

Town of Hamburg  
Planning Board Work Session

May 7, 2008

Draft Minutes

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

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

Excused: Attorney Timothy Quinlivan

**Public Hearing, 7:30 P.M. Benderson Development – Brierwood Square**

Mr. McCabe read the following notice of public hearing:

“Notice is hereby given that the Town of Hamburg Planning Board will conduct a public hearing on a proposal by Benderson Development Co., LLC. The applicant proposes to construct a +/- 110,000 sq.ft. retail/restaurant/office development on property formerly known as the Brierwood Plaza, north side of Southwestern Boulevard, east of Rogers Road. A Special Use Permit is required because the aggregate building size is greater than 100,000 sq.ft. In accordance with the new Town of Hamburg site plan ordinance, a public hearing will be held on May 7, 2008 at 7:30 PM in Room 7B of Hamburg Town Hall.”

Mr. Reilly explained that the Planning Board previously held a public hearing on the proposed site plan for this project, but the required public hearing on the requested Special Use Permit was not held at that time, and therefore the Special Use Permit public hearing would be held at this meeting.

Tony Battista and James Rumsey, both of Benderson Development, appeared on behalf of the proposed project. Mr. Battista stated that he believes that Benderson has addressed all of the comments received from the public and from the Town of Hamburg at the site plan public hearing. He described the proposed project, stating that most of the buildings are labeled “retail/restaurant” and the northernmost building will be for office use and will probably be the last building built. He further noted that Benderson has a signed lease for the larger building.

Mr. Battista stated that he understands the Town's desire to have the buildings be compatible with the surrounding neighborhood in terms of the aesthetic impact they will have on the community, and as such the applicant's plan is for the rear of the larger building located along Rogers Road to have a "front" look to it, along with substantial landscaping.

Mr. Reilly noted that a traffic impact study was performed for Wal-Mart and this development, and the County has signed off on the location of the entrance on Rogers Road.

Mr. Battista agreed to install a sidewalk from the parking lot to Southwestern Boulevard between the liquor store parcel and the vehicle entrance to the plaza on Southwestern Boulevard. He also noted that updated drawings will be submitted to the Engineering Department before the Board's next meeting.

Chairman Koenig stated that it is his opinion that internal sidewalks are sufficient and that installing sidewalks along Rogers Road from the entrance to the plaza south to the property line is not necessary. He asked Councilman Smardz if there is any Town Board support for sidewalks along Rogers Road south to the property line. Councilman Smardz responded that the Town Board is in favor of the way the sidewalks are designed internally in the plaza.

Mr. Reilly stated that it should be noted that the Planning Board is not waiving sidewalks along Rogers Road because it does not want sidewalks; rather, the Board feels the internal sidewalks will be a better way of bringing pedestrians to the development.

Chairman Koenig declared the public hearing open. He then asked if anyone in the audience wished to speak in favor of or in opposition to the proposal. No one spoke.

Chairman Koenig declared the public hearing closed.

Mr. Phillips made a motion, seconded by Mr. Reszka, to approve the requested Special Use Permit for this project to construct a +/- 110,000 sq.ft. retail/restaurant/office development, as the Board has extensively reviewed this project. Carried.

Mr. Reilly noted that this project will be placed on the Board's next meeting for site plan approval.

Engineering Department comments are attached.

**Omni Pain & Wellness Center (Camp Road)**

Mr. Reilly stated that the applicant has requested that the Board table this project at this time, as the Engineering Department's concerns have not yet been satisfied. Mr. Reilly further noted that the Board has received correspondence from Paul Wilson, Chief of Lake Shore Volunteer Fire Company indicating the fire company's desire that the parking lots for Phase 1 and Phase 2 be connected in order for emergency vehicles to safely remove patients from potential hazards. Mr. Reilly also stated that there have been some concerns about the amount of parking and the applicant should strongly consider adding the extra parking discussed at the previous meetings.

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

Engineering Department comments are attached.

**Izzo Rezoning Request (Camp Road)**

Mr. Reilly stated that the Board will need some sort of sketch plan for this property in order to forward a recommendation to the Town Board on the applicant's rezoning request.

