

**Town of Hamburg**

**Planning Board Meeting**

**March 21, 2007**

The Town of Hamburg Planning Board met in regular session on Wednesday, March 21, 2007 at 7:30 p.m. in Room 7B of the Hamburg Town Hall. Those attending included Chairman Gerard Koenig, Secretary Paul Eustace, Sasha Yerkovich, Steve McCabe, Richard Taber and David Phillips. Others attending included Sarah desJardins, Richard Lardo and Attorney Don McKenna.

Excused: Karen Rogers, Attorney Michael Fruth

**Public Hearing, Pleasant Avenue Two-Lot Subdivision**

Secretary Eustace read the following Legal Notice of Public Hearing:

Chairman Koenig declared the hearing open.

Mr. Gary Dillsworth, applicant, appeared on behalf of the subdivision proposal. He explained that he wishes to divide an approximately 6.3-acre parcel into two parcels. The parcels would be approximately four acres and approximately two acres in size. He further noted that the parcel to be subdivided is adjacent to his existing home.

Mrs. desJardins stated that there are no planning issues of concern regarding this request.

Chairman Koenig asked three times if anyone in the audience wished to be heard for or against the subdivision. Hearing no comments, the Chairman closed the public hearing.

Mr. Phillips made a motion, seconded by Mr. Eustace, to approve the preliminary plan, waive the filing of a map cover, waive the sidewalk requirement and issue a Negative Declaration. Carried.

Engineering Department comments are attached.

### **Southwestern Senior Housing**

Mr. Eustace made a motion, seconded by Mr. McCabe, to table this project at the request of the applicant. Carried.

### **Stonebridge Subdivision**

Mr. Sean Hopkins, attorney and Carl Calarco, project engineer appeared on behalf of the proposed 38-lot patio home development to be located on the northeast corner of McKinley Parkway and Newton Road.

Attorney Hopkins stated that 16 acres of the parcel will remain as open space. He further noted that the applicant proposes that the open space be owned by a homeowners' association and subject to a permanent conservation easement so that the public and the Town is assured that at no point in the future would that open space be developed.

Regarding sanitary sewer access, Attorney Hopkins stated that the applicant met with Erie County Division of Sewer. Mr. Calarco told the Board that there is one major revision to the preliminary plat plan regarding the sewer, which is that the sewer will outlet south to an existing manhole located along Newton Road. Erie County has agreed to this plan for the sewer. Mr. Calarco further stated that the applicant has agreed to give permanent easements for the sewer and required pump station.

That portion of the sewer system will be private and will be owned and operated by the homeowners' association.

Mr. Calarco stated that the blow-off valves for the gas lines have been located on the preliminary plat plan. He further noted that he spoke with National Fuel and was informed that the blow-off valves are only used in emergency situations. The applicant has submitted the preliminary plat plan to National Fuel and is awaiting its input, which will be forwarded to the Planning Board for its review. He stated that the applicant also spoke to National Fuel regarding the Board's concern about homes being located in relatively close proximity to the gas lines. National Fuel informed the applicant that this particular transmission line already receives the maximum attention in terms of maintenance because a large amount of residential development is already located near the gas line.

Attorney Hopkins requested that the Board schedule a public hearing for Preliminary Approval for April 18, 2007. After discussing the request, the Board agreed to do so.

Mrs. Yerkovich made a motion, seconded by Mr. Eustace, to schedule a public hearing for April 18, 2007 with the understanding that if, at its April 4, 2007 work session, the Board decides a public hearing is not appropriate, it will rescind the scheduling of the public hearing for April 18<sup>th</sup>. Carried.

Mrs. Yerkovich made a motion, seconded by Mr. Eustace, to table this project. Carried.

Engineering Department comments are attached.

### **First Niagara Bank**

Mr. Frank Brzezinski, landscape architect and Mr. Mike Giaquinto, representing First Niagara Bank appeared on behalf of the proposed project. Mr. Giaquinto stated that the applicant is hoping to receive approval of the revised sketch plan presented to the Board at its March 7, 2007 work session. He noted that the revised sketch plan reflects the bank's efforts to address the Board's concerns by adding sidewalks along Orchard Avenue, as well as a park-like setting to improve the aesthetics of the area and give nearby residents a park to enjoy. He stated that the bank has also tried to address the Board's concerns regarding after-hours parking in the bank's parking lot by agreeing to post signs in the parking lot disallowing parking there after the bank has closed.

