Planning - project file

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TOWN OF STERLING
PLANNING BOARD RESOLUTION

AMENDED RESOLUTION NO. 2016-08

CHRISTOPHER J. CONSTRUCTION LLC – APPLICATION FOR A SPECIAL USE PERMIT TO OPERATE A SAND AND GRAVEL MINE AT 13181 SANFORD ROAD, MARTVILLE, NEW YORK (TAX ID# 20.00-1-68.1)

February 6, 2017

Present: June Ouellette, Chairperson
Sue Allen, Member
Vernon Bishop, Member
Paul Kelley, Member

Lisa Somers, Planning Board Clerk

PAUL KELLEY moved and VERNON BISHOP seconded the following Resolution:

WHEREAS, Christopher J. Ferlito of Christopher J. Construction LLC ("CJC") applied to the New York State Department of Environmental Conservation ("DEC") on June 23, 2014 for a mined-land reclamation permit to operate a proposed surface sand and gravel mine at 13181 Sanford Road, Martville, New York (Tax ID# 20.00-1-68.1) ("Martville Mine"); and

WHEREAS, in July 2014, the DEC requested "Lead Agency" status with respect to its review of the Martville Mine under the New York State Environmental Quality Review Act, 6 NYCRR Part 617 ("SEQRA"); and

WHEREAS, CJC submitted an application to the Town of Sterling Planning Board on January 9, 2015 for a Special Use Permit, in accordance with LUR Article 10-4(C), to operate the proposed mine at its property located at 13181 Sanford Road, Martville, New York (Tax ID# 20.00-1-68.1); and

WHEREAS, the Town of Sterling Land Use Regulations ("LUR") specifically allow for "Mining and Extraction of Resources" at Article 10-5(J); and

WHEREAS, on February 20, 2015, CJC completed and submitted Part 1 of the Full Environmental Assessment Form ("EAF") to the New York State DEC for consideration, and the DEC declared itself to be "lead agency" for the mining Project and, as such, was responsible for completion of Parts 2 and 3 of the Environmental Assessment Form ("EAF"); and

WHEREAS, Christopher Ferlito of CJC appeared before the Planning Board on April 6, 2015 for a preliminary review regarding his special use permit application, at which time the Planning Board advised Mr. Ferlito, *inter alia*, that it must refer him to the Town of Sterling Zoning Board of Appeals ("ZBA") for an area variance with respect to LUR Article 10-5(J)(2)(d) which requires that "[a]ccess roads at all points, including but not limited to the main entrance and exit, shall be at least one thousand (1000) feet from any existing residence or public building"; and

WHEREAS, by letter dated April 8, 2015, the Planning Board advised the ZBA that CJC was being referred to it for the aforementioned area variance; and

WHEREAS, the ZBA duly advertised the April 27, 2015 public hearing for CJC's area variance application, and provided notice by certified mail to adjacent property owners; and

WHEREAS, the ZBA held the public hearing on CJC's area variance application as scheduled on April 27, 2015, at which time it received written opposition to the Project, as well as a letter from CJC's attorney John Klucsik, Esq. in support. During the public hearing, the public asked Christopher Ferlito questions about the Project. After consideration of the application, and all written and verbal comments in support and in opposition to the Project, the ZBA unanimously approved CJC's area variance application. The ZBA's Resolution approving the area variance was filed with the Town Clerk on May 4, 2015, and again on May 5, 2015; and

WHEREAS, on May 4, 2015, the DEC issued a Notice of Complete Application and a Negative Declaration with respect to CJC's mining application. As indicated in the DEC's

Negative Declaration, the DEC, as Lead Agency, determined that the proposed action will not have a significant effect on the environment, and that a Draft Environmental Impact Statement will not be required. The DEC also declared the proposed mine to be a "Type I" Action. In reaching its conclusion regarding no significant effect on the environment, the DEC considered all potential impacts from the Project, including soil, water, traffic, noise, dust, air, cultural and visual resources, and fish and wildlife; and

