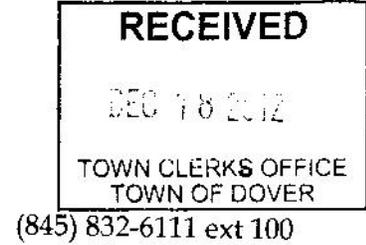


## Town of Dover Planning Board

Town of Dover  
126 East Duncan Hill Road  
Dover Plains, NY 12522



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### TOWN OF DOVER PLANNING BOARD REPORT AND RECOMMENDATION CRICKET VALLEY ENERGY SITE PLAN AND SPECIAL PERMIT

#### PROJECT SITE LOCATION

The Project Sponsor proposes to use a portion of a 193-acre assemblage of parcels located west of Route 22 between North Chippawalla Road to the south and Dover Furnace Road to the north. The Project Development Area is a 57-acre parcel located between Route 22 to the east and the Metro-North Railroad rail line to the west. An additional 57 acres of industrial land to the south of the Project Development Area is the site formerly leased to Rasco Materials, LLC (the "Rasco Site"). Approximately 13 acres of the Rasco Site will be temporarily used during the construction of the Project. An additional 79 acres of land west of the Metro-North Railroad tracks comprises the balance of the property controlled by the Project Sponsor.

It is noted that the acquisition and proposed use of the former Rasco Site was in response to public comments. In particular, the Planning Board had recommended the acquisition and clean up of this site during the DEIS public comment period, and therefore supports this acquisition.

A 38.8-acre temporary construction parking and laydown area (the "Remote Laydown Site") is proposed to be located approximately 2.5 miles north of the Project Development Area on a parcel on the east side of Route 22 near the intersection of Old Post Road/Old Route 22.

#### ZONING REGULATIONS (SPECIAL PERMIT/SITE PLAN)

The Project Development Area is located within the Industrial/Manufacturing (M) Zoning District as shown on the Town's Zoning Map (§145-9). The purpose of the M Zoning District is to "allow industrial and related uses and adult entertainment, uses that are not compatible with most commercial, office, or residential uses, in isolated and well-buffered locations" (§145-8.A(8)). A small portion of the Project Site, located west of the Swamp River, is within the Resource Conservation (RC) Zoning District. No activity or use is proposed within the RC-zoned portion of the Project Site. The Remote Laydown Site is located within both the Commercial (CO) and Rural (RU) Zoning Districts. No permanent use of the Remote Laydown Site is proposed.

The Project Site is located entirely within the Town of Dover's Principal Aquifer Zone (PAZ) and the Valley Bottom Aquifer System. Land uses and activities within those zones are regulated pursuant to §145-15. The portion of the Project Site west of the Project Development Area along the Swamp River (west of the railroad track) includes Stream Corridor Overlay District and Floodplain Overlay District. The area north of Dover Furnace Road is designated with a Soil Mining Overlay District.

Since the proposed electric generating facility does not fit into any one of the categories of permitted uses identified in the Use Table of the Town's Zoning Code (§145-10.B) and is not identified as a Prohibited Use (§145-10.C), the proposed use "may be allowed by special permit issued by the Town Board" (§145-10.B).

Article IX, "Special Permits and Site Plan Review," of the Town's Zoning Code identifies the required submissions and procedures for actions requiring special permit and/or site plan approval. Pursuant to §145-60.A, "...uses not listed on the Use Table (if not prohibited by §145-10.C) require a special permit issued by the Town Board, which shall follow the procedures and standards established for the Planning Board...". Further, §145-65.A(1) states that "Site plan review shall be included as an integral part of the special permit approval process, and no separate site plan approval shall be required for uses requiring a special permit."

Thus, the Town Board has asserted its role as an Involved Agency for the purposes of reviewing the combined application for Special Permit/Site Plan (SP/SP) approval submitted by the Project Sponsor pursuant to §145-

61.A and §145-65.B. The Town Board referred the Special Permit and Site Plan application to the Planning Board for comment.

The Town's Code Enforcement Officer has issued an interpretation (received by the Town Clerk on August 27, 2012) confirming that the proposed use does not fit into one of the use categories within the Use Table at §145-10.B and is not considered a use prohibited in §145-10.C.

