
FINAL ENVIRONMENTAL IMPACT STATEMENT

SOMERS CROSSING

Prepared for: **Boniello Land & Realty, LTD.**
165 Waccubuc Road
Goldens Bridge, NY 10526

Lead Agency: **Somers Town Board**

Prepared by:



JMC Project 15154

Date: **APRIL 7, 2016**

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Applicant:

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Goldens Bridge, NY 10526
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Lead Agency:

Somers Town Board
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- Thomas A. Garrity, Jr., Councilman
- Anthony J. Cirieco, Councilman
- Richard Clinchy, Councilman
- William G. Faulkner, Councilman
- Roland A. Baroni, Jr., Town Attorney
- Kathleen R. Pacella, Town Clerk

B. Public Hearing #2 Transcript (4/9/15)¹

Somers Town House, Somers, NY

Speakers:

Rick Morrissey, Supervisor
Anthony J. Ciriaco, Councilman
Richard Clinchy, Councilman
William G. Faulkner, Councilman
Roland A. Baroni, Jr., Town Attorney
Kathleen R. Pacella, Town Clerk

C. Letters and Written Comments Received on the DEIS¹

Letter #1: New York State Office of Parks, Recreation and Historic Preservation, letter to Town Supervisor, 3/11/15

Letter #2: TRC, letter to Town Planner, 3/13/15

Letter #3: New York State Department of Environmental Conservation, letter to Town Planner, 3/16/15

Letter #4: Tim Miller Associates, letter to the Town Board, 3/18/15

Letter #5: Donald P. and Ellen B. Devey, letter to Town Board, 3/22/15

Letter #6: New York City Department of Environmental Protection, letter to Town Board, 3/23/15

Letter #7: Woodard & Curran, letter to Town Planner, 3/24/15

Letter #8: Town of Somers Open Space Committee, email to Town Planner, 3/30/15

Letter #9: Town of Somers Planning Board, letter to Applicant, 3/31/15

Letter #10: New York State Department of Transportation, letter to Town Planner, 3/27/15

¹ Letters and Transcripts are marked to provide cross reference to the comments as numbered in the FEIS

Letter #11: League of Women Voters of Somers, letter received 4/10/15

Letter #12: Linda Dalton, email to Town Supervisor, 4/8/15

Letter #13: Westchester County Planning Board, letter to Town Planner, 4/15/15

Letter #14: Matthew Searles, email to Town Supervisor, 4/15/15

Letter #15: Office of the Watershed Inspector General, letter to Planning Board, 4/17/15

Letter #16: Woodard & Curran, letter to Town Planner, 4/17/15

Letter #17: New York State Department of Transportation, letter to Town Planner, 4/17/15

Letter #18: Heritage Hills Condo Association, comments to Town Supervisor, 4/17/15

Letter #19: Patricia Ploss, President, Heritage Hills Society, Ltd to Syrette Dym, Town Planner, 4/20/15

Letter #20: Email from Syrette Dym to Bonnie Von Ohlsen, VHB, 4/27/15

Letter #21: FOIL request from Michael Dulong, 4/15/15

Letter #22: Letter from Michael Dulong and William Wegner, Riverkeeper, to Syrette Dym, Town Planner, via Email to Supervisor, 4/20/15

- D.** Revised Stormwater Pollution Prevention Plan, Bibbo Associates (4/23/14 revised 9/10/15)
- E-1** Traffic Attachments 1, 2, 3; Maser Consulting, PA
- E-2** Revised Traffic Analysis, Maser Consulting, PA (dated 7/14/15)
- F.** Water Supply and Sanitary Sewage Data – Bibbo Associates (9/21/15)
- G.** Correspondence from USFWS (June 2015)

- H.** Property Assessment and Real Estate Tax Analysis, McGrath & Company, Inc. (May 1, 2015)
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- J.** Soil Testing Results, July 2015
- K.** DEC-1, Evans Associates Environmental Consulting, with NYSDEC Validation Block, signed and dated 10/24/07
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- M.** Somers Crossing FEIS: Fee Simple and Condominium comparison, JMC, December 2015, rev. 2/19/16
- N.** Raised Crosswalk Detail (NYSDOT)
- O.** Truck Turning Radius and Sight Distance diagrams (Bibbo Associates)
- P.** Letters from realtors (Jerome Billingsley, Tammy Benkwitt and Lin Crispinelli)
- Q.** Preliminary Cost Estimate Summary – Somers Crossing – Sidewalk Improvements (Maser Consulting, PA)
- R.** Revised Pollutant Loading Calculations, Simple Method, 3/7/16 (Bibbo Associates, LLP)

List of Exhibits

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- I-2 Preliminary Grading Plan
- I-3 Steep Slope Impacts
- I-4 Wetland Buffer Impact / Limit of Disturbance
- I-5a Landscape Plan (south)
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(provided electronically)

I. INTRODUCTION AND PROJECT SUMMARY

A. Introduction

Pursuant to the requirements of the New York State Environmental Quality Review Act (SEQRA), this Final Environmental Impact Statement (FEIS) has been prepared for the development of Somers Crossing. The purpose of this FEIS is to address the revisions to the Draft Environmental Impact Statement (DEIS)² in the form of responses to comments, as well as describing proposed revisions to the Proposed Action. The DEIS is incorporated into the FEIS by reference.

The FEIS is organized as follows:

- The initial chapter of the FEIS includes a summary of the Proposed Action as revised by the Applicant subsequent to acceptance of the DEIS, as well as summaries of potential impacts resulting from these modifications and a description of the additional studies completed after the DEIS was accepted and distributed.
- The second chapter of the FEIS presents responses to all substantive comments on the DEIS, including those made at DEIS public hearings on March 5, 2015 and April 9, 2015, and additional written comments received up until April 20, 2015.
- The Appendix includes the public hearing transcripts, copies of all written comments received regarding the DEIS, as well as technical reports and other data referenced in the responses.
- These project modifications and further mitigation results in a project with fewer environmental impacts.

² **Draft Environmental Impact Statement, Somers Crossing**, dated February 12, 2015, prepared by VHB Engineering, Surveying, Landscape Architecture, PC.

B. Project Description

The Concept Plan described in the DEIS has been refined to respond to comments received by the Town Board, Planning Board, Town consultants and staff, and the public. The revised Conceptual Site Plan (See Exhibit I-1) incorporates these key revisions:

- **Relocating the grocery store so that it is closer to Route 202, and farther from the wetland buffer.** The store will be located in general alignment with other existing structures along the streetscape on the south side of Route 202. Parking will be located primarily behind the grocery store building, as well as in a proposed parking lot on the south side of Route 202. The design intent is for proposed store and all of its parking to be located outside of regulated wetland buffers in this vicinity
- **The total number of market rate residential units proposed in the development has been reduced to 65** (30 three-bedroom units and 35 two-bedroom units) from the 80 units previously proposed in the DEIS. The proposed zoning remains the same, but comments received indicated a lower density would be more acceptable in this area of the hamlet. One additional unit to be donated (see below) will bring the total number of units to 66.
- **Donation of one complete unit to community resident(s) in need** - the Applicant proposes an alternative housing situation for disabled individual(s) located within the Town that are in need of subsidized/affordable housing. The Applicant is offering a *donation* to the town (or designated non-profit or charity) of one complete two-bedroom unit (market value estimated as \$700,000) for use by handicapped or disabled individuals. The selection process for the resident(s) and management of future maintenance of this unit are both to be determined the Somers Town Board. This is offered instead of a conventional “affordable” component to the project (where a developer would designate a percentage of the total unit count be offered at a reduced price to persons within certain income limits relative to the County median). This is in addition to the proposal for a grocery store on the site, which also serves as a community benefit, as part of the proposed MFR-DH overlay zone.
- **A sidewalk is proposed along the entire Route 202 frontage of the site**, to serve the store and pedestrians in the hamlet in general.

- **Additional sidewalks are proposed in the hamlet**, including a sidewalk from Towne Centre on Route 100 along Bailey Park frontage around to Route 202, and west of the site from Fireman’s Field west toward the school (see Exhibit I-6)
- **A road connection has been added from the grocery store to the existing shopping center** to the east, allowing for direct access to the existing shopping center from the proposed grocery store, for both vehicles and pedestrians. The connection between the Towne Centre and the grocery store parcel will allow traffic exiting the Towne Centre onto U.S. Route 202 to access the traffic signal located opposite Heritage Hills, which will be upgraded to accommodate the added leg to this intersection. This will enhance the overall flow and significantly improve the ability for left turns leaving the Towne Centre via the new connection. In summary, the provision of the proposed internal connections will help mitigate the potential traffic impacts from the proposed development.
- **A road connection has been added from the proposed residential development to the existing shopping center** to the north. This connection will also provide the proposed residences vehicular and pedestrian access to the grocery store via the Somers Towne Centre shopping center. These connections will accommodate vehicles, pedestrians and bicycles. The private roadways that serve the residential units now contain two cul-de-sacs. The entry point on Route 100 remains in the same location, and total road length is approximately the same as in the DEIS.
- **A recreation area has been added** to the Concept Plan. Located in the southwest corner of the site, this recreation area includes a 2,000 s.f. recreation building on approximately 0.5 acre. This provides more area than the town requirement of 300 s.f. of active recreation area per density unit³ for multifamily units. It is noted that the applicant will also pay \$575,000 in town recreation fees for the project for the proposed 2 and 3 bedroom units.
- **Other community benefits** from the project include:

³ A density unit is defined in the Town Code Section 170-12 D(1)(a). A density unit is calculated based on unit type and number of bedrooms. Maximum density units for this site (45) is the same with the DEIS and FEIS plans. (Calculations are provided on the engineering plans and in the DEIS).

- The sanitary sewer and water lines from Heritage Hills will be brought to the southerly property line of the site on Route 100, and adjacent to the Towne Centre, thereby opening the opportunity for future sewer and water connections to both the existing shopping center and properties to the south.
- In addition, the applicant will pave the existing gravel parking lot adjacent to the firehouse in the hamlet, along Route 202, in the vicinity of the site.
- The proposed residential project will be energy efficient and use many “green technologies” (including geothermal systems for heating, LED lighting, water saving fixtures, energy efficient appliances, security systems, insulated windows) making it a unique product not offered elsewhere in Somers. These features are more costly to the builder initially, but will add value to the residences and make them more sustainable into the future with this environmentally sensitive design. It is noted that these environmentally sensitive features will add to the cost of building the units (over conventional, typical, building components), and will add to the appraised value (therefore, raising the taxes). However, the applicant feels that these features are addressing a need in the environment.

A summary comparison of the primary features and various impacts of the DEIS plan and FEIS revised plan is included in Table I-1. An estimate of the costs involved in various community benefits measures of the project is included at the end of the Introduction, in Table I-6A.

**Table I-1
DEIS/FEIS Plan Summary Comparison**

	DEIS Concept Plan	FEIS Concept Plan
Residential Units	80 units	65 market rate units plus 1 donated unit (total = 66 units)
# Bedrooms	30 @ 3BR=90 50 @ 2BR= <u>100</u> 190 Bedrooms	30 @ 3BR=90 35 @ 2BR= <u>72</u> 162 Bedrooms
Grocery Store	19,000 s.f.	19,000 s.f.
Grocery Store Parking	107 spaces	122 spaces
Connections between site and Shopping Center	None	2 points of access to shopping center
Active Recreation Area	None	0.5 acre lot with playground and 2,000 s.f. recreation building
Open Space	10.58 ac (40% of site)	10.58 ac (40% of site)

C. Potential Impacts of the Revised Project

This section provides a brief summary of the potential impacts of the revised concept plan in each of the impact areas that were analyzed in the DEIS. These impacts are summarized in Table I-5.

I. Land Use

The proposed land uses remain unchanged from that in the DEIS. As described in the DEIS, the revised plan will continue to be compatible with surrounding residential and commercial land uses. The overall density of the residential use, however, has been decreased, since proposed unit total has gone from 80 to 66 units. An active recreation area was added to the plan, in the southwest corner of the site, with vacant lands adjacent to the south and west. Natural open space remains the same as the DEIS proposal (10.58 acres of the site, including a walking trail). The grocery store proposal is the same except for the location of the building, which is proposed to be relocated closer to the Route 202 site frontage where it will be consistent with the adjacent shopping center use and visually in character with other structures on the south side of Route 202. These revisions

were made in response to comments about providing lower density, as well as comments suggesting shifting the store closer to the road and farther from the wetlands and wetland buffers. See also Responses to Comments in Chapter II.A.

2. Zoning

There are no changes to the revised project regarding the proposed zoning of the site. The proposed zoning district for the site remains the same as described in the DEIS, MFR-DH (Multi-Family Residential Downtown Hamlet). The various minimum requirements are still met with the FEIS Concept Plan as described in the DEIS (density, parking, setbacks, coverage, open space, etc.).

One difference is that the FEIS Concept Plan now includes provision of an active recreation area, in addition to the passive open space as previously proposed. An active recreation area is a requirement of the proposed MFR-DH district. The active recreation area is proposed to have a fitness center and a community room with kitchen in the building. A playground, seating areas and parking will be provided outside the building. The facility will be for use by residents of the development.

In addition, although the zoning would still permit 50 two bedroom units and 30 three bedroom units (total of 80 units) as described in the DEIS, now 66 units (36 two bedroom units and 30 three bedroom units) are proposed, which is a lower density than permitted.

Of the total 66 units, the applicant proposes donation of one complete unit to community resident(s) in need as an alternative housing situation for disabled individual(s) located within the Town that are in need of subsidized/affordable housing. The Applicant is offering a *donation* of one complete unit (market value estimated in the DEIS as \$700,000) for use by handicapped or disabled individuals. The selection process for the resident(s) and management of future maintenance of this unit are both to be determined the Somers Town Board (or by the designated non-profit or charity). This is offered instead of a conventional

“affordable” component to the project (where a developer would designate a percentage of the total unit count be offered at a reduced price to persons within certain income limits relative to the County median). This is in addition to the proposal for a grocery store on the site, which also serves a community benefit, as part of the proposed MFR-DH.

Zoning compliance Table III.B-5 from the DEIS is included below, with a column added for the revised FEIS Concept Plan for comparison of requirements. See also Responses to Comments in FEIS Chapter II.A.

It is noted that the DEIS cited the underlying zoning on the site to be R40 and R80, which is correct. However, it has come to the applicants attention (in February 2016) that the official zoning map in Town Hall for this site was not entirely consistent with all of the zone changes adopted by the town in recent years. The zoning of the Somers Crossing site frontage along Route 100 was described as “R80” in the DEIS, but according to recent research by the town clerk, that Route 100 frontage portion of the site remains as “R-40”. Since the proposed action in this case is a re-zoning to a new zoning district (RMF-DH), this information does not change the proposed density, or any of the existing conditions on the site except for the conventional subdivision lot count. The proposed density under the existing MFR-H overlay zone and the proposed MFR-DH overlay zone is not based on conventional lot count, but is based on a formula using site constraints for a net area. Both overlays are permitted on a site that is either R40 or R80.

The existing conditions of the site using the existing zoning designation as now understood is about a 50-50 split in area (approximately 13 acres of the site is R40 and 13 acres is R80).

This revision to the designation of the underlying zone means that Alternative B1 in the DEIS (Development with Existing Zoning) would permit minimum 40,000

sf lots on a greater portion of the site, leading to a likely increase of 1 to 2 lots on the conventional subdivision plan alternative.

**Table I-2
Residential Zoning Compliance'
(DEIS Table III.B-5, updated)**

	Existing Code MFR-H Requirements	Proposed MFR-DH Requirements	Proposed DEIS Project	Revised FEIS Project
Minimum parcel size	10 acres	10 acres for residential use, 4 acres for retail use	26.68 acres	26.68 acres
Maximum Building Coverage	15%	15%	12.7%	12.83%
Max. Combined Coverage (roads, driveways, parking, patios, sidewalks and buildings)	35%	35%	27.3%	29%
Max. Building Height	2-1/2 stories or 30 feet	2 stories or 35 feet (commercial)	2 stories or 35 feet	2 stories or 35 feet
Min. Setback from Street	75 feet	75 feet from Route 100 20 feet for other yards Retail Building: permitted directly on both front lot line (Route 202) and side by ex. shopping center	75 feet from Route 100 50 feet - side yards Retail Building: 20 feet from Route 202 and 5 feet from side by ex. shopping center	75 feet from Route 100 50 feet – side/rear yards Retail Building: 20 feet from Route 202 and 15 feet from side by ex. shopping center
Min. Setback from other lot lines	50 feet (north and east) 100 feet (south and west)	50 feet (north and east) 100 feet (south and west)	50 feet (north and east) 50 feet (south and west)*	50 feet (north and east) 50 feet (south and west)*

¹ The Town Building Inspector shall make the determination of compliance, and if found no to be in compliance, relief will be sought from the ZBA.

*Wavier sought to permit a 50' setback instead of 100' setback adjacent to R80 residential zone (vacant lands are located to the south and west).

3. Topography and Slopes

Potential impacts to topography and steep slopes are the generally the same as described in the DEIS. No slopes over 25% are proposed to be disturbed, but a slope permit will be required for disturbance to slopes in the 15-25% range. The

revised Slope Impacts are described on Exhibit I-3. See also Responses to Comments in Chapter II.B.

4. Soils and Geology

Potential impacts to soils and geology are the generally the same as described in the DEIS, but with a lessened impact due to a decrease from 16.1 acres to 15.6 acres of disturbed soils. The revised limit of disturbance is indicated on Exhibit I-4. No permanent impacts are proposed to wetland soils, and no blasting is proposed. See also Responses to Comments in Chapter II.C, Soils and Geology.

5. Water Resources (Groundwater and Surface Water/Stormwater Management)

The stormwater management plan has been revised in accordance with the revised layout of the project. The DEIS plan included a pocket wetland, basins and infiltration for the residential and retail development. The Revised Concept Plan in the FEIS includes 6 Cultec Recharger infiltration systems, one stormwater basin infiltration system, and one pocket wetland with a forebay and micropool. These stormwater facilities will collect the runoff from within the sub-basins and allow it to infiltrate into the soil, as it currently does, recharging the groundwater and reducing any pollutants or nutrients that may be present. (See Exhibit I-2, Preliminary Grading Plan, for locations). The two infiltration systems for the retail are both under the parking lots at the north end of the site. The infiltration systems for the residential are set in suitable areas between units based on soil conditions and other design considerations. See Responses to Comments in Chapter II.D, Water Resources, revised Stormwater Pollution Prevention Plan (SWPPP) in FEIS Appendix D and revised engineering plans.

6. Vegetation, Wildlife and Wetlands

Potential impacts to soils and geology are the generally the same as described in the DEIS, with a reduction from 16.1 acres to 15.6 acres of disturbed area. The revised limit of disturbance is indicated on Exhibit I-4. The DEIS plan estimated

removal of 1067 trees, the Revised FEIS Concept Plan indicates 1036 trees to be removed (31 fewer trees to be removed; all in the grocery store area).

Anticipated direct impact to wetlands remains the same on the revised plan (0.01 acre of temporary impact for utility installation in local/ACOE wetland). Wetland buffer impact is 0.77 acres less on the FEIS plan (0.33 acre total, a decrease from 1.1 acre on the DEIS plan). This is primarily due to relocation of the grocery store to minimize wetland buffer area impacts. See also Responses to Comments in Chapter II.E, Vegetation and Wildlife and Chapter II.E, Wetlands.

7. Transportation

Since the number of units has been reduced, circulation and access throughout the site has been changed, the trip generation has been recalculated and revised by the traffic engineer (see Table I-6). Trips are reduced with the Revised Plan since the residential unit count was reduced.

The revised site plan now incorporates an internal connection between the proposed residences, existing Somers Towne Centre shopping center, and the proposed grocery store. This connection will allow for vehicular access as well as pedestrian access. Pedestrians will not have to use the external road network to access the existing commercial establishments and proposed grocery store with these connections. The internal connection will also help mitigate and improve operating conditions in the vicinity of the site. These proposed connections and improvements will affect the site plan of the Towne Centre, and coordination of such will be addressed as part of site plan review.

There are no existing sidewalks along U.S. Route 202 or NYS Route 100 in the vicinity of the site. A separate pedestrian facility (sidewalk) is now proposed along the site frontage on Route 202 with the revised Concept Plan. The new sidewalk along Route 202 would connect the Towne Centre at Somers, following the full frontage at the Somers Crossing Site and connecting to the Fireman's Field park to the west of the site. Another new sidewalk is proposed to be constructed by

the applicant on the south side of Route 202, to connect Fireman’s Field to the school to the west. In addition, the applicant will be constructing a sidewalk along Bailey Park, along both the Route 202 frontage of the park, and around to the Route 100 frontage, connecting to the Route 100 entrance to the Towne Centre. The cost of these sidewalks are estimated at \$242,400, as described in Table I-6A, Community Benefits/Costs and described on Exhibit I-6, Proposed Sidewalk Locations.

Pedestrian pathways will be separated from vehicular traffic to the extent practical, for maximum safety of pedestrians. A raised pedestrian crosswalk leading from the parking to the store entry would provide a safer pedestrian connection and will be added to the plan (see detail in Appendix N) as another mitigation measure for the safety of pedestrians. The specific location of this raised walkway will be identified and designed during site plan approvals.

A bicycle storage rack will be provided at the proposed grocery store to accommodate bicycle riders. Appropriate traffic controls including signing and striping as well as potential traffic calming measures will be incorporated in the final site plan. See also Responses to Comments in Chapter II.G. Revisions to the traffic analysis are described in FEIS Appendix E1 and E2.

8. Demographics

The total number of residential units at Somers Crossing has been reduced from 80 units to 66 units. Using the same methodology and multipliers as the DEIS, projected population from the Revised Project is estimated at 201 to 204 persons (as compared to 241 persons in the DEIS plan).

See table below:

**Table I-3
Anticipated Resident Population: Revised Proposed Action**

Residential Units	Standard Population Multiplier¹	Total Population
36 – 2BR Units	2.63	92 - 95
30 – 3BR Units	3.62	109
66 Total		201 - 204

¹ Residential Demographic Multipliers by Rutgers University Center for Urban Policy Research (June 2006), standard population multiplier for multifamily housing 2-4 Units, 2BR and 3BR, Value More than \$132,000, ownership units, New York State. (Table shows a range accounting for the one 2 BR accessible unit for which there is no specific multiplier)

9. Community Services

a. Schools

As described in the DEIS, it was projected that between 37 and 39 public school children would be generated from the 80-unit Project. These calculations were made using Rutgers multipliers for public school (37 students) and data from The Willows in Somers (39 students).

The decrease in units with the FEIS plan is reflected in the number of 2-bedroom units (previously 50, now 36). The total number of 3-bedroom units has not changed. The calculation of the total number of projected public school-aged children generated from the project has been revised as indicated in Table I-4. The total number of projected public school-aged children has now decreased to an estimated 32 students, a decline of between 5 – 7 students from the calculations in the DEIS which estimated approximately 37-39 students from 80 units. Since the previous number of projected public school children was anticipated to be absorbed into the Somers School District, the revised school-aged children of the revised plan is expected to be absorbed also.

See also Responses to Comments in Chapter II.H, Schools and Chapter II.G, Transportation, regarding a school bus stop.

**Table I-4
Total Projected Schoolchildren Generated: Revised Proposed Action**

Unit Size	# Units	Rutgers: Public School¹	The Willows	Rutgers: Public School	The Willows
2 Bedroom	36	0.36	0.48	12.96	31.68
3 Bedroom	30	0.62		18.6	
Totals	66			32	32

¹ Residential Demographic Multipliers by Rutgers University Center for Urban Policy Research (June 2006), School Age Children multiplier for multifamily housing 2-4 Units, 2BR and 3BR, Value More than \$132,000, ownership units, New York State.

b. Police

As described above, the revised Project has been revised to include 66 new multi-family residential units. This would likely create approximately 201-204 residents at the Site as compared to 241 residents with the DEIS Plan (see Table I-2). If all residents were new to Somers, the population of the Town would increase approximately 1%, based on the Town's 2010 population of 20,434. This increase would likely result in a proportionate increase in demand for police services an increase of 0.402 police personnel, 40.2 square feet of facility space, and 0.1206 vehicle, according to the planning standards published in the Urban Land Institute's Development Assessment Handbook. These increases are less than those calculated in the DEIS and thus are not anticipated to be significant.

c. EMS and Fire

The revised plan is anticipated to generate 201-204 residents as compared to 241 residents with the DEIS plan (see Table I-2). These additional residents would create proportionate demand to the Town's fire services, including an increase of 0.332 fire personnel, 50.25 square feet of facility space, and 0.0402 additional fire vehicle. The emergency medical services (EMS) increases include an additional 7.33 EMS calls per year, 0.03 EMS Full-Time personnel, and 0.01 EMS vehicle. Since all of these impacts are the same or less than the previously quantified impacts in the DEIS, the

impacts are not anticipated to be significant. In addition, the project now includes two direct connections to the Somers Town Centre parking lots, improving access for emergency vehicles to the site. As an additional benefit of the project, the applicant will pave the gravel parking lot (area approximately 65' x 120') of the fire station in the Somers hamlet.

d. Solid Waste

Using the same methodology and multipliers as the DEIS (based on NYSDEC standard residential solid waste multipliers) the residential portion of the Revised FEIS Plan would produce approximately 366,825 lbs per year (201 persons x 5 lbs/day x 365 days/year); or approximately 183 tons per year. This is a decrease of 36 tons per year as compared to the DEIS plan.

The proposed grocery store is the same as described in the DEIS, (estimated to produce approximately 156 ton per year in solid waste, not including recyclables) (DEIS Chapter III.I.4), so anticipated impact are the same with the FEIS Plan.

10. Open Space and Recreation

The existing Multifamily Residence (MFR) Districts in Somers are required to provide a recreation area for their residents, including: 300 square feet of recreation lot area per density unit and include common active recreational facilities (Town Code Section 170-13.A (14)). In the DEIS, there was no active recreation area proposed and a recreation fee was being requested in lieu of a proposed recreation facility. The FEIS Revised Plan now includes a 2,000 sf recreation building on 0.5 acre in the southwest corner of the site to address this requirement. The proposed 21,243 sf (0.5 acre) of active recreation area exceeds the zoning requirement of 13,500 sf in recreation lot area required (45 density units x 300 sf = 13,500 sf).

The MFR Districts also require that all portions of any multifamily development not used for recreation, buildings, parking or other permitted or accessory uses, must be designed and maintained as permanent open space. As with the DEIS plan, the FEIS plan includes approximately 40 percent of the Site (10.58 acres) to remain in open space, and a walking trail is proposed in that passive open space. (See Comments and Responses in Chapter II.I, Community Facilities and Open Space/Recreation). In addition, the applicant will pay \$575,000 in recreation fees to the town for the proposed residential project.

II. Utilities

Revised water and sanitary sewage calculations by the project engineer are included in FEIS Appendix F. See Comments and Responses in Chapter II.J, Utilities: Wastewater and Sanitary Sewer.

Regarding the sewer collection and water distribution systems extension to serve the neighboring property, the project engineer indicates the following will be required:

- Extend gravity 8” diameter sewer line with a terminal SMH at the property line.
- Extend water main 8” diameter to the property line.
- Sewer pump station located on the Somers Crossing site, which will take into account the neighboring sewer pump station
- Various engineering assumptions related to this scenario and WCHD approval have been made, and an engineer’s report will be required.
- This will cost approximately an additional \$30,000.

a. Water Supply

Water supply is proposed to connect to Heritage Hills, as was described in the DEIS. Based on the revised unit count and revised plan the water demand was recalculated (using current NYSDEC requirements) and is summarized in the table below:

**Table I-5
Average Daily Water Demand: Revised Proposed Action
(potable and irrigation)**

Proposed Use	Average Daily Water Demand (gallons per day)
35 two-bedroom townhouse units ¹ 30 three-bedroom townhouse units ²	7,700 gpd <u>9,900 gpd</u> 17,600 gpd total residential
Recreation Building	250 gpd
New grocery store (potable and operational) ³	1,520 gpd*
Irrigation of landscaped areas of the site	22,337 gpd
Total	41,707 gpd

¹ 220 gpd/unit (110 gpd/bedroom)

² 330 gpd/unit (110 gpd/bedroom) as per NYSDEC 3/5/14

³ 0.10 gpd/square foot

(*) Average Daily Flows after 20% discount for water saving fixtures - commercial uses only
Source: Bibbo Associates, LLP (See calculations and standards in FEIS Appendix F)

Note: Residential water demand is estimated to be 220 gpd higher than shown in the table due to the 66th unit added to the FEIS Plan. However this difference is not anticipated to be significant. All calculations will be updated during site plan review process.

b. Sanitary Sewer

The sanitary sewage from the project is proposed to be collected and connect to the Heritage Hills STP, as was described in the DEIS. Based on the revised unit and bedroom count, the sewage generation from the project was recalculated and is 15,500 gpd (reduction of 2,640 gpd from DEIS plan). See Appendix F for engineer's calculations. (Note: Residential sanitary generation is estimated to be slightly higher than shown in the engineer's calculations due to the 66th unit added to the FEIS Plan. However this difference is not anticipated to be significant. All calculations will be updated during site plan review process).

12. Fiscal

The Revised Concept Plan includes the development of 66 condominium homes, a reduction from the 80 units proposed in the DEIS. Since the project will be a condominium, the roads and utilities will be privately maintained (as well as the open space), and no town services will be required for maintenance of such (snow plowing, road paving, basin maintenance, utilities, etc.). The homeowners will contribute to common charges on a monthly basis for the expense of maintenance of these facilities and all the common areas via a homeowners association (HOA).

One of the comments that was heard during the comment period on the DEIS concerned the tax implications of the proposed residential condominium aspect of the project. In response to those comments, the FEIS includes a **Property Assessment and Real Estate Tax Assessment Report** prepared by McGrath & Company Inc., Real Estate Appraisers & Counselors (May 1, 2015) which is located in Appendix H. This report provides a more in-depth, detailed analysis of the likely assessed value of the proposed condominium project, with the revised (65 market rate units) FEIS plan than was presented in the DEIS. This appraisal report addresses the physical, economic, governmental and marketing considerations affecting the value of the subject property. The appraisal has been prepared to conform to the Uniform Standards of Professional Appraisal Practice (USPAP), adopted by the Appraisal Foundation. The purpose of the appraisal was to estimate the market value, equitable assessment levels and real estate tax burdens of the Project as of May 1, 2015 in Somers. This process included a review and comparison of comparable rents at other townhouse condominium developments in northern Westchester, as well as review and comparison of expenses incurred at other recently constructed comparable luxury town house developments in the vicinity.

Assumptions for the appraisal included: all of the proposed townhouse condominium units will have two-bedrooms⁴, two-baths and one half-bath and all

⁴ Since the McGrath report assumes all two-bedroom units and the plan includes three bedroom units as well, it should be considered conservative.

will feature attached garages. If the planned development is completed according to existing design intent of this applicant, Somers Crossing will be benefitted by several physical attributes that differentiate it from existing townhouse condominiums in the northern Westchester County market area, including:

1. The layout of the main living areas will be designed in an open concept style that is currently popular in single family home construction. It is noted that much of the existing townhouse inventory in the Town of Somers and northern Westchester was built from the 1970s through early 1990s and, consequently, incorporated design elements that were envogue at the time but have not aged well in the view of many younger market participants.
2. The kitchens and baths will feature high-end custom cabinetry, granite and marble countertops, marble floors (baths) and stainless GE appliances (kitchens).
3. The townhouses will include premium features such as central vacuums, full security systems and L.E.D. light fixtures.
4. The heating and cooling of the proposed townhomes will be provided via a highly efficient geothermal HVAC systems. Typically, older townhomes in the area feature either electric or oil heating systems that cost considerably more to operate than the geothermal systems planned for the subject dwelling units.

According to the Appraisal, the cumulative effect of these beneficial physical and design attributes will create a significant price premium over existing inventory within both the sales and rental markets. Other specific assumptions of design materials, features and specifications proposed are listed in the full report in Appendix H.

The appraisal estimated the market value of the proposed condominium development based upon the Income Capitalization Approach, assuming it would be operated as a rental apartment complex. As such, consideration was given to the unit sizes, amenities, features and layouts of the property so that a reasonable projection of market level rents and expenses could be formulated. From the

effective gross income, deductions were made for operating expenses based upon a review of those reported at other newly constructed multi-family developments in Westchester County. As the purpose of this assignment was to determine equitable assessment and equitable real estate taxes based there, the appraisers adopted an equalized tax rate within the capitalization process.

Application of the income approach, with an overall capitalization rate (adjusted with an equalized tax rate) and utilizing market level rents and projected expenses indicates that the proposed property’s assessment and indicated real estate tax burden would be as described in the full report in the Appendix H. Relevant assessment and tax burden figures from the appraisal report are listed below:

Opinion of Value (total residential)	\$25,250,000
Value per dwelling unit (65 units)	\$388,500
Equalization rate (tentative 2015)	12.95%
Indicated Assessment (residential)	\$3,269,875
Average Indicated Assessment per unit	\$50,310

Source: McGrath & Company, Inc.

2015 Tax rates – per \$1,000 of assessed value		Taxes Generated by FEIS 65 unit project (residential portion only)
County	26.85	\$87,796
Town	14.00	\$ 45,778
Spec. District – Somers Fire	5.37	\$17,559
<u>Somers School District</u>	<u>156.47</u>	\$511,637
Total Tax rate (Mill rate)	202.69	
Indicated Real Estate Tax burden¹ (entire residential portion)		Approx. \$662,770
Average Indicated Real Estate Tax burden (per unit / 65 units)		\$10,196

Source: McGrath & Company, Inc.

(¹Residential Real Estate Tax Burden–Entire Property” listed as \$662,758.88 in McGrath Report)

As shown above, the taxes generated by each market rate residential unit are estimated to be \$10,196 annually. Each homeowner would also pay approximately \$4,000 annually in common charges for maintenance, including snow removal, private roads, stormwater facilities, landscaping, recreation area, waste disposal, etc.

The DEIS also used the income capitalization approach (as required by State law as the methodology for calculating property taxes of condominiums), which is based on an assumption of the income (rents) that the property owner would receive if the units were rentals. For purposes of the DEIS, a general estimation of property taxes was performed using existing data on the Heritage Hills development. The DEIS analysis is included in Chapter III.L, Fiscal, and describes the real property taxation by the County, Town of Somers, the Somers Central School District and the Somers Fire District using 2013 tax rates for those taxing jurisdictions. In the DEIS, the residential component of the project was anticipated to generate approximately \$611,864 in annual property tax revenue, with per-unit average property tax of approximately \$7,648 ($\$611,864 \div 80 = \$7,648$). The McGrath analysis in the FEIS utilized more recent tax rates (2015 tax rates), and is also prepared by a professional with expertise in real estate appraisal, and is more detailed, comprehensive, and serves to update what was in the DEIS.

