

Town of Hamburg Planning Board
Meeting - March 18, 1998
Actions Taken

Southtown's Seafood-Addition
4900 Lake Avenue

Approved cont. upon
Engineering comments

Sprint Spectrum-Tower
2980 Lakeview Road

Approved cont. upon
State alienation &
site plan meeting
Town Codes

St. Matthews Church
McKinley Pkwy.
Rezoning Application

Tabled

E.F. Burke Senior Ctr.
Brierwood

Tabled

Berkley Square
Change use from
commercial to home office

Tabled

St. Cyril & Methody Church
4785 Lake Avenue
Revised site plan

Approved

NDC Apartments
S4215 McKinley Pkwy.

Approved

Lakeview Children's Day Care
2095 Lakeview Road

Approved cont.
subject to Eng.
comments &
landscaping

Builder's Square Plaza
3540 McKinley Pkwy.

Tabled

Big Tree Condos
Big Tree Road

Tabled
Applicant did not
appear

Town of Hamburg Planning Board
Meeting - March 18, 1998

The Town of Hamburg Planning Board met in regular session at 7:30 p.m. in the Public Meeting Room of Hamburg Town Hall. Those attending included: Chairman Richard Crandall, Vice-Chairman David Phillips, Secretary Gerard Koenig, Paul Eustace, Don Fitzpatrick, Dick Pohlman, Sue Ganey. Others Attending included: Councilman Mark Cavalcoli, Rick Lardo, Don McKenna, Attorney, Drew Reilly, Rich Whipple, & Judy LaRosa, Stenographer.

Southtown's Seafood - 4900 Lake Avenue

Mr. Frank Wailand appeared before the Planning Board representing Southtown's Seafood. Mr. Crandall asked if Mr. Wailand had anything to add or a presentation. Mr. Wailand stated that this was a 9,000 foot addition to an existing structure on Lake Avenue. This is requested because of increasing business and modification where he will be handling meat products as well as seafood. Also, we are increasing the parking and paving area along the west side of the parcel. A slight revision was made to a front entry drive due to difficulty with semi's coming in off of Lake Avenue. I sent a letter to Mr. Whipple last week clarifying certain points about the nature of the business. Would you like me to go through that?

Mr. Crandall stated that they did review that at our work session. We did have a question.

Rich Whipple stated the Planning Board desired clarification of the use of the addition. Mr. Crandall stated the Board understood what the business is, but what we want to know is what the addition is specifically going to be used for as it relates to that business. Rich said that packaging was a key word. If your packaging food for sale or resale as opposed to processing like in a butcher shop that maybe a different way we would look at it. Mr. Wailand explained that bulk meat is delivered then cut to different client specifications (restaurants, retail stores). They will do some cutting on the site and then just send it out. It is not frozen food it is all fresh, because there is just a cooler in the building. Mr. Crandall asked if it is not unlike what a Tops Market would do behind their counter when they sell their meat,

poultry and fish? Will there be a display case out front? Mr. Wailand said no. This is strictly wholesale to customers around Western New York on down to Pennsylvania.

Mr. Crandall asked if there would be walk-ins off the street? Mr. Wailand stated they will supply retail outlets, fish stores, meat stores and primarily restaurants, but it will not be open to the public. The meat will come in and just be cut. There is no processing of it. Mr. Crandall said, "you've hit it on the head, that's what were looking for".

Engineering Comments:

The following are review comments on a plan dated 2/4/98 and last revised 3/13/98:

- (1) The site plan for this parcel was previously approved on 5/4/94.
- (2) Submit the plan to Erie County Sewer District No. 3 for review and approval. We will not approve these plans without their review and approval.
- (3) The landscaping plans are to be reviewed and approved by the Planning Board.

All comments are to be satisfactorily addressed for approval.

Rich Whipple said the applicant revised the parking area as suggested by the Engineering Department and the Planning Board. According to the Engineering letter the Planning Board has to approve the landscaping plans. The applicant submitted one copy which I gave to Rick Lardo, and also a verbal from the Erie County Sewer district is required.

Mr. Wailand said the letter went out to Erie County Sewer District (ECSD) for review. Currently, there is a sewer line to the building, but were bringing a second line from this building and tying it into the other sewer line. All that profile was sent to ECSD for their review. I do have another landscaping plan with me, which is the one that you had approved in 1994, I believe. The only change is additional seeded area around the parking lots and the rest of the site will remain in a natural state.

Drew Reilly wanted to know if the trees and shrubs were installed as shown on that plan? Mr. Wailand said, "yes they are". In reviewing the plan, Mr. Crandall asked if everything shown here was in place. Mr. Wailand said everything is alot bigger now but it is all there. Mr. Crandall stated that was the Board's main concern.

Drew Reilly added you need to get ECSD approval. I apologize, but you also need to have approval from the County on the road, if you widen the entrance.

Mr. Wailand said it is not the curb were widening, it's actually on the property. Were just taking out a sharp curve. Mr. Crandall noted that in taking out the curve two trees may be lost. Mr. Wailand indicated that if that occurs they will replace or relocate them. The trees were balled and burlaped and might still be able to be moved. Mr. Crandall stated that the Board would not like to lose those trees. Mr. Wailand said the owner does not want to lose them either.

Mr. Crandall asked if the Planning Board had any questions? Drew, anything else? Drew stated he had no questions and that they had reviewed this for a couple of months. Rich Whipple stated all the revisions that were asked of the applicant were addressed.

Motion was made by Mr. Phillips to approve Southtown's Seafood subject to Engineering comments, dated 3/16/98, and that a negative declaration be issued. Seconded by Mr. Pohlman. Carried.

Sprint Spectrum - Cellular Tower - 2980 Lakeview Road

Engineering Comments:

We have not received a site plan for this project. A site plan should be prepared and submitted for review.

Ms. Maureen Elwell and Mr. David Olek appeared before the Planning Board representing Sprint Spectrum. Mr. Crandall stated this project is presently before the State Legislature requesting an alienation so we can install the tower on a 100' x 100' piece of property that presently exists in the Town Nike site. Ms. Stamy brought up the situation where the site plan should be approved prior to April 1, 1998. I'm not sure I agree with that, but I'm going to try and culminate it regardless. We have what you submitted previously. We have a preliminary site plan which was reviewed today. The plan is pretty thorough. In order to make sure that we get as many of these things out of the way by end of the month, if possible, I'd like to entertain the motion to approve the site plan contingent upon a number of items. Primarily, one of those items is contingent upon the State alienation approval coming through. The site plan is almost identical to two other plans

that we have done and very close to the plans for the Hopevale site. The plan is also similar to the Newton Abbott plan. There was one item on the site plan submitted that we can't accept, and that was the barbed wire on the top. I would like a contingency included that the final site plan be presented in such a way that it complies with our telecommunications section of the code. I believe that the landscaping, if there is any, has already been covered.

Drew Reilly added that through the alienation process we already did a negative declaration under SEQR. So basically the action for tonight would be a preliminary site plan approval conditional upon these items that Mr. Crandall was talking about. The Applicant will prepare the standard site plan once the property is alienated.

The package of the Nike Parcel which was presented by Sprint and is being viewed shows the location of the tower, a 100' x 100' area in the rear of the property near the Thruway that will be leased to Sprint. The plans also show the type of tower that will be installed and a preliminary site plan basically of the area where the tower would go, showing the locations of the buildings, fencing, and all the other things typically required in a site plan.

Mr. Crandall noted for all intents and purposes, all the information has been provided, it virtually is saying it would be provided on a follow-up drawing. That drawing would be the final copy, which would be signed.

Ms. Elwell asked if a Negative Declaration would be done tonight. Drew Reilly advised her that the Negative Declaration had been done.

Mr. Crandall asked if there were any other questions or comments. Mr. Reilly stated he had no other questions. We hope to get this moving as quickly as we can.

Motion was made by Mr. Phillips that we approve the Site Plan for Sprint Spectrum contingent upon the State Alienation approval and that the final Site Plan be submitted and comply with all the Town Codes. Seconded by Mr. Fitzpatrick. Carried.

St. Matthews Church - McKinley Pkwy. - Rezoning Application

Mr. Crandall noted, for the benefit of the audience, that the Planning Board does not give approval on rezoning. The Planning Board makes a recommendation to the Town Board. The Town Board makes the actual decision on rezoning.

Engineering Comments:

The following are review comments on a rezoning application dated 8/1/97 and a site plan dated 3/24/95, both received on 9/22/97:

- (1) The site plan review checklist was not complied with. The site plan should be revised accordingly and resubmitted for review.
- (2) Our records show the existing zoning of the entire parcel as R1 (not a combination of R1 and R2 as stated in the rezoning application).
- (3) The Environmental Assessment Form submitted with the rezoning application states that 18 living units are proposed to be constructed, arranged in duplex buildings. However, the site plan shows 43 living units, arranged in combinations of 3 to 6 adjoining buildings. What is actually proposed?
- (4) Water service is located along McKinley Parkway. The Erie County Water Authority should be contacted for pressure and flow information in their system.
- (5) The site is located within the Erie County Sewer District No. 3 (ECSD No. 3) service area. ECSD No. 3 should be contacted to determine if there is sufficient available capacity in their system to service the site. Sewer service will require either a crossing of Rush Creek, or a mainline sewer extension along McKinley Pkwy.
- (6) The easterly portion of the property is located within the Rush Creek flood plain. The flood plain boundary should be shown on the plan. It appears that several proposed buildings may be within the flood plain.
- (7) Storm water detention will be required for the site.
- (8) Has a wetland delineation been performed for the site?
- (9) We have not yet received an acceptable survey and legal description, as required for the area proposed to be rezoned.

