



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 May 31, 2023

The Town of Malta Planning Board held a Special meeting on Wednesday, May 31, 2023 at 6:30 p.m. at the Malta Town Hall, with Co-Chairperson, John Viola presiding:

Present:

Stephen Grandeau
Dwight Havens
Jean Loewenstein
John Viola
Frank Mazza
Ronald Bormann
Leejun Taylor
Kyle Kordich

Absent:

William Smith

Correspondence: All correspondence is on file.

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

Project #	Project Name	Project Type
16-09	Independent Senior Apartments	Extension of Approval
23-11	Retrograde Recon Center	Site Plan Amendment
23-01	2272 US-9 Senior Apartments	Site Plan
23-01A	2272 US-9 Senior Apartments	Special Use Permit

Co-Chairperson Viola elevated Leejun Taylor to full Board Member status.

16-09, Independent Senior Apartments, Site Plan (Extension of Approval)

The applicant requested an extension of site plan approval, originally granted on 6/21/2016 to construct a 4-story, 100-unit senior living (55+) apartment complex on a 5.8 acre lease parcel. The complex included resident dining, library, theater, fitness center, salon, country store, and multiple gathering and activity spaces.

Owner/Applicant: Saratoga Hospital; Location: Medical Park Drive; Parcel ID: 229.-2-75.111; Zoning: PDD No. 52

Matt Brobston of the LA Group presented for the applicant. Brobston requested an extension of approval for the project.

Huizinga spoke for the Planning Department. Huizinga noted that the last approval was in 2021 and that the current approval would next expire on June 26, 2023. Huizinga recommended a two (2) year extension.

Resolution #2023 – 22

MOTION by Stephen Grandeau **SECONDED** by Jean Loewenstein to resolve that the Malta Planning Board on the 31st day of May, approves Project #16-09, Independent Senior Apartments, Site Plan Extension of Approval, until June 26, 2025 as presented:

VOTE:

Stephen Grandeau - YES
Ronald Bormann - YES
Frank Mazza - YES
Dwight Havens - YES
Leejun Taylor - YES
Jean Loewenstein - YES
John Viola - YES

Motion CARRIED 7-0

23-11, Retrograde Recon Center, Site Plan Amendment

Scott Lansing of Lansing Engineering presented for the applicant.

Lansing stated that he was before the Board to request approval for a Site Plan Amendment and to note changes that had been made to the design of the facility since the last Planning Board meeting. The original Site Plan was approved on 2/28/2023. The applicant decided to decrease the size of the facility due to financial reasons.

Lansing noted that the back portion of the facility was removed, decreasing the size of the facility from 18,927 SF to 15,092 SF, and it featured an extra service bay since the project was originally approved increasing the number of service bays from 16 to 17. Lansing also noted that the number of parking spaces onsite increased with the change to the facility from 174 spaces to 190 spaces.

Floria Huizinga spoke for the Planning Department. Huizinga noted that she felt the project was consistent with the Town-Wide GEIS and Statement of Findings with regards to SEQRA and recommended that no further SEQRA review was required.

BOARD DISCUSSION

Loewenstein asked Engineering if they had any comments regarding earlier comment letters.

Reuben Hull of LaBella Associates stated that he was satisfied with the applicant's response to their comments.

There were no other comments from the Board.

**Resolution #2023 – 23
SEQRA**

MOTION by Jean Loewenstein **SECONDED** by Stephen Grandeau to resolve that the Malta Planning Board on the 31st day of May, 2023 determines that Project #23-11, Retrograde Recon Center, Site Plan Amendment is 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
Leejun Taylor – YES
Jean Loewenstein - YES
John Viola - YES

Motion CARRIED 7-0

Resolution #2023 – 24

MOTION by Stephen Grandeau **SECONDED** by Ronald Bormann to resolve that the Malta Planning Board on the 31st day of May, approves Project #23-11, Retrograde Recon Center, Site Plan Amendment, as presented:

VOTE:

Stephen Grandeau - YES
Ronald Bormann - YES
Frank Mazza – YES
Dwight Havens – YES
Leejun Taylor – YES
Jean Loewenstein - YES
John Viola - YES

Motion CARRIED 7-0

Board Member Kordich arrived to the meeting at 6:40 PM and replaced Board Member Taylor as a voting member for the remainder of the meeting.

23-01, 2272 US-9 Senior Apartments, Site Plan

Scott Lansing presented for the applicant. Lansing stated that the application was before the Board in January as a concept. Lansing also stated that he was at the 5.31.2023 meeting to present a plan for preliminary approval. Lansing noted that the project site is located at 2272 US Route 9, immediately North of the Round Lake Bypass, and that the current use of the site is for the Starting Gate Cottages.

