

## APPROVED MINUTES

**Town of Goshen Planning Board  
Town Hall  
41 Webster Avenue  
Goshen, NY 10924  
July 5, 2007**

### MEMBERS PRESENT

Reynell Andrews  
Lee Bergus  
Susan Cleaver  
Ray Myruski  
John Lupinski  
Ralph Huddleston

### ALSO PRESENT

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

### MEMBERS ABSENT

Mary Israelski

### CALL TO ORDER

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

The PB went into a conference with their attorney at 7:30 p.m. and returned at 7:55 p.m.

### MINUTES

Upon motion made by Mr. Myruski, seconded by Mr. Bergus, the Minutes of the June 7, 2007 meeting were approved with amendments. Upon motion made by Mr. Bergus and seconded by Ms. Cleaver, the Minutes of the June 21, 2007 meeting were approved with amendments.

**Javelin – 11-1-7 & 4.1 – 39.63 +/- acres**, 14 lots, located on Butler Drive in the RU zone with an AQ6 & Flood plain overlay. Sketch Plan.

Present for the applicant:

David Higgins, Lanc & Tully  
Steve Esposito

Mr. Halloran said the applicant has returned with a change in the overall concept of the subdivision. The property backs onto the Heritage Trail and The Paddock.

Mr. Higgins said the applicant has been before the PB several times and worked through several issues including the road, drainage and conservation analysis. Originally there

were 14 lots and the applicant had intended to connect to the Village of Goshen for water and septic through The Paddock site. However, “we have been trying to arrange a connection of those facilities with both The Paddock and the Village but have given up working out that arrangement with Village,” Mr. Higgins said. So the plan has changed based on the need for individual wells and sub-surface sewage disposal systems and the applicant has returned to a lot count of 9 which was the original lot count. There will be individual wells and septic for each lot. They will still provide more than 50% of open space for the project and the road layout is similar to what has been seen, he said.

Mr. Huddleston asked if all of the wetland area is now associated with Lot 9. Mr. Higgins said “yes” and Mr. Huddleston added “and we lose some accessible park, and. no bathroom facility for the trail.” Mr. Esposito said for that to have worked, the applicant would have had to have an access to a public water supply.

Comments from Board members:

It was pointed out that Lots 5 & 6 are at the top of the hill and Mr. Halloran said that the top of the houses have to be below the crest of the hill or tree line, whichever is higher, citing Section 97-41 of the Code. Ms. Cleaver suggested that the applicant make sure he look at that and added that any septic not witnessed by the County will have to be witnessed by the Town engineer.

Mr. Halloran questioned the access to the development, saying that as of now the roads in The Paddock are privately owned. Mr. Esposito said the applicant will provide documents showing they have access. Mr. Higgins said the applicant is proposing a Town Road. Mr. Golden said the applicant will have to produce an agreement whereby the owners of the private road would give these residents rights of egress and ingress and also give the Town the right to travel over the road to get to the county road.

Mr. Garling said there is an issue with the culdesac going onto the adjacent property. He questioned whether the property owner beyond that has the right to get across because the road is extending to the property line, saying when a culdesac goes to the property line, it means the other property owner will have access to get across The Paddock. Mr. Huddleston told the applicant that when they get permission to utilize the road, they will have to answer the question whether the adjacent property owner, by having access to the development’s road, also has access to the private road.

**Owens Road/Goshen Meadows – 10-1-10.22 – 126.40+/- acres, 39 lot subdivision** located on Owens Rd. in the RU zone with an AQ6, AQ3, Scenic Road Corridor and Stream & Reservoir Overlay. Subdivision revised plans.

Present for the applicant

Steve Esposito

Mr. Golden said the applicant is a present client of his so he is recusing himself on the matter and the PB will get a special counsel in. He said the PB could proceed tonight without counsel.

Mr. Halloran said the applicant has some layout changes to discuss and reminded the PB that the property has the old trolley line on one side and the Wallkill River and the power line on the back side.

