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June 5, 2020

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By Email

Chairman Mark Belden and
Members of the Planning Board
Town of Fort Edward Town Hall
118 Broadway
Fort Edward, NY 12828

Chairman Tom Roche and
Members of the Planning Board
Village of Fort Edward
118 Broadway | P.O. Box 345
Fort Edward, NY 12828

Re: WL Plastics New Pipe Manufacturing Facility
Premises: 446 Lock 8 Way
Tax identification: Part of 163.-2-20.1 (Town) and 163.15-1-4 (Village)
Zoning District: M-1 Industrial (Town) and IP Industrial (Village)
Municipalities: Town of Fort Edward and Village of Fort Edward, New York
Owner of Premises: Fort Edward Local Property Development Corporation
Joint Applications for Subdivision, Site Plan, Special Permit, and Area Variances

Dear Chairmen and Members of the Planning Boards:

This letter is respectfully submitted on behalf of WL Plastics Corp, through its business affiliate WL Plastics Manufacturing LLC (“WL” or “Applicant”) in furtherance of its applications for Subdivision and Site Plan Approvals in the Town of Fort Edward (“Town”) and the Village of Fort Edward (“Village”) relative to the development of a new, high-density polyethylene pipe (“HDPE”) manufacturing facility on the grounds of the former General Electric PCB dewatering plant site currently owned by the Fort Edward Local Property Development Corporation (“FELPDC”).

Status of SEQRA Review

WL hereby respectfully submits the enclosed June 2020 Revised & Combined Full EAF Parts I and II that builds upon the Environmental Assessment Form Part I (dated April 27, 2020) and Part II (dated May 27, 2020) prepared by Matt Huntington, PE, Studio A Landscape Architecture + Engineering DPC. The June 2020 Revised & Combined Full EAF Parts I and II has been prepared based on the Town of Fort Edward Planning Board’s review of SEQRA Section 617.7(c)’s criteria for determining significance and the notion that the “lead agency must consider reasonably related long-term, short-term, direct, indirect and cumulative impacts, including other simultaneous or subsequent actions which are: (i) included in any long-range plan of which the action under consideration is a part; (ii) likely to be undertaken as a result thereof, or (iii) dependent thereon.” This Revised & Combined Full EAF merges for the purposes of SEQRA the pending Warren Washington Industrial Development Agency



June 5, 2020

Page 2

(“WWIDA”) land use entitlement application with the pending WL land use entitlement application in defining the “Action”.

As such, the Applicants are collectively for SEQRA purposes and individually as to the respective land use permits the Warren Washington Industrial Development Agency (“WWIDA”), and WL Plastics Corp, through its business affiliate WL Plastics Manufacturing LLC (“WL”).

In framing the SEQRA review, it is noted that the Fort Edward Local Property Development Corporation (FELPDC) owns approximately 79 acres spanning the Town of Fort Edward (“Town”) and the Village of Fort Edward (“Village”) with approximately 51 acres in the Town and 28 acres in the Village bearing Tax identifications of 163.-2-20.1 (Town) and 163.15-1-4 (Village). WL seeks to construct a new, high-density polyethylene pipe (“HDPE”) manufacturing facility on the grounds of the former General Electric PCB dewatering plant site currently owned by FELPDC, bringing 50 manufacturing jobs and 20 construction jobs to the area by acquiring from FELPDC a total of approximately 28.33 acres (hereinafter the “Premises”) with approximately 15.6 acres in the Town and 12.6 acres in the Village.¹ WL seeks to improve the Premises beyond the existing structures and other improvements on the Premises from its former use as a Dewatering plant for WL’s proposed, new HDPE pipe manufacturing facility by, among other things, repurposing the existing, pre-engineered metal building of approximately 41,280 square feet and constructing an approximately 42,000 square foot addition as well as build an associated employee parking (the “WL Plastics HDPE manufacturing facility”). The remaining lands of FELPDC will be acquired by WWIDA with the Village land being further subdivided into a major and a minor lot.

