

A Special Meeting of the Malone Town Board was held Saturday, May 2, 2009 at the Malone Town Offices, 27 Airport Road, Malone, New York, commencing at 9:00am, for the purpose of reviewing the SEQR for the Holiday Inn Express project as proposed by Branch Development, LLC, and any other business to come before the Board.

PRESENT: Supervisor Howard Maneely
Deputy Supervisor Paul Walbridge
Councilor John Sullivan
ABSENT: Councilor Irving Caplan
Councilor Louise Taylor

ALSO PRESENT: Susan Hafter, Town Clerk
Andrea Stewart, Budget Officer/Bookkeeper
Lillian-Anderson Duffy, Town Attorney
Matt Kerwin, Special Counsel
Bob Crossman, Code Officer

Town Planning Board
Mark Gonyea, Chairman
Ann Farden
Lee Mulverhill
John H. McCarthy
Nancy Legacy
Chastity Miller

Board of Variance & Appeals
John Glazier, Acting Chairman
Cheryl Douglas, Secretary
Chris Kelley
Richard Traynor
Craig LaVigne (alt)
Michael Hosler (alt)

Chris Labarge, Malone	Nathan Race, Malone	Bruce Burditt
Hugh Hill, Malone	Bob Fellion, Malone	Joe Dingle, Malone
Shawn Glazier, Malone	Connie Jenkins, <u>Malone Telegram</u>	

At 9:10 am Supervisor Maneely called the meeting to order with a pledge to the flag. A Waiver of Special Meeting was not necessary as notice was given to all Board Members, the press and the public in a correct and timely manner.

Escrow request – The Town of Malone has requested Branch Development to create an escrow account to cover costs assumed by the Town of Malone and its various boards and consultants relating to the SEQR process for the Holiday Inn Express project.

* On the motion of Deputy Supervisor Walbridge with a second thereto by Councilor Sullivan, that Chris LaBarge, d/b/a Branch Development, LLC, sign into an escrow account agreement with the Town of Malone with terms and conditions as follow:
The Town will maintain this escrow account separately from its other funds and accounts.

The basis for drawing against the escrow account would include but not be limited to reasonable legal and engineering review and consulting fees, travel fees, copying and distribution/ mailing expenses and so on related to the Town’s review of the application(s) of Branch Development, LLC to the Town. In the event the balance of the escrow account falls below Two Thousand Five Hundred (\$2,500.00), the Town of Malone will ask Branch Development, LLC’s local representative to arrange for replenishment of the account up to the Seven Thousand Five Hundred and 00/100 (\$7,500.00) level.

The Town will provide Branch Development, LLC (or its engineers or attorneys as the company may direct) with copies of invoices and/or vouchers for items that the Town proposes to pay from the special account.

The Town will refund any excess left in the account (and accrued interest, if any) to Branch Development, LLC within thirty (30) days of payment of final expenses chargeable against the account.

In the event that Branch Development, LLC withdraws or otherwise terminates its application(s) before the approvals process is completed, and the total review fees and/or expenses chargeable against the account exceed the account balance, Branch Development, LLC shall forward the difference to the Town within thirty (30) days.

CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR (3-0).

05/02/2009

SEQR Findings – Attorney Kerwin, with the Malone Town Board, reviewed the Environmental Assessment Form (EAF) for the Holiday Inn Express project along with supporting documentation and based on the data and findings classified the project.

* On the motion of Supervisor Maneely with a second thereto by Deputy Supervisor Walbridge:

Resolution #10-2009
NEGATIVE DECLARATION
PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT
FOR A PROPOSED DEVELOPMENT ON NYS ROUTE 11

WHEREAS, the Town of Malone Town Board (“Board”) received an application and supporting materials from Branch Commercial Development, LLC (“Applicant”) requesting approval to subdivide into three lots tax map parcel #'s 112.-1-1.300 and 112.-1-7, which are located on the north side of Route 11 approximately one third of a mile from the Village of Malone western boundary (“project site”), for the purpose of developing a Holiday Inn Express Hotel and Suites, as well as a convenience store/gas station and restaurant on the project site (the “Action”), as described more fully in the attached documentation; and

WHEREAS, the Board declared its intention to act as lead agency for the purpose of undertaking a coordinated review of the Action under the auspices of the New York State Environmental Quality Review Act (“SEQRA”); and

