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Current town zoning requires a minimum of 100 acres for a PUD and it must be located on a State or County road. He has a total of 16+ acres hence the need for a variance.

Both the Town and the County (which must review for potential impacts to state /county facilities) have this listed as a short-form EAF Unlisted Action and ranked this request as no impact. This applies only to the change from 100 A. to something less and a request to create a Planned Unit Development for 260 dwelling units and 30,000 SF of commercial space on less than 100 A.

Henry Slater informed me that this would be further considered by the Town Board and may be referred to the Planning Board.

This seems to be a situation of what is called segmentation where different parts of the project are reviewed separately, but this may be a legal question.

Under SEQR definitions: Segmentation means the division of the environmental review of an action such that various activities or stages are addressed as though they were independent, unrelated activities, needing individual determinations of significance.

This zoning appeal will be reviewed as a public hearing on December 7, at 7 :30 p.m.

Arguments to consider are the following:

1) question the SEQR designation given previously announced intentions of the developer

2) Its not yet known what the new zoning will be regarding density and related issues.

3) Allowing such a variance given that the Town is proposing to fund a master plan for the hamlet suggests that this action is premature and if approved could result in policy conflicts among deliberations by the Town Board on the draft

zoning, and Planning Board regarding consideration of a Master Plan and possibly new zoning for the Hamlet.

Reviewing Part 617 State Environmental Review regarding use of short form EAF vs. Long form the following seems to apply as summarized:

Sec 617.7 (Determining Significance) states that any Type I or Unlisted action may include the potential for significant environmental impact if

(i) the project would cause a substantial adverse change in surface water quality or quantity, traffic or noise levels, substantial increase in potential for flooding or drainage problems.

(viii) 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 agency must consider both short-term and long-term impacts including simultaneous or subsequent actions which are: (i) included in any long-range plan of which the action under consideration is a part;

(iv) its irreversibility;

(vii) the number of people affected.

Adding 260 townhouse development in the middle of what is currently low-density residential has a substantial change and impact on the character of the community, adds considerable additional traffic to an already heavily traveled road; increases the likelihood of increased flooding and drainage concerns for residents adjacent to the project, and exceeds the current density requirements for the current zoning and what is specified for Varna in the comprehensive plan.

Therefore, the Town zoning department in allowing for a short-form EAF to be used erred given that this clearly has larger impacts as stated above. Likewise the County Planning erred in agreeing that this application for zoning variance has no impact on the community.

Going to a long-form EAF would clearly have resulted in this project being listed as a Type I project with the probability that it would require a full EIS involving public comment on the overall project.

Under 617.3 General Rules: "Considering only a part of 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. . ."

Typical Type I actions as stated in 617.4 Type I Actions include:

(3) the granting of a zoning change, at the request of an applicant, for an action that meets or exceeds one or more of the thresholds given in this list:

(5) (iii) in a city, town or village having a population of less than 150,000, 250 units to be connected to existing community or public water and sewerage systems

(6) (i) a project or action that involves the physical alteration of 10 acres;

(iv) in a city, town or village having a population of 150,000 persons or less, a facility with more than 100,000 SF of gross floor area;