



Jean Loewenstein – Co-Chairperson
John Viola – Co-Chairperson
Ronald Bormann
Stephen Grandeau
Dwight Havens
Kyle Kordich
Frank Mazza
William Smith (alt)
Leejun Taylor (alt)

Town of Malta

Planning Board

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Jaime L. O'Neill – Building & Planning Coordinator
Floria Huizinga – Senior Planner
Adrian M. Cattell – Planner
David E. Jaeger, Jr. – Planning Technician & Board Secretary
Mark Schachner – Legal Counsel
Leah Everhart – Legal Counsel

Meeting Minutes for February 27, 2024

The Town of Malta Planning Board held its regular meeting on Tuesday February 27, 2024 at 6:30 p.m. at the Malta Town Hall, with Co-Chairperson, Jean Lowenstein presiding:

Present:

Dwight Havens
Stephen Grandeau
William Smith
Frank Mazza
Ronald Bormann
Jean Loewenstein

Absent:

John Viola
Kyle Kordich
Leejun Taylor

Correspondence: All correspondence is on file.

Chairperson Loewenstein read the following agenda into the minutes:

Project #	Project Name	Project Type
23-01 & 23-01A	2272 Route 9 Senior Apartments	Site Plan and Special Use Permit
24-01	Quick-Serve Restaurant	FBC Project Plan
24-02	Quick-Serve Restaurant	Special Use Permit
24-03	Quick Serve Restaurant	Minor Subdivision

Chairperson Loewenstein elevated William Smith to a full voting member.

21-16 Mountain View Meadows, Major Subdivision (Extension of Approval)

Doug Flynn from Lansing Engineering presented on behalf of the applicant.

Flynn requested an Extension of Approval for the project since it still needed approval from the NYSDEC for sewer and water approval from the Clifton Park Water Authority and the NYSDOH.

Loewenstein asked Huizinga if she had any comments for the Board.

Huizinga noted that the requested extension would be a standard 90 Day extension beyond the current expiration of March 20, 2024 to June 18, 2024.

Loewenstein informed Flynn that if an additional extension were required beyond the current requested extension, the applicant would need to apply for an Extension of Approval beyond June 18, 2024 by the April 26, 2024 Planning Board deadline to be placed on the May 29, 2024 Planning Board agenda.

Resolution #2024 – 01

MOTION by Stephen Grandeau **SECONDED** by Frank Mazza to resolve that the Malta Planning Board on the 27th day of February, 2024 approves a 90-day Extension of Approval for Project #21-16 Mountain View Estates, Major Subdivision extending the expiration date of March 20, 2024 to June 18, 2024.

VOTE:

Stephen Grandeau – YES; Ronald Bormann – YES; Frank Mazza – YES
Dwight Havens – YES; William Smith – YES; Jean Loewenstein – YES

Motion CARRIED 6-0

23-01 & 23-01A, 2272 Route 9 Senior Apartments, Site Plan and Special Use Permit **(SUP Public Hearing)**

Doug Flynn from Lansing Engineering presented on behalf of the applicant. Flynn noted that the project had last been before the Planning Board in May 2023 for final preliminary review. Flynn added that the Public Hearing for the Special Use Permit had been opened and left open until a later date. Flynn reviewed the project for the Planning Board to refresh their memories on it.

Flynn detailed the provided outdoor amenities that would be included onsite and stated that there would be a gazebo and trails added that were not included on the initial project plans. Flynn added that the project's SWPPP was reviewed and received a technical signoff letter from LaBella Associates. Flynn also added that he was working with Saratoga Water Services to extend the water district to the site, that sewer would be provided by Saratoga County Sewer, and that there was the potential for future development onsite behind the proposed building.

Huizinga spoke for the Planning Department and noted that since the project was first presented, the parcel experienced a zoning change from being split between C-9 and R-1 to being entirely C-9. Huizinga added that she felt the project was consistent with the Town-Wide GEIS and Statement of Findings for SEQRA. Huizinga also added that she felt the project could be approved with the following conditions:

1. Relocate the sidewalk along Route 9 so that it would be in the Right of Way per a NYSDOT request
2. Add a map note on the Site Plan that identified the materials and construction details of the nature trails.
3. Provide wetlands correspondence and/or permit prior to sign off of final plans.
4. Add a Post Construction Operation and Maintenance cost analysis for stormwater management practices to the SWPPP
5. Provide documentation of the extension of the water district from Saratoga Water Services prior to building permit issuance.

Loewenstein asked Reuben Hull of LaBella Associates if he had any comments related to Engineering.

