

TOWN OF UNION VALE PLANNING BOARD

MINUTES OF THE REGULAR MEETING

March 15, 2017

BOARD MEMBERS PRESENT: Chairperson Kevin Durland, Board members Pasquale (Pat) Cartalemi, Alain Natchev, Kaye Saglibene and Karl Schoeberl

Members and Alternate Members absent: Michael Mostachetti, Scott Kiniry, Ralph Mondello and Alternate John Rapetti

Others present: Town Engineer, Lawrence Paggi, Town Attorney, James Horan and Michael Liguori and Town Planner, Liz Axelson

CALL TO ORDER / DETERMINATION OF QUORUM

Chairperson Kevin Durland called the meeting to order at 7:30 pm and determined a quorum was present to conduct business.

BUSINESS SESSION

• **Meeting Agenda.**

Chairperson Kevin Durland asked for a motion to accept the agenda as posted, motion by Board member Pasquale Cartalemi, seconded by Board member Alain Natchev, accepted unanimous vote of the Board members present.

• **Planning Consultant's Meeting Notes.**

Chairperson Kevin Durland asked for a motion to accept the Planning Consultant's Meeting Notes, motion by Board member Alain Natchev, seconded by Board member Kaye Saglibene, accepted unanimous vote of the Board members present.

• **Minutes.**

Chairperson Kevin Durland asked for a motion to accept the Minutes of the Regular Meeting of January 18, 2017 as transmitted by the Secretary, motion by Kaye Saglibene, seconded by Board member Alain Natchev, accepted unanimous vote of the Board members present.

REGULAR SESSION – APPLICATION SUBJECT TO PUBLIC HEARINGS:

No public hearings are scheduled for this meeting.

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REGULAR SESSION (OLD BUSINESS) -

Kiniry Special Use Permit Review; 3389 Route 82, Verbank, NY 12585; Parcel Grid # 6663-20-850049; Owner: Scott Kiniry; - This proposal involves a Special Use Permit and SEQR Review to use the 4,032 gross square foot (SF) legally pre-existing, noncomplying building and to construct a 984 SF canopy. The site is located in the NC (Neighborhood Commercial) zoning district on a 0.76-acre-site; and the proposed action is a Type 2 Action under SEQR.

Chairperson Kevin Durland opened the discussion, and reminded the public that this is not a public hearing and the Board will not be accepting comments from the public at this meeting, this application will be discussed amongst the Board members present and consultants. Chairperson Kevin Durland stated that an escrow check from the applicant was received last week.

Town Planner Liz Axelson stated that this application was first before this Board several months ago, and the Board Planning Board decided to defer action on the application. We recently received a more detailed site plan and took a look at it according to the code, revisited recent set of comments from December 7, 2016 and I would say at this time about 2/3rds of the comments were addressed, and most importantly comments that dealt with Zoning issues. Ms. Axelson stated that her read on the code is that this building is existing, been in existence for quite a few decades and my concern was that a variance might be needed for the whole building to be used. I also felt that the property owner has some right under the code, according to the non-conforming and non-complying regulations, but as a planner I can review things according to the code, but the only person that has the authority to state what the code says it the Code Enforcement Officer, so I had a discussion with George Kolb, about existing non-complying structures and the fact that this existing structure would go to a conforming use, so in my opinion and consultation with George Kolb, Code Enforcement Officer of the Town of Union Vale, the building is existing, non-complying, and the requirement for convenience store and gas station, that it being 2000 square feet, he would not need a variance to be able to use entire building for the proposed uses.

Town Engineer Larry Paggi comments that he was notified that escrow was posted last week, but would not normally receive plans until the Planning Board refers the application to the Engineer for review, which is happening tonight, and I have received a copy of the application from the Planning Board secretary. Even if I did receive the application last week, I would not have had time to complete the review and present it for comments for tonight's meeting.