WHEREAS, by letter dated May 6, 2015, in accordance with General Municipal Law ("GML") 239-m and LUR Article 10-4(E), the Town of Sterling Planning Board referred CJC's special use permit application for the proposed mine to the Cayuga County Department of Planning & Economic Development for review by the Cayuga County GML 239-l, m & n Review Committee ("239 Committee"). As part of the referral, the Planning Board provided the 239 Committee with the following documents: CJC special use permit application; April 6, 2015 Planning Board minutes; CJC area variance application to ZBA with Resolution & Vicinity Map; April 27, 2015 ZBA minutes; Mined Land Use Plan (April 2015); Stormwater Control Plan (June 2014); May 4, 2015 DEC Notice of Complete Application and Negative Declaration; and correspondence between DEC and Project Geologist Thomas Giles; and

WHEREAS, the 239 Committee issued its "Final Determination" regarding CJC's pending special use permit on May 29, 2015. As stated therein, the 239 Committee recommended disapproval of the project due to the following potential intermunicipal impacts: potential to adversely impact the road infrastructure of the Town of Victory; traffic safety concerns with respect to sight distances and sight radii; and potential deterioration of County Route 112; and

WHEREAS, after a public hearing on June 22, 2015, the ZBA denied CJC's application for an area variance under LUR Article 10-5(J)(2)(c); and

WHEREAS, by letter dated June 29, 2015, Michael Wiggins, Supervisor, Town of Victory, advised the Town of Sterling Planning Board that the posting of a $50,000 maintenance bond by CJC will ensure adequate protection of the portion of Sanford Road located in the town of Victory; and

WHEREAS, by letter dated July 1, 2015, George Wethey, Highway Superintendent, Cayuga County Highway Department, advised the Town, *inter alia*, of the following: the Cayuga County Highway Department will trim trees and brush along Pople Road south of Sanford Road to attempt to increase the site distance at the intersection; the Cayuga County Highway Department already sent a Form TE-9a to the Town of Sterling and Town of Victory to start the process of lowering the speed limit through on Pople Road; the concern about potential deterioration of Pople Road/County Route 112 would be minimized if CJC provided a bond in the amount of $200,000 to cover the costs of road repairs on Pople Road/County Route 112; and

WHEREAS, on July 15, 2015, CJC submitted a revised site plan and "Mined Land Use Plan Clarification," wherein it adjusted its proposal so that the life-of-mine portion of the site was at least 1,000 feet away from any surrounding structures and in compliance with LUR Article 10-5(J)(2)(c). In addition, CJC submitted a revised "Mining Plan Map" dated July 15, 2015 to the Planning Board eliminating one of the two access roads/driveways into the Project site which was closest to adjacent residences; and

WHEREAS, on August 17, 2015, in light of the change made by CJC from a two-driveway to a one-driveway site, the ZBA unanimously voted to rehear CJC's area variance under LUR Article 10-5(J)(2)(d); and

WHEREAS, on September 8, 2015, John M. Clancy of the DEC sent CJC an approved permit authorizing the operation of the Martville Mine through September 7, 2020. Also on

September 8, 2015, the DEC issued a detailed "Response to Public Comments on the Martville Mine" to all "Interested Parties." As indicated therein, the DEC received comments regarding the proposed mine from "one individual and four governmental agencies (the Town of Sterling, Cayuga County SWCD, NYS DOT, and the County Highway Department)"; and

WHEREAS, on September 11, 2015, the ZBA published notice of the September 24, 2015 rehearing of CJC's area variance with respect to LUR Article 10-5(J)(2)(d), and mailed same to the surrounding property owners; and

WHEREAS, the ZBA held the rehearing of CJC's area variance under LUR Article 10-5 (J)(2)(d) on September 24, 2015. The ZBA considered, *inter alia*, emails received from Town residents in opposition to the Project. Mr. Ferlito explained that the reason for the change from two driveways to one driveway was to reduce potential noise levels. The ZBA engaged in a thorough and detailed discussion of the impact of the change from two driveways to one driveway, and the public was permitted to provide comments regarding the change. Following closure of the public hearing, the ZBA engaged in a lengthy discussion about the variance, and considered the five (5) factor analysis required for area variances by Town Law §267-b(3) and LUR Article 4-10(C)(2). After duly considering the comments from the public, including the emails and written materials submitted, a unanimous vote was taken by the ZBA granting the amended/modified area variance to allow trucks to enter and exit through a single access road/driveway as located on the July 15, 2015 site plan; and

