

**LEAD AGENCY'S SEQRA FINDINGS STATEMENT
SUELAIN REALTY
APPLICATION FOR GRANITE POINTE SUBDIVISION APPROVAL**

After due discussion and deliberation, the Planning Board of the Town of Somers, as Lead Agency, adopted the following SEQRA Findings Statement pursuant to Article 8 of the Environmental Conservation Law, 6 N.Y.C.R.R. Part 617 and Chapter 92 of the Code of the Town of Somers.

I. INTRODUCTION

This SEQRA Findings Statement pertains to the proposed Granite Pointe Subdivision (the "Proposed Action"). It draws upon the facts and conclusions in the Draft Supplemental Environmental Impact Statement (DSEIS) accepted by the Planning Board on August 23, 2006 and the Final Supplemental Environmental Impact Statement (FSEIS) accepted as complete by the Planning Board on September 24, 2013.

This SEQRA Findings Statement attests to the fact that the Town of Somers Planning Board ("Planning Board"), as Lead Agency, has complied with all of the applicable procedural requirements of Part 617 in reviewing this matter, including but not limited to:

- The presence of lead was confirmed in a report prepared by the project's sponsor's consultant, Groundwater and Environmental Services, Inc. dated March 3, 2004, and was the basis for required preparation of the Supplemental Environmental Impact Statement (SEIS).
- Final Subdivision Plat approval was rescinded by the Planning Board at their meeting on June 9, 2004 by Resolution number 2004-12;
- Preparation of a Draft Supplemental Environmental Impact Statement (DSEIS) by the Applicant;
- Acceptance of the DSEIS by the Planning Board on August 23, 2006;
- Circulation of the DSEIS;
- The holding of public hearings on the DSEIS by the Planning Board on October 4, 2006, October 18, 2006 and establishment of a comment period to end on November 17, 2006;
- On November 15, 2006, the Planning Board extended the written comment period deadline to January 10, 2007;

Granite Pointe Subdivision
Lead Agency's SEQRA Findings Statement

- Preparation of a Final Supplemental Environmental Impact Statement (FSEIS);
- Acceptance of the revised FSEIS, dated July 31, 2013, as complete by the Planning Board on September 24, 2013;
- Circulation of the FSEIS and the establishment of an FSEIS written comment period through October 22, 2013;

This SEQRA Findings Statement also attests to the fact that the Planning Board has given due consideration to the Supplemental Environmental Impact Statement (SEIS) prepared in conjunction with this action, including all appendices thereto, and the public and agency comments submitted on the same. Further, this SEQRA Findings Statement contains the facts and conclusions in the Supplemental Environmental Impact Statement relied upon by the Planning Board to support its decisions and "indicates the social, economic and other factors and standards" that form the basis for its decision.

A. Site and Neighborhood Description

The subject property is a 28.8-acre parcel of undeveloped, mostly woodland located on Tomahawk Street in Somers, New York. The property is mainly surrounded by the Amawalk Reservoir.

B. Project History

The Applicant had been granted preliminary and final subdivision plat approval following a full SEQRA review which culminated in the adoption of findings for the development of 23 single-family residential lots on the property. Subsequent to the granting of final approval, it was further discovered that specific areas of the property were impacted with deposited lead from an old shooting range. The presence of lead was confirmed in a report prepared by the project sponsor's consultant, Groundwater and Environmental Services, Inc. dated March 3, 2004. As a result of this new information, and in order to allow the Applicant sufficient time to prepare a Supplemental Environmental Impact Statement (SEIS) within the allowable time constraints, action was taken by the Planning Board to rescind the final subdivision plat approval and the application's status reverted to the preliminary subdivision plat approval stage.

Granite Pointe Subdivision
Lead Agency's SEORA Findings Statement

II. PROPOSED ACTION

A. Proposed Action

The currently Proposed Action involves the remedial activities associated with the proposed approval of a final subdivision plat for 23 single-family residential lots on 28.8 acres located on Tomahawk Street, including the approval of required environmental permits and of a soil remediation plan to eliminate deposited lead, the presence of which was discovered after the Planning Board completed the original environmental review for the Proposed Action.

