

TOWN OF MILAN PLANNING BOARD MEETING MINUTES - FINAL
WEDNESDAY, DECEMBER 2, 2009

MEMBERS PRESENT:

Peter Goss, Chairman
Mary Ann Hoffmann
James Jeffreys arrived 7:24 p.m.
Lauren Kingman
George Lawrence

MEMBERS ABSENT:

Jeffrey Anagnos
Douglas Cook

Chairman Goss called the meeting to order at 7:00 p.m.

Public Hearings:

1. **Bay Horse Inc.** - Jerry Thorpe appeared for the public hearing for the site plan application for Bay Horse Inc. Chairman Goss read the public notice and opened the public hearing. Mr. Kingman said he has reviewed the negative declaration and the resolution and they are in good shape. Mr. Thorpe said with regard to the condition requiring he put the location of the Port o John on the map, it does not really have a permanent location. He moves it from time to time. Mr. Kingman told him the Board just needs to see it placed somewhere on the map. Mr. Thorpe also questioned why they had to add the note about the office building and Mr. Kingman said because of the small discrepancy on the map, the note is to clarify that the office building was placed where it was by exact measurements.

Mr. Kingman motioned that the Planning Board declare themselves lead agency for the site plan application of Bay Horse Inc. Ms. Hoffmann seconded.

Chairman Goss	Aye
Douglas Cook	Absent
Mary Ann Hoffmann	Aye
James Jeffreys	Absent
Lauren Kingman	Aye

Motion carried 3-0.

Mr. Kingman motioned that the Planning Board declare a Negative Declaration for the Bay Horse Site Plan application pursuant to Part 617.7 of the State Environmental Quality Review Act. Ms. Hoffmann seconded.

Chairman Goss	Aye
Douglas Cook	Absent
Mary Ann Hoffmann	Aye
James Jeffreys	Absent
Lauren Kingman	Aye

Motion carried 3-0. A copy of the negative declaration is attached.

Mr. Kingman motioned to close the public hearing for the Bay Horse Site Plan application. Ms. Hoffmann seconded.

Chairman Goss	Aye	Lauren Kingman	Aye
Douglas Cook	Absent		
Mary Ann Hoffmann	Aye		Motion carried 3-0.
James Jeffreys	Absent		

Ms. Hoffmann motioned that the Planning Board has considered the application of Bay Horse, Inc. for site plan approval of property located at 2 Academy Hill Road in the Highway Business Zoning District consisting of 4.78 acres, tax grid number 6471-00-902480, pursuant to an application packet submitted by Charles and Jean Hamilton on June 20, 2005 and a site plan prepared by John Decker, LS. dated July 20, 2007 and revised October 20, 2009 entitled “Bay Horse Inc. Site Plan”;

WHEREAS, the proposal is for approval of an existing site consisting of retail sales of storage sheds, gazebos, outdoor furniture, etc.; and

WHEREAS, the purpose of the application is to bring the site and the use into conformance as much as is feasible and practicable in accordance with Section 200-14.1F; and

WHEREAS, there is one permanent office building on the site; the remaining structures are considered as temporary display items for sale; and

WHEREAS, since this parcel has no water supply, the Board of Health approved the use of bottled water and a port-o-john to service the facility in a letter dated July 18, 2005; and

WHEREAS, this site is uniquely constrained because it is a corner lot with two front yards which increases the required setbacks, there is a significant space of 25 to 30 feet of “no man’s land” between the roadway and the property line, and there are three town culverts emptying onto the lot which flood certain areas so merchandise display is limited to the higher portions of the property; and

WHEREAS, as a result of the property constraints, several setback variances were granted for merchandise display areas and for the setback for the office building which are listed on the site plan which improve the aesthetics of the site and meet the requirements of the zoning code as far as ensuring visibility at the intersection; and

WHEREAS, the application was referred to the Dutchess County Department of Planning and Development for the GML 239 review and the response received on November 18, 2009 was “Matter of Local Concern”; and

WHEREAS, a public hearing was opened and closed on December 2, 2009 at which time no one from the public spoke in opposition to the proposal; and

WHEREAS, the Planning Board, after careful review of all of the project documents and plans and after comparing the impacts that could reasonably be expected to result from the action to those listed in Part 617 of 6NYCRR of SEQRA, issued a Determination of Non-Significance for the application on December 2, 2009; and

WHEREAS, in accordance with the provisions of Article IX of the Town Code, the Planning Board may grant site plan approval provided that it finds that the applicable conditions and standards have been met.

