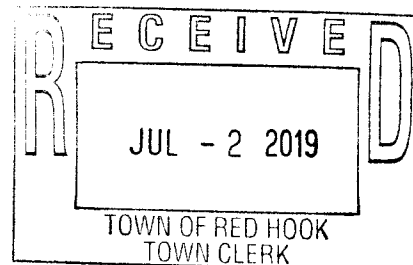


TOWN OF RED HOOK PLANNING BOARD
Revised¹, Approved MEETING MINUTES
JUNE 3, 2019



Chairman Sam Phelan called the meeting to order at 7:30 pm.

A quorum was determined present for the conduct of business. Members present: Sam Phelan, Bill Hamel, Kristina Dousharm, Lisa Foscolo, Kallie Robertson, and Brian Kelley. Also present were planning consultant Michele Greig, Town Supervisor, Robert McKeon, and Town Conservation Advisory Council member, Julia Solomon.

Kallie Robertson moved that the draft minutes for May 20 be approved. Lisa Foscolo seconded and all members voted in favor.

Chairman Sam Phelan mentioned several upcoming training opportunities, in Greene and Putnam Counties, among which GIS Mapping. Brian Kelley noted he learned a great deal about various types of habitats in Dutchess County from the recent Habitat Assessment training.

NEW BUSINESS

Lucash/Denehy - 288 Lasher Rd. – special permit for a prefabricated garage on a parcel entirely within the Flood Fringe Overlay (FFO) Zoning District.

The applicants Mr. Lucash and Ms. Denehy were present. Mr. Lucash presented photographs of the proposed garage, and noted he intended to order the prefabricated structure from Brad's Barns of Kingston, NY. Mr. Lucash also informed the Board the proposed garage would have no bathroom or electricity. He also informed the Board he intended to match the exterior of the house, and a horse barn, located behind the present garage, to the proposed two car garage to create a clean, consistent look to the property. Mr. Lucash informed the Board he planned to remove the present garage, and place the new one in the same location. He also presented a parcel map, to the Board, which identifies the NYSDEC wetlands, and which showed the placement of the proposed garage outside the wetlands area.

Chairman Sam Phelan identified issue with this application as the flood plain and regulations applying to flood plains. Michele Greig clarified the entire parcel, as shown in Parcel Access, is within the flood plain. She further explained FEMA works with local municipalities to give residents a reduced price on insurance via the National Flood Insurance Program, but in order to qualify, the applicant must adhere to local laws regarding construction in a flood plain, and have the work certified, that the proposed construction meets the regulations, by a registered architect, or licensed, professional engineer. Ms. Greig also noted, the proposed construction must be located at least two feet above the 100 year flood level, or be flood proofed up to that level. Ms. Greig also noted the structure must be anchored and constructed in a way to prevent flotation, collapse, or lateral movement.

Chairman Sam Phelan asked the applicant if he had spoken with Brad's Barns, regarding these requirements, since, he notes, this business must have other customers facing the same issues. Kristina Dousharm also noted there are ways to construct the proposed garage, which will comply with flood plain regulations, such as gates or vents in the foundation. Kallie Robertson agreed, stating Brad's Barns will likely have an architect or engineer with whom they collaborate, for such issues, and further noted it

would be advisable for the applicant to speak to their architect or engineer once he had all of the requirements in hand, to save time and money. Chairman Sam Phelan noted the presence of such a list in the Town Code. Michele Greig noted the relevant Code Sections as Chapters 143-111, Construction in the Flood Fringe Overlay, and Chapter 77, Flood Damage Prevention. The assistant clerk agreed to provide these to the applicant via email. Ms. Greig also noted the applicant would need a Special Permit from the Planning Board, and that the Planning Board would review the requirements for the Flood Fringe Overlay, and hold a public hearing. Ms. Greig also noted the proposed garage would be a Type I Action under SEQRA, and would not require a referral to Dutchess County. She also informed the applicant he would need a special permit from the Building and Zoning Office, and that they will also have a requirement that project be certified by a registered architect or licensed, professional engineer. The applicant stated he would speak to Brad's Barns, and decide on the best course of action.

OTHER BUSINESS

Town Board Referral – Local Law E of 2019 Topics: LI Zoning District Elimination, Water Extraction, Soils Removal, Timber Harvesting (Tree and Topsoil Removal), Mining

General Planning Board Comments:

Julia Solomon, of the Town of Red Hook Conservation Advisory Council, introduced herself, and noted she chaired the working group, which made recommendations to the Town Board, regarding the LWRP, and Local Law E, and informed the Planning Board she is available to answer questions. Chairman Phelan asked the Board, prior to beginning the document review, to voice comments and concerns, pursuant to the Consistency Determination, or Local Law E. Chairman Phelan commented the summary of the proposed Local Law E, from Ted Fink, of GreenPlan, was thorough, and further noted it contained the topics listed below, for the Planning Board's consideration.

