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Memorandum

To: Town of Philipstown Planning Board
From: Aaron Werner, AICP
Date: November 11, 2022
Re: Hudson Valley Shakespeare Festival
Revised DEIS Scope – AKRF Comments and Next Steps
cc: Ron Gainer, Stephen Gaba, Cheryl Rockett, HVSF Applicant Team

On October 20, 2022, the Planning Board held a public scoping hearing on the Applicant’s Draft Scope for the preparation of a Draft Environmental Impact Statement (the “Draft Scope”). The Draft Scope was accepted by the Planning Board on September 15, 2022 and subsequently circulated to the same Involved Agencies that received the Positive Declaration, and posted to the Town’s website for review by the general public.

Following the October 20, 2022 public scoping hearing, at which four members of the public and four members of the Planning Board provided comments, the Planning Board agreed to accept written comments for an additional week (until October 27, 2022). In a memorandum dated October 14, 2022, AKRF provided written comments on the Draft Scope which were reviewed and discussed with the Planning Board at the October 20, 2022 meeting. No written comments were received from any of the Involved Agencies that received the Draft Scope from the Town.

On November 3, 2022, the Applicant submitted a revised Draft Scope responding to AKRF, Planning Board, and public comments.

APPLICANT RESPONSES TO 10/14/22 AKRF COMMENTS ON DRAFT SCOPE

AKRF’s comments on the Draft Scope provided through the October 14, 2022 memorandum are recited below in *italicized text*. Review of responses provided through the Applicant’s November 3, 2022 revision, as well as any follow-up comments, are presented in **bold text**.

VEGETATION AND WILDLIFE

- 1. Page 6, Existing Conditions (IV.A.1.b): The Applicant should specify the approximate number of wildlife cameras to be installed, and indicate that a map of all camera locations will be provided as part of the DEIS.*

Comment addressed. The revised Draft Scope indicates a total of six cameras are to be utilized, which will be presented on a map in the DEIS.

WETLANDS AND WATERCOURSES

- Page 7, under Existing Conditions (IV.B.1.b): AKRF recommends revising the wording as follows:

“Describe the existing condition of the site’s pond, including the recent lowering of the water elevation as previously authorized by the NYSDEC.”

Comment addressed.

- Page 7, under Potential Impacts (IV.B.2.b): AKRF recommends revising the wording as follows:

“Describe proposed future modifications of the existing dam, if any, and evaluate potential impacts to wetland and pond ecology.”

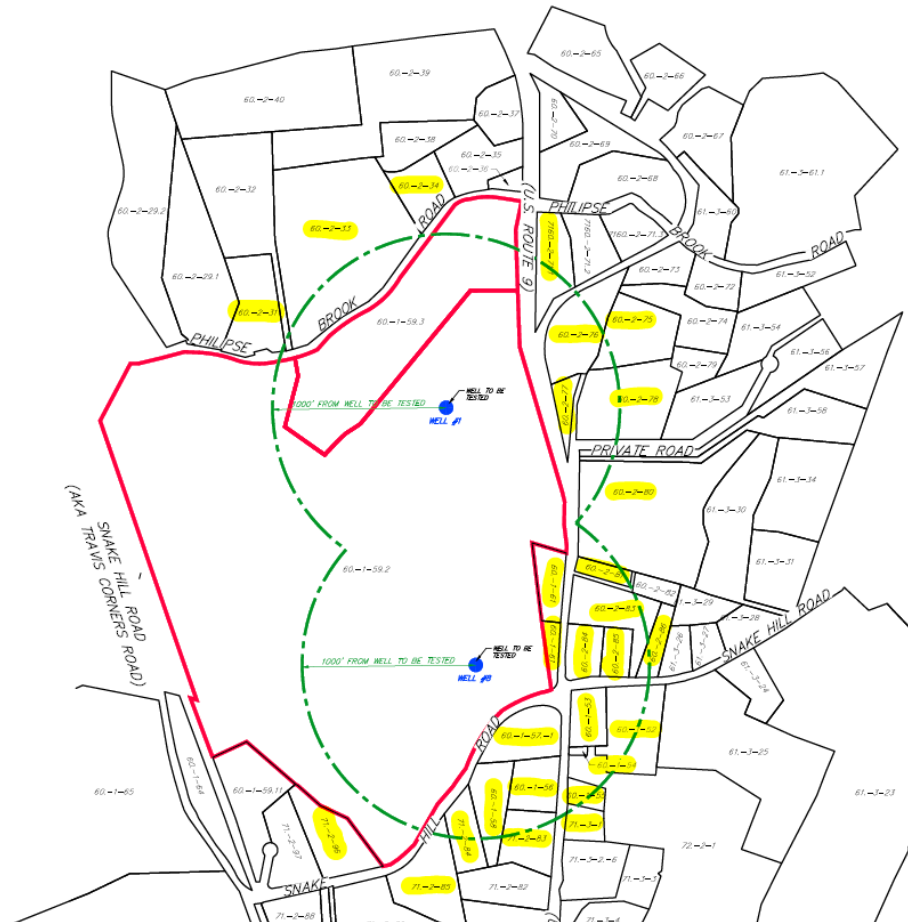
Comment addressed.

