

Town of Hamburg  
Planning Board Meeting  
October 4, 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, October 4, 2023 in Room 7B of Hamburg Town Hall. Those attending included Chairman William Clark, Vice-Chairwoman Kaitlin McCormick, Dennis Chapman, Margaux Valenti, Cindy Gronachan, Daniel Szewc and Kaitlin Chmura.

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

## **WORK SESSION**

### **The Broadway Group LLC – Requesting Sketch Plan Direction of a proposal to construct a new retail store (Dollar General) to be located at Camp Road (SBL# 170.10-2-14)**

Ms. Tara Mathias from the Broadway Group stated that the proposal is to construct a +/- 10,640 sq.ft. retail store at this location on approximately 2.3 acres of the nine (9) acre site. She stated that the property would be subdivided to split out the 2.3 acre piece. She noted that the building would be very similar in appearance to the existing Dollar General store on Southwestern Boulevard near the stadium.

Ms. Mathias asked for Board members' feedback so that the applicant can be prepared to present a full Site Plan Review application in the future.

In response to a question from Ms. Chmura, Ms. Mathias stated that water and sewer are available at the site.

Board members discussed the zoning of the site, as well as the zoning of the surrounding properties.

Ms. Mathias noted that the 2.3 acres to be developed are located on the south end of the nine-acre site and the remaining 6.7 acres north of it would remain undeveloped.

Mr. Chapman stated that a very good traffic study should be performed because there is no light at the intersection of Camp Road and Howard Road and that would make it quite difficult to get in and out of this site. He noted that it is difficult currently for people to get in and out of Mission Hills or turn onto Camp Road from Howard Road and there is a lot of traffic on Camp Road as well.

Ms. Mathias stated that the concern raised by Mr. Chapman about traffic is an existing condition and Dollar General stores do not generate a lot of new traffic. She stated that she understands that the New State York Department of Transportation (DOT) will not install a traffic light at the intersection of Camp Road and Howard Road until/unless the traffic counts are warranted. She noted that the applicant can conduct a traffic study to indicate what the traffic counts are now, but Dollar General stores do not generate much traffic.

Ms. Chmura stated that she would like to see more landscaping closer to the road. Ms. Gronachan and Ms. McCormick agreed.

Ms. Mathias noted that this site is not located in an Overlay District and the upgrades being proposed have already been accepted by the Planning Board on the other Dollar General, which is similarly zoned. She asked for additional clarification.

Ms. McCormick stated that the location on Southwestern Boulevard has a more campus-like feel because of the college across the street and there is quite a bit of landscaping in the area and commercial buildings with a residential feel.

Ms. Mathias stated that she will consider the above comments about additional landscaping, but she noted that across the street from this Camp Road site is Cleve Hill Tire and Auto, which does not have a residential feel, as well as Camp Road Automotive and E-1 Truck Sales and Manufacturing. She stated that she can ask the applicant for what Board members are requesting but she did look at the surrounding development near this site and feels that this would be a very attractive addition to the neighborhood.

Chairman Clark noted that there are no crosswalks near this site and there is a neighborhood across the street. He noted that this might potentially be an issue.

Board members discussed whether the installation of a light at the intersection of Camp Road and Howard Road would be necessary in order for them to feel comfortable with this proposed project.

Ms. Mathias stated that whether a light is installed at that intersection is out of her control.

Ms. Gronachan stated that there is no crosswalk at the Dollar General store on Southwestern Boulevard near the stadium.

Chairman Clark responded that there is a crosswalk at the nearby light at Erie Community College. He noted that the situation would be comparable with this proposed Dollar General on Camp Road if there was a crosswalk at the intersection of Camp Road and Howard Road.

In response to a question from Ms. McCormick, Ms. Mathias stated that a monument sign similar to the one at the Southwestern Boulevard store is planned.

In response to a question from Ms. McCormick, Ms. Mathias stated that a wetland delineation has not been done on this site because the EAF Mapper does not show wetlands nearby. She stated that if the applicant is going to have to have a wetland delineation done, she would want to know that early on in the review process, noting that another proposed site for a Dollar General became something the applicant could not pursue any longer because of the amount of investigations the Planning Board required.

Ms. McCormick, Ms. Chmura and Ms. Valenti noted that they want a wetland delineation performed on this site.