The annual tax figures generated for the grocery store would be the same as described in the DEIS (modified to use the same multipliers as the Appraisers report) (\$107,008). The Appraisers' Report calculated the annual property taxes generated from 65 units to be approximately \$662,770. Therefore, the total revised FEIS project, with 66 units and the grocery store, is estimated to generate \$779,976 in annual property taxes ($\$672,968$ residential + $\$107,008$ grocery = $\$779,976$).

As with the DEIS plan, school district costs would be less than taxes generated from the proposed development. Using the same school district costs described

in the DEIS for comparison, the instructional cost per student in the Somers School district was estimated at \$14,772 per student. It is anticipated that the FEIS revised Proposed Action would generate approximately 32 students to the district. Therefore, the cost of instruction for these students is estimated to be \$472,704 (32 students x \$14,772).

The analysis provided in the Appendix H Appraisers report (with school tax rate of 156.47, assessed value (AV) 65-unit residential of \$3,269,875), it is estimated that \$511,637 would be generated in taxes to the school district annually from the residential portion (for 65 units). For 66 units, with an AV of \$3,320,185, the tax generation would be \$519,509 to the school district. By adding this to the \$82,607 generated for the schools by the retail development⁵, a total of \$602,116 would be generated to the school district from the revised 66 unit Project (\$519,509 + \$82,607 = \$602,116). Since the proposed development is anticipated to generate approximately \$602,116 to the School District, and the cost to the district is estimated at \$472,704 it is anticipated that a net benefit of \$129,412 would be provided annually to the School District from the FEIS plan (66 units and 32 public school children). Therefore, the proposed project would likely result in a net positive for the municipal taxing districts, including the school district. Even if there were a shortfall in tax benefit, it is noted that the shortfall would not likely occur until the last students projected to be generated actually enter school, although it would not result in a potentially significant adverse impact to the school district. Detail on estimated tax generation from other taxing districts is described in the Appraisers report in Appendix H, and Appendix M.

In Appendix M, Fee Simple and Condominium Comparison, the real estate taxes were estimated for the 66-unit project using a fee simple calculation. This analysis indicates that if the proposed units are taxed as fee simple, each unit would pay approximately \$18,374 annually in real estate taxes. This is compared to \$10,196 estimated to be paid annually as proposed, with condominium taxation. Given all

⁵ See DEIS Table III.L-3

of the various the factors, including the common charges on top of the taxation with fee simple (almost double), and the value of the proposed units including many modern, energy efficient features, the Applicant feels that based on their experience in the residential real estate market in Somers, taxes at this level would significantly jeopardize the marketability of the residential units. Therefore, the project continues to be proposed as a condominium. (See Appendix P, which includes letters from 3 local realtors describing their opinions on the marketability of the units with fee simple taxation vs. condominium taxation).

As proposed, this condominium project will generate taxes that will, on balance, exceed estimated costs of municipal services while providing a quality housing alternative for empty nesters seeking housing in the Somers hamlet. See also Comments and Responses in Chapter II.K, Socioeconomic/Fiscal Resources, Appraisers Report in FEIS Appendix H, Fee Simple and Condominium Comparison in FEIS Appendix M and letters in Appendix P.

13. Visual Resources and Community Character

Potential impacts to visual resources are generally the same as the DEIS with the exception of the grocery store location moving closer to the street and a sidewalk being added on Route 202, as described in Alternative C in the DEIS, and the grading on the FEIS plan creating more disturbance in the 75-foot buffer along Route 100, therefore requiring more visual mitigation in this vicinity than with the DEIS plan.

Route 202 frontage: The location of the grocery store façade along the street (Route 202) brings the proposed building in line with other structures in the hamlet on the streetscape of the south side of Route 202. Although there will be tree removal required in order to construct a grocery store in the hamlet, this is an unavoidable impact that will be mitigated to the extent practicable by various measures. The frontage will be in character with the existing hamlet and street trees will be added along the Route 202 frontage. In addition, a sidewalk long Route 202 has been added to the plan along the entire site frontage of Route 202,

opposite Heritage Hills. This is considered a positive visual and community character impact by the Applicant, in addition to a positive in terms of pedestrian circulation and safety.

The design intent for the road frontage along Route 202 is for the proposed landscaping to mitigate loss of existing vegetation to the extent practical, by maintaining the character of the streetscape of the hamlet. The proposed parking area is set approximately 22-25 feet from the property line of Route 202 providing sufficient area for suitable streetscape treatment. The details of the implementation of the design intent will be finalized during site plan review. However, the design intent is proposed to be accomplished by implementation of the following mitigation measures along the Route 202 frontage:

- Although the sidewalk is currently proposed along the parking lot, provide sufficient level area at the right of way to accommodate a curb, grassed strip and sidewalk if that location is preferred by the Town or by the NYSDOT;
- Rebuild the existing stone wall along the Route 202 property line frontage to a height and width that has a substantial appearance from the road and will block the view of car headlights in the parking lot;
- Alternatively or in addition to, add an ornamental fence along the frontage in character with historic wrought iron or wood picket fencing of early America, again, to a size that has a substantial appearance from the road;
- Add new shade trees along the entire frontage, of suitable species for exposure to road conditions and substantial size and spacing to recreate a tree canopy in the short term (± 10 years);
- Add understory flowering trees and shrubs that will function to filter views into the project (the parking lot) in the short term (five years or less) and provide an ornamental appearance from the road;
- Add entrance driveway features that enhance the visual character of the corridor, such as a stone gateway pillars and project signage.

Regarding Route 100 frontage: As noted in the DEIS, the proposed Concept Plan indicates a 75-foot building setback from the Route 100 site frontage. The 75-feet between the homes and the road is intended to be vegetated, with both existing and proposed landscape features, in order to minimize the impact from the loss of vegetation along the west side of the Route 100 corridor leading to the hamlet. Due to the existing topography, the proposed structures will be set well below the grade of Route 100, as shown on the cross sections presented in the DEIS (see DEIS exhibits III.M-7 and III.M-8). With the FEIS plan, the building elevations and 75-foot setback are essentially the same as the DEIS plan. However, due to the road connection now proposed to the shopping center to the north, the proposed grading encroaches further into this buffer than the DEIS plan, approaching the property line in places. Therefore, more existing vegetation and trees would be removed along Route 100 in the FEIS plan than in the DEIS plan.

However, the grading could be minimized by installation of portions of retaining wall, if the Town desired more of the existing vegetation to remain in this vicinity. In addition, the design intent for this road frontage is for the proposed landscaping to mitigate loss of existing vegetation to the extent practical, by maintaining the character of the hamlet, and preserving the semi-rural character of the corridor. The details of the implementation of the design intent will be finalized during site plan review. However, the design intent is proposed to be accomplished by implementation of the following mitigation measures within the 75-foot setback:

- Where possible, keep existing healthy and non-hazardous trees that will maintain a canopy over the road;
- Rebuild the existing stone wall at the property line along the entire frontage to a height and width that has a substantial appearance from the road;
- Alternatively or in addition to the stone wall, add an ornamental fence along the frontage in character with historic wrought iron or wood picket fencing of early America, again, to a size that has a substantial appearance from the road;
- Add new shade trees along the entire frontage, of suitable species for exposure to road conditions and substantial size and spacing to recreate a tree canopy in the short term (± 10 years);

- Add evergreen trees, and understory flowering trees and shrubs that will function to filter views into the project in the short term (five years or less) and provide an ornamental appearance from the road;
- Include entrance driveway features that enhance the visual character of the corridor, such as stone pillars and project signage;
- Provide a land dedication to NYSDOT along the Route 100 site frontage to accommodate any future sidewalk, if required by NYSDOT.

14. Historic Resources

As described in the DEIS, the project has been reviewed by the State Historic Preservation Office (see DEIS III.N and DEIS Appendix J). Neither the proposed residences nor the proposed grocery store will negatively impact upon historic properties/districts in the vicinity or properties that are eligible for listing on the National Register. The Landscape Plan for the streetscape along Route 202 and Route 100 will be refined during site plan review, as described above.

15. Archaeological Resources

As described in the DEIS, the project has been reviewed by the State Historic Preservation Office (see DEIS III.O and appendix J). The cultural resource reports done previously for the Site (in 1995 and 2010) recommend no further archeological investigations, and the NYSOPRHP determined in 2010 that archeological issues had been addressed. These conclusions are the same with the revisions to the plan in the FEIS.

16. Air Quality/Climate Change/Greenhouse Gases/Energy

As described in the DEIS, studies of potential impacts to air quality and greenhouse gas emissions conclude that the proposed project would have no long term significant impacts. These conclusions are the same (or impacts even less due to reduction in unit count) with the revisions to the plan in the FEIS. See responses to comments in FEIS Chapter II.M.

Regarding energy, the Applicant is currently proposing geothermal technologies for heating and cooling for residential and grocery store uses at the Site. See Responses to Comments in Chapters II.D and II.O regarding geothermal.

17. Noise

The Revised FEIS plan will not have any change to potential noise impacts from the Project. As described in DEIS chapter III.R, Noise, even though there will be a change from the existing conditions (vacant land), the project is not anticipated to create a significant adverse impact due to noise. See Responses to Comments in FEIS Chapter II.M.

18. Odor

The Revised FEIS plan will not have any change to potential odor impacts from the Project. As described in DEIS chapter III.S, Odor, the project is not anticipated to create any significant adverse impact due to odor. See also FEIS Responses to Comments in Chapter II.M.

**Table I-6
Impact Comparison:
DEIS and FEIS Plan**

	DEIS Concept Plan	FEIS Revised Concept Plan	Change from DEIS plan to FEIS Plan
Residential Units Two Bedroom 2 BR Sp. Needs unit Three Bedroom Total	50 (100 bedrooms) 0 <u>30 (90 bedrooms)</u> 80 units (190 bedrooms)	35 (70 bedrooms) 1 (2 bedrooms) <u>30 (90 bedrooms)</u> 66 units (162 bedrooms)	Decrease of 14 units Decrease of 28 bedrooms
Residential Parking	160 in driveways 160 in garages <u>32 visitor</u> 352 total	132 in driveways 132 in garages 27 visitor <u>9 rec area (incl 1 HC)</u> 300 total	Decrease of 52 parking spaces in residential area
Grocery Store	19,000 sf	19,000 sf	Store size the same. Location moved closer to Route 202; further from wetlands; sidewalk added on Route 202
Grocery Parking	107 spaces	122 spaces (incl. 5 HC)	Increase of 15 parking spaces at grocery store
Roadway length (residential)	2,365 l.f.	2,513 l.f.	Increase of 148 l.f. roadway
Open Space (acres)	10.58 acres (40% of site)	10.58 acres (40% of site)	Same as DEIS
Active Recreation	None	21,243 sf lot/2,000 sf rec building, fitness, playground	Addition of active recreation facility for residents
Area of Disturbance (acres)	16.1 acres	15.6 acres	Decrease of 0.5 acre disturbance
Impervious Area (acres/% of site)	7.28 acres/27.3%	7.75 acres/29%	Increase of 0.47 acre impervious area
Wetland Disturbance (acre)	.01 acre (temporary)	.01 acre (temporary)	Same as DEIS
Wetland Buffer Disturbance (acres)	1.1 acres total	0.33 acres total	Decrease of 0.77 acre buffer disturbance
Tree Removal	1067 trees	1032 trees	Decrease of 31 trees to be removed (in grocery store area)
Trip Generation • AM Peak • PM Peak • Saturday Peak	AM- 92 PM- 221 Sat- 202	AM- 86* PM- 212* Sat- 196*	Decrease in trips generated
Population	241	201-204	Decrease of 40 residents
School Children	37 - 39	32	Decrease of 5 - 7 students

	DEIS Concept Plan	FEIS Revised Concept Plan	Change from DEIS plan to FEIS Plan
Sewage Generation	18,240 gpd	15,600 gpd*	Decrease of 2,640 gpd sewage generation
Water Demand	37,437 gpd	41,707 gpd*	Increase in water demand (due to addition of comm. building, larger irrigated area and no reduction permitted for water saving fixtures)
Annual Tax Generation (total project)	\$716,365	\$779,976	Increase in residential taxes based on detail provided in Appraisers report. Retail taxes same as DEIS.
Annual Surplus to School District	\$1,597 (based on 37 students)	\$129,412 (based on 32 students)	Increase in tax surplus to schools based on detail provided in Appraisers report
Taxes Generated per residential unit	\$7,648	\$10,196	Increase in residential taxes per unit based on detail provided in Appraisers report
Emergency Service Impacts (Police, Fire and EMS)	Additional calls for service. Emergency access provided.	Slightly less impact than DEIS plan due to fewer calls (fewer residences).	No additional impacts. Emergency access improved with two connections to shopping center.
Solid Waste Generation (residential)	219 tons/yr.	183 tons/yr.*	Decrease of 36 tons/yr. (residential). Grocery store same as DEIS plan.

HC - handicapped parking spaces

*Based on 65-unit plan. Potential impacts may be slightly different with one additional 2 BR unit (total 66).

Differences are not anticipated to be significant.

Table I-6A
Somers Crossing:
Community Benefits /Costs

Recreation Facility	
0.5 acre lot (land cost)	\$100,000
Recreation Building (2,000 sf @ \$210/sf)	\$420,000
Interior amenities (gym equip, furniture, kitchen, etc.)	\$85,000
Playground	\$35,000
Utilities (water, electricity, sanitary)	\$40,000
Architecture, engineering, landscape, etc.	<u>\$35,000</u>
Recreation facility total	\$967,000
Recreation Fees to town	
30 three bedroom units x \$9775 per unit	\$293,250
35 two bedroom units x \$8050 per unit	<u>\$281,750</u>
Recreation Fee total	\$575,000
Sidewalks¹	
Route 100 – From Towne Centre entry drive, north and west around Bailey Park (A)	\$112,000
Route 202 – site Frontage (B)	\$58,000
Route 202 section from site west to Fireman’s Field (C)	\$23,000
Route 202 section from Fireman’s Field west to School (D)	<u>\$49,400</u>
Sidewalks total	\$242,400
Land dedication along Route 100 to NYSDOT (for future sidewalk) ¹	\$57,750
Donation of one unit (for special needs/town resident)	\$700,000
Pave off-site gravel parking lot at Firehouse (approx. 65' x 120')	\$120,000
Sewer and Water lines will be brought to the site property lines (allowing access to adjacent parcels)	<u>\$30,000</u>
Total	\$ 2,440,150

¹ cost estimates from Maser Consulting, Inc. (see FEIS Appendix Q)

D. Involved Agencies and Required Approvals

Involved and interested agencies, as well as required approvals, are the same as described in the DEIS (see DEIS Chapter II.D, Project Approvals and Reviews and DEIS Table II-2, Project Approvals). The detail on the approvals table from the DEIS was refined (see Comment O5 from NYSDEC) and is included below:

**Table I-7
Project Approvals Required
(Involved Agencies as per SEQRA)
(Revised DEIS Table II-2)**

Involved Agency	Type of Approval/Review
Somers Town Board	Creation of Multifamily Residence Downtown Hamlet (MFR-DH) zone Rezoning to new MFR-DH zone - map Approval of preliminary development Concept Plan Expansion of Heritage Hills Sewer Service Area Expansion of Heritage Hills Water Service Area
Somers Planning Board	Site Plan Subdivision (potential future*) Tree Removal Permit Local Wetland Permit Steep Slope Activity
Westchester County Department of Health (WCDOH)	Water Extension permit Sewer Extension permit
New York City Dept. of Environmental Protection (NYCDEP)	Stormwater Pollution Prevention Plan (SWPPP) Sanitary Sewer extension
New York State Department of Environmental Conservation (NYSDEC)	Article 17- State Pollution Discharge Elimination System (SPDES) for proposed stormwater discharges; Article 17 – approval of sewer extension; Article 24 – Freshwater Wetlands for activities affecting a state regulated wetland and associated 100 foot adjacent areas; Article 11 – Review of potential impacts to Northern Long-Eared Bats, a species proposed to be listed as a federally endangered species, for determination of “taking”; Article 15 – Water supply for the extension of the Heritage Hills Water Works Corporation service area; Section 401 Water Quality certification associated with the filling of wetlands regulated by the US Army Corps of Engineers
New York State Department of Transportation (NYSDOT)	Highway Work Permit (NYS Route 202 and NYS Route 100)
US Army Corps of Engineers (ACOE)	Nationwide Permit for limited temporary utility installation

*If required. No subdivision is necessary at this time, however, potential future subdivision approval is listed here in event that a future subdivision is proposed for the grocery store, if a potential tenant requires a separate parcel.

CALCULATION OF BASE LOT AREA
(W/ OR W/O GROCERY STORE)

AREA	GROSS AREA	DEDUCTION	NET AREA
SITE AREA	26,068	75%	26,068
STATE WETLANDS / 100 YR FLOOD PLAINS	6,048	75%	4,536
LOCAL WETLANDS	6,172	75%	4,629
TOTAL WETLANDS (128%)	12,220	75%	9,165
BASE LOT AREA			22,033 *

*NO DEDUCTION MADE FOR THE GROCERY STORE FACILITY AS THE DEVELOPER BELIEVES THAT FROM THE 15% APPROXIMATE DEDUCTION REQUIRED.

CALCULATION OF MAXIMUM # OF UNITS

Z DENSITY UNITS X BASE LOT AREA	44,066
# UNITS PER GROSS UNIT (0.31):	2,389 UNITS
1.5, 3BR UNITS	
X = NUMBER OF 2BR UNITS	
Y = NUMBER OF 3BR UNITS	
PROPOSED RATIO OF 2BR UNITS TO 3BR UNITS X = 3/1	
THEFORE:	
$\frac{2}{3} X + Y = 44,066$	
$\frac{3}{1} Y + Y = 44,066$	
NUMBER OF 3BR UNITS Y = 30	
AND # OF 2BR UNITS X = 3 X Y = 50	
MAX. # OF UNITS	80



PROPOSED
 7 DUPLEX BUILDINGS (14 UNITS)
 9 TRIPLEX BUILDINGS (27 UNITS)
 6 QUADRUPLIX BUILDINGS (24 UNITS)
 22 BUILDINGS (65 UNITS TOTAL)

REVISIONS

NO.	DATE	DESCRIPTION
1	11/15/2015	ISSUED FOR PERMIT

PRELIMINARY GRADING PLAN
 SOMERS CROSSINGS / MONTELLA
 66 RESIDENTIAL UNITS
 SCALE: 1" = 50'

BIRBO ASSOCIATES, LLP
 200 ROUTE 100 SUITE 200
 WESTCHESTER COUNTY, NY 10598

UP

TREES & SHRUBS - COMMERCIAL AREA			
Code	Quantity	Scientific Name	Common Name
AR	3	Acer rubrum	Red Maple
CC	5	Carya cordata	Eastern Hophornbeam
CC	5	Carya ovata	Shagbark Hickory
CC	5	Carya tomentosa	Shademantle
LF	14	Lonicera xylosteum	5 gal container
OR	9	Quercus rubra	2.5"-3" cal. ASB

PLANT LIST



Exhibit I-5b

LANDSCAPE ARCHITECT & ENVIRONMENTAL CONSULTANT

SOMERS CROSSINGS / RONIELLO

BIRBO ASSOCIATES, LLP

LEGEND

- Large Deciduous Tree
- Small Deciduous Tree
- Large Evergreen Tree
- Evergreen Shrub
- Herbaceous Planting
- Lawn/Furgrass
- Grass/Fork Mix
- Wooded Area to Remain as is
- Proposed Sign
- Proposed 2' Contour
- Proposed 3' Contour
- Proposed 4' Contour
- Proposed 5' Contour
- Proposed 6' Contour
- Proposed 7' Contour
- Proposed 8' Contour
- Proposed 9' Contour
- Proposed 10' Contour
- Proposed 12' Contour
- Proposed 15' Contour
- Proposed 20' Contour
- Proposed 24' Contour
- Proposed 30' Contour
- Proposed 36' Contour
- Proposed 42' Contour
- Proposed 48' Contour
- Proposed 54' Contour
- Proposed 60' Contour
- Proposed 66' Contour
- Proposed 72' Contour
- Proposed 78' Contour
- Proposed 84' Contour
- Proposed 90' Contour
- Proposed 96' Contour
- Proposed 102' Contour
- Proposed 108' Contour
- Proposed 114' Contour
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GRAPHIC SCALE
1 inch = 40 ft.

NORTH

REVISIONS:

NO.	DATE	DESCRIPTION
1	10/23/2015	ISSUED FOR PERMIT
2	11/10/2015	REVISED PER COMMENTS



Source: NYS GIS Clearinghouse

SOMERS CROSSING
Somers, New York

Engineering, Surveying and Landscape Architecture, P.C.

Aerial Photograph

Exhibit

I-6

**PROPOSED SIDEWALK
LOCATIONS**

II. COMMENTS AND RESPONSES TO COMMENTS ON THE DEIS

A. Land Use and Zoning

Comment A1

A 50-foot access easement through the south end of site is proposed to remain within which the project access drive is proposed. The applicant should contact the owner of the adjoining land to inform the Town of any intention of future use of the adjoining land that would necessitate use of this access ROW and the possible extent of such use. (Letter #4, Tim Miller Associates, 3/18/15)

DEIS states the adjacent land to the south and west is “unlikely to be developed,” and has “limited development potential.” Demonstrate this conclusion, including providing a topo map and site constraints study for that parcel. Or provide such statement or study from the parcel owner. The lack of development potential of the neighbor’s property should be demonstrated before the Town approves of a reduction in the 100’ required setback on the south and west sides.

(Letter #4, Tim Miller Associates, 3/18/15)

Response A1

As shown on DEIS Exhibit II-3 Site Survey, the lands to the south and west are owned by IBM. Topography of this land (see DEIS Exhibits II-1, Site Location, Exhibits III.F-5, III.F-6 and III.F-7, Historical Topographic Maps) indicates topography off site continuing to slope downward to the west, into the existing wetlands and watercourses that exist on the IBM site, including the majority of NYSDEC Wetland F-1. This parcel (Tax ID #17.18-1-1) is approximately 166.5 acres in size, of which approximately 66 acres (40 percent) is NYSDEC regulated wetlands, with another substantial area of acreage within regulated 100-foot Adjacent Areas.

The fifty (50’) foot access easement through the south end of the Somers Crossing site to the adjacent IBM property will remain in order to provide access to that

property, although it is constrained as described above. Since the property is almost entirely wetland and regulated adjacent areas, it is likely to be of limited utility and value insofar as new development is concerned, in the applicant's opinion. It is noted that this IBM parcel appears to also have access/frontage on Route 100, Route 202 and Voris Drive.

The 50-foot access easement is proposed to remain. The proposed Concept Plan does not indicate any structures in this easement, but does propose a project roadway which could be extended in the future to the western property line to the vacant IBM parcel. Therefore, this plan does not invalidate or prevent access via the existing easement in any way.

In the applicant's opinion, the one hundred (100') foot required setback on the south and west sides could be waived without negative effects on the adjacent lands. To the south, due to the roadway proposed there and 50-foot easement that exists, there will be 24-feet covered with pavement, allowing for the remaining 26 feet of the easement to be landscaped, providing a buffer between the southern property line and the nearest proposed residential building.

Comment A2

Why doesn't the proposed plan exercise the existing access easement through the Towne Centre property to provide connectivity of the adjoining land uses in true Hamlet or Village Center fashion? Modern sustainable design practice (also known as labels such as Traditional Neighborhood Design, New Urbanist, Neighborhood Development, Sustainable Sites) for a hamlet or village advocates connectivity via walking paths and bicycle paths in addition to vehicle access to improve the health of the community. How will this project connect to the rest of the hamlet?

(Letter #4, Tim Miller Associates, 3/18/15)

Response A2

The revised plan described in this FEIS (see Exhibit I-1) shows the exercise of the existing access easement through the Town Centre property so as to provide

connectivity of Somers Crossing grocery store with the Town Centre. On the south end of the site, an additional connection is shown to the Town Centre from the residential portion of the proposed Somers Crossing development. These vehicular (and pedestrian/bicycle) connections will provide connectivity between the residential/grocery store and existing retail center. These proposed connections and improvements will affect the site plan of the Towne Centre, and coordination of such will be resolved as part of site plan review.

These connections to the shopping center will provide for separation between vehicles and pedestrians and cyclists (e.g. curb, sidewalk, pavement materials) for pedestrian safety. The pedestrian circulation from the parking areas to the grocery store will be facilitated with a raised crosswalk (see typical detail in Appendix N). Details of this separation will be reviewed and finalized during the site plan review. A new sidewalk is proposed along Route 202 within the applicant's site frontage. In addition, the walking trail through the open space will provide another connectivity option for pedestrians in the passive open space between Route 100 and Route 202.

Comment A3

The proposed zoning advocates “shopping opportunities for the residential development in the proposed district.” The project as proposed relies on the major roadways to connect the shopping to the residences. How does the proposed zoning promote hamlet connectivity between the residential component and grocery store and to the project's neighbors?

(Letter #4, Tim Miller Associates, 3/18/15)

Response A3

See response to Comment A2, which describes connectivity with the revised plan. The proposed zoning provides for shopping opportunities for nearby residential development, both on site for the new residents, and for the existing population at Heritage Hills and other parts of Somers. What is being proposed is a grocery store that is as close to Heritage Hills of Westchester as is possible. One of the

requests often made by the owners and residents of Heritage Hills is that there be a grocery store nearby. As is well known, Heritage Hills is occupied by many senior citizens and the proximity to the development is most beneficial to the community and in particular to these residents. It also will provide for the new residents of Somers Crossing to have an opportunity to shop in a nearby grocery store, within walking distance. This has the benefit of cutting down on vehicular traffic and perhaps increasing pedestrian traffic.

Comment A4

The DEIS states, “Section 170-13 of the Zoning Code sets forth as its purpose that multifamily residence [MFR] districts be ‘established in order to provide suitable opportunities within the Town for the development of housing designed to satisfy the needs of households maintained by the young, the elderly and families earning less than 80% of the county’s median income, and to permit a broad array of housing types, dwelling unit sizes and forms of ownership/occupancy’”. [DEIS page III.B-5] The affordability component as identified for the Town’s MFR districts has been eliminated from the proposed MFR-DH zone. How can the Town enact a new subsection of zoning that is clearly inconsistent with the stated purpose for establishing the MFR district? (Letter #4, Tim Miller Associates, 3/18/15)

Response A4

In the applicant’s opinion, the proposed action will provide a community benefit with a desirable use. A new grocery store in the hamlet, as noted above (and in the DEIS), will be beneficial to the existing residents of Somers. It also will be clearly beneficial for the new residents at the site.

In addition to the grocery store component of the proposed MFR-DH, the Applicant proposes to build one dwelling unit for disabled individual(s) located within the Town who are in need of special needs housing.

The Applicant is offering a donation to the Town (or town designated charity or non-profit) of one complete unit for that entity to sell or lease for use by

handicapped or disabled individual(s). The selection process for the resident(s) and management of future ownership or maintenance of this unit are to be determined by the Somers Town Board (or designated non-profit or charity). This is offered instead of a conventional “affordable” component to the project where not less than 15% of the permitted base density in each multifamily development shall be affordable dwelling units, as required by Section 170-13.A(4)(a) of the existing MFR-BP and MFR-H overlay districts (for sale or for rent, to be determined).

This unit would initially be donated by the Applicant, with the intent to provide an entirely subsidized residential unit to address local needs of handicapped persons, instead of a “discounted rate” on several market rate units. This dwelling space will provide all of the necessary handicap accommodations.

As stated above, affordable housing in the Town of Somers, like every other municipality in Westchester County, is an important goal. While the proposed zoning text does not include a requirement for affordable housing, the Applicant proposes the construction and donation of one unit that will provide for housing for a handicapped and/or disabled individual.

As also mentioned, by having a grocery store in the hamlet, and in particular in proximity to the many residents of Heritage Hills, the project will be providing a community benefit for many of the elderly, as well as families.

Therefore, the applicant proposes another option for the MFR districts with the MFR-DH that it does not include the traditional affordability component of the Town’s other MFR districts, but instead provides a grocery store/retail component as a community benefit.

Comment A5

Both the Town’s Comprehensive Plan and the Westchester County 2025 Plan call for the implementation of affordable housing in the Town of Somers. We understand that

there are other alternative housing types and affordable units proposed or being provided in the Town. Explain how “the affordability needs of present and future residents” as identified in §170-13 for the MFR districts can be satisfied by implementing the proposed project at this site and other projects in the hamlet.

(Letter #4, Tim Miller Associates, 3/18/15)

Response A5:

See response to comment A4. The affordability needs of Somers are being addressed by both approved and proposed affordable units. According to the Town of Somers, as of October 2015 (see Appendix L) several other projects proposed in Town, including the Planned Hamlet/Avalon, Hidden Meadow, The Greens and smaller projects for a total of 109 affordable units under discussion. Combined with 154 units already approved, there are 263 units approved or under discussion and review. Therefore, Somers has contribution of 22% of the 750 unit total Westchester County Housing Settlement number for the County.

The DEIS described an alternative that would provide an additional percentage of affordable housing on this site (Alternative B4). In that case, the grocery store would not be built, and of the 109 total units on this alternative, 24 affordable units would be constructed on the Route 202 portion of the site (see DEIS Alternative B.4).

Comment A6

The DEIS states that providing a retail grocery store as a community benefit offsets the effect of not providing affordable housing. How do the benefits of one parallel the effects of the other?

(Letter #4, Tim Miller Associates, 3/18/15)

The Applicant has proposed a new MFR-DH zoning district within the Multifamily Housing district which would allow a grocery store as a permitted use and not require affordable housing units as part of a proposed housing component. Essentially, the proposed zone establishes the provision of a grocery store as a public benefit that is a

substitute for the public benefit of provision of affordable housing as a rationale for establishing a floating multifamily zone. Can the applicant provide evidence of some methodology or balancing that supports such a substitution?

(Letter #9, Town of Somers Planning Board, 3/31/15)

Please explain why the proposed new MFR-DH zone does not require the inclusion of affordable housing units.

(Letter #9, Town of Somers Planning Board, 3/31/15)

The applicant states that the proposed development will not contribute towards affirmatively furthering fair housing in Somers through the inclusion of affordable AFFH units. However, the draft EIS offers no rationale for this lack of inclusion.

The draft EIS correctly notes that all existing multi-family (MFR) floating zones in Somers include provisions for affordable housing. Of the two zones, the MFR-BP floating zone is specific to Baldwin Place and cannot be applied to the site. The other zone, MFR-H, can be applied to any hamlet center, but does not allow retail. Therefore, the applicant argues that a new MFR-DH floating zone should be created that would only be applicable to the Somers hamlet and would allow retail. An additional difference with the proposed MFR-DH regulations is that they do not include provisions for affordable housing as in the existing districts.

(Letter #13, Westchester County Planning Board, 4/15/15)

They were asking me what the affordable housing component of the development is. I don't know if that is part of this now, or that comes later. I wasn't able to answer the question the other night.

(Richard Clinchy, Public Hearing #2, p. 9-10)

The housing in this development should definitely include a good portion for low income households. There are many in Somers who need this.

(Letter #5, Donald P. and Ellen B. Devey, 3/22/15)

All new multi-residence housing areas in the new Town Plan must include housing for low and moderate income people.

(Letter #5, Donald P. and Ellen B. Devey, 3/22/15)

Response A6:

Comments noted. The Town's recent draft update of its Comprehensive Plan (November 2015) acknowledges that the Town's record to date on the provision of affordable housing is very good. There are 256 units of affordable housing constructed, under discussion and/or being reviewed by the Town according to the draft update. (See Appendix L, Town of Somers Affordable Units - October 2015).

The applicant's zoning text proposal does not include an affordable housing requirement but instead requires a complimentary use of a grocery store or other neighborhood retail use. However, the applicant's residential proposal includes a special needs housing component (one unit as described elsewhere) and proposes a grocery store that would provide an alternative public benefit, in the applicant's opinion. The DEIS also includes analyses of alternatives that include affordable units. (See DEIS Alternatives B3 and B4).

Regarding this proposal, the grocery store does not bear a direct relationship to the provision of affordable housing, but in the applicant's opinion, affords the hamlet an added community benefit. See Responses A4 and A5, above.

Comment A7:

We continue to encourage the Town to adopt the County's Model Ordinance Provisions with respect to maximum household income for both ownership and rental units, the elimination of preferences and application to all zoning districts that permit residential development. While the County Planning Board recognizes the work that Somers has accomplished with the development of affordable units, we note that the majority of the affordable units have been constructed (or proposed) for the Baldwin Place hamlet and that a majority of these units are restricted to seniors. This proposed

development in Somers hamlet provides an excellent opportunity to provide additional affordable AFFH units.

(Letter #13, Westchester County Planning Board, 4/15/15)

Response A7:

Comments noted. See also Responses A4, A5 and A6.

Comment A8:

The proposed zoning text reads: “The Town Board shall apply the basic planning standards set forth in Subsections A(1), A(2), A(4), A(5) and A(7) to A(17) for the MFR-BP District in determining the controls for each MFR-DH District established pursuant to this section, as modified.” However, the DEIS proposal omits provision of on-site recreation as required by A (14). Instead, the DEIS indicates that the applicant will provide “payment in lieu” of this lack of recreation space/facilities. There is no provision in the existing section 170-13 nor the proposed Local Law for a payment in lieu with regard to recreation.

(Letter #4, Tim Miller Associates, 3/18/15)

Response A8:

The Plan has been modified so as to provide for on-site recreation as required by the subsections of the proposed zoning text and no longer proposes a “payment in lieu” of active recreation. A recreation facility is proposed in the southwest corner of the residential development. On 21,243 sf (0.5 acre), it will contain a 2,000 sf building with a fitness center, common room and kitchen, as well as a playground outside. The zoning requirement of 300 sf recreation area per density unit (45 density units x 300 sf = 13,500 sf) is exceeded with this proposed facility. In addition, the applicant will pay the town recreation fee for the project which is estimated at a total of \$575,000 (see Table I-6A).

Comment A9:

Explanation of the adequacy of a payment in lieu of parkland should be provided. Does the Town want fees in lieu of an active recreation facility at this site? Is a commensurate

amount of playground or other active recreation facilities available nearby in lieu of on-site recreation? How will only payment of the requisite recreation fee satisfy the recreation need of future project residents?

(Letter #4, Tim Miller Associates, 3/18/15)

Response A9:

See Response A8. An on-site active recreation facility is provided as part of the FEIS plan, so fees in lieu of active recreation facility are no longer requested. In addition, and the applicant will pay the town recreation fee for the proposed residential development.

