

# APPROVED MINUTES

**Town of Goshen Planning Board  
Town Hall  
41 Webster Avenue  
Goshen, NY 10924  
February 15, 2007**

## MEMBERS PRESENT

Reynell Andrews, Acting Chair  
Susan Cleaver  
Mary Israelski  
John Lupinski  
Ray Myruski

## ALSO PRESENT

Neal Halloran, Bldg. Insp.  
Joe Henry, Engineer  
Rick Golden, Attorney  
Ed Garling, Planner  
Graham Trelstad, Planner

## ABSENT:

Ralph Huddleston  
Lee Bergus

## I. CALL TO ORDER

Acting Chairman Reynell Andrews called the regular meeting of the Town of Goshen Planning Board to order at 7:30 pm at Town Hall.

## II. AGENDA ITEMS

**Harvest Village – 18-2-14 – 4.08 +/- Acres**, located on Rte 17A in the HR zone with an AQ3 overlay to be used for 2 commercial buildings. Sketch plan, EAF, Declare intent to be lead agency (KR)

Present for the Applicant:

James Ramus, Engineer

Mr. Ramus said the plan has been changed and the project “scaled back substantially” since the last time the PB reviewed the plans. He said the changes include the removal of the residential structures, and the reduction of the two one-story commercial buildings from 5,000 square feet to 4,500 square feet each. The residential structures were removed because of issues with maintaining a community well, he said. The parallel parking was kept with the bulk of the parking being near the commercial buildings and employee parking possibly located across the street.

Ms. Cleaver asked about outdoor lighting, stating it should be directed downward. Mr. Ramus said the lighting plan and landscaping plan will be added later. Ms. Israelski asked that road details, including material specs, be shown on the plans.

Planner Ed Garling said he had reviewed the plans and that while the PB has already declared itself to be the lead agency, he felt there should be another determination that should be sent out because the plan has changed so dramatically. He recommends that more detail work needs be done on the plans.

Mr. Golden suggested the PB wait until it receives an appropriate EAF, then type the action and declare its intent.

Ms. Israelski said the PB should see the elevations so it can make sure the project fits in with the character of the area and said that what is proposed for the easements to connect one hamlet to the next should be shown on the drawings. Mr. Golden said if a proposed easement is part of the application of what is being proposed, then the applicant should show the location of it on the plans and generally describe the intent of the easement.

Mr. Andrews told the applicant to return after work on the plan has been completed.

**Nextel Communications – 11-1-45 – 18.1+/- acres** located at 338 Harriman Drive in the RU zone with an AQ6, AQ3 and stream & reservoir overlays. Co-location on existing tower.

Present for the Applicant: Pamela Richardson

Mr. Halloran said the applicant has lowered the height of the tower since first appearing before the PB.

Ms. Richardson said originally the application was to extend the existing tower by ten feet, but that in response to comments received from the PB, “we have agreed to use the existing tower on site, abandoning the ten foot extension, and using the existing equipment and co-locate on the tower”. She said the project is now a minor application under the Town Code and was in compliance with all of the requirements of the Town’s zoning laws and wireless laws.

Russ Bogie of the Center for Municipal Solutions, the Town’s wireless consultants, said that since Nextel has merged with Sprint, the applicant proposes to reduce the number of existing antennas from six to three for Sprint and add six for Nextel. He said it will be difficult to notice that change, they are going from six antennas to nine. He said the applicant has satisfactorily answered all of their questions and he sees no problems. He said there is an existing equipment shelter (9 x 12) that will be replaced with a larger shelter (10 x 18 x 10 ft high).

Ms. Israelski said that if the base will be visible from the hamlet that is going there, it is the PB’s obligation to buffer it. Screening was discussed.

**VOTE BY PROPER MOTION**, made by Ms. Cleaver, seconded by Ms. Israelski, the Planning Board of the Town of Goshen, declares the application of Nextel Communications to be a Type 1 Action. Passed unanimously.

