

PLANNING BOARD
TOWN OF HAMBURG OFFICE
HAMBURG, N.Y.

MAR 22 3 50 PM '95

Town of Hamburg Planning Board
Meeting - Actions Taken
TOWN CLERK February 15, 1995

Toys R Us Entrance
McKinley Parkway No site plan approval needed.

Rezoning Petition of
John Ognibene
3552 Old Lakeview Road
from R-A to R-1 Received Only.

Circuit City Scoping
Session 10 day extension requested.

Rezoning Request of
D. Ganey to R-1
North Creek Rd. To be considered.

Caesar Fabrizzi
Additional Bldg.
Camp Road. No determination made.

Tator 2 lot Subdivision
Abel Road Preliminary approved.

Scranton Park Sub.
Scranton Rd. Approved for Townhouses with
zero lot line on 62 sub lots.

Forest Acres
Schoellkopf Rd.
25 Lots Plan to be revised.

Car Quest - Former
Master Bldrs. Location
Big Tree Rd. Approved.

Shoreham Drive
Subdivision
41 Sub lots To proceed to Public Hearing
March 15th, 1995 - 8:00 p.m.

Sawgrass Court
Part 2 - 51 Units To proceed to Public Hearing

Bedrock Eatery
Drive In Site plan approved.

**Town of Hamburg Planning Board
Meeting - February 15, 1995**

The Town of Hamburg Planning Board met in regular session in Room 7 of Hamburg Town Hall, S-6100 South Park Avenue at 7:30 p.m. Those attending included: Chairman Richard Crandall, Vice-Chairman David Phillips, Secretary Gerard Koenig, Don Fitzpatrick, Dick Pohlman, Sue Ganey, Paul Eustace. Others attending included: Rick Lardo, Kurt Allen, Drew Reilly, & Terry Dubey, Stenographer.

Excused: Rick Juda

Minutes of the meeting of 12-21-94 were approved on motion by Mr. Phillips, seconded by Mr. Fitzpatrick. Carried. Minutes of the meeting of 1-18-95 were approved on motion by Mr. Phillips, seconded by Mr. Eustace. Carried.

Executive Session

1. Toys R Us - request for front entrance addition, 10' x 100'. No site plan review necessary. Motion was made by Mr. Phillips, seconded by Mr. Pohlman to waive the requirement for site plan review of an additional vestibule. If there are further modifications as addressed by Building Inspection, the matter should be referred again to the Planning Board. Carried.

2. Received rezoning petition of John Ognibene of 3552 Old Lakeview Road from R-A to R-1 on a 5.78 acre parcel for a single family dwelling.

3. Circuit City Scoping Session was held on 2-10-95. Letter has been prepared to Costich Engineering outlining DEIS scope. A request for extension has been made for 10 days until something is received from the State D.O.T.

4. Letter from Deb Pound was distributed to members of the Planning Board. A report from the Corps of Engineers is pending.

5. Request has been made by Dan Ganey on North Creek Road property to rezone to R-1 for 50 units. Board members asked to make a decision as to how applicant should proceed.

6. Caesar Fabrizzi on Camp Road would like to construct another building in the back of his Camp Road location for his ornamental shop. No action taken. Matter to be further researched.

7. Planning Board Tour - To be conducted on March 11th at 9:00 a.m.

Public Hearing on Tator 2 lot Subdivision - Abel Road

Secretary Koenig read the following Legal Notice of Public Hearing:

**TOWN OF HAMBURG
LEGAL NOTICE
PLANNING BOARD
TATOR SUBDIVISION --
ABEL ROAD**

Notice is hereby given that the Planning Board of the Town of Hamburg will hold a Public Hearing at the Hamburg Town Hall, Room 7, 8-6100 South Park Avenue on February 15th, 1995 at 8:00 p.m. to consider approval of 2 sub-lots for single family dwellings known as Tator Subdivision located on Abel Road.

