

Town of Hamburg  
Planning Board Meeting

January 20, 2010

Minutes

The Town of Hamburg Planning Board met in regular session on Wednesday, January 20, 2010 at 7:30 p.m. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Peter Reszka, Gerard Koenig, David Bellissimo, Steve McCabe, Sasha Yerkovich and Karen Rogers.

Others in attendance included Andrew Reilly, Sarah desJardins, Richard Lardo, Councilman Kevin Smardz and Attorney Cheryl McFaddon-Zak.

Excused: Rich Taber

Chairman Reszka stated that the Planning Board meetings will begin at 7:00 PM starting February 3, 2010.

Mr. Koenig made a motion, seconded by Mr. McCabe, to approve the change to 7:00 PM. Carried.

Chairman Reszka stated that, when the Planning Board holds a public hearing, sign-in sheets will be provided for anyone wishing to speak on a project. He further stated that people will be called in the order in which they sign up and that they will be limited to a five-minute period in which to speak.

**Public Hearing – Oma’s Guest Haus**

Mr. McCabe read the following public hearing notices:

“Notice is hereby given that the Town of Hamburg Planning Board will conduct a Public Hearing on a proposal by Oma’s Guest Haus for property located at 3691 Sixth Street. The applicant proposes to operate a bed & breakfast establishment at the above address. In accordance with the Town of Hamburg site plan ordinance, a Public Hearing will be held on January 20, 2010 at 7:30 p.m. in Room 7B of Hamburg Town Hall.”

“Notice is hereby given that the Town of Hamburg Planning Board will conduct a Public Hearing on a proposal by Oma’s Guest Haus for property located at 3691 Sixth Street. The applicant proposes to operate a bed & breakfast establishment at the above address, which requires a Special Use Permit. In accordance with the Town of Hamburg site plan ordinance, a Public Hearing will be held on January 20, 2010 at 7:30 p.m. in Room 7B of Hamburg Town Hall.”

Karl Takacs, applicant, stated that the home was used as a rental property (rooms were rented out) and he now would like to obtain the approvals to operate a bed & breakfast instead.

Chairman Reszka confirmed with the applicant that an agreement is in place with the owner of the Four Aces Bar & Grill (Greg Siwiec) that, if the applicant ever needs additional parking beyond that which is provided, he or his guests will be able to park their vehicles in the Four Aces parking lot.

In response to a question from Mr. Koenig, Mr. Takacs stated that he has slowly changed the business from a rental to a bed & breakfast and was informed by one of the Town Building Inspectors that these approvals are needed in order to comply with the Town Code.

Chairman Reszka declared the public hearing open. No one spoke.

Chairman Reszka declared the public hearing closed.

Mrs. Yerkovich made a motion, seconded by Mr. Bellissimo, to issue a Negative Declaration regarding this project based upon the information submitted. Carried.

Mrs. Yerkovich made a motion, seconded by Mr. McCabe, to approve the requested Special Use Permit based upon information provided and the Board's review of the submitted plan. Carried.

Mrs. Yerkovich made a motion, seconded by Mr. Koenig, to grant Conditional Site Plan Approval to Oma's Guest Haus with the following conditions:

1. The Engineering Department will review this project
2. The agreement between Mr. Takacs and Mr. Siwiec regarding the shared parking situation will be filed in recordable form with the Erie County Clerk's office.

Carried.

### **Public Hearing – Hamburg Crossings, Phase I**

Mr. McCabe read the following public hearing notices:

“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 425,883 sq.ft. retail center on property located at 5220 Camp Road. In accordance with the Town of Hamburg site plan ordinance, a Public Hearing will be held on January 20, 2010 at 7:30 p.m. in Room 7B of Hamburg Town Hall.”

“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 425,883 sq.ft. retail center on property located at 5220 Camp Road. A

Hamburg Planning Board meeting January 20, 2010

Special Use Permit is required because the aggregate building size is greater than 100,000 sq.ft. In accordance with the Town of Hamburg site plan ordinance, a Public

Hearing will be held on January 20, 2010 at 7:30 p.m. in Room 7B of Hamburg Town Hall.”

Attorney James Boglioli, Chris Wood, project engineer and Tony Battista and William Rae from Benderson Development appeared on behalf of the proposed project.

