

Town of Hamburg Planning Board
Meeting - December 16, 1998
Actions Taken

DMS Subdivision 6086 Southwestern Blvd. 2 lot subdivision	Approved preliminary
Kelm Subdivision 2 lots 6014 Lake Shore Rd.	Approved preliminary
Camp Road Collision Camp Road	No one appeared.
Kwik Fill Addition 4909 South Park Ave.	Addition approved.
Road House Grille & Tim Horton's - McKinley & Milestrip - Ellicott Development	Approved with conditions
Parkwoods Rezoning - R-A to PRD - North Creek Rd.	Favorable recommendation to Town Board with conditions
Activity Village McKinley Parkway	Concept approved. Hearing to be set when issue of Condos is resolved.
Uncle Joe's Restaurant Southwestern Blvd.	Tabled. Meeting to be held with Bldg. Inspection, Planning & Applicant on site
Thornapple Subdivision Pat Doherty Versailles Rd.	Phase I approved for single family dwelling

TOWN CLERK

1999 JAN 21 A 10:11

FILED IN THE TOWN
CLERK'S OFFICE
HAMBURG, N.Y.

**Town of Hamburg Planning Board
Meeting - 12-16-98**

The Town of Hamburg Planning Board met in regular session in the Court Room of Hamburg Town Hall at 7:30 p.m. on 12-16-98. Those attending included: Chairman Richard Crandall, Vice-Chairman David Phillips, Secretary Gerard Koenig, Paul Eustace, Richard Pohlman, Sue Ganey. Others included: Drew Reilly, Attorney Don McKenna, Rick Lardo, and Terry Dubey, Stenographer. Excused: Don Fitzpatrick

DMS Subdivision - 6086 Southwestern Blvd. Zoned R-A

Secretary Koenig read the following Legal Notice of Public Hearing:

**LEGAL NOTICE
TOWN OF HAMBURG
PLANNING BOARD
DMS SUBDIVISION**

Notice is hereby given that the Town of Hamburg Planning Board will hold a Public Hearing on a 2 lot subdivision known as "DMS Subdivision" to be near 6086 Southwestern Blvd. for a single family dwelling, on December 16, 1998 at 7:30 p.m. Meeting will be held 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, described as follows:

Beginning at the intersection of the center line Cooper Ridge Road westerly line of Farm Lot 33, thence North-Easterly along the center line Cooper Ridge Road (228.85) feet, thence southerly and parallel with the westerly line of Farm Lot 33 (1054.50) feet to the northwesterly line of Southwestern Blvd., thence southwesterly along the northwesterly line of Southwestern Blvd. (251.25 feet) to the westerly line of said Farm Lot 33, thence northerly along the westerly line of said Farm Lot 33 (1087.90) feet to the center line of Cooper Ridge Road at the place of beginning, continuing (4.48) acres of land being the same more or less.

**RICHARD CRANDALL, Chairman
GERARD KOENIG, Secretary
Planning Board
Dated: 11-19-98**

Chairman Crandall declared the hearing open: Mr. Matthew Scherer, applicant, appeared before the Planning Board on a 4.48 acre parcel for the subdivision of land for a single family dwelling. He offered no comment. **Engineering Comments** are as follows:

- (1) A site plan for the existing nursery at 6086 Southwestern Blvd. was previously approved by the Planning Board on 8/14/91.
- (2) Water service to the building on Parcel No. 1 is currently being provided from the Parcel No. 2 house on Pleasant Avenue. The existing service must be removed and a new water supply provided to the site. The owner would be required to pay for a public watermain extension along Southwestern Blvd. to service Parcel No. 1. The owner has inquired of our office if a private well could be installed. We do not recommend that a well be installed because of previous problems encountered by residents in the area with the quantity and quality of well water. If the owner decides to proceed with a well, it will be at his own risk. He would still be responsible for the watermain extension, if he desires public water service in the future.

DMS Subdivision (Continued)

Chairman Crandall also read a letter into the record from Mrs. Susan G. Yacone of 6078 Southwestern Blvd. which states: This letter is to inform the Planning Board that my family is totally against having a dog kennel next to my home. I am not against a dog grooming parlor or a "Doggie Daycare" as long as it does not open the door to future owners using the land for a kennel.

Mr. Reilly stated that tonight's hearing is for the subdivision of the land. If the applicant proceeds with a dog kennel or a business, they would have to meet the zoning ordinance and secondly, if it is a dog kennel will have to meet the zoning requirements. There would be a procedure thru the Planning Board as well as the Zoning Board of Appeals. Now, we are considering the subdivision. We have pointed out to the applicant the issues if the property is to be used for a dog kennel in the future. There is an existing house on the site now. If they wish to proceed with the dog kennel, they would have to come in for site plan approval, and if they can't meet the zoning condition of the 100' setback, they will then have to go to the Zoning Board for a variance. Since this is a change in use, site plan approval will be required.

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

Motion was made by Mr. Koenig, seconded by Ms. Ganey to approve the preliminary for the 2 lot subdivision, issue a Negative Declaration, and waive the filing of a map cover. Carried.

