

April 15, 2021

Via Hand DeliveryTown of Glen Planning Board
7 Erie Street
Fultonville, NY 12072**Re: Western Supreme Buddhist Temple Site Development Plan
174 Shrine Road, Fultonville, New York**

Dear Chairman Reilly and Honorable Members of the Town of Glen Planning Board:

We submit this letter on behalf of neighboring property owners and concerned residents with respect to the proposed Western Supreme Buddhist Temple site development plan located at 174 Shrine Road, Fultonville, New York (the “proposed plan”). This letter is submitted without waiver or prejudice to assert different or additional issues, arguments and/or objections during this and subsequent stages of the review process and/or in any ensuing litigation.

I. The Proposed Plan Violates the Town’s Comprehensive Plan

Town Law § 272-a provides that when a Town has adopted a formal comprehensive plan, the Town’s land use decisions must be consistent with that plan. In other words, the Town Planning Board must base its decision on whether a proposed plan furthers, or runs counter to, the goals set forth in the Town’s Comprehensive Plan.

The Town of Glen Comprehensive Plan sets forth the following goals: (1) Preserve and enhance the Town’s farming operations and agricultural lands; (2) Preserve the natural environment; (3) Employ viable Town initiatives to foster economic development; (4) Enhance and encourage preservation of the Town’s historic character; (5) Promote local and regional tourism; (6) Preserve the Town’s rural character and open spaces; (7) Maintain and enhance the aesthetics of the Town; (8) Enhance the recreational and cultural opportunities in the Town; (9) Cooperate with the Town’s adjacent municipalities and with Montgomery County; and (10) Continue an open dialogue on the future of the Town of Glen.

The proposed plan does not further any of the goals set forth in the Town of Glen Comprehensive Plan.

Rather, the proposed plan runs directly counter to several of the keys goals in the Comprehensive Plan, including, but not limited to, the harmful effect on the natural environment, the Town’s historic and rural character, and the Town’s local and regional tourism.

A. The Proposed Plan Will Harm the Natural Environment

The full effect of the proposed plan on the natural environment is beyond the scope of this letter. Suffice it to say, that the de-population of trees, the grading of new roads into the side of the steep hill fronting Route 5-S, and the construction of numerous new structures that has already taken place (upon information and belief, without Town Planning Board approval) and the proposed plan for additional development, has and will have multiple, deleterious effects on the natural environment including soil erosion, air quality, water and sewage concerns, and the effect on the natural flora and fauna of the wetlands area.

Upon information and belief, the “buildings” and “roads” depicted in the photographs attached as Exhibit A were haphazardly constructed without obtaining Town of Glen Planning Board approval sometime after the applicant purchased the Shrine Retreat House and adjoining property from the Society of Jesus (the “Jesuits”).

As discussed by multiple neighbors and Town residents at the March 18, 2021 public hearing, there are significant potential environmental issues that warrant denial of the proposed plan including, but not limited to, erosion issues due to creating multiple roads up the steep slope hill and the cutting down of trees (*see* Exhibit A, photo 1 and photo 3); concern about the shared water supply and sewage due to the expansion and the proximity of the proposed structures to the property line; the flow of water runoff into the surrounding streets and neighboring homes and farms; the effect on the wetlands below the slope which are home to birds, deer, turtles, and wildflowers/trillium; and the archeological concern of excavation of the property which is the historic site of a former Native American village.

As noted, the undersigned reserves the right to further address the numerous environmental concerns, if necessary, during the SEQR process. It does not take an environmental engineer, however, to see that the applicant’s unapproved construction depicted in the photographs attached as Exhibit A and the proposed new construction of structures and roads on the steep slope of this historic site does not further the goal of preserving the natural environment.

The Town’s Comprehensive Plan provides the following explicit warning which warrants denial of the proposed plan:

Development of hillsides must be approached with great care because it affects the equilibrium of a region. Removing vegetation and adding impervious surfaces, such as buildings or pavement, may increase runoff, erosion and flooding, and reduce groundwater percolation. Soil sedimentation may ultimately decrease water quality. Disturbance of hillsides can also destroy a community’s aesthetic setting.

