

Duplicate



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Memo:

To: Village of Hunter Planning Board

CC: Walter Kubow, Applicant's Engineer; The Chazen Companies; Hunter Peaks LLC

From: Kevin Schwenzfeier

Date: January 8, 2018

Re: Proposed **Hunter Peaks** Residential Development in the Village of Hunter

The Village of Hunter, Greene County, New York has received a site plan application, and a draft subdivision plat, site plan, Full Environmental Assessment Form (FEAF) for a project identified as Hunter Peaks. Hunter Peaks LLC has submitted an application for the subdivision of a 59.728-acre parcel into 34 lots. The previously subdivided lot has been included in the project area for the purpose of site impact; this increases the project area to 60.925-acres. The proposed subdivision consists of 27 single-family home lots, 5 stormwater management lots, 1 clubhouse lot, and 1 water tank lot. The project will be accessed by a private road and will be served by the Village of Hunter Water Department and the Highlands Pollution Control Corp.

Based on a review of 6 NYCRR Part 617, the Village Planning Board determined that the proposed project is an Unlisted Action under SEQR involving more than one agency, thus a coordinated agency review will be conducted. NYCDEP commented that the Action is Type 1 under SEQR; while the Village Planning Board as Lead Agency does not agree with NYCDEP's reasoning (initially that the project is in a community without zoning and secondarily that it disturbs more than 10 acres as a non-residential project, neither of which is true), because the Board is determined to conduct a coordinated review, the re-classification as a Type 1 Action is acceptable.

– NYC DEP Comment Delineation for the Proposed **Hunter Peaks** Residential Development –

The Village of Hunter, Greene County, New York has received comments from the NYC DEP on 11/9/17 and 11/20/17 for the following proposed Hunter Peaks Development materials:

- Civil Design Set (10/13/17)
- FEAF (10/18/17)
- Storm Water Pollution Prevention Plan (SWPPP) (10/17/17)
- Joint Permit Application (10/19/17)
- Geotechnical Interpretive Report (10/16/17)
- Preliminary Subdivision Map (9/20/17)
- Water Supply Concept Report (10/12/17)
- Sanitary Sewer Collection Concept Report (10/12/19)

Per the November 30th Planning Board Meeting Minutes, both the Planning Board and Delaware Engineering agreed that the NYC DEP comments include items that go beyond the scope of the SEQRA process. Delaware Engineering agreed to provide the Planning Board with a categorization of the comments between SEQRA and Permitting, as well as a summary of the prominent points addressed at the meeting and needed to be addressed at future meetings.

The following comments are taken directly from the 11/30/17 correspondence from the NYC DEP:

Comments to be Addressed by Applicant for SEQR Determination by Planning Board

1. Although the Beech Maple Mesic Forest community is considered “apparently secure in New York”, fragmentation is the largest threat to this community. Twelve acres of impact is significant and no mitigative measures have been proposed by the project sponsor. As previously suggested, use of representative species in revegetation/landscaping plans would help mitigate for some (but not all) impacts to species dependent upon this community. It is recommended to use native plants to the extent practicable for re-vegetating the site, focusing on plants from this community.
2. Usually the optimal building pad is predefined based on topography and other restrictions. As such, it is not uncommon or arbitrary at this stage of the design phase to include grading for each building lot.
4. The project documents state that the proposed action is an unlisted action. As the proposed development will significantly alter more than 10 acres of land, in accordance with 6 CRR-NY 617.4(b)(5)(i) this project should be considered a Type 1 action.

NYCDEP commented that the Action is Type 1 under SEQR; while the Village Planning Board as Lead Agency does not agree with NYCDEP’s reasoning (initially that the project is in a community without zoning and secondarily that it disturbs more than 10 acres as a non-residential project, neither of which is true), because the Board is determined to conduct a coordinated review, the re-classification as a Type 1 Action is acceptable.

5. Endnote 5 of the EAF does not address typical wildlife present that use or occupy the site. Please provide a list of known species in endnote 5 or replace this reference with a list in section 1.E.2.m. Also, endnote 5 does not clearly indicate the presence or absence of rare species but does note the presence of the significant natural community as well as the listing potential for northern long-eared bats. The iPAC report also notes several migratory bird species of concern that could be impacted. It should be noted that the significant natural community provides potential habitat for a number of rare plant and animal species and, ideally, those that could occur on the site, if any, should be listed here. The presence or absence of bat habitat, for both summer roosting and winter hibernation conditions should be clarified and include methods to minimize impacts. The extent of impacts to the significant natural community, if any, should be indicated as it is not clear from the documents provided on this submittal. Some measures to retain the Beech-Maple Mesic Forest community’s structure and enhance connectivity where it occurs on and near the construction zone should be evaluated. Where practical, efforts to retain or improve this community on-site should be considered.
6. The Highlands Pollution Control Corporation should provide documentation of available flow capacity at the Hunter Highlands Wastewater Treatment Plant and documentation of extending its services area to the proposed subdivision. The engineer’s concept report indicates the proposed development will consist of 27 single family residences with an estimated wastewater average flow of 12,320 gpd with a maximum daily flow of 247,640 gpd or twice the average daily

flow. The report does not include the proposed clubhouse/community building or pool. The proposed flow from the clubhouse and pool backwash should be included in the project projected flow calculation.

7. The report uses a 3-year average of 20,400 gpd to indicate available capacity at the wastewater treatment plant. The report also included a 30-day arithmetic mean flow of 39,000 gpd. The currently proposed daily average flow of 12,320 gpd which does not include the club and pool, would total 51,320 gpd exceeding the WWTP's permitted flow of 48,000 gpd. As such, the maximum daily flow of 24,640 gpd would cause flow exceedance violations 50% of the time.

In addition, the report also refers to an I&I assessment/study and documented issues with the existing sewer collection system. The engineer suggests that the WWTP owner is actively working on those issues but does not include a schedule or timeline for completion. Furthermore, the report also indicates that the sewer extension will be owned, operated and maintained by the development HOA once completed. Only Sewage Transportation Corporations are permitted to own, operate, and maintain these systems. The report should be revised to indicate the WWTP owner and current Transportation Corporation will also own, operate, and maintain the proposed expansion.

8. The following should be revised or corrected prior to the issuance of a determination of significance:
 - a. The project engineer must include the proposed clubhouse and pool backwash flow to the project's total flow estimate.
 - b. The applicant's engineer should provide documentation that the existing sewer collection system I&I concerns and WWTP problems are being actively addressed with a schedule of completion.
 - c. The engineer should provide documentation for the WWTP owner that the facility has capacity to accept the proposed project flow and that the Transportation Corporation is agreeable to own, operate, and maintain the proposed sewer extension.
9. The applicant should explore alternatives that would avoid impacts to all of the onsite wetlands, regardless of their federal jurisdictional statuses. As currently proposed, this project would result in a loss of 1.115 acres of wetlands, which appear to be largely forested, with no mitigation proposed. Mitigation should be provided for all unavoidable wetland impacts.
10. The majority of the wetland acreage is deemed federally non-jurisdictional by the applicant, and would be lost entirely, for conversion to a stormwater basin. An additional 0.285 acres of wetlands were deemed waters of the United States by the applicant, 0.225 acres of which would also be permanently impacted. A copy of the final jurisdictional determination should be forwarded to DEP when available.
19. As part of a site maintenance plan and/or homeowner agreement, it is recommended to provide guidance for the following items as part of the planning process for the subdivision:
 - a. Fertilizer should only be applied as needed as a result of soil testing. Soil testing services may be available through Cornell Cooperative Extension.
 - b. To the extent practicable, native plantings should be used to enhance habitat as well as to improve aesthetics and stormwater mitigation.
 - c. Regulated and prohibited invasive plants should not be used for any purpose. Refer to the New York State list.
 - d. The use of pesticides should be limited to only as needed to control specific infestations. Refer to state guidelines for storage and use of pesticides.

- e. The application of deicing chemicals and chemical storage location should be carefully evaluated with regard to protecting wetland and waterbodies.
- f. There are facilities on-site that will require regular maintenance, including access roads, pool, clubhouse, stormwater basins, recreational trail, etc. Please outline any planned maintenance schedules and indicate whether work will be performed by contracted personnel and whether any equipment and materials for maintenance will be stored on-site. Any planned bulk chemical storage on-site, including pesticides, petroleum products, deicing materials, and pool maintenance chemicals, should be disclosed as to location and quantities to be stored. A spill cleanup procedure should be in place.

Comments to be Addressed by Applicant Prior to Permitting

3. DEP's initial comment stated, "Based on the presence of significantly steep slopes, it appears that the project may require an individual permit pursuant to the NYSDEC (GP-0-15-002)". The engineer responded, "We respectfully disagree that the presence of steep slopes alone causes the project to require an individual permit."

The General Permit states:

Construction activities for residential, commercial and institutional projects:

- a. *Where the discharges from the construction activities are tributary to waters of the state classified as AA or AA-s; **and***
- b. *Which disturb one or more acres of land with no existing impervious cover; **and***
- c. *Which are undertaken on land with a Soil Slope Phase that is identified as an E or F, or the map unit name is inclusive of 25% or greater slope, on the United States Department of Agriculture ("USDA") Soil Survey for the County where the disturbance will occur.*

This project site does not discharge into a class AA or AA-s tributary and already has existing impervious cover; therefore, not all conditions are met for the individual permit.

11. The project sponsor should consider adding species adapted to periodic and long-term inundation to the aquatic bench planting plan shown on sheet C546. Species such as Iris versicolor, Schoeneplectus tabernaemontani and Juncus effuses may have better outcomes in areas to be permanently or periodically inundated than some of the species currently shown on the plant schedule.
12. Please note that on Sheet C546, the planting labels for PD5 are not aligned with the aquatic bench area, and that PD8 is incorrectly labeled as PD5.
13. Drawing C530 Site Details 1, 2, and 3 show trees with canopies within cross-sectional area of the drainage swales and retaining wall structures of steep slopes. This may provide some benefit in reducing raindrop impact and direct erosive forces of rain however, tree root systems are often damaged by construction. This can cause mortality over a relatively short time followed by the tree becoming a hazard for motorists. On steep slopes, dead or dying trees can also pull down a root ball when toppling over that can, in turn, become a source of erosion.
14. Drawing C540 Storm Water Detail 9 Typical Bioretention Detail is for the most part appropriate, however, it should be noted that purple coneflower is not native to New York and Eulalia Grass is invasive and on the list of NYS regulated plants. The Eulalia should be removed from the list of plants to use in bioretention basins. Another grass formerly referred to a Eulalia is Japanese stiltgrass, also invasive, listed as prohibited in New York and unacceptable for use in re-vegetation. Consider replacing these with other native species. Although sweetbay magnolia is

native to New York and endangered in the state, it does not naturally occur further north than Westchester County. It would not be expected to survive the winters at this location. Consider replacing this species with another flowering native. Note that adding sand to the native soil and use of underdrains may render soil moisture conditions in these structures inhospitable to obligate wetland plants, so replacement with more facultative species may be required.

15. Drawing C545 Stormwater management Basin Details Planting Notes:

- a. Note 3.A. provides limited guidance for soil particle size requirements. Having no limits between the 1/4:" and No. 200 sieve sizes and a range of 20-80% passing through the No. 200 sieve can allow use of topsoil that is either far too sandy or too clayey to support growth of certain plants. Providing additional gradations can augment a soil much better suited to the purpose. The gradation provided in topsoil specification on drawing C550 is preferable. Perhaps that note could be referenced here.
- b. Note 3.B. recommends use of a lawn seed mix everywhere outside the stormwater basins. Please consider use of native meadow mixes in all common areas where a constantly mowed lawn is not required. This will increase habitat value as well as stormwater benefits.
- c. Note 4.E. recommends a set quantity of fertilizer for lawn areas. Application of fertilizer should be based on soil test results to avoid excessive application and runoff to nearby streams and wetlands. Please replace with a recommendation based on soil testing.

16. Drawing C546 Stormwater Management Basin Details Aquatic Bench Plan Schedule indicates planning tufted hairgrass and cardinalflower nearest the pools and the taller growing native grasses further away with seed mix elsewhere. If the goal is to use the cardinalflower as an aesthetic feature, it may be more appropriate to consider incorporation of additional flowering species and to scatter the various flowers throughout the basin, according to moisture requirements.

17. Drawing C550 Sediment & Erosion Control Detail 6, Temporary Topsoil, Fertilizer, Seed, & Mulch Detail includes a recommendation for use of 5-10-5 topsoil at a rate of 175 lbs./acre. Likewise, the Vegetative Cover Specifications, 1.E. requires use of 5-10-5 fertilizer applied at a rate of 4 lbs./100 sf. The reason for these specific recommendations is unclear. Please use fertilizer only as indicated necessary by soil test results.

18. Drawing C550 Vegetative Cover Specifications provides two lawn seed mixes but no mixes for areas that will either be allowed to revert to natural cover or for common areas that do not require frequent mowing. To avoid incursion of non-native grasses into wetlands and natural areas, it is recommended to include native meadow seed mixes appropriate to the location. These often provide better erosion control, minimize the need for fertilizer and watering, and provide habitat value.

On **12/28/2017** Delaware Engineering offered the following comments on the submission materials:

1. SEQR

- a) Please address the apparent discrepancy between forest post and forest cleared acreages on the EAF.
- b) It has been stated that the wetland on the site is considered isolated by the USACOE; written confirmation from USACOE is required.
- c) NYCDEP has noted that a Significant Natural Community exists on the site – Beech-Maple Mesic Forest. Please provide a written discussion as a supplement to the SEQR documents of the significance of impacts to this community from this project as it relates to the overall presence and quantity of this natural community in the region.
- d) It appears that there is an error in reference to Schoharie County rather than Greene County on the EAF relative to “Endangered Species”. Please clarify and/or correct the EAF.
- e) The SEQR materials describe purchase of wetland credits from Schoharie-NYC District Service Area. Please provide an update on the status of this mitigation measure.

2. Stormwater System

Delaware is still reviewing the SWPPP but offers the following preliminary comments:

- a) Catch basins 57 and 58 drain from impervious surfaces directly into the retention basin without pretreatment. Please address the requirement for pretreatment.
- b) Bioretention areas should not be accounting for the absorption rate to be equal to the influx rate during all events. Please re-evaluate the absorption rates of the bioretention ponds.
- c) Please indicate outlets, elevations, pretreatment, underdrains, and pea stone diaphragms in the detail drawings for all bioretention areas as appropriate.
- d) Provide an explanation or revise the plans to address the excessive number of identical surfaces at different elevations in each bioretention area?
- e) Data for test pit #24 indicates that bioretention areas 9A and 9B are located on highly weathered bedrock at 36" in depth; it appears the shallow depth to bedrock precludes location of bioretention areas in this location; please address or revise the plans accordingly.
- f) Correct the labeling for post area PS4B which is unlabeled and post area PS4C which is labeled as PS4B.

- g) Page C546 labels both Plantings details as SWPPP ID #P5; address this discrepancy on Drawing 4 which appears to need to be changed to SWPPP ID #P8.

3. Site Plan

- a) Provide design details for the switchbacks on the main road as well as the road to the water tank including radius, stop signs/bars, turning movements for construction vehicles, etc.
- b) Provide details as to the justification for the stop signs in the southern direction of travel at the switchbacks.
- c) It appears that a stop sign/bar is required at the base of the road but none is provided. Please clarify or revise.
- d) It appears that a stop bar is required at the entrance to the road to the water tank. Please clarify or revise.
- e) It appears that stop signs are required at the switchback on the road to the water tank. Please clarify or revise.
- f) It appears that the community center and the houses on building lots 25, 24, 23, 22, 15, 14, 13, and 8 are either outside of a setback line or touching a setback line. Please advise if area variances will be sought or modify plans to conform to the setback requirement.

Next Steps

1. Receive and review comments from other involved agencies.
2. Receive additional review information from ACOE.
3. Receive and review comments from DEP, DEC, and USFWS.
4. Part 2 and 3 drafting of the EAF and determination of significance.
5. Send to County for compliance with 239-m.
6. Determine timeframe for public hearing.