

T.C.

**Town of Hamburg
Planning Board Minutes
May 16, 1990**

The Town of Hamburg Planning Board met in regular session on Wednesday, May 16th, 1990 at 7:30 p.m. in Hamburg Town Hall. Those attending included: Chairman Richard Crandall, Vice-Chairman Elgin Cary, Secretary Gerard Koenig, Sandy Carnevale, David Phillips, Steve Strnad, Dennis Gaughan. Others included: George McKnight, Rick Lardo, and Terry Dubey, Stenographer.

Excused: Dan Gorman, Sheryl Bower

Minutes of the meeting of April 25, 1990 were approved as amended with the addition of Paul Guenther's comments on Downey Rezoning Application, by Mr. Phillips, seconded by Mr. Carnevale. Carried.

Executive Session:

1. Berkley Square--This proposed P.U.D. was officially referred to the Planning Board from the Town Board meeting held on May 14th. Director of Planning has already discussed the matter with the Town Board for this is a Type I action and requires lead agency status. Letters must be sent to agencies to begin the environmental review process. Scoping session must also be held.

Downey Rezoning - Convenience Store - Southwestern Blvd. near Amsdell.

Messrs. Tom Blaine and Downey appeared before the Planning Board on the proposed rezoning for a convenience store changing the zoning from R-A, Residential Agricultural to C-1 for local retail. Mr. Blaine presented a sketch denoting that the creek is not near the proposed convenience store and that a good portion of the property is bordered by the Lake Shore satellite fire station.

Mr. Crandall pointed out that Southwestern Blvd. & Camp Rd. need to be looked at so as to determine how an orderly growth pattern can be established. Contact was made with Mr. Burke to determine where the strip plaza will be located across from Brierwood. However, plans have not been finalized. Mr. Crandall also stressed that there is an unused plaza at South Shore that does not have full occupancy and a start of this proposal would set off a chain reaction for other parcels that are presently zoned Residential Agricultural.

Mr. Blaine interjected that this is a 4 lane highway, and the proposed use is the most logical use for the land. Otherwise, the property is useless as it cannot be used for residential with a fire station by it. Discussion has been held with the Lake Shore Fire Company and they are not opposed to the proposal. The other 3 corners are encumbered.

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Motion was made by Mr. Phillips, seconded by Mr. Koenig to forward an unfavorable recommendation to the Town Board for the Rezoning Petition of Mr. Downey for a convenience store and a change in zoning from R-A, Residential Agricultural, to C-1, Local Retail for the following reasons:

1. This would be considered a spot zoning.
2. Based on the report of the Hamburg Future Development Advisory Panel, this corridor is yet to be reviewed and studied for a special plan on growth for this section.
3. Approval would be contrary to the recommendations of public input that was provided in the report. Carried.

Request of R. Brox on Rushcreek Subdivision

A question was raised by the Building Inspector on the Rushcreek Subdivision. Five per cent of the land has been donated and a determination is to be made on the fee paid. It was agreed that the other 50% of the recreation fee is to be paid on each building permit issued.

Tiffany Meadows -- Public Hearing

Secretary G. Koenig read the following Legal Notice of Public Hearing on Tiffany Meadows:

**LEGAL NOTICE
TOWN OF HAMBURG**

Notice is hereby given that the Planning Board for the Town of Hamburg will hold a Public Hearing at Hamburg Town Hall, S-6100 South Park Avenue for the purpose of approving Tiffany Meadows Subdivision, on May 16th at 8:00 p.m.

ALL THAT TRACT OR PARCEL OF LAND situate in the Towns of Hamburg and Orchard Park, County of Erie and State of New York being parts of Lots No. 43 and 35, Township 9, Range 7 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point at the southeast corner of Subdivision Lot 49 according to a map cover filed in the Erie County Clerk's Office under cover number 2168; thence westerly along the southerly line of map covers 2444 and 2168, 1108.15 feet to the southwest corner of Subdivision Lot No. 1 according to a map filed in the Erie County Clerk's Office under map cover 2444, thence northwesterly along the west line of Subdivision Lot No. 1, 170 feet to the northwest corner of Subdivision Lot No. 1; thence westerly along the south line of Holly Place 75.68 feet to a point; thence southeasterly along the easterly line of lands conveyed to the Town of Hamburg 113.67 feet to the southeast corner of lands so conveyed to the Town of Hamburg; thence westerly along the south line of lands so conveyed to the

