

6 NYCRR §617.7

STATE ENVIRONMENTAL QUALITY REVIEW (SEQR)

NEGATIVE DECLARATION

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 of the Environmental Conservation Law (State Environmental Quality Review Act or "SEQRA").

The Planning Board of the Town of Fishkill, as Lead Agency, has determined that the proposed action described below will not have a significant adverse environmental impact and therefore preparation of an Environmental Impact Statement is not required.

Name of Action: Basis Industrial Route 9D - Site Development Plan & Special Use Permit

SEQR Status: Type 1
Unlisted

Conditioned Negative Declaration: Yes
No

Description of Action:

The Applicant is seeking Site Development Plan and Special Use Permit Approval (Code of the Town of Fishkill, Chapter 150, Zoning, Sections 150-97, B., and Article XI, sections 150-105 through 105-110) for the redevelopment of 4.98 plus or minus acres of the property that is located within the GB (General Business) and R-15 (One Family Residence) zoning districts. The proposed site redevelopment shall consist of the demolition of the existing Red Pepper Diner and Orange County Transit Buildings for the construction of a 75,057 square foot (SF) two-story self-storage facility, a 2,726 SF fast food establishment, and a 3,045 SF car wash business. The existing Sunoco station and Food Mart shall remain. Additional improvements will include new parking areas, drive aisles, lighting, landscaping, and associated amenities.

The parcels for this proposal are identified as tax map parcel numbers:

- 6055-01-030608, located at 1456 New York State (NYS) Route 9D, consisting of 0.49 acres in the GB zoning district;
- 6055-00-032579, located at 8 Ninnie Drive, consisting of 2.0 acres in the GB and R15 zoning districts;
- 6055-00-050614 located at 15 Ninnie Drive consisting of 2.0 acres in the GB and R15 zoning districts;
- 6255-00-085590 located at 16-28 Pappas Lane, consisting of 6.58 acres in the GB and R15 zoning districts; and
- 6255-00-053482 located at 16 Ninnie Drive, consisting of 8.21 acres in the R15 zoning district.

The Proposed Action will also involve the construction of a total of 52 parking spaces and two (2) loading spaces (seven (7) required), landscaping, lighting, and associated infrastructure.

Other improvements to the site will include utility infrastructure and other items normally associated with developing a commercial site. The site will be served by Town of Fishkill water and sewer systems. The proposed action will involve 4.98 acres of disturbance because the area of proposed demolition on and near the project site is 4.98 acres (in the GB and a small area in the R-15 zoning districts). However, the resulting site redevelopment will occur on a 4.76-acre area located wholly within the GB zoning district, of which 3.24 acres, approximately 68% of the project site, will be impervious, with the remaining 1.52 acres of pervious area consisting of lawn and landscaped area.

Location:

The proposed project is located at 1456 NYS Route 9D on the southeastern side of 9D adjacent to (east-southeast of) Dutchess Stadium and directly across from the intersection of Brockway Road at NYS Route 9D in the Town of Fishkill, County of Dutchess. The involved parcels are identified as Tax Parcel Nos. 6055-01-030608, 6055-00-032579, 6055-00-050614, 6255-00-085590, and 6255-00-053482.

Reasons for Supporting this Determination:

The Planning Board of the Town of Fishkill, as Lead Agency, has reviewed the action, identified all relevant areas of environmental concern, and has considered the project plans and the completed Full Environmental Assessment Form (Full EAF), Parts 1 and 2 and all relevant supporting documentation, and has compared the impacts that can reasonably be expected to result from the proposed action with the criteria set forth in 6 NYCRR § 617.7(c) and hereby determines that no significant adverse impacts associated with the proposed action have been identified and therefore, preparation of an Environmental Impact Statement is not required.

The Planning Board makes the following findings supporting and substantiating this Determination:

1. The proposed action will involve 4.98 acres of disturbance, which is the area of proposed demolition on and near the project site (refer to site plan set, sheet 4 Demolition Plan). The resulting project site of 4.76 acres, located within the GB zoning district, is 0.22 acres less than the area of demolition (4.98 acres). The proposed 4.76-acre site redevelopment would consist of 3.24 acres of impervious area, approximately 68% of the project site, with the remaining 1.52 acres of pervious area consisting of lawn and landscaped area. Large portions of the project site have already been disturbed and developed by:
 - a. four (4) existing 1-story masonry buildings ranging in size from 1,062 SF, including two (2) other smaller buildings, to a 21,632 SF structure. These four (4) buildings on the central and southern parts of the property, and their corresponding driveways and parking areas, would be demolished;
 - b. a 1,127 SF two (2) story dwelling, a trailer, and a shed, also on the southern end of the site, and their corresponding driveways and parking areas, would be demolished; and
 - c. on the northern end of the site, there is an existing gas station with pumps and a canopy and a convenience store in a 1-story masonry building, which structures, uses and related access and parking areas will continue as part of the proposed development.

Accordingly, the process of site redevelopment will have a moderate impact on **land** as it may involve construction on land with a shallow depth to bedrock or generally within five feet (5') of the existing ground surface. On Full EAF page 11, the response to question E. 2. a. indicates an average depth to bedrock ranging from 4' to 15'. The submittal includes a Custom Soil Resource Report, prepared by the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS), which identifies the predominant (100%) soil type on the site as the Dutchess-Cardigan complex, undulating, rocky (DwB). The site's DwB soil type is described as potentially having bedrock at a depth of 3' or possibly less.

Rock removal may be required for the proposed action, which may involve hammering, ripping or possibly blasting activities on the project site, depending on the types of bedrock encountered.

During Planning Board meetings, the Applicant's Representatives indicated that site development will not involve blasting and that construction notes would be added to the site development plans indicating that there would be no blasting. Accordingly, rock removal would be done using mechanical methods. Blasting should be avoided to prevent impacts on the site and surrounding properties. If determined to be necessary, all blasting work would be required to follow the provisions of Town Code Chapter 65, Explosives and Combustibles, including an application to the Fire Inspector, and may require revisiting and potentially amending this Determination of Non-Significance. Chapter 65 requires compliance with section 65-5 Hours of blasting, which would prohibit such activity on Saturdays, Sundays, or legal holidays, allowing it only between the hours of 8 a.m. and 5 p.m. on weekdays. Refer also to findings about impacts on noise below.

