



Environmental, Planning, and Engineering Consultants

34 South Broadway
Suite 300
White Plains, NY 10601
tel: 914 949-7336
fax: 914 949-7559
www.akrf.com

Memorandum

To: Town of Philipstown Planning Board
From: Aaron Werner, AICP
Date: September 12, 2022
Re: Hudson Valley Shakespeare Festival
Recommended Timeline for DEIS Scoping
cc: Ron Gainer, Stephen Gaba, Cheryl Rockett, HVSF Applicant Team

On July 21, 2022, the Town of Philipstown Planning Board approved and subsequently circulated a Positive Declaration pursuant to the State Environmental Quality Review Act (SEQRA) for the proposed Hudson Valley Shakespeare Festival (HVSF) project at The Garrison.

Following the adoption of the Positive Declaration, AKRF was asked to prepare a memorandum to the Planning Board providing guidance to the Applicant and the Planning Board on the approach the Draft Environmental Impact Statement (DEIS) analyses should follow, to ensure that the issues and concerns raised by the Planning Board and the public are adequately studied. The requested memorandum, dated August 18, 2022, was circulated to the Planning Board and the Applicant and is attached for reference. The August 18, 2022 memorandum was meant to be of help to the Applicant and to the Planning Board in connecting the comments by the board (that went into the Positive Declaration) with the Scoping Document.

On September 1, 2022, the HVSF Applicant Team submitted a Draft DEIS Scope (the “Draft Scope”) to the Planning Board. In preparing the Draft Scope, the Applicant reviewed AKRF’s August 18, 2022 memorandum and incorporated its recommendations.

As stated in SEQRA’s implementing regulations (6 NYCRR 617), “the primary goals of scoping are to focus the EIS on potentially significant adverse impacts and to eliminate consideration of those impacts that are irrelevant or nonsignificant.” Scoping must include “an opportunity for public participation.” In the case of the HVSF project, the opportunity for public participation will take the form of a Public Scoping Hearing.

In order to hold a Public Scoping Hearing for the DEIS, the Planning Board must first formally accept the Applicant’s Draft Scope and make it available to Involved Agencies and the public. Therefore, the following Planning Board actions are recommended for the 9/15/22 meeting:

1. Vote to accept the Applicant’s Draft Scope and direct the Planning Board Secretary to distribute it to the same Involved Agencies that received the Positive Declaration, and arrange for it to be posted to the Town’s website.

2. Vote to set a Public Scoping Hearing for 7:30 pm on 10/20/22 at 238 Main Street (the next scheduled Planning Board meeting). Public noticing of the hearing should be arranged to appear in the local newspaper and NYSDEC Environmental Notice Bulletin (ENB) no later than 10/6/22 (2 weeks prior to the hearing date). AKRF can arrange for the ENB publication and can assist the Planning Board Secretary with the content of the newspaper notice.

Note that the Final Scope should be adopted within 60 days of receipt of the Draft Scope. Pursuant to 617.8(h) of the SEQRA regulations (Scoping):

“If the lead agency fails to provide a final written scope within 60 calendar days of its receipt of a draft scope, the project sponsor may prepare and submit a draft EIS consistent with the submitted draft scope.”

If using the date of 9/15/22 as the date of receipt of the Draft Scope, the Final Scope should be adopted no later than 11/14/22. However, pursuant to 617.3(i) of the SEQRA regulations (General Rules):

“Time periods in this Part may be extended by mutual agreement between a project sponsor and the lead agency, with notice to all other involved agencies by the lead agency.”

Therefore, the Planning Board and the Applicant can mutually agree to extend the deadline for adopting the Final Scope by 3 additional days, to correspond with the Planning Board’s regularly scheduled November meeting (11/17/22).

Following the 9/15/22 Planning Board meeting, the anticipated timeline for receiving all comments on the Draft Scope, adopting a Final Scope, and beginning preparation of the DEIS is as follows:

- 9/16/22 through 10/27/22: Public review of the Draft Scope and Planning Board acceptance of any comments from AKRF, its other consultants, the public, and Involved Agencies in advance of the 10/20/22 scoping meeting.
- 10/20/22: The Planning Board conducts the Public Scoping Hearing with the Applicant and accepts comments from Involved Agencies, other interested parties, and the public. AKRF will provide a memorandum in advance of the hearing with guidance for how best to conduct the scoping hearing.
- 10/27/22: While there is no requirement to do so, AKRF recommends keeping the scoping comment period open for one week after the hearing, to 10/27/22, to allow the public and interested/involved agencies additional time to review the Draft Scope and issue written comments.
- 10/27/22 – 11/17/22: Comments received during the scoping comment period are reviewed by the Planning Board, its consultants, and the Applicant. During this same timeframe, the Applicant prepares and submit a proposed Final Scope for consideration by the Planning Board. The submission deadline for the 11/17/22 meeting is 11/4/22. AKRF can provide any comments on the submitted Final Scope to the Planning Board between 11/4/22 and 11/17/22.
- 11/17/22 Planning Board meeting: After consideration of the Applicant’s submitted Final Scope and any comments from its consultants, the Planning Board can vote to approve the Final Scope and distribute the Final Scope to Involved Agencies and the public.
- 11/17/22 – DATE TBD: The Applicant prepares and submits a preliminary DEIS based on the adopted Final Scope.



