

Town of Hamburg
Planning Board Meeting
June 21, 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, June 21, 2023 in Room 7B of Hamburg Town Hall. Those attending included Chairman William Clark, Vice-Chairwoman Kaitlin McCormick, Margaux Valenti, Dennis Chapman, Cindy Gronachan, Daniel Szewc and Kaitlin McGee-Chmura.

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

WORK SESSION

Mike Mohler – Requesting a Site Plan Waiver for a proposal to construct a pavilion addition at 3041 Amsdell Road

Mr. Mike Mohler, applicant, stated that he is the owner of Amsdell Ice Cream on Amsdell Road and would like to construct a 16' X 20' pavilion inside the existing fenced-in area and the pavillion would have no access to electricity or water.

In response to a question from Ms. Gronachan, Mr. Mohler stated that he recently had two (2) large old trees taken down because they were becoming unsafe and now there is no shelter or shade on the site for customers. He noted that this is why he would like to construct the pavilion.

Mr. Mohler noted that there is no seating inside the building.

It was determined that a Site Plan Waiver was appropriate in this instance.

Engineering Department comments have been filed with the Planning Department.

716 Storage, LLC – Requesting Sketch Plan Direction on an amended proposal of a 71,400 sq-ft self-storage facility on vacant land located at the southwest corner of South Park Avenue and Southwestern Blvd

Attorney Sean Hopkins, representing the applicant, stated that Site Plan Approval was granted for this project in April 2023. He noted that subsequent to that, the applicant had extensive discussions with the operators of the doggy day care business at the corner of Bayview Road and Southwestern Boulevard relative to when they had to vacate the building per the lease. He stated that the applicants have decided to allow the doggy day care to remain there and as result the Site Plan has been modified to cut out the doggy day care building and the .5-acre parcel from the self-storage parcel. He noted that the proposed self-storage building has been reduced in size by 2,800 sq.ft.

Attorney Hopkins stated that the landscaping plan has been updated to reflect the proposed changes.

In response to a question from Mr. Chapman, Attorney Hopkins stated that the project would still meet the setback requirements.

Chairman Clark made a motion to approve the minor Site Plan amendment with the following conditions:

- The sidewalk will be extended along Bayview Road in front of the doggy day care business.
- Additional landscaping will be installed in the area of the car wash.

After discussion, Chairman Clark withdrew the above motion.

Chairman Clark made a motion, seconded by Ms. Gronachan, that the original Site Plan approval granted for this project remains valid. As the vote on the motion was six (6) ayes and one (1) nay (Ms. McCormick), the motion carried.

It was noted that the eight (8) original conditions of approval from April 2023 must also be met.

Engineering Department comments have been filed with the Planning Board.

REGULAR MEETING

Public Hearing – 7:00 P.M., Park Grove Realty – Requesting Preliminary Plat Approval of a 70-unit multi-family development subdivision, west of Riley Boulevard

Tim Crilly from Park Grove Realty stated that this project has been discussed many times. He was joined by Mr. Jeff Suto from Passero Engineering, who stated that the subdivision incorporates approximately 16 acres of land on both the north and south sides of Riley Boulevard.

Mr. Suto stated that Lot # 1 would be 6.3 acres in size and contain the proposed 70-unit multi-family project and Lot # 2 would be the land that is being carved out that is currently encumbered by an easement granted to the adjacent school and not part of the multi-family project. He noted that Lot # 3 would be 4.8 acres in size and would be located on Riley Boulevard with frontage on Bayview Road and Lot # 4 would be located on the south side of Riley Boulevard and is currently being proposed for self-storage.

Mr. Suto stated that the subdivision request is simply so that the current land owner (Burke) can split up this property to provide the specific lots for the multi-family project and the self-storage project (the two are not affiliated) and have the remaining land left.

Ms. Gronachan 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-family development subdivision west of Riley Boulevard. The public hearing will be held on June 21, 2023 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.

