

**Town of Manheim Planning Board
Site Plan Review
of
FOUR BRANCH FARM LLC'S
Proposed Gravel Mine**

June 23, 2026

DEC issued a Mined Land Reclamation Permit (“DEC Mining Permit”) to Four Branch Farm LLC to operate a commercial sand and gravel mine on land owned by Four Branch Farm LLC located at 7689 State Route 5 in the Town of Manheim, County of Herkimer, New York. Four Branch Farm LLC (the “Applicant”) has applied to the Zoning Board of Appeals for a special use permit to operate a commercial sand and gravel mine on the same land described in the DEC Mining Permit (the “Project”).

Pursuant to sections 303, 310 and 503 of the Town of Manheim Zoning Ordinance (the "Zoning Ordinance"), the Planning Board is required to conduct a site plan review of all special use permit applications and to provide the Zoning Board of Appeals with a report containing its advisory opinion and recommendations.

The Planning Board has reviewed the site plans and supporting data (“Site Plans”) submitted by the Applicant. Public comments and additional information were received and reviewed by the Planning Board to determine whether the Site Plans for the Project satisfy the requirements and performance standards of the Zoning Ordinance for site plan approval.

Site Plan Review

The Planning Board conducted nine public meetings between December 17, 2024 and April 28, 2026, to review the Site Plans and the proposed use of the subject property as a commercial sand and gravel mine. A Public Hearing was held on May 20, 2025, continued on July 22, 2025, and concluded on September 23, 2025. The Planning Board, acting as Lead Agency under the State Environmental Quality Review Act (“SEQRA”), classified the Project as a Type I action and conducted a comprehensive and detailed review of the potential environmental impacts of the Project. After considering both the magnitude and importance of each identified potential impact the Planning Board concluded that the Project will have no significant adverse impact on the environment and no environmental impact statement need be prepared. On April 28, 2026, the Planning Board issued a Negative Declaration.

Pursuant to Section 501 of the Zoning Ordinance, the Planning Board reviewed the Site Plans and information received from the Applicant and its consultants, nearby neighbors Sargeant and Aney and their consultants, the Town Engineer and its consultants, public comments received at public meetings and at the Public Hearing, and the information adduced during the SEQRA review of the Project, and, based upon the Planning Board's familiarity with the Project site, the Planning Board determined that the Site Plans dated September 2025, submitted on September 10, 2025 as modified by the Applicant during site plan review [including additional berm height to attenuate sound, automatic 5 minute idle shut off and modified backup alarms on Applicant vehicles, and white noise (broadband) back- up alarms on operator owned equipment] ("Revised Site Plans") satisfy the requirements and performance standards of the Zoning Ordinance for site plan approval.

SUMMARY OF PLANNING BOARD'S SITE PLAN REVIEW AND FINDINGS OF FACT

A summary of the Planning Board's Site Plan Review and analysis supporting its Findings of Fact is set forth below.

AG-120 Zoning District Special Permitted Uses.

The Project is in an AG-120 Zoning District. Under section 431 (7) of the Zoning Ordinance, a "Quarry" is a special permitted use within the AG-120 Zoning District.

Section 503 - Site Plan Approval Standards

Pursuant to Section 503 of the Zoning Law, the Planning Board has taken into consideration each of the four criteria set forth in section 503, and made the following findings:

Criteria One:

Harmonious relationship between proposed uses and existing adjacent uses.

Findings:

The Project encompasses approximately 11.2 acres of the Applicant's land out of a total combined tax parcel size of 22.6 acres. The Project will not impact the Applicant's continued use

of the subject tax map parcels' remaining approximately 11.4 acres of land for agriculture or other permitted uses.

The initial DEC Mining Permit approved the mining of sand and gravel from approximately 5 acres of the Applicant's land lying within the designated Life of Mine Limit for a term ending November 30, 2029. At the end of the initial term, the Applicant may seek to renew the DEC Mining Permit for an additional term. As each section of the permitted mining operation is completed, that section will be reclaimed and returned to open space and re-seeded. The Applicant's concurrent reclamation plan under the DEC Mining Permit means that portions of the mined area will be restored to open space and re-seeded on a rolling basis rather than the entire disturbed area being left exposed for the full life of the mine.

