

Town of Hamburg
Planning Board Meeting
September 4, 2013
Minutes

The Town of Hamburg Planning Board met for a Regular Meeting at 7:00 P.M., on Wednesday, September 4, 2013 in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Vice Chairman Sasha Yerkovich, Stephen McCabe, Doug Schawel, David Bellissimo, Dan O'Connell and August Geraci.

Others in attendance included Andrew Reilly and Sarah desJardins, Planning Consultants, Richard Lardo (Engineering Department), Attorney Cheryl McFadden-Zak and Councilwoman Amy Ziegler.

Excused: Chairman Peter Reszka

WORK SESSION

Dana Weller (vacant land, west side of Boston State Road, across from Dorst Road)

Andrew Gow from Nussbaumer & Clarke, representing the applicant, stated that the proposal is for a three-lot subdivision to be located on Boston State Road. He noted that there is existing water, as well as sewer, to the site, and the lots are compliant with the R-A zoning. He further noted that the lots would back to Eighteen Mile Creek.

Mrs. desJardins informed Mr. Gow that the westernmost lot would require a variance because it does not have enough width at the front line (along Boston State Road). She noted that 50 feet is provided along the road and 100 feet is required.

It was determined that the applicant would rather seek a variance for the above-mentioned width at the front line than revise the layout of the subdivision.

Mr. Reilly stated that screening should be requested along the westernmost lot's western property line to buffer the adjacent existing home.

Mr. Gow agreed to show the flood plain on the subdivision map and to submit a Long Environmental Assessment Form because the lots are located in the Critical Environmental Area.

Mr. McCabe made a motion, seconded by Mr. Bellissimo, to schedule a public hearing to be held on September 18, 2013. Carried.

Engineering Department comments have been filed with the Planning Department.

Georgianne Peluso (4515 East Highland Parkway)

Mrs. desJardins stated that the applicant's sister was the owner of the existing home on this property until her recent death, and Ms. Peluso is now the owner of the property. She noted that Ms. Peluso would like to subdivide the property and construct a home on the newly created lot. She stated that the subdivision meets all zoning requirements.

It was determined that the new lot would be accessed from Allendale Parkway.

Mr. McCabe made a motion, seconded by Mr. O'Connell, to schedule a public hearing to be held on September 18, 2013. Carried.

Engineering Department comments have been filed with the Planning Department.

Brian Bates (Vacant land North Creek Drive, west of Burke Road)

Mr. McCabe made the following motion, seconded by Mr. Bellissimo:

“Whereas, the Town of Hamburg received a minor subdivision application from Brian Bates to subdivide property located on the north side of North Creek Road into 2 lots, and

Whereas, on August 21, 2013 the Hamburg Planning Board held the required public hearing and received comments from the public; and

Whereas, the Hamburg Planning Board, in accordance with SEQRA has determined that the proposed subdivision will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public and is consistent with social and economic considerations.

Now, Therefore, Be It Resolved, that the Town of Hamburg Planning Board hereby determines that the proposed subdivision is not anticipated to result in any significant adverse environmental impact and that a Negative Declaration is hereby issued.” Carried.

Mr. McCabe made the following motion, seconded by Mr. Bellissimo:

“Whereas, the Town of Hamburg received a minor subdivision application from Brian Bates to subdivide property located on the north side of North Creek Road into 2 lots; and

Whereas, the Planning Board has reviewed the Preliminary subdivision plan and other required materials in accordance with the Hamburg Subdivision code; and

Whereas, the Hamburg Planning Board received comments from various Town Advisory Boards and Departments; and

Whereas, the Hamburg Planning Board held the required public hearing on this proposed Subdivision on August 21, 2013; and

Whereas, the Hamburg Planning Board has determined that the proposed subdivision will not result in any significant negative effect on the environment and has issued a Negative Declaration;

Now, Therefore, Be It Resolved, that the Hamburg Planning Board hereby approves the Preliminary Plat for the North Creek subdivision with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated August 21, 2013.
2. The filing of a Map Cover is waived.
3. Recreation fees in lieu of land will be required.”

Mr. McCabe amended his motion, seconded by Mr. Bellissimo, to read “September 4, 2013” instead of “August 21, 2013” in Condition # 1.

Carried.

Engineering Department comments have been filed with the Planning Department.