Mr. Esposito said a month ago the PB conceptually approved the applicant’s proposal and the applicant developed preliminary plans. The applicant was proposing open space access to the river and looking for a bonus density of five lots. There was a request from the PB to have an easement over the old trolley line for any future trail development and the developer was willing to entertain that, he said. “We are proceeding with the 39 lot plan but it looks like there will be revisions to the Zoning Code so we want to show you what our alternative plan will be, if and when those change are enacted,” he said. “That will bring us down to 34 lots, the 34 lots established by the base density that this PB has findings on, and we will then take the back lands and put them into the estate lots, ending up with four or five larger lots there.”

Mr. Huddleston said, “that will eliminate our access to the Wallkill River that is being proposed.” Mr. Esposito said that it would be privately owned but still under a conservation easement. He said the applicant wants to take the opportunity to put big houses there. The road configuration will remain the same, he said. “We are staying away from Owens Rd, we are not going to develop that, we are still providing the right of way to the adjoiner and in excess of 50% of the site will be under a conservation easement,” he said.

Ms. Cleaver pointed out that from Owens Road back through the property will be private driveways and asked about the wetlands. Mr. Esposito said they will be subdivided into three lots, privately owned with a conservation easement. The drainage plan will remain the same, he said.

**Hendler – 10-1-56.2 & 56.3 – 77.06+/- acres** located on 6 ½ 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. Consultant responses due & PB member comments.

Present for the applicant:

Jayne Daly, Esq.  
Ross Winglovitz

Mr. Halloran said the applicant has prepared the FEIS.

Ms. Daly said there was a meeting with the consultants last week and that she was present to get PB's comments so they can be addressed and the FEIS completed for submission.

Mr. Bergus asked if the applicant ever looked at putting in a low profile tap & pump system, to eliminate a high elevation water tower. Mr. Winglovitz said it was discussed but decided that it was not the right thing to do from a safety standpoint. He said he thinks this is the safest way to go for the future residents, to provide elevated storage so as not to rely on back up pumps. Elevation provides the flow without any mechanical means, he said.

Ms. Cleaver said she didn't understand the discrepancy between two maps showing fractured traces, saying that some seem to be missing from the applicants map. Mr. Winglovitz said they are showing four fractures on the site, that they aren't showing the fractured traces where the contamination is because they don't go through the site. Ms. Cleaver said she understands chemicals can move a lot faster through a fractured trace. Mr. Winglovitz said the applicant will take a look at it and the Town's hydrologist will look at it.

Ms. Cleaver said she wishes all applicants would list the pollutant loadents from the site as this applicant has. She said however that some of the numbers seem high and while there may not be a regulation that says they have to be addressed as far as storm water management, her concern is about the wells and the bird sanctuary. Ms. Cleaver asked the applicant to put in an infiltration trench for the salt, especially near the wetlands.

Ms. Cleaver asked if it should be defined who will do regular inspections of the storm water management system, because if not properly maintained, a lot of things could be affected, she said. Mr. Huddleston said the State requires it to be done and the records are maintained on the site.

Mr. Bergus said the applicant's document talks about water quality and says there is no correlation between ground water and surface water, although there is a correlation so the wording should be changed. He also suggests that the applicant show a table in the appendix directing people who are reviewing the FEIS to a location where more detailed information would be available for review. The applicant agreed.

Mr. Huddleston said the applicant has received comments today from Hickory Creek and that he asked the Building Inspector to check the comments to see that Hickory Creek's comments haven't gone beyond what was agreed to. "We intend to stick to what we agreed to in that meeting," he said.

Ms. Daly said the Hickory Creek memo calls for a level of detail the applicant did not agree to at the meeting such as the habitat analysis and hydrogeological studies that aren't in the scope. She said there is a constant reference that the DEC standard is not adequate,

but never a reference to another standard that should be followed. “We have met the DEC standard,” she said. “We found no species of special concern on site that was listed, no endangered species, no threatened species.” The one thing Hickory Creek identifies, Ms. Daly said, is the spotted turtle on the Audubon site. While it is true that part of the applicant’s property drains into a wetland, she said, that drains into an open road drainage district that goes through another property, then enters the Audubon property. The drainage ditch meets DEC standards by the time it gets into the first wetlands, she said. “That is the only reference she makes to anything that might be a significant habitat and she doesn’t provide a direct connection or say that what we are doing will have an impact on that species.” Ms. Daly said.

