

Town of Hamburg  
Planning Board Meeting  
June 16, 2021  
Minutes

The Town of Hamburg Planning Board met for a Work Session at 6:30 P.M., followed by a Regular Meeting at 7:00 P.M. on Wednesday, June 16, 2021 in Room 7B of Hamburg Town Hall. Those attending included Chairman William Clark, Vice-Chairman Kaitlin McCormick, Bob Mahoney, Megan Comerford and Dennis Chapman.

Others in attendance included Town Planners Andrew Reilly and Sarah desJardins, as well as Planning Board Attorney Jennifer Puglisi.

Excused: Doug Schawel and Al Monaco

## **WORK SESSION**

### **5272 South Park Avenue LLC – Requesting Sketch Plan Direction on a proposal to demolish the existing 117,000 sq.ft. convent located at 5272 South Park Avenue and construct an age-restricted community for seniors and 17 apartment buildings**

Rob Savarino, applicant, stated that based upon input received at a previous Planning Board meeting the following revisions were made to the Concept Plan:

- The site data box was updated to include the number of parking spaces and how many one-bedroom and two-bedroom units would be provided.
- An extensive array of trails was added to the site, including potential connections to Hilbert College. All parking areas and sidewalks are linked by the trails on the inside of the project.
- The landscaped buffering along Sowles Road was enhanced and the proposed signage at the corner of South Park Avenue and Sowles Road has been added to the plan.
- A bus shelter with a pedestrian connection has been added at the bus stop in front of the site on South Park Avenue.
- Gazebos have been added to the proposed recreation area.
- A patio has been added to the community center for the apartment complex.
- A Traffic Impact Study has been ordered.

Mr. Reilly asked Mr. Savarino to see if the large stand of trees on the corner of Sowles Road and the Hilbert College entrance can be saved. Mr. Savarino responded that he will save the trees if it is possible.

Ms. McCormick stated that she is concerned that plantings installed on the top of berms may not survive due to lack of water.

Attorney Sean Hopkins, representing the applicant, stated that the modifications are minor but come as a result of comments made by the Planning Board at a previous meeting.

Attorney Hopkins stated that in his opinion the existing evergreen trees along the entrance to Hilbert College from Sowles Road are not in very good shape.

In response to a question from Ms. McCormick, Mr. Savarino stated that the submitted Site Plan will show the areas that will be used for snow storage.

In response to a question from Mr. Reilly, Mr. Savarino stated that 564 parking spaces are proposed, 80 of which are garage spaces, 109 of which are designated open spaces for the senior project and 375 of which are dedicated to the apartment project.

In response to a question from Mrs. Comerford, Mr. Savarino stated that 28 of the 125 units in the senior apartment project are one-bedroom units. He further stated that there would be 109 open parking spaces and 40 garages for the seniors.

Mr. Savarino stated that he has found that an average of one space per senior is acceptable.

In response to a question from Mrs. desJardins, Mr. Savarino stated that 5272 South Park Avenue is comprised of a partnership called S & N (Phil Nanula and Nick Sinatra).

Mr. Savarino stated that he plans to take anything out of the convent that has any significance before the building is demolished. He noted that he would like to use those items in the new senior apartment building.

### **Stevens & Pierce – Requesting a Change in Use of the building located at 6592 Gowanda State Road to a bridal shop**

Mrs. desJardins stated that the applicant would like to operate a bridal shop in the existing building located on this site. She noted that the only change to the site would be that the applicant plans to install seven (7) additional parking spaces, which will require a variance.

Karin Best, applicant, stated that 12 parking spaces would be provided, which would be adequate for the business.

Chairman Clark made a motion, seconded by Mr. Mahoney, to schedule a public hearing to be held on July 7, 2021. Carried.

### **REGULAR MEETING**

#### **Public Hearing – 7:00 P.M., Maureen Buckley – Requesting Preliminary Plat Approval of a two-lot subdivision to be located at 3542 South Creek Road**

Mrs. desJardins stated that the applicant submitted a revised Preliminary Plat showing a 100-foot conservation easement from the top of bank along Eighteen Mile Creek as requested at the last meeting.