Town of Hamburg 170.52 feet to the westerly line of lands conveyed to Edward G. Benz and Emma A. Benz, his wife by deed recorded in the Erie County Clerk's Office in liber 4288 of deeds at page 159; thence southeasterly along the westerly line of lands so conveyed to Benz 1267.98 feet to the southerly line of lands so conveyed to Benz; thence easterly along the southerly line of lands so conveyed to Benz 1268.36 feet to the southwest corner of lands so conveyed to The Diocese of Buffalo by deed recorded in the Erie County Clerk's Office in liber 6192 of deeds at page 47; thence northwesterly along the westerly line of lands so conveyed to the Diocese of Buffalo 642.42 feet to the northwesterly corner of land so conveyed to the Diocese of Buffalo; thence northwesterly along the northerly line of lands so conveyed to the Diocese of Buffalo 555 feet to the center line of Abbott Road; thence northwesterly along the center line of Abbott Road 709.28 feet to a point; thence southwesterly at right angles to the center line of Abbott Road 440.85 feet more or less to the point or place of beginning.

May 5th, 1990

Richard Crandall, Chairman
Gerard Koenig, Secretary
Planning Board

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Chairman Crandall declared the hearing open. Mr. Mark Braun, developer, appeared on behalf of the proposed subdivision. A revised plan has been submitted whereby an access to South Abbott has been designated and one entrance to Holly Place has been deleted. The residents have also provided 2 alternate drawings whereby there are no entrances to Holly Place. This affects the number of lots by 6.

Mr. Pat Gerken noted that the residents went to an engineering firm for a rough layout of alternatives to eliminate the other street on to Holly Place which is close to the playground. These are rough sketches. The one plan shows the loop which has no access to the playground. We are concerned with traffic in that area. Lots have been reduced from 81 to 77.

Chairman Crandall noted that there will only be 1 point of access and the children in the new development will be cutting thru people's yards to get to the playground. There is no public right-of way access in either design. There would be little traffic cutting thru Lilydale no matter which direction they were going.

Mr. Gerken noted that this is a preliminary sketch. As far as emergency access is concerned, we brought up the possibility of bike and walking paths with some type of secondary road for vehicles to cut the traffic. One of our main objections is the close proximity of this road to the playground where the children will be going, especially with expanded playground hours. The majority of people will head out to Clark street to get to various points. Newton Road is not a viable alternative. Traffic already cuts down to Knab and Best going to St. Bernadettes. Also, once Abbott Pines is built the access will be to Newton Rd. We have a lot of traffic. The main concern is increased traffic.

Mr. McKnight pointed out that he does not feel that the residents will be speeding past the playground. There must be an alternative to a pathway as bike and pedestrian walkways between homes cause problems with the neighbors and the Buildings and Grounds Dept. must do the maintenance. Mr. Gilmartin is opposed because of the maintenance.

Mr. Mark Radich, resident of Holly Place, noted it was the Planning Bd. recommendation that a playground be incorporated into the new subdivision & allow usage for green space. Mr. McKnight responded that the drawing was taken to the Recreation Director to determine the need for active playground space. We submitted the plan to the Conservation Board to see if passive recreation was required. The Recreation Dept. responded that there is an active playground area and there is no need for acquiring additional playground space. Money that would be donated by the developer when each home is built is given to the recreation fund to improve the existing playground, which is adequate for both subdivisions.

Tiffany - Public Hearing Continued

Mr. Radich also brought up the fact that it was his understanding that a D.E.C. report was due. Response is that there are no wet lands involved nor is it near a flood plain. An Environmental Assessment has been prepared by the developer. Reference was made to the comments made by Duke Spittler, Chairman of the Conservation Board relative to this project which reads:

The writer did a walk thru of the entire Subdivision. There is a large area in the wooded portion (Southwest corner that is inundated. But this is really an Engineering concern and does not have any serious environmental concern. As far as open space, the southwest and southerly boundaries of the subdivision abut the right-of-way of the New York State Electric and Gas Corp. Assuming at some future time that the Town of Hamburg takes steps to acquire public access easements for hiking trails, over public utilities rights of way, it is the opinion of the Conservation Board that this right of way constitutes adequate open space for this development. This right-of-way has access from Abbott Rd. and also thru the exiting Town of Hamburg recreation area. The wooded portion is a rather low grade second growth wood lot, and none of this is deemed to be desirous for Town open space.

Mr. Bob Meyer, resident noted that the playground is a disgrace. The swings are not up, grass is not cut. There are holes all over. The suggestion of a one way traffic pattern was made which is to be investigated by the Traffic Safety Board for consideration.

