

Appendix A-3
Positive Declaration

Town of Babylon

Dept. of Environmental Control

281 Phelps Lane
North Babylon, NY 11703

(631) 957-3000
(631) 422-7640

Fax (631) 422-7686

e-mail: dec@townofbabylon.com



STEVEN BELLONE
SUPERVISOR

December 20, 2006

Mr. Steven Kretz, Esquire
Donohue, Kretz and Garabrant
36 East Montauk Highway
Lindenhurst, New York 11757

**RE: ZBA APPLICATION NO. 06-326 – DMJ REALTY ASSOCIATES, LLC
EIS REVIEW FEE**

Dear Mr. Kretz:

Please be advised that the Town of Babylon Zoning Board of Appeals has adopted a Positive Declaration of Significance with respect to the above referenced proposal. §114-16.C.(2) of the Babylon Town Code established the fee schedule to recover the costs of preparing, causing to be prepared or reviewing a Draft or Final Environmental Impact Statement. The fee for this project is \$3,000.00.

Your anticipated cooperation in this matter is appreciated.

Very truly yours,

Joseph Guarino
Principal Environmental Analyst

JG:ch

cc: Victoria A. Russell, Commissioner, Environmental Control

Ellen T. McVeety
Councilwoman
Deputy Supervisor

David Bishop
Councilman

Lindsay Patrick Henry
Councilman

Carol A. Quirk
Councilwoman

Corinne DiSomma
Receiver of Taxes

Janice E. Tinsley-Colbert
Town Clerk

Town of Babylon



Department of Environmental Control

Memorandum

DATE: December 26, 2006

TO: Legal Notices, Suffolk Life

FROM: Chrisoula Hartofilis, Clerk Typist, Environmental Control

SUBJECT: REQUEST FOR PUBLICATION – TOWN OF BABYLON STATE ENVIRONMENTAL QUALITY REVIEW, POSITIVE DECLARATION, NOTICE OF INTENT TO PREPARE A DRAFT EIS, DETERMINATION OF SIGNIFICANCE FOR DMJ REALTY ASSOCIATES, LLC, PROJECT #06-362

Please be advised of the following:

We would like the attached to be published in your next Deer Park, West Babylon, Lindenhurst and Amityville Editions.

Please Send Proof of Publication To:

Town of Babylon Department of Environmental Control
281 Phelps Lane, Room 23
North Babylon, NY 11703

Please run the attached for one day.

If you have any question, please call 422-7640.

Please Send Bill To:

Steven Kretz, Esquire
Donohue, Kretz and Garabrant
36 East Montauk Highway
Lindenhurst, New York 11757

Thank you.

ch 

Attach.

Town of Babylon

Dept. of Environmental Control

281 Phelps Lane
North Babylon, NY 11703
(631) 957-3000
(631) 422-7640

Fax (631) 422-7686

e-mail: dec@townofbabylon.com



STEVEN BELLONE
SUPERVISOR

SEQR

STATE ENVIRONMENTAL QUALITY REVIEW POSITIVE DECLARATION NOTICE OF INTENT TO PREPARE A DRAFT EIS DETERMINATION OF SIGNIFICANCE

Project Number: 06-362

Date: December 19, 2006

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

The Town of Babylon Zoning Board of Appeals, as lead agency, has determined that the proposed action described below may have a significant effect on the environment and that a Draft Environmental Impact Statement will be prepared.

Name of Action: DMJ Realty Associates, LLC

SEQR Status: Type I
Unlisted

Scoping: No
Yes If yes indicate how scoping will be conducted.

A Draft scope will be distributed to all involved and interested agencies. Notice of the draft scope will be published in a local paper and the draft scope will be posted on the Babylon web site. Substantive comments on the Draft Scope will be incorporated into the final scoping document.

Description of Action:

The applicant seeks to maintain an asphalt plant on an 8.3 acre site by requesting a Special Exemption Permit. The facility will include office buildings, miscellaneous site improvements which include a height variance from 55 feet to 79,083 feet for the silos and miscellaneous setback variances all in connection with an existing building in an industrial zone.

Location: 1610 New Highway, East Farmingdale, New York, 11735, west side of New Highway, 333.98' north of the LIRR.

Ellen T. McVeety
Councilwoman
Deputy Supervisor

David Bishop
Councilman

Lindsay Patrick Henry
Councilman

Carol A. Quirk
Councilwoman

Corinne DiSomma
Receiver of Taxes

Janice E. Tinslev-Colbert
Town Cl

Reasons Supporting This Determination:

1. The air emissions of the Hot Mix Asphalt Plant (HMAP) has the potential to produce potentially large adverse environmental impacts. HMAP's possess the potential to emit significant VOC's, particulate matter and NOX to the atmosphere.
2. Odors are frequently associated with HMAP's. This potential impact must be quantified through careful investigation and analysis.
3. Potential air emissions must be quantified. This should include emission potential with and without pollution control equipment. Impacts to human health from such emissions can only occur when there is the potential for contact with a human receptor. Determining where the HMAP's emissions can reach human receptors is a complex function of meteorology, stack height, topography and the physical composition of the pollutant. Areas where the plant's emissions will be deposited, or have the potential to come in contact with humans must be determined. Once the deposit areas have been identified, potential impacts to these receptors must be quantified. The use of computer dispersion modeling may be necessary to investigate this potential impact.
4. HMAP facilities produce heavy truck traffic. The traffic impacts of the facility must be examined.
5. The volume of hazardous materials (petroleum products) and the potential impact of the storage of such materials on groundwater resources must be analyzed.

