

1 JAMES MARQUIS

2

2 CHAIRMAN TRUNCALI: Let's please
3 rise for the Pledge to the flag.

4 (Pledge of Allegiance.)

5 CHAIRMAN TRUNCALI: Agenda, Town of
6 Marlborough Planning Board, January 4, 2016.
7 Regular meeting 7:30 p.m. Approval of
8 stenographic minutes for 11/16, 12/7. James
9 Marquis, public hearing, subdivision;
10 Levesque, sketch, amended site plan; Chestnut
11 Petroleum, sketch, site plan. Next deadline:
12 Thursday, January 8th. Next scheduled
13 meeting: Monday, January 19th.

14 MS. FLYNN: Tuesday. It's Tuesday.
15 I'm sorry.

16 CHAIRMAN TRUNCALI: Tuesday,
17 January 20th.

18 MS. FLYNN: 19th. Sorry.

19 CHAIRMAN TRUNCALI: We just received
20 the minutes for 11/16 and 12/7, so we'll table
21 those until the next meeting for approval.

22 First up is Marquis.

23 Do you have the posted notice?

24 MR. SCALZO: Twenty-one out, fourteen
25 back.

2 CHAIRMAN TRUNCALI: "Legal notice,
3 subdivision application. Please take notice a
4 public hearing will be held by the Marlborough
5 Planning Board pursuant to the State
6 Environmental Quality Review Act and the Town of
7 Marlborough Code 134-33 on Monday, January 4,
8 2016 for the following application: James Maquis,
9 at the Town Hall, 1650 Route 9W, Milton, New York
10 at 7:30 p.m. or as soon thereafter as may be
11 heard. The applicant is seeking approval for a
12 subdivision application for lands located at 26
13 Evy Lane, Marlboro, New York, Section 103.1;
14 Block 4; Lot 65.600. Any parties -- any
15 interested parties either for or against this
16 proposal will have an opportunity to be heard at
17 this time. Joel Truncali, Chairman, Town of
18 Marlborough Planning Board."

19 What was sent out and what was sent
20 back?

21 MR. SCALZO: Twenty-one out, fourteen
22 back.

23 CHAIRMAN TRUNCALI: Thank you.

24 MR. SCALZO: My name is Darren Scalzo,
25 I'm representing James Marquis this evening for a

2 two-lot subdivision on Evy Lane.

3 The last plans that you folks have for
4 what got me the appointment to this, I have
5 copies in my hand. The only revisions that are
6 different from the plans you have are with the
7 Health Department comments. If you would like, I
8 can hand you these.

9 CHAIRMAN TRUNCALI: Sure.

10 MR. SCALZO: We do have Health
11 Department approval. I had discussed the e-mails
12 back and forth with Mr. Hines.

13 MR. HINES: We did receive the e-mails.
14 We don't physically have --

15 MR. SCALZO: The permit to construct
16 has not been received yet.

17 MR. HINES: -- the e-mail.

18 MR. SCALZO: We have received
19 information from the Town Highway Department that
20 the driveway location is acceptable to them. You
21 have been cc'd on that. I'm not sure if you
22 received it yet. I just received it myself on
23 Thursday.

24 I have no information from the Water
25 Department.

2 If I could just back up for a moment.
3 For any members of the public that are here that
4 are unaware of what we're trying to do, we are
5 looking for a two-lot subdivision. We have a
6 total lot area of 6.2 acres. We're looking for
7 one lot to be 1.96 acres and the remaining lot
8 will be 4.24 acres. Lot number 1, as indicated
9 on the map, is where the existing two-story
10 multi-family home is. We propose a single-family
11 dwelling on lot number 2, which is the smaller of
12 the two lots.

13 We have, by recommendation of the
14 Planning Board, had the Federal wetlands
15 delineated again in October. Those limits appear
16 on the map.

17 We have everything that we need,
18 actually, up until this point. I was hoping just
19 to ask any questions of the public that I might
20 be able to answer that the Planning Board hasn't
21 already asked me.

22 CHAIRMAN TRUNCALI: Okay. This is a
23 public hearing. At this time is there anybody
24 from the public who has a question? Anybody?
25 (No response.)

2 CHAIRMAN TRUNCALI: If not, does the
3 Board have any questions?

4 MR. CLARK: No.

5 CHAIRMAN TRUNCALI: Pat, they've taken
6 care of all the outstanding --

7 MR. HINES: All of our previous
8 comments have been addressed. As was just
9 discussed, the wetlands were re-delineated as per
10 our request and depicted on the map.

11 We would recommend, based on the
12 information submitted, a negative declaration
13 under SEQRA.

14 We have no outstanding comments.

15 CHAIRMAN TRUNCALI: All right. Do I
16 have a motion for a neg dec on SEQRA?

17 MR. CLARK: I'll so move.

18 CHAIRMAN TRUNCALI: Do I have a second?

19 MR. LOFARO: I'll second.

20 CHAIRMAN TRUNCALI: All in favor?

21 MR. LOFARO: Aye.

22 MR. CLARK: Aye.

23 MS. LANZETTA: Aye.

24 CHAIRMAN TRUNCALI: Aye.

25 Opposed?

2 (No response.)