WHEREAS, the Town Board requested that each of the involved agencies consent to the Town Board’s designation as lead agency for the purpose of conducting the coordinated environmental review of the Action, and each agency has consented to the Town Board’s role in that regard; and

WHEREAS, the Town Board has examined the completed Full Environmental Assessment Form (“Full EAF”) and other information submitted by the Applicant in support of the Action, which has been used to determine whether and to what extent the Action may have a significant adverse impact upon the environment, and the Town Board has reviewed all such information in that regard as applicable; and

WHEREAS, based upon the information provided, the Town Board has: a) determined that the Action qualifies as an Unlisted Action as defined under Part 617.2(ai) of SEQRA; b) conducted a coordinated review of the Action pursuant to SEQRA; c) performed a “hard look” review of potential environmental impacts arising from the Action based upon all information received; and d) determined that the Action will not cause or result in any significant adverse environmental impacts, which qualifies it for issuance of a Negative Declaration from the Board:

NOW, THEREFORE, BE IT RESOLVED that:

1. The Town Board classifies the Action as an Unlisted Action pursuant to SEQRA.
2. The Town Board approves and adopts the Negative Declaration attached hereto (in italics) consistent with its determination that the Action will not have a significant adverse impact upon the environment, thus concluding the Town Board’s SEQRA review of the Action.
3. The Town Board authorizes the Supervisor or his designated appointee to prepare, execute and file as necessary all documents in support of the above-referenced Negative Declaration issued in connection with the Action.
4. This Resolution shall take effect immediately.

Attachment: *In accordance with Article 8 (State Environmental Quality Review a/k/a “SEQRA”) of the New York State Environmental Conservation Law (the “Act”), and the statewide regulations under the Act (6 NYCRR Part 617) (the “Regulations”), the Town of Malone (the “Town” or “Agency”) has considered the proposed Holiday Inn Express Hotel and Suites (“Hotel”) project in the Town (the “Action” or “Project”), as described more fully in the summary attached hereto as Exhibit “A.” The Agency has determined: (i) that said proposed Action is an “Unlisted Action” pursuant to the Regulations, (ii) that the Agency has engaged in a coordinated environmental review of the Action; (iii) that upon due consideration, the Agency has concluded that said Action will result in no major impacts and therefore will not have a significant effect on the environment; and (iv) therefore that an environmental impact statement is not required to be prepared with respect to said Action. THIS NOTICE IS A NEGATIVE DECLARATION FOR THE PURPOSES OF THE ACT.*

1. Agency: *The Agency is the Town Board of the Town of Malone.*
2. Contact for Further Information: *Town of Malone, 27 Airport Road Malone, New York 12953 Attn: Howard Maneely, Town Supervisor
Tel: (518) 483-1860*

05/02//2009

3. Action Identification:
The Action includes the subdivision of two (2) commercially-zoned parcels (Tax Map #'s (112.-1-1.300 and 112.-1-7) into three (3) parcels and the subsequent development of those parcels with the Hotel and other proposed retail uses on Route 11 in the Town of Malone, Franklin County, New York, approximately one third of a mile west of the Village of Malone western boundary (“project site”). The project site consists of 5.9 +/- acres and is improved with a residence and a barn. The project site is bounded by vacant/agricultural lands to the north, a New York State Police barracks to the west, a vacant former gas station parcel to the east and Route 11 to the south. The project site is zoned for Planned Development, and the section of Route 11 on which the project site is located is surrounded by a mixture of commercial and retail uses. The Malone Dufort Airport is located almost a quarter mile to the northwest of the project site.
4. Action Description:
Branch Commercial Development, LLC proposes to subdivide tax map parcel #'s 112.-1-1.300 and 112.-1-7 (totaling 5.9 +/- acres) in the Town of Malone into three (3) new tax parcels to allow for the commercial development of the property. The subdivision will result in the creation of a 2.6 +/- acre parcel on the northern end of the project site to be

developed with the 4-story, 81 room, 49,000+/- sq. ft. Hotel, which will include a paved parking area to accommodate 97 vehicles. The remaining two (2) parcels will be located on the southern end of the project site with frontage along Route 11. The western parcel will consist of 1.4 +/- acres and is proposed to be developed with a 5,000 +/- sq. ft. convenience store and gas station with a drive-thru window for take-out food service, which will include a paved parking area to accommodate 17 vehicles. The eastern parcel will consist of 1.3 +/- acres and is proposed to be developed with a 5,000 – 6,000 +/- sq. ft. full service restaurant and bar, which will include a paved parking area to accommodate 62 vehicles.

