

Town of Hamburg Planning Board
Meeting - May 21, 1997
Actions Taken

Todorov Subdivision Heltz Road Jacqueline & Christopher Todorov	Preliminary approved.
Ballard Heights Subdivision Smith Road	Preliminary approved.
McCann Subdivision Parker Road Ed McCann	Preliminary approved.
Buttermilk Falls II 20 sublots change from zero lot line to single family dwellings	Approved by resolution.
Swiss Chalet J. Busshart	Tabled.
South Shore Dome Southwestern Blvd.	Tabled.
Cinemark Theatre Complex Southwestern & Bayview Rory Chen & Pat Burke	Tabled for coordinated review.
Mission Hill Mobile Home Park Paul O'Neill & Ed Piotrowski	Approved site plan.
New Apostolic Church Sunday School Addition Stevens Road	Advised to conform to code.
R. D. Murray Camp Road Fire apparatus and refurbishing	Approved.
Southtown's Auto Camp Road	Approved.

**Town of Hamburg Planning Board
Meeting - May 21, 1997**

The Town of Hamburg Planning Board met in regular session on Wednesday, May 21, 1997 at 7:30 p.m. in Room 7 of Hamburg Town Hall. Those attending included: Chairman Richard Crandall, Vice-Chairman David Phillips, Secretary Gerard Koenig, Sue Ganey, Dick Pohlman, Paul Eustace. Others attending included: Rick Lardo, Councilman Mark Cavalcoli, Rich Whipple, Drew Reilly, Don McKenna, Atty., and Terry Dubey, Stenographer. **Excused: D. Fitzpatrick**

Minutes of the meeting of April 16, 1977 were approved on motion by Mr. Pohlman, seconded by Mr. Eustace. Carried.

Todorov 2 lot Subdivision - Heltz Road

Secretary Koenig read the following Legal Notice of Public Hearing.

**LEGAL NOTICE
TOWN OF HAMBURG
PLANNING BOARD
MAY 21, 1997**

TODOROV 2 LOT SUBDIVISION

Notice is hereby given that the Town of Hamburg Planning Board will conduct a Public Hearing on Wednesday, May 21, 1997 at 7:30 p.m. for a 2 lot subdivision known as **Todorov Subdivision** located on Heltz Rd. for Jacqueline Todorov.

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 thirty-seven (37), Township nine (9), Range eight (8) of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point in the center line of Heltz Road, said center line being the westerly line of said Lot Number thirty-seven (37), distant five hundred seventy-two and twelve hundredths (572.12) feet from the northwest corner of said Lot Number thirty-seven (37); thence southerly along the center line of Heltz Road and the west line of Lot Number thirty-seven (37), one hundred twenty-five (125) feet to the northwest corner of land conveyed to Richard Fibich by deed recorded in Erie County Clerk's Office in Liber 9495 of Deeds at page 410; thence easterly parallel with the north line of Lot Number thirty-seven (37) and along the north line of lands conveyed to Fibich as aforesaid a distance of four hundred (400) feet; thence northerly parallel with the west line of Lot Number thirty-seven (37) and the center line of Heltz Road one hundred twenty-five (125) feet; thence westerly parallel with the north line of Lot Number thirty-seven (37), four hundred (400) feet to the point or place of beginning.

Dated: 4-23-97

Richard Crandall, Chairman
Gerard Koenig, Secretary
Planning Board

Todorov Subdivision (Continued)

Chairman Crandall declared the hearing open: Attorney Dan Gorman, representing Jacqueline Todorov appeared before the Planning Board on a 2 lot subdivision, with an after the fact approval. The land was owned by the woman's mother. They were sent to the Zoning Board for a variance on lot area and lot width. The applicant will be building a single family dwelling and will be in keeping with the neighborhood.

Engineering: 1. The sublots should be numbered on the plan. 2. Public water service is available to the site. 3. Public sanitary sewer service is not available to the site.

Chairman Crandall asked 3 times if anyone wished to be heard for against the subdivision. Hearing no comments, the hearing was declared closed.

Motion was made by Mr. Pohlman, seconded by Sue Ganey to approve the preliminary, issue a Negative Declaration, and waive the filing of the map cover. Carried.

Ballard Heights Subdivision - Smith Road

Secretary Koenig read the following Legal Notice of Public Hearing:

**TOWN OF HAMBURG
LEGAL NOTICE
PLANNING BOARD —
MAY 21, 1997
BALLARD SUBDIVISION —
SMITH ROAD**

Notice is hereby given that the Town of Hamburg Planning Board will conduct a Public Hearing on Wednesday, May 21st, 1997 at 7:35 p.m. in Room 7 of Hamburg Town Hall for the purpose of approving a 2 lot subdivision known as Ballard Subdivision on Smith Road for C&M Ballard.

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 No. 19, Township 9, Range 8 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at the northwest corner of Lot No. 19; THENCE east along the north line of Lot No. 19, a distance of 863.28 feet to a point; THENCE southerly along a line that is an extension northerly of the centerline of Smith Road, a distance of 448.06 feet to the northeast corner of subdivision lot number 4 as shown on a map filed in the Erie County Clerk's Office under cover number 2590; THENCE westerly along the north line of subdivision lot number 4 and parallel with the north line of Lot No. 4, a distance of 870.10 feet to a point in the west line of Lot No. 19; THENCE northerly along the west line of Lot No. 19, a distance of 448.27 feet to the place or point of beginning, containing 8.92 acres of land more or less.

