

**Town of Hamburg Planning Board
Meeting - May 6, 1998**

The Town of Hamburg Planning Board met for a regular session on Wednesday, May 6th, 1998 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, Dick Pohlman, Don Fitzpatrick, Sue Ganey. Others attending included: Attorney Don McKenna, Rich Whipple, Rick Lardo, Drew Reilly, and Terry Dubey, Stenographer.

Roberts 3 Lot Subdivision - South Creek Road - Public Hearing

Secretary Koenig read the following Legal Notice of Public Hearing:

**LEGAL NOTICE
TOWN OF HAMBURG
PLANNING BOARD
PUBLIC HEARING ON
ROBERTS SUBDIVISION
2828 SOUTH CREEK ROAD**

Notice is hereby given that the Planning Board of the Town of Hamburg will conduct a Public Hearing on a 3 lot subdivision known as Roberts Subdivision located at 2828 South Creek Road on May 6th, 1998 in the Public Meeting Room of Hamburg Town Hall at 7:30 p.m.

**ALL THAT TRACT OR PARCEL
OF LAND,**

SITUATE in the Town of Hamburg, County of Erie and State of New York, Distinguished as being part of Lot no. Thirty Two (32), Township 9; Range 8, of the Holland Company's Survey, bounded and described as follows:

BEGINNING at a point in the center line of South Creek Road at its intersection with the East line of Lot No.

Thirty Two (32) and running Northerly a distance of Four Hundred and Thirty Five and sixth tenths (435.60) feet; thence Westerly a distance of Two Hundred (200) feet; thence Southerly a distance of Four Hundred and Thirty Five and Six tenths (435.60) feet; thence Easterly a distance of Two Hundred (200) feet to the point or place of beginning.

TOGETHER with the appurtenances and all the estates and rights of the parties of the first part in said premises.

TO HAVE AND TO HOLD the premises herein granted, granted unto the parties of the second part, their heirs, distributees and assigns forever.

AND the parties of the first part hereby covenant as follows:

FIRST, that the parties of the first part are seized of said premises, and have good rights to convey same;

SECOND, that the parties of the second part shall quietly enjoy the said premises;

THIRD, that the parties of the first part shall forever WARRANT the title to said premises;

FOURTH, that this conveyance is made subject to the Trust fund provisions of section thirteen of the lien law.

**RICHARD CRANDALL, Chairman
GERARD KOENIG, Secretary
Planning Board
Dated: April 17, 1998**

Comments from Engineering: 1. The site is not located in a sanitary sewer district and public sewer service is not available to the proposed lots. 2. Public water service is available along South Creek Rd. 3. The map cover requirement may be waived. 4. The survey drawing incorrectly shows the road name as North Creek Road (Should be South Creek Road).

Chairman Crandall declared the hearing open. Mr. Reilly noted that at the last meeting, the project was tabled as the property is located in the Critical Environmental Area. This mandates a Type I action and lead agency status was established. Correspondence was sent out to the various agencies, and we received no response. This is a large lot subdivision. The 30 acre parcel borders the creek. Two acre lots should not have an adverse impact on the creek.

The applicant was asked if there was intent to subdivide further? Response from Mr. & Mrs. Roberts was that they do not wish to at the present time. This should be noted on the drawing.

Chairman Crandall asked 3 times if anyone wished to be heard for or against the subdivision?

Mrs. Faye Staley of South Creek Road asked that since this is farm land, wouldn't they be grandfathered? Response: Mr. Reilly advised that this step was necessary as the law changed and the parcel fell into the Critical Environment category.

Hearing no further comments, the hearing was declared closed.

Motion was made by Mr. Koenig, seconded by Ms. Ganey to approve the preliminary with a notation that no segmentation was to take place on Lot #1; that the street name be changed to South Creek; that a Negative Declaration be issued; and that the map cover filing be waived. Carried.

Builder's Square Plaza - Service Merchandise Bldg. - McKinley & Milestrip.

Mr. James Rumsey appeared on behalf of the Benderson application. Mr. Reilly noted that at the last board meeting, the issues of concern related to traffic movements. The board authorized me to meet with the N. Y. State Dept. of Transportation to resolve the issue of the entrance on Milestrip Rd. We believe the Planning Board resolved the issue of the entrance on McKinley. We now move to the entrance on Milestrip. We met with the DOT and the DOT faxed us a letter that they approve of the modified plan that the Board will look at tonight. The relocated entrance on Milestrip will now be a "right in, right out" only. One comment that came up at the Work Session by the Town Engineer was why the right in, right out configuration on Milestrip couldn't be more similar to the one on McKinley. Why was there a flat surface on the one side which would not prevent left hand turns as thoroughly as the one on McKinley.

