

Town of Canandaigua

5440 Routes 5 & 20 West
Phone (585) 394-1120

Canandaigua, NY 14424
Fax (585) 394-9476

Planning Board Decision Notification

Meeting Date: 6/14/2011

Project: **133-09

Applicant

RSM West Lake LLC
197 West Main Street
Victor, NY 14564

Owner

RSM Development LLC
197 West Main Street
Victor, NY 14564

Project Type

Final
Subdivision
66 lots w/ 60
single family
dwelling lots

Project Location

3950 County Road 16

Tax Map #

112.00-1-24.100

TYPE OF APPLICATION:

- ☐ Preliminary ☒ Final—4th 90 day extension
☒ Subdivision ☐ Site Plan ☐ Special Use Permit
☐ Sign: Bldg ☐ Sign: Ground

Applicant Request:

- ☒ Granted ☐ Denied ☐ Tabled

☐ Continued to:

- ☒ See attached resolution(s)

SEQR:

- ☐ Type I ☐ Type II ☐ Unlisted
☐ See Attached resolution(s)

Negative Declaration Date:

Positive Declaration Date:

Recommendation To:

- ☐ Town Board ☐ ZBA ☐ N/A ☐ See attached resolution(s)
Recommendation:

Surety Requirements:

- ☐ Landscaping: \$ ☐ Soil Erosion: \$
☐ Other (specify): \$

PLANNING BOARD CHAIR SIGNATURE

REQUIRED BY 9-1-2011
(DATE)

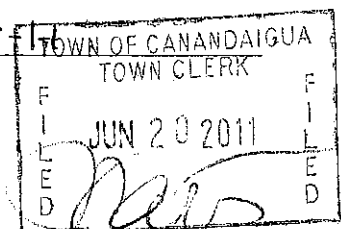
FAILURE TO HAVE THIS SIGNATURE WILL
NULL/VOID ANY PLANNING BOARD APPROVAL.

certified By:


Chairperson, Planning Board

Date:

6-17-11



TOWN OF CANANDAIGUA PLANNING BOARD RESOLUTION
CPN 133-09 – RSM WEST LAKE LLC – TMP 112.00-1-24.100
4TH EXTENSION OF CONDITIONAL FINAL SUBDIVISION APPROVAL

WHEREAS, the above referenced subdivision was given conditional final approval by the Planning Board on March 9, 2010; and

WHEREAS, pursuant Article 12-b, §276, part 7 of NYS Town Law, the applicant originally had 180 days from that date of approval to submit final plans verifying compliance with all conditions imposed as part of the conditional final approval; and

WHEREAS, the above referenced part of NYS Town law also gives the Planning Board authority to extend the time for submission of said final plans for additional periods of not more than 90 days each, if they are of the opinion that circumstances warrant such an extension; and

WHEREAS, the conditional final approval has been extended three times previously and was scheduled to expire on June 3, 2011; and

WHEREAS, on June 2, 2011 the applicant requested a fourth, 90 day extension and indicated that they have resolved remaining issues that previously prevented finalizing an agreement with neighboring landowners to allow a second water line access; and

WHEREAS, it is the position of this Planning Board that an extension of 90 days is warranted to allow the applicant time to execute the agreement for the second water line access, address other outstanding conditions of the final approval and submit final plans for signature,

NOW, THEREFORE, BE IT RESOLVED that the Planning Board hereby grants the request for a 90 day extension until September 1, 2011, to allow the applicant additional time to submit final plans that comply with the conditional Planning Board approval of March 9, 2010.

The above Resolution was offered by Charles Oyler and seconded by Richard Gentry at a regularly scheduled Planning Board Meeting held on June 14, 2011. Following discussion, a voice vote was recorded:

Thomas Crawford - aye

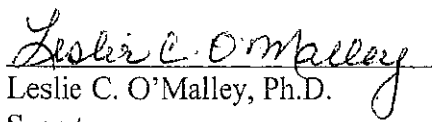
Richard Gentry - aye

Joyce Marthaller - excused

Charles Oyler - aye

Thomas Schwartz - aye

I, Leslie C. O'Malley, Secretary to the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Canandaigua Planning Board for the June 14, 2011 meeting.

 L. S.
Leslie C. O'Malley, Ph.D.
Secretary

Town of Canandaigua Planning Board

BME ASSOCIATES

ENGINEERS • SURVEYORS • LANDSCAPE ARCHITECTS

June 2, 2011

Town of Canandaigua
5440 Rte. 5 & 20 West
Canandaigua, NY 14424

Attn: Jean Chrisman, Code Enforcement Officer
Tim Jensen, Director of Development

**Re: The Residences at West Lake
90-Day Subdivision Approval Extension**

*Revid via email
6-2-2011
Revid Original via
usmail 6-3-2011
for placement on
6-14-2011
per Tim Jensen*

2145B

Dear Jean & Tim:

On behalf of RSM West Lake, LLC, we are requesting an additional 90-day approval extension for the referenced Subdivision Plan, which was originally approved by the Planning Board on March 9, 2010. We respectfully request to be placed on the June 14, 2011 Planning Board agenda to bring this matter before the Board. The applicant has finalized all the necessary Town and agency approvals. The last outstanding item is an easement for a hydraulic watermain connection. This easement is indirectly related to the proposed trail location which was another condition of the final approval. The applicant met at the project site with Town staff, property owners adjacent to the proposed trail, as well as a representative from our office to discuss this matter. We understand that Town staff is still taking into consideration all of the information that was discussed in the field; however, has not yet rendered a decision relative to this matter. Once the trail location has been finalized the location and execution of the watermain easement can be completed.

Thank you for your consideration in this regard.

Sincerely,
BME ASSOCIATES

Michael A. Simon
Michael A. Simon

/MAS

cc: Steve Mancini; RSM West Lake, LLC.
Jim Bonsignore, Esq.
Alan Knauf, Esq.

*3rd 90 day extension
expires June 3, 2011*

Town of Canandaigua

5440 Routes 5 & 20 West
Canandaigua, NY 14424

PLANNING BOARD

Tuesday, February 22, 2011, 6:30 p.m.

APPROVED MEETING MINUTES

MEETING CALLED BY:

BOARD MEMBERS:

SECRETARY:

STAFF MEMBERS:

APPLICANTS:

AUDIENCE:

Thomas Schwartz
Thomas Crawford, Richard Gentry, Joyce Marthaller, Cha

Leslie O'Malley
Timothy Jensen, Director of Development,

Excused: Christian Nadler, Planning Board Attorney; Grego
Hotaling, MRB Group, Town Consulting Engineer

Karl Essler, Fix Spindelman Brovitz and Goldman; Mike Simo
Bob Cantwell, BME Associates; David Riedman, Riedman-Weg
Joint Ventures; Mary Boatfield, Terrie Myer and Roy Beecher,
Happiness House; Greg McMahon, McMahon LaRue; Jess Sudo
Passero Associates; Andrew Tyman, Finger Lakes Community
Development and Geneva Housing Authority; Rocco Venezia, Ver
Associates; Charles Potter
Lew Smith

Pledge of Allegiance
Introduction of Board Members and Staff
Overview of Emergency Evacuation Procedures
BOARD BUSINESS

- Approval of February 8, 2011 Meeting Minutes
C. Oyler moved to approve the Minutes of the February 8th meeting. R. Gentry seconded. The motion passed by a voice vote of five ayes.
- Referrals from Town Board: *None at this time*
- Recommendations to Zoning Board of Appeals: *None at this time*
- Recommendations to the Code Enforcement Officer: *None at this time*
- Privilege of the Floor: *None at this time*
- Attest to publishing of legal notices: *No legal notices were required.*
- Other Business as Required: *CPN-133-09, RSM West Lake LLC, third extension of conditional Final Subdivision Approval*

Karl Essler from Fix Spindelman Brovitz and Goldman, and Mike Simon from BME Associates appeared for this application. K. Essler explained that they have a verbal agreement with the owner of a neighboring property for water line access. Unfortunately, he is out of the country and will not return until after their last extension expires on March 5th. Another issue, the HOA (Homeowners' Association) agreement, has been completed and submitted to the Board Attorney today. The Town Engineer has it and has no objections.

BME ASSOCIATES

ENGINEERS • SURVEYORS • LANDSCAPE ARCHITECTS

February 18, 2011

Town of Canandaigua
5440 Rte. 5 & 20 West
Canandaigua, NY 14424

Attn: Jean Chrisman, Code Enforcement Officer

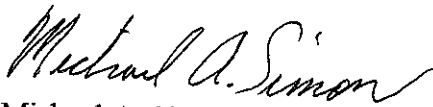
**Re: The Residences at West Lake
90-Day Subdivision Approval Extension**

Dear Jean:

On behalf of RSM West Lake, LLC, we are requesting an additional 90-day approval extension for the referenced Subdivision Plan, which was originally approved by the Planning Board on March 9, 2010. We respectfully request to be placed on the February 22, 2011 Planning Board agenda to bring this matter before the Board. The applicant has finalized all the necessary Town and agency approvals. The last outstanding item is an easement for a hydraulic watermain connection. The applicant has a commitment for an easement for this connection by an adjoining property owner and is working to finalize and file this easement.

Thank you for your consideration in this regard.

Sincerely,
BME ASSOCIATES



Michael A. Simon

/MAS

cc: Steve Mancini; RSM West Lake, LLC.
Jim Bonsignore, Esq.
Alan Knauf, Esq.

*Rec'd Friday
2/18/2011 @ 4:12 pm
via email*

*Copy to
Plng Board
MRB*

2145B

*Tim Jensen
Chris Nadler
J. O'Malley
2-22-11*

**TOWN OF CANANDAIGUA PLANNING BOARD
ACTION RESOLUTION
90 DAY EXTENSION FINAL SUBDIVISION PLAT APPROVAL**

CPN -133-09

APPLICANT(S): RSM West Lake Road LLC

WHEREAS, the Town of Canandaigua Planning Board (hereinafter referred to as Planning Board) has considered the above referenced request for a 90 day extension to the period of final plat approval for *The Residences of West Lake* Subdivision; and

WHEREAS, the Planning Board has reviewed the public record on said Action,

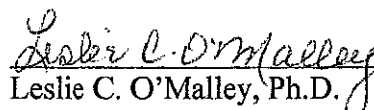
NOW, THEREFORE, BE IT RESOLVED that the Planning Board ☒ **Approves without Conditions;** ☐ **Approves with the following Conditions;** or ☐ **Denies the application** for the following reasons:

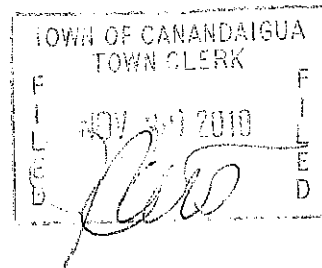
The final subdivision plat for the "*The Residences of West Lake* Subdivision" is hereby approved for an additional 90 day extension, as provided for in Section 276.7 (c) of New York State Town Law, which shall expire on Saturday, March 5, 2011.

The above Resolution was offered by Charles Oyler and seconded by Richard Gentry at a regularly scheduled Planning Board Meeting held on November 23, 2010. Following discussion, a voice vote was recorded:

Thomas Crawford - excused
Richard Gentry - aye
Joyce Marthaller - aye
Charles Oyler - aye
Thomas Schwartz - aye

I, Leslie C. O'Malley, Secretary to the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Canandaigua Planning Board for the November 23, 2010 meeting.

 L. S.
Leslie C. O'Malley, Ph.D.
Secretary to the Board
Town of Canandaigua Planning Board



BME ASSOCIATES

ENGINEERS • SURVEYORS • LANDSCAPE ARCHITECTS

November 8, 2010

Town of Canandaigua
5440 Rte. 5 & 20 West
Canandaigua, NY 14424

Attn: Jean Chrisman, Code Enforcement Officer

**Re: The Residences at West Lake
90-Day Subdivision Approval Extension**

2145B

Dear Jean:

On behalf of RSM West Lake, LLC, we are requesting an additional 90-day approval extension for the referenced Subdivision Plan, which was originally approved by the Planning Board on March 9, 2010. We respectfully request to be placed on the November 23, 2010 Planning Board agenda to bring this matter before the Board. The applicant has been in the process of finalizing all the necessary Town and agency approvals, and more specifically is continuing to work on a viable hydraulic connection to serve the development. The applicant would also like to take the opportunity to discuss the phasing and subsequent filing of the project.

Thank you for your consideration in this regard.

Sincerely,
BME ASSOCIATES



Michael A. Simon

/MAS

cc: Steve Mancini; RSM West Lake, LLC.
Jim Bonsignore, Esq.
Alan Knauf, Esq.

*Revid 11/9/10
via email
For 11/23/10
PB agenda
file*

*133-09
Approval
exp.
12/5/10*

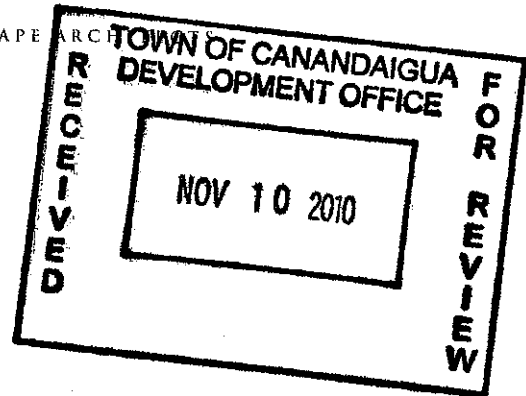
BME

ASSOCIATES

ENGINEERS • SURVEYORS • LANDSCAPE ARCHITECTS

November 8, 2010

Town of Canandaigua
5440 Rte. 5 & 20 West
Canandaigua, NY 14424



Attn: Jean Chrisman, Code Enforcement Officer

**Re: The Residences at West Lake
90-Day Subdivision Approval Extension**

2145B

Dear Jean:

On behalf of RSM West Lake, LLC, we are requesting an additional 90-day approval extension for the referenced Subdivision Plan, which was originally approved by the Planning Board on March 9, 2010. We respectfully request to be placed on the November 23, 2010 Planning Board agenda to bring this matter before the Board. The applicant has been in the process of finalizing all the necessary Town and agency approvals, and more specifically is continuing to work on a viable hydraulic connection to serve the development. The applicant would also like to take the opportunity to discuss the phasing and subsequent filing of the project.

Thank you for your consideration in this regard.

Sincerely,
BME ASSOCIATES

Michael A. Simon

/MAS

cc: Steve Mancini; RSM West Lake, LLC.
Jim Bonsignore, Esq.
Alan Knauf, Esq.

TOWN OF CANANDAIGUA PLANNING BOARD RESOLUTION

CPN 133-09 RSM - Final Subdivision (TMP # 112.00-1-24.100)

Determination of Substantial Agreement with Preliminary & Decision on Final Plat

WHEREAS, the Town of Canandaigua Planning Board, (hereinafter referred to as Planning Board) is considering a request for approval of a final subdivision plat last revised on 2/25/10 which includes 61 residential lots, 32 acres of open space on 5 separate lots, and subdivision of the Johnson Homestead at 3950 County Road 16 onto a separate 2.002 acre parcel; and

WHEREAS, the Planning Board is also considering if the above described final plat and supporting information are in "substantial agreement" with the approved preliminary plat, in accordance with NYS Town Law, Section 276, Part 6, (b); and

WHEREAS, the Planning Board has completed a side by side review of both the approved preliminary and above described final plat, and drafted a list of relevant findings to be kept in the project file in the Town's Development Office,

NOW, THEREFORE, BE IT RESOLVED, that based on the aforementioned findings and all other relevant information gathered through the application process and public hearing, the Planning Board hereby determines that above described final plat is in substantial agreement with the approved preliminary; and

RESOLVED, that the final plat last revised on 2/25/10 is hereby approved subject to the conditions described in "Attachment A: Conditions"

The above Resolution was offered by Thomas Crawford and seconded by Charles Oyler at a regularly scheduled Planning Board Meeting held on March 9, 2010. Following discussion, a roll call vote was recorded:

Thomas Crawford -aye
Richard Gentry -excused
Joyce Marthaller--aye
Charles Oyler -aye
Thomas Schwartz -aye

I, Leslie C. O'Malley, Secretary to the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Canandaigua Planning Board for the March 9, 2010 meeting.

