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HAMBURG, N.Y.

JUN 23 9 05 AM '95

Town of Hamburg Planning Board

TOWN CLERK
Actions --- May 17, 1995

Jaworski Estates Bayview & Big Tree	Approved with conditions
Brierwood Medical Ctr. ³ Southwestern Blvd. E.F.Burke, Developer	Acknowledged error.
Evans Bank Quality Plaza South Park Avenue	Approved with Eng. changes.
S&S Service Camp & Southwestern	Referred to ZBA.
Forest Acres Proposal of J. Lewin	To be researched.
Bert's Bikes Southwestern Blvd.	Tabled to June 7, 1995
B&S Storage J. Cleary - Mini-warehouse Units - Lake Ave.	Approved with conditions.
Blasdell Pizza Southwestern Blvd.	Approved.
Braymiller's former Staub Machine Shop Allendale Pkwy.	Tabled till June 7, 1995.
Bonerb Rezoning - 27 acres South Park Avenue.	Favorable recommendation sent to Town Board.
NFTA Park & Ride Athol Springs	Tabled to next meeting.
Rezoning Petition A. Tarquini - South Park Avenue - R-3 to C-2.	Board not in favor.
Topsoil - Walmart	Addressed on Drawing S-5 in Negative Declaration.

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Town of Hamburg
Planning Board Meeting
May 17, 1995

The Town of Hamburg Planning Board met in regular session on Wednesday, May 17, 1995 at 7:30 p.m. Those attending included: Richard Crandall, Chairman, Secretary Gerard Koenig, Sue Ganey, Paul Eustace, Don Fitzpatrick, Richard Pohlman. Others attending included: Drew Reilly, Attorney Rick Juda, Rick Lardo, Rich Whipple, and Terry Dubey, Stenographer. Excused: D. Phillips

Public Hearing 7:30 p.m. - Jaworski Estates - Bayview and Big Tree Road.

Secretary Koenig read the following Legal Notice of Public Hearing:

**TOWN OF HAMBURG
LEGAL NOTICE
PLANNING BOARD
JAWORSKI ESTATES**

Notice is hereby given that the Planning Board of the Town of Hamburg will hold a Public Hearing at the Hamburg Town Hall, Room 7, S-6100 South Park Avenue on May 17, 1995 at 7:30 p.m. for the purpose of approving a 6 lot subdivision known as Jaworski Estates located at Bayview and Big Tree Roads.

All that Tract or Parcel of Land, situate in the Town of Hamburg, County of Erie and State of New York, being part of Lot Number seven (7), Township nine (9), Range eight (8) of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point in the south line of Big Tree Road, distant three hundred twelve (312) feet east of its intersection with the northeast line of Bayview Road, said point of beginning also being the northeast corner of lands conveyed to Riad A. Kabakibi by deed recorded in the Erie County Clerk's Office in Liber 9085 of Deeds at page 589; thence easterly along the south line of Big Tree Road one hundred forty-three and sixty-two hundredths (143.62) feet to a point; thence southerly at an interior angle of $90^{\circ} 02' 19''$, one hundred thirty-two (132) feet to a point; thence westerly at an interior angle of $89^{\circ} 57' 41''$ and parallel with the south line of Big Tree Road one hundred twenty-nine and thirty-two hundredths (129.32) feet to a point in the east line of lands conveyed to Riad A. Kabakibi by deed first above mentioned; thence northerly an arc distance of one hundred thirty-three and twenty-three hundredths (133.23) feet to the point of beginning.

ALSO ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Hamburg, County of Erie and State of New York, being part of Lot Number seven (7), Township nine (9), Range eight (8) of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point in the northeast line of Bayview Road at its intersection with the east line of lands conveyed to Riad A. Kabakibi by deed recorded in the Erie County Clerk's Office in Liber 9085 of Deeds at page 589; thence southeasterly along the northeast line of Bayview Road two hundred six and four hundredths (206.04) feet to a point; thence northerly at an interior angle of $46^{\circ} 13' 00''$, two hundred forty-four and eighty-five hundredths (244.85) feet to a point; thence northeasterly at an exterior angle of $134^{\circ} 34' 40''$, seventy-six and fifty-two hundredths (76.52) feet to a point; thence westerly at an interior angle of $44^{\circ} 36' 59''$ and parallel with the south line of Big Tree Road two hundred twenty-eight and thirty-two hundredths (228.32) feet to a point in the east line of lands conveyed to Riad A. Kabakibi by deed first above mentioned; thence southerly along east line of abovementioned deed a distance of 157.56 feet to the point or place of beginning.