Existing Nearby and Adjacent Uses

Land uses lying west of the Project include:

- A residence (Sargeant) eligible for listing on the State/National Register of Historic Places located approximately 340 feet from the designated "Life of Mine Limit."
- A wooded area with mature trees, and
- A mobile home with "accessory uses" located on a portion of the Applicant's 22.6-acre parcel and fronting on State Route 5 which is not within the "Life of Mine Limit" area.

Land uses lying east of the Project include:

- A mobile home located north of State Route 5 and approximately 100 feet east of the Applicant's land delineated as being part of the Project's "Life of Mine Limit."
- A rental home located north of State Route 5 and approximately 231 feet east of the Applicant's land delineated as part of the Project's "Life of Mine Limit" area.
- A second rental home located north of State Route 5 approximately 375 feet east of the Applicant's land delineated as part of the Project's "Life of Mine Limit" area, and

- Aney's Victorian-style house is located north of State Route 5 and approximately 735 feet east of Applicant's "Life of Mine Limit" area.

Land uses lying south of the Project include:

- New York State Route 5.
- Immediately south of State Route 5, open meadowland and wetlands, and
- An active dairy barn located south of State Route 5 and approximately 514 feet east of Applicant's "Life of Mine Limit" area.

Land uses lying north of the Project include:

- Actively farmed agricultural cropland and a wooded area owned by Eli Weaver with no buildings or residences in the immediate area, and
- Weaver's southern property line is 25 feet north of the Project's "Life of Mine Limit."

Planning Board's Findings:

The Planning Board finds the Project to be compatible and harmonious with the existing adjacent residential and agricultural uses for the following reasons:

The scale of the mining activity is relatively small given that the "Life of Mine Limit" is only 11.2 acres. The remaining 11.4 acres of Applicant's land outside the "Life of Mine Limit" area will serve as a buffer shielding the adjacent properties from views of the mine and mitigating potential impacts from sound, dust, odors, and lighting.

The Sargeant residence located west of the Project will be shielded by a substantial wooded area which forms a visual barrier between the Sargeant residence and the limits of the Applicant's mining permit. The "Life of Mine Limit" is 75 feet east of Sargeant's eastern property line and approximately 340 feet from the Sargeant residence. Distance, topography, and 10-foot-high earthen berms proposed to be erected by the Applicant along the western bounds of the "Life of Mine Limit" will also lessen visual impacts and sound, equipment lights, and dust from affecting the Sargeant property.

Views of the proposed mine from the mobile home, two rental homes and Aney's Victorian house lying east of the Project and north of Route 5, will be shielded by mature trees

forming a substantial wooded area lying between the Project, the mobile home, two rental homes and Aney's Victorian house. Any potential impacts to the Aney's Victorian house are further mitigated by distance and topography.

The portion of Applicant's land lying within the "Life of Mine Limit" adjacent to the mobile home and two rental homes east of the Project has been used to store the overburden topsoil removed as part of previous mining operations. This area is not intended to be mined or disturbed under DEC's Mining Permit, except for the work required to "reclaim" the area by grading to re-distribute the topsoil and seed with grasses as specified in the DEC Mining Permit. The fact that no "mining" will occur within the "Life of Mine Limit" area nearest the mobile home and two rental homes will mitigate sound, equipment lights, and dust from affecting the mobile home and two rental homes and the immediate area surrounding.

The limited permitted hours of operation set by the DEC permit (Monday through Friday - 7:00 AM to 6:00 PM and Saturday - 8:00 AM to 5:00 PM), the seasonable nature of the Project's proposed mining activity (April through November) and that the Project site will not be illuminated except by equipment and vehicle lights during the operation of mine, also supports the finding of compatibility and being harmonious with existing adjacent land uses. The SEQRA review found that the Project was consistent with the existing community character.

Although it was suggested that mining operations may impact the water supply servicing the Sargeant residence, no expert testimony or scientific data was provided to the Planning Board to support that contention. Similarly, although the Aney's have raised concerns that mining operations may affect the wells supplying water to the mobile home two rental homes all, the Victorian house, and dairy barn, no expert testimony or scientific data was provided to the Planning Board to support that contention. The fact that no mining will take place in the southeastern portion of the Life of Mine further reduces the potential that mining operations will impact the Aney's wells.