3 CHAIRMAN TRUNCALI: So carried.

4 Do we give preliminary and final
5 approval on this?6 MR. HINES: Yes. We have no
7 outstanding issues.8 MS. LANZETTA: Explain to me one more
9 time what the status is from the Health
10 Department on the septic permit.11 MR. HINES: The plans have been
12 submitted. I received an e-mail saying that they
13 are approvable. They're just awaiting --14 MR. SCALZO: We're waiting for the
15 permit to construct.16 MR. HINES: They are approved. They
17 just don't physically have that one-page permit
18 to construct.19 CHAIRMAN TRUNCALI: I'd ask for a
20 motion to close the public hearing.

21 MR. CLARK: So moved.

22 CHAIRMAN TRUNCALI: A second?

23 MR. LOFARO: I'll second.

24 CHAIRMAN TRUNCALI: All in favor?

25 MR. LOFARO: Aye.

2 MR. CLARK: Aye.

3 MS. LANZETTA: Aye.

4 CHAIRMAN TRUNCALI: Aye.

5 Opposed?

6 (No response.)

7 CHAIRMAN TRUNCALI: So carried.

8 Then we would need a motion for
9 preliminary approval.

10 MR. CLARK: I'll make that motion.

11 CHAIRMAN TRUNCALI: And a second?

12 MR. LOFARO: I'll second it.

13 CHAIRMAN TRUNCALI: All in favor?

14 MR. LOFARO: Aye.

15 MR. CLARK: Aye.

16 MS. LANZETTA: Aye.

17 CHAIRMAN TRUNCALI: Aye.

18 Opposed?

19 (No response.)

20 CHAIRMAN TRUNCALI: And a motion for
21 final approval.

22 MR. LOFARO: I'll make that motion.

23 MR. CLARK: I'll second it.

24 CHAIRMAN TRUNCALI: All in favor?

25 MR. LOFARO: Aye.

2 MR. CLARK: Aye.

3 MS. LANZETTA: Aye.

4 CHAIRMAN TRUNCALI: Aye.

5 Opposed?

6 (No response.)

7 CHAIRMAN TRUNCALI: Thank you.

8 MR. SCALZO: Thank you.

9 Is there additional information
10 required for --11 CHAIRMAN TRUNCALI: We do have to do
12 the recreation fee.

13 MR. SCALZO: Correct.

14 CHAIRMAN TRUNCALI: Do we have a copy
15 of that, Jennie?

16 MS. FLYNN: Yes.

17 CHAIRMAN TRUNCALI: Recreation fee
18 finding, Town of Marlborough Planning Board.19 Whereas the Planning Board has reviewed a
20 subdivision application known as James Marquis
21 with respect to real property located at
22 103.3-4-65.600, it is hereby resolved the
23 Planning Board makes the following findings
24 pursuant to Section 277, Section 4 of the Town
25 Law: Based on the present anticipated future

2 needs for park and recreation opportunities in
3 the Town of Marlborough and to which the future
4 population of this subdivision will contribute,
5 parklands should be created as a condition of
6 approval of this subdivision. However, a
7 suitable park of adequate size to meet the above
8 requirement can not be properly located within
9 the proposed project site. Accordingly, it is
10 appropriate that in lieu of providing parkland,
11 the project sponsors render to the Town payment
12 of a recreation fee to be determined in
13 accordance with the prevailing schedule
14 established for that purpose by the Town of
15 Marlborough. This subdivision known as James
16 Marquis resulted in one lot for a total of -- is
17 it 1,500? I believe \$1,500 in recreation fees,
18 parent parcel excluded.

19 Whereupon the following vote was taken.

20 Jennie, would you poll the Members?

21 MS. FLYNN: Member Cauchi is not here.

22 Member Clark?

23 MR. CLARK: Aye.

24 MS. FLYNN: Member Trapani is not here.

25 Member Lanzetta?

2 MS. LANZETTA: Here -- I mean -- I'm
3 sorry. Yes.

4 MS. FLYNN: Member Lofaro?

5 MR. LOFARO: Yes.

6 MS. FLYNN: Chairman Truncali?

7 CHAIRMAN TRUNCALI: Yes.

8 Thank you.

9 MR. SCALZO: If I may, I had one more
10 request. When I actually provide the permit to
11 construct for the records for the Town, the
12 Ulster County system, the fill system that's
13 designed for the lot needs to sit through one
14 freeze/thaw cycle. When we deliver the permit to
15 construct, we would actually like to begin
16 importing material for that system. We'll cover
17 that through the Building Department or --

18 MR. HINES: Yes.

19 MR. SCALZO: Very good. Thank you very
20 much.

21 CHAIRMAN TRUNCALI: Thank you.

22

23 (Time noted: 7:41 p.m.)

24

25

2 CHAIRMAN TRUNCALI: Next up is
3 Levesque, amended site plan.

4 MR. DuBOIS: I believe all the papers
5 have been submitted and I'm waiting for final
6 approval.

7 MR. HINES: Did the sunset clause get
8 worked out, the language, or is that still --

9 MR. DuBOIS: That's your department,
10 not mine.

11 MR. HINES: That would be a condition
12 of approval, the final resolution of that sunset
13 clause that Ron was going to come up with.

