

ULSTER TOWN BOARD MEETING
JANUARY 17, 2008 AT 7:00 PM

CALLED TO ORDER BY SUPERVISOR WOERNER, CHAIRMAN at 7 PM

SALUTE TO THE FLAG

ROLL CALL BY CLERK

TOWN COUNCILMAN DAVID BRINK
TOWN COUNCILMAN JOEL B. BRINK
TOWN COUNCILMAN ERIC KITCHEN
TOWN COUNCILMAN ROCCO SECRETO
SUPERVISOR NICKY B. WOERNER

PUBLIC COMMENT

Brett Kropf – Inquired who, where and cost for the Association of Towns.
Supervisor Woerner didn't have all the figures at hand but will have them later.

APPROVAL OF MINUTES FROM PREVIOUS MEETING

Councilman David Brink motioned to accept the minutes of December 4, 2007, December 7, 2007, December 13, 2007, December 17, 2007, December 31, 2007 and January 3, 2008
2nd by Councilman Joel B. Brink
All Ayes

COMMITTEE REPORTS

Councilman Secreto motioned to allow the Kingston City School District to use the town's voting machines.
2nd by Councilman David Brink
All Ayes

Councilman Secreto reported from the Parks and Recreation Committee that the biddy basketball league had to use Meyer School instead of Crosby, due to a scheduling conflict.
Councilman Kitchen reported that he is looking forward to working with the committee and wants to discuss some ideas with Councilman Secreto.

Councilman Secreto reported from the Highway Committee that they had received Mr. Donald Tinnie's last report and thanked him for his years of service. He suggested incorporating fines into the Town law in addition to the cost of snow removal for people who do not clear their sidewalks after storms.

Councilman Secreto reported from the Insurance Committee, that the town has received an advance payment of \$50,000 for the clean up and removal of the large park pavilion that had collapsed at Robert E. Post Park.

Councilman Joel Brink reported from the Finance Committee, that the monthly abstract will be handled at a later meeting to pay all of the year-end bills. Supervisor Woerner added that the meeting is scheduled for January 31, 2008 at 7 PM. Councilman Secreto reported that the Finance Committee will meet on Wednesday, January 30, 2008 to review the bills.

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Councilman Joel Brink reported from the Personnel Committee that an ad was placed in the local paper advertising the auto-mechanic position. Councilman David Brink reported that the new clerk in the Building Department is working out well.

Councilman David Brink reported from the Assessor, Building and Planning Committee that the building department is working on clearing up the expired permits list.

DEPARTMENT HEAD REPORTS

Assessor – James Maloney reported that the office is busy with the year-end processing, the building permit inspections and the STAR program. He offered the Town Board an invitation for a ride along for the town assessment inspections of building permits. He had a meeting with the New York State Officials about the PBC on the Town's assessment value and it appears the assessment roll will remain nearly the same. His office will hold extended office hours in February for people to submit their STAR applications. At the last meeting, he and James Corrigan were appointed to the flood hazard mitigation committee and he has filed the required paperwork with the county including items that needed to be addressed in the town. This will be an intense process of forming a plan. He will reach out to the emergency responding agencies for their input. The plan needs to be submitted by November 2008. The committee will submit a supplemental information package to the Army Corps. of Engineers in regard to the flooding. The flood maps are currently in the review process. The new flood maps show the Town Hall in a flood zone. He has requested that Senator Bonacic and Assemblyman Cahill pass flood mitigation laws in regard to allowing the taxable status state to be changed.

Building Department – Paul Economos reported that all is running well.

Town Clerk – Mr. Cosenza reported that the office is busy with the tax collection process. The 2007 year paperwork has been filed and the office has made preparations for the February 5, 2008 presidential primary.

Highway Department – Mr. Frank Petramale thanked Donald Tinnie and William Williams for their hard work, as they plan to retire, in helping to make a smooth transition for his position as supervisor. He thanked the Town Board, all the department heads and the employees for their help. He read the monthly report. There are road and drainage projects that are being planned.