Mr. Suto summarized a letter submitted by the applicant addressing the comments made by the public at the public hearing held on the Site Plan Approval request. He noted that when Riley Boulevard was constructed, all of the Burke Business Park land was zoned commercial. He

stated that the parcel on which this multi-family project is proposed could, if zoned commercial, support up to 64,000 sq.ft. of commercial use. He further stated that during the highest hour of use for the multi-family project, it is projected that it would generate 51 trips entering or leaving the site, which represents approximately 80% less than what was originally contemplated for this property if developed commercially.

Mr. Suto stated that now that the property has been rezoned to NC, multi-family developments are an allowed use on it. He further stated that this project is code compliant and no variances are being sought.

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

“Whereas, the Town of Hamburg received a Site Plan application from Park Grove Realty to construct a 70-unit multi-family project; and

Whereas, the Hamburg Planning Board rezoned approximately 7.44 acres of land from C-1 to NC for the future development of workforce rental housing and the Town Board determined that the rezoning would not have any significant adverse environmental impact and issued a Negative Declaration; and

Whereas, the overall project is located in the Hamburg Business Park, which was the subject of a GEIS and every proposed project in the Hamburg Business Park must be reviewed against the original GEIS and its findings; and

Whereas, the Planning Board has reviewed this project against the original GIES and its findings, considered the additional information submitted by the applicant and the Negative Declaration issued by the Town Board and determined that the project is substantially in conformance with the original plan as amended by the Town Board through the rezoning and the GEIS findings and that no adverse environmental impacts are anticipated based on the supplemental information provided by the applicant.

Now, Therefore, Be It Resolved that the Town of Hamburg Planning Board determines that the proposed project is in substantial conformance with the Hamburg Business Park GEIS findings and has determined that the construction of a 70-unit multi-family residential project as illustrated on the final plans is not anticipated to result in any significant adverse environmental impacts and that a Negative Declaration is hereby issued; and

Be It Further Resolved, that the Planning Board Chairman will be authorized to sign the Environmental Assessment Form and it will be placed in the Town file.”

Carried.

Chairman Clark made the following motion regarding the proposed minor subdivision request, seconded by Ms. Gronachan:

“The Town of Hamburg received a Minor Subdivision application from True North Land Surveying that is associated with this project for the construction of a 70-unit multi-family development that is north of Riley Boulevard. The Hamburg Planning Board, in accordance with the New York State SEQR law and the SEQR regulations contained in 6NYCRR Part 617, has issued a Negative Declaration for this project. The Planning Board has reviewed the subdivision application against the subdivision requirements of the Town, 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:

1. The project will address the comments in the Engineering Department comment letter dated June 16, 2023.
2. Sidewalks are required on all frontages.

Finally, the Hamburg Planning Board waives the completion of a Final Plat of the filing of a Map Cover as long as the Town Engineering Department does not require it. 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 regarding the proposed Site Plan approval request, seconded by Ms. Gronachan:

“Whereas, the Town of Hamburg Planning Department received a Site Plan application from Park Grove Realty for the construction of a 70-unit multi-family development north of Riley Boulevard; and

Whereas, the Town of Hamburg Planning Board held the required public hearing on May 17, 2023; and

Whereas, the Town of Hamburg Planning Board has reviewed the project against the Town Code and has received input from Town departments and other agencies, has received additional information and reports from the applicant and provided input to the applicant that has resulted in amended plans addressing Planning Board concerns; and

Whereas, in accordance with Part 617 of the implementing regulations pertaining to Article 8 (SEQR) of the environmental conservation law, the Town of Hamburg Planning Board has issued a SEQR Negative Declaration.

Now, Therefore, Be It Resolved, that the Town of Hamburg Planning Board issues Conditional Site Plan Approval for this project with the following conditions:

- Conformance to the requirements of the Town Engineering memo dated June 16, 2023
- Review and approval of the final landscaping plan by the Planning Department
- The appropriate easements be created and approved by the Town and its engineering consultant
- The project be shown to be in conformance with the Town’s affordable housing law
- Sidewalks are to be installed as shown on the plans.”

Carried.

Engineering Department comments have been filed with the Planning Department.

Aspen Dental Management, Inc. - Requesting Site Plan Approval of a proposal to construct a dental clinic to be located at 3497 McKinley Parkway

It was determined that no one was present on behalf of the applicant.