Comment A10:

Could the same project be achieved if the site is subdivided and then rezoned with MFRH district applied to the south side and NS to the north side? What is the advantage to the Town of adopting the new DH district rather than this?

(Letter #4, Tim Miller Associates, 3/18/15)

We note that the applicant's objectives could be achieved through another approach. For example, the bulk of the site could be rezoned to the MFR-H district while the land area to be occupied by the grocery store could be rezoned to the adjacent Neighborhood Shopping zoning district. We recommend this approach as it would utilize the Town's existing zoning regulations as well as provide that at least 15% of the basic permitted density will shall consist of affordable dwelling units.

(Letter #13, Westchester County Planning Board, 4/15/15)

Response A10:

It is noted that in the DEIS, Alternative B4 describes a site development using the MFR-H regulations, and shows a total of 109 units, 24 of which are affordable units, and no grocery store.

The concept of rezoning a portion to NS and using the MFR-H was considered by the applicant. However, the location of the property within the Somers Hamlet,

its proximity surrounding the Somers Town Centre, and an effort to be consistent with other provisions of the MFR provisions made sense in terms of consistency and zoning to propose the new MFR district (MFR-DH) on the entire site that permits the multifamily residential as well as a grocery store. The NS district has many requirements (such as yard setbacks and site coverage) that could not be met and would need variances in order to accommodate the grocery store in its current configuration, depending on the location of the proposed zone line.

The variances required for a grocery store in NS district would depend on how the site is designed and where the subdivision/zone line is located on a plan. For the purpose of this response, using a subdivision/zone line approximately 300 feet from Route 202, creating a ±3 acre parcel; waivers that would likely be required for the same configuration grocery store using the NS zone are described below:

<u>Applicable Zoning Requirement</u>	<u>Neighborhood Shopping (NS) Zone</u>	<u>Grocery Parcel</u>	<u>Compliance</u>
<ul style="list-style-type: none"> • Front yard setback • Side Yard Setback abutting residential (to west) • Side yard setback abutting non-residential (to east) • Rear yard abutting residential 	<p style="text-align: center;"><u>20 ft.</u></p> <p>40 feet; of which 20 feet is landscape strip</p> <p style="text-align: center;">25 feet</p> <p>60 feet; of which 20 feet is landscape strip</p>	<p style="text-align: center;"><u>20 ft.</u></p> <p style="text-align: center;"><u>10 ft.</u></p> <p style="text-align: center;"><u>15 ft.</u></p> <p style="text-align: center;"><u>85 ft./20 ft.</u></p>	<p style="text-align: center;">- Complies</p> <p style="text-align: center;">- Needs variance</p> <p style="text-align: center;">- Needs variance</p> <p style="text-align: center;">- Complies</p>
<ul style="list-style-type: none"> • Maximum building coverage for principal building • Maximum Site Coverage 	<p style="text-align: center;"><u>15%</u></p> <p style="text-align: center;"><u>65%</u></p>	<p style="text-align: center;"><u>15%</u></p> <p style="text-align: center;"><u>63 %</u></p>	<p style="text-align: center;">- Complies</p> <p style="text-align: center;">- Complies</p>
<ul style="list-style-type: none"> • Maximum building footprint of structure • Maximum F.A.R. 	<p style="text-align: center;"><u>10,000 sf</u></p> <p style="text-align: center;"><u>Not to exceed 0.18</u></p>	<p style="text-align: center;"><u>19,000 sf</u></p> <p style="text-align: center;"><u>0.15</u></p>	<p style="text-align: center;">- Needs variance</p> <p style="text-align: center;">- Complies</p>

With this scenario, the residential portion of the site would also be decreased in size by subtracting out the NS parcel (±3 acres), affecting the density calculations (yield of approximately 70 units).

The Westchester County Planning Board comment presupposes that the Applicant will build affordable dwelling units. The Applicant is not proposing any text amendment which would require the construction of affordable housing units, beyond the donation of one full unit as described previously. (See responses A4, A5, A6).

Comment A11:

I am concerned about the setbacks along the Route 202 and Route 100 corridors. The 1994 Master Plan and early draft updates of that plan talked about keeping the semi-rural character and appearance of the town and I don't want to lose it. The 1994 Plan and draft update required 100 foot setbacks along Route 100 and spoke about establishing greenbelts. Please indicate what the setbacks are for the residential use along Route 100 as well as from the adjacent property and for the parking and building of the proposed grocery store along Route 202. Does the plan consider maintaining a greenbelt along Route 100?

(Letter #9, Town of Somers Planning Board, 3/31/15)

Response A11:

Maintaining a greenbelt along the Route 100 frontage of the site has been considered, and the design intent for the project is for a landscaped buffer to be provided there. The greenbelts described in draft Comprehensive Plan documents were described to be between 50 and 100 feet. As noted in the DEIS (page III.A-4), the “recognized greenbelts shall be preserved.” The proposed setback to structures from Route 100 on both the DEIS and FEIS plan is 75 feet, and the entire site frontage along Route 100 will either contain proposed landscaped buffer areas or remain in its natural vegetated state except for the project entrance and its required sight distance areas. The grading indicated on the revised FEIS plan would eliminate portions of a “greenbelt” tree canopy along the west side of Route 100.

As described in the FEIS introduction, mitigation for tree and vegetation clearing along this corridor is proposed, the details of which will be resolved during Site

Plan approvals. *The grading could be minimized by installation of portions of retaining wall, if the town desired more of the existing vegetation to remain in this vicinity.*

In addition, the design intent for this road frontage is for the proposed landscaping to mitigate loss of existing vegetation to the extent practical, by maintaining the character of the hamlet, and preserving the semi-rural character of the corridor. The design intent is proposed to be accomplished by implementation of the following mitigation measures within the 75-foot setback from Route 100:

- *Where possible, keep existing healthy and non-hazardous trees that will maintain a canopy over the road;*
- *Rebuild the existing stone wall at the property line along the entire frontage to a height and width that has a substantial appearance from the road;*
- *Alternatively or in addition to the stone wall, add an ornamental fence along the frontage in character with historic wrought iron or wood picket fencing of early America, again, to a size that has a substantial appearance from the road;*
- *Add new shade trees along the entire frontage, of suitable species for exposure to road conditions and substantial size and spacing to recreate a tree canopy in the short term (± 10 years);*
- *Add evergreen trees, and understory flowering trees and shrubs that will function to filter views into the project in the short term (five years or less) and provide an ornamental appearance from the road;*
- *Include entrance driveway features that enhance the visual character of the corridor, such as stone pillars and project signage;*
- *Provide a land dedication to NYSDOT along the Route 100 site frontage to accommodate any future sidewalk, if required by NYSDOT.*

(See also response to comments in Section II.L, Visual and Community Character).

Comment A12:

Provide in writing why the proposed creation of a new MFR-DH floating zone and its mapping on the subject property does not constitute spot zoning?

(Letter #9, Town of Somers Planning Board, 3/31/15)

Response A12:

Under applicable case law, “spot zoning” occurs when a small parcel of land is singled out for a use classification totally different from the surrounding area, and the adopting municipality has enacted the zoning without consideration of relevant land use planning factors, including Comprehensive Planning. Here, the proposed uses, townhouses and a grocery store, are permitted in areas immediately surrounding the Site, such as Heritage Hills and the Towne Centre at Somers. The Site is already zoned for residential uses, although at a different density. Further, land use planning factors have been given thorough consideration, as demonstrated in this EIS.

Comment A13:

The land on which the housing is proposed is approximately 11 acres. Looking at the layout of them on the drawing, one is struck with how crowded it is: buildings, a winding road with only one exit, myriad short driveways which will be used for parking, no sidewalks, no outdoor recreational or gathering space. It is a high-density development. This is a total refusal to observe the requirements, and spirit, of the Somers Town Code, which would allow about 22 units there (2 per acre of the base area), of which 3 would be affordable. (Reference Town of Somers Code, Section 170-13, dated 11-13-2008).

“B” Multifamily Residence Hamlet-MFR-H District. It is the specific purpose and intent of the Multifamily residence Hamlet MFR-H District to provide the opportunity for the development of low-to-medium density, as defined herein, multifamily housing in and adjacent to hamlet centers, on sites within an existing expanded or new sanitary sewage system capable of being served with a central water system and with convenient access to shopping major roads and community facilities and services. It is the Town's further objective

that the MFR-H District include affordable housing. To achieve these goals, all basic planning standards set forth in Section A(1) through (16) for the Multifamily Residence Baldwin Place MFR- BP District shall be applied by the Town Board in determining and establishing the specific site and building controls applicable within each individual Multifamily Residence-H District established pursuant to this section, as modified below:

(1) Development density

The basic and incentive densities within a Multifamily Residence Hamlet MFR- H District shall be calculated as in the Multifamily Residence Baldwin Place MFR-BP District, with the exception that the basic average gross density shall not exceed two density units per acre of net land area.

(2) Coverage

The maximum permitted building coverage within a Multifamily Residence Hamlet MFR-H District shall be 15%, and the maximum permitted coverage of buildings and paved surfaces (roads, driveways and parking areas) shall be 35%. The net site area to be used in this calculation shall be established in the same manner as set forth for the Multifamily Residence Baldwin Place MFR-BP District in Subsection A (4)." (Town Code of Somers). The applicant ignores this template for an MFR District-H, and invents his own. The applicant's math is different, and generous. It includes the full site area of 26.6 acres, subtracts 4.5 acres of state wetlands, and calls the base lot area 22.1 acres, which would allow 44 density units per acre of base lot.

From there, the applicant then abandons the rationale of the Town Code and declares "No reduction is made for the grocery store parcel as the developer believes providing a grocery is a benefit to the Town, for which he requests relief from the 15% affordable housing requirement."

With that, he suddenly asks to build 80 units. That none is affordable is only part of the affront to the planning in the Town Code, particularly its call for "low to medium density."

Nor can the Code of the Town of Somers be ignored in creating a new zone for Multifamily Residence.

(Letter #11, League of Women Voters of Somers, 4/10/15)

Response A13:

The proposed revised plan presented in this FEIS includes a decrease in unit count (from 80 to 66 units), an on-site recreation area, provides for full access connections to the shopping center from both the residential development and from the grocery store parcel, and provides other benefits to the community, including new sidewalks in the hamlet, ~~both on and off-site~~. All of these should be considered improvements to the plan based on the comments above. The development and zone text proposed is consistent with what density is appropriate in a hamlet area that includes non-residential uses. The proposed density is not inconsistent with much of the development in the immediate vicinity. The proposed revised plan results in 10.58 acres of open space, which is 40 percent of the total site area, and now includes an active recreation facility. The formulas used to calculate net land area for the proposed MFR-DH are the same as required for the existing MFR-H and MFR-BP districts in the Town Code, and the proposed MFR-DH regulation uses the more restrictive two density units per net area. The applicant's proposal includes a special needs housing component (one unit) and proposes a grocery store as an alternative public benefit. See also Response to Comment A5.

Comment A14:

There is also a false statement about the Town government. Section III-A-10 to A-1 of the DEIS refers to the Angle Fly agreement which requires the Town to make a good faith effort to build affordable work force housing or repay money from the County used to preserve the Angle Fly from development. The applicant adds: "This is an agreement between the Town and the County, not with the Hamlet of Somers". That statement is in total ignorance of the legal requirements of Town government. There is no governmental unit called "the Hamlet of Somers". The Angle Fly Agreement is applicable to all sites.

(Letter #11, League of Women Voters of Somers, 4/10/15)

Response A14:

The comment is misquoting the DEIS. DEIS statement on page III.A-11 says: “Housing provisions of the Town’s agreement with Westchester County regarding the purchase of the Angle Fly Preserve are not directly related to the Proposed Project at the Somers hamlet. That agreement was made between the Town and the County; as such, it is the Town’s responsibility to develop a plan for provision of affordable housing.”

The commentor is correct that the Angle Fly Agreement applies to all of the Town of Somers. Refer to Response A6.

Comment A15:

Further, the idea that building a grocery store should be rewarded with exception from the Zoning Code is false reasoning. The grocery store, and the whole development is a business proposition for the developer, not a gift to the Town. If a store can be fit into a questionable parcel of land, it will be sold or rented to a business which will hope to prosper.

(Letter #11, League of Women Voters of Somers, 4/10/15)

Response A15:

The proposal for a grocery store is not an exception from the Zoning Code or a gift, but merely the property owner’s freedom to exercise his right to petition town government. In the applicant’s opinion, the grocery store is an amenity requested by many residents, particularly senior citizens, that is intended to, and will, serve the community. It is not a proposal seeking any exceptions from the Zoning Code, nor is the property a “questionable parcel of land.”

Comment A16:

I'm just airing my concern that 80 units would be pretty dense for that site, and if there were to be a reduction, I would think that it would be along that corridor. So the

question would be — what would the reduction — if you entertain a reduction in the number of townhouses between 60 and 80, what is that number?

(Richard Clinchy, Public Hearing #1, p. 27-28)

Personally, as a resident, a member of the Town Board, I do think 80 units is quite dense for what's being proposed.

(Rick Morrissey, Public Hearing #2, p. 14)

Response A16:

The plan proposed in the FEIS has reduced the unit count to 66 units from the 80 proposed in the DEIS. This makes it far less dense than that which was the subject of the DEIS. See FEIS introduction (Chapter I) for further description of the revised FEIS Concept Plan.

Comment A17:

I'm more concerned about this housing project, and what kind of precedent it's going to set for this community if we start allowing, you know, new zoning rules to be created just for the purpose of creating housing for him. I mean, does that then allow somebody else to come along and start putting housing all over Route 100 and even though I do like the idea of this smaller grocery store, what's going to happen in the future if other people want to start coming and putting in more shops and more retail? Because what I'm terrified about happening in this Town is that we end up looking like -- no offense to anybody here that maybe lives in Yorktown, but I don't want to be like Yorktown. Because it's really not very nice when you drive into the middle of Yorktown, and — you know, does it say something in our master plan about us trying to preserve the semi-rural character of where we live? You know, I'm just worried about what happens if this goes ahead further down the road, you know. How much more development are we going to keep allowing and allowing?

(Linda Simpson, Public Hearing #1, p. 32-33)

Response A17:

Comments noted. The Town’s Comprehensive Plan and Town Zoning Code describe the Town’s vision for the future area guide for future development. See also Response A11.

Comment A18

And I personally think that’s too much housing and maybe I missed it, but who is this housing designed for? Who’s going to be living in that? What kind of – families?

(Linda Simpson, Public Hearing #1, p. 34)

Response A18

The proposed housing will be targeted to empty nesters wishing to downsize from their existing single family homes (see DEIS Chapter II).

B. Topography and Slopes

Comment B1:

Town Code requires that a steep slopes permit shall be required for disturbance of regulated steep slope areas greater than 15%. The Applicant shall correct the DEIS reference on page III.C-3 to indicate that a steep slopes permit will be required for disturbance of slopes greater than 15%.

(Letter #7, Woodard & Curran, 3/24/15)

Response B1:

Comment noted. The plan has been updated in the FEIS as shown on Exhibit I-3 (67,325 sf in slope over 15% to 25% to be disturbed). There are no slopes over 25% on the site. A steep slope permit will be required for disturbances to slopes greater than 15%. This will be addressed during the Site Plan review process.

Comment B2:

Provided Exhibit III.C-2 shall be updated to indicate total steep slope disturbance in the category of 15%-25% as 111,054 square feet.

(Letter #7, Woodard & Curran, 3/24/15)

Response B2:

Comment noted. There was a misplaced comma (111.054 sf should read 111,054 sf). However, these plans have been updated in the FEIS plan set. The current site plan indicates updated steep slopes impact of 67,325 s.f. impact to slopes 15-25%. There are no slopes over 25% on the site.

Comment B3:

The DEIS narrative summarizes temporary and permanent erosion and sediment control practices intended to be implemented during and following the completion of construction. The following sub-comments are related to the proposed description of site erosion and sediment control practices:

- a) The DEIS shall be updated to reference that site inspections will be carried out in accordance with NYSDEC SPDES General Permit GP-0-15-002.
 - b) Revise the text to indicate that inactive disturbed areas shall be stabilized within seven days.
 - c) The DEIS shall be updated to list dust control as a temporary erosion and sediment control practice.
 - d) Update the description of permanent erosion control practices/long term maintenance and inspection requirements to remove reference to Extended Detention Basins that are not proposed as part of the site layout. The narrative shall be updated to include description of maintenance and inspection requirements for the proposed Pocket Wetlands, Bioretention Filter, CDS Pretreatment Structures and proprietary infiltration chambers.
 - e) Update the text to include a description of proposed soil restoration requirements in accordance with Chapter 5 of the NYSDEC Stormwater Management Design Manual, latest edition.
 - f) Revise the DEIS narrative to indicate that erosion and sediment control measures shall be implemented in accordance with the land disturbance phasing plan described in greater detail within the Soils & Geology section.
- (Letter #7, Woodard & Curran, 3/24/15)

Response B3:

- a) ***Comment noted. A note regarding the reference that site inspections will be carried out in accordance with NYSDEC SPDES General Permit GP-0-15-002 will be added to the Site Plan.***
- b) ***Comment noted. A note indicating that inactive disturbed areas shall be stabilized within seven days will be added to the Site Plan.***
- c) ***Comment noted. A note indicating that dust control as a temporary erosion and sediment control practice will be added to the Site Plan.***

- d) Comment noted. The Erosion Control narrative has been updated to reflect the currently proposed measures, and will be updated with final plans to include maintenance and inspection requirements.**
- e) Comment noted. The text has been updated to reflect the currently proposed measures, and will be updated with final plans to include soil restoration in accordance with the Design Manual.**
- f) Comment noted. The Erosion Control narrative will be updated to reflect the currently proposed measures. Proposed phasing will be updated with final plans. All aspects of the Erosion and Sediment Control will be reviewed again during Site Plan review process.**

Created steep slopes will be stabilized by various methods to be outlined on the Erosion and Sediment Control Plans. One alternative to large cut slopes is to install portions of retaining wall to reduce the limit of disturbance. This will be integrated into the plans during the Site Plan process if desired, specifically investigating the cut area along the Route 100 site frontage.

C. Soils and Geology

Comment C1:

The Erosion and Sediment Control Plan indicates soil stockpiles will not be placed within 50 feet of surface water. The Erosion and Sediment Control Plan should also indicate that soil stockpiles shall not be placed within regulated wetland buffer areas.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response C1:

Comment noted. Erosion and sediment control plan has been revised to reflect this request, and no stockpiles will be located within 100 feet of regulated wetlands.

Comment C2:

The provided soils assessment identifies there is a potential for colloidal particles to be present within the development area. The DEIS concludes that these particles will be removed as part of the silt layer deposited on the site. Hydrometer testing is stated by the Applicant to not be necessary based upon the completed sieve analyses. The Applicant shall address how special accommodations for potential colloidal soils will be incorporated into the project erosion and sediment control plan. The DEIS shall include a description of erosion and sediment control practices specific to containment of colloidal particles.

(Letter #7, Woodard & Curran, 3/24/15)

Response C2:

Based on extensive on-site soil analysis, colloidal soils were not observed in the Town and Agency witnessed test holes. (See also DEIS chapter III.D, Soils and Geology). However, the area referenced (area with potential colloidal soils) will be delineated and the subject soil will be removed during site construction, thereby eliminating the need for further soil testing.

Comment C3:

The DEIS indicates that site piezometer measurements collected during 2009 were not used to define site groundwater levels as represented on cross section figures. The

Applicant states that piezometer data was not used due to an abnormal wet season and excess flooding caused downstream impediments on the Brown Brook.

The Applicant shall collect additional data this spring to verify ground water levels and the accuracy of deep test pit data used to groundwater on-site as presented on cross section exhibits.

(Letter #7, Woodard & Curran, 3/24/15)

Response C3:

Test holes performed throughout the property were witnessed by the Town and NYCDEP. Test holes generally indicated well-drained medium fine sands with no indication of ground water consistently. See soils report in Appendix J for results of soil tests conducted in July 2015.

Comment C4:

The DEIS report references site investigation data collected during several series of testing including subsurface investigations from 1994, 2008 and 2009. The Applicant shall prepare a comprehensive map figure to show the location of all historical site investigations as discussed in the DEIS text.

(Letter #7, Woodard & Curran, 3/24/15)

Response C4:

See response to comment C3. Test hole locations corresponding to the July test results are indicated by letter on the Preliminary Grading Plan (Exhibit I-2). Deep test pit locations shown on the plans have been differentiated with the testing dates.

Comment C5:

The DEIS references geotechnical engineering recommendations previously prepared for the Somers Woods project as referenced to report by Maser Consulting, dated December 9, 2008. The report is prepared with noted limitations. Limitation No. 4 and No. 5 indicate that the report was prepared for exclusive use for the Somers Woods

Development project and in the event any changes in the nature, design or locations of proposed site improvements are planned, that conclusions and recommendations shall not be considered valid unless the changes are reviewed and verified in writing by Maser Consulting.

The Applicant shall update the DEIS text to provide supporting justification that the proposed site layout and design considerations have not changed substantially enough to warrant recertification of report findings by Maser Consulting P.C. Alternatively, the Applicant may provide verification of prior report recommendations by Maser Consulting, P.C. based upon the Somers Crossing development.

(Letter #7, Woodard & Curran, 3/24/15)

Response C5:

The revised site plan in the FEIS has significantly lessened the impact of footprint and structural loading as compared to the Somers Woods Project. Therefore, according to the project engineer, the conclusions and recommendations are still valid and for that reason do not warrant recertification of report findings.

Comment C6:

The Applicant shall revise the DEIS and appendices to include percolation test data for percolation tests reported as P-1, P-2 and P-3.

(Letter #7, Woodard & Curran, 3/24/15)

Response C6:

Percolation tests shall be performed for final design. See also response to comment C3.

Comment C7:

Provided layout drawing “SC-2” identifies disturbance of approximately 0.02 acres of land area within the FEMA defined 100 year floodplain of Brown Brook. The Applicant shall amend the DEIS narrative to describe the nature of proposed disturbance within the

floodplain. Supporting information shall include technical analysis to demonstrate that no storage volume will be lost within the identified floodplain.

(Letter #7, Woodard & Curran, 3/24/15)

Response C7:

The current FEIS site plan shows no disturbance within the FEMA 100-year floodplain or 500-year floodplain boundaries. There will be no net filling within the regulated floodplain.

Comment C8:

The Soils & Geology section of the DEIS contains more detailed description of the project erosion and sediment control plan including land disturbance phasing and construction sequences. In addition to those comments of the erosion and sediment control plan provided under review comments within the Topography & Slopes section, the following sub-comments must be addressed:

- a) The project erosion and sediment control plan must detail specific measures intended to contain potential colloidal soil particles as suggested by the DEIS narrative.

(Letter #7, Woodard & Curran, 3/24/15)

Response C8:

Comment noted. These soils are proposed to be removed (See response to comment C2).

Comment C9:

The erosion and sediment control plan drawing and land disturbance phasing plan must be integrated to represent erosion and sediment controls for each specific phase of development. The integrated plan must consider temporary soil stockpile requirements for each phase of development.

(Letter #7, Woodard & Curran, 3/24/15)

Response C9:

Comment noted. Final phasing and erosion controls for each phase shall be provided with the final design. The site plan will be processed through the Planning Board where the details of the plan will be addressed, including phasing and stockpile locations, sediment basins, sediment traps, silt fence locations and swales. Even though these concerns were addressed during DEIS process, comprehensive site plans and more detailed phasing plans will be developed during the Site Plan review process.

Comment C10:

- b) The provided construction sequence contained on page III.D-20 for Phases IA and IB must be detailed to explain if these two phases will be completed simultaneously. Land area contained as part of Phase IA is shown to be accessed through area identified as Phase IB.

(Letter #7, Woodard & Curran, 3/24/15)

Response C10:

Comment noted. See response to comment C9. Even though these concerns were addressed during DEIS process, comprehensive site plans and more detailed plans will be developed during the Site Plan review process.

Comment C11:

- a) The project erosion and sediment control plan shall be updated to illustrate proposed temporary sediment traps and diversion swales intended to be constructed during each construction phase.

(Letter #7, Woodard & Curran, 3/24/15)

Response C11:

Comment noted. See response to comment C9. Even though these concerns were addressed during DEIS process, comprehensive site plans and more detailed plans will be developed during the Site Plan review process.

Comment C12:

- b) The erosion and sediment control plan must be revised to show topsoil stockpiles during construction based upon the provided preliminary earthwork analysis.

(Letter #7, Woodard & Curran, 3/24/15)

Response C12:

The stockpile areas have been strategically located throughout the site to minimize disturbance while providing adequate area for such use. Even though these concerns were addressed during DEIS process, comprehensive site plans and more detailed plans will be developed during the Site Plan Review Process. See also response to comment C9.

Comment C13:

- c) The project phasing plan and construction sequence shall be updated to maintain less than 5 acres of open disturbance at all times during construction.

(Letter #7, Woodard & Curran, 3/24/15)

Response C13:

Comment noted. Even though these concerns were addressed during DEIS process, comprehensive site plans and more detailed plans will be developed during the Site Plan Review Process. See response to comment C9.

Comment C14:

Incorrect Soil Data: Soil data at the site is presented in three different ways. The first, Appendix H of the SWPPP entitled “Soils Data”, describes and maps onsite soils as referenced in the U.S. Department of Agriculture National Resources Conservation Service (NRCS) soil survey website.

The second, the DEIS Engineering Plans, show some, but not all, of the soils described in Appendix H of the SWPPP. Missing from the plan views are the following soils and their boundaries: Charlton loam, Pompton silt loam, and Riverhead loam. For example, DEIS,

Section D, Table III.D-7, shows 5.7 acres of Charlton loam on the site, yet this soil is not shown on site plan drawings PRE, DB-1, DB-2, SC-1, and SC-2.

The third way that soil data is presented appears in Section III, D-2 of the DEIS, which states that site soils were “adjusted” by a certified soil scientist in September 2009. However, the NRCS updated their soil classification procedures in December 2011, so the soils “adjusted” in 2009 are outdated and inconsistent with the new soil survey maps contained in Appendix H of the SWPPP. Other inconsistencies include Table III.D-1 on page III.D-6 of the DEIS, which does not agree with the soil labels or boundaries shown on the drawings. In addition, the soil boundary maps labeled in the DEIS as Exhibits III.D-2a through III.D-2e do not agree with the updated NRCS soil survey maps.

The SWPPP should be modified so that the soil data are uniform and adhere to the current NRCS soil survey website. In addition, the soil data must be included on all of the appropriate drawings.

(Letter #15, Office of the Watershed Inspector General, 4/17/15)

Response C14:

The soils shown and used for the SWPPP (revised for the FEIS plan and included as FEIS Appendix D) are based on site specific information including most recently, July 2015 field investigations. Field testing in July 2015 was witnessed by representatives of the NYCDEP and the Town engineer. As previously discussed, soils are sand and gravel based, well to moderately drained soils throughout the uplands. Given the site is mostly unclassified as F_F and U (Fluvaquents and Urban Land), it was best to use on-site soil data supplemented by NRCS mappings. Refer to page 4 and Appendix E of the SWPPP (in FEIS Appendix D).

In addition, it is noted that as discussed in the DEIS, the NRCS provides soil survey maps that represent generalized soils maps that are suitable for reviewing larger areas and general land uses. According to the Web Soil Survey: “Mapping of soils is done at a particular scale. The soil surveys...were mapped at 1:12,000. The design of map units and the level of detail shown in the resulting soil map are dependent

on that map scale. Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.” (Reference: Soil Survey Staff, Natural Resources Conservation Service, United States Department of Agriculture, Web Soil Survey, available online at <http://websoilsurvey.nrcs.usda.gov/>. Accessed June 17, 2015).

Therefore, on-site investigation, and review of other information, is necessary to provide sufficient information to prepare a detailed soil map for more intensive land uses on smaller land areas. These additional investigations to refine the soil map include on-site soils investigations, including delineation of wetlands, soil borings, and observation of deep-hole test pits, along with review of topographic data. The detailed soil map does not look exactly like the NRCS Web Soil Survey soil map now, nor did it in 2009, due to these site specific investigations and refinements. The soils on the property have not changed since 2009 and the updated NRCS maps do not impact the accuracy of the mapped on-site soils. Determining soil suitability for the purpose of preparing information for a SWPPP, or other engineering purposes, involves other sources of information, including information provided by the NRCS, as a standard operating procedure.

The soils used in the SWPPP did not revise the NRCS soil mapping boundaries, instead, the project engineer assigned the proper Hydrological Soil Group – HSG “B”- based on the field testing to be used in the computer modeling.

Comment C15:

Hydrologic Soil Groups Should be Revised: The NRCS has grouped soils into the following four distinct hydrologic classes (A, B, C, and D), based on how they usually respond to water.

- A: High Infiltration Rate (water “seeps” into the ground quickly)
- B: Moderate Infiltration Rate
- C: Slow Infiltration Rate

D: Very Slow Infiltration Rate (if the site is “flat” water is prone to form puddles; if the site is “hilly” the water will likely flow downhill) (NRCS, National Engineering Handbook – Part 630, Hydrology, Chap. 7, Hydrologic Soil Groups, 2009).

Group A soils are often sandy, whereas Group D soils often have high clay content or a restrictive layer (e.g., bedrock). The assignment of Hydrologic Soil Group (HSG) “B” to the Fluvaquents-Udifluents complex is incorrect. These soils are listed with an HSG of A/D, indicating it is a “D” soil, unless the soil profile has been modified by tile drainage for agricultural production. Based on site history, the HSG “D” soil classification should be used for the Fluvaquents-Udifluents complex. Another mischaracterized soil is Pompton soil, which has an HSG of B/D. It also should be characterized as a HSG “D” soil for the same reason. These changes will result in an increase in the volume of runoff on site, including the water quality treatment volume (WQv).

Due to the lack of an updated independent review by a certified soil scientist coupled with insufficient percolation testing of onsite soils, particularly in the locations where stormwater infiltration practices are proposed (see point 5 below), we recommend that NRCS hydrologic soil group designations be used to characterize and delineate all of the soils on site. The water quality volume and runoff reduction volume values in Appendix A of the SWPPP will change when the corrected HSG designations are made.

All of the hydrologic evaluations should be re-calculated using the correct soils map data and HSG.

(Letter #15, Office of the Watershed Inspector General, 4/17/15)

Response C15:

See response to comment C14. The soils used in the SWPPP did not revise the NRCS soil mapping boundaries, instead, the project engineer assigned the proper Hydrological Soil Group – HSG “B”- based on the field testing to be used in the computer modeling.

Comment C16:

Need for Site-Specific Infiltration Tests: According to the NRCS web soil survey, a specific surface soil, called Udorthents, occupies a significant portion of the existing area proposed for the grocery store/parking area. Although mentioned in detail in the Section III. D-6 of the DEIS, Uc soils are not shown on the engineering plan drawings. They should be added on these drawings.

There is a proposed infiltration system planned for this location as well. NRCS classifies Udorthents soil as HSG D, and soil test pits in this location have noted clay soil to a depth of 8 feet. These factors would make the proposed system inappropriate for this location. (Letter #15, Office of the Watershed Inspector General, 4/17/15)

Response C16:

Infiltration tests will be performed for final design during the Site Plan review process. However, 2015 deep test holes as witnessed by the Town and NYCDEP indicate well drained soils throughout the buildable areas of the site. (See Appendix J for 2015 test data).

D. Water Resources (Ground Water and Surface Water)

Comment D1:

The Applicant shall update DEIS narrative references to reference the current NYSDEC SPDES General Permit (GP-0-15-002).

(Letter #7, Woodard & Curran, 3/24/15)

Response D1:

Comment noted. The Stormwater Pollution Prevention Plan (SWPPP) has been developed during this process (revised SWPPP is included as Appendix D) and is based on the NYSDEC SPDES General Permit GP-0-15-002 and NYCDEP Watershed Regulations.

Comment D2:

The DEIS contains a calculation of time of concentration (Tc) for the offsite contributing watershed to the Brown Brook, that back calculates the travel time stated to be based upon FEMA floodplain data and aerial mapping. The Tc is stated to be calculated through trial and error to produce off-site contributing peak flow consistent with FEMA data for the 100 year flood.

The Applicant shall provide supporting calculations and aerial imagery considered for the off-site watershed (Tc) within the SWPPP appendix.

(Letter #7, Woodard & Curran, 3/24/15)

Response D2:

The revised SWPPP (see Appendix D) contains the required information.

Comment D3:

The Applicant shall consider the construction of an open channel swale system in lieu of piped conveyance for the proposed bypass drainage system. It is recommended that open channel conveyance should be considered for the portion of bypass conveyance after flows are beyond pavement surfaces in subcatchment No. 7.

(Letter #7, Woodard & Curran, 3/24/15)

Response D3:

With the reconfigured site plan, it was determined that a fully piped system is the safest way to convey water through the entry road and past the southwest units.

Comment D4:

The site grading and utilities plan shall be updated to show emergency spillways for the proposed Pocket Wetland, Infiltration Basins I-3 and I-4 and the Bioretention Filter Area as noted in the DEIS narrative.

(Letter #7, Woodard & Curran, 3/24/15)

Response D4:

The new Site Plan in this FEIS contemplates a revised drainage basin plan, as indicated on the engineering plan set. However, in response to the comment, emergency spillways over the 100-year storm highwater level have been incorporated where required.

Comment D5:

It shall be noted that additional site investigation activities (deep hole excavation and percolation testing) must be completed for proposed stormwater management practices prior to issuance of Town environmental permits in accordance with Appendix D requirements of the NYSDEC Stormwater Management Design Manual, latest edition.

(Letter #7, Woodard & Curran, 3/24/15)

Response D5:

Deep test holes were performed in July 2015 and witnessed by the Town and NYCDEP. The observed soils consisted of well-drained sands to full depth (see Soil Results, Appendix J). Percolation tests (stormwater practice infiltration testing) will be performed prior to final site plan design.

Comment D6:

The identified time of concentration (Tc) flow path for subcatchment No. 2 is shown to depart the subcatchment boundary.

(Letter #7, Woodard & Curran, 3/24/15)

Response D6:

Comment noted. The Drainage Map has been revised to correct the time of concentration path.

Comment D7:

Provided Post Development Drainage Subbasin Map “DB-1” identifies subcatchment area 6 area as 20,908 square feet while the provided HydroCAD analysis identifies 22,908 square feet. The Applicant shall address discrepancy between the plans and HydroCAD analysis.

(Letter #7, Woodard & Curran, 3/24/15)

Response D7:

Comment noted. This inconsistency has been corrected in the updated SWPPP.

