

## **Town of Red Hook Planning Board**

### **Approved Meeting Minutes / Monday, October 18, 2021**

Chairman Sam Phelan called the meeting to order at 7:34 pm. A quorum was determined present for the conduct of business. Members present: Sam Phelan, Brian Kelly and Kristina Dousharm attended in person; Lew Rose and Planning consultant Michele Greig were also present via zoom. Karen Smythe was present beginning at 8:30pm. Also present in person were Planning Board Clerk Kathleen Flood and Planning Board Secretary Lori Ann Santamaria.

A motion to accept the meeting minutes from the October 4<sup>th</sup> meeting was made by Brian Kelly, seconded by Kristina Dousharm and all members were in favor.

#### **PUBLIC HEARINGS**

##### **Hannaford / Tesla charging station - 35 Hannaford Drive - Amended Site Plan**

Continued Public hearing on application to construct 8 electric vehicle charging stations in the parking lot of the Hannaford grocery store on a 14.18-acre parcel in the Traditional Neighborhood Development-Commercial Center zoning district.

Matt Tilson, Applicant's representative and Edward Noseworthy, Applicant, was present via Zoom. Edward Noseworthy reviewed the changes that have been made to the site plan as per the Planning Boards previous recommendations. The changes included lighting, ADA parking, signage, and landscaping.

Sam Phelan asked the Board members for questions and comments and there were none. He asked for public comments and, there were none. Mr. Phelan said that they had received the review from the County Planning Department, and they had no comments to make regarding this application.

Michelle Greig said there may be a requirement for no parking anytime in the ADA access aisle. She said that conformance with the requirements for ADA accessibility can be made a condition of the certificate of compliance.

Mr. Phelan asked Mr. Noseworthy for clarification on some of the signage.

Mr. Phelan asked if there were any further comments and there were none.

A motion to close the public hearing was made by Kristina Dousharm, seconded by Brian Kelly and all members were in favor.

The Board reviewed a draft approval resolution for the amended site plan. Lew Rose inquired about an owner consent letter which was determined that the Board had received. Mr. Noseworthy pointed out a clerical error to do with dates and it was so noted and shall be rectified. A motion to approve the resolution was made by Brian Kelly, seconded by Kristina Dousharm and all members were in favor.

##### **Sieverding Lot Line Alteration - 251 Yantz Road**

Public Hearing on application to transfer 5.80 acres from a 30.9-acre parcel to a 3.6-acre parcel in the Agricultural Business District.

Leonard and Trilby Sieverding, Applicants were in attendance

Sam Phelan read the notice of Public Hearing that was published in the Poughkeepsie Journal. Brian Kelly moved to open the public hearing. Kristina Dousharm seconded, and all members voted in favor.

Trilby Sieverding gave a clear and concise review of the proposal. Sam Phelan asked for clarification on the access road.

Mr. Phelan asked if there were any comments and there were none.

Michelle Greig had a revision to note 9 on the memo and recommended a note be added to plat stating that plot 3 and 4 provides for a conservation easement.

A motion to close the public hearing was made by Kristina Dousharm, seconded by Brian Kelly and all members were in favor.

The Board reviewed a draft approval resolution. A motion to approve the resolution was made by Brian Kelly, seconded by Lew Rose and all members were in favor.

## **NEW BUSINESS**

### **Hoffman Major Subdivision – Subdivision re-approval**

Presentation of application for subdivision re-approval of sections 6, 7 and 8 Section Plats for the purposes of allowing the continued filing of the Section Plats in the Dutchess Count Clerk's Office to complete the project under the terms of the existing approvals.

Representatives Richard Rang and Joe Bonura were present via Zoom.

Mr. Bonura gave a comprehensive overview of the project and shared images of completed construction and proposed construction. There will be no changes to the original approval. He said they are seeking re-approval for sections 6, 7 and 8.

Sam Phelan asked if the members had any comments and there were none.

