

Town of Hamburg
Planning Board Meeting
September 6, 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, September 6, 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 Chmura.

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

WORK SESSION

Jeffery Zimmer – Requesting rezoning of property located on the southwest corner of Abbott Road and Milestrip Road from R-2 to C-1

Attorney Jeff Palumbo, representing the applicant, stated that Mr. Zimmer has tried for a number of years to purchase the residential home located next to this parcel he owns on the corner of Abbott Road and Milestrip Road. He stated that Mr. Zimmer was successful in purchasing the adjacent property and it is included as part of the proposed development.

Attorney Palumbo stated that the property that is the subject of the rezoning request is currently zoned R-2 and Mr. Zimmer would like to rezone it to C-1 in order to construct a 5,700 sq.ft. building that would probably house small retail and/or a small restaurant like a juicery. He noted that the parcel is not large enough for a large restaurant, given the parking that would be needed.

Attorney Palumbo stated that 28 parking spaces would be provided. He further noted that he met with the Code Review Committee and there were questions about relocating the dumpster to the northwest corner of the site and possibly realigning the driveway somewhat. He stated that Mr. Zimmer is open to these suggestions.

Mr. Reilly reminded Board that the Comprehensive Plan must be referenced in conjunction with any recommendation to the Town Board on rezonings. He noted that the property owner previously indicated during the Comprehensive Plan Update process that he thinks this parcel may not be zoned correctly.

Ms. McCormick stated that a C-1 zoning would be consistent with the existing jeweler across Abbott Road but there is residential on the other side of the side street (Stewart).

Attorney Palumbo stated that both the home on the corner lot and the home on the lot adjacent to it to the west have been demolished.

In response to a question from Ms. McCormick, Attorney Palumbo stated that if the site is rezoned and the applicant develops it per the concept plan submitted, a front yard setback variance would be needed on Abbott Road at the northeast corner of the site. He further stated that the existing sidewalk on the corner lot would be retained or replaced.

In response to a question from Ms. McCormick, Attorney Palumbo stated that the applicant did not ask for NC (Neighborhood Commercial) zoning because the C-1 allows him a little more diversity in the tenants he is hoping to attract.

In response to a question from Ms. McCormick, Attorney Palumbo stated that he would look at the NC zoning as an alternative to C-1 but would have to ask the applicant his opinion.

Mr. Reilly noted that there is very little C-1 zoning in this area, although the properties across Abbott Road are commercial and in the Town of Orchard Park. He further noted that there are also residential uses in this area.

Attorney Palumbo stated that the Code Review Committee did not indicate that this proposed rezoning is not in conformance with the Comprehensive Plan. He further noted that no one is going to build a single family home at this location.

Ms. McCormick stated that if this property was rezoned to NC, the applicant could still develop it for retail sales (less than 2,000 sq.ft.), barbershops, beauty parlors, etc.

Attorney Palumbo stated that the concept plan shows a 5,700 sq.ft. building, which is why the request is for C-1.

Attorney Palumbo stated that the applicant would agree to file with the County Clerk's office any deed restrictions associated with conditions of approval if the Planning Board felt they were important enough.

Attorney Palumbo stated that the uses the applicant would never consider for this site, if rezoned to C-1, would be dry cleaning establishments or a garden center and would agree to conditions indicating that.

In response to a question from Mr. Chapman, Attorney Palumbo stated that the applicant had a few concept plans but all required the variance.

Chairman Clark stated that this discussion would be tabled to the Planning Board's September 20, 2023 meeting.

Alliance Homes – Requesting rezoning of vacant land at Howard Road and Southwestern Southwestern Boulevard from C-1 to R-3 to match remainder of parcel zoned R-3

Attorney Sean Hopkins, representing the applicant, stated that the request is to rezone a portion of this 13.12 acre parcel on Southwestern Boulevard. He noted that half of the site is zoned C-1 and the other half is zoned R-3. He stated that the applicant would like to rezone the portion zoned C-1 to R-3 to match the rest of the site.

Attorney Hopkins stated that the Code Review Committee reviewed this request on July 18, 2023 and found that it had merit. He further noted that on August 14, 2023 the Town Board referred this request to the Planning Board and authorized a Coordinated SEQR Review, which was commenced by the Planning Department. He stated that the required referral to the Erie County Department of Environment & Planning was made.