Questions also raised were in relation to Sewer Dist. #3 and Erie County Water Authority on water pressure. Response given was that the Engineering Dept. usually reviews these requirements. Residents complained of inadequate water pressure and flow now. It was noted that a 6" dead end line would be installed. A resident also noted that there were deed restrictions, copy of which is to be submitted to the Planning Dept. These are undoubtedly filed in the County Clerk's office. As far as Erie County Water, they usually require 8" conversion lines.

Mr. J. Lyon suggested that there be a mall type road as opposed to a single road for safety reasons.

Mr. Fred DeJohn of Holly Place stated that he realizes that an economic factor is to be considered. However, the residents are concerned with safety. The area has produced a heavy traffic pattern now.

Comments from departments are as follows:

Tiffany Meadows (Continued)

Planning--1. The name of the owner of the tract or his/her authorized agent, if any, and the subdivider are required on the plat. 2. Zoning requirements: district and lot size are required on the plat. 3. A key or vicinity map is required. 4. Names of all owners immediately adjacent to the property is required.

Engineering: 1.3 The site is partially in the Town of Orchard Park. Approvals from Orchard Park will be required. 5.3 There is a sewer easement across the parcel to St. Bernadette's Church. 13.3 The width of the gasline easement is to be shown. A copy of any restrictions is to be provided. 14.3 The street names are to be reviewed by this office and fire control.

Map Cover Information--Declaration dated Sept. 16, 1982 recorded in liber 9159 of Deeds page 521, September 20, 1982 provides for restrictions on subdivision lots 1 to 8 inclusive according to map filed under Cover No. 2444.

Motion was made by Mr. Gaughan, seconded by Mr. Carnevale to **Table** this matter until the May 30th Executive Session for a vote on the preliminary, Vote is to be taken on Mr. Braun's drawing submitted and is subject to changes & modifications. Decision will be made in the Executive session at 7:30 p.m. Carried.

Liberty Park Subdivision - Part IV

Attorney Jay Pohlman, representing Peter Liberatore, appeared before the Planning Board on a preliminary sketch of Liberty Park, Phase IV which began in 1976. They will be constructing single family dwelling units on R-2 lot requirements. The subdivision started in 1976 but there has been no activity on the last phase in a couple of years and the time has expired for building. It was noted that the lots for single family homes should have shallower driveways. Some of the units in the present subdivision have very steep driveways and this is a problem during winter months.

Comments from departments are as follows:

Building Inspection: Property is zoned R-2. It appears that the minimum lot at the setback line is 60 feet. There is an existing right-of-way through this parcel partially in the proposed area with an easement at 20 feet wide on the northwest side running east to west. There is also one on the northeast side which is 25' wide. This should be shown on the plan to make sure it does not interfere with any of the lots.

Planning: 1. This plat had been approved years before as part of a four phase subdivision, the preliminary approval has expired, this this plat has been exempted from the typical procedure of requesting comments from recreation, conservation, traffic safety,

Liberty Park Subdivision (Continued)

etc. A buffer strip should be included along the lots bordering the New York Central rail Tracks.

Engineering: 1. The plan should be labeled "Part IV" not phase. 2. All previous approvals have expired. This department will be reviewing the project the same as a new submission. 3. The site is not in a wetland or flood plain. 4. The site is in the Erie County Sewer District #2 and the Town Wanakah Water District. 5. The name of the subdivider is to be shown. 6. All lot lines on a curve are to be radial. Label them radial on the plan. 7. Correct the spelling of "Margaret."

Motion was made Mr. Koenig, seconded by Mr. Gaughan to set a Public Hearing for June 13th at 8:00 p.m. Carried.

Ben Nicosia--Twilight III

Mr. Ben Nicosia is before the Planning Board on a sketch of Twilight III to set a Public Hearing for his subdivision of duplex units. A 50' buffer strip is to be designated in its natural state to be part of the rear of the lots with the drainage in front with dedication to the town for town ownership. Matter was tabled for 2 weeks pending an answer since this is a court case. Comments from departments are as follows:

Planning--1. The plan does reflect the open space and recreation area requested by the Conservation Advisory Board & the Recreation Dept. If the lots are to be split and sold separately, they should be individually numbered. The zoning requirements: district and lot size must be shown. The approximate dimensions of all lots should be shown.

Engineering: We have not received a revised plan on the subject site since our 4-23-90 review. Also, on 4.3, there should be a standard renumbering of the lots. Also, the Highway Dept. does not like cul-de-sacs because of snow plowing difficulties. They are a maintenance problem.