Kelm Subdivision - 2 lot subdivision 6014 Lake Shore Road

Secretary Koenig read the following Legal Notice of Public Hearing:

**TOWN OF HAMBURG
PLANNING BOARD
LEGAL NOTICE
KELM SUBDIVISION
6014 LAKE SHORE ROAD**

Notice is hereby given that the Town of Hamburg Planning Board will hold a public hearing on a 2 lot subdivision of land known as Kelm Subdivision to be located on 6014 Lake Shore Rd. on December 16th, 1998 at 7:35 p.m. Meeting will take place 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 Number 45, in the ninth Township and eighth Range of the Holland

Land Company's Survey, bounded north by land now owned by Frederick Coleman and east by land formerly owned by Henry H. Sissen now occupied by and owned by Jacob Broadcook, South by lot number forty-four and west by land formerly owned by Bryant Burwell and now owned and occupied by Frederick Hiss and being the same premises once occupied by John Hick to John Vannam and afterwards to Jacob and Peter Beklen, containing thirty three acres of land, be the same more or less.

Dated Dec. 4, 1998

Richard Crandall, Chairman
Gerard Koenig, Secretary
12-10
Planning Board

Chairman Crandall declared the hearing open:

DMS Subdivision (Continued)

Chairman Crandall also read a letter into the record from Mrs. Susan G. Yacone of 6078 Southwestern Blvd. which states: This letter is to inform the Planning Board that my family is totally against having a dog kennel next to my home. I am not against a dog grooming parlor or a "Doggie Daycare" as long as it does not open the door to future owners using the land for a kennel.

Mr. Reilly stated that tonight's hearing is for the subdivision of the land. If the applicant proceeds with a dog kennel or a business, they would have to meet the zoning ordinance and secondly, if it is a dog kennel will have to meet the zoning requirements. There would be a procedure thru the Planning Board as well as the Zoning Board of Appeals. Now, we are considering the subdivision. We have pointed out to the applicant the issues if the property is to be used for a dog kennel in the future. There is an existing house on the site now. If they wish to proceed with the dog kennel, they would have to come in for site plan approval, and if they can't meet the zoning condition of the 100' setback, they will then have to go to the Zoning Board for a variance. Since this is a change in use, site plan approval will be required.

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

Motion was made by Mr. Koenig, seconded by Ms. Ganey to approve the preliminary for the 2 lot subdivision, issue a Negative Declaration, and waive the filing of a map cover. Carried.

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Dated: Dec. 4, 1998

Richard Crandall, Chairman
Gerard Koenig, Secretary
12-10 Planning Board

Chairman Crandall declared the hearing open:

Kelm Subdivision

Mrs. Theresa Kelm, and her daughter, Dolly Starr, appeared before the Planning Board on their proposed 2 lot subdivision. A question was raised on the 33 acres. The subdivision is for 9.3 acres. Ms. Starr explained that when the renovation of the road was done for Route 5, they went right thru the farm property and separated the parcel. The 9 acres is on the other side of the road. The one parcel is all one lot. The applicant only gets one tax bill. After the subdivision, there will be two tax bills. The drawing needs to be amended to show the connection.

Mr. Phillips noted that where they show the adjacent lot of 6 acres, you have to show the whole piece that is left consisting of 30 acres. That is part of the whole thing. This is considered a 2 lot subdivision. Lot #2 is across the street. Lot #1 is the quansit hut. This is a minor correction. Mr. Reilly noted that there has been an inquiry on the use of the property. We are not approving any use of the quansit hut. We are only subdividing the property. I have talked to the applicant and if there is a proposed use, they will have to come before us about non-conforming status.

Engineering Comments: 1. Show the location of the water service to the existing house. 2. Show the location of the septic system or sanitary sewer lateral service for the existing house.

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. Eustace to approve the preliminary for the subdivision, subject to the revision of the drawing showing the correct lots, issue a Negative Declaration and waive the filing of a map cover. Carried.

Camp Road Collision - Errol Howorka -

Applicant did not appear. Motion was made by Mr. Koenig, seconded by Mr. Phillips to Table. Carried.

Kwik Fill Addition - 4909 South Park Avenue

Mr. Reilly explained that Kwik Fill would like to add on 400 s.f. to 2400 s.f. on their facility on South Park Avenue. The distance between the pumps and the building is 25'. This will not affect the parking setback or the driveway. The land coverage will be the same.

Motion was made by Ms. Ganey, seconded by Mr. Koenig to approve the addition to Kwik Fill pending Engineering comments. Carried

Road House Grille & Tim Horton's - Milestrip & McKinley

Messrs. Wayne Kwiatkowski and Joe Palladino of Ellicott Development appeared before the Planning Board with a revised drawing for Road House Grille and Tim Horton's.

Mr. Kwiatkowski explained that he met with Dick Connell of Building Inspection and Rick Lardo of Engineering on the remaining issues to be resolved with their site plan. One of the issues is the proximity of the parking on the east and west sides of the building. Mr. Connell informed him that the section of the code shows specifically with egress out of the building that he has no problem with it. However, Ellicott Development went back and shifted the building 5' and have introduced additional landscaping along McKinley Parkway and eliminated 4 parking spaces that were of concern. I also spoke to Mr. Connell regarding the use of decorative neon to outline the building and was advised that there is no problem with the code from that standpoint. I have also discussed the issue of sidewalks with the Engineering Dept. and was referred back to the Planning Board. We have discussed the possibility of something at the corner and the parking area. As for the Engineering comments, we have no problems with correcting the remaining problems. We have now incorporated a right hand turn lane which is designed from engineering standards. We have indicated the appropriate signage at this location. We have increased the Milestrip driveway from 30' to 36' to accommodate the 3 lanes. We have also included a note regarding the acquisition of the property and some letters from the State outlining 4 conditions indicating that: (1) All surveying, mapping and re-establishment of monuments to be done by Ellicott Development in accordance with State DOT procedures. 2. The existing driveway of Ellicott Development Co. be closed and moved to the subject parcel as far east as possible. 3. The "without right of access" restriction be released, and that the newly created parcel be allowed the one point of access recited above. 4. This approval is contingent upon a minimum width of 60 feet being retained for highway purposes on Milestrip Road.