Commencing at a point in the centerline of Smith Road, which point is the northeast corner of Subdivision Lot Number 4 on a Map filed in the Erie County Clerk's Office under Map Cover 2590 on October 30, 1990; running thence westerly along said northerly line of Subdivision Lot Number 4, a distance of 870.17' to the northwest corner of said subdivision lot; running thence northerly on an extension of the westerly line of said Subdivision Lot Number 4 and along the west line of lands conveyed to Ballard by Deed recorded in Liber 2333 of Deeds at page 4, a distance of 200' to a point; running thence easterly on a line parallel with the aforesaid northerly line of Subdivision Lot Number 4, a distance of 645' to a point; running thence southerly on a line parallel with the westerly line of Ballard as aforesaid, a distance of 50'; running thence easterly on a line running parallel with said northerly line of Subdivision Lot Number 4, a distance of 225.17', more or less, to the center line of Smith Road; running thence southerly along the center line of Smith Road, a distance of 200' to the point or place of beginning.

5-8-97
Richard Crandall, Chairman
Gerard Koenig, Secretary
5-15 Planning Board

Ballard Subdivision (Cont.)

Attorney Allen Fielitz, represented the Ballards on this 2 lot subdivision. One existing dwelling is to be sold to J&M Construction, and the other lot is for a single family dwelling for one of the Town's police officer.

Memo from **Engineering**: 1. A survey for the entire property proposed to be subdivided should be submitted. 2. Water service is available to the site. 3. The site is not in a sanitary sewer district. 4. State wetland area HB-11 is located west of the site. In 1990, Ballard Subdivision, Map Cover 2590 was filed for the area south of the site. The westerly most 100 feet of those lots were reserved as a buffer strip to be preserved in its natural state. The Planning Board should consider reserving a buffer along these lots also. 5. A drainage plan for the proposed parcel will be required to be submitted for Engineering Dept. approval prior to the issuance of a building permit in this regard.

Chairman Crandall asked 3 times if anyone wished to be heard for or against the subdivision. Hearing no comments, the hearing was declared closed.

Motion was made by Mr. Phillips, seconded by Mr. Koenig to approve the preliminary, contingent upon the developer heeding the requirements as stipulated by the Engineering Dept. memo, issue a Negative Declaration, and waive the filing of a map cover. Carried.

McCann Subdivision - Parker Road

Secretary Koenig read the following Legal Notice of Public Hearing:

**TOWN OF HAMBURG
LEGAL NOTICE
PLANNING BOARD —
MAY 21, 1997
McCANN SUBDIVISION —
PARKER ROAD**

Notice is hereby given that the Town of Hamburg Planning Board will conduct a Public Hearing on Wednesday, May 21st, 1997 at 7:45 p.m. in Room 7 of Hamburg Town Hall for the purpose of approving a 4 lot subdivision known as McCann Subdivision on Parker Road for Ed McCann.

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Hamburg, County of Erie and State of New York, and being part of Lot 46, Township 9, Range 7 of the Holland Land Company survey (so-called), bounded and described as follows:

BEGINNING AT A POINT on the centerline of Parker Road (66.0 feet wide) at a distance of 297.92 feet northerly, measured along said centerline of Parker Road from the westerly extension of the northerly line of Hickory Road; said point being also the northwest corner of lands conveyed to Mark and Ellen R. Henry by deed recorded in the Erie County Clerk's Office in Liber 9385 of Deeds at Page 248;

RUNNING THENCE: Northerly, along the centerline of Parker Road, a distance of 348.69 feet to the southwest corner of lands conveyed to Daniel and Kathleen Wutz by deed recorded in the Erie County Clerk's Office in Liber 10,882 of Deeds at Page 8570;

RUNNING THENCE: Easterly, along the south line of said Wutz lands and parallel with the north line of lands conveyed to Joseph J. and Mildred S. Tambine by deed recorded in the Erie County Clerk's Office in Liber 5093 of Deeds at Page 434; a distance of 258.07 feet to the southeast of said Wutz lands;

RUNNING THENCE: Northerly, along the east line of said Wutz lands and said east line extended northerly, a distance of 200.0 feet to a point on the south line of lands conveyed to Calvert and Patricia Maurer by deed recorded in the Erie County Clerk's Office in Liber 8018 of Deeds at Page 519;

RUNNING THENCE: Easterly, along the south line of said Maurer lands and parallel with the north line of said Tambine lands, a distance of 110.72 feet to the southeast corner of said Maurer lands;

RUNNING THENCE: Northerly, along the east line of said Maurer lands, a distance of 80.00 feet to the northeast corner thereof; said point being also on the north line of said Tambine lands;

RUNNING THENCE: Easterly, along the north line of said Tambine lands, a distance of 932.23 feet measured (943 feet record) to a point on the east line of Lot 46;

RUNNING THENCE: Southerly, along the east line of Lot 46, a distance of 453.30 feet to a point;

RUNNING THENCE: Westerly, parallel with the north line of Hickory Road, a distance of 275.20 feet to a point;

RUNNING THENCE: Southerly, parallel with the east line of Lot 45, a distance of 100.0 feet to a point;

RUNNING THENCE: Westerly, parallel with the north line of Hickory Road, a distance of 425.19 feet to a point;

