The Planning Board met at 6:30 PM local time Thursday, April 12, 2012 in the Auditorium to discuss, in a meeting open to the public, tabled matters and other business that was before it.

I. CALL TO ORDER:

PRESENT: Arsen Markarian, Chairperson
Bill Bastian
Allyn Hetzke, Jr.
Sue Kreiser
Terry Tydings

ABSENT: Jim Burton
Doug McCord

ALSO PRESENT: Linda Cummings, Secretary
Katie Evans, Planning Board Clerk
Peter Weishaar, Legal Counsel


The Board approved the minutes of March 8, 2012.

Vote: Moved by: Hetzke Seconded by: Kreiser
Chairperson Markarian – Aye Bastian – Aye Burton – Absent Hetzke - Aye
Kreiser – Absent McCord -Absent Tydings - Aye

Motion was carried.

The Board approved the minutes of March 22, 2012.

Vote: Moved by: Hetzke Seconded by: Tydings
Chairperson Markarian – Aye Bastian – Aye Burton – Absent Hetzke - Aye
Kreiser – Absent McCord -Absent Tydings - Aye

Motion was carried.

The Board approved the minutes of March 27, 2012.

Vote: Moved by: Tydings Seconded by: Hetzke
Chairperson Markarian – Aye Bastian – Aye Burton – Absent Hetzke - Aye
Kreiser – Absent McCord -Absent Tydings - Aye

Motion was carried.
III. PUBLIC HEARING:

1. Robert Keiffer of T.Y. Lin International, 255 East Avenue, Rochester, NY 14604/Paul and Nancy Failing requests under Articles VIII-8-2 and IX-9-2 of the Code Preliminary and Final Subdivision and Site Plan approval to allow the construction of a total of 4 single family lot subdivision including the existing residence on 10.42 +/- acres, located at 1226 Shoecraft Road. The property is now or formerly owned by LuAnn Ferguson and is zoned RR-1. Appl# 12P-0004. SBL# 094.02-1-3.

Appearances By: Robert Keiffer/T.Y. Lin International
     John Nufryk, 1998 State Road
     Vicki Polkowski – 1222 Shoecraft
     Susan Richardson – 1994 Shoecraft

Applicant, Robert Keiffer of T.Y. Lin International presented to the Board the proposed application and reviewed the scope of the project.

Board Member Comments:

• Applicant asked the Board whether sidewalks should be put in or a sidewalk waiver be submitted. Town Planner, Katie Evans replied that the Town Board would make that decision.
• Board Member, Tydings asked if the mailing addresses will be on Shoecraft Road or a named private drive. The applicant replied that they will be assigned by the post office and the Assessor and they will all have a Shoecraft Road address. They will not need approval from 911 because the private drive will not have a road name.
• Board Member Tydings asked if the applicant has had a chance to review the two emails submitted by residents concerning the application. The applicant replied that he has reviewed the email from Vicki Polkowski, but has not seen the other resident email.
• Town Planner, Katie Evans informed the board that the other resident email (John Nufryk) was an email that the Town Engineer reviewed and incorporated his concerns in the Project Review memo.
• Board Member, Kreiser asked if the width the private road would be 16ft or 20ft. The applicant replied that they will comply with the 20 ft road requirement.
• Board Member, Kreiser asked if the road will line up with Brentbrook Circle.
• The applicant replied that yes the alignment will remain exactly the same.
• Chairperson, Markarian asked what will happen with the acreage in the rear of the property. The applicant replied that Lot #4 will be the residence of the property owners, Paul and Nancy Failing. There will be a barn and riding arena and the property will be used exclusively for a single family residence with horses. There will also be a restriction in the deed to prevent future subdivision. The existing house will be used by the Failings until the construction of the new house on Lot #4 is completed.