The Applicant's engineer (Giles) confirmed that no mining below the water table is proposed. The Town Engineer stated that due to the prevailing geology water infiltrating into the mine will continue to follow existing groundwater patterns and expressed his opinion that given the topography, soil composition, the depth of the mine, and distance from the Project site it is unlikely that the Project's mining operations would negatively affect the Sargeant's well or any of the Aney's wells. There will be no blasting used on the Project site, eliminating the

possibility that mining operations would result in vibrations or shock waves which might dislocate or disrupt the water resources supplying water to nearby neighbors' wells.

The Applicant's Project will not generate or store any hazardous waste, chemicals, or petroleum-based products on the Project site which could pollute or affect the water quality of the nearby neighbors' wells. The mining equipment, loader and trucks will be refueled as necessary directly from fuel delivery trucks. No diesel fuel will be stored on the Project site.

Concerns regarding the potential for dust to migrate from the Project site to the Sargeant residence, the Aney residences and Aney's dairy barn were not supported by scientific data or expert testimony. Concerns about dust are further allayed by the conditions of the DEC Mining Permit which require that dust resulting from excavating, processing, or use of heavy equipment must be controlled by applying water, calcium chloride or other methods to avoid the migration of dust off the Project site. As the Sargeant land and residence lie west of the Project site, the prevailing winds blowing from the west to the east would also reduce the likelihood of any fugitive dust from the mine migrating west toward the Sargeant's land and residence.

Aney's have also expressed concern that dust resulting from the Applicant's mining operations could affect the health of their dairy herd which primarily occupies the dairy barn located south of Route 5 and approximately 514 feet from the "Life of Mine Limit" area. Aney's veterinarian, Dr. Sarah Snell, submitted a letter dated June 20, 2025 to the Planning Board. In her letter Dr. Snell states that the dairy barn's "orientation so close to Route 5" raised concerns about the "possibility" of "higher levels of dust/silica" being "drawn into the barn by their [Aney's] tunnel ventilation system." As noted above, the DEC mining permit requires the Applicant to control dust generated by the mining operation from leaving the Project site. Dr. Snell's hypothesis that there may be a "possibility" of Aney's dairy being exposed to higher levels of silica dust is speculative. Dr. Snell does not address at what levels and for what duration of exposure silica dust becomes harmful to dairy cows, or the likelihood that fugitive dust from the Applicant's mining operation will travel more than five hundred feet without being dispersed by the wind and reach the Aney's dairy barn in sufficient density, quantity and duration to affect the health of Aney's dairy herd.

If the Aney's observe dust escaping from the Project site in violation of the DEC Mining Permit, they can report the violation to DEC and request the mining operation be brought into

compliance, thereby reducing the chance that dust from the mining operation would negatively affect the health of their dairy herd.

The wetlands and meadowlands lying south of the Project and south of Route 5 (Tax Map Parcel # 115.4-2-12.1) are, upon information and belief, owned by the Aney's. The Aney's have expressed concern that the Project may impact groundwater and water resources located on Tax Map Parcel # 115.4-2-12.1 used for their dairy. The Planning Board has received no expert testimony or scientific data supporting the contention that the Project will impact the wetlands located directly south of the Project and south of State Route 5, or that the Project will interfere with the use of nearby meadowland lying south of Route 5.

Upon information and belief, Eli Weaver owns the cropland and wooded area (Tax Map Parcel # 115.4-1-85.1) lying immediately north of the Project. Mr. Weaver submitted a letter to the Planning Board at the May 20, 2025, Public Hearing which stated: "I strongly oppose this project." Mr. Weaver's letter did not identify any specific grounds for his opposition and has not since submitted any additional information regarding his opposition to the Project.

