

PLANNING BOARD

Town Hall 1375 Ridge Road Lewiston New York
Thursday – May 21, 2021
PB 2021-5

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

Presiding: Bill Conrad, Chairman

Conrad: Good evening everyone. I want to welcome you to the May meeting of the Town of Lewiston Planning Board.

Roll Call

A motion to approve the minutes of March 2021, was made by Burg, seconded by Taczak and carried.

A motion to approve the minutes of April 2021 was made by Taczak, seconded by Burg and carried.

Conrad: We've had a request from 2465 Ridge Road, solar to be pulled from the agenda tonight.

The first item on the agenda is 4616 Townline Road, Kilmer, solar array.

Jared Perram: Saturn Power, here again talking about the Kilmer solar project for Townline Road and Albright. Quick recap, 5-megawatt community solar project that we've been accessing with the Town of Lewiston for a few months now. The last that we spoke I went off with a few more line items to take care of with the site plan and some photo syms which I have here. I'll pass them out and go over the pieces that I took away and made some modifications with the plan that you guys got a couple of weeks ago. One of the first things we had was the signage on the street for emergency relatedas far as the address. You will find on the plans we did 2 signs; we have one at 4616 Townline Road because we have an access entrance to the utility poles. We don't want any miscommunication or misunderstanding. That sign has 4616 Townline Road and then underneath it will say entrance on Albright Road. That same style sign will be on Albright Road at the proper access road to the site. Does that make sense what we're looking to do there? We discussed drainage on the site, the northern portion of the site and identifying that drainage ditch that is existing, kind of shared between Kilmer's property and the northern property. We've outlined that on the plan itself. I think the main priority there was to make sure we weren't blocking off that ditch, that we weren't going to fill it with grass clippings and use it for over flow. The topography of the site itself is leaning towards that ditch is outside the fenced area. It's labeled on the site plan. The decommissioning we talked about 2 different things. One major sticking point being not just module removal, the actual cost to recycle those modules. I got an email from somebody on the Board through Tim from a magazine that had a\$13-\$17 maybe a little more for a panel that was estimate.....a new concept, we went to \$15. A module. We feel very comfortable with that number. You will see that outlined in the decommissioning estimate. It's \$137,000. Along those lines. We talked really quickly about bumping up the 2.5% escalator on the decommissioning plan. I think you guys were a little bit in limbo so we did it, it's 2.5% now. If there are more questions on that I would be happy to address them. Page 603 has been added to the cover sheet, it's one of the vegetation pages I think we missed on that last time. Then we had the vegetation construction schedule. We're looking to put some of that vegetation in earlier in the process. We've certainly done that. To the best of our ability. We're certainly not going to put in vegetation that we're just going to end up tearing out because we have to put in the access...nothing is really impeding that much. It's a bit of a safe guard for us on the construction side not to have to plant and

replant and tear out the same tree 10 times throughout the course of construction. We can talk more about that if you folks want to. Photo syms, I have 6 of these printed out. I just got them today. I can provide more copies if needed. We took a bunch of different photos from a bunch of different locations. We did get some feedback via email from Tim and some of the other folks on the Board as far as some of the locations they would like to see. All in all, I think it was 13 locations that the Board requested. We did narrow that down a little bit. Some of them were very similar and it's expensive. So, if there are additional views that you folks want to see I can work with that but I would ask that you take a look at what you have in front of you and we can go from there. What you will see is the same picture a hand full of times, the first picture is existing conditions, second picture is after 1 year and 2nd picture is 2 years after installation and 3rd picture is 5 years after installation in terms of vegetative growth. You'll find on some of the later pages the pictures that were taken from Townline Road, there is a red streak that is going across that photo, the rate is superimposed behind that but you can't see it with the existing vegetation on there. That red line marks the top of the solar array. That is what the red line indicates there. We did try to get in to a little closer on some of the photos in terms of getting closer to the array. Some of the neighbors weren't super receptive to that idea so unfortunately, we weren't able to get access to some of these areas. You will find the northern and western areas.....access to their properties. I'm happy to field any questions.

Conrad: Questions from the Board?

Taczak: One of the decommissioning estimates that you forwarded on the 4th, you just spoke that you changed it to 2.5%, but it still has 2% in our packet.

Perram: I think the calculus may reflect 2.5 but I can get that changed no problem.

Burg: Can you walk me through the rendition of 5.1 and 5.2?

Perram: On one of the earlier pages there are an overhead satellite view that has pin locations 1-6 and then you would associate picture 3 with in your packet there location 3, 1st pic. Is existing conditions, 2nd is at installation and so on....

Burg: 2.2 is at installation, 2.3 was a year? 5.1

Perram: 5.1 should be existing conditions so there is no rendering or anything like that. 5.2 would be 1 year and 5.3 is 2 years and 5.4 is 5 years.

Burg: I ask because it doesn't look like there is any difference between 5.2-5.4, so when do we put the vegetative screening in?

Perram: It's in there between 5.2-5.4

Burg: All I see is a fence. (Looking at picture)

Waechter: I just wanted to know I didn't see it on the plans, I may have missed it but I wanted to know where you are going to retain the soil that's been removed from the road construction because it is supposed to be kept on site?

Perram: It certainly will be.

Waechter: I see how it's going to be protected with a fence around it. I just wonder where you will keep it long term because the soil is supposed to remain.

Perram: We won't have a pile long term from that bit of road removal. We'll just skirt it out. I'm sorry I misunderstood your question.

Conrad: Tom, in the meeting minutes there was a question about the pilot? Is there going to be anything, or no?

Seaman: A negotiation hasn't been entered in to yet. We anticipate there will be, we require it pursuant to the Real Property Tax Law for the Town to accept the pilot.

Conrad: Again, this is from the last meeting, federal wetlands status? Do you have any resolution to that with the Army Corp.?

Perram: We don't have the final jurisdictional status yet. I'm hoping to get it within the next couple of weeks but they are backed up.

Conrad: Any feedback from DOT?

Perram: No, we've reached out, they are ready to see the approved plans moving forward. We're at a point where they understand the project and what we want to do but they're in a holding pattern.

Conrad: One of the other things that was mentioned at the last meeting was increasing the landscaping directly behind the neighbors on Townline Road. You had a drainage issue?

Perram: We have that photo simulation. It's in your packet there. We can add some additional vegetation there. It's pretty well screened. You really can't even see it.

Conrad: There was concern from the neighbors that was mentioned and it was brought up that we did request that you

Perram: That was Susan Mielke and I went to their home and spoke to Mr. Mielke and then Sue the next day and they wouldn't allow me on the property to take pictures. It makes it tricky for me to know what we can do outside of what we've already got in terms of landscaping.

Conrad: Do it again.

Perram: Ok.

Conrad: The other thing that was brought up was by Mr. Hoover and he had asked, he was concerned about the restoration of the road way to be used for farmland. His belief is that you'll never be able to get all the stone out of there. Are there any methods that you can think of in order to use special measures that you could use to ensure that it gets back to restored to pre-work conditions?

Perram: I would only speak to the typical methodology we would use. It's all permeable surface, it's all gravel with the geotextile underneath so we're really pretty shallow in to the ground with that access road itself. To

pick up that amount of gravel that shallow is just not a huge concern on decommissioning. I have bigger concerns on getting the posts out and different things like that or deconstructing the fence. For me the access road is a little bit of removing and then re-soil.

Conrad: From your perspective and my perspective that may be true but to a farmer it's a bigger concern.

Perram: Outside the decommissioning plan I'm not sure what else I can speak to that would specify....

Conrad: Do you use a rock colander or any thing to get anything that may have scattered off to the side?

Perram: We would if the situation called for it. We would rather not go in to the rock hound and disturb even more than what we're doing if we don't have to. If that's what it will take to restore the property then that's what will be necessary.

Conrad: It may seem a little over the top for us but again it's farm land. It's to be restored back to its pre-developed condition.

Perram: I would empower the Town to say and we can even spell it out in the plan but I think it is in there as well that the Code Enforcer of the Municipality at whatever time it is decommissioned has to get the sign off from the Municipality. It's not like we decommission it to a point where we find suitable. It would be hey, there is still gravel in here, there is still remnants from this road left over, you're not done decommissioning yet, continue to work.

Conrad: When GHD reviews the decommissioning plan is that something that you could take in to account, an added note or something?

Lannon: Sure, I looked at the bond and I'm comfortable with the way they have portrayed it. They have a detailed drawing in here for the different phases. We'll make a pointed effort.

Conrad: Ok, just because it's been brought up more than once.

Masters: Just so you are aware every solar farm we've done so far has had a staging area actually larger than a driveway that when the project is complete, they've removed the stone, pulled up the geotextile and put the topsoil back down and replanted it. To my knowledge it has not been a problem.

Conrad: That is short term though. You know what happens to geotextile fabric after 20-25 years.

Masters: I'm saying the geotextile came out.

