

FEB 28 3 09 PM '96

Town of Hamburg Planning Board  
Meeting - January 17, 1996  
Actions Taken

TOWN CLERK \_\_\_\_\_

Schoellkopf 3 lot  
Subdivision - Schoellkopf  
Road

Preliminary approved contingent  
upon Easement for Schoellkopf  
Trail

Rezoning Petition  
Benderson Development  
McKinley & Southwestern  
From R-2 to C-2

D.O.T. needs more time to  
review traffic study.

Colley Pools  
4953 Camp Road  
Expansion

Approved with conditions.

Wanakah Woods  
Richard Brox  
near Juno Drive

Tabled.

Camp Road Collision  
E. Howorka  
Camp Road

Car rental agency approved.

Rezoning Petition of  
M. Matusick - McKinley  
near Highland

Favorable recommendation  
to go to Town Board.

Rezoning Petition of  
Ali and Deb Fareghi  
McKinley Parkway from  
R-2 to C-1

Favorable recommendation to  
Town Board.

Caesar Fabrizzi  
36 Townhouse Development  
Big Tree Road

Tabled.

Town of Hamburg  
Planning Board Meeting  
January 17, 1996

The Town of Hamburg Planning Board met in regular session on Wednesday, January 17, 1996 at 7:30 p.m. in Hamburg Town Hall. Those attending included: Chairman Richard Crandall, Vice-Chairman David Phillips, Secretary Gerard Koenig, Sue Ganey, Don Fitzpatrick, Dick Pohlman, Paul Eustace. Others attending included: Rich Whipple, Drew Reilly, Rick Lardo, Attorney Don McKenna, and Terry Dubey, Stenographer.

Minutes of the Meeting of 12-20-95 were approved on motion by Mr. Pohlman, seconded by Ms. Ganey. Carried.

1. Chairman Crandall welcomed the new Planning Board Attorney, Donald McKenna to the Planning Board.

2. Mr. Reilly explained that he has received many calls in the office today regarding the Master Plan Update meeting. Many are of the impresssion that this meeting is on tonight's agenda. There are a few rezoning petitions that will be discussed on McKinley Parkway but has nothing to do with the master plan special meeting, though the issues pertaining to that area are of relevance.

**Schoellkopf 3 lot Subdivision - Schoellkopf Rd. and the Old Lakeshore Road.**

Secretary Koenig read the following Legal Notice of Public Hearing:

**TOWN OF HAMBURG  
PLANNING BOARD  
LEGAL NOTICE  
SCHOELLKOPF 3  
LOT SUBDIVISION**

Notice is hereby given that the Planning Board for the Town of Hamburg will hold a Public Hearing at Hamburg Town Hall, Room 7, S-6100 South Park Avenue on January 17th at 7:30 p.m. for the purpose of approving a 3 lot subdivision known as Schoellkopf Subdivision, located on Schoellkopf Rd.

**ALL THAT TRACT OR PARCEL OF LAND** situate in the Town of Hamburg, County of Erie and State of New York, being part of Lot Number Fifty (50), Township Nine (9), Range Eight (8) of the Holland Land Company's Survey being bounded and described as follows:

**BEGINNING** at the center line intersection of Lake Shore Road and Schoellkopf Road; thence southwesterly and along the center line of Lake Shore Road distant 367.98 feet; thence southeasterly at right angles distant 323.00 feet; thence southwesterly at right angles distant 600.00 feet; thence northwesterly at right angles 323.00 feet to the center line of Lake Shore Road;

thence southwesterly at right angles along the center line of Lake Shore Road distant 70.00 feet; thence southeasterly at right angles distant 323.00 feet; thence southwesterly at right angles distant 150.00 feet; thence southeasterly at right angles distant 351.43 feet; thence southwesterly at right angles distant 368.38 feet; thence easterly at an interior angle of 69-01'-45" distant 1674.17 feet to the center line of Eckhardt Road; thence northerly at an interior angle of 90 -05'-57" and along the center line of Eckhardt Road distant 1704.21 feet to the intersection of the center lines of Eckhardt Road and Schoellkopf Road; thence westerly at an interior angle of 89-35'-16" and along the center line of Schoellkopf Road distant 1749.98 feet to the point of beginning, containing 65.29 acres of land, more or less.