UTILITIES

- Page 8, under Potential Impacts – Water (IV.C.2.v): AKRF recommends adding the following sentence to the end of the discussion of the proposed 72-hour pumping test:

“The Town will be provided with a copy of the pumping test scope submitted to the County, and the Town’s consultants will provide comment on the scope (as applicable), including on-site and nearby private wells that have been selected for monitoring.”

Comment addressed. It is AKRF’s understanding that the County has approved the scope of the 72-hour pump test and the testing is set to commence in mid-November. On October 18, 2022 (prior to the County’s approval) the Applicant’s hydrogeologist discussed the scope and radius of private wells to be included with AKRF and Ron Gainer, and incorporated AKRF’s suggestions into the scope (see radius map below). The Applicant should provide a copy of the County approved scope to the Planning Board for the record.



TRAFFIC, TRANSPORTATION AND PARKING

5. Page 10, under Existing Conditions (IV.D.1.b): AKRF recommends using “peak hour period” rather than “peak hour” when referencing the counts/data collection effort.

Comment addressed.

6. Page 10, under Existing Conditions (IV.D.1.d and e): AKRF recommends revising the wording of item (d) as follows:

“The site generated peak hour traffic volumes, including trip distributions and assignments, will be determined and separated from the future non-site generated peak hour traffic volumes. Pass-by and other trip credit traffic volumes will be clearly presented.”

Following this edit, both items (d) and (e) currently listed under “Existing Conditions” should be moved to the “Potential Impacts” section, inserted between 2(g) and 2(h), and renumbered accordingly.

This comment was discussed during the October 20, 2022 meeting. It was requested by Planning Board member Peter Lewis that the text of this section specific to “trip credits” be revised further to make it understandable to the layperson. In coordination with AKRF’s traffic staff, the Applicant has revised that particular item as follows:

“The site-generated peak hour traffic volumes, including trip distributions and assignments, will be determined and separated from the future non-site generated peak-hour traffic volumes. Any reductions in traffic volumes applied to the site-generated peak hour trip volumes to account for trips/interplay occurring between various uses on the site (“trip credits”) or other site land use changes (e.g. removal of the golf course, reduction in banquet space, etc.) will be clearly presented.”

7. Page 10, under Existing Conditions (IV.D.1.g): AKRF recommends revising the wording of item (g) as follows:

“The most recent 3 years of accident data will be obtained from NYSDOT and evaluated.....”

Comment addressed.

8. Page 10, under Potential Impacts (IV.D.2.b): AKRF recommends revising the wording of item (b) as follows:

“Establish the No-Action traffic volumes. This will first consist of growing the existing peak hour traffic volumes to the design year by an annual growth factor and peak hour traffic will be added for other development projects identified by the Town Planner.”

Comment addressed.

9. Page 11, under Potential Impacts (IV.D.2.d): AKRF recommends revising the 2nd sentence of this section as follows:

“The results will be reported in terms of average delay per vehicle, volume to capacity (v/c) ratio, level of service, and 95th percentile queue length for individual movements. Trip assignments will be established based on the Applicant’s current plan to utilize the existing Snake Hill Road access (over the dam) which accommodates one-way traffic.”

Comment addressed. For additional clarity, the Applicant revised the last sentence as follows (new text underlined): “Trip assignments will be established based on the Applicant’s plan to utilize the existing Snake Hill Road access (over the dam) which accommodates one way traffic at a time (before and after performances, as appropriate).” AKRF has no objection to this revision, as it provides clarification that one-way ingress/egress is to be provided by this driveway, depending on the time a performance is set to begin and end.

10. Page 11, under Potential Impacts (IV.D.2.e): AKRF recommends prefacing the current text in this section with the following:

“To establish the future traffic conditions with the Proposed Actions (the With-Action condition), new data....”

Comment addressed.

11. Page 11, under Potential Impacts (IV.D.2.h): AKRF recommends revising the wording of item (h) as follows:

“Intersection capacity analyses will be performed for the With-Action peak hour traffic volumes to evaluate future traffic operating conditions with the Proposed Action. The results will be reported in terms of average delay per vehicle, volume to capacity (v/c) ratio, level of service, and 95th percentile queue length for individual movements.”