Leslie C. O'Malley L. S.
Leslie C. O'Malley, Ph.D.
Secretary to the Board

Town of Canandaigua Planning Board
Project # 133-09 – RSM - (TMP # 112.00-1-24.100)
Decision on Final Plat
Attachment A: Conditions

Prior to obtaining the Planning Board Chair's signature on the final plat the applicant shall comply with the following:

1. The design of the applicant's proposed solution to the provision of a public water supply for all phases of the project shall be acceptable to the Town Water Superintendent and/or the Applicant shall propose as an alternate solution, adequate provisions for a private water service owned by the HOA which provisions must be acceptable to the Town Engineer, the Town Water Superintendent and the New York State Department of Health. 11/3/11
CLOSE TO BEING EXECUTED
JIM F. OKAY WITH EASEMENT
2. The applicant shall provide a detailed plan for maintenance of storm water facilities acceptable to the Town Highway Superintendent. — ○
3. Final trail locations shall be determined by field inspection to be done by the applicant and Town Staff to minimize vegetation removal, potential for erosion and conflicts with neighboring residents. See email dated 11/3/11
4. The applicant shall provide a Home Owner's Association agreement that acceptable to the Planning Board Attorney. — ○
5. The applicant shall provide formal agreements for maintenance of shared driveways acceptable to the Planning Board Attorney — ○
6. The applicant shall verify completion of required NYSDEC review to address usage of storm water management facility "H" and CDS units DD-1 and DE-1 to provide water quality treatment as described in the march 3, 2010 letter from MRB. — ○
7. Prior to any site disturbance all Limited Development Overlay (LDO) Permits shall be issued by the Code Enforcement Officer, all conditions of such permit shall be complied with and copies of these LDO Permits and Certificates of Compliance shall be filed with each lot
8. The applicant shall address all other technical issues described in the March 3, 2010 MRB letter to the satisfaction of the Town Engineer. — ○
9. The applicant shall remove all references to redevelopment of the Johnson Homestead parcel from the supplemental EAF — ○ (SHALL BE VERIFIED BY MRB SIGNATURE ON PLANS)
→ US TO CHECK EAF
10. At the time of application for a building permit, the applicant shall pay to the Town a Park and Recreation Fee in the prevailing amount pursuant to Section 52.16 of Town of Canandaigua Code and NYS Town Law.
11. Pursuant to Town of Canandaigua Code Section 90-13(G) and NYS Town Law Section 276, part 7, (c) this approval shall expire 180 days after the

NOV 22 2010
LETTER FROM
JIM F

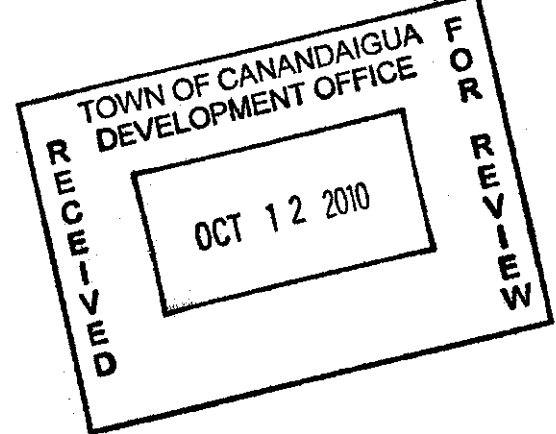
NEED
CORRESPONDENCE

LETTER FORTHCOMING
FROM CHRIS N.

adoption of this resolution unless all requirements stated herein have been certified as completed.

October 5, 2010

Mr. Thomas Schwartz, Planning Board Chairperson
Town of Canandaigua Planning Board
5440 Routes 5 & 20 West
Canandaigua, New York 14424



**RE: THE RESIDENCES AT WEST LAKE ROAD
FINAL SUBDIVISION PLAT REVIEW
TAX MAP NO.: 112.00-1-24.100 & 113.13-1-10.000
CPN NO.: 133-09
MRB PROJECT NO.: 035000.411**

Dear Mr. Schwartz,

MRB|group has prepared a comment letter regarding our review of the submitted Final Subdivision Plans last revised September 14, 2010 for the above referenced project prepared by BME Associates. Please note that our comments from our previous review letter dated March 5, 2010 have been responded; however some comments remain outstanding. Therefore we offer the following comments for the Town's consideration.

GENERAL/ SUBDIVISION PLAT PLAN

1. Approvals from all outside agencies shall be obtained by the applicant with copies of the approval letters submitted to the Town & MRB for our files.

UTILITY PLANS

2. According to the plans, the location of the offsite watermain connection has not been determined. Please note as a condition of final subdivision approval (condition # 1), design of the applicants proposed offsite water connection for public water supply for all phases of the project acceptable by the Town Water Superintendant and/or an alternate solution for a private water service owned by HOA acceptable by the Town Engineer, Town Water Superintendant and NYSDOH is to be provided prior to receiving final signatures.

GRADING PLANS

3. Work associated with creating and filling federal wetlands on site should be submitted to the Army Corps of Engineers (ACOE) for review. All correspondences from ACOE should be forwarded to the Town of Canandaigua and MRB for our files.

EROSION CONTROL PLANS

4. The plans should clearly label extents of the trails to be constructed within each phase.

LANDSCAPE & LIGHTING PLAN/MISCELLANEOUS

5. To date we have not received a typical lot landscaping plan. This information should be provided on the plans prior to receiving final signatures.

STORMWATER MANAGEMENT PLAN/DRAINAGE CALCULATIONS

6. All correspondences to and from NYSDEC regarding their review of the CDS units and dry pond designs should be forwarded to the Town of Canandaigua and MRB for our files.
7. It is our understanding that the HOA is maintaining the SWMF's and CDS units; therefore a maintenance agreement between the Town of Canandaigua Highway & Water Superintendent and the Applicant regarding responsibilities maintaining these facilities is to be provided to the Town.

GRADING PLANS

8. A note should be added to the plans stating that the final trail locations will be determined by a field inspection completed by the Applicant and Town Staff.

Additional plan review comments may be generated upon submittal of future plans. If you have any questions, comments or concerns regarding any of the above comments, please call me at our office.

Sincerely,



Lance S. Brabant, CPESC
MRB|group, P.C.

Cc: Mary Smith, Planning and Zoning
Town of Canandaigua Planning Board Members
Jean Chrisman, Zoning Officer
Jim Fletcher, Highway and Water Supt.
Tim Jensen, Director of Development
Doug Eldred, P.E., BME Associates
Dave Cox, P.E., BME Associates

TOWN OF CANANDAIGUA PLANNING BOARD RESOLUTION
CPN 133-09 – RSM WEST LAKE LLC – TMP 112.00-1-24.100
EXTENSION OF CONDITIONAL FINAL SUBDIVISION APPROVAL

WHEREAS, the above referenced subdivision was given conditional final approval by the Planning Board on March 9, 2010; and

WHEREAS, pursuant Article 12-b, §276-b, part 7 of NYS Town Law, the applicant originally had 180 days from that date of approval to submit final plans verifying compliance with all conditions imposed as part of the conditional final approval; and

WHEREAS, the conditional final approval is scheduled to expire on September 6, 2010; and

WHEREAS, the above referenced part of NYS Town law also gives the Planning Board authority to extend the time for submission of said final plans for two additional periods of not more than 90 days each, if they are of the opinion that circumstances warrant such an extension; and

WHEREAS, the applicant has requested the first 90 day extension and indicated that the need to wait for input from other involved agencies, issues related to acquisition of a second public water connection and uncertainty surrounding the lakefront component of the project, have all contributed to a delay in finalizing the plans; and

WHEREAS, it is the position of this Planning Board that an extension of 90 days is warranted to allow the applicant more time to resolve the above stated issues and submit final plans for signature,

NOW, THEREFORE, BE IT RESOLVED that the Planning Board hereby grants the request for the first 90 day extension until December 5, 2010, to allow the applicant additional time to submit final plans that comply with the conditional Planning Board approval of March 9, 2010.

The above Resolution was offered by Joyce Marthaller and seconded by Richard Gentry at a regularly scheduled Planning Board Meeting held on August 24, 2010. Following discussion, a voice vote was recorded:

Thomas Crawford - aye

Richard Gentry - aye

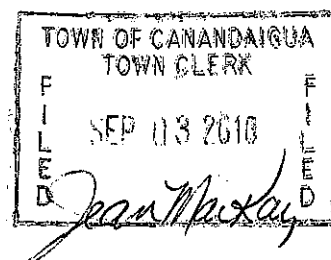
Joyce Marthaller - aye

Charles Oyler - aye

Thomas Schwartz - aye

I, Leslie C. O'Malley, Secretary to the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Canandaigua Planning Board for the August 24, 2010 meeting.

Leslie C. O'Malley L. S.
Leslie C. O'Malley, Ph.D.
Secretary to the Planning Board



Town of Canandaigua

5440 Routes 5 & 20 West
Phone (585) 394-1120

Canandaigua, New York 14424
Fax (585) 394-9476

Planning Board Decision Notification

Meeting Date: 3/9/2010

Project: *133-09

Applicant

RSM West Lake LLC
197 West Main Street
Victor, NY 14564

Owner

RSM Development LLC
197 West Main Street
Victor, NY 14564

Project Type

Final
Subdivision
(66 lot) w/ 60
single family
dwelling lots

Project Location

3950 County Road 16

Tax Map #

112.00-1-24.100

TYPE OF APPLICATION:

- ☐ Preliminary X Final
X Subdivision ☐ Site Plan ☐ Special Use Permit
☐ Sign: Bldg ☐ Sign: Ground

Applicant Request:

- X Granted ☐ Denied ☐ Tabled
☐ Continued to:
Y See attached resolution

SEQR:

- ☐ Type I ☐ Type II ☐ Unlisted
☐ See Attached resolution(s)

Negative Declaration Date:

Positive Declaration Date:

Recommendation To:

- ☐ Town Board ☐ ZBA ☐ N/A ☐ See attached resolution(s)
Recommendation:

Surety Requirements:

- ☐ Landscaping: \$
☐ Other (specify): \$

- ☐ Soil Erosion: \$

PLANNING BOARD CHAIR SIGNATURE
REQUIRED BY Tues Sept 7, 2010 (DATE)
FAILURE TO HAVE THIS SIGNATURE WILL
VOID TOWN CLERK
TOWN OF CANANDAIGUA
FILED
MAR 15 2010
FILED

Certified By:

Shirley A. Schwartz
Chairperson, Planning Board

Date:

3-17-10

TOWN OF CANANDAIGUA PLANNING BOARD RESOLUTION

CPN 133-09 RSM - Final Subdivision (TMP # 112.00-1-24.100)

Determination of Substantial Agreement with Preliminary & Decision on Final Plat

WHEREAS, the Town of Canandaigua Planning Board, (hereinafter referred to as Planning Board) is considering a request for approval of a final subdivision plat last revised on 2/25/10 which includes 61 residential lots, 32 acres of open space on 5 separate lots, and subdivision of the Johnson Homestead at 3950 County Road 16 onto a separate 2.002 acre parcel; and

WHEREAS, the Planning Board is also considering if the above described final plat and supporting information are in "substantial agreement" with the approved preliminary plat, in accordance with NYS Town Law, Section 276, Part 6, (b); and

WHEREAS, the Planning Board has completed a side by side review of both the approved preliminary and above described final plat, and drafted a list of relevant findings to be kept in the project file in the Town's Development Office,

NOW, THEREFORE, BE IT RESOLVED, that based on the aforementioned findings and all other relevant information gathered through the application process and public hearing, the Planning Board hereby determines that above described final plat is in substantial agreement with the approved preliminary; and

RESOLVED, that the final plat last revised on 2/25/10 is hereby approved subject to the conditions described in "Attachment A: Conditions"

The above Resolution was offered by Thomas Crawford and seconded by Charles Oyler at a regularly scheduled Planning Board Meeting held on March 9, 2010. Following discussion, a roll call vote was recorded:

Thomas Crawford -aye
Richard Gentry -excused
Joyce Marthaller--aye
Charles Oyler -aye
Thomas Schwartz -aye

I, Leslie C. O'Malley, Secretary to the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Canandaigua Planning Board for the March 9, 2010 meeting.

Leslie C. O'Malley L. S.
Leslie C. O'Malley, Ph.D.
Secretary to the Board

Town of Canandaigua Planning Board
Project # 133-09 – RSM - (TMP # 112.00-1-24.100)
Decision on Final Plat
Attachment A: Conditions

Prior to obtaining the Planning Board Chair's signature on the final plat the applicant shall comply with the following:

1. The design of the applicant's proposed solution to the provision of a public water supply for all phases of the project shall be acceptable to the Town Water Superintendent and/or the Applicant shall propose as an alternate solution, adequate provisions for a private water service owned by the HOA which provisions must be acceptable to the Town Engineer, the Town Water Superintendent and the New York State Department of Health.
2. The applicant shall provide a detailed plan for maintenance of storm water facilities acceptable to the Town Highway Superintendent.
3. Final trail locations shall be determined by field inspection to be done by the applicant and Town Staff to minimize vegetation removal, potential for erosion and conflicts with neighboring residents.
4. The applicant shall provide a Home Owner's Association agreement that acceptable to the Planning Board Attorney.
5. The applicant shall provide formal agreements for maintenance of shared driveways acceptable to the Planning Board Attorney.
6. The applicant shall verify completion of required NYSDEC review to address usage of storm water management facility "H" and CDS units DD-1 and DE-1 to provide water quality treatment as described in the march 3, 2010 letter from MRB.
7. Prior to any site disturbance all Limited Development Overlay (LDO) Permits shall be issued by the Code Enforcement Officer, all conditions of such permit shall be complied with and copies of these LDO Permits and Certificates of Compliance shall be filed with each lot.
8. The applicant shall address all other technical issues described in the March 3, 2010 MRB letter to the satisfaction of the Town Engineer.
9. The applicant shall remove all references to redevelopment of the Johnson Homestead parcel from the supplemental EAF.
10. At the time of application for a building permit, the applicant shall pay to the Town a Park and Recreation Fee in the prevailing amount pursuant to Section 52.16 of Town of Canandaigua Code and NYS Town Law.
11. Pursuant to Town of Canandaigua Code Section 90-13(G) and NYS Town Law Section 276, part 7, (c) this approval shall expire 180 days after the

Jim Fletcher?
2/27/12

Jim Fletcher?
2/27/12

See email dated 6/6/11
JC JC

See letter from Chris Hader 4/14/11

See letter from Chris Hader 4/14/11

See 2/17/12 DEC letter

MRB Signal Plans 2/27/12

2/27/12

adoption of this resolution unless all requirements stated herein have been certified as completed.

Findings Statement 3/9/10
Town of Canandaigua Planning Board
Project # 133-09 Final Subdivision – RSM (TMP # 112.00-1-24.100)
Determination of Substantial Agreement and Decision on Final Plat

Introduction

1. The applicant is seeking a determination by the Planning Board that the Final Subdivision Plat revised on 2/25/10 for parcel 112.00-1-24.100 is in substantial agreement with the approved Preliminary Subdivision Plan in accordance with NYS Town Law Section 276.
2. Prior to the expiration of the 6 months (General Condition #3) within which it was required to apply for Final Subdivision the applicant requested an extension, which was granted by the Planning Board in a letter from its attorney, dated 5/15/09, which extended applicant's deadline until 12/9/09.
3. Applicant submitted this application for Final Subdivision Approval on 12/9/09.
4. The Town of Canandaigua amended its requirements for conservation subdivisions in the SCR-1 District by Local Law # 3 of 2009 on 11/4/09.
5. The Planning Board has carefully reviewed the Preliminary Subdivision Plans and the conditions attached thereto that were approved by the Planning Board on 12/9/08.
6. The Planning board has carefully reviewed the Final Subdivision Plans and supporting materials submitted by the applicant. The Final Subdivision Plans were last revised on 2/25/10.
7. The Planning Board has carefully reviewed the FEIS that was adopted by the Planning Board on 10/16/08.
8. The Planning Board has carefully reviewed the Supplemental Full Environmental Assessment Form AND REVISIONS THERETO submitted by the Applicant.
9. Additional correspondence received by the Planning Board after the close of the public comment period will be kept as part of the application materials in the Development Office.
10. The Planning Board has carefully reviewed and discussed this application for Final Subdivision Approval at meetings on 2/16/10, 2/23/10 and 3/9/10

Preliminary Plat

11. A preliminary subdivision plan for the project was approved with conditions by the Planning Board pursuant to NYS Town Law §276 on 12/9/08 and signed by the Planning Board Chair on 2/20/09.
12. The Planning Board as lead agency conducted an extensive environmental review pursuant to SEQR, and an FEIS was accepted on October 16, 2008.

13. That Preliminary Subdivision Plan had total project area of 75.6ac and included conversion of a lakefront parcel (tmp# 113.13-1-10.00), currently used as a commercial marina, into residential lots and lakefront access for residents of the upland subdivision.
14. The Preliminary Subdivision Plan proposed 69 residential lots with 31.53 acres of open space.
15. The open space was protected primarily with easements on residential lots as allowed by Town Code at the time of preliminary subdivision approval.
16. On January 13, 2009 the ZBA granted variances for lots 1 thru 9 as shown on the final plat.