All comments must be satisfactorily addressed for approval.

Representing St. Matthews Church in this petition was their Attorney, Mr. Andrew Hilton. Mr. Hilton stated that he had made a presentation previously to the Planning Department and we would like to have an application to have the property under discussion rezoned from R1 to R3. The intended use of the property is going to be for senior residences. Specifically, single story residences which will be restricted to senior citizens. The senior citizens will be selected from the community in general. The homes are going to be duplexes, in a sense that they are side by side structures. We have been very careful in designing the layout of the site to keep the same density that we would have as in R1 zone. So even though we are asking for a rezoning to an R3, the density of the project is similar to the R1 zone. We believe, therefore, the impact on the surrounding neighbors will be negligible. We are preserving all of the existing green space in terms of the front of the property. From the street presence you will have no visual impact. With regard to the neighbors located on the sides, we will be preserving all the existing trees. Again, a very minimal impact on the neighbors. We believe the use of the property is appropriate for the district and is consistent with the Town's Master Plan. It is our belief the use is a good community service and will be supported by the Town. There are a number of issues which have to be addressed with regards to sewer and water. We believe all those issues can be adequately dealt within the scope of the project, in an economical and reliable fashion. In addition, our water and sewer issues may also benefit adjacent property owners.

Mr. Crandall noted that on the site plan it shows the outline of the buildings. How many families will each hold. Mr. Hilton stated that there will be two units for each structure. There will be one family on each side.

Mr. Phillips asked if this is a different drawing. Mr. Reilly advised him that Rick Lardo didn't review the newest one, that's the problem. Mr. Lardo stated that if you don't get it, you don't look at it. Mr. Whipple stated we only have the one copy of the concept plan, it is nine buildings, two units each. Mr. Lardo indicated that he believed the plan he has is from 1996. Mr. Hilton said it is similar to the prior plan and we are working with the same ingress and egress from McKinley. We will not require any additional curb cuts. The ingress and egress is currently serving

St. Matthews and we do not believe it will add any additional traffic or density to McKinley Parkway. The Church has taken the impact of the eighteen additional neighbors and they do not believe it will impact the use of their property.

Mr. Reilly commented that the Applicant presented this to the Planning Department and some of the Town Board members approximately six months ago. The Applicant stated it was in November. Mr. Reilly stated that they requested the Applicant to wait until the Master Plan was completed. We also advised them that the original plan they submitted was definitely not in conformance with the Master Plan and we requested them to go back to the drawing board. That is why Rick Lardo refers to an old drawing. We apologize for not giving you a copy Rick. The new drawing raised the fact that it should be entertained by the Town. It is more likely in conformance with the Master Plan. I will read a quote from the Master Plan and then you may ask questions. This will give you an idea why the Town has chosen to entertain this rezoning at this point. Mr. Reilly read the following quote, "The objectives for this area of the community are to prepare for a higher density single family residential growth but in such a way that the character of the area remains unchanged. Through proper design and the correct uses the area can remain a major asset to the Town". The Plan also included adding overlay requirement, which we haven't got yet, to this area of the community that would require things like not adding additional curb cuts, using shared means of egresses, additional landscaping requirements, buffering from the road to keep that atmosphere that it's at. So, as you can see, when you start reading they've amended the Plan to meet a lot of these things. So it reached a point that they thought it was close enough that the Town should entertain it and begin their process of review and questioning of this project. In fact, the project is changed, although the Applicant represented an R3 rezoning, the buildings were changed greatly in saying we don't want the appearance of multi-family structures. Basically, the buildings were changed almost duplex looking buildings. Again, with that, the informal Master Plan Committee said that the Town would take entertainment of this rezoning request. That's kind of where we are today, beginning at a process for you to review, ask questions, etc., until you feel comfortable to make a recommendation to the Town Board.

Mr. Crandall stated that as far as our action tonight, Drew, have we gone far enough with the review that we could actually make a recommendation tonight. Mr. Reilly said, "No", this Board is seeing this essentially somewhat for the first time in a public forum, you want to raise questions and talk about it". Mr. Reilly commented that Mark Cavalcoli asked if the Board understood the concept. Basically, one of the things that brought this project

closer to the Master Plan conformance was the density issue. The number of units were reduced greatly to the point that it is less dense than the R1 zoning that is presently there. Saving the green space, we moved the buildings. The Applicant listened to us and different input from Town Officials, to say these are things you might want to consider in redesigning your project and maybe the Town would entertain the rezoning.

Mr. Crandall commented that he liked the design because it sits back from McKinley. There certainly is a need for this type of housing.

Mr. Hilton noted that the property would continue to be administered by the Church. The Church would maintain all the common grounds and area. This would enable them to maintain a certain standard and quality. If the units were to be sold on the open market, the value would be between \$100,000 and \$130,000 maximum per unit. The need perceived in the community was that if a senior had a residence and didn't want to maintain their residence that this is an alternative form of housing.

Mr. Phillips asked if these units are going to be rentals. Mr. Hilton responded that it will be purchased ownership, but the control of resale will be held subject to the Church. Mr. Phillips asked if this were zero lot lining or the owner owns both sides? Mr. Hilton stated the owner will own one side. Mr. Phillips stated that they are townhouses. Mr. Hilton said, "yes, correct". Mr. Crandall stated, "not the land it sits on". Mr. Hilton responded, "that's correct. Mr. Crandall asked if there will be some kind of a corporation or association that would maintain the area. Mr. Hilton, "that's correct", "common association with common fees". Mr. Koenig asked if the road would be maintained by the association? Would the road be built to Town specifications? Mr. Hilton stated that he believed that it was to be built to Town specs. Mr. Koenig asked, because they are owned by the residents will these parcels will be on the tax roll? Mr. Hilton responded, "yes". This is basically an alternative to a subdivision of single family homes. This is designed to be a low density impact. The townhouse community would be clustering numbers of units-a lot greater impact. We are trying to keep it a single family home structure with a lot of green space around.

Mr. Koenig noted a relocation of a brook. Is there any State or Federal requirements required for a relocation of a brook? Mr. Reilly stated that there is and we are reviewing the environment and one of the reasons not to make a motion tonight. We are reviewing all the environmental, because we are going to make a recommendation to the Town on furnishing the environmental

because the SEQR has to be taken care of by the Town Board. If it is a protected stream it is required. If it is not a protected stream then basically they could relocate it.

Mr. Hilton said with regards to the brook we are not planning on relocating it necessarily.

Mr. Reilly said one of the things your raising tonight for the first time in public forum are issues of environment. Things that we will need further information on, review, etc.

Mr. Crandall asked if there are any questions from the audience or comments on the proposal. If you have comments we would appreciate hearing them. No comments. Mr. Crandall believes the Board is on the right track and that the questions will be raised as this progresses.

Mr. Reilly gave the Applicant direction by stating the Planning Board is at this point somewhat satisfied with the layout of the proposed application. You will do further research at the direction of the Town Engineer's letter to satisfy SEQR issues. Get some correspondence from the Erie County Water Authority, and the sewer district on availability of capacity. The flood plain issue, please resolve that through the Building Inspector. The issue of the creek, you may want to do a review with the New York State Department of Conservation (NYSDEC). The EAF, I don't know if you visited there or not. We will have an environmental review check, but make sure there are no protected streams. Mr. Hilton responded that they had not done any preliminary work because we weren't planning on removing the stream. We do realize it may happen in fact. It will be addressed. Mr. Reilly suggested they should check through the NYSDEC records. The NYSDEC will do an environmental review check list and that will help us make our recommendation to the Town Board on the SEQR issues.

Mr. Crandall noted that even though there are not additional cuts on McKinley it is a County road. You should get input from the County Highway Department. Mr. Hilton noted that they want to take into consideration future cuts on the road.

Mr. Koenig asked what is the building like structure northeast of the Church suppose to be? Mr. Hilton stated that it was an existing utility shed.

Mr. Crandall questioned as to the appearance of the buildings. Is it pretty much that sketch that was past around? Is that the appearance of the structures? Mr. Hilton responded, "yes".

Mr. Reilly stated one of the big issues for him was to make sure that conceptually that we didn't have any problems with this before the Applicant goes out and does much more research into these environmental issues. If you are somewhat happy with the conceptual layout then he can do the research into the environmental issues.

Mr. Crandall said he believed that they were all happy with the layout, but just so there is no misunderstanding things like distances between buildings, set backs and lot lines all has to be worked out in greater detail than what is there. It appears to be a very positive type project.

Motion was made by Mr. Fitzpatrick to table. Seconded by Mr. Pohlman. Carried.

E.F. Burke Senior Citizen Ctr. - Brierwood

Mr. Crandall stated that at last month's meeting the Planning Board held a Scoping Session to proceed with this project. Their was a question raised as to if we were proceeding appropriately or not and the Planning Board decided to Table so that the Applicant and the Town could do more research and review. We now have accomplished that. To go into a little more detail on all of that, I'm going to ask Drew Reilly, our consultant, to go through the sequence of events and where we are at right now.

Mr. Reilly spoke on the status of the project.

