

Town of Hamburg Planning Board  
Meeting - August 20, 1997  
Actions Taken

Salisbury 2 lot subdivision  
4289 Sowles Rd.

Preliminary approved

Darvill 2 lot subdivision  
2912 Pleasant Avenue

Preliminary approved.

Tinseltown Theatres  
Southwestern Blvd.

Scoping August 27th  
7:30 p.m. Public Mtg. Room

Commerce Place  
Camp Road  
M. J. Peterson

Tabled.

Sheldon Rd. Subdivision  
7 lots - near Allendale  
& Sheldon

Preliminary approved.

Robert Voigt  
Part-time Bakery  
Clark St.

No action taken

Preischel Bros.  
Storage Bldg.  
2890 Pleasant Ave.

Tabled to 9-3-97

Becker Subdivision  
27 lots

Tabled

Town of Hamburg  
Planning Board Meeting  
August 20, 1997

The Town of Hamburg Planning Board met in regular session on Wednesday, August 20, 1997 at 7:30 p.m. Those attending included: Chairman Richard Crandall, Vice-Chairman David Phillips, Secretary Gerard Koenig, Don Fitzpatrick, Dick Pohlman. Excused: S. Ganey, P. Eustace.

Others attending included: Drew Reilly, Rich Whipple, Councilman Mark Cavalcoli Don McKenna, Attorney, Rick Lardo, and Terry Dubey, Stenographer.

Salisbury 2 lot Subdivision - located at 4289 Sowles Road.

Secretary Koenig read the following Legal Notice of Public Hearing:

**TOWN OF HAMBURG  
PLANNING BOARD  
LEGAL NOTICE  
SALISBURY 2 LOT SUBDIVISION**

Notice is hereby given that the Planning Board will hold a Public Hearing for the 2 lot subdivision located at 4289 Sowles Rd., known as Salisbury Subdivision at 7:30 p.m. in Room 7 of Hamburg Town Hall on August 20th, 1997.

**ALL THAT TRACT OR PARCEL OF LAND** situated in the Town of Hamburg, County of Erie and State of New York, being part of Lot 53, Township 9, Range 7 of the Holland Land Company's Survey, bounded and described as follows:

**BEGINNING** at a point in the centerline of Sowles Road where the west bounds of Fairgrounds Road intersects the centerline of Sowles Road; Thence southerly along the west bounds of Fairgrounds Road, a distance of 174.77 feet to a point; Thence westerly along a line that is parallel with the centerline of Sowles Road, a distance of 112.88 feet to a point; Thence southerly along a line that is parallel with the west bounds of Fairgrounds Road, a distance of 60.00 feet to a point; Thence easterly along a line that is parallel with the centerline of Sowles Road, a distance of 112.88 feet to a point in the west bounds of Fairgrounds Road; Thence southerly along the west bounds of Fairgrounds Road, a distance of 126.11 feet to a point; Thence westerly along a line that is parallel with the centerline of Sowles Road, a distance of 225.77 feet to a point; Thence northerly

along a line that is parallel with the west bounds of Fairgrounds Road, a distance of 360.88 feet to a point in the centerline of Sowles Road; Thence easterly along the centerline of Sowles Road, a distance of 225.77 feet to the place or point of beginning, containing 1.72 acres, more or less.

**BEGINNING** at a point in the west bounds of Fairgrounds Road at a distance of 264.88 feet southerly from the centerline of Sowles Road as measured along the west bounds of Fairgrounds Road; Thence southerly along the west bounds of Fairgrounds Road, a distance of 96.00 feet to a point; Thence westerly along a line that is parallel with the centerline of Sowles Road a distance of 225.77 feet to a point; Thence northerly along a line that is parallel with the west bounds of Fairground Road, a distance of 96.00 feet to a point; Thence easterly along a line that is parallel with the centerline of Sowles Road, a distance of 225.77 feet to the place or point of beginning, containing 0.50 acres of land more or less.

