

September 6, 2012

Sardinia Town Board  
12320 Savage Road  
Sardinia, New York 14134-0219

**Re: Petition for Amendment to Zoning Ordinance to Create a Sand, Clay and  
Gravel Mining Overlay District  
Our File No. 0001.7**

Dear Sardinia Town Board:

On behalf of our client, Gernatt Asphalt Products, Inc., this letter and its enclosures shall serve as our Petition for Amendment to the Town of Sardinia Zoning Ordinance to create a sand, clay and gravel mining overlay district. This Petition is made pursuant to Town of Sardinia Zoning Ordinance § 115-46, New York Town Law § 265 and the Town of Sardinia Planning Board's resolution recommending creation of said overlay district.

This petition is the result of our original petition dated April 9, 2012, annexed hereto as Exhibit A, and our first amended petition dated July 5, 2012, annexed hereto as Exhibit B. This petition requests creation of a sand, clay and gravel mining overlay district as recommended by the Town of Sardinia Planning Board's Resolution passed August 15, 2012 and dated August 17, 2012, annexed hereto as Exhibit C.

The Town Planning Board's Resolution recommended creation of a sand, clay and gravel mining overlay district which would state as follows:

Sand and Gravel Mines that are located in the attached overlay district and have a New York State Department of Environmental Conservation Mining Permit where through conditions set forth by the New York State Department of Environmental Conservation or by Declarations of Restrictions recorded with the Erie County Clerk by the property owner require as follows:

- a) Concurrent reclamation to the maximum extent possible; and

- b) Mitigation for the loss of prime farm land as a result of mining and reclamation shall proceed on an acre-for-acre basis as prime farmland is permanently removed from production. For every acre permanently removed from production, another off-site must be benefitted or improved within one year from said removal. Said mitigation shall be located in the Town of Sardinia. Acceptable mitigation methods shall include, but not be limited to, assisting Town of Sardinia farmers by offering grading, drainage and erosion control improvements with machinery, personnel or funds or securing development rights and conservation easements on other properties. Holder of mining permit to submit to Sardinia Town Board, Sardinia Planning Board and Sardinia Town Clerk to be available for public review a summary of mitigation projects accepted by Erie County Soil and Water Conservation District, including locations, acreages and methods.

Note that the addition of the overlay district does not remove any rights property owners within the overlay district currently have, rather it adds an additional right. The mining overlay district cannot possibly be mined in its entirety, because much of the land is either encumbered by other uses, has no sand, clay or gravel, or has natural features such as wetlands which would prohibit mining. It was the Planning Board's decision to limit the district to a geographical area of the Town, excepting small lots with homes or other structures such as those in the Hamlet of Chaffee.

A list of the properties to be included in the overlay district is annexed hereto as Exhibit D.

#### Legal Procedure for granting of Amendment to Zoning Ordinance

Pursuant to Town of Sardinia Zoning Ordinance § 115-46 and New York Town Law § 265, the Town Board, after a public hearing and legal notice, has the authority to grant any amendment to the Zoning Ordinance.

New York General Municipal Law § 239-m requires that prior to a vote by the Town Board, this Petition must be referred to Erie County Department of Environment and Planning for a recommendation. A full application to be submitted to the Erie County Department of Environment and Planning is submitted herewith.

Accordingly, approximately 293 acres of mineable land remains in the Town, which is 589 acres less than the 882 acres used by the Town in formulating its Comprehensive Plan in 2003.

The depletion of mineable acres of land is not consistent with the public policy of the State of New York which is set forth in New York Environmental Conservation Law § 23-2703 which states:

**The legislature hereby declares that it is the policy of this state to foster and encourage the development of an economically sound and stable mining industry, and the orderly development of domestic mineral resources and reserves necessary to assure satisfaction of economic needs compatible with sound environmental management practices.**

The Comprehensive Plan specifically addresses the need for mining, but also the need to limit mining through zoning. To wit, at page 45 of the Comprehensive Plan, the following is stated: **"use zoning regulations to limit the areas in the Town in which commercial gravel mines are permitted to operate."** In the several months of Planning Board Meetings, the Planning Board followed the direction of page 45 of the Comprehensive Plan by limiting the area where mining could occur. Accordingly, neither the omission of mining from the zoning ordinance nor the inclusion of the entire Town would be consistent with the Comprehensive Plan. Therefore, the Planning Board's recommendation and this Petition are consistent with the Comprehensive Plan because the overlay district allows, but limits mining to certain areas, as required by page 45 of the Comprehensive Plan.

The following general provisions of the Comprehensive Plan also support this Petition:

- Economic and Business Development – "Maintain a supportive business environment to retain existing businesses and to attract new business development." – page 89;
- Economic and Business Development – "Encourage commercial and industrial expansion and industrial development in appropriate areas of the Town." – page 89;
- Transportation and Infrastructure – "Maintain and improve the quality of roads and highways in the Town." – page 143; and
- "Maintain a supportive business environment to retain existing businesses and to attract new business development." – page 170.

## Explanation of SEQR as it Applies to the Petition

This Petition is subject to the New York State Environmental Quality Review Act ("SEQR"). The legislative intent of SEQR expressly recognizes that environmental factors are not the sole consideration in decision-making. The SEQR regulations expressly state:

It was the intention of the Legislature that the protection and enhancement of the environment, human and community resources should be given appropriate weight with social and economic considerations in determining public policy, and that those factors be considered together in reaching decisions on proposed activities. Accordingly, it is the intention of this Part that a suitable balance of social, economic and environmental factors be incorporated into the planning and decision-making processes of state, regional and local agencies. It is not the intention of SEQR that environmental factors be the sole consideration in decision-making.<sup>2</sup>

The Town Board must be the "Lead Agency" because the Town Board is the sole government entity with approval power over this Petition.<sup>3</sup>

As to the SEQR Review, the review is limited to the proposed new overlay district, which is why portions of the Environmental Assessment Form, submitted herewith, are inapplicable. Any new mining would have to go through separate, individual environmental reviews.

### Conclusion

For the foregoing reasons, it is requested that this Petition be granted. Thank you for your consideration. If there are any questions or if any further information is required, please contact me.

Sincerely,

HOPKINS & SORGI PLLC



Peter J. Sorgi, Esq.

Enc.

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<sup>2</sup> 6 NYCRR 617.1(d)

<sup>3</sup> 6 NYCRR 617.2(u)

cc: Town Planning Board  
Linda Joseph, Esq., Town Attorney  
Betsy Marsh, Town Clerk  
Kenneth F. Zicarelli, Vice President, Gernatt Asphalt Products, Inc.

# Exhibit A



TEL 716.714.5699 • FAX 716.714.5715  
9 Olean Street • East Aurora, New York 14052

Peter J. Sorgi, Esq. • cell 716.908.3289 • psorgi@hopkinsorgi.com

April 9, 2012

Sardinia Town Board  
12320 Savage Road  
Sardinia, New York 14134-0219

**Re: Petition for Amendment to Zoning Ordinance  
Our File No. 0001.7**

Dear Sardinia Town Board:

On behalf of our client, Gernatt Asphalt Products, Inc., this letter and its enclosures shall serve as a Petition for Amend the Town of Sardinia Zoning Ordinance. This Petition is made pursuant to Town of Sardinia Zoning Ordinance § 115-46 and New York Town Law § 265.

**Proposed Amendment to the Zoning Ordinance**

This Petition requests that Town of Sardinia Zoning Ordinance § 115-17.1(A)(1)(i) be added to include as follows: "Sand and Gravel Mines which require a New York State Department of Environmental Conservation Permit". This amendment would allow Sand and Gravel Mines to be operated in the AR District, but would not change any current permitted use.