Attorney Hopkins stated that the applicant proposes to construct five (5) two-story 12-unit buildings and deed restrict the remaining five (5) acres that are currently zoned R-3 as permanent open space. He stated that a wetland delineation of that portion of the site was completed and there are approximately two (2) acres of what would have been jurisdictional wetlands and noted that this is up in the air, but even if the U.S. Army Corps of Engineers determines that that

area of wetlands is not jurisdictional, the applicant would still deed restrict that five-acre area for no other development except storm water management.

Attorney Hopkins showed Board members an alternate conceptual plan showing how this parcel could be developed today under its current zoning (C-1 and R-3). The alternate plan included two (2) 16,000 sq.ft. retail buildings and two (2) drive-thru restaurants. He noted that the applicant is not interested in that type of development because it would result in commercial development backing up to existing single-family homes and noted that the C-1 zoning requires less of a building setback from the existing residential property lines than the R-3 zoning (R-3 requires a 50-foot building setback and C-1 requires 40 feet).

Attorney Hopkins stated that the applicant has had preliminary discussions with the existing property owners behind this parcel and will hold an informational meeting in the future. He noted that concerns have been expressed regarding buffering, landscaping and screening. He stated that the applicant thinks he can work collaboratively with those neighbors to address their concerns.

Attorney Hopkins stated that he thinks there is ample justification for this requested rezoning if one compares what is permitted as of right today with what the applicant proposes, included the five (5) acres of permanent open space.

Attorney Hopkins stated that a completed Part One of the Environmental Assessment Form (EAF), reports and studies have been submitted for the Board's review.

In response to a question from Mr. Chapman, Attorney Hopkins stated that there is no way to eliminate the access to Howard Road because the New York State Department of Transportation (DOT) will not allow two (2) access points to Southwestern Boulevard.

In response to a question from Ms. Chmura, Attorney Hopkins stated that the housing would be upscale market rate apartments.

In response to a question from Mr. Chapman, Attorney Hopkins stated that he does not believe any variances would be sought in connection with this project.

Attorney Hopkins noted that the applicant would develop this project in partnership with the Liberatores, who have owned this property for a number of years and plan to develop it either commercially or residentially.

In response to a question from Ms. Chmura, Attorney Hopkins stated that he attended the July 18, 2023 Code Review Committee meeting and did not hear any concerns from the members.

Chairman Clark stated that the Code Review Committee concerns revolved around the access to Howard Road and the fact that there has been some multi-family development that the neighbors were opposed to.

Ms. Valenti stated that there also is a traffic concern because Howard Road is already so busy.

Mr. Chapman stated that Howard Road is used as a cut-through between Camp Road and Southwestern Boulevard and is very busy.

Attorney Hopkins stated that from a traffic perspective, there would be far less traffic in the AM and PM peak hours in connection with the applicant's residential project than there would be if the site is developed as it is currently zoned. He noted that a Traffic Impact Study (TIS) was conducted and submitted to the DOT.

In response to a question from Mr. Szewc, Attorney Hopkins stated that 50 feet of buffer would be provided as required between the apartment project and the existing homes in the rear of the site. He stated that he will provide a plan showing different screening options and will also show it to the nearby neighbors for their input.

Chairman Clark stated that this proposal would be tabled to the October 4, 2023 Planning Board meeting.

Stonefield Engineering – Requesting Site Plan Direction and Preliminary Plat Direction of a proposal to construct a 4,000 sq-ft restaurant with a drive-thru located at 3560 McKinley Parkway

Mr. Matt Checca from Stonefield Engineering stated that the applicant owns the entire corner of McKinley Parkway and Milestrip Road and would like to subdivide a 50,000 sq.ft. parcel including a 4,000 sq.ft. restaurant with drive-thru off of the main parcel, leaving the main parcel with a square footage of 225,000 sq.ft.

Mr. Checca stated that 28 parking spaces and 10 drive-thru queuing spaces are proposed in connection with the project.

Mr. Checca stated that two (2) variances would have to be sought in connection with the subdivision as follows:

- The larger lot is considered existing non-conforming because of the amount of impervious surface coverage that exists (87%). This number would rise to 91% with the subdivision because the larger lot would then be smaller in size.
- The minimum side yard setback for ingress and egress of vehicles is 25 feet, 16 feet is proposed

Mr. Reilly noted that the Town's GIS system identifies the parcel to be subdivided as a separate parcel. Mr. Checca responded that that is a mistake in the County system.

