

Waterfront Advisory Committee (WAC) Town of Rhinebeck  
30 June 2022

**This is the Waterfront Advisory Committee (WAC) report to the Town of Rhinebeck Town Board for the Workforce-Housing (WF-H) proposed zoning change and development of the 23 acre site between Rhinecliff Road and Astor Drive in the Town of Rhinebeck.**

Applicant: Kearney Realty and Development and Housing Partnership Development Corp. Project Address: Rhinecliff Road, Rhinebeck, NY 12572

6170-00-223336-0000

Background

On Wednesday, June 1, 2020, WAC members George Baker, Joe Kupiec and Sharon Sherrod, attended a site visit with Planning Board and Historical Preservation members including Edna Lachmund, Michael Trimble, Kathy Hammer, Craig Oleszewski and others. The project was represented by the engineer Andrew Learn from CPL.

The applicant is requesting approval for an eighty unit affordable housing development comprised of four buildings, associated parking lots, public space and site modifications to support the development, and an access road running between Rhinecliff Road and Astor Drive. The lot is 23.3 acres.

WAC Findings

Findings are indicated under each section and policy below.

Federal & DEC Wetland

The property includes Federal and state wetlands.

Floodplain

The property is not within a floodplain.

Historical and Archeological

The location is a contributing property to the Estates District as well as being within the Scenic Area of Statewide Significance (SASS). The parcel has important history as a site occupied by Native Americans, as well as containing a significant archeological site pertaining to the African American servants of Captain Nathan Darling.

The following are the sections and polices from The LWRP Report adopted by the Town in 2007 in *italics* and the WAC findings for this project.

***section II Inventory and analysis***

***section B existing land use***

**#10 Vacant:** *“Vacant means without and identified active use. The vacant areas include wooded, wetland and brush areas. These vacant, wooded and wetland areas serve as an important visual resource complementing the agricultural areas, the historic structures and the beauty and open space setting provided by the Hudson River. In addition, they serve an important ecological function in providing watershed areas and habitats and breeding areas for plants, fish and wildlife. Maintained in their natural state, the brush, wooded and wetland areas serve to assist in flood and erosion control, air quality amelioration and noise absorption.”*

#10 Finding: The proposed project is planned for currently undeveloped property that is currently hardwood forest, brush, a wetland and a boundary with a stream. The property is located on the border with the Village of Rhinebeck. The forest primarily consists of mature Black Walnut, Sugar maples, Locust and Black Cherry trees. The WAC agrees that this site is a valuable resource in the Town.

The Town is fortunate to have a woodland area adjacent to the Village. As stated in the LWRP *“Maintained in their natural state, the brush, wooded and wetland areas serve to assist in flood and erosion control, air quality amelioration and noise absorption.”* The WAC agrees with this statement.

**#13 Analysis of Existing Land Use section c** *“Increased pressure for residential development in the Town and at the boundaries of the Village and Town will make it necessary to take deliberate steps to maintain the rural open appearance of the Town and to continue the concentration of more intense uses in or near the Village.”*

#13 Finding: Steps must be taken to maintain the rural appearance of the Town. The LWRP suggests development near the Village. It is the opinion of the WAC that this area, while close to the Village, is not suitable for this type of development due to the steep slopes, hardwood forest, the historical remnants of the stone walls, the archeological remnants and boundary with the Rhinebeck Kill, a tributary that flows into the Hudson River.

***Section E Environmental Features***

**# 8 Streams** *“Two primary streams, the Landsman Kill and the Rhinebeck Kill, join and flow across the waterfront area of the Town and drain southwest into Vanderburgh Cove and then into the Hudson”*

#8 Finding: The WAC advises the proposed construction of the affordable housing complex areas, parking areas including both pervious and impervious areas, would require routine monitoring to protect the Rhinebeck Kill, The Landsman Kill, Vanderburgh Cove and the Hudson River from herbicides and runoff.

**#9 Forested areas** *“Many stands of mature hardwood trees are dispersed throughout the Town.”*

#9 Finding: The project area has a mature forest with Black Walnut, Sugar maples, Locust and Black Cherry trees, and the ground is covered profusely with Mayapples. The WAC is opposed to the clear cutting of much of the forest as it will change the character of the gateway into the village.