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 21, Township 8, Range 8 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point in the southeasterly line of Southwestern Boulevard at its intersection with the southerly line of lands of Thomas J. and Loretta M. Armstrong, his wife as conveyed to them by deed recorded in the Erie County Clerk's office in Liber 3049 of Deeds at page 898; thence easterly along said Armstrong's southerly line 395.42 feet to a point to its intersection with the northwesterly line of the Abel Road; thence northeasterly along the northwesterly line of Abel Road at an interior angle of $185^{\circ}51'04''$, 225.00 feet to a

point; thence westerly at an interior angle of $55^{\circ}07'46''$, 278.89 feet to a point in the southeast line of Southwestern Boulevard; thence southwesterly along the southeast line of Southwestern Boulevard at an interior angle of $135^{\circ}18'06''$, 340.00 feet to the point of beginning, containing 1.52 acres more or less.

Dated: Feb. 1, 1995

Richard Crandall, Chairman
Gerard Koenig, Secretary
Planning Board

2-9

Mr. David Pettit of Nussbaumer & Clarke appeared on behalf of Kevin Tator on a 1.79 acre parcel of land on Abel Rd. The formation of a second lot is for the sole purpose of a single family dwelling. The parents wish to subdivide the property for their son's home. We plan on utilizing the new utilities that are in place as a result of the Country Woods Subdivision. We will tie in to the new sanitary sewer across the street. The site is zoned R-2 and the parcel exceeds the requirements for single or double dwellings. The address will be on Abel Road. All concerns have been addressed. The new home is proposed on S.L. 1.

Chairman Crandall asked if anyone wished to be heard for or against the subdivision.

Mr. Donald Weiss of Cloverbank Road asked if the objective of the Town of Hamburg on the septic system is located and public sewer is available that the septic should be abandoned and the house connect to a sewer system whenever possible?

Mr. Reilly responded that this is determined as to whatever the local sewer ordinance states. This lot does not front on a street where a sewer is located. They are not changing this house but creating a new lot. New lots are required to tie into a sewer district. This is a pre-existing condition and the Health Dept. would make that determination.

Chairman Crandall asked 2 more times if anyone wished to be heard for or against the subdivision. Hearing no further comments, the hearing was declared closed.

Motion was made by Mr. Fitzpatrick, seconded by Ms. Ganey to issue a Negative Declaration on the project, approve the preliminary, and waive the filing of a map cover. Carried.

Scranton Park Subdivision

Secretary Koenig read the following Legal Notice of Public Hearing:

**TOWN OF HAMBURG
LEGAL NOTICE
PLANNING BOARD
SCRANTON PARK SUBDIVISION**
Notice is hereby given that the Planning Board of the Town of Hamburg will hold a Public Hearing at the Hamburg Town Hall, Room 7, 8-6100 South Park Avenue on February 15, 1995 at 8:10 p.m. to consider approval for zero lot line housing.

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Hamburg, County of Erie, State of New York, being Part of Lot 5, T-9, R-8 of the Holland Land Company's Survey and more particularly bounded and described as follows:
BEGINNING at the intersection of the northerly highway boundary of Scranton Road (50.0 feet wide) with the easterly line of lands conveyed under Liber 8800 Page 809, thence southwesterly along the northerly highway boundary

of Scranton Road a distance of 594.03 feet, thence northwesterly at an interior angle of 88° 21' 44" a distance of 175.47 feet; thence northerly at an interior angle of 133° 38' 32" a distance of 1098.59 feet; thence easterly along the southerly line of Map Cover 2289 a distance of 824.80 feet; thence southerly along the easterly line of lands conveyed under Liber 8800

Page 809 a distance of 791.43 feet to place or point of beginning.
Containing 12.8572 Acres.
Full opportunity to be heard will be given to all citizens and all parties interested.

Dated: Feb. 1, 1995
Richard Crandall, Chairman
Gerard Koenig, Secretary
Planning Board

2-9

Mr. David Pettit of Nussbaumer & Clarke appeared on behalf of this subdivision that was approved in 1989, and reapproved in 1993, for 31 lots for duplexes. The project has been constructed with infrastructure. The roads are in place and the sanitary and water lines are in. No homes have been constructed to date. As opposed to a duplex development of 31 lots, we are proposing single family attached units. There will be a common wall down the middle and each unit will be individually owned, & all townhouses. Money in lieu of land will be paid toward recreation fees. A new E.A.F. was also submitted, & Health Dept. approval is required. In order to get Health Dept. approval, we would have to certify and acknowledge that all lots have water and sewer service.