B. Required Approvals

The Proposed Action requires the following approvals:

1. Town of Somers Planning Board

- Final Subdivision Plat approval
- Tree Removal Permit approval
- Stormwater Management and Erosion and Sediment Control Permit approval

2. New York City Department of Environmental Protection

- Approval of a Stormwater Pollution Prevention Plan (SWPPP) for remedial site work activities
- Approval of a Stormwater Pollution Prevention Plan (SWPPP) for residential subdivision development

3. New York State Department of Environmental Conservation

- Approval of a Stormwater Pollution Prevention Plan (SWPPP)
- Brownfield Clean-up Program

Granite Pointe Subdivision
Lead Agency's SEORA Findings Statement

4. State of New York Department of Transportation

- Site Access Permit Approval

5. Westchester County Department of Health

- Reapproval of Septic System
- Reapproval of Connection to Water System
- Realty Subdivision Approval

III. HISTORICAL USES

A. Shooting Range

Trap shooting and target shooting was conducted on portions of the subject property between approximately 1938 and 1968. Shooting activities were not open to the public and only took place on weekends in the spring, summer and fall. The Boy Scouts also utilized the shooting range. The amount of sportsmen that utilized the subject property for trap or target shooting is unknown.

B. Cut/Fill Activity

The native soil horizon along the western margin was removed as part of cut and fill activities completed in the 1970s. The exact date of the cut and fill activities remains unknown.

C. Building Demolition

The abandoned remains of several residential and commercial buildings are located on the currently undeveloped parcel. The buildings include a restaurant, which no longer exists but was located in the central portion of the site, several dwellings, and some storage buildings.

Granite Pointe Subdivision
Lead Agency's SEORA Findings Statement

IV. ENVIRONMENTAL IMPACTS

Shooting Range Related Site Impacts

A. Evaluation of Site Soils

1. Impacts Identified

- a. The lead concentration in site soils outside the area of expected shot fall was calculated at 70.47 mg/kg; this is below the New York State Department of Environmental Conservation (NYSDEC) average range of 200-500 mg/kg for suburban areas. The background concentration was determined by averaging the XRF screening and laboratory results of soil samples collected from outside the expected area of impact. Soil sampling of the expected shot fall area revealed that a portion of the subject property is impacted with lead and semi-volatile organic compounds (SVOCs) at concentrations above applicable guidance values. Other metals, such as arsenic – arising from the same source and in the same locations as the lead – were found on the site. The impacts associated with the presence of lead, other metals and SVOCs include impacts to air quality from dust, impacts to humans due to contact with the soil, impacts to wildlife inhaling or ingesting soil, impacts to surface water and groundwater that make contact with the impacted soil.

- b. The Area-1 (located on proposed Lots 10-13) sampling results indicate a wide range of primarily lead impact within the top 1.5 feet of soil as a result of the historical land use. The horizontal limits of lead impact extends from the cut and fill area located on the western portion of the sampling grid, across the stone wall separating the site from the NYCDEP property. The area of impact widens to a maximum width of approximately 540 feet along the eastern property boundary. The vertical limit of the lead impact extends from grade to approximately 1.5 feet below grade in the area of expected shot fall. There are risks of potential exposure to contaminants by humans and wildlife from

Granite Pointe Subdivision
Lead Agency's SEORA Findings Statement

incidental ingestion of contaminated soil, inhalation of dust/soil particles, and dermal contact.

- c. SVOCs were detected at concentrations above the NYSDEC guidance values along the southwestern portion of Area-1 from grade to 1.5 below grade. The source of these SVOCs could be attributed to historical dumping in the cut and fill area and the subsequent runoff during storm events. There are risks of potential exposure to contaminants by humans and wildlife from incidental ingestion of contaminated soil, inhalation of dust/soil particles, and dermal contact.
- d. The Area-2 (located on proposed Lot 19) sampling results indicate the presence of low level lead and SVOC concentrations in one sample located in this portion of the property. The horizontal and vertical delineation of impact were adequately defined and the impact can be attributed to the parking of vehicles in this area of the site over time and the proximity of this location to the road. There are risks of potential exposure to contaminants by humans and wildlife from incidental ingestion of contaminated soil, inhalation of dust/soil particles, and dermal contact.
- e. Soil samples collected during the investigation of the cut and fill area indicate that the native soil interface has not been impacted from the historical land use. The depth of the native soil layer varied across this area with the deepest observation, at 17 feet below grade, along the eastern margin. The native boundary along the western margin was removed as part of the cut activities completed in the 1970s. SVOC concentrations were detected in one sample which was located in the northeast corner of the fill area. Lead concentrations detected in soil samples collected from the cut and fill area were well below the established average background for the site.
- f. Approximately 30 Town regulated trees are proposed to be removed as part of the remediation to remove lead and SVOC impacted soil from the site. Of this number, 12 trees would have been removed anyway as