LI Zoning District Elimination

Brian Kelley noted the original purpose Floating Light Industrial District, in 1990 was to allow for this type of development, in certain areas. Michele Greig commented the Floating LI District, which includes the RD3, and outlying parcels of the ABD, greater than 25 acres, and on a state road, was created in 1993. She further commented Towns will use a Floating District when they want to allow for a certain type of development, but do not reach a consensus regarding, where to place it. Chairman Sam Phelan commented pre 1993 the LI District was south of Hannaford's Supermarket, and included an Office Industrial Area. Michele Greig commented the TND Regulations placed the Office Industrial District South of Hannaford's, because the Town considered it the most appropriate location for this type of land use. Kristina Dousharm asked if anyone had ever applied for something within the District. Michele Greig and Chairman Phelan concurred no one has ever applied for anything in the Floating LI District. They both noted a couple of inquiries had been made over the years, and noted one such inquiry involved the Sky Park Airport Property. Ms. Greig further clarified the Floating LI currently only exists in the RD3, which is now very small, and it is now excluded in the ABD. Chairman Phelan commented there are some uses, permitted in the current LI Zone, which might also be permitted in the Highway Business District. Bill Hamell added some uses would also be permitted in other Districts, which Michele Greig clarifies as the B1, B2, Office Industrial Districts. She added some of the LI District permitted uses, such as "Conference Center" are allowed in the Institutional District. Chairman Phelan concludes, given

the history of the Floating Light Industrial District, its elimination is not particularly consequential. Brian Kelley concurs, stating the District is something of an anachronism.

Water Extraction – Cokertown Springs: Single Current Collection Operation in the Town From a Natural, Free-Flowing Spring

Description of Current Operation

Lisa Foscolo, Bill Hamell, Kallie Robertson, Brian Kelly, Julia Solomon, Supervisor McKeon, and Michele Greig discussed the the Cokertown Spring Operation, noting it is currently permitted, and would be grandfathered in under the proposed law. Lisa Foscolo inquired about examples of adverse impacts connected with water extraction, with Bill Hamell responding one example was potential depletion of the water supply, and he noted several neighbors of the above operation had spoken to him about loss of water pressure, during his site visit.

Michele Greig clarified the current operator has stated his source is spring fed, not groundwater fed. Kallie Robertson asked for information regarding the current operation's daily extraction amounts, and Julia Solomon noted the Town did not, at this time, have detailed information on the operator's current daily usage. Bill Hamell commented the operator himself, at the time of the site visit, had informed him the operation's maximum, daily, extraction was six trucks, with an 8000 gallon capacity.

Discussion of Current Operation Under Proposed Law E

Julia Solomon informed the Board the current operation, referred to on page 25, of the proposed law, would be limited to the 99,000 gallons/day, permitted by the NYSDEC, without a NY State permit. She commented Town estimates the 99,000 gallons is approximately double their current extraction rate, and also informed the Board the Town was not philosophically opposed to a small scale, mom and pop, type operation, but needed a way to allow for the existing business, and also a way to differentiate it from large scale, commercial operations. Michele Greig commented there was a commercial bottling company, interested in extracting water from the Town, some years back. She further clarified the proposed operation would have been many times larger than the current operation, with trucks running 24 hours a day.

Kristina Dousharm confirmed with Julia Solomon, under proposed Local Law E, current operation's water extraction is capped and the operator would not be able go to New York State and ask for a permit to exceed that amount, and also there would be, within the proposed law, no Special Permit exceptions to the limitations on water extraction, either by this user, or potential, other users. She also noted there is an 18 month Sunset Clause, which would not allow the business to be re-established after a hiatus of that duration. Ms. Dousharm also asked Julia Solomon and Supervisor McKeon if the rationale behind expanding the permitted extraction is stated in the proposed law. Bill Hamell stated he finds the proposed, permitted maximum daily extraction overly generous, and sees no reason to double what the owner is currently extracting. Brian Kelley commented raising the permitted extraction amount to 99,000 gallons/day, which he described as more than double the current operation's estimated, maximum, daily extraction, went against the spirit of the proposed law, which includes the language "shall not be expanded".

Michele Greig countered, a rationale for expanding the permitted extraction would be this is the only such business in the Town, and population will grow, and hence a greater potential need, and commented one of the current operator's client base consisted of filling swimming pools. Supervisor McKeon replied increasing the permitted extraction represented a compromise, to keep the limit under

the NYSDEC threshold, and limit the impact on resources, but at the same time allow the business owner to expand his operation. Michele Greig noted staying under the NY State threshold, allows the Town to define it as a local use. Lisa Foscolo asked if there are examples of Code Language from other communities which are permitting water extraction, that show adverse impacts, and show over use causes adverse impacts, in the depletion of agricultural water resources, or other water resources. Michele Greig commented this is why it is regulated by the DEC and the DOH. Bill Hamell noted it is preferable to take a proactive approach, as opposed to waiting until there is a problem.

Chairman Phelan asked if the proposed law will have an impact on breweries and distilleries. Ms. Solomon replied it depends on how "commercial extraction" is defined. Chairman Phelan also asked Ms. Solomon if water extraction is limited to that geographic location, to which she replied it is limited to any existing use, and this business owner is the only one. Michele Greig, Supervisor McKeon and Board members concluded breweries, distilleries, and other similar users would not be extracting water to sell it, and so may not be affected. Michele Greig asked Chairman Phelan if he wanted to include this in the Planning Board comments to the Town Board, to which he replied he does, since he does not want to cut off other potential water users. The Board asked Ms. Solomon to inform it how "water extraction" is defined in the proposed law. Ms. Solomon stated it is based on the definition in the current Code.