Mr. Rogers indicated that the Board of Zoning Appeals did grant the requested variances on June 15, 2023.

Ms. Jarrell stated that she has reviewed the drainage plan with the applicant's engineers and feels that it will be an improvement over the current draining situation on this site.

Chairman Clark read the following motion:

"Whereas, the Town of Hamburg Planning Board received a Site Plan application from Aspen Dental Management, Inc. for the demolition of an abandoned restaurant and construction of a 3,540 sq.ft. dental facility at 3497 McKinley Parkway; and

Whereas, the Town of Hamburg Planning Board held the required public hearing; and

Whereas, the Town of Hamburg Planning Board has reviewed the project against the Town Code, has received input from Town departments and other agencies, has received additional information and reports from the applicant and provided input to the applicant that has resulted in amended plans addressing Planning Board concerns; and

Whereas, in accordance with Part 617 of the implementing regulations pertaining to Article 8 SEQR of the Environmental Conservation Law, the Town of Hamburg Planning Board has determined that the project is a Type II Action and no further SEQR analysis is required; and

Whereas, the project requires variances and those variances have been granted by the Hamburg Zoning Board of Appeals.

Now, Therefore, Be It Resolved, that the Town of Hamburg Planning Board hereby issues Conditional Site Plan Approval for this project with the following conditions:

- Approval is contingent upon the Engineering Department comment letter dated June 16, 2023.
- The final landscaping plan will be approved by the Planning Department.
- The lighting shall be shielded and dark-sky compliant as shown on the plans.
- The applicant has agreed to construct an eight-foot high privacy fence along the site's eastern property line as requested by the neighbors.
- A sidewalk plan will be completed and approved through the Engineering Department that includes sidewalks on McKinley and Milestrip."

Chairman Clark made a motion, seconded by Mr. Szewc, to move forward with the Site Plan Approval resolution as read and amended.

As the vote on the motion was six (6) ayes and one (1) nay (Mr. Chapman), the motion carried.

Engineering Department comments have been filed with the Planning Department.

Alchemy Shores - Requesting rezoning of property located at 3780 Hoover Road from M-2 to Mixed Use District

Anne McIntosh and Nicole Casell, co-owners of Alchemy Shores, appeared on behalf of the rezoning request.

Ms. McIntosh stated that there were a number of concerns raised at the public hearing session held in May 2023 and she categorized and addressed them as follows:

- Noise pollution - The business would adhere to all Town noise ordinances. Alchemy Wine & Beers, which operates in the Village of Hamburg, has never had a noise violation.

- Pollution - The business will not allow any litter, fire works, confetti, etc. that would cause unnecessary litter. Man made materials would not be allowed on the beach at any events.
- Light pollution affecting the native animals - The business would not have patrons on the beach after sunset so there would not be any lights on the beach hindering the wildlife. Parking lot lights would only be on during the business's operating hours.
- Privacy - Privacy fencing would be installed in place of the existing chain link fence along the property line shared with the residential neighbor. The fence would be as high as the Town Code allows. They would be willing to extend the privacy fence toward the beach area to create a delineated area and No Trespassing signs to discourage the public from accessing the neighbor's property.

Ms. Casell showed Board members photos of what the beach in this area looks like today. She noted that when they purchased this property, it had been neglected for some time and required quite a bit of clean up. She stated that they worked closely with the New York State Department of Environmental Conservation (DEC) to create a plan to clean up the area according to its policies.

Ms. McIntosh stated that a letter was submitted to the Planning Board from Code Enforcement Officers Joe Boncore and Tim Willard indicating that they visited the site and that there are no violations there.

Ms. Casell stated that they have an ongoing relationship with the DEC to make sure they understand what is required to keep the property the way it should be.

Ms. McIntosh stated that there were allegations at the public hearing that all of the vegetation on the site had been removed, but that is not the case. She showed Board members pictures of decades of dead trees that were removed, noting that the vegetation is in full bloom and the existing sand dune is intact.

