

DEIS Appendix VOLUME 1

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Appendix A

Application Materials

HARRIS BEACH PLC
ATTORNEYS AT LAW

January 9, 2023

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Chairman William Clark
Town of Hamburg Planning Board
Town of Hamburg Town Hall
6100 South Park Avenue
Hamburg, NY 14075

RE: *Special Use Permit Application: 5363 Southwestern Boulevard
(S/B/L: 182.05/1/9.2)*

Dear Mr. Chairman Clark:

We are counsel to Hutton ST 21, LLC (“Hutton”) and write in support of the special use permit (“SUP”) application Hutton submits for the development of a 4,562 square-foot automated carwash at 5363 Southwestern Boulevard in the Town of Hamburg (the “Project”).

The subject property comprises approximately 1.83 acres located along the southeastern side of Southwestern Boulevard (the “Site”), situated within the Town’s C-2 General Commercial District (the “C-2” District). Pursuant to Section 280-81(A)(18)(e) of the Town of Hamburg Zoning Code (the “Zoning Code”), a commercial carwash is a specially permitted use in the C-2 District upon the granting of a special use permit by the Town of Hamburg Planning Board (the “Planning Board”). The Site is bounded by an existing Mavis auto center to the east (also within the C-2 District), and residential uses to the west and south (situated within R-2 Single Family Residence and R-A Residential-Agriculture Districts).

On December 7, 2022, the Town of Hamburg Zoning Board of Appeals granted two (2) area variances for the Project permitting reduced setbacks of 150.8 feet and 48.1 feet, respectively, from the residential structures situated on the adjoining parcels.

This correspondence assesses the factors the Planning Board is to consider in issuing the SUP pursuant to Sections 280-312 and 280-323 of the Zoning Code. We respectfully submit that, in conformance with the applicable requirements, the following factors support the granting of the requested SUP:

Section 280-312(B) of the Zoning Code

1) The granting of the SUP will be in harmony with the general purposes and intent of Article XLVI of the Zoning Code.

The Site is located within the C-2 District where commercial carwashes are specially permitted uses pursuant to Section 280-81(A)(18)(e) of the Zoning Code. With a Mavis auto center situated to the north of the Site, and a Walmart Supercenter located directly across Southwestern Boulevard from the Site, the Project is consistent and in harmony with the nature of the surrounding commercial uses. We respectfully submit that the residence to the west of the

Project is located on Southwestern Boulevard; is itself out-of-character with the commercial corridor on that roadway; and currently has a view across the Site to the neighboring Mavis auto center, as well as of the Walmart Supercenter located across Southwestern Boulevard.

2) The granting of the SUP will not create a hazard to health, safety or general welfare.

The SUP will not create a hazard to the health, safety or general welfare of the community. The location of the Project on the Site does not create any hazards. Hutton has undertaken a site plan design that both lessens the visual impacts of the Project while ensure that safe use of the car wash facility. The site plan design for the Project also improves the ingress and egress point of the Site to Southwestern Boulevard to ensure safe access and exiting. From an operational standpoint, the car wash is a benign use with mainly car wash products and water being used on-site. Moreover, the

In fact, the Project will benefit the community by providing a popular service to vehicle owners and tax revenues for the Town.

3) The granting of the SUP will not alter the essential character of the neighborhood nor be detrimental to the residents.

The granting of the SUP will not produce an undesirable change in the character of the neighborhood, nor will the SUP cause detriment to nearby properties. The Site is in the C-2 District where commercial carwashes are specially permitted uses (*see Szelega Enterprises, Inc. v. Town of Vestal*, 36 AD2d 483, 485 [3d Dept 1971]). The proposed site plan for the Project places all of the self-service car vacuum parking spaces along Southwestern Boulevard, in front of the automated carwash building, which will block the majority of those parking spaces from the view of the residential structure situated to the south of the Project. Further, there currently exists a mature tree line along the portion of the Site which abuts that residential lot and will remain intact in order to screen the carwash from view.

The Project is also in keeping with the character of the community. With Mavis auto center situated to the north of the Site Project, and a Walmart Supercenter located directly across Southwestern Boulevard from the Site, the Project (and associated SUP) will not produce an undesirable change in the character of the neighborhood.

The Site is surrounded by a variety of land uses, including properties zoned. Nearby are properties zoned R-2 Single Family Residence District and R-A Residential-Agriculture. These various uses are present within a relatively small geographic footprint resulting in the lack of a cohesive neighborhood aesthetic. In sum, granting the requested SUP will not detract from the varied character of the neighborhood.

4) The issuance of the SUP will not otherwise be detrimental to the public convenience or welfare.

As explained above, the Project and SUP will not be determinantal to public convenience or welfare. Faced with a challenging site, Hutton propose a site plan design for the Project that is consistent with the surrounding uses, while enhance the existing landscaping elements to reduce visibility of the Project to the adjoining residential structures. In fact, we respectfully submit that the Project will be beneficial to public convenience and/or welfare by providing a popular and frequently used service for the community's vehicle owners.

Section 280-323 of the Zoning Code

1) The facility shall not be located within 200 feet of any residential structure or within 500 feet of another such facility.

The Project will not be located within 500 feet of another car wash. In addition, on December 7, 2022, the Town of Hamburg Zoning Board of Appeals granted two (2) area variances from the 200-foot setback restrictions for the Project, permitting reduced setbacks of 150.8 feet and 48.1 feet, respectively, from the residential structures situated on the adjoining southern and western parcels.

2) Architectural features of the car wash building are in harmony with the surrounding uses.

The architectural features of the Project are in harmony and consistent with the architectural natures of the adjoining Mavis auto center and the Walmart Supercenter located directly across Southwestern Boulevard. The Site is surrounded by a variety of land uses, including properties zoned C-2 Commercial, R-2 Single Family Residence and R-A Residential-Agriculture. These various uses are present within a relatively small geographic footprint resulting in the lack of a cohesive neighborhood aesthetic. As such, granting the requested SUP will not detract from the varied architectural character of the neighborhood

3) The site plan design for the Project minimizes the structures visibility from the road through proper siting, setbacks, existing topographic features, berming and landscaping features.

The proposed site plan design for the Project is intended to minimize the visibility of the car wash from the adjoining residential properties, as well as provide a safe manner in which people traveling on Southwestern Boulevard can see the car wash and access the Site. Although the proposed site plan for the Project places the self-service car vacuum parking spaces along Southwestern Boulevard, in front of the automated carwash building (which is designed to block


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ATTORNEYS AT LAW

the majority of those parking spaces from the view of the residential structures situated on the adjoining parcels), both the enhanced front setback distance and the aesthetic look of the proposed car wash lessen visual impacts to the north. A mature tree line currently exists which runs along the western and southern portions of the Site that will remain intact in order to screen the carwash from the view of the adjoining residential parcels. Moreover, Hutton proposes planting added landscaping elements to further screen the Project.

In light of the foregoing, we respectfully request that the Planning Board grant the requested SUP for the Project. We look forward to discussing the Project further with the Planning Board.

Respectfully submitted,



Frank C. Pavia

cc: Town of Hamburg Planning Board Members
Sarah desJardins, Town of Hamburg Planning Dept.
Jake Modestow, P.E., Stonefield
Jason Aktas, Stonefield
Don Young, Senior Development Project Manager, Hutton ST 21, LLC
Jennifer Puglisi, Esq., Town of Hamburg Planning Board Attorney

OFFICE USE ONLY

Site Plan # _____
SEQR # _____

Date _____
Name _____

SPECIAL USE PERMIT INFORMATION SHEET
Town of Hamburg Planning Department

Applicants Name: Hutton ST 21, LLC

Project Name: Proposed ModWash Car Wash

Location: 5363 Southwestern Boulevard SBL#: 182.05, 1, 9.2

Township: Hamburg Range: _____ Farm Lot: _____

Property Owner: TS Hamburg, LLC

Zoning of Site: C-2

Use Requested: Car Wash

Support Information Submitted: _____

Zoning and Usages of all properties within 500 feet (also depict on site plan): C-2, R-2 & R-A

SEQRA: Unlisted: _____ Type I: X

Reasons for requesting a Special Use Permit: Proposed automated car wash located within the
General Commercial (C-2) District

****Special Use Permit applications must be accompanied by a Site Plan application.**

Office Use Only

Project Name: Proposed ModWash Car Wash

Applicant: Hutton ST 21, LLC

Location: 5363 Southwestern Boulevard

**TOWN OF HAMBURG
SITE PLAN REVIEW
REQUIREMENTS**

*** NOTE TO THE APPLICANT: PLEASE READ THE FOLLOWING REQUIREMENTS AND INCLUDE THEM IN YOUR SUBMITTAL.**

* To ensure Planning Board review during the next cycle, a completed submittal package must be received at a scheduled pre-set submittal appointment by 3 p.m. on the filing date.

* Appointments can be set up by calling the Town of Hamburg Planning Department at (716) 649-2023 prior to the submittal date.

The following form provides a space next to each requirement for the applicant or his/her agent to initial as proof that all requirements have been met. Please sign this form and turn in with your submittal package.

**NEW DEVELOPMENT, MAJOR ADDITIONS, AND SIGNIFICANT CHANGE OF USE
SUBMITTAL REQUIREMENTS**

- ☒ 5 Copies of Development Information Sheet
- ☒ 5 copies accurately completed Part I State Environmental Quality Review Act (SEQRA) Environmental Assessment Form (EAF). Erie County Department of Environment and Planning can provide the information to fill out the form at (716) 858-8390.
- ☒ Complete Fire Dept. Project Description Form.
- ☒ 5 copies of the proposed site plan. Site plans shall be sealed and signed by an Architect or Engineer licensed in the State of New York. Please fold all plans.
- ☒ 1 set of building plans as per Building Inspection requirements.
- ☒ Fees paid in full.

THANK YOU FOR YOUR COOPERATION

SITE PLAN REQUIREMENTS

- ☒ 1. Name, address, and telephone number of applicant and authorization of owner if different from applicant.
- ☒ 2. Names, addresses, and telephone numbers of owner(s) of record, if different from applicant.
- ☒ 3. Name, address, and telephone number of person or firm preparing the plan and map.
- ☒ 4. Current zoning classification of property, including exact zoning boundary district. Provide a listing of zoning requirements, and what is being provided for the project.
- ☒ 5. North arrow, scale, date, and revision block.
- ☒ 6. Area map of location. (Include zoning data on map [requirements and boundaries])
- ☒ 7. Property layout showing all dimensions, at an appropriate Engineer's scale, and names of owners of adjoining parcels.
- ☒ 8. Precise and clear location, and size of all buildings (proposed and existing), showing dimensions of side yards, rear yards, front setbacks and separation.
***Note*: Zoning dimensions enforced**
- ☒ 9. Locations, widths, and names of existing streets and proposed site access.
Include:
 - A. Width (20' min.) Maximum 33'
 - B. Radius (25' min.)
 - C. Reference dimensions from the nearest street intersections
 - D. Yield sign at each egress
- ☒ 10. Layout of all off-street parking, showing: (A) access drives, (B) spaces (9' x 18" min.), (C) barricades, (D) cross-section of paving, (E) overall dimensions, (F) provide handicapped parking spaces to conform to A.N.S.I. 117.1 - (1986) and Building Code of New York State Table 1106.1. It is suggested that the actual number (calculation of spaces shown on drawing) of spaces be reviewed with the Planning Department, (G) show any truck loading areas, (H) Garbage dumpster areas.
- ☒ 11. Water Service location showing: proposed line and existing main size, location of RPZ, hydrants, and sprinkler hook-up connections. Include location of nearest hydrant off-site.
- ☒ 12. Sanitary sewer service, or septic system location. Include all Erie County Department of Environment and Planning, and/or Erie County Health Department submittal requirements.
- ☒ 13. Grade and Drainage Plan shall include all receivers, line size, slope, construction materials, and existing and proposed grade elevations. No stormwater shall drain onto adjoining properties. All downspouts shall be connected to a storm system. Systems shall be designed for a minimum ten (10) year storm. Detention basins shall be designed for a minimum 25 year storm.

SITE PLAN REQUIREMENTS CONT'D

14. Landscaping Plan - show all landscaping, trees, shrubs, etc. and label them with the name, type, and size.

15. Storm Water Pollution Prevention Plan (SWPPP), or Clearing, Stripping, and Soil Erosion Control Plan - Before beginning any work on the project a Clearing, Stripping, and Soil Erosion Permit must be obtained from the Town Engineering Department. Site preparation and construction shall be fitted to the vegetation, topography and other natural features of the site, and shall preserve as many of these features as possible. In general, the following shall be shown on the plan:

- A. Clearing limits, stock pile areas, all temporary and permanent drainage, erosion and sediment control facilities. A time schedule which is keyed to the operations.
- B. Note on the Plan that stumps and brush may not be buried in the Town, and that topsoil may not be removed from the work site without a permit.

16. Location, design, and construction of all energy distribution facilities, including electric, gas, solar energy, and public address systems. Exterior lighting should be provided and restricted to illuminating the building and/or premises only.

17. The location of any free standing sign shall be shown along with mounting details, sizes, and lighting.

18. Required zoning variances. Include section of Town code, and description of requested variances.

I, Don Young _____ as Owner/Developer
of ModWash Car Wash _____ located at
5363 Southwestern Boulevard _____, Town of Hamburg, to the best
of my knowledge am submitting a completed package for site plan review.

Signature

Date

Appendix B

Parts 1, 2 and 3 of the EAF

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

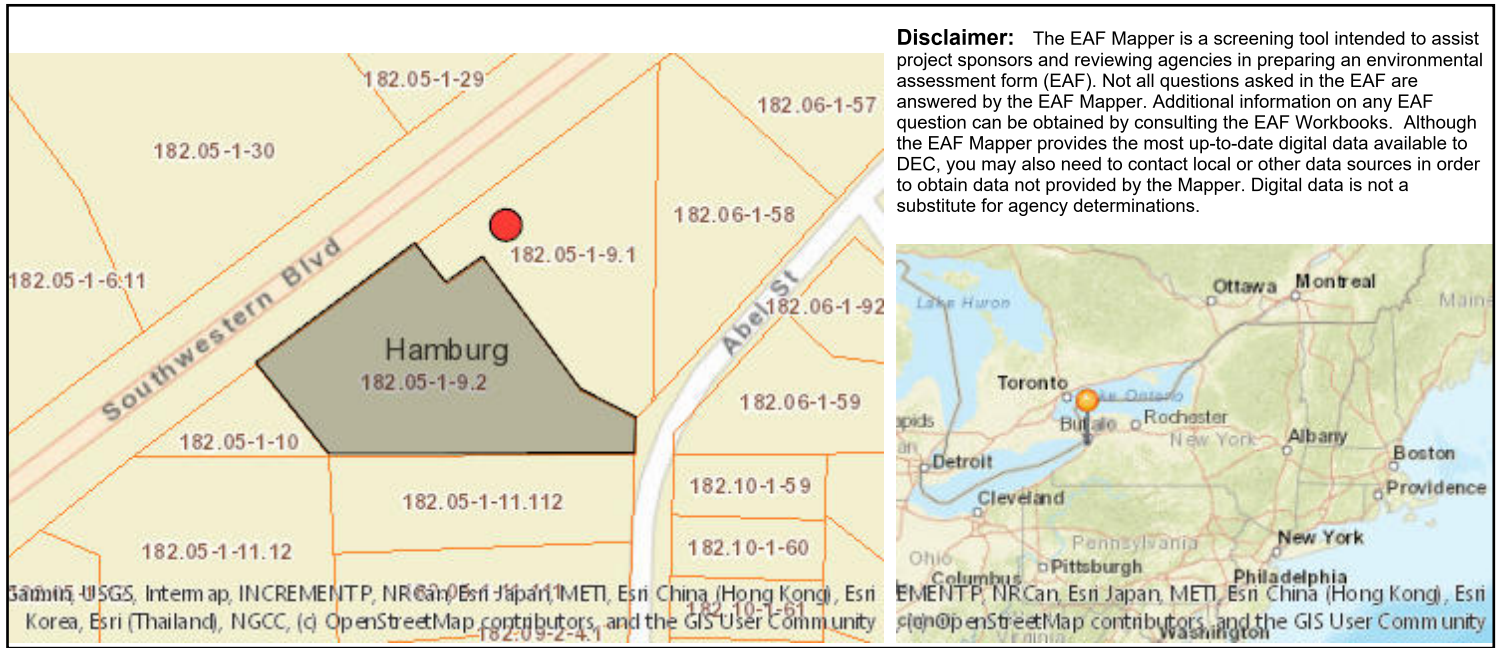
Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information			
Proposed Car Wash			
Name of Action or Project: Proposed Car Wash			
Project Location (describe, and attach a location map): 5363 Southwestern Boulevard			
Brief Description of Proposed Action: Proposed automated car wash with 1 tunnel, 3 pay station kiosks & off-street amenity vacuum parking spaces. Additional improvements include landscaping, stormwater management, utilities, and signage among other site related features.			
Name of Applicant or Sponsor: Hutton ST 21, LLC		Telephone: 423-647-6822	
Address: 736 Cherry Street		E-Mail: dyoung@hutton.build	
City/PO: Chattanooga		State: TN	Zip Code: 37402
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: NYSDOT Minor Access Permit		NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		1.84 acres	
b. Total acreage to be physically disturbed?		1.88 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		1.84 acres	
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			

5. Is the proposed action, a. A permitted use under the zoning regulations? Permitted by Special Permit b. Consistent with the adopted comprehensive plan?	NO <input type="checkbox"/> <input type="checkbox"/>	YES <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	N/A <input type="checkbox"/> <input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	YES <input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	NO <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO <input checked="" type="checkbox"/> <input type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/>	

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: <hr/> Stormwater will be discharged to an existing grassed swale and proposed aboveground bioretention basin where it ultimately will be sent to the conveyance system along Southwestern Boulevard.	NO	YES
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment: Yes, an ~10,000 CF aboveground bioretention basin is proposed to provide necessary storage to meet quantity requirements.	NO	YES
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor/name: <u>Don Young</u> Date: <u>1/9/2023</u> Signature: _____ Title: <u>Senior Development Project Manager</u>		



Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	No
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	No
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No

Project:

Date:

Short Environmental Assessment Form

Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept “Have my responses been reasonable considering the scale and context of the proposed action?”

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?		
2. Will the proposed action result in a change in the use or intensity of use of land?		
3. Will the proposed action impair the character or quality of the existing community?		
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?		
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?		
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?		
7. Will the proposed action impact existing:		
a. public / private water supplies?		
b. public / private wastewater treatment utilities?		
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?		
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?		
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?		
11. Will the proposed action create a hazard to environmental resources or human health?		

Project:

Date:

Short Environmental Assessment Form

Part 3 Determination of Significance

For every question in Part 2 that was answered “moderate to large impact may occur”, or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

Name of Lead Agency

Date

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from Responsible Officer)

Appendix C

Positive Declaration Resolution

Mod Wash SEQR Positive Declaration Resolution 7/19/23

1

Whereas, the Town of Hamburg received a special use permit and site plan application from Hutton ST 21, LLC to construct a car wash at 5363 Southwestern Blvd; and

Whereas, the Hamburg Planning Board held the required public hearing and received comments from the public; and

Whereas, the Hamburg Planning Board in accordance with the New York State Environmental Quality Review Act (SEQRA) has done a thorough review of the project and its potential impacts, and

Whereas, the Hamburg Planning Board, in accordance with SEQRA has determined that the proposed special use permit, site plan approval and construction of the car wash may potentially adversely affect the natural resources of the State and/or the health, safety and welfare of the public and is inconsistent based on potential impacts related to pollution, noise, community character, and visual impacts.

Now, Therefore, Be It Resolved, that the Town of Hamburg Planning Board hereby determines that the special use permit, site plan approval, and construction of the car wash may result in a significant adverse environmental impact and that a Positive Declaration is hereby issued and that the Planning Board Chairman is authorized to sign the Part 1, 2, and 3 of the EAF, which will act as the Positive Declaration.

Appendix D

Final Scoping Document

Final Scoping Document
for
Mod Wash Car Wash Project

Project Location:
5363 Southwestern Boulevard, Town of Hamburg, NY
SBL No. 182.05-1-9.1

Project Sponsor: Hutton ST 21, LLC

SEQR Classification: Unlisted

Lead Agency: Town of Hamburg Planning Board

Positive Declaration Issued: July 19th, 2023

Draft Scope Received: October 11th, 2023

Public Scoping Meeting Held: November 15th, 2023

Final Scope Issued: December 6th, 2023

INTRODUCTION:

On July 19, 2023, the Town of Hamburg Planning Board, as the Lead Agency, determined that the proposed Mod Wash car wash project may result in potentially significant adverse environmental impacts and issued a Positive Declaration pursuant to the State Environmental Quality Review Act ("SEQRA"), requiring the submission of a Draft Environmental Impact Statement by the Project Sponsor. A copy of the Positive Declaration issued by the Planning Board is provided as Exhibit "1 " of this Scoping Document and the draft scoping document is included as Exhibit "2".

A draft scoping document was submitted by the applicant on 10/11/23, and the Planning Board, acting as SEQR Lead Agency, sent out the draft scoping document to Involved and Interested Agencies and called and held a public scoping meeting on 11/15/23.

This Scoping Document sets forth the content of the Draft Environmental Impact Statement ("DEIS") that the Project Sponsor shall prepare for the purpose of evaluating the environmental impacts of the proposed residential subdivision. The Scoping Document provides a general description of the proposed action, an overview of the environmental review process pursuant to SEQRA, discussion of the potentially significant adverse environmental impacts that have been identified within the Positive Declaration issued by the Planning Board on July 19, 2023 and resulting from the scoping process that must be evaluated by the Project Sponsor in the DEIS, the extent of information needed to adequately address each identified potentially significant adverse environmental impacts, identification of potential mitigation measures, reasonable alternatives to the proposed action to be evaluated, identification of information to be

included in the Appendices of the DEIS, and issues and concerns raised that have been determined to be not relevant or to not pertain to potentially significant adverse environmental impacts.

This Final Scoping Document was prepared by the Lead Agency in accordance with the requirements of the State Environmental Quality Review Act ("SEQRA") and the implementing regulations as promulgated by the New York State Department Environmental Conservation ("SEQRA Regulations").

2.0 SITE LOCATION AND DESCRIPTION OF PROPOSED ACTION:

The proposed action is a request for Site Plan approval and issuance of a Special Use Permit for the development of $\pm 4,381$ sf commercial car wash facility on an approximately 1.83-acre site located at 5363 Southwestern Boulevard. The car wash will be a single tunnel facility with 16 exterior vacuum stations and three employee parking spaces. The property is located at 5363 Southwestern Boulevard in the Town of Hamburg, Erie County, New York. The property is zoned C-2 General Commercial District.

3.0 REVIEW PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT ("SEQRA"):

The State Environmental Quality Review Act ("SEQRA") provides a process for the consideration of potentially significant adverse environmental impacts resulting from a proposed action requiring one or more discretionary approvals and/or permits. Discretionary decisions of a state, regional, or local agency to approve, fund, or directly undertake an action that may affect the environment are subject to review under the SEQRA. It is the intent of the SEQRA that protection and enhancement of the environment and community resources be balanced with social and economic factors in the decision-making process.

3.1 Project Classification and Lead Agency Designation:

The Town of Hamburg Planning Board classified the Project as an Unlisted Action for the purposes of environmental review based on a determination that the impacts of the proposed action do not cross any of the thresholds for a Type I action contained in 6 NYCRR Part 617.4. While not required by the SEQRA Regulations, the Town of Hamburg Planning Board decided to conduct a coordinated environmental review of the Project. A lead agency solicitation letter was issued to involved and interested agencies on February 15, 2023. None of the involved agencies objected to the Planning Board's request to be the lead agency.

In accordance with 6 NYCRR Part 617.7, based on its review of all agency comments, the completed Part 1 of the Short Environmental Assessment Form and application materials (including reports and studies) submitted by the Project Sponsor, and the completion of Part 2 and 3 of the Short Environmental Assessment Form, the Planning Board considered the potential environmental impacts of the proposed action and determined the action may result in significant adverse environmental impacts and that a Draft Environmental Impact Statement ("DEIS") must be prepared. The Town of Hamburg Planning Board issued a Positive Declaration on July 19, 2023, and determined that the proposed action may include potentially significant environmental impacts to:

- Surface Water (chemical pollution);
- Aesthetic Resources (visual impacts);
- Noise;
- Human Health; and
- Community Character;

3.2 Purpose of the Scoping Process:

The Town of Hamburg Planning Board, as the designated Lead Agency, has decided to conduct scoping for the Project. The purpose of the scoping process is to identify the potentially significant adverse environmental impacts to be evaluated in the DEIS and eliminate

consideration of those impacts that are irrelevant or insignificant. The objectives of project scoping are as follows:

- Identify potentially significant adverse environmental impacts;
- Identify limits or extent of DEIS;
- Identify information needed to adequately address impacts;
- Identify potential mitigation measures;
- Identify the range of reasonable alternatives; and
- Eliminate irrelevant or insignificant issues.

On October 11, 2023, the Project Sponsor submitted a draft Scoping Document to the Town of Hamburg. As part of the DEIS process, and in accordance with 6 NYCRR Part 617.8 of the SEQRA Regulations, the Town of Hamburg Planning Board conducted a public scoping meeting on November 15, 2023, at the Town of Hamburg Town Hall in order to provide the public and involved and interested agencies with the opportunity to provide input regarding the potentially significant environmental impacts to be evaluated in the DEIS.

The public scoping process ensures that the DEIS will be a concise, accurate, and complete document upon which all involved and interested Agencies can evaluate and issue decisions regarding discretionary approvals and permits needed for the proposed project. By including the public, as well as other agencies in the scoping process, the lead agency can obtain additional information and specialized knowledge that may reduce the likelihood of additional issues arising during the public review period for the DEIS. It is the responsibility of the Town of Hamburg Planning Board, as the designated Lead Agency, to complete the scoping process and issue the final Scoping Document.

3.3 Lead Agency, Involved Agencies, and Interested Agencies:

Pursuant to SEQRA, there are three types of agencies: the Lead Agency, Involved Agencies, and Interested Agencies. The Lead Agency is the Involved Agency that has the

responsibility, under SEQRA, to conduct the environmental review process for a proposed action. The Town of Hamburg Planning Board was previously designated as the Lead Agency for the proposed action because it has jurisdiction with respect to issuing a decision regarding preliminary plat approval for the Project.

Involved agencies are agencies that have jurisdiction to fund, approve, or directly undertake an action. The potential involved agencies for the environmental review of the Project are as follows:

- New York State Department of Environmental Conservation ("NYSDEC")
- New York State Department of Transportation ("NYSDOT")
- Erie County Division of Sewerage Management ("ECDSM")
- Erie County Water Authority ("ECWA")

Interested agencies consist of federal agencies and agencies that do not have jurisdiction with respect to discretionary approvals or permits for a proposed action, but that may want to participate in the environmental review process because of their expertise or concern regarding the proposed action. For the Project, interested agencies include but may not be limited to:

- United States Army Corps of Engineers
- Town of Hamburg Building Inspector
- Town of Hamburg Engineering Department
- Town of Hamburg Highway Department
- Hamburg Conservation Advisory Board (CAB)
- Hamburg TSAB

4.0 CONTENT OF THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS):

6 NYCRR Part 617.9(b) of the SEQRA Regulations sets forth the minimum content that should be included in a DEIS. The subject areas expected to be included in the DEIS for this project are described below.

4.1 Cover Sheet and Table of Contents:

4.2 Executive Summary:

The Executive Summary should provide a brief summary of the Draft Environmental Impact Statement.

4.3 Introduction:

The introduction should provide a summary of the Project, including the following topics:

- Project location and setting;
- Project description (including proposed actions, changes to the site, acreage to developed, etc.);
- Purpose and objectives of the Project;
- Public need and benefits of the Project;
- Project History including environmental review pursuant to SEQRA;
- Site layout and design;
- Site access (existing and proposed); and
- Regulatory compliance, including zoning and required project approvals and permits.

4.4 Existing Conditions of the Project Site:

The existing conditions section of the DEIS should present a narrative discussion of each subject area to provide for a sufficient understanding of the potential impacts of the proposed action and how they may affect the environment, such as:

- Topographic setting of the Project Site;
- Existing environmental conditions of the Project Site (including any significant trees or other vegetation);
- Existing surface and ground water resources;
- Existing waterways/drainage ditches, etc. on the property and the surrounding area;

- Existing means of site drainage and stormwater management;
- Existing land uses on the Project Site and in the vicinity of the Project Site;
- Existing zoning and other land use regulations governing the use of the Project Site and surrounding area;
- Existing utilities;
- Existing air quality, noise, and lighting levels on the Project Site;
- Existing traffic patterns and conditions in the vicinity of the Project Site;
- Existing community and emergency services for the Project Site (schools, police and fire protection);

4.5 Evaluation of Potentially Significant Adverse Environmental Impacts:

This section of the DEIS should provide a detailed discussion of the identified potentially significant adverse environmental impacts of the Project, the severity of the impacts, and the practical mitigation measures that could reduce the magnitude of identified potentially significant adverse environmental impacts. This section should also address all substantive concerns regarding potentially significant adverse environmental impacts raised during the public scoping process.

Per the lead agency's preparation of Parts 2 and 3 of the EAF, and their adoption of a July 19, 2023 resolution issuing a positive declaration for the proposed action, the following potentially significant adverse impacts were identified. These impacts were identified as a result of the Planning Board's review of the application, conducting public hearings, and review of submitted comments from municipal staff, consultants and the public.

4.5.1 Impact on Surface Water and Ground Water Resources:

This section should provide a detailed discussion of the project's impact to any water resources and on drainage/ stormwater management of the site including, but not limited to:

- Provide an analysis of the existing water supply system which serves the project site.
- Provide calculations of the project's water supply demand, both average daily flows and peak flow demand.
- Review the calculations with the local water supplier to determine adequacy of the water system and identify any necessary upgrades or system improvements.

4.5.2 Impact on Aesthetic Resources (Views):

This section should provide a detailed discussion of the project's visual impact to the adjoining residential properties of the site including, but not limited to:

- Analysis and preparation of documents of the current viewshed to and from the subject property as it relates to the adjoining residential properties.
- Analysis of potential impacts of the new construction on the project site as it relates to the viewshed to and from the adjoining residential properties. Photo simulations to be provided from the adjoining residential property into this site.
- Preparation of post-development photo simulations to illustrate the adequacy of proposed grading, setback, landscaping, and other features to establish a buffer.

4.5.3 Impact on Noise:

Summary:

This section should provide a detailed discussion on the noise and odor impacts anticipated from this project including, but not limited to:

- Analysis and establishment of current background noise levels of the neighborhood.

- Provide expert prepared documentation on the proposed action's operational noise levels.
- Prepare and provide information on background noise levels and for post-development noise levels.
- Comparison and analysis of pre- and post-development noise levels to industry standards concerning acceptable ambient noise levels as it relates to the adjoining residential properties.

4.5.3 Impact on Human Health (Noise/Pollution):

Summary:

This section should provide a detailed discussion of how the public health, safety, and welfare of the neighborhood will be impacted by the proposed project including, but not limited to:

- See previous noise section for impacts from noise.
- Submittal of information of all chemicals used in operations including information on safe handling instructions, containment and recycling systems, site grading and surface runoff management, and probability of any airborne transport of chemicals from water spray.

4.5.4 Impact on Community Character:

Summary:

This section should provide a detailed discussion on how the project fits into the context of the surrounding area and how it will impact the character of the community including, but not limited to:

- Information shall be provided documenting the site plan layout and its conformance to the zoning ordinance, and design considerations given to layout; traffic circulation, building orientation, buffers and alternative layouts considered.
- Analysis of the character of the surrounding neighborhood including zoning, land uses, and environmental setting; and the proposed actions compatibility with the surrounding character, including design provisions to address the same.
- Specifically discuss how the project meets the SUP requirements (impact to the road corridor) and the screening requirements of the Code.

5.0 EVALUATION OF MITIGATION MEASURES:

The Draft Environmental Impact Statement should include a discussion of the identified potentially significant adverse environmental impacts and a description of the proposed mitigation measures to be implemented to minimize the identified potentially significant impacts to the maximum extent practicable. If mitigation measures are adequately addressed in the discussion of the identified environmental impacts in Section 4 of the DEIS, this section can act as a summary.

The DEIS should evaluate at least the following mitigations:

1. Design of the water system to provide adequate flow and pressure to the proposed use.
2. Installation of an on-site rpz/backflow system to protect the public water supply.

3. Design features including site layout, grading, and landscaping to establish a buffer to the adjoining residential properties and to prevent “overspray to adjoining residential properties).
4. The design of a stormwater management system, prepared per local and NYSDEC regulations, to collect, control and treat the site’s surface runoff prior to any discharge downstream.
5. Use of site grading to minimize the viewshed impact of vertical building mass.
6. Screening of any mechanical systems.
7. Use of landscaping, grading, and fencing to establish a visual buffer and/or barrier between the proposed use and the adjoining residential properties.
8. Use of dark sky complaint LED lighting and type, location and hours (reductions or turning off at night) of operation to eliminate any light spill onto adjoining properties.
9. Preparation of plans and documentation on the project’s conformance with the municipal design standards, its consistency with surrounding and allowable land uses, and the provisions of design elements both for site and building design for consistency with the community character.

6.0 UNAVOIDABLE ADVERSE ENVIRONMENTAL IMPACTS

Provide a list and brief descriptions of those adverse impacts that cannot be avoided.

7.0 PROJECT ALTERNATIVES:

The DEIS will consider alternate site layouts and designs that could be considered to lessen the potential significant adverse impacts. Such alternatives to be considered will take into account zoning and building code requirements, municipal design standards and the needs,

requirements for successful operation of the proposed use and reducing the impacts of the project.

The no action alternative must also be evaluated.