Subject to the rights of the public to those portions of the above described premises lying within the bounds of Lake Shore Road, Eckhardt Road and Schoellkopf Road.

Dated: 1-4-96

**RICHARD CRANDALL, Chairman  
GERARD KOENIG, Secretary  
TOWN OF HAMBURG  
PLANNING BOARD**

Schoellkopf Subdivision (Continued)

Chairman Crandall opened the hearing. Mr. David Pettit of Nussbaumer & Clarke represented. This is a 65.29 acre parcel with a layout of 3 lots. Mr. Schoellkopf is taking the larger parcel and splitting it into 2 smaller sub lots with the remaining sub lot to be undeveloped. Lot #1 consists of 2.39 acres in size around an existing dwelling. The house will remain on the lot changing it from a rental to a single ownership. The second sub lot will be used for a single family dwelling. Sublot #3 will remain undeveloped. At the present time, there are no plans for that parcel. Mr. Pettit was advised that if there are any more frontage lots, an overall plan will be needed for the rest of the subdivision. Part of the property is zoned R-1 up to the creek line. The lot frontage is R-1 with the remaining balance being R-2.

Chairman Crandall noted that the Conservation Board has asked that a small strip along the creek be reserved for public access. The memo reads: The boundary line between R-1 and R-2 conforms to a stream channel up to the southeast corner of S.L. 1 and the southwest corner of S.L. 2. At that point, the stream curves to the northwest, approximately as outlined in green on the plot plan. The top of the bank is approximately 30 feet south of the existing frame dwelling and this stream incorporates a large-watershed that includes much of the hamlet of Lakeview and enters 18 Mile Creek through the Idlewood development.

The concourse of this stream designated in the open space plan as Schoellkopf Trail (See page 34 of the Open Space/Recreation Plan. Therefore, the CAB recommends a strong effort to insure that the portion of this planned trail included in the subject proposal is reserved for that use, and that it remains in its natural condition. Since the proposed trailway follows the concourse of the stream, the waterway should be accurately shown on the plot plan. At the point of entry under Lake Shore Road, the top of the bank to bank width is estimated to be at least 100 ft. In view of the above concerns, it is recommended that a full EAF be prepared.

**Engineering:** 1. Sewer and water service is available to the site. 2. This parcel was last subdivided more than 5 years ago. We have no objection if the map cover requirement is waived.

Mr. Whipple explained that on the open space plan, there is a creek and trail that co-exists with the zoning boundary line that goes thru the property, known as Schoellkopf trail. The creek follows the boundary and goes closer to the house on S.L. 1 by 30'. At this point on S.L. 1, the boundaries of the creek have a wide ravine. The Conservation Board would like the stream shown thru S.L. 1. They would like the owner of the property to provide an easement for a trail. Some type of acquisition by easement should be considered. Mr. Pettit is to consult with the owner if

this is acceptable.

Chairman Crandall asked 3 times if anyone wished to be heard for or against the proposal? Since there was no response, the hearing was closed.

Motion was made by Mr. Phillips, seconded by Mr. Fitzpatrick to approve the preliminary for the 3 lot subdivision; contingent upon obtaining public access from the applicant for the Conservation trail, known as Schoellkopf Trail; issue a negative declaration on the project since there are no environmental concerns; that the map cover be waived; that the trail offering is not in lieu of a recreation fee. The proposal is for one building lot, the owner is to be advised that if there is any further subdivision of the property, an overall plan will be required on the remaining piece. The width of the reserved strip is to be determined by Planning, Recreation, and Jake Schoellkopf. Carried.

**Rezoning Petition of Benderson Development from R-2 to C-2 for Seven Corners.**

Mr. Reilly explained that he has discussed the traffic study with Joe Buffamonte of the New York State Dept. of Transportation. Mr. Buffamonte has requested more time to evaluate the project. They have not come up with the best solution of that parcel, whether it be 1 entrance at the intersection or an internal road. We have asked Benderson to come up with types of mitigation to obvious problems on that stretch of road. Board members noted that perhaps a time extension will be required. Mr. Reilly is to respond in writing to Benderson Development.

Mrs. Dorothy Harrington of East Pleasant noted that she is opposed to the rezoning due to the fact that Benderson Development has many empty buildings around the area. Response given is that if property is zoned for commercial, there is nothing that the board can do to hold up an application, Mrs. Harrington also complained that with new construction there is a loss of trees and a sea of blacktop.