2. The proposed action will have a small impact on **land** as it may involve excavation and removal of more than 1,000 tons of natural materials. On Full EAF page 4, the response to question D. 2. a. indicates no excavation during construction, which EAF question is based on the statement the "all excavated materials will remain on site" (refer to EAF question D. 2. a. language). While verbal description of the construction process indicates that some excavated materials will be reused on-site, and some materials cannot be reused and must be removed from the site, the quantities have not been described in submitted materials. The typically specified quantities of "cut and fill," as well as materials that must be removed from the site, have not been provided, yet must be detailed prior to any approval.
3. The proposed action will have a moderate impact on **land** as the process of site redevelopment may involve construction that is projected to continue for more than one (1) year, with an estimated duration of construction of 18 months. Specifically, the project would not be constructed in multiple phases of smaller areas of disturbance. Instead, as described above, the area of disturbance involves the 4.98-acre proposed demolition area on and near the project site. The resulting project site of 4.76 acres is 0.22 acres less than the area of demolition. Accordingly, the area of demolition, which is 4.98 acres, is the total area of disturbance for the 4.76-acre redevelopment site.

The 18-month period of continuous construction is proposed to occur in demolition and construction steps that would occur over the entirety of the site, as set forth in the project site plans. The construction steps include demolition, grading, drainage, stormwater pollution prevention, construction of all buildings and site improvements, and landscaping plans. Each plan sheet

includes a series of notes setting forth processes and protective measures for conducting each step, with reference to necessary and required specifications and details. For example, demolition plans and notation would:

- a. ensure the timing of tree cutting relative to certain bat species (see more details below);
- b. involve breaking up concrete and masonry in small sections;
- c. proceed with demolition to avoid excessive loads on remaining supporting aspects of each structure;
- d. fill voids and remove debris and materials, verifying that environmental concerns are addressed; and
- e. ensure that existing utilities remain as specified and involve coordination with utilities.

Similarly, grading, drainage and stormwater pollution prevention plans, notation thereon and referenced plan details depict processes and the implementation of protective measures for conducting each step during construction to prevent or diminish uncontrolled runoff and resulting erosion of and sediment deposits in existing or proposed drainage pathways.

4. The proposed action will have a moderate impact on **land** as the process of site redevelopment may result in the removal of all existing trees and other vegetation on the site, which may result in increased erosion. The potential for increased erosion is compounded by the extent of disturbance (the 4.98 acres of disturbance), and the 18-month duration of construction. As described above, grading, drainage and stormwater pollution prevention plans, notation thereon and referenced plan details depict processes and the implementation of protective measures for conducting each step during construction to prevent or diminish uncontrolled runoff and resulting erosion of and sediment deposits in existing or proposed drainage pathways. The proposed landscaping plan includes extensive planting of trees, shrubs, ornamental grasses, and ground cover plants. Proper implementation of the landscaping plan should stabilize the areas disturbed to create the developed site.
5. The proposed site redevelopment will have a number of small impacts on **surface water** bodies such as tributaries and streams, as follows:
 - a. Creation of turbidity in a water body from upland erosion, or runoff;
 - b. Soil erosion or otherwise creation of a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies; and
 - c. Effects on the water quality of water bodies within or downstream of this site.

Stormwater runoff from the site after redevelopment would enter on-site stormwater conveyances and then to the existing ditch adjacent to Pappas Lane to existing stormwater management facilities along NYS Route 9D. A Stormwater Pollution Prevention Plan (SWPPP) has been submitted and reviewed for the proposed project. The proposed site development has been situated to maintain existing drainage patterns where possible. The plans include provisions for water quantity and quality control in conformance with current stormwater regulations. The stormwater management measures indicated on the plans and incorporated into the project design include both temporary and permanent measures to address water quantity, quality and erosion and sediment control. Also, areas disturbed for development that do not contain buildings and other impervious areas will be

stabilized as landscaped and lawn areas, which further prevents sedimentation. Properly implemented, the proposed measures reduce the likelihood of any adverse impact occurring.

6. The proposed site redevelopment will have a small impact on **surface water** bodies, such as tributaries and streams, as it may result in the need for the construction of new or expansion of existing wastewater treatment facilities. The operation of the project site, including the existing gas station and convenience store and the proposed car wash, restaurant, and storage facility, will generate approximately 3,360 gallons per day of sanitary wastewater. In order to accommodate the project, an extension of the sanitary sewer line will be needed from Brockway Road across NYS Route 9D from the project site. This extension would allow the conveyance of the sanitary wastewater from the proposed site redevelopment to the Rombout sewage treatment facility. Treated wastewater from this facility discharges to the Hudson River.
7. The proposed site redevelopment will have a small impact on **plants and animals** since it would result in “a reduction or degradation of any habitat used by any rare, threatened or endangered species, as listed by New York State or the federal government.” A similar small impact is noted that the proposed action may involve the removal of vegetation consisting of scattered, small, wooded areas. Specifically, the project site was flagged in the Full EAF as potentially containing habitat for both the Northern Long-eared Bat and Indiana Bat and potentially the Bald Eagle. Although the site has been substantially previously disturbed, there are clusters of trees that may provide conditions for habitation of the Northern Long-eared Bat and Indiana Bat. Accordingly, the submitted Demolition Plan, Overall Site Plan, Site Plan and Grading Plan each include a note stating: “Tree cutting shall only occur between November 1 and March 31.” Compliance with the notation during demolition and any later disturbance activities would provide necessary mitigation to potential impacts to these species.
8. Another small impact on **plants and animals** would be the removal of vegetation consisting of scattered, small, wooded areas, which provide habitat for various species of animals and plants found in and near homes and businesses with yard areas. Areas disturbed for development that do not contain buildings and other impervious areas will be stabilized as landscaped and lawn areas, which would provide habitat areas for such species of animals and plants.
9. The proposed site redevelopment will have a number of moderate impacts on **aesthetic** resources. The Town’s Comprehensive Plan Update (CPU, adopted May 3, 2023) designates this area of NYS Route 9D as the NYS Route 9D Northern Gateway Corridor, from NYS Route 9D’s intersection with Interstate 84 running to the north, by the project site and continuing beyond Red Schoolhouse Road to the northern Town boundary. Refer to the CPU document, including the CPU Volume 3, Maps, including the CPU Objectives map. The NYS Route 9D Corridor is related to the rural, community and scenic character of this area within the Town. The proposed action will have moderate impacts on scenic and aesthetic resources as follows:
 - a. It will be visible from the NYS Route 9D Gateway Corridor along NYS Route 9D, which is identified by the CPU as a scenic and aesthetic resource;
 - b. It will be visible from publicly accessible vantage points seasonally and year-round;
 - c. The situation or activity in which viewers may see the proposed action would be during:
 - i. routine travel, including to and from work; and
 - ii. travel during recreation or tourist activities;