Lew Rose made a motion to re-affirm the SEQRA Negative Declaration (March 16, 2015 ), Brian Kelly seconded, and all members were in favor.

A motion to set the public hearing date for Monday, November 1<sup>st</sup> was made by Kristina Dousharm, seconded by Brian Kelly and all members were in favor.

Michelle Greig commented that section 8 on the plat should show the community center and the pool that were approved in 2019. Mr. Bonura assured that they will take care of this.

## **OTHER BUSINESS**

### **Sky Park minor subdivision – pre-application discussion with Tom Mangione**

Tom Mangione was present via Zoom.

Sam Phelan gave a brief review and pointed out that an error was discovered by Mr. Mangione on the plat for one of the building envelopes.

Mr. Mangione went on to explain in detail the error. He stated that the changes will have no adverse effects to the wetlands, have not changed in total size and are still in compliance with the setbacks. He explained it was a drafting error and is seeking approval to move forward without having to revise the entire plan.

Mr. Phelan asked Mr. Mangione to walk the Board through the error and the changes using the map. Mr. Mangione explained the error and then showed what was intended. Mr. Phelan said that it would be necessary to resubmit an amended map.

Michelle Greig asked if the plat that was filed with Dutchess County showed the building envelopes. Mr. Mangione said that the building envelopes were on page 2 of what was filed with the County. Ms. Greig agreed that the applicants will need to file an amendment because no changes can be made to a plat that has been filed without the Planning Board's written approval. She said it is not necessary to go through the entire subdivision process again or have a public hearing.

Mr. Phelan outlined the process for the applicant.

### **Local Law E 2021 – discussion**

#### **Karen Smythe joined the meeting in person.**

Sam Phelan recapped the previous discussion on Local Law E from the meeting on October 4<sup>th</sup>. Brian Kelly drafted a letter on behalf of the Planning Board to the Town Board. He outlined that the Planning Board disagreed with the “opting out” of cannabis dispensaries and is offering the Town the Planning Board's help and expertise in developing zoning that would be amenable to dispensaries. Mr. Kelly summarized the letter.

Lew Rose pointed out the change of Local Law E having added Local Law F. “F” refers to dispensaries and “E” refers to consumption locations. He asked if the Board wants to refer to E and F or one of them in the letter to the Town. A discussion ensued that the Board originally understood that Local Law E as including both dispensaries and consumption sites. A change will be made to the letter to the Town Board noting the changes to from Local Law E to include Local Law F.

Mr. Phelan asked for further comments and there were none.

The Board reviewed a draft resolution to send the letter to the Town Board. The Board agreed to change in the resolution to reflect the revised Local Law E and proposed Local Law F. A motion to accept the resolution made by Brian Kelly, seconded by Karen Smythe and all members were in favor.

A motion to accept the letter written to the Red Hook Town Board was made by Kristina Dousharm, seconded by Brian Kelly and all members were in favor.

Mr. Phelan asked the Board to reflect on the concerns about future charging stations that had been discussed at the October 4<sup>th</sup> meeting. Mr. Phelan asked if anyone on the Board would be interested in drafting a letter to the Town Board about the concerns in zoning for future charging stations like the ones proposed at the Hannaford site by Tesla. Lew Rose volunteered to draft a letter on behalf of the Planning Board.

**ADJOURNMENT**

There being no further business before the Board, a motion to adjourn was made by Kristina Dousharm, seconded by Karen Smythe and all members were in favor.

