

Town of Hamburg
Planning Board Meeting
January 18, 2023 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 PM on Wednesday, January 18, 2023 in Room 7B of Hamburg Town Hall. Those attending included Chairman William Clark, Dennis Chapman, Jeb Bobseine, Margaux Valenti and Cindy Gronachan.

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

Excused: Vice-Chairwoman Kaitlin McCormick

WORK SESSION

Hamburg Retail, LLC - Requesting Sketch Plan Direction on a proposal to construct a 9-unit multi-family project at 4100 St. Francis Drive

Mrs. desJardins stated that this project requires a use variance from the Zoning Board of Appeals (ZBA) and the applicant appeared before that Board on January 3, 2023 to begin the review process. She noted that the ZBA resolved to initiate the SEQR Coordinated Review process and seek Lead Agency status and the paperwork associated with that Coordinated Review will be sent out shortly. She stated that the applicant will not return to the ZBA until at least March 2023 and wishes to introduce the project to the Planning Board at this time.

Mrs. desJardins stated that the project will not return to the Planning Board until and unless a use variance is granted by the ZBA.

It was determined that this parcel is located in the Route 5 Overlay District.

Attorney Sean Hopkins, representing the applicant, stated that this parcel consists of pavement and an existing vacant former gas station. He stated that the parcel is zoned Waterfront Commercial (WC) and the applicant proposes to redevelop the rear portion of the parcel as a two-story nine-unit townhome building. He noted that residential uses are not permitted in the WC district unless an existing residential structure is being converted to some other format of residential use.

Attorney Hopkins stated that this is a contaminated site and an application has been submitted to the NYS Department of Environmental Conservation (NYSDEC) brownfield program and the NYSDEC is anxious for the cleanup to occur. He noted that the contamination that exists on the site predates the applicant's ownership.

Attorney Hopkins stated that because this project would require Site Plan Approval in addition to a use variance, the Planning Board has the opportunity to comment on the SEQR Coordinated Review initiated by the ZBA.

Attorney Hopkins stated that the townhomes would be for lease. He further stated that the project must be referred to the Waterfront Revitalization Committee for comment.

In response to a question from Mr. Chapman, Attorney Hopkins stated that the gas station would remain for now and he does not know if it will ever reopen. He further stated that he believes that the tanks have been removed.

Attorney Hopkins noted that gas stations are not a permitted use in the WC district, so the vacant gas station on this site has lost its legal nonconforming status.

Attorney Hopkins stated that the applicant will probably seek Minor Subdivision approval in connection with the Planning Board approval of the site plan if the use variance is granted.

It was determined that if Minor Subdivision approval is granted, any future proposed use of the parcel containing the gas station will require Site Plan Approval.

Attorney Hopkins stated that the applicant would not be able to subdivide the parcel until after the brownfield cleanup occurs.

It was determined that the Planning Board would respond to the ZBA's Lead Agency request at its next meeting.

Chairman Clark made a motion, seconded by Mr. Bobseine, to table this project to February 1, 2023. Carried.

Engineering Department comments have been filed with the Planning Department.

3800 Hoover Road, LLC - Requesting Sketch Plan Direction on a proposal to construct a 7-unit multi-family project at 3800 Hoover Road

Chairman Clark stated that this project is in the same situation as the previous project in that it requires a use variance and the ZBA resolved to initiate the SEQR Coordinated Review and seek Lead Agency status.

In response to a question from Ms. Valenti, Chris Wood, project engineer, stated that he does not believe this parcel is located in the flood plain. He noted that the units would be for lease and owned by Ellicott Development, which also owns the existing vacant restaurant building on the site. He noted that the access the public currently uses to get to the beach would remain.

It was determined that this project is located in the Route 5 Overlay District, as well as the WC district.

It was determined that the applicant will request a Minor Subdivision approval in conjunction with this proposal.

Attorney Sean Hopkins, representing the applicant, stated that when he appeared before the ZBA on January 3, 2023 it was determined that one of the ZBA members (Laura Hahn) is also a member of the Historic Preservation Board. He noted that Ms. Hahn advised him that an application was filed on December 29, 2022 to designate the existing vacant restaurant building on this site as the first local landmark pursuant to the relatively recent Town of Hamburg historic

preservation law. He stated that Mrs. desJardins provided him with a copy of that application and there are absolutely no intentions to demolish that building.