Final Plat

17. The Final Subdivision Plat last revised on 2/25/10 includes 61 residential lots
18. It also includes 32 acres of open space on 5 separate lots.
19. It also includes subdivision of the Johnson Homestead at 3950 County Road 16 onto a separate 2.002 acre lot.
20. Possible subsequent development and use of the Johnson Homestead is not part of this review.
21. Conversion of the commercial marina and subdivision of lot 113.13-1-10.00 is not part of the Final Plat proposal.
22. The proposed lot layouts comply with current bulk density requirements in Town Code Chapter 105
23. The storm water facilities shown on the proposed Final Subdivision Plan are the same as on the approved preliminary plan, with the exception that they have been modified to more closely comply with recommended practices in the current NYS Storm Water Management Design Manual.
24. On 1/12/10 the Town of Canandaigua ZBA confirmed that the previously granted variances are still valid for consideration of the revised plans.

Procedural Review Requirements

25. Procedural requirements pertaining to subdivision review in Section 90-13 and elsewhere in Town of Canandaigua Code are inconsistent both internally as well as with procedural requirements in NYS Town Law. Article 16. Specifically 90-13 B of Town of Canandaigua Code requires "final plats shall conform in all respects" with the approved preliminary. If the final does not so conform it is to be considered as a new preliminary.
26. 90-13, D of Town Code also requires compliance with Article 16, Section 276, part 6 of NYS Town Law which simply requires a second public hearing and supplemental review for final plats that are not "in substantial agreement" with the approved preliminary

27. It is the position of this Board that, based on the above findings, the requirements of NYS Town Law should be applied.

SEQR and redevelopment of the Johnson Homestead

28. NYCRR Part 617.3 (g) (1) states:
"Considering only a part or segment of an action is contrary to the intent of SEQR. If a lead agency believes that circumstances warrant a segmented review, it must clearly state in its determination of significance, and any subsequent EIS, the supporting reasons and must demonstrate that such review is clearly no less protective of the environment. Related actions should be identified and discussed to the fullest extent possible"
29. The applicant has submitted a supplemental EAF addressing the proposed changes excluding potential impacts from redevelopment of the Johnson Homestead parcel.
30. Development or reuse of the Johnson Homestead will be subject to separate approval as required by Town Code.
31. Grading, drainage, and access have been designed to allow continued use of the Johnson Homestead as a single family residence.
32. "The SEQR Handbook" provides additional guidance as to when a review may be segmented.
33. *"information on future phase(s) is too speculative"*: The proposal for redevelopment of the Johnson Homestead is incomplete. The applicant has acknowledged that they are only seeking approval for the upland residential subdivision and at a later date they may pursue a number of options to provide a lakefront component.
34. *"future phase(s) may not occur"*: Redevelopment of the Johnson Homestead may be the subject of a separate future proposal. The upland residential subdivision can still occur in the event such a proposal is denied.
35. *"future phase(s) are functionally independent of current phase(s)"*: Re-use of the Johnson property is not functionally necessary for development of the upland residential subdivision. Conversely, numerous options exist for use of the Johnson Homestead independent of the upland residential subdivision. Future use of the Johnson Homestead as a residence will not be compromised by development of the upland parcel.
36. Review and action of any proposal involving the Johnson Homestead parcel will be done in accordance with all requirements of Town Code and NYCRR Part 617 and require full mitigation of all identified potential negative environmental impacts.
37. In acting on the proposed subdivision, the Town is in no way committing itself to any particular course of action regarding development or use of the Johnson Homestead.

38. It is the position of this Board that a separate review and decision on a proposal for use or development of the Johnson Homestead will not be in any way less protective of the environment.

Limited Development Overlay

39. Condition # 7 of the 12/9/08 preliminary approval states: *"Prior to any site disturbance all Limited Development Overlay (LDO) Permits shall be issued by the Code Enforcement Officer, all conditions of such permit shall be complied with and copies of these LDO Permits and Certificates of Compliance shall be filed with each lot. A note to this effect shall be placed on both the preliminary and Final Plat"*
40. There is nothing specific in local code or in the conditions of the preliminary plat approval requiring that an LDO permit precede a decision on the final plat.

Remaining Issues

41. It is also the position of this Board that the following remaining issues need to be addressed:
- a. Provisions for extension of public water for Section 2,
 - b. Detailed plan for maintenance of storm water facilities,
 - c. Final layout of trails to minimize potential for erosion, vegetation removal and conflicts with neighboring residents,
 - d. Agreements to establish the Home Owner's Association (HOA) need to be finalized before the Chair signs the plans,
 - e. Agreements for maintenance of shared driveways need to be finalized before the Chair signs the plans,
 - f. Completion of extended NYSDEC review to address usage of storm water management facility "H" and CDS units DD-1 and DE-1 to provide water quality treatment.
 - g. Compliance with the requirements of the Limited Development Overlay District.
 - h. All other technical issues described in the March 3, 2010 MRB letter.
 - i. Verifying receipt of all other necessary approvals from other involved agencies

Conclusions

40. Based on the above findings and a review of both plats as well as the Supplemental EAF and all other relevant information, it is the position the Planning Board that the access, resulting traffic patterns, nature and intensity of the uses, drainage facilities, and all other remaining aspects of the Final Subdivision Plat dated 2/25/10 are in substantial agreement with the approved Preliminary Subdivision Plan
41. The Planning Board determines that the Final Subdivision Plan is in substantial agreement with the approved Preliminary Subdivision Plan pursuant to NYS Town Law §276.

- 42.** The Planning Board determines that the Supplemental EAF adequately addresses the differences between the Approved Preliminary Subdivision Plan and the Proposed Final Subdivision Plan as amended on February 25, 2010.
- 43.** These findings relate specifically and exclusively to Applicant's Final Subdivision Plan and shall have no bearing on any other applications submitted by Applicant (i.e., Site Plan, Special Use Permit for Semi-Public Use, Special Use Permit for PWORF, etc.).

Town of Canandaigua

5440 Routes 5 & 20 West
Phone (585) 394-1120

Canandaigua, New York 14424
Fax (585) 394-9476

Planning Board Decision Notification

Meeting Date: 1/26/2010

Project: 133-09

Applicant

RSM West Lake LLC
197 West Main Street
Victor, NY 14564

Owner

RSM Development LLC
197 West Main Street
Victor, NY 14564

Project Type

Final
Subdivision
(66 lot) w/ 60
single family
dwelling lots

Project Location

3950 County Road 16

Tax Map #

112.00-1-24.100

TYPE OF APPLICATION:

SEQR:

- ☐ Preliminary X Final
X Subdivision ☐ Site Plan ☐ Special Use Permit
☐ Sign: Bldg ☐ Sign: Ground

- ☐ Type I ☐ Type II ☐ Unlisted

☐ See Attached resolution(s)

Negative Declaration Date:

Positive Declaration Date:

Applicant Request:

- ☐ Granted ☐ Denied ☐ Tabled

X Continued to: February 23, 2010

See attached resolution

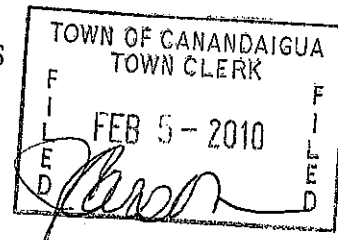
Recommendation To:

- ☐ Town Board ☐ ZBA ☐ N/A ☐ See attached resolution(s)

Recommendation:

Surety Requirements:

- ☐ Landscaping: \$ ☐ Soil Erosion: \$
☐ Other (specify): \$



Certified By:

Shirley A. Schwartz
Chairperson, Planning Board

Date: 2-5-2010

**TOWN OF CANANDAIGUA PLANNING BOARD
ACTION RESOLUTION - CONTINUATION**

APPLICANTS: RSM WEST LAKE ROAD LLC

CPN-133-09

WHEREAS, the Town of Canandaigua Planning Board (hereinafter referred to as Planning Board) has scheduled a public meeting for the above referenced application for tonight's Planning Board Meeting; and

WHEREAS, the Planning Board has received a letter from the applicant's attorney, James J. Bonsignore, requesting that this matter be tabled until the February 23, 2010 Planning Board meeting; and

WHEREAS, the applicant requests the additional time to address comments and concerns received from Town staff; and

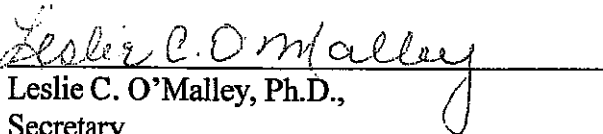
WHEREAS, both the applicant and the Planning Board agree to this extension of time in which the Board may render its decision on final subdivision approval as the statutory time period would otherwise expire prior to the February 23, 2010 meeting,

NOW, THEREFORE, BE IT RESOLVED that the Planning Board does hereby move to table the application and to continue the public meeting upon said application to the February 23, 2010 Planning Board Meeting.

The above Resolution was offered by Charles Oyler and seconded by Richard Gentry at a regularly scheduled Planning Board Meeting held on January 26, 2010. Following discussion, a voice vote was recorded:

Joyce Marthaller—aye
Thomas Crawford—aye
Richard Gentry—aye
Charles Oyler—aye
Thomas Schwartz—aye

I, Leslie C. O'Malley, Secretary to the Planning Board, do hereby attest to the accuracy of the above Resolution and to its being acted upon and recorded in the minutes of the Canandaigua Town Planning Board for the January 26, 2010 meeting.


Leslie C. O'Malley, Ph.D.,
Secretary
Town of Canandaigua Planning Board

Amanda Ward

From: Amanda Ward [award@townofcanandaigua.org]
Sent: Friday, December 18, 2009 10:00 AM
To: 'spman@rochester.rr.com'
Subject: 12/16 PRC Meeting Minutes
Attachments: PRC Minute Letterhead.doc

Good Morning –

Attached is a copy of the PRC meeting minutes from 12/16/09.

If you have any questions, please feel free to contact me or Jean Chrisman.

Thank you,
Amanda Ward

TOWN OF CANANDAIGUA

5440 Route 5 & 20 West

Canandaigua, NY 14424

(585) 394-1120

Fax: (585) 394-9476

PLANNING REVIEW COMMITTEE (PRC) Meeting Minutes of December 16, 2009

TO: RSM WEST LAKE ROAD LLC
FROM: JEAN CHRISMAN, ZONING OFFICER
FAX #: VIA EMAIL – SPMAN@ROCHESTER.RR.COM
DATE: FRIDAY, DECEMBER 18, 2009

All applicants are hereby given notice that the following report provides positive input to keep the application process moving forward. There may be additional PRC comments or Planning / Zoning Board comments forthcoming based upon further review by the members of the PRC or respective boards.

RSM West Lake Road LLC (CPN-133-09) (Final Subdivision) (3950 County Road 16)

Notes to the Planning Board:

1. SEQR – refer to the FEIS and Findings Statement adopted by the Town Planning Board on October 30, 2008.
2. At their January 12, 2010, meeting the Town ZBA will determine if the submitted Final Subdivision application is in substantial conformity with the condition of approval for the granting of the area variances in January 2009.
3. A referral to the OCPB is not required.
4. An Agricultural Data Statement is not required to be submitted.
5.
 - A. The applicant is requesting final subdivision approval.
 - B. The Planning Board granted preliminary subdivision approval on December 9, 2008.
 - C. A copy of the preliminary resolution will be placed in this application file and distributed to Planning Board members.
 - D. The Planning Board shall determine if these final plans are in substantial agreement with the signed preliminary plans.
 - E. The Planning Board needs to determine if a public hearing will be required for the final subdivision application.
6. The PRC will forward a copy of the applicant and site plan to John Berry, Ontario County DPW, for review and comments.

7. The PRC will forward a copy of the application and site plan to Sheryl Robbins, NYS DOH, for review and comments.
8. The PRC will forward a copy of the application and site plan to Greg Hotaling, MRB Group PC for review and comments.
9. The PRC will forward a copy of the application and site plan to George Barden, Watershed Inspector, for review and comments.
10. The PRC will forward a copy of the application and site plan to Kevin Olvany, Watershed Program Manager, for review and comments.
11. The PRC will forward a copy of the application and site plan to Jim Fletcher, Town of Canandaigua Highway & Water Superintendent, for review and comments.
12. The PRC will forward a copy of the application and site plan to Matthew Snyder, Chief Canandaigua City Fire Dept, for review and comments.
13. The Planning Board is asked to clarify for the Development Office staff the language set forth in Condition #7 (page 15 of the Preliminary Subdivision Approval resolution). Is one LDO permit required for Section 1 and one for Section 2 or is the Planning Board requiring one permit to be issued for each individual lot as it is developed?
14. *The Planning Board will be provided cost estimates and a breakdown of which this includes for the landscaping / soil erosion bonds for the proposed project. The Planning Board is asked to set the bonds within their decision sheet.*

The applicant shall complete the following by 12 noon on Monday, December 28, 2009, to remain considered for the January 2010 Town Planning Board agenda:

1. The drawings shall be amended to clearly note all Open Space Areas A – E (as identified on plans received 12/9/09) are subject to the conditions described in Attachment C to the Resolution of the Planning Board of the Town of Canandaigua Dated December 9, 2008 granting the Preliminary Subdivision Approval.
2. Portions of the subject property are located within a Limited Development Overlay District (LDO). The site plan must note all areas that exceed a slope of 10%.
3. See *Final Subdivision Checklist* – All items with an open circle to the right must be addressed prior to the application being further processed.
4. The applicant must submit a written cost estimate and breakdown of which this includes to install and maintain all erosion control measures for the proposed project.
5. The applicant must submit a written cost estimate and breakdown of which this includes to install the proposed landscaping on the subject property.
6. Your application will be referred to an outside consultant hired by the Town of Canandaigua (Town Engineer, Town Planner, Town Attorney, etc). The property owner will be invoiced by the Town for the reimbursement of these expenses.
7. The applicant is on notice that the Planning Board may require a surety to be submitted to the Town prior to any permits being issued. The submitted surety can be cash/check or a letter of credit.
8. The property owner is on notice that they have 6 months from the Planning Board's approval date granting Final Subdivision approval to obtain the Planning Board chairperson's signature on the final plans.
9. The applicant is on notice that no additional Planning Board or Zoning Board of Appeals applications can be submitted and no building permits can be issued for the subject parcels until such time the final plats and deeds have been filed with the Ontario County Clerk's

office and the Town of Canandaigua has received the new tax map numbers from the Ontario County Real Property Department.

10. The property owner is on notice that no development shall commence until the proper permits have been obtained from the Town's Code Enforcement Officer.
11. The property owner is on notice that the final survey plat and deeds cannot be filed at the Ontario County Clerk's Office until the Planning Board chairperson has signed the final subdivision Mylar and prints.
12. The applicant must submit 13 copies of the Final Subdivision Plans and Engineers Report.

Town of Canandaigua

5440 Routes 5 & 20 West
Phone (585) 394-1120

Canandaigua, New York 14424
Fax (585) 394-9476

Planning Board Decision Notification

Meeting Date: 12/9/2008

Project: 125-05.6

Applicant

RSM West Lake Road LLC
197 W. Main Street
Victor, NY 14564

Owner

RSM West Lake Road
LLC
197 W. Main Street
Victor, NY 14564

Project Type

Prelim
Subdivision

Project Location

3950 County Road 16

Tax Map #

112.00-1-24.100

TYPE OF APPLICATION:

- ☒ Preliminary ☐ Final
☐ Subdivision ☒ Site Plan ☐ Special Use Permit
☐ Sign: Bldg ☐ Sign: Ground

Applicant Request:

- ☒ Granted ☐ Denied ☐ Tabled
☐ Continued to:
☒ See attached resolution

SEQR:

- ☒ Type I ☐ Type II ☐ Unlisted

- ☒ See Attached resolution

Negative Declaration Date:

Positive Declaration Date:

Recommendation To:

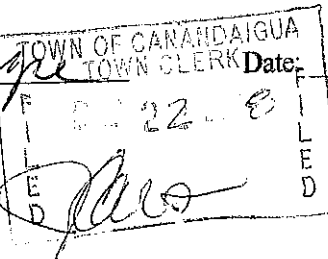
- ☐ Town Board ☐ ZBA ☐ N/A ☐ See attached resolution(s)
Recommendation:

Surety Requirements:

- ☐ Landscaping: \$ ☐ Soil Erosion: \$
☐ Other (specify): \$

Certified By:

Patricia N. VanSlyke
Chairperson, Planning Board



WHEREAS, the German Brothers Marina property is a pre-existing nonconforming commercial marina use, with 68 wet slip docking and mooring spaces, 35 dry-dock boat storage spaces and parking on the inland side of County Road 16, a boat ramp, a boat lift, one underground gasoline bulk storage tank supporting three gasoline pumps, and two buildings located along a breakwall adjoining the lake used for office space, boat repair, retail sales, and storage (collectively the "Commercial Marina"); and

WHEREAS, the continued operation and use of the Commercial Marina is inconsistent with the present RLD zoning code, but is nevertheless permissible as a pre-existing nonconforming use because it pre-existed the parcel's present zoning, as determined by the Town Zoning Officer in a Zoning Law Determination dated April 28, 2006; and

