

**RESOLUTION CONFIRMING SEQR DETERMINATION
A. PHILLIPS HARDWARE, INC. PROJECT**

A special meeting of Town of Guilderland Industrial Development Agency (the "Agency") was convened in public session in the Town Board Legislative Chambers Room of the Guilderland Town Hall located on Western Turnpike in the Town of Guilderland, Albany County, New York on March 11, 2019 at 7:00 p.m., local time.

The meeting was called to order by the Chairman of the Agency and, upon roll being called, the following members of the Agency were:

PRESENT:

William N. Young, Jr.	Chairman
Christopher Bombardier	Treasurer/Assistant Secretary
Kelly Flanagan	Member
William H. Smart	Member

ABSENT:

Vera Dordick	Member
Kevin Hicks	Member
Sean M. Maguire	Member

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Donald Csaposs	Chief Executive Officer
Linda Cure	Administrative Assistant
Lee Carman	Town Board Liaison
A. Joseph Scott, III	Agency Counsel

The following resolution was offered by Christopher Bombardier seconded by William H. Smart, to wit:

Resolution No. 0319-

**RESOLUTION CONCURRING IN THE DETERMINATION BY THE TOWN OF
GUILDERLAND ZONING BOARD OF APPEALS, AS LEAD AGENCY FOR THE
ENVIRONMENTAL REVIEW OF THE A PHILLIPS HARDWARE, INC. PROPOSED
PROJECT.**

WHEREAS, Town of Guilderland Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 146 of the 1973 Laws of New York, as amended, constituting Section 909-a of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people

of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct and install one or more “ projects” (as defined in the Act) or to cause said projects to be acquired, constructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, A. Phillips Hardware, Inc. (the “Applicant”), has submitted an application (the “Application”) to the Agency, a copy of which Application is on file at the office of the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) for the benefit of Phillips Family Realty Associates, LLC, a New York limited liability company (the “Company”), said Project consisting of the following: (A) (1) the acquisition of an interest in a parcel of land containing approximately 4.5 acres and located at 6495 State Route 158 in the Town of Guilderland, Albany County, New York (the “Land”), together with the existing improvements located thereon containing approximately 7,000 square feet of space (the “Existing Facility”), (2) the demolition of the Existing Facility, (3) the construction on the Land of approximately two (2) new buildings to range in size from approximately 4,000 to 15,000 square feet of space (collectively, the “Facility”), and (4) the acquisition and installation therein and thereon of certain machinery and equipment (the “Equipment”) (the Land, the Existing Facility, the Facility and the Equipment hereinafter collectively referred to as the “Project Facility”), all of the foregoing to be owned and operated by the Company as a hardware store facility, together with ancillary facilities consisting of a gas station, convenience store and quick food shop; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real estate transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Agency (the “Public Hearing”) pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on February 15, 2019 to the chief executive officers of the county and of each city, town, village and school district in which the Project is or is to be located, (B) caused notice of the Public Hearing to be posted on February 15, 2019 on a bulletin board located at Town Hall in the Town of Guilderland, Albany County, New York, (C) caused notice of the Public Hearing to be posted on February 15, 2019 on the agency’s website; (D) caused notice of the Public Hearing to be published on February 18, 2019 in the Times Union a newspaper of general circulation available to the residents of the Town of Guilderland, Albany County, New York, (D) conducted the Public Hearing on February 28, 2019 at 7:00 o’clock p.m., local time at the Town of Guilderland Town Hall located at 5209 Western Avenue, Route 20 in the Town of Guilderland, Albany County, New York and (E) prepared a report of the Public Hearing (the “Hearing Report”) fairly summarizing the views presented at such Public Hearing and caused copies of said Hearing Report to be made available to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, “SEQRA”), the Agency has been informed that (1) the Town of Guilderland Zoning Board of Appeals (the “Zoning Board”) was designated to act as “lead agency” with respect to the Project, and (2) the Zoning Board issued a Determination of Non Significance on February 15, 2017 (the “Negative Declaration”), attached hereto as Exhibit A, determining that the acquisition,

construction, reconstruction and installation of the Project Facility will not have a “significant effect on the environment”; and

WHEREAS, the Agency is an “involved agency” with respect to the Project and the Agency now desires to concur in the determination by the Zoning Board, as “lead agency” with respect to the Project, to acknowledge receipt of a copy of the Negative Declaration and to indicate whether the Agency has any information to suggest that the Zoning Board was incorrect in determining that the Project will not have a “significant effect on the environment” pursuant to SEQRA and, therefore, that no environmental impact statement need be prepared with respect to the Project;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF TOWN OF GUILDERLAND INDUSTRIAL DEVELOPMENT AGENCY, AS FOLLOWS:

Section 1. The Agency has received copies of, and has reviewed, the Application and the Negative Declaration (collectively, the “Reviewed Documents”) and, based upon said Reviewed Documents, the Agency hereby ratifies and concurs in the designation of the Zoning Board as “lead agency” with respect to the Project under SEQRA (as such quoted term is defined in SEQRA).