Water Department – Paul Vogt, Town Water Superintendent reported that all is running well.

Waste Water Department – Corey Halwick, Waste Water Superintendent, reported all is well. He thanked Frank Petramale for his departments help in the upcoming projects.

Police Department – Police Chief Paul Watzka read the monthly report.

Public Hearing for the Dena Marie Plaza at 7:30 PM

Supervisor Woerner opened the public hearing for the Dena Marie Plaza at 7:31 PM and submitted a letter from a local business owner about the project (see attached).

Mr. Robert Barton – He expressed several concerns about the expansion and the addition of the businesses; noise from refrigeration units and cars moving through the parking lot area and construction work. He is concerned about light pollution coming from the property onto his property. He would like an improved landscape. He also wanted a better managed site plan

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where trash is not left by the customers on the property and left loose on property to blow onto another property.

David Kaplan, a representative of the project, showed an overhead view of the property. He explained the proposal is to remove half of the existing plaza building that is located towards the residential side. There is a proposed Texas Road Restaurant and a Planet Fitness on the property along with a 60,000 sq. foot retail building.

Michael Berardi - Where will the store fronts face?

Craig Trapp – The stores will be facing 9W.

Mr. David Kaplan – The parking spaces exceed the Town Code for parking spaces, 5 parking spaces per 1000 ft.

Mr. Richard Metzger – How much of the lime stone rock in front of the building along 9W will be kept?

David Kaplan – All of it is will be removed.

Councilman Joel B. Brink – Inquired as to the location of the facade on the site plan. This was noted as the 60,000 sq. foot building on the site plan.

Councilman Kitchen inquired if the project had a traffic study performed.

Mr. David Kaplan – One was performed for the Texas Road House.

Councilman Joel B. Brink inquired if the road entrances will remain the same for the plaza area.

Mr. David Kaplan – All the entrances will remain the same.

Supervisor Woerner motioned to close the public hearing at 7:45 PM

2nd by Councilman Secreto

All Ayes

Public Hearing for the Ulster Greene ARC Palmer House 7:45 PM

Supervisor Woerner opened the public hearing for the Ulster Greene ARC Palmer House at 7:46 PM.

Scott Dutton, the architect on the project, gave an overview. The plan has been reviewed several times by the town planning board. The proposal is to relocate the existing residents into a new three building complex located on the site which is state mandated. The old residence, the metal building on the site, will be used for storage, as it will be better utilized compared to the cost for removal.

Councilman Kitchen expressed his pleasure about the project.

Supervisor Woerner motioned to adjourn the hearing at 8:50 PM

2nd by Councilman Secreto

All Ayes

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Mr. Alan Sorensen stated that ARC Palmer House can be approved pending some minor site plan changes.

Councilman Joel Brink motioned to approve the Ulster Green ARC Site plan with the necessary conditions required by the Town Planning Board and Town Planner.

2nd by Councilman Secreto

All Ayes

Robert Post Park Pavilion

Supervisor Woerner reported that the Robert E. Post Park large pavilion has collapsed. Caution tape has been placed around it and there is a safety concern. It is not completely down, as the picnic tables stored underneath are holding it up. He and Councilman Secreto had a meeting with a contractor to remove the building.

Town Attorney Andrew Zweben recommended it be removed for safety purposes.

There was a brief discussion about saving as much material as possible which include block and kitchen items.

Councilman Secreto motioned to hire Klomm Construction to remove and demolish the collapsed pavilion at the Robert E. Post Park for the amount of \$21,000.

2nd by Councilman Joel B. Brink

A Roll Call vote was taken – All Ayes

Supervisor Woerner reported that there has been discussion about purchasing pre-constructed units or going out to bid for onsite construction.

The Proposed Town of Ulster Senior Center.