**#13 Analysis of Environmental Features** *“a. Protection of Ground and Surface Water It is important to protect the Town ground and surface waters against pollution from a variety of residential ...sources. These include contamination and runoff from ...the use of herbicides, ...and home gardeners. Any negative impacts on streams tend to affect the cove and ultimately the River as well.”*

#13 Finding: The WAC agrees with this statement in the LWRP. Herbicides are used extensively on lawns and parking areas are over contaminated with salt; all which may run off downhill to the Rhinebeck Kill under the proposed project.

During construction of the proposed housing and including, lawn and garden areas, parking areas including both pervious and impervious areas will need to be monitored by the developer to protect the Rhinebeck Kill from herbicides and runoff. Maintenance of the completed project should utilize native plantings that do not require extensive use of herbicides, that can also help minimize and absorb runoff, should be utilized to minimize and mitigate any new runoff that may be created by changes to the property. Efforts to minimize tree removal and minimize the creation of new grassy areas (particularly on steeper slope areas) should be considered. The control of stormwater runoff issues are regulated in Zoning Law 125-60.

## **Section G Historic and Scenic Features**

### **#3 Stone Walls**

*“Of the landscape appurtenances mentioned in the Mid-Hudson Historic Shorelands Scenic District Management Plan, stone walls were determined to be the most significant.”*

#3 Finding: The remains of the stone walls need to be preserved and protected; they are historical and date back to the 18<sup>th</sup> century. These old walls were used as property boundaries and separation of pastures for livestock. The WAC strongly recommends all stone wall, no matter the condition, be protected.

**#5 Street Trees** *“Unfortunately it takes a long time to grow a large tree, but a short time to destroy such a valuable asset.”*

#5 Finding: The site is a hardwood forest area with several large mature trees which need to be identified and saved where possible. The scale of the building site and associated parking lots call for the clear cutting of mature hardwood forest that would reduce the forest by an estimated 40 percent. This severe ecocide indiscriminately levels every tree regardless of age or size. No attempt has been made to safeguard significant specimens or to present to our committee a plan for the long term stewardship of what wooded areas would remain. The plan for the subsequent suburban style expanses of vast chemical intensive lawns that would replace these woods has been insufficiently explained and illustrated to our committee. The WAC advised these mature trees be identified as to diameter, and species and any tree proposed for removal be identified and a reason given why it must be destroyed.

*#6 Scenic Roads and Scenic Vistas*

*“Although considered within the context of scenic roads, scenic vistas merit special attention and treatment. The term “scenic vistas” is used to refer to those locations or vantage points where sights of some broad expanse of unique and outstanding beauty are apparent.”*

*“g. NY Route 308 (Rhinecliff Road) from the intersection with Charles Street to the intersection of U.S. Route 9.”*

#6g Finding: The scenic view, heading west from the library on Rhinecliff Road, of the Catskill Mountains is a view that must be preserved. The removal of the geological formations and stone walls would already be a serious, irreversible disfigurement to the vista. These types of issues are regulated in Zoning Law 125-55.. Heading West, this road has a sharp turn and rock outcroppings that are very close to the historical foundation dating back to the 1800’s when the site was owned by Captain Nathan Darling. The foundation that remains as an archeological site may have served as the domestic quarters for the five African American servants that were associated with Captain Darling's household. While the foundation itself would be unscathed by the removal of the geological formations in the shoulder of Rhinecliff Road to open the site view for traffic, the graded area immediately adjacent to the house would be lost.

From Howard Morse’s book Historic Old Rhinebeck we learn the following about the person who owned this land. “Capt. Nathan Darling, an officer who had some experience in the Florida Indian wars, settled in the town. This was about 1838. He occupied the Darling lot on the west side of Teller Hill”

US 2<sup>nd</sup> Cavalry Officers 1836 **DARLING, Nathan**, Captain, November 23, 1836 – August 31, 1843;

DARLING, Nathan, a Doorkeeper from New York; birth date unknown; elected Doorkeeper of the United States House of Representatives to the Thirty-fourth Congress (February 5, 1856–December 7, 1857); staff, Office of the Doorkeeper of the U.S. House of Representatives, 1857–1861; Chief of Capitol Police, 1861–1863; death date unknown.

(Source history. House.gov; ) (also Morse book)

*k. Astor Drive from the intersection with River Road to the intersection with Montgomery Street in the Village of Rhinebeck.”*

Astor Drive is an historic road in Rhinebeck, formerly part of the extensive Vincent Astor Estate.