The Town's Code Enforcement Officer has also issued an interpretation (received by the Town Clerk on August 27, 2012) confirming that the proposed stacks would be considered "chimneys" and would be exempt from height limitations in the Dimensional Table.

As noted in the Town Code Enforcement Officer's interpretation, the Proposed Project will require an Area Variance from the Zoning Board of Appeals to allow building height to exceed thirty-five (35) feet.

#### **PROPOSED AMENDMENTS TO THE ZONING CODE**

As currently proposed, the Project would not be consistent with the following two (2) provisions of the Zoning:

- §145-30.G relating to the permitted height of a fence along a property line; and
- §145-40.C(2)(a) relating to the permitted sound pressure level at a property line.

The Planning Board reviewed the proposed amendments and issued a report to the Town Board on September 26, 2012, which suggested several revisions or modifications to the proposed Zoning Amendments.

#### **AQUIFER OVERLAY DISTRICT REGULATIONS**

The Special Permit/Site Plan application filed by the Project Sponsor documents the Proposed Project's compliance with all relevant provisions of the Aquifer Overlay District (§145-15). The application references the DEIS which contains detailed studies that document compliance with all applicable Town, County, and State standards for storage of hazardous materials, a public water supply system, an on-site wastewater treatment system (septic system), and a Stormwater Pollution Prevention Plan (SWPPP) that would meet the Town of Dover's requirements for uses and activities within the Aquifer Overlay District.

The Project Sponsor has designed secondary containment systems around all storage areas where hazardous substances may be stored. A preliminary Spill Prevention, Control, and Countermeasure (SPCC) Plan has been prepared and would be fully developed following project approvals and design. The SPCC was prepared to meet the requirements of Title 40, Code of Federal Regulations (CFR), Part 112 (40 CFR 112) and will be submitted to the NYSDEC Region 3 Petroleum Bulk Storage Section for review and approval. The SPCC Plan would also be developed in coordination with the J.H. Ketcham Hose Company. A Spill Prevention Report (SPR) for hazardous substance storage systems has also been prepared that identifies the specific substances and quantities of materials to be stored and used on the Project Site. The SPR includes Material Safety Data Sheets (MSDS) for each of the hazardous materials proposed to be stored and used on the Project Site. The SPR will be shared with the J.H. Ketcham Hose Company. Due to the potential impacts to the aquifers within the Town of Dover, this secondary containment of hazardous substances is a necessary form of mitigation to prevent degradation of aquifers within the Town.

The Proposed Project would use on-site water supply wells to provide process water for the Proposed Project. These wells will be designed, installed, and operated pursuant to all applicable Dutchess County Department of Health (DCDOH), New York State Department of Environmental Conservation, and New York State Department of Health (NYSDOH) regulations and permits. The Project Sponsor is able to provide sufficient land area and fencing to ensure the security and safety of the wellheads as well as limit the introduction of pollutants to the water supply. The Proposed Project includes a pre-treatment facility for process water to meet the high purity requirements of water used in the Proposed Project. All potable water would meet the requirements of DCDOH and NYSDOH.

The Proposed Project would use an on-site sanitary wastewater disposal system (septic system) to treat and dispose of sanitary wastewater generated by employees. The septic system will be designed and approved by DCDOH. The Proposed Project intends to use a "Zero Liquid Discharge" system for process wastewater. Implementation of such a system would result in no industrial wastewater discharge from the Proposed Project.

Due to the potential impacts to the aquifers within the Town of Dover, a “Zero Liquid Discharge” system is a necessary form of mitigation to prevent degradation of aquifers within the Town.

