

OFFICE OF THE  
TOWN ENGINEER  
HAMBURG, N.Y.

Town of Hamburg Planning Board  
Meeting - March 15, 1995  
Actions Taken

MAR 20 10 04 AM '95  
TOWN CLERK

K-Mart Town Hall  
Plaza - South Park Ave.

Request made to eliminate right hand  
turn lane. Board to consider.

Rezoning Petition - V.  
Bonerb for 27 acres of  
property located at 4409  
South Park Avenue from  
C-3 to PUD

Referred to Town Board for  
Public Hearing.

Shoreham Woods Sub.  
41 Sub-lots -  
Hildegarde Corp.

Traffic issue of David's Way to be  
determined. Input sought from Traffic  
Safety, Highway, and DOT.

Gideon Schiff Sub.  
McKinley & Big Tree

Neg. Dec. issued. Preliminary  
approved.

Subdivision of  
Maelou & South Park

Concerns of residents heard. - Tabled.

Berkley Square  
Brian Maslowsky,  
Developer  
Big Tree & Bayview

Cond. Prel. approval given. Applicant  
to return with drawing for architectural  
review.

Sawgrass Part II

Tabled.

Mister Oil Change  
Town Hall Plaza

Conditional site plan approval given with  
conditions.

Southampton Condos  
Chuck Bailey

To proceed with new plan.

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

The Town of Hamburg Planning Board met in regular session on Wednesday, March 15, 1995 at 7:30 p.m. in Room 7 of Hamburg Town Hall. Those attending included: Chairman Richard Crandall, Vice-Chairman David Phillips, Secretary Gerard Koenig, Councilman Mark Cavalcoli, Sue Ganey, Paul Eustace, Don Fitzpatrick, Dick Pohlman. Others attending included Drew Reilly, Richard Juda, Esq., Rick Lardo, & Terry Dubey, Stenographer.

Minutes of the meeting of 2-15-95 were approved on motion by Mr. Pohlman, seconded by Mr. Phillips. Carried.

**Executive Session**

**K-Mart - Town Hall Plaza - Robert Alonzo**

Mr. Robert Alonzo of Benderson Development appeared before the Planning Board on the K-Mart Approval. At the Planning Board meeting of August 3, 1994, the approval given was as follows: Approve the K-Mart site with the center driveway across from the closed school driveway; eliminate the south driveway, that consideration be given to extend the sidewalks south to connect to the Town sidewalks; and to request a traffic light that the developer will pay 50% of at least if Quality III goes in, or the total cost if this falls thru, also to change the plans to a 50' paved fire access around the building as required by Building Inspection and the Fire Dept; that islands are to be installed in the K-Mart and existing plaza, in and around the back to give definition of traffic safety within the plaza."

In addition to the above, the Board and I did discuss a right hand turn lane for the signalized main entrance. We included this item in our drawings to determine cost and the cost bid was \$98,300.00. This is a substantial sum to pass on to our Town Hall Plaza tenants as a Government requirement. Even though this lane was not part of the approval, we feel obligated to discuss this matter with the Board and to protect ourselves by requesting relief from this item. It should also be noted that it was not a New York State Dept. of Transportation requirement.

In discussing this matter with the Board, we wish to assure you that all other items set forth in the approval will be met. With relief of the right hand turn lane, we believe that the sidewalk connection consideration, the cost of which is \$16,272.00 can be done.

The right hand turn lane was incorporated in the drawings and the cost estimates at the Town Hall Plaza came to \$98,300.00. Because it was discussed, and due to cost, we would like a form of relief even though it was not included in the minutes. We also considered the connecting sidewalks which is part of the resolution and the cost amounts to \$16,272.00. We believe we can accomplish this.

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Executive Session Cont.  
(K-Mart)

Item is to be reviewed at the April 5th Work Session.

Motion was made by Ms. Ganey, seconded by Mr. Phillips to Table. Carried.

**Rezoning Petition of Vincent Bonerb for 27 acres of land located at 4409 South Park Avenue from C-3 Office District to Planned Unit Development.**

In Executive Session, Chairman Crandall noted that the next item was not on the agenda. The property is owned by Vincent Bonerb on South Park, and it will be on the agenda tonight using Chairman's prerogative simply because this petition has been laying dormant for 2 months and relates to our administrative transition. The project has been delayed somewhat. All we are going to do is review the parcel and the SEQR which is in your packet. The petition is for 27 acres of land located at 4409 South Park Avenue from C-3 to PUD. The purpose of the PUD is to utilize the existing mansion for a restaurant with a residence tied in, as well as a small office park. There will be restrictions required. It is the type of development appropriate for the use of the property, and in accord with the master plan. It will be open for discussion in the regular portion of the meeting and to be referred to the Town Board for public hearing. We can then allow input from the public. We are going out of sequence, but all we are doing is allowing it to be heard by the public. We are expediting the matter to get it on the Town Board agenda. Their next meeting is March 27th. Nothing will happen other than setting a public hearing. The matter will be heard after the other items have been addressed. We hate to hold the matter up another 2 months before it can go to public review.