Respectfully submitted by



Lori Ann Santamaria

Planning Board Secretary

## **Resolution Granting Amended Site Plan Approval to Tesla Electric Vehicle Charging Stations at Hannaford**

**Name of Project:** Tesla Electric Vehicle Charging Stations at Hannaford

**Name of Applicant:** Tesla, Inc.

**Whereas**, the Town of Red Hook Planning Board has received an application for amended Site Plan approval from Tesla, Inc. to install eight Tesla electric vehicle charging stations in eight existing parking spaces in the parking lot of an existing Hannaford grocery store on a ± 14.18 acre parcel (Tax Parcel ID No. 134889-6272-00-298202) located at 35 Hannaford Drive (7260 S. Broadway) in the TND-Commercial Center Zoning District in the Town of Red Hook, Dutchess County, New York; and

**Whereas**, the applicant has submitted a Site Plan prepared by Dewberry Engineers Inc. (Sheets T-1, GN-1, GN-2, C-1 to C-5, E-1, E-2, and G-1 dated July 2, 2021 and last revised October 6, 2021); and

**Whereas**, the Planning Board determined that the off-street parking requirement for the 49,625 square foot Hannaford grocery store is 199 parking spaces, there are currently 227 off-street parking spaces on site and, with the reduction of eight parking spaces, the existing grocery store will still have sufficient off-street parking to meet the requirements of the Zoning Law; and

**Whereas**, the Planning Board has found the proposal complies with all applicable sections of the Zoning Law; and

**Whereas**, on September 20, 2021, the Planning Board classified the proposed action as a Type II action pursuant to 6 NYCRR Part 617.5(c)(9); and

**Whereas**, the parcel is located within 500 feet of a New York State certified agricultural district (Agricultural District 20) and the applicant submitted an Agricultural Data Statement dated September 23, 2021, which the Planning Board duly forwarded to all owners of farm operations within 500 feet of the subject parcel; and

**Whereas**, the Planning Board considered the Agricultural Data Statement in its review of the application; and

**Whereas**, due to the location of the property within 500 feet of a State highway and within 500 feet of a farm operation in a New York State certified Agricultural District, the application was referred to the Dutchess County Department of Planning and Development for review under General Municipal Law § 239-m and the County Planning Department issued a review letter dated October 14, 2021 which determined that the project was a matter of local concern; and

**Whereas**, on October 4, 2021, the Planning Board opened a duly-noticed public hearing on the amended Site Plan application, which Public Hearing was continued on October 18, 2021, at which time all interested persons were given the opportunity to speak and the Planning Board closed the Public Hearing on October 18, 2021; and

**Whereas**, the Planning Board has deliberated on the application and all the matters before it.

**NOW THEREFORE BE IT RESOLVED**, that the Planning Board has determined that no new residential building lots or principal dwelling units will be created, and thus deems not applicable to this application the requirement for set-aside of recreation or other open space land or the alternative payment of a cash-in-lieu-of-land recreation fee.

**BE IT FURTHER RESOLVED**, that the Planning Board hereby grants amended Site Plan approval to Tesla, Inc. to install eight Tesla electric vehicle charging stations in accordance with the plans and specifications heretofore enumerated upon the following conditions:

- A. The Planning Board authorizes the Chairman or his authorized designee to sign the Site Plan after compliance with the following conditions:
  - (1) The applicant shall pay to the Town of Red Hook any outstanding fees due and owing for the review of this application.
  - (2) The applicant shall pay any and all outstanding escrow balances for consultant review.
  - (3) The applicant shall submit Site Plan drawings for stamping and signing in the number and form specified under the Town's Zoning Law, including all required stamps and signatures.

When the above conditions have been satisfied, three (3) sets of the above referenced plans shall be submitted for endorsement by the Planning Board Chairman or his designee. One (1) set will be returned to the applicant, one (1) set will be retained by the Planning Board, and one (1) set will be provided to the Building Department. The applicant must return to the Planning Board for approval of any desired changes from the endorsed plans.

- B. The following conditions shall be fulfilled prior to the issuance of a Certificate of Compliance (CC):
  - (1) The applicant shall include all signage and other requirements for the ADA parking space in conformance the New York State Uniform Fire Prevention and Building Code, as required by the Building Inspector.
  - (2) All proposed improvements shall have been completed in accordance with the approved Site Plan. In the event that a CC is requested prior to completion of all proposed landscaping, a cash bond in an amount recommended by the Town Engineer will be posted to ensure completion of these features in accordance with the approved Site Plan.