Hull noted that he had signed off on the January 11, 2024 submission for the project but concurred with Huizinga about

her comments related to the Post Construction Operation and Maintenance Cost Analysis for stormwater management practices. Hull asked Huizinga when the request from DOT came in for the relocation of the sidewalk.

Huizinga noted that she spoke with DOT about a different project and they mentioned they wanted the sidewalk relocated.

Hull asked if he could perform a cursory review of the final plans with the sidewalk in the Right of Way (ROW).

Loewenstein asked why DOT asked to have the sidewalk relocated.

Huizinga stated that the sidewalk was the DOT's responsibility from a liability perspective.

Loewenstein asked Huizinga who would maintain the sidewalk.

Huizinga stated that the Town has a law that states it is the responsibility of the landowner of the property the sidewalk is in front of whether it is on their property or within the ROW.

Havens asked Hull how much water was available for fire suppression.

Hull noted that he wasn't sure but that a Will Serve Letter had been received and signed.

Flynn noted that a pressure flow test had been completed that stated there was more than enough flow for the project.

Havens requested that the exact numbers be placed on the final plans for the project

Hull noted that he would also like to see the exact numbers for fire suppression.

Mazza asked if the access to the site was Right in Right out and if it would have a median or not.

Flynn noted that it would be a full access with no median unless otherwise requested by the DOT.

Mazza requested that there be no median if the entrance became Right in Right out only.

Huizinga added that the plans did not show a raised median for the access.

PUBLIC HEARING

Loewenstein reopened the Public Hearing at 6:51 PM.

No comments were received from the public.

Loewenstein closed the Public Hearing at 6:52 PM.

Resolution #2024 – 02 SEQRA

MOTION by Stephen Grandeau **SECONDED** by Jean Loewenstein to resolve that the Malta Planning Board on the 27th day of February, 2024 determines that Project #23-01, 2272 Route 9 Senior Apartments, Site Plan, and Project #23-01A 2272 Route 9 Senior Apartments, Special Use Permit, are consistent with the Supplemental Town Wide GEIS and Statement of Findings and therefore no further SEQRA review is required.

VOTE:

Stephen Grandeau – YES; Ronald Bormann – YES; Frank Mazza – YES
Dwight Havens – YES; William Smith – YES; Jean Loewenstein – YES

Motion CARRIED 6-0

SPECIAL USE PERMIT CRITERIA

1. Is the use listed as a permitted special use in the appropriate zoning district;

Yes. C-9 zoning identifies Senior Multifamily Dwelling Use as a specially permitted use.

2. Conforms to the standards and design requirements specified in the Code and the Master Plan for that particular zone;

The proposed use conforms with the Comprehensive Master Plan, Neighborhood 3 Route 9 South/Route 67 East 2016 update, and Commercial Corridor Design Standards & Guidelines.

3. Will not have an undue adverse effect upon adjacent property, the character of the neighborhood and surrounding areas, traffic conditions, parking, utility facilities, or other matters affecting the public health, safety, welfare or convenience of the public;

The use is consistent with the Master Plan and Neighborhood 3 Route 9 South/Route 67 East 2016 update. The proposed use provides sufficient parking; water and sewer services will be extended to the project. The Town engineer concurs with the traffic trip generation report (9/26/2023 LaBella correspondence).

4. Will not create operations or uses that will be considered objectionable to nearby properties by reason of noise, fumes, vibrations, illumination or other outward effects on others in the zone.

The proposed use should not create any objectionable operations.

5. Complies with any other requirements within the zone;

Yes. The proposed use conforms with the Comprehensive Master Plan, Neighborhood 3 Route 9 South/Route 67 East 2016 update, and Commercial Corridor Design Standards & Guidelines.

6. Will be in harmony and promote the general purpose and intent of the Master Plan;

The use is consistent with the Master Plan and Neighborhood 3 Route 9 South/ Route 67 East 2016 update.

7. Will not adversely affect the short-term and long-term cumulative impacts on the environment;

The proposed use/project impacts 0.066 acre of ACOE wetlands. A wetlands disturbance permit is required.

8. Will be able to mitigate to the satisfaction of the Board any adverse or irreversible impacts on the environment, including any growth-inducing aspects of the proposed use;

The project is subject to the Supplemental Town Wide Generic Environmental Impact Statement (GEIS) mitigation fees such as traffic, open space and GEIS prep fees.

9. Will not adversely affect unique and irreplaceable assets or resources of the area;

The proposed plan will not impact rare plants or endangered species. Applicant received no impact correspondence from SHPO (2/1/2024).