Mr. Crandall explained that we need to make a recommendation so that a public hearing can be set. From then on, the regular procedures will take affect.

Mr. Phillips commented that there aren't 27 buildable acres, because of the wetland area.

Mr. Crandall responded that the parcel has not as yet been delineated. It has however, all 27 acres in one spot. All I am asking is that the board will think about it when it comes up at the end and expedite the procedure. There is a possible mitigation that the 2 portions not buildable are contiguous to the town land and there would be a benefit to the Town and the community to have those donated as part of the PUD. This is a positive mitigation.

Board scheduled another Town tour for May 7th at 2:00 p.m.

Shoreham Woods - Public Hearing

Secretary Gerard Koenig read the following Legal Notice of Public Hearing.

**TOWN OF HAMBURG  
LEGAL NOTICE  
PLANNING BOARD  
SHOREHAM DRIVE  
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, S-6100 South Park Avenue on March 15, 1995 at 8:00 p.m. to consider approval of 41 sub-lots for single family dwellings known as Shoreham Drive Subdivision.

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Hamburg, County of Erie, State of New York being part of Lot 45, Township 9, Range 8 of the Holland Land Company's survey being more particularly described as follows:

BEGINNING at a point in the east line of Fairway Court at the northwest corner of Sublot 1 as shown on map as filed in the Erie County Clerk's office under cover No. 2410; thence easterly along the north line of Sublot 1 and extending to a distance of 230.52 feet; thence northerly forming an exterior angle of  $102^{\circ}05'19''$  a distance of 362.24 feet; thence westerly at right angles a distance of 85.00 feet, thence northerly forming an interior angle of  $90^{\circ}03'14''$  and along the easterly line of Sublots 631 through a portion of 635 inclusive as shown on map filed in the Erie County Clerk's office under cover No. 1477 a distance of 705.54 feet; thence along the easterly line of Sublots 635 through 638A inclusive along a curve to the left with a radius of 1328.80 feet, an arc distance of 306.03 feet; thence northeasterly along the southeasterly line of a portion of Sublot 639 through Sublot 646 inclusive along a curve concave to the northwest with a radius of 710.00 feet, an arc length of 431.03 feet; thence continuing northeasterly in a straight line a distance of 12.51 feet; thence northerly forming an interior angle of  $158^{\circ}37'44''$  along the easterly line sublots 647 through a portion of Sublot 650 inclusive a distance of 251.32 feet; thence easterly forming an interior angle of  $94^{\circ}35'21''$  a distance of 427.60 feet to the northwest corner of Sublot 503; thence southerly at right angles along the westerly line of Sublots 503 and 504 a distance of 100.00 feet; thence westerly along a portion of the northerly line of Sublot 505 a distance of 25.00 feet; thence southerly at right angles and along the westerly line of Sublots 505 through Sublot 508 and a portion of Sublot 509 inclusive, a distance of 235.00 feet; thence

easterly at right angles a distance of 140.00 feet to a point on the west line of Shoreham Drive; thence southerly at right angles and along the westerly line of Shoreham Drive a distance of 80.00 feet; thence westerly at right angles a distance of 140.00 feet to a point on the west line of Sublot 511; thence southerly at right angles and along the westerly lines of a portion of Sublot 511 through Sublot 520 inclusive a distance of 485.00 feet to a point of curvature; thence continuing southerly along a curve to the left with a radius of 711.00 feet along the westerly line of Sublot 521 through Sublot 523 inclusive, an arc distance of 224.23 feet to the southwest corner of Sublot 523; thence easterly radial to the aforementioned curve and along the south line of Sublot 523 a distance of 140.00 feet to a point in the west line of Shoreham Drive at the southeast corner of Sublot 523; thence southerly along the west line of Shoreham Drive along a curve to the left with a radius of 571.00

