

## **APPROVED**

### **Town of Red Hook Planning Board Meeting Minutes September 17, 2007**

#### **CALL TO ORDER/ DETERMINATION OF QUORUM**

The meeting was opened at 7:42 p.m. and a quorum determined present for the conduct of business.

Members present — John Hardeman, Charlie Laing, Sam Phelan, Paul Telesca and Chair Christine Kane. David Wright was absent. Planner Michele Greig and Town Board member Jim Ross were also present.

#### **BUSINESS SESSION**

Chair Christine Kane confirmed the evening's agenda. She then announced that the Town Board had approved several training sessions which Board members had attended or planned to attend.

The minutes of the September 4, 2007 meeting had been sent to the members and reviewed. There were two corrections. Page 2, paragraph 6, was changed to read "Since there was no further public comment, Charlie moved to close the public hearing. David Wright seconded the motion, and all present voted in favor. David Wright then moved to approve the application with the usual set of fee-based conditions. Charlie Laing seconded the motion, and all present voted in favor." Also, on page 4, paragraph 1, the date of the Voski Partners public hearing was changed to read "September 17<sup>th</sup>" from "October 1<sup>st</sup>".

Charlie Laing made a motion to approve these revised minutes. Sam Phelan seconded the motion, and all present voted in favor.

#### **PUBLIC HEARINGS**

##### **Voski Partners, LLC – Kidd Lane (Tivoli) – Subdivision Plat**

Mark Graminski was present for the continuation of a public hearing on an application for Subdivision Plat (sketch plan) approval to create two (2) residential building lots of 9.464 acres and 9.150 acres from an 18.614-acre parcel, partially in the Village of Tivoli and partially in the RD3 Zoning District of the Town of Red Hook.

Mr. Graminski provided an amended copy of Part 2 of the EAF. He then gave a brief overview of the project for the public. Christine Kane then asked for public comment.

Steve Buso stated that he was present as the Code Enforcement Officer for the Village of Tivoli. He stated that the Tivoli Planning Board did not have any objections regarding the project as it had been presented to them, but that the applicants must go before the Tivoli Board for waivers to create individual septic systems.

Christine Kane asked if Mr. Graminski had an alternative to individual septic systems if the Village of Tivoli would not grant a waiver. Mr. Graminski replied that without a waiver, he

would need to utilize a connection under the White Clay Kill to tie into the Tivoli water system.

Christine Kane asked if there was any further comment from the public. She then asked for comments from the Board.

Mr. Graminski stated that he was working on resolving the outstanding issues from the Board's previous meeting, including a common use and maintenance agreement for the driveway, a driveway permit, and the previously discussed issue regarding the waivers from the Village of Tivoli.

Michele Greig reminded Mr. Graminski that a letter from an engineer was required for a nonrealty subdivision. He replied that he was submitting it to the Health Department as if it was a realty subdivision, and would get it approved by them.

Michele Greig presented the Board with a draft resolution for final approval. At the Board's request, conditions were added stipulating that the applicant must obtain Highway Superintendent and Department of Health approval, the discussed waiver from the Village of Tivoli, and a common use and maintenance agreement for the driveway acceptable to the Planning Board.

Christine Kane then reviewed the Coastal Assessment Form for the project. The Board acknowledged that there would be alteration of ground cover on the site, but noted that it was within the building envelope, and that there were plans to mitigate the effects of this action. The Board also noted that the project was within a flood area, but that the proposed area of development was not. It was noted that the project was along a designated Scenic Road, but that the building envelopes were not visible from Kidd Lane. The Board also noted that there would be "subsurface liquid waste disposal" in the form of a septic system, but that it should not impact the White Clay Kill, and that there is an erosion control plan in place.

Sam Phelan made a motion to grant final approval with the discussed conditions. John Hardeman seconded the motion, and all present voted in favor.

### **REGULAR SESSION (OLD BUSINESS)**

#### **Anderson Commons – Baxter Road, Fisk Street and Glen Ridge Road**

Darin Dekoskie, P.E., Michael Collier, and Keith Lore, developer, were present for a discussion of possible revisions for a 51 unit development partially in the Village of Red Hook and partially in the R1 District in the Town of Red Hook.

Christine Kane clarified that the applicants were requesting changes to the project's architecture and site layout. Michael Collier confirmed this and showed the alternate models to the Board.

Christine Kane stated that in a verbal discussion with the Board's attorneys, Keane and Beane, it was recommended that the Board not approve multiple site plans for the same project. Michele Greig stated that Ted Fink was of the same opinion. Christine Kane clarified that an amended approval could be done, but that it would preclude developing along the original proposal without coming back before the Board.