8.0 POTENTIAL IMPACTS DETERMINED TO BE INSIGNIFICANT:

Under 6 NYCRR Part 617 of the SEQRA Regulations, the Lead Agency is responsible for eliminating consideration of those impacts and concerns that have been identified during the scoping process that are determined to be irrelevant or insignificant either because they are not legally relevant to the environmental review of the proposed action, they are not environmentally significant, or they have been adequately addressed prior to the scoping process. These issues and concerns should not be included in the DEIS.

9.0 INFORMATION TO BE INCLUDED IN THE APPENDICES OF THE DEIS:

The DEIS shall provide sufficient detail to enable the reader to understand, interpret, and evaluate the existing conditions, potential impacts, mitigation measures, and alternative project scenarios. The Appendices shall contain copies of studies and reports that supplement and support the narrative in the DEIS. The methodologies and results of the studies and technical reports shall be summarized and explained in the DEIS. The following are examples of documents to be included in the Appendices:

- All application materials;
- Parts 1, 2, and 3 of the Short Environmental Assessment Form ("EAF");
- Positive Declaration issued by the Planning Board on July 19, 2023;
- Final Scoping Document;
- Correspondence related to the Project;
- Minutes of Meetings of the Town of Hamburg Planning Board;
- Traffic Impact Study;

- Storm Water Pollution Prevention Plan ("SWPPP");
- Engineer' s Report;
- Car wash operations guideline document;
- Noise Study
- Operational information on Equipment/Dryers
- Other reports generated or referenced to support the DEIS

Appendix E

Project Correspondence

TOWN OF HAMBURG

S-6100 SOUTH PARK AVENUE * HAMBURG, NEW YORK 14075 * (716) 649-6111 * FAX (716) 649-4087

CHAIRMAN

Brad Rybczynski

VICE CHAIRMAN

Richard Dimpfl

ATTORNEY

Michelle Parker

COMMISSIONERS

Mark Yoder

Laura Hahn

Jeffrey Adrian

Chris Smith

SECRETARY

Nicole Falkiewicz

ZONING BOARD OF APPEALS

Date: December 7, 2022

Application # 5960

To whom it may concern:

Please be advised that the Board of Zoning Appeals has granted your application for two (2) area variances.

A building permit will be issued subject to all requirements of applicable Building Codes and any conditions attached by the Board of Zoning Appeals. The building permit must be obtained within six (6) months of the date of the approval by the Board of Zoning Appeals.

If you have any questions above the above, feel free to contact Sarah desJardins in the Planning Department (649-2023).

Sincerely,

Nicole Falkiewicz, Secretary

Zoning Board of Appeals

Variance(s) granted: Two (2) area variances for a proposed car wash facility at 5363 Southwestern Boulevard

Condition of Approval: None

Town of Hamburg
Board of Zoning Appeals
December 6, 2022
Minutes

The Town of Hamburg Board of Zoning Appeals met for a Regular Meeting on Tuesday, December 6, 2022 at 7:00 P.M. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Brad Rybczynski, Vice-Chairman Ric Dimpfl, Commissioner Jeff Adrian, Commissioner Mark Yodar, Commissioner Nicole Falkiewicz, Commissioner Laura Hahn and Commissioner Chris Smith.

Also in attendance were Board of Zoning of Appeals Attorney Michelle Parker and Planning Consultant Sarah desJardins.

Board members recited the Pledge of Allegiance.

Chairman Rybczynski asked for a moment of silence in honor of those service members who have paid the ultimate sacrifice.

Commissioner Falkiewicz read the Notice of Public Hearing.

Application # 5959 Robert Gonser – Requesting two (2) area variances for a proposed residential addition, attached garage and covered porch at 5164 Lakeshore Road (Zoned R-1)

It was determined that this application would be tabled.

Application # 5960 TS Hamburg LLC – Requesting an area variance for a proposed car wash facility to be located on vacant land, west of 5363 Southwestern Boulevard (Zoned C-2)

Attorney Frank Pavia from Harris Beach, representing the applicant, stated that the proposal is to construct a car wash facility at 5363 Southwestern Boulevard. He stated that the site is approximately 1.3 acres in size and is zoned C-2. He noted that there are residential structures west and south of the parcel and there are existing tree lines in those areas that would remain.

Attorney Pavia stated that the area variances being requested relate to the requirement that a 200-foot setback be provided from residential structures. He stated that the applicant proposes a 150.8-foot setback from the home on Abel and a 48.1-foot setback from the home on Southwestern Boulevard.

Attorney Pavia stated that the applicant plans to plant additional trees (mature evergreens) on the site's southern and western sides.

Attorney Pavia reviewed the area variance criteria as follows:

1. Granting the variances will not produce an undesirable change to the neighborhood or to nearby properties because the site is zoned C-2, this is an allowed use and would be in keeping with the character of the community. The site is surrounded by various diverse uses and the area lacks a cohesive aesthetic. The area variances, in conjunction with the planting of landscaping screening, will not detract from the varied character of the neighborhood. Operating hours would be between 8 AM and 8 PM and the vacuum parking spaces would be on Southwestern Boulevard and therefore be blocked from the residential homes.
2. The area variances are the only feasible method to achieve a commercial development at this site. The site is a challenging triangle and the reduced setback distances are required to secure a use of the site that is productive. The applicant looked at placing the building closer to the adjacent Mavis site but that provided challenges with vehicle stacking and site circulation. The applicant also looked at placing the building closer to Southwestern Boulevard but that limited the functionality of the car wash facility.
3. The variances are not substantial. The setback from the southern residential home represents a 25% reduction in the setback distance and the setback from the western residential homes represents a 74% reduction in the setback distance, but in light of the challenging triangular configuration of the site, the preservation of the existing mature tree line and the addition of mature evergreens reduce the substantiality of the reduced setbacks.
4. There will be no adverse physical or environmental effects resulting from the granting of the variances. The applicant would actually improve the site with additional landscaping, etc.
5. The need for the variances is not self-created because of the challenging configuration of the site.

In response to a question from Mr. Dimpfl, Attorney Pavia stated that Mavis strongly preferred the currently proposed layout because of its traffic circulation patterns on site.

It was determined that the applicant will address a possible fence along the residential properties when before the Planning Board for Site Plan Review.

Findings:

Ms. Falkiewicz made a MOTION, seconded by Mr. Dimpfl, to approve Application # 5960.

On the question:

Ms. Falkiewicz reviewed the area variance criteria as follows:

1. Whether the benefit sought can be achieved by other means feasible to the applicant – No, as the applicant did look for other ways to configure the property.
2. Whether there would be an undesirable change in neighborhood character or to nearby properties – No.

3. Whether the request is substantial – One (1) of the requested variances is substantial and the other is not.
4. Whether the request will have adverse physical or environmental effects – No.
5. Whether the alleged difficulty is self-created – This could be argued either way, but the balancing test is in favor of granting the variance.

All members voted in favor of the motion. **GRANTED**

Application # 5961 Jane Morello – Requesting an area variance for a proposed attached garage at 5114 Morgan Parkway (Zoned R-2)

Mike Lukaszewski from Bammel Architects, representing the applicant, stated that the applicant would like to construct a two-car garage on her home. He stated that the property is a corner lot and the home is on an angle. He noted that this is the least intrusive option they could come up with. He further stated that the home is already closer to the front property line than what is allowed, so the garage needs the variance for the front yard setback for a small portion of the garage.

Mr. Adrian stated that it does not appear that the new garage would create any obstructions.

Findings:

Mrs. Hahn made a MOTION, seconded by Mr. Adrian, to approve Application # 5961.

On the question:

Mrs. Hahn reviewed the area variance criteria as follows:

1. Whether the benefit sought can be achieved by other means feasible to the applicant – No.
2. Whether there would be an undesirable change in neighborhood character or to nearby properties – No.
3. Whether the request is substantial – No.
4. Whether the request will have adverse physical or environmental effects – No.
5. Whether the alleged difficulty is self-created – This could be argued either way, but the balancing test is in favor of granting the variance.

All members voted in favor of the motion. **GRANTED**

Application # 5962 Milwaukee THP LLC – Requesting an area variance for an additional monument sign at 6000 South Park Avenue (Zoned C-2)

No one appeared on behalf of the applicant. It was determined that this application would be left on the table.

Application # 5963 Butterbean 2729, LLC – Requesting an area variance for a proposed fence at 5358 Old Lakeshore Road (Zoned R-1)

Patricia Hafner, applicant, stated that she purchased this property in 2019 and had to remove approximately 50 trees because of the emerald ash borer. She stated that currently there is a 500-foot long fence that borders the Wanakah Heights street and she would like to raise 75 feet of that fence to a height of eight (8) feet. She noted that one of the reasons she would like to raise the fence is that, because of the grade of the land, the six-foot fence affords all of the other houses except for two (2) on the Wanakah Heights street privacy in their backyard. She stated that she would like to raise the fence two (2) feet in the area of the other two (2) houses on the Wanakah Heights streets and would step it up if the variance is granted.

Mrs. Hafner stated that she does not have any privacy because the people who live in the two (2) homes in question can stand in their houses and see her entire property.

Mrs. Hafner stated that the neighbor renting 41 Wanakah Heights has continuously harassed her and her family by yelling, filming them, swearing, etc., which has been aggravating and she has no peace in her backyard.

Mrs. Hafner submitted copies of police reports relating to the above.

In response to a question from Mr. Dimpfl, Mrs. Hafner stated that the fence would be higher behind 41 Wanakah Heights and partially behind 40 Wanakah Heights.

In response to a question from Mrs. desJardins, Mrs. Hafner stated that the grade of the Wanakah Heights properties closer to the lake is higher than the grade of her property.

Chairman Rybczynski noted that Mrs. Hafner submitted three (3) police reports for the record.

A former neighbor of Mrs. Hafner's, Lisa Karwas, stated that the Hafner's were very helpful and great neighbors. She stated that she has witnessed the neighbor Mrs. Hafner referred to being obsessed with the family, their dogs, etc. She further noted that she has witnessed the neighbor yelling at the family and recording their activities. She stated that this is a situation that needs some sort of remedy.

Ann Marie Sinatra stated that she is the applicant's adjacent neighbor to the south. She stated that the Hafners are great neighbors and she has heard the neighbor Mrs. Hafner is concerned about mocking her and shouting profanities at her.

Patricia Roberts, 40 Wanakah Heights, stated that she has no problem with the applicant and asked why the applicant wants to put the higher fence behind her home. She noted that she has owned her home since 1972 and when the applicant's property was owned by the Fishers, there was a 3-4 foot high chain link fence along the shared property line and she had a view of the lake. She stated that when Patrick Kane, who sold the property to the applicant, bought the property he erected the existing six-foot high fence along the property line. She stated that because of that, when she stands in her yard she cannot see the lake.

Ms. Roberts stated that if the applicant is allowed to erect a fence two (2) feet higher than what exists along their shared property line, she will feel like she is living in a prison. She stated that she does not want the higher fence there.

Chairman Rybczynski advised Ms. Roberts that it did not appear that the applicant had any problems with her. He stated that Ms. Roberts is a victim of circumstance because she lives next to the woman the applicant has a problem with.

Maura Hartwig, 41 Wanakah Heights, stated that she is the person the applicant seemed to have the problem with. She stated that there have been disagreements between her and the applicant that began when the applicant's dogs attacked her dog.

In response to a question from Chairman Rybczynski, Ms. Hartwig stated that when her dog was attacked she did not call the police.

Ms. Hartwig stated that she and the applicant do not get along and she does not shout things over the fence at the applicant. She did admit to mocking the applicant and stated that other neighbors mock the applicant as well. She stated that she does not video the applicant and simply works from home as a seamstress.

Ms. Hartwig stated that the existing fence along her rear property line is less than ten (10) feet from her windows and an eight-foot fence would inhibit a lot of natural light and darken her home.

Ms. Hartwig stated that she is not a creep, a trouble-maker or a menace and she does not plan on staying in the home much longer. She noted that she is renting the home.

Ms. Hartwig stated that she has not any interaction with the applicant in the past six (6) months. She stated that the applicant has said awful things to her.

Ms. Roberts stated that since Ms. Hartwig does not plan to stay in the home much longer, it would be a shame if the higher fence goes up and Ms. Hartwig is not even in the home.

In response to a question from Mr. Dimpfl, Mrs. Hafner stated that the proposed fence would be behind 40 and 41 Wanakah Heights completely. She stated, however, that because the Wanakah Heights properties get higher the closer to the lake they are, the effect on Ms. Roberts and Ms. Hartwig would be just like having a six-foot fence behind their homes. Mrs. Hafner stated that she has no privacy in her backyard because of this change in grade.

Mrs. Hafner stated that her dogs have never attacked anything other than squirrels or rabbits. She further stated that she has never had a conversation with Ms. Hartwig.

Ms. Roberts stated that the applicant's home is so far away from the fence that she does not understand how anyone on Wanakah Heights could look in to her windows.

Ms. Hartwig stated that the applicant's home is far enough away that she cannot see into it. She stated that the only portion of the applicant's yard she can see is the extreme southwestern portion. She stated that she did not understand why the applicant was making such a big deal about her perceived problem.

Chairman Rybczynski advised Ms. Hartwig that the applicant has, on three (3) occasions, felt the need to call the police regarding her behavior.

In response to a question from Ms. Falkiewicz, Mrs. desJardins confirmed that Ms. Hartwig's landlord, owner of 41 Wanakah Heights, was notified of the requested variance and did not contact the Planning Department.

Ms. Sinatra stated that when one is in the applicant's back yard, one can clearly see Ms. Hartwig looking out her windows and hear her shouting at the applicant.

Findings:

Mr. Dimpfl asked Mrs. Hafner what the reasoning was for wanting the fence to also be behind Ms. Roberts' property.

Mrs. Hafner responded that Ms. Roberts' property is substantially higher than the properties on Wanakah Heights that are closer to Old Lakeshore Road. She noted that the existing six-foot fence affords privacy for her from the properties further from the lake but not from Ms. Roberts' or Ms. Hartwig's properties.

In response to a question from Ms. Falkiewicz, Mrs. Hafner stated that she would step the fence up slightly to eight (8) feet.

Chairman Rybczynski read a portion of one of the police reports filed (complaint # 20-028508, Town of Hamburg Police Department, date received 11/5/2020) that referenced Ms. Hartwig stating that she had decided to move because of the animosity from Mrs. Hafner.

Ms. Hartwig stated that the pandemic was the reason she did not move.

Chairman Rybczynski made a MOTION, seconded by Ms. Falkiewicz, to approve Application # 5963.

On the question:

Chairman Rybczynski reviewed the area variance criteria as follows:

1. Whether the benefit sought can be achieved by other means feasible to the applicant – No, trees take time to grow and it would be a great distance the applicant would have to plant them.
2. Whether there would be an undesirable change in neighborhood character or to nearby properties – No, the lay of the land will actually make it appear as if it is a six-foot fence.
3. Whether the request is substantial – This could go either way, but it falls in favor of the applicant.
4. Whether the request will have adverse physical or environmental effects – No.
5. Whether the alleged difficulty is self-created – This difficulty was not self-created.

All members voted in favor of the motion. **GRANTED**

Mr. Dimpfl made a MOTION, seconded by Ms. Falkiewicz, to approve the minutes of November 1, 2022. All members voted in favor of the motion.

Ms. Falkiewicz made a MOTION, seconded by Mrs. Hahn, to adjourn the meeting. All members voted in favor of the motion.

The meeting was adjourned at 8:00 P.M.

Respectfully submitted,
Nicole Falkiewicz, Secretary
Board of Zoning Appeals

DATE: December 12, 2022

August 22, 2023

HARRIS BEACH PLC
ATTORNEYS AT LAW

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PITTSFORD, NEW YORK 14534
585.419.8800

FRANK C. PAVIA
MEMBER
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FPAVIA@HARRISBEACH.COM

Chairman Brad Rybczynski
Town of Hamburg Zoning Board of Appeals
Town of Hamburg Town Hall
6100 South Park Avenue
Hamburg, NY 14075

RE: Hutton ST 21, LLC
Area Variances issued for 5363 Southwestern Boulevard
Application No. 5960

Dear Chairman Rybczynski:

We are counsel to Hutton ST 21, LLC ("Hutton"), and write to provide you an update on our client's special use permit and site plan applications before the Town of Hamburg Planning Board regarding the proposed development of a 4,562 square foot automated car wash at 5363 Southwestern Boulevard in the Town of Hamburg (the "Project").

On August 7, 2023, the Planning Board issued a positive declaration pursuant to the New York State Environmental Quality Review Act ("SEQRA") requiring Hutton to prepare a draft environmental impact statement to assess certain potential significant adverse environmental impacts associated with the Project. Therefore, the Planning Board's final decisions on the special use permit and site plan applications for the Project are placed on hold until the SEQRA review process has been completed.

As such, pursuant to Section 280-311(J)(1) of the Town of Hamburg Zoning Law, we respectfully request that the Zoning Board of Appeals confirm that the authority of the area variances granted for the Project have been extended until such time that a special use permit, site plan approval, and a building permit have been secured for the Project.

If you have any questions regarding the status of the Project, please feel free to contact our office.

Respectfully submitted,



Frank C. Pavia

cc: Hutton ST 21, LLC
Michelle Parker, Esq., Zoning Board of Appeals Attorney

From: [Michelle Parker](#)
To: [Frank C. Pavia](#)
Cc: [Rob Spiak](#); [Brad Rybczynski](#)
Subject: Re: ZBA Letter
Date: Wednesday, September 6, 2023 11:02:42 AM

Hi Frank -

No further action by the ZBA is required. The process has to wind out with the Planning Board.

Good luck,

Michelle Parker
Counsel, Hamburg ZBA

Sent from my iPhone

On Sep 6, 2023, at 10:56 AM, Frank C. Pavia <fpavia@harrisbeach.com> wrote:

<!--[if !supportAnnotations]--><!--[endif]-->
Michelle,

Just following up on your meeting with the ZBA Chair last night. Can you please confirm at your earliest convenience whether he is in agreement with your understanding below?
Thank you.

Frank

Frank C. Pavia
Partner

99 Garnsey Road
Pittsford, NY 14534
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585.255.0511 Mobile
585.419.8801 Fax
585.419.8800 Main



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[Newark, NJ](#) | [Washington, D.C.](#)

From: Michelle Parker <mparkeratty@yahoo.com>

Sent: Friday, September 1, 2023 12:52 PM

To: Frank C. Pavia <fpavia@HarrisBeach.com>
Cc: Rob Spiak <rspiak@hutton.build>; Brad Rybczynski
<brybczynski@townofhamburgny.gov>
Subject: Fw: ZBA Letter

Hi Frank -

Will confer with ZBA Chair Brad Rybczynski on this when I see him at the ZBA meeting on Tuesday, September 5.

My understanding is that if an area variance is subject to SEQR (height, lot size, etc.) then no municipal timeframes for approval start to run until the SEQR process is completed.

Will be in touch.

Thanks,

Michelle Parker
Counsel, Hamburg ZBA

----- Forwarded Message -----

From: Frank C. Pavia <fpavia@harrisbeach.com>
To: mparkeratty@yahoo.com <mparkeratty@yahoo.com>
Cc: Rob Spiak <rspiak@hutton.build>
Sent: Monday, August 28, 2023 at 05:33:45 PM EDT
Subject: ZBA Letter

Michelle,

Thank you for returning my phone call. Attached is a copy of the letter I sent last week to the ZBA Chair.

Frank

Frank C. Pavia
Partner

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Statement of Confidentiality

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Rebecca Spurr

From: Mark lorquet <marklorquet@gmail.com>
Sent: Thursday, February 16, 2023 8:12 AM
To: Aktas, Jason
Subject: Re: Car Wash 53 63 Southwestern Blvd

CAUTION: External Email

He already was at the proposed carwash site and forwarded comments regarding the lack of a barrier for the residents on Abel Road.

On Thu, Feb 16, 2023 at 07:47 Aktas, Jason <jaktas@stonefieldeng.com> wrote:

Mark – Thanks for sending these over. Will the CABs arborist be needed to visit the site to look at the existing trees? The Planning Commission brought this up in our workshop with them.

Jason Aktas

STONEFIELD

92 Park Avenue, Rutherford, NJ 07070

M 862.220.7973

jaktas@stonefieldeng.com | stonefieldeng.com

From: Mark lorquet <marklorquet@gmail.com>
Sent: Tuesday, February 14, 2023 10:40 PM
To: Aktas, Jason <jaktas@stonefieldeng.com>
Subject: Fwd: Car Wash 53 63 Southwestern Blvd

CAUTION: External Email

Jason. The Conservation Advisory Boards concerns are listed below regarding trees/ Landscaping plans

Begin forwarded message:

From: Mark lorquet <marklorquet@gmail.com>
Date: February 10, 2023 at 12:00:24 EST
To: Gardy Low <garlowjr@aol.com>
Subject: Fwd: FW: Car Wash 53 63 Southwestern Blvd

----- Forwarded message -----

From: leonarockwood rockwood <leonaroc@hotmail.com>
Date: Fri, Feb 10, 2023 at 11:57
Subject: FW: Car Wash 53 63 Southwestern Blvd
To: Mark Lorquet <marklorquet58@icloud.com>, Mark lorquet <marklorquet@gmail.com>, Mark lorquet <marklorquet@yahoo.com>, Gardy <garlowjr@aol.com>

Sent 2/10/23

From: leonarockwood rockwood <leonaroc@hotmail.com>
Sent: Friday, February 10, 2023 11:46 AM
To: areilly@wendelcompanies.com; Joshua Rogers <jrogers@townofhamburgny.gov>; wclarkesq@gmail.com
Subject: Car Wash 53 63 Southwestern Blvd

CAB Comments: Car Wash 5363 Southwestern

Feb 10,2023

Concerns for landscape design need for more diverse tree selection. Include foundational plants along with grasses for 4 season interest. Concerns for long term plant maintenance.

Adequate screening for adjoining residential areas

Adequate screening & appearance for Southwestern Blvd

Concerns for noise & light pollution

Increase pressure on sanitary sewer system

Have local residents received adequate notification

JAY A. POHLMAN, ESQ.

Attorney at Law

3990 MCKINLEY PKWY., SUITE 1
BLASDELL, NEW YORK 14219
OFFICE: (716) 825.2000
FAX: (716) 824.3920
EMAIL: jpohlmanesq@yahoo.com

April 18, 2023

Town of Hamburg Planning Board
William Clark, Chairman
Hamburg Town Hall
S-6100 South Park Avenue
Hamburg, New York 14075

RE: Mod Wash
Planning Board
5363 Southwestern Boulevard

Dear Chairman Clark and Members of the Town of Hamburg Planning Board:

Please be advised that I represent three immediate neighbors contiguous to this proposed project to the south, all of whom reside on Abel Road:

1. Mr. and Mrs. John Werely, 5456 Abel Road.
2. Mr. and Mrs. Jason Haley and Elianet Ramirez-Suarez, 5444 Abel Road.
3. Mr. and Mrs. Michael Lopez, 5436 Abel Road.

In short, their lives and the values of their homes are going to be severely impacted by this project based on the following:

1. For some reason, (that I hope to explore with Mr. Rooth and possibly caused by the retirement of Sarah DesJardins), the parties even as immediate neighbors, were not notified of the previous application by the Mod Wash car wash applicant for a significant variance that would normally exclude this type of major, noise centered commercial development given to this proximity to these three residences. This is especially important when we have the juxtaposition of the commercial zoning for which the project is proposed butting up against the residential homes.

2. It is anticipated that the developer will be presenting you with revised/modified set of plans with changes that have been requested to date. Without a chance to review the changes it would seem premature to act on the car wash approval this month. We have not even had a chance to review those or digest those and yet the developer either because of an expiring contract to acquire the property or the time slot availability of a construction contractor, is trying to expedite the project through the review process. I would suggest that that is not the intent of the Hamburg Town Code Site Plan Review Procedure nor consistent with SEQR.

I would encourage all of you to visit the site for three reasons:

1. This type of commercial car wash is not going to be similar to the neighboring Mavis Auto Center and should not be built in its image. At Mavis all the tire changing is done indoors and the only noise impact is from the air guns removing lug nuts. To the contrary, this car wash is going to have a significant noise component based on the dryers, the car wash, sprayers, idling cars in the stacking line for access to the wash, vacuums, etc. Just in looking at the developer's noise study, they indicate that the rear property line will have approximately 85 decibels resulting from the car wash. I have included a print out evidencing other noises that we are all familiar with that equate to an 85 dB noise level and among them you will see police car siren, snowblower, passing train or truck, etc. I would suggest that this noise is not going to be intermittent but constant for 12 hours a day, 7 days a week, 365 days a year.

2. The developers in my opinion have way over stated the site green buffer. In fact, having visited the site, as confirmed by the photographs distributed this evening by Ms. Lopez, you can see the lack of any significant green space and only scrub bushes of less than 5 feet in height. In addition, everything is deciduous and there is no year round greenery. Even a berm topped by 10 to 12 foot evergreens (think Milestrip bypass berm) will be ineffective as a visual barrier or a noise barrier given the significantly higher level of my clients' residences.


3. The site is from a topographical standpoint, well below the height of my clients' neighboring residential homes. As a result, they will not only be able to see and hear the entire operation severely impacting their residential enjoyment of their homes, swimming pools, back yard BBQs etc. There will be no benefit from a fence or greenery placed on the applicant's site. I would suggest that since this is the "dividing line" between commercial property and residential zoning, that creative steps be taken to envision fencing and a green buffer (possibly 10 to 12 foot pine trees) be placed on my clients' property at the developers expense to minimize the noise and site lines that are going to be so detrimental to the use and quiet enjoyment of their homes.

I would implore you to take the appropriate time to review this project and its implications for my clients. I will be back in town as of April 24, 2023 and anything that could be done to schedule the matter for review at the end of May, would be appreciated so that all of these concerns might be addressed.

Page Three
April 18, 2023

Thank you for your consideration.

Very truly yours,



JAY A. POHLMAN

JAP:rmw

Encls.

cc: Walter Rooth, III, – Hamburg Town Attorney - wlroothIII@townofhamburgny.gov
Jennifer Puglisi, Hamburg Planning Board Attorney – Jennifer@robinandassociates.com
Drew Reilly, Planning Consultant – areilly@wendelcompanies.com
Joshua Rogers, Town of Hamburg Planning Board – jrogers@townofhamburgny.gov

How Loud Is 85 Decibels?

You can evaluate how loud 85 dB is by comparing it to different noises in your surroundings. Generally, 85 dB is a noise level that equals the sound of heavy traffic, food blender, movie theater, noisy restaurant, etc.

You see, all these noises are pretty common in our life, and we listen to them almost every day. But unfortunately, we don't know how these sounds can harm your hearing when you are exposed to them for a long time.

Here are some common sound sources as loud as 85 decibels:

- ★ Noisy hotel lobby
- ★ Airport
- ★ Police car siren
- ★ Heavy road traffic
- ★ Tractor
- ★ A passing train or truck
- ★ Hairdryer
- ★ Snowblower
- ★ Garbage disposal
- ★ Vacuum cleaner (<https://housegrail.com/who-invented-the-vacuum-cleaner/>)

HARRIS BEACH ^{PLLC}
ATTORNEYS AT LAW

May 30, 2023

99 GARNSEY ROAD
PITTSFORD, NEW YORK 14534
585.419.8800

Chairman William Clark
Town of Hamburg Planning Board
Town of Hamburg Town Hall
6100 South Park Avenue
Hamburg, New York 14075

FRANK C. PAVIA
MEMBER
DIRECT: 585.419.8709
FAX: 585.419.8801
FPAVIA@HARRISBEACH.COM

RE: Special Use Permit and Site Plan Applications: 5363 Southwestern Boulevard
(S/B/L: 182.05/1/9.2)

Dear Mr. Chairman Clark:

We are counsel to Hutton ST 21, LLC (“Hutton”) and write in response to the April 18, 2023 letter submitted by Jay B. Pohlman, Esq. to the Town of Hamburg Planning Board (the “Planning Board”) regarding Hutton’s application for the development of a 4,562 square foot automated car wash at 5363 Southwestern Boulevard in the Town of Hamburg (the “Project”).

We respectfully object to the assertions contained in Mr. Pohlman’s letter. As an initial matter, we believe it is important to note that Mr. Pohlman is an attorney and has no engineering background or expertise to support the opinions he provides regarding the Project. His statements are simply speculation, and/or at times, inaccurate.

First, his letter continues an effort to cast aspersions on the procedures in which Hutton’s area variances were reviewed and approved by the Town of Hamburg’s Zoning Board of Appeals (the “ZBA”). There is no support to the claim that the ZBA failed to comply with the requisite notice and procedural requirements in reviewing our client’s area variances application.

Secondly, over the past, several Planning Board meetings, Hutton’s team has provided multiple revised site plans containing modifications addressing comments and concerns expressed by Planning Board members including adding landscaping elements, re-orienting signage and parking areas, and increasing the number of mature trees to be planted along the southeastern boundary of the property. Hutton has also provided (as requested by the Planning Board) additional information regarding the proposed lighting, car wash operations, the environmentally safe nature of the car wash products, noise, and traffic. As such, Mr. Pohlman’s claim that the review undertaken by the Planning Board has been rushed or expedited is erroneous.

Nor does his reference to the review required by the New York State Environmental Quality Review Act (“SEQRA”) support these assertions. In fact, 6 NYCRR § 617.3(h) of the SEQRA regulations states that “[a]gencies must carry out the terms and requirements of [SEQRA] with minimum procedural and administrative delay, must avoid unnecessary duplication of reporting and review requirements...and must expedite all SEQR proceedings in the interest of prompt review.”

Thirdly, consistent with ModWash’s commercial branding, the proposed car wash will not be built in the image of the neighboring Mavis Discount Tire, as clearly demonstrated by the architectural renderings provided to the Planning Board. Furthermore, as explained by Hutton at

previous Planning Board meetings, the washing operations will be conducted within the internal space of the facility, while the vacuums are located in the front of the property along Southwestern Boulevard in order to lengthen their distance from the residences and stay consistent with the noise levels generated by on-going traffic on that road.

We further submit that Mr. Pohlman's claim that the noise study provided by Hutton stated that noise levels at the southeastern boundary will be at 85 decibel levels is wrong. There is no reference to an 85-decibel level in the study. Moreover, his attempt to submit a "print out" as proof of similar uses generating 85 decibel levels is specious. The "print out" provides no reference to who generated the table; what scientifically acceptable methodology was used to support its claims; and is void of any consideration for distances, background noise levels, and surrounding natural elements.

Mr. Pohlman further opines, without supporting data or modeling, that he finds the tree buffer proposed for the southeastern property boundary as "over stated." However, taking into consideration the existing topography, Hutton's consultants have shown that the planting of numerous trees at 12-to-15 feet in height, along with the topography and landscaping elements proposed in and around the car wash structure, will avoid potential significant adverse noise and visual impacts.

Hutton ultimately remains committed to working with the Planning Board to address remaining concerns. Towards that goal, Hutton submits a further revised site plan incorporating the installation of a 6-foot tall fence with the proposed planting of the trees running along the southeastern boundary of the property. This fence will act as an additional visual and noise reduction element which will provide further buffering of the car wash from the neighboring residences.

As requested, Hutton also submits a site-specific study assessing the potential noise levels resulting from the car wash operations. The noise study further explains that at the residential property with the inclusion of proposed fencing, the vacuum producers will generate a 34 dBA level (in comparison with continuous baseline levels of 51 dBA between 8:00 am and 8:00 pm); the vacuum producers and average operation of the dryers will generate a 61 dBA level (compared to a baseline average level of 58 dBA); and the vacuum producers and instantaneous operation of the dryers will generate a 64 dBA level (as compared to a baseline transient level of 61 dBA). As such, the anticipated levels of noise emanating from the car wash vacuum and dryer operations will be consistent with existing baseline levels.

In light of the foregoing, Hutton respectfully submits that further modified site plan does not pose a potential significant adverse environmental impact; meets the requisite criteria set forth in Sections 280-312(B) and 280-323 of the Town of Hamburg Zoning Code; and warrants the issuance of the requested special use permit and site plan approval. The current site plan proposes a car wash that is in harmony with the current commercial uses located along Southwestern Boulevard; will not create a hazard to health, safety or welfare; neither alters the essential character of the neighboring commercial area nor is detrimental to the residences located beyond the southeastern boundary of the property; and will provide a public convenience and economic benefit to the community. Moreover, there is no other car wash located within 500 feet of the

property; the architectural features of the proposed car wash are in harmony with the variety of commercial and residential uses located in the surrounding areas; and the site plan design minimizes (as what is required by Section 280-323 of the Zoning Code) to the fullest extent practicable the visibility of the car wash structure from the Southwestern Boulevard.

It is well established by New York law that a specially permitted use is tantamount to a legislative finding that the use is in harmony with the general zoning plan and will not adversely affect the neighborhood. *See Retail Prop. Trust v. Board of Zoning Appeals*, 98 NY2d 190, 195 (2002); *C&A Carbone, Inc. v Holbrook*, 188 AD2d 599 (2nd Dept. 1992) and *Matter of Blanchfield v. Town of Hoosick*, 149 AD2d 1380, 1383 (3rd Dept. 2017). Section 280-81(A)(18)(e) of the Town of Hamburg Zoning Code specially permits car washes in C-2 Commercial Districts, and therefore constitutes a legislative acknowledgement that such uses are not detrimental to neighboring properties. Thus, the application of the requisite criteria set forth in Sections 280-312(B) and 280-323 of the Zoning Code cannot be weaponized in order to defeat this legislative finding, particularly when an applicant, such as Hutton, provides a comprehensive, reasonable and technically supportable site plan that meets the requirements of such criteria.

In sum, Hutton has undertaken a significant effort to meet the requisite criteria, as well as address the comments and concerns raised by both the Planning Board and the public. We therefore again respectfully request that the Planning Board grant Hutton's application for a special use permit and site plan approval.

Respectfully submitted,



Frank C. Pavia

cc: Town of Hamburg Planning Board Members
Hutton ST 21, LLC
Jason Aktas, Stonefield
Jennifer Puglisi, Esq., Town of Hamburg Planning Board Attorney
Drew Reilly, WENDEL Companies
Joshua Rodgers, WENDEL Companies

JAY A. POHLMAN, ESQ.