Attorney Hopkins stated that this site is zoned WC and residential uses are not permitted in the WC district unless an existing residential structure is being converted to some other format of residential use.

Attorney Hopkins stated that two (2) nearby property owners attended the ZBA meeting on January 3, 2023 and had a question about beach access. He noted that he told those property owners that the applicant will continue to participate in further discussions with them about the project.

Attorney Hopkins reviewed the list of permitted uses in the WC district.

Ms. Valenti asked what the lakefront risk would be with adding more residential people into the Hoover Beach corridor, noting the recent storms that area has endured.

Mr. Wood noted that there is a retaining wall that runs along the lakefront and the beach does not go down to the water.

In response to a question from Ms. Gronachan, Mr. Wood stated that, to his knowledge, this parcel and its break wall have not sustained damage as a result of the recent storms.

It was determined that the Waterfront Revitalization Committee would have to make a recommendation on the Coastal Consistency approval and the Planning Board is most likely the entity that would issue the Coastal Consistency approval.

It was determined that the Planning Board would respond to the ZBA's Lead Agency request at its next meeting.

Chairman Clark made a motion, seconded by Mr. Chapman, to table this project to February 1, 2023. Carried.

Engineering Department comments have been filed with the Planning Department.

REGULAR MEETING

Public Scoping Session - Proposed subdivision by David Manko to be located on the west side of Parker Road, south of Big Tree Road

Mr. Reilly stated that the Planning Board previously issued a Positive Declaration on this project and the applicant submitted a draft Scoping Document. He noted that the public is being offered the opportunity to comment on the applicant's draft Scoping Document and a Final Scoping Document will be produced by the Planning Board on February 1, 2023.

In response to a question from Chairman Clark, Mrs. desJardins stated that the draft Scoping Document submitted by the applicant is available on the Town's website.

Chairman Clark stated that the purpose of the public scoping meeting is to identify items in the applicant's draft Scoping Document that the Planning Board thinks need to be better or more thoroughly addressed or items that are missing.

Attorney Sean Hopkins, representing the applicant, stated that when the Planning Board issued the Positive Declaration in the Fall of 2021, there were two (2) specific topics that were identified as involving potentially significant adverse environmental impacts as follows:

- Impact on surface water, largely due to the fact that there is a small wetland located on the project site
- Impact on consistency with the community plan, specifically in the context of the fact that, while not specifically zoned for it, historically this property has been used for agricultural purposes

Attorney Hopkins state that the purpose of Scoping pursuant to the State Environmental Quality Review Act (SEQR) is to try to narrow what will be included in the Environmental Impact Statement (EIS) as opposed to expanding the EIS. He noted that the draft Scoping Document submitted by the applicant in December 2022 probably goes beyond what was ultimately required per the Planning Board's Positive Declaration.

Attorney Hopkins stated that in 2020 an as of right subdivision was proposed by the applicant on the 35.3 acre site that is property zoned residential. He noted that the as of right subdivision ("Option 1") provides 67 lots, public roads, two (2) access points to Parker Road, some preservation of green space on the opposite side of the ditch on the site and adequate space for required storm water management improvements. He stated that "Option 2", which was identified during the review process by the applicant and based on consideration of nearby property owners, is a cluster subdivision, which is permitted subject to certain requirements. He noted that "Option 2" provides 60 lots and 15.3 acres of permanent space (including the Parker Road frontage, a walking trail that would connect to the adjacent property to the west, berms and landscaping, and green space along the Parker Road frontage).

Attorney Hopkins stated that the applicant feels this is a much improved project as compared to the as of right layout.

Mrs. desJardins noted that the cluster layout only provides one (1) public access to Parker Road with an additional gated emergency access.