We have also received a memo from Earl Dubin of County Highway whereby he states: 1. Erie County concurs with the Traffic Impact Study, that exiting vehicles at the McKinley Parkway driveway shall be limited to "Right Out" only. 2. Erie County also acknowledges the Town of Hamburg's concern with southbound McKinley Parkway vehicles turning "left" into site drive #2 and causing a backup of vehicles into the McKinley/Milestrip intersection. Erie County feels that with the distance (approximately 225 l.f.) and low "Saturday Peak Hour Volume" (8 vehicles) there should be no restrictions for left turns into site drive 2 at this time. 3. Prior to issuance of a Highway Work Permit, a detailed plan of site drive #3 must be submitted to Erie County for review and approval. Erie County will work mutually with the Town of Hamburg to determine the best overall configuration for site drive #2.

The applicant also noted that they have met with Road House Grille and Tim Horton's who have agreed to the relocation of the dumpsters somewhere to the back area.

Mr. Reilly stated that there is a concern as to how the applicant plans to handle the existing berm along the property. How will that be graded? Answer: With a retaining wall. The same thing applies to the back of the newly acquired parcel. That will also be graded off more gradually. On the issue of the driveway, on the Milestrip one we agree on the movement of the driveway in having free access with the two turn lanes. On the McKinley one, we have always had issues. What the County and State and our Traffic Safety notes that the numbers say that this will not be a problem. From a planning standpoint, we thought left hand turns in will be a problem, especially during Christmas time. But the County and State say, there should be no problem.

Another item is sidewalks. We agree with the applicant that a sidewalk along Milestrip would be useless. The Engineering Dept. on item 5 of their letter, suggests a decorative sidewalk similar to the walk and benches approved for the former Service Merchandise site, be installed to connect the McKinley Parkway and Milestrip Road intersection to the proposed parking area.

Any approval given should also include a landscaping plan. We would like to work more on that. Some of the species will be a problem. On drainage, they will have over-sized pipes in the parking lot. The Engineering Dept. has also suggested right turns in and out and no left turns. This decision is up to the Planning Board. The County does not believe that the numbers warrant no left hand turn in.

Chairman Crandall noted that we can dispense with the discussion on left turn in. I don't have a problem with it. It is not ideal but people will find out for themselves. The approval is to be conditioned on Engineering and landscaping.

Motion was made by Mr. Phillips, seconded by Mr. Eustace to approve the site plan for Road House Grille and Tim Hortons; issue a Negative Declaration, subject to conditional approval of landscaping and Engineering; that sidewalks and benches be located on the corner; relocation of the dumpster to the rear area, (east side) subject to conditions of the Eng. letter dated 12-14-98. Carried.

On the issue of #3 of the Eng. letter on no lefts in and out, the Planning Board has made the decision that it is acceptable the way it is shown on the drawing with no lefts out. Therefore #3 is to be withdrawn. Motion was made by Mr. Phillips, seconded by Ms. Ganey to amend that portion of the approval. Carried.

Engineering Comments:

TOWN OF HAMBURG

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



Supervisor
PATRICK H. HOAK

Town Attorney
VINCENT J. SORRENTINO

Councilmen
D. MARK CAVALCOLI
KATHLEEN COURTNEY HOCHUL
JOAN A. KESNER
THOMAS J. QUATROCHE, JR.

Town Clerk
GEORGE DANYLUK

Supt. Of Highways
JAMES F. CONNOLLY

Receiver of Taxes
ROBERT A. MARS

TO : Planning Board

FROM: Engineering Dept.

DATE: 12/14/98

SUBJ: 12/16/98 PLANNING BOARD MEETING AGENDA
Road House Grill/Tim Horton's Traffic Study

The following are review comments on plans not dated and received on 12/11/98:

- (1) We will not approve these plans without prior New York State Dept. of Transportation (NYSDOT) review and approval of the work on their right-of-way.
- (2) Raised concrete curbing is to be provided around the site perimeter and all landscape islands.
- (3) Provide a detail of drawing for the McKinley Pkwy. entrance. The island should be designed for only right turns in and out (no left turns).
- (4) A left turn arrow should be painted on the pavement of the Milestrip Road exit driveway (instead of the straight arrow presently shown).
- (5) We suggest that a decorative sidewalk, similar to the walk and benches approved for the former Service Merchandise site, be installed to connect the McKinley Parkway and Milestrip Road intersection to the proposed parking area.
- (6) A minimum of ten (10) inches depth of stone base should be used in the paved areas.
- (7) The site landscaping is to be approved by the Planning Board.

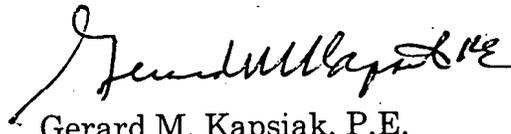
(8) Drainage Plan

- Show the roof downspout connected to the storm sewer.
- Existing site elevations are required to be shown on the plans.