After discussion with the Town Planner and Town Engineer, and with no comments from the Board members present, Chairperson Kevin Durland read the following Draft resolution for the Board:

D R A F T
Resolution: SEQRA Type 2 Action; and
Set Concurrent Special Use Permit and Site Plan Public Hearings
Kiniry Special Permit & Site Plan

“The Town of Union Vale Planning Board hereby acts as follows in the matter of an Application known as Kiniry Special Permit & Site Plan under Town Code Chapter 210 Zoning for redevelopment of an existing gas station site for use as a convenience store and gas station at a site located at 3389 Route 82, Verbank in the NC (Neighborhood Commercial) Zoning District, as described or otherwise depicted within supporting information including site plans prepared by Donald P. Fegan, PE, dated October 25, 2016, revised January 19, 2017:

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1. Determines that the Proposed Action is a Type 2 Action as per the New York State Environmental Quality Review Act (SEQRA) as per the regulations in NY CRR Part 617 sections 617.5 (a) and (c)(7), which is **not** subject to SEQRA review.
2. Makes a referral to the Dutchess County Department of Planning and Development under General Municipal Law Section 239 I, m and n.
3. Refers to Town Engineer for review and comment.

A motion to adopt the above-stated Resolution was made by Board member Pasquale Cartalemi and seconded by Board member Alain Natchev.

The below roll call vote was taken by Chairperson Durland:

Member Pasquale Cartalemi	Aye
Member Scott Kiniry	absent
Member Michael Mostachetti	absent
Member John Rapetti	absent
Member Karl Schoeberl	Aye
Member Alain Natchev	Aye
Alternate Member Ralph Mondello	absent
Alternate Member Kaye Saglibene	Aye
Chairperson Kevin Durland	Aye

and the Chairperson declared the Resolution:
 Adopted 5 Defeated 0

Resolution certified and filed:

Joan E. Miller,
 Planning Board Secretary / Clerk

March 15, 2017

2130 Clove Road Subdivision Review and Open Development Area; 2130 Clove Road, Lagrangeville, NY 12540; Parcel Grid # 6861-00-199211 & 370133; Owner: Arthur Demoulas; - This proposal involves Minor Subdivision and SEQR Review and an established Open Development Area by the Town Board for lot access via an easement for subdivision of two (2) lots to create three (3) for 3 single-family lots. The site is located in the RD10 (Rural Development 10) zoning district. The 132.57-acre-site is 2 lots; and the proposed action received a SEQR Determination of Non-Significance (Negative Declaration) on January 18, 2017.

Chairperson Kevin Durland let Town Planner, Liz Axelson explain that this is a redo, when reviewing the Town of Union Vale code it defines minor subdivision vs major subdivision and two things that differentiate between either minor or major are 1) a common driveway and 2) an open development area. This was redone due to the fact that there were further questions from the Chairperson Kevin Durland, the applicant and the approval of the Open Development area from the Town Board. So, what is recommended here is that the Planning Board can consider action on approving this subdivision condition on addressing consultants, agency comments and payment of fees including the recreation fee for one new lot.

With no further comments from the Board members present, Chairperson Kevin Durland offered the below draft resolution for the Boards consideration:

D R A F T

**Resolution: Approval with Conditions of the
2130 Clove Road Subdivision & Special Permit**

“The Town of Union Vale Planning Board hereby acts as follows in the matter of an Application known as 2130 Clove Road Subdivision for Subdivision and Special Use Permit under Town Code Chapters 192 Subdivision of Land and 210 Zoning for creation of 3 lots for single-family development at a site located at 2130 Clove Road in the Rural Development (RD-10) Zoning District, as described or otherwise depicted within supporting information including subdivision plans prepared by Richard Rennia, Jr., PE, Principal, Rennia Engineering Design, PLLC dated November 30, 2016:

1. Determines that due to the site’s topography and environmentally sensitive lands that no suitable land exists on the site for parkland dedication as per Town Code Chapter 192, Section 192-18 C.(3); and accordingly a payment in lieu of parkland dedication shall be required for the creation of 1 new lot, via the subdivision of two (2) lots to create three (3).
2. Approves the Special Use Permit for a Conventional Subdivision and approves the Minor Subdivision Plat based on the following conditions:
 - a. Address the remaining comments of the Town Consulting Engineer as set forth in the letter of December 7, 2016.
 - b. Address the remaining comments of the Town Consulting Planner as set forth in the letter of December 7, 2016, specifically comments numbered: C.2 through C.4; D.6.c; and D.6.e through D.6.k.”