Supervisor Woerner reported that he had a discussion with Mark Blauer about the East Kingston Water lateral connections. He will get the word out about free lateral connections due to the low number of applications. He would like to apply for grant money for home rehabilitation programs for East Kingston residents that would involve a combination of grants and loans for low to moderate income families. Money would be loaned to individuals to fix up their properties and the money would not have to be paid back until they sold their homes. The returned money would go into a revolving fund for further loans or projects. The Town Board will hold public hearings on this matter.

He further reported the Town has received a grant for a senior center and is proposing to build it at the Town Transfer Station, as sitting it next to the Town Hall is not conducive. The current Town Hall is under review for improvements and a report with suggestions should be forthcoming.

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Councilman Joel B. Brink was pleased that the Senior Center will not be built near the current Town Hall location (1 Town Hall Drive, Lake Katrine). Councilmen Kitchen and David Brink concurred, as they felt the current site was best location to expand on.

Supervisor Woerner reported that the Transfer Station has seen roughly a \$5,000 tipping fee reduction as a result of a change in staffing. He will continue to monitor the costs and see where it leads. The proposed senior center will be on the far side of the transfer station. Some areas are being cleared in anticipation of this.

Negative Declaration for the Ulster Green ARC Site

Supervisor Woerner motioned to declare a Negative Declaration for the Ulster Green ARC Site plan as advised by the Town Attorney.
2nd by Councilman David Brink
All Ayes

Personnel Appointments for the Town of Ulster Wastewater Treatment Department.

Supervisor Woerner motioned to hire Joshua Brink to the Sewer Department as a water/waste water maintenance worker at a rate of pay of \$11.19 an hour (Grade 5, Step 1), effective upon completing and passing all the required tests.

2nd by Councilman Secreto

A Roll Call was taken – 3 Ayes Councilmen Joel B. Brink (great grandnephew) and David Brink (great grandson) abstained due to their familial relation to the individual

Supervisor Woerner motioned to hire Jason Krakowski to the Sewer Department as a water/waste water maintenance worker at a rate of pay of \$11.19 an hour (Grade 5, Step 1), effective upon completing and passing all the require tests.

2nd by Councilman David Brink

A Roll Call was taken – All Ayes

Designation of Representatives to the Association of Towns Annual Meeting.

Councilman David Brink motioned to appoint Supervisor Woerner as the delegate to the Association of Town's Conference and James Maloney as the alternate for February 17-20

2nd by Councilman Joel B. Brink

All Ayes

Mr. Robert Barton inquired about the East Kingston Blasting report.

Supervisor Woerner stated that he will try to have studies presented at the January 31, 2008 Town Board meeting.

A brief discussion occurred between Mr. Brett Kropf and Supervisor Woerner about the Transfer Station fees schedule, the decrease in tipping, and the operation costs. A direct question was asked of Supervisor Woerner if he had any involvement with the Chambers Housing Project and he did not stated, other than placing the item on the agenda.

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Mr. Robert Barton inquired if the Town had looked at other locations for the senior housing. Supervisor Woerner stated that they had, but the properties were too small or inaccessible.

Mr. Robert Crane suggested performing preventative maintenance on the town sewer system. Waste Water Superintendent Halwick reported that he has a lot of information and is working with the town engineer in compiling the options for the Town Board to review. Supervisor Woerner stated that he anticipates the sewer lines being inventoried to start the process.

Town Clerk Cosenza suggested adding a med-size pavilion and an additional restroom near the small pavilion area at the Robert E. Post Park

A discussion occurred about installing a handicap fishing pier at the Robert E. Post Park. The project is hopefully set for this spring.

Mr. Brooks requested that more police be hired for the town.

Mr. Michael Berardi requested that the Town Board consider going out for an RFP, a building management study. This study would collect information for better decision-making on what to do with town's buildings.

Mr. Robert Crane – Suggested that the Highway Fund be used to make some building improvements to the highway complex.