In response to a question from Ms. McCormick regarding anything archeologically sensitive on the site, Ms. Mathias stated there are two (2) structures that came up as eligible, but neither is contiguous to the subject property.

Ms. McCormick stated that the applicant will have to contact the New York State Office of Parks, Recreation and Historic Preservation (SHPO) and provide the proposed plans for this project so that SHPO can determine whether additional studies need to be performed.

Ms. McCormick stated that as part of the submittal package, the applicant should document how they are complying with the Town's tree clearing law.

Engineering Department comments have been filed with the Planning Department.

### **Royal Wash Development LLC – Requesting rezoning of a 0.75-acre lot at 3231 and 3233 Lake Shore Road from M-3 to C-2**

Attorney Sean Hopkins, representing the applicant, stated that the applicant would like to construct a new car wash facility on this site consisting of .75 acres. He stated that this project was presented to the Code Review Committee and the input received was that there should be additional landscaping and green space. He noted that changes were made to the conceptual plan with that input in mind.

Attorney Hopkins stated that this site needs to be redeveloped, as there is a former automotive building on the corner of Lake Avenue and Lakeshore Road, as well as a vacant commercial building further north on the site.

Attorney Hopkins noted that the following uses are permitted in the M-3 zoning district:

- Uses permitted in the M-2 zoning district
- Uses permitted in the M-1 zoning district
- Outdoor storage
- Lumber yards and coal yards
- Railroad freight yards
- Concrete manufacturing plants
- Storage of petroleum and petroleum products
- Manufacturing of abrasives
- Auto assembly and fabrication
- Manufacturing of heavy machinery
- Open storage yards, except junk yards
- Nursery and day care by Special Use Permit

Attorney Hopkins stated that C-2 is the required zoning for a stand alone car wash facility subject to a Special Use Permit and Site Plan Approval.

Attorney Hopkins stated that a Lead Agency Solicitation letter was issued for this Unlisted Action subject to SEQR.

Attorney Hopkins stated that from an environmental standpoint, this project would increase landscaping and green space and improve the community character of the area. He further stated that a Traffic Impact Study was done dated August 31, 2023. He noted that currently there is undefined access along the entire Lakeshore Road frontage and the applicant plans to only have one (1) curb cut.

Ms. McCormick asked Attorney Hopkins to provide noise specifications and information on the type of equipment planned. She further stated that she would like to see information on the soil to be disturbed on the site and a Phase 1. She stated that she would also like to see specifications for the tank and how the applicant will make sure there is no leakage.

Attorney Hopkins stated that there has been a consultant hired to do preliminary research and there is no indication of any contamination on the site.

Chairman Clark made a motion, seconded by Mr. Chapman, to authorize the Planning Department to prepare a draft memo to the Town Board returnable by November 1, 2023. Carried.

### **Johnson's Landing – Requesting Site Plan Approval of a proposal for a parking lot expansion from 134 spaces to 204 spaces at 4040 Lake Shore Road**

Mr. Anthony Pandolfe from Carmina Wood Design, representing the applicant, stated that this new business has been very successful in its first few months and the applicant feels that additional parking spaces are needed. He stated that the expansion would occur in the northeastern portion of the site.

Mr. Pandolfe stated that on September 20, 2023 a wetland walkover was done by Earth Dimensions in the area of the proposed new parking and no wetlands were found.

Mr. Pandolfe stated that additional handicapped spaces are proposed in order to meet the State requirement.

Mr. Bob Johnson from Johnson's Landing stated that customers are parking on both sides of Lakeshore Road and walking to the brewery.

In response to a question from Mr. Chapman, Mr. Johnson stated that the building has the capacity to hold 270 people inside and with the rooftop approximately 400 people.

In response to a question from Ms. McCormick, Mr. Johnson stated that his customers are already utilizing the parking area and lawn associated with the recently closed Peg's Place restaurant.

Ms. Chmura stated that all businesses go through a honeymoon phase and this is a beautiful new brewery with multiple levels surrounded by a sea of concrete and paving. She asked Mr. Johnson how this level of business and interest will be sustained through the coming months.

Mr. Johnson responded that he has not even held any events in the private room or done brunches on Saturday and Sunday yet. He noted that with Peg's Place closing there is a need for breakfast.

