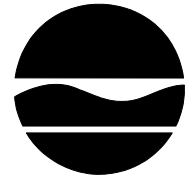


New York State Department of Environmental Conservation



Regional Director, Region 3

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January 4, 2008

Via Facsimile (845) 658-8170 and U.S. Mail

Heidi Haynes, Planning Board Clerk
Town of Rosendale Planning Board
339 Main Street - P.O. Box 423
Rosendale, New York 12472

Re: Hudson River Valley Resort - SEQR Lead Agency Request
DEC Pre-Application No. 3-5146-00063/00007
Town of Rosendale, Ulster County

Dear Ms. Haynes:

Thank you for your letter received December 10, 2007, regarding the proposed Hudson River Valley Resort development proposal in the Town of Rosendale. According to the project documents, the project involves the construction of a mixed-use re-development of the former Williams Lake Hotel property. As currently proposed, the re-development project includes the construction of a 130-room hotel, 160 for sale homes, a spa, a wellness center, and other miscellaneous facility amenities on the 779± acre site. In addition, a new wastewater treatment plant would be constructed to serve the site.

It is understood that the Rosendale Planning Board has preliminarily classified this action as a Type I action, which appears appropriate. Further, it is understood that the Planning Board has declared its intent to act as lead agency in a coordinated review, pursuant to the State Environmental Quality Review Act (SEQR). It would appear, based on the record to date, that the applicant's assumption that a positive declaration of potential significant environmental impact is appropriate, and that a draft environmental impact statement (DEIS) including analysis of a range of alternatives should be prepared. Significant portions of the property contain resources of statewide significance and the project, as proposed, has potentially significant impacts of a regional and statewide nature. For these reasons, as explained further below, we believe the Department of Environmental Conservation (DEC) is most appropriate to serve as the lead agency in the review of this proposal pursuant to SEQR.

DEC Jurisdiction

As currently proposed, this project appears to need multiple permits from the Department, in addition to the local approvals identified. Potential DEC approvals include:

1. Article 15, Protection of Waters Permit - For the proposed excavation of Williams Lake, construction of a new Wastewater Treatment Plant (WWTP) outfall, construction of various shoreline structures and docks, and crossings of any state-protected streams or tributaries;

2. Article 24, Freshwater Wetlands - For proposed disturbances within State-designated Freshwater Wetlands and 100-foot adjacent areas. If the sponsors have not already done so, they should contact Mr. Brian Drumm at (845) 256-3091 of the Department’s Bureau of Habitat Protection to have the boundaries of on-site state-designated freshwater wetland boundaries validated, in accordance with the enclosed sheet entitled “Delineating and Surveying Freshwater Wetland Boundaries”;
3. Compliance with the SPDES General Permit for Stormwater Discharges from Construction Activities (GP-0-08-001) - For the disturbance of over one acre of land;
4. Article 15, Public Water Supply - For the construction and operation of a public water supply system with more than five individual service connections;
5. Private/Commercial/Institutional SPDES Permit - For the proposed construction and operation of a new wastewater treatment plant.
6. Section 401 Water Quality Certification - An individual Section 401 Water Quality Certification may be required depending on the extent and nature of impacts to federally-regulated wetlands.
7. Article 11, Endangered Species Taking - May be required if the Department determines that the project will have an adverse impact on State-listed species or their habitats.

State-Listed Species and Significant Natural Communities

According to Department records the following State-listed species occur within or near the project site:

Common Name	Scientific Name	NYS Status
Indiana bat	<i>Myotis sodalis</i>	Endangered
Eastern small footed bat	<i>Myotis leibii</i>	Special Concern
Allegheny woodrat	<i>Neotoma magister</i>	Endangered
Northern cricket frog	<i>Acris crepitans</i>	Endangered
Red-shouldered hawk	<i>Buteo lineatus</i>	Special Concern

State-listed species that occur on this site have state-wide significance and any potential impacts of this project on state-listed species and their habitats must be thoroughly evaluated. We note that the SEQR EAF provided incorrectly identifies Northern cricket frogs as a NYS species of special concern. Following a thorough assessment of the site conditions, appropriate measures to avoid and minimize potential impacts must also be developed. Such measures will likely include the establishment of appropriate buffers to ensure protection of these species and their habitats. It is possible that other reports or studies of the site exist that identify additional state-listed species that occur on or near the site that would warrant further investigation.

The site also contains multiple state-protected wetlands, tributaries and waterbodies (see enclosed map). The proposal is also within the greater Shawungunk Mountains and Karst Aquifer Region priority project areas identified in the New York State Open Space Conservation Plan (2006). In addition, the site is within the Rosendale Limestone Cave Complex identified in the Hudson River Estuary Wildlife and Habitat Conservation Framework publication . While the Department would not necessarily characterize the site as “pristine”, the prior industrial uses of the site described in the sponsor’s SEQR lead agency coordination materials are historic in nature and portions of the site not currently containing functional infrastructure have reverted to a natural state. Therefore, the important natural communities and resources noted above currently exist on the site despite its past industrial uses, and the development of the site must be carried out in a manner that fully considers and protects these resources, and considers the

relevant goals and objectives of the above-referenced planning documents. While a large amount of open space under a pre-existing conservation easement will remain, it appears that further opportunities exist to maximize open space and protect habitat on the site.