### **SPECIAL PERMIT/SITE PLAN**

It is respectively noted that the Town Board has jurisdiction over the Site Plan and Special Permit Application. However, the Planning Board offers its thoughts on the Proposed Project’s compliance with the Town Code §145-63.B, which requires that “Before granting or denying a major project special permit, the [Town Board] shall make specific written findings establishing whether or not the proposed major project:”

*(1) Will comply with all land use district, overlay district, and other specific requirements of this chapter and other local laws and regulations and will be consistent with the purposes of this chapter and of the land use district in which it is located.*

As documented above, the Proposed Project would be in compliance with all land use laws and regulations with the exception of three (3) provisions of the Zoning Code relating to: (i) height of fence within a side and/or rear yard setback; (ii) height of structure; and (iii) sound pressure levels along a property line. The Project Sponsor has proposed Zoning Amendments that would address height of a fence within a side and/or rear yard setback and sound pressure levels along a property line. The Project Sponsor will require an Area Variance from the Zoning Board of Appeals for height of the proposed building. This Area Variance, while significant, would allow for the construction of a building to enclose the mechanical equipment and would replace existing buildings and structures that do not comply with the height standard.

*(2) Will not result in excessive off-premises noise, dust, odors, solid waste, or glare or create any public or private nuisances.*

The estimated sound pressure levels at the south and west property lines would exceed the Town of Dover nighttime threshold of 50 dBA. Subsequent to preparation of the Baseline Sound Study, the Project Sponsor has obtained an option to purchase the Rasco Site (south of the Project Development Area). The additional land area provided by the Rasco Site would attenuate sound pressure levels to below the 50 dBA threshold at the southern property line, thus eliminating that impact. The Project Sponsor has requested a Zoning Amendment to §145-40.C(2) of Town of Dover Town Code to allow sound pressure levels of up to 65 dBA at the property line for M-Zoned properties adjacent to a rail line (the western property line). Adoption of this Zoning Amendment would eliminate the impact at the western property line.

The Town of Dover Town Code regulates “smoke, dust and other atmospheric pollutants” at §145-40.E. The DEIS prepared for the Proposed Project contains detailed analyses of potential air quality impacts. NYSDEC, as Lead Agency, reviewed these analyses for sufficiency and accuracy and concluded “that the Project will comply with all applicable State and federal air pollution laws and regulations” (see NYSDEC Findings at page 9). NYSDEC issued a Title IV (Phase II Acid Rain) Permit under Article 19 of Environmental Conservation Law (Permit ID 3-1326-00275/00005) for the Proposed Project on September 27, 2012 with an expiration date of September 26, 2017. The Proposed Project will utilize Lowest Achievable Emission Rate (LAER)/Best Available Control Technology (BACT) measures to achieve the permitted levels of emissions.

The Town of Dover expressed concern during the public comment period on the DEIS regarding the sufficiency of the air quality modeling and the conclusions drawn from the studies contained in the DEIS. The Town of Dover retained the services of Dr. Bruce A. Egan, Sc.D., CCM (Certified Consulting Meteorologist) to review the technical studies prepared by the Project Sponsor. Dr. Egan filed a report dated March 8, 2012, with the Town Board. Dr. Egan recommended that a NO<sub>2</sub> monitor and anemometer (wind monitor) be located in the vicinity of the High and Middle schools in Dover to provide the data needed to establish the relationships of the NO<sub>2</sub> measurements with the impacts of the high terrain of West Mountain on east winds. Dr. Egan also noted that the monitoring station could include measurement of particulate matter (PM 2.5) to assess whether the Proposed Project could achieve the NAAQS for that pollutant in the Town of Dover. Dr. Egan recommended that the monitoring station be implemented at least one year before construction of the Proposed Project and extend for a full year after CVE is in full production.

The Town of Dover Town Code also regulates emissions of smoke and dust (see §145-40.E(2) and §145-40.E(3)). The Town’s standard for measurement of the density of smoke is based upon any of three methodologies (Ringelmann Smoke Chart, US EPA Method 9, US EPA Method 22). The Air Permit issued by

NYSDEC requires conformance with opacity requirements measured under the US EPA Method 9 (visual observation by a certified smoke reader). Specifically, Condition 10 of the Air Permit issued for the Proposed Project limits the opacity of any smoke to 20 percent (20%), which is consistent with the Town of Dover standard. While NYSDEC is the agency responsible for enforcing conditions of the Air Permit, the Town of Dover may retain an independent party to periodically assess the Proposed Project's conformance with this provision of Town Code.

