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*PLANNING with
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Mr. J. Theodore Fink, AICP
Greenplan
302 Pells Road
Rhinebeck, New York 12572

RE: SEQRA
Review of Visual Resources &
Community Character
CPV Valley Energy Center DEIS
Town of Wawayanda
Orange County, New York

Dear Mr. Fink:

My office has conducted a review of Chapter 5 Visual Resources and Aesthetics, Chapter 16, Community Character, and other portions of the DEIS for the CPV Valley Energy Center as needed. This review focuses on substantive issues regarding the environmental impacts of the project pursuant to 6 NYCRR Part 617.

Summary

While the DEIS discloses significant visual impacts from near-field viewpoints (e.g. those within approximately 1 mile of the action) in both visual simulations and text of Chapter 5, there are items in that Chapter that need to be analyzed more fully or consistently in the FEIS for the project. Chapter 16, however, does not fully describe the proposed action's impact on Community Character. The project's impact on Community Character appears to be inconsistent with the Town's 2006 Comprehensive Plan and the FEIS must show how the project can be described as being consistent with community character described in that plan.

Please note that images reproduced in this document are for reference and ease of reading only. Full-size, full resolution images are a part of the DEIS and are the images that should be used when assessing impacts.

Visual resources

The project being proposed is both tall (with stacks at 275 feet) and massive in scale (with a substantial base 115 feet tall) when compared with other structures in the Town and County. Considering the height and overall scale of the project, however, the site selected for the project conceals it from most state and federally listed visual resources. Where there are views to the project from most of these resources (such as the Paramount Theater (Viewpoint 1)) the project is partially screened and distance has mitigated the scale of the project.



Figure 1: Existing and simulated view from Paramount Theater. Stacks will be marginally visible through trees to the right of the apartment building at the center of the photograph

Indeed, even from most of the higher elevations and ridges, the project will have little to no visibility either due to existing vegetation or intervening topography. Nevertheless, the project will have some visibility from places as far as the Towns of Minisink, Goshen, and Wallkill as well as substantial potential visibility from the City of Middletown and the Town of Wawayanda itself.

The listed resource that will experience the largest visual impact is New York State Bike Route 17:



Figure 2: Existing and simulated view from Bike Route 17 (Route 6). Many near-field views will be experience significant visual impacts

This impact is disclosed in the DEIS as “significant unmitigateable visual impact.”

Other views were analyzed as resources of local concern. The Planning Board identified 15 additional resources to be analyzed. These resources were schools, historic sites that were already listed, views from apartment complexes, or views from locally identified scenic roads. Most of the specific places the Planning Board

identified do not have views to the project and so do not experience visual impacts. Several near-field viewpoints do have visibility to the action and the photosimulations disclose, and the text describes, visual impacts from Viewpoints 5, 6, 10, 11, and 13, which is reproduced below:



Figure 3: Existing and simulated view from I-84, Viewpoint 13.

From the near-field, side-of-the-road viewpoints, the action will create a dramatic change in the view. The action introduces a new form and use on the landscape which is dramatically different when compared to existing elements in the viewpoint. The action shows dramatic changes to the viewpoints analyzed in terms of form, line, texture and scale, and significant visual impacts. Despite the following inadequacies detailed below, the DEIS discloses significant visual impacts in these near-field viewpoints.

It is difficult to contend, however, that a project that has such unmitigateable visual impacts will have little impact on community character, which is essentially the finding of the Community Character chapter. Potential impacts on community character and how changes to community character should be measured is discussed more fully starting on page five of this letter.

Visual Resource deficiencies

While the materials presented in Chapter 5 do disclose significant impacts on visual resources. There are some issues and omissions in this chapter which may actually show there is a larger visual impact than the one that is disclosed.

Missing overhead transmission lines

An important component of the action appears to be missing from the drawings and the site plan. The on-site overhead electrical transmission lines that are proposed to follow I-84 on-site are not shown on the technical drawings (Figures ES-1, ES-2, SP-3, SP-4, SP-6 and others). They are not represented in the visual simulations, nor do they appear to be on the rendering on the cover and spine of the document. This appears to be an error in the submission. This error can be remedied by

correcting these materials and including the transmission wires. In the visual simulation this would mean recreating the visual simulations so that they showed the entire action. For the viewshed map, it means assessing the materiality of the change in the viewshed with the added portion of the action, and the removal of vegetation required for the line that will no longer be screening the action and redoing the viewshed map should the differences prove material. Material differences may require additional visual analysis for viewpoints that were shown as having no views to the project.