Comment addressed.

PLANNING BOARD MEMBER COMMENTS ON DRAFT SCOPE

The following additional revisions were made to the Draft Scope to address comments raised by the Planning Board at the October 20, 2022 meeting:

- Vegetation and Wildlife (page 6): At the request of Planning Board member Peter Lewis, the following text was added under the “Potential Impacts” heading (2.c):

“Provide a thorough description of the proposed landscape and proposed landscape maintenance procedures.”

- Water (page 9): At the request of Planning Board member Peter Lewis, the following text was added under the “Potential Impacts – Water” heading:

“Summarize the effects of groundwater recharge on the overall water budget, as detailed within the Part 3 EAF.”

- Traffic (page 10): See response #6 above which was provided at the request of Planning Board member Peter Lewis.

PUBLIC AND PLANNING BOARD COMMENTS RELATED TO PROPOSED NOISE STUDY

Comments were received during the scoping comment period requesting the Applicant study the potential noise impacts to neighboring properties by simulating an amplified musical concert performance with loudspeakers at the proposed site of the new theater. The main concern triggering this comment is the possibility of future use of the site as a concert venue in addition to non-amplified Shakespeare productions. The Applicant, through their November 3, 2022 cover letter submitted with the revised Draft Scope, stated the following in consideration of this request:

“In this circumstance loudspeakers would not be an appropriate or productive way to analyze the potential noise impacts from the Project. The loudspeakers would be in the open, without the benefit of the Project’s designed enclosure or modifications to the landscaping, which will be designed to limit noise from propagating beyond the site.”

AKRF’s acoustical experts reviewed the comment and the Applicant’s response. Based on our experience preparing and reviewing EIS noise analyses, AKRF is in agreement that the simulation of an amplified music concert event in the manner suggested would not be accurate or productive in evaluating potential impacts under SEQRA. First, the suggested testing method would not accurately reflect the proposed condition, because it would not incorporate the acoustical effects of the proposed permanent theater structure. Furthermore, merely listening for audibility (the degree to which a sound is audible) during such a test would not evaluate the impact criteria as defined in NYSDEC's *Assessing and Mitigating Noise*

Impacts guidance document¹. It is possible (in fact, it is common) for acoustical phenomena to be audible while still being well below the threshold of a significant impact as defined by NYSDEC's guidance (typically a 6 dB increase). Industry standard acoustical modeling of the potential musical concert event would be preferable, as it would incorporate the theater's structural effects, isolate only noise resulting from the project, and provide a quantitative decibel result that can be compared to defined impact criteria established by NYSDEC and the Philipstown Town Code. Through the revised Draft Scope, the Applicant is proposing to add an amplified musical concert's typical noise level to the model for the theater, so this scenario will be studied quantitatively through the model. AKRF's acoustical experts will review the modeling presented in the DEIS (including all backup data/parameters used) and will provide the Planning Board and Applicant with comments and guidance to ensure the analysis meets the appropriate standard and that adequate mitigation measures are incorporated into the design of the theater and surroundings.

TIME LIMIT ON ADOPTING A FINAL DEIS SCOPE

As discussed during the September 15, 2022 Planning Board meeting, pursuant to 617.8(h) of the SEQRA regulations (Scoping), a "Final Scope" should be adopted within 60 days of receipt of the Draft Scope. Using the date of September 15, 2022 as the date of receipt of the Draft Scope, the Planning Board would have had until November 14, 2022 to adopt the Final Scope. 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."

At the September 15, 2022 meeting, the Planning Board and the Applicant mutually agreed to extend the deadline for adopting the Final Scope by 3 additional days to November 17, 2022, to correspond with the Planning Board's regular meeting schedule.

RECOMMENDATIONS / NEXT STEPS

At the November 17, 2022 meeting, after consideration of the Applicant's revisions to the Draft Scope and comments from its consultants, the Planning Board can vote to adopt the Applicant's revised Draft Scope as the Final Scope for the DEIS, and distribute the Final Scope to Involved Agencies and the public. In light of the timing considerations outlined above, the Final Scope can be adopted conditioned on any subsequent revisions discussed by the Planning Board and consultants during the meeting. Upon adoption of the Final Scope, AKRF will arrange for publication of a notice on the NYSDEC's Environmental Notice Bulletin indicating that the Final Scope has been adopted by the Planning Board. Copies of the Final Scope will also be provided to all Involved Agencies. Following adoption, the Applicant will then be permitted to prepare and submit to the Planning Board (at a date TBD) the preliminary DEIS based on the organization of the adopted Final Scope.

¹ https://www.dec.ny.gov/docs/permits_ej_operations_pdf/noise2000.pdf