Keith Lore said that he would be in touch with the Board when he wished to be placed on the agenda again.

**Kesicke/Vosburgh Farm – Middle Road & Rokeby Road – Lot Line Alterations**

Mark Graminski, PE and LS, Andrew Howard, and Paul Vosburgh were present for discussion of an application to move 5 lot lines from 5 parcels totaling 206.1 acres, partially in the Town of Rhinebeck and partially in both the R 1.5 Zoning District and the RD3 Zoning District of the Town of Red Hook. The project is also in the Certified Agricultural District.

Christine Kane stated that the public hearing had previously been opened on June 4<sup>th</sup>, 2007, and held open until July 2, 2007, at which time it had been adjourned to no specific date while the board researched the applicant's position that a conservation easement is not required at this time. She asked the Board and applicants if they felt another public hearing was necessary.

Sam Phelan asked what material was new since the previous public hearing. Christine Kane said that the primary issue was when a conservation easement must be put in place to comply with the Important Farmlands Law. Mark Graminski and Andrew Howard stated that there had been no changes since they had previously been before the Board. Charlie Laing and Sam Phelan felt that this was a legal, procedural issue, and did not warrant a second public hearing.

Michele Greig presented a draft approval resolution for the Board to review. Christine Kane read the conditions proposed.

Christine Kane said that the Board had investigated when the conservation easement should be placed on the property to ensure compliance with the Important Farmlands Law. She said that the Board's counsel, Keane and Beane, had advised that a lot line alteration would not require placing the easement at this time. Additionally, the Farmland Protection Plan which had been prepared would be triggered at the time of development on the parcel.

The Board generally agreed that, as a condition, a note should be placed on the map stating the need for a conservation easement in the case of future development. Michele Greig expressed concern over how to word the requirement that the conservation easement be placed.

Sam Phelan asked when the Farmland Protection Plan would be triggered, and how development would be defined if it was the language used in the note.

Christine Kane expressed concern that if the note contained just the word subdivision, the initial building on each lot could be placed regardless of compliance with the Farmland Protection Plan.

Paul Telesca asked if the word development would be too vague. Andrew Howard replied that one interpretation of development would mean only subdivision, but that it could also be taken as meaning any building.

The Board asked Michelle Greig to research the issue and submit draft language for review. Mr. Howard was also invited to submit draft language for consideration.

Christine Kane said that a notice for a continued public hearing would be advertised for the next meeting, on October 1<sup>st</sup>.

**Nathan Kalina – Kalina & Overlook Drives – Subdivision Plat**

Tim Ross, PE, and Nathan Kalina were present for discussion of application for Major Subdivision Plat (sketch plan) Approval to create 10 residential building lots ranging from 0.39 acres to 9.84 acres from a 15.76-acre parcel in the R1.5 Zoning District

Michele Greig stated that the Board had circulated for lead agency under SEQR on March 19<sup>th</sup>, 2007, and that sketch endorsement had been given.

Tim Ross stated that the purpose of the project was to create nine residential lots, with the tenth lot to be combined with the adjoining farmland.

Christine Kane referred to the memo submitted by GreenPlan stating that the proposed open space was not buildable, and therefore provided for no additional preservation of open land. Therefore, if the Board chose to exercise its option to review the project under cluster regulations, there would be no benefit to the Town, but only to Mr. Kalina.

Mr. Ross said that he was concerned about pushing possible future development closer to the existing wetlands.

Christine Kane and Sam Phelan asked if there was any purpose to designating wetlands as open space, since they could not be developed anyway.

Michele Greig asked the applicant for a DEC wetland verification letter.

Mr. Ross said that he was working with the DEC on obtaining a permit to work within the 100' buffer, as well as to modify the water system in Forest Park.

Christine Kane asked for a letter from the Natural Heritage Program. Mr. Ross provided a copy.

Charlie Laing asked if the septic systems were sized for three bedrooms. Mr. Ross replied that this was the case in all but Lot 8.

Christine Kane asked what the benefit to the Town would be if it exercised the cluster regulations. Mr. Ross said that approximately 10 acres would be attached to the adjoining farmland to the south.

Mr. Kalina said that he would be amenable to including the area of the project along Middle Road within the conservation easement. Christine Kane stated that she felt this resolved the issue of the cluster regulations.

The Board authorized the assistant clerk to check for the requested revisions before noticing a public hearing for October 15<sup>th</sup>.