- An application was made to the Town for a Senior Housing Complex in the area of the Brierwood PUD previously known as the Office Complex Area.
- The application was discussed at the November, December and January Planning Board meetings. Public input was received at these meeting and homeowner groups within Brierwood were attempted to be notified. At the January meeting, it was determined that due to the nature of the formation of the PUD, the application would be treated as a site plan and be processed by the planning board.
- At the January 21, 1998 planning board meeting, the Planning Board based on the input / information that was received determined that the project may have an impact on the environment in five areas: Traffic, Character of Neighborhood, Drainage, Schools and Greenspace. Therefore, since the original PUD was a subject of an EIS, they requested a SEIS.
- At the February 4, 1998 work session, the Planning Board set a Public Scoping Session for February 18, 1998 at 7:00 p.m.
- At the February 18th Scoping Session, the applicant challenged the need for a SEIS and asked that the town review Case Law and past history in the Town.
- The applicant has supplied a tremendous amount of information in an attempt to show that a SEIS in not needed or warranted. Some of the issues raised by the applicant are the following:

- 1.) The Town in previous applications in the early 90's determined that changes to the PUD would be handled by the applicant submitting amended studies not through a SEIS.
- 2.) Case Law supports that courts will accept a decision by a Municipality not to require a SEIS if the prerequisite hard look is taken.
- 3.) The Town has not found any potentially significant environmental impacts (based on the information presented by the applicant).
- 4.) The Planning Board approved the same proposal for Court Street Company in August of 1996.

- The Planning Department, Planning Board Attorney and Planning Board Chairman have reviewed all of the information and can offer the following:
 - a) Review of the information submitted, research into the issues, and discussions with Attorneys and NYSDEC representatives reveal that the action to require a SEIS made by the Planning Board was valid and procedurally correct.
 - b) Case Law, history and advice by SEQRA experts show that a decision to require a SEIS, or not to require a SEIS is proper (for a change in a site plan that was subject to an EIS) as long as the Board / Lead Agency takes the prerequisite hard look at the the project and gives reasons for their decision.

Presently the Planning Board has requested a SEIS for this project and since this procedure has been found to be valid pursuant to the SEQRA Law, therefore the applicant to proceed with the project should submit a draft SEIS.

If the Board does not make any changes to the existing status of the project, then the applicant can begin the SEQRA / SEIS process by submitting a draft scope. Once submitted, the Town will set the Public Scoping Meeting.

As an aside, our research also confirmed our understanding that the Scoping and Scope of the SEIS will be limited to those five issues identified during the Planning Board's hard look at the project.

- Site plan review can also be undertaken simultaneous with the SEIS (no approvals until complete).

At this point, I will turn it over to Mr. Crandall, because I know you have some other issues.

Mr. Crandall stated Mr. Reilly's statement summarizes the results of our review of the question that the Applicant has raised. I want to allow the Applicant to respond at this time.

Appearing for the Applicant are James Walsh, Attorney, George McKnight and E. F. Burke.

Mr. Walsh stated he appreciates Mr. Crandall and Mr. Reilly and Mr. McKenna giving us such time to refresh a lot of the procedural history in this project, because it does go back ten years. For my prospective, I think that procedurally in looking at the minutes on January 21st, this Board made a decision to require the Applicant to go forth with a Supplemental Environmental Impact Statement. In looking at the minutes I do not believe that there was a finding or a hard look taken, which allowed you to conclude that there were specific significant adverse environmental impacts. As such, on February 18th we requested, and the Board granted, to reopen that determination so that we could get a legal opinion from Mr. McKenna and to reconsider that determination and allow us to give the Board more information. In speaking with Mr. McKenna I believe that he and I agree that the laws clear on this that the Board has to take the requisite hard look. That the findings have to be based upon a need for a showing of a specific significant adverse environmental impact. The record we have before us doesn't substantiate that determination. Based upon that, I think that Counsel and I agree that the Board hasn't made the requisite determination which triggers the SEQR process. I think that in our research over the last two weeks, which was rather intense, we've been able to re-understand the process by which this project came to fruition. George McKnight, who is here tonight, was the Town Planner and the expert which really brought the project into fruition on behalf of the Town. In 1988, at a time when SEQR wasn't well defined, the Board was on the cutting edge at that point in time. The Board entertained an extensive study and concluded through a final environmental impact study that the concept for the planned community was to go forward in pretty much the status that it has been. In 1991, after initial phases of the development, there was a request for relatively significant change to the PUD concept. At that point in time, the Board was asked to consider allowing a Brierwood Professional Park to come online. I think many of the Board members who are sitting here today, were sitting there then. There was a concern raised by an Attorney, a person in the community, that the Board wasn't following the proper SEQR procedure. At that point in time, I think you Mr. Crandall were the person that said we should investigate this to determine whether or not the procedure that we are following is the proper one. We spent significant amount of time and money, at that point in time. The Town Attorney was involved, the Planning Board Attorney was involved, my father who represented the developer was

involved, the DEC was involved, Mr. McKnight was involved, Mr. Crandall was involved. We had a large degree of effort studying how to best proceed when these significant changes came up on this project. At that point in time, after a great deal of study, I think there is a significant memory in the law that was created in 1992. It was determined that the way to proceed was to supplement the information and the studies that were part of the original EIS. That was done and accepted without legal challenge. The same thing occurred in 1993 when we had even greater departure from the initial concept plan, where we actually took 15 acres of property that wasn't in a PUD, rezoned it, brought it into the PUD and then allowed for commercial development to go forward on that. So, in that particular situation I think there was a rezoning which is probably the most significant change you can make to a project. Again, the Board looking at past- practice, looking at the procedure, allowed for a supplement to be made to the original EIS, which again served the purpose of the Board very well and served the purposes of the developer very well. The project went on without any challenge. So we have a procedure that we have a precedence for-its been tested-and its been true and to make a radical departure at this point in time, I suggest is not in the best interest of either this Board or the developer. In 1996, an out-of-town developer came to the Board to ask that the Brierwood PUD concept plan, the commercial portion of it, be changed to allow for multi-family use. At that point in time, there was a Public Hearing. It was duly noticed, and after much discussion and input from the neighbors, there was approval given for a change in the concept plan to go from commercial to multi-family. It was widely reported in the paper at that point in time. This is an article from the Sun which basically says Brierwood Senior Housing Project given go ahead. It discusses in there the fact that the Board allowed the concept plan, PUD plan, to be changed from commercial to multi-family. I think if you look at the minutes from that time period, you'll see that was the intent and that is what happened. So we have a situation in 1996 where really an identical project was given the go-ahead and the changes made at that time, at least in terms of the concept. At least in terms of the Brierwood community changing it from commercial project to a multi-family project. That's really what we have here today. If you look at the issues that were raised in the January 29th letter, I think we can pretty much agree after reviewing this now for two weeks, that the issues themselves have been resolved to show no impact. The first one that we discussed is the question of education. What would be the affect on the schools? In the letter it was suggested that this wasn't studied in the initial EIS and that therefore we should have a study. In fact, going back to the EIS we find that it was studied, it was studied extensively. At that point in time, 944 units were considered over a 10 year period and the impact that was determined at that time was not significant.

As a matter of fact, looking at the project as it matured we have a situation where we only have 844 units that are going to be built. We have a reduction in terms of the overall units, so the impact, I suggest to the Board, clearly shows no impact. I think we can check that one off.

Mr. Crandall interrupted Mr. Walsh and stated we have gone through those arguments on those particular items the last time we sat on this. I don't think its necessary to go back over them. I don't want to cut you off, but I don't think it's necessary. Mr. Walsh stated he does not suggest that either, Mr. Crandall, but in looking at the discussion that we've had we basically agreed that education isn't an impact. I think we basically agreed that drainage, after looking at this, isn't an impact. At least from the comments we have received from the Engineering Dept.

Mr. Crandall stated that the point he was making is that those items were discussed which led up to where were at right now. The response I'm looking for really is a response to the statement that Drew Reilly made-not to go back and recapitulate all the things that we've gone over several times. Mr. Walsh stated that he is trying to establish, at least from our perspective, that the issues that were identified for us to consider as being significant substantial adverse environmental impacts. After we've discussed them after some period of time proven not to be impacts at all. I think the education one is the easy one to throw out. The second easy one to throw out is the greenspace issue. Looking at the two plans there has been an increase in the greenspace.

Mr. Crandall stated the answers to all those items will be brought up in the SEIS. Mr. Walsh stated that it almost begs the question Mr. Crandall, because you have a situation where we can agree that these are in fact significant adverse impacts, and if there not significant adverse impacts, there's no way we can get to the requirement for SEIS. Because, you'd have to find that they were in fact significant adverse environmental impacts. So, by ticking them off in terms of not having significance, I think it refocuses-

Mr. Crandall interrupted to say that we considered that and took that into consideration when we reviewed this subsequent to our meeting of last month. The results that we came up with which are included in Drew's statement addresses those issues from a standpoint that we, and when I say we, I'm not talking for the entire Board at this point in time, but it certainly capulizes what the results were of our review between our Board Attorney, Drew, and myself. I just don't think there is any benefit in going back all over again those same five items. We've reached that point-lets move on.

Mr. Walsh stated we respectfully submit that you reconsider those issues, because if you do, in taking a hard look that you will find there is no adverse impact.

Mr. Crandall stated that's what would happen during the SEIS process.

Mr. Walsh stated, I think that the Board should honor the procedure that we have been following for 10 years. The Board should allow us to continue with a tested and tried procedure, which is supplementing the EIS which in this project is 2.4% of the overall PUD. In a concept that has already been pre-approved, so to speak, that to radically depart and now get into a SEIS, which brings in the whole procedure of the SEQOR process. It isn't in anyone's best interest. Especially, that we have, in our opinion, an inadequacy in the determination made by the Planning Board now that further information has been brought forward. I think it's a better juncture to resolve it as opposed to later. I ask Mr. McKnight to comment if there is anything else he feels is significant.

Mr. McKenna stated, he wants to make the record clear, that I never, or could I say that, the foundation for the Board's decision heretofore was in anyway weak. It is not my function as a lawyer to decide findings, so I would correct whether Mr. Walsh likes it or not, correct just that small part of his statement.