WHEREAS, the Applicant is proposing to discontinue the nonconforming Commercial Marina and many of its commercial activities, including retail boat sales, rentals, maintenance and repairs, daily launching and retrieving of boats, retail boat refueling and dry-dock storage of up to 35 boats on the west side of County Road 16, and the Applicant is proposing to replace the Commercial Marina with the private Marine Club that will be located on a lot measuring approximately 2.58 acres to be subdivided from the German Brothers Marina property, along with two other subdivided fully conforming single-family dwelling unit lots; and

WHEREAS, the Applicant has applied to the Town of Canandaigua Zoning Board of Appeals ("ZBA"), and the ZBA is now conducting a public hearing on the applicable area variances, which variances this Board recommended, to allow, in addition to the fully conforming 2,960 square foot inland clubhouse and the 110 boats slips, the Marine Club to include a 35 foot high flag pole, a 1,040 square foot lakeside accessory building with electricity, telephone, sanitary sewer connection, and water for restrooms, showers, equipment storage and the gas dock attendant office, and front or side yard parking on both sides of the public highway for the parking of 51 cars and 15 electric golf carts; and

WHEREAS, the Applicant also proposes, in addition to the two (2) residential lots to be subdivided from the inland portion of the German Brothers property, sixty-seven (67) single-family dwelling unit lots on the Johnson property, including one lot for the existing farm house (collectively, the "Residences"); and

WHEREAS, the Applicant proposes to place 55 of the new residential lots entirely within the approximately 58.2-acre SCR-1 zoned portion of the Johnson property in a conservation subdivision layout that is designed to preserve wetlands, woodlands, slopes and open space to the maximum extent practicable and to protect the preserved lands by means of a binding perpetual conservation easement over open space land ("Conserved Land") granted by the homeowners association ("HOA") to the Town of Canandaigua (the "Town"), and over a portion of the individual residential lots granted to the ("HOA") and the Town, which will permanently restrict development on the Conserved Land in accordance with Town Zoning Code §105-518.D, and only allow use for agriculture, forestry, passive recreation, protection of natural resources, or similar conservation purposes; and

reference the conservation easement recorded with the County Clerk by liber and page and that a copy of said easement shall be filed with the Town at the time of issuance of the Building Permit for said lot noting the area of the lot encumbered by the easement; and

WHEREAS, this Planning Board has recommended that the ZBA also grant the area variances to permit the Applicant to place the homes for nine of the new RLD residential lots (Lots 7-15) partially or just over the RLD/SCR-1 zoning boundary without having the houses count toward the determination of the maximum permissible number of lots within the SCR-1 zone and to allow the houses on six lots (Lots 7-12) to have a front set back of 30 to 40 feet from the right-of-way for Access Road "A" in lieu of the RLD's 60-foot front setback standard in order to move these homes farther away from County Road 16 and the Lake, to make their bulk requirements consistent with the other 55 new homes in the adjoining conservation subdivision and to minimally disturb mature trees and steep slope portions of the site; and

WHEREAS, this Planning Board has recommended that the ZBA grant an area variance to allow the maximum height of the nine houses on Lots 7-15 to be 35 feet in lieu of the RLD's 25-foot maximum height standard in order to save additional vegetation by reducing the footprint of the homes and to make their bulk requirements consistent with the other 55 new homes in the adjoining conservation subdivision; and

WHEREAS, this Board assumed the status of Lead Agency pursuant to the State Environmental Quality Review Act ("SEQRA"), conducted a coordinated environmental impact review of the Project, approved a Draft Environmental Impact Statement ("DEIS") as of June 27, 2008, held a public hearing on SEQRA and the proposed subdivision approval on July 21, 2008, approved a Final Environmental Impact Statement ("FEIS") on October 16, 2008, and adopted a SEQRA Findings Statement for the Project ("SEQRA Findings") on November 12, 2008, a copy of which is attached and annexed hereto as Attachment "A" and incorporated by reference into this Resolution; and

WHEREAS, in the DEIS, the Marine Club was modified to shift the nine visitor dock spaces that were previously placed on the lakefront of the former Johnson property to the lakefront of the German Brothers property so as to increase to 90 the total number of in-water dock slips proposed for the Marine Club and the Residential Lots located along the southwest and northwest portions of the site were modified to allow for the possibility of a secondary emergency vehicle access and water utility connection to the adjoining undeveloped portions of those parcels of land; and

WHEREAS, in the FEIS, the Marine Club was modified to present an alternative design with a 2,960 square foot inland clubhouse with a 1,040 square foot lakeside accessory building, eliminate the proposed sundeck dock and the 35 mooring spaces, and increase the number of dock spaces to 110, and the Marine Club lot was enlarged to 2.58 acres by combining the initial 2.0 acres lot with the 0.58 acres former residential Lot #1; and

Marine Club lot on both sides of County Road 16; (B) a lakeside multi-purpose 1,040 square foot, +16-foot high, pumphouse in excess the accessory building maximum size and height standards of 100 square feet and 10-foot height; (C) install a telephone, sanitary sewer connection, and water for restrooms, showers and the gas dock attendant office in the pump house in excess of a standard that limits accessory structure utilities to electricity; and (D) construct a 35-foot high flagpole for flying storm warning flags, where the height standard for accessory structures in the RLD is 10 feet; and

WHEREAS, this Board granted the Applicant, on November 25, 2008, a private water oriented recreational facilities, or social club special use permit for the Marine Club with a 2,960 square foot inland clubhouse, a 1,040 square foot lakeside accessory building, and 110 dock spaces on 2.58-acres Marine Club lot; and

WHEREAS, this Board's public hearing on the preliminary subdivision plat application held on July 21, 2008 was continued until October 30, 2008, in order to accept public input and deliberate on the application, all upon due notice in accord with New York State Town Law §276.

NOW, THEREFORE, BE IT RESOLVED, that this Board hereby affirms that the following decisions set forth in this Resolution are based on its review of the application and supporting materials provided to this Board in support of Applicant's request for approval of the preliminary subdivision plat, applications for the other land use approvals for the development of the Marine Club, the DEIS and FEIS, this Board's SEQRA Findings, oral and written testimony and comments made by the public, Town of Canandaigua officials and consultants, other governmental agencies, and other parties, including testimony given at the public hearing of July 21, 2008 which was continued until October 30, 2008, presentations made by Applicant and its consultants related to the Project (collectively, the "Record"), and the visits to the Site by all individual members of this Board; and it is further

RESOLVED, that this Board hereby finds in accordance with Town Zoning Code §105-518.C.1.b.ii that the Yield Plan #1 is a realistic layout reflecting a development pattern that could reasonably be expected to be implemented as a conventional subdivision, taking into account the presence of wetlands, floodplains, steep slopes, existing easements and encumbrances, and finds that the Site will be served by a public sewer, which finding was confirmed by Yield Plan #2, and finds that the Applicant's proposal to place 55 residential lots on the SCR-1 zoned portion of the Site complies with the base density requirements for conservation subdivision with the SCR-1 district; and it is further

RESOLVED, that this Board hereby finds that the Applicant, by means of the preliminary subdivision plat application and through the in-depth analysis and plans regarding conservation subdivision design that have been submitted as part of the DEIS and FEIS, has provided this Board with a detailed conservation analysis that is suitable to allow this Board to select the preferred locations for Conserved Land on the Project Site,

public using those driveways or the general populace, in accordance with Town Code §90-19.A;

- the layout allows for the possible secondary emergency access into the adjoining dedicated open space of the adjacent Lakewood Meadows subdivision or a connection to Wyffels Road or Acorn Drive in the north and western section of the Site which Applicant has been encouraged to secure, although such a connection requires use of private property beyond the control of Applicant. Other connections or road projections are not included because they are undesirable due to topography and design of the Project, in accordance with Town Code §90-19.D;
- no further subdivision is anticipated, the street layout is related to topography in order to produce usable lots and reasonable grades, and intersections with County Route 16 are minimized in order to separate local and through traffic, and there are no dead-end, half or partial streets or reserve strips, in accordance with Town Code §90-19.H, I, J, K;
- appropriate planned street access is provided so that the number of driveways giving direct access to County Road 16 is the minimum necessary, and all lots access County Road 16 through Road "A" except the Marine Club lot, and lots 2 and 3 which share a private driveway that uses an existing access point from the German Brothers Marina, where direct access is necessary, in accordance with Town Code §90-19.A;
- the location of County Road is not altered, and complies with the Comprehensive Plan, in accordance with Town Code §90-19.B;
- recorded easements constituting covenants running with the land, including operating and maintenance agreements, will be provided for all shared private driveways;
- all street intersections are as near as possible to right angles and those that are greater than 75°, involve only two streets, provide clear sight triangles of at least 30 feet measured from their point of juncture with no buildings within such triangles, and have minimum curb radii of 30 feet, in accordance with Town Code §90-20.A, B, C, F;
- the intersection between Road "A" and County Road 16 is more than 2640 feet from the nearest intersection other than private driveways, and the street grade approaching an intersection does not exceed seven percent, in accordance with Town Code §90-20.D;
- the operational rules set forth in the PWORF or SC special use permit for the Marine Club, the bulk requirements as modified by the area variances requested from the ZBA, including landscape and vegetative buffering, and the discontinuance of the nonconforming Commercial Marina will prevent the Project from becoming more objectionable than any other permitted use of the Site;
- in accordance with Town Code §90-26.D.E., this Board finds and determines that the Project site is not suitable or practical for dedication for a new public park, recreation area, playground, or other public use designated in the Comprehensive Plan due to the Project site's size, environmental restrictions and inconsistency with the Town's Park and Recreation Master Plan. However, as demonstrated in the Record of this Board's review, and the Park and Recreation Master Plan, the

provided for all utilities and where applicable are be centered on or adjacent to rear or side lot lines to the fullest extent practicable, in accordance with Town Code §90-28.A,B;

- the Project's compliance with guidelines and regulations on shoreline development(including Town Shoreline Development Guidelines in accordance with Town Code §90-17.E), stormwater management, erosion control, noise and visual impacts, LDO development, and conservation subdivision will prevent damage to the environment;
- lots are graded to provide positive drainage away from buildings, in accordance with Town Code §90-25.A, and run-off from roof areas will be connected directly to the storm sewer system via downspouts and laterals, while runoff in roads, driveways, and walk areas will be directed to gutter inlets along the Road "A," where a storm sewer will carry the drainage to stormwater management facilities for treatment and controlled discharge;
- stormwater will be directed into storm sewers and detention facilities that will treat and control stormwater discharges, in accordance with New York State Department of Environmental Conservation Phase II Storm Water Regulations and Town Code §90-25.C;
- the stormwater management system will provide adequate drainage of all low points along the line of streets, avoid concentration or diversion of runoff onto adjacent properties, avoid increases in the flow rate and permit unimpeded flow of existing natural water courses in accordance with all federal, state and Town regulations, and direct runoff from streets, other impervious surfaces and other developed areas, to where it can be intercepted at intervals reasonably related to the extent and grade of the area drained, in accordance with Town Code §90-25.B, D;
- stormwater detention facilities will allow for settlement of pollutants, filtration through vegetation, and extended detention with controlled release to the Lake, and will be located in HOA-owned open space lands, and will include upland meadow, wetland vegetation, and deep pool areas for the various stages of treatment, and water quality in the lower portion of the site will be improved by continuous deflective separation (CDS™) units to mechanically separate debris and silt from stormwater;
- the Project, including the stormwater management system, is designed to ensure reasonable control of sediments both during and after construction, and ensure compliance with Town Code Chapter 85, pertaining to Soil Erosion and Sedimentation Control;
- no permanent natural watercourses currently traverse or are located on the Project site;
- the Project will not conflict with the uses of neighboring lands and buildings;
- the Project is designed with special regard for the protection of environmentally sensitive lands and unique physiographic features, including shoreline, woodlands, steep slopes and wetlands, so that existing springs, trees, other vegetations, desirable natural contours, hilltop views and lookouts, and other natural features, including those that contribute significantly to the aesthetic

which provide a healthy and safe environment and other safeguards to assure the Site is properly identified, accessible to pedestrians and vehicles, and protected against such dangers as flooding and erosion, all in accordance with the requirements of Town Code §90-30 and other applicable requirements, including monuments and markers, streets, public water supply, public sanitary system, storm sewers and drainage, erosion control measures, landscaping, street signs, and other site and surface improvements; and it is further

RESOLVED, that this Board finds that, provided the area variances are granted by the ZBA and with the special use permit granted by this Board, the Project complies with all relevant provisions of the Zoning Code, and it is further

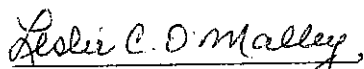
RESOLVED, that this Board hereby grants approval of the Applicant's proposed preliminary subdivision plat for the Project site, including the clustered conservation subdivision of the SCR-1 portion of the Project Site, based upon BME Drawing 2145-09, dated August 2005 and subsequently last revised on November 17, 2008, with the General Conditions attached hereto as Attachment B and incorporated herein and subject further to the Individual Conditions attached hereto as Attachment C and incorporated herein, and it is further

RESOLVED, that the Secretary to this Board is hereby directed to file this Resolution with the Town Clerk, mail a copy to the Applicant, and mail a copy to the Ontario County Planning Board as this Board's report on how it has addressed actions that were the subject of recommendations by the OCPB.

The above resolution was offered by Thomas Knapp and seconded by Thomas Schwartz at a regular meeting of the Town of Canandaigua Planning Board, held on Tuesday, December 9, 2008. Following discussion thereon, the following roll call vote was taken and recorded:

Thomas Schwartz	-aye
Thomas Knapp	-aye
Joseph Maslyn	-aye
Robert Mincer	-aye
Patricia VanDyne	-aye

I, Leslie C. O'Malley, Secretary to the Planning Board of the Town of Canandaigua, hereby certify that the foregoing is the Resolution and vote of the Planning Board and that this Resolution was thereupon declared duly adopted.



Leslie C. O'Malley, Ph.D.

Secretary

Town of Canandaigua Planning Board

**TOWN OF CANANDAIGUA PLANNING BOARD
OCTOBER 16, 2008**

**THE RESIDENCES AT WEST LAKE MARINE CLUB (CPN-125-05, CPN-087-08)
ACCEPTING THE FINAL ENVIRONMENTAL IMPACT STATEMENT
("FEIS") AND DIRECTING THE FILING OF A NOTICE OF COMPLETION OF
FEIS**

WHEREAS, RSM West Lake Road LLC and RSM Development LLC (the "Applicant"), on behalf of the property owners, are applying for preliminary subdivision, preliminary site plan, and special use permit approvals for The Residences at West Lake Marine Club project ("Project") proposed to be located at 3907 and 3950-3952 County Road 16 and further identified as tax map parcel numbers 113.13-1-10.000 and 112.00-1-24.100; and

WHEREAS, this Board determined this Project to be a Type I Action and provided public notice of its declared intent to act as Lead Agency pursuant to the State Environmental Quality Review Act ("SEQRA") on October 25, 2005, notified each involved agency of its intent, and having heard no objection thereto from any other involved agency, designated itself Lead Agency for the purpose of the coordinated review of the Project under SEQRA on December 13, 2005; and

WHEREAS, on February 14, 2006, this Board, as the designated Lead Agency pursuant to the SEQRA regulations set forth at 6 NYCRR 617, made a positive declaration requiring the preparation of an environmental impact statement under SEQRA, and opted to engage in an optional public scoping process for the environmental impact statement consisting of the solicitation of comments during a public comment period extending through March 31, 2006 and a public scoping hearing on March 27, 2006; and

WHEREAS, this Board adopted a Scope for the environmental impact statement on April 11, 2006, after taking all comments received under due consideration; and

WHEREAS, on January 30, 2008, this Board received a proposed Draft Environmental Impact Statement ("DEIS") dated January 25, 2008 from Applicant, by and through its engineers, BME Associates; and

WHEREAS, this Board reviewed the proposed DEIS in relation to the adopted Scope and the standards set forth in the SEQRA regulations found at 6 NYCRR 617 in order to determine whether, or not, to accept the document as adequate for commencing public review; and

WHEREAS, at the conclusion of its review, this Board concluded on April 8, 2008 that the January 2008 proposed DEIS was not yet adequate and complete with respect to its scope and content for the purpose of commencing public review, and

WHEREAS, the oral and written comments that have been received cover a broad range of issues which largely parallel the potential environmental impacts identified in the Scope; and

WHEREAS, on September 23, 2008, this Board received a proposed Final Environmental Impact Statement ("FEIS") comprised of an introduction reviewing the SEQRA environmental review process to date, incorporating the DEIS by reference and explaining the format of the FEIS, an overview of modifications made to the project in response to the comments received, and a listing of each substantive comment made and this Board's response to that substantive comment organized according to the sequence in which the Scope dealt with each topic;

WHEREAS, that proposed FEIS also was comprised of forty additional exhibits consisting of plans, drawings, architectural renderings, photographs, photographic and computer simulations, charts and tables developed or revised in response to comments received and/or to reflect modifications to the Project, and of seven new appendices that include an Appendix S containing the written comments received, the minutes from the public hearing, and a chart indicating which commentator made which substantive comment and where the comment is addressed in the FEIS, Appendices T, U, and V containing documentation regarding the deed, licensing and bulkhead restoration at the German Brothers Marina property, Appendix W containing the Town Zoning Officer's alternative base density calculation for the SCR-1 zoned portion of the Project, Appendix X containing correspondence from the State Historic Preservation Office, and Appendix Y containing a noise impact study; and