RUNNING THENCE: Southerly, parallel with the east line of Lot 45, a distance of 339.20 feet to a point on the north line of the Joseph J. Tambine

Subdivision as shown on a map filed in the Erie County Clerk's Office under Map Cover 2109;

RUNNING THENCE: Westerly, along the north line of said Map Cover 2109 and parallel with the north line of Hickory Road, a distance of 500.0 feet to a point;

RUNNING THENCE, northerly, along the east line of lands described in a Deed recorded in the Erie County Clerk's office in Liber 9385 of Deeds at Page 248, a distance of 100.0 feet to the northeast corner thereof, Running Thence, westerly, along the north line of said lands last above described, a distance of 140.58 feet measured (141.45 feet record) to the point or place of Beginning; containing 16.217 acres, be the same, more or less. Subject to easements, rights-of-way and restrictions of record. Subject to the rights of the public in and to that portion

of the above described lands which lays within the bounds of Parker Road. Being and intended to be a portion of the lands conveyed to Edward T. and Cynthia T. McCann, by deed recorded in the Erie County Clerk's Office in Liber 10,549 of Deeds at Page 231.

5-8-97

Richard Crandall, Chairman
Gerard Koenig, Secretary
Planning Board

5-15

Chairman Crandall declared the hearing open: Mr. Ed McCann appeared before the Planning Board on his proposed 4 lot subdivision. Engineering comments are: 1. Three residential sublots were subdivided off of this parcel in August 1993. Since it has been more than three years after the original subdivision, a map cover is not required under the N.Y. State realty Subdivision laws. 2. Sewer and water service are available to the proposed sublots. 3. House construction or filling within the flood plain area shown on the plan, must be in conformance with Town Code Chapter 115 "Flood Damage Prevention."

Chairman Crandall opened the meeting to the floor: A resident asked about the flood plain. Response is that it must be done in conformance with Town code.

Chairman Crandall asked 3 times if anyone wished to be heard for or against the subdivision. Hearing no further comments, the hearing was declared closed.

Motion was made by Mr. Phillips seconded by Mr. Pohlman to approve the McCann Subdivision (4 lots), subject to the Engineering comments concerning the building in the flood plain, which must meet Town code, issue a Negative Declaration, and waive the filing of a map cover. Carried.

Buttermilk Falls, Part II - Changed from Zero lot line to single family Units on 20 Sublots - located on Hobblebush and Treefoil Court.

**TOWN OF HAMBURG
LEGAL NOTICE
BUTTERMILK FALLS PART II
CHANGED FROM ZERO LOT
LINE TO SINGLE FAMILY UNITS
ON 20 SUBLOTS
PLANNING BOARD**

Notice is hereby given that the Planning Board of the Town of Hamburg will hold a Public Hearing on a change in the Buttermilk Falls Part II Subdivision from zero lot line to single lots (20 sublots total) located on Hobblebush and Treefoil Court at 7:45 p.m. on May 21st, 1997 in Room 7 of Hamburg Town Hall.

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

41, T-9, R-8 of the Holland Land Company's survey, more particularly bounded and described as follows:

On a Map filed in the Erie County Clerk's Office on 2-21-96 known and distinguished as Map Cover 2842.

Full opportunity to be heard will be given to all citizens and all parties in interest.

Dated: 5-8-97

Richard Crandall, Chairman
Gerard Koenig, Secretary
Planning Board

5-15

Mr. Bill Schiferle appeared before the Planning Board on a change from zero lot line to 20 single family units on Hobblebush and Treefoil Court. Chairman Crandall explained the change from the original approved and asked 3 times if anyone wished to be heard for or against the proposal. Hearing no comments, the hearing was declared closed.

A resolution was prepared by Attorney Don McKenna and Vince Hauber of Saperston and Day which reads: At a Public Meeting of the Planning Board of the Town of Hamburg, Erie County, New York held at the Town Hall, S-6100 South Park Avenue, Hamburg, N. Y. at 7:30 p.m. on May 21, 1997. There were present: Chairman Richard Crandall, Vice-Chairman David Phillips, Secretary Gerard Koenig, Richard Pohlman, Esq. Sue Ganey, Paul Eustace.

Mr. David Phillips offered the following Resolution and moved its adoption: Whereas, an application has been made to this board by Buttermilk Falls Estates, LLC for the amendment of a Subdivision Plat entitled "Buttermilk Falls Subdivision - Part 2" which plat was previously approved by the Board on April 19, 1995, and subsequently filed in the Erie County Clerk's Office under Cover No. 2842 on February 16, 1996, which plat contained restrictive notations limiting improvements to a single family, zero lot line dwelling only, and

Whereas, the ownership of said Subdivision Plat has not changed and none of the lots shown thereon have been conveyed, and,

Whereas, in accordance with Section 276 of the Town Law a public notice of a hearing to be held at this place and date at 7:45 p.m. was given and,

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Whereas, the proposed amendment to said filed Map Cover No. 2842 does not conflict with the County Official Map, the Town of Hamburg Master Plan or the zoning ordinance of the Town of Hamburg, and

Whereas, this Planning Board has reviewed the proposed amendment and found same to have no effect upon the environment, and the original SEQRA Negative Declarations made by this Board remain valid, and,

Whereas, it appears to be in the best interest of the people of the Town of Hamburg that said amendment be approved as follows:

Now, Therefore, Be it Resolved, that the map entitled "Buttermilk Falls Subdivision- Part 2", filed in the Erie County Clerk's Office under Cover No. 2842 on February 16, 1996, be amended as follows:

1. That the notation: "Lots are for the construction of single family, zero lot line dwelling units only, shall be annulled and stricken therefrom.

