

Consider Final Plat Approval of French Landing Subdivision

PRESENT: Supervisor Brochey; Councilmembers Bax, Ceretto, Conrad and Winkley; Deputy Supervisor Briglio; Town Attorney Seaman; Building Inspector Masters; Town Engineer Lannon; Finance Officer Blazick; Highway Supt. Janese; Recreation Dir. Dashineau; Sgt. Previte; 2 Press; 33 Residents and Clerk Donna Garfinkel

Supervisor opened Public Hearing, Clerk read notice into record.

NOTICE IS HEREBY GIVEN that a Public Hearing will be held before the Town Board of the Town of Lewiston, New York on the 24th day of August, 2015 beginning at 6:00 pm, at the Town Hall, 1375 Ridge Road to consider Final Plat approval of a 27-lot single family subdivision, known as French Landing, on property located on the east side of Lower River Road, SBL# 73.18-1-19, and whether or not approval should be given to such proposal. All persons, for or against such project, will be given the opportunity to be heard. By order of the Town Board - July 27, 2015

Supervisor invited residents to address the Board.

Attorney Damon DeCastro introduced himself and said he is here to answer any questions the Board may have. Kristin Savard, Advanced Design Group, present to address any questions the Board or public may have.

Savard has been working on the French Landing Subdivision with the Developer Jerauld Wolfgang since 2011. Public hearings and public information meetings have been held and tonight's Public Hearing is for Final Plat approval.

The project is located on a 14.4 acre parcel on the east side of Lower River Road. There will be approximately 1,700 linear feet of road. It will come off the Riverwalk Subdivision, loop through the subdivision and exit on to Lower River Road.

The project is comprised of 27 lots, 8 lots in Phase 1, and 19 lots in Phase 2. The public water will move through the subdivision and connect to the Riverwalk waterline, down to the Lower River Road waterline. The sanitary sewer will discharge out to Riverwalk Subdivision.

A stormwater drainage system is being proposed that is NYS DEC SPDES compliant. This will constitute to two (2) detention ponds and two (2) bio-retention areas. The detention ponds will have a standing water body, as required by NYS DEC, a minimum of eight (8) feet deep at all times. During a storm event it will rise a foot or two. The bio-retention areas are required for water quality. These areas, from the visual eye, will be a large landscape area. During a rain event it will have six (6) inches of water that will slowly dissipate out, through a filter material.

The two detention ponds and two bio-retention areas will not be the responsibility of the Town to maintain. They will be privately maintained.

There will private gas, telephone, electric and cable. Lights are required by the Planning Board. One at the intersection of Riverwalk, one at the first bend, one at the second bend, and one at the intersection of Lower River Road.

The project will discharge stormwater to the storm drainage system on Lower River Road. At the beginning of the project, the County was contacted and it was said the drainage on Lower River Road was installed and maintained by the DOT. Therefore, this has been forwarded to the DOT. They reviewed, and have given approval. The County would also like to have a chance to review and approve also, so this was done. There is now County approval for constructing the system.

The site was identified as potentially being in an archeological sensitive area. A third-party study was conducted and has since received clearance from NYS SHIPO. SEQRA has also been completed for the entire project.

Santanato, Henry - 4291 Lower River Road – Santanato questioned if the County Highway Dept. was advised of the new section, and what are their ideas of this being so close to the curve.

Savard met with Mike Tracey from Niagara County Highway. This has been looked at by the County and the Developer to study the line-of-site, and it meets the minimum requirements.

Koria, Nancy - 439 Riverwalk Drive Koria is in total agreement with the position the Fire Dept. has taken in regards to the safety issues.

Koria would not be in favor of spending any taxpayer dollars for this development. The cost should be incurred by the developer. No tax dollars for roads, maintenance, or for whatever the purpose might be, the Board considers using taxpayer's dollars for.

Correa asks if a house study has been done to determine the need for more housing. The first stage is only 8 units, but once complete it will be 27 units. Koria has watched the houses for sale in this area, and they don't turn around in a couple of weeks.

What is the need for a new housing development if it is going to have an impact on the existing housing trying to sell?

Koria is against this development.

DeCastro said there is no taxpayer dollars involved in the project. It is actually a positive for the community to have. Houses will generate anywhere from \$6,000 - \$8,000 in taxes. This would more than off-set any cost for the roads. There will be a road bond for the construction of the road.