Dust or other particulate matter emitted by combustion equipment or soil erosion is regulated by §145-40.E(3). Operation of the Proposed Project would not result in dust emissions due to use of natural gas and use of LAER/BACT technologies. During the construction process, an Erosion & Sediment Control Plan (ESC) would be implemented to control any fugitive dust emissions generated by construction traffic or earth moving activities. The Erosion & Sediment Control Plan would be reviewed and approved by the Town's Planning Board prior to receipt of building permits.

Odors are regulated by §145-40.F and §145-40.G of Town Code. While certain of the chemical substances proposed for storage and use on the Project Site would have an "obnoxious odor" at off-site locations, these substances are proposed to be contained within storage vessels that would not allow for off-site dispersal. Some minor releases of these substances might be possible during loading, but the design of the Proposed Project would not allow for releases of these substances in quantities that would be readily detectable at off-site locations. The primary emissions of the Proposed Project are water vapor and odorless gases such as carbon dioxide (CO<sub>2</sub>) and nitrogen (N<sub>2</sub>).

#### *Liquid and Solid Wastes*

Liquid and solid wastes are regulated by §145-40.M of Town Code. Liquid wastes generated by employees will be managed through implementation of an on-site sanitary treatment system (septic system) regulated by DCDOH. The Proposed Project will implement a Zero Liquid Discharge system so that no process wastewater will be discharged from the Proposed Project. Pursuant to Town Code, all solid wastes will be collected and stored so as to be screened from the street and adjoining property and to discourage the breeding of rodents and insects.

#### *Glare*

Glare, defined as illumination beyond the property boundaries in excess of 0.5 footcandles, is regulated at §145-40.L of Town Code. Lighting plans for the Project Development Area and temporary construction parking and storage areas (Rasco Site and Remote Laydown Site) have been prepared to meet the standards of Town Code and the Illuminating Engineering Society Lighting Handbook. All site lighting has been designed to provide sufficient lighting of the Proposed Project during normal operations and emergency situations while meeting Town of Dover standards.

#### *Other Nuisances*

The Town's Environmental Performance Standards at §145-40 also include standards for vibration (§145-40.D(2)), heat (§145-40.K), and electromagnetic fields (§145-40.I).

While the Project Sponsor has not provided evidence of future compliance with the vibration standards at §145-40.D(2), these performance standards are typically measured against built projects. Thus, there would be no way before the Proposed Project is constructed for the Project Sponsor to demonstrate compliance. In the Special Permit/Site Plan Application, the Project Sponsor has noted that the selected construction management company would "guarantee" compliance. The Town of Dover Code Enforcement Officer is empowered to enforce the Zoning Chapter and would conduct any necessary testing once the Proposed Project is complete and operational.

The Proposed Project would use 282.5-foot stacks and air cooled condensers mounted on a roof top approximately 113 feet above ground level to dissipate emissions and heat from the Proposed Project. The height of these units would allow heat to dissipate such that ground-level temperatures at the property line would not rise in excess of one (1) degree Fahrenheit.

The Proposed Project must comply with New York State Public Service Commission (PSC) interim standards for electro-magnetic emissions along rights-of-way for high voltage electric transmission lines. The Proposed

Project's electrical interconnection will occur within the Project Site and on ConEdison property, both of which are buffered from public access by trees and vegetation. As documented in Section 6.5 of the DEIS, maximum field strengths were calculated at the outer edge of the right-of-way and approximately 75 feet from the centerline of the structure and found to be below the PSC interim standards. These levels are not anticipated to interfere with normal radio or television reception within the Town of Dover.

*(3) Will not cause significant traffic congestion, impair pedestrian safety, or overload existing roads, considering their current width, surfacing, and condition, and any improvements proposed to be made to them by the applicant.*

The DEIS at Section 6.3 includes an analysis of traffic conditions for the construction period and the operations of the Proposed Project. Analysis was conducted at two (2) signalized intersections and nine (9) unsignalized intersections, including the Project Development Area driveway and Remote Laydown Site driveway.

Construction period traffic was estimated for each of four (4) different construction phases and the peak volumes of traffic from the busiest phase were used to assess potential impacts. The DEIS estimated that the peak construction traffic would comprise 675 workers (including a 20 percent provision for carpooling), 38 shuttle buses between the Remote Laydown Site and the Project Development Area, and 20 delivery trucks.<sup>1</sup> Construction traffic was distributed to Route 22 according to existing 24-hour counts that show 45 percent of vehicles traveling northbound and 55 percent of vehicles traveling southbound in the AM peak period.