WHEREAS, on September 28, 2015, the ZBA filed with the Town Clerk Resolution 2015-09 following the rehearing of CJC's area variance under LUR Article 10-5 (J)(2)(d) which provides, *inter alia*, that "[t]he Board has relied on verbal representations made by the applicant during the course of these proceedings as noted in the applicable Board minutes," that "[t]he

validity of these statements are expressly made a condition of this approval," and that the amended and modified variance be granted "upon the facts presented and the determinations made..." Resolution 2015-09 also specifically references and incorporates the original April 27, 2015 area variance and the factual findings and determinations made by the ZBA in granting same; and

WHEREAS, the Planning Board held a public hearing on CJC's site plan application on November 2, 2015. The Town advertised the public hearing and sent notice of same to adjacent property owners as required by law. At the public hearing, the Planning Board made the following findings regarding the items provided by CJC in its application for site plan approval as required by LUR Article 11-2(B)(1):

> *Items (a), (b), (c), and (d)*: Four maps dated July 28, 2015, titled "Mining Plan Map,", "Storm Water Control Plan Interim Condition," "Reclamation Plan Map," and "Final Condition Map" were provided by CJC. The Planning Board found the information provided by CJC and its geologist (north arrow, scale, date, location of watercourses) to be acceptable on all four maps. The Planning Board asked that the phasing that the Town is allowing (1A, 1B, 2, and small section of 3 and 4) needs to be emphasized on the maps by outlining or shading.
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> *Item (e)*: Storm Water Pollution Prevention Plan ("SWPPP") narrative needs addendum of new phasing and other updated information to match project narrative.
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> *Item (f)*: Maps adequately show surface drainage directions, contours and elevations.
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> *Item (g)*: No proposed buildings, therefore, not applicable.
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> *Item (h)*: The ingress/egress is located on the map as access road and in accordance with Planning Board and ZBA requirements. Life of Mine area covered under the DEC permit.
>
> *Items (i), (j), (k), (l), (m), (n), and (o)*: Not applicable to project design. There is no petro stored on site. Portable johns to be used in lieu of on-site septic and water systems. No electric service utilized at site. A portable generator to be used for pumping water from existing well as needed for dust abatement.

Item (p): Signage for direction of traffic, speed, or other is at the discretion and authority of NYSDOT.

Item (q): Maps provide information of buffer areas such as wooded area along roadway, tree plantation, woods and re-vegetated grasses.

Items (r) and (s): Not applicable to this project.

Item (t): Reclamation map and sections included in narrative of reclamation method, schedule and re-vegetation found to be acceptable.

Item (u): Item intended for building construction therefore not applicable, but the DEC permit for phase 1A is for 5 years which can be renewed if not depleted or reclaimed if phase is finished.

Item (v): SEQRA information has been supplied with application. Negative Declaration by DEC as Lead Agency. DEC permit issued and DEC comment/responses.

Items (w) and (x): The Planning Board has copies of the required State, County and local permits, recommendations and approvals necessary for project in project file (DEC mining permit, Cayuga County Planning 239 Report and Sterling ZBA Variances).

Item (y): The members agreed that a traffic study needed to be performed.

At the public hearing, the Planning Board made the following findings and determinations regarding CJC's site plan application with respect to the considerations set forth in LUR Article 11-2(C):

Items (1), (3), (4), (6), (8) and (10): These items are intended for the development of buildings or housing developments utilizing parking, new permanent roads, utilities and other improvements and, therefore not applicable to this project which does not include any of these elements.

Item (2): These items are to be addressed by the traffic study.

Item (5): The SWPPP is designed to eliminate run-off from the project site during the establishment of the protective berms and

during the commercial operation of the mine. As such, adequate storm water retention has been satisfactorily addressed.

Item (7): Existing trees, as well as several hundred planted trees along the roadway, shall provide adequate visual screening of operation from the neighbors. The natural vegetation and construction of a seven (7) foot earth berm around the entire perimeter of the life of mine shall also create a visual barrier as well as reduce noise heard by neighboring properties.

Items (11) and (12): The Planning Board has yet to decide on the adoption of the lead agency SEQRA findings and/or whether further investigation of environmental impacts and neighborhood safety and welfare is warranted.

