

SCOPING SESSION
TOWN OF HAMBURG
PLANNING BOARD
APRIL 9, 1998
7:00 P.M.

APPEARANCES:

BOARD MEMBERS:

RICHARD CRANDELL,
Chairman.

GERALD KOENIG,
Secretary.

PAUL EUSTACE,
DAVID PHILLIPS,
SUE GANEY,
DONALD FITZPATRICK.

DREW REILLY,
Development Coordinator.

RECEIVED

APR 15 1998

TOWN OF HAMBURG
PLANNING DEPT.



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P R O C E E D I N G S

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CHAIRMAN CRANDELL:

Good evening, ladies and gentlemen. I want to get this meeting started. I want to take care of a couple of administrative tasks first. First of all, this is a special meeting of the Town of Hamburg Planning Board. There's only one item on the agenda today, that is, the scoping of the application for the Brierwood Senior Citizen Apartment Complex. Previous to tonight, there's been several meetings where the subject has been covered, public meetings, I am referring to. There has been a lot of correspondence. It has all culminated in establishing by the Planning Board five issues in regard to the proposed

1 project that we felt should be
2 addressed as to it relates to
3 the Supplementary Environmental
4 Impact Statement. Tonight, we
5 will entertain comments from
6 the public as it relates to
7 those five items, the specifics
8 of which in more detail, our
9 Consultant, Drew Reilly, will
10 cover in a couple of seconds.

11 As far as the conduct of
12 the meeting, it's your meeting
13 to express what you think
14 should go into the five items
15 as far as subject matter that
16 we should be covering and we
17 should be looking at and con-
18 sidering. As far as the Plan-
19 ning Board, we're here to lis-
20 ten to you, that's our primary
21 task. Subsequently, after the
22 meeting, at sometime in the
23 very near future, the Planning

1 Board will discuss these sug-
2 gestions and ideas and write up
3 an Environmental Impact State-
4 ment with the assistance and
5 input of our Consultant.

6 What I would ask for to-
7 night, to make sure that this
8 meeting is conducted in a rea-
9 sonable manner, is that first
10 of all, when you have a
11 comment, would you please state
12 your name and address.

13 Tonight's meeting is being re-
14 corded and we have a Court Sec-
15 retary taking down verbatim the
16 comments that will be made so I
17 would implore you to make sure
18 that you state your concerns
19 and comments as quickly and
20 concisely as possible. As far
21 as questions, I want to limit
22 that, if you will, to questions
23 where you have for the Planning

1 Board of specific issues where
2 you don't understand the com-
3 ments or information that is
4 being given. If you have a
5 question of procedure, that is
6 fine. But, I don't want to get
7 into a lot of questions regard-
8 ing what went on in the past,
9 whether the meetings were con-
10 ducted properly or improperly.
11 I don't want to get into any
12 matter of whether the data
13 that's been in the files that
14 many of you have gone through
15 that over the past several
16 weeks, is correct or not cor-
17 rect. Those things, if they
18 are incorrect, will have to be
19 determined sometime in the fu-
20 ture. We have one task tonight
21 and one task only, that is, the
22 matter of the Scoping Session.

23 Before I turn it over to

1 Drew, I have one other task
2 here. When I walked in
3 tonight, I find that there's an
4 envelope in front of every
5 Planning Board member from the
6 Burke Company and I've been
7 requested by Mr. Burke to read
8 the letter. It's a two page
9 letter. We had a little bit of
10 a discussion here, whether it
11 would be appropriate. The
12 problem I had is that seeing
13 that this is delivered, we only
14 saw it for the first time a few
15 minutes ago, I would have to at
16 least announce that we received
17 it, which I am doing now and
18 that there might be some ques-
19 tion in your mind in the audi-
20 ence if I don't read it. So,
21 it's a situation of judgment
22 and I decided that's what I'm
23 going to do is read it. It

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will only take me a couple of seconds. In fact, I will ask our Secretary to read the letter, if you will.

MR. KOENIG:

It's dated April 9th, 1998, addressed to Richard Crandell, Chairman, Drew Reilly, Development Coordinator, Town of Hamburg Planning Board regarding the "Scoping Session" SEIS, Senior Housing Proposal - Brierwood PUD.

Dear Dick: This communication is directed as an update to assist your Board in making in making a just, quote, "hard look", end of quote, analysis of the five issues your Consultant, Drew Reilly, outlined and set forth in his January 29, 1998 letter as issues to be scoped.

Although we have been most

1 emphatic with our advisement
2 that we disagree with the Towns
3 legal justification to demand
4 this referenced SEIS, however,
5 in an effort of harmonious co-
6 operation, and to refresh the
7 Board's review history or
8 forthcoming scope analysis, I
9 enclose herewith the following:

10 1. Drew Reilly letter
11 dated January 29, 1998.

12 2. Robert Walsh, Esq.
13 letter to Don McKenna, Esq.
14 March 6, 1998.

15 3. Robert Walsh, Esq.
16 letter to Don McKenna, Esq.
17 March 17, 1998.

18 4. Consultant George
19 McKnight letter to Chairman
20 Crandell March 5, 1998.

21 5. Consultant George
22 McKnight letter to Chairman
23 Crandell March 12, 1998.

1 6. (Draft Copy) Planning
2 Board minutes March 18, 1998.

3 7. Senior Housing plot
4 map with attached site line
5 analysis from residences (5533
6 Country Club Lane-5590 County
7 Club Lane).

8 8. As built colored com-
9 puterized view of Senior Hous-
10 ing with attached plot maps
11 showing camera location.

12 9. March 29, 1998 unau-
13 thorized solicitation letter to
14 the Brierwood Country Club Mem-
15 bership begging donations to
16 support a challenge to what we,
17 as developers, feel will be not
18 only another beautiful improve-
19 ment to our Hamburg community,
20 but a definite needed amenity
21 for the Senior population of
22 Western New York.

23 Certainly their

1 solicitation and challenge can
2 be reviewed as a citizen's
3 right to freedom of speech and
4 right to act, however, I would
5 expect it should be conducted
6 with dignity and class. When,
7 if any of our presentations did
8 we represent the proposed Se-
9 nior Housing to be subsidized?
10 When did we ever represent it
11 to be free from tax payment?
12 When did we ever mention low
13 income or an age requirement of
14 55 years? Never!

15 In any event, hopefully,
16 the aforescribed enclosures
17 and all the earlier documented
18 correspondence, put together at
19 considerable expense to us as
20 developer, will assist and en-
21 able your Board to respectfully
22 analyze and bring our Senior
23 Housing application to a just

1 culmination.

2 Respectfully submitted,
3 OLV Hospital-E.F. Burke Co.,
4 Edmund F. Burke, Developer.

5 CHAIRMAN CRANDELL:

6 Thank you. Along with that
7 letter, there is nine enclo-
8 sures of backup which we have
9 really not had a chance to re-
10 view. All this information, of
11 course, is open for public re-
12 view. If you want to look at
13 it, be my guest. One other
14 thing I'd like to bring to your
15 attention, Councilwoman Joan
16 Kesner is in the audience to-
17 night acting as liaison to this
18 Board and the Town Board. With
19 that, Drew, the floor is yours.

20 MR. REILLY:

21 Good evening, everyone.
22 Thank you for coming out
23 tonight. I realize this is a
holy night for the Christian
faith. I have to take a little

1 story first. When I announced
2 to my wife last week that this
3 meeting was, or the week before
4 that this meeting was this
5 night, she said, "What idiot
6 scheduled that meeting for that
7 night?" And, I said, "That
8 would be me." So, I'm in trou-
9 ble at home as much as anybody.
10 But, the time frame dictated it
11 happening tonight. We're under
12 -- the SEQRA Law has some regi-
13 mented time frames too and we
14 have sixty days to have a full
15 scope ready and that time peri-
16 od is from the time the appli-
17 cant submits the Draft Scope.
18 We want to have time to review
19 the comments we get so we need
20 to do it in a certain time
21 frame. Also, as you know, we
22 have holidays coming up and
23 people leaving town. So, this

1 really was the only night to
2 try to meet those time frames
3 and give this Board the amount
4 of time they needed to review
5 what they may hear tonight and
6 other submittals. So, I apolo-
7 gize again.