See, Town of Glen Comprehensive Plan, p. 11. The Comprehensive Plan also specifically identifies “protection of natural resources (wetlands, steep slopes, aquifers, stream corridors, etc.) as a factor in Subdivision and Site Plan Review” and emphasizes the need to “[c]urtail the

construction of permanent development in special flood hazard areas.” *Id.*, p. 62. The proposed plan includes multiple structures that are on the steep sloped hillside, require the development of multiple roads up the steep sloped hillside, or are in the flood zone at the foot of the hillside adjoining Route 5-S, atop an aquifer, and abutting wetlands and stream corridors. As such, the proposed plan, on its face, fails to comply with the Town’s Comprehensive Plan and should be denied.

B. The Proposed Plan Will Harm the Town’s Historic and Rural Character and Local and Regional Tourism, Without Fostering Any Economic Development or Any of the Goals of the Town’s Comprehensive Plan

The Town’s Comprehensive Plan sets forth the following explicit objectives that further guide the decision of the Planning Board and require denial of the proposed plan: (1) “Identify and recognize historic properties warranting protection”; (2) “Preserve the Town’s historic character through appropriate land use controls”; and (3) “Actively promote scenic and heritage tourism as a means to enhance the quality of life and economic vitality in the Town and Mohawk Valley.”

The Town’s Comprehensive Plan identifies and recognizes the Auriesville Shrine also known as Our Lady of Martyrs Shrine and the National Shrine of the North American Martyrs (which, until 2006, included the property at issue in this proposal) as a historic property warranting protection based on both the Shrine’s historic character and its role in promoting scenic and heritage tourism (along with the accompanying economic benefits to the Town):

The National Shrine of the North American Martyrs at Auriesville is an important historic and religious site in the Town, and a major tourist attraction in the Mohawk Valley. Saints Rene Goupil, Isaac Jogues, and John Lalande were martyred at Ossernenon Mohawk Castle on the site in the [1660s]. It is also the birthplace of [Saint] Kateri Tekakwitha, Lily of the Mohawks. The shrine at Auriesville was initiated in 1885 as a wooden cross and tiny chapel on a hilltop. The Coliseum Church was opened in [1930], a year after the [Martyrs’] canonization. It was one of the first circular churches in the United States, and the altar was built to resemble the palisades that surrounded Mohawk villages. The grounds are beautifully landscaped and include the ravine where St. Rene was buried, an outdoor Stations of the Cross, the Martyrs’ Museum, Original and Rustic Chapels and numerous picturesque shrines. The Retreat House was recently closed.

See, Town of Glen Comprehensive Plan, p. 46-47.

The property at issue in the proposed plan is a portion of the historic Auriesville Shrine which includes the historic Jesuit Retreat House that was sold in 2006. Since 2016, the Auriesville Shrine, under the new ownership and management of the not-for-profit organization

Friends of Our Lady of Martyrs Shrine, Inc., has undergone a renaissance of renewed tourist interest resulting from ongoing maintenance of the historic buildings and natural landscape.

Ten of thousands of tourists and pilgrims from across the country and around the world visit the Town of Glen each year just to visit the Auriesville Shrine – many of whom take Exit 28 off the Thruway contributing untold amounts to the local economy purchasing gas and buying food in the Town of Glen. In addition to its religious and historic significance, the attraction of the Auriesville Shrine for many tourists is the untouched natural beauty, the picturesque views of the surrounding landscape, and the peaceful silent serenity – all of which is adversely impacted by the applicant’s expansion building already constructed and the proposed plan, including the proximity of the structures to the property line, the height of the structures, the removal of trees, and the expected noise and nuisance of construction in progress. *See e.g.*, Exhibit A, photo 5. Situated on Route 5-S as one approaches the Town of Glen from the east, and brightly visible to travelers on the New York State Thruway, the structures already constructed and proposed to be constructed provide a first impression of the Town to tourists who flock to the Town of Glen from May to October every year on pilgrimage to the historic Auriesville Shrine. *See*, Exhibit A.

In sum, none of the key goals expressed in the Town’s Comprehensive Plan are furthered by the proposed plan. Indeed, the proposed plan clearly will harm the Town’s historic and rural character and the Town’s local and regional tourism at the Town’s pre-eminent historic site and tourist attraction, all to the economic loss of the Town and businesses in the Town, without any evidence that the proposed plan would foster any of the goals of the Town’s comprehensive plan.

