

Minutes of the Special Planning Board Meeting held by the Town of LaFayette Planning Board on March 1, 2005 in the Meeting Room of the LaFayette Commons Office Building at 2577 Route 11 in the Town of LaFayette at 7:00 p.m.

Present: James Nakas, Chairman  
Andrew Peebles, Member  
Richard Markoff, Member  
Barbara Lasky, Member  
Bradley Bush, Member

Recording Secretary: Mary Jo Kelly

Others Present: John Langey, Planning Board Attorney  
John Dunkle, Town Engineer  
David Broda, 2043 Jamesville Terrace  
Kyle LaTray, West Shore Manor  
Tony Gonyea, Onondaga Nation  
Joseph Jerry, 120 E. Washington St.  
Jeffrey Cohen, Applicant  
Jim Sheedy, W. Shore Manor  
Ann Chase, W. Shore Manor  
Steve Chase, Jamesville  
Paola Naselli, W, Shore Manor  
Nikki Waters, Archeologist  
Ed Keplinger, Keplinger Freeman Associates

Chairman Nakas called the special meeting to order at 7:00 p.m. and welcomed everyone. The purpose of this meeting is to discuss the Draft Environmental Impact Statement which has been submitted for the applicant by Mr. Keplinger. Essentially there were 4 primary matters which needed to be addressed:

- 1) Drainage.
- 2) Water quality/quantity.
- 3) Archeological Sensitivity.
- 4) Impact on Jamesville Reservoir.

He asked Mr. Keplinger to run through these issues and address any comments or questions from the Board.

Ed Keplinger said they were asked to review some key areas that were advised as being critical to this project. Relative to drainage, they did a drainage study of the entire watershed which includes almost 200 acres of area that flow through this site. They prepared a drainage report based on the DEC requirements for water control and retention. One of the other things was the ground water. His client drilled 3 holes on the site and monitored them. The conclusion from that study was that there is plenty of water available in the ground. As far as

ground water issues go, they don't see any impact. They have addressed the water runoff by complying with the DEC SPDES requirements.

Chairman Nakas said one more issue was the impact of the development on the reservoir.

Ed Keplinger said the increase of stormwater runoff created by this project is insignificant. The amount of impervious area that exists on the site today is very close to the undeveloped area. They are now implementing the SPDES standards. They are actually creating a cleaner environment because they are now treating the stormwater that was not originally treated.

Chairman Nakas asked if this is done in the retention basin.

Ed Keplinger said yes.

John Langey said at the last meeting there was a statement from a member of the audience to the fact that the applicant wasn't going to be able to supply any archeological study as to a certain portion of the property. He asked whether their client was going to ask for a modification on the preliminary plat approval. Right now the applicant is asking for preliminary approval of the entire project with final approval of the 8 lots. Was the client looking to take the remaining area out of the preliminary plat approval or is the client planning on continuing the exact way as proposed to get preliminary plat approval of the entire project?

Joseph Jerry said everything is a question of timing for them. They don't want to go through another building season. Ideally if they had the time, they would ask their archeologist consultant to do the rest of the project. They have talked to Nancy Herter of SHPO and she really can't get started reviewing this area due to the weather. In the interest of time their thought was that they would really just like to ask the Board for a preliminary plat approval of that portion of the land that doesn't have any archeological issues. Hopefully tonight we can look at the timing of how we go forward.

Chairman Nakas said his problem and possibly other people have the same concern, is the potential for segmenting this application where we get approval for one piece with potentially less environmental impact as you are doing the project a little at a time as opposed to doing the whole project.

John Langey said he thought about this. Segmentation is allowed in certain instances. In order to avoid an illegal segmentation, his thought was the applicant would have to say they didn't want the whole parcel preliminarily approved and wanted just the 8 lots and then reserved the right to have preliminary plat approval for the remainder of the property in the future. This would be subject to a public hearing, etc. The applicant would have to show Section I could exist entirely on its own. His sense is that the Board is better off doing it this way but it's up to the applicant to come forward and say this is the way they want it done. While the Board is reviewing the EIS, the Board must know the concept of what is in front of them.

Chairman Nakas said the June EIS version was for 20 lots and the February version is for 8. This would have to be brought up to the same plan.

Joseph Jerry said the reason they asked for this work session is just this issue. He hadn't thought entirely through the segmentation issue. He has discussed this at length with his client and they feel there is absolutely no question

that the 8 lot parcel can stand on its own. They have SHPO saying yes, it's O.K. if they go forward with the 8 lots. They think they just need to go through the procedure to finalize this to the Board's satisfaction so they can get the preliminary plat approval.