Attorney at Law

3990 MCKINLEY PKWY., SUITE 1

BLASDELL, NEW YORK 14219

OFFICE: (716) 825.2000

FAX: (716) 824.3920

EMAIL: jpohlmanesq@yahoo.com

July 12, 2023

Joshua Rogers and
Members of the Town of Hamburg Planning Board
Hamburg Town Hall
S-6100 South Park Avenue
Hamburg, New York 14075

RE: Mod Car Wash, 5363 Southwestern Boulevard, Hamburg
Our File: 1-0798

Dear Members of the Planning Board:

As counsel for the severely impacted residential neighbors (John Werely, Jason Haley and Michael/Betty Lopez), to the proposed car wash on Southwestern Boulevard next to Mavis Discount Tire Store, I would implore you to consider the following:

1. When my clients built their homes the property being considered for the car wash and the Mavis Discount Tire Store was zoned residential.
2. At the recent meeting the applicant reported they had a revised site plan, noise studies and updated information on car wash equipment that was quieter. What was their objection to sharing that information or having neighbors review and comment on same?
3. When the current Town of Hamburg Code was enacted, there was a very specific reason car washes were required to secure a special use permit even in a C-2 zone. The rationale is to ensure during Planning Board review that the unique noise and activity associated with a car wash will not severely impact the surrounding neighborhood. This site is not surrounded by other commercial uses but instead has more than 50% of the perimeter contiguous to residential properties.
4. I would ask you to remember the size and topography of the parcel proposed for the car wash use. No matter what mitigation in the form of trees or a fence is proposed, there will be no ability to stop noise and lights impacting my clients' homes property 360+ days a year from 8:00 am. to 8:00 p.m. Think idling vehicles, radios, blowers, dryers, vacuums, etc.

July 12, 2023

Page Two

5. It should raise red flags when the Zoning Board of Appeals (with no neighbors in attendance or aware of the variance petitions grants variances of this number and magnitude).

6. There are no sound or light mitigation steps that can be taken. A fence and trees on the second level of applicants property with resemble "Fort Apache" with no benefit.

7. If this car wash fails-closes down, it will remain a shuttered commercial, vacant building as there is almost no use that a car wash structure can be repurposed for.

8. We already have 9 existing car washes in Hamburg and this would be the tenth to blanket Hamburg existing (or approved) car washes:

- (a) Sunoco – Lake & McKinley
- (b) Kwik Fill - Lake & McKinley
- (c) McKinley Mall (3701 McKinley Parkway/TGI Friday's site)
- (d) Athol Springs
- (e) Camp Road/Southwestern Blvd.
- (f) Southwestern – adjacent to Tractor Supply
- (g) South Park – across from Fairgrounds
- (h) South Park & Southwestern
- (i) Camp Road/Apex
- (j) This pending application: 5363 Southwestern Blvd.

9. Not every site in Hamburg is good for every use.

10. Please drive to a similar car wash for example the new car wash next to Tractor Supply and exit your vehicle and listen to the decibel level and note the activity and ask yourself if you would like to reside next to that property.

11. Contrary to what was offered by the developer's representatives, simply because mitigation efforts were offered it in no way mandates that the Planning Board or the Town of Hamburg provide a Special Use Permit when the:

- Lot is too small;
- The use is not conducive to the neighborhood;
- There are many other properly zoned and buffered sites in the Town of Hamburg for another car wash.

July 12, 2023
Page Three

- There are some uses/sites that are not appropriate for a particular location ... that is why the Planning Board is given complete authority to question the site plan and deny the Special Use Permit.
- Attached are additional photographs of the site and giving further perspective to its proximity to the surrounding residential and the absurdity of the light/sound mitigation given the topography of the site and the height differential with surrounding properties.

Very truly yours,



JAY A. POHLMAN

JAP:rmw
Encls.

Town of Hamburg

Fire Chiefs' Association, Inc.

FIRE SAFETY PLANNING COMMITTEE

PROJECT DESCRIPTION

DATE: 1/6/2023

PROJECT NAME: Proposed ModWash Car Wash

ADDRESS: 5363 Southwestern Boulevard

PETITIONER: Hutton ST 21, LLC

Type of Business/Project: Proposed Car Wash

Typical process(es):

Typical building contents (and amounts): See architectural drawings included in the submission package

Number of buildings planned: 1

Building Construction Type: (i.e.: wood frame, concrete block, metal frame, etc.)

TYPE	AREA	HEIGHT	PRIME Usage	FIRE SUPPRESSION SYSTEM
#1.	See architectural drawings included in the submission package			
#2.				
#3.				

Typical occupancy loading:

Special Hazards:

Plan to be in operation by: ModWash

Other comments:

ARMOR
BIG TREE
BLASDELL
HAMBURG
LAKE SHORE
LAKE VIEW
NEWTON ABBOTT
SCRANTON
WOODLAWN

Appendix F

Minutes of Meetings of the

Town of Hamburg Planning Board

Town of Hamburg
Planning Board Meeting
February 1, 2023 Minutes

The Town of Hamburg Planning Board met for a Work Session at 6:30 P.M., followed by a Regular Meeting at 7:00 PM on Wednesday, February 1, 2023 in Room 7B of Hamburg Town Hall. Those attending included Chairman William Clark, Vice-Chairwoman Kaitlin McCormick, Dennis Chapman, Jeb Bobseine, Margaux Valenti and Cindy Gronachan.

Others in attendance included Town Planners Drew Reilly and Josh Rogers and Town Engineer Camie Jarrell.

WORK SESSION

Hutton St. 21 LLC - Requesting a Special Use Permit for and Site Plan Approval of a car wash facility to be located at 5363 Southwestern Boulevard

Attorney Frank Pavia from Harris Beach, representing the applicant, stated that the proposal is to construct a 4,562 sq.ft. automated car wash on approximately 1.83 acres of land in a C-2 district. He noted that the property is bounded by an existing Mavis Auto Center to the east and residential properties and uses to the west and south. He stated that commercial car washes are allowed in C-2 districts pursuant to the issuance of a Special Use Permit.

Attorney Pavia stated that in December 2022 the applicant was granted two (2) area variances permitting reduced setbacks of 150.8 feet and 48.1 feet respectively from the adjoining parcels to the west and south.

Attorney Pavia stated that pursuant to Section 280-312 B of the Hamburg Zoning Code, the project meets the criteria for issuance of a Special Use Permit. He noted that with the adjacent Mavis Auto Center and the Walmart Super Center across the street, the project is in harmony with the general purpose and intent of Article 46 of the Zoning Code and granting this Special Use Permit will not create a hazard to health, safety or general welfare. He further stated that a site plan design is proposed that would lessen the visual impact of the project while ensuring the safe circulation of vehicles both within the car wash and the interior of the site. He stated that the project will improve the ingress and egress point from Southwestern Boulevard that would be shared with the Mavis Auto Center.

Attorney Pavia stated that the applicant's parcel and the Mavis Auto Center parcel are separate, but some of the existing parking spots on the applicant's parcel serve the Mavis Auto Center.

It was determined that the two (2) parcels' shared property line runs through the existing driveway access.

It was further determined that the Planning Department will research the Mavis Auto Center approval and determine if any conditions were placed on that approval that would affect this project.

Attorney Pavia stated that there is a line of mature trees on the site that would be preserved and enhanced by the planting of additional evergreen trees (5 - 6') on the western and southern boundaries in order to buffer this project from the adjoining residential properties.

Ms. McCormick stated that she has received a lot of complaints and feedback from residents regarding a car wash the Planning Board recently approved regarding the night time lighting. She stated that a five- to six-foot tree is not going to obstruct light flow to a second story residence whose property line is 48 feet away. She stated that she is concerned about how screening and appropriate lighting can be provided that is not providing a view scape for these very close residential structures and properties.

A representative of Stonefield Engineers stated that there is quite an elevation difference between the applicant's property and the adjoining residential property to the west and there would be a five-to six-foot retaining wall that would wrap along the southern and western property lines. He further stated that all of the Code requirements regarding lighting in terms of property line illumination have been met and the applicant would be not be providing any kind of illumination along the adjoining residential properties.

It was determined that the applicant's property is lower than the adjoining residential properties.

Attorney Pavia stated that the design is to have the vacuum spaces in front of the building so as to be as far from the residences as possible.

It was determined that there would be no colored lights associated with this project.

Attorney Pavia stated that the operating hours would be 8:00 AM to 8:00 PM seven (7) days a week.

It was determined that the lighting would come on one (1) hour before operations cease and would stay on all night at security levels or the lights could be turned off one (1) hour after operations.

The representative from Stonefield Engineers stated that the operation would be fully automated and there would be three (3) pay stations customers can go to before entering the tunnel. He noted that the outer lane would be for VIP members who pay a monthly membership fee and there would be an on site supervisor at the pay stations at all times. He stated that there would be one (1) or two (2) key holders on site, as well as an additional supervisor.

It was determined that Attorney Pavia would confirm with the applicant to see if the vacuums could be only operable during the regular car wash hours.

It was determined that the applicant will submit the standard noise study that is done for these types of car washes.

In response to a question from Ms. Gronachan, the representative from Stonefield Engineers stated that a traffic study was prepared and it, along with the drainage calculations, are under New York State Department of Transportation (NYSDOT) review. He stated that he anticipates no impact to the roadway network and 100 trips during the peak hours are anticipated, which would not increase any kind of level of service for the roadway network. He noted that in conjunction with the approval for the Mavis Auto Center project, there was a 10,000 sq.ft. retail permitted on this site that is a much higher traffic generator than a car wash would be.

Ms. McCormick asked if it is possible to rotate the proposed layout to move the project further away from the adjacent residences.

Attorney Pavia responded that doing that would create more setback problems that would require additional variances. He noted that whatever project is proposed on this site would need relief from the rear yard setback requirements.

The representative from Stonefield Engineers stated that Ms. McCormick's idea would also cause circulation problems with the existing driveway shared with the Mavis Auto Center.

Mr. Bobseine asked if the applicant has taken any steps to reduce the project's visibility from the road.

The representative from Stonefield Engineers responded that it would not be possible to build a berm along Southwestern Boulevard because of an existing swale in that area that should be maintained.

Ms. McCormick stated that the applicant should be able to place trees close to the internal routing, which would make the monument sign more visible.

It was determined that five (5) existing parking spots on this spot will be used by the Mavis Auto Center and an agreement will be put in place between the applicant and Mavis.

Board members discussed how someone would exit if he or she gets to the pay station and then decides not to go through the car wash facility.

Chairman Clark made a motion, seconded by Mr. Bobseine, to schedule public hearings for Special Use Permit and Site Plan Approval to be held on March 1, 2023. Carried.

Ms. McCormick made a motion, seconded by Ms. Gronachan, to change the date of the public hearings to March 15, 2023. Carried.

It was determined that the Planning Department would initiate the SEQR Coordinated Review.

Engineering Department comments have been filed with the Planning Department.

REGULAR MEETING

Public Hearing - 7:00 P.M., David Manko - Requesting Site Plan Approval of Phase IV of the Mission Hills development located on the east side of Camp Road

Attorney Peter Sorgi, representing the applicant, stated that the project site is 16.4 acres and 11 buildings are proposed comprising 55 units. He stated that since this project was last reviewed by the Planning Board, the number of proposed units has been reduced from 59 to 55.

Attorney Sorgi stated that in 2022 the Planning Board determined that this phase is consistent with the original Findings Statement issued by that Board in 2010.

Mr. Bobseine read the following notice of public hearing:

"Notice is hereby given that the Town of Hamburg Planning Board will conduct a public hearing on a proposal by David Manko to construct Phase IV of the Mission Hills development located

on the east side of Camp Road. The public hearing will be held on February 1, 2023 at 7:00 P.M. in Room 7B of Hamburg Town Hall’.

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

- Paul McQuillin, Traffic Safety Advisory Board (TSAB) Coordinator, asked if a traffic study was done. He stated that this area is one of the “hot spots” in the Town and the NYSDOT will not install a traffic light at the intersection of Howard Road and Camp Road.

Chairman Clark responded that SEQR was completed in 2010 on the entire project and when Phase IV was proposed with a different number of units than what was previously envisioned, the Planning Board determined that this last phase was in accordance with the original Findings Statement issued in 2010.

Chairman Clark declared the public hearing closed.

In response to a question from Ms. McCormick, David Manko, applicant, stated that Phases I and II are completely constructed, the first ten (10) homes in Phase III have been constructed and the first home in the remainder of Phase III is currently being built. He noted that approximately 55% of the planned residences in Mission Hills have been constructed.

Ms. Valenti stated that it is concerning to her that although they will not be impacted, the wetlands on the site are approximately 20 feet from buildings.

Mr. Manko stated that absolutely no wetlands have been impacted by any phase of this development.

Ms. Jarrell stated that the Engineering Department will want to see construction fencing demarcating the wetlands. She noted that someone from the Engineering Department will be on site when the roads are being constructed.

Ms. Jarrell stated that she noticed that sidewalks are proposed but she did not see any cross walks on the site plan.

Chairman Clark made a motion, seconded by Mr. Chapman, to authorize the Planning Department to prepared draft resolutions and table this project to the Board’s February 15, 2023 meeting. Carried.

Engineering Department comments have been filed with the Planning Department.

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

Attorney Peter Sorgi, representing the applicant, stated that there is pending use variance application before the ZBA.

Chairman Clark stated that the Town Attorney spoke with the ZBA attorney and Attorney Puglisi and they concurred that the Planning Board should be the Lead Agency pertaining to SEQR. He noted that the ZBA members were advised of this and none objected.

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

“Whereas, the Town of Hamburg received an application from Hamburg Retail, LLC for a use variance from the Zoning Board of Appeals and Site Plan approval from the Hamburg Planning Board, for a project located at 4100 Saint Francis Drive in order to construct a multi-family project that includes nine (9) attached units; and

Whereas, the project appeared before the Hamburg Zoning Board and the Hamburg Planning Board; and

Whereas, that the Hamburg Zoning Board has begun a coordinated SEQR process to establish the Zoning Board as SEQR Lead Agency for the project in accordance with the New York State Environmental Quality Review Act (SEQRA); and

Whereas, the Hamburg Planning Board has received the Zoning Board’s request for SEQR Lead Agency; and

Whereas, the Hamburg Planning Board typically conducts the SEQR process for projects that include site plan approval in the Town of Hamburg and believes it is the appropriate agency to complete the SEQR process for this project to ensure that any cumulative impacts are considered (other waterfront projects are proposed), that all of the respective issues are analyzed including coastal consistency review, traffic and drainage issues, site plan layouts, overlay and design issues, and coordination occurs with the TSAB, CAB, the waterfront committee and the Hamburg Preservation Board, and therefore respectfully requests that the Zoning Board allow the Hamburg Planning Board as an Involved Agency to act as SEQR Lead Agency on this application; and

Whereas, the Hamburg Planning Board would like to receive input on this project from the ZBA and therefore requests that the Zoning Board continue their review of this application. No decision can be made until a SEQR decision is made and in accordance with SEQR provide the Planning Board with your comments.

Now, Therefore, Be It Resolved, that the Hamburg Planning Board, having received a Lead Agency request from the Hamburg ZBA, requests that the Hamburg Planning Board be Lead Agency for this project and that the Zoning Board as an Involved Agency provide their comments to the Planning Board.

Be It Further Resolved, that if the Hamburg Zoning Board agrees with the Planning Board’s request to be Lead Agency, that the Planning Department be authorized to mail this determination to other Involved and Interested Agencies notifying them of the Planning Board’s intention to act as SEQR Lead Agency.”

Carried.

Chairman Clark stated that the Town attorneys have noted that the Town Code should be amended so that before the ZBA appoints itself Lead Agency, it would have to be reviewed by the Planning Board first.

It was determined that input from the Waterfront Advisory Committee, TSAB and Conservation Advisory Board will be needed. It was further determined that a Coastal Consistency Determination will need to be made by the Planning Board with a recommendation from the Waterfront Advisory Committee.

In response to a question from Ms. Valenti, Chris Wood, project engineer, stated that the entire site would be in the brownfield program.

Chairman Clark made a motion, seconded by Mr. Chapman, to table this project to the Board's March 1, 2023 meeting. Carried.

Engineering Department comments have been filed with the Planning Department.

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

In response to a question from Ms. Valenti, Mr. Wood stated that this site is not located in a flood plain.

Chairman Clark stated that the applicant plans to request a two-lot subdivision in order to separate the existing building on the site from the vacant land associated with the proposed project.

Mr. Wood stated that he is not sure that a subdivision will be requested. He noted that the existing building is not proposed to be associated with the new rental project on the site.

Chairman Clark stated that the Hamburg Preservation Board is seeking historic structure status of the existing building on this site.

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

"Whereas, the Town of Hamburg received an application from 3800 Hoover Road, LLC for a use variance from the Zoning Board of Appeals and Site Plan approval from the Hamburg Planning Board, for a project located at 3800 Hoover Road in order to construct a multi-family project that includes seven (7) attached units; and

Whereas, the project appeared before the Hamburg Zoning Board and the Hamburg Planning Board; and

Whereas, that the Hamburg Zoning Board has begun a coordinated SEQR process to establish the Zoning Board as SEQR Lead Agency for the project in accordance with the New York State Environmental Quality Review Act (SEQRA); and

Whereas, the Hamburg Planning Board has received the Zoning Board's request for SEQR Lead Agency; and

Whereas, the Hamburg Planning Board typically conducts the SEQR process for projects that include site plan approval in the Town of Hamburg and believes it is the appropriate agency to complete the SEQR process for this project to ensure that any cumulative impacts are considered (other waterfront projects are proposed), that all of the respective issues are analyzed including coastal consistency review, traffic and drainage issues, site plan layouts, overlay and design issues, and coordination occurs with the TSAB, CAB, the waterfront committee and the Hamburg Preservation Board, and therefore respectfully requests that the Zoning Board allow the Hamburg Planning Board as an Involved Agency to act as SEQR Lead Agency on this application; and

Whereas, the Hamburg Planning Board would like to receive input on this project from the ZBA and therefore requests that the Zoning Board continue their review of this application. No decision can be made until a SEQR decision is made and in accordance with SEQR provide the Planning Board with your comments.

Now, Therefore, Be It Resolved, that the Hamburg Planning Board, having received a Lead Agency request from the Hamburg ZBA, requests that the Hamburg Planning Board be Lead Agency for this project and that the Zoning Board as an Involved Agency provide their comments to the Planning Board.

Be It Further Resolved, that if the Hamburg Zoning Board agrees with the Planning Board's request to be Lead Agency, that the Planning Department be authorized to mail this determination to other Involved and Interested Agencies notifying them of the Planning Board's intention to act as SEQR Lead Agency."

Carried.

Chairman Clark made a motion, seconded by Mr. Bobseine, to table this project to the Board's March 1, 2023 meeting. Carried.

Engineering Department comments have been filed with the Planning Department.

Planning Board to issue the Final Scoping Document for the proposed subdivision by David Manko to be located on the west side of Parker Road, south of Big Tree Road

Ms. McCormick stated that the draft Final Scoping Document circulated to Board members by Wendel refers to the draft Environmental Impact Statement (DEIS) and the draft Generic Environmental Impact Statement (DGEIS).

Mr. Reilly responded that "DGIES" should be "DEIS" throughout the entire document.

Chairman Clark made a motion, seconded by Mr. Bobseine, that the Planning Board accept the Final Scoping Document as amended for this proposed project.

Carried.

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

Mr. Reilly stated that the Conservation Advisory Board (CAB) initially only made comments on the wetland on the site and not on the trees. He stated that recently members of the CAB walked the site and are concerned about what they believe are significant trees that should be preserved.

Chris Wood, project engineer, stated that he submitted an email from the applicant's wetland/environmental consultant indicating that there are no significant trees on the site. He stated that if there are any significant trees that look like they should remain, the applicant would keep those.

Mr. Wood stated that if any trees are found on the site that the CAB and the applicant feel are significant and they are removed as part of the project, two (2) new trees could be planted by the applicant for every significant tree removed.

Chairman Clark stated that members of the CAB could mark the significant trees, the developer could identify any trees that are marked that he disagrees with and there would have to be some sort of process to referee that dispute.

Mr. Bobseine asked what the definition of "significant" is.

Leona Rockwood, CAB member, stated that members of the CAB walked the site because Mr. Wood stated on January 18, 2023 that all of the trees on the site are dead.

Mr. Wood stated that he did not indicate that all of the trees are dead. He noted that he agreed that there may be significant trees on the site.

Ms. Rockwood stated that the non-jurisdictional wetlands on the site still remain a big issue for the CAB.

Chairman Clark asked Mr. Reilly who, aside from Gardy Low on the CAB, the Town might have who could render an opinion on whether trees are "significant".

Mr. Reilly responded that Mark Lorquet, CAB Chairman, indicated to him that if the applicant and the CAB do not agree on whether certain trees are significant, the CAB would be agreeable to having an independent person walk the site and make that determination.

Ms. McCormick asked Mr. Wood if he and the developer's wetland/environmental consultant would be willing to meet members of the CAB on site to identify any disputes. Mr. Wood indicated that that would be acceptable.

Ms. Grohachan stated that she believed that this applicant should not be delayed any longer and that something should be worked out regarding whether significant trees exist on the site. She stated that the applicant has done the due diligence and at the Board's last meeting there was nothing mentioned about all the trees on the site being dead.

Board members discussed what they would be voting on. Ms. Gronachan stated that she believed that the Board should vote on the following issues:

1. Clarification on the significance of the trees on the site, have the two (2) sides meet and work that out
2. The wetland issue and whether the project is unique enough to warrant impacting the wetlands on the proposed lots

Ms. McCormick stated that she was undecided as to whether there is a hardship with the wetlands and noted that there would be clear cutting and flag lots.

Ms. McCormick read the relevant portion of the Town's wetland protection law for Board members' clarification as follows:

"It is the intent of the Town of Hamburg through these regulations to help avoid, restrict and minimize damage or loss of wetlands in the Town, ensure that wetland areas are properly identified and meet State and Federal requirements and in some cases place additional design require-

ments for the filling of wetland areas in unavoidable situations. These regulations are necessary due to the importance of these valuable natural resources and protecting public health, safety and welfare. Wetlands provide the following to the Town of Hamburg:

- In their natural state, wetlands serve to control flooding and water pollution, buffer shore lines and stream banks against erosion and maintain supplies of potable ground water.
- Wetlands also provide high quality wildlife habitat and other opportunities for recreation, scientific study and natural resource education.
- Wetlands are subject to significant development constraints because of poorly drained subsoils and the need for constructive drainage and storm water management systems to compensate for the loss of natural wetland functions.
- In a well planned community, wetlands offer the benefits of open space and natural separation of land uses.”

Ms. McCormick noted that the non-jurisdictional wetlands on the site are not accessible for recreation, scientific study or natural resource education.

Ms. McCormick read the design requirements in the Town’s wetland protection law for Board members’ clarification.

Mr. Wood noted that the developer has agreed to do the additional design requirements in the Town’s wetland protection law.

Ms. McCormick read the following excerpt from the Town’s wetland protection law:

“For site plan and subdivision applications that include areas of State or Federal non jurisdictional wetlands or potentially hydric soils, the applicant must to provide to the Town soils information. This information is to include depth to ground water, including signs and modeling and soil types. This extent of this testing will be determined at Sketch Plan or at the first meeting before the Planning Board.”

Ms. McCormick noted that soil borings will include depth to ground water, any signs of modeling and soil types on the soil testing report.

Board members discussed whether this project qualifies as “unique”. Ms. Valenti stated that the applicant has indicated that the wetlands are unavoidable.

Chairman Clark noted that Board members did not need to reiterate anything that has already been said in the several previous meetings the Board has had to review this project.

Chairman Clark made a motion, seconded by Ms. Gronachan, that the Niles Avenue subdivision meets the exception of being unique as identified by the Town’s wetland protection law.

Chairman Clark stated that he believes that this project is unique because Hamburg Town Code identifies reasons why it wants to preserve wetlands and none of those reasons applies to these particular wetlands, which makes these wetlands and this project unique as that term is defined in the Town Code.

Mr. Chapman, Mr. Bobseine, Ms. McCormick and Ms. Gronachan concurred with Chairman Clark.

Ms. Valenti stated that she agreed with Chairman Clark, but does not know that just needing to fill a wetland for the sake of a project makes the situation unique.

Board members agreed that members of the CAB, Mr. Wood and the wetland/environmental consultant will visit the site and determine which trees are significant. It was determined that if the two (2) parties disagree, the dispute will be settled by Chairman Clark. It was further determined that for every significant tree that is removed, two (2) new trees would be planted.

Ms. McCormick stated that she wanted to make sure that whatever the Planning Board recommends regarding trees on this site is consistent with how it has handled other proposed subdivisions.

Mr. Wood stated that the developer should not have to replace trees that have to be selectively removed for the building lots with two (2) new trees. He stated that selective removal of trees that could stay on the site and are not in a building footprint would be replaced at a 2:1 ratio.

Ms. McCormick stated she is concerned that given the size of the proposed lots, depending on how many trees are being removed and what standard the Board is talking about with "significance", the Planning Board will be put in a position where there are more trees it is requiring to be planted than there will be space to put them. She noted that currently the Town has no mechanism through which it can fund tree planting elsewhere. She stated that she is concerned that the Planning Board would be putting in place a condition that is not enforceable.

In response to a comment from Ms. Gronachan, Chairman Clark stated that the Town does not have a tree fund.

Ms. McCormick suggested recommending a fixed number of certain types of trees with a more robust caliper size with strategic placements, as well as leaving some sort of vegetative buffer at the back of the lots. She noted that this would be something the Building Department could enforce and the CAB could check up on. She stated that the Planning Board could also require that documentation be provided from the developer indicating that the trees on the site are surviving after two (2) to three (3) years.

Chairman Clark suggested that 84 new native mature trees be required (six (6) per lot) selected from the Town's tree list and a ten-foot buffer be required at the rear of the three (3) flag lots that would not have conservation easements behind them.

Board members discussed what caliper the required trees should be.

Ms. Gronachan stated that she does not want to add a burden to the developer that was not there to begin with.

Ms. McCormick reviewed the most recent memo from the CAB and it was determined that the concerns had been addressed.

Ms. Valenti noted that although this project will not be able to control the existing flooding that is experienced in the area, it will, because of the changes in topography, lessen the loading of water onto the neighboring properties.

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

“Whereas, the Town of Hamburg received a Subdivision application from Frank Russo for the development of a 14-lot subdivision on Niles Avenue (a previously approved subdivision of 11 lots); and

Whereas, the Hamburg Planning Board reviewed the application and revisions to the application at meetings from October of 2022 to February of 2023; and

Whereas, The Hamburg Planning Board has reviewed the project and determined that the project will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public and is consistent with social and economic considerations and a Negative Declaration was issued by the Planning Board; and

Whereas, the Hamburg Planning Board held the required public hearing on 11/16/22 and received comments from the public; and

Whereas, the Hamburg Planning Board has reviewed the project against the requirements of the Subdivision, Zoning and Wetlands Protection laws and found the project to be in accordance with those laws, noting that the non-jurisdictional wetlands on the site are not quality wetlands and that the uniqueness of the site does not allow for their avoidance.

Now, Therefore, Be It Resolved, that the Hamburg Planning Board hereby issues Preliminary Subdivision Approval with the following conditions:

- Approval is contingent upon the Engineering Department comment letter.
- Recreation fees in lieu of land will be required, as there is no appropriate place to locate a new facility.
- The construction of sidewalks shall not be waived and they will be constructed on the entirety of Niles Avenue as illustrated on the approved plans.
- Deed restrictions shall be put in place on the rear of the deep lots to restrict development on those lots;
- The storm water management area will be placed on its own lot (owned by a Homeowners Association) and it will be restricted as permanent open space and the applicant will provide the appropriate drainage easement to the Town for emergency repairs;
- The detention basin will be oversized as proposed by the applicant and approved by the Town Engineer in order to accommodate the removal of non-jurisdictional wetlands and to address existing wet conditions;
- Planting of a native mixture of 70 trees of a minimum of 2.5-inch-caliper or equivalent of coniferous trees will be required, with survivability in accordance with Town law.
- Planting of a native mixture of 14 trees of a minimum of 4-inch-caliper, or equivalent of coniferous trees will be required, with survivability in accordance with Town law.
- A ten-foot vegetative buffer conservation easement will be placed on the east ends of lots 4, 6, and 7.
- The developer will make every effort to preserve existing significant trees.”

Carried.

Engineering Department comments have been filed with the Planning Department.

OTHER BUSINESS

Chairman Clark made a motion, seconded by Ms. McCormick, to approve the minutes of January 4, 2023. As the vote on the motion was five (5) ayes and one (1) abstention (Ms. Gronachan), the motion carried.

Chairman Clark made a motion, seconded by Mr. Chapman, to adjourn the meeting. Carried.

The meeting was adjourned at 8:50 P.M.

Respectfully submitted,
Jeb Bobseine, Secretary

Date: February 15, 2022

Town of Hamburg
Planning Board Meeting
March 15, 2023 Minutes

The Town of Hamburg Planning Board met for a Work Session at 6:30 P.M., followed by a Regular Meeting at 7:00 PM on Wednesday, March 15, 2023 in Room 7B of Hamburg Town Hall. Those attending included Chairman William Clark, Vice-Chairwoman Kaitlin McCormick, Margaux Valenti, Jeb Bobseine, Cindy Gronachan and Daniel Szewc.

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

Excused: Dennis Chapman

WORK SESSION

Benderson Development - Requesting Planning Board approval of a Special Use Permit and Site Plan Approval of an 802,554 sq.ft. five-building warehouse park to be located at 5220 Camp Road

Attorney James Boglioli, representing the applicant, stated that the entire site is 79.93 acres in size and is zoned C-2 (67 acres) and R-A (12 acres). He stated that there is a 17.4-acre conservation easement that Benderson put on this site as part of the previous approval granted by the Town Board for its rezoning.

Attorney Boglioli stated that in 2009 the Hamburg Town Board rezoned 17 acres of this site from M-2 to C-2 to allow for the construction of a 652,813 sq. ft shopping center development and two (2) hotels. He noted that at that time draft and final Environmental Impact Statements were prepared and SEQR Findings were adopted. He stated that the SEQR Findings included engineered plans, the SWPPP, Engineer's Report, traffic study, noise study, wetland delineation and air quality assessment.

Attorney Boglioli stated that as part of the rezoning approval, Benderson agreed to provide the conservation easement, which was put in place. He noted that it allowed for a 150-foot buffer and a 100-foot buffer around the adjacent residential neighborhood.

Attorney Boglioli stated that all of the loading docks proposed as part of the 2009 project were facing the adjacent residential neighborhood and would have been for a grocery store with a high turnover tractor trailer user. He noted that that project was not built because the recession hit and Benderson lost the tenants.

Attorney Boglioli stated that the currently proposed project consists of five (5) buildings. He noted that Building "A" would be approximately 308,000 sq.ft., Building "B" would be 156,000 sq.ft., Building "C" would be 108,000 sq.ft., Building "D" would be 120,000 sq.ft. and Building "F" would be 108,000 sq.ft. He noted that the applicant is proposing the same two (2) access points that were previously approved (a signalized access to Camp Road and an access onto Commerce Parkway).

Attorney Boglioli stated that the conservation easement would serve as a buffer to the adjoining residential neighborhood and is naturally wooded.

Attorney Boglioli stated that the site has been redesigned so that no loading docks would face any of the adjacent residential homes and the buildings would screen the loading docks from those homes. He noted that all lighting would be dark-sky compliant and the project is designed to be below the environmental thresholds of the 2009 SEQR Findings adopted by the Town Board.

Attorney Boglioli stated that the largest building would be located along the Thruway and its loading docks would face the Thruway. He noted that all of the green space associated with the previously approved project would be maintained.

Attorney Boglioli noted that binders have been provided to the Planning Board that include all of the studies previously relied on as part of the SEQR Findings updated to 2023. He stated that the information includes new civil engineering plans, a new SWPPP, new Engineering Reports, a new traffic study, a new noise study, a new wetland and waterbody delineation report and an air quality assessment.

Attorney Boglioli stated that the current proposal maintains all of the previously approved mitigations and demonstrates that the impacts are the same as or below the previously approved project's impacts.

Attorney Boglioli noted that renderings and building elevations have been provided for Board members' review. He stated that the warehouse buildings would look very much like office buildings. He further stated that the rear of the buildings would not be visible to the neighbors because of the wooded buffer between them.

Attorney Boglioli stated that included in the information submitted is an analysis comparing the 2009 SEQR Findings and impacts vs the currently proposed project and its impacts, as well as a summary of that information.

Ms. McCormick asked for an analysis of the new Comprehensive Plan updates as they relate to the proposed project.

Mr. Reilly stated that in 2009 the Town Board rezoned a portion of this site and issued Findings, but Site Plan Approval was never requested from the Planning Board for any of the project and therefore the Planning Board never did issue its own findings. He noted that this is a very different project and things have changed.

Attorney Boglioli stated that there is case law indicating that if a Lead Agency issues Findings, those Findings are binding on the other agencies.

In response to a question from Ms. Gronachan, Attorney Boglioli stated that there would be multiple users of the warehouse buildings. He stated that they would be companies that store items to be shipped to online buyers and Amazon would not be a user.

Ms. McCormick expressed concern that the Planning Board does not know who the users would be of this warehouse and noted that some might utilize many trucks and some might utilize less. She asked how this unknown is addressed in the applicant's traffic study.

Attorney Boglioli responded that the site is properly zoned and zoning deals with the use and not the user. He stated that the applicant's traffic studies are as conservative as possible and generally overestimate the amount of traffic generated from these types of sites.

Chairman Clark made a motion, seconded by Ms. Gronachan, to table this project to the Planning Board's May 3, 2023. Carried.

Engineering Department comments have been filed with the Planning Department.

Liberatore Management - Requesting Sketch Plan Direction on a warehouse development project to be located on Burke Parkway

Chris Wood from Carmina Wood Design, project engineer, stated that three (3) warehouse buildings are proposed totaling 48,000 sq.ft. He stated that the buildings will match those on the applicant's property directly to the south. He noted that users could rent space by the bay or rent more than one (1) bay. He further stated that the property owner might take one (1) of the buildings for his own use.