Comment D8:

The proposed stormwater management plan includes construction of a Bioretention Basin to address water quality requirements from Subcatchments No. 1, 3, 5 & 8. The following technical comments are applicable based upon our review of the proposed Bioretention Basin.

a) Bioretention practices shall be designed with a maximum ponding depth of 0.5'. The proposed outlet control structure must be adjusted to have a maximum invert elevation that is 6 inches higher than the surrounding practice storage. Provided RRV reduction calculations for the proposed Bioretention Basin must also be updated accordingly in Appendix A.

(Letter #7, Woodard & Curran, 3/24/15)

Response D8:

The Bioretention Basin has been eliminated from the plan.

Comment D9:

b) The NYSDEC stormwater management design manual requires that Bioretention Basins must be designed to accommodate at least 75% of the calculated water quality volume. The manual also states that storage must be provided prior to filtration. The Applicant must revise the HydroCAD report to remove storage considered within void space of soil media and gravel underdrain of the filter cross section.

(Letter #7, Woodard & Curran, 3/24/15)

Response D9:

See response to comment D8.

Comment D10:

c) It shall be noted that a detailed landscaping plan must be prepared prior to issuance of Town environmental permits consistent with Appendix H requirements of the NYSDEC Stormwater Management Design manual.

(Letter #7, Woodard & Curran, 3/24/15)

Response D10:

Comment noted. A preliminary Landscape Plan has been prepared, but the Final Landscape Plan will be developed, in conformance with requirements of the NYSDEC Stormwater Management Design manual, during the Site Plan review process with the Planning Board.

Comment D11:

The proposed stormwater management plan includes the construction of several infiltration practices throughout the Somers Crossing development. The following sub-comments are based upon our review of the proposed infiltration basins.

a) GW protection district prohibits construction of a drywell from a parking area.

- b) Proposed Infiltration Basin IB-4 is illustrated to be constructed partially in fill soils. The proposed grading plan shall be adjusted to eliminate grading of the proposed basin in fill areas.
- c) Chapter 6 of the NYSDEC Stormwater Management Design Manual requires that infiltration basins be located with a minimum of 25' feet separation to adjacent structures. Proposed Infiltration Basin IB-4 appears to be located closer than the required setback distance.
- d) No percolation test and corresponding data is represented in the SWPPP and plans to be completed for proposed Infiltration Basin IB-4
- e) Provided deep hole test data for proposed Infiltration System No. 1 suggests the presence of groundwater at approximate elevation 248'. The Applicant shall demonstrate that minimum 3' vertical separation between measured high groundwater mark and the practice invert can be provided.
- f) The project layout plan must be updated to consider maintenance access provisions for Infiltration Basin No. 3.

(Letter #7, Woodard & Curran, 3/24/15)

Response D11:

a. – f.) The proposed stormwater configuration has changed significantly on the revised plan. It is anticipated that final details will be worked out for final site plan design. However, it is noted that the design is in conformance with the NYSDEC Stormwater Management Design Manual, and all soil testing performed to date supports the stormwater practices chosen for the current site plan. Percolation tests/infiltration tests shall be performed in the final site plan design process. Maintenance access for infiltration basin 3 will be provided on the final Site Plans.

Comment D12:

The proposed stormwater management plan includes the construction of a Pocket Wetland located within the western portion of the development adjacent to the NYSDEC wetland area. The following sub-comments are based upon our review of the proposed Pocket Wetland.

- a) Chapter 6 of the NYSDEC Stormwater Management Design Manual requires the incorporation of a 40' buffer to adjacent structures from the maximum water surface elevation of the practice. The Applicant shall demonstrate that required separation is provided by the layout plan.
- b) It shall be noted that a detailed landscaping plan must be prepared prior to issuance of Town environmental permits consistent with Appendix H requirements of the NYSDEC Stormwater Management Design manual.
- c) The project layout plan must be updated to consider an access road for maintenance access to the proposed Pocket Wetland practice.
(Letter #7, Woodard & Curran, 3/24/15)

Response D12:

As indicated on the revised engineering plans:

- a) A 40-foot buffer is provided.***
- b) A landscaping plan has been provided, but will be refined with final design, prior to issuance of Town environmental permits.***
- c) Access is provided via the west of units 1-6. More detailed access driveways for maintenance shall be provided during the Site Plan review process.***

Comment D13:

Will the project make use of rain gardens?

(Letter #9, Town of Somers Planning Board, 3/31/15)

Response D13:

No rain gardens are proposed but the project proposes Infiltration Basins.

Comment D14:

The provided alternate analysis of site stormwater management practices using NRCC data contained within the SWPPP indicates that the proposed Pocket Wetland and will be overwhelmed during the 100 year design storm event. The Applicant states on page

IV-14 that the proposed Pocket Wetland and Infiltration Basin have been enlarged in this alternative, but does not reference a figure that illustrates the impact to the overall site layout.

(Letter #7, Woodard & Curran, 3/24/15)

Response D14:

The old NRCC 2003 precipitation numbers are not applicable anymore, rather GP-0-15-002 precipitation data is used in the updated SWPPP.

Comment D15:

Effective January 29, 2015, the NYSDEC has released an updated version of the NYSDEC Stormwater Management Design Manual. The updated version of the manual specifies new rainfall depths for the 1, 10 and 100 year design storms. Most significantly, the design rainfall for the 100 year storm at the Somers Crossing site is increased from 7.5 to 9.0 inches.

(Letter #7, Woodard & Curran, 3/24/15)

Response D15:

The SWPPP was revised to reflect the new precipitation data (See Appendix D).

Comment D16:

The Applicant shall include a preliminary sizing calculations for diversion conveyance pipe as illustrated to convey flows from the existing road culvert on NY Route 100.

(Letter #7, Woodard & Curran, 3/24/15)

Response D16:

Site Plan process will include this detailed information as well as the drainage pipe sizing calculations for the entire development.

Comment D17:

The NYSDEC released a draft transition policy that allow projects where an application stormwater design was submitted to a review authority prior to January 29, 2015, to

utilize the design criteria specified by the previous August 2010 version of the NYSDEC Stormwater Management Design Manual. Although we acknowledge that this policy is to be implemented by NYSDEC, it is our understanding that future subdivision and site plan applications necessary for the Somers Crossing project may not be covered by the proposed transition policy. It is our recommendation that the site stormwater design should be updated to utilize rainfall design depths as prescribed by the current Stormwater Management Design Manual so that project impacts defined by future Subdivision Plat and Site Plan applications can be consistent with those contemplated during this SEQR process.

(Letter #7, Woodard & Curran, 3/24/15)

Response D17:

Comments noted. The new/current Stormwater Design Manual standards have been applied to the design of the proposed development.

Comment D18:

It should be noted by the Applicant that the January 2015 edition of the NYSDEC Stormwater Management Design Manual allows for 100% Runoff Reduction Volume (RRv) credit for stormwater infiltration practices.

(Letter #7, Woodard & Curran, 3/24/15)

Response D18:

Comment noted.

Comment D19:

The Applicant must provide additional supporting information to support their conclusion on page III.E-32 that pH levels vary too much across the site to predict post-development pH levels and cannot be provided. It is suggested that anticipated impacts and planned mitigation measures for pH level in surface waters may be discussed qualitatively within the narrative.

(Letter #7, Woodard & Curran, 3/24/15)

Response D19:

The pH of surface waters was measured at various locations on and immediately adjacent to the site (see baseline water quality monitoring data provided in the DEIS). The variable results suggest that there may be many factors influencing the pH of surface waters, and models to predict post-development pH are not accurate enough to project what the pH may be following development.

Comment D20:

The DEIS narrative states on page III.E-40 that preparation of a long term monitoring plan is not required for analysis of potential impacts to surface waters from fertilizers and pesticides. The Applicant must include supporting documentation to support their conclusion that a long term monitoring plan is unnecessary for the project.

(Letter #7, Woodard & Curran, 3/24/15)

Response D20:

A long term monitoring plan for analysis of surface water impacts from fertilizers and pesticides is unnecessary for this site due to the regulations already in place. The site will be maintained by a landscape contractor, and will be consistent with other small scale multifamily residential developments in the County. This includes being in accordance with all regulations including The Westchester County Pesticide Reduction Law⁶ which applies to all of Westchester County.

Comment D21:

The DEIS includes a Pollutant Loading Analysis for nutrient pollutants, select metals, total suspended solids and Biological Oxygen Demand for the site in pre-development conditions compared to post-development. This analysis is identified to be prepared following the Pollutant Loading Coefficient Method. The following subcomments relate to the provided Pollutant Loading Analysis.

⁶ Chapter 690 of the Laws of Westchester, as amended in October 2000.

- a) Revise the DEIS appendices to include the full text of the “Pollutant Loading Coefficient Method”
- b) The Applicant revise the Pollutant Loading calculations in Appendix G to include a summary table of loading rates by surface type, and load removal rates by stormwater practice type. The Table shall be footnoted to identify the source of all cited rates.
- c) The Applicant shall provide supporting documentation to demonstrate that conventional Chapter 6 and Chapter 10 design criteria of the NYSDEC Stormwater Management Design Manual satisfy necessary criteria for the use of load reduction rates prescribed by the “Pollutant Loading Coefficient Method.”
- d) The Applicant shall prepare a supplementary analysis of pre and post development phosphorous loading from the site watershed, following the “Simple Method” calculation methodology as accepted by NYSDEC and the NYS Attorney General, Office of the Watershed Inspector General.

(Letter #7, Woodard & Curran, 3/24/15)

Response D21:

Comments noted. The DEIS analyzed pollutant loading using the Coefficient Method. Chapters 6 and 10 assume that if the NYSDEC Stormwater criterion are used to design the stormwater facilities, the pollutant loading calculations are not necessary and stormwater facilities will handle the pollutants. Therefore, updated pollutant loading calculations are included in Appendix R using the Simple Method. (See Appendix R). See response D28.

Comment D22:

Remove the reference to Extended Detention Basin under the discussion of Permanent Erosion and Sediment Control Practices on page III.E-38 of the DEIS. The section shall be revised to include discussion of Pocket Wetlands, Bioretention Filter Area and proprietary stormwater infiltration chambers.

(Letter #7, Woodard & Curran, 3/24/15)

Response D22:

Comment noted. The current stormwater practices are noted in the revised SWPPP and this FEIS as an update to the DEIS.

Comment D23:

The DEIS contains an analysis of thermal impacts to the Brown Brook considering post development conditions. The following sub-comments are based upon our review of the Thermal Modification Analysis:

- a) The Applicant shall expand commentary on page III.E-43 to include reference of healthy water temperature necessary to sustain life specific to Trout species.
- b) The analysis description on pages III.E.43 interchangeably reference the 90% percentile rainfall depth and the 1 year storm as the design storm for water quality utilized in the thermal analysis. The DEIS shall be updated to consistently identify the storm event utilized for the analysis.
- c) The Applicant shall add description to explain the basis of their thermal analysis calculation methodology. Specifically the DEIS must explain why is a 2 hour window surrounding the peak of storm hydrograph is analyzed as opposed to the cumulative effect of the 24 hour storm duration. It is noted by the stormwater analysis that only minimal stormwater peak flow is discharged from the terminal Pocket Wetland practice during the 1 year storm event. No other discharge from other site stormwater practices from the 1 year storm is identified by the HydroCAD model. The Applicant must demonstrate how runoff volume from the Somers Crossing site was calculated for the considered storm event.
- d) Locations of thermal analysis study (SWTB#1, STWB#3) must be identified on exhibit figures within the Water Resources section.
(Letter #7, Woodard & Curran, 3/24/15)

Response D23:

- a) **According to the DEC, there are four species of trout found in New York: brook, lake, brown and rainbow. Of these, brook trout and brown trout are the species most likely to be present in the off-site Brown Brook, if trout are present at all.**

Brook trout are a native species and are the least tolerant to higher water temperatures, preferring temperatures below 72 degrees F. Most populations of brook trout live in cool, well-oxygenated creeks, small to medium rivers, and lakes. Brook trout do poorly where water temperature exceeds 68 degrees F for an extended period of time. Brown trout are more able to tolerate warmer water than the brook trout, which has allowed this species to thrive in waters otherwise not able to support trout.

Sources: <http://www.dec.ny.gov/animals/7016.html>

<http://www.dec.ny.gov/animals/7270.html>

<http://explorer.natureserve.org/servlet/NatureServe?searchName=Salvelinusfontinalis>

- b) The thermal analysis was done using the 90% rule to calculate the runoff volume, which includes 90% of the rainfall events for the region, and is equivalent to 1.3” of precipitation. Reference to the 1 year storm event in this section refers to the requirement that projects within the NYC watershed capture and treat the water quality volume (WQv), which the runoff generated by 3.1” of precipitation. Outside of the NYC watershed the water quality volume (WQv) is equivalent to the 90% rule runoff calculation. However, as discussed in detail in the DEIS, thermal impacts are associated with the first pulse of runoff leaving paved area and rooftops, which is analyzed by examining the runoff generated by the 90% rule.**
- c) As explained above and in the DEIS (see pages III.E-44 – 47), thermal impacts are associated with the first pulse of runoff leaving paved area and rooftops, which is likely to occur within the first few hours following the start of a storm. The temperature of runoff leaving a site drops to match the ambient air and ground surface temperature as a rainstorm progresses.**
- d) The four points discussed are the IBM pond, offsite (above the NYSDEC wetland), and the two proposed stormwater basins (SWTB#1 and SWTB#3) on the DEIS Plan, as shown on DEIS Exhibit III.E-6 Post-Development Drainage).**

Comment D24:

Based upon a review of the documents received, the DEIS has not demonstrated that stormwater impacts to local water bodies have been adequately assessed, avoided and/or mitigated, and DEP remains concerned about potential water quality impacts resulting from the project. DEP is also concerned about the project site's capacity to manage stormwater runoff as the majority of the project site is comprised of poorly drained soils and seasonally high groundwater. Given these constraints and potential limiting soil conditions, soil testing must be witnessed by DEP during the SEQRA process so that the suitability of these areas can be properly evaluated. This information was previously requested by DEP in the letter dated December 16, 2013.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response D24:

Soil testing (deep test holes) were witnessed by the NYCDEP in July 2015. This data is included in FEIS Appendix J. Any further soil testing will be conducted during the Site Plan review process.

Comment D25:

The groundwater mounding analysis input values and results shown in the Hydrogeological Assessment dated September 2010 reference micropool extended detention basins previously designed for "Alexan Somers Woods" and should be updated to incorporate the proposed stormwater practices for Somers Crossings.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response D25:

Comment noted. The groundwater mounding analysis was performed for the formerly proposed project and was provided in the DEIS for reference. However, it is noted by the applicant's engineer that the extended detention basin has been eliminated from the plans, and the overall disturbance on the current plan is less than that proposed with the Alexan Somers Woods project. Therefore, this analysis does not need to be updated.

Comment D26:

It should be noted that the SWPPP will need to comply with the latest New York State Department of Environmental Conservation (DEC) design manual and NYSPDES General Permit; as such, all rainfall data and rainfall distributions used for the runoff analysis must be updated in the FEIS which may negatively impact the capacity of proposed stormwater practices to adequately attenuate design storms.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response D26:

See responses to comments D15 and D16.

Comment D27:

The pollutant loading calculation provided in Appendix E of the DEIS is inconclusive and fails to demonstrate that the proposed project and stormwater management system can adequately mitigate any potential adverse impacts from the proposed development. A design point was chosen 100 feet downstream from the site and as such, potential localized impacts have been improperly diluted. Additionally, it is inappropriate to select a design point off-site and to include the off-site areas in the drainage area analysis as these off-site areas do not drain toward the project site. Water quality impacts attributable to pollutants in stormwater runoff must be evaluated at the same design point and/or design line used for quantitative impacts. Potential adverse impacts associated with post-development stormwater discharges must be evaluated as close to the development site. In addition, the pollutant loading catchment areas should correlate to the pre- and post-development drainage maps. Similarly, the pollutant removal rates used in the pollutant loading calculations appears to have been applied multiple times which is misleading and inaccurate. As such, the potential water quality impacts from stormwater runoff were not sufficiently and accurately analyzed and presented within the DEIS; involved agencies cannot assess whether the potential environmental impacts of the proposed project or the alternatives can be adequately mitigated.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response D27:

Comments noted. The DEIS pollutant loading analysis used the property line as a design line. See also response to comment D21 and D28.

Comment D28:

The pollutant loading calculations indicate an excess of lead, BOD and zinc. The DEIS does not mention the impact on water quality or how these concentrations will be reduced or mitigated prior to discharge to receiving waters.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response D28:

The pollutant loading calculations have been changed to use the Simple Method (see Appendix R). The Coefficient Method of pollutant loading analysis was performed in the DEIS to evaluate the impacts, but the recent site plan changes incorporated to the plans – mostly infiltration systems and basins - justifies the 100% pollutant removal. DEIS process evaluated the pollutant loading impacts already, more detailed analysis shall be performed during site plan review, if required.

Comment D29:

Table 24 provided in the SWPPP compares the post development runoff discharges from the subbasin plus the overland subbasins to the design point with the predevelopment runoff rates offsite. This will assist in determining the extent of downstream impacts due to the proposed development. However, this approach is not acceptable to identifying and assessing any localized impacts associated with peak runoff rates. In order to properly analyze the peak flows at the design points, the peak times should also be provided to demonstrate that there will not be any downstream impacts or flooding. The existing and proposed condition runoff volumes for each storm event at each local design analysis points/design line should also be evaluated. The base flow conditions and bank full conditions of the receiving waterbodies should also be evaluated so that it can be determined whether the increase in runoff volume will cause or exacerbate erosion or flooding conditions.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response D29:

A full analysis of the off-site and on-site drainage conditions is included in the revised SWPPP (See Appendix D).

Comment D30:

The DEIS states that there are no notable drainage channels or watercourses on the site other than the channel from the created stormwater basin (for the Town Centre) that flows to DEC FWW F-1, and that the stormwater runoff generally occurs as overland sheet flow. It is unclear how infiltration basin 3 and infiltration Cultec units 1 will be able to discharge offsite safely and without causing downstream flooding and erosion. The discharge points for the specified basins are not acceptable. It is inappropriate to create a point discharge where none currently exists. Therefore, point discharges of treated stormwater runoff should be conveyed safely offsite to existing watercourses, wetlands and/or existing stormwater drainage structures.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response D30:

Comments noted. The current stormwater configuration avoids point discharges to the greatest extent practicable.

Comment D31:

The DEIS also states in the SWPPP that since the site is discharging to a fifth order stream per Chapter 4 requirements in the DEC design manual, there is no need for attenuation of the 10 and 100 year storms. Note that per the Watershed Regulations, there is no exemption from attenuation of larger storms. This discrepancy should be corrected in the FEIS.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response D31:

Comments noted. Larger storms are evaluated in the current SWPPP (See Appendix D).

Comment D32:

The Exhibit III D-2 a shows a green shaded area where mottling is noted within 12 inches where the bioretention basin is proposed. Mottling is considered indicative of the groundwater table and, as such, the project sponsor must verify whether there is enough groundwater separation available to implement this practice for the proposed stormwater practice. As previously stated, DEP staff has not witnessed soil testing, and it must be scheduled with Mariyam Zachariah at (914) 742-2014 in order to affirm that the locations proposed for the stormwater practices are viable.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response D32:

Soil tests have been witnessed (July 15, 2015, with Mariyam Zachariah, NYCDEP and Rob Wasp, Woodard & Curran, present) with no evidence to groundwater to full depth. See Soil Report in Appendix J.

Comment D33:

Infiltration basin 3 and its discharge point are shown in a 500 year flood zone. The impact on floodplain elevation should be calculated, the potential adverse impacts should be evaluated mitigated or avoided, as necessary.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response D33:

Comment noted. The infiltration configuration has changed on the current site plan. See also response to comment C7.

Comment: D34:

The DEIS indicated on page III.E.-4 that groundwater elevations illustrated on site cross section drawings does not consider data obtained from on-site piezometer measurements

and 2008 Hydrogeologic Assessment Report by LBG. The Applicant states that groundwater measurements collected during test pit excavations completed by Bibbo Associates in September 2009 were used to define the mapped groundwater elevations.

The Applicant shall collect additional data this spring to verify ground water levels and the accuracy of deep test pit data used to groundwater on-site as presented on cross section exhibits.

(Letter #7, Woodard & Curran, 3/24/15)

Response D34:

See Response to Comment D32.

Comment D35:

Correct the reference to exhibits Site Survey and Site Constraints on page II.E-6 of the Water Resources section.

(Letter #7, Woodard & Curran, 3/24/15)

Response D35:

No revision is necessary. The Site Survey and Site Constraints exhibits were both referenced since they referred to the existing wells and 100 foot radius from those wells in the DEIS section describing existing wells.

Comment D36:

Direct connection of a parking lot with greater than four spaces to a stormwater drywell is identified as a Prohibited Use within the Groundwater Protection Overlay District in accordance with Town Code §170-32.7(C). Stormwater from site parking areas and driveways must be pretreated at an acceptable structure for removal of oils and grease from stormwater. Description of proposed pretreatment must be included in the site Groundwater Protection Plan.

(Letter #7, Woodard & Curran, 3/24/15)

Response D36:

Comment noted. A Groundwater Overlay Protection Permit will be applied for.

Comment D37:

The Applicant states on page III.E-9 that preparation of a Groundwater Protection Plan, as required by §170-32 of Town Code, is not necessary because the development will not utilize on-site septic treatment areas. While we agree that nitrate nitrogen, as specified by 170-32.8(A)(3)(b) is unnecessary, a Groundwater Protection Plan should still be prepared for the project and must detail site provisions (landscaping restrictions, salt storage and application, best management practices) of protection of water quality within the protected aquifer resource.

(Letter #7, Woodard & Curran, 3/24/15)

Response D37:

See response D36. A Groundwater Protection Plan will be prepared if required as part of the Groundwater Overlay Protection Permit.

Comment D38:

The presented groundwater recharge assessment as completed by LBJ [LBG] associates for the Somers Woods project is presented to be based upon total proposed site impervious areas of 6.82 acres. The proposed Somers Crossing development contains 7.28 acres of new impervious surface. Although the Applicant's Engineer has included a footnote that indicates the resulting recharge assessment for the Somers Crossing development would yield substantially the same result, the DEIS narrative must be revised to note the difference of new impervious areas and providing supporting information to justify their conclusion.

(Letter #7, Woodard & Curran, 3/24/15)

Response D38:

Comment noted. The site impervious surfaces have not changed dramatically from previous versions of the plan. In the FEIS plan, the unit footprints are slightly larger, a recreation building was added, two connector roads were added, and therefore

impervious area increased. This information is noted in the FEIS Introduction and in the revised SWPPP in the FEIS Appendix, which takes this increase into account.

Comment D39:

To solve the issue of no bulk storage of petroleum being permitted on the site due to its location in a Groundwater Protection District, the applicant has proposed the use of geothermal technology. Have any studies been done to demonstrate that the subject site has the capacity to have a geothermal solution for provision of energy to heat the proposed 80 units plus grocery store? Has it been studied to see if it works? Please provide information/studies that support this proposed solution. Please show how this system will be laid out on the site.

(Letter #9, Town of Somers Planning Board, 3/31/15)

[Townhouses will be geothermal] Which you have experience in?

(Richard Clinchy, Public Hearing #1, p. 17)

The units you proposed are geothermal? Would that include the grocery store or no? So all of it is proposed to be geothermal?

(Richard Clinchy, Public Hearing #2, p. 17)

Response D39:

The proposal is to use geothermal wells throughout the site (for both the residential units and grocery store). The effectiveness of geothermal wells is access to bedrock and/or groundwater to a substantial depth to provide temperature of roughly 60°F. This system has been used successfully on many other projects, and has specifically been used by this applicant.

The system to be used will be closed loop which does not allow groundwater interaction. The system basically cools and/or heats water to the desired temperature and heat/cooling pumps are used for the desired temperature.

The geothermal system will be designed for final site plan approval. The number of wells and depth will be based on final demand.

Comment D40:

Amend the text on page III.E-11 to include a comparison of calculated increases in sodium and chloride concentrations to NYSDOH Drinking Water standards.

(Letter #7, Woodard & Curran, 3/24/15)

Response D40:

As indicated on page III.E-11 of the DEIS, increases in sodium and chloride concentrations are anticipated to be negligible after factoring in dilution from precipitation recharge. In addition, it is noted that the groundwater is not proposed to be used for water supply in any case which will be indicated in the Applicant's Groundwater Protection Plan application to be submitted as part of Site Plan review.

Comment D41:

Revise the text that describes application of fertilizers on page III.E-11 to indicate that application of fertilizers containing phosphorus is banned in New York State for routine landscaping activity and will not be applied at the Somers Crossing site.

(Letter #7, Woodard & Curran, 3/24/15)

Integrated Pest Management is documented as either not used or not in need of being mitigated. The Applicant shall provide supporting information to support this conclusion.

(Letter #7, Woodard & Curran, 3/24/15)

Response D41:

It is agreed by the applicant through this FEIS that "application of fertilizers containing phosphorus is banned in New York State for routine landscaping activity and will not be applied at the Somers Crossing site". All aspects of fertilizer and/or pest management must meet stringent New York State standards including any banned products or applications, therefore supporting the conclusion that a

separate IPM is not necessary on a 66-unit residential project. See also Response to Comment D20.

Comment D42:

The DEIS includes brief discussion of potential oils and grease on page III.E.-12, but does not contain any detailed discussion on approximate loads to be generated or describe how the potential impacts to groundwater will be mitigated. It is noted that this narrative should include discussion of treatment infrastructure within the proposed stormwater management systems that are intended to remove oils & grease from stormwater.

(Letter #7, Woodard & Curran, 3/24/15)

Response D42:

Discharge to all stormwater systems will be preceded with pretreatment units. The systems are designed to remove minimal oils/grease from the stormwater loading. It is noted that with today's vehicle technology oil/grease spills are very rare and if it were to occur, the pretreatment unit plus the infiltrator systems would provide containment prior to groundwater interaction.

Comment D43:

The provided description of mitigation measures intended to protect groundwater from contamination does not include any detailed discussion of Property Use/Deed restrictions or proprietary treatment systems. The narrative on page III.E-13 notes that salt storage areas are contemplated on the site but no description of such facilities is detailed or represented on the project layout plan. All measures should be coordinated with the project Groundwater Protection Plan.

(Letter #7, Woodard & Curran, 3/24/15)

Response D43:

All proprietary stormwater pretreatment systems will be documented for final design, and coordinated with the Groundwater Overlay Permit which will be submitted and reviewed along with the Site Plans. Similarly, required maintenance

agreements will also be provided as required by GP-0-15-002. See response to comment D36.

Comment D44:

Components of the site development may be subject to compliance with the New York City Department of Environmental Protection (NYC DEP) Rules and Regulations for the Protection from Contamination, Degradation and Pollution of the New York City Water Supply and its Sources, including the preparation of a Stormwater Pollution Prevention Plan. Adequate erosion and sediment control and stormwater runoff water quality protection, both during and after construction, are of critical importance.

(Letter #13, Westchester County Planning Board, 4/15/15)

Response D44:

Comment noted. All permitting agencies will be satisfied.

Comment D45:

The WIG Office submits these comments because it is concerned about the water pollution impacts that the Somers Crossing project, in its current form, would have on the Muscoot Reservoir and its watershed. The WIG Office does not oppose Somers Crossing. Rather, by these comments the WIG seeks reasonable and feasible modifications to the Project to eliminate its discharges of phosphorus and other pollutants in stormwater runoff, and ensure compliance with the federal Clean Water Act and New York's water pollution control law.

As discussed in section IV below and in the attached Technical Appendix, the Project's current design and plans for addressing water pollution are deficient and in need of great improvement. The Project as currently proposed would likely exacerbate existing violations of water quality standards in the Muscoot Reservoir by causing a substantial increase of phosphorus and other pollutants in stormwater runoff leaving the site.

Because the Project, as currently proposed, falls so far short of protecting water quality, the WIG Office recommends that the Planning Board require the sponsor to supplement

its DEIS with a revised stormwater pollution prevention plan and make that plan available for public comment.

(Letter#15, Office of the Watershed Inspector General, 4/17/15)

Response D45:

Comments noted. The Site Plan and Pollutant Loading Calculations (FEIS Appendix R) have both been revised as described in this FEIS. Pollutant loading calculations have been updated using the Simple Method per previously approved projects in the region. See responses to comments D21 and D28.

Comments D46:

Incorrect Use of Rainfall Data:

A review of Appendix E of the DEIS, which is the stormwater pollution prevention plan (SWPPP), and its Appendices D and E, show that the hydrologic analysis performed with the HydroCAD computer program is flawed. The Northeast Regional Climate Center (NRCC) provides current rainfall values on its www.precip.net website. Instead of using current rainfall values from the NRCC website, as recommended in our October 2, 2013 scoping comment letter, the applicant used outdated 2003 NRCC rainfall values (Appendix S of the SWPPP). The DEIS (dated January 28, 2015) should incorporate current rainfall data. As explained in the attached letter from Carol Lamb-LaFay, dated September 30, 2013, use of this data is acceptable to DEC.

In addition, the applicant incorrectly coupled the outdated rainfall data with a Soil Conservation Service (SCS) Type 3 rainfall distribution, which is no longer valid in New York State. The rainfall table from NRCC website must be imported into the HydroCAD file, which then computes the appropriate rainfall distributions for the project site. These hydrology analyses must be recalculated using the appropriate data.

(Letter#15, Office of the Watershed Inspector General, 4/17/15)

Response D46:

Most current NRCC rainfall data for the project location has been obtained from www.precip.net and imported to the HydroCad Version 10.00-14 hydrological

computer model. (See revised SWPPP in Appendix D). See also Responses to Comments D15, D16, D17, and D26.

Comment D47:

There are three other infiltration practices proposed for this project, but only two of them have had percolation rates tested for feasibility. (It appears that these two tests were not performed at the correct infiltration depth to assure feasibility). At a minimum, all stormwater management infiltration practices must be planned and designed in accordance with Appendix D of the August 2010 New York State Stormwater Management Design Manual. Based on the information contained in this appendix, a significant number of site specific infiltration tests will be required for acceptance of these proposed stormwater infiltration practices.

(Letter#15, Office of the Watershed Inspector General, 4/17/15)

Response D47:

See previous responses in this section and revised SWPPP in Appendix D of this FEIS. Stormwater practice infiltration testing will be conducted during Site Plan review.

Comment D48:

Need to Update SWPPP for IBM Property: Appendix P of the SWPPP addresses a proposed parking area offsite, at the IBM property east of Route 100, which was prepared by Ronald Freeman Associates almost 17 years ago. Though the SWPPP for this offsite location was apparently accepted by local and state officials at that time, it is outdated and should not be accepted today, as it does not meet current criteria. An updated hydrologic analysis for this SWPPP needs to be developed for this site if it is to be included as part of this new project.

(Letter#15, Office of the Watershed Inspector General, 4/17/15)

Response D48:

The applicant certainly is not asking the Lead Agency to accept an antiquated report. Water from the IBM property is simply being diverted around the subject property. Further analysis of upstream properties is not required nor warranted.

Comment D49:

Phosphorus Loading: I performed an independent pollutant load analysis based on the Applicant's Proposed Conditions Sub-catchments tables shown in the SWPPP and drawings DB-1 and DB-2. I utilized the event mean concentrations (EMC) and stormwater management practice total phosphorous removal efficiencies listed in the January 20, 2012, DEC letter by Robert Capowski, P.E. to Richard Williams, Sr., Putnam County MS4 Coordinating Committee. The total phosphorous (TP) load for the existing site condition is 8.81 pounds. The TP load for the proposed development is 43.80 pounds. This is a net increase of 34.99 pounds, or approximately 400%. The TP after treatment with the four infiltration systems, bio-retention filter and pocket wetland is 12.22 pounds. This is a net increase of 3.41 pounds, or 38.7% over the existing load. In addition, this project is in the Muscoto Basin which requires a 19% TP total maximum daily load (TMDL) reduction.

Applying that reduction to the existing 8.81 pounds of TP requires a further reduction of 1.67 pounds (19% of 8.81 pounds); for a total TP load to be reduced by 5.08 pounds through additional mitigation measures. $12.22 \text{ pounds} - 8.81 \text{ pounds} = 3.41 \text{ pounds} + 1.67 \text{ pounds} = 5.08 \text{ pounds}$.

These could be accomplished through further on-site pollution reductions or implemented or funded by the sponsor at an off-site location.

The following analysis provides an estimate of the cost to fund a stormwater retrofit project to achieve a reduction of 5.08 pounds of phosphorus. According to calculations completed in accordance with accepted procedures, methodology, and pollutant loading coefficients and pollutant removal ratings, the pre-development and post-development annual phosphorous loads were:

As discussed above, the net increase in the annual phosphorus load for this site is 3.41 pounds.

In addition, the NYCDEP March 1999 “Proposed Phase II Phosphorus TMDL Calculations for Muscoot Reservoir”, demonstrates that the current modeled phosphorus load delivered to the reservoir exceeds the allowable carrying capacity/phosphorus load being supplied to the reservoir, or the total maximum daily load (TMDL). As a result, the TMDL is being exceeded by 18.7%. To meet the TMDL requirements, an 18.7% reduction in total phosphorus must be realized in the pre-development annual phosphorus load. Rounding 18.7 to 19.0, therefore, 0.19 multiplied by 8.81 pounds = 1.67 pounds. Thus, the total off-site phosphorus obligation should be to reduce 1.67 pounds + 3.41 pounds = 5.08 pounds of phosphorus per year.

In order to calculate the cost to remove 5.08 pounds of phosphorus per year from being delivered to the Muscoot Reservoir, the estimated loading for the proposed project site was used. The estimated loading served as the basis for determining how many acres of land, with similar land use, would need to be managed off-site to reduce the requisite total phosphorus load. The calculations below illustrate how pounds per year are converted to acres of impervious cover. The proposed stormwater treatment system is expected to remove approximately 31.6 pounds of total phosphorus in stormwater. As a result, more stormwater needs to be captured and treated to insure the calculated target reduction of 5.08 pounds per year.

Since we are only concerned with pollutant loading from developed land, we segregated the post-development site that drains to the best management practices (BMPs) from the total site. Minus the proposed phosphorus controls, the post-development site produces 43.80 pounds of total phosphorus load per year from 7.28 acres of impervious cover. This was determined from HydroCAD data of impervious area for the sub-basins. By dividing 43.80 pounds of total phosphorus load per year by 7.28 acres of impervious cover, we get 6.02 pounds of phosphorus per impervious acre.

