

## APPROVED MINUTES

**Town of Goshen Planning Board  
Town Hall  
41 Webster Avenue  
Goshen, NY 10924  
April 19, 2007**

### MEMBERS PRESENT

Ralph Huddleston, Chair  
Reynell Andrews  
Mary Israelski  
John Lupinski  
Ray Myruski

### ALSO PRESENT

Neal Halloran, Bldg. Insp.  
Joe Henry, Engineer  
Rick Golden, Attorney  
Ed Garling  
Susan Roth, AKRF

### ABSENT

Susan Cleaver  
Lee Bergus

### CALL TO ORDER

Chairman Ralph Huddleston called the regular meeting of the Town of Goshen Planning Board to order at 7:30 pm at Town Hall.

### MINUTES

Upon motion made by Ms. Israelski, seconded by Mr. Andrews, the minutes of the April 19, 2007 Planning Board meeting were approved with an amendment, by vote of the Planning Board.

### AGENDA ITEMS

**Schonfeld Subdivision – 11-1-27.2 & 96 – 47.9 acres**, 16 lot subdivision, located on 17M in the RU zone with an AQ3 & scenic road Corridor overlay. Full EAF (DEIS or Part III)

Present for the applicant:

Art Tully of Lanc & Tully

Mr. Halloran stated that the PB will need to determine whether it will require an EIS or an expanded Part III of the EAF.

Mr. Golden said the determination should be made by the PB after it has assumed the role of lead agency, without objections from other agencies. The PB declared its intent to be the lead agency on the application at its April 5<sup>th</sup> meeting and is still waiting for the elapse of the 30 day response period.

Mr. Golden spoke about both the EIS and Part III processes saying that theoretically they should arrive at the same point. "You would normally choose the Part III if, when looking at the EIS, you believe the environmental impacts are more readily evident, either because of the size of the project or other factors." Mr. Golden said with the DEIS "there is a little more searching in the process and when you have a complicated area or an area where you are not sure of the environmental impacts you would normally weigh to go toward the DEIS." He said the PB should discuss whether it wants to establish a policy of when a Part III or an EIS is chosen or keep it open on a case by case basis.

Mr. Huddleston said he generally favors the EIS because it sets the time frames but in this situation he said he would probably support a Part III because a lot of work has already been done and it has been designed with a lot of input from the PB. Ms. Israelski and Mr. Lupinski said that they would probably support a Part III but all PB members agreed to wait the 30 day response time before making a determination.

Mr. Garling said that PB members and the consultants have talked about the need for a visual assessment as part of an EIS saying that a visual analysis will have to be done.

Mr. Halloran said it was noted at a staff meeting that the proposed road is longer than 800 feet and subdivision regulations say that culdesacs cannot be longer than 800 feet. Mr. Garling said he wasn't sure the PB could waive that requirement and said there needs to be discussion of it because it could limit the development to eight or ten lots.

Mr. Tully said he believes the zoning gives the PB the authority to amend the subdivision regulations to accomplish the goals of the zoning. Mr. Golden said he will look into it and form a response to the PB.

Ms. Israelski asked about the 50 foot right of way at the edge of the property. Mr. Tully replied that it is part of a prior subdivision of the property. The developer wanted to have access out to the highway and left themselves a 50 foot right of way through this land. He said he is researching that easement agreement which says it can be moved and relocated to another location if this were to be developed. Ms. Israelski asked if there is a way to connect this property, if the golf range is

developed, and said it could solve the problem with the culdesac. Mr. Tully said it was being looked into.

It was mentioned that the PB can be ready to make its determination at its second meeting in May.

**Tirelli – 17-1-90, 3.80 +/- acres**, location 108 Maple Ave. in the RU zone with an AQ# & scenic road corridor overlays. Site plan for pond.

Present for the applicant: Joseph Manuto, Architect

Mr. Halloran said the applicant's pond, which contains a fountain and lights, was built without a building permit and is in the middle of wetlands. He said he stopped the work on the pond and that the applicant is now asking the PB to consider this as an amended site plan to legitimize the pond. Mr. Golden said if the PB is inclined to consider this and thinks it should be approved, it will condition the approval on the fact that the applicant will have to get Army Corp of Engineers' permission before they go forward.

Mr. Halloran said he contacted the Army Corp. about the pond but was told that due to its relative small size (.22 acres) they didn't have the manpower to send someone to look at it.

The applicant's architect, Joseph Manuto said the pond is "purely decorative" and stated that the applicant went to the DEC who told him that they had no jurisdiction over it due to its type and that he could do whatever he wanted with it. He was not aware he needed a building permit, he said. The pond was constructed and the Building Inspector did stop the work at the point of near completion or upon completion.