Mr. Crandall asked if Mr. McKnight had something he wanted to add.

Mr. McKnight stated he would only be able to reiterate what Bob Walsh said. The Planning Board must take a hard look at the issues and determine based on your hard look that there are potential significant negative impacts. Based on the studies that we've provided I think the Planning Board would have a hard time being able to say that there are significant negative impacts.

Mr. Crandall stated that to reiterate how were going to proceed here. The Planning Board has already, as you well know, voted previously in favor of a supplemental. So I don't think its appropriate to have another vote, per say. Because of the controversy and the complexity of this issue, what I'm going to do now, is poll the Board to see whether or not they are in favor of proceeding in accordance with what you might call the recommendations of the three individuals that reviewed this. The Planning Board, other than myself, has not had an opportunity to speak here tonight and I don't want it construed that I'm speaking for them. I want to have them speak for themselves. So as far as how the outcome of this is going to go at this point in time, I don't know.

With that I would like to start with Dick Pohlman. If you would indicate how you feel on this matter. Whether you support proceeding with the SEIS or whether you want to suggest something totally different or if you have any questions.

Mr. Pohlman stated he reviewed the material that the developer's provided and I thought that it was pretty thorough. Some of the things I think, as Mr. Walsh indicated, could be put aside and pretty much be satisfied. I feel there are a couple of core issues that I still feel need to be looked at, and given what I felt was follow-up with what we talked about at our meeting, to take a hard look. One of them is on the use. We are put in the position almost now that this was a rezoning situation. I think that we need to look at some of those issues that are being put in front of us in conjunction with this. This is not the same project that was in front of us a year or two years ago. It's a different project. It's a substantial different project. I think there are enough questions that surround it and the development that goes with that project to continue the course that we have pursued. Whether we need all five I don't know, but I think as far as I'm concerned there's a couple of main cores issues that I would like to see addressed.

Ms. Ganey stated she would tend to go along with Dick. I believe we would have to take a hard look at it, and possibly some alternatives-a less dense type of situation or something if we agree to go forward.

Mr. Crandall stated to keep in mind what were talking about now, is the pro and con as it relates to the SEQOR as that relates to the SEIS.

Mr. Fitzpatrick stated he had to go along with Sue and Dick. I have the same concerns.

Mr. Phillips stated that being one of the people who have been around for a few years, I agree with everything that has been said so far by the Board members. I believe the plan that we approved a couple of years ago was a senior citizens healthcare facility that had everything from low impact care into bed care. It was not an apartment complex as we are talking about right now. I believe we should proceed the way we agreed upon.

Mr. Koenig stated that he believes we should have a supplemental to the environmental impact statement starting with a draft of that SEIS followed by a scoping session and take it to its conclusion.

Mr. Eustace stated he agreed with the Board.

Mr. Crandall stated that he asked for that to be done so the Board members would be on record in the minutes as to where they stood. I think it's very obvious that were unanimous in what our thinking is. I want to add a comment to Ed Burke. I think you have done a phenomenal thorough job. I hope you take our decision in the right vane and attitude of cooperation, because we want to see this thing proceed properly. We want to get all the data that is necessary in order to make the final decision on the table and the record. Mr. Walsh has been very articulate in the information you have provided us. It has been very thorough. I think it has been overwhelming a couple of times. There is a lot of data here and I want you to know that we did review it. We reviewed it very thoroughly and did not make this decision lightly. So with that the floor is yours.

Mr. Burke stated he would like to address a couple of questions. I'm a little confused here at Mr. Phillips' comment. Your concern was that this does not have health facilities and that is your problem with it? It's the same senior citizen's but without-

Mr. Phillips said, "no, that's not what you said."

Mr. Burke asked Mr. Phillips to say it again, please.

Mr. Phillips stated that were asked to approve an apartment complex and your spokesperson said it was the same thing that we approved two years ago. It's not the same thing we approved two years ago. This is an apartment house and there are going to be senior citizens in it. What we approved two years ago was a complex that they stayed, they were cared for, they had communal kitchens. They even had people who would be in bed and taken care of on a full time basis.

Mr. Burke asked, "So you have absolutely no problem with that type of concept?". Mr. Phillips stated at that time no, he did not.

Mr. Burke asked, "You don't have any problem with that type of concept today and you don't have any problem with senior citizens?"

Mr. Phillips stated he didn't say that.

Mr. Burke asked, "Do you have a problem with senior citizens?"

Mr. Phillips asked, "what question are you asking?"

Mr. Burke said he is asking you if you have a problem with that same concept that was proposed in 1996.

Mr. Phillips stated he didn't have any problem in 1996 with it, and I'd have to see a proposal in front of me today to see if I had a problem with it.

Mr. Burke asked if Mr. Phillips had a problem that there are senior citizens going in.

Mr. Phillips stated that seeing he carries an AARP card and a few other senior citizens cards, no.

Mr. Burke stated it seemed to him that at the last meeting that was tabled pending a legal determination. Is that correct? Mr. Crandall said that's what it boils down to. Mr. Burke requested a copy of the legal determination. Mr. Crandall said if such a thing exists. Mr. McKenna was our legal advisor on it, he is our Planning Board Attorney.

Mr. McKenna said it really wasn't, although it was reported in the Sun that I was to make the determination. I don't make legal determinations, Mr. Walsh does not make legal determinations, we give opinions. Judges make legal determinations. In a sense its very wrong to speak in that fashion. In a sense its very right to have a legal process. So, the point before this board as I understand it this evening, is to finely decide the procedure, and that's been done. In answer to your question, it was in the record that I would supply a legal opinion, which I discussed at length with Mr. Walsh and that will be part of the record.

Mr. Crandall said that was basically what we did.

Mr. Burke stated he thought we had temporarily set aside your scoping session pending a legal opinion. Is that what the minutes said? Mr. McKenna stated the legal determination was made by the Board. We have voted.

Mr. Burke responded, "Ok, fine, I think that's all I have to say."

Mr. Walsh asked if he could follow-up with what Mr. Pohlman said. Is there an opportunity to whittle down the five concerns that were raised?

Mr. Crandall stated that is a possibility, but I would want to refer to our consultant and to Mr. McKenna as to how that relates to the strict requirements of the SEQOR law. We have already established five points that are supposed to be investigated. It would seem to me going through the regular process the answer to those would be self evident in our findings. If they are not substantial they'll stand by themselves.

That's what the findings will say.

Mr. Walsh stated that he thinks that we'll agree that the SEIS is a different juncture than the original EIS, because the original EIS brings into play all the different issues which is then scoped and then the developer at that point is told, based upon looking at the global concern, these are the issues you look at. In the SEIS the Board is telling us what specific item. (Mr. Crandall interjected to state five items.) The Board noted that this should be determined at a Scoping Session.

Mr. Reilly interjected that he had another statement to make on that issue. In our research we contacted people in Albany (Charles Lockgrove), who worked with Jerome Drensen, who wrote the SEQR law. Basically, in one statement I will agree with them that an SEIS is very different than an EIS in procedure. The scoping session will be limited to the five issues that were discussed and the decision was made upon. We will not open up new issues. It is not like an EIS, it is a targeted document specifically to answer the concerns that the Planning Board has raised about those five issues. Every person we questioned did reiterate that it is a subjective decision that this Board makes. They would have given me the same answer if they had made the decision just as you did in 1992 and that was so thoroughly written out. If they made a decision that did not require an SEIS and the Court said that they took a hard look at it, which I don't think anybody can say we did not take a hard look at this. Whether you agree or disagree with the reasons behind their decisions is another point. The Courts basically say if haven't taken a hard look it, you were arbitrary and capricious in your decision. They would have said the same thing if you made the decision not to do an SEIS. They would have all said the same thing. You made a procedurally correct decision. Were not going to tell you differently. Just as right now they said if you made a decision to require an SEIS, there's nobody that should tell you that you can't. As a matter of fact, a comment was made to me to find the case law that has a decision that says that the Judge ruled against it. It has not been challenged. It is very difficult to challenge. They had advised us that we made a good decision. If the Planning Board feels they made a good decision they made a decision on it. The one point I want to make is the SEIS will be targeted with those five issues. We are not going to reopen this to all those other issues.

Several audience members attempted in asking questions. Mr. Crandall stated the Board is not taking questions at this time. An audience member asked Mr. Crandall if he is not taking questions, why are we here? Mr. Crandall said that this is a public forum and you are here to listen to what were doing. Mr. Crandall stated he did not feel public input, at this point in time, in view of all

the public input that we previously have received would be beneficial in any way. There will be a scoping session held and you will have an opportunity to have public input. The five items that we included was arrived at with public input assistance, and I think we've gone overboard on it and I'm not going to permit any more public input-period. If you want to challenge it that's up to you.

An audience member stated Mr. Burke is trying to take away those five issues. Mr. Crandall said that's not what we said and that's not what he said. I don't want to get into this tonight. We are trying to resolve the issue of whether or not a SEIS is to be made. We have made that decision. The next step is the scoping session which you all should be aware of and that's what we are entering into. You will have all the opportunity you want to make any public statement at that time. Tonight is not appropriate.

Mr. Reilly stated that he had asked the question with the representatives in Albany with regard to this extra meeting. We should let the people know there is going to be a decision or non decision made. I was advised that if the Board sticks behind their decision, don't get into another public discussion. The Board has stayed with their decision. We wanted you to be here, because there may have been a different decision made tonight. This Planning Board makes the decision. Now we will have a scoping session were you will have adequate time to ask questions of this Board and have input. We are not going to do the scoping here or discussing what's going to be done.