In response to a comment from Ms. Gronachan, Mr. Johnson stated that the roof top will not be open in the winter months, but customers have asked that it be available for watching storms roll past, etc.

In response to a question from Ms. Chmura, Mr. Johnson stated that he does not have plans to demolish the Peg's Place restaurant building but does not have plans to reopen.

Ms. McCormick stated that that is relevant because Mr. Johnson is using the Peg's Place parking area now for overflow parking and there is a building on that property.

In response to a question from Mr. Chapman, Mr. Johnson stated that for the first three (3) weeks the brewery was open, Peg's Place closed at 2:00 PM to prevent the two (2) businesses from being open at the same time. He further stated that the issue is not that customers park in the Peg's Place parking lot, but rather that they are parking in areas where tenants in the apartment building on the adjacent property need to park.

Ms. McCormick stated that her concern is that, because there already is a parking issue, perhaps additional spaces should be provided in case the spaces at the vacant Peg's Place can no longer be used to due to redevelopment in the future.

Mr. Johnson noted that the access to Johnson's Landing is through the property he owns that houses Peg's Place so those 68 parking spaces on the Peg's Place parcel will always be available.

Ms. McCormick advised Mr. Johnson that if he is working with the DOT to purchase property so that he can install another access to the site, she would like to see how that build-out looks and how any new parking would interconnect into that access.

Ms. Chmura stated that it is unfortunate that the original landscaping plan was approved with only six (6) trees along the exterior of the parking lot.

Ms. McCormick stated that she worries that there will not be enough parking for this business.

Ms. Chmura stated that she would be okay with more parking spaces being provided as long as there is strategic planting so that there is a balance between mitigating the traffic issues and the new parking area is not just a sea of concrete.

Mr. Pandolfe noted that even if the new parking is installed, almost half the site would still be wooded and untouched.

Ms. Gronachan stated that she supports the additional parking and feels that additional trees should be planted around the perimeter of the new parking area.

Ms. McCormick asked for a calculation of the typical number of vehicles for users of this type of use.

Ms. Valenti stated that this is an opportunity to think creatively about the new landscaping given the nature of the location. She stated that grasses and smaller bushes that birds that like the lake shore like to live in should be considered and perhaps habitats can be made to offset some of the loss of the trees.

Chairman Clark made a motion, seconded by Mr. Szewc, to schedule a public hearing to be held on November 1, 2023. Carried.

Engineering Department comments have been filed with the Planning Department.

**Fisher Rental Properties LLC – Requesting Site Plan Direction of a proposal to construct two 9,000 sq-ft warehouses at 5173 Southwestern Boulevard**

Mr. Anthony Pandolfe from Carmina Wood Design, representing the applicant, stated that the area where the buildings are proposed is broken gravel, so the applicant would repave that area. He stated that the warehouses would be used for storage for the bus rental business and he is not sure if the applicant also plans to rent out any portions of the new buildings.

Ms. McCormick stated that the Planning Board will need certification on hazardous materials and what would be stored in the warehouses.

Chairman Clark stated that the Planning Board will need to know who would be storing things in the warehouses (ie whether it would be considered public mini-storage or warehousing).

Mr. Rodgers noted that if spaces in the warehouses are to be rented to other entities, a Special Use Permit would be required.

In response to a question from Ms. McCormick, Mr. Pandolfe stated that he believes that the buildings would not be climate controlled.

Ms. McCormick stated that the Planning Board will need to know what the project's storm water needs would be and where that might go.

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

Engineering Department comments have been filed with the Planning Department.

**REGULAR MEETING**

**Public Hearing – 7:00 P.M., Feedmore WNY – Requesting Site Plan Approval of a proposal to construct a 197,700 sq-ft facility at 4832 Camp Road**

Chairman Clark noted that correspondence was received from the DOT and the County on this project.

A representative of Feedmore WNY acknowledged receipt of the above mentioned correspondence and noted that they are working on responses to the comments received.

Ms. Tara Ellis from Feedmore WNY stated that they had a follow up conversation with Mr. Dan Castle from the Erie County Department of Environment & Planning and explained why they decided to place the building where it is proposed. She noted that Mr. Castle understood their logic and pointed out that his department's comments are purely recommendations and not mandates.