The Sargeant's and Aney's suggest that the increase in truck traffic generated by the Project will interfere with and disrupt traffic flow on State Route 5 and increase noise and diesel exhaust from their present level. DOT's communication with the Planning Board regarding its review of the Project did not raise any of these concerns. The Applicant's Engineer (Giles) and Town Engineer provided information generated by DOT regarding the traffic level on the segment of State Route 5 adjacent to the Project and the Sargeant's and Aney's property. DOT reports that 2,607 vehicles traverse the segment of State Route 5 adjacent to the Project each day. The Project anticipates generating 100 vehicle trips per day, representing a 3.84% increase in traffic generated by the Project. The DOT did not raise any concern that the anticipated increase in truck traffic generated by the Project will exceed the vehicle capacity of State Route 5. Both the Town's Engineer and the Applicant's Engineer (Giles) opined that the addition of vehicle trips generated by the proposed Project will not meaningfully increase existing traffic noise or significantly increase traffic volume. The Planning Board found that a 3.84% increase in traffic to be *de minimus* and not likely to affect nearby property owners or result in a noticeable increase in traffic noise or exhaust odors.

Criteria Two:

Maximum safety for vehicular circulation between the site and street network.

Findings:

The existing access to the Project site is from State Route 5 via three existing gravel driveways. DOT has reviewed the Project's Site Plans and on February 7, 2025 made the following recommendations: access to State Route 5 from the Project shall be by one paved driveway meeting New York State DOT design standards, including sight distances, that no equipment or materials could be staged within the State Highway right-of-way, and all signage would be on private property.

The Planning Board finds that vehicular circulation between the Project site and State Route 5 by one paved driveway meeting DOT design standards will provide sufficient access for dump trucks and tractor trailers to enter and exit from State Route 5. Likewise, a centrally located access road meeting DOT design standards will be sufficient for access by fire, life safety, and emergency vehicles. The Revised Site Plans show that within the mine, haulage ways, open space, and designated truck loading stations are adequate to handle the anticipated truck traffic and provide sufficient access for emergency vehicles.

Criteria Three:

Adequacy of interior circulation, parking and loading facilities with particular attention to vehicle and pedestrian safety.

Findings:

The single purpose commercial nature of the Project and limited number of vehicles entering the Project site per day does not require a complex interior road network. Trucks will enter the mine, drive to the loading area, get loaded and then exit the mine. There is adequate space for trucks to park while waiting to load and for the mine operator and employees to park several passenger vehicles.

Unlike a subdivision or a commercial retail space (i.e. a mall), the access road is not intended for public use, and no pedestrian traffic is anticipated.

Criteria Four:

Adequacy of landscaping and setbacks regarding achieving maximum compatibility and protection to adjacent residential districts.

Findings:

The Zoning Ordinance defines a “Yard” as “a space on a lot not occupied with a building.” In the AG-120 Zoning District, section 432 sets the front yard minimum at 50 feet, the rear yard minimum at 30 feet, and the side yard minimum at 30 feet on each side, measured from the front, rear, and side lines of a building on the lot, or proposed to be constructed, to the property lot line. The distance between a lot’s property line and the front, side, or rear line of a building is commonly called a “setback.” Under the Manheim Zoning Ordinance, if there is no building or proposed building, there can be no required “yard minimum” or “setback.”

The DEC Mining Permit established setbacks from the “Life of Mine Limit” to the Applicant’s Property line at 75 feet on the west side, 25 feet on the east side, and 25 feet on the north side, and 60 feet on the south side of the Project.

The Planning Board, in addition to being personally familiar with the Project site and surrounding properties, reviewed the Revised Site Plans and photographs which show that the permitted mining area will be partially screened from public view by existing hedgerows, trees, distance, and topography.

The public’s only view of the Project is from the south and primarily by passengers in vehicles traveling east and west on State Route 5. The short, literally seconds long, view of the Project by passersby minimizes the impact of the Project on community character.

Nearby neighbors’ view of the Project will be blocked, in part, by the topography due to the location of the “Life of Mine Limit” area within Applicant’s 22 acre parcel, the existing woods, and distance which will soften the views of the Project from nearby properties, mitigate potential visual impacts, and maximize compatibility with existing adjacent property uses. The Planning Board was satisfied that the existing wooded areas bordering the Project site adequately screen the Project from off-site views to the extent practicable.

Section 530-PERFORMANCE STANDARDS

- A. The Planning Board is required to decide if the special use permit applied for in connection with the Project meets overall New York State air and water pollution standards.

