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

----- X

In the Matter of

JAMES MARQUIS

Project No. 15-8002  
26 Evy Lane  
Section 103.3; Block 4; Lot 65.600

----- X

PUBLIC HEARING - SUBDIVISION

Date: January 4, 2016  
Time: 7:30 p.m.  
Place: Town of Marlborough  
Town Hall  
21 Milton Turnpike  
Milton, NY 12547

BOARD MEMBERS: JOEL TRUNCALI, Chairman  
CINDY LANZETTA  
STEVEN CLARK  
JOSEPH LOFARO

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

APPLICANT'S REPRESENTATIVE: DARREN SCALZO

----- X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)895-3018

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JAMES MARQUIS

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

(Pledge of Allegiance.)

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

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

CHAIRMAN TRUNCALI: Tuesday,  
January 20th.

MS. FLYNN: 19th. Sorry.

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

First up is Marquis.

Do you have the posted notice?

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

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JAMES MARQUIS

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

What was sent out and what was sent back?

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

CHAIRMAN TRUNCALI: Thank you.

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

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JAMES MARQUIS

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two-lot subdivision on Evy Lane.

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

CHAIRMAN TRUNCALI: Sure.

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

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

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

MR. HINES: -- the e-mail.

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

I have no information from the Water Department.

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JAMES MARQUIS

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

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

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

CHAIRMAN TRUNCALI: Okay. This is a public hearing. At this time is there anybody from the public who has a question? Anybody?

(No response.)

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JAMES MARQUIS

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

MR. CLARK: No.

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

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

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

We have no outstanding comments.

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

MR. CLARK: I'll so move.

CHAIRMAN TRUNCALI: Do I have a second?

MR. LOFARO: I'll second.

CHAIRMAN TRUNCALI: All in favor?

MR. LOFARO: Aye.

MR. CLARK: Aye.

MS. LANZETTA: Aye.

CHAIRMAN TRUNCALI: Aye.

Opposed?

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JAMES MARQUIS

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(No response.)

CHAIRMAN TRUNCALI: So carried.

Do we give preliminary and final approval on this?

MR. HINES: Yes. We have no outstanding issues.

MS. LANZETTA: Explain to me one more time what the status is from the Health Department on the septic permit.

MR. HINES: The plans have been submitted. I received an e-mail saying that they are approvable. They're just awaiting --

MR. SCALZO: We're waiting for the permit to construct.

MR. HINES: They are approved. They just don't physically have that one-page permit to construct.

CHAIRMAN TRUNCALI: I'd ask for a motion to close the public hearing.

MR. CLARK: So moved.

CHAIRMAN TRUNCALI: A second?

MR. LOFARO: I'll second.

CHAIRMAN TRUNCALI: All in favor?

MR. LOFARO: Aye.

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JAMES MARQUIS

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MR. CLARK: Aye.

MS. LANZETTA: Aye.

CHAIRMAN TRUNCALI: Aye.

Opposed?

(No response.)

CHAIRMAN TRUNCALI: So carried.

Then we would need a motion for  
preliminary approval.

MR. CLARK: I'll make that motion.

CHAIRMAN TRUNCALI: And a second?

MR. LOFARO: I'll second it.

CHAIRMAN TRUNCALI: All in favor?

MR. LOFARO: Aye.

MR. CLARK: Aye.

MS. LANZETTA: Aye.

CHAIRMAN TRUNCALI: Aye.

Opposed?

(No response.)

CHAIRMAN TRUNCALI: And a motion for  
final approval.

MR. LOFARO: I'll make that motion.

MR. CLARK: I'll second it.

CHAIRMAN TRUNCALI: All in favor?

MR. LOFARO: Aye.



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JAMES MARQUIS

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MR. CLARK: Aye.

MS. LANZETTA: Aye.

CHAIRMAN TRUNCALI: Aye.

Opposed?

(No response.)

CHAIRMAN TRUNCALI: Thank you.

MR. SCALZO: Thank you.

Is there additional information  
required for --

CHAIRMAN TRUNCALI: We do have to do  
the recreation fee.

MR. SCALZO: Correct.

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

MS. FLYNN: Yes.

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

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

Whereupon the following vote was taken.

Jennie, would you poll the Members?

MS. FLYNN: Member Cauchi is not here.

Member Clark?

MR. CLARK: Aye.

MS. FLYNN: Member Trapani is not here.

Member Lanzetta?

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

MS. FLYNN: Member Lofaro?

MR. LOFARO: Yes.

MS. FLYNN: Chairman Truncali?

CHAIRMAN TRUNCALI: Yes.

Thank you.

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

MR. HINES: Yes.

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

CHAIRMAN TRUNCALI: Thank you.

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

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

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

I, MICHELLE CONERO, a Notary Public  
for and within the State of New York, do hereby  
certify:

That hereinbefore set forth is a  
true record of the proceedings.

I further certify that I am not  
related to any of the parties to this proceeding by  
blood or by marriage and that I am in no way  
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 12th day of January 2016.

*Michelle Conero*  
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MICHELLE CONERO

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

----- X

In the Matter of

LEVESQUE

Project No. 15-8010  
1100 Route 9W  
Section 108.4; Block 5; Lot 27

----- X

SKETCH - AMENDED SITE PLAN

Date: January 4, 2016  
Time: 7:41 p.m.  
Place: Town of Marlborough  
Town Hall  
21 Milton Turnpike  
Milton, NY 12547

BOARD MEMBERS: JOEL TRUNCALI, Chairman  
CINDY LANZETTA  
STEVEN CLARK  
JOSEPH LOFARO

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

APPLICANT'S REPRESENTATIVE: LOUIS DuBOIS

----- X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)895-3018

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LEVESQUE

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CHAIRMAN TRUNCALI: Next up is

Levesque, amended site plan.

