

**APPROVED: 10/20/16**

**MINUTES OF THE  
TOWN OF HIGHLANDS PLANNING BOARD  
AUGUST 31, 2016**

A Regular meeting of the Town of Highlands Planning Board was held in the Town Hall, Highland Falls, New York, on Wednesday, August 31, 2016, at 7:00 P. M.

**THERE WERE PRESENT:**

**Board Members:**

Erik Smith, Chairman  
Chris Dyroff, Deputy Chairperson  
Jim Ramus

M. Justin Rider, Attorney, (Rider, Weiner & Frankel, P. C.)  
Leslie J. Dotson, Town Planner (Garling Associates)

b

**ALSO PRESENT:** Justin Dates (Maser Consulting), and Dilip Patel (Holiday Inn Express).

**At 7:00 P. M., the meeting was opened with the Pledge to the Flag. It was noted that there are three members present and there is a quorum.**

**A Motion was made to approve the July 21, 2016 Meeting Minutes, with noted changes.**

**Motion: Mr. Ramus                      Seconded: Mr. Dyroff                      Approved**

**OLD BUSINESS**

**Trans-Hudson Management Corp. Site Plan and Special Exception (Section 11, Block 1, Lot 36.2).**

The Chairman stated that the Board has held a Public Hearing on this project, received a reply from concerning access, and has heard from the fire district.

Mr. Dates further stated there will be a channelized entrance with signage on site and on Route 9W stating “no lefts in and no lefts out.” He also stated that Dunkin Donuts now has a Green Initiative that will include having bicycle racks and an electrical vehicle charging station on site. Modified screening for the propane tank and accessory shed will be put in place. The entrance will now be on the north side of the building rather than facing Route 9W. These items will be shown on the plan. Responses have been made to the Comment Letters from Ms. Dotson, Mr. Hines, and Supervisor concerning the sewer realignment and encasement at two locations.

There will need to be a fire hydrant on site, with the potential of the Town will over the system. Mr. Rider explained that things are proceeding with that plan. Confirmed by the Building Inspector, there will be no sprinkler system necessary. The Town's Erosion Control Permit was previously submitted to the Town.

A discussion continued concerning Mr. Hines' and Ms. Dotson's Comment Letters.

**A motion was made to grant a waiver of the fence requirements of Section 210-20B of the Code, as a transitional yard requirement in place of the proposed vegetation or fencing, for this project.**

**Motion: Mr. Dyroff**

**Seconded: Mr. Ramus Approved**

A discussion was held, at the request of Mr. Ramus, about whether the Town requires an "as built drawing" for the landscaping once the plan is complete? Also, an "as built drawing" for the entire plan.

RESOLUTION

OF

AUGUST 31, 2016

RESOLUTION OF SEQR DESIGNATION  
AND DETERMINATION  
TRANS-HUDSON MANAGEMENT CORP  
APPLICATION FOR A SPECIAL EXCEPTION  
USE PERMIT AND SITE PLAN  
FOR TWO EATING ESTABLISHMENTS  
WITH DRIVE THROUGH CAPACITY

Planning Board Member Dyroff presented the following resolution which was seconded by Planning Board Member Mr. Ramus.

WHEREAS, an Environmental Assessment Form (the "EAF") was prepared December, 2014, for the application for a special exception use permit and site plan approval for two eating establishments with drive through, on property located at Route 9W in the Town of Highlands and designated on the Tax Map as Section 11 Block 1 Lot 36.2 (the "Action"); and

WHEREAS, the Planning Board has determined that the Action is an unlisted action under Part 617 of the General Regulations adopted pursuant to Article 8 of the Environmental Conservation Law; and

WHEREAS, the Planning Board has heretofore designated itself lead agency; and

WHEREAS, the Planning Board has heretofore reviewed the EAF together with any other supporting information, and analyzed and considered any relevant areas of environmental concern

and the probable environmental impacts of the Action to determine if the Action may have any significant adverse environmental effects.