So, to meet the 5.08 pounds/year phosphorus reduction obligation, the applicant would have to manage 1.53 acres of impervious area from suburban land uses. This 1.53 acre value was calculated as follows: $5.08 \text{ pounds} / 6.02 \text{ pounds per impervious acre} / 0.55$ (assumed future pollutant removal system effectiveness for total phosphorus) = 1.534 acres.

Based on work performed by the Center for Watershed Protection 2007 manual entitled “Urban Stormwater Retrofit Practices” as well as other professionals, the general cost range for stormwater retrofitting is between \$40,000 and \$80,000 per impervious acre, for typical suburban land uses. So, using the mid-point of \$60,000/acre then, 1.53 acres X \$60,000 = \$91,800 in 2007 dollars for stormwater pollution mitigation at the Highgate-Woodlands Project. Adjusted to 2015 dollars, using a consumer price index (CPI) multiplication factor of 1.13204, the estimated total cost for stormwater retrofits is estimated to be \$103,922.

(Letter#15, Office of the Watershed Inspector General, 4/17/15)

Response D49:

The pollutant loading calculations have been revised to use the Simple Method. Although not required by NYSDEC, these calculations have been conducted and a 24.53% decrease in phosphorus loading has been documented in the FEIS. The latest Pollutant Loading Analysis dated March 7, 2016 has been included in FEIS Appendix R. See also responses to comments D21 and D28.

Comment D50:

The DEIS does not provide construction details or engineering plans to verify that the Stormwater Management Practices and their structural appurtenances meet the criteria contained in the August 2010 New York State Stormwater Management Design Manual. These details are needed to validate the design elevations and volumes shown in the Tables 18 through 23 of the SWPPP. In addition, details need to be provided to support the second paragraph on page III. E-31 of Section E of the DEIS, regarding the installation and operation of the pretreatment systems for the infiltration practices. These details must be provided.

(Letter#15, Office of the Watershed Inspector General, 4/17/15)

Response D50:

Comments noted. Design details of the project will be provided as the project continues through the Site Plan approval process with the Somers Planning Board. The current Revised Concept Plan, engineering plans and SWPPP provide a level of detail necessary to evaluate potential impacts and design intent for this EIS in order for the Lead Agency to provide Environmental Findings regarding the proposed Zone Amendment and Concept Plan for the site.

Comment D51:

An erosion and sediment control plan (E&S Plan) view drawing should be prepared for each phase of the project. Currently, pertinent stormwater details that appear on pages III.D-18 (“Construction Sequence Plan”) through III.D-24 in Section D of the DEIS are absent from the SWPPP and plan view drawings. The construction sequence details for each phase of the project, identified in the previous sentence, need to be incorporated into the SWPPP and placed on each of the plan view drawings.

(Letter#15, Office of the Watershed Inspector General, 4/17/15)

Response D51:

The phasing plan and final construction details will be updated through final site plan design and review.

Comment D52:

Page 27 of the SWPPP presents a list of E&S practices to be used for erosion and sediment control on the project. However, a number of them, including temporary swales, sediment traps, sediment basin, and rock outlet protection structures are not depicted on drawing ER-1. In addition, there are no construction details or design elements presented in the engineering plan drawings to prove that the placement or performance of these practices for this proposed construction site, are in accordance with the August 2005 New York State Standards and Specifications for Erosion and Sediment Control. For example, sediment basins are designed for the 10-year, 24-hour duration storm during

the constructed (bare earth) condition. The calculations for this site condition and the resulting construction details, specifications and construction drawings are not included in the engineering plan drawings for the site. These calculations must be presented in the SWPPP and the construction details included on the engineering drawings.

(Letter#15, Office of the Watershed Inspector General, 4/17/15)

Response D52:

See response to comment D54. Final Erosion and Sediment Control measures and land disturbance will be finalized during the site plan process.

Comment D53:

Additional Issues: Engineering drawing PH-I of the SWPPP shows the bio-retention practice and pocket wetland to be constructed in Phase IA. However, no site access for this phase is noted. All access to the project site is shown as Phase IB. Access needs to be shown for Phase IA.

(Letter#15, Office of the Watershed Inspector General, 4/17/15)

Response D53:

The bioretention basin has been eliminated. Access to all other stormwater practices have been provided for, as indicated on the plans.

Comment D54:

b. Pages III.D-18 through page III.D-24 and figures III.D-5 and III.D-6 in Chapter D, Soils and Geology, in the DEIS should be incorporated in the SWPPP.

(Letter#15, Office of the Watershed Inspector General, 4/17/15)

Response D54:

Comment noted.

Comment D55:

c. A note should be added to drawing ER-1 that requires the use of rolled erosion control product on all slopes steeper than 3 horizontal to 1 vertical. There are two such locations on this site that are 2:1 slopes: behind units 27 to 41 along Somerstown Turnpike, and behind units 78 to 80.

In addition, The Erosion Control Guidelines on drawing ER-1 are too general. These notes should be site specific. Note G, allowing sediment control in live streams, should be removed.

(Letter#15, Office of the Watershed Inspector General, 4/17/15)

Response D55:

Comment noted. Comments will be addressed for final design of erosion and sediment control measures and evaluated during Site Plan review. It is noted that while 3:1 slopes are preferred there is no ordinance or code prohibiting 2:1 slopes.

Comment D56:

d. A number of sub-surface investigations have taken place over the past years for different development proposals at this site, as noted in SWPPP, Appendix L. All of these deep soil test pit locations should be placed on the existing condition engineering drawing labeled PRE.

(Letter#15, Office of the Watershed Inspector General, 4/17/15)

Response D56:

All testing to date has been reported unless otherwise noted.

Comment D57:

I am writing to you in response to your inquiry as to the Department's position with regard to the use of updated precipitation data in the design of stormwater management practices. The New York State Stormwater Management Design Manual, August 2010 (Design Manual), includes a provision that allows designers to use the most recent rainfall frequency values developed by acceptable sources. Hydrologic data and rainfall

distributions published by the Northeast Regional Climate Center (NRCC) in January 2011 on their website www.precip.net is considered to be an acceptable alternative to using the isohyets maps for required design storms presented in the Design Manual. (Attachment to Letter#15, Office of the Watershed Inspector General, 4/17/15)

Response D57:

Most current NRCC rainfall data for the project location has been obtained from www.precip.net and imported to the HydroCad Version 10.00-14 hydrological computer model. See also Responses to Comments D15, D16, D17, D26 and D46.

Comment D58:

Submit the Stormwater Pollution Prevention Plan (SWPPP).
(Letter #17, New York State Department of Transportation, 4/17/15)

Response D58:

The original SWPPP was included as part of the DEIS, so the NYSDOT received it then (DEIS Appendix E). The revised SWPPP (September 2015) will be submitted to NYSDOT as part of the on-going responses and submissions on this project, through Maser Consulting, the primary contact with NYSDOT. The revised SWPPP is also included in this document as FEIS Appendix D.

Comment D59:

The provided hydrologic evaluation assesses watershed peak flows at an off-site drainage design point. The provided pre-development and post-development drainage maps do not identify this design point and instead show design line along the western parcel boundary. The Applicant shall expand the pre and post development drainage maps to represent the drainage design point where flows are addressed.
(Letter #7, Woodard & Curran, 3/24/15)

Response D59:

The overall design point is off-site. Locally flows (pollutant) were analyzed to the property line. Drainage maps are provided in the SWPPP in Appendix D.

Comment D60:

What is the appropriate wellhead protection area around the existing nearby (active) well on the Towne Centre property that is required by County or State health department standards? How is the project providing appropriate protection of this water source? (Letter #4, Tim Miller Associates, 3/18/15)

Response D60:

All required separation distances from this well are met as per County and State Health Departments.

Comment D61:

The Watershed Inspector General (“WIG”)⁷ and New York City Department of Environmental Protection (“DEP”)⁸ have identified numerous technical deficiencies in the SWPPP that is attached to the DEIS. These include but are not limited to:

- Noncompliance with requirements of the 2015 New York State Stormwater Management Design Manual,⁹ including the use of updated precipitation data to calculate the sizing of structural stormwater management practices;
- Inadequate analysis of pollutant loading, peak runoff rates and point discharges of stormwater runoff;
- Absence of confirmed onsite soil testing;
- Incomplete invasive species management protocols; and
- Missing information on the stocking of excavated onsite soils.

⁷ Somers Crossing DEIS comment letter from Phillip Bein, NYS Watershed Inspector General, and Charles Silver, Ph.D., Watershed Inspector General Scientist (Apr. 17, 2015).

⁸ Somers Crossing DEIS comment letter from Cynthia Garcia, SEQRA Coordination Section, NY City Dep’t of Env’tl. Prot., to Syrette Dym, Town Planner, Town of Somers Town Board (March 23, 2015).

⁹ It is important to note that the New York State Department of Environmental Conservation’s Draft New York State Stormwater Management Design Manual 2015 Update Transition Policy—which proposes to allow applicants that have submitted SWPPPs applications prior to January 29, 2015 to comply with the requirements in the 2010 version of the Design Manual—has not been implemented. Therefore, the Applicant is required to comply with the 2015 Design Manual. N.Y. STATE DEP’T OF ENVTL. CONSERVATION, NEW YORK STATE STORMWATER MANAGEMENT DESIGN MANUAL 2015 UPDATE TRANSITION POLICY (2015) *available at* http://www.dec.ny.gov/docs/water_pdf/dmantpdraft2015.pdf.

In light of these and other identified technical deficiencies, which render the Applicant's SWPPP inadequate to mitigate the adverse impacts of stormwater runoff from the project site, in addition to the proposed permanent disturbance of wetland buffer and lack of a reasonable range of alternatives, Riverkeeper joins with the WIG in recommending that the Town Board require the applicant to revise or supplement the DEIS to remedy its numerous deficiencies in a manner that avoids or minimizes adverse environmental impacts.

(Letter #22, Michael Dulong and William Wegner, Riverkeeper, 4/20/15)

Response D61:

Both of the comment letters cited here have been responded to in this FEIS. See Responses C14, C15, C16, F26, and D45 through D57 for responses to letter #15 from the Watershed Inspector General, and Responses C1, D24 through D33 for responses to letter #6 from NYCDEP. In addition, the revised Concept Plan in the FEIS and the revised SWPPP (see FEIS Appendix D) address many of these comments. Specifically in response to the Riverkeeper comment above:

- ***Precipitation Data Used to Calculate the Size of Stormwater Practices: The stormwater management plan and SWPPP for the project have been revised in the FEIS, to reflect the revised Concept Plan and to integrate comments received on the DEIS. The current stormwater design is in compliance with 2015 New York State Stormwater Management Design Manual. The response to this comment from the WIG (comment D46), states that the most current NRCC rainfall data for the project location has been obtained from www.precip.net and imported to the HydroCad Version 10.00-14 hydrological computer model. (See revised SWPPP in Appendix D). See also Responses to Comments D11, D14, D15, D16, D17, D26 and D57.***
- ***Pollutant Loading: The Site Plan has been revised as described in this FEIS. As described in responses to comments D45 and D49 from Watershed Inspector***

General, pollutant loading calculations have been revised in the FEIS to use the Simple Method per previously approved projects in the region. Although not required by NYSDEC, these calculations have been conducted and a 24.53% decrease in phosphorus loading has been documented in the FEIS. The latest Pollutant Loading Analysis dated March 7, 2016, prepared by the project engineer, is included in FEIS Appendix R. See also responses to comments D21, D27 and D28 regarding pollutant loading. See responses to comments D27, D29 and D30 regarding runoff rates and point discharge. The current stormwater configuration avoids point discharges to the greatest extent practicable. A full analysis of the off-site and on-site drainage conditions is included in the revised SWPPP (see FEIS Appendix D).

- **Absence of On Site Soil Testing: Updated on site soil testing was conducted in July 2015, and test holes performed throughout the property were witnessed by the Town (Rob Wasp, Woodard & Curran, present) and NYCDEP (Mariyam Zachariah, NYCDEP, present). Test holes generally indicated well-drained medium fine sands with no indication of ground water consistently, indicating well drained soils throughout the buildable areas of the site. See soils report in Appendix J for results of soil tests conducted in July 2015. Comments from WIG regarding this subject are responded to in C14, C15 and C16. See also Responses C2, C3, C4, C6, D5, D11, D24, D32, D34, D47 and D56, as well as FEIS Appendix D and Appendix J regarding soil testing.**
- **Invasive Species Management: As described in Response F12, a Preliminary Landscape Plan has been prepared for the revised FEIS Concept Plan (see drawings LP-1 and LP-2) as a refinement of the Conceptual Landscape Plan in the DEIS. This plan shows the proposed plantings for the entire site, including uplands, wetlands, and wetland buffers, as well as within created stormwater management facilities (pocket wetland and infiltration facilities). One intent of the Landscape Plan is to create a thick, vegetative cover that will inhibit the survival and spread of invasive species. The applicant will adhere to all conditions and mitigation requirements of permits required by these regulated**

activities, including protocols for management of invasive species. This is also addressed in Responses E9, E11 and E14, where it states that the Applicant is committed to enhancing and restoring the wetland buffer and undeveloped upland areas as shown on Preliminary Landscape Plan. This will include the removal of invasive species from these areas, and re-planting with native conservation seed mixes, shrubs and trees. Specific planting plans for these areas will be provided with the individual site plan and wetland permit applications to the Town of Somers, NYSDEC, and USACOE.

Stockpiling of Soils: As described in Responses C1, C9 and C12, no stockpiles will be located within 100 feet of regulated wetlands. As described in Response F18, no wetland disturbance is proposed other than the temporary disturbance for installation of utilities below an edge of locally regulated Wetland C (existing man made stormwater basin). This disturbance for utility line installation will be temporary (likely all conducted in one day), after which it will be returned to its pre-existing condition. Topsoil and subsoil will be stockpiled separately. Final phasing and erosion controls for each phase will be provided with the final design. The site plan will be processed through the Planning Board where the details of the plan will be addressed, including phasing and stockpile locations, sediment basins, sediment traps, silt fence locations and swales. Even though these concerns were addressed during DEIS process, comprehensive site plans and more detailed phasing plans will be developed during the Site Plan review process.

E. Vegetation and Wildlife

Comment E1:

The site borders a major wetland complex that is rich in a variety of amphibian and reptile species, many of whom are state-listed. It is very likely that some of these, frogs and salamanders in particular, estivate in the upland forested surroundings that, of course, include the subject property. We believe that a biodiversity survey will be necessary and that it will be crucial when this is carried out (i.e. not in the fall and winter months). Furthermore, though mention of state and federal lists occurs in the various memos, Somers has also committed to protecting Westchester-listed species, as was required of the Hidden Meadow applicant. We would expect the same to be applied to this applicant. (Letter #8, Town of Somers Open Space Committee, 3/30/15)

Response E1:

The layout of the proposed development preserves all of the wetlands on the site which are part of the wetland complex referred to, and has also avoided almost all disturbance of the forested 100' adjacent area. Extensive surveys of the wildlife and vegetation have been carried out on this site during all seasons, and the results are summarized in the Biological Assessment Report prepared by Evans Associates Environmental Consulting, Inc., submitted with the DEIS (DEIS Appendix F).

That report includes discussion of the species on the Westchester County list, which can be referenced at: <http://parks.westchestergov.com/endangered-species>. This included a thorough view of the Westchester-listed species referenced in the comment. See also Responses E3 and E5 which addressed the listed species by various organizations

Comment E2:

There is no protocol in the Biodiversity Study listed for the health class assignments of poor, fair, or good. How did you reach that conclusion and what specifically did you do to complete the analysis scoping Document Item I.e.

(Letter #7, Woodard & Curran, 3/24/15)

Response E2:

Evans Associates protocol for assessing the health class and making the assignment for each tree included a visual review of each tree’s leaves, bark, trunk and other physical condition characteristics at the time of the field visit.

Health class assignments used are as follows:

Good: no obvious signs of disease, pests, or structural damage.

Fair: tree shows signs of disease, damage from pests, or significant structural damage (e.g. limb loss or lightning strike) but still has at least 50% of crown intact.

Poor: tree appears to be in poor health, or has sustained significant structural damage leaving less than 50% of the crown intact.

Comment E3:

This section addresses State protected vegetative species lists but does not address federal species lists. The DEIS must be updated to include all Federal protected species.

(Letter #7, Woodard & Curran, 3/24/15)

Response E3:

Federally-listed Endangered, Threatened, and Candidate species at the County (Westchester) level, according to the US Fish & Wildlife Service (USFWS) IPaC website are:

Mammals:

Indiana Bat (*Myotis sodalis*) – Endangered

New England Cottontail (*Sylvilagus transitionalis*) – Candidate

Northern Long-eared Bat (*Myotis septentrionalis*) – Threatened

Reptiles:

Bog Turtle (*Clemmys muhlenbergii*) – Threatened

The New York State Department of Environmental Protection (DEC) Nature Explorer website lists the following federally-protected species:

Reptiles:

Bog Turtle (*Clemmys muhlenbergii*) – Threatened

Fish:

Atlantic Sturgeon (*Acipenser oxyrinchus*) – Endangered

Shortnose Sturgeon (*Acipenser brevirostrum*) – Endangered

Beetles:

American Burying Beetle (*Nicrophorus americanus*) – Endangered (historically confirmed)

Flowering Plants:

Seabeach Amaranth (*Amaranthus pumilus*) – Threatened (possible but not confirmed)

All of these species are referenced and discussed in the Biodiversity Study in DEIS Appendix F.

Comment E4:

The Applicant has provided a more comprehensive summary of the wildlife habitat in the area. Please note that comments regarding federally listed species and their habitats are included below, and the Town requests additional concurrence regarding these species from the USFWS.

(Letter #7, Woodard & Curran, 3/24/15)

Response E4:

Comment noted. Additional discussion provided below in Responses E5 and E6, and correspondence from USFWS (June 2015) included in FEIS Appendix G.

Comment E5:

This section [DEIS Section III.F.2] cites the DEC’s SEQR lead agency response letter (dated June 11, 2013), in which it is indicated that “no records of sensitive species were identified at the project site.” Please be aware that records maintained by the Natural Heritage program are constantly updated with new information. New information is now available which indicates that the project site is located within five miles of a known Northern long-eared bat (*Myotis septentrionalis*) hibernaculum. Although this species is not currently listed by NYS as an endangered or threatened species, the Northern long-eared bat has been proposed to be listed as a federally endangered species, and it is anticipated that this species will be listed and protected later this calendar year. Once listed, the Northern long-eared bat will be subsequently protected through DEC’s implementation of Article 11, Title 5, Section 535 of the Environmental Conservation Law, which pertains to Threatened and Endangered Species.

The Biological Assessment within Appendix F (pg. 28) indicates that “summer feeding, and possibly roosting, habitat for this bat (Northern long-eared bats) could include areas on or near the site.” Section F.I. (b) identifies extensive tree clearing for the site which includes 16.1 acres (60% of vegetation on the project site) of clearing and grading and a final Tree Removal Plan will be further refined to meet Town Codes. Therefore, in order to avoid impacts to this species, the DEC recommends that the Tree Removal Plan be revised so that proposed tree clearing takes place only between October 1st and March 31st (of any given year). If tree clearing cannot be conducted within the above stated time frames, the applicant should contact this office for further guidance regarding reducing potential impacts to the bats, and anticipated Article 11 requirements which may affect the project as currently proposed.

(Letter #3, New York State Department of Environmental Conservation, 3/16/15)

The Northern Long-eared Bat is not listed as threatened or endangered, however that listing is imminent, and Westchester County is included as the range for this species. Please determine if the USFWS has been consulted regarding the known presence of the Northern Long-eared Bat on the site and if additional studies or clearing limits should be

imposed on the site. Please address timing limits and additional studies requirements for this species, as dictated by the USFWS.

(Letter #7, Woodard & Curran, 3/24/15)

New environmental regulations regarding the Northern Long Eared Bat go into effect this year that requires limits to times of permitted site disturbance. Is that a negative impact that has to be disclosed or will you be able to fit your building construction schedule around the required non-disturbance time frame?

(Letter #9, Town of Somers Planning Board, 3/31/15)

Response E5:

As of May 4, 2015, the Northern Long-eared Bat is federally-protected as a Threatened species under the Endangered Species Act. The USFWS has been contacted (see Response E6). The removal of potential roosting trees on the property must occur between October 1 and March 31st of any given year, when bats would be hibernating and would not be foraging or roosting on site. This will be noted on the tree removal plans. During the remainder of the year, if trees were to be removed, an application for an Incidental Take Permit would have to be approved by the Northeast Region (Region 5) U.S. Fish and Wildlife Service Endangered Species Permit Office prior to roost tree removal.

Comment E6:

Federal and state protected species and species of concern are addressed in the biological assessment report. Regarding federal species, the applicant reports referencing the USFWS website, however, it is not known if formal or informal consultation has taken place with the USFWS.

(Letter #7, Woodard & Curran, 3/24/15)

Response E6:

The U.S. Fish and Wildlife Service was sent a Request for Conservation Planning Assistance on May 15, 2015. Their response letter, dated June 22, 2015, is attached in Appendix G. In addition, verbal communication was made with the USFWS on

July 15, 2015 by Evans Associates. The final Endangered Species Act (ESA) determination will be made by the Federal agency involved (in this case, the ACOE). When an application is submitted to the ACOE, the material for a final ESA determination will also be submitted.

Comment E7:

Please document that the USFWS has reviewed the site and verified the Applicant's determination of no habitat for the New England cottontail and the bog turtle.

(Letter #7, Woodard & Curran, 3/24/15)

Response E7:

In a conversation with USFWS personnel and Evans Associates on July 15, 2015, it was communicated that the Federal Agency involved (in this case, the ACOE) is responsible for requesting additional information from the USFWS. Therefore, in the future, during the ACOE application process, information for the ESA determination will also be submitted by the Applicant. The ACOE will review this information and determine whether more information is necessary from the USFWS, or from the Applicant. The applicant will comply with permit conditions and mitigation required by the ACOE at that time in order to obtain necessary permit(s).

Comment E8:

Please determine if the USFWS has been consulted regarding the known presence of the Indiana Bat on the site and if additional studies or clearing limits should be imposed on the site. Please address timing limits and additional studies requirements for this species, as dictated by the USFWS.

(Letter #7, Woodard & Curran, 3/24/15)

Response E8:

See Responses E5, E6, and E7.

Comment E9:

While proposed disturbance to permanent wildlife habitat impacts is described in the DEIS, temporarily displacement is during construction is vague and not substantive in the Fish, Shellfish and Wildlife section of the T&AE Report.

(Letter #7, Woodard & Curran, 3/24/15)

Response E9:

As discussed in the DEIS, most of the species identified in the forested area on this site are disturbance-tolerant species which will adapt to the increase in activity both during construction and after the units are occupied. However, the Applicant is committed to enhancing and restoring the wetland buffer and undeveloped upland areas as shown on Preliminary Landscape Plan. This will include the removal of invasive species from these areas, and re-planting with native conservation seed mixes, shrubs and trees. Specific planting plans for these areas will be provided with the individual site plan and wetland permit applications to the Town of Somers, NYS DEC, and US ACOE.

Comment E10:

My other big concern is all this wetland, and furthermore, actually, all the trees and things that are going to be cut down in order to allow this to proceed. I mean, obviously, I like the fact that there are wild animals around here. Last night, I saw a weasel, actually, coming home from the meeting. I was like, cool. I was like, wow, that looks like a cat, but it wasn't. It was a weasel. And I like that there is all this wildlife around here. That's one of the reasons I like living out here. I like that there are wild animals and, you know, you're going to ruin their homes, you know? And all this wetland and everything. There's all kinds of little endangered species of things that live there, and I'm worried about the negative effects of what's going to happen because -- I'm sorry. But a lot of those creatures and plant life and all that kind of stuff that lives there will be displaced or destroyed. Maybe not intentionally, but certainly as an ongoing factor, all the other building that's going to be going on around there. I mean, I see that line of — how close that grocery store is to that wetland, and, I mean, it's inevitable that there — I mean, what about runoff and all

that kind of stuff, you know? There's going to be runoff. Ice melt, gasoline from parked cars, and all that kind of thing, so I just think you guys really need to consider very carefully how large you allow this to become, and think what kind of precedent you might be setting for any future development in Somers that might, you know, negatively impact the semi-rural character of where we live. Because I think most people living here in Somers like the semi-rural character of our town.

(Linda Simpson, Public Hearing #1, p. 35-36)

Response E10:

Comments noted. The site is currently undeveloped vacant land, with the exception of a stormwater management basin that serves the neighboring parking lot. Surrounding land uses include the adjacent Somers Towne Centre neighborhood shopping center, residential, office, public/quasi-public (including town hall and NY State Police barracks), retail and vacant land. Implementation of the proposed conceptual plan would change the land use on-site from all vacant forested land to a residential community on the southern portion of the site, a neighborhood grocery store on the northern portion and over 10 acres of wooded open space to be preserved. These uses are consistent with and complement the existing uses in the Somers hamlet. In the Applicant's opinion, the Proposed Action is consistent with local and county planning objectives. Therefore, no significant impacts are anticipated.

A comprehensive scope for the Draft Environmental Impact Statement (DEIS) was prepared by several entities (including the Town of Somers Planning Board and environmental consultants) to assure that questions regarding potential impacts from the proposed project are addressed. Two Public Hearings were conducted to gather input (comments and questions) from the public regarding the project, which are addressed in this document (the FEIS, or Final Environmental Impact Statement). Please refer to the following sections of the DEIS for more information: Section III.F. Terrestrial and Aquatic Ecology (for information on trees, wildlife, endangered species, and on-site habitats); III. E. Water Resources (for information on the on and off-site wetlands, and details on stormwater runoff

and water quality treatment); and III.A. Land Use (for information on current and proposed land use). Please also see the other FEIS comments and responses in this section (II.E, Vegetation and Wildlife), as well as IIF. Wetlands and II.D Water Resources.

Comment E11:

Revise the DEIS text to expand discussion and supporting information related to the presented conclusions on Anthropogenic Activity (Noise, Light).

(Letter #7, Woodard & Curran, 3/24/15)

Response E11:

See Response E9 above. The site is directly adjacent to a busy shopping center and two transportation corridors (Route 100 and Route 202), so species inhabiting this site now or in the future will be those which are tolerant of anthropogenic noise and lighting. However, the Applicant is committed to enhancing and restoring the wetland buffer and undeveloped upland areas as shown on Preliminary Landscape Plan. This will include the removal of invasive species from these areas, and re-planting with native conservation seed mixes, shrubs and trees. Specific planting plans for these areas will be provided with the individual site plan and wetland permit applications to the Town of Somers, NYS DEC, and US ACOE.

Comment E12:

Ongoing maintenance responsibilities following completion of construction intended to protect fish, shellfish and wildlife populations are mentioned in text of the T&AE section, however recorded as partially addressed pending findings this substantive review of the SWPPP.

(Letter #7, Woodard & Curran, 3/24/15)

Response E12:

Comment noted. The SWPPP has been revised for the FEIS Plan and submitted for review. (See Appendix D). Details of many aspects of the project design will be resolved during Site Plan review with the Planning Board.

Comment E13:

The DEIS text must be updated to detail the length of time required for proposed vegetation to reach fully mature growth stages and be suitable to function as wildlife habitat.

(Letter #7, Woodard & Curran, 3/24/15)

Response E13:

Herbaceous plantings will take about 3 years (3 growing seasons) to be mature sufficiently to function as a wildlife habitat. Trees and shrubs generally take at least 5 years for the specimen to be sufficiently mature to function as a wildlife habitat.

Comment E14:

A Conceptual Landscaping Plan has been prepared, and the Applicant reports that a detailed Landscape Plan will be prepared further along in the application process, and will incorporate any wetland buffer enhancement measures required to offset the unavoidable encroachments into the wetland buffer. At that time, the species of plants, sizes, quantities and growing habits will be discussed. Native, non-invasive species will be chosen in order to best represent natural wildlife habitat. Please provide a detailed plan with native species plant list, as described.

(Letter #7, Woodard & Curran, 3/24/15)

Response E14:

The Landscape Plan has been revised as per the FEIS Plan which addresses the comments above, and is included in the engineering plan set. Plantings are depicted on drawings LP-1 and LP-2. The genus and species of each tree and shrub plant is provided, as well as the herbaceous plantings. Also provided are the size of the tree and shrub at the time of planting and the spacing between individuals, if needed.

Comment E15:

Details on Conceptual Landscape Drawings with regard to expected levels of inundation for various storm events in infiltration basins or bioretention facilities is hidden beneath symbols in several cases so it cannot be determined whether planting zones and types of plant material proposed (OBL, FACU, etc.) are appropriate. Basin details should be more clearly represented with both plan and cross-section views in such a way that this information can be read and understood with respect to proposed planting zones.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response E15:

For the proposed pocket wetland, the base (permanent) water level is at elevation 236.5'. New England Wetmix (from New England Wetland Plants) is proposed to be installed from the base water level to elevation 238'. Wetmix contains a variety of obligate and facultative wetland herbaceous species, and is thus most suitable for this location. Above elevation 238 feet, the ground surface on the side slopes of the pocket wetland will only be occasionally inundated; the 1 year storm maximum water surface elevation is calculated to be 236.85'. Between elevation 238 feet to nearly the top of berm at elevation 242 feet, the side slopes will be planted with New England Erosion Control/Restoration Mix for Detention Basins and Moist Sites. This seed mix contains a range of herbaceous plants that can withstand infrequent inundation.

Comment E16:

Mitigation proposals shown on the Conceptual Landscape Plan require more detail. For instance, species are not provided on the Conceptual Landscape Plan. It is not clear whether native species will be used for street trees, evergreen visual screening, grasses, shrubs, wetland mitigation, etc. Native species should be used to the extent practicable.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response E16:

Plantings have been specified and may be referenced on drawings LP-1 and LP-2. Native plants have been specified.

Comment E17:

As shown [on the Conceptual Landscape Plan], the proposed number and spacing of tree plantings will not provide significant stormwater benefit. Details should be provided regarding proposed tree sizes, and numbers and sizes of shrubs or any other materials should also be provided.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response E17:

The genus and species, size at time of planting, and number of trees and shrubs to be planted may be found on drawings LP-1 and LP-2.

Comment E18:

It is not clear whether the proposed “grasses” referred to on the Conceptual Landscape Plan will be seeded, hydroseeded, or planted as plugs on any portion of the indicated zones. Proposed permanent and temporary seed mixes, wetland plugs, and other materials and quantities proposed should be more clearly represented for review.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response E18:

It is proposed to hydroseed the herbaceous mixes.

Comment E19:

The Erosion Control Plan states the seed mix for disturbed areas is to consist of Kentucky bluegrass, creeping red fescue, and perennial ryegrass applied at a rate of 2 lbs/1000 sf. While this mix should be an effective seed mix for maintained lawn areas, it is not appropriate for wetlands or wetland buffer areas, nor is it a good mix for temporary

erosion control. Manhattan ryegrass is proposed for temporary stabilization of topsoil. This is a trademarked perennial ryegrass that can interfere with establishment of native plant materials and should especially not be used where native seed mixes will later be established. It is recommended that an appropriate native grass or meadow mix be selected for disturbed wetland buffer areas, annual ryegrass be used for temporary cover, and native mixes suitable for use in stormwater basins be used, where appropriate. (Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response E19:

Comment noted. Appropriate native grass or meadow mix for wetland buffers would be appropriate. Final landscaping and seed mixes will be provided on Erosion Control Plans in coordination with the Final Site Plans and SWPPP.

Comment E20:

A note should be added that describes what is to be done with the 1,067 trees that are to be cut onsite and their stumps. This is a significant amount of woody waste that needs to be managed properly on the site.

(Letter#15, Office of the Watershed Inspector General, 4/17/15)

Response E20:

The trees to be cut will be managed and disposed of properly. The tree waste will be recycled; in that the viable wood will be taken to the mill to be made into firewood, and the stumps will be ground as mulch.

Comment E21:

Assessment of environmental impacts, including anticipated change in water quality and pollutant introduction are provided in the DEIS section, but must be coordinated with our review comments under the Surface Water section in order to be determined acceptable.

(Letter #7, Woodard & Curran, 3/24/15)

Response E21:

Comment noted. See responses in Chapter II.D, Water Resources.

F. Wetlands

Comment F1:

It is stated in this section [DEIS Chapter II.B.5] that "All of the proposed development is designed to minimize impact on environmental features (such as regulated wetlands, floodplains and steep slopes). Approximately 10.58 acres or 40 percent of the Site, is proposed to remain in permanent open space." This statement is misleading as the majority of the proposed 10.58 acre area of open space is existing NYS regulated Freshwater Wetland and its 100-foot adjacent area. As such, this 10+ acre area is already afforded protection under Article 24 and Environmental Conservation Law, and any proposed development within the regulated wetland areas would be limited and regulated by DEC. If the project was truly designed to minimize impacts on environmental features, all such proposed disturbance would be relocated entirely outside of regulated wetland areas, and the proposal would preserve additional forested and upland areas. Therefore, this section of the DEIS should be revised to indicate that the proposed "open space" area (regulated NYS wetland) would not lend itself readily to development as many restrictions would apply to such development under current DEC regulation. Efforts to protect additional upland (non-DEC regulated wetland areas) should be noted in this section, if such is proposed.

(Letter #3, New York State Department of Environmental Conservation, 3/16/15)

Response F1:

Comment noted. The areas on the property that are proposed to remain as open space consist mainly of wetlands and wetland buffers. While these areas are ideal for protection, it is acknowledged that their future development would likely be regulated or prohibited. Portions of the stormwater management system, including an infiltration basin and a pocket wetland, and potentially some of the infiltration systems, could also lend themselves to creating "open space," as they will be revegetated. However, these areas would also be difficult to develop in the future. The intent of the proposed layout is to avoid the NYSDEC wetlands and 100-foot adjacent area to the extent practical, although it cannot be avoided entirely, as described on the engineering plans and in this FEIS. The applicant will apply for a

wetland activity permit from NYSDEC, at the appropriate time, after site plan review when plans are finalized.

Comment F2:

The proposal includes 0.68 acres of permanent disturbance to the NYS regulated 100-foot adjacent area (AA) of Freshwater Wetland F-I (Class I) due to the construction of the grocery store and access drive behind the building, and grading associated with the construction of residential units and stormwater retention basins. Although no applications have been submitted to the Department as of this date for permits associated with this project, it will be the applicant's responsibility to provide information which demonstrates how the proposal meets freshwater Wetland permit issuance standards contained in Part 663 during the application process. As proposed, the grading and construction within the AA for this project is considered "usually incompatible with a wetland and its functions or benefits." Note that the weighing standards found in Freshwater Wetland regulations 6 NYCRR 663 require that proposed disturbances to regulated areas of NYS Freshwater Wetlands first be avoided, and thereafter minimized to the maximum practicable extent, in order to meet permit issuance standards [see Part 663.5(3)(2)]. It is the Department's position that, as proposed, the project does not meet these standards, and project plans should be revised to relocate all structures outside the 100-foot AA, and also to relocate all proposed structures which require grading within the AA further away from the wetland to upland areas in order to further avoid impacts within the AA.