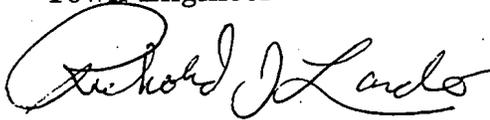
(9) Utility Plan

- Show the location of the existing fire hydrants.
 - Include the proposed sanitary sewer pipe slope, a profile view, casing requirements, all elevations and grease traps. Submit the plan to Erie County Sewer District No. 3 (ECSD No. 3) for review and approval. We will not approve these plans without their prior review and approval.
 - The sanitary sewer main on Milestrip Road is 24" diameter (not 6" as shown).
 - Show the location and details for the RPZ backflow preventer, as required by the Erie County Water Authority.
 - Consider using the existing sanitary sewer and water services if possible, in order to avoid having to bore beneath Milestrip Road.
- (10) Additional clearing, stripping, and erosion control measures are required. Include associated construction details and notes on the plan.

All comments must be satisfactorily addressed for approval.



Gerard M. Kapsiak, P.E.
Town Engineer



Richard J. Lardo
Principal Engineer

RJL/dhp

Parkwoods Rezoning Petition from R-A, Residential Agricultural to a PRD, Planned Residential Development - North Creek Road.

Mr. Reilly informed the board that this is a rezoning application and a recommendation is required to the Town Board. This matter was tabled from September 1998. It is very important that when you are rezoning to a PRD, it is just that. You will be approving the plan which becomes the zoning of the site. There have been a litany of issues that have been discussed. The most important issue is the delineation of the wetland by the State DEC. The following report was read into the record and was sent by Kenneth Roblee, Sr. Wildlife Biologist.

New York State Department of Environmental Conservation
Division of Fish, Wildlife and Marine Resources, Region 9
270 Michigan Avenue, Buffalo, New York, 14203-2999
Phone: (716) 851-7010 FAX: (716) 851-7005



John P. Cahill
Commissioner

November 12, 1998

received
11-13-98

90-1006

Mr. Robert C. Reggentine
Construction Team Management
8800 Main Street
Williamsville, NY 14221

**Re: Unmapped State Wetland
North Creek Road Property
Town of Hamburg, Erie County
CTM Job No.: 90-1006**

Dear Mr. Reggentine:

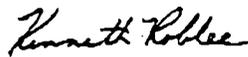
In response to your August 17th request and to a similar request made by the Town of Hamburg Conservation Advisory Board, I have inspected the Park Woods Village Site between North Creek Road and Lakeview Road in reference to unmapped State wetlands. The site and adjacent properties were inspected on November 5, 1998. The inspection revealed that the 8.5 acres of Federal wetland depicted on the "Park Woods Village Concept Plan," dated July 18, 1997, represents the southern portion of a larger wetland which continues to the north on lands reportedly owned by J.F.S. Limited Partnership. The total acreage of this wetland was determined from measurement of aerial photographs to be approximately 20.3 acres. This is sufficient area to allow the Department to pursue jurisdiction of this wetland under the New York State Freshwater Wetlands Law. A copy of the approximate boundary of this wetland is shown on the attached portion of the Eden 7.5 minute Quadrangle.

I expect to commence the map amendment proceeding to add this wetland to the New York State Freshwater Wetland Map of Erie County in early January. This proceeding includes notice to landowners and you will receive notice of the proposed map amendment when it is initiated.

In regard to the Park Woods Village Project, the wetland boundary shown on the concept plan accurately depicts the southern boundary of the larger wetland being considered for addition to the State wetland map. If the wetland map is amended to add this newly identified wetland, a 100-foot adjacent area extending from the wetland boundary will also be included under State regulation. The concept plan you provided shows no proposed regulated activities within this area. The remainder of the project site was also inspected to determine if other unmapped State wetlands existed which would be impacted by the proposed project. None were found. In summary, it is my belief that the future map amendment should not prevent you from proceeding with the Park Woods Village development as shown on the July 18, 1997 concept plan. This is because no regulated activities are planned within 100 feet of the subject wetland.

If you have any further questions concerning my inspection of the property or the pending proposed map amendment, please contact me at the Buffalo Wildlife Office at (716) 851-7010.

