

Town of Hamburg
Planning Board Meeting
January 16, 2019
Minutes

The Town of Hamburg Planning Board met for a Regular Meeting at 7:00 P.M. on Wednesday, January 16, 2019 in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Vice-Chairman William Clark, Doug Schawel, Dennis Chapman, Robert Mahoney, Augie Geraci, Al Monaco and Kaitlin McCormick.

Others in attendance included Town Planners Andrew Reilly, Sarah desJardins and Matt Bowling, as well as Town Attorney Steve Walters and Town Engineer Michael Quinn.

REGULAR MEETING

Public Hearing - 7:00 P.M., Anthony Cutaia – Requesting Site Plan Approval of a proposed multi-family project to be located at 5138 South Park Avenue

Attorney Sean Hopkins, representing the applicant, stated that this property is owned by the Franciscan Sisters of St. Joseph of Hamburg NY, Inc. and is zoned R-3. He stated that it is approximately 27 acres in size, and the proposed project consists of 168 units (two-story buildings with eight (8) units per building).

Attorney Hopkins stated that the project would reutilize a portion of the former Immaculata School, which has been vacant for a few years, as a community center.

Attorney Hopkins stated that the original project consisted of 184 units, but two (2) buildings were eliminated based on input received from the U.S. Army Corps of Engineers asking the applicant to reduce wetland impacts to the maximum extent practicable. He further noted that the project complies with the stringent emergency access standards contained in the New York State Fire Code, and this has been confirmed by Kurt Allen, Supervising Code Enforcement Official.

Mrs. desJardins stated that the Traffic Safety Advisory Board (TSAB) recommended at its January 10, 2019 meeting that the exit onto Bayview Road be a full access roadway.

Attorney Hopkins stated that the applicant has made an effort to reach out to the nearby property owners on Twilight Lane and surrounding area and is willing to do what he can to incorporate the input received. He further noted that the property owners within 500 feet of this site were sent notices from the applicant inviting them to the public hearing.

Attorney Hopkins stated that there is no lighting planned for the relocated athletic fields on the site to be utilized by Hilbert College. He further stated that approximately 3,200 linear feet of recreational trails is proposed that would meander through the site.

Regarding the environmental impacts of this project, Attorney Hopkins stated the following:

- A traffic study was submitted that was prepared by Amy Dake from SRF Associates, and the New York State Department of Transportation's (NYSDOT) comments on that traffic study were that this project will not cause adverse effects on the State highway system, only one (1) driveway connection to South Park Avenue is allowed and a Highway Work Permit will be required.

Attorney Hopkins stated that the applicant plans to close the southernmost driveway on South Park Avenue as a result of the comments from the NYSDOT.

- The project includes .49 acres of impact to wetlands and a jurisdictional ditch in the amount of 1,445 linear feet. He noted that that application has been filed with the U.S. Army Corps of Engineers, and once the applicant gets a decision on that permit request, a copy will be provided to the Planning Board.
- The storm water management system will comply with the stringent storm water quantity and quality requirements of the New York State Department of Environmental Conservation (NYSDEC).
- Low level lighting is proposed, and there will be no spillover of lighting onto nearby properties.
- Regarding community character, the R-3 District would explicitly allow a much more intensive development of this project. Only two-story buildings are proposed, and the Town Code would allow more than three-story buildings. A permanent open space buffer is proposed south of the existing properties on Twilight Lane, and the applicant proposes to leave that area in its undeveloped state.
- A completed Part I of the Environmental Assessment Form was submitted in connection with this proposal, and a Coordinated Review was done in late October 2018. None of the Involved or Interested Agencies that commented expressed any concerns about potentially significant adverse environmental impacts. The NYSDEC comment letter indicated that the applicant will need to seek a SPDES (State Pollutant Discharge Elimination System) permit from the NYSDEC for storm water management. It further indicates that because this project will generate more than 2,500 gallons of sanitary sewer flow per day, it is required to comply with the NYSDEC's stringent I & I (inflow and infiltration) requirements.

Mr. Quinn advised Attorney Hopkins that the traffic study should be supplemented based on the elimination of the second entrance to South Park Avenue. Attorney Hopkins agreed.

In response to a question from Mr. Geraci, Attorney Hopkins stated that the traffic study that was submitted for the Sowles Road apartment project looked at the cumulative impacts of that project, as well as the project on the Immaculata property.

In response to a question from Mr. Quinn, Attorney Hopkins stated that eliminating the southern access to South Park Avenue will not impact the project's compliance with the New York State Fire Code.