Chairman Clark stated that he would like some sort of markers located at the edge of the conservation easement so that people know that there cannot be any building beyond that point.

Paul Wodzinski, the applicant's builder, stated that the brush is four (4) feet high where the conservation easement would begin but a metal marker could be placed there as well.

Ms. McCormick stated that she would like the conservation easement to also be placed on lot # 1 (the existing lot).

Mr. Wodzinski stated that there are no other conservation easements on this street.

Mrs. Comerford 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 two-lot subdivision proposed by Maureen Buckley to be located at 3524 South Creek Road. The public hearing will be held on June 16, 2021 at 7:00 P.M. in Room 7B of Hamburg Town Hall.”

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

Chairman Clark declared the public hearing closed.

Ms. McCormick reviewed Part II of the Short Environmental Assessment Form. She noted under Part III that the Critical Environmental Area and the natural resources and erosion are protected by the use of the conservation easement on both lots and that will help maintain the existing aesthetic character of the area. She further noted that the septic impact will be small.

Mrs. Comerford made the following motion, seconded by Mr. Mahoney:

“Whereas, the Town of Hamburg received an application from Maureen Buckley requesting a two-lot subdivision at 3542 South Creek Road; and

Whereas, the proposed subdivision is an Unlisted Action under the State Environmental Quality Review Act (SEQR); and

Whereas, the Town Planning Board has held a public hearing, received input from the Town’s advisory boards and the applicant has revised the drawing based on the Planning Board’s input; and

Whereas, in accordance with Part 617 of the Implementing Regulations pertaining to Article 8 SEQR of the Environmental Conservation Law, the Hamburg Planning Board has reviewed Part I of the EAF and completed Part II and III and the criteria for determining significance in accordance with Section 617.7 of SEQR.

Now, Therefore, Be It Resolved, that the Hamburg Planning Board, in accordance with SEQR, has determined that the proposed project will not adversely affect the natural resources of the State or the health, safety or welfare of the public and is consistent with the 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 EAF, which will act as the Negative Declaration.”

Carried.

Chairman Clark made the following motion, seconded by Mrs. Comerford:

“The Planning Board, based on the issuance of a SEQR Negative Declaration, review of the project in accordance with the Town’s subdivision requirements, having received and considered input from Town departments, committees and advisory boards, having completed the required public hearing and having the applicant amend the drawing based on the Planning Board’s comments, hereby grants Preliminary Plat Approval of the two-lot subdivision to be located at 3542 South Creek Road with the following conditions:

1. Approval is contingent upon a 100-foot conservation easement to be located and recorded on the deed of both lots 1 and 2 extending from the top of bank 100 feet.
2. Permanent markers will be placed on the property to identify the conservation easement.
3. The construction of sidewalks is waived.”

Carried.

**Planning Board to issue the Final Scoping Document regarding the proposed Dollar General store to be located at 6505 Southwestern Boulevard**

Board members discussed the Scoping Document prepared by the Planning Department based upon input received from members of the public and Board members.

Board members pointed out a few grammatical errors in the document and Mrs. desJardins stated that she would fix them.

Mr. Frank Peluso stated that he was told that he would be able to comment on the Final Scoping Document at this meeting. He noted that he is concerned that the Traffic Impact Study performed previously does not adequately reflect what the traffic loads are today.

Chairman Clark stated that the Traffic Impact Study will be updated in connection with the Environmental Impact Statement.

Chairman Clark made a motion, seconded by Mr. Chapman, to adopt the Final Scoping Document for the proposed Dollar General store at 6505 Southwestern Boulevard.

Carried.

Mr. Peluso thanked the Planning Board and the Planning Department for developing a very thorough Scoping Document.

