

Town of Hamburg
Planning Board Work Session
February 6, 2008
Minutes

The Town of Hamburg Planning Board met for a Work Session on Wednesday, February 6, 2008 at 7:30 p.m. in Conference Room #1 in Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Gerard Koenig, Vice Chairman David Phillips, Steve McCabe, Richard Taber, Peter Reszka and Sasha Yerkovich.

Others in attendance included Andrew Reilly, Sarah desJardins, Attorney Donald McKenna, Attorney Timothy Quinlivan and Councilman Kevin Smardz.

Excused: Karen Rogers

Brierwood Square – Benderson Development

Tony Battista and Jim Rumsey, both from Benderson Development, appeared on behalf of the proposed project.

Mr. Reilly stated that Benderson Development is proposing +/- 108,000 sq.ft. of retail, office and restaurant space in the old Brierwood Square Plaza and reminded the Board that Wal-Mart has already been approved for the balance of the plaza site. He explained that several of the buildings on the site plan are labeled "retail/restaurant", which indicates that the buildings will either be retail or restaurant.

Mr. Reilly noted that when the Wal-Mart project was approved, Erie County had some concerns regarding the location of the driveway accessing Rogers Road. He asked Mr. Battista if the County ever signed off on the location of the driveway when the Wal-Mart was approved. Mr. Battista responded in the affirmative, noting that the concern revolved around the turning lane associated with the driveway.

Chairman Koenig stated that the Planning Board originally asked that the turning lanes onto Rogers Road be installed at the time Wal-Mart is constructed, but the County did not approve that.

Mr. Reilly noted that the Planning Board is extremely concerned about the aesthetics of the back of the building that is parallel to Rogers Road, as well as the proposed landscaping throughout the project.

Mr. Reilly reviewed the Engineering Department comment memo, noting that the

address Benderson is using for the project is incorrect, utility plans and the location of the dumpsters must be submitted, the Landscape Plan must be reviewed and approved by the Planning Department and that the Engineering Department recommends that the Planning Board consider requiring sidewalks along Rogers Road.

Mr. Reilly noted that the Building Inspector has determined that this project will require a Special Use Permit because the aggregate building size is greater than 100,000 square feet. He further stated that the applicant can appeal that decision to the Zoning Board of Appeals if they so choose.

Mr. Reilly stated that if the Planning Board approves the site plan for the layout of these buildings and as the applicant develops the site, if the sizes of the buildings are different than what was approved, the Building Inspector will determine whether or not the change is substantial. If he determines that it is, he will refer it back to the Planning Board for additional review and approval.

The appearance of the back of the largest proposed building (along Rogers Road) was reviewed, along with the location of the loading dock at the back of the building.

It was determined that the proposed office building would be one story in height. Mr. Reilly stated that the Planning Board would approve that building for office use and that if in the future the applicant wishes to put a retail or restaurant use there, they would have to come before the Planning Board for approval of the new use.

The Planning Board discussed the fact that this parcel is located in the Southwestern Boulevard Overlay District and that the required fifty feet of green area along Southwestern Boulevard is shown on the sketch plan.

In response to a question from Mr. Phillips, Mr. Battista stated that the intersection of the new driveway and Rogers Road would not be signalized because the County did not feel it is warranted.

Mr. Reszka asked Mr. Battista whether there would be enough parking spaces on the site if all of the buildings labeled "retail/restaurant" became restaurants. Mr. Battista responded that in that case there probably would not be enough parking spaces per the Town Code. Mrs. desJardins noted that the sketch plan as presented assumes that 90% of the retail/restaurant buildings would be retail and 10% would be restaurant use, which is how the applicant arrived at the number of parking spaces provided.

It was determined that if the applicant leases more than 10% of the retail/restaurant area to restaurants, they will have to reduce the size of the retail buildings so that enough parking spaces are provided per the Town Code.

It was determined that the applicant will be present at the Planning Board's February 20, 2008 meeting for a formal presentation regarding this proposed project.

Engineering Department comments are attached.