(Letter #3, New York State Department of Environmental Conservation, 3/16/15)

Response F2:

Development of the grocery store and its associated infrastructure, as proposed in the DEIS, has been revised. As noted in response F1, it is the design intent of this FEIS plan layout to remove all of the proposed impacts to the DEC Freshwater Wetland 100-foot Adjacent Area (AA) at the north end of the site. In addition, the number of residential units has also been reduced (from 80 to 66 units) in order to further reduce site impacts. Impacts to the DEC-regulated AA are now a total of 0.17 acres (reduced from 0.68 acres in the DEIS plan). All disturbances are along

edges of the buffer areas, which will be returned to natural conditions. No structures, or impervious surfaces are proposed in the AA. The installation of the utility line is estimated to be a temporary disturbance (construction complete in one day) after which it will be restored to its existing condition. See engineering drawing WB (Wetland/Buffer Impact & Limits of Disturbance), for details on the locations of the proposed impacts, and Response F16 for a table showing previously proposed impacts versus the currently proposed impacts.

Section 663.5, Standards for issuance of permits and letters of permission, and Section 663.4, Regulatory procedures, of NYCRR 663, Freshwater Wetlands Permit Requirements, were reviewed with regard to permissibility of the proposed project. Filling or grading within a DEC Freshwater Wetland Adjacent Area is considered a “P(N)” activity. “P” means that a permit is required, and “N” means “Usually incompatible,” meaning “...that a regulated activity is usually incompatible with a wetland and its functions or benefits, although in some cases the proposed action may be insignificant enough to be compatible.”

The minor proposed AA impacts are located along the outer edges of the AA (± 95 to 100 feet from wetland), within areas of the property that had already been disturbed in the past (see Response F3). Therefore, it is the opinion of the Applicant that the proposed project would have an insignificant effect on the AA of DEC Wetland F-1 and would be compatible with the wetland and its functions and benefits. Since the proposed impacts to, and effects on, the AA have been significantly reduced and are considered negligible, it is the opinion of the applicant that the goals for the standards of permit issuance have been met under the 663.5 (e) (1) Compatibility section:

“(1) Compatibility. These three tests are to be used to determine the compatibility of all activities identified as P(C) or P(N) in section 663.4(d) of this Part or for any actions not listed in section 663.4(d). If all three of the following tests of compatibility are met, no other weighing standards need be met, regardless of the wetland class. A permit, with or without conditions, may be issued for a proposed activity on a wetland of any class or in a wetland's

adjacent area, if it is determined that the activity (i) would be compatible with preservation, protection and conservation of the wetland and its benefits, and (ii) would result in no more than insubstantial degradation to, or loss of, any part of the wetland, and (iii) would be compatible with public health and welfare.”

A wetland permit application will be submitted to the DEC once the site plan is finalized and approved by the Town Planning Board. The Applicant commits to adhere to conditions and mitigation requirements of the NYSDEC Wetland Permit.

Comment F3:

Section F.3 (a) (pg. III.F-21) discusses the Wetland Functional Capacity and comments on how "Wetland A is capable of performing many wetland functions, and when considered in conjunction with the off-site NYS DEC Wetland F-I (of which it is a part), its functional capabilities are even greater." Section F.3 (b) further states "Encroachment into the NYSDEC-regulated 100-foot adjacent area has been minimized to the maximum extent practicable" and also that "Proposed impacts to the NYSDEC-regulated 100-foot wetland adjacent area is 0.68 acres.... Therefore, the functions that are provided by the wetlands will not be significantly impacted by the proposed project. " No explanation is provided as to how the benefits of the wetland will be preserved through impacting 0.68-acres, and in fact, these statements appear to be contradictory.

(Letter #3, New York State Department of Environmental Conservation, 3/16/15)

Response F3:

Virtually all direct impacts to wetlands have been avoided (0.01 acres of temporary wetland impacts to an existing man made stormwater basin are proposed for unavoidable, temporary utility installation). This existing stormwater basin is regulated by the Town and the ACOE, not DEC. Impacts to the wetland DEC-regulated Adjacent Area (AA) have been minimized further for the FEIS; they have been reduced from 0.68 acres to a total of 0.17 acres, as discussed in Response F2 above. The proposed impacts are located at the outermost edges of the AA. The quality of these areas of the AA has already been compromised by previous activities on the site in the past. This area has been physically altered through

cutting, filling, and debris placement, and the vegetative habitat is impacted by invasive species and proximity to Route 202 and the existing parking lots.

The total on-site area of DEC-regulated wetland Adjacent Area is 4.54 acres; on-site DEC-regulated Freshwater Wetlands total 5.07 acres (See DEIS Exhibit III. F-5 Existing Wetlands), for a total of 9.61 acres. The proposed AA impact is 0.17 acres, which is less than 2% of the total on-site portions of Wetland A and its AA. This percentage becomes much smaller when considering the entire on and off-site areas of Wetland A and its AA. Therefore, when considering the size of the entirety of Wetland A and its AA, the impact of 0.17 acres of the edge of the AA, this small area will have a negligible impact on the overall functioning of Wetland A. Additionally, the proposed stormwater measures will contribute to improvement of the water quality prior to stormwater discharge to the buffer/AA. See responses to comments F1 and F2.

Comment F4:

Further, the narrative does not address how the wetland functions and benefits, as illustrated in Appendix G, will be impacted. As currently designed, a road and the grocery store are shown on plans within the AA; in addition, grading is proposed in association with the placement of retention basins, housing units and utility lines. It is the Department's view that the Wetlands Functional Evaluation (located in Appendix G) should be updated to include an evaluation of the functions of the AA. Further, the Anticipated Impacts section [III.F.3 (b)] should include how these important functions and benefits of the wetland and its AA will be impacted by the 0.68 acres of disturbance. (Letter #3, New York State Department of Environmental Conservation, 3/16/15)

Response F4:

As discussed in Responses F2 and F3, above, impacts to the DEC-regulated Adjacent Area have been reduced to a total of 0.17 acres. In the Applicant's opinion, with this revision to the plan, the impacts to the functions of the Adjacent Area will be negligible.

Comment F5:

An existing conditions map that includes a signed NYSDEC Freshwater Wetland Boundary Validation Block should be added to Appendix G and referenced in this section.

(Letter #3, New York State Department of Environmental Conservation, 3/16/15)

Response F5:

Approval of the DEC wetland delineation occurred in 2007 for a previous property owner. The DEC Wetland Map was signed on 10/24/2007 by Ms. Heather Gierloff and is valid for 10 years from that date (October 2017). A copy of this signed map with validation block is provided in FEIS Appendix K.

Comment F6:

III.E Water Resources (pg. III.E-39, 40) indicates that the development will be privately owned and a future Home Owners Association (HOA) may be created. This possibility should be discussed in this section to identify if there would be any bylaws which must be agreed upon, when entering the HOA that will be included to protect the wetland and AA.

(Letter #3, New York State Department of Environmental Conservation, 3/16/15)

Response F6:

There will be bylaws for the HOA. These bylaws will include protections for the wetlands and adjacent areas as open space areas as well as other common areas on the site.

Comment F7:

This section should discuss if a physical barrier between the AA and the development is proposed to protect the wetland from encroachment into the AA. If no such fence or barrier is currently proposed, plans should be revised to incorporate such a barrier.

(Letter #3, New York State Department of Environmental Conservation, 3/16/15)

Response F7:

During construction, a physical barrier (double row of staked silt fence) will be erected between the development activities and the DEC-regulated 100-foot Adjacent Area. (See Erosion Control Plan).

After development and site stabilization, a physical barrier, such as concrete monuments or a split rail fence has been considered and is currently proposed in certain areas where the residential development approaches the Adjacent Area (AA). These locations are indicated on the Landscape Plan (LP-1), and include approximately 850 feet of split rail fence or monuments, running in a north-south direction behind units 5 – 8, 43-37 and along the proposed pocket wetland and infiltration basin near the DEC adjacent area. In the northern portion of the property, a retaining wall is proposed which will serve to divide the wetland and Adjacent Area from the developed areas containing the grocery store and parking lot.

Comment F8:

As an involved agency, DEC is responsible for issuing a findings statement prior to the issuance on any permits. In order for the Department to make such findings, DEC must determine that the action selected is the one that avoids impacts to the maximum extent practicable and that also balances social, economic and environmental needs. Based upon review of the information provided in the DEIS, it is the position of the Department that the preferred alternative project design does not avoid impacts to the maximum extent practicable. It is the Department's view that reductions in impacts, especially with regard to NYS regulated wetlands and species, can be made while allowing the project sponsor to meet the stated goals of this project.

(Letter #3, New York State Department of Environmental Conservation, 3/16/15)

Response F8:

Comment noted. The scale of the residential development has been revised from that presented in the DEIS, and reduced from 80 to 66 units. In addition, the grocery store layout has been changed with the intent of eliminating impacts to the

DEC wetland Adjacent Area at the north end of the site. The proposed project design now has approximately 0.5 fewer acres of Adjacent Area impacts than were proposed in the DEIS (from 0.68 acres to 0.17 acres). In addition, all of these buffer impacts are in fringe areas where the AA is impacted in order to accommodate site grading and/or stormwater measures. No impervious surfaces or structures are proposed in any AA. All of these impacted areas will be returned to a natural condition after construction. As discussed in Responses F2 and F3, in the Applicant's opinion, the effects of the proposed project on DEC Freshwater Wetland F-1 and its AA would be negligible, however, the proposed project could still meet its goal of providing residential and retail facilities to the community. See also responses to comments F1 and F2.

Comment F9:

There will be temporary impacts to 0.01 acres of wetland C for the installation of a utility line. This is contradictory to language throughout the DEIS which states that there are no direct wetland impacts (pages: III.E-24, 35, III.F-6, III.F-22, and III.F-24). These inconsistencies should be revised to indicate there are 0.01 acres of temporary wetland disturbance.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response F9:

Comment noted. Initially, complete avoidance of all wetlands (including Wetland C) was attempted. When the Utility Plan was approaching finalization, the fact that Wetland C could not be completely avoided was realized. In order to accommodate the force main and water line for the proposed residential development within the property limits, minor encroachment into the existing stormwater basin (Wetland C) was determined to be necessary. However, the impact has been minimized (to 0.01 acres) and will be temporary. The disturbance occurs in a highly-altered area (within the stormwater basin and the off-site parking lot), and does not affect DEC Freshwater Wetland F-1. This FEIS incorporates that revision, to acknowledge the temporary disturbance of 0.01 acre of wetland regulated by ACOE and the Town. See Responses F1 and F2.

Comment F10:

Page III.F-16 indicates that the USACE has jurisdiction over wetlands that are associated with hydrologic features that are connected with interstate waters. Connectivity to interstate waters is only one aspect of federal jurisdiction. The scope of federal jurisdiction is fairly broad and fairly complex, and the DEIS should be corrected to reflect this.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response F10:

The US Army Corp of Engineers (ACOE) is a federal agency that regulates “waters of the United States” in accordance with Section 404 of the Clean Water Act. The ACOE has a specific and sometimes complex formula for determining whether a wetland is a part of the “waters of the United States” and is therefore under their jurisdiction. This information can be found on their website at:

http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/juris_info.aspx

For the subject property, the ACOE Jurisdictional Determination (JD), which is provided in DEIS Appendix F and G states:

“Based on the material submitted and the observations of the representatives of this office during the site visit, this site has been determined to contain jurisdictional waters of the United States based on: the presence of wetlands determined by the occurrence of hydrophytic vegetation, hydric soils and wetland hydrology according to criteria established in the 1987 "Corps of Engineers Wetlands Delineation Manual," Technical Report Y-87-1 that are either adjacent to or part of a tributary system; the presence of a defined water body (e.g. stream channel, lake, pond, river, etc.) which is part of a tributary system; and the fact that the location includes property below the ordinary high water mark, high tide line or mean high water mark of a water body as determined by known gage data or by the presence of physical markings including, but not limited to, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter or debris or other characteristics of the surrounding area.”

The entire JD was supplied in the DEIS in Appendix F and G.

Comment F11:

According to the Wetland Functional Capacity section on page III.F.21, for the portion of Wetland A within the project area, "the variable hydrology ...encourages the development of plant communities that are more suited to a variety of moisture conditions rather than characteristic wetland species. This discourages the development of faunal communities that are suited to characteristic wetland habitats." While the sloped portion of the wetland within the project area has a more variable moisture regime than the emergent portion located offsite, the wetland description provided on page III.F-18-19 indicates a predominance of characteristic wetland species in this area. In addition, the functional assessment provided in Appendix F indicates that the onsite portion of the wetland received a moderately high score for the 'contribution to abundance and diversity of wetland flora and fauna' functions, albeit lower than the emergent portion of Wetland A. Wetlands occupy a wide range of moisture regimes; therefore, the term 'characteristic wetland species' is relative and should be removed. Furthermore, the variability in moisture regime can increase biodiversity.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response F11:

Comment noted. Both the sloped, forested, and the emergent portions of Wetland A contain species of vegetation that are commonly found in wetlands. Both areas have "characteristic wetland species," and therefore that definition is not ideal for just the emergent section. The objective was to convey that the emergent areas contain a higher density of, and can better sustain, obligate wetland species than the sloped portions of Wetland A.

Comment F12:

The extent and type of mitigation for wetland adjacent area impact is unclear. Some sections indicate that disturbance to wetland adjacent areas will be mitigated through buffer plantings (pages I-6, III.F-6), while the Conceptual Landscape Plan shows that

mitigation will occur in both the regulated wetland and adjacent areas. Also, while the wetland mitigation section (page III.F-24) determines 'expanded' wetland buffers to be infeasible for mitigation, it does not include the proposed buffer/wetland plantings described in prior sections. Moreover, page III.F-22 indicates that the 'survival and spread' of Japanese stiltgrass and barberry will be discouraged in the mitigation plans. Details should be provided on how the spread of these species would be discouraged in the FEIS. (Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response F12:

A Preliminary Landscape Plan has been prepared for the revised FEIS Concept Plan (see drawings LP-1 and LP-2) as a refinement of the Conceptual Landscape Plan in the DEIS. This plan shows the proposed plantings for the entire site, including uplands, wetlands, and wetland buffers, as well as within created stormwater management facilities (pocket wetland and infiltration facilities). One intent of the Landscape Plan is to create a thick, vegetative cover that will inhibit the survival and spread of invasive species. The applicant will adhere to all conditions and mitigation requirements of permits required by these regulated activities.

Comment F13:

Inconsistencies in the reported extent of on-site wetland buffer areas should be resolved. Page I-6 indicates 6 acres of town and 4.6 acres of town and DEC regulated buffer, respectively. Page II-2 indicates that regulated buffer areas total 5.43 acres. Table IIIF.4 indicates 5.43 acres of town and 4.55 acres of DEC regulated buffer.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response F13:

The on-site buffer areas are as follows: 5.42 acres of Town buffer and 4.54 acres of DEC buffer (Adjacent Area). This FEIS serves to update this information.

Comment F14:

According to the labels provided on sheet entitled 'Wetland Disturbance Area'

(Exhibit III.F-8), the DEC buffer impacts shown in blue total 1.1 acres, not 0.68 acres as indicated on page III.F-23 and elsewhere throughout the document, where area of DEC and town buffer impacts appears to have been transposed. If this is the case, then the text on III.F-24 indicating that 4.47 acres of the DEC wetland buffer (85%) will remain undisturbed should also be corrected.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response F14:

The DEC buffer impacts, as proposed in the DEIS on Exhibit III. F-8, were shown in blue, and total 0.68 acres. The local buffer impacts consist of those in green (labelled local wetland buffer impacts) PLUS the DEC impacts (in blue, labelled NYSDEC wetland buffer impact) for a total of 1.10 acres. Exhibit III.F-8 should have shown the local-only impacts in green as 0.42 acres, and specified that all DEC-regulated buffers are also regulated locally. See also the table in Response F16, below, as the plan has been revised and impacts to buffers have been reduced in the FEIS. FEIS buffer impacts are indicated on plan WB (Wetland Buffer Impacts) in the engineering plan set.

Comment F15:

Page II-2 indicates that the 0.12 acre stormwater wetland has been designated as part of the larger DEC regulated wetland, which is contradictory to page III.F-16 which indicates that the DEC determined that Wetland C was not part of DEC Freshwater Wetland F-1. This should be clarified in the FEIS.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response F15:

All of Wetland C (the stormwater basin) and Wetland A are regulated by the Town of Somers and the ACOE. The DEC did not take jurisdiction of the basin (all of Wetland C), or its short discharge channel (delineated by flags #A-18 through A-23 of Wetland A). Wetland A, exclusive of the area within flags #A-18 through A-23, is part of DEC Freshwater Wetland F-1. Flagging sequences are shown on several

drawings in the DEIS (including Exhibit III. F-8 Wetland Disturbance Areas). See also signed DEC map in Appendix K.

Comment F16:

For clarity, a table summarizing wetland buffer impacts by activity should be provided. The table should indicate a column that provides the area of impacts regulated by both the town and the DEC, and then a second column showing impacts that are within the town buffer, outside of DEC jurisdiction. The current tables do not provide a summary of buffer impacts that are regulated by both the State and Town.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response F16:

The table below summarizes the impacts that were proposed in the DEIS. These impacts have since been reduced for the FEIS plan, and the new acreages are also listed below. Permits will be applied for as required for all regulated activities, and all permit conditions and mitigation measures will be adhered to.

**Table II.F-1
Buffer Impact Comparison**

Proposed Buffer (Adjacent Area) Impact	Regulatory Jurisdiction	(DEIS) Proposed Disturbance (Acres)	(FEIS) Proposed Disturbance (Acres)
Utilities and Stormwater Facilities	Town only	0.42	0.16
Utilities and Stormwater Facilities	Town and DEC	0.41	0.17
Grocery Store	Town and DEC	0.27	0
	Total Town	1.10	0.33
	Total DEC (only)	0.68	0.17

Comment F17:

Page 1-3 indicates that no hydric soil will be disturbed with the exception of 0.01 acre required for installation of utility line; however, pages 1-7 and III.F-14 describe apparently non-jurisdictional hydric soils in the southern portion that will be disturbed by the project. It should also be clarified whether this isolated depression floods during the early spring months to support amphibian breeding and, if so, how impacts would be avoided or minimized.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response F17:

As described in the DEIS (see Section F. Terrestrial and Aquatic Ecology 3. Wetlands, a) Existing Conditions, Site Hydrology, and Section D. Soils and Geology (Subsurface Conditions), 1. Existing Conditions, Soil Mottling), there is an area of isolated hydric soils that is no longer supported hydrologically and does not support a majority of wetland vegetation. This area has been reviewed many times by Evans Associates Environmental Consulting (since 2006 -- for the prior owner) including most recently in July 2105, and observed by representatives of NYCDEP and Town engineer. (See Soils results in Appendix J). As described in the DEIS, this area has been assessed by Evans Associates (Beth Evans, Certified Professional Wetland Scientist and Eva Szigeti, Certified Professional Soil Scientist) for several years during the early spring, as well as at other times, and no amphibian breeding, or an evidence of amphibian breeding, has ever been observed. This area is isolated and less than 5,000 square feet in size. Therefore, it is not regulated by the Town, the DEC, or the ACOE.

Comment F18:

It is not clearly stated within the document whether the topsoil and subsoil will be stockpiled separately. Replacement of topsoil is necessary for successful establishment of vegetation. If wetland soils are disturbed, wetland and upland topsoil should be stockpiled separately to assure successful re-establishment of wetland and upland plants in their appropriate locations.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response F18:

Comment noted. No wetland disturbance is proposed other than the temporary disturbance for installation of utilities below an edge of locally regulated Wetland C (existing man made stormwater basin). This disturbance for utility line installation will be temporary (likely all conducted in one day), after which it will be returned to its pre-existing condition. Topsoil and subsoil will be stockpiled separately.

Comment F19:

Construction of retaining walls impact the area assigned as DEC Freshwater Wetland (FWW) F-I wetland buffers. The buffers provide effectiveness in protecting water quality in adjacent wetlands and watercourses from specific impacts associated with identified upland uses. Flat or gently sloping buffers are more effective because they are more successful at slowing the rate at which stormwater flows across them. Sheet flow (slow unrestricted flow across the ground) along the length of the buffer allows the buffer area to more effectively trap sediments, attenuate pathogens and pollutants, and encourage infiltration. Concentrated flow (e.g., flows directed through pipes or other conveyances or flows that are strong enough to create gullies or other eroded channels) reduce or essentially eliminate the effectiveness of a buffer for stormwater management and it is more applicable in the case of attenuated flow from the proposed pocket wetland on to the buffer land.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response F19:

The proposed plan has been modified in the FEIS, and the intent of the design is for the retaining walls and parking areas to all be located outside of the DEC wetland buffers at the north end of the site. Therefore, the intent is for the buffers to remain undisturbed, with the ability to function in their existing, gently sloping condition to trap sediments and encourage infiltration of sheet flows in this area. See Responses F1 and F2.

Comment F20:

The Layout Plan shows a trail throughout the regulated wetland buffer. Information should be included on construction methods, and this disturbance should also be addressed in the FEIS and the DEC's FWW permit.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response F20:

As described in the DEIS, trail creation will not include any ground disturbance; it will include only light vegetation removal (by hand), for a walking trail. No fill or structures are proposed.

Comment F21:

The Applicant shall provide more detail to describe the location, hydro-geomorphic classification, soils, vegetation and hydrology of the identified off-site wetland areas.

(Letter #7, Woodard & Curran, 3/24/15)

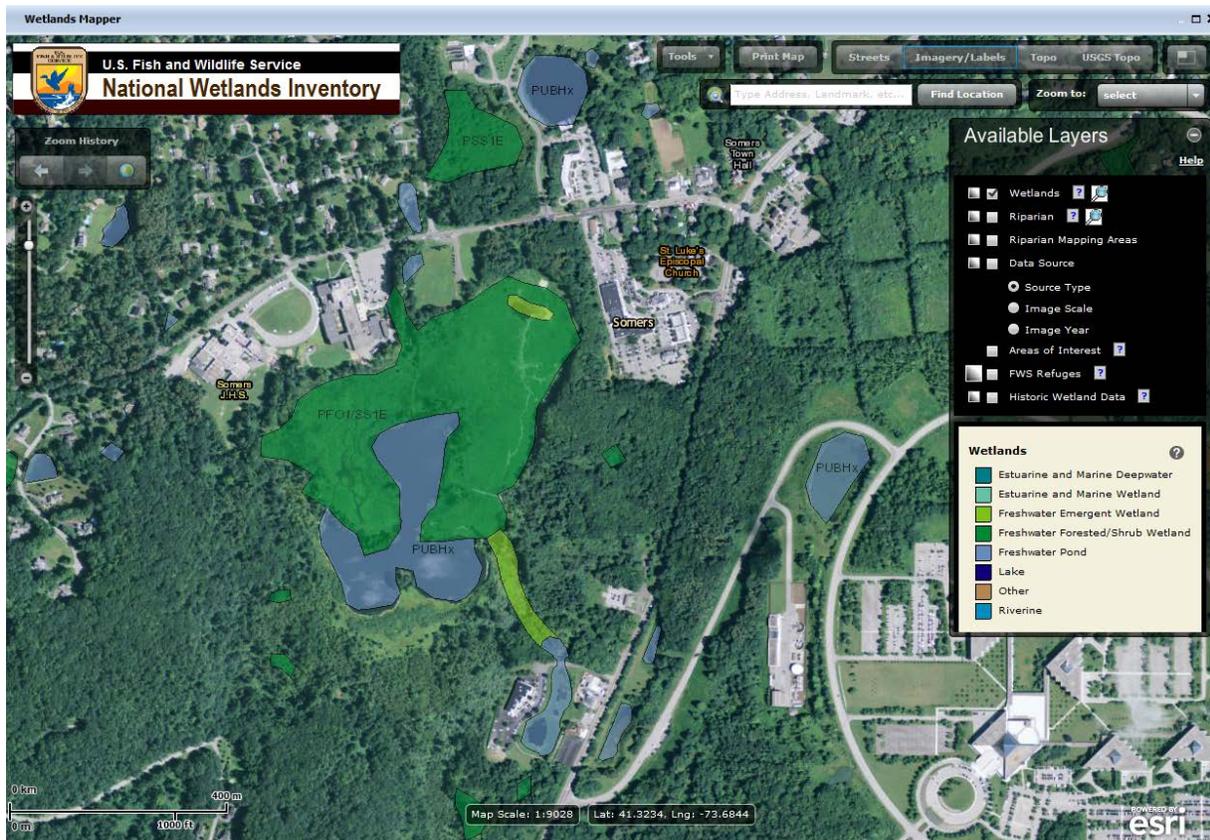
Response F21:

The off-site wetland is located to the west of the on-site portion of wetland. Both on and off-site wetlands (with the exception of the existing stormwater basin) are part of DEC Freshwater Wetland F-1 which is, in total, 194.6 acres in size (reference: NYSDEC Resource Mapper, accessed online). Of the 194.6 acres, approximately 46 acres are located immediately off-site to the west of the property (reference: Wetlands Mapper on US Fish & Wildlife Service website), adjacent to the 5.07 acres of on-site wetland. The hydrogeomorphic classification of the off-site portion of wetland nearest Brown Brook is riverine. This portion is associated with the brook and is sustained by runoff and groundwater. Closer to the uplands, the off-site wetlands are considered slope wetlands (as is the on-site portion of the wetland). Slope wetlands are sustained mainly by groundwater.

The majority of the off-site portion of wetland is classified as PF01/SSIE (see photo below). PF01 represents a palustrine, forested (broad-leaved) wetland system, and SSIE represents a palustrine, scrub/shrub (broad-leaved), seasonally

flooded/saturated wetland system. The ponded areas off site are classified as PUBHx, which represents a palustrine wetland that has an unconsolidated bottom, is permanently flooded, and has been artificially (anthropogenically) excavated. The lighter green areas are classified PEMIF (not listed on photo), which represents palustrine, emergent (persistent vegetation), semi-permanently flooded wetlands.

Off-site soils are classified as Palms muck, Fluvaquents, and open water. Palms muck is a very poorly drained, very deep to bedrock soil that is formed in herbaceous organic material 16 to 51 inches thick over loamy deposits. Fluvaquents are soils that have formed in recent alluvial deposits. These soils are frequently flooded, and are associated with Brown Brook.



Map from Wetlands Mapper on US Fish & Wildlife Service website, accessed June 15, 2015, (<http://www.fws.gov/wetlands/Data/Mapper.html>)

Comment F22:

Provide detailed explanation of changes in the site hydrology since the previous application that may have impacted previous certified wetland delineations. Based on the

information provided at our wetland site inspection it was our understanding that the stormwater discharge from the adjacent roadway was relocated but the submitted plans show an existing stormwater discharge from the roadway.

(Letter #7, Woodard & Curran, 3/24/15)

Response F22:

Prior to the completion of the IBM facility, uncontrolled stormwater runoff from the steeply-sloped area to the east, and from the road, was channeled onto the subject property. Stormwater management facilities were constructed for the IBM property. These facilities collect and treat the runoff that previously discharged onto the subject property. The treated water is discharged downgradient from the Site, thereby removing the source of the runoff. However, the stormwater culvert on Route 100 is still in place, but receives minimal amounts of surface flow.

Comment F23:

Revise the DEIS text to describe how existing forested buffer areas interact hydrologically with the wetland area.

(Letter #7, Woodard & Curran, 3/24/15)

Response F23:

The existing forested buffer interacts with the wetland area on an indirect and varying basis. Forested areas can use or intercept precipitation, and can use groundwater to sustain or maintain their growth and health. The use of this precipitation and/or groundwater would potentially reduce the hydrologic input to the wetland during the growing season from these sources. During the non-growing season when soils are frozen, forested areas can also improve the ability of an area to infiltrate precipitation and runoff, thereby potentially increasing the hydrologic input to the wetland.

Comment F24:

The Applicant shall provide quantification of cumulative hydrologic impacts and description of how alterations will impact hydrology, soils, and vegetation of wetlands and

streams directly adjacent to the site and within 1-mile upstream and downstream from the alterations.

(Letter #7, Woodard & Curran, 3/24/15)

Response F24:

Potential hydrological impacts from the proposed project are discussed in detail in DEIS section III.E. 2. (Water Resources, Surface Water and Stormwater Management). Based on the evaluations presented in the DEIS, no cumulative hydrologic impacts are expected to wetlands and streams directly adjacent to the site, or to those within 1-mile upstream or downstream from the proposed project site. On-site wells are proposed to be abandoned. Therefore, drawdown of the local groundwater due to on-site water supply usage will not occur.

Changes to on-site hydrology include creation of sub-watersheds and changes to the infiltration of runoff water. One pre-development watershed is defined (see Exhibit III.E-5 in DEIS). Fifteen smaller sub-watersheds are defined post development (see Post Development On-Site Drainage Subbasin Map, in SWPPP, FEIS Appendix D) with 12 located in the proposed residential portion of the property, 2 associated with the grocery store portion, and the last associated with the wetlands. The current conditions (pre-development) do not include stormwater management facilities for the site. The existing stormwater management basin that is located on the property treats runoff originating off-site, at the neighboring shopping center parking lot.

Post development stormwater facilities are proposed, including 6 Cultec Recharger infiltration systems, one stormwater basin infiltration system, and one pocket wetland with a forebay and micro pool. These stormwater facilities will collect the runoff from within the sub-basins and allow it to infiltrate into the soil, as it currently does, recharging the groundwater and reducing any pollutants or nutrients that may be present. According to Section III.E. 2. of the DEIS, some loss of aquifer recharge is predicted with the proposed development. However, the area of the project site that is proposed for development represents a very small

portion (0.9%) of the watershed to Brown Brook. Therefore, slight changes to the on-site hydrology, should they occur, would not be large enough to impact off site hydrology, vegetation, or soils.

Comment F25:

We are surprised at the use of wetland buffer for any building, but particularly for heavy road usage, as it will be the road used for deliveries to the store, and collection of garbage. It will also carry the customer traffic to and from the traffic light intersection on Route #202, and from parking areas in front of the store to the rest of the shopping center, like the CVS store, the Post Office, restaurants and banks. We note that an attorney from Riverkeeper said she would be sending comments; we will count on that expertise to review the wetland issues, and detail the regulations applying to that usage.

(Letter #11, League of Women Voters of Somers, 4/10/15)

Response F25:

The impacts to the wetland buffer that had been proposed in the DEIS for the impervious areas of the grocery store and its associated parking, loading and infrastructure have been removed with the revised FEIS Concept Plan. See Responses F1, F2 and F3. Comments from Riverkeeper are in letter #22, and are responded to in this FEIS.

Comment F26:

Need for Wetland Mitigation: The Applicant selected a design point for the hydrologic analysis offsite and significantly downstream from the project boundary. According to page III.E-24& 25 in Section E- Water Resources of the DEIS, there will be no adverse impacts to downstream properties. This is because the site will discharge to a large wetland, with significant water storage capacity to accommodate the additional volume of stormwater from the project site, without significantly increasing the elevation of water in the wetland. The applicant states on page 23 of the SWPPP that DEC considers state regulated wetlands to be 5th order streams, which means the stormwater discharge volume does not have to be stored prior to release. We are not aware of any specific DEC reference to their regulated wetlands as being 5th order streams. Moreover, very high rates of

discharge from four (4) locations on site to the wetland will cause extensive scour and erosion at the offsite project boundary, which is adjacent to the DEC regulated wetland. The DEIS does not address these down gradient and offsite DEC-regulated wetland impacts.

(Letter #15, Office of the Watershed Inspector General, 4/17/15)

Response F26:

The discharge points for the property are to the wetland areas on-site at a very flat gradient. Discharge to the on-site wetlands would not be expected to cause scour or significant erosion. However, this condition will be investigated during site plan review, and if a velocity dissipater is required, it will be indicated on the final Site Plans.

Comment F27:

So I'm looking at the diagram at an angle here, but the grocery store, it looks to be cut off on an angle [on the Conceptual Site Plan]? I think there are other alternatives as well -- is filling in the buffer a possible solution?

(Anthony J. Ciriaco, Public Hearing #1, p. 19-20)

Response F27:

Impacts to wetland buffers are avoided whenever possible, and otherwise reduced to the maximum extent possible. The grocery store parking lot in the DEIS plan was angled in order to minimize its impact on the wetland buffer. Filling in additional wetland buffer is not proposed. The development plan for the grocery store has since been revised in the FEIS with the intent to avoid wetland buffer impacts at the north end of the site.

Comment F28:

I think, we echo a lot of the concerns that you've heard about the disturbance in the wetland buffer. We generally try to advocate for all development outside of wetland buffers, which is pretty standard within the New York City Watershed, and I'd like to share that there is some flexibility there and some openness to moving all of the

development outside of the buffer area. I think there's about an acre in the buffer, so if that could be moved out, that's something that we would definitely advocate for.

(Misti Duvall, Public Hearing #1, p. 42)

Response F28:

The site layout has been updated since the DEIS, and impacts to the wetland buffers have been significantly reduced, (from 1.1 ac total buffer disturbance in the DEIS to 0.33 acre buffer disturbance in the FEIS). See Responses F2 and F3 and Table F-1.

Comment F29:

I'm looking at that second row of houses that are very close to that wetland, I mean, how do you stop septic from seeping in there?

(Linda Simpson, Public Hearing #1, p. 39)

Response F29:

The proposed development will be serviced by a sewer line. There is no septic proposed for the property.

Comment F30:

I just want to call your attention back to the 1.1 acres of permanent wetland buffer disturbance. Wetland buffers are critical to the protection of wetlands from construction impacts and post-development storm water runoff impacts. They provide water quality functions like nutrient update, infiltration, reducing erosion, and maintaining the chemical and physical and biological integrity of waters. The Applicant and the DEIS has not satisfied the SEQRA requirement to review all reasonable alternatives that could get this project out of that wetland buffer. Except for the no-action alternative and the no-zoning change alternative, the applicant only evaluated alternatives that would result in that 1.1 acres of disturbance, so I respectfully submit that this board has the duty to require the applicant to look at those alternatives. Any alternative, such as, reconfiguration of the grocery store parking lot, construction of a multi-level parking lot or parking structure, or scaling back the development, especially the residential development to get out of the buffer. In

addition to that SEQRA requirement, the town code actually mandates that the board has to reject the application unless the applicant can show that there is no feasible on-site alternative. And, again, I would respectfully submit that that burden has not been met yet. They haven't even looked at the alternatives that could, sort of, scale this project back, get it out of the buffer.