Sincerely,



Kenneth Roblee
Sr. Wildlife Biologist
Region 9, Buffalo

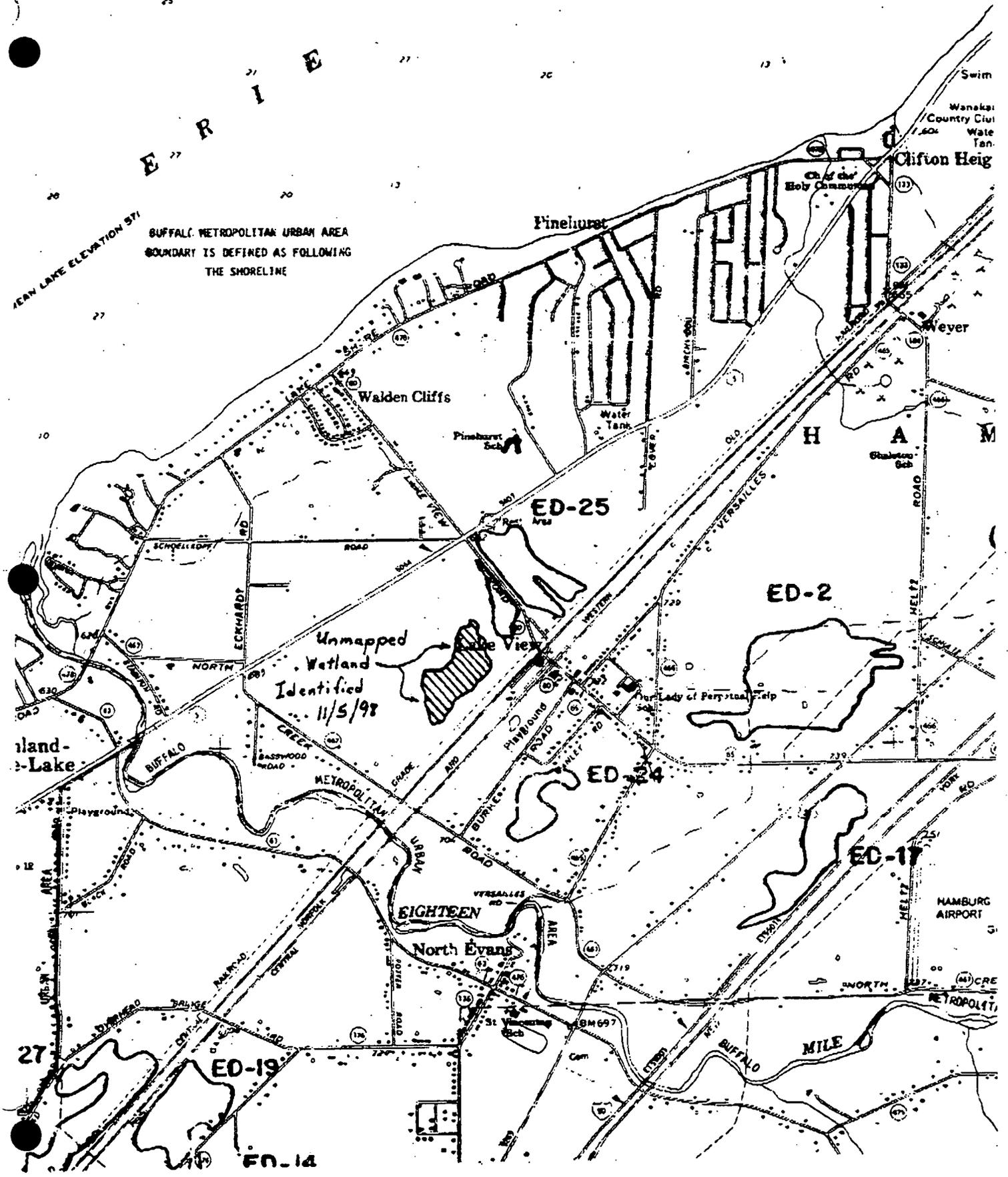
KR:dcg
reggenti.ltr

cc: Mr. Russ Biss
Mr. Steven Doleski
Mr. Donald Spittler
Mr. Jacob T. Schoellkopf

NEAR LAKE ELEVATION 571

BUFFALO METROPOLITAN URBAN AREA
BOUNDARY IS DEFINED AS FOLLOWING
THE SHORELINE

E R I E



Parkwoods (continued)

A portion of the wetland on this property is part of a much larger wetland. A State wetland also has a 100' buffer area around it. This was formed because in the PRD law, how you figure out the number of units that are allowed in the PRD. The object of the PRD is not to increase the density of what was allowed on the property previously. The acreage of the site is 43.5; whereby 8.5 acres are wetlands. Therefore there is 35 acres of land. Gross density says you divide it by two which gives you 17.5 units. It has been our recommendation that they receive a 10% density bonus because they are preserving more than the 40% of the property required for a PRD. The plan shows 21 units and there can only be 19 units. Perhaps the two existing homes will remain, that is up to the developer. On the wetland issue, they are saying that there is another 12 acres of wetland off site north which is owned by JFS Limited partnership.

Mr. Reilly suggested that on the east side of the property, where it shows the lake wrapping around the front, I would suggest that the lake not be on that side of the property because there is no point in tearing up 100' of woods to put in a lake. The applicant has agreed to pull the lake back. The object is to have the road in between to preserve the woods and buffer the development in the back. The pond will be used for drainage and aesthetic purposes and there is no problem downsizing it.

The Planning Board is in a position to recommend to the Town Board. There may be conditions appropriate for this project. The board will be shaping exactly what the property will look like. This is good as it will preserve 30 acres of land. The Conservation Board has recommended that those 30 acres of land be dedicated to the Town and owned by the Town. There was some argument before as to whether we would want improvements on that land, such as a parking area or bike trails. The Conservation Board wants the land dedicated to the Town.

Other issues included ownership of the property. We have received correspondence from Attorney Edward J. Schwendler which reads: (See next page)

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SCHWENDLER & DOLLOFF
ATTORNEYS AND COUNSELORS AT LAW

WARD J. SCHWENDLER, JR.
PAUL W. DOLLOFF

September 18, 1998

604 BRISBANE BUILDING
BUFFALO, N. Y. 14203-2191
TELEPHONE 716-854-7690
FAX 716-854-7692

Ms. Terry Dubey
Hamburg Town Planning Board
Town Hall
S6100 South Park Ave.
Hamburg, NY 14075

Re: Ganey, SBL 193.00-4-36

Dear Ms. Dubey:

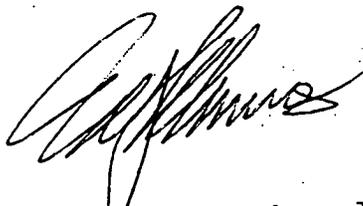
Following up our telephone conversation, I thought I would provide more detailed information about the "fractional interests". The records indicate that in 1957 the late Daniel F. Ganey, Jr. and J. Clement Johnston, acquired the property.