Conrad: But the condition of it isn't the same after 6 months. That is my concern. Pat, do you have anything to add? Anyone else from the Board? Anyone in the audience?

Masters: My only question is when the question was asked about the stock pile, you said you were going to dissipate it throughout the site?

Perram: We are going to spread it yes.

Masters: If you do that then if and when it's decommissioned how will you get that soil back?

Perram: We will have to grade the property a little bit.

Masters: It just seems more logical to me to leave it in a pile.

Conrad: Again, after 20 years what is a pile going to consist of.

Perram: I've been having a lot of conversations about u-shed concerns lately. I would rather not have a big pile.

Conrad: Where do we go from here?

Seaman: Your public hearing has been left open. You need to have a SEQRA determination which I believe Mr. Lannon can probably walk you through now but also the Town has the Environmental Commission that you can rely on as well. It sounds like the applicant still has a few things, they just presented this to you today, your visual analysis. You may want to look at that. You may want to wait for the Federal Wetland response and also the DOT. There weren't that many other things that I can think of. Certainly, the Planning Board can advise the applicant if there is more. There are a few different approaches you can take at this point. You can ask Mr. Lannon to walk us through SEQRA and if he did that you would be able to make your recommendation as to SEQRA assuming it's a negative declaration. I don't know if that's how the Planning Board votes, but if it was you can make your recommendations to the Town Board after that? Alternatively, you could refer it to your Environmental Commission, the Town's Environmental Commission which always hears all planning developments one way or the other. So, they would either hear it before it's heard by you or you would be hearing between your determination and the Town Board. To me it makes a little bit more sense to give it to the Environmental hands immediately. There is going to be some time delay there anyhow. That's one way you can do it, is refer it over there or you could work through SEQRA today.

Conrad: What is the pleasure of the Board? Bob, would you be prepared to do that for us tonight?

Lannon: I can give a high level or.....it's your pleasure.

Conrad: What's the pleasure of the Board? Do you want to hear it before it goes to the Environmental and make a decision or wait for Environmental to see it first?

Lilly: I'd like to hear what Mr. Lannon has to say.

Taczak: I was thinking of it going to Environmental first.

Perram: Can I throw out a preferred solution? There is a, you guys know the story right, incentive block, NYSERTA, everything is drying up, this whole race. The fact that there is even anything left in the block today is a miracle. There is a document that NYSERTA has that is a single paged that can be signed off by the Planning Board saying that the site plan has been approved and that either a negative declaration and special permit is approved conditionally, we can add conditionally there, it allows me then to go to NYSERTA and really solidify this project and make folks time worth it. It doesn't give me a negative declaration. It doesn't give me a special permit. It just says conditionally that the Planning Board has seen what we're doing, agrees

that we're willing to work with you I would say and that there's confidence that we'll bring any other request up to the standard that you provide.

Seaman: I'm not sure what NYSERTA actually needs to see but the Planning Board won't be giving you your approval, the Town Board does. The Planning Board is a referring Board. You understand that and are okay with that?

Perram: I do, 100%. I think you will find here it even acknowledges the Planning and Zoning Board not the Town Board. That's where I'm saying I'm not looking for a special permit, I'm looking in writing your recommendation in a checklist that you're sending it off to the Town Board. That way the SEQRA can go to the Environmental folks and can go through the process without issue, and able then to capture my block incentive. That's my third option.

Seaman: I think this third option one of the first two options that the Planning Board considers SEQRA now and makes their recommendation today.

Perram: You wouldn't even have to really make a recommendation today. I would imagine that for a conditional sign off on a negative declaration maybe you want to hear what Robert has to say certainly but again we're not acting on anything in this meeting.

Conrad: We could act on it and then refer it upon recommendation of the Environmental Committee.

Perram: If they sent back and said Hey, there are issues with this project, this piece of paper really does nothing for me in terms of actually getting through to special permit or building permit or anything like that.

Conrad: Is the Board comfortable with that, hearing from.....

Seaman: Your Board is a referring Board in general. You're not going to be able to make the SEQRA determination, you're not going to be able to make the special use permit determination or the site plan determination. Everything you do is a recommendation to the Town Board. I will say this, I know it's a slightly different concept but in other solar projects that have come through you have put conditions on them. The Town Board can also put conditions on them. Conditions for example that would include language, that the decommissioning bond and decommissioning plan would be approved by your engineer and town attorney. For example, you've had some conditions on certain projects that were specific to the screening mechanism and the way the drives were put in. This was before we changed our solar law so you had some conditions that were relative to screening. My point being for the Board to consider hearing if you're actually ready to not only do a SEQRA determination today but also consider of an approval of a special use permit/site plan, you may want to consider what conditions you would like have attached to this project and then for someone to insist on that the project is developed in accordance with Ag and Markets Law, the decommissioning that the building permit isn't issued until there is a pilot agreement in place. Those 3 I would insist on but there are other things that the Planning Board can also impose in terms of conditions. If you are prepared to consider all of those things, maybe you would want to go ahead and proceed with everything today. If not, then one mechanism unfortunately pushing it out a month would be bringing back and, in the meantime, refer it to the Environmental Commission for SEQRA review which they will have to review anyhow.

Perram: I think either way I'm here next month though. In my opinion we will take the considerations and conditions and go back with our plans as we have throughout this whole process, get them back to you in a

timely fashion and to the Town Board really. We'll keep Tim obviously in the loop with everything. The beauty of all the conditions you just laid out here, you're absolutely right they're all in the meeting minutes. You don't even have to write them down. I'm trying to make it as easy as possible for the Board.

Seaman: Do you have a specific document that NYSERTA needs? Can I take a look at it?

Perram: I've used this in other municipalities.

Taczak: It would make sense to hear from Bob and go from there.

Seaman: I don't know if I can sign this.

Perram: Why's that?

Seaman: It has a checklist here, special use permit, date approved, that's not going to happen until the Town Board approves it.

Perram: With the conditionals on there? It's on the meeting minutes. This is a document I've used in other municipalities; other attorneys have looked at it. It's not a document that I've created. I didn't send it to NYSERTA and said hey can you make this work? It's real.

Seaman: It's real but I'm going to be the attorney that advises the Planning Board whether or not they should be signing it.

Perram: How can I get your vote otherwise? If I got you in touch with somebody at NYSERTA to say this document doesn't obligate the Town to anything.

Seaman: It's a factual question, date of special use permit approval? It hasn't been approved yet. The Town Board approves it.

Perram: With the conditional on there.

Seaman: It says conditional in red. Then there is nothing on there what the condition is.

Perram: We would attach that to the meeting minutes on the same date. I know it sounds like this is NYSERTA.

Seaman: I understand that but I also can't have my Planning Board sign something that's inaccurate. Potentially how you draft the conditions that are attached to this document may help them sign it.

Perram: If the conditions were drafted as of the meeting minutes.....I'll flip it over and start writing on the back of it right now. I'd be happy to if that's what it takes.

Seaman: I would do the same thing before I had someone sign it. The condition would simply say conditioned on the fact that the Town Board is the approving Board.

Perram: 100%, I'd be fine with that.

Seaman: This is a referring agency only.

Perram: I would be fine with that. I appreciate you working with me on this. That's how confident I am that it's not going to hold anybody to anything but it's still a document.

Lannon: I'll give you a high-level overview of what we've done and where we are. Lead Agency Coordination letter, we sent them to the nearest DEC, nearest State Ag and Markets, NYSERTA, Niagara County Planning, Town of Cambria declaring the intent of the Town of Lewiston to be Lead Agent. None objected to the Town being Lead Agent. We heard back from DEC, some standard stuff. There is disturbance of more than one acre. You need a SWPPP. You know that, been there done that. We got some minor comments on it, that's not a problem. They talked about contacting the Army Corp. of Engineers for soils, he's aware of that. We make mention of that later in our Part III. We also talk about it's in an Ag District, Board of Ag and Markets, we've done that. Cambria said no problem. Ag and Markets came back by and large with some comments such that they wanted to make sure that the applicant had to file a Notice of Intent with NYSERTA. It's an applicant issue, not a Town issue. That is standard procedure for these types of projects with Ag and Markets. They provided some guidance for solar array projects, construction mitigation for agricultural land. That's very standard stuff. We completed Part II. Just a highlight of Part II, we felt that there was impact on land and surface water. The proposed action may result in increased erosion from the physical disturbance of the land during construction. However, the project is required to have an approved SWPPP which regulates the installation of an appropriate storm water controlled to mitigate the potential for erosion and drainage impact. That one is addressed. The proposed action will impact approximately 0.0818 acres of Federal Wetlands. The project will require a permit from Army Corp. of Engineers. It may be subject to any regulatory requirements to mitigate impacts to wetlands. That is a permit issued to the applicant. That's fine. Impact on Agricultural Resources, the project will convert, agricultural land within an agricultural district....not for agricultural use. However solar panels will be installed on pole foundations which minimizes compaction and limits the overall impact of farming. In addition, the project will be required to file a Notice of Intent in the NYS Dept. of Ag and Markets to further evaluate and mitigate any adverse impacts identified by Ag and Markets. Impact on esthetic resources and community character. The proposed action is substantially different from current land use; however, the solar energy system is permitted under zoning and a special use permit. We talked a lot about screening. Lastly impact on noise, odor and lights. The proposed action will result in an increase in odor and noise from heavy construction equipment. However, related impacts are temporary and limited to construction and installation of the solar system. After construction there will be no odor or noise impact related to the solar energy system. Based on those comments we recommend a negative declaration be issued ultimately by the Town Board.