NOW, THEREFORE, BE IT RESOLVED, the Planning Board of the Town of Milan hereby grants Site Plan Approval for the application of Bay Horse Inc. Subject to the following conditions:

1. Payment of any and all outstanding fees, including escrow, as follows:
 - Site Plan Review \$100.00
 - Publication Fees: \$ 70.72Please submit one check in the amount of \$170.72 made out to the Town of Milan.
2. The following items need to be shown/added to the site plan:
 - The location of the propane tank
 - The location of the Port-O-John
 - The name and address of the property owner
 - A note stating: “The office building was located by measuring from the center of the actual road.”
3. The Town Building Inspector/ZA must site verify and approve that the finished site conforms to the approved site plan prior to issuing a Certificate of Occupancy.

In accordance with the provisions of Article IX of the Town Code:

- (1) The Planning Board’s approval of a site plan shall expire if either of the following circumstances occurs:
 - (a) The site plan is not submitted for stamping and signature by the Chairperson within three calendar months (March 2, 2010) of the Planning Board’s resolution of site plan approval, with or without modifications, unless an extension of the time frame is granted by the Planning Board.
 - (b) A complete application for either a building permit or certificate of occupancy is not submitted to the Building Inspector/ZEO as applicable within six calendar months of the stamping and signing of the site plan by the Chairperson.

Seconded by Mr. Kingman.

Chairman Goss	Aye
Douglas Cook	Absent
Mary Ann Hoffmann	Aye
James Jeffreys	Absent
Lauren Kingman	Aye

Motion carried 3-0

Once the map is ready for the Chairman’s signature, please submit **4 (four)** copies of the map for Town files.

Administrative Items:

- Approval of Minutes: Mr. Kingman motioned to approve the minutes of the November 4, 2009 Planning Board meeting. Ms. Hoffmann seconded.

Chairman Goss	Aye
Douglas Cook	Absent
Mary Ann Hoffmann	Aye
James Jeffreys	Absent
Lauren Kingman	Aye
George Lawrence	Abstain

Motion carried 3-0-1

Applications:

1. **Chestnut Mart** – Ciro Interrante appeared at the November 23rd workshop to review the LEAF and to make sure everything was in order for the Board to make the determination of significance at this meeting since he was unable to attend tonight’s meeting. Mr. Kingman said Mr. Harper, Town Planner, and the Planning Office has reviewed the LEAF, the negative declaration, and the resolution and all the requested changes have been incorporated into those documents. Mr. Interrante has provided the Board with a signed copy of the LEAF.

Mr. Kingman motioned that the Town of Milan Planning Board declare a negative declaration for the Chestnut Mart Site Plan/Special Use Permit application for property located at 1445 Route 199, tax grid number 6570-00-536267;

WHEREAS, on September 9, 2009, the Planning Board entertained a motion to put forth a vote on the Positive Declaration (“PosDec”) which was originally offered on December 6, 2007 but tabled at that meeting and subsequent meetings held by the Board for the application known as Chestnut Mart of Milan; and

WHEREAS, the project originally involved the construction of a new 2,475 SF convenience store, and 2,475 SF of lease space, 12 gasoline fueling stations, 3 diesel

fueling stations, a 1,200 SF car wash, 42 parking spaces and related site amenities on a site that was previously used as a gasoline fueling station, auto junkyard and auto repair facility; and

WHEREAS, the previous station was destroyed by fire and was demolished and removed, and the auto junkyard use ceased and vehicles were removed from the site, which is now primarily vacant; and

WHEREAS, the new facility will require the drilling of a new groundwater well and installation of a new subsurface sewage disposal system; and

WHEREAS, the site is located on NYS Route 199 in close proximity to the Taconic State Parkway, a State Scenic Byway that is designated on the National Register of Historic Places; and

WHEREAS, the site is located in a rural residential area and contains a portion of New York State Protected Freshwater Wetland RC-13 and a portion of the 100' wetland adjacent area; and

WHEREAS, the Board agreed, on December 6, 2007 to table a vote on the PosDec with the understanding that the applicant would address issues brought forth by the Board and its consultants that were enumerated in a letter to the property owner from the Board dated December 6, 2007; and

WHEREAS, on August 27, 2009, the Board, after discussion with the applicant and its consultants on the current status of the application, which has been revised in a number of areas in response to comments from the Board, its consultants and the various involved agencies, agreed that the applicant has made significant progress on many of the substantive issues that were of concern to the Board, such that the issuance of a Positive Declaration may no longer be warranted; and

WHEREAS, the Board, in bringing the previously offered Positive Declaration to a vote, took into consideration a number of items that are now a part of the record before the Board; and

WHEREAS, the applicant has met with the NYSDEC on two separate occasions, the most recent being on May 11, 2009, as a result of which conceptual approval was reached between the various agencies of the NYSDEC and the applicant on the issues of: Wetlands Protection, the Stormwater Pollution Prevention Plan (SWPPP), Groundwater Monitoring, and Soil Sampling; and