2. That the notation: "Subject to an ECSD #2 sanitary sewer Easement filed in the Erie County Clerk's Office under Liber at Page" shall be amended to read:

Subject to an easement to the Erie County Sewer District No. 2 which is recorded in the Erie County Clerk's Office in Liber 10899 of Deeds at Page 1146.

3. That the notation: "Lots 17, 18, and 25 thru 30 abut the Park District and will be responsible for sharing the cost of maintenance and improvements within the Park District" shall be amended to read as follows: Lots 9, 13, 14 and 15 abut the Park District and will be responsible for sharing the cost of maintenance and improvements within the Park District. 4. That the dotted line shown and approximately bisecting each and every subdivision lot shall be expunged and shall be of no effect. 5. That the drawing entitled "Typical Lot Layout" shall be amended by expunging:

- A. The dotted line bisecting the lots depicted,
- B. The houses,
- C. 3/4" water service,
- D. 4" sanitary lateral.

6. That the notation: "Dashed line dividing lots indicates centerline of two future zero lot line single family dwelling units and also being the lot line. When actual structure is in place, the common property line, through the structure will be surveyed and described" shall be annulled and stricken therefrom.

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Buttermilk (Continued)

7. That the notation: "Units 17-36 are within the FEMA Flood Area and shall conform to all the Town of Hamburg and NYS DEC rules and regulations. These units shall be without full basements. All lots within the floodplain require a Town Floodplain Development Permit for Unit Construction." shall be amended to read as follows:

Lots 9-18 are within the FEMA Flood Area and shall conform to all the Town of Hamburg and NYS-DEC Rules and Regulations. These lots shall be without full basements. All lots within the flood plain require a Town flood plain development permit for construction.

8. The subdivision lots depicted shall be renumbered as follows:

Present Lot Nos.	to be	New Lot Nos.
1&2		1
3&4		2
5&6		3
7&8		4
9&10		5
11&12		6
13&14		7
15&16		8
17&18		9
19&20		10
21&22		11
23&24		12
25&26		13
27&28		14
29&30		15
31&32		16
33&34		17
35&36		18
37&38		19
39&40		20

That the above Resolution was seconded, voted upon and passed unanimously by the members of the Planning Board then present, seconded by Sue Ganey. Carried.

Jim Busshart - Swiss Chalet - Southwestern & McKinley -

Attorney Jeff Palumbo and Jim Busshart appeared before the Planning Board on the proposed Swiss Chalet which is to be located on Southwestern & McKinley Parkway. Comments from **Engineering**: 1. The site plan review checklist was not complied with in preparing these plans. The site plan should be revised accordingly. 2. Site plan approval for this project should not be granted without first obtaining the required Town Board discontinuance of Sheldon Road.

3. The proposed Southwestern Blvd. driveway should be designated with two exit lanes and one entrance lane. The island shown within the driveway should be located between the entrance and exit lanes. A provision for shared access with the adjacent parcel to the east should be included. 4. The Planning Dept. should approve the site landscape plan. 5. Appropriate barriers are to be provided to prevent site access from Sheldon Rd. 6. The developer has reportedly undertaken a land swap with the adjacent property owner to the east, in order to acquire the triangular piece at the northeast corner of the property.

Issues at hand entail the driveway and the traffic situation.

Mr. Reilly noted that there is a drafting error at the entrance. You don't separate the right hand from the left hand. DOT also noted that the median has to be a minimum of 4' width. The other issue was in the Town Board's review as to whether they will abandon the road or not. We have asked that the entrance be moved as far to the east as possible. Another concern is with traffic coming in an easterly direction at 50 mph would it be safer if there was a deceleration lane for them to turn into the property.

Also, I looked at the old plan. There is 18-19' between the right of way and the edge of pavement. The new plan shows 14'. Is that possible to do without acquiring land? DOT wants to see 19'. They want a 12' lane and a 2' curb offset and 5' of snow storage. Is there room between the edge of pavement and this property. If not, you must do a land swap. The DOT has accepted what you have presented. They do not want left turns out of the site, but we disagree. The Town Board would like to see the traffic problem mitigated as much as possible. The only other issue that we have asked is that parking spaces be 50' off the road due to the Southwestern Overlay. Two spaces should be eliminated in order to comply. These concerns can be addressed. There should be 2 exit lanes and 1 entrance lane.

Councilman Cavalcoli noted that the abandonment item may be on for June 9th provided that all parties have submitted the documents that are required between Engineering, Legal, etc. We are of the understanding that you are working out these items with the Deputy Town Attorney. Assuming that all these things are in place, it will be on the agenda for the 9th.

Discussion also centered on shared access. Attorney Palumbo spoke of concerns of liability, as well as a lease agreement with the tenant. Mr. Reilly noted that a shared access agreement should be done before the site is completed. Mr. Crandall responded that he has a concern on public safety. The more that one can avoid traffic on a main highway the less chance you have of accidents.