Mr. Reilly noted that the recreation fee should be paid on 64 lots instead of 31. This matter should be checked thru the Town Attorney's office. By the definition of the law, you are creating more lots. The final plat has not been accepted by the Town as yet.

Mr. Duke Spittler, Chairman of the Conservation Advisory Board noted that this project was reviewed previously and your board was advised that a wetland permit was required from the U.S. Corps of Engineers.

The present Environmental Assessment (Part I Item 16) indicates 1.5 acres of wetland and Mr. Pettit advised that the Corps had issued a Nationwide permit to fill one (1) acre. He further stated that the 1/2 acre of remaining wetland would be preserved by restrictive covenants on the rear of lots 27-34. Examination of the plat map indicates that a drainage easement applies around the entire perimeter (lots 1-48). Such a drainage provision will undoubtedly drain the remaining wetland that the Corps excepted from the permit. This constitutes a violation of the wetland act, but since it is already a "fait accompli", it seems needless to include the restrictive covenants in the deeds for lots 27-34.

Mr. Pettit responded that this project was reviewed by the

Corps of Engineers. They were aware that the project was taking place. We had to put in rear yard drainage to protect the adjoining properties. Under this permit, this was all we were able to do as far as wetlands on the site. The Corps was aware of the situation. They did see the map cover with the restrictive covenants and even supplied the wording for that. They were aware of the construction drawings at the time it was proposed. What more could we do?

Mr. Crandall noted that Mr. Pettit should check and see if anything further is required.

Mr. Reilly noted that he obtained a Nationwide permit from the Corps. If the plans depicted a drainage easement thru it, they considered that in the permit. If he is in violation of the Nationwide permit, it is not the prerogative of the Planning Board to determine if there is a violation. However this can be reported. The drainage is already in. There is no change to the plat. The board can move on.

Mr. Crandall asked two more times if anyone wished to be heard for or against the proposal? Hearing no further comments, the hearing was declared closed.

Engineering: The project was previously approved, designed, and constructed as a duplex lot subdivision. The lots having a common bldg. wall are to be dotted. The overall dimensions and square footage are to be shown. The developer will be required to revise his sanitary sewer plan to provide service to three s.lots 38, 39, 40.

Motion was made by Mr. Phillips, seconded by Mr. Pohlman to issue a Negative Declaration on the project, approve the preliminary for Scranton Park for townhouses with zero lot lines, with 62 sub lots, and that the Building Inspection Dept. be aware that additional recreational fees are to be collected on this subdivision. Carried.

Forest Acres - Sketch plan for 25 lots - Schoellkopf Road.

Messrs. Michael Wysocki and Arthur Lewin appeared before the Planning Board on a proposed 25 lot subdivision to be located on Schoellkopf Road. The 9.5 acres shall be considered as meeting the requirements for the adjacent 45 lot subdivision known as Privacy Subdivision and the \$600 per lot recreation fee shall be waived. We trust that the proposal embellishes the Town's objective of creation of more conservation and recreation land. Mr. Lewin stated that he met with Drew Reilly, Consultant to the Planning Dept., and understands that there has been a complete change. I understand that you are not interested in the 9 acres.

Mr. Crandall noted that based on the Work Session of the

Planning Board , that was the consensus. Mr. Lewin would like direction as to how to proceed. This 9 acres was to be given to you on the basis of a conservation offer. This was meant to accommodate the 25 lots and the 45 lots on Privacy Subdivision. The total acreage would allow us to deed to you 2.3 acres which represents the 10%. This came about as we thought this was the Town's desire for conservation land. We gave you 4 times the acreage that we had to. Apparently, your priorities have changed that you are no longer interested in recreation land. We can then give you 6 acres of land in lieu of the \$600 recreation fee.

Mr. Phillips stated that the Planning Board has a choice to either designate passive or active recreation land instead of a fee. The Recreation Dept. sent over a request that they would rather have the recreation fee instead of the land. Sometimes we wind up with land that becomes too much of a maintenance problem.