Lansing also noted that the property is 6.31 acres and zoned C-9 Gateway in the front of the property and R-1 Residential in the rear. Lansing stated that the current structures would be demolished and a new 19,000 SF 3-story senior housing facility would be built in their place. Lansing also stated that the facility would be 48 units, sprinkled, accessed via US Route 9 at the Northeast corner of the property. Lansing noted that there would be 96 parking spaces, two for each unit. Lansing also noted that stormwater would be managed onsite, that water would be provided by Saratoga Water Services with a Water Service District Extension and that public sewer would be provided by the Saratoga County Sewer District #1.

Lansing also noted that the applicant intends to build a second building with the same design as the first building. The second building would be located at the rear of the property. If that rear section of the property were to be rezoned after the Town of Malta Comprehensive Plan update is adopted.

Huizinga spoke for the Planning Department. Huizinga stated for the Board that she felt property line boarder at the

North of the property should be landscaped more in consideration of the neighbor to the North. Huizinga also felt that the project needed more outdoor amenity space such as a community garden, seating areas, walking trail, and/or outdoor gathering space and requested 6 foot wide sidewalks, not 5 foot wide sidewalks along Route 9.

Hull spoke for Engineering. Hull noted that he wanted more detailed calculations for stormwater at the SE corner of the property where the stormwater drained towards the roundabout. Hull also wanted more details on what planting materials would be used for landscaping and a traffic assessment for the property.

BOARD DISCUSSION

Loewenstein echoed Huizinga's comments about outdoor amenity space, she felt that there needed to be more outdoor amenity spaces. Loewenstein also asked Lansing how tall the building was.

Lansing noted that the building design was 46 feet tall but would adjust the height to meet the Town of Malta's requirements.

Kordich also felt there should be more "active" outdoor amenity spaces closer to the building.

Grandeau echoed the comments made by other Board members about outdoor amenity spaces such as a fountain, pond, or putting green. Grandeau also wanted to see fire truck turning radii.

Mazza felt that a raised median near the roundabout to access the site would be detrimental to fire apparatus access.

Lansing noted that the entrance would be a full access entrance and was far away from the raised median at the roundabout.

Mazza also asked Lansing for access to the site prior to the demolition of the existing structures for fire department training.

Lansing agreed to this.

Havens asked Lansing how long the building was because he was concerned about fire fighter access.

Lansing stated that he would look into that since the final design for the building had yet to be completed. Lansing also stated that there would be multiple accesses to the building.

Havens noted that upper level access would need to be considered and that the location of the fire hydrant should be located at the entrance near Route 9 for ease of access.

Mazza added that he wanted to know where the water came from to supply the site for fire suppression.

Havens stated that the water came across Route 9 from the East side of the road to access the site.

Lansing stated he would mention this to the applicant.

Havens also asked about water flow for the site.

Lansing stated that he would confirm the numbers but felt they exceeded all requirements.

Viola noted to Lansing that all outdoor amenities would be required to not interfere with fire access.

Lansing acknowledged Viola's comments and agreed.

23-01A, 2272 US-9 Senior Apartments, Special Use Permit

Public Hearing

Viola opened the Public Hearing at 7:00 PM.

Maya McDonough, the owner of the property commented that the property was very close to the Zim Smith Trail. McDonough felt that the close proximity of the property to the Trail was an additional benefit that the project offered to the community.

The Public Hearing remained open until a later date.

South Shore Marina PDD Lead Agency Designation Discussion

Leah Everhart, Legal Counsel for the Town of Malta Planning Board addressed the Board to discuss designating the Malta Town Board as the Lead Agency for the South Shore Marina (SSM) Planned Development District (PDD) project.

Everhart explained to the Planning Board that the Town Board was considering a Legislative Enactment regarding the South Shore Marina project to become the Lead Agency for the project. Everhart also explained that if the Town Board became the Lead Agency for the project, they would be who would be conducting Environmental Review pertaining to the project. This review would occur prior to approving funds for or undertakes the project.

Everhart also noted that if the Town Board became Lead Agency for the SSM project, they would need to coordinate with the Planning Board as an involved agency. Everhart explained that the Town Board would be asking the Planning Board if they would be willing to allow the Town Board to take on the responsibility of conducting the SEQRA review for the SSM project.

Everhart also explained that due to the timing of the project review process, she recommended that the Planning Board adopt a motion at the 5.31.2023 Planning Board meeting to designate the Malta Town Board as the Lead Agency for the SSM project. Everhart opened the topic for discussion and asked the Planning Board if they had any questions regarding her recommendation.

Loewenstein asked if the Town Board needed to make the request to become the Lead Agency for the project in writing.