Please note that any mining of the property within the AR District would still have to go through an application to the New York State Department of Environmental Conservation which would limit and control the amount of land to be mined. Additionally, while the AR District constitutes the majority of the Town of Sardinia, other factors such as presence of wetlands, size of parcels and availability of sand and gravel would further limit and control the amount of land to be mined.

**Legal Procedure for granting of Amendment to Zoning Ordinance**

Pursuant to Town of Sardinia Zoning Ordinance § 115-46 and New York Town Law § 265, the Town Board, after a public hearing and legal notice, has the authority to grant any amendment to the Zoning Ordinance.

Town of Sardinia Zoning Ordinance § 115-48(B) requires that this Petition be referred to the Town Planning Board and the Planning Board must make a recommendation on the Petition or may recommend modifications to the Petition. We hereby request that the Town Board refer this manner to the Planning Board for recommendation or for modification of the application.

Additionally, New York General Municipal Law § 239-m requires that prior to a vote by the Town Board, this Petition must be referred to Erie County Department of Environment and Planning for a recommendation.

Additionally, the Town Board, as lead agency, must make a Determination of Significance pursuant to the New York State Environmental Quality Review Act ("SEQR"). This determination must occur prior to Town Board approval of this Petition.

#### Legal Standard for granting of Amendment to Zoning Ordinance

Pursuant to New York Town Law § 272-a(11)(a), "All town land use regulations must be in accordance with a comprehensive plan adopted pursuant to this section". The Town of Sardinia has a Comprehensive Plan, adopted in 2003. The New York State Appellate Division, Fourth Judicial Department has recognized that town comprehensive plans should be flexible and should adapt to changes over time.<sup>1</sup>

#### Grounds for Granting of Petition

The Town Comprehensive Plan recognizes the need for change, as it states at page 1 that the Plan will influence changes in Town zoning ... during the next 10 to 15 years". Accordingly, the below chart indicates how the Town Comprehensive Plan is outdated as to sand and gravel mining within the Town.

2003 Data from Comprehensive Plan	Current Data per NYSDEC
882 acres of permitted mines (page 41)	514 acres of permitted mines

Additionally, the acreage in the above table only contemplates acreage permitted by the NYSDEC and does not deduct mineable acreages remaining. The following table estimates the mineable acreages remaining in the Town.

<sup>1</sup> Kravetz v. Plenge, 84 AD2d 422, 429-430 (4th Dept 1982) ("Enactments to change zoning plans should be analyzed in terms of consistency and rationality, with the requirement they not conflict with the fundamental land use policies and development plans of the community, keeping in mind that a comprehensive plan must be flexible and subject to some changes. Changed conditions call for changed plans, and owners of property in a particular zone enjoy no eternally vested rights to its classification if the public interest demands otherwise. Although stability and regularity are essential to the operation of zoning plans, zoning is not static; the obligation is the support of comprehensive planning with recognition of the dynamics of change, not a slavish servitude to any particular plan.") (internal citations omitted).



Mine	Mineable Acreage
Gernatt – Gabel Thomas	200
Gernatt – Thief Road	7
Gernatt – Sardinia South	37
Gernatt – Rt. 39 Clay Pit	6
Morris	3
Woodruff	33
Waste Management	7
<b>Total</b>	<b>293</b>

Accordingly, approximately 293 acres of mineable land remains in the Town, which is 589 acres less than the 882 acres used by the Town in formulating its Comprehensive Plan in 2003.

The depletion of mineable acres of land is not consistent with the public policy of the State of New York which is set forth in New York Environmental Conservation Law § 23-2703 which states:

**“The legislature hereby declares that it is the policy of this state to foster and encourage the development of an economically sound and stable mining industry, and the orderly development of domestic mineral resources and reserves necessary to assure satisfaction of economic needs compatible with sound environmental management practices.”**

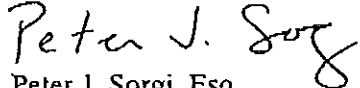
The following general provisions of the Comprehensive Plan also support this Petition:

- Economic and Business Development – “Maintain a supportive business environment to retain existing businesses and to attract new business development.” – page 89;
- Economic and Business Development – “Encourage commercial and industrial expansion and industrial development in appropriate areas of the Town.” – page 89;
- Transportation and Infrastructure – “Maintain and improve the quality of roads and highways in the Town.” – page 143; and
- “Maintain a supportive business environment to retain existing businesses and to attract new business development.” – page 170.

Thank you for your consideration of this Petition. If you have any questions or require further information, please contact me.

Sincerely,

HOPKINS & SORGI PLLC

  
Peter J. Sorgi, Esq.

Enc.

cc: Town Planning Board  
Linda Joseph, Esq., Town Attorney  
Betsy Marsh, Town Clerk  
Marvin Zielonka, Code Enforcement Officer  
Kenneth F. Ziccarelli, Vice President, Gernatt Asphalt Products, Inc.

# Exhibit B



TEL 716.714.5699 • FAX 716.714.5715  
9 Olean Street • East Aurora, New York 14052

Peter J. Sorgl, Esq. • cell 716.908.3289 • psorgl@hopkinsorgl.com

July 5, 2012

Sardinia Planning Board  
12320 Savage Road  
Sardinia, New York 14134-0219

**Re: Petition for Amendment to Zoning Ordinance  
Our File No. 0001.7**

Dear Sardinia Planning Board:

On behalf of our client, Gernatt Asphalt Products, Inc., this letter shall serve as an amendment to our Petition for rezoning dated April 9, 2012. In the initial Petition, we sought amendment to the zoning ordinance to allow sand and gravel mines in the AR District as a matter of right. After hearing concerns from the Planning Board relative to the scope of the amendment and the potential loss of farmland, we hereby amend the Petition to address these concerns.

**Amended Proposed Amendment to the Zoning Ordinance**

The Petition is hereby amended to request that Town of Sardinia Zoning Ordinance § 115-17.1(A)(1)(j) be added to include as follows:

Sand and Gravel Mines that have i) a New York State Department of Environmental Conservation Mining Permit where through conditions set forth by the New York State Department of Environmental Conservation or by Declarations of Restrictions recorded with the Erie County Clerk by the property owner require as follows:

- a) Concurrent reclamation to the maximum extent possible; and

- b) Mitigation for the loss of prime farm land as a result of mining and reclamation shall proceed on an acre-for-acre basis as prime farmland is permanently removed from production. For every acre permanently removed from production, another off-site must be benefitted or improved within one year from said removal. Said mitigation shall be located in the Town of Sardinia. Acceptable mitigation methods shall include, but not be limited to, assisting Town of Sardinia farmers by offering grading, drainage and erosion control improvements with machinery, personnel or funds or securing development rights and conservation easements on other properties. Holder of mining permit to submit to Sardinia Town Board, Sardinia Planning Board and Sardinia Town Clerk to be available for public review a summary of mitigation projects accepted by Erie County Soil and Water Conservation District, including locations, acreages and methods.

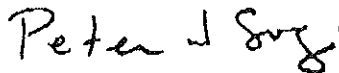
This amended petition accomplishes four very important goals;

- a) It ensures a healthy mining industry in accordance with the State of New York and the Town of Sardinia Comprehensive Plan;
- b) It addresses concerns about loss of farmland and assists Town of Sardinia farmers;
- c) It ensures reclamation of mined property; and
- d) It is fair in that it allows property owners in the AR District another option to utilize their land and increase their land values consistent with the conditions set forth above.

Thank you for your consideration of this Amendment to our Petition. Please contact me with any questions.

Sincerely,

HOPKINS & SORGI PLLC



Peter J. Sorgi, Esq.

Enc.

cc: Town Board  
Linda Joseph, Esq., Town Attorney  
Betsy Marsh, Town Clerk  
Kenneth F. Zicarelli, Vice President, Gernatt Asphalt Products, Inc.

