

**NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
COMMISSIONER'S DETERMINATION
OF
LEAD AGENCY UNDER ARTICLE 8
OF THE
ENVIRONMENTAL CONSERVATION LAW**

PROJECT: Application of Goodco Corporation to construct a six-story, multiple-family dwelling in the Villages of Great Neck Plaza and Kensington, Nassau County

INVOLVED AGENCIES: Village of Great Neck Plaza Board of Zoning and Appeals
Village of Great Neck Plaza Board of Trustees
Village of Kensington Board of Trustees
Nassau County Department of Health

This decision to designate the Village of Great Neck Plaza Board of Zoning and Appeals (BZA) as lead agency for the conduct of an environmental review under the State Environmental Quality Review (SEQR) process is made pursuant to Article 8 of the Environmental Conservation Law and 6 NYCRR 617. I find that the BZA has the broadest jurisdiction with respect to the action and is responsible for making the fundamental land use decision.

The proposed project is the application of the Goodco Corporation to construct a six-story, multiple-family dwelling containing 86 units on a 3.88-acre site in the Villages of Great Neck Plaza and Kensington, Nassau County. Ninety-four percent of the site lies within the Village of Great Neck Plaza.

The BZA, which must issue variances to the existing zoning for height and site coverage, and the Village of Kensington Board of Trustees, which must issue a curb cut permit and subdivision approval under a Nassau County Law that requires approval of the subdivision map by all municipalities whose boundary lines are within 300 feet of a condominium project, have both indicated their desire to act as lead agency for the SEQR review.

In resolving a dispute about lead agency, I am guided by the three criteria listed in order of importance in 6 NYCRR paragraph 617.6(e)(5). These are: (1) whether the anticipated impacts are primarily of local, regional or statewide significance; (2) which agency has the broadest powers for investigation of potential impacts; and (3) which agency has the greatest ability to provide a thorough environmental assessment of the proposed action.

The project involves the construction of an 86-unit, multiple-family dwelling on a site that straddles the municipal boundary between the Villages of Great Neck Plaza and Kensington, with most of the site and the majority of the structures located in the Village of Great Neck Plaza. However, the anticipated impacts from this project, which are traffic, noise, community character and aesthetics, will be primarily local in nature and affect both communities.

The determining factor in this dispute is the breadth and nature of jurisdiction. The BZA has to make decisions regarding the basic land use at the site. Before the BZA are applications that will increase the allowable building height from 40 feet to 64 feet and the allowable gross floor area from 62,080 square feet to 181,750 square feet. These decisions are essential to the construction of the project as proposed and their denial could cause the project to undergo substantial modification. In addition, the BZA has decision-making authority over 94 per cent of the site and almost all of the substantive development will be within the Village of Great Neck Plaza and subject to this jurisdiction. In comparison, the decisions of the Village of Kensington Board of Trustees are dependent on the outcome of the zoning variances and their authority to modify or mitigate is limited to only six percent of the project.

Both agencies possess the ability to conduct the environmental review either through the use of present staff or by obtaining the services of a consultant.

I conclude, based on the facts presented, that the BZA best serves the function of lead agency for conduct of the environmental review for the Goodco Corp. application due to the greater breadth of its jurisdiction and the nature of its decisions.

This decision does not in any way change or limit the jurisdiction of any of the involved agencies or minimize their responsibilities to review the Goodco Corporation application. The BZA, as lead agency, must take a hard look at the relevant environmental impacts in making its determination of significance. The issues brought to my attention in this dispute, such as the potential impacts to adjoining residences in the Village of Kensington, must be considered in assessing the need for an environmental impact statement.

Dated: May 21, 1991
Albany, New York

/s/
Thomas C. Jorling Commissioner

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