Granite Pointe Subdivision
Lead Agency's SEORA Findings Statement

part of the development of the originally-approved subdivision. Replanting to prevent erosion, provide screening, preserve ecological systems or remediate effects on neighboring properties will be required as part of the permit.

2. Mitigation Provided

- a. The Applicant has applied for and received inclusion into the NYSDEC Brownfield Clean-up Program (BCP) for contaminated site clean-up. The project was accepted into the BCP on February 22, 2010. A Remedial Action Work Plan (RAWP) has been accepted for the site resulting in the excavation and removal of impacted soils. The project will follow a Track 1 clean-up, as defined by NYSDEC, and utilize the Brownfield Remedial Program Soil Cleanup Objectives. Remedial activities will be performed at the Site in accordance with the NYSDEC-approved RAWP. The removal will be overseen by a Remedial Engineer. The Remedial Engineer will certify the Final Engineering Report that the removal activities were observed by qualified environmental professionals under his/her supervision and that the remediation requirements set forth in the RAWP have been achieved in full conformance with that Plan.
- b. The NYSDEC was contacted regarding the SVOC results and Spill Number 04-11922 was assigned to the site. Data gathered regarding the location of the SVOCs will guide the remediation process. The SVOCs will be removed from the site as part of the NYSDEC approved Remediation Plan.

3. Findings and Conditions

Specifically, the Planning Board finds that:

- a. The RAWP approved by NYSDEC will result in the removal of lead and SVOC impacted soil on the subject property. Other metals found in excess of regulatory limits, being from the same source as the lead,

Granite Pointe Subdivision
Lead Agency's SEORA Findings Statement

- will be removed from the site as part of the remediation. Therefore, the Proposed Action will not have a significant negative impact on soils or potential exposure to contaminants by humans and wildlife from incidental ingestion of contaminated soil, inhalation of dust/soil particles, and dermal contact.
- b. A Town of Somers Tree Removal permit will be required for the removal of Town regulated trees. Replanting to prevent erosion, provide screening, preserve ecological systems or remediate effects on neighboring properties will be required as part of the permit.
 - c. The area of the proposed remediation including tree removal is mandated by the NYSDEC approval; therefore, the proposed tree removal is an unavoidable impact. In addition, the Applicant has provided a restoration plan in the event that the final subdivision does not move forward to construction within 2 years. The Applicant will be required to provide for necessary site restoration through the project Erosion and Sediment Control Bond as a condition of the Stormwater Management and Erosion & Sediment Control permit. The Bond will be in an amount sufficient to complete site restoration activities, as determined by the Consulting Town Engineer.
 - d. The Consulting Town Engineer, in consultation with the Office of the New York State Attorney General, Watershed Inspector General, has reviewed the Stormwater Pollution Prevention Plan (SWPPP) related to the remedial site work activities and has provided comments, as summarized in memoranda to the Planning Board dated April 5, 2013, August 8, 2013, July 18, 2014 and most recently August 29, 2014. Updates and additions to the Remedial Action SWPPP shall be submitted for review and accepted by the Consulting Town Engineer, prior to the issuance of any permits.
 - e. As the SWPPP for remedial activities notes, the temporary site condition will meet all current regulations and address comments of the Consulting Town Engineer, in consultation with the Watershed

Granite Pointe Subdivision
Lead Agency's SEORA Findings Statement

Inspector General. The environmental impacts associated with stormwater will be mitigated to the maximum extent practicable. No permits will be issued until the remediation SWPPP has addressed these requests and has been approved by the NYC DEP.

