



ENVIRONMENTAL, LAND USE AND REAL ESTATE LAW

Sunday, 21 January 2024

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Mayor Gary Bassett and the Members of the Village Board
Village of Rhinebeck
76 East Market Street
Rhinebeck, NY 12572

Re: Dutchess Shepherd LLC Petition for Zoning Amendment

Subj: Tighe & Bond Draft FEAF Part 3

Dear Mayor Bassett and Members of the Village Board:

Part 1.
The Draft FEAF Part 3

After emerging encouraged by the Village Board's completion of the Full Environmental Assessment Form [FEAF] Part 2, Tighe & Bond's Draft FEAF Part 3 was a shocking disappointment. The Draft FEAF Part 3 is insufficient, disappointing and frightening to our clients because of the manner in which Tighe & Bond summarily dismissed and brushed off every moderate-to-large impact that you identified in your FEAF Part 2.

The entire document feels rushed, insufficient, and devoid of any of the nuance and detail about impacts that marked the Village Board's discussion at the meeting where the Board went through and carefully completed the FEAF Part 2.

Your Board, the neighborhood, and the Village community deserve much better than the Draft FEAF Part 3. You are the lead agency for the environmental review of the adverse environmental impacts of this Project. Ultimately, it is your responsibility to make sure that this critical step in the environmental review process is performed correctly. There is no reason to rush. We urge you to proceed carefully and with full attention to the requirements of the State Environmental Quality Review Act [SEQRA].

In short, the Tighe & Bond [T&B] Draft FEAF Part 3 is so inadequate that the Village Board should not proceed with its plan to discuss the FEAF Part 3 at its meeting scheduled for January 23, 2024. Instead, the meeting should be postponed and the draft rejected and the drafter should be provided with instructions to increase the depth of the analysis and to adhere to the NYSDEC guidance for the preparation of a property FEAF Part 3.

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Part 2.
NYSDEC Guidance on Drafting a Proper & Adequate FEAF Part 3

Attached to this letter you will find the following:

- The New York State Department of Environmental Conservation [NYSDEC] official form for Part 3 of the Full FEAF. You will see that the form contains instructions. You will see that the instructions have not been followed in the Draft FEAF Part 3 that has been submitted to the Board.
- Two sections excerpted from the NYSDEC FEAF Workbook. These sections on “Evaluating Significance” and “Determining Significance” show, when compared to the Draft FEAF Part 3 that has been submitted to the Board, that the Draft FEAF Part 3 is inadequate and fails to follow the recommended path for assessment and analysis that is set forth in the workbook.

The Draft FEAF Part 3 desperately needs to be improved and revised before it is sufficiently ready to assist the Board in assessing the further mitigation measures that are necessary for this Project.

Part 3.
The Public was given Inadequate time to digest and comment on the FEAF Part 3.

Another disconcerting point about this document is the timing. This document was posted on a Friday afternoon two business days before the Village Board meeting at which this will be taken up. This is unfair to the public who needs to digest and comment on this document. Insufficient time was provided to comment, especially given how inadequate and poor this document is and the scope of the potential impacts discussed.

We were also disappointed that the FEAF Part 2 finalized by the Board at the December 5 meeting was never made available publicly - despite having been prepared more than a month ago and apparently available to the Board's engineering consultant for some time.

Part 4.
The inadequacies of the Draft FEAF Part 3 Illustrated.

As mentioned, time is too short to comment with a full analysis of the shortcomings of the Draft FEAF Part 3. Below are some examples that simply to illustrate and support the point.

Question 9. Impact on Aesthetic Resources.

The EAF Part 3 is simply a statement that the infill development will blend in with the neighborhood, followed by the conclusion that there will be no significant impact.

At the last Village Board meeting, Mayor Bassett said during the discussion of this question that there are aesthetic impacts arising from the view impacts of the project, and Trustee Slaby agreed. And yet the inadequate discussion of those impacts in the Draft FEAF Part 3 simply brushes off those impacts. The FEAF Part 3 contains no specific identification of the impacts, and no discussion of how those fall below the level of significance.

Also, the Draft FEAF says that “the proposed aesthetic impacts of the infill development described will not have significant adverse impacts to the proposed residences ...” The

proposed residences are part of the project. The purpose of the SEQRA review is not to assess the environmental impacts TO the proposed project, it is to assess the environmental impacts OF the proposed project on its neighbors and the surrounding area.