Conrad: The conditions that you mentioned.

Seaman: First address the SEQRA. If you're comfortable with that, take a motion.

Conrad: Before we even take a motion, I just want to make sure that the conditions that we talked about all night, I just like to have them written down so whatever the Board does either way you know what they are and we know what they are before any vote. You mentioned the pilot agreement needs to be in place. GHD and the Town Attorney need to review and approve the decommission plan and bond. It needs to be constructed in accordance with the Ag and Markets Law.

Seaman: There is a NY Dept. of Ag and Markets guidelines for agricultural mitigation for solar energy projects.

Conrad: We need the determination from DOT review and approval. Corp. of Engineer review and approval. Any other conditions? Did I miss anything you said Tom?

Seaman: The only other one is self-explanatory but I think you should condition on continued compliance with the Town Code relative to solar energy systems.

Conrad: Are there any conditions that the Board would like to add?

Perram: We'll get that 2.5% updated on the computer system as well.

Burg: We need a negative declaration from the Environmental Commission do we not? Is that a condition or a step?

Lannon: Just for the record they did not reduce the.....by any salvage.

Conrad: We can take action tonight with these conditions and also one of those conditions would be it needs to come back from the Environmental Committee. We can go ahead and either approve or deny a recommendation for a negative declaration. We can make another motion for an approval or disapproval of the plan at this point. They've done pretty much everything we've asked them so far.

Baker: Did we stipulate that the schedule is supposed to reflect the screening plantings are at the beginning of the construction schedule rather than at the end?

Conrad: He mentioned that. That's in the solar law. We can make a motion regarding the negative declaration and make a motion about the site plan approval or disapproval or denial and also make a recommendation one way or the other on the special use permit. Would anyone like to make a motion on the neg. dec.?

A motion to recommend approval of a negative declaration was made by Lilly, seconded by Waechter and carried.

A motion to recommend approval of the site plan based on the listed conditions in the minutes was made by Burg, seconded by Taczak, 1. A pilot agreement is in place. 2. GHD and the Town Attorney will review and approval the decommissioning bond and plan. 3. Refer to Environmental Committee for SEQRA review. 4. The project is in accordance with the Ag and Markets Law. 5. The applicant secures approval from the DOT. 6. The applicant receives approval from the Army Corp. of Engineers. 7. Applicant is in compliance with the Town Solar Law. Motion carried.

A motion to recommend approval of the Special Use Permit was made by Lilly, seconded by Burg with the same conditions, motion carried.

A motion to close the public hearing was made by Taczak, seconded by Waechter and carried.

The next item on the agenda was the Solar Array, Lisa Caldwell, 2481 Saunders Settlement Road.

Conrad: Please state your name for the record.

Steve Long, Borrego Solar. I'm here tonight to present our project, 5 mega-watt community solar project at 2481 Saunders Settlement Road. I have Marc Kenward from Erdman Anthony here, our civil engineer. He is going to present the details of the project.

Kenward: The parcel is at 2481 Saunders Settlement Road. Our proposal is for a 5 mega-watt ground mounted solar project. It's located on the north side of the road, approximately 2,400' east of Chew Road. It's historically been used as active farmland. Over the last 203 years the northern portion has remainedand is all brush. That northern portion is not shown on here because the property is nearly 4,000' deep. The project is proposed towards the corner of the parcel but behind the residential homes on the actively tilled farm land towards the south end of the parcel fronting on Saunders Settlement Road. The project encompasses approximately 25 acres of the southern portion near Saunders Settlement that is comprised of 2 fenced arrays 13.53 acres. There are 2 arrays because there is an intermittent stream that divides the tilled ag land right here (map). The 2 fenced arrays that I mentioned 13.53 acres. There is also .28 acres of access driveway from Saunders Settlement Road. The access driveway I followed the existing gravel land way that extends all the way to the back of the property. At the rear of the property the Town has a storm water pump station and that is visited every day by the Town of Lewiston for operation and maintenance. It comes in along the west side of the parcel, curves to the west to follow the property line and goes back well beyond our solar array for another half a mile or so. The gravel driveway that is there will be widened to 20' because that's what's required for the electrical power generating stations. There is also .25 acres of top soil storage planned for the east side of the front parcel here. It's on the east side of the fence, outside of this wetland buffer area. There is no tree clearing needed or required. Our 1 here and 1 at the rear of the front array to service the array that's to the north of the intermittent stream. I would also point out there is a gas line easement going through the property highlighted with yellow shading. That is not being encroached on at all. As I mentioned before there is a 24' wide crushed stone driveway that follows.....all the way to the rear of the property. Poles and electrical aerial wires needed for the inner connection with National Grid would extend 150' in from Saunders Settlement Road on the western side of the parcel. Utility scale solar projects such as this are allowed and regulated in the Town of Lewiston Zoning Code as you know. Utility scale solar are allowed in the rural residential district. This proposed project is in a rural residential zoning district. The proposed site layout has also been designed and layout according to the Town of Lewiston's Solar Energy Code standards. These requirementsa minimum lot size of 5 acres with a maximum lot area of 100. This project is on 97.58-acre parcel. The required minimum front setback is 700'. The proposed front array is 834' back from Saunders Settlement Road. The required minimum side setback is 100'. The proposed minimum side setback is 100' on this project here. The required rear setback is 100' and we are 2,160' deep from the rear. There are also setback requirements for dwellings as follows: 250' to any dwelling on subject parcel, the distance to the land owner's residence is 621'. The Town Code also requires a 700' of offset distance to any dwellings on adjoining lots. The distance to the nearest dwelling on an adjoining lot is 709', which is the Genter property to the west side of the owner. Lastly the 500' setback to any existing structures on adjoining lots. The distance to the nearest structure on the adjoining lot is 538' which again is in the Genter property. It's a garage at the back of their property. The Town Solar Zoning Code also requires the visual and reduced potential impacts, vegetative screening in the form of 9-10' high ever green trees. This is proposed on the south side of the site and along the west of the south array. In addition, hedge like screening plants is proposed for almost the entire south fence line on the south array. Those are screens that are woven in to the chain link fabric. They look like pine garland is what it amounts to. There should be a cut sheet in the application package for that. Other Town requirements included decommissioning plan which has been submitted with a written plan and estimate. Only minor amounts of excavation and grading work is required. Some minor site grading proposed for the 2 equipment pads to raise them up above grade so they aren't down in the seasonal high water that occurs on this land. Wetlands are present on site but impacts are limited

to a minor amount of NYS DEC buffer. The buffer is here (map) in front of the woods and a little bit along the east property line up in here. Beyond that the intermittent stream and the woods back here are part of a larger federal jurisdiction wetland. That jurisdictional determination is included in the application package. During construction the project will generate approximately 50 vehicle trips per day, 25 arriving and 25 exiting. Once it is in operation it will generate no traffic, no noise and no adverse glare. The results of the glare study are in the application package. That indicates that there is no adverse glare to No night time lighting is proposed. I'm open to any questions you might have.

Conrad: What kind of ground cover will you use?

Kenward: We are proposing, it's in the landscape plan, honey bee clover mix. It's a mix of different clovers. It's very pollen friendly. I've been recommending this honey bee clover mix since I did one a couple of years ago in the Town of Hamlin where there is a honey farm. He's a honey producer and that was his recommendation. Clover is easy to grown and germinate. If you use different varieties a blossom all summer and in to the fall.

Taczak: I'm referring to the Building Inspector's notes, who would be responsible for cleaning up the property, truck and some of the stuff on the roadway and stuff like that? Is that the homeowner's responsibility?

Kenward: Are you talking about existing debris on the site? That would be the land owner's responsibility.

Conrad: You may need to give him a nudge. He has some stuff that needs to be taken care of back there. What about the road itself? You mentioned you're going to widen it but it has some pretty sharp bends in it. Fire equipment has to get back there to take care of anything. The radius will need to be softened quite a bit in some way.

Kenward: During construction we're proposing a temporary access driveway off the end here because this area here, the southwest corner is getting used for the staging and storage area. We're going straight off of there to make the tractor trailers make the deliveries. We can look at the concerns for fire truck access.

Conrad: It's the Fire Code.

Kenward: We can look to see, the turns we have here will accommodate a fire truck.

Taczak: We also need a knox box for the gate so that the fire company would have access if there was an incident.