A short section called “Visual Impacts Associated with Aboveground Electrical Transmission Line” is on page 5-21. This section, however, merely describes the wires in text and writes where they “will” or “may” be visible, and does not discuss visual impacts. This section is not supported by any viewshed mapping, visual simulations, renderings, or any evidence that would support any claims regarding impacts on visual resources.

If the action were changed so that these wires were buried, no additional materials would be required to describe these transmission lines for the purposes of visual resources.

Plumes

Chapter 9, Air Quality, discloses in Table 9-29¹ that the plume for the action can be over 10,000 meters long. This very long plume is not discussed in the Visual Resources section and the plumes simulated in photosimulation are 50 meters. Chapter 9 states:

“The apparent prediction of very long visible plumes [over six miles] for 3 to 4 percent of daylight hours is merely a reflection of the number of daylight hours during the modeling period with ambient saturated conditions. . . . These long plumes should be considered an artifact of the modeling assumptions particularly the inclusion of hours with very high relative humidity when natural fogging would be expected to occur, thus obscuring any visible combustion plume.” (Pg 9-74.) [Bracketed text added]

Further, Chapter 9 also discloses that the plume can rise over 500 meters vertically from the stack, and should be over 200 meters (about 655 feet) from the stack height (a total of about 940 feet) between eight and nine percent of daylight hours. For comparative purposes, the Empire State Building is 381 meters tall. A longer plume is shown as Figure 5-20, but this example is still fraction of the size of these much longer plumes described in the Air Quality chapter.

Because of the materiality of a six mile long plume, extending more than three times higher than the proposed action, additional discussion of the visual impact of the plume needs to be studied, analyzed and disclosed as a part of the FEIS. The expression “artifact of modeling assumptions” needs to be fully explained. Will the plume actually be visible for six miles, or will such plumes only occur when they

¹ Page 9-75

are obscured, partially or completely, by fog? Will there even be a six mile long plume in reality or is it simply a glitch in the modeling system?

Extremely large plumes may materially alter the findings of the visual impact of the project especially from mid- and far-field viewpoints, which are now shown to have little or no significant impacts. The FEIS must explain these plumes in more detail and the Lead Agency needs to understand when these plumes appear, how large they can be, how visible they can be and how they travel. Should these extremely large plumes be shown to be material, then further work on visual analysis will be necessary.

For example, the viewshed map shows that the action is largely hidden from far-field viewpoints by topography or vegetation, but from where will the plumes show visibility? And what will the impact be of that visibility? Are there important listed visual resources that will be impacted by plume visibility, but will have no view of the action itself, and so were not studied? The New York State Department of Environmental Conservation actually uses plumes when providing guidance as to the assessing impacts on visual resources when it states:

“A project by virtue of its siting in visual proximity to an inventoried resource may lead staff to conclude that there may be a significant impact. For example, a cooling tower plume may drift between viewers standing on an overlook at a State Park thereby blocking the view of the panorama.”²

Since the viewshed used to inform the selection of resources studied was based on the structure that will be built, and not the plume it produces, if these extremely large plumes are real and not an artificial result of the modeling process, then further study needs to be done to ensure that other resources are not impacted by the operations of the facility, and not just by the facility itself.

Finally, if these six mile long plumes represent an actual condition of concern, they will be extending into other jurisdictions. The FEIS should discuss if SEQR requires the action be consistent with local plans of other jurisdictions into which the plume travels, as the action will visibly cross into these jurisdictions.

Impacts on Community Character

The Scoping Document describes community character as the built and unbuilt environment and the interaction between them, and the socio-economic, historic and cultural conditions of the community. In summarizing negative impacts to community character, the DEIS states that “the Project would not change the community character of the area except in limited locations very close to the Project site where views exist.”³

² NYS Department of Environmental Conservation, “Assessing and Mitigating Visual Impacts” July 2000, page 5.