14 MR. BLASS: If I recall correctly,
15 that's a clause indicating that any future use of
16 the site after the discontinuance of the proposed
17 use would require independent future site plan
18 review and approval by the Town Board.

19 MR. DuBOIS: That's correct.

20 MR. BLASS: I think we can take what
21 the Stenographer just took down and reduce that
22 to a note on the map.

23 MR. DuBOIS: No.

24 MR. BLASS: No?

25 MR. DuBOIS: Let's make it part of the

2 resolution. I've already gotten a map note from
3 the County which tells us basically that I have
4 to clean up the site and all that stuff. The
5 action is actually a part of the Planning Board
6 action. That could be part of the resolution.

7 MR. BLASS: I can give you one of two
8 choices. Either we reduce that to a note on the
9 map or we reduce that to a covenant instrument
10 recorded with the Ulster County Clerk to bind the
11 current owner and the future owner of the site in
12 the event of a future sale.

13 MR. DuBOIS: Whichever way. You're the
14 attorney.

15 MR. BLASS: I guess I thought I was
16 giving you the option. You said you didn't want
17 to change the map. If you stick with that
18 position, then the covenant instrument would
19 serve the same purpose.

20 MR. DuBOIS: But the enforcement really
21 lies with the Planning Board, the Planning Board
22 in the Town of Marlborough. I don't know what
23 the map note is going to do.

24 MR. BLASS: In the event of a future
25 conveyance of the real property by the current

2 owner to a future owner, you would want something
3 of record in the chain of title to bind the
4 successor. That's the issue. So we can handle
5 it by covenant. I'll do a covenant.

6 MR. DuBOIS: Yeah, let's do a covenant.

7 MR. BLASS: Okay.

8 MR. DuBOIS: Let that be a condition of
9 your approval tonight.

10 CHAIRMAN TRUNCALI: And what was it you
11 decided on?

12 MR. BLASS: A condition of the approval
13 would be the providing of a covenant acceptable
14 to the Town Attorney or Planning Board Attorney
15 with respect to a requirement for site plan
16 approval for future uses of the site different
17 from the one under review.

18 CHAIRMAN TRUNCALI: All right. So at
19 this time we would ask for a motion for
20 conditional approval contingent upon the drafting
21 of a note saying that any further changes would
22 have to come back in. No?

23 MR. DuBOIS: No. We want a final
24 approval with the condition. The condition --
25 Ron is going to write the resolution.

2 I assume you're going to write it.

3 MR. BLASS: The condition that I would
4 suggest is that the approval is granted upon the
5 condition that the owner of the real property
6 provide the Town with a covenant in a form
7 acceptable to the Town Attorney requiring that
8 any future modifications of the site after
9 discontinuance of the proposed use will require
10 Planning Board review and site plan approval.

11 CHAIRMAN TRUNCALI: Okay. Do we have a
12 motion for that?

13 MR. CLARK: I would move that, yes.

14 CHAIRMAN TRUNCALI: Do we have a
15 second?

16 MR. LOFARO: I'll second that.

17 CHAIRMAN TRUNCALI: All in favor?

18 MR. LOFARO: Aye.

19 MR. CLARK: Aye.

20 MS. LANZETTA: Aye.

21 CHAIRMAN TRUNCALI: Aye.

22 Opposed?

23 (No response.)

24 CHAIRMAN TRUNCALI: So carried.

25 MR. HINES: The applicant has submitted

2 a short environmental assessment form identifying
3 the potential impacts of the project as it
4 exists. We have reviewed it. I know the Board
5 discussed this project at length. We would
6 recommend a negative declaration for this
7 project.

8 CHAIRMAN TRUNCALI: All right. Do we
9 have a motion for a negative declaration?

10 MR. CLARK: I would move for a negative
11 declaration on this project.

12 CHAIRMAN TRUNCALI: A second?

13 MR. LOFARO: I'll second.

14 CHAIRMAN TRUNCALI: All in favor?

15 MR. LOFARO: Aye.

16 MR. CLARK: Aye.

17 MS. LANZETTA: Aye.

18 CHAIRMAN TRUNCALI: Aye.

19 All opposed?

20 (No response.)

21 CHAIRMAN TRUNCALI: So carried.

22 MR. DuBOIS: Thank you.

23

24 (Time noted: 7:47 p.m.)

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2 STATE OF NEW YORK : COUNTY OF ULSTER
TOWN OF MARLBOROUGH PLANNING BOARD

In the Matter of

5 CHESTNUT PETROLEUM

SKETCH - SITE PLAN

11 Date: January 4, 2016
12 Time: 7:47 p.m.
13 Place: Town of Marlborough
Town Hall
21 Milton Turnpike
Milton, NY 12547

18 ALSO PRESENT: RONALD BLASS, ESQ.
PATRICK HINES
JENN FLYNN

20 APPLICANT'S REPRESENTATIVE: LEO NARIOR

2 CHAIRMAN TRUNCALI: Next up is
3 Chestnut Petroleum, sketch, site plan.

4 MR. NAPIOR: Good evening. For the
5 record, Leo Napior with the law firm Harfenist,
6 Kraut & Perlstein. Joining me is Scott Parker
7 from Chestnut Petroleum.