Glasgow, Paulette – 836 The Circle – Glasgow asked if this will be a Homeowners Assoc. DeCastro said no. Glasgow asked who will plow the roads. DeCastro said the town. Glasgow said that is taxpayer's dollars. DeCastro said each house will be paying \$7,000 in taxes, and Janese will tell you it is like \$100 a house to plow.

The Homeowners Assoc., which is included in the fee, plow the roads; take care of the laws, etc... DeCastro said he will stand here and verify to the Town the taxes will exceed any cost to the Town.

Collins, Bonnie – 4251 Lower River Road – Collins has a concern with the ponds. One will be located next to her home. If there is no irrigation, there will be a problem with mosquitoes. There is already a bad problem. There is a fountain at a subdivision on Oxbow. Collins asks the Board to address this now, or the Board will have to address it down the road for the developer.

Savard said the pond at Oxbow is a very unique situation that existed before the stormwater regulations existed the way they do today. The pond at Oxbow does not meet the DEC criteria to prevent mosquitoes. The fountain was always part of the design, which is why it was designed the way it was. There is a Homeowners Assoc. that maintains the fountain.

The ponds in this subdivision are designed according to NYS DEC Standards. There are several criteria that must be followed to minimize the occurrence of pests and mosquitoes.

The intent of the pond is they will provide a source/place for the drainage the backyards will be collecting and the standing water in the area, to drain to.

Lyle, Stephen - 4227 Lower River Road - Lyle owns a lot on Rivermist Court which will abut this project. Lyle is concerned and questions the Board, "Does the Board consider what has happened in Riverwalk already to be a success?" It is a half developed development. It was put together at the infinite wisdom of this Town Board some years ago.

Does this Board see this development being any different? Put in a few houses, there is no interest in it and everything stops. Whose problem is it then?

Margaret Montante – 4324 Lower River Road – Montante lives on the west side of Lower River Road. A major drainage ditch exists, that comes across Lower River Road, enters her property, toward the river, travels north behind 6 houses before entering the river.

There is already is a tremendous amount water. These homes can not take anymore water. Not sure where this subdivisions water is going but it can't go this route.

The road is wet all summer long. When the water comes through it is a mini Niagara Falls carrying garbage and all kinds of stuff.

Montante asked what the source of this water is. The land of this proposed development has and is always wet. If the source is not known, it will be difficult to capture neatly into a pond or a pipe.

Montante asked if there is no Homeowners Association who maintains the ponds.

Savard said the site of the subdivision was walked over by a Wetlands Soil Scientist and was identified to have standing water areas. It is called trapped water. The entire perimeter of this site drains onto this property. So any water that rains down on the adjacent properties is draining onto this property and it is sitting. That is a source of a lot of the problems in this area.

If you look at the topography of the site, there is only a 6 inch variation across the entire site. The water sits, once it gets 6 inches deep then it will flow. That is one of the reasons the detention ponds are sized to hold all of the water back to literally a trickle. There is not a ton of water leaving this site.

No Homeowners Association proposed because the NYS DEC is encouraging the creation of Storm Water Utility Districts. It is not a new concept for the Town, the Town has lighting districts. Storm Water Utility Districts are being suggested to municipalities to handle the stormwater ponds. What they are finding is when Homeowners Association/Storm Water Associations were created in the last five years for these ponds, there very difficult to enforce and maintain. The Storm Water Utility District is; the homes in the project would be taxed in such a way that the funds would be available to maintain the ponds. Monies could be paid to a third party to maintain the pond. It depends on how the Town wants to structure this.

Savard said the drainage for the project is going into the Lower River Road drainage system, believed to be, ultimately going into what Ms. Montante is discussing. That is a very large water shed, and there is a lot contributing to it.

Frederick, Roxanne – 530 Riverwalk Drive – Frederick wants to know when her drainage issue will be taken care of. The drainage issue has been there since 2008. Brochey is currently working on it, but it is not resolved. Frederick questions what this subdivision is going to do to Riverwalk's situation.

Davis, Elizabeth – 410 Riverwalk Drive – Davis lives on the dry-side of Riverwalk. She is not affected by the drainage issue, and does not want to be. Davis is concerned with the issues that already exist in the Riverwalk area. It is being said this is a wetland area. Why is there discussion of building houses in a wetland area?