Another issue discussed was the comment in the AKRF memo asking about the possibility of saving trees along the tree line to screen some of the buildings at the top of the hill. “We looked at it and noticed the buildings are located at the tree line so there is no conceivable way to re-grade this other than to rework this layout and we spent a lot of time with the PB working through this layout to minimize impacts on view sheds. It is the reason we developed the extensive landscape plan that we did with the tiered retaining walls and very dense vegetation along and at the top of the hill,” Mr. Winglovitz said, and added that they looked at the trees and determined they were not significant and that a lot were dead. He said he believes the extensive landscaping plan provides mitigation.

**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. Findings Statement & possible Preliminary Approval.

Mr. Golden said the PB needs to make a decision with respect to the SEQRA Findings Statement. The FEIS had previously been determined by the PB to be complete and acceptable and that once the Findings Statement is approved, the PB will be in a position to vote on the preliminary approval.

The PB first addressed a memo on water testing procedures from the PB’s consultant Stantec Consulting Services. Mr. Henry said Stantec was asked to look at the pumping test program for the project to determine if some of the steps involved affected the quantity or quality of the water. In particular, he said the Town’s water testing protocol calls for a measurement of 30 days prior rainfall and if it exceeds 3.7 inches it could have an impact on the well testing and also indicates that the Middletown weather station should be used. “As you are aware, the applicant’s consultant spoke to Schoor de Palma who prepared the well testing protocol and they were in agreement to use the Middletown station, subsequently it was agreed that the Middletown weather station would be used. There was a reference to water quality testing and the fact that the samples were not collected in the last two hours of the testing. In the memo, we indicate that the rainfall over that 30 day period had no effect on the well testing, based on the measurements that were taken. Also, based on the monitoring that they did, the hydrographs that were produced of water quality testing also indicated that rainfall played no part in the testing.

Regarding the water yields, the applicant's consultant estimated what the demand would be and we feel that based on the testing, they demonstrated that they do have an adequate source and we pointed out that they are pumping wells below what they estimate the safe yield will be and they did so as a conservative measure so in our opinion, as far as them demonstrating that they can provide enough water to meet the projects demands, they have done so and as far as the water quality testing not being performed within the last two hours, this was a judgment call that the applicants consultant made based on his monitoring of water quality and he felt he was taking the sample that was representative of the water quality from that acquifer and we concur that the water was representative of what is there and also we indicate that ultimately when this becomes a production well, the Health Department will require that the water quality testing be performed a second time."

Mr. Huddleston asked Mr. Henry if he agreed that none of the actions taken had a negative impact on the data generated and nothing was inappropriate that would have affected the outcome one way or the other. Mr. Henry said he agreed.

Ms. Cleaver read her two page memo in response to Stantec's memo about water testing. She concluded in it that she was "not comfortable with the number of proposed units, the proposed quantity of water use and the issues surrounding the way the well testing was done and impacts that my result."

Mr. Bergus said he reviewed Stantec's analysis and finds it appropriate. The analysis used 300 gallons per household for 97 or 87 units, he said, and basically the State would recognize a lower number than that per unit, so if we did increase the number of units and used the State driven multiplier (3.25 individuals per household), we would still come up with the same number or a little less gallons per day. In regard to the water quality issues, he said it is true there will be additional testing required to determine if the wells require pretreatment prior to use and there will be additional requirements as far as all of the other water quality tests to be done so a lot of the water quality tests are going to be replicated once the wells are put in service.

Mr. Huddleston said he thinks there are some legitimate concerns in Ms. Cleaver's memo but added that three professionals; the initial hydrogeologist, Stantec and Mr. Bergus who is a County Health Department official, are in agreement and that he therefore is comfortable going forward with the Stantec memo.

The PB then discussed the Findings Statement.