Motion was made by Mr. Pohlman, seconded by Mr. Fitzpatrick to **Table** for response from the New York State Dept. of Transportation on the traffic study. Carried.

**Engineering Comments:** 1. The parcel has public water service available to it. 2. The parcel has public sanitary sewer service available to it. 3. We have reviewed the EMS Consulting 12-26-95 response to our 12-22-95 comment letter regarding the traffic study, and have no additional comments. We have not received a copy of the revised site plan addressing their proposed changes (internal connection road and elimination of southern driveway along McKinley Pkwy.)

**Colley Pools - Expansion - 4953 Camp Road.**

Mr. Ted Ritz of Colley's appeared before the Planning Board on the expansion for Colley's Pools for a display area located at 4953 Camp Road. Mr. Crandall noted that it appears that the third driveway is a service drive for the applicant's vehicles to gain access to the rear and the silo for their gunnite operations. They also park trucks and employee cars in that area. This is not a public access but for their operation alone. Also, we reviewed the site with the Building Inspection Dept. and asphalt millings surfacing would be acceptable, and within the near future, the gravel will be replaced by the millings to make this a dust-free surface. Also, Mr. Colley has agreed to review the entrance and exit of the other two roads, along with the parking layout and access of the warehouse area and the propane tank area. There is parking to cover 13 spots. The addition will not impact on the parking area. The applicant will make an effort to try to rearrange the area to avoid the two drives and to improve the access and the parking.

**Engineering Comments:** We have not to date received a copy of a revised site plan as required by the Planning Board at their 12-20-95 meeting. 1. There is a stone driveway northwest of the parking area shown on the plan. This drive was never approved by the Planning Board. There is also a fenced storage area and liquid propane tanks on site. The plan should be updated to show the existing conditions, and be reviewed and approved by the Planning Board. 2. The additional roof drains are to be connected to the storm sewer. 3. Show the inverts and slope for the proposed storm sewer. 4. A NYSDOT approval will be required to discharge the proposed storm sewer into the State's ditch.

Motion was made by Ms. Ganey to approve the addition with the understanding that the milling will be completed that the 2 driveways should be condensed into one and that parking be in place to comply with the code, seconded by Mr. Koenig. Carried. (Type II action)

**Wanakah Woods - Richard Brox - near Juno Drive.**

**Engineering Comments:** 1. Sewer and water service is available to the site. Wanakah Sewer Dist. should be contacted to determine if there is sufficient capacity in the sewer system. 2. Wanakah Woods Court exceeds the maximum length of 500 feet allowed under the Town Subdivision code for a permanent deadend street. 3. The developer has agreed not to build on S.L. 32 on Harbour Run Lane until the roadway is extended and the turn-around is no longer required and removed. Note this on the plan. 4. The proposed Town park area is to be designated as either passive or active recreational park land. Note this on the plan. 5. A highway permit from the N.Y. State Dept. of Transportation will be

required for access off Lake Shore Road. Note this on the plan. 6. Note on the plan that S.L. Nos. 1, 17, 19 and 41 are not to have access to Lake Shore Rd. 7. Show on the plan where the house is proposed to be constructed on S.L. 18 by adding a setback line.

It was noted that the Engineering Comments have not been incorporated in the drawing. Traffic Safety also asked that the road be lined up with East Lane if it were close. Mr. Brox responded that this is not near East Lane. The property ends before you get to that area. Mr. Reilly stated that Mr. Brox did submit a sketch of a layout with normal sized lots. There are 4 lots that are not buildable. There are 21 lots and the minimum lot size should be 8,125 s.f.

Mr. Phillips noted that we see a cluster development as something significant that is unique to be preserved such as a stand of woods and asked what we are saving? Mr. Brox responded that we are saving the huge trees that are presently in place along the ravine. Mr. Phillips does not see it that way. There are trees along the creek bank that wouldn't be removed anyway.

Chairman Crandall noted that we still need the recreation area and 10% of the total. The Conservation Board would like an easement for the trail system. After considerable discussion, board members noted that they would like to see an amended plan to reflect at least R-2 lot requirements.

Motion was made by Mr. Fitzpatrick, seconded by Ms. Ganey to Table for an amended drawing. Carried.