Mr. Wood stated that a small public road extension would be required because Burke Parkway dead ends. He noted that at the end of the extended road an easement would be provided for snow plowing and turnaround access.

In response to a question from Mr. Bobseine, Mr. Wood stated that the buildings would not be visible from McKinley Parkway because they would be blocked by the former McKinley Park Inn building.

In response to a question from Mr. Bobseine, Mr. Wood stated that there is a rental property on the corner of Burke Parkway and Dorchester Road owned by the applicant and there are homes on Burke Parkway south of Dorchester Road.

In response to a question from Ms. McCormick, Mr. Wood stated that box trucks and construction vehicles would be the major types of vehicles accessing this site.

Chairman Clark made a motion, seconded by Ms. Gronachan, to authorize the Planning Department to initiate the SEQR Coordinated Review and table this project to the Planning Board's May 3, 2023 meeting. Carried.

Engineering Department comments have been filed with the Planning Department.

Bruce Moncton - Requesting Preliminary Plat Approval of a two-lot subdivision to be located at 3648 Old Lakeview Road

Attorney Richard Friedfertig, representing the applicant, stated that Mr. Moncton lives on the 5.66 acre property located at 3648 Old Lakeview Road. He stated that Mr. Moncton would like to subdivide this property to create a new 3.2 acre parcel to the west of his home.

In response to a question from Chairman Clark, Attorney Friedfertig stated that he spoke with Sarah desJardins (former Town Planner) and Tim Willard (Acting Supervising Code Enforcement Official) regarding the frontage on Lakeview Road for the new lot. He stated that the

width of the access on Lakeview Road is considered “legal non-conforming” because it was created so many years ago.

Board members held multiple lengthy discussions regarding the existing frontage on Old Lakeview Road of Mr. Moncton’s current property, which is zoned R-A, less than the required 100’ and considered “legal non-conforming” and the proposed 25’ of frontage for the driveway of the new lot, which is zoned R-1, less than the required 30’ and also considered “legal non-conforming” per Tim Willard.

Mr. Reilly stated that he would be questioning Mr. Willard’s determination.

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

Engineering Department comments have been filed with the Planning Department.

DATO Development, LLC - Requesting Sketch Plan Direction on a mixed-use development to be located on Southwestern Boulevard and Rogers Road

Chris Wood from Carmina Wood Design, project engineer, stated that two (2) identical four-story buildings are proposed (53,000 sq.ft. per building). He stated that the first floor would be commercial and the upper floors would be market rate apartments (30 apartments per building) and 174 parking spaces are proposed.

Mr. Wood stated that this site is part of the Brierwood Planned Unit Development (PUD) and was originally designated for residential and commercial use. He stated that the applicant believes that the two (2) proposed buildings comply with that original designation.

Mr. Wood stated that the site would be accessed via the Southwestern Boulevard entrance to the apartment development currently being constructed to the west and also via the future Rogers Road access to the People Inc. apartment project not yet constructed to the north.

In response to a question from Ms. McCormick, Mr. Wood stated that the applicant envisions retail/restaurant/office uses on the first floor of the buildings. He further stated that currently there is no proposal for a drive-thru.

Mr. Wood stated that substantial landscaping is proposed for the purpose of screening the parking area from Southwestern Boulevard and providing a buffer between this site and the future People Inc. apartment development to the north.

Mr. Reilly stated that he will provide Board members with the history of this area of the Brierwood PUD.

Ms. McCormick asked Mr. Wood to provide the rationale for the number of parking spaces proposed.

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

Engineering Department comments have been filed with the Planning Department.

REGULAR MEETING

Mr. Szewc and Ms. Gronachan introduced themselves.

Public Hearing - 7:00 P.M., Hutton Street 21, LLC - Requesting a Special Use Permit and Site Plan Approval of a car wash facility to be located at 5363 Southwestern Boulevard

Attorney Frank Pavia from Harris Beach, representing the applicant, stated that several improvements have been made to the Site Plan since the project was last reviewed by the Planning Board.

Jason Atkas from Stonefield Engineering explained the customer experience and traffic flow of this project and reminded Board members that two (2) variances were obtained from the Board of Zoning Appeals in December 2022. He noted that 20 queuing spaces are proposed. He highlighted the changes made to the Site Plan as follows:

- The existing 20-foot buffer between this site and the residential property to the south has been enhanced with evergreen trees and a five-foot high retaining wall is proposed on the western property shared with a residential property to make up for the steep slopes along the perimeter.
- Three (3) employee parking spaces have been added on site rather than having them in an area where there would have been a reciprocal access agreement with Mavis Auto Center.
- The trash enclosure is closer to the front of the site to allow better access for the trash pick-up procedure.
- Enhanced buffering has been added in the 20-foot buffer area between the site and the residential property to the south.

Mr. Atkas stated that all lighting will be LED fixtures with total cutoff and has been designed to minimize any impact to the adjoining properties, specifically the residential homes to the west and south of the site.

Mr. Atkas stated that three (3) trees are proposed along the frontage of the site that would match the trees along the frontage of the Mavis Auto Center site.

Attorney Pavia stated that because there was some concern regarding the noise levels from the vacuums, an engineering report was submitted regarding the decibel levels associated with the vacuums.

In response to a question from Mr. Bobseine, Attorney Pavia stated that no one from the public spoke at the Board of Zoning Appeals meeting in December. He further stated that the required signage was posted on the site regarding the requested Site Plan Approval, but the applicant has not specifically reached out to the owners of the adjacent residential properties.

In response to a question from Mr. Bobseine, Mr. Atkas stated that additional landscaping was not added along the frontage of the site but more buffering was added along the west and south property lines in conjunction with the Conservation Advisory Board's arborist.

Attorney Pavia stated that the existing drainage swale along the front of the site makes it challenging to add landscaping in that area.

Mr. Bobseine noted that the Town Code indicates that visibility at the road shall be minimized for car wash projects.

Mr. Atkas stated that the applicant is providing as much landscaping along the road as is possible. He noted that the site is quite difficult to develop given its shape and the Town's setback requirements and adding landscaping along the front would limit the visibility of the site.

Attorney Pavia noted that the car wash building would be located further from Southwestern Boulevard than the Mavis Auto Center building is.

Mr. Bobseine responded that the Mavis Auto Center is not a car wash.

Attorney Pavia stated that he feels that given the fact that additional landscaping has been added on the east, south and west sides of the site, the applicant has moved significantly forward in screening the building. He noted that the existing swale cannot be impacted but perhaps some grasses could be planted in the area of the street trees or landscaping could be added in the median of the driveway.

In response to a question from Ms. Valenti, Mr. Atkas stated that operating hours would be 8:00 AM to 8:00 PM seven (7) days a week and the vacuums would be available during those hours.

In response to a question from Mr. Reilly, Mr. Atkas stated that the security lighting would stay on overnight, but all of the LED fixtures for each vacuum area and the pay stations would be turned off.

In response to a question from Mr. Bobseine, Mr. Atkas stated that there would be three (3) area parking fixtures throughout the parking lot and they would be on all night. He confirmed that they would be dark-sky compliant.

Chairman Clark noted that when the adjacent Mavis Auto Center was being reviewed by the Planning Board, it requested that the building match the colors of the Walmart across the street. He asked Attorney Pavia to make sure the applicant does the same with the car wash building.

It was noted that the Planning Board was not asking the applicant to match the colors on its ground sign to the Walmart building, but rather the colors on the building itself.

In response to a question from Ms. Gronachan, Mr. Atkas stated that additional screening has been added to the Site Plan to further buffer the residential property to the south. He stated that this screening would also buffer the residential property to the west from the view of the sign above the bay that would face that property.

Mr. Bobseine read the following notice of public hearing:

"Notice is hereby given that the Town of Hamburg Planning Board will conduct a public hearing on a proposal by Hutton Street 21, LLC to construct a car wash facility to be located at 5363 Southwestern Boulevard. The public hearing will be held on March 15, 2023 at 7:00 PM in Room 7B of Hamburg Town Hall."

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

- Jason Haley, 5444 Abel Road, stated that he lives south of the subject site. He stated that his concerns about having a car wash installed next to his property include noise, noise pollution, light, chemicals from the car wash mist and overspray leading to microbial growth. He asked if Hamburg is becoming a town of car washes. He stated that he and his neighbors were not notified of the Board of Zoning Appeals meeting in December and therefore did not attend that meeting. He stated that the nearby residents' back yards are significantly closer to the new car wash location than the homes are and the neighbor's pool many of the nearby residents use is only 75 feet from the car wash location. He stated that many small children live and visit this area that is quite close to the applicant's property. He stated that the existing tree line is not mature enough to block the car wash facility from the nearby residents. He stated that the tree line contains many ash trees that are not healthy and are falling down. He stated that the topography of this area is far from normal in that the nearby residential properties are 10-15 feet higher than the applicant's property. He stated that because of the grade difference, the parking lot fixtures would be at first floor level for the neighbors and noise and light would end up in the neighbors' back yards and homes. He stated that after Mavis clear cut the portion of the site being considered for the car wash, neighbors can now hear intercom noise from Walmart and people's panic buttons being activated to locate their cars at Walmart. He noted that that is significantly further from his and his neighbors' properties than the car wash would be. He stated that the Planning Board's decision will have impacts on his and his neighbors' properties, daily life and activities.
- Elizabeth Lopez, 5436 Abel Road, stated that she lives directly behind the proposed car wash property. She stated that she agreed with Mr. Haley and also was not notified of the Board of Zoning Appeals meeting in December. She stated that she is out in her yard often with young grandchildren enjoying her pool and gardens and she does not want to have to endure chemicals from the car wash mist, overspray and car exhaust while enjoying her yard in the summer. She stated that her property is much higher than the applicant's and noted that there is a swale at the property line. She asked what type of planting would grow there and noted that it took 15 years for the evergreens she planted on the property line to become mature. She stated that there have been many accidents on the corner of Southwestern Boulevard and Rogers Road and noted that adding the car wash will increase the noise in the area. She asked for more buffering to protect her neighborhood.

Ms. McCormick read the following relevant comments received on Facebook:

- Adriana Ramirez: "By pushing the building farther away from Southwestern, are you now being closer to the residential area for which you already had to file a non-conformity?"
- Liza Eppler: "Thank goodness a real resident shows up to protest. Way to go."

Chairman Clark declared the public hearing closed.

Attorney Pavia stated that he would like to address some of the comments that were made.

Chairman Clark advised Attorney Pavia to submit comments in writing to the Planning Board addressing the neighbors' concerns.

Ms. Gronachan suggested that the applicant consider a berm, considering what the nearby residents noted during the public hearing.

Attorney Pavia stated that a berm could be considered, as well as additional trees in the buffer areas. He further stated that all of the chemicals used by this car wash would be biodegradable. He noted that the car wash would be a closed loop system, meaning that the vast majority of the water that would be used would be recycled.

Attorney Pavia noted for the record that his client did not remove all the trees on this site. He noted that Mavis Auto Center removed those trees.

Mr Bobseine stated that the issues still outstanding are as follows:

- Additional landscaping in the front of the site
- Additional landscaping/buffering along the southern side of the site
- Revisions to the renderings of the buildings regarding the colors matching those of Walmart

Chairman Clark made a motion, seconded by Ms. Grohachan, to table this project to the Planning Board's April 19, 2023 meeting and authorize the Planning Department to prepare draft resolutions to be returnable on April 19, 2023. Carried.

Engineering Department comments have been filed with the Planning Department.

Planning Board to issue the final Scoping Document for proposed project by Glenn Wetzl to be constructed on a portion of approximately 42.5 acres of vacant located at 0 Big Tree Road and 0 Wilson Road

Mr. Rogers stated that comments were received on March 15, 2023 from the New York Department of Conservation (DEC) that were typical and from the New York State Department of Transportation (DOT) indicating that it will review the traffic impact study.

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

"Whereas, in accordance with Part 617 of the Implementing Regulations pertaining to Article 8 State Environmental Quality Review Act (SEQR) of the Environmental Conservation Law, the Hamburg Planning Board, acting as SEQR Lead Agency, issued a Positive Declaration on the Glenn Wetzl project (proposed rezoning and multi-family development) located off of Big Tree Road; and

Whereas, the applicant submitted a draft Scoping Document and the Planning Board held a Public Scoping Meeting on March 1, 2023 and has received input from other individuals and Interested Agencies; and

Whereas, the Planning Board, with the Planning Department, has completed the final Scoping Document.

Therefore, Be It Resolved that the Planning Board issues the final Scoping Document as amended but will continue to take any input from any Involved and Interested Agencies and any additional comments will be addressed in the draft Environmental Impact Statement."

Carried.

716 Storage, LLC - Requesting Planning Board approval of a Special Use Permit and Site Plan Approval of a 71,400 sq.ft. self-storage facility on vacant land located on the southwestern corner of South Park Avenue and Southwestern Boulevard

Chris Wood from Carmina Wood Design, project engineer, stated that rather than proposing outdoor storage for vehicles, buildings have been added to the Site Plan for indoor storage of those vehicles. He noted that there will be no outdoor storage and therefore a Special Use Permit will not be required.

Board members discussed a comment letter received from Mr. Josh Best, a nearby business owner, regarding the aesthetics of the proposed building. Mr. Wood showed Board members elevations of the building and noted that landscaping is proposed along both Bayview Road and South Park Avenue. He further stated that the architect on this project put a lot of effort into breaking up the long wall facing Bayview Road.

In response to a question from Mr. Bobseine, Mr. Wood stated that sidewalks are not proposed along Bayview Road, nor do they exist in that area.

In response to a question from Ms. McCormick, Mr. Wood stated that the applicant would be willing to install sidewalks along the Bayview Road frontage of this site.

In response to one of the comments made by Mr. Best in his letter, Mr. Wood stated that although the proposed building is 71,000 sq.ft., the net leasable area would be approximately 50,000 sq.ft. He noted that a typical indoor storage facility is 100,000 sq.ft. in area with a net leasable area of approximately 90,000 sq.ft.

Mr. Reilly reminded Board members that this site was part of the approved Hamburg Business Park and the Findings were amended in 2021 when the Town Board added car washes to the permitted uses in the Park.

Mr. Dave Burke, applicant, stated that in 2022 the Town Board approved the rezoning of the parcel across Riley Boulevard from this site and during the review process the Planning Board asked him for a plan for the remainder of the Park. He noted that the plan he submitted to the Planning Board at that time showed this site being used for self-storage.

In response to a question from Ms. McCormick, Mr. Wood agreed to revise the Site Plan to include sidewalks along Bayview Road.

In response to a comment from Ms. McCormick, Mr. Reilly agreed to provide Board members with the total impervious surface associated with development that was previously approved for the entire build out of this area relative to what that number is including all of the recently approved projects in this area.

Ms. Valenti asked Mr. Wood if the applicant would consider installing perennials or a rain garden in the area where grass is proposed or something in the bio-retention area. Mr. Wood responded that if plants are installed in bio-retention areas, they die in the summer time. He stated that he will research the possibility of adding a planting area with perennials in the area of the site referred to by Ms. Valenti.

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

Engineering Department comments have been filed with the Planning Board.

Splash Car Wash - Requesting Sketch Plan Direction on a proposal to demolish the former TGI Fridays building and construct a new car wash facility at 3701 McKinley Parkway

Anthony Pandolfi from Carmina Wood Morris, project engineer, stated that the proposed car wash facility would include 24 vacuum stalls and 39 queuing spaces. He stated that the site is zoned C-2, which permits car washes with a Special Use Permit. He noted that he submitted a schematic of what the vacuum stalls would look like, as well as an hourly breakdown of the average customer counts in 2022 at the existing Splash Car Wash located at the intersection of Youngs Road and Main Street in Amherst.

Mr. Pandolfi stated that the Splash Car Wash referenced above experienced approximately 264 cars per day and the applicant would not expect this car wash to generate that large a number. He noted that the peak hours for the Amherst car wash were between 11:00 AM and 4:00 PM, which would not compete with the typical AM and PM rush hour traffic. He stated that this car wash would be largely subscription based, which would result in local people who know the area utilizing the car wash facility when it is convenient for them and when they know traffic will be at a minimum.

Mr. Pandolfi stated that a sound figure for the turbines used for the vacuums was submitted for the Board's review. He stated that at approximately 30 feet from the turbines, a sound of approximately 38 decibels would be produced. He noted that 38 decibels is just below what one would hear for a residential area at night (40 decibels). He further noted that this site is located in the center of a commercial development and not near any residential properties.

Mr. Pandolfi stated that other than an existing berm, the site is completely covered with building and pavement. He stated that a significant amount of new green space is proposed and the amount of impervious surface would be reduced by 30%.

Mr. Pandolfi stated that a SWPPP has been prepared and will be submitted to the DEC once the project is approved.

Mr. Reilly advised Mr. Pandolfi that a previous project was approved by the Planning Board on this site and the project did not move forward because it required approval from McKinley Mall, which was not granted.

Mr. Jeff Arnold from Splash Car Wash stated that he has been in this business for 23 years. He stated that this particular site does not need approval from the Mall and the site Mr. Reilly was referring to is not this site.

Mr. Arnold stated that his firm picks sites like this because it is in a completely commercial location and there are no nearby residences so there is no issue with noise, sound, light or signage. He stated that this site works very well because the public will be brought off the public road onto a private road, there would be stacking for almost 40 cars and there would never be cars backed up onto a public roadway.

Mr. Arnold stated that every bit of water, soap, dirt, oil, etc. is contained inside the building because the prepping of cars is done completely inside. He further stated that the vacuum units

are the quietest vacuums on the market and there have never been any problems at other Splash Car Wash facilities with noise.

Mr. Arnold stated that the time it takes one (1) vehicle to be washed from start to finish is approximately one (1) minute.

Chairman Clark stated that the Town does not know what will happen to the McKinley Mall in the future and currently there is no pedestrian access to it. He asked Mr. Arnold if a sidewalk could be installed along the private road and along the front of this site.

Mr. Pandolfi stated that the area Chairman Clark was referring to is actually Mall property and would not be part of this site and therefore installing sidewalks there would not be possible.

Mr. Arnold confirmed that there would be no neon or flashing lights associated with this project.

Mr. Pandolfi agreed to add more landscaping along McKinley Parkway to minimize the building's visibility from that roadway. He stated that he will submit a revised plan showing the additional landscaping.

Mr. Arnold showed Board members what the colors of the building would be.

In response to a question from Ms. Valenti, Mr. Arnold stated that an average car wash uses approximately 70 gallons of water per wash and approximately 60 of those gallons go into the sewer system. He stated that he is willing to install a reclamation system if that is something the Town would like, but those systems are not very effective.

Ms. Valenti stated that she would be interested in seeing what the effectiveness of the reclamation system would be.

Mr. Arnold stated that approximately 2/3 of his locations have reclamation systems and he is willing to put one in this facility, but they cost approximately \$250,000 and are not very effective. He noted that he would submit to the Board a comparison of water reclamation effectiveness between a facility with a reclamation system and one without one based upon sites he currently has in operation.

Chairman Clark made a motion, seconded by Mr. Bobseine, to schedule a public hearing to be held on April 19, 2023. Carried.

Engineering Department comments have been filed with the Planning Department.

OTHER BUSINESS

Ms. McCormick made a motion, seconded by Ms. Valenti, to approve the minutes of February 1, 2023. Carried. As the vote on the motion was five (5) ayes and one (1) abstention (Mr. Swecz), the motion carried.

Ms. McCormick made a motion, seconded by Ms. Grohachan, to approve the minutes of March 1, 2023. As the vote on the motion was five (5) ayes and one (1) abstention (Mr. Bobseine), the motion carried.

Mr. Swecz made a motion, seconded by Ms. Gronachan, to adjourn the meeting. Carried.

The meeting was adjourned at 9:30 P.M.

Respectfully submitted,
Jeb Bobseine, Secretary

Date: March 31, 2023

Town of Hamburg
Planning Board Meeting
April 19, 2023 Minutes

The Town of Hamburg Planning Board met for a Work Session at 6:30 P.M., followed by a Regular Meeting at 7:00 PM on Wednesday, April 19, 2023 in Room 7B of Hamburg Town Hall. Those attending included Chairman William Clark, Vice-Chairwoman Kaitlin McCormick, Margaux Valenti, Dennis Chapman, Cindy Gronachan and Daniel Szewc.

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

Excused: Jeb Bobseine

WORK SESSION

David Canfield – Requesting Sketch Plan Direction on a proposal to construct a new 2,400 sq-ft storage building at Big Tree Road and St Francis Drive

Mr. Rob Pidanick from Nussbaumer & Clarke, representing the applicant, stated that Mr. Canfield owns a landscaping and snowplow business and proposes to construct this building. He noted that the exact same plan Board members were reviewing was approved by the Planning Board four (4) years ago.

Mr. Pidanick stated that after his plan was on hold because of Covid, Mr. Canfield spoke to Dollar General, which was going to build on the site but eventually pulled out of the deal, so now he plans to build this building for himself.

Mr. Pidanick stated that in 2019 Earth Dimensions visited the site and noted that there are wetlands on the site, but there are none where Mr. Canfield proposes to develop. He submitted a letter from Earth Dimensions to Board members regarding that updated walkover.

Mr. Pidanick stated that the site is 4.2 acres in size and the proposed development area would be .55 acres.

Mr. Pidanick stated that access to the parcel would be from Big Tree Road via a new curb cut, which will have to be approved by Erie County. He further stated that the applicant can comply with all of the comments and requirements issued by the Town Engineer in 2019 regarding this proposal.

In response to a question from Mr. Reilly, Mr. Pidanick stated that the applicant's position is that at this time he does not want to commit to no further development on the site.

Mr. Pidanick showed Board members renderings of the proposed building.

It was determined that a SEQR review is not required, as it was done in 2019 when the project was originally approved.

Ms. McCormick noted that this project will have a lower impact and disturbance relative to the site than the previously approved Dollar General project would have had.

It was determined that this project must be reviewed by the Waterfront Revitalization Committee (WRC).

Chairman Clark made a motion, seconded by Mr. Chapman, to schedule a public hearing on this project to be held on May 17, 2023 meeting. Carried.

Engineering Department comments have been filed with the Planning Department.

Chuck Backus – Requesting Site Plan Direction and a Special Use Permit on a proposal to construct a 2,883 sq.ft. single family residence at 4188 Lakeshore Road

Mr. Reilly stated that the Acting Supervising Code Enforcement Official, Tim Willard, indicated that there was a miscommunication between him and the applicant's architect. He noted that Mr. Willard has indicated that the applicant must attach the new structure to the existing building in order for the project to be code compliant.

Mr. Chuck Backus, applicant, stated that Board members were given the wrong plans. He stated that the size of the proposed home has been scaled down and his architect will be revising the plans to show it attached to the existing building.

Mr. Backus stated that he will go before the WRC for its review of his project.

Mr. Backus stated that he has to stay 40 feet from the wall along Lake Erie and his plans reflect that requirement.

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

Engineering Department comments have been filed with the Planning Department.

Matthew Lanfear (Ten Lives Club) – Requesting consideration of a Site Plan Waiver on a proposal to construct a 6,000 sq.ft. building addition at 3741 Lakeshore Drive

It was determined that the applicant asked for this project to be tabled.

Engineering Department comments have been filed with the Planning Department.

REGULAR MEETING

Public Hearing – 7:00 P.M., Splash Car Wash – Requesting Site Plan Direction on a proposal to demolish the former TGI Fridays building and construct a new car wash facility at 3701 McKinley Parkway

Chris Wood from Carmina Wood Design, project engineer, stated that the proposed car wash facility would be 4,700 sq.ft. and would replace the existing TGI Fridays building. He stated that the rendering has been revised to show additional landscaping in front of the building and the updated landscaping plan has been submitted showing additional trees and foundation plantings.

Mr. Wood stated that information was submitted on the water reclamation system that will be used as requested by the Planning Board and the site plan has been revised to show a sidewalk along McKinley Parkway in the County right-of-way. He noted that because the applicant is not the owner of the mall property, the sidewalk cannot be extended into the mall area.

In response to a comment from Mr. Reilly, Mr. Wood stated that a County work permit will be required for the installation of the sidewalk.

Chairman Clark 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 Splash Car Wash to demolish the former TGI Fridays building and construct a new car wash facility at 3701 McKinley Parkway. The public hearing will be held on April 19, 2023 at 7:00 PM in Room 7B of Hamburg Town Hall.”

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

- Laura Podkulski asked for clarification on how vehicles will enter and exit the site.

Chairman Clark explained that the vehicles will use the same curb cut that was used for the former TGI Fridays.

Chairman Clark declared the public hearing closed.

Ms. McCormick noted that someone on Facebook indicated that McKinley Parkway is not a public road in that area and asked Mr. Wood to check on that. She further noted that there were comments on Facebook relative to pedestrian access.

Ms. Gronachan stated that it appears that the applicant has provided as much landscaping as possible on the site given its uniqueness.

Ms. McCormick stated that the SEQR Part 3 should note that the applicant has received the approvals and done the analysis for the connection into the existing water and sewer system. She confirmed that the applicant will comply with the New York State Department of Environmental Conservation (DEC) requirements regarding car wash facilities.

Mr. Reilly stated that the Planning Board cannot regulate hours of operation but the applicant has indicated that the car wash will close at 9:00 PM.

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

“**Whereas**, the Town of Hamburg received a special use permit and site plan application from Splash Car Wash to construct a car wash at 3701 McKinley Parkway; and

Whereas, the Hamburg Planning Board held the required public hearing and received comments from the public; and

Whereas, the Hamburg Planning Board, in accordance with the New York State Environmental Quality Review Act (SEQRA), has done a thorough review of the project and its potential impacts, and

Whereas, the Hamburg Planning Board, in accordance with SEQRA has determined that the proposed special use permit, site plan approval and construction of the car wash will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public and is consistent with social and economic considerations.

Now, Therefore, Be It Resolved, that the Town of Hamburg Planning Board hereby determines that the proposed special use permit, site plan approval and construction of the car wash is not anticipated to result in any significant adverse environmental impact and that a Negative Declaration is hereby issued and that the Planning Board Chairman is authorized to sign the EAF, which will act as the Negative Declaration.”

Carried.

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

“**Whereas**, the Town of Hamburg has reviewed the special use permit application from Splash

Car Wash for the construction of a car wash at the site of the former TGI Fridays at 3701 McKinley Parkway, based on a determination by the Town Code Enforcement Officer; and

Whereas, the Hamburg Planning Board held the required public hearing and received comments from the public; and

Whereas, the Hamburg Planning Board, in reviewing the proposed project (special use permit), has determined, in accordance with Section 280-312 and 280-323 (Commercial car washes) that:

1. The project will be in harmony with the purposes and intent of Section 280-312 (Special Use Permits).
2. The project will not create a hazard to health, safety and general welfare.
3. The project will not alter the essential character of the neighborhood, nor will it be detrimental to its residents.
4. The project will not otherwise be detrimental to the public convenience and welfare.

Specifically for commercial car washes:

A. These facilities shall not be located within 200 feet of any residential structure or within 500 feet of another such facility.

B. Architectural features of the car wash buildings and other buildings on the property will be in harmony with the surrounding uses.

C. Visibility from the road will be minimized through proper siting, setbacks, existing topographic features, berming and landscaping features.

Now, Therefore, Be It Resolved, that the Town of Hamburg Planning Board hereby determines that the proposed special use permit is in accordance with the requirements of the Town of Hamburg and therefore a special use permit is hereby issued with the following conditions:

1. It is based on the Site Plan approved by the Planning Board with any conditions attached to that Plan.
2. The applicant has stated that the car wash will not be open after 9:00 pm.
3. Lighting will be as shown on the approved site plan and internal and building lighting will be shielded, dark sky compliant and not neon or flashing colored lights.
4. Landscaping and screening shall be provided as shown on the drawings and the final plan must be approved by the Planning Department. The building will not be more than 24 feet in height.
5. A water conservation system, as described in the letter received from the applicant dated March 16, 2023, will be installed."

Carried.

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

"The Town of Hamburg Planning Board hereby grants Site Plan Approval for the Splash Car Wash project to be located at the site of the former TGI Fridays at 3701 McKinley Parkway with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated 4/15/23.

2. The landscaping plan shall be reviewed and approved by the Planning Department.
3. Sidewalks on McKinley Parkway are not waived but are conditional upon approval from the appropriate agency.”

Carried.

Chairman Clark made a motion, seconded by Ms. Gronachan, to amend the above motion to indicate that the Engineering Department comment letter is dated 4/14/23. Carried.

Engineering Department comments have been filed with the Planning Department.

716 Storage, LLC – Requesting Planning Board approval of a Special Use Permit and Site Plan Approval of a 71,400 sq.ft. self-storage facility on vacant land located on the southwestern corner of South Park Avenue and Southwestern Boulevard

Chris Wood from Carmina Wood Morris, project engineer, stated that the landscaping plan was revised and resubmitted showing a landscape feature at the corner of Bayview Road and South Park Avenue. He noted that sidewalks have been added to the Site Plan that would be located on Bayview Road to the intersection with South Park Avenue.

In response to a question from Mr. Reilly, Mr. Wood stated that he has not had any success placing plants in bio-retention areas because the plants like water and in the summer time there usually is no water in the bio-retention area and the plants usually do not survive.

Mr. Reilly stated that the original Generic Environmental Impact Statement (GEIS) that was done for the Burke Business Park did not have any thresholds for impervious surface.

Mr. Wood stated that this proposal exceeds the Town's requirement that no more than 85% of the site be impervious surface.

Board members reviewed and discussed the original Findings issued when the Burke Business Park was approved and agreed that this project is consistent with the original GEIS Findings.

In response to a question from Ms. McCormick, Mr. Wood confirmed that the landscaping plan was prepared by a licensed Landscape Architect and there will be no outdoor storage areas.

Ms. Gronachan made the following motion regarding SEQR, seconded by Mr. Chapman:

“Whereas, the Town of Hamburg received a site plan application from 716 Storage, LLC to construct a new self-storage facility at the northwest corner of South Park Avenue and Southwestern Boulevard; and

Whereas, the Hamburg Planning Board has reviewed the plan and held the required public hearing; and

Whereas, the project is located in the Hamburg Business Park, which was the subject of a GEIS and Findings were issued by the Town Board; and

Whereas, the Hamburg Planning Board, in accordance with the New York State Environmental Quality Review Act (SEQRA), as an Involved Agency, must issue its own Findings for the first project that needs to be approved by the Planning Board within this Business Park; and

Whereas, the Planning Department and Planning Board have utilized the Town Board Findings Statement to create a Findings document for the Planning Board; and

Whereas, the Planning Board has reviewed the project against the SEQR Findings Form created by the Planning Board; and

Whereas, the Hamburg Planning Board, in accordance with SEQRA, has determined that the proposed action is in accordance with the SEQR Findings and therefore will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public and is consistent with social and economic considerations.

Now, Therefore, Be It Resolved, that the Town of Hamburg Planning Board hereby issues the attached Positive SEQR Findings indicating that the project is not anticipated to result in any significant adverse environmental impact; and

Be It Further Resolved that the Planning Board Chair is authorized to sign the SEQR Findings Form, which will act as the documentation for conformance to the Findings.”

Carried.

Chairman Clark made the following motion regarding Site Plan Approval, seconded by Ms. Gronachan:

“The Planning Board, based on the issuance of a SEQR Positive Findings, review of the project in accordance with Article XLIV (Site Plan Approval) and the C-2 Zoning district requirements of the Town of Hamburg’s Zoning Code, having received and considered input from Town departments, committees and advisory boards and having completed the required public hearing, hereby grants Conditional Site Plan approval for the 716 Storage project to be located at South Park Avenue and Bayview Road with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated April 14, 2023.
2. The final landscape plan will be approved by the Planning Department and shall include the updated landscaping plan dated March 28, 2023 and presented on April 19, 2023.
3. Lighting shall be shielded and dark sky compliant as shown on the plans.
4. Neon/flashing/colored lighting shall not be utilized in the building or outside of the building.
5. No outdoor storage will be allowed.
6. The construction of sidewalks is required on Bayview Road.
7. The construction of sidewalks is waived on South Park Avenue and Southwestern Boulevard as there are existing sidewalks on those roadways.
8. The construction of sidewalks along the south side of Riley Boulevard is waived.”

Carried.

Engineering Department comments have been filed with the Planning Department.

Park Grove Realty – Requesting Site Plan direction on a proposal to construct a 70-unit multi-family development, west of Riley Boulevard

Chairman Clark stated that this site was rezoned recently by the Town Board and prior to that the Planning Board reviewed the request extensively and issued a report to the Town Board.

Mr. Tim Crilly from Park Grove Realty, representing the applicant, stated that the applicant has worked hard to incorporate feedback from the Planning Board received in February 2023 into the proposed project.

Mr. Cole Overhoff from Passero Engineering stated that the following revisions were made to the project based on feedback received from the Planning Board at its February 2023 meeting:

- A landscaped buffer is proposed between this project and the existing Tractor Supply business across the street.
- The amount of dedicated recreation space has been increased to 35,400 sq. ft., which satisfies the 35,000 sq.ft. recreation requirement and within that recreation space a community garden and playground are proposed.
- The buildings and the clubhouse were shifted to provide for the increased green space and landscaping.
- An exercise trail was requested by the Planning Board and the applicant feels that providing sidewalks throughout the site fills that need. The proposed internal pedestrian loop would be approximately 1/4 mile long and the outermost loop, which includes the front sidewalk along the property, would be approximately 1/3 mile long. The advantage of the sidewalk along the front of the site versus having a walking trail behind the building is that the sidewalk pathway would be well lit and would not affect the required drainage swales that would be located behind the buildings.
- The applicant intends to pursue a connection between this project and the adjacent school, but the existing 60-foot easement that separates the two (2) properties does not allow any improvements or encumbrances to it. The applicant has had discussions about this with the school district, which had indicated that it wants that area untouched, which the applicant will respect.
- The sidewalk along the front of the site would provide access to the edge of the school property, as well as to the adjacent vacant parcel.
- Access to the stormwater management area has been provided.
- An eight (8) cubic yard dumpster has been added to the Site Plan in order to reduce the frequency of garbage pickups.
- The applicant was asked to justify the number of proposed parking spaces, which is 105. 105 spaces amounts to 1.5 spaces per unit for .75 spaces per bed. A parking analysis was performed on four (4) similar projects that have been built and it was determined that its ratio for parking spaces to beds and parking spaces to units is very comparable to those four (4) projects, none of which have any parking space issues.