Mr. Crandall stated he is not trying to be abrasive, I have to control this meeting and this is not an appropriate place. Please if you are upset with me I'm sorry but that's the way it's going to be.

Mr. McKenna stated it's a procedural question purely. We all know that I would suggest in response to Mr. Walsh's, very fair question, his client has spent a lot of time and money on this project and he is entitled some procedural agreement and help sort of speak. I would like to hear from the Planning Director on what the next procedure is.

Mr. Reilly responded that procedurally this Board has stayed with its decision for an SEIS. We have five items that we have identified. We expect the Applicant to submit. The Applicant will have the opportunity to say how he is going to look at those five items. Basically, he will say here is the five items, I believe I have all the information needed. That document will be available hopefully a week before the meeting. Once we receive the document we will set up the date for the public Scoping Meeting. The Planning Board will run that Scoping Meeting based on those five issues. At the end of that meeting a document will be produced or

directed to be produced that will be the actual scoping document of those five items. What there going to look at, the extent of what the Board will look at, one example is the Traffic Study. Mr. Burke has already submitted one, but in a scoping they will make sure what has been looked at, what intersections, volume of traffic. NYSDOT said they would make sure all those issues were addressed. Once the scoping is done the Applicant submits a DSEIS. I would expect that would be done very quickly, because he has done a tremendous amount of work in the last month. He is almost there. The Board will review the DSEIS, determine its completeness. When the Board feels the DESIS has addressed the issues they will advertise for a Public Hearing. That's when the public comes in and they will have the opportunity to review the document a week before the Public Hearing. At the Public Hearing you are able to make public comment. Public comment is very important at that time, because your comments are important to the process. The, FSEIS, the Final Supplemental Environmental Impact Statement, is the responsibility of the Lead Agency. The content of that document contains a section that will address your comments. Once the FSEIS is produced there is no longer any public comment. The Board makes a finding, ten (10) days after that the project goes forward. SEQOR law allow us to review a site plan concurrently with this. Once we make the findings decision we actually can approve the site plan that night. The law does not prohibit us from reviewing the site plan during that process. I will recommend that we review the site plan and the FSEIS all at the same time. Does that address all of the procedure?

Mr. McKenna stated the process begins with the Applicant and that he has a Draft Scope to submit. It seems to me we don't want to lose site of the points mentioned before and in the initial paper.

Mr. Crandall stated the Draft Scope initiates the next step.

Mr. Pohlman made a motion to table. Seconded by Ms. Ganey. Carried.

Mr. Cavalcoli reminded the Board that we had told the Homeowners Association that they would be notified through their Presidents, if and when that information comes in. I would ask that the Board do that, so they have sufficient notification that it has been submitted and they can accordingly come in and look at those documents.

Mr. Crandall asked if everyone heard Mr. Cavalcoli's statement.

Response was affirmative.

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Receiver of Taxes
ROBERT A. MARS

TO : Planning Board
FROM: Engineering Dept.
DATE: 3/16/98
SUBJ: PLANNING BOARD 3/18/98 MEETING AGENDA
E.F. Burke Senior Citizen Housing - Brierwood PUD

The following are review comments on the Traffic Impact Study update for the above-referenced project, dated March 1998:

- (1) The E.F. Burke Company has been repeatedly notified by this office that Gleneagle Drive, as referenced in the report, does not exist. Furthermore, it could only be used if the private driveway were to become a dedicated Town road. All references to Gleneagle Drive are to be removed from all address listings, reports, and plans, and not used in the future. This usage creates confusion for police and fire dispatch services, as well as utility companies and delivery persons.
- (2) We are not able to approve this project without the prior approval of the New York State Department of Transportation (NYSDOT), relative to the traffic impacts on Route 20 (Southwestern Blvd.).

All comments must be satisfactorily addressed for approval.

Gerard M. Kapsiak, P.E.
Town Engineer

Richard J. Lardo
Principal Engineer

RJL/dhp

Mr. Crandall opened the floor for questions.

A question came from the floor questioning if the Draft Scoping would be available at least two weeks prior to the Scoping Session? Mr. Reilly responded it will be made available according to the law. Whenever the notices have to be in the paper. I believe its 10 to 14 days. At that point you will know the scope is available.

Mr. Crandall stated feel free to call. Contact either Drew Reilly or myself at 649-2023. We are available. Any other questions?

In answer to the questions that there is no Planning Board meeting in April, Mr. Crandall said that is not correct.

A representative from the Hidden Lake Association stated that they had some letters they would like to submit with regard to problems with drainage.

Mr. Crandall asked if this was a Petition. Ms. Suhr responded affirmatively. Mr. Crandall asked the representatives to turn over the material to the stenographer and we will make sure it is recorded in our minutes. Mr. Crandall asked if there is a title on the Petition. The representatives responds affirmatively.

In answer to a questions from the floor, Mr. Crandall stated that a regular Board meeting was selected for a Scoping Session. It depends on the Agenda. We will try to work it in when there isn't a lengthy Agenda. There are two meetings in April, the 1st. and the 15th. Probably schedule for April 15th, if we can work it out. That's strictly a target date that we would be looking at.

A resident stated that date is not good for many residents, because they are out-of-town for Easter Vacation. Mr. Crandall said he will take that under advisement, but that doesn't mean we will change it. If our Agenda is heavy, the meeting may take place a week or so later.

Berkley Square - Change of use from commercial to home office

Mr. Brian Maslowsky and David Corbett appeared before the Board.

Mr. Maslowsky stated he was here this evening for a change of use from commercial, which included a mix of residential and office. The land would be located on the park and directly south of the park. What we are proposing is a change of use to a residential/office use. Primarily, the retail use which was originally intended is no longer viable for a number of reasons in

the current marketplace. What we are proposing is a use that we feel would be more viable. This is the last area in the project for development. We are at the point now that we would like to finish the project. During the past three or four years we have made numerous attempts to attract retail uses in that area. In all phases they failed. Retail development in the Town seems to be centering on South Park Avenue and around the McKinley Mall. At the time the project was approved that wasn't the case. The retail development has changed in the Town, plus economics in the area have decreased since we started the project. So what we are proposing is a use that would put a residential use on the park. We are proposing a patio home concept, similar to Brookins Green in Orchard Park, and across from that a mix home office type use. This would allow a resident to purchase a house at Berkely Square and have a home office. This office could be an attorney's office or dental office-something along those lines. It still retains some of the commercial flair, but if that business were to fail you would still have that residential flair of the building. This would eliminate vacant store fronts. That is basically the concept and what we are requesting.

Mr. Phillips is concerned about the density because of the changes made to the plan.

Mr. Maslowsky stated that the density has decreased dramatically. Under the old approval it was approved for retail office, but in addition to that we had residential apartments on top. At the time we were approved for 12 apartments.

Mr. Phillips asked if you go back before we agreed to a use change, what was the zoning of the whole place.

Mr. Maslowsky responded the zoning was always PUD.

Mr. Phillips indicated he was talking about the prior zoning before Berkley Square.

Mr. Maslowsky stated he didn't recall.

Mr. Pohlman asked if this plan has been discussed with the Homeowners groups.

Mr. Maslowsky stated there are two homeowners groups at Berkeley. One is the initial homeowners group, which represents the Townhomes, Courtyard Homes and Single Families. The President of that Association has reviewed the plans with the residents. He attended the meeting of the last Work Session and voiced his favor on behalf of the Homeowners Board. The other group just had their first Homeowners meeting two months ago. The use change was

brought up at the meeting. The general consensus was positive. There is a resident here tonight. The Villas Homeowners Association was also given a separate notice with regard to the meeting taking place tonight.

Mr. Crandall indicated that the Board has had contact with a Homeowner's Group at Berkley. They have not always agreed to what is being done, but I think we have resolved their concerns. This is a major concern of the Board that the homeowners who bought into this project are not going to be harmed by this request.

Mr. Koenig stated he would like to see a letter from both Homeowners Associations.

Mr. Maslowsky responded that would be no problem.

Mr. Crandall stated he has a problem with how this would work. Have you had an indication from any particular type of profession indicating support in this.

Mr. Maslowsky believes that there is a market for this type of setting.

Mr. Reilly has a problem with the term home office. Home office has a definition within the Town, which is allowable in these areas. You wouldn't need any approval from us. What your really talking about is a little bit more than a home office. This setting would have client's visiting, possibly a sign put up, which a home office typically does not have.

Mr. Corbett stated they are looking for owner occupied not a rental situation. This use would allow signage to be used an example would be a Real Estate Broker. Also, you may have a little bit higher client traffic coming in and more than one employee.

Mr. Reilly noted in home office you can't have an employee.

Mr. Corbett stated that is the use were looking for to accommodate those people. This would be a commercial type of use and also blend itself to the residential design character.

Mr. Phillips stated back when we approved this originally, we made the recommendation for the zoning change. This was zoned R1 or R2, I don't remember. The Planning Board made a recommendation to the Town Board to change the zoning for this according to a concept plan. This is a change in the concept plan. Do we have to go back to the Town Board and make a recommendation to them? Is this a zoning change? I would also like to find out what the zoning was before we made the recommendation change and make sure the density is not changing.

Mr. Reilly stated that we are all concerned of the home office use. We are concerned that these are going to be sold as single family houses, which defeats the whole intent of the original PUD. We would like to see the building design. Are they going to be constructed to specifications?. Will they be constructed as a single family home in the front and 800 or so sq. ft. in the back, as something for that use.

Mr. Phillips stated the Board made some recommendations to the Town when we went with the zero lot line concept to be built. We made some changes in density, because we were looking at the whole concept. Slowly we have changed it back to a plain old subdivision.