feet an arc length of 59.92 feet to the northeast corner of Sublot 525; thence westerly radial to the aforementioned curve and along the northerly line of Sublot 525 a distance of 140.00 feet to the northwest corner of Sublot 525; thence southerly along the west line of Sublot 525 along a curve to the left with a radius of 711.00 feet an arc distance of 18.54 feet to a point of reverse curvature; thence continuing southerly along the westerly line of Sublot 525 through Sublot 529 inclusive along a curve to the right with a radius of 623.39 feet an arc distance of 232.92 feet to the southwest corner of Sublot 529; thence southeasterly along the southwest line of Sublot 530 a distance of 54.44 feet to the southwest corner thereof; thence easterly at an exterior angle of  $113^{\circ}21'50''$  and along the southerly line of Sublot 530 a distance of 120.00 feet to the southeast corner of Sublot 530 on the west line of Shoreham Drive; thence southerly at right angles and along the west line of Shoreham Drive, a distance of 20.00 feet; thence westerly at right angles and along the northerly line of Sublot 531 a distance of 120.00 feet to the northwest corner thereof; thence southerly at right angles and along the westerly line of Sublot 531 through Sublot 533 inclusive a distance of 157.92 feet; thence southerly forming an interior angle of  $123^{\circ}18'18''$  and along the northwesterly lines of Sublot 534 through 542 inclusive a distance of 509.48 feet to the easterly line of Fairway Court; thence northerly along the easterly line of Fairway Court a distance of 262.65 feet to the southwest corner of Sublot 3 as shown on map filed in the Erie County Clerk's office under cover No. 2410; thence easterly at right angles a distance of 125.00 feet to the southeast corner thereof; thence northerly at right angles a distance of 80.00 feet to the northeast corner thereof; thence westerly at right angles a distance of 125.00 feet to the northwest corner thereof in the east line of Fairway Court; thence northerly at right angles and along the east line of Fairway Court 160.00 feet to the point of beginning. Containing 22.15 acres of land, more or less.

Dated: Feb. 16, 1995

Richard Crandall, Chairman,  
Gerard Koenig, Secretary  
Planning Board

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Mr. David Pettit of Nussbaumer & Clarke appeared on behalf of the 41 sub lot subdivision known as Shoreham Woods. To recap, this is the same plan as before between Shoreham Drive and Fairway Court. The zoning is R-1 and this project exceeds the minimum requirements for R-1. There are 11,250 s.f. for the lots and as far as utilities we will be serviced from the Shoreham Drive sewer and water lines. Water lines will loop between Shoreham and Fairway. Sanitary and storm will go into the the Shoreham Drive systems. The developer will pay a recreation fee in lieu of land. Because of the close proximity of the Pinehurst Elementary School, the Director of Recreation asked for the fee instead. There was a concern about lots that go thru Shoreham on S.L. 32 and 35. We have attempted to cover that with Note No. 3 that we would negotiate something with the adjacent property owners to parcel that off. If that is not possible, we would deed restrict those lots so that no roadway access is possible on to Shoreham Drive. We have proposed setting deed restrictions limiting the removal of larger trees. The site was formerly a golf course at one time. Some larger trees have taken over the site. All comments have been addressed from Engineering.

A letter was received from the Dornsheimers objecting to the David's Way stub street. It was noted that from a planning standpoint, it is desirable to leave that in. The residents were originally told that a home would be built on that lot. However, it was never a construction type lot. This goes back to when 80' lots were acceptable.

Drew Reilly stated that DOT has asked for some information on the subdivision. They are interested in the SEQR status, total trip generation, type of housing and plans for the parcels that have direct access to Route 5.

Mr. Pettit noted that they originally planned a cul de sac at the end. However, after discussions with the Highway Dept. and the fact that Pinehurst Court comes in from the north end of the site, ideally that a thru street with a temporary turn around would some day occur. There is a possibility that it might go thru some day and would tie in to the end of Pinehurst Court. Without an access this road would be 2,000 feet long.

Mr. Koenig asked why the drawing denotes possible detention pond on S.L. 21 & 22? Don't they know? Mr. Pettit responded that he has had conversations with the Highway Dept. who claim they put in a storm sewer to handle this project being developed into residential homes. The Engineering Dept. wants us to verify that with drainage calculations. When we go into Engineering plans, it would save time to seek reapproval of these lots if not needed. We are asking for 41 lots. If one of the lots is needed for storm water detention, the size of the project would decrease by 1 or 2 lots. We have asked for the maximum.

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Mr. Mike Dornsheimer stated that they are opposed to David's Way access. There are other developments in the area that have one access. For example we have a large development in Pine Lakes, Liberty Park. There is a great deal of traffic that goes thru on Route 5.

Mr. Crandall responded that we review each subdivision on it's own merits. Our concerns is access and safety. We have a policy to have 2 ways in and out.

Mr. Dornsheimer stated that the Fire Dept. is located on the corner.

No comments have been received from Traffic Safety. Mr. Koenig does not remember anything being discussed on Shoreham Woods.

Sue Eberle of Shoreham noted that they built their home 3 years ago. She has 3 small children and is opposed to having a road and being a corner lot. Otherwise, I would never have built there. Mrs. Corcoran, lives across the street and is also opposed to having a street across from her.

Joe Koblinski noted that there are drainage problems in the area. With more building there will be more problems. Also, there is a great deal of traffic there now and with school buses, it is even more difficult. I think there should be a moratorium on building.

Motion was made by Mr. Phillips, seconded by Dick Pohlman to **Table** approval of Shoreham Woods based on a review of David's Way and traffic flowing on to Fairway Court and Route 5, plus receipt of input from the State Dept. of Transportation, traffic safety input & Highway. Carried.

