

Town of Hamburg  
Planning Board Work Session

January 7, 2009

Minutes

The Town of Hamburg Planning Board met for a Work Session on Wednesday, January 7, 2009 at 7:30 p.m. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Gerard Koenig, Steve McCabe, Karen Rogers, Richard Taber and Peter Reszka.

Others in attendance included Andrew Reilly, Sarah desJardins, Attorney Donald McKenna, Attorney Cheryl McFaddon Zak and Councilman Kevin Smardz.

Excused: Sasha Yerkovich, David Phillips

Chairman Koenig stated that at its reorganization meeting the Town Board reappointed him as Chairman of the Planning Board for 2009, and he thanked the Town Board for that. He stated that Attorney Donald McKenna was reappointed as Planning Board attorney and Cheryl McFaddon Zak was appointed Planning Board assistant attorney.

Chairman Koenig made a motion, seconded by Mr. McCabe to appoint David Phillips to the position of Vice-Chairman of the Planning Board. Carried.

Chairman Koenig made a motion, seconded by Mr. Taber, to appoint Stephen J. McCabe to the position of Secretary of the Planning Board. Carried.

**E.F. Burke Realty (southwest corner of Bayview Road and South Park Avenue)**

Andrew Gow from Nussbaumer & Clarke appeared on behalf of the proposed project.

Mr. Reilly stated that the applicant is looking for direction before finalizing the site plan for this project. He noted that a SEQR Coordinated Review was conducted and the Planning Department did receive comments from the Department of Environmental Conservation. He stated that the biggest issue with this project has always been access, noting that the Traffic Safety Advisory Board has indicated that it would not like to see any access to South Park Avenue from this site.

Chairman Koenig stated that, as a member of the Traffic Safety Advisory Board (TSAB), he can attest to the fact that all of the members of the TSAB were vehemently opposed to any sort of curb cut on South Park Avenue.

Mr. Reilly suggested that the applicant meet with the TSAB to discuss the project, as well as have a traffic study done to show what the traffic volumes are at that location. He further noted that the Department of Transportation has not commented yet on the project and may also require a traffic study.

Mr. Reilly reminded the Board and the applicant that when the Board approved the previous use of the building on this site, one of the conditions of approval was that there would be no access to South Park Avenue.

Mr. Reilly noted that variances will probably be required if this project moves forward.

Mrs. Rogers made a motion, seconded by Mr. Reszka, to schedule a public hearing for January 21, 2008. Carried.

Engineering Department comments are attached.

### **The Villages at Mission Hills (east side of Camp Road)**

Leanne Voit from Greenman-Pederson and David Manko, applicant, appeared on behalf of the proposed project.

Mr. Reilly stated that a Supplemental Environmental Impact Statement (SEIS) will be required to update the previous Environmental Impact Statement that was done for a previous project on this site that never moved forward. He noted that the traffic study in the original EIS will have to be updated to reflect the new project and changes in the level of traffic in the area, as well as the slightly different proposed secondary means of egress.

Mr. Reilly noted that the applicant has had an updated wetlands delineation performed, the results of which will be discussed in the SEIS. He further noted that the currently proposed buildings are farther away from the railroad tracks than the previously proposed buildings and the applicant will discuss that change in the SEIS. Additionally, the SEIS will discuss the sewer and water capacity in the area as it relates to the anticipated demand from this project.

Mr. Reilly stated that the question of whether or not individual lots will be required for each single family home will have to be determined by the Building Inspector. In that case, each lot would have to conform to the R-4 bulk regulations regarding sizes of lots. Mr. Reilly noted that, in his opinion, the applicant could delineate one large lot for all of the single family homes to show that the density requirements have been met. He further stated that the R-4 zoning code does not address single family homes that are not situated on individual lots.

Attorney McKenna stated that it is his opinion that it would be better for all parties involved if the applicant delineates separate lots for each single family home and files a subdivision map cover.

Mr. Manko asked if forming a condominium project would solve the problem of the single family homes not being located on individual lots. Mr. Reilly responded that the Town of Hamburg would prefer not to have condominium projects.

Chairman Koenig confirmed with Ms. Voit that the applicant would like to appear before the Traffic Safety Advisory Board at its next meeting to discuss that Board's comments regarding this project.

Mr. Reilly stated that the Town of Hamburg has always preferred not to have a mobile home park on this site and will help this applicant work out alternative residential development in this area.

Mr. McCabe made a motion, seconded by Mr. Taber, to table this project. Carried.

Engineering Department comments are attached.

### **Autumnview Healthcare Facility (4650 Southwestern Boulevard)**

Chairman Koenig stated that the applicant has asked to be tabled.

Mr. Taber made a motion, seconded by Mr. Reszka, to table this proposal. Carried.

Engineering Department comments are attached.