In response to a question from Mr. Quinn, Chris Wood, engineer for the project, stated that any storm structures currently on the site will be removed.

Attorney Hopkins stated that the density of this project is 6.22 units per acre, and if that number is compared to the other multi-family projects that have been approved by the Planning Board during the past decade, it is probably the lowest density of them all.

Mr. Reilly stated that although the property is zoned R-3, no one envisioned that it would be developed as a multi-family project, since there was always a school on it. He stated that community character should be looked at in this context.

Attorney Hopkins stated that if one looks at other projects completed by the applicant, it is obvious that the Cutaias go out of their way to create a community in terms of walkability, landscaping and upgraded materials.

Attorney Hopkins stated that the applicant is very aware that the project will have to comply with the Town's Affordable Housing Law, which requires that 10% of the units meet those criteria.

Nick Cutaia, applicant, stated that the goal is to make these units look as close to single-family homes as possible while maintaining the attached garages and private entrances.

In response to a question from Mr. Mahoney, Mr. Wood stated that dumpsters are not planned.

Mr. Don Griebner, New York State general real estate appraiser from Real Property Services, LLC stated that he did a market study for this project and he concluded the following:

- There were 98% occupancy levels for 1,032 units in six (6) complexes.
- New complexes were filling up at a reasonable rate.
- Rent levels were being attained.
- The unit mix proposed caters to the market demand.
- The product and location fit very well into strong market demand.
- Within the market area, there were sufficient income-qualified renters to support this product from both renters and homeowners.
- Demand will be realized from beyond the designated Primary Market Area.

Mr. Griebner stated that his final conclusion was that this project is economically viable, it would satisfy a demand that he believes is in the marketplace and it will be well received based on its location and the amenities that will be offered.

In response to a concern expressed by Mr. Chapman about who would fill the apartments of the renters who leave their apartment to go to this new development, Attorney Hopkins stated that research done on another of the Cutaia's projects in Grand Island showed that many landlords ended up fixing up their apartments, once people left to go to the new development, in order to make them more competitive.

In response to a question from Mr. Chapman, Mr. Griebner stated that he researched all of the relevant apartment developments in the area in order to do his market study. He further stated that this type of project is giving the market exactly what it wants.

The manager of the Clifton Heights apartment complex, a Cutaia project, stated that one third of the people who moved in to those apartments came from homes.

Vice-Chairman Clark stated that the Planning Board should have the vacancy rates of different types of rental properties.

Mr. Geraci stated that there have been many single family homes built in this area over the 30 years he has lived there, and there has been a lot of development.

Mr. Schawel 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 Cutaia Acquisitions LLC to construct an apartment project on property located at 5138 South Park Avenue. The Public Hearing will be held on January 16, 2019 at 7:00 p.m. in Room 7B of Hamburg Town Hall."

Vice-Chairman Clark declared the public hearing open. The following people spoke:

- Alane Sanfilippo, 4363 Twilight Lane, stated that her main concern is the exit onto Bayview Road and that people will prefer that exit to the South Park Avenue exit. She asked who would be responsible for paying for any reconstruction that becomes necessary of Bayview Road. She is concerned about the fact that the McKinley Mall will probably go under, which will reduce the amount of taxes paid to the Frontier School District and therefore a tax increase to the residents.
- Vaune Gresco, 4367 Twilight Lane, stated that she is concerned about the safety, security and privacy of the Twilight lane residents. She is concerned about strangers roaming around near her property line and looking at her when she is on her deck or in her home. She asked the Board to require an EPA study because of the number of people added to this area from this development. She is worried about cars, garbage, drainage, electric and sewers. She stated that Bayview and Rosetta are small two-lane roads, and South Park Avenue cannot handle the additional traffic. She stated that there has always been a drainage problem on Twilight Lane, and she is worried about additional problems with this development. She is concerned for the wildlife in the area. She asked who will pay if there is massive flooding of Twilight Lane. She asked how much buffer will be provided behind her property line.
- Geoffrey Clark, 4940 Bayview Road, stated that he agrees with Ms. Gresco. He was unhappy that he was not notified about this public hearing and did not see it advertised in the paper. He has concerns about drainage in the area and wondered if the water mains can handle the additional flow. He would like a larger buffer to the Twilight Lane properties.
- Michael Brophy, President of Hilbert College, stated that he is in support of this project because the college community would like to see the property used in a way that is useful for the Town, this will be a huge addition to Hilbert College's recreational athletic program with the new baseball and softball fields and Hilbert College would be happy to entertain any requests from the Town for the fields to be used by the public.
- Philip Best, 4724 McKinley Parkway, stated that he has an existing culvert on his property, and he asked if there would be any mitigation to upgrade the drainage situation in that area. He stated that during heavy rain events, flooding occurs there now, and this would add to the problem.
- Roger Bevilacqua, 4316 Twilight Lane, stated that his main concern is safety between this project and the rear of the properties on Twilight Lane. He asked if a barrier is proposed to keep people out of the Twilight Lane properties.
- Barbara Bevilacqua, 4316 Twilight Lane, stated that she is concerned about the integrity of the neighborhood, and she wants to protect her property value. She asked how this development would affect that value.
- Mark Raccuia, 4329 Twilight Lane, stated that safety is his biggest concern. He stated that his neighborhood will be affected by this new development, and he wants a barrier between his neighborhood and the new development.
- Jayme Dean, 4930 Bayview Road, stated that his biggest concern is the utilities, the water and the traffic on Bayview Road. He stated that people drive on Bayview Road too fast, and he has notified the Town, but nothing ever happens. He stated that there will be too many people travelling on Bayview Road. He asked if the access road be put through the Hilbert College property instead of onto Bayview Road.

