

Town of Hamburg
Planning Board Meeting
July 7, 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, July 7, 2021 in Room 7B of Hamburg Town Hall. Those attending included Chairman William Clark, Vice-Chairman Kaitlin McCormick, Doug Schawel, Bob Mahoney, Megan Comerford and Dennis Chapman.

Others in attendance included Town Planners Andrew Reilly and Sarah desJardins, Town Engineer Camie Jarrell and Planning Board Attorney Jennifer Puglisi.

Excused: Al Monaco

WORK SESSION

Marrano Marc Equity – Requesting Planning Board Approval of a revised Part 3 Phase 3 of the Deer Springs Subdivision

Mr. Reilly stated that no approvals are needed from the Planning Board because the applicant is basically removing one (1) lot from a filed Map Cover.

Pat Bittar from William Schutt & Associates, representing the applicant, showed Board members the originally approved Part 3 Phase 3 that included 19 lots. She stated that the previous owner of the subdivision inappropriately placed fill within the wetland area of Part 3 Phase 3 and subsequently the New York State Department of Environmental Conservation (NYSDEC) halted any development in that area. She noted that there have been ongoing negotiations between the NYSDEC and the applicant to try and reach a resolution so that some level of development can be done there.

Ms. Bittar stated that a resolution was reached and as a result Part 3 Phase 3 has been reduced to eight (8) lots.

It was determined that no Planning Board approvals are required.

Penn Dixie – Requesting Sketch Plan Direction on a proposal to construct a new visitor center and parking at its location east of Jeffrey Boulevard

A representative from Penn Dixie stated that the applicant proposes a new driveway to Jeffrey Boulevard and a new parking area so that Penn Dixie does not have to be accessed from the adjacent neighborhood.

Ms. McCormick stated that she would be recusing herself from discussions regarding this project.

Chairman Clark made a motion, seconded by Mr. Mahoney, to authorize the Chairman to sign a Site Plan Waiver for this project.

REGULAR MEETING

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 was granted an area variance for the proposed new parking area on July 6, 2021.

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 proposal by Stevens & Pierce to operate a bridal shop in the existing building at 6592 Gowanda State Road. The Public Hearing will be held on July 7, 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.

Board members discussed whether the installation of sidewalks should be required.

It was determined that there are sidewalks along Gowanda State Road but not on Stevens Road.

Ms. McCormick stated that Stevens Road is all residential and the odds that it converts to commercial are slim. She noted that the applicant would only have to install sidewalks from the building to the west property line.

Board members agreed that the decision regarding sidewalks will be made at its next meeting when the applicant can be in attendance.

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

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 no new driveways are proposed in connection with this project, a favorable comment letter was received from Erie County Department of Public Works and the New York State Department of Transportation will probably not be commenting on the project since no changes to current access to roadways are proposed.

Attorney Hopkins stated that in his opinion Ms. Amy Dake from SRF Associates, who was in attendance, is the most competent traffic engineer in western New York and worked on the Traffic Impact Study (TIS) for this project.

Mr. Chapman expressed concern about where snow would be stored on the site, as well as the traffic by the BJ's plaza, which he believes would be negatively impacted by the traffic generated from this project.

In response to a question from Mr. Chapman, Timothy Freitag, project engineer, stated that hopefully there would be less snow on the site to remove because the amount of green space in the existing parking area would increase as a result of this project. He further stated that the unutilized parking spaces on the sides of the existing building would be used for snow management and the two-way traffic flow would not and cannot be impeded. He stated that in a large snow event, the snow would be hauled away.

Ms. Dake stated that she is the Managing Traffic Engineer at SRF Associates and noted that the following intersections were studied for the TIS:

- Milestrip Road and McKinley Parkway
- The site intersection on Milestrip Road
- The site intersection on McKinley Parkway

Ms. Dake stated that her firm did traffic counts during the peak weekday hours and Saturday lunch time. She noted that she anticipates that the majority of the traffic would use the two (2) existing driveways onto Milestrip Road and McKinley Parkway to enter and exit the Chick Fil A site. She noted that there also would be the connection to the BJ's Plaza.

In response to a question from Chairman Clark, Ms. Dake stated that her firm does trip generation based on existing traffic, where there are residential and employment centers, etc. and her belief that Chick Fil A customers would enter and exit the site via the existing driveways onto Milestrip Road McKinley Parkway is based on her experience regarding where people would come from and go to.

In response to a question from Chairman Clark, Ms. Dake stated that she did visit the area to see how many people use the connection from BJ's Plaza.