Attorney Hopkins stated that, while not required, the cluster subdivision would provide a dense riparian buffer along the existing ditch on the site, as well as on the adjacent Glenn Wetzl property to the west. He noted that the riparian buffer would provide extensive plantings per the NYSDEC's recommendations for plantings in such an area. He further stated that real enhancements to that ditch can be made so that it not only functions as it is supposed for storm water management purposes but actually acts as an aesthetically pleasing riparian buffer.

Attorney Hopkins stated that the nearby property owners previously have expressed a clear preference for the cluster subdivision.

Attorney Hopkins noted that a memo was previously issued by the previous Supervising Code Enforcement Official, Roger Gibson, regarding concerns he had about the cluster subdivision proposal. He stated that Mr. Gibson was concerned about whether the applicant could meet the

required setbacks, so Chris Wood, project engineer, produced plans representing the maximum building sizes on the cluster subdivision lots. He noted that the plans did comply with the cluster subdivision required setbacks (front yard, side yard and rear yard).

Attorney Hopkins stated that although Option 2 is considered a cluster subdivision, the proposed lots are fairly large. He noted that they would be 75' wide and generally 140' deep.

In response to a question from Chairman Clark, Mr. Wood stated that the smallest rear yard on the plans he submitted for the cluster subdivision lots would be 52'. He noted that the widest home proposed would have 8.5' side yards on both sides and that includes the optional bump out and patio, sunroom, etc.

Attorney Hopkins noted that the minimum lot size for a cluster subdivision in Hamburg's Code is 5,000 sq.ft. He stated that the smallest lot in this proposed cluster subdivision would be 10,000 sq.ft.

Attorney Hopkins stated that the cluster subdivision would be beneficial from the Town's perspective because there would be a reduced amount of infrastructure, which would reduce the recurring cost associated with maintenance and eventual replacement of the public roads. He further stated that there would be a reduction in the amount of impervious surface and the preservation of the integrity of the ditch and wetland on site.

Mr. Reilly stated that the EIS will analyze the as of right layout because the cluster layout was not authorized, but as an alternative the cluster layout will also be analyzed. He noted that the Planning Board would still have to decide whether to authorize the cluster layout.

Chairman Clark noted that the applicant is asserting that the cluster subdivision would mitigate many of the environmental concerns the Planning Board identified in the Positive Declaration.

In response to a question from Ms. Valenti, Mr. Wood confirmed that there would be public roads regardless of which layout the Planning Board approves.

In response to a question from Ms. Valenti, Attorney Hopkins stated that this project and the proposed Wetzl rezoning on adjacent property to the west were proposed and being reviewed at the same time so the Planning Board could look at the cumulative impacts of these two (2) separate projects and Positive Declarations were issued for both. He noted that the existing creek crosses both sites and there are cumulative traffic impacts.

Attorney Hopkins stated that the draft Scoping Document for the proposed Wetzl rezoning will be submitted shortly, as ultimately these two (2) projects will have to be reviewed along some kind of parallel path. He further noted that one project does not have to be approved for the other to move forward.

In response to a question from Ms. Valenti, Attorney Hopkins stated that a waterway subject to federal jurisdiction crosses the site. He further stated that there is a small (.06-acre) wetland on one of the proposed lots and a .64-acre wetland on the opposite side of the ditch that would not be impacted.

Attorney Hopkins noted that the waterway is not a navigable waterway but rather a ditch/stream. In response to a question from Mr. Reilly, Attorney Hopkins stated that the ditch/stream is tributary of Rush Creek.

Ms. Valenti confirmed that the impact to surface water is not going to be fill but rather discharge. Attorney Hopkins stated that, while the integrity of the stream could be preserved in conjunction with the as of right layout, the riparian buffer could not be included in the plan because there would be lots in that area. He further stated that neither the NYSDEC or the U.S. Army Corps of Engineers required that the riparian buffer be installed, but the applicant volunteered to install it because of a request from Planning Board members.

Chairman Clark asked if anyone in the public wished to speak on the draft Scoping Document. The following people spoke:

- Timothy Cook, 4388 Parker Road, stated that he has supported the cluster layout all along because he prefers more green space and less of an impact on nature and to him it is common sense. He stated that the community would like to see the cluster layout with the additional green space. He stated that the traffic will probably increase with the new stadium.