In response to a question from Chairman Clark, Ms. Ellis stated that the nearest bus stop to this property is located in front of Walmart, but she has spoken several times to the NFTA about extending that route further towards this site. She noted that she was informed that Amazon has been working with the NFTA to get lines coming out of the city in to Hamburg and she was advised that in a few years the line could be extended to Feedmore as well.

Ms. McCormick stated that there are bus stops at Camp Road and Southwestern Boulevard and at Camp Road and Howard Road.

Chairman Clark suggested that a pedestrian walkway be installed along the Feedmore property towards Camp Road.

Ms. Ellis responded that there are no pedestrian walkways on either of the adjacent parcels on Camp Road, so it would be a walkway to nowhere.

Chairman Clark noted that sidewalks are required, so they would have to be waived if the Planning Board does not feel they are necessary. He further noted that the Planning Board would probably want the applicant to install sidewalks in the hope that they are extended on either side at some point in time. He stated that a sidewalk from the Feedmore building to Camp Road would be appropriate, especially if a bus stop is installed in front of the property.

It was determined that a walkway is proposed from Camp Road to the building.

Ms. Gronachan stated that she is not in favor of requiring sidewalks along the frontage of the Feedmore property. She noted that internal sidewalks are already proposed and she does not see that the adjacent properties will be redeveloped.

Mr. Chapman stated that he disagreed with Ms. Gronachan, noting that no one knows what will happen to the former South Shore property.

Ms. McCormick stated that if the Planning Board always waives the installation of sidewalk, they will never go in in that area.

In response to a question from Ms. McCormick, a representative of Feedmore stated that they have already gone through a Phase 1 archaeological study, which was completed in 2022.

Ms. McCormick stated that in a letter from September 2022, SHPO indicated that it was continuing its review and an impact determination would be provided. She stated that she would like to see that impact determination.

A representative of Feedmore explained how the comments received from the DOT and the County will be addressed.

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 Feedmore WNY to construct a 200,000 sq.ft. facility, including but not limited to a commissary, warehouse, dry storage, cold storage, work force training, volunteer space and corporate office space to be located at 4832 Camp Road. The public hearing will be held on October 4, 2023 at 7:00 PM in Room 7B of Hamburg Town Hall.”

Chairman Clark declared the public hearing open. No one spoke.

Chairman Clark declared the public hearing closed.

Board members reviewed the Part 2 and Part 3 of the Environmental Assessment Form.

In response to a question from Ms. McCormick, a representative of Feedmore stated that he does not have volume numbers, but Feedmore will make a concerted effort to balance the cut and fill on the site because of the cost of removing or bringing in soil. He further noted that the excavation and removal of soil would not exceed 1,000 tons. He stated that Feedmore estimates that the construction period will last approximately two (2) years.

In response to a question from Ms. McCormick, the Feedmore representative stated that there would be retention ponds on the site. He further stated that storm water would be treated through a series of bio-retention and retention basins.

In response to a question from Ms. McCormick, the Feedmore representative stated that no work would be done in the wetlands on the site. He further stated that one (1) small seasonal stream would be crossed with a culvert structure but the wetlands would not be impacted.

Ms. McCormick asked the Feedmore representative to submit the number of trees that would be removed as part of the clearing for the project.

A majority of Board members felt that the additional traffic study information regarding the potential for a traffic signal at Camp Road and Howard Road to be provided by the applicant must be submitted to the Planning Board before a SEQR determination can be made.

Chairman Clark stated that it is unreasonable to think that the DOT will determine that this project cannot be built because it would create way too much traffic for Camp Road to handle. He stated that the Planning Board can make a SEQR determination with the traffic information it has in front of it even though the DOT has asked for an updated traffic study.

Chairman Clark asked the Feedmore representative if there is any additional information short of the updated traffic study that could be provided that would make the Board feel more comfortable making a SEQR determination.

The Feedmore representative responded in the affirmative and noted that additional traffic information will be provided to the Board.

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

Engineering Department comments have been filed with the Planning Department.

### **Alliance Homes – Requesting rezoning of vacant land at Howard Road and 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 project would include five (5) two-story 12-unit upscale multi-family buildings.

