

**Town of Hamburg**  
**Planning Board Meeting**

**April 18, 2007**

The Town of Hamburg Planning Board met in regular session on Wednesday, April 18, 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, Karen Rogers and David Phillips. Others in attendance included Andrew Reilly, Sarah desJardins, Richard Lardo, attorney Don McKenna and attorney Michael Fruth.

**Public Hearing - Stonebridge Subdivision**

Mr. Phillips read the following Legal Notice of Public Hearing:

"Notice is hereby given that the Town of Hamburg Planning Board will hold a public hearing on a proposed 38-lot patio home development known as Stonebridge Subdivision (northeast corner of McKinley Parkway and Newton Road) on April 18, 2007 in Room 7B, Hamburg Town Hall, at 7:30 p.m. The legal description of the property is as follows:

All that tract or parcel of land, situate in the Town of Hamburg , County of Erie and State of New York, being part of Lot no. 43, Township 9, Range 7 of the Holland Land Company's Survey, bounded and described as follows:

Beginning at a point in the west line of Lot no. 43, being within the right of way of McKinley Parkway, a distance of 554.98 feet northerly, as measured along the west line of Lot no. 43, from the southwest corner of Lot no. 43;

Thence N01'04'47"E, along the east line of Lot no. 43, a distance of 75.00 feet to a point;

The following (4) courses and distances are along the north and west lines of lands of Glenn Wetzl, Liber 11085 of deeds at page 4183;

1) Thence S88'53'33"E, a distance of 150.00 feet to a point;

2) Thence N01'04'47"E, a distance of 35.00 feet to a point;

3) Thence S88'53'33"E a distance of 237.62 feet to a point;

4) Thence N01'04'47"E, a distance of 449.76 feet to a point in the south line of lands of Norbert F. Meyer, Liber 10204 of deeds at page 4183;

Thence S88'53'33"E along the said south line of Meyer, liber 10204 of deeds at page 330, a distance of 17.96 feet to a point;

Thence N01°04'47"E along the west line of lands of Glenn Wetzl, Liber 11125 of deeds at page 1642, a distance of 216.40 feet to a point at the northwest corner of said lands of Wetzl, Liber 11125 of deeds at page 1642;

Thence S88°53'33"E, along the said lands of Wetzl, Liber 11125 of deeds at page 1642, a distance of 1598.80 feet to a point at the northeast corner of lands of said Wetzl, Liber 11125 of deeds at page 1642;

Thence S01°04'47"W along the east line of said lands of Wetzl, Liber 11125 of deeds at page 1642, a distance of 216.40 feet to a point at the southeast corner of said lands of Wetzl, Liber 11125 of deeds at page 1642;

Thence N88°53'33"W along the south line of said lands of Wetzl, Liber 11125 of deeds at page 1642, a distance of 718.77 feet to a point;

Thence S01°04'47"W, along the east line of lands of Wetzl, Liber 11085 of deeds at page 4183, a distance of 1114.74 feet to a point in the south line of Lot no. 43, being within the right of way of Newton Road;

Thence N88°53'33"W, along the south line of Lot no. 43, a distance of 60.27 feet to a point;

The following (4) courses and distances are along the west and south lines of Glenn Wetzl, Liber 11085 of deeds at page 483:

- 1) Thence N01°04'27"E, a distance of 248.91 feet to a point;
- 2) Thence N88°53'33"W, a distance of 690.72 feet to a point;
- 3) Thence N01°04'47"E, a distance of 306.07 feet to a point;
- 4) Thence N88°53'33"W, a distance of 534.75 feet to the point or place of beginning, containing 25.96 acres of land."

Attorney Sean Hopkins, along with Mark Alienello and Carl Calarco, engineers, appeared on behalf of the proposed subdivision. Mr. Calarco stated that they have met with representatives of National Fuel relative to the high pressure line that runs through the property and have received a verbal confirmation that National Fuel has no objections to the proposal. A written correspondence will be forthcoming from National Fuel.