Chairman Nakas asked if they would be willing to leave the remaining parcel as vacant lots because now we are talking about a new plan.

Joseph Jerry said they would label it residual land and not to be developed until a later application. They would reserve all their rights. The map would be amended. At a later date when SHPO has approved the remaining area, they will come back before the Board and the Board can call a public hearing, etc.

Chairman Nakas noted Joseph Jerry said the applicant is willing to refer to the balance of the property as open vacant land and not as building lots.

John Langey said a separate application would be required at a future time for the remaining property. It would require a full application, full public hearing, environmental review, etc.

Joseph Jerry said they have all the data for this.

John Dunkle said conceptually reducing the area will reduce the impact. He thinks the EIS needs to be formatted to only specifically address the area involved. It definitely brings up the issue of a dead-end road. This was not part of the original proposal. The whole groundwater evaluation was done on the Phase II portion of the project. That report would need to be reformatted. It would need to address only the impact on Phase I.

Ed Keplinger said they did study the existing well at the Grove.

John Dunkle said the wells were tested on Lots 12, 13 & 14.

Member Peebles said the data should be able to be studied for Phase I.

John Dunkle thinks we should have a document that doesn't address Phase II at all.

Chairman Nakas asked if we can have one document for the entire proposal that would just refer to Section I.

Member Markoff asked when they think they would want to do the other section.

Joseph Jerry said they don't know. They may never want to do it. Ideally the archeological study will be done and everything will turn out O.K. and they can proceed.

Chairman Nakas asked if Nikki Waters wanted to comment on the archeological sensitivity of Phase II.

Nikki Waters thinks there is less of a potential to find anything in that area. The soil there is different. It doesn't mean there is no potential there but she thinks there would be a lower chance.

Chairman Nakas asked if she meant lower than for Section I or lower in general.

Nikki Waters said a lower chance in general. Phase I bordered an area where burials were found. There is no documentation where the 1960 burials were taken from.

John Langey said the reason this issue came up was because a gentleman raised the question of segmentation. He became concerned that this Board would

be incapable of granting preliminary plat approval of the entire parcel meaning the Board is O.K. with the lots proposed. The revisions Ed Keplinger will do are exactly as John Dunkle said which is to show what the changes are and that Section I is a stand alone section. They must show it stands on its own merit and doesn't need any other part of the proposal. He believes this will address the concern of segmentation.

Joseph Jerry said they have taken a hard look regarding the length of the road. They recognize this Board has the right to grant them a waiver and look at the possibility of putting a cul de sac in rather than a hammerhead.

Ed Keplinger submitted some pictures of road proposals. The proposals were for a cul de sac, a hammerhead or a road looping back and tying back into the road.

John Langey asked if the looping road proposal would tie into the unstudied area.

Chairman Nakas said it would involve Lots 19 & 20.

Member Peebles said it appears to him that options P1-A and P1-B are not really what the applicant is looking for. It kind of goes against their full conceptual plan.

Ed Keplinger said option B does not completely rule out the potential down the road.

Member Peebles said the Board has waived this before on the knowledge that the applicant has a build-out plan that incorporates a solution. If Section I is going to change to be stand alone, would the remaining area be the build-out plan?

John Langey said sure.

Joseph Jerry said if they had the time, they would ask Nikki Waters to go ahead and do the archeological study immediately on the rest of the property.

Chairman Nakas said at the next regularly scheduled Planning Board Meeting, the Board will receive a new document that will combine the June and February versions addressing 8 lots with the two residual lots that will be determined to be residual and that no building permits will be issued to them.

John Langey said there is a lot of easy housekeeping stuff the applicant needs to do. His concern was to address the issue of the larger concept. You can use the Section II as a build-out plan but not approve it as a preliminary plan.

Chairman Nakas said maybe there could be a separate map in the document as a futuristic plan but not part of this plan.

John Langey said Ed Keplinger said at the last meeting he had some data addressing the impact of leaving Section II vacant. This should be addressed in the EIS. He asked if Ed Keplinger could add a section right after the scoping document that the Planning Board did review the archeological issue as having a potential impact.

John Dunkle said there is no need for a supplemental document.

Ed Keplinger agrees with putting it all together.

Chairman Nakas asked if there would be sufficient copies made so if the final version is acceptable, there would be copies available for the public.

John Dunkle said to wait until it's accepted.

Chairman Nakas said one copy should be at the Town Offices and one at the Library if it's accepted.

John Langey said they will have to be sent to the involved agencies too. They will be revising their list of consultants.

John Dunkle asked if the dead-end road issue should become a topic of discussion and addressed as another environmental issue.

