

Town of Hamburg
Planning Board Meeting
May 17, 2023 Minutes

The Town of Hamburg Planning Board met for a Work Session at 6:30 PM, followed by a Regular Meeting at 7:00 PM on Wednesday, May 17, 2023 in Room 7B of Hamburg Town Hall. Those attending included Chairman William Clark, Vice-Chairwoman Kaitlin McCormick, Margaux Valenti, Dennis Chapman, Jeb Bobseine, Cindy Gronachan and Daniel Szewc.

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

WORK SESSION

West Herr Automotive – Requesting Sketch Plan Direction on a proposal to demolish an existing single-family home and to construct a vehicle towing lot on 0.5-acre lot at 3600 Sowles Road

Rob Pidanick from Nussbaumer & Clarke, representing the applicant, stated that West Herr is proposing an automobile towing lot to be located at 3600 Sowles Road, which is zoned C-2 and 1/2 acre in size. He stated that West Herr proposes to close the existing curb cut and move it 114 feet east of the intersection of Sowles Road and Southwestern Boulevard, thereby improving traffic in this area. He noted that he has spoken to representatives from the New York State Department of Transportation (DOT) and this is the DOT's preferred location for a curb cut on this property.

Mr. Pidanick stated that adjoining this site to the west is a 6.7-acre parcel that is owned by the DOT and contains a storm water retention basin that would be used for this project's storm drainage.

Mr. Pidanick stated that extensive landscaped screening is proposed along the north and east sides of the site in sensitivity to the nearby property owners.

Mr. Pidanick stated that part of the site would contain millings and part would contain asphalt where the tow trucks would maneuver.

In response to a question from Ms. McCormick, Mr. Pidanick stated that the distance between the proposed landscaping and edge of pavement area to the adjacent residential structure on Oregon Road is approximately 20 feet and the facility would be approximately 32 feet from the structure.

Mr. Reilly stated that this use is not allowed without a primary structure on the property.

Mr. Pidanick stated that towing and recovery impoundment areas are an allowed use in the C-1 District. Mr. Reilly noted that a Special Use Permit is required.

Mr. Pidanick stated that the existing home on this property would be demolished and the existing detached garage would be utilized as the towing facility's office.

In response to a question from Ms. Gronachan, Mr. Pidanick stated that storage of vehicles would be temporary.

Jim Mulka, West Herr Director of Facilities, stated that this would be a service for West Herr properties themselves. He stated that the tow trucks would be stored at this location and there would be some overnight secure storage of vehicles before they are dropped off to a location or if West Herr has an overflow at another area before the vehicles are moved to another location.

In response to a question from Mr. Chapman, Mr. Mulka stated that he has not been in the garage but does not think there is water to it. Mr. Chapman responded that there would need to be bathrooms, water and heat in the converted building.

Ms. Valenti expressed concern about noise and headlights at night possibly being a problem for the nearby property owners.

Mr. Mulka stated that this would be primarily used during the day time and not at night. He noted that the hours of operation would probably mirror those of West Herr dealerships.

Board members discussed the idea of a privacy fence to prevent light from the operation bothering the nearby property owners.

In response to a question from Ms. Gronachan, Mr. Pidanick stated that a fence is proposed around the entire property for security.

Engineering Department comments have been filed with the Planning Department.

Kevin Mach – Requesting a Site Plan Waiver for a proposal to construct a 1,080 sq-ft storage building as an addition to an existing building at 116 Lake Avenue

Kevin Mach, applicant, stated that he is in the process of purchasing this property that contains an office/warehouse with an attached garage. He stated that he plans to demolish the garage and construct a storage building. He noted that the existing building's siding is in disrepair and he plans to improve the look of the building when the storage space is built.

Planning Board members recommended that the small amount of green space on the site be maintained and striping be added to the parking lot to indicate the traffic flow on the site. It was further determined that the applicant will consult with the Building Department regarding signage.