Mr. Crilly showed Board members renderings of the proposed buildings, as well as renderings of other projects the project architect has designed.

In response to a question from Mr. Chapman, Mr. Crilly stated that the tenants would take their garbage from their units to the dumpster and a private hauler will empty the dumpster. He noted that in the winter months, the sidewalks will shoveled so that tenants can easily walk to the dumpster. He agreed to research the possibility of having a pickup truck take tenants' garbage to the dumpster when there is snow on the ground.

In response to a question from Ms. Gronachan, Mr. Crilly stated that there would be two (2) dumpsters for trash and one (1) for recycling.

Board members discussed the fact that there currently are no sidewalks along Bayview Road.

In response to a comment from Mr. Chapman, Mr. Crilly agreed to look into where school buses would pick children from this development up and if that location is on Reilly Boulevard whether a shelter can be added to the Site Plan so the children are out of the weather while waiting.

In response to a question from Mr. Szewc, Mr. Crilly stated that he believes there is a NFTA bus stop off of Bayview Road, which is less than 1/4 mile from this development.

Chairman Clark made a motion, seconded by Mr. Szewc, to schedule a public hearing to be held on May 17, 2023. As Mr. Chapman was not present when the vote on the motion was held, the motion carried by a vote of 5-0.

Engineering Department comments have been filed with the Planning Department.

Hutton ST 21, LLC – Requesting a Special Use Permit for and Site Plan Approval of a car wash facility to be located at 5363 Southwestern Boulevard

Chairman Clark noted that the public hearing for this project was held in March 2023 and public input was received at that time.

Mr. Jason Atkas from Stonefield Engineering and Design, project engineer, stated that the following changes have been made to the project since this project was last reviewed by the Planning Board:

- No changes were made to the site layout and design of the car wash, but more landscaped buffering along the southern and westerly property lines was added. At least two (2) full rows of evergreen trees are proposed there.
- One (1) additional street tree was added along Southwestern Boulevard and additional shrubs were added in the landscaped island in the parking area.
- Renderings were submitted showing what the site would look like from Southwestern Boulevard.

Mr. Atkas stated that his firm looked into changing the color of the car wash building to match the Mavis and Walmart buildings as requested, but the applicant decided to stay with the previously submitted elevations, which is consistent with its corporate branding.

Chairman Clark noted that correspondence was received on April 18, 2023 from Attorney Jay Pohlman and it was determined that the applicant did not receive a copy of that correspondence.

Mr. Reilly stated that the Building Department was asked to provide a list of the property owners who were notified of the requested variances granted by the Board of Zoning Appeals (ZBA) for this project and it was provided to the Planning Department.

Attorney Frank Pavia from Harris Beach, representing the applicant, stated that he had not seen the correspondence from Attorney Pohlman and the applicant stands by its application, meets all the Town's required criteria and was granted the setback variances.

Mr. Chapman stated that he understands that the setback variances were granted by the ZBA, but he reminded Attorney Pavia that he was asked to see if the building could be moved or re-configured in order to be located further from the adjacent residential homes on Abel Road.

Mr. Chapman stated that he feels that this project would be a real imposition on those nearby neighbors.

Attorney Pavia noted that this is a very difficult site because of its configuration and the setback requirements. He stated that quite a number of additional trees have been added to the plan.

Mr. Chapman asked Attorney Pavia if he looked at the lot before the plan was put together and realized how close this facility would be to the homes on Abel Road and that setback variances would be necessary. Attorney Pavia responded in the affirmative.

Mr. Chapman stated that if someone wants to build something, he or she should make sure the project will fit on the lot without requiring large variances.

Attorney Pavia noted that this site is located in a commercial zoning district.

Mr. Chapman responded that just because a lot is zoned correctly does not mean that a square peg should be allowed in a round hole.

Attorney Pavia stated that he feels that the applicant has done an incredible job taking into consideration the input received from the Planning Board and the public. He stated that the landscaping plan is very high quality and provides good buffering for a car wash.

Ms. McCormick stated that, although the ZBA did grant area variances for this project related to the site plan requirements, the Planning Board has Special Use Permit requirements. She asked Attorney Puglisi to research how the ZBA's granted area variances relate to the required Special Use Permit the project is also requesting.

Attorney Puglisi agreed to research Ms. McCormick's question, noting that usually variances granted by the ZBA are separate from a Special Use Permit required for a project.

Mr. Reilly noted that the setback requirements that were the subject of the variance requests were related to the Special Use Permit requirements and not the site plan requirements.

Ms. Gronachan stated that she can appreciate the additional screening proposed by the applicant, but in light of what the nearby neighbors expressed at the public hearing and in light of what the Planning Board has learned about what is out there for car washes, there is reference to decibels and the sound of the dryers. She noted that she has learned that there are dryers that actually make very little noise.

In response to a question from Ms. Gronachan, Mr. Atkas stated that the dryers provided in the parking area are as far away from the residential properties as possible. He further stated that the car wash would be open between 8:00 AM and 8:00 PM and would only produce 65 decibels at the property line.

Ms. Gronachan rephrased her question, to which Attorney Pavia responded that a sound study was submitted to the Planning Board that showed that the decibel levels produced by this car wash would be relatively low. He stated that he does not know if there is something on the market that would produce less noise for the nearby residents, but he will research that question.

Attorney Pavia stated that the sound study submitted for the equipment to be used by the car wash is from the manufacturer of that equipment and showed that the anticipated decibel level would be not excessive and would be fairly consistent with normal activity on a commercial street such as Southwestern Boulevard.

Ms. Valenti noted that the Town Code regarding noise is a nuisance standard and not a requirement for a certain decibel level, so it is really about how the neighbors are going to be impacted.

In response to a question from Ms. Valenti, Mr. Atkas stated that the existing trees on the site on its southern and western sides would be removed and the proposed trees to be planted would be between five (5) and six (6) feet tall at the time of planting.

Mr. Reilly stated that the applicant did a sound level reading and not a sound study and noted that they are two (2) different things. He further stated that the sound level readings were relative to the vacuums and it appears that the Planning Board is concerned about how much noise the dryers will create.

Ms. McCormick stated that one cannot say that everything will be inside the car wash building and at the same time say that it will be open on both ends.

Chairman Clark noted that the dryers would be on the other side of the building.

Ms. McCormick stated that even though all of the other equipment that would be closer to the adjacent residential properties would be inside, because the building would be open on both ends the nearby residents feel that the sound produced would be a nuisance. She stated that not only should additional information be submitted regarding the dryers, additional information regarding the noise levels that would be occurring from the equipment that is being operated in a structure that is open on both ends should also be submitted.

Mr. Atkas stated that the generic study that was provided shows the noise contours from both the vacuums and the building.

Ms. McCormick stated that the Planning Board needs the full write up of the noise information provided and how the calculations were arrived at.

Attorney Pavia stated that he had an opportunity to read Attorney Pohlman's letter during the meeting and it contains many inaccurate statements and misstatements. He stated that he would like the opportunity to respond. He further stated that the requested additional information regarding noise will be submitted.

In response to a request from Ms. Valenti for clarification, Mr. Atkas explained that there would be overhead vacuums for customer use and when he earlier referred to "parking lot dryers" he was referring to the vacuums. He further stated that the actual dryers for the vehicles would be inside the building with the doors open.

Attorney Pavia noted that the dryers would be at the farthest point away from the residents.

Ms. Valenti asked Mr. Atkas to provide the average wind direction and speed for this area.

Mr. Szewc stated that he is concerned that the adjacent properties would be at the top of the new trees since they are higher than the car wash site.

Mr. Atkas responded that the new trees along the western property line would be planted at the same grade as the adjacent property. He noted that the same would be true for the new trees planted along the southern property line, although the grade difference is a bit less.

In response to a question from Ms. McCormick, Mr. Atkas stated that there would be no lighting on the building itself but there would be LED lights on each vacuum assembly at an elevation of ten (10) feet and the other lights would be at an elevation of 27 feet.

Attorney Pavia noted that the lights mentioned above would only be on during operation hours.

Attorney Pavia agreed to submit information regarding what the mature height of the new trees would be and how long it would take to reach that mature height if planted at five (5) to six (6) feet initially.

Mr. Atkas stated that the Conservation Advisory Board's (CAB) arborists visited the site and had no comment regarding the plantings that are currently proposed and just suggested that more of the same plantings be provided.

Ms. Gronachan stated that one of the biggest concerns about the site is the drop from the back of it to the back of the adjacent properties. She noted that this is why the Planning Board is concerned about the proposed trees. She stated that she thinks that there are ways to allow the project to go there and make the residents somewhat happier than they are at this point. She noted that one of the most affected neighbors indicated that her pool is 75 feet from where the car wash would be and she is concerned about spray from the operation getting into her pool and the area where her grandchildren play.

Mr. Atkas stated that from a topographic standpoint, the water from the car wash would never make its way to the residences. He further noted that there would be a wall that would be installed to block any runoff from traveling to the adjacent properties.

Chairman Clark noted that when one drives along Southwestern Boulevard in this area, one can see the adjacent resident's pool.

Attorney Pavia responded that this is why two (2) rows of evergreen trees are proposed.

Ms. McCormick stated that two (2) rows of evergreen trees is not what she would say rises to the level of a buffer. She noted that this would be a little bit of screening and the concern still remains that as spraying occurs, there will be aerosolized moisture. She stated that people may still complain about that depending on the prevailing winds and because the building would be open on both ends.

Ms. Valenti stated that she would like to know what the depth to the water table is on this site and how the water collection and containment system works, as well as whether water would be reused. Mr. Atkas agreed to provide that information.

Mr. Atkas responded that a reclamation system would be used and approximately 2/3 to 3/4 of the water used would be reclaimed.

Ms. McCormick asked Mr. Atkas if the applicant has any County level approvals for the installation of the underground tanks associated with the reclamation system. Mr. Atkas stated that everything was approved under the application for water and sewer approval.

Chairman Clark made a motion, seconded by Ms. Gronachan, to table this project to the Planning Board's June 7, 2023 meeting. Carried.

Engineering Department comments have been filed with the Planning Department.

DATO Development, LLC – Requesting Site Plan Direction on a mixed-use development to be located on Southwestern and Rogers Road

It was determined that the applicant asked that this project be tabled.

Engineering Department comments have been filed with the Planning Department.

Referral of Town of Hamburg Industrial Rezonings for Recommendation and Report to Town Board from Planning Board

Mr. Reilly stated that the Town is beginning the implementation of the Comprehensive Plan that was adopted earlier in 2023. He noted that the Town determined that there are some incorrectly zoned industrial properties. He discussed the following properties:

- Camp Road and Sowles Road, an old industrial area, (north of the South Shore Planned Unit Development) is to be rezoned to C-2. The R-A section of this property is actually a cemetery and not for residential use.
- The Operating Engineers site in Lakeview is zoned Industrial and there is no reason for it to be. It is used as a training facility and should be rezoned to R-A.
- Railroad Avenue and Lakeview Road was zoned Industrial years ago along the railroad when the Town thought there would be industrial growth there but there are no industrial uses and it should be rezoned to R-A.
- The Camp Road /Staley Road site where the asphalt plant is proposed is currently zoned Industrial and will be rezoned to MU1 (Mixed Use), which is a floating zone, but the Town Board can rezone a property to MU1 and then the property owner must show a plan to the Town Board before proceeding to Site Plan Approval.
- The area just outside the Village of Hamburg on Lakeview Road where it splits from Old Lakeview Road in the area of the NYSDOT highway garage should be rezoned to C-2.

Board members discussed the above suggested rezonings at length and the Planning Board will issue a report to the Town Board at its next meeting.

A.L. Asphalt - SEQR Status Update

Attorney Puglisi stated that a revised draft Environmental Impact Statement (DEIS) was submitted by the applicant and at its April 5, 2023 meeting the Planning Board acknowledged that fact, went into Executive Session and did not discuss it on the record. She asked Planning Board members for their thoughts on the submitted DEIS.

It was acknowledged that Planning Board members received a copy of the DEIS.

Ms. McCormick stated that there were extremely limited revisions to the document and the Planning Board previously provided a list of deficiencies and a slightly reduced list of deficiencies that were not addressed at all in the updates in the document.

In response to a question from Ms. McCormick, Attorney Puglisi stated that Ms. McCormick's comments are consistent with her opinion.

Attorney Kim Nasson from Phillips Lytle stated that originally the Planning Board compiled a list of 19 deficiencies, which was reduced to seven (7) deficiencies with a reservation of rights on the remaining items. She stated that the submitted revised DEIS includes the applicant's efforts to address two (2) of the seven (7) items on the list.

Attorney Nasson stated that the Planning Board's options are to move the DEIS forward to public review or to continue to reiterate the deficiencies that have been previously identified for the applicant.

It was determined that the Planning Board must vote on the above at its May 3, 2023 meeting.

Ms. McCormick stated that a Lead Agency's Final EIS is largely noting changes from the DEIS and if the Planning Board were to move the DEIS forward, there would be a substantial onus on the Planning Board to make sure that all 19 topics were adequately covered. She stated that in that case the FEIS would be a much larger and robust document than it would be if the 19 items were addressed.

Attorney Nasson stated that the SEQR Lead Agency (the Planning Board) has the ability to work with the project sponsor both on the DEIS and the FEIS, but in the end the adequacy and accuracy of the FEIS is the responsibility of the Lead Agency.

Attorney Nasson noted that the FEIS addresses changes from the DEIS but also responses to all substantive comments received on the DEIS.

Mr. Reilly stated that an FEIS is made available to the public and is sent to other agencies, but no public hearing is held on the document. He noted that the Planning Board will make Findings based on what is on the record.

Ms. Gronachan asked if the applicant gave a specific reason why all 19 deficiencies were not addressed.

Attorney Nasson responded that there has been a series of letters that have gone back and forth between the Lead Agency and the applicant since the original deficiencies list was provided in September 2022. She stated that the applicant's position has largely been that the deficiencies noted are not included in the final Scoping Document that was completed in March 2020. She stated that the Lead Agency has given its response that it disagrees and the SEQR regulations provide that there are other considerations in the regulations outside of just the Scoping Document in terms of information that needs to be provided in order for the public to assess impacts and provide comments.

Attorney Nasson stated that at this point it is essentially a disagreement between the Lead Agency and the applicant in terms of what is contemplated in the final Scoping Document and what is required to be in the document.

Attorney Nasson stated that per the SEQR guidelines, the Planning Board may continue to reject the DEIS back to the applicant for further revision if it feels that it is not sufficient for public review. She noted that there is guidance, however, that provides that if the Planning Board feels that the DEIS provides bare minimum information in terms of project details and discussion of impacts, it may move the document forward to public review while noting all of the disagreements or deficiencies and those should all be noted in the Notice of Completion, which is the document it must issue as Lead Agency in order to move the document to public review.

Attorney Nasson stated that if the Planning Board decides to move the document forward to public review, it will be asking the public to comment on the 19 items that it views as deficiencies from the DEIS, as well as on the DEIS itself.

Ms. McCormick asked Attorney Nasson if given the disagreement between the applicant and the Planning Board on what is required, it is her expectation that the applicant would be providing substantive information back to the Planning Board as it prepares the FEIS.

Attorney Nasson responded that she believes it would be absolutely reasonable for the Planning Board to ask the applicant that in advance of its determination on the DEIS.

Mr. Reilly stated that the Planning Board can hire an outside consultant to prepare sections that it does not think have been adequately addressed.

Board members discussed which entity would be responsible for the consultant's costs.

Ms. Gronachan stated that based on Attorney Nasson's comments that the Planning Board can move forward duly noting those deficiencies but allowing for public comment, she believes that is the process that the Planning Board could go forward with. She stated that the applicant has not provided the information in three (3) years.

Ms. McCormick stated that in that scenario the Planning Board would have to factor in the additional costs, as well as the timing constraints it has, if it is going to take on this level of additional effort.

Attorney Nasson stated that once the Notice of Completion is issued, a public hearing must be held within 60 days on the DEIS. She stated that within 45 days of the close of the public hearing, the Lead Agency is responsible for issuing the FEIS. She noted, however, that the SEQR regulations do clearly state that the Lead Agency can take more time if needed.

Ms. Gronachan stated that the applicant has been asked for this information and the Planning Board does not have it but yet is forced to take some sort of action. She stated that the public will know that the requested information was not submitted and she feels that the Planning Board will do a better job. She stated that it is unfortunate that the Planning Board cannot get that information.

Ms. McCormick stated that Ms. Gronachan's suggestion to move forward would be an additional cost to the Town.

Attorney Nasson stated it appears that further discussion and evaluation is needed. She stated that she can reach out to the applicant and let them know some of the Planning Board's concerns that have been noted with respect to timing, cost and burden of preparation if it decides to move forward.

Ms. Gronachan noted that if the applicant provided the requested information, it would probably speed up the process and cause less of a delay.

Attorney Nasson stated that there have been a number of requests that have come from the Lead Agency for that information.

OTHER BUSINESS

Chairman Clark made a motion, seconded by Ms. Gronachan, to approve the March 15, 2023 Planning Board minutes. As the vote on the motion was five (5) ayes and one (1) abstention (Mr. Chapman), the motion carried.

Chairman Clark made a motion, seconded by Ms. Gronachan, to approve the April 5, 2023 Planning Board meeting minutes. As the vote on the motion was five (5) ayes and one (1) abstention (Ms. McCormick), the motion carried.

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

The meeting was adjourned at 9:30 PM.

Respectfully submitted,

Jeb Bobseine, Secretary

Date: April 25, 2023

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

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

WORK SESSION

Pat DiChristopher – Requesting Preliminary Plat Approval of a two-lot subdivision to be located at 1814 North Creek Road

Ms. Patti DiChristopher, applicant, stated that she owns 8+ acres and would like to create a new one-acre parcel on North Creek Road.

It was determined that the newly created lot meets all Town requirements for size, etc.

Chairman Clark made a motion, seconded by Ms. Gronachan, to schedule a public hearing to be held on July 19, 2023, Carried.

Engineering Department comments have been filed with the Planning Department.

Blockbuster Costumes, LLC. – Requesting a Site Plan Waiver for a proposal to reuse the vacant building at 3701 McKinley Parkway for a Halloween and party goods store

It was determined that the building in question is the former Dick's Sporting Goods Store.

In response to a question from Chairman Clark, a gentleman stated that there would be no changes to the exterior of the building and a new sign would be placed where the former Dick's sign was. He noted that he has not designed or created the sign yet, but he does not anticipate it being lit.

The representative stated that he plans to seal the parking lot and re-stripe the spaces as they exist today.

Chairman Clark made a motion, seconded by Mr. Chapman, to authorize a Site Plan Waiver for this business. Carried.

Engineering Department comments have been filed with the Planning Department.

Revive Wesleyan Church – Requesting Preliminary Plat Approval of a two-lot subdivision to be located at 5133 Bayview Road

In response to a question from Chairman Clark, a representative stated that the church would like to sell the home that is located on the church's 75-acre property and plans to create a new lot in order to accomplish that.

Chairman Clark noted that a few years ago when a cell tower was proposed on the church's property, some of the nearby property owners complained about the condition this home is in. He stated that selling the home will relinquish the church from the responsibility of maintaining it.

In response to a question from Mr. Chapman, the representative stated that the remaining 74 acres will include the church, four (4) other homes and some farm land.

Chairman Clark made a motion, seconded by Mr. Szewc, to schedule a public hearing to be held on July 19, 2023. Carried.

Engineering Department comments have been filed with the Planning Board.

REGULAR MEETING

Benderson Development – Requesting Planning Board Approval of a Special Use Permit and Site Plan Approval of an 802,554 sq-ft, five building warehouse park to be located at 5220 Camp Road

It was determined that the applicant asked that this project be tabled.

Engineering Department comments have been filed with the Planning Department.

Benderson Development – Requesting Site Plan Approval for a drive-thru in McKinley Commons for a Crumbl Cookie at 4154 McKinley Parkway

Mr. Matthew Oates from Benderson Development stated that the Planning Board previously requested additional information and revisions to the Site Plan. He noted the following:

- Three (3) concrete flower pots have been added to the landscaped area next to the drive-thru to stop people from parking in that area.
- Two (2) additional crosswalk areas have been added.
- Representatives from Benderson visited the site on Thursday and Friday from noon to 3:00 PM and 5:00 PM to 7:00 PM and on Saturday from noon to 3:00 PM and counted vehicles. It was found that the maximum demand at the site for all of those time periods was 81 parking spaces, which occurred at 5:00 PM on Thursday. After construction there will be 189 parking spaces on this site and Crumbl Cookie only requires 14 spaces.

In response to a question from Mr. Chapman, Mr. Oates stated that people can walk inside a Cookie Crumbs and get cookies or use the drive-thru.

Mr. Oates noted that there are currently two (2) vacancies in this shopping center totally approximately 5,000 sq.ft.

In response to a question from Ms. McCormick, Mr. Oates stated that there are no seats inside Cookie Crumbl stores.

Ms. Valenti made the following motion, seconded by Ms. McCormick:

“In accordance with the New York State SEQRLaw, the Town of Hamburg Planning Board has reviewed the proposed site modifications at McKinley Commons, 4154 McKinley Parkway, which involve the removal of existing asphalt pavement and the construction of a drive-thru lane with curbing and landscaped areas for Crumbl Cookie and held the required public hearing on May 3, 2023. The project meets the criteria established in the SEQRLaw as a Type II Action (Section 617.5 (c) (7)) and therefore does not require completion of the SEQRLaw process.

The Planning Board hereby grants Conditional Site Plan Approval with the following conditions:

- Approval is contingent upon the Engineering Department comment letter dated June 2, 2023.
- Any new lighting must be dark-sky compliant.
- No additional sidewalks are required as they already exist in the area.”

Carried.

Engineering Department comments have been filed with the Planning Department.

Benderson Development – Requesting Site Plan Approval on a proposal to demolish the existing vacant Bank of America and construct a new 6,998 sf building at 5334 & 5340 Southwestern Blvd

Mr. Matthew Oates from Benderson Development stated that he sent Mr. Rogers a copy of the approved Site Plan for the Walmart building behind this site to make sure that Walmart has the existing striping and that can be taken care of.

Mr. Oates stated that he received from Chipotle Grill its average national data regarding stacking and it showed that on average it has two (2) customers at a time with a maximum queue of approximately four (4). He stated that Benderson then looked at the new Chipotle Grill at 3030 Niagara Falls Boulevard in Amherst and found that its maximum queue at the window was three (3) and over the span of three (3) hours there were 35 customers in the drive-thru. He stated that this shows that this site has ample stacking space since there would be space for eight (8) to nine (9) vehicles.

Mr. Oates stated that the architectural brick has been brought around to the rear of the building to break up that area. He further stated that landscaping is also proposed up along the building.

It was determined that an exterior eating area is planned and that the front of the building is facing Southwestern Boulevard.

In response to a question from Chairman Clark, Paul McQuillin, Traffic Safety Advisory Board (TSAB) Chairman, stated that the TSAB has no comments on this proposal.

In response to a question from Chairman Clark, Mr. Oates stated that a bike rack can be added to the site.

Board members reviewed Part II of the Environmental Assessment Form (EAF).

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

“In accordance with the New York State SEQRLaw, the Town of Hamburg Planning Board has reviewed the Benderson Development project, which involves the construction of a 7,000 SF retail/restaurant building along with associated parking, utility, drainage, lighting and landscaping improvements at 5334 and 5340 Southwestern Boulevard and held the required public hear-

ing on May 3, 2023. Based on this review, the Planning Board has determined that the project's environmental impacts have been avoided or mitigated to the maximum extent practicable and is not anticipated to result in any significant adverse environmental impact and a Negative Declaration is hereby issued."

Carried.

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

"Based on the review of the Benderson Development project materials and having completed the SEQR process, the Hamburg Planning Board hereby approves the project with the following conditions and determinations:

- Approval is contingent upon the Engineering Department comment letter dated June 2, 2023.
- The installation of sidewalks is waived, as sidewalks already exist in this area.
- The landscaping plan shall be approved by the Planning Department.
- A bike rack shall be installed on the right side of the building."

Carried.

Engineering Department comments have been filed with the Planning Department.

Hutton ST 21, LLC – Requesting a Special Use Permit and Site Plan Approval of a car wash facility to be located at 5363 Southwestern Boulevard

Attorney Frank Pavia from Harris Beach and Rob Spiak from Hutton St 21 LLC appeared on behalf of the project. Attorney Pavia stated that Mr. Jason Atkas, project engineer, intended to attend the meeting but his flight was cancelled and he was in the process of driving. He noted that unfortunately Mr. Atkas had the renderings and diagrams that he wanted to show Board members, although they were largely replications of the submission made the previous week.

Attorney Pavia stated that, as requested by the Planning Board, he submitted a letter addressing the comments that were raised at the public hearing by nearby residents and a site specific noise study, as well as a revised Site Plan that incorporates a six-foot high solid wood fence around the southern property line along with the previously proposed tree planting.

Attorney Pavia stated that the purpose of the proposed fence is to avoid further potential noise impacts from the dryers and vacuums that would be operated and to help with visual avoidance. He noted that in addition to the fence, there would be a wall constructed more interior to the site to help with noise and visual avoidance.

In response to a question from Chairman Clark, Mr. Spiak stated that the fence would be on the applicant's property and the applicant would be responsible for its maintenance.

Attorney Pavia stated that the modeling in the noise study shows that with the incorporation of the wood fence, the potential decibel levels from the car wash would be below or consistent with the base line noise levels without the vacuums and dryers.

Attorney Pavia stated that with the additional element of the fence, he feels that this application meets the requisite criteria for a Special Use Permit and Site Plan Approval.

In response to a question from Ms. Gronachan regarding Table 2A and Table 3A, Mr. Spias stated that the results in those tables reflect a dryer model that is more expensive but one that he is willing to consider (the Predator model) in order to mitigate issues with the neighbors in the rear of the site.

Chairman Clark noted that it has been determined that the pre-wash would be done inside the building, there have been some changes to the dryers so that they are quieter and a fence has been added to the Site Plan to help with the screening.

Attorney Pavia stated that Mr. Atkas has indicated that he is very close to obtaining all the applicable County and State approvals for the project.

Ms. McCormick stated that she visited the area and noted that this is a really tight lot for a use such as a car wash. She stated that from the existing adjacent Mavis parking lot one can see the adjacent residential property owner's pool and noted that the Mavis site and the car wash site are much lower than the adjacent residential properties, resulting in them looking down on the commercial sites.

It was noted that the fence and the new trees would be located on top of the existing berm along the property line.

Ms. McCormick stated that she would like to see an elevation of the berm and fence to better understand the impact on the neighbors.

Attorney Pavia stated that he does not shy away from the fact that this is a tough and tight lot, but he believes that his client has gone over the top in adding landscaping and fencing and committing to using the more expensive vacuums and dryers. He further stated that the applicant plans to plant trees at a height of 10' to 12' in the southern portion of the lot.

Attorney Pavia noted that this property is zoned commercial and car washes are specially permitted uses in the zoning district.

Mr. Chapman stated that he would not want to live adjacent to this car wash, which is not the right business for this area.

Attorney Pavia responded that although he respects Mr. Chapman's opinion, his statement is arbitrary. He stated that the applicant has provided credible technical data to show that it is avoiding potential impacts associated with this car wash to the maximum extent practicable. He further stated that the applicant has made multiple modifications and is committed to making further modifications to address comments and concerns.

Chairman Clark asked Board members if there is anything else the applicant can do to mitigate the issues.

Mr. Chapman stated that there is nothing else the applicant can do, noting that when asked to redesign the project the applicant refused.

Ms. McCormick stated that the challenge is that the Planning Board did not have the renderings and elevations to review. She further stated that the new trees that the applicant process to plant will still take time to grow to a maturity where they better aid with screening for the neighbors. She asked that the applicant submit a plan to make sure the trees that are planted are successful.

Attorney Pavia stated that he believes that no matter how the building is oriented, there will still be setback issues.

Attorney Pavia stated that the applicant is willing to put the trees and the fence wherever the Planning Board thinks is the best location, whether the fence is nearest the neighbors or the trees are.

Attorney Jay Pohlman stated that he he had new information that is based on the applicant's updated plans.

Attorney Pavia stated for the record that the public hearing was closed and he responded to the comments received. He stated that if Attorney Pohlman had additional comments, he would prefer that they be submitted in writing and he be given another opportunity to respond to them.

Chairman Clark stated that Attorney Pohlman's comments should be submitted to the Planning Board in writing and Attorney Pavia will respond to them.

Ms. Valenti stated that she is struggling with the view the neighbors would have.

Mr. Szewc asked for information on the lifespan of the fence and its maintenance.

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

Engineering Department comments have been filed with the Planning Department.

Liberatore Management – Requesting Site Plan Approval on a warehouse development project to be located at Burke Parkway

Chris Wood from Carmina Wood Design, representing the applicant, stated that two (2) 16,000 sq.ft. warehouse buildings and one (1) 12,000 sq.ft. warehouse buildings are proposed on the 1.7-acre site. He stated that this would be a continuation of the Liberatore Management development on Burke Parkway.

Mr. Wood stated that 56 parking spaces would be provided for the warehouse buildings and the majority of the site is already paved so the amount of impervious surface would not be increased.

Mr. Wood noted that building elevations were submitted to the Planning Department.

Mr. Wood stated that an easement is proposed for snow plow turnaround on Burke Parkway.

Chairman Clark made a motion, seconded by Ms. Gronachan, to authorize the Planning Board to initiate the SEQR Coordinated Review process and schedule a public hearing to be held on July 19, 2023. Carried.

Engineering Department comments have been filed with the Planning Department.

Camp Road Interchange Recommendation and Report

Chairman Clark stated that the property owned by the NYSDOT across from the current Thruway off ramp at Camp Road is not zoned and cannot be sold until a zoning classification has been assigned to it. He stated that the Planning Board must make a recommendation to the Town Board on which zoning classification should be assigned to this parcel.

Board members discussed the adjacent parcel, 5220 Camp Road, which is currently zoned C-2.

It was noted that some nearby properties are zoned C-1.

Chairman Clark stated that the Planning Board should think about what use(s) it would like to see on this site and then recommend the corresponding zoning classification for it.

Mr. Chapman noted that automobile dealerships can only be located on Camp Road so the Planning Board may not want to zone this property something that precludes them.

It was determined that a new Camp Road Interchange zoning classification has been proposed.

Ms. McCormick noted that this site is in an area that is one of the Town's key entryways and could be part of a gateway revitalization and a feature area. She further stated that residents seem to prefer that this area be a public destination than a commercial or industrial area.

Ms. McCormick stated that the suggested Camp Road Interchange district seems to be in line with what she has heard from residents.

Ms. Valenti made a motion, seconded by Mr. Champan, to table this issue so that additional information can be gathered. Carried.

AL Asphalt – SEQR Status Update

Chairman Clark stated that the public comment period has been open and the Planning Board is accepting written comments that can be mailed to the Planning Department in care of Josh Rogers. He further stated that comments via email should be sent to jrogers@wendelcompanies.com.

Chairman Clark stated that the first of two (2) public hearings on the project will be held on June 14, 2023 at 6:00 PM at Hilbert College Swan Auditorium. He stated that the second public hearing will be held at the same location on July 12, 2023 at 6:00 PM. He noted that the public hearings will be live streamed on Facebook, but it will be difficult to use the comments received via Facebook so he asked that people refrain from commenting through that forum and instead email comments to Mr. Rogers.

Chairman Clark stated that the Planning Board will continue to accept public comment until the public comment period closes on July 28, 2023.

Chairman Clark stated that the consultants that the Planning Board authorized the Town Board to hire are on board and working on the reports they have been asked to produce.

In response to a question from Ms. McCormick, Attorney Puglisi stated that since the Board was last updated on this issue, no correspondence has been received from the applicant.

OTHER BUSINESS

Ms. Gronachan made a motion, seconded by Ms. McCormick, to approve the May 17, 2023 Planning Board minutes. Carried.

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

The meeting was adjourned at 8:25 PM.

Respectfully submitted,
Jeb Bobseine, Secretary

Date: June 12, 2023

Town of Hamburg
Planning Board Meeting
July 19, 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, July 19, 2023 in Room 7B of Hamburg Town Hall. Those attending included Chairman William Clark, Vice-Chairwoman Kaitlin McCormick, Margaux Valenti, Dennis Chapman, Cindy Gronachan and Kaitlin Chmura.

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

Excused: Daniel Szewc

Ms. McCormick joined the meeting at 7:45 PM.

WORK SESSION

LocalStorage – Requesting a Site Plan waiver for a fence extension at 5255 Southwestern Boulevard

A representative of LocalStorage stated that the plan is to install a chain link fence where a split rail fence currently exists and add a gate.

Chairman Clark stated that there should be some landscaping in front of the chain link fence along Southwestern Boulevard and Amsdell Road so that the fence is not as visible from those roadways.

The representative stated that currently there is a rail fence in front of the existing fence and it will remain. He noted that the chain link fence would be approximately 25 feet towards the building from that rail fence. He further stated that the existing chain link fence on the property would be extended.

Board members agreed that a Site Plan Waiver is appropriate in this instance.

Chairman Clark made a motion, seconded by Ms. Gronachan, to authorize a Site Plan Waiver for LocalStorage. Carried.

Nickolas Hoffman – Requesting a Special Use Permit to operate an AirBNB at 3400 Lakeview Road

Chairman Clark stated that the Town Code requires that the living quarters shall not constitute a separate dwelling and shall not be leased as such. He stated that this request seems to conform with the basic tenants of the Town Code requiring AirBNBs and noted that a public hearing must be scheduled to receive any neighbors' comments.