Mr. Checca stated that the applicant is considering constructing the new building closer to McKinley Parkway to gain exposure and he does not think that would affect the variances that would be requested.

Chairman asked Mr. Checca if the applicant would install some permeable islands in the parking lot area. Mr. Checca responded that to do that the applicant would have to rip out a large portion of the access and drive aisles and parking lots that are already there. He stated that that would be a large disturbance.

Ms. Valenti stated that she would like the applicant to add some sort of landscaping or flowers to break up the site.

Mr. Checca stated that 28 parking spaces and 10 drive-thru queuing spaces are proposed.

Board members agreed that moving the new building closer to McKinley Parkway would not be objectionable.

Ms. Chmura suggested having an outdoor seating area and landscaping to break up some of the asphalt would be nice.

Chairman Clark made a motion, seconded by Ms. Gronachan, to table this project to the Planning Board's October 4, 2023 meeting. Carried.

Engineering Department comments have been filed with the Planning Board.

Essex Homes – Requesting Approval of Revised Plat for Niles Ave Subdivision to merge flag lots

Mr. Kevin Curry from Essex Homes stated that this subdivision was approved earlier this year and Essex Homes would like to eliminate two (2) lots from the 14-lot subdivision.

Attorney Sean Hopkins, representing Essex Homes, stated that 14 lots were previously approved and Essex Homes, which was not a part of the review process when the subdivision was approved, would like to eliminate two (2) flag lots. He noted that Essex Homes would also like to move the approved cul-de-sac 30 feet away from the property line, thereby providing more green space for the properties on Linwood Avenue.

Attorney Hopkins discussed some of the conditions imposed when the original subdivision was approved in February 2023 as follows:

- Condition # 4 required that deed restrictions be put in place on the rear of the deep lots to restrict development on those lots. Essex Homes proposes to change that condition to require deed restrictions on the rear portion of lots # 1, 2, 3, 4 and 5 to restrict development on these lots. Essex Homes further suggests that the condition include the requirement that the width of the deed restricted area on the rear portion of lots # 4 and 5 be 20 feet, 85.05 feet on lot #3 and 80 feet on lots # 1 and 2.
- Conditions # 7 and 8 required that six (6) trees be planted per lot, most of those being 2.5" caliper and at least one (1) per lot being 4' caliper. Essex Homes has been told by a prominent landscaping business that 4" caliper trees require heavy equipment to plant and that it will not warrant the survivability of a tree that size. Essex Homes is requesting that all required trees to be planted be 2.5' caliper. The planting would be done within 12 months of the issuance of Certificates of Occupancy and that would be governed by the Homeowners' Association documents.

Attorney Hopkins stated that despite the fact that there was a very lengthy review of this subdivision and the Parts 1, 2 and 3 of the EAF were prepared, a negative declaration was never issued by the Planning Board in connection with the original decision. He asked that the Planning Board issue the Negative Declaration so that sewer and water approval can be obtained.

Mr. Reilly stated that the equivalent of a 4" deciduous tree would be a 6-8 foot tall conifer.

In response to a question from Chairman Clark, Attorney Hopkins stated that Essex Homes could probably come up with an estimation of the number of trees that are located in the areas to be deed restricted.

Attorney Hopkins stated that in connection with the original approval of this subdivision, the Planning Board asked for an easement to the Town of Hamburg to get back to the creek. He stated that the problem with that is that it is shown as a separate lot and the applicant asks that that easement area be added to lot # 6.

Board members indicated that the above request would be acceptable.

Chairman Clark made a motion, seconded by Mr. Chapman, to schedule a public hearing to be held on September 20, 2023 and authorize the Planning Department to prepare draft resolutions. Carried.

Engineering Department comments have been filed with the Planning Department.

REGULAR MEETING

Public Hearing – 7:00 P.M., DATO Development LLC – Requesting Preliminary Plat Approval of a 57-unit town home subdivision on vacant land west of Briercliff Drive

Chairman Clark noted that this would be the second public hearing held on this project because it has changed since the first public hearing was held. He stated that comments should be limited to the changes made to the initial project.