Section 2. The Agency hereby determines that the Agency has no information to suggest that the Zoning Board was incorrect in determining that the Project will not have a “significant effect on the environment” pursuant to the SEQRA and, therefore, that environmental impact statement need be prepared with respect to the Project (as such quoted phrase is used in SEQRA).

Section 3. The members of the Agency are hereby directed to notify the Zoning Board of the concurrence by the Agency that the Zoning Board shall be the “lead agency” with respect to the Project, and to further indicate to the Zoning Board that the Agency has no information to suggest that the Zoning Board was incorrect in its determinations contained in the Negative Declaration.

Section 4. This Resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

William N. Young, Jr.	VOTING	<u>YES</u>
Christopher Bombardier	VOTING	<u>YES</u>
Vera Dordick	VOTING	<u>ABSENT</u>
Kelly Flanagan	VOTING	<u>YES</u>
Kevin Hicks	VOTING	<u>ABSENT</u>
Sean M. Maguire	VOTING	<u>ABSENT</u>
William H. Smart	VOTING	<u>YES</u>

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) SS.:
COUNTY OF ALBANY)

I, the undersigned (Assistant) Secretary of Town of Guilderland Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on March 11, 2019 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 11th day of March, 2019.



(Assistant) Secretary

(SEAL)

EXHIBIT A
NEGATIVE DECLARATION

- SEE ATTACHED -

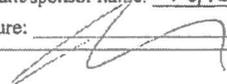
*Short Environmental Assessment Form
Part 1 - Project Information*

Instructions for Completing

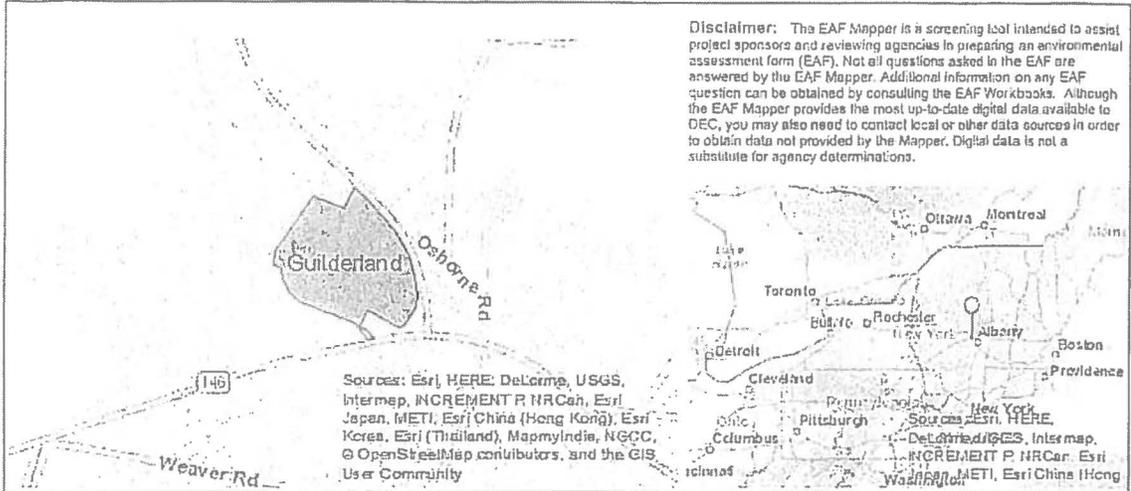
Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
Name of Action or Project: Phillips Mixed-Use Development			
Project Location (describe, and attach a location map): 6495 State Route 158			
Brief Description of Proposed Action: Redevelopment of existing site that contains a Hardware store and associated driveways, parking areas, storage sheds and miscellaneous gravel areas with a 4,200 square feet Convenience Store with Gasoline canopy; two-story building containing a 9,600 square feet Hardware store and eleven dwelling units; and a 45,500 square feet air supported spots dome; along with associated asphalt parking areas and access drives; utilities consisting of water, sanitary sewer and stormwater; and miscellaneous other improvements necessary to make the proposed development operable.			
Name of Applicant or Sponsor: Phillips Family Realty Assoc LLC		Telephone: 518 281 2505 E-Mail:	
Address: 1157 Central Avenue			
City/PO: Albany		State: NY	Zip Code: 12295
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
			YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: Zoning Board of Appeals-Special Use Permit; Building Department-Building Permit; NYSDOT-Utility & Non-Utility Permits; NYSEDC-Sewer District Extension; NOI			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		12.93+/- acres	
b. Total acreage to be physically disturbed?		7.5+/- acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		12.93+/- acres	
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ <input type="checkbox"/> Parkland			