WHEREAS, at the meeting of this Board on September 23, 2008, Applicant's engineer, BME Associates, made a presentation on the modifications to the Project made in the proposed FEIS in response to comments including the decrease in the size of the Marine Club's lakeside clubhouse and the number and configuration of docks and moorings for the Project as proposed, as well as modifications to the Alternative H design which places the clubhouse for the Marine Club on the west side of West Lake Road and a 1,040 square foot multi-purpose pump house on the east side of West Lake Road; and

WHEREAS, individually, and then collectively at a workshop meeting of this Board on October 8, 2008, the members of this Board reviewed the proposed FEIS, and the comments of Town staff and this Board's consultants on it, in relation to the Scope, the comments received during the public comment period, and the standards of the SEQRA regulations in order to determine whether or not to accept the document as adequate in scope and content for the purpose of completing the environmental review of the Project in accord with SEQRA and directed Applicant to revise the proposed FEIS in a number of ways to better respond to the comments received and then resubmit the proposed FEIS, with such modifications and additions to the FEIS document that this Board required in order to accept the FEIS as adequate; and

WHEREAS, the Applicant has submitted a revised proposed FEIS on October 15, 2008 that includes sufficient revisions to address the concerns raised by this Board

BE IT FURTHER RESOLVED, that Applicant is hereby directed to post the FEIS on a publicly-available Internet website, and to provide the Town Clerk with the Uniform Resource Locator (URL) address of the website on the World Wide Web where the FEIS is posted; and

BE IT FURTHER RESOLVED, that the Secretary to this Board is hereby directed to promptly arrange for the filing of a public notice of the completion and acceptance of the FEIS in the Daily Messenger newspaper and the Environmental Notice Bulletin; and

BE IT FURTHER RESOLVED, that the Secretary to this Board is hereby directed to file a copy of the FEIS and notice of completion of the FEIS, with the Supervisor of the Town of Canandaigua, with this Board, with all involved agencies, with any person who has requested a copy, with Applicant, with the Wood Public Library, and with the Albany office of the New York State Department of Environmental Conservation; and

BE IT FURTHER RESOLVED, that the Secretary to this Board is hereby directed to mail to the interested parties a notification of the completion of this FEIS and its availability for review at the Wood Public Library and via connection to the Town's website; and

BE IT FURTHER RESOLVED, that the Secretary to this Board is hereby directed to maintain in a readily accessible file the adopted Full Environmental Assessment Form, the DEIS, the FEIS, this Resolution and all other SEQRA documents and the Secretary shall make such documents available to the public upon request, and

BE IT FINALLY RESOLVED, that this Board will hold a meeting on Thursday, October 30, 2008, commencing at 6:30 p.m., to consider the relevant environmental impacts, facts and conclusions disclosed in the FEIS, as well as to continue its joint public hearing on the Project's preliminary subdivision, site plan and special use permit applications.

TOWN PLANNING BOARD VOTES:

Thomas Knapp	--aye
Joseph Maslyn	--aye
Robert Mincer	--aye
Thomas Schwartz	--aye
Patricia VanDyne	--aye

YEAS: 5

NAYS: 0

This Resolution was thereupon declared duly adopted.

DATED: October 16, 2008

TOWN OF CANANDAIGUA PLANNING BOARD

Findings

This Board's environmental review of the proposed action has included the preparation of comprehensive draft and final environmental impact statements ("DEIS" and "FEIS", respectively). Both the DEIS and the FEIS were prepared in accordance with a scoping document dated April 2006 ("Revised Scope") that identified the potentially significant adverse environmental impacts of the Project. The impact statements evaluated those potentially significant adverse environmental impacts and identified measures to avoid or mitigate them. Based on the evaluation and analysis presented in the impact statements, this Board makes the following findings of facts and conclusions regarding the proposed action:

A. Purpose, Need and Benefits of the Proposed Action.

RSM West Lake Road LLC and RSM Development, LLC (the "Applicant") proposes to develop the Project to serve the market demand for families that desire both an upscale residence in a setting with limited views of the Lake and private club access to lakeside amenities, such as boating, sunning, scenic views, and other recreational and social activities that take advantage of a lakeside location. Two critical elements necessary to satisfy this demand are: (1) residential architecture, design and landscaping that complement the site's naturally desirable setting; and (2) private clubhouse, boat slips and other amenities in close proximity to Canandaigua Lake.

The Project is designed to be of sufficiently high quality that prospective residents will pay purchase prices that will allow the Applicant to recoup the considerable expenses incurred to acquire both properties comprising the site and to develop the Project in accordance with high standards that respect the site's scenic location and ecological features.

The Town of Canandaigua will benefit from the Project because it offers its residents a unique lifestyle with architecture, design, and uses that complement the scenic lakeside setting of the neighborhood and preservation of woodlands, wetlands, steep slopes, and other lands through conservation easements. In addition, the Project will eliminate the utilitarian commercial marina buildings, on-land boat storage, and unregulated vehicular and boating traffic associated with the present nonconforming commercial marina. Furthermore, the demolition of the present marina's office building will allow for a more complete environmental remediation of the petroleum contamination at the existing marina through excavation and removal of the impacted soils that are located beneath that building.

The community will also benefit from a net increase in tax revenues that is projected to consist of more than \$2 million dollars per year. See DEIS Appendix K, Feasibility Study and Analysis performed by the appraisal firm of Bruckner, Tillet, Rossi, Cahill & Leggett. Moreover, although the phased build-out of the development is expected to take approximately seven years, the annual real property tax revenues are expected to be well over one million dollars after completion of the first phase of 25 homes, which is anticipated to occur by year three. The fully developed Project would contribute approximately \$1,100,000 per year in school taxes alone; a projected tax contribution per student of \$16,200. This Board finds that the projected tax benefit will exceed the cost of all increased services demanded as a result of this project.

other than one 10 ft. x10 ft. x10 ft. accessory building to be constructed on the lakeside portion of the lot, and the Zoning Code applicable to accessory structures would prohibit any utilities other than electricity from servicing the structure.

The principal uses permitted in the SCR-1 are: 1) single-family dwellings; 2) two-family dwellings in conservation subdivisions established pursuant to Town Code §105-518; 3) certain farm operations in established agricultural districts; and 4) public buildings and grounds. The maximum permissible density in the SCR-1 is one dwelling unit per acre of land. SCR-1 land, however, is subject to additional "conservation subdivision" provisions which are intended "to achieve a balance between well-designed residential development, meaningful open space conservation, and natural resource protection," including the preservation "of environmentally and scenically significant undeveloped land." Zoning Code §105-518.A. The conservation subdivision rules require the setting aside as "constrained land" areas containing certain ecological features and the further setting aside of an additional 40% of the unconstrained land for preservation via conservation easements. The density of residential lots that may be placed on the SCR-1 zoned portion of the Site may be determined through either a base density calculation method that is based on the size of the area and the amount of "constrained land," or, in the alternative, via the use of a "yield plan" lay-out drawing that the Planning Board determines to be a realistic depiction of a development pattern that could reasonably be implemented under conventional subdivision review.

The Canandaigua Lake Uniform Docking and Mooring Law (UDML) regulates the placement of docking and mooring facilities for boats in Canandaigua Lake. It is a uniform law that has been adopted by all six lakeside municipalities and approved by State agencies in accord with NYS Navigation Law §46-a(4). The UDML sets the maximum permissible number of in-water docking and mooring spaces based on the lineal feet of the adjacent upland parcel's shoreline and on whether the use of that upland parcel is in the "Residential Land Use Category," or the "All Other Land Uses Category." The Zoning Officer has determined that the maximum number of in water berthing spaces for the German Brother's parcel under the "All Other Land Uses Category" is 195, comprised of 110 dock slips and 85 moorings. This Board is required to conduct site plan review of all applications for the placement of docking and mooring facilities under the "All Other Land Uses Category." UDML §44-7.G.

b. Present uses.

The Johnson property contains an empty circa 1860 home along County Road 16. There are presently no docking or mooring facilities on or adjacent to the Johnson property. The former Johnson property presently complies with the Town's zoning requirements because it consists of one lot for a single-family residence, a principal use that is permitted in both the RLD and SCR-1 zoning districts. Under the Zoning Code, a new Certificate of Compliance would be necessary prior to occupation of the house because it has been vacant for more than 12 months. Zoning Code §105-302.R. Restoration of the house would also require the issuance of a building permit by the Town Code Enforcement Officer. A site development permit would be required if the restoration entailed any structural alterations to the house. Town Zoning Code §105-1102.A.

Of the 68 new upscale single-family residences, 55 will be constructed entirely within the approximately 58.2-acre portion of the Johnson property that is zoned SCR-1. These homes will be clustered in a layout that is designed to preserve wetlands, woodlands, slopes and open space to the extent practicable by means of a binding conservation easement in favor of the Town of Canandaigua and the HOA, where applicable ("Conserved Land"). Some of the Conserved Land will consist of portions of the individual residential lots. The rest of the Conserved Land will consist of a parcel owned by the homeowners association ("HOA") that surrounds the residential lots. The HOA lot in the residential portion of the Project will be separate from the 2 acre lot upon which the Marine Club will be constructed, which will also be owned by the HOA but not part of the Conserved Land.

Approximately 27.84 acres of Conserved Lands will be preserved on the SCR-1 zoned portion of the Johnson property. However, if any necessary variances are granted by the Town of Canandaigua Zoning Board of Appeals ("ZBA") for the proposed design to be approved, the Conserved Land within the SCR-1 portion of the site will be reduced by 4.63, and in lieu of those 4.63 acres, another 7.54 acres will be preserved on the RLD portion. In that case, the Conserved Land will total 30.75 acres, including 13.56 acres of HOA land and 17.19 acres of the individual residential lots. The Conserved Land will be dedicated via a conservation easement recorded with the County Clerk and permanently enforceable by the Town against the HOA, where applicable, and both the initial and all subsequent owners of the residential lots. Each deed for a residential lot that contains Conserved Land will be required to recite that fact and reference the conservation easement recorded with the County Clerk.

Thirteen new residential lots, in addition to a lot containing the existing house, are proposed for the RLD zoned portion of the Project. Because the Applicant proposes to discontinue the current practice of dry docking 35 boats on the inland side of the German Brothers commercial marina property, 2 residential lots will be subdivided from the portion of the German Brothers property that is located on the west side of County Road 16. As this Board elects to approve a special use permit and site plan for the Marine Club that places its clubhouse on the inland side of County Road 16, one of the previously proposed residential lots (Lot #1) would not be created and instead be allocated to the Marine Club for the clubhouse and only 2 residences will be developed out of the German Brothers property.

The remaining residences of the 14 residential lots proposed for the RLD-zoned portion of the site will be developed out of the Johnson parcel, and are of sufficient size and width to allow a home to be constructed wholly within the RLD zone in a way that meets all bulk requirements of the RLD. However, If the houses and other development for lots 7-15 are constructed wholly within the RLD as per the RLD requirements a number of large oak trees and additional woods behind the German Brothers Marina property will be removed in the process of grading around them. This would obviously provide these homes with better views of the Lake, but increase the visibility impact of this development from County Road 16 and the Lake. In order to preserve to the extent feasible more of the vegetation that could serve to buffer the views of these homes from the Lake, and preserve many of the large oak trees located behind the old farm house and the German Brothers property, these nine westernmost RLD-zoned lots could be treated as SCR-1 lots for bulk requirement purposes. The homes on each of those lots can be placed either partially, or just over the (arbitrary) SCR-1/RLD zoning boundary. This would

ft. homes would be more consistent with the remaining 55 homes in the SCR-1 district also located on Road "A" that are also 35 ft. in height.

The granting of these four variances, if required, would increase the vegetative buffer for approximately 90% of the Project site.

ii The Marine Club.

The Marine Club will be on one lot measuring approximately two acres to be subdivided from the German Brothers Marina property. The Applicant intends that the lot will be owned by the HOA and leased to the not-for-profit West Lake Marine Club, Inc. if the Applicant receives the requisite special use permit, approvals and any necessary variances to construct the Marine Club. If not, the Applicant or another entity affiliated with the Applicant, may continue to operate the commercial marina at the German Brothers property as a pre-existing, non-conforming use, and may choose to do business with the residents of the Project, provided that the new owner does not otherwise enlarge, extend or increase the present use.

The Marine Club as originally proposed was to consist of a 4,000 sq. ft. lakeside clubhouse (with a 1,500 sq. ft. sundeck dock) and a 750 sq. ft. lakeside pump house with berthing facilities for 125 boats, consisting of 90 slips and 35 moorings in the water adjacent to the Marine Club lot. The Marine Club includes 35 ft. flag pole with spreaders that will allow both the American Flag and signal flags for, among other things, storm warnings, to be displayed at a height that will be visible from the Lake above the sail boat masts at the docks and the roof line of any lakeside building. The commercial marina's two industrial buildings would be demolished. There would also have been an additional nine docks for visitor boats to be placed adjacent to the former Johnson property, as there is 447.42 lineal feet of shoreline.

In the FEIS, the Marine Club was modified in response to comments received on the DEIS to have either: (A) a 2,960 square foot inland clubhouse and a 1,040 square foot lakeside pump house and no sundeck dock on an enlarged Marine Club lot combining the initial 2 acres lot with former residential lot #1; or (B) a combined 2,980 square foot lakeside clubhouse/pump house with an approximately 400 sq.ft. sundeck dock. In addition, the adjusted Marine Club in the FEIS eliminated all the proposed moorings and provided, instead, docking slips for 110 boats (103 for members and 7 for visitors) representing only 56% of the maximum allowable in water boat storage under the UDML. Further, no docks or mooring at all would be placed or constructed in front of the former Johnson property. This modification resulted in a reduction of 15 berthing spaces from the initially proposed 125 in-water slips, and the permanent preservation of the Johnson parcel shoreline in its natural state. It also approximates the number of boats currently stored at the commercial marina. Although it increases the number of boats stored in the water from 68 to 103, it comprises a 1.1 acre reduction in the area of the Lake surface devoted to berthing at the commercial marina because of the elimination of the moorings. Additional Marine Club facilities are similar to, but will be used less intensely than the existing commercial marina's facilities, including a seasonal boat launch and boat lift, a gas dock for member boat refueling and designated off-road accessory parking.

Club, including without limitation, minimizing the impacts on traffic flow along County Road 16 and views to and from the Lake, to be a PWORF or SC special permit use, and the granting a special use permit for the Marine Club will not result in any significant adverse impact on the environment. In addition, the special permit use will be a less intense use of the commercial marina property than presently occurs.

However, the granting of the proposed variances by the ZBA would make it practicable to further mitigate adverse environmental impacts, which this Board would prefer to see, and recommends.

With the clubhouse placed inland, the lakeside pump house has bathrooms, showers, lockers and equipment storage for members using their boats, in addition to an office for the gas dock attendant. The pump house would be located in the same general location as the existing 40 ft. x 40 ft. boat repair shop, but would be significantly smaller (1,040 sq.ft. vs. the 1,600 sq.ft.) and farther back from the Lake. Similarly, the attendant's office needs to be placed lakeside near the gas dock so that fuel dispensing and dock use can be monitored and assisted. The bathrooms, showers, lockers and equipment storage for the members also need to be placed lakeside so that the boaters will not have to make repeated crossings of County Road 16 for human comfort while using their boats. Fewer crossings of County Road 16 by users of the boats will increase the safety for the users and lessen the impact on vehicular traffic along County Road 16. The clubhouse on the other hand is best located on the inland side of County Road 16 because the members and their guests will not have to cross County Road 16 to get from the larger, 45 car parking lot to the clubhouse during winter months when boats are not in use or when they are attending the clubhouse for purely social functions. In addition, the inland location keeps any people gathered at the clubhouse farther away from the gas dispensing equipment.

The design alternative that has a 2,980 square foot lakeside clubhouse/pump house does not comply with many of the area standards for a PWORF or SC special permit. It would need variances to place the building 38 ft. from the right-of-way of County Road 16 and 4 ft. from the Lake's mean high water line. The Zoning Code requires a front setback of 60 ft., a rear setback of 40 ft. and general lakeside structure setback of 25 ft. Although Applicant has indicated a preference for the lakeside clubhouse/pump house, this Planning Board determined that the inland clubhouse configuration mitigated the potential adverse impacts from the Marine Club to the maximum extent practicable if the ZBA granted the requisite area variances as we recommend.