Mr. Andrews	Aye	Mr. Lupinski	Aye
Ms. Cleaver	Aye		
Ms. Israelski	Aye		

**VOTE BY PROPER MOTION**, made by Ms. Cleaver, seconded by Mr. Lupinski, the Planning Board of the Town of Goshen, determines that the application of Nextel Communication has a negative declaration of significance. Passed unanimously.

Mr. Andrews	Aye	Mr. Lupinski	Aye
Ms. Cleaver	Aye		
Ms. Israelski	Aye		

**VOTE BY PROPER MOTION**, made by Ms. Cleaver, seconded by Ms. Israelski, The Planning Board of the Town of Goshen grants approval to the co-location wireless facility application of Nextel Communications adding three new co-location devises as well as replacement of some of the existing, conditioned upon appropriate wetland plantings around the base to shield the base, as approved by Garling Associates prior to the issuance of a Building Permit or proceeding with construction.

Mr. Andrews	Aye	Mr. Lupinski	Aye
Ms. Cleaver	Aye		
Ms. Israelski	Aye		

**Heritage Estates – 8-1-9.22 – 249.76+/- acres, 92 dwelling units** located on Old Chester Rd. & Brookside Dr. in the HR & RU zone with an AQ6, AQ3, scenic road and stream & reservoir overlays. Draft FEIS from consultants.

Present for the Applicant: Steve Esposito

Planner Graham Trelstad said he was present to receive the PB's comments and concerns and incorporate them into the FEIS. He reminded the PB that the information contained in the FEIS is what it will use to draft the PB's findings statement. Following that there are a number of approvals that the project will have to go through including subdivision approval and the first item that the PB will consider is preliminary plat approval which says that the arrangement of the lots, the unit counts, the street, the storm water management systems are appropriate, he said.

Following the final subdivision plat approval by the PB there are a number of Town approvals needed such as dedication of the roads and acceptance of the sewer district and there are also several site plan applications that would have to come before the PB in relation to several of the structures located in the scenic road corridor overlay district. Mr. Trelstad said that there is a long road ahead and there are a number of approvals where the PB can ask for certain conditions to be met with respect to design, materials used, etc. “We are focusing on environmental issues and as those issues with respect to materials or design effect environmental issues, then they can be brought into here, but that is not the final opportunity for us to impose conditions on those issues,” he added.

Mr. Trelstad said that the word “mitigation” is a term used in SEQRA that indicates that when a significant adverse impact is identified, mitigation is required to be evaluated. You don’t necessarily have to come up with a successful mitigation practice but have to evaluate the alternatives, he said. Significant and adverse are the two jargon words we use in SEQRA. The PB has the responsibility to identify all of those potential significant adverse impacts and require an investigation of mitigation for them, he said.

He told the PB that the professional staff has identified issues in this application relating to storm water, well testing, water supply, the waste water treatment plant and its location, traffic and mitigation measures, community services in relation to schools and fiscal impacts and visual impacts as areas that need some additional language.

Mary Israelski said she believes there should be discussion of mitigation efforts to slow traffic and provide safe access for residents while also encouraging multi-modal use of the roads. She said she wanted the professionals to research the school and fiscal impacts section, saying it didn’t seem like the source of that information could be accurate, and said she wants to see specifics on road composition and pedestrian travel access, saying the products used to construct these pathways have everything to do with the environment, that they are not just a design issue, adding that if roads are constructed with gravel, air quality will be affected and pedestrian safety will be affected. Mr. Henry said the roadways will be paved and Mr. Trelstad said they will all be impervious surfaces, built to Town specs. Ms. Israelski asked if the Town specs remain the same as under the old Code, with the only difference being the width? Mr. Henry replied that they don’t remain the same, that the roads are going to be stronger, so they last longer.