Michele Greig noted at Section 102 of the Code, "Collecting the waters from a natural, free flowing spring, and operating an associated bottling works shall be allowed....." which she described as the Section which would be deleted, and substituted with something allowing for the extraction of groundwater. The Board members agreed to comment on this. Kallie Robertson asked if groundwater is to be included in the limitations on large-scale extraction, or is it just spring water. Supervisor McKeon stated the public water supply is excluded the limitations. Chairman Phelan states the Town Board needs to address this section, for clarity, to better understand the position of the public water supply.

Soils Removal – Mining and Sales of Topsoils

Chairman Phelan informed the Board the proposed law will not permit large-scale mining or selling of topsoils, and anything underneath the topsoils. Julia Solomon clarified the Town is invested in protecting farmland, and currently there is nothing protecting the "value" of the farm, as it consists of the topsoil. She further clarifies the Town wishes to protect farms in transition, i. e. farms not classified as such, from property owners looking to cash out. Brian Kelley inquired about the business model for topsoil removal, describing it as not a renewable resource, in the relative short-term. Kallie Robertson commented soil mining is no longer permitted in the ABD, and NY State used to permit mining of up to 1000 tons/year, on a given parcel, and under the proposed law, the limit would be 100 tons, per year. Julia Solomon noted the Town wanted to eliminate the possibility of permitting an operation large enough to require a NY State permit. Supervisor McKeon commented local laws, would, in this case, apply over state laws. Michele Greig asked the Board if there were any substantive comments on topsoil or subsurface mining, and Julia Solomon commented, under the proposed law any applications for commercial logging, would require review by the Town Conservation Advisory Council, (CAC) (p.16 of proposed local law) and further noted there is no such requirement for other extractive uses. She stated the CAC would like to extend this requirement to other extractive uses, such as soil mining. The Planning Board agreed with this recommendation.

Timber Harvesting – Tree and Topsoil Removal

Definition under proposed Local Law E – Small Scale

Chairman Phelan noted small-scale timber harvesting, exempt from permit requirements, is ten cords/year, per parcel, on parcels less than five acres. Kallie Robertson asked if there were any

limitations on acreage, regarding timber harvesting, and commented the allowable amount of timber harvesting, per year should be proportionate to the size of the parcel. Bill Hamell agreed the permitted amount of timber harvesting should be proportionate. Chairman Phelan commented one cord, per acre, per year is considered a sustainable yield, for small-scale timber harvesting, and further noted ten cords of wood, per year, is too much timber harvesting on parcels smaller than five acres. Michele Greig agreed ten cords of wood is too much timber harvesting for a one acre parcel, and asked the Town to consider basing the amount of small-scale timber harvesting on parcel size, or acreage, for smaller parcels. Ms. Greig also asked in what Districts would small-scale timber harvesting be permitted, and recommended a line in the proposed local law's Use Table, to identify these areas.

Bill Hamell agreed the threshold should be lower for smaller parcels, and further noted clear cutting a one acre parcel, or smaller, would also have potential consequences for a neighboring property, in terms of privacy, and erosion. Julia Solomon noted *Timber Harvesting* would be substituted by *Tree and Topsoil Removal*, under the proposed local law, and small-scale of timber harvesting would require Planning Board Site Plan approval. Michele Greig commented the five acre threshold is high, and more consistent with model legislation, the threshold for Planning Board Review of a permit for tree removal would be less than one acre. Supervisor McKeon asked what would trigger review, and noted enforcement on parcels one acre, or greater, is more easily accomplished than on smaller parcels. Chairman Phelan agreed with Supervisor McKeon's assessment. Bill Hamell noted the Town could require Site Plan Approval for smaller parcels. Michele Greig commented clear cutting, in some cases, on some smaller parcels also requires New York State storm water permits.

Large Scale, Commercial Timber Harvesting (Tree Removal) Under Proposed Local Law E - Discussion

Chairman Phelan commented he sees a potential conflict between the Town and the NYS DEC 480-a Forest Management Program, regarding large scale timber operations, as permitted under the proposed local law. Chairman Phelan noted property owners enter into an agreement with New York State, for a five year plan, renewable for an additional five years, to receive a reduction in property taxes. Chairman Phelan further commented, if the proposed local law were to intervene, and prohibit a property owner from complying with the 480-a Plan, it would be setting up a conflict between Town Law and NYS Law, with the property owner in the middle. Supervisor McKeon commented there are currently two properties in the Town with 480-a Plans, one belonging to Chairman Phelan, and the other on Oriole Road.

Julia Solomon commented, under the proposed, local law, the Planning Board would have discretion to defer to mandates from the 480-a program, and Supervisor McKeon concurred, stating the benefit of local administration of resources. Michele Greig commented a local law may, or may not be more restrictive. Supervisor McKeon commented there could be cases in which the Planning Board might not allow harvests, permitted under the 480-a program. Chairman Phelan commented the Town has legitimate interests, which the NYSDEC has not considered, and further noted new ordinances can conflict with landowners' obligations to an agency outside of local agencies.