Attorney Boglioli stated that the project site is 79.4 acres in size and maintains two entrances on Camp Road. He further stated that the total project encompasses over 625,000 square feet but that Benderson is proposing it in two phases and is asking for Site Plan Approval of just Phase I at this time.

Attorney Boglioli stated that approximately 40 acres of this site were properly zoned and the balance was rezoned by the Hamburg Town Board in 2009. He noted that, as part of the rezoning approval process, a Draft Environmental Impact Statement (DEIS) was prepared that included a number of studies included a wetland study, air quality analysis, traffic impact study and noise study. He further noted that a public hearing was held, input was received and a Final Environmental Impact Statement (FEIS) was accepted by the Town Board in March 2009. He stated that the Town Board adopted SEQR Findings in May 2009 that concluded that the applicant had mitigated or avoided to the maximum extent possible all adverse environmental impacts as a result of this project.

Attorney Boglioli stated that the applicant is proposing a 17.4 acre conservation easement area, noting that the treed area of the conservation easement that adjoins the nearby residential properties (150') will remain in its natural vegetative state. He further stated that the applicant proposes to reclaim the area of the easement that is paved (behind one of the proposed buildings) that adjoins the nearby residential properties by removing the existing pavement and planting fifty trees to help buffer the residences. Specifically, 20 five-foot White Pine trees are proposed on top of an existing seven-foot high berm, as well as 20 Oriental Spruce, four Hipazam Maples and four Sugar Maples spread throughout the area.

Attorney Boglioli stated that any wetlands that exist on the site are located in the conservation easement area and will remain untouched.

Regarding traffic impacts, Attorney Boglioli stated that the applicant went through extensive reviews with the Department of Transportation and the New York State Thruway Authority regarding this project and all parties have agreed that a turn lane, signage and an additional traffic signal will be installed as part of the mitigation for Phase I.

Attorney Boglioli stated that the noise study that was performed concluded that this project will produce no adverse noise impacts to the nearby residential properties.

Attorney Boglioli discussed the review memo submitted to the Planning Board by Wendel's Transportation Planner, noting the following:

Hamburg Planning Board meeting January 20, 2010

1. The conservation easement will be identified on the site plan and will be recorded after Site Plan Approval is granted.
2. A landscape plan was prepared, along with a blown-up sketch of the area that is

currently paved and not treed adjacent to the nearby residences. The sketch was submitted to Board members.

3. The applicant will have building elevations once tenants are secured and will comply with the requirement that rooftop HVAC units be screened with parapet walls and perforated roof screening.
4. The main site drive intersecting with Camp Road north of the New York State Thruway ramp will be revised on the site plan to include three exiting lanes (two left turn lanes and one right turn lane).
5. The site plan will be revised to include sidewalks along Camp Road and internal to the site.
6. The site plan will be revised to adjust the proposed lighting to comply with Chapter 2553 of the Hamburg Town Code, which states that artificial lighting on the property shall not exceed two foot-candles beyond any property line.
7. Regarding the main site drive at Camp Road north of the New York State Thruway ramp, the site plan will be revised to show both entering travel lanes carried all the way through to the first intersection while continuing to provide a separate access to the rear of the retail buildings for truck access.
8. Regarding Wendel's suggestion that diversion islands at each approach to the round-about be provided so that drivers do not travel around the round-about in the wrong direction, diversion islands tend to create a maintenance issue. The applicant proposes to deal with this potential problem by installing signage or striping indicating the correct way to travel around the round-about.

Regarding the Conservation Advisory Board's memo submitted to the Planning Board regarding this project, Attorney Boglioli stated the following:

1. The requested 25-foot treed buffer between the detention pond on the southeast property line and the New York State Thruway will be provided in Phase II of the project.
2. Regarding the gaps in the existing buffer to Country Woods Subdivision, the applicant does not propose to fill them in because that would require disturbing the vegetation that is already there. The applicant believes that the 150' buffer, along with the setback of the proposed buildings, is enough visual mitigation.
3. The drainage problems experienced by some of the nearby residents as a result of the construction of the bus garage have nothing to do with this project. A Stormwater Pollution Prevention Plan has been drafted for this project and by law the applicant is required to maintain all runoff from this project on this site.

