
BURKE, MIELE & GOLDEN, LLP

DATE: 2/15/2012
TO: RALPH HUDDLESTON, CHAIRMAN; PLANNING BOARD MEMBERS; PLANNING BOARD CONSULTANTS
FROM: RICHARD B. GOLDEN; KELLY M. NAUGHTON
RE: TOWN OF GOSHEN PLANNING BOARD: MAPLEWOOD DEIS

Our office has reviewed the Maplewood Draft Environmental Impact Statement (“DEIS”) and has the following comments:

The DEIS is proposing that this project (the preferred plan) connect to the Village of Goshen water supply, which is prohibited by both the Town Code, without a special permit from the Planning Board, and by the Stipulation.

Specifically, § 97-10(C)(1)(f) prohibits the removal of groundwater for use outside of the Town, “including groundwater removed for use in the Village of Goshen public water supply, except pursuant to a special permit issued by the Planning Board upon a finding that groundwater recharge measures will be taken to prevent any negative impact on water quantity or quality within the Town.” (Emphasis added.)

The Stipulation clearly states that “If . . . the Town does not make a determination requesting such integrated water supply systems [with Hambletonian Park], or approvals are not available, then, and in either of such events, the water supply system for the subject property *shall be limited to service for the subject property only.*” (Emphasis added.)

The DEIS must be revised to provide for an onsite water system, including all associated impacts and infrastructure in accordance with the Stipulation.

Appendix A of the DEIS, containing the Legal Stipulation Agreement, shall be supplemented to include the map referenced in the Stipulation. Presently, the Applicant is proposing for the PAC units to each be located on individual, subdivided lots. This is a substantial difference from the plan agreed upon between the Applicant and the Town, attached to the Stipulation. The DEIS must be revised to address this difference, as well as demonstrate that these PAC lots comply with the provisions of the Town Code, including but not limited to the dimensional and design standards contained in § 97-15(A)-(O).

Additionally, the Applicant is proposing that the open space area be its own separate tax parcel owned by the PAC’s Homeowners’ Association. Area set aside as open space is permitted to be on a separate tax parcel, *only* if it is “accepted for dedication by the Town or is conditioned to be held by a land trust or other entity deemed appropriate by the Town Board.” § 97-21. See DEIS, at II-2.

In accordance with § 276 of New York State Town Law and §§ 83-21 and 83-23 of the Town Code, the Applicant is required to submit subdivision plans to the Planning Board so that upon the

filing of a Notice of Completion of the DEIS, a public hearing may be scheduled. No public hearing shall be scheduled without plans being submitted to the Planning Board in sufficient detail to comply with the Town Code.

Completeness Issues (unless otherwise noted):

The cover page (both the exterior and interior cover pages) should be revised to list the Town of Goshen website. Scope, at 5.

The “Approval/Permit/Review” chart on page I-2 should be as noted in the Scope, at pages 4 and 5.

The Executive Summary fails to include a summary of the potential impacts and proposed mitigation as required for Land Use, Zoning and Public Policy (page I-4). This section must be revised to include these topics. *See* Scope, at 6.

Pages I-9 and III-40 should be revised to correct the Town’s address. The Town Hall is located at 41 Webster Avenue.

We believe the Applicant should reconsider its position on Unavoidable Adverse Impacts, as there are usually unavoidable adverse impacts to developing a parcel of land, including, for example, the increased use of energy, decreased open space and disturbance of wetlands. (Not a completeness issue.)

The DEIS shall be revised to include a reference to an Existing Conditions Map, as required by the Scoping Document. *See* Scope, at 6.

The Applicant shall revise the DEIS to clarify/confirm that the cemetery access easement provides the ability for a road to be constructed, but that the Applicant will not be constructing that road, just providing the easement. (Not a completeness issue.)

The Applicant must revise the DEIS to present a “brief discussion of the history of the project and the settlement with the Town will be provided, including references to any interplay issues between the Town Code provisions and the settlement provisions. Any agreed upon non-compliance with the Town Code (by the Town and project sponsor) will be explained” as required by the Scoping Document. Scope, at 7. The DEIS also must be revised to include a discussion of “phasing and amenities”. *See* Scope, at 7.