For Further Information:

Contact Person: Joseph Guarino, Principal Environmental Analyst
Town of Babylon Department of Environmental Control
Address: 281 Phelps Lane
North Babylon, New York 11703
Telephone Number: 631 422-7640

A copy of this notice sent to:

New York State Department of Environmental Conservation
Victoria A. Russell, Commissioner, Environmental Control
Thomas Young, Chairman, Zoning Board of Appeals
Jennifer Spencer, Assistant Town Attorney
Patricia McMahon, Chairperson, Planning Board
✓ Steven Kretz, Esquire
Walter Hilbert, Suffolk County Department of Health Services
Thomas Isles, Suffolk County Planning Commission
Ben Wright, Suffolk County Department of Public Works
Michael Geiger, Airport Director, New York State Department of Transportation
Frank Nocerino, Republic Airport Commission
Peter Scully, Regional Director, New York State Department of Environmental Conservation
John Wieland, New York State Department of Environmental Conservation
Vito Minei, Suffolk County Department of Health Services
James Bagg, Suffolk County Planning Department
John Ferrari, East Farmingdale Water District

Moira Keane, Federal Aviation Administration
Philip Brito, New York ADO
Donald Middleton, Chairman, Environmental Conservation Commission
Environmental Notice Bulletin
Suffolk Life for publication, Deer Park, West Babylon, Lindenhurst, Amityville Editions

JG:ch

RECEIVED
AT
TOWN CLERK'S OFFICE

2006 DEC 18 PM 3: 53

TOWN OF BABYLON

**RESOLUTION FOR ZBA APPLICATION # 06-362
DATED DECEMBER 14, 2006
TOWN OF BABYLON ZONING BOARD OF APPEALS
ENVIRONMENTAL DETERMINATION
ZONING BOARD OF APPEALS APPLICATION NO. 06-362
DMJ REALTY ASSOCIATES, LLC
W/S NEW HIGHWAY, 333.98' N/O LIRR, EAST FARMINGDALE
SCTM NOS. 0100-35-01-17.7, 17.9 AND 17.10**

The following resolution was offered by Mr. Young, and seconded by Mr. Kane

WHEREAS, an application has been submitted to the Town of Babylon Zoning Board of Appeals by DMJ Realty Associates, LLC, 1610 New Highway, East Farmingdale, New York, 11735; and

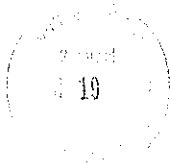
WHEREAS, the applicant proposes to maintain on the ±8.3 acre site an asphalt plant by requesting a Special Exemption Permit, office buildings and miscellaneous site improvements including a height variance from 55' to 79.83' for the silos and miscellaneous setback variances pursuant to Babylon Town Code Section 213-473 through 487, Hot Mix Asphalt Facilities, all in connection with an existing building in "G" Zone; and

WHEREAS, this proposal constitutes an Unlisted Action pursuant to the Town of Babylon Environmental Quality Review Act; and

WHEREAS, a full coordinated review was completed on November 10, 2006; and

WHEREAS, the Town of Babylon Zoning Board of Appeals has reviewed the proposal in accordance with TOBEQRA 114-10 and SEQRA 617-7, Criteria for Determining Significance and determined the following:

1. The air emissions of the Hot Mix Asphalt Plant (HMAP) has the potential to produce potentially large adverse environmental impacts. HMAP's possess the potential to emit significant VOC's, particulate matter and NOX to the atmosphere. This potentially large impact requires investigation and analysis.
2. Odors are frequently associated with Hot Mix Asphalt Plants. This potential impact must be quantified through careful investigation and analysis.
3. Potential air emissions must be quantified. This should include emission



potential with and without pollution control equipment. Impacts to human health from such emissions can only occur when there is the potential for contact with a human receptor. Determining where the HMAP's emissions can reach human receptors is a complex function of meteorology, stack height, topography and the physical composition of the pollutant. Areas where the plant's emissions will be deposited, or have the potential to come in contact with humans must be determined. Once the deposit areas have been identified, potential impacts to these receptors must be quantified. The use of computer dispersion modeling may be necessary to investigate this potential impact.

4. HMAP facilities produce heavy truck traffic. The traffic impacts of the facility must be examined.
5. The volume of hazardous materials (i.e. petroleum products) and the potential impact of the storage of such materials on groundwater resources must be analyzed; and

WHEREAS, the Town Board of the Town of Babylon has determined that the application from DMJ Realty Associates, LLC may have a significant adverse impact on the environment.

NOW, THEREFORE, be it

RESOLVED, that the Town of Babylon Zoning Board of Appeals as Lead Agency hereby adopts a Positive Declaration to require the preparation of a Draft Environmental Impact Statement (DEIS) for the application by DMJ Realty Associates, LLC in accordance with the State Environmental Quality Review Act.

VOTES

5

YEAS

5

NAYS

0

Ms. Kretz- Recused

Mr. Farrell-Absent

The resolution was thereupon declared duly adopted.