# Exhibit C

## Planning Board

12320 Savage Road

P.O. Box 219

Sardinia, NY 14134

Tel. (716) 496-8900 ext. 16

Fax (716) 496-8917

sardinia.planningboard@gmail.com



## Members:

Robert Church  
 Darren Farthing  
 Dan Szustakowski  
 Keith Reynolds  
 Vincent Perry  
 Roxanna Waters  
 Colleen Cottrell

## Secretary:

Friday, August 17, 2012

To: Peter J. Sorgi

Re: Proposed local law for mining overlay

On Wednesday, August 15, 2012 the following amendment was voted on and passed by the Sardinia Planning Board for proposed local law.

Town of Sardinia Zoning Ordinance § 115-17.1(A) (1) (j) be added to include as follows:

Sand and Gravel Mines that have are located in the attached overlay district and have a New York State Department of Environmental Conservation Mining Permit where through conditions set forth by the New York State Department of Environmental Conservation or by Declarations of Restrictions recorded with the Erie County Clerk by the property owner require as follows:

- a) Concurrent reclamation to the maximum extent possible; and
- b) Mitigation for the loss of prime farm land as a result of mining and reclamation shall proceed on an acre-for-acre basis as prime farmland is permanently removed from production. For every acre permanently removed from production, another off-site must be benefitted or improved within one year from said removal. Said mitigation shall be located in the Town of Sardinia. Acceptable mitigation methods shall include, but not be limited to, assisting Town of Sardinia farmers by offering grading, drainage and erosion control improvements with machinery, personnel or funds or securing development rights and conservation easements on other properties. Holder of mining permit to submit to Sardinia Town Board, Sardinia Planning Board and Sardinia Town Clerk to be available for public review a summary of mitigation projects accepted by Erie County Soil and Water Conservation District, including locations, acreages and methods.

Sincerely,

Colleen Cottrell

Planning Board Secretary





# Exhibit D

<u>Name</u>	<u>Address</u>	<u>SBL Number</u>
Banks, Dawn	12955 Allen Rd.	295.00-3-28.112
Buncy, Arthur & Carol	13000 Allen Rd.	295.00-3-4.1
Chaffee Community Baptist	VL Genesee Rd.	311.00-2-3.2
Chaffee Community Baptist	12980 Genesee Rd.	311.00-2-4.11
Chaffee Community Baptist	VL Allen Rd.	295.00-3-32
Cid Landfill Inc.	VL Hand Rd.	295.00-2-1.111
Cid Landfill Inc.	13029 Hand Rd.	295.00-2-11.111
Cid Landfill Inc.	VL Allen Rd.	295.00-3-1.11
Cid Landfill Inc.	VL Curriers Rd.	295.00-2-24.12
Cid Landfill Inc.	10820 Olean Rd.	295.00-2-33
Cid Landfill Inc.	10820 Olean Rd.	295.00-2-34
Cid Landfill Inc.	10880 Olean Rd.	295.00-2-35
Cid Landfill Inc.	10846 Olean Rd.	295.00-2-17
Cid Landfill Inc.	10860 Olean Rd.	295.00-2-18.1
Fisher, Robert E &	13045 Allen Rd.	295.00-3-29.1
Frost, Gordon R.	11600 Olean Rd.	295.00-3-21
George, Gerald A.	11209 Curriers Rd.	296.00-1-15.1
George, Russell M.	VL Olean Rd.	312.00-1-5.2
Gernatt Asphalt Products Inc.	VL Olean Rd.	311.00-2-5.1
Gernatt Asphalt Products Inc.	11860 Olean Rd.	311.00-2-14.21
Gernatt Asphalt Products Inc.	VL Olean Rd.	295.00-3-22
Hall, Kenneth & W	13079 Allen Rd.	295.00-3-27.1
Hammond, Steven J.	11720 Olean Rd.	311.00-2-6
Harmon, Michelle A.	11750 Olean Rd.	311.00-2-7
Haselden, Charles E.	13669 Curriers Rd.	296.00-1-13
Hawk, Ron	11630 Olean Rd.	311.00-2-5.2
Heiger, Dale E & Darlene	12950 Genesee Rd.	311.00-2-22.2
Hesslink, Marian	12994 Genesee Rd.	311.00-2-21
Holmes, David J.	12960 Genesee Rd.	311.00-2-22.1
Howell, Ralph A.	VL Genesee Rd.	311.00-1-2.1
Jewert, Michael F.	13980 Genesee Rd.	312.00-1-4.2
Jewert, Michael J & W	13990 Genesee Rd.	312.00-1-4.11
Jewert, Michael J.	VL Genesee Rd.	312.00-1-4.12
Kramer, Jared	VL Allen Rd.	295.00-3-28.111
Kramer, John M.	VL Olean Rd.	311.00-2-3.1
Kramer, John M.	VL Genesee Rd.	311.00-2-3.3
Kramer, John M.	VL Genesee Rd.	311.00-2-2
Kramer, John M.	VL Allen Rd.	311.00-2-17.2
Kramer, John M.	VL Savage Rd.	311.00-2-26.2
Kramer, John M.	VL Genesee Rd.	311.00-2-23.2
Kramer, John M.	VL Allen Rd.	295.00-3-3.11
Kramer, John M.	VL Allen Rd.	295.00-3-26
Kramer, John M.	VL Allen Rd.	295.00-3-5.1
Kramer, John M.	VL Allen Rd.	295.00-3-28.2
Kramer, John M.	VL Allen Rd.	295.00-3-33.1
La Martina, Carol	VL Genesee Rd.	311.00-2-4.21
La Scala, Samuel	12866 Genesee Rd.	311.00-2-23.1
La Scala, Samuel	VL Savage Rd.	311.00-26.1
Lascala, Joseph A &	VL Genesee Rd.	311.00-2-27.111
Lloyd-Jones, Mary	VL Olean Rd.	295.00-3-38

M K Phelps Farm Inc.	VL Curriers Rd.	296.00-1-10.2
M K Phelps Farm Inc.	11180 Curriers Rd.	295.00-2-24.11
Mitrowski, Patricia	13939 Curriers Rd.	280.00-1-27.1
Morrell, Douglas & Debra	VL Curriers Rd.	296.00-1-17.112
Morrell, Douglas & Debra	VL Curriers Rd.	296.00-1-17.12
Morrell, Douglas G & Debra	VL Savage Rd.	311.00-1-4.1
Morrell, Douglas G.	10989 Savage Rd.	295.00-1-1.1
Morrell, Douglas G.	VL Allen Rd.	295.00-3-36
Morris, William A & W.	13789 Curriers Rd.	296.00-1-11
Ornce, Nancy	11800 Olean Rd.	311.00-2-9
Ornce, Nancy & D & M &	VL Olean Rd.	312.00-1-6.1
Ornce, Nancy & Dvd & Mtthw	VL Olean Rd.	311.00-2-8
Palmer, Bennett	VL Genesee Rd.	311.00-2-27.112
Palmer, Bennett J. Jr.	VL Savage Rd.	311.00-1-5.2
Palmer, Bennett J. Jr.	VL Allen Rd.	295.00-1-6.1
Sawicki, Daniel T.	VL Savage Rd.	295.00-1-5
Shaw, Charles J.	11810 Olean Rd.	311.00-2-10
Springdale Lands LLC	13930 Curriers Rd.	280.00-1-24.111
Stojek, Richard S. Sr.	13170 Genesee Rd.	311.00-2-17.1
Tabraham, George L &	99990 Genesee Rd.	311.00-2-19
Thomas, John J. Sr. & Norma	VL Olean Rd.	311.00-2-14.1
Tillinghast, Leroy	13879 Curriers Rd.	296.00-1-10.1
Vesley, Richard E & W	12996 Genesee Rd.	311.00-2-20
Waterman, James C.	VL Curriers Rd.	296.00-1-24
Waterman, James C. &	13629 Curriers Rd.	296.00-1-14
Webster, Rober D &	11580 Savage Rd.	311.00-1-5.1
Weiglein, Glenn	113498 Curriers Rd.	296.00-1-18.2
Wiedenmann, Ted &	VL Curriers Rd.	296.00-1-23.11
Woodruff, Charles D.	11349 Curriers Rd.	296.00-1-18.1

**617.20**  
**Appendix A**  
**State Environmental Quality Review**  
**FULL ENVIRONMENTAL ASSESSMENT FORM**

**Purpose:** The full EAF is designed to help applicants and agencies determine, in an orderly manner, whether a project or action may be significant. The question of whether an action may be significant is not always easy to answer. Frequently, there are aspects of a project that are subjective or unmeasurable. It is also understood that those who determine significance may have little or no formal knowledge of the environment or may not be technically expert in environmental analysis. In addition, many who have knowledge in one particular area may not be aware of the broader concerns affecting the question of significance.