**BE IT FURTHER RESOLVED**, that within five (5) business days of the adoption of this resolution, the Chairman or other duly authorized member of the Planning Board shall cause a copy of this resolution to be filed with the Town Clerk, and a copy sent to the applicant.

On a motion by Brian Kelly, seconded by Kristina Dousharm, and a roll call vote, which resulted as follows:

Chairman Sam Phelan	Voting: <u>Aye</u>
Deputy Chairman Brian Kelly	Voting: <u>Aye</u>
Member Kristina Dousharm	Voting: <u>Aye</u>
Member Lew Rose	Voting: <u>Aye</u>
Member Karen Smythe	Voting: <u>Absent</u>
and two vacant seats	

Resolution was declared adopted on October 18, 2021.

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

Kathleen Flood  
Kathleen Flood, Clerk to the Planning Board

10-19-21  
Date

## **Resolution Granting Approval to the Final Subdivision Plat for Sieverding Lot Line Alteration**

**Name of Project:** Lot Line Alteration between Lands of Sieverding and Sieverding

**Name of Applicant:** Trilby Sieverding

**Whereas,** the applicant has submitted an application for Final Subdivision Plat approval to the Town of Red Hook Planning Board to convey  $\pm$  5.8 acres of land from the  $\pm$  30.9-acre Sieverding parcel (Tax Parcel ID No. 134889-6372-00-079357) located on Yantz Road to the  $\pm$  3.6-acre Sieverding parcel (Tax Parcel ID No. 134889-6372-00-132359) located at 251 Yantz Road in the Agricultural Business (AB) District in the Town of Red Hook, Dutchess County, New York; and

**Whereas,** the applicant has submitted a Final Subdivision Plat entitled "Proposed Amendment to Final Minor Subdivision known as 'Sycamore Acres' Lands of Trilby Sieverding (Lots 3 & 4)" prepared by Santo Associates Land Surveying and Engineering, PC dated September 17, 2021 and last revised October 7, 2021; and

**Whereas,** after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board on October 4, 2021 determined that the proposed project is a Type II Action that meets the thresholds found in 6 NYCRR 617.5(c)(16) and, therefore, SEQR does not apply; and

**Whereas,** the parcels are located within 500 feet of a certified Agricultural District (Agricultural District 20) and the applicant submitted an Agricultural Data Statement, dated September 24, 2021, which the Planning Board duly forwarded to all owners of farm operations within 500 feet of the subject parcels; and

**Whereas,** the Planning Board considered the Agricultural Data Statement in its review of the application; and

**Whereas,** the parcels are encumbered with a conservation easement held by Winnakee Land Trust, Inc. dated December 20, 2007, which was filed with the Dutchess County Clerk's Office; and

**Whereas,** Winnakee Land Trust submitted correspondence to the Planning Board dated August 12, 2021 stating that Winnakee Land Trust has found that the lot line alteration does not violate the provisions of the easement, and Winnakee Land Trust will approve a waiver to reflect the lot line alteration once it receives final approval from the Planning Board; and

**Whereas,** on October 18, 2021, the Planning Board opened a duly-noticed public hearing on the Final Plat, at which time all interested persons were given the opportunity to speak, and the Planning Board closed the public hearing on October 18, 2021; and

**Whereas,** the Planning Board has deliberated on the application and all matters before it.



**NOW THEREFORE BE IT RESOLVED**, that the Planning Board has determined that no new residential building lots or dwelling units will be created, and thus deems not applicable to this application the requirement for set-aside of recreation or other open space land or the alternative payment of a cash-in-lieu-of-land recreation fee.