**Gideon Schiff 3 lot subdivision - McKinley Pkwy. and Big Tree**

Secretary Koenig read the following Legal Notice of Public Hearing:

Gideon Schiff 3 lot subdivision (continued)

**TOWN OF HAMBURG  
PLANNING BOARD —  
LEGAL NOTICE**

**GIDEON SCHIFF 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, S-6100 South Park Avenue on March 15, 1995 at 8:10 p.m. to approve a 3 lot subdivision known as Gideon Schiff Subdivision, located at the corner of Big Tree and McKinley Parkway.

Central Parcel (previous Site Plan approval) 20.02 acres

**LEGAL DESCRIPTION**

**ALL THAT TRACT OR PARCEL OF LAND** being part of Lot 47, Township 9, Range 7 of the Holland Land Company's Survey, Town of Hamburg, County of Erie, State of New York, and being more particularly bounded and described as follows:

**COMMENCING** at the intersection of the southerly right-of-way line of Big Tree Road (66 feet wide R.O.W.) with the easterly right-of-way line of McKinley Parkway (120 feet wide R.O.W.); thence S-79°-13'-21"-E, along the southerly right-of-way line of Big Tree Road, a distance of 359.86 feet to the point of beginning; thence S-79°-13'-21"-E, along the aforementioned southerly right-of-way line of Big Tree Road, a distance of 247.51 feet to an angle point; thence S-78°-48'-00"-E, along the aforementioned southerly right-of-way line of Big Tree Road, a distance of 539.31 feet to a point; thence S-11°-12'-00"-W, a distance of 450.00 feet; thence N-78°-48'-00"-W, a distance of 25.00 feet to a point; thence S-11°-12'-00"-W, a distance of 414.00 feet to an existing zoning line; thence continuing S-11°-12'-00"-W, a distance of 50.00 feet to a point; thence N-78°-48'-00"-W, a distance of 510.94 feet to an angle point; thence N-79°-13'-21"-W, a

distance of 457.73 feet to a point on the easterly right-of-way line of McKinley Parkway (120 feet wide R.O.W.); thence N-01°-41'-06"-E, along the easterly right-of-way line of McKinley Parkway, a distance of 50.64 feet to an existing zoning line; thence N-01°-41'-06"-E, continuing along the aforementioned easterly right-of-way line of McKinley Parkway, a distance of 591.33 feet to a point; thence S-79°-13'-21"-E, a distance of 315.03 feet to a point; thence N-10°-46'-39"-E, a distance of 280.10 feet to the point of beginning, containing 20.02 acres more or less.

Subject to any easements or encumbrances of record

Eastern Parcel — 16.86 Acres

**Legal Description**

All that tract or parcel of land being part of Lot 47, Township 9, Range 7 of the Holland Land Company's Survey, Town of Hamburg, County of Erie and State of New York, and being more particularly bounded and described as follows:

Commencing at the intersection of the southerly right-of-way line of Big Tree Road (66 feet wide R.O.W.) with the easterly right-of-way line of McKinley Parkway (120 feet wide R.O.W.); thence S-79°-13'-21"-E, along the southerly right-of-way line of Big Tree Road, a distance of 359.86 feet; thence S-79°-13'-21"-E, along the aforementioned southerly right-of-way line of Big Tree Road, a distance of 247.51 feet to an angle point; thence S-78°-48'-00"-E, along the aforementioned southerly right-of-way line of Big Tree Road, a distance of 539.31 feet to the point of beginning; thence S-11°-12'-00"-W, a distance of 450.00 feet; thence N-78°-48'-00"-W, a distance of 25.00 feet to a point; thence S-11°-12'-00"-W, a distance of 414.00 feet to a point; thence easterly a distance of 991.79 feet to a point in the west line of lands conveyed to Gary Hartloff by deed recorded in the Erie County Clerk's Office in Liber 10404 of Deeds at page 702; thence northerly at an interior angle of

80° 29' 07" along the west line of lands of the said Gary Hartloff parallel with the westerly line of Lot 47; a distance of 876.06 feet to a point in the southerly right-of-way line of Big Tree Road; thence easterly at an interior angle of 99° 30' 53" along the southerly right-of-way line of Big Tree Road, a distance of 821.98 feet to the point of beginning, containing 16.86 acres more or less.