The full EAF is intended to provide a method whereby applicants and agencies can be assured that the determination process has been orderly, comprehensive in nature, yet flexible enough to allow introduction of information to fit a project or action.

**Full EAF Components:** The full EAF is comprised of three parts:

- Part 1:** Provides objective data and information about a given project and its site. By identifying basic project data, it assists a reviewer in the analysis that takes place in Parts 2 and 3.
- Part 2:** Focuses on identifying the range of possible impacts that may occur from a project or action. It provides guidance as to whether an impact is likely to be considered small to moderate or whether it is a potentially-large impact. The form also identifies whether an impact can be mitigated or reduced.
- Part 3:** If any impact in Part 2 is identified as potentially-large, then Part 3 is used to evaluate whether or not the impact is actually important.

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**THIS AREA FOR LEAD AGENCY USE ONLY**

**DETERMINATION OF SIGNIFICANCE -- Type 1 and Unlisted Actions**

Identify the Portions of EAF completed for this project:

☐ Part 1

☐ Part 2

☐ Part 3

Upon review of the information recorded on this EAF (Parts 1 and 2 and 3 if appropriate), and any other supporting information, and considering both the magnitude and importance of each impact, it is reasonably determined by the lead agency that:

- ☐ A. The project will not result in any large and important impact(s) and, therefore, is one which will not have a significant impact on the environment, therefore a negative declaration will be prepared.
- ☐ B. Although the project could have a significant effect on the environment, there will not be a significant effect for this Unlisted Action because the mitigation measures described in PART 3 have been required, therefore a **CONDITIONED** negative declaration will be prepared.\*
- ☐ C. The project may result in one or more large and important impacts that may have a significant impact on the environment, therefore a positive declaration will be prepared.

\*A Conditioned Negative Declaration is only valid for Unlisted Actions

Creation of Sand, Clay and Gravel Mining Overlay District to the Sardinia Zoning Ordinance

\_\_\_\_\_  
Name of Action

Sardinia Town Board

\_\_\_\_\_  
Name of Lead Agency

Mary Hannon

\_\_\_\_\_  
Print or Type Name of Responsible Officer in Lead Agency

Town Supervisor

\_\_\_\_\_  
Title of Responsible Officer

\_\_\_\_\_  
Signature of Responsible Officer in Lead Agency

\_\_\_\_\_  
Signature of Preparer (if different from responsible officer)

website

\_\_\_\_\_  
Date

**PART 1--PROJECT INFORMATION**  
**Prepared by Project Sponsor**

NOTICE: This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance

Name of Action Creation of Sand, Clay and Gravel Mining Overlay District to the Sardinia Zoning Ordinance

Location of Action (include Street Address, Municipality and County)

see attached

Name of Applicant/Sponsor Gernatt Asphalt Products, Inc.

Address 13870 Taylor Hollow Road

City / PO Collins State NY Zip Code 14034

Business Telephone 716.532.3371

Name of Owner (if different) \_\_\_\_\_

Address \_\_\_\_\_

City / PO \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Business Telephone \_\_\_\_\_

**Description of Action:**

This action consists of the Creation of a Sand, Clay and Gravel Mining Overlay District to the Sardinia Zoning Ordinance.

The proposed Sand, Clay and Gravel Mining Overlay District would pertain to approximately 3,573 acres in the Town of Sardinia. The Town of Sardinia consists of approximately 32,000 acres, so the proposed Sand, Clay and Gravel Mining Overlay District would pertain to approximately 11% of the Town. However, the amount of mineable land will be substantially less than the approximately 3,573 acres due to existing land uses, the lack of sand, clay and gravel in certain areas and other factors such as the existence of wetlands which cannot be mined.

The proposed Sand, Clay and Gravel Mining Overlay District would encompass portions of the Town of Sardinia's AR (Agricultural / Residential), BL (Business / Light Industrial) and LC (Limited Commercial) zoning districts. All existing uses within these districts will remain unchanged.

In order for a property owner or his/her/its assigns to commence mining, the following conditions must be met:

1. A permit from the New York State Department of Environmental Conservation and compliance with all applicable Federal, State and Local laws and Regulations;
2. Concurrent Reclamation to the maximum extent possible; and
3. Mitigation for the loss of prime farm land, with said mitigation to take place within the Town of Sardinia.

This action is limited to the enactment of a local law. For any projects to commence new mining, a separate environmental review must take place upon application to the applicable government entity, therefore precise data requested below cannot be submitted at this time for future applications. This explains the omission of any answers below.

<u>Name</u>	<u>Address</u>	<u>SBL Number</u>
Banks, Dawn	12955 Allen Rd.	295.00-3-28.112
Buncy, Arthur & Carol	13000 Allen Rd.	295.00-3-4.1
Chaffee Community Baptist	VL Genesee Rd.	311.00-2-3.2
Chaffee Community Baptist	12980 Genesee Rd.	311.00-2-4.11
Chaffee Community Baptist	VL Allen Rd.	295.00-3-32
Cid Landfill Inc.	VL Hand Rd.	295.00-2-1.111
Cid Landfill Inc.	13029 Hand Rd.	295.00-2-11.111
Cid Landfill Inc.	VL Allen Rd.	295.00-3-1.11
Cid Landfill Inc.	VL Curriers Rd.	295.00-2-24.12
Cid Landfill Inc.	10820 Olean Rd.	295.00-2-33
Cid Landfill Inc.	10820 Olean Rd.	295.00-2-34
Cid Landfill Inc.	10880 Olean Rd.	295.00-2-35
Cid Landfill Inc.	10846 Olean Rd.	295.00-2-17
Cid Landfill Inc.	10860 Olean Rd.	295.00-2-18.1
Fisher, Robert E &	13045 Allen Rd.	295.00-3-29.1
Frost, Gordon R.	11600 Olean Rd.	295.00-3-21
George, Gerald A.	11209 Curriers Rd.	296.00-1-16.1
George, Russell M.	VL Olean Rd.	312.00-1-5.2
Gernatt Asphalt Products Inc.	VL Olean Rd.	311.00-2-5.1
Gernatt Asphalt Products Inc.	11860 Olean Rd.	311.00-2-14.21
Gernatt Asphalt Products Inc.	VL Olean Rd.	295.00-3-22
Hall, Kenneth & W	13079 Allen Rd.	295.00-3-27.1
Hammond, Steven J.	11720 Olean Rd.	311.00-2-6
Harmon, Michelle A.	11750 Olean Rd.	311.00-2-7
Haselden, Charles E.	13669 Curriers Rd.	296.00-1-13
Hawk, Ron	11630 Olean Rd.	311.00-2-5.2
Heiger, Dale E & Darlene	12950 Genesee Rd.	311.00-2-22.2
Hesslink, Marian	12994 Genesee Rd.	311.00-2-21
Holmes, David J.	12960 Genesee Rd.	311.00-2-22.1
Howell, Ralph A.	VL Genesee Rd.	311.00-1-2.1
Jewert, Michael F.	13980 Genesee Rd.	312.00-1-4.2
Jewert, Michael J & W	13990 Genesee Rd.	312.00-1-4.11
Jewert, Michael J.	VL Genesee Rd.	312.00-1-4.12
Kramer, Jared	VL Allen Rd.	295.00-3-28.111
Kramer, John M.	VL Olean Rd.	311.00-2-3.1
Kramer, John M.	VL Genesee Rd.	311.00-2-3.3
Kramer, John M.	VL Genesee Rd.	311.00-2-2
Kramer, John M.	VL Allen Rd.	311.00-2-17.2
Kramer, John M.	VL Savage Rd.	311.00-2-26.2
Kramer, John M.	VL Genesee Rd.	311.00-2-23.2
Kramer, John M.	VL Allen Rd.	295.00-3-3.11
Kramer, John M.	VL Allen Rd.	295.00-3-26
Kramer, John M.	VL Allen Rd.	295.00-3-5.1
Kramer, John M.	VL Allen Rd.	295.00-3-28.2
Kramer, John M.	VL Allen Rd.	295.00-3-33.1
La Martina, Carol	VL Genesee Rd.	311.00-2-4.21
La Scala, Samuel	12866 Genesee Rd.	311.00-2-23.1
La Scala, Samuel	VL Savage Rd.	311.00-26.1
Lascala, Joseph A &	VL Genesee Rd.	311.00-2-27.111
Lloyd-Jones, Mary	VL Olean Rd.	295.00-3-38