Willow Woods Subdivision FEIS

Mr. Reilly stated that the applicant prepared a Final Environmental Impact Statement (FEIS) and Mr. McCabe reviewed and had comments on the document.

Mr. McCabe integrated revisions to the town's FEIS to attempt to distinguish between the various contributors to the SEIS. Because the FEIS was drafted by the applicant's consultant, it was often unclear whether statements in the FEIS were those of the applicant, the applicant's consultant, or the town, which is the lead agency and author of the EIS.

Mr. McCabe also added the following additional information regarding the most recent round of sampling conducted by the applicant's consultant:

"Filtered surface water samples exceeded state standards for manganese and iron. Specifically, Sample SWF-1 showed a 375% exceedance of the NYSDEC Division of Water Technical and Operational Guidance Series (TOGS) 1.1.1., "Ambient Water Quality Standards and Guidance Values and Groundwater Effluent Limitations" for manganese (1,427 ppb vs. the TOGS of 300 ppb). Sample SWF-2 showed a 178% exceedance for iron (834 ppb vs. TOGS of 300 ppb) and a 973% exceedance for manganese (3,219 ppb). Sample SWF-3 showed an 893% exceedance for iron (2,980 ppb) and a 164% exceedance for manganese (791.8 ppb).

Several exceedances of metals concentrations were also detected in the sediment samples. Specifically, in Sample SED-2, cadmium was detected at 6.2 ppm, or 148% of the NYSDEC 6NYCRR Part 375 Soil Cleanup Objective (SCO) of 2.5 ppm for residential use. Sample SED-3 exceeded the state SCO for arsenic by 12.5% (18 ppm vs. an SCO of 16 ppm), for cadmium by 380% (12 ppm vs. an SCO of 2.5 ppm), for copper by 52% (410 ppm vs. an SCO of 270 ppm), and for mercury by 48% (1.2 ppm vs. an SCO of 0.81 ppm)."

Mr. Reilly stated that Mr. McCabe's revisions have been incorporated into the FEIS.

Rob Pidanick from Nussbaumer & Clarke, representing the applicant, stated that all of the study information will be part of the permanent record of the FEIS.

Mr. Reilly stated that the FEIS will consist of the Draft EIS (incorporated by reference) and all of the attachments to the FEIS.

Mr. Bellissimo made the following motion, seconded by Mr. O'Connell:

"WHEREAS, the Town of Hamburg has received a Major Subdivision application from The Five Yovienes, LLC for the subdivision of approximately 141 acres of land located on the south side of Taylor Road, for 49 single family residential lots; and

WHEREAS, the Hamburg Planning Board established itself as Lead Agency, pursuant to 6 NYCRR Part 617.6 and Article 8 of the Environmental Conservation Law (New York State Environmental Quality Review [SEQR]), and issued a Determination of Significance for a Positive Declaration for this project, requiring the completion of a Environmental Impact Statement (EIS); and,

WHEREAS, the Planning Board, as SEQR Lead Agency, accepted the Draft EIS as complete for agency and public review on April 4, 2013; and,

WHEREAS, the Planning Board held a Public Hearing on the Draft EIS on May 1, 2013 for the purpose of obtaining public input and comment on the proposed subdivision and its potential environmental impacts; and

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WHEREAS, the Planning Board has considered all substantive comments received on the Draft EIS in the drafting of the Final EIS, and the Town's consultant's are recommending its acceptance;

NOW, THEREFORE, BE IT RESOLVED, that the Hamburg Planning Board accepts the Final EIS for the Willow Woods Subdivision, dated September, 2013 as adequately addressing all substantive comments; and,

BE IT FURTHER RESOLVED that the Planning Board authorizes the distribution of the FEIS to appropriate Involved and Interested agencies, and the filing of the appropriate notices required under SEQR."

Carried.

Mr. Reilly informed Mr. Pidanick that the final EIS should be delivered to the Planning Department on Thursday, September 5, 2013 in order for it to be mailed out to the Involved Agencies.

Mr. Reilly distributed the draft Findings Statement to Board members and asked for any comments on the document.

Mr. Bellissimo made a motion, seconded by Mr. O'Connell, to table this project. Carried.

Sherwood Meadows Apartments

Mr. Reilly explained to the Board that the four (4) options regarding a SEQR decision on this project it has are as follows:

1. Determine that additional time is needed.
2. Ask for additional information.
3. Authorize the Planning Department to prepare a Negative Declaration resolution.
4. Authorize the Planning Department to prepare a Positive Declaration resolution.