#### **Camp Road Collision - Camp Road - Car Rental Office-C-2**

Mr. Errol Howorka of Camp Road Collision appeared before the Planning Board and explained that Snappy Car Rental would like to use the house next door on his property for a car rental service. This would be a satellite office with 2 employees. They plan to have 5 cars on premise at one given time.

Comments from **Engineering** are as follows: 1. A site plan for this site was last approved by the Planning Board on 6-6-91. It does not appear that the landscaping approved at that time is currently in place. Parking bumper blocks required in front of the frame house have also not been installed. 2. The parking area between the buildings has been paved. Parking bumpers are to be added for these new spaces.

Motion was made by Ms. Ganey, seconded by Mr. Phillips to approve the site plan contingent that the landscaping be completed by July 1st, 1996 in conformance with the drawing dated 1991; and that the parking bumpers and stripping be put in place as originally requested. Carried.

**Rezoning Petition of Mitchell and Theresa Matusick of property located at 3855 McKinley Parkway (south of Highland Parkway) from R-2 to C-1.**

Mr. Mitchell Matusick appeared before the Planning Board on a proposed rezoning request from R-2 to C-1 for a legal office located at 3855 McKinley Parkway. The building will remain the same, but will be remodeled. Board members also agreed to review the next rezoning petition simultaneously.

**Rezoning Petition of Ali and Deb Fareghi located at 3861 McKinley Parkway from R-2 to C-1.**

Discussion continued on the uses of the property. For this parcel, the applicants plan to use the building as it exists for a coffee--tea room facility. The living room will remain as is, and they will add parking in the back. Fourteen spaces will be provided for parking.

Applicants were asked if they would be willing to accept a conditional rezoning. Neither applicant was interested in a deed restriction on their parcels.

Comments from Engineering are as follows: The parcels have sanitary sewer service available to them. The parcels have public water service available to them.

Mr. Phillips noted that the rezoning request is the most logical. C-1 is not a bad use.

Mr. Reilly noted that one of the proposals in the master plan is to augment the C-1 in that area. That means the board will have to make a decision as a guide as to how the remainder of McKinley is to be developed. One of the issues we are talking about is C-1. You could fit a McKinley Mall into C-1. This is a wide open use. There are issues with McKinley Parkway and the board must entertain the request for rezoning under the present zoning law. The master plan, however, must prepare for the future.

Board members were given the following memo on the following issues:

The Master Plan breaks up McKinley into 3 district areas:

1. Milestrip north to Lake Avenue
2. Milestrip south to Seven Corners
3. Seven Corners South

The General characteristics of these areas:

1. Milestrip to Lake Avenue--mix of commercial and residential uses. (Multi-family and single family) .Higher density Commercial towards intersection.

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Rezoning (Continued)

2. Milestrip to Seven Corners--Anchored by regional facilities at either end (Walmart & McKinley Mall) Mostly commercial - some residential with the greater amount on the southwest side. Vacant land on east side is mostly zoned C-3. Behind all the property fronting on McKinley on the east side is residential property. On the west side north at Dorchester is all commercial. South of Dorchester zoned residential with residential properties behind. Some residential property being bought for commercial uses. 3. Seven corners south- Boulevard Rd. residential. Well developed but roadside treed. C. Problems (will only discuss subject area). Milestrip to Seven Corners--traffic, residential property behind McKinley frontage property. Aesthetics--lots along McKinley are shallow and narrow.

D. Master Plan issues and ideas for subject area only. Zoning appears to be in conflict. (a) Residential abutting McKinley does not make sense. (b) residential becoming unsaleable. recent court cast against. Zoning/development must take into consideration residential property behind. C-2 not applicable from Highland South on the east side. The area has regional draw-one of the hubs of Hamburg Aesthetics important--don't want typical commercial strip development.

Traffic - Seven Corners a problem. Minimize curb cuts, especially near intersections. Provide organized approach to driveway access. New Zoning District or Overlay zone applicable. Key components being: (a) Concentration on a mix of small commercial type projects (offices, small businesses). (b) fencing and berming requirements to screen residential. Setback requirements. (c) minimize curb cuts, (d) restrictions on size of retail. (e) Architectural requirements: Hamburg "feel" like Orchard Park, not Niagara Falls Blvd. (f) Landscaping along road-setback parking, encourage at side and rear.