The other issues that came up at the DOT were the cut off access for internal traffic. Benderson has addressed the problem across the street at BJ's where people were blocking the entrance by extending the curb further into the parking lot. That was acceptable to the DOT also. One other issue is the cut-thru to the median to accommodate traffic south of Appleby's. The DOT has signed off on the plan. The County was working with Benderson and said that the entrance on McKinley is acceptable and have asked for the addition of a deceleration lane going in to the right in only. I told the County that the Town would be happy with that. This would be an added turn lane which would be useful especially during Christmas time.

The Town Engineering Dept. has asked that approval of this plan be subject to Town Engineering design approval on the entrance.

Builder's Square (Cont.)

Motion was made by Mr. Phillips, seconded by Don Fitzpatrick to approve the changes and additions to the building; subject to the additional cut thru south of Appleby's; that there be an additional turning lane for stacking traffic off McKinley into the proposed deceleration lane; to change the exit of the former Service Merchandise east exit on Milestrip & make it like McKinley; subject to Town Engineering approval. Carried.

Engineering Comments:

SUBJ: PLANNING BOARD 5/6/98 WORK SESSION AGENDA
Builder's Square Plaza (former Service Merchandise)
McKinley Pkwy. at Mile Strip Road

The following are review comments on a concept plan dated March 1998 and last revised 3/23/98:

- (1) The site plan for the original development of 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. An Erie County Highway permit is required for access onto McKinley Parkway.
- (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 new driveway proposed for this project.
- (4) New York State Dept. of Transportation (NYSDOT) approval is required for the relocation of the driveway along Milestrip Road. Please provide our department a copy of the developer's response to the 4/13/98 NYSDOT comment letter.
- (5) We will review construction plans for the site when they are submitted.

Hamburg Mobile Home Park - Southwestern Blvd.

Engineering Comments: 1. The proposed mobile home on Lot No. 1 is located over the existing sanitary sewer main. The unit is to be relocated to allow proper access for maintenance and repair of the sewer. 2. The Lake Shore Fire Co. should be contacted to determine if there are sufficient hydrants servicing the site.

Mr. Reilly explained that the Town Engineering Dept. and the Planning Board has worked for 2 years to come up with a method of improving the park. There is now a solution to the long term improvement program. The applicant has agreed to as the owner gets control of the sites, he will bring the mobile home park into conformance with the approved plan. It could take 5-20 years to complete. However, this will give the Building Inspector a plan to work off as the mobile home park proceeds to conformance. The only unresolved issue is the surveyor will add the correct location of the new right of way that was obtained on the DOT. This should be accurately drawn to show ownership. The Engineering Dept. has requested that there be no sewers underneath any of the mobile homes.

Motion was made by Mr. Pohlman, seconded by Mr. Eustace to approve the preliminary to bring it in conformance with the plan for Building Inspection over the next generation. The drawing is to reflect the change in the location of the mobile home unit on Lot 1 away from the sanitary sewer and State right of way; subject to an update of the survey; Building Inspection to review the location for the single family dwelling. A Negative Declaration is to be issued. Carried.

Richwood - Part I - DONATO BUILDERS - McKinley & Quinby

Mr. Reilly informed the board that concept approval was given on Richwood Acres on an overall development. We issued an approval with less lots. The new approval includes preliminary plat approval for Phase I, which is the lots separated from the main body of the subdivision. These are the lots fronting on McKinley. We also need to take action on setting a Public Hearing and to act on the SEQOR on the entire project. On the environmental, the main issue has to do with traffic. The County does not agree with the median cut to McKinley Parkway. Basically, that issue has to be resolved. The following is the memo received from Earl Dubin, P. E. Traffic Engineering Dept. of Public Works which reads:

On Thursday, April 23, 1998, a meeting was held with Mr. William Tuyn of Pratt & Huth Assoc. to discuss access from the proposed subdivision onto McKinley Parkway CR 204. We have reviewed the proposed site plan and have the following comments: 1. The County is opposed to any crossing through the existing median along McKinley Pkwy. 2. The County would require the developer to provide a plan for "Shoulder Stabilization" along the

from the proposed new intersection. 3. That a meeting be scheduled with the Town of Hamburg, Erie Cty. Highway and the proposed developer to discuss recommendations for the intersection of McKinley Parkway CR 204 and Quinby Drive.

Mr. Reilly explained that there was an agreement about the water line improvements for this area. With the old applicant, the Water Authority has waived their moratorium on the water lines. This will require approval on the water lines and we must work out the details on this issue. We must address those issues while we are approving Part I. We never did SEQOR on the project as it only got to conceptual approval. SEQOR was done on the Part I. This applicant now owns the entire parcel. The Recreation Dept. would like to have a tot lot considered. The applicant would like to do the research and is asking why Rush Creek was never built. If one is slated for Rush Creek, there would be no need for a tot lot for Richwood Acres.