10. Will be serviced adequately (as determined by the Board) by essential public facilities and services, including, but not limited to, highways, streets, parking spaces, public transportation, police, ambulance and fire protection, drainage structures, solid waste management and refuse disposal, water and sewers, groundwater protection, schools, energy conservation, as well as any other additional services as the Board deems appropriate.

Yes. Will serve correspondence has been received from Saratoga Water Services and Saratoga County Sewer District. The project is located in the Round Lake Fire Department and Malta-Stillwater EMS.

Resolution #2024 – 03

MOTION by Frank Mazza **SECONDED** by Stephen Grandeau to resolve that the Malta Planning Board on the 27th day of February, 2024 approves Project #23-01A 2272 Route 9 Senior Apartments, Special Use Permit, as presented:

VOTE:

Stephen Grandeau – YES; Ronald Bormann – YES; Frank Mazza – YES
Dwight Havens – YES; William Smith – YES; Jean Loewenstein – YES

Motion CARRIED 6-0

Resolution #2024 – 04

MOTION by Ronald Bormann **SECONDED** by Stephen Grandeau to resolve that the Malta Planning Board on the 27th day of February, 2024 approves Project #23-01, 2272 Route 9 Senior Apartments, Site Plan, with the following conditions:

1. Relocate the sidewalk along Route 9 so that it is placed within the Right of Way as requested by NYSDOT.
2. Sidewalk relocation plan to be reviewed by the Town Designated Engineer.
3. Provide nature trail materials and construction details to the site plan
4. Provide wetlands correspondence and/or permit prior to sign off of final plans.
5. Add a Post Construction Operation and Maintenance cost analysis for Stormwater Management Practices to the SWPPP
6. Provide documentation of the extension of the water district from Saratoga Water Services prior to building permit issuance.

VOTE:

Stephen Grandeau – YES; Ronald Bormann – YES; Frank Mazza – YES
Dwight Havens – YES; William Smith – YES; Jean Loewenstein – YES

Motion CARRIED 6-0

<u>24-01. Quick-Serve Restaurant, Form Based Code Project Plan (Concept)</u>	<u>Public Hearing</u>
<u>24-02. Quick-Serve Restaurant, Special Use Permit (Concept)</u>	
<u>24-03. Quick-Serve Restaurant, Minor Subdivision (Concept)</u>	

Tim Freitag from Bohler Engineering presented on behalf of the applicant.

Freitag stated that he was presenting for three applications for the project; one for a Form Based Code Project Plan, the second for a Special Use Permit (SUP), and the third for a minor subdivision. Freitag noted that the project was before the Planning Board for initial comments before it went before the Zoning Board of Appeals to acquire the variances needed for the project. Freitag also noted that once the necessary variances were obtained for the project, he would return to the Planning Board for final project approval.

Freitag noted that the project site is in the Nigro Plaza aka Shops of Malta in front of Market 32. Freitag also noted that the site would be created by subdividing an existing 4.63-acre lot. The subdivision (SD) would be for three (3) lots, that would be broken down into Lot #1 (the project site) which would be 1.02± acres, Lot #2 a vacant site containing 1.26± acres, and Lot #3 a 2.35± acre lot which would contain the existing Berkshire Bank and vacant lands.

Freitag detailed the project, the proposed restaurant would be 2650± SF with a two-lane drive-thru, 21 parking spaces, a bypass lane around the drive-thru, and a circulation lane to allow traffic to navigate to the parking lot from the drive-thru lane. Freitag noted that the property had a unique geometry, stating that it was deep and narrow, making the frontage for the site on Kendall Way instead of Route 9. Freitag also noted that the site would feature 2 access points, the main entrance/exit closer to the Nigro Plaza perimeter road on Kendall Way with an additional exit that would be a right-turn only lane to send traffic to Route 9 via Kendall Way.

Freitag added that the project would not feature access directly to Route 9 given the site's close proximity to the nearby intersection. Freitag also added that the site would connect to public utilities and that there is a water main easement that goes through the property along the Route 9 side of the site, preventing any structural construction in that area.

Freitag also described the variances that would be applied for. The required variances included: Build to Zone with the primary street along Kendall Way, maximum front setback to Kendall Way, onsite parking between the proposed building and the street, and the drive-thru lane between the proposed building and the street.

Freitag stated that he was before the Board for preliminary feedback before he returns for a SUP and subdivision determination and for feedback to take to the Zoning Board of Appeals for the requested variances. Freitag also detailed the design of the proposed building and how it improved upon the stock style for the chain with a two-tone brick façade, a stone water table design, tall windows, and a parapet with crown molding.

