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May 12, 2022

Brian Gyory, Planning Board Chair
and Planning Board members

Re: **Site Plan application for Albany Port District Commission Industrial Park Project (Port of Albany Expansion) Marmen/Welcon Offshore Wind Tower Manufacturing Plant – Port Road South**
Evaluation for consistency with the Town's LWRP policy standards and the Local Consistency Law Chapter 80 in Town code

Dear Mr. Gyory:

The site plan application for the **Marmen/Welcon Offshore Wind Tower Manufacturing Plant at Port Road South** has been evaluated for consistency with the Town's LWRP policy standards (Section III) and the Local Consistency Law Chapter 80 in Town Code. The LWRP policies support both economic development as well as environmental protection. As the Waterfront Coordinator, I am advising the Planning Board that the project has been found to be consistent with the LWRP policy standards and the Local Consistency Law. Below is a summary of the policies that were found to be applicable to the project: 1, 2, 3, 5, 7, 8, 11, 12, 13, 14, 16, 17, 19, 20, 22, 23, 24, 25, 30, 31, 32, 33, 34, 35, 36, 37, 38, 41, 42, 43, and 44.

Policy Analysis:

Policy 1 - Restore, revitalize, and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational and other compatible uses.

The LWRP Policy 1 explanation acknowledges the underutilized structures and sites within the Heavy Industrial Zoning District located in the northeastern side of the Waterfront Revitalization Area (WRA) is the focus revitalization area within the Bethlehem WRA. The Town supports the adaptive reuse of existing or future vacant facilities located within the Heavy Industrial zoning district illustrated on the Underutilized Sites and Structures Map included in Section II of the LWRP. This area of WRA represents the best opportunity for economic viability within the WRA, without encroaching on valuable waterfront open space, environmentally sensitive areas, or residential uses. The former Beacon Harbor site is the largest property within the Heavy Industrial Zoning District and represents a great opportunity for economic growth. The project is located on the former Beacon Harbor site.

Policy 2 – Retain, develop and promote water-dependent uses and facilities on or adjacent to coastal waters.

The project will result in the development of an approximately 589,000sqft. facility to manufacture offshore wind towers. The size and weight of the towers and transition pieces produced are difficult to transport on land, thereby making the site's location along the Hudson River critical in the shipping of final products. The towers and transition pieces will be shipped by barge along the Hudson River to New York Harbor.

The proposed action is needed to help New York State in achieving its renewable energy goals by providing additional port infrastructure, manufacturing space for the offshore wind industry, cargo and wharf capacity necessary for the manufacturing and distribution of offshore wind components. This project would result in build-smart cross sector solutions to maintain and maximize employment and support local small business and families. Additionally, the project is the first offshore wind tower manufacturing facility in the United States and is forecasted to create upwards of 500 construction jobs and approximately 550 full time new jobs. Furthermore, the project is expected to help reduce the U.S. carbon footprint and reliance on imported offshore wind components.

Policy 3 – Further develop the State's port of Albany as center of commerce and industry and encourage the siting of land use and development which is essential to, or in support of, the waterborne transportation of cargo and people.

The explanation of Policy 3 states that the aim of this policy is to support the further development of the Port of Albany. In 2018, the Albany Port District Commission (APDC) purchased an 80-acre site (known as "Beacon Harbor"), located along the Hudson River at the confluence of the Normans Kill, within the Town of Bethlehem as a result of their strategic plan for expansion. The Town will support the expansion of the Port by administering the site plan review process through the Town Planning Board and work cooperatively with the Albany Port District Commission to develop the required Generic Environmental Impact Statement (EIS) to be prepared by APDC.

Policy 5 – Ensure that development occurs where adequate public infrastructure is available.

The explanation of Policy 5 states that government by its construction, taxing, funding and regulatory powers, has become a dominant force in shaping the course of development. Through these government actions, development, particularly large-scale development, in the Coastal Area will be encouraged to locate within, contiguous to, or in close proximity to, existing areas of concentrated development where infrastructure and public services are adequate, where topography, geology, and other environmental conditions are suitable for and able to accommodate development. The project site is located within an area of existing industrial development to the north, south, and east of the site. Both a Generic Environmental Impact Statement (EIS) and Supplemental EIS was prepared for the proposed project and identified suitable mitigation measures to accommodate the development.