### **Ridgefield Terrace Subdivision, Phase III**

Mr. Reilly stated that the Planning Board previously approved this subdivision. At that time, the applicant could not develop one of the lots because sewer service could not be provided to that lot. Therefore, a note was placed on that lot on the map cover stating that it is not a buildable lot. Mr. Reilly further stated that the applicant has resolved this problem with Erie County and would now like to develop this lot.

Attorney McKenna stated that the applicant should file an amended map cover with a notation showing that this lot is now considered buildable. It was determined that a public hearing should be held, as well.

Mrs. Rogers made a motion, seconded by Mr. McCabe, to schedule a public hearing for January 21, 2008. Carried.

Engineering Department comments are attached.

### **NDC Apartments, LLC (4678 Big Tree Road)**

Ken Nigro, applicant, appeared on behalf of the proposed project.

Mr. Reilly stated that Mr. Nigro received Planning Board approval a few months ago of a new garage to be built in conjunction with the apartment complex on Big Tree Road. He noted that the applicant has had to change the location of the proposed garage because of fire safety code issues. He further noted that an amended site plan has been submitted showing the proposed garage in the center of the site.

Mr. Reilly stated that, by placing the new garage in the center of the site, the applicant will be reducing the number of outside parking spaces provided for tenants and visitors. He further noted that the applicant proposes to provide the same number of total parking spaces on the site with the addition of the garage, but that the outside parking spaces are being replaced by spaces inside the garage.

The Board discussed the possibility that tenants may not want to pay to park their vehicle(s) inside a garage, as well as the possibility that tenants may want the garage space to store items other than vehicles. The potential problem of not having enough parking spaces for vehicles was discussed.

Mr. Nigro stated that he might use the existing 14-bay garage on the site for storage so that the new garage can be used primarily for vehicle storage. Mr. Reilly responded that the problem with that idea would be that then Mr. Nigro would be reducing the number of available vehicle parking spaces provided and a variance may be required.

The Board discussed whether and how the Town could enforce what is being stored in the garages. Attorney McKenna stated that if the Board approves this project, it should stipulate that the garages will only be used to store vehicles.

Mr. Taber stated that whenever the Board approves an apartment complex that includes garages for parking, it does not know whether the garages will be used for the storage of vehicles or something else. He further stated that the applicant has been truthful with the Board in stating that some of the garage space will be used for the storage of personal belongings and Mr. Taber would not be comfortable denying the project because the applicant is being honest.

Chairman Koenig stated that if the applicant had not disclosed the fact that some of the garages may not be used to store cars, the Board would assume that the garages are to be used for vehicle storage and the Board would not be having the discussion at all.

In response to a question from Mrs. desJardins, Mr. Nigro stated that he is very comfortable with the number of outside parking spaces that would be used for tenants who do not want to rent garage space, as well as for visitor parking.

Mr. Reszka made a motion, seconded by Mr. Taber, to schedule a public hearing for this proposal for January 21, 2008. Carried.

Engineering Department comments are attached.

### **Proposed Tim Horton's (5599 Camp Road)**

Dan Blamowski from FRA Engineering and Robert Bender from Tim Horton's appeared on behalf of the proposed project.

Mr. Reilly stated that the proposal is to construct a +/- 1,200 sq.ft. Tim Horton's on Camp Road north of Legion Drive (in the southwest corner of the vacant parking lot in front of the old Tops store near Burger King). It was determined that Tim Horton's will have a land lease and that it is a separate lot of record.

Mr. Bender stated that this facility will cater to drive-through customers. It was determined that the site plan shows stacking for 15 cars and if more than 15 cars are in the drive-through lane, the lane can be extended further into the existing vacant parking area on which this

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building would be constructed. He further noted that the proposed drive-through lane does not interfere with the parking area for the building.

Mr. Bender showed the Board the proposed elevation of the building in two different color styles. He stated that the lower portion of the building would be either split face block or brick and the upper portion of the building would be drivet material or siding.

Mr. Reilly stated that this property lies in the Village Transition Area of the Camp Road Overlay District, which requires that new commercial buildings have a residential look to them.

Mrs. desJardins stated that, per the Camp Road Overlay District requirements, the applicant must submit a landscape plan done by a registered landscape architect and details of the proposed ground sign.

Mr. Reszka made a motion, seconded by Mrs. Rogers, to schedule a public hearing for January 21, 2008. Carried.

Engineering Department comments are attached

### **15 Buffalo Street Partners LLC**

Andrew Gow from Nussbaumer & Clarke appeared on behalf of the proposed project.

Mr. Reilly stated that the applicant proposes a commercial building on this property. He further noted that there are wetlands on the property that will be avoided.

It was determined that the Board will further review this proposal at its next meeting.

Mr. Taber made a motion, seconded by Mr. McCabe, to table this proposal. Carried.

Engineering Department comments are attached.