Kallie Robertson agreed, and noted the Town would be coming to the process retroactively. Chairman Phelan commented the Town should not be coming in after the fact, but reviewing 480-a plans is fine. Michele Greig commented new applicants for the 480-a program need to meet with the Planning Board for local approval. Kallie Robertson agreed, and noted the participants who are renewing after the initial five years, should also meet with the Planning Board for local approval. Kristina Dousharm, Bill Hamell, and Brian Kelley agreed. Chairman Phelan also agreed, and described this as a proactive, rather than retroactive approach. Michele Greig noted the Planning Board only reviews permit requests for

Commercial logging, and asked how the Planning Board could review 480-a participants. Chairman Phelan commented review could be triggered by the assessor, with a grandfathering provision, for current participants, and a requirement for landowners to present the plan, for Planning Board review within six months. Michele Greig asked why large-scale logging would be permitted in the WC District, which she described as the most environmentally sensitive district in the Town, and noted it requires a Special Use Permit from the Planning Board. Ms. Greig further noted it is always easier to deny an action outright, than to subject it to review.

Tree removal within the Agricultural Business District

Chairman Phelan noted tree removal, even on a larger scale, is not agriculture, but would be administered by the New York State Agriculture and Markets Law, not the Town. Michele Greig commented the Town may not draft a law contrary to the State Agriculture and Markets Law, and Supervisor McKeon commented the Town may draft a more restrictive law than the Agriculture and Markets Law. Michele Greig noted there may be farms within a state-certified Ag District, which are not within the Town Agricultural Business District, and recommended retaining "Timber Operation" under the heading "Agricultural and Open Space Uses", but delete "within the AB District, since the definition of "Timber Operation" requires it to be part of the farm operation.

Mining – Current Operations in the Town

Kallie Robertson asked if there were any large scale mines in the Town. Julia Solomon replied there are 8-10, not well known, or understood operations for mining aggregates in the Town, and informed the Board *members of the public from the Towns of Rhinebeck and Milan were at the public hearing, and not in favor of the moratorium, proposed under Local Law E.*

LWRP Consistency Determination – Local Law E Consistency with the Local Waterfront Revitalization Program .

General Planning Board Comments:

Chairman Sam Phelan introduces LWRP Consistency Determination stating the Town Board is proposing a new local law, which will amend the Zoning Law by abolishing the Light Industrial Zoning District. Chairman Phelan notes the Town Comprehensive Plan sets the basis of development within the Town, and further clarifies, any change to the Zoning Law must also be reflected in the Comprehensive Plan, which is why the proposed Local Law E, also requires revisions to the current Comprehensive Plan, before it can be adopted. Michele Greig also identified two areas of Planning Board review. The first was consistency with the LWRP, since some of the lands are within that program, and the second was review of the Local Law E itself, as required by the Zoning Law, and to pass on any Planning Board comments to the Town Board, due to the Planning Board's greater familiarity with the Town Zoning Law.

Chairman Phelan clarified the relevant sections of the Consistency Determination, for Planning Board review, would be those checked "yes", which were Sections, 5, 11, 12, 17, 23, 24, 24A, 24B, 25, 25A, 25B, and 26A, and read each aloud for the Board to comment. [The relevant sections of the LWRP document are italicized. Planning Board Comments are at the end of the last section]

A. Development Policies [5]

5. Encourage the location of development in areas where public services and facilities essential to such development are adequate, except when such development has special functional requirements or other characteristics which necessitate its location in other Coastal Areas.

Comments

Proposed action would eliminate the potential for establishment of Light Industrial uses anywhere in the RD3 Zoning District, which can be found in a narrow 500 foot corridor of the LWRP area along the east side of State Route 9G. The proposed action would also establish new rules that would apply to timber harvests in the LWRP area, grading and other vegetation removal in the LWRP area, and would remove the potential for establishment of large scale sand and gravel mines within the LWRP area."

C. Flooding and Erosion Hazards Policies [11,12, 17]

11. Buildings and other structures will be sited in the Coastal Area so as to minimize damage to property and the endangering of human lives caused by flooding and erosion.

LWRP Comments

No development is proposed as part of this action. Uses permitted by the action in the Coastal Area would be subject to review of their stormwater management implications by the Town Planning Board.

12. Activities or development in the Coastal Area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features including beaches, dunes, barrier islands and bluffs. Primary dunes will be protected from all encroachments that could impair their natural protective capacity

LWRP Comments

No development is proposed as part of this action. Uses permitted by the action in the Coastal Area would be subject to review of their stormwater management implications by the Town Planning Board.

17. Whenever possible, use non-structural measures to minimize damage to natural resources and property from flooding and erosion. Such measures shall include: (1) the set back of buildings and structures; (2) the planting of vegetation and the installation of sand fencing and draining; (3) the reshaping of bluffs; and (4) the flood-proofing of buildings or their elevation above the base

LWRP Comments

No development is proposed as part of this action. Uses permitted by the action in the Coastal Area would be subject to review of stormwater management implications by the Town

G. Historic Resource Policy [23]

23. Protect, enhance and restore structures, districts, areas or sites that are of significance in the history, architecture, archaeology or culture of the State, its communities, or the nation.

LWRP Comments

Proposed action will require permitted uses to obtain Town review and approvals to ensure preservation of the historic integrity of any structures, districts, areas and sites on or eligible for listing on the State and National Registers of Historic Places.