Dated: May 4, 1995
Richard Crandall, Chairman
Gerard Koenig, Secretary
Planning Board Chairman

Jaworski Estates (Cont.)

Chairman Crandall opened up the public hearing: Mr. Matt Jaworski appeared on behalf of his 2.2 acre, three zero lot line duplexes, to be located at Bayview and Big Tree. All appear to have suitable frontage, and yard requirements. Comments from departments are as follows:

Engineering: 1. A Map Cover is required to be filed. 2. It is our understanding that six single family attached townhouses are proposed by the developer. The sublots are to be numbered 1 to 6. The common wall lot line is to be dotted and established after the unit is built. The word "duplex" should not be used for the units. 3. Site utilities are not to be shown on the preliminary plot plan. We will review and approve site utilities after the Planning Board issues their subdivision approval. The utilities should be removed from the current plan. The sanitary sewer layout as presently shown is not acceptable. 4. Show the names of the adjacent property owners. 5. A site location map is required. 6. A topographical map of the site is required to be submitted. 7. The plan is to be dated. A revision block is to be included and used. 8. Sidewalks are required for the site. 9. Specify driveways with "T" turn-arounds on the plan. R. Lardo, G. Kapsiak
- **Engineering.**

Traffic Safety - Concerns - No locator, no crossroads shown to indicate where driveways come out. Recommendation: Modify duplexes so that garages are in middle and there is only 1 driveway per duplex.

Chairman Crandall asked if anyone wished to be heard for or against the subdivision.

Mr. Reilly noted that there were questions raised on the definition of zero lot line units for 6 lots. The lot line runs down the center of the duplex and splits the duplex into two privately held lots. In the past, the Planning Board has been advised that duplexes are allowed in zero lot line requirements. This is an approvable determination. We advised Mr. Jaworski that if is going to do zero lot line along Bayview, we do not want to see 4 driveways on to Bayview. We asked for a shared driveway between the 2 owners. The applicant has decided to continue with the shared driveway for the units. This will be submitted to the Planning Board Attorney for approval as to how this can be accomplished. Each structure will have a separate address. This will be a double wide driveway.

On the term "duplex", this is a single building with 2 residences. Six zero lot line lots, are referred as duplexes. Engineering has said they are townhouses. They will be selling them as individually sold units. R-2 does not allow townhouses but rather duplexes. This is to be researched for some type of policy, and decision. It's an issue that needs resolution.

Mrs. Eileen Eich, nearby resident, asked about having the number of driveways reduced on Big Tree. It was explained that that would be rather difficult as the area is already developed. There will be 2 on Big Tree and 2 on Bayview.

Chairman Crandall asked two more times if anyone wished to be heard on this application. Hearing no further comments, the hearing was declared closed.

Motion was made by Koenig to issue a Negative Declaration for the project; that the proposal is to be prepared in preliminary format as based on the conditions set by Engineering; that the applicant has agreed to "T" turn-around driveways; & therefore, to approve the subdivision, seconded by Mr. Eustace. Carried.