Mr. Giaquinto further noted that the bank's feeling is that the exit to Orchard Avenue is a necessity in order to make it safe for its client base. He feels that the traffic volume generated by this bank would not be significant, as clients would use the bank between the hours of 9:00 am and 4:00 or 5:00 pm and there would be some ATM traffic in the early evening hours.

Chairman Koenig stated that he thinks the traffic volume will be minimal from the bank and whether there is just the exit to Route 5 or there is the exit to Route 5 and the exit to Orchard Avenue, the traffic will not be heavy in either case. He asked Mr. Giaquinto if the exit to Orchard Avenue would be left open at night for ATM traffic and Mr. Giaquinto responded in the affirmative. He explained that the exit could be roped off, however, if the residents wished to hold a block party in the green area, for example.

Mrs. Yerkovich stated that the Board has many planning tools at its disposal that indicate that Route 5 can handle additional traffic and that traffic calming measures have been successful along that roadway. She also noted that Hamburg's Master Plan indicates that entrances, exits and cut-thrus are to be discouraged in residential areas for commercial uses. She considers this to be a small-volume bank that would not open until after the morning peak traffic hours for Route 5 have ended. She is uncomfortable with ignoring the planning tools that are at the Board's disposal and feels that eliminating the exit to Orchard Avenue would not be a hardship for the bank or its clients. Additionally, she feels that the addition of a sidewalk along Orchard Avenue would not solve the problems the street already experiences in terms of traffic volume and the size of the roadway itself.

Mr. Taber noted that, although he is struggling with this decision somewhat, he does acknowledge that Orchard Avenue experiences large amounts of traffic. He stated that the addition of a sidewalk might resolve some of the residents' problems because perhaps in the future more sidewalks might be built in the area to adjoin the proposed sidewalk behind the bank.

Mr. McCabe stated that the biggest issue regarding this project seems to be the residents' opposition to anything that would increase traffic on Orchard Avenue. He noted that it appears that the applicant has not been able to revise the plan to ease the neighbors' concerns in this area and asked Mr. Giaquinto if eliminating the exit to Orchard Avenue would be a deal-breaker. Mr. Giaquinto responded that that scenario would indeed be a deal breaker.

Mr. McCabe explained that when the Board is considering a commercial use near a residential area, it must listen to the residents of that area, as they are the primary stakeholders.

Mr. Phillips stated that he sees no reason to allow an exit to Orchard Avenue. He noted that a large number of children play in that street. He further stated that the existing parking area on the property is posted to the effect that no parking is allowed there after hours and people park there anyway. He is opposed to the exit to Orchard Avenue.

Mr. Eustace stated that he appreciates the concerns of the Orchard Avenue residents, feels that one exit is sufficient for the bank's needs and is opposed to allowing an exit to Orchard Avenue.

Mr. Giaquinto reiterated that First Niagara Bank feels the exit to Orchard Avenue is a necessity in order for this project to be successful.

The Chairman recognized resident Joe Killian in the audience and allowed him to express his concerns. Mr. Killian stated that Orchard Avenue is like a giant bike trail that the Town allows vehicles to use, while Route 5 is capable of handling the relatively small amount of traffic generated by the bank. He further stated that the residents feel the exit to Orchard Avenue will be used as a cut-thru, especially by bar patrons in the evenings and on weekends.

The Chairman recognized resident Christine Killian and allowed her to comment. She stated that there are many walkers on Orchard Avenue at all hours and the addition of a sidewalk will not alleviate the problem because it is a "sidewalk to nowhere." She further noted that the residents want their neighborhood to stay residential in nature.

Mr. Phillips made a motion, seconded by Mr. Eustace, to give First Niagara Bank sketch plan direction that the Planning Board will not approve a driveway out onto Orchard Avenue. The motion being five (5) members in favor and one (1) opposed (Chairman Koenig), the motion carried.

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

Engineering Department comments are attached.

### **North Forest Office Providers**

Mr. McCabe made a motion, seconded by Mr. Eustace, to table this project at the request of the applicant. Carried.

Engineering Department comments are attached.

**Benderson Development, Inc.**

Mr. Tony Battista and Mr. James Rumsey, both of whom represent Benderson Development, appeared on behalf of the proposed project to be located on the southwest corner of McKinley Parkway and East Highland Avenue.