8 The last time we were here you went
9 through Part 2 of the EAF. We're back for
10 consideration of adoption of a negative dec.

11 CHAIRMAN TRUNCALI: Ron, would you like
12 to lead us?

13 MR. NAPIOR: Two quick things. We did
14 submit -- I know there was some discussion of
15 blasting protocol that was actually contained in
16 the geotech report. I did provide a copy of that
17 just for the Board's review.

18 In addition, I understand the tape
19 recorder was not functioning at the last meeting,
20 so we did provide a summary letter from our
21 traffic consultant regarding his presentation.

22 With that --

23 MR. BLASS: It is correct -- as a
24 matter of preliminary housekeeping, it is
25 unfortunate and correct that Michelle had an

2 accident and couldn't get here and that the
3 back-up recording device, in the nature of a tape
4 recording device, was not functioning that
5 evening. Consequently, the minutes will have to
6 be prepared for that December 21st meeting the
7 old fashioned way through consultation with the
8 Planning Board Secretary and the preparation of
9 nonverbatim minutes.

10 I think that since there was a lack of
11 recording devices, one preliminary housekeeping
12 matter I'd like to bring up with Counsel for the
13 project is whether or not it was the position of
14 Counsel for the project that a public hearing be
15 held in advance of any SEQRA determination?

16 MR. NAPIOR: I did raise that issue at
17 the last hearing. I looked into it subsequent to
18 the hearing and I agree that there's no public
19 hearing required.

20 MR. BLASS: I have no recollection of
21 you advocating for a public hearing.

22 MR. NAPIOR: I simply asked the
23 question.

24 MR. BLASS: Okay. So it's fair to
25 state for the record tonight that the project was

2 not advocating the holding of a public hearing in
3 advance of a determination?

4 MR. NAPIOR: Correct.

5 MR. BLASS: So a brief history of the
6 project in terms of the SEQRA process might be in
7 order. This is an Unlisted action under SEQRA,
8 meaning that it's neither a Type 2 exempt action,
9 nor is it a Type 1 action carrying with it any
10 sort of presumption that an environmental impact
11 statement might be warranted.

12 Even though it is an Unlisted action,
13 at the suggestion of Pat Hines quite some time
14 ago the project was required to prepare a full
15 environmental assessment form consistent with the
16 EAF forms promulgated by the Department of
17 Environmental Conservation a couple of years ago.
18 The applicant did prepare a full environmental
19 assessment form, even though such a form is not
20 required for an Unlisted action as distinct from
21 a Part 1 action.

22 The Planning Board then asked it's
23 consultants to prepare a full environmental
24 assessment form, Part 2 form, for review by the
25 agency, and that was done in advance of --

2 MR. HINES: December.

3 MR. BLASS: There was discussion of the
4 content of the Part 2 environmental assessment
5 form during a meeting held in November, the
6 specific date I don't have in front of me, and
7 there was a draft and proposed Part 2 full
8 environmental assessment form shared with the
9 Planning Board at it's meeting of December 21,
10 2015. The Board adopted, as it's own, the Part 2
11 full environmental assessment form. The Board
12 found that none of the identified impacts were of
13 a moderate to large dimension, and consequently
14 there was no need for the preparation of a Part 3
15 full environmental assessment form under the
16 conditions and regulations promulgated under
17 SEQRA.

18 At the last meeting, after the adoption
19 of the Part 2 full environmental assessment form,
20 the Planning Board directed it's consultants to
21 draft and submit for your consideration a
22 proposed determination of significance under
23 SEQRA in the nature of a negative declaration,
24 meaning a determination that there were no
25 potential significant adverse impacts of an

2 environmental nature requiring the preparation of
3 an environmental impact statement. Pat Hines and
4 I have followed the Board's request and we have
5 submitted, in advance of this meeting tonight, a
6 proposed draft environmental -- a draft negative
7 declaration under SEQRA consisting of
8 approximately fifteen pages. Each of you have a
9 copy of the resolution adopting the negative
10 declaration in front of you.

11 I guess I could take this opportunity
12 to generally give you an overview of the document
13 and answer any questions that you might have
14 regarding it's content.

15 Page 1 is fundamentally boilerplate
16 introductory material to the findings,
17 conclusions set forth for the Board.

18 Pages 2 and 3 through the top of page 4
19 constitute a detailed project description, the
20 nature of the action that's under review, which I
21 think you are generally familiar with. There's
22 no need for me to repeat the nature of the
23 project that's been in front of you for quite
24 some time.

25 This also might be a good point now to

2 say that under the SEQRA regulations the
3 determination of significance that you are
4 tonight considering is to be considered and
5 passed upon at the earliest possible time in the
6 review process. Consequently, it is -- there's
7 nothing wrong with a negative declaration
8 preceding a determination on site plan or special
9 permit review by this Board. There's nothing
10 wrong with respect to a negative declaration
11 preceding a public hearing on the administrative
12 approvals that you are being asked to give for
13 the project. In fact, by analogy there is
14 statutory and case law in the State to the effect
15 that an application for subdivision approval is
16 not even complete and a public hearing should not
17 even be held until and unless the SEQRA process
18 is brought to a close by negative declaration.
19 So if you were to carry forward that legal
20 concept, statutory and case law for subdivisions
21 with respect to site plan or special permit
22 matter in front of you tonight, you can see that
23 this negative declaration is not legal premature
24 by virtue of the fact that there is yet to be a
25 public hearing. In fact, what you are doing is

2 following the suggestion, if not requirement, of
3 the SEQRA regulations that this process be
4 completed at the earliest possible time in the
5 review of an action.