Mr. Trelstad circulated a red-lined version of the Findings Statement dated 6-27-07 which he said incorporated PB comments, edits from 6-20-07 and changes from the 6-21-07 meeting, the memo from Stantec, a memo from Ms. Cleaver and e-mails from Mr. Halloran and Mr. Golden.

Mr. Trelstad said the first substantial change has to do with the calculation of base density. He said it is now 69 units and includes a statement on Page 5 that says “This number is only achievable with a finding by the PB that the applicant has sufficiently conducted the well testing protocol and that the results of the test justify the additional units as per Section 97-29B. Without such a finding, the net acreage would decrease by the amount of constrained land being used in the lots containing the nine units proposed for no public sewer and water. The result would be approximately 28 net acres remaining in the AQ3 Aquifer Overlay (yielding approximately 14 units) and 116 net acres remaining in the AQ6 Aquifer Overlay (yielding approximately 37 units) When added to the nine units without public sewer and water this would yield a total base density of 60 units for the proposed project.”

With respect to density bonuses, Mr. Trelstad said his understanding is that the PB decided the proposed path did not represent a significant recreational benefit and was not eligible for density bonuses but that the PB did decide that 12 bonus units were given for additional open space.

Mr. Myruski said he thought the PB made a slightly different decision, that the total number of 12 density units were to be split with four given for the path and eight for the open space.

Mr. Golden said he understood that the PB decided upon 12 bonus density units to be allocated to open space and none to the trail. He referred to his notes and said they state that the PB determined that the trail in and of itself did not warrant any density bonuses but the open space was worth something and was enhanced because the trail went through it so the open space had an enhanced value simply because there was public access through the trail, but the trail itself was determined not to have a distinct public benefit.

Mr. Huddleston said he recalled that the PB determined, by a majority, that there was no significant recreational value to the trail and no density bonuses given to it. He asked other PB members and five agreed that what was said was that the trail was considered mitigation for potential traffic impacts and thus does not provide a “significant recreational benefit to the Town and therefore would not be eligible for any density bonuses.”

Mr. Myrsuki disagreed, saying he made the last recommendation that was passed “and that was 12 and I felt and I thought I stated it that we had to have consideration for the trails and a certain amount for the unoccupied land.”

Mr. Golden said that what mattered now is that the PB make the final determination of the number of bonus density units and how they are to be allocated.

Mr. Huddleston suggested that the Findings Statement use the number “12” and add the words, “it is based on value associated with the open space and the benefit provided by public connection associated with the trails. The PB members agreed.

The PB continued with their review of the proposed Findings Statement, and after discussion, made the following changes:

Pg 6 – In the first full paragraph delete: “because of the lack of true”...and keep “and public access to this additional open space, the applicant is entitled to 12 density bonuses.”

Page 7 – In the second line add: ... the proposed “cluster development portion of the” project.

Page 11 – Add PB Findings #5: “Preservation of areas adjacent to the Otterkill Creek and Black Meadow Creek as proposed will provide suitable protection for vegetation and habitat. Any project change that will decrease the areas to be preserved will have to be reviewed by the PB.”

Page 11 – Add after first sentence in “Under Wetlands & Surface Hydrology”: “These and all other wetlands as may be defined or delineated by the Town of Goshen, NYS DEC or Army Corp of Engineers must be protected.”

Page 13 - Add at end of first paragraph: “The Town’s hydrogeologist has reviewed the applicant’s reports and has concurred with the findings of the applicant’s hydrogeologist. Specifically, the Town’s hydrogeologist concurs that the projected water supply will be adequate to serve the projected demand and that estimates of projected flow are conservative given required water conservation measures and testing protocol that exceed expected Annual Average Daily Demand and Maximum Daily Demand. The Town’s hydrogeologist also concurs that the proposed project’s wells will not likely have an influence on surface waters and that the quality of groundwater meets applicable standards for a community system.”

Page 10 Add to Findings - The PB will require a map note specifying no new above ground pools shall be permitted. The PB was concerned with the visual impact.