Mr. Chapman made a motion, seconded by Ms. Gronachan, to schedule a public hearing to be held on August 2, 2023. Carried.

Feedmore WNY – Requesting Sketch Plan Direction on a proposal to construct a 197,7000 sq. ft. facility at 4832 Camp Road

Ms. Tara Ellis from Feedmore WNY stated that Feedmore is the merged organization of the Food Bank of WNY and Meals on Wheels of WNY. She stated that it serves four (4) counties and last year it fed more than 200,000 people, 80% of whom were from western NY. She explained the different ways in which Feedmore helps people with food, job training, housing, etc.

Ms. Ellis stated that Feedmore is currently operating out of multiple locations and the proposed facility will allow it to consolidate under one roof, increase its efficiency and expand the opportunity to serve a larger number of community members.

Mr. Mike Daloia, project manger for the proposed project, stated that the proposed building would have three (3) components - a warehouse for dry and refrigerated goods, a commissary and Feedmore's office.

Mr. Daloia stated that there would be four (4) outbuildings throughout the campus. He noted that the main building would be 1,000 feet from Camp Road and would be a pre-engineering metal building.

It was determined that there would be a new curb cut for the driveway.

In response to a question from Mr. Chapman, Mr. Daloia stated that the initial traffic study did not show any additional traffic that would be on Camp Road.

Mr. Chapman asked the representatives to consider a right-turn only at the exit of the new curb cut.

It was determined that an easement to a cell tower along the north property line exists and would remain.

It was determined that no variances would be required for this project.

Ms. Ellis stated that there are five (5) acres of federal wetlands on the site divided into two (2) pockets and they would be avoided entirely.

Chairman Clark made a motion, seconded by to schedule a public hearing to be held on September 6, 2023 and authorize the Planning Department to initiate the SEQR Coordinated Review. Carried.

Hamburg Brewing Company – Requesting Site Plan Direction and potential Special Use Permit revision at 6553 Boston State Road

Mr. John Russo, applicant, stated that the brewery would like to construct a hallway to connect two (2) sections of the building and change the use to assembly.

Mr. Reilly stated that the craft brewery law does not allow for full food service.

Mr. Russo confirmed that the assembly space would be used for food service and private events space.

Mr. Russo stated that at this time he is simply requesting approval of the hallway to connect the two (2) spaces.

Chairman Clark stated that whether the applicant should be allowed to use the space for food service and whether that use complies with the Town Code is not the Planning Board's decision.

Chairman Clark made a motion to table this project to the Board's August 2, 2023 meeting to discuss a Site Plan Waiver.

Mr. Russo stated that he also plans to add a few additional parking spaces for staff.

Mr. John Russo Sr. stated that this is a simple request to be able to utilize the space that used to house the train layout to seat more guests. He noted that they have planted at least 500 trees on the site over the years and take pride in its appearance. He stated that the brewery has more and more competition and they want to protect what they have invested in the business. He stated that he does not know why they need approval to make the place look better.

In response to a comment from Mr. Chapman, Mr. Russo Sr. stated that two (2) trees would be removed to add parking spaces but he has hundreds of trees around the buildings.

It was determined that the grass that would be removed for the additional parking spaces currently is parked on often.

Ms. Chmura stated that it seems that the applicant is proposing to use the areas of grass that are already being trampled in a more efficient way.

Mr. Russo Sr. stated that either way the two (2) trees slated to be removed for the additional parking will be taken down because they are riddled with disease.

In response to a question from Ms. Chmura, Mr. Russo stated that there would be no change in the type of food that would be served in the new space for guests.

Mr. Reilly stated that the Planning Board should review the original Special Use Permit granted for the brewery.

Mr. Russo asked what that original Special Use Permit has to do with a Site Plan Waiver.

Mr. Chapman seconded Chairman Clark's motion to table to August 2, 2023. Carried.

K9 Barks and Brews - Requesting Site Plan Direction on a proposal for a boarding kennel expansion at 2866 Pleasant Ave

It was determined that the applicant asked that this project be tabled.

Perennial Properties, LLC – Requesting Sketch Plan Direction 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 applicant is proposing to renovate this former nursery/greenhouse as a high end restaurant. He stated that the applicant proposes to utilize the existing greenhouse to grow vegetables and herbs to be used by the restaurant.

Attorney Hopkins stated that the site is .71 acres in size and an addition is proposed to the existing building. He noted that new parking spaces would be installed as part of the project.

Attorney Hopkins stated that two (2) variances would be required for this project as follows:

- Per the Town Code, no restaurant serving alcohol is permitted within 500 feet of a residential district or use.
- An area variance is required for a pavement setback from the right-of-way (the site is already non-conforming in that regard)

Attorney Hopkins stated that he has been advised that the Building Department's new policy is that a referral is required from the Planning Board in order to apply for variances.

Attorney Hopkins stated that because this is a redevelopment project and the addition to the building is relatively minor, this is a Type II Action under SEQR and therefore SEQR does not apply.

Attorney Hopkins stated that Ross Warhol, applicant, would be living in the building and noted that this building has been used for residential use in the past.

In response to a question from Mr. Chapman, Mr. Warhol stated that this would be a restaurant first and foremost with a small bar and lounge area. He stated that the lounge area could hold approximately 20 guests and would be intended as an area where guests can have a cocktail before sitting down to dinner.

Mr. Warhol stated that there would be seating for approximately 75 guests in the dining room and there would be a tasting counter.

In response to a question from Chairman Clark, Attorney Hopkins stated that the required setback is 35 feet from the right of way for pavement. He stated that if the applicant was forced to comply with that setback requirement, there would not be a feasible number of parking spaces.

In response to a question from Ms. Valenti, Attorney Hopkins stated that the applicant is very comfortable that the proposed number of parking spaces (40) will be adequate.

In response to a question from Ms. Valenti, Mr. Warhol stated that he is friends with most of the surrounding neighbors and he has invited them to the site to discuss the project.

Chairman Clark made a motion, seconded by Mr. Chapman, to refer this project to the Zoning Board of Appeals for variances. Carried.

Royal Wash Development LLC – Requesting Sketch Plan Direction on a proposal to construct a standalone car wash at 3233 Lake Shore Road

Attorney Sean Hopkins, representing the applicant, stated that the applicant proposes to redevelop two (2) contiguous parcels including the parcel located at 3233 Lake Shore Road. He stated that 3233 Lake Shore Road was formerly an auto repair shop and the adjacent subject parcel contains a vacant bottle redemption center. He noted that the applicant has entered into a contract to purchase these parcels, which are currently zoned M-3, and re-zone them to C-2 in order to accommodate a proposed single tunnel stand along car wash facility.

Attorney Hopkins stated that one (1) curb cut is proposed on Lakeshore Road and noted that currently there are several undefined curb cuts there. He stated currently the pavement is falling apart, there is no landscaping and there may be some contamination from the former gas station, so this would be a complete redevelopment of these parcels.

Attorney Hopkins stated that this proposal was presented to the Code Review Committee on July 19, 2023 and the Supervisor had some comments the applicant will consider regarding sidewalks and landscaping.

Attorney Hopkins stated that the parcels are probably zoned M-3 because the Bethlehem Steel property is located directly behind them. He stated that if one looks at the size of these parcels and their location, one would conclude that there is no chance they will ever be redeveloped pursuant to the M-3 zoning classification.

Mr. Chapman stated that the Royal Car Wash that was constructed on Southwestern Boulevard was supposed to have all dark sky compliant lighting and instead it had purple, pink and orange lighting. He stated that he does not want to see that again at this location if it is approved.

Mr. Kevin Danielle from Royal Wash apologized for the lighting at the Southwestern Boulevard location, noting that the lights Mr. Chapman referred to came in multi-colored and very different than what was supposed to be installed. He noted that that has been rectified and it will not happen at this new location.

In response to a question from Mr. Chapman, Mr. Danielle stated that he is with Royal Wash Development, which built and operated the Royal Car Washes and is now partnered with Go Car Wash. He stated that Go Car Wash now handles the operation of the facilities, although Royal Car Wash Development is still involved.

Bell Atlantic Mobile Systems LLC – Requesting Sketch Plan Direction on a proposal to install and operate a wireless telecommunications facility on a replacement utility pole near 5600 McKinley Parkway

Attorney Jeff Woodie from Nixon Peabody, representing the applicant, stated that the applicant is proposing a replacement utility pole on top of which a small wireless telecommunication cell would be attached. He stated that the total height of the project, once installed, would be approximately 43 feet and it would help with capacity issues Verizon Wireless is facing within this part of the Town.

Mr. Woodie stated that Verizon needs this telecommunications cell because of problems it experiences during the Erie County Fair and the proposed cell would replace a remote wireless telecommunications facility that has to be brought in on a truck to help fill the coverage gaps.

Mr. Woodie stated that the applicant is requesting that a Site Plan Waiver be recommended.

Chairman Clark made a motion to schedule a public hearing to be held on August 16, 2023.

It was determined that Site Plan Approval and a Special Use Permit are required.

Chairman Clark's motion was seconded by Ms. Gronachan. Carried.

Carl Nezza – Requesting Preliminary Plat Approval on a proposal to construct a two-lot subdivision at 58 North Shore Drive

Mr. Carl Nezza, applicant, stated that he would like to subdivide his property so that his daughter can build a home next door to him. He further stated that he would be willing to

demolish the existing small garage on the property and the existing shed would be moved closer to his home.

Chairman Clark stated that the applicant's property is small and to subdivide would require a lot of variances.

Mr. Chapman stated that if the property is that small, he does not know if the applicant's plan would be feasible.

Mr. Nezza stated that the utilities are already in the ground and there is nothing next door to the property where his daughter would build. He further noted that his property is located on a corner.

Chairman Clark stated that it will not be easy to achieve what Mr. Nezza is proposing.

Mr. Nezza stated that he will proceed with requesting variances.

REGULAR MEETING

Public Hearing – 7:00 P.M., Pat DiChristopher – Requesting Preliminary Plat Approval of a two-lot subdivision to be located at 1814 North Creek Road

Ms. Grohachan 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 Pat DiChristopher to subdivide 1.01 acres off an 8.0-acre parcel at 1814 North Creek Road. The Public Hearing will be held on July 19, 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.

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

"In accordance with the New York State SEQR Law, the Town of Hamburg Planning Board has reviewed the two-lot subdivision proposed by Pat DiChristopher to be located at 1814 North Creek Road. Based on the Preliminary Plat, review of the submitted materials and input from other departments, the Planning Board has determined that the proposed subdivision is not anticipated to result in any significant adverse environmental impact and that a Negative Declaration is hereby issued, and the Planning Board Chairman is authorized to sign the EAF, which will act as the Negative Declaration."

Carried.

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

"The Hamburg Planning Board hereby grants Preliminary Plat Approval for the Pat DiChristopher Two-Lot Subdivision with the following condition and waivers:

1. The installation of sidewalks is waived.
2. The completion of a Final Plat is waived and the Hamburg Planning Board Chairman is authorized to sign the Preliminary Plat once the Town Engineer signs off on the Plat."

Carried.

Public Hearing – 7:00 P.M., Revive Wesleyan Church – Requesting Preliminary Plat Approval of a two-lot subdivision to be located at 5133 Bayview Road

In response to a question from Mr. Chapman, a representative stated that there is an existing home on the property that would constitute the newly created lot. He confirmed that that parcel would be sold and go back on the tax rolls.

Board members discussed whether sidewalks should be required along Bayview Road along the frontage of both lots.

The representative stated that there are other parcels that separate the new lot from the church's property, so there would be sidewalks along some frontage and no sidewalks along the parcels not part of the larger church parcel.

It was determined that the Town of Hamburg does not currently have a sidewalk plan in place.

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 Revive Wesleyan Church to subdivide approximately 1 acre off of 74 acres at 5133 Bayview Road. The Public Hearing will be held on July 19, 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.

Board members continued to discuss whether sidewalks should be required.

Ms. Chmura stated that she does not see Bayview Road becoming a pedestrian area.

Ms. McCormick stated that if there were to be sidewalks along McKinley Parkway in the area of the church, it would have to be part of a larger initiative because the Town might not want to encourage pedestrian access there.

it was determined that Board members do not feel sidewalks should be required in this instance.

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

"In accordance with the New York State SEQR Law, the Town of Hamburg Planning Board has reviewed the two-lot subdivision proposed by Revive Wesleyan Church to be located at 5133 Bayview Road. Based on the Preliminary Plat, review of the submitted materials and input from other departments, the Planning Board has determined that the proposed subdivision is not anticipated to result in any significant adverse environmental impact and that a Negative Declaration is hereby issued, and the Planning Board Chairman is authorized to sign the EAF, which will act as the Negative Declaration."

Carried.

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

"The Hamburg Planning Board hereby grants Preliminary Plat Approval for the Revive Wesleyan Church Two-Lot Subdivision with the following condition and waivers:

1. The installation of sidewalks is waived.

2. The completion of a Final Plat is waived and the Hamburg Planning Board Chairman is authorized to sign the Preliminary Plat once the Town Engineer signs off on the Plat.”

Carried.

Public Hearing – 7:00 P.M., Liberatore Management – Requesting Site Plan Approval on a warehouse development project to be located at Burke Parkway

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 Liberatore Management Inc. to construct a warehouse development project to be located at Burke Parkway. The Public Hearing will be held on July 19, 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.

It was determined that the Planning Board wanted input from the Highway Superintendent and Mr. Reilly stated that he would get that for the Board.

In response to a question from Ms. Valenti, a project representative stated that Burke Parkway is a public road that ends at the applicant's property, at which point it is a private road in front of the applicant's property and then it becomes a paper street. He noted that the easement would extend into an existing green space area so the snow plows can push the snow off the road and exit.

In response to a question from Ms. Valenti, the representative stated that the applicant has proposed an easement at the end of the public section of Burke Parkway for snow plows, etc. and for a turn around. He further stated that there is an emergency turn around proposed on the applicant's property for fire trucks and emergency vehicles.

Chairman Clark made a motion, seconded by Mr. Chapman, to table this project to the Board's August 16, 2023 meeting and authorize the Planning Department to prepare draft resolutions. Carried.

Engineering Department comments have been filed with the Planning Department.

Hutton ST 21, LLC – Requesting a Special Use Permit and Site Plan Approval of a car wash facility to be located at 5363 Southwestern Boulevard

Attorney Frank Pavia from Harris Beach, representing the applicant, stated that the last time this project was before the Board, he was not able to show them the renderings of the rear of the site with respect to the proposed plantings and six-foot high wooden fence and the elevations of the site showing the difference in height between the applicant's site and the adjacent residential properties.

Jason Atlas from Stoenfield Engineering showed Board members renderings they saw at their April 2023 meeting, which consisted of the view from the existing driveway of the proposed car wash facility, the view from Southwestern Boulevard showing the proposed street trees, the proposed evergreens along the west property line and the existing home west of the project site.

Mr. Atkas also showed Board members the adjacent residential property and pool, along with the proposed fence and evergreen buffering along that shared property line.

In response to a question from Ms. Gronachan, Attorney Pavia stated that the proposed fence and evergreen buffering would be on the applicant's property on the top of the proposed berm.

Board members were shown two (2) alternate proposals for the fence and evergreen buffering as follows:

- The fence would be on the applicant's property with the evergreen trees in front of the fence.
- The evergreens and the fence would be intermingled with the fence in the middle of the rows of evergreens.

Attorney Pavia confirmed that the six-foot high wooden fence would be on the applicant's property at the peak of the berm and maintained by the applicant.

Ms. Gronachan stated that she would prefer the fence closer to the neighbor's property instead of the evergreens being closer.

Attorney Pavia stated that if the Board prefers a vinyl fence, the applicant is willing to go that route.

Ms. McCormick stated that it appears from the renderings that the neighbors would still be able to see the car wash through the evergreens even at full growth.

Mr. Atkas responded that the only thing the neighbors would see is one portion of the wing wall that is only the parapet. He stated that the actual roof line height of the building is 16 feet. He further stated that the car wash would be approximately ten (10) feet lower than the neighbors' homes. He stated that with the proposed landscaping at between 12 and 15 feet in height at maturity, as well as the existing grade elevation difference, the car wash facility operations would be buffered from the neighbors.

In response to a question from Ms. Valenti, Mr. Atkas stated that the evergreens, when planted, would be between six (6) and eight (8) feet high and after approximately ten (10) years they would reach full maturity of between 12 and 15 feet in height.

Attorney Pavia reminded Board members that the applicant, at the last meeting when this project was discussed, committed to using the Predator equipment, which has a lower edible level.

Attorney Pavia stated that the applicant feels that with the modifications made to the Site Plan, the proposed plantings and fence, the commitment to the Predator equipment and the dark sky compliant lighting, all practicable measures to avoid adverse noise, light and visual impacts resulting from the site have been taken.

Attorney Pavia stated that all of the criteria of the Special Use Permit and Site Plan Approval have now been met and asked the Planning Board to approve the project.

Mr. Chapman stated that if this project is approved, the fence must be vinyl.

A member of the public stated that there was no public input on the revised plans.

In response to a question from Chairman Clark, the member of the public stated that the revised plans do not change his client's position on the project and in fact make it worse.

Attorney Pavia stated that he received a copy of Attorney Pohlman's latest correspondence and his feeling is that the concerns have already been addressed in his May 30, 2023 correspondence to the Planning Board. He stated that those are the opinions of Attorney Pohlman and there was no technical information provided to support his opinions and claims.

Chairman Clark asked for roll call vote on the following motion regarding SEQR, which was seconded by Ms. Gronachan:

"Whereas, the Town of Hamburg received a special use permit and site plan application from Hutton ST 21, LLC to construct a car wash at 5363 Southwestern Blvd; and

Whereas, the Hamburg Planning Board held the required public hearing and received comments from the public; and

Whereas, the Hamburg Planning Board in accordance with the New York State Environmental Quality Review Act (SEQRA) has done a thorough review of the project and its potential impacts, and

Whereas, the Hamburg Planning Board, in accordance with SEQRA has determined that the proposed special use permit, site plan approval and construction of the car wash will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public and is consistent with social and economic considerations.

Now, Therefore, Be It Resolved, that the Town of Hamburg Planning Board hereby determines that the proposed special use permit, site plan approval and construction of the self-storage facility with outdoor storage is not anticipated to result in any significant adverse environmental impact and that a Negative Declaration is hereby issued and that the Planning Board Chairman is authorized to sign the EAF, which will act as the Negative Declaration."

The results of the roll call vote were as follows:

- Ms. Valenti voted nay.
- Mr. Chapman voted nay.
- Ms. McCormick voted nay.
- Ms. Chmura voted nay.
- Ms. Gronachan voted aye.
- Chairman Clark voted aye.

Based on the above, the motion to issue a Negative Declaration failed.

Ms. McCormick stated that the potentially significant environmental issues are noise, community character and pollution.

Mr. Chapman made the following motion regarding SEQR, seconded by Ms. McCormick:

"Whereas, the Town of Hamburg received a special use permit and site plan application from Hutton ST 21, LLC to construct a car wash at 5363 Southwestern Blvd; and

Whereas, the Hamburg Planning Board held the required public hearing and received comments from the public; and

Whereas, the Hamburg Planning Board in accordance with the New York State Environmental Quality Review Act (SEQRA) has done a thorough review of the project and its potential im-

pacts, and

Whereas, the Hamburg Planning Board, in accordance with SEQRA has determined that the proposed special use permit, site plan approval and construction of the car wash may potentially adversely affect the natural resources of the State and/or the health, safety and welfare of the public based on potential impacts relating to pollution, noise, community character and visual impacts.

Now, Therefore, Be It Resolved, that the Town of Hamburg Planning Board hereby determines that the proposed special use permit, site plan approval and construction of the car wash may result in a significant adverse environmental impact and that a Positive Declaration is hereby issued and that the Planning Board Chairman is authorized to sign Parts 1, 2 and 3 of the EAF.”

As the vote on the motion was four (4) ayes and two (2) nays (Chairman Clark and Ms. Gronachan), the motion carried.

Mr. Chapman clarified that by “pollution”, he was referred to the chemicals from the car wash blowing into the neighbors’ properties and trees.

Engineering Department comments have been filed with the Planning Department.

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

Attorney Sean Hopkins, representing the applicant, stated that an updated plan was presented to the Planning Board at its May 17, 2023 meeting. He noted that the original plan consisted of 96 town homes for sale but based on input received and a more detailed permanent open space analysis for the overall quarry project, the applicant has proposed a revised plan consisting of 57 units.

Attorney Hopkins stated that one of the access roads to Briercliff Drive was eliminated and replaced with a two-family home, additional green space was added and the setbacks and buffers have been dramatically increased between the rear property lines of the existing homes on Briercliff Drive and the rear of the proposed town homes.

Attorney Hopkins stated that the proposed layout complies with the emergency access requirements of Appendix of the New York State Fire Code.

Attorney Hopkins stated that the following had been submitted since the Planning Board’s May 17, 2023 meeting:

- A very detailed storm water summary letter prepared by Carmina Wood Design confirming that the applicant is well aware of will comply with both the quality and quantity standards of the New York State Department of Environmental Conservation (DEC)
- A copy of a letter with a Phase I environmental assessment report dated May 14, 2001 confirming that there are no recognized environmental conditions on the property
- A letter from John Schenne dated July 3, 2023 that was based on geotechnical analysis that confirms that there be no need for any blasting activities in connection with the proposed project
- A letter from David Cruse, traffic engineer from Passero Associates, who looked at the traffic impacts in light of the reduction in the number of proposed units from 96 to 57 and

found a substantial reduction in the number of projected vehicular trips during the AM and PM weekday peak hours

Attorney Hopkins stated that the original full detailed Traffic Impact Study (TIS) was reviewed by the County. He noted that that TIS, which was based on the originally proposed 96 units, demonstrated that there would be no potentially significant traffic impacts on the intersections within the study area.

Attorney Hopkins stated that the Planning Board has been supplied with copies of the parcel reports from Erie County GIS that demonstrate that, in light of the modifications made to the project, this project is in compliance with the overall permanent open space requirements for the quarry area of the development. He noted that the requirement is 25% (27.08 acres) and as a result of the substantial changes made to the project there would be more than that amount of permanent open space provided.

Attorney Hopkins stated that the project not only complies with the permanent open space requirement for the overall quarry development, but it also complies with the recreation space requirement for the 9.37-acre project site (10%) by providing more than two (2) acres of open space, including the extension of the Heart Trail and a tot lot playground, walking trails, gazebos and a community garden.

Attorney Hopkins stated that at its May 17, 2023 meeting the Planning Board reviewed a draft of Part II of the Environmental Assessment Form (EAF) and he listed the impacts discussed as follows:

- Impact on land - no additional information needed
- Impact on geological features - no additional information needed
- Impact on surface water - no additional information needed (letter from Carmina Wood Design submitted)
- Impact on ground water - no additional information needed
- Impact on flooding - no additional information needed (project's storm water management system will comply with the DEC's quantity standards)
- Impact on air - no additional information needed
- Impact on plants and animals - no additional information needed (there are no threatened or endangered species, flora or fauna on this site)
- Impact on agricultural resources - no additional information needed
- Impact on aesthetic resources - no additional information needed
- Impact on archeological resources - no additional information needed
- Impact on open space and recreation - the project is in compliance with the permanent open space requirement previously established for the quarry development areas
- Impact on Critical Environmental Areas - no additional information needed
- Impact on transportation - no additional information needed (an updated letter from Passero Associates was submitted)
- Impact on energy - no additional information needed
- Impact on human health - no additional information needed

- Consistency with community plans - no additional information needed
- Consistency with community character - A landscape plan was submitted on May 17, 2023 and it was indicated that input from the Conservation Advisory Board will be requested prior to subdivision approval

Attorney Hopkins stated that in light of the very lengthy history of this project and the substantial modifications that have been made in direct response to public input that resulted in a reduction of the magnitude of the identified environmental impacts and based on the draft Part II of the EAF that was prepared by the Planning Board and the extensive additional documentation provided by the applicant, he feels that the Planning Board is in the position to issue a SEQR determination.

Attorney Hopkins stated that the requested SEQR determination on behalf of the project sponsor is a Negative Declaration.

Attorney Hopkins stated that this site was always envisioned to be two (2) large rental apartment buildings based on the original planning documents. He reminded Board members that in 2010 a developer proposed an affordable housing project that was not well received by the neighborhood.

Attorney Hopkins stated that if the Planning Board does not issue a Negative Declaration relative to this current project as proposed, the likely decision will be to switch to a multi-family project. He noted that he recognizes the concerns raised by the neighbors and thinks that the substantial modifications provide the Planning Board with more than ample justification for an issuance of a Negative Declaration.

Chairman Clark stated that a public hearing should be held on the revised plan with the change in the number of proposed units.

It was determined that the Planning Department will prepare draft SEQR resolutions for that meeting.

Ms. McCormick asked if the public hearing could be focused on the change in the number of proposed units.

In response to a comment made by Mr. Reilly, Attorney Hopkins stated that there is a difference between permanent open space required and recreation space required.

Ms. Valenti asked what the Planning Board's responsibility is regarding the question of permanent open space. She referred to the neighbors' most recent submission referencing 1993 minutes and "recreational open space" and noted that the terms "permanent open space", "recreation" and "recreational open space" are all being used.

Mr. Reilly stated that the project meets the town house requirement for green space and the Heart Trail is a recreation feature. He noted that the Town of Hamburg has never taken dedication of recreation space or open space in the Brierwood PUD.

Mr. Reilly stated that after a SEQR decision is made, the applicant should go back to the Town Board on the issue of Brierwood and what has happened there regarding the waiving of the recreation fees.

Ms. Valenti stated that she feels that there is still an unanswered question that may be separate from SEQR but does require Town Board involvement.

Ms. McCormick asked Attorney Puglisi to research what the appropriate review and authority is for the Town. She stated that if there is a plan and an agreement it should probably be SEQR related under the public planning part of SEQR.

Attorney Hopkins stated that per the 1988 plan that was part of the PUD approval, the project sponsor is required in connection with the quarry development area to provide 25% open space. He noted that that has been satisfied. He further stated that in addition to that 25% open space, the town home regulations require that 10% of this particular site be set aside for recreational space.

In response to a question from Chairman Clark, Ms. Valenti stated that she does not think that the Planning Board has settled the question of whether this requirement of a separate agreement and not the PUD has been met. She stated that the Planning Board must be satisfied that the conditions have all been met and understand if those conditions are under the purview of the Town Board because the open space requirements are under a separate agreement outside the conditions of the PUD.

Chairman Clark stated that even if it is a separate agreement it has to do with community character, which is a SEQR question.

Ms. Gronachan stated that it was her understand that at the May 17, 2023 meeting the Planning Board asked someone to find out the difference in definition between "green space", "recreation space", etc. and to find the referenced 1993 minutes and clarify them.

Ms. McCormick stated that she feels that the storm water pond should count as open space because it was originally identified in the agreement as part of the overall site development as allowable open space.

Mr. Reilly stated that a PUD is supposed to set the requirements for open space, but in this case over the years the PUD requirements have been interpreted differently and agreements have been made with the Town Board. He stated that because of this, the town home regulations for recreation space have been applied to this development in section K of the quarry area (500 sq.ft. per unit).

Ms. McCormick stated that Ms. Puglisi should research whether it is the Planning Board's responsibility to approve the amount of permanent open space in the PUD and recreational space on the project site.

Attorney Hopkins stated that clearly it is up to the Planning Board to determine whether the project sponsor has met the permanent open space requirement for the quarry area, noting that the project is in front of the Planning Board, which is the SEQR Lead Agency.

Mr. Reilly stated that he will provide the Planning Board with something official from the Town Board regarding the overall Brierwood PUD and what has gone on in the past regarding the waiving of fees.

Ms. McCormick stated that the Planning Board needs some structure to understand what it is basing a SEQR decision on. She stated that the Planning Board should determine what the items are that it thinks are needing additional information and then discuss them in a structured way.

Mr. Reilly stated that there is no straight forward answer on the open space issue.

Attorney Hopkins stated that the answer on the permanent open space is straight forward.

Ms. Valenti stated that the neighbors submitted a letter on July 10, 2023 with 1993 minutes attached. She noted that the submission also references the 1992 Nussbaumer report.

Attorney Hopkins asked if this project will be placed on an agenda before the scheduled public hearing so that he can understand what Ms. Puglisi's research regarding the open space questions raised at this meeting shows.

Chairman Clark made a motion, seconded by Mr. Chapman, to schedule a public hearing to be held on September 6, 2023. Carried.

In response to a question from Attorney Hopkins, Board members indicated that he can respond to the neighbors' submittal received by the Planning Board and also respond to any issues that arose at this meeting regarding open space, etc.

Engineering Department comments have been filed with the Planning Department.

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

Attorney Sean Hopkins, representing the applicant, stated that the Planning Board last discussed this project at its meeting in May 2023. He stated that an updated plan had been prepared showing a proposed internal property line in order to divide the proposed town house project from the remainder of the site (former gas station). He noted that the remainder of the site will be developed as a separate project some time in the future.

Attorney Hopkins stated that this project will have to be reviewed again by the Waterfront Revitalization Committee (WRC), which hopefully will occur in July or August and he asked the Planning Board to table this project to its September 6, 2023 meeting.

In response to a question from Ms. McCormick, Attorney Hopkins stated that it is very possible that there would be cross-access between the town house project and whatever is developed on the former gas station portion of the site and that the gate could be removed.

In response to a question from Ms. McCormick, Attorney Hopkins stated that this project requires a use variance from the Board of Zoning Appeals (ZBA) and he is hoping that the Planning Board will issue a SEQR determination before the variance is requested. He noted that if the variance is granted, this project would return to the Planning Board for Site Plan and Subdivision review.

In response to a comment made by Ms. Gronachan, Attorney Hopkins stated that the applicant still needs a comment back from the New York State Department of Transportation (DOT) regarding the proposed curb cut onto Lakeshore Road. He noted that the DOT does have the most recent plan.

Ms. Gronachan noted that the DOT's comments on the proposed curb cut onto Lakeshore Road must be reviewed by the Planning Board before a SEQR determination can be made.

Attorney Hopkins stated that the gas station is being cleaned up, but he does not know if it is being cleaned pursuant to the Brownfield Cleanup Program. He noted that either way it will meet the DEC's standards.

It was determined that in order to issue a SEQR determination, the Planning Board requires the DOT comments, input from the SRC and input from the Conservation Advisory Board if it has any comments regarding this project.

Attorney Hopkins stated that a landscaping plan will be submitted.

Chairman Clark made a motion, seconded by Mr. Chapman, to table this project to the Planning Board's September 6, 2023 meeting. Carried.

Engineering Department comments have been filed with the Planning Department.

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

Chairman Clark made a motion, seconded by Ms. Gronachan, to table this project to the Board's September 6, 2023 meeting. Carried.

Engineering Department comments have been filed with the Planning Department.

AL Asphalt Discussion of DEIS Comments

Chairman Clark noted that the second and final public hearing was held and concluded the previous week. He added that this meeting would be an opportunity for Planning Board members to comment on the project.

Ms. Gronachan made the following motion, seconded by Ms. McCormick:

"Whereas, pursuant to the State Environmental Quality Review Act ("**SEQRA**") the Town of Hamburg Planning Board ("**Planning Board**") is the Lead Agency in a coordinated review of A.L. Asphalt Corporation's ("**Applicant**") proposed Hot Mix Asphalt Plant ("**Project**") and related accessory uses at 5690 Camp Road in the Town of Hamburg; and

Whereas, the Applicant submitted a nominally revised Draft Environmental Impact Statement dated April 5, 2023 (the "**DEIS**") in response to the Planning Board's requests for revisions and additions to the DEIS first made by resolution dated September 21, 2022, and as reiterated by correspondence to the Applicant dated November 10, 2022, January 5, 2023, and February 21, 2023 the ("**Deficiency Correspondence**"); and

Whereas, pursuant to the Notice of Completion of the DEIS as published on May 4, 2023 ("**Notice of Completion**") the Planning Board accepted the DEIS subject to the Listed Deficiencies described therein and thereby opened SEQRA's public comment period for the Project, which will close on July 28, 2023 ("**Public Comment Period**"); and

Whereas, pursuant to SEQRA the Lead Agency may comment on the DEIS during the Public Comment Period, and the Planning Board now desires to submit public comment on the DEIS to reiterate the deficiencies described in the Deficiency Correspondence and as set forth in the Listed Deficiencies in the Notice of Completion; and

Now, Therefore, Be It Resolved, that the Planning Board fully incorporates here by reference each of the Listed Deficiencies as defined in the Notice of Completion as comments from the Lead Agency during the Public Comment Period."

As the vote on the motion was five (5) ayes and one (1) abstention (Ms. Valenti), the motion carried.

Chairman Clark stated that the public comment period will close on July 28, 2023 and noted that there are advisory boards that have not yet weighed in.

Ms. Gronachan thanked the residents who participated in the two (2) public hearings and thanked Hilbert College for making the facility available for the Planning Board. She stated that she supports the Planning Board doing whatever it can to have the least negative impact on the community. She stated that after reading the studies from the consultants and all of the deficiencies pending, as well as the studies that were submitted that were inaccurate, she feels that this is a pretty big project that could have a negative impact on the community.

Ms. Gronachan stated that she hopes that the residents stay informed and keep an eye on this project. She stated that she feels that some of the information provided by the applicant are misleading and by having the consultants look at the project and educate Board members more, she is more confident about voting how she is going to vote.

Chairman Clark stated that as Chairman of the Planning Board, he has a lot of influence on the process the Board takes and he understands that some people are frustrated that the Planning Board even decided to entertain the SEQR process. He stated that as long as he is the Chairman of the Planning Board, the Board will never arbitrarily say yes or no to any project and it will give applicants every opportunity to meet the requirements of the law. He stated that any member of the public who proposes a project will be given the same opportunity. He noted that he understands that it is frustrating when deficiencies are not addressed, but that does not mean the Board should not follow the process that is identified in State law.