M K Phelps Farm Inc.	VL Curriers Rd.	296.00-1-10.2
M K Phelps Farm Inc.	11180 Curriers Rd.	295.00-2-24.11
Mitrowski, Patricia	13939 Curriers Rd.	280.00-1-27.1
Morrell, Douglas & Debra	VL Curriers Rd.	296.00-1-17.112
Morrell, Douglas & Debra	VL Curriers Rd.	296.00-1-17.12
Morrell, Douglas G & Debra	VL Savage Rd.	311.00-1-4.1
Morrell, Douglas G.	10989 Savage Rd.	295.00-1-1.1
Morrell, Douglas G.	VL Allen Rd.	295.00-3-36
Morris, William A & W.	13789 Curriers Rd.	296.00-1-11
Ornce, Nancy	11800 Olean Rd.	311.00-2-9
Ornce, Nancy & D & M &	VL Olean Rd.	312.00-1-6.1
Ornce, Nancy & Dvd & Mtthw	VL Olean Rd.	311.00-2-8
Palmer, Bennett	VL Genesee Rd.	311.00-2-27.112
Palmer, Bennett J. Jr.	VL Savage Rd.	311.00-1-5.2
Palmer, Bennett J. Jr.	VL Allen Rd.	295.00-1-6.1
Sawicki, Daniel T.	VL Savage Rd.	295.00-1-5
Shaw, Charles J.	11810 Olean Rd.	311.00-2-10
Springdale Lands LLC	13930 Curriers Rd.	280.00-1-24.111
Stojek, Richard S. Sr.	13170 Genesee Rd.	311.00-2-17.1
Tabraham, George L &	99990 Genesee Rd.	311.00-2-19
Thomas, John J. Sr. & Norma	VL Olean Rd.	311.00-2-14.1
Tillinghast, Leroy	13879 Curriers Rd.	296.00-1-10.1
Vesley, Richard E & W	12996 Genesee Rd.	311.00-2-20
Waterman, James C.	VL Curriers Rd.	296.00-1-24
Waterman, James C. &	13629 Curriers Rd.	296.00-1-14
Webster, Rober D &	11580 Savage Rd.	311.00-1-5.1
Weiglein, Glenn	113498 Curriers Rd.	296.00-1-18.2
Wiedenmann, Ted &	VL Curriers Rd.	296.00-1-23.11
Woodruff, Charles D.	11349 Curriers Rd.	296.00-1-18.1



Please Complete Each Question--Indicate N.A. if not applicable

## A. SITE DESCRIPTION

Physical setting of overall project, both developed and undeveloped areas.

1. Present Land Use: ☐ Urban ☐ Industrial ☐ Commercial ☐ Residential (suburban) ☐ Rural (non-farm)  
☐ Forest ☐ Agriculture ☒ Other Varies

2. Total acreage of project area: 3573 acres.

APPROXIMATE ACREAGE	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-agricultural)	_____ acres	_____ acres
Forested	_____ acres	_____ acres
Agricultural (Includes orchards, cropland, pasture, etc.)	_____ acres	_____ acres
Wetland (Freshwater or tidal as per Articles 24,25 of ECL)	_____ acres	_____ acres
Water Surface Area	_____ acres	_____ acres
Unvegetated (Rock, earth or fill)	_____ acres	_____ acres
Roads, buildings and other paved surfaces	_____ acres	_____ acres
Other (Indicate type) <u>varies</u>	<u>3573</u> acres	<u>3573</u> acres

3. What is predominant soil type(s) on project site? not applicable

- a. Soil drainage: ☐ Well drained \_\_\_\_\_% of site ☐ Moderately well drained \_\_\_\_\_% of site.  
☐ Poorly drained \_\_\_\_\_% of site

- b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? varies acres (see 1 NYCRR 370).

4. Are there bedrock outcroppings on project site? ☐ Yes ☐ No

- a. What is depth to bedrock \_\_\_\_\_ (in feet)

5. Approximate percentage of proposed project site with slopes:

☐ 0-10% \_\_\_\_\_% ☐ 10- 15% \_\_\_\_\_% ☐ 15% or greater \_\_\_\_\_%

6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or National Registers of Historic Places? ☐ Yes ☐ No

7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks? ☐ Yes ☐ No

8. What is the depth of the water table? \_\_\_\_\_ (in feet)

9. Is site located over a primary, principal, or sole source aquifer? ☐ Yes ☐ No

10. Do hunting, fishing or shell fishing opportunities presently exist in the project area? ☐ Yes ☐ No

11. Does project site contain any species of plant or animal life that is identified as threatened or endangered? ☐ Yes ☐ No

According to:

not applicable

Identify each species:

12. Are there any unique or unusual land forms on the project site? (i.e., cliffs, dunes, other geological formations?)

☐ Yes ☐ No

Describe:

not applicable

13. Is the project site presently used by the community or neighborhood as an open space or recreation area?

☐ Yes ☐ No

If yes, explain:

not applicable

14. Does the present site include scenic views known to be important to the community? ☐ Yes ☐ No

not applicable

15. Streams within or contiguous to project area:

not applicable

a. Name of Stream and name of River to which it is tributary

not applicable

16. Lakes, ponds, wetland areas within or contiguous to project area:

not applicable

b. Size (in acres):

not applicable

17. Is the site served by existing public utilities? ☐ Yes ☐ No
- a. If YES, does sufficient capacity exist to allow connection? ☐ Yes ☐ No
- b. If YES, will improvements be necessary to allow connection? ☐ Yes ☐ No
18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐ Yes ☐ No
19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617? ☐ Yes ☒ No
20. Has the site ever been used for the disposal of solid or hazardous wastes? ☐ Yes ☐ No

## B. Project Description

### 1. Physical dimensions and scale of project (fill in dimensions as appropriate).

- a. Total contiguous acreage owned or controlled by project sponsor: \_\_\_\_\_ acres.
- b. Project acreage to be developed: \_\_\_\_\_ acres initially; \_\_\_\_\_ acres ultimately.
- c. Project acreage to remain undeveloped: \_\_\_\_\_ acres.
- d. Length of project, in miles: \_\_\_\_\_ (if appropriate)
- e. If the project is an expansion, indicate percent of expansion proposed. \_\_\_\_\_ %
- f. Number of off-street parking spaces existing \_\_\_\_\_; proposed \_\_\_\_\_
- g. Maximum vehicular trips generated per hour: \_\_\_\_\_ (upon completion of project)?
- h. If residential: Number and type of housing units:

	One Family	Two Family	Multiple Family	Condominium
Initially	_____	_____	_____	_____
Ultimately	_____	_____	_____	_____

- i. Dimensions (in feet) of largest proposed structure: \_\_\_\_\_ height; \_\_\_\_\_ width; \_\_\_\_\_ length.
- j. Linear feet of frontage along a public thoroughfare project will occupy is? \_\_\_\_\_ ft.