“This document also states that the natural screening will screen the development from public view, will it really? Ms. Israelski asked. Mr. Trelstad replied that the DEIS did include several cross sections which were asked for in the scope to show

the potential visibility of the project, “we asked for it from a number of locations along the critical scenic corridors to the site.” Ms. Israeski asked, “Was there any discussion about mitigating it from the existing neighborhood, Brookside, mitigating not only the visual impact but the safety impact of what will happen?” Mr. Trelstad said, “In the DEIS, a cross section taken from the end of Brookside into the site showing, in addition a line of trees that I think are all evergreens, showing the area of development, the lay of the land and where the nearest house would be and I believe the nearest house would be several hundred feet away, so there is the mitigating effect of distance in terms of visibility. In your review of the subdivision plan if you feel additional plantings are required to buffer that row of houses from the view from Brookside then you could ask for that. Ms. Israelski asked if there is any way in the Code that there can be improvements to Brookside, after the development or during the development, “because what will happen is that road will get awfully dusty, dirty and worn, it will probably crack from the construction vehicles entering and leaving.” Mr. Trelstad replied that none of the construction traffic will come in off that, “that roadway won’t be constructed until the very end of the project and won’t be used for construction on a regular basis.” Mr. Golden said, “In your consideration of the preliminary approval, you could condition that preliminary approval upon saying that you can’t use construction vehicles at that entrance or if you do, this is what you have to do to mitigate the impact of it”. Ms. Cleaver asked if another alternative for Brookside could also be shown, if it was used only for emergency services and how that would be done. Mr. Trelstad said “yes, we can ask for that. That detail would be on the final plan.” Ms. Israelski said, “As far as fiscal impact, I ask for calculation of recreational fees, so that, I want to make sure that we understand, what recreation fees will be generated, that the development is not looking to discount them because of the requirements of this open space plan. I want to make sure that is not a negotiating chip later on.” Mr. Trelstad said he would talk to Mr. Golden to see if it can be included in the FEIS.

Mr. Trelstad said they were going to call the school district to determine actual school children generation rates for Harness Estates and Sawyers Peak, two different kinds of development, to compare with what has been provided.

Ms. Cleaver said she wants to see that what is impervious surface coverage on each lot, is put in the FEIS, along with the breakdown of exactly what the impervious surfaces are, asking are the storm water ponds part of that, the roads? She questioned whether there will be deed restrictions so that it doesn’t go over the maximum amount allowed in the future.

Mr. Trelstad said he would review the code to see which lands may be included in the overall calculation and then which areas are proposed to be impervious and how that calculates in the allowed percentage.

Ms. Cleaver said there is a problem using either the Flannery School or the airport to collect weather data and said that the language in the draft stating that it is okay to use the two sites is offensive to her and that she totally disagrees. Mr. Trelstad said he will get a written opinion from Stantec on the issue of the collection of weather data.

Ms. Cleaver said she'd like a complete report on the wells and the testing and the opinion of the Town's hydrogeologist. She said she is not comfortable with the applicant selecting a hydrogeologist to review a problem, if any of the neighbors wells are impacted. Instead there should be a bond in place and the Town Board should pick the hydrogeologist, not the applicant, she said. She wants the TB to be asked if they are willing to do that.

Mr. Golden said that the courts have held it would be a reasonable measure for Planning Board's to require a bond in place for potential off-site improvements. Mr. Trelstad said he'd look at the issue of the monitoring and establishment of a bond.

Ms. Cleaver referred to the U.S. Fish & Wildlife Service's bog turtle recovery plan and suggested that any mitigation should be approved by the U.S. Fish & Wildlife Service, they provide a two page list that should be part of this document including an approval processes of what is suppose to happen, she said. Mr. Trelstad said it will be included.

Ms. Cleaver asked about the management of the open space parkland, questioning what uses would be allowed, what restrictions imposed, what environmental impacts and how it will impact the neighbors. She also questioned how easements will be marked. Mr. Trelstad responded that a lot of this will be included in the plan drawings, but that the PB can allude here that use of these parcels must be in such a way as not to impact neighbors.

Other issues mentioned by Ms. Cleaver included: plans for a pump station located within the stream corridor overlay, responsibility for the maintenance and plowing of the alley ways, recharge issues, the use of more rain gardens for storm water management and investigating the option of on-demand water softeners because of problems caused by water softeners contaminating the groundwater.