Mr. Crandall noted that as far as the Town is concerned on playgrounds, the concern is always maintenance and cost involved.

Motion was made by Mr. Phillips, seconded by Mr. Fitzpatrick to set a Public Hearing for May 20th. Carried.

Brierwood Senior Apartment Complex - Off Southwestern Blvd.

Chairman Crandall noted that this is not an opportunity for more public input. However, I have been asked to read the following letter from Christine M. Roach of 5513 Country Club Lane.

I've had the opportunity to speak with Fred Defenbach from the Army Corps of Engineers. He has informed me that some of the area of the proposed apartment complex for the Brierwood PUD is under their jurisdiction because it is characterized as wetlands, In light of this, and also because you have limited the public from raising issues beyond the five brought out in the scoping session, I am formally requesting you consider this issue when determining the draft scope this evening.

I formally request a delineation report characterizing the boundary of the wetland, including amount of acreage and a study defining the plant life in this area. I also request a report investigating the proximity of this proposed development to this wetland and it's impact on this wetland and the other wetlands in the PUD. I understand Mr. Burke has been advised of his need for a permit from the Army Corps of Engineers to develop any of this area near the wetland. I would like this stipulated in the scope, that this permit be secured and plans for the site be accepted by the Army Corps of Engineers, on condition of the plans being approved.

Please share this letter with all the Planning Board members.

I formally request that this letter be read into the record at the Planning Board Meeting this evening, as well as my previous letter from April 10th. I feel it is important on record to defend Mr. Burke's characterization of me as a liar. I thank you for your consideration in this important matter.

April 10th letter from Christine Roach

Dear Mr. Crandall and all Planning Board Members:

I didn't feel it appropriate to comment regarding Mr. Burke's opening letter at the April 9, 1998 Scoping Session because I respected your decision to keep the scoping session to the task at hand. However, I cannot let Mr. Burke's comments stand as truth without addressing his inaccuracies in portraying other letter writers and myself as sending false information to our neighbors.

Enclosed please find a copy of the application and cover letter sent by Burke Realty in response to a request for information regarding the proposed Senior Housing Project. The cover letter clearly states the minimum age requirement to be 55 or older.

As far as classifying the proposed complexes as "subsidized", I believe you yourself, Mr. Crandall, debated the semantics of what subsidized means with Mr. Burke at an earlier planning board meeting. Mr. Burke has attempted to receive IDA funding, and funding like this, in my definition, is characterized as subsidized.

Finally, the other point Mr. Burke feels was misrepresented was our stating this complex would be tax-free. At the December 1997 meeting that I invited you to attend at Brierwood Country Club, I specifically asked Amy Gomlak Brace, the OLV representative, if this proposed project would be tax-free. She explained to me that it would be tax-free because OLV is a non-profit organization.

If any of my information was or is inaccurate please let me assure you and all the Board members I would not intentionally pass on any misinformation. I take pride in being an honest person and have taken extra measures to make sure I have not spread any misinformation or innuendoes. Please be assured I will continue to act in an honest and forthright manner.

For the record, our "solicitation" in requesting neighbors to solidify our fighting this proposal and our determination to have open space and recreation space within our PUD has overwhelmingly brought the majority of our neighborhood into the process. This was not done by spreading lies, but actually, by just giving the facts.

Thank you for allowing me the opportunity to clarify the inaccuracies portrayed at the scoping session. Please share this letter with the other Board Members.

Sincerely,

Christine M. Roach

cc. E.F. Burke



DEPARTMENT OF THE ARMY
BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

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REPLY TO
ATTENTION OF:

May 1, 1998

Regulatory Branch

SUBJECT: Permit Requirements for Proposed Work, No. 96-976-0066(1)

Mr. Patrick Burke
Brierwood Village, Incorporated
6455 Lake Avenue
Orchard Park, New York 14127

Dear Mr. Burke:

I was recently informed that you may be planning to develop a portion of your property to construct the Brierwood Senior Living complex. The location identified as the proposed development site is located along Route 20 immediately north of the OLV Brierwood Medical Center in the Town of Hamburg, Erie County, New York.

Under Section 404 of the Clean Water Act, the U.S. Army Corps of Engineers regulates the discharge of dredged or fill material into waters of the United States, including freshwater wetlands. Certain types of activities, such as landclearing using mechanized equipment and/or sidecasting, in a jurisdictional water would likely be regulated under Section 404 of the Clean Water Act.