Mr. Johnston died in 1983, and I understand he left his half to his daughters, Margaret G. Johnston and Nancy J. Howe, who we understand are now the owners.

Mr. Ganey died in 1988 and left his property in four equal shares to his children. We represent three of the children, mentioned in our earlier letter. The fourth child himself died in 1996 and his estate is still being administered by the named Executor, James Shaw, Esq.

I hope this information will be helpful.

Yours very truly,



Edward J. Schwendler, Jr.

EJS:ls

cc: Mr. Robert C. Reggentine

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TOWN OF HAMBURG

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Receiver of Taxes
ROBERT A. MARS

TO : RICHARD CRANDALL, CHAIRMAN, PLANNING BOARD

FROM : CINDY CONLON, PARALEGAL

RE : REZONING PETITION/PARKWOODS VILLAGE

DATE : SEPTEMBER 22, 1998

Town Attorney, Jim Sorrentino, has reviewed your memo dated September 18, 1998, asking for a clarification on what "fractional interest" means.

He explained the concept to me verbally and I will try my best to put it into memo form since that is what Terry has requested.

An example of fractional interest would be as follows: If a family owned several acres of land, i.e. a farm, and there were five sons, a fractional interest in the property would be for each son to be given one-fifth of the property. There is no survivorship with fractional interest and each son would always own only one-fifth.

This is opposed to a survivorship which is commonly seen on deeds. Title is often held in the name of a husband and wife. When the husband dies title of all the property passes to the wife by survivorship. The wife then owns all the property.

I hope this is helpful. If there are any questions, I am sure Planning Board attorney, Don McKenna could offer a definition. Thank you.

Parkwoods (Continued)

Mr. Reilly explained that it was owned by two people. One person died and left it to their heirs. One of those heirs then died and left it to others. Therefore there is fractional interests on the property.

Chairman Crandall asked if there was a final decision where the Town Attorney is satisfied that we can entertain this application based upon the lawful applicant? Mr. Reilly responded that more research will be required before a Public Hearing is held. There is a question concerning the estate. That is yet to be resolved. The applicant presented a letter concerning the other owners of the property and gave permission to proceed. Town Board is to made aware of that information. Attorney McKenna stated that the Town Attorney can issue the policy and is subject to final review that the ownership is correct.

Mr. Koenig noted that an issue was raised as to a parking area for people that may want to use a hiking trail. This is something that should be brought to the Town Board's attention. Improvements to the land will be a Town Board decision.

Linda Cooper of North Creek Road spoke on the issue of ownership. We have nothing to indicate that this is factual. Also, on the issue of 43.5 acres, one acre makes quite a bit of difference. This should be clarified. Is it 42.5 acres of 43.5 acres? On the issue of land dedication, what assurances do we have that this will take place? Mr. Reggentine has suggested that this be put in the hands of a community association. That will make quite a difference. Also, the EAF shows 8.5 acres to be rezoned whereby Mr. Reilly has noted that the entire 42.5 acres is to be rezoned. What is there to prevent the community association from selling off the land with more building? There is a lot that can go wrong. Page 5 of the EAF notes that the Army Corps of Engineers is involved. These are all critical points to be considered.

Chairman Crandall responded that he will try to go over the items. On the issue of ownership, Attorney McKenna stated that the Town Attorney will get the corrected assurances of title. There will be an examination of the title. There can also be a title insurance policy issued. There are standards to determine ownership before it goes to the Town Board. We will require a legal binding decision as to determination of the actual owner before any decision is made by the Town Board.

Again, Ms. Cooper asked about the dedication of the land versus the association?

Mr. Reilly responded that in reference to the law, it says (PRD) Open Space lands reserved under PRD zoning shall be governed by the following: 1. Any open space to be reserved for

preservation (i.e., conservation areas, passive recreation areas) shall be preserved in perpetuity by one of the following: dedication of land to the Town, Land Conservancy or other town-approved agency or group, conservation easements or restrictive covenants enforceable by the Town or by other means approvable to the Town that will achieve the permanent preservation of these lands.

The first recommendation is dedication to the Town, dedication to a land conservancy group or dedication of some other Town approved agency or group, or you can have permanent conservation easements or restrictive covenants enforceable by the Town. That is where the Attorneys come in with that, or by other means that will achieve the permanent preservation of land. It would never be used for further development. The Planning Board would make a strong recommendation to the Town that it be dedicated. Town Board has the final say. The Planning Board is opposed to any further development or expansion of what this application is about. As part of the approval, the dedication would have to take place. Attorneys will have to make sure that the Town is protected. This is listed in the ordinance, under Section 280-107.4 Other design requirements. The law is very specific. A legal document will have to be drawn up. Homeowners cannot make a change unilaterally. If approval is based on the code, there will be no further option on the part of the homeowners. A homeowners association will be required for maintenance of the road and common areas. The land that will be dedicated to the Town or with a permanent conservation easement, is something else to be drawn up.

Ms. Cooper made reference to Page 5 of the EAF and the Army Corps of Engineers. Mr. Reggentine responded that all permits have been updated and the permits are in force. Mr. Reggentine stated that they did a full survey of the property. I am a licensed surveyor, under State Education Law, there are 43.5 acres. There is a discrepancy in the application but the survey is correct.

Mrs. Theresa Allen of North Creek noted that she has a problem with the two existing homes. What will happen to them? Planning Board response is that no decision has been made as yet. Mr. Reggentine stated that he would like to see them removed. If they are to be kept, we have to do a feasibility on the project. If they stay, we will have to deduct two more units. If the homes are in disrepair, we may have to get rid of them.