Mr. Reilly said the Planning Board somewhat amended the PUD. We amended the site plan by allowing different mixture of uses. If this is truly just single family homes we have to send them back to the Town Board. This would mean you changed the entire concept. There is no more commercial in the Berkley Square PUD. If you are essentially eliminating commercial development, the decision maybe that we have to send it back to the Town Board for them to approve the change to the PUD. This has an impact on the Town. We've been discussing this for two years now. The Master Plan supports that it is important to have commercial development within the Town. The Town does not want to be a suburb community per say of residential homes. It doesn't make tax sense, good sense and it doesn't make neo planning sense anymore. We are very concerned about keeping the commercial aspect to this development. The original development of the Village idea was great, but once we lose that, it becomes a PRD more than a PUD. It is different from what the Town Board had envisioned when the award winning design was presented. If this really is a change, and we must determine that, then it must go back to the Town Board.

Mr. Crandall stated the issue is the terminology that we apply to this has home office opposed to a building that has a residence and an office in it. If it's the latter your getting off-street parking requirements, ADA handicap requirements, possible building code requirements that may be slightly different, and obviously it is a total different use.

Mr. Phillips said there is a question of use and then there is a question of zoning. We don't have a home office zoning, it's a use. The closest thing that applies with that is NC. There is no such thing as an home office zoning.

Mr. Crandall stated that is why it is important to determine what the interpretation is. We have a little homework to do on this yet.

Mr. Koenig asked if the single family units are meant to have zero lot line use, because it looks like that in the plans. There is only 10 feet between the parcels and it looks like you aligned 50 feet between the units.

Mr. Maslowsky stated it is a zero lot line concept. The single family would be a zero lot line concept also.

Mr. Koenig said that some of the home office are only five feet apart. Do we allow that?

Mr. Maslowsky said yes, five feet from the property lines.

Mr. Phillips said we don't know what the original zoning was. The Board took it upon themselves to allow certain things such as, zero lot lines which wasn't in our Town Code. We had the authority as the Planning Board to do that. If it was an R2 zoning originally then we would have to look at that. This is a different concept than what was given to us. Zero lot line and a five foot lot line doesn't necessarily comply with the zoning.

Mr. Crandall stated we would not be able to proceed with your request

Mr. Reilly asked Brian Maslowsky to explain what he envisioned the site to be.

Mr. Maslowsky stated that conceptually if you look at the plan where it says home office we are envisioning the office portion in the front. Aesthetically, if you were driving down the street your not seeing houses. This would be designed more with a commercial feel to it. We would be keeping a tighter density not separate homes.

Mr. Crandall stated there is a logic to what you've done. There are questions we have to have answers to.

Mr. Koenig stated five feet apart worries me from a fire safety standpoint. It sounds like a city house where if a fire occurs, one house goes up and the house next door goes up too.

Mr. Crandall stated we need to table your request. I would suggest getting in touch with Mr. Reilly and Mr. Whipple and discussing what needs to be done.

Mr. Koenig made a motion to table Berkley Square. Seconded by Mr. Eustace. Carried.

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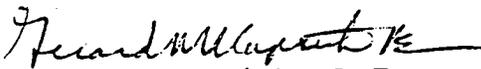
Receiver of Taxes
ROBERT A. MARS

TO : Planning Board
FROM: Engineering Dept.
DATE: 3/16/98
SUBJ: PLANNING BOARD 3/18/98 MEETING AGENDA
Berkley Square Proposed Home Office Plan

The following are review comments on a plan dated January 1998:

- (1) The proposed revision of the Berkley Square commercial development area to single family home office should be reviewed as a preliminary plat plan for a residential subdivision, instead of as a site plan.
- (2) The 0.75 acre recreation area was required by the Planning Board as part of the Berkley Place apartment approval. It is to be owned and maintained by the Homeowners Association. The sidewalk and gate were also required by the Planning Board. The sidewalk and gate should both be four (4) feet wide (width incorrectly shown on plan).
- (3) The landscaping should be reviewed and approved by the Planning Board.
- (4) The maintenance agreement for the common driveways is to be specified on the plan.

All comments are to be satisfactorily addressed for approval.


Gerard M. Kapsiak, P.E.
Town Engineer


Richard J. Lardo
Principal Engineer

RJL/dhp

St. Cyril & Methody Church - 4785 Lake Avenue

Mr. Crandall asked if anyone was here representing St. Cyril Church.

Mr. Whipple stated the Architect was at the Work Session and the plan was pretty much set with very minor revisions to which the Planning Board had no problem with.

Engineering Comments:

The following are review comments on a site plan dated and received 3/3/98:

- (1) The site plan for this parcel which was previously approved by the Planning Board on 8/1/96 was not constructed, and the approval has expired.
- (2) The revised site plan is acceptable to this office as submitted.

All comments are to be satisfactorily addressed for approval.

Mr. Crandall stated that the Board could move on it. Engineering comments stated Site Plan was acceptable. Basically its virtually the same with minor addition to existing foot print.

Mr. Reilly just wanted to go on record that typically the Board does not approve plans when an Applicant isn't present, but this is a different case. This is a minor revision to an already approved plan. The Applicant was at the last meeting and maybe misunderstood that he was suppose to be here tonight.

Mr. Phillips made a motion to approve the St. Cyril & Methody revised site plan from orginal site plan that was approved on 8/1/96. Issue a negative declaration. Seconded by Dick Crandall. Carried.

NDC Apartments - 4678 Big Tree Road

Mr. Whipple stated this is a minor revision to a previously approved site plan.

Allan Nigro appeared for NDC Apartments.

Engineering Comments:

The following are review comments on a plan dated 11/12/97 and last revised on 1/26/98:

- (1) The Planning Board previously approved a site plan for this parcel on 12/11/97.
- (2) We have no comments on the proposed change to increase the building size.
- (3) We received the Landscape Plan Sheet LS1 for review. The Site Plan Sheet SP1 should instead be submitted.

All comments are to be satisfactorily addressed for approval.

Mr. Whipple stated we received the correct SP1 today. Incorrect sheets were submitted earlier in the week from the Engineer. We have reviewed it and it matches up with the Landscape Plan that was submitted.

Mr. Reilly stated that Mr. Lardo did not have an opportunity to review the plan. I requested Mr. Whipple to take a look at it.

Mr. Crandall asked Mr. Lardo if he has any problem with it.

Mr. Lardo stated that he did not.

Ms. Ganey requested where this property is located. She was advised that it was at 20A.

Mr. Koenig made a motion to approve. Negative declaration be issued. Seconded by Ms. Ganey. Carried.

Lakeview Children's World Day Care - 2095 Lakeview Road

Paul O'Neill and Sandy Smith appeared before the Board representing Day Care Center.

Mr. Whipple stated Mr. O'Neill submitted revisions last week to the original site plan that was submitted, with the comments from the Planning Board and the Engineering Department.

Engineering Comments:

The following are review comments on a site plan dated 1/26/98 and last revised 3/10/98:

- (1) The site plan for a new sanctuary on this site was approved by the Planning Board on 7/23/92. The sanctuary is now proposed to be used as a day care facility.
- (2) We have recently received a complaint from an adjacent owner to the southeast that his property is being flooded due to storm water runoff from the site. This plan appears to address the drainage concerns, provided that the swale outlet to the west is installed correctly and that it does not cause additional drainage problems downstream. Permission from the downstream property owners west of the site will be required to complete the necessary regrading of the existing ditch.
- (3) Landscaping requirements (if any) are to be reviewed and approved by the Planning Board.

All comments are to be satisfactorily addressed for approval.

Mr. Crandall asked Mr. O'Neill to go through the concerns of the issue.

Mr. O'Neill stated the main concern was the greenspace. When the contractor originally dug the ditch he dug it level. The contractor went down about 4 to 5 inches. As a result, when it rains the ditch is filling up with water and the water sits there. What I'm proposing to do is to put No. 2 stone in, bring it up and swale it to grade, and take it out to the property behind. Sandy Smith spoke with Mr. & Mrs. Ashbery who own the vacant property shown on the tax maps as, SBL No. 193.04-2-29.2. Mr. and Mrs. Ashbery are in the audience tonight. What we would like from Mr. Ashbery is permission to go on his property not with a machine-with hand (shovels) and clean the ditch out.

Ms. Smith indicated the ditch in question is the one the contractor dug and it is to our stake line.

Mr. Crandall stated if he understands it, it is the ditch that goes across the Church property adjacent to yours.

Mr. O'Neill and Ms. Smith showed the plans to Mr. and Mrs. Ashbery and discussed with them what will need to be done on their property to correct the problem.

Mr. Crandall asked what had been decided in the discussions with Mr. & Mrs. Ashbery.

Mr. O'Neill stated that what we are proposing is ok with Mr. & Mrs. Ashbery.

Mrs. Ashbery asked if it were possible to make the ditch deeper, with more stone added, it would leach more? Mr. O'Neill responded it would only leach where the stone is. If you added more stone you would displace more water making it worse.

Mr. Lardo responded that it is the high water table.

Mr. Crandall stated the main thing he is concerned about is that whatever we do there that we don't make the situation worse. Any approval we give will be contingent upon working with the Ashberys to make sure that end of it is resolved reasonably.

Mr. O'Neill stated that you must understand that there isn't any great percentage of grade back there. Mr. Crandall stated that the Board knows that it is almost untenable situation. The Board understands that.

Mr. O'Neill stated that the only thing he can say is that it will be better than what it was. It is not the solution.