**BE IT FURTHER RESOLVED**, that the Planning Board hereby grants approval to the Final Plat for the Sieverding Lot Line Alteration in accordance with the plans and specifications heretofore enumerated, subject to the following conditions and modifications:

A. The Planning Board authorizes the Chairman or his authorized designee to sign the Subdivision Plat after compliance with the following conditions and modifications:

(1) The Subdivision Plat shall be revised as follows:

(a) In the Legend, the word “proposed” in the heading “proposed building envelop” shall be deleted.

(b) Note 9 shall be revised to read: “There shall be no further subdivision of any lot shown hereon including Lot 3. This lot line alteration constitutes the one subdivision allowed under Note 11 on Filed Map 12152.”

(c) A note shall be added to the plat stating that Lots 3 and 4 are subject to a conservation easement held by Winnakee Land Trust, and citing the liber and page number of the easement recorded with the Dutchess County Clerk’s office.

(2) The Subdivision Plat shall be signed by the Dutchess County Department of Behavioral and Community Health (Permission to File).

(3) The applicant shall verify that the corners of the tracts have been marked by monuments or steel rods, of a type approved by the Town Engineer, as required by § 120-24B(2) of the Town Code.

(4) The applicants shall pay to the Town of Red Hook any outstanding fees due and owing for the review of this application.

(5) The applicants shall pay any and all outstanding escrow balances for consultant review.

(6) The applicants shall submit Subdivision Plat drawings for stamping and signing in the number and form specified under the Town’s Land Subdivision Regulations, including all required P.E. and L.S. stamps and signatures.

**BE IT FURTHER RESOLVED, THAT** Pursuant to § 72-2C of the Town Code, prior to the initial sale, purchase or exchange of any real property within the subdivision, the applicant shall deliver to the prospective grantee a typewritten document containing the agricultural notice set forth in § 72-2B of the Town Code. Further, the applicant shall incorporate the agricultural notice of the Town Code in any deeds wherein title to any property is to be initially conveyed to a grantee. Appropriate documentation shall be provided to Town Building Department.

**BE IT FURTHER RESOLVED**, that within five (5) business days of the adoption of this resolution, the Chairman or other duly authorized member of the Planning Board shall cause a copy of this resolution to be filed with the Town Clerk, and a copy sent to the applicant.

On a motion by Brian Kelly, seconded by Lew Rose, and a roll call vote, which resulted as follows:

Chairman Sam Phelan	Voting <u>Aye</u>
Deputy Chairman Brian Kelly	Voting <u>Aye</u>
Member Kristina Dousharm	Voting <u>Aye</u>
Member Lew Rose	Voting <u>Aye</u>
Member Karen Smythe	Voting <u>Absent</u>

Resolution was declared adopted on October 18, 2021.

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

<u>Kathleen Flood</u>	<u>10-19-21</u>
Kathleen Flood, Clerk to the Board	Date

**Resolution Determining Local Laws E and F (proposed) of 2021 are Consistent with the Town of Red Hook Local Waterfront Revitalization Program**

**Whereas**, the Red Hook Town Board proposed adoption of Local Law E of 2021 pursuant to NYS Cannabis Law § 131 opting out of allowing retail cannabis dispensaries and on-site cannabis consumption establishments in the Town of Red Hook, Dutchess County, New York; and

**Whereas**, on September 24, 2021, the Town Board requested the report and recommendation of the Town of Red Hook Planning Board pursuant to § 68-12(c) of the Town Code regarding consistency with the Local Waterfront Revitalization Program (LWRP); and

**Whereas**, the Town Board referred a copy of the Short Environmental Assessment Form dated September 24, 2021, the completed Coastal Assessment Form (CAF) dated September 22, 2021, and Local Law E (proposed) of 2021 to the Planning Board; and

**Whereas**, on October 18, 2021, the Town Board notified the Planning Board that the originally proposed Local Law E had been revised as two separate Local Laws E and F opting out of on-site cannabis consumption establishments and retail cannabis dispensaries, respectively; and

**Whereas**, the Planning Board has reviewed the CAF and Local Laws E and F (proposed) of 2021 against the policies of the Town’s LWRP in accordance with § 68-12 of the Town Code.