Davis wants to clarify that there will be no affect on the Riverwalk Subdivision taxes. DeCastro said a district is created just for these proposed homes; there is a special district like fire. It will only be the houses in this subdivision.

LeBlond, Rosemary – 4268 Lower River Road – LeBlond resides at the end of the drainage issue discussed by Ms. Montante. Cutting down the trees and vegetation that are soaking up some of this water. They say it is 6 inches, but it can get pretty deep in the spring time. There will be more water due to less vegetation to soak it up. LeBlond does not agree with the trickling amount of water increase.

Correa, Ellen – 439 Riverwalk Drive - Correa asked the Board to address the issue of “why more housing?” Has there been a study showing these homes are needed?

Correa understands there is a health and safety issue on Riverwalk Drive in regards to egress. There is only one point of egress, and this will not be addressed by this development. It will exacerbate the issue. This has been brought up by the Fire Dept.

Winkley said this is being addressed. The Fire Board has been discussing this issue with Developer Joe Deck regarding opening the road. Deck is working on making this a road that is open year round so fire trucks can make it through. This is the responsibility of the developer (Deck).

Winkley said the road situation in Riverwalk needs to be done now, but has nothing to do with the project.

Brochey asked Masters if he is correct in saying that Mr. Deck wanted nothing to do with putting the road in. Masters said he and the Fire Bureau met with Mr. Deck. Mr. Deck stated that LLC, who put in Riverwalk, does not intend to finish the road. It is the Fire Board's contention that if this development doesn't go through in one phase, it will exasperate the dead-end scenario.

Winkley said he will not be able to put in anymore development and will be fined.

Conrad asked about a cul-de-sac concept. Did the Fire Bureau suggest that?

Masters said each Board member received a letter addressing the Bureau's position.

Brochey said the Bureau is following State Code.

DeCastro said he did the first phase of Riverwalk. At that time the Town had required the developer to put the road through. That is an issue between the Town and that developer. The Town should take steps to enforce that. That road having to be installed has nothing to do with French Landing, and cannot be dependent on the road. French Landing is in compliance with Town Code. For the Board to do anything else would be acting against the Town Code. This road is something separate and apart from where we are.

Conrad said the letter from the Fire Bureau addresses French Landing not Riverwalk.

DeCastro said he spoke to Fire Inspector Pat Martin and his position is he wants the road there, and wants to aggregate the two projects. He wants to aggregate the distance to Lower River Road and French Landing. French Landing is in compliance with Town Code. It is the proper distance in order to have a turn-around; a thru street is not needed in the Town Code. DeCastro said that Martin is trying to aggregate French Landing with Riverwalk in an effort to get the road to go through. DeCastro has no control over this, but the Town does, there are many remedies the Town can do.

Masters said the State Fire Code reads, if there is a dead-end situation over 750-feet, you need approval by the Fire Bureau. Because Riverwalk is a dead-end road, this road, coming off a dead-end road, in the Fire Bureaus opinion, according to State Code, is over 750 feet and they have not given special approval as the Fire Code – 2010 requires. That is their position.

DeCastro said Masters is accurate in that Martin wants the condition. Martin is improperly aggregating the project, adding one project to another. DeCastro said the Town cannot make him responsible for someone else's project.

Masters said the Fire Code states, fire apparatus access road goes from the fire station to the home.

Brochey asked DeCastro if he received the letter dated August 24, 2015. DeCastro said he did not.

Lyle, Stephen – 4303 Lower River Road – Lyle said the scary part of this is the agenda is titled "consider Final Plat approval". The mention of Joe Deck's name sends chills down Lyle's spine. He talked about how he was going to fill all the houses, take care of all the water, and put in retaining ponds. The Town asked Deck who was responsible for the ponds; Deck said they will give them to the Town. Does the Town have these, does the Town own them, and is there liability for them?

Masters said no. They are privately owned by the LLC. Lyle said the same LLC that refused to put the road in.

Lyle asked what if the first 16 – 17 houses don't sell. Who is responsible for the water, who will pay the taxes? Is this then the Towns problem.

DeCastro said it is taxed to the property owner, the developer. If the taxes are not paid the Town has many avenues. One of which is a tax sale, it is a very valuable piece of property. DeCastro does not believe this will be an issue.