- d. The proposed redevelopment may cause diminished public enjoyment and appreciation of The NYS Route 9D corridor (the designated aesthetic resource);
- e. There are similar projects within 0 to ½ mile of the proposed action, with another storage facility located 0.2-0.25 mile south of the project site; and
- f. The storage building, with a 242.4-long facade, is somewhat out of character with nearby buildings. The project involves the removal of scattered, small, wooded areas along NYS Route 9D and within the site.

The Applicant has worked with the Planning Board to revise the architectural design of the proposed buildings to better fit in with this Gateway area. As long as site development fully complies with the proposed site plans, including the architectural and the landscaping plans, with extensive planting of trees, shrubs, ornamental grasses and ground cover plants, including a variety of species per the Landscape Schedule on the 3/25/24 plan set, the proposed landscaping would serve to soften the view of the substantial storage building.

10. The proposed site redevelopment will have moderate impacts on **transportation**. Specifically, the proposed action may result in a change to existing transportation systems, as the traffic increase may exceed the capacity of the existing road network; and alter the present pattern of the movement of people or goods. The project involves site redevelopment, retaining an existing gas station and convenience store, with the addition of a large 75,057 SF, self-storage building, a 2,726 SF fast food establishment, and a 3,045 SF car wash business. The transition from an underutilized site with two (2) commercial operations to a redeveloped site with a total of 5 operating businesses would add traffic along a segment of NYS Route 9D, which has periods of congestion with existing traffic flows. The proposed uses will attract new customers arriving by car with a certain level of added pedestrian and bicycle traffic on the length of NYS Route 9D between the stadium driveway to the north and businesses along Vellano Drive. The project site is located along a busy section of NYS Route 9D with no sidewalks on either side of the road except for the commercial plaza northeast of Brockway Road.

The Applicant submitted a Traffic Impact Study (TIS) prepared by Dynamic Traffic, dated March 26, 2024, which was reviewed by the Town's traffic consultant, David Hastings, P.E. at CPL. Mr. Hastings confirms that traffic models and analysis in the TIS indicate that impacted intersections and driveways will function at acceptable levels of service in the Build condition.

The Town's Complete Streets Policy (Zoning sections 150-99 and 150-140) and the Comprehensive Plan Update (adopted May 3, 2023) affirm the need for the construction of a sidewalk on the site's frontage, in coordination with the New York State Department of Transportation (NYSDOT). The Dutchess County Department of Planning & Development GML referral letter (dated November 16, 2023) also notes the need for the addition of the sidewalk along the site's frontage. This has been discussed with the Applicant, who in turn, has had consultation with NYSDOT on this matter. The Planning Board will continue working with the Applicant and NYSDOT to determine what types of improvements, in addition to a sidewalk, such as a crosswalk across NYS Route 9D, possibly including flashing lights, may be appropriate to address pedestrian safety in this area.

The site plans were modified over the course of the project's review to limit points of access along the site's NYS Route 9D frontage to:

- a. Right-in only and right-out only near the restaurant and the southwestern access to the proposed storage building; and
- b. Right-in only near the gas station, convenience store, proposed car wash and the northeastern end of the proposed storage building; and
- c. Converted right-out only driveway at the existing gas station.

In addition, two full-movement driveways are proposed to be added along Pappas Lane to provide access and egress to and from the project site. The result of this configuration of limited points of access on NYS Route 9D would be to funnel much of the site's entering and exiting traffic toward the signalized intersection of Pappas Lane with NYS Route 9D. The controls at the signalized intersection would be adjusted to the increased vehicular traffic as well as to accommodate more frequent pedestrian crossings.

The possible and/or future closure of the right-out-only exit from the gas station, which is less than fifty feet (50') from the intersection of Pappas Lane with NYS Route 9D, is recommended to further mitigate potential traffic hazards and pedestrian and bicycle safety concerns.

11. The proposed site redevelopment will have a small impact on **transportation**. Specifically, the proposed action may result in a change to existing transportation systems as it has the potential to degrade existing pedestrian and bicycle safety. Currently, there may be more frequent pedestrian and bicycle traffic on the northwest side of NYS Route 9D, given the location of a neighborhood and a small commercial plaza on that side of the road. The proposed site redevelopment will spur more frequent pedestrian and bicycle crossings to the site, presenting hazards to those crossing with the resulting increased vehicular traffic. Accordingly, the proposed action has the potential to degrade existing pedestrian and bicycle safety. As described above, the site plans were modified over the course of the project's review to create three (3) limited points of access along the site's NYS Route 9D frontage, spurring drivers to use the improved signalized intersection of Pappas Lane with NYS Route 9D. The controls at the signalized intersection would be adjusted to the increased vehicular traffic as well as to accommodate more frequent pedestrian crossings.