2. How much natural material (i.e. rock, earth, etc.) will be removed from the site? \_\_\_\_\_ tons/cubic yards.
3. Will disturbed areas be reclaimed ☒ Yes ☐ No ☐ N/A

- a. If yes, for what intended purpose is the site being reclaimed?

Per NYSDEC mining permits either in existence presently or to be permitted in future

- b. Will topsoil be stockpiled for reclamation? ☐ Yes ☐ No
- c. Will upper subsoil be stockpiled for reclamation? ☐ Yes ☐ No

4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? \_\_\_\_\_ acres.

5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project?

☐ Yes ☐ No

6. If single phase project: Anticipated period of construction: \_\_\_\_\_ months, (including demolition)

7. If multi-phased:

a. Total number of phases anticipated \_\_\_\_\_ (number)

b. Anticipated date of commencement phase 1: \_\_\_\_\_ month \_\_\_\_\_ year, (including demolition)

c. Approximate completion date of final phase: \_\_\_\_\_ month \_\_\_\_\_ year.

d. Is phase 1 functionally dependent on subsequent phases? ☐ Yes ☐ No

8. Will blasting occur during construction? ☐ Yes ☐ No

9. Number of jobs generated: during construction \_\_\_\_\_; after project is complete \_\_\_\_\_

10. Number of jobs eliminated by this project \_\_\_\_\_.

11. Will project require relocation of any projects or facilities? ☐ Yes ☐ No

If yes, explain:

not applicable

12. Is surface liquid waste disposal involved? ☐ Yes ☐ No

a. If yes, indicate type of waste (sewage, industrial, etc) and amount \_\_\_\_\_

b. Name of water body into which effluent will be discharged \_\_\_\_\_

13. Is subsurface liquid waste disposal involved? ☐ Yes ☐ No Type \_\_\_\_\_

14. Will surface area of an existing water body increase or decrease by proposal? ☐ Yes ☐ No

If yes, explain:

not applicable

15. Is project or any portion of project located in a 100 year flood plain? ☐ Yes ☐ No

16. Will the project generate solid waste? ☐ Yes ☐ No

a. If yes, what is the amount per month? \_\_\_\_\_ tons

b. If yes, will an existing solid waste facility be used? ☐ Yes ☐ No

c. If yes, give name \_\_\_\_\_; location \_\_\_\_\_

d. Will any wastes not go into a sewage disposal system or into a sanitary landfill? ☐ Yes ☐ No

e. If yes, explain:

17. Will the project involve the disposal of solid waste? ☐ Yes ☒ No

a. If yes, what is the anticipated rate of disposal? \_\_\_\_\_ tons/month.

b. If yes, what is the anticipated site life? \_\_\_\_\_ years.

18. Will project use herbicides or pesticides? ☐ Yes ☐ No

19. Will project routinely produce odors (more than one hour per day)? ☐ Yes ☐ No

20. Will project produce operating noise exceeding the local ambient noise levels? ☐ Yes ☐ No

21. Will project result in an increase in energy use? ☐ Yes ☐ No

If yes, indicate type(s)

22. If water supply is from wells, indicate pumping capacity \_\_\_\_\_ gallons/minute.

23. Total anticipated water usage per day \_\_\_\_\_ gallons/day.

24. Does project involve Local, State or Federal funding? ☐ Yes ☒ No

If yes, explain:

25. Approvals Required:

		Type	Submittal Date
City, Town, Village Board	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Creation of Overlay District	9/6/2012
City, Town, Village Planning Board	<input type="checkbox"/> Yes <input type="checkbox"/> No		
City, Town Zoning Board	<input type="checkbox"/> Yes <input type="checkbox"/> No		
City, County Health Department	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Other Local Agencies	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Other Regional Agencies	<input type="checkbox"/> Yes <input type="checkbox"/> No		
State Agencies	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Federal Agencies	<input type="checkbox"/> Yes <input type="checkbox"/> No		

C. Zoning and Planning Information

1. Does proposed action involve a planning or zoning decision? ☒ Yes ☐ No

If Yes, indicate decision required:

<input type="checkbox"/> Zoning amendment	<input type="checkbox"/> Zoning variance	<input type="checkbox"/> New/revision of master plan	<input type="checkbox"/> Subdivision
<input type="checkbox"/> Site plan	<input type="checkbox"/> Special use permit	<input type="checkbox"/> Resource management plan	<input type="checkbox"/> Other

Additionally, the Town Board, as lead agency, must make a Determination of Significance pursuant to the New York State Environmental Quality Review Act ("SEQR"). This determination must occur prior to Town Board approval of this Petition.

### Legal Standard for granting of Amendment to Zoning Ordinance

Pursuant to New York Town Law § 272-a(11)(a), "All town land use regulations must be in accordance with a comprehensive plan adopted pursuant to this section". The Town of Sardinia has a Comprehensive Plan, adopted in 2003. The New York State Appellate Division, Fourth Judicial Department has recognized that town comprehensive plans should be flexible and should adapt to changes over time.<sup>1</sup>

### Grounds for Granting of Petition

The Town Comprehensive Plan recognizes the need for change, as it states at page 1 that the Plan will influence changes in Town zoning ... during the next 10 to 15 years". Accordingly, the below chart indicates how the Town Comprehensive Plan is outdated as to sand and gravel mining within the Town.

2003 Data from Comprehensive Plan	Current Data per NYSDEC
882 acres of permitted mines (page 41)	514 acres of permitted mines

Additionally, the acreage in the above table only contemplates acreage permitted by the NYSDEC and does not deduct mineable acreages remaining. The following table estimates the mineable acreages remaining in the Town.

Mine	Mineable Acreage
Gernatt – Gabel Thomas	200
Gernatt – Theif Road	7
Gernatt – Sardinia South	37
Gernatt – Rt. 39 Clay Pit	6
Morris	3
Woodruff	33
Waste Management	7
<b>Total</b>	<b>293</b>

<sup>1</sup> Kravetz v. Plenge, 84 AD2d 422, 429-430 (4th Dept 1982) ("Enactments to change zoning plans should be analyzed in terms of consistency and rationality, with the requirement they not conflict with the fundamental land use policies and development plans of the community, keeping in mind that a comprehensive plan must be flexible and subject to some changes. Changed conditions call for changed plans, and owners of property in a particular zone enjoy no eternally vested rights to its classification if the public interest demands otherwise. Although stability and regularity are essential to the operation of zoning plans, zoning is not static; the obligation is the support of comprehensive planning with recognition of the dynamics of change, not a slavish servitude to any particular plan.") (internal citations omitted).

2. What is the zoning classification(s) of the site?

AR (Agricultural / Residential), BL (Business / Light Industrial) and LC (Limited Commercial)

3. What is the maximum potential development of the site if developed as permitted by the present zoning?

varies, per Zoning Code

4. What is the proposed zoning of the site?

Same zoning, but creation of Sand, Clay and Gravel Overlay District.

5. What is the maximum potential development of the site if developed as permitted by the proposed zoning?

varies, per Zoning Code

6. Is the proposed action consistent with the recommended uses in adopted local land use plans? ☒ Yes ☐ No

"Continue to use zoning regulations to limit the areas in which commercial gravel mines are permitted to operate" -- p. 45 of Comp. Plan.