- Green space and the environment - They plan to plant quite of bit of shrubbery along the property line shared with the closest residential neighbor for addition privacy and noise protection. They have pending applications with the DEC to bring in additional sand and to continue to clean up the current beach and dune.
- Sewer and water lines - They have submitted preliminary site plans.
- Traffic and parking - No parking would be allowed on Hoover Road. All parking would be on their property and the parking lot would be monitored by parking attendants.

Ms. McCormick asked the applicants whether there are dedicated water and sewer lines that go directly from the building to the main or if they interconnect into the adjacent neighbor's property and then out.

Ms. Casell responded that it is their understanding that the water and sewer lines are shared with the public.

Mr. Reilly stated that the water and sewer line issue would be addressed at the Site Plan Approval review phase and that the Erie County Sewer District regulations will govern how drainage and sewage is handled.

Ms. Jarrell stated that there is no approval required if the applicants will be connecting to an existing line and are not altering or installing a line.

Ms. McCormick stated that the Town Board will have to make a SEQR decision in connection with the requested rezoning and shared infrastructure and strains on community resources fall under SEQR as well as Site Plan Approval.

Ms. Jarrell stated that she contacted the Erie County Sewer District and was informed that this site's adjacent neighbor contacted the District with a concern about sharing the lateral with the events center. She noted that the Sewer District indicated that it does not have any permanent records for either property due to age and District Supervisors met with the neighbor on site to see if the claim could be confirmed but did not find anything indicating a shared connection. She stated that the District found two (2) separate active connections via video and it was told that the two (2) property owners would meet to have a plumber investigate further.

Ms. Jarrell stated that the Sewer District also indicated that there is a history of sewer backups in this area, but it is upstream of the proposed events center and mainly due to debris from the neighboring properties. She noted that the Sewer District further indicated that capacity has not been an issue in this area.

- Community character - Based on Alchemy's history, they plan to bring a wide variety of events that bring a lot of character to the community. They are committed to being responsible property owners and neighbors.

Ms. McCormick asked the applicants what other uses are contemplated for this site to make it a true mixed use property.

Ms. Casell responded that they are committed to the mixed use idea and are taking one step at a time. She stated that there a lot of things they would like to do with the balance of the site but have to do one thing at a time and have options available.

Ms. McCormick stated that one of her concerns is that without understanding what the components of the mixed use development are, she is worried about how the Planning Board can evaluate some of the traffic, parking, lighting, accessibility and water dependent issues as part of the SEQR review.

Chairman Clark stated that any additional use on this site would have to be reviewed by the Planning Board and Site Plan Approval would have to be granted.

Mr. Reilly stated that this new Mixed Use zoning district does not require mixed uses on the site, but rather it allows mixed uses on the site. He noted that the applicants are also planning outdoor uses like yoga.

In response to a question from Ms. McCormick, Mr. Reilly stated that if in the future the applicants propose a use on this site that is specifically allowed in the Mixed Use district, the project would require Site Plan Approval from the Planning Board. He noted, however, that if a use is proposed that is not specifically allowed in the Mixed Use district, another rezoning would be required to allow that use.

Ms. McIntosh stated that currently they are only asking to use the site for an events space.

In response to a question from Mr. Chapman, Ms. Casell stated that the paddle boarding business discussed at a previous meeting is simply an example of a third party that the applicants could partner with.

In response to another question from Mr. Chapman regarding where the paddle boarding customers would park, Ms. Casell stated that 83 parking spaces are proposed. She further stated that the applicants do not have a contract in place with the paddle boarding business.

Mr. Chapman stated that this will set the standard for the Mixed Use district and he does not want to rush into something and make a mistake that will last forever.

Ms. McCormick stated that when she envisioned the Mixed Use district, she was thinking that uses would be combined and there would be diverse development on the site rather than a single commercial use or set of commercial uses that may fit in to a different zoning district.

Ms. McCormick stated that the Planning Board is looking at an events space involving weddings with music, DJs, people outside, etc. with a home ten (10) feet away. She noted that she does not know how the applicants can guarantee that there will not be noise and does not know how the Town can juxtapose having residential homes nearby and preserving their rights and also allow the applicants to be successful.

