



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 – Planner  
Adrian M. Cattell – Planner  
David E. Jaeger, Jr. – Planning Technician & Board Secretary  
Mark Schachner – Legal Counsel  
Leah Everhart – Legal Counsel

## Meeting Minutes for January 24, 2023

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The Town of Malta Planning Board held its regular meeting on Tuesday, January 24, 2023 at 6:30 p.m. at the Malta Town Hall, with Co-Chairperson, Jean Loewenstein presiding:

### Present:

Jean Loewenstein  
John Viola  
Kyle Kordich  
Stephen Grandeau  
Ronald Bormann  
Dwight Havens  
William Smith  
Leejun Taylor

### Absent:

Frank Mazza

Correspondence: All correspondence is on file.

Co-Chairperson Loewenstein read the following agenda into the minutes:

Project #	Project Name	Project Type
23-01	2272 US-9 Senior Apartments	Site Plan (Concept)
21-16	Mountain View Meadows Estates	Major Subdivision

Chairperson Loewenstein appointed William Smith as a full Board member.

### **23-01, 2272 US-9 Senior Apartments, Site Plan (Concept)**

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Scott Lansing of Lansing Engineering presented on behalf of the applicant. The proposal was for a concept site plan to redevelop a 6.31± acre site located at the 2272 Route 9 zoned C-9 Gateway and R-1 with a 19,000 SF footprint, 48 unit, three-story senior apartment building with associated parking, outdoor amenity space, utilities, and landscaping.

Lansing stated that the current onsite structures, a single family home and cottages would be demolished to make way for the proposed construction. Lansing also stated that the site would be accessed via US Route 9 from the Northern portion of the site and the curb cut for the access would need to be approved by NYSDOT. Lansing noted that parking for the project would be based on the requirement of 2 parking spots per unit, totaling 96 parking spots. Lansing also noted that onsite amenities would include sidewalks to the building and to Route 9, with the frontage including streetlights and street trees.

Lansing stated that the applicant would be considering an onsite trail system in the future, and that open space areas would be included along the sides and front of the building. Lansing also stated that stormwater would be managed onsite with a basin system, and the property would be connected to public water and sewer. Lansing noted that if the Town were to change the zoning of the property as is planned, and the zoning of the site were to full become C-9, the applicant would want to construct a second identical apartment building located behind the currently proposed building.

Lansing mentioned that the comment received about parking in the front of the building was something that the applicant felt was necessary due to the nature of the clientele the applicant is marketing to being senior citizens. Lansing detailed the applicant's feelings by noting that the front would include a drop off entrance way and parking for either residents, visitors, or both.

Huizinga stated that she took no exception to what Lansing stated about the project. Huizinga stated for the Board that the property was zoned commercial and senior apartments were an allowed use with a Special Use Permit. Huizinga recommended that the applicant apply for a SUP when they present a Site Plan to the Planning Board. Huizinga mentioned that she spoke with Lansing about the guideline in the C-9 zoning not allowing parking between the building and the street. Huizinga stated for the Board that they had the purview to grant an applicant the ability to have parking between the building and Route 9 if the applicant could demonstrate that the guideline could not be met due to a practical constraint and circumstances beyond their control.

Huizinga noted that the drive aisle in the front of the building was allowed, but the front parking would need to be approved by the Planning Board due to the zoning guidelines. Huizinga also noted that she felt the Board should consider allowing the front parking for drop offs or handicapped parking since the building was being built as senior housing. Huizinga stressed that if the proposed number of parking spaces out front needed to be reduced, the applicant was willing to discuss that with the Board. Huizinga also noted that she spoke with Lansing about this matter and that she wanted the landscaping to soften the view of the potential parking spots, with the addition of the architecture of the building drawing people's attention, not the parking.

### **BOARD DISCUSSION**

Loewenstein asked Lansing if the apartments would be independent living for seniors and if access to the apartments would be via a main front and rear entrance leading into an interior corridor

Lansing said yes and noted the possibility of secondary patio entrances to each apartment along the first floor of the building.