As noted above, The Town's Complete Streets Policy and the CPU affirm the need for the construction of a sidewalk on the site's frontage in coordination with the NYSDOT. The Dutchess County Department of Planning & Development GML referral of November 16, 2023, also notes the need for the sidewalk on the site's frontage. This has been discussed with the Applicant, who consulted with NYSDOT on this matter. The Planning Board will continue working with the Applicant and NYSDOT to determine what types of improvements, such as a crosswalk across NYS Route 9D, possibly including flashing lights, may be appropriate to address pedestrian safety in this area.

12. The proposed site redevelopment may have a large impact on **transportation**. The proposed action may result in a change to existing transportation systems. Specifically, the project may adversely impact traffic, access, circulation, and pedestrian safety on NYS Route 9D with additional points of access near a busy intersection, as discussed above. The project may also result in a large increase

in the use of Pappas Lane, a private road, affecting a bank and residents who currently use this road. More details will be requested from the project sponsor about the proposed improvements and long-term maintenance plan for Pappas Lane to convert it to and maintain it to the standard of a Local Road, modified to accommodate more intensive use with the addition of two full movement driveways, for access to the proposed site redevelopment while continuing to serve existing traffic to and from nearby homes. Although Pappas Lane may be intended for much of the site's vehicular traffic, while retaining its status as a private road, there is little or no room within its existing width to accommodate a sidewalk. Accordingly, the site's pedestrian pathways are designed to provide safe pathways from NYS Route 9D to the existing convenience store, and the proposed car wash and restaurant, with sidewalk connections to and from the proposed storage facility.

Additionally, there is a transit stop at the existing gas station, which may be affected by the conversion of Pappas Lane to more intensive traffic volume to accommodate new uses on the project site.

Importantly, the improvements to and increased use of Pappas Lane will necessitate the creation of a fully functional four-way intersection affecting the habits of the numerous neighborhood areas and homes currently using Brockway Road as a primary point of access to NYS Route 9D and all points beyond (Route 9, Interstate 84, Beacon Train Station, I-87, etc.).

As noted above, The Town's Complete Streets Policy and the CPU affirm the need for the construction of a sidewalk on the site's frontage in coordination with the NYSDOT. The Dutchess County Department of Planning & Development GML referral of November 16, 2023, also notes the need for the sidewalk on the site's frontage. This has been discussed with the Applicant, who consulted with NYSDOT on this matter. The Planning Board will continue working with the Applicant and NYSDOT to determine what types of improvements, such as a crosswalk across NYS Route 9D, possibly including flashing lights, may be appropriate to address pedestrian safety in this area.

Finally, the controls at the signalized intersection would be adjusted to the increased vehicular traffic as well as to accommodate more frequent pedestrian crossings.

13. The proposed action may have small impact on energy as it may involve the heating and/or cooling of more than 100,000 SF of building area when completed. Specifically, the extent of building space to be heated or cooled, including the two (2) existing structures (gas station canopy and convenience store) and three (3) new buildings (car wash, restaurant, and storage facility), would be 118,310 SF. Construction of all proposed buildings must comply with the New York State Energy Conservation Construction Code as per the Code of the Town of Fishkill, Chapter 50, Building Construction Administration. Compliance with this Code Chapter would potentially result in the conservation of energy, thus mitigating this potential impact of increased energy usage.
14. The proposed action will have a moderate impact on **noise** as it will result in an increase in noise pollution during the 18-month construction phase, which may potentially involve rock removal by hammering, ripping or possibly blasting activities on the project site. During Planning Board

meetings, the Applicant's Representatives indicated that site development will not involve blasting. However, if necessary, rock removal and other construction activities will be mitigated by the fact that the construction will be temporary. If any rock removal were anticipated that would involve blasting, it would have to follow the requirements of Code Chapter 65, Explosives and Combustibles and may require revisiting this Determination of Non-Significance. During the 18-month construction phase, which may potentially involve rock removal, all work will follow the requirements of Code Chapter 108, Noise, Section 108-3, Unlawful Acts, subsection A. (6):

- a. regarding excavation of earth or rock, which activity is prohibited on Sundays and legal holidays; and
- b. including adhering to working hours between 7 a.m. and 8 p.m. on all other days.

The Applicant has agreed that construction notes will be added to site development plans stating that there will be no blasting.

After construction, noise generated by the development will be consistent with other similar uses in the project area along NYS Route 9D.

15. The proposed action may have small impacts of **light** shining onto adjacent properties and creating sky-glow brighter than current conditions. The photometric information on the current lighting plan shows recent revisions that resulted in the significant reduction of previously noted "hot spots," that is, areas where previously proposed lighting levels were excessive (greater than two (2) foot-candles [fc]). The values resulting from the proposed lighting are now more consistent with Code Chapter 150, Zoning, sections 150-39.1 and 150-149, as well as 150-2 Greenway connections and corresponding Guides for Dutchess County Communities. The potential light impacts have thus been mitigated by lighting plan revisions to eliminate the hot spots and glare over the site's property lines. Further lighting mitigation would be provided by revising the plans to indicate that timers, dimmers and/or sensors would control lighting during daytime hours or when lighting is not needed.
16. The proposed site redevelopment, including a storage facility, may have moderate impacts as it is not consistent with adopted **land use plans**. Specifically, the proposed action has a land use component that is different from, or in sharp contrast to, surrounding land use patterns. The surrounding area includes numerous small to medium-size businesses, including stores, services, and restaurants, interspersed with residences along the eastern side of NYS Route 9D with neighborhood areas further back from the road on the west side expansively buffered by wooded areas. The proposed action includes a large-scale storage business (75,057 SF), which is out of scale with uses in the surrounding area. The storage building's architectural design has been modified to present a more articulated façade than originally proposed. As long as site development fully implements the proposed architecture and the landscaping plan, with extensive planting of trees, shrubs, ornamental grasses and ground cover plants, including a variety of species per the Landscape Schedule on the plan set, dated March 25, 2024, the proposed landscaping would serve to soften the view of the substantial storage building.
17. The proposed site redevelopment, including a storage facility, may have moderate impacts as it is not consistent with adopted **local land use plans**. Specifically, the proposed action is inconsistent

with local land use plans or zoning regulations as set forth in Chapter 150, Zoning, sections 150-2, 150-100 and 150-144, E., regarding the Town joining the Greenway Compact, and adopting the Greenway Compact Program and Guides for Dutchess County Communities, with Zoning section 150-100 requiring compliance with the Dutchess County Greenway Guides. Zoning Article XVI sets forth the Design guidelines. A related moderate impact is that the proposed action is inconsistent with **county land use plans**, also in reference to the Dutchess County Greenway Guides. Two aspects of the Greenway Guides result in these moderate impacts:

- a. Specifically, the project involves the construction of a large building with a 242.4-foot-long facade, changing the character of the area visible from the NYS Route 9D Gateway Corridor. As described above, the proposed site redevelopment will have moderate impacts on aesthetic resources. The Town's CPU designates this area of NYS Route 9D as the NYS Route 9D Northern Gateway Corridor, from 9D's intersection with Interstate 84 running to the north, by the project site and continuing beyond Red Schoolhouse Road to the northern Town boundary. Refer to the CPU document, including the CPU Volume 3, Maps, and the CPU Objectives map. The NYS Route 9D Corridor is related to the rural, community and scenic character of this area within the Town. The proposed action will have moderate impacts on scenic and aesthetic resources due to its visibility from the NYS Route 9D Gateway Corridor, as described herein above.

The Applicant has worked with the Planning Board to revise the architectural design of the proposed buildings to better fit in with this Gateway area. As long as site development fully implements the proposed architecture and the landscaping plan, with extensive planting of trees, shrubs, ornamental grasses, and ground cover plants, including a variety of species per the Landscape Schedule on the 3/25/24 plan set, the proposed landscaping would serve to soften the view of the sizeable storage building.

- b. As noted above, the project would result in light shining onto adjacent properties and creating sky-glow brighter than current conditions. The photometric information on the current lighting plan shows recent revisions incorporated into the proposed project that resulted in the significant reduction of previously noted "hot spots," that is, areas where previously proposed lighting levels were excessive (greater than two (2) foot-candles [fc]) and can be considered small impacts. The values resulting from the proposed lighting are now more consistent with Code Chapter 150, Zoning, sections 150-39.1 and 150-149, as well as 150-2 Greenway connections and corresponding Guides for Dutchess County Communities. The potential light impacts have thus been mitigated by lighting plan revisions to eliminate the hot spots and glare over the site's property lines. Further lighting mitigation would be provided by revising the plans to indicate that timers, dimmers and/or sensors would control lighting during daytime hours or when lighting is not needed.
18. The proposed site redevelopment, including a storage facility, may have a small impact as it is not consistent with **community character**. Specifically, the project involves site redevelopment, retaining an existing gas station and convenience store, and the addition of: - a large, 75,057 SF, self-storage building; - a 2,726 SF fast food establishment, and a - 3,045 SF car wash business. The transition from an underutilized site with two (2) commercial operations to a redeveloped site with a total of 5 operating businesses would create a demand for additional community services

such as police, fire, ambulance, and related emergency services. The proposed access system via Pappas Lane into the site's proposed driveways and internal site roads, with parking areas, would facilitate emergency access to the resulting existing and new businesses.

19. The proposed site redevelopment, including the proposed storage facility, car wash and fast-food establishment, in addition to the existing gas station and convenience store, may have moderate impacts as it is not consistent with **community character**. Specifically, the project involves "the construction of a large building, 242.4-foot long facade, and two (2) other new business buildings, changing the character of the area visible from the NYS Route 9D Gateway Corridor". Accordingly, the proposed action may "interfere with the use or enjoyment of officially recognized or designated public resources" and is "inconsistent with the predominant architectural scale and character." The proposed site redevelopment will have moderate impacts on community character. As noted above, the Town's CPU designates the NYS Route 9D Northern Gateway Corridor, from 9D's intersection with Interstate 84 running to the north, by the project site and continuing beyond Red Schoolhouse Road to the northern Town boundary. The NYS Route 9D Corridor is related to the rural, community and scenic character of this area within the Town.

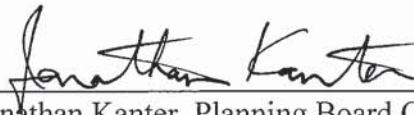
The Applicant has worked with the Planning Board to revise the architectural design of the proposed buildings to better fit within this Gateway area. As long as site development fully implements the proposed architecture and the landscaping plan, with extensive planting of trees, shrubs, ornamental grasses and ground cover plants, including a variety of species per the Landscape Schedule on the 3/25/24 plan set, the proposed landscaping would serve to soften the view of the substantial site redevelopment, including the storage building.

20. The proposed action will not result in any impacts on geological features, groundwater, flooding, air, agricultural resources, historic and archaeological resources, open space and recreation, critical environmental areas, or human health.

Notice of Determination of Non-Significance adopted: April 11, 2024

April 16, 2024

Date



Jonathan Kanter, Planning Board Chair

For Further Information:

Contact Person: Debbie Colonna, Secretary - Town of Fishkill Planning Board
807 Route 52, Fishkill, NY 12524
(845) 831-7800 ext. 3328

A Copy of this Notice is Filed With:

Town of Fishkill Planning Board (Lead Agency)
Town of Fishkill Town Hall
807 Route 52
Fishkill, NY 12524

cc: Elizabeth T. Axelson, AICP, Town Planner
Jon Bodendorf, P.E. Town Engineer
Dominic Cordisco, Esq., Town Planning Board Attorney
Cassandra Bibbo, EIT, Permit Engineer, Residency 8-3 - NYSDOT
Jennifer F. Coccozza, Deputy Commissioner - DC Dept. of Planning & Development
Joel J. Petrus, Town Building Inspector/Zoning Administrator
Rebecca Tompkins, Town Clerk
Kory Salomone, Esq., Project Sponsor's Representative - Zarin & Steinmetz, LLP