(Michael Dulong, hearing transcript #2, p. 5-7)

Id. at p. III.F-24. Despite its plans to disrupt 1.1 acres of wetland buffer, the Applicant has provided no basis for its claim that “[d]evelopment has []been avoided in wetland buffers to the maximum extent practicable.” See *id.* at p. III.F-6. The Applicant failed to supply a reasoned explanation for why it could not scale its project back, reconfigure the parking lot layout, construct a multilevel parking structure, propose a different use for the property, etc.

(Letter #22, Michael Dulong and William Wegner, Riverkeeper, 4/20/15)

Response F30:

See Responses to Comments F2, F3, F8 and F16. The plan has been revised in the FEIS to reduce wetland buffer impacts to a total of 0.33 acres (see Table II.F-1) from 1.1 acres in the DEIS. This is in general, a refinement of DEIS Alternative C-1, relocating the store closer to the Route 202 frontage, and farther from the wetland buffer. Details of the plan will continue to be refined during site plan review with the Planning Board. Wetland activity permits for regulated activities will be obtained from the Town, NYSDEC and ACOE.

Comment F31:

Riverkeeper, Inc. (“Riverkeeper”), respectfully submits the following comments on the Somers Crossing Draft Environmental Impact Statement (“DEIS”) and proposed local law to amend Section 17-13(C) of the Code of the Town of Somers (“Town Code”), entitled “Multifamily Residence MFR Districts,” which were made available for public review via

notice in the Environmental Notice Bulletin on February 25, 2015.¹⁰ The DEIS concerns a proposal to construct 80 multifamily residential units and a 19,000-square-foot grocery store on a site with wetland, soil and steep slope constraints, and located within a Groundwater Protection Overlay District. The proposed amendment to the Town Code would create a new Multifamily Residence Downtown Hamlet (“MFR-DH”) District Floating Zone that would apply to the proposed development.

Riverkeeper is a member-supported watchdog organization dedicated to defending the Hudson River and its tributaries and protecting the drinking water supply of nine million New York City and Hudson Valley residents. As a signatory to the New York City Watershed Memorandum of Agreement, we have a commitment to ensure that development projects in the watershed do not adversely impact the surface water resources that provide unfiltered drinking water to consumers. Accordingly, Riverkeeper is very concerned with any project in the New York City watershed that proposes potentially significant disturbance of streams, wetlands, or their buffers.

The DEIS was prepared to evaluate the environmental impacts of the Somers Crossing development (“Proposed Project”) and the zone change and site plan approval sought from the Town of Somers Town Board (“Town Board”) by Boniello Land and Realty Ltd. (“Applicant”). Pursuant to the State Environmental Quality Review Act (“SEQRA”), N.Y. E.C.L. sections 8-0101 to 8-0117, and its implementing regulations, 6 N.Y.C.R.R. part 617, an environmental impact statement must include information sufficient to understand the Proposed Project’s potential adverse environmental impacts, evaluate a range of reasonable alternatives to the Proposed Project, and identify mitigation measures to minimize any impacts that are unavoidable. N.Y. E.C.L. §§ 8-0109(1)-(2); 6 N.Y.C.R.R. § 617.9(b).

The DEIS is fundamentally deficient as it lacks critical information necessary to understand and evaluate key aspects of the Proposed Project. As discussed below, without this information the Town Board cannot adequately evaluate the Proposed Project and its potential adverse environmental impacts, preventing the Board from being able to meet SEQRA’s requirement to take a “hard look” at the “relevant areas of environmental

¹⁰ Notice of Acceptance of Draft EIS and Public Hearing for Somers Crossing, Environmental Notice Bulletin (Feb. 25, 2015), available at http://www.dec.ny.gov/enb/20150225_not3.html.

concern.” *Jackson v. New York State Urban Dev. Corp.*, 494 N.E.2d 429, 436 (N.Y. 1986). In order to remedy these deficiencies, the DEIS should be revised and reissued for public review and comment.

(Letter #22, Michael Dulong and William Wegner, Riverkeeper, 4/20/15)

Response F31:

Comments noted. See FEIS Introduction and Table I-6 for description of the proposed plan revisions that include, in general, a reduction in site impacts. See also responses to comments in this FEIS which respond to comments from the public and involved and interested agencies.

Comment F32:

The Applicant proposes to construct a 19,000-square-foot grocery store and an 80-unit multifamily residential community with private roads on a 26.68-acre site located northeast of the Town Centre at Somers on Route 202. DEIS at p. I-1. The DEIS describes the project site as “undeveloped, vacant land,” which “is forested, and includes portions of wetlands, as well as previously excavated/mined areas.” *Id.* at p. II-1. Natural site features and environmental constraints include “state and local wetlands and regulated buffer areas, some areas of steep slopes (as defined by the Town of Somers), floodplains, stone walls, treed areas and adjacent roads.” *Id.* at pp. II-2, III.F-5. In total, wetlands comprise 5.2 acres, or approximately 19.5% of the Site. Town-regulated 100-foot wetland buffers comprise 6.0 acres, or approximately 22% of the site.¹¹ *Id.* at p. III.F-18.

The Proposed Project would remove 1,067 trees and create 7.39 acres of new impervious surfaces for roofs, access roads, parking areas, walkways and driveways. *Id.* at pp. III.E.25, III.E-26 t.III.E-7. It would also permanently disturb 1.1 acres of the Town-regulated 100-foot wetland buffer and temporarily disturb .01 acres of wetland. *Id.* at p. I-3. Total site disturbance would amount to approximately 16.1 acres. *Id.*

¹¹ Additionally, New York State Department of Environmental Conservation-regulated 100-foot adjacent areas comprise 4.6 acres or approximately 17% of the site.

I. As Currently Designed, the Proposed Project Risks Adversely Impacting Wetlands and Buffers

According to the Town of Somers Town Code (“Town Code”), “[a] wetland buffer is a specified area surrounding a wetland that is intended to provide some degree of natural protection to and separation from the wetland from human activity and other encroachment associated with development.” Town Code § 167-3. The Town Board, in enacting the Wetlands and Watercourse Protection Law, Town Code Chapter 167, found wetlands to be critical for “[p]rotecting water resources by providing sources of surface water, recharging groundwater and aquifers, serving as chemical and biological oxidation basins and functioning as settling basins for naturally occurring sedimentation,” in addition to serving a number of other important ecological functions.¹² *Id.* at § 167-1(A)(1)(a).

The establishment and maintenance of buffer areas is critical to the protection of wetlands from construction activities and post-development stormwater runoff. Wetland buffers provide important water quality functions that include nutrient uptake, infiltration, reducing erosion, and restoring and maintaining the chemical, physical and biological integrity of water resources.¹³ Siting stormwater management practices within buffers can impair buffer function by clearing trees, altering existing

¹² These other functions include: “[c]ontrolling flooding and stormwater runoff by storing or regulating natural flows; [p]roviding unique nesting, migratory and wintering habitats for diverse wildlife species, including many on the New York State and federal endangered species lists; [s]upporting unique vegetative associations specifically adapted for survival in low oxygen environments; [p]roviding areas of unusually high plant productivity which support significant wildlife diversity and abundance; [p]roviding breeding and spawning grounds, nursery habitat and food for various species or fish; [s]erving as nutrient traps for nitrogen and phosphorus and filters for surface water pollutants; [h]elping to maintain biospheric stability by supporting particularly efficient photosynthesizers capable of producing significant amounts of oxygen and supporting bacteria which process excess nitrates and nitrogenous pollutants and return them to the atmosphere as inert nitrogen gas; [p]roviding open space and visual relief from intense development in urbanized and growing areas; [s]erving as outdoor laboratories and living classrooms for the study and appreciation of natural history, ecology and biology; [and] [p]rotecting reservoirs and watersheds vital to the community and to the water supply of New York City and Westchester County.” Town Code § 167-1(A)(1)(b)-(k).

¹³ U.S. Env'tl. Prot. Agency, Model Ordinances to Prevent and Control Non-Point Source Pollution, http://water.epa.gov/polwaste/nps/ordinance_index.cfm (last visited Apr. 9, 2015).

wetland hydrology, and increasing thermal impacts.¹⁴ For these reasons, the disturbance of buffers should be avoided.

(Letter #22, Michael Dulong and William Wegner, Riverkeeper, 4/20/15)

Response F32:

The features and potential impacts of the revised FEIS concept plan are compared to the DEIS plan in Table I-6, which includes reduced disturbance to wetland buffer areas. Impacts to wetland buffers have been avoided. The development plan for the grocery store has since been revised in the FEIS with the intent to avoid wetland buffer impacts at the north end of the site. See Responses F2, F3, F4, F8, F9, F16 (and Table II.F-1), F24, F27, F28 and F31. The Applicant acknowledges that avoidance of all buffer impacts will require further modifications to the revised plan during site plan review to locate all potential disturbances outside of the wetland buffer/AA.

Comment F33:

Under the current proposal, there would be substantial adverse impacts to wetland functions and values. “Proposed impacts to the Town-regulated 100-foot wetland buffer total 1.1 acres. Of this total, 0.27 acres is in association with the grocery store; the remaining 0.83 acres is in association with grading for stormwater treatment systems and a parking lot, and drainage and utilities installation.” DEIS at p. III.F-23. The Applicant identifies some of the potential impacts that would result from the proposed wetland buffer disturbance, stating:

“[a]nthropogenic encroachment could potentially impact preserved and undeveloped areas. Encroachment in bioretention, wetland, and mitigation areas could negatively impact the functions of these systems and lessen the efficacy of invasive species removal and mitigation plantings.”

¹⁴ R. FISCHER, AND J. FISCHENICH, DESIGN RECOMMENDATIONS FOR RIPARIAN CORRIDORS AND VEGETATED BUFFER STRIPS, US ARMY ENGINEER RESEARCH AND DEVELOPMENT CENTER 6 (2000)

(Letter #22, Michael Dulong and William Wegner, Riverkeeper, 4/20/15)

Response F33:

As discussed in Responses F1, F2, F3, F4, F11, F16, F-30 and Table II.F-1, impacts to the town-regulated Adjacent Area have been reduced to a total of 0.33 acres (from 1.1 acre in the DEIS) with the FEIS revised plan (See Plan WB in the engineering plan set for detail on buffer impacts). In the Applicant’s opinion, with this revision to the plan, the impacts to the functions of the Adjacent Area (buffer) will be negligible. See also Response E11.

Comment F34:

SEQRA requires the lead agency to issue findings that any significant environmental impacts identified will be minimized or avoided to the maximum extent practicable. N.Y. E.C.L. § 8-0109(8); 6 N.Y.C.R.R. § 617.11. In the DEIS, the Applicant does not identify all practicable wetland disturbance mitigation measures, but states instead, “mitigation plans will be prepared and reviewed by both local and State officials for review of those permits.” DEIS at p. III.F.6. The Applicant must provide all mitigation plans as part of the DEIS and cannot rely on potentially forthcoming mitigation measures. See *H.O.M.E.S. v. N.Y. State Urban Development Corporation*, 69 A.D.2d 222, 418 N.Y.S.2d 827 (4th Dep’t 1979) (lead agency could not rely upon “general assurances” that the applicant “would adequately mitigate [environmental impacts] by some unspecified appropriate action”).

(Letter #22, Michael Dulong and William Wegner, Riverkeeper, 4/20/15)

Response F34:

The proposed action is for a re-zoning of this site, and the preliminary plans that accompany the proposal reflect the proposed design for the site. This level of design addressed the DEIS scope, and it was refined and comments have been responded to in the FEIS, including discussion of mitigation measures and permits required. In the applicant’s opinion, these proposed measures are definitive enough for the lead agency to prepare its findings and make a decision on the zoning proposal. The applicant has identified “all practicable wetland disturbance

mitigation measures” by removing practically all disturbance to the on-site wetlands and the proposed implementation of Best Management Practices. The review is commensurate with the preliminary step of the proposed development. Subsequently, the details of the plans will be refined through the Site Plan process with the planning board. Unlike H.O.M.E.S., here, in Somers Crossing, mitigation measures have been proposed, and the applicant will continue to refine its plans through site plan review and in response to comments from regulatory agencies issuing wetlands permits. See the DEIS, and FEIS Responses D61, E16, F2, F12 and F16 for discussion on wetland mitigation proposed.

Comment F35:

Although it is the applicant’s opinion that “the functions that are provided by the wetlands will not be significantly impacted by the proposed project,” DEIS at p. III.F-23, this statement appears to be wholly unsubstantiated. The applicant also purports to rely on its Stormwater Pollution Prevention Plan (“SWPPP”) as mitigation for the disturbance to wetland buffers, but according to the Applicant, pre- and post-construction stormwater runoff rates will be equivalent. DEIS at p. I-5. Therefore, the SWPPP provides no mitigative benefit to compensate for the wetland buffer disturbance. Other mitigation measures that could restore or enhance the benefit once provided by the wetland buffer must be evaluated prior to adopting the preferred alternative. As the DEIS lacks information critical to a meaningful and informed public review of the proposed mitigation, the lead agency will not be able to satisfy its legal obligation under SEQRA to certify that environmental impacts will be avoided or minimized.

(Letter #22, Michael Dulong and William Wegner, Riverkeeper, 4/20/15)

Response F35:

Comments noted. A revised SWPPP (updated to respond to comments and reflect the FEIS Concept Plan) is included in Appendix D. Revised wetland impacts and mitigation measures are described in the FEIS, see Responses to Comments E16, F2, F12 and F16.

Comment F36:

The DEIS must identify, detail, and fully evaluate a range of alternatives designed to avoid or minimize adverse environmental impacts that may result from the Proposed Project. Pursuant to SEQRA, an EIS must include a “description and evaluation of the range of reasonable alternatives” to the proposed action, which “should be at a level of detail sufficient to permit a comparative assessment of the alternatives discussed.” N.Y. E.C.L. §§ 8-0109(2)(d),(4); 6 N.Y.C.R.R. § 617.9(b)(5)(v). The purpose of the alternatives analysis is to afford the lead agency and the public the opportunity to compare different project plans and identify the one that best avoids or minimizes adverse environmental impacts, which is especially important where, as here, the proposed action is likely to result in significant adverse impacts to sensitive resources.¹⁵

The DEIS fails to consider reasonable alternatives that could reduce or eliminate water quality impacts. Other than the No Action and Existing Zoning alternatives, the DEIS only evaluates alternative actions similar in size to the Proposed Project and likely to result in similar impacts to water quality. Each alternative besides the No Action or Existing Zoning Alternative would result in at least 1.1 acres of wetland buffer disturbance, 7.28 acres of impervious surface creation, 15.8 acres of site disturbance, and .01 acre of temporary wetland disturbance. Therefore, the alternatives are not only similar in scale to the Proposed Project, but would similarly adversely impact water quality.

In order to satisfy SEQRA’s mandate to evaluate a range of reasonable alternatives, additional alternatives must be considered. The alternatives analysis in the DEIS must be expanded to include alternative actions that are smaller in scale and those that would result in the creation of less overall site disturbance, reduced impervious surface coverage, and/or no wetland buffer disturbance. Such alternatives may include a reconfiguration or reduction of the grocery store parking lot, a multilevel parking

¹⁵ See N.Y. STATE DEP’T OF ENVTL. CONSERVATION, THE SEQR HANDBOOK: 3RD EDITION 100 (2010), available at http://www.dec.ny.gov/docs/permits_ej_operations_pdf/seqrhandbook.pdf.

structure, and/or a significant reduction of the proposed multifamily residential development.

(Letter #22, Michael Dulong and William Wegner, Riverkeeper, 4/20/15)

Response F36:

See Responses to Comments D61, F2, F3, F8, F16, F27, F30 and F31. The plan has been revised in the FEIS to reduce wetland buffer impacts to a total of 0.33 acres (see Table II.F-1) from 1.1 acres in the DEIS. This plan is in general, a refinement of DEIS Alternative C-1, relocating the store closer to the Route 202 frontage, and further from the wetland buffer. In addition, the residential component was reduced from 80 units to 66 units.

Comment F37:

The Town Code regulates the “[p]lacement or construction of any structure, roadway, or driveway, including a change in surface material [within a wetland or wetland buffer].”¹⁶ Town Code § 167-4(B)(1). The Town Board must deny an application to disturb Town-regulated wetland buffers if “there is a viable alternative to the proposed activity's placement in or encroachment upon the wetland or wetland buffer area.” *Id.* at § 167-8(B)(4). It is the Applicant’s burden to show that “there is no feasible on-site alternative to the proposed activity, including reduction in density, change in use, revision of road and lot layout and related site planning considerations.” *Id.* at §§ 167.8(D)(2)(b); 167-8(C). If the Applicant can show there is no feasible alternative, a mitigation plan must then be implemented that includes preventative practices to protect the natural condition and functions of the wetland; and/or [r]estoration or enhancement . . . of remaining or other upland buffer to offset the impacts to the original buffer. *Id.* at § 167-9(B)(5)(a).

Given that the proposed project will impair the functions of onsite wetland buffers, which in turn will impair the functions of onsite wetlands, in order to comply with the

¹⁶ In the absence of a variance granted by the New York City Department of Environmental Protection, the New York City Watershed Rules and Regulations also prohibit “[t]he construction of an impervious surface within the limiting distance of 100 feet of a watercourse or wetland.” *Id.* at § 18-39(a)(1).

Town Code the Town Board must require the applicant to: 1) eliminate all proposed disturbance of wetland buffers from the project proposal, or 2) demonstrate that there is no feasible alternative to the proposed activity, including scaling back the project, changing the proposed use or changing the lot layout. If the Applicant makes such a demonstration, the Town Board must then require[d] it to comprehensively examine potential restoration or enhancement of remaining buffer to offset the disturbance.

(Letter #22, Michael Dulong and William Wegner, Riverkeeper, 4/20/15)

Response F37:

Development of the grocery store and its associated infrastructure, as proposed in the DEIS, has been revised. As noted in response F1, it is the design intent of this FEIS plan layout to remove all of the proposed impacts to the DEC Freshwater Wetland 100-foot Adjacent Area (AA) at the north end of the site. In addition, the number of residential units has been reduced (from 80 to 66 units) in order to further reduce site impacts. No structures, or impervious surfaces are proposed in the AA. The installation of the utility line is estimated to be a temporary disturbance (construction complete in one day) after which it will be restored to its existing condition. See engineering drawing WB (Wetland/Buffer Impact & Limits of Disturbance), for details on the locations of the proposed impacts, and Response F16 for a table showing previously proposed impacts versus the currently proposed impacts. See also Responses to Comments F2, F3, F4, F11, F19, F32, F33 and F36.

G. Traffic, Circulation and Parking

Comment G1:

To help limit the trip generation, there should be a connection between the two uses of the project if possible as discussed under Site Plan comments below. At a minimum, if an internal roadway can't be physically provided due to the wetlands, there should at least be a pedestrian connection (an unpaved path is currently proposed). Thus, if a resident is desiring groceries, they should be able to walk to the commercial property and not have to drive on the adjacent local roadways. This is especially key as these type facilities now serve a significant amount of ready-made hot meals and thus people make more short trips to these type facilities as opposed to a longer trip to a larger supermarket.

(Letter #2, TRC Engineers, Inc., 3/13/15)

From a Traffic standpoint, there should be connections between the residential and commercial portions of the site. If a roadway connection cannot be made, at least a pedestrian connection should be provided. This will help reduce trip generation. Otherwise, some from the residential portion trying to get to the commercial portion would have to enter the local roadway network, including travelling through the intersection of Route 100 and Route 202, and then reverse these maneuvers to return back. The DEIS mentions that an unpaved pedestrian path is proposed. This may be difficult for someone carrying groceries or someone on a bicycle to use. It also would not be handicapped accessible.

(Letter #2, TRC Engineers, Inc., 3/13/15)

Vehicular connections as well as pedestrian connections to the adjacent property (Towne Centre at Somers) should be provided if possible. A plan showing how these could be constructed should be provided and whether this would impact the parking and circulation for the Towne Centre. Some of the benefits of this are described in the DEIS including the reduction in traffic and the impacts to the adjacent roadway network. The DEIS mentions that a pedestrian path will be provided to the edge of the property but no connection is proposed to the adjacent Towne Centre.

(Letter #2, TRC Engineers, Inc., 3/13/15)

There should also be a connection to the adjacent shopping center (Towne Centre), again preferably both vehicular and pedestrian and from both the residential and the commercial portions of the Site.

(Letter #2, TRC Engineers, Inc., 3/13/15)

Does this plan have any connection between the Urstadt Biddle Properties?

(Anthony J. Cirieco, Public Hearing #1, p. 14)

You're not giving access to the townhouses into the back of that? [Shopping center and grocery store]. They have to go out on 100 and around, right?

So my question is, will there be access from the development to the grocery store?

(Thomas A. Garrity, Jr., Public Hearing #1, p.16)

Although interconnecting the grocery store parcel with the adjacent retail development will enhance circulation, we do not see any vehicle interconnection for the residential with the neighboring retail or the Route 202 proposed retail.

(Letter #17, New York State Department of Transportation, 4/17/15)

Response G1:

The project includes both a residential and commercial development and submitted as one application. The residential portion of the project has been reduced to 66 units, as described in the FEIS. The development parcels are separated by areas that contain wetlands. However, as indicated on the revised plans, vehicular and pedestrian connections from each of the development parcels to the adjacent existing Towne Centre at Somers Shopping Center are now incorporated to facilitate access and movements between the developments and provide better circulation. These connections utilize existing access easements between the two parcels (see response to comment A2). The current residential site plan does not include internal sidewalks but does allow pedestrians to connect to the adjacent Towne Centre via the vehicular access connection. As part of the final site plans, the accommodations for pedestrian movements will be finalized.

The provision of these two vehicular and pedestrian connections will provide additional access points to/from both U.S. Route 202 and NYS Route 100 and will reduce the number of external vehicle trips from the development onto the adjacent roadway system. For example, shopping trips from the residential units will have the ability to directly access the proposed grocery store and various commercial and retail uses in the Towne Centre at Somers via the internal connections without having to enter onto U.S. Route 202 or NYS Route 100. Also, the connection between the Towne Centre and the grocery store parcel will allow traffic exiting the Towne Centre onto U.S. Route 202 to access the traffic signal located opposite Heritage Hills, which will be upgraded to accommodate the added leg to this intersection. This will enhance the overall flow and significantly improve the ability for left turns leaving the Towne Centre via the new connection. In summary, the provision of the proposed connections will help mitigate the potential traffic impacts from the proposed development. See also Responses G6 and G30.

These connections will improve emergency vehicle access for both the Project and the adjacent Towne Centre. These connections are at locations that will result in minimal changes to the parking at the existing Town Centre with no more than 4 to 6 parking spaces to be reconfigured or eliminated. These proposed connections and improvements will affect the site plan of the Towne Centre, and coordination of such will be resolved as part of site plan review.

Comment G2:

Between the 2018 No Build and 2018 Build Conditions, the Levels of Service tend to be the same, however the delays are increased. There will be some increases in delay at the intersection of US Route 202/Heritage Hills Drive when the project driveway is added as a fourth approach to the intersection. The intersection as a whole will continue to operate at Level of Service C. The NYSDOT must approve the signal phasing and timing changes. (Letter #2, TRC Engineers, Inc., 3/13/15)

Response G2:

Comment noted. The improvements including the driveway construction, U.S. Route 202 restriping and related traffic signal modifications will be reviewed with NYSDOT as part of the Highway Work Permit process. See also responses G45 and G46.

Comment G3:

As a result of the delays experienced at the intersections during the peak hours, long queues are currently experienced and extend past various adjacent intersections. These queues will be further extended as the delays increase as a result of background growth and traffic from the project.

(Letter #2, TRC Engineers, Inc., 3/13/15)

Response G3:

As outlined in the DEIS Traffic Impact Study, under existing conditions, the U.S. Route 202 eastbound right turn movement at NYS Route 100 is experiencing long delays during the Weekday Peak AM Highway Hour. The additional Somers Crossing traffic is not expected to significantly increase this queue, however, long delays and queues can be expected with or without the proposed Project. In addition, as part of the Highway Work Permit, traffic signal timing adjustments at this intersection will be reviewed by the NYSDOT to obtain optimal Levels of Service and minimize queues. Also, as noted in Response G1 above, the provision of the vehicular and pedestrian connections between the development and the existing Towne Centre may result in a reduction of some of the traffic volumes which will actually use this intersection. Also, the project has been reduced in size from the DEIS (80 units) to the FEIS (65 units), so trip generation from the project will be lower as well.

See also NYSDOT Comment/Responses G6 and G30.

Comment G4:

The Site Driveway for the commercial portion of the project along US Route 202 will be at the signalized intersection with the driveway being opposite Heritage Hills Drive. A 100 [foot] left turn lane is proposed to be provided within the existing striping along US Route 202 for traffic turning left into the site. The traffic signal will need to be modified and brought up to current NYSDOT standards, as appropriate. The Site Driveway approach and the left turn lane should be actuated to limit impact to traffic on US Route 202.

(Letter #2, TRC Engineers, Inc., 3/13/15)

Response G4:

Comment noted. As noted in Response G2, the above improvements including actuation proposed as part of the traffic signal modifications will be coordinated with NYSDOT as part of the Highway Work Permit. See also responses G45 and G46.

Comment G5:

The unsignalized Site Driveway for the residential portion along NY Route 100 is projected to operate at a Level of Service “f” with an average delay of 80.4 seconds per vehicle exiting the driveway during the Peak AM Hour. Since a traffic signal is not warranted, there are limited options that could be considered here such as turn restrictions during the peak hours (however there would be limited locations to turn around), thus vehicles exiting the Site Driveway in the peak period in the morning will experience delays.

(Letter #2, TRC Engineers, Inc., 3/13/15)

Response G5:

As noted in Response G1, as indicated on the revised plans, vehicular and pedestrian connections from each of the development parcels to the adjacent existing Towne Centre Shopping Center are now incorporated to facilitate access and movements between the developments and provide better circulation.

The analysis indicates that the left turn movements exiting the residential site onto Route 100 is expected to experience delays during the AM peak hour. However, the connection to the Towne Centre provides additional access points to/from both U.S. Route 202 and NYS Route 100 and may reduce the NYS Route 100 driveway exiting volumes during peak periods since trips to and from the shopping center and/or destined to Route 202 to the west, may choose to use the internal connections. If this occurs, delays exiting the NYS Route 100 driveway especially during peak hours would be less.

In addition, the provision of the vehicular and pedestrian connections will reduce the number of external trips from the development onto the external roadway network. For example, shopping trips from the residential units will have the ability to directly access the proposed grocery store and various commercial and retail in the Towne Centre at Somers Shopping Center via the internal connections without having to enter onto U.S. Route 202 or NYS Route 100.

It should be noted that other unsignalized intersections along the NYS Route 100 and U.S. Route 202 corridors generally experience delays during peak hours due to the significant through volumes along these roadways. It should be noted that it is not uncommon during peak periods for the side road or driveway approaches for unsignalized intersections to operate with delays while the major road operates at better Levels of Service. See also Responses G6 and G36.

Comment G6:

The only additional mitigation proposed is traffic signal timing changes at the intersection of US Route 202/NY Route 116 and the intersection of US Route 202/NY Route 100/Bailey Court. No mitigation is proposed at the unsignalized intersections. The Applicant should discuss whether any other mitigation could be provided to help improve future operating conditions and reduce delays and queues.

(Letter #2, TRC Engineers, Inc., 3/13/15)

Response G6:

As noted in Response G5, to help with overall traffic circulation in the area including alternate travel paths for site traffic, vehicular and pedestrian connections from each of the development parcels to the adjacent existing Towne Centre Shopping Center are now incorporated to facilitate access and movements between the developments and provide better circulation. These connections will reduce the number of external trips to the development onto the external roadway network and would reduce project generated traffic at the unsignalized intersections including the proposed access to NYS Route 100 and Towne Centre driveways. It will also reduce the site traffic through the Route 202/Route 100 intersection. As noted in Response G1, the connection between the Towne Centre and commercial parcel will allow traffic exiting the Towne Centre onto U.S. Route 202 to access the traffic signal located opposite Heritage Hills and approve the ability for left turns leaving the Towne Centre via the new connection. See also Response G30.

At the other unsignalized driveways analyzed in the traffic study, the added traffic from the project will not significantly increase delays at these locations and thus, no other mitigation is proposed at these locations.

Comment G7:

At the intersection of NY Route 100 and the Site Driveway for the residential portion, there are sight distance limitations due to the existing vegetation. Sufficient clearing should be performed to provide as much sight distance as reasonably possible to meet the recommended sight distance and this should be indicated on the Site Plan. The minimum required sight distance, the Stopping Sight Distance, will be met with the clearance.

(Letter #2,

TRC Engineers, Inc., 3/13/15)

The sight distance and the area for clearing should be illustrated on the Site Plan or on another plan.

(Letter #2, TRC Engineers, Inc., 3/13/15)

Response G7:

Comments noted. Clearing of excess vegetation will be completed to provide the maximum sight distances at the site driveway and Route 100, and this area is now indicated on the revised site plans. The sight distances/sight lines will be maintained at the site driveways.

Comment G8:

The Applicant should discuss whether there are any patterns in the types/causes of accidents at the intersections that currently operate with long delays/queues and whether any modifications could be performed to mitigate those conditions.

(Letter #2, TRC Engineers, Inc., 3/13/15)

Response G8:

The accident data was summarized by location, date, time of day, traffic control, accident class, light condition, road condition, weather, manner of collision and apparent contributing factors and are summarized in Table No. 4 for the U.S. Route 202 Corridor and Table No. 5 for the NYS Route 100 Corridor. As summarized on these Tables, the type of accidents are typical type of accidents such a rear end accidents and turning accidents with apparent contributing factors such as failure to yield right of way and driver following too close. (see DEIS TIS Appendix B).

The proposed signal timing adjustments to obtain optimal Level of Service and minimize queues, improvements proposed at the U.S. Route 202 access opposite Heritage Hills and proposed internal road connections between the development and Towne Centre, which will reduce the number of external trips to the external roadway network, would improve operating conditions in the vicinity of the developments. See also Responses G1, G2, G3, G5, G6 and G30.

Comment G9:

How would traffic circulate if there is a major accident on Route 202 or Route 100?

(Letter #9, Town of Somers Planning Board, 3/31/15)

Response G9:

Traffic would be diverted as it would today and depending on where the accident occurs, traffic could be rerouted through the site and the proposed NYS Route 100 and U.S. Route 202 driveways and the Towne Centre as a result of the proposed connections during this emergency condition.

Comment G10:

We question whether the cars which can only exit from the housing onto Route #100 should be allowed to turn left. It is difficult now to do so from the Towne Center exit, and with a possible 80 more cars from the housing at peak times, isn't it necessary to address that larger traffic issue before accidents happen?

(Letter #11, League of Women Voters of Somers, 4/10/15)

Response G10:

The residential portion of the project has been reduced to 66 units. The analysis contained in the DEIS TIS analyzes the turning movements into and out of the proposed NYS Route 100 site driveway during the peak periods. With the vehicular connections from each of the development parcels to the adjacent existing Towne Centre Shopping Center, additional travel paths to access points to/from both U.S. Route 202 and NYS Route 100 will be provided and may reduce the NYS Route 100 driveway exiting volumes during peak periods since trips to and from the shopping center and/or destined to U.S. Route 202 to the west, may choose to use the internal connections. If this occurs, the delays for vehicles exiting the NYS Route 100 driveway especially during peak hours would be less. See also Responses G5, G6, G30 and G36.

Comment G11:

The Applicant should discuss whether any driveways along US Route 202 and NY Route 100 can be combined.

(Letter #2, TRC Engineers, Inc., 3/13/15)

Response G11:

While it does not seem to be feasible to close existing driveways, as a result of the connection from the Towne Centre to the commercial portion of Somers Crossing, which will provide access to the traffic signal, the left turn exiting the Towne Centre driveway to U.S. Route 202 could be eliminated. As part of the Highway Work Permit, NYSDOT will make the determination on any turn restrictions, if necessary. See Response G30.

Comment G12:

Can a truck circulate through each of the parcels? Moving trucks could bring furniture and such to the residences. How many deliveries and what size deliveries are projected for the grocery store and will the truck be able to turn around, particularly if more than one truck is present?

(Letter #2, TRC Engineers, Inc., 3/13/15)

Response G12:

Typically, a grocery store of this size will generate 1 or 2 tractor trailers a day and 5 to 10 smaller single unit or van type deliveries per day and the loading area is designed to accommodate the expected demand. The project engineer has preliminarily evaluated the truck movements throughout the development (see diagram in Appendix O) and will design the circulation of the plan in detail at the site plan level with the Planning Board to assure that circulation for loading and deliveries is adequate. Moving vans and delivery trucks serving the residential units will also be considered and evaluated during the final site design. See Truck Turning Radius diagram in Appendix O.

Comment G13:

The locations for snow removal should be discussed. It is important that parking spaces and travel aisles are not blocked by snow piles.

(Letter #2, TRC Engineers, Inc., 3/13/15)

Response G13:

Snow removal will be accommodated on the site without blocking travel aisles or parking spaces. If required, for larger storms, snow will be collected and removed to a suitable off-site location. This will be further evaluated during site plan review.

Comment G14:

Will the “landbank” or “potential” grocery parking be added and at what point? Also, sightlines should be clear for this area to allow vehicles to exit safely.

(Letter #2, TRC Engineers, Inc., 3/13/15)

Response G14:

No “potential parking” is indicated on the plan, just proposed parking (see FEIS Exhibit I-1, Conceptual Site Plan). The final site plan will ensure clear sight lines to allow vehicles to exit safely. See Appendix O for a diagram of sight distance in the front of the store entry. Site signage will also be designed as part of the Site Plan review process.

Comment G15:

Related to the proposed grocery store, there are 60 parking spaces shown and another area that indicates “potential for 47 spaces”. Why is this indicated as “potential parking”? What is the actual parking requirement for the store and which number of spaces actually meets it? Are these 47 spaces shown to provide for a future store expansion? Using a potential DeCicco’s store from another location as an example, can you provide examples of parking need and utilization at other such stores to support the reasoning behind not showing these 47 spaces as actual spaces?

(Letter #9, Town of Somers Planning Board, 3/31/15)

Response G15:

See response G14 (there is no “potential parking”). Proposed parking on the revised FEIS Concept Plan indicates 122 spaces proposed for the grocery store, which exceeds the town requirement by 27 spaces, so no parking shortfall is anticipated. The town’s parking requirements are met for the store and the

residential, as shown in Table II.G-1 below, which indicates parking required and parking provided on the FEIS plan. According to a representative of DeCicco’s, based on their experience at other locations, this amount of parking proposed for the grocery store is adequate, but even more would likely be utilized if it were provided. Although this concept plan illustrates that more than enough parking can be provided on the site to meet town requirements, the final number and location of proposed parking spaces will be evaluated during the final Site Plan review. At this time, the number and location of handicapped spaces, loading space(s), visitor spaces and spaces for cart corrals, employee parking, service areas and snow storage areas will be refined.