Councilman Joel B. Brink motioned to adjourn the meeting at 8:45 PM
2nd by Councilman Secreto
All Ayes

Respectfully Submitted by
Jason Cosenza, RMC FHCO
Ulster Town Clerk

**The Law Offices of
WARREN S. REPLANSKY, PC**

P.O. Box 659
2990 Church Street
Pine Plains, NY 12567
(518)398-5208
(518)398-5297 Facsimile
E-mail: wreplansky@optonline.net

BRANCH OFFICE:
18-20 East Market Street
Rhinebeck, NY 12572
(845)876-7979

Reply To: Pine Plains

Via Facsimile and First Class Mail

January 17, 2008

Town of Ulster Town Board
1 Town Hall Drive
Lake Katrine, NY 12449

Re: Site Plan Review for Phase II of Dena Marie Plaza

Dear Supervisor Woerner and Town Board Members:

This office represents certain residents and property owners of the Town of Ulster who own properties and/or reside in close proximity to the proposed Dena Marie Plaza development. Phase I of this project involved the construction of an 8,000 square foot restaurant pad in the northwestern corner of the subject site which, I believe, received Site Plan Approval by the Town Board on July 16, 2007, after a Negative SEQRA Declaration was issued by that Board for Phase I of the project.

The developer recently submitted an application to the Planning Board for Site Plan Approval of Phase II of the project which involves demolition of approximately 51,375 square feet of the existing 75,164 square foot vacant retail building adjacent to the Kohl's Department Store, and the construction of a 23,789 square foot Planet Fitness gym in the remaining space. Phase II also involves the construction of a new, detached, 60,488 square foot retail building along the southern portion of the project site.

Pursuant to a FOIL request, I have reviewed all documentation in the file, which includes a short Project Narrative, Site Plan application, revised plans prepared by Chazen Engineering dated December 6, 2007, revised lighting and signage plans for both facilities, a document which appears to be "typical roof type sound wall plan and details," an addendum to the Dena Marie Plaza Redevelopment Traffic Impact Study dated December 4, 2007 (which apparently supplements a previous Traffic Impact Study performed in conjunction with the Phase I application); a Stormwater Pollution Prevention Plan (SWPPP) dated December 6, 2007, a review of the SWPPP by the Town's Consulting Engineers, three review letters from the Town's Consultant Planner,

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Alan J. Sorenson, dated October 16, 2007, November 12, 2007 and December 17, 2007 respectively, and Ulster County Planning Board 239-m Referral Response dated January 2, 2008.

The file also includes Part 1 of the Long Form EAF ("FEAF") which, apparently, is the same FEAF used for the Phase I of the project, with a few modifications and changes.

It is my understanding that the Town of Ulster Planning Board has forwarded the application to the Town Board, by resolution dated December 20, 2007, for Town Board review and approval in accordance with the Town's Site Plan Review Law.

Although this property lies within the Town's Regional Commercial (RC) Zone and the use is permitted as a matter of right, subject to Site Plan Approval, the property proposed to be developed in Phase II of this project is contiguous to a residential area and is serviced by a road system and an intersection whose current traffic volumes exceed the projections for that road network and which have been a serious source of concern to the Ulster County Planning Board and the commercial businesses and residents of that area.

For these reasons, the proposed development, and its potential environmental impacts, must be carefully scrutinized by the Town Board, and the requisite "hard look" must be given to the potential environmental impacts of this development by the Town Board as Lead Agency to satisfy the requirements of SEQRA. Based upon the documentation in the Planning Board file, it does not appear that this action is ready for Final Approval, or the issuance of a Negative SEQRA Declaration, by the Town Board.

Specifically, I draw the Board's attention to the following:

1. **Part 1 of the Full Environmental Assessment Form Has Not Been Fully, or Adequately, Completed**

The FEAF is the form which must be utilized by the Lead Agency to assist it in determining the environmental significance, or non-significance, of a proposed action. "A properly completed EAF must contain enough information to describe the proposed action, its location, its purpose and its potential impacts on the environment. See: 6 NYCRR §617.2(m). Even a cursory review of the FEAF reveals that it has not been properly completed or supplemented.