Brierwood Medical Center - E. Burke

Chairman Crandall noted that on the Brierwood Medical Center, there appears to be a misunderstanding. The original drawings submitted indicated that there would be 26,000 s.f. It was my understanding that this was the gross square footage. Late last week, Kurt Allen and I reviewed the plan and we noticed that the dimensions on the working drawings did not coincide with the square footage on the site plan. As a result, we called Pat Burke to clarify the problem. Perhaps this is a minor item, which is net versus gross of leasible area. The size of the building to scale is properly drawn. The parking is properly calculated. The setbacks and site lines have been shown properly. It is the matter of 26,000 s.f. which doesn't refer to leasible area. Since we gave this information to the neighbors, we felt it would be better to clarify the matter before issuing the building permit. Nussbaumer and Clarke has written a letter which is as follows:

With regards to the questions, comments, or concerns brought forth by both Building Inspector, Kurt Allen, and Planning Consultant, Drew Reilly, we offer the following: Although the building footprint shown on Exhibit "A" is the same dimensional foundation as approved by the Planning Board, in drafting the same, the word "rentable" was inadvertently omitted from the drawing. The building consists of 26,000 s.f. of net rentable space and totals 30,000 square feet of gross area when stairwells, foyers, halls and utility storage areas are considered. As you are aware when determining financial return, it is common to refer to usable or rentable square footage after deducting space used for stairwells and mechanicals. Additionally, the building's gross dimensions of 30,000 square feet are far less than the maximum permissible building size which could be constructed on this site. We trust that the above written will satisfy and/or explain our subject drawings. **David L. Pettit, Project Manager.**

Letter from E.F. Burke which reads: To address the referenced concerns set forth at our earlier meeting, I am enclosing a

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photocopy of May 17, 1995 letter and sketch from Nussbaumer & Clarke. Hopefully, the above will satisfactorily explain the plot plan drawings as submitted. **E. Burke.**

It was noted that there was a mistake made on the plan. They put leasible instead of gross. The neighbors have been notified as to the change and were also given a packet similar to that of the Planning Board. The building was designed to facilitate 30,000 s.f. Where the error came in, we were dealing with a one story building and a 1 story plan has little non-rentable space. You are not working with foyers, elevators, stair wells and other items in a first story building. This structure when converted to two story, was to accommodate our existing tenant mix and worked with rentable square footage. We reduced the ground coverage of the building from 1 to 2 story. The site is designed to handle gross square footage, but used rentable numbers.

Motion was made by Mr. Koenig, seconded by Ms. Ganey to acknowledge that an error was made in the addition of the building and that the Building Inspector can proceed with the issuance of a building permit even though there was a difference in the square footage. Carried.

Evans Bank - Quality Plaza - South Park Avenue

Comments from Engineering are as follows: 1. Provide a profile of the proposed storm water outlet pipe and ditch to the detention pond. Include all slope and invert information. Label pipe as new or proposed. 2. Provide a cross-section of the outlet ditch. Add rip-rap stone and an end-section at the pipe outlet. 3. Provide specific clearing, stripping and erosion control measures and locations on a plan. 4. Provide a letter from Erie County Sewer District No. 3 approving the sanitary sewer layout. 5. Provide an approval letter from the New York State Dept. of Transportation for proposed drainage improvements within highway right-of-way. 6. Provide the invert of the existing 12" pipe to be connected at the new C.B. (not numbered). What size CB's are proposed? A manhole and not a C.B. will be required at this location, because of the number of pipes connecting into the structure. 7. Provide all invert and pipe slope information. Label all new pipes as such. 8. Proposed single parking space at northeast corner of site is considered to be unattractive and a potential traffic hazard. Relocate parking space elsewhere on site.

Mr. Reilly noted that all Engineering changes have been made as requested and new drawings have been submitted to the point where the drawing is acceptable. The driveway entrance has been addressed. The survey crew went out and picked up Engineering concerns. The ditch along the side will be piped and filled in. The orphan parking space has been removed and there is a non-exclusive parking space which will encourage patrons using the plaza to follow the right traffic pattern. There is a better

turning radius from the curb cut at the gas station to the bank. There are some elevations that need to be obtained. On the number of parking spaces provided, they exceed zoning requirements. Some spaces will be used for employee parking in the back. The new topo of the drainage area will be available on Friday. A letter has been received from the State Dept. of Transportation approving the filling in of the drainage ditch on South Park Avenue. We submitted everything to Sewer Dist. #3 and they are reviewing it.