Mr. Reilly noted that we need input from the Planning Board & the Conservation Board. From a Planning Dept. court cases have supported that. On a small subdivision that require an acre or two of land, it does not make sense from a planning prospective to get little pockets of land throughout the Town unless there is a master plan designation that desires a playground. Perhaps the Conservation Board could say that this is an exceptional piece.

Mr. Crandall stated that he would like Mr. Lewin to mark up a copy and tie that into a brief letter in the form of a proposal for review at the work session on March 1st.

Mr. Schoellkopf noted that he has offered 10 acres that backs up to a huge green space which makes an enormous area which has access to Route 5. Why are you going backwards on this? People say conserve wetlands. Why aren't you conserving them, and take them out of service.

Mr. Crandall noted that we don't want someone giving property to the Town for recreation purposes to use actively by giving us wetlands that have to remain undeveloped to begin with.

Mr. Schoellkopf asked what percentage has been developed recreation wise? Mr. Crandall responded probably half. Some areas can be maintained by providing paths, etc. I heard from someone on the Planning Board that you want walking trails. This is very expensive maintenance wise. Why are you refusing nine acres and are considering one? Two acres of the 9 is wetlands.

The Conservation Board has determined that most of the area has potential hydric soil of the 9 acres, it has a seasonable high water table from December to June, which in the Corps mind is wetland. The Engineering Dept. has also noted that there will need to be a water retention area. That does not fit into the scope of passive or active recreation.

The Conservation Board has recommended that you accept this wetland as part of dedication. When you accept wetland, the land cannot be considered in lieu of the lot payment. It cannot be used any way. When Mr. Schoelkopf developed the other tract that adjoins this area, this 9 acres could be tied in nicely, since we already own that. We did not say that we were not in favor or didn't recommend that the land be dedicated.

Mr. Lewin noted that it was his understanding from Mr. Reilly that you are not interested in the 9 acres. This is a dead issue. We had someone out to walk the property. She disagrees that this area outside of the 2 acres is a wetlands because of the vegetation. We are aware that we need a wetlands study on the lots. We had a preliminary study done. If we bring a study on the 9 acres, and learn that 5 acres is not wetlands, would you be interested? Mr. Crandall responded that the Planning Board would look at it. Mr. Crandall noted that if Mr. Lewin would like to follow that route, the board would consider this proposal. The decision could turn out differently once we have some facts.

It was noted that the Recreation Dept. would rather have money in lieu of land for this particular project. It will be up to the Planning Board to make the final determination. Perhaps we should reconsider and we realize that you are looking for direction.

Mr. Phillips noted that we do not want to accept wetlands that cannot be built upon. We do look at the Town as a whole on wetlands that should be preserved in its natural setting. However, we do not want a swamp to be dedicated to the Town. We don't want retention ponds dedicated to the Town. We were advised that this whole area is a wet area and we don't want it. If active or passible land is useable, we would consider the project. If we find that on total acreage we could take title to the non-wetland portion of recreation. However, we would not want to take title to the wetland portion. The Town has a liability problem when it comes to wetlands.

Mr. Spittler responded that this is contrary to what the Conservation Board has been emphasizing for the last 5 years. We want wetlands to be dedicated to the Town. We are talking about wetland banking as a possibility. We are talking about acquisition of wetlands by the Town.

Mr. Lewin noted that we have 3 options, whether to have a wetlands study done or we can present to you 1 acre as recreation area, or only on the recreation item you will accept this subdivision and we pay a \$600 recreation fee. Therefore, it is our decision. Also, it was suggested that we have sidewalks and curbs on Schoellkopf Road. Based on our Engineer's findings, he noted that it is very difficult to have sidewalks and curbs on an existing road. The only way it can be done is to reconstruct the street. We would like to have a meeting with Bissell Eng. Rick

Lardo of the Town Engineering Dept. and the Highway Dept.

Engineering Comments: 1. Ownership of the proposed recreation area is to be specified. 2. Water service is available to the site. 3. The site is in the Erie County Sewer Dist. 2 service area. Service would be available through a main extension. 4. Stormwater detention will be required. 5. A key location map should be shown on the plan. 6. Schoellkopf Rd. is misspelled on the plan drawing.