Attorney Sean Hopkins, representing the applicant, stated that the Planning Board last reviewed this project at its July 19, 2023 meeting and this public hearing was being held because the number of proposed units has been reduced from 96 to 57. He noted that the units would be two-story town homes and would be for sale.

Attorney Hopkins stated that the number of proposed units was reduced as a result of an exhaustive analysis of the permanent open space requirement in the recreational space requirement for this site. He noted that the overall project site has a very lengthy history going back approximately 35 years and it is clear that the original intent for this site was two (2) U-shaped apartment buildings and some green space. He stated that the applicant noted very early on in this current project's review process that a for lease project would not be well received and it appears that given all of the available options for this site, what the applicant is currently proposing is the best.

Attorney Hopkins stated that the exhaustive analysis has demonstrated that the applicant has satisfied the requirement for permanent open space for the "quarry development" and the recreational requirement of at least 10% for this particular site.

Mr. Anthony Pandolfe from Carmina Wood Design, project engineer, stated that the existing Heart Trail would be extended and walking trails would be provided primarily around the storm water management area, along with a community garden, a couple of gazebos and a tot lot playground. He noted that permanent open space would also be provided behind the residential properties along Briercliff Drive.

Attorney Hopkins stated that the applicant deliberately chose to eliminate those units that would have been closer to the rear of the residential properties on Briercliff Drive and replace those units with green space.

Attorney Hopkins stated that the applicant has offered again and again to meet with representatives of the Briercliff Homeowners' Association (HOA) and has submitted a landscaping plan with ample screening and landscaping. He noted that he and the applicant would be more than happy to meet with representatives of the HOA to discuss any concerns they might have about screening or landscaping.

Attorney Hopkins noted that a lighting plan was submitted that shows no light spillage onto adjoining properties.

Attorney Hopkins stated that based on a concern raised by the HOA about the possibility of an uncapped gas well, Mr. Pandolfe accessed the New York State Department of Environmental Conservation (DEC) data based and confirmed that the gas well was never on this site (it is on an adjacent residential property) and it was closed and abandoned in 1990.

Attorney Hopkins stated that additional information was provided to the Planning Board since it last reviewed this project as follows:

- Mr. Pandolfe prepared a very detailed storm water summary letter explaining how the applicant will satisfy the DEC's stringent storm water quality and quantity standards.
- A copy of the Phase 1 Environmental Site Assessment Report dated May 14, 2021 and its professional recommendation was that there is no recognized environmental conditions on the site was submitted.
- A copy of the most recent correspondence from Dave Burke, applicant, to the HOA on June 8, 2023 was submitted.
- A copy of a letter from John Schenne, licensed engineer, dated July 5, 2023 summarizing the results of some geotechnical testing and his opinion that there are no concerns based on the soil borings was submitted.
- David Cruz of Passero Associates provided an updated traffic analysis dated July 13, 2023 that indicates that there would be a reduction in the traffic impacts because of the reduction in the number of proposed units.

Attorney Hopkins stated that the only outstanding issue is the permanent open space requirement. He stated that he has had the opportunity to review the submissions made on behalf of the HOA and he disagrees with the position that wetlands, steep slopes, areas near the railroad right-of-way and areas owned by the HOA do not count. He stated that if one looks at the 1993 report prepared by Nussbaumer & Clarke and the history of this, it is simply not accurate. He stated that permanent open space does in fact include wetlands, steep slopes and areas that are near the railroad tracks and it also includes a parcel owned by the Burke family that the HOA was not interested in accepting as a donation at no cost.

Attorney Hopkins asked the Planning Board to issue a Negative Declaration pursuant to SEQR so that the applicant can seek some minor variances from the Board of Zoning Appeals.

In response to a question from Ms. McCormick, Mr. Pandolfe stated that according to the DEC data base, the old well is buried in someone's back yard.

Ms. McCormick asked if a survey could be done to make sure the well is not actually on the project site. Mr. David Burke, applicant, stated the the well is not on his property.

Attorney Hopkins stated that the applicant's representatives have demonstrated that the well is not on his property and is closed.

Ms. McCormick stated that the applicant should submit a plan for dealing with a gas well if one is found on the site.

Attorney Hopkins reviewed the variances that would be sought from the Board of Zoning Appeals that have been pending before that Board because it cannot act until the Planning Board issues a SEQR Determination.