Loewenstein also asked Lansing about special onsite amenities.

Lansing stated that he would speak with the applicant about the details.

Viola stated that his concern was with parking. Viola wanted the applicant to make sure the Fire Department approved parking and access for truck turning radii and asked if the only access to the site would be via US Route 9.

Lansing stated that the applicant would provide turning templates to the Fire Department and confirmed that the only access to the site would be via Route 9.

Grandeau asked what the applicant's plans were for the rear of the property if the zoning didn't change.

Lansing stated that the applicant would determine that if and when necessary.

Bormann asked about the number of elevators onsite.

Lansing stated that he would need to confirm that number with the architect.

Havens asked about access with regards to the Fire Department. Havens wanted the applicant to ensure that the Fire Department would be able to access the building via ladder truck.

Lansing stated that the applicant's plan was to use the rear road for Fire Department access, but would confirm that to make sure that the design met international fire code.

Smith asked if the building would be sprinkled and if the entrance would be a two way entrance.

Lansing said he would confirm that the building would be fully sprinkled and would speak with DOT about the entrance being either two way or left/right in right out.

Smith also noted that he wanted the applicant to construct a buffer between the site and the home to the North.

Loewenstein mentioned that she wanted to make sure the front of the building was landscaped properly to ensure that the front of the building was very attractive from the road.

Grandeau mentioned that he wanted the building to have elevators that could fully fit stretchers without patients needing to be set straight up given their advanced age.

#### **21-16, Mountain View Estates, Major Subdivision, Approval (Final)**

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Lansing presented on behalf of the applicant. Lansing informed the Board that he wanted to pick up where he left off at the December 20, 2022 Planning Board Meeting. Lansing stated that he was going to spare the Board the unnecessary details of the project given the Board's familiarity with it. Lansing noted that to his knowledge the only details that needed to be ironed out were with regards to the Agricultural Easement associated with the project.

Huizinga stated that if the Planning Board grant final approval of project #21-16 Mountain View Meadows, Major Subdivision, planning staff recommended the following conditions of approval:

1. Proposed HOA declaration of protective covenants, conditions, restriction, easements, charges and liens to be reviewed by planning staff and planning attorney prior to signing of subdivision plat.
  - a. HOA offering plan shall include language that the HOA is responsible for maintenance of stormwater management areas and language that the cisterns are the responsibility of the individual homeowner.
  - b. The HOA agreement shall also include a copy of easement(s) to the Town for access to the stormwater management areas.
  - c. Proposed HOA agreement shall include language regarding the Agricultural Conservation Easement, farm related operations and practices.

2. Approval or Acceptance of the Agricultural Conservation Easement by the Town Board.

Huizinga noted that she wanted the Planning Board to go over the easement to make sure it was satisfactory to them and that the final decision on accepting the easement was the decision of the Town Board.

Everhart stated at Loewenstein's request that the Planning Board held a workshop for the Agricultural Easement in the beginning of the drafting process. Everhart noted that the applicant and the public was in attendance at this workshop. Everhart also noted that the Town Board would have the final say regarding the easement and would have control over what some of its terms would be. Everhart also mentioned that a comment was received from the Planning Board to streamline the easement language so it better fit the Town of Malta and wasn't cumbersomely long.

Everhart noted that the applicant had worked with Legal staff and a "proposed" easement was presented for the Town Board to move forward with the process. Everhart also noted that if the Planning Board wanted to make suggestions regarding the easement, they could do so. Everhart added to her statement by noting that the easement would be in the hands of the Town Board to make a final decision on, and it wasn't her recommendation for the Planning Board to go through the easement word for word. Everhart recommended that the Planning Board move forward with a decision and allow the Town Board to work with the applicant to work out the details of the easement.

## **BOARD DISCUSSION**

Loewenstein noted that she read the easement and thought most comments were answered, but had a question on page 5, subsection 5(a) of the easement to clarify the term "Farmstead Area" and "Farm Area".