For example, ¶B(8) asks whether blasting will occur during construction, and that question has been answered "No." However, since Phase II of this project is part of an overall plan for development of this site, all of the improvements and proposed construction work for the site, whether in Phase I or Phase II, must be considered by the Lead Agency in determining the potential environmental impacts of this project to avoid

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segmentation. It is my understanding that blasting will indeed be required for this project in conjunction with the installation of utility lines. There may be blasting required in conjunction with the improvement of the site distance for the entryway for the property off Route 9W.

¶B(20) asks whether the project will produce operating noise exceeding the local ambient noise levels. Again, this question is answered in the negative. However, there will certainly be noise created in conjunction with blasting and demolition of the existing building which will exceed ambient noise levels. There is no study which I could find in the file which analyzes these potential noise impacts of the project, or describes potential mitigation measures for those impacts.

¶C(12) asks whether the proposed action will result in the generation of traffic significantly above present levels. For the reasons discussed, *infra*, this question could not be answered in the negative without the completion and review of a Full Traffic Impact Analysis.

¶B(25) (which is used by the Lead Agency to identify "involved agencies") states that the only agency approvals required are Site Plan Approval by the Planning Board, County Health Department Water/Sewer approval and County Planning 239-m review. The project will, however, require Town Board approval pursuant to the Town Site Plan Review law; approval by DOT for the increased usage and requested corrections for the main driveway entrance on 9W; approvals by DOT and the Town of Ulster for the improvements in the traffic detection systems; and approval by DEC for a SPDES General Permit for Stormwater Discharges in accordance with the SWPPP. Under the circumstances with this number of involved agencies, the Town Board should consider the conduct of a coordinated review of the environmental impacts of this project.

2. **The Town Board Should Re-Do, or Complete, Its Environmental Review of the Phase I Aspect of this Development**

Review of the FEAF utilized by the Town in conjunction with its Site Plan Approval and issuance of a Negative Declaration in conjunction with Phase I of the project reveals several deficiencies. The FEAF utilized by the Town Board, in conjunction with that review, is practically identical to the current EAF (with the same deficiencies) and, for the reasons stated in ¶1, was inadequate. In addition, there is no evidence that the Town Board, in conjunction with its SEQRA Review of Phase I, ever completed Part 2 of the EAF and issued a written Negative SEQRA determination setting forth the reasons supporting its determination. The minutes of the July 16, 2007 Town Board meeting do not indicate that the Board reviewed Part 2 of the EAF, or conducted any analysis whatsoever of the potential environmental impacts of this project before issuing its SEQRA determination. It is patently clear that the Town Board failed to take a "hard look" at potential environmental impacts of Phase I of the project.

3. **The Town Board Appears to Have Violated the Provisions of §239-m(6) in its Approval of Phase I of the Project**

§239-m(6) of the General Municipal Law provides, in relevant part, that if a referring body acts contrary to a recommendation of modification or disapproval of a proposed action, the Board must set forth the reasons for the contrary action in a report to the County Planning Board. The County Planning Board, in its 239-m response to the Town Board in conjunction with Phase I of this project made several recommendations for modification of the project, including that a more detailed traffic study be performed. It does not appear that, following the approval of Phase I of this project, a report was sent by the Town Board to County Planning detailing the reasons for not following its recommendations with regard to the traffic study, and other requests for modification set forth in the referral response. As the Board may know, failure to comply with the requirements of §239-m render any determination of the Town Board null and void.