Mr. Crandall stated that if there is another user of the parcel, that the Planning Board has the option of reviewing it. We have never been unreasonable. If another restaurant goes in, and there is the potential, we may or may not exercise that option. However, we would like the privilege before the property is developed. Also, it is up to the developer to maintain the driveways. There are also 3 options: The future development of the property could be (a) they don't exercise their option for shared access; (b) there is a shared access but each own their individual driveway and they have the opportunity to pull back in, and (3) if there is no curb cut but the applicant is utilizing the property.

In conclusion, items for review are the deceleration lane, a change in the entrance, Engineering items, a tie thru for future connection to adjacent property, and language to protect the applicant's interests and a 50' setback and the elimination of 2 parking spaces. Motion was made by Ms. Ganey, seconded by Mr. Eustace to Table. Carried. (Item could be on June 4th work session).

South Shore Dome - Southwestern Blvd.

Mr. Reilly stated that this matter was referred to us by the Zoning Board of Appeals. Members referred to the Zoning Board motions which are: Motion was made by Mr. Spinner, seconded by Mrs. Woods to refer the matter back to the Planning Board with a positive recommendation. Carried. Motion was made by Mr. Spinner, seconded by Mrs. Woods, to table this pending action from the Planning Board and their recommendation. Carried.

Mr. Phillips continued: In Executive Session, Chairman Blaauboer reiterated that upon reviewing the Environmental Assessment, I find that there are two issues that indicate a positive declaration. The issues that I raised before is the visual environmental impact that I consider to be significant. The other issue is the significant generation of traffic. This is the second busiest corner of the Town. The added year round use of the dome that was brought out by the accountants and the project manager indicates higher traffic with the addition of this project. It will have a significant impact on the neighborhood and requires more review. I ask the board to endorse the find of a positive declaration and refer the matter back to the Planning Board for further direction.

Attorney Maureen Elwell, represented Mr. Art Waddell. With me is Karen Stamy, who will address the Environmental issues and Bill Arlow of Nussbaumer & Clarke. We are here to seek a Negative Declaration on the project and also get our height variance from the ZBA. We are also aware that site plan review is required before the Planning Board. We would like your comments so that we can go back to the ZBA.

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Chairman Crandall noted that the only question he sees is the amount of time during the year that the dome is up, whether it be year round or seasonal. Our recommendation to the ZBA was for seasonal use and that is what they proceeded on. Our vote to approve the site plan, which was approved, was predicated upon seasonal use.

Mr. Pohlman noted that a comment was made that nothing has changed on the site plan. However, there is a change. There is a permanent structure built inside. When the dome comes down, there is a permanent structure in place. That site was open before.

Attorney Elwell responded that the structure inside was part of the building. We could not install the temporary structure as it did not conform to the fire code. A decision was made to make it a permanent structure. The Building Inspector was aware of the change. We are going for an additional 6 months variance so that it would be up 12 months out of the year.

Mr. Pohlman noted that originally, there was one client and now there are three. We started out with Mr. Bookbinder and then learned about Mr. Wadell. Mr. Arlow responded that they started out with a different manufacturer. We understood from Bird-Air that the dome could be taken down. The client then went to a less expensive form of structure that could not be taken down.

Mr. Arlow stated that the materials, such as an ultra-violet shield does not require screening inside to keep the golf balls soft. The issue of aesthetics was brought up by the Zoning Board.

Attorney Elwell submitted photographs that were taken from different vantage points in the area. You might be surprised at the results. Also, when the foliage is out, it will have a lesser impact.

Chairman Crandall noted that the board is well aware as to where you can see this from and from where you cannot. This is a visual problem during certain times of the year and from certain locations. That is an environmental issue. Secondly, it does change the character of the intersection and the character of its surroundings. This is also an environmental issue. I realize that there are places where you cannot see it. There are other spots that are overwhelming. I do not feel it is an aesthetic advantage nor does it enhance the intersection. I don't have a problem with this in the winter. I voted for it. The original vote was very close and was 4-3. I voted in favor as I did not feel it was unsightly in the winter because of the ice and snow and gray clouds. However, when you view it in the summer, I feel you can see this like a sore thumb. This is the second busiest intersection of the Town. When I first saw the proposal, my comment was that I didn't like the looks of it anytime of the year. I went along with it as I felt it would be good for business in

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Hamburg. Also, it would be good for South Shore. Since it was only going to be for 6 months, I went along with it. However, I am not certain that I would like to see it year round.

Mr. Phillips stated that the sight of that dome at that intersection startles people. Also, if you are sitting on the deck, all you see is the white of a building. Mr. Koenig stated that he felt it would be an ugly structure at one of the busiest intersections in the Town. I too voted for it since it was going to be a seasonal operation. The first time I went thru the intersection was still in winter and there was snow on the ground and the sky was gray. Now that the lake is no longer frozen and the sky is blue, it looks worse than I imagined.

Attorney Elwell responded that this is a commercial strip of Town. There is an automotive use at one corner and gas stations on the other. The owner plans to do \$50,000 worth of landscaping to mitigate the immediate impact. You can see the dome when you are right on top of it, but it is not seen from other areas.

Mr. Pohlman explained that this is a main entrance to the Town. Many people drive thru this area, and this is the type of view that people are seeing which is a concern.

Mr. Paul Eustace stated that he voted against it as I felt it was ugly. I still feel that way and many people have told me that we must have been out of our minds to approve something like this. Originally, we asked for you to push it back further away from the intersection which was disregarded. There was an answer that lav facilities had to be put in. I feel that we have been deceived. It was supposed to be temporary and now it is permanent.