Analysis indicates that Levels of Service (LOS) at each of the study area intersections during construction would be acceptable (LOS A through D) except for the Project Development Area driveway, Remote Laydown Site driveway, and intersection of Route 22 and East Duncan Hill Road.

The Project Sponsor is coordinating with NYSDOT to identify appropriate temporary measures to implement during the construction period to mitigate traffic operations at the Project Development Area driveway. Temporary measures could include installation of a traffic signal and/or installation of a southbound right-turn lane and a northbound left-turn lane into the driveway. (Upon completion of the construction period the traffic signal and turning lanes would be removed).

Operational traffic impacts of the Proposed Project were also assessed. The Proposed Project was estimated to generate approximately 28 vehicle trips (entering and exiting vehicles) during both the AM and PM peak hours. The vehicle trips include both employees and delivery vehicles. Analysis of Proposed Project vehicle trips at study area intersections reveals acceptable Levels of Service at each of the study area intersections. No mitigation is required for operational traffic.

*(4) Will be accessible to fire, police, and other emergency vehicles.*

The Project Site was designed to allow for access to fire, police, and other emergency vehicles. A Preliminary Site Maneuvering Plan was submitted as Exhibit A15 of the Special Permit/Site Plan Application. This drawing demonstrates that a 42.5-foot long fire truck (the longest currently owned by J.H. Ketcham Hose Company) can satisfactorily navigate the proposed driveway and loop road.

*(5) Will not overload any public water, drainage, or sewer system, or any other municipal facility.*

The Proposed Project will rely on on-site wells for water supply and an on-site sanitary wastewater treatment system (septic system). The Proposed Project will be required to obtain a State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity (GP-0-10-001). A Stormwater Pollution Prevention Plan (SWPPP) has been developed to meet all NYSDEC Design Standards and Town of Dover standards and will ensure that the peak rate of runoff will not be increased.

Fire protection service in the Town of Dover is provided by the J.H. Ketcham Hose Company, an all-volunteer fire department. The fire department has approximately 200 volunteers that operate three engines, one

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<sup>1</sup> The traffic analysis included in the DEIS assumed more construction period traffic and parking at the Remote Laydown Site than is currently projected. *With the addition of the Rasco Site immediately south of the Project Development Area, less traffic and parking is anticipated at the Remote Laydown Site and along Route 22 between the Project Site and the Remote Laydown Site.*

rescue/pumper, one quint (5 function engine and ladder truck), two utility trucks, two ambulances, and two staff automobiles. The fire department currently has a 75-foot aerial ladder truck. Given the height of proposed buildings (approximately 113 feet high) and the height of the existing aerial ladder truck (75 feet) operated by the J.H. Ketcham Hose Company, the Proposed Project will result in an impact to the Town.

As proposed, the Proposed Project will include fire protection systems designed and constructed to the latest, state-of-the-art requirements, including the National Fire Protection Association (NFPA) "Recommended Practice for Fire Protection for Electric Generating Plants and High Voltage Direct Current Converter Stations." The fire protection systems will also comply with all applicable state and local codes.

NFPA fire protection systems will be fully automated to provide alarm, detection, and suppression capability for all hazard areas. Fire water will be supplied to the fire protection system via an electric motor driven pump. A diesel-driven pump will serve as back up to the motor-driven pump. The fire pumps will take suction directly from a 1,000,000-gallon on-site water storage tank supplied by on-site wells, and supplemented by rooftop rainwater capture. The fire water distribution system will include yard hydrants and automatic and manual suppression systems serving areas requiring protection. In addition, a Comprehensive Site and Safety Plan (CSSP) will be prepared, in coordination with the Hose Company, State Police and Sherriff's Office, detailing safety procedures, training and testing that must be completed before workers can enter the site. The CSSP may identify the need for specialized training for local emergency responders given the unique character of the Proposed Project. As mitigation, the Project Sponsor will be required to coordinate whatever training is necessary to ensure the safety of local emergency responders.