Mr. Battista stated that Benderson is hoping to receive sketch plan approval for this project. He also requested a Planning Board recommendation to the ZBA regarding the request Benderson will be making to that Board for a variance to install 36 fewer parking spaces than the Code requires.

Chairman Koenig referenced a comment from the Engineering Department that the request for abandonment of Burke Parkway may not be viable. He asked Mr. Battista how the location of the project's detention area would be affected if Burke Parkway is not abandoned. Mr. Battista responded that the detention area is proposed along the southern lot line and therefore would not be affected if Burke Parkway is not abandoned. Additionally, he commented that if Burke Parkway were abandoned, it would allow Benderson to provide additional parking spaces.

Mr. Rumsey presented to the Board a rendering of what the proposed patios that would encroach on the McKinley Parkway Overlay green area would look like. The Board expressed its satisfaction with the renderings presented. It was confirmed that if the Board feels the patio areas would enhance the 40-foot green area, it can allow them.

The Board expressed its satisfaction with the sketch plan and indicated that the applicant can move to the site plan review stage.

Mr. Phillips made a motion, seconded by Mrs. Yerkovich, to forward a positive recommendation to the Zoning Board of Appeals regarding the shortage of 36 parking spaces with the understanding that the Building Inspector will monitor the applicant's parking space availability versus building uses.

Mr. Phillips made a motion, seconded by Mr. Eustace, to table this project. Carried.

Engineering Department comments are attached.

**People, Inc.**

Mr. Tracy Harrienger, Attorney for People Inc. and Rhonda Fredericks, representing People, Inc. appeared on behalf of the project.

Mr. Phillips did an on-site inspection of the parcel and reported to the Board that he feels this is an excellent use of the property, given its location.

Mr. Lardo expressed the Engineering Department's concerns regarding access and the availability of sewers and water to service the parcel. He stated that these issues will need to be resolved.

Regarding access, Attorney Harrienger stated that the Town's attorneys are working on the abandonment of the final piece of Eliot Road. Mr. Lardo responded that to abandon the rest of that paper street would be to land lock the other property owner along the paper street. Mr. Harrienger stated that the Town is attempting to contact the owner in question and research the possibility of abandoning the street with easements. Mr. Lardo responded that if the abandonment does not go through, the rezoning may not be approved.

Ms. Fredericks noted that it is her understanding that the Town Board could approve the rezoning with the condition that the abandonment goes through. Mrs. Yerkovich confirmed that the Planning Board only recommends on rezonings and that it is the Town Board's responsibility to approve or deny the request.

Mr. Lardo noted that the legal description submitted to the Town by the applicant for this property is not acceptable. Attorney Harrienger asked Mr. Lardo what is unacceptable about the legal description submitted. Mr. Lardo responded that the legal description does not match the survey because the survey includes a paper street that People, Inc. does not own. Attorney Harrienger stated that it is the intent of People, Inc. to rezone the part of the paper street once it is abandoned. He noted that the impression he has received from Town representatives is that the rezoning request is the first step and then if the Town decides to approve the rezoning, abandonment of the paper street would be considered.

Mr. Phillips made a motion, seconded by Mr. Eustace, to forward a positive recommendation to the Town Board regarding this rezoning request from C-2 to NC on behalf of People, Inc. as it is a very effective use of the property, especially given its location. The Planning Board has concerns regarding the sanitary sewers and public water, as well as the abandonment of the paper street that should be addressed by the Town Board. Carried.

Engineering Department comments are attached.

**Southampton Commons – North side of Big Tree Road**

Mr. Eustace made a motion, seconded by Mr. Taber, to table this project at the request of the applicant. Carried.

**Hopevale Townhomes (Sherwood Meadows)**

Mr. Phillips made a motion, seconded by Mrs. Yerkovich, to table this project, as the applicant was not represented. Carried.

A motion was made by Mr. Phillips, seconded by Mr. Eustace, to accept the minutes of the February 7, 2007 work session. Carried.

A motion was made by Mr. McCabe, seconded by Mr. Phillips, to approve the minutes of the February 21, 2007 meeting. Carried.

A motion was made by Mr. Phillips, seconded by Mr. Eustace, to adjourn the meeting. Carried.

The meeting was adjourned at 8:31 p.m.

Respectfully submitted,

Paul Eustace, Secretary

Planning Board