Ms. Israelski said she hasn't seen the pond, and wouldn't want to set a precedent to allow people to do site grading without a permit, but said if it is done and it improves the appearance of the site then she is okay with it.

Mr. Andrews said that if the Building Inspector is comfortable with an amended site plan he will go along with it.

Mr. Myruski said a well-managed pond that is taken care of beautifies the property and that he would take for granted that it will be well managed and so will enhance the property.

Mr. Lupinski said he thinks the neighbors' input was needed because they are impacted.

Mr. Halloran read Ms. Cleaver's comments who wrote that she wanted to go on record as saying this was totally uncalled for. "If they had come in front of the planning board in the first place, we would not be in this situation, I have driven by to see that the dam broke loose and have noted all the mud colored water. I think the PB should go with Hickory Creek Consulting's recommended improvements to the existing system to restore some wetland functions and that the light as well as the fountain should be removed and the property restored to its natural state. I think the culvert sizes should be looked into as well."

Mr. Manuto said that the structures, the weir and the inlets, were constructed by a contractor, that the weir was grossly undersized and that the pond needed to be engineered.

Mr. Henry said his concern was with the wetlands and that he agrees with Ms. Cleaver that the encroachment should be stopped.

Mr. Huddleston said he was never happy with a net loss of wetlands, in this instance .22 of an acre. "We lost all of the functions and values associated with the wetlands, we created an open pond area as a decorative and it is a net loss to the federal wet lands in the area," he said.

Mr. Halloran said he had no problem with amending the site plan and getting it up to what is required or taking it back the other way.

Mr. Lupinski said he wants to wait until the full PB is present to vote, saying that if he had to vote now he would vote that the site be returned to its natural state.

Ms. Israelski and Mr. Andrews said they would vote to allow the applicant to go for an amended site plan and Mr. Myruski said that he too thought the full Board should be present for the vote, saying he would probably vote in favor of an amended site plan.

Mr. Huddleston told the applicant that a decision would be put off until the next meeting and told him to show the PB and the professionals what the applicant wants to do so the plan can be evaluated. "I don't want to approve it until I know it is going to work," he said. He instructed Mr. Manuto to see that the pond area is stabilized. The pond had overflowed during the most recent rain storm.

**Persoon – 17-1-4 & 36, 127+/- acres, 26 lot subdivision**, located on Maple Avenue, Winners Circle and Breezeway Lane. 66.5+/- acres in the RU Zone with an AQ3 and Scenic Road corridor overlay. 60.4+/- acres in the AI zone with a Scenic Road corridor and Flood Plain overlays. Construction access.

Mr. Halloran said that at the last staff meeting some Town Board members came in to discuss the impact of using Winners Circle for construction access and asked the PB whether they would want to reconsider access. He said that PB member, Lee Bergus had sent him a memo saying he would like to reconsider the decision made at the last PB meeting.

Mr. Andrews said Winners Circle was chosen because it was the shortest distance and asked what the distance would be if coming in from Maple Ave. Mr. Huddleston said it would be a shorter distance coming in from Maple Ave., but he remembers asking specifically if it would create a problem on Maple Ave. and being told a severe topography situation there would make it prohibitive. He said he would agree to not bring equipment through any subdivision if there was a Town road access that is shorter. He said he too was contacted by some residents and told them that the PB would re-open the issue, discuss the service road and find out if it is a viable alternative.

Mr. Henry said that he asked the applicant to look at providing a construction access road from Maple Avenue and to demonstrate whether it is feasible. “They have to provide us with that information before we can make the decision,” he said.

Town Supervisor Doug Bloomfield said that the Town put in Winners Circle a year ago and used an inordinate amount of time and money on it. “We don’t have an over abundant amount of money in the highway department.” He said he spoke to the Highway Superintendent who is also concerned with destroying the road, “it is one of the finest roads we have.” He said it may cost the builder more money to do what you are asking, but said he wanted Mr. Henry to make sure that it cannot be done, if that is the decision, if it can be done, he said he’d like to see it done.

Mr. Huddleston said that at the last meeting the PB talked about a bond being placed on whatever road ended up being used and that it would be the applicant’s responsibility to bring the road back to what it was originally. “It’s the Town Board’s desire, the residents’ desire, and it’s this Board’s desire to find a way to avoid access through those roads if at all possible. I’m not going to predetermine if it is possible, let’s see what we have and what we can come up with,” he said.

