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October 29, 2020

Kenneth M. Stenger
 Stephen E. Diamond*
 Jessica J. Glass

Albert P. Roberts
 PARTNER EMERITUS

Town of Wappinger Planning Board
 Town Hall
 20 Middlebush Road
 Wappingers Falls, NY 12590

Re: Public Hearing: Gasland Petroleum Route 9D Hughsonville

Joan F. Garrett**
 Ian C. Lindars
 A.J. Luele
 Lorraine M. McGrane
 Alexandria D. Weininger***
 Karen E. Hagstrom
 Mary Kate Ephraim

Dear Chairman of the Board and Planning Board Members:

We have been retained by certain neighbors to review the above application, which is on the November 2, 2020 agenda for a continued public hearing. We have undertaken a brief review of the applicant’s October 13, 2020 submission.

On the status of the record before you, a positive declaration must issue. In the alternative, the public hearing must be adjourned.

OF COUNSEL
 Karen P. MacNish
 Meghan O. Mossey

Deficient SEORA Analysis

The Town of Wappinger has made its intention to preserve the historical character of Hughsonville crystal clear in its zoning regulations and Comprehensive Plan.

PARALEGALS
 Jennifer Arno
 Jillian Medina
 Elizabeth Amicucci

Town of Wappinger Code §240-7(B)(3) defines the intent of the Hamlet Mixed Use district, as follows: “Intent: **To preserve the historical character**, concentrated development pattern and mixture of uses in existing commercial hamlets, **particularly Hughsonville** and Swartoutville, **by encouraging restoration, reuse and visual improvement of existing structures**” (emphasis added).¹

CLOSING COORDINATOR
 Maria L. Jones
 Sandra Turner

Consistently, the Town of Wappinger Comprehensive Plan, adopted September 27, 2010 states. in pertinent part, on p. 93:

Hamlet: One historic hamlet within the Town demands special attention in the land use decision-making process: Hughsonville....
 The plan calls for carefully designed zoning and transportation improvements needed to preserve the character of this area and to ensure that surrounding development pressures **will not destroy**

*ALSO ADMITTED IN FL & MA
 **ALSO ADMITTED IN CT
 ***ALSO ADMITTED IN NJ

¹ Notably, this project does not restore, reuse or visually improve existing structures. All existing structures will be demolished.

the functionality of its road system and historic character....

In Hughsonville, mixed residential and commercial uses and building renovations are needed, along with a plan for accommodating increasing traffic volumes through the hamlet...careful monitoring or drinking water quality and vigilant maintenance of individual septic systems is needed until central sewer and water systems are available (emphasis added).

Comment #2 in the February 1, 2020 comment letter from the Dutchess County Department of Planning and Development, entitled “Gas Station in a Historic Center” states, in part, “While the project does include second story apartments and a sidewalk, gas stations—designed for quick stops and heavy traffic turnover—generally do not contribute to a historic, vibrant, pedestrian-friendly center”.

The FEAF submitted by the applicant, p. 14, Section 2.6, solely relies upon a letter dated April 14, 2020, from the New York State Office of Parks, Recreation, and Historic Preservation (OPHRD), to state the project will not have an adverse impact on the historical nature of the Hughsonville Hamlet. The OPHRD letter only states that no properties listed in or eligible for the New York State and National Registers of Historic Places will be impacted by this project. This conclusory statement falls far short of the reasoned elaboration requirement of SEQRA. *Matter of Peterson v. Planning Bd. of the City of Poughkeepsie, 163 A.D.3d 577 (2d Dept. 2018).*

Deficient Architectural Analysis

While the applicant’s October 13, 2020, submission provides additional architectural renderings with pictures of neighboring properties, it does not discuss how the project purports to satisfy the specific architectural and historical review standards contained in Town of Wappinger Code §240-35. It is the applicant’s burden to prove compliance, and it has utterly failed to do so.

In the absence of any other information, this Board must issue a positive declaration.

Adjournment of the Public Hearing

Our clients recently retained Nelson, Pope & Voorhis, LLC (NPV), to review the application. NPV anticipates getting a draft report to our clients by November 18, 2020.

The applicant’s most recent submission was made on October 13, 2020, long after the submission deadline of October 5, 2020, for the November 2, 2020 meeting. The untimeliness of the submission has deprived our clients and this Board of adequate time to review this complex project. And, as demonstrated above, the late submission fails to meaningfully address issues which require, if not so addressed, the making of a positive declaration.

If the applicant affirmatively represents it will not submit any further information and intends to rely entirely on its current submission, then the public hearing can proceed on November 2, 2020.

However, if the applicant intends to submit any additional information, then the public hearing should be adjourned. To do otherwise will deprive the public and this Board of a fair, efficient, and meaningful public hearing.

I thank you in advance for your kind consideration. If you have any questions, please feel free to contact me.

Very truly yours,

STENGER, DIAMOND & GLASS, LLP

Karen E. Hagstrom/jm

KAREN E. HAGSTROM

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cc: Paul Ackermann, Esq.

Nicholas Ward-Willis, Esq.

Bonnie Franson, AICP CEP, PP, Partner, NPV

Chazen Engineering, Christopher Lapine, P.E.