Kenward: The access gate back here is part of the equipment pad and there will also be one across the way for this north array.

Taczak: I assume they are going to be secured, so you will need those boxes.

Kenward: Those are the ones we've been using.

Masters: I drove out there and the fire truck isn't going to make those two 90 degree turns. Also, on the plan the Fire Code mandates from the gate to the west side of the driveway 70' and he's depicting 60'. I scaled it.

Taczak: The drainage ditch that's presently in and dividing the property, it's between 2 fenced areas. Is there an easement and who is going to clean it up?

Kenward: It's not fenced off.

Taczak: There is a fence around the property.

Kenward: There are 2 fences. Where the ditch is, it's not blocked off.

Waechter: How much distance in between? It might be very small and I missed it?

Kenward: 30'.

Waechter: Is that enough?

Masters: Not if you're going to do it with a gradall.

Waechter: How big does it have to be?

Kenward: It would be the landowner that does it. They can use something smaller if they have to. There are smaller pieces of equipment that he could use.

Masters: That's a pretty good size ditch. It appears to meet the properties further east. What we don't want to do is encroach so much that we can't get something in there. I'm not even sure if it's a Town drainage ditch or if it's something she does privately.

Long: The Town maintains it.

Conrad: Tim, is that something you would look in to with the owner as far as how it's cleaned?

Masters: If the Town historically cleaned it then we need to get Dave Trane to go down there.

Kenward: To my knowledge they recently cleaned it a year or two ago by the landowner.

Seaman: They said there is no access agreement on it currently.

Masters: Or on the road either?

Kenward: Not on the road but it's used by the Town. There is no easement.

Long: We did a title search.

Masters: But we plow it and everything.

Burg: You're going to designate the property location for signs? There is nothing on the plans. We need signs at the road so that emergency vehicles know where you are located.

Conrad: Something with the address on it. If there is an emergency back there.

Long: No problem, we can put that on.

Masters: I also didn't see a signage package there that talked about the signage on the fence.

Long: It would be what's required by Code. They are small signs. It usually goes on the electrical plan.

Masters: All the other solar farms submitted on the regular plans.

Long: We'll put that together.

Conrad: If you could do that it would be helpful.

Burg: Do we have specs on the road to meet the 75,000 lb. requirement?

Taczak: The fabric that you mentioned that would go on the south side that would be intertwined in the fence.....you're only proposing that it's on the south side and not around the....

Kenward: It's just to provide some additional screening especially with this gap here. There is a cut sheet.....

Burg: It shows it just in the one section but not the entire perimeter.

Conrad: Go back and look at the solar law. Screening is required the whole way around the project. If you read the solar law, a portion of it talks about screening, that it's to be screened on all 4 sides.

Burg: Right now, you just have it on the south side where it's visible from Saunders Settlement.

Kenward: It's screened up here by trees. We're also adding the screened fence here. There is a tree array here. Why do we screen the woods?

Burg: I think the opinion of the Board was in previous applications you don't own the woods that are screening your project. If something happens to that natural screening, what's in its place?

Conrad: Typically, around here unless it's screened by a blue spruce or some other kind of ever green tree, 8 months out of the year there is nothing on those trees, so your screening is zero besides your slats.

Long: This side is all trees the landowner owns.

Taczak: You don't know what's going to happen if there is a development behind.

Long: They own 2,000' back. It is wooded wetlands. I don't think it's developable.

Seaman: With that scenario you could make it a condition that the land owner is able to develop.....

Long: It's all wetlands.

Taczak: This National Grid pre-screening that was in our packet. Under the executive summary #1, half way through the first paragraph the company which is National Grid has determined that the local area is not suitable for the interconnection of the generator system as proposed. Further evaluation would be required. The interconnecting customer shall not proceed with the proposed installation of the system until these technical requirements are satisfied. Is that something new that these requirements that National Grid is, have you satisfied them already? I noticed it's dated on November 3, 2020.

Long: That's a preliminary study. They ask can the current existing system handle this being in ourtypically there are upgrades there when needed. They have to do an additional detail study which we pay for which they are in the process of doing. Then we will get the cost for the upgrades.

Conrad: You mentioned the dump truck and pile of tires around that second turn, if you could talk to the owner. If he could clean that up it would be best. How many years after planting will it take the trees to get the size reflected on the site plan? The plan is depicting, what was the scale for it I don't remember? Sometimes it's a little deceiving on a site plan if it's 100-150 to 1 scale.

Long: The plan was done by a land scape architect. It was done at spacing we used from other plans. They suggested the spacing is typical to allow the plants to grow together. If you put them too close in the beginning, they don't get enough sun and they don't grow together.

Kenward: The typical spacing for each row is 12'. The two rows are staggered. The visual syms in your packets represent 1 year growth and 5-year growth.

Masters: My question though is if you look at page C4.1, those trees depicted on that plan, the branches are touching each other. Is that in 50 years in full growth or is that year 1, 3, 5, 9? What is that depiction?

Kenward: The trees are there more as a symbol to picture the actual size and what it's about. The landscaping plan calls out for 9-10' high trees, the spread starts out at 5-6' of spread.

Conrad: A 5' spread is only 2.5' each direction. They are on centers.

Baker: We're concerned that the screening is planted and complies with the Town Law.

Kenward: That is why we are usingtrees to get there.

Baker: I don't know what you're using but it must comply with the Town Law or exceed the requirements.

Conrad: The turnarounds don't meet the Fire Code. You mentioned that right Tim?

Masters: Yes.

Conrad: You said you are going to have the road certified right?

Long: We can get something that is a recommendation.

Conrad: You will obviously have that documented and pass that along to the Town. Tim, anything else?

Masters: My other question was when the road access goes over that ditch it's only 10' to that gate. We don't have 20' to that back gate.

Conrad: Bob, did you have any questions or comments?

Lannon: Nothing beyond what Tim said on the plans. My office looked at the SWPPP and had some minor comments on that. I've taken a look at the decommissioning estimate. I have to dig in to it a little further. It's quite a bit lower than the one we just approved.

Conrad: Any other questions or comments from the Board?

Waechter: On your drawing SD4.0 you had a permanent top soil storage area that's not too far from that wetlands area. Are there any special provisions that you will do for that one?

Kenward: That is the wetland buffer area. That is a NYS DEC wetland buffer area and there will be no special provisions other than silt during the construction to stabilize it.

Waechter: I noticed that your fence line and some of your solar panels may encroach on to your wetland buffer zone?

Kenward: That's correct.

Long: We had a jurisdictional determination so the wetland lines that are on there have been verified by DEC and Army Corp. and we're in the process, we've submitted a permit application to DEC for those encroachments.

Waechter: With the decommissioning cost, I do notice that it is considerably less. I just did a quick math and it doesn't take anything in to account. The previous project was about \$33. Per panel. This cost for you is about \$12. A panel so there is quite a large discrepancy. The trucking and transfer stations it seems to be a little in my opinion low. Which transfer station are you going to be utilizing?

Long: It's in Lockport.

Waechter: Is the intent after this is done to recycle or landfill the panels?

Long: Generally, we would recycle.

Taczak: The last few decommissioning we've sort of had a number that we've been saying 2.5%, you have 2%. We've been trying to keep it even here. We've been doing 2.5% for the bond.

Long: That's fine. All towns are different. We can change that.

Conrad: Is there anyone in the audience that wants to speak for or against the project?

Seaman: Sandy, did you notice the public hearing?

VanUden: No.

Seaman: You will need to set one. Set it when the Planning Board is ready for it. You have to do SEQRA. There has to be a coordinated review. Request GHD to assist in SEQRA and do the coordinated review. That's the only thing you do unless you want to set a public hearing.

Conrad: What about declaring it a Type 1 action?

Seaman: No, you just direct GHD to assist in SEQRA.

Conrad: What is the Board's feeling of a public hearing and setting a date? Do you want it for the next meeting? Any other questions or discussion on the matter before we go forward?

Burg: On your renditions you're not showing a fence. You show the vegetation and panels but you're not showing a fence.

Kenward: There is a fence in there.

Burg: Is that the fence with screening or is that the panels?

Kenward: It's the fence, it should show the screening.

Waechter: On the west side of the property, you said that you are going to depend on the homeowner maintaining that tree line. Since they are his trees in order to provide that shielding, or is it the south.....this property here.....if I was hearing correctly, you are not going to put the landscape screening in the fence on that west side? Are you going to do it along that one side?

Kenward: We were stopping the trees short here.

Waechter: My concern is even though that they're going to be maintain that tree line, what happens in five years from you lose that tree line? What if you lose it to a storm or what have you? Are you going to be using that screening along that side?

Kenward: The slats as well? We weren't proposing it.

Conrad: I think it would be a good idea to go back through the solar law and make sure you are compliant with all those requirements as far as landscaping goes. It's pretty specific, just so we're not going back and forth. Any other questions or comments? What we can do tonight is just make 3 generic motions.