#6k Finding: The WAC has concerns for the protection of the stone walls throughout the property, the protection of the historical foundation and protection of Astor Drive from increased traffic.

### Section III Policies

#### **Policy 7A**

*“The Vanderburgh Cove and shallows habitat shall be protected, preserved and, where practical, restored so as to maintain its viability as a habitat.*

*Any activity that would substantially degrade water quality in Vanderburgh Cove and Shallows could affect the biological productivity of this area.”*

**Policy 7E** *“Protect the Creeks, freshwater tidal wetlands, and freshwater tidal cove areas draining into and adjacent to the Hudson River from alteration and/or pollutant discharge by residential, commercial, agricultural or industrial uses.*

*The Landsman Kill and Rhinebeck Kill which join and flow into Vanderburgh Cove (a State DEC-designated habitat area), as does the Fallsburg Creek, must be protected.”*

#7A & #7E Finding: The use of herbicides on the WF-H proposed site may result in adverse impacts on the fish and wildlife resources in the bordering Rhinebeck Kill which flows into Vanderburgh Cove.

The WAC has concerns about the use of herbicides on such a large development and the Stream area shall be protected as per LWRP Policies 7A and 7E.

#### **Policy 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, ....”**

**This applies to the Scenic Area of Statewide Significance**

Policy 24 (Stone walls) Finding: The stone walls that parallel Rhinecliff Road would be permanently destroyed by the removal of the geological formations in the shoulder to open the site view for traffic. These historic walls date to at least the 19<sup>th</sup> century and may be as old as the 18<sup>th</sup> century. They are an important adjunct to the dairy farm opposite them, one of the oldest continuously farmed parcels in all of Dutchess County. They also represent a valuable, clear demarcation where the traditional agricultural and woodland buffer meets the entrance to the Village.

Historically, Rhinebeck has always retained a clearly demarcated boundary between the entrance to the Village’s built environment beginning at West Market Street, and the wooded and farmed parcels that abut it. L. R. Burleigh’s lithographic bird’s-eye view of Rhinebeck published in 1890, shows the extent of this wooded buffer that remains the same today. Prior

to the late 19th century, this had been fields and pasture for livestock, testified to by the remains of dry stone walls that likely date to the 18th century, as the dairy farm opposite is one of the oldest continuously farmed parcels in the entire county.

It is this rich agrarian history that gives this part of Rhinebeck character and beauty sufficient to qualify as an area of scenic beauty to the entire state of New York (SASS). It is also a contributing parcel to the Estates District. WAC therefor considers the proposal submitted by Kearney Developers to be an unacceptable alteration that would detrimentally disturb, disfigure, and destroy much of this irreplaceable and vulnerable cultural and environmental resource.

The WAC also recommends no destruction to the stone walls or the geologic forms, ( the steep rocky slope) per LWRP Policy 24.

### **Policy 24A**

*Prevent Impairment of scenic resources incorporated within the Mid-Hudson Historic shorelands scenic district and the estates district scenic area of statewide significance.*

*Following guidelines:*

- 1- Siting structures back from roadways to maintain the attractive quality of these areas and to retain views ..;*
- 2-Clustering or orientating structures to retain views, save open space and provide visual organization to a development;*
- 5- Maintaining or restoring the original land form and vegetation...;*
- 6-Maintaining or adding vegetation and appropriately pruning or trimming trees to provide interest, encourage the presence of wildlife, blend structures into the site, and obscure unattractive features, except when selective clearing removes unsightly, diseased or hazardous vegetation and when selective clearing creates views of important resources such as historic resources, open lands, the Catskill Mountains or the Hudson River;*
- 8- Placing utility lines underground;*
- 9-Maintaining and preserving stone walls, gateways to estates and landscape features along roadways;*
- 10-Using appropriate scales, forms and materials to ensure buildings and other structures are compatible with and add interest to the landscape;"*

Policy #24A Finding: There are 19<sup>th</sup> century stone walls that run along the entire frontage of the parcel along Rhinecliff Road. They will be destroyed if the geological formations are removed to open the view in the blind curve. There are additional walls inside the woodlands, most in tumbledown disrepair.

The SASS stands for a district that has been designated a Scenic Area of Statewide Significance. This parcel is also in The Estates District "that necessitates a high degree of sensitivity and oversight to protect this irreplaceable resource."