Huizinga spoke for the Planning Department. Huizinga stated that the proposed restaurant use was allowed in the Downtown Mixed-Use, FBC DX-3 zone. Huizinga added that the drive-thru, however, would need a Special Use Permit (SUP). Huizinga also added that FBC Project Plan applications are approved administratively, but that the Planning Board has purview over the Subdivision (SD) and SUP aspects of the project.

Huizinga stated for the Board that the proposed SD plat would need to be modified due to a mistake made by the applicant's surveyor. Huizinga noted that the survey was not an accurate description of the entire property that included the portion of the lot land hooked on the opposite side of Kendall Way where the Berkshire Bank is located. Huizinga also noted that this made the proposed SD a 3 lot SD instead of a 2 lot SD.

Loewenstein asked Huizinga if the North side of Kendall way was included in the entire parcel.

Huizinga confirmed that the entire parcel included both sides of Kendall Way.

Huizinga added that her comments for the FBC Project Plan (PP) related to how the proposed design diverged from Form Based Code (FBC) regulations with how the applicant wanted the building further away from the road than allowed and wanted parking between the building and the road.

Huizinga echoed Freitag's comments about Kendall Way being designated as the primary street for the site given that there is a utility easement onsite that prevents the construction of the building closer to Route 9. Huizinga added that since the applicant couldn't build closer to the Northeast corner of the site or closer to Route 9 due to the utility easement, Code Enforcement determined that a "Build to Zone" variance was not needed for Route 9.

Huizinga also noted that both she and the fire department wanted the exit lane from the drive-thru aligned with the Berkshire Bank access road, that the applicant proposed on-street parking as defined in the FBC regulations, and that the applicant was proposing 27 parking spaces in total, which is more than the required 14.

Huizinga recommended that the applicant should reduce the amount of proposed onsite parking given that the Nigro Plaza aka Shops of Malta parking lot was less than 600 feet from the site and to allow the building to be closer to the road. Huizinga also noted that final landscaping and lighting plans would need to be submitted once the location and layout of the site was finalized, and that an outdoor amenity space measuring at least 8800 SF in total is needed somewhere onsite either as one area or multiple throughout the site.

Huizinga noted that a traffic assessment report had been received by Planning and that it was going to be reviewed by Engineering. Huizinga added that she wanted Engineering to review the traffic assessment prior to SUP review.

Huizinga reiterated the variances required for the project to proceed as proposed to the Board:

1. Primary street build to zone on Kendall Way,
2. primary street setback from Kendall Way,
3. parking between the building and Kendall Way, and
4. the drive-thru lane between the building and Kendall Way.

Huizinga noted that she wanted site specific renderings that provided the actual dimensions for the site and stated for the Board that the applicant did change the stock design of the restaurant to better match the character of Downtown Malta.

Huizinga added that she felt it was too early to review SUP criteria and that the current meeting was the time for the Board to bring up their concerns or questions for the applicant before they returned at a later date.

Reuben Hull, LaBella Associates, spoke for Engineering and noted that there were multiple commonalities between his review letter and Huizinga's comments. Hull noted that he did not make many comments on the traffic assessment report since it was likely the project would change once it had been presented to the Zoning Board. Hull added that Engineering would make more detailed comments once the project had been updated after Zoning Board review.

BOARD DISCUSSION

Havens wanted the applicant to pay close attention to the Malta Ridge FD comments regarding site access and hydrant locations. Havens added that he wanted the applicant to install a hydrant onsite for fire suppression if possible.

Mazza asked the applicant if they planned on moving the building closer to Kendall Way.

Freitag stated that the applicant did not and preferred to pursue the requested variance. Freitag added that the applicant did not want the building so close to Kendall Way because they were concerned that the business needed to be built with the proposed layout in order to be financially viable and for concerns of pedestrian safety.

Freitag felt that the current master plan for the Nigro Plaza did not allow sufficient vehicle stacking onsite for the proposed use and felt that it endangered pedestrians accessing the restaurant by making them cross the drive-thru lane that would be between the restaurant and the parking lot.

Mazza suggested that the applicant should design their layout similar to the McDonald's on Route 67 given that they have no safety issues with a drive-thru lane that crosses the parking lot.

Freitag added that the applicant's proposal provided the best balance for the site because he felt the master plan for the Plaza was inefficient with regards to circulation. Freitag noted that the current master plan created a dead end onsite where it would be difficult for someone to turn around if there were no parking available.

Freitag also added that it was his intention to work with the Planning Board to find a compromise that allowed for his applicant to create their vision while conforming as much as possible to FBC regulations by utilizing visual buffers to block the view of the drive-thru lane to the road.