Mr. Koenig asked for an explanation of the non-exclusive parking easement for one car. This is a technical term. We have the right to park one car anyplace within the plaza which is reasonable. They have 18 parking spots delineated. They created an alternative solution.

Motion was made by Mr. Pohlman, seconded by Mr. Fitzpatrick to issue a negative declaration for the project pending the correction of minor changes as stipulated by the Engineering Dept. Carried.

S&S Service - Camp & Southwestern Blvd.

Messrs. Steve Weber and Vincent Connors appeared before the Planning Board on the site plan and renovation for S&S Service on Southwestern Blvd. Comments are as follows:

Engineering: 1. Provide the pipe invert elevations and slope for all storm sewers. 2. Provide a pavement section. 3. Provide a curb detail. 4. Add a revision box and drawing date to the plan.

Planning: Improved site plan increases setback. No way to entirely meet Southwestern Overlay. Needs variance.

Chairman Crandall noted that he would like to know what type of building will be constructed as the appearance of the present one needs a great deal of improvement. Mr. Weber responded that the structure will be a cosmetic decorative block with tan and red stripes. Mr. Crandall stated that he would like to see a rendering of the building when they return from the Zoning Board.

Motion was made by Mr. Pohlman, seconded by Ms. Ganey to forward the proposal to the Zoning board of Appeals with a favorable recommendation. The new structure will be further setback and landscaping will be provided. The proposal is in conformance with the surrounding area. The new proposal will be a better utilization of the location than what currently exists. Most of the property will be in conformance with the Southwestern Overlay Zone. The proposal will improve the aesthetics of the present corner. Carried.

Forest Acres - Schoellkopf Rd.

Mr. Jiggs Lewin and Mike Wysocki appeared before the Planning

Forest Acres (Cont.)

Board with a proposal for Forest Acres. At the February 1995 meeting, a proposition was submitted to you regarding the recreation area of the Privacy & Forest Acres Sub. This proposition offered the Town of Hamburg 9.1 acres of vacant land to accommodate the recreational needs of 23 acres (Privacy Sub. 17 acres and Forest Acres, 6 acres.) The offer far exceeded the required 2.3 acres. However, after much discussion, the Planning Board gave us 3 options, namely: 1. Obtain a wetlands study on the 9.1 acres. 2. Obtain a wet lands study on 1 acre to accommodate the 6 acres. 3. Provide no recreation area. After considerable consideration, we have concluded that the cost of either wetland study would be an effort in futility; that the Town of Hamburg is no longer interested in small recreation areas. Therefore, in compliance with your direction we have elected to Utilize 3. Title to the 9.1 acres (proposed recreation land will remain in the Schoellkopf Estate). Arthur Lewin Starlite Homes and M. Wysocki Wymar Bldrs.

Chairman Crandall noted that this would be considered a 26 lot subdivision and has some concerns about segmentation. Issue is to be researched.

Bert's Bikes - Southwestern Blvd. across from Erie Community South.

Mr. Bert Dunn appeared before the Planning Board on his small plaza to be located on Southwestern Blvd. across from the college. Comments are as follows:

Engineering: 1. Provide a rip-rapped overflow for the detention pond. Provide a detail showing pond elevations and side slopes. 2. The road culvert at the west entrance is to be extended ten feet east of the proposed hydrant for access to the hydrant. It is to be extended west an additional 5 feet also. 3. Note on the plan that a NYSDOT permit is required. 4. The six (6) inch sanitary lateral is to be connected into M.H. 2. The 8 inch lateral to Building B is to be PVC (instead of HDPE). Sanitary plans are to be submitted to Erie County Sewer District No. 3 for review. Note on the plans that the line is to be installed in accordance with Town of Hamburg and Erie County Sewer Dist. No. 3 specifications. 5. Utility profiles to be revised to correspond with changes in utility layout. 6. The Traffic Safety Advisory Board has recommended that a traffic signal be installed at the main entrance. This should be presented to NYSDOT for a determination as to if a signal is warranted. 7. We have no problem with site plan approval being granted by the Planning Board, conditional upon the above comments being appropriately addressed and approved by the Engineering Dept. prior to the start of site construction.