H. Scenic Quality Policies [24, 24A, 24B, 25, 25A, 25B]

24. Prevent impairment of scenic resources of statewide significance, as identified on the Coastal Area Map. Impairment shall include: (i) the irreversible modification of geologic forms, the destruction or removal of vegetation, the destruction, or removal of structures, whenever the geologic forms, vegetation or structures are significant to the scenic quality of an identified resource; and (ii) the addition

of structures which because of siting or scale will reduce identified views or which because of scale, form, or materials will diminish the scenic quality of an identified resource.

LWRP Comments

Proposed action would require review and approval by the Town Planning Board of any significant modification of the land, vegetation, or other geologic forms or structures in the coastal area. [The above comment pertains to all policies in Section H].

24A. Prevent impairment of the Estates District Scenic Area of Statewide Significance.

Brian Kelley moved to accept the LWRP Consistency Determination, with the requested changes. Bill Hamell seconded, and all Board members present voted in favor.

24B. Prevent impairment of the Ulster North Scenic Area of Statewide Significance.

25. Protect, restore or enhance natural and man-made resources which are not identified as being of statewide significance, but which contribute to the overall scenic quality of the Coastal Area.

25A. Prevent impairment of scenic resources incorporated within the Mid-Hudson Historic Shorelands Scenic District.

25B. Protect and enhance the scenic qualities of roads in the Town designated as scenic roads.

I. Agricultural Lands Policy [26A]

26A. To conserve and protect agricultural lands in the Coastal Area of the Town of Red Hook, an action shall not result in a loss, nor impair the productivity of important agricultural lands, if that loss or impairment would adversely affect the viability of agriculture in an Agricultural District, or if there is no Agricultural District, in the area surrounding such lands.

LWRP Comments

The proposed action would prohibit new Light Industrial uses from becoming established in the agricultural areas of the Town's RD3 Zoning District a small portion of which exists in the coastal area, would prohibit the removal of topsoil and other important farmland soils from agricultural lands, except for agricultural purposes, and would remove the potential for establishment of uses with potential incompatibilities with agriculture.

The Planning Board agrees with all of the above listed Policies and LWRP Comments, noting Policy 5 is consistent with the Town's Plan to be more restrictive in encouraging development in appropriate areas.

Michele Grieg commented she would have to speak to Ted Fink, who Julia Solomon stated knows more about the proposed Local Law E than anyone in the Town, regarding whether or not the current Light Industrial District, in fact, shares lands with the Coastal Area. Ms. Greig stated she thought the Coastal Area comprised only those lands east of Route 9G, and further noted the proposed local law should be revised, if they do not intersect, since the current version states they do.

Brian Kelley moved to adopt the LWRP, with the noted, possible revisions. Bill Hamell seconded and all Board members present voted in favor of adoption.

ADJOURNMENT

There being no further business before the Board, Bill Hamel made a motion to adjourn. Kristina Dousharm seconded and all members voted in favor.

Respectfully submitted,

Anne Rubin, Assistant to
Kathleen Flood
Clerk for the Board

¹ See italicized text in paragraph on "Mining"

Planning

From: Robert McKeon <rmckeon@redhook.org>
Sent: Thursday, June 20, 2019 4:45 PM
To: 'Planning'
Cc: 'Sam Phelan'; 'Sam Phelan'; lisafoscolo@gmail.com; kallieweinkle@gmail.com; 'Brian Kelly'; 'Kristina Dousharm'; 'William Hamel'
Subject: RE: Town of Red Hook Planning Board Draft Minutes 6-3-19

Thank you Anne / Kathleen. Just a correction with regard to the statement governing mining and the response by the Towns of Rhinebeck and Milan. I believe this refers to the companies from those communities and not the municipalities themselves.

RM

From: Planning [mailto:planning@redhook.org]
Sent: Wednesday, June 19, 2019 4:42 PM
To: 'Bruce Martin' <bmartin@rhcsd.org>; 'Carol Little' <clittle@redhook.org>; 'Charles Laing' <claing66@icloud.com>; 'Chris Gilbert' <chrisgilbert@frontiernet.net>; 'Christine Chale' <cchale@rodenhausenchale.com>; 'Christine Kane' <ckane2010@gmail.com>; 'Christopher Carney' <cmc974@hotmail.com>; 'Denis Collet' <dcollet@frontiernet.net>; 'George Michael' <gmichael@frontiernet.net>; 'Gerald Jameison' <gjameison@yahoo.com>; 'Harry Colgan' <harrycolgan6@gmail.com>; 'Hudson River Heritage' <hudsonriverheritage@gmail.com>; 'Jane Ferguson' <janehf@aol.com>; 'Jennifer Gray' <jgray@kblaw.com>; 'John Douglas' <jrd@hvc.rr.com>; 'Kallie Robertson' <kallieweinkle@gmail.com>; 'Karen Schneller-McDonald' <katykill2@gmail.com>; 'Kristofer Munn' <kmunn@munn.com>; 'Larry Thetford' <thetfordl@webjogger.net>; 'Laurie Husted' <husted@bard.edu>; 'Lisa Foscolo' <lisafoscolo@gmail.com>; 'Lucy Hayden' <director@winnakeeland.org>; 'Michael Brown' <rmichaelbrown@frontiernet.net>; 'Michele Greig' <greig@hvc.rr.com>; 'Mike Ziele' <msz36@hotmail.com>; 'Nancy Guski' <nmg@frontiernet.net>; 'nickannas@twc.com'; 'Paul Marienthal' <marienth@bard.edu>; 'Peter Sweeny' <peter@sweenyarchitects.com>; 'Richard Wambach' <richard@wambachcommunications.com>; 'Robert McKeon' <rmckeon@redhook.org>; 'Sam Phelan' <sphe076600@yahoo.com>; 'Sarah Imboden' <s.d.imboden@gmail.com>; 'Steve Cole' <scole@redhook.org>; 'Sue Ellis' <shellis@frontiernet.net>; 'Sue McCann' <smccann@redhook.org>; 'Theresa Burke' <redhookhighway@hvc.rr.com>; 'Tim Ross' <atssor@aol.com>; 'trilbys@yahoo.com'; 'truffled@citlink.net'; 'Victoria Polidoro' <vpolidoro@rodenhausenchale.com>; 'Village Tivoli' <villagehall@tivoliny.org>; 'Wint Aldrich' <wint42@gmail.com>; 'ZBA' <zba@redhook.org>; 'Zoie Riel' <akazoie@aol.com>; 'emily.majer@gmail.com'; 'Geoffrey Carter' <geoffcarter22@gmail.com>
Subject: Town of Red Hook Planning Board Draft Minutes 6-3-19

