

June 5, 2025

Via E-Mail and Hand-Delivery

Peter Cross, Chair
Town of Woodstock Planning Board
45 Comeau Drive
Woodstock, NY 12498

Re: Zena Development, LLC
Ruby Woods (off Eastwoods Drive) (38.1-1-38.100, 39.1-1-21.100)
Eastwoods Drive Road Extension
Road Extension Project

Dear Chair Cross and Members of the Planning Board:

As you know, this firm represents the Woodstock Land Conservancy (“WLC”) in its efforts to ensure a diligent and thorough review of the project proposed by Zena Development, LLC (the “Project”). This letter is provided in response to the May 16, 2025, letter from Alec Gladd, Esq. in which he suggested that the Ulster Planning Board is the appropriate lead agency. For the reasons set forth below we strongly disagree and continue to urge your Board to declare itself lead agency under the State Environmental Quality Review Act (“SEQRA”) review of the Project.

SITE PLAN REVIEW IS MORE COMPREHENSIVE THAN SUBDIVISION REVIEW

In the event of a lead agency dispute, the New York State Department of Environmental Conservation (“DEC”) would designate a lead agency using the following criteria:

1. Whether the anticipated impacts of the action being considered are primarily of statewide, regional or local significance (i.e., if such impacts are of primarily local significance, all other considerations being equal, the local agency involved will be lead agency).
2. Which agency has the broadest governmental powers for investigation of the impacts of the proposed action.
3. Which agency has the greatest capability for providing the most thorough environmental assessment of the proposed action. 6 NYCRR 617.6(b)(S)(v); *Suffolk County Water Authority v. the Town of Riverhead*, DEC Article 8 proceeding (November 14, 2024).

Typically, when there is a lead agency dispute between planning boards, both boards have the same jurisdictional oversight, i.e., site plan, the scope of which generally follow the scope of

review established in the New York State Town Law. Thus, the DEC then must look at other criteria to establish which board has the broadest governmental powers for investigation of the impacts of the proposed action. In such a case, the physical location of the majority of the land may be a factor which is given greater weight.

Here, however, the Ulster Planning Board is conducting a less comprehensive review than the Woodstock Planning Board due to the jurisdiction of each Board. In the Town of Ulster, the Project is permitted subject only to subdivision review. The Ulster Planning Board is simply reviewing a subdivision plat which focuses on lot shape, placement and utility access, among other issues. The subdivision plat will show outlines of where houses may go and the layout of the roads but generally do not provide the same level of detail as a site plan. To the contrary, this Board will be reviewing a site plan, which is subject to greater scrutiny.

The site plan for the Project must include the following information, not found in the Ulster subdivision regulations: Adequacy, type and arrangement of trees, shrubs and other landscaping which constitute a visual and/or noise-detering buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation, creation or preservation of open spaces and protection of adjacent properties from noise, glare, unsightly conditions, or other objectionable features. Woodstock Zoning Code § 260-77.

These criteria are in addition to the additional environmental standards imposed by the Town of Woodstock. As stated in our last letter, the Town of Ulster does not have its own wetland law while the Town of Woodstock has additional wetland protections in its zoning law. *See Town of Woodstock Code § 260-34*. Because the scope of review of each Board is not equal in this case, the physical location of the majority of the Project may be given less importance by DEC in the event of a dispute.

LEAD AGENCY DISPUTES ARE FACT-SPECIFIC

Additionally, the cases cited by Attorney Gladd are not on all fours with this matter. Although many of the cases involved a roadway, the impact of the subject projects were more evenly spread between the communities, unlike the matter here, where Woodstock will bear the brunt of all traffic and emergency services. For example, in *Town of Patterson v. Town of Kent*, DEC Article 8 Proceeding (2004), Patterson had a secondary access road so the impact on Kent was simply an increase in traffic during construction on the road. In *Town of Greenport Planning Board v. City of Hudson Planning Board*, DEC Article 8 Proceeding (2016), a proposed haul road would have connected both municipalities to an existing mine and dock and thus each municipality was impacted equally by the traffic. In *Village of Millerton Planning Board v. Town of North East Planning Board*, DEC Article 8 Proceeding (2016), a proposed Dunkin' Donuts straddled both communities, although the driveway egress was in the Village of Millerton, the entrance drive was in the Town of North East and thus traffic impact impacted both communities equally. The impact of traffic from the Project in this matter is not equally shared by the communities and thus the cases cited are distinguishable.

Furthermore, the Project's nearest proximity to the Zena Woods Critical Environmental Area ("CEA") occurs in the Town of Woodstock. The proximity of the access road to the vernal pools is a

significant environmental concern and the Woodstock Planning Board has the broadest governmental powers for investigation of the impacts of the Project on the CEA.

These concerns are valid and uniquely impact the Town of Woodstock; to write them off as a delay tactic is to ignore the unique needs and concerns of the residents of Woodstock.

CONCLUSION

On May 13, 2025, the Ulster Planning Board declared its intent to serve as lead agency in the SEQRA review of this Project and sent out notices to all interested and involved agencies. Per 6 NYCRR § 617.6(b)(5), if this Board does not object to the Ulster Planning Board serving as lead agency within 30 days of May 13, 2025, the Ulster Planning Board will automatically assume the role of lead agency. Therefore, time is of the essence and the Woodstock Planning Board must indicate its intention to be lead agency prior to June 13, 2025.

We believe that the Woodstock Planning Board is the appropriate lead agency and request that you declare your intent to serve as lead agency in the review of the Project. Thank you for your attention to this matter.

Sincerely,



Cassandra Britton

CC: Bill McKenna, Town of Woodstock Town Supervisor (via e-mail)
James Quigley, Town of Ulster Town Supervisor (via e-mail)
Rory Lee, Chair, Town of Ulster Planning Board (via e-mail)
Rod Futerfas, Esq. (via e-mail)
John Lyons, Esq. (via e-mail)
Jason Kovacs, Esq. (via e-mail)
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