A motion that GHD to assist with the coordinated review for SEQRA was made by Conrad, seconded by Taczak and carried

A motion to recommend the Town Board as Lead Agency was made by Conrad, seconded by Waechter and carried.

A motion to set the public hearing for June 17, 2021 was made by Conrad, seconded by Waechter and carried.

The next item on the agenda was the Perry subdivision, West Park Drive.

Good evening, Kristin Savard with Advanced Design Group. We're here tonight with Dr. Perry for the subdivision, we're calling it the Perry Subdivision on West Park Drive. Since we were here 2 months ago, we completed the engineering drawings, SWPPP and the full design and that has been submitted to the Town and I believe it's been passed on to GHD. Our intent tonight is to answer any questions the Board may have now that we have advanced the design and submitted things. We did do a full description of the project last time. I know you have a long agenda and a long night so I won't go in to it unless you have specific questions, or if there is anybody that wasn't here last time. You do have plans in front of you. The project itself has not changed in terms of the layout or anything. We simply advanced the design and the engineering. Our goal tonight would be to proceed with the process and start SEQRA hopefully and get moving with the next step. That is a quick over view.

Conrad: Any questions from the Board?

Waechter: I have one, it is about the proposed 20' public utility and access easement. Is that like a private easement or I'm just concerned the house seems to be built right up against it.

Savard: We made the lot a little bigger and that easement was requested by the Town for a couple of different reasons. 1. There is no easement there. Right now, there is a water line coming through. That precipitated the need for the easement in the first place. Also, they wanted an easement put there, when we started it was a utility easement. We made it bigger and we've added the language of accessing it because there is talk about in the future putting a connection out to the parkway for a walkway. We just added per the Town's request. The lot we did make bigger to accommodate the home. It is set back from the easement the same amount as some of the other lots are with a side yard setback. Nothing would be built up right against the edge of that easement. The walkway and the water line are actually to the south end of that easement.

Waechter: It's just a little deceiving then from the drawing then.

Masters: Are you saying the 15% setback is from the south property line or from the....

Savard: South property line. The setback is consistent with what we have for the setbacks on other parcels that don't have an easement but we have the 15%.

Masters: If I have a 75' lotthe easement is 10' potentially I could have the house 1' in?

Savard: It wouldn't be ideal.

Masters: Just so you are all aware of that.

Savard: That's one of the reasons we went from the 15' easement to the 25' easement just so that nothing can be built right next to the improvements.

Masters: The physical water line is on the south side.

Savard: Yes, it's on the south property line. The other thing is we didn't want the water typically is 15' easement would be up the middle of the easement which is 7.5' either side that's so people can work on it. In this scenario since we're adjacent to a home we made it wider so that people could have to work without being in the person's yard or on top of the house. That's why it's 25'.

Conrad: Any other comments or questions from the Board? Anyone in the audience that has a question or comment?

Savard: Will we be doing a public hearing as part of preliminary or final?

Seaman: I believe it's just at the Town Board but I would have to look at the Code again.

Savard: If I'm not mistaken, I think by the Town Board at final plat.

Seaman: I believe so too.

Savard: You guys have the ability if you wanted to call a public hearing. I just wanted to know if you intended to?

Conrad: The Town Board and Planning Board are allowed to have a joint public hearing.

Savard: The only thing I would say is sooner is better than later. What I hate about doing it at final plat is everything is designed and done so if there is a need to do one sooner rather than later would be.....

Conrad: Whether or not we have one, the Town Board has to have one.

Seaman: Are you requesting the Planning Board have one?

Savard: No, I'm not requesting anything, just throwing it out there.

Seaman: Can you talk to us a little bit about the plan for the pond? How is it going to be maintained, who is the owner after the project is built? Does that intended to be transferred to the Town?

Savard: No, the HOA that is associated with the project. The pond itself is all on one parcel and at this point in time that parcel is planned to be owned by one of the sons of the property owner and we've laid things out that work for him so it's easily accessible and all of that. Because it is done through part of an HOA, the DEC, SPEDES law requires that you have a maintenance plan. That will be customized and finalized as part of the final plat after that through you and through the Town. We have a template one in our SWPPP that we submitted as kind of our starting point that we start with and we've used in other communities. That will be a part of what we do as we move forward.

Lannon: HOA is maintaining the pond?

Savard: There will be an HOA here but the pond itself will be on the property of Dr. Perry's son, lot 12. Whether it's maintained by the property owner or it's maintained by the HOA group is yet to be determined. It will not be the Town's responsibility.

Lannon: Good answer.

Conrad: In the case what would happen if that property were to be sold off and the next owner?

Savard: It's part of it. With the maintenance plan that's the template that we use, one of the things that's in there is what are the long-term transfer responsibility of the parcels the pond is on? Sometimes we design them and the ponds are so big you have 4 or 5 parcels that maintenance responsibility so there is language that addresses that. In this case it's all on one parcel. It will transfer with it.

Lannon: With a deed restriction of some sort.

Savard: It's more than that. It's a maintenance responsibility of having a utility on your property.

Conrad: Anything else from the Board?

Lannon: I had a couple nickel dimers if you are interested? I can send these to you. There is a note on here that talks about street lights. It's a misunderstood concept. Note 34, talks about street lights to be installed as directed by the Town of Lewiston. The Town will work with National Grid on those. Lights to be installed per Town of Lewiston. Just delete that note. Under this design you have 1 street light and the cul-de-sac. That is Town standard practice. It will go through a different process separate from this subdivision.

Savard: We will delete that note. I just want to make sure the Town as well as the applicant and developer and everyone is on the same page that there are lights required even though that note is gone, they will have to put lights in. Do you want me to show a light?

Lannon: It doesn't matter. I'd rather not confuse it with the subdivision. They are for T-intersections, dangerous curves and cul-de-sacs.

Savard: Is that written somewhere in the Code or is that just policy?

Lannon: It's in the subdivision regs. For clarity it will be at the cul-de-sac.

Savard: You guys will dictate that right? I don't want to be responsible.

Lannon: Grid won't put it in for you. That is the confusion. Grid will only put it in for a municipality. You can put in private lights of course but a street light in a private right-of-way, Grid won't put it in. Note 34. The water line we talked about that. The new water line you will connect to that.

Savard: We went out when it was installed and open and took pictures and measured and all that so we have it.

Conrad: What is the status of the water project over there anyways?

Lannon: We are doing some services. Almost all of the main line is in. They have to do one railroad crossing up on Hoover up in Sanborn. Now the restoration is being done.

Savard: That's not all of your comments, right? You guys are going to write something up, or no? I would love for that to be the end of it.

Lannon: I'll be in touch.

Conrad: We need to make a recommendation to the Town Board.

Seaman: You have to go through the SEQRA process and a coordinated review.

Conrad: I can make those motions in the same steps as we were doing before.

A motion for GHD to assist in the Coordinated Review for SEQRA was made by Conrad, seconded by Taczak and carried.

A motion to recommend the Town Board to be Lead Agency was made by Conrad, seconded by Burg and carried.

Savard: What is the policy currently on the Environmental Commission and any other Boards? Do we initiate submittal to them? I don't believe this has been before them? I haven't presented. Do they ask for it? Do we have to go?

Conrad: That is part of what Bob will do. You will be going before the Environmental Committee. The Town initiates it.

Lannon: For the SEQRA I'm just going to take Part 1 and send it out. We'll take care of that.

Savard: What about the Environmental Commission?

Lannon: I'll send it.

Conrad: We are good for tonight, thank you.

LMK Realty – Ridge Road – Multi Family Sketch Plan

Nick Massaro – 5094 Country Club Trail. I'm with LMK Realty. LMK members Lisa Keating and my father Dom Massaro is here as well. Anthony Mussachio, Mussachio Architects is also here to answer any technical questions that should arise. We were here 2 months ago to present an application for a planned unit development on a 2.6-acre parcel of vacant land that we own at the corner of Northridge Drive and Ridge Road. What we would like to do is construct a 30-unit multi-family development type project. We feel that there is a ready market for that project. We are apartment developers and builders by nature, that is our profession. We own 350 units across the Town of Lewiston. I'm happy to say we have less than 2.5% vacancy rate right now. The 2 new market rate buildings that we currently have under construction, Apartments at Legacy 3 & 4, at the corner of Legacy Drive and Creek Road. We have pre-leased 30 of the 32. That was as of 2 or 3 days ago. I would have to check with our leasing department. There is a very strong demand for this product. We know this more now from antidotal evidence than we did a couple of months ago. We knew the demand would be strong. We wanted to put something together and propose this type of development for this parcel. We thought it was the best use for that. We really and truly believe that. I believe last time a sticking point with the Building Dept. and Planning Board was the residential density requirements of our development. We want to get this development incorporated in to the existing PUD that is Ridgeview at Lewiston. It is contiguous to this site that we are talking about. It's directly adjacent to it. It's directly to the north a bit. Based on the underlying zoning designation of R-1 which this parcel is currently zoned we would need 1 unit per 11,250 square feet of open space. That's going to prove to be prohibitive, hence our

application to hopefully persuade the Planning Board and Town Board to enact a local law and change the zoning back to designation to PUD. Since our last discussion 2 months ago we did some research and obviously there are other PUDs throughout the Town of Lewiston, I think we are responsible for 2 or 3 other ones. There is a precedence here where gross residential density requirements have been more flexible. If you look at Ridgeview at Lewiston compared to what we are presenting here, on a unit per acre basis, also a square footage per unit basis, what we're proposing here is nearly identical to what was accepted as Ridgeview at Lewiston 40-41 years ago. Ridgeview at Lewiston was 2 tax lots previously back as recently as 1979, 1980. They were R-1, they were rezoned to PUD because the Town thought that was the best and highest use of property to allow for the development that my great uncle was proposing at the time. We're looking to do something very similar now. We're working with R-1 but we would like to go to PUD. We respectively ask for your consideration in that matter. The consideration I guess of the bonus density which will ultimately need to be granted in order for us to move forward with the PUD zoning and develop this project that we need to which would entail 30 rental units in order to make it at all feasible for us.