*Anne Rubin, Assistant to
Kathleen Flood
Town of Red Hook Planning Board Clerk
845-758-4613*

Local Waterfront Revitalization Consistency Form				
Policy	N/A	Consistent		Comments
		Yes	No	
A. Development Policies				
1. Not applicable to Red Hook.	✓			
1A. Encourage growth of the tourism sector of the Town economy through: (1) preservation, enhancement and/or reuse appropriate areas and structures within the LWRP area/Historic Shorelands Scenic District, and (2) taking steps to inform the public of existing areas of historic, scenic, and recreational interest.	✓			
2. Facilitate the siting of water-dependent uses and facilities on or adjacent to coastal waters.	✓			
3. Not applicable to Red Hook.	✓			
4. Not applicable to Red Hook.	✓			
5. Encourage the location of development in areas where public services and facilities essential to such development are adequate, except when such development has special functional requirements or other characteristics which necessitate its location in other Coastal Areas.		✓		Proposed action would eliminate the potential for establishment of Light Industrial uses anywhere in the RD3 Zoning District, which can be found in a narrow 500 foot corridor of the LWRP area along the east side of State Route 9G. The proposed action would also establish new rules that would apply to timber harvests in the LWRP area, grading and other vegetation removal in the LWRP area, and would remove the potential for establishment of large scale sand and gravel mines within the LWRP area.
6. Expedite permit procedures in order to facilitate the siting of development activities at suitable locations.	✓			
B. Fish and Wildlife Policies				
7. Significant coastal fish and wildlife habitats, as identified on the Coastal Area Map, shall be protected, preserved, and, where practical, restored so as to maintain their viability as habitats.	✓			
7A. Protect the areas identified as significant habitat areas by the Department of State as well as the creeks, kills, wetland and cove areas draining into and adjacent to the Hudson River from alteration and/or pollutant discharge by residential, commercial, agricultural or industrial uses in order to maintain their viability as habitat areas.	✓			
8. Protect fish and wildlife resources in the Coastal Area from the introduction of hazardous wastes and other pollutants which bio-accumulate in the food chain or which cause significant sublethal or lethal effect on those resources.	✓			
9. Expand recreational use of fish and wildlife resources in Coastal Areas by increasing access to existing resources, supplementing existing stocks, and developing new resources. Such efforts shall be made in a manner which ensures the protection of renewable fish and wildlife resources and considers other activities dependent on them.	✓			

Local Waterfront Revitalization Consistency Form				
Policy	N/A	Consistent		Comments
		Yes	No	
10. Further develop commercial finfish, shellfish, and crustacean resources in the Coastal Area by: (1) encouraging the construction of new, or improvement of existing, on-shore commercial fishing facilities; (2) increasing marketing of the State's seafood products; and (3) maintaining adequate stocks and expanding agricultural facilities. Such efforts shall be in a manner which ensures the protection of such renewable fish resources and considers other activities dependent on them.	✓			
C. Flooding and Erosion Hazards Policies				
11. Buildings and other structures will be sited in the Coastal Area so as to minimize damage to property and the endangering of human lives caused by flooding and erosion.		✓		No development is proposed as part of this action. Uses permitted by the action in the Coastal Area would be subject to review of their stormwater management implications by the Town Planning Board.
12. Activities or development in the Coastal Area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features including beaches, dunes, barrier islands and bluffs. Primary dunes will be protected from all encroachments that could impair their natural protective capacity.		✓		No development is proposed as part of this action. Uses permitted by the action in the Coastal Area would be subject to review of stormwater management implications by the Town Planning Board.
13. The construction or reconstruction of erosion protection structures shall be undertaken only if they have a reasonable probability of controlling erosion for at least thirty years as demonstrated in design and construction standards and/or assured maintenance or replacement programs.	✓			
14. Activities and development, including the construction or reconstruction of erosion protection structures, shall be undertaken so that there will be no measurable increase in erosion or flooding at the site of such activities or development, or at other locations.	✓			
15. Mining, excavation or dredging in coastal waters shall not significantly interfere with the natural coastal processes which supply beach materials to land adjacent of such waters and shall be undertaken in a manner which will not cause an increase in erosion of such land.	✓			
16. Public funds shall only be used for erosion protective structures where necessary to protect human life, and new development which requires a location within or adjacent to an erosion hazard area to be able to function, or existing development; and only where the public benefits outweigh the long term monetary and other costs including the potential for increasing erosion and adverse effects on natural protective features.	✓			
17. Whenever possible, use non-structural measures to minimize damage to natural resources and property from flooding and erosion. Such measures shall include: (1) the set back of buildings and structures; (2) the planting of vegetation and the installation of sand fencing and draining; (3) the reshaping of bluffs; and (4) the flood-proofing of buildings or their elevation above the base		✓		No development is proposed as part of this action. Uses permitted by the action in the Coastal Area would be subject to review of stormwater management implications by the Town