Environmental, Planning, and Engineering Consultants

34 South Broadway
Suite 300
White Plains, NY 10601
tel: 914 949-7336
fax: 914 949-7559
www.akrf.com

Memorandum

To: Town of Philipstown Planning Board
From: AKRF, Inc.
Date: August 18, 2022
Re: Hudson Valley Shakespeare Festival
Guidance for Draft DEIS Scoping Document
DRAFT (for further Board comment as needed)
cc: Ron Gainer, Stephen Gaba, Cheryl Rockett, HVSF Applicant Team

On July 21, 2022, the Town of Philipstown Planning Board approved and circulated a Positive Declaration pursuant to the State Environmental Quality Review Act (SEQRA) for the proposed Hudson Valley Shakespeare Festival (HVSF) project at The Garrison. The Positive Declaration indicates that the Planning Board has determined, based upon its review of the Full Environmental Assessment Form (EAF), that the proposed HVSF project has the potential for one or more significant adverse environmental impacts as listed in Part 617.7(c) of Title 6 NYCRR (the Statewide regulations pertaining to SEQRA) and that a Draft Environmental Impact Statement (DEIS) must be prepared by the Applicant.

The Applicant will prepare and submit a Draft Scoping Document to ensure all concerns raised are adequately studied in the DEIS. The Planning Board and their consultants will have the opportunity to review and comment on all methodologies proposed by the Applicant in the forthcoming Draft Scoping Document.

The Scoping Document

As stated in SEQRA's implementing regulations (6 NYCRR 617), "the primary goals of scoping are to focus the EIS on potentially significant adverse impacts and to eliminate consideration of those impacts that are irrelevant or nonsignificant." Scoping must include "an opportunity for public participation." In the case of the HVSF project this will take the form of the Public Scoping Meeting to be held at a future date to be determined. A formal written comment period, which can be set to extend beyond the close of the Public Scoping Meeting, can be used by the Planning Board to allow for those unable to attend the meeting or uncomfortable speaking in front of the Board to provide their input on the project.

After considering the comments received from the Involved and Interested Agencies and members of the public on the Draft Scoping Document, the Final Scoping Document is prepared by the Planning Board acting as SEQR Lead Agency with input from the Board's consultants and the applicant. The Final Scoping Document must be approved within **60 days** of receipt of the Draft Scoping Document. It is important to

note that adopting the Scoping Document does not commit the Planning Board to approving the project; it merely sets the outline for the DEIS that will be prepared by the Applicant.

DEIS SCOPING GUIDANCE BY TOPIC

Following the Planning Board's acceptance of the content of AKRF's draft Positive Declaration on July 21, 2022, AKRF was asked to prepare a scoping "punch list" for the Planning Board and Applicant's consideration.

AKRF understands that the Applicant's planning consultants are familiar with the required format of a Draft Scoping Document for a DEIS, including the front-end material typically included such as the detailed description of the proposed actions and development program, and a list of the interested/involved agencies. The Applicant is also aware that the Draft Scoping Document will need to include the additional concluding chapters required in a DEIS including alternatives, unavoidable adverse impacts, growth inducing aspects of the project, and irreversible/irretrievable commitments of resources.

The following bulleted lists, organized by DEIS topic from the Positive Declaration, are intended to provide guidance to the Applicant and the Planning Board on the approach the DEIS analyses should follow to ensure that the issues and concerns raised by the Planning Board and the public are adequately studied. This document is meant to be of help to the Applicant and to the Planning Board in connecting the comments by the board (that went into the Positive Declaration) with the Scoping Document.

A. VEGETATION AND WILDLIFE

DEIS should address, but is not limited to, the following:

- Based on review of New York State Department of Environmental Conservation (NYSDEC) and U.S. Fish and Wildlife Service (USFWS) databases, list any rare, special concern, threatened, endangered, proposed and candidate plant or animal species, as well as significant natural communities and designated critical habitat, either located on or proximate to the site.
- Describe existing ecological communities on the site based on previously completed habitat studies and fieldwork. Confirm presence or absence of any listed species from above database review.
- Describe the existing nocturnal wildlife activity observed at the site during the anticipated performance season through use of wildlife cameras or other industry standard method.
- Analyze and disclose the potential for significant adverse impacts to nocturnal wildlife from the increased nighttime traffic, noise, lighting introduced by the project.
- Quantify the portions of the property that are currently undisturbed but will be impacted by development activity resulting in removal of mature/valuable vegetation.
- Discuss any mitigation measures required.