Mr. Lupinski said he is concerned about mitigating the noise and dust problems that will be created during construction and wants to see measures put in place to alleviate the problems for the neighbors. He also said he was concerned about bonus densities and how they are going to effect total calculations of the project and how final determinations will be made.

Mr. Trelstad said the staff came up with a statement in the draft FEIS of what they believe is the density allowed on this site. The PB has the ultimate authority to say we believe in this or we don't believe in this, he said. The staff's conclusion is that the applicant has a base density using the RU zone of 70 units but 42 units that they have in the HR district can be applied in other portions of the hamlet zone but not in the RU zone. They are asking for 23 density units, he said. The applicant is proposing 164.39 acres of open space. They get an additional 21 units out of that by using the calculation of 10% bonus density over the base density for each 5% increment of additional open space. They can apply for a 30% bonus on that amount and could get 21 units in that regard, from 70 to 91. That is at the PB's discretion, Mr. Trelstad said, they would make the final determination. The Code lists the maximum. If the PB feels the lands that are provided to achieve that maximum bonus density are not satisfactory, that they don't achieve a public purpose, then the PB doesn't approve the bonus density or reduces the bonus density more in level with the value of the land, he said. Under a favorable interpretation the applicant can achieve 21 bonus units under that calculation, he said. The PB can award bonus density if the applicant allows public access to the protected open space to the public and the PB finds such public access provides significant recreation value. Right now they are proposing the trail corridor between Craigville Park and the Heritage Trail and it will be up to the PB to decide if this is a significant public benefit and worthy of additional units, up to 35 units, he said.

Mr. Golden said it is up to the PB to determine if this public access is something significant to the public and, if so, the PB can award anywhere from 0 to a maximum of 50% and that will calculate into a certain number of units. He said that bonus densities are always at the discretion of the PB but there are limits under the Code as to how much can be awarded for each particular factor. The PB will decide how much, if any, additional bonus densities are going to be given and then state the basis for doing so.

Mr. Trelstad said he calculated what could have been the density under the prior zoning, stating under the previous zoning with public water and sewer, approximately 223 units could have been built on the entire parcel and there wouldn't have been protection of any of the open space. If public water and sewer were not going to be used, the applicant would have been able to build 98 units.

Ms. Israelski said it was important for the public to realize that the new Code is a change for the better because the applicant could have gotten 223 units with public water and sewer.

Ms. Cleaver asked Mr. Golden for an interpretation of 7918 of the Town Code. She said that as far as the receiving stream is concerned, she thinks the stream should get a base line test for whatever is going to be discharged into it and that if there are problems, and she said she thinks there are documented problems with the stream, the biodiversity study needs to be taken into consideration, adding that it all needs to be looked at. Mr. Trelstad said he will review this and see if there is any other information that we can and should provide.

Mr. Golden said “you have to be satisfied that there is enough data to show the adequacy of the receiving stream.” Ms. Cleaver stated that the stream is already showing problems “and we don’t know where those problems are, wouldn’t we be contributing to a violation of the Clean Water Act.” Mr. Henry said “no”, that the baseline quality was established years ago for the stream, and that the applicant is proposing to treat the highest quality possible, “that means the water releasing from his plant will have to be equal to or better than the water that is in the stream, and if it is equal to or better he is stating we’re not going to have any impact on that stream and that is what the applicant is stating.” Ms. Cleaver said she disagreed and would like the PB to use a cleaner standard than the DEC’s.

Mr. Andrews said he can foresee problems because the applicant has identified the responsibilities of the homeowners association and homeowners associations do not always function well. Mr. Trelstad said he’d see if there are any alternative positions the PB can take.

Mr. Golden said you can require by easements and deed restrictions that if the homeowner’s association doesn’t do what it is suppose to, the Town can come in and charge the homeowner’s association in order to do that. On this one, he said the homeowners association duties are very focused and narrow.