Mr. Reilly reminded Board members that this site is currently zoned industrial and there could be an industrial use there. He stated that the Code Review Committee recommended that the applicant request Mixed Use zoning because it offers the opportunity for future uses on the site. He noted that the applicant could have requested commercial zoning but was advised by the Code Review Committee to seek the Mixed Use zoning.

Ms. McCormick stated that the State's coastal enforceable policies emphasize making sure that water-dependent commercial and industrial uses and their access to the waterfront is preserved. She stated that she does not think it is appropriate for the Planning Board to be pressured by thinking that one use is better or worse and that this use is inherently better. She noted that the Board can only react to what is in front of it.

Ms. McCormick stated that she sees a conflict and a challenge with the applicants' request that this use be allowed as a special use and the fact that there are neighbors so close to the property line who have been there for a long time.

Mr. Reilly stated that the Planning Board has been discussing this for six (6) months and needs to make a recommendation and issue a report to the Town Board.

Chairman Clark stated that Board members were given a draft report for the Town Board that the Planning Board can amend if needed.

Chairman Clark stated that on page 2 of the rezoning report it states that the Waterfront Committee has reviewed this application, completed the Coastal Consistency form and recommended coastal consistency to the Town Board. He noted that although that statement is true, the Planning Board has not received that information and he was not sure it should remain in the report.

It was agreed that the above sentence in the report regarding the Waterfront Committee would be removed from the rezoning report.

Ms. McCormick stated that she did not agree with the following statement in the draft report: "The proposed zoning and use provide a good transition between the residential and commercial uses in the area to the Industrial areas to the north."

Ms. Gronachan stated that she agreed with Ms. McCormick regarding feeling pressured and torn. She further stated that she feels that the applicants' business concept is a great idea but she was struggling with putting it in this area based on the comments made at the public hearing by the nearby residents and the possible water problems.

Ms. Gronachan stated that the report should state that this venue seems to be oversized for this particular use and this seems like trying to put a round peg in a square hole and fill in all the corners.

Mr. Szewc stated that he is concerned about what a future use might be on this site and it is problematic not knowing what the plans are for the rest of the site.

Ms. Gronachan stated that the report should state that if the property is rezoned, regardless of what zoning is granted, it should not have a negative impact on the surrounding community.

Ms. Gronachan stated that a lot of evidence has been presented indicating that there would be a lot of negative impact to the nearby residents.

Ms. McCormick stated that in her opinion there are benefits to what the applicants want to do, but she questions whether this is the right location.

Ms. Gronachan stated that she could see a yoga business, a paddle board business or an afternoon bridal shower event on this site, but she cannot see receptions, bands, etc. She noted that there are other uses that could be put on this site with the rezoning that would fit better.

Ms. Casell noted that the business would not be exclusively for weddings.

Ms. McCormick responded that weddings would be allowed and that would be the most disruptive use.

Ms. Casell stated that many of the events would not be loud or polarizing.

Mr. Chapman stated that because this use requires a rezoning and a Special Use Permit, it indicates to him that this use does not fit.

Chairman Clark stated that the Town's new Comprehensive Plan indicates that this particular area should not remain industrial.

Ms. Valenti stated that the new Mixed Use zoning district makes it difficult for the Planning Board because if a property is rezoned to that district and the owner returns to the Planning Board subsequently with a use the Planning Board does not like, the Board has no recourse.

Ms. McCormick stated that just because the area needs to be deindustrialize does not mean that this property has to be rezoned to this particular zoning classification. She stated that the NC zoning is designed to abut residential neighborhood.

Attorney Puglisi reminded Board members that it is simply charged with forwarding a recommendation to the Town Board on the proposed rezoning and the Town Board will make the ultimate decision.

Ms. McCormick stated that the Planning Board should step away from the draft rezoning report and come up with a list of its outlined concerns.

Mr. Reilly clarified that there are no uses in the Mixed Use district that would require a Special Use Permit.

Ms. McGee-Chmura asked if there is a way in the Planning Board's recommendation to stipulate that if an event is a certain size, a Special Event permit would need to be obtained from the Building Department.