Conrad: I'll open it up to the Board for questions and comments.

Lilly: What square footage will the units have?

Massaro: We haven't flushed out the exact square footage of the units. We have the square footage of the building parameters, the building foot print. The building foot prints of the new developments, 30 units with a mix 1, 2 & 3 bedroom, across 4 buildings is a little over 17,000 square feet. That leaves you with considering the proposedthat you see on our concept plan here, the impervious area is a little over 53% green space, 46% PUD requirement minimum threshold is 25% open space. I think the Town Code they classify sidewalks as open space too. So, if you throw in the sidewalks as open space, you're probably at 50/50 already. 50% of the site is completely undisturbed. The combined site you see we have 11 units, a little over 11 units per acre and 3,843 square feet of space for every unit we're proposing to build. It's pretty consistent across the board whether you look at our stand-alone development proposal, the existing one which is Ridgeview at Lewiston or if you combine them all together.

Waechter: What is your predicted impact on traffic coming out of that unit up on to Center Street?

Massaro: Minimal we think. We went through this exercise 2-3 years ago with the patio home development that we're building along Northridge Drive and we had our attorneys here and they did some, they recited something from a traffic engineer impact analysis for site development and they said there is going to be no significant traffic for developments under 95 single family units and 150 multi family units. We're not proposing nearly as much as that. We don't anticipate there to be much of a traffic event at all.

Conrad: The first parcel that is developed now, when that was rezoned in 1980, there was a stage 1 and a stage 2. Do you have any idea what stage 2 was in that approval?

Domonic Massaro: At the time Northridge Drive was under consideration for development so the Ridgeview PUD was constructed on the west side and then there was language if I remember reading the 1979 document, there was language there about access in to where Legacy Drive sits now over towards Creek Road, there was language there for the lots to be basically allowed by the developer todeeded to the Town for the eventual connection for that road to Creek Road. At that time none of that was done. My understanding and I had just a brief touch on that back in 1980. My understanding was that phase 2 of that property was the current legacy apartments and condominiums that are being developed.

Conrad: I read that over and over last night. Part of stage 2 and one of the conditions was that stage 2 was to be R-1 housing development. There is no R-1, right?

Dom Massaro: There was. If you remember everything along where we are building the patio homes, those were all R-1. We came back and asked for a change and you granted it and you changed those to R-2 to duplex units because we went from a PUD to a R-2 to an R-1. To answer your question, you are correct.

Conrad: I just didn't know stage 2 was identifying. As far as the traffic impact, you have 2 new entrances on to Northridge. Is there any way to make an interconnection between your property to the north and the property you're trying to develop now to create some less of an impact on Northridge to change the traffic pattern so that maybe one of your entrances you can meander through....

Massaro: We have an overflow parking lot to the east of Ridgeview building 6. The only issue there is a 50' National Grid easement there. It cuts through the sites and Ridgeview right now.

Mussachio: We would have to get approval to go through their easement.

Conrad: I'm concerned about the impact of the traffic.

Dom Massaro: We have stop signs there at Legacy and Northridge. You do get a lot of traffic from the Lewistown Development. They come through there because it's an easy access up to Ridge Road. You will get a little more with this. I don't believe the impact of traffic will be anything of significance.

Conrad: I don't want to make what is already a bad situation worse.

Mussachio: I can't get fire truck turn arounds for fire safety.....to go to Ridge Road but it's too close to the intersection to move that. This would allow emergency and fire vehicles to get in and out of the property.

Conrad: Tom, did you want to chime in on anything here?

Seaman: My initial concern with what you guys put forth is it is unclear as to whether or not you're trying to re-open a PUD on this larger parcel here. In other words, take that and modify that PUD or if you're trying to do a PUD for this parcel. None of the drawings you have any engineering relative to the larger PUD. I can understand and appreciate the concept plan for a PUD is try to get through the initial phase but if you're trying to incorporate in to a larger PUD that's existed for 4 years, you're going to make that clear in your application. I think your engineering is going to have to reflect that and demonstrate that. My initial thought on what we have in front of us is it feels like a new application at this point. I think Tim may have some comments with regards to specifically engineering in that regard too in terms of being able to fully flush them out. Again, the concept plan is supposed to proceed and move things forward and I don't feel that what we have here is simply enough to feel that.

Massaro: You're right in regards that this is like a concept plan review. The engineering details haven't been flushed out yet, the pond, potential approval obviously we would engage with the engineers and produce a more detailed drawing that hopefully answers some of these questions that are coming about. In the application I believe we state the goal is to incorporate our proposed development in to the existing PUD that is Ridgeview at Lewiston. It says it in the application cover page and also the admission statement development over view that I wrote up. I think either way the development holds water on its own from a

rural residential density and units per acre stand point based on what already exists in terms of Ridgeview at Lewiston. The goal and what is actually stated in the application is that it would be preferred and I think the Building Dept. directed us this way from the beginning to incorporate what we're talking about in to the existing PUD and incorporation in to the Ridgeview PUD.

Masters: The 2.4 acres on its own cannot become a separate PUD. You need 10 acres minimum to have a stand-alone PUD. The only option is to incorporate it in to a larger PUD if all the calculations work out. It's the only option we have. It's the only option they have. That has to be the way forward or there is no moving forward. To me the big question though to me that needs to be answered right from the get go before they spend a lot of money is how is the Town viewing the density? To me that needs to be flushed out. Right now, they're requesting basically 3 times more density than the Town PUD law allows.

Dom Massaro: We're requesting the same thing that was allowed back in 1980. Whether or not that's allowed today is another story.

Masters: It's not allowed today.

Dom Massaro: Basically, we're asking that this fits because it borders up against all the property that we own now. It makes a good fit if the Planning Board and Town Board approve it. Before we spend \$50-80,000.....

Conrad: This is the way to go so that it's fair to you and fair to the Town.

Masters: If the Town doesn't have any interest in going with that density, then the project is done.

Waechter: You do it now even though 40 years ago it was allowed. Maybe that's not the direction we want now. If we okay it, it's sets a precedence now.

Conrad: The other thing is that when this was approved 40 years ago, the first parcel, a lot of things were different. The traffic wasn't an issue. The population wasn't an issue. There was no PUD law on the books back then either.

Dom Massaro: Look at the parcel now. The parcel has a general business component right adjacent to the old Robert Moses Parkway. Then you have an L-shaped piece down there which is contiguous with an existing PUD, which is adjacent to all of our other properties that come up Northridge Drive which are going to be patio homes which we are about to start at 725-727. Essentially what other usage for the land if you don't want to do this? What other usage for that property would you suggest? That's they reason we're here. What we see, otherwise we could sell the property or continue to pay very minimal cost on taxes for undeveloped property. We're trying to develop it to something that's needed by the Town based upon the demand that we're experiencing now. Something that fits in to that area perfectly. It's not like we're trying to situate this in a residential area or something like that where it fits. That's what we're trying to do. We thought that was the best efficient usage from our standpoint as developers and asand also from the Town's standpoint to drive the eventual value of that property higher. That is what we are looking for.

Conrad: That is what you see as the benefit to the Town on the re-zoning is from a tax standpoint.

Dom Massaro: It would also benefit the Town because the taxes on the property would increase significantly.

Waechter: I think it all comes down to the density issue. If you want to back off on the density issue then there is probably a possibility. I can't speak for everybody else because it does fit but the question or the issue is the density.

Dom Massaro: With all due respect, I understand that. However, if you look at the piece of property, the property slopes 30' from Ridge Road down to where our property is now. The engineering and the construction there is going to be inherently more expensive than what we've done. The demand should be there so that's the reason we want to get the number of units there in order to offer a return. We can only put ten units there; it has no inherent return. It makes sense to leave the property alone. When we sell the property, someone may come to you and you will be faced with the same thing again.