Mr. Pohlman stated that he feels that the Town is being used as a scape goat on this project. In the beginning, there was one client, and now there are 3 businessmen who have made major changes without coming back to either board, something is very wrong. I don't agree.

Attorney Elwell stated that after the Zoning Board matter, we were completely out of the situation. Then Mr. Wadell did try to explain what happened. Mr. Severino was the project manager and was working with the Building Inspector advising him that there were changes. They did not come to the Town and we realize that they were wrong.

Mr. Reilly reviewed the various options that the Planning Board has. The bottom line is that the Planning Board and Zoning Board made a decision that there was a visual impact and character changing situation. We have the Southwestern Overlay which emphasizes aesthetics. We were swayed by the fact that those impacts by saying we could live with this on a 6 months use. You now have a project before you with an all season use. How, do we

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mitigate the situation. Will an impact statement solve the problem. What is the mitigation that can be proposed to allow this to occur. If we can't reach a mitigation, then you have to stand with the original approval. The Zoning Board has a height variance to be given. A variance is something to SEQR. The Zoning Board has made a positive declaration and wants the Planning Board to be lead agency. This is the board that does environmental reviews. We are looking for direction on a recommendation on the variance and they are asking for a SEQR determination as they cannot take an action unless we have a SEQR decision. I don't believe that the Planning Board is comfortable with a negative declaration. If the board makes a positive declaration, an Environmental Impact Statement must be completed. Or, you can make a positive declaration against the variance and the ZBA can make a decision on that. We could ask for additional information. I don't believe they have to do an environmental assessment. Maybe the board can make a recommendation that the variance stand as is and there be no changes.

Attorney Elwell responded that they are asking for a new variance.

Attorney McKenna noted that this seems to be a procedural problem. We have to look at this based on Town Law, but this board should look at the environmental question. In this case, the Town Board may have the authority to refer the matter to the Planning Board (Section 271-14) of Town Law.

Karen Stamy noted that the problem is not with the Town board nor do they have any jurisdiction on the project.

Mr. Reilly responded that there are two applications before us--site plan approval and the variance. They made their application too late to be on this month's site plan approval agenda. We had the matter referred to us after the ZBA meeting.

Chairman Crandall noted that we have already had a site plan approval. Now this is an application for another 6 months. Mr. Arlow responded that this is the same thing coming back for reapproval. Mr. Cavalcoli noted that this is the same site plan. All the board is looking at is a different variance and there would be no reason for the project to come to the Town Board.

The site plan was approved for variance and site location for a 6 month use. We do not see a site plan for the other 6 months. The Planning Board cannot grant site plan approval on a proposal that we do not have. There is nothing on our agenda for tonight's meeting.

Attorney McKenna stated that this is a matter of form and should be referred properly. There is an environmental concern and a positive declaration of some sort to be studied by this board.

Motion was made by Mr. Pohlman, seconded by Ms. Ganey to table for a legal decision as to how we should be addressing this matter. Carried.

Mr. Reilly noted that the application for Planning Board should have been made by April 21st. Attorney Elwell responded that we had questions as to whether we should come to the Planning Board first and we were told no, go to the Zoning Board. We were led to take this direction and I do not wish to be penalized.

Mr. Reilly commented that the Environmental Assessment was submitted on May 6th to the Zoning Board. The application was incomplete at that time. Therefore, it was not formally on the agenda. We are reviewing it now and the ZBA asked for our input to make a decision. They want further input from the Attorney's on procedures. This is a matter whereby the dome is constructed and there are a lot of problems. We are basing this on procedure.

Councilman Cavalcoli stated that this is a very difficult decision for the Planning Board and the Zoning Board. We represent 55,000 residents of the Town of Hamburg. This board has acted with great prudence throughout the entire matter as well as the Zoning Board. I ask that all parties work expeditiously to resolve the problem in the clearest way possible because the longer the dome is up, under false pretenses, it is difficult for me as a representative of the Town Board facing the electorate. I ask that this be done clearly and concisely.

Cinemark Theatres - Southwestern & South Park & Bayview Roads

Messrs. Ed Burke, and Rory Chen of Cinemark Theatres appeared before the Planning Board on a proposed 20 theatre complex to be located on a 36 acre parcel on Southwestern & South Park & Bayview Roads. We are proposing digital sound and stadium seating. The closest prototype is located in Rochester New York. The building will cover 86,000 s.f. The time of operation would be at approximately noon to 11:00 p.m. All movie times are staggered every 15 minutes. Traffic on entering and exiting will not be at the same time.

Comments from **Engineering** are as follows: 1. Appropriate storm water detention facilities will be required for the site. 2. Include an appropriate clearing, stripping, and erosion control CSEC plan and associated construction details. 3. The site is within the Town of Hamburg Master Sewer District. A mainline extension will be required to service the site. 4. Water service is located along Bayview Road. A mainline water extension would be required to provide service from Southwestern Blvd. The Erie County Water Authority should be contacted for flow and pressure information on the system. 5. The location of the Berkley Place intersection with Bayview Rd. should be shown on the plan, as well as existing driveways along Bayview Rd. and Southwestern Blvd.