Mr. Golden also said “you can add in the document that if the Town does not take dedication of these larger facilities, water, etc., that there then can be put in place the formation of districts so the Town can come in if necessary and take care of things and charge it back in taxes to just those homeowners. It is a choice of the Town Board, he said. It can be put in the document that it recommends that if the Town does not take it over, that it form a back-up district in order to allow this to occur. If it is the ultimate decision that the Town Board does not take it over, and with or without the backup district, that there be a maintenance bond in place by the homeowners association where it is demonstrated that there is sufficient financial wherewithal to keep that plant going for 2 to 3 years or whatever, you can put it in here as potential mitigation to the environmental impacts.”

Mr. Myruski said he doesn’t want to have the Town take something it doesn’t want and suggested that somewhere there should be a provision that the developer is

responsible for a certain period of time into the future. There has to be protection for the Town somewhere, he said.

Mr. Halloran listed concerns including visual and water impact of swimming pools, recharge being depleted because of swimming pools, restrictions on additional bedrooms, accessory apartments, storm water discharge into the creek affecting downstream habitats, wetlands, etc., storm water plantings and visual impacts of the trees and plantings. The last DEC wetlands delineation was in 2000 and has not been indicated on the plan, he said, and the biodiversity study has been skipped over and the whole habitat issue has been avoided.

Mr. Halloran said there was a mention in the DEIS or the FEIS that there was going to be no visual impact from Old Chester Road because of existing trees, "I think that is rather inaccurate because of the amount of trees along Old Chester Road is pretty minimal. There is no doubt that you are going to see the entire cluster of the subdivision. There seems to be a disconnect between what is there and what is reality," he said.

Mr. Trelstad said it is up to the PB to determine if there is a significant visual impact from Old Chester Rd. Ms. Israelski replied, "We are not sure of that right now." Mr. Trelstad said, "We have to be sure in this document." Ms. Israelski said "Right, there is the potential for a significant visual impact and we need to mitigate that." Mr. Trelstad said the potential needs to be assessed and the PB has to determine whether the potential is likely to occur or not and whether it does require mitigation. Ms. Israelski replied that "it definitely requires mitigation." Ms. Cleaver agreed, saying, "yes, I believe it does too." Mr. Trelstad said, "ok, then what we need to do is identify the potential visual impact and the mitigation that will be required due to planting along that corridor to appropriately screen or buffer the houses." Ms. Israelski said, "yes, definitely." Mr. Golden said the specifics of that can be detailed during the preliminary approval process and Mr. Trelstad agreed saying, "the plans don't necessary have to show that right now but by final plans we will see that."

Mr. Golden pointed out that in the FEIS, the water analysis said one of the analysis being used was the Hambletonian System, but it doesn't appear that in calculating how many lots are using that at this time, it considered the other application presently under review, the Hambletonian Park (38 lots) who allege they have a vested right to those 38 lots.

Mr. Golden said that there is going to be traffic impact felt mostly on offsite areas, such as Craigville Rd. and Rt. 207, and that while the PB cannot legally require the applicant to improve those offsite areas as a result of the traffic impact, there are

others mitigations that can occur as result of additional traffic impact. One, he said, is the elimination or reduction of density bonuses that would otherwise be given were those traffic impacts not present. Mr. Golden said that has to be considered in the mitigation aspect as part of the determination as to whether or not and to what extent density bonuses are to be given.

Mr. Trelstad said the next step would be for him to produce the revised FEIS document and make sure it is satisfactory to PB.

### **III. OTHER BUSINESS**

Mr. Golden reminded the PB that there was a waiver of the deadline for the final scoping of the Reiger application until March 1 so at the March 1st meeting the PB has to finalize, through discussion, that scoping document so it can be served on the applicant by March 8<sup>th</sup>.

A **motion** was made by Ms. Israelski, seconded and approved to request Ed Garling to recommend to the Town Board that they alter the Code's tree specifications to require larger trees.

The Planning Board adjourned at 9:55 p.m.

Reynell Andrews, Acting Chairman

Notes prepared by Susan K. Varden