Ms. McCormick stated that a Special Event permit would not apply to something on private property.

Ms. Casell stated that she believes that when the Certificate of Occupancy is issued, the building will be limited to 125 people due to its square footage.

Ms. McCormick stated that her concern is not the number of people, but rather the noise generated by an event.

Chairman Clark stated that the Planning Board should vote on a recommendation to the Town Board that the Town Code's noise ordinance be reviewed in order to add specificity to make it more enforceable. He stated that this way if the neighbors have a noise complaint, they would have something more authoritative to reference.

Ms. Valenti stated that it appears that the Mixed Use zoning appears to be the best option for the property, given that NC and Waterfront Commercial (WC) would not be appropriate based on the new Comprehensive Plan and the uses allowed in the WC district.

Chairman Clark stated that the Planning Board's choices regarding this proposal were as follows:

- Approve or disapprove the draft rezoning report with changes.
- Create a new rezoning report.

Ms. Gronachan stated that the Planning Board should use the draft rezoning report with the following changes discussed at this meeting:

- The language on page two (2) regarding this being a good transition between industrial and residential should be removed.
- Language should be added indicating that any type of business on this property should not have any negative impact or not add additional negativity to the character of the community.

Chairman Clark referenced the new Comprehensive Plan's language regarding allowing public access to the lakefront and creating more opportunities to enjoy the lake without infringing on existing lakefront residences. He stated that it is difficult to balance those two (2) issues.

Mr. Chapman noted that the residents who spoke at the public hearing indicated that they believe that the events center will more negatively impact them than the existing industrial uses nearby.

Board members discussed the following recommendation in the draft rezoning report written by Chairman Clark:

"An essential element of recommending this rezoning is allowing patrons to have access to various water enhanced and water dependent activities on this site."

Chairman Clark stated that if this recommendation is left in the rezoning report, the applicants will ultimately have to provide water enhanced or water dependent uses and their patrons would have access to the lakefront that does not exist now. He further stated that the Town's Local

Waterfront Revitalization Program (LWRP) and the Comprehensive Plan encourage those types of uses in Hamburg because the Town feels there is not enough of that in Hamburg.

Chairman Clark stated that the only reason to approve this project is because it would create something on the lake that the Town does not already have that allows people to enjoy the lake in a way the Town does not have enough of. He further stated that if the applicants were not planning to allow public access to the lakefront for patrons, that would not meet the objectives of the Comprehensive Plan and the LWRP.

Chairman Clark stated that if this rezoning is approved, the applicants will have to incorporate water enhanced and/or water dependent uses into their business plan.

Chairman Clark polled the Planning Board members regarding whether they support a positive or negative recommendation to the Town Board on a rezoning to Mixed Use with an event center as follows:

- Ms. Valenti stated that she is not opposed to the proposed rezoning with the event center but she wants to make sure that the conditions proposed by the Planning Board are sufficiently protective of the neighbors. She stated that an additional condition should be placed on the rezoning that no amplified outdoor music be allowed.
- Mr. Chapman stated that he does not mind the new zoning but thinks that an event center will disturb the neighbors regardless of any restrictions placed on it. He stated that he would be opposed to both the rezoning and the event center.
- Ms. McCormick stated that she is opposed to the proposed rezoning with the event center but she is supportive of a Mixed Use zone without the event center. She stated that if the rezoning is approved, there should be no amplified outdoor noise.
- Ms. McGee-Chmura stated that she would support the proposed rezoning to Mixed Use with the event center with the condition discussed above regarding noise.
- Ms. Gronachan stated that she would support the proposed Mixed Use zoning and agrees with Ms. Valenti's comments regarding protecting the neighbors.
- Mr. Szewc stated that he would support the proposed Mixed Use zoning with the event center with a condition that there be no amplified music inside or outside.

It was agreed that the following condition in the rezoning report would be removed:

"Outdoor activities, as described by the applicant will not occur after 11:00 pm and before 8:00 am".

Chairman Clark proposed the following condition to be included in the Planning Board's report to the Town Board:

"The Town Board shall consider a restriction to limit noise."