Mr. Battista stated that Mr. Izzo has contacted Benderson Development regarding its plans for development on the opposite side of Camp Road.

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

Engineering Department comments are attached.

**Oakwood Grove Subdivision**

Mr. Reilly stated that the applicant has requested that the Board table this project, as the applicant is preparing responses to the comments received at the public hearing held in May. He further noted that the New York State Department of Environmental Conservation has indicated that the entire site is located in an archeologically sensitive area and that a Phase 1 archeological investigation will have to be performed. Mr. Reilly stated that the Conservation Advisory Board will be forthcoming with a report regarding the existing woods on the south side

of Oakwood Avenue.

It was determined that the Planning Board is waiting for input from the Village of Blasdell and the County regarding water and sewer capacity.

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

Engineering Department comments are attached

### **Walgreen's – Legion Drive and Buffalo Street**

Tony Battista and James Rumsey, from Benderson Development, as well as attorney Sean Hopkins appeared on behalf of the proposed project.

Mr. Reilly stated that the Village of Hamburg Planning Commission's next meeting will be held on May 13, 2008 and asked if any Planning Board members would be able to attend that meeting, as the two boards have indicated their desire to have a joint meeting regarding this proposal. It was determined that the Planning Department will notify the Board members as to whether the Village Planning Commission wants Town Planning Board members to attend that meeting.

Mr. Phillips stated that he has serious problems with the proposed building being located right at the street, as well as with tractor trailers accessing the site from Walker Place. He further stated that he feels that this portion of South Park Avenue is the approach to the Village through the Town of Hamburg and the Board has required commercial buildings in that area of South Park to be set back from the road with a residential look.

Chairman Koenig noted that he prefers that the building be located right up to the street line.

Mr. Reilly stated that the Town Planning Board and the Village Planning Commission need to compile a list of all of their concerns and allow the applicant to attempt to address those concerns. If the applicant's responses and information are enough to satisfy the members of the two boards, the Planning Board can issue a Negative Declaration. If, on the other hand, the concerns are not alleviated by the applicant's information, the Board can issue a Positive Declaration and require that an Environmental Impact Statement be prepared.

Mr. Reilly stated that the Town Planning Board, as Lead Agency, will make the final decision regarding SEQR, but the Village's input will be very important and both entities will have to be in agreement regarding what the final project should look like.

It was determined that a public hearing may be held for this project in June.

Attorney Hopkins stated that the applicant met with the NYS Department of Transportation approximately two weeks ago and is in the process of evaluating some modifications to the plan. Attorney Hopkins further noted that the applicant's engineer has submitted a detailed response letter to the Board regarding comments received from the Town's Traffic Safety Advisory Board and the Village Traffic Safety Committee.

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

Engineering Department comments are attached.

#### **Woods at Versailles, Park IV**

Mr. Reilly stated that the applicant has asked that the Board table this project. He further stated that the applicant is working on a revised sketch plan for the subdivision that includes the elimination of the cul-de-sac and contains a large conservation area that includes most of the wetland area.

Chairman Koenig stated that initially he liked the revised layout but that he now has reservations because of the photos Mr. McCabe took that show how wet the property is, as well as the report submitted to the Planning Board by the Conservation Advisory Board indicating its concerns.

Mr. McCabe stated that, although the revised sketch plan solves some of the problems that have been identified, the larger question is how much of the site is really wetlands? He further stated that he does not feel that what is delineated as wetlands is anywhere close to what is actually wetlands. Mr. Reilly responded that the applicant did perform an updated wetland delineation and was led to believe that it was approved by the Army Corps of Engineers approximately three months ago.

Mr. McCabe showed Board members a photo he took of sub lots 163 and 164, both of which were under approximately eight inches of water.

Mr. Taber stated that the Board should get a copy of the correspondence indicating the Corps' approval of the applicant's wetland delineation, as well as the wetlands report issued by the Corps in order to see how it determined that the applicant's wetland delineation is correct. Mr. Reilly agreed to obtain that information for the Board.