John Langey said it should state that currently the Town recognizes a cul de sac is limited to 800'. The Planning Board must grant a waiver of the Subdivision Regulations unless the town modifies that regulation.

John Dunkle said that is the mechanism where they can show the build-out plan.

Member Peebles said the waiver could be subject to the future build-out finishing the road.

Member Lasky asked how close the Town Board is to amending the regulations.

John Langey said it will be addressed at the next Town Board Meeting.

John Dunkle said in a typical scoping outline there is a section for cumulative impacts. This might want to be addressed.

Chairman Nakas doesn't know if we are aware of the potential of future subdivisions on the reservoir itself.

John Dunkle said but we are aware there is a Phase II of this proposal. Maybe there should be some language that brings this back around.

John Langey said the only thing they haven't really addressed is the Phase II archeological impact. They might address this stating if there is an archeological impact they won't go forward or the Planning Board won't approve it. The involved agencies are DOT, County Health Dept., Planning Board, Environmental Conservation Board, and SOCPA. He would recommend their attorney send a formal letter stating what they are asking for. The record needs to show they really aren't asking for preliminary plat approval for the entire area. As soon as we get this letter, it can be sent to SOCPA telling them why they need to take a quick look at this and need to know what's being asked isn't as large as what was originally asked for.

Member Peebles said the report mentioned the unnamed tributary to Butternut Creek.

Ed Keplinger showed him where it was and advised it's not a regulated DEC stream.

Member Peebles asked if anything happens and you had to get in there and clean it out because the resident's had a problem or something, would it be on the previously undisturbed section?

Ed Keplinger showed him where they have granted an easement which would allow access to the stream area. This actually picks up the runoff from Frank Long Road.

John Langey said based upon the subtraction of these lots we are asking you to prepare a preliminary plat plan showing exactly what is being asked for. The applicant is asking for 8 lots. Should the remaining land have letters or numbers for them?

John Dunkle would recommend leaving them alone.

John Langey said just label them as residual land.

John Dunkle said a note should state “Not approved building lots”.

John Langey said if the undisturbed lands are to be further subdivided a full review will be made by the Planning Board.

John Dunkle said a SEQR would be done.

John Langey asked if the proposed easements allow the town sufficient room to work.

John Dunkle said the 60’ right-of-way should be sufficient.

John Langey said the applicant will want to show the easements. The Board would like to have all this information in advance of the meeting so the Planning Board will have the option to accept the draft statement.

John Dunkle said it might be helpful if the text were prepared and sent around ahead of time.

John Langey said because this is a modification to what they are asking for, in the past he has advised the Board that when someone changes something after a public hearing and the change is large enough, his advice has been to hold a public hearing on the preliminary plat. His recommendation would stay the same. He can’t change his advice on this from what he has advised in the past.

John Dunkle asked if there isn’t a public hearing required for the SEQR document.

John Langey said that is optional.

Joseph Jerry said relative to SEQR there really isn’t anything left to consider. Now they have SHPO stating Section I is O.K. A public hearing with regard to SEQR is certainly not needed. With regard to whether this is a substantial change, the question is really on whether or not there is something substantial. The proposed subdivision has simply been reduced from 21 lots to 8 lots. No lot sizes have changed. The access is the same. They have lessened any impact. Whether or not the change is substantial enough to have a public hearing, he doesn’t know if one is needed. What can the public say? Why have a hearing?

Chairman Nakas asked if we can decide this at the regular Planning Board Meeting in two weeks.

John Langey said the Board can decide tonight or at that time.

Chairman Nakas said his recommendation is to hold a public hearing.

John Langey said his recommendation is to stay consistent with his recommendations in the past. This DEIS document which may or may not be released at the next meeting, will allow a time period for everyone to comment on it. The comments can be in writing. The Planning Board can decide whether they want a public hearing on the document itself. The law requires the public to be able to write in their comments on this and the law states the Planning Board must review these comments seriously.

Joseph Jerry said he would like to look at the time table with the Board.

Chairman Nakas said the public has 30 days to review the document.

John Langey said the next meeting for this Board is March 15<sup>th</sup>. If the applicant gets the revisions in that the Board has talked about tonight in enough time for the Board to review, they may or may not accept them. They may or

may not determine the document is available for review. If it's accepted than the public comments on the document can begin.

John Dunkle said 30 days minimum is required.

Chairman Nakas said that would make it to April 15<sup>th</sup>. Our next meeting would be April 19<sup>th</sup>.

John Langey said if the Board doesn't hold a public hearing on the DEIS, at their April 19<sup>th</sup> meeting there could be a public hearing on the modification if the Board decides to have one. After the 30 days, the Board will gather up all the public comments and gather up all the information and direct the applicant to prepare a final EIS addressing all the concerns at the May 17<sup>th</sup> meeting. He thinks there is a minimum 10-day period after that is received.