Hamburg Planning Board meeting January 20, 2010

4. Typically wetland vegetation establishes itself in wet ponds and the applicant is willing to work with the Town in possibly planting the detention ponds with some wetland botanicals.
5. The DEIS prepared for this project specifically identified the proposed

preservation areas as visual buffers, as opposed to recreational buffers. The applicant will own the land but grant a Conservation Easement to the Town of Hamburg so that it is not touched. During the environmental review process, some of the public indicated that they do not want these areas used by the public. Therefore, no bridges are proposed across Barracks Creek for public use. In the applicant's experience, people do not use the trails often and when they do it becomes a liability problem for the applicant.

6. The applicant is not in the business of developing windmills and a windmill is not proposed for this project.
7. Solar panels are not proposed for the tops of the buildings. The applicant builds the buildings and then leases them to tenants who are responsible for the utility bills. Therefore, the applicant cannot recoup any of the costs of installing solar panels. The applicant does build its centers with an eye towards solar energy use by designing the roofs to withstand the extra weight of solar panels in the event that a tenant wishes to install the solar panels.
8. LEED (Leadership in Energy & Environmental Design) certification would not benefit the applicant, but rather would benefit the tenant, and is not marketable to potential tenants. Therefore, the applicant is not proposing to design the buildings to LEED standards. However, the applicant does propose to use materials on the buildings' roofs that will reduce the cooling load and the building's carbon footprint. Reusable materials will be used as much as possible on the buildings and the applicant will work with the tenants to use energy efficient electrical and mechanical systems.

Mr. Lardo stated that the Engineering Department has found no major engineering issues to date regarding this project.

Mrs. Yerkovich noted that the Supervising Code Enforcement Official, Kurt Allen, submitted a memo to the Planning Board indicating that he strongly advocates the inclusion of a noise barrier, in addition to the proposed landscaping barrier, as an integral part of the project. She stated that Mr. Allen further indicated that the noise barrier erected at the Lowe's site has been an enormous success in terms of reducing noise and lighting problems for the nearby residences and that the Town has been attempting to persuade the new Wal-Mart to construct a similar barrier. She asked Attorney Boglioli what his thoughts are relative to Mr. Allen's memo.

Attorney Boglioli responded that this is a different situation than Lowe's and Wal-Mart in that this site abuts the Thruway. He further stated that the applicant conducted a noise study that found that, due to the existing Thruway noise, the noise generated by this project will not be audible above the noise of the Thruway. He noted that a sound barrier is not proposed by the applicant, although the applicant would be willing to install

Hamburg Planning Board meeting January 20, 2010

a fence, if that is what the neighbors would like.

Chairman Reszka stated that the Traffic Safety Advisory Board (TSAB) discussed this project at its last meeting and that the issues discussed included how the entrance to Camp Road north of the Thruway is configured, the fact that a traffic signal should be

installed at both entrances on Camp Road and the number of proposed parking spaces.

Mr. Reilly stated that the New York State Department of Transportation has refused to allow a traffic signal to be installed at the intersection of Camp Road and Commerce Place because it feels that a signal is not warranted at that location.

Chairman Reszka advised the applicant that, per the Camp Road Overlay District requirements, three concept sketches of the proposed buildings must be submitted to the Planning Board for its review. He further advised the applicant that, per the Overlay requirements, no pylons signs will be allowed, the Planning Board will require that the applicant perform calculations to show that at least 5% of the interior parking areas are green space, screened dumpsters must be shown on the site plan and either underground detention must be provided or, if it is above-ground it must be located in the rear of the property.

It was determined that the applicant is proposing 472 fewer parking spaces than that which is required by Code and therefore would require a variance from the Zoning Board of Appeals.

Mrs. desJardins asked the applicants to remove Phase II from the proposed site plan so that only Phase I is indicated, as that is what is being proposed at this time.

Mr. Reilly stated that, during the environmental review process, one of the biggest issues was the question of how best to screen the adjoining residences from this project. He noted that the Findings Statement states that the adjoining residents must be satisfied with the type of screening proposed by the applicant.

Mr. Reilly stated that the neighbors should be aware of the fact that the site is proposed to be raised and that, therefore, the buildings would be between 5 and 10 feet higher than the existing homes on Creekview Drive.