**Mike Schultz – Requesting Planning Board re-review of a towing and recovery impound area at 5505 Southwestern Boulevard (Site Plan Approval and Special Use Permit granted on 11-18-20)**

Mike Schultz, applicant, stated that the Engineering Department wanted to make sure that this property will not drain onto adjoining properties. He stated that he took grade readings at different locations on the site and has shown that all of the water drains to the center and then out to the road.

Mr. Schultz showed Board members where the proposed shielded lighting, as well as the existing and proposed landscaping, is located.

Chairman Clark made a motion, seconded by Ms. McCormick, to grant Conditional Site Plan Approval for this project based on the drawing dated June 1, 2021 and presented to the Planning Board on June 16, 2021 with the following conditions:

1. The impound lot fencing will be amended from chain link to corrugated steel.
2. Typical detail will be provided for all fencing.
3. Landscaping will be approved by the Planning Department and the Conservation Advisory Board.
4. The driveway gate will be set back per Town Code so vehicles can be off the roadway when opening the gate.
5. The grading elevations must be filed with the Town's Engineering Department.

Carried.

Engineering Department comments have been filed with the Planning Department.

**Chick-Fil-A - Requesting Site Plan Approval of a new restaurant building to be located in front of 3464 Milestrip Road**

Attorney Sean Hopkins, representing the applicant, stated that since the Board's last meeting and as a result of the Coordinated SEQR Review, Erie County Department of Public Works has indicated that it reviewed the Traffic Impact Study and has no traffic related concerns regarding the retention of the existing driveway on McKinley Parkway.

Attorney Hopkins stated that this Chick Fil A design is a new prototype with double stacking lanes and a sliding door for employees has replaced the ordering window.

Attorney Hopkins submitted a letter from Trevor Edkin from Raymour & Flanigan indicating that Raymour & Flanigan is well aware and very supportive of this project and understands that during the Grand Opening there may be a need to accommodate additional queuing of vehicles on its property.

Attorney Hopkins stated that this site has a lot of extra parking because it used to be a Toys R Us and Babies R Us location, which required a lot of parking.

Attorney Hopkins stated that Ms. Jarrell (Town Engineer) emailed him on June 16, 2021 indicating that from a technical perspective she is comfortable with the project.

Trevor Edkins from Raymour & Flanigan stated that two (2) months ago Chick Fil A opened a new store in front of a Raymour & Flanigan in Clay, New York. He noted that the new store had the double stacking lanes and the new sliding door for employees, as well as mobile ordering and mobile pick up. He stated that Raymour & Flanigan is very pleased to be a co-tenant with Chick Fil A and did not experience any problems at all during the Grand Opening of the store in Clay, New York.

Mr. Edkins stated that during the Grand Opening in Clay, Chick Fil A worked closely with the sheriff's office to prepare a Grand Opening stacking plan that would have allowed for more than 100 cars to circulate the facility. He noted that none of the plan had to be implemented because Chick Fil A operated in such an efficient manner.

Mr. Edkins noted that Raymour & Flanigan purchased this site that was not being used and installed its store, as well as the Sketchers Shoe store, there and does not need the large amount of parking that exists on the site. He noted that Raymour & Flanigan has had to install speed bumps in front of the building.

In response to a question from Mr. Chapman, Mr. Edkins stated that Raymour & Flanigan is both the owner of the property and the co-tenant.

In response to a question from Ms. McCormick, Mr. Edkins stated that more than likely the snow will be stored in the rear of the site.

In response to a question from Mr. Chapman, Attorney Hopkins stated that 35 stacking spaces are provided, as well as plenty of parking spaces.

In response to a question from Mr. Chapman, Tim Freitag from Bohler Engineering stated that there are approximately 120 seats in the Chick Fil A stores and approximately 50 to 60 parking spaces are usually needed. He noted that 202 parking spaces are provided.

Mrs. Comerford stated that her concern is that at the Clay facility, patrons leave the site via light and at this facility patrons would be leaving via two exits that do not have lights. She noted that patrons would be making a left hand turn across busy roadways that do not have a great traffic rating.

