and redevelopment*

Measured by: (1) Value of new private investments from tax incentives for new and existing Town of Amherst companies; (2) Value of new private investment in existing sites and buildings in Enhancement Areas.

Number of Projects Approved:	18
Private Investment:	\$129,135,750
New Jobs:	63
Retained Jobs:	171
Square Feet New/Renovated:	246,350
New Property Taxes Generated:	\$1,812,766
Income Taxes Generated:	\$6,116,878
Sales Taxes Generated:	\$4,284,901

NEW PROJECT INDUCEMENTS

INVESTMENT

445 Creekside Warehouse & Distribution	\$2,900,000
10 Curtwright Drive, LLC - Ashton Potter USA	\$3,400,000
Ventas Amberleigh, LLC	\$6,247,000
5933 Main Street - Bevilacqua Development (Enhancement Area)	\$9,150,000
Nidus Development - 2150 Wehrle Drive	\$2,700,000

REFINANCINGS

Iskalo Office Holdings, LLC - 2410 North Forest	\$19,000,000
Fox Creek Estates II, LLC - 9500-9510 Transit Road	\$30,000,000
60 Pineview Drive, LLC - IMMCO	\$750,000
8600 Transit Road, LLC	\$2,800,000
Brompton Heights, Inc.	\$32,275,000
Sheridan Properties II, LLC - UB Neurosurgery	\$6,300,000
45 Bryant Woods, LLC - Chiampou, Travis, Besaw & Kershner, LLP	\$2,613,750
Uniland Development I, LLC - 540 Crosspoint Parkway	\$11,000,000

AMENDMENT TO AUTHORIZATION RESOLUTIONS

Columbus McKinnon Corporation - Increase to \$6,500,000
80 Meyer Road Senior Apartments - Increase to \$10,478,048

ASSIGNMENT OF LEASES

Northtown Automotive Group - 3860 Sheridan Drive
3500 Main Street Station, LLC (University Plaza)

PROJECT INDUCED BUT NOT MOVING FORWARD

6580 Main Street Partners, LLC - Sheridan Benefits	\$1,880,000
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One redevelopment project was approved in 2015 in Town of Amherst designated Enhancement Area. The AIDA has approved 56 redevelopment projects totaling over \$230 million in new investment since

2000. These renovated, repurposed and expanded facilities will pay over \$19 million in new property taxes over the course of their PILOT periods.

Redevelopment and Repurposing Amherst's existing commercial properties poses the greatest challenge to Amherst's continued growth and prosperity. As users' space needs change due to market forces driven by their customers and employees, assisting building owners will become paramount to maintaining and growing taxable assessment.

Goal #2: Support implementation of economic development elements of the Town of Amherst Bicentennial Comprehensive Plan and Williamsville Community Plan that maintain and enhance a high quality living environment

Measured by: (1) Number of collaboration efforts with Town of Amherst and Village of Williamsville on development initiatives.

Amherst Economic Assessment – The AIDA provided funding and worked with the Town Planning Department on issuing an RFP that would update the underlying economic data of the Comprehensive Plan. The winning consultant would also provide an analysis of market forces and make recommendations that will shape the scale, location and nature of development in the next 20 years. We received 6 responses to the RFP and chose Delta Associates. Due to a technical error, the consultant work was rebid and we expect to begin work in the second quarter of 2016.

Amherst Form Based Code – The AIDA worked in conjunction with the Town on selecting Code Studios from Austin, Texas, to modernize the existing codes into a hybrid based system, which allows an applicant to choose between traditional and form based code. The Town finalized the contract with New York State for the funding and is establishing a set of committees comprised of residents, businesses, community groups and development specialists. The AIDA is on the technical advisory committee and provided input to several of the committees. Work is expected to begin on this effort in March 2016.

Williamsville Redevelopment – As work is set to begin on the Main Street infrastructure improvement, the AIDA is continuing to work collaboratively with Village leaders on furthering initiatives under the Picture Main Street effort. Work is set to begin in March 2016 on branding the Village for retail enhancement opportunities to achieve the Community Plan's goal of raising the profile of the Village to other leading Villages across New York and Canada. Several sites along with demographic data contained in the Versel Main Street Corridor Market Study from 2013 is shaping this strategy. In addition to meeting with prospective investors in the Village, the AIDA is a funding partner in the branding effort.

