

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 3
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**Department of
Environmental
Conservation**

January 14, 2021

John D. Fuller, PE, PC, Civil & Structural Engineering
Attn: John Fuller
4 South Street
Port Jervis, NY 12771

Re: DEC Application No. 3-3356-00168/00001
Article 24 Freshwater Wetlands
Han Property – Yimanoir Development LLC
Town of Wawayanda, Orange County

Notice of Incomplete Application

Dear Mr. Fuller,

The Department of Environmental Conservation (DEC or Department) received the above-referenced application on behalf of Yiman Han for a permit pursuant to Article 24 (Freshwater Wetlands) of the Environmental Conservation Law on October 19, 2020, submitted by you. I apologize for the delay in response. The application is for disturbances to the regulated 100-foot adjacent area of Freshwater Wetland MD-30, Class 3, associated the construction of a 4-bedroom single family dwelling, driveway, well, and septic. There are approximately 7,823 square feet (0.17 acres) of disturbances proposed to the regulated 100-foot adjacent area. The application is incomplete.

Please submit the following supporting information and documentation in order for the Department to continue our review:

Article 24 Freshwater Wetlands

Please note that in order to meet permit issuance standards, 6 NYCRR Part 663 requires that disturbance to the wetland and its 100-foot adjacent area first be avoided, then minimized to the maximum practicable extent possible (as discussed during the Department's site visit), followed by mitigation for proposed disturbances within the regulated areas which cannot be avoided or minimized.

Constructing roads, or constructing a residence or related structures, or filling within a freshwater wetland regulated under Article 24 is categorized in the freshwater wetlands regulations as incompatible with the preservation of a wetland and its benefits, and usually incompatible within the freshwater wetland adjacent area (6 NYCRR § 663.4(d)(28)). Please note that any activity identified as incompatible or usually

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incompatible must meet the weighing standards pursuant to §663.5(e). To meet the weighing standards, the activity:

- a. must be the only practicable alternative that could accomplish the applicant's objectives and have no practicable alternative on a site that is not a freshwater wetland or adjacent area;
- b. must minimize degradation to the wetland;
- c. must minimize adverse impacts to the functions and benefits of the wetlands; and
- d. must be compatible with the public health and welfare.

Grading a wetland or adjacent area can substantially alter surface water drainage and flow patterns, may temporarily increase erosion, and may eliminate fish and wildlife habitat. Grading in a freshwater wetland regulated under Article 24 is categorized in the freshwater wetlands regulations as incompatible with the preservation of a wetland and its benefits, and usually incompatible within the freshwater wetland adjacent area (6 NYCRR § 663.4(d)(25)).

The application does not adequately address how the proposed project meets permit issuance standards or the weighing standards. The provided plans indicate that the house is proposed very near to the wetland boundary; however, the submitted application materials have not discussed the minimization and avoidance measures used in the design to reduce the impact to the wetland, and does not address alternatives to the current proposal.

The Department suggests that the house be located further from the wetland. Please provide the Department with (1) an explanation regarding the location of the residence and structures; (2) discussion of any alternative locations that were considered and why they were not implementable; and (3) discussion on how the proposed project minimizes disturbances to the 100-foot adjacent area.

Article 11 Threatened and Endangered Species

Please note that the project site is located in proximity to known Indiana bat (NYS-listed endangered) occurrences. The submitted Joint Application Form indicates that a total of 50 trees are to be removed using chainsaws; and is to take place between October 1 through March 31. Therefore, the Department does not anticipate direct adverse impacts to this species. If project plans change and the aforementioned time of year restriction cannot be implemented, additional information and further review may be required.

Remediation

Please note that the proposed project site is located near to the Orange County Landfill (DEC ID#336007) remediation site. The Department recommends that the wetland be tested for potential contaminants prior to the installation of a well or water resources

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State Environmental Quality Review Act (SEQR)

The proposal appears to be a Type II action under SEQR provisions Part 617. However, the short Environmental Assessment Forms (EAF) provides additional information necessary for our continued review of the project. The provided cover letter indicates that the EAF was submitted, however it was not received with the application materials. Please submit a completed short EAF (Part 1). Applications are available at the DEC website <https://www.dec.ny.gov/permits/6191.html>.

SHPO

The project location is an archaeological sensitive area. Pursuant to section 14.09 of the Parks, Recreation, and Historic Preservation Law (New York State Historic Preservation Act of 1980), the application is not complete until the Office of Parks, Recreation, and Historic Preservation has made a determination whether:

- a. Any historic, architectural, archaeological, or cultural resources present in the project impact area are significant (listed on or eligible for listing on the State or National Register of Historic Places); and
- b. The project may have any impacts on such significant resources.

Please submit the impact determination from the Office of Parks, Recreation, and Historic Preservation so that the application may proceed.

SPDES Stormwater Construction

Compliance with the current SPDES General Permit for Stormwater Discharges from Construction Activities (GP-0-20-001) is required for projects that disturb over one or more acres of land. The project materials indicate that there are approximately 0.17 acres of disturbances proposed to the 100-foot adjacent area; please also indicate the total amount of disturbances. If one or more acres are proposed to be disturbed, the applicant must prepare a Storm Water Pollution Prevention Plan (SWPPP) in accordance with the current SPDES General Permit noted above.

Uniform Procedures

Please be advised that pursuant to 6 NYCRR Part 621j, this project is considered to be a major project. It will be required to undergo 15 days of public notice. Once the department considers the application complete, the applicant will be responsible for publishing (for one day) the Notice of Complete Application in the official newspaper of the town in which the project will occur. Any comments received must be addressed before a final permit decision is made.

Your application will remain as incomplete until all information requested is received, as Uniform Procedures Act (UPA) provisions §621.6(e) allow. Please provide three copies of all materials to my attention. Additional information, including regulations, is available at the DEC website at: www.dec.ny.gov.

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If you have any questions, please feel free to contact me at (845) 256-3158 or via email at katherine.coffin@dec.ny.gov.

Sincerely,



Katherine Coffin
Environmental Analyst Trainee
Division of Environmental Permits

ecc: Yiman Han, Yimanoir Development, LLC
Mike Fraatz, DEC Bureau of Ecosystem Health
Wildlife, R3 DEC
Payson Long, DEC Environmental Remediation