Attorney Hopkins confirmed that the applicant is willing to deed restrict the land to be left open on the parcel as a permanent easement area in order to assure the Town that that land will remain permanent open space and will never be developed.

Mr. Alienello stated that the project will be sewered by Erie County and the developer will build gravity sewers within the development that will drain to a pump station.

In response to a question from Chairman Koenig regarding the proposed layout of the mail pick-up area, Mr. Alienello explained that there will be a paved pull-off located on the north side of the private road, as well as a paved area opposite it on the south side of the road to allow enough radius for residents to return to the development if approaching the pick-up area from inside the development.

Attorney Hopkins explained to the Board that the Homeowners' Association will be responsible for the ownership and maintenance of all the common open space within the development.

Mr. Reilly stated that under the Town's cluster development law, the project is required to provide 40% open space and that the open space provided is not being dedicated to the Town to relieve the applicant of the recreational impact fee that is required. He further noted that there are recreational needs in this area of town, but that there is no suitable land on the parcel for active recreation. Therefore the applicant will provide the \$1,000 per lot recreation fee that will be used by the Town to improve existing recreation facilities in the area.

Mr. Reilly noted that the Conservation Advisory Board is still very concerned about the high pressure gas line running through the property and has recommended that the Planning Board not take action on this subdivision until a letter is in the Board's hands from National Fuel.

Chairman Koenig declared the public hearing open. He then asked if anyone in the audience wished to speak for or against the proposal.

Mr. Los of McKinley Parkway expressed concern regarding the location of the gas line, the large number of deer on the property and the fact that he does not want to look at the backs of homes. He showed the Board where he lives relative to the development and asked that fences be built if any homes are proposed near his property. He also asked about the drainage in the area and Mr. Alienello responded that the homes on McKinley Parkway will continue to drain onto this parcel. This runoff will be controlled with surface swales and directed into the storm sewers along Newton Road.

Donna Gordon of McKinley Parkway asked if a berm is planned along the back of her property behind her lot and the proposed homes. Mr. Alienello responded that a shallow swale is proposed, but a berm is not. Ms. Gordon clarified that she does not want a berm built because she feels it will exacerbate her drainage problems.

Donna Gelotte, 4845 Newton Road asked what she would have to do to get the sewer line extended from McKinley Parkway down Newton Road so that she could tie into the system. Mr. Alienello responded that he has spoken to Erie County about her concern and was told that she would have to hire an engineer and put a preliminary design together for the County to review and approve.

Chairman Koenig declared the public hearing closed.

Chairman Phillips made a motion, seconded by Mrs. Yerkovich, to table this project pending receipt of the document from National Fuel. Carried.

Mr. Reilly asked the Board members if they would like the Planning department to prepare the paperwork for possible approval of this project. The members indicated that that would be appropriate.

Engineering comments are attached.

### **Public Hearing - North Forest Office Providers**

Mr. Eustace read the following Legal Notice of Public Hearing:

"Notice is hereby given that the Town of Hamburg Planning Board will conduct a public hearing on a proposed office park known as North Forest Office Providers on a 12.73-acre parcel on Southwestern Boulevard near Maplewood Apartments across from the Meridia Credit Union. The commercial office park will consist of eight (8) one-story brick buildings totaling 117,490 square feet of office space, as well as 624 parking spaces."

Mr. Michael Borowiak of Nussbaumer & Clarke, Inc. and Mr. Roy Jordan, applicant, appeared on behalf of the project. Mr. Jordan explained to the Board that the site plan before them had been revised slightly to accommodate Engineering Department concerns regarding running a continuous sidewalk in front of the buildings, adding a second dumpster and curbing the entire site.

Mr. Reilly asked Mr. Jordan to address the Planning Board's previous concerns regarding the proposed dead end parking areas. Mr. Jordan stated that he has built between forty and fifty buildings with parking areas that contain dead ends and he has never had a problem. He further stated that he has observed in his other office parks that the same person tends to park in the same spot every day and therefore those spots are not being used by different people continually throughout the day. He would prefer not to reduce the amount of green space in order to change the layout of the parking area, especially since he does not think it will be a problem.