A motion to adopt the above-stated Resolution was made by Board member Karl Schoeberl and seconded by Board member Pasquale Cartalemi.

The below roll call vote was taken by Chairperson Durland:

Member Pasquale Cartalemi	Aye
Member Scott Kiniry	absent
Member Michael Mostachetti	absent
Member John Rapetti	absent
Member Karl Schoeberl	Aye
Member Alain Natchev	Aye
Alternate Member Ralph Mondello	absent
Alternate Member Kaye Saglibene	Aye
Chairperson Kevin Durland	Aye

and the Chairperson declared the Resolution:
Adopted 5 Defeated 0

Resolution certified and filed:

Joan E. Miller
Planning Board Secretary/Clerk

March 15, 2017

REGULAR SESSION (NEW BUSINESS)

Popovic Special Use Permit Review; 176 So. Smith Rd, Lagrangeville, NY 12540; Parcel Grid # 6661-00-559820; Owner: Gjon and Mrika Popovic; - This proposal involves a Special Use Permit and SEQR Review to construct a 602 square foot (SF) ground mounted solar system on a single-family lot. The site is located in the RA-3 (Residential 3) zoning district on a 6.2-acre site; and the proposed action is a Type 2 Action under SEQR.

Chairperson Kevin Durland welcomed James Sperling from Empire Solar, representing owners Gjon and Mrika Popovic. Mr. Sperling stated that his clients are looking to go green and install a ground mounted solar system. The location of the panels are not going to be visible, for the location they are going to be placed is upwards from the road.

Board member Pasquale Cartalemi asked are the panels over twelve feet tall. Mr. Sperling stated yes, they will max out at twelve feet. Board member Kaye Saglibene asked if the panels are flat. Mr. Sperling replied they will be installed at an angle. Chairperson Kevin Durland, as well as other Board members expressed that they do believe that this would require a Site Plan review concurrent with Special Use Permit. Board member Kaye Saglibene mentioned that it would be helpful if the applicant staked out in the field where the installation was going.

Town Attorney, Michael Liguori explained that there is a 100 foot square foot threshold that no permits or approvals are needed, but since this installation is 602 square feet, it is over the threshold.

Chairperson Kevin Durland asked for any further questions or comments from the Board members, with none, Chairperson Kevin Durland read the below draft resolution:

D R A F T

**Resolution: Determining no requirement for full Site Plan review;
SEQRA Type 2 Action; and Set Special Use Permit Public Hearing for the
Popovic Special Permit for Ground Mounted Solar System**

“The Town of Union Vale Planning Board hereby acts as follows in the matter of an Application known as the Popovic Special Permit for Ground Mounted Solar System under Town Code Chapter 210 Zoning for construction of solar system on a single family lot at a site located at 176 So. Smith Rd, Lagrangeville in the RA-3 (Residential 3) Zoning District, as described or otherwise depicted within supporting information including site plans prepared by Michael E. Miele, PE, dated November 30, 2016 and December 7, 2016:

1. Determines that the project does require full site plan review.
2. Determines that the Proposed Action is a Type 2 Action as per the New York State Environmental Quality Review Act (SEQRA) as per the regulations in NY CRR Part 617 sections 617.5 (a) and (c)(7), which is **not** subject to SEQRA review.
3. Makes a referral to the Dutchess County Department of Planning and Development under General Municipal Law Section 239 I, m and n.
4. Sets a Special Use Permit and Site Plan public hearing to be held on April 19, 2017.
5. Delegates Planning Board members Pasquale Cartalemi and Chairperson Kevin Durland to conduct a field visit to the site and report their observations concerning the Application at the time of Public Hearing.”
6. Town Engineer and Town Planner to set Escrow fee amount and Town of Union Vale Code Enforcement Officer to notify and collect, from the applicant, the required Escrow amount set forth.