Alliance Homes – Requesting Sketch Plan Direction on a proposal to construct alternative residential and commercial developments at Southwestern Blvd and Howard Drive

Attorney Sean Hopkins, representing the applicant, stated that this property is vacant and located along Southwestern Boulevard. He stated that the Libertore family is the long time owner of this 13-acre parcel, which has a lot of frontage on Southwestern Boulevard and is zoned C-1 (the western portion) and R-3 (eastern portion).

Attorney Hopkins stated that the project team has looked at a wide assortment of alternatives with respect to the site and hired Earth Dimensions to perform a wetland delineation. He noted that the delineation revealed that there is 2.06 acres of federal wetlands on the property and the applicants (Alliance Homes and Libertore Management Group 2 LLC) would prefer to avoid this area.

Attorney Hopkins stated that the applicants would like the Planning Board's input on a proposal to rezone the western portion of the site that is currently zoned C-1 to R-3 to accommodate a multi-family project (five (5) two-story 12-unit buildings) with landscaping and berms along Southwestern Boulevard. He noted that the eastern portion of the property (from the eastern edge of the proposed access onto Southwestern Boulevard to the eastern property line), including the wetland area, would never be developed and a declaration of restrictions would be put in place to that effect. He noted that this plan is the applicants' preference.

Attorney Hopkins showed the Planning Board a concept plan indicating how the property could be developed without a rezoning request. The concept plan included two (2) commercial buildings (16,200 sq.ft.) with two (2) smaller restaurants with drive-through windows and stacking.

It was determined that new homes have been constructed behind this property in the last few years.

In response to a question from Ms. Valenti, Attorney Hopkins stated that either scenario would include (1) driveway onto Howard Road and one (1) driveway onto Southwestern Boulevard that would provide direct access to the signalized intersection.

In response to a question from Mr. Reilly, Attorney Hopkins stated that the applicants' goal is not to clear cut the site.

Board members discussed the permitted uses in the C-1 District.

Ms. McCormick stated that getting input from the residents behind this site would be helpful.

Ms. Grohachan stated that she is very concerned about the level of traffic congestion in this area. She stated that a traffic study would need to be done showing the difference in traffic levels between the residential project and the commercial project.

Ms. Valenti stated that the residential alternative would result in less impervious surface and more opportunity to save trees.

REGULAR MEETING

Public Hearing – 7:00 P.M., Park Grove Realty – Requesting Site Plan Approval on a proposal to construct a 70-unit multi-family development, west of Riley Boulevard

Tim Crilly from Park Grove Realty, as well as Trevor Howe and Cole Overhoff from Passero Engineering, appeared on behalf of the project.

Mr. Overhoff stated that as a result of the last Planning Board meeting, the following changes were made:

- Two (2) dumpster enclosures are now proposed. One (1) would be centrally located to service four (4) buildings and one (1) centrally located to service the remaining buildings in order to enhance pedestrian access. Tenants of buildings 1 and 5 will not have to traverse across the entire site to access a dumpster.
- Frontier School District was contacted and it was learned that buses would not be entering the site but would be pulling up to the entrances to the development and picking up the children there. A bus stop/shelter has been added to the plan at the western entrance and the clubhouse would act as the bus stop/shelter at the eastern entrance.

Mr. Bobseine 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 Park Grove Realty to construct a 70-unit multi-unit development west of Riley Boulevard. The public hearing will be held on May 17, 2023 at 7:00 PM in Room 7B of Hamburg Town Hall.”