Mr. Chapman stated that he believes that the driveway onto Milestrip Road would become backed up if Chick Fil A is constructed, which would force people to drive west through the BJ's Plaza to get out onto Milestrip Road.

Ms. Dake stated that the TIS also looked at the traffic that is generated by Chick Fil A, which is fairly significant, and noted that what has been found in Rochester and other locations is that as a new store is added to the market, there is not as much traffic at each individual location.

Ms. Dake stated that the TIS also took pass-by traffic into consideration (vehicles that are already on the roadway that decide to stop at the restaurant).

Mr. Chapman stated that he believes that if someone is traveling east on Milestrip Road and wants to go to Chick Fil A, that person will turn left at the light in front of BJ's Plaza because there is a left turn lane, rather than continuing east on Milestrip Road to the access road near the Chick Fil A and waiting to be able to turn left.

In response to a question from Mr. Chapman, Ms. Dake stated that it would take an average of 10 or 11 seconds to make a left turn from Milestrip Road into the Chick Fil A lot. She noted that vehicles would get the benefit of the changing of the light and there would be no traffic in the westbound direction that would be blocking the driveway.

Mr. Chapman stated that if someone is making a left into the Chick Fil A lot from Milestrip Road, he or she would have to contend with vehicles coming out of the lot attempting to turn left onto Milestrip Road. Ms. Dake responded that if someone is making a left from Milestrip Road, that person should have the right of way.

Attorney Hopkins noted that given the nature of this particular use, Ms. Dake made sure that a conservative approach was taken and did not take the adjustment for pass-by traffic.

Ms. Dake stated that the TIS looked at the through traffic on Milestrip Road and McKinley Parkway that is passing both of the driveways to see if there are sufficient gaps in the existing traffic to get in and out of the driveways. She noted that the TIS found that there are sufficient gaps so that those trips can be made without a problem.

In response to a question from Mr. Reilly, Ms. Dake stated that the traffic counts were done in March 2021 when the pandemic was winding down. She stated that the TIS made adjustments to the existing traffic volumes for Covid and the lower traffic volumes.

In response to a question from Mrs. Comerford, Ms. Dake stated that the data taken from the Greece, NY site was taken six (6) months after that site opened, so the numbers are probably higher than what they are now. She noted that at that time that was the only store open in the Rochester market.

In response to a question from Mrs. Comerford, Ms. Dake stated that she used the Greece, NY data because she wanted to be conservative and project out the maximums of data she could to make sure she was modeling it correctly and projecting any potential mitigation that would be needed.

In response to a question from Mrs. Comerford, Ms. Dake stated that the data taken from the Greece site was higher than what would be seen at the Galleria site.

In response to a question from Mrs. Comerford, Ms. Dake stated that Milestrip Road carries approximately 20,000 cars per day and McKinley Parkway carries approximately 10,000 cars per day. She noted that Ridge Road in Greece, NY, where the Chick Fil A site is located, carries 45,000 cars per day.

Ms. Dake stated that she strongly believes that the TIS is very conservative and over-projects the traffic volume for this store. She further noted that the Greece site is small and there is not a lot of room to stack the queuing that this store would have. She stated that it is her belief that any traffic going to this Chick Fil A would be able to be accommodated within the existing parking lot and would not back out onto the roadway.

In response to a question from Mrs. Comerford, Ms. Dake stated that it would take on average approximately 13 to 15 seconds to be able to make a left or right turn out of the Chick Fil A site onto Milestrip Road during the peak hours.

Ms. Dake stated that after waiting 60 seconds to turn out of a site, people begin to get frustrated. She noted that she does not anticipate that scenario happening at this site.

Attorney Hopkins stated that the NYSDOT does not like right-in right-out intersections because people do not adhere to them. He further stated that the NYSDOT restricts the number of curb cuts allowed on State highways as an access management tool.

Ms. McCormick stated she is concerned about people trying to turn left from this site onto McKinley Parkway but recognizes that that roadway has lower traffic volumes.

In response to a question from Mr. Mahoney, Ms. Dake stated that the TIS included a growth rate and increased the existing traffic to cover potential development.

Mr. Mahoney stated that he believes that the traffic volumes on McKinley Parkway will increase with the addition of the Chick Fil A because of the people from the Southtowns who will visit this site.

Attorney Hopkins noted that the TIS used an annual background growth rate of .5% which assumes that traffic will increase at that rate cumulatively regardless of whether Chick Fil A goes in to this site.