On Wednesday April 29, 1998 I inspected the property and observed areas that appear to be under Department of the Army jurisdiction. In addition to this brief inspection, an office resource review was conducted and it was determined that your project may fall within Department of the Army jurisdiction. The office review included an evaluation of the following resources:

- soil survey maps.

Because the evaluation was based solely upon a brief site inspection and references contained in our office, I strongly suggest that you either submit an application for a Department of the Army permit or contact this office for advice on procedures to be followed before proceeding with the project.

Should work begin in an area which is within Department of the Army jurisdiction without proper authorization, you may incur a violation of Federal law. If that happens, your project may be stopped, a full or partial restoration of the jurisdictional area

Regulatory Branch

SUBJECT: Permit Requirements for Proposed Work, No. 96-976-0066(1)

may be required, and/or you may be subject to civil and/or criminal penalties.

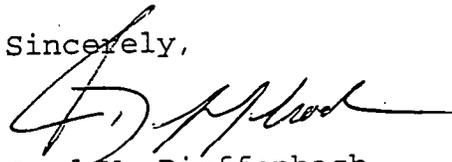
For your convenience and future use, I am enclosing:

- a. a permit application
- b. a list of required drawing elements.

A copy of this letter has been forwarded to: Mr. Andrew Reilly.

Questions pertaining to this matter should be directed to me at (716) 879-4317, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207-3199, or by e-mail at: Fred.W.Dieffenbach@usace.army.mil

Sincerely,



Fred W. Dieffenbach
Biologist

Enclosures

WALSH, FLEMING & CHIACCHIA, P.C.
ATTORNEYS AT LAW

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*ALSO ADMITTED IN MASSACHUSETTS

May 5, 1998

Richard Crandall, Chairman
Drew Reilly, Development Coordinator
Donald F. McKenna, Esq.
Town of Hamburg Planning Board
S-6100 South Park Avenue
Hamburg, New York 14075

RE: "Scoping Session" Meeting April 9, 1998 SEIS and Town Planning Board
Forthcoming Findings

Gentlemen:

With your target date of May 6, 1998 (finalization meeting) fast approaching, we would like to memorialize the events that brought about the above-referenced SEIS.

Sequence:

1. Several Town Planning Board review meetings leading up to Mr. Drew Reilly's January 29, 1998 letter setting forth demands for a "Supplemental" EIS further identifying the five (5) scope items to be researched.
 - A. Traffic
 - B. Character of the Neighborhood/Community
 - C. Drainage
 - D. Schools
 - E. Greenspace
2. With my letters to Planning Board attorney Don McKenna dated March 6, 1998 and March 17, 1998, I forwarded both legal reasoning and documented past planning board adopted procedure showing why an SEIS was not only improper but in the complete contrast with past planning board precedents.
3. Although my clients, OLV Hospital-E.B. Burke Co. were most emphatic with their advisement that they disagreed with the planning board's legal justification to demand

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Richard Crandall, Chairman
Drew Reilly, Development Coordinator
Donald F. McKenna, Esq.

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the aforescribed SEIS, they openly cooperated in their participation through the "scoping" date. (OLV Hospital-E.F. Burke Co. Letter dated April 9, 1998)

The following is a review of what has been established to date on the five items under consideration:

A. Traffic:

It has been some 60 days since our submission of a traffic study to the DOT for review. Since there has been no negative comments to date, it appears this issue has been satisfactorily and/or received in both the EMS Consulting traffic report and N.Y.S. Department of Transportation review thereto. Obviously, no significant environmental impacts have been identified.

B. Character of Neighborhood/Community:

My clients have thoroughly reviewed this issue to the best of their ability. They engaged the services of design engineers to do the following:

1. As built construction rendering of the Senior Development;
2. A site line analysis showing a prospective viewing of the Senior buildings from the closest residential homes in Brierwood Estates;
3. They designed a prospective section identifying the proposed berming, together with the treeing and privacy fencing both protecting Senior residents from the driving range and/or any intrusion from unauthorized visitors;
4. My clients identified the aesthetic architecturally designed lighting that will be used to both beautify and protect the interior hidden parking area within our Senior Development; and
5. To further satisfy neighbor concerns, my clients sought out and presented a multitude of evaluation opinion letters from Appraisers, Real Estate Brokers and Land Planner Professionals within the industry.

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No significant environmental impacts have been identified.

C. Drainage:

The plan is presently acceptable pending a final site plan engineering review, by both the Town Engineering Department and Planning Board Coordinator, Drew Reilly. No significant environmental impacts have been identified.