Page 15 - Add new number #8. “Due to concerns about the adequacy of the water supply on site any swimming pool constructed upon an approved lot must be filled using water obtained from a bulk water supplier.”

Page 22 - Add: “Limited evaluation of school-aged children generation rates from new construction in the Town of Goshen indicates that the actual number of school-aged children may be significantly higher.”

Page 25 - Add: New language read by Mr. Trelstad entitled “Summary of Impacts and Mitigation Measures” .

Letter from Orange County Planning Department:

Mr. Golden said the Orange County Planning Department’s letter dated July 2, 2007 from David Church, Orange County Commissioner of Planning, needs to be considered in the decision. He said the County’s recommendation is an ultimate recommendation of disapproval of the project unless the PB incorporates all of the modifications. He identified the four basic changes the County Planning Dept. is requesting as: (1) Transportation – A full road connection with the existing Brookside Drive to incorporate into the design with Heritage Estates. As it stands now, the PB is just proposing it to be an emergency entrance, Mr. Golden said. (2) Traffic Impact – A separate connection from Old Chester Rd. straight into the rear of Craigville Park, stating that this would re-direct park visitors from using Brookside Ave. (3) Trails – A multi-purpose bicycle pedestrian lane constructed along Old Chester Rd. frontage for the entire length of the applicant’s property. (4) Storm Water - Constructing rain gardens into the 4-foot-wide area between the sidewalk and street; verification that the roof water is being directed to the rain gardens or dry wells and not in storm water detention ponds; aquatic benches for pollution removal; that the permanent pool have a 10-15 inch wide bench with 6-18 inches of permanent water through all seasons; the use of road salt in this areas minimized due to the proximity of the wetlands surrounding the detention pond.

**VOTE BY PROPER MOTION**, made by Mr. Bergus, seconded by Mr. Myruski, to approve the State Environmental Quality Review Findings Statement for Heritage Estates dated 6-27-07 as amended at the PB’s meeting of 7-5-07.

Mr. Andrews	Aye	Mr. Huddleston	Aye
Mr. Bergus	Aye	Mr. Lupinski	Aye
Ms. Cleaver	Aye	Mr. Myruski	Aye

Mr. Golden told the PB that some items in the proposed Resolution of Conditional Approval containing 66 conditions, need to be discussed.

Mr. Golden pointed out that Page 2 of the Resolution included an addition that read: “Also the 1.5 acre area adjacent to the main entrance and bordering on the adjacent parcel will be deeded to that adjacent parcel as a result of a lot line change as part of this application. All restrictions of the use of said parcel as open space will continue, with appropriate deed restrictions to be filed.” The PB agreed with the addition.

#15 states: “Plat notations must be included specifying the maximum bedroom count on each of the lots upon which Final Approval will be based, with appropriate deed restrictions in such form and manner of filing as is acceptable to the PB Attorney.” Mr. Golden said a decision needs to be made now on the possible restrictions on future

accessory buildings on approved lots to ensure compatibility with visual impacts and mitigations of the project.

Discussion about accessory buildings lead to a decision that a limitation be placed on any expansion or accessory buildings in the cluster area and that the estate lots will fall into same category as other residences.

#46 - Change to identify the lots involved rather than referring to them as simply “estate lots.”

#58 - Add “Colors and materials of the exterior walls and the roofing materials shall be limited to those approved by the PB prior to any building permits being issued for the construction of the residences. Colors and materials shall conform to the Rural Siting Guidelines and the Comprehensive Plan.”

Conditions #64, 65 & 66 are all new conditions and Mr. Golden read them for approval:

#64. “Prior to final approval, the applicant must resubmit plans to reflect a plan layout consistent with the number of lots approved hereby that is satisfactory to the PB.” This is important, Mr. Golden said, because the applicant is proposing 92 lots at this time, if the PB approves something other than 92 lots, it needs to see how the plan is going to be modified to incorporate those number of lots.

#65. “The width and specifications of the emergency access shall be determined by the Town Board prior to approval.”

#66. “Any and all blasting operations shall be conducted so as not to endanger the health, safety and welfare of any persons, and the safety of property, including, but not limited to that of the adjacent owners. Any blasting operations shall be carried out in compliance with Chapter 58A of the Town Code.”