Pages II-2 and III-4 must be revised to comply with the Town’s PAC regulations, which prohibit individuals under the age of 19 to permanently occupy a unit. Town Code § 97-15(P). Additionally, section II-2(2) shall be revised to include a reference to the “proposed landscaping, utility, water supply, sanitary sewage, stormwater management and sediment and erosion control plans”. Scope, at 7.

Chapter III, Section 1 (“Land Use, Zoning and Public Policy”), must be revised to include a discussion of the applicable cemetery regulations or right-of-way connection as required by the Scoping Document. *See* Scope, at 8.

Please revise section III(A)(2) to include the project’s relationship with the Town’s Open Space Plan, the Southern Wallkill Biodiversity Plan, the Cornell Environmental Accounting for Sustainable

Water Management Study, the Town's Rural Design Guidelines and the Town trail map as required in the Scoping Document. *See* Scope, at 8. The DEIS shall be revised to include a discussion of the relationship of increased traffic and light with surrounding uses, and a discussion in the "Proposed Mitigations" section of the "feasibility and cost to create and maintain pathways to Craigville Road and Coleman Road, and a trail to Salesian Park". *See* Scope, at 8.

Page III-10 of the DEIS shall be revised to provide "by the use of photographs, cross sections, elevations and/or sketches, the post-construction views into the project site from the four locations listed above. At a minimum, photographs and cross sections will be utilized to illustrate the potential visual impact of this project." Scope, at 9. We believe there was limited discussion of the physical design (height, bulk, orientation and facade materials) of the single-family dwellings, which should be supplemented by the Applicant. (Not a SEQRA completeness issue.)

Page III-11 must be revised to include a discussion of the potential for "vegetated berms, wooded buffers, stonewalls and water features." Scope, at 9.

Section III(C)(1) shall be revised to include a discussion of any invasive species proposed after construction, and III(C)(2) shall be revised to include a discussion of the "impacts of the replacement of native vegetation with alien (non-native) ornamentals". Scope, at 9. Additionally, the DEIS should be revised to relocate the dates/methods/hours of the reports for section III(C) from Existing Conditions to Potential Impacts. *See* Scope at 9-10.

The DEIS must include a discussion on the direct/indirect impacts on wetlands from construction in section III(D). *See* Scope, at 10. Additionally, section III(D)(3) did not discuss "sustainable landscaping, the use of low water usage species and native plants, and the potential for using open box culverts or bridges to span wetlands to allow for the natural flow of the water and travel of the existing fauna" as required by the Scope and must be revised. *See* Scope, at 11.

The Existing Conditions section for "Groundwater" [III(E)] shall be revised to include a discussion of "the feasibility of connecting to those [municipally controlled water supply] systems, both legally and technically." *See* Scope, at 11.

The DEIS must be revised to include a discussion of the potential for impacts to Hambletonian Park, the hydraulic grades, required infrastructure, installation of infrastructure or method of payment. Scope, at 11. The Applicant cannot disregard this requirement due to construction/replacement of a water tower and public opposition. *See* Scope, at 11.

The proposed mitigation measures for Infrastructure and Utilities shall be revised to include "a discussion of ways to reintroduce stormwater back into the aquifer to offset taking from well supply and loss to the Village of Goshen wastewater plant, *i.e.*, roof drains, etc." Scope, at 13.

Section H(2), page III-30, of the DEIS must be revised to describe the grading and excavation plans, including the impact on flooding, depth to bedrock and landscaping. *See* Scope, at 13. Additionally, though the DEIS provides that blasting is not anticipated, it must include a discussion of any bonding or protection of the cemetery if blasting is to occur. *Id.*

The Applicant shall revise the DEIS to discuss the number of parking spaces proposed for the PAC in the Traffic section, as well as an updated estimated number of potential construction vehicles, and an identification of potential construction traffic patterns (partially contained in the mitigation section). *See* Scope, at 15. The DEIS also must be revised to fully describe the interior roadway design in this section, or reference should be made to the applicable Town standards. *Id.*

Please revise page III-40 to state that the Joint Town/Village parks and recreational services are handed by the Parks and Recreation Department, located in Village Hall. DEIS, at III-40.

Per the Scoping Document, the DEIS must be revised to contain a discussion of the existing snow removal services, as well as a discussion of any on-site recreation proposed. Scope, at 15.