Everhart asked Huizinga if a resolution had been made by the Town Board.

Huizinga stated that she wasn't sure if a resolution had been adopted since she last attended a Workshop for the SSM project. Huizinga also noted that at the last workshop the Town Board discussed asking the Planning Board if it had deferred the Lead Agency designation when the project was last referred from the Planning Board to the Town Board. Huizinga stated that at that time the Lead Agency designation had not been deferred to the Town Board.

Everhart noted that she thought the Town Board had adopted a motion at the last Town Board meeting.

Kordich asked Everhart if the Planning Board had given the project a negative recommendation and sent it back to the Town Board when it was last before the Planning Board.

Everhart confirmed this.

Kordich asked Everhart to clarify if the Town Board was asking the Planning Board to allow them to make the SEQRA review for the project.

Everhart informed Kordich that the Town Board was not doing that entirely. Everhart stated for Kordich that the Agency with the most expertise and control over a project was the appropriate Lead Agency for the project. Everhart also noted that if the Planning Board wanted to challenge the request of the Town Board to become the Lead Agency for the SSM project, there was a formal "challenge procedure" under the regulations that would involve the Commissioner of the NYS Department of Environmental Conservation. Everhart noted that the outcome of the "challenge procedure" would award the ability to complete the SEQRA review to the party that won the "challenge procedure".

Huizinga noted that this would involve the Planning Board going through the Long Form Environmental Assessment Form

(Long Form EAF) and anything associated with the process for the project.

Kordich asked if designating the Town Board as the Lead Agency for the project would involve giving up any of the Planning Board's rights involved with the project.

Huizinga stated for Kordich that designating the Town Board as the Lead Agency would not give up any of the Planning Board's rights associated with the SSM project, but would facilitate allowing the Town Board to conduct the SEQRA review process themselves.

Everhart noted that the designation of the Lead Agency was a procedural step in the SEQRA process that is not usually seen by the Malta Planning Board because Malta has a Generic Environmental Impact Statement (GEIS), allowing the Planning Board to forgo coordinating with every agency involved in the SEQRA process like other communities that do not have a GEIS agreement.

Everhart reiterated that the Town Board was seeking Lead Agency status for the SSM project and that the Planning Board was in the position to either agree or disagree to the Town Board becoming the Lead Agency. This statement was followed by Everhart recommending that the Planning Board allow the Malta Town Board to become the Lead Agency for the SSM project because it didn't make sense to disagree with the Town Board's request.

Kordich noted that it did make sense to disagree with the request so that the Planning Board could not be blamed if there was public unrest from the Town Board making the decisions regarding SEQRA and moving forward with the project.

Everhart noted that the review effort for the underlying action should be kept separate conceptually from SEQRA review.

Everhart stated that the SEQRA review for the project needed to be completed despite opinions based on the project.

Everhart added that in an unbiased way the entity that is completing that review should be the entity that has the most involvement in the project.

Kordich noted that this was the reason for his comments.

Everhart noted that she recommended the Planning Board adopting a resolution at the 5.31.2023 Planning Board meeting given the timing of where in the process that the Town Board was at with the project at that point.

Viola asked Everhart if the project would come back to the Planning Board after Town Board review.

Everhart noted that the project would come back to the Planning Board and that the decision based on designating a Lead Agency was not the actual SEQRA review but the action of deciding what entity would complete the SEQRA review process. Once the Lead Agency was designated, that agency would complete the SEQRA review and make a decision regarding the zoning amendment that would be needed for the approval of the SSM project. If the zoning amendment were approved, the project would then come back to the Planning Board for Site Plan approval.

Kordich asked if all the project would need is Site Plan review.

Everhart noted that she did not know if it would need any other form of review to reach final approval.

Huizinga noted that the project would only need Site Plan review.

Everhart asked Huizinga if a Subdivision would need to be completed for the project.

Huizinga noted that she did not think there would need to be Subdivision review.

Everhart added that a Subdivision may be necessary in the future for financing purposes but that at the current time the only review going forward would be Site Plan review once the zoning amendment for the SSM project was approved by the Town Board.

Loewenstein noted that because the Town Board had the authority over the zoning associated with the project they would act as Lead Agency in most cases given that the Planning Board did not have authority over changing the zoning associated with the project.

Huizinga and Everhart confirmed this for Loewenstein.

Loewenstein asked Everhart if a motion would need to be made regarding designating the Malta Town Board as the Lead Agency for the SSM project.

Everhart said yes and recommended the Planning Board adopt a motion with the language that the Town of Malta Planning Board consent to designating the Town of Malta Town Board as the Lead Agency for the South Shore Marina PDD.