Attorney Giacalone noted that he is present to protest the continuation of the review of the subdivision pending a court action which is to take place on May 22nd. Also what was presented in the first rezoning petition is not what is presently being reviewed. Initially, the rezoning called for 55 lots and 110 units. Now, the plan indicates 69 lots and 138 units, an increase of 38%. It was explained that initially a concept is presented. When it comes to actual Engineering, things can change.

Motion was made by Mr. Gaughan, seconded by Mr. Carnevale to schedule a public hearing for June 13th at 8:15 p.m. Carried.

Rezoning Petition of Alan Knapp, Pearl Montgomery for 34 sub-lots on Part of Lot 10, T-9, R-8 located on Lakeview Road

Messrs. Jay Pohlman and Alan Knapp appeared before the Planning Board with a proposed rezoning petition of 34 sub-lots on 12 acres of land on Lakeview Road. The proposed change is from R-A to R-1. They are seeking a recommendation on the rezoning.

It was pointed out that the area has been identified with a circle of a possible archaeological sensitive area and which should be taken into consideration. The parcel will be used for single family dwellings in the \$110,000 to 135,000 range. Planning Board noted that they want reverse frontage and no driveways out to Lakeview Road. Conservation Board noted that the 2010 Master Plan identifies the area for light industry. The proposal would also change the rural nature of the neighborhood.

Mr. David Phillips stated that this type of Residential Agricultural is typical of the citizens complaints of urban sprawl and to protect as many of the R-A parcels as possible. Mr. Pohlman pointed out that this is an area whereby The D.O.T. has headquarters, there are self storage buildings nearby, and as you enter the Village, there is a collision shop and a lumber yard.

Mr. Guenther noted that this is active agricultural area, and should be preserved, and protected from urban intrusion. I would encourage keeping this Residential-Agricultural.

Mr. Phillips pointed out that we have a sufficient amount of R-1 land that should be developed first. This is also an area whereby we have the Nike site and future recreation areas planned.

A motion was introduced by Mr. Cary, seconded by Mr. Gaughan to forward a favorable recommendation. Denied with Mr. Carnevale abstaining.

Motion was made by Mr. Phillips, seconded by Mr. Strnad to forward a negative recommendation to the Town Board for the following reasons:

1. This proposal would be spot zoning.
2. The proposed use is not in conformance with the recommendations made in the Hamburg Future Development Advisory Report. Carried.

Comments from Departments are as follows:

Planning: It has been recommended by the Green Space Committee at their May 3, 1990 meeting and caution should be taken to avoid strip development and row after row of housing along Lakeview Road. According to the Department of Environmental Conservation's

Lakeview Court Rezoning

Archeological Site Maps, the proposed subdivision may be of some archeological significance.

Engineering: 1. The length of the permanent deadend street exceeds 500 feet (Section 31-18(1)). The Highway Supt. requests the use of cul-de-sacs be limited. 2. Access to Lake View Road and its high speed traffic is not a desirable feature of the layout. 3. The site is not in a wetland or flood plain. 4. The site is in the Boston Valley Extension to Erie County Sewer District #3. 5. The site is not in a water district. A new district will have to be created. 6. Show the centerline of pavement and radius for all curves. 7. All lot lines on a curve are to be radial. Label them on the plan. 8. Show the names of the adjacent owners. 9. A topographic map is required. 10. The street name is not acceptable. All proposed names are to be reviewed by this office.

Strawberry Fields - Mr. Manfreda - Lakeview Road

Mr. Manfreda and Mary Zulawski of Realty One appeared before the Planning Board on the proposed Strawberry Fields Subdivision which is to be located on Lakeview Road. At the last meeting, the Planning Board asked for a layout showing an interior road to avoid 9 driveways on Lakeview Road. Mr. Manfreda stated that he will put a berm with a split rail fence and shrubbery along the front similar to what has been done on Sunset Drive. He also agreed to a "T" turn around for snowplowing purposes. Comments from departments are as follows:

Conservation--1. This will be a neighborhood change for the New Lake View Road area. Limited access through the one proposed road off of New Lake View is a good idea. A linear buffer along New Lake View with the planting of trees would help preserve the feeling of the area as well as reduce the loud traffic noise resulting from the high speeds on New Lake View. 2. The loss of this agricultural land is a concern. What does the developer propose to do with the top soil which is considered a resource? I suggest saving as much as possible. 3. Another concern is the lack of a road connection to Engel Drive. I suggest that the Strawberry Fields Road be connected to Engel Drive in order to increase development access as well as access from the proposed development to the 18 Mile Creek area. This may result in the loss of one lot or perhaps a few smaller lots, however the benefits in the long term would be worth it. 4. No open space is shown on the plan and this should be considered, especially in view of the trend to develop undeveloped areas. Just because there is open space in the area now is no guarantee that there will be open space as the development sprawls out. 5. The developer identifies the land as "moderately well drained" and there was a drainage ditch filled with water along the back property line near Engel Drive. What does the developer propose to do with this storm water? Will the storm water effect the Engel Drive homes?