Ms. McCormick asked Board members whether, if the Planning Board has no control over the noise and an enforceable condition cannot be imposed, they would still be in favor of the rezoning with the event center.

Attorney Puglisi reminded Board members that this is a Town Board decision.

Chairman Clark suggested removing the previous condition regarding noise and replacing it with the following:

“The Planning Board is extremely concerned about the impact of noise on the adjoining residents and every effort should be made to mitigate these impacts.”

Ms. McCormick stated that she would agree to the above condition and would like to replace condition # 7 in the report regarding hours of operation with the following language:

“The Town Board should identify appropriate conditions and measures regarding outdoor activities and noise generated by on site activities at the property line.”

Chairman Clark read the following from the draft report to the Town Board:

- “There are resident concerns that have been raised, and the applicant has agreed that they will not apply for a firework’s permit. Recent concerns about site plan issues can be addressed at site plan approval if the site is rezoned by the Town Board. These issues are as follows:
 - A condition relating to sewer capacity is not included because, pursuant to local laws and regulations, the Town of Hamburg engineering department must determine that there is adequate sewer capacity prior to the PB issuing site plan approval and before the Town issues a certificate of occupancy.
 - A condition relating to drainage is not included because, pursuant to local laws and regulations, the Town of Hamburg engineering department must determine that water from this property does not flow to adjacent properties and meets Town drainage requirements prior to the Planning Board issuing site plan approval and the Town issuing a certificate of occupancy. While recognizing that the Town Engineer has ultimate authority over accepting a drainage plan, the Planning Board, as part of site plan review, will do a preliminary review of the drainage off the existing building due to its proximity to the adjacent landowner.
 - A condition relating to parking on Hoover Road is not included because town ordinances already prohibit parking on Hoover Road. As part of site-plan review, the Planning Board will consider issues relating to parking capacity.
 - A condition relating to lighting is not included because local Town ordinances already require lighting to be dark-sky compliant and the PB will make this a condition of site plan approval.

Chairman Clark reiterated that the wording regarding noise in the rezoning report would be deleted and replaced with the following:

“The Planning Board is extremely concerned about the impact of noise on the nearby residents and every effort should be made to mitigate these impacts.”

Chairman Clark stated that the following conditions would be recommended to the Town Board if the rezoning is approved:

1. An essential element of recommending this rezoning is allowing patrons to have access to various water enhanced and water dependent activities on this site. Therefore, the Town should not consider future uses that restrict the general public from being customers to the water enhanced and water dependent activities on this site.
2. Any naturally occurring sand dunes on the site must be preserved.
3. The property owner agrees to provide an easement for a multimodal trail if such a trail is proposed in the future.

4. A barrier to discourage trespassing will be constructed adjacent to the residential zone and extend as far toward the lake as allowed by State laws and regulations. The exact position and composition of this barrier will be finalized prior to the accepting of a site plan.
5. No fireworks, confetti, balloons or other items readily capable of causing difficult to clean litter will be permitted on the beach.
6. The rezoning of the M-2 zoned lands to MU1 is based on the uses proposed by the applicant.
7. The Town Board will take every appropriate action to limit noise generating activities.
8. Events shall be limited in size by the parking shown on the site plan.
9. The Planning Board will have site plan approval to ensure that the above requirements are met, and any other conditions placed by the Town Board and other site plan issues are addressed.
10. The Town Board shall consider a restriction to limit noise.

Chairman Clark stated that the Planning Board will also recommend potential mitigations that will be included in its final report to the Town Board.

Chairman Clark made a motion, seconded by Ms. Gronachan, to forward to the Town Board the Planning Board report as amended at this meeting.

As the vote on the motion was five (5) ayes and two (2) nays (Mr. Chapman and Ms. McCormick), the motion carried.

David Canfield - Requesting Site Plan Approval of a proposal to construct a 2,400 sq.ft. storage building at Big Tree Road and St. Francis Drive

In response to a question from Ms. McCormick, Rob Pidanick from Nussbaumer & Clarke, representing the applicant, stated that the applicant has plans for future development on this property and anything that is currently stored on the site will be removed.