**NOW THEREFORE, BE IT RESOLVED:**

1. The Planning Board does determine that the Trans Hudson Site Plan and Special Exception Use Permit application, which consists of two eating establishments with drive through capacity, is an unlisted action under Part 617 of the General Regulations adopted pursuant to Article 8 of the Environmental Conservation Law and the Planning Board did conduct a review of the project.
2. The Planning Board does further determine that it did declare itself the lead agency for the purpose of conducting a review of this Action and determines that said Action will not have a significant adverse environmental impact and, therefore, does issue a negative declaration.
3. The Planning Board hereby authorizes the Chairman to execute and file the Environmental Assessment Form and Negative Declaration attached hereto in accordance with the applicable provisions of law.
4. The Town Clerk shall maintain the EAF, Negative Declaration and all other SEQR documents and notices pertaining to the Action on file and available to the public during regular business hours.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

<u>James Ramus, Member</u>	voting <u>Aye</u>
<u>Christopher Dyroff, Member</u>	voting <u>Aye</u>
<u>Erik Smith, Chairperson</u>	voting <u>Aye</u>

**NEGATIVE DECLARATION**

**Trans-Hudson Management Corp. Site Plan & Special Exception Use Permit  
NYS Route 9W, Town of Highlands, NY**

**TOWN OF HIGHLANDS PLANNING BOARD**

The Town of Highlands Planning Board, acting as SEQR Lead Agency for review of the following action, hereby issues notice that it has adopted a Negative Declaration for the action described below.

**Name of Project: Trans-Hudson Management Corp – NYS Route 9W Site Plan and Special Exception Use Permit**

**Action Type: Unlisted Action, Coordinated Review**

**Location: Town of Highlands, County of Orange**

**Location: Route 9W**

**Zoning Districts: B (Business)****Tax Map Parcel: Section 11 Block 1 Lot 36.2****Summary of Action:**

The action involves a request for site plan approval and special exception use permits for a proposed 1,800 square foot Dunkin Donuts with drive-thru lane, and a potential restaurant pad site for a 2,500 square foot building with drive-thru lane, on a 2.43 acre vacant site on Route 9W near Corbin Hill Road.

The action is Unlisted pursuant to SEQRA, and Uncoordinated SEQR procedures were followed.

The Planning Board has extensively considered the application, the site plan and its revisions, the submitted Environmental Assessment form, the comments of its advisors and all agency comments, as well as the comments of the public, and hereby makes the following specific findings supporting its adoption of this Negative Declaration:

**A. Land Use and Zoning/Community Character Impacts**

The site is located within the B (Business) District along a four-lane undivided portion of state highway 9W. On the north, the site abuts an R-5 Apartment Residence District, and a vacant portion of Corbin Hill Condominium 3 lying between the site and the private road Corbin Hill Road. West of the site and uphill, the zoning is also R-5 and this district contains parts of the Corbin Hill development, though Corbin Hill Road, Laila Lane, and utilities are the only elements that directly abut the site. On the south, the B district continues, and the adjoining lot to the south contains a residence with a commercial use. East of the site, on the opposite side of highway 9W, there is an extensive R-3 Single Family Residential District, but the entire area opposite the site is occupied by Garrison Pond.

The lot is vegetated with trees and understory in some places, primarily at the site perimeters, but it has been substantially cleared and disturbed in the past. The lot had been used as a staging area for construction of the adjacent Corbin Hill residential development, and there is also sewer infrastructure running through the site.

The parcel is proposed to be used for an 1800 square foot Dunkin Donuts with a drive-thru lane. Because the Dunkin Donuts would not have used the entire parcel, which could have been used for an additional commercial use, the Planning Board requested that the full site development be shown, in order to coordinate the site access, grading and infrastructure and to avoid segmentation. The applicant revised the plan to include a 2,500 square foot restaurant site with a drive-thru service. While there is no specific end user identified for the proposed restaurant, it is clear from the plan that it can be feasibly sited on the lot. Restaurants are uses permitted by special exception permit under the zoning, subject to site plan approval, and the proposed uses and this plan would be consistent with the requirements of the Town's Zoning Law and its Comprehensive Plan. The plan incorporates retained and planted vegetation in specific locations that would screen the view of the development from adjoining residential uses. Therefore, there will be no significant harmful impacts in this subject area.

## **B. Soils, Geology and Topography Impacts**

Site soils are Charlton-Paxton complex, extremely stony, sloping and moderately sloped on this 2.43 acre parcel. These are deep and well drained soils, for which the stones and slope can be limiting for use. As noted in the previous section, the site has previously been substantially disturbed and cleared. The site plan leaves the steepest part of the site undisturbed, consisting of roughly a third of the site, and limits grading to the extent possible on the remainder of the site. The grading plan incorporates two short walls, the rear one of variable heights less than 4 feet, and the front one variable heights less than 3 feet. Erosion control and stabilization measures are included in the plan. Plans had been revised to reduce the extent of site grading to the maximum extent practicable. Therefore, no significant harmful impacts are expected in this subject area as a result of this action.