Strawberry Fields Continued

Engineering: 1.2 All proposed utilities on the plan are to be removed. These utilities will be reviewed by this office with the appropriate agencies after preliminary plot approval is granted by the Board. In the past plot approval has been interpreted as utility approval also. 2.2 A topo is required. 3.2 Part of the site is not in a water district. A water district extension will be required. 4.2 The site is not in a sewer district. A district extension or a fringe customer agreement will be required. 5.2 The site is not in a wetland or flood plain. 6.2 Access to Engel Drive should be restricted by a note on the plan. The cul-de-sac on Engel Dr. was never installed and could be described as a paper street. The abandonment should be evaluated by the Town Attorney. 7.2 It should be noted on the plan that the lots along Lake View do not have access to Lake View Road. 8.2 Buffer strips are to be in addition to the normal lot depth required and reserved for plantings (Section 31-22).

Mr. Guenther noted that in the original rezoning petition, the applicant guaranteed that there would be 16 homes only. Mr. McKnight responded that the Planning Board requested an interior road. In order to compensate for this type of expense, he would have to build more homes to make it cost effective. A request was made for a second hearing. Since the Planning Board Attorney was not present the question could not be answered if a new public hearing is necessary.

Motion was made by Mr. Phillips, seconded by Mr. Strnad to approve the preliminary on Strawberry Fields provided another public hearing is not necessary, and the resolution of item 6 in the Engineering letter on the cul-de-sac and abandonment should be evaluated by the Town Attorney. & all Eng. Comments addressed. There is to be a "T" turn around for snowplowing purposes. Carried.

Hamburg Country Store - Southwestern Blvd. - Mr. Manfreda

Mr. Manfreda also appeared before the Planning Board on behalf of his proposed sporting goods store which is to be located on Southwestern Blvd. Comments are as follows:

Planning--Provide more landscaping around building and along the street. A rendering or sketch of the building facade is useful. According to the landscape elevation shown on the site, the proposed sign appears to be 30' tall. A maximum height of 18' is allowed.

Engineering--1. The Town Board rezoning of 4-9-90 required that the parking be laid out so that connections to adjacent parking can be provided. We question the connection to the west. 2. A second rezoning requirement dealt with drainage evaluation. A complete

Hamburg Country Store (Continued)

watershed analysis is to be submitted to this office for review. The Soil Conservation Society approved TR-55 method is to be used. An alternative would be to construct a detention pond acceptable to this office. 3. A state road cut approval is to be provided prior to plan approval. 4. Design elevations are required for the parking lots and buildings. Include all storm pipe, size, material, inverts, slopes and catchbasin elevations. Show all proposed swale grades. A swale should be installed along the back and west side also. 5. Locate the nearest fire hydrant. The Big Tree Fire Company should be consulted. 6. Consider curbing for the entrance and parking areas. 7. The Board has a requirement that the entire front ditch be piped. We suggest that this be waived but would like to see 80 l.f. of pipe installed at the driveway. 8. Show the roof downspouts piped to the storm sewer or ditch.

It was noted that landscaping should be added. Mr. Manfreda stated that he will have a split rail fence as well as shrubs. Mr. Howe pointed out that Southwestern Blvd. is a main corridor of the Town and the building should be as attractive as possible. Mr. Manfreda stated that the building will be built with a barn look and will be very decorative. The signage will be in conformance with the code.

Motion was made by Mr. Strnad, seconded by Mr. Gaughan to waive the requirement that the entire front be ditched; and that 80 l.f. of pipe be installed at the driveway as recommended by Engineering. Carried.

Since the Conservation Board's comments were not yet in, matter is to be Tabled for the next two weeks. Motion was made by Mr. Strnad, seconded by Mr. Gaughan to Table approval pending Conservation Board review. Carried.

Tasseff Rezoning - North side of Beaubein Drive from R-A to R-1 for Single Family dwellings

Mr. Tasseff appeared before the Planning Board on his rezoning petition of property north of Beaubein Drive from R-A to R-1 for single family dwelling units. Mr. Tasseff has been working on the project for many years and has waited for the sewers to be located on East Eden Road. Now that the work has been completed, he would like to take up the project once again. Approximately 55 lots are involved with 90' frontage.