Mr. Bill Brudo of North Creek Road stated that the map is not correct. There is a 45' access strip between my property and my daughter's that is owned by J.F.S. Partnership. Your drawing is infringing on property that has disappeared. This strip gives access to the back. This is not a correct map. It was pointed out that the actual boundaries will have to be verified. This will be up to the Town Attorney.

Parkwood Continued

Mr. Dan Dury of North Creek Road would like to see this built as I built according to R-A zoning. I am concerned with this type of development especially after we were reassured that it would not happen. I don't see why 17 homes have to be built.

Beverly Blette of 1647 North Creek Rd. spoke in opposition of the project. Will the Town take ownership of this land? Will they be responsible for vandalism or accidents, etc? There are outside groups that congregate and have access to private areas by having beer parties. Will the Town be responsible for this? Answer: The Town is not responsible for the actions of children, the parents are. The Town is responsible to provide habitat for wildlife and the trees. That is what the Town is taking responsibility of.

Mrs. Blette noted that she is concerned about the parking area and all kinds of different people coming in from areas of the Town and those who are dumping. Mr. Crandall responded that this will be land to be used by taxpayers in the Town of Hamburg. If they live in Hamburg, they have the right to go there.

Mr. Brudo asked if there will be a fence between the adjoining development? Answer: This will be discussed during site plan review.

A resident of North Creek stated that she is totally against this plan. I don't think this will fit into a rural road. I would hate to see you give credence to this plan when we don't know who owns the adjacent property. I am worried about this change in zoning. I am having a hard time accepting this idea and do not feel comfortable with it. Once the trees go down, you cannot replace them. I don't feel this is right for the area.

Mr. Phillips responded that we cannot stop a developer from developing the land. If he wishes to clear cut the land and put up 19 2 acre homes, he can. At the Hamburg Future Development Advisory Board and meeting after meeting, the people of Lakeview said, preserve the trees and the wildlife. If we can't stop him from cutting, he can develop it legally, how are we going to preserve the trees and wildlife if we don't do something unique like this? The developer plans to leave the trees.

Linda Hirsch of North Creek Rd. spoke of concerns on the road and sewer and water. Answer: This will be checked out by the sewer district and if there is sufficient capacity he will be allowed to build.

Chairman Crandall pointed out that it is the obligation of the Planning Board to act in the best interests of all the taxpayers in the Town. We have received input from groups that wanted the

preservation of parkland. Residents want recreation space, biking and hiking trails, and we are acting accordingly.

Motion was made by Mr. Phillips, seconded by Mr. Koenig to forward a favorable recommendation to the Town Board on the rezoning of Parkwoods Community to a PRD on North Creek Rd. for the following reasons:

1. Resolution of the ownership of the property and the 45' strip that is missing. It will be up to the Town Attorney to straighten this matter out.

2. To save as much of the woods and that no woods be cut without the approval of the Town Planner based on a plan whereby all the woods are mapped out. There will be no clearing or stripping without the proper permits and final site plan approval is granted.

3. That the number of units to be built is to be defined. There will be either 17 new units or 19 depending on whether two existing homes remain or be demolished.

4. There is to be an adjustment made on the 45' x 1700 s.f. area that is presently missing.

5. The dedication of land is to be reviewed by the Town Board. We strongly recommend that the Town own the remaining acreage.

6. The issue of the trails and the parking area is to be determined and resolved on the final site plan approval. The Planning Board is in favor of a bike and walking trail. The parking area is to be determined by the Town Board

7. No action is to be taken until a final site plan is approved by the Planning Board. Carried.
Abstained: Sue Ganey

Mrs. Theresa Allen noted that she is not in favor of a hiking or biking path as this will lead to homes being robbed etc. Chairman Crandall responded that the Planning Board is in favor of it and that the final decision will be made by the Town Board.

Activity Village - McKinley Parkway

Messrs. Jerry Ruhl and Andrew Hilton appeared before the Planning Board on a revision of Activity Village on McKinley Parkway.

Mr. Reilly noted that he has some remaining concerns. For example, the landscaping plan and grading plans appear to show that most of the trees will be graded out. A condition of the rezoning

is that trees in the back are to remain. In looking at the site plan, it appears that they have been removed. Another issue to be resolved is the dedication of the property to the rear. Mr. Reilly noted that he is not sure what the Conservation Board wants to see. Perhaps they will want a 100' strip left for a trail to Rush Creek. A suggestion was made that 35 to 50' would be left as a passive recreation area. There is to be no removal of trees.

Mr. Hilton stated that he has had discussions with Attorney McKenna and George Grasser on how to handle the condominium issue, and should this be treated as a subdivision? At this point the consensus is - not really.

The project will not be treated as a formal subdivision in the sense that a map cover and its associated approvals will not be required. It has been recommended that we have a public hearing as though it were a subdivision, because of the possible application of Real Property Law 339f. Another meeting will be held with the Attorneys to determine the final outcome.