- Dan Pemberthy stated that his son lives at 4349 Twilight Lane. He stated that he would like the access road to go through Hilbert College instead of onto Bayview Road. He asked what the future of the existing maintenance building on the property would be. He asked if the roadway could be relocated further south away from the Twilight Lane properties, and he stated that the developer should make it annoying to use the Bayview Road exit with speed bumps, etc. He would like to see the traffic exposure minimized to the Twilight Lane properties. He is concerned about noise and lights.
- Sister Marsha, Franciscan Sisters of St. Joseph, stated that the Franciscan Sisters of St. Joseph were hoping to find a non-profit group to utilize the property, but no one was interested. She stated that they did not want to be a competitor to the Courtyard facility (assisted living) or to St. Peter & Paul school or St. Francis high school. She stated that this project is the best option for them, and the developer builds top notch quality apartments. She stated that the developer would not just be building individual homes for people, but rather creating a community spirit. She stated that the vacant building has been vandalized, and it has to be heated.
- David Laclaire, 4323 Twilight Lane, stated that too many apartments are being built. He is 100% opposed to this project, and he is sure that college students will be living in this development. He stated that Hamburg does not need any more apartments.
- Erin Sullivan, 4307 Twilight Lane, asked if parts of the buffer zone would be only 20 feet wide. She stated that many property owners have encroached on the Sisters' property already, so the buffer zone would actually smaller. She asked if lighting is planned.
- Patricia Smith, 4354 Twilight Lane, asked where visitors would park.
- Chester Partacz, 4339 Twilight Lane, stated that drainage is his biggest concern and the affect this project would have on Twilight Lane. He would prefer that the roadway go through Hilbert College rather than out to Bayview Road. He stated that perhaps the Town should reopen Bayview Road to McKinley Parkway.

Vice-Chairman Clark declared the public hearing closed.

Vice-Chairman Clark made a motion, seconded by Mr. Geraci, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

Bryan Ehrhart – Requesting Sketch Plan Direction on a proposed cluster subdivision to be located on vacant land, north side of Pleasant Avenue

David Stutz from Studio T3 Engineering, PLLC, representing the applicant, stated that the parcel is zoned R-1 and consists of 18 acres of vacant land. He noted that the applicant would like to construct a cluster subdivision.

Mr. Stutz showed Board members a regular R-1 layout that meets the Town's requirement, and the subdivision consisted of 30 building lots. He stated that the site has no environmental problems, and if a cluster subdivision is approved, 50% of the site would remain as open space.

Mr. Stutz stated that the site is a fill site and is not suitable for anything other than a residential subdivision. He noted that a large amount of the fill would have to be excavated in order to put suitable foundations in for the homes. He stated that the applicant is fully aware of this issue.

Mr. Stutz stated that the applicant would like to build a cluster subdivision so that the fill removal costs can be contained and keep some of the land for open space.

Mrs. desJardins stated that the Planning Board must first decide if it wants a cluster subdivision at this location instead of a regular R-1 subdivision. She noted that if the Board decides that a cluster subdivision makes sense at this location, then the applicant must be advised as to the maximum number of lots that will be permitted, and that number would be based on how many lots the applicant could build if an R-1 subdivision were developed.