### **John Kuebler (vacant land, east side of McKinley Parkway, south of Dorchester)**

John Kuebler, applicant, and Terry Myers from LBM Construction appeared on behalf of the proposed project.

Chairman Koenig stated that Mr. Kuebler's property was rezoned from HC to C-2 on January 5, 2009 with several conditions, one of which is that a deed restriction will be placed on the property that no automotive uses will be located there.

Mr. Reilly stated that the site plan submitted does not show Mr. Kuebler's entire property, but rather just a portion of the property. He further stated that the site plan submitted meets all zoning requirements and no variances are required.

Mr. Reilly noted that Mr. Kuebler has spoken to him about the possibility of moving the building closer to McKinley Parkway than the required forty feet. He stated that, under the McKinley

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Parkway Overlay regulations, the Planning Board can waive the forty foot requirement by a distance of five feet, thus allowing the applicant to place the building 35 feet from McKinley Parkway. He further stated, however, that if the applicant wishes to place the building any

closer than 35 feet from McKinley Parkway, a variance from the Zoning Board of Appeals would be required.

Chairman Koenig asked Mr. Kuebler what incentive the Zoning Board of Appeals would have to grant a variance for the building to be closer to the road when the proposed building is already much further from the rear lot line than what is required. Ms. Myers responded that, besides wanting to locate the building as far away as possible from the neighbors on Allendale Parkway, the applicant wants a large rear yard so that a potential customer can look out the back of the building and see a yard that could resemble a home's back yard in which a pool could be placed.

Ms. Myers stated that, because the McKinley Parkway right-of-way is large, the applicant is concerned that if the forty foot required setback is adhered to, the building will not be as visible from McKinley Parkway as he would like.

In response from a question from Chairman Koenig, Ms. Myers stated that the applicant would like to install a solid vinyl fence along his rear property line.

Mr. Reilly stated that if the applicant has any plans to use the area behind the building for anything whatsoever, he should make the Planning Board aware of it at this time and show it on the site plan. He further stated that if the applicant does not show any outside displays or other uses in the rear portion of the site and then subsequently puts pools up, for example, he will be in violation of the site plan approval.

Mr. Kuebler stated that he would like to have samples of pools, yard accessories, etc. in the summer months.

Attorney McKenna stated that, rather than labeling any uses for the rear portion of the property as "potential", he would prefer that the applicant indicate exactly what he intends to do with that area. Mr. Kuebler responded that the nature of the business he is getting into varies and he does not know what he might display behind the building other than pools. It was agreed that the applicant will label the area he would like to use for display as "display area".

Mr. Kuebler was advised that there is to be no outdoor storage of any kind behind the building.

The Board discussed with Mr. Kuebler how close to McKinley Parkway he would like the building to be. Mr. Kuebler stated that he would like the building as close to the road as possible. It was determined that he should speak to the Engineering Department about how much land is required between the road and the parking lot to install utilities, etc. Mr. Kuebler was also advised that if he is allowed to reduce the required forty feet of green space, he will have to enhance the setback area with heavy landscaping.

Board members agreed that reducing the required green space area from forty feet to 35 feet would be acceptable, but Mr. Kuebler indicated that he would prefer to reduce the green space area further to twenty feet. He was reminded that he would have to request a variance from the Zoning Board of Appeals for a reduction of that magnitude.

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Board members agreed that the sketch plan presented is acceptable to them. The applicant was advised that he can move to the site plan stage but must understand that he may or may not get the variance he wants for the building setback.

Mr. Taber noted that, although the members present do not have a problem with the sketch plan, two members were absent and may feel differently.

Mr. Reilly stated that the applicant can submit a new sketch plan at the Board's next meeting showing the building set back from McKinley Parkway whatever distance he wants to propose. At that time, the Planning Board can forward a recommendation to the Zoning Board of Appeals regarding the requested setback variance and Mr. Kuebler can attempt to get the variance. Mr. Reilly further stated that, assuming Mr. Kuebler receives the variance, he would then return to the Planning Board with full site plans for site plan approval.

Mr. Reilly stated that he would not like to see the applicant have full site plans done before he receives the setback variance because if a variance is not granted, the applicant would have to have the site plan changed.

Mrs. Rogers stated that she would like to see a colored elevation of the proposed building, as well as samples of the proposed materials to be used for the building.

It was determined that the project will be placed on the Board's January 21, 2009 meeting agenda.

Engineering Department comments are attached.

Mrs. Rogers made a motion, seconded by Mr. McCabe, to approve the minutes of December 17, 2008. Carried.

Mr. McCabe made a motion, seconded by Mr. Taber, to adjourn to executive session to discuss a personnel issue. Carried.

Following the executive session, Mrs. Rogers made a motion, seconded by Mr. McCabe, to adjourn the meeting. Carried.

The meeting was adjourned at 9:45 P.M.

Respectfully submitted,  
Stephen J. McCabe, Secretary  
Planning Board