- f. Consistent with the guidance provided by the WIG, the Applicant shall be required to prepare an updated Stormwater Pollution Prevention Plan (SWPPP) for the proposed subdivision development at the time of Application for Final Subdivision Plat approval. The SWPPP will be required to conform with the then current requirements of the NYSDEC "Stormwater Management Design Manual", latest edition, the NYSDEC "New York Standards and Specifications for Erosion & Sediment Control", latest edition, the NYC DEP "Rules & Regulations for the Protection from Contamination, Degradation and Pollution of the New York City Water Supply and its Sources", and the Town Code. In addition, the SWPPP must include a Pollutant Loading Analysis that quantifies and compares site pre-development phosphorous effluent loading to the post development condition, consistent with the then current NYSDEC approved methodology. The Pollutant Loading Analysis will be reviewed by the Consulting Town Engineer in consultation with the WIG prior to final acceptance of the Subdivision SWPPP and issuance of any permits for the project.

B. Evaluation of Groundwater/Surface Water

1. Impacts Identified

- a. Soil contamination impacts were detected from 0 to 4 feet below grade, with the majority within 2 feet below grade. Detectable soil impacts, which have existed for approximately 40 years, have been limited to at least 6 feet above the water table.
- b. Lead and manganese above NYSDEC Groundwater Quality Standards were found in samples collected along the eastern boundary of the area

Granite Pointe Subdivision
Lead Agency's SEORA Findings Statement

being remediated. The proposed subdivision will utilize a municipal water system for potable water.

- c. Based on the United States Geological Survey (USGS) map of the site, the maximum elevation on the subject property in the area of soil impact is approximately 445 feet above mean sea level. The Amawalk Reservoir is at an elevation of approximately 400 feet above mean sea level. Based on the semi-circular topographic contours on the subject property, surface water flows gently out, radially, towards the reservoir. No areas of channelized flow (permanent or intermittent) within or exiting the site were identified in the areas of soils impacted by lead and other metals. The existence of heavy vegetation and undergrowth has prevented any permanent or intermittent, channelized, surficial flows. These site conditions do not reveal a risk of surface run-off transporting contaminants. During remediation, there is a low risk of surface run-off transporting contaminants in either a lead particulate or lead enriched soil form.

2. Mitigation Provided

- a. Installation of monitoring wells was only necessary if the soil investigation revealed that mobilization and transport of impacted soils are indicated by depth distribution of contaminants. Monitoring wells are not required since detectable soil impacts were located 6 feet above the water table and the impacted soils will be removed from the site as part of the RAWP.
- b. Removal of the soil will eliminate the potential source of groundwater contamination. Additional groundwater sampling will be undertaken to assess whether there has been a bulk reduction in groundwater contamination to asymptotic levels, meaning below NYSDEC Groundwater Quality Standards.
- c. Erosion and sedimentation will be controlled during the remediation period through the use of temporary devices best management

Granite Pointe Subdivision
Lead Agency's SEORA Findings Statement

practices in accordance with a Soil Erosion and Sediment Control Plan developed specifically for this site in accordance with NYSDEC's *New York State Standards and Specifications for Erosion and Sediment Control*.

3. Findings and Conditions

Specifically, the Planning Board finds that:

- a. The RAWP approved by NYSDEC will result in the removal of lead, together with other trace metals and SVOC impacted soil on the subject property. Therefore, the Proposed Action will not have a significant negative impact on groundwater and/or surface water.
- b. Prior to issuance of environmental permits, the supplemental additions to the remedial action SWPPP, requested by the Consulting Town Engineer in consultation with the WIG shall be made. Any documentation from the NYCDEP accepting the remedial action SWPPP document shall be provided.

C. Risk Assessment

1. Impacts Identified

- a. Environmental assessment activities conducted on the subject property identified the presence of lead, other metals, and SVOCs above applicable guidance values. The main exposure pathways for adults and children would be incidental ingestion of contaminated soil, inhalation of dust/soil particles, and dermal contact. Ecological receptors of concern include invertebrates, fish, mammals, and birds, particularly waterfowl. Pathways for the ecological receptors include ingestion of soil, intentional ingestion of lead fragments as grit, and ingestion of impacted food.

Granite Pointe Subdivision
Lead Agency's SEQRA Findings Statement

- b. There are risks of potential exposure to contaminants during remediation. Under the proposed remediation method, excavated, impacted soil would be loaded into trucks and transported off-site to an appropriate disposal facility.