The Action also includes 2 driveways, including a three lane access road to Route 11, an on-site stormwater management system which will be located on the Hotel parcel and will service the entire project, appropriate landscaping and lighting, and utility connections necessary to support the project, including public water and sewer service. The Action also includes the extension of the existing sewer district.

5. Action Location:

The Action will be located in the Town of Malone, Franklin County, New York.

6. Reasons for Determination of Non-Significance:

See Exhibit "A" attached hereto.

Exhibit A- Criteria for Determining Significance

As proposed, the reasonably anticipated environmental effects of the proposed development of the Holiday Inn Express Hotel and Suites project, including the future development of the eastern and western parcels located along Route 11 in the Town of Malone (the "Action" or "Project") will not be significant. This conclusion results from the Malone Town Board's (the "Agency") thorough evaluation of the proposed Action's attributes and their environmental effects against the criteria provided in NYSDEC regulations at 6 NYCRR §617 et. seq. A summary of this evaluation follows.

Determination of Environmental Significance

To determine whether the Action may have a significant effect on the environment, the impacts that may be reasonably expected to result from the proposed action must be compared to criteria specified in NYSDEC regulations (6 NYCRR 617.7). These criteria are considered indicators of significant effects on the environment.

Criterion 1

A substantial adverse change in existing a) air quality; b) ground or surface water quality or quantity; c) traffic levels; d) noise levels; e) a substantial increase in solid waste production; f) a substantial increase in potential for erosion, flooding, leaching or drainage problems.

a) Air quality: The Action is not expected to substantially impact existing air quality. Some temporary adverse impacts would likely occur in the immediate construction vicinity due to fugitive dust and exhaust fumes caused by the normal operation of heavy equipment during project construction. Dust mitigation is part of the erosion control process and will be controlled through the installation and utilization of stabilized haul roads, watering, seeding and application of erosion control matting, as necessary, to limit surface dust. Further, emissions will be limited to construction vehicles and are expected to be similar in type and scope to ambient emissions from car and truck traffic traveling along Route 11. Any adverse impacts to air quality from construction will be short-term, localized and minor in nature, and would not be expected to cause a deterioration of ambient air quality in violation of applicable federal and state standards. Ambient air quality over the long term may be affected slightly by the introduction of parking for a total of up to 176 vehicles within the project site, but such effects will be mitigated by several factors: (i) the parking areas will rarely, if ever, be filled to capacity; (ii) traffic flow distribution will be dispersed throughout a significant portion of the day (as opposed to effects commonly seen

with factory shift schedules); (iii) traffic controls (e.g., stops signs along Route 11, dedicated turning lane, egress only curb cut for proposed convenience store) will be used to minimize vehicle idling or queuing. Consequently, the short- and long term impacts to ambient air quality are not considered to be significant.

b) Groundwater quality: The Action will use public water and sewer supplies. A pollution prevention plan will be maintained to address and mitigate any potential threats to groundwater from parking, hotel and retail areas, which are substantially similar to other existing uses within the Town. Consequently, no significant impacts to groundwater quality or quantity are expected.

Surface water quality: There are no surface waters existing within or close to the project site. The SWPPP calls for the establishment of a detention pond on the northwestern edge of the project site to mitigate impacts to stormwater runoff quality and quantity, and the applicant and/or its contractors will be required to comply with New York State stormwater design criteria and policies. Post-construction stormwater discharges from the project site will be directed toward the northern portion of the project area and have been designed to reflect existing discharge conditions.

