

Town of Hamburg
Planning Board Work Session
January 5, 2011

Minutes

The Town of Hamburg Planning Board met for a Work Session on Wednesday, January 5, 2011 at 7:00 p.m. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Peter Reszka, Gerard Koenig, Stephen McCabe, David Bellissimo and Karen Rogers.

Others in attendance included Councilman Collins, Andrew Reilly and Sarah desJardins.

Excused: Sasha Yerkovich, Brendan Lovullo

Chairman Reszka recommended that Sasha Yerkovich continue as Vice Chairman of the Board for 2011 and that Stephen McCabe continue as Secretary.

Mr. Koenig made a motion, seconded by Mr. Bellissimo that Mrs. Yerkovich and Mr. McCabe continue in their capacity as Vice Chairman and Secretary, respectively. Carried.

Chairman Reszka introduced Town Councilman Joseph Collins, who will be the Planning Board's liaison to the Town Board for 2011.

Councilman Collins stated that he has met with representatives of the Building Inspection and Zoning departments and noted that he can be reached in the Town Hall if anyone has any questions or concerns.

Benderson Development – 4250 McKinley Parkway

Mr. Reilly stated that the applicant received three variances from the Zoning Board of Appeals on January 4, 2011 and is hoping the Planning Board will consider approving the project now that the variances have been obtained. He further stated that the only outstanding issue from the Board's last meeting is what has to be done to the site in order to complete Phase One of the project (the expansion of the existing Tops store and construction of the gas pumps). He noted that the Planning Board has expressed concern regarding the applicant's intent to clear cut the entire site during the first phase of construction.

Attorney James Boglioli, representing Benderson Development, stated that the proposed plan complies with all of the conditions associated with the 2009 rezoning of this property and addresses all of the comments from the Traffic Safety Advisory Board (TSAB) and the concerns of the residential neighbor south of the site. He further stated that the proposed plan includes a significantly enhanced landscape plan to justify the reduction in buffers.

Regarding the need to clear cut the site, Attorney Boglioli stated that a 30-foot strip of land (depicted in green on the Site Plan) must be cleared in order to install a water line

along the south side of the property when the Tops store is expanded. He further stated that an area north of the water line (depicted in brown on the Site Plan) must be cleared because it will serve as the staging area for the construction work on the Tops building and that another area along McKinley Parkway (depicted in blue on the Site Plan) would be cleared and stoned to provide parking spaces for Tops tenants during construction of the Tops expansion and the gas pumps because the existing parking lot will be rebuilt and regraded.

Attorney Boglioli stated that, due to the above, there is only one section of trees that could be left but that because of the grades the area would be four (4) feet above grade. He further stated that the applicant feels this could be a safety issue and it would create an additional expense for the applicant because at some point in the future the trees would have to be cut down in order to construct the proposed retail building when a tenant is secured.

It was determined that the portion of the site where trees could be left until construction begins on the retail building would measure approximately 125' X 125' and is depicted in white on the Site Plan.

In response to a question from Mr. McCabe, Attorney Boglioli stated that the staging area for the construction vehicles and material could not be located in the northeast corner of the site because the construction vehicles would have to be driven across the site to get to the construction area and it could pose a safety problem.

In response to a question from Mrs. Rogers, Mr. Bill Rae from Benderson Development stated that orange plastic fencing will be placed around the existing parking lot while it is rebuilt. He further stated that the stoned area will provide space for approximately 90 vehicles for Tops employees and customers.

Chairman Reszka stated that his concern is that the Town will end up with a graded lot and it could be five or six years until anything is built and it will look like the area next to the new Wal-Mart. He asked Mr. Rae if the area behind the building could be used as the staging area, in order to save some of the trees.

Mr. Rae stated that the detention area is behind the building and that this is one of the first things that would be constructed and therefore that area could not be used as a staging area for the expansion of the Tops building.

Mr. Bellissimo suggested installing some type of temporary barricade along McKinley Parkway so that the cleared site is not so unsightly to passersby. Attorney Boglioli reminded the Board that all of the landscaping along McKinley Parkway, as well as along Southwestern Boulevard, will be installed in conjunction with the initial phase of the project.

Mr. Bellissimo stated that he believes that aesthetically when people look into the void of the site after two or three years, it could possibly become an eyesore. He further stated that an attractive barricade, such as a tall fence with a green mesh could serve

to render the vacant space more difficult to view. He noted that he does not want this
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site to look like the Benderson site next to the new Wal-Mart at Southwestern Boulevard and Rogers Road.

Attorney Boglioli stated that if the Board wants Benderson to look into installing a fence with green mesh on the inside of the landscaping along McKinley Parkway to provide an additional buffer, Benderson would do that. He further stated that Benderson would be willing to seed, grass and mow the area to be used as the staging area (depicted in brown on the Site Plan) when the construction is complete on the Tops and the gas pumps.

Mr. McCabe stated that the Board would be more comfortable with the entire site being cleared if it had some sort of assurance that the second phase of construction would follow relatively soon after the first phase.