## **C. Water Resources Impacts (includes water and sewage disposal issues)**

The site will be served by central water supplies by way of the Corbin Hill water corporation's system. The water supply corporation has indicated it has adequate capacity to serve the uses, and the site is reportedly part of the Corbin Hill water corporation district and therefore entitled to connect for its potable water supply service. The connection is proposed to be made from the main in Laila Lane, which is directly behind and above the proposed Dunkin Donuts. The site is also served by public sewers. While there is adequate capacity at the municipal sewage treatment plant to accommodate the effluent from the uses, the effluent would flow into an existing sewer pump station which is inadequate and requires repair and upgrade. The applicant has voluntarily agreed to make a financial contribution which it has specifically negotiated with the Town in order to mitigate its impact on the pump station. The site plan requires the relocation of a section of sewer main and its accompanying easement running through the site, and this work will be done wholly at the applicant's expense. With the mitigation measures included, there will be no significant harmful impacts expected in regard to water and sewer services.

There will be impervious area added to the site, and erosion control and stormwater management measures are incorporated in the plan. The plan avoids concentrating site drainage to the greatest extent possible, and there are three bioretention areas incorporated into the plans, one serving each building employing sheet flow off of the parking areas, and a third near the site entry to manage and improve stormwater quality draining from the site. Cleared areas that are not being made impervious will be stabilized and landscaped. Accordingly, no significant adverse impacts are expected in this subject area.

## **D. Ecology Impacts**

The site itself is located on a four lane state highway in a Business district on a site that is already substantially cleared and disturbed. NY State Department of Environmental Conservation has reviewed the State's Natural Heritage records and reported that the site is within or near records of the several threatened, endangered or protected species: Northern long-eared bat, Shortnose Sturgeon, and Atlantic Sturgeon.

However, because there is no tree clearing proposed, no adverse impacts would be expected to the threatened bat. Because the site does not include a waterbody that drains to the Hudson, no adverse impacts are expected to either sturgeon. Accordingly, no adverse impacts are expected in this subject area.

### **E. Traffic & Transportation Impacts**

The site is located on the southbound lanes of a four lane section of Route 9W, with a sidewalk running in front of the property. Because of the heavy peak hour traffic volumes carried by the road, and the concerns for the number of turning movements the uses would generate, the Planning Board required a traffic study. The Planning Board also required the applicant to consider the traffic that would be generated by the full buildout of the site, in order to avoid segmenting review, and also to ensure that the access and internal site circulation would be properly planned for the full site use.

The traffic study was completed using an earlier proposed driveway consisting of one entry lane and separate right and left turn exit lanes, and used a conservative pass-by credit of 25% for the total trip generation. Intersections that were studied included Rt 9W at Corbin Hill Road, Rt 9W at Montgomery Rd/Brooks Lane, and the proposed site access, as well as the internal site queuing at the Dunkin Donuts and proposed restaurant drive thru lanes. The study indicated that there would be long delays for traffic turning left out of the site during peak hours, and noted that a traffic signal would improve this condition, recommending future monitoring for signal warrants. A sight distance matrix was provided.

NYS DOT responded with comments and questions, and there was active coordination between the Planning Board, the Town, DOT and the applicant considering alternatives, as the traffic volumes indicated the need for a left turn lane into the site, yet there are right-of-way constraints making that infeasible. Among the alternatives considered was a "Roadway Diet" that would narrow the road from two lanes in each direction to one, helping to slow the traffic and transition between speed zones, and providing for a turn lane. Although the Town has preliminarily indicated support for this alternative, due to the improvements it would make to safety for the elementary school, it is beyond the scope of this project and would require additional work by DOT. Another alternative was full signalization of the intersection. The application did complete a signal warrant analysis showing that Warrants 1B, 2 and 3 in addition to Warrant 1A for 4 of the required 8 hours needed to satisfy the warrant would be met when the development of site is complete. It would be the applicant's preferred alternative to have the traffic signal with full pedestrian signalization and actuation. However, the project in its current state can only be approved by DOT as a right-turn in, right-turn out access only. Therefore the applicant has modified the driveway for right-turn in, right-turn out access only, with a channelized island in the intersection ensuring compliance with this restriction. This will provide for the site development while avoiding traffic impacts to the extent possible.

The plans will require NYS DOT approval, which was conceptually granted for the arrangement described above. Modifications may be required to the plans in order to accommodate turning radii of fire trucks and to meet any additional DOT requirements,

and these will be conditions of any Planning Board approval. No construction will be allowed absent DOT permit.

#### **F. Community Services Impacts**

The fire department has requested the installation of a fire hydrant on the site, which will be included as a condition of approval.

There is nothing particular about the site use that would generate exceptionally large community service or emergency services demands, as compared to other surrounding business uses in the district. There will be no school children generated by the proposed use, which means that the site would be a net revenue generator for the Town and school district.