As the project disturbs more than an acre of land, a NYSDEC SPDES Permit for Stormwater Discharges from Construction Activities is required for the Project. The SPDES permit requires stormwater quantity and quality measures and sediment and erosion control measures be implemented. The SWPPP also requires the successful contract bidder for the Project to prepare and implement an Erosion and Sediment Control Plan.

c) Traffic levels: The Action is not anticipated to substantially impact existing traffic patterns. While the Action will generate increased traffic volume, a considerable amount of the total traffic volume is attributed to existing or pass-by traffic. As a commercially developed corridor, Route 11 can adequately accommodate the projected traffic volumes and resulting impacts to the project site intersections. Resulting impacts will be addressed through mitigative measures, which will include the installation of a right turn only exit driveway at the westerly project driveway and the use of ingress and egress improvements that have been conceptually approved by NYSDOT, the agency with exclusive jurisdiction over Route 11 traffic issues.

d) Noise: Noise impacts associated with the Action will be regulated by complying with allowable working hours established by the Agency. The majority of louder noise is related to construction vehicles and equipment at work during the short-term construction phase. During the operational phase, noise levels are not expected to be significantly above the current ambient levels produced by vehicle traffic along Route 11.

e) Solid waste production: The Action will produce approximately 1.8 tons of solid waste per month under full operation. Solid waste production will be mitigated by recycling cardboard, paper and glass. Solid waste transport and disposal will be handled under contract by private haulers and will be consistent with the current Solid Waste Management Plan for the area, as well as with NYSDEC regulations.

f) Erosion, flooding, leaching and drainage: The SWPPP has been prepared to address and adequately mitigate drainage issues associated with the Action. The SWPPP calls for the construction of a detention pond along the northwestern portion of the project site to serve the entire Project. The detention pond is designed to discharge to the northern portion of the project site in a manner that is consistent with and not in excess of pre-development stormwater flow. The applicant has also prepared a site grading plan for the Project, which depicts designated flow at various points throughout the project site.

The NYSDEC SPDES Permit for Stormwater Discharges from Construction Activities required for the Project mandates that sediment and erosion control measures be implemented. The SWPPP also requires the successful contract bidder or contractor to prepare and implement in accordance with all NYSDEC regulations and permit conditions an

Erosion and Sediment Control Plan, which will address any erosion concerns during the construction phase of the Project.

Together, these measures will mitigate drainage and stormwater impacts associated with the Action.

Criterion 2

The removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse effects on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse effects to natural resources.

Vegetation: The project site is comprised predominantly of meadow and/or brush. The Project will result in a reduction of field cover and common vegetation, but will not adversely impact the surrounding environment. A landscaping plan has been developed for the Hotel that will reclaim any undeveloped lands enhance pervious areas. Topsoil and upper soil will be stockpiled for reclamation.

A landscaping plan has not been provided for the remainder of the project site as the precise use and occupancy of the eastern and western parcels have not been finalized. The future development of those parcels will require the Applicant to provide a final site plan and landscaping plan to the Town for review and approval. It is anticipated that the landscaping plan will be consistent with the types of vegetation used for the Hotel and that are common to the area.

Significant habitat; Threatened/Endangered Species: The Applicant has represented that: no habitat within the project area is designated or proposed "critical habitat"; no known significant natural communities or other significant habitats are present within the project site; no Federally listed or proposed species for listing under their jurisdiction are known to exist within the area of the project site; and no known threatened or endangered species are present in the project site. The Applicant has provided materials from both the NYSDEC and United States Fish and Wildlife websites to this effect.

Criterion 3

The encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action.

The Action will trigger an increase in the number of persons visiting the project site both during and after construction of the proposed project. As stated above in the discussion for Criterion 1, it is expected that the increase in traffic volume will not adversely impact traffic patterns along Route 11. Because the project is not the first sizable retail facility to be located in Malone, and because it is located along the main commercial corridor in the area, there are no significant impacts arising from this attraction of persons. Over the long term, this attraction may spur further economic growth along Route 11, but no applications have been made for other properties in this regard, and forecasting such growth is too speculative to allow analysis at this time.

Criterion 4

The creation of a material conflict with a community's current plans or goals as officially approved or adopted.

The project site is located on lands historically used for residential and agricultural purposes along the Route 11 transportation corridor in the Town. The project site is currently zoned Planned Development to encourage further growth and development along the Route 11 corridor, such as is proposed by the Project. With the exception of the Hotel's height, which exceeds the required minimum for structures located in the AH-1 District and will require a variance from the Board of Variances and Appeals, the Project is consistent with the surrounding commercial/retail uses along the Route 11 corridor, and it takes advantage of existing traffic patterns and the Town's desire to encourage commercial growth in areas with appropriate zoning and the capability to handle the expected traffic generation, such as in a Planned Development District.