Findings:

Based on the Revised Site Plans and information provided by the Applicant as well as the SEQRA review conducted by the Planning Board, the Project does not include a state-regulated air emissions source that might impact air quality. As a part of the SEQRA review of the Project, Planning Board determined there would be no or only a small impact on wetlands or other bodies of surface water and there was no potential to introduce contaminants to the groundwater.

The Town Engineer advised that DEC reviews every mining permit application for appropriate stormwater protection practices and drainage before issuing its mining permit. In addition, the Town Engineer noted that the proposed mine plan provides for “inward” flow of surface water and groundwater toward the interior of the mine and that surface and stormwater would be directed inward to a detention pond located on the Applicant’s property. The Project does not plan to discharge water off-site, so no SPEDES permit is required.

- B. The Planning Board is required to ensure that the special use permit applied for in connection with the Project does not exceed any of nine performance standards set forth in Section 530, measured at the property line.

Standard # 1:

The proposed use shall not emit noises in excess of 70 decibels, dBA;

Findings:

It is inherent to the very nature of mining that mining operations generate noise. No one disagrees that the Applicant’s proposed sand and gravel mine will produce some level of noise. The central question to be addressed by the Planning Board is whether the noise generated by Applicant’s proposed mining operation will emit noises in excess of 70 decibels (dBA) measured at the Applicant’s property line.

Between October 21, 2024 and April 28, 2026, the Planning Board received, reviewed, and considered no fewer than 11 engineering reports addressing the levels and potential impacts of noise likely to be generated during the operation of the Applicant's proposed mine.

Initially, the Applicant's Engineer (Giles) concluded that the noise generated by the Applicant's proposed mining operation would "not exceed ambient levels at nearby residences" and opined that "sound impacts to dwelling occupants will be small." However, Mr. Giles' engineering report did not state what the predicted decibel level would be at the property line, which is a key factor for the Planning Board in determining whether the Applicant's mining activity will meet the Town's 70 dBA property line limit.

The Town's Engineer (Lamont) noted that DEC's noise analysis indicated that noise levels while the mine is active would be in the 50 dBA to 60 dBA range at the edge of the property. Barton & Laguidice, the engineers retained by nearby neighbors Sargeant and Aney opposing the Applicant's project, reviewed the Giles' report and noted deficiencies in the information gathered and methodology, and challenged Giles' analysis. Barton & Laguidice stated that the Giles' Noise Assessment did not demonstrate compliance with the Town's 70 dBA property line limit.

Between September and November 2025, the Applicant's and nearby neighbor's engineers provided additional information and exchanged critiques of each other's reports. However, none of those reports directly addressed the question of what the predicted dBA level would be at the Applicant's property line. The Planning Board's consulting engineer, Hanson & Van Vleet, reviewed the prior engineering reports and suggested additional measurements, methodologies, and information to be gathered to address the question of what the predicted dBA level would be at the Applicant's property line. In a January 2026 report, the Applicant's engineer (Giles), relying on the additional information collected and analyzed, claimed that the data demonstrated compliance with the Town's 70 dBA property line limit. However, the Giles January 2026 report never addressed the question of what the predicted dBA level would be at the Applicant's property line. The nearby neighbors engineer (Barton & Laguidice) challenged the reliability of the data collected by Giles and stated, among other things, that the noise problem attenuation claimed by Giles was not supported by the data.

In March 2026 the Planning Board retained SLR Engineering, Landscape Architecture, and Land Surveying, P.C. ("SLR") to review the previously performed noise analyses related to

the Applicant's proposed mining project. SLR reviewed the methodology and data in previously prepared noise reports and found that the data and information was sufficient to determine what the sound levels would be at the Project property lines.

In a worst-case scenario, without considering any sound attenuation due to intervening terrain, vegetation or the proposed earthen berms, SLR found that the predicted sound level at the West property line would be 69 dBA. Considering existing terrain and vegetation attenuation, but without considering the proposed earthen berms being installed, SLR found that the predicted sound level at the West property line would be 59 dBA.

Without considering any sound attenuation due to intervening terrain or vegetation, SLR found that the predicted sound level at the East property line would be 65 dBA. Taking into account existing terrain and vegetation attenuation and without considering any earthen berms being installed, SLR found that the predicted sound level at the East property line would be 54 dBA.