D. Schools:

This does not appear to be an issue. With the substantial decrease residential units evidenced by a comparison of the 1988 EIS study and the present updated PUD plan, together with the Senior housing age being 61 years or older, both Mr. Reilly's and neighbor comments at the April 9, 1998 scoping session agree it is not an issue. No significant environmental impacts have been identified.

E. Greenspace:

Plot maps have been presented that evidence there will be an increase of greenspace in the OLV Hospital-E.F. Burke Co. Senior proposal from both the earlier approved office park or the 1996 approved Senior presentation by the Court Street Company from Binghamton, New York. No significant environmental impacts have been identified.

We respectfully request that the "Scoping Document" reflect the lack of any significant environmental impacts. We also respectfully request a negative declaration be issued.

This has been a lengthy, and as often happens, a tiring and unrewarding struggle for the board. I admire and respect the integrity by which you and all concerned have exhausted every effort to hear neighbor or public concerns.

My client has patiently and at considerable expense engaged professionals to develop information that clearly should establish in all minds that his Senior housing will have no significant

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environmental impact, but will truly satisfy a much needed amenity for the Senior citizens of our community.

Very truly yours,

WALSH, FLEMING & CHIACCHIA, P.C.

By: Robert G. Walsh
Robert G. Walsh

pc: All Planning Board Members
Rick Lardo, Town Engineer
Edmund F. Burke
Patrick Burke
Aimee Brace, OLV Hospital
Vincent Sorrentino, Town Attorney
Mark Cavacoli, Board Member

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Brierwood Continued:

Chairman Crandall noted that when it comes to statements that are made, for any subject in front of the Planning Board, this board has to take those comments at face value. We cannot stand and challenge someone's truthfulness or accuracy. It is our job when we start reviewing subsequent to those statements whether or not those statements are true and accurate. We do this to the best of our ability. In defense of Mr. Burke, I am sure that some of the statements he has made he wishes he could take back. Regardless of how this turns out, I can assure you that this Planning Board will approach this decision making process as honestly and forthright as we can. I implore you to keep comments to yourself as we don't want the Planning Board to be the mediator for a dispute of this nature.

The issue at hand is to finalize the scoping document.

Drew Reilly stated that he will work off the 4 page scoping notes that I put together. I have read the documents a couple of times. I have identified some things based upon my understanding of the issues. We will review my notes and complete this in a quick time. If there is disagreement we will have to table. We are providing a scope. We have received public input, and input from Mr. Burke, and we must determine what the scope of the DSEIS will be. We may not agree with some of the information submitted in the DSEIS, but we have to address the issues. This does not reflect that we agree with the statements in their document. The FSEIS will represent what we believe is the answer. The DEIS is done by developer's and many times it is slanted. This is how they work. The FSEIS will be the opinion of this board.

Mr. Walsh sent over a fax correspondence with several issues. One issue that I wish to bring up was that one of the items that we have had a TIS for two months and that he has received no input from us and the DOT. Therefore, it must be acceptable. The TIS is an irrelevant document at this point. We have positive dec'd the project. We will address issues in the DEIS. The DOT is not reviewing anything right now as the TIS does not exist. It keeps the review process solid. The DSEIS will be the document that the board will be reviewing. Anything submitted beforehand is irrelevant information. Once the decision is made, it is not in the form of the SEIS.

The first item should be characterization. This project is to be identified as Brierwood Apartments--Senior Housing. This is an apartment complex and should be treated as such. It should be an accurate description of the project. The issue of seniors comes up in the school issue. Each element is a factor. Also if the funding does not come thru for this project, it will be considered null and void and the applicant is to start over. The

original EIS also showed single family dwellings. The original EIS did not include an apartment complex.

Traffic - Internal traffic movements. We have concerns as to where the traffic will go, how will people be cutting thru the development. This is very important. We have also referred to Glen Eagle as a private drive. There is no formal name. Only town roads are identified. Under the TIS DOT standards, we will need updated traffic counts. The last ones were done in 1995. This should also reflect the number of accidents that have occurred. Counts should be taken for Southwestern Blvd., Rogers Road & Cloverbank--Amsdell Rd. & Southwestern & Camp Road, also Amsdell and Route 5, Rogers & Route 5. Also entrance on Southwesertn should be evaluated. This should also include turning lanes and the closing of the entrance.

Character of the Neighborhood-- Mr. Reilly has added to his notes for a density comparison for each and every phase to the original EIS. Although the density of the entire development is much the same, the only density that has decreased is in the quarry area. Other areas have increased in density. Also, there should be design alternatives.