Attorney Hopkins stated that the only substantive comment received from the DOT about this project is that it does not like the proposed curb cut onto Southwestern Boulevard. He noted that the applicant has not yet spoken to the DOT about that comment. He stated that the comprehensive Traffic Impact Study that was performed projects that to a large degree the project's traffic will access Howard Road directly to the signalized intersection at Howard Road.

Attorney Hopkins stated that given the fact that the neighbors would like the project to have access to Southwestern Boulevard, the applicant will ask the DOT for right in/right out access or at the very least a right in only access.

Attorney Hopkins stated that the Liberatore family has owned this property for over 20 years and recently contacted Mr. Romanowski (Alliance Homes) to collaborate on some sort of development. He stated that the original idea was to construct a commercial project, but Mr. Romanowski thought that because there are residential homes behind this property a multi-family project would be a better idea.



Attorney Hopkins stated that the commercial project that will be developed if this requested re-zoning is not granted consists of two (2) retail buildings and two (2) drive-thru restaurants. He noted that this commercial development would be permitted under the current zoning classification, but it is not what the applicant would prefer.

Attorney Hopkins stated that an informational meeting with the nearby neighbors was held on September 23, 2023 and the neighbors expressed a strong preference for the residential project vs any type of commercial project whatsoever. He stated that the neighbors asked for a six-foot high fence along the rear of the property that would follow the line of development and as it gets closer to Howard Road the fence height would be reduced to four (4) feet. He noted that the neighbors also expressed a desire for vegetation as well as the fence, so the concept plan now shows evergreen trees staggered at 15 feet along the entire area along the rear. He further noted that the neighbors do not like the driveway onto Howard Road and they would like to see two (2) curb cuts onto Southwestern Boulevard.

Attorney Hopkins stated that he did make it clear to the neighbors that the DOT will never allow two (2) curb cuts onto Southwestern Boulevard.

Attorney Hopkins noted the following changes that have been made to the concept plan:

- The addition of the fence
- The rear yard setback was increased from 50 feet to 65 feet (note that in the commercial zoning classification the minimum rear yard setback is only 40 feet)
- Dumpsters have been located that would be enclosed and screened and located closer to the Southwestern Boulevard frontage

Attorney Hopkins stated that 4.9 acre of open space is shown and the applicant would agree to deed restrict that land.

Attorney Hopkins stated that a submittal was made that includes a copy of the zoning map showing the wide assortment of zoning classifications in the immediate vicinity of this property, the current concept plan, the alternative commercial development plan based on the existing zoning classification and the list of possible zoning conditions.

Attorney Hopkins listed proposed zoning conditions as follows:

- There will not be any buildings on the site with a height of over two (2) stories.
- A six-foot high fence is to be installed along the relevant portion of the rear property line to be reduced to four (4) feet as it gets closer to Howard Road.
- There will be no dumpsters towards the front of the site and the dumpster that are installed will be set back at least 100 feet from the rear property line.
- The minimum rear yard setback for the buildings would be 65 feet.
- Maximum density would be 60 units.
- At least four (4) acres of permanent open space would be provided and protected by a declaration of restrictions.

Attorney Hopkins stated that some of the nearby residents asked that some of the existing vegetation on the site be retained, but it would be difficult to preserve existing vegetation once the required grading is done.

Attorney Hopkins stated that Mr. Romanowski will keep the nearby neighbors informed of the status of the project.

Mr. Chapman stated that the other option for this site would be to rezone it to R-1 for single family homes.

Attorney Hopkins responded that single family homes would not be appropriate for this area.

Mr. Chapman stated that if this project includes access to Howard Road, he will never vote to approve it. He noted that other development in the area were given access to Southwestern Boulevard and the applicant should push the DOT for that.

Attorney Hopkins stated that those other developments did not have any other option but to access Southwestern Boulevard.

Mr. Chapman stated that he did visit one of Mr. Romanowski's other developments and noted that they were very nice but they were in a development of apartments. He stated that in this case the applicant is trying to put apartments next to \$500,000 homes.

Attorney Hopkins stated that the other development Mr. Chapman visited is also near a residential neighborhood.

Ms. McCormick stated that whether a resident has a \$10,000 home or a \$2,000,000 home, the Planning Board must give him or her the same level of respect and review and people's socio-economic status should not influence the amount of diligence the Planning Board gives a project.