**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 and reservoir overlays FEIS.

Mr. Golden said that due to the unique circumstances of the PB taking over authorship of the FEIS and it having gone through many reiterations over many months, the critical point at this time is to decide if there is anything that needs to hold up the FEIS or whether or not the PB can address it under its normal planning process, all the while knowing that the PB is not giving up on any of those issues, it is simply making them conditions on the preliminary. He said if there are environmental issues that come up between now and final approval, they may be proper for a supplemental environmental impact statement, depending on the issue involved and its magnitude. He said there are ways to protect most, if not all, of the issues that are being raised with respect to the current version of the FEIS.

Mr. Myruski asked the PB if they had received Ms. Cleaver's written comments, saying she had listed 35 issues, "which is enough to be concerned," he said.

Susan Roth of AKRF said she took Ms. Cleaver's written comments and those of Ms. Israelski and Mr. Halloran, organized them by the relevant section of the FEIS and put them in a memo to discuss tonight so that PB members could make their decisions and finish the FEIS. She said there were six or seven things that required decisions by the PB and acknowledged that PB members had just received the memo.

Project Description: Ms. Roth said that Ms. Israelski had pointed out that the 7.14 acre Kolk parcel was too small to be a viable farm and stated she would like 10 acres added to this proposed parcel. The request needs consensus of the Board members, Ms. Roth said. The PB agreed to increase it to 17 acres.

Ms. Roth said the FEIS notes that the property holdings include 10 acres across Old Chester Rd. that will be retained by the Kolk family and was not used to derive density. They are asking that the future development rights be retained on the property. The planner said that Ms. Cleaver suggests that the FEIS should include a potential density of that parcel. It was noted that it is the same tax parcel number.

Mr. Golden said that since it is not being offered as part of the plan, it would not be appropriate to start talking about what else might be done with this property that is not part of this project.

Ms. Israelski said she would like to see it included. She said it is next to the Heritage Trail and wonders if the TB would be interested in it for recreation.

Mr. Golden said that it is the applicant's proposal and that the applicant has the right to not include all of the land and reserve some of it for something else. Mr. Myruski agreed that the applicant had that right.

Mr. Huddleston told Ms. Roth to leave it as it is.

Density Transfers: Ms. Israelski had noted she wanted the transfer information for the HR zone to be taken out of the FEIS saying it didn't apply to the project. Ms. Roth said it should remain, explaining that the Code says that area would be eligible for a density transfer even though it couldn't be built on under the current code. She said, "we believe that the FEIS is clear in its position that HR zoned density cannot be used for this project."

Density Bonus Calculations: Ms. Israelski had suggested that the PB make a determination regarding the bonus densities. Mr. Golden said it is an important issue but unless the decision the PB is making is based upon an environmental issue being discussed, the PB doesn't have to make that decision in the FEIS. "The criteria in the Code on the bonus densities is based upon certain planning factors as to whether or not you believe it is important or not important, that doesn't have to be studied in the FEIS, that is more of a planning decision you make when deciding on preliminary approval. You are not making a determination in this FEIS as to what bonuses they will receive. It is a separate planning issue that has to be made prior to preliminary but not in the FEIS," he said.

Density under prior zoning: Ms. Israelski had suggested that a summary table of prior zoning be included in the document and Ms. Roth said she will make the revision to include this table as requested.

Impervious Surface: Ms. Roth suggests putting together a calculation to estimate the trail coverage and include it in the impervious surface calculation. Mr. Myruski asked if sidewalks and detention ponds were included. Mr. Henry said normally detention basins aren't included, but that trails, pools, sheds were included. Ms. Roth said the impervious surface coverage right now with the houses, sidewalks and driveways is 5%, leaving plenty of leeway.

Proposed Water Sewer Systems: Ms. Israelski noted the waste water treatment plant is sited close to the scenic road and may have a visual impact which was not analyzed. Ms. Roth said she thinks this discussion could occur in a SEIS and does not need to be addressed any further in the FEIS. "The FEIS says now that since the design of the waste water treatment plant hasn't been submitted, that if they have to go to that option, that they will have to provide the PB with a SEIS limited to that one thing and it could include visual impact," she said.

Construction Phasing: Ms. Roth said a decision needs to be made on times of construction. Mr. Huddleston said the applicant is volunteering not to work on Sundays and suggested putting that in and leaving everything else to Code. ( 8 a.m. to 8 p.m. on weekdays and 9 a.m. to 8 pm on weekends and holidays).

Bog Turtle Protection: It was agreed that the FEIS should be changed to reflect that a Phase II Bog turtle study should be accomplished if the applicant wants to use that area for a well and if not then they should avoid it and the Phase II should be a condition of preliminary.