Drainage--The board has received comments regarding drainage problems downstream. This is something that is not unique to the apartment complex. We have had this problem for a long time. Mr. Crandall stated that he is concerned about the image that what we may approve will make things worse. If it doesn't make it worse, what are the alternatives? A response of some type is required. We will have to look to Engineering for some type of guidance. This doesn't directly affect the apartments. Some of the property is in the aquifer of Berrick's Creek. Mr. Burke's project is about 46% under roof or paved over. That means that the rainfall is hitting the ground and re-charging the aquifer with Berrick's Creek and retards flooding of the creek and the rain will be gone. There should be some protection for the water shed.

Mr. Reilly commented that there should be an updated drainage study, if there are changes since it was built. We should study the impact on the aquifer. The town standard is for 25 year design. Since the introduction of the PUD, there is a new SPEDES law and the project must meet the criteria.

Mr. Paul Werthman noted that the golf course is planning a drainage project on the driving range and will also add to the drainage from this project. That should be taken into account. Plus the existing sedimentation basin and the holding basin was not sized for this project. Those calculations and the volume should be calculated as does any additional sedimentation basins that Mr. Burke has planned. Mr. Reilly noted that perhaps a letter should be sent to the golf course to ask for a cursory review of this change. Under mitigation, there are newer ways of controlling

drainage and there are better techniques for water recharging.

Mr. Paul Dewald of Hidden Lakes Assoc. stated that he has a question regarding the flooding issue. From the Hidden Lake perspective when you speak of the 25 year storm cycles is the assumption that there is no problem. Mr. Crandall responded that he does not assume anything. When the Engineering is done, it should not create a problem. Mr. Dewald: From the Planning standpoint how are we protected so that water that does come on the island breaks over the top of the patios on occasion. We are concerned about a 10 or 20% increase in drainage. Mr. Crandall responded that the Planning Board has not reached the design stage as yet. Thru the Engineering Dept. the entire drainage system will be looked at and the developer is required to design it so that there is not any problem downstream. If you have a problem, some of these have been in that area and around Glendale for a long, long time. That is a different set of circumstances. I am not sure who should look at that problem, or the extent of the Town's responsibility. Over the years, we have had a lot of complaints. Anything that is newly designed should have no adverse impact on what is already there. If it does, the developer did not follow what we approved. It leaves you with the situation that regardless of what is going on in Brierwood, in theory there should be no adverse impact. We can't hold Mr. Burke responsible for a problem that is already there when he hasn't contributed to it. It may be something you wish to pursue.

Green Space--Passive and active recreation

There is a letter from the Army Corps that there may be a small Federal wetlands on site. It is in conflict with the 1993 letter saying that there were no Federal wetlands. Wetlands come and go. The question will be raised as to whether there are wetlands there now. If there is, they may be filling that in.

On item F, how does the sale of the golf course affect the green space plan. I read issues of how the golf course was to be used in the winter for cross country skiing. There is the issue of the heart trail. Will residents be restricted from going on the golf course. How should that be addressed. There is also the question of the incorporation/impacts to the Heart Trail. What is the timing for completion. Part of the Heart Trail is in Sawgrass which is quite beautiful. Under Item B, depict the open space on a map. Open space should be addressed at each phase of the project, and how it relates to this project. Show what was proposed and what exists now.

Motion was made by Mr. Pohlman, seconded by Ms. Ganey to authorize the Planning Consultant to format the scoping document which is to be sent to interested agencies and to the Attorney for the residents, Art Giacalone. Carried.

Dennis Griffin - Storage Building

Mr. Dennis Griffin appeared before the Planning Board on a proposed storage building to be located on his used car lot at S-4090 St. Francis Drive. **Engineering Comments** are as follows:

- (1) The site plan for this parcel was previously approved by the Planning Board on 8/20/97. The required work has not been completed.
- (2) Paving millings are not acceptable in the driveway area. Include a proposed pavement section.
- (3) Proposed grade elevations are required for the building and driveway.
- (4) The site is in a flood plain. A flood plain development permit will be required to be obtained from the Building Inspector.
- (5) The site is located within the boundaries of the Town's coastal management zone, as designated by the Town's Local Waterfront Revitalization Program. Therefore, a Federal Consistency Assessment Form is to be prepared and submitted to the Town's Shoreline Revitalization Committee for review and approval.
- (6) The proposed building appears to be located close to or over the existing water service and sanitary sewer lateral. The building is to be relocated to allow proper access for maintenance and repair of these lines.
- (7) Show all proposed sewer, water, electric and gas services to the building.
- (8) The building will require a floor drain. Include the proposed pipe size, slope and a profile view. Submit the plan to the Erie County Dept. of Environment and Planning (ECDEP) for review on behalf of the Erie County/Southtowns Sewage Treatment Agency. We will not approve the site plan prior to the approval of ECDEP.
- (9) The drawings should be updated to correctly show current conditions (existing vs. proposed items).
- (10) The drawings should show the locations for installing the post and chain detail.