This Board does find that the inland clubhouse alternative design mitigates the potential adverse impacts from the Marine Club to the maximum extent practicable. It is the safer design and one that also allows better views of the Lake from County Road 16. This Board prefers the further mitigation that would occur if the ZBA were to grant four area variances, if necessary. These variances are necessary to: (a) place off-street parking in what is technically the front or side yards of the Marine Club lot; (b) construct a lakeside multi-purpose 1,040 square feet, approximately 16-foot high pump house in excess of the accessory building maximum size and height standards of 100 sq.ft. and 10 ft. height; (c) install a telephone, sanitary sewer connection, and water for restrooms, showers and the gas dock attendant office in the pump house in excess

First, the Marine Club is consistent with the goals, objectives and policies of Town's Comprehensive Plan and with the purposes set forth in the Zoning Code because the applicable Zoning Code specifically allows for PWORF or SC uses in the RLD. Further, special permitted uses are favored over the continuation of pre-existing non-conforming uses. If the Marine Club does not obtain a special permit, then the commercial marina use will be continued at the German Brothers Marina property despite the property being of insufficient size to comply with the Zoning Code's standards for vehicle and trailer parking, to properly accommodate off-street parking, and to locate buildings sufficiently back from the Lake and the street, and its use of flood lights and loudspeaker system. The granting of a special permit will also end the present use of the shoulders along both sides of County Road 16 by the customers of the commercial marina and their dry docked boats consistent with the Comprehensive Plan's call to minimize the number of access points onto collector roads within the Town's Southern Corridor (2003 Comprehensive Plan, pp. IV-7, IV-12). The HOA will prohibit use of roadside parking along County Road 16 by its members for vehicle and trailer parking.

Moreover, consistent with the Comprehensive Plan's call for a continuation of residential zoning for the Southern Corridor (2003 Comprehensive Plan, pp. IV-9, IV-18), the proposed Marine Club will discontinue the German Brothers Marina's current inland boat storage area on the west side of County Road 16 and replace that non-conforming use with two single-family dwellings and a 2,960 sq.ft. clubhouse (of similar size to a residence) that is more compatible in size and appearance with residences in the area, and a parking lot that is appropriately landscaped and buffered from adjoining residential lots and County Road 16.

The Marine Club also complies with many of the recommendations in the Shoreline Development Guidelines by using softer design approaches and increasing the a natural view of the shoreline from the Lake; by using building setbacks to allow for additional natural vegetative screening and to decrease stormwater runoff and erosion potential; by landscaping the parking lot and shoreline to the north and south of the pump house to screen development along the Lake, and by preserving untouched the existing shoreline along the Johnson parcel. As noted in the guidelines, the pump house is a "structure located directly on the shoreline," is "designed in a manner that does not have a negative visual impact."

Second, the Marine Club with the inland clubhouse and lakeside pump house will comply with the New York State Uniform Fire Prevention and Building Code (Uniform Code). The gas dock will also comply with Uniform Code for separation from other structures. The gas pumps will be located at least 25 ft. from the pump house. The clubhouse where people might congregate will be located across the road from the gas pumps. In addition, per the Town's usual procedures, the Code Enforcement Officer will not issue a building permit and certificate of occupancy for the Marine Club if there is any element that does not comply with the code.

Third, the location, size, use and operation of the Marine Club are compatible with orderly development in the RLD zoning district. The Marine Club will improve the shoreline and hillside aesthetics because of the lack of dry boat storage. The Marine Club's buildings would be smaller and less intrusive than the present commercial marina. Its docks would occupy less lake surface than the commercial marina's docks and moorings. The present marina extends 434 ft. into the Lake from the shore and occupies 4.0 acres of lake surface. The proposed Marine

It is up to the ZBA, not this Board, to determine whether the proposed area variances for the Marine Club satisfy the requisite five-factor balancing test set forth in the NYS Town Law. Nevertheless, as part of its environmental review of the Marine Club, this Board has taken a hard look at the potential impacts of the requested area variances for the Marine Club and accessory structure, and finds that as modified through these variances, they would create no adverse impacts due to the location of the pump house at the widest part of the lakeside portion of the Marine Club lot and the ability of the required landscaping to screen and buffer the parking lots. This Planning Board recommends in favor of the ZBA granting these four area variances, consistent with the Ontario County Planning Board's report of August 13, 2008 and October 8, 2008.

iii. Canandaigua Lake Uniform Docking and Mooring Law (UDML).

The placement of docking and other boating facilities on the lakeward side of the mean high water line is governed by the UDML. As determined by the Town's Zoning Officer and found by the State Supreme Court, which decision was affirmed by the Appellate Division, Fourth Department on October 3, 2008, this Board finds that the Marine Club is allocated docks and moorings under the UDML's "All Other Land Use" category, which includes marinas and yacht clubs.

The design of the Marine Club has been modified to now have 110 dock slips adjacent to the Marine Club lot. The Project now includes 103 slips for Marine Club members and 7 slips for visitors, decreasing the number of spaces requested from 125 to 110. The number of boat spaces for members is equal to the boat access currently provided at German Brothers Marina. The 7 visitor slips would accommodate boats visiting from elsewhere on the Lake and would not provide new access to the Lake.

The UDML allocates the maximum number of permissible docking and mooring spaces based on the category of land use of the upland parcel and its lineal feet of shoreline. The Marine Club lot has \pm 587 lineal feet of lakeshore measured at the tie line between the property's lot lines at the Lake's mean high water mark. The UDML's All Other Land Use category allows 50 dock slips for the first 250 lineal feet, plus 10 slips for each additional 50 lineal feet. The Marine Club is allowed a total of 110 dock slips. Although deleted from the modified proposal, the UDML would also have allowed an additional 85 moorings to be constructed.

The Marine Club's proposed docking facilities comply with the numerical limit on docking spaces and with the other dimensional requirements of the UDML. The boats docked at the Marine Club will have little or no effect on the density of boat traffic on the Lake even in a worst-case scenario, that includes assumptions about future access by current users of the commercial marina that are not realistic. A flyover conducted on Labor Day found the actual boating density for boats underway in the more crowded northern third of the Lake to be at least 14.2 acres per boat in motion, which is well in excess of the 6-8 acre per power or sail boat standard used by the State of New York and as a basis for the development of the UDML. At peak use periods, the Project would be expected to increase the number of boats on the Lake by about 16 boats, resulting in a 1% increase in boating density. There is, therefore, inadequate

slopes, existing easements, or encumbrances, and if not served by a public sewer, the suitability of soils for subsurface sewage disposal.

Since the Project is served by public sewer, the Applicant's Yield Plan did not have to take into account the suitability of soils. Additionally, unlike the "constrained land" analysis required for determining the final lay-out in the second step of the conservation subdivision process, the Yield Plan did not have to take into account the presence of woodlands. The Yield Plan methodology simply requires that wetlands, floodplains, steep slopes, existing easements, and encumbrances be "taken into account" in the layout. Applicant's Yield Plan, nevertheless, provides for the preservation of approximately five acres of contiguous woodlands within the SCR-1 zoned portion of the Project site, does not impact the floodplains, steep slopes, and utility easements, and generally avoids the wetlands.

The proposed permissible density under the Applicant's Yield Plan is 58 residential dwellings in the SCR-1 zone. This number is consistent with Schedule I of the Zoning Code that states in a footnote that density in the SCR-1 "shall not exceed one (1) dwelling unit per acre of land." This density of 58 single family dwelling units remains applicable even though the actual layout must subsequently be adjusted to preserve "constrained land" and additional amounts of unconstrained land in accordance with the rest of the SCR-1 conservation subdivision process. The Project as proposed; however, will develop 55 lots in the SCR-1 portion of the Johnson property, which this Board finds to be a more appropriate density given the totality of the environmental conditions.

The second step of the conservation subdivision process consists of setting aside the calculated amount of Conserved Land for preservation via dedicated conservation easements. The "constrained lands" present in the SCR-1 zoned portion of the Project site include 1.96 acres of wetlands, 0.64 acres of permanent utility easements, and 8.74 acres of woodlands (only 5.0 of which count toward the conserved land calculation), for a total of 7.6 acres of constrained land. After adding to that total 40% of the remaining unconstrained land in the 58.2 acres of SCR-1 zoned land, a total of 27.84 acres of Conserved Land will be preserved by a conservation easement dedicated to the Town and the HOA absent a granting of the previously discussed variances. All of the constrained land will be part of the Conserved Land except 0.06 acre of the larger 1.27-acre wetland that will be filled to secure backyards for two residential lots (lots 35 and 36). This Board would prefer to preserve some of the higher environmental valued land in the RLD in lieu of the SCR-1 land if the ZBA were to grant any requisite variances.

v. Variances for Residences

Four area variances, if needed and granted by the ZBA, will preserve more trees in the RLD buffering approximately 90% of the new homes in the Project from views from County Road 16 and across the Lake, will allow the shifting of nine new homes in the RLD slightly into the SCR-1 portion of the site and farther from County Road 16. This will allow these nine homes to be built in a manner consistent with the bulk requirements for the adjoining SCR-1 homes across the street. Conversely, if the ZBA does not grant requisite variances, many more trees would need to be removed to construct the homes in the RLD portion of the lots with the consequence that those homes will be far more visible from County Road 16 and the Lake.

stormwater management system that will improve the quantity of stormwater run-off over existing conditions and ensure that the quality of stormwater run-off meets NYSDEC requirements.

The design and layout allowed by these four area variances is also consistent with the recommendations for this "Southern Corridor" portion of the Town that are included in the Comprehensive Plan (pp. IV-8 – IV-10), including "flexible subdivision design that conserves important natural...and open space resources"; reducing the density from the density prompted by minimum lots; promoting subdivisions with internal roads and/or shared access in order to limit the number of accesses to lakeside roads; creating a "significant network of open land" within the overall Project to enhance the value of the homes within the subdivision; and setting aside "perhaps 40% to 50%" of the land for open space and conservation, in this case, after the variance, 42% of the residential property is set aside.

Comparative drawings in FEIS Exhibits 41A, 41B and 41C, and 42, with and without the requested variances, illustrated that there are no other practicable means, other than the requested variances, to preserve more of the oaks behind the old farm house and the woods behind the German Brothers property. Although one alternative reviewed in the alternatives section of the DEIS (providing alternate road access routes through the existing potentially historically significant old farm house) would save more of the oak trees and other buffer trees, it would have greater environmental impacts closer to County Road 16, significantly increasing the grading/erosion and visual impacts, and require removing a potentially significant historic structure.

The cumulative environmental effect of the ZBA granting these four area variances would be to improve environmental conditions in the neighborhood and RLD and SCR-1 districts by increasing the preservation of higher value woodlands in areas that are more valuable to serve as an aesthetic and physical buffer to approximately 90% of the new homes of the Project. The County Planning Board recommended approval of the requested variances. Having analyzed the relative conservation values of the land which might be conserved, and should be protected from development by conservation easement, this Planning Board recommends in favor of the ZBA granting the variances for locating the nine homes partially or just over the SCR-1/RLD boundary line without impacting the SCR-1 density calculation, placing 7.54 acres of the high value RLD lands in the Conserved Land in lieu of 4.63 acres of SCR-1 land and increasing the height of the buildings to 35 ft. and decreasing the front setback to 30 ft. from the right-of-way to match the other SCR-1 homes, all of which will allow the increased buffering of approximately 90% of the new homes from the Lake and County Road 16.

vi. Limited Development Overlay

The Site contains approximately 31.7 acres of land with 10% or greater slopes, and approximately 6.17 acres of land with 20% or greater slopes. There is also 1.96 acres of wetlands located in two areas within the western portion of the property, and one of the wetland areas surrounds a natural spring. These features place portions of the Project within a Limited Development Overlay (LDO) district. Development in the LDO requires issuance of an LDO

residences, leaving 8.1 acres undisturbed. If granted by the ZBA, the above described area variances will allow the preservation of the even more of the sloped and wooded portions of the RLD. Among the special measures that will be utilized during construction in this area in order to maintain soil stability and prevent erosion that could adversely impact the Lake, is the separating of the construction of the access road into even smaller phases that will be stabilized before moving to subsequent phases, where disturbance of more steeply sloped areas will be limited to phases of 1.3 acres or smaller. The plant life on the steep slopes of the site in areas not to be disturbed will be protected and retained. Steep sloped areas that are disturbed will be re-vegetated with native plant materials and ground covers.

Although insufficient room is available to construct stormwater management ponds having sufficient capacity to reduce the rate of runoff from the lower portion of the RLD zoned lands at the site, the stormwater management ponds in the upper portions of the site have been designed to over-detain stormwater runoff, so that stormwater runoff from the lower areas of the site can run off from the site undetained without exceeding the existing conditions' runoff rates. In addition, in the lower areas of the site, where insufficient room is available to construct stormwater management ponds of the size necessary to improve water quality, CDS™ units will be installed for that purpose. Although the stormwater will likely have more regulated materials than the current flows from the fallow fields, the stormwater runoff will collectively meet or exceed the applicable water quality standards for pollutant removal via the extended detention, treatment and wetland vegetation provided within the proposed stormwater management facilities.

In this manner, the Project's development of the land to which the LDO applies is designed in a way that recognizes and takes into account the unique natural aspects of the steeply sloped area and adequately avoids triggering any of the adverse impacts that would bar issuance of a LDO Permit.

The construction of the Marine Club's parking lot will impact approximately 0.27 acres of land with slopes of 10% or more. The parking lot has been laid out with a terraced design to take advantage of the pre-existing commercial marina's parking and boat storage terracing, and with vegetative buffering, in a way that is designed to preserve as much steeply sloped area as is practicable. Numerous measures will be utilized during construction in this area in order to prevent erosion that could adversely impact the Lake, including: perimeter silt fences, straw bales and stone check dams along drainage swales, use of existing vegetation for additional filtration where possible, establishing new vegetation as soon as possible following earthwork operations; limiting the disturbance of more steeply sloped areas; stabilizing slopes with geotextiles or jute mesh; and immediately seeding the areas to prompt re-vegetation. At the request of this Board, for the FEIS the Applicant modified the plans for 13 spaces in the upper portion of the parking area to consist of reinforced earth and grass to provide overflow parking but decrease the amount of impervious surface. The Marine Club's development of LDO lands recognizes and takes into account the unique natural aspects of the sloped area and avoids triggering any of the ten adverse impacts listed at Zoning Code §105-514.E(4)(d).

Nevertheless, this Board will provide its comments to the Town of Canandaigua Code Enforcement Officer on the conformance of the Project with the requirements of Zoning Code

8 acre per power or sail boat standard used by the State of New York and as a basis for the development of the Dock Law. Furthermore, the flyover showed that the number of boats that the DEIS estimated to be on the Lake at peak use in 2008 (859 to 947 boats) is 20-32% higher than the number actually observed on Labor Day (716 boats).

Since the Marine Club will have 103 boats berthed in the water which is a 35 boat increase over the 68 boats berthed in the water at the commercial marina, the Marine Club will take a number of measures to enhance safe and free navigation in the vicinity of the docking facilities. The Marine Club will restrict the speed of members' boats by implementing a no-wake zone within 200 ft. of the Club's docking facilities and requiring members to keep their boats to under 5 miles per hour when entering or exiting the Marine Club facility in order to minimize the potential for conflicts between powered and non-powered watercraft. In addition, larger boats will be docked furthest from the shore and smaller, more agile watercraft will be docked closer to shore.

There is also a concern that the wakes from the boats will increase erosion of the shoreline to the north and south of the Marine Club. While there should not be any increase over the shoreline erosion attributable to the 103 boats at the commercial marina, in order to mitigate shoreline erosion, the Marine Club docks have been configured to prevent boats from entering the facility from along the shoreline to the north or south. The docking facilities can only be entered directly from the deep water to the east of the Marine Club.

To mitigate its impacts on free navigation of the Lake of its docks, the new docks will end 100 feet closer to shore than the existing moorings do. The outermost perimeter of the proposed docking facilities now comprises an area of 2.9 acres. The existing docking facilities cover an area of approximately 4 acres. Thus, the Project will reduce the Lake surface covered by the docking facility by 1.1 acres (28%), and contribute those acres of surface to the freely navigable portion of the Lake.

In response to concerns expressed about nuisance noise and exhaust associated with the recreational use of personal water craft (PWC), the Marine Club will restrict the storage of PWC to only one per single dock slip (where it will be either wet slipped or cradled), and will prohibit the daily launching and retrieval of PWC from the Club's seasonal launch and boat lift. PWC will not be stored in the Marine Club buildings. To further mitigate potential water quality impacts from PWC use, the rules of the homeowners association will prohibit both boats and PWC with 2-stroke engines.

Although the Marine Club's watercraft traffic trips are expected to be lower than those associated with the current commercial marina, wave and boat wake action from watercraft will nevertheless continue to have some impact on nearby shoreline and may facilitate shoreline erosion and disturb sediment on the Lake bottom in shallow areas. It is expected that the impacts will be reduced compared to existing conditions, due to the actual reduction in boat trips. In addition to regulating boat speeds adjacent to the dock facilities of the Marine Club to mitigate the impact on the immediate neighbors, Lake and shoreline in the vicinity, the Marine Club will no longer provide public refueling, thereby eliminating hundreds of boat trips into the area per week. There will also be a reduction in boat and automobile traffic from closing the commercial

and recreation fee, currently \$1000, will be paid for each lot as it is developed for use in acquiring and/or developing new park and recreational facilities that are on the Town's priority list.