Policy 7 and 8 – Protect, preserve and, where practical, restore significant and locally important fish and wildlife habitats from human disruption and chemical contamination.

The Normans Kill Significant Coastal Fish and Wildlife Habitat (SCFWH) is located within the Bethlehem WRA, and serves as the northern border of the project site. The Normans Kill SCFWH is located on the

west side of the Hudson River and extends for approximately two miles, from the mouth of the Normans Kill on the Hudson River to a waterfall which is located just downstream from the New York State Thruway (Interstate Route 87) bridge. Normans Kill is a freshwater tributary of Hudson River forming a natural boundary between the City of Albany and the Town of Bethlehem. The lower mile, referred to as "Island Creek", is within the tidal range of the Hudson River, and is relatively deep, with a silt and clay substrate. At least part of this segment was channelized in the past and its mouth relocated south in conjunction with nearby commercial and industrial developments.

To avoid or reduce new stormwater runoff and discharges to the Normans Kill, a Stormwater Pollution Prevention Plan was prepared that complies with the NYSDEC General Permit for Construction Activity and an erosion and sedimentation control plan has also been prepared for site construction activity. All disturbance along the Normans Kill is above the Mean Higher-High Water Mark elevation, including the bridge over the Normans Kill, which will be constructed with piers outside the limits of the waterway. Rip rap will be installed along the Normans Kill and include nature based design elements (e.g. live stakes / joint plantings). A monitoring and maintenance plan will also be prepared. The previously proposed discharge of effluent from the project's sanitary package treatment plant to the Normans Kill has been relocated to the Hudson River.

The Albany Port District Commission has committed to contribute funds to a net conservation benefit restoration project to mitigate adverse impacts to Shortnose Sturgeon and Atlantic Sturgeon critical habitat. The details of the Port of Albany Expansion Project Implementation Agreement Pursuant to 6 NYCRR 182 are being finalized as part of NYS Department of Conservation's consideration of a Part 182/Incidental Take Permit Application.

Policies 11, 12, 13, 14, 16, and 17 – Minimize flooding and erosion hazards through non-structural means, protecting natural protective features, construction of carefully-selected, long-term structural measures and appropriate siting of structures.

The project has been designed to avoid impacts and minimize impacts to natural and water features such as Normans Kill, Hudson River, wetland areas, submerged aquatic vegetation (SAV) beds, and mussel areas. Design elements implemented to avoid and minimize environmental impacts include:

- Wharf was relocated and size reduced to avoid dredging over additional SAV beds
- General layout of the proposed wharf places the riverside face of structure coincident with the face of the existing timber revetment
- Proposed bridge over Normans Kill redesigned and to be constructed outside Mean Higher-High Water line to meet NYSDEC and NYDOS criteria
- Reconfiguration of proposed surface parking to avoid wetland impacts
- Construction of a fill type retaining wall to minimize the need of fill in wetland area
- Improvements to Normanskill Street avoiding wetland areas
- Proposed site grading or fill above the existing Mean Higher High Water line

Policies 19, 20, 22 – Maintain and improve public access to the shoreline and to water-related recreational facilities while protecting the environment and being compatible with adjoining uses.

The project site includes a shoreline of both the Normans Kill (to the north) and Hudson River (to the east). The bridge over the Normans Kill will not reduce or eliminate the ability for access to the Normans Kill. The bridge does not include piers within the limits of the waterway. The existing embankment and slopes will be retained. There is currently no public access to the Normans Kill at this location and the construction of the bridge would not result in the inability to provide public access in the future. The project site will include a heavy industrial manufacturing facility and a wharf for the distribution of

offshore wind components. Opportunities to provide public access for water-related recreational uses from or immediately adjacent to the project site were evaluated and dismissed due to land use compatibility, accessibility, safety and security.