Benderson Development – Proposed Bank (5334 Southwestern Boulevard)

Chairman Koenig noted that, because agenda item #2 (Benderson's proposed bank) and agenda item #5 (discussion of the rezoning of 5334 Southwestern Boulevard) address the same piece of property, the Board would discuss both items simultaneously.

Tony Battista and Jim Rumsey, both from Benderson Development, appeared on behalf of the proposed project.

Mr. Reilly stated that Benderson proposes to construct a +/- 3,000 sq.ft. bank on property just north of Bank of America in front of the Brierwood Square plaza property. He further noted that Benderson Development purchased the property, which is currently zoned R-3, and has requested that it be rezoned to C-2 to allow for the construction of a bank building. He stated that the Planning Board can give the applicant direction on the sketch plan and send a recommendation to the Town Board regarding the rezoning request, and if the property is rezoned, then the Planning Board can act on the request for site plan approval.

Mr. Reilly stated that the proposed westernmost driveway onto Southwestern Boulevard is not acceptable to the Town because of its proximity to the turning lane into the plaza, as well as the Bank of America building. He asked Mr. Battista if Benderson has the signed cross-access agreement with Wal-Mart, which was a condition of the environmental review during the Wal-Mart approval process. Mr. Battista responded that if Benderson does not yet have the cross-access agreement, they will get it.

Mr. Reilly noted that this property is located in the Southwestern Boulevard Overlay District and, as such, a fifty foot landscaped area is required along Southwestern Boulevard. The sketch plan submitted only provides a 35-foot landscaped area. He stated that either a variance would be required or the sketch plan must be amended to provide for the required landscaped area. He further noted that if the Planning Board decides to issue a positive recommendation to the Zoning Board of Appeals regarding the Overlay requirement, the 35-foot green area would have to be very heavily landscaped.

Mr. Reilly stated that the Town would like the applicant to provide a cross-access

agreement with the property to the north of this parcel, in case it is ever needed. Additionally, the parking requirements for banks with drive-up tellers were discussed.

The Engineering Department comment memo was discussed with the applicant.

Chairman Koenig noted that the Planning Board will issue a recommendation to the Town Board on February 20, 2008 regarding the requested rezoning from R-3 to C-2. He further noted that the Town Board will hold a public hearing on this rezoning request on February 25, 2008.

It was determined that the applicant will be present at the Planning Board's February 20, 2008 meeting for a formal presentation regarding this proposed project.

Engineering Department comments are attached.

Hamburg Crossings Draft Environmental Impact Statement (DEIS)

Mr. Reilly stated that the DEIS for the proposed Hamburg Crossings project on Camp Road has been completed and is being reviewed for completeness. He further stated that the applicant has been asked to address approximately ten issues that were in the Scoping Document but that were not addressed in the DEIS and the applicant is currently making those changes. Once the changes are made and the document is considered complete, the applicant will submit 35 to 40 copies for review by the involved agencies and Town departments and boards.

Mr. Reilly noted that when the property was rezoned for M.J. Peterson, one of the conditions of the rezoning was that buffers would remain in certain areas of the site and that the area behind the creek will be dedicated to the Town of Hamburg and kept in its natural state. Benderson Development will be required to adhere to these conditions.

Mr. Reilly explained that the Hamburg Town Board cannot act on the rezoning request from industrial to commercial until the environmental review process is complete. He further noted that the DEIS will be available for review by the Planning Board once the Town Board determines that the document is complete and adequate for review.

In response to a question from Chairman Koenig, Mr. Reilly stated that the DEIS will include a discussion of the suggestion that the Thruway Authority consider reworking the ramps to Camp Road in this area. He noted that the Thruway Authority has indicated that it will not consider this at the current time, although

the Town of Hamburg would still like to see an at-grade interchange at Camp Road and would like to see the ramps removed in the future. The DEIS will show how the Benderson property would be affected if, in the future, the interchange is reworked to be an at-grade interchange and the ramps are removed.