Mr. Reilly stated that the Planning Department is waiting for any comments the Fire Department might have regarding this project. Additionally, he stated that NYSDOT has advised him that that department has no objections to the project as proposed. A cross-access agreement will be put in place between this office park and the adjacent business (Southtown Market).

Mr. Taber asked the applicant to describe the signage proposed for the office park. Mr. Jordan responded that the entrance signs will be five feet tall, ground mounted and all brick with landscaping installed around them.

Mr. Jordan asked the Board for a recommendation to the Zoning Board of Appeals regarding the variance he will request for forty to fifty parking spots.

Chairman Koenig declared the public hearing open. He then asked if anyone in the audience wished to speak for or against the proposal.

Ms. Betty Newell of the Hamburg Chamber of Commerce stated that several years ago she and a group of people visited one of Mr. Jordan's office parks and felt that the office park was beautiful and creative and that his office park in Hamburg will be a positive for the Town. She feels this is something the Town needs.

Ms. Gail Vara asked if the Southtown Market owner is aware of the cross-access agreement that will be put in place. Mr. Reilly responded that the owner agreed to this as it was a condition of his approval for the market.

Chairman Koenig declared the public hearing closed.

Mr. Phillips made a motion, seconded by Mr. McCabe, to send a positive recommendation to the Zoning Board of Appeals regarding the parking variance the applicant will be requesting for approximately 55 parking spaces. Given the amount of green space to remain on the parcel, the Board would rather save this green space than require the applicant to install more parking spaces that are not necessary. Carried.

Board members agreed that the Planning Department will prepare the appropriate paperwork for approval for the Board's next meeting.

Mr. Phillips made a motion, seconded by Mr. Eustace, to table this project until the Board's next meeting. Carried.

Engineering comments are attached.

### **Southwestern Senior Apartments**

Mr. Michael Connors of Clover Construction Management appeared on behalf of the project.

Mr. Reilly stated that he met with NYSDOT and was informed that they are satisfied with this project and its impact on NYSDOT's drainage easement that runs through the property. Mr. Connors also received written correspondence from NYSDOT.

Mr. Connors noted that the site plan has been revised slightly based on comments received from NYSDOT.

Mr. Phillips made a motion, seconded by Mr. Eustace, to grant conditional site plan approval to this project, subject to the Engineering Department comments dated April 18, 2007 and to issue a Negative Declaration that was prepared by the Planning Department and dated April 18, 2007. Carried.

Engineering Department comments are attached.

### **Sherwood Meadows Townhomes**

Mr. Michael Borowiak of Nussbaumer & Clarke, Inc. appeared on behalf of the project.

Mr. Reilly stated that a public hearing could be scheduled for this project for May 16, 2007. He further stated that the applicant will be providing a \$1,000 per lot recreation fee, as no land is being offered to the Town. He explained that there are lands that will be protected, such as wetland areas that will probably be placed in a conservation easement and other open space that will be owned by the Homeowners' Association.

Mrs. Yerkovich asked about the road connection to Hopevale and it was confirmed that the road will be gated and only used in emergency situations. Mr. Reilly stated that an access agreement will be required, as the Board needs assurance that Hopevale is willing to allow the connection. Mr. Borowiak responded that a letter is forthcoming from Hopevale approving the connection.

Mr. Borowiak stated that a community mailbox area and access to it is now shown on the preliminary plat. Additionally, the preliminary plat shows buffering of the existing residences that will back up to this project. Mr. Borowiak also informed the Board that he has supplied a letter regarding the anticipated traffic impact of this project on the existing residential community in the area. Mr. Reilly stated that this traffic information will be forwarded to the Town's Highway Department for its comments.

Mr. Borowiak informed the Board that he is attempting to contact a representative of the Frontier School District to discuss the fact that this parcel of land is technically in the Hopevale School District and to inquire if the students living in this townhome development may attend the Frontier school system.

Mr. Phillips made a motion, seconded by Mr. Eustace, to table this project until May 16, 2007, at which time a public hearing will be held. Carried.