Northeast Outparcel-2.17 acres

**LEGAL DESCRIPTION**

**ALL THAT TRACT OR PARCEL OF LAND** being part of Lot 47, Township 9, Range 7 of the Holland Land Company's Survey, Town of Hamburg, County of Erie, State of New York, and being more particularly bounded and described as follows:

**BEGINNING** at the intersection of the southerly right-of-way line of Big Tree Road (66 feet wide R.O.W.) with the easterly right-of-way line of McKinley Parkway (120 feet wide R.O.W.); thence S-79°-13'-21"-E, along the southerly right-of-way line of Big Tree Road, a distance of 359.86 feet to a point; thence S-10°-46'-39"-W, a distance of 280.10 feet to a point; thence N-79°-13'-21"-W, a distance of 315.03 feet to a point in the easterly right-of-way line of McKinley Parkway (120 feet wide R.O.W.); thence N-01°-41'-06"-E along the easterly line of McKinley Parkway, a distance of 283.67 feet to the point of beginning, containing 2.17 acres more or less.

Subject to any easements or encumbrances of record.

Dated: 3-1-95

Richard Crandall, Chairman  
Gerard Koenig, Secretary  
3-9 Planning Board

Gideon Schiff 3 lot subdivision (continued)

Chairman Crandall declared the hearing open:

Messrs. Jay Pohlman and Steve Cleason appeared before the Planning Board with a request to subdivide the 3 parcels of land on Big Tree and McKinley of 39 acres. After 2 year review with a site plan, in conjunction with the center piece of 20.02 acres upon which the retail site building was shown and the Planning Board gave approval last year. At the time that we went thru the review process, we anticipated that the owners of the property would be leasing it to the 3 potential users of the property in a ground lease. Subsequently, the approval and the end user of Walmart has asked to have the property transferred to them outright by deed and we have consented to do so, in order to follow the technical requirements of the subdivision law in the Town code, we need Planning Board approval. The division lines that we have used are the exact lines we had on the site plan. It's the exact 39.08 acres of property that were studied in total with the Army Corps of Engineers and the wetlands and the traffic study. Nothing has changed from the site plan. We need your approval to complete the transfer and are here to answer questions.

It was noted that the Phase II and l is a typo, the phase line became the dividing line for the property. This is an offset. There are no planned uses for the outparcel or the easterly parcel. Nothing has changed, but the land is being divided into 3 pieces. We realize that if there is further development of the other parcels, we will have to come in for site plan review.

Mr. Zimmer of Tomaka Drive --In the course of the approval of the 39 acres, there were a number of concessions granted by the developer. Will those same concessions regarding traffic be in affect. How is that enforced.

Chairman Crandall responded that we have not changed anything in the prior agreements. Mr. Pohlman explained as far as enforcement, the land donation, DOT improvements is still covered by the landowner and it is his responsibility. This will be 3 different landowners. The owners will be under the same restrictions that were placed on the property. The developer came in for approval of the 20 acres to satisfy the Planning Board. They enlarged the scope of the SEQR and the DOT traffic study to cover the entire 40 acres. The same 20 acres will comply with all site plan approval and DOT approval. In the approval, a certificate of occupancy will not be granted until the improvements are completed. This is how it is enforced.

Mr. Art Krause took issue with the presence of Richard Pohlman participating in the meeting as you are related to Mr. Jay Pohlman. Chairman Crandall explained that Mr. Richard Pohlman will abstain

from any vote.

Lisa Raup of Maple Avenue noted that in order to facilitate public awareness, why has name been changed to Gideon Schiff?

Chairman Crandall responded that Mr. Pohlman used the term Walmart. Now, we are all aware that the project is Walmart. However, we cannot call it Walmart as there are 3 separate pieces of property involved. The present owner of the property is Mr. Schiff and Mr. Teitson. The 20 acres came in under the name of Sear Brown. As an Eng. firm, they cannot in any way have anything to do with subdivision requirements. They do not own the parcel. The entire parcel is owned by Gideon Schiff and Mr. Teitson. That is why the application is under their name.

Mr. Gary Jabczynski of McKinley Pkwy. - There is mention in the Legal Notice subject to any easements for purposes of record. Does that include deed restrictions? Answer: It includes everything. Mr. Jabczynski: I submit that the property has deed covenants not allowing the property to be filled. This was discussed in November. Mr. Crandall noted that you are referring to deeds. Mr. Jabczynski noted that the deed restrictions say this property cannot be used for commercial purposes. This property is not eligible to be developed. All restrictions have never been changed.

Mr. Crandall responded that if this relates to the deed, it is not part of our approval. Rick Juda, Planning Board Attorney noted that as far as the legal description, it is a legal publication describing the property and is subject to easements affecting that parcel. If Mr. Pohlman has discovered that there are deed restrictions that affect that property, he will take legal steps necessary. That is not the function of the Planning Board. Our function is to give sufficient notice to the public that what property is affected by this hearing. That is why we use meets and bounds requirements.

Mr. Krause noted that you changed the zoning from R-1 to C-2.

Mr. Crandall responded that we have passed the point of site plan approval. All we are looking at is a subdivision of a piece of property into 3. All other issues have been addressed. This is not R-1 property. The Town has said this is zoned correctly. The site plan has been approved and all we are saying now is that the man who owned the entire piece, is going to only own 1 parcel. The site plan has been approved. Your issue is not in our domain.

