

PLANNING BOARD

Town of Lewiston 1375 Ridge Road Lewiston New York
Thursday – November 18, 2021
PB 2021 - 11

Present: Baker, Burg, Lattanzio, Lilly, Taczak, Waechter

Presiding: Bill Burg, Chairman

Burg: I would like to welcome everybody to the Lewiston Planning Board meeting, November 18th.

Roll Call

A motion to approve the minutes of October was made by Taczak, seconded by Baker and carried.

Burg: We have one item on the agenda, the continuation of the Public Hearing for Massaro's project. Before we get started, I just want to reiterate to everybody in the audience what is before us today. What is before the Planning Board today is a recommendation to the Town Board to approve or deny the applicant on his project which is a PUD. What is not before us is the southern part of his property which is on Ridge Road. The only thing that is before us is the concept plan. So, everybody is aware I would like Mr. Seaman to go through the process of getting a PUD approved so that everybody is aware on how this works.

Seaman: Real briefly on a thumb nail sketch the process the applicant needs to go through for full approval onwould be initially starting with what we're doing here which is an application to the Planning Board for concept plan approval and at that point the Planning Board reviews everything, there is a public hearing that takes place and the Planning Board makes a recommendation then to the Town Board. The Town Board is the Board that ultimately gives the approvals on these. The Planning Board is merely a recommending Board for the Town Board. The Planning Board at this stage would also consider SEQRA which is State Environmental Quality Review Act. They consider whether or not there is any environmental issues related to this, which is something that really municipalities do on almost every action they take they have to consider SEQRA. Those two things would happen tonight assuming that they receive an approval, the next step would be the applicant would go to the Town Board and the same issues would essentially be in front of the Town Board. There would be another public hearing. There would be a public hearing in front of the Town Board. The Town Board then would make a determination on SEQRA assuming it's a negative declaration which means that there is no significant environmental impact. They would also make an approval on a concept plan of the PUD. That puts the applicant in a position where they know at this point the general, the concept of this is approved by the Board and that allows the applicant to then go spend a significant cost that it takes to do all of the engineering and all of the plans, all of the

studies to make the project to actually come to fruition. The concept plan is really the general approval for everything. The next stage is a detailed plan and mirrors the same path. They come back to the Planning Board with a detailed plan. There is a public hearing. That would be recommended to the Town Board for the detailed plan approval, another public hearing in front of the Town Board, a detailed plan approval. At that point if it receives approval all the way through the Town Board's approval of the detailed plan would be approval of the PUD. Essentially what happens is with the PUD.....(baby screaming) to the zoning of that particular area, that then becomes the specified drawing and what will be constructed on that (baby...) Does anyone from the Planning Board have any questions on that outline?

Burg: Thank you. Part of the public hearing is the residents of the Town get an opportunity to voice their opinion on the project. Everybody that wants to speak today, have you signed in? In the pursuit of fairness to everybody in the room we're going to limit everybody's responses to 5 minutes. Please, you need to step up to the mic and state your name for the record, address the Planning Board. Before we get started, Dom is there anything that you wanted to share with the group?

Dominic Massaro, Jason Court, Lewiston New York. I am the President and managing partner of LMK Realty Development Associates, the applicant in this preceding in front of the Planning Board. I want to thank the Planning Board and residents that have come out to speak with regard to this. We did have a rather lengthy discussion last month and we've kept everything open until this month. I don't want to be repetitive. We've gone through a 9-month process on this. We've refined this proposed concept plan from 30 units down to 10. We've listened to all of the input from the Planning Board in terms the foot print, in terms of the density as to what might be acceptable. We initially wanted to develop the parcel right adjacent to Ridge Road. That has been pulled from what we decided to do. The concept plan is in front of you now. It does not include any development as was mentioned in the beginning by Mr. Burg on the south portion of this parcel. We're just talking about the parcel that's in the lower portion of the hill as you traverse from Ridge down Northridge Drive. I would ask that you do have a vote tonight one way or the other because we've been here for all this time. I would suggest to the Planning Board that I personally feel that this project fits within the Master Plan of the Town of Lewiston. It would greatly benefit the Town. It would also benefit LMK Realty. I'll state that before it's brought up by members of the audience. It should be approved. I would recommend that it should be approved. My take from last time in terms of the criticisms and comments that were brought about concerning the development were several. First is why are you allowing LMK Realty Associates to basically ask for a combination of this property in to the PUD and subsequent rezone? Mr. Masters stated the last time that you have the ability to request this. There are procedures within the Town Code to allow it. We followed those procedures and essentially as the land owner we do have a right to request that. We're just exercising that right in front of the Planning Board. The second comment was we like this as R-1, why can't we leave it as R-1? Essentially the property as configured really has limited utility as an R-1 property. We've talked about this at length in that the property is directly adjacent to