*(6) Will not materially degrade any watercourse or other natural resource or ecosystem or endanger the water quality of an aquifer.*

Construction of the Proposed Project within the Project Development Area will minimize effects on watercourses and natural habitat. The majority of the Project Development Area comprises a former industrial property where a great deal of disturbance has already occurred due to past industrial uses. An approximately 13-acre portion of the Rasco Site will be disturbed to create a temporary construction parking area. The entire 79-acre parcel west of the railroad tracks will remain undisturbed.

While the Proposed Project has been designed to minimize potential impacts to wetlands, approximately 0.2 acres of an approximately 1.7-acre degraded wetland area will be permanently disturbed and the remaining 1.5 acres will be converted into shrub/scrub wetland. An additional 0.05 acres of Federal- and State-jurisdiction wetlands will be permanently filled. However, this area comprises an area previously disturbed and filled by historical industrial activities. Finally, approximately 0.8 acres of Adjacent Area to a State-jurisdiction wetland (DP-22) will be permanently filled due to construction of the Proposed Project. Approximately 1.0 acres of wetland within the Project Development Area will be temporarily disturbed by construction or waste removal/restoration activities. On the former Rasco Site, 1.4 acres of Adjacent Area associated with Wetland DP-22 will be temporarily disturbed due to waste excavation and temporary parking during construction. An additional 0.03 acres of fill is proposed within a wetland regulated by the United States Army Corps of Engineers.

To compensate for the loss of wetlands, the Proposed Project would restore 0.6 acres of previously degraded wetland and 2.4 acres of Adjacent Area and create 0.08 acres of new wetland. In addition, approximately 1.8 acres of Adjacent Area between the Project Development Area and Wetland 2 will be selectively planted with tree and shrub species to increase the density of vegetation and create further buffer to Wetland 2.

NYSDEC issued a Freshwater Wetlands Permit (Article 24) and Water Quality Certification (Clean Water Act Section 401) for the proposed wetland modifications on September 27, 2012. The Town of Dover concurs with the findings of the NYSDEC, as Lead Agency, that these wetland modifications will not have adverse effects on the Swamp River. The Town of Dover agrees that the installation (by the Project Sponsor) of a stream gauge in the Swamp River near the Route 22 bridge will help to monitor stream flow and water quality conditions within the Swamp River. With the implementation of this stream gauge, the Town of Dover agrees that all potential adverse effects on the Swamp River would be avoided, minimized, or mitigated to the maximum extent practicable.

Approximately 4.8 acres of upland forested habitat would be permanently lost due to construction of the Proposed Project. An additional 2 acres of upland forested habitat would be cleared during construction and restored to scrub/shrub habitat.

No significant disturbance to wetland or forested habitat would occur at the Remote Laydown Site, which is predominantly covered by agricultural crops.

Biological surveys were conducted on each of the parcels (Project Development Area, Rasco Site, and Remote Laydown Site) for Threatened or Endangered Species. Surveys were specifically conducted for bog turtle (*Glyptemys muhlengergii*), timber rattlesnake (*Crotalus horridus*), New England cottontail (*Sylvilagus transitionalis*), and Indiana bat (*Myotis sodalis*). The Town of Dover concurs with the findings of the NYSDEC, as Lead Agency, with respect to the absence of potential impacts to threatened or endangered species.

*(7) Will be suitable for the property on which it is proposed, considering the property's size, location, topography, vegetation, soils, natural habitat, and hydrology, and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads.*

The DEIS and FEIS contain detailed descriptions of the topography, soils, vegetation, natural habitat, and hydrology of the Project Site. Most of the area to be used for the Proposed Project has been previously disturbed by prior industrial use. There will be approximately 4.8 acres of forested habitat lost due to Proposed Project construction and 2 acres of forested habitat proposed to be temporarily cleared during construction. An additional 13-acre area within the Rasco Site will be disturbed for temporary construction parking, of which 6 acres comprise former waste material piles and 2 acres comprise small diameter trees.

As indicated above, the Town of Dover concurs with the findings of the NYSDEC, as Lead Agency, with respect to the absence of potential impacts to natural habitat and hydrology of the Project Site.

See the discussion below regarding visibility of the Proposed Project from neighboring properties and public roads.

*(8) Will be subject to such conditions on operation, design and layout of structures, and provision of buffer areas as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic, and scenic resources of the town.*

The DEIS contained a visual impact assessment conducted pursuant to the NYSDEC Program Policy on "Assessing and Mitigating Visual Impacts." The methodology described in the Program Policy requires a comprehensive analysis of certain natural, recreational, and cultural (historic) features within a five (5)-mile radius of the Proposed Project. The DEIS also evaluated various "landscape similarity zones" and the various "viewer groups" that might experience visibility of the Project Site within the five (5)-mile radius study area to supplement the NYSDEC methodology. A Geographic Information Systems (GIS) analysis of the five (5)-mile study area was prepared to identify areas within the study area where views of the Proposed Project (specifically the 282-foot tall stacks) might be possible given both topography and presence of vegetation. Field studies were completed to evaluate accuracy of the GIS analysis. From these analyses, four (4) viewpoints were identified where views of the Project Site would be possible or which represented a typical "middleground" view from which views would either not be possible or would be obscured due to intervening topography. There would be no views of the Proposed Project from any of the designated historic resources within the Town of Dover. These four (4) viewpoints were selected for further analysis:

- Viewpoint 1: Southbound on NYS Route 22 from the ConEdison transmission lines
- Viewpoint 2: Cricket Hill Residences
- Viewpoint 3: Dover Middle/High School Complex
- Viewpoint 4: Knolls of Dover proposed development area

A computer-generated photosimulation of the Proposed Project was developed to evaluate potential visibility of the Proposed Project from each of these viewpoints. In addition, a plume simulation was prepared to determine potential visual impacts from water vapor plumes.

The DEIS concluded the following for each of these viewpoints:

Viewpoint 1: While elements of the Proposed Project would be visible from this location in both leaf-off and leaf-on conditions, other built elements within this viewshed include the existing ConEdison transmission lines and existing buildings or structures within the Project Site. Visibility of the Proposed Project from this viewpoint would generally be limited to motorists traveling southbound on Route 22. Those motorists would only experience fleeting views of the Proposed Project as the speed limit (and prevailing rate of travel) along Route 22 is 55 miles per hour. There are few residences in the vicinity of this viewpoint that would have views similar to those from Route 22.

Viewpoint 2: Views of the Proposed Project from residences along Cricket Hill Road would be a new element of the viewscape and would be notable due to the increase in height of the proposed stacks and buildings.

Viewpoint 3: Visibility of the Proposed Project from the Dover Middle/High School would be limited due to the presence of existing vegetation between the viewpoint and the Project Site. While the proposed stacks might be partially visible through the dense screen of vegetation, this visibility would not significantly alter the overall viewshed.

Viewpoint 4: Visibility of the Proposed Project from the proposed Knolls of Dover mixed-use development project would be limited to the tops of the proposed stacks. This visibility would be partially screened during leaf-off conditions and more fully screened during leaf-on conditions. Visibility would not significantly alter the overall viewshed.

The plume simulation noted that the type of technologies proposed to be used for cooling at the Proposed Project would minimize the likelihood of a water vapor plume. The plume simulation does note that a potential plume could be visible from viewpoints 2 and 4 during winter months.

The proposed stacks would require Federal Aviation Administration (FAA) lighting. This lighting, if not properly designed, could have adverse impacts on residences along Cricket Hill Road. To mitigate this impact, the Project Sponsor should work directly with the FAA to develop a lighting program that is sensitive to the rural character of views from Cricket Hill Road and the overall rural character of the Town of Dover.

The site lighting plan was provided as part of the Special Permit/Site Plan Application. The lighting plan includes full cut-off and shielded fixtures, which would minimize spillover to adjacent properties and Route 22. This lighting plan did not include specifications for the towers.

The Town's Architectural Review Board (ARB) will review the materials and colors of each of the Proposed Project elements as part of the Special Permit/Site Plan process. The ARB will work with the Project Sponsor to identify materials and colors that will minimize the visibility of the Proposed Project and that will blend into natural background colors.