8 So, two things, I will
9 quickly go through the SEQRA
10 process very, very succinctly.
11 It's a very complicated
12 process, but very succinctly
13 and then what we are here to-
14 night to do. This project at
15 Brierwood PUD is the subject of
16 an Environmental Impact State-
17 ment back in 1988. There have
18 been projects proposed since
19 then. This project was pro-
20 posed for the Brierwood PUD.
21 The Planning Board thoroughly
22 reviewed, took a hard look at
23 the information being submitted

1 by the applicant and determined
2 that a supplemental Environmen-
3 tal Impact Statement; in other
4 words, the change to the pro-
5 ject was enough to dictate a
6 Supplemental Impact Statement.
7 And, in that determination,
8 just as an update, the Planning
9 Board determined there were
10 five items that had potentially
11 significant environmental im-
12 pact. I then clarified those
13 in a letter of what the Plan-
14 ning Board was talking about.

15 Okay, that brings us to
16 the Planning Board positive
17 deck the project to answer the
18 Supplemental Impact Statement.
19 The applicant then begins the
20 process by submitting a Draft
21 Scope. We received that Draft
22 Scope. We have to now have
23 sixty days to determine what

1 the actual scope should be.
2 This is not a Public Hearing
3 tonight. This is a Public
4 Meeting. There are ways for
5 this Board to generate how they
6 think this scope should be.
7 Part of that can be meeting
8 with the public, meeting with
9 individual people. It doesn't
10 have to be a formal-type proce-
11 dure. We determined, because
12 of the public interest in this
13 project, it would be wrong of
14 us not to have a Public Scoping
15 Meeting where you got to pres-
16 ent some ideas. So, we are
17 having that Public Scoping
18 Meeting tonight. Once this
19 meeting is done, the Board has
20 to finish up, give the scope
21 back, the final scope back to
22 the applicant to produce what
23 we call a Draft Supplemental

1 Environmental Impact Statement.
2 Then it's completed by the ap-
3 plicant and submitted to the
4 Planning Board. The Planning
5 Board determines its complete-
6 ness. There is no other input.
7 There is no other input, but
8 the Planning Board determines
9 whether that document is com-
10 plete in the form of, did he
11 put in everything in there that
12 we asked for. Not is it right
13 or wrong, did he submit every-
14 thing we asked for. Once that
15 is determined to be complete,
16 then there is a Public Hearing
17 on the document. There is Pub-
18 lic Notice, documents will be
19 available. There will be an
20 official Public Hearing. You
21 will then be able to have time
22 to review the documents and
23 comment on it at the Public

1 Hearing. It's a very important
2 point in the process because
3 that is a record for this Board
4 in producing what is the called
5 the Final Environmental Impact
6 Statement.

7 Now, the applicant is go-
8 ing to help produce the Final
9 Environmental Impact Statement,
10 most probably, but this Board
11 is responsible for the content.
12 Unlike a draft document, the
13 final document must represent
14 the opinions, or what they
15 believe is correct of the lead
16 agency, in this case, the Plan-
17 ning Board. At that Public
18 Hearing and the FDIS is pro-
19 duced by this Board, then ap-
20 proximately ten days from the
21 completion of the FDIS, they
22 must dictate, produce findings,
23 that's a minimum of ten days.

1 You have to wait ten days, it
2 could be twenty days, it could
3 be thirty days. Findings are
4 the teeth of the process. In
5 other words, it's their deter-
6 mination, "A", can that project
7 go forward, "B", it cannot go
8 forward. And, if it can go
9 forward, what are the
10 mitigations or whatever that
11 can be proposed on this
12 project. That is a simplistic
13 version of what the SEQRA pro-
14 cess is here.

15 Why are we here tonight,
16 back to where we were before.
17 This is a Scoping Meeting, not
18 a Public Hearing. It won't
19 help the Board to stand up and
20 say you are opposed or like the
21 project or whatever. We are
22 specifically here tonight to
23 help generate, based on these

1 five issues and again, that's
2 unlike a normal DIS, this is a
3 supplemental, which is, we have
4 identified five issues. What
5 you think the developer should
6 study, how do you think he
7 should study it and maybe the
8 types of information he should
9 study. I am asking you tonight
10 and I see many people that I
11 met with, to try to present it
12 that way, to stand up and say,
13 you are opposed to the project
14 does not help this Board in
15 producing the scope for him to
16 produce this document.

17 Now, this Board has been
18 given, we've tried to help a
19 little bit, we gave them some
20 papers with some places to take
21 notes. They are going to be
22 taking notes and listening,
23 have you brought up something

1 that they believe is a good
2 idea and they will be writing
3 it down. Because we are then,
4 hopefully, going to then take
5 all that they feel and work on
6 that to get this Draft Scope or
7 Final Scope. How we will do
8 that is, tonight we are just
9 here to listen. There is not
10 going to be back and forth un-
11 less you have a question about
12 procedure, we will listen.
13 This Board is then going to
14 meet. We have a regular meet-
15 ing next Wednesday, we're going
16 to discuss it, so if you want
17 to come and listen to us dis-
18 cuss it, it's not a Public
19 Hearing, we will be discussing
20 it. Most probably, we'll hope-
21 fully make a decision by our
22 work session meeting or the
23 meeting after that to try to

1 meet that time frame that we
2 are dictated to to get back to
3 Mr. Burke with here is your
4 scope, this is what we want you
5 to produce. So, that is the
6 purpose of the meeting tonight.
7 Please help us and try to keep
8 it succinct. At times, you
9 know, Dick will say, we will
10 try to focus people. We don't
11 need to hear the same thing
12 over and over again. We are
13 trying to, as quickly as possi-
14 ble, put together what we think
15 are the points for this docu-
16 ment for Mr. Burke to study.

17 With that, does the Board
18 have any questions of me
19 because you have to take notes
20 and listen to that. I am also
21 -- we have a Stenographer here,
22 we'll have a record of it. I
23 will go through that and put

1 together my ideas. I am not a
2 member of the Planning Board,
3 but I will help the Planning
4 Board with my ideas, and their
5 own ideas and we'll put a con-
6 sensus together and give that
7 scope to Mr. Burke. Any ques-
8 tions of me, gentlemen? And,
9 lady? And, I will turn it back
10 over to you. I'm actually done
11 talking for tonight unless you
12 have some questions for me.

13 CHAIRMAN CRANDELL:

14 One last comment I have
15 before we get started. Drew
16 and I both mentioned these five
17 items. I want to make sure
18 that everybody understands that
19 the Planning Board arrived at
20 these five items as a result of
21 public input which was from the
22 audience, virtually it's the
23 same as sitting out there right
now. That's how we arrived at

1 it and that's how we are going
2 to go forward. So, with that,
3 who's the first one that wants
4 to be heard?

5 MR. GIACALONE:

Thank you. Arthur
6 Giacalone, G-I-A-C-A-L-O-N-E.
7 Let me know if I need the mi-
8 crophone.

9 I have a letter that I
10 will be presenting to the Board
11 as I complete my presentation.
12 I'm going to see if I can take
13 some shortcuts to keep this as
14 abbreviated as possible. As a
15 lawyer on behalf of a number of
16 residents, I want to focus on
17 some of the legal issues that
18 relate to the scoping process
19 and the SEIS that I think are
20 germane and need to be consid-
21 ered.

22 CHAIRMAN CRANDELL:

That's what we don't want
23 to do. We want to address

1 issues that relate to the five
2 items that are brought up.

3 MR. GIACALONE:

4 Well, that's what I will be
5 attempting to do, but I believe
6 that when you look at what the
7 type of information that has to
8 be in a SEIS, there's a couple
9 of legal issues that I believe
10 have to be addressed and I will
11 keep that as short as I can. I
12 am here on behalf of --

13 CHAIRMAN CRANDELL:

14 Let me just comment, I'll
15 let you go for a couple of
16 minutes, but I will cut you off
17 if I find out that you are not
18 keeping to your word. This is
19 short and sweet. We have an
20 obligation here to keep this
21 meeting on the subject and the
22 subject is the five items for
23 that Scoping Session,
explicitly five items. Noth-
ing more, nothing less. If you

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are going to get off on a tangent, I will not permit it.

MR. GIACALONE:

I will do my best to be succinct and really address the issues that I believe are preliminary to any discussion of those five topics.

CHAIRMAN CRANDELL:

Give it a shot and we'll see what happens.

MR. GIACALONE:

I am here on behalf of Christine Roach, Rick Fuller and Deborah Meess, all of whom live on Country Club Lane, as well as many of their neighbors residing in Brierwood Village Estates and Pinegrove Park Development.