Motion was made by Mr. Phillips, seconded by Mr. Strnad to forward a denial recommendation for the rezoning petition from R-A to R-1 for the following reasons: 1. The proposal is not in compliance with the 2010 Master Plan. 2. The proposal is not in conformance with the report of the Hamburg Future Advisory Panel. 3. There is a need to protect our resources and certain areas

Tasseff Rezoning (Continued)

should remain Agricultural and this area is one of them. 4. There is a need to protect prime agricultural land. 5. There is still R-1 land available for single family development. Carried. (Vote 4-3) Opposed: R. Crandall, E. Cary, S. Carnevale.

Shoreham Drive - Pinehurst Subdivision - J. Bosse

Attorney Richard Sullivan and John Bosse appeared before the Planning Board on his recent letter that was submitted to the Planning Board Attorney on its position relative to the continued development of Shoreham Drive in the Pinehurst Subdivision. Last month, the Town of Hamburg Zoning Board of Appeals granted our client's applications for variances to permit construction on eight (8) undeveloped lots on Lakecrest Drive located in the same subdivision. The variances were granted primarily because the sale of 5 Lakecrest Drive lots under the old (80') frontage requirement created a unique non-conformity relating to the new (90') frontage requirement. Each of the non-conforming lots contained the minimum square footage required by the new zoning ordinance. As I explained to the Zoning Board that evening, the Pinehurst Subdivision has a long history of eclectic development. The subdivision was originally approved for development by the Town of Hamburg on Sept. 24, 1926. The original lots sizes on the approved subdivision map were generally 50 to 60' wide. Some homes were obviously built on combined subdivision lots. The Town of Hamburg amended its Zoning Ordinance at least twice over the years to increase minimum lot sizes in residential areas. Most recently, in the summer of 1989, the Town increased the frontage requirement from 80 to 90 feet.

Shoreham Drive is an improved street. John Bosse acquired the property originally on July 15, 1988 as part of a joint venture. He has owned the property personally since March 15, 1989. John Bosse has already received permission from the Planning Board to continue the extension of Shoreham Dr. Nine lots for Phase I were approved by the Planning Board under Map Cover 2544. The lots are 80'. Following the directions of the Town Engineering Dept., Mr. Bosse proceeded with preliminary plans for the continued development of Shoreham Dr. with 80 foot lots. The extension was designed to proceed to approximately 150' north of Route 5. A substantial amount of engineering was undertaken and completed and preliminary plans were presented to the Planning Board sometime after December 5, 1988.

The Town changed its zoning ordinance in the summer of 1989 to require 90 foot lots in an R-1 area. Unfortunately, after Mr. Bosse acquired the property he proceeded with his plans for development of Shoreham Drive, and indeed purchased this land with the understanding that the R-1 lots would be 80, not 90 feet in frontage. Based upon the fact that a substantial amount of Engineering has been completed, and the Planning Board approved

Shoreham (Continued)

(albeit under a different zoning ordinance) 80 foot lots on part of Shoreham Drive, it is our desire to proceed with the development of Shoreham Drive under the 80 foot requirement. A water line extension, hydrants and all required fixtures (gate valves, curb boxes, tap sleeves) have all been installed up to Hazelwood Rd. The storm drainage system design was completed based on 80' frontages. This work was all completed months before the "second" zoning change. We will be able to document the Engineering and improvement costs for the extension. We believe that our client acquired vested rights to develop Shoreham Drive in 80 foot lots by the purchase of the property, the undertaking of substantial engineering, and following the advice of the Town Engineering Dept. A recent decision of The Appellate Division, Second Dept. Ellington Construction versus the Zoning Bd. of Appeals 549 N.Y.S. 2d 405 (2nd dept 1989) lends substantial support to our position of vested rights as it relates to the area of Shoreham Dr.

Attorney Sullivan stated that with the change in the 90' lots, some of the hydrant caps will wind up in the middle of someones lot. There are 22 additional lots involved. The document has no stamp on it. Engineering approval was given in December 1988. However, Mr. Bosse never appeared before the Planning Board with this site plan. It was noted that Wanakah Water required that the construction plans be completed for the entire length of the road. Twelve lots are 80' and the rest are 90'

Since the Planning Board Attorney was not present to decide whether the applicant had "vested rights";

Motion was made by Mr. Carnevale, seconded by Mr. Koenig to **Table** for a legal opinion from the Planning Board Attorney. Carried.