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 DATO Development LLC to construct a 57-unit town home subdivision on vacant land west of Briercliff Drive. The public hearing will be held on September 6, 2023 at 7:00 PM in Room 7B of Hamburg Town Hall."

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

- Rafael Pignataro, stated that he is an attorney at Hodgson Russ representing the Briercliff HOA and also lives in the development. He stated that he thought the gas well was on the project site and feels that it should be located and flagged.

He stated that the neighbors are happy to see the reduction in the number of proposed units but he feels that Attorney Hopkins is conflating some of the open space vs recreation space argument. He stated that, while the neighbors appreciate that the developer is extending some of the recreational items, specifically the Heart Trail, if one looks at the PUD and the minutes over the last 20 years one sees that the Heart Trail has not been completed according to the PUD. He stated that the developer should complete the parts of the Heart Trail that he promised the community he would complete over 20 years ago. He stated that the developer was asked 20 years ago to produce a final Heart Trail map and that has never been produced. He stated that based on the developer's track record, he doubts the Heart Trail will ever be completed.

He stated that he agrees that this parcel does meet the "10% recreational requirement" but this parcel is part of the entire PUD and the dedication of 27 acres of open space/recreation space is still an open question because this developer entered into a legal agreement with the Town to provide 27 acres of open space in the quarry development in exchange for a waiver of all recreation fees with respect to the entire development. He stated that no one seems to be able to find a copy of the final approved resolution that states what was actually given in consideration, ie was the developer granted a waiver of all recreation fees for 27 acres of largely unusable land or did the developer get 27 acres of what should have been partially recreation space. He stated that it is important to find the resolution regarding the Town waiving the recreation fees. He stated that if there is not a Board resolution regarding this, perhaps the developer will owe that money to the Town.

He stated that almost all of the open space/recreation space the developer wants to count towards the required 27 acres is largely unusable. He stated that it is not entirely accurate for Attorney Hopkins to assert that the HOA refused property. He stated that out of areas J and K of the PUD (the quarry development area) the developer was legally obligated to provide 27.08 acres of open space. He stated that in Attorney Hopkins' submission he counts specifically a 3.6-acre parcel still owned by the applicant that is almost 90% wetlands and not included in areas J or K.

He stated that Attorney Hopkins has asked to meet with him and the HOA representatives but they do not see a benefit to that.

Chairman Clark asked Attorney Puglisi to research what the Planning Board's options would be if a Board resolution cannot be found.

- Mark DePalma, 5417 Pond Brook, stated that the HOA does not think a Negative Declaration should be issued by the Planning Board because the project needs to be studied further. He stated that the HOA deserves answers to the questions that were originally asked. He stated that the HOA wants to know why the entrance must be on Briercliff Drive.

He stated that when the developer originally proposed apartments on this site, they were 140 feet away from the railroad tracks with garages along the tracks to buffer the noise. He stated that since then, the average speed of the trains going through there has increased to approximately 70 mph and the train traffic itself has increased by approximately 500%. He stated that if buildings are proposed along railroad tracks, there must be studies conducted on using specialized building materials to manage the vibrations from the train traffic. He stated that there has also been a 500% increase in diesel emissions.

- Don Grunditsch, 5280 Briercliff Drive, stated that the HOA appreciates the Planning Board's diligence and understanding of this complicated PUD. He stated that at the Board's last meeting, Mr. Reilly suggested that this project be evaluated on its own merits regarding required open space and the HOA should address the Town Board regarding the lack of green space in lieu of the recreation fees. He stated that this would be a good idea if the entire PUD was reviewed that way, but in 1992 the Town agreed to waive recreation fees in lieu of the developer providing 27 acres of open space, 18 acres of which were unusable. He stated that the HOA has to maintain that land. He stated that the developer has not provided the required amount of green space relative to the PUD as a whole.

He stated that HOA representatives brought the above concern to the Town Board but it was not addressed and the HOA representatives feel that they have had no success getting the Town Board to listen to their concerns.

He stated that there is no reason the road to this project cannot go out to Cloverbank Road.

He stated that the Heart Trail was never completed, nor were required sidewalks.

- Michelle Sacilowski, 5138 Briercliff Road, stated that she agrees with all of the speakers. She stated that she is concerned about the egress and ingress and the fact that the roadway would be private. She stated that she is uncomfortable with a new parking area being located right behind her property.