Chairman Reszka declared the public hearing open. The following people spoke:

- Joseph Gunning, 3407 Creekview Drive, stated that the buffer is a big concern to him, along with lighting, noise, hours of garbage pick-up and the poor drainage in the area of some of the homes on Creekview Drive that back up to the site. He asked when the applicant proposes to commence construction of Phase I and which stores are proposed.
- Frank Heigl, 3600 Columbia, stated that he is concerned about the reduced number of proposed parking spaces.
- Elizabeth Reszka, 3615 Lake Avenue, stated that her concern was already addressed.

Hamburg Planning Board meeting January 20, 2010

- Frank Walsh, 3427 Creekview Drive, stated that he is concerned about rodent control during and after construction of the buildings and does not agree that the project will not add noise to the area just because the Thruway exists nearby. He feels strongly that a solid sound barrier must be installed. He is concerned about dumpsters being located behind the buildings, lighting, the location of the

proposed detention ponds and the covering and screening of any ventilation units.

- Doug Nichols, Chairman of the Conservation Advisory Board (CAB), stated that 39 forested acres will be lost when this project is constructed, noting that trees are not just beneficial for their aesthetic value, but also have chemical and mechanical value. He stated that the average tree produces 48 pounds of oxygen per year, noting that trees convert carbon dioxide into oxygen and trap pollutants in the air so that they cannot get out into the atmosphere.

Mr. Nichols stated that the original agreement with M. J. Peterson years ago was that the 14 acres of preservation land was to be dedicated to the Town of Hamburg and stated that the CAB wants this area to be open and accessible for hikers and bird watchers.

Mr. Nichols stated that the CAB sees this project as having the capability of being a signature project, noting that Benderson would have a selling point to tenants if the buildings were LEED certified because their energy bills could be 20% to 50% less due to the LEED design. He stated that the cost to design buildings to LEED certification could be recovered, especially given the grants and tax abatements that are available.

- Tom Grimes, 3437 Creekview Drive, stated that he does not agree with the applicant's noise study results and is strongly against allowing any development on this site without ample parking. He stated that if the project were to be made smaller, it would have less impact on the environment and on the parking situation and recommended that the existing empty buildings in the Town be filled.
- John Koeppel, 3431 Creekview Drive, stated that his biggest concerns are sound and visual impacts, noting that he is in favor of Mr. Allen's sound barrier idea because it deals with sound and privacy issues the neighbors have. He would like reasonable protection from sound and visual impacts. He stated that he would not want public access to the conservation area.
- David May, 3411 Creekview Drive, asked who is responsible for the maintenance of the conservation easement area. He also asked if he can have a copy of the plan indicating what the applicant plans to do with the conservation easement. He stated he is concerned about when Phase II is constructed and the existing woods are taken down, noting that he would be in favor of a sound barrier being installed along the Thruway when Phase II is constructed to block the Thruway sound.

Mr. Reilly stated that the question regarding who would be responsible for replacing

Hamburg Planning Board meeting January 20, 2010

trees that die in the conservation area is one that needs to be researched.

- Gary Hanes stated that he is concerned about the noise of trucks idling behind the buildings and fumes generated as a result. He further stated that he does not think the applicant has proposed enough trees in the buffer area and that if a

berm or fence is installed, it should be placed up close to the buildings.

- Karen Alongi asked what the problems have been with Wal-Mart and Lowe's, what the Town has done to attempt to rectify them and what lessons the Town learned from these problems.

Mrs. desJardins stated that, when one sees something on a one-dimensional plan and then sees it built, it sometimes looks much different than what one imagined it would. She further stated that the visual impacts of Lowe's were very surprising to the neighbors after the building was built and the problems with Wal-Mart were more related to lighting.

Chairman Reszka recommended that the residents go look at Lowe's and Wal-Mart to see what has happened at those two locations before they meet with the applicant.

- Ms. Alongi asked what the goal is of the Planning Board as far as what the members think the residents should get out of this process.

Chairman Reszka replied that the goal of the Planning Board is to get the best possible project with the least possible impact. He further stated that it is the job of the Planning Board to balance the right of someone to develop his property with the residents' right to privacy and the right to enjoy their property.

- Fran Costa, 3441 Creekview Drive, stated that the existing woods are beautiful and she is afraid that will be lost. She further stated that she is afraid that the value of her home is going to be reduced.
- Kathy Brozyna, 3443Creekview Drive, stated that she is concerned that by the time Phase II is constructed, Phase I will contain empty buildings, noting that there are empty plazas throughout the Town.