B. WETLANDS AND WATERCOURSES

DEIS should address, but is not limited to, the following:

- Identify all Town of Philipstown, NYSDEC and U.S. Army Corps. of Engineers (USACE)-regulated existing surface waterbodies, wetlands, and intermittent and perennial streams, as well as Federal Emergency Management Agency (FEMA)-mapped 100-year floodplains located on and immediately adjacent (within 100 feet) to the site.
- Graphically depict all previously delineated on-site wetlands and watercourses (including buffers) and FEMA floodplains within or proximate to the proposed limits of land disturbance.
- Describe the existing dam structure's condition and regulatory status.
- Describe and quantify wetland, wetland buffer and floodplain disturbance and impacts.

- Describe the potential for impacts on wetland buffer ecology from the proposed Snake Hill Road access drive/bridge construction.
- Identify and describe any anticipated modifications to the dam itself, any planned reductions in the water level of the pond behind the dam, and resulting impacts to wetland ecology.
- Discuss any mitigation measures required.

C. UTILITIES (WATER, SEWER, AND ENERGY)

DEIS should address, but is not limited to, the following:

Water Supply

- Describe and quantify daily water demand in the existing and proposed condition using current industry standard rates; provide a detailed table to demonstrate how water demand/capacity values for each land use were determined.
- Identify existing and proposed well locations.
- Graphically illustrate or otherwise describe the location of nearby (off-site) private wells.
- Discuss provisions for fire protection including an evaluation of National Fire Protection Association (NFPA) guidelines for required fire flows (existing and proposed) as well as those flows available from existing fire protection sources on the site.
- Assess impacts to the underlying aquifer through 72-hour pumping tests to determine that a sufficient groundwater supply exists to support the proposed use. The purpose of this analysis is to ensure that project water usage will not result in significant water level drawdown of the existing and proposed-on-site wells, as well as potential impacts to other nearby private wells.
- Discuss all permits required for the proposed water supply.
- Discuss any mitigation measures required.

Sanitary Sewer

- Identify and map all existing wastewater systems and capacities.
- Graphically illustrate or otherwise describe the location of nearby wastewater disposal systems, as required by the Putnam County Department of Health.
- Demonstrate adequate separation distances to on-site and off-site wells.
- Estimate anticipated wastewater generation for the proposed project.
- Identify and map any proposed wastewater systems that will be required to serve the proposed use; demonstrate whether adequate capacity exists.
- Provide deep and percolation test results to demonstrate suitability of soils to accommodate septic.
- Evaluate the potential use of composting toilets.
- Discuss permits required for the proposed septic systems.
- Discuss any mitigation measures required.

Energy

- Describe existing and anticipated energy sources for the site.
- Analyze the change in the annual demand for energy resulting from the project when compared to the existing condition, and resulting potential for impacts to the distribution system.

- Evaluate options to improve energy efficiency through design.
- Discuss any mitigation measures required.

D. TRAFFIC, TRANSPORTATION, AND PARKING

DEIS should address, but is not limited to, the following:

- Repackage previously completed traffic impact study for the FEAF, including all analyses of existing conditions absent the project, plus the following related to the latest building program:
 - Trip generation development summary, tables, and backup data files
 - Trip distribution and assignment summary, figures, and backup data files
 - Future Build (with project) capacity analysis (levels of service) results/impacts summary, including tables and backup data files
 - Future Build (with project) queuing analysis results/impacts summary, including tables
 - Traffic signal warrant analysis
 - Turn lane warrant analysis
 - Sight distance analysis, including a summary of any required measures (e.g. vegetation removal) to achieve acceptable sight distance.
 - Parking demand analysis and backup.
 - Access and circulation summary, including turning path movement (AutoTurn) drawings.
 - A complete record of correspondence with the New York State Department of Transportation (NYSDOT) regarding planned roadway improvements (e.g. additional turn lane, new traffic signal).
 - On-site occupancy / ebb and flow activity summary, including tables
 - Updated Traffic Management Plan based on the latest building program
- Supplement above traffic impact study with new data (traffic volume counts, parking counts, persons per vehicle counts) gathered from the current (2022) HVSF performance season at the site with the temporary theater tent in place. This supplemental data collection should take place when a performance and a wedding are occurring simultaneously at the site.
- Analyze and discuss the potential for significant adverse traffic and parking impacts as a result of the above studies.
- Discuss any mitigation measures possible that have not already been covered to reduce traffic to the Project Site.