Local Waterfront Revitalization Consistency Form				
Policy	N/A	Consistent		Comments
		Yes	No	
23A. Conserve, protect, preserve and, if appropriate, promote the adaptive reuse of places, sites, structures, views and features in the Coastal Area of the Town of Red Hook of special historic, cultural or archaeological significance or which by reason of association with notable people or events, or of the antiquity or uniqueness of architectural and landscape design particular significance to the heritage of the Town.	✓			Places.
H. Scenic Quality Policies				
24. Prevent impairment of scenic resources of statewide significance, as identified on the Coastal Area Map. Impairment shall include: (i) the irreversible modification of geologic forms, the destruction or removal of vegetation, the destruction, or removal of structures, whenever the geologic forms, vegetation or structures are significant to the scenic quality of an identified resource; and (ii) the addition of structures which because of siting or scale will reduce identified views or which because of scale, form, or materials will diminish the scenic quality of an identified resource.		✓		Proposed action would require review and approval by the Town Planning Board of any significant modification of the land, vegetation, or other geologic forms or structures in the coastal area.
24A. Prevent impairment of the Estates District Scenic Area of Statewide Significance.		✓		See above.
24B. Prevent impairment of the Ulster North Scenic Area of Statewide Significance.		✓		See above.
25. Protect, restore or enhance natural and man-made resources which are not identified as being of statewide significance, but which contribute to the overall scenic quality of the Coastal Area.		✓		See above.
25A. Prevent impairment of scenic resources incorporated within the Mid-Hudson Historic Shorelands Scenic District.		✓		See above.
25B. Protect and enhance the scenic qualities of roads in the Town designated as scenic roads.		✓		See above.
I. Agricultural Lands Policy				
26. Not applicable to Red Hook.	✓			
26A. To conserve and protect agricultural lands in the Coastal Area of the Town of Red Hook, an action shall not result in a loss, nor impair the productivity of important agricultural lands, if that loss or impairment would adversely affect the viability of agriculture in an Agricultural District, or if there is no Agricultural District, in the area surrounding such lands.		✓		The proposed action would prohibit new Light Industrial uses from becoming established in the agricultural areas of the Town's RD3 Zoning District a small portion of which exists in the coastal area, would prohibit the removal of topsoil and other important farmland soils from agricultural lands, except for agricultural purposes, and would remove the potential for establishment of uses with potential incompatibilities with agriculture.
2 J. Energy and Ice Management Policies				
27. Decisions on the siting and construction of major energy facilities in the Coastal Area will be based on public	✓			

Local Waterfront Revitalization Consistency Form				
Policy	N/A	Consistent		Comments
		Yes	No	
energy needs, compatibility of such facilities with the environment, and the facility's need for a shoreline location.				
28. Ice management practices shall not damage significant fish and wildlife and their habitats, increase shoreline erosion or flooding, or interfere with the production of hydroelectric power.	✓			
29. Not applicable to Red Hook.	✓			
K. Water and Air Resources Policies				
30. Municipal, industrial, and commercial discharge of pollutants, including but not limited to, toxic and hazardous substances, into coastal waters will conform to State and national water quality standards.	✓			
31. State Coastal Area policies and purposes of approved Local Waterfront Revitalization Programs will be considered while reviewing coastal water classifications and while modifying water quality standards; however, those waters already overburdened with contaminants will be recognized as being a development constraint.	✓			
32. Encourage the use of alternative or innovative sanitary waste systems in small communities where the costs of conventional facilities are unreasonably high, given the size of the existing tax base of these communities.	✓			
33. Best management practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters.	✓			
34. Discharge of waste materials into coastal waters from vessels will be limited so as to protect significant fish and wildlife habitats, recreational areas and water supply areas.	✓			
35. Dredging and dredge spoil disposal in coastal waters will be undertaken in a manner that meets existing State dredging permit requirements, and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands, and wetlands.	✓			
36. Activities related to the shipment and storage of petroleum and other hazardous materials will be conducted in a manner that will prevent or at least minimize spills into coastal waters; all practicable efforts will be undertaken to expedite the cleanup of such discharges; and restitution for damages will be required when these spills occur.	✓			
37. Best management practices will be utilized to minimize the non-point discharge of excess nutrients, organics and eroded soils into coastal waters.	✓			
38. The quality and quantity of surface water and groundwater supplies will be conserved and protected, particularly where such waters constitute the primary or sole source of water supply.	✓			
38A. Work to re-establish and maintain the Saw Kill Water Quality Surveillance Program.	✓			
39. The transport, storage, treatment and disposal of solid wastes, particularly hazardous wastes, within Coastal Areas will be conducted in such a manner so as to protect groundwater and surface water supplies, significant fish and wildlife habitats, recreation areas, important	✓			