Water and Wastewater

According to the SEQR EAF provided, the total estimated water demand and wastewater generation for the project is approximately 160,000 gallons per day (GPD). As discussed in Mr. Eriole's letter to Rosendale Town Supervisor Robert Gallagher (Section IV.D and IV.E), water and wastewater treatment demand may be handled by a combination of central and individual water supply wells and wastewater treatment systems that has yet to be determined. For the sake of context, the Department would like to note that the former Williams Lake Hotel SPDES permit allowed the discharge of up to 17,640 GPD of sanitary wastewater to several subsurface disposal systems. In light of this, the current proposal represents an increase in water and wastewater treatment demand of approximately 140,000 GPD.

The SEQR Environmental Assessment Form (EAF) submitted with your letter indicates that all discharges of treated wastewater will be subsurface discharges (see questions B.12 and B.13). Based on the reference to intermittent stream standards on page 6 of Mr. Eriole's letter (Section IV.E) and the conceptual plan provided showing the construction of a wastewater treatment plant, it appears that the SEQR EAF is inaccurate in this regard. Please also note that the collection and treatment of wastewater from more than one separately owned parcel or property (including condominiums) also requires the formation of a sewage works corporation pursuant to Article 10 of the NYS Transportation Corporations Law, as explained in the attached notice entitled "Notice to Applicant Regarding Requirement for Formation of Sewage Works Corporation".

This site appears to have unique hydrology, water resources, and a potential relationship between the waters on site and off-site. Therefore, it would appear that a more detailed analysis will be necessary to determine what if any impacts might incur from this project on water resources on an off-site.

Cultural Resources

We have reviewed the statewide inventory of archaeological resources maintained by the New York State Museum and the New York State Office of Parks, Recreation, and Historic Preservation (OPRHP). These records indicate that the project is located within an area considered to be sensitive with regard to archaeological resources. In addition, the site may contain structure eligible for inclusion in the State or Federal Registers of Historic Places. Therefore, the DEC review of permit applications associated with the project will require preparation of a cultural resources assessment and OPRHP review, in accordance with the requirements of the State Historic Preservation Act.

Lead Agency Designation

The Department's mission "is to conserve, improve and protect New York's natural resources and environment, and control water, land and air pollution, in order to enhance the health, safety and welfare of the people of the state and their overall economic and social well being." The Department believes that this project has the potential to result in significant adverse environmental impacts of regional and statewide significance. The Department also believes that it has the broader range of government powers regarding investigation of the proposal's potential impacts, and that it has the resources to best ensure the

most thorough assessment of the proposed action. Therefore, in accordance with the criteria contained in SEQR regulations (6 NYCRR Part 617.6 (b)), the Department wishes to serve as the lead agency in the review of this action.

In the event a lead agency agreement cannot be reached, the lead agency dispute may be resolved by the DEC commissioner, as prescribed in SEQR regulations (6 NYCRR Part 617.6 (b) (5)). However, the Department respectfully requests written responses by February 8, 2007 from the Town of Rosendale Planning Board and all other involved agencies to indicate their concurrence with the Department serving as lead agency in the review of this proposal. If there is agreement, the Department will assume the role of SEQR lead agency. If there is not agreement, the matter may be referred to the DEC commissioner for a decision.

We are confident that the entire range of potential impacts of this project, including those that are of local significance, can be adequately evaluated and addressed through a closely-coordinated SEQR review process. In this regard, we would welcome and encourage the full participation of the various Town of Rosendale agencies in providing their input and technical guidance related to issues of local significance.

I appreciate your taking the time to write and provide DEC with information regarding this proposal.

Sincerely,

William C. Janeway
Regional Director

cc: Town of Rosendale Supervisor and Town Board (w/enclosures) (Via facsimile: 845-658-8744)
Town of Rosendale Zoning Board of Appeals (w/enclosures)
M. Duke, Regional Permit Administrator (w/map)
W.Rudge, Regional Natural Resources Supervisor (w/map)
S. Joule, DEC Region 3 (w/map)
J. Eriole, Esq., Veneziano & Associates (w/enclosures)
T. Miller, Tim Miller Associates (w/enclosures)

Other Involved/Interested Agencies (w/map):

D. Palen, Ulster County Health Department
D. Doyle, Ulster County Planning Department
D. Sheeley, Ulster County Highway & Bridges Department
L. Matteson, Ulster County Development Corporation
R. Pierpont, NYS OPRHP
N. Mercurio, Town of Rosendale Environmental Commission
C. Hornbeck, Town of Rosendale Highway Department
K. Hines, Town of Rosendale Fire Marshall
J. Dupont, NYS Department of Transportation, Region 8
B. Orzel, U.S. Army Corps of Engineers, NY District
R. Niver, U.S. Fish & Wildlife Service, Cortland Field Office