Mr. Reilly stated for the record that in the review of the documentation, it has been determined that this project abuts a Town-owned recreation area, as well as a Town-owned passive recreation area, and as such the project is a Type I Action under SEQR. He further stated that the Planning Board has not erred to date regarding SEQR, noting that a Type I Action requires the submission of a Full Environmental Assessment Form (EAF) and a Coordinated Review, both of which have already been done.

Regarding the submitted Part II of the Full EAF, Mr. Reilly stated that if an impact is considered potentially large, that does not mean that it is necessarily considered significant.

The Planning Board reviewed Part II of the Full EAF regarding this project as follows:

- Impact on land: Project will result in a physical change to the project site. The applicant has indicated that the water table is less than three feet on this site. The construction will continue for more than one year and involve more than one phase, which could impact the surrounding neighborhood.
- Impact on unique or unusual land forms: none.
- Impact on a protected water body: Federal wetlands exist on the site, but the applicant plans to impact less than 1/10 acre.

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- Impact on non-protected existing new or bodies of water: A storm water pond will be constructed on the site.
- Impact on surface or groundwater quality or quantity: A discharge permit will be required for the storm water ponds.
- Impact on drainage patterns: The project will not change flood water flows and will not cause substantial erosion.
- Impact on air quality: Air quality would be impacted by the construction of this project, but the impact will not be potentially large.
- Impact on plants and animals: There are no threatened or endangered species on this site. Deer and other wildlife exist on the site currently, and they will have to relocate.
- Impact on agricultural resources: None.
- Impact on aesthetic resources: The project's components are different from the current surrounding land use patterns, making this a potentially large impact. The proposed land use will eliminate or significantly reduce enjoyment of the aesthetic qualities of this resource.
- Impact of project on any site or structure of historic, pre-historic or paleontological importance: The site is not located in a historically sensitive area, per the State Office of Parks, Recreation and Historic Preservation.
- Impact on open space and recreation: The project would result in a reduction of open space in the community.
- Impact on a Critical Environmental Area: None.
- Impact on transportation: The project would result in the alteration of present patterns of movement of people and /or goods, making this a potentially large impact. The project could result in major traffic problems, making this a potentially large impact.
- Impact on energy: The construction of this project would have an impact on energy, but it would not be major.
- Impact on noise and odor: There will be noise while the project is being constructed, which could be potentially large.
- Impact on public health: The project would result in an increase in traffic on local residential streets, making this a potentially large impact.
- Impact on growth and character of the community: The residents opposed to this project argue that this project is not in conformance with the Town's Comprehensive Plan. The project would cause a change in the density of land use, making this a potentially large impact. The project would create a demand for additional community services, making this a potentially large impact. The project would create employment, making it a potentially large (positive) impact.
- There is public controversy related to the potential adverse environmental impacts.

Mr. Reilly stated that when the Planning Board identifies potentially large impacts in Part II of the Full EAF, it must do some level of analysis. He noted that the applicant has submitted additional information and studies for the Planning Board to consider when it decides whether the impacts may be significant or not.

The Planning Board reviewed the following impacts that had been identified as potentially large:

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- Impact on land: Seasonal depth to the water table of less than three (3) feet is a common occurrence in western New York and is not significant. No basements are planned. Storm water ponds will be constructed that will attenuate the runoff from all of the developed areas, and then that runoff will be stored and then released at a slow rate through the storm water ponds. The effects of construction vehicles traveling through the existing neighborhood will be mitigated, if possible. The applicant will research if construction vehicles can access the site via the Hopevale property.
- Impact on water: The applicant plans to avoid all but less than 1/10 acre of existing federal wetlands. The previously prepared wetland delineation has been updated.
- Impact on ground water quality and quantity: The drainage system was fully designed for the previously approved project, and it will be modified slightly because of new regulations and increased impervious surface.
- Impact on aesthetic resources: The proposed apartment buildings are two-story structures, and the buildings that abut Breckenridge Road are smaller (8 units) than those that would be constructed on the north side of the property (16 units). The buildings closest to Breckenridge Road would be placed approximately 60 feet from the rear (west side) of the property. Parking areas would have to be screened by a fence or trees from the existing homes on Breckenridge Road. The applicant is working on a landscape plan for the project.
- Impact on transportation: A Traffic Impact Study (TIS) has been done by the applicant's engineer to determine the amount of traffic that will be generated by the apartment complex at full build out. The TIS studied the major intersections of Roundtree Road and Howard Road, Howard Road and Camp Road, and Howard Road and Southwestern Boulevard. The TIS concluded that the project will have no significant impact on those major intersections. The TIS did not study the impact of the project on the local intersections in the Roundtree Subdivision, and the applicant has agreed to do additional research on this issue. Additional stop signs should be considered for some of these intersections. Traffic patterns could change in the future because there are plans to signalize Camp Road and Howard Road, but it will not be installed until it is warranted. The Traffic Safety Advisory Board (TSAB) will discuss the submitted TIS and report to the Board at its next meeting.
- Impact on noise and odor: Temporary construction noise for five (5) to seven (7) years is potentially significant.
- Impact on public health: The residents of the adjoining neighborhood are very concerned about the addition of traffic on the residential streets, and this is a potentially large impact. The applicant should consider the worst case scenario when reviewing the impact of the additional traffic on the internal roadways in the neighborhood.
- Comprehensive Plan: The project does not conflict with the Comprehensive Plan. The Comprehensive Plan cannot be used on its own. This is a mixed-use area of the Town, and the Town has considered other projects in the area. Each project must be considered on its own in terms of whether it makes sense and fits into the area. The Board cannot make its decision based solely upon the Comprehensive Plan because

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this is not a request for rezoning, but the Board can take the Comprehensive Plan into consideration.

- Impact on community services: The Planning Board does not have any comments from the Police Department, Fire Department or school district regarding this project. These departments will be contacted for comments.

Acting Chairman Yerkovich stated that in light of the traffic situation, this type of project does not exist anywhere in Hamburg, and she is deeply concerned about the additional traffic through the local streets. She stated that she can accept the statistics in the TIS, but there still would be an unbelievable amount of traffic going through the neighborhood. She stated that a study of the local streets and intersections, as well as a study of the worst case scenario, is warranted.

Acting Chairman Yerkovich stated that the Planning Board members are not experts on traffic patterns, especially ones that impact local streets, and the Board has asked the developer to investigate the anticipated traffic impacts on the local streets in order to help support whatever decision the Board ultimately makes. She stated that she supports issuing a Positive Declaration and asking for more information based on a thorough review of the local traffic.

Mr. McCabe stated that he agreed with the Acting Chairman, noting that the internal traffic needs to be studied to find out what the impact would be before it gets to Howard Road.

Mr. Geraci, Mr. Schawel, Mr. Bellissimo and Mr. O'Connell stated that they would support a Positive Declaration.

Board members agreed that the Planning Department will prepare a Positive Declaration. Mr. Reilly noted that the Board only has to identify one (1) potentially significant impact to issue a Positive Declaration. He stated that if a Positive Declaration is issued, the Board would then do Scoping to identify any other impacts that should be studied further. He stated that the applicant would then be required to submit a targeted EIS.

Acting Chairman Yerkovich stated that the TSAB will be commenting on the TIS that was previously submitted. She noted that she is concerned that it is devoid of information regarding the local street network.

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

Attorney Sean Hopkins, representing the applicant, asked if he would be able to speak on behalf of his client. Board members agreed to let him address the Board.

Attorney Hopkins stated that the Planning Board raised a legitimate concern relative to the potential impacts on the local roadway network. He stated that requiring a Positive Declaration is premature, and he asked the Board to ask the developer to supplement the TIS with the requested information so that the Board can investigate it further.

Board members agreed that the following local intersections should be addressed in the additional traffic study:

- Heatherwood Drive at Breckenridge Road
- Heatherwood Drive at Roundtree Road
- Heatherwood Drive at Fox Run Drive
- Heatherwood Drive at Drayton Park
- Heatherwood Drive at Deerfield
- Heatherwood Drive at Ironwood

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- Breckenridge Road at Heatherwood Drive
- Fox Run Drive at Deerfield

Engineering Department comments have been filed with the Planning Department.

OTHER BUSINESS

Mr. Bellissimo made a motion, seconded by Mr. Schawel, to approve the minutes of August 21, 2013, 2013. Carried.

Mr. Schawel made a motion, seconded by Mr. Bellissimo, to adjourn the meeting. The meeting was adjourned at 8:52 P.M.

Respectfully submitted,
Stephen J. McCabe, Secretary
Planning Board

Date: September 12, 2013