The PB decided also to add a further condition reading: “A requirement that all drilled wells that will not be utilized by the applicant must be properly abandoned, capped and decommissioned prior to any construction.”

Mr. Golden said that the PB needed to decide whether or not to go with the Stantec memo’s finding that although not done in accordance with Town of Goshen protocols specifically, or the DEC recommendations specifically, that the end results of those tests was, according to the PB’s hydrogeologist, basically the same and therefore did not see a need to do re-testing. “If you do want to require the applicant to retest the wells, you need to include it as a condition, now so your decision is do you want to require the applicant to retest the wells or are you satisfied with the testing that has been done to date.”

A poll of members present determined that, with the exception of Ms. Cleaver and Mr. Myruski who abstained from the vote, four of the PB members were satisfied with the testing.

Mr. Golden said the PB was next required by law to make a decision whether or not to incorporate the recommendations of the County Planning Department into their preliminary approval.

Mr. Huddleston made a motion to exclude the County Planning Department’s recommendations. It was seconded by Mr. Bergus. Discussion followed:

Ms.Cleaver asked if there was a through road as the County is suggesting, are there speed calming methods proposed. Mr. Esposito said the geometry coming from Brookside, the rotary at the end of the cluster plan, then out to a boulevard street would slow traffic.

**VOTE BY PROPER MOTION**, made by Mr. Huddleston, seconded by Mr. Bergus to not incorporate the Orange County Planning Department’s recommendations.

Mr. Andrews	Aye	Mr. Huddleston	Aye
Mr. Bergus	Aye	Mr. Lupinski	Aye
Ms. Cleaver	No	Mr. Myruski	No

Mr. Huddleston made a motion to give preliminary conditional approval to the application of Heritage Estates, with the modifications discussed. Mr. Bergus seconded the motion.

Ms. Cleaver said she would like to talk about including some of the County’s conditions. In order to have that discussion, it was determined that Mr. Huddleston would have to withdraw his motion for preliminary conditional approval and Mr. Bergus would have to withdraw his second. Both did so.

Ms. Cleaver made a motion to include the Planning Department’s recommendations with the exception of the full road connection with Brookside Drive. Mr. Myruski seconded the motion and discussion followed.

Mr. Andrews said the County is calling for a connection from Old Chester Rd. straight into the rear of Craigville Park. Mr. Huddleston asked Mr. Henry if that could be done. Mr. Henry said it would pass through the wetlands. Mr. Huddleston said it isn’t feasible and doesn’t make sense.

**VOTE BY PROPER MOTION**, made by Ms. Cleaver, seconded by Mr. Myruski to incorporate the recommendations of the Orange County Planning Department with the exception of their recommendation of a full road connection with Brookside Drive. The motion was defeated.

Mr. Andrews	No	Mr. Huddleston	No
Mr. Bergus	No	Mr. Lupinski	No
Ms. Cleaver	Yes	Mr. Myruski	Yes

Mr. Bergus made a motion to accept the Resolution of Conditional Preliminary Approval. It was seconded by Mr. Lupinski. Discussion followed.

Ms. Cleaver asked about lot count. Mr. Golden said the lot count has been determined in the PB’s Findings Statement to be 69 units as the base number of units, including the four existing units, plus the twelve bonus density lots.

**VOTE BY PROPER MOTION**, made by Mr. Bergus, seconded by Mr. Lupinski to accept the Resolution of Conditional Preliminary Approval for the subdivision of Heritage Estates. The motion was approved unanimously by the six members present.

Mr. Andrews	Yes	Mr. Huddleston	Yes
Mr. Bergus	Yes	Mr. Lupinski	Yes
Ms. Cleaver	Yes	Mr. Myruski	Yes

A Motion was made at 10:35 p.m. by Ms. Cleaver, seconded by Mr. Bergus to go into Executive Session for the purpose of personnel issues dealing with the assignment of plans to professionals with no intention of doing any business after coming out of Executive Session. Motion passed.