Cinemark Continued

6. Note on the plan that a New York State Dept. of Transportation (NYSDOT) permit is required for work within the Southwestern Blvd. highway right-of-way. We will not approve these plans without NYSDOT review and approval of the work on their right-of-way. 7. Note on the plan that a Erie County Highway Dept. permit is required for work within the Bayview Road highway right-of-way. We will not approve these plans without ECHD review and approval of the work on their right-of-way. 8. The easterly most access driveways to the site should be moved further to the west. 9. Access to the out-parcels should be restricted to the interior cinema ring road only. 10. Future development of the Burke parcel along South Park Avenue should also be restricted with access to only the interior cinema ring road. 11. Parking area access drives should be aligned at right angles to the interior ring road. 12. The site landscape plan is to be approved by the Planning Dept. 13. A traffic study should be required to be conducted. The study should include analysis of the need for a traffic signal at the intersection of Bayview Rd. and South Park Avenue, as well as at the proposed site driveways. The study should also address the possible discontinuance of Bayview Rd. between South Park Avenue and Southwestern Blvd., and the associated highway improvements which would be necessary if this occurred. 14. Consideration should be given to eliminating the proposed driveway connections to Bayview Rd., in order to prevent the likelihood of highway traffic seeking a short-cut through the site. If these driveways are not able to be eliminated, internal speed bumps should be provided to control speeds through the site. 15. The proposed project is a Type I action under SEQOR. Due to the magnitude of the project and the out-parcels proposed for future development, it is considered that an Environmental Impact Statement may be necessary. 16. The proposed location for the movie theater sign will not be very visible to traffic along the adjacent highways. 17. The proposed building height is in excess of the 35' maximum allowed under the Town Zoning code. 18. Property ownership at the northwest corner of South Park Ave. and Southwestern Blvd. has been shown incorrectly on the site plan. 19. The proposed dumpster location should be shown on the site plan.

Mr. Chen stated that the erosion control should not be a problem. On some of the traffic issues, Mr. Jim Smith of EMS Consulting has provided a preliminary traffic analysis (see attached). It was noted that the land drains towards the school. We plan on having a storm system and catch basins by bringing it around to the south side. We have a swale along the rear line of the property with minimum slopes. If we need further storage, we would take one of the out-parcels and create as big a pond as possible. We do not foresee problems with respect to storm water. We can design for a 100 year storm. The erosion control should not be a problem. We plan to surround the site with a siltation fence. A mainline sewer extension will be required. There are water mains,

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Cinemark (Continued)

We realize that there are stacking problems on Bayview and Southwestern Blvd. Drives can be moved back as far as possible.

Nany Wood, Vice-President of the Board of Education presented a letter from Gerald P. Glose. (See attached)

Mr. Burke met with the school supt. and the letter was given as a result of their school board meeting.

Mr. Chen also noted that they will have to make an appearance at the Zoning Board for the variance on height for the proposed structure.

Drew Reilly noted that the DOT would not comment on the need for signalization until they received a TIS. They need a study based on their standards. They did comment on access parcels 3-4-5 on Southwestern. Their opinion is that there would be none. On a 50 mph road, and the Southwestern Overlay, we are trying to limit access to Southwestern. Requests for signals have been made. However, if the DOT does not feel they are warranted, they don't seem to want to do them. That would have to be supported by the TIS. Mr. Chen responded that if the intersection was warranted, they would be agreeable to putting a cap on the cost of a signal. He would contribute to the light, but would not pay for the entire cost of it.

Chairman Crandall responded that the taxpayers do not feel that it is their responsibility to pay for the light. People will use it only if the development goes in. If it doesn't, there will be no light.

Councilman Cavalcoli referred to item #13 on the Engineering letter regarding the discontinuance of Bayview Rd. The Town has been considering this for a number of years and the Board has met with the Frontier School Board and the DOT and we are in the process of going ahead with the discontinuance with or without the project from a traffic flow and safety standpoint.

Debbie O'Brien, a resident who lives across the street from the proposed development, spoke in opposition. You have no idea of what goes on at that corner when the school dismisses. The traffic is staggered. My concern is that this will tempt students to skip school. I see students cutting thru the neighborhood all the time. The traffic problems occur between two neighborhoods--Misty Meadow and Berkley Square as the driveways are lined up on Bayview Road. We have looked into a traffic light at the corner of South Park and Bayview and were advised that it would be too close to the present one on South Park and could not do it.

You are talking about the vendors who are setting up shop on street corners. What about the Palace theater in the Village?

What about the McKinley Mall theatres who are talking about 8 cinemas? Can the Town of Hamburg support 37 theaters? I don't think so. I invite you to look at the intersection between 7:00 and 7:30 a.m., between 8:30 and 9:00 when the elementary students are being admitted, and 2:00 and 2:30 p.m. You will be amazed.

Mr. Timothy Bowen of Sheva Lane is a resident in the general area. Bayview Road during rush hour backs up right to the intersection. Also, the water lines do not have great pressure. I don't think there is a need for 20 theatres.

Mr. Chen responded that there is a school at the Gates complex in Rochester. They have not noticed that the complex tempts students.

Diane Tighe is also close to the school. The main concern is the flavor of our area. We are inviting in a big complex which changes the Town of Hamburg. I see the Town moving towards an Amherst or a Cheektowaga. Something of this magnitude will just make matters worse.