2. Mitigation Provided

- a. The Applicant has applied for and received inclusion into the NYSDEC Brownfield Clean-up Program (BCP) for remedial site clean-up. The project was accepted into the BCP on February 22, 2010. A RAWP has been accepted for the site resulting in the excavation and removal of impacted soils. The project will follow a Track 1 clean-up, as defined by NYSDEC, and utilize the Brownfield Remedial Program Soil Cleanup Objectives. Remedial activities will be performed at the Site in accordance with the NYSDEC-approved RAWP. The removal will be overseen by a Remedial Engineer. The Remedial Engineer will certify the Final Engineering Report that the removal activities were observed by qualified environmental professionals under his/her supervision and that the remediation requirements set forth in the RAWP have been achieved in full conformance with that Plan.
- b. All trucks transporting impacted soil will be required to adhere to all Department of Transportation regulations and requirements. Additionally, the trucks will be covered in a manner to prevent spilling of soil or emission of dust and be subject to decontamination procedures as part of the RAWP approved by the NYSDEC.
- c. Erosion and sedimentation will be controlled during the remediation period through the use of temporary devices in accordance with a Soil Erosion and Sediment Control Plan developed specifically for this site in accordance with NYSDEC's *New York State Standards and Specifications for Erosion and Sediment Control*.

Granite Pointe Subdivision
Lead Agency's SEORA Findings Statement

- d. Dust-control measures will be implemented in accordance with the RAWP. A Community Air Monitoring Program (CAMP) will be implemented to reduce the risk of any airborne contaminants. The CAMP ensures that the engineering controls designed to protect the community from fugitive releases are functioning properly and, should any such releases occur, ensure immediate notice of regulatory and local authorities to ensure appropriate abatement actions may be implemented. Monitoring of the site will include all standard monitoring functions for environmental remediation projects including observations for visible emissions, air sampling and analyses, inspection and monitoring of the contractor's work practices, and reporting to the third-party Remedial Engineer, as defined in the RAWP. The general monitoring functions will be applied to both the excavation and removal phases of the remediation.

3. Findings and Conditions

Specifically, the Planning Board finds that:

- a. The RAWP approved by NYSDEC will result in the removal of lead, other metals and SVOC-impacted soil on the subject property. Therefore, the Proposed Action will not have a significant negative impact on human and ecological receptors.
- b. The requirements of the RAWP, Erosion and Sediment Control Plan and the CAMP will result in the prevention of exposure to contaminants during the remediation process.

V. GENERAL FINDINGS

The Planning Board concludes that the areas of significant environmental impact associated with the project involves lead, other metals and SVOC impacts to site soils, surface run-off and exposure to contaminants during remediation. As such, the Planning Board has addressed in the FSEIS and Findings how these impacts can be mitigated.

Granite Pointe Subdivision
Lead Agency's SEQRA Findings Statement

The Planning Board, acting as Lead Agency, finds that:

- a. The Board has given due consideration to the Draft and Final Supplemental Environmental Impact Statements.
- b. The Board has weighed and balanced relevant environmental impacts with social, economic and other considerations.
- c. In making the findings set forth herein, in addition to any supporting documentation or data previously referenced, the Planning Board has relied upon all papers and proceedings had herein, including,
 - (i) all submissions of the applicant, review memoranda of Planning Board consultants and staff, and any written communications or comments of other agencies or persons, related to this action, all of which are a part of the record, and
 - (ii) all discussion and information had in any public meeting or public hearing on this matter, the minutes of which are incorporated herein and are also part of the record, and
 - (iii) the record related to the previously adopted SEQRA findings and documents including the DEIS, FEIS, DSEIS, and FSEIS, which in the aggregate all deemed by the Planning Board to substantially support the findings herein.
- d. The Board hereby certifies that the procedural requirements of Part 617 of Title 6 NYCRR have been met.
- e. The Board hereby certifies that consistent with the social, economic and other essential considerations, from among the reasonable alternatives available, the proposed action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum

Granite Pointe Subdivision
Lead Agency's SEORA Findings Statement

extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.

NOW THEREFORE, BE IT RESOLVED, that the foregoing SEORA Findings Statement is hereby adopted.

BY ORDER OF THE PLANNING BOARD



John Currie, Chairman

Date: 10/5/14

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