Mr. Chapman asked Mr. Cook who he was referring to as “the community”. Mr. Cook responded that when this project was first discussed in 2020, a petition was circulated stating that the cluster subdivision was preferred to the as of right subdivision.

Mr. Chapman stated that his recollection was that initially more people in the area preferred to as of right subdivision.

- A member of the public residing at 4369 Parker Road stated that a petition was circulated in 2020 with approximately 30 signatures indicating that the cluster subdivision was preferable. She stated that in her opinion it is common sense to allow the cluster subdivision because of the added green space and the fact that it would help keep the country feel of this area.

Chairman Clark noted that as part of this review, the Planning Board spent a lot of time discussing the landscaping on the site and requested that fruit trees be planted as a homage to the agricultural history of that parcel.

- Jack Foley, 4726 John Michael Way, stated that he agrees with the comments of both previous speakers. He stated that this project would back up to his neighborhood and in speaking with his neighbors on John Michael Way and Harmony, it is apparent that everyone there prefers the cluster subdivision. He stated that the preserving of green space and the quality of life in this area will be better for his neighborhood than the as of right plan. He stated that the southwestern corner of this property is very wet and if the as of right plan is approved and lots are built in that area, those back yards will be very wet. He stated that he believes that the storm water management area near his property will probably help the drainage problems he currently has from water draining from the field onto his property. He stated that the cluster subdivision makes the most sense and is what the nearby property owners prefer.

- Rick Kemp, 4746 John Michael Way, stated that the field where part of this subdivision is proposed is very wet and sometimes he cannot even mow his yard. He stated that if there are lots in the area of that field, the back yards will be very wet. He stated that the proposed storm water management system for the subdivision will probably help him and his neighbors. He stated that he would rather look at green space than the backs of homes.
- A member of the public residing at 4381 Parker Road stated that he concurs with the comment made by the neighbors. He stated that it is very important that the EIS consider the new stadium, noting that it is his understanding that during the 2-4 years of construction there will be a shift in parking closer to Parker Road. He stated that he has noticed a substantial increase in traffic on game days. He stated that an advantage of the cluster layout is that there would only be one (1) access in and out of the subdivision instead of two (2).

Ms. Valenti noted that a person at 4712 John Michael Way commented during the meeting on Facebook that he/she agrees with Mr. Cook and Mr. Foley's comments and prefers the cluster layout.

Chairman Clark declared the public scoping session closed.

Chairman Clark made a motion, seconded by Ms. Gronachan, to table this project to the February 1, 2023. Carried.

Engineering Department comments have been filed with the Planning Department.

Matt Jaworski - Requesting Site Plan Approval of a proposal to construct a public mini-storage project at 5661 Camp Road

Matt Jaworski - Requesting Preliminary Plat Approval of a two-lot subdivision to be located at 5661 Camp Road

In response to a question from Chairman Clark, Ms. Jarrell stated that she had some of the environmental experts at the firm she works for (GHD) look at the Phase I and Phase II reports and they felt that generally there was not a lot of contamination on the site. She stated that they did point out that there was one (1) soil boring location that had slightly elevated arsenic levels in the first two (2) feet of soil and nothing in the deeper portions. She stated that the preferred handling of that is for that to be an area that is capped by some sort of solid surface such as a concrete floor or pavement or that the two (2) feet of soil be removed and properly disposed of as contaminated soil. She stated that the ground water levels were nothing to worry about and the environmental experts noted that when moving materials around the site, workers should keep an eye out for any unusual odor or color that would indicate an isolated pocket of something. She further noted that the environmental experts recommend that any soil removed for the site intended for use at another site be analyzed. She stated that the environmental experts were happy to see that the site is being cleaned up and addressed.

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

“Whereas, the Town of Hamburg received a Minor Subdivision application from Matt Jaworski that is associated with his project for the construction of eight (8) mini-storage buildings and one (1) insulated storage building on a 12-acre site at 5661 Camp Road that includes the subdivision of a lot for future commercial development. The Hamburg Zoning Board, in accordance with NYS SEQR law and SEQR regulations contained in 6NYCRR Part 617, has issued a Negative Declaration for the project. The Planning Board has reviewed the subdivision application against the subdivision requirements of the Town and input received from various departments and held the required public hearing.