In response to a question from Mr. Quinn, Mr. Stutz stated that the 1/2 acre of open space in the middle of the R-1 subdivision is meant to be a dry swale with a trail through it. He further stated that the plan would be to run water from the southern half of the subdivision into the open area in the center of the layout via bio-retention or trails and then draining it out to the pond shown.

Mr. Stutz stated that the pond is proposed where it is because of the soil investigation and the topography of the site.

Mr. Quinn stated that the capacity of the storm sewers in the area must be looked at to see if they can handle additional input. He further stated that he agrees that the maximum number of lots that could be built is 30.

Mr. Stutz stated that a cluster subdivision would have a reduced effect on the environment and drainage on the site than an R-1 subdivision would have.

Mr. Quinn advised Mr. Stutz that the maximum length allowed of a cul-de-sac is 500 feet per the Town Code.

Board members agreed that they do not want to see homes facing Pleasant Avenue because they do not want driveways onto that roadway.

In response to a question from Mr. Chapman, Mr. Stutz stated that the roadway is proposed to be public and noted that Erie County is discouraging Homeowners' Associations, which would be required to maintain the infrastructure if it were private.

In response to a question from Mr. Reilly, Mr. Stutz stated that soil borings have been done, and what was found was gravely silt, rock, debris, clay, etc. He stated that the fill on the site is clean but is not suitable to put a foundation on. He noted the approximately eight (8) to 13 feet of fill will have to be excavated in order to put foundations in.

Mr. Stutz stated that if cluster is approved for this site, the applicant plans to have 20 more soil borings done so that the homes are proposed where there is less unsuitable fill.

Vice-Chairman Clark made a motion, seconded by Mr. Mahoney, to authorize the use of cluster for this proposed subdivision that will provide no more than 30 single family building lots and that will create environmental features worth saving, additional buffer space between this project and the residents to the east and aesthetic improvements.

Mr. Reilly stated for the record that the Planning Board has authorized the use of cluster development only and has not approved anything yet.

Mr. Monaco made a motion, seconded by Mr. Chapman, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

5272 South Park Avenue LLC - Requesting Preliminary Plat Approval of a two-lot subdivision to be located on portions of 5200 and 5272 South Park Avenue

5272 South Park Avenue LLC - Requesting Site Plan Approval of a residential project on portions of 5200 and 5272 South Park Avenue

Attorney Sean Hopkins, representing the applicant, distributed a site plan and landscaping plan that had been revised reflecting the minor revisions that were made based on input received from the Planning Board at its last meeting. He stated that the following comments and input were received at the Board's January 2, 2019 meeting:

- Board members recommended that additional landscaping should be proposed along Sowles Road.
- Board members discussed the idea of a decorative guide rail near the storm water pond at the intersection of Sowles Road and the entrance to Hilbert College.
- Board members suggested adding some benches in the passive recreation area on the site.

Attorney Hopkins stated that a 90-foot long decorative reinforced timber guide rail has been added to the site plan in order to protect motorists who are traveling generally west on Sowles Road. He further stated that within the passive recreation area, a couple of benches have been added to make that area look nicer.

Attorney Hopkins stated that the landscaping plan has been revised to show that approximately eight (8) of the trees from elsewhere on the site (primarily in the rear of the site) have been relocated to the area around the storm water pond, specifically near the Hilbert driveway and also in the green space area.

Attorney Hopkins stated that approximately 162 trees are proposed on the site. He further noted that final engineering plans have been submitted to the Town's Engineering Department.

Attorney Hopkins stated that the project will incorporate the existing Hilbert driveway from Sowles Road for access, and the closing was scheduled for January 18, 2019. He noted that he will provide the Town with a copy of the reciprocal access easement, which gives the applicant permanent access rights to that existing driveway.

In response to a question from Mr. Geraci, Attorney Hopkins stated that the applicant plans to construct the project in two (2) phases.

Mr. Reilly stated that the Code states that if the Planning Board allows more than 1/4 acre of trees to be removed, the Conservation Advisory Board (CAB) must sign off on the replanting of trees in the area, so the CAB will have to sign off on the applicant's plan to replant trees along the Hilbert driveway where a stand of trees currently exists.

Mr. Reilly reviewed Part II of the Environmental Assessment Form (EAF) to support a Negative Declaration.