Michele Greig stated that she would write a draft negative declaration. for that meeting as well.

**Tim & Irene Hourihan – Crestwood Road – Subdivision Plat**

Tim Ross, PE, was present for discussion of application for Subdivision Plat Approval to create three (3) new residential building lots and one (1) remaining lands lot, ranging in size from 5.61 acres to 7.86 acres, all from a 26.87-acre parcel in the RD3 Zoning District.

Michele Greig said that she had made the alterations to the Part 2 EAF that had been requested by the Board at the previous meeting. She reviewed these changes for the Board and applicant.

Michele Greig noted that a small to moderate impact on aesthetic resources had been noted.

Christine Kane stated that the Natural Heritage letter had been received.

Michele Greig stated that the Zoning Code defines structures as including septics, and that the note on the plat should therefore be changed to allow for them. Christine Kane proposed changing the wording to “no structures except septics.” Members of the Board expressed concern over how this would affect agricultural fencing.

Michele Greig distributed a draft neg. dec. for the Board.

Christine Kane and Tim Ross noted that the boundary line between lots 3 and 4 had been moved so as to include more of the field.

Michele Greig said that the Department of Health note was being left to the judgment of the Town Engineer, but that she felt it should not be there.

Christine Kane reviewed the draft negative declaration, and Michele Greig suggested that the Board may want to amend it regarding structures.

Tim Ross said that he would provide the Board with a letter of approval from the Highway Superintendent.

Michele Greig asked if the no further subdivision note would include lot line alterations. Christine Kane felt that it should, but that the revision could be made after the public hearing.

Michele Greig referenced the Town Engineer’s concerns regarding sight distance, the pond outline in the legend, and also that the wetland boundary should be more distinct. She also asked Mr. Ross to show that the deep and percolation tests for Lot 4 were taken in the same location. A copy of the Town Engineer’s letter was given to Mr. Ross.

The Board generally agreed to send a copy of the driveway agreement to Keane and Beane for review, as well as to solicit their opinion on how to word the note prohibiting further subdivision.

The Board tentatively scheduled a public hearing for October 15<sup>th</sup>.

## **REGULAR SESSION (NEW BUSINESS)**

### **Lindsay FLP/Linda Lindsay – 123 Old Post Road – Special Permit**

Shelton Lindsay was in attendance for presentation of an application for special permit to establish an accessory apartment in an existing mixed use building on a 0.4-acre lot in the H (Hamlet) Zoning District.

Shelton Lindsay stated that the Zoning Board of Appeals had interpreted his application as a historic nonconforming use which is being downsized from the original approval, which allows for a change of use. He said that they were not viewing this as a variance as they moved forward.

Mr. Lindsay's Special Permit application was revised to indicate that it was in the Hamlet (H) Zoning District.

Christine Kane reviewed the project's application and attached narrative. Shelton Lindsay clarified that he had approval for a business and one apartment, and that he was seeking to downsize the business, and utilize the available space for a second apartment.

Christine Kane read from the August minutes of the ZBA. Charlie Laing asked how the Board could be sure that the business would remain downsized.

Mr. Lindsay noted that the adjacent Church had agreed to allow minor traffic in their parking lot during normal business hours. He said that he would provide the Board with a letter to this effect.

Paul Telesca made a motion to declare the Board as Lead Agency under SEQR. John Hardeman seconded he motion, and all present voted in favor.

Christine Kane told the applicant that the Board would need a revised map indicating parking, location of exterior lighting, the loading dock, and entrances/exits. She suggested that the applicant provide cut sheets of the lighting fixtures.

Michele Greig reminded the applicant that the Town now had a lighting regulation, which he should reference.

Christine Kane asked that the applicant provide the floor plan given to the ZBA, and the square footage of the proposed apartment. She asked if the applicant had any plans to install signage. Mr. Lindsay stated that he had previously attempted to obtain a permit for signs and was denied.

The Board determined that they would have to approve a site plan and special permit before the ZBA can approve the nonconforming use change.

Charlie Laing and Sam Phelan said that they would attempt to visit the location before the public hearing.

A public hearing was tentatively set for October 15, 2007. The applicant was reminded that materials must be received by October 5, 2007.

### **TLC Subdivision – Preliminary Discussion**

Mark Graminski, PE and LS, was present for a preliminary discussion regarding a possible application for subdivision.

Mr. Graminski said that the project would be on Oriole Mills Road, and would create two new lots in the Town of Rhinebeck. The project would be placed under conservation easement with Winnakee Land Trust. He said that the access to the parcels would need to come through Red Hook, either via a shared driveway or a new curb cut.