Other than hunting, the private recreational opportunities currently available on the site would continue to be available in the future after construction of the Project. The public recreational activities available at the commercial marina will not be available to the public after discontinuance of the German Brothers Marina use. It is not practicable to mitigate the loss of public recreational activities from the discontinuance of the commercial marina. The opening of either the gas dock or the berthing slips to the public or town residents would create other potential adverse impacts upon the immediate neighbors, Lake and shoreline.

3. Traffic and Transportation.

In addition to the boat traffic discussed above, the Project will generate vehicular and pedestrian traffic. Vehicular traffic generated from the Project will be distributed through the existing roadway network serving the Town's Southern Corridor. Sixty-seven of the proposed residential lots will access County Road 16 (County Road 16) via Road "A," a proposed dedicated looped roadway. The remaining two residential lots will access County Road 16 via a common private driveway shared with the inland clubhouse for the Marine Club. The clubhouse, pump house and boat docks for the Marine Club will access County Road 16 from three access points selected for their good sight lines.

A traffic assessment was completed which analyzed the traffic at the existing intersection of County Road 16 and Wyffels Road (900 feet north of the site), and the proposed intersection of dedicated Road "A" with County Road 16. The current and projected Levels of Service (LOS) were analyzed for those two intersections during the weekday a.m. and p.m. peak hours to account for typical commuter traffic peaks, and the Friday p.m. and Saturday a.m. peak hours were analyzed to account for Lake-related traffic peaks. The traffic study concluded that the Wyffels Road intersection with County Road 16 currently operates at very desirable LOS A level and will continue to do so following development of the subdivision under all conditions. The Road "A" intersection with County Road 16 will operate at LOS B or better at full build out, which indicates acceptable minor delays.

The existing roadways in the vicinity of the Project operate well below capacity, and the additional trips generated from the proposed subdivision will have a minimal effect on the surrounding highways. It is anticipated that traffic volumes on County Road 16 may actually be mitigated slightly after completion of the Marine Club during times when the existing commercial marina draws the most vehicles. In addition, the Marine Club will further mitigate traffic impacts by also improving conditions along County Road 16. These improvements include the following: providing adequate off-street parking for the clubhouse, pump house and boats; prohibiting parking on the road's shoulder; limiting access points to the parking, access road and driveways to the locations with the best sight lines; and designating safe pedestrian crossings with signage and pavement markings.

The nautically themed inland clubhouse and the proposed 1,040 sq.ft. lakeside pump house buildings replacing the existing marina's two utilitarian buildings and dry dock boat storage improve the aesthetics. Although the inland clubhouse is more visible and noticeable when viewed from the Lake or the east side of the Lake than the lakeside clubhouse, the totality of the clubhouse by the lakeside and a home on lot #1 on the west side of County Road 16 blends less into the landscape than the inland clubhouse and lakeside pump house. This is because the clubhouse is likely smaller than a home that would be located on this lot. Although landscaping treatments in front of the inland clubhouse might "soften" its visual appearance further, there is no existing vegetation at this location to provide screening and new vegetation at this location would block views of the Lake from the clubhouse. It is not practical to further mitigate the visibility of the clubhouse.

Nevertheless, native vegetation is being planted to the north and south of the pump house, to enhance shoreline views and screen other parts of development along the Lake where it is practical to do so in accordance with the Town's Shoreline Development Guidelines. There is no requirement, however, that significant screening vegetation be installed to take away existing unobstructed views along County Road 16 or elsewhere in the Project. As shown on the exhibits, many existing homes in the neighborhood have unobstructed views of the Lake.

In addition, replacing the existing marina buildings which block about 90 linear feet of Lake from view with the pump house building that has 26 ft. of frontage along the shoreline opens up the view of the Lake from County Road 16. The removal of hillside boat storage and the replacement of the old utilitarian marina structures with two nautically-themed architecturally detailed structures will greatly improve the shoreline and hillside aesthetics. The proposed new structures are much more aesthetically appealing and will blend with the natural setting better than the existing buildings.

Portions of the new homes and rooflines will also be visible from vantage points on and across the Lake from the site. Mitigating against this visibility, the architectural renderings included in the DEIS show the proposed new homes will have a pleasing aesthetic character. The proposed homes will be constructed of varied natural materials, and have varied massing and landscaping. It should be noted, however, that the homes that will be far more visible from the middle of and eastern side of the Lake are not those of the Project, but rather those in the Lakewood Meadows development (along Riley's Run and Acorn Hill) off-site to the west of the Johnson property. They are approximately 35 to 40 ft. higher than the homes within the Project due to the natural topography.

The Project will maintain a large portion of existing trees and vegetation along the County Road 16 frontage and along the western boundary of the German Brothers property. The existing trees and proposed additional landscaping in these areas will provide a substantial visual buffer between the Canandaigua Lake and County Road 16 viewsheds, and the 64 homes proposed for the interior of the Johnson property.

Only the homes on Lots 2-6, which includes the existing old farmhouse on Lot 4, and possibly lots 69 and 70, will be marginally visible from County Road 16 through the filter of the trees to remain, with the remaining proposed homes screened completely from view due to the

Homes on Lots 2-6, and possibly lots 69 and 70, will be visible to boaters on Canandaigua Lake and motorists and pedestrians along County Road 16. The homes on lots 2, 3, 5, and 6 will likely have walkout basements to decrease the amount of earthwork necessary to position the homes on the lots. These homes will look out onto Canandaigua Lake from the rear, which is potentially the less attractive side of the home. However, the architecture of these homes will be consistent with existing homes around the Lake, where the "front" of the home is the side facing the Lake. The basement level facades facing the Lake will be finished with architectural siding materials, window and door treatments consistent with the upper floor(s) of the house. In addition, they will be partially screened by existing trees to remain.

Uses for the rear yards of the homes will also be restricted to improve the appearance, neighbor to neighbor and from Canandaigua Lake. Outside storage of lawn maintenance equipment and tools and aboveground pools will not be allowed by HOA regulations. The placement of ground mounted satellite dishes will be restricted by the HOA.

Although no other walkout basements from other homes in the subdivision will likely be visible from the Lake due to vegetative buffers, with possible exception of the winter months after the leaves have fallen when some may be slightly visible through the branches, all homes within the Project that have walkout basements will also have basement architecture that matches the rest of the house.

c. Nighttime visibility

Traffic traversing the main access road through the property, the clubhouse, pump house, boats and the docks of the Marine Club, and the 69 residential homes will increase the amount of light spillage from the site. To mitigate against lights from the Project and traffic on Road 'A' being visible off-site, the Project will be designed to be dark sky compliant and well landscaped to minimize fugitive light emissions. The use of the floodlights at the commercial marina will be discontinued. The Residences have been designed to maintain as much of the existing vegetative buffer areas along the boundaries of the site as possible, with tree removal limited to the minimum necessary to grade access to the site, to provide stormwater detention and to accommodate the individual building pads for the residential structures. The retained buffer areas, along with proposed additional landscaping, will mitigate the visibility of lights.

It is possible that lights, particularly vehicle lights, could be seen from across the Lake, especially during the winter months when leaves have fallen from deciduous trees and plants. During the summer months the lights will be minimally visible. Lighting photo simulations demonstrate that, while the 69 residences would certainly be noticeable as compared with the non-existent lighting in the current condition, they will not look atypical as compared to other areas along the Lake or "light up" the night sky.

The proposed lighting for the Residences is appropriate to the type of development proposed and consistent with a residential subdivision. There will be only two street light fixtures on the residential portion of the site: one fixture to be located at the intersection of Road "A" and County Road 16; and one fixture at the internal intersection of the Road "A" loop. These fixtures are the current approved Town of Canandaigua street lights. As further

containing soils located beneath the marina's current office building when it takes down the office building. Applicant is contractually bound to allow the German Brothers Marina to continue operating at the site until the fall of 2010. The Applicant anticipates being able to take down the existing 50 ft. x 27 ft. office building sometime after mid-summer 2010 and then remove the contaminated soils beneath the building pursuant to a plan approved by the New York State Department of Environmental Conservation.

Once the office building is demolished, it is anticipated that it will take approximately five weeks to remove the underlying building foundation, excavate the contaminated soil, conduct confirmatory sampling, transport the contaminated soil to an authorized off-site facility, and restore the excavated area with clean fill. If the demolition and remediation work is commenced before the end of the German Brothers Marina lease, on or about October 1, 2010, the German Brothers will be provided with use of a construction trailer to carry on the office and retail functions of the commercial marina. In any event, the clean-up would be completed by November 10, 2010.

If Applicant does not obtain the necessary approvals to develop the lakeside portion of the site, then the existing building will remain in place, and the Applicant will use an in situ technology, like soil vapor extraction or treatment with an oxygen releasing compound, to address the petroleum contamination. In that event, Applicant would submit a work plan to NYSDEC for addressing the contaminated soil with in situ technology within 6 months of Applicant obtaining its land use approvals for the remainder of the Project and acquiring title to the German Brothers marina parcel.

6. Phased Development.

The development of the Project will be phased in a way that will accommodate the exigencies of construction and marketing of high-end residences while avoiding or mitigating any adverse impacts associated with the transition of the site from a vacant farmstead and commercial marina to a 69-dwelling upscale residential subdivision and Marine Club.

Although the impact on public access to the Lake after the commercial marina closes could be partially mitigated by allowing the public to become annual members of the Marine Club and use its docks during the several years that it takes to complete full residential build-out, this Board has determined that such a mitigation measure is impractical because of the additional vehicular and boat traffic it would bring to the neighborhood at a time when the development was also bringing construction traffic to the neighborhood.

Following receipt of the necessary approvals, the Applicant will close on the purchase of the German Brothers Marina property and begin constructing the new boat slips as soon as it receives the necessary approvals from the Army Corps of Engineers and the NYS Office of General Services. It is anticipated that this construction may begin as soon as early 2009, prior to the start of the 2009 boating season. The existing German Brothers slips would be replaced and the existing moorings would be removed. German Brothers Marina would continue to operate as a tenant of the Applicant through the 2009 and 2010 boating seasons, with its customers using no more than the number of in-water boat spaces (68) currently provided at the

artifacts were recovered from the 1,082 shovel tests. No structures adjacent to Project site were identified as listed on the State or National Register of Historic Places. In addition, neither of two previous archeological surveys conducted within a 1.5 mile radius of the Project site produced findings of any cultural material.

The Project nevertheless includes the rehabilitation and sale of the old farm house (circa 1860) as a single family residence because the New York State Office of Parks, Recreation and Historic Preservation ("OPRHP") found that the farm house might meet the eligibility criteria for inclusion on the National Register under Criterion C, stating the home "appears to be architecturally significant as an intact, representative example of late Federal/early Greek Revival style domestic architecture in the Town of Canandaigua." OPRHP indicated that a final determination of effect for the Project on the farm house would be provided only after receipt of requested additional information. This information included a further project description, the area of potential effect, and photographs of structures 50 years or older and of the Project site surroundings. As of yet, the requested information has not been submitted and a final determination of effect has not been made. In the meantime, the Planning Board copied OPRHP in on the DEIS and FEIS, and invited OPRHP to offer comment on the DEIS during the comment period as one of the interested and involved agencies in the SEQRA process. OPRHP did not submit any comments on the DEIS. The farm house will be rehabilitated and sold as a single family dwelling unless, after further review, OPRHP determines that the farm house actually does not meet the eligibility criteria for inclusion on the National Register or that rehabilitation would not be appropriate.

There were no items of historic, archeological and cultural significance associated with the German Brothers Marina property.

8. Water Quality.

a. Wetlands and spring.

There are approximately 1.96 acres of total wetlands in the Project site. A natural spring and wetland area exists near the Johnson property's southwest corner. The wetland is approximately 1.27 acres in size. The spring has an ephemeral (intermittent) flow. The spring drains east along an intermittent drainage way to Canandaigua Lake. Another wetland area is located near the northwest property corner, approximately 0.69 acres in size, which drains northeast to adjoining properties.

Test pit excavations completed throughout the site did not indicate any additional areas of natural springs or high water tables. Perched groundwater was not encountered outside of the identified spring. Should any additional springs be encountered during construction, the developer and contractor will work with the Town of Canandaigua to provide a suitable solution, such as providing conveyance via pipe or ditch to the proposed storm sewer system.

The construction is designed to avoid interrupting the natural flow of groundwater to the wetland by limiting land disturbance along the south property boundary. The proposed subdivision layout preserves all but less than 0.1 acres of federally protected wetland areas

stormwater discharges. These facilities will allow for settlement of pollutants, filtration through vegetation, and extended detention with controlled release to the Lake. The ponds will be located in HOA-owned open space lands and will include upland meadow, wetland vegetation, and deep pool areas for the various stages of treatment. The two westernmost ponds will be connected, allowing for additional treatment of stormwater. Water quality in the lower portion of the site will be improved by continuous deflective separation (CDS™) units to mechanically separate debris and silt from stormwater.

Stormwater run-off from roof areas will be connected directly to the storm sewer system via downspouts and laterals. Runoff in road, driveway, and walk areas will be directed to gutter inlets along the dedicated access road, where a storm sewer will carry the drainage to stormwater management facilities for treatment and controlled discharge. With the treatment provided in the proposed stormwater management facilities, runoff rates should be similar to or lower than existing conditions at each of the discharges to Canandaigua Lake. The in-pond treatment for water quality will also improve water quality of stormwater discharges; however some degradation from existing conditions will still result.

The potential for erosion on the site is increased due to the disturbances required to construct the site improvements and homes. Because of the proximity to the Lake, many measures will be put in place to address and prevent erosion during and after Project construction. Also, site work will be completed in phases of approximately 10 acres or less, starting from the uppermost western portion of the site. The existing farm roads will be used to get the construction machinery to the upper portions of the site. Disturbing upland areas first will allow existing drainage ways and vegetation downhill to remain in place for filtration and natural erosion control. The first stages of earthwork within each phase will include excavation of stormwater management facilities and/or sediment basins. Work within the steep slope area near County Road 16 will be completed in several phases of approximately 1.3 acres, using the same method of beginning disturbance from the top of the slope. The only disturbances initially proposed in the eastern portion of the site will be the installation of a stabilized construction entrance and construction drives to access the upper, western portion of the site.

The stormwater management ponds have been enlarged where feasible to meet the NYSDEC's enhanced phosphorus removal guidelines. The CDS™ units on the lower portion of the site do not, however, reduce phosphorus loading. In order to mitigate phosphorus from the lower areas of the site where construction of stormwater management ponds are not possible due to topographic constraint, two additional measures will be undertaken. First, three small water quality improvement pocket ponds are proposed north and south of the proposed Marine Club parking areas and south of the Johnson farm house to provide some water quality volume for phosphorus removal. Second, the use of phosphorus-free fertilizers will be required by the HOA rules for maintenance of all HOA lands and all private lots within the subdivision as described above. For HOA-owned Conserved Land, a certified landscape contractor hired by the HOA will be instructed to use only phosphorus-free fertilizers. To maintain use of phosphorus-free fertilizers on private properties, the residents will be reminded of the phosphorus prohibition in the HOA Rules at community meetings and will be encouraged to contract with the HOA landscape contractor for maintenance of their private landscaping.

9. Noise/Odor.

Background noise levels in the community surrounding the Project are characterized by sounds of traffic on County Road 16, insects, birds, airplanes, and local street traffic. Boating sounds can also be heard at the site and are a factor at many of the locations adjacent to the site. Noise on the east side of the Lake opposite the Project is characterized by traffic on East Lake Road. Daytime weekday and weekend noise levels were found to be similar. Background noise levels in evening hours prior to 11:00 pm were found to be several decibels lower than daytime levels, due to reduced area traffic and an absence of most boating sounds.

Development of the Project has the potential to increase ambient noise and odor levels. Possible sources of noise and odor include road traffic, normal site maintenance such as lawn mowing, boat and PWC usage, boat fueling, use of the West Lake Marina Club and its clubhouse, and construction activities. Odor levels will be typical to those associated with the zoned uses and the size of the site. Moreover, the elimination of vehicle and boat traffic associated with the marina's commercial boat repair, maintenance, refueling and sales operations, docking, launching and recovery of transient boats, and dry-dock storage of 35 boats will result in a substantial reduction in vehicular and boat odors in the Project vicinity. Additionally, the use of electric-powered golf carts as well as pedestrian access is being promoted for members traveling to and from the Marine Club, which should result in a reduction odors from automobile usage.

Removal of vegetation could adversely impact the noise levels experienced at surrounding properties. Under existing conditions, peak noise levels are generated by traffic on County Road 16, operations at German Brothers Marina, and motor boat/PWC traffic. It is anticipated that these peak levels will not be exceeded by development of the Project once construction is completed, although noise levels will likely increase slightly during construction.