The first issue that I want to mention is our concern over the inadequacy of the Draft Scope and the reason I am raising that issue is that because the Draft Scope did not

1 address the five categories of
2 issues that the SEQRA regula-
3 tions say belong in a Draft
4 Scope, we, as the public, have
5 been hindered in preparing and
6 responding and presenting our
7 comments tonight in the Draft
8 Scope, in this Scoping Session.
9 And again, specifically, the
10 Draft Scope does not even con-
11 tain a description of the pro-
12 ject and I think that's an im-
13 portant starting point, but
14 more specifically, it doesn't
15 address mitigation measures and
16 it doesn't address reasonable
17 alternatives and the SEQRA reg-
18 ulations at 617.8(b) and (f)
19 require that and had that been
20 provided in the Draft Scope, we
21 would have been able to be
22 looking at what mitigation mea-
23 sures were being discussed by

1 the sponsor and, therefore,
2 addressed the adequacies and
3 other mitigation measures, but
4 instead, we are starting from
5 scratch on those issues. And
6 so, I believe it's important to
7 point out that matter.

8 Secondly, my clients have
9 advised me that both the spon-
10 sor and at least one Town of
11 Hamburg representative suggest-
12 ed that the SEIS's assessment
13 of environmental impacts should
14 utilize the withdrawn office
15 park development as the base-
16 line for measuring adverse en-
17 vironmental impacts. It's our
18 position that such a standard
19 is improper under the law. We
20 believe that the draft SEIS
21 prepared by the applicant must
22 encompass the impacts associat-
23 ed with the actual change in

1 use from underdeveloped land to
2 the proposed 160-unit Senior
3 Housing Project. We base our
4 conclusion on the following:

5 The Fourth Department in a case
6 called Kirk-Astor and I'll have
7 reference to it in my papers,
8 of the citation, expressly held
9 that a lead agency's environ-
10 mental review under SEQRA,
11 "Must encompass the impacts
12 associated with the actual
13 change in use from underdevel-
14 oped land" to the project as
15 proposed by the developer.

16 That's consistent with the
17 SEQRA regulations that talk in
18 terms of looking at the exist-
19 ing, the adverse changes to the
20 existing, for example, traffic
21 or noise levels to the existing
22 community character. And, so
23 we just want to stress that we

1 believe the baseline is the
2 undeveloped land, not whatever
3 impacts may have been associat-
4 ed with the withdrawn office
5 park.

6 Secondly, the purpose of
7 the SEIS is to supplement the
8 1988 FEIS. It is clear that
9 the 1988 FEIS envisioned the
10 site that they are now propos-
11 ing for the 160-unit project as
12 being open space and therefore,
13 we believe, that the analysis
14 should be of what was
15 envisioned in 1988 and what is
16 now being proposed.

17 Lastly, to the extent that
18 the lead agency approved in any
19 way the office park concept and
20 approved it without doing a
21 supplement EIS, this Board has
22 the right and is exercising
23 that right to require the

1 appropriate assessment at this
2 time of the use of that site.
3 We wish to point out to the
4 Board that any approval that
5 had been given relating to that
6 office park development has
7 long since expired under the
8 Zoning Ordinance that says that
9 the site plan approval is only
10 stays in existence for twelve
11 months, if there is no Building
12 Permit. We think that even if
13 that concept was approved, at
14 some point that has expired and
15 is a nullity and what we are
16 dealing with is undeveloped
17 land. Thank you for allowing
18 me to go off on those two legal
19 tangents.

20 The first topic I want to
21 address is the adverse impacts
22 on the character on the exist-
23 ing neighborhoods and

1 community. My clients are
2 going to be making some presen-
3 tations, so I will try to not
4 overlap what they are talking
5 about. In order to look at the
6 adverse impacts of the charac-
7 ter of existing neighborhood
8 and communities, the first
9 thing that the scope and the
10 SEIS has to do is identify the
11 existing community character
12 and as I am sure this Board
13 knows, SEQRA talks about both
14 the adverse impact on the char-
15 acter of the existing community
16 and the character of the exist-
17 ing neighborhood and we believe
18 it's relevant to make a
19 distinction between the two.
20 We think this existing communi-
21 ty is the broader Brierwood
22 PUD, the entire larger develop-
23 ment and we believe that the

1 existing neighborhood is that
2 part of the PUD in close prox-
3 imity to the site of the Senior
4 Housing Project and that it's
5 important to look at both be-
6 cause the PUD is such a large
7 development, but obviously, the
8 Senior Housing Project is going
9 to have the most impact on that
10 part of the PUD, roughly the
11 southeast quadrant of that PUD.
12 We believe that in trying to
13 identify what the character of
14 that community is, that the
15 analysis should begin with
16 looking at the original plan
17 for the entire Brierwood commu-
18 nity as envisioned in the FEIS,
19 including, at a minimum, the
20 upscale/luxury/"country club"
21 nature and aesthetics of the
22 proposed development, the type
23 and mix of uses, the amount of

1 open space and recreation ar-
2 eas, the quantity of trees and
3 other vegetation, the density
4 of development, the size and
5 scale of the proposed
6 structures, and the value of
7 the proposed structures.

8 We think this same cata-
9 loguing needs to be done as far
10 as what the original PUD/FEIS
11 envisioned for the neighbor-
12 hood, for that quadrant closest
13 to the proposed site for the
14 Senior Housing Development.
15 Once that assessment and cata-
16 loguing of what was envisioned
17 back in 1988 is done, we
18 believe that the preparer of
19 the SEIS should look to what
20 the DEIS, FEIS, promotional
21 material prepared by the devel-
22 oper, the restrictions included
23 in the Declaration and By-laws

1 of the various associations,
2 and other pertinent materials,
3 in attempting to identify the
4 character of these communities.
5 Once that task has been
6 performed, the SEIS should com-
7 pare the original vision for
8 Brierwood with first, the cur-
9 rent state of both the entire
10 Brierwood PUD and the neighbor-
11 hood in the vicinity of the
12 project site, second, the pro-
13 posed project now under consid-
14 eration and third, the no-ac-
15 tion alternative, that is, al-
16 lowing the site to remain as it
17 currently exists. That those
18 are the three, the frameworks
19 in which to compare what was
20 envisioned in 1988 with what we
21 are dealing with right now.

22 An important aspect of the
23 community and neighborhood

1 to have on that site if such a
2 buffer was retained and we be-
3 lieve that a viewshed analysis
4 of those three things should be
5 done from at least three dif-
6 ferent vantage points, the rear
7 yards of the residents on Coun-
8 try Club Lane, the Day Care
9 Center's play area, this pro-
10 ject, I was amazed when I got
11 there, the stakes are in the
12 ground right now, it's within
13 fifty feet of that playground
14 area and thirdly, from the en-
15 trance to Brierwood at
16 Gleneagle Drive. That viewshed
17 analysis should be done from at
18 least those three locations to
19 determine aesthetically how
20 this project is going to impact
21 that community.

22 The second area is the
23 adverse impacts on the quality

1 and quantity of open space and
2 recreation areas. As this
3 Board knows, the FEIS clearly
4 acknowledges its failure to
5 have addressed the issues of
6 open space and the provision of
7 active and passive recreation
8 land. The Findings Statement
9 in the FEIS promised that, "The
10 Planning Board will be looking
11 at requirements for both active
12 and passive recreation areas"
13 at each phase of the develop-
14 ment. And, page four of the
15 FEIS "Responses to Comments"
16 states that, "An overlay map
17 showing present conditions and
18 those areas that will be left
19 intact as well as the areas
20 that will be changed" would be
21 prepared when the PUD's Phase
22 III proposal is received by the
23 Planning Board. As far as I

1 know, no such "overlay map" has
2 been prepared to date, and ac-
3 tive and passive recreation
4 areas have not been required at
5 each phase of Brierwood's de-
6 velopment.

7 We believe that the SEIS
8 provides this Planning Board
9 with an opportunity to obtain
10 and access crucial information
11 to help determine how the cur-
12 rent conditions compare with
13 the proposal before the Board
14 at the time of the FEIS, and
15 how the proposed 160-unit Se-
16 nior Housing Project would im-
17 pact the availability of open
18 space and recreation areas.
19 Given the fact that the
20 proposed site for the apartment
21 development was envisioned as
22 open space at the time of the
23 1988 FEIS, and presently

1 contains a large wooded area,
2 it is important to determine
3 how much of the sixty-six acres
4 of wooded areas the original
5 Full FEAF promised would remain
6 "after completion" of the en-
7 tire PUD is still intact, and
8 whether this remaining stand of
9 trees can be sacrificed without
10 adversely impacting the charac-
11 ter and quality of life at
12 Brierwood.

