

PUBLIC HEARING: TOWN OF POUGHKEEPSIE
-----X

In the Matter of the Application of:
ONE DUTCHESS PHASE 3, LLC, FOR FINANCIAL ASSISTANCE
FROM THE DUTCHESS COUNTY INDUSTRIAL DEVELOPMENT
AGENCY,

-----X
DATE: May 20, 2022
Poughkeepsie, New York
9:33 a.m. - 9:35 a.m.
Donna M. Wells, Reporter

MINUTES
OF
PUBLIC HEARING

Mary T. Babiarz Court Reporting Service, Inc.
(845) 471-2511

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES :

DONALD CAPPILLINO, ESQ.
HEARING OFFICER
CAPPILLINO, ROTHSCHILD & EGAN, LLP
7 Broad Street
P.O. Box 390
Pawling, New York 12564

ALSO PRESENT:

Lauran O'Neill, One Dutchess Phase 3, LLC
Jane Denbaum, CFO, Think Dutchess

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HEARING OFFICER'S EXHIBITS

1	Notice of public hearing For identification/In Evidence	4:5
2	Affidavit of publication For Identification/In Evidence	4:9
3	Affidavit of Jenna L. Jones For Identification/In Evidence	4:13
4	Designation letter dated 5/06/2022 For Identification/In Evidence	4:17

1 One Dutchess Phase 3, LLC
2 (Whereupon the following exhibits were marked before
3 the start of the hearing)

4
5 (NOTICE OF PUBLIC HEARING RECEIVED AND MARKED
6 AS HEARING OFFICER'S EXHIBIT 1
7 FOR IDENTIFICATION/IN EVIDENCE)

8
9 (AFFIDAVIT OF PUBLICATION RECEIVED AND MARKED
10 AS HEARING OFFICER'S EXHIBIT 2
11 FOR IDENTIFICATION/IN EVIDENCE)

12
13 (AFFIDAVIT OF JENNA L. JONES RECEIVED AND MARKED
14 AS HEARING OFFICER'S EXHIBIT 3
15 FOR IDENTIFICATION/IN EVIDENCE)

16
17 (DESIGNATION LETTER RECEIVED AND MARKED
18 AS HEARING OFFICER'S EXHIBIT 4
19 FOR IDENTIFICATION)

20
21 THE HEARING OFFICER: Good morning
22 everyone. I would like to call to order
23 the public hearing in this matter. It's
24 in the matter of the application of One
25 Dutchess Phase 3, LLC, for financial

1 One Dutchess Phase 3, LLC
2 assistance from the Dutchess County
3 Industrial Development Agency.

4 I had marked prior to this hearing
5 as Hearing Officer's Exhibit Number 1, in
6 Evidence, the amended notice of public
7 hearing in this matter indicating that
8 this public hearing would be held on May
9 20, 2022, at 9:30 a.m., at the Dutchess
10 County Industrial Development Agency
11 offices located at 3 Neptune Road, large
12 conference room, Poughkeepsie, New York
13 12601, and that's where we're located
14 right now. It's May 20, 2022, at
15 approximately 9:33 a.m.

16 I've marked as Hearing Officer's
17 Exhibit Number 2, in Evidence, the
18 affidavit from the Poughkeepsie Journal
19 indicating that on May 6, 2022, a copy of
20 the amended notice of public hearing in
21 this matter was published for one
22 insertion in the Poughkeepsie Journal.

23 I've marked as Hearing Officer's
24 Exhibit Number 3, in Evidence, the May 6,
25 2022, affidavit of Jenna Jones indicating

1 One Dutchess Phase 3, LLC
2 that on that date she served a true copy
3 of the amended notice of public hearing on
4 the Honorable Jon J. Baisley,
5 Superintendent of the Town of
6 Poughkeepsie, upon Mrs. Aviva Kafka, the
7 Superintendent of Schools of the Hyde Park
8 Central School District, and upon the
9 Honorable Marcus J. Molinaro, Dutchess
10 County Executive.

11 I've marked as Hearing Officer's
12 Number 4, in Evidence, the May 6, 2022,
13 letter of the Chairman of the Dutchess
14 County Industrial Development Agency,
15 Timothy Dean, authorizing me, Donald
16 Cappillino, to conduct this public hearing
17 on behalf of the Agency.

18 Would anyone like to speak on this
19 particular matter?

20 BY MS. O'NEILL: I would just like
21 to say thank you for all of your time,
22 thank you to the Board for their time and
23 their ongoing support of the project, and
24 I appreciate all of the hard work that the
25 Dutchess County IDA, and their staff, and

1 One Dutchess Phase 3, LLC
2 the Board members do.

3 THE HEARING OFFICER: Lauran, could
4 you just state your name for the record
5 and your association?

6 BY MS. O'NEILL: I'm sorry. Yes.
7 I'm Lauran O'Neill. I'm the General
8 Counsel for One Dutchess Phase 3, LLC.

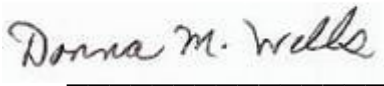
9 THE HEARING OFFICER: Thank you. I
10 do acknowledge that there were two letters
11 received with comments, and they will be
12 shared with the Board properly along with
13 a copy of this transcript of the public
14 hearing. Thank you very much. There
15 being no one else here from the public to
16 speak, I will now close this public
17 hearing.

18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK)
) ss:
COUNTY OF DUTCHESS)

I, DONNA M. WELLS, a stenotype reporter and Notary Public within and for the State of New York, do hereby certify that the foregoing is a true and correct transcript of the minutes recorded by me and reduced to typewriting under my supervision to the best of my knowledge and ability.



DONNA M. WELLS

Dated: May 20, 2022

A	N			
acknowledge (1) 7:10	name (1) 7:4			
along (1) 7:12	O			
association (1) 7:5	OFFICER (2) 7:3,9			
B	One (3) 7:1,8,15			
Board (2) 7:2,12	O'NEILL (2) 7:6,7			
C	P			
close (1) 7:16	Phase (2) 7:1,8			
comments (1) 7:11	properly (1) 7:12			
copy (1) 7:13	public (3) 7:13,15,16			
Counsel (1) 7:8	R			
D	received (1) 7:11			
Dutchess (2) 7:1,8	record (1) 7:4			
E	S			
else (1) 7:15	shared (1) 7:12			
G	sorry (1) 7:6			
General (1) 7:7	speak (1) 7:16			
H	state (1) 7:4			
HEARING (4) 7:3,9,14,17	T			
L	transcript (1) 7:13			
Lauran (2) 7:3,7	two (1) 7:10			
letters (1) 7:10	3			
LLC (2) 7:1,8	3 (2) 7:1,8			
M				
members (1) 7:2				
much (1) 7:14				

Sarah Lee

From: Doreen Tignanelli <doreentig@aol.com>
Sent: Thursday, May 19, 2022 3:04 PM
To: Sarah Lee
Subject: Comment for One Dutchess Phase 3 Public Hearing May 20, 2022, 9:30 am, DCIDA, 3 Neptune Road Poughkeepsie

Ms. Lee, please acknowledge and include my comments as part of the official public record for the DCIDA Public Hearing for One Dutchess Phase 3 scheduled for May 20, 2022 at 9:30 am, at the DCIDA, Neptune Road, Poughkeepsie. I request these comments be shared with the DCIDA Chair and Board members.

1) I am opposed to the issuance of any Financial Assistance to the One Dutchess Phase 3 project in any form including, but not limited to, Sales Tax Exemption, Mortgage Tax Exemption, and Payment in Lieu of Taxes (PILOT). According to application materials, the project is seeking \$1,637,455 in Sales Tax Exemption and \$175,170 in Mortgage Recording Tax Exemption.

The "Financial Assistance" is simply not needed. The project is likely to be profitable without assistance due to the low apartment vacancy rate in the County. Even the 2020 Dutchess County Rental Housing Survey prepared by Dutchess County Planning, and referenced in the project application, notes that the low vacancy rate for apartment rentals benefits landlords.

2) Regarding the DCIDA's mission to further job creation, the main component of this project is residential, 84 rental units. According to the application, only 4 permanent new jobs are to be created.

3) Application Section I: Application Information I. answers "No" to the question "*Has the company received any state or federal subsidies or program assistance in the last 10 years?*" However, as a participant in New York State's Brownfield Cleanup Program, upon program completion, the applicant was eligible to receive tax credits to help offset the cleanup costs. In December of 2014, the NYSDEC issued the site a Certificate of Completion. At the February 11, 2009 Poughkeepsie Town Board Meeting, counsel for the applicant stated they were eligible for tax credits for a maximum of 18% of the *total project cost*. The example was given that if the developer spent \$100 million on the project, they were eligible for a tax credit of up to \$18 million which far exceeds the cleanup cost of \$5 million which was stated by counsel for the applicant at the November 5, 2014 Poughkeepsie Town Board meeting. These tax credits call into question the accuracy of the "No" answer given in regard to subsidies or program assistance.

4) The applicant states "the project no longer can sustain the full amount of necessary financing needed to move forward without some aid". As noted in comment 3 above, the One Dutchess project is eligible to receive state tax credits for a maximum of 18% of the *total project cost*.

5) Regarding the need for financial assistance, the applicant also states that if the project is not undertaken, "*the land would have a lower basis meaning less tax income for the Town of Poughkeepsie and Dutchess County.*" However, less tax revenue for the town and county did not appear to be of concern to the applicant when they instituted Tax Certiorari proceedings with the

Town of Poughkeepsie. The proceeding resulted in a settlement approved by the Poughkeepsie Town Board on May 18, 2022 which benefited the applicant by greatly reducing the assessed valuation of this project's three parcels from a total of \$900,000 down to \$525,000.

6) Increase in property tax revenue is often cited as a benefit and is based on "Current Assessed Value" and "Estimated New Assessed Value". However, this fails to take into consideration the fact that applicants often challenge the assessed value of the property after project completion, asking for a reduction in assessed value. When that happens, projected tax revenues end up being lower than stated, again leaving the remaining tax base to subsidize the developer's profits. This project has already challenged their assessment as noted in comment 5 above.

7) Application Section II: Project Description & Details C. answers "No" to the question "*Any known environmental contamination or remediation issues?*" but then goes on to list in the "Yes" section that the site was a brownfield remediation site which "*received a certificate of completion from the NYS DEC*". While a certificate was issued, it would also be appropriate to note here that there is residual contamination in the soil and groundwater that is being managed under a Site Management Plan which requires regular inspection and monitoring and there is to be evaluation of the potential for vapor intrusion for any buildings developed on the site.

8) The nearly \$2 million dollar sales and mortgage tax exemptions will increase the tax burden to Dutchess County residents. The shifting of tax burden to others was noted in the New York State Comptroller's 'Performance of Industrial Development Agencies In New York State', 2021 Annual Report dated June 2021 which states, "*However, tax exemptions granted by IDAs can reduce the tax base of local governments and school districts and may increase other taxpayers' tax bills*".

9) In Application Section 7, regarding conflicts of interest, it is stated that the DCIDA provides the applicant with a list of its members, employees and officers in order to determine conflicts. No conflicts are noted. It is unclear why Tim Dean, Chairman of the DCIDA and CEO of Marshall & Sterling, was not listed here. At the May 12, 2021 DCIDA Meeting, for the North Cross LLC agenda item, Dean said he had a conflict of interest with North Cross LLC stating "*my firm has provided some insurance advisory services on another project which they are involved with and may on this one so I need to recuse myself*". As North Cross LLC, One Dutchess Phase 3 LLC and The O'Neill Group LLC are all affiliated, per application materials, it would appear that Chairman Dean should have been listed as having a conflict of interest.

Doreen A. Tignanelli
29 Colburn Drive
Poughkeepsie NY 12603

Sarah Lee

From: Jim Beretta <jimberetta@aol.com>
Sent: Thursday, May 19, 2022 2:25 PM
To: Sarah Lee
Subject: Public Hearing Comments, ONE DUTCHESS PHASE 3, LLC

Ms. Lee (DCIDA CEO),

I wish to submit the following public comments for the May 20, 2022 public hearing, at 9:30 a.m., local time, at the Dutchess County Industrial Development Agency, Three Neptune Road, large conference room, Poughkeepsie, Dutchess County, New York 12601 for the financial assistance described in the public hearing notice as follows for ONE DUTCHESS PHASE 3, LLC:

"The Agency is contemplating providing financial assistance (the "Financial Assistance") to the Company with respect to the Facility by granting an exemption from all state and local sales and use taxes with respect to the qualifying personal property included within the Facility or used in the construction, improvement, reconstruction, repair, renovation, installation, furnishing and equipping of the Facility and an exemption from all real estate transfer taxes and mortgage recording taxes with respect to any qualifying mortgage on the Facility (or such interest in the Facility as is conveyed to the Agency) to secure the financial assistance and/or any other indebtedness incurred by or for the benefit of the Company in connection with the Project."

Please acknowledge receipt of this public hearing input and that it will be added to the record as public hearing comment.

I am **opposed** to the financial assistance requested as described above and, as further described in the DCIDA meeting agenda for May 24, 2022, as follows:

"A. For Consideration and Approval of an Authorizing Resolution for One Dutchess Phase 3, LLC (Town of Poughkeepsie) authorizing a Project providing for a Mortgage Recording Tax Exemption and Sales Tax Exemption for an approximately \$29,711,536 project for construction and re-development at 10 O'Neill Court, 20 O'Neill Court, and 70 Dutchess Landing Road to construct commercial and residential buildings consisting of approximately 4,000 sq. feet of commercial space and 84 residential units."

My reasons for opposition are as follows:

- 1) This project has already benefited from financial assistance from the City of Poughkeepsie IDA. If they can't afford it, they should delay Phase 3.
- 2) Mostly all projects coming before the DCIDA claim that their project is unaffordable without IDA financial assistance. These seem like boilerplate words to get financial assistance. It is hard to believe that all of these projects would not be successful without DCIDA financial assistance.
- 3) By granting financial assistance to this project it means that the normal tax payments for this project, by the developer, will be transferred as an additional tax burden to all other taxpayers in the municipality and the County. This amounts to corporate welfare.

4) Chairman Tim Dean made extensive comments at the 3/19/21 DCIDA meeting, which I attended, about looking into third party reviews of applicant data for projects coming before the DCIDA because:

- a. "...the board has felt, has become more and more uncomfortable with their ability to evaluate some of the more complex aspects of projects" and,
- b. "the area that this has been most challenging for us recently, just because of the number, has been in the development of housing. But this same issues can apply to other areas as well."

Since the DCIDA admitted their discomfort in the ability to evaluate projects, I don't know how the DCIDA can proceed to grant approvals without a high degree of comfort with the cost analysis of the project and the reasonability study that the third party review is intended to provide. If the DCIDA board was uncomfortable before, it does not seem possible they can arrive at a comfort level now to provide the financial assistance by using the same process that they used before to grant financial assistance to this project.

It is not apparent that the DCIDA has used a third party to do a cost analysis of this project which is largely the development of more housing.

Again, I am opposed to the financial assistance being requested from the DCIDA.

Sincerely,

Jim Beretta
Town Of Poughkeepsie Resident & Taxpayer