**NOW THEREFORE BE IT RESOLVED**, that the Planning Board hereby determines that Local Laws E and F (proposed) of 2021 are consistent with the policies of the LWRP and hereby forwards to the Town Board the attached recommendation and report.

On a motion by Brian Kelly, seconded by Karen Smythe, and a roll call vote, which resulted as follows:

Chairman Sam Phelan	Voting: Aye
Deputy Chairman Brian Kelly	Voting: Aye
Member Kristina Dousharm	Voting: Aye
Member Lew Rose	Voting: Aye
Member Karen Smythe	Voting: Aye
and two vacant seats	

Resolution was declared adopted on October 18, 2021.

Resolution Certified and Filed with the Town Clerk

Kathleen Flood  
Kathleen Flood, Clerk to the Planning Board

10-19-21  
Date

# TOWN OF RED HOOK

## PLANNING BOARD

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October 18, 2021

Members of the Town Board:

The Planning Board was recently tasked with evaluating Local Law E, revised, and Local Law F of 2021 for a determination of consistency with the town's Local Waterfront Revitalization Program (LWRP). Local Law E, revised, constitutes the Town Board's decision to opt out of allowing cannabis lounges, and local law F constitutes the Town Board's decision to opt out of allowing cannabis dispensaries in the town of Red Hook. While their impact on the town's LWRP is largely speculative, a robust discussion ensued nonetheless, as should be expected for a decision as profound as that embodied in this legislation. Over the course of that discussion, the Planning Board raised a number of concerns about the decision to opt out and agreed to raise those issues in a letter to the Town Board.

First, the town's decision to opt out strikes the Planning Board as curious given the under-utilized commercial space in town, particularly in the TND-CC zone. A decade into its existence, the TND has demonstrated success in residential development. The opposite is true on the commercial side – in fact, commercial utilization has gone backwards in that time, owing in part to the 2016 fire that destroyed a building housing eight businesses. Given the considerable capital available to the cannabis industry at this time, it is possible or even likely that a company in that sector could invest in a vacant or under-utilized space. The town forecloses that option with the proposed Laws: those investors will take their funds elsewhere.

Second, it is important to note that while the decision to opt out of cannabis dispensaries and lounges is technically one that can be undone later, the realities of the industry make it unlikely that Red Hook can one day realize economic benefits even if a future town board changes its mind. New York's cannabis law was signed in March and regulations are forthcoming. Now is the time that businesses are evaluating their options and assessing the marketplace. With so much pent-up interest, applications will come quickly. Those towns opting out will have missed their opportunity by the time they re-consider their situation.

Third, the Planning Board's sole involvement in the evaluation of this law is the determination of consistency with the LWRP – an exercise which is purely speculative insofar as we were evaluating the impacts of *not* permitting something in our coastal areas, yet we were told repeatedly we could not engage in speculation about the results of a path not taken. Putting aside that apparent contradiction, it is the Planning Board's view that the Town Board should engage us in an assessment of which zones are appropriate for dispensaries rather than banning them

outright. This effort could result in zoning well-tailored to take advantage of the opportunity for economic growth.

Fourth, the Planning Board is dismayed by language found in each of the proposed Law's legislative intent: "This law is intended to further the Town's goals of preserving quality of life and protecting the public health." On what basis is that assertion made? Given the strong support for legalizing cannabis for recreational use demonstrated in public survey data, the quality-of-life argument falls flat. One might argue that the health impacts of cannabis are mixed, but one cannot argue that it is not already in widespread use in the Town of Red Hook, so it is unclear what the purpose of referencing quality of life in this law could be.

Given the preceding, we request that the Town Board rejects Local Law E, revised, and Local Law F. We stand ready to assist in preparing the needed modifications to the town's zoning ordinance necessary for integrating dispensaries and/or lounges into the town in a safe, responsible and economically productive manner.

Sincerely,  
The Town of Red Hook Planning Board