Chairman asked for the third time if anyone wished to be heard for or against the proposal. Hearing no further comments, the hearing was declared closed.

Gideon Schiff (Cont.)

Motion was made by Mr. Koenig, seconded by Ms. Ganey, to issue a negative declaration for an unlisted action to be incorporated with the site plan; waive the filing of a map cover, and approve the preliminary for the subdivision. Carried.

Abstained: Dick Pohlman

Subdivision of S-5751 South Park Avenue

Secretary Koenig read the following Legal Notice of Public Hearing.

**LEGAL NOTICE  
TOWN OF HAMBURG  
PLANNING BOARD  
SUBDIVISION OF**

**S-5751 SOUTH PARK AVENUE**

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, S-6100 South Park Avenue on March 15, 1995 at 8:20 p.m. for the purpose of approving a 2 lot commercial subdivision known as S-5751 South Park Avenue.

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 No. 4, Township 9, Range 8 of the Holland Land Company's Survey, described as follows:-

Beginning at a point in the intersection of the south line of Maelou Drive and the west line of South Park Avenue (sixty-six (66) feet wide); thence southerly along the west line of South Park Avenue, three hundred thirty (330) feet to the northeast corner of lands conveyed to T.R.W. Management Inc. by deed recorded in the Erie County Clerk's Office on October 1, 1985 in liber 9493 of Deeds at page 349; thence westerly and along the north line of lands conveyed to T.R.W. Management Inc. by deed aforesaid, three hundred twelve (312) feet to a point; thence northerly to a point in the southerly line of Maelou Drive, three hundred twelve and five tenths (312.5) feet westerly as measured along the southerly line of Maelou Drive from the point or place of beginning; thence easterly and along the southerly line of Maelou Drive three hundred twelve and five tenths (312.5) feet to the point or place of beginning.

Dated: Feb. 22, 1995

Richard Crandall, Chairman  
Gerard Koenig, Secretary  
Planning Board

Subdivision of S-5751 South Park Avenue

Chairman Crandall noted that the applicant wishes to be tabled. However, since there are individuals present, we should hear their complaints and concerns.

The Engineering Dept. has not reviewed the matter at this point. Mr. Reilly noted that he spoke with the applicant on this matter twice. I spoke to representatives of the future corner lot and expressed concerns about the project. This may have altered their decision to proceed. Comments that we had on this subdivision for Lockport Savings Bank on the corner are: We have problems with the property as to the creation of two lots with 1 lot being 100' wide that we would not only have a curb cut for the bank but a curb cut for the adjacent property, plus a cut on Maelou. We believe that this is not in the best interests of a safety traffic situation. We gave them 2 alternatives that a shared egress for both sites or not to subdivide the property. Perhaps the lot on the corner would need additional acreage to meet some of the requirements of the Town of Hamburg. For example, 5 stacking spaces for the drive thru teller, buffering from adjacent properties. The property is flat and may need to be raised. These should be looked at before development. These are the major questions to be addressed.

Mr. Koenig stated that Engineering states that approval of the subdivision require that both parcels share a common driveway on to South Park Avenue. The Traffic Safety Board should look at this. A call was received from Dick Smith of the Highway Dept. stating his traffic concerns on Maelou Drive.

Councilman Cavalcoli presented copies of the aerials which show this to be a significant wetland area. The 100' buffer does come into that area as well. There is no site plan but that is another thing to be addressed and they will require a delineation. That is a wet area and the buffer encroaches on to the property which may limit development.

Mrs. Joyce Van Note stated that at the light they have been trying to get DOT to put a delay on Quinby Drive to allow traffic off of Maelou before exiting. We would appreciate if the Town would put some pressure on this matter. We have been working with Tim Ellis of Traffic Safety. Also, we are very concerned with an exit on to Maelou. We have a tremendous problem with Kirst's exiting on to Maelou. They pull out at an angle and block the lanes and you cannot get into the street. This is a bad situation and we do not want to see an exit on to Maelou Dr. The drive is only 16' wide and cannot handle the traffic. If we have an exit on Maelou, we would like to see a sidewalk down there and around the corner. Children have to catch the bus at South Park and there must be a space for children when they are walking down the street. We would like to see a buffer zone, a fence, a hedge, a fence and a

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hedge between our residences. We were promised that when Romanello's enlarged their parking lot. We have not gotten what we were promised. They put in bushes but the bushes are not adequate. They are so far apart and lights shine right thru.

Councilman Cavalcoli will follow up with the Building Inspection Dept.

Mrs. Van Note continued that they would like to see parking area lights to be directed away from Maelou Drive. On the parking lot they would like to see the building on the south away from the residents so that they don't look out into a parking lot. It was pointed out by one of the residents that they are adjacent and are surrounded by ankle deep water. If the nursery property is raised we will be drowning in water.