Public Comments:

John Nufryk of 1998 State Road addressed the Board with the following concerns:
• He developed Mill Creek subdivision which is a similar project and generally pleased with the thought that has gone into this project.
• How will the horses on the property and the riding arena be used? Will it be for personal use or commercial use, boarding stables, etc.?
• Will he be able to tie into the proposed sanitary sewer?
• Town Planner, Katie Evans recommended that Mr. Nufryk contact Mark DeFrancesco in the Engineering Department to further discuss sanitary sewer options.
• Consideration for access for fire trucks on the private road should be taken and where is will the fire hydrant be located? The applicant pointed out where the fire hydrant is.
• Supports the development plan but would like his minor concerns addressed and hopes this development will be consistent with the character of the area.

Vicki Polkowski of 1222 Shoecraft Road addressed the board with the following concerns:
• Water drainage into her property which is already extremely wet.
• Can the plan handle the volume of water and the rate of water during heavy rainfall?
• Applicant, Robert Keiffer addressed Ms. Polkowski regarding her concerns about water draining onto her property by explaining all the water that is being developed will be directed to the pond on the property and be piped out to
the storm sewer. There will be less water on her property after the development is constructed than there is today. The pond is designed for the 100 year storm event.

- Board Member, Kreiser explained that we usually have a 25 year storm event. If we have a 100 year storm event, everyone will be drastically affected. The proposed plan will actually improve Ms. Polkowski’s lot.

**Susan Richardson of 1194 Shoecraft Road** addressed the board with the following concerns:

- Stacking of houses.
- She has a lot restriction that does not allow her to subdivide her lot.
- Board Member, Kreiser recommended that Ms. Richardson speak to someone at the Town Hall and express her concerns regarding her particular lot.
- Town Planner, Katie Evans explained the parcel in review does not have a deed restriction.
- Does not comply with what the Town has previously approved.

**Applicant, Robert Keiffer,** addressed the board with the following responses to resident concerns:

- Horses and riding arenas will be used for personal use only.
- Possibility of connecting to sanitary sewers exists. They would need an easement and encouraged Mr. Nufryk to get in touch with Mr. Failing to discuss the options.
- Understands issues associated with a private drive, however, it is far superior to putting in a dedicated road on a cul-de-sac.
- They will comply with fire protection requirements.
- He has no knowledge of Ms. Richardson’s deed restrictions.

**Vicki Kiantos of 9 Misty Trail** addressed the Board with the following concerns:

- Does not like development because the homes will be built directly behind her house.
- Houses will be too close to her property.
- Will there be a buffer between her property and the proposed homes?
- Water drainage onto the property.
- Does not want horses so close to her property.

The application was TABLED upon further review and consideration

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<td>Chairperson Markarian – Aye</td>
<td>Bastian –Aye</td>
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<td>McCord -Absent</td>
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Motion was carried.

2. Chris Holzschuh of 1686 Sweets Corners Road, Fairport, NY 14450 requests under Articles IX-9-2, and XI-11-7-12 of the Code Preliminary and Final Site Plan and Special Use Permit approval to allow the placement of a windmill for pond aeration on 2.90 +/- acres, located at 1686 Sweets Corners Road. The property is now or formerly owned by Chris Holzschuh, and zoned RA-2. Appl# 12P-0006. SBL# 126.01-1-9.

**Applicant, Chris Holzschuh,** addressed the Board regarding the proposed application to install a windmill on his property for pond aeration.

- There will be no electricity involved to operate the windmill.
- The windmill will improve water quality without using chemicals.
- Chris has spoken with his neighbors and has come to an agreement as to the location of the windmill.
- The Conservation Board recommends approval.

**Board Member Comments:**

- Board Member, Kreiser asked if the applicant would be open to the idea of adding additional trees around the windmill.
applicants replied that he would add trees if necessary.

**Public Comments:**

*Terry Rothfuss of 1865 Salt Road* addressed the board with the following comments:

- The applicant is an asset to the Town of Penfield and works extremely hard to maintain his pond.
- He is in favor of the wind mill and feels it is in character with East Penfield.