Mr. Chapman made the following motion regarding SEQR, seconded by Mr. Mahoney:

“Whereas, the Town of Hamburg received a Site Plan application and minor subdivision application from 5272 South Park Avenue, LLC, for the construction of a new multi-family development project to be located east of the intersection of Sowles Road and South Park Avenue; and

Whereas, in accordance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Hamburg Planning Board has conducted a coordinated environmental review of this project; and

Whereas, the Town Planning Board has received input from the Town's Advisory Boards and other Interested and Involved agencies for this action; and

Whereas, public hearings were held regarding the proposed subdivision and project, and comments were received, and

Whereas, the Town referred the project to Erie County under General Municipal Law 239 and received their comments, and

Whereas, the Planning Board has thoroughly reviewed the project and comments received, and the applicant has amended the project based on input from the Planning Board, and

Whereas, in accordance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Hamburg Planning Board has reviewed part 1 of the FEAF and completed part 2 and 3 of the FEAF and reviewed the criteria for determining significance in accordance with Section 617.7 of SEQR.

NOW, THEREFORE BE IT RESOLVED, the Hamburg Planning Board, in accordance with the State Environmental Quality Review Act (SEQRA) has determined that the proposed project 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 and therefore issues a SEQR Negative Declaration in accordance with Section 617.7 of the SEQR regulations, and

BE IT FURTHER RESOLVED THAT, the Planning Board Chairman is authorized to sign the Environmental Assessment Form (EAF), which will act as the Negative Declaration, and

BE IT FURTHER RESOLVED THAT, the Planning Board in making this decision has accepted the segmented review of this project as further development may take place on this site. In segmenting this review, the Planning Board has determined the following; the information on any future project phases is too speculative, these future phases/projects may not occur, the possible future phases are functionally independent of the current phase, and the Planning Board in making this decision does not commit itself to any future actions/approvals. Any future projects will have their own environmental review and will consider the impacts of this current project.”

Carried.

Mr. Geraci made the following motion regarding Preliminary Plat approval, seconded by Mr. Monaco:

“In accordance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Planning Board has issued a SEQR Negative Declaration on the proposed “Covent Gardens project”.

The Hamburg Planning Board hereby grants Preliminary Plat Approval for the Covent Gardens Two-Lot Subdivision with the following conditions:

1. The installation of sidewalks is required.
2. The filing of a Map Cover is waived.”

Carried.

Mr. Mahoney made the following motion regarding Site Plan Approval, seconded by Mr. Monaco:

“In accordance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Planning Board has issued a SEQR Negative Declaration on the proposed “Covent Gardens project”.

The Planning Board, based on its review of the project in accordance with Article XLIV of the Town of Hamburg's Zoning Code, having received and considered input from Town departments, committees and advisory boards, having completed the required public hearing and having the applicant amend the drawings based on the Planning Board's comments, hereby grants Conditional Site Plan approval for the 5272 South Park Avenue LLC project (Also known as Covent Gardens) with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated January 16, 2019.
2. The project must include the required affordable housing in accordance with Hamburg Town Law, which shall be enforced by the Town's Community Development Department.
3. The Planning Board has required the installation of sidewalks along Sowles road as shown on the Plans and will require future expansion and connection as further development occurs.
4. The Landscape Plan will be finalized through the Planning Consultant, with input from the Conservation Advisory Board and returned to the Planning Board for final sign-off.
5. No blasting will occur at the site.
6. The required "recreation area" will be constructed during the first phase of this approved project."

Carried.

Engineering Department comments have been filed with the Planning Department.

Planning Board to review request from residents on Mosey Lane to rezone Town-owned property located north of Mosey Lane and west of both Horton Avenue and Wolf Road from R-2 to PR (Park Recreation District)

Mr. Reilly stated that there are six (6) parcels of land being considered for rezoning. He stated that the two (2) parcels furthest west are Town parkland parcels, and the Town has long term plans for those properties for recreational purposes. He noted that the Recreation Department does not know why the other four (4) small parcels are Town-owned.

Vice-Chairman Clark made a motion, seconded by Mr. Monaco, to table this item for further information. Carried.

OTHER BUSINESS

Mr. Geraci made a motion, seconded by Mr. Mahoney, to approve the minutes of January 2, 2019. As the vote on the motion was six (6) ayes and one (1) abstention (Ms McCormick), the motion passed.

Mr. Chapman made a motion, seconded by Mr. Monaco, to approve the minutes of December 19, 2019. As the vote on the motion was six (6) ayes and one (1) abstention (Ms McCormick), the motion passed.

Mr. Geraci made a motion, seconded by Mr. Monaco, to adjourn the meeting. The meeting was adjourned at 9:35 P.M.

Respectfully submitted,
Doug Schawel, Secretary
January 31, 2019