Mr. Pidanick noted that the landscaping plan was previously approved by the Planning Board. He further stated that he does not believe that new signage is proposed.

Mr. Reilly stated that he would not like to see further development on this site and a conservation easement placed on the remainder of the site, but the applicant is not interested in doing that.

It was determined that outdoor storage is now allowed on this site.

Board members discussed whether sidewalks should be required. Chairman Clark polled Board members on their feelings on this subject as follows:

- Ms. Valenti stated that she would support requiring sidewalks along St. Francis Drive.
- Mr. Chapman stated that he does not support requiring sidewalks.
- Ms. McCormick stated that she would support requiring sidewalks along St. Francis Drive
- Ms. McGee-Chmura stated she would support requiring sidewalks along St. Francis Drive
- Ms. Gronachan stated that she does not think sidewalks should be installed.

- Mr. Szewc stated that he does not support requiring sidewalks.
- Chairman Clark stated that he would support requiring sidewalks along St. Francis Drive

Ms. McGee-Chmura stated that she was changing her vote regarding sidewalks and thinks it could be dangerous for people to walk in that area.

Ms. Jarrell noted that milling are not allowed in the Town of Hamburg.

Chairman Clark made the following motion, seconded by

“**WHEREAS**, the Town of Hamburg received a Site Plan application from David Canfield requesting Site Plan Approval of a storage building near the intersection of Lakeshore Road and Big Tree Road; and

WHEREAS, the proposed action, construction of an approximately 2,400 square foot building, has been determined to be a Type II Action under the State Environmental Quality Review Act (SEQRA) and no further review is required; and

WHEREAS, the Town of Hamburg Planning Board has received input from the Town’s Advisory Boards; and

WHEREAS, a public hearing was held on the proposed action on May 17, 2023, with no comments being received; and

WHEREAS, this project was previously approved by the Planning Board, but that approval expired.

NOW, THEREFORE BE IT RESOLVED, the Town of Hamburg Planning Board approves the construction of the proposed cold storage building to be located near the intersection of Lakeshore Road and Big Tree Road with the following conditions:

1. Approval is contingent upon the Engineering Department letter dated June 16, 2023.
2. The final landscaping plan shall be approved by the Planning Department. The applicant shall adhere to §§ 280-307.1 and 280-307.2 of the Town of Hamburg Code.
3. No outdoor storage.
4. No signage is proposed and temporary signage will not be permitted.
3. The Town of Hamburg Planning Board, in accordance with Section 280-306 of the Town Code, waives the requirement for the installation of sidewalks on those street frontages bounding the proposed project site.”

Carried.

Engineering Department comments have been filed with the Planning Department.

Camp Road Interchange Recommendation and Report

Chairman Clark stated that the New York State Department of Transportation (DOT) is not planning to sell this project in July, so the Planning Board has more time to review a report and make recommendations.

A L Asphalt SEQR Status Update

Chairman Clark stated that on June 14, 2023 the Planning Board held the first of two (2) public hearings on this matter and the second public hearing will be held on July 12, 2023 at 6:00 P.M. at the Swann Auditorium at Hilbert College.

In response to a question from Ms. McCormick, Chairman Clark stated that the stenographer's standard time frame to complete minutes is two (2) to three (3) weeks. He noted that the applicant offered to pay for an expedited transcript but he does not know if that ever happened.

Chairman Clark stated that the public comment period will end on July 28, 2023 and he expects the consultants' reports well in advance of that date.

It was determined that all of the comments received during the public comment period will be sent to the applicant and the applicant would like the opportunity to respond to those comments.

It was further determined that the Planning Board is responsible for the content of the Final Environmental Impact Statement.

OTHER BUSINESS

Ms. McCormick stated that Mrs. desJardins indicated that she did not have the names of two (2) speakers at the June 7, 2023 meeting. Mr. Rogers indicated what those speakers' names were.

Ms. McCormick made a motion, seconded by Mr. Chapman, to approve the June 7, 2023 Planning Board minutes as amended. Carried.

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

The meeting was adjourned at 9:45 PM.

Respectfully submitted,
Cindy Gronachan, Secretary

Date: July 7, 2023