The Planning Board agreed to leave the public hearing open to allow CJC to submit additional information on the Project, including a traffic study as recommended by the NYS DOT; and

WHEREAS, Dr. Virginia Fichera, Robin Allinger, Alvin G. Hammond, Jeffrey A. Couperus, Tia M. Couperus, Dale Ritchie, and Lorraine Ritchie (collectively referred to herein as "Petitioners") commenced an Article 78 Proceeding by filing a Verified Petition on October 28, 2015 with the New York State Supreme Court, Cayuga County, Index No. 2015-0968, against the New York State Department of Environmental Conservation, the Zoning Board of Appeals of the Town of Sterling, the Planning Board of the Town of Sterling, the Town of Sterling, Christopher J. Construction LLC, and Christopher Ferlito, and serving a copy of said Petition on the Town of Sterling on or about November 10, 2015 (In the Matter of the Application of Dr. Virginia M. Fichera, PH.D.; Robin Allinger and Alvin G. Hammond; Jeffrey A. Couperus and Tia M. Couperus; and Dale Ritchie and Lorraine Ritchie v. New York State Department of Environmental Conservation; the Zoning Board of Appeals of the Town of Sterling; the Planning Board of the Town of Sterling; the Town of Sterling; Christopher J. Construction, LLC; and Christopher Ferlito) (hereinafter referred to as "Article 78"); and

WHEREAS, at its December 7, 2015 meeting, the Planning Board advised that its review of CJC's special use permit application would be stayed until the Article 78 proceeding had been resolved; and

WHEREAS, on May 16, 2016, the Honorable Mark H. Fandrich, Acting Justice of the New York State Supreme Court, Cayuga County, issued an Order denying the Article 78 in its entirety, and dismissing the Article 78 in its entirety. The Order was entered by the Cayuga County Clerk on May 17, 2016; and

WHEREAS, on November 1, 2016, at the request of the Planning Board, and at the expense of CJC, Kenneth Wersted, PE, PTOE, of Creighton Manning Engineering, LLP ("CM") completed a traffic evaluation ("Traffic Study") for the proposed mine wherein it made, *inter alia*, the following conclusions:

> (1) Review of the available time gaps on the study area roadways shows that the average number of gaps on the study area roadways is more than sufficient to accommodate the projected traffic volumes to/from the site.
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> (2) The current accident records and findings of the NYSDOT investigation found no significant patterns. Most accidents involved single vehicles and occurred during daylight conditions with dry pavement.
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> (3) Based on the sight distance evaluation, the following is recommended:
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> a. The sight triangles leaving the site onto Sanford Road should be cleared to maximize available sight distances and meet AASHTO guidelines for this very low volume road.
>
> b. The sight distance at the Sanford Road/Pople Road Intersection should be improved.
>
> c. Sight distance at the State Barn Road/Route 104 Intersection should be improved if trucks intend to use this intersection.

(4) Conflicts between opposing vehicles on Sanford Road has not resulted in any reported accidents. The use of Sanford Road, to the south, is not expected to result in significant conflicts between opposing vehicles; however, if the Town feels necessary, centerline striping will mitigate this concern.

(5) There are not active weight restrictions on Pople Road and Combes Road south of the site. Therefore, use of these roads in Victory will depend on the destination of quarry materials. In either case, the increase in volumes is expected to be relatively low; and

WHEREAS, on November 24, 2016, Kenneth Wersted, PE, PTOE, of CM responded by email to the Planning Board regarding comments received from the public regarding his Traffic Study; and

WHEREAS, the Planning Board reopened the public hearing for CJC's special use permit and site plan application on December 5, 2016, notice of which was duly published in accordance with the law. The public was provided an opportunity to make comments regarding the project, and the public was heard by the Planning Board. Following public comment, the Planning Board closed the public hearing; and

WHEREAS, the Planning Board has fully considered all of the application materials, drawings and submissions associated with the application and the applicant's proposed use, as well as all public comments and all written communications received by Town residents regarding the proposed Project; and

NOW THEREFORE, BE IT RESOLVED, that the Town of Sterling Planning Board hereby recognizes the DEC's lead agency status for purposes of review under SEQRA, and does hereby adopt the DEC's May 4, 2015 "Negative Declaration" with respect to CJC's application, as well as its determination that the proposed action is a "Type I" Action and will not have a significant effect on the environment and that a Draft Environmental Impact Statement will not be required; and