Air Quality: Ms. Roth said she didn't think air quality will be significantly impacted by trail dust, said the problem is that there is no way to measure it and that erosion control measures will usually control dust.

Visual Impacts: Ms. Roth stated that Mr. Halloran had brought up Town Code Section 97.41 Rural Siting principles, which is a supplemental code regulation for the siting of buildings within new subdivisions. She said she believes the siting principles are relevant to the application, but a formal analysis was not included in the DEIS or the FEIS. "We believe the project conforms to this section of the code, as designed," she said. She asked the PB to provide direction of whether or not the FEIS should include an analysis of this section of the Code.

Ms. Israelski said she thought it should. She asked about the water tower and was told by Ms. Roth that the water tower was put in to illustrate the potential significant impact of a conventional water tower, stating it is not what is planned for in this project, what is planned is actually much lower, she said. Mr. Henry said the tower will be 15 feet high, below the tree line. Mr. Esposito said they are proposing a low profile tank at the bottom of the hill in the middle of the woods where no one will see it. Ms. Israelski asked for a photograph of the tank and Mr. Esposito said he would get her a photograph of an existing one.

Southern Wallkill Biodiversity Study: Ms. Roth said Mr. Halloran had indicated that the species mentioned in the Southern Wallkill Biodiversity Study were not studied to see if they were on the site. Ms. Roth commented that the study indicated that the list of species provided in its study were found over a broader area and is not intended to be a checklist to go out and see what is on the site. "We believe the applicant representatives, North Country Ecological Services is a reputable company and produced a reasonably acceptable report about the characterizations of those wildlife areas and we don't believe there is that much more we should do. We analyzed the project impact and compared it with the Wallkill Biodiversity Study and we believe the implementation of the current code and the design of the development is in conformance with the study because it helps

to preserve the Otterkill and the Black Meadow Creek areas and 50% of the site,” she said. She asked if that was the consensus of the PB. Board members indicated they were comfortable with the wildlife evaluation.

Timing of the Well Testing: Ms. Roth said that the Stantec hydrologist stated that using the data from the Flannery site was okay and that even if the study was re-done there would not be a difference in the outcome. Mr. Halloran said that Ms. Cleaver pointed out that there was nothing submitted by Stantec stating that with anyone’s signature on it and that she would like a signature report. Ms. Roth said Stantec authored the section in the FEIS. She said that Stantec says the setting that was provided for the project conforms to the water protocol in spirit and that if the Montgomery station was used, there would be no difference. Mr. Henry said that was his opinion.

Transfer of Water Across Aquifer Boundaries: Ms. Roth said that Section 97.27 of the Town Code does not prohibit the transfer of water between watershed districts. “The Schoor-Depalma study is based on general scientific knowledge that allowed for the adoption of the zoning map of AQ3 and A6 districts. The Code allows and encourages a site specific study to be able to understand the water hydrology in finer detail and would supersede the AQ3 and AQ6,” she said. It allows the PB to consider that property’s hydrologic characteristics as a whole instead of dividing those along the lines that were set in the zone. Mr. Huddleston said that a site specific was done here and “we have the information which it is my understanding will take precedence over the zone maps as drawn by Schoor-Depalma”. Ms. Roth said it will then “stay as is”.

Mitigation Plan: Ms. Roth said she needs to know from the PB whether the applicant’s or the Town’s hydrologist will be responsible for conducting an investigation and preparing a report for review. She said she recommends that the applicant’s hydrologist do it because it relieves the Town from the burden of having to pay the hydrologist and makes it easier to have the developer submit a report that the Town’s hydrologist can review. The PB agreed that the applicant will be required to hire a hydrologist to investigate it.

Phasing: Mr. Esposito said that prior to Phase 8 being initiated, the applicant will test the wells for water quantity and will identify three wells around the perimeter of the site to test for quality. Mr. Henry and Mr. Halloran agreed this would be acceptable.

Infrastructure and Utilities: Ms. Roth said that consensus from the PB is needed about future connection. She said Ms. Israelski had requested that as a condition of approval, the water infrastructure for Heritage be designed to allow future connection to Brookside if water resources can be extended, with improvements

provided by the Town at a later date. Ms. Roth said she thought this is reasonable but wanted the PB to decide this issue. Mr. Huddleston agreed that this is the PB's decision and said, "I think the applicant said if it is available they will make it available."