Senior Housing – The AIDA worked with the Town and Village on developing further criteria and a scoring system for Market Rate Senior Housing Projects seeking AIDA inducement. After several years, the Uniform Tax Exemption Policy was modified to include an amendment to for profit market rate housing for people 60-years of age and older. The AIDA's Amendment includes a scoring system that prioritizes the nine criteria a project is judged by, focusing on its walkability, connection to public transportation, and proximity to needed goods and services. The AIDA Board of Directors approved the Amended Policy in September 2015.

AIDA Economic & Fiscal Impact – The AIDA hired CGR to assess the fiscal impact of its projects since inception. It became clear early in the data gathering phase that a great deal of the records necessary to

perform this analysis were in old paper files at Town Hall. Working with the assessor's office, we were able to compile the data that showed the significant increase in taxable assessment and collected property taxes generated by the reported on 287 projects. These \$2.5 billion in projects generate \$17 million annually in property taxes against a taxable assessment approaching \$700 million. Over 26,000 people are employed at these locations generating a payroll that exceeds \$1.6 billion.

Goal #3: *Support collaboration and implementation of regional economic development activities*
Measured by: (1) Number of collaboration efforts with Erie County and Regional Organizations on economic development initiatives.

Countywide Eligibility Policy – The AIDA worked with the IDAs of Erie County on drafting and approving an amendment to the Uniform Tax Exemption Policy for Market Rate Senior Housing that sets forth nine (9) criteria that a project is evaluated on in order to receive tax incentives. The AIDA prioritized and set a scoring system for projects seeking inducement in the Town of Amherst and Village of Williamsville. Additionally, a Good Standing Tax Policy has been completed that requires applicants to disclose any unpaid property taxes on other owned properties in Erie County. Reciprocal agreement with neighboring counties is under exploration but initial conversations indicate that this is not a priority for adjoining counties. This policy will be evaluated by the AIDA in 2016 for implementation.

James Allen, AIDA Executive Director, continued his position on the Erie County IDA Policy Committee and as Chair of the IDA Leadership Council, allowing for continued input at the formulation stage of new or revised policies.

NYS Economic Council Best Practices – The AIDA continued to work with the statewide economic organization on developing best practices in areas of recapture of benefits and annual reporting of employment and other information by applicants. This work was a precursor to legislation advanced by the NYS Comptroller and signed into law at the end of 2015 that requires a new set of reporting and applicant information. Implementation of a number of transparency and application requirements will be done in the first half of 2016.

Coalition For Community Building – The AIDA continues to work with a diverse set of groups on pending IDA and other significant legislation or regulation that would impact its ability to undertake economic development that is critical to its community. At the forefront of the IDA focus, is continuing to educate decision makers on the effective role that an IDA performs in redevelopment and promoting economic development.

Amherst-Buffalo Transit Study - The AIDA sits on the advisory committee for the study of improved transit options linking population and employment centers along the Amherst-Buffalo corridor. A series of public meetings were held in 2015 presenting technical alternatives of linking SUNY Buffalo's South Campus with its North Campus and on to Cross Point Business Park. What became clear in 2015 is the need to attach an economic rationale to the preferred options that focused on infrastructure necessary to implement light rail, bus rapid transit or enhanced bus service. A federal grant was secured by the NFTA to look at development impacts, positive and negative, of each alternative in the preferred corridors.

There was a motion on the question to approve the 2015 AIDA Mission Statement and Measurement Report by Aaron Stanley, seconded by Steven Sanders. Votes of yes to approve the 2015

Mission Statement and Measurement Report were made by Brock, Stanley, Wood, Sanders, Stachura and Szukala. A vote of no was made by Michele Marconi. The motion passed 6-1.

9:38 am – meeting adjourned.

LORD AMHERST FACILITY – SUPPORT JUSTIFICATION

Edward F. Stachura / Board Member – Amherst Industrial Development Agency - Edward F. Stachura