Question 10. Impact on Historic and Archeological Resources.

Once again, the draft FEAF Part 3 on this Question is a collection of conclusions with no explanatory reasoning as a basis. The most essential purpose of the FEAF Part 3 is to discuss impacts in detail and to explain the basis for the lead agency's decision.

The FEAF Part 3 concludes for the barest of reasons that the retention of the existing school building is consistent with the preservation of the historic district. Other than mentioning that the cinder block addition to the school will be demolished, there is no discussion of design or any of the elements of the school building that are proposed by the Project. There is no discussion of how the design of the renovated building will harmonize with the historic district and neighborhood. There is no discussion about how Project infrastructure will harmonize with the historic district and neighborhood.

That is followed by a bare, unsupported conclusion that the development of four single-family homes will be consistent with the historic district because single-family homes are dominant land use in the district. The only Project detail cited is that it will result in the removal of "an unsightly chain link fence." The discussion ignores density. The discussion ignores the lot size patterns that already exist in the neighborhood. The discussion ignores incongruous farmhouse single-family home designs that have been shown by the Applicant in the Project materials.

The analysis regarding this question is shallow and inadequate.

Question 15. Impacts on Noise, Odor & Light.

Again, more conclusory statements, with bare, dismissive analysis.

Construction noise, which is a very important issue to our clients, especially as it is expected to last more than a year, is addressed in two sentences. And those sentences culminate in a statement which kicks the can down the road by saying it will be up to the Planning Board to impose practical mitigation when necessary. That is incorrect, and a huge mistake.

Construction noise is an environmental impact, and thus, a proper subject for this environmental review. The FEAF Parts 2 and 3 admit that the noise impact is moderate-to-large. Those impacts have to be addressed now, during the SEQRA review, and not delegated to the Planning Board. Noise impacts are not a site plan issue. If the Board delegates the mitigation of this issue to the site plan part of the process, it will be violating SEQRA.

The discussion of light impacts is grossly inadequate as well.

The FEAF admits that more light will be created by the Project, but concludes that requiring the project to be dark sky compliant resolves any lighting impacts. This is simplistic. Dark Skies compliance is good, and it reduces light pollution, but it is not a blanket solution to all lighting impacts posed by a particular project. Here you have a large building in a densely settled existing residential neighborhood. The light impacts are much more varied and nuanced than is portrayed by the Draft FEAF Part 3.

There is no discussion of the neighborhood requests for more detail in the lighting plan and night time photo simulations of the building so that lighting impacts of this particular Project on

its surrounding neighborhood can be properly assessed.

During completion of the FEAF Part 2, the Mayor expressed concerns about impacts caused by lighting on the apartment building parking lot. There is no discussion of that issue.

Another issue raised during completion of the FEAF Part 2 was screening. This isn't even mentioned in the Draft FEAF Part 3.

The Draft FEAF Part 3 says that the light generated from the proposed single-family homes will resemble the existing light created by the existing surrounding homes. Upon what is that conclusion based? Upon information and belief, there is nothing in the Project plans that addresses the light impacts from the single-family homes.

The entire section on noise and light impacts from this Project is woefully inadequate.

Question 18. Consistency with Community Character.

The analysis of this impact in the Draft FEAF Part 3 is insufficient due to gross generalizations and a deliberate inattention to detail.

The consistency of this proposed Project with the character of the existing neighborhood is a very important issue for our clients.

The analysis in this section rests in part on the fact that the building has been there and will continue to be there. Almost no thought or discussion is devoted to the change in the use of the building from an school to a modern apartment building. The changes to how the building will be used, and how that change in use will impact the neighborhood is ignored. There can be no doubt that there will be many things about this building as an apartment building that will be significantly different than a school.

Lot size is discussed, but simply to assert that the proposed lot sizes are similar to residential lot sizes in the neighborhood. There is no consideration as to whether the proposed lot sizes are desirable, or whether the lot configurations are the best for the neighborhood.

And lot size isn't the only consideration in properly evaluating consistency with community character. Issues that have been raised by the neighbors include landscaping, screening, driveway locations, the amount of open space.