Local Waterfront Revitalization Consistency Form				
Policy	N/A	Consistent		Comments
		Yes	No	
agricultural lands and scenic resources.				
40. Effluent discharged from major steam electric generating and industrial facilities into coastal waters will not be unduly injurious to fish and wildlife and shall conform to State water quality standards.	✓			
41. Land use or development in the Coastal Area will not cause national or State air quality standards to be violated.	✓			
42. Coastal management policies will be considered if the State reclassifies land areas pursuant to the prevention of significant deterioration regulations of the Federal Clean Air Act.	✓			
43. Land or development in the Coastal Area must not cause the generation of significant amounts of the acid rain precursors: nitrates and sulfates.	✓			
44. Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.	✓			

TOWN OF RED HOOK PLANNING BOARD

7340 SOUTH BROADWAY, RED HOOK, N. Y. 12571

Tel: (845) 758-4613 • Fax: (845) 758-0492 • E-mail: planning@redhook.org

To: Robert McKeon, Supervisor
Town of Red Hook Town Board

From: Sam Phelan, Chairman
Town of Red Hook Planning Board

Date: June 7, 2019

Subject: Proposed Comprehensive Plan Amendment and Local Law E of 2019

At its regular meeting on June 3, 2019, the Town of Red Hook Planning Board reviewed proposed Local Law E of 2019 to Amend the Zoning Law Addressing Natural Resource Protection, as required by §143-141 of the Zoning Law. The Board has also considered the proposed amendment to the *Comprehensive Plan* to eliminate the Light Industrial Overlay District.

The Planning Board supports the proposed *Comprehensive Plan* amendment to eliminate the Light Industrial Overlay (Floating) District. In the 26 years since the provisions for this district were adopted, no landowner has applied to the Town Board for designation of an LI District. The LI District is coincident with the RD3 District, and requires a minimum site area of 25 contiguous acres and a single parcel size a minimum of 15 acres. In 2011, the Town Board adopted the "Centers and Greenspaces" Zoning amendments, which significantly reduced the size of the RD3 District, and included many of the largest parcels from that district in the new Agricultural Business District. At the same time, the TND Office-Industrial Subdistrict was created, with the intent to provide "a location for light industry, office, research and lodging facilities with suitable access and external buffer areas to ensure compatibility with adjacent land uses and to minimize visual impacts on the Town's southern gateway" [§ 143-49.1D(4)]. Many of the uses permitted in the LI District are allowed in the TND Office-Industrial Subdistrict, and in other districts such as the B1, B2, and Institutional Districts (where a conference center, for example, is allowed). Since there no longer appears to be a need for the LI District, the Planning Board supports its elimination.

The Planning Board generally supports proposed Local Law E of 2019 and its goal to protect the Town's natural resources. The Planning Board offers the following specific comments and recommendations on the proposed Local Law:

Commercial Logging:

1. Section 143-73A(2) would exempt from the definition of "commercial logging" the harvesting of up to ten (10) cords of firewood per year for non-commercial use by the property owner. The removal of 10 cords of wood per year may have an impact on lots or land areas less than five (5) acres in size. The Planning Board recommends that the Town Board consider including a parcel size or an acreage threshold in addition to the number of cords.

2. Section 143-73A(11) exempts from commercial logging “trees removed in conjunction with a Timber Operation within the AB District.” However, there may be some farms in a New York State certified Agricultural District that are protected by NYS Agriculture and Markets Law that are located outside the AB District. Consider retaining the row entitled “Timber operation” under the subheading “Agricultural, Conservation and Open Space Uses” in the Use Table¹, and revise the language in § 143-73A(11) to delete the reference to “within the AB District” since the definition of “Timber Operation” clarifies that this must be an “on-farm” operation.
3. Concern was expressed regarding the potential impact of Planning Board review of Large-scale Commercial Logging permit applications that involve a site that is part of a long-term management plan prepared in accordance with a New York State 480-a Forest Tax law plan [refer to §143-73C(3)(e)]. If the Planning Board prohibited a landowner with a 480-a plan from cutting trees in a certain area, the landowner may be in breach of contract and lose their tax benefit. Consider grandfathering 480-a plans that exist as of the date of adoption of the Local Law (and require landowners to file a notice of an existing plan with the Town), while requiring that new plans and the five-year updates to existing plans be reviewed by the Planning Board before the contract with the state is signed.
4. For clarity, consider including a row in the Use Table that identifies where small-scale logging operations are allowed.

Collection of Spring Waters:

1. Does the Local Law make it clear that the proposed amendments to prohibit large-scale water extraction in the Town would not impact the ability to extract groundwater for a public water supply, or for a business that uses a large amount of water, such as a brewery or cidery?

Soil Mining:

1. Proposed § 143-73E(1)(b) requires that the Planning Board refer large-scale commercial logging applications to the Town Conservation Advisory Council for an advisory opinion. The Planning Board recommends that the same requirement (and the same language) be included in § 143-104 (Extractive operations, including soil mining).

¹ There are two references to this row in Section 4 of the Local Law; both should be deleted.