The Board AUTHORIZED Chairperson Markarian to sign the EAF Part II

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Motion was carried.

The application was APPROVED WITH CONDITIONS

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Motion was carried.

3. Doug Eldred of BME Associates, 10 Lift Bridge Lane East, Fairport, NY 14450/Ellison Heights, LLC requests under Articles III-3-10, VIII-8-2, and IX-9-2 of the Code and Town Law 278 a modification/amendment to a previously approved preliminary and final Cluster Subdivision and Site Plan approval as well as Environmental Protection Overlay District permit granted on October 14, 1999 to allow the construction of Phase 2 of the project which now is proposed to consist of 180 unit apartment complex in five, four story buildings, including a 3,000+/- sq. ft. clubhouse with a pool on 10.36 +/- acres, located at 1200-A Penfield Road. The property is now or formerly owned by Ellison Heights, LLC and is zoned MR. Appl# 12P-0005. SBL# 123.19-1-26.11.

Appearances By: Greg Nearpass, Nixon Peabody
Doug Eldred, BME Associates
Jeff Ashline, Mossien Associates
Douglas Foss, Harris Beach

*Greg Nearpass of Nixon Peabody* addressed the Board and reviewed the history of the project and compared the original plan to the updated plan.

- The number of units has been reduced to 180 units.
- Eleven parking spaces have been removed.
- Five, four story buildings replace two towers (result of market demand).
- Building heights have been reduced down to 56 feet (improving visual impact).
- 4 tenths of an acre of trees will be preserved.
- Reduction of the impact of steep slopes.
- Cluster development in a village type setting.
- Increase of impervious area of 6 tenths of an acre.
- Slight increase of exiting traffic in the morning.
* Distributed MCDOT comments to the Board to be added to the project file.
- Always been a two phase project.
- Project complies with Town Law 278.
- Development will not be limited to seniors only, however, families with school age children are not anticipated.
- Variances: Setback variance of patio area/clubhouse and parking variance.

*Doug Eldred of BME Associates* addressed the Board and presented a PowerPoint presentation of the project site.
Jeff Ashlyn of Mossien Associates addressed the Board and reviewed the architecture and elevations of the proposed development.

Doug Eldred of BME Associates continued the PowerPoint presentation.

Town Planner, Katie Evans noted an error in the Legal Notice which stated 1200-A Penfield Road as being 18.6 acres. The correct acreage is 10.36 +/-.

Board Member Comments:

- Board Member, Hetzke asked for clarification on the covered vs. uncovered parking and how it would be handled in regards to the tenants. Applicant replied that reduced rent would be applied to those occupants without covered parking.
- Board Member, Hetzke asked for an explanation of the how the pond infiltration area works. The applicant explained that the town house area and the properties on the north side of the area drains to a storm system that drains to the pond. In the pond there is an outfall structure. First flush pollutant will go out the outfall structure.
- Board Member, Hetzke asked what size storm would generate water to exit the outfall structure. The applicant replied it would be a ten year storm event. The remaining water will go into the flat area of sandy soils into a spillway that will ultimately go into Irondequoit creek.
- Board Member, Hetzke asked if there will rooftop HVAC units and if so, what type of units will they be and how will they be screened. Jeff Ashline of Mossien Associates replied that each building will have rooftop HVAC units which will be screened from the west side by using siding material similar to the buildings themselves.
- Chairperson Markarian asked if the pond has to be updated to comply with DEC regulations which have changed. The applicant replied that they are exempt from the 2010 regulations, however, they meet the intent of the regulations.
- Board Member Bastian asked how many condensers will there be, how large they are, and how much noise they will make. Jeff Ashlyn replied that some units will be on the back side of units and out of view of the public and some on rooftops with a total of 52, 44, and 28 units total on the various buildings. Steve Mancini stated that the units would be a 2 ton unit that is no different from a unit used in a residential home.
- Board Member Kreiser asked if the units will be visible from the townhouses or will they be completely shielded. The applicant replied they will be screened on top of the roof and by the nearby vegetation.
- Board Member Tydings asked how many parking units there will be per unit. The applicant replied there will be two per unit, one covered and one uncovered. There will 18 units that will not have covered parking.
- Board Member Tydings asked the recreation center area is included in the number of parking spaces. The applicant replied that there is no outside traffic coming in to use the pool and recreation center, but they have extra parking for visitors.
- Board Member Hetzke asked what the applicants’ experience is with other apartment development like this regarding parking requirements as far as visitor parking and will there be enough for this proposed development. The applicant replied that two spaces per unit works fine with a few extra for visitors.
- Board Member Kreiser asked for clarification on the “increase of green space” comment. The applicant replied that there is NOT an increase in green space, but a decrease in green space from 13 to 12.2 due to 6 the tenths of additional pavement area based on the entire project.