Surrounding areas within three (3) miles north and south of the project site were reviewed in order to identify potentially available and compatible land that could serve as accessible alternatives sites for waterside public access. No available lands or properties were found that could offer adequate space or access and be compatible between existing and proposed land use. Nevertheless, public access to the Hudson River and Normans Kill is currently provided at alternate sites in the near vicinity of the project where the public have adequate access for water related recreational uses: Island Creek Waterfront Park, Corning Preserve / Albany River Front Park, Henry Hudson Park, Normans Kill Preserve, Albany County Rail Trail, Mo-He-Con-Nuck Preserve.

The offshore wind tower manufacturing facility is not consistent with the list of development types (i.e. parks, highways, power plants, utility transmission rights of way, etc.), as identified in the LWRP that can generally provide water-related recreation as a multiple-use.

Policy 23 – Protect and restore historic and archeological resources.

The project was evaluated for potential impacts to the National Register eligible Papscanee Island Historic District (08303.000130), which is located across the Hudson River in Rensselaer County, and is a significant cultural resource for the Stockbridge-Munsee Band of the Mohican Nation. Following the preparation of visual impact assessment and acoustic noise assessment the Tribal Historic Preservation Office and State Historic Preservation Office issued letters of No Adverse Effect in March 2022.

Policy 24, and 25 – Prevent impairment to, protect, restore or enhance scenic resources.

The LWRP identifies the scenic qualities of the central and southern portions of the Bethlehem WRA contribute to the area's rural character and beauty. Scenic views were identified from high points along Weisheit Road near Wemple Road and along Clapper Road west of the railroad crossing in the central WRA. Views from these locations include long range views of the Taconic Mountain range and the rural areas of the eastern side of the Hudson River as well as short range views of agricultural properties along Clapper Road. Another view shed to the Taconic Mountains is located in the southern portion of the WRA from a highpoint on SR 144/River Road just north of the Thruway Exit ramp. From this location a short-range view of fields and wooded areas within the conservation lands owned by Scenic Hudson and NYS can be enjoyed. The project will not impair view of these resources since the project site is located in the northern portion of the WRA.

Policies 30, 31, 32, 33, 34, 35, 36, 37, and 38 – Protect surface and groundwater from direct and indirect discharge of pollutants and from overuse

A Stormwater Pollution Prevention Plan (SWPPP) was developed addressing change to surface coverage and best management practices (BMS) to be implemented as part of the project such as erosion, turbidity, and sediment control while stormwater bioretention practices would also be provided to improve the quality of stormwater run-off.

Policies 41, 42 and 43 – Protect air quality

New York's Coastal Management Program incorporates the air quality policies and programs developed for the State by the Department of Environmental Conservation pursuant to the Clean Air Act and State Laws on air quality. An Air State Facility Permit application was submitted to NYS DEC, which includes

information on the proposed facility's emissions, the processes operating at the proposed facility, the raw materials being used, the height and location of stacks or vents, the requirements that would apply to the facility and what controls will be put in place to reduce or eliminate air pollution.

Policy 44 – Preserve and protect tidal and freshwater wetlands

The New York State Freshwater Wetland and Tidal Wetlands mapping indicates there are no NYSDEC jurisdictional wetlands within or adjacent to the supplemental Project Area. The Project will result in direct impacts to 0.81 acres over Wetland 1 located in Beacon Island and 0.01 acres of direct impact to Wetland 1 on National Grid property for the construction of a retaining wall, and 0.02 impacts to Wetland 7 for roadway improvements. There will be approximately 0.33 acres of temporary impacts to wetlands during construction. Total permanent wetland impacts are estimated in approximately 0.86 acres.

The required Joint Permit Application (JAP) has been submitted and is under USACE review, case numbers AN-2021-00948-UDA, and NYSDEC case number 4-0122-00322/00002. The JAP describes the compensatory wetland mitigation via the accepted USACE In-Lieu Fee Mitigation Program for off-site mitigation will be implemented. The Wetland Trust Mitigation Bank in accordance with USACE rules and regulations will ensure no net loss of wetlands. The JAP also includes the NYSDEC 401 Water Quality Certification and Article 15 Protection of Waters Permit, and USACE Section 404/Section 10 Individual Permit.

If you have any questions or comments I can be reached at 439-4955, ext. 1157.
Thank you.

Sincerely,

A handwritten signature in blue ink that reads "Robert Leslie".

Robert Leslie, AICP
Director of Planning