**RICHARD CRANDALL, Chairman  
GERARD KOENIG, Secretary  
Planning Board  
8-7-97**

Chairman Crandall declared the hearing open:

Mr. John Kalstek appeared before the Planning Board on the proposed 2 lot subdivision for Evelyn Salisbury to be located on Sowles Road. Chairman Crandall noted that the board is curious as to why the lot line, splitting the property, wasn't an extension of the south lot line of the exception. There is 30' between the two lot lines.

Mr. Kalstek responded that a relative lives next door and they left the 30' for a form of buffer zone from the other property. We are creating one building lot for a dwelling unit on S.L. 2. The other lot is existing.

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

Comments from Dr. Andrle of the Conservation Board are as follows: During inspection of this site on July 24th, the owner informed me that a single family home would be constructed in the wooded southern 0.5 acre + or - portion (2) on the map). I recommended that as much natural vegetation be retained as possible, particularly larger trees, and the owner said that this was her understanding of the intention of the new owner. I do not see any other environmental impacts of significance here.

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

**Darvill 2 lot Subdivision - 2912 Pleasant Avenue**

Secretary Koenig read the following Legal Notice of Public Hearing:

**TOWN OF HAMBURG  
PLANNING BOARD  
LEGAL NOTICE**

**DARVILL 2 LOT SUBDIVISION**

Notice is hereby given that the Planning Board will hold a Public Hearing for the 2 lot subdivision located at 2912 Pleasant Avenue known as Darvill Subdivision at 7:35 p.m. in Room 7 of Hamburg Town Hall on August 20th, 1997.

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 No. 33, Township 9 and Range 8 of the Holland Land Company's Survey and being further described as follows:

**BEGINNING** at the north line of said Lot No. 33, 65 feet westerly from the northeast corner thereof; thence westerly along said north line of said lot, 477.42 feet to the northeast corner of Charles C. Buxton's land; thence southerly along said Buxton's east line 650 feet to the center of Pleasant Avenue; thence northeasterly along said Pleasant Avenue 495 feet; thence northerly 545 feet to the point of beginning.

**EXCEPTING** therefrom a pie shaped parcel in the rear thereof beginning at the north line of said Lot No. 33, 65 feet westerly from the northeast corner thereof; thence westerly along said north line of said lot, 477.42 feet to the northeast corner of Charles C. Buxton's land; thence southerly along said Buxton's east line, 125 feet; thence at an angle westerly on a straight line 491.0 feet to the point or place of beginning.

**ALSO EXCEPTING THEREFROM** a parcel fronting on Pleasant Avenue commencing at the southeast corner thereof and running thence northerly along the easterly line of said premises 225 feet to a point; thence westerly on a line parallel with the center line of Pleasant Avenue a distance of 100 feet to a point; thence southerly on a line parallel with the easterly line 225 feet to the center line of Pleasant Avenue; thence easterly along the center line of Pleasant Avenue 100 feet to the place of beginning.

8-7-97  
Richard Crandall, Chairman  
Gerard Koenig, Secretary  
8-14  
Planning Board

# TOWN OF HAMBURG

S-6100 SOUTH PARK AVENUE • HAMBURG, NEW YORK 14075 • (716) 649-6111 • FAX (716) 649-4087



Supervisor  
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Councilmen  
D. MARK CAVALCOLI  
KATHLEEN COURTNEY HOCHUL  
JOAN A. KESNER  
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Town Attorney  
VINCENT J. SORRENTINO

Town Clerk  
GEORGE DANYLUK

Supt. Of Highways  
JAMES F. CONNOLLY

Receiver of Taxes  
ROBERT A. MARS

TO : Planning Board  
FROM: Engineering Dept.  
DATE: 8/19/97  
SUBJ: 8/20/97 PLANNING BOARD MEETING AGENDA  
Evelyn Salisbury Subdivision - Sowles/Fairgrounds Rds.

The following are review comments on a survey dated  
6/30/97:

- (1) Sanitary sewer and waterlines are located in front of the subdivision parcels. The Erie County Water Authority and Erie County Sewer District No. 3 need to be contacted by the developer to determine if there is sufficient capacity to service the proposed subdivision.
- (2) The map cover requirement may be waived by the Planning Board.

All comments must be acceptably addressed for approval.