**RESOLUTION OF PRELIMINARY APPROVAL
BASIS INDUSTRIAL ROUTE 9D
SITE DEVELOPMENT PLAN AND SPECIAL USE PERMIT**

WHEREAS, an application for a Site Development Plan Approval and Special Use Permit Approval was submitted to the Planning Board of the Town of Fishkill for the project more fully detailed as follows:

- The application number is 23-006.
- The application was submitted by Basis Industrial Acquisitions, LLC (the “Applicant” or “Project Sponsor”).
- “Project Sponsor”, wherever used herein shall mean, and is intended to mean, the Applicant as identified in the above-referenced Application, its successors in interest or assignees as may be appropriate.
- The proposed project consists of the redevelopment of 4.98 ± acres of the property that is located within the GB (General Business) Zoning District. The redevelopment shall consist of the demolition of the existing Red Pepper Diner and Orange County Transit buildings for the construction of a 112,584 SF two-story self-storage facility with a lower (basement) level of storage and loading area, a 2,276 SF fast food establishment and a 3,045 SF car wash (the “Project”). The existing Sunoco Station and Food Mart shall remain. Additional Project improvements will include parking, drive aisles, lighting, landscaping and associated amenities. The parcels for this proposal are identified as Tax Map Parcel Nos. 6055-01-030608, located at 1456 Route 9D, consisting of 0.49 acres in the GB Zoning District, 6055-01-032579, located at 8 Ninnie Drive, consisting of 2.00 acres in the GB and R-15 Zoning Districts, 6055-01-050614 located at 15 Ninnie Drive, consisting of 2.00 acres in the GB and R-15 Zoning Districts, 6055-01-085590 located at 16-28 Pappas Lane, consisting of 6.58 acres in the GB and R-15 Zoning Districts and 6055-03-053482 located at 16 Ninnie Drive, consisting of 8.21 acres in R-15 Zoning District (collectively referred to as the “Project Site”);
- The Applicant paid an application fee in the amount of \$15,660.00 and deposited and \$30,000.00 into an escrow account to cover the consultant charges for the review of the Project in accordance with the current Fee Schedule, which has been replenished on an ongoing basis as required.
- The Applicant, in support of the Application, submitted drawings, as more fully listed at the end of this Resolution.
- The application was formally accepted by the Planning Board on May 11, 2023.
- The application was referred by the Planning Board to the Town Building Inspector/Town Zoning Administrator, Town Engineer, Town Planning Board Attorney, Town Planner, Town Traffic Engineer, Dutchess County Department of Planning and Development, New York State Department of Transportation, and the Chelsea Fire District.

WHEREAS, the application was referred to the Dutchess County Department of Planning & Development pursuant to the provisions of the General Municipal Law § 239-m; and

WHEREAS, the proposed use is permitted in the General Business (GB) Zoning District, subject to obtaining Site Development Plan Approval, and certain elements of the Site Plan (the filling station, the car wash, and the self-storage facility) additionally require Special Use Permit Approval under Section 150-106; and

WHEREAS, the Planning Board of the Town of Fishkill reviewed the application and classified the proposed action as a Type I Action subject to coordinated review, with the Planning Board acting as the lead agency for review of the Project under the State Environmental Quality Review Act (SEQRA), and initially identified relevant areas of environmental concern including traffic, archeological and historic resources and community character, and

WHEREAS, the Planning Board of the Town of Fishkill was assisted in its review of the application by its professional consultants, including the Planning Board Engineer, the Town Planner, the Planning Board Attorney and the Town Traffic Engineer; and

WHEREAS, the Dutchess County Department of Planning and Development issued a referral response letter on June 7, 2023, indicating that the Department recommends that the Board rely upon its own study of the facts in the case with due consideration to the comments provided; and

WHEREAS, the Planning Board of the Town of Fishkill reviewed the Project and its potential environmental impacts over several months of review; and

WHEREAS, a public hearing on the application was held on March 14, 2024, and a full duplicate copy of the Applicant's application materials was placed on file with the Planning Board office for public inspection prior to the public hearing; and

WHEREAS, the public hearing was closed on March 14, 2024; and

WHEREAS, the Planning Board of the Town of Fishkill reviewed the action and all relevant supporting documentation, compared the action with 6NYCRR 617.7(c) and determined that no significant impacts were associated with the Project and adopted a Negative Declaration (Determination of Non-Significance) on April 11, 2024; and

WHEREAS, the Planning Board has reviewed the application materials, the Project plans, all supporting documentation, and other materials submitted by the Applicant, and has reviewed all comments from its consultants, from other agencies, and from the public, and has considered its own observations of the property and surrounding setting and neighborhood, and has considered the Town Code and the Town Comprehensive Plan, and the environmental review conducted by the Board, and has compared all of the above with the standards for Special Permit approval under Town of Fishkill Town Code section 150-106 relating to the proposed filling station, car wash, and self-storage facility uses, and with the standards that must be met for the issuance of a Preliminary Site Development Plan Approval as more fully set forth in Town of Fishkill Town Code §150-98; and

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board has reviewed the application materials, the proposed site development plan and associated plans, all supporting documentation, and other materials submitted by the Applicant, and has reviewed all comments from its consultants, from other agencies and from the public, and has considered its own observations of the property and surrounding setting and neighborhood, and has considered the Town Code, and the environmental review conducted by this Board, and this Board has compared all of the above with the standards for issuance of preliminary site development plan approval pursuant to the provisions of the New York Town Law § 274-a and Town of Fishkill Code Section 150-98, and hereby determines that the Applicant has met the criteria for Preliminary Site Development Plan Approval, and particularly finds, inter alia, as follows:

- A. That the Planning Board has considered the proposed location of main and accessory buildings on the site and their relation to one another, traffic circulation within the site, height and bulk of buildings, provision of off-street parking spaces, provision of buffer areas and other open spaces on the site and display of signs, so that any development will adequately handle pedestrian and vehicular traffic within the site in relation to the street system adjoining and will harmoniously and satisfactorily fit in with contiguous land and buildings and adjacent neighborhoods. In addition, the Planning Board has considered the factors of architectural design as it relates to the character of the site and the community, existing and proposed landscaping plans, drainage, road alignment, sewage and waste disposal, air and water pollution and other environmental, aesthetic and engineering aspects of such site development plan.
- B. The application for Site Development Plan approval met the requirements for referral to the Dutchess County Department of Planning and Development for its review and recommendations pursuant to New York General Municipal Law § 239-m. Section 239-m referrals were made to the Dutchess County Department of Planning and Development. Dutchess County Department of Planning and Development provided its comments to the Planning Board on June 7, 2023. The Dutchess County Planning Department recommended that the Board rely upon its own study of the facts with due consideration of its comments.

BE IT FURTHER RESOLVED, that the Planning Board has reviewed the aforesaid plans and application materials submitted by the Applicant, and has reviewed all comments from its consultants, from other agencies and from the public, and has considered its own observations of the property and surrounding setting and neighborhood, and has considered the Town Code, and the environmental review conducted by this Board, and this Board has compared all of the above with the standards for issuance of Special Use Permit approval pursuant to the provisions of the New York Town Law § 274-b and Town of Fishkill Code Section 150-106, and hereby determines that the Applicant has met the criteria for Special Use Permit Approval, and particularly finds, inter alia, as follows:

- A. The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located, provided that the New York State Department of Transportation concurs with the proposed highway access improvements, which the Planning Board recommends should include a new crosswalk on the south side of the intersection of Route 9D and Pappas Lane, as such crosswalk would be an improvement over existing conditions.

- B. The location, nature and height of buildings, walls and fences, and the nature and extent of existing or proposed plantings on the site, are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings and will be compatible with the surrounding area.
- C. Operations in connection with any special use will not be more objectionable to nearby properties by reason of noise, light, fumes, vibration or other characteristics than would be the operations of any permitted use not requiring a special permit.
- D. Parking areas will be of adequate size for the particular use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.
- E. The proposed use, structure design, and site layout comply with all the provisions of the Town of Fishkill Code and with the Town of Fishkill Comprehensive Plan.

BE IT FURTHER RESOLVED, that because the proposed Site Development Plan is non-residential the Planning Board finds that the Project does not present a proper case pursuant to NYS Town Law 274-a for requiring a park for playground or recreation purposes to be shown on the Site Development Plan and further finds that no fee in lieu thereof is required; and

BE IT FURTHER RESOLVED that the Planning Board of the Town of Fishkill hereby adopts this Resolution of Preliminary Site Development Plan and Special Use Permit Approval for the project known as Basis Industrial Route 9D, subject to satisfactory compliance with the following conditions and any other conditions at the time of final approval:

Outstanding Engineering Comments:

- 1. That the Applicant shall submit proof of satisfactory compliance with and/or resolution of the applicable concerns addressed in the review memorandum which were presented to the Planning Board by the Town Engineer, Town Planner and Town Traffic Consultant (CPL) dated May 7, 2024, copies of which have been distributed to the Applicant's representative.

Outside Agency Approvals Required:

- 2. The Applicant shall secure the following approvals for the Project, which approvals may be pursued as a result of the completion of the Planning Board's SEQRA review and will be required as part of any conditional final site development plan approval:
 - a) Approval of the NYSDOT (New York State Department of Transportation) for the traffic improvements and adjustments for the driveways for the Project, taking into consideration the Town of Fishkill's finding that a proposed crosswalk within the NYSDOT right-of-way on the north side of the intersection of Route 9D and Pappas Lane would be an improvement over existing conditions;
 - b) Approval of the Dutchess County Department of Behavioral and Community Health for the extension of water and sewer service to the site;

- c) All approvals identified in the EAF for the Project, or otherwise, as may be required; and
- d) Obtaining any necessary variances from the Town of Fishkill Zoning Board of Appeals (ZBA), including:
 - i. The floor area ratio (FAR) requirement is 0.4, proposed FAR is 0.58 related to the lower (basement) level of storage and loading area;
 - ii. The zoning setback required for the proposed drive-through facilities including speakers, etc., is no less than 150 feet from the boundary of any residential zone, yet the proposed setback to the R-15 line is 133 feet;
 - iii. Additional variances are required related to signage areas in excess of allowed sign areas, which requires careful consideration given the site's location within the Gateway Corridor along Route 9D as set forth in the Comprehensive Plan Update of 2023. For example, for one of the proposed signs, a wall sign for the proposed storage building, a 68-square-foot (SF) sign is allowed, yet a 151.25 SF sign is proposed, which is 2.2 times the allowed size of 68 SF;
 - iv. A variance for the number of parking spaces as 156 are required for the proposed site development, with 50 proposed, which may be sufficient;
 - v. There are 7 required loading spaces, yet 2 are provided; a variance is needed for 5 of the required loading spaces.

Other:

- 3. That the Applicant shall reimburse the Town of Fishkill for all costs incurred by the Town for the review of this site development plan application.
- 4. The Applicant shall submit final architectural and sign details for the proposed car wash and fast-food establishment to the Town of Fishkill Planning Board for review and approval prior to consideration of Conditional Final Site Development Plan Approval.

This Preliminary Site Development Plan and Special Permit Approval shall be in effect for a period of one (1) year unless a prior written request is made to the Planning Board for an extension of this approval. Such extension will be considered by the Board upon receipt of a request for an extension of this Resolution which must be submitted to the Planning Board Secretary, in writing, via hand-delivery or U.S. Mail no later than the deadline date for submission for the Planning Board meeting preceding the date of expiration of this approval so that the request can be considered by the Planning Board prior to the expiration of the approval. In the event the approval expires prior to the submission of such a request, the applicant may subsequently request a readoption of the Resolution of Preliminary Approval.