All comments must be satisfactorily addressed for approval.

This application was approved by the Zoning Board of Appeals as a temporary use permit for a period of 2 years. Attached are the conditions under which this permission was granted on January 6th, 1998.

Findings on this application are: The request for variance on this application of the flood plain requirements is fairly complete and the board has to take into account the possibility of damage should a 100 year flood occur when this variance is granted. The board should include a condition requiring that an agreement be made with the Town Attorney to hold the Town blameless for any liability. Once that condition is met, the Building Departments requirement should stipulate that the pier detail is to be provided by Mr. Griffin as attached and installation can then be under the supervision & approval of the Building Dept. and that the final finished flood elevation as proposed will exceed the base level of the 100 year flood plain. Once these conditions are met, we can make a positive recommendation from this board.

Mr. Lardo of the Engineering Dept. noted that Mr. Griffin has not complied as required on the anchoring of the mobile. The approval is only provisional based on compliance with Engineering and Building Inspection, and to date, that has not been done.

Board members asked what the storage building would be used for? Mr. Griffin responded that it would be used for car detail. Mr. Lardo noted that accommodation must be made for the soap that will be used for the car washing. The application related to a permanent accessory building. How can a permanent structure be approved when the applicant only has a temporary permit? The application is before the Zoning Board, but Planning Board members noted that they cannot see how they can even make any type of recommendation. What happens if the permission is not granted beyond 2 years. In the view of the board, this proposal should be turned down.

Motion was made by Mr. Phillips, seconded by Mr. Eustace to Table for a meeting with Drew Reilly and the affected departments. Carried.

Alteration to the Racquetball Club at 3390 McKinley Parkway.

Messrs. Peter Liberatore, Jr. and Attorney Jay Pohlman appeared before the Planning Board on a proposed modification to the McKinley Racquetball Club on 3390 McKinley Parkway. One year ago, the Planning Board approved a new racquetball club on Lake Street. Now, there is no one interested in using the property as a racquetball club. It is the intent of the applicant to reduce the square footage of the building from 27,000 s.f.; max out the parking area and reduce the square footage on the first floor to 12,000 s.f. They want to make sure they have enough parking for a second floor if the alternate end user took more than 1 floor. It's situated for either. We propose to eliminate the parking and the exits to the north. The McKinley Park Inn will stand on its own use and will be kept as a separate site. There will be no access to McKinley but rather from Dorchester. There are 72 spaces per code. The proposed use will probably be used as a retail operation. The building was designed as a racquetball club, and they will be demolishing part of it.

Chairman Crandall noted that he is having difficulty in understanding the drawing as there are no angles. There are no dimensions. Variances will be required for this project.

Engineering Comments are as follows:

- (1) A site plan for the McKinley Park Racquetball Club was previously approved in 1979. However, we could not locate a copy of that plan.
- (2) Note on the plan that a Town of Hamburg Highway Dept. permit is required for work within the Dorchester Parkway right-of-way.
- (3) Provide storm sewer pipe in the open ditch along Dorchester Parkway.
- (4) Show the location of the roof downspout lines.
- (5) Show the location of the garbage dumpster. The dumpster is to sit on a concrete pad.
- (6) Provide storm water drainage calculations.
- (7) Modify the sanitary sewer clean-out currently located in the lawn area for installation in the proposed paved parking lot. Include a detail of the clean-out.
- (8) Revise math errors in storm pipe grades.
- (9) Provide a storm manhole detail.
- (10) Ten (10) inches depth of stone is to be used for the parking lot base.
- (11) Label all areas to have curbing. Include the north line of the parking area along McKinley Parkway.

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McKinley Racquetball Club (Cont.)
Conservation Board: No environmental problems.

Motion was made by Mr. Phillips, seconded by Mr. Fitzpatrick to forward a favorable recommendation to the Zoning Board for a parking variance for Dorchester; setback variance on the westerly line, and a variance for McKinley Parkway. Carried. D. Pohlman - Abstained.

Special Use Permit for a Day Care Center to be located in the Woodlawn Elementary School now used as Towne Readers.

Mr. Tom Mosey appeared before the Planning Board on a proposed special use permit to allow a day care facility to be located in the Woodlawn School. This is an existing building. There will be a play area and a new fence to the rear of the property.

Conservation Board - No environmental problems.

Engineering: 1. A site plan for the Towne Readers Service Office Building at this location was previously approved by the Planning Board on 1-18-95. We have no review comments on the current proposal.

Motion was made by Mr. Koenig, seconded by Mr. Eustace to set a Public Hearing for May 20th. Carried.