Attorney Boglioli stated that Benderson's existing Tops anchor centers have very few vacancies and that he believes that this site will not sit long before a tenant is secured once the Tops expansion is completed.

Mrs. Rogers stated that a visual of the site would help the Board make a determination.

Mr. Reilly asked Attorney Boglioli what would be done to the temporary parking area (depicted in blue on the Site Plan) after the Tops is expanded and the rebuilt parking area and gas pumps are completed. Mr. Rae responded that the area would remain as gravel.

Mrs. Rogers stated that she feels that the site would be an eyesore, especially if the temporary parking area is left as gravel. She asked if Benderson would be willing to grass or pave that area after construction of the Tops expansion and gas pumps is complete, instead of leaving it as gravel. Mr. Rae agreed to put a sub-base down instead of leaving it as gravel, which would make the area look like it is paved. He stated that he would grass the area around the building pad, however.

Mr. Bellissimo stated that above-ground planters could be placed on the sub-base, as well, to make it more aesthetically pleasing while Benderson is waiting for a tenant.

In response to a question from Mr. McCabe, Mr. Rae stated that the staging area for the Tops expansion (depicted in brown) will be seeded once the construction is completed.

It was agreed that if the area where the trees are left is not aesthetically pleasing, the Planning Board may allow Benderson to remove the trees.

Ms. Lalaine Podkulski, adjacent resident, asked what the time frame will be for the construction. Attorney Boglioli responded that Tops hopes to begin mobilizing on March 1, 2011. Mr. Rae stated that he does not know what Tops' schedule for completion is but it would probably take six months to complete the expansion of the

store and construct the gas pumps.

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Mr. Bellissimo made a motion, seconded by Mr. Koenig, to grant Conditional Site Plan Approval for this project with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated January 5, 2011.
2. Upon completion of the Tops expansion and construction of the gas pumps, the "brown" area on the Site Plan will be grassed and seeded and the "white" area will be left intact (no trees cut down). The "blue" area will be sub-based after construction.
3. All of the landscaping around the perimeter of the site, along with the landscaping and fencing provided as a buffer for the adjacent resident, will be installed along with the Tops expansion construction.
4. The area of trees to remain will be reviewed by the Planning Board after construction of the Tops expansion is complete and if it feels the trees should be removed, Benderson will remove them.
5. The landscape plan must be approved by the Planning Department.

Carried.

Mr. Bellissimo made a motion, seconded by Mr. McCabe to grant a Special Use Permit for the construction of the gas pumps. Carried.

Mr. Richard Podkulski stated that he and his family are in favor of the Benderson project noting, however, that they are concerned about the disposition of the trees that Benderson plans to leave on the site initially.

Engineering Department comments have been filed with the Planning Department.

Yovienne Subdivision

Mrs. desJardins stated that the applicant asked to be tabled until the Board's next meeting.

Mr. Koenig made a motion, seconded by Mrs. Rogers, to table this project. Carried.

EduKids

Mr. Reilly stated that EduKids proposes to purchase the Cloverbank Hotel property, demolish the building and construct a day care center. He further stated that the property along Lakeshore Road is zoned NC (Neighborhood Commercial) but the rest of the site (along Cloverbank Road) is zoned R-2 and would need to be rezoned to NC.

Mr. Reilly stated that this property is located in the Route 5 Overlay District, which requires that all new buildings be placed closer to Lakeshore Road (between 15 and 50 feet from Lakeshore Road). He noted that the submitted sketch plan shows the

building further from Lakeshore Road and stated that the Town would probably like the
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building closer to and parallel to Lakeshore Road instead. He further noted that if the building were located closer to Lakeshore Road, the parking could be behind the building along Cloverbank Road and the Cloverbank Road entrance to the site could be moved further from the intersection of Cloverbank and Lakeshore.

Mr. Reilly stated that the Traffic Safety Advisory Board (TSAB) expressed concerns regarding the proposed curb cut on Route 5, as well as the proposed curb cut on Cloverbank Road and its proximity to Route 5.

Mr. Reilly stated that some Hamburg residents have indicated that there was a gas station on this site many years ago, noting that he is sure that the applicant will not purchase this property unless there are no underground storage tank problems.

Mr. Reilly stated that day care centers are allowed in the NC District because R-3 uses are allowed in the NC District and day care centers are an allowable use in the R-3 District with a Special Use Permit. He further stated that this project would require the rezoning to NC, a Special Use Permit and Site Plan Approval.

Mr. Bellissimo stated that if the building were positioned parallel to Lakeshore Road with a false entrance facing Lakeshore and the parking and play area behind the building along Cloverbank Road with entrances on both sides of the building, it would look similar to the library across the street except that it would be set back further. He further stated that this would also allow the entrance onto Cloverbank Road to be located further from the intersection with Route 5.