7. What are the predominant land use(s) and zoning classifications within a ¼ mile radius of proposed action?

varies

8. Is the proposed action compatible with adjoining/surrounding land uses with a ¼ mile? ☒ Yes ☐ No

9. If the proposed action is the subdivision of land, how many lots are proposed? \_\_\_\_\_

a. What is the minimum lot size proposed? \_\_\_\_\_



10. Will proposed action require any authorization(s) for the formation of sewer or water districts? ☐ Yes ☒ No

11. Will the proposed action create a demand for any community provided services (recreation, education, police, fire protection)?  
☐ Yes ☒ No

a. If yes, is existing capacity sufficient to handle projected demand? ☐ Yes ☒ No

12. Will the proposed action result in the generation of traffic significantly above present levels? ☐ Yes ☒ No

a. If yes, is the existing road network adequate to handle the additional traffic. ☐ Yes ☒ No

**D. Informational Details**

Attach any additional information as may be needed to clarify your project. If there are or may be any adverse impacts associated with your proposal, please discuss such impacts and the measures which you propose to mitigate or avoid them.

**E. Verification**

I certify that the information provided above is true to the best of my knowledge.

Applicant/Sponsor Name Gernatt Asphalt Products, Inc.

Date 9/6/2012

Signature

Peter J Sorgi

Title Peter J. Sorgi, Esq., attorney (see attached authorization)

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment.

**AUTHORIZATION**

Gernatt Asphalt Products, Inc. hereby authorizes and Peter J. Sorgi, Esq., Hopkins & Sorgi, PLLC, to file and execute via signature its Petition to Amend the Town of Sardinia Zoning by Creation of a Sand, Clay and Gravel Mining Overlay District, as well as any related documents including documents submitted pursuant to the New York State Department of Environmental Conservation.

GERNATT ASPHALT PRODUCTS, INC.

  
Kenneth F. Zicarelli, Vice President Regulatory Affairs

Date: September 6, 2012

## PART 2 - PROJECT IMPACTS AND THEIR MAGNITUDE

Responsibility of Lead Agency

### General Information (Read Carefully)

- ! In completing the form the reviewer should be guided by the question: Have my responses and determinations been reasonable? The reviewer is not expected to be an expert environmental analyst.
- ! The Examples provided are to assist the reviewer by showing types of impacts and wherever possible the threshold of magnitude that would trigger a response in column 2. The examples are generally applicable throughout the State and for most situations. But, for any specific project or site other examples and/or lower thresholds may be appropriate for a Potential Large Impact response, thus requiring evaluation in Part 3.
- ! The impacts of each project, on each site, in each locality, will vary. Therefore, the examples are illustrative and have been offered as guidance. They do not constitute an exhaustive list of impacts and thresholds to answer each question.
- ! The number of examples per question does not indicate the importance of each question.
- ! In identifying impacts, consider long term, short term and cumulative effects.

### Instructions (Read carefully)

- a. Answer each of the 20 questions in PART 2. Answer Yes if there will be any impact.
- b. Maybe answers should be considered as Yes answers.
- c. If answering Yes to a question then check the appropriate box(column 1 or 2)to indicate the potential size of the impact. If impact threshold equals or exceeds any example provided, check column 2. If impact will occur but threshold is lower than example, check column 1.
- d. Identifying that an Impact will be potentially large (column 2) does not mean that it is also necessarily significant. Any large impact must be evaluated in PART 3 to determine significance. Identifying an impact in column 2 simply asks that it be looked at further.
- e. If reviewer has doubt about size of the impact then consider the impact as potentially large and proceed to PART 3.
- f. If a potentially large impact checked in column 2 can be mitigated by change(s) in the project to a small to moderate impact, also check the Yes box in column 3. A No response indicates that such a reduction is not possible. This must be explained in Part 3.

1	2	3
Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change

### Impact on Land

1. Will the Proposed Action result in a physical change to the project site?

NO ☐ YES ☐

#### Examples that would apply to column 2

- |  |                          |                          |                              |                             |
|--|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Any construction on slopes of 15% or greater, (15 foot rise per 100 foot of length), or where the general slopes in the project area exceed 10%. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction on land where the depth to the water table is less than 3 feet.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction of paved parking area for 1,000 or more vehicles.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction on land where bedrock is exposed or generally within 3 feet of existing ground surface.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction that will continue for more than 1 year or involve more than one phase or stage.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Excavation for mining purposes that would remove more than 1,000 tons of natural material (i.e., rock or soil) per year.                         | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Construction or expansion of a sanitary landfill.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Construction in a designated floodway.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<div style="border: 1px solid black; height: 40px;"></div>			

2. Will there be an effect to any unique or unusual land forms found on the site? (i.e., cliffs, dunes, geological formations, etc.)

☐ NO ☐ YES

• Specific land forms:

☐ ☐ ☐ Yes ☐ No

#### Impact on Water

3. Will Proposed Action affect any water body designated as protected? (Under Articles 15, 24, 25 of the Environmental Conservation Law, ECL)

☐ NO ☐ YES

Examples that would apply to column 2

• Developable area of site contains a protected water body.

☐ ☐ ☐ Yes ☐ No

• Dredging more than 100 cubic yards of material from channel of a protected stream.

☐ ☐ ☐ Yes ☐ No

• Extension of utility distribution facilities through a protected water body.

☐ ☐ ☐ Yes ☐ No

• Construction in a designated freshwater or tidal wetland.

☐ ☐ ☐ Yes ☐ No

• Other impacts:

☐ ☐ ☐ Yes ☐ No

4. Will Proposed Action affect any non-protected existing or new body of water?

☐ NO ☐ YES

Examples that would apply to column 2

• A 10% increase or decrease in the surface area of any body of water or more than a 10 acre increase or decrease.

☐ ☐ ☐ Yes ☐ No

• Construction of a body of water that exceeds 10 acres of surface area.

☐ ☐ ☐ Yes ☐ No

• Other impacts:

☐ ☐ ☐ Yes ☐ No

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
5. Will Proposed Action affect surface or groundwater quality or quantity? <input type="checkbox"/> NO <input type="checkbox"/> YES			
Examples that would apply to column 2			
• Proposed Action will require a discharge permit.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action requires use of a source of water that does not have approval to serve proposed (project) action.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action requires water supply from wells with greater than 45 gallons per minute pumping capacity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Construction or operation causing any contamination of a water supply system.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action will adversely affect groundwater.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Liquid effluent will be conveyed off the site to facilities which presently do not exist or have inadequate capacity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action would use water in excess of 20,000 gallons per day.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action will likely cause siltation or other discharge into an existing body of water to the extent that there will be an obvious visual contrast to natural conditions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action will require the storage of petroleum or chemical products greater than 1,100 gallons.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action will allow residential uses in areas without water and/or sewer services.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action locates commercial and/or industrial uses which may require new or expansion of existing waste treatment and/or storage facilities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
-------------------------------------	-----------------------------------	--

6. Will Proposed Action alter drainage flow or patterns, or surface water runoff?

☐ NO ☐ YES

Examples that would apply to column 2

- |  |                          |                          |                              |                             |
|--|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Proposed Action would change flood water flows                   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action may cause substantial erosion.                   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action is incompatible with existing drainage patterns. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will allow development in a designated floodway. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts:   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

#### IMPACT ON AIR

7. Will Proposed Action affect air quality?

☐ NO ☐ YES

Examples that would apply to column 2

- |   |                          |                          |                              |                             |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Proposed Action will induce 1,000 or more vehicle trips in any given hour.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will result in the incineration of more than 1 ton of refuse per hour.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Emission rate of total contaminants will exceed 5 lbs. per hour or a heat source producing more than 10 million BTU's per hour. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will allow an increase in the amount of land committed to industrial use.                                       | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will allow an increase in the density of industrial development within existing industrial areas.               | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts:  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