Chairman Crandall pointed out that a detention area would reduce the run off which would be directed to South Park Avenue away from the residential area. They would design for a 25 year storm. That has not been decided as yet.

Chairman Crandall asked 3 times if anyone wished to be heard for or against the proposal. Hearing no further comments, the hearing was declared closed.

Motion was made by Mr. Phillips, seconded by Mr. Pohlman to **Table** for the April meeting. Carried.

**Berkley Square Modifications - Big Tree Rd.**

Messrs. Brian Maslowsky, Michael Pysz, and Dave Pettit appeared before the Planning Board on the Berkley Square development. Mr. Pettit stated that the first submittal was made on October 17th, 1994. This was the plan originally proposed for 88 apartments and we had reserved a portion of commercial adjacent to the present Convenient Food Mart. It was our impression, based upon a work session, that this layout was not desirable. The public roadway was removed and the board wanted that back into the project. Based upon that, we made another submittal on Nov. 16th where we went and put up 120 apartments and increased the single family lots by 7. We had redesigned the roadway back in to maintain a walkway from Regents to Bayview and totally eliminated all the commercial under that plan. The feedback we received from that plan was that density was a problem and that we eliminated the commercial which was part of the original PUD of Berkley Square. We went back to the drawing board again. Then on December 27th, we made another submittal, to address the comments and concerns of the last meeting. We had 7 single family lots, and the lane continued to go out to Bayview Road. We left proposed walkways as is, and dropped apartments back to 88, and we put a retail office complex back on Bayview Road, adjacent to the Convenient Food Mart.

Berkley Square (Cont.)

The feedback from this meeting was that we had the representatives from the homeowners Association with a resident's attorney, who was a homeowner, to voice opposition to the plan. This plan, from input received, pointed to a direction is that the project was different from the original plan and that we should reconsider the layout as proposed. There has been quite a bit of confusion. We made a submittal on January 9th, and tried to salvage as much of the original plan as approved and remove a section on Bayview and showed what the development should look like. We had 76 apartment units, 27,000 s.f. of commercial, and we had eliminated the addition of residential lots. This is the plan that we received concept approval to go to the site plan. The current plan adds the stores, commercial areas back to Tisbury and Berkley Place intersection. We were asked to show how the parking would look so that you could see that there was adequate parking for the commercial and office space. Part of the original has apartments mixed over the top of the commercial. We have instituted apartments (about 12) similar to the original concept. Under this plan we showed 8 unit buildings, and under this one 4 units to break up the size of the buildings.

Mr. Reilly noted that we are trying to determine where we are on this project. From the files I tried to figure out what direction was given to the applicant and what we wanted from this project. The original concept was commercial with a village concept. Also it is important to denote the flavor of the project as to what is to appear out to Bayview Road. By substituting apartments you lose the flavor of what was originally proposed. We want to see this portion survive, and what was sold in the PUD. The Town does not want to look at the back of apartments out on Bayview Road. We have suggested architectural changes, entranceway changes, etc.

Mr. Brian Maslowsky presented a drawing depicting the entry concept for Berkley Square showing a clock tower, signage, and landscaped berms. They would like to break up the row house look with changing roof lines and facade treatments. They would also like to incorporate the use of small service shops. We will try to create a village theme.

Chairman Crandall stated that when it comes to establishing that flavor, we are concerned about the appearance of the apartment structures themselves so that they don't look like every apartment that you see now. From what I see doesn't quite accomplish that. I would like to see more attention to roof lines, changes in facade elevation, to stagger a rowhouse. If you have something that is not the usual type of apartment where they are just lined up, that is what we are trying to avoid. I want to make sure that we will end up with what the residents, the Town Board & the Planning Bd. is

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(Berkley Square Cont.)

anticipating. Perhaps a submittal of 3 different facade plans would be in order.

Chairman Crandall pointed out that he is concerned with the people who purchased into this community.

**Engineering comments:** 1. The height of the berm and side slopes are to be specified. 2. The berm is to be moved east 10' on the east side of Berkley Place and Bayview Road, in order to provide improved sight lines. 3. Commercial buildings proposed at intersection of Berkley Place and Tisbury Lane should be moved back to provide improved sight lines at intersection. 4. Site plan should be submitted to and approved by utility companies, for serviceability within setback areas shown. 5. Detailed construction plans are to be submitted for Engineering Dept. approval after Planning Board approval of the site plan.

Mr. Reilly noted that they are looking for concept approval. The direction should be the layout that we are looking for. Mr. Phillips stated that they should come back for an architectural review by the Planning Board, as well as input from the residents. Our concern is that we are making a dramatic change to what was originally viewed. We should make sure that we have addressed the issues, and one of the points is the satisfaction of the residents who bought into that community. Conditional approval could be made on an architectural modification to satisfy Engineering and the Planning Board. Preliminary conditional approval could be made pending a return to the Planning Board.