Chairman Clark declared the public hearing closed.

Ms. McCormick asked that Attorney Hopkins acknowledge the comments received at the public hearing and reference any responses.

Chairman Clark made a motion, seconded by Ms. Gronachan, to table this project to the Planning Board's October 4, 2023 meeting. Carried.

Attorney Hopkins stated that the one fundamental disagreement he heard at the public hearing for the first time was that the quarry area is only represented by areas J and K in the PUD. He stated that the quarry area consists of areas I, J and K constituting 107.4 acres. He noted that the permanent open space requirement is 25%.

Chairman Clark responded that Planning Board members have received numerous submissions from both the applicant and the HOA including maps that they have been reviewing. He stated that Board members are capable of reaching their own decisions on those issues.

Engineering Department comments have been received by the Planning Department.

People Inc. – Requesting six-month Site Plan Approval Extension from December 7, 2023 to June 7, 2024

Attorney Sean Hopkins, representing the applicant, stated that Site Plan Approval was granted on December 7, 2023 for the reduced scope in size of this project. He stated that the applicant is asking for a six-month extension of that approval.

In response to a question from Mr. Chapman, Ms. Jocelyn Bos from People Inc. stated that People Inc. has to reapply for funding through Housing & Community Renewal.

Chairman Clark made a motion, seconded by Mr. Szewc, to approve the extension of the Site Plan Approval from December 7, 2023 to June 7, 2024 pursuant to Section 280-303 C of the Hamburg Town Code. Carried.

Feedmore WNY – Requesting Site Plan Approval of a proposal to construct a 197,700 sq.ft. facility at 4832 Camp Road

Mr. Mike LaValley, project manager, showed Board members conceptual renderings of the overall project, which would include land disturbance of approximately 32 acres. He stated that the project includes a 200,000 sq.ft building that would house a warehouse, a commissary kitchen and offices. He noted that the building would be located far back from the road because of the shape of the property and also to avoid wetlands on the site.

Mr. LaValley stated that the site would have a campus feel and would be accessed from Camp Road. He noted that approximately 400 parking spaces are proposed.

Mr. LaValley stated that the warehouse portion of the building would be 50 feet tall but would not be visible from Camp Road because it is located so far off the road. He stated that there would be a truck wash on the site, as well as a garden storage building, an outdoor pavilion and a green house.

In response to a question from Ms. Chmura, Ms. Tara Ellis, President and CEO of Feedmore WNY, stated that the entire organization is about community engagement and has 250 employees, as well as 6,000 active volunteers. She stated that approximately 500 of the volunteers are out in the community every day delivering home delivered meals throughout Erie and Niagara Counties. She further stated that Feedmore's Hamburg site at the Hamburg Community Center is the second largest home delivered meal site in Erie and Niagara County.

In response to a question from Ms. Chmura, Ms. Ellis stated that food would be grown in the green house by, for and with community members who are in need of free or lot cost high quality produce.

In response to a question from Ms. Chmura, Ms. Ellis stated that they do not want to move the building and outbuildings closer to Camp Road because there may be a time in the future when they have a use for something closer to the road that would be a more direct delivery model for clients.

Ms.. Ellis stated that Feedmore would encourage and welcome community members to utilize the outdoor pavilion and the events center. She noted that this cannot occur at its current location because they have outgrown that facility.

Mr. LaValley stated that the pavilion is proposed as far back from Camp Road as the main building because that will make it easier for clients and employees to access it from the parking lot.

In response to a question from Ms. Chmura, Ms. Ellis stated that Feedmore would like to use the pavilion in the future for more broad usages like fund raisers, gatherings, meetings, training, etc. and not just for the Feedmore employees.

Ms. Chmura stated that she feels this is a lost opportunity to engage with the Hamburg community by placing the pavilion and green house so far back from the road. She stated that Feedmore could have produce available.

Ms. Ellis stated that Ms. Chmura's idea is something they could consider for their farm market trucks to be closer to the road for accessibility, but at this time they do not have the type of staffing model in place that would be needed for something like that.

In response to a question from Mr. Szewc, Ms. Ellis stated that they do anticipate employee growth but at this time do not have the space to put them in their current facility.

In response to a question from Ms. Valenti, Ms. Ellis stated that the commercial trucks would be parked in the upper lot and would access that lot from a separate road that would split off from the road used by employees, volunteers, etc.