The Project will save as much of the natural vegetation as is practicable, including perimeter vegetation along the north, west and south property lines. If the ZBA grants the variances necessary to allow the residences for lots 7-15 to be built partially or just over the boundary line with the SCR-1 zone, then there will be an increase in the vegetative buffer and a decrease in the noise levels being observed off-site and on the Lake from the construction of those homes. Vegetation along County Road 16 will also be preserved where possible, with removal limited to that necessary to construct the access road, driveways to the five new lots fronting County Road 16, and the parking area for the West Lake Marine Club. New landscaping along the proposed road and throughout the site will partially mitigate for the vegetation removed.

Post-construction peak noise levels generated in the community will be determined primarily by the extent of boat and road traffic. Sounds emanated from the residential development will, for the most part, be masked by traffic noise along County Road 16. Sources of noise at the Marine Club will generate noise levels that are the same or not appreciably different from existing marina operation. This meets requirements of the Town of Canandaigua that the special use be no more objectionable with respect to noise.

The Project will inevitably create adverse effects to the surrounding environment and community. However, each adverse effect has been identified, analyzed and mitigation is proposed to compensate for the adverse impacts to the extent practicable. Those unavoidable impacts include: additional demands on the existing electric and natural gas distribution systems (sufficient capacity exists); energy being expended during the construction; additional demands water and sanitary sewer service from the water and sanitary sewer mains presently running along County Road 16 (sufficient capacity exists); a minimal reduction of air quality due to the additional vehicles on the site; the loss of vegetation; the creation of additional impervious surfaces; an increased noise level on the Johnson property during and following construction; a minor loss of natural habitat area, including for aquatic plants and animals from the additional docks; a change in grade from earthwork operations; filling of approximately 0.10 acre of a federal wetland located near the site's southwest corner; additional vehicular traffic on the road network and boat traffic on the Lake (sufficient capacity exists); and increase in demand for community services, snow plowing, police, fire, and schools (sufficient capacity exists).

11. Irreversible/Irretrievable Commitments of Environmental Resources

The proposed Project will result in the irreversible and irretrievable commitments of environmental resources, including usage of construction materials both renewable and non-renewable; use of energy; loss of less than 0.1 acres of wetland; loss of existing meadow, woods and some large oak trees; consumption of water by the residences; use of Lake water and surface for the Marine Club's boats; loss of natural habitat (30.75 acres of Conserved land still preserved); loss of potential farm land; loss of public access to Lake through commercial marina; and loss of potential public recreational, open space / scenic resources.

12. Cumulative Impacts and Growth Inducing Aspects

With the subsequent development of other nearby parcels, habitat for some species may disappear from the immediate vicinity of the Project site. The proposed construction of the Project will likely occur concurrently with construction on adjacent parcels at some point in time, generating noticeable construction noise at surrounding properties. There will be cumulative impact on public services although it is expected that most other developments would tend to be the mid to upper scale projects, and likely pay enough taxes to support the related increase in services. In addition, many large subdivisions take several years to be developed so there is time for school districts and other service districts to adjust gradually to the increased demand for services.

The Marine Club will establish a precedent of limited applicability for future projects because the private marine club is replacing a pre-existing non-conforming commercial marina. There is no other pre-existing non-conforming commercial marina in the Town. In addition, the Zoning Code no longer contains the private water-oriented recreational facility or social club special use permit. The marina special permit has also been discontinued. Outside the Town, the potential effects of granting the special use permit were considered by the Ontario County Planning Board—which is charged with analyzing the potential county-wide and regional effects of projects, including impacts on multiple lakeside municipalities—and it recommended approval of the special use permit for the Marine Club.

dock boat storage, and 12 new wet slips. The residents would also use nine wet slips at the Johnson parcel. Though environmental impacts related to the land within the SCR-1 and RLD zones would be reduced, this alternative was rejected because the public safety and visual character aspect of the marina use would be substantially worse than the Project as proposed. In addition, the reduction in the number of residential units and the elimination of the proposed clubhouse would render the Project economically infeasible, as site development costs would far outweigh revenue from sales.

Alternative C, which is the "As-of-Right/Single Family Dwellings" development option, would continue the operation of the pre-existing commercial marina and allow for conventional residential development of the RLD and clustered yield plan-based development of the SCR-1 portions of the Project site. This alternative would allow for 75 residences (58 residences within the SCR-1 zone and 17 residences, including the Johnson homestead, within the RLD zone). This alternative was rejected because it would result in more impact as a result of the clearing of substantial portions of the RLD woods which provide screening between the SCR-1 portions of the Project site and the Lake, including the grove of large oak trees. None of the safety benefits and viewshed improvements from redevelopment of the marina would be realized.

Alternative D is another as-of-right scenario, the "As-of-Right/Two Family Dwellings" development option, consisting of a mix of single and two-family homes within the SCR-1 zone. Of the 58 residential lots in the SCR-1 area, 15 lots would be developed as two-family structures, resulting in 30 units on those 15 lots. This alternative was rejected because it would not reduce impacts to the site's natural features and would slightly increase traffic. This alternative would not meet the goal of the Project sponsor to provide an upscale, private community, and therefore, would not be viable.

Several alternatives regarding the West Lake Marine Club's clubhouse and boat slips were also analyzed. Only Alternative H, which places the clubhouse on the inland, west side of County Road 16, and a 1,040 square foot pump house building on the Lake side, avoids or minimizes adverse environmental impacts to the maximum extent practicable. This alternative was, therefore, selected by this Board because it reduces the visual impact of the Marine Club buildings, moves the people gathered in the clubhouse away from the gas dispensing equipment, and reduces the number of pedestrian crossings of County Road 16, particularly in the winter months.

Opening the clubhouse to the public was considered in Alternative I. This alternative was rejected because it would require a larger clubhouse, additional docks and parking areas for the non-resident club members, and directly compete with the Canandaigua Yacht Club for membership, generate additional traffic along County Road 16, and conflict with the private recreational and social activities of members associated with the Marine Club. Impacts to the Lake would also be greater.

Another alternative, Alternative J, would enlarge the docks and moorings to accommodate six boats of nearby neighbors. Access to the dock slips would not include access to the clubhouse. This alternative was rejected because it would require five additional parking

B. It has weighed and balanced the relevant environmental impacts with the social, economic and other considerations relating to the proposed action.

C. The requirements of 6 NYCRR Part 617 have been met.

D. Consistent with social, economic and other considerations, from among the reasonable alternatives available, the action, which includes 69 residential lots and the modified Marine Club configuration consisting of a downsized inland clubhouse of 2,960 square feet and a 1,040 square foot lakeside pump house building, is the one that avoids or minimizes the adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or mitigated to the maximum extent practicable by incorporating as conditions to the decision those mitigation measures that were identified as practicable in the Draft and Final Environmental Impact Statement and this Findings Statement.

E. The lead agency concludes, based on the social and economic benefits of the proposed action and the mitigation of the potentially significant adverse environmental impacts, that a positive findings statement be made with the identified mitigation measures to be imposed as conditions to the subdivision, site plan and special use permit applications, and that the proposed applications for area variances from the Town of Canandaigua Zoning Board of Appeals be recommended for approval.

6. Final Plats may be submitted for approval in sections provided that the Final Plat Maps meet all conditions of Preliminary and Final Plat Approvals and that each section contains a minimum of ten percent (10%) of the total number of lots.

7. Prior to any site disturbance all Limited Development Overlay (LDO) Permits shall be issued by the Code Enforcement Officer, all conditions of such permit shall be complied with and copies of these LDO Permits and Certificates of Compliance shall be filed with each Lot. A note to this effect shall be placed on both the Preliminary and Final Plat Maps.

SC
12/16/09

8. All conditions contained in the letter from the Town's Engineer, the MRB Group, dated December 8, 2008 shall be satisfied, or the condition shall have been withdrawn by the Town's Engineer, prior to the Planning Board Chairperson's signing of the Preliminary and Final Plats and the Town Engineer's signing of a Final Plat Map.

SC

9. The design of Road A shall be acceptable to the Town Highway Superintendent

SC

10. The design of the Applicant's proposed solution to the provision of public water supply shall be acceptable to the Town Water Superintendent, and/or the Applicant shall propose, as an alternate solution, adequate provisions for a private water service owned by the HOA which provisions must be reasonably acceptable to the Town Engineer, the Town Water Superintendent and the New York State Department of Health.

SC

11. The height of any satellite dishes to be attached to any dwelling shall not exceed the height of the dwelling structure.

12. All golf carts that are to be provided with each dwelling are to be stored inside the garage portion of the structure. No outdoor parking of golf carts shall be permitted when not in use.

13. All site lighting, including street lights, lawn lights and lights on structures shall be in compliance with the Town's Lighting Regulations, Chapter 105, 805 of the Town Code.

SC
12/16/09

14. A note shall be placed on the Preliminary Plat Map that no Building Permit shall be issued for any site development, other than if necessary that related to Access Road 'A' and stormwater management, located within the boundaries of Lots 7 through 15 without an application for detailed Site Plan Approval, showing all natural and man made features, including existing trees to be removed and those to remain.

SC

15. Detailed design of the hiking trails and golf cart trails shall be provided with each Section of the Final Plats and construction of said features to be completed within six months of the issuance of the first Building Permit in each Section.

SC

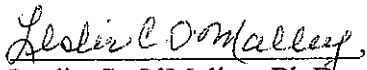
**ATTACHMENT 'C' TO THE RESOLUTION OF THE
PLANNING BOARD OF THE TOWN OF CANANDAIGUA
DATED DECEMBER 9, 2008**

**Individual Conditions of the Town of Canandaigua Planning Board
for Preliminary Subdivision Plat Approval
for the
THE RESIDENCES AT WEST LAKE MARINE CLUB**

(CPN-125-05, CPN-087-08)

1. Each owner of a residence shall receive from the homeowners association ("HOA") and review these individual conditions, and sign a statement that the owner has received and reviewed these conditions and acknowledges that owner's use of the HOA-owned and any resident-owned Conserved Land, trails, and other facilities of The Residences At West Lake Marine Club (the "Project") is subject to the restrictions and prohibitions contained herein, and a copy of each signed statement will be promptly filed by HOA with the Code Enforcement Officer.
2. Other than HOA maintenance vehicles, vehicles powered by internal combustion and all terrain vehicles are prohibited from using the Project's trails.
3. The use of the Project's trails is limited to pedestrians, bicyclists, and persons using electric battery powered golf carts or substantially equivalent electric vehicles (collectively "Golf Carts").
4. The speed limit on the trails for the bicycles is 15 miles per hour ("mph") and for Golf Carts is 10 mph.
5. Golf Carts are not permitted to cross County Road 16, and instead, shall be parked in the designated Golf Cart parking area in the southeast corner of the Marine Club's inland parking lot on the west side of County Road 16.
6. Bicycles and Golf Carts are only allowed on the trails to travel to and from the Marine Club, and their use of the trails for any other purpose is prohibited.
7. The use of Marine Club parking facilities by Golf Carts, motor vehicles and bicycles is to be concurrent with use of the Marine Club.
8. The HOA shall maintain safe trails and shall have the right to prohibit or restrict the use of certain segments of the trails by Golf

I, Leslie C. O'Malley, Secretary to the Planning Board of the Town of Canandaigua, hereby certify that the foregoing is the Attachment C to the Resolution and vote of the Planning Board and that this Attachment was thereupon declared duly adopted as part of said Resolution.



Leslie C. O'Malley, Ph.D.

Secretary

Town of Canandaigua Planning Board

(C-3)

Fix Spindelman Brovitz & Goldman

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November 15, 2011

Via email

Town of Canandaigua Planning Board
Attention: Jean Chrisman and Tim Jensen
5440 Route 5 & 20 West
Canandaigua, New York 14424

Re: **The Residences at West Lake
Subdivision Approval Extension**

Dear Jean and Tim:

I am very pleased to inform you that the applicant has now fulfilled all conditions of approval for the above referenced project, originally approved March 9, 2010, including receipt of board attorney approval of the Homeowners' Association documents and driveway easements (attached) as well as procuring the required waterline easement. However, due to the logistic restraints described below, it will be impossible to obtain all necessary signatures for the subdivision plat prior to the current expiration date of November 30, 2011. On that basis we respectfully request that this matter be placed on the Planning Board's November 22, 2011 agenda for consideration of one last ninety (90) day extension of the existing subdivision approval.

As you know the applicant has been diligently negotiating with several neighbors to procure a waterline easement to service the project. After many, many months of negotiation, we believed an agreement was in place and scheduled a meeting to execute the easement approximately a month ago. Unfortunately negotiations literally broke down at the signing table. The applicant immediately began making other arrangements and has been in direct contact with Town staff and its engineers to find an alternative.

Ultimately, an alternative location and configuration of the easement was agreed upon and we are happy to say that the easement has in fact been signed by all property owners and it is now in the hands of Town Attorney Derek Brocklebank for Mr. Fletcher's signature. However, Mr. Brocklebank indicated that Mr. Fletcher will not be authorized to sign the easement until the Town Board accepts dedication of the easement and grants him permission to do so. As the subdivision plat must contain the liber and page of the easement, the map unfortunately cannot be completed and signed until the Town Board acts. The earliest it can do so is at its December 5, 2011 meeting.

Page 1 of 2

F:\WORD\RSM\West Lake Marine Club - Canandaigua\Request for extension 11-15-11.doc

90 day Extension
2-28-2012

Approval Expires
11/30/2011

Rec'd via
email
11-15-2011
Copy to
Planning Board
Tim Jensen
MRB Group
Chris Nadler

As there are no further issues or conditions outstanding, and in that the only remaining obstacle is an administrative one, we respectfully request one last ninety (90) day extension of the subdivision approval in order to allow the Town Board to act and to allow sufficient time to obtain all necessary signatures during the busy holiday season.

We look forward to discussing this matter with you at your meeting on November 22nd. If you have any problems with the request please contact me immediately.

Respectfully,



James J. Bonsignore

Law Offices of
Christian M. Nadler

Attorneys and Counselors at Law
500 Packetts Landing, Suite # 585
Fairport, New York 14450
Phone: 585-315-4767
Facsimile: 585-486-1570
cnadler@chrisnadlerlaw.com

November 14, 2011

Mr. Thomas Schartz
Planning Board Chair
Town of Canandaigua
5440 Routes 5 & 20
Canandaigua, NY 14424

RE: RSM Westlake Road

Dear Chairman Schwartz,

Per the Planning Board's conditions of approval, I have reviewed and hereby approve the homeowners association documentation and common driveway agreements submitted to me by the applicant's attorneys.

Please let me know if you have any questions, etc.

Sincerely,

LAW OFFICES OF
CHRISTIAN M. NADLER



Christian M. Nadler, Esq.

CMN/sec

cc: James Bonsignore, Esq. (via email)
Mike Simon (via email)
Tim Jensen (via email)
Jean Chrisman (via email)

TOWN OF CANANDAIGUA PLANNING BOARD RESOLUTION
CPN 133-09 – RSM WEST LAKE LLC – TMP 112.00-1-24.100
5TH EXTENSION OF CONDITIONAL FINAL SUBDIVISION APPROVAL

WHEREAS, the above referenced subdivision was given conditional final approval by the Planning Board on March 9, 2010; and

WHEREAS, pursuant Article 12-b, §276-b, part 7 of NYS Town Law, the applicant originally had 180 days from that date of approval to submit final plans verifying compliance with all conditions imposed as part of the conditional final approval; and

WHEREAS, the above referenced part of NYS Town law also gives the Planning Board authority to extend the time for submission of said final plans for additional periods of not more than 90 days each, if they are of the opinion that circumstances warrant such an extension; and

WHEREAS, the conditional final approval has been extended four times previously and is scheduled to expire on September 1, 2011; and

WHEREAS, on August 11, 2011 the applicant requested a fifth 90 day extension and indicated that they have resolved remaining issues that previously prevented finalizing an agreement with neighboring landowners to allow a second water line access; and

WHEREAS, the Planning Board Attorney has indicated that the applicant has also been working on language for the HOA agreement; and

WHEREAS, it is the position of this Planning Board that an extension of 90 days is warranted to allow the applicant time to execute the agreement for the second water line access, draft an acceptable HOA agreement, and submit final plans for signature,

NOW, THEREFORE, BE IT RESOLVED that the Planning Board hereby grants the request for a 90 day extension until November 30, 2011, to allow the applicant additional time to submit final plans that comply with the conditional Planning Board approval.

The above Resolution was offered by Charles Oyler and seconded by Joyce Marthaller at a regularly scheduled Planning Board Meeting held on August 23, 2011. Following discussion, a voice vote was recorded:

Thomas Crawford - aye

Richard Gentry - aye

Joyce Marthaller - aye

Charles Oyler - aye

Thomas Schwartz - aye

I, Leslie C. O'Malley, Secretary to the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Canandaigua Planning Board for the August 23, 2011 meeting.

Leslie C. O'Malley L. S.
Leslie C. O'Malley, Ph.D.
Secretary to the Planning Board