Mrs. Comerford stated that this property is in close proximity to a national sports arena that hosts events throughout the year and the Town should have a plan in place to deal with the traffic on those event days.

Mrs. Comerford stated that she visited the Chick Fil A site at the Galleria Mall on a Wednesday evening at 8:00 and noted that the line extended all the way to the intersection.

Mr. Reilly noted that there are four (4) ways to exit this site and people will learn to go the way that is the easiest and safest.

Mr. Edkins stated that there is no way Raymour & Flanigan would do anything that would prevent it from making a sale or making one customer experience negative.

In response to a question from Mrs. Comerford, Mr. Reilly stated that one of the ways to exit the site is to drive across to the adjacent plaza, which makes for good access management. He stated that from a traffic standpoint, this would be the best place to locate a Chick Fil A because of the amount and location of access points.

In response to a question from Ms. McCormick, Attorney Hopkins stated that he spoke to Ed Rutkowski from the New York State Department of Transportation (NYSDOT), who indicated that he has no permits in connection with the project so this is not a big priority.

Board members discussed the entrance to the BJ's plaza and the traffic problems experienced at the light on Milestrip Road.

Attorney Hopkins noted that per the Traffic Impact Study, the intersection of the entrance to this site and McKinley Parkway is currently operating at a level of service A and B for movements.

Attorney Hopkins stated that he believes there is ample merit, based on the information provided by the applicant, in the Planning Board approving this Site Plan.

Board members discussed the Traffic Impact Study that was performed. Mrs. Comerford stated that she is concerned that between March and October 2020 people did not go anywhere.

Attorney Hopkins stated that more than likely the traffic numbers in the Traffic Impact Study were taken in 2019. He further stated that if numbers are taken from 2020 during the pandemic, they have to be adjusted to take that into account and the methodology must be accepted by the NYSDOT and the Erie County Department of Public Works.

Mrs. desJardins stated that she has asked the Police Department to provide the accident report for the intersection of Milestrip Road and McKinley Parkway.

Mrs. Comerford asked for Chick Fil A's traffic plan for the Grand Opening and for when there are large events at the nearby arena.

Mr. Freitag stated that those major events Mrs. Comerford referred to are no different to Chick Fil A than they are to the rest of the corridor there. He noted that the best way to deal with that scenario is having men on the ground observing what is going on and adjusting. He stated that having one plan in place would be very hard to do.

It was determined that the applicant will provide the Grand Opening strategy and will talk to the Police Department about the scenario where a major event is going on at the arena and Chick Fil A is open.

It was determined that the applicant will attempt to have representatives from SRF Associates, who prepared the Traffic Impact Study, to attend the Board's next meeting.

In response to a question from Ms. McCormick, Mr. Freitag stated that he would delineate the location on the site where the stacking spaces would end and the rest of the parking lot begins.

Mr. Augie Geraci, 4161 Glenwillow Drive, stated that it is not possible to predict how people are going to drive in this area. He stated that the Chick Fil A on Walden Avenue and Transit Road

run like Swiss clocks. He stated that there were never problems getting in and out of the Chick Fil A he has frequented in Nashville, TN, Manassas, VA and Erie PA. He stated that the addition of Chick Fil A would be a big help to the Raymour & Flanigan and Sketcher's. He stated that people use common sense and go to a restaurant at a different time of day if the restaurant is crowded.

Mr. David Manko stated that he supports Chick Fil A. He stated that he has gone to the Chick Fil A on Walden Avenue at many different times during the day and it always run like a Swiss watch. He stated that Chick Fil A is a very organized organization.

Chairman Clark declared the public hearing closed.

Ms. McCormick stated that the Planning Department should prepare draft Part II and III for this project.

Mr. Reilly stated that the only issued identified in Part II are traffic related.

Chairman Clark stated that the Planning Department will prepare draft resolutions for the Board's next meeting.