4. **It Does Not Appear that the Town Board has complied with the Referral Requirements of §239-m of the GML in Conjunction with the Application for Phase II Approval**

GML §239-m requires, in relevant part, the Town Board to include in its referral to County Planning a "full statement of such proposed action." Those terms are defined by §239-m(1)(c) and to include the completed Environmental Assessment Form and all other materials required by such referring body in order to make its determination of significance pursuant to SEQRA. Decisional law in the State of New York has held that compliance with this requirement can be made by providing a completed Part 1, 2 and, if necessary, 3 of the FEAF; a copy of Part 1 of the EAF together with all documentation and information which the Lead Agency needs to make its determination of significance; and/or a Draft Environmental Impact Statement, if such is prepared. In the instant case, the Town Board has not complied with any of these requirements in making its referral to the County. Part 2 of the EAF has not, to date, been completed and there are several documents, studies and items of information which relate to potential environmental impacts of this project which have not been provided, to date, by the applicant and which, as a result, have not been sent to County Planning for its review. County Planning apparently has not reviewed the revised traffic study or the revised lighting and signage plans prepared by the applicant. In addition, as noted, *infra*, there are several other studies and reports required by the Planning Board which have not, to date, been submitted to the Planning Board or Town Board, and certainly have not been submitted to County Planning. Before making any final determination of this matter, the requirements of §239-m of the GML must be strictly adhered to by the Town Board.

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5. **The Traffic Impact Study and the Review of the Same is Not Complete for Purposes of the Town Board Acting on the Site Plan and Making a Determination of Significance**

The existing site entrance for this property off Route 9W has been plagued with congestion and traffic problems. The potential increase in traffic resulting from this project on Route 9W and nearby intersections and connecting roads has been a major source of both the Town's Consulting Planner and the Ulster County Planning Board. Although an addendum to the Traffic Impact Study dated December 4, 2007 has been prepared by Chazen, it did not appear, based upon the comments made by the Ulster County Planning Board in its letter dated January 2, 2008, that the addendum had been submitted to them for their review, approval and comments. I have confirmed with Robert Leibowitz, principal planner for Ulster County, that the addendum to the Traffic Impact Study has not been submitted to them or reviewed. Based upon this fact, standing alone, there has not been a full submission to County Planning, as required by GML §239-m.

It also appears that the Traffic Study has not, to date, been reviewed by Creighton Manning and, as a result, detailed comments on the Traffic Impact Study have not been submitted to the Planning Board, Town's Planner or to Ulster County Planning for their review, as recommended by the Town's Consulting Planner. Given the importance of the traffic impact issues relating to this development, submission to Ulster County Planning for its GML §239-m review should include Mr. Manning's review and comments which also should be reviewed and considered by the Town Board before making any determination of significance for SEQRA purposes.

Moreover, it is clear that the addendum to the Traffic Study reaches certain conclusions about the impact of this project on current and future traffic conditions based upon assumptions that certain site, directional and motor vehicle identification improvements will be made at two intersections by the New York State Department of Transportation and by the Town of Ulster. Review of the Traffic Study reveals that the applicant has not provided correspondence, or other firm confirmation, from NYS DOT as to whether the proposed mitigation measures are feasible and will be performed, nor has such correspondence been provided by the Town of Ulster or its Highway Department. Without this documentation, no determination can be made on whether the proposed mitigation measures are feasible and, therefore, adequate SEQRA review of the traffic impacts cannot be conducted.

6. **The Potential Noise Impacts of This Project Have Not Been Adequately Addressed for Purposes of Making a SEQRA Determination**

The Town Planner, in its comments on this application, has recommended that all

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roof mounted HVAC units include provision of noise control barriers or noise reducers to mitigate potential impacts associated with these systems being mounted on the roof. Although a one page document entitled "Rooftop Sound Wall and Plan Details" has been provided, no information or documentation has been provided concerning the type, size and location of the HVAC units to be located on the fitness and retail store buildings. No documentation or studies have been provided to demonstrate the noise levels that will be produced by these units in operation, both in a day and night mode, and no studies have been provided to indicate how these noise levels will exceed the ambient noise levels for the area. Additionally, it must be demonstrated that the rooftop sound wall proposals for noise mitigation will be incorporated in the construction plans and, in fact, result in a mitigation of these impacts to acceptable levels. Given the proximity of both of these buildings to residential areas, it is crucial for this documentation to be provided before a determination of the noise impacts of this project can be made by the Lead Agency.