Mr. Reilly stated that the Conservation Advisory Board has issued a report to the Planning Board indicating the need for thirty-foot buffers behind the homes that

back up to other homes in order to preserve trees on the lots. He further stated that the Town does not provide buffers between residential single family homes. However, he added that the Conservation Board is correct in pointing out that the site is located in the Lakeview Overlay District, which states that everything possible should be done to preserve as many trees as possible.

It was determined that the Board is more interested in removing development from the wetlands than it is in reducing the density of the subdivision.

Mr. McCabe asked what the Board's obligation is in terms of knowing the extent of the hydric soils that are present on the property in the event it approves a subdivision on unstable soils. Mr. Reilly responded that he understands that under the new Building Code, individual soil testing will be performed on each lot because of the soil conditions on the site.

Mr. Reilly stated that the Town of Hamburg has gone on record indicating that it will not allow this developer to perform its wetland mitigation at the Nike Base because it only wants the Nike Base used for economic development purposes. He further noted that the developer is considering doing the wetland mitigation on-site in the area where the pond is proposed.

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

Engineering Department comments are attached.

### **Hamburg Crossing**

Mr. Reilly stated that he would like any comments or concerns the Board members have regarding the Draft Environmental Impact Statement (DEIS) by the Board's next meeting. He further stated that the most important issues will be traffic and buffering the residents behind this development.

Engineering Department comments are attached.

### **Hamburg Floor Covering**

Mr. Reilly stated that the applicant proposes to construct a 2,000 sq.ft. inventory storage building and that the property is zoned NC and located in the South Park Overlay District. He further stated that the plan submitted does not represent what is on the site (i.e. existing grass, paving, etc.) and the applicant will be notified that a more detailed plan must be submitted, as well as the fact that the building is not aesthetically pleasing to the Board.

Engineering Department comments are attached.

### **Sgroi Two-Lot Subdivision**

Mr. Reilly stated that most of this property is state wetlands and that the property is located in the R-A district, which requires 100' of frontage at the road. He further stated that the proposed lots have 25' and 35' of road frontage because they are proposed off of an existing street and therefore a variance would be required.

Mrs. desJardins explained that the applicant proposes to build a home for a relative on lot #1 and combine lot #2 with his existing property adjacent to this site.

It was determined that a wetland delineation must be performed and submitted to the Board before it moves forward with this request.

The consensus of the Board was that if the wetland delineation shows that a home can be built on the site without impacting the wetlands and the 100' buffer, the Board would probably recommend that a variance be granted for the road frontage.

### **Charles J. Sellers & Co. garage**

Mr. Reilly stated that the applicant proposes to construct a 1,150 sq.ft. accessory garage behind the existing commercial building to store his personal vehicle, lawn tractor, etc. Mr. Reilly further stated that accessory structures in the C-3 zone must be one-story in height and, because the applicant proposes a two-story garage, a variance would be required.

Mrs. Yerkovich made a motion, seconded by Mrs. Rogers, to schedule a public hearing for this proposal to be held on May 21, 2008. Carried.

### **OTHER BUSINESS**

1. Mr. Reilly reported that Lowe's of Hamburg has asked that the Planning Board allow them to eliminate the landscaping proposed on the two out parcels in front of Lowe's, as it would not make sense to landscape those areas and then have to remove the landscaping when the out parcels are developed. The consensus

of the Board was to authorize the applicant to remove the proposed landscaping from the out parcels at this time with the understanding that the out parcels will be graded and maintained, and landscaping will be installed when the out parcels are developed.

2. Mr. Reilly stated that Attorney Jay Pohlman has asked the Board to consider a subdivision of property on Lakeshore Road, although the necessary paperwork was not submitted by the deadline date to be on this meeting's agenda. He further stated that the applicant, Mrs. Mead, owns an existing zero lot line duplex and she wishes to sell each side individually, thereby creating a two-lot subdivision.

Mr. Taber made a motion, seconded by Mr. Phillips, to set a public hearing for this request to be held on May 21, 2008. Carried.

Mr. Phillips made a motion, seconded by Mr. McCabe, to approve the minutes of April 16, 2008. Carried.

Mr. Phillips made a motion, seconded by Mrs. Yerkovich, to adjourn the meeting. The meeting was adjourned at 9:10 p.m.

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board