Mrs. Comerford stated that she is concerned that the crash rate for the Milestrip Road/McKinley Parkway intersection was listed in the TIS as 1.4 but the State average was .54. She asked Ms. Dake to explain the State average number and where it comes from.

Ms. Dake stated that the State crash average is based on its most recent data and is an averaged number over three (3) years' worth of data for similar types of intersections across the state. She noted that the State's data is always a bit behind. Mrs. Comerford responded that it concerns her that the period of time that covers the crash data for the Milestrip Road/McKinley Parkway intersection was during the pandemic when traffic was significantly reduced, yet the State's crash rate is from pre-pandemic years.

Mrs. Comerford stated that the crash rate for the Milestrip Road/McKinley Parkway intersection could be higher than the stated 1.4.

Ms. Dake stated that the crash rate for that intersection is fairly normal for comparable intersections across the state.

In response to a question from Mrs. Comerford, Ms. Dake stated that during the weekday peak hours, 89 entering new trips and 80 existing new trips are anticipated between the different access points.

Mr. Schawel stated that the addition of this new business means very little compared to what might happen with the redevelopment of the McKinley Mall. He noted that if the Planning Board is so concerned about the potential traffic from this project it should petition the Town Board to limit the development of the Mall because of the anticipated traffic volumes that would be generated from it.

Board members reviewed the Part II of the Environmental Assessment Form (EAF).

In response to a question from Mrs. Comerford, Attorney Hopkins stated that there currently are no plans for additional development on this site.

Chairman Clark stated that this project would very likely preclude the ability to develop anywhere else on this site because the parking lot would be used for the overflow for the Chick Fil A.

Attorney Hopkins read the following conclusion from the TIS:

"For purposes of the environmental review of the proposed project pursuant to the State Environmental Quality Review Act, it is our firm's professional opinion that the proposed project will not result in any potentially significant adverse traffic impacts to the study area intersections".

In response to a question from Ms. McCormick, Trevor Edkins from Raymour & Flanigan stated that Chick Fil A would have non-exclusive rights to the common areas and parking fields on the site.

Chairman Clark made the following motion regarding SEQR, seconded by Mr. Schawel:

"WHEREAS, the Town of Hamburg received a Site Plan application from Chick-Fil-A, Inc. requesting Site Plan Approval of a Chick-Fil-A restaurant to be located at 3464 McKinley Parkway; and

WHEREAS, the proposed action is an Unlisted Action under the State Environmental Quality Review Act (SEQRA); and

WHEREAS, the Town Planning Board has received input from the Town's Advisory Boards and Town staff; and

WHEREAS, in accordance with Part 617 of the implementing regulations pertaining to Article 8 (SEQRA) of the Environmental Conservation Law, the Hamburg Planning Board has conducted

a coordinated review, reviewed Part 1 of the FEAF, completed Part 2 and Part 3 of the FEAF and reviewed the criteria for determining significance in accordance with Section 617.7 of SE-QRA.

NOW, THEREFORE BE IT RESOLVED, the Hamburg Planning Board establishes itself a SEQR Lead Agency and, in accordance with the State Environmental Quality Review Act (SE-QRA) has determined that the proposed project (with the conditions placed on the approval) 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 SEQRA Negative Declaration in accordance with Section 617.7 of the SEQRA 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.”

Carried.

Chairman Clark made the following motion, seconded by Ms. McCormick:

“The Planning Board, based on the issuance of a SEQR Negative Declaration, review of the project in accordance with Article XLIV (Site Plan Approval) and the C-2 Zoning district requirements of the Town of Hamburg’s Zoning Code, having received and considered input from Town departments, committees and advisory boards, having received a traffic impact statement from a licensed professional and receiving no adverse comments from the NYSDOT or Erie County Highway Department, having received a “sign-off letter” from the existing plaza owner and business, having completed the required public hearing and having the applicant provide additional information and amend the drawings based on the Planning Board’s comments, hereby grants Conditional Site Plan approval for the Chick-Fil-A project to be located at 3464 McKinley Parkway with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated July 2, 2021.
2. The final landscape plan will be approved by the Planning Department and include; (any special conditions).
3. Lighting shall be shielded and dark sky compliant.
4. The applicant will have a site grand opening plan and a large local event plan submitted and approved by the Town of Hamburg Police and Emergency Service providers.
5. The applicant will operate the drive-thru in accordance with the plan submitted and discussed with the Planning Board. Changes to that plan required due to any traffic problems will be resolved with the Hamburg Police and Emergency Service Providers.
6. Internal parking lot signage will be placed within the site to direct people as necessary.
7. The construction of sidewalks is waived as there are existing sidewalks.
8. The applicant will maintain pedestrian access to the site and bus stop, including a crosswalk across the stacking lanes.
9. If the stacking onto Milestrip Road or McKinley Parkway becomes a consistent problem, the Planning Board will have the opportunity to revisit the stacking plan in conjunction with appropriate advisory committees and the applicant.”