13 The third topic is dealing
14 with traffic levels and
15 patterns. My clients believe
16 that it is irresponsible of the
17 developer to propose any new
18 project that would increase
19 traffic utilizing the Gleneagle
20 Drive entrance/exit to
21 Brierwood in light of two fac-
22 tors. First is the existing
23 "F" level of service rating for

1 left-hand turns exiting the
2 intersection of Gleneagle and
3 Southwestern. The LOS "F" rat-
4 ing is even more troublesome in
5 light of the senior-status of
6 the additional drivers that
7 would result from the proposed
8 apartment complex. And second-
9 ly, the New York State DOT has
10 requested that the existing
11 access to the Hamburg Profes-
12 sional Park be removed. In
13 light of those two factors, we
14 believe that the SEIS should
15 include first, an analysis of
16 the special safety
17 considerations created by se-
18 niors utilizing the Gleneagle
19 entrance/exit. Secondly, con-
20 sideration of an alternative
21 that contemplates removal of
22 the Gleneagle/Southwestern en-
23 trance, including an analysis

1 of the traffic patterns that
2 would result from the proposed
3 160-unit project without such
4 access. Now, the SEIS is the
5 -- the scoping document in the
6 SEIS is supposed to be dealing
7 with reasonable alternatives.
8 We believe that given the fact
9 that the DOT has requested
10 closing that Gleneagle
11 entrance, that one of the al-
12 ternatives that should be
13 looked at is how the Senior
14 Project would fit into this PUD
15 if that Gleneagle entrance way
16 was closed.

17 Additionally, given the
18 many changes in the PUD over
19 the years, as well as the ex-
20 isting problems related to in-
21 ternal traffic, the SEIS should
22 analyze the existing internal
23 traffic patterns at Brierwood,

1 and assess the impacts of the
2 proposed 160-unit apartment
3 development and all other pro-
4 posed projects on internal
5 traffic.

6 Lastly, drainage, and I
7 will keep that very short. The
8 FEIS acknowledged that drainage
9 was the environmental issue
10 that could have the greatest
11 impact on adjacent areas. De-
12 spite that fact, the FEIS did
13 not contain any computations or
14 methodology for determining the
15 additional runoff that would be
16 caused by the development. The
17 SEIS provides an opportunity to
18 correct that deficiency taking
19 into account the now-existing
20 development and the proposals
21 currently under consideration.

22 With that, I will thank
23 you for the opportunity to

1 participate in the Scoping Ses-
2 sion.

3 CHAIRMAN CRANDELL: Thank you, very thorough.
4 You are leaving a copy of that
5 letter with us?

6 MR. GIACALONE: I will leave eight copies,
7 one for you and one for each of
8 the Board members.

9 CHAIRMAN CRANDELL: As far as your questions at
10 the beginning, we will not
11 attempt to respond to them now.
12 Next? Who else -- yes, sir.

13 MR. WERTHMAN: My name is Paul Werthman
14 and I live at 5485 Country Club
15 Lane. I have two letters to
16 submit to the Board and I
17 apologize, I don't have copies
18 for everyone. The first one is
19 addressed from our Homeowners
20 Association on behalf of the
21 Board of Directors of the
22 Brierwood Estates Homeowners
23 Association, I am hereby

1 requesting the Town, as lead
2 agency for the above-referenced
3 action, grant our Association
4 and all our members "interested
5 agency" and "interested
6 parties" status, respectively,
7 in the review process. Our
8 attached member directory rep-
9 resents approximately a hundred
10 voting and taxpaying families.

11 The character of our
12 neighborhood, the quality of
13 our environment, the safety of
14 our children, and the economic
15 value of our collective invest-
16 ment in our Town, are directly
17 and significantly impacted by
18 this proposed project and will
19 be impacted by your findings as
20 lead agency. Our membership
21 possesses specific professional
22 expertise in environmental,
23 civil, and traffic engineering,

1 architecture, law, and educa-
2 tion administration capable of
3 fully evaluating the impacts of
4 the proposed action.

5 A significant concern and
6 hindrance to an adequate evalu-
7 ation is the segmentation of
8 this and other existing and
9 proposed projects within and
10 adjacent to the Brierwood PUD
11 as though they were
12 independent, unrelated activi-
13 ties, contrary to the intent of
14 the New York State Environmen-
15 tal Quality Review Act. Fur-
16 thermore, from our preliminary
17 review of only a portion of the
18 PUD files made available to us,
19 it appears that a number of
20 significant changes of use and
21 modifications to infrastructure
22 have been requested by Mr.
23 Burke and authorized by the

1 Town without substantive and
2 procedural compliance with
3 SEQRA. It seems appropriate in
4 the context of this Supplemen-
5 tal DEIS that all the past and
6 planned uses and infrastructure
7 changes within the PUD, from
8 that represented in the origi-
9 nal EIS, be fully described.
10 By doing this, the net impact
11 of this proposed change as well
12 as the impacts of the collec-
13 tive changes to the PUD can be
14 fully understood and impacts
15 and mitigating measures be ade-
16 quately evaluated.

17 As an interested agency
18 and our members as interested
19 parties, we are requesting a
20 complete copy of the Brierwood
21 PUD file. Only by a complete
22 and thorough review can we be
23 assured we understand the

1 interactive and combined
2 impacts of the proposed action.
3 We wish to be informed in writ-
4 ing or copied on all related
5 correspondence and submittals.
6 We also request that you, as
7 lead agency, prepare a schedule
8 of planned notices, hearings,
9 and reviews related to this
10 project. Sincerely, Paul H.
11 Werthman, P.E.

12 The second letter I have
13 deals with the scoping issues
14 for the Supplemental Draft EIS
15 for the Housing Project.

16 First of all, some general
17 comments, the Scoping document
18 prepared by the project sponsor
19 is woefully lacking the detail
20 required by the State Environ-
21 mental Quality Review Act. The
22 document must address a
23 description of the proposed

1 action, how it differs from the
2 approved planned use and as Mr.
3 Giacalone says, the approved
4 planned use in our minds is in
5 fact greenspace. The extent
6 and quality of existing and new
7 information needed to address
8 each impact, including method-
9 ologies for obtaining valid new
10 data and how to correct/update
11 inaccurate information regard-
12 ing this project and the PUD as
13 described in the original FEIS.
14 The content and level of detail
15 of the analysis of each signif-
16 icant impact or issue, the
17 range of reasonable alterna-
18 tives to be considered, initial
19 identification of mitigation
20 measures and the identification
21 of information/data that should
22 be included in an appendix.

23 For the above general

1 reasons and he magnitude and
2 extent of specific comments
3 raised here by me and elsewhere
4 by others, we hereby request
5 the Town as lead agency to re-
6 quire the project sponsor to
7 revise and resubmit a Draft
8 Scoping document for additional
9 public comment before accepting
10 it as final.

11 Some specific comments
12 relative to drainage, which is
13 an area of my personal exper-
14 tise. The Drainage Analysis
15 prepared by Nussbaumer &
16 Clarke, in 1992 which is stated
17 by Mr. Giacalone is after the
18 original EIS, evaluates differ-
19 ent type and density of use and
20 contains inaccurate information
21 regarding the downstream storm
22 sewers. For example, the anal-
23 ysis contains maps and

1 calculations for a ditch
2 between the Brierwood
3 subdivision and Pinegrove Park,
4 which is directly behind my
5 house, where corrugated metal
6 culvert pipe exists. The
7 drainage analysis for the en-
8 tire PUD should be revised due
9 to the following: Reflect as-
10 built and planned drainage for
11 all watersheds impacted by the
12 proposed project and adjacent
13 planned projects, in particular
14 Olde Tyme Village and the area
15 west of Gleneagle Drive yet to
16 be developed. These will be
17 directly impacted by the drain-
18 age flowing through and around
19 the planned project. They
20 should show planimetrically all
21 downstream pipes including
22 size, material, slope, ditches
23 including cross sections,

1 slope, lining material, streams
2 and surface water bodies
3 including New York State DEC
4 classification, 100-year
5 floodplain boundaries and re-
6 lated water quality information
7 from the project site to Lake
8 Erie.

9 Number two, present drain-
10 age system design for planned
11 project with pipe inverts,
12 slopes, sizes, material of con-
13 struction to demonstrate capa-
14 bility to convey 10-year, 25-
15 year and 100-year storm flows
16 and/or related flood impacts.
17 There have been at least two
18 significant floods in Brierwood
19 and Pinegrove Park in the past
20 eight years.