The FELPDC lands now are landlocked and accessed by Lock 8 Way. There are 5 lots that will be created out of the 2 existing tax lots as part of this Action with 2 tax lots being acquired by WL (i.e., 1 for the Town land and 1 for the Village land) and 3 lots by WWIDA (i.e., 1 for the Town land and 2 for the Village land). All of these lots will be landlocked and accessed by Lock 8 Way with a series of easement agreements being executed. It is expected that there will be a 6th lot in the Town of Kingsbury as part of the assemblage of Lock 8 Way under WWIDA control.

Historically, access for ingress/egress through Lock 8 Way, was facilitated in part by the US EPA obtaining a June 4, 2008 Declaration of Taking and the July 28, 2008 Final Judgment as to Just Compensation and Order of Distribution in the Federal Courts for the Northern District of New

¹ WL is seeking to subdivide Town Parcel 163.-2-20.1 into 2 lots with approximately 35.3 acres remaining with FELPDC and approximately 15.6 acres going to WL as the Town portion of the WL Property. Similarly, WL has applied to subdivide Village Parcel 163.15-1-4 into 2 lots with approximately 15.2 acres remaining with FELPDC and 12.6 acres going to WL as the Village portion of the WL Property.



June 5, 2020

Page 3

York with the involvement of the NYS Canal Corporation. GE improved and used the FELPDC lands, pursuant to a lease entered into by GE and WCC, LLC, the then-owner of these 79 acres. It is our understanding that GE used the PCB Processing Facility it constructed to remove the water from the PCB-contaminated sediment, and then the dewatered sediment was transported off-site for disposal, while the treated water was discharged into the canal. In 2016, GE partially dismantled the Processing Facility, and according to EPA, the PCB Processing Facilities were decontaminated in accordance with an EPA-approved December 2016 Sediment Processing Facility Decontamination Report that detailed a facility demobilization and restoration plan. WCC LLC transferred these 79 acres to FELPDC on or about December 2018. However, the EPA remains in title and control of almost all of Lock 8 Way headed north from the FELPDC lands in the Town of Fort Edward into the Town of Kingsbury to Lock 8 Way's terminus at the intersection with Route 196. EPA is in the process of transferring its ownership interest in Lock 8 Way to the WWIDA. It is also acknowledged that there are very small portions of Lock 8 Way owned by others, including WCC LLC, the Town of Fort Edward, and the NYS Canal Corporation, who also are working to transfer their respective interests to the WWIDA so Lock 8 Way will have one owner from Route 196 to the Premises ("Assemblage of Lock 8 Way"). The Tax Lots involved in the approximately 21 acres across the Towns of Kingsbury and Fort Edward as well as the Village of Fort Edward constituting the Assemblage of Lock 8 Way are 155.-1-132. owned by WCC in the Town of Kingsbury; a portion of 139.2-1 in the Town of Kingsbury owned by EPA, 163.-2-15.1 and 163.-2-15.2 owned by the EPA in the Town of Fort Edward; a portion of 163.-2.15.1 owned by the Town of Fort Edward; portions of 163.-2-20 owned by WCC in the Town of Fort Edward; a portion of 163.-2-20.1 owned by FELPDC in the Town of Fort Edward; a portion of 163.-2-19.1 owned by the Town of Fort Edward; and a portion of 163.15-1-4 owned by FELPDC in the Village of Fort Edward.