  
Gerard M. Kapsiak, P.E.  
Town Engineer

  
Richard J. Lardo  
Principal Engineer

RJL/dhp

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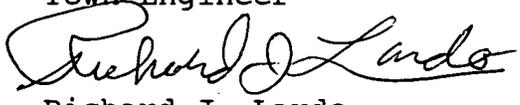
TO : Planning Board  
FROM: Engineering Dept.  
DATE: 8/19/97  
SUBJ: 8/20/97 PLANNING BOARD MEETING AGENDA  
Darvill Subdivision - 2912 Pleasant Ave.

The following are review comments on a survey dated  
7/24/97:

- (1) A public waterline is located in front of the site. The Erie County Water Authority needs to be contacted by the developer to determine if adequate capacity is available to service the subdivision.
- (2) Sanitary sewer service is not available to the site.
- (3) The map cover requirement may be waived by the Planning Board.

All comments must be acceptably addressed for approval.

  
Gerard M. Kapsiak, P.E.  
Town Engineer

  
Richard J. Lardo  
Principal Engineer

RJL/dhp

Darvill Subdivision (Continued)

Chairman Crandall declared the hearing open:

Mr. Darvill explained that they are taking one piece of the property out for a single family building unit out of the larger parcel. The parcel consists of 4.9 acres, and is zoned R-A, residential, agricultural. The other unit is existing.

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

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

**Tinseltown Theatre Complex - Southwestern Blvd.**

Chairman Crandall noted that he is in receipt of letters in opposition to the project. Every Planning Board member has a copy. We have not had a chance to review the letters. I am going to ask the Consultant, Drew Reilly, to explain our procedure for tonight's meeting. One week from tonight, on August 27th, at 7:30 p.m. in the Public Meeting Room of Hamburg Town Hall, we will conduct the scoping session for the project. Tonight is an information session. One of the comments suggested is that the Planning Board just say "No". We need to clarify that. The Planning Board does not have that liberty. This board has not made any decision for or against this project. As long as I am Chairman of this Board, I am going to maintain an objective, fact-finding, fair process throughout this entire proceeding. At the same time, I want your constructive input. We have received a lot of it so far.

Mr. Reilly explained the process. The property is zoned correctly for the use that is proposed. Under the present zoning of C-1, the Town will allow the use. The applicant has made application for site plan review. There is no rezoning required, nor is there any Town Board involvement in this process. It is a Planning Board decision under site plan approval. In site plan approval, the Town has no legal right to say no. We should teach our children to say no. However, we must also teach our children to follow the law. The letter of the law tells us that we just can't say no. It would be easy to say no, and then the applicant could take us to court and 2 months from now they would start construction of that complex. What the law does tell us is that we are concerned as you are for the public health and safety of the Town. The Planning Board has heard what you said and realizes that this project will have a negative impact on the Town. From an environmental standpoint and SEQR standpoint, we have listed many items that need to be addressed. We have issued a Positive Declaration. It's up to the developer thru an

Environmental Impact Statement to prove to us that they can mitigate all the potential environmental impacts. Now we are in a positive dec process and Environmental Impact statement process. The first step is that the applicant has to submit what they believe should go in this statement. The Planning Board then has the right to conduct a public scoping session. We don't have to, but we have chosen to conduct a public scoping session. Next Wednesday, we will take into account what the public believes should go in that document. Not whether you like or dislike this project, but what do you want them to evaluate. If you are concerned about traffic, what do you want them to evaluate in the traffic. We have received some input on the first traffic study. Should they do more studies, what data should they use? It was brought up that they should use more current data. We agree. The NYS DOT also agrees. There are other things such as character of the neighborhood. What should we be asking for in this impact statement? How should they evaluate the character of the neighborhood. Do you want them to look at the surrounding neighborhood, what areas should be looked at? We will concentrate on these items for tonight and next Wednesday's official meeting. It's important now to scope out what we want. What mitigations and alternatives should they consider? An easy alternative is no build. What are the ramifications of not building this complex. Once they complete the scoping, they will have a certain time period to present the statement. We will review it and the Town can hire outside consultants at the cost of the developer to look at this. We have in the past, hired our own consultants on traffic. We know that the applicant is somewhat biased. It's going to be. We then, establish the scoping. Once they have done that, we accept the document and seek public input. We will have professionals and other agencies review it, such as the DEP, DEC, DOT, etc. We will also have a public hearing on the Draft Environmental Impact Statement. You will get a chance to view the document at local libraries. Then after that is the Town's part, which is a final draft environmental impact statement, We then will respond to comments received, initiate changes to the report. We are responsible for the quality of that document. Then the final part comes and then we make a decision either in favor, or we say they have not mitigated the problems and then we can say no. We have legally given them their day in court. They presented their information, and we have evaluated it, and we have said no, this will have an impact on the environment. We can then say no. Those are the steps.