Brochey asked where the money will come from to plow the new development. Winkley said the road would be turned over to the Town and the Town would take care of it just like any other development.

Janese said the Town plows Riverwalk Drive. They have a Homeowners Association nevertheless it is listed as one of the Town's roads. It's been accepted for dedication and the Town maintains it.

Parks, Virginia – 4303 Lower River Road – Parks' home is the home whose driveway will be the road. Parks has attended many meetings for the Riverwalk Subdivision. Joe Deck's name also gives her chills. The residents here don't want more of the same.

Parks distributed a packet to the Board containing a very accurate article on the back story of Riverwalk Subdivision.

Mr. Wolfgang has the right to develop his property; Parks just wants it to be done correctly. All Board members are always welcome to come to the affected properties. Parks asks the Board to take great care in the decisions they make.

Smutko, George – 4304 Lower River Road – Smutko lives across from Parks. Smutko is concerned about the exit road onto Lower River Road. Smutko has lived in his home since 1965. There is a concern with the potential traffic problem at the exit/entrance of the development connecting with Lower River Road.

If one is traveling north, from Pletcher Road, there is a curve that leads into a straight stretch of road with little visibility at this proposed road intersection. Impatient drivers "open it up" at this point, cross the double line to pass slower traffic and are going 50 – 60 miles an hour. Any sort of accident will be head-on or t-bone, not a fender bender.

Please remember, Lower River Road takes on more traffic from November to April with Joe Davis being closed.

Montante, Thomas – 4324 Lower River Road – Montante attended the meeting of the Planning Board. At this meeting the Fire Board said this is an illegal situation and would be exacerbated by the development. The Planning Board can't just ignore that.

Montante is in real-estate development. There are issues here that deal with traffic, fire and drainage with this development. The residents present, which all live in the neighborhood, don't want this. How can the Board just ignore this?

LeBlond, Larry – 4268 Lower River Road – LeBlond's family has lived on Lower River Road for almost a century. Before all the subdivision and the water problems. The trees and vegetation that will be removed for this should be protected and not removed.

LeBlond lives across the street from Wolfgang. Wolfgang is a very seasoned public speaker. Where is he? This is his project, his baby, where is he?

Craft, Ronald – 105 North 4th Street - Craft is a member of the Lewiston Planning Board. The Board did not ignore the turn-around. One of the things the Board did do was offer less homes to be built, and a turn-around where the fire trucks could go. At the end of the meeting that night, there was no problem with the Fire, more or less okay. The first the Board heard of this law, was the last Planning Board meeting. A lot of people here don't realize, the Board has to make the residents happy and go by the law to make the developer happy or we're all in trouble. The Planning Board did not ignore the law.

Muenter, Garth - 481 Riverwalk Drive – Being new to Lewiston, Muenter is not familiar with the rules and laws. With the finishing of Riverwalk and the new construction with all the trucks coming through, will there be sidewalks installed in the remaining portion of Riverwalk Drive. There are no sidewalks going from a portion of Riverwalk to Lower River Road. The existing sidewalk ends where the proposed road will be exiting onto Riverwalk Drive. There will increased traffic with this being an exit/entrance to the new development.

Brochey asked about the cleaning of construction equipment as they leave the construction site onto Riverwalk.

Savard said the DEC dictates the cleaning of the equipment as they exit into the surrounding areas.

Jolbert, Bill - 4235 Williams Road – Are the lot sizes typical for this area.

Savard said all lots meet the zoning of this parcel, R1-A, and meet the zoning requirements.

Jolbert thought the original plans showed the lot sizes to be smaller than required by the Town. This must have since been changed.

DeCastro does not think it was this project; it must have been another project.

Correa, Helen - 439 Riverwalk Drive – Correa asked the Board again if Lewiston needs more housing and if a study has been done.

DeCastro said this is not an appropriate question. It is not up to the Town Board to answer.

Conrad said it is the developer's project and research and their financial risk.

DeCastro said it is his risk and he makes that determination. As long as the project meets the Zoning Code and the Master Plan.

Winkley MOVED to close the Public Hearing, Seconded by Bax and Carried 5 – 0. (6:55 pm)

Transcribed and respectfully submitted by:

Donna R. Garfinkel
Town Clerk