Attorney Hopkins stated that the Board has to choose between a development based on the existing zoning classification and what the applicant is proposing.

In response to a question from Ms. Gronachan, Attorney Hopkins stated that the traffic generated from the commercial project would be approximately 750% greater than that from the residential project and the access to Southwestern Boulevard and Howard Road would be the same.

Ms. McCormick stated that she does not see a scenario where the DOT would reverse its decision on access to Southwestern Boulevard.

Ms. Chmura stated that this development might add enough traffic to Howard Road to warrant a traffic light at Howard Road and Camp Road being installed.

It was noted that there already is a traffic light at the corner of Howard Road and Southwestern Boulevard.

In response to a question from Mr. Szewc, Attorney Hopkins stated that he can ask the DOT for right in/right out access to Southwestern Boulevard, but the DOT is not flexible in terms of allowing access. He noted that if this property had no frontage on Howard Road, the DOT would have to allow access to Southwestern Boulevard.

Mr. Chapman advised Attorney Hopkins to try harder with the DOT.

Chairman Clark asked Board members if anyone would prefer to not rezone this property. Mr. Chapman indicated that he would like the property to remain zoned as it currently is.

Chairman Clark stated that a memo should be forwarded to the Town Board that outlines what Board members are concerned about with two (2) separate final paragraphs (one recommending the rezoning and one not recommending the rezoning).

Mr. Chapman stated that he would rather this property be rezoned to R-1.

Attorney Hopkins asked the Planning Board to include the conditions mentioned at this meeting in the paragraph recommending the rezoning.

Chairman Clark stated that both versions of the recommendation would include the conditions outlined at this meeting.

Chairman Clark asked Mr. Rodgers to have both versions of the recommendation to the Board members by October 23, 2023.

Ms. Valenti stated that the last time the Board reviewed this request there was a discussion about whether it would be possible to move the driveway onto Howard Road further away from the adjacent vacant residential lot. It was noted that when someone purchases that lot he or she will be aware of the applicant's project.

Chairman Clark made a motion, seconded by Ms. Gronachan, to table this project to the Planning Board's November 1, 2023 meeting and direct the Planning Department to have a memo to the Town Board ready by October 23, 2023.. Carried.

### **DATO Development LLC – Requesting Preliminary Plat Approval of a 57-unit townhome subdivision on vacant land west of Briercliff Drive**

Attorney Sean Hopkins, representing the applicant, stated that at its September 6, 2023 meeting, the Planning Board closed the public hearing on the updated Preliminary Plat.

Attorney Hopkins stated that this parcel is part of a PUD (Planned Unit Development) that was the subject of a Findings Statement issued in 1988.

Attorney Hopkins stated that the applicant has documented very well that the permanent open space requirement has been met for the overall "quarry development" (27.08 acres) and that is why the density of this project was dramatically reduced.

Attorney Hopkins stated that the Briercliff HOA (Homeowners' Association) has repeatedly asserted that the 27.08 acres is meaningless because wetlands, steep slopes, etc. must be reduced from that overall number. He noted that that is not the methodology established by the Town 35 years ago, which the applicant has followed.

Attorney Hopkins stated that in connection with this town home project, which requires subdivision approval under the unique requirements of the Town of Hamburg, the project is required to provide at least 10% recreational space (.9 acres).

Mr. Anthony Pandolfe from Carmina Wood Morris, project engineer, stated that in terms of recreational space on this site, there would be the Heart Trail extension parallel to the railroad, a walking trail, a community garden, a couple of gazebos and a tot lot, totally 2.24 acres.

Attorney Hopkins stated that the original Findings Statement issued in 1988, section 3 states the following:

"What identifies as a potential impact - the need for public as well as private open space.... Proposed developments are on the periphery of an 18-hole golf course, which is a large open space. This, however, is a private open space and the Planning Board will be looking at requirements for both active and passive recreation areas to be dedicated to the Town as each phase of the development is reviewed and approved."

Attorney Hopkins stated that some of those opposed to this project have asked the Town to go back in time and revisit every single decision that has been made in connection with the previ-

ous phases. He noted that none of us was involved in those earlier decisions and that is not what the original Findings Statement indicated.