E. VISUAL RESOURCES AND COMMUNITY CHARACTER

DEIS should address, but is not limited to, the following:

- Identify and illustrate (with photographs) existing visibility of the temporary tent theater being utilized for the 2022 HVSF performance season at The Garrison.
- Identify and illustrate existing visual conditions on the site and as viewed from the following publicly accessible locations previously selected by the Planning Board through the FEAF review:
 - Howell Trail at Storm King Mountain facing southeast (viewpoint #1 from FEAF)
 - Storm King Highway facing southeast (viewpoint #2 from FEAF)
 - Route 9W facing east (viewpoint #3 from FEAF)

- Bull Hill, Washburn Trail facing southeast (viewpoint #4 from FEAF)
- North Redoubt Trail facing northeast (viewpoint #5 from FEAF)
- Route 9, to the north of existing Garrison Golf Club entrance, facing southwest (viewpoint #6 from FEAF)
- Route 9 at Route 9 Spur facing west (viewpoint #7 from FEAF)
- Route 9 at Snake Hill Road facing northwest (viewpoint #8 from FEAF)
- Snake Hill Road at existing site entrance/dam facing northwest (viewpoint #9 from FEAF)
- Add a new viewpoint at the location of the proposed Snake Hill Road access driveway/bridge facing north (can be called viewpoint #10).
- Evaluate visibility and anticipated visual and community character impacts of the proposed tent theater and other proposed buildings when viewed from the above-listed viewpoints, using a combination of sight line profiles, photo-simulations, and detailed architectural renderings of the tent. Evaluation must include a comparison of existing and proposed conditions under leaf-on (summer) and leaf-off (winter) conditions.
- From viewpoints 9 and 10, evaluate visibility and anticipated visual and community character impacts of the proposed Snake Hill Road access driveway and bridge using a combination of sight line profiles, photo-simulations, and detailed architectural renderings of the bridge. Evaluation must include a comparison of existing and proposed conditions under leaf-on (summer) and leaf-off (winter) conditions.
- Describe the landscape buffer requirements for the Town's Scenic Protection Overlay district.
- Discuss any mitigation measures required, including any proposed supplemental landscaping provided to screen views.

F. NOISE AND LIGHTING

DEIS should address, but is not limited to, the following:

Noise

- Using previously selected noise measurement locations, update previously completed acoustical survey to document existing ambient noise conditions on and surrounding the site.
- Noise measurement locations shall be illustrated on a map and described in text (addresses will be provided, as applicable).
- Utilizing updated data gathered from the current (2022) HVSF performance season at the site with the temporary theater tent in place, assess potential operational noise impacts on nocturnal wildlife, neighbors, and surrounding uses, including assessment of both amplified and unamplified noise from simultaneous on-site activities/sources (theatrical performances, rehearsals, wedding events, restaurant use, mechanical equipment, etc.) and traffic traveling to and from the site on surrounding roadways. This supplemental data collection should take place when a performance and a wedding are occurring simultaneously at the site.
- The above assessment on operational noise should include a study of amplified performances (theater and/or music concerts) at the location of the proposed tent theater.
- Assess potential noise impacts associated with construction.
- Discuss any mitigation measures required, including possible prohibition of amplified events/performances at the tent theater as part of the zoning text change proposed.

Lighting

- Discuss existing on-site sources of nighttime lighting, including lighting from vehicle traffic entering and leaving the Site.
- Discuss and graphically illustrate proposed conceptual site lighting plan.
- Provide nighttime renderings of proposed stationary sources of lighting and evaluate visibility of proposed site lighting at night.
- Evaluate and graphically illustrate (through renderings or other means) anticipated mobile sources of lighting, specifically headlights from vehicles departing the site at both proposed access points (Route 9 and Snake Hill Road).
- Discuss any mitigation measures required.

G. HUMAN HEALTH AND SITE ASSESSMENT

DEIS should address, but is not limited to, the following:

- Discuss the site's historic use including a summary of findings from a recent Phase I Environmental Site Assessment (ESA) of the site.
- Summarize the findings of a recent Phase II subsurface investigation completed within the proposed areas of disturbance and in proximity to the proposed well sites (including areas formerly used for golf course greens).
- Discuss any mitigation measures required as part of construction, including but not limited to soil management plans, community air monitoring plans, and Town of Philipstown/Putnam County oversight.
- Discuss any mitigation measures required as part of operation, including re-grading and re-wilding plans and any measures necessary to address potable water issues identified through Putnam County mandated well testing.