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor name: <u>NICHOLAS COSTA, AGENT</u>		Date: <u>02-13-17</u>
Signature: 		

PRINT FORM



Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National Register of Historic Places]	No
Part 1 / Question 12b [Archeological Sites]	No
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	Yes
Part 1 / Question 16 [100 Year Flood Plain]	Yes
Part 1 / Question 20 [Remediation Site]	No

TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
FEBRUARY 15, 2017

Members Present: Thomas Remmert, Chairman
Jacob Crawford
Sharon Cupoli
Sindi Saita
Gustavos Santos
Stuart Reese, Alternate

Chairman Remmert noted the fire exits in the event they were needed.

CONTINUED CASES:

MATTER OF PHILLIPS FAMILY REALTY – 6495-6517 RT. 158

Sharon Cupoli read the legal notice:

“Notice is hereby given that the Zoning Board of Appeals of the Town of Guilderland, New York, will *resume* a public hearing pursuant to Articles III & V of the Zoning Law on the following proposition:

Special Use Permit/Variance Request #4576

Request of Phillips Fam Realty Assoc LLC for a Variance of the regulations/Special Use Permit under the Zoning Law to permit: the demolition of an existing multi-use building and the construction of a 10,200sf mixed use building with 11 apartments, a 4200sf convenience store with a drive-thru fast food service and 4 fuel pumps & 45,500sf indoor sports complex. A variance is requested to permit 191 parking spaces where 520 are required.

Per Articles III & V Sections 280-21, 280-25, 280-51 & 280-52 respectively

For property owned by Phillips Fam Realty Assoc LLC
Situated as follows: 6495-6517 Route 158 Altamont, NY 12009
Tax Map #s 38.00-1-26.3 & 38.00-1-19 Zoned: GB

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the 15th of February, 2017 at the Guilderland Town Hall beginning at 7:30pm.

Dated: February 8, 2017”

Chairman Remmert stated that this is a continuation of a public hearing and several items have been added to the file since the last hearing including revised plans and an updated Short SEQRA application to reflect the changes to the plans.

Jon Phillips, applicant, presented the request. Mr. Phillips presented updated materials including a façade rendering. The design incorporates the country look of the neighboring agricultural properties.

Travis Smigel of Delaware Engineering stated that there are no issues with the site plan and a conceptual design of the sewer connection is satisfactory with the Town Water Department.

Chairman Remmert stated that it appears that all of the concerns of the Town Planner, the Town Planning Board and Albany County Planning Board have been addressed.

There was discussion regarding headlight glare and the lighting plan.

Mr. Phillips stated that he had met with the Fire Department regarding concerns.

Chairman Remmert asked if there were any questions or comments from the residents.

Alice Bresney of Rt. 158 had concerns about the speed limit and increased traffic and overflow parking.

Brian Battaille of 6580 Rt. 158 had concerns about the adequacy of parking and the smells and odors from the fast food tenant.

Mr. Phillips replied that the fast food tenant is within the convenience store.

Sue Greene of 6655 Rt. 158 questioned the plan for snow removal and environmental protections of the Black Creek.

Mike Bresney of 6581 Rt. 158 had concerns about the morning traffic volume.

Amanda Wilber of 6607 Rt. 158 questioned the size of the dome and its visibility, and also was concerned about the speed limit.

Chairman Remmert made a motion to close the public hearing. Motion seconded by Gus Santos. Vote 5 – 0.