Public Comments:

Douglas Foss of Harris Beach on behalf of the Ellison Heights HOA addressed the Board and presented an overlay of the two proposed developments. Mr. Foss noted the following concerns:

- Deed is in dispute between the developer and Ellison Heights HOA and will be sorted out in court.
- New proposal depends on access and green space of HOA owned property
- Town Law 278 cannot be modified.
- Planning Board does not have jurisdiction to modify the density calculation with respect to Phase 2 of the development.
- Phase 2 Project has to stand alone and does not comply with setbacks from Sable Oaks Lane.
- Does not feel the visuals are attractive.
- This proposal is radically different from original proposal and does not feel that the apartments will be “high end”.
- The clubhouse and pool will attract families with children.
Bob Bringley of Marathon Engineering addressed the Board and presented a comparison between the 2000 plan and the proposed 2012 plan. The differences are as follows:

- 2012 plan does not show any recreation space.
- 2000 plan does not show emergency access on Penfield Road vs. the 2012 plan that does.
- 2000 plan shows no gated access vs. gated access in the 2012 plan.
- 2000 plan shows no easement for access to emergency access road.
- 2000 plan shows no variances vs. front, side and parking variances in 2012 plan.
- 2000 plan shows three to four sided access for emergency vehicles vs. one sided access in 2012 plan.
- 2000 plan showed open space designated on the north side of the project which is not designated on the 2012 plan.
- 2000 plan showed 129 surface parking spaces vs. the 2012 plan that shows 212 spaces.
- 2000 plan called for 255 covered parking spaces vs. 164 covered parking spaces in the 2012 plan. Other municipal codes show three to four units per parking space.
- Pavement area increased from 2.6 acres to 3.288 acres.
- Building area increased from 1.14 acres to 1.38 acres which is approximately 10 sq ft of additional building footprint.
- Total impervious area increased from 3.73 acres to 4.66 acres which is 9 tenths of additional pervious acres.
- Green space decreased from 68% to 60%.
- Wooded area decreased from 4.7% to 4.45%.
- Traffic will be increased (based on am and pm peak hours) from 130 trips to 260 trips (doubled from previous application).
- 2000 plan shows acceleration lane on old Penfield Road. It is unclear if it is included in the 2012 plan. County permit office stated that the acceleration lane would be part of the 2012 project.
- 2000 plan shows a community center. The 2012 shows it as a clubhouse with a pool and gazebo.
- 2012 plan shows that the water main is dedicated to the Monroe County Water Authority which was not specified on the 2000 plan.
- 2000 plan shows sanitary sewers to be dedicated to the Town of Penfield.
- 2012 plan shows drainage to storm sewers on Sable Oaks Lane.

Douglas Foss of Harris Beach on behalf of the Ellison Heights HOA addressed the Board to and stated that:

- Materials that were part of the sketch plan can be taken as part of the record and does not have to be submitted additionally.
- Because the issue of “access” is in litigation, there is no reason to move forward with the proposed application because it is incomplete.