Motion was made by Mr. Pohlman, seconded by Mr. Eustace to give conditional preliminary approval based on a resubmittal of a site plan and architectural plans for final approval; that this encompasses the fact that SEQR need not be reopened due to the fact that plans are consistent with the original plans, affecting traffic flow, site configuration, density, & to incorporate the comments of the Engineering Dept. in the next presentation. Carried.

**Sawgrass Court Part II -**

Mr. Al Stockman appeared before the Board and presented an update of phases that have been completed. Board members will evaluate what has been presented.

Motion was made by Mr. Phillips, seconded by Mr. Pohlman to **Table** so that the board has some time to review what has been submitted.

**Mister Oil Change - South Park Avenue**

**Engineering Comments:** 1. Show how the building roof drains

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will be connected to a storm sewer. 2. Show the water and sanitary sewer service locations. 3. The sanitary sewer service must be approved by the Erie County Dept. of Environment and Planning. Contact person is Mr. Mathew Salah. 4. Landscape plans are to be submitted. 5. Specify that the existing sanitary manhole must be adjusted to be 1/2" above finish grade. Grade adjustment shall be made with precast concrete rings and inspected by the Town of Hamburg Engineering Dept. 6. Note that slots are to be placed as necessary in the curbing along the east side to facilitate drainage. 7. Sidewalk being installed across frontage of Town Hall Plaza as part of K-Mart project should be extended by Mr. Oil Change developer across frontage of his property.

Rick Juda noted that he has been in touch with Mr. Busshart's attorney, Mr. Abarno. Apparently, they have not yet reached a full agreement. They are still passing drafts back and forth on the proposed easements. There is some discrepancy as to what Mr. Abarno would like to see on some of the conditions. Unless they are in agreement, I cannot pass this information on to the Planning board. The issue of contention is the width of the driveway entrance, whether it can be moved or not, that is something yet to be worked out with Benderson Development.

Mr. Busshart noted that the agreement with McDonalds was no smaller than 36' and no larger than 60' width. The problem is with the curb cut out to the plaza, if he moves the easement, you never have a fixed position.

Planning Board noted that the Planning Dept. should send a letter to Benderson Development stating that the entranceway for Mister Oil Change cannot be moved once Planning Board approval is given on the site. This is an unreasonable request. Also, the letter should convey that building plans not be held up for a long duration of time.

Motion was made by Ms. Ganey, seconded by Mr. Koenig, to issue a Negative Declaration on the project: grant conditional approval on the site plan subject to Engineering and Planning Comments to be worked out in an acceptable mode; that there be a signed easement agreement in place which is acceptable to the Planning Board Attorney in accordance with the original easement depicted on the site plan. Carried.

Motion was made by Mr. Pohlman, seconded by Mr. Phillips to convey the statement to Benderson Development that there be no change in the relocation of the driveway. Carried.

**Bonerb Rezoning Petition, 4409 South Park Avenue.**

The Planning Board discussed the rezoning petition of Vincent Bonerb for 27 acres of land on South Park Avenue. The proposed use is that the existing mansion will be used for a restaurant and the

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Bonerb Rezoning (Cont.)

single family dwelling will also be constructed on the property. Board members noted that there are some problems with the site with regard to sewers, size of the lot, and wetlands.

Motion was made by Mr. Koenig, seconded by Mr. Pohlman to recommend that a Public Hearing be set at the Town Board level for the Vincent Bonerb rezoning of 27 acres of land from C-3 to P.U.D. located at 4409 South Park Avenue; and that input on these issues be brought back to the Planning Board and to be reviewed by the various boards. Recommendation is made for the following reasons: 1. It is previously zoned C-3 and will accommodate the same type of uses with the exception of a single residence. 2. The proposal appears to meet the master plan in general conformance. 3. This is a good use for this property, and is in conformance with the surrounding neighborhood. 4. The wetland area should be reviewed, as well as the need for sewers. Also, traffic concerns should be addressed. Carried. Opposed: Sue Ganey, Paul Eustace.

**Southampton Condos - Chuck Bailey - Big Tree Rd.**

Mr. Chuck Bailey appeared before the Planning Board on a concept proposal for condominiums on Big Tree Rd. This was the former Richcrest site owned by Mr. Zimmer. Apparently, things have been worked out whereby the duplex units on the front portion of the property have been eliminated and a new design for the condo development is in the works. Applicant advised to proceed with proposed 135 units.

Motion was made by Mr. Pohlman, seconded by Mr. Fitzpatrick to adjourn the meeting. Meeting adjourned at 11:30 p.m.

Respectfully submitted,

*Gerard Koenig*  
Gerard Koenig, Secretary  
Planning Board

Next meeting dates:

April 5, 1995  
April 19, 1995