Peg Herman of Lakeview noted that she is concerned about another complex offering part-time jobs to students. Perhaps the property could be put to better use and be more beneficial to the community. Perhaps 10-20 years from now, people will not want to be going to big cinemas and will we have another empty West Seneca Mall. My concern is for the future of this community as well as the traffic concerns. Yes, it will increase the town tax base, but there are other ways to see positive projects.

Jim Messner of Nottingham Terrace stated that he lives off the first street off Route 20. I have lived in the area for 20 years. Every day I risk my life coming out of that subdivision. They continue to grant variances in this Town. We already have one cellular tower west of me and I totally disagree with the concept.

Kathy Schalmo of Fairgrounds Road travels that area all the time. We have many retail outlets that are empty now. I am in favor of access roads and not having curb cuts along Southwestern Blvd.

Marianne Tommani of Woodlawn spoke on behalf of the school board. She stated concerns on hours of operation as well as concerns of traffic.

A resident of Nottingham Terrace asked what was going to be on the out-parcels? There are so many empty buildings around now. The out-parcels would be Cinemark's. Projected concepts include sit down eating establishments.

Dave Boehm of Nottingham Terrace asked about the site for a Town Hall. Wasn't this not selected due to traffic and the police

complained that they would have poor response time along those areas. Response: The reason it was not acceptable was due to location, traffic, etc. There are between 1-2 accidents a week coming out of Nottingham. To put these theatres in this location, when the Town has fought for years to have the speed limit reduced, would be ludicrous.

Henry Kearns of HCK spoke in favor of the proposal. This would be an addition to the tax base. The land has been sitting for many years. This would be additional business for people and give them an incentive for something new in WNY.

Gary Jabczynski asked about the height variance for the building. Response: The building itself is 48' and the height of the towers is 58'. This is because of the stadium seating.

Motion was made by Mr. Pohlman, seconded by Mr. Phillips to Table and declare this a Type I action; that the Planning Board is declared Lead Agency; that Drew Reilly is to start the process for the SEQR review. Carried.

Mission Hill Mobile Home Park - Camp Road

Messrs. Paul O'Neill and Ed Piotrowski appeared before the Planning Board on the 389 lot mobile home park which is to be located off Camp Road. The new drawings show the phasing as required by the SEQR findings. A Landscaping plan has also been provided.

Engineering Comments: 1. The NYSDOT highway reconstruction plans for Camp Rd. have not included any provisions for the site entrance road. The location of the entrance road should be coordinated with NYSDOT.

Motion was made by Mr. Phillips, seconded by Mr. Eustace to approve the site plan for Mission Hill Mobile Home park. Carried.

Hamburg Airport Hanger - Heltz Rd.

Engineering: 1. The 30 feet clearance between buildings which is required by the Town Zoning Code has not been provided.

Motion was made by Mr. Koenig, seconded by Mr. Pohlman to grant site plan approval for the hanger. Carried.

New Apostolic Church - Stevens Road

Mr. Tom Dobmeier appeared before the Planning Board on a proposed addition for Sunday School to be located on premises at 6581 Stevens Road.

Engineering has no comments.

At the present time, they will need a variance on the side yard requirement.

Mary Bird, adjacent neighbor, noted that they are having problems with the school now as ice jams up in the driveway. Also, this is just a satellite church with the main one being located in Buffalo.

Motion was made by Mr. Pohlman, seconded by Mr. Koenig to Table so that contact can be made with the applicant to jog the building and comply with the zoning code. Carried.

R.D. Murray Site Plan - 4760 Camp Road.

Mr. William Savage appeared before the Planning Board on a proposed relocation of their business to Camp Road. Comments from Engineering are as follows:

- (1) There are two parking spaces at the northeast corner of the property that were not shown on the previously approved site plans and should be removed.
- (2) Interior building renovation plans include the installation of new floor drains. These floor drains are to be connected into the sanitary sewer, and grease traps are required to be installed within the lines. Revise site plan as required to show these facilities, including the connection to the existing sewer lateral serving the property.
- (3) 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 cannot approve the plan without ECDEP review and approval.
- (4) The site plan requirements have not been fully complied with. The site plan should be revised accordingly and resubmitted.
- (5) The 60 feet wide easement shown along the northerly property line should be labeled as Queens Lane (Town highway right-of-way).

Motion was made by Ms. Ganey, seconded by Mr. Pohlman to grant site plan approval contingent upon Engineering concerns being addressed; that there be landscaping along the front and side; and that the aspect of the storage building will be addressed by the owner and the Planning Dept. Carried.

Southtown's Auto - 5873 Camp Road

Mr. Charles Nigro appeared before the Planning Board on a proposed change in the site plan for Southtown's Auto.

Engineering comments are as follows: 1. The grass areas shown in the previously (5-1-96) approved site plan along the southerly property line and in the northeast corner of the property have instead been paved. The Planning Board should determine if this is acceptable. 2. The plan has not been revised to show the bollards in the northeast corner of the property as required by the Planning Board to prevent access from Staley Drive.

Mr. Nigro stated that they have put parking bumpers in lieu of the bollards as requested and there has not been any incident of a drive thru to Staley Drive. The yield sign is forthcoming.

Motion was made by Mr. Koenig, seconded by Mr. Eustace to approve the revised site plan for Southtown's Auto. Carried.

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

Respectfully submitted,

Gerard Koenig
Gerard Koenig, Secretary
Planning Board

Next Meeting: 6-4-97 - 7:30 p.m.