6 Turning your attention to page 4 . This
7 is a section dealing with findings that there are
8 no significant environmental impacts with respect
9 to impacts on land. There is a discussion of the
10 fact that a geotechnical report was required and
11 has been submitted by the applicant in advance of
12 this SEQRA determination.

13 It might be noted that the record in
14 front of this agency includes no other
15 inconsistent, contrary or competitive reports of
16 this sort of professional nature. The Board does
17 have the right to rely on the record that is made
18 before it by the applicant.

19 The gist of the findings is that there
20 are no significant impacts upon land, that the
21 area of excavation and resulting rock face would
22 be significantly set back from Route 9W and will
23 be located to the rear of the site. Project's
24 buildings and gasoline filling station site
25 improvements will intervene between the rock face

2 and Route 9W. Lower portions of the rock face
3 will be improved by wall structures. Soil nail
4 engineering solutions will be employed to
5 stabilize the top of the area of excavation. The
6 rock nature of on-site topography will provide
7 stability to the face of excavation. The impacts
8 related to excavation will be temporary, short
9 term and localized as they will be related to
10 project construction. Blasting protocols,
11 including pre-blast surveys within the discretion
12 of the Planning Board to impose, will mitigate
13 impacts to land. Post-construction conditions
14 will be stable from a geotechnical point of view
15 or standpoint.

16 The next area under discussion is
17 potential impacts on water. It is noted that the
18 municipal water supply is currently available to
19 the site and that availability will continue as
20 the source of potable water supply. Sufficient
21 capacity has been determined to exist to continue
22 to serve this site.

23 The applicant was required by this
24 Board, in advance of the SEQRA process moving
25 forward, to submit a stormwater pollution

2 prevention plan which has been reviewed by Pat
3 Hines as to adequacy and sufficiency.

4 MR. CLARK: I had one question on this.
5 Whose responsibility is it to maintain this
6 system and clean the filters, and who is going to
7 monitor it?

8 MR. BLASS: That can be made the
9 responsibility of the applicant. In fact, this
10 is a concern of the Board. In the event of a
11 future approval and as a condition of any future
12 approval, we can reduce this obligation to an
13 enforceable covenant recorded against the land.

14 MR. CLARK: I would like to see that
15 somehow, who is responsible and who is going to
16 monitor the responsibility.

17 MR. BLASS: This would be a fairly
18 customary stormwater maintenance agreement giving
19 -- making the applicant or the property owner now
20 or in the future responsible. There would be --
21 the typical agreement would have enforcement
22 provisions within it giving the Town the right
23 but not the obligation to do it if the owner did
24 not, and then to lien the real property for the
25 costs of remediating the owner's default and

2 things of that nature, attorney's fees, clauses,
3 et cetera. So those instruments are pretty
4 prevalent these days. We have a lot of standard
5 forms we use to recommend for your use.

6 The stormwater pollution prevention
7 plan has survived and been changed as a
8 consequence of a critical comment by Pat Hines in
9 the first instance with respect to the first
10 submissions. He has basically signed off on the
11 adequacy of the stormwater management mitigation
12 measures proposed by the applicant.

13 There are proprietary filter products
14 incorporated into the SWPPP to treat runoff from
15 the site and to address potential -- to the site
16 which contains petroleum dispensing pumps. There
17 has been an attempt made in the SWPPP to build in
18 extra protection with respect to the fact that
19 there's a dispensing of petroleum on site.

20 There is a proposed bioretention system
21 incorporated into the stormwater management.
22 There is a closed pipe drainage system to the
23 north of the project connected to an existing box
24 culvert.

25 Most interestingly, the finding

2 suggested that the Planning Board make in this
3 regard is that runoff reduction and green
4 infrastructure practices have been incorporated
5 into the plan relative to stormwater management.
6 Compared to existing conditions, a net reduction
7 in discharge will result. Stormwater quality
8 features will be incorporated into the project to
9 improve downstream impacts and no such features
10 currently exist at the site. So it is
11 anticipated or it is suggested that you find that
12 there was actually a reduction in runoff and an
13 improvement in the quality to be expected from
14 stormwater management.