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A motion to adopt the above-stated Resolution was made by Board member Karl Schoeberl and seconded by Board member Pasquale Cartalemi.

The below roll call vote was taken by Chairperson Durland:

Member Pasquale Cartalemi	Aye
Member Scott Kiniry	absent
Member Michael Mostachetti	absent
Member John Rapetti	absent
Member Karl Schoeberl	Aye
Member Alain Natchev	Aye
Alternate Member Ralph Mondello	absent
Alternate Member Kaye Saglibene	Aye
Chairperson Kevin Durland	Aye

and the Chairperson declared the Resolution:
Adopted 5 Defeated 0

Resolution certified and filed:

Joan E. Miller
Planning Board Secretary / Clerk

March 15, 2017

Watermark Millbrook Special Use Permit and Site Plan Review; 79 Flint Rd, Millbrook, NY, 12545; Parcel Grid # 6863-00-309055 & 432278; Owner: Watermark Millbrook LLC DBA The Fountains at Millbrook - This proposal involves a Special Use Permit, Site Plan and SEQR Review to redevelop a portion of the site with existing storage and garages to construct a new Elderly Housing and Memory Care Facility with 34 Assisted Living units; 139 Independent Living units; and 32 Memory Care beds. The site is located in the RD10 (Rural Development 10) zoning district on a 195.27-acre-site; and the proposed action is a Type 1 Action under SEQR.

Chairperson Kevin Durland welcomed the next applicant.

Deb Slocum, Executive Director at the Fountains of Millbrook for 20 years, and we are a residential retirement community, sixteen years ago we added a 34 apartment assisted living building. Our goal is to allow people to stay in their home for the rest their lives. The assisted living has been quite successful and that is why we are looking at expanding with a new building to include assisted living, as well as a memory care unit that would take care of patients with dementia and Alzheimer's, which there is a growing need for.

Mr. Patrick Rose from Rose and Tiso Architects, Land Surveyors and Engineers stated that the Fountains owns two large parcels of property that they were considering to construct this new facility, one parcel consists of 114 acres and the other consists of 78 acres. The majority of our development of facilities are on the Western side. What we are proposing is to add to the Easterly side, where there are a couple of garages, parking, what we want to do is take this parking lot out and replace it with two new parking lots, a loading area, the facility will be a U shaped buildings, it will have two wings separated by a common area, which will serve as the Dining area with a secured gated area in the rear of the Dining Area, midsection of the building for patients to walk in. What we tried to do is follow the previous recommendations from the Planning Board from years ago and tried to follow what the Master Plan from 2002. With regard to the 2002 Master Plan, we are actually reducing the impact from what was presented back then, and are presenting a reduction in the number of units/beds that was proposed back then.

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Mr. Rose stated that they are planning to discontinue nine units from another area that are in disrepair, and will coming off line. Mr. Rose stated that in essence, the facility will be comprised of two long single floor buildings, that will have siding and metal roofs, and will be connected by a common building, serving as a common area, which will be faced with brick.

Mr. Manual Silva, Civil Engineer from Rose and Tiso, Architects, Land Surveyors and Engineers was present and made an extensive presentation regarding the waste water discharge and storm water management. Board member Pasquale Cartalemi asked a question regarding the placement of the generator near the pond. Board member Pasquale Cartalemi had concern as to if the generator was to burst, and it being so close to the pond, it was concerning.

Mr. Silva explained that generator eruptions are rare, and this particular generator has a secondary safety tank, meaning that if the first tank was to leak/break, it is encapsulated by a second tank that would confine the leakage/break. Mr. Silva explained that he placed it there because that is most likely where the electricity service will be coming from the road, but the generator could be moved to another location, if requested by this Board.