Drew Reilly noted that since there is a traffic concern, he was unable to obtain comments from the New York State Dept. of Transportation.

Bert's Bikes (Cont.)

Motion was made by Mr. Pohlman, seconded by Ms. Ganey to Table for the June 7th Work Session and comments from DOT. Carried.

B&S Storage - J. Cleary - Lake Avenue

Mr. James Cleary appeared before the Planning Board on a proposed mini-storage warehouse site located on Lake Avenue. Comments are as follows: **Engineering:** 1. Indicate the edge of proposed pavement and grass locations. 2. specific clearing, stripping, and erosion control details and locations are to be shown on the plans. 3. Provide storm sewer, slope, rims and inverts. Minimum 2 feet of cover is required over top of pipes. 4. Provide detention basin design calculations. 5. Provide the catch basin size. 6. Provide a letter from the New York State Thruway Authority approving the storm water discharge into their drainage system. 7. Provide a letter from the Erie County Highway Dept. approving access to the site from Lake Avenue.

Mr. Cleary responded that he does have a letter from Edward M. Slowinski, Thruway Comm. Rep. allowing plantings along the Thruway, as well as the letter from the DOT allowing the cut in the road.

Mr. Reilly noted that he would like to see 6 more hardwoods put on the landscaping plan. Mr. Cleary to bring in a copy of the landscaping plan with additions.

As far as the letter from Bill Leslie of the Thruway Authority on the drainage, Mr. Cleary has not had the opportunity of a response. Mr. Crandall suggested that the applicant send a Registered letter to him as an alternative.

Motion was made by Ms. Ganey, seconded by Mr. Fitzpatrick to approve the site plan contingent upon the Engineering memo as well as submission of the landscaping plan and submission of the letters from the Thruway Authority. Carried.

Blasdell Pizza - Southwestern Blvd. - Addition

Mr. Jeff Zak and Harry Varisco appeared before the Planning Board on a proposed addition to Blasdell Pizza on Southwestern Blvd.

Comments from **Engineering** are as follows: 1. A clearing, Stripping & Erosion Control (CSEC) Plan is required. Provide specific locations and details to comply with the Town's CSEC law. 2. Provide drainage calculations for the detention pond. Provide a detail of the detention pond. The pond side slopes are to be 1 on 3 feet so that it can be safely mowed. 3. The swale along the back property line is to extend along the side and into the detention pond.

Blasdell Pizza (Cont.)

Planning - Landscape plan needs to meet Southwestern Overlay District. Remove 2 parking space of diagonal spaces. Need resolution with Traffic Safety Board.

Traffic Safety - Concerns: Two way entrance, one way exit. **Recommendation:** After much discussion and a vote, the following recommendation was made: Have separate entrance driveway and separate exit driveway, angle parking on west side of building, herringbone angle parking against west side of building, maintain one-way road around perimeter, submit internal traffic flow plan showing both signs, pavement markings, and lane marking arrows on entrance and exit.

Motion was made by Mr. Koenig, seconded by Mr. Pohlman to approve the site plan, issue a Negative Declaration, and incorporate changes of Engineering and more information on landscaping. Carried.

Braymiller's - Staub Machine Shop - Allendale Pkwy.

Drew Reilly noted that there is a way to work out the parking problem: A variance was obtained back in 1979 which allows parking on the right of way. However, in case of a lawsuit, town could be liable. Also, the application needs to be completed. Applicant should proceed with request to Town to allow parking on the right of way, if he wants it for the future. Matter to be tabled to June 7th work session.

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

Bonerb Rezoning - Need recommendation.

Drew Reilly noted that the Planning Dept. has received little or no response to Lead Agency request. There is a concern of no sewers. No site plan was presented.

Comments have been received from National Fuel Gas, Dept. of Env. & Planning, and Engineering. Engineering comments are as follows: 1. The subject parcel is not currently in a sanitary sewer district. A new district or a district extension would be required to provide public sewer service for the development of the parcel. Water service is available to the parcel.

Drew Reilly to prepare Negative Declaration for forwarding to various agencies plus ENB.