Traffic and Transportation: Mr. Huddleston said the PB confirms its intention to seek additional right of way along the entire length of the property – on Old Chester Rd. for future road improvements, sidewalks, bike trails, etc. Mr. Esposito asked if the PB wanted more than 25 feet. Mr. Henry said the amount can be determined at final.

Community Services: Ms. Israelski and Mr. Halloran had expressed their concerns regarding the school analysis. Ms. Roth said that information from the school district was requested and the reply from the school was that they could not provide reliable information regarding the number of school children from each new subdivision. "That is the reason we didn't change that data, we used census data to support what was in the DEIS," Ms. Roth said. Mr. Esposito said that the DEIS prepared by the applicant used the figures from a demographic study prepared for the district a year ago. Ms. Israelski said the accurate data would come from the new subdivisions. It was determined that the difference would be slight in this particular subdivision. Ms. Roth said the section that states the trails will provide mitigation for recreation will be removed from the Community Services section as requested by Mr. Halloran.

Ms. Roth said she feels it is in the best interest to have the Town maintain the sidewalks but Mr. Golden said that the Homeowner Association will be responsible for them unless the Town accepts them as Town sidewalks that it wants to maintain.

Ms. Roth said she wanted to remind the PB that there are several things that require a supermajority to override the County's position on providing a full connection to Brookside, providing a separate connection from Old Chester Rd. into the rear of Craigville Park and recommendations that improvements be made to the intersection of NYS Route 207 with Craigville Road and Sarah Wells Trail before the project is completed. She said the FEIS currently states that the PB will allow approval of the subdivision without improvements to the intersections of NYS Route 207, Craigville Road and Sarah Wells Trail. The PB has taken the position that the reason they are not putting the connection through Brookside is that it will allow too much cut through traffic and until the improvements recommended for those intersections are made that will be an emergency only access.

Mr. Golden said it is appropriate to be in the FEIS but that the PB need not worry now about a supermajority vote until it votes on preliminary subdivision approval. He said after the FEIS is completed and the Findings prepared, it will be sent back

to the County Planning Department for their final 239 Report and suggested waiting for their final report to see what it contains.

Mr. Golden said it would be appropriate to accept the FEIS as complete given that it appears all of the decisions on the outstanding issues have been made in connection with the comments. He said the final document will have to incorporate all of the changes and decisions made tonight and there will have to be a Findings Statement made by AKRF.

Mr. Golden said that before the meeting adjourns he wants to say that he stands corrected in that he was shown the section of the Town Code which states that, "for purposes of this chapter, a parcel shall be considered to already have been subdivided in two or more lots if bisected by one or more public streets or railroad right-of-ways." Mr. Huddleston said then the 10 acre lot is naturally subdivided already. Ms. Roth said she will modify the FEIS to reflect that, saying it makes it "even cleaner."

**VOTE BY PROPER MOTION**, made by Ms. Israelski, seconded by Mr. Lupinski, the Planning Board of the Town of Goshen accepts the FEIS on Heritage Estates as complete with the modifications discussed at its April 19, 2007 meeting. Passed unanimously.

Mr. Andrews	Aye	Mr. Lupinski	Aye
Mr. Huddleston	Aye	Mr. Myruski	Aye
Ms. Israelski	Aye		

Ms. Roth said the PB will have a copy of the completed FEIS and the Findings Statement by its next Board meeting.

**Hendler – 10-1-56.2 & 56.3 – 77.06 +/- acres** located on 6-1/2 Station Road and Cheechunk Road, in an RU & CO zone with an AQ6 and scenic road overlay, for a Planned Adult community with 154 units and 7-lot residential subdivision.

Mr. Halloran said that a PB consultants' workshop was held March 29 to talk with Jayne Daly about the items the Town's Environmental Consultant Karen Schneller-Mcdonald wanted included in the FEIS. As a result Ms. Daly issued a summary list of additional comments the applicant will address in the FEIS. Mr. Golden said the applicant has "agreed to virtually everything we thought appropriate even though they were under no obligation to do that. We should give the applicant credit for going above and beyond to try to study and address various issues in the FEIS that this Board asked them to do."

Mr. Halloran said that the Town's Environmental Consultant has since replied to the PB regarding Ms. Daly's summary and has asked for a few additions. It was noted that Ms. Daly hasn't seen the consultant's memo dated 4-18-07 and Mr. Golden suggested that before the PB makes a decision on the consultant's request for additions, it should have the input of the applicant with respect to the memo. Mr. Huddleston agreed

The Planning Board adjourned at 10:05 p.m. upon motion made by Mr. Andrews and seconded by Ms. Israelski.

Ralph Huddleston, Chair

Notes prepared by Susan K. Varden