Criterion 5

The impairment of the character or quality of important historical, archaeological, architectural or aesthetic resources or of existing community or neighborhood character.

The project area is comprised of vacant land formerly used for agricultural purposes. It does not include any unusual or unique land forms or scenic views known to be important to the community. There are no known important historical, archaeological, architectural or aesthetic resources that will be impacted by the proposed project. The project area is surrounded by agricultural and similarly sized commercial/retail uses, will take advantage of the existing transportation corridors to mitigate traffic impacts, and has incorporated aesthetic features and building materials to better blend into the existing architectural themes of the community. On this basis, the Project is not expected to impair the existing character of the community.

Criterion 6

A major change in the use of either the quantity or type of energy.

Electric and gas service will be required to operate the Project, but no major changes in local energy usage are contemplated in association with the Action.

Criterion 7

The creation of a hazard to human health.

The Action will not create any human health hazards. The applicant has incorporated safety measures into various aspects of the Project to eliminate and/or minimize any hazards or impacts associated with the Project, including with respect to construction, traffic volumes, erosion and storm water discharge. Further, the Federal Aviation Administration has determined that the Project (insert summary of FAA determination).

Criterion 8

A substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses.

The development of the Project will result in an increase in the intensity of use of the project area from a mix of low-intensity residential and agricultural uses to a higher-intensity hotel and retail use. The project site makes up only a small fraction of the overall Town area, however, and the particular types of use (i.e., hotel, commercial/retail) are not altogether unique to the surrounding area. Despite the proposed change in use, any adverse environmental impacts to the Agency and surrounding properties will be minimized by the mitigation measures proposed for the Action.

Criterion 9

The creation of material demand for other actions which would result in one of the above consequences.

The Action is not expected to create any demand for other actions or need for additional public services that would result in consequences described by the above criteria. The public water and sewer services have adequate capacity to handle the project, particularly with the improvements described as part of the applicant's proposal. No major relocation of utility facilities is necessary. The proposed entrance drive and related traffic measures are expected to satisfactorily facilitate vehicle movement. Police, fire and ambulance authorities have indicated that they expect to be able to handle the demands of the Project without any stresses to existing services.

Criterion 10

Changes in two or more elements of the environment, no one of which has a significant effect on the environment, but when considered together result in a substantial adverse impact on the environment.

The Action will not result in multiple changes to the environment which, when considered together, result in a substantial adverse impact on the environment.

Criterion 11

Two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant effect on the environment, but when considered cumulatively would meet one or more of the criteria in this section.

The Action consists of a single project – the development of the project site into a hotel, as well as a possible convenience store/gas station and restaurant with related improvements. The Action is not dependent upon any other actions, nor is it related or connected to any other actions which would create the potential for a cumulative significant environmental impact meeting any of the criteria in this section.

Discussion – Malone resident **John Fellion** asked whether the developer had taken into account the possible attraction of migrating geese to the drainage pond, planned for the Holiday Inn Express site, in light of the proximity to the airport. **Mr. LaBarge** replied that this would have been a factor for the FAA to consider, and the same concerns would have applied to the Wal-Mart development. Nancy Legacy noted that the State Police station under construction, adjacent to the airport, will also feature a drainage pond.

Attorney Anderson-Duffy added that it is pertinent that the FAA has found the Holiday Inn building site to be outside the Runway Protection Zone, and presents no hazard. Also, the FAA will be monitoring the construction.

Vote- Roll Call: Supervisor Maneely – Aye; Deputy Supervisor Walbridge – Aye; Councilor Sullivan - Aye

CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR (3-0).

ADJOURNMENT:

At 9:35am, on the motion of Deputy Supervisor Walbridge with a second thereto by Councilor Sullivan, there being no further business to come before the Board at this time, that it adjourn with the intention to reconvene later this morning, pending the findings of the Malone Town Board of Variance and Appeals and the Malone Town Planning Board relative to the Holiday Inn Express proposal.

CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR (3-0).

Respectfully Submitted,

Susan M. Hafter, Malone Town Clerk
May 7, 2009