Chairman Reszka summarized the concerns heard regarding this project as follows:

1. visual impacts
2. lighting
3. noise, especially from dumpsters
4. drainage concerns
5. parking concerns
6. rodent control during construction
7. sound barrier proposal

Hamburg Planning Board meeting January 20, 2010

8. screening of the ventilation units
9. cutting down of the trees
10. green construction of the building

11. privacy concerns (public vs. private use of the conservation easement area)
12. maintenance of the conservation easement area
13. trucks idling behind the buildings
14. number of trees being proposed for the buffer area
15. placement of the berm or fence (closer to the building)
16. declining value of the properties in the area due to the project
17. construction of more empty plazas in the Town

Chairman Reszka declared the public hearing closed.

It was determined that the neighbors and the applicant will meet in Room 7B at 6:00 PM on February 3, 2010 before the Board's Work Session to discuss the buffer area and that Mr. Reilly, Mrs. desJardins and members of the Planning Board will also be in attendance.

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

Engineering Department comments have been filed with the Planning Department.

### **Villages at Mission Hills, Phase I**

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

Mr. Reilly reminded the Board that this is a proposal to construct a large scale development and that a Supplemental Environmental Impact Statement was prepared by the applicant and accepted by the Planning Board.

Mr. Reilly stated that the next step in the approval process is to issue the Findings Statement and finish the SEQR process, after which the Board can discuss the site plan with the applicant.

In response to a question from Mrs. Rogers, Mr. Manko stated that the renderings submitted to the Planning Board of a similar project are 99.5% of what the buildings in Phase I will look like.

In response to a question from Chairman Reszka, Ms. Voit stated that the community center will house a dining area, an exercise room and meeting space. Mr. Manko added that the community center is designed to be used by the residents of Phase I and Phase II of the

Hamburg Planning Board meeting January 20, 2010

development, as well as the community as a whole. He stated that he is working with the Hamburg Senior Center and has included additional space in the community center designed to be used for special functions that the Senior Center cannot handle at its facility.

In response to a question from Chairman Reszka regarding whether the proposed number of parking spaces allocated for the community center is sufficient, Ms. Voit stated that the community center will be open to seniors, but senior vans will be utilized to transport a good number of seniors to and from the facility. Mr. Manko added that approximately one-third of the residents of Phase I will not own a vehicle because they cannot afford one. He further stated that he has found with other projects such as this that even providing one space for each unit seems to be more than what is really needed (1.5 spaces per unit is proposed for the Village at Mission Hills project).

Mr. Reilly stated that he would suggest that the Findings include a condition that final approval of the appearance of the buildings will be discussed in the site plan approval process. Board members concurred.

Mr. Bellissimo made a motion, seconded by Mrs. Rogers, to adopt the Findings for this project with the amendment previously discussed regarding the condition that the Planning Board has final approval during site plan approval of the appearance of the buildings. Carried.

Planning Board members discussed whether the applicant will need to request a variance for the reduced number of parking spaces provided, given the fact that the Town's Code Review Community is currently working on a change to the Code that would reduce the required number of parking spaces provided for senior housing from 2 per unit to 1.5 per unit. Mr. Reilly indicated that he does not think the new law will be adopted in the next month and that it is probably best that the applicant apply for a variance instead.

Mrs. desJardins stated that, per the Building Inspector, the proposed community center will require 64 parking spaces (35 are proposed) and that, therefore, a variance will be required in any case. It was determined that 256 spaces will be required by Code for the apartments and the community center (the applicant proposes 173).

Mrs. Yerkovich made a motion, seconded by Mr. Bellissimo, to forward a positive recommendation to the Zoning Board of Appeals regarding the Villages at Mission Hills, Phase I request to reduce the number of parking spaces provided for the apartment buildings from 2 per unit (192) to 1.5 per unit (138), as there is a pending Town Code change amending the number of spaces required for senior housing project from 2 per unit to 1.5 per unit. Carried.

Mrs. Yerkovich made a motion, seconded by Mr. Koenig, to forward a positive recommendation to the Zoning Board of Appeals regarding the Villages at Mission Hills, Phase I request to reduce the number of parking spaces provided for the community center from 64 to 35 for the following reasons:

- There are established prior patterns at similar projects.
- Because the Town plans to reduce the required number of parking spaces provided for the residents of this development, it makes sense to reduce the number of spaces required for the associated community center.