#### IMPACT ON PLANTS AND ANIMALS

8. Will Proposed Action affect any threatened or endangered species?

☐ NO ☐ YES

Examples that would apply to column 2

- |   |                          |                          |                              |                             |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Reduction of one or more species listed on the New York or Federal list, using the site, over or near the site, or found on the site. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Removal of any portion of a critical or significant wildlife habitat.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Application of pesticide or herbicide more than twice a year, other than for agricultural purposes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

9. Will Proposed Action substantially affect non-threatened or non-endangered species?

☐ NO ☐ YES

Examples that would apply to column 2

- |  | 1<br>Small to<br>Moderate<br>Impact | 2<br>Potential<br>Large<br>Impact | 3<br>Can Impact Be<br>Mitigated by<br>Project Change     |
|--|-------------------------------------|-----------------------------------|--|
| • Proposed Action would substantially interfere with any resident or migratory fish, shellfish or wildlife species.                          | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action requires the removal of more than 10 acres of mature forest (over 100 years of age) or other locally important vegetation. | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts:   | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |

#### IMPACT ON AGRICULTURAL LAND RESOURCES

10. Will Proposed Action affect agricultural land resources?

☐ NO ☐ YES

Examples that would apply to column 2

- |  | 1<br>Small to<br>Moderate<br>Impact | 2<br>Potential<br>Large<br>Impact | 3<br>Can Impact Be<br>Mitigated by<br>Project Change     |
|--|-------------------------------------|-----------------------------------|--|
| • The Proposed Action would sever, cross or limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc.)                                 | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Construction activity would excavate or compact the soil profile of agricultural land.   | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • The Proposed Action would irreversibly convert more than 10 acres of agricultural land or, if located in an Agricultural District, more than 2.5 acres of agricultural land. | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• The Proposed Action would disrupt or prevent installation of agricultural land management systems (e.g., subsurface drain lines, outlet ditches, strip cropping); or create a need for such measures (e.g. cause a farm field to drain poorly due to increased runoff).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

#### IMPACT ON AESTHETIC RESOURCES

11. Will Proposed Action affect aesthetic resources? (If necessary, use the Visual EAF Addendum in Section 617.20, Appendix B.)  
☐ NO ☐ YES

##### Examples that would apply to column 2

- |   | 1<br>Small to<br>Moderate<br>Impact | 2<br>Potential<br>Large<br>Impact | 3<br>Can Impact Be<br>Mitigated by<br>Project Change     |
|---|-------------------------------------|-----------------------------------|--|
| • Proposed land uses, or project components obviously different from or in sharp contrast to current surrounding land use patterns, whether man-made or natural.                              | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed land uses, or project components visible to users of aesthetic resources which will eliminate or significantly reduce their enjoyment of the aesthetic qualities of that resource. | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Project components that will result in the elimination or significant screening of scenic views known to be important to the area.  | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts:  | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |

#### IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES

12. Will Proposed Action impact any site or structure of historic, prehistoric or paleontological importance?  
☐ NO ☐ YES

##### Examples that would apply to column 2

- |   | 1<br>Small to<br>Moderate<br>Impact | 2<br>Potential<br>Large<br>Impact | 3<br>Can Impact Be<br>Mitigated by<br>Project Change     |
|---|-------------------------------------|-----------------------------------|--|
| • Proposed Action occurring wholly or partially within or substantially contiguous to any facility or site listed on the State or National Register of historic places. | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Any impact to an archaeological site or fossil bed located within the project site.   | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will occur in an area designated as sensitive for archaeological sites on the NYS Site Inventory.   | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |



- |                  | 1<br>Small to<br>Moderate<br>Impact | 2<br>Potential<br>Large<br>Impact | 3<br>Can Impact Be<br>Mitigated by<br>Project Change     |
|------------------|-------------------------------------|-----------------------------------|--|
| • Other impacts: | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |

#### IMPACT ON OPEN SPACE AND RECREATION

13. Will proposed Action affect the quantity or quality of existing or future open spaces or recreational opportunities?

☐ NO ☐ YES

Examples that would apply to column 2

- |   |                          |                          |  |
|---|--------------------------|--------------------------|--|
| • The permanent foreclosure of a future recreational opportunity. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • A major reduction of an open space important to the community.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts:  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

#### IMPACT ON CRITICAL ENVIRONMENTAL AREAS

14. Will Proposed Action impact the exceptional or unique characteristics of a critical environmental area (CEA) established pursuant to subdivision 6NYCRR 617.14(g)?

☐ NO ☐ YES

List the environmental characteristics that caused the designation of the CEA.

Examples that would apply to column 2

- |   |                          |                          |  |
|---|--------------------------|--------------------------|--|
| • Proposed Action to locate within the CEA?                                   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will result in a reduction in the quantity of the resource? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will result in a reduction in the quality of the resource?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will impact the use, function or enjoyment of the resource? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts:  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
-------------------------------------	-----------------------------------	--

### IMPACT ON TRANSPORTATION

15. Will there be an effect to existing transportation systems?

☐ NO ☐ YES

Examples that would apply to column 2

• Alteration of present patterns of movement of people and/or goods.

☐
☐
☐ Yes

☐ No

• Proposed Action will result in major traffic problems.

☐
☐
☐ Yes

☐ No

• Other impacts:

☐
☐
☐ Yes

☐ No

### IMPACT ON ENERGY

16. Will Proposed Action affect the community's sources of fuel or energy supply?

☐ NO ☐ YES

Examples that would apply to column 2

• Proposed Action will cause a greater than 5% increase in the use of any form of energy in the municipality.

☐
☐
☐ Yes

☐ No

• Proposed Action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two family residences or to serve a major commercial or industrial use.

☐
☐
☐ Yes

☐ No

• Other impacts:

☐
☐
☐ Yes

☐ No

### NOISE AND ODOR IMPACT

17. Will there be objectionable odors, noise, or vibration as a result of the Proposed Action?

☐ NO ☐ YES

Examples that would apply to column 2

• Blasting within 1,500 feet of a hospital, school or other sensitive facility.

☐
☐
☐ Yes

☐ No

• Odors will occur routinely (more than one hour per day).

☐
☐
☐ Yes

☐ No

• Proposed Action will produce operating noise exceeding the local ambient noise levels for noise outside of structures.

☐
☐
☐ Yes

☐ No

• Proposed Action will remove natural barriers that would act as a noise screen.

☐
☐
☐ Yes

☐ No

• Other impacts:

☐
☐
☐ Yes

☐ No

3  
Can Impact Be  
Mitigated by  
Project Change

☐ No

[REDACTED]

☐ No

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Proposed Action will set an important precedent for future projects.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action will create or eliminate employment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

20. Is there, or is there likely to be, public controversy related to potential adverse environment impacts?  
☐ NO ☐ YES

**If Any Action in Part 2 Is Identified as a Potential Large Impact or If you Cannot Determine the Magnitude of Impact, Proceed to Part 3**

## Part 3 - EVALUATION OF THE IMPORTANCE OF IMPACTS

### Responsibility of Lead Agency

Part 3 must be prepared if one or more impact(s) is considered to be potentially large, even if the impact(s) may be mitigated.

**Instructions** (If you need more space, attach additional sheets)

Discuss the following for each impact identified in Column 2 of Part 2:

1. Briefly describe the impact.
2. Describe (if applicable) how the impact could be mitigated or reduced to a small to moderate impact by project change(s).
3. Based on the information available, decide if it is reasonable to conclude that this impact is important.

To answer the question of importance, consider:

- ! The probability of the impact occurring
- ! The duration of the impact
- ! Its irreversibility, including permanently lost resources of value
- ! Whether the impact can or will be controlled
- ! The regional consequence of the impact
- ! Its potential divergence from local needs and goals
- ! Whether known objections to the project relate to this impact.