Grandeau asked Freitag if the plan could be changed to allow the drive-thru lane to avoid onsite parking entirely. Freitag felt that any other layout wouldn't provide enough parking for the business to be successful

Grandeau suggested that there was more than enough parking with what already existed in the Plaza and with the proposed on-street parking and onsite parking that wouldn't be affected by the drive-thru lane.

Freitag felt that the parking spaces further away from the restaurant would discourage potential customers from utilizing the restaurant and it would therefore make the site financially unviable for the restaurant.

Mazza and Grandeau suggested that the site may not be the right location for the proposed restaurant if it needed to

disregard the Form Based Code regulations in order to be successful.

Grandeau asked Freitag to provide other site layout options in addition to the layout being currently proposed before they request that the Planning Board make a decision on project approval.

Freitag stated that other options that reduced the number of parking spaces to allow for a drive-thru that better matched what the Planning Board was envisioning would be possible but less than ideal.

Grandeau stated that even with the current proposal there were parking spaces that were further away than what the ideal was for Freitag and the applicant.

Freitag reiterated that the applicant felt there needed to be more parking closer to the building in order for it to be successful given that the restaurant was a "convenience" type restaurant.

Grandeau asked for the number of proposed seats inside the restaurant.

Freitag stated that there were 46 seats proposed.

Grandeau noted that he did not remember ever seeing 46 people in the current restaurant.

Freitag stated that the increased parking was to accommodate mobile to-go ordering which accounted for up to 30% of sales. Freitag asked the Board if they had any suggestions or recommendations for the applicant.

Bormann stated that he liked the on-street parking.

Grandeau asked if the building could be reconfigured to the Southwest corner of the parcel.

Freitag noted that the Subdivision being proposed did not include the area that Grandeau was denoting but that if it were part of the site, it would not allow for proper stacking in the drive-thru.

Smith stated that he wanted to see fire apparatus turning Radii on future plan submissions and wanted the applicant to consider potentially installing 2 hydrants onsite.

Freitag stated that he would provide the requested information.

Hull noted that he also wanted to see fire apparatus turning radii and delivery truck turning radii as well to make sure they could safely and efficiently access the site.

Freitag stated that he would provide the requested documentation.

Loewenstein stated that she wanted to see a resubmission with the building closer to the road with less onsite parking and more dependence on the on-street parking. Loewenstein noted that this would minimize the applicant's variance request. Loewenstein also asked the applicant to line the drive-thru exit onto Kendall Way with the access road to the Berkshire Bank across the street.

Freitag noted Loewenstein's comments.

Loewenstein asked Huizinga to confirm what the Board's role was with the three applications being presented.

Huizinga stated that the Project Plan aspect would be approved/disapproved administratively by Planning staff and that the Board had purview over the Special Use Permit and the Subdivision applications. Huizinga added that the Board was encouraged to comment on the Project Plan even though the final decision is rendered administratively.

Loewenstein asked Freitag if he wanted the Public Hearing for the project opened yet or not.

Freitag stated that he wanted to wait to open the Public Hearing until after the project went before the Zoning Board of Appeals.

Loewenstein asked Everhart if the Board could wait to open the Public Hearing until after the project went before the ZBA.

Everhart stated that since the Project Plan Public Hearing was scheduled for that night, it would need to be opened and left open if the Board preferred. Everhart added that the Special Use Permit and Subdivision Public Hearings could wait until a later date.

PUBLIC HEARING

Loewenstein opened the Project Plan Public Hearing at 7:45 PM.

No comments were received from the public.

Loewenstein left the Project Plan Public Hearing open until a later date.

Freitag noted that he would address the Planning Board's comments and return with more options and asked if they had any other comments.

Loewenstein noted that she wanted to see a more defined landscaping plan.

Hull added that he wanted to see the drive-thru exit near the Berkshire Bank access be engineered as a Right-Out only in order to prevent drivers from attempting to make a left turn or from attempting to use the lane as an entrance.

Freitag stated that he would confirm that the suggestion made by Engineering were possible with site circulation and asked Hull if he could move forward with traffic review to confirm there were no concerns from the NYSDOT.

Hull asked when the applicant would go before the ZBA.

Huizinga confirmed that the applicant would be presented to the ZBA on March 5th, 2024.

Smith asked if the roof mounted mechanicals depicted on the renderings would be visible from the road.

Freitag stated that they would not be visible from the road.

Meeting Adjournment

Stephen Grandeau **MOTIONED** to adjourn the meeting to the next regular meeting or any other meeting necessary for the conduct of the Planning Board, **SECONDED** by Jean Loewenstein, motion carried unanimously at 7:50 PM.

Respectfully submitted by,

David E. Jaeger, Jr.
Planning Board Secretary
Planning Technician