Motion was made by Ms. Ganey, seconded by Mr. Koenig to authorize the Planning Consultant to prepare the Negative Declaration for mailing to the various agencies. Carried.

Bonerb Rezoning Cont.

Motion was made by Ms. Ganey, seconded by Mr. Eustace to forward a favorable recommendation to the Town Board on the rezoning from C-3 Office to P.U.D. for the following reasons:

1. The proposal has a building located with historic significance.
2. The proposal will maintain the character of the area and will be enhanced;
3. The structures will be compatible with the surrounding area.
4. Zoning for the Office District has already been established.
5. This is the best use for the land area.

Carried.

NFTA Park & Ride - Item to be reviewed at next meeting.

Rezoning Petition of A. Tarquini - South Park Avenue from R-3 to C-2, General Commercial.

Mr. Reilly noted that we are in receipt of a rezoning petition from A. Tarquini for property on South Park Avenue to be rezoned from R-3 to C-2, General Commercial. The applicant is seeking direction from the Planning Board. The area is now zoned R-3 and the requested change is to C-2 for a retail plaza and mini-storage. South Park from the Village to Quinby Dr. is commercial. At Quinby, it transitions into Multi-family residential (R-3 and R-2). Residential continues until the Thruway and Southwestern where it transitions back into commercial. The existing master plan (2010 Land Use Plan) depicts everything between Quinby and Sowles as residential. Does the Planning Board see Commercial existing past Quinby? There are some existing, non-conforming commercial uses in the Area such as NYSEG, Pinelli's Auction, but what direction do we want to give to this area?

Engineering: 1. Sanitary sewer service is available to the site. The front of the property is in the Hamburg Master Sewer District and the back portion is in Erie County Sewer Dist. 3. 2. The site is in the Central Hamburg Water District. A watermain extension by the developer would be required to service the site. 3. Storm water detention facilities would be required as a condition of development of the parcel.

Board members do not feel that this is a suitable use for the land and did not speak in favor of the rezoning.

Issue of Topsoil at Walmart

Mr. Reilly noted that in the Negative Declaration for Walmart, the original EAF noted that there would be zero removal of topsoil from the site. There was a complaint made that they were taking off 35,000 cu. yards to Rush Creek Park. The Town may have been involved in buying some of that. That was something that may have been worked out with the owner. The contractor came in and asked to remove some of the topsoil. A question was raised about whether this invalidates SEQR due to the E.A.F. stating zero. We called the applicant from Sear Brown. He referred to the follow up documents, the Negative Declaration, which states, All site work shall conform to the Clearing, Stripping and Erosion Control specifications of the Town of Hamburg Engineering Dept. Stripped topsoil cannot be removed from the site without a Town Permit to be approved by the Building Inspection Dept.

Chairman Crandall noted that the Planning Board had nothing to do with the sale of the topsoil.

Mr. Reilly noted that the Town of Hamburg has a permit that can be obtained by anyone to remove topsoil. They originally foresaw using the topsoil on site. If it were to be removed, a permit was required. Hamburg has a non-discretionary approval to remove topsoil as long as they meet the conditions of that non-discretionary approval. Non-discretionary approval is not subject to SEQR. Anyone can get a permit to remove topsoil. As long as they meet the requirements, no SEQR had to be done. What needs to be looked at, in my opinion, that up to a certain amount of topsoil should be a discretionary permit issued by Building Inspection. Then we should have some type of board approval. There should be some stipulation of the route to travel, who is responsible for cleanup, etc. Maybe something should be changed. When someone fills out a SEQR, they are not familiar with the form and many times there are many discrepancies in the EAF. It is the lead agency's responsibility to further review the matter. That is usually when we ask for more information.

On amended minutes, Motion was made by Mr. Pohlman, seconded by Ms. Ganey to approve the meeting of April 19, 1995.

Motion was made by Mr. Pohlman, seconded by Mr. Eustace to adjourn the meeting. Carried. Meeting adjourned at 10:30 a.m.

Respectfully Submitted,

Gerard Koenig
Gerard Koenig, Secretary
Planning Board