1. Meets the specific legislative purpose of Article 18-A, (Industrial Development) α 858 of the NYS General Municipal Law --- “... to develop, encourage (*listing of development activities is referenced*)..... and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the state of New York ...”
2. Meets the stated primary purpose of the Amherst IDA --- “... to promote economic development and to diversify and expand the tax base within the Town of Amherst ...” , which the AIDA has successfully demonstrated many times over since 1969, as well as creating employment opportunities that are not only local but regional in scope. The increased Amherst tax base and associated sales tax revenues from many projects has also benefitted the region.
3. Provides an increase to the **tax revenues** of all taxing jurisdictions **County, Town, School District, Town Special Districts**. Other Erie County towns will also benefit from this increase of revenues from the project. The Return on Investment (ROI) of public incentives to community benefits approximates a ratio of 8:1, i.e. for every \$1.00 of incentives investment there is a return of approximately \$7.86 to the community. In the 1st year of the PILOT, the taxing jurisdictions realize a substantial increase over the present tax revenue stream (*Ref: AIDA staff economic analysis using InformANALYTICS©*). The **total average annual tax revenue increase is estimated at \$120,700**. And, there is no incentive abatement to Special District taxes/fees.
4. Meets the objectives of the County wide uniform IDA policy towards hotels.
5. Meets the requirement of “*tourism destination*” under Section 862 of Art. 18-A of NYS-GML , an added requirement in 2013 (*Ref: 3/11/2016 opinion letter, Hodgson Russ, LLP, Attorneys*). This was not a determining requirement of the initial project’s AIDA approval in 2012, a \$9,885,700 private investment which is now \$19,925,000, an increase of \$10,039,250.
6. Fully complies with the Town’s open publicly vetted policy that the Town Board unanimously passed in 2011 for Neighborhood Enhancement Zones, an update to the Town’s 1997 and 2001 earlier initiatives on Neighborhood Enhancement Zones that have successfully benefited the Town and the region.
7. Fully complies with and meets the objectives of the *Amherst Bicentennial Comprehensive Plan*, a policy which was adopted by the Town Board January 2007 and amended February 2011, a plan that had extensive open public vetting and input.
8. Increases the assessed valuation of an “old” and under-performing property without requiring new “*green field*” development and public infrastructure. Redevelopment is consistent with the recommendations of the *Framework for Regional Growth, Final Report 2006*, which calls for development where existing infrastructure already exists, a “smart growth” initiative.
9. Provides growth support to small business initiatives, another AIDA objective.
10. Iskalo Development has proven its case for this project. The project meets the public policy and criteria. Additionally, their record of prior local development success strongly demonstrates their consistent commitment to deliver context-sensitive projects that enhance the neighborhood, the community, and the region.



MEMORANDUM

3/11/16

TO: AIDA Board of Directors

FROM: James J. Allen

RE: Hotel Eligibility Under Countywide Eligibility Policy
5000 & 5010 Main Street

On September, 21 2012, the Uniform Tax Exemption Policy (UTEP) was adopted to include a Hotel Policy Amendment that further defined what types of projects would be assisted and in what locations hotels would be eligible for inducement. Those properties associated with a Convention Center, a State of the Art Conference Center, connected to a Major Regional Attraction, and/or wholly or part of an Adaptive Reuse Project *or located in a Neighborhood Enhancement Area were deemed eligible to apply for tax incentives*. The 5000 & 5010 Main street project is in “designated Enhancement area” as per the adoption of the Town Board-appointed Industrial and Commercial Incentive Board’s final report- September 2011.

Furthermore, on March 28, 2013, the New York State budget was passed reinstating previously expired provisions restricting IDA assistance to certain “retail” projects, and added a New York State sales tax recapture provision. However, the legislation defined “tourism destination projects” as separate from this classification of retail projects. By state definition, tourism destination projects shall mean locations or facilities which are likely to attract a significant number of visitors from outside the economic development region. The State defines our economic development region as the five counties of Erie, Niagara, Chautauqua, Cattaraugus, and Allegany.

IDA’s across the state have been using this tourism destination definition to approve similar projects to Iskalo Developments’ application that is before this Board. The adopted Countywide UTEP provides additional guidance to the type and placement of hotel projects this Agency could support. Hotel *projects outside of Town of Amherst-approved Enhancement Areas would not be eligible* unless there was state of the art conference facilities or a convention facility attached. And as previously stated the 5000 & 5010 Main Street project is in an “Enhancement area,” thus it is eligible under our Hotel Policy.

It is this distinction that had made projects ineligible for AIDA benefits along Maple or Sweet Home roads, two areas of Town that have seen new and renovated hotel projects. We had conversations with developers in this area on several projects and used the 2012 Hotel Policy Amendment as the basis of indicating that those projects are not eligible under our Policy. As a result, those developers did not pursue AIDA incentives.



Lastly, it should be noted that although the budget bill adopted in 2013 which reinstated restrictions on retail projects must be considered in the Board's deliberations and that the county-wide Hotel Policy Amended adopted on September 21, 2012 must also be considered, the exception to the retail restrictions for "tourism destination projects" and the Town Board designation of certain hotel projects in designated "enhancement areas" seems to provide the Board the authority to approve this project as requested.

We recommend approval for Iskalo 5000 Main LLC and Iskalo 5010 Main LLC.