Designer of Facilities, from the Fountains of Millbrook presented the Board with a brief description of the Parking lot landscaping, which will consist of native variety trees, some flowering, and the other scrubs with seasonal bedding flowers. The plan is designed to keep soil erosion control in mind and be aesthetically pleasing.

Town Planner Liz Axelson spoke regarding the parking, I assume most of your residents do not drive, and you calculated the spaces according to Employee parking and visitor parking. Deb Slocum commented that there are more parking spaces behind the other building that employees use.

Chairperson Kevin Durland asked if the brick building that is connected in the middle of the other two buildings, is going to be used as a loading dock. Mr. Rose stated that it has storage area designed in it, and can be loaded on the side, but is not used as a loading dock per say, as per your question.

Mr. Lawrence Paggi, P.E., Town Engineer asked about the issue of emergency response. Mr. Paggi recalled that the last time it was brought up and addressed last time, the Foundations provided their own first response alarm, and then they called for dispatch, if necessary. Mr. Paggi asked if the dispatch is a private ambulance. Deb Slocum explained that it goes to 911, then it goes to Union Vale, then EmStar, whichever ambulance company is stationed at the Union Vale rescue, in Verbank/Millbrook, they respond. Deb Slocum further stated that we have a nurse on every day, as well as security who are trained in CPR and first aid, it is a 24/7 operation, and our caregivers are trained in CPR and first aid. Mr. Paggi suggested that in the forthcoming application, it would be helpful to outline the procedure that is in place for emergency calls.

Deb Slocum commented that right now the independently living residents, use the ambulance service more than the assisted living, and we anticipate that to stay about the same.

D R A F T

Resolution: Determining requirement for full Site Plan review for the Watermark Millbrook Special Use Permit and Site Plan Review for Elderly Housing and Memory Care Facility

“The Town of Union Vale Planning Board hereby acts as follows in the matter of an Application known as the Watermark Millbrook Special Use Permit and Site Plan Review under Town Code Chapter 210 Zoning for and Elderly Housing and Memory Care Facility at a site located at 79 Flint Rd, Millbrook in the RD10 (Rural

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Development 10) Zoning District, as described or otherwise depicted within supporting information including site plans prepared by Manuel J. Silva, PE, dated June 11, 2016, revised February 21, 2017:

1. Determines that the project **does require** full site plan review.”

A motion to adopt the above-stated Resolution was made by Board member Alain Natchev and seconded by Board member Pasquale Cartalemi.

The below roll call vote was taken by Chairperson Durland:

Member Pasquale Cartalemi	Aye
Member Scott Kiniry	absent
Member Michael Mostachetti	absent
Member John Rapetti	absent
Member Karl Schoeberl	Aye
Member Alain Natchev	Aye
Alternate Member Ralph Mondello	absent
Alternate Member Kaye Saglibene	Aye
Chairperson Kevin Durland	Aye

and the Chairperson declared the Resolution:

Adopted 5 Defeated 0

Resolution certified and filed:

Joan E. Miller
Planning Board Secretary / Clerk

March 15, 2017

Habiague Scoping

Chairperson Kevin Durland opened the session and deferred it to Mr. James Horan, Town Attorney.

Mr. Horan explained that he met with the applicants and their new attorney, Mr. Daniel F. Leary, from Berland, Nussbaum and Reitza, LLP and discussed a couple of different options with them regarding the East Mountain proposed Subdivision.

Mr. Horan stated that several years ago the Planning Board adopted a resolution that rescinded the 1987 Negative Declaration and issued a positive declaration, noting certain impacts with respect to the project and litigation ensued. As a result of that litigation, there was a mediation regarding the various impacts and at one point in time, we were close to a settlement, which was not reached. However, for the Boards knowledge, many of the current Board members were not on this Board during the time that this was done. The stipulation that was discussed at that time, was should the adverse impacts be addressed to the satisfaction to the Board, that the Board would consider withdrawing its motion issuing the Positive Declaration. One of the items of concern at the time, was that there was not a hard look at the impacts of the project in light of the changed regulations that were issues from 1987 up until the Positive declaration was issued.