Chairman Remmert made a motion of non-significance in this Unlisted Action:
“This Board has conducted a careful review of the application to determine whether the granting of the variance and special use permit for a mixed-use building with 11 apartments, a 4200sf convenience store with a drive thru food service and 4 fuel pumps and a 45,500sf indoor sports complex would have a significant negative impact upon the environment. In conducting this review, this Board has considered comments provided to

us by the applicant, neighboring property owners, members of the general public, the Town Planner, the Town Planning Board and our review of the application. Based upon this collective record, I move that a negative declaration be issued.” Motion seconded by Gus Santos. Vote 5 – 0.

Chairman Remmert made a motion for approval of:

Special Use Permit/Variance Request #4576

Request of Phillips Fam Realty Assoc LLC for a Variance of the regulations/Special Use Permit under the Zoning Law to permit: the demolition of an existing multi-use building and the construction of a 10,200sf mixed use building with 11 apartments, a 4200sf convenience store with a drive-thru fast food service and 4 fuel pumps & a 45,500sf indoor sports complex. A variance is requested to permit 191 parking spaces where 520 are required.

Per Articles III & V Sections 280-21, 280-25, 280-51 & 280-52 respectively

For property owned by Phillips Fam Realty Assoc LLC

Situated as follows: 6495-6517 Route 158 Altamont, NY 12009

Tax Map #s 38.00-1-26.3 & 38.00-1-19 Zoned: GB

In rendering this decision, the Board makes the following findings of fact:

A public hearing was duly noticed and held on 9/21/16, 12/7/16 and continued to this evening. Notices were mailed to 56 neighboring property owners; 3 people spoke against the application, 7 people spoke and brought up various concerns about the project and 2 people spoke in favor of the application. There were no written comments against the application and 2 written comments in favor of the application.

The Board adopted a negative declaration under SEQRA by a unanimous vote.

The Town Planning Board recommended approval with the following conditions:

- NYSDOT and US Army Corps of Engineers approval.
- Provide detailed landscaping plan and building elevation drawing.
- Complete Full Stormwater Pollution Prevention Plan.
- Sidewalk construction should be reevaluated to see if appropriate given the location of the proposal. That evaluation was done and was determined it was not needed at the project.

Albany County Planning Board’s recommendation of 5/19/16 was to modify local approval to include:

- 1) Review by the NYSDOT for design of highway access, drainage and assessment of road capacity.
- 2) The town should require a traffic analysis in order to evaluate the impact of the proposed uses on the intersection of SR 146 and SR 158.
- 3) The town should consider banking parking due to the fact that the applicant has proposed 50 spaces over the required number.

- 4) Review by the ACDOH for food service and other required permits for the proposed restaurant.
- 5) Review by the ACDOH for water supply, wastewater discharge and other required permits due to the water line expansion and sewer extension.
- 6) Any wetlands disturbance will require notification to and review by the US Army Corps of Engineers for permits under Section 404 of the Clean Water Act.
- 7) Review by the NYSDEC to determine potential jurisdiction under bulk petroleum storage regulations.
- 8) A Notice of Intent filed with the NYSDEC affirming that a Stormwater Pollution Prevention Plan has been prepared is being implemented or submission of a Stormwater Pollution Prevention Plan that is consistent with the requirements included in the NYSDEC SPDES General Permit for Stormwater Discharges (GP-0-15-002, January 29, 2015) for construction activities that disturb more than one acre of land.
- 9) Review by the NYS Office of Parks, Recreation and Historic Preservation for potential impacts on archeological and historic resources.
- 10) Submission of an agricultural data statement to the Town as required by Town Law for site plan, special use permit, use variance, and subdivision approval of sites within 500' of a farm operation located in an agricultural district.

In response to these comments the applicant has made several revisions to the plans to accommodate the recommendations and has reviewed these plans with the Zoning Administrator and this Board. Copies of these plans are in the file.

In granting this request, the Board imposes the following conditions:

Adherence to the site plan, landscape plan, stormwater plan and the representations of the applicant.

Receipt of necessary federal, state and county permits as required by the various agencies involved in this project.

The Building/Zoning Inspector is hereby authorized to issue the permits necessary to implement this decision.

Motion seconded by Gus Santos. Vote 5 – 0.

MATTER OF TED DELUCIA – 5958 E. OLD STATE ROAD

Sindi Saita read the legal notice:

“Notice is hereby given that the Zoning Board of the Town of Guilderland, New York, will resume a public hearing pursuant to Articles IV& V of the Zoning Law on the following proposition: