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STATE OF NEW YORK : COUNTY OF ULSTER
TOWN OF KINGSTON PLANNING BOARD

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In the Matter of

850 ROUTE 28, LLC

Environmental Assessment Form Addendum

----- X

Date: January 22, 2020
Time: 7:00 p.m.
Place: M. Clifford Miller
Middle School
65 Fording Place Rd
Kingston, NY 12401

BOARD MEMBERS: JOHN KONIOR, Chairman
JAMES PIRRO
DIANE MAYER
KEITH BENNETT

ALSO PRESENT: RICHARD B. GOLDEN, ESQ.
RYAN LOUCKS

APPLICANT'S REPRESENTATIVE: BARRY MEDENBACH

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MICHELLE L. CONERO
PMB #276
56 North Plank Road, Suite 1
Newburgh, New York 12550
(845) 541-4163

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CHAIRMAN KONIOR: The meeting is now started.

The emergency exits are in the back of the hall.

The first thing we're going to do is we're going to look at our draft from last month's meeting, we're going to vote on that, and then we have a little presentation that I'm going to have Rick read to you. I have a little problem speaking, I've got a cold.

Let's do the minutes. Everybody approves?

MR. PIRRO: Yes.

MS. MAYER: Yes.

MR. BENNETT: Yes.

CHAIRMAN KONIOR: It's accepted.

MR. GOLDEN: I'm going to read the notice of this meeting. It's not a public meeting but in order to get the word out to as many people as possible we required that the publication of the notice of this meeting be published in the paper. It was. It read as follows: "Please take notice that the Planning Board of the Town of Kingston will hold its next

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850 ROUTE 28, LLC 3

scheduled meeting at 7:00 p.m. on Wednesday, January 22, 2020 in the auditorium of the M. Clifford Miller Middle School, located at 65 Fording Place Road, Lake Katrine, New York 12449. The application of 850 Route 28, LLC and its environmental assessment form addendum will be discussed. This is not a public hearing and no public comments will be allowed. A public hearing on this application will be held in the future and will be duly noticed. By order of the Planning Board of the Town of Kingston. Dennis Weiss, Town Clerk."

So the first thing we're going to do for the 850 Route 28, LLC project, the Planning Board would like the applicant to make a presentation to the Board summarizing what has changed in the prior EAF to the present EAF, including reports, et cetera, to simply summarize those changes for the Planning Board.

(Pause.)

MR. GOLDEN: Or we can just go home.

MR. MEDENBACH: I'm sorry, I'm just grabbing something.

MR. GOLDEN: The applicant has set up a

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board on the stage here. Again, primarily this is not a public hearing, it's to advise the Planning Board. Planning Board Members may get up and go closer to that. We've turned it somewhat so that the people in the audience might see it but it's a little bit smaller scale. If people want to move up a little bit they can, or if they want to scootch over so they can see it, certainly feel free to do so.

MR. MEDENBACH: I'll speak into the mic and not trip over the wire and read my notes at the same time.

Last year we had made an application to the Planning Board. We had gone through a process, we had a public hearing and we had a lot of public comments, and we had had a determination --

CHAIRMAN KONIOR: Can you get somebody to hold the mic near you?

AUDIENCE: Could you introduce yourself, please?

MR. MEDENBACH: Maybe I'll just sit down and talk into it. Is this better?

AUDIENCE: Yes.

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CHAIRMAN KONIOR: Introduce yourself.

MR. MEDENBACH: My name is Barry Medenbach. I'm a professional engineer. I have an office in Stone Ridge, New York. We've been there since 1986. We do a lot of work in predominantly Ulster County, site plan, surveying work. We've been working on this project for a little over two years.

As I started saying earlier, this is a follow up of an application that we made over a year ago. We went through a process last year. We had public hearings, then there was an environmental decision on this project, but that has since been rescinded because of the public comments and other information that's come forward. In December of last year we made an updated application and site plan, and I'm just going to discuss basically what is included in that updated application.

The project still consists of two manufacturing buildings, 120,000 square feet each. One is going to be used for precast manufacturing of basically beams and products for highway bridges. The other building will be used

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for steel fabricating for also highway bridges. That has not changed. The general site location has not changed. The map is behind me here. We can talk about it.

What we did do is we did decide to move the batch plant that makes the concrete, that mixes the concrete from outside to inside the building, as well as move the storage bins for the material from the -- north is basically up -- from the northwest corner to the southeast corner of building number 1, that way that processing area where materials are being brought in and out of the building are opposite from the State park. I think one of the biggest concerns that came forward from the public hearings was our potential impact to the State park.

If I can just point to the map. I'll get up for a second. All over here --

AUDIENCE: We can't hear you.

MR. MEDENBACH: This area over in here --

AUDIENCE: We can't hear you.

MR. MEDENBACH: I'll get back to the microphone. The area surrounding the property I

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just pointed to is now all State park. We just found out last week that the OSI property, at the end of December, was conveyed to the State and is now part of the State park system. So we are now completely surrounded by State park. We did consider all of that in our environmental impact studies.

So the changes to the plant, as I said, was we moved the processing plant inside the building, we moved the bins to the back and we've added sound barriers. We expanded our sound study to include the State lands, put receptor receivers at the property line to identify the ambient noise as well as the projected noise.

We did projections for the hiking trails. As a result of that we came up with some sound mitigation, which I'm going to move another plan and then I'll come back to the mic.

AUDIENCE: Pull the table closer.

CHAIRMAN KONIOR: Can you have one of your associates help you so they can do that while you're talking?

MR. MEDENBACH: So what we did here as a result of the sound study, which we had a

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company from up in the Albany area, H2H who are experts in this area, conducted the study and we've included it in the submission. It was expanded to include receptors that were located on the State boundary line with us, which is more towards the north and the northwest side of our site. As a result we put up some sound barriers. There will be some temporary ones during construction and some permanent ones. The temporary ones during construction are essentially being put there to block the sound from processing the rock. As the Board knows, we have a substantial amount of rock we have to move on site. Some of it will be cut and used as fill, some will be hauled off site, some of it will be processed and saved for the manufacturing process in the concrete. So we have sound barriers along here, along here, here, there, and then around the area where the rock would be processed. These sound barriers will basically be 15 feet high and will consist of rock that we have on the site. There's a lot of loose rock on the site. There will be a lot more loose rock on the site. These sound barriers will be built to

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help project the sound to keep it in the site and not so much impact the State lands or the hiking trails.

Other changes we had -- maybe I'll go back to the other plan -- was working with our traffic consultants and the Department of Transportation, we have agreed to put a left-turn lane on 28 where our main entrance is. The main entrance would be in here coming into the site. We're going to be putting in a left-turn lane for vehicles that are heading east on 28. As a result of that we have to widen -- push the shoulder out further. We're adjacent to the State wetlands here, and there's going to be a little bit of disturbance to the edge of the State wetlands. That's a new added potential impact.

Then we've also added some more details and worked on some of the drainage system. Basically it's the same drainage system. We're treating all the runoff from the site. Currently the site is predominantly bare rock where we're building. That runs off into the stream that runs south from the site to the series of ponds

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uncontrolled, and there is some turbidity that comes off of that during heavy rains. After construction we will have settling ponds that will collect all that runoff and reduce the sediment that leaves the site. So it will be a positive result in the flow of water from the site from stormwater.

We have a no impact letter from the State Parks, Recreation & Historic Preservation office that got rescinded. We don't know why. They weren't really sure. As a result we hired an archeologist who did a study on the site, wrote a report and sent it to them, and then they reissued their no impact. So we have another no impact letter on any archeological or historic features.

We also had our biologist do additional investigation and studies of the land that we're disturbing and come up with another assessment of species and habitat, and then all of that was put together in an expanded environmental assessment form where we made some changes to the environmental assessment form. We have multiple appendices to that form. I can list them off

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here a little bit. It's quite an extensive report. I see we do have one copy here. So we have a traffic report in the appendices as well as a report on the habitat, a natural resource survey, threatened and endangered species, a habitat assessment, a revised wetlands delineation.

We had mapped the wetland along our western boundary line along the entrance road. We had basically no disturbance at all to the wetlands. Within the 100-foot adjacent area we're going to re-curb the entrance, so as a result of that we need a DEC permit. Now that we're putting the left lane in, the expansion of the shoulder heading west from the site, we have additional disturbance that will happen to the edge of the State wetland. We had the State come out and re-map -- re-delineate the wetlands further up 28. That map has been sent to the DEC and resubmitted as approved.

Then we had another updated threatened and endangered species report and a habitat assessment.

We have a report on the rock removal.

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We have letters from DEC explaining that if the sole purpose is for construction, we're exempt from a land mining permit. We still intend to obtain that waiver basically for mining.

We have a water and sewer report.

We did a visual analysis basically showing that you're not going to see these buildings. Certainly not from 28. There's higher land. There's higher land also to the east. There is some exposure to the Pickerel Pond area but we're going to put some vegetative buffer in there.

I'll turn this over. I think it's on the other side.

So this area right here facing Pickerel Pond, although we do have a little strip of existing vegetation, we're going to add substantially more trees along here to help the visual impact. Because this area is so flat, it's going to be hard to find. You won't see the buildings from the parkland. The view will be predominantly obstructed by vegetation. We provided some cross sections showing that.

As I mentioned earlier, we have the

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noise study. There was an initial study, a revised study and some additional comments.

There are the archeological reports.

Then we responded to many comments that came up at the public hearing which are listed in the attachment.

That more or less summarizes what we have.

We also had a letter from the Town of Hurley. I'm not sure what office this is from, if it's the Environmental Committee, but they were concerned of us discharging wastewater into the stream which flows from Pickerel Pond. Pickerel Pond flows into what we're calling pond A there, pond A flows into B, C, D, E and F, and then it goes under 28 and ultimately into the Esopus Creek. It runs through the Town of Hurley. They were concerned that we were going to be discharging waste from our process. In fact, we're not discharging any water at all from the concrete process. It will all be contained within the building. It's all being recycled. The water is being reused. The sludge from it is actually being reused. The entire site runoff

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we're controlling through a series of ditches, channels, grass-lined swales that wrap all around the facilities. They discharge into two large settling ponds before discharging into that waterway. So we're going to actually reduce the impact to the stream. Right now there's uncontrolled bare rock which is used as sediment that flows into that stream. You can see after heavy storms the turbidity in those ponds. Our site improvements will help control that. We have not prepared a response letter to this yet but we will do that and submit that.

I don't know if there are any questions from the Board.

MR. GOLDEN: We're going to have that in a little bit.

MR. MEDENBACH: What would you like to see?

CHAIRMAN KONIOR: Pass the mic back.

MR. GOLDEN: In order for the Planning Board to get the benefit of not only that presentation but also the comments from the Planning Board Engineer and my comments, we're going to present those now, and then we're going

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to give the applicant an opportunity to provide any preliminary response to the comments that we will be making, and then after that we will open it up to the Planning Board to ask any questions of the applicant or make any comments at that time.

The first one will be Ryan, Planning Board Engineer, to go over his comment review memo.

MR. LOUCKS: My name is Ryan Loucks, I'm from Crawford & Associates Engineering. We're the consultant for the Town of Kingston Planning Board.

After reviewing the submission made by the applicant's engineer we put together a memo summarizing our thoughts and comments. Some of these Barry has already addressed in his presentation this evening but I'll hit on the key points --

AUDIENCE: Can you move the mic closer to your mouth.

MR. LOUCKS: I'll go through some of the key comments that we felt were important for this application. As I just said, Barry touched

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on a few of them already but we'll continue through them.

The beginning of our memo kind of summarized some of the permit applications that are required, the permits that are needed. The Department of Transportation is one, DEC is another, Department of Health for water and sewer.

We had a number of logistical note comments regarding the site plan application. We noted from a previous letter that was received from the engineer, the applicant's engineer, that there is an easement by the DEC for a footpath along the access road to the entrance of the facility. It hasn't been labeled on the most current plan.

We also note that a truck scale has been added to the plan that hadn't been on there previously, so we just recommend the applicant provide some information as to what that is and what it actually entails.

They use infiltration practices for their stormwater management which is an approved method by the DEC. We just had some comments

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2 regarding the contamination when phase 2 is being
3 constructed and just making sure they still
4 operate and function properly throughout the
5 process.

6 Another comment that we found was the
7 new application includes a sound berm. We just
8 recommended some information be provided as to
9 the constructionability of those sound berms, the
10 15-foot tall berms.

11 One-on-one slopes can be difficult to
12 create and manage in the field. We just
13 recommended some information be provided as to
14 the constructibility of those.

15 Additionally, the sound berms that are
16 proposed seem to interfere with a few of the dry
17 swales. That could be an issue for the long-term
18 operation and maintenance of the dry swales, so
19 we asked the applicant to review that and see if
20 there are any revisions that need to be made for
21 the location of the berms or the dry swales in
22 general.

23 It's also noted that the truck scale is
24 not within the current limits of disturbance of
25 the erosion and sediment control plan. Again,

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clarity on what actually is involved with the truck scale would clarify if it is a disturbance or if it needs to be included within that area as well.

It's also noted in this application that there are proposed solar panels to be installed on the roof of the building. We just comment that that should comply with the current section of the town code regarding solar panels on rooftops.

The new revised noise study was reviewed. It appeared they provided proposed post-development volumes for Onteora Lake and the recreational trail, however it was not clear as to if pre-development volumes were recorded, and if so, what those actually were.

A generic blasting plan has been provided outlining a number of steps and procedures that will take place. A site specific blasting plan should be reviewed by the Planning Board and the Town prior to commencement of blasting.

A number of logistical items within their stormwater pollution and prevention plan.

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There are a few blanks in the notice of intent. Long-term operation and maintenance was one. The owner and operator was another. Those are logistical clerical documents that can be addressed.

Continuing on with the stormwater management. Just more details on the rock is requested, the spacing associated with them and the volumes. That mostly summarizes the stormwater.

The water. They provided well data from an existing on-site well. We note the current application is proposing two new wells to be drilled on site. We're just looking for some clarification on the testing that was done and being in conformance with the Department of Health standards, just concurrence with that.

That summarizes our response memo.

MR. GOLDEN: Before I get into my comments, just a couple of other things I want to mention. First of all, for anybody that wants to submit a written comment or an e-mail, please don't send it to the town clerk, please send it to either the Planning Board or the Town Board.

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In the reference line, either in the e-mail or the letter, if you could reference the project name so that it's clear and that it can be routed to the proper place as efficiently as possible. So please put in the reference line "850 Route 28 project." Thank you.

The other thing is I want to make a statement with respect to SEQRA because there have been some comments that have been submitted with respect to SEQRA, the State Environmental Quality Review Act. The process that the Board is following is an appropriate process under SEQRA. Some people have called for, since the negative declaration was rescinded, that it's now obligatory of the Board to immediately issue a positive declaration. That's just not the way the law is. They could do that if they wanted to but they could also do what they have opted to do, and that is to allow the applicant to continue to address significant adverse environmental impacts that are potential and also offer suggested mitigations. The Board is allowed to go through that process with the applicant and potentially suggest additional

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2 mitigations and have those discussions with the
3 applicant. This is an entirely proper process
4 that's been sanctioned by the highest court in
5 the State of New York. It will be at all times
6 an open process. These discussions with the
7 applicant are not going to be private
8 negotiations between the Planning Board and the
9 applicant. This will all be done in an open and
10 transparent fashion. At an appropriate time in
11 the future the Board will make a determination of
12 significance. There will also be a public
13 hearing that will be had with respect to this
14 project as well as the Town Board action with
15 respect to the zoning map change. Everyone will
16 have an opportunity at the public hearing, when
17 it's finally set for a public hearing, to go
18 ahead and make their comments at that time.

19 Let me talk now about the comments that
20 I have with respect to the amended environmental
21 assessment form that was submitted and summarized
22 by the applicant. It's a little bit lengthy, so
23 I apologize for that, but I think that it's
24 necessary. Some of these are extremely minor,
25 others have greater significance.

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The tax identification numbers are not consistent and need to be changed to match across all documents. For example, instead of just -- some have 36.1, others have 36.100. Just so there's no confusion, this ought to be consistent throughout the documents.

I'm going to reference page numbers. They may be a little bit different in the document because sometimes with formatting and electronic transmissions the pages change a little bit. If it's not on the specific page I'm talking about, it's likely to be on the page before or the page after.

On page 6 it states that the property is "zoned for commercial and industrial use." The MU-2 Zone is primarily a commercial zone and should be referenced as such. The EAF should also clarify that the EAF includes the study of the pending Town Board Local Law modifying the zoning map to include the property in the MU-1 Zoning District, and that the project has been analyzed as though it is contained within the MU-1 District even though that zone change has not yet occurred. Obviously the Board can not

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approve anything that is not consistent with the zoning for the particular zone that we're referencing.

Page 6 states that the applicant "Intends to obtain all required permits." The applicant should state that it will obtain all required permits, not that it simply intends to do so. This will be a condition of any approval of the project.

Also on page 6 it states, "The Planning Board rescinded the negative declaration on August 19, 2019 due to a procedural error in a prior rezoning of this property which requires further action by the Town Board as well as comments and concerns submitted by the public." This should be revised to correct the date of the Planning Board's action in this respect and to mirror the Planning Board's resolution on this topic. That is, the Planning Board rescinded the negative declaration on August 29, 2019 because it determined that new information presented by the public comments may have a significant adverse environmental impact, and, together with the new involvement of the Kingston Town Board as

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a SEQRA involved agency, going to the Town Board's introduction of a local law proposing a zoning map change to include the property in the MU-1 Zoning District.

Page 7 states that "Facility is approved by the Town of Kingston for 'heavy equipment storage with maintenance building.'" This statement should be clarified to state that this approved use was a determination of the Town of Kingston Building Inspector, not something that was approved by the Town of Kingston Town Board.

Page 7 mentions that "No evidence of threatened or endangered species was found on the site." The location of the statement in the document makes it seem as though the applicant only intends this to refer to plant species. This statement must be clarified to indicate if it is limited to plant species or the same also applies to other endangered species.

On page 7 the calculation of 37.7 acres appears to be incorrect. The acreages provided total 36.2 acres when you add them up. This should be corrected or clarified.

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On page 7 the applicant needs to clarify the status of the DEC validation of the noted wetland and whether the applicant has permission for the access road to be in the 100-foot buffer, including increasing the encroachment as required by the DOT. The applicant should also clarify the status of the DOT review and improvements.

Page 9, that is in response to a comment too. This paragraph needs to clarify how it is also consistent with the paragraphs preceding it that concern settling ponds. Also, it would be helpful if here or elsewhere in the EAF there was a discussion of the new Waters of the United States rule recently implemented and how this affects the EAF statements, if at all.

Page 11, the EAF should clarify if the DEC has expressed an opinion concerning the mitigation measures proposed for noise and lighting impacts on the bats, and, if so, stating the DEC opinion. Also the referenced site preparation activity must be more fully identified as to the specific activities involved.

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On page 11, the referenced noise mitigations must be identified.

On page 12, the summary of the noise study discusses how noise will be greater during construction. The EAF needs to clarify here the timing of the construction periods and the extent of any subsequent outdoor operational activities that will generate noise after the construction period or together with the construction period if they're going on simultaneously.

Page 12, the EAF must further clarify why rock removal and blasting will only occur during the first two to three years of preparation. For example, quantity of rock to be removed and rate of removal, and the number of phases and duration of this activity in each year. Although some clarification is found on pages 20 to 21, at a minimum a reference to this discussion should be included if there's no further clarification needed.

Page 12 states that "Majority of the fabrication processes will be conducted within the proposed buildings." The EAF must indicate the noise level for those processes that will be

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conducted outdoors and whether that was covered or studied in the noise study.

Page 13, response to comment on visual notes. The importance of an existing 50-foot vegetative buffer to be supplemented with an additional 50 feet of evergreens. The EAF should note whether the applicant is willing to include, as part of this mitigation, a conservation easement, deed restriction or other protection to ensure the continued viability of this visual mitigation effort.

Page 14, there's a dedicated easement across the access road into the site to the DEC for the public. The EAF states that "If requested by the New York State DEC, the applicant will cooperate to determine an adequate location for this pedestrian right-of-way fully." It would be best if the applicant defines this easement now in coordination with the DEC, if possible, so that the location of the pedestrian trail can be defined for the Planning Board to determine the efficacy of the overall site plan.

Page 16, the Town Engineer should weigh in as to whether -- the Planning Board Engineer

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should weigh in as to whether it is acceptable for the treated stormwater to run to the settling ponds that the DEC has claimed jurisdiction over under the SWPPP.

Page 18, the applicant has tested the existing on-site well and are proposing two new wells with no testing performed for those. The Planning Board engineer should weigh in on whether additional water testing or monitoring of the neighboring wells is necessary or advisable.

Page 20, the pace and location of where the excess rock is being exported to should be identified to better understand the impact, if any, of the associated truck traffic.

Pages 20 and 22, the applicant has stated all excavation is for the sole purpose of constructing the two manufacturing buildings and is therefore an exempt activity as defined in Article 23, Title 27, Section 23-2705 of the DEC Mined Land Reclamation Law. My law firm will review the limits of this exemption and further advise the Board. The applicant should also provide a final determination from DEC on this issue, if any exist. The DEC's noted response

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2 that "The construction project as proposed may
3 not be subject to the Mined Land Reclamation Law"
4 is not determinative or adequate in this regard.

5 On page 22, the identification of the
6 referenced appendix must be provided.

7 On page 22, the reference to Chapter
8 245 of the Town Code as to the mining chapter.
9 This project does not include mining. If the
10 intent of the reference is that the applicant
11 will use similar monitoring as if it were subject
12 to Chapter 245, it should further discuss -- it
13 should be further discussed in the EAF as to the
14 particular monitoring involved.

15 On page 23, the applicant uses the
16 phrase "Project sponsor" for the first time. All
17 references should be consistent throughout the
18 document.

19 On page 25, the EAF must identify the
20 spill protections that will be in place at the
21 designated fueling area in case of spills.

22 On page 25, the applicant states that
23 since the maximum through pit -- throughput,
24 rather, of the crusher is below 150 tons an hour
25 and thus no air permit is necessary from the DEC

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under 6 NYCRR 201-2.2. My law firm will go ahead and confirm the statement for the Planning Board.

It has already been stated by the applicant that they're going to be responding in detail either in the EAF or directly to the chairperson of the Hurley Conservation Advisory Council regarding their December 9, 2019 letter.

Now that's as to the body and narrative of the EAF. I have some additional comments with respect to the appendices.

Traffic study. For the New York State DOT's analysis only, the applicant studied a third building on the property which is not proposed or considered elsewhere as part of this project. It should be clear that this was conceptual and required by the DOT, if it was, so it's very clear as to what is included in this project and what is not so there's no confusion on that, especially for the Planning Board. If you're not proposing that building and the DOT asked you for a study, that's fine. The Planning Board needs to know whether or not you're actually asking them to approve the third building or not. Whatever the final

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determination is obviously will be included in any resolution of approval or disapproval that the Board has at some future date.

The habitat study. The analysis studied only 37.7 acres which is the area limited to the disturbance area. The applicant didn't study the entire area. You should have discussion of whether or not -- as to why it's not necessary to study outside of the disturbance area in case there were things that were going to be impacted that were outside of the disturbance area.

The analysis noted some Shag Bark Hickory trees on the site and potential habitat for Indiana Bats and Northern Long Eared Bats. The applicant should provide an updated assessment which includes all information from all of the reports so that readers do not have to read every report provided. It would be very helpful for not only the public but certainly the Planning Board if you could kind of, in a revised narrative, summarize some of these appendices details. Obviously it's not going to go into all of them because that's included in the appendices

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themselves, but it would be helpful for a brief summary as to some of the findings.

It is likely we will suggest, based upon other projects, that the Planning Board include within any condition of approval that might be had that there only be allowed 0.1 foot candles of light at the property line, et cetera.

According to the DEC's letter, the Bald Eagle study needs to be re-evaluated annually.

Additionally it states that the project "may" require air and mining permits. Again as stated earlier, this needs to be established definitively with respect to whether or not something is or is not. Just something that may or may not is not going to be sufficient.

Noise study. The applicant only measured the ambient noise from 8 a.m. to 2:30 p.m. as we read the document. We believe, unless there's an adequate reason for this not to occur that you can explain in response to this, that this should have been 24 hours since the project is open and operating 24 hours a day. If you want to make some extrapolation or some other comment to substantiate the reason for the

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restrictive reading times, then the Planning Board will consider that.

Also the applicant only collected the noise at one-minute intervals. Our Planning Board Engineer should weigh in on whether that's an appropriate interval period in order to adequately represent the noise that will be produced.

The comments on logging stations 13, 14 and 15 on page 6 of the study should state what the closest receptor is and how far away it is, otherwise it's very difficult to understand the impact of that.

The document states that the adverse impacts are expected -- that adverse impacts are expected at receptor 1. I think you need to have some discussion as to what is the impact of the fact that there will be impacts at receptor number 1.

On page 10, section 5.0, it uses the word "on" which doesn't seem to be correct. It could be no impacts or it could be one impact. That seems to be a typo. It needs to be corrected because that may have some significance

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with respect to none or one.

It would also be helpful to have some data to backup the conclusory statement there are no impacts, on page 10 still, especially since the prior section on page 9 stated that there would be an adverse impact.

With respect to the SWPPP, the Planning Board will be including in any condition of approval that there be a maintenance agreement entered into with respect to the stormwater facilities.

Blasting. The Planning Board will likely require a typical kind of restriction as a condition of any approval that might be had that there's no excavation, blasting or processing of rock materials on Sundays or holidays, unless you can argue to the Board that that needs to be done, the impacts of that, and then the Planning Board will take that into consideration and make its final determination.

That is all I have. At this point in time if the applicant wishes to respond in a preliminary way to either Ryan's comments or my comments, I would welcome that, the Planning

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Board would welcome that. Do you have any initial reaction?

MR. MEDENBACH: We can comment on these. I'll come up.

First I just want to say I think all the comments on the two letters were very reasonable.

The third list, Rich, do you have that in writing? We took notes but are you submitting that to the Board?

MR. GOLDEN: I can.

MR. MEDENBACH: That would be great so we don't miss anything.

MR. GOLDEN: It will also be in the transcript.

MR. MEDENBACH: Excuse me?

MR. GOLDEN: It will also be in the transcript.

MR. MEDENBACH: That's correct. Right.

A lot of these comments are very straightforward. A lot of typos, like you said. Some are minor, some are a little more significant.

I want to comment on some of the things

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we may know already, such as the DEC response to the easement area. I have a written e-mail from --

MR. GOLDEN: Talk closer into the mic.

MR. MEDENBACH: I have a written e-mail from the DEC that they have no intentions at this time as to make that trail connection in the easement area. They just identified them in the sketch. If they were in the future, this is the general area they would want it, and I would put a note on our site plan map referencing that. I'll provide that to you.

A lot of these other things, I think it's just really updated --

CHAIRMAN KONIOR: Why don't you just sit down.

MR. MEDENBACH: I will sit down. It'll make this operate a little better.

So many of the comments on both letters are really just clarification I believe. I don't think there's anything of real great significance here. Some of these things are in progress already and that we're working on.

The Department of Transportation, the

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DEC with the wetland thing. It's been a process of exactly what DOT wants to see on the widening, the size of the shoulder. We're going to put a retaining wall there to reduce the impact to the wetland. In many cases the retaining wall will prevent any disturbance at all. We've been going back and forth with the DOT through our consultant, and hopefully we'll have that resolved for our submission, which we hope to be responding to this within the next couple of weeks so that we can be back here next month.

MR. GOLDEN: We'll talk a little bit about the next time this is going to be on. In the interim can you answer the question? If you can't now, that's fine. Are you proposing three buildings versus two?

MR. MEDENBACH: No, no. That was something -- DOT insisted that we do a traffic analysis based on a complete build out of all the vacant lands that this driveway could potentially serve. We pushed back on that and said we have no intentions at all to build beyond this. They said you have to include another building. They basically negotiated and said just include

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another building and the other vacant lands
you're not building on so we can do a traffic
projection that would go well into the future.
That was the only reason --

MR. GOLDEN: That's not part of your
application?

MR. MEDENBACH: It's not part of the
application. I think the two buildings is enough
of an undertaking and will make the applicant
busy and happy for quite some time.

MR. GOLDEN: Anything else?

MR. MEDENBACH: No.

MR. GOLDEN: At this time it's probably
appropriate to see if any of the Planning Board
Members have any comments or questions
themselves. The Planning Board, as do most
planning board members, rely a lot upon their
consultants to pick apart things, but they also
obviously may have their own comments,
individualized comments and questions. At this
point we'll just see whether you have any
comments or questions, and then the applicant can
try to answer them either now or in a future
submittal that will occur. Does anybody have

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any?

MR. BENNETT: I do have some questions.

MR. GOLDEN: Just for the record, because we should introduce ourselves so the record is clear, my name is Richard Golden. I am the special Counsel to the Kingston Planning Board with respect to this project.

MR. BENNETT: Thank you. My name is Keith Bennett. I probably don't need a mic. I've got to wake some of you up.

Okay. So I have a few questions. I'm new to the project. I have read everything that was given to me.

After listening, you're saying almost everything in the plant is going to be processed inside the building. Is that correct.

MR. MEDENBACH: Yes.

MR. BENNETT: What is not?

MR. MEDENBACH: The storage of materials.

MR. BENNETT: Where are they to be stored?

MR. MEDENBACH: All around the perimeter of the building. If you look at the

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site plan, you'll see each of the buildings will have a paved driveway, I think it's 50 feet wide around the building, and then beyond that there's another 50 feet for storage of trailers.

MR. BENNETT: What is to be stored?

MR. MEDENBACH: Basically their products. Say the concrete, they pour a concrete beam, it needs to cure for thirty days or something. They put it on a trailer bed and they park it outside.

MR. BENNETT: Is any of this hazardous?

MR. MEDENBACH: No. None of the materials. They do the same thing with the steel beams. Some of the products coming in will be stored outside and then brought into the buildings, fabricated, brought outside, maybe either waiting for either curing or sometimes just waiting for the time at which they have to deliver it.

MR. BENNETT: I read that concrete is going to be brought in.

MR. MEDENBACH: Yes.

MR. BENNETT: It's not going to be mixed there?

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MR. MEDENBACH: It will be mixed on site in a batch plant that's inside the building. It will be a modern, very high efficient batch plant.

MR. BENNETT: No air quality impact at all outside of the building?

MR. MEDENBACH: No. No. It's all inside.

MR. BENNETT: You mentioned receptors, receivers and sound barriers 15 feet high. What studies do you have statistically that that's going to reduce sound?

MR. MEDENBACH: Well I'll have to ask our sound consultant.

MR. BENNETT: I would like that. I would like to really know what that means.

MR. MEDENBACH: Sure.

MR. BENNETT: I mean you can put a wall up and you can still hear over it.

MR. MEDENBACH: The walls we're going to put up during construction will be stone, the crushed stone on site. So they'll be 15 feet high and 30 feet wide or more.

MR. BENNETT: I would like to know more

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about what the sound is going to be. You're still going to be able to hear it.

MR. MEDENBACH: It's actually in the report, but I'll get you more --

MR. BENNETT: I'd like a copy of that.

MR. MEDENBACH: There's also some sound fencing we're going to put up more permanent. That will help mitigate basically the trucks moving around the building.

MR. BENNETT: Okay. You're going to put up some trees that are 50 foot. Okay.

MR. MEDENBACH: No. Not 50-foot high trees. A 50-foot wide strip.

MR. BENNETT: Deep?

MR. MEDENBACH: Yes.

MR. BENNETT: They have to be pretty substantial trees to block a view. Do you have any idea what the size of these trees are going to be?

MR. MEDENBACH: We have not specified yet. We'll put healthy size trees.

MR. BENNETT: I would like to know what that is.

MR. MEDENBACH: What they are being

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proposed for is to supplement the existing trees that are there.

MR. BENNETT: I understand.

MR. MEDENBACH: There's an existing vegetative barrier with trees coming up. We're going to add more trees. It will probably be a White Pine because they grow fast and they're dense.

MR. GOLDEN: Whatever you put in there should be on your site plan.

MR. MEDENBACH: It is.

MR. GOLDEN: Whatever you put on there that you're planning on doing ought to be on the site plan with the particulars involved as to the caliber size, when they're being planted, so that it's very clear to the Planning Board so they can determine whether or not that's adequate or needs to be supplemented or changed because that's what's going to be approved, what's noted on the site plan. So the details of that have to be done. If you have to submit a separate landscape plan, please do that. It has to be part of your site plan submission.

MR. MEDENBACH: Yes, we will do that.

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MR. BENNETT: Thank you for answering my questions.

I'm very interested about the settling ponds and the runoff with turbidity. You stated you're going to have settling ponds. Can you speak more to that? It's interesting to me because that's water.

MR. MEDENBACH: Right.

MR. BENNETT: Where are these ponds going to be located so they're not going to get into the streams and the fishing and all the other things? I like fishing.

MR. MEDENBACH: I'll show you on the plan here. Can you see the map from there?

MR. BENNETT: I can see it.

MR. MEDENBACH: If you want to come up closer.

So what's happening now is the entire site runoff -- I'm going to show you on the bigger plan first. I'm going to talk about the overall site.

MR. GOLDEN: Barry, if you could step to the side so the people can see.

MR. MEDENBACH: Sure. What's happening

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now is most -- let me get my orientation here a little bit. Most of the site drains down into these series of ponds. Now, these ponds that exist now were installed when the mining operation was taking place as sediment ponds. In some of the discussions the reports refer to them as existing sediment ponds, however the State has called this waterway a protected stream. So we're not going to touch any of those ponds. We're going to leave them alone. Right now you have runoff that comes into those ponds and they flow in this direction, under 28 and ultimately to the Esopus Creek. It's basically untreated. If you go there during a heavy rainfall now you'll see there's some turbidity that comes off. What we're going to do is we're going to control everything. We're going to construct a pond here and a pond here, and we're going to have what we call dry swales around the perimeter of the parking areas.

MR. BENNETT: What's the depth of those?

MR. MEDENBACH: They vary. What are they, Kaleb?

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MR. CARR: They're two-and-a-half feet of sand with some soil on top of them with an underdrain underneath.

MR. MEDENBACH: There's an underdrain. They actually filter the water. They're like filtering trenches. They will flow down into a pond which will hold the water -- which is actually holding the water back for a period of time and helps reduce some of the pollutants in it, or particularly bacteria that's in the rainwater sometimes before it discharges. These are all designed in accordance with the State guidelines, DEC guidelines for stormwater. We're treating it for various storms, from a one-year storm all the way up to a hundred-year storm. So as a result of this we're going to increase the quality of the water that discharges into that stream. It's been pretty well substantiated in our stormwater pollution prevention plan which is in accordance with the State, and that will also be filed with the State where they will give us authorization before we start construction.

MR. BENNETT: DEC?

MR. MEDENBACH: The DEC. That's

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correct.

MR. BENNETT: Thank you. I appreciate that. I'm the new guy, I have questions. Any decision that I have to make is based on what I know.

There was an interesting thing you said. There's an archeology study with a no impact letter. Where is that letter?

MR. MEDENBACH: It's in the EAF.

MR. BENNETT: Okay. I'm going to want to see that particular letter. For some reason I missed it.

Then there's a letter from the biologist on wetlands?

MR. MEDENBACH: Yeah. There are a couple of reports and letters. It's multiple items.

MR. BENNETT: Okay. I was kind of curious about the water in the sewer system. You said all the water going into -- in the plant that's coming in is going to be recycled. Obviously you have employees, you have bathrooms, you have all of those things. I'm interested in how you're going to address the sewage.

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MR. MEDENBACH: That is correct. So we have two --

CHAIRMAN KONIOR: Come back up.

MR. MEDENBACH: So we've broken the water into two components. This is water we'll be drawing from the wells. One of them is for domestic use for the employees. That's based on the number of employees. That comes out to a peak flow of 900 gallons a day. All of that water will be treated as public water. It will be disinfected and used by the employees for hand washing, whatever, toilets, and then that will go into a wastewater system which is an on-site septic system that we already have approved from the Health Department.

MR. BENNETT: On-site septic?

MR. MEDENBACH: It's on-site septic. The other water, which we estimate to be a peak of 2,000 gallons a day, is to supplement the water they use in making the concrete.

MR. BENNETT: It's going to be a big septic system?

MR. MEDENBACH: No. That water does

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not leave the site. That water gets reused, refiltered. They're also going to collect rainwater and use that most of the time, but there will be times of long extended periods of drought where they won't have enough rainwater so they'll use the well water. That goes into holding tanks that are inside the building. In addition to the water you add to the concrete to make the concrete which breaks down and becomes part of the concrete, there's water for cleaning and washing. That's the water that goes through a series of tanks.

MR. BENNETT: I'm concerned about sewage.

MR. MEDENBACH: It doesn't go into the sewage. None of that goes into the sewage. None of that discharges into the stormwater. That's all contained in the building. They eventually produce a sludge. That sludge is actually brought to another site where it's dried out and then it's reused.

MR. BENNETT: Who does that?

MR. MEDENBACH: The manufacturing. The owner.

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MR. BENNETT: I'm almost done.

AUDIENCE: Take your time.

MR. BENNETT: I have to know. So I wanted to know -- hang on. Let me find it. Okay. So I heard about the construction. What is the proposed length of construction for this project?

MR. MEDENBACH: Well it's going to be done in phases. It will be done in phases, so there's a couple of different timeframes. I know it created a little bit of confusion. Basically we estimate it will take no longer than four years to have both buildings completed and operated and be done. During that period of time there's a lot of rock to remove, which will be the initial part of it. We figure a year-and-a-half to two years to remove all the rock for phase 1. The phase 1 building will be constructed also during that period. Then it will be maybe another year to finish the rock removal for phase 2. So we're looking at two to three years for the rock removal, a total of four years to complete the construction of the buildings.

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MR. BENNETT: Removing the rock, that's not mining?

MR. MEDENBACH: No. Some people say you're removing rock, that's mining. There are definitions within the law. The DEC's regulation clearly states that if the sole purpose of removing the rock or soil, or whatever the earth component is, if the sole purpose is for construction, it's not considered a mining reclamation permit. You have to look at -- the DEC's intent is that there's some end use to the land, that you don't come in, mine, create this big scar and go away. They want -- the mining permit is actually not only do they regulate the process and material being removed and everything, but the fact that the land is being reclaimed at the end. So when you have a construction project, it's being regulated by the town, by the building department, and at the end you're using the property for some use. If you meet all that criteria they say it's not a mining permit.

MR. BENNETT: So this rock being removed, do they use any water pressure to remove

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this rock?

MR. MEDENBACH: No.

MR. BENNETT: None of that?

MR. MEDENBACH: What may happen, though, is they may clean some of the rock. There's some of the rock on the property that's very hard that could be used for aggregate in the concrete. Instead of trucking that off site and using it for fill, they're going to process it on site and save it so they can use it in making their concrete products. Some of that may be washed.

MR. BENNETT: Some of that water?

MR. MEDENBACH: That would go into holding ponds and ultimately discharge into our drainage system.

MR. BENNETT: One more question and then I'll leave you alone.

MR. MEDENBACH: Sure.

MR. BENNETT: How deep is the holding pond?

MR. MEDENBACH: I'll ask Kaleb that since he designed it.

MR. CARR: It's about 9.5 to 10 feet

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deep. It goes into the rock about 5 feet and then you have a berm that's 5 feet or 6 feet above that, approximately.

MR. BENNETT: I have no further questions. I thank you for the opportunity.

MR. MEDENBACH: Thank you.

MR. GOLDEN: I know you're a new Planning Board Member. Any Planning Board Member, any time you want to speak up, the Planning Board Chairman would be happy with you speaking up and asking questions. It doesn't have to be a formal your turn kind of thing.

MR. BENNETT: Okay.

MR. GOLDEN: That's what I wanted to tell you. All right.

I have polled the remaining Members of the Board and there are no further comments from them. The Chairman indicated that he did have comments but they were covered by either my comments or Ryan's comments.

At this point in time, going forward it's expected that the applicant will be responding to all of these comments, revising their submittal again, providing revised plans as

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were discussed, you may want to revise them further for other reasons, as well as either a supplemental EAF or an additional document for the Planning Board to review. I ask that whatever changes be made, be made in a fashion that makes it easy for the Planning Board to see the changes that you've made, either a red line document or something along those lines, so that the Board doesn't have to reread the entirety and guess at what has changed from one to the other without going through them line by line. So that's going to take some time. Also we have some issues with respect to a quorum and also a commitment that I have. We're not going to have this project on the February Planning Board agenda. It's anticipated at this point in time, again assuming that we're going to get timely responses from the applicant in time to make it on the March 16th meeting of the Planning Board.

Again, we'll have a public hearing notice, you'll know where it is. It will likely be here but it hasn't yet been reserved. There will be a notice in the paper. These are all regularly scheduled meetings, so there's actually

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no requirement that there be any notice in the paper since it's a regular meeting of the Planning Board, but in order to try to be as transparent and understanding of the public as possible, we will continue to put public notices in the paper as to when and where the Planning Board may meet with respect to this project. The Planning Board may meet, if it's able to get a quorum, in February, but it will not include this project.

I have no further comments.

Does anybody else have anything further before the Chairman asks for a motion to adjourn?

(Inaudible discussion.)

MR. GOLDEN: I did forget to mention that. The Town Board has or is about to introduce a new local law that doesn't deal directly with this project. It is a local law to change the current zoning code to allow for up to two additional alternate planning board members so that if a planning board member is absent for any reason, not only just conflict but also just absent for whatever reason, that the Planning Board would be able to go ahead and have them

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step in and continue and vote on whatever project is before them at that time. If they are so appointed in accordance with the draft of the local law, they would be required to attend meetings just like any other Planning Board Member. If there was a full compliment of regular Planning Board Members, they just simply wouldn't be able to vote. They could participate but they couldn't vote. And then if one or two of those regular Planning Board Members happen to be absent, then the one or two of the alternates could step in their place.

So one of the requirements of such a law, because it's located in the Zoning Code, is for the Planning Board to report back to the Town Board any comments that you have with respect to that proposed local law to go ahead and add two alternates as I've described. If we could hear from each Planning Board Member as to any comments they have, and then I will pass that on in a report back to the Town Board.

CHAIRMAN KONIOR: We'll start with you, Jim. Any comments?

MR. PIRRO: It's proposed as to adding

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850 ROUTE 28, LLC

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two alternates. I feel one is sufficient, but
it's up to --

CHAIRMAN KONIOR: Up to two.

MR. PIRRO: That was my only comment.

CHAIRMAN KONIOR: I don't have any more
comments on that. As far as I'm concerned it
looks good.

MS. MAYER: No, I don't have any
further comments.

MR. BENNETT: I have no further
comments.

MR. GOLDEN: Thank you. That will
enable me to go ahead and issue a report on your
behalf back to the Town Board indicating those
brief comments.

All right. Thank you very much for
reminding me of that.

Does anybody else have anything else to
talk about tonight?

(No response.)

CHAIRMAN KONIOR: I'm going to make a
motion to adjourn and try to get my voice to come
back like it belongs.

A second? Do I have a second?

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MR. PIRRO: I'll second.

CHAIRMAN KONIOR: Motion to adjourn
passed. We're gone. Bye. Thank you.

(Time noted: 8:10 p.m.)

C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public
for and within the State of New York, do hereby
certify:

That hereinbefore set forth is a
true record of the proceedings.

I further certify that I am not
related to any of the parties to this proceeding by
blood or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 30th day of January 2020.

Michelle Conero

MICHELLE CONERO