Mr. Phillips asked about the front, at the right-of-way, you have a fence here. Mr. O'Neill responded that he had discussed that with Jim Eberhardt (Building Inspection Dept.) and he said I could put it on the right-of-way line, but it could only be 3' high. And 16' back from the right-of-way it is also 3' high on both sides. It then graduates to 4' in the front of the building next door and then it's 6'.

Mr. Crandall asked if the paved areas are going to stay paved, and if there was a gate at the entrance. Mr. O'Neill responded that the paved areas will remain paved. Ms. Smith asked if he was referring to the very front by the road. Mr. Crandall responded, yes. Ms. Smith said, "No, there will be no gate". Mr. Crandall stated that the Board didn't want to see a gate there. However, having the fence will help to control the traffic.

Mr. O'Neill said he was told the fence had to be 16' off the right-of-way. I envisioned problems because there is 17' shoulder and these people would be parking there creating a hazard.

Mr. Crandall asked the Planning Board if anyone had problems with how the fence is shown. What he is doing is complying with what the Building Dept. is going to ask for.

Mr. Koenig asked if they had any further information on what the fence is going to look like. You mentioned it's a privacy fence. Ms. Smith said she could show the Board a few pictures of what trying to do. Originally, I was try to go for a 4' in the front, but we were not able to do that. She presented a picture of the fence they are trying to get or something very similar to that. The picture showed a picket fence.

Mr. Koenig noted it was not 100% privacy, but your not looking for that anyway. Mr. O'Neill stated that in the front the fence cannot be a privacy.

Mr. Reilly asked what type of fence will be along the side? Mr. O'Neill said it will be a 3' picket fence, 16' back, and to the front of the existing building it will be 4' high.

Mr. Reilly stated the last time we were discussing how the headlights were not to shine on your neighbors property. Mr. Crandall noted that it is shown on the plan as being marked privacy.

Mr. O'Neill stated the picket fence is only the 3' high fence.

Mr. Crandall stated that this is what your talking about; the slats, chain link, and the color is green. Ms. Smith said they are undecided on the color. Mr. Crandall stated the Board would not like to see orange or blue. Ms. Smith said it will be green or white.

Mr. Crandall stated that the rest of the drainage, as far as the entire site is concerned, should be worked out the best that you can. Asked if Mr. O'Neill had received a copy of the Engineering 3/16/98 comments. Mr. Whipple stated he had just given Mr. O'Neill a copy.

Mr. Whipple said the Conservation Board suggested that trees were removed previously and they would like to see trees. Mr. Reilly stated the whole lot is parking lot, there's only one small area where the building burned down. There is no specific requirement in this area.

Mr. Phillips stated that before the fire there were a couple of trees to the east side.

Mr. Crandall asked what the Applicant had in mind.

Ms. Smith stated they are planting grass where the building burnt down and there will be landscaping in front of the building and also in front of the fence that is in front of the playground.

Mr. Crandall stated that what we would want to do in our approval is to have a contingency that there be a landscape drawing and will be subject to approval of Mr. Reilly and myself. Mr. Reilly said it could be shown on this drawing.

Mrs. Ashbery asked how high is the fence in the back by our lot line. Is that a 6' chain link? Mr. Crandall stated it is 6' and it's already there. Mrs. Ashbery asked if it's where the playground is going to be. Mr. Crandall stated that's correct. Mrs. Ashbery said she was worried about the kids hopping the fence.

Ms. Smith stated it will be a 6' fence and were talking children no more than five years of age. The church had built that back parking lot up so high that in order for him to bring that fence even with the existing fence I believe it maybe 5'.

Mr. Crandall said it is marked existing fence. The fence wasn't there when I was out there. Mr. O'Neill stated it is up now and has been up about a month. Mr. Crandall stated it's existing because you put it up before we approved this. Fortunately, I like were you have it, keeping that retention basin on the outside of the fence.

Mr. Reilly stated that the playground equipment must be in the back.

Mr. Phillips made a motion to approve subject to Engineering Comments of 3/16/98, specifically on drainage and landscaping. That the landscaping plan be approved by the Planning Director and that a negative declaration be issued. Seconded by Mr. Eustace. Carried.

Builder's Square Plaza - McKinley at Mile Strip Road

Mr. Tony Battista appeared before the Planning Board representing Builder Square.

Mr. Battista presented the Planning Board with two drawings showing the design and parking.

Mr. Crandall asked if Mr. Battista had received Engineering comments dated 3/16/98. Mr. Whipple stated he just gave to him.

Engineering Comments:

The following are review comments on a concept plan dated March 1998 and received on 3/13/98:

- (1) The site plan for this parcel was previously approved by the Planning Board on 4/9/86.
- (2) The site is currently accessed along McKinley Parkway via a dedicated driveway easement along the McKinley Plaza ring road and the signalized plaza entrance. Additional access to this site along McKinley should not be approved. The proposed "Right Turn Only" driveway is unacceptable. The Town's past experience with this type of driveway (at WalMart) has been that numerous cars violate the turning restrictions, regardless of the curbing, signage, and pavement markings. In addition, the "No Left Turn" restriction from the nearby BJ's Plaza easterly driveway onto Milestrip Road is also frequently violated, which has been confirmed by observations noted in this project's March 1998 Traffic Impact Study. In addition, the proposed access driveway has a five (5) percent slope up to McKinley Parkway. This is excessive and unacceptable for winter conditions, and does not provide adequate turning sight lines.
- (3) Consideration should be given to closing the existing Builders Square Plaza driveway in front of Applebee's, due to the close proximity of the proposed new driveway for this project.
- (4) The landscape plan is to be reviewed and approved by the Planning Board.
- (5) Provide a cross-section detail and specify the materials to be used for the construction of the bike path.
- (6) Show the location of the roof drain for the proposed building in the southwest corner of the site.
- (7) Include a profile view of the proposed sanitary sewer laterals. Submit the plan to Erie County Sewer District No. 3 for review and approval. We will not approve these plans without their review and approval.

All comments are to be satisfactorily addressed for approval.

Mr. Reilly stated that the major concern is the McKinley Parkway entrance and we understand that it is essential to your project to rent those parcels. The suggestion, and you have agreed from day one, that a right in and right out if it could work would prevent some of the problems we would see from that entrance. Whatever you could do design wise that is better than what was designed at Wal-Mart to prevent people from making left hand turns is the best. Not a good traffic situation for people to be making lefts there.

Mr. Battista stated that what is shown there is something that was faxed to us from the NYSDOT. This wasn't specific for this. They just said this is what would work. They have not officially commented on the project. We expect an answer in two weeks along with the County. The DOT issues an official rendering of the decision from those agencies, and we hope to have that by a Work Session.

Mr. Reilly asked if the line area shown is just painting on the ground? Mr. Battista said, "yes". Mr. Battista stated he has the fax and he can show that it's just a white line.

Mr. Phillips asked how that is going to work in the winter time. Mr. Lardo responded that it doesn't.

Mr. Battista stated I'm not a traffic engineer, but I've used this on our properties. I would like to put landscape holders there, and if people want to wreck their cars, that's up to them. The DOT has certain regulations on fixed objects. Again, I'm not a traffic engineer, but I try to be a common sense person.

Mr. Reilly stated that you have to meet with the County and State, because I believe there is an entrance design were you can pull that back in off of the right-of-way. Of course, you can't have obstructions out where their afraid of hitting plows, etc. If you pull it back in you maybe able to accomplish just what were talking about and your not infringing upon the right-of-way with obstructions. Nothing painted is going to work.

Mr. Battista stated that's true even in interiors. Somewhere in New York State there has to be a right in and right out that works. Mr. Reilly stated he thinks that you have to pull it back and that's what you have to talk with them about.

Mr. Battista stated the other factor, of course, is human ignorance. Many people cut through here. So the person cutting through is totally irregardless of the law or doesn't want to wait. People could easily make a left at the signal, because that's the only other driveway where you can get out. I believe it states in the Traffic Report this would help alleviate some of the stress on this signal. I just want to note, it's related to this site, but

not part of it. This particular site is the left turns that are illegal and supposedly being made out of the B.J.'s Plaza. The EMS people observed about 20. Putting that into context and the amount of vehicles, they did go on to say that the left turn volume from each driveway is minor. I just wanted to state that for the record. Again, I'm not here to analyze it. The one thing I did read, however, is they're summary about the proposed driveway on McKinley. They did go on to say that the new driveway will allow many shoppers to travel to and from existing plazas more directly. Without the new driveway (and this is the one on McKinley) more vehicles seeking to travel south would exit onto Mile Strip Road and contribute to congestion of the McKinley/Mile Strip intersection. Again, were probably on the same wavelength. It is apparent that certain groups-the Engineering Dept. and maybe the Traffic Safety Board are against it, and I respect them for that. If it were up to me I'd like to see it moved back and actually make like a little channel, so that there is some type of delineation that says there is no way you can enter without making a complete 180 to get inside of it. Those are issues we will take up with the DOT to see if we can get something like that. If we can augment it with landscaping that would be aesthetically pleasing and purposeful we would more than glad to do that.

Mr. Cavalcoli stated that he normally doesn't speak this early on a project, and normally the Town Board is not in favor of more curb cuts. However, I think that it has great merit to put the extra entrance, as long as it's far enough from the corner, with the proper type of barriers going in-curbing, landscaping, whatever combination. I guess the point I'm getting to is that the DOT is going to look for some sort of support for or against that curb cut. I know they have control of it, but they do look to us. Speaking for myself on the Town Board, I don't know how the others feel, I would be willing to support that type of approach. Based on what you come up with to allow that. I think it would enhance some of the traffic flow in that region.