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

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

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

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

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

MR. DuBOIS: That's correct.

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

MR. DuBOIS: No.

MR. BLASS: No?

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

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LEVESQUE

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

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

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

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

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

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

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LEVESQUE

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

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

MR. BLASS: Okay.

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

CHAIRMAN TRUNCALI: And what was it you decided on?

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

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

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



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LEVESQUE

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I assume you're going to write it.

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

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

MR. CLARK: I would move that, yes.

CHAIRMAN TRUNCALI: Do we have a second?

MR. LOFARO: I'll second that.

CHAIRMAN TRUNCALI: All in favor?

MR. LOFARO: Aye.

MR. CLARK: Aye.

MS. LANZETTA: Aye.

CHAIRMAN TRUNCALI: Aye.

Opposed?

(No response.)

CHAIRMAN TRUNCALI: So carried.

MR. HINES: The applicant has submitted

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LEVESQUE

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

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

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

CHAIRMAN TRUNCALI: A second?

MR. LOFARO: I'll second.

CHAIRMAN TRUNCALI: All in favor?

MR. LOFARO: Aye.

MR. CLARK: Aye.

MS. LANZETTA: Aye.

CHAIRMAN TRUNCALI: Aye.

All opposed?

(No response.)

CHAIRMAN TRUNCALI: So carried.

MR. DuBOIS: Thank you.

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



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

----- X  
In the Matter of

CHESTNUT PETROLEUM

Project No. 15-8001  
1417 Route 9W  
Section 109.1; Block 4; Lot 14

----- X

SKETCH - SITE PLAN

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

BOARD MEMBERS: JOEL TRUNCALI, Chairman  
CINDY LANZETTA  
STEVEN CLARK  
JOSEPH LOFARO

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

APPLICANT'S REPRESENTATIVE: LEO NAPIOR

----- X

MICHELLE L. CONERO  
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Wallkill, New York 12589  
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CHAIRMAN TRUNCALI: Next up is Chestnut Petroleum, sketch, site plan.

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

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

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

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

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

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

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

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

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

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

MR. NAPIOR: I simply asked the question.

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

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

MR. NAPIOR: Correct.

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

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

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

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MR. HINES: December.

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

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



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

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

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

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

This also might be a good point now to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Most interestingly, the finding

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

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

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



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

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

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

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project relative to Route 9W.

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

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

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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.

We have also in this section addressed lighting impacts. The applicant did submit a lighting plan dated July 15, 2015. Downward directed lighting is proposed to address light pollution in relation to building, canopy and pole fixtures with the exception of soffit lighting proposed for the building, which by virtue of expansion of the site development footprint by excavation to the west is set back

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

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

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

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

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

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

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

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



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what it's going to do relative to that issue. The mere fact that area variances are required, in my opinion, is no indicator one way or the other as to whether there's a significant potential adverse impact in the area of zoning and land use. There is perhaps some argument to be made, and the applicant may be making this argument at the Zoning Board of Appeals, that's up to it, as to whether or not -- with respect to a gasoline filling station use allowed by -- allowed within the HD district as a permitted use, a building is somehow treated separately from gasoline pumps and canopy improvements that are integral to the gasoline filling station itself or whether or not all of these improvements might be viewed as integral and commingled components of a gasoline filling station use. But that's not something that this Board needs to be concerned with. That would be something within the jurisdiction of the Zoning Board of Appeals. The fact that this is somewhat arguable probably further supports the fact that this is not a potentially significant adverse impact within the meaning of SEQRA.

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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.

The rest of the document constitutes regulatory findings that in fact there are no potentially significant adverse impacts and the fact that no environmental impact statement will need to be required with respect to the project.

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

CHAIRMAN TRUNCALI: Are there any questions from the Board?

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

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

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

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

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

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

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

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

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

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

MR. CLARK: Fine.

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

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

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

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

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

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

MR. CLARK: That's fine.

CHAIRMAN TRUNCALI: Anyone else? Joe?

MR. LOFARO: I'm good.

CHAIRMAN TRUNCALI: Cindy?

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

MR. CLARK: The best way.

MS. LANZETTA: Yes.

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

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

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negative declaration.

CHAIRMAN TRUNCALI: A second?

MS. LANZETTA: I'll second that.

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

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

MS. FLYNN: Member Trapani is not here. Member Lanzetta?

MS. LANZETTA: Yes.

MS. FLYNN: Member Lofaro?

MR. LOFARO: Yes.

MS. FLYNN: Member Cauchi is not here. Member Clark?

MR. CLARK: Yes.

CHAIRMAN TRUNCALI: Councilman Truncali?

CHAIRMAN TRUNCALI: Yes.

MS. FLYNN: I mean Chairman. Sorry.

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

MR. BLASS: I think that's it.

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

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

CHAIRMAN TRUNCALI: Thank you.

Is there any new business?

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

MS. FLYNN: Thank you.

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

MR. CLARK: So moved.

MS. LANZETTA: I'll second it.

CHAIRMAN TRUNCALI: All in favor?

MR. LOFARO: Aye.

MR. CLARK: Aye.

MS. LANZETTA: Aye.

CHAIRMAN TRUNCALI: Aye.

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