The scale of the building site and associated parking lots call for the clear cutting of mature hardwood forest that would reduce the forest by an estimated 40 percent. This severe ecocide indiscriminately levels every tree regardless of age or size. No attempt has been made to safeguard significant specimens or to present to our committee a plan for the long term

stewardship of what wooded areas would remain. The plan for the subsequent suburban style expanses of vast chemical intensive lawns that would replace these woods has been insufficiently explained and illustrated to our committee.

WAC finds regrettable that Kearney Developers has in no way used language to convey that they understand the obligation that to build within a SASS District requires special sensitivity to the uniqueness of the site. Discordant materials such as vinyl fencing and modular block retaining walls will irrevocably spoil the aesthetics of the setting. The style of street lighting, signage, hardscape sidewalks, etc. are all treated in the most generic suburban style and are demonstrative of the monoculture creating approach unacceptable to the character of The Estates District, SASS, and the neighboring Village Historic District.

This uninspired lack of artistic creativity extends perhaps most egregiously to the design of the buildings, both in terms of the appearance of their facades and in the relationship between the buildings and the parking lots. Engineer Andrew Learn said himself at the site visit: "We start with a cookie cutter design and see how the town reacts to it." That is an unbelievably low bar for design aesthetics, and the generic buildings proposed reflect this cynicism. One searches in vain for anything progressive about the plan. Car culture dominates the overall design to the degree that this scheme evokes the era of Robert Moses, the buildings sitting like strip malls before vast expanses of asphalt.

The WAC recommends strict adherence to the Town of Rhinebeck Design Standards that are a supplement to the Town Zoning Law. These standards address access, parking lots, screening within the parking lots, eliminating unnecessary Asphalt, pedestrian and bicycle circulation and building design criteria.

***Policy 24B*** "Protect and enhance the scenic qualities of roads in the Town nominated as scenic roads under the Hudson Valley scenic roads program and those designated as scenic roads by the New York State Department of Environmental Conservation. ....vegetation and stone walls which give these roadways their unique character have not been well maintained. .... Various local and state agencies, including the Town Board, the Town Highway Depart, The County Department of Public Works and the State Department of Transportation need to coordinate effort's to 2) improve conditions of scenic roads that may be too narrow or dangerous, e.g. ...Astor Drive and Rhinecliff Road, without extensive widening, substantial grading or rebuilding that would jeopardize specimen trees and stone walls."

The Town has also designated roads as scenic as identified in #6 Scenic Roads and Scenic Vistas above.

"g. NY Route 308 (Rhinecliff Road) from the intersection with Charles Street to the intersection of U.S. Route 9.

k. Astor Drive from the intersection with River Road to the intersection with Montgomery Street in the Village of Rhinebeck."

Policy #24B Finding: Any stone walls on the site shall be preserved as well as mature trees along the existing road (Rhinecliff Road)

The traffic study presented by Kearney can in no way represent true vehicular use of Rhinecliff Road. It was conducted over three weekdays, off season in November, in the middle of the pandemic. That it concluded that no measures need to be taken to safely use Rhinecliff Road as an entrance, is contradicted by the subsequent **assertion** by Kearney that the geological formations in the shoulder of Rhinecliff Road would have to be destroyed to open the site view to make the proposed entrance safe. This permanent and irreversible alteration to the topography would result in the destruction of the ancient stone walls paralleling the roadway, as well as compromising the archeological integrity of the Darling site that sits atop this outcropping. It is speculated that this site is of great importance to **our** understanding of the African American servants associated with the Captain Nathan Darling house in the adjacent parcel. Also unaddressed is the statistical number of drivers who will opt to make a shortcut through this development to avoid sitting at the Village's traffic light, affecting the quality of life and safety of the residents of Astor Drive.

WAC does not believe asking Rhinebeck to permanently trade a mature woodland buffer, with its abundance of wildlife habitat and sensitive wetland, for an inappropriately scaled, car-centric development of the highest design mediocrity, is not in the long term best interest of the Town. While we recognize that far too little has been done for too long on the affordable housing front, this scheme's negative impacts demonstrate that a higher degree of design and environmental sensitivity be demanded to preserve Rhinebeck's reputation as one of the most beautiful and unique towns in the Hudson Valley. This proposal is out of step with the mandates put forward in Rhinebeck's zoning laws to create walkable neighborhoods of high quality.

The WAC recommends that LWRP Policy 24B be adhered to.

Submitted the 30 June 2022

WAC members:

George Baker

Joe Kupiec

Sharon Sherrod