Hamburg Planning Board meeting January 20, 2010

Carried.

Chairman Reszka made a motion, seconded by Mr. Bellissimo, to grant Conditional Site Plan Approval for the Villages at Mission Hills, Phase I. Carried.

Chairman Reszka made a motion, seconded by Mr. Bellissimo, to amend the previous motion granting Conditional Site Plan Approval for the Villages at Mission Hills, Phase I to include the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated 1/20/2010.
2. Approval is contingent upon the applicant receiving a variance from the Zoning Board of Appeals.
3. The landscape plan shall be approved by the Planning Department.

Carried.

Mr. Reilly stated, for the record, that the final site plans will be reviewed to ensure that they are in conformance with the adopted Findings.

Engineering Department comments have been filed with the Planning Department.

### **Southtowns Three-Lot Subdivision**

Mr. Reilly stated that, at its last meeting, the Planning Board directed the applicant to revise the subdivision plan. He noted that the Planning Department had not received the revised plan and the applicant was not present at the meeting.

Elizabeth Srutowski, 3573 Old Lakeview Road, stated that she would like the Planning Board to require the applicant to submit a subdivision plan showing how the two lots would be laid out if the Board decides not to waive the South Central Overlay District requirement that the bulk requirements be increased by 50%. She noted that she cannot tell the Planning Board whether she supports the increase or not if she cannot see how the subdivision would be laid out if the bulk requirements are increased.

Mrs. Srutowski was given a copy of the memo from the Conservation Advisory Board regarding this proposed subdivision.

Board members agreed that the applicant will be asked to submit a sketch of how the two lots would be proposed (and where the homes would be located) if the Planning Board decides to require that the bulk requirements be increased by 50%.

Mrs. Srutowski asked if the Board would consider setting the public hearing for a date other than February 17, 2010, as she has to be out of town on that day and she is the most affected neighbor.

Attorney Zak stated that she does not think the Board can cater to a member of the public.

Hamburg Planning Board meeting January 20, 2010

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

Engineering Department comments have been filed with the Planning Department.

## **Hamburg Senior Apartments**

Chris Durr from the NRP Group appeared on behalf of the proposed project, stating that a revised sketch plan had been submitted for the Board's review.

In response to a question from Mr. Durr, Mr. Reilly stated that he has a drawing that indicates the location of the Heart Trail. Mr. Durr stated that the Heart Trail will be located on the site plan accordingly.

Mr. Durr stated that the revised sketch plan is in response to comments received, noting that a landscaped berm and fence are proposed behind the existing homes on Briercliff. He further stated that the applicant will install the berm and/or the fence, depending on the wishes of the neighbors.

Mr. Durr stated that detention for the project has been added in the form of detention ponds, detention swales and underground detention.

Mr. Durr stated that 72 units are proposed and 154 parking spaces are proposed, noting that if the Town prefers, the number of provided parking spaces can be reduced.

Mr. Reilly stated that he recommends that a second public hearing be scheduled. He further stated that the first decision to be made regarding this proposal is whether or not it is in accordance with the Environmental Impact Statement (EIS) previously submitted, as well as the Findings issued for the Brierwood Planned Unit Development (PUD) many years ago. He noted that the Findings issued did not provide much in the way of direction and that additional research will have to be done.

Mr. Reilly stated that if the Planning Board decides that a Supplemental EIS (SEIS) is warranted, it must target which areas must be covered in the SEIS. He further stated that if the Board decides that an SEIS is not required, it must provide a rationale for that decision.

Mr. Reilly stated that the original green space map generated for the Brierwood PUD (dated July 1992 and entitled "Existing and Proposed Open Space for the Brierwood PUD" by Nussbaumer & Clarke, Exhibit 2) showed a "buffer tot lot playground" in the northern corner of the site (where building 11 is proposed), noting that the green area proposed is not as large as what was envisioned previously and that it may not meet the intent of the original green space map.

Mr. Reilly stated that some of the issues that have been brought up are the green space, drainage and traffic.

