

Comments on Sunderlin/Red Rock Quarry Associates, LLC. Application for Business Permit (S.B.L. No. 8.000 – 1 – 8)

Submitted By: John Balzano, Esq.

March 9, 2022, Public Hearing

Members of the Board:

My family and I have owned a lakefront camp on the White Lake since 1987. Our camp is approximately 1,000 feet from the project site, and we worry about how this project will affect our enjoyment of our camp, as well as our safety and that of those who also utilize the lake. I would like to raise the following concerns regarding the business permit application from T. Sunderlin/Red Rock Associates:

1. The application and review process are incomplete and untimely under the Town of Forestport Site Review Law procedures for Planning Board review and approval.

Under the Town of Forestport Site Review Law, the general procedures for Planning Board review and approval, as well as the requirements for the application are laid out. Mr. Sunderlin's application and the Board's review thereof are inconsistent with these requirements and procedures.

A. The Planning Board did not hold a public hearing within sixty-two days from the date the application was filed.

This application was filed on June 11, 2021. Until now, there has been no public hearing held regarding this application. This hearing, now occurring 9 months after the application was filed, is certainly not within the required 62-day timeline.

B. This application does not include a proper survey.

Site Review Law requires three signed and sealed surveys prepared by a registered land surveyor including the information listed in Section 5.2(D)(1)(a). However, the survey provided to the Board for this application is unsigned, unsealed, based on a 2012 survey, and is overall deficient. The survey does not contain the required information, including dimensions and bearings of all property lines; land elevations, including center line elevations of the access road; location of public or franchised utilities; and other existing features on the project site. Additionally, any other maps or plans done on the property for this project are deficient as they also do not contain the information required under this section of the Site Review Law.

C. This application does not include a proper site plan.

Under Section 5(D)(1)(b), the application requires "three copies of a site plan, drawn to scale, to include" the information listed under this section. There is information on that list that is not included in the application's site plan, even though it is applicable. This includes:

- Grading and drainage plan, showing existing and proposed contours and limits of clearing
- Location and design of all parking and truck loading areas, showing ingress and egress
- Location of outdoor storage, dumpster facilities and proposed screening
- Location of fire and any other emergency zones including the location of any fire hydrants
 - o The project area is only accessible by driving down Stone Quarry Road and into an area that is devoid of water access or fire hydrants. Since a large portion of this project plan involves explosives, there should be some sort of plan for accessing water in the case of a fire.
- Location, size, design, and construction details of all proposed signs
- Location and proposed development of all buffer areas, including existing vegetative cover, landscaping plan and planting schedule
 - o The project area is surrounded by forest area and federally designated wetlands. There needs to be designated buffers and indications of vegetative cover in the area to protect these lands from likely impacts of the project.
- Location and design of outdoor lighting facilities
 - o Based on the proposed schedule of this project, the project will likely be underway during times of the day where natural light is no longer available. Therefore, lighting facilities will be necessary during this project and this project site does not have electric lines running through it. There is no plan for how the applicant will handle this.
- Description of the methods of securing water, and wastewater treatment and the location, design, and construction of materials of such facilities
 - o This project requires workers on site, as well as going in and out of the project site all day, yet there is no plan for any sanitary services on site.
- Traffic impact analysis
 - o This project's access road runs directly into Route 28 and therefore is required to have a traffic impact analysis performed.

D. There is no completed EAF for Stone Quarry Road as required by SEQR.

Any local governmental action is subject to State Environmental Quality Review (SEQR). An action includes all discretionary decisions to approve, fund, or directly undertake projects or physical activities that may affect the environment by changing the use, appearance, or condition of any natural resource or structure; including adoption of any actions that may affect the environment. 6 CRR-NY 617.2. An application to approve an action is not complete until a negative declaration has been issued or a draft EIS has been accepted by the lead agency as satisfactory. An agency cannot approve an action until it has complied with SEQR. See DEC SEQR Handbook (2020). However, a formal Environmental Site Review was never conducted by either the DEC or APA covering the district land use issues to be addressed by the Town, or mining site or the access road leading to the site.