Engineering Comments: 1.2 The sublots numbered 1 to 9 were refiled on 6-2-89 as map cover 2544 and should be noted as such. 2.2 All lot lines on a curve are to be radial and are to be labeled as such on the plan. 3.2 All sublots are to be consecutively numbered. Do not use 11, 11A, 11b designation. 4.2 This is a Part and not a phase as shown at s.1. 9-10.

OTB Parking Lot - Woodlawn

The Engineer from Kreihbel Associates appeared before the Planning Board for a proposed resurfacing of the O.T.B. parking lot in Woodlawn. An appearance is necessary before the Zoning Board as they are not 35' from the street. Two residences have been demolished to make way for the bigger lot.

Mr. Don Nowak, adjacent resident, noted that he is not in favor of a privacy fence as this would be right up against his home and he would not be able to maintain that side of his home. Mr. Nowak suggested a guard rail of some type

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instead. He also noted complaint of carbon monoxide fumes. The zoning is N-C, Neighborhood Commercial. O.T.B. does not have enough room for parking and they have been working with the Woodlawn Revitalization Committee on the project. The demolition of the 2 homes is an attempt to remove some of the eyesore especially since this is a main corridor of the Town. A request for landscaping was made.

Comments from departments are as follows:

Engineering: 1. Add grades for the proposed storm sewer--include rim inverts and percent of pipe slope. 2. Add pavement grades and surface drainage flow arrows. 3. Add a typical pavement section. 4. Add a site location plan. 5. Curbing or railroad ties should be used to separate the green area from the parking lot. What is proposed for the cross hatched section in the north corner?

Planning--1. The buildings to be town down are an eyesore. 2. The existing sidewalk is in poor condition. 3. More landscaping should be provided in addition to the Red Maple. 4. The scale should read 1" = 10'. 5. An Architect's or Engineer's seal is required. 6. The code for the Town of Hamburg reads that, "no open off street parking area for five or more vehicles shall be located within 10 feet of any side or rear lot line of an adjoining lot in any R District. The parking along the rear lot line of the site does not meet this requirement. 7. The parking along Rt. 5 and Fourth St. is too close to the street line, this matter will have to be taken up with the Zoning Board.

Building Inspection--The plan is not well done. The concept is proper but there are no measurements on the drawing. No elevations for drainage have been indicated. There is no detail on the parking lot. There should be a guard rail in front of the house adjacent to the home to the north of the proposed location. The property is zoned commercial. It violates 29-129B(1). This must be approved by the Zoning Board for not only Route 5 but also 4th St. There must be a minimum of 10' for green area.

Mr. Nowak commented that the place is a mess. There is garbage thrown all over, and adding a flower garden, will not improve the property by much.

Mr. Phillips commented that he would like to see some type of berming and hedges and landscaping, not just dirt piled up along the sidewalk. Also, the resident needs some protection by a form of guard rail. Mr. Strnad commented that there is nothing positive about this proposal.

Motion was made by Mr. Cary, seconded by Mr. Carnevale to **Table** this proposal for a resubmittal of a better drawing with the aforementioned comments. Applicant was not referred to the Zoning Board. Carried.

BJ'S Wholesale Club - Milestrip Road

Mr. DePauley appeared before the Planning Board on the proposed BJ'S Wholesale Club which is to be built on the Regency motel parcel on Milestrip. Matter was tabled from 2 weeks prior pending the outcome of the Conservation Advisory Board review. Comments are as follows:

Conservation: We recommend that the Niagara Mohawk property be excluded from this project. In other words, no approval should be given for the development of the Niagara Mohawk land into a parking area. The basis for this recommendation is the fact that the Niagara Mohawk land is classified as open space in the 2010 Master Plan. The proposed development is therefore in conflict with the 2010 Master Plan. As open space, the land serves several purposes, including future incorporation into a trailway system that would link major open-space areas in the town. The town should ensure that this land remains available as an open-space corridor and should avoid setting a precedent by which this corridor would be allowed, piece by piece, to be used for other purposes.

Since the land in question is presently in productive use as a powerline, we do not believe the Town would be imposing any hardship on the owner of the land (Niagara Mohawk) in denying further development (such as a parking lot) on the land. If the proposed plaza could be developed on a smaller scale (without using the Niagara Mohawk land), we believe that it would not have a significant effect on the environment. To comply with SEQR, the town should issue a conditioned negative declaration or CND, the condition being that the Niagara Mohawk land must be excluded from the proposed development. Whether the project could proceed on this basis is unclear. We were told at first that it could, and later that it could not.