After litigation in State and Federal Court, the second circuit issued a determination dismissing the Article 78 petition in State Court, the second circuit suggested that the applicant did not follow all of the remedies available, one of them was to go through the Environmental Impact Statement process, which requires the preparation of a Scoping document, which again was dictated by the Positive declaration, the resolution

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rescinding the Negative declaration. The applicant submitted a scoping document and made some changes to it in January, 2017 and it was accepted a final scoping document. Since that time the applicant has retained new counsel, who is very knowledgeable on SEQRA issues and what the applicant has proposed at this point in time, rather than go forward with the Environmental Impact Statement, they would like to prepare a new Environmental Assessment Form utilizing the adopted October, 2013 updated form, Part 1 and 2 supporting documents.

The Planning Board will be looking at what are the Environmental impacts, how does the project cause those impacts, what migrations would there be, these are all discussions that would take place with an EAF and also an EIS. Mr. Horan further explained that there are some questions respect to that process, one of which, whether or not can the applicant prepare the draft EIS, and then the Board accept it, and based on that draft EIS, whether or not the Board can issue a negative declaration at that point, the regulations are somewhat unclear and if the Board is required to have a public hearing on the EIS.

The concern on the applicants part is that the EIS is a potential for an open-ended process, where if the public gets involved, where there can be a lot of other information that outside agencies/people will request, the scoping document I believe is what the Town's consultants and Planning Board chair had agreed that were important issues that needed to be discussed, however the applicant is concerned in the Environmental impact process that people can create other issues/concerns.

Again, the applicant has suggested that they would prepare the New EAF, Part 1 and Part 2, my suggestion is that they supplement that with a document which would tie into the various questions and point to all of the studies that have been previously submitted, as to where find the answers to those impact questions. At this point in time, I don't think is fair to necessarily deny the request of the applicant, I think that regardless of what the Board intends to reinstate the negative declaration or not, this is information that needs to be provided anyway.

Also, Mr. Leonard has pointed out to date, there has not been a discussion with the Board regarding the rescinding the positive declaration, so I think that it would be helpful for the applicant to have a direct discussion to get the Planning Board regarding the positive declaration rescinding.

Mr. Leary spoke and agreed with what Mr. Horan has stated with summarizing our discussion, we would like to prepare a full Environment Assessment Form, Parts 1 and 2 and submit it to the Planning Board to use as a basis to move forward with the discussion. Mr. Leary stated that he feels that the applicant can get all the information that the Planning Board needs to make a determination of significance based upon the criteria that is set forth in SEQRA and have a hard look the impacts.

Mr. Steven Habiague spoke briefly and reiterated the point that Mr. Leonard made in discussion with Mr. Horan, that there has not been a discussion with the new members of the Planning Board regarding rescinding the positive declaration.

With no further questions or comments from the Board, Chairperson Kevin Durland stated that no action has to take place this evening, and he will be in contact with Mr. Horan and the board members, regarding the suggestions that the applicant has brought forth at this meeting.

EXECUTIVE SESSION

Chairperson Kevin Durland made the motion to go into executive session, seconded by Board member Pasquale Cartalemi.

REGULAR SESSION (NEW BUSINESS)

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Board member Alain Natchev made the motion to exit executive session and return to regular session, seconded by Board member Kaye Saglibene.

ADJOURNMENT

Chairperson Kevin Durland made the motion to adjourn the meeting, seconded by Alain Natchev, unanimous vote of the Board members present at 10:30 pm.

NEXT MEETING / SUBMISSION DEADLINE

The next Regular Meeting of the Town Planning Board is scheduled to occur on Wednesday, April 19, 2017. The Agenda for the meeting will close on Wednesday, March 29, 2017 at noon hour. Both new applications of any type and all continuing submissions regarding site plans, subdivisions, special permits or other agenda items to be considered at the meeting must be received in their entirety at the Planning Board Office in required number, with all required application fees paid and required escrow deposits made, not later than the close of agenda.