21 Number three, prepare run-
22 off hydrographs for impacted
23 watersheds showing existing

1 runoff quantities and projected
2 quantities after full develop-
3 ment, both with and without the
4 proposed project. Determine
5 current capacity of existing
6 drainage network taking into
7 account the sediment accumula-
8 tion from low slopes and
9 future/proposed construction.
10 Address drainage network main-
11 tenance frequency, estimated
12 cost and responsibility to
13 maintain them.

14 Evaluate potentially dele-
15 terious water quality and re-
16 lated fishery and wildlife im-
17 pacts from storm drainage both
18 short-term during construction
19 of proposed and other planned
20 and we would like those planned
21 projects identified, described
22 and analyzed within the devel-
23 opment in the PUD.

1 Determine whether the
2 size, capacity and control
3 works design of the existing
4 retention basin and planned
5 basins are adequate to prevent
6 surcharging of the entire down-
7 stream drainage system under
8 10-, 25-, and 100-year storm
9 events.

10 A topographic map showing
11 drainage area contributing to
12 all stormwater pipes. Evaluate
13 critical snowmelt flow contri-
14 butions and impacts in February
15 and March. Identify and evalu-
16 ate reasonable alternatives and
17 mitigative measures including,
18 but not limited to, more/larger
19 retention basins, improving
20 critical segments or the con-
21 veyance system, reducing devel-
22 opment density/increased
23 greenspace, escrow account for

1 improved maintenance, ditch
2 lining, or the no action alter-
3 native. Thank you very much.

4 CHAIRMAN CRANDELL:

5 I have one comment for the
6 benefit of everybody you have
7 alluded to, the fact that you wanted
8 copies of the entire Brierwood file
9 and I am not sure you realize what you
10 are asking for, but I want to make it
11 clear again, which I have attempted
12 to do in the past, every document that
13 we have over there is open for public
14 review. We do ask that you go through
15 the Freedom of Information Act
16 procedure; namely that you fill out a
17 form with the Town Clerk, you list
18 down the documents that you want and
19 give us a reasonable time to get those
20 documents together. And I might say,
21 a reasonable time has to be more than
22 a couple of hours.

23 MR. REILLY:

A couple of comments because we
have had a lot of interest in this

1 from a Freedom of Information Act
2 standpoint. You can't come in--We
3 have done legal review and ask for
4 like the whole file. You have to ask
5 for specific things. We are allowed
6 five to seven days to get those
7 specific things. As Dick said, any-
8 time you want to make an appointment
9 and go through it--I realize that you
10 have got to be able to go through the
11 file to identify exactly what you
12 need. They are large files. Again,
13 they are public records and you can
14 do that, but you have to come in and
15 name specific documents. That's what
16 you have to do by the law, so anytime
17 you want to make an appointment, you
18 can do that and look for those docu-
19 ments and then give us the Freedom
20 of Information Act to make the
21 copies.

22 MR. WERTHMAN:

23 If I could make one suggestion.
On a lot of projects that I have

1 been involved with, with large and
2 comprehensive Environmental Impact
3 statements like this, there is
4 normally an Information Center set
5 up where these documents are view-
6 able by the public without having to
7 go through files and make appoint-
8 ments and so forth. And, I think
9 because of the interest in this
10 project, that's something you might
11 want to consider setting it up in a
12 local library or here at Town Hall
13 or somewhere so that those of us can
14 come in without appointments and
15 look through these documents because
16 they are very large and they are
17 very comprehensive.

18 CHAIRMAN CRANDELL:

 Alright, I will take your
19 recommendation under advisement.
20 We have to look at what costs are
21 involved to the Town. That cost, I
22 believe, would be rather substantial.
23 We are not going to take our original

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files and just set them out for the public.

MR. WERTHMAN:

Another suggestion is often times, again in big, complex projects like this, the project sponsor will pay for the costs related to that.

CHAIRMAN CRANDELL:

We will explore every avenue. We have an obligation to make sure that you get the data but we also have a problem where we have some limitations on both the staffing that we have and the budget that we have. But, that definitely is a very valid suggestion and we will look into it.

Next--Yes, sir.

MR. MEESS:

Good evening. My name is Dan Meess. I live at 5507 Country Club Lane. I would like to talk about Greenspace and Recreation and just briefly on the school. It should only be about five to six minutes.

1 I would just like to read this to
2 you. The Town of Hamburg and the
3 E.F. Burke Co. have not adequately
4 addressed the need for an active
5 recreational area in the Brierwood
6 PUD. The private club course is off
7 limits to non-members as substan-
8 tiated by this letter, sent to all
9 Brierwood PUD residents by Tom Ahern
10 of the Brierwood Country Club and I
11 will just read briefly: "The use
12 of golf course facilities including
13 ponds and golf cart paths by a
14 member or non-member for any activity
15 other than golfing, will not be
16 tolerated. Walking, bicycling,
17 jogging, rollerblading or fishing
18 will not be aloud. Offenders will
19 be removed from the property." I
20 call your attention to, this is
21 directed to members and non-members
22 of the Country Club.

23 "The softball field in the

1 greenspace to the south of Glen-
2 eagle Drive are being eliminated
3 as a result of this proposed apart-
4 ment complex. This area was not
5 shown to be developed in the
6 original PUD. It should be left
7 as a greenspace. Mr. Burke and the
8 Planning Board signed the Hart
9 Trail Agreement in June of 1993.
10 Almost five years later, we still
11 do not have a Hart trail or any
12 other area designated for recrea-
13 tional use of our residents. The
14 original EIS shows the Planning
15 Board to be looking into the require-
16 ments for both active and passive
17 recreational areas to be dedicated
18 to the Town. I repeat, each phase
19 of the development is reviewed and
20 approved. Ten years after the
21 original EIS, we still don't have
22 a recreation area. After numerous
23 completion of phases, with each

1 phase containing many more units
2 than specified in the original EIS
3 PUD, we continue to wonder where
4 the recreational space is.

5 I have a copy of the com-
6 parison, which was issued by the
7 Burke Co., comparing the original
8 PUD EIS to the revised proposal,
9 the current proposal. And, if you
10 look at the bottom line, it says the
11 original was 842 and the current is
12 841. Well, that's pretty close.
13 But, if you look at it phase by
14 phase, let's look at Phase I.
15 Phase I, the original PUD, was 168.
16 The revised proposal is 395 in that
17 same area. Lets look at Phase 2 and
18 Phase 2a. The subtotal on the
19 original PUD was 180. The revised
20 proposal at 197, much more dense
21 than the original PUD.

22 Okay, getting to what we like,
23 that's the background for our

1 request. We think the time for
2 studying the issue should be over.
3 We'd like an updated open space
4 plan and a plan of action with
5 proposed dates for completion.
6 We would like a review of the
7 actions of the developer with
8 respect to the development of
9 active and passive recreational
10 areas which were to be dedicated
11 to the Town at the completion of
12 each phase of development as stated
13 in the original EIS. We would also
14 like to study the narrowing of the
15 driving range between the existing
16 single family homes and the pro-
17 posed apartments. The hazard of
18 golf balls injuring residents and
19 damaging property. I would also
20 like to include the use of nets
21 to restrain balls. We currently
22 have one net there by the OLV Medical
23 Center and if you have ever driven

1 by there, it's not a pretty sight.
2 It has holes in it. It's sagging,
3 it's leaning, it's an eye-sore to
4 the community. I will pass these
5 around if you'd like.

6 What we are saying is, we want
7 this to be studied and how we would
8 like to study it in developing the
9 above recommended requested actions.
10 Sources and types of data to use
11 are; the original zoning prior to
12 rezoning to the PUD. I believe it
13 was zoned as residential/agricul-
14 tural before it was rezoned to PUD.
15 We would like you to look at the
16 original approved FEIS and PUD and
17 compare that against the currently
18 proposed PUD and you will find that
19 the density of the units has
20 increased dramatically for Phase 1
21 and Phase 2 and 2a. We would like
22 you to look at the history of the
23 Hart Trail and it was to be

1 constructed by the developer and
2 it never was.

3 And, finally, since the children
4 are off school for the next two
5 weeks, we provided them an activity
6 since there is no playground in
7 the area. We talked to the Country
8 Club and offered to pick up all
9 the balls that were on the site of
10 these townhouses and we have them
11 in the tub back there and here's
12 the proposed plan that I am aware
13 of, the latest version I have seen
14 and I will call your attention to
15 Units O,P,Q and R and it's a
16 good thing Ron is stronger than I
17 am, because 570 golf balls is what
18 was picked up in a brief period of
19 time where those four units are
20 that are going to have seniors living
21 there. We don't think that's
22 acceptable. If somebody says that
23 they are going to put up nets, we

1 don't want them to look like those
2 nets in those photographs.