The applicant is not here tonight but we will still take input. We know the opposition. What we need is what do you want them to evaluate?

Anna Love of Towers Place asked if our comments should be submitted in writing or verbally? Response: It can be both. Mr. Reilly noted that you have to give them their chance to say this is why we believe it is a problem. Also, have other sites been looked at? Response:

Mr. Crandall stated that we have heard rumors that they looked at many other sites. We will ask for alternative sites, and they will have to present data backing up what other sites they looked at and why they couldn't consider those sites. We are looking where emotions do not get involved. If you are able to provide us with an objective, solid question, that is what we are looking for. To tell us that you don't like it, that doesn't do a thing for us. We have letters of support as well as letters of opposition. You also know that when you do a petition, you can get signatures either way. Petitions do have an impact. We need solid objective data. I encourage you to do it that way.

Mary Kryzan asked about the brightness of this facility? Where does it impact. How will it affect Berkley Square? What foot candles will be observed in the subdivision at midnight. Where can it be viewed from? How far? How do you analyze it?

Linda Heavern of 4177 Mistymeadow Lane stated concerns with this complex being next to a school. I am afraid students will choose to attend the movies instead of going to school. What statistics are being used?

Dave Pfiffer of Sheva Lane noted that we don't know what the truancy rate is, what vandalism occurs, etc. We would like to make contact with the Cheektowaga Central School to see what problems they have with the cinema close by.

Kathy Schalmo of Fairgrounds Road noted that she knows there have been problems in the Chile District where the Cinemark is located.

Mr. George Komenda of Grafton Avenue stated that the cinemas at McKinley Mall are ample. Also, there is a lot of car theft at McKinley. I don't want to see this happen at the school. Also, South Park Avenue is terribly congested. The bike path on 179 is not sufficient for pedestrians.

Tim Bowen of Sheva Lane asked about the lighting at the OLV Medical Center. Response given is that there is security lighting as well as general lighting.

David Szufleta of 3974 Nottingham Terrace stated that there are 18 theaters 4-1/2 miles from this site. McKinley is talking about expanding theirs from 8 to 12. That's 25. How many movies do you want to see at one time?

Drew Reilly responded that public need is not a concern. This is private enterprise. Perhaps that data could be analyzed.

Barbara Stepian of Buckingham Lane asked what will happen to the little theater in the Village of Hamburg?

Michael Betrus presented petitions with 300 signatures of those in opposition.

Dennis Bowers asked about sidewalks and to evaluate pedestrian access and safety.

Paul Morrison of Nottingham Terrace noted that there will be impact on other roads. This is a regional facility that will affect other major intersections.

James Lynch of Beetow Drive noted that as a result of the theatres, we will have to increase the police force. They talk about 7 outparcels. No one has mentioned what type of tenants this will be. Also, they will need an extensive height variance. Mr. Lynch asked about home rule. Response to this is that it does not apply in this case.

Lottie Gunderman of Sheva Lane stated that there should be a survey as to who will attend these theatres.

Steve Truskowski noted that he would like to see data from Cheektowaga. Also, on the traffic study, I would like to see newer data used. How will this affect Berkley Square?

Councilman Cavalcoli stated that the Town Board was asked whether they are in favor of the project? We advised Mr. Burke that we were not in favor of it. However, it must go thru due process.

Mr. Brad Rosinski of Nottingham Terrace asked how this will affect property values?