Mr. Battista stated that tenant's look for access and signage. That's the name of the game for them. Obviously, they like to be at corners and near malls. Wherever they go they definitely need access and signage and that's critical.

Mr. Lardo asked how are you going to address the grade difference. Mr. Battista stated their engineer's are working on it. Mr. Lardo stated there's no way you can have it at that location, being that close to the building. You're going to have to move it south. You have 5% on the driveway now. I've personally been on the McKinley Mall, where we allowed 2 1/2% coming out, and slid all the way to McKinley. You are going to have to move it south and get a decent slope and lengthen the driveway. Right now I'm looking at the board up there and the drawing down here and if your in a small car and somebody is

making a left or in a big car up above, your not going to see anybody and you've got 20' between McKinley and where that car would be sitting. It's ludicrous to even propose it there. The grades don't work.

Mr. Battista stated he apologizes because none of his technical people are here tonight. Again, we are gathering that information and we will have it for the Work Session on April 1st. My people told me we have to raise the grade around the building. That will help compensate for that percentage. Mr. Lardo interjected that the site plan doesn't show that. Mr. Battista said, "no, it doesn't, there aren't any engineering before you". Mr. Lardo stated he has engineering plans for the whole site. Mr. Battista asked if it was for the proposed. Mr. Lardo said, "yes".

Mr. Battista said he was told by Bill Raye, who does our engineering, that there still working around this particular area.

Mr. Lardo said maybe they want to change it. Mr. Battista said it could be due to your comments.

Mr. Cavalcoli said that was part of my question. It was the grade problem and not just there. If your coming in from the internal channels, from up further where the traffic light is, by T.J. Max. There is a very high grade level in there for traffic in the winter time and when it's slippery. It is very difficult to control the cars coming in those curves and coming down those slopes. I think that is a serious problem that should be looked at in that whole parking lot. I don't know how you would address it. Mr. Battista asked if he is referring to existing one. Mr. Cavalcoli answered in the affirmative. Mr. Cavalcoli said that you have some extra green area, but you use to be able to come in a couple of places along there. Which ever one you came down there was some real serious traffic problems when any accumulation of snow and ice.

Mr. Reilly went down to show on the drawing what the Planning Board had talked about before. He stated that he didn't know if it helps or hurts, is can this come straight in. If you take this straight through you don't lose any parking, you just push this out and it works. Mr. Battista said he spoke with Jim Rumsey and he stated that it didn't appear that it would work that we would lose parking. But, I can have them take another look at it.

Mr. Reilly said he did a sketch and it works even better when it comes straight through. Mr. Battista said that was a good point. Mr. Rumsey said it didn't make sense from our perspective, that we may lose parking. Mr. Reilly said you actually don't lose parking if you work it out. You have 60' here and you can make an adjustment to move 10' and make this go straight through. Mr. Reilly showed on the plan how his idea would work. He also noted

that it might help to get around the grade problem. Take a look at it.

Mr. Phillips said the bottom line is you would have something to work with.

Mr. Reilly said the other issue that they looked at (Mile Strip entrance), and this is new for the Planning Board, is getting some people who are good at internal traffic. I don't see an easy solution to this other than something you won't like, but this is tough.

Mr. Crandall stated it was a blind corner. Mr. Reilly said the only resolution is to reduce that building and make it straight across the front. Mr. Battista said they are close to finalizing a lease on that building.

Mr. Phillips asked where is the entrance for that building. Mr. Battista stated it was on the front.

Mr. Crandall said he felt that corner was a dangerous situation.

A discussion with Mr. Reilly and other members on the traffic problems within the area took place. Some ideas were to use signage and posting to alleviate some of the problems.

Mr. Phillips asked if they are blocking off that area by Applebee's. Mr. Battista said that they are. Mr. Phillips stated you are making a mistake. It is a disaster with everyone from Builder's Square, Pet Smart, and Applebee's all trying to get to the signal.

More discussion ensued on the traffic problems within the plaza area and what can be done to alleviate them. Mr. Battista stated that they do not want to dead end the truck area and cause problems there.

Mr. Whipple asked where the signs are suppose to go. Mr. Battista responded by indicating on the drawing the proposed locations, and commented that they are aware they will have to go to the ZBA. Mr. Whipple indicated that one sign is 24' high. Mr. Battista said it is 24'6". The ground sign is only 4'x 10' for the restaurant, because of the visibility it's about 665' back. We were looking at least for some exposure for site line for someone to turn their head and be able to see. The bike path I discussed with Dick Tripp (Recreation Dept.). I don't know if you have his comments. We have put in resting areas and we will get his input as to where that stands with the other properties. Site lighting is also shown.

Mr. Battista stated at tonight's meeting he just wanted to go through some of the other issues. We know your concerns about the traffic, etc. We will have those addressed by the Work Session. I just wanted to go through some of the other issues you raised about dumpsters. They will use block or brick so it will blend in. The employee's parking lot and delivery areas can be designated with signage. Otherwise, it will end up dead ending. There is still an existing roadway that goes around.

Mr. Whipple asked about service for the restaurant with regard to delivery and dumpster. Mr. Battista indicated on the drawing where the dumpster would be placed and mentioned that with delivery for the restaurant they could sidestraddle and we could add a sidewalk or park alongside.

Mr. Battista stated the power lines and towers are all undisturbed.

Mr. Battista stated as far as leasing activity goes we have about more than 50% that we are in contact with at this time. Nothing is signed yet, but we are in final stages on a couple of them. We are very excited about both the tenants and the design. Were hoping with our time table, if we have everything in a row, that we will have favorable approval next meeting. I appreciate your input so that we can concentrate on those areas, such as, right in-right out.

Mr. Koenig said going back to that new curb, the Traffic Board has already go on record as being in opposition. If you can come in with a right-out that works, in addition to that, you should have a deceleration lane on the traffic coming in to get off the road. Heading south. Mr. Battista said they are willing to make that improvement, but it is what the State will allow us to do.

Mr. Reilly stated that the direction from the Board is the Town wants to see this plaza go forward. We have some things to work out. We realize that the entrance from McKinley would be helpful, if done correctly. I want to try and work with Benderson by maybe attending the meetings with the DOT and the County and what can we do to make this work. Can we get a deceleration lane? Can we get some physical obstruction? Painted lines on the ground do not work. I want to be able to sit down and say the Town wants this here, but we want it in a certain way.

Mr. Crandall asked if the state would allow a raised curb. Mr. Battista responded that it has been his experience that they do not want any fixed objects, it has to be a breakable object-breakable sign.

Mr. Crandall stated at Amsdell and Southwestern Blvd. the State put one of those in at that intersection to allow a right hand turn. It is a raised cement curb. Reflectors were also installed.

Mr. Battista said if the State would allow us to string a cable from one pole to the other side we could hang a no left turn sign.

Mr. Phillips stated he thought your idea of guiding the traffic to right kind of prevents them from trying to make a left. Mr. Crandall stated I don't think the problem at that intersection is that bad, if your comparing it to Wal-Mart. On here you have a lot of options and Wal-Mart has one option. At Wal-Mart you have to go through a round about way to get out onto Route 20A. That's not the case here.

Mr. Battista stated here the topography works to your advantage. Mr. Crandall stated the point is somebody is going to make a left turn when they shouldn't. Mr. Battista said if you go further east there is a wide area where you can make lefts or rights. Mr. Reilly said that we learned from Wal-Mart regarding the internal traffic. We want to settle that beforehand. Mr. Battista said that at the plaza people have been trained to cut back and there are options. Amount of incidents should be less here.

Mr. Crandall stated the Rick Lardo's point about the grade is the most important of all. It will be tough to resolve. Mr. Battista stated he appreciated Mr. Reilly's offer to meet with the State to resolve this situation. Drew in looking at the drawing stated that you may have to relocate some things. This building is so close to the road and if there is any kind of traffic in that area it will be a nightmare.

Mr. Phillips stated you could always block it off. It's actually not required except for some kind of delivery. Mr. Battista stated that he didn't think this area would be used much, because there is a lot of curves involved and truck traffic.

Mr. Crandall stated, I think it is apparent that our main concern is the internal traffic. Mr. Battista said you have made that clear and you have been helpful in some of your comments and suggestions. We definitely do have to resolve that issue.

Mr. Phillips made a motion to table. Seconded by Ms. Ganey. Carried.

Big Tree Condos - Big Tree Road

Engineering Comments:

The following are review comments on a concept plan dated 2/3/98:

- (1) A preliminary plat plan for this parcel was approved on 10/17/96 by the Planning Board. Construction plan approval has not been issued by this office.
- (2) The plan has been substantially changed since the 10/17/96 approval. The common area and the recreation area west of the road have been eliminated. An exception parcel along Big Tree Road has been created. The word "exception" should be removed, and the area designated as "common area-not to be developed". The building depth has been reduced from forty (40) feet to thirty-five (35) feet.
- (3) The utility lines shown on the plan are not acceptable to this office. We will review and approve construction plans when they are submitted.
- (4) The ten (10) notes which were included on the previously approved plan should be added to the current plan.
- (5) The project title should be changed to "condominiums" instead of "townhomes".

All comments are to be satisfactorily addressed for approval.

Mr. Crandall stated that since there is no one here representing Big Tree Condos is there a motion to table.

Mr. Eustace made a motion to table. Seconded by Mr. Fitzpatrick. Carried.

Mr. Phillips made a motion to approve the minutes of the last regular meeting of February. Seconded by ? . Carried.

Mr. Phillips made a motion to adjourn. Carried.

Respectfully submitted,

Gerard Keenig
Gerard Keenig, Secretary
Planning Board