

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

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In the Matter of the Application of

37 MAPLE AVENUE L.L.C.,

Petitioner,

**NOTICE OF
VERIFIED PETITION**

For a Judgment Pursuant to Article 78 of the Civil Practice Law
and Rules,

-against-

Index No.:

THE TOWN OF NORTH CASTLE, THE TOWN BOARD OF
THE TOWN OF NORTH CASTLE, THE PLANNING
BOARD OF THE TOWN OF NORTH CASTLE, THE
LANDMARKS PRESERVATION COMMITTEE OF THE
TOWN OF NORTH CASTLE, AZ RESERVOIR, LLC,
POUGHKEEPSIE DEVELOPMENT LLC, EZ RENTALS I,
LLC, ANTARES ARMONK SQUARE LLC,

Hon.

Respondents.
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PLEASE TAKE NOTICE that, upon the annexed Verified Petition of Petitioner, 37 MAPLE AVENUE, L.L.C. (“Petitioner”), duly verified on the 10th day of November, 2011, and the accompanying Memorandum of Law, Petitioner, will make an application to the Supreme Court of the State of New York, County of Westchester, Richard J. Daronco Westchester County Courthouse located at 111 Dr. Martin Luther King, Jr. Boulevard, White Plains, New York, on the 9th day of December at 9:30 a.m., or as soon thereafter as counsel can be heard, for an Order and Judgment granting relief under Article 78 of the CPLR against all Respondents, as follows:

(a) reversing, annulling and setting aside, as arbitrary, capricious and contrary to law, the August 17, 2011 “*negative-declaration*” issued by the Respondent, Town Board of the Town of North Castle, purportedly pursuant to the New York State

Environmental Quality Review Act (“SEQRA”), related to the proposed development of 51,000+ square feet of retail and residential space, including a 25,000+ square foot supermarket, at Maple Street, Main Street and Bedford Road in the Historic District of the Hamlet of Armonk, Town of North Castle, more particularly described as Section 2, Block 14, Lot 4 and Lot 8 (the “Property”)(the “Supermarket Plan”) for, *inter alia*, the Town Board’s failure to take the requisite “*hard-look*” at the potential adverse environmental impacts as mandated by SEQRA and the Town Board’s failure to prepare an Environmental Impact Statement (“EIS”);

(b) reversing, annulling and setting aside, as arbitrary, capricious and contrary to law, the August 17, 2011 Town Board’s decision to adopt the following local laws after its deficient SEQRA review, which will enable the development of the Supermarket Plan: (i) amending Town Code § 213(B)(6)(a) which reduced the “Off-street Parking” requirements for the “CB-A” Zoning District without the requisite studies; (ii) amending Town Code § 213-23(B)(2)(c) which amended the Town of North Castle’s Zoning Map placing the former “Beascakes” Property, more particularly described as Section 2, Block 14, Lot 4, in the “CB-A” Zoning District as opposed to the “CB” District; and (iii) amending the “CB-A” Zoning District Regulations to permit the provision of “off-site” middle income units as opposed to requiring that said units be built “on-site”;

(c) reversing, annulling and setting aside the August 17, 2011 Town Board’s decision to issue a “special-use” permit for the Property which will allow the construction of a supermarket up to 25,000+ square feet and other related improvements, totaling 51,000+ square feet on the Property—the Supermarket Plan—as arbitrary, capricious and contrary to law;

(d) reversing, annulling and setting aside the October 13, 2011 amended "Site Plan Approval and Tree Removal Permits" granted by the Planning Board of the Town of North Castle as arbitrary, capricious and contrary to law;

(e) reversing, annulling and setting aside the August 4, 2011 "Certificate of Appropriateness" issued by the Landmarks Preservation Committee of the Town of North Castle for the Supermarket Plan as arbitrary, capricious and contrary to law;

(f) directing that the Town Board of the Town of North Castle issue a "*positive declaration*" under the SEQRA for the Supermarket Plan and require the preparation of an EIS to allow for public input into the development process of the Supermarket Plan;

(g) enjoining the Town from issuing any building permits, tree clearing permits or other approvals in furtherance of the Supermarket Plan pursuant to N.Y. C.P.L.R. § 7806; and

(h) granting such other and further relief as to the Court deems as just and proper, including costs, disbursements and attorneys' fees.

PLEASE TAKE FURTHER NOTICE, that an Answer to the annexed Verified Petition and opposing affidavits and memoranda, if any, must be served on the undersigned attorneys for Petitioner no later than five (5) days prior to the December 2, 2011 return date, as set forth above, and that you must serve and file with the Court a certified transcript of the record of the proceedings under consideration.

Petitioner designates Westchester County as the place of trial. Pursuant to N.Y. CPLR § 506(b), the basis of venue is that the determinations complained of were issued in the Ninth Judicial District within which the County of Westchester is located.

Dated: White Plains, New York
November 10, 2011

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By: 

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Town Board of the Town of North Castle
c/o Town Clerk
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Armonk, New York 10504

The Planning Board of the Town of North
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c/o Town Clerk
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The Landmarks Preservation Committee of
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