

Supplemental Determination: Classification of Proposed Transit-Mix Concrete Plant Following Adoption of Local Law A of 2026

Date: September 23, 2026

Property: **3260 Route 9W, Highland, NY 12528 (S.B.L. 80.3-2-8), Light Industry (LI) District**

Applicant/Owner: **3260 Route 9W Highland LLC**

Issuing Officer: **David E. Barton II, Director of Building, Planning and Zoning Enforcement**

Authority: **§42-4.B of the Town of Lloyd Ordinance**

1. Request and Procedural Posture

By letter dated September 21, 2026, counsel for 3260 Route 9W Highland LLC (the "Applicant") requested that the Department withdraw its determination dated July 8, 2026 (the "July 8 Determination") and issue a new determination confirming that, notwithstanding the adoption of Local Law A of 2026 (the "Local Law"), the Applicant's proposed concrete plant (the "Project"), including recent design revisions, remains a Light Industry use permitted in the LI District (the "Request Letter"). In the alternative, the Request Letter asks for a determination that the Project can constitute Heavy Industry only if the Planning Board finds that the Project's scale exceeds the thresholds described in the Heavy Industry definition (Request Letter, pp. 1–2, 7–8).

The July 8 Determination is the subject of three appeals by aggrieved parties now pending before the Zoning Board of Appeals ("ZBA"). The Department does not act in this determination to withdraw, modify, or moot the July 8 Determination or to limit the ZBA's review of it. This Supplemental Determination instead addresses a question the July 8 Determination could not have addressed: whether the Local Law, which took effect upon filing with the Secretary of State on September 11, 2026, changes the classification of the Project. It also reflects the Project's current design, which differs in certain respects from the facts described in the July 8 Determination (see Section 2). To the extent the factual descriptions in the two determinations differ, this Supplemental Determination reflects the current record.

The pending appeal does not operate as an automatic stay of the Applicant's proceedings. In the Saugerties concrete-plant litigation, the Appellate Division, Third Department, held that a trial court ruling that an adjacent owner's appeal to the ZBA of a certificate of occupancy did not trigger the statutory stay of Town Law §267-a(6) was the law of the case, and that the applicant should have been granted a declaration to that effect (*Bonded Concrete v Town of Saugerties*, 282 AD2d 900, 901–904 [3d Dept 2001], lv dismissed 97 NY2d 653 [2001]; see also *Mamaroneck Beach & Yacht Club, Inc. v Fraioli*, [24 AD3d 669] [2d Dept 2005] [automatic stay of Village Law §7-712-a(6), identical to Town Law §267-a(6), does not apply to appeal by a third party]). The Department's decision not to withdraw the July 8 Determination therefore rests not on any statutory stay but on respect for the ZBA's pending review.

This Supplemental Determination applies the Zoning Code as amended by Local Law A-2026. In land use matters, the law in effect when a matter is decided governs, regardless of intervening amendments, unless “special facts” show that the municipality in bad faith delayed action on a proper application while it changed the law (Matter of Rocky Point Drive-In, L.P. v Town of Brookhaven, 21 NY3d 729 [2013]; Matter of Pokoik v Silsdorf, 40 NY2d 769, 772–773 [1976]). The Request Letter does not claim special facts, and the Department does not rely on that exception. The question is whether the Project qualifies as Light Industry under the law as amended.

Interpretation of an existing code is a Type II action not subject to review under the State Environmental Quality Review Act (6 NYCRR 617.5[c][37]). This determination does not substitute for or limit the Planning Board’s environmental review of the Project.

Record Reviewed

- a. The Request Letter dated September 21, 2026, including Attachment A (the July 8 Determination), Attachment B (Local Law A of 2026 as filed with the Department of State), and Attachment C (Southern Ulster Times article dated August 26, 2026).
- b. Local Law A of 2026, including Section II (Legislative Findings) and Section IV (Provisions Added/Amended).
- c. Chapter 100 of the Town of Lloyd Ordinance (Zoning Code), including §100-8 (Definitions), §100-38.C(3), and the Use Table.
- d. The Applicant’s site plan application and supporting materials on file with the Planning Board.
- e. The Applicant’s withdrawal of its application to the ZBA for a building-height variance.

2. The Project as Currently Proposed

The Project is a transit-mix concrete plant. As described in the Request Letter and confirmed by the record, a transit-mix plant receives horizontally delivered aggregate and cement, transfers those materials into vertical aggregate and cement silos, and gravity-loads measured quantities of the materials into ready-mix trucks. The materials are blended inside the truck drum while in transit to the job site (Request Letter, pp. 5–6). There is no central mixing drum and no mixing of concrete within the plant. The July 8 Determination’s references to “mixing units” and to batching wet concrete on site do not describe the current design and are superseded by this description.

The Applicant has withdrawn its application to the ZBA for a variance to allow a building of 60 feet and has represented that all buildings will be designed to comply with the Zoning Code’s 45-foot maximum height.

The Applicant has also represented the following design and operational features, each of which is relied on in this determination and incorporated as a condition in Section 9:

- Conveyors, weigh hoppers, cement transfer equipment, and the truck-loading point are to be housed within an enclosed, insulated steel building.
- Dust is controlled by depressurization and dust-collection (baghouse) systems at the points where cement is transferred, and by a sealed or shrouded discharge chute with dust collection where dry materials are loaded into trucks.
- No crushing, screening, or other processing of aggregate occurs on site.
- Outdoor storage is limited; most material is held in silos (Request Letter, p. 6).
- Projected electricity use is under 120 MWh per year, and no new or upgraded substations or transmission lines are required (Request Letter, p. 6).
- Projected water use is approximately 10,000 gallons per day, to be supplied by a connection to municipal water requested by the Planning Board, subject to Town Board and water district approval (Request Letter, p. 6).
- Truck trips to and from the site are to be limited to a volume below that experienced at comparable plants the Applicant operates. The Request Letter does not address this commitment; it is drawn from the traffic study submitted with the site plan.

3. Governing Provisions

The Use Table lists "Light industry" as a permitted use (P*) in the LI District. Section 100-8 defines it as follows, and the Local Law did not amend this definition:

LIGHT INDUSTRY

Manufacture, assembly, treatment, processing, or packaging of products that does not emit objectionable levels of smoke, noise, dust, odor, glare, or vibration beyond the property boundaries.

Section IV of the Local Law added the following definition to §100-8:

HEAVY INDUSTRY

A use engaged in the basic provisioning manufacturing and processing of materials or products predominately from extracted or raw natural resources, or a use engaged in storage of, or manufacturing processes using, hazardous or explosive materials. Key characteristics include scale [the use often involves large-scale machinery, significant outdoor storage, or high volume utility consumption], external impacts [the use may produce significant noise, odors, glare, or vibrations that are inherent to the process and may be detectable beyond the property boundaries], air emissions with or without monitoring requirements, infrastructure needs [including substantial water, electric or chemical power and accommodating heavy multi-axle freight traffic]. Examples include but are not limited to metal refineries, chemical manufacturing, concrete batching plants including ready-mix plants or raw concrete manufacturing, asphalt batching, scrap metal processors, chemical synthesis plants, tire recycling

facilities and large-scale vehicle salvage. This definition shall not include incidental storage or lawful use of hazardous materials customarily associated with otherwise permitted uses.

The Local Law did not amend the Use Table. The Use Table contains no “Heavy Industry” use row, and the Local Law did not add Heavy Industry to, or remove any use from, the list of uses permitted in the LI District. The Local Law also did not amend the Light Industry definition or any district regulation.

Section II of the Local Law states that the Town Board “seeks to regulate Light Industry and Heavy Industry throughout the Town,” and that it “considered the potential impacts of industrial uses, including chemical manufacturing, large scale vehicle salvage, concrete batch plants or manufacturing products containing concrete and similar uses and the associated dust, smoke, vibration, noise, hazardous materials and vehicle traffic and other factors that result in impact within the Town and their surrounding neighborhoods, particularly residential areas.” The Request Letter does not discuss these findings. They are addressed in Section 5 below.

4. Interpretive Standards

The Department applies the following standards. Where the Request Letter relies on a standard, that is noted; the remaining authorities were identified independently by the Department.

- a. Narrow issue.** An interpretation of a zoning provision should decide only the narrow issue presented (Request Letter, p. 4, citing *Matter of BBJ Assocs., LLC v Zoning Bd. of Appeals of Town of Kent*, 65 AD3d 154, 159 [2d Dept 2009]). The narrow issue here is whether this Project, as currently designed and conditioned, is a Light Industry use in the LI District after the Local Law. This determination does not decide whether any other concrete plant, or concrete plants generally, are Light or Heavy Industry.
- b. Standard of review.** An interpretation of a zoning provision on matters within the administering body’s expertise is given great weight and will be upheld unless irrational, unreasonable, or inconsistent with the governing law (*Matter of Toys “R” Us v Silva*, 89 NY2d 411, 418–419 [1996]; *Matter of Frishman v Schmidt*, 61 NY2d 823, 825 [1984]). Where the question is one of pure legal interpretation of the code’s terms, no deference is required, and an interpretation contrary to plain meaning will not be enforced (*Toys “R” Us*, 89 NY2d at 419; *Matter of Raritan Dev. Corp. v Silva*, 91 NY2d 98, 102–103 [1997]). This determination therefore separates its reading of the Local Law’s text (Sections 5.A–5.C and 5.E), a legal question, from its findings about the Project’s characteristics and impacts (Sections 5.D and 7), which rest on the record identified in Section 1.
- c. Strict construction.** Zoning regulations are in derogation of the common law and are strictly construed against the municipality that enacted them; they may not be extended by implication (*Matter of Allen v Adami*, 39 NY2d 275, 277 [1976]; *Matter of Bonded Concrete v Zoning Bd. of Appeals of Town of Saugerties*, 268 AD2d 771, 774 [3d Dept 2000], lv denied 94 NY2d 764 [2000]; Request Letter, p. 4, citing *KMO-361 Realty Assocs. v*

Davies, 204 AD2d 547, 548 [2d Dept 1994], and Inc. Vil. of Old Field v Hickey, 225 AD2d 666, 669 [2d Dept 1996]).

- d. Ambiguity.** Ambiguity in a zoning provision is resolved in favor of the property owner (Request Letter, pp. 4–5, citing Matter of Mamaroneck Beach & Yacht Club, Inc. v Zoning Bd. of Appeals of Vil. of Mamaroneck, 53 AD3d 494, 498 [2d Dept 2008], and Sposato v Zoning Bd. of Appeals of Vil. of Pelham, 287 AD2d 639 [2d Dept 2001]). The Third Department has applied the rule where a provision is ambiguous and its context convincingly demonstrates that the ambiguity is properly resolved in the owner's favor (Bonded Concrete, 268 AD2d at 775; Bonded Concrete, Inc. v Town of Saugerties, 24 AD3d 943 [3d Dept 2005]). The Department therefore does not treat ambiguity alone as decisive; Section 5 identifies the context on which it relies.
- e. Every word has meaning.** Each word of an enactment is to be given meaning, and a construction that renders language superfluous is to be avoided (Toys “R” Us, 89 NY2d at 419, citing Matter of Bliss v Bliss, 66 NY2d 382, 388–389 [1985]; Majewski v Broadalbin-Perth Cent. School Dist., 91 NY2d 577, 587 [1998]; Bonded Concrete, 268 AD2d at 774).
- f. Undefined terms.** Terms not defined in the Zoning Code are given their ordinary dictionary meaning (Bonded Concrete, 24 AD3d 943 [applying the dictionary meaning of the undefined term “static”]; Matter of Oefelein v Town of Thompson Planning Bd., 9 AD3d 556, 558 [3d Dept 2004]; Pardi v Barone, 257 AD2d 42, 44 [3d Dept 1999]).
- g. Illustrative lists.** A definition that lists items following “including” is not all-inclusive, but it reaches only items similar to those listed (Bonded Concrete, 24 AD3d 943 [construing the Saugerties definition of “structure”]). Listed items are likewise read in light of the general words they illustrate and the company they keep (see McKinney’s Cons Laws of NY, Book 1, Statutes § 239).
- h. Comparison with other provisions.** Where a legislative body has stated a requirement clearly in one provision and not in another, the contrast is evidence that the requirement was not intended in the second (Bonded Concrete, 268 AD2d at 775 [contrasting an ambiguous site-plan provision with a later amendment that clearly required site-plan approval for all new structures]).
- i. Text first.** The enacted text of a law, read as a whole and including its adopted legislative findings, is the primary evidence of legislative intent. Statements of individual officials are addressed in Section 6.
- j. Reasonable person.** The Department applies a reasonable person standard in assessing whether impacts would be “objectionable,” as in the July 8 Determination.

5. Whether the Project Is Heavy Industry

A. Structure of the definition

The Heavy Industry definition has three parts: an operative clause stating what Heavy Industry is; a statement of “key characteristics”; and a list of examples introduced by “include but are not limited to.”

The Request Letter argues that a use must meet the operative clause and then “must also” be evaluated for scale, external impacts, air emissions, and infrastructure needs, so that all four characteristics operate as mandatory elements (Request Letter, p. 5). The Department does not adopt that framing. The definition says the key characteristics “include” these items; that language is descriptive rather than a list of required elements, and the Department declines to read in a requirement the text does not state. The Department does, however, agree with the Request Letter that the characteristics are relevant: they are the definition’s own description of what distinguishes Heavy Industry, and they are the most reliable guide to whether a particular proposal belongs in the category.

B. The examples

The examples include “concrete batching plants including ready-mix plants or raw concrete manufacturing.” A reasonable reader could take this as a legislative classification of every concrete plant as Heavy Industry. The Department has considered that reading carefully, because it is the principal argument against the Applicant’s position.

The Department concludes that the examples illustrate the category rather than conclusively classify every variant of each listed use, for three reasons. First, the phrase “include but are not limited to” introduces illustrations. Second, if naming a use were conclusive, the operative clause and key characteristics would do no work for any listed use; the definition is instead written so that a listed use is recognized by the same features that define the category. Third, the Local Law made no change to the Use Table or to the Light Industry definition. Treating the example as an automatic reclassification would have the effect of removing a use from the LI District by implication, which the strict-construction rule in Section 4(b) does not permit.

The other examples — metal refineries, chemical manufacturing, asphalt batching, scrap metal processors, chemical synthesis plants, tire recycling facilities, and “large-scale vehicle salvage” — are uses whose impacts arise from heat, chemical reaction, combustion, or the handling of large volumes of waste material. The Town Board attached the qualifier “large-scale” to one example, confirming that scale was meant to matter in applying the list. Consistent with the Third Department’s reading of an “including” list in *Bonded Concrete*, 24 AD3d 943, the example reaches concrete plants that share the characteristics of the category; it does not reach every plant regardless of its design (Section 4[g]).

The Zoning Code also shows that the Town knows how to exclude cement and concrete manufacturing categorically when it intends to. Section 100-38.C(3) states that listed high-impact uses, including Cement and Concrete Manufacturing (NAICS 3273), “are expressly prohibited” in the Walkway Gateway District. The Local Law contains no comparable language:

it prohibits no use, does not amend the Use Table, and removes no use from the LI District. As in Bonded Concrete, where the Third Department contrasted an ambiguous provision with another section in which the Town Board had clearly imposed the requirement at issue (268 AD2d at 775), the contrast here indicates that the Local Law was not intended to operate as a categorical exclusion (Section 4[h]).

At a minimum, the example is ambiguous as applied to a plant designed to avoid the characteristics the definition describes. The context described above — the non-exclusive wording, the character of the other examples, the absence of any change to the Use Table or the LI District, and the Town's use of express prohibition language elsewhere in the Code — convincingly demonstrates that the ambiguity is properly resolved in the owner's favor (Section 4[d]).

C. The operative clause

The relevant alternative (the Project involves no hazardous or explosive materials beyond those customarily associated with permitted uses) is a use "engaged in the basic provisioning manufacturing and processing of materials or products predominately from extracted or raw natural resources."

"Basic provisioning." This modifier must be given meaning. Read with the examples in the definition (metal refineries, chemical manufacturing, chemical synthesis), it describes primary industry: operations at the start of the production chain that fundamentally transform raw materials. The Project is at the other end of that chain. It receives materials that other facilities have already produced or processed — cement manufactured in a kiln, and aggregate and sand already quarried, crushed, graded, and screened — stores them, measures them, and loads them into trucks. Under the transit-mix design, the blending itself occurs in the truck, off site.

Neither "basic" nor "provisioning" is defined in the Zoning Code, so each takes its ordinary dictionary meaning (Section 4[f]). Giving the modifier effect, as Section 4(e) requires, the phrase describes primary production that supplies base materials to other industries. Reading "basic provisioning" to cover any processing of materials that originated in nature would leave the words without effect.

"Predominately from extracted or raw natural resources." By volume, aggregate and sand make up most of a concrete mix, and those materials originate as natural resources. Opponents may reasonably argue that this satisfies the clause. The Department notes, however, that the clause is directed at uses that work with materials in their extracted or raw state. The Project does not extract, crush, or screen anything; its inputs arrive as processed construction materials. The Department finds that the operative clause does not clearly reach the Project, and that any ambiguity is resolved under Section 4(c).

The Request Letter goes further and argues that a transit-mix plant does not engage in "manufacturing and processing" at all (Request Letter, pp. 5–6). The Department does not adopt that argument. Weighing, proportioning, and loading materials to produce a specified batch of concrete is processing and packaging of a product. The North American Industry Classification System, which §100-38.C(3) of the Zoning Code itself uses, classifies ready-mix plants under

NAICS 327320, Ready-Mix Concrete Manufacturing, and lists transit-mixed and truck-mixed concrete manufacturing among that industry's activities. The Third Department likewise described the portable batch equipment at issue in the Saugerties litigation as concrete manufacturing equipment (Bonded Concrete, 24 AD3d 943; Bonded Concrete, Inc. v Town of Saugerties, 42 AD3d 852 [3d Dept 2007]). The conclusion that the Project processes and packages a product also informs the Light Industry finding in Section 7. The Department's finding under the operative clause rests on the "basic provisioning" and "extracted or raw" language, not on any claim that the Project processes nothing.

D. Key characteristics

Scale

The definition describes a use that "often involves large-scale machinery, significant outdoor storage, or high-volume utility consumption."

Machinery. Under the transit-mix design there is no central mixer, crusher, or screen. The Project consists largely of stationary silos, conveyors, and weigh hoppers (Request Letter, p. 6), with conveyors and the loading point enclosed in an insulated steel building. All buildings will comply with the 45-foot height limit, following withdrawal of the variance application. The Department finds that the Project does not involve large-scale machinery in the sense the definition describes. There will also be a boiler to heat water in colder months.

Outdoor storage. The Request Letter acknowledges some outdoor storage but states that most material is held in silos and that outdoor storage is not significant relative to other uses in the LI District (Request Letter, p. 6). The Department finds outdoor storage is not significant, subject to Condition 6.

Utility consumption. The Request Letter reports projected electricity use of under 120 MWh per year, compared with the 2,500 MWh level at which the Department of Environmental Conservation's Full Environmental Assessment Form workbook indicates a potential energy impact, and states that no new or upgraded substations or transmission lines are needed (Request Letter, p. 6 and n. 2). Projected water use of approximately 10,000 gallons per day will be served by a municipal connection requested by the Planning Board, subject to approval by the Town Board and the water district (Request Letter, p. 6). The Department finds that utility consumption is not high volume.

External impacts

The definition describes a use that "may produce significant noise, odors, glare, or vibrations that are inherent to the process and may be detectable beyond the property boundaries." The operative word is "inherent": impacts that cannot be separated from the process. Some listed examples, such as asphalt batching, produce odor and emissions that no enclosure can eliminate because they come from heating petroleum products. A transit-mix concrete plant is a cold process with no heating, combustion, or on-site mixing. Its principal potential impacts — conveyor and loading noise, and dust at transfer and loading points — respond directly to enclosure and dust-collection controls, which the Project incorporates. The Department finds that the Project, as designed and conditioned, does not produce significant external impacts

inherent to the process. This is consistent with the Request Letter's position (Request Letter, p. 7) but rests on the analysis in Section 7.

Air emissions

The Project involves no combustion or chemical process. Dust, the one air-quality concern specific to the use, is controlled at each transfer and loading point by the systems described in Section 2. Truck exhaust is comparable to that of other vehicle-intensive uses permitted in the LI District.

Infrastructure needs

Water and electricity are addressed above. The Project uses no chemical power. The Project will use multi-axle trucks. The Request Letter notes that the site is on New York State Route 9W, a commercial trucking route with truck pull-offs, and that the Applicant's traffic study concluded the Project will not result in traffic impacts (Request Letter, p. 7). [Traffic Assessment, Highland Batch Plant, US Route 9W, Town of Lloyd, Ulster County, New York; CM Project No. R251377.00, October 21, 2025, Creighton Manning]. In addition, the Applicant has committed to a maximum truck-trip volume below that of its comparable plants, which is made a binding condition (Condition 7). The Department finds that the Project's infrastructure needs do not match the heavy-infrastructure characteristic of the definition.

E. The Legislative Findings

Section II of the Local Law names concrete batch plants among the uses whose impacts the Town Board considered. The Department gives these findings significant weight, because they are part of the enacted text. The findings are directed at impacts — "dust, smoke, vibration, noise, hazardous materials and vehicle traffic" — and at their effect on surrounding neighborhoods. They also state the Board's aim to regulate both Light Industry and Heavy Industry, not to eliminate a category of use. The Department reads the findings as confirming that the line between the two categories is drawn by impact. Each impact the findings identify is addressed by the Project's design and by the conditions of this determination. The findings therefore support, rather than undercut, a classification based on the Project's actual impacts.

F. Conclusion on Heavy Industry

The Department finds that the Project, as currently designed and conditioned, is not Heavy Industry within the meaning of §100-8.

6. Statements of the Town Supervisor

The Request Letter relies on statements by the Town Supervisor at the August 19, 2026 Town Board meeting, including that "light remains unchanged," that the definition "does not prohibit any particular project but rather offers guidance," and that "[e]xamples offered in the code are merely examples," as well as on his later remarks to a newspaper that the Local Law would not affect the Project (Request Letter, pp. 3–4 and Attachment C).

The Department has not relied on these statements. The interpretation in this determination rests on the enacted text of the Local Law, including its legislative findings, and on the Zoning

Code. Remarks by a single member of a legislative body, even when made on the record before a vote and not contradicted by other members, do not establish the intent of the body as a whole, and they cannot alter or supplement the text the body adopted. Remarks made after enactment, including those reported in Attachment C, are not legislative history. The authority to interpret the Zoning Code rests with this Department, subject to review by the ZBA.

This approach is consistent with the Court of Appeals' treatment of legislative intent. Effective December 10, 2025, that Court amended its Rules of Practice to bar amicus submissions presenting the views of individual lawmakers outside the publicly available contemporaneous legislative history (22 NYCRR 500.23) reflecting its longstanding reliance on statutory text and officially adopted materials, such as preambles and legislative findings, rather than the statements of individual legislators. Here, the officially adopted material is Section II of the Local Law, which the Department has addressed in Section 5.E.

The Department notes only that the Supervisor's on-the-record remarks are consistent with the conclusions reached independently above: that the Local Law did not change the Light Industry definition and that the listed examples are illustrative. The Department also notes that the same article reports the Supervisor's view that classification should follow review of a complete project plan. This determination is based on the record identified in Section 1 and is expressly conditioned on the Project as designed; Planning Board site-plan and environmental review is unaffected (see Section 8).

7. Whether the Project Is Light Industry

A. Manufacture, treatment, processing, or packaging of products

The Project stores, weighs, proportions, and loads the ingredients of concrete in specified quantities to produce batches of concrete for delivery. That activity is the treatment, processing, and packaging of a product. The fact that final blending occurs in the truck drum does not change the character of the on-site activity. The first element of the Light Industry definition is satisfied.

This conclusion is consistent with the classification of transit-mix plants as manufacturing under NAICS 327320 (Section 5.C) and with the Zoning Code's own inclusion of Cement and Concrete Manufacturing among light industrial uses in §100-38.C(3).

B. Objectionable emissions beyond the property boundaries

Dust

In a transit-mix plant, the principal potential dust source is the loading of dry materials into the truck, together with the transfer of cement into silos and weigh hoppers. The Project controls dust at each of these points through depressurization and dust collection, a sealed or shrouded loading chute with dust collection, and enclosure of conveyors and the loading point. No crushing or screening occurs. The Department finds that no objectionable levels of dust are expected beyond the property boundaries.

Noise

There is no central mixer, crusher, or screen. Conveyors, weigh hoppers, and the loading point are enclosed within an insulated steel building. Remaining sources are truck movements and drum rotation during loading, which occurs within the enclosed loading area, and loader activity at outdoor storage. The Department finds that no objectionable levels of noise are expected beyond the property boundaries.

Vibration

Without on-site mixing or crushing, the sources of vibration are conveyors, which are enclosed, and truck and loader movements, which are limited by the trip-volume condition. The Department finds that no objectionable levels of vibration are expected beyond the property boundaries.

Smoke

The process involves no combustion or heating. The Department finds that no objectionable levels of smoke are expected beyond the property boundaries.

Odor

Cement, aggregate, sand, and water do not produce process odors. The Department finds that no objectionable levels of odor are expected beyond the property boundaries.

Glare

The process produces no glare. Site lighting will be reviewed by the Planning Board. The Department finds that no objectionable levels of glare are expected beyond the property boundaries.

The Project satisfies both elements of the Light Industry definition.

8. The Alternative Request

The Request Letter asks, in the alternative, for a determination that the Project can constitute Heavy Industry only if the Planning Board finds at the conclusion of its review that the Project's scale "exceeds the thresholds described in the definition of Heavy Industry" (Request Letter, pp. 2, 7-8). The Department declines this request. The Heavy Industry definition contains no numerical thresholds, and classification of a use under the Zoning Code is an interpretive function of this Department, reviewable by the ZBA, rather than a matter delegated to the Planning Board.

Once a use falls within a category the Town Board has listed as permitted in a district, that listing is tantamount to a legislative finding that the use is in harmony with the zoning plan and will not adversely affect the neighborhood (*Matter of North Shore Steak House v Board of Appeals of Inc. Vil. of Thomaston*, 30 NY2d 235, 243 [1972]). The Project's remaining site-specific impacts are therefore addressed through the Planning Board's site-plan and environmental review and through the conditions of this determination, not by reopening the classification.

Nothing in this determination limits the Planning Board's site-plan or environmental review, including its authority to evaluate the Project's impacts and impose conditions. If that review results in a design materially different from the one described in Section 2, the Project is subject to re-review under the conditions below.

9. Determination

Pursuant to §42-4.B of the Town of Lloyd Ordinance, and applying the reasonable person standard to the record identified in Section 1, the Department determines as follows:

- A. Local Law A of 2026 added a definition of Heavy Industry to §100-8. It did not amend the definition of Light Industry, the Use Table, or the uses permitted in the LI District.
- B. The examples in the Heavy Industry definition are illustrative. The listing of concrete batching plants does not by itself classify the Project as Heavy Industry; the Project must be evaluated against the definition as a whole. To the extent the definition is ambiguous as applied to the Project, the ambiguity is resolved in favor of the property owner.
- C. The Project, a transit-mix plant as currently designed and conditioned, does not engage in basic provisioning manufacturing or processing of extracted or raw natural resources, and does not exhibit the key characteristics of Heavy Industry. It is not Heavy Industry.
- D. The Project satisfies the definition of Light Industry: it involves the treatment, processing, and packaging of a product, and, as designed and conditioned, is not expected to emit objectionable levels of smoke, noise, dust, odor, glare, or vibration beyond the property boundaries.
- E. The Project is therefore a Light Industry use permitted (P*) in the LI District, subject to site-plan approval by the Planning Board.
- F. The alternative request in the Request Letter is declined for the reasons stated in Section 8.
- G. This determination is limited to the Project described in Section 2. It does not classify concrete plants generally, and it does not rely on statements by any Town official.

Conditions

The findings above depend on the following features of the Project. The Department requests that the Planning Board incorporate them into any site-plan approval. A material deviation from any condition requires re-review by the Department and, if the deviation results in objectionable levels of smoke, noise, dust, odor, glare, or vibration beyond the property boundaries, this determination shall be void.

- 1. **Transit-mix operation.** The plant shall operate as a transit-mix plant. No central mixer, and no crushing, screening, or other on-site processing of aggregate, shall be installed or operated.
- 2. **Height.** All buildings shall comply with the 45-foot maximum height of the Zoning Code, without a variance.

3. **Enclosure.** Conveyors, weigh hoppers, cement transfer equipment, and the truck-loading point shall be located within an enclosed, insulated steel building.
4. **Dust control at cement transfer.** Depressurization and dust-collection systems shall be installed, maintained, and operated whenever cement is transferred.
5. **Dust control at truck loading.** Loading of dry materials into trucks shall occur through a sealed or shrouded chute connected to dust collection.
6. **Outdoor storage.** Outdoor storage shall be limited to the areas and quantities shown on the approved site plan.
7. **Truck trips.** Truck trips to and from the site shall not exceed the number per day proposed in the October 21, 2025 Traffic Assessment submitted by the application (inbound and outbound combined), with records available from the Department on request.
8. **Hours.** Plant operations shall be limited by the Planning Board.
9. **Water.** The Project shall be served by municipal water as approved by the Town Board and the applicable water district.

Right of Appeal

Pursuant to Town Law §267-a(5)(a), this determination shall be filed in the office of the Department within five business days from the day it is rendered, and is a public record. Pursuant to Town Law §267-a(5)(b), an appeal may be taken to the ZBA within sixty days after that filing, by filing with the Department and the ZBA a notice of appeal specifying the grounds and the relief sought.

David E. Barton II

Director of Building, Planning and Zoning Enforcement, Town of Lloyd

cc: T.J. Ruane, Esq. (counsel to Applicant); Planning Board; Zoning Board of Appeals; Town Attorney; Town Clerk (for filing)

Supplemental Determination: Classification of Proposed Transit-Mix Concrete Plant Following Adoption of Local Law A of 2026

Date: September 23, 2026

Property: **3260 Route 9W, Highland, NY 12528 (S.B.L. 80.3-2-8), Light Industry (LI) District**

Applicant/Owner: **3260 Route 9W Highland LLC**

Issuing Officer: **David E. Barton II, Director of Building, Planning and Zoning Enforcement**

Authority: **§42-4.B of the Town of Lloyd Ordinance**

1. Request and Procedural Posture

By letter dated September 21, 2026, counsel for 3260 Route 9W Highland LLC (the "Applicant") requested that the Department withdraw its determination dated July 8, 2026 (the "July 8 Determination") and issue a new determination confirming that, notwithstanding the adoption of Local Law A of 2026 (the "Local Law"), the Applicant's proposed concrete plant (the "Project"), including recent design revisions, remains a Light Industry use permitted in the LI District (the "Request Letter"). In the alternative, the Request Letter asks for a determination that the Project can constitute Heavy Industry only if the Planning Board finds that the Project's scale exceeds the thresholds described in the Heavy Industry definition (Request Letter, pp. 1–2, 7–8).

The July 8 Determination is the subject of three appeals by aggrieved parties now pending before the Zoning Board of Appeals ("ZBA"). The Department does not act in this determination to withdraw, modify, or moot the July 8 Determination or to limit the ZBA's review of it. This Supplemental Determination instead addresses a question the July 8 Determination could not have addressed: whether the Local Law, which took effect upon filing with the Secretary of State on September 11, 2026, changes the classification of the Project. It also reflects the Project's current design, which differs in certain respects from the facts described in the July 8 Determination (see Section 2). To the extent the factual descriptions in the two determinations differ, this Supplemental Determination reflects the current record.

The pending appeal does not operate as an automatic stay of the Applicant's proceedings. In the Saugerties concrete-plant litigation, the Appellate Division, Third Department, held that a trial court ruling that an adjacent owner's appeal to the ZBA of a certificate of occupancy did not trigger the statutory stay of Town Law §267-a(6) was the law of the case, and that the applicant should have been granted a declaration to that effect (*Bonded Concrete v Town of Saugerties*, 282 AD2d 900, 901–904 [3d Dept 2001], lv dismissed 97 NY2d 653 [2001]; see also *Mamaroneck Beach & Yacht Club, Inc. v Fraioli*, [24 AD3d 669] [2d Dept 2005] [automatic stay of Village Law §7-712-a(6); identical to Town Law §267-a(6), does not apply to appeal by a third party]). The Department's decision not to withdraw the July 8 Determination therefore rests not on any statutory stay but on respect for the ZBA's pending review.

This Supplemental Determination applies the Zoning Code as amended by Local Law A-2026. In land use matters, the law in effect when a matter is decided governs, regardless of intervening amendments, unless “special facts” show that the municipality in bad faith delayed action on a proper application while it changed the law (Matter of Rocky Point Drive-In, L.P. v Town of Brookhaven, 21 NY3d 729 [2013]; Matter of Pokoik v Silsdorf, 40 NY2d 769, 772–773 [1976]). The Request Letter does not claim special facts, and the Department does not rely on that exception. The question is whether the Project qualifies as Light Industry under the law as amended.

Interpretation of an existing code is a Type II action not subject to review under the State Environmental Quality Review Act (6 NYCRR 617.5[c][37]). This determination does not substitute for or limit the Planning Board’s environmental review of the Project.

Record Reviewed

- a. The Request Letter dated September 21, 2026, including Attachment A (the July 8 Determination), Attachment B (Local Law A of 2026 as filed with the Department of State), and Attachment C (Southern Ulster Times article dated August 26, 2026).
- b. Local Law A of 2026, including Section II (Legislative Findings) and Section IV (Provisions Added/Amended).
- c. Chapter 100 of the Town of Lloyd Ordinance (Zoning Code), including §100-8 (Definitions), §100-38.C(3), and the Use Table.
- d. The Applicant’s site plan application and supporting materials on file with the Planning Board.
- e. The Applicant’s withdrawal of its application to the ZBA for a building-height variance.

2. The Project as Currently Proposed

The Project is a transit-mix concrete plant. As described in the Request Letter and confirmed by the record, a transit-mix plant receives horizontally delivered aggregate and cement, transfers those materials into vertical aggregate and cement silos, and gravity-loads measured quantities of the materials into ready-mix trucks. The materials are blended inside the truck drum while in transit to the job site (Request Letter, pp. 5–6). There is no central mixing drum and no mixing of concrete within the plant. The July 8 Determination’s references to “mixing units” and to batching wet concrete on site do not describe the current design and are superseded by this description.

The Applicant has withdrawn its application to the ZBA for a variance to allow a building of 60 feet and has represented that all buildings will be designed to comply with the Zoning Code’s 45-foot maximum height.

The Applicant has also represented the following design and operational features, each of which is relied on in this determination and incorporated as a condition in Section 9:

- Conveyors, weigh hoppers, cement transfer equipment, and the truck-loading point are to be housed within an enclosed, insulated steel building.
- Dust is controlled by depressurization and dust-collection (baghouse) systems at the points where cement is transferred, and by a sealed or shrouded discharge chute with dust collection where dry materials are loaded into trucks.
- No crushing, screening, or other processing of aggregate occurs on site.
- Outdoor storage is limited; most material is held in silos (Request Letter, p. 6).
- Projected electricity use is under 120 MWh per year, and no new or upgraded substations or transmission lines are required (Request Letter, p. 6).
- Projected water use is approximately 10,000 gallons per day, to be supplied by a connection to municipal water requested by the Planning Board, subject to Town Board and water district approval (Request Letter, p. 6).
- Truck trips to and from the site are to be limited to a volume below that experienced at comparable plants the Applicant operates. The Request Letter does not address this commitment; it is drawn from the traffic study submitted with the site plan.

3. Governing Provisions

The Use Table lists "Light industry" as a permitted use (P*) in the LI District. Section 100-8 defines it as follows, and the Local Law did not amend this definition:

LIGHT INDUSTRY

Manufacture, assembly, treatment, processing, or packaging of products that does not emit objectionable levels of smoke, noise, dust, odor, glare, or vibration beyond the property boundaries.

Section IV of the Local Law added the following definition to §100-8:

HEAVY INDUSTRY

A use engaged in the basic provisioning manufacturing and processing of materials or products predominately from extracted or raw natural resources, or a use engaged in storage of, or manufacturing processes using, hazardous or explosive materials.

Key characteristics include scale [the use often involves large-scale machinery, significant outdoor storage, or high volume utility consumption], external impacts [the use may produce significant noise, odors, glare, or vibrations that are inherent to the process and may be detectable beyond the property boundaries], air emissions with or without monitoring requirements, infrastructure needs [including substantial water, electric or chemical power and accommodating heavy multi-axle freight traffic].

Examples include but are not limited to metal refineries, chemical manufacturing, concrete batching plants including ready-mix plants or raw concrete manufacturing, asphalt batching, scrap metal processors, chemical synthesis plants, tire recycling

facilities and large-scale vehicle salvage. This definition shall not include incidental storage or lawful use of hazardous materials customarily associated with otherwise permitted uses.

The Local Law did not amend the Use Table. The Use Table contains no "Heavy Industry" use row, and the Local Law did not add Heavy Industry to, or remove any use from, the list of uses permitted in the LI District. The Local Law also did not amend the Light Industry definition or any district regulation.

Section II of the Local Law states that the Town Board "seeks to regulate Light Industry and Heavy Industry throughout the Town," and that it "considered the potential impacts of industrial uses, including chemical manufacturing, large scale vehicle salvage, concrete batch plants or manufacturing products containing concrete and similar uses and the associated dust, smoke, vibration, noise, hazardous materials and vehicle traffic and other factors that result in impact within the Town and their surrounding neighborhoods, particularly residential areas." The Request Letter does not discuss these findings. They are addressed in Section 5 below.

4. Interpretive Standards

The Department applies the following standards. Where the Request Letter relies on a standard, that is noted; the remaining authorities were identified independently by the Department.

- a. Narrow issue.** An interpretation of a zoning provision should decide only the narrow issue presented (Request Letter, p. 4, citing *Matter of BBJ Assocs., LLC v Zoning Bd. of Appeals of Town of Kent*, 65 AD3d 154, 159 [2d Dept 2009]). The narrow issue here is whether this Project, as currently designed and conditioned, is a Light Industry use in the LI District after the Local Law. This determination does not decide whether any other concrete plant, or concrete plants generally, are Light or Heavy Industry.
- b. Standard of review.** An interpretation of a zoning provision on matters within the administering body's expertise is given great weight and will be upheld unless irrational, unreasonable, or inconsistent with the governing law (*Matter of Toys "R" Us v Silva*, 89 NY2d 411, 418–419 [1996]; *Matter of Frishman v Schmidt*, 61 NY2d 823, 825 [1984]). Where the question is one of pure legal interpretation of the code's terms, no deference is required, and an interpretation contrary to plain meaning will not be enforced (*Toys "R" Us*, 89 NY2d at 419; *Matter of Raritan Dev. Corp. v Silva*, 91 NY2d 98, 102–103 [1997]). This determination therefore separates its reading of the Local Law's text (Sections 5.A–5.C and 5.E), a legal question, from its findings about the Project's characteristics and impacts (Sections 5.D and 7), which rest on the record identified in Section 1.
- c. Strict construction.** Zoning regulations are in derogation of the common law and are strictly construed against the municipality that enacted them; they may not be extended by implication (*Matter of Allen v Adami*, 39 NY2d 275, 277 [1976]; *Matter of Bonded Concrete v Zoning Bd. of Appeals of Town of Saugerties*, 268 AD2d 771, 774 [3d Dept 2000], lv denied 94 NY2d 764 [2000]; Request Letter, p. 4, citing *KMO-361 Realty Assocs. v*

Davies, 204 AD2d 547, 548 [2d Dept 1994], and Inc. Vil. of Old Field v Hickey, 225 AD2d 666, 669 [2d Dept 1996]).

- d. Ambiguity.** Ambiguity in a zoning provision is resolved in favor of the property owner (Request Letter, pp. 4–5, citing Matter of Mamaroneck Beach & Yacht Club, Inc. v Zoning Bd. of Appeals of Vil. of Mamaroneck, 53 AD3d 494, 498 [2d Dept 2008], and Sposato v Zoning Bd. of Appeals of Vil. of Pelham, 287 AD2d 639 [2d Dept 2001]). The Third Department has applied the rule where a provision is ambiguous and its context convincingly demonstrates that the ambiguity is properly resolved in the owner's favor (Bonded Concrete, 268 AD2d at 775; Bonded Concrete, Inc. v Town of Saugerties, 24 AD3d 943 [3d Dept 2005]). The Department therefore does not treat ambiguity alone as decisive; Section 5 identifies the context on which it relies.
- e. Every word has meaning.** Each word of an enactment is to be given meaning, and a construction that renders language superfluous is to be avoided (Toys “R” Us, 89 NY2d at 419, citing Matter of Bliss v Bliss, 66 NY2d 382, 388–389 [1985]; Majewski v Broadalbin-Perth Cent. School Dist., 91 NY2d 577, 587 [1998]; Bonded Concrete, 268 AD2d at 774).
- f. Undefined terms.** Terms not defined in the Zoning Code are given their ordinary dictionary meaning (Bonded Concrete, 24 AD3d 943 [applying the dictionary meaning of the undefined term “static”]; Matter of Oefelein v Town of Thompson Planning Bd., 9 AD3d 556, 558 [3d Dept 2004]; Pardi v Barone, 257 AD2d 42, 44 [3d Dept 1999]).
- g. Illustrative lists.** A definition that lists items following “including” is not all-inclusive, but it reaches only items similar to those listed (Bonded Concrete, 24 AD3d 943 [construing the Saugerties definition of “structure”]). Listed items are likewise read in light of the general words they illustrate and the company they keep (see McKinney’s Cons Laws of NY, Book 1, Statutes § 239).
- h. Comparison with other provisions.** Where a legislative body has stated a requirement clearly in one provision and not in another, the contrast is evidence that the requirement was not intended in the second (Bonded Concrete, 268 AD2d at 775 [contrasting an ambiguous site-plan provision with a later amendment that clearly required site-plan approval for all new structures]).
- i. Text first.** The enacted text of a law, read as a whole and including its adopted legislative findings, is the primary evidence of legislative intent. Statements of individual officials are addressed in Section 6.
- j. Reasonable person.** The Department applies a reasonable person standard in assessing whether impacts would be “objectionable,” as in the July 8 Determination.

5. Whether the Project Is Heavy Industry

A. Structure of the definition

The Heavy Industry definition has three parts: an operative clause stating what Heavy Industry is; a statement of “key characteristics”; and a list of examples introduced by “include but are not limited to.”

The Request Letter argues that a use must meet the operative clause and then “must also” be evaluated for scale, external impacts, air emissions, and infrastructure needs, so that all four characteristics operate as mandatory elements (Request Letter, p. 5). The Department does not adopt that framing. The definition says the key characteristics “include” these items; that language is descriptive rather than a list of required elements, and the Department declines to read in a requirement the text does not state. The Department does, however, agree with the Request Letter that the characteristics are relevant: they are the definition’s own description of what distinguishes Heavy Industry, and they are the most reliable guide to whether a particular proposal belongs in the category.

B. The examples

The examples include “concrete batching plants including ready-mix plants or raw concrete manufacturing.” A reasonable reader could take this as a legislative classification of every concrete plant as Heavy Industry. The Department has considered that reading carefully, because it is the principal argument against the Applicant’s position.

The Department concludes that the examples illustrate the category rather than conclusively classify every variant of each listed use, for three reasons. First, the phrase “include but are not limited to” introduces illustrations. Second, if naming a use were conclusive, the operative clause and key characteristics would do no work for any listed use; the definition is instead written so that a listed use is recognized by the same features that define the category. Third, the Local Law made no change to the Use Table or to the Light Industry definition. Treating the example as an automatic reclassification would have the effect of removing a use from the LI District by implication, which the strict-construction rule in Section 4(b) does not permit.

The other examples — metal refineries, chemical manufacturing, asphalt batching, scrap metal processors, chemical synthesis plants, tire recycling facilities, and “large-scale vehicle salvage” — are uses whose impacts arise from heat, chemical reaction, combustion, or the handling of large volumes of waste material. The Town Board attached the qualifier “large-scale” to one example, confirming that scale was meant to matter in applying the list. Consistent with the Third Department’s reading of an “including” list in *Bonded Concrete*, 24 AD3d 943, the example reaches concrete plants that share the characteristics of the category; it does not reach every plant regardless of its design (Section 4[g]).

The Zoning Code also shows that the Town knows how to exclude cement and concrete manufacturing categorically when it intends to. Section 100-38.C(3) states that listed high-impact uses, including Cement and Concrete Manufacturing (NAICS 3273), “are expressly prohibited” in the Walkway Gateway District. The Local Law contains no comparable language:

it prohibits no use, does not amend the Use Table, and removes no use from the LI District. As in Bonded Concrete, where the Third Department contrasted an ambiguous provision with another section in which the Town Board had clearly imposed the requirement at issue (268 AD2d at 775), the contrast here indicates that the Local Law was not intended to operate as a categorical exclusion (Section 4[h]).

At a minimum, the example is ambiguous as applied to a plant designed to avoid the characteristics the definition describes. The context described above — the non-exclusive wording, the character of the other examples, the absence of any change to the Use Table or the LI District, and the Town's use of express prohibition language elsewhere in the Code — convincingly demonstrates that the ambiguity is properly resolved in the owner's favor (Section 4[d]).

C. The operative clause

The relevant alternative (the Project involves no hazardous or explosive materials beyond those customarily associated with permitted uses) is a use "engaged in the basic provisioning manufacturing and processing of materials or products predominately from extracted or raw natural resources."

"Basic provisioning." This modifier must be given meaning. Read with the examples in the definition (metal refineries, chemical manufacturing, chemical synthesis), it describes primary industry: operations at the start of the production chain that fundamentally transform raw materials. The Project is at the other end of that chain. It receives materials that other facilities have already produced or processed — cement manufactured in a kiln, and aggregate and sand already quarried, crushed, graded, and screened — stores them, measures them, and loads them into trucks. Under the transit-mix design, the blending itself occurs in the truck, off site.

Neither "basic" nor "provisioning" is defined in the Zoning Code, so each takes its ordinary dictionary meaning (Section 4[f]). Giving the modifier effect, as Section 4(e) requires, the phrase describes primary production that supplies base materials to other industries. Reading "basic provisioning" to cover any processing of materials that originated in nature would leave the words without effect.

"Predominately from extracted or raw natural resources." By volume, aggregate and sand make up most of a concrete mix, and those materials originate as natural resources. Opponents may reasonably argue that this satisfies the clause. The Department notes, however, that the clause is directed at uses that work with materials in their extracted or raw state. The Project does not extract, crush, or screen anything; its inputs arrive as processed construction materials. The Department finds that the operative clause does not clearly reach the Project, and that any ambiguity is resolved under Section 4(c).

The Request Letter goes further and argues that a transit-mix plant does not engage in "manufacturing and processing" at all (Request Letter, pp. 5–6). The Department does not adopt that argument. Weighing, proportioning, and loading materials to produce a specified batch of concrete is processing and packaging of a product. The North American Industry Classification System, which §100-38.C(3) of the Zoning Code itself uses, classifies ready-mix plants under

NAICS 327320, Ready-Mix Concrete Manufacturing, and lists transit-mixed and truck-mixed concrete manufacturing among that industry's activities. The Third Department likewise described the portable batch equipment at issue in the Saugerties litigation as concrete manufacturing equipment (Bonded Concrete, 24 AD3d 943; Bonded Concrete, Inc. v Town of Saugerties, 42 AD3d 852 [3d Dept 2007]). The conclusion that the Project processes and packages a product also informs the Light Industry finding in Section 7. The Department's finding under the operative clause rests on the "basic provisioning" and "extracted or raw" language, not on any claim that the Project processes nothing.

D. Key characteristics

Scale

The definition describes a use that "often involves large-scale machinery, significant outdoor storage, or high-volume utility consumption."

Machinery. Under the transit-mix design there is no central mixer, crusher, or screen. The Project consists largely of stationary silos, conveyors, and weigh hoppers (Request Letter, p. 6), with conveyors and the loading point enclosed in an insulated steel building. All buildings will comply with the 45-foot height limit, following withdrawal of the variance application. The Department finds that the Project does not involve large-scale machinery in the sense the definition describes. There will also be a boiler to heat water in colder months.

Outdoor storage. The Request Letter acknowledges some outdoor storage but states that most material is held in silos and that outdoor storage is not significant relative to other uses in the LI District (Request Letter, p. 6). The Department finds outdoor storage is not significant, subject to Condition 6.

Utility consumption. The Request Letter reports projected electricity use of under 120 MWh per year, compared with the 2,500 MWh level at which the Department of Environmental Conservation's Full Environmental Assessment Form workbook indicates a potential energy impact, and states that no new or upgraded substations or transmission lines are needed (Request Letter, p. 6 and n. 2). Projected water use of approximately 10,000 gallons per day will be served by a municipal connection requested by the Planning Board, subject to approval by the Town Board and the water district (Request Letter, p. 6). The Department finds that utility consumption is not high volume.

External impacts

The definition describes a use that "may produce significant noise, odors, glare, or vibrations that are inherent to the process and may be detectable beyond the property boundaries." The operative word is "inherent": impacts that cannot be separated from the process. Some listed examples, such as asphalt batching, produce odor and emissions that no enclosure can eliminate because they come from heating petroleum products. A transit-mix concrete plant is a cold process with no heating, combustion, or on-site mixing. Its principal potential impacts — conveyor and loading noise, and dust at transfer and loading points — respond directly to enclosure and dust-collection controls, which the Project incorporates. The Department finds that the Project, as designed and conditioned, does not produce significant external impacts

inherent to the process. This is consistent with the Request Letter's position (Request Letter, p. 7) but rests on the analysis in Section 7.

Air emissions

The Project involves no combustion or chemical process. Dust, the one air-quality concern specific to the use, is controlled at each transfer and loading point by the systems described in Section 2. Truck exhaust is comparable to that of other vehicle-intensive uses permitted in the LI District.

Infrastructure needs

Water and electricity are addressed above. The Project uses no chemical power. The Project will use multi-axle trucks. The Request Letter notes that the site is on New York State Route 9W, a commercial trucking route with truck pull-offs, and that the Applicant's traffic study concluded the Project will not result in traffic impacts (Request Letter, p. 7). [Traffic Assessment, Highland Batch Plant, US Route 9W, Town of Lloyd, Ulster County, New York; CM Project No. R251377.00, October 21, 2025, Creighton Manning]. In addition, the Applicant has committed to a maximum truck-trip volume below that of its comparable plants, which is made a binding condition (Condition 7). The Department finds that the Project's infrastructure needs do not match the heavy-infrastructure characteristic of the definition.

E. The Legislative Findings

Section II of the Local Law names concrete batch plants among the uses whose impacts the Town Board considered. The Department gives these findings significant weight, because they are part of the enacted text. The findings are directed at impacts — "dust, smoke, vibration, noise, hazardous materials and vehicle traffic" — and at their effect on surrounding neighborhoods. They also state the Board's aim to regulate both Light Industry and Heavy Industry, not to eliminate a category of use. The Department reads the findings as confirming that the line between the two categories is drawn by impact. Each impact the findings identify is addressed by the Project's design and by the conditions of this determination. The findings therefore support, rather than undercut, a classification based on the Project's actual impacts.

F. Conclusion on Heavy Industry

The Department finds that the Project, as currently designed and conditioned, is not Heavy Industry within the meaning of §100-8.

6. Statements of the Town Supervisor

The Request Letter relies on statements by the Town Supervisor at the August 19, 2026 Town Board meeting, including that "light remains unchanged," that the definition "does not prohibit any particular project but rather offers guidance," and that "[e]xamples offered in the code are merely examples," as well as on his later remarks to a newspaper that the Local Law would not affect the Project (Request Letter, pp. 3–4 and Attachment C).

The Department has not relied on these statements. The interpretation in this determination rests on the enacted text of the Local Law, including its legislative findings, and on the Zoning

Code. Remarks by a single member of a legislative body, even when made on the record before a vote and not contradicted by other members, do not establish the intent of the body as a whole, and they cannot alter or supplement the text the body adopted. Remarks made after enactment, including those reported in Attachment C, are not legislative history. The authority to interpret the Zoning Code rests with this Department, subject to review by the ZBA.

This approach is consistent with the Court of Appeals' treatment of legislative intent. Effective December 10, 2025, that Court amended its Rules of Practice to bar amicus submissions presenting the views of individual lawmakers outside the publicly available contemporaneous legislative history (22 NYCRR 500.23) reflecting its longstanding reliance on statutory text and officially adopted materials, such as preambles and legislative findings, rather than the statements of individual legislators. Here, the officially adopted material is Section II of the Local Law, which the Department has addressed in Section 5.E.

The Department notes only that the Supervisor's on-the-record remarks are consistent with the conclusions reached independently above: that the Local Law did not change the Light Industry definition and that the listed examples are illustrative. The Department also notes that the same article reports the Supervisor's view that classification should follow review of a complete project plan. This determination is based on the record identified in Section 1 and is expressly conditioned on the Project as designed; Planning Board site-plan and environmental review is unaffected (see Section 8).

7. Whether the Project Is Light Industry

A. Manufacture, treatment, processing, or packaging of products

The Project stores, weighs, proportions, and loads the ingredients of concrete in specified quantities to produce batches of concrete for delivery. That activity is the treatment, processing, and packaging of a product. The fact that final blending occurs in the truck drum does not change the character of the on-site activity. The first element of the Light Industry definition is satisfied.

This conclusion is consistent with the classification of transit-mix plants as manufacturing under NAICS 327320 (Section 5.C) and with the Zoning Code's own inclusion of Cement and Concrete Manufacturing among light industrial uses in §100-38.C(3).

B. Objectionable emissions beyond the property boundaries

Dust

In a transit-mix plant, the principal potential dust source is the loading of dry materials into the truck, together with the transfer of cement into silos and weigh hoppers. The Project controls dust at each of these points through depressurization and dust collection, a sealed or shrouded loading chute with dust collection, and enclosure of conveyors and the loading point. No crushing or screening occurs. The Department finds that no objectionable levels of dust are expected beyond the property boundaries.

Noise

There is no central mixer, crusher, or screen. Conveyors, weigh hoppers, and the loading point are enclosed within an insulated steel building. Remaining sources are truck movements and drum rotation during loading, which occurs within the enclosed loading area, and loader activity at outdoor storage. The Department finds that no objectionable levels of noise are expected beyond the property boundaries.

Vibration

Without on-site mixing or crushing, the sources of vibration are conveyors, which are enclosed, and truck and loader movements, which are limited by the trip-volume condition. The Department finds that no objectionable levels of vibration are expected beyond the property boundaries.

Smoke

The process involves no combustion or heating. The Department finds that no objectionable levels of smoke are expected beyond the property boundaries.

Odor

Cement, aggregate, sand, and water do not produce process odors. The Department finds that no objectionable levels of odor are expected beyond the property boundaries.

Glare

The process produces no glare. Site lighting will be reviewed by the Planning Board. The Department finds that no objectionable levels of glare are expected beyond the property boundaries.

The Project satisfies both elements of the Light Industry definition.

8. The Alternative Request

The Request Letter asks, in the alternative, for a determination that the Project can constitute Heavy Industry only if the Planning Board finds at the conclusion of its review that the Project's scale "exceeds the thresholds described in the definition of Heavy Industry" (Request Letter, pp. 2, 7-8). The Department declines this request. The Heavy Industry definition contains no numerical thresholds, and classification of a use under the Zoning Code is an interpretive function of this Department, reviewable by the ZBA, rather than a matter delegated to the Planning Board.

Once a use falls within a category the Town Board has listed as permitted in a district, that listing is tantamount to a legislative finding that the use is in harmony with the zoning plan and will not adversely affect the neighborhood (*Matter of North Shore Steak House v Board of Appeals of Inc. Vil. of Thomaston*, 30 NY2d 235, 243 [1972]). The Project's remaining site-specific impacts are therefore addressed through the Planning Board's site-plan and environmental review and through the conditions of this determination, not by reopening the classification.

Nothing in this determination limits the Planning Board's site-plan or environmental review, including its authority to evaluate the Project's impacts and impose conditions. If that review results in a design materially different from the one described in Section 2, the Project is subject to re-review under the conditions below.

9. Determination

Pursuant to §42-4.B of the Town of Lloyd Ordinance, and applying the reasonable person standard to the record identified in Section 1, the Department determines as follows:

- A.** Local Law A of 2026 added a definition of Heavy Industry to §100-8. It did not amend the definition of Light Industry, the Use Table, or the uses permitted in the LI District.
- B.** The examples in the Heavy Industry definition are illustrative. The listing of concrete batching plants does not by itself classify the Project as Heavy Industry; the Project must be evaluated against the definition as a whole. To the extent the definition is ambiguous as applied to the Project, the ambiguity is resolved in favor of the property owner.
- C.** The Project, a transit-mix plant as currently designed and conditioned, does not engage in basic provisioning manufacturing or processing of extracted or raw natural resources, and does not exhibit the key characteristics of Heavy Industry. It is not Heavy Industry.
- D.** The Project satisfies the definition of Light Industry: it involves the treatment, processing, and packaging of a product, and, as designed and conditioned, is not expected to emit objectionable levels of smoke, noise, dust, odor, glare, or vibration beyond the property boundaries.
- E.** The Project is therefore a Light Industry use permitted (P*) in the LI District, subject to site-plan approval by the Planning Board.
- F.** The alternative request in the Request Letter is declined for the reasons stated in Section 8.
- G.** This determination is limited to the Project described in Section 2. It does not classify concrete plants generally, and it does not rely on statements by any Town official.

Conditions

The findings above depend on the following features of the Project. The Department requests that the Planning Board incorporate them into any site-plan approval. A material deviation from any condition requires re-review by the Department and, if the deviation results in objectionable levels of smoke, noise, dust, odor, glare, or vibration beyond the property boundaries, this determination shall be void.

- 1. Transit-mix operation.** The plant shall operate as a transit-mix plant. No central mixer, and no crushing, screening, or other on-site processing of aggregate, shall be installed or operated.
- 2. Height.** All buildings shall comply with the 45-foot maximum height of the Zoning Code, without a variance.

3. **Enclosure.** Conveyors, weigh hoppers, cement transfer equipment, and the truck-loading point shall be located within an enclosed, insulated steel building.
4. **Dust control at cement transfer.** Depressurization and dust-collection systems shall be installed, maintained, and operated whenever cement is transferred.
5. **Dust control at truck loading.** Loading of dry materials into trucks shall occur through a sealed or shrouded chute connected to dust collection.
6. **Outdoor storage.** Outdoor storage shall be limited to the areas and quantities shown on the approved site plan.
7. **Truck trips.** Truck trips to and from the site shall not exceed the number per day proposed in the October 21, 2025 Traffic Assessment submitted by the application (inbound and outbound combined), with records available from the Department on request.
8. **Hours.** Plant operations shall be limited by the Planning Board.
9. **Water.** The Project shall be served by municipal water as approved by the Town Board and the applicable water district.

Right of Appeal

Pursuant to Town Law §267-a(5)(a), this determination shall be filed in the office of the Department within five business days from the day it is rendered, and is a public record. Pursuant to Town Law §267-a(5)(b), an appeal may be taken to the ZBA within sixty days after that filing, by filing with the Department and the ZBA a notice of appeal specifying the grounds and the relief sought.

David E. Barton II

Director of Building, Planning and Zoning Enforcement, Town of Lloyd

cc: T.J. Ruane, Esq. (counsel to Applicant); Planning Board; Zoning Board of Appeals; Town Attorney; Town Clerk (for filing)

Attachment A

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September 21, 2026

VIA REGULAR MAIL AND EMAIL

David E. Barton II
Director of Building, Planning and Zoning Enforcement
Town of Lloyd
(dbarton@townoflloyd.gov)

***Re: 3260 Route 9w Highland, LLC
Request for Determination***

Dear Mr. Barton:

As you are aware, this firm represents 3260 Route 9W Highland LLC in connection with its application to the Town of Lloyd (the "Town") Planning Board (the "Planning Board") for site plan approval for its proposed concrete packaging plant (the "Project") to be located at 3260 Route 9W in the Town of Lloyd, New York (the "Project Site").

On July 8, 2026, you issued, in your capacity as the Director of Building, Planning and Zoning Enforcement, a determination that the Project meets the definition of "Light Industry" under the Town Code and is, thus, a permitted use in the Light Industrial District where the Project is proposed to be constructed and operated (the "Use Determination"). A copy of the Use Determination is enclosed herewith as **Attachment A**.

Following the Use Determination, the Town Board of the Town of Lloyd (the "Town Board") enacted a local law called "Local Law A of 2026" (the "Local Law") which became effective on September 11, 2026. The Local Law amended the Town's Code to add a definition of "Heavy Industry." A copy of the Local Law is enclosed herewith as **Attachment B**.

This letter respectfully requests that the Use Determination be withdrawn and a new determination issued that confirms that, despite adoption of the Local Law, the Project, including the recent design revisions, continues to meet the definition of "Light Industry" and, thus, is still permitted in the Light Industrial District. In the alternative, we respectfully request a use

determination that confirms the Project can only constitute “Heavy Industry” if the Planning Board determines that the scale of the Project exceeds the thresholds described in the definition of Heavy Industry.

I. The Use Determination

The Use Determination concluded “the [Project] satisfies the definition of Light Industry.” See Attachment A, p. 4. To reach this conclusion, the Use Determination found that the Project met the Town’s “qualitative, impact-based approach to defining Light Industry” and was squarely a manufacturing/processing use that would not emit objectionable levels of smoke, noise, dust, odor, glare, or vibration beyond the Project Site boundaries.

Under the Town Code, “Light Industry” is defined as the “manufacture, assembly, treatment, processing, or packaging of a product” that “does not emit objectionable levels of smoke, noise, dust, odor, glare, or vibration beyond the property boundaries.” Town Code § 100-8.

The Use Determination noted that “wet concrete” is a product, and “batching the constituent materials together” to create concrete “is a form of manufacture and processing.” Thus, the Project is the “manufacture...[and] processing, or packaging of a product.”

The Use Determination also concluded that the Project would not emit objectionable levels of smoke, noise, dust, odor, glare or vibration. With respect to each, the Use Determination found:

- Dust – The Use Determination found that the dry cement has “the most potential for the creation of adverse dust production” and concluded that the mitigation measures proposed as part of the Project application “would ensure against levels of objectional dust beyond the property line.”
- Noise – The Use Determination concluded that based on the project design and mitigation measures proposed as part of the Project, “no levels of objectionable noise would be expected beyond the [Project Site boundary].”
- Smoke – The Use Determination found that “[n]o smoke is expected to be generated on site” and, thus, concluded that “[n]o levels of objectionable smoke are expected beyond the [Project Site boundary].”
- Glare – The Use Determination found that “[n]o glare is expected to be generated on site” and, thus, concluded that “[n]o levels of objectionable glare are expected beyond the [Project Site boundary].”
- Odor - The Use Determination found that “[n]o odor is expected to be generated on site” and, thus, concluded that “[n]o levels of objectionable odor are expected beyond the [Project Site boundary].”
- Vibration – The Use Determination found that vibration could potentially result from loaders moving materials into the transfer system and mechanical equipment associated

with batching materials to create concrete loads. The Use Determination concluded that using enclosed structures – as being proposed for the Project – would result in no objectionable vibration beyond the Project Site boundary.

The Use Determination also noted that in the Town Code, “cement and concrete manufacturing” is considered a Light Industrial use in the W-G District. *See* Town Code § 100-38(C)(3).

II. The Local Law

As noted above, following the Use Determination, the Town Board enacted the Local Law, which became effective on September 11, 2026. The Local Law solely adds a definition of “Heavy Industry” Town Code § 100-8. The definition of “Heavy Industry” in the Local Law is:

a use engaged in the basic provisioning manufacturing and processing of materials or products predominately from extracted or raw natural resources, or a use engaged in storage of, or manufacturing processes using, hazardous or explosive materials. Key characteristics include scale [the use often involves large-scale machinery, significant outdoor storage, or high volume utility consumption], external impacts [the use may produce significant noise, odors, glare, or vibrations that are inherent to the process and may be detectable beyond the property boundaries], air emissions with or without monitoring requirements, infrastructure needs [including substantial water, electric or chemical power and accommodating heavy multi-axle freight traffic]. Examples include but are not limited to metal refineries, chemical manufacturing, concrete batching plants including ready-mix plants or raw concrete manufacturing, asphalt batching, scrap metal processors, chemical synthesis plants, tire recycling facilities and large-scale vehicle salvage. This definition shall not include incidental storage or lawful use of hazardous materials customarily associated with otherwise permitted uses.

See Attachment B, Section IV.

During the Town Board’s discussion of the Local Law at the August 19, 2026 meeting of the Town Board, prior to the Town Board’s vote on the Local Law, the Town Supervisor stated, on the record:

[f]or over the past 4 months of pondering heavy versus light industry, what has taken so long in making this determination is that there is a large grey areas to the matters of scale and not necessarily use. **Tonight we are dealing with the definition of heavy industry, light remains unchanged.** The new heavy industry definition **does not prohibit any particular project but rather offers guidance.** **Examples offered in the code are merely examples,** it is up to the planning and zoning board to determine the project scope, scale, and external impact, emissions, infrastructure needs etc. It’s up to the applicants to provide information that makes it more clear as to whether those uses fit into light or heavy industry. So, I felt that I needed to add to the discussion portion.

A recording of the August 19, 2026 Town Board meeting is available on YouTube.¹ Following the Town Board meeting on August 19, 2026, the Town Supervisor again reiterated that in adopting the Local Law, the Town was “only dealing with the definition of heavy industry,” “the new definition does not bar any specific project outright,” and, specifically, that the Local Law would not affect the Project. *See Attachment C*. It should be further noted, during the Town Board’s discussion, the Town Supervisor was sole member of the board to offer comment on the Local Law at the time of its adoption and that no other town board member commented or took exception to the Supervisor’s comments.

III. The Project is a Light Industrial Use Permitted in the Light Industrial District Despite Adoption of the Local Law

The Project is a “Light Industrial” use permitted in the Light Industrial District despite adoption of the Local Law because the Local Law does not change or affect the definition of “Light Industry” upon which the Use Determination was made, and the Project does not meet the definition of “Heavy Industry.”

a. The Local Law Does Not Change or Affect the Definition of “Light Industry.”

As described above, the Use Determination was based on the definition of Light Industry under the Town Code and the design of the Project. The Local Law did not amend the definition of “Light Industry” under the Town Code – rather it only added a definition for Heavy Industry – and the Project design has not changed in any manner that would affect this determination. Thus, the Local Law does not change the Project’s status as a “Light Industry” use permitted in the Light Industrial District.

The addition of a definition of “Heavy Industry” to the Town Code also does not, by implication, render the Project inconsistent with the definition of “Light Industry.” “When reviewing an ‘interpretation’ of a zoning code provision, a zoning board is required to rule on the ‘narrow issue’ before it.” *BBJ Assocs., LLC v Zoning Bd. of Appeals of Town of Kent*, 65 A.D.3d 154, 159 (2d Dept 2009), *quoting N. Dutchess Rod & Gun Club, Inc. v Town of Rhinebeck*, 29 A.D.3d 587, 588 (2d Dept 2006). “Zoning regulations may not be extended by implication.” *KMO-361 Realty Assocs. v Davies*, 204 A.D.2d 547, 548 (2d Dept 1994); *see also Inc. Vill. of Old Field v Hickey*, 225 A.D.2d 666, 669 (2d Dept 1996) (“Particularly where an ordinance restricts the manner in which real property may be used, its provisions are not to be extended by implication.”).

This interpretation is fully supported by the Town Supervisor’s statements during and following the August 19, 2026 Town Board meeting at which a resolution was adopted to approve the Local Law.

To the extent you find that the definition of “Heavy Industry” does affect the Use Determination or is applicable to the Project, it, at most, creates an ambiguity that must be determined in favor of the Applicant. Under New York Law, ambiguities in a zoning code “are to

¹ The YouTube recording is available here: <https://www.youtube.com/watch?v=qOjYhwAXnFo>

be resolved in favor of the property owner.” See *Mamaroneck Beach & Yacht Club, Inc. v Zoning Bd. of Appeals of Vill. of Mamaroneck*, 53 AD3d 494, 498 (2d Dept 2008), lv to appeal denied 11 NY3d 712 (2008); see also *Tiekert v Bd. of Appeals of Vill. of Mamaroneck*, 236 AD3d 803, 804 (2d Dept 2025) (same); *Brancato v Zoning Bd. of Appeals of City of Yonkers*, N.Y., 30 AD3d 515, 516 (2d Dept 2006) (same); *Sposato v. Zoning Bd. Of Appeals of Village of Pelham*, 287 A.D.2d 639 (2d Dept 2001) (“Ambiguities in a zoning ordinance must be resolved in favor of the property owner.”); *Vergilis v Plan. Bd. of Vill. of Fishkill*, 251 AD2d 506, 507-508 (2d Dept 1998) (Where parking for a “nonresidential use” was prohibited in any residence district but “a medical clinic was a use authorized by a special use permit in a residential zone,” there was ambiguity as to whether the term “nonresidential use” in the zoning code excluded those uses authorized by special use permit in a residential zone; the Planning Board appropriately resolved the ambiguity related to the term “nonresidential use” in favor of the property owner when it treated the medical clinic’s parking lot as accessory to the clinic and therefore “authorized by a special use permit in a residential zone.”).

b. The Project Does Not Meet the Definition of Heavy Industry

Similar to the definition of Light Industry, as noted in the Use Determination, the definition of Heavy Industry provides a two-step qualitative, impact-based approach to defining heavy industry:

1. First, a use must be determined to be a “use engaged in the basic provisioning manufacturing and processing of materials or products predominately from extracted or raw natural resources, or a use engaged in storage of, or manufacturing processes using, hazardous or explosive materials.”
2. Second, for uses that meet the first prong of the analysis, such use **must also** be evaluated for scale, external impacts, air emissions, and infrastructure needs.

This two-step approach confirms that not all uses that meet the first prong (i.e., those engaged in the basic provisioning, manufacturing, and processing of materials) will be considered Heavy Industry.

In addition, the new definition provides examples of uses that the Town Board has predetermined are engaged in basic provisioning manufacturing and processing of materials. Under the definition, each of these examples must also meet the second prong of the definition to constitute “Heavy Industry.”

Here, the Project does not meet the first or second prong of the definition of “Heavy Industry.” First, although the Local Law contains the example of “concrete batching plants including ready-mix plants or raw concrete manufacturing,” the Project does not result in manufacturing and processing and, therefore, fails to meet the basic definition of “Heavy Industry.” To illustrate, there are three basic types of plants used in connection with concrete production: 1) mobile mixer plants, 2) transit mix plants and 3) central mixer plants. Mobile mixer plants contain aggregate ground silos and vertical cement tank silos. The aggregate, cement and water are loaded into specialized mobile mixers that transport the contents to the job sites that then, in turn, mix the ingredients at the job site. Transit mix plants, like the one proposed by the Applicant, are material handling

facilities that move horizontally delivered aggregate and cement onto the plant site for transfer into vertical aggregate and cement silos to facilitate gravity loading of such materials. Such materials are gravity fed into concrete ready-mix trucks that blend the loaded materials while in “transit” to the job site. Central mix concrete plants are similar to transit plants, but with the addition of a large industrial mixing barrel that manufactures ready-to-use concrete at the plant site that, in turn, is dumped into ready mix trucks for delivery to job sites. Thus, although a central mix concrete plant may meet the Local Law’s definition of “Heavy Industry,” a mobile mix plant and/or transit plant would not constitute “provisioning manufacturing and processing” due to the fact neither of those plants manufacture or process concrete at the plant site and thus, are not “Heavy Industry.”

However, even assuming that a transit concrete plant meets the definition of “provisioning manufacturing and processing”, under the two-step analysis set forth in the definition of Heavy Industry, each of these uses still need to be evaluated for scale and external impacts to constitute “Heavy Industry.”

As set forth below, and consistent with the findings set forth in the Use Determination, the Project, as designed with its mitigation measures, does not meet the definition of Heavy Industry:

i. *Scale*

With respect to “scale,” the Local Law provides “the use often involves large-scale machinery, significant outdoor storage, or high-volume utility consumption.” Here, Project does not include large-scale machinery. Rather, the Project involves limited machinery and is primarily comprised of stationary metal structures.

The Project includes outdoor storage, but it is not significant compared to the amount of material stored at the site (i.e., most of it is in the silos) and to the other uses in the Light Industrial District that are adjacent to the Project Site.

Furthermore, the Project’s utility consumption is not significant. The Project will use less than 120 MWh of electricity per year. According to the New York State Department of Environmental Conservation (“DEC”), projects are not likely to result in impacts on energy “if the proposed action does not require new, upgraded, creation, or extension of substations, energy transmission lines, nor does it use more than 2500 [MWh] [of] energy.”² Here, the Project does not require new, upgraded, or extended substations or energy transmission lines, and it is only anticipated to consume 120 Mwh of electricity per year (roughly 4.8% of the DEC threshold). The Project is also anticipated to require 10,000 gallons of water per day. However, as set forth in the Project record, the Applicant has agreed, at the request of the Town Planning Board, to connect the Project to municipal water, which will have to be approved by the Town Board and the applicable water department/district.

² See DEC, Full Environmental Assessment Form (FEAF) Workbook, Question 14 – Impact on Energy, available at: <https://dec.ny.gov/regulatory/permits-licenses/seqr/eaf-workbooks/part-2-identification-of-potential-project-impacts/q14-impact-on-energy>

ii. *External Impacts*

With respect to "external impacts" the Local Law provides "the use may produce significant noise, odors, glare, or vibrations that are inherent to the process and may be detectable beyond the property boundaries." As set forth in the Use Determination, you have already concluded that the Project will not produce objectionable levels of noise, odors, glare or vibration." Neither Project design nor scope has changed since the issuance of the Use Determination in a manner that would affect the Project's external impacts.

iii. *Air Emissions*

The Local Law also lists "air emissions with or without monitoring requirements" as a key characteristic. As set forth in the Use Determination, you have already concluded that the Project will not produce objectionable levels of dust at the Project Site boundary. Neither Project design nor scope has changed since the issuance of the Use Determination in a manner that would affect the Project's air emissions.

iv. *Infrastructure Needs*

With respect to "infrastructure needs," the Local Law provides "including substantial water, electric, or chemical power and accommodating heavy multi-axel freight traffic."

As noted above, the Applicant has agreed, at the request of the Town Planning Board, to connect the Project to municipal water and anticipates receiving confirmation from the applicable water department/district that there is sufficient capacity to support the Project. As also noted above, the Project will not consume a substantial amount of electrical energy. The Project will not use any chemical power. Although the Project will use multi-axel trucks, the Project is located on New York State Route 9W, a significant commercial trucking route with truck pull-offs. The Applicant also had a traffic study prepared that concluded the Project will not result in any traffic impacts.

Based on the foregoing, given the Project's current design and scope, including the mitigation measures noted in the Use Determination, the Project does not meet the definition of "Heavy Industry."

In the alternative, we respectfully request a use determination that confirms the Project can only constitute "Heavy Industry" if the Planning Board ultimately determines, at the conclusion of their project review process, that the scale of the Project exceeds the thresholds described in the definition of Heavy Industry.

IV. Conclusion

As set forth above, the Project is a "Light Industrial" use permitted in the Light Industrial District despite adoption of the Local Law because the Local Law does not change or affect the definition of "Light Industry" upon which the Use Determination was made and in any event the Project does not meet the definition of "Heavy Industry." We respectfully request a determination

that the Project is a "Light Industrial" use permitted in the Light Industrial District despite adoption of the Local Law or, in the alternative, a use determination that confirms that the Project can only constitute "Heavy Industry" if the Planning Board ultimately determines, at the conclusion of their project review process, that the scale of the Project exceeds the thresholds described in the definition of Heavy Industry.

Very truly yours,

/s/ *TJ Ruane*

T.J. Ruane

Encs.

Attachment B

Town of Lloyd Local Law A 2026: Heavy Industry

Local Law No. A-2026, entitled "2026 Zoning Code Amendments", a Local Law to amend Section 100-8 of the Zoning Code by adding a definition of "Heavy Industry"

Local Law A of the year 2026

A local law amending the Town of Lloyd Zoning Code as enacted by the Town of Lloyd Town Board on May 20, 2026 by Local Law A-2026

Be it enacted by the Town Board of the Town of Lloyd as follows:

SECTION I. SHORT TITLE

This local law shall be cited as Local Law A of 2026 of the Town of Lloyd and is entitled the "2026 Zoning Code Amendments."

SECTION II. LEGISLATIVE FINDINGS

The Town Board seeks to regulate Light Industry and Heavy Industry throughout the Town to promote the public health, welfare and safety within the Town of Lloyd. The Town has evaluated its comprehensive plan and existing zoning to identify the need for changes or improvements to the Town of Lloyd Zoning Code ("Zoning Code"). The goal of the comprehensive plan is to provide for the orderly development and redevelopment of properties located within the Town and to ensure that uses within the Town are appropriately located in relation to each other and consistent with the community character of the Town. The Town Board has further considered the potential impacts of industrial uses, including chemical manufacturing, large scale vehicle salvage, concrete batch plants or manufacturing products containing concrete and similar uses and the associated dust, smoke, vibration, noise, hazardous materials and vehicle traffic and other factors that result in impact within the Town and their surrounding neighborhoods, particularly residential areas. The Town Board finds that these amendments to the Zoning Code are consistent with the comprehensive plan and existing zoning and will promote the public health, welfare and safety within the Town of Lloyd.

SECTION III. AUTHORITY

These amendments to the Zoning Code are enacted by the Town Board of the Town of Lloyd pursuant to its authority to adopt local laws under Article IX of the New York State Constitution and Municipal Home Rule Law Section 10, and its authority to adopt amendments to its Zoning Code pursuant to Town Law Section 265 and Zoning Code Article X.

SECTION IV.

PROVISIONS ADDED/AMENDED

Section 100-8 of the Zoning Code is hereby amended as follows:

(A) A definition of Heavy Industry shall be added to read as follows: – HEAVY INDUSTRY a use engaged in the basic provisioning manufacturing and processing of materials or products predominately from extracted or raw natural resources, or a use engaged in storage of, or manufacturing processes using, hazardous or explosive materials. Key characteristics include scale [the use often involves large-scale machinery, significant outdoor storage, or high volume utility consumption], external impacts [the use may produce significant noise, odors, glare, or vibrations that are inherent to the process and may be detectable beyond the property boundaries], air emissions with or without monitoring requirements, infrastructure needs [including substantial water, electric or chemical power and accommodating heavy multi-axle freight traffic]. Examples include but are not limited to metal refineries, chemical manufacturing, concrete batching plants including ready-mix plants or raw concrete manufacturing, asphalt batching, scrap metal processors, chemical synthesis plants, tire recycling facilities and large-scale vehicle salvage. This definition shall not include incidental storage or lawful use of hazardous materials customarily associated with otherwise permitted uses.”

SECTION V.

SEVERABILITY

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law which can be given effect without such invalid part or parts.

SECTION VI.

EFFECTIVE DATE

This Local Law shall take effect immediately, as provided by law, upon filing with the New York State Secretary of State.

Attachment C

Lloyd Town Board adopts definition of heavy industry

Posted Wednesday, August 26, 2026

Southern Ulster Times

By Mark Reynolds

The Lloyd Town Board voted unanimously last week to add a definition of “heavy industry” to the town code, a measure officials said is meant to guide — not restrict — future development.

Supervisor Stu Weiss said the board spent months weighing the distinction between heavy and light in-dustry before settling on the new language.

“Over the past four months I’ve pondered heavy versus light industry,” Weiss said. “What has taken so long in making this determination is that there’s a large gray area to the matters of scale, not necessarily use. Tonight, we’re only dealing with the definition of heavy industry.”

Weiss said the new definition does not bar any specific project outright.

“It does not prohibit any particular project but rather offers guidance,” he said. “It is up to the planning and zoning boards to determine the project’s scope and scale, external impact, emissions and infrastructure needs.”

In a follow-up interview, Weiss said the new definition would not affect a cement batch plant proposed by Luke Clemente for Route 9W.

“He is not sure what he is going to do, perhaps a European-style plant that is all inside,” Weiss said, “but that’s going to be up to him and his attorney on whether they want to proceed or not.”

Weiss said the project’s classification depends on its scale. He said if Clemente “wanted to do a small-scale plant that is all within one building, the impacts are therefore negligible ... and I don’t think that we can prevent that. I don’t know what he is going to do with zoning and planning at this point.”

Nearby residents have told the Planning Board in writing that comparable plants of similar size and scale elsewhere are typically classified as heavy industry. Weiss disputed that characterization.

"Well yeah, but again when you circle back, is it really heavy industry?" he said.

Clemente has said he met with "town officials" in 2025 and again in early 2026 and was told his project met the town code's definition of light industry. He purchased the 4.8-acre parcel on July 14, 2025, for \$450,000, according to Clemente. When Councilman Mike Petty asked which town officials he had met with, Clemente named Patti Brooks — a local land surveyor who does not hold a town position. He did not identify anyone else.

Weiss said he does not believe Clemente's project falls under the new heavy industry definition because the parcel sits in a light industry zone and the plant has been proposed as fully enclosed. He said it is important for Building Inspector Dave Barton and the Town Board to review a complete project plan before making a determination.

"I just spoke to (Building Inspector) Dave Barton and said when these determinations are getting made, it's gotta be a three-board thing — Planning and Zoning and, to some extent, the Town Board — to decide if it's going to be heavy or light industry, instead of one guy that makes a determination and we're all jerking around, second-guessing each other," Weiss said. "So when a project comes in, there should be a determination meeting and go from there, otherwise everyone is wasting their time. There has got to be a better flow chart on how a gray-area project gets handled, and something like this is not a clear-cut thing."

Weiss said future determinations should be made collectively and documented in writing when an application is submitted, "and that it be done by a group and not by one dude they're going to yell at."

Planning Board attorney Dave Gordon said last week that Clemente had gone before the Zoning Board seeking a variance allowing the building to reach 60 feet, exceeding the town code's 45-foot limit. Gordon noted that one of the plant's silos would protrude above the enclosed portion of the structure.

Weiss acknowledged that Barton's determination classifying the Clemente project as light industry is currently being challenged by a resident before the Zoning Board of Appeals. A public hearing on the appeal is scheduled for Sept. 10 at 7 p.m. at Town Hall, 12 Church St., in Highland.