#### **G. Noise and Air Impacts**

No potentially significant new noise or air quality impacts are anticipated from the action, apart from temporary short term noise and air quality impacts associated with site work, grading and construction. This is not new for the site, which has previously been disturbed, and is located on a heavily trafficked four lane highway.

#### **H. Visual and Cultural Resources Impacts**

The State Historic Preservation Office has issued a No Impact letter, which means that the action would create no significant adverse impacts on historic or prehistoric cultural resources. The site does not constitute a visually sensitive resource, nor is it adjacent to any such resource. The plan incorporates extensive landscaping, and the building architecture and exterior finish either will be or has been evaluated for compatibility with the community plan. The plan incorporates shielded light fixtures that will be assured to avoid skyglow and glare. Therefore, no significant harmful impacts are expected in this subject area.

#### **I. Other Impacts**

No significant harmful impacts on energy use are anticipated, due to the small size of the commercial structures. The plan incorporates options for some green features, with a bike rack and a potential EV charging station shown on the Dunkin Donuts site. No Critical Environmental Areas pursuant to NYCRR Part 617 are located adjacent to the site and therefore none can be affected by the use.

**Date of Adoption: August 31, 2016**

**Lead Agency Address: Town of Highlands Planning Board**

**Town Hall – 254 Main Street**

**Highland Falls, New York 10928**

**Tel.(845) 446-4280**

**Contact Person: Erik Smith, Planning Board Chairman**

**RESOLUTION OF APPROVAL  
SITE PLAN AND SPECIAL EXCEPTION USE PERMIT**

*FINAL*

**FOR**

**TRANS-HUDSON MANAGEMENT CORP.**

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**Nature of Application**

TRANS-HUDSON MANAGEMENT CORP. has applied for a Site Plan and Special Exception Use Permit approval allowing two eating establishments with drive through capacity at Route 9W, Fort Montgomery, New York.

**Property Involved**

The property affected by this resolution is shown on the Tax Map of the Town of Highlands as parcel 11-1-36.2.

**Zoning District**

The property affected by this resolution is located in the B Business zoning district of the Town of Highlands.

**Plans**

The Plan materials being considered consist of the following:

1. Completed application form and Environmental Assessment Form.
2. Plans prepared for TRANS-HUDSON MANAGEMENT CORP.:

*Author*

*Title*

*Last Revision Date*

Maser Consulting P.A.

Route 9W Development  
Site Plan for Trans-  
Hudson Management  
Corp. Sheets 1-16

August 10, 2016

**History**

***Date of Application***

The application was filed with the Planning Board December, 2014.

### ***Public Hearing***

A public hearing on final approval for Special Exception Use Permit and Site Plan was convened on April 21, 2016 and closed on the same date.

### **SEQRA**

#### *Type of Action:*

This matter constitutes an unlisted action under the State Environmental Quality Review Act.

#### *Lead Agency:*

The Town of Highlands Planning Board is the lead agency in regard to this action.

#### *Declaration of Significance:*

A negative declaration was issued on August 31, 2016.

### **GML 239 Referral**

The site is within 500 feet of a State Highway and accordingly this application was referred to the Orange County Planning Department for review in October 2015, with the department conditionally approving the project subject to a traffic study and mitigation of any potential traffic and safety impacts. The Planning Board received a traffic Study and altered the entrance based on the study, its own concerns and the recommendation of the Department of Transportation.

### **Findings**

The Planning Board has determined that approval of this special exception use permit and site plan will substantially serve the public convenience, safety and welfare in general as well as that of the proposed occupants in that the land to be developed is of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace. Further, the traffic access and ways are adequate in number, width, grade, alignment and visibility, adequate off-street parking is provided, the relation of the proposed building and site improvements to the topography of the land, water supply, sewage disposal, drainage, and arrangement, and the possible future development of adjacent properties are all appropriate and consistent with the requirements of the Master Plan, and the applicable zoning regulations of the Town of Highlands, subject to compliance in full with conditions hereinafter imposed.

### **Resolution of Approval**

NOW, THEREFORE, THE PLANNING BOARD RESOLVES to approve the final special exception use permit and site plan of Trans Hudson Management Corp. as said proposal is depicted on the plan identified above and upon the conditions outlined below, and the Chairperson (or his designee) is authorized to sign the plans upon satisfaction of those conditions below noted to be conditions precedent to such signing.

### **Specific Conditions**

1. The applicant shall comply with the requirements of Chapter 210 of the

Code of the Town of Highlands, Zoning, at all times.