It was determined that the proposed 400 parking spaces would be for employees and volunteers and the parking area is designed to accommodate the expected increase in the number of employees in the future.

In response to a question from Ms. McCormick, Ms. Ellis stated that on a normal day, Feedmore's first employees arrive at 4:30 AM to work in the commissary and the second wave arrives approximately an hour later to work in the warehouse. She stated that drop offs and deliveries usually begin around 6:00 AM but are not on a regular schedule because much of the product Feedmore receives is donated. She further stated that Feedmore can never take in more trucks than can be accommodated for unloading and quality verification.

Ms. Ellis stated that other employees arrive between 7:00 AM and 8:00 AM and the first group of volunteers is generally arriving at 8:00 AM. She further stated that people start to leave the site around 2:30 PM and that continues until 7:00 PM.

In response to a question from Ms. McCormick, Ms. Ellis stated that generally there are not more than 150 people at the site at any given time.

It was determined that a Traffic Impact Study was completed and submitted to the DOT.

It was determined that the on site truck wash would be for Feedmore's trucks, trailers and vans. It was further determined that it would be a recycle system.

It was determined that the Building Department determined that the truck wash is an allowed accessory use in the M-2 and C-2 Districts and no Special Use Permit would be required.

It was determined that a wetland delineation was performed and there would be limited impacts to the existing wetlands on the site.

Ms. Valenti stated that she worries about making a left out of the site onto Camp Road and thinks it will be impossible to do.

It was determined that no variances would be sought and that only 34 of the 74 acres constituting the site would be disturbed.

In response to a question from Mr. Szewc, Ms. Ellis stated that Feedmore might consider alternate transportation options for employees, but when Feedmore had the traffic analysis done, it did look at employees' addresses to determine who might be driving to the site and who might be carpooling and the number of employees who might need public transportation was quite low. She noted, however, that Feedmore has had conversations with the NFTA about extending the future line going to the new Amazon facility up to its new facility.

Ms. McCormick and Ms. Valenti expressed that they would like to see at least the wetland area on the site placed in a Conservation Easement.

It was determined that if Feedmore needed to expand further in the future, it would expand towards Camp Road and not in a westerly direction.

In response to a question from Ms. Chmura, a Feedmore representative stated that they have investigated using solar energy for this project, but because of the energy requirements for the commissary kitchen primarily it is not a viable option.

It was determined that electric vehicle charging stations would be provided for employees and visitors in both parking lots.

It was further determined that the truck yard would be gated and the warehouse and commissary kitchen would have separate dumpsters in the rear of the buildings.

Board members discussed whether additional landscaping should be required in the area of the truck yard.

It was determined that there is a solid tree line that would screen this development from the adjacent cemetery.

In response to a question from Ms. McCormick, Ms. Ellis stated that if one drives down the easement road that leads to the cell tower at the rear of the site, there is a long row of trees between this site and the cemetery.

Ms. Ellis stated that they do not intend to disturb any mature trees that they do not need to and having a sloppy look to their site is not something they are in the business of doing.

Board members discussed the storm water management area and what should be planted around it.

Ms. Jarrell suggested that the applicant submit a storm water management summary letter.

Ms. McCormick asked for a write up of the applicant's plans to preserve as many large trees as possible.

Chairman Clark made a motion, seconded by Mr. Chapman, to schedule a public hearing to be held on October 4, 2023. Carried.

Engineering Department comments have been filed with the Planning Board.

Hamburg Retail, LLC - Requesting Site Plan Approval of 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 was asking that this project be tabled.

Chairman Clark made a motion, seconded by Ms. Gronachan, to table this project to the Planning Board's October 18, 2023 meeting. Carried.

Engineering Department comments have been filed with the Planning Board.

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

Attorney Sean Hopkins, representing the applicant, stated that the applicant was asking that this project be tabled.

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

Engineering Department comments have been filed with the Planning Board.

Perennial Properties, LLC – Requesting Site Plan Approval on a proposal to construct a two--story, 110 seat restaurant at 6666 Gowanda State Road

Attorney Sean Hopkins, representing the applicant, stated that the four (4) area variances sought from the Board of Zoning Appeals were granted on September 5, 2023. He noted that at that meeting there was one resident who expressed some concerns about drainage and lighting.

