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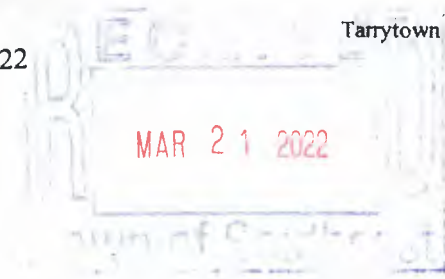
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REPLY TO:

Tarrytown office

March 21, 2022

Honorable Chairman Thomas LaPerch
and Members of the Planning Board
Town of Southeast
1 Main Street
Brewster, New York 10509



RE: Comments on Lincoln Logistics Brewster
(f/k/a Commercial Campus at Fields Corners) proposal by
Hunters Glen Master Association

Dear Hon. Chairman LaPerch and
Members of the Planning Board:

We are the attorneys for Hunters Glen Master Association (“Hunters Glen”) and write to provide comments to the latest proposal in connection with the above captioned matter.

As you are aware Hunters Glen is a condominium community with 382 homes and approximately **1100 residents** of the Town of Southeast. Hunters Glen directly abuts the proposed development. In fact, numerous residences and its water supply lands are in extremely close proximity to the west of the proposed development. As such, Hunters Glen has a significant interest in the thorough review of the proposed development and is opposed to the recent project changes that have been presented to the Planning Board.

As detailed in numerous comments at the meetings reviewing the proposed Lincoln Logistics Brewster f/k/a Commercial Campus at Fields Corners, there are several aspects of the proposed development that cause great concern to the residents of Hunters Glen. One important aspect that Hunters Glen has continued to voice its concerns on is the potential noise to be emitted from the proposed development. Hunters Glen is also deeply interested in ensuring the traffic impacts of the project are properly studied and mitigated.

We are displeased to learn that after such a long process that significant changes have been made to the project after the adoption of the FEIS and therefore Hunters Glen wishes to ensure that such changes are properly reviewed in accordance with SEQRA. We are specifically concerned that one of the noted changes involves increasing the number of dock doors from 98 to 121, which as noted above is an area of concern that Hunters Glen has continued to raise. In fact, last year there was an attempt to make changes to increase the number of dock doors and one that Hunters Glen had to bring to the attention of the Planning Board. Now another year has passed and changes are again being made that would negatively impact Hunters Glen, as well as those living, working, and/or traveling through this area of the Town.

The Planning Board must review these changes in connection with the project as a whole to do otherwise is an improper and illegal attempt to segment the review of the project. See 6 N.Y.C.R.R. §617.2(ah) (“[s]egmentation means the division of the environmental review of an action such that various activities or stages are addressed under this Part as though they were independent, unrelated activities, needing individual determinations of significance.”); See also 6 NYCRR § 617.3(g)(1) (“[c]onsidering only a part or segment of an action is contrary to the intent of SEQR.”) We further note that no such segmentation was identified in the Planning Board’s determination of significance and therefore the changes to the project must be viewed in connection with the project as a whole. See 6 NYCRR § 617.3(g). Moreover, the changes to the project are clearly not independent, unrelated activities, but are significant changes to the project which affect the prior FEIS and must be reviewed as a whole in accordance with New York state law.

We respectfully submit that the changes made to the project are significant and therefore a Supplemental EIS must be prepared to review these post FEIS changes to the project. See 6 NYCRR § 617.9; *Jackson v. New York State Urb. Dev. Corp.*, 494 N.E.2d 429, 444 (N.Y. 1986) (“an agency must prepare a SEIS if environmentally significant modifications are made after issuance of a FEIS.”). See also, *Glen Head--Glenwood Landing Civic Council, Inc. v. Town of Oyster Bay*, 453 N.Y.S.2d 732, 739 (App. Div. 2d Dept. 1982) (“the Federal judiciary has required the distribution of a supplemental impact statement when significant new circumstances or information have been disclosed to the agency”). It is apparent that this significant increase in dock doors from 98 to 121, will result in a significant increase in traffic and noise impacts, and these changes were not considered, or even known, when the FEIS was adopted.

We also take issue with defining this current amendment application as a Minor Project. We respectfully submit that this definition does not apply because the project as a whole must be reviewed. The Town Code in §138-4 defines a “minor project” as a project that meets one of the following thresholds:

- (1) Construction of facilities or structures for a nonresidential use involving less than 10,000 square feet development area.
- (2) Minor alterations of existing structures, including the expansion of such structures by no more than 4,000 square feet.
- (3) Conversion of existing nonresidential facilities or structures involving less than 10,000 square feet of development area to another use that would not result in any increase in consumption of water, production of wastewater or the generation of traffic.

We note that subsection 2 and 3 are clearly not applicable because there are no existing facilities or structures. We respectfully submit that subsection 1 is also not applicable because the amount of development for the project as a whole is much larger than 10,000 square feet, and the requested changes as noted above affect the project as a whole and cannot be considered a separate minor application. To do otherwise would allow the Developer to make any and all changes to its project as long as he limits any new development area to 9,999 square feet or less per application and never account for the total incremental change or properly review the project as a whole. This also completely ignores any changes to the dock doors or other changes that could intensify the use and increase the project’s adverse impacts to the environment. This definition therefore cannot reasonably be applied to one of the largest development projects in the Town’s history. Therefore,

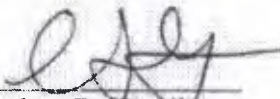
the project must be reviewed under the Town Code as amendments to the prior approvals and the Developer must be required to obtain amendments to the prior zoning approvals, which includes the special permit from the Town Board.

The Developer is voluntarily changing the project in ways that will significantly impact the areas of concern that Hunters Glen has continued to raise, therefore the Planning Board must comply with the burden placed upon it in accordance with SEQRA and a Supplemental Environmental Impact Statement must be prepared to review these significant post FEIS changes to the project.

We respectfully request that such a Supplemental EIS be prepared and that a thorough review and full evaluation of the cumulative noise, light, and traffic impacts be conducted. We further request increased landscaping on the property which will be needed to properly screen the impacts resulting from the increase in building width and request additional escrow funds be paid to Hunters Glen for the additional landscaping that will be needed off-site to properly screen the new design for the project.

Thank you for your consideration and look forward to discussing this matter further at the public hearing on March 28, 2022. Please include this letter in the public hearing record.

Respectfully submitted,
Snyder & Snyder, LLP

By: 
Robert D. Gaudio

Enclosures

RDG/djk

cc: Town Board
Architectural Review Board
Hunters Glen

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