Mr. Reilly stated that the Thruway Authority's position is that at this time an at-grade ramp would work, but the concern is that in the future the at-grade entrance would be so busy that they would have to purchase land back and reinstall the ramps to alleviate the congestion at the interchange.

Chairman Koenig asked the applicant if there is a possibility that the site plan as presented at this time could change, based on which tenants Benderson secures and what size buildings those tenants may require. Mr. Battista responded that he does not anticipate the footprints of the proposed buildings to change.

Mr. Reilly stated that protecting the residents behind this property is foremost in importance. Mr. Battista noted that a heavily wooded 150' buffer area will remain between the residents on Creekview Drive and this project.

In response to a question from Mr. Taber, Mr. Battista stated that the project will be constructed in phases.

Engineering Department comments are attached.

Omni Pain & Wellness Center – Camp Road

Doug Hutter of Zaxis Architectural appeared on behalf of the project.

Mr. Reilly stated that this project is proposed next to the medical office building that was approved by the Planning Board in 2007 and which just recently was completed. The Board members agreed that they very much like the aesthetics of the medical building just completed and were pleased to hear that the proposed building will have the same look.

Mr. Reilly noted that the applicant is not proposing an additional curb cut onto Camp Road, but rather is proposing to use the existing entrance that will be shared with the existing medical building.

In response to a question from Vice-Chairman Phillips, Mr. Hutter stated that a ground-mounted sign is proposed for the medical office building. He further noted that the dumpster that serves the existing medical building will also be used by the new building and that the existing 50' conservation area in the rear of the property is shown on the site plan and will not be disturbed.

Mr. Hutter noted that the detention pond in front of the existing medical building will also serve the proposed building and therefore no additional detention area will be required.

Mr. Reilly stated that the Planning Board may schedule a public hearing at the next meeting for March 19, 2008.

Mr. Reilly noted that the Planning Board will be looking for more detail regarding the project, such as a landscape plan and a utility plan.

It was determined that the applicant will be present at the Planning Board's February 20, 2008 meeting for a formal presentation regarding this proposed project.

Engineering Department comments are attached.

Villas at Brierwood

Michael Metzger, engineer, appeared on behalf of Mr. Eric Krull, the applicant's representative.

Mr. Reilly stated that during the review process for this project, the applicant submitted plans to the Planning Board indicating areas of existing vegetation that would be preserved as green space. Subsequently, the applicant hired an engineer to draw up the construction plans, which were then submitted to the Engineering Department. Upon reviewing those plans, the Engineering Department determined that the construction plans required that some of those vegetation areas be removed due to the site grading work. The applicant was advised that their options are to change the grading plan to preserve those areas or return to the Planning Board with an acceptable mitigation plan showing how this concern can be remedied. One option would be to install an expensive retaining wall between the units and the green area.

Mr. Taber reminded the Board members that there were several major issues raised during the review and approval process of this project and this is yet another issue the Board has to wrestle with.

Mr. Reilly stated that approval of this project required an amendment to the Comprehensive Plan, a rezoning and an Environmental Impact Statement.

Mrs. Yerkovich stated that she feels that this a case of misrepresentation on the part of the applicant, as they submitted a landscape to the Planning Board for approval without having had a grading plan done and could not have known whether or not the landscape plan would work. She further stated that the

Planning Board therefore forwarded a positive recommendation to the Town Board regarding this project based upon misinformation.

Mr. McCabe stated that the Environmental Impact Statement strongly emphasized that a major effort would be made to preserve and maintain green space on the site, and that was an important reason why the project was ultimately approved. He feels that now the applicant is indicating that the green space to be preserved and maintained will not exist.

It was the consensus of the Board members that this is a major change and the applicant will have to obtain Planning Board approval of a revised landscape plan.

It was determined that the applicant will be present at the Planning Board's February 20, 2008 meeting for a formal presentation and explanation of how this problem could be mitigated.

Vice Chairman Phillips made a motion, seconded by Mrs. Yerkovich, to approve the minutes of January 16, 2008 as amended. Carried.

The meeting was adjourned at 9:00 p.m.

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board