The Hamburg Planning Board hereby issues Preliminary Subdivision approval in accordance with Chapter 230 with the following conditions:

- Approval is contingent upon the Engineering Department comment letter dated January 13, 2023.
- In accordance with Town subdivision requirements, the installation of sidewalks is waived as they already exist at that location.
- This lot will include an access restriction stated on the plan that will not allow access from the future commercial development lot to Camp Road. The entrance will be through the public mini-storage driveway.
- The Hamburg Planning Board waives the completion of a Final Plat if the instrument is to meet the above condition concerning an access restriction is acceptable to the Town Attorney and the Hamburg Planning Board Chairman is authorized to sign the Preliminary Plat once the Town Engineer signs off on the Plat.

Carried.

Chairman Clark made the following motion, seconded by Mr. Chapman:

“The Planning Board, based on the ZBA’s issuance of a SEQR Negative Declaration, in review of the project in accordance with Article XLIV Site Plan Approval, review of the project in accordance with Article XLIV and the C-2 zoning district requirements of the Town of Hamburg zoning code, having received and considered input from Town department, committees and advisory boards and having completed the required public hearing, hereby grants Conditional Site Plan Approval for the Jaworski mini-storage project to be located at 5661 Camp Road with the following conditions:

- Approval is contingent upon the Engineering Department comment letter dated January 13, 2023.
- The landscaping plan will be approved by the Planning Department and shall include screening as identified on Sheet L-100.
- Lighting shall be shielded and dark-sky compliant as shown on the plans.
- Neon flashing colored lighting shall not be utilized in the building or outside the building.

- No outdoor storage will be allowed.
- The construction of sidewalks is waived as they already are located along the road.
- Shared access is provided to the adjoining lot being created.
- Wetland areas shall be preserved as shown on the plan.
- Removal of fill will be done under federal and state regulations.

Carried.

Engineering Department comments have been filed with the Planning Department.

Frank Russo, Jr. – Requesting Preliminary Plat Approval of a 14-lot subdivision as an extension of Niles Avenue

Chris Wood from Carmina Wood Design, project engineer, described the project and noted that the storm water management area would be on its own lot and owned by the Homeowners' Association. He stated that an easement would be provided to the Town of Hamburg for access to the existing ditch on the property and there would be a sanitary sewer easement that runs through the back of the property. He noted that the project would not impact the existing creek on the property and there are three (3) federal but non-jurisdictional wetlands (one in the area of the proposed detention basin, one in the area of lots 12, 13 and 14 and a small one in an area of the proposed road).

Chairman Clark stated that a few years ago the Planning Board approved an 11-lot subdivision on this site and now the applicant is requesting approval of the subdivision with 14 lots.

Chairman Clark noted that at its previous meeting the Planning Board reviewed Parts II and III of the Environmental Assessment Form (EAF) and determined that there would not be significant adverse environmental impacts, but Board members are wrestling with the fact that the Town of Hamburg has a wetlands law that states that in order to allow wetlands to be disturbed, the project must be "unique".

Mr. Wood noted that he did submit a letter outlining four (4) legitimate reasons why this project should be considered "unique" and needs to impact the non-jurisdictional wetlands.

Mr. Reilly noted that because the project would involve removing trees, the Planning Board will have to refer to its Tree Management law to determine if the applicant will be required to plant additional trees. He asked Mr. Wood if there are significant trees over 12" in caliper on the site.

Mr. Wood responded that many of the trees are scrubby or dead.

Mr. Wood stated that a letter was submitted by the wetland consultant explaining that none of the wetlands in the northern portion of the site where lots are proposed actually hold water, they are on the side of a slope and contain invasive species. He further stated that the Town's wetland law does not say that one can or cannot impact wetlands but rather that if an applicant is allowed to impact non-jurisdictional wetlands, there are additional things the applicant would have to do such as provide additional detention.