Board Member Comments:

- Chairman, Markarian asked if the HOA is looking at any part of the project as being acceptable such as the original application. Mr. Foss replied that they have offered numerous times to meet and discuss the project, however, each time they were told that not much has changed from the previous project.
- Chairman, Markarian asked if the previously approved plan is considered to be a billable project by the HOA. Mr. Foss replied that if it was proposed to him he would approach the HOA to get an answer.

Greg Nearpass of Nixon Peabody addressed the board in response to Mr. Foss’s comments:

- He had no knowledge that the application was in litigation. The filed deed they submitted reserves a 50 ft right of way and were publically recorded on June 19, 2007. The first townhouse was sold August 2nd, 2007. The last deed was recorded June 2nd 2011, so every subsequent purchaser, by law, is on record notice that they have reserved their right to use Sable Oaks Lane.
- Anticipated rents are between $1,100 - $1,400 which is in line with high end rental amounts in the area.
- HOA was contacted after the October sketch plan hearing and a meeting was scheduled on October 29th, 2011 and no one showed up. He met with Chip Russell in February and discussed the project as well.

Douglas Foss of Harris Beach on behalf of the Ellison Heights HOA addressed the Board in response to Mr. Nearpass’s comments:

- The October invitation was mailed on October 26th for a meeting on the 29th, so there was not enough notice.
- There have been some efforts to discuss the proposal.
The Board tabled the application pending submission of written responses to all reviewing agency comments, including but not limited to, the Conservation Board report dated April 3, 2012, the PRC memo dated April 5, 2012, and the County Planning comments dated April 11, 2012.

The application was TABLED

Vote: Moved by: Hetzke Seconded by: Bastian
Chairperson Markarian – Aye Bastian – Aye Burton – Absent Hetzke - Aye
Kreiser – Aye McCord - Absent Tydings - Aye

Motion was carried.

IV TABLED

1. Jared Lusk, Nixon Peabody Attorneys at Law, 1100 Clinton Square, Rochester, NY 14604/DiMarco Brandt Point, LLC requests the Town Board to consider their pending application for the proposed action. The proposed action has been classified as a Type I Action pursuant to applicable SEQRA Regulations, including 6 N.Y.C.R.R. 617.5 et seq, and the Penfield Environmental Quality Review Local Law #3 of 1996. The Planning Board, acting as lead agency, has accepted a Draft Environmental Impact Statement for the proposed action. A public hearing was held October 14, 2010 at 7:00 PM, at which time the Planning Board heard all interested persons on the content of said document.

The Draft Environmental Impact Statement is available on the Planning Department’s web page on the Town website located at www.penfield.org. Comments on the Draft

NO ACTION TAKEN

2 Robert Winans/LaDieu Associates P.C., 40 Cedarfield Commons, Rochester, NY 14615/Masi Enterprises, Inc. requests under Articles III-3-10, VIII-8-2, and IX-9-2 of the Code Preliminary and Final Subdivision and Site Plan approval and EPOD Permits to allow the construction of a 23 lot single family subdivision on 13.6 +/- acres, located at 1813 and 1817 Baird Road. The property is now or formerly owned by Masi Enterprises Inc., James Pschirrer, and Daria Reitknecht and is zoned R-1-20. Appl# 12P-0003. SBL# 124.01-2-28.1 and 124.01-2-29.1.

The Board continued tabled the application pending the preparation of a draft approval resolution for consideration at the next Board meeting.

The application was CONTINUED TABLED

Vote: Moved by: Markarian Seconded by: Hetzke
Chairperson Markarian – Aye Bastian – Aye Burton – Absent Hetzke - Aye
Kreiser – Aye McCord - Absent Tydings - Aye

Motion was carried.

There being no further business to come before the Board, this meeting was adjourned at 10:15 p.m., Thursday, April 12, 2012.

These minutes were adopted by the Planning Board on May 10, 2012.