As the vote on the motion was five (5) ayes and one (1) nay (Mr. Chapman), the motion carried.

Chairman Clark made a motion, seconded by Mr. Mahoney, to amend condition # 7 to state that” new sidewalks shall be installed as shown on the Site Plan”.

As the vote on the motion was five (5) ayes and one (1) abstention (Mr. Chapman), the motion 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

Attorney Sean Hopkins, representing the applicant, stated that at the Board's June 16, 2021 meeting he received the current draft of the SEQR Part II and III of the EAF. He noted the following updates since that time:

- Earth Dimensions will be designing a plan showing the requested riparian buffer for both this project and the Wetzl project.
- In advance of the Board's July 21, 2021 meeting he will make a comprehensive submission addressing the Board's comments regarding the impacts that were marked as potentially moderate or large.
- He is waiting for comments from the NYSDOT regarding this project and the Wetzl project, primarily because the NYSDOT asked the applicant to consolidate the previously proposed two (2) driveways onto Big Tree Road into one (1) driveway.

Attorney Hopkins stated that the applicant has incorporated a lot of input received from the Planning Board and does prefer the clustering option. He noted that from a SEQR perspective, it would be far preferable because of the reduction of impervious surface, additional green space, the opportunity to provide the riparian buffer and the fact that the rural character along Parker Road would be preserved.

Attorney Hopkins stated that this site is somewhat isolated and is not designated as an important resource under the Erie County Farmland Protection Plan. He noted that while the site is being utilized currently for agricultural purposes, the farmer/tenant is paying the owner \$2,000 per year for a crop that results in a net income of \$4,000 and is more of a hobby. He stated that in no scenario is there an economically feasible long term agricultural use of this site.

Ms. McCormick stated that she spoke with the Department of Ag and Markets and was informed that 35 acres is substantial enough to have an economically viable farm, but not if someone wanted to grow a commodity crop or operate a dairy farm. She noted that she was also informed that it would be an appropriately sized parcel for a CSA type farm or agritourism. She stated that she was additionally informed that this project would constitute a wholesale conversion and that the Planning Board could go either way on significance and that there are many other factors to consider in that decision.

Chairman Clark made a motion, seconded by Ms. McCormick, 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

Attorney Sean Hopkins, representing the applicant, stated that this project is at the same juncture as the previous project. He noted that the same three (3) updates he gave on the previous project apply to this project.

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

OTHER BUSINESS

Mrs. desJardins stated that the LOE Trailers project was previously approved by the Planning Board. She stated that the applicant has determined that the proposed monument sign will not be needed so he does not intend to install it, nor does he intend to install the landscaping associated with the sign. She further stated that the applicant would like to remove the four-foot high fence surrounding the property from the approved plans because of its cost. She noted that the Planning Board did not require the fence, but the applicant did propose it during the review process.

Chris Wood, project engineer, stated that the fence that was proposed would not hide anything. He stated that initially the applicant wanted the fence there for security purposes, but the curbs are high enough around the existing site that trailers cannot be stolen.

Ms. McCormick stated that she would rather that the fence be installed as approved.

Mr. Mahoney stated that he does not object to the fence not being installed.

Mr. Wood asked if there could be a compromise on the fencing material and/or the limit of where the fence would go.

Chairman Clark stated that he is not sure the fence fits in with the character of the area anyway and asked if perhaps additional landscaping could be installed instead.

Chairman Clark stated that the applicant should return to the Planning Board with a different option for the fence.

Mrs. Comerford stated that she would like to visit the site before rendering an opinion.

It was determined that Mr. Wood will submit a proposal for a revised Site Plan showing alternate fencing material/location for the fence.

Mr. Chapman made a motion, seconded by Mr. Mahoney, to refer the traffic issues in the BJ's parking lot to the Traffic Safety Advisory Board.

Mr. Schawel made a motion, seconded by Ms. McCormick, to adjourn the meeting. The meeting was adjourned at 8:40 P.M.

Respectfully submitted,
Megan Comerford, Secretary
July 15, 2021