Mr. Donald Weiss, Hamburg resident, stated that there are two houses on Glendale Avenue, one of which is a shack. He further stated that the purchase of those two houses would give EduKids the entire block. He asked Attorney Corey Auerbach from Damon Morey Attorneys at Law (representing EduKids) if EduKids has considered purchasing them. Attorney Auerbach responded that EduKids has not approached the owners.

Mr. Weiss stated that he is concerned about the intersection of Route 5 and Cloverbank Road, as it is a dangerous intersection.

Councilman Collins stated that he was glad to be in attendance to hear the details of the proposal so that he relay them to the other Town Board members.

Joe Killian, Hamburg resident, stated that he feels that this would be a good use for that corner and that the existing building has fallen into disrepair. Mr. Koenig asked Mr. Killian how he would feel if the project included a driveway to Orchard Avenue. Mr. Killian responded that Orchard Avenue is a very narrow roadway.

Mr. Killian stated that he believes that placing buildings closer to Route 5 serves to slow traffic down because it gives motorists a feeling of driving through a village.

Mr. Reilly asked Attorney Auerbach to relay to the Planning Board what EduKids has
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done or plans to do regarding possibility of gas tanks being on the property. Attorney Auerbach responded that a Phase 2 has been performed and the results will be submitted to the Planning Department.

Mr. Bellissimo made a motion, seconded by Mr. McCabe, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

Club 897 Two-Lot Subdivision

Mr. Reilly stated that the UAW Local #897 owns the property at 3800 Lakeshore Road and proposes to subdivide it in order to sell one of the two (2) buildings on the site.

Mr. Koenig made a motion, seconded by Mr. Bellissimo, to schedule a public hearing for this project for January 19, 2011. Carried.

Engineering Department comments have been filed with the Planning Department.

Glenn Wetzi – Southwestern Boulevard

Glenn Wetzi, applicant, and Attorney Sean Hopkins appeared on behalf of the project.

Mr. Reilly stated that Mr. Wetzi proposes a senior housing facility and market rate apartment buildings on property that is zoned R-3 and is located between Bethel Estates and the D.O.T. building. He further stated that these uses are allowed in the R-3 zone.

Mr. Reilly informed the applicant that the Town recently changed the number of required parking spaces for senior housing to 1.5 spaces per unit. He further stated that the project as proposed does not meet the requirement that the apartment buildings must be at least 50 fifty feet from all property lines, noting that the applicant would have to seek a variance to locate the buildings closer than fifty feet from the property lines.

Mr. Reilly stated that Foster Brook runs through the subject parcel and that it is referenced in the Town's Open Space/Recreation Plan. He noted that the Plan recommends that a hiking trail be installed that would follow the stream. He further stated that hydric soils are located on the property and asked if a wetland delineation has been performed. Attorney Hopkins responded that a Wetland Biologist has been hired and preliminary work has been done but he will have to wait until Spring to finish the work.

Mr. Reilly stated that only one entrance is proposed to the apartment buildings and noted that a gated emergency means of egress is proposed at Sunway Lane.

In response to a question from Mr. McCabe, Attorney Hopkins stated that the site is 22 acres in size and that 176 apartment units and a 140-unit senior housing building are proposed. He further stated that the apartment buildings would be built in phases.

In response to a question from Mr. Bellissimo, Attorney Hopkins stated that he has

worked on many senior housing projects and has found that one parking space per
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unit always works, even with visitors. He further stated that if Mr. Wetzl has to put more parking spaces in, he has the room to work with.

Attorney Hopkins stated that the Institute for Transportation Engineers' published parking standard for attached senior housing is .74 spaces per unit, which is based on national averages. Mr. Reilly stated that in Western New York the number is higher because of the lack of public transportation available to the residents.

In response to a question from Mrs. Rogers regarding the possibility of providing a recreation/congregation area of some sort for the residents, Mr. Wetzl stated that he welcomes the Board's input. He noted that he has thought about constructing a covered walkway over Foster Brook between the senior housing building and the apartment complex.

Mr. Reilly stated that this property is located in the Southwestern Boulevard Overlay District, which requires that parking areas of a certain size have interior landscaped areas.

Mr. Bellissimo made a motion, seconded by Mrs. Rogers, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

OTHER BUSINESS

Mrs. desJardins stated that Mr. Walker advised her that he would not be able to attend the meeting and asked that he be placed on the Board's February Work Session.

Regarding Mr. Ciaravino's request for Site Plan Approval of a storage building to be located at 4214 Howard Road, Mrs. desJardins stated that it was determined that the applicant did not need a variance from South Park Avenue and, therefore, the Planning Board could waive the 40-foot green area requirement from 35 feet to 20 feet.

Mr. McCabe made a motion, seconded by Mr. Bellissimo, to waive the South Park Overlay District requirement that 40 feet of green space be provided along South Park Avenue from 35 feet to 20 feet. Carried.

Mr. Koenig made a motion, seconded by Mr. Bellissimo, to approve the minutes of December 15, 2010. Carried.

Mr. Bellissimo made a motion, seconded by Mrs. Rogers, to adjourn the meeting. The meeting was adjourned at 8:40 P.M.

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board