WL Plastics HDPE Manufacturing Facility Project Site Plan Refinements

Since its initial submission on April 27, 2020 and as a result of the interaction during the May 2020 public meetings and public hearings before the Joint Planning Boards and the Joint Zoning Boards of Appeals, WL has continued to refine its site plan for the proposed HDPE Manufacturing Facility. A Full Site Plan Drawing Set with separate sheets and details for various elements is anticipated in the next week. In particular, WL is working on clarifying utility locations and its process equipment details as well as the use of septic instead of a sewer line extension. Further, WL hopes to reduce the number of parking spaces and size of the employee parking area to a level more consistent with its experience from its other facilities, which is less than the standards enunciated in Town Zoning Law Section 108-23, but consistent with Village Zoning Law Section 350-5-7. WL also acknowledges that it is likely that its plastic pellet storage tanks will exceed the 30 foot height limit in the Town's M1 Industrial zoning



June 5, 2020

Page 4

district. Yet, WL respectfully submits that these approximately 40 foot tall storage tanks/domes are not subject to the 30 foot maximum height limitation stipulated in the M-1 zoning district due to the language in Town Zoning Law Section 108-15 entitled “Height” and/or because Zoning Law Section 108-2 defines Building Height as the “vertical distance measured from the mean level of the ground surrounding the building to a point midway between the highest and lowest point of the roof, *but not including chimneys, spires, towers, tanks and similar projections.*” Lastly, WL preliminarily notes relative to Noise that a survey of its Georgia plant, which does not have sound attenuation equipment installed, suggests that at 500 feet from the building, the sound level is in the 60-67 dBA level, which is consistent with a dBA level in the range from a normal conversation to office noise, and in this instance there are no residential properties within 500 feet of the corners of the existing and proposed manufacturing buildings. WL also notes that it is investigating the ability to mitigate forklift noise further, while still complying with OSHA safety standards.

Escrow for Consultant Review

WL recognizes that there are various application fees for these myriad of applications as well as public hearing notice fees and the need to establish expert consultant review escrow accounts. Indeed, WL was recently advised that the Town Consulting Engineers at the firm of CT Male have issued an invoice for work to date. As such, WL respectfully requests that it be provided by each municipality with a completed W-9/ Request for Taxpayer Identification Number and Certification (see <https://apps.irs.gov/app/picklist/list/formsPublications.html?value=w-9&criteria=formNumber&submitSearch=Find>) plus a list of the Application Fees as well as initial deposit amounts required for the Project Review Escrow accounts.

Determinations as to Variances Required

WL recently contacted Town of Fort Edward Code Enforcement Officer Matthew French-to discuss the number and intensity of Area Variances WL’s development of this new HDPE pipe manufacturing facility on the grounds of the 28.33 acres of property it is acquiring from FELPDC require relative to the aspects on the approximately 15.6 acres in the Town. As the Planning Board may recall, WL applied directly to the Zoning Board of Appeals on April 27, 2020 for variances contemporaneously with the other land use approvals needed from the Town Planning Board in accordance with NY Town Law Section 274-a(3), which provides that where a proposed site plan contains one or more features which do not comply with the zoning regulations, application may be made to the zoning board of appeals for an area variance pursuant to NY Town Law Section 267-b without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations. Although WL availed itself of this provision in order to commence the entitlement review process



June 5, 2020

Page 5

simultaneously with both the Planning Board and the ZBA, WL acknowledges and is seeking at this time CEO French's determination and clarification as to the area variances necessary for this manufacturing/industrial facility on property classified in the M-1 Industrial Zoning District. WL believes that it needs a variance from NY Town Law Section 280-a as to Access given that the existing FELPDC property and WL's proposed 15.6 acres lot are landlocked. As previously noted, it is anticipated that WWIDA will be the sole owner of Lock 8 Way soon and WL has a verbal commitment while it is currently negotiating a formal Easement Agreement with WWIDA for Lock 8 Way. WL also thinks that its Facility on the Premises necessitates Area Variances from certain bulk and area standards for both the existing condition and the proposed improvements, including those standards as to Building Height (30 feet allowed/32 feet proposed) and yard setbacks, including possibly the Side Yard Setback (20 feet required/0 feet proposed), and Front Yard Setback (30 feet required/10 feet proposed), and perhaps, as noted above, a parking space reduction.