2. As a condition of this approval, the applicant shall be required to authorize town officers, employees or agents to enter onto the site to perform appropriate surveillance required by the Code.
3. The applicant shall pay outstanding Town of Highlands consulting fees incurred in connection with the review of this application prior to the Chairperson or his designee signing the plans.
4. This approval is subject to the issuance of a highway work permit or a letter of approval by the New York State Department of Transportation for the proposed highway entrance. A modification to the entry will require further review and approval of the Planning Board.
5. A Stormwater Drainage and Maintenance Agreement, satisfactory to the Planning Board and Attorney, must be submitted and approved as a condition precedent before the final site plan is executed. That instrument must be recorded at the Orange County Clerk's Office as a condition of the issuance of a permit.
6. A Sanitary Sewer Easement Agreement, for the relocated sewer main, satisfactory to the Planning Board and Attorney, must be submitted and approved as a condition precedent before the final site plan is signed. That instrument must be recorded at the Orange County Clerk's Office as a condition of this approval.
7. This approval is subject to an application to the OCDOH for water main extension as same applies to the proposed fire hydrant on site.
8. This approval is subject to payment on the sewer pump station improvements in accordance with the applicant's correspondence dated June 1, 2016.
9. Notes shall be added to the plans with the substantial effect that (i) as built plans shall be submitted to the building inspector prior to the issuance of a certificate of occupancy, and (ii) a landscape certification

from a professional stating that the landscaping is in material compliance with the plans shall be provided to the building inspector prior to the issuance of a certificate of occupancy or at such time it is deemed appropriate for proper planting and landscaping purposes.

**General Conditions**

This approval is conditioned upon the applicant submitting all necessary copies of the plans to be signed, including mylars when required, to the Town of Highlands Building Department within one hundred eighty days of the date of this approval.

A full set of the plans to be signed shall simultaneously be submitted to the designated Planning Board Engineer. The plans shall not be signed until the consulting engineer has reported to the Chair that all conditions of this resolution required to be satisfied before the plans can be signed have, in fact, been satisfied.

This approval is further conditioned upon the applicant delivering (prior to signing of the plans) proof, in writing, that all fees—engineering, planning, and otherwise—in regard to this project have been fully paid. The plans shall not be signed until proof, satisfactory to the Chair, has been presented showing that all such fees have been paid.

A FAILURE to comply with the general conditions immediately above in a timely manner shall result, without further action, in a lapsing of this approval.

Planning Board Member Mr. Ramus presented the following resolution which was seconded by Planning Board Member Mr. Dyroff.

In Favor   3        Against   0        Abstain   0        Absent   0  

James Ramus, Member                      voting   Aye    
Christopher Dyroff, Member              voting   Aye    
Erik Smith, Chairperson                  voting   Aye  

Dated: August 31, 2016

\_\_\_\_\_  
Erik Smith, Chairperson  
TOWN OF HIGHLANDS PLANNING BOARD

STATE OF NEW YORK    )  
   )ss:  
 COUNTY OF ORANGE    )

I, Fran DeWitt, Secretary to the Planning Board of the Town of Highlands, do hereby certify that the foregoing is a true and exact copy of a Resolution adopted by the Planning Board at a meeting of said Board held on August 31, 2016.

\_\_\_\_\_  
 Fran DeWitt, SECRETARY  
 TOWN OF HIGHLANDS PLANNING BOARD

I, JUNE PATTERSON, Clerk of the Town of Highlands, do hereby certify that the foregoing Resolution was filed in the Office of the Town Clerk on \_\_\_\_\_.

\_\_\_\_\_  
 JUNE PATTERSON, Clerk  
 TOWN OF HIGHLANDS

**West Point Realty Site Plan and Special Exception, 1106 Route 9W, (Section 12, Block 1, Lots, 10.11, 1.11, 1.12). (Subdivision).**

The Chairman stated that the Applicant has a proposed change to the project and his engineer put those changes on a set of plans and sent them to the Board.

Ms. Dotson suggested to the Applicant that they give a written summary of responses to the Comment Letters. If there are any questions, please contact the Consultants.

**NEW BUSINESS - None**

**PUBLIC COMMENT - None**

**BOARD MATTERS**

**Discussions were held on the following:**

- Consolidation
- Budget
- Vacancies

**At 8:39 P. M., a motion was made to adjourn the meeting.**

**Motion: Mr. Dyroff**

**Seconded: Mr. Ramus**

**Approved**

Respectfully submitted,

Fran DeWitt, Recording Secretary

**The next Regular Town Planning Board Meeting is  
September 15, 2016**