BE IT FURTHER RESOLVED, that the Town of Sterling Planning Board has determined that the Site Plan submitted by CJC satisfies the requirements of LUR Article XI, "Site plan Review & Approval," and therefore, the CJC's proposed **Site Plan** for the Martville Mine at 13181 Sanford Road, Martville, New York (Tax ID# 20.00-1-68.1) is **APPROVED**; and

BE IT FURTHER RESOLVED, that the Town of Sterling Planning Board has reviewed the Town of Sterling & Village of Fair Haven Comprehensive Plan, and has determined that the proposed Project and Special Use Permit are in compliance with all aspects of the Comprehensive Plan; and

BE IT FURTHER RESOLVED, pursuant to LUR Article X, "Special Use Permits," the Planning Board shall grant an application for a special use permit if it meets the following general considerations and, with respect thereto, the Town of Sterling Planning Board makes the following findings and determinations:

LUR Article 10-4(A)(1): "In the best interest of the Town, the convenience of the community, the public welfare, and be a substantial improvement to property in the immediate vicinity."

FINDING:

The Town of Sterling LUR allows mining in the Agricultural/Residential ("A/R") zoning districts of the Town with the issuance of a Special Use Permit. The subject property is located in the A/R district, and has been historically recognized as a gravel mine for over fifty (50) years. Future use of this property as a commercial mine that extracts more than one-thousand (1,000) cubic yards of material would be regulated with conditions imposed by the DEC and the Town of Sterling that would protect the general public welfare from any potential harm. These conditions would support a sustainable, responsible, and environmentally sound method of material extraction that would maintain the standard of living in the Town. Gravel needs of the area would be served by this mine and are essential for future development and infrastructure improvement of Sterling

and the surrounding communities. Due to the close proximity of the mine, building materials would be purchased at a lower cost by the Town which also benefits the taxpaying residents of Sterling. Mining companies provide jobs, tax revenue, and promote business ventures in the local communities where they are located. The activities of the proposed mine are similar in nature to the agricultural activities that are prevalent throughout the community. The exhaustive review of environmental concerns by the DEC provides a strong enforcement basis for oversight by both Town and State officials that will ensure compliance of guidelines established and in turn ensure the safety of the public. Mined lands remain valuable during and after completion because of the conservation techniques employed during the operational phases of the mine which promotes future uses such as parks, wildlife habitat, agricultural fields, forest or development of residential subdivisions and/or businesses, all of which improve the character and quality of the community. As mining is allowed in this location, it is important to emphasize that this Project has a very short duration permit of five (5) years.

The Project is not only in a previously existing zoned area that permits mining, but includes a parcel that was historically a mine. This Project therefore is convenient to the Town of Sterling community as mining operations would not be conducted on a fresh parcel untouched by mining, but on a parcel in an area that has already experienced mining operations. In conjunction with being an allowable operation under zoning laws, DEC has identified this Project as one being commonly known including to the Town of Sterling as being once again a possible gravel mine in the future (see page 9 of DEC Response to Public Comments dated September 8, 2015 with reference to March 12, 2015 letter from Town of Sterling Highway Superintendent to DEC). In conjunction with the possibility of mining operations resuming in the future, DEC identified during its investigation that Sanford Road was rebuilt in 2014 with the understanding of a possible gravel

mine in the near future (see page 9 of DEC Response to Public Comments dated September 8, 2015, March 12, 2015 letter from Mr. Soper Town Highway Superintendent to DEC).

The DEC has very strict guidelines that ensures that, among other things, that the public welfare along with the environment are protected. DEC also has a very strong enforcement unit that will verify compliance with DEC regulations and laws, and also insist on the strict following of these regulations and laws. Violations of regulations and laws carry both civil and criminal penalties, and could result in Mr. Ferlito risking the forfeiture of his mining reclamation bond. In addition, Mr. Ferlito is indemnifying this Project for DEC, known as holding harmless, should there be any civil and/or criminal violations of regulations and laws pertaining to this Project. The DEC has concluded through its findings that the filings for this Project are accurate and adequately assess and address any potential environmental impacts (see page 14 of DEC Response to Public Comments dated September 8, 2015). More importantly, the DEC determined that the Project will not have significant effect on the environment (see page 15 of DEC Response to Public Comments dated September 8, 2015). The DEC determined that there were no impacts that could not be mitigated by the Plan, and the mining permit conditions (page 15 of DEC Response to Public Comments dated September 8, 2015). With the assistance of DEC, the Town of Sterling would also be able to assure and verify that the public welfare is not at harm or in jeopardy.

The Planning Board has considered the comments and written materials, including but not limited to the Professor Diane Hite study, provided by residents expressing their concerns about the potential negative impact of the mine on surrounding property values. The Professor Hite study looked at the effects of a 250-acre gravel mine on sale prices in the 1990s in Delaware County, Ohio. This Project's mining permit is a much smaller operation as it consists only of 5.5 acres. As such, the proposed mine is very different in size, scope, and geography from the mine

studied by Professor Hite. Furthermore, the property values analyzed by Professor Hite were located in a different part of the Country approximately twenty (20) years ago. Adequate evidence has not been presented to the Planning Board that a mine of this or similar size, scope, and/or duration, in this location, in the current housing market, would adversely affect the value of the surrounding properties.

Mr. Ferlito must pledge a mining reclamation bond to protect, preserve and restore the parcel to its natural state after the completion of the Project. The DEC remains responsible to ensure restoration of the parcel and that the reclamation bond remains in place until the DEC verifies that the parcel has been restored pursuant to the approved plan. The approved plan includes seeding and establishment of a vegetative cover. Therefore, upon the completion of the reclamation process, what now is and looks like an abandoned and old mining operation will be an visually pleasing natural site. The restoration of this site to a visually pleasing natural site goes to the improvement of not only this parcel on which the Project is located, but substantially improves the property in the immediate vicinity of the Project.

LUR Article 10-4(A)(2): "Suitable for the property in question, and designed, constructed, operated and maintained so as to be in harmony with, and appropriate in appearance with the existing or intended character of the general law."

FINDING:

The intent of the Town of Sterling LUR is to allow traditional land uses to support the character of the community. With a Special Use Permit, an evaluation of each individual case allows the Town to satisfy the objectives of the LUR. The Planning Board has diligently reviewed every aspect and detail of the subject project, and has considered all of the details and concerns provided by the Town residents during public hearings and in written communications. The general concern of the Planning Board has been to determine whether the proposed project could

proceed without an adverse impact to the environment and surrounding properties. Implementing conditions to control visual and noise impacts with screening and buffering vegetation and enforcement of a 1,000 foot setback regulation between structures and mining activities is one such example. Others examples of these conditions are as follows:

- dust abatement through watering surfaces, paved haulage roadway, trees and earth berm for filtering and tarp covered loads exiting the project;
- soil erosion and surface water contamination mitigated through application of SWPPP and construction of a seven (7) foot earth berm to eliminate possibility of sedimentation to nearby Sterling Creek, along with phasing of the mining operation while implementing reclamation techniques to the land;
- groundwater contamination of residential wells, Sterling Creek and adjacent wetlands have been determined not to be an issue by the DEC by stipulating excavation to remain at a minimum of five (5) feet above the seasonal high ground water elevation (to be determined yearly in the spring) as well as the absence of chemicals, waste, refuse and petroleum from being stored on site.

Analysis by the Planning Board of the overall area acknowledges that the zoning district adjacent to the subject property is a Hamlet which does not allow mining and, therefore, does not allow traffic generated from a mining operation to pass through it. As such, the Planning Board has demanded from the initial review that all traffic must travel south as a deliberate action to uphold the character of the general laws of the Town and be in accordance with the Comprehensive Plan. The Planning Board must bear in mind the rights of all property owners to utilize a parcel of land for buildings or any other purpose allowable by the LUR and, from that basis, determine the suitability of the proposed use of the subject property. The Planning Board has reviewed and

considered the DEC's Negative Declaration, and the evaluation of the soil profile for the subject property which describes the composition of the soils to have a substantial substratum layer of stratified sand and gravel making the property ideal for the proposed purpose.

LUR Article 10-4(A)(3): "In conformance with all applicable requirements of these Regulations."

FINDING:

As set forth in detail herein, through regular Planning Board meetings, work sessions, public hearings, a review of the Project by all State, Federal and Local agencies with jurisdiction over the Project, an independent traffic study by Creighton Manning, and emails and comments from neighbors and residents during a more than a two-year period, the Planning Board has done due diligence in its review of the Project and has found it to be in compliance with the LUR, the Town's Comprehensive Plan, and all applicable laws and regulations.

LUR Article 10-4(A)(4): "In compliance with the Town of Sterling Road Preservation Law."

FINDING:

The issuance of this Special Use Permit is conditioned upon, among other things, the applicant's compliance with the Town of Sterling Road Preservation Law, the requirements of which are acknowledged by the Planning Board and incorporated herein by reference, prior to the start of any work on the project.

The Planning Board makes the following additional findings regarding the effects of the project on the streets or highway traffic and safety, and whether adequate arrangements are in place to protect major streets from undue congestion and hazard:

The Planning Board hired CM to perform a traffic study to determine if the proposed site is served by an adequate highway transportation network suitable to carry the traffic generated by

the mining operation. CM's conclusions support the adoption of the project in that Sanford Road is designated as a low volume road that is expected not to change even after the mining project is complete. Intersections of Sanford Road, Pople Road (County Route 112) and State Routes 38 and 104 were chosen for the study because they are anticipated to be key intersections that hauling trucks will travel. The review of traffic volumes revealed that a noticeable increase occurs in the PM hours of operation, but that the increase itself is not significant from a roadway capacity perspective, although the presence of trucks would be more prominent at those times for neighboring residents. The volume would be further controlled by maximum allowed trucks per hour designated by the Highway supervisor in accordance with the Road Preservation Law. The engineer's review of accident data yielded no discernible accident types or trends for the area, and recommended that centerline striping of Sanford Road could mitigate neighbor concerns which the Town is willing to do. The stop-gap analysis revealed that the average number of gaps is more than sufficient to accommodate the projected traffic volumes from the site. The sight distance evaluation found several areas, although not critically limited, were below AASHTO sight distance guideline standards because of accumulated brush at most of the intersections. Removal of trees and vegetation by the applicant, Towns of Sterling and Victory Highway departments, Cayuga County Highway and the State DOT would mitigate this condition and improve all sight distances to be within AASHTO guidelines. The vertical curves on State Route 104 and Pople Road adds to the sight distance deficiencies but intersection warning signs and advisory speed limits already implemented are sufficient. Cayuga County Highway and the Town Board of Sterling have already begun efforts to reduce speed limits on Pople Road and Sanford Road as recommended by Creighton Manning as well. The traffic design by CJC, dictated by the Town Planning Board, to mandate that trucks must travel to the south and not northbound on Sanford Road is to assist in

safety measures for the residents of the area. Signs by CJC on site as well as road signs by the Town of Sterling will also be implemented for safety of the traveling public. Road widths of all roadways found to be acceptable for two way traffic at and beyond the projected volumes for the project with road bonds for Sterling, Victory and County Highway, NYS CHIPS funding as well as road taxes paid by truck drivers should sufficiently cover any road degradation that may occur which would alleviate any financial burden for the taxpayers of all the surrounding communities.

BE IT FURTHER RESOLVED, based on adequate evidence presented that the proposed use meets all of the general and specific requirements of the LUR, that the Town of Sterling Planning Board hereby **allows and grants** CJC's application for a **SPECIAL USE PERMIT** to operate a sand and gravel mine at 13181 Sanford Road, Martville, New York (Tax ID# 20.00-1-68.1), in specific accordance with the site plan approved herein, and **conditioned upon the following**:

(1) CJC shall provide the Town of Sterling with copies of any and all testing and/or inspection reports required by the DEC Mining Permit within thirty (30) days of issuance and/or receipt.

(2) The Special Use Permit shall be subject to compliance, at all times, with all conditions and requirements of the DEC Mining Permit dated September 8, 2015.

(3) CJC shall install traffic control signage on the property adequate in number, size and location.

(4) CJC shall, at all times, keep and maintain the property free of brush that would otherwise impair sight distances.

(5) CJC shall, at all times, keep the portions of Sanford Road adjacent to the mine free of rocks, sand, and all other debris generated by mine activity.