15 The next area addressed at page 5 in
16 the proposed negative declaration is impacts on
17 transportation, traffic and air quality. There
18 was a notation that the Planning Board has
19 reviewed the proposed access -- means of access
20 to the property, those are identified elsewhere
21 within the negative declaration in specificity,
22 and it has examined proposed traffic improvements
23 within New York State Route 9W, both in
24 connection with an approximate four-hundred foot
25 turning lane for left-hand turns into the site

2 with respect to northbound traffic, as well as
3 what may or may not be a particularly unique
4 means of management of traffic exiting the site
5 in a northbound direction through a means of
6 staging and acceleration improvements to 9W. It
7 is to be expected, of course, that these traffic
8 mitigation measures will be subject to DOT
9 approval because they concern improvements to
10 Route 9W. There is a notation of the fact that a
11 traffic study has been submitted -- prepared and
12 submitted on behalf of the applicant by a
13 recognized professional in that field. In the
14 initial July of 2015 traffic report, a conclusion
15 was presented that the traffic management at that
16 time, which was subsequently modified during the
17 course of review, was expected to yield no
18 potential adverse impacts on traffic on Route 9W.
19 There was a finding and conclusion that the
20 amount of traffic currently using Route 9W would
21 not be significantly increased in terms of
22 potential adverse impact by either a no-build
23 alternative, which is that this site not be built
24 out and used as proposed, and with a building in
25 of some escalation of traffic counts over time on

2 a conceptual basis, or with respect to
3 post-buildout of this particular proposed site
4 and use. In other words, there is professional
5 opinion in the traffic study that there would be
6 no potential significant increase in impacts to
7 traffic on Route 9W either under a no-build
8 scenario or under a post-build scenario with
9 respect to this particular project. There is no
10 countervailing opinion or work product in the
11 record to rebut that professional opinion
12 submitted on behalf of the applicant.

13 The rest -- there's more detailed
14 discussion of the traffic mitigation and
15 management approach within -- of the project
16 within this section of the negative declaration.
17 It is specifically noted on the top -- the bottom
18 of page 6 that it is at least conceivable, if not
19 predictable, and the Board probably has no way of
20 knowing this evening, as to whether or not the
21 traffic mitigation measures involving
22 improvements or modifications to Route 9W at the
23 site will either be approved or not approved by
24 the New York State Department of Transportation.
25 So the Planning Board is making a specific

2 finding that in the event, hypothetically, that
3 the traffic management improvements to 9W
4 proposed by the applicant are not approved by the
5 DOT, this in no way waters down the underlying
6 jurisdiction of the Planning Board, through
7 special permit or site plan review, to address
8 that outcome through such trichiniae, perhaps
9 from the applicant's point of view, means as
10 denial of the project or causing the project to
11 go back to the drawing board in order to earn
12 approvals or conditioning approvals given by this
13 Board on alternative means of appropriate
14 mitigation of traffic. But it is not to be
15 overlooked that the professional opinions in the
16 record on behalf of the applicant and within it's
17 work product on traffic conclude that there is no
18 adverse impact to Route 9W either with respect to
19 the initial traffic management proposals which
20 did not include the staging and acceleration lane
21 to Route 9W, either with it or without it. So
22 with respect to that fact, we believe the Board
23 is within it's rights and within it's discretion
24 to find that there are no potential significant
25 adverse impacts with respect to traffic of this

2 project relative to Route 9W.

3 It should also not be overlooked that
4 the underlying zoning of this parcel and along
5 Route 9W to the north, and along Route 9W to the
6 south, and along the west side of Route 9W, and
7 the east side of Route 9W is highway development
8 zone. The highway development zone effectively
9 invites commercial uses of this sort on the site
10 where it is proposed. So I think that that
11 should also factor in to your decision making,
12 that the comprehensive plan as manifested in the
13 zoning laws of the Town of Marlborough designate
14 this site as highway development and this is a
15 highway development type of use which is actually
16 invited by the zoning itself.

17 There is a section dealing with impact
18 on historic resources. A reference is made and
19 reliance is placed upon the New York State Office
20 of Parks, Recreation and Historic Preservation's
21 feedback with respect to this project. There is
22 a note adverse impact letter received from the
23 agency identifying no impacts to cultural or
24 archeological resources. No mention was made by
25 SHIPPO of impacts to any historic structures or

2 properties.

The next section on the bottom of page 7 deals with impacts to energy, noise, odor and public health. The general conclusion here is that there are no anticipatable impacts, other than blasting, with respect to the generation of noise. Blasting protocols will be followed. This Board, in addition to the protocols on the books, either of the State or Local governments, has the authority to, if it wishes, to condition any future approvals, should they be given, upon such things as a pre-blast survey being done by the applicant as a means of mitigation of potential impacts to nearby properties from blasting activity.

2 significantly from the highway and even further
3 from lands located to the east of the highway.
4 We're at the top of page 8. No soffit lighting
5 is proposed for the canopies located closer to
6 Route 9W and which intervene between the building
7 and the highway. In that regard, no significant
8 impacts are found with respect to lighting for
9 this project.

10 There's a discussion on page -- the
11 middle of page 8 with respect to impact on
12 aesthetic and community resources. The Planning
13 Board notes that it has worked with the applicant
14 to develop a plan which incorporates design
15 elements, including the use of natural stone,
16 muted colors and a landscaping plan, to address
17 the visual impacts of the project. Incorporation
18 of these design elements into the plan has
19 addressed the community resource impacts.