Engineering comments are attached.

**Villas at Brierwood**

Mr. Eric Krull appeared on behalf of the project.

Mr. Reilly explained that the draft Environmental Impact Statement (DEIS) has been submitted by the applicant and the Planning Board needs to send a recommendation to the Town Board regarding whether the document is “complete” (acceptable for public review) at this point. To send a recommendation that the document is complete, the Board does not have to agree with its content; rather, it has to believe that the document addresses all issues the Scoping Document required it to address.

Mr. Reilly further stated that a joint public hearing between the Town Board and the Planning Board will probably be held for this project because both boards have jurisdiction over different aspects of the project. The public hearing will deal with the DEIS, the requested rezoning of the property and possibly the actual site plan approval. At a later date, the Planning Board will decide whether to hold the public hearing on the site plan jointly with the Town Board or separately.

Mr. Reilly informed the Board that the DEIS is not a public document until the Town Board accepts it as complete, which it could do on April 23, 2007. At that time, the document will be considered adequate for public review and every Planning Board and Town Board member will receive a copy of the document to review. In addition, the DEIS will be available on the Town’s website, at Town Hall and possibly at the library.

Mr. Reilly stated that it is his recommendation that the DEIS should be accepted as complete and adequate for public review.

Mr. Phillips made a motion, seconded by Mr. Eustace, to inform the Town Board that the Planning Department has recommended that the submitted DEIS is complete. Carried.

Mr. Phillips made a motion, seconded by Mrs. Yerkovich, to table the project. Carried.

**Woods at Versailles Subdivision, Part Four**

Mr. Reilly informed the Board that the applicant asked to be removed from the agenda.

Mr. Phillips made a motion, seconded by Mrs. Yerkovich, to table the project. Carried.

**BQ Energy, LLC wind turbine project**

Mr. Mark Mitskovski, project manager for the Steel Winds project, appeared on behalf of the proposed project.

Mr. Reilly stated that on April 23, 2007 the Town Board would be holding a public hearing to consider a moratorium on windmills because the Board is not certain that the Town's regulations regarding windmills are adequate at this time. He further stated that the applicant is looking for some direction from the Planning Board and welcomes any comments the Board might have.

Mr. Mitskovski stated that his intention was to describe to the Board the current windmill project in Lackawanna and introduce the proposed project on adjacent property in the Town of Hamburg. He further stated that he also wished to address the moratorium issue and explained that the applicant has submitted comments regarding the moratorium to the Town Board and Planning Board.

Mr. Mitskovski stated that the applicant was permitted for ten windmills on the former Bethlehem Steel property, although the applicant was only able to purchase eight machines, which is why only eight have been erected. The project proposed would be an expansion project that would include three additional windmills in the Town of Lackawanna and six additional windmills in the Town of Hamburg. He noted that renewable energy generation is on the forefront and that the existing windmill project in Lackawanna has changed the image of Western New York. He noted that it is the first urban wind farm in the United States.

Mr. Mitskovski noted that this project would not consume any resources of the Town of Hamburg and would be a passive investment to the Town. No Town services would be required. He further stated that he is concerned because imposing a moratorium would mean that there could not be any dialogue between the applicant and the Town. Mr. Koenig noted that the purpose of the Town Board public hearing on April 23, 2007 is not to enact a moratorium, but rather to determine whether a moratorium is appropriate or not.

Mr. McCabe stated that there is much discussion in Hamburg about adaptive reuse of commercial sites and this would be a prime example of adaptive reuse of a brownfield.

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

Mr. Taber made a motion, seconded by Mr. Eustace, to approve the minutes of March 7, 2007. Carried.

Mrs. Yerkovich made a motion, seconded by Mrs. Rogers, to approve the minutes of March 21, 2007. Carried.

Mr. Phillips made a motion, seconded by Mr. Eustace, to adjourn the meeting. The meeting was adjourned at 9:35 p.m.

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Respectfully submitted,  
Paul Eustace, Secretary  
Planning Board