Sam Phelan asked how Mr. Graminski would be able to get sufficient frontage for the project. Mr. Graminski responded that the Board would need to review the project under the Town's conservation density subdivision regulations. Under these regulations, a private road can be created to provide the necessary frontage.

Mr. Graminski stated that Rhinebeck did not have a provision for conservation density subdivisions, and that they wanted to be lead agency, but that the road frontage would be coming from Red Hook. He said that Red Hook allowed for a 1500' cul-de-sac in its zoning. He also said that it would require the Town Board to establish an ODA. Michele said that the Town may already have private road regulations in place.

At this time, John Hardeman left the meeting.

### **Flandreau Subdivision – 176 Whalesback Road- Minor Subdivision**

Scott and Jacquelyn Flandreau were in attendance for presentation of application for Subdivision Plat Approval (Sketch Plan) to create one (1) residential building lot of 3.216 acres, with a remaining lot of 4.193 acres, all from a 7.409-acre parcel in the R1.5 Zoning District.

Charlie Laing noted that on the original subdivision map for this section of Linden Acres, it was stated that there should only be one principal dwelling per lot. He also noted that the plats required that any further subdivision receive approval from the Town of Red Hook Planning Board and Dutchess County Department of Health.

Michele Greig reviewed the flag lot regulations for the Board. Charlie Laing asked if it was allowed to split one lot into two flag lots, or if the parent lot must remain in conformance Michele Greig said she would investigate the matter further.

Scott Flandreau noted that they had central water. Michele Greig stated that with central water, if a parent lot was required to remain in conformance, they would need 155' of frontage for the two parcels.

Scott Flandreau stated that the Army Corps of Engineers had turned down jurisdiction over possible wetlands by not responding within a certain time period. Michele Greig and members of the Board were concerned that this did not remove the Board's obligations under SEQR to consider possible impacts to those wetlands. Scott Flandreau responded that they did have plans for mitigating the impacts if necessary.

Scott Flandreau said that he had spoken with the Zoning Department, Betty Mae van Parys, and the Highway Department, and that they had not raised any objections to the plans as presented.

Christine Kane noted that flag lot approvals are not by right, but rather could be given under limited circumstances by the Board's discretion.

Michele Greig noted that only 25% of wetlands can be credited toward acreage.

Chris Kane asked Michele to follow up on the issue, and clarified the three outstanding issues as being whether the parent lot must remain in conformance when creating a flag lot, if sufficient dry land was present, and whether the ACOE had determined not to take jurisdiction over the wetlands on site. Charlie Laing also asked that the Board examine the minutes from the original 1985 subdivision to determine the original intent of the notes on the subdivision plat.

### **OTHER BUSINESS**

#### **Pace Land Use Law Center**

Christine Kane read an invitation for one member of the Board to attend a training being put on by the Pace Land Use Law Center. It was requested that copies of the invitation be forwarded to members of the Board.

### **ADJOURNMENT**

Since there was no further business to come before the Board, Charlie Laing made a motion to adjourn. Paul Telesca seconded the motion, and all present voted in favor. The meeting was adjourned at approximately 11:01 PM.

Respectfully submitted,

Patrick Kelly  
Assistant Clerk to the Planning Board

#### **Attachments:**

Voski Conditional Final Approval Resolution  
Lindsay SEQR Lead Agency Resolution

## **Resolution Granting Final Subdivision Approval to Voski Partners Subdivision**

**Name of Project:** Voski Partners Subdivision

**Name of Applicant:** Voski Partners LLC

**Whereas,** the applicant has submitted an application for Final Subdivision approval dated July 26, 2007, to the Town of Red Hook Planning Board to subdivide a  $\pm 18.614$  acre parcel of land into two (2) residential building lots,  $\pm 9.464$  and  $\pm 9.150$  acres in size; and

**Whereas,** the subject parcel is located on Kidd Lane in the RD5 Zoning District and the Scenic Corridor Overlay (SC-O) District in the Town of Red Hook, Dutchess County, New York; and

**Whereas,** the applicant has submitted a Final Plat prepared by Mark R. Graminski P.E. and L.S. dated June 20, 2005 and revised July 5, 2006; and

**Whereas,** on October 11, 2006, the Planning Board, after duly circulating the project application and Full Environmental Assessment Form (EAF) to all Involved Agencies, was designated the lead agency for the purpose of conducting a coordinated review of a Type I action pursuant to SEQRA; and