WHEREAS, the proposed SWPPP includes provisions for the installation and continuous maintenance of two (2) Hydrodynamic Separators on the downstream side of the fueling station; and

WHEREAS, the applicant is preparing the site plan to address the facilitation of quarterly sampling of groundwater to monitor subsurface groundwater pollutants in accordance with consultants' recommendations and acceptance of the NYSDEC; and

WHEREAS, the applicant has revised the plan to reduce the number of diesel fueling stations from 3 to 2 in response to Planning Board and consultant comments; and

WHEREAS, while the car wash was also removed from the proposal, the footprint of the car wash is reserved on the site plan for application at a later date; and

WHEREAS, while said later application to add the car wash, in addition to requiring an amended site plan and special use permit, will require an amendment to SEQR, the environmental impacts of the car wash have been factored into the original engineering design, and the impacts and the mitigation were taken into consideration in the project plans during the SEQRA review process; and

WHEREAS, the applicant has committed to revising the lighting plan to lower the lighting levels to between 5 and 10 footcandles in response to Planning Board and consultant comments; and

WHEREAS, the applicant has proposed noise mitigation with the addition of eight-foot (8') high stockade fencing on the west side of the property in a northerly direction from the property line at Route 199 to a point past the diesel fueling station; and

WHEREAS, the project sponsor has indicated that the proposed fuel storage and dispensing equipment will meet current regulatory requirements, and the project sponsor further commits to modifying and/or changing said equipment in the event that regulatory requirements change; and

WHEREAS, the applicant submitted a Subsurface Investigative Report prepared by DT Consulting Services, Inc., dated July 31, 2008, which concluded that *“Based upon non-detect – minimal concentrations as encountered during this investigation, DTCS does not recommend any additional investigative or remedial action at this time;”* and

WHEREAS, the applicant has agreed to prepare a soil management plan to be utilized during construction for protection of human health and of the workers who will construct the project and site infrastructure in accordance with the recommendations of the Subsurface Investigative Report; and

WHEREAS, the applicant has indicated that conceptual approval has been given by the Dutchess County Department of Health (DCDOH) for the proposed methods of water supply and sewage disposal; and

WHEREAS, the remaining site plan issues will be resolved during the process of plan revisions and do not in and of themselves rise to the level of creating a significant adverse impact on any aspect of the environment; and

WHEREAS, the applicant is currently in possession of a valid Highway Work Permit from the New York State Department of Transportation (NYSDOT) and will resubmit current design drawings for review and approval of the NYSDOT.

NOW THEREFORE BE IT RESOLVED that the Planning Board of the Town of Milan, in accordance with the requirements of Part 617 of 6 NYCRR of the New York State Environmental Quality Review Act (SEQRA) hereby resolves that the application known as Chestnut Mart of Milan will not have an adverse impact on the environment and a Draft Environmental Impact Statement will not be prepared.

Ms. Hoffmann seconded.

Chairman Peter Goss	Aye	James Jeffreys	Aye
Douglass Cook	Absent	Lauren Kingman	Aye
Mary Ann Hoffman	Aye		

Motion carried 4-0.

Discussion Items:

- The Planning Board was asked by the Town Board to review the Reintroduction of LL#2 of 2009 – Article X “Referral and Amendment and Procedures”. The Planning Board had reviewed this law and forwarded comments to the Town Board on April 6, 2009 but the Town Board added the phrase (3) Whether the proposed change is consistent with “Greenway Connections” as established in Chapter 34 of the Code of the Town of Milan” so, consequently, needed to forward the law for another review.

Mr. Kingman motioned that the Planning Board recommend to the Town Board that they move ahead with LL #2 of 2009 – Article X “Referral and Amendment Procedures”

Ms. Hoffmann seconded.

Chairman Goss	Aye
Jeffrey Anagnos	Absent
Douglas Cook	Absent
James Jeffreys	Aye
Mary Ann Hoffmann	Aye
Lauren Kingman	Aye
George Lawrence	Aye

Motion carried 5-0.

Mr. Jeffreys motioned to adjourn the meeting at 7:33 p.m. Ms. Hoffmann seconded.

Chairman Goss	Aye
Jeffrey Anagnos	Absent
Douglas Cook	Absent
James Jeffreys	Aye
Mary Ann Hoffmann	Aye
Lauren Kingman	Aye
George Lawrence	Aye

Motion carried 5-0.

There is no workshop scheduled for December. The next regular meeting of the Planning Board is scheduled for January 6, 2010 at 7:00 p.m. at the Town Hall.

Respectfully submitted,

Karen Buechele, Clerk
Planning and Zoning

cc: Catherine Gill, Town Clerk
Town Board