Motion was made by Mr. Phillips, seconded by Ms. Ganey to table for a meeting with the aforementioned departments and a finding as to the resolution of the recreation land/or fees. Carried.

Car Quest - Ravenwood North - Distribution Center - Former Master Builders location

Mr. James Hergenroder, Vice President of Sussen Inc. and Car Quest, appeared before the Planning Board on a final review of a distribution center which will be located in Ravenwood North. On Parking, they have 27 on site personnel and 10 off site for a total of 37 employees. The off site consists of 6 truck drivers and 4 salesmen. Our future employment increase could be 3 to 5 additional people. We will comply with the Town of Hamburg zoning ordinances by increasing our parking areas as required by our future growth in personnel.

On the SEQR, Drew Reilly noted that the Hamburg Industrial Agency has questioned whether it is necessary to fill out a short form EAF for the project. Since an "FGEIS" was completed for the Ravenwood North Industrial Park, it may not be necessary to do any additional SEQR actions. If the IDA and the Planning Board agree that the project is in conformance with the conditions and thresholds identified in the FGEIS, a statement to such should be added to the file. I have attached an example of such documentation (Attachment A). (See attachments at end of minutes).

On the firematics issue, the Big Tree Fire Chief has reviewed the products that will be kept on premise and feels that he is satisfied with the contents.

Dean Messing, Coordinator of Haz/mat expressed some concern on the 3 M products. Mr. Hergenroder submitted the reports to him. As of this evening, we have not heard back from Mr. Messing. Mr. Hergenroder noted that they will have a 2 hr. room and has addressed his questions as much as possible.

The landscaping plan has been reviewed and enhanced.

Motion was made by Mr. Koenig, seconded by Mr. Fitzpatrick to approve the landscaping plan as presented and approve the site for the distribution center. Carried.

Shoreham Drive Subdivision - 41 Sub lots.

Mr. David Pettit, of Nussbaumer & Clarke, appeared before the Planning Board on a proposed 41 sub lot subdivision to be located at Shoreham Drive and Fairway Court, near the Pinehurst Elementary School. The lots are significantly larger than code requirements. The site was formerly an old golf course at one time. There is a lot of scrub shrub on premise. There are some larger trees, which we would like to preserve as much as possible. We are proposing extending utilities off Shoreham Drive. Sanitary would be tributary to Shoreham. Storm water discharge will be to Shoreham, and our water line would go thru from Shoreham Drive and tie in and loop the system to Fairway Court.

The Recreation Dept. has asked that the recreation fee be paid in lieu of land.

Mr. Crandall asked about the cut thru. There is a home behind sub lot 32, and originally was shown as a sub lot. There was question as to what to do with that and there was also a question on 35-36. For the time being, we will take it out of this project. The owner would still own it. The lot on Shoreham is an exception and was set aside but he could not get ownership. This is being shown as a separate lot. It will not be filed under any map cover. David's way has 80' and was left open and we are meeting a 70' right of way. This will tie into Shoreham. Road A, called Pinehurst Court is the main road. However, the Highway Dept. feels eventually that will go thru but he did not want a cul-de-sac, but rather a straight run road for turn-around.

Mr. Reilly noted that no public hearing was set as there were issues to be resolved. If that is acceptable to the Highway Dept. and the Planning Board and Engineering, then it will change in configuration. Engineering has no comment.

Residents appeared in opposition to the cut thru on David's way, stating that they will now become corner lots. Also, they are opposed as it will disrupt the wildlife habitat that exists with a typical subdivision.

Motion was made by Mr. Phillips, seconded by Mr. Pohlman to **Table** and proceed to Public Hearing for the March 15th session. Carried. (larger trees should be identified).

Patrick Burke - Sawgrass Court - Part II for 51 Units - Brierwood.