Conrad: What we don't want to have happen is also that we don't want to make the Town conform to your plan, we want to make your plan conform to the Town. Right now, we are bending a little farther than we should be. Just because you own the property doesn't mean the Town has an obligation to accommodate you.

Dom Massaro: I also want to say we have an excellent track record with the Town in terms of what we've done, what we've developed and what we've been trying to do. I think that should lend a little bit of comfort level to the Town that we're going to make this happen properly and it's something that everyone can be proud of. That's what we're doing now.

Lisa Keating: I just want to say it would become part of our entire existing development. When you look at it as a resident, they can go to the club houses. It's part of our entire existing PUD. It becomes an overall part in terms of density. It becomes a part of that entire development. It's not like we're trying to ram something in to some corner of the Town and have it....we have that whole....to the east. It's part of our entire development is what we're trying to finish off.

Conrad: In my personal opinion that site was located anywhere other than right on the corner of Ridge and Northridge that we wouldn't be having an issue. To me it's the location of it that makes it a very difficult property to develop. What else from the Board? Tim anything? Ken?

Lilly: My thought is that as an R-1, it isn't really ideal for R-1. I think we can agree with that. No one is going to build a single residential house in that area. What is to be done with it? It's either going to be left undeveloped or move in the fashion in some sort of apartments. The density seems to be one of the issues and I guess that's what everyone is going to have to figure out. If you have to cut back and make it smaller or does the Town meet them half way? This property that's right along the parkway does that belong to you?

Dom Massaro: Yes.

Lilly: Could that be incorporated to help with the density? It would have to be changed from business to multi-family maybe?

Dom Massaro: I guess we would be regressing.

Masters: You're allowed to have a business component in a PUD just so you are aware.

Lilly: Would that parcel be part of this perhaps?

Dom Massaro: I've been approached by people that want to put a pole barn up over there because they know it's general business and a parcel I own. They want to store landscaping equipment. Who wants to look at that? The problem now is in the village they want you to basically comprise a residential component in the lower level and then you can put apartments in the upper level. What's happened in the last year and a half and what's happened to retail, it's become almost you can't find retail customers for that lower-level area. You can see what's going on in the village right now with the vacant properties. I did consider that. However, it really doesn't make economic sense. What makes economic sense is the demand that we're experiencing now. We have the apartments at legacy that aren't done yet and aren't going to be done for 3 months. We have them rented already. People are saying they want to come. It's a great situation for Lewiston. People want to come here. We're trying to develop and give them more places to live, nice places people want to live. That's the reason we are in front of you today. I don't know what to do with that general business. We could put a restaurant there; we could put a number of things there. Then again if you put a restaurant there or some other development that you people would eventually approve, that's not going to lend itself to adding additional green space that we might need in order to incorporate this with our existing PUD. A restaurant we would need parking paving and wouldn't have a lot of green space.

Seaman: You could put green space next to a restaurant.

Dom Massaro: I know but I'm just saying that general business parcel is less than an acre. Most places want at least an acre.

Seaman: I think the Board's position was you have another parcel right there. They have density issues; you might be able to reconsider some other possibilities.

Conrad: I'm not familiar with that piece of property. Is it contiguous with this parcel we are talking about?

Dom Massaro: Yes, it is.

When you come off of Northridge and then you take that....

Mussachio: This is a cliff right here. Everything revolved around getting the access from the high part of the site down to the low site because it's going at an angle to come down that very steep ridge.

Waechter: Can you move a building up there in order to get the access?

Conrad: You're saying incorporate business in to the over all parcel as part of your development. Do you have plans for that business piece?

Massaro: Tentative plans, we do. Like Tim said that 8/10's of an acre all rezoned with the parcel that we are speaking about now, we would have about 3.5 acres with the PUD we would still have, it would allow us to do some type of commercial development someplace on that new re-subdivided 3.5-acre parcel. That would be a possibility for us. I don't think it's necessarily our first inclination but I know we're not calling all the shots here so.

Seaman: I just need to clarify for legal reasons I know you guys were in here for a sketch plan recently. It just feels a lot like a sketch plan in terms of....is that how you are approaching today's visit as another opportunity for sketch plan? You're not anticipating a Board action tonight is that fair?

Massaro: No, we were.

Masters: The PUD Law is different than the subdivision law. A PUD Law is concept plan which if you want to call it a sketch plan it's the same deal. Concept Plan here and then the Town Board and then Detailed Plan here and then Town Board.

Seaman: You were here recently....

Masters: That last one and this one is both concept plans.

Seaman: My point is if you are intending this application the beginning of a concept plan application my previous point is going to still exist in that I think it's an insufficient application for a concept plan for this Board to consider a true concept plan. If you need the entire PUD to be incorporated in this, you need to show what's going on with the whole rest of the PUD. You need to have the dimensions, the easements, your utilities, you need all of that stuff shown together, you need to show what these are, you need to show what the buildings are, you need to show this is the club house. You need to show this stuff as a complete concept for this Board. Otherwise, I'd be directing and asking the Board to take a motion that this application as a concept plan for PUD is deemed incomplete at this point in time. There is nothing more they can really do right now because it's not enough information in front of them.

Mussachio: I think the greatest thing we're having difficulty in is in the ordinances the way they are written right with getting a clear and concise scope of what is needed to submit and what exactly the rules are. I was not here but my understanding of the last report was they told us we had to be R-1 and that was the end because the PUD says it follows the underlying regulations of the zoning. What we're looking for is a recommendation and an agreement from the Planning Board and Town Board that the concept of this if we meet all of the other regulations is something they would consider. As Tim said and Mr. Lilly said the problem is we don't have any idea what density is allowed. If you tell us, you can have 20 units then you can make a decision on this. If you say you can have 4 units, we can make a decision on that as well. We don't have anything that gives an ability to do that.

Conrad: If you know it has to comply with the underlying density of R-1. What's the issue with figuring out the density?

Mussachio: A PUD by definition allows us to go away from what's currently there. Otherwise, the only option we have is to put a single family.

Conrad: Is that what our PUD law says?

Masters: Our PUD law says you can't exceed the density of the underlying R-1.

Conrad: There you go.

Masters: If the Town Board so inclines the bonus density....

Seaman: May be considered for outstanding development as deemed appropriate by the Town Board.

Conrad: That would involve incorporating the other parcel?

Dom Massaro: Not necessarily because unless I'm reading what is in front on that Board, you guys have put together an analysis of the blended development of incorporating this L-shaped parcel with the existing PUD to show the density is equivalent not to the R-1 but equivalent to the present PUD. That's what we're looking for. We're looking for....last time with the Town Attorney my understanding was you have to file for a separate PUD and then basically that would be incorporated in to the new PUD. My understanding now from what Tim said tonight, my understanding is incorrect that if we can request this parcel be incorporated in to the existing PUD with your subject approval, we may be able to achieve bonus density that we need to build the 30 apartments we would like to.

Conrad: The density that was depicted back in 1980 is the density that this first part of the development was built upon, correct?

Dom Massaro: That's reflected on that concept here.

Masters: What it all comes down to is the Board's Planning and Town Board willing to accept the proposed density that they're proposing from that plan right now that exceeds our Town Code. That's the 64-million-dollar question?

Dom Massaro: If that's the case then it's up to us to do everything that the Town Attorney, we have to give you drawings and the whole 9 yards. We have to go through the whole process. That is an expensive process. I don't want to do that unless you folks say it's okay and we're going to recommend to the Town Board that in this instance this is okay to do. That's what we're looking for.

Conrad: Again, personally I don't speak for the Board, I speak for myself, I'm uncomfortable with approving a new PUD or consolidated PUD based on a density that was from 40 years ago. That is my personal opinion. I would like to ask the rest of the Board how you feel?

Lilly: I don't think I have a problem with the density. What you're saying it's the same thing, moving up to this.

Dom Massaro: When you drive through Northridge no one is going to build a house there at the entrance.

Waechter: I'm worried about the precedent.

Mussachio: Again, what we're looking for is in-put. What is agreeable, what is possible for that density? Right now, it's 2 single family homes. Is that all we can build or is there someplace in-between? If we can't get this, what is agreeable?

Conrad: There may be nothing that's agreeable.

Waechter: Earlier in the conversation we had you said it's not a viable option for you to back off on the number of buildings.

Dom Massaro: This is based on the 30 apartments right now. That's what makes the project work. In all due respect with what you said, I don't necessarily disagree, you're worried about precedent. However, basically we're just following the existing precedent that you established decades ago. That precedent was established and all we're doing is not putting this piece someplace else. Like Mr. Conrad said, if this piece was someplace

else then you would be establishing precedent. All we're doing is connecting it to our existing parcel which we already have precedent on. I think that sums it up. That's what I'm looking for you people to give us that permission to go forward and make this happen.

Conrad: What do the other Board members think as far as.....

Burg: I seem to remember another one off of Creek that we shut that down 2-3 years ago because of max density.