The Draft FEAF Part 3's seemingly blind acceptance with approval of every aspect of the proposed Project ignores fundamental issues, such as whether reducing the number of single-family homes would be more in harmony with the existing community character than the proposed plan and allow for more flexibility for mitigation measures related to landscaping, screening, and open space.

The Draft FEAF Part 3 also ignores the architectural design of the single-family homes. These designs matter and are environmental impact issues, not site plan issues. To illustrate, if no limits are place on the aesthetics and design of these homes, then the Applicant (or buyers of the lots from the Applicant) would be free to construct poured concrete cubist homes, or a glass box home, or a log cabin. These incongruous designs would clash with the existing character of the neighborhood and have a huge adverse impact on community character and the historic district. Ignoring this issue is ignoring a fundamental and material potential impact.

Impacts to community character are very important to those in the neighborhood, and to the Rhinebeck Village community. The potential adverse impacts to community character demand a full, detailed and realistic assessment and evaluation. The Draft FEAF Part 3 submitted to you fails miserably and needs to be redone and improved significantly before it is taken up by the Board for consideration.

**Part 5.
Conclusion.**

You have to remember that you are the lead agency for the environmental review of the adverse environmental impacts of this Project. You cannot delegate your lead agency responsibilities to the Planning Board. The SEQRA environmental review of this Project is only taking place once, and that is now. There will be no environmental review when the Planning Board takes this up. There is only now.

And as lead agency you must make sure that all the necessary details of all identified moderate-to-large impacts are addressed and deemed below significance based on substantial evidence in the record. The courts have long held that a lead agency is required to take a “hard look” at the potential significant adverse impacts of a proposed action.¹ If the Board were to adopt the Draft FEAF Part 3, it would fail the “hard look” test.

I would also remind the Board that this developer Applicant is asking the Village to change its Zoning Law for its benefit. Before you take that irreversible step, it is incumbent upon you to make sure that you faithfully and fully discharge your duties as the lead agency for the environmental review of this project and to ensure that, if it goes forward, this Project will not have any significant adverse impacts on the neighborhood, and the Rhinebeck Village community.

Grant & Lyons, LLP


John F. Lyons

c via email: David Gordon, Esq., Gordon & Svenson LLP
Brandee Nelson, PE, Tighe & Bond
Nan Stolzenburg, FAICP, Community Planning & Environmental Associates

¹ *H.O.M.E.S. v. New York State Urban Development Corp.*, 69 A.D.2d 222 (4th Dept., 1979), see also, New York State Department of Environmental Conservation, *SEQR Handbook*, Ch. 9, Notable Court Decisions on SEQR, at P. 201.

Project :

Date :

Full Environmental Assessment Form
Part 3 - Evaluation of the Magnitude and Importance of Project Impacts
and
Determination of Significance

Part 3 provides the reasons in support of the determination of significance. The lead agency must complete Part 3 for every question in Part 2 where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.

Based on the analysis in Part 3, the lead agency must decide whether to require an environmental impact statement to further assess the proposed action or whether available information is sufficient for the lead agency to conclude that the proposed action will not have a significant adverse environmental impact. By completing the certification on the next page, the lead agency can complete its determination of significance.

Reasons Supporting This Determination:

To complete this section:

- Identify the impact based on the Part 2 responses and describe its magnitude. Magnitude considers factors such as severity, size or extent of an impact.
- Assess the importance of the impact. Importance relates to the geographic scope, duration, probability of the impact occurring, number of people affected by the impact and any additional environmental consequences if the impact were to occur.
- The assessment should take into consideration any design element or project changes.
- Repeat this process for each Part 2 question where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.
- Provide the reason(s) why the impact may, or will not, result in a significant adverse environmental impact
- For Conditional Negative Declarations identify the specific condition(s) imposed that will modify the proposed action so that no significant adverse environmental impacts will result.
- Attach additional sheets, as needed.

Determination of Significance - Type 1 and Unlisted Actions

SEQR Status: Type 1 Unlisted

Identify portions of EAF completed for this Project: Part 1 Part 2 Part 3

Upon review of the information recorded on this EAF, as noted, plus this additional support information

and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the _____ as lead agency that:

A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency:

There will, therefore, be no significant adverse impacts from the project as conditioned, and, therefore, this conditioned negative declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (see 6 NYCRR 617.7(d)).

C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued.