3 We promised the Country Club
4 we would return the balls to them
5 after the meeting. But, since they
6 did come from E.F. Burke land, I
7 guess he has first choice on them.
8 So, we will return them to whoever
9 Mr. Burke would tell us to return
10 them to. And, I thank you for your
11 attention.

12 CHAIRMAN CRANDELL:

Thank you. I have one comment
13 in regard to that--Are you leaving
14 a copy of that with us?

15 MR. MEESS:

I could leave you a copy after
16 I fix my mark-ups.

17 CHAIRMAN CRANDELL:

You covered a lot of topics. I
18 would like that to be in our record,
19 if you will. It will make it
20 easier on us to try to address it.
21 The comment I was to make to you,
22 though, that was pretty much of a
23 mixed bag that you just covered.

1 MR. MEESS: That was addressing the recre-
2 ation and greenspace.

3 CHAIRMAN CRANDELL: Many of those items really
4 have no involvement whatsoever of
5 the Planning Board. And, I think
6 what we'll have to do is go through
7 your list and try to sort out the
8 items that we have responsibility
9 and an obligation to address as
10 opposed to the items that you would
11 have to address directly with the
12 Burke Co.

13 MR. MEESS: Well, you had asked for what
14 to study and I told you--

15 CHAIRMAN CRANDELL: Don't go through it again. I
16 am simply making a statement. I
17 don't want to debate which items
18 that you have referred to. But,
19 I am telling you that there are a
20 number of items in there that are
21 not appropriate to the Planning
22 Board. They may be appropriate to
23 you as it relates to Mr. Burke.

1 Those are items that have nothing
2 to do with the responsibility of
3 the Planning Board.

4 MR. PHILLIPS:

Such as the net that is in
5 disrepair, we have no jurisdiction
6 over it.

7 CHAIRMAN CRANDELL:

Right, we have no jurisdiction
8 over that whatsoever.

9 MR. MEES:

The only reason for mentioning
10 the net is, okay, if somebody is
11 going to try to squeeze houses as
12 close as we can on both sides of
13 the driving ranges, which is the
14 current plan and narrow it up--

15 CHAIRMAN CRANDELL:

We are going to look at your
16 letter or list. We are not going
17 to ignore anything that is in there.
18 What I am trying to get across is,
19 some of those items we will not be
20 addressing. Those are the items
21 that do not have any relationship
22 to what our role is here. And, we
23 will attempt to make it clear to

1 you which items are which so that
2 you know where we stand and you
3 will be able to use that information
4 then to pursue whatever avenue
5 you wish to do with Mr. Burke.

6 MR. MEESS:

7 The only other comment is on
8 the schools and since Mr. Burke
9 passed out or the handout tonight
10 says that this housing will only
11 be used by people over 61, then
12 my personal opinion is schools are
13 not an issue. If this is accurate
14 that all residents of this apartment
15 complex have to be 61 or over.
16 Thank you.

17 CHAIRMAN CRANDELL:

18 Thank you.

19 MR. ROACH:

20 My name is Tim Roach. I live
21 at 5513 Country Club Lane. I
22 have a couple of issues that deal
23 with traffic and then a couple more
that deal with characteristics of
the neighborhood.

In regard to traffic, these

1 were both touched on before by
2 Mr. Giacalone. I would just like
3 to expand on them a little bit.
4 The traffic impact studies concern-
5 ing the driveway at Gleneagle Drive
6 ccnsistently held that the left
7 turn movements from the driveway
8 would equate to a level of service
9 F but that they would be facilitated
10 by gaps in traffic caused by the
11 traffic lights at Roger and Amsdell
12 Roads. Level of Service E and F
13 are unacceptable. We would like
14 to have a study done to determine
15 whether or not the gaps that they
16 are referring to in the study are
17 actually going to exist.

18 Given that the proposed use
19 for this parcel is Senior Citizen
20 Housing, and that safe left turns
21 out of this facility should require
22 simultaneous gaps in eastbound and
23 westbound traffic flows, as well

1 as good driver vision and judgement
2 of spacial relationships a study
3 of the traffic signal timing is
4 warranted to ensure that these gaps
5 exist. Mitigation measures if
6 approved should include bringing
7 these left turn movements up to a
8 service Level D. The safety of
9 the seniors and the traffic on
10 Southwestern Blvd. should be of
11 concern. The traffic studies show
12 the line of site for truck traffic
13 is also inadequate. How will the
14 trucks that will be servicing this
15 facility going to enter and exit
16 onto Southwestern Blvd.?

17 The timing of the signals at
18 Rogers and Amsdell Roads should
19 be compared and plotted as gaps
20 in the traffic flows in a time
21 versus space diagram to determine
22 what delays would actually be
23 experienced by these drivers.

1 The level of service for the inter-
2 section can be determined by the
3 delays that are present at the
4 intersection. If we are able to
5 determine the delays, we are able
6 to determine actual level of
7 service and not have the reference
8 that they had in the EMS study
9 which said that the level of service
10 would be higher than actually
11 computed by the traffic flows and
12 the left-hand turn movements out of
13 Gleneagle Drive.

14 We would also like to have
15 looked at the feasibility of
16 improving the operation of that
17 intersection if it is to remain
18 by studying the possibility of
19 linking the signals at Amsdell and
20 at Rogers Roads and they would be
21 run off one controller so that would
22 ensure that there would be simultan-
23 eous gaps in the traffic and that

1 people could make these left turns
2 onto Southwestern during the peak
3 flows in the morning and in the
4 afternoon.

5 On the other issue of traffic
6 has to do with the internal traffic
7 patterns through the existing Pine-
8 grove Park and Brierwood Village
9 subdivision. In 1990 when the EMS
10 study indicated that there was
11 through traffic utilizing these
12 driveways and that they put the
13 volume at 200 vehicles per day
14 that they couldn't identify being
15 generated from any of the homes in
16 the area. These vehicles are using
17 these driveways and roadways
18 illegally. Those are not meant
19 to be thoroughfares. These vehicles
20 are using them as thoroughfares
21 and because of that they tend to be
22 more prone to traverse the roadways
23 and driveways at a higher speed than

1 the residents because they are going
2 to someplace other than their local
3 destination.

4 Given the fact that we have
5 had eight to nine years of golf in
6 time for this PUD, it is time to
7 study the internal existing traffic
8 patterns so we can have safe rational
9 traffic patterns throughout the PUD.
10 This relates to this project by the
11 additional trips generated by the
12 proposed use in this area.

13 On the characteristics of the
14 neighborhood. The addition of the
15 proposed 20 buildings and parking
16 areas will introduce a great deal
17 more lighted area into this parcel.
18 The nature of this proposed use will
19 require lights to remain on over
20 night for security purposes. This
21 coupled with the lights from the
22 buildings will have a visual impact
23 on the surrounding area. We think

1 that the things that should be
2 studied will include a study to
3 determine the effect of the light-
4 ing on this proposal on the adjoin-
5 ing properties. Consideration of the
6 height, size, density, glare and
7 hours of operation should be
8 included in this study. Estimates
9 of the combined effect of various
10 lighting requirements of the proposed
11 project in consideration of alter-
12 natives to minimize the impact of
13 these lights.

14 As noted in the original EIS,
15 the largest proposed structure would
16 be 30 feet wide by 40 feet long by
17 30 feet high. The proposed
18 buildings are 51.33 feet wide by
19 80 feet long by 29 feet high. These
20 structures would be 3.4 times as
21 large as the largest proposed
22 structure initially described in the
23 EIS. Additionally, the Pinegrove

1 Park Townhouses parcels as 32 units
2 within approximately 7.5 acres of
3 land. Whereas these proposed apart-
4 ment buildings contain 120 units
5 within approximately 10.5 acres of
6 land. This is approximately 2.7
7 times as dense an area. Excuse me,
8 there are 160 units, 20 buildings at
9 8 units per building. The original
10 EIS indicated that the entire PUD
11 would have a density of 2.42 units
12 per acre while this proposed
13 parcel would have a density of 11.4
14 units per acre.