Attorney Hopkins stated that Mr. Pandolfe did package up the information on the gas well as requested the last time this project was reviewed. He noted that based on Mr. Pandolfe's review of DEC records, there is no gas well located on this project site.

Attorney Hopkins stated that although some people opposed to this project indicated that the access to this site should not be to Briercliff Drive and instead should be to Cloverbank Road, SRF Associates prepared a detailed letter on September 26, 2023 detailing that that would not be a good idea primarily because of the embankment, sight lines, etc.

Attorney Hopkins stated that a second entrance is not required because of the dramatic reduction in density of this project. He further noted that Mr. Pandolfe has deliberately designed this site to comply with the turn around requirements by providing T-turn arounds on both ends of the town home project for fire trucks.

Attorney Hopkins stated that if a Positive Declaration is issued by the Planning Board, the applicant would probably do a project on this site involved units for lease, which is permitted by zoning.

Attorney Puglisi stated that she reviewed all of the materials from 1988 forward and sent Board members a memo streamlining the important parts of the open space requirements, what the current zoning code says and the different factors to be considered in passive vs recreation space.

In response to a question from Ms. Gronachan, Chairman Clark stated that the town homes must be 2,000 sq.ft. on lots that must be at least 2,200 sq.ft. in size. He noted that the applicant is proposing lots that are 2,000 sq.ft. so that the individual home owners do not have to maintain the 200 sq.ft. of yard space. He stated that a HOA would be formed to maintain the overall green space.

Mr. Pandolfe stated that when the density of this project was reduced, the lot sizes were modified so that the 30-foot rear yard setback requirement can be met.

It was determined that 250 sq.ft. patios would be required for each dwelling unit.

Attorney Hopkins read the following from the Hamburg Town Code:

"Patios and service areas - There shall be provided on each town house lot at least 250 sq.ft. of patio living area exclusive of parking and service areas."

Attorney Hopkins stated that the above language infers that an actual patio may not be required and grass may be acceptable.

Chairman Clark made a motion, seconded by Ms. McCormick, to table this project to the Board's November 15, 2023 meeting and direct the Planning Department to prepare both Positive and Negative Declarations that incorporate what is useful from the 1988 Findings Statement for that meeting. Carried.

Engineering Department comments have been filed with the Planning Department.

## **AL Asphalt – SEQR Status Update**

Attorney Kim Nasson from Philips Lytle, Special Counsel for the Town on this matter, stated that Board members were given the most updated version of the draft FEIS to review. She stated that the current updated version includes all comments from Board members to date.

Attorney Nasson stated that Board members were also given a spread sheet containing the following information:

- The first sheet identifies every commenter, where the comment came from and a summary of the comment.
- The second sheet lists every distinct comment that was made.
- The third sheet categorizes the comments into categories such as air, noise, odor, etc.

Attorney Nasson noted that the above information on the third sheet will be contained in Section 5 of the FEIS in a summary format.

Attorney Nasson stated that her goal is to have the final document ready for Board members' review by early in the week of October 9, 2023.

Ms. Valenti noted for the record that she did not receive the FEIS via email, nor has she received a hard copy.

Attorney Nasson stated that the action to be taken on October 18, 2023 will be to adopt the FEIS.

Chairman Clark made a motion, seconded by Ms. McCormick, to table this project to the Board's October 18, 2023 meeting. As the vote on the motion was six (6) ayes and one (1) abstention (Ms. Valenti), the motion carried.

## **OTHER BUSINESS**

Regarding the minutes of September 20, 2023, regarding Bell Atlantic, Ms. McCormick stated that there are two (2) motions made when there should have been one.

Chairman Clark made a motion, seconded by Ms. Chmura,, to amend the September 20, 2023 minutes to reflect that the motion regarding SEQR was made by Mr. Chapman and seconded by Ms. Gronachan. As the vote on the motion was six (6) ayes and one (1) abstention (Ms. Valenti), the motion carried.

Chairman Clark made a motion, seconded by Ms. Gronachan, to approve the minutes of September 20, 2023 as amended. As the vote on the motion was six (6) ayes and one (1) abstention (Ms. Valenti), the motion carried.

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

The meeting was adjourned at 9:20 PM.

Respectfully submitted,  
Cindy Gronachan, Secretary

Date: October 11, 2023