In addition, there has been no analysis of the potential noise impacts and proposed mitigation measures for the noise which will be generated by the demolition of the existing building or which will result from the blasting for site improvements. This information must also be supplied before a SEQRA determination on noise can be made.

Finally, as noted, *infra*, the hours of operation for all facilities must be described in narrative form for the Town Board to review in determining what impact, if any, the operation of the building after normal business hours will have on the neighboring residential community, and how those impacts can be mitigated.

7. Hours of Operation

§145-5(b)(8) of the Town's Site Plan Review Law requires, among other things, that an application for a Site Plan be accompanied by "a description of the proposed uses to the extent known, including hours of operation, number of employees expected, volume of business and type and volume of traffic expected to be generated..." The Town's Consulting Planner has expressed concern about the potential of this Planet Fitness business to be operated on a 24-hour basis, and the potential and other impacts that such 24 hour operation will have on neighboring properties. The Consulting Planner asked that a narrative description of the proposed hours of operation be submitted. The same information should be supplied for the proposed new retail building and its uses. The file reveals that no such narrative has, to date, been supplied by the applicant. Without this information, the application cannot be deemed complete and ready for submission to the Town Board for its review and approval. In addition, since this information is relevant to the SEQRA issues, this information should have been supplied to the Ulster County Planning for its review and planning as part of the GML §239-m referral.

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8. Further and Complete Submissions to Ulster County Planning Board

The Ulster County Planning Board letter of January 2, 2008 states its concern regarding the lighting plans and signage. Although these concerns may have been addressed by the most recent submissions by the applicant to the Planning Board, it is evident that these plans have not been sent to Ulster County Planning as part of the §239-m referral. Until such time as these plans are forwarded to the County Planning Board for its review and approval, the §239-m referral must be deemed to be insufficient.

9. Recommendations by County Planning Regarding Pedestrian/Bicycle Access and Transit Access

Ulster County Planning, in its referral response dated January 2, 2008, notes that as presently configured, the Dena Marie Plaza is a series of "isolated pods accessible only via vehicular transport" and that "pedestrian access, both external and internal to the site, requires improvements." County Planning recommends that the site include sidewalks that extend from the site to Miron Lane, as well as sidewalks that conveniently tie each of the three structures together. They also wish to see the inclusion of bike racks at all buildings. Further, County Planning recommends that the reconfigured parking lots be reviewed by UCAT for turning movements associated with their buses and provisions made for drop-off areas and, perhaps, bus shelters.

It does not appear that any of these recommendations have been included, or ever responded to, in the plans of the developer. The Town Board was urged to require the developer to incorporate these recommendations in its Site Plan prior to approval of the same by the Town Board. If the Town Board fails to require these modifications to the plan as recommended by County Planning, a super majority is required for approval of the Site Plan, and the Town Board must, in a report, provide detailed reasons for not following the recommendations of County Planning which must, in turn, be sent to County Planning as required by §239-m.

In light of all of these factors, it appears that the application for approval of Phase II of this project is not complete and ready for submittal to the Town Board for final action. Given the time constraint imposed by the Town Board pursuant to §145-10(D) of the Town Site Plan Review Law, it would appear that the prudent course of action would be to disapprove the Site Plan application in its present form, and remand the matter back to the Planning Board for completion of further studies, review of all studies by the Town's consultants and resubmission to County Planning for their review and approval.

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Thank you for your kind consideration and attention to this matter. I ask that this letter be made a part of the record of the public hearing in this matter since I will not be able to appear in person due to other commitments.

Sincerely yours,



WARREN S. REPLANSKY
WSR:lb

cc: Clients
Town of Ulster Planning Board
Andrew Zweben, Esq.
Alan J. Sorenson, Planit Main Street
Robert A. Leibowitz, Ulster County Planning Board