Name of Action:

Name of Lead Agency:

Name of Responsible Officer in Lead Agency:

Title of Responsible Officer:

Signature of Responsible Officer in Lead Agency:

Date:

Signature of Preparer (if different from Responsible Officer)

Date:

For Further Information:

Contact Person:

Address:

Telephone Number:

E-mail:

For Type 1 Actions and Conditioned Negative Declarations, a copy of this Notice is sent to:

Chief Executive Officer of the political subdivision in which the action will be principally located (e.g., Town / City / Village of)

Other involved agencies (if any)

Applicant (if any)

Environmental Notice Bulletin: <http://www.dec.ny.gov/enb/enb.html>

Evaluating Significance - Full EAF (Part 3)

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Full Environmental Assessment Form (FEAF) Workbook

The term 'significant' is somewhat subjective. That is because the significance of an impact is dependent on the magnitude, duration, and likelihood of that impact occurring. It is also dependent on the scale and context of the project. Context refers to the unique characteristics of the natural and man-made environment in any given location. Significance is very much tied to the context of the site and the community. Similar projects may receive different decisions on significance because of differences in the context. Each impact therefore, must be judged and weighed by these different characteristics.

What could be a significant impact?

The reviewing agency makes the decision about whether a potential impact is significant or not. Many variables go into a determination of significance. The significance of an impact is based on the specific environmental setting where the activity is proposed, on the type of resource being impacted, and on the values, history, and preferences of the community.

The information that goes into, and the reasoning behind a determination of significance is presented in Part 3 in a logical, comprehensive, and understandable manner. A legally sufficient determination of significance implies that a lead agency has in its possession, and can demonstrate that it has considered at least the following:

- The entire action, not just one part of it (see Segmentation);
- The information provided from the environmental assessment form (EAF);
- Any other information provided by the applicant, including the underlying application;
- The criteria for determining significance found in 617.7(c) ; and
- Any input from involved and interested agencies, interested organizations or other groups of people and the general public.

The specific criteria for determining the significance of an action comes in part from the criteria listed in 617.7(c). These criteria assist the reviewing agency by focusing attention on a wide range of important environmental considerations. But this list is illustrative, not exhaustive. Agencies may develop additional criteria to those listed in 617.7(c), especially if past experience has indicated the importance of particular considerations with respect to actions frequently encountered by an agency. Such additional criteria should be developed and adopted in accordance with rules governing individual agency implementation of SEQR, see 617.14(e).

The information provided in this section of the workbook offers the reviewing agency tools to help pull all the known information together, organize decisions, and make that determination of significance.

For each potential impact, there are many combinations of magnitude, duration, and likelihood that can occur. There is no universally accepted measure of significance. None of the criteria (magnitude, duration, likelihood, scale, and context) should be considered more important than any other. Instead, they should be examined in an equal manner to help frame the rationale for making a determination of significance and for communicating why you made that determination.

Whether a potentially adverse impact is significant or not is ultimately determined or tempered by the specifics related to the scale of the proposed project and context within your community. Remember that the determination of significance needs to be based as well on the magnitude, duration, and likelihood of an impact occurring. These criteria cannot be inserted into a formula that will automatically produce a finding of significance or insignificance. These criteria simply aid the reviewing agency in making a judgment on a case-by-case basis.

The following steps and information will help you determine the environmental significance of the moderate top large impacts identified in Part 2.

Making and Organizing Your Decisions

Each moderate to large impact needs to be discussed and evaluated for its magnitude, duration, importance and likelihood. The reviewing agency will need to take each moderate to large Part 2 impact, make decisions on these factors, and then take a comprehensive view of them all together to determine if the impact will be significant.

Because there are many variables that will influence your determination of the significance of an impact, it may be useful to organize your decisions for each impact discussed. Using a chart or checklist can be a helpful tool. The chart below is a tool to help you organize, think about, and help make your

decisions on magnitude, duration, and likelihood for each impact. The chart illustrates the options to be considered. If you use a tool similar to the following chart, you can circle or highlight one choice in each column for each Part 2 impact to be evaluated.