Taczak: I'm sort of mixed. I know it's waffling but you can see, I agree with Ken, what are we going to do with that? What choice do we have? But; we also have the density issue.

Conrad: Again, because someone has a property that doesn't mean that the Town has an obligation to accommodate that owner. There are people all over the place that have property that wish they could do something with it that they can't.

Lilly: That's true but it also does mean that the Town has a government and should try to accommodate the residents too.

Waechter: There is a Town Code for a reason.

Lilly: That is why we are here talking and coming up with ideas and to hash it out. What is in front of us is this. The next plan that might come up, there might be a reason that this doesn't set a precedent. I go back to; this land is not going to be developed as a single residential. If the people of the Town are ok with that, then that's what's going to be left.

Dom Massaro: It's been sitting there for decades. The trees are lovely if you love trees. It really does fit going back to your argument Bill, what we are proposing is contiguous.

Conrad: I understand where you're coming from.

Mussachio: While I have all the officials here, I guess I don't understand what the purpose of a PUD is if you're told to simply use the zoning that you had there. Why is there a PUD allowance in the Town laws?

Masters: It allows a person like you to be creative in your design. Cluster homes closer together and still provide the same amount of green space somewhere else in the development. You can be really unique with your design. Say you want to cluster everything close together for a certain reason but provide a park setting over here you have the ability to do that. That's the whole reason for it.

Conrad: There's flexibility and also, we've had other developers come in here who have large parcels, some parts undevelopable but that still contributed to their green space and they can get away from the setbacks and things like that.

Mussachio: A full PUD you can still do the same use which is on the commercial.....we don't lose by having it....

Masters: For example, the guy that came in to develop at the corner of Creek and Pletcher years ago, he had an 8-unit apartment building, some single family or two-family apartment buildings and a Tim Horton's at the corner, it was part of the PUD. This was years ago and they lost their funding.

Dom Massaro: We're asking for 30 units. The present PUD development down there is 164 now. We're just asking, it's not like we're asking to plop another 160 there, just 30 more.

Keating: We're just asking for an additional 30. In terms of precedence, it's really an addition of 30 to an existing. The beauty of that development is it has a lot of open space.

Conrad: We have to consider it on its own merits. We can't look upon all your work....

Keating: I understand, but I think part of that is contiguous and it's an additional 30, it's not....there has been other projects that have involved a lot of units and created a lot of different challenges.

Seaman: They told us this is their application for a Concept Plan so you do need to make a determination that it's....otherwise...

Masters: Just so you are aware he has to have a public information meeting.

Seaman: You need to call for a vote, you need to do a SEQRA and a lot of things. The fact of the matter is if you're going to incorporate in to the entire PUD, we need more information in terms of.....

A motion for an incomplete application was made by Waechter, seconded by

Burg: Can you explain the motion?

Seaman: It's indicating that this application is an incomplete application so the Planning Board isn't going to take any action on it until it's complete?

Dom Massaro: Why is it incomplete?

Seaman: You didn't describe in any sufficient details that you want to incorporate your new project in to a project that was developed 40 years ago. There is no engineering...

Dom Massaro: It was our understanding that the engineering is done at a later stage?

Seaman: I'm explaining to you.....you need more than that. You haven't done a SEQRA Type 1, there are a lot of things that need to be done if you want, the concept plan isn't a sketch plan. The concept plan actually, ultimately would tie the Town into exactly that concept plan. At a later time the detail plan merely needs to mirror the concept plan. The idea is the concept plan allows you guys to not to spend so much on full engineering. You need more than what you've submitted.

Masters: What we don't want to have happen is let's say they approve that based on that drawing and you come back for a detailed plan and it goes in for fire review and building review or anything and we say you don't need this or this and then you have to change everything, now you're starting back at square one because you significantly altered the plan. I think what Tom is trying to say is you need to give us enough

detail. We're not asking for a full set of engineered drawings, but you need to give us enough detail that Pat can comfortably say yes, your concept is in the general sense right. I can say yes it will meet the building code and they can say whether or not it's going to meet the density based on your overall plan. I guess my one knock on the submission was I could not read the 11'x17'. I could not read it without a magnifying glass.

Conrad: I believe that the Dept. of State says once a Board approves a concept plan that we're basically at the mercy of the developer because we can't go back and change it.

Dom Massaro: Respectively you are not at our mercy. We've worked cooperatively.....we just went through at Legacy when we had concept plans and plans from years ago that we brought to the present time. We've worked together and worked everything out in terms of fire lanes, in terms of building. We do that, it's part of the process. I get the process. We're just looking for your group and if it doesn't meet the spec and we have to come back and do that, then we will do that. I don't want to waste another month. I'd rather have you folks tell us that ok we can build a single-family home here. If everything is together, we will work with you on the 30 units and work with you on that basis. There really is nothing else to do there. We'll go and spend the money and do that stuff. I don't want to come back in a month and give you all this information and you say no we don't want to create a separate situation for you folks and disapprove it. You might as well disapprove it now if that's the case.

Waechter: There is a motion on the floor.

Conrad: Do I have a second for the motion on the floor? Is there another motion someone wants to make?

Lilly: I think that the applicant is asking at least for tonight is what direction they should go in.

Waechter: There is a density issue. There is no connection with the existing PUD. Those are 2 things right there that have offered direction.

Conrad: The Town Attorney has told basically them there are a number of things that need to be done detail wise that we don't have because we can't make an educated decision on something that we don't have enough information. I believe direction has been given.

Lilly: Is the density going to stay the way it is?

Dom Massaro: How flexible are you guys willing to be at this point? We are proposing 30. We have R-1 there, or if you do it by residential density statistics maybe we could get 10 there. That's no feasible for us. Is 24 feasible?

Waechter: That answers your question, we've got to be holden to our Town Code. I guess you just answered your own question. It's not feasible for you to do. Worse thing for you is it's not going to work. You keep pushing for those 30 units. If you're not willing to back off those units because it's not going to make it buildable or economically feasible for you, then the question has been answered.

Massaro: I thought we were on a path of compromise here in terms of residential density?

Waechter: We are but you're saying it's 30 or nothing.

Massaro: I'm not saying that. I'm saying it can't be 10 as the R-1 code allows right now. I thought we would talk about what would be palatable for the Planning Board if we were to go forward?

Dom Massaro: We'll firm it up based upon counsel and resubmit next month if that's acceptable?

Waechter: Thank you.

Seaman: The applicant is indicating you're going to resubmit for next month?

Dom Massaro: We will resubmit for next month and show you the....we will lay it out in larger format...

Seaman: You're supposed to have a map that shows everything within your development. It will show the width of the street, your water mains, where some things exist, your easements, storm and sanitary sewers. None of that stuff is on there. Your fire inspector can't look at a street and know how wide the street is because it doesn't say.

Conrad: It's all spelled out in our Code. Make sure you provide what's required in the sketch plan.

Mussachio: This parcel here there's that work going to be there. Usually when we're doing developments we show new work, we have all the detail on the new work. Here is the rest of the building, the outline of the building, it's an outline of the site.

Seaman: You need something more than that. Your application was a little waffly, whether it's going to be part of this PUD or not it's not going. Make the application for this Board to consider. I'm literally not trying to push too hard I just want to make sure from the Board's point of view the procedure is followed properly so that procedurally what happens tonight doesn't get themselves in to a problem, which brings me to my next point, there is no motion here but is the applicant willing to stipulate that they are withdrawing for tonight and they are going to resubmit for next month? There is no time frame, there is nothing along those lines.

Dom Massaro: My son doesn't want to but I'm going to override him on this.

Conrad: Can I just poll the Board as far as the density. I don't want to waste your time if the majority of the Board is not comfortable with the density the way you're proposing it. I'm just asking for an opinion if there is any flexibility?

Seaman: I wouldn't recommend you do a vote. If you want to go around the room with an informal conversation but don't take a vote.

Conrad: I'm just taking a poll of who is comfortable with the density. Is that a deal breaker for the Board? Or whether there is enough flexibility on the Board for them to move forward. If the density is the deal breaker for the Board, then why have them go through the trouble of engineering or developing a concept.

Waechter: I think we should just wait till next month. It gives us time to think about it, consider everything and maybe walk the site. I think when they come back next month, I think we will be better able to make a decision on this.

Conrad: Ok, if the Board is comfortable with that, so be it.

Masters: Do you want us to have a public hearing next month or not?

Conrad: No, they are not ready for it.

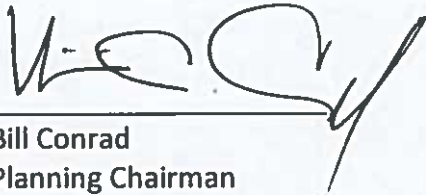
The next meeting will be Thursday, June 17, 2021, at 6:30 P.M.

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

Respectively submitted,



Sandra L. VanUden
Planning Secretary



Bill Conrad
Planning Chairman