Chairman Clark made a motion, seconded by Mr. Mahoney, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

**David Manko – Requesting Preliminary Plat Approval of a 67-lot subdivision to be located on the west side of Parker Road**

Ms. McCormick stated that the sub-committee prepared an updated Part II of the EAF based on the Board's last meeting.

In response to a question from Chairman Clark, Ms. McCormick stated that she started filling out Section 17 of the Part II of the EAF and wanted to confirm Section 18. She stated that the sub-committee filled in a table based upon guidance from the New York State Department of Environmental Conservation (NYSDEC) for Part III.

Ms. McCormick stated that the Planning Board should review the draft of the sub-committee's preliminary Part II.

Ms. McCormick stated that regarding Section 17c (consistency with local land use plans and zoning regulations) of the Part II, the sub-committee reviewed the 2007 update to the Comprehensive Plan and there are comments in that plan indicating that the Town should be encouraging the existence of existing viable agricultural uses. She stated that the 2007 update also indicates that active agricultural lands and uses are important to preserving the aesthetic quality as well as the economic viability of the Town and a number of vital agricultural pursuits remain in the Town that should be preserved and promoted.

Ms. McCormick stated that the sub-committee considers the loss of agricultural land to be a potentially large to moderate impact.

Ms. McCormick stated that she previously asked Chris Wood, project engineer, to evaluate relative to the County storm water plan.

Attorney Hopkins stated that Town Engineer Jarrell and Mr. Wood previously agreed that what Ms. McCormick asked for is not something that can be done.

Ms. McCormick stated that Section 18's listed impacts were marked "No or small".

Ms. McCormick stated that the NYSDEC guidance for Part III suggests that Planning Boards do a table looking at each of the items from each of the questions and identifying what the magnitude of impact, the duration of impact, the likelihood of impact and the importance of impact. She noted that the sub-committee did create the table and added two (2) items (whether the impact is significant or whether or not it is contributing to cumulative impact with the Wetzl project).

Board members reviewed the sub-committee's table created.

Ms. McCormick stated that the following impacts are seen as having potential significance:

- Impact on surface water (the as of right plan has a larger impact than the cluster layout would) is pending design changes
- Impact on agricultural resources
- Impact on transportation
- Impact on consistency with community plans

Ms. McCormick stated that she is still waiting for Mr. Wood to provide the design of the riparian buffer plan.

Attorney Hopkins stated that he will prepare a response to the above impacts.

Mr. Reilly stated that he does not believe that this is an agricultural impact. He stated that this is isolated land and reaches no threshold. He stated that the agricultural land the Comprehensive Plan refers to is located in the southern part of the Town and this parcel is not viable farmland.

Ms. McCormick stated that there are farmers who actively farm land that is smaller in size than this parcel.

Ms. McCormick stated that she disagreed with Mr. Reilly.

Chairman Clark stated that this property is farmland that would be changed to another use, but whether that would trigger a Positive Declaration would depend in his mind on what mitigations are proposed.

Ms. McCormick stated that if the Planning Board determines that an impact is significant, whether or not a Board member has predetermined what mitigation would be, it would still have to go through the process.

Ms. McCormick asked Board members if they agree with what she has presented.

Chairman Clark stated that there are going to be impacts when something is built on a field. He noted that he agrees with what the sub-committee has identified as potential impacts

since buildings and roads are proposed where a field currently exists. He noted that everything that the Planning Board approves impacts community character and surface water.

Chairman Clark stated that the Board must determine what the process should be to address the above-mentioned impacts.

It was agreed that in Part III of the EAF, it must be determined if identified moderate to large impacts are considered significant and if they are, a Positive Declaration must be issued.

Mr. Reilly stated that this property is zoned R-1 for single family homes and asked how losing 35 acres of farmland is a significant impact.

Chairman Clark asked what the alternative would be to losing the farmland.

Attorney Hopkins stated that this land is not a viable farm currently, noting that it is being leased at no cost.