the PUD apartment complexes that we own and manage. There would be no market for anyone to build a single-family home or a group of single-family homes adjacent to an apartment complex at this particular time. We've owned this property for over 35 years and have never been approached by anyone wanting to build a home here. We thought that based upon our analysis of market demand, as we discussed last time with our apartments that we own, we thought that this town home approach albeit a lesser approach than we originally wanted to do, but using 10 town homes would limit the density and limit any influence around to the surrounding neighbors. The next topic that was brought up as an increase in traffic. This was discussed at length and I know that the individuals that will speak tonight maybe were not part of what we talked about when we went in front of you and in front of the Town Board and received approval for our patio home development along Northridge Drive. That was discussed at length. The effect of traffic in this particular area is negligible. One gentleman that was here last time even mentioned that he had petitioned the State Dept. of Transportation for a possible stop light at the corner of Ridge and Northridge. That was determined to be not required by the State DOT in their traffic analysis due to the traffic count. Another individual referenced that due to traffic he has a difficult time accessing his mail box along Ridge Road. The only thing that I would say to that is the Ridge Road property and the highway there, the State Highway is a 40 mph, where in the residents down below its 30 mph. I would suggest that the traffic that he's experiencing is in and out of the Village of Lewiston in an east and west direction. I believe that the traffic would be very negligible from our project coming from the north to the south to exit on to Ridge Road. The other thing that was brought up by the residents that is we like our look. We like the look of the trees. We like all of the area below, the right-of-way, the natural look of everything. We're not changing anything at the top of the hill. The residents here along Ridge Road have lived with the PUD at Ridgeview in excess of 35 years. You cannot see the property from Ridge Road. It's down below the hill. All the trees and everything that remain in a 200' expanse down Northridge Drive, along the 350' width expanse along Ridge Road is to remain. There will be no degradation of anyone's view from Ridge Road because of the development that will occur down below. The only people that will notice this will be the people that are adjacent in our apartment complexes and they have the option to move out if they find it object able, which I doubt they will. In any event that's pretty much where I find what I took away from last month's meeting. I believe that I tried to address those in the best way possible. In this point in time, I'll yield the floor to questions from the Board and also questions from the residents. Thank you.

Burg: Is there anyone that would like to speak for or against this project?

Millie Gibbs, 698 Ridge Road: After last month's meeting I looked on the town's website to see what is the Town's vision mission or core values. I couldn't find anything on the website. The reason I wanted to know this is because I want to know if you're working, what is the greater good that you're working towards? Since I couldn't find anything, I went to the Building Dept. and they gave me a comprehensive plan of 2000 and the comprehensive plan update and a vision map. The comprehensive plan update says on page 3, a vision for the Town of Lewiston,