In response to a question from Ms. Grohachan, Mr. Wood stated that it is his understanding that when the wetlands were delineated when this subdivision was proposed and approved previously, the applicant's previous engineer never submitted to the U.S. Army Corps of Engineers (USACE) for a Jurisdictional Determination and instead assumed the wetlands were jurisdictional and simply avoided the area in the northern portion of the property that contained wetlands. He noted that as part of the new project, the wetland delineation was submitted to the USACE and a Jurisdictional Determination was provided indicating that the wetlands on the northern portion of the site are not jurisdictional.

Mr. Wood further stated that the applicant has agreed to send the runoff from the lots on the northern end of Niles Avenue to the existing storm drainage system on Niles Avenue, thereby sending it north instead of to the creek on the property, thereby possibly relieving existing problems the properties on Abbott Road that abut this site currently have with wet back yards. He further noted that currently the water from this site sheet drains toward the back of the Abbott Road properties and when developed, that water will be caught and run through the storm water management system.

In response to a question from Mrs. desJardins, Mr. Wood stated that because the runoff from the northernmost lots would be directed to the existing drainage system on Niles Avenue, that value would have to be subtracted from what would be allowed to discharge from the new storm water management system.

Ms. Jarrell stated that Mr. Wood has submitted a summary of how he plans to handle the storm water and it makes sense to her and meets the requirements for state stormwater laws.

In response to a question from Ms. Gronachan, Mr. Wood stated that the New York Fire Code does not require an emergency access unless more than 30 lots are proposed. He further noted that the proposed cul-de-sac would have to be designed to meet the New York State Fire Code requirements for fire truck turnaround.

Chairman Clark made a motion, seconded by Ms. Gronachan, to table this project to the Board's February 1, 2023 meeting. Carried.

Engineering Department comments have been filed with the Planning Department.

Town Board referral to Planning Board for advisory report on proposed Local Law #12 and proposed Local Law #13

Chairman Clark stated that these are laws that change the Hamburg Zoning Code to remove asphalt plants as a permissible use in industrial zones and to not permit asphalt plants in the Town. He stated that this would just be a recommendation and that the Town Board will make the decision but Town law requires that it refer such proposed laws to the Planning Board for an opinion.

Attorney Puglisi stated that she had spoken to Ms. Gronachan, who is up to date on the history and how the Town got to this point.

Ms. Gronachan stated that she had done a lot of research and feels that these are pretty important laws and given the research and the new laws, times have changed and Hamburg is experiencing a revitalization. She stated that she does not feel that an asphalt plant belongs where the revitalization is going to go and it is important to know that there are some hazards involved including emissions that come from an asphalt plant. She stated that the residential population of this area has grown and she feels that it is right to adopt these new laws. She stated that she supports the Town making this change.

It was determined that Ms. Valenti would be recusing herself from this discussion.

Mr. Reilly stated that there still is an active application before the Planning Board for the proposed asphalt plant on Camp Road. He stated that this recommendation does not impact that existing application.

Chairman Clark stated that this is an advisory opinion separate and distinct from the active application for an asphalt plant on Camp Road.

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

“Whereas, the Town Planning Board (“Planning Board”) received a Site Plan application (hereinafter referred to as “Application”) from A L Asphalt Corporation (hereinafter referred to as “Applicant”) dated June 4, 2019 for the construction and operation of an asphalt plant called HMA Plant in the application and related accessory uses (hereinafter referred to as “the Project”) at 5690 Camp Road (hereinafter referred to as “Site”); and

Whereas, pursuant to the Town of Hamburg Town Code and the zoning map adopted thereunder, the Site is located in an area zoned M-2 and M-3 and the project is proposed in an area of that Site zoned M-3; and

Whereas, pursuant to Code Section 280-133 (A) (10), an asphalt plant, processing and treatment of bituminous products is permitted in an M-3 district subject to certain limitations outlined in Section 280-133 (C); and

Whereas, the Planning Board reviewed the Application and initiated the State Environmental Quality Review Act (SEQR) process by classifying the Action as an Unlisted Action and commencing the Coordinated Review process for this project; and