Approval of the Preliminary Site Development Plan application shall expire one (1) year from the date of approval if no application for final site development plan approval is submitted within such period, except where such time limit is extended by the Planning Board.

Resolution adopted on: June 13, 2024

June 17, 2024
Date


Jonathan Kanter, Planning Board Chair

cc: Elizabeth T. Axelson, AICP, Town Planner
Jon Bodendorf, P.E., Town Engineer
Dominic Cordisco, Esq., Town Planning Board Attorney
Jennifer F. Cocozza, Deputy Commissioner - DC Department of Planning and Development
Christian Harkins, Assessor
David Hastings, P.E., PTOE, Town Traffic Engineer
Joel J. Petrus, Town Building Inspector/Zoning Administrator
Rebecca Tompkins, Town Clerk
Kory Salomone, Esq.

Drawings submitted for this proposal prepared by Dynamic Engineer are as follows:

1. Sheet No. 1, entitled "Cover Sheet," dated April 20, 2023, last revision date of April 23, 2024, at scales as shown;
2. Sheet No. 2, entitled "Aerial Plan," dated April 20, 2023, last revision date of April 23, 2024, at a scale of 1" = 150';
3. Sheet No. 3, entitled, "Existing Conditions Plan," dated April 20, 2023, last revision date of April 23, 2024, at a scale of 1" = 30';
4. Sheet No. 4, entitled "Demolition Plan," dated April 20, 2023, last revision date of April 23, 2024, at a scale of 1" = 30';
5. Sheet No. 5, entitled "Overall Site Plan," dated April 20, 2023, last revision date of April 23, 2024, at a scale of 1" = 100';
6. Sheet No. 6, entitled "Site Plan," dated April 20, 2023, last revision date of April 23, 2024, at a scale of 1" = 30';
7. Sheet No. 6, entitled "Grading Plan," dated April 20, 2023, last revision date of April 23, 2024, at a scale of 1" = 30';
8. Sheet No. 8, entitled "Drainage Plan," dated April 20, 2023, last revision date of April 23, 2024, at a scale of 1" = 30';
9. Sheet No. 9, entitled "Utility Plan," dated April 20, 2023, last revision date of April 23, 2024, at a scale of 1" = 30';
10. Sheet No. 10, entitled "Landscaping Plan," dated April 20, 2023, last revision date of April 23, 2024, at a scale of 1" = 30';
11. Sheet No. 11, entitled "Lighting Plan," dated April 20, 2023, last revision date of April 23, 2024, at a scale of 1" = 30';
12. Sheet No. 12, entitled "Soil Erosion and Sediment Control Plan," dated April 20, 2023, last revision date of April 23, 2024, at a scale of 1" = 30';
13. Sheet No. 13, entitled "Construction Details," dated April 20, 2023, last revision date of April 23, 2024, not to scale;
14. Sheet No. 14, entitled "Construction Details," dated April 20, 2023, last revision date of April 23,

- 2024, not to scale;
15. Sheet No. 15, entitled "Construction Details," dated April 20, 2023, last revision date of April 23, 2024, not to scale;
 16. Sheet No. 16, entitled "Construction Details," dated April 20, 2023, last revision date of April 23, 2024, not to scale;
 17. Sheet No. 17, entitled "Vehicular Circulation Plan (WB-50)," dated April 20, 2023, last revision date of April 23, 2024, at a scale of 1" = 30';
 18. Sheet No. 18, entitled "Vehicular Circulation Plan (Fire Truck)," dated April 20, 2023, last revision date of April 23, 2024, at a scale of 1" = 30';
 19. Sheet No. 19, entitled "Vehicular Circulation Plan (Fuel Tanker)," dated April 20, 2023, last revision date of April 23, 2024, at a scale of 1" = 30';

Drawings submitted for this proposal by SGW Architecture & Design are as follows:

20. P.9, entitled "Elevations," dated May 24, 2024, no revision date, at a scale of 1/32" - 1';
21. P.10, entitled "Elevations," dated May 24, 2024, no revision date, at a scale of 1/32" 1';
22. P.11, entitled "Elevations - Car Wash," dated May 24, 2024, no revision date, at a scale of 1/16" = 1';
23. P.12, entitled "Elevations - Fast Food Restaurant," dated May 24, 2024, no revision date, at a scale of 1/16" = 1';
24. Drawing No. not listed, entitled "Perspective," dated April 22 2024, no revision date, no scale;
25. Drawing No. not listed, entitled "Perspective," dated April 22, 2024, no revision date, no scale;
26. Drawing No. not listed, entitled "Perspective," dated April 22, 2024, no revision date, no scale;
27. Drawing No. not listed, entitled "Perspective," dated April 22, 2024, no revision date, no scale;

Drawings submitted for this proposal prepared by Image National Signs are as follows:

28. Drawing No. not listed, entitled "Public Storage," (Title Sheet), no date, no revision date, no scale;
29. Page No. 3 of 7, entitled "Public Storage," (Proposed Conditions - Simulated Night View), dated December 19, 2023, no revision date, at scales as noted;
30. Page No. 6 of 7, entitled "Public Storage," (Proposed Conditions - North Elevation), dated December 19, 2023, no revision date, at scales as noted;
31. Page No. 7 of 7, entitled "Public Storage," (Proposed Conditions - North Elevation), dated December 19, 2023, no revision date, at scales as noted;
32. Page No. V, entitled "Public Storage," (Proposed Conditions - North Elevation and Elevation), dated December 19, 2023, no revision date, at scales as noted;
33. Page No. V, entitled "Public Storage," (Proposed Conditions - North Elevation and Elevation), dated December 19, 2023, no revision date, at scales as noted;
34. Page No. D, entitled "Public Storage," dated December 19, 2023, no revision date, at scales as noted;
35. Page No. D, entitled "Public Storage," dated December 19, 2023, no revision date, at scales as noted; and
36. Page No. D, entitled "Public Storage," dated December 19, 2023, no revision date, at scales as noted.