Although part of this dialogue too, WL does not see the WWIDA's Assemblage of Lock 8 Way and in particular its merging of the portion of Lock 8 Way in the Town of Fort Edward into the 35.3 acres lot WWIDA is acquiring from FELPDC forming in the Town a sort of over-sized and large "flag lot" as necessitating any area variances as to bulk and area standards or otherwise. Yet, WL seeks confirmation from CEO French as to this fact.

Similarly, WL just contacted Village of Fort Edward Code Enforcement Officer/Building Inspector Dave Armando as to the number and intensity of Area Variances potentially necessary for the portion of WL's facility on the approximately 12.6 acres it is acquiring in the Village. WL had previously availed itself of NY Village Law Section 7-725-A(3) to apply directly to the zoning board of appeals for an area variance pursuant to NY Village Law Section 7-712-B without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations. Yet, WL is now coordinating with CEO Armando to clarify the area variances necessary for this manufacturing/industrial facility on property classified in the IP Industrial Zoning District. WL believes that it needs a Variance or an Exception from NY Village Law Section 7-736 as to Access given that the existing FELPDC property and WL's proposed 12.6 acres lot are landlocked. Although WL's proposed Subdivision in the Village does not exacerbate the existing condition, the proposed WL parcel in the Village does not have direct access to East Street. WL is currently negotiating an Easement Agreement with WCC as the owner of Village Tax Parcels 163.19-1-21 and 163.19-1-1, and WL has a verbal commitment with WCC for an easement as shown on the Drawing Sets from Van Dusen & Steves Land Surveyors and from Studio A Landscape Architecture + Engineering DPC. WL does not think that its Facility on the Premises necessitates any Area Variances from the



June 5, 2020

Page 6

bulk and area standards, such as setbacks, for either the existing condition or the proposed improvements.

Meanwhile, WL is not aware of any variances that the WWIDA will need in the Village, other than possibly for Access (which is identical to the aforementioned proposal by WL as an easement over lands of WCC to East Street) as a result of the creation of WWIDA's 2 lots out of the 15.2 acres remaining from the approximately 27.8 acres FELPDC owns in the Village and WWIDA's Assemblage of Lock 8 Way. Yet, WL seeks confirmation as to these facts, including relative to the minor lot the WWIDA is creating in the Village fronting directly on and becoming part of Lock 8 Way.

Conclusion

WL Plastics looks forward to appearing before the Town and Village Planning Boards on June 10, 2020 as well as the Town and Village ZBAs on June 17, 2020. Should any Board or Staff members have any questions or comments in the interim, please feel free to contact me. Thank you in advance for your cooperation and consideration in this matter.

Very truly yours,

A handwritten signature in blue ink that reads 'Neil J. Alexander'. The signature is fluid and cursive, with the first name 'Neil' being particularly prominent.

Neil J. Alexander

cc: Chairman Kenneth Lafay and Members of the Town Zoning Board of Appeals
Chairman Dan Durkee and Members of the Village Zoning Board of Appeals
Matt Fuller, Esq., Special Counsel to the Town & Village Planning Boards and ZBAs
Aimee Mahoney, Town Clerk Town of Fort Edward
Janelle Rose, Deputy Clerk Village of Fort Edward
Matthew French, Town of Fort Edward Code Enforcement Officer
Dave Armando, Village of Fort Edward Code Enforcement Officer/Building Inspector
James Houston, PE @ CT Male, Town Consulting Engineers
Todd Humiston, Town of Kingsbury Enforcement/Planning/Zoning Administrator
Warren-Washington County IDA c/o Chairman David O'Brien & Kara Lais
Zachary Middleton, FELPDC
John Davidson, WCC LLC
Michael Dahl and Erik Balthrop, WL Plastics
Matt Steves, PLS, Van Dusen & Steves Land Surveyors



June 5, 2020

Page 7

Matt Huntington, PE, Studio A Landscape Architecture + Engineering DPC
Michael Katz, Eon Nichols, Amy Natsoulis & Kristen Motel, Cuddy & Feder LLP