20 With limited exception it is noted the
21 Route 9W corridor to the north and south of the
22 project site is devoted to a variety of
23 manufacturing, commercial and office uses
24 consistent with the HD Zoning District
25 designation. Some residences are interspersed

2 among these non-residential uses but the area is
3 predominantly commercial by zoning and by actual
4 development. To the east of Route 9W is located
5 an agricultural activity with related farm fields
6 and plantings. To a depth of approximately
7 200 feet east of Route 9W, the agricultural
8 activity is nonetheless zoned for highway
9 development, HD, uses. This agricultural
10 activity is at variance with the predominant and
11 existing development along Route 9W, and any
12 contrast between the agricultural activity or
13 residences interspersed along the highway and the
14 project is circumstantial and insignificant given
15 land use decisions of the Town of Marlborough
16 which underlie the relevant zoning designations,
17 and the extent of manufacturing, commercial and
18 office uses along the highway as invited by those
19 land use regulations. Other than some arguable
20 visual contrasts which are deemed not to
21 constitute a significant adverse impact, the
22 project will have no potential significant
23 adverse impacts on community character or
24 aesthetics. That's a proposed finding for you to
25 make in page 8.

2 There's a section on the bottom of page
3 8 dealing with wetlands and surface waters. No
4 wetlands were identified on site or surrounding
5 the site or nearby to the site, and there's a
6 stormwater pollution prevention plan, as
7 previously discussed, with it's built-in measures
8 to address the so-called hot spot nature of the
9 dispensing of petroleum products on site, hence
10 the additional mitigation measures built into the
11 stormwater pollution prevention plan which, as
12 stated before, is expected to result in a
13 reduction of runoff and an improvement of the
14 quality of the runoff.

Community services is addressed briefly in paragraph -- on page 9, in the middle of that page, focusing in on the comments made from the jurisdictional fire department. Actually, the fire department has provided a letter of December 14, 2015 identifying the need for a sprinkler system in compliance with building codes, and requesting a lock box be added to the facility for emergency service access. In the context of Planning Board review and potential approval, this Board would have the ability to

2 condition any such approval, in the event the
3 applicant doesn't consent, to this sort of
4 mitigation. So in this regard there's no finding
5 of potential significant adverse impacts to
6 community services.

7 The last -- I believe the last section
8 of the negative declaration deals with zoning and
9 land use. Again, this is a restatement of the
10 obvious, that the zoning in the area is HD which
11 invites the type of use that is presented by the
12 applicant. The section notes that the minimum
13 lot size for development in the HD zone is
14 2 acres whereas this is a 1.93 acre parcel, hence
15 requiring a 3.5 percent, I believe, area variance
16 from the Zoning Board of Appeals relative to
17 minimum lot size.

18 The section goes on to discuss that the
19 project also has been advised that it requires
20 and it has applied for an area variance with
21 respect to placement of subordinate accessory
22 structures within the -- between the highway and
23 the principal building on the site. This is a
24 matter that is pending before the Zoning Board of
25 Appeals. The Zoning Board of Appeals will do

2 what it's going to do relative to that issue.

3 The mere fact that area variances are required,

4 in my opinion, is no indicator one way or the

5 other as to whether there's a significant

6 potential adverse impact in the area of zoning

7 and land use. There is perhaps some argument to

8 be made, and the applicant may be making this

9 argument at the Zoning Board of Appeals, that's

10 up to it, as to whether or not -- with respect to

11 a gasoline filling station use allowed by --

12 allowed within the HD district as a permitted

13 use, a building is somehow treated separately

14 from gasoline pumps and canopy improvements that

15 are integral to the gasoline filling station

16 itself or whether or not all of these

17 improvements might be viewed as integral and

18 commingled components of a gasoline filling

19 station use. But that's not something that this

20 Board needs to be concerned with. That would be

21 something within the jurisdiction of the Zoning

22 Board of Appeals. The fact that this is somewhat

23 arguable probably further supports the fact that

24 this is not a potentially significant adverse

25 impact within the meaning of SEQRA.

The section also notes that the HD zoning in the Town extends as far south as the intersection with Milton Turnpike -- of Route 9W with Milton Turnpike, and at that intersection is situated an existing Stewart's convenience store/gas station facility with it's canopy and pumps located between the highway and the building. So there is some precedent in the Town with respect to the placement of gasoline pumps in front of buildings devoted to the gasoline filling station and convenience store use. So generally, based upon those concepts, there's a conclusion that there is no potential significant adverse impact with respect to zoning and land use issues.

That is a fairly lengthy, I apologize,
summary with respect to the somewhat lengthy
findings of the negative declaration.

24 CHAIRMAN TRUNCALI: Are there any
25 questions from the Board?

2 MR. CLARK: You know, I have concerns
3 about traffic and I just -- I'm not sure what we
4 need to do to find the best plan. I don't think
5 there's any perfect plan, but, you know, I think
6 at some point in the future I think as a Board
7 Member I would like to see an independent person
8 hired by the Board to do a traffic survey. I
9 know State DOT is involved and you guys hired
10 somebody. You have a certain bias. I would like
11 to see the Board -- as we hired a consultant for
12 the tower projects, you know, I would like to see
13 us hire a consultant that's working on our
14 benefit to create the best possible plan that can
15 be created for this situation.

16 MR. BLASS: Well, that -- the bringing
17 to a close of the SEQRA process in no way waters
18 down your --

19 MR. CLARK: It doesn't. I'm just
20 throwing that comment out there because this will
21 be my last meeting for several weeks. I'm a
22 migrant farmer.