(6) A dust-preventive layer shall be spread on traveled roadways at all operations where required to protect the public and the countryside against windblown sand and dust in accordance with LUR 10-5(J)(2)(g). All loads shall be covered with no part of the load visible for dust control.

(7) There shall be a single access point for ingress and egress. All other access points to the property shall be gated and shall not be utilized.

(8) The single ingress/egress road shall be sufficiently asphalt surface treated to eliminate dust and tracking onto Sanford Road.

(9) Existing conifer trees along Sanford Road to be maintained and replanted, if necessary, as they are an element of the visual screening and noise buffering plan.

(10) Mining operations shall be undertaken only in Phases 1A, 1B, 2, and a small portion of 3 and 4, successively with reclamation bonds.

(11) Prior to any mining operations at the property, CJC shall provide the Town of Sterling with the following: Town of Victory Highway Bond; Cayuga County Highway Bond; Reclamation Bond from the DEC Permit; and the Sterling Road Preservation Law Bond.

(12) CJC shall mark the 1,000 foot boundary line between mining operations and any surrounding structures not owned by CJC, pursuant to LUR Article 10-5(J)(2)(c), with flags to enable CJC personnel, as well as Town and State officials, to easily locate it.

(13) CJC shall be allowed a maximum of fifty (50) trucks per day to access the property for mining operations.

(14) CJC shall, at all times, be in compliance with all requirements and provisions of the Town of Sterling Road Preservation Local Law.

(15) Mining operations shall be limited to the following hours: Monday through Friday, 7:00 a.m. to 5:00 p.m.; and Saturday, 8:00 a.m. to 4:00 p.m. for residential deliveries only. No mining operations shall be conducted on Sundays or legally declared holidays.

(16) A structural barrier shall be provided to secure the site to achieve public safety in accordance with LUR Article 10-5(J)(2)(e).

(17) Pursuant to LUR Article 10-5(J)(2)(h), the Town shall conduct an annual review of the site reclamation plan to confirm implementation of the plan as each section is mined and ensures reclamation requirements are followed as specified in the mined land reclamation permits issued by the DEC.

(18) CJC shall, at all times, be in compliance with the area variance granted by the Town of Sterling ZBA under LUR Article 10-5(J)(2)(d) on April 27, 2015, filed with the Town Clerk on May 4 and 5, 2015, and after a rehearing on September 24, 2015, and filed with the Town Clerk on September 28, 2015.

(19) CJC shall comply with the recommendations contained in CM's November 1, 2016 Traffic Study at "Conclusions," items 3(a), 3(b) and 3(c), regarding improving sight distances.

BE IT FURTHER RESOLVED, that the applicant shall comply in all respects with all laws and regulations, and specifically the Town of Sterling Land Use Regulations; and

BE IT FURTHER RESOLVED, that the Town of Sterling's Code Enforcement Officer is hereby authorized and directed upon payment of any required fees to issue such permits and certificates or to take other such actions as may be required to effectuate and enforce this Resolution, and shall be responsible for inspection and enforcement of the Site Plan and Special Use Permit conditions and requirements; and

BE IT FURTHER RESOLVED, that this Resolution shall be effective as of the date of its filing with the Town Clerk, and the requirements and conditions set forth herein shall be subject to annual inspection.

The question of the adoption of the foregoing Resolution was duly put to a roll call vote, which resulted as follows:

June Ouellette, Chairperson	Voted	Yes
Sue Allen, Member	Voted	Yes
Vernon Bishop, Member	Voted	Yes
Scott Crawford, Member	ABSENT	
Paul Kelley, Member	Voted	Yes

The Chairperson, June Ouellette, then declared the Resolution to be duly adopted.

JUNE OUELLETTE, Chairperson of the Town of Sterling Planning Board, hereby certifies that the foregoing Resolution was duly adopted by a majority-plus-one at a regular meeting of the Planning Board duly convened and held on February 6, 2017, a quorum being present.

June Ouellette

JUNE OUELLETTE, CHAIRPERSON
Town of Sterling Planning Board

LISA COOPER, Town Clerk of the Town of Sterling hereby certifies that the foregoing Resolution was duly filed in her office on February 10, 2017.

LISA COOPER
Town Clerk