15 Now, within the final EIS there
16 was a question that was raised
17 that said what about future develop-
18 ments and how they effect the
19 existing approved developments
20 that are in the original PUD. And,
21 the response was that consistency
22 as related to residential usage
23 can relate to three areas; structure

1 and value and density. We would
2 like a study of the densities of
3 all the various parcels of the PUD
4 to determine if the proposed use
5 for this parcel is at a density
6 level that fits with the intended
7 consistency of the entire PUD.

8 We request a study of the aesthetic
9 impacts of structures this size will
10 have on the adjacent residences.

11 Another item on character of
12 the neighborhood. The declarations
13 of the Brierwood Village Estates
14 indicates that the dwellings con-
15 structed on our land meet specific
16 standards and aesthetic guidelines
17 prior to construction. The guide-
18 lines, among others, include a
19 minimum square feet of 2300 feet,
20 and have a stone, brick or masonry
21 surface over greater than 50% of
22 the front face of the buildings.
23 The proposed apartment complex

1 includes no brick, stone or masonry.
2 The final draft EIS document
3 responding to a comment of future
4 Brierwood development being con-
5 sistent with existing adjoining
6 development said, "consistency
7 relating to residential usage can
8 relate in three areas; structure,
9 value and density." The response
10 included that the value of the units
11 within the Brierwood PUD would be
12 "equal or in excess of the assessed
13 full value of the adjacent
14 residences."

15 There is a couple of items
16 there, one of which is the structure
17 of the adjacent residences in the
18 Brierwood Village Estates are re-
19 quired to have these aesthetic
20 improvements as far as their approval
21 process, that we believe that the
22 apartment complex as proposed,
23 would also need to include these

1 same asesthetic improvements in order
2 to meet with the original EIS
3 statement that the structure of
4 the adjoining property would be
5 the same as the existing.

6 The other one is the value of
7 the buildings that are being pro-
8 posed. This relates to the
9 asesthetic improvements. The people
10 in the neighborhood of Brierwood
11 Village Estates have had to include
12 in their original proposals this
13 asesthetic improvements on the build-
14 ings there that are being proposed
15 for the apartment complex, should
16 have the same value as the adjoining
17 Brierwood Village Estates
18 properties. Thank you.

19 CHAIRMAN CRANDELL:

20 Could you leave a copy of that,
21 too. I would like to compliment
22 you. What you have done is list out
23 very clearly and concisely the very
items that we should be looking at.

1 MR . ROACH: Thank you.

2 CHAIRMAN CRANDELL: Next.

3 CHRISTINE ROACH: Christine Roach, 5513 Country
4 Club Lane. I am also just going
5 to touch a smidge on traffic and
6 then characteristics of the neighbor-
7 hood.

8 As far as the traffic, the
9 current driveway entrance at the
10 intersection of Gleneagle Drive
11 and Southwestern Blvd. was permitted
12 by the NYSDOT based on a site plan
13 that was submitted as part of the
14 permit process. Now that the plans
15 for the site have changed, it would
16 seem to void the original approval
17 for the permit. In fact, the NYSDOT
18 has requested to the Town of Hamburg
19 that the access driveway to the
20 Hamburg Professional Park be removed.

21 What we would like studied. The
22 underlying basis for the access
23 permit was based on the old site

1 plan, the developer should resubmit
2 the new site plan for review by
3 NYS DOT to obtain their approval for
4 the presence of the driveway
5 considering the proposed change in
6 use. Alternatives considering a
7 traffic study with that entrance
8 closed also needs to be looked at.
9 What traffic patterns would be
10 formed with this entrance closed?
11 Where would the traffic be going in
12 or out?

13 This proposal should be studied
14 with respect to the accepted
15 standards of the NYS DOT for driveway
16 access to the state highway system.
17 And, the sources should be the
18 NYS DOT standards for access to State
19 Highways.

20 I have a letter, as well, from
21 Tom Ahern that was sent to all the
22 residents in the PUD of Brierwood,
23 including Pinegrove, Saddlebrook

1 and Brierwood Community--

2 CHAIRMAN CRANDELL:

That's from who?

3 MRS. ROACH:

4 Tom Ahern, the General Manager
5 of the Golf course and in this letter
6 he was talking about the problems
7 with the traffic through the parking
8 lot of the golf course and the
9 problems they are having because of
10 that and I will give you a copy of
11 that.

Character of the neighborhood.

12 There is a clear view across the
13 driving range to this parcel because
14 of the restrictions of fences,
15 screen plantings or walls in our
16 declarations of Brierwood Village
17 Estates, Section 10.03. The pro-
18 posed apartment complex will back
19 up to many single family homes,
20 leaving these homeowners unable
21 to block the view of the back of
22 the complex structures. Mr. McNight,
23 a Consultant to Burke, Inc., has

1 commented in a letter to the Planning
2 Board a "state of the art" net would
3 be put up to protect the complex
4 from golf balls. Currently, you
5 saw the pictures of the golf net
6 that we do have up there at the
7 OLV Medical Center. It's very
8 unsightly, but it's also much
9 smaller than the nets that we are
10 going to have to view from the back
11 of our house to look across our
12 backyards. We have not seen, as
13 well, a rendering of what the back
14 of these apartment buildings would
15 look like. We have only seen the
16 front pictures that he has shown.
17 The proposed apartment complex and
18 golf net represent a change from
19 the natural landscape that exists
20 today. This will result in a
21 visual impact on the surrounding
22 neighborhood.

23 What should be studied? A

1 viewshed analysis that would show
2 #1 what we currently see from our
3 backyards, #2 what the proposed
4 project will look like and #3 the
5 proposed project with mitigating
6 changes; example, an appropriate
7 screen. Thus, this will help
8 visualize for these homeowners the
9 visual impact these proposed sites
10 would have on their current view.
11 Consideration of design changes
12 to minimize the visual impact by
13 increasing set backs from property
14 lines, natural screens, leaving
15 existing trees and brush as a buffer
16 and or reducing the scope of the
17 project or leaving the land in its
18 existing form should be considered
19 in this study.

20 How should it be studied? We
21 request a viewshed analysis of the
22 proposed apartment complex as viewed
23 by the homeowners backing up to

1 the driving range. I personally, I
2 don't know if there was a typo in
3 the letter that you received tonight
4 from Mr. Burke on the addresses that
5 would be examined for the viewshed
6 analysis, but I'm 5513 and mine is
7 smack in the middle of where this
8 development will be and that number
9 I don't believe was listed for the
10 span of the addresses that you have.
11 These analyses should include the
12 "state of the art" golf netting
13 proposed by Mr. McNight. We would
14 want this rendering to be all
15 inclusive showing all apartment
16 buildings visible to the viewer, as
17 well as any incidentals, for example,
18 garbage refuse containers, fencing
19 around garbage containers, etc.
20 These analyses should then be com-
21 pared to greenspace as planned
22 in the original PUD and EIS. An
23 elevation view of the side of the

1 buildings, which are proposed to
2 face the homeowner's backyards,
3 should also be completed.

4 Sources and types of data to
5 be used. We request that drawings
6 of the architectural renderings or
7 the viewshed analysis of the
8 proposed complex, current green-
9 space and close up drawings of the
10 sides of the apartment buildings,
11 just reiterating that.

12 Character of the neighborhood.
13 All homeowners in the Brierwood PUD,
14 except for a few homeowners in
15 Brierwood Village Estates because
16 of an exempt clause, have been
17 mandated to join their homeowners
18 association, which regulates and
19 governs said bylaws within each
20 development. These bylaws were
21 originally made up to "provide for
22 the efficient preservation of the
23 values and amenities in said

1 community and for the maintenance
2 of said beneficial or open space
3 areas and buffers and to administer
4 an enforce the covenants and re-
5 strictions contained within." Each
6 Brierwood Village Estate owner is
7 required to pay an annual fee of
8 \$150.00 and is required to abide
9 by these bylaws. According to my
10 bylaws, I couldn't even hang up my
11 laundry in my backyard if I wanted
12 to. Pinegrove Park townhouse owners
13 pay \$140.00 a month in maintenance
14 fees to provide the same preserva-
15 tion of values and amenities in the
16 community. Similar bylaws and costs
17 are associated with the other town-
18 houses within our PUD. These bylaws
19 were in place before the building of
20 homes were completed. These develop-
21 ments and the surrounding community
22 are overwhelmingly owner occupied
23 units. The proposed apartment

1 buildings, being one of the first
2 exclusively non-owner occupied in
3 nature, need to have some type of
4 association formed or a plan before
5 this project will be approved, that
6 the developer or the owner or the
7 manager of these apartment complexes
8 would have to have some set of
9 standards that they would have to
10 abide by, as well. A plan would
11 need to be submitted on the various
12 rules and regulations that the
13 renters would have to abide by in
14 terms of these rentals. And, a
15 plan would need to be in place to
16 designate who would maintain this
17 property to the standards that are
18 required by the surrounding
19 community.