Chairman Clark stated that he is very happy about the community engagement that has come as part of this project. He stated that six (6) years ago there were only a few people talking about the Comprehensive Plan and there did not seem to be an appetite for addressing land use and zoning issues, and since then the Town has done a lot of thinking about how it wants to look going forward and has implemented a lot of good changes. He stated that five (5) years ago no one attended Planning Board meetings and in some ways as a result of this project there has been a lot of community input on several issues. He stated that he hopes to keep that engagement with the community for as long as possible.

Chairman Clark stated that ever since this project was proposed, he has looked at Section 280-133 (C) (1) (b) of the Hamburg Town Code, which prohibits any dissemination of atmospheric pollutants, noise or odors into any R, C, M1 or M2 district. He noted that this applies to M-3 districts and to this project. He stated that he has yet to see any evidence suggesting that this project could comply with that provision of the Town Code. He noted that the Planning Board does not have all the information yet, but that is where he stands.

Board members discussed the next steps in the SEQR process and the fact that a Final EIS will be prepared and that Board members must agree with what is in it.

Chairman Clark stated that the applicant has asked for time to address the comments during the public comment period and the Planning Board will give her that time. He further stated that this will be discussed again at the Planning Board's August 2, 2023 meeting for updates to the final public comment period and to determine the next steps going forward.

Mr. Reilly stated that there will be a separate section in the FEIS addressing the deficiencies.

It was determined that at its August 2, 2023 meeting the Planning Board will go through the table of contents of the FEIS.

Ms. McCormick stated that she would like the Board to discuss how the document will be structured at the next meeting to ensure that it is understandable to Board members as well as the public.

Mr. Reilly stated that the DEC and Erie County have indicated that they will have comments to the Planning Board by July 28, 2023.

Chairman Clark made a motion, seconded by Ms. Gronachan, to table this project to the Planning Board's August 2, 2023 meeting. As the vote on the motion was five (5) ayes and one (1) abstention (Ms. Valenti), the motion carried.

OTHER BUSINESS

Ms. McCormick made a motion, seconded by Mr. Chapman, to approve the June 21, 2023 Planning Board minutes. Carried.

Chairman Clark made a motion, seconded by Ms. Valenti, to adjourn the meeting. Carried.

The meeting was adjourned at 9:30 PM.

Respectfully submitted,
Cindy Gronachan, Secretary

Date: July 25, 2023

Appendix G

Traffic Impact Study



TRAFFIC IMPACT STUDY

PROPOSED CAR WASH

Proposed Car Wash
Section 182.05, Block 1, Lot 9.2
5363 Southwestern Boulevard
Town of Hamburg, Monroe
County, New York

Prepared For:
Hutton Group Real Estate, Inc

Date: November 4, 2022
SE&D Job No. RUT-220250



Matthew J. Seckler PE, PP, PTOE
NY P.E. License #092725



Demi Prassas
Project Engineer

STONEFIELD

584 Broadway, Suite 310, New York, NY 10012

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LEVEL OF SERVICE/AVERAGE CONTROL DELAY CRITERIA

TURNING MOVEMENT COUNT DATA

Intersection of Southwestern Boulevard & Mavis Discount Tire Driveway

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Figure 2 – 2022 Existing Traffic Volumes

Figure 3 – Other Planned Projects Future Traffic Volumes

Figure 4 – 2024 No-Build Traffic Volumes

Figure 5 – Site-Generated Traffic Volumes

Figure 6 – 2024 Build Traffic Volumes

NYSDOT TRAFFIC MONITORING CORRESPONDENCE

HIGHWAY CAPACITY ANALYSIS DETAIL SHEETS

2022 Existing Traffic Conditions

2024 No-Build Traffic Conditions

2024 Build Traffic Conditions

INTRODUCTION

This Traffic Impact Study was prepared to investigate the potential impacts of the proposed car wash on the adjacent roadway network. The subject property is located along the southern side of Southwestern Boulevard in the Town of Hamburg, Erie County, New York. The site location is shown on appended **Figure I**.

The subject property is designated as Section 182.05, Block 1, Lot 9.2 as depicted on the Erie County Tax Map. The site has approximately 260 feet of frontage along Southwestern Boulevard. The existing site is presently undeveloped. Vehicular access to the subject property is presently provided via one (1) full-movement driveway which currently services the easterly adjacent property. Under the proposed development program, a 4,516-square-foot car wash with one (1) wash-stall would be constructed. Access to the adjacent roadway is proposed to be maintained via the existing driveway along Southwestern Boulevard, which would provide shared access to the proposed development and the easterly adjacent property. Cross access would be maintained.

METHODOLOGY

Stonefield Engineering & Design, LLC has prepared this Traffic Impact Study in accordance with the recommended guidelines and practices outlined by the Institute of Transportation Engineers (ITE) within Transportation Impact Analyses for Site Development. A detailed field investigation was performed to assess the existing conditions of the adjacent roadway network. A data collection effort was completed to identify the existing traffic volumes at the study intersections to serve as a base for the traffic analyses. Capacity analysis, a procedure used to estimate the traffic-carrying ability of roadway facilities over a range of defined operating conditions, was performed using the Highway Capacity Manual, 6th Edition (HCM) and the Highway Capacity Software (HCS7)/Synchro II Software for all study conditions to assess the roadway operations.

For an unsignalized intersection, Level of Service (LOS) A indicates operations with delay of less than 10 seconds per vehicle, while LOS F describes operations with delay in excess of 50 seconds per vehicle. For a signalized intersection, LOS A indicates operations with delay of less than 10 seconds per vehicle, while LOS F describes operations with delay in excess of 80 seconds per vehicle. The Technical Appendix contains the Highway Capacity Analysis Detail Sheets for the study intersections analyzed in this assessment.

2022 EXISTING CONDITION

2022 EXISTING ROADWAY CONDITIONS

The proposed car wash development is located along the southern side of Southwestern Boulevard in the Town of Hamburg, Erie County, New York. The subject property is designated as Section 182.05, Block I, Lot 9.2 as depicted on the Erie County Tax Map. The site has approximately 260 feet of frontage along Southwestern Boulevard. Land uses in the area are predominantly residential and commercial.

Southwestern Boulevard (U.S. Route 20) is classified as a principal arterial roadway with a general east-west orientation and is under the jurisdiction of the New York State Department of Transportation (NYSDOT). Along the site frontage, the roadway provides two (2) lanes in each direction separated by a two-way left-turn lane and has a posted speed limit of 50 mph. Curb and sidewalk are provided along both sides of the roadway, shoulders are provided along both sides of the roadway, and on-street parking is not permitted along either side of the roadway. Southwestern Boulevard provides east-west mobility between the Hamlet of Irving and the Village of Orchard Park for predominately commercial and industrial uses.

2022 EXISTING TRAFFIC VOLUMES

Turning movement counts were collected during the typical weekday evening and Saturday midday time periods to evaluate existing traffic conditions and identify the specific hours when traffic activity on the adjacent roadways is at a maximum and could be potentially impacted by the development of the site. Turning movement counts were collected at the intersection of Southwestern Boulevard & Mavis Discount Tire Driveway.

Specifically, turning movement counts were conducted on the following dates and during the following times:

- ◆ Saturday, September 24, 2022, from 11:00 p.m. to 2:00 p.m.
- ◆ Wednesday, September 28, 2022, from 4:00 p.m. to 7:00 p.m.

The study time periods were chosen as they are representative of the peak periods of both the adjacent roadway network and the proposed development. The traffic volume data was collected and analyzed to identify the design peak hour in accordance with HCM and ITE guidelines. Based on the review of the count data the weekday evening peak hour occurred from 4:30 p.m. to 5:30 p.m. and the Saturday midday peak hour occurred from 1:00 p.m. to 2:00 p.m. The Technical Appendix contains a summary of the turning movement count data. The 2022 Existing weekday evening and Saturday midday peak hour volumes are summarized on appended **Figure 2**.

2022 EXISTING LOS/CAPACITY ANALYSIS

A Level of Service and Volume/Capacity analysis was conducted for the 2022 Existing Condition during the weekday evening and Saturday midday peak hours at the study intersection. The turning movements at the unsignalized intersection of Southwestern Boulevard and Mavis Discount Tire Driveway are calculated to operate at a Level of Service of C or better during the weekday evening peak hour, and a Level of Service B or better during the Saturday midday peak hour.

MOTOR VEHICLE COLLISION DATA

In order to assess the safety of the study network, three (3) most recent years of available motor vehicle collision data prior to the onset of the COVID-19 pandemic were obtained from the NYSDOT. The study periods spans from February 1, 2017 to February 1, 2020. **Table I** provides a summary of the manner and severity of the motor vehicle collisions proximate to the subject site driveway.

TABLE I – MOTOR VEHICLE COLLISION ANALYSIS SUMMARY

Intersection	Collision Type	Number of Collisions	Collisions Resulting in Injury	Collisions Resulting in Fatality
Southwestern Boulevard & Mavis Discount Tire Driveway	Right Angle	1	0	0
	Overtaking	1	0	0
	TOTAL	2	0	0

As shown in **Table I**, a total of two (2) collisions were reported within the study network over the 36-month period. It is important to note that zero (0) fatalities occurred as a result of the reported motor vehicle collisions in the study network. Collision rates at the site driveway are not anticipated to be adversely impacted due to the proposed development.

2024 NO-BUILD CONDITION

BACKGROUND GROWTH

The 2022 Existing Condition traffic volume data was grown to a future horizon year of 2024, which is a conservative estimate for when the proposed car wash is expected to be fully constructed. In accordance with industry guidelines, the existing traffic volumes at the study intersections were increased by 2.51% annually for two (2) years to generate the 2024 Base Traffic Volumes. The 2.51% background growth rate was obtained from the growth in traffic forecasted by the NYSDOT Highway Data Services Bureau for the study area.

OTHER PLANNED DEVELOPMENT PROJECTS

To evaluate the future traffic conditions, it is important to consider the potential site-generated traffic of other projects that could influence the traffic volume at the study intersections. Other planned development projects include those that are either in the entitlement process or have recently been approved for building permits in proximity to the proposed development. Based on consultations with the Town of Hamburg Planning Department, the following developments are anticipated to impact traffic volumes within the study area:

- ◆ Proposed 156-unit residential development located along Southwestern Boulevard, approximately 1,200 feet west of the study area
- ◆ Proposed 84-unit residential development located along Southwestern Boulevard, approximately 1,200 feet west of the study area

Trip generation projections for the proposed residential developments were prepared utilizing the Institute of Transportation Engineers (ITE)'s Trip Generation Manual, 11th Edition. Rates associated with Land Use 220 "Multifamily Housing (Low-Rise)" were cited for the other planned developments. **Table 2** provides the weekday evening and Saturday midday peak hour trip generations volumes associated with the other planned developments. Based on the anticipated trip distribution associated with the other planned developments, a conservative estimate of trips were routed through the study network.

TABLE 2 – PROJECTED TRIP GENERATION – OTHER PLANNED PROJECTS

Land Use	Weekday Evening Peak Hour			Saturday Midday Peak Hour		
	Enter	Exit	Total	Enter	Exit	Total
84-unit apartment development	36	21	57	17	17	34
156-unit apartment development	55	33	88	32	32	64
Total	91	54	145	49	49	98
	EB	WB	Total	EB	WB	Total
Total Along Site Frontage	28	46	74	25	25	50

Appended **Figure 3** illustrates the site-generated traffic associated with the other planned developments that are expected to generate volumes within the study network.

2024 NO-BUILD TRAFFIC VOLUMES

The site-generated trips associated with the other planned developments were added to the 2024 Base Traffic Volumes to calculate the 2024 No-Build Traffic Volumes for the weekday evening and Saturday Midday peak hours. These volumes are summarized on appended **Figure 4**.

2024 NO-BUILD LOS/CAPACITY ANALYSIS

A Level of Service and Volume/Capacity analysis was also conducted for the 2024 No-Build Condition during the weekday evening and Saturday midday peak hours at the study intersection. The turning movements at the unsignalized intersection of Southwestern Boulevard and Mavis Discount Tire Driveway are calculated to operate generally consistent with the findings of the 2022 Existing Condition during all study peak hours.

2024 BUILD CONDITION

The site-generated traffic volume of the proposed car wash development was estimated to identify the potential impacts of the project. For the purpose of this analysis, a complete project “build out” is assumed within two (2) years of the preparation of this study.

TRIP GENERATION

Trip generation projections for the proposed car wash were prepared utilizing ITE’s Trip Generation Manual, 11th Edition. Trip generation rates associated with Land Use 948 “Automated Car Wash” were cited for the I-Tunnel Automated Car Wash. **Table 3** provides the weekday evening and Saturday midday trip generation volumes associated with the proposed development.

TABLE 3 – PROJECTED TRIP GENERATION

Land Use	Weekday Evening Peak Hour			Saturday Midday Peak Hour		
	Enter	Exit	Total	Enter	Exit	Total
I-Tunnel Automated Car Wash <i>ITE Land Use 948</i>	39	39	78	19	22	41

As stated within Chapter 10 of ITE’s Trip Generation Handbook, 3rd Edition, vehicle service developments such as gas stations and car washes are often located adjacent to busy streets to attract motorists already on the roadway. These sites attract a portion of their trips from traffic passing the site on the way from an origin to an ultimate destination. These trips do not add new traffic to the adjacent roadway system and are referred to as “pass-by” trips. Please note that ITE does not publish pass-by rates for Land Use 948 “Automated Car Wash,” however published data within ITE’s Trip Generation Manual, 11th Edition for similar Land Use 944 “Gasoline/Service Station” indicates that 57% of the site-generated traffic during the weekday evening peak hour and 49% of the site-generated traffic during the Saturday midday peak hour is comprised of pass-by trips. Therefore, it is anticipated that a portion of the site-generated trips for the car wash would be comprised of pass-by trips during the study peak hours. However, a pass-by credit was conservatively not applied to the analysis contained herein.

As shown in **Table 3**, the proposed development is expected to generate 78 total trips during the weekday evening peak hour and 41 total trips during the Saturday midday peak hour. Based on Transportation Impact Analysis for Site Development published by ITE, a trip increase of less than 100 vehicle trips would likely not change the Level of Service of the adjacent roadway system or appreciably increase the volume-to-capacity ratio of an intersection approach. As such, the proposed development is not anticipated to significantly impact the operations of the adjacent roadway network.

TRIP ASSIGNMENT/DISTRIBUTION

The trips generated by the proposed development were distributed according to the existing travel pattern along the adjacent roadways and the access management plan of the site. The Site-Generated Traffic Volumes are illustrated on **Figure 5**.

2024 BUILD TRAFFIC VOLUMES

The site-generated trips were added to the 2024 No-Build Traffic Volumes to calculate the 2024 Build Traffic Volumes and are shown on appended **Figure 6**.

2024 BUILD LOS/CAPACITY ANALYSIS

A Level of Service and Volume/Capacity analysis was also conducted for the 2024 Build Condition during the weekday evening and Saturday midday at the study intersection. **Tables 4** and **5** compare the 2022 Existing, 2024 No-Build, and 2024 Build Conditions Level of Service and delay values.

The turning movements at the unsignalized intersection of Southwestern Boulevard and Mavis Discount Tire Driveway are calculated to operate generally consistent with the findings of the 2024 No-Build Condition during all study peak hours. Please note that the northbound left-turn movement degrades to a Level of Service D during the weekday evening peak period but only exceeds the C-to-D threshold by 0.7 seconds. Additionally, please note that westbound left-turn movement degrades to a Level of Service B during the weekday evening and Saturday midday peak hours but only exceeds the A-to-B threshold by 0.2 seconds and 0.1 seconds, respectively.

COMPARATIVE LEVEL OF SERVICE (DELAY) TABLES**Southwestern Boulevard & Mavis Discount Tire Driveway**

WB (Westbound) approach is the Southwestern Boulevard approach

NB (Northbound) approaches are the Mavis Discount Tire Driveway approaches

X (n) = Level of Service (seconds of delay)

TABLE 4 – WEEKDAY EVENING PEAK HOUR

Lane Group	2022 Existing	2024 No-Build	2024 Build
WB Left	A (9.6)	A (9.9)	B (10.2)
NB Left	C (21.0)	C (22.7)	D (25.7)
NB Right	B (11.3)	B (11.6)	B (12.0)

TABLE 5 – SATURDAY MIDDAY PEAK HOUR

Lane Group	2022 Existing	2024 No-Build	2024 Build
WB Left	A (9.6)	A (9.9)	B (10.0)
NB Left	--	--	C (20.8)
NB Right	B (12.0)	B (12.3)	B (12.6)

SITE CIRCULATION/PARKING SUPPLY

A review was conducted of the proposed car wash development using the Site Plan prepared by Stonefield Engineering, dated September 28, 2022. In completing this review, particular attention was focused on the site access, circulation, and parking supply.

Access to the adjacent roadway is proposed to be maintained via the existing driveway along Southwestern Boulevard, which would provide shared access to the proposed development and the easterly adjacent property. Cross access would be maintained. The proposed 4,516-square-foot car wash with one (1) wash-stall will be located on the southerly portion of the developed area. The car wash will be supported via three (3) one-way lanes with a minimum 11-foot lane width located along the southwesterly portion of the site. Counter-clockwise circulation through the drive-through will be facilitated along the northerly and southwesterly portions of the site to enter at the southwesterly building frontage via the 14-foot car wash drive-aisle. Please note that a 12-foot wide northbound escape lane will be provided proximate to the car wash entrance, giving motorists the opportunity to exit the drive-through lane and re-enter the parking lot. Off-street parking will be provided on the central portion of the portion of the property, which will be facilitated via an 18-foot-wide one-way drive aisle. Two (2)-way circulation would be provided by a 24-foot wide drive aisle.

Regarding the parking requirements for the proposed development, the Town of Hamburg Zoning Ordinance states that the parking supply is determined by the Planning Board per Section 280-215.A. The site

would provide 18 total parking spaces, inclusive of one (1) ADA accessible parking spaces. The spaces would be 12 feet wide by 18 feet deep in accordance with industry standards.

It is important to note that the proposed car wash operates as a drive-through service, which reduces the need for patrons to park their vehicle in a parking space. Therefore, given the nature of the proposed development, the parking spaces are anticipated to be used primarily by employees at the site. Additionally, the proposed parking supply was evaluated with respect to data published within ITE's Parking Generation, 5th Edition. Please note that ITE does not publish data for Land Use 948 "Automated Car Wash" and therefore data associated with similar Land Use 943 "Automobile Parts and Service Center" were utilized. The average and 85th percentile parking demand rate during the weekday peak period for Land Use 943 "Automobile Parts and Service Center" is 1.69 vehicles per 1,000-square-feet and 3.54 vehicles per 1,000-square-feet, respectively. For the proposed 4,516-square-foot car wash, this equates to eight (8) and 16 parking spaces. As such, the proposed parking supply of 18 spaces would be sufficient to support the parking demand of the proposed car wash.

CONCLUSIONS

This report was prepared to examine the potential traffic impact of the proposed car wash development. The analysis findings, which have been based on industry-standard guidelines, indicate that the proposed development would not have a significant impact on the traffic operations of the adjacent roadway network. The site driveways and on-site layout have been designed to provide for effective access to and from the subject property. Based on published ITE data and site characteristics, the parking supply would be sufficient to support this project.


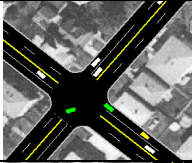



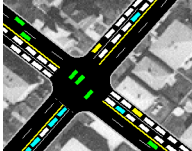
TECHNICAL APPENDIX

LEVEL OF SERVICE/AVERAGE CONTROL DELAY CRITERIA

LEVEL OF SERVICE /AVERAGE CONTROL DELAY CRITERIA

The ability of a roadway to effectively accommodate traffic demand is determined through an assessment of the volume-to-capacity ratio, delay and Level of Service of the lane group and/or intersection. The volume-to-capacity ratio is the ratio of traffic flow rate to capacity for a given transportation facility. As defined within the Highway Capacity Manual 2010 (HCM 2010), intersection delay is the total additional travel time experienced by drivers, passengers, or pedestrians as a result of control measures and interaction with other users of the facility, divided by the volume departing from the corresponding cross section of the facility. Level of service is a qualitative measure describing operational conditions within a traffic stream, based on service measures such as speed and travel time, freedom to maneuver, traffic interruptions, comfort and convenience.

For an unsignalized intersection, LOS A indicates operations with delay less than 10 seconds per vehicle, while LOS F describes operations with delay in excess of 50 seconds per vehicle. For a signalized intersection, LOS A indicates operations with delay less than 10 seconds per vehicle and LOS F denotes operations with delay in excess of 80 seconds per vehicle.

	Level Of Service (LOS)	Signalized Delay Range (average control delay in sec/veh)	Unsignalized Delay Range (average control delay in sec/veh)
	A	≤ 10	≤ 10
	B	> 10 and ≤ 20	> 10 and ≤ 15
	C	> 20 and ≤ 35	> 15 and ≤ 25
	D	> 35 and ≤ 55	> 25 and ≤ 35
	E	> 55 and ≤ 80	> 35 and ≤ 50
	F	> 80	> 50

Source: Highway Capacity Manual 2010

TURNING MOVEMENT COUNT DATA

National Data & Surveying Services Intersection Turning Movement Count

Location: Mavis Discount Tire Dwy & Southwestern Blvd
City: Hamburg
Control: 1-Way Stop(NB)

Project ID: 22-400008-001
Date: 9/20/2022

Data - Total

NS/EW Streets:		Mavis Discount Tire Dwy				Mavis Discount Tire Dwy				Southwestern Blvd				Southwestern Blvd				
PM		NORTHBOUND				SOUTHBOUND				EASTBOUND				WESTBOUND				TOTAL
		1 NL	0 NT	1 NR	0 NU	0 SL	0 ST	0 SR	0 SU	0 EL	2 ET	0 ER	0 EU	0 WL	2 WT	0 WR	0 WU	
	4:00 PM	1	0	1	0	0	0	0	0	0	219	1	0	1	344	0	0	567
	4:15 PM	1	0	0	0	0	0	0	0	0	197	0	0	1	320	0	0	519
	4:30 PM	1	0	1	0	0	0	0	0	0	229	0	0	1	360	0	0	592
	4:45 PM	0	0	0	0	0	0	0	0	0	205	0	0	1	343	0	0	549
	5:00 PM	1	0	1	0	0	0	0	0	0	191	1	0	0	371	0	0	565
	5:15 PM	0	0	0	0	0	0	0	0	0	208	0	0	0	353	0	0	561
	5:30 PM	0	0	0	0	0	0	0	0	0	184	1	0	0	331	0	0	516
	5:45 PM	0	0	1	0	0	0	0	0	0	184	0	0	0	292	0	0	477
	6:00 PM	1	0	1	0	0	0	0	0	0	162	0	0	0	231	0	0	395
	6:15 PM	0	0	1	0	0	0	0	0	0	178	2	0	0	215	0	0	396
	6:30 PM	1	0	1	0	0	0	0	0	0	141	2	0	0	247	0	0	392
	6:45 PM	0	0	2	0	0	0	0	0	0	136	0	0	2	221	0	0	361
TOTAL VOLUMES :		NL 6	NT 0	NR 9	NU 0	SL 0	ST 0	SR 0	SU 0	EL 0	ET 2234	ER 7	EU 0	WL 6	WT 3628	WR 0	WU 0	TOTAL 5890
APPROACH %'s :		40.00%	0.00%	60.00%	0.00%					0.00%	99.69%	0.31%	0.00%	0.17%	99.83%	0.00%	0.00%	
PEAK HR :		04:30 PM - 05:30 PM																TOTAL
PEAK HR VOL :		2	0	2	0	0	0	0	0	0	833	1	0	2	1427	0	0	2267
PEAK HR FACTOR :		0.500	0.000	0.500	0.000	0.000	0.000	0.000	0.000	0.000	0.909	0.250	0.000	0.500	0.962	0.000	0.000	0.957
		0.500								0.910				0.963				

National Data & Surveying Services Intersection Turning Movement Count

Location: Mavis Discount Tire Dwy & Southwestern Blvd
City: Hamburg
Control: 1-Way Stop(NB)

Project ID: 22-400008-001
Date: 9/24/2022

Data - Total

NS/EW Streets:	Mavis Discount Tire Dwy				Mavis Discount Tire Dwy				Southwestern Blvd				Southwestern Blvd				
NOON	NORTHBOUND				SOUTHBOUND				EASTBOUND				WESTBOUND				TOTAL
	1 NL	0 NT	1 NR	0 NU	0 SL	0 ST	0 SR	0 SU	0 EL	2 ET	0 ER	0 EU	0 WL	2 WT	0 WR	0 WU	
11:00 AM	1	0	2	0	0	0	0	0	0	201	1	0	1	225	0	0	431
11:15 AM	0	0	0	0	0	0	0	0	0	227	0	0	0	238	0	0	465
11:30 AM	0	0	0	0	0	0	0	0	0	232	3	0	3	214	0	0	452
11:45 AM	1	0	2	0	0	0	0	0	0	206	1	0	0	250	0	0	460
12:00 PM	4	0	1	0	0	0	0	0	0	201	2	0	1	240	0	0	449
12:15 PM	2	0	0	0	0	0	0	0	0	198	1	0	1	245	0	0	447
12:30 PM	0	0	1	0	0	0	0	0	0	205	0	0	2	247	0	0	455
12:45 PM	0	0	0	0	0	0	0	0	0	192	0	0	0	223	0	0	415
1:00 PM	0	0	2	0	0	0	0	0	0	199	0	0	3	255	0	0	459
1:15 PM	0	0	0	0	0	0	0	0	0	210	0	0	0	238	0	0	448
1:30 PM	0	0	1	0	0	0	0	0	0	226	0	0	1	244	0	0	472
1:45 PM	0	0	2	0	0	0	0	0	0	206	1	0	0	238	0	0	447
TOTAL VOLUMES :	NL 8	NT 0	NR 11	NU 0	SL 0	ST 0	SR 0	SU 0	EL 0	ET 2503	ER 9	EU 0	WL 12	WT 2857	WR 0	WU 0	TOTAL 5400
APPROACH %'s :	42.11%	0.00%	57.89%	0.00%					0.00%	99.64%	0.36%	0.00%	0.42%	99.58%	0.00%	0.00%	
PEAK HR :	01:00 PM - 02:00 PM																TOTAL
PEAK HR VOL :	0	0	5	0	0	0	0	0	0	841	1	0	4	975	0	0	1826
PEAK HR FACTOR :	0.000	0.000	0.625	0.000	0.000	0.000	0.000	0.000	0.000	0.930	0.250	0.000	0.333	0.956	0.000	0.000	0.967
	0.625									0.931				0.949			

FIGURES



STONEFIELD

Proposed Car Wash
5363 Southwestern Boulevard
Town of Hamburg, Erie County, New York
Traffic Impact Study

FIGURE I
Site Location Map



1427 (975)
2 (4)

2 (5)
2 (0)


(841) 833
(1) 1

Existing Mavis Discount Tire Center

Proposed Car Wash

Southwestern Boulevard
(US Route 20)

LEGEND

- Existing Roadway
- - - Proposed Driveway
- . . Existing Private Driveway
- ← PM (SAT) Peak Hour Volumes
-  Signalized Intersection

not to scale

STONEFIELD

Proposed Car Wash
5363 Southwestern Boulevard
Town of Hamburg, Erie County, New York
Traffic Impact Study

FIGURE 2
2022 Existing Traffic
Volumes



Southwestern Boulevard
(US Route 20)


46 (25)

(25) 28

Existing Mavis Discount Tire Center

Proposed Car Wash

LEGEND

- Existing Roadway
- - - Proposed Driveway
- . . Existing Private Driveway
- ← PM (SAT) Peak Hour Volumes
-  Signalized Intersection

not to scale

STONEFIELD

Proposed Car Wash
5363 Southwestern Boulevard
Town of Hamburg, Erie County, New York
Traffic Impact Study

FIGURE 3
Other Planned Projects
Future Traffic Volumes



1546 (1050)
2 (4)

2 (5)
2 (0)

(909) 903
(1) 1

Existing Mavis Discount Tire Center

Proposed Car Wash

Southwestern Boulevard
(US Route 20)

LEGEND

- Existing Roadway
- Proposed Driveway
- Existing Private Driveway
- PM (SAT) Peak Hour Volumes
- Signalized Intersection

not to scale

STONEFIELD

Proposed Car Wash
5363 Southwestern Boulevard
Town of Hamburg, Erie County, New York
Traffic Impact Study

FIGURE 4
2024 No-Build Traffic
Volumes



Existing Mavis Discount Tire Center

Proposed Car Wash


Southwestern Boulevard
(US Route 20)

23 (11)

23 (13)
16 (9)

(8) 16

LEGEND

- Existing Roadway
- - - Proposed Driveway
- . . Existing Private Driveway
- ← PM (SAT) Peak Hour Volumes
-  Signalized Intersection

not to scale

STONEFIELD

Proposed Car Wash
5363 Southwestern Boulevard
Town of Hamburg, Erie County, New York
Traffic Impact Study

FIGURE 5
Site-Generated Traffic
Volumes



Southwestern Boulevard
(US Route 20)

1546 (1050)
25 (15)

25 (18)
18 (9)

903
(9) 17

Existing Mavis Discount Tire Center

Proposed Car Wash

LEGEND

- Existing Roadway
- Proposed Driveway
- Existing Private Driveway
- PM (SAT) Peak Hour Volumes
- Signalized Intersection

not to scale

STONEFIELD

Proposed Car Wash
5363 Southwestern Boulevard
Town of Hamburg, Erie County, New York
Traffic Impact Study

FIGURE 6
2024 Build Traffic Volumes

NYSDOT TRAFFIC MONITORING CORRESPONDENCE

Luna, Andy

From: dot.sm.mo.traffic.data.viewer <MO-TrafficDataViewer@dot.ny.gov>
Sent: Wednesday, October 5, 2022 12:16 PM
To: Luna, Andy
Subject: RE: Inquiry to Data Services Bureau

CAUTION: External Email

Good afternoon Andy,

These are the growth rates for the requested locations -

1. Southwestern Boulevard (US 20) proximate to Walmart Driveway (53_0110 both legs)
Average Annual Growth: **+ 2.51%**
2. Southwestern Boulevard (US 20) proximate to Rogers Road (still 53_0110 both legs)
Average Annual Growth: **+ 2.51% (same station as above)**
3. Town-wide rate for the Town of Hamburg 0361
Average Annual Growth: **- 1.45%**
4. County-wide rate for Erie County 53
Average Annual Growth: **- 0.82%**

It may be of interest to know that our Traffic Data Forecaster software is available publicly for download on our website here <https://www.dot.ny.gov/highway-data-services> (towards the bottom of the page). Instructions and configuration files are available as well.

Please ask if you have additional questions.