high quality standards and divine excellence result in development that preserves and enhances the rural character of the community. The heritage of Lewiston is respected. A development is compatible with the existing communityon Page 23, the placement of....drawings can have significant impacts on neighbor character, traffic congestion, safety, accommodation of pedestrians and even drainage issues. On page 41, the intent of the Comprehensive Plan Update is to enhance environmental conditions and control growth in a manner that minimizes adverse impact in the Town. It is intended to promote appropriate land uses, improve conditions in the Town and lead to beneficial impacts. On page 44, the preferred vision outlined in this update was designed to accommodate growth in appropriate areas based on a desire to minimize adverse environmental impacts associated with new developments in the Town. Those statements I read, Mr. Massaro's proposed town homes does not comply with any of those statements in my opinion. The vision map that I was given shows the area from Ridge Road to Perry Court and from the Scenic Parkway almost all the way to 18. That is designated as suburban residential. Suburban residential in the original comprehensive plan of 2000 said 4 units per acre of land. If Mr. Massaro, I think he has 10 acres. If he had built in accordance with that vision map, he would have built 40 units. But what happened 35 years ago he was granted permission to build the PUD and according to my calculations 200 units were built as part of that. The second re-zoning request was in 2004 for the land on Legacy Drive. 104 units have been built so far. The third re-zoning request was in 2008 for the patio homes on Northridge Drive. So far 10 homes have been built. This is according to my calculations. That's a total of 314 units on I think 10 acres. Instead of 40 we have 274 units. Originally that was envisioned by the town on this vision map.

Burg: I'm sorry we are going to have to limit this to 5 minutes.

Carl Lollis: She can have my 5 minutes.

Gibbs: I couldn't find the Town's mission vision but I know Mr. Massaro's mission and core value, his vision is to be a big developer and his mission is to put as much units on a piece of land as he can. His core value is profit. There is nothing wrong, I'm not denigrating any of that. I admire Mr. Massaro for his tenacity and determination and hard work. He knows what he wants. He's clear as to what he wants and he goes and gets it. What I would like is for the Town to have that clarity of vision and determination. I want the town to have that tenacity and say yes, this is what we designed, this is what we want. We want this to be R-1. We want this property to remain R-1. I want the property from Ridge Road all the way to the existing PUD to remain R-1 so that it conforms with the neighbors on the Ridge Road so it acts as a buffer between that property that is over developed and Ridge Road. Mr. Massaro said that he can't sell if he keeps it R-1 he can't sell those lots. If he's awarded this re-zoning to build those town homes, then when he gets back up to Ridge Road, he's going to use that same argument to say well I can't build here because I've got all these town homes. This is a PUD so I can't now build and use my property. He's going to use that same argument later on. The Town is going

to incur more expense for services for maintenance. I don't want Mr. Massaro's success to be at my expense or the Town's expense. I ask that you deny his request.

Burg: Thank you. Anybody else?

John Tieman, 712 Ridge Road. The 2 properties that he's talking about, what's the acreage on that? Do you guys know? You should know.

Burg: On which property?

Tieman: The one that he wants to develop on Ridge. There is a small business and then R-1, what's the total acreage?

Burg: What we're talking about is the 1.8 acres.

Tieman: 1.8 acres and you want to do a PUD, which the requirement is 10 acres right?

Seaman: He's seeking to combine with his current....

Tieman: Combine it, they don't even butt up. Is there not a right-of-way? If there's a right-of-way, how are they touching his development down there. There's a right-of-way. Those 2 properties aren't even close. They're not even close to a cluster development which is 5 acres. They don't touch. Those properties do not touch. I don't even understand why we're still doing this. It's not even close to your rules. Those are your rules. 10 acres for a PUD. He's got a total of what 4 acres, 3.5 acres between those 2 properties and that's what he wants to build. He's saying it butts up to the 200 units which it does not. There is a right-of-way. How does that butt up if there's a right-of-way? I'm waiting for someone that can answer it.

Burg: The right-of-way remains. You can't build on the right-of-way.

Tieman: You can't build on the right-of-way so why are you using the right-of-way to combine his property?

Burg: It's combining two parcels and the right-of-way remains. You can't build on the right-of-way. It's just combining one portion.....

Tieman: So, the right-of-way is not even combined. That's obsolete right, you have to build south of the right-of-way which is how many acres 1.8 and you want to put 10 units in. You said 1.8 I thought it was a little under 4 acres. They don't butt up. You're making it too dense. You're shaking your head no about what Mr. Taczak?

Seaman: Just to be clear about the rules of a public hearing are not so that the public can come and individually question the Board members about this.

Tieman: I'm asking.