Engineering Comments are as follows:

The following are review comments on site development drawings dated September 1998 and last revised 12/10/98:

- (1) We are reviewing this project as if it were an apartment complex. If a Map Cover is required to be filed, different review comments would apply.
- (2) The Town Engineer's phone number on the cover sheet is incorrect (should be 649-6111, ext. 350).
- (3) Site landscaping is to be approved by the Planning Board. Include landscaping around the water RPZ hot box.
- (4) If garbage dumpsters will be used, they are to be shown on the plan (fenced and on a concrete pad).
- (5) The design engineer should contact our office to discuss storm drainage and paving plan review comments.
- (6) Provide the finish grade at the foundation for all dwelling units.
- (7) The waterline RPZ hot box is to be moved further away from the driveway to allow for appropriate landscape screening of the box.
- (8) Provide pressure and flow data and an Engineer's Report for the proposed waterline extension.
- (9) Submit the plan to Erie County Sewer District No. 3 (ECSD No. 3) for review and approval. We will not approve these plans without their prior review and approval.
- (10) Submit the plan to the Erie County Water Authority (ECWA) for review and approval. We will not approve these plans without their prior review and approval.
- (11) Submit the plans to the Erie County Highway Department for review and approval. We will not approve these plans without their prior review and approval.

Engineering Continued:

(12) SITE AND DRAINAGE DETAILS

-The 6 inch underdrain shown on the typical road section is to also be shown on the curb detail. The underdrain connection to the road catch basin should also be shown.

(13) WATER MAIN DETAILS

-Remove all references to the Town of Hamburg Engineering Department Construction Specifications for the installation and inspection of the private waterline.

(14) EROSION CONTROL PLAN

-Provide silt fencing around the topsoil stockpiles and parking area.
-Include clearing limits for the various phases of construction.

Motion was made by Mr. Phillips, seconded by Ms. Ganey to grant concept approval conditioned upon further coordination and review by the Planning Dept.; that the applicant is to minimize the grading at the front of the site in order to preserve a green area; to minimize the grading at the back of the site in order to preserve as many of the trees on the north side as possible; that landscaping be provided along the front; and that the resolution of the condominium issue and the public hearing be determined at a later date. Carried.

Uncle Joe's Restaurant - Southwestern Blvd.

Mr. Daryl Martin appeared on behalf of the applicant, Joe Gargano.

Chairman Crandall stated that it has come to his attention that the parking area on the northwest portion of the site is already being used for parking. Based on the Engineering letter provided, the site plan has not been complied with to the satisfaction of the Engineering Dept. Board members noted that they prefer not to entertain the application until issues are resolved.

Chairman Crandall stated that he would like to set up a meeting with Drew, Joe Gargano, himself, and Kurt Allen to do a field inspection of the site to determine how this problem can be resolved.

Motion was made by Mr. Phillips, seconded by Mr. Eustace to **Table**. Carried.

See Engineering Comments.

TOWN OF HAMBURG

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



Supervisor
PATRICK H. HOAK

Town Attorney
VINCENT J. SORRENTINO

Councilmen
D. MARK CAVALCOLI
KATHLEEN COURTNEY HOCHUL
JOAN A. KESNER
THOMAS J. QUATROCHE, JR.

Town Clerk
GEORGE DANYLUK

Supt. Of Highways
JAMES F. CONNOLLY

Receiver of Taxes
ROBERT A. MARS

TO : Planning Board

FROM: Engineering Dept.

DATE: 12/14/98

SUBJ: 12/16/98 PLANNING BOARD MEETING AGENDA
Addition to Uncle Joe's Restaurant - S-4869 Southwestern Blvd.

The following are review comments on a site plan dated 11/28/98:

- (1) Site plans for these properties were previously approved by the Planning Board on 12/22/90 and 8/28/96. We inspected the site and determined that the following items are not in compliance with the previously approved site plans, and should be completed (or waived by the Planning Board) prior to any further site plan approvals:
 - A) Parking bumpers were not installed as required.
 - B) The upright curbing around the island in the southeast corner of the banquet facility parking area was not installed.
 - C) The evergreen hedges at the rear of the parking area are not installed.
 - D) None of the landscaping along Southwestern Boulevard was installed.
 - E) The number of parking spaces and layout has been revised.
 - F) A portion of the site storm water runoff has recently been diverted to flow directly to the Southwestern Blvd. road ditch, which unacceptably bypasses the storm water detention pond. The Conservation Advisory Board has also notified our office that this may be draining an off-site Federal Jurisdictional wetland area.

- (2) The storm sewer is to have a minimum cover of two (2) feet.

- (3) The future parking area shown in the northwest portion of the site is already currently being used for parking. This parking area should be properly designed and submitted for the Planning Board's review prior to any further site plan approvals.

All comments must be satisfactorily addressed for approval.



Gerard M. Kapsiak, P.E.
Town Engineer



Richard J. Lardo
Principal Engineer

RJL/dhp

Thornapple Subdivision - Versailles Road - Pat Doherty

Mr. Pat Doherty appeared before the Planning Board on a proposed revision to his subdivision approval that was granted for 7 lots on Versailles Rd. He explained that after he received his approval, Versailles Road was paved and the County will not allow any cutting of the road for his utility line. Therefore, to go underground would run in the vicinity of \$30,000. Mr. Doherty would like permission to phase the project in order to build a home for himself. Applicant was advised to bring in 4 copies of the revised preliminary for signing.

Motion was made by Ms. Ganey, seconded by Mr. Koenig to approve Phase I, waive the filing of a map cover for the construction of one single family dwelling. Carried.

Minutes of the meeting of 10-21-98 were approved on motion of Mr. Pohlman, seconded by Mr. Eustace. Carried.

Motion was made by Mr. Pohlman, seconded by Ms. Ganey to approve the minutes of the Nov. meeting. Carried.

Respectfully submitted,

Gerard Koenig
Gerard Koenig, Secretary
Planning Board