20 And, finally, for character of
21 the neighborhood, as Mr. Burke so
22 eloquently put in his draft EIS
23 statement on page 3 of the EIS, our

q

1 proposed Brierwood PUD development
2 was intended to be the "most
3 prestigious in the Southtowns". The
4 literature marketed by E.F. Burke
5 Inc. was used to increase the sale
6 of this PUD and it stressed contin-
7 uously throughout anything I have
8 seen, "country club living", "a golf
9 course community", "an elegant town-
10 house community", and "the coveted
11 lifestyle of the 80's". I have
12 numerous copies of that literature
13 which I will pass on to you.

14 Within the final EIS, it is
15 noted "that consistency as related
16 to residential usage can relate to
17 three areas: structure, value and
18 density." Furthermore, it also
19 states that the value of the
20 units to be sold will all be equal
21 to or in excess of the assessed
22 full value of adjacent residences.
23 Currently, homeowners pay from

1 \$5,000 to \$9,000 per year for taxes.
2 The proposed project is a change of
3 characteristic for our PUD, as low-
4 income housing or apartments are
5 proposed.

6 I don't know really how you
7 can mitigate that, because he's
8 developed Brierwood and made it
9 what it is. I have pictures showing
10 you the standards of what our houses
11 look like. The literature that he
12 has given, I don't know that that's
13 anything that can be mitigated, but
14 I'll pass it on to you and that's
15 all I have.

16 CHAIRMAN CRANDELL:

17 Thank you. I have a similar
18 comment for you that I did earlier.
19 When it comes to that homeowners
20 agreement or by-laws or whatever, we
21 are interested but that would be the
22 extent of it. There are numerous
23 clauses in there that we have
absolutely no authority to enforce

1 or anything else. If there are
2 things in there that relate to some-
3 thing that would come under the
4 jurisdiction of the Planning Board,
5 we certainly would look at it.

6 MRS. ROACH:

Just one other point I wanted
7 to talk about.

8 MR. ROACH:

I think the point that Chris
9 was trying to make there is that we
10 can't do the screening from our
11 side of the fence, that the visual
12 impacts have to be mitigated from
13 the developer's side.

14 CHAIRMAN CRANDELL:

And, that's an excellent point
15 and something that we should look
16 at. But, as far as the conditions
17 that are there as it relates to
18 what's in your by-laws, that's a
19 different issue altogether.

20 MRS. ROACH:

There's is just one other
21 point that I wanted to make. As far
22 as the lights, I know my husband
23 touched on some of it, but we

1 request a light spillage study to
2 show the visual impact studies, how
3 the lighting will be seen from the
4 surrounding family's homes, their
5 yards and other aspects of the PUD.
6 We want to compare these to the
7 existing conditions as proposed and
8 with the screen and buffer and with
9 as much wooded area left as possible.

10 We are also concerned about
11 the noise. From the plans, it looks
12 like all the trees would be cutdown.

13 I want to know whatkind of impact
14 that's going to have on the quiet
15 residential community that we have
16 today. We'll obviously be hearing
17 more traffic from Southwestern if
18 there is not that buffer of trees.

19 Then, the only thing that I
20 wanted to end in closing, from my
21 talk, is that Mr. Giacalone said
22 to me that PUD stands for Plan
23 Unit Development and he said to me,

1 "Where's the plan in all of this?"
2 Everything has changed from what the
3 PUD originally stood for. There's
4 so many things that are different
5 from this PUD. I think to put
6 modest apartments in the closest
7 proximity to the highest scale end
8 of this PUD is not good planning,
9 it's poor planning and what you do
10 now sets the plan. It just makes
11 no sense. It's inconsistent and
12 illogical to put the least expensive
13 part of the PUD next to the most
14 expensive part of the PUD. Thank you.

15 CHAIRMAN CRANDELL:

Anyone else? Any of the
16 Planning Board members have any
17 comments or questions that you want
18 to bring up at this time?
19 Drew, do you have any closing
20 comments that you want to make?

21 MR. REILLY:

Just that I am going to relate
22 to the Planning Board that I will try
23 to put a synopsis together of this

1 and if you all would like to turn in
2 your notes, I will make a copy so
3 all the notes can be given to each
4 one of the members so you are going
5 to be receiving a large packet in
6 the coming days or coming next week.
7 We'll try to have some preliminary
8 discussions at our meeting next week.
9 Of course we are not going to spend
10 a long time because we won't have a
11 long time to think about this, but
12 just in preparation for probably a
13 much longer discussion at our Work
14 Session following the May 6th
15 meeting.

16 MR. VOGEL:

I just wanted to make sure that
17 you received a fax copy of the
18 independent study as to the need of
19 senior citizen housing in the Town
20 of Hamburg. I had that faxed over
21 to you this morning.

22 MR. REILLY:

No, we haven't seen anything,
23 so you might want to re-fax it or

1 hand deliver it. We'll check in the
2 office.

3 MR. VOGEL:

I faxed it to Mr. Crandell to
4 whatever number I have been faxing
5 him.

6 MR. CRANDELL:

Rosemary, do you know if that
7 came in?

8 ROSEMARY:

I do not know if it came in. I
9 did not see it.

10 MR. CRANDELL:

Check with Jim tomorrow morning
11 because it may have come in and he
12 may have put it on my desk. I
13 wasn't in there today, so it's
14 possible it's on my desk.

15 MR. VOGEL:

It was done this morning at
16 10:00, between 10:00 and 11:00.

17 CHAIRMAN CRANDELL:

We'll follow up and make sure
18 we check it out.

19 MR. WERTHMAN:

Just one procedural question, if
20 there are other interested parties
21 and I'm surprised that a few people
22 that I thought would be here are
23 not, that had some comments and

1 questions, how long would be record
2 be open in terms of commenting on
3 the scoping document?

4 MR. REILLY:

5 I believe we said there's a
6 longer time frame but I asked for
7 in the Notice that we receive
8 comments up to our Work Session
9 because we are going to start
10 discussing it then. So, I would
11 like to have comments received by
12 then. It's next Wednesday night,
13 because I would like to have that
14 and give it out to everybody.

14 CHAIRMAN CRANDELL:

That's our regular work session.

15 MR. REILLY:

16 Next Wednesday is a regular
17 meeting.

17 MRS. ROACH:

18 And, you'll be discussing it
19 there?

19 MR. REILLY:

20 Very briefly. I mean, I want
21 to let people know we will be
22 discussing it, probably the last
23 item on the agenda, trying to hand
out all of these things and briefly

1 discussing some things and how we are
2 going to resolve this quickly by
3 May 6th. So, we will be discussing
4 it, so if you want representation,
5 we will be talking about it.

6 MR. VOGEL:

Based upon the amount of infor-
7 mation we covered this evening, is
8 it possible for us to get copies of
9 the tape?

10 CHAIRMAN CRANDELL:

It's public record. We are
11 going to have the transcription made.

12 MR. REILLY:

A copy of the transcription
13 will be available when it's ready.

14 CHAIRMAN CRANDELL:

But again, go through the
15 Town Clerk's Freedom of Information
16 form, fill it out. Did somebody
17 else have their hand up? Okay, I
18 guess there is no one else.

19 I just want to thank everybody.

20 Tonight's meeting went much better
21 than I expected. I was a little
22 apprehensive and I would like to
23 thank everybody for working along

1 with us. I hope that we are going
2 to work with you and that includes
3 Mr. Burke. We want to bring this to
4 the proper final solution and
5 at this time, I don't think any of
6 us of any idea of where it's going
7 to go. But, everybody's input is
8 important and I want everyone to
9 understand that we do take your
10 information and your concerns to
11 heart. We are not going to ignore
12 it and we will hopefully make the
13 right decision. Thank you again.
14 The meeting is adjourned.

15
16 (Whereupon, proceedings concluded.)
17
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23

CERTIFICATE OF REPORTER

1
2
3 I, WENDY ROYCE MCCANN, hereby certify that I did
4 report in machine short-hand the foregoing proceedings
5 had in the above-entitled matter, at the time and
6 place hereinbefore set forth; I do further certify
7 that the transcript consisting of 96 pages, is a true
8 and correct transcript of my said stenographic notes.
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WENDY ROYCE MCCANN

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