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

- Frank Mielcarek, 4140 Stockton Lane, stated that he is not happy with this proposal. He stated that the added traffic from this project will be very heavy, especially during the time when the school is letting out. He stated that turning onto Bayview Road from Riley Boulevard is nearly impossible. He stated that many multi-family projects have been built in this area in the last five (5) years. He stated that the fire department is very strained with the number of emergency calls and that number will increase with additional units being built. He stated that an officer of the law has to be present at all emergency calls. He stated that this is the wrong place for a multi-family development.
- Lynn Braun 3784 Hoover Road, stated that she understands that the Town needs progress, but four (4) of the Planning Board’s agenda items are related to multi-family developments. She stated that she agrees with Mr. Mielcarek that there are many apartments in Hamburg already. She stated that statistically apartment dwellers do not vote and are not invested in the Town.
- Francine Geyer, 3792 Hoover Road, stated that she agrees with both of the previous speakers. She stated that everywhere one looks in Hamburg one sees apartment projects. She stated that she speaks to people every day who feel Hamburg has too many apartments. She stated that homes should be built instead of apartments and green space should not be taken away to do it.
- Laura Podkulski stated that she is concerned about the traffic generated from this project. She stated that attempting to turn onto Southwestern Boulevard from Riley Boulevard is already very difficult and will only get worse with the added apartments. She stated that it is also difficult to make a left turn onto South Park Avenue from Bayview Road.
- Dennis Bolton from Stockton Lane stated that the Planning Board meeting was not well publicized. He stated that he agrees with the previous speakers and is very concerned about the traffic in that area. He stated that Riley Boulevard is a cut-through and very busy. He stated that the traffic will be horrendous with the addition of the apartment development. He stated that this is a foolish idea and he does not support it, nor would his neighbors if they knew about it.
- Mark Maul stated that the Planning Board should do a better job of advertising its meetings and noted that the agenda is posted in the Hamburg Sun. He stated that many people do not read the Hamburg Sun and if the meetings were better advertised, the Planning Board might get more citizen involvement. He stated that the Town’s website is hard to read. He stated that this area of Hamburg is going to look like an overdeveloped town.
- Mary Odden, 102 Oak Hill Drive, stated that she lives in the Village of Hamburg and is an assessment specialist. She stated that in 2012 and 2016, the US census showed that approximately 954 homes were owned in the area immediately surrounding this plan. She stated that in 2016 34% of homeowners with incomes of less than \$75,000 in this area felt burdened by housing. She stated that recently that percentage has risen to 36%. She stated that it is getting harder and harder to find a home one can afford. She stated that the

median income in Erie County is \$62,000 and there are not many homes someone with that income can afford. She stated that the median income at Frontier Central School is \$46,000 in 2022. She stated that people who make this kind of money deserve to live and work in this fabulous town, but it is hard to find housing they can afford. She stated this sounds like a great place to locate an apartment development for middle income workers. She stated that the Planning Board needs to make sure the rents for these apartments are truly for workforce housing. She stated that she wants these apartments to be affordable. She urged the Planning Board to approve the project so that family members who cannot afford to stay in Hamburg can do so.

Chairman Clark advised the public that the Planning Board does not set Town policy and the question of whether the Town wants or needs more apartments is a Town Board/Comprehensive Plan issue.

- Ann Seider, 4330 Berkeley, stated that she is not in favor of children walking to school from this development.

Chairman Clark stated that the applicant will have a chance to address in writing the substantive comments that were raised at the public hearing.

It was determined that the following comment was received via Facebook from Marcie Ann:

“Riley Boulevard was initially built for the Frontier school buses to get into or out onto Southwestern Boulevard due to the increased traffic on South Park. Building apartments defeats the purpose for the school buses and traffic. Meet with the fire companies. Let’s see the traffic studies. This is a huge tragedy that can be avoided.”

Chairman Clark declared the public hearing closed.

Mr. Crilly noted that during the rezoning review by the Town Board, the traffic impacts were considered and the Town Board concluded that there would be no negative impact in that regard.

Mr. Reilly stated that Riley Boulevard was constructed as part of the Burke Business Park several years ago. He noted that an accessory purpose of it was another access for the school buses. He further noted that state law does not require that public hearings be held on Site Plan Approval requests but Hamburg holds them because it wants the public to be informed.

Chairman Clark made a motion seconded by Ms. Grohachan, to schedule a public hearing for the requested minor subdivision of the lot for June 21, 2023. Carried.

Chairman Clark made a motion, seconded by Ms. Gronachan, to table this project to the Board’s June 7, 2023 meeting and authorize the Planning Department to prepare draft resolutions. Carried.