Planning--The location of the free standing sign will have to be shown on the approved version of the site plan. Variances will be needed to have parking spaces within 35 feet of the street right of way. Approval must be received from Niagara Mohawk for proposed used under power lines. The parking along the rear of the proposed BJ's building should be at least 10 feet from the rear lot line. There should be either a 5' fence or a compact evergreen hedge which will reach a height of 5' within 3 years, placed along the rear lot line. This screening should be maintained in good condition at all times.

Applicant responded that new drawings have been submitted to the Thruway Authority. Also, they will design for a larger detention pond with a fence. At the present time, the variance on the parking setback has been tabled for an on site inspection until June 5th.

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Mr. McKnight asked the board if they wanted an Environmental Impact Statement, and if so, what type of concerns should be identified. The applicant is willing to make some type of connection for continuous green space. The Conservation Board was not specific as to what should be done. It was noted that traffic could be one consideration. Response on this item is that application has been made for signalization at the entrance thru the State Dept. of Transportation. It was also suggested that perhaps a trail could be designated around the perimeter of the green area. A suggestion was made to have a 10-12' berm with a 6' bicycle path in between. It was noted that a full impact statement would not be necessary. As a form of compromise, the suggestion of the completion of the Part III of the E.A.F with mitigating effects on traffic, drainage, green area should be prepared by George McKnight. A walkway of some type 15' wide, and 2' high with 6' pavement was also suggested. It was noted that an agreement should be drawn up showing that Niagara Mohawk is agreeable. Approval should also be contingent on this agreement.

Motion was made by Mr. Carnevale, seconded by Mr. Cary to have Mr. McKnight prepare a Part III of the E.A.F. denoting mitigating factors such as signalization from the State at the drive entrance; that a detention pond will have a mitigating effect on storm water drainage; intent of Master Plan to have a 25' green space ; that a written agreement be drawn with Niagara Mohawk to use this space under the power lines; that the project be in compliance with all other department comments that have been made, that a fire hydrant be added in the curbed islands; and that there be an internal driveway with Toys R Us. Carried.

Mr. Parlato - Hidden Hollow - McKinley Parkway

Mr. Frank Parlato appeared before the Planning Board for a solution on his project for Hidden Hollow. A 3 page memo (see attached) was presented by the Engineering Dept. signed by Mr. Kapsiak, Town Engineer and Highway Supt. Richard Smith. The issue is the lot line radius and stabilized shoulders. Mr. Crandall stated that he thought this matter was resolved, but apparently it still is not.

The Highway Dept. is not in agreement in accepting stabilized shoulders. An agreement has been reached to put in a concrete gutter road. There was also agreement to reduce the width of the pavement to two (2) 10' driving lanes with 2' curbs for the standard. There was no official motion to waive the sidewalk requirement. The size of the cul-de-sac was a 40' radius. The Town Spec calls for a 50'. Mr. Crandall stated that he measured his street which is 29' and a C.I.D. truck with trailer and a school bus can make the turn with no problem. He also noted that he had the American Association of Highway manuals and they are under 30'. This manual also denotes that stablized shoulders are acceptable. It was also noted that the Planning Board does have the authority to waive these requirements.

Hidden Hollow Continued

Councilman Cavalcoli has asked that a special meeting be set up with department heads to discuss this matter. A special meeting of the Planning Board has been set for June 6th at 7:30 p.m. at which time, the following will be asked to be in attendance: Supervisor Jack Quinn, Mark Cavalcoli, Dick Smith, Town Engineer Kapsiak, Dan Gorman, John Michalek and Planning Board members.

The following was determined:

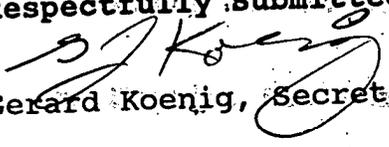
1. Motion was made by Mr. Phillips, seconded by Mr. Gaughan to waive the sidewalk requirement, due to the rural nature of the subdivision, and sidewalks would serve no purpose. Carried.
2. Motion was made to reaffirm the Planning Board's position to accept the change to a standard of a concrete gutter road; Two (2) 10' drive lane of asphalt and 2-2' concrete gutters for a total of 24'; Parking is to be restricted on the hydrant side of the road; that the cul-de-sac radius of 50' pavement is ample. Carried.

Motion to adjourn the meeting was made by Mr. Phillips, seconded by Mr. Koenig. Carried. Meeting adjourned at 1:15 a.m.

Next Regular Meeting
May 30th, 7:30 p.m

Special Meeting
June 6th, 7:30 p.m.

Respectfully Submitted,


Gerard Koenig, Secretary