Attorney Zak stated that the Planning Board members should have a copy of the original EIS. Mr. Reilly responded that there are reams of information, environmental studies, etc. pertaining

Hamburg Planning Board meeting January 20, 2010

to the Brierwood PUD and that he will attempt to provide the Planning Board members with information relative to the specific areas the members would like to review.

Mr. Koenig stated that the original EIS done for the Brierwood PUD indicated that apartments were planned for this section of the development.

Attorney Zak stated that the legal questions that are being raised have to do with whether or not an SEIS should be required and it would be difficult for the Planning Board to make that

decision without the benefit of the original EIS. Mr. Reilly responded that he will get information to the Board members on any issue they feel needs to be investigated further, whether it is drainage, traffic open space, the Heart Trail, etc.

Mr. Reilly stated, for the record, that every drawing since the PUD was first proposed shows this area of the development as multi-family apartments, although over the years there have been different configurations of apartment buildings.

Mr. Reilly suggested that the Planning Board members come to the Planning Department and review the old files, as well.

Mr. McCabe stated that it would be helpful for the members to know if the number of units proposed has changed over the years for this site, as this information could affect certain studies in the files.

It was agreed that the Planning Department will put together a synopsis of what has been proposed over the years for this site and how the proposals have changed.

The following residents provided input:

- Dan Gross stated that he hopes that the public comments the Board has already received will be addressed. He further stated that he does not think that this proposal meets the intent of what was originally proposed on this site. He feels that, because the Town Board approved the PUD so long ago and the proposals for this site have changed many times over the years, the Town Board should review this proposal to see if it meets the intent of the PUD approval.
- Paul Hetty stated that this project would change the character of the existing neighborhood and the value of the homes in the neighborhood.
- Rosemary Donahue stated that she is concerned about the proximity of the project to the railroad tracks, noting that the railroad should be contacted to get its input on putting senior housing and a playground so close to the tracks. She further stated that railroad activity has increased immensely since the original EIS was done and for that reason, an SEIS should be required.
- Nora Nowicki stated that she is concerned that the value of the homes in the area will be reduced as a result of this project. She stated that she thinks the project should be accessed from Cloverbank. She further stated that she is concerned about what would happen if the number of parking spaces is reduced and the residents end up parking on

Hamburg Planning Board meeting January 20, 2010

Briercliff Drive. She stated that she is also concerned about the fact that only one of the residents has to be 55 years of age.

- Attorney Art Giacalone stated that he spent hours reviewing the Brierwood PUD files and believes that the DEIS that was approved in 1988 did not reference a specific project for this site. He further stated that the Planning Board should at the very least require that an SEIS be done for this site. He compared the Villages at Mission Hills, Phase I project

with the Hamburg Senior Apartments project, noting that the former project contains 92 units on 24 acres and the latter proposes 72 units on 9 acres and the Villages project contains a 700-foot buffer from the railroad tracks, while the Hamburg Senior project proposes a 100-foot buffer. He stated that the original EIS was done three years before a traffic study was ever done and four years before the open space map was created.

- Mike Nuermberger stated that, because the neighborhood has changed greatly since its creation, he does not think that the studies (noise, sound, traffic, etc.) done years ago relate to the existing conditions in the development. He further stated that traffic has increased since the opening of Wal-Mart. He stated that if the Board plans to review all of the past impact studies and information relative to the PUD, it should also look at how the development, as well as the surrounding area, has changed over the last twenty years. He is also concerned about the noise, train vibration, etc. the residents of the apartment complex would have to contend with as a result of the trains that travel the tracks frequently.
- Tom Nowak asked how accurate the old plans are in terms of how the development was proposed at that time versus what actually exists today. He further asked if Briercliff Drive is located where it was proposed to be located when the PUD was created.

Mrs. desJardins suggested that all of the comments, concerns and questions received by the Planning Board over the last several months regarding this proposal be reviewed to ensure that all public input received via email, regular mail, the public hearing, etc. are addressed. She agreed to summarize the comments received for the Board members.

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

Mr. Koenig made a motion, seconded by Mr. Bellissimo, to approve the minutes of January 6, 2010. Carried.

The Planning Board went into Executive Session at 10:25 PM to discuss personnel issues.

At 10:45 PM, Mr. Koenig made a motion, seconded by Mr. Bellissimo, to adjourn the meeting. Carried.

The meeting was adjourned at 10:45 P.M.

Hamburg Planning Board meeting January 20, 2010

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board