Stone Quarry Road, as an access road requires SEQR review, especially considering the plans for the new road in place of the current Stone Quarry Road. This new road will require expansion of the existing one-lane road, substantial alterations of the land, and result in significant environmental impacts. There are adjacent federally designated wetlands that will particularly be in danger due to their proximity to the project site and the access road.

Additionally, review is required to ensure the bridge can accommodate the capacity of the heavy trucks that will be running over it multiple times a day. The Town's proposed action cannot be categorized as a Type II because this new road includes the "addition of new travel lanes" (see 6 CRR-NY 617.2), goes beyond simple "maintenance or repair," and involves "substantial changes" (see 6 CRR-NY 617.5(c)(1)). Therefore, Stone Quarry Road is not exempt from SEQR review.

The lack of an environmental assessment under SEQR makes this application incomplete under Town of Forestport Site Review Law Sec. 5(D)(1)(c)(7). This section states that the requirements for an application for Site Plan approval includes a completed Environmental Assessment Form (EAF) in compliance with the State Environmental Quality Review Act (SEQR).

2. The Town of Forestport Site Review Law is arbitrary and capricious as it pertains to commercial/non-residential uses.

The Site Plan Review Law contains no specific standards set for commercial/non-residential uses. Since this project falls under this category, there is no standard against which the Board can even review and evaluate an application such as this.

There are specific standards listed for mobile home parks, including sanitary facilities, utility and fuel installations, and roadways, as well as for recreational vehicle parks and campgrounds. However, there are none for commercial/non-residential uses such as mining sites.

It is arbitrary and capricious to review this application and make a determination without standards requiring the proposal to conform to. Any determination would be subjective based on the views of the board, rather than based on objective standards. Nor can a determination be factually based when the application is incomplete. The Board could not possibly in good faith approve this application without more information and proper standards to set a basis for review of the project plan.

3. The Town of Forestport Site Review Law states that part of its purpose is "to protect the unique character of the community's natural resources" and to "promote the health, safety and general welfare of the town." SRL Art. 2.

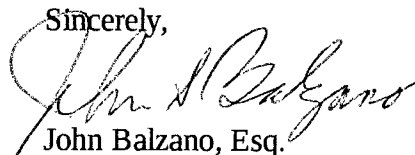
As the Town Planning Board, it is your responsibility to comply with the town's Site Review Law and to comply with these purposes and ideals to benefit the Town of Forestport and its citizens. Approving of Mr. Sunderlin's application would reject these purposes and ideals. Allowing a new road to be constructed in place of Stone Quarry Road would result in the complete alteration of the forested land adjacent to the road, as well as other issues including but not limited to air pollution, water pollution, noise pollution, increased burdens on taxpayers, and loss of habitat for animals that use the land surrounding the mining site. This does not promote the health and general welfare of the town, nor does it protect the unique character of the community's natural resources. Additionally, there are federally designated wetlands surrounding the project area, as well as along the access road.

As the Planning Board, you are required to take a hard look at the actual impacts that this project will have on the Town of Forestport and whether this project is worth the damage that it will cause. You cannot rely on the approval of DEC or APA as they are not local agencies and this review does not include consideration of local land use issues. As locals and citizens of Forestport, designated with the responsibility of safeguarding our town, you must look closely at the damage that this project will cause and make the informed decision not to approve this application.

In summary, this application is incomplete and has not been sufficiently reviewed. There are both technical and procedural concerns that need to be addressed before any approval can even be considered. Additionally, as the Town Planning Board, you are required to take a hard look at the impacts this project will have on the Town of Forestport and the environment. I implore you to consider every facet of this project and the application process and make the right decision. Do not approve this application, or at the very least consider postponing until the highway and road work is complete. This will at least decrease concerns for the safety of the pedestrians who frequently use the crosswalk at the intersection of Route 28 and Stone Quarry Road.

I am appreciative of the opportunity to provide public input and I look forward to continuing to participate in such opportunities in the near future. Please do not hesitate to contact me with any questions regarding these comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Balzano".

John Balzano, Esq.

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