Hutchins Automotive - Subdivision of the Liberatore Parcel off Camp Road.

The site was initially approved for Hutchins Automotive Supply contingent upon subdivision approval. Mr. Liberatore would not sign off on the property.

Engineering Comments:

We have not received a plan for this subdivision. The following are general subdivision review comments.

- (1) Provide a survey for the entire parcel. Number the parcels proposed to be subdivided.
- (2) Note on the plan any special conditions, restrictions, and the zoning of the parcel.
- (3) On 12/17/97, the Planning Board approved the site plan for Hutchins Automotive Supply contingent upon subdivision approval and response to Engineering Dept. review comments. Revised plans have not yet been submitted.
- (4) Ingress and egress restrictions should be placed on the proposed parcels. Direct access to Camp Road should not be approved for a new business, due to the accident history of the area and proximity to the Thruway entrance.
- (5) Consideration should be given to the construction of a single access roadway for the entire area, connecting Camp Road (opposite Dartmouth Street) to Commerce Place.

Motion was made by Ms. Ganey, seconded by Mr. Eustace to set a Public Hearing for May 20th. Carried.

Autumn View Manor Addition - Southwestern Blvd. S4650 S.Western Blvd.

This is for an addition for a Sub-Acute Rehabilitation area of 8,200 s.f. to the existing facility. At the present time, the nursing home is located on an 11.65 acre parcel located at S4650 Southwestern Blvd.

Engineering Comments are as follows:

SUBJ: PLANNING BOARD 5/6/98 WORK SESSION AGENDA
Autumn View Manor - S-4650 Southwestern Blvd.

The following are review comments on a plan dated 4/20/98:

- (1) Previous site plans for this facility were approved on 10/7/82 and 7/21/93.
- (2) A minimum of ten (10) inches depth of stone base should be used in the paved areas.
- (3) The landscape plan is to be approved by the Planning Board.

All comments must be satisfactorily addressed for approval.

Item is to be on May 20th agenda.

Page 2 lot subdivision - near 4151 Bayview Road

This is for a 2 lot subdivision in an R-2 zone, adjacent to the railroad tracks. There should be a location map provided.

Engineering Comments:

The following are review comments on a survey dated 4/7/98, and last revised 5/1/98:

- (1) The parcels being subdivided should be numbered.
- (2) Sanitary sewer service is available to the proposed lot along Bayview Road.
- (3) Public water service is available along Bayview Road.
- (4) The map cover requirement may be waived.

Motion was made by Mr. Koenig, seconded by Mr. Eustace to set a Public Hearing for the May 20th agenda. Carried.

Lockwood Subdivision - Clark Street

This is for a 2 lot subdivision of land. The elder Mrs. Lockwood is deceased and the applicant wishes to move her house and eventually set another greenhouse on the vacant parcel.

Engineering Comments are as follows:

- (1) Sanitary sewer service is available to the proposed sublots.
- (2) Public water service is available along Clark Street.
- (3) The map cover requirement may be waived.
- (4) The building address on the plan is not correct. A number will be assigned by this office at the time that a building permit is issued.

Motion was made by Ms. Ganey, seconded by Mr. Pohlman to set a Public Hearing for May 20th on the Lockwood Subdivision. Carried.

Continental Transmission - Special Use Permit - Camp Road

This proposal is for a Special Use Permit to sell used cars on the property located on Camp Road. At the present time, the proposed use conflicts as the parking will be on the State right of way. This is a major concern as to how he will meet the requirements.

Engineering Comments:

- (1) We could not locate a previously approved site plan for this location.
- (2) The parking spaces along Camp Road extend into the highway right-of-way. All parking spaces should be moved back to the required setback line.
- (3) Parking bumpers or curbing should be provided for all parking spaces.

Motion was made by Mr. Eustace, seconded by Mr. Koenig to set a Public Hearing for the Special Use Permit on 5-20-98. Carried.

Jacqueline Subdivision - 2130 Lakeview Road

This is for a 2 lot subdivision for a single family dwelling. The property is zoned R-1. Drawing needs location map, seal, and survey.

Engineering Comments:

- (1) The proposed sublots should be numbered.
- (2) Sanitary sewer service is available to the proposed sublots along Lakeview Road.
- (3) Public water service is available along Lakeview Road.
- (4) The map cover requirement may be waived.

Motion was made by Mr. Fitzpatrick, seconded by Ms. Ganey to set a Public Hearing for the 2 lot subdivision. Carried.

Motion was made by Ms. Ganey, seconded by Mr. Pohlman to approve the minutes of the March and April meetings. Carried.

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

Respectfully submitted,

Gerard Koenig
Gerard Koenig, Secretary
Planning Board