Mr. Patrick Burke appeared before the Planning Board with a proposal on Part II of Sawgrass Court. Part I was approved 6 months ago. In connection with the approval, the board approved 16 units which was included in the drawing. There has been a change in Briercliff Drive, which is the quarry road. At Christmas time, we received preliminary approval on the quarry area. Sawgrass Part II are boxes not filled in. The lined boxes and the darker shaded

boxes are all fully approved. We are currently reviewing 51 units that are the lighter shade boxes. The change in this project was necessitated by the approvals on Glen Eagle Drive and the change in the driveway requested by the Planning Board. By changing the driveway entrance, we changed areas to incorporate in other areas. We are asking for consideration in approving Sawgrass, Part II, which is the 51 units that we will develop. This is a preliminary plot plan. This is the first time you are seeing Part II with 51 units. This project will not be developed until the public road is installed.

Mr. Burke noted that previously, the Planning Board approved this as Phase III of Sawgrass Court. I would recommend that we abandon those approvals, that you reapprove Sawgrass Part 2 as a 51 unit subdivision. That was Sawgrass Phase III. The Plan denotes Part I, Phase III was the original approval. Mr. Phillips re-emphasized the statement; to approve Sawgrass Phase III, an approved subdivision, and the approval of Phase III is to be removed, and to be included in Part II, Phase I and 2; to rescind Part I, Phase III.

Mr. Lardo stated that the phasing should be removed as Map Covers will be numbered consecutively.

Again, Mr. Phillips repeated the following: Sawgrass Phase 3, a previously approved subdivision, the approval for Phase 3 is now rescinded and now becomes Part of Sawgrass Court, Part 2.

Mr. Reilly noted that it is very confusing to do phasing like this. When you are approving phases that attach to other phases, that haven't been constructed yet, to make conditions of roads that haven't been built, I will review it. I know how PUD's are set up. However, to have phasing to it that makes sense, and not in the purpose of breaking it up in a logical sense, to be approving the next part to the next phase when others haven't been constructed yet doesn't make sense.

Mr. Burke noted that they are currently in the engineering of Glen Eagle Drive, which is the road from Cloverbank Road to the quarry. Our goal would be to install those improvements before the year end and start to market the single family segment of this street. In connection with that, because we are already marketing Sawgrass, Part 1, we have a need to amend our offering plan to include the additional 51 units. In order to get the offering plan approved, as part of the criteria, we need a preliminary approved map cover to provide meets and bounds, and title insurance. The Attorney General requires this when approving the offering plan.

Mr. Crandall suggested that a map be marked up and colored to show the different parts in sequence so that we know what has been approved.

The drawing should be titled preliminary plat approval for a subdivision.

Motion was made by Mr. Phillips, seconded by Mr. Koenig to move the Sawgrass Part 2 subdivision to Public Hering; that this will include the previously approved Sawgrass Phase 3. Carried. (It is imperative that the legal description and any references for approval is explicit. That there is no question as to the boundaries and extent that property is included in the Public Hearing). Since there is confusion as to Part 1 and Part 2, we need an updated, colored up map.

Bedrock Eatery Drive In - Hoover Road.

Mr. Richard Sikorski and Attorney Michael Denz appeared before the Planning Board after being granted variances on 2-7-95 from the Zoning Board. Variances are as follows: 35' parking setback and a 25' parking setback for the appropriate distances as determined by the Building Inspection Dept., to grant the location of the freezer/cooler and the dumpster in the front yard at a location outlined in the plan; and a 2' variance in height for three sections of fence to enclose the west, north, and east sides facing the proposed dumpster with a solid stockade fence, 6' in height, to be imposed with a requirement that the freezer cooler be in the lowest configuration as possible in view of the aesthetics. The Building Dept. is to oversee the implementation of these conditions as imposed.

The site plan has been changed showing the parking space changes as requested by the Planning Board. **Eng. Comments:**
1. Grease trap required. Owner to contact Niagara Mohawk to use existing lights on poles at his expense.

Motion was made by Mr. Pohlman, seconded by Mr. Phillips to issue a Negative Declaration for the project; and approve the site plan for the hot dog drive in eatery. Carried.

Motion to adjourn was made by Mr. Eustace, seconded by Ms. Ganey. Carried. Meeting adjourned at 11:00 p.m.

Respectfully submitted,

Gerard Koenig
Gerard Koenig, Secretary
Planning Board

Next Meetings: March 1, 1995
 March 15, 1995