*(9) Will be consistent with the goal of concentrating retail uses in hamlets, avoiding strip commercial development, and buffering nonresidential uses that are incompatible with residential use.*

The NYS Route 22 corridor is a major roadway extending in a north-south direction through the area surrounding the Project Site. Route 22 serves as a primary connector between communities in the Harlem Valley, and is characterized along its length by scattered commercial, industrial and residential development, and open space or undeveloped land. The closest residence (located at the north side of the intersection of Route 22 and Cricket Hill Road) is approximately 1,000 feet from the center of the Project Development Area. The closest residence to the south along Chippawalla Road is approximately 3,000 feet from the center of the Project Development Area.

The Project Site is the location of former industrial uses and is buffered from Route 22 and surrounding land uses by both a topographic grade change and dense vegetation. The grade change between Route 22 and the center of the Project Development Area is approximately 40 to 50 feet. The horizontal distance between Route 22 and the Project Development Area is approximately 300 to 400 feet.

The Proposed Project is not a retail or commercial use that would be appropriate for location within a hamlet. Nor does the Proposed Project continue strip commercial development in an area that would be contrary to the Town's Master Plan. This nonresidential use would be buffered by existing vegetation from residential uses that would be supplemented along Route 22 to further screen the proposed buildings from visibility.

(10) Will not adversely affect the availability of affordable housing in the town.

Section 6.7.3.1.4 of the DEIS indicates that the majority of construction labor for the Proposed Project would come from the greater Hudson Valley region. Approximately 75 construction workers could relocate to the area during peak construction periods and would seek temporary housing or lodging within the area. It is envisioned that these construction workers and technicians would find temporary lodging within existing motels in the area and would not require the construction of new housing.

The Proposed Project itself would not affect the availability of affordable housing in the town as it would not occupy land that could be used for affordable housing, nor would the Proposed Project generate sufficient long-term employment to require the construction of new housing for employees.

(11) Will comply with applicable site plan criteria in §145-65.D.

Many of the criteria within this section of the Code are relevant to small-scale development within hamlet areas or along commercial corridors. The applicable site plan criteria to the Proposed Project are those that apply to landscaped buffers and screening that would prevent the majority of the Proposed Project from being seen from public rights-of-way. In the case of the Proposed Project, the existing band of mature deciduous and evergreen vegetation between the Project Development Area and Route 22 already screens views of the existing buildings and structures and would continue to screen most views of the Proposed Project (with the exception of views identified above from Route 22 near the ConEd transmission lines).

The proposed site plan maintains a sufficient buffer along Route 22, and proposes new landscaping at the entrance driveway. While the general layout of the proposed landscaping may be sufficient, the landscaping plan should include a complete plant schedule including the species, size, and spacing of plants proposed. The proposed landscaping should utilize native species to the greatest extent practicable. In addition, plants should be suitable for the native soils of the site, which are anticipated to be alkaline soils. It is recommended that the applicant test the soil prior to planting to ensure that plants appropriate for the site are installed. The Planning Board also recommends that any imported soils used for planting have a pH similar to the existing soils on the site.

The Planning Board believes that the Site Plan Application sufficiently meets the intent of the criteria contained in §145-65.D, specifically with regard to buffers, landscaping, lighting, circulation, and parking, except as noted above. It is noted that §145-65.D(4) is not relevant to this application.

(12) If the property is in a residential district, will have no greater overall off-site impact than would full development of the property with uses permitted by right, considering relevant environmental, social, and economic impacts.

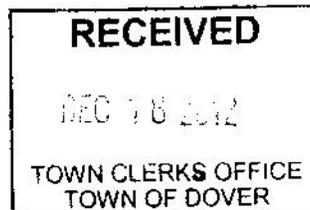
This provision is not applicable to the Proposed Project as the Project Site is not located within a residential Zoning District. The Project Site is located in the Industrial/Manufacturing (M) Zoning District.

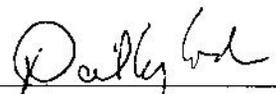
December 17, 2012

Moved by: Valerie LaRobardier

Seconded by: Michael Villano

- David Wylock Aye
- Valerie LaRobardier Aye
- Nick D'Agostino Aye
- Tom Holmes absent
- Peter Muroski Aye
- William Sedor Aye
- Michael Villano Aye



  
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 Planning Board Co-Chair David Wylock