SLR concluded that sound levels generated by the Applicant's proposed mining operation are predicted to meet the Town's 70 dBA property line limit.

Standard # 2:

The proposed use shall not emit any odor which is considered offensive.

Findings:

Exhaust fumes are the only "offensive" odor which will be generated by the mining operation. The equipment used during the operation of the mine includes one diesel powered frontend loader and one machine used to screen the mined material. No "rock crushing" machines or equipment will be used. At any one time a varying number of diesel-powered trucks will enter the site to be loaded. Although the Applicant anticipates up to 50 trucks being loaded daily, it is unlikely that all those trucks would be on-site at the same time. Dump trucks owned by the applicant will be equipped with automatic idle shut offs for reducing exhaust emissions.

The screening and loading will be centrally located within the mine and not adjacent to the "Life of Mine Limit" lines, further reducing the likelihood exhaust fumes would be emitted beyond the Applicant's property lines.

Standard # 3:

The proposed use shall not emit dust or dirt, which is considered offensive.

Findings:

The Applicant's DEC Mining permit sets forth conditions and requirements for the control of dust resulting from mining operations leaving the mine property. Specifically, the DEC mining permit requires the Applicant to use water, calcium chloride or other approved materials to control dust resulting from excavating, processing, and the use heavy equipment from leaving the project site. The DEC Mining permit also requires the Applicant to keep all entrance and exit roads cleared of any spilled or tracked material to control dust and dirt from accumulating and creating a condition which is unhealthy.

The Applicant will use a water truck to maintain adequate moisture on the mine floor and roadways and will sweep paved areas to prevent dust generation. The Applicant's Engineer stated that Trucks will be kept clean to prevent tracking of mud onto the highway.

Standard # 4:

The proposed use shall not emit any smoke, in excess of the Ringelmann Chart No. 2;

Findings:

The Ringelmann Chart No. 2 measures emissions from smokestacks. The Project does not include the construction or use of a smokestack. As no smoke will be emitted, the Ringelmann Chart does not apply.

Standard # 5:

The proposed use shall not emit any noxious gases which endanger the health, comfort, safety or welfare of any person, or which have a tendency to cause injury or damage to property, business, or vegetation.

Findings:

No use of chemicals is proposed that would generate any noxious gases. No noxious gases will be used or stored on the Project site.

Standard # 6:

The proposed use shall not cause, as a result of normal operations, a vibration which creates displacement of 0.003 of 1 inch.

Findings:

The Applicant's Engineer (Giles) provided information that ground displacement is typically used to assess low-frequency vibration from the movement of heavy equipment. Based on Engineer Giles' calculations, under normal operations the Applicant's proposed mining activity will not cause vibrations which exceed 0.003 of 1 inch.

Standard # 7:

The proposed use shall not create a glare by lighting or signs which would impair the vision of a driver of any motor vehicle.

Findings:

No area lighting of the mine is proposed for the Project. No lighted signage is proposed and there is no fixed on-site lighting directed off-site which might impair the vision of drivers.

On site lighting will be limited to vehicle lights used during excavation, processing, loading and driving trucks. The processing and loading sites are located within Project site and distant from State Route 5 such that vehicle lights will not impair the vision of drivers.

Standard # 8:

The proposed use shall not cause a fire, explosion or safety hazard.

Findings:

The Applicant's Project will not generate or store any hazardous waste, chemicals, petroleum-based products, or other flammable or combustible substance on the Project site which could cause a fire, explosion or safety hazard, especially given the distance of the mined area from nearest residences.

The mining equipment, loader and trucks, will be refueled as necessary directly from fuel delivery trucks. No diesel fuel will be stored on the Project site.

Standard # 9:

The proposed use shall not cause harmful waste to be discharged into the sewer system, streams or other bodies of water.

Findings:

The Project does not produce harmful waste. To prevent the discharge of harmful waste, all stormwaters will be directed inward toward the mine and retained on-site in a detention pond.

Planning Board's Conclusions

Based on the Planning Board's site plan review of the Project and its findings relative thereto summarized above, Planning Board finds that the Applicant's Revised Site Plan satisfies the requirements and performance standards of the Zoning Ordinance for site plan approval.