A resident asked how this will affect the fire department? Also, what about air quality, pest control, and traffic?

Chairman Crandall closed this portion of the meeting until next week.

#### **Commerce Place - Rezoning Petition**

Mr. Reilly explained that the Town Board is the lead agency for this project. He explained the following memo.

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TO : Planning Board  
FROM: Engineering Dept.  
DATE: 8/19/97  
SUBJ: 8/20/97 PLANNING BOARD MEETING AGENDA  
Tinseltown Plaza - Cinemas  
Southwestern Blvd. near South Park Avenue

The following are review comments on a conceptual site plan dated April 1997 (no revision date shown) and received by our office on 7/16/97:

- (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) 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.
- (5) Note on the plan that a Erie County Highway Department (ECHD) 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.
- (6) Parking area access drives should be at right angles to the interior ring road, wherever possible.
- (7) The site landscape plan is to be approved by the Planning Department.
- (8) We have reviewed the July 1997 Traffic Impact Study prepared for the project, and have the following comments:
  - (a) We do not agree with the recommendation that Bayview Road between South Park and Southwestern should remain open. When Mr. Burke initially presented this project to the Town, he stated that he would improve traffic safety in the area by closing this section of Bayview Road to traffic.

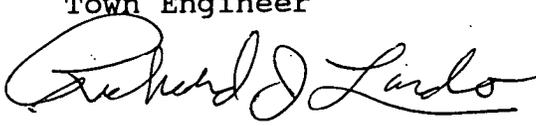
The Town Board, Traffic Safety Advisory Board, NYSDOT, Town Highway Superintendent, Town Engineer, Frontier School District, and area residents are all on record as being in favor of this road closure. It is therefore requested that the traffic study's recommendation regarding this matter be reconsidered.

- (b) With the closure of the section of Bayview Road discussed above, it is further proposed that the intersection of the west leg of Bayview Road with South Park Avenue be realigned to be at a right angle (in addition to the traffic signal and other highway improvements proposed). There is sufficient available open area which could be acquired in front of the law offices at the northwest corner to allow this to occur. This would allow for a greater length of separation along South Park, between Bayview and Southwestern.
- (c) The traffic signals and other highway improvements necessary to mitigate the effects of the project are to be installed by and at the expense of the developer, unless NYSDOT and/or County Highways are willing to share in the costs.
- (d) The Erie County DPW/Division of Highways requested (by 7/15/97 correspondence) that there be only one access driveway along Bayview Road, centrally located within the site. We are in agreement with this recommendation. County/Highways also requested that the intersection of Bayview Road and Big Tree Road be addressed as part of the study.
- (e) The routing of the proposed access road through the Frontier School District property should be shown in the study. Mr. Burke's 7/9/97 correspondence to the Planning Board included a sketch showing the access road running through the middle of the school's soccer and baseball fields. The road alignment should be modified to not interfere with the school's recreational facilities.
- (f) Outparcel Nos. 1 and 8 should be shown as having access only to the interior ring road. None of the outparcels are to have direct highway access.
- (g) Page 37 of the study states that there is no public transportation within the area of the development. However, there is a NFTA bus route along South Park Ave.

- (9) We have received a copy of the 8/8/97 proposed scoping document for the Draft Environmental Impact Statement (DEIS). The document references a Drainage Study, Sanitary Sewer Feasibility Analysis, and Water Supply analysis prepared by Passero Associates. It is requested that copies of these reports be submitted to the Engineering Dept. for review. The scoping document/DEIS should also include appropriate consideration of the comments presented in this memorandum.
- (10) The proposed building height is in excess of the 35 feet maximum allowed under the Town Zoning Code. In order to comply with this height limit, it is suggested that the theaters be constructed partially below grade, similar to the lower level at Rich Stadium.
- (11) Property ownership at the northwest corner of South Park Ave. and Southwestern Blvd. has been shown incorrectly on the site plan.
- (12) The proposed dumpster location should be shown on the site plan.

All comments must be acceptably addressed for approval.

  
Gerard M. Kapsiak, P.E.  
Town Engineer

  
Richard J. Lardo  
Principal Engineer

RJL/dhp