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TO: THERESA JOYNER, CHAIR
CITY OF HUDSON PLANNING BOARD

DATE: 9 OCTOBER 2023
CC: MEMBERS OF THE BOARD, VICTORIA POLIDORO,
ESQ., LINDA FENOFF (SECRETARY)

RE: **Joint Comments on Colarusso Haul Road Conditional Use Permit Application**

Dear Chair Joyner & Members of the Planning Board:

We are writing on behalf of over 1,300 combined petition signers and other supporters of our two organizations. Your review of the Colarusso haul road Conditional Use Permit (CUP) application is critical to the future of Hudson and its waterfront, and we appreciate all the time and care this has demanded.

In reviewing this application for compliance with City regulations, it is important to note that your process is different from and not limited by Greenport's earlier SEQRA findings. Greenport's review addressed a distinct set of State requirements. This CUP must meet all local Hudson standards, or be denied. The record shows that the application fails to meet those standards, due to provisions of Hudson's Zoning code and Local Waterfront Revitalization Plan (LWRP).

Your unique powers of review, including the ability to deny this permit, were supported by the 2016 ruling from DEC Commissioner Basil Seggos. Despite giving lead agency status to Greenport for the SEQRA review of the haul road only (not for the CUP), his decision affirmed that

"In designating the Greenport Town Planning Board to serve as lead agency for the haul project, this decision in no way limits the jurisdiction or responsibilities of other involved and interested agencies – particularly the City Planning Board..."

To assist your review of the CUP application, we are attaching a chart (Attachment 1) which cites Hudson Zoning Codes relevant to this project. Alongside these Code citations are included specific concerns which your Board has already raised about the proposed project. These citations can be found in the Environmental Assessment Form (EAF) Part 3 which the Board passed unanimously on November 18th, 2021, and/or in prior memoranda from Barton & Loguidice, dated April 18th and May 19th, 2017.

The bottom line is that the Planning Board and B&L have already identified ample grounds for denial of this application. In 2021, the Board found that the Colarusso project is out of step with other development and misaligned with the city's priorities. It has noted that the intensification of truck traffic and other activities would create significant negative impacts in many areas, including negative impacts on transportation, flooding, surface water, plants and animals, open space and recreation, aesthetic resources, historic and archeological resources, noise, odor, light pollution, consistency with community character, consistency with community plans, and others cited in the attached chart.¹

¹ Although the EAF Part 3 primarily focused on the dock, it also referenced the separate application for widening, paving and relocating the road used for ingress and egress from the dock—explicitly acknowledging the Planning Board's need to review both. Indeed, the two activities would occur on the same parcel and are inextricably tied together. The haul road would serve no purpose without the dock, and the dock has no use to Colarusso without the haul road.

Moreover, the existing findings by the Board and your consultants have been overwhelmingly echoed and supported by specific and heartfelt comments from citizens, organizations and attorneys during multiple public hearings and written comment periods.

The high volume of public opposition received on this project is extraordinary for any local project. By our count, written comments have run at least 11 to 1 against the project over the course of this long process, not even including many memos from our organizations and the more than 1,200 petition signatures which OHW submitted. The same has been true of verbal comments. Many opposed are Hudson residents, including some whose homes overlook the waterfront from streets such as Allen, and businesses close to or immediately adjacent to the proposal, such as Basilica Hudson and Caboose Hudson. Of the letters from individuals posted to the City website (2019-2023) thus far, 110 call for denial, 6 call for approval, and 4 are ambiguous.

Regarding the LWRP in particular, this City-adopted plan explicitly discourages industrial intensification and encourages the elimination of nonconforming industrial uses. The legislative intent of the LWRP was made explicit by DOS attorney William Sharpe at the Common Council meeting where it was adopted. We have elsewhere provided fuller transcripts of his explanations of that intent; but Sharpe said, inter alia:

“There are a number of items that a Conditional Use would have to comply with: things like hours of operation, levels of noise, whether dust and other kinds of noxious or bothersome uses are generated on-site. Those would be prohibited... They would not be able to enlarge or expand under the City’s zoning. The existing zoning that you have does not permit expansions of nonconforming uses.”

Tellingly, Sharpe *specifically cited changes to the road* as one of the events which would trigger such reconsideration of whether nonconforming uses could continue.

In addition to the 2011 LWRP, the 1996 Hudson Vision Plan, 2002 Comprehensive Plan, 2005 Secretary of State’s Coastal Consistency determination on the St. Lawrence Cement proposal and Department of State guidance on the draft LWRP, all have called for the City to sunset and finally eliminate incompatible heavy industrial uses at the Waterfront. These all predate Colarusso’s 2014 purchase of Holcim’s property.

In closing, we note that there is a recent precedent of the Planning Board denying a project despite the applicant being a well-known member of the community. In 2019, your Board denied a proposal by former Alderman and Mayoral Assistant Carmine Pierro to construct a storage facility in the 5th Ward. A number of nearby residents spoke out to say that the project was not consistent with the community character of their neighborhood. The Board agreed, and denied the project on that basis.

We hope you will do the same here. Based on our review, we believe that you have the right, ability, and all the evidence necessary to deny the haul road proposal.

Sincerely,

/s/

David Konigsberg
Donna Streitz
Our Hudson Waterfront

Peter Jung
Sam Pratt
The Valley Alliance

CC: MAYOR’S OFFICE, COMMON COUNCIL

ENCLOSURE: ATTACHMENT 1