Traffic Data Viewer

NYSDOT Office of Technical Services Traffic Monitoring Section

50 Wolf Road, POD 4-2, Albany, NY 12232
518-457-1965 | MO-TrafficDataViewer@dot.ny.gov



From: Luna, Andy <aluna@stonefieldeng.com>
Sent: Tuesday, October 4, 2022 3:39 PM
To: dot.sm.mo.traffic.data.viewer <MO-TrafficDataViewer@dot.ny.gov>; Matias, Kurt (DOT) <Kurt.Matias@dot.ny.gov>
Cc: Prassas, Demi <dprassas@stonefieldeng.com>; Rubinstein, Sebastian <srubinstein@stonefieldeng.com>
Subject: Inquiry to Data Services Bureau

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Good afternoon,

Please note that our office is conducting a traffic study in the Town of Hamburg, Erie County, NY. In order to finalize the traffic study, please provide the growth rates for the following:

1. Southwestern Boulevard (US 20) proximate to Walmart Driveway
2. Southwestern Boulevard (US 20) proximate to Rogers Road
3. Town-wide rate for the Town of Hamburg
4. County-wide rate for Erie County

Thank you,

Andy Luna

STONEFIELD

584 Broadway, Suite 310, New York, New York 10012

T 718.606.8305 | M 516.204.4873

aluna@stonefieldeng.com | stonefieldeng.com

HIGHWAY CAPACITY ANALYSIS DETAIL SHEETS

HCM 6th TWSC
3: Mavis Discount Tire Driveway & Southwestern Boulevard

2022 Existing Condition
Weekday Evening Peak Hour

Intersection								
Int Delay, s/veh	0							
Movement	EBT	EBR	WBL	WBT	NBL	NBR		
Lane Configurations	↑↑↱		↱	↑↑	↱	↱		
Traffic Vol, veh/h	833	1	2	1427	2	2		
Future Vol, veh/h	833	1	2	1427	2	2		
Conflicting Peds, #/hr	0	0	0	0	0	0		
Sign Control	Free	Free	Free	Free	Stop	Stop		
RT Channelized	-	None	-	None	-	None		
Storage Length	-	-	25	-	0	0		
Veh in Median Storage, #	0	-	-	0	0	-		
Grade, %	0	-	-	0	0	-		
Peak Hour Factor	96	96	96	96	96	96		
Heavy Vehicles, %	5	0	0	2	0	0		
Mvmt Flow	868	1	2	1486	2	2		
Major/Minor	Major1		Major2		Minor1			
Conflicting Flow All	0	0	869	0	1616	435		
Stage 1	-	-	-	-	869	-		
Stage 2	-	-	-	-	747	-		
Critical Hdwy	-	-	4.1	-	6.8	6.9		
Critical Hdwy Stg 1	-	-	-	-	5.8	-		
Critical Hdwy Stg 2	-	-	-	-	5.8	-		
Follow-up Hdwy	-	-	2.2	-	3.5	3.3		
Pot Cap-1 Maneuver	-	-	784	-	96	575		
Stage 1	-	-	-	-	376	-		
Stage 2	-	-	-	-	434	-		
Platoon blocked, %	-	-		-				
Mov Cap-1 Maneuver	-	-	784	-	96	575		
Mov Cap-2 Maneuver	-	-	-	-	227	-		
Stage 1	-	-	-	-	376	-		
Stage 2	-	-	-	-	433	-		
Approach	EB		WB		NB			
HCM Control Delay, s	0		0		16.2			
HCM LOS					C			
Minor Lane/Major Mvmt	NBLn1		NBLn2		EBT	EBR	WBL	WBT
Capacity (veh/h)	227		575		-	-	784	-
HCM Lane V/C Ratio	0.009		0.004		-	-	0.003	-
HCM Control Delay (s)	21		11.3		-	-	9.6	-
HCM Lane LOS	C		B		-	-	A	-
HCM 95th %tile Q(veh)	0		0		-	-	0	-

HCM 6th TWSC
3: Mavis Discount Tire Driveway & Southwestern Boulevard

2022 Existing Condition
Saturday Midday Peak Hour

Intersection							
Int Delay, s/veh	0						
Movement	EBT	EBR	WBL	WBT	NBL	NBR	
Lane Configurations	↑↑↱		↱	↑↑	↱	↱	
Traffic Vol, veh/h	841	1	4	975	0	5	
Future Vol, veh/h	841	1	4	975	0	5	
Conflicting Peds, #/hr	0	0	0	0	0	0	
Sign Control	Free	Free	Free	Free	Stop	Stop	
RT Channelized	-	None	-	None	-	None	
Storage Length	-	-	25	-	0	0	
Veh in Median Storage, #	0	-	-	0	0	-	
Grade, %	0	-	-	0	0	-	
Peak Hour Factor	97	97	97	97	97	97	
Heavy Vehicles, %	3	0	0	1	0	20	
Mvmt Flow	867	1	4	1005	0	5	
Major/Minor	Major1		Major2		Minor1		
Conflicting Flow All	0	0	868	0	1379	434	
Stage 1	-	-	-	-	868	-	
Stage 2	-	-	-	-	511	-	
Critical Hdwy	-	-	4.1	-	6.8	7.3	
Critical Hdwy Stg 1	-	-	-	-	5.8	-	
Critical Hdwy Stg 2	-	-	-	-	5.8	-	
Follow-up Hdwy	-	-	2.2	-	3.5	3.5	
Pot Cap-1 Maneuver	-	-	785	-	138	523	
Stage 1	-	-	-	-	376	-	
Stage 2	-	-	-	-	573	-	
Platoon blocked, %	-	-		-			
Mov Cap-1 Maneuver	-	-	785	-	137	523	
Mov Cap-2 Maneuver	-	-	-	-	266	-	
Stage 1	-	-	-	-	376	-	
Stage 2	-	-	-	-	570	-	
Approach	EB		WB		NB		
HCM Control Delay, s	0		0		12		
HCM LOS					B		
Minor Lane/Major Mvmt	NBLn1		NBLn2	EBT	EBR	WBL	WBT
Capacity (veh/h)	-		523	-	-	785	-
HCM Lane V/C Ratio	-		0.01	-	-	0.005	-
HCM Control Delay (s)	0		12	-	-	9.6	-
HCM Lane LOS	A		B	-	-	A	-
HCM 95th %tile Q(veh)	-		0	-	-	0	-

HCM 6th TWSC
3: Mavis Discount Tire Driveway & Southwestern Boulevard

2024 No-Build Condition
Weekday Evening Peak Hour

Intersection						
Int Delay, s/veh	0					
Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations	↑↑↱		↱	↑↑	↱	↱
Traffic Vol, veh/h	903	1	2	1546	2	2
Future Vol, veh/h	903	1	2	1546	2	2
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	25	-	0	0
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	96	96	96	96	96	96
Heavy Vehicles, %	5	0	0	2	0	0
Mvmt Flow	941	1	2	1610	2	2
Major/Minor	Major1		Major2		Minor1	
Conflicting Flow All	0	0	942	0	1751	471
Stage 1	-	-	-	-	942	-
Stage 2	-	-	-	-	809	-
Critical Hdwy	-	-	4.1	-	6.8	6.9
Critical Hdwy Stg 1	-	-	-	-	5.8	-
Critical Hdwy Stg 2	-	-	-	-	5.8	-
Follow-up Hdwy	-	-	2.2	-	3.5	3.3
Pot Cap-1 Maneuver	-	-	736	-	78	545
Stage 1	-	-	-	-	344	-
Stage 2	-	-	-	-	403	-
Platoon blocked, %	-	-		-		
Mov Cap-1 Maneuver	-	-	736	-	78	545
Mov Cap-2 Maneuver	-	-	-	-	205	-
Stage 1	-	-	-	-	344	-
Stage 2	-	-	-	-	402	-
Approach	EB		WB		NB	
HCM Control Delay, s	0		0		17.2	
HCM LOS					C	
Minor Lane/Major Mvmt	NBLn1	NBLn2	EBT	EBR	WBL	WBT
Capacity (veh/h)	205	545	-	-	736	-
HCM Lane V/C Ratio	0.01	0.004	-	-	0.003	-
HCM Control Delay (s)	22.7	11.6	-	-	9.9	-
HCM Lane LOS	C	B	-	-	A	-
HCM 95th %tile Q(veh)	0	0	-	-	0	-

HCM 6th TWSC
3: Mavis Discount Tire Driveway & Southwestern Boulevard

2024 No-Build Condition
Saturday Midday Peak Hour

Intersection						
Int Delay, s/veh	0					
Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations	↑↑↱		↱	↑↑	↱	↱
Traffic Vol, veh/h	909	1	4	1050	0	5
Future Vol, veh/h	909	1	4	1050	0	5
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	25	-	0	0
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	97	97	97	97	97	97
Heavy Vehicles, %	3	0	0	1	0	20
Mvmt Flow	937	1	4	1082	0	5
Major/Minor	Major1		Major2		Minor1	
Conflicting Flow All	0	0	938	0	1487	469
Stage 1	-	-	-	-	938	-
Stage 2	-	-	-	-	549	-
Critical Hdwy	-	-	4.1	-	6.8	7.3
Critical Hdwy Stg 1	-	-	-	-	5.8	-
Critical Hdwy Stg 2	-	-	-	-	5.8	-
Follow-up Hdwy	-	-	2.2	-	3.5	3.5
Pot Cap-1 Maneuver	-	-	739	-	117	495
Stage 1	-	-	-	-	346	-
Stage 2	-	-	-	-	548	-
Platoon blocked, %	-	-		-		
Mov Cap-1 Maneuver	-	-	739	-	116	495
Mov Cap-2 Maneuver	-	-	-	-	243	-
Stage 1	-	-	-	-	346	-
Stage 2	-	-	-	-	545	-
Approach	EB		WB		NB	
HCM Control Delay, s	0		0		12.3	
HCM LOS					B	
Minor Lane/Major Mvmt	NBLn1	NBLn2	EBT	EBR	WBL	WBT
Capacity (veh/h)	-	495	-	-	739	-
HCM Lane V/C Ratio	-	0.01	-	-	0.006	-
HCM Control Delay (s)	0	12.3	-	-	9.9	-
HCM Lane LOS	A	B	-	-	A	-
HCM 95th %tile Q(veh)	-	0	-	-	0	-

HCM 6th TWSC
3: Mavis Discount Tire Driveway & Southwestern Boulevard

2024 Build Condition
Weekday Evening Peak Hour

Intersection						
Int Delay, s/veh	0.4					
Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations	↑↑↱		↱	↑↑	↱	↱
Traffic Vol, veh/h	903	17	25	1546	18	25
Future Vol, veh/h	903	17	25	1546	18	25
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	25	-	0	0
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	96	96	96	96	96	96
Heavy Vehicles, %	5	0	0	2	0	0
Mvmt Flow	941	18	26	1610	19	26
Major/Minor	Major1		Major2		Minor1	
Conflicting Flow All	0	0	959	0	1807	480
Stage 1	-	-	-	-	950	-
Stage 2	-	-	-	-	857	-
Critical Hdwy	-	-	4.1	-	6.8	6.9
Critical Hdwy Stg 1	-	-	-	-	5.8	-
Critical Hdwy Stg 2	-	-	-	-	5.8	-
Follow-up Hdwy	-	-	2.2	-	3.5	3.3
Pot Cap-1 Maneuver	-	-	725	-	72	537
Stage 1	-	-	-	-	341	-
Stage 2	-	-	-	-	381	-
Platoon blocked, %	-	-		-		
Mov Cap-1 Maneuver	-	-	725	-	69	537
Mov Cap-2 Maneuver	-	-	-	-	193	-
Stage 1	-	-	-	-	341	-
Stage 2	-	-	-	-	367	-
Approach	EB		WB		NB	
HCM Control Delay, s	0		0.2		17.7	
HCM LOS	C					
Minor Lane/Major Mvmt	NBLn1	NBLn2	EBT	EBR	WBL	WBT
Capacity (veh/h)	193	537	-	-	725	-
HCM Lane V/C Ratio	0.097	0.048	-	-	0.036	-
HCM Control Delay (s)	25.7	12	-	-	10.2	-
HCM Lane LOS	D	B	-	-	B	-
HCM 95th %tile Q(veh)	0.3	0.2	-	-	0.1	-

HCM 6th TWSC
3: Mavis Discount Tire Driveway & Southwestern Boulevard

2024 Build Condition
Saturday Midday Peak Hour

Intersection						
Int Delay, s/veh	0.3					
Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations	↑↑		↑	↑↑	↑	↑
Traffic Vol, veh/h	909	9	15	1050	9	18
Future Vol, veh/h	909	9	15	1050	9	18
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	25	-	0	0
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	97	97	97	97	97	97
Heavy Vehicles, %	3	0	0	1	0	20
Mvmt Flow	937	9	15	1082	9	19

Major/Minor	Major1	Major2	Minor1
Conflicting Flow All	0	0	946
Stage 1	-	-	-
Stage 2	-	-	-
Critical Hdwy	-	-	4.1
Critical Hdwy Stg 1	-	-	-
Critical Hdwy Stg 2	-	-	-
Follow-up Hdwy	-	-	2.2
Pot Cap-1 Maneuver	-	-	734
Stage 1	-	-	-
Stage 2	-	-	-
Platoon blocked, %	-	-	-
Mov Cap-1 Maneuver	-	-	734
Mov Cap-2 Maneuver	-	-	-
Stage 1	-	-	-
Stage 2	-	-	-

Approach	EB	WB	NB
HCM Control Delay, s	0	0.1	15.3
HCM LOS			C

Minor Lane/Major Mvmt	NBLn1	NBLn2	EBT	EBR	WBL	WBT
Capacity (veh/h)	237	492	-	-	734	-
HCM Lane V/C Ratio	0.039	0.038	-	-	0.021	-
HCM Control Delay (s)	20.8	12.6	-	-	10	-
HCM Lane LOS	C	B	-	-	B	-
HCM 95th %tile Q(veh)	0.1	0.1	-	-	0.1	-

Rebecca Spurr

From: Frei, Ronald A (DOT) <Ronald.Frei@dot.ny.gov>
Sent: Friday, May 12, 2023 11:35 AM
To: Aktas, Jason; Rubinstein, Sebastian
Cc: Prassas, Demi; Billittier, John M. (DOT)
Subject: RE: Control # 100759 Perm 33-COM, Stage 1 - 5363 Southwestern Blvd. Mod Car Wash

CAUTION: External Email

Good morning,

Having reviewed the Stage 1 – 2 of the PERM 33-COM application, we find there is no work required to be performed in the NYSDOT ROW relevant to the initial construction of the proposed car wash facility. The existing driveway entrance is in good condition and requires no remediation. The existing storm water system connection was approved for the parcel to the north and will be utilized by the new development.

At this time, you may proceed with site development per the submitted plans. Please understand that our approval is only for that work which would require a highway work permit to perform work within the state ROW. You will need approval from other entities which may require permits from them.

Please contact me if you have any questions.

Thank you.

Ronald Frei

Community Engineer, ARE

NYSDOT South Erie Residency

3754 Lakeview Road, Hamburg, NY 14075

(716) 649-2157 / Ronald.frei@dot.ny.gov



From: Aktas, Jason <jaktas@stonefieldeng.com>
Sent: Tuesday, April 25, 2023 11:27 AM
To: Frei, Ronald A (DOT) <Ronald.Frei@dot.ny.gov>; Rubinstein, Sebastian <srubinstein@stonefieldeng.com>
Cc: Prassas, Demi <dprassas@stonefieldeng.com>; Billittier, John M. (DOT) <John.Billittier@dot.ny.gov>
Subject: RE: Control # 100759 Perm 33-COM, Stage 1 - 5363 Southwestern Blvd. Mod Car Wash

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Ronald – Following up on the revised plans we sent over, have all comments been satisfactorily addressed?

Please let us know if there are any questions.

Thanks,
Jason Aktas

STONEFIELD

92 Park Avenue, Rutherford, NJ 07070

M 862.220.7973

jaktas@stonefieldeng.com | stonefieldeng.com

From: Aktas, Jason

Sent: Tuesday, April 11, 2023 10:01 AM

To: Frei, Ronald A (DOT) <Ronald.Frei@dot.ny.gov>; Rubinstein, Sebastian <srubinstein@stonefieldeng.com>

Cc: Prassas, Demi <dprassas@stonefieldeng.com>; Billittier, John M. (DOT) <John.Billittier@dot.ny.gov>; Modestow, Jake <jmodestow@stonefieldeng.com>

Subject: RE: Control # 100759 Perm 33-COM, Stage 1 - 5363 Southwestern Blvd. Mod Car Wash

Hi Ronald – Have you had a chance to review the updated plans addressing the rest of the comments? Hoping to receive an update before our next Hamburg Planning Commission meeting on 4/19.

Thanks,
Jason Aktas

STONEFIELD

92 Park Avenue, Rutherford, NJ 07070

M 862.220.7973

jaktas@stonefieldeng.com | stonefieldeng.com

From: Aktas, Jason


Sent: Friday, March 31, 2023 9:30 AM

To: Frei, Ronald A (DOT) <Ronald.Frei@dot.ny.gov>; Rubinstein, Sebastian <srubinstein@stonefieldeng.com>

Cc: Prassas, Demi <dprassas@stonefieldeng.com>; Billittier, John M. (DOT) <John.Billittier@dot.ny.gov>; Modestow, Jake <jmodestow@stonefieldeng.com>

Subject: RE: Control # 100759 Perm 33-COM, Stage 1 - 5363 Southwestern Blvd. Mod Car Wash

Ronald – Thank you for confirming.

See the following  [LINK](#) that contains updated plans for review addressing the utility plan comment.

Please let us know if there are any further comments.

Thanks,
Jason Aktas

STONEFIELD

92 Park Avenue, Rutherford, NJ 07070

M 862.220.7973

jaktas@stonefieldeng.com | stonefieldeng.com

From: Frei, Ronald A (DOT) <Ronald.Frei@dot.ny.gov>

Sent: Friday, March 31, 2023 9:23 AM

To: Aktas, Jason <jaktas@stonefieldeng.com>; Rubinstein, Sebastian <srubinstein@stonefieldeng.com>

Cc: Prassas, Demi <dprassas@stonefieldeng.com>; Billittier, John M. (DOT) <John.Billittier@dot.ny.gov>; Modestow, Jake <jmodestow@stonefieldeng.com>

Subject: RE: Control # 100759 Perm 33-COM, Stage 1 - 5363 Southwestern Blvd. Mod Car Wash

Good morning Jason,

I discussed the drainage comment with our hydraulics engineer and he stated that he misunderstood the specifics of the site work. With the existing storm drain connection being pre-existing, he was good with leaving it as is.

He stated that the pipe size or pitch coming into our system cannot be altered.

Ronald Frei

Community Engineer, ARE

NYSDOT South Erie Residency

3754 Lakeview Road, Hamburg, NY 14075

(716) 649-2157 / Ronald.frei@dot.ny.gov



From: Aktas, Jason <jaktas@stonefieldeng.com>

Sent: Friday, March 31, 2023 8:45 AM

To: Frei, Ronald A (DOT) <Ronald.Frei@dot.ny.gov>; Rubinstein, Sebastian <srubinstein@stonefieldeng.com>

Cc: Prassas, Demi <dprassas@stonefieldeng.com>; Billittier, John M. (DOT) <John.Billittier@dot.ny.gov>; Modestow, Jake <jmodestow@stonefieldeng.com>

Subject: RE: Control # 100759 Perm 33-COM, Stage 1 - 5363 Southwestern Blvd. Mod Car Wash

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Good morning Ronald,

Following up on our below email, have you had a chance to review? Hoping to get this issue squared away ASAP.

Please feel free to give me a call to discuss.

Thanks,

Jason Aktas

STONEFIELD

92 Park Avenue, Rutherford, NJ 07070

M 862.220.7973

jaktas@stonefieldeng.com | stonefieldeng.com

From: Aktas, Jason

Sent: Thursday, March 23, 2023 5:29 PM

To: Frei, Ronald A (DOT) <Ronald.Frei@dot.ny.gov>; Rubinstein, Sebastian <srubinstein@stonefieldeng.com>

Cc: Prassas, Demi <dprassas@stonefieldeng.com>; Billittier, John M. (DOT) <John.Billittier@dot.ny.gov>; Modestow, Jake <jmodestow@stonefieldeng.com>

Subject: RE: Control # 100759 Perm 33-COM, Stage 1 - 5363 Southwestern Blvd. Mod Car Wash

Good evening Ronald,

Our proposed system connects to the existing stormwater pond at the northeastern corner but the pond is not on our property. The parcel was subdivided as part of the 2018 Mavis approval, and as such we don't have the ability to

downsize the pipe that discharges from the pond to the DOT system. Looking at the 2018 Mavis plans the pipe is 15" RCP.

Have the requirements been updated since the Mavis approval?

Feel free to give me a call to discuss.

Thanks,

Jason Aktas

STONEFIELD

92 Park Avenue, Rutherford, NJ 07070

M 862.220.7973

jaktas@stonefieldeng.com | stonefieldeng.com

From: Frej, Ronald A (DOT) <Ronald.Frej@dot.ny.gov>

Sent: Wednesday, March 22, 2023 1:57 PM

To: Rubinstein, Sebastian <srubinstein@stonefieldeng.com>

Cc: Prassas, Demi <dprassas@stonefieldeng.com>; Aktas, Jason <jaktas@stonefieldeng.com>; Billittier, John M. (DOT) <John.Billittier@dot.ny.gov>

Subject: RE: Control # 100759 Perm 33-COM, Stage 1 - 5363 Southwestern Blvd. Mod Car Wash

CAUTION: External Email

Good afternoon Sabastian,

We have the following comments back:

HYDRAULICS

The proposed plans show runoff from Phase Two of the project being collected by a series of catch basins and storm pipes being discharged to the North toward Phase One of the project. Runoff from Phase One of the project is collected by a series of catch basins and storm pipes being discharged to a storm water pond on the North-Eastern corner of the property, connected to the State drainage system along Southwestern Boulevard (Route 78). Discharge from this pond should be controlled by an outlet pipe no larger than 12-inches in diameter.

If the connection pipe to Route 78 meets this criterion, the proposed Storm Drainage Plans and Calculations are consistent with our current storm water drainage requirements. Please investigate and provide feedback.

Plan Review

C-5 Utility Plan

1. The proposed connection to Erie County Water is close to NYSDOT drain Inlets, contact with inlets should be avoided.
2. Utility work should be done by directional drilling to avoid disturbing the roadway and the sidewalk within the Right-of-Way.
3. If open cuts are necessary and the sidewalk is impacted, the contractor must provide pedestrian access through the work zone.

Please address the above noted comments and submit any plan sheet revisions for review/comment.

Thank you

Ronald Frei

Community Engineer, ARE

NYSDOT South Erie Residency

3754 Lakeview Road, Hamburg, NY 14075

(716) 649-2157 / Ronald.frei@dot.ny.gov



From: Rubinstein, Sebastian <srubinstein@stonefieldeng.com>

Sent: Wednesday, March 22, 2023 12:24 PM

To: Frei, Ronald A (DOT) <Ronald.Frei@dot.ny.gov>

Cc: Prassas, Demi <dprassas@stonefieldeng.com>; Aktas, Jason <jaktas@stonefieldeng.com>; Billittier, John M. (DOT) <John.Billittier@dot.ny.gov>

Subject: RE: Control # 100759 Perm 33-COM, Stage 1 - 5363 Southwestern Blvd. Mod Car Wash

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Ron,

I know we informally discussed some comments on the latest submission last week. I just wanted to follow up on when we can expect the formal comments from your team so we can provide updates to the Town and address anything that may be outstanding. Thanks so much,

Sebastian Rubinstein

STONEFIELD

584 Broadway, Suite 310, New York, New York 10012

T 718.606.8305 | M 202.557.4844 | F 201.340.4472

srubinstein@stonefieldeng.com | stonefieldeng.com

From: Rubinstein, Sebastian

Sent: Tuesday, March 7, 2023 11:26 AM

To: Frei, Ronald A (DOT) <Ronald.Frei@dot.ny.gov>

Cc: Prassas, Demi <dprassas@stonefieldeng.com>; Aktas, Jason <jaktas@stonefieldeng.com>; Billittier, John M. (DOT) <John.Billittier@dot.ny.gov>

Subject: RE: Control # 100759 Perm 33-COM, Stage 1 - 5363 Southwestern Blvd. Mod Car Wash

Good morning Ron,

I wanted to follow up on the submission from a couple weeks ago. There is a hearing with the Town for the application next week and it would be helpful to have your feedback on the most recent submission. Please confirm receipt and let me know if you have any questions. Thanks so much,

 [2023-02-21 NYSDOT Stage 2 Submission](#)

Sebastian Rubinstein

STONEFIELD

584 Broadway, Suite 310, New York, New York 10012
T 718.606.8305 | M 202.557.4844 | F 201.340.4472
srubinstein@stonefieldeng.com | stonefieldeng.com

From: Rubinstein, Sebastian

Sent: Tuesday, February 21, 2023 9:27 AM

To: Frei, Ronald A (DOT) <Ronald.Frei@dot.ny.gov>

Cc: Prassas, Demi <dprassas@stonefieldeng.com>; Aktas, Jason <jaktas@stonefieldeng.com>; Billittier, John M. (DOT) <John.Billittier@dot.ny.gov>

Subject: RE: Control # 100759 Perm 33-COM, Stage 1 - 5363 Southwestern Blvd. Mod Car Wash

Good morning Ron,

Please find the revised Stormwater Management Report, full civil site plan set, and PERM-33COM application in the link below. Please note that no work within the State's Right-of-Way is proposed. Additionally, based on the comments you provided below, it seems your review of the Traffic Impact Study is complete. Can you confirm this is the case in writing? We understand the Town is curious about your review of the study. Please feel free to reach out if you have any questions. Thanks so much,

 [2023-02-21 NYSDOT Stage 2 Submission](#)

Sebastian Rubinstein

STONEFIELD

584 Broadway, Suite 310, New York, New York 10012
T 718.606.8305 | M 202.557.4844 | F 201.340.4472
srubinstein@stonefieldeng.com | stonefieldeng.com

From: Frei, Ronald A (DOT) <Ronald.Frei@dot.ny.gov>

Sent: Friday, February 3, 2023 11:10 AM

To: Rubinstein, Sebastian <srubinstein@stonefieldeng.com>

Cc: Prassas, Demi <dprassas@stonefieldeng.com>; Aktas, Jason <jaktas@stonefieldeng.com>; Billittier, John M. (DOT) <John.Billittier@dot.ny.gov>

Subject: RE: Control # 100759 Perm 33-COM, Stage 1 - 5363 Southwestern Blvd. Mod Car Wash

CAUTION: External Email

Good morning Sebastian,

We have completed our review of the PERM 33-COM, Stage 1 submittal for the subject development and we offer the following comments:

HYDRAULICS

The proposed plans show runoff being collected by a series of catch basins and storm pipes being discharged to a storm water pond on the North-Eastern corner of the property. Discharge from this pond is controlled by a 15-inch CPP pipe at 1.2% slope. It is instead recommended to downsize the pipe to an 8-inch pipe at similar slope. Additional onsite storage may be needed to account for the reduced outlet pipe size.

We find the proposed Storm Drainage Plans and Calculations ***inconsistent*** with our current storm water drainage requirements. Once the above change is made, a hydraulic review can be approved.

SITE PLAN

Please provide a full set of civil engineering plans with Stage 2.

PERM 33-COM

The applicant shall be the property owner on record. Please see the attached Erie County Parcel Detail Report. Revise Stage 1 to indicate the name of the current owner.

The Town of Hamburg will be the lead agency for the SEQR review. Please enter this on page #6 of the application. We will require a SEQR Declaration before issuing any highway work permits for this development.

Please review and incorporate the above noted comments into your permit package and proceed with Stage 2. I am available to answer any questions you may have.

Thank you

Ronald Frei

Community Engineer, ARE

NYSDOT South Erie Residency

3754 Lakeview Road, Hamburg, NY 14075

(716) 649-2157 / Ronald.frei@dot.ny.gov



From: Rubinstein, Sebastian <srubinstein@stonefieldeng.com>

Sent: Thursday, January 19, 2023 9:38 AM

To: Billittier, John M. (DOT) <John.Billittier@dot.ny.gov>

Cc: Frei, Ronald A (DOT) <Ronald.Frei@dot.ny.gov>; Prassas, Demi <dprassas@stonefieldeng.com>; Aktas, Jason <jaktas@stonefieldeng.com>; Hebert, Kevin P (DOT) <Kevin.Hebert@dot.ny.gov>

Subject: RE: Stage 1 HWP Application - Proposed Car Wash - 5363 Southwestern Boulevard (US Route 20), Hamburg - Section 182.05, Block 1, Lot 9.2

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Good morning John,

Just wanted to follow-up on the submission from a couple weeks ago to confirm receipt and inquire about the status of your review. Please let me know if you have any questions or need anything else to provide initial feedback. Thanks,

 [2022-08-11 NYSDOT Stage 1 Submission](#)

Sebastian Rubinstein

STONEFIELD

584 Broadway, Suite 310, New York, New York 10012

T 718.606.8305 | M 202.557.4844 | F 201.340.4472

srubinstein@stonefieldeng.com | stonefieldeng.com

From: Rubinstein, Sebastian

Sent: Thursday, January 5, 2023 3:02 PM

To: Billittier, John M. (DOT) <John.Billittier@dot.ny.gov>

Cc: Frei, Ronald A (DOT) <Ronald.Frei@dot.ny.gov>; Prassas, Demi <dprassas@stonefieldeng.com>; Aktas, Jason <jaktas@stonefieldeng.com>; Hebert, Kevin P (DOT) <Kevin.Hebert@dot.ny.gov>

Subject: RE: Stage 1 HWP Application - Proposed Car Wash - 5363 Southwestern Boulevard (US Route 20), Hamburg - Section 182.05, Block 1, Lot 9.2

Hello John,

Happy New Year! Please find the requested stormwater management report attached along with the traffic analysis report for the proposed car wash located along Southwestern Blvd (US Route 20) in Hamburg. For convenience the additional Stage I materials are linked below again. Should you have any questions please feel free to reach out to me. Thanks,

 [2022-08-11 NYSDOT Stage I Submission](#)

Sebastian Rubinstein

STONEFIELD

584 Broadway, Suite 310, New York, New York 10012

T 718.606.8305 | M 202.557.4844 | F 201.340.4472

srubinstein@stonefieldeng.com | stonefieldeng.com

From: Billittier, John M. (DOT) <John.Billittier@dot.ny.gov>

Sent: Tuesday, November 8, 2022 10:02 AM

To: Rubinstein, Sebastian <srubinstein@stonefieldeng.com>

Subject: RE: Stage 1 HWP Application - Proposed Car Wash - 5363 Southwestern Boulevard (US Route 20), Hamburg - Section 182.05, Block 1, Lot 9.2

CAUTION: External Email

Sebastian

We were also looking for Engineers report and the hydraulic study

John M. Billittier Sr.

NYSDOT

Region 5

Permit Engineer

716 847 3271

From: Rubinstein, Sebastian <srubinstein@stonefieldeng.com>

Sent: Friday, November 4, 2022 12:00 PM

To: Billittier, John M. (DOT) <John.Billittier@dot.ny.gov>; Frei, Ronald A (DOT) <Ronald.Frei@dot.ny.gov>

Cc: Prassas, Demi <dprassas@stonefieldeng.com>; Hebert, Kevin P (DOT) <Kevin.Hebert@dot.ny.gov>

Subject: RE: Stage 1 HWP Application - Proposed Car Wash - 5363 Southwestern Boulevard (US Route 20), Hamburg - Section 182.05, Block 1, Lot 9.2

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John,

Please find the requested traffic analysis in the attached report. The analysis shows that the proposed car wash development would not have a significant adverse impact on the operation of the existing driveway. Note that our team is still working through the Town's FOIL process in order to acquire the SWPPP prepared for the existing site. Based on the attached plans provided by the department for permit 2018-05-62224, our team is trying to confirm if any stormwater improvements will be required. I will provide our assessment of the SWPPP as soon as possible but I wanted to get the traffic study over to your team for review. Should you have any questions please feel free to reach out to me. Thanks,

Sebastian Rubinstein

STONEFIELD

584 Broadway, Suite 310, New York, New York 10012
T 718.606.8305 | M 202.557.4844 | F 201.340.4472
srubinstein@stonefieldeng.com | stonefieldeng.com

From: Billittier, John M. (DOT) <John.Billittier@dot.ny.gov>

Sent: Friday, September 16, 2022 11:45 AM

To: Rubinstein, Sebastian <srubinstein@stonefieldeng.com>; Frei, Ronald A (DOT) <Ronald.Frei@dot.ny.gov>

Cc: Prassas, Demi <dprassas@stonefieldeng.com>; Hebert, Kevin P (DOT) <Kevin.Hebert@dot.ny.gov>

Subject: RE: Stage 1 HWP Application - Proposed Car Wash - 5363 Southwestern Boulevard (US Route 20), Hamburg - Section 182.05, Block 1, Lot 9.2

CAUTION: External Email

Sebastian

Sorry, that information is needed for the review. A traffic analysis including the neighboring business in and out is also required to evaluate you're the entrance and turn lanes.

John M. Billittier Sr.
NYSDOT
Region 5
Permit Engineer
716 847 3271

From: Rubinstein, Sebastian <srubinstein@stonefieldeng.com>

Sent: Friday, September 16, 2022 11:14 AM

To: Billittier, John M. (DOT) <John.Billittier@dot.ny.gov>; Frei, Ronald A (DOT) <Ronald.Frei@dot.ny.gov>

Cc: Prassas, Demi <dprassas@stonefieldeng.com>

Subject: RE: Stage 1 HWP Application - Proposed Car Wash - 5363 Southwestern Boulevard (US Route 20), Hamburg - Section 182.05, Block 1, Lot 9.2

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John,

Our team is still working on those materials and we should have something for your review in the next couple of weeks. Would you be able to issue preliminary comments without it and I will provide it for you as soon as it is ready?

Sebastian Rubinstein

STONEFIELD

584 Broadway, Suite 310, New York, NY 10012
T 718.606.8305 | M 202.557.4844
srubinstein@stonefieldeng.com | stonefieldeng.com

From: Billittier, John M. (DOT) <John.Billittier@dot.ny.gov>
Sent: Friday, September 16, 2022 10:42 AM
To: Rubinstein, Sebastian <srubinstein@stonefieldeng.com>; Frei, Ronald A (DOT) <Ronald.Frei@dot.ny.gov>
Cc: Prassas, Demi <dprassas@stonefieldeng.com>
Subject: RE: Stage 1 HWP Application - Proposed Car Wash - 5363 Southwestern Boulevard (US Route 20), Hamburg - Section 182.05, Block 1, Lot 9.2

CAUTION: External Email

Please send the Engineers report / hydraulic study

John M. Billittier Sr.
NYSDOT
Region 5
Permit Engineer
716 847 3271

From: Rubinstein, Sebastian <srubinstein@stonefieldeng.com>
Sent: Friday, September 16, 2022 9:44 AM
To: Frei, Ronald A (DOT) <Ronald.Frei@dot.ny.gov>
Cc: Prassas, Demi <dprassas@stonefieldeng.com>; Billittier, John M. (DOT) <John.Billittier@dot.ny.gov>
Subject: RE: Stage 1 HWP Application - Proposed Car Wash - 5363 Southwestern Boulevard (US Route 20), Hamburg - Section 182.05, Block 1, Lot 9.2

Some people who received this message don't often get email from srubinstein@stonefieldeng.com. [Learn why this is important](#)

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Good morning Ronald,

I just wanted to follow up with you about our Stage I submission from a month ago. Please advise of the status of your review. If you have any questions please feel free to reach out.

 [2022-08-11 NYSDOT Stage I Submission](#)

Sebastian Rubinstein

STONEFIELD

584 Broadway, Suite 310, New York, NY 10012
T 718.606.8305 | M 202.557.4844
srubinstein@stonefieldeng.com | stonefieldeng.com

From: Rubinstein, Sebastian

Sent: Thursday, August 11, 2022 12:40 PM

To: Billittier, John M. (DOT) <John.Billittier@dot.ny.gov>

Cc: Frei, Ronald A (DOT) <Ronald.Frei@dot.ny.gov>; Prassas, Demi <dprassas@stonefieldeng.com>; Cebollero, John <jcebollero@stonefieldeng.com>

Subject: Stage 1 HWP Application - Proposed Car Wash - 5363 Southwestern Boulevard (US Route 20), Hamburg - Section 182.05, Block 1, Lot 9.2

Good afternoon John,

Please find the Stage I Highway Work Permit application documents prepared for the proposed car wash located along (US Route 20) in Hamburg in the link below. As noted in the cover letter, the applicant is seeking to confirm that this project will not require a NYSDOT Highway Work Permit as the existing access point will be maintained, no work is proposed in the NYSDOT right-of-way, and the proposed drainage would maintain existing drainage patterns. Should your office require hard copies of the documents in the link, please let me know how many and who to address the package to and we will have it delivered.

 [2022-08-11 NYSDOT Stage I Submission](#)

Please feel free to reach out should you have any questions. Thanks so much,

Sebastian Rubinstein

STONEFIELD

584 Broadway, Suite 310, New York, NY 10012
T 718.606.8305 | M 202.557.4844
srubinstein@stonefieldeng.com | stonefieldeng.com