Everhart noted that NYS Agriculture and Markets set forth many different "use areas" in their "form easement" and asked Loewenstein to refer to the definitions of terms within the proposed easement on page 4, subsection 4(m) to answer her question. Everhart clarified the definition of "Farmstead Area" as where the home and associated agricultural buildings would be located on the property. Everhart also clarified the definition of "Farm Area" as any land that was not part of the "Farmstead Area" or the "Resource Protection Area" depicted on "Exhibit B" as "Viable Agricultural Land".

Everhart also noted that the definition of the "Farmstead Area" was to carve out what would be allowed in the area based on if it was where one would live versus where one would work. The allowed uses within the "Farmstead Area" are limited to minimal "processing" based on the description in section 5, subsection 5(a) with more "denser processing activities" taking place outside the "Farmstead Area" within the "Viable Agricultural Land" area, but will be revised to reflect what is defined by the term "Farm Area".

Kordich asked if there was specific language within the HOA Agreement that advised future homeowners that they lived next to a farm and “farming activities” would be happening next door to them.

Everhart stated for Kordich that Huizinga recommended a draft HOA Agreement be provided to both Planning and Legal staff to review in order to ensure that future homeowners would be informed of a farm operation existing next door to them.

Huizinga confirmed this by stating that she wanted the proposed HOA Agreement to include language regarding the Agricultural Conservation Easement farm related operations and practices. Huizinga noted that she felt that said language may even need to be in each deed so homeowners are fully aware of the farm existing next door.

Everhart noted that there wasn’t an issue with this language being included in deeds in addition to it being in the HOA Agreement.

Kordich stated that he did not think it needed to be in each deed, but needed to be included in the HOA Agreement at a minimum.

Viola stated for the record that he had multiple concerns regarding the project, and that the information presented at the meeting did not change his opinion regarding the project.

Loewenstein asked Everhart if the Board decided to move forward with the project, should they include the action taken regarding the access road from the December 20, 2022.

Everhart recommended that the action taken regarding the access road should be a condition of approval for the project.

#### **Resolution #2023 – 01**

**MOTION** by Jean Loewenstein **SECONDED** by Stephen Grandeau to resolve that the Malta Planning Board on the 24th day of January 2023 approves final project approval for Project #21-16, Mountain View Estates, with the following conditions:

1. Proposed HOA declaration of protective covenants, conditions, restriction, easements, charges and liens to be reviewed by planning staff and planning attorney prior to signing of subdivision plat.
  - a. HOA offering plan shall include language that the HOA is responsible for maintenance of stormwater management areas and language that the cisterns are the responsibility of the individual homeowner.
  - b. The HOA agreement shall also include a copy of easement(s) to the Town for access to the stormwater management areas.
  - c. Proposed HOA agreement shall include language regarding the Agricultural Conservation Easement, farm related operations and practices.
2. Approval or Acceptance of the Agricultural Conservation Easement by the Town Board.
3. The Emergency Access/Surrey Road Extension include 2 sets of “Do Not Enter” and “Emergency Services Only” signs and non-locking swingable gates at each end of the access road.

4. The applicant convey to the Town of Malta an Agricultural Conservation Easement over the lot containing the *Remaining Lands of Mitchell et, al*) in substantially the same form as has been presented to the Planning Board subject to any additions or alterations that the Town Board may require.

VOTE:

Kyle Kordich – YES  
Stephen Grandeau – YES  
Ronald Bormann – YES  
Dwight Havens – YES  
William Smith – YES  
Jean Loewenstein - YES  
John Viola – NO

Motion CARRIED 6-1

**Planning Board Business**

**MOTION** by Stephen Grandeau **SECONDED** by John Viola to accept the December 20th, 2022 minutes.

VOTE:

Kyle Kordich – ABSTAIN  
Stephen Grandeau – YES  
Ronald Bormann – YES  
Dwight Havens – ABSTAIN  
William Smith – ABSTAIN  
Jean Loewenstein - YES  
John Viola – YES

Motion CARRIED 4-3

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 John Viola, motion carried unanimously at 7:09 p.m.

Respectfully submitted by,

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