Seaman: Your opportunity is to raise all of your concerns.....your opportunity is not to question the Board members and require the Board members to have to answer all your questions. That is not what a public hearing is for. It's so you can come and present your positions.

Tieman: I don't see how this is 10 acres. I don't understand why you're combining the right-of-way to his 200 other properties down there. You can't build on that. You're talking less than 4 acres.

Burg: Thank you. Anybody else? If there is nobody else that wants to speak against this project or on behalf of the project then we will close the public hearing.

Public Hearing closed.

Burg: Any comments from the Board?

Baker: When we talked about units, 10 units or whatever, it doesn't mean 10 buildings correct? It's not 10 buildings.

Lilly: Mr. Massaro back with the Legacy Drive, you said there was a traffic study done at that time and what was determined at that time?

Massaro: It was determined that there wasn't a need for a traffic study. Everything has been co-mingled in terms of what we've done there because everything is contiguous with each other. This development, the existing PUD has 164 apartments, not 200. The Legacy Drive area is a totally separate Planned Unit Development. It's different from this other one. Essentially that has 80 apartments and 24 condominiums. At the time that we did Legacy Drive, when the apartments were going in and when the condominiums were started some.....back in I think 12 years ago, it was determined and also subsequent to that on the patio home project along Northridge Drive it was determined that due to the amount of land and the number of homes that we were planning on building or number of apartments it was not necessary to conduct a traffic study. I can't remember the exact engineering numbers. I know we did talk about it with Mr. Lannon at the time and our attorney basically looked it up. I don't have the numbers at the top of my head.

Nick Massaro: 95 single family homes and 150 apartments incrementally from what we already had that would warrant a need for a traffic study.

Massaro: That is basically what was discussed last time. We did not, to answer your question we are not required to do a traffic study. It was deemed that the traffic was not anything of overall significance.

Burg: The total acreage of the site, of the parcel that would have to be incorporated in to the PUD?

Massaro: The lower portion is 1.82.

Burg: The entire PUD would be 16.2.

Tieman: Counting the right-of-way.

Massaro: There's a right-of-way, there's right-of-ways on all of our developments. There are town right-of-ways along the streets that we basically install the sewers, water and everything and give the Town the right-of-way. That right-of-way that's being talked about is the National Grid right-of-way. They maintain that. It goes all the way over to East Eddy and Mohawk. It goes all the way that way and continues the other way back along Legacy Drive. We have the same thing over on Legacy Drive on the other end by Scovell. There are right-of-way's there for drainage and everything that are dedicated that cannot be built upon and are used. None of the development that is on the conceptual plan that you see in front of you encroaches on those right-of-ways. We were asked to specifically make sure that it didn't happen by the Building Department and that's how we have it designed.

Gibbs: Can I talk about that traffic....

Burg: I'm sorry. Any other comments from the Planning Board?

Taczak: I have a question for Mr. Lannon. Is SEQRA completed on this?

Lannon: I don't honestly know. I believe what was submitted was a short form SEQRA and that is usually done by Tim Masters as the SEQRA Compliance Officer.

Burg: We did have a negative declaration.

Seaman: He has done that and it's in your packets. He recommended a negative declaration on SEQRA.

Burg: For the audience, what does that mean?

Seaman: A negative declaration means there is no significant environmental impact that would require or warrant for further study prior to this project moving forward. That is what a negative declaration means for SEQRA.

Burg: If there are no other comments our next action is we need to declare SEQRA as negative declaration.

A motion to recommend a negative declaration for SEQRA was made by Lilly, seconded by Taczak and carried.

A motion to recommend to the Town Board the concept plan based on the fact that applicant has scaled down his project to the Planning Board's request and has followed the PUD requirements was made by Lilly, with the bonus density, seconded by Taczak and carried. Lattanzio Aye, Lilly Aye, Burg Aye, Taczak Aye, Baker Aye, Waechter Aye

The next meeting will be December 16, 2021, at 6:30 P.M.

A motion to adjourn was made by Lilly, seconded by Taczak and carried

Respectfully submitted,



Sandra L. VanUden
Planning Secretary



William Burg
Planning Chairman