Mr. David Manko, applicant, stated that if he were to buy this property and turn it into a farm, it could not support its debt to be a farm.

Attorney Hopkins showed Board members a plan showing that under the cluster alternative, ample size homes can still fit on the proposed lots. He provided Board members with sample lot display plans showing four (4) different home types, driveways, possible accessory structures, etc.

In response to a question from Ms. McCormick, Mrs. desJardins stated that Roger Gibson, Supervising Code Enforcement Official, indicated that he feels that the required setbacks for this cluster subdivision should be equal to those required in the R-2 District because these proposed building lots are very similar to R-2 lots.

Mr. Reilly stated that Mark Lorquet, Conservation Advisory Board Chairman has been speaking to the applicant about how the open space should be utilized.

Attorney Hopkins reiterated the fact that the applicant's as well as the nearby neighbors' strong preference is for clustering. He stated that the overall environmental impacts would be less with clustering.

Attorney Hopkins stated that until the Planning Board resolves the issue of whether clustering will be allowed, the project engineer will not complete the fully engineered plans.

Mrs. Comerford confirmed with Attorney Hopkins that if clustering is authorized, the proposed front yard setback would be 30 feet, the proposed side yard setback would be at least 7.5 feet and the proposed rear yard setback would be at least 25 feet.

Attorney Hopkins noted that clustering requires at least a 25-foot rear yard setback and some of the proposed cluster lots would have rear yard setbacks of 51 feet or more.

Mrs. Comerford asked Attorney Hopkins to provide something that shows the largest proposed home on the smallest proposed lot.

Mr. Reilly stated that the Planning Board can determine what the setbacks will be based on the lot layout if clustering is authorized.

Chairman Clark made a motion, seconded by Mr. Chapman, to table this project. Carried. Engineering Department comments have been filed with the Planning Department.

**Glenn Wetzl – Requesting rezoning of vacant land located on the south side of Big Tree Road, east of 4255 McKinley Parkway from C-1 and R-1 to R-3**

Board members reviewed the draft Part II of the EAF prepared by the sub-committee. Ms. McCormick stated that the following impacts are seen as having potential significance:

- # 3: Impact on surface water
- # 3c: The volume of material to be dredged (over the threshold but not significant)

Ms. McCormick stated that the areas of concern that are potentially significant that are different from the Manko project EAF are as follows:

- # 7: Impact on plants and animals (over 10 acres of land would be converted from forested land)
- # 11a: The proposed action may result in an impairment of natural functions or “ecosystem services” provided by an undeveloped area, including but not limited to storm water storage, nutrient cycling, wildlife habitat.
- # 13: Impact on transportation
- # 14: Impact on energy
- # 17c: The proposed action is inconsistent with local land use plans or zoning regulations
- # 18f: Proposed action is inconsistent with the character of the existing natural landscape

Ms. McCormick asked Chairman Clark and Mr. Mahoney if there is anything they would like to see changed or disagree with regarding the draft Part II of the EAF for this project prepared by the sub-committee.

Mr. Reilly stated that # 11 (impact on open space and recreation) is referring to designated open space in an adopted plan that is important to a Town. He stated that he disagrees with the sub-committee’s listing of # 11a as potentially significant.

Ms. McCormick stated that the sub-committee did consult Attorney Puglisi about what constitutes “open space” and it will provide backup regarding how they arrived at its definition.

Ms. McCormick stated that the challenge with this parcel in terms of community character is that it is adjacent to commercial uses, vacant land that is zoned commercial, agricultural land and an existing residential development.

Chairman Clark made a motion, seconded by Mrs. Comerford, to table this project. Carried.

**OTHER BUSINESS**

Mrs. Comerford made a motion, seconded by Mr. Chapman, to approve the May 19, 2021 minutes. Carried.

Ms. McCormick made a motion, seconded by Mrs. Comerford, to adjourn the meeting. The meeting was adjourned at 9:40 P.M.

Respectfully submitted,  
Megan Comerford, Secretary  
July 6, 2021