II. The Proposed Plan is Unrealistic and Unlikely to be Properly Implemented

In addition to running counter to the Town’s Comprehensive Plan, the Planning Board also should consider whether the applicant has the wherewithal to properly implement the plan. If a commercial developer, for instance, proposed to take a parcel of historic, pristine and formerly picturesque wooded natural landscape, de-populate the trees, displace birds and wildlife, and turn the property into a multi-structure complex, it would be important for the Town Planning Board to determine if the developer was an established entity with the financial means and demonstrated track record of success with other projects to ensure that the developer would not run out of money and abandon the project half-completed or fully completed and vacant, resulting in the blight of abandoned and decrepit buildings (and damaged natural environment) that is the scourge of many neighboring municipalities.

Here, the plans identify the applicant as “Western Supreme Buddha Temple”. Review of the New York Department of State Division of Corporations database, however, reveals that there is no such cognizable entity in New York State. *See*, Exhibit B. Upon information and belief, the Town cannot grant site plan approval to a corporate entity that is not licensed to do business in the State of New York. An entity known as “Western Supreme Buddha Association, Inc.” is listed in the New York Department of State Division of Corporations database as an active domestic not-for-profit corporation with an address of 260-262 East Main Street, Amsterdam, NY and a registered agent listed as Sammi Yuping Liao, 228 East Main Street, Amsterdam, NY. *See*, Exhibit C. The relationship, if any, between “Western Supreme Buddha Association, Inc.” and “Western Supreme Buddha Temple” is not clear.

No matter what name is used, the applicant has not demonstrated that it has the financial means or demonstrated track record of success with other projects to ensure that it will not run out of money and abandon the project half-completed or fully completed and vacant.

Both “Western Supreme Buddha Association Inc.” and “Western Supreme Buddha Temple Inc.” are listed in the IRS database as tax-exempt organizations. *See*, Exhibit D. Absent from the IRS database entries for “Western Supreme Buddha Association Inc.” and “Western Supreme Buddha Temple Inc.”, however, are any of the documents that are typically publicly available for tax-exempt organizations – specifically, the letter determination from the IRS granting tax-exempt status and the mandatory annual Form 990 filings. *See*, Exhibit E. The Form 990 is the document which tax-exempt organizations are required by law to file on an annual basis which documents the income, assets, and liabilities of the tax-exempt organization and lists the organization’s directors, officers, and sources of revenue. All of this information is necessary for the Planning Board to determine if the organization has the means to carry out the proposed project, which is clearly absent in this case.

The spokesperson for the applicant, Nackie Chan, stated at the public hearing conducted on March 18, 2021 that “[w]hat is noted on the plans may never happen if the funds are not available to build with . . . this is a master plan for the next 10 years, but completion [is] based on finances.” *See*, Town of Glen Planning Board Minutes of Meeting Held March 18, 2021, p. 2.

Furthermore, although the early site renderings included plans for an Assisted Living facility, “Nackie Chan noted that there is not [an] intention to put a facility on the property at this time.” *Id.* The law disfavors segmentation and the Planning Board should not countenance the lack of transparency or risk the real potential of the project being built differently than the proposed plan.

The Town of Glen Planning Board is on notice that the applicant has a track record of undertaking building projects that have remained unfinished in the City of Amsterdam. The unfinished “produce stand” on Route 5-S to the east of the property at issue and the other incongruent and/or unfinished structures and roads constructed by the applicant (upon information and belief, without obtaining Planning Board approval) establish that the proposed plan should not be approved for all of the reasons set forth above. *See*, Exhibit A.

Nonetheless, regardless of concerns about the applicant’s ability to complete the proposed plan, any plan to build this many structures in this location, with that much concrete, excavation, and infrastructure, should be denied based on the effect it would have on the natural environment, on the historic and rural character of the Town, and on tourism to the national and international tourist destination specifically identified in the Town’s Comprehensive Plan, all to short-term and long-term economic detriment of the Town.

III. Conclusion

We respectfully request that the proposed site development plan be denied as it is inconsistent with the Town of Glen Comprehensive Plan. To the extent that we understand that the Town Planning Board has previously sought approval to act as the “Lead Agency” for purposes of SEQR review, we respectfully submit that the multitude of environmental issues necessitates a “positive declaration” requiring a full Environmental Impact Statement (“EIS”) along with, *inter alia*, the opportunity for all neighboring property owners and Town residents to submit comments and participate in the SEQR review and scoping process. Further, we request that the Town direct the applicant that it cease any ongoing construction and not begin any physical alteration related to the proposed project site unless and until the SEQR process is completed and a final determination is issued.

Thank you very much for your time and consideration.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "William H. Baaki".

William H. Baaki, Esq.
On behalf of Friends of Our Lady of Martyrs Shrine, Inc.
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