In response to a question from Ms. Valenti, Mr. Overhoff stated that when the property was rezoned by the Town Board in 2022, his firm researched the trips generated in the AM and PM peak hours by this 70-unit development versus a theoretical medical type office, which was a permitted use in this zoning district, and found that the apartment project would generate 17 less peak hour trips entering the site in the AM and 21 less peak hour trips exiting the site in the PM peak hour than if the site was developed for a medical use. He further noted that the project would generate 229 less peak hour PM trips entering the site and 169 less peak hour PM trips exiting the site that if the site was developed for a medical use.

Mr. Overhoff stated that the DOT and Erie County Department of Public Works use a guideline to determine whether a project warrants a traffic impact study and that guideline is 100 trips per

hour. He noted that this project would generate 51 trips per hour so no traffic impact study was not warranted.

Engineering Department comments have been filed with the Planning Department.

Public Hearing – 7:00 P.M., David Canfield – Requesting Site Plan Approval on a proposal to construct a new 2,400 sq-ft storage building at Big Tree Road and St Francis Drive

Rob Pidanick from Nussbamer & Clarke, representing the applicant, stated that the applicant is proposing the same building he received approval for in 2019. He noted that a Negative Declaration was issued at that time and it is still valid.

Mr. Pidanick stated that the applicant has a landscaping and snowplowing business and would like to store his equipment in the new building. He noted that the landscaping plan is the same one that was approved in 2019.

Mr. Pidanick stated that there are some Federal wetlands on the site and the applicant had Earth Dimensions re-look at the site. He stated that this project would not impact any of those Federal wetlands.

Mr. Pidanick stated that lighting would only be needed on the building and no bathrooms are planned.

Mr. Bobseine 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 David Canfield to construct a 2,400 sq.ft. storage building at Big Tree Road and St. Francis Drive. The public hearing will be held on May 17, 2023 at 7:00 PM in Room 7B of Hamburg Town Hall.”

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

- Lynn Braun, 3784 Hoover Road, asked where the public should be taking its concerns. She asked where the project is proposed. She stated that because this site is zoned for projects like this, she supports it.
- Via Facebook, Benjamin Kalieta asked if this site is next to the Battery Post.

Chairman Clark declared the public hearing closed.

Chairman Clark stated that this project requires coastal consistency because it is located in the Town’s waterfront zone. He noted that the LWRP group will have to review it for coastal consistency.

Mr. Pidanick noted that the project is scheduled to be reviewed on June 8 for coastal consistency.

Chairman Clark made a motion, seconded by Mr. Szewc, to table this project to the Board’s June 21, 2023. Carried.

Board members agreed that the Planning Department will prepare a resolution for that meeting. Engineering Department comments have been filed with the Planning Department.

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

Attorney Sean Hopkins, representing the applicant, stated that the applicant has a use variance application pending before the Zoning Board of Appeals (ZBA). He noted that the ZBA is not legally in a position to issue a decision on that application because it cannot do so until the Planning Board issues a SEQR determination.

Attorney Hopkins stated that the project was reviewed by the Shoreline Revitalization Committee (SRC) during its most recent meeting and he is hopeful it will be placed on its next meeting agenda.

Chairman Clark advised Attorney Hopkins that this project will be reviewed again at the SRC's May 23, 2023 meeting.

Attorney Hopkins stated that previously the Planning Board authorized the Planning Department to prepare Part 2 of the Environmental Assessment Form (EAF) and asked if the Planning Board wished to review it.

In response to a question from Ms. Gronachan, Attorney Hopkins stated that he has not yet heard from the DOT regarding the requested curb cuts on this site.

Attorney Hopkins stated that the applicant plans to subdivide the parcel and is actively marketing the former gas station portion of the property.

Chairman Clark stated that the Planning Board cannot issue a SEQR determination until the project receives coastal consistency review.

Ms. McCormick stated that there are a lot of enforceable policies at the State and municipal level and the Planning Board would like copies of same.

Ms. McCormick stated that because this site is a brownfield site that is being redeveloped, there are contamination and traffic issues to review and a Long EAF would be more appropriate than the submitted Short EAF.

Attorney Hopkins noted that Part 1 of the Long EAF does not discuss much in terms of brownfields.

Attorney Hopkins further noted that Chris Wood, project engineer, is working on a landscaping plan.

It was determined that the Planning Board was not supplied with the Part 2 of the EAF.

In response to a question from Ms. McCormick, Attorney Hopkins stated that this site is not in an archeologically sensitive area.

Attorney Hopkins agreed to submit Part 1 of the Long EAF, as well as any documents that might assist the Planning Board in preparing Part 3.

Chairman Clark made a motion, second by Ms. Gronachan, to table this project to the Planning Board's July 19, 2023 meeting. Carried.

Engineering Department comments have been filed with the Planning Department.

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

Attorney Sean Hopkins, representing the applicant, stated that this project is in a similar situation as the previous project in terms of a SEQR determination being needed before a use variance can be acted upon by the ZBA. He noted, however, that based on input received from the SRC, as well as internal discussions with the project team and input from the Planning Board, the applicant plans to look at the adjacent parking lot parcel for redevelopment. He noted that the applicant will return to the Planning Board at a future meeting with an overall plan.

Chairman Clark stated that although the applicant seemingly has no plans to demolish the historic building on the site, if a use variance is granted by the ZBA there must be a determination that the applicant cannot realize a reasonable rate of return on the property. He stated that in that case, he worries about making sure the historic building is preserved.

Attorney Hopkins responded that granting a use variance does not mean that there is no viable use for the building/site, but rather that there is an inability currently to realize a reasonable rate of return on the property.

Attorney Hopkins stated that if the applicant can create a better content on this site, as well as the parking lot parcel across the street, that will make it more viable for the historic building to be reused.

Chairman Clark made a motion, second by Ms. Gronachan, to table this project to the Planning Board's July 19, 2023 meeting. Carried.

Engineering Department comments have been filed with the Planning Department.

DATO Development – Requesting Preliminary Plat Approval of a 96-unit townhome subdivision on vacant land west of Briercliff Drive

Attorney Sean Hopkins, representing the applicant, stated that this project has been reviewed several times over the last few years and at the Planning Board's April 5, 2023 meeting a new plan was presented with very substantial changes as follows:

- The previous layout consisted of 96 two-story town home units for sale and the current plan shows 57 units.
- The previous layout provided 1.15 acres of permanent open space and the current plan provides 5 acres of permanent open space. The applicant is willing to place a deed restriction on that land to ensure that it will never be developed or to donate it to the Town of Hamburg or the Brierwood Homeowners' Association (HOA).
- The westernmost driveway has been eliminated and replaced with one (1) two-family home, which is consistent with the surrounding homes.
- The number of visitor parking spaces has been reduced from 48 to 45.
- The existing sanitary sewer line and related infrastructure will be left the way it is and the existing easement will remain in place.
- The rear yard setback of the new units along Briercliff Drive has increased dramatically.
- The required emergency access is shown per the New York State Fire Code (a T-turn-around).

- A conceptual landscaping plan has been prepared to provide landscaping along the railroad tracks, as well as landscaping that will benefit the existing homeowners along Briercliff Drive and the future homeowners in this development.

Attorney Hopkins stated that he has reached out to the Briercliff HOA on numerous occasions asking that they meet with the developer, who is still willing to discuss aspects of the project with the HOA.

Attorney Hopkins stated that pursuant to the original plan for the Brierwood Planned Unit Development (PUD), the requirement of green space for the quarry portion of the PUD was 27.08 acres (25% of the quarry development area). He noted that he provided the Planning Board with parcel reports on May 12, 2023, as well as January 2023, denoting which parcels in the quarry portion of the PUD are permanent open space. He further stated that currently there are five (5) such parcels that are owned by the Briercliff HOA and one (1) that is owned by Burke Development LLC and it is his understanding that the HOA was not interested in owning it.

Attorney Hopkins stated that the project parcel is 9.6 acres in size and, although it is a vacant parcel today, none of it is designated open space. He stated that based on a summary of those parcels in the quarry portion of the PUD, there is a shortfall of 4.17 acres of the required 27.08 acres of permanent open space. He noted that five (5) of the 9.6 acres of this site have been designated by the developer as permanent open space in order to comply with the originally required 27.08 acres of open space in the quarry portion of the PUD and it actually brings the total open space in that area to 27.91 acres.

Attorney Hopkins stated that earlier that day he was given a copy of the most recent submission by the nearby property owners and, although he was only able to give it a cursory review, the most important point in that submission was the request that the Planning Board subtract wetlands, steep slopes, areas that are near the existing railroad, etc. from land designated as permanent open space. He noted that that is not consistent with the methodology that was established 30 years ago. He further noted that Hamburg's Town Code does have requirements for open space for subdivisions, but they do not apply to a PUD.

In response to a question from Ms. McCormick, Attorney Hopkins stated that the storm water management area is included in the open space calculation, which is consistent with the methodology used 30 years ago, but if it is not included there would still be the required amount of open space on the project site.

In response to a question from Ms. McCormick, Attorney Hopkins stated that there are other storm water management areas, lakes, steep slopes, wetlands, etc. included in the open space areas.

Attorney Hopkins stated that the Burke family deserves some credit for proposing for sale units instead of apartments, which are allowed in this zoning district, because of the nearby property owners' feelings about apartments.

Attorney Hopkins stated that the easiest way for the applicant to satisfy the permanent open space requirement would be to propose multi-story apartment buildings, which is not what the applicant prefers.

Attorney Hopkins stated that this project has been very well vetted in terms of traffic, drainage, lighting, landscaping, community character, the history of this site and consistency with the Findings Statement that was issued in 1988 and the Planning Board should be in a position to consider issuing a Negative Declaration.

Attorney Hopkins stated that the 1988 plan for areas I, J and K (the quarry area) showed a total buildout of those area of 338 dwelling units. He stated that as a result of eliminating an additional 40+ units on this 9.37-acre site, there would be 192 dwelling units in the quarry area, which equates to a 56.8% reduction in density.

Attorney Hopkins discussed the conceptual lighting plan, which includes dark-sky compliant low-level light standards with no light spillover at the property lines.

In response to a question from Mr. Bobseine, Attorney Hopkins stated that within those six (6) parcels of permanent open space in the quarry portion of the PUD, one cannot subjectively subtract those area of lakes, wetlands, steep slopes, etc. because that is not the methodology that was used 30 years ago.

Ms. McCormick asked Attorney Hopkins to submit a response to the submittal recently received by the Planning Board from the nearby property owners.

Chairman Clark stated that his understanding that in 1993 the 27.08 acres of open space were made up of 6.92 acres (west of towers), one (1) acre (Overlook Park), 12.54 acres (lakes and woodlands) and 6.62 acres (railroad buffer and tot lot play area). He noted that at least 3.47 acres of the 6.92 acres west of towers is wetlands and almost all of the 6.62 acres (railroad buffer, etc.) is railroad buffer. He stated that if one removes the wetlands and railroad buffer from the total, then what was proposed in 1993 does not add up to the required 27.08 acres of open space.

Chairman Clark stated that based on the above, it seems that in 1993 the Town was considering wetlands and the railroad buffer as part of the required open space area.

Mr. Bobseine stated that the nearby property owners would say that this was the wrong decision in 1993.

Attorney Hopkins stated that the parcel reports for the six (6) open space parcels that he submitted established the required open space acreage amount. He further noted that the HOA took ownership of five (5) of those parcels knowing that wetlands exist on some of them.

Ms. Valenti stated that the residents are referring to the disputed areas as "recreation space" and Attorney Hopkins refers to them as "green space".

Attorney Hopkins responded that the 27.08 acres were originally required as "permanent open space" and not "recreation space". He further noted that it was not designated as "usable permanent open space".

In response to a comment by Mr. Reilly, Attorney Hopkins stated that the Heart Trail is shown on the site plan.

Attorney Hopkins stated that there is a difference between recreation space and permanent open space. He further stated that the applicant is proposing to provide three (3) times the required recreation space as part of this project.

Ms. McCormick reviewed Part 2 of the EAF as follows:

- Impact on land - no additional information needed
- Impact on geologic features - need confirmation that no blasting is proposed
- Impacts on surface water - no additional information needed
- Impact on ground water - no additional information needed

- Impact on flooding - no additional information needed
- Impact on air - no additional information needed
- Impact on plants and animals - no additional information needed
- Impact on agricultural resources - no additional information needed
- Impact on aesthetic resources - no additional information needed
- Impact on archeological resources - no additional information
- Impact on open space and recreation - the minutes from the original rezoning to PUD in July 1990 will be supplied by the Planning Department. The definition of “recreational space” and “open space” will be researched.
- Impact on Critical Environmental Areas - no additional information needed
- Impact on transportation - no additional information needed
- Impact on energy - no additional information needed
- Impact on human health - no additional information needed
- Consistency with community plans - no additional needed
- Consistency with community character - landscaping plan will be sent to the Conservation Advisory Board

Chairman Clark made a motion, seconded by Ms. Gronachan, to table this project to the Planning Board’s July 19, 2023 meeting. Carried.

Engineering Department comments have been filed with the Planning Board.

Industrial rezoning recommendations and report

Mr. Reilly stated that the Town is trying to change industrial zoning in the Town in accordance with the Comprehensive Plan. He stated that the Comprehensive Plan contains a map with properties circled that are not consistent with the future development of the Town.

Mr. Reilly stated that a public hearing will be held on the proposed rezonings and the property owners, as well as adjacent property owners, will be notified.

Ms. McCormick made a motion, seconded by Mr. Chapman, to authorize the Planning Department to notify the Town Board that the Planning Board is in agreement with the six (6) rezonings that were sent back to it. Carried.

AL Asphalt - AL Asphalt - Discussion of DEIS and meeting procedures

Chairman Clark stated that Mr. Reilly provided Board members with a schedule and a resolution has been prepared regarding some of the things that are on the docket. He stated that the Planning Board has three (3) proposals for different consultants to deal with the issues it wanted more information about. He noted that the Town Board wants the Planning Board to decide on the proposals so that it can vote on whether to hire the consultant on Monday, May 22, 2023.

Chairman Clark stated that the following proposals had been submitted:

1. GHD provided a proposal to aid with the Environmental Impact Statement (EIS) relative to traffic, noise and storm water.
2. EA Consultants provided a proposal to aid with the EIS relative to air, odor and plume issues.
3. Wendel provided a proposal to prepare the EIS.

Attorney Kim Nasson with Phillips, Lytle stated EA Consulting previously submitted a proposal to the Town Board that was approved, but the most recent proposal is an expanded version and therefore a higher number.

Attorney Nasson stated that the Town Board would like to hire the consultants on May 22, 2023 because the expert reports need to be completed as part of the public comment process. She stated that the public comment period will end on July 28, 2023 and given the number of deficiencies in the DEIS and the work that needs to be completed on behalf of the Lead Agency, the reports need to be started. She noted that the scope of the reports is broader than what was originally contemplated given that it is not just analyzing the sufficiency of the DEIS, but rather examining the project in its entirety and analyzing and suggesting mitigation as necessary to address any potential project impacts.

Chairman Clark stated that the public comment period is currently open and the Planning Board will not only accept comments at the public hearings but instead will accept any written comments. He stated that if someone submitted a comment a few years ago when this project was being discussed, that comment will have to be resubmitted.

Attorney Nasson noted that on May 3, 2023 the Planning Board issued the Notice of Completion, which lists the deficiencies in the DEIS and asks the public to comment on those.

Attorney Nasson stated that the SEQR regulations require that the Lead Agency publish the Draft Notice of Hearing if a public hearing is going to be held. She noted that there are two (2) proposed dates on which the Town has been able to secure the auditorium at Hilbert College (June 14, 2023 and July 12, 2023) from 6:00 PM to 9:00 PM.

Ms. McCormick stated that the Planning Board may need to consider some alternate methods to make the public aware of the public hearings, noting that many people do not get the paper and the Town has had complaints about the usability of the Town's website.

Mr. Chapman stated that the prospective dates for the public hearings should have been given to the Planning Board before they were set. He stated that the Planning Board members should not have been committed to something they were not informed about.

Ms. Gronachan agreed with Mr. Chapman.

Chairman Clark stated that technically by the statute the Chairman sets the schedule so it is his decision and his alone.

Attorney Puglisi stated that for purposes of the Planning Board being able to approve the dates at this meeting, it had to be verified with Hilbert College that those dates were acceptable.

Ms. Gronachan asked Chairman Clark if he could have emailed Planning Board members the dates that were being considered ahead of time. Chairman Clark responded that he could have given Board members a few more days' notice, but it would not have been a considerable amount of time.

Mr. Bobseine made the following motion, seconded by Mr. Szewc:

“Whereas, the Town of Hamburg Planning Board (“Planning Board”) received a Site Plan application from A L Asphalt Corporation (“A L Asphalt” or “applicant”) in June 2019 for the proposed construction of hot mix asphalt plant (“project” or “plant”) and related accessory uses at 5690 Camp Road in the Town of Hamburg (“Town”); and

Whereas, the Planning Board as Lead Agency in a Coordinated Review of the project under the State Environmental Quality Review Act (“SEQR”) received a revised Draft Environmental Impact Statement prepared by the applicant dated April 5, 2023 (“DEIS”); and

Whereas, in accordance with Section 617.9 of the SEQR regulations, by resolution adopted at its May 3, 2023 meeting the Planning Board determined to accept the DEIS for public review subject to the listed deficiencies as more fully described in the Planning Board’s resolution dated May 3, 2023 and the Notice of Completion attached thereto; and

Whereas, the Planning Board now requires the assistance of certain consultants and experts as identified and described more fully in the attached proposals for services to be rendered by Wendel Companies, E A Engineering Science & Technology, Inc., PVC and GHD Engineering to aid the Planning Board with its responsibilities as Lead Agency under Section 617.9 (b) (8) to prepare responses to all substantive comments received during public review of the DEIS and otherwise ensure adequacy and accuracy in preparation of the Final Environmental Impact Statement for the project and to prepare SEQR Findings pursuant to Section 617.11 and otherwise prepare, file, publish and distribute documents and notices consistent with Section 617.12 to complete the SEQR process.

Now, Therefore, Be It Resolved that the Planning Board requests and recommends that at its May 22, 2023 meeting the Town Board approve the retention of services and consultants as described in the proposals.”

As the motion was six (6) ayes and one (1) abstention (Ms. Valenti), the motion carried.

Mr. Chapman stated that Ms. Valenti should not recuse herself from voting on whether to hire consultants.

Chairman Clark stated that the Planning Board reviewed a draft to review of the Notice of SEQR Hearings regarding the hot mix asphalt plant DEIS. He noted that the SEQR hearings will be held at the Hilbert College Swan Auditorium from 6:00 PM to 9:00 PM on June 14, 2023 and July 12, 2023.

Chairman Clark made a motion, seconded by Ms. McCormick, to accept the Notice of SEQR Hearings regarding the hot mix asphalt plant DEIS. As the vote on the motion was five (5) ayes and two (2) abstentions (Ms. Valenti and Mr. Chapman), the motion carried.

It was determined that the SEQR hearings will be live streamed.

Ms. McCormick asked Attorney Nasson to provide documents to the Planning Board no later than the Friday preceding a Planning Board meeting.

OTHER BUSINESS

Mr. Reilly stated that the Thruway Authority will be selling its property located across from the Thruway exit and it is not zoned. He stated that this property will need to be zoned and the Planning Board’s input and recommendation to the Town Board before it proceeds to the rezoning process.

Mr. Bobseine stated that due to a change in his professional situation, he will have to step back from this public-facing role and wanted to thank his colleagues on the Planning Board for being such hard working, thoughtful and professional Board members. He stated that it has been a pleasure and he wanted to thank the Town Board for nominating and confirming him approximately 1 1/2 years ago. He stated that Hamburg is wonderful place to live and it is so because people invest time and energy in shaping the spaces that we live in and building the community that we live in.

Ms. McCormick made a motion, seconded by Mr. Szewc, to approve the May 3, 2023 Planning Board minutes. Carried.

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

The meeting was adjourned at 9:40 PM.

Respectfully submitted,
Jeb Bobseine, Secretary

Date: May 31, 2023