Board members made the following recommendations:

1. Forwarding a favorable recommendation on the rezoning petition of Mitchell and Theresa Matusick on property located at 3855 McKinley Pkwy. (south of Highland Parkway) from R-2 to C-1, for the following reasons: 1. This is a small property with an existing structure. 2. The proposal for a law office meets the general intent of the use in the surrounding area. 3. The proposed use is compatible with the adjacent area. Motion was made by Mr. Phillips, seconded by Mr. Pohlman. Carried.

On the rezoning petition of Ali and Deborah Fareghi on property located at 3861 McKinley Parkway from R-2 to C-1. Favorable recommendation. This is a small property with an existing structure. 2. The proposal is for a coffee cafe and meets the general intent of the use in the surrounding area. 3. The proposed use is compatible with the adjacent area. Motion was made by Mr. Koenig, seconded by Mr. Fitzpatrick. Carried.

Caesar Fabrizzi - Town House Development - Big Tree Road

Messrs. Michael Metzger and Bob Reggentine appeared on behalf of Mr. Fabrizzi's request for a townhouse development to be located on Big Tree Road.

Comments from **Engineering** are as follows: 1. Note on the plan that Unit No. 1 is not to have direct access to Big Tree Road. 2. Note on the plan that the landscaping plan is to be approved by the Planning Board. 3. What is the proposed road stub for? It should be removed from the plan. 4. Note on the plan that Big Tree Road is a County road. A highway permit will be required from the County for access to the site. 5. Sewer and water service is available to the site. 6. This department will review detailed construction plans for the project after the preliminary plot approval is granted.

Mr. Reggentine explained that they increased the density from 26 units to 36 units. More than half of the project is in a flood plain area. Mr. Fabrizzi would like to maximize the site as much as possible in useable land without going to flood design measures, such as elevating the site and incurring additional costs. He also did a review of the actual construction of the units and learned that it is less expensive to build a 6 unit building. As it stands, 28 units are out of the flood and 8 units are in the flood plain. There was a question raised as to where the flood line is delineated. We used the FEMA maps and overlaid this on the project. There is a large flood way area. In the flood way, we cannot construct anything. Some concerns have been raised. We don't have a problem with any of Engineering's concerns. We will remove the stub street. We realize there is a traffic problem due to the overpass. We will provide a landscaping plan when required. We realize that this is a County road of which we will need a permit. We also will need a permit for drainage and entranceway. The sewer and water is available on the site by gravity. This project will have garages. Our zoning is R-3 and R-4. We tried to keep as much green area as possible. We have corrected all the setbacks to 35' as requested. We have shortened the road as much as we can and realize we are 100' over the maximum. This will be a private road governed by a homeowner's associations with restrictions. All maintenance will be done thru the association, including garbage pickup and snow removal.

Mr. Reilly noted that this is a conceptual plan only. It was also noted that the property has been filled in over the years and Mr. Fabrizzi was cited for doing so. The flood plain crosses perpendicular to the topo lines. Flood plain boundaries run along topo lines. That was pointed out to the applicant. This was done without permits and there is confusion as to where the flood plain actually is. The FEMA map rules until it's changed. No one can be sure that the flood plain is where it is shown. It was suggested that Mr. Reggentine meet with the Building Inspector to resolve the

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issue, since the Building Inspector is the flood plain manager, he should be consulted. This board will need his conformance before we can proceed.

Motion was made by Mr. Pohlman, seconded by Mr. Eustace to TABLE. Carried.

**Other Matters:**

1. Meeting is set up with Conservation Board to review policies on passive and active recreation areas for February 14, 1996 at 7:00 p.m.

2. Mission Hill project will be coming back. They have solved the problem with another entranceway.

3. Bert's Bikes has been advised that a signal will be required in that area of the plaza. This is unfair to the applicant. That should be a cost partially absorbed by the college.

4. Received a memo on Walmart Signage to correct the problems that currently exist at that facility. See attachment.

Motion was made by Mr. Pohlman, seconded by Mr. Eustace to adjourn the meeting. Carried. Meeting adjourned at 10:15 p.m.

Respectfully submitted,

*Gerard Koenig*  
Gerard Koenig, Secretary  
Planning Board

Next Meeting: 2-7-96 - 7:30 p.m.