23 MR. BLASS: The underlying jurisdiction
24 of the Board with respect to review of the
25 details of the project remain open and available

2 to you. The SEQRA record, so to speak, the
3 record in front of this Board at this point in
4 time, consists of a professional opinion by a
5 licensed individual.

6 MR. CLARK: I understand that. I have
7 no problem with that. I'm just throwing it out
8 there for the public record that, you know, I
9 would like to see our engineer provide a plan
10 also.

11 MR. BLASS: So you have some concern
12 that the DOT might not approve --

13 MR. CLARK: My concern is that, you
14 know, the applicant has a certain bias. DOT may
15 not, you know, look -- realistically that road is
16 too small and DOT doesn't seem to have, you know
17 -- I mean driving through Marlboro, it's too
18 small a road for the traffic volumes that are
19 here today, and they are only going to get bigger
20 in the future. DOT doesn't seem to want to
21 address that issue. So, you know, I'm concerned
22 that maybe they don't have the same concerns that
23 I would have. They don't have to drive the road
24 every day. They provide a plan that says this is
25 okay. Is it the best plan? I don't know.

2 That's why I would like to see somebody that
3 doesn't have a bias, that perhaps is truly
4 interested in creating the best plan. Maybe just
5 a third vision. That's all.

6 MR. BLASS: So that jurisdiction will
7 remain available to you.

8 MR. CLARK: Fine.

9 MR. BLASS: There's no finding in the
10 negative declaration, nor does there need to
11 be --

12 MR. CLARK: Yeah, I realize it's not
13 part of this document. I just would like to put
14 my comment out there because I will not be to a
15 meeting until March again.

16 MR. BLASS: But you have no problem
17 with a finding --

18 MR. CLARK: I have no problem as it is.
19 Obviously professionals have looked at it. It is
20 a plan. It's probably a workable plan. My
21 question is is it the best plan? I don't know.

22 MR. BLASS: Okay. So the state of the
23 record today is that there is no significant
24 environmental impact either under a no-build
25 proposal or a post-build proposal relative to

2 this project, and this SEQRA finding is pretty
3 much predicated upon that component of the
4 record.

5 MR. CLARK: That's fine.

6 CHAIRMAN TRUNCALI: Anyone else? Joe?

7 MR. LOFARO: I'm good.

8 CHAIRMAN TRUNCALI: Cindy?

9 MS. LANZETTA: No. I had talked to Ron
10 about this earlier. Again, the assurance is
11 there that, you know, if the DOT does not approve
12 of the recommendations that they have made, which
13 I don't think that they are going to, we
14 certainly have every right, you know, to deny the
15 project. Or what I think really can happen is I
16 think with the proper mitigation that this
17 project can move forward. We just have to, as
18 you said, be on top of it, make sure that it's
19 done in the best way possible.

20 MR. CLARK: The best way.

21 MS. LANZETTA: Yes.

22 CHAIRMAN TRUNCALI: At this time I
23 would ask for a motion for a negative
24 declaration.

25 MR. LOFARO: I'll make a motion for a

2 negative declaration.

3 CHAIRMAN TRUNCALI: A second?

4 MS. LANZETTA: I'll second that.

5 MR. BLASS: Probably because this is in
6 the form of a resolution, you might want to do a
7 roll call determination.

8 CHAIRMAN TRUNCALI: Jenn, would you
9 please poll the Board?

10 MS. FLYNN: Member Trapani is not here.

11 Member Lanzetta?

12 MS. LANZETTA: Yes.

13 MS. FLYNN: Member Lofaro?

14 MR. LOFARO: Yes.

15 MS. FLYNN: Member Cauchi is not here.

16 Member Clark?

17 MR. CLARK: Yes.

18 CHAIRMAN TRUNCALI: Councilman
19 Truncali?

20 CHAIRMAN TRUNCALI: Yes.

21 MS. FLYNN: I mean Chairman. Sorry.

22 CHAIRMAN TRUNCALI: I think that's it
23 for tonight.

24 MR. BLASS: I think that's it.

25 MR. NAPIOR: Thank you. We'll be off

2 to the Zoning Board and returning to you with
3 whatever the outcome is from there.

4 CHAIRMAN TRUNCALI: Thank you.

5 Is there any new business?

6 MS. LANZETTA: I just want to enter
7 into the record, Jenn, that I have -- this is
8 actually for 2015, a letter certificate for
9 training purposes.

10 MS. FLYNN: Thank you.

11 CHAIRMAN TRUNCALI: If we have nothing
12 else, then I'll ask for a motion to close the
13 meeting.

14 MR. CLARK: So moved.

15 MS. LANZETTA: I'll second it.

16 CHAIRMAN TRUNCALI: All in favor?

17 MR. LOFARO: Aye.

18 MR. CLARK: Aye.

19 MS. LANZETTA: Aye.

20 CHAIRMAN TRUNCALI: Aye.

21

22 (Time noted: 8:25 p.m.)

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C E R T I F I C A T I O N

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STATE OF NEW YORK) : SS.:
5 COUNTY OF ULSTER)

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That as hereinbefore set forth is a
the proceedings.

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Michelle Conero

MICHELLE CONERO