Magnitude of Impact	Duration of Impact	Likelihood of Impact	Importance of Impact
Moderate (localized)	Short-term	Unlikely to occur	Not Important
	Medium-term	Possibly will occur	Fairly Important
Large (Severe)	Long-term	Probably will occur	Very Important
	Irreversible		

An Example Using the Chart

The following example illustrates an action that, according to Part 2, the reviewing agency determined could have moderate to large impacts. This example is for a project proposed to be built in an area having significant archaeological resources. The Planning Board evaluated the information available and determined that the potential impacts on the archaeological resources are confined to the parcel itself, are irreversible because the resources could potentially be destroyed, that the type of resources are very important because of the reliance on those archeological resources as a significant part of the community's identity, and that the impacts will probably occur because the site plan shows disturbances to the area where the resources exist. The chart below summarizes the thought process that went into the Planning Board's evaluation of this particular impact:

	Magnitude of Impact	Duration of Impact	Likelihood of Impact	Importance of Impact
Question 8: Impact on historic, archaeological, architectural, or aesthetic resources	Moderate - because a significant portion of the parcel will be impacted	Short-term	Unlikely to occur	Not Important
		Medium-term	Possibly will occur	Fairly Important
	Large	Long-term	Probably will occur - because the site plan shows grading, soil removal and construction over the site where the resources are located	Very Important
		Irreversible - because the resources could be destroyed during construction or permanently made inaccessible		

Once the reviewing agency has identified the magnitude, duration, importance and likelihood of all adverse significant impacts, it's time to start writing the Statement of Significance </permits/91836.html>.

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Department of Environmental Conservation

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Determination Of Significance - Full EAF (Part 3)

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Full Environmental Assessment Form (FEAF)

Determination of Significance - Type 1 and Unlisted Actions

SEQR Status: Type 1 Unlisted

Identify portions of EAF completed for this Project:

Part 1 Part 2 Part 3

Identify Mitigations Included in the Project

For many proposed projects, many of the identified impacts can be or already are mitigated by changes or certain project components. Part 3 gives the reviewing agency and opportunity to examine the proposed project in relation to the potential impacts and identify if any mitigations have been included in the project plans.

Review the proposed action and identify methods that the project sponsor or applicant has included in the project design to avoid or reduce the identified impacts. Examples of mitigations could be:

- Changes to the size or location of the structure or of the disturbance
- Phasing of the project construction by time of day or season
- Construction of a berm or fence to block noise or visual impacts
- Permanent protection with a conservation easement of that part of the parcel that is a significant natural community.

It is feasible that the reviewing agency will identify a potential large, long-lasting, important impact that is likely to occur but the project includes features that mitigate those effects to the point where the impact is no longer a significant concern, Some projects include aspects that mitigate impacts partially or fully. This needs to be taken into consideration when determining significance of an impact.

Statement of Significance

Once you have determined the significance of the various impacts, it is time to write your decision. This statement is very important to record the rationale behind your decision making. It should include a short summary explaining how you determined that the impact will or will not be significant. It should summarize what the potential impacts will be, what your decisions about its magnitude, duration, importance and likelihood are, and how you used that information to reach your decision about significance. Part 3 does not include a specific place to record your statement, but you should attach additional sheets as needed.

If you used a chart or checklist to organize your decisions as described in this workbook, you can use that to describe the impact(s), and summarize your decisions about significance. The statement can be short or long, but ultimately should describe your evaluation process and the rationale used in your decision making. See the Examples </permits/91846.html> page for model Part 3 statements.

Upon review of the information recorded on this EAF, as noted, plus this additional support information

and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the _____ as lead agency that:

A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency: There will, therefore, be no significant adverse impacts from the project as conditioned, and, therefore, this conditioned negative declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (see 6 NYCRR 617.d).

C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued.

A. Negative Declarations

If, after analysis, you have determined that none of the environmental impacts identified are significant, then check box 'A'. In this case, no additional study through an environmental impact statement is necessary and a negative declaration will be issued. Part 3 will serve as the negative declaration and a copy of this form should be filed as per the instructions on the form. Describe your reasoning behind this decision in a significance statement.

If one or more significant adverse environmental impacts have been identified, but the project includes, or the lead agency requires mitigation to reduce or avoid it, then you may decide that an environmental impact statement is not necessary. If so, describe this reasoning in your Part 3 statement. Then, check box 'A' stating that the proposed action will not result in any significant adverse environmental impact.