Resolution #2023 – 25

MOTION by Jean Loewenstein **SECONDED** by Frank Mazza to resolve that the Malta Planning Board on the 31st day of May, 2023 consents to the Town Board acting as the Lead Agency for the SEQRA review process for the South Shore Marina PDD project.

VOTE:

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

Motion STRUCK DOWN 5-2

Everhart asked the Planning Board if they wanted to challenge the Lead Agency role of the Town Board for the SSM project.

Bormann noted that he remembered the project being almost unanimously voted against citing that the Board felt the project was not a good fit for the proposed location.

Everhart clarified that deciding who completed the SEQRA review or completing the review itself did not affect the outcome of if the project continued or not. Everhart also noted that if the Planning Board wanted to challenge the Lead Agency designation, they would need to go through the additional step that would involve the Commissioner of the NYSDEC.

Huizinga added that if the Planning Board went through with deciding that they wanted to be the Lead Agency for the SSM project, it would involve a significant amount of extra work, additional meetings, and coordination with the Town Board to complete the SEQRA review.

Grandeau noted that he felt the Town Board was making decisions regarding the SSM project that were purposely not including the Planning Board. Grandeau also noted that he felt that the Town Board would send the SSM project back to the Planning Board with specific stipulations that wouldn't allow the Planning Board to do its job effectively.

Everhart noted that Grandeau's concerns would not be an issue because the SEQRA review of the project was not "supposed to be an end run around the underlying decision making authority of the Board".

Grandeau added that he knew it wasn't supposed to be the underlying authority of the Town Board but felt that it would influence it.

Everhart replied to Grandeau by saying that regardless of who conducts SEQRA review, the Town Board would be making the decision on if there would be rezoning or not. If the rezoning were approved, the project would then come back to the

Planning Board with “any of the conditions and limitations” that he was concerned about with very little to do with which Board reviews SEQRA.

Kordich asked Everhart to explain what control the Planning Board would have over the SSM project if they gave the Town Board the ability to review SEQRA, the Town Board approved the project, and then sent it back to the Planning Board for Site Plan review.

Everhart stated for Kordich that if the SSM PDD zoning amendment were approved by the Town Board, the project would then come back to the Planning Board and they would have authority to alter the design of the project as they saw fit within the regulations of the PDD Legislation. Everhart also added that the Planning Board had the ability to review the Town Board’s legislation during their review and could make recommendations about it if they were interested.

Everhart also noted that if the reviewing agency adopted a positive SEQRA declaration and an additional SEQRA process was required for the project, the Planning Board had the opportunity to adopt a Findings Statement for the project once the additional SEQRA review was completed. This meant that the Planning Board’s role going forward could involve the opportunity to review SEQRA in the future in addition to Site Plan review for the project. Everhart added that it made sense for the Town Board to conduct the SEQRA review for the SSM project given their role in the overall review process of the project. Everhart recommended that the Planning Board reconsider a motion to designate the Town Board as the Lead Agency for conducting SEQRA review for the South Shore Marina PDD project. Everhart stated that she would pursue the process of challenging the Lead Agency designation if necessary, but did not feel like that was a wise decision for the Planning Board to make.

Loewenstein noted that despite the differing opinions about the SSM project, the decision to designate the Lead Agency for the project was somewhat separate. Loewenstein added that if the Town Board were to reconsider the project in any form since it is a legislative action, it is their authority and responsibility to do so. Loewenstein also noted that the Town Board would not be able to ignore SEQRA and that it would need to go through the process, a process that did not affect the overall approval or disapproval of the project itself.

Kordich noted that his earlier decision was based on the fact that he did not agree with the SSM project and felt that the Planning Board’s hands were tied with regards to the project. Kordich also noted that he understood that designating a Lead Agency for SEQRA would not change the outcome of the project and would do what he could to influence the overall decision regarding the project separate from SEQRA when he was able to do so.

Grandeau noted that he would change his vote from the previous motion to allow the Town Board to become the Lead Agency for SEQRA and added that he felt there were actions being taken behind the scenes by the Town Board that pushed the Planning Board aside that he disagreed with.

Bormann also changed his mind regarding his earlier decision about SEQRA Lead Agency designation for the South Shore Marina PDD project.

Resolution #2023 – 26

MOTION by Jean Loewenstein **SECONDED** by Frank Mazza to resolve that the Malta Planning Board on the 31st day of May, 2023 consents to the Town Board acting as the Lead Agency for the SEQRA review process for the SSM PDD project.

VOTE:

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

Motion CARRIED 5-2

Planning Board Business

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 Frank Mazza, motion carried unanimously at 7:28 PM.

Respectfully submitted by,

David E. Jaeger, Jr.

Planning Board Secretary

Planning Technician