Chairman Clark made a motion, seconded by Ms. Gronachan, to schedule a public hearing to be held on October 18, 2023. Carried.

It was determined that the applicant will submit a written reasoning for the number of parking spaces that are proposed.

Engineering Department comments have been filed with the Planning Board.

Jason Redding – Requesting Planning Board Recommendation to the ZBA for a 3-lot subdivision at 3312 E Pleasant Ave

Mr. Steve Smigielski from Lydon Architectural Services, representing the applicant, stated that Mr. Redding owns a 3/4 acre lot in the R-A District that is considering existing non-conforming. He stated that the applicant would like to subdivide this parcel into three (3) lots, keeping the existing home on parcel A for himself.

Mr. Smigielski stated that each lot would be approximately 1/4 acre in size and variances would be needed because they would not be the required two (2) acres in size.

In response to a question from Mr. Reilly, Mr. Smigielski stated that the applicant informed him that he has access to public sewer and water. Mr. Reilly responded that he does not think there is public sewer there.

Mr. Reilly stated that the variances being requested are huge.

Board members expressed concerns about the proposed lots' access to utilities.

Mr. Chapman made a motion, seconded by Ms. McCormick, to recommend to the Board of Zoning Appeals that the requested variances not be granted. Carried.

It was determined that the Planning Department will send a draft memo to the Planning Board members outlining their concerns with this proposal.

AL Asphalt – SEQR Status Update

Attorney Kim Nasson from Phillips Lytle, stated that on August 9, 2023 a letter was sent to the applicant providing all of the hard copies of comments received (transcripts from the public hearings, written comments, Interested and Involved Agency comments, the Planning Board's resolutions, etc.). She stated that in that letter the applicant was asked to do the following:

- Summarize the substantive comments, which is required under SEQRA
- Perform additional analysis as necessary and prepare responses to those substantive comments
- Prepare proposed revisions to the sections of the DEIS as required

Attorney Nasson stated that in the above letter the applicant was asked to provide the above information by September 15, 2023. The applicant was also advised in the letter that, given the outstanding information, the Lead Agency anticipated that there would be additional time need-

ed to complete the FEIS and committed that if the applicant were to supply this information by September 15, 2023 the Planning Board would be in a position to act on the FEIS by the October 18, 2023 meeting.

Attorney Nasson stated that she has not heard anything from the applicant and she reached out the applicant's counsel and received no response to date.

Attorney Nasson stated that she anticipates circulating a draft of the the FEIS to the Planning Board by September 15, 2023 and noted that it will not be a complete document but will be more than a framework. She stated that Board members can give her initial feedback and at their next meeting they will know whether anything was submitted by the applicant.

Attorney Nasson stated that whether anything is received from the applicant, the Planning Board will still be in a position to keep things moving. She stated that the Planning Board will have the next three (3) meetings to work through the FEIS with a target of acting on October 18, 2023.

Mr. Reilly stated that the Planning Board must determine which comments it received are substantive. He noted that almost all comments received were substantive, but there were several comments relating to property values and that issue cannot be considered under SEQRA.

Attorney Nasson noted that the SEQR handbook indicates that even if an issue is not substantive or relevant, it should be included in the summary of comments if it was mentioned a number of times.

Mr. Reilly noted that if the applicant provides answers to comments that the Planning Board does not agree with, they do not have to be included in the FEIS.

OTHER BUSINESS

Chairman Clark made a motion, seconded by Mr. Chapman, to approve the August 2, 2023 meeting minutes. As the vote on the motion was six (6) ayes and one (1) abstention (Ms. Chmura), the motion carried.

Ms. Valenti made a motion, seconded by Mr. Szewc, to approve the August 16, 2023 meeting minutes. As the vote on the motion was six (5) ayes and two (2) abstentions, (Chairman Clark and Vice-Chairwoman McCormick) the motion carried.

Ms. Chmura made a motion, seconded by Ms. Gronachan, to amend the August 16, 2023 minutes to include references to sewer, water and electric as part of the Redding project. As the vote on the motion was six (5) ayes and two (2) abstentions, (Chairman Clark and Vice-Chairwoman McCormick) the motion carried.

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

The meeting was adjourned at 7:45 PM.

Respectfully submitted,
Cindy Gronachan, Secretary

Date: September 21, 2023