**Whereas,** on September 4, 2007, the Planning Board, in consideration of the Full EAF and the 'criteria for determining significance' set forth in 6 NYCRR Part 617.7(c) determined that the proposed action will not cause any potential significant adverse impact on the environment, and thus issued a draft Negative Declaration deeming an environmental impact statement need not be prepared; and

**Whereas,** on September 4, 2007, the Planning Board conducted a public hearing on the Subdivision application, which hearing was continued on September 17, 2007 at which time all interested persons were given the opportunity to speak; and

**Whereas,** on September 5, 2007, the Planning Board notified the Village of Tivoli of the Public Hearing on the subject application in conformance with the requirements of General Municipal Law 239nn; and

**Whereas,** the applicant submitted a Coastal Assessment Form dated June 20, 2005 and the Planning Board has determined that the proposed action is consistent with the coastal policies of the Town's Local Waterfront Revitalization Program (LWRP) plan;

**Whereas,** the Planning Board now wishes to grant Final Plat approval to Voski Partners LLC to subdivision a ±18.614 acre parcel of land into two (2) residential building lots, ±9.464 and ±9.150 acres in size,

**Now therefore be it resolved,** that the Planning Board grants final plat approval to Voski Partners LLC to subdivision a ±18.614 acre parcel of land located on Kidd Lane into two (2) residential building lots, ±9.464 and ±9.150 acres in size in accordance with the plans and specifications heretofore submitted upon the following conditions:

1. That the applicant implement the environmental mitigation measures contained in the Negative Declaration.
2. Dutchess County Department of Health approval for the water supply and septic disposal systems.
3. Village of Tivoli waiver from connection to municipal water and sewer systems.
4. Submission of letter from the Town Highway Superintendent verifying that he has inspected the proposed driveway locations and determined that they meet or exceed site distance specifications and are acceptable to the Town of Red Hook Highway Department.
5. Submission of a Common Use and Maintenance Agreement for the shared driveway in final form acceptable to the Planning Board
6. That the applicant shall verify that the corners of the tract have been marked by monuments or steel rods, as approved by the Town Engineer.
7. Payment of recreation fee to the Town of Red Hook
8. Payment to the Town of Red Hook of any outstanding fee amounts and reimbursement to the Town of costs incurred in reviewing the application.
9. Submission of Subdivision Plat drawings for stamping and signing in the number and form specified under the Town's Zoning Law, including all required stamps and signatures.

On a motion by Sam Phelan, seconded by John Hardeman, and a vote of

Roll Call Vote:

Chairwoman Christine Kane	<u>Aye</u>	Nay	
Member John Hardeman	<u>Aye</u>	Nay	
Member Charles Laing	<u>Aye</u>	Nay	
Member Sam Phelan	<u>Aye</u>	Nay	
Member Paul Telesca	<u>Aye</u>	Nay	
Member David Wright	Aye	Nay	<u>Absent</u>

Resolution declared: Approved on Sept. 17, 2007

Resolution Certified, Filed with the Town Clerk and Mailed to the Applicant

\_\_\_\_\_  
Patrick Kelly, Assistant Clerk to the Board

\_\_\_\_\_  
Date

617.6  
**State Environmental Quality Review (SEQR)**  
Resolution Establishing Lead Agency  
Unlisted Action

Name of Action: Linda Lindsay Special Use Permit

Whereas, the Town of Red Hook Planning Board is considering action on a proposed Special Use Permit application for an accessory apartment on a ± 0.40-acre parcel of land located at 123 Old Post Road., Upper Red Hook, Town of Red Hook, Dutchess County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated June 22, 2007 was submitted at the time of application, and

Whereas, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is an Unlisted action, and

Whereas, the Planning Board has determined that the proposed project is not within an agricultural district and, therefore, the requirements of 6 NYCRR 617.6(a)(6) do not apply, and

Whereas, after examining the EAF, the Planning Board has determined that there are no other involved and/or federal agencies on this matter:

Now Therefore Be It Resolved, that the Planning Board hereby declares itself Lead Agency for the review of this action.

Be It Further Resolved, that a Determination of Significance will be made at such time as all reasonably necessary information has been received by the Planning Board to enable it to determine whether the action will or will not have a significant effect on the environment.

On a motion by Paul Telesca, seconded by John Hardeman, and a vote of 5 for, and 0 against, and 1 absent, this resolution was adopted on

\_\_\_\_\_ Sept. 17, 2007 \_\_\_\_\_.