³ Page 16-11

Changing community character is not necessarily a negative environmental impact. A community may wish to transform itself and a project may be a part of the realization of a planned and desired change. To understand if the change in community character created by the project constitutes an environmental impact, the community's vision of itself needs to be examined and compared to the changes caused by the project. Only then can the significance of the impacts on community character be assessed.

The Comprehensive Plan for the Town is still recent (2006) and is an excellent officially adopted document that can illustrate the Town's community character and its vision for its future.

The document stresses the desire to stay rural, protect productive agricultural areas and focus growth around existing hamlet centers to "maintain the scenic quality and rural character of the Town and its hamlets."⁴ It has four major themes, which are:

- "Promote economic development and diversity
- Maintain and support Wawayanda's rural character
- Protect natural resources and open space
- Cultivate a sense of community"⁵

Regarding non-residential uses and economic development, the Comprehensive Plan states:

"The town must take a more proactive position towards economic development by *encouraging clean low impact commercial enterprises*, working to attract and retain target industries, and preparing shovel ready sites for development."⁶ (Emphasis added).

Visual character, preserving scenic views and the rural quality of the landscape is an important theme that runs through the document. The document stresses that the Town needs to do more to protect these and other natural resources:

"As Wawayanda's development continues and growth pressures build, the Town must *increase efforts to protect natural resources*. . . . Viewsheds have come under stress as residential and commercial growth has spread into areas that were once considered less suitable or desirable for development."⁷ (Emphasis added).

The project is sited at the I-84 interchange, the entrance to the Town from the Interstate. The Comprehensive Plan states that the Town needs to improve the gateways to the Town, specifically, "the degree to which a community shapes this first impression can say a great deal to visitors about the values of residents and

⁴ Page 2.1

⁵ Page 1.2

⁶ Page 2.1

⁷ Page 2.2

businesses.”⁸ Arguably the largest visual impact of the project is to travelers along I-84 (Viewpoint 13 reproduced as Figure 3 above) as they approach interchange for the Town and the City of Middletown. It does not appear that such a “first impression” reflects “the values of the residents and business” as described in the Comprehensive Plan.

Finally, and perhaps most concerning, is what the Comprehensive Plan says about the specific zoning district in which the project is located:

“Currently, the MI district in Wawayanda is large and allows certain uses (i.e. ‘other manufacturing’ or mining) that are vague or not in line with the Town’s vision. Permitted uses and/or district designations need to be redefined.”⁹

The Comprehensive Plan explicitly states that the district within which the action is placed needed to be redefined so that uses “not in line with the Town’s vision” could be excluded. The “clean low impact” non-residential uses called for in the Comprehensive Plan are quite dissimilar from the large-scale industrial use proposed.

As an outsider using only the written materials as evidence, I find it difficult to reconcile the vision for the community described in the Comprehensive Plan for Wawayanda with the proposed project and the impacts it creates. It is not apparent how the community character described in the year 2020 Vision Statement can be supported through the construction of this project and the materials provided in the Community Character chapter do nothing to show how the project is consistent with the Town’s vision.

SEQR requires that actions be consistent with local plans. The FEIS must show how the project is consistent with the vision of the community as detailed in the Comprehensive Plan. Lacking that, the FEIS must show evidence why the project does not need to follow the vision of the community as described in the Comprehensive Plan. This could be another more recent plan or perhaps a resolution that clarifies the community’s vision. Regardless of the evidence that is selected to support the argument, the project’s impact on community character as it is described in the Comprehensive Plan must be more fully addressed in the FEIS, which will include the reconciliation of significant impacts on visual resources with impacts on community character.

Close

I recognize that the preparation of a DEIS for a project of this size is a monumental undertaking, the sheer size of which is testament to the effort. While some of the issues identified herein are serious and must be addressed, they may be addressed in either the FEIS or possibly a Supplemental EIS.

⁸ Page 5.1. It should be noted that, by name, the Plan identifies Routes 6 and 17 as gateways, and is silent on if the entrance to the Town from I-84 should be considered a gateway.

⁹ Page 12.3

Thank you for the opportunity to comment on this important project. Should you or the Applicant have any questions please contact my office at 646-652-6498, or me directly at 917-612-7478.

Sincerely,

A handwritten signature in black ink, appearing to read "G. M. Janes". The signature is fluid and cursive, with the first name "George" and last name "Janes" clearly distinguishable.

George M. Janes, AICP
Principal