Whereas, the Planning Board as Lead Agency, in accordance with SEQR, determined that the proposed construction and operation of an asphalt plant at the Site may include the potential for at least one significant adverse environmental impact and issued a Positive Declaration on November 4, 2019; and

Whereas, the Planning Board issued a Final Scoping Document on April 29, 2020; and

Whereas, the Planning Board received a proposed Draft Environmental Impact Statement (DEIS) from the applicant on August 5, 2022 indicating that the Applicant has now decided to try and move forward with the project in the Town; and

Whereas, nearly two and a half years have passed since the Final Scoping Document was issued and since that time it was the Town's understanding that the Applicant had pursued its project in another jurisdiction and abandoned the Application in the Town; and

Whereas, since 2019 the Town has been in the process of updating its Comprehensive Plan and evaluating potential Code and Zoning Map amendments throughout the Town, including on this Site and other industrial properties and evaluating other land use issues throughout the Town; and

Whereas, through the process of updating its Comprehensive Plan, the Town has identified areas that it views as improperly zoned in light of changes in the Town and the region since the adoption of the last Comprehensive Plan update in 2008; and

Whereas, the Town's draft Comprehensive Plan dated November 2022 is currently before the Town for public review; and

Whereas, the draft Comprehensive Plan notes that the Town will need to adapt to changes in the Town and the region as a whole to ensure that the vital economy of the Town supports the community's goals, the citizens' needs and the economic needs of the business community while remaining consistent with the Town's vision for the future; and

Whereas, the draft Comprehensive Plan recommends among other things eliminating uses in the Code that no longer fit within the Town (for example, lumber yards, coal yards, cement mixing plants, storage of petroleum products as a primary use and the processing of bituminous products); and

Whereas, at its meeting on October 19, 2022 the Planning Board requested that the Town Board review whether the use of an asphalt plant and the processing or treatment of bituminous products remains an appropriately permitted use in the Town; and

Whereas, at its meeting on October 24, 2022 the Town Board received the request from the Planning Board and directed the Town Attorney to review the Town Board's option with respect to the Planning Board's request; and

Whereas, at its meeting on November 21, 2022 the Town Board introduced Local Law # 12 of 2022 to amend Section 280-133 (A) of the Town of Hamburg Town Code entitled "Principle Uses and Structures" by removing bituminous processing facilities as a permitted use in M-3 districts and Local Law # 13 of 2022 to provide for a new article LVII in Chapter 280 of the Town of Hamburg Town Code entitled "Bituminous Processing Facilities" prohibiting asphalt plants and bituminous processing facilities in the Town of Hamburg; and

Whereas, pursuant to Section 280-340 (B) of the Town Code, the Town Board referred Local Law # 12 and Local Law 13 to the Planning Board for its review and for an advisory report; and

Whereas, the Planning Board has reviewed the proposed Local Law # 12 and Local Law # 13.

Now, Therefore, Be It Resolved by the Planning Board as follows:

Based on the foregoing in light of the changes in the Town and the region since the adoption of the last Comprehensive Plan and the recommendations in the draft Comprehensive Plan as noted above, the Planning Board recommends that the Town Board adopt Local Law # 12 and Local Law # 13.”

Ms. Valenti abstained.

Chairman Clark, Ms. Gronachan and Mr. Bobseine voted in favor of the motion.

Mr. Chapman abstained.

In response to a question from Chairman Clark, Mr. Chapman stated that his abstention was based on the fact that he does not think that it is morally right to vote on this when the Planning Board has a project before it currently and the Planning Board is changing the rules. He stated that he is not against the proposed laws, but the Town has a request before it for a bituminous products facility.

OTHER BUSINESS

Chairman Clark made a motion, seconded by Mr. Bobseine, to approve the minutes of December 7, 2022. As the vote on the motion was four (4) ayes and one (1) abstention (Ms. Gronachan), the motion carried.

Mr. Chapman made a motion, seconded by Ms. Valenti, to adjourn the meeting. Carried.

The meeting was adjourned at 8:45 P.M.

Respectfully submitted,
Jeb Bobseine, Secretary

Date: February 2, 2022