B. Conditional Negative Declarations

If the action being considered is an Unlisted Action (6NYCRR 617.d), and one or more significant adverse impacts have been determined but that certain project changes or conditions will allow the adverse impacts to be substantively avoided or mitigated, the reviewing agency can declare this a conditioned negative declaration. See 6NYCRR 617.7 (link leaves DEC website) and the SEQR Handbook (PDF) </docs/permits_ej_operations_pdf/seqrhandbook.pdf> for full information on conditioned negative declarations.

In that case, check box 'B' on Part 3 and describe those conditions. Part 3 will serve as the conditioned negative declaration and a copy of this form should be filed as per the instructions on the form.

A conditioned negative declaration (CND) is a form of negative declaration which may be used for Unlisted actions only, and only in limited circumstances. Use of a CND can be appropriate when a lead agency concludes that a proposed action may have a potentially significant adverse impact on the environment, but the impact can be eliminated or adequately mitigated by conditions imposed by the lead agency, without the need for additional environmental studies. Use of the CND acknowledges that without imposition of conditions by the lead agency, the action may have potentially significant impacts. In situations where those impacts are readily mitigated or avoided, use of the CND allows an agency to issue an approval with enforceable conditions. When a lead agency uses the CND process it must consider the whole action and all relevant impacts in identifying appropriate conditions.

The lead agency can attach conditions which are explicitly-articulated standards (either numerical or narrative) within that lead agency's underlying jurisdiction, or conditions that an applicant is otherwise legally obligated to meet in order to obtain a permit or approval. Under these circumstances, the lead agency could issue a Negative Declaration if the effects of the action will not be significant when such conditions are imposed. Typical examples of conditions that may be imposed based on the lead agency's underlying authority, and thus not require a conditioned negative declaration, are:

- Requiring relocation of a building footprint during site plan approval;
- Requiring conformance to a municipality's standards for setback from lot lines;
- Meeting emission or discharge standards as required by law;
- Locating septic tanks above seasonal groundwater levels;
- Requiring erosion and runoff controls during construction; and
- Requiring a detention or retention basin for stormwater control.

Typical examples of conditions that may be imposed through the conditional negative declaration process are:

- Requiring addition of a turning lane and new traffic signal to mitigate traffic impacts
- Addition of a permanent vegetated buffer area along the stream bank to protect the riparian corridor along the waterway
- Requiring that all stonewalls located along public roads shall be maintained
- Requiring that a landscape berm shall be built between the public road and the parking lot to screen and buffer a new shopping plaza; and
- Requiring that the siting of the proposed parking lot shall be moved to from the eastern side to the western side of a proposed structure to avoid impacts to a wetland.

Note that using a conditioned negative declaration in a situation where the reviewing agency requires additional information to be submitted prior to approval is not an acceptable use of the CND procedure.

The reviewing agency will need to describe, in writing, how the whole action was considered and that all relevant areas of environmental concern were identified and thoroughly analyzed. A reasoned elaboration must be given as to why any areas of concern would not constitute significant adverse environmental impacts. The lead agency must document its conclusion that any potential impacts are not significant, or that any potentially significant impacts would be adequately mitigated through either the standards within the jurisdictions of the lead and other involved agencies, or through the special conditions of the CND.

C. Positive Declarations

If one or more significant adverse environmental impacts identified in Part 3 are not mitigated, then you may decide that an impact is significant and that an environmental impact statement is required. If so, describe this reasoning in your Part 3 statement. This is referred to as a 'positive declaration'. A positive declaration means that another phase of the SEQR process will be required and additional information on the impacts determined to be significant will need to be prepared via an environmental impact statement.

The environmental impact statement will study and evaluate the specific resources and significant adverse impacts in more detail. If you decide that further study and evaluation is needed, then check box 'C' stating that the proposed action may result in one or more potentially adverse impacts and that an environmental impact statement is required.

Not all resources or all impacts need to be included in the environmental impact statement. Work completed in Part 3 can be useful to identify the relevant areas of concern so a targeted study can be conducted. Thus, the results of your analysis of Part 3 should be used to identify the list of topics to be included in the environmental impact statement. This list of topics is known as the draft scope. Part 3 will serve as the positive declaration and a copy of this form should be filed as per the instructions on the form.

Complete the form

- Fill in the Lead Agency information at the bottom of Part 3
- Sign and date the form
- This completes this stage of SEQR

Move on to the Filing Requirements </permits/91841.html> page for final instructions.

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