John Langey said assuming there are no bumps, the Final Environmental Impact findings and approval of the preliminary plat approval can be done at the June 19<sup>th</sup> meeting. This is if there are not bumps along the way.

He was asked about the SEQR public hearing.

John Langey thinks this would add an additional month to the process unless the Board holds a special meeting.

Joseph Jerry said his initial impression would be after the May 17<sup>th</sup> meeting when everything is received and there's a 10-day period thereafter, during the 10-day period the Board would be preparing their potential findings. He wonders if the Board could hold a special meeting at the end of May to get their final approval instead of waiting until June 21<sup>st</sup>.

John Langey said the Board must consider this going into the May meeting.

Chairman Nakas said it would be hard to say at this time.

John Langey said they are trying to save the building season.

Member Peebles said there could be two public hearings. One for SEQR and one for the modification.

John Langey said yes.

Member Peebles asked if it could be all one hearing.

John Langey said you could do that. The SEQR regulations encourage combining them.

Member Peebles said if the Board finds a need for the DEIS hearing, it might as well be included.

Joseph Jerry said their only concern is when the Board would have it. They would hope it could be held at the April 19<sup>th</sup> meeting so it wouldn't mean they would have subsequent meetings one right after another.

John Langey said if the Board is going to have a combined public hearing, they could have it on April 19<sup>th</sup>. You could do the preliminary plat approval public hearing and the DEIS public hearing at the same time. Between now and the March 15<sup>th</sup> meeting, the Board needs to decide what public hearings they want to hold.

Member Bush said if the Board accepts the document on March 15<sup>th</sup> and it's a minimum of 30 days and then on April 19<sup>th</sup> the Board would have it's normal meeting and a public hearing, how did we get into May?

John Langey said once you hold a public hearing on this draft at some point the Board needs to say the applicant has heard what the public has to say and the Board has to say and now the applicant must get this into a final form that has answered all the questions and a final document is submitted which the Board has to be happy with. If the Board is happy with the final DEIS, it must wait 10 days and at the next meeting the Board could say they approve it, disapprove it, or approve it with modifications.

John Dunkle said if you decide to have a SEQR hearing on April 19<sup>th</sup>, the record must stay open for 10 days after that.

Joseph Jerry said there is a written comment period where the public can address the documents in writing. They think another public hearing would be a burden on them and on the Board.

John Langey said to stay on the schedule, a special meeting would have to be held if a public hearing was held on the SEQR to stay within the requested time-frame.

Chairman Nakas asked if there were any other comments from the Board.

Member Peebles said if you don't do a SEQR hearing, we still need to consider the public hearing for the new proposal.

John Langey said that is his advice to the Board.

Member Peebles asked if there is a time-frame with that.

John Langey said it would be like a normal public hearing.

Kyle LaTray asked if the Board accepts the DEIS at their next meeting and decides to have a public hearing at the next meeting, aren't you precluding the public the right to write in comments?

John Langey said the public hearing would be on the concept of preliminary plat approval for this subdivision. You would still be allowed to make all the comments on the DEIS.

Kyle LaTray said you are setting it up so the written comments are happening beforehand.

John Langey said that is what the law allows.

Member Peebles said Kyle's concern is that there will be a public hearing but the clock to write in would expire.

John Langey said the public comment period is on the written document. All the comments can be made within the 30 days.

Kyle LaTray is concerned about people that don't know about this.

John Langey said this thing has been on for a public hearing.

Kyle LaTray said he has talked to 3 people today that didn't know about it.

Chairman Nakas said that isn't our fault.

John Langey said notices have only gone to adjoining property owners.

Mary Jo Kelly said everyone within 300' of the property gets a notice sent to them.

John Langey said someone from Cazenovia might not know about it.

Kyle LaTray said if they had a valuable comment on it, the comment period on the DEIS is over. The only reason there is a public hearing process is because there is a new proposal.

John Langey said the public will be more well armed with information than they were before.

Kyle LaTray said it's a new project.

John Langey said if someone comes in and mentions there is a meteorite formation and it comes up at a public hearing, this Board has the right to reopen the SEQR process. If the Board finds out something they have overlooked, the SEQR can be reopened.

Kyle LaTray said that is his concern.

**Member's Markoff moved and Bush seconded the motion to adjourn. Motion passed unanimously.**

The Special Planning Board Meeting adjourned at 8:20 p.m

Respectfully submitted,

Mary Jo Kelly  
Secretary