**Table II.G-1
(update of DEIS Table III.B-6)
Proposed Parking**

	Required	Proposed
Parking Requirements per Unit (1 1/3 per unit and 1/3 per bedroom)		
Required Parking (1 1/3 per unit and 1/3 per bedroom) (1/3 to 2/3 of total spaces required to be covered)	49-92 covered <u>48-95 uncovered</u> 144 total	49 covered <u>95 uncovered</u> 144 total
Required Visitor Parking (20% of minimum required parking)	28	36*
Extra Proposed Parking	-0-	83 covered 37 uncovered*
Total Proposed Residential Parking Spaces		300
Required Retail Store Parking (1 per 200 sf)**	95	122
Total Parking Spaces	267	422

*27 separate designated uncovered visitor spaces provided along the internal roadway, 9 designated visitor spaces at recreation building, and the remaining extra spaces are provided in driveways.

** The grocery store is also required to have one loading space, one loading space is proposed. Curbside loading and other loading details will be evaluated during site plan review.

Comment G16:

There are 107 parking spaces proposed for the grocery store. 352 parking spaces are proposed for the residential portion, 160 spaces of which will be in the garages (2 per garage), 160 spaces in the driveways (2 per driveway), and 32 visitor spaces. Typically in these type facilities the garage spaces are sometimes occupied by personal storage. There should be some form of a restriction on residents parking in the visitor spaces.

(Letter #2, TRC Engineers, Inc., 3/13/15)

Response G16:

There will not be specific restrictions on residents parking in visitor spaces, although these spaces could be signed as “visitor parking.” Providing 2 spaces in each driveway, plus 2 spaces in each garage (for a total of 4 per unit) will be more than adequate for residential parking (and beyond Town Code Requirements). It is noted that the units will contain basements, which can be used for storage as well. See Table II.G-1.

Comment G17:

I can tell you from personal experience in Armonk, the DeCicco's there – should it be a DeCicco's, they hire many employees because they have a full kitchen. They have more than 47 employees, so the thought that this site could only have 47 parking spaces and it's the same size store, that's not doable. So you shouldn't be looking at your parking standard to make sure that the new concept in food stores, much different than when the ordinance was written. These stores have many employees because they offer many other services than the traditional food store from 30 years ago never contemplated.

(Roland Baroni, Public Hearing #2, p. 15-16)

Response G17:

Comments noted. See response to comment G15 regarding proposed parking. According to a representative of DeCiccoco's, this store would likely have a total of 35 to 40 employees (working in various shifts, not all at once).

Comment G18:

Will any on-street parking be permitted in the residential portion?

(Letter #2, TRC Engineers, Inc., 3/13/15)

Response G18:

Visitor and resident off-street parking is provided on the current site plan. There are other areas where additional on-street parking could be added. This, as well as identifying any areas where no on-street parking may be restricted will be finalized during the site plan approval.

Comment G19:

Patrons of the grocery store who park in the landbank area will have to walk across the driveway for the grocery store. Sidewalks or some form of path should be provided to limit the vehicular and pedestrian interaction. Also the grade in that area appears to be steep for someone with a shopping cart.

(Letter #2, TRC Engineers, Inc., 3/13/15)

Response G19:

There is no “landbanked area”. Vehicle and pedestrian interaction will be eliminated to the greatest extent practicable. The final site plan will include raised crosswalks (see Appendix N), speed table and/or sidewalks to direct pedestrians to/from the parking areas to the grocery store entrance.

Comment G20:

Cart corrals should be provided. These would impact parking.

(Letter #2, TRC Engineers, Inc., 3/13/15)

Response G20:

The current FEIS plan is a Concept Plan. Cart corrals will be indicated on detailed site plans and locations will be determined as part of the final site plan. Cart corral locations will be designed so they do not reduce total parking spaces proposed.

Comment G21:

Clarify whether all the parking spaces shown for the grocery store area is required per the Town Code. If the applicant is proposing more than what is required, consider overflow parking on pervious material (e.g. gravel) in the next round of submission.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response G21:

See Table II.G-1. According to Town Code, 95 spaces are required for the grocery store and 122 spaces are proposed. The applicant will take this comment under consideration. When the plan is before the Planning Board for site plan review, the consideration of pervious material for a portion of the parking lot can be discussed.

Comment G22:

We also recommend that the applicant and the Town explore the feasibility of sharing parking with the Somers Towne Centre. As now shown, Alternative C1 does not provide a vehicular connection between the grocery store site and the shopping center, resulting in two entirely separate parking lots. At a minimum, we recommend that a connecting driveway be provided. Further, a parking study could be undertaken to determine if excess parking associated with the shopping center could be used for the grocery store. Allowing for shared parking between the two retail parcels could potentially mean that fewer new parking spaces need to be constructed for the grocery store. Constructing fewer parking spaces would have a substantial environmental benefit given that the site contains significant wetlands and is within the Croton Watershed and the Town's Groundwater Protection zone. We note that the total parking proposed for the entire project is 158 spaces more than zoning requires.

(Letter #13, Westchester County Planning Board, 4/15/15)

Response G22:

As noted in Response G1, as indicated on the revised plans, vehicular and pedestrian connections from each of the development parcels to the adjacent existing shopping center are now incorporated to facilitate vehicle and pedestrian movements between the developments. The final number of parking spaces that will be built for the grocery store site will be reviewed with the Planning Board as part of the site plan review process.

Comment G23:

If this development moves forward, we also recommend the applicant work with the Town towards providing sidewalks throughout the Somers hamlet, consistent with the

recommendations of the "Town of Somers Comprehensive Master Plan" for Somers hamlet. At the minimum, sidewalks should be provided along the entire length of both main road frontages associated with the subject site. This should be part of a larger initiative to connect this site to nearby sites within walking distance, such as Bailey Park, the Somers Town House and the Somers Intermediate School/Somers Middle School campus.

(Letter #13, Westchester County Planning Board, 4/15/15)

We recommend that the proposed walking paths be enhanced to provide a complete pedestrian circulation system that connects to all nearby areas. At a minimum, more on-site pedestrian facilities should be considered, such as sidewalks along all internal roadways and additional walking paths. For example, there could be more than one pathway connection to the Somers Towne Centre. We also recommend adding an additional path between units 75 and 76 across, or around, the stormwater management area behind those units to provide better connections for residents of this cul-de-sac area.

(Letter #13, Westchester County Planning Board, 4/15/15)

As you know, Somers has, in recent years, tried to be on the vanguard of environmental protection in a lot of ways, reducing carbon, providing opportunities for people other than an automobile. In this plan, are there any improvements to the area that would make it more friendly to pedestrians and or Somers Crossing - bicyclists and, if not, is that something that's possible just looking -- and I know some of the people from the energy environment committee were going to be here but their meeting got canceled earlier. So I'm going to ask this question; from here to around that corner to connect that area, as one of the things that they are interested in, and – which would improve the Town, and might even be a selling point to the owners. So that's the question.

(Richard Clinchy, Public Hearing #1, p. 14-15)

Evaluate the need for pedestrian facilities.

(Letter #17, New York State Department of Transportation, 4/17/15)

Response G23:

There are currently no pedestrian facilities (sidewalks) along U.S. Route 202 and NYS Route 100 in the vicinity of the site. However, the internal road connections now proposed between the project and the Towne Centre at Somers shopping center will accommodate the movement of pedestrians between the developments and will allow pedestrians to move freely from the various commercial uses, restaurants and grocery store without having to use the external road network. No sidewalk along Route 100 is proposed as part of the project. However, because the Town Comprehensive Plan calls for sidewalks in the hamlet area, NYSDOT suggested sidewalks along the Route 100 site frontage but indicated that the Town could modify this by indicating that a sidewalk is not needed. In any event, the Applicant is agreeable to a land dedication to NYSDOT along the Route 100 site frontage to accommodate a future sidewalk, if required by NYSDOT.

A sidewalk is proposed along the entire site frontage along Route 202. This sidewalk will connect the Towne Centre at Somers to the site, and then to the Fireman's Field property to the west. Additional sidewalks are proposed by the applicant to provide benefits to the community, including a sidewalk from Towne Centre driveway on Route 100 along Bailey Park frontage around to Route 202, and on Route 202 from the site to Fireman's Field, and then continuing from Fireman's Field to the school property. (See Exhibit I-6 and Appendix Q).

The provision of any interior sidewalks on the residential site will be part of site plan approval. See Response G1.

Comment G24:

Consideration should be given to providing sidewalks within portions of the site leading to the bus stop. It is noted that there are very limited sidewalks currently on the roadways adjacent to the site.

(Letter #2, TRC Engineers, Inc., 3/13/15)

Response G24:

Comments noted. See Response G23 regarding sidewalks and H4 regarding a school bus stop.

Comment G25:

We recommend that the pathways between the residential units and the shopping center be constructed with a surface that would permit the passage of bicycles or adult tricycles. (Letter #13, Westchester County Planning Board, 4/15/15)

Response G25:

Comment noted. The FEIS plan contains full road connections between the residential units and shopping center, which will permit passage of bicycles and/or adult tricycles. See Responses G23 and G24.

Comment G26:

We commend the applicant for proposing a bicycle rack at the proposed grocery store. This bicycle rack should be placed within close proximity to the front door of the store. As noted above, we recommend choosing a pathway surface that would permit the passage of bicycles or adult tricycles so that residents of the condominium development can ride their bikes to the store. The applicant may also want to consider if a small communal pool of limited-range electric carts or adult tricycles could be provided for residents to share.

(Letter #13, Westchester County Planning Board, 4/15/15)

Response G26:

Comments noted. See response G25 regarding connections between the proposed units and shopping. Details such as electric carts or adult tricycles are not proposed at this time, but will be considered during the site plan review process with the Planning Board.

Comment G27:

People from the residential development will want to access the grocery store either on foot or by auto without navigating Route 100 and Route 202. Other than a wood chip trail shown, why is there no pedestrian and/or vehicular connection between the two uses and to the adjacent Somers Towne Centre?

(Letter #9, Town of Somers Planning Board, 3/31/15)

Response G27:

As noted in Response G1, as indicated on the revised plans, vehicular and pedestrian connections from each of the development parcels to the adjacent existing Towne Centre shopping center are now incorporated to facilitate the development. The walking trail through the passive open space is still proposed, as well. As described in Response G23, the applicant proposes additional sidewalks in the hamlet, including a sidewalk from the Towne Centre on Route 100 along Bailey Park frontage around to Route 202, then another across the site's Route 202 frontage, and another connecting Fireman's Field to the school on Route 202. (See Exhibit I-6, Proposed Sidewalk Locations).

Comment G28:

Were people from outside of town destined to the grocery store accounted for in the Traffic Analyses?

(Letter #9, Town of Somers Planning Board, 3/31/15)

Response G28:

The Traffic Analysis accounts for all trips to the grocery store including those from outside of the Town. These are reflected in the arrival/departure distributions shown in the Traffic Impact Study.

Comment G29:

There is only one access/egress drive to both the grocery store and the residential development. How is emergency access to be provided and what would happen if the currently proposed access is blocked?

(Letter #9, Town of Somers Planning Board, 3/31/15)

The Town should evaluate if at least one pathway should be made accessible to emergency vehicles so as to provide a secondary entrance in case the primary vehicular entrance from Route 100 is blocked.

(Letter #13, Westchester County Planning Board, 4/15/15)

Response G29:

Emergency access will now be provided as a result of the vehicle connections from each of the development parcels including the connections to the adjacent existing Towne Centre Shopping Center. Adequate emergency access will be provided to the satisfaction of the local emergency service providers and will be reviewed further during the site plan review process. See also Responses G1, 12 and 13.

Comment G30:

If a connection is made to the Towne Centre, would the Towne Center driveways be modified? Have traffic analyses been performed with a connection provided to illustrate what would happen?

(Letter #9, Town of Somers Planning Board, 3/31/15)

Response G30:

No modifications to the existing Towne Centre driveway will be needed with the provision of the vehicular connections from each of the development parcels to the adjacent existing shopping center. The connections are designed to allow traffic movement between the adjoining uses but at the same time, not encourage high speed traffic movements through either site. Appropriate traffic controls including signing and striping as well as potential traffic calming measures will be incorporated into the final site plan.

The provision of the vehicular connections will reduce the number of external trips from the development onto the external roadway network. For example, shopping trips from the residential units will have the ability to directly access the proposed

grocery store and various commercial and retail in the Towne Centre at Somers Shopping Center via the internal connections without having to enter onto U.S. Route 202 or NYS Route 100.

It is anticipated that the volumes at the proposed NYS Route 100 driveway are expected to be reduced as a result of the vehicular and pedestrian connections. While it is expected that the number of trips at the proposed NYS Route 100 driveway will be reduced and delays would be less, no separate analysis of the residential driveway was completed. See Response G5.

However, since the connection between the Towne Centre and commercial parcel will allow traffic exiting the Towne Centre onto U.S. Route 202 to access the traffic signal located opposite Heritage Hills, a separate analysis of the U.S. Route 202/Heritage Hills/proposed site access driveway as well as the unsignalized Towne Centre and U.S. Route 202 intersection were analyzed to show the traffic benefit resulting from the connection. The diversions of the unsignalized Route 202 Towne Centre driveway were based on the same distribution patterns for the grocery store to/from the west incoming to/from Heritage Hills Drive. It should be noted that some of the eastbound Route 202 traffic may divert to the Somers Crossing driveway with the connection. A copy of the diversion figures analysis and resulting Levels of Service and Queue Tables are contained in Attachment I of FEIS Appendix E-1.

As part of the Highway Work Permit, NYSDOT will make the determination on any turn restrictions, if necessary. See also Responses G1, G5 and G6.

Comment G31:

We question how the store can be better integrated into the existing Towne Center i.e. the drawings do not show the new parking area connecting to the CVS parking, except in an Alternate which places the grocery store on the #202 frontage.

(Letter #11, League of Women Voters of Somers, 4/10/15)

Response G31:

The concept plan has been revised to provide the vehicle connection and the area has been designed to integrate the two properties to facilitate better circulation.

Comment G32:

I invite you to travel, at 7:30 a.m. during the school year, from the intersection of Brick Hill Road and Route 202 to the Goldens Bridge train station, making a right at the light at the intersection of Routes 202 and 100. This short trip of 3 miles or so will eat up a good half hour of your time. The roadways clearly cannot handle rush hour traffic. Today, because of the resulting traffic backup on Route 100, I sat in my car through three light changes while waiting to make a left from Route 100 onto Route 138, after nearly being hit by a car leaving the parking lot of the Route 100 Market.

Now imagine this: Activity from 80 residential units and possibly, a supermarket added to the already jammed intersection of Routes 202 and 100. Impatient motorists do not make for safe roadway conditions, for drivers and pedestrians alike.

What I'm wondering is this: What is the developer's plan for roadway improvements? So far, the Somers Record has reported that only another traffic light is planned for the Route 202 entrance/exit for the Somers Towne Shopping Center. If further improvements are proposed, the plans need to be easily accessible to residents and not buried in a dense environmental impact statement that would require interpretation by an attorney.

(Letter #12, Linda Dalton, 4/8/15)

Interestingly, the Somers Earthweek Calendar lists a Complete Streets Walk for Sunday April 26, sponsored by the Somers Energy Environment Committee, it includes a discussion and walk to the Somers Towne Shopping Center for the purpose of developing "a safe, environmentally sound route into the business section." A good way to start is to reject the proposal for the Somers Crossing development unless major improvements are made to the surrounding roadways.

(Letter #12, Linda Dalton, 4/8/15)

Response G32:

The residential portion of the Project has been reduced to 66 units. Travel time runs were completed on Thursday May 14, 2015 during the peak morning school/commuter peak hours between 7:00 AM and 8:30 AM and Wednesday May 13, 2015 during the peak midday (school) hours between 2:30 PM and 3:30 and evening peak hours between 4:30 PM and 6:00 PM. The travel time runs were conducted along U.S. Route 202, NYS Route 100 and NYS Route 138 to/from the U.S. Route 202/Birch Hill Road signalized intersection to/from the Goldens Bridge train station/I-684 ramps (1.6 mile stretch). A summary of the travel time runs for various segments is presented in Table TT-1. A copy of the travel times (Table No. TT-1) are contained in Attachment 2 of FEIS Appendix E-1.

As shown on Table TT-1, during the peak morning, the travel times were between 7.05 minutes and 11.27 minutes and coincided with the school hours and Goldens Bridge train schedule. During the peak midday hours, the travel times were between 2.37 minutes and 5.25 minutes and coincided with the school hours. During the peak evening hours, the travel times were between 6.39 minutes and 7.59 minutes and coincided with the Goldens Bridge train schedule. Based on the SYNCHRO analysis, which included the additional traffic from the proposed development, the increases in average vehicle delays are not expected to significantly increase the travel times.

In addition, the proposed signal timing adjustments to obtain optimal Levels of Service and minimize queues, the improvements to the proposed U.S. Route 202 access opposite Heritage Hills and proposed internal road connections between the development and Towne Centre would help mitigate and improve operating conditions in the vicinity of the site.

Comment G33:

Somers Road (US Route 22) and Somerstown Turnpike (NYS Route 100) are State roads. The Town should forward a copy of the application to NYS DOT to identify any required permits for the proposed project and to evaluate potential traffic impacts to these roads.

(Letter #13, Westchester County Planning Board, 4/15/15)

Response G33:

The DEIS was submitted to New York State Department of Transportation (NYSDOT) for review. Their initial comments and the Applicant's responses are reflected in this FEIS and identify required permits as well as potential traffic impacts. The access connections including the proposed restriping and traffic signal modifications at the U.S. Route 202/Heritage Hills/Site access intersection will be reviewed by NYSDOT and they will make a determination on any improvements required of the Applicant as part of the Highway Work Permit process, if necessary. See also responses G45 and G46.

Comment G34:

Although the project is submitted as one cumulative project, it contains two distinct development types, separated by undeveloped land and requiring access along two different roadways.

(Letter #17, New York State Department of Transportation, 4/17/15)

Response G34:

Comment noted. The Project includes both a residential and commercial development and submitted as one application. The residential portion of the Project has been reduced to 66 units. The development parcels are separated by areas that contain wetlands. However, as indicated on the revised plans, vehicular and pedestrian connections from each of the development parcels to the Somers Shopping Center are now incorporated to facilitate access and movements between the developments and provide better circulation. See also Response G1.

Comment G35:

Please clarify the posted speed limit at the proposed driveway(s).

(Letter #17, New York State Department of Transportation, 4/17/15)

Response G35:

The speed limit on U.S. Route 202 in the vicinity of the proposed access is 35 mph, which reduces to 25 mph in the vicinity of the Somers school zone. The speed limit on NYS Route 100 is an unposted 55 mph south of the site with a posted speed limit of 35 mph north of the site approaching the Route 100/202 intersection. The posted speed limits are shown on Figure No. 1 – Existing Lane Geometry contained in Attachment 3 of FEIS Appendix E-1. Note that speed limits are controlled by NYSDOT. In consideration of the hamlet area, the Town may want to petition the NYSDOT to extend the 35 mph speed zone further to the south.

Comment G36:

We noted the projected additional traffic numbers. A completed Traffic Impact Study (TIS) is required. It should include Estimated Time of Completion plus 10 years (ETC+10). The proposed full movement access at Route 100 is a concern. For example: AM PEAK Southbound volume on Route 100 is approximately 1,500. Perform analysis of left turns out of the site, left turns into the site, right turns out of the site and a volume/capacity ratio. Perform the same analysis for the PM PEAK. The analysis should be based upon ETC+10.

(Letter #17, New York State Department of Transportation, 4/17/15)

Response G36:

The TIS contained in the DEIS was prepared to address future conditions in 2018, a five (5) year projection from the 2013 Existing Traffic Volumes. The traffic volumes and analysis have been updated to an Estimated Time of Completion +10 (ETC+10) of 2026. The updated traffic volumes, Level of Service/Queuing Summary Tables and capacity analyses are contained in Attachment 3 of FEIS Appendix E-1.

The analysis contained in the DEIS TIS analyzes the turning movements into and out of the proposed NYS Route 100 site driveway during the peak periods and the Levels of Service, delays and volumes to capacity (v/c) ratios are summarized in the Level of Service Summary Table. As discussed in Response G1, the revised plans

now incorporate vehicular connections from each of the development parcels to the adjacent existing Towne Centre Shopping Center. With the vehicular connections from each of the development parcels to the adjacent existing Towne Centre Shopping Center, additional travel paths to access points to/from both U.S. Route 202 and NYS Route 100 will be provided and may reduce the NYS Route 100 driveway exiting volumes during peak periods since trips to and from the shopping center and/or destined to U.S. Route 202 to the west, may choose to use the internal connections. If this occurs, the delays for vehicles exiting the NYS Route 100 driveway would be less. See also Responses G1, G6, G10, G30 and G36.

It should be noted that it is not uncommon during peak periods for the side road or driveway approaches for unsignalized intersections to operate with delays while the major road operates at better Levels of Service. See Response G37.

Comment G37:

It is noted that numerous driveway entrances along that section of Route 100 already have lower than a LOS D.

(Letter #17, New York State Department of Transportation, 4/17/15)

Response G37:

Comment noted. The unsignalized intersections along the NYS Route 100 and U.S. Route 202 corridors generally experience delays during peak hours due to the significant through volumes along these roadways. It should be noted that it is not uncommon during peak periods for the side road or driveway approaches for unsignalized intersections to operate with delays while the major road operates at better Levels of Service. See Responses G6, G10, G30 and G36.

Comment G38:

The Applicant proposes to restripe Route 202 to accommodate a westbound left turn lane. Supporting documentation will be required.

(Letter #17, New York State Department of Transportation, 4/17/15)

Response G38:

Comment noted. A Figure showing the proposed restriping is contained in Appendix J of the Traffic Study and the queuing information supporting the length of the lane is summarized on Table No. 3 (Appendix B) of Attachment 3 of FEIS Appendix E-1.

Comment G39:

We understand that a Synchro Analysis was done for the proposed signal timing adjustment. We are therefore requesting that the actual electronic synchro files, along with the paper printout results are provided.

(Letter #17, New York State Department of Transportation, 4/17/15)

Response G39:

The updated Traffic Volume Figures, Levels of Service and analysis (ETC+10) and electronic SYNCHRO files are being submitted to the NYSDOT under separate cover and will also be in digital format, as per the NYSDOT requirements.

Comment G40:

As noted perhaps the best study would be to simply observe the morning/afternoon gridlock in Somers. Unless the Boniellos are willing to widen the roads to 4 lanes Somers will be an impassible mess.

(Letter# 14, Matthew Searles, 4/15/15)

Response G40:

See Response G32 for existing and future travel times.

Comment G41:

As it stands now Somers Town Center is highly congested. It takes me 25 minutes to get from Wilner Road to 684 in the morning (really anytime from 7:30-9). Afternoon traffic is just as bad. Now 80 units and a grocery store are planned in an area that cannot handle the traffic now. No matter how many hired gun traffic consultants tell you otherwise, this road system in central Somers cannot support this development. Common sense

and a simple rush hour drive-by can tell you that the roads will be impassible if this development proceeds.

(Letter# 14, Matthew Searles, 4/15/15)

Response G41:

See Responses G1 and G32.

Comment G42:

And the other question that I have is in what we've been given, it all talks about [im]pervious pavement. I'm just wondering, since the Town has used pervious for parking in the Town, Reis Park and out here, whether there be any planning for pervious pavement at any point -- I understand on roads, it doesn't work as well, so that's just a question.

(Richard Clinchy, Public Hearing #1, p. 28)

Response G42:

No pervious pavement is proposed at this time.

Comment G43:

Just mention that I did get a comment in an email from a resident who was telling me that it takes her an inordinate amount of time at present to go from west on 202 through the hamlet to get down to 138. And her comment was, she can't imagine what it's going to be like with 80 units and a 19,000 square foot grocery store to navigate that same roadway, and she said that she sees nothing in anything that has been written about any turning lanes or issues of that nature. So I guess the question would be, is the applicant going to address the increase in traffic flow as projected by your development?

(Rick Morrissey, Public Hearing #2 – p. 8-9)

Response G43:

The residential portion of the Project has been reduced to 66 units from 80 units described in the DEIS. In addition, as noted in Response G1, the provision of the proposed connections will help mitigate the potential traffic impacts from the

proposed development. See Response G32 for discussion of existing and future Travel Times.

As outlined in the DEIS Traffic Impact Study, signal timing adjustments are recommended at the U.S. Route 202/NYS Route 116 and U.S. Route 202/NYS 100 intersections to obtain optimal Levels of Service and minimize queues. These signal timing modifications will be reviewed by the NYSDOT as part of the Highway Work Permit.

Furthermore, as summarized in the DEIS TIS, with the completion of the recommended striping and signal improvements, associated with the alignment of the proposed site access opposite the existing Heritage Hills driveway, the traffic generated by the Somers Crossing project can be accommodated on the roadway system in the vicinity of the site.

Comment G44:

[Parking behind the grocery store] was a pretty good idea was to eliminate coming out of the Somerstown Shopping Center, that exit, and have all the traffic routed to the traffic light, to make a left or right turn. But the other thing that I would encourage you to do, and I'm sure it's on your to-do list. But you have a partner, your neighbor there, on your southern exposure and on your western exposure [Town Centre at Somers]. They are going to be an important partner in this project so the sooner we can see some agreements, arrangements on them buying in, I think it would be better for all of us.

(Rick Morrissey, Public Hearing #2, p. 16-17)

Response G44:

As noted in Response G1, vehicular and pedestrian connections from each of the development parcels to the adjacent existing Towne Centre Shopping Center are now incorporated to facilitate movements between the developments.

The provision of the vehicular and pedestrian connections will reduce the number of external trips from the development onto the adjacent roadway network. For

example, shopping trips from the residential units will have the ability to directly access the proposed grocery store and various commercial and retail uses in the Towne Centre at Somers Shopping Center via the internal connections without having to enter onto U.S. Route 202 or NYS Route 100. Also, the connection between the Towne Centre and the commercial parcel will allow traffic exiting the Towne Centre onto U.S. Route 202, to access the traffic signal located opposite the Heritage Hills, which will be upgraded to accommodate the added leg to this intersection. This will enhance the overall flow and significantly improve the ability for left turns leaving the Towne Centre via the new connection. In summary, the provision of the proposed connections will help mitigate the potential traffic impacts from the proposed development. See also Responses G6 and G30.

Comment G45:

We also note that as part of this project, the Applicant will modify the Route 202 signal. Please note that Applicant will be responsible for ALL modifications, upgrades and/or replacements.

(Letter #17, New York State Department of Transportation, 4/17/15)

Response G45:

Comment noted. Any improvements including the restriping on U.S. Route 202 and the traffic signal modifications will be reviewed with NYSDOT as part of the Highway Work Permit process and the Applicant will be responsible for the design and cost associated with such improvements. Since this signal (489-PS) is a permit signal, the Applicant will also coordinate this with Heritage Hills. See also response G46.

Comment G46:

The existing traffic light at the entrance to Heritage Hills is funded by the Heritage Hills Condo Association. Will Somers Crossing be sharing the expense of this traffic device if their road exits the property at this location?

(Letter #18, Heritage Hills Condo Association, 4/17/15)

Response G46:

Yes, the Applicant will be responsible for the costs of the traffic signal upgrades as may be required by NYSDOT. Also, the Applicant will share the expense of any future maintenance requirements of the traffic device with Heritage Hills Condo Association. See also response G45.

Comment G47:

Has thought been given to utilize the old railroad track bed as a roadway through Lincolndale to Route 100 to alleviate the traffic congestion in and around the location of Somers Crossing? Should the Town's Comprehensive Plan address this possible solution for future growth?

(Letter #18, Heritage Hills Condo Association, 4/17/15)

Response G47:

Comment noted. This is not under the control of the Applicant and would have to be pursued by the Town independently.

Comment G48:

As the site has access to NY Route 100 and US Route 202, which are both under the jurisdiction of the New York State Department of Transportation (NYSDOT), the DEIS/Traffic Study including the access, traffic impacts, mitigation, and proposed traffic signal timing/phasing changes (including at the proposed Site Driveway) should be reviewed by the NYSDOT. Highway Work Permits will be required from the NYSDOT to construct the driveways as well as any roadway or signal improvements.

(Letter #2, TRC Engineers, Inc., 3/13/15)

Response G48:

Comment noted. As noted in Response G45, any improvements including any signal modifications will be reviewed with NYSDOT as part of the Highway Work Permit process.

Comment G49:

Please instruct the Applicant to initiate this project in accordance with my 3/27/15 letter. Once a Project Identification Number (PIN) is established, we will be able to provide a more in depth review. Upon subsequent submissions, expect additional comments.

(Letter #17, New York State Department of Transportation, 4/17/15)

Response G49:

The Applicant will be initiating the Project Identification Number (PIN) and the Highway Work Permit application under separate cover.

Comment G50:

The anticipated site generated traffic volumes should include the “Memory Center”.

(Letter #17, New York State Department of Transportation, 4/17/15)

Response G50:

There is no memory center proposed, nor was it proposed as part of the final DEIS.

H. Schools

Comment H1:

The analysis of impacts to the Somers School District is accurately based upon a projection of Public School Students according to the Rutgers Multipliers. This analysis results in a marginal annual benefit of \$1,597 to the School District. Data from the Somers School District Business Office relative to the Willows Development indicate a similar student multiplier of 0.48 students per unit, but would result in 39 students. This small increase in the student population would negate the statement that “the proposed Project would result in a net positive impact for the taxing districts, including the Somers School District.” (page III.L-10). The EIS should more accurately state that the proposed Project would result in a net positive impact for the municipal taxing districts, and is projected to generally cover costs to the School District.

(Letter #4, Tim Miller Associates, 3/18/15)

Response H1:

Comments noted. The project with 80 units, described in the DEIS, was estimated to generally cover costs to the school district. With the revised Concept Plan in this FEIS, the unit count has decreased, and the tax analysis has been updated. A Property Assessment and Real Estate Tax Assessment Report has been prepared by McGrath & Company Inc., Real Estate Appraisers & Counselors (for a 65-unit plan). This report provides a more in depth analysis of the likely assessed value of the proposed condominium project. (See FEIS Introduction for summary, and Appendix H for report). The taxes generated from the 65 or 66 unit residential project are estimated to more than cover the costs to the school district, with an annual surplus of approximately \$129,412, as described in the Introduction of the FEIS.

Comment H2:

Provide a written response from the Somers School District as to the prospect of permitting a school bus stop along the private roads within the Somers Crossing development instead of on Route 100.

(Letter #4, Tim Miller Associates, 3/18/15)

Response H2:

The applicant’s consultant requested written response to the question of a school bus stop and received a letter in January 2014 (see letter in DEIS Appendix C). This letter indicated that “the District would provide a bus stop on Route 100 at the entrance to the complex. The loading and off-loading of students riding buses would further complicate an already stressed traffic intersections. If these roads are eventually dedicated to the Town of Somers, we would address the issue at a later date with the possibility of offering additional bus stop(s)”.

With a second inquiry was made in September 2015 to Kenneth Crowley of the Somers School District, to which a response was received on October 1, 2015 (see letters in FEIS Appendix I). The response letter indicated that “The Somers CSD will only allow school buses on roads that have been dedicated and are maintained by the Town of Somers....Please note that the dedication of a road does not guarantee that the School District Transportation Department will travel that road. The District is willing to make certain provisions to allow buses on roads that may not be dedicated under a separate agreement with the property owner”.

The letter also stated that “The District in its own guidelines and procedures would not allow a bus stop that would force students to cross Route 100 at any time. Depending on the location, size and radius of a pull off area, the District would require that are not be immediately adjacent to Route 100 in order that moving traffic would not be required to stop along Route 100 once its Flashing Red Lights are engaged.....the School district will not have buses travel inside Somers Crossing if the roads remain private. If that is ultimately the case, buses would pick up and drop off at the Intersection of Route 100 southbound and the entrance to Somers Crossing.”

The roads are proposed to be private. However, the various alternatives to a bus stop location will be reviewed with the planning board, the applicant and the

school district to come up with a mutually agreed upon solution during the site plan review process. The preference of the Applicant is for the school bus to pick up on site, with a likely location being in front of the recreation building, where the bus could turn around. Since the referenced correspondence was received the applicant has met with the transportation department to discuss the possibilities for a school bus stop in this location. The applicant will coordinate further with the school district, as well as with the town, to provide for a satisfactory agreement on a safe location of a bus stop.

Comment H3:

Alternatively, provide a written commitment from the School District to both pick up and discharge students from Route 100 Southbound to prevent the need for students to cross Route 100 to utilize the bus. A pull off area for school bus loading and unloading on Route 100 could be incorporated into the entrance design of the Route 100 residential access location.

(Letter #4, Tim Miller Associates, 3/18/15)

Response H3:

See Response H2 and response letter from the school district in Appendix I.

Comment H4:

How will school bus pick-ups be done? Will there be an on-site pick-up and drop-off or standing area as required by the subdivision regulations and will buses enter the site or stay on Route 100? More information is needed on this.

(Letter #9, Town of Somers Planning Board, 3/31/15)

Will a school bus travel within the residential portion of the site and where would it stop on-site? If the school bus would not travel on-site, where will a school bus stop and how will the residents-students reach that stop?

(Letter #2, TRC Engineers, Inc., 3/13/15)

Response H4:

See Responses to H2 and H3. While the FEIS Concept Plan shows no specific provisions for a school bus stop and student/parent waiting area, appropriate accommodations for these will be required by the Town during site plan review. The preference of the Applicant (which has been discussed with the school's transportation department) is for the school bus to pick up on site, with a likely location being in front of the recreation building, where the bus could turn around. It is anticipated that students within the residential development will walk to the bus stop. The applicant will coordinate further with the school district, as well as with the town, to provide for a satisfactory agreement on a safe location of a school bus stop.

Comment H5:

Even if the internal roads will be private roads, a dedication of town maintained road at the entrance with a loop turnaround to facilitate bus ingress and egress could be considered.

(Letter #4, Tim Miller Associates, 3/18/15)

Response H5:

Comment noted. See Response H2 and letter from the school district in Appendix I. At present, the entirety of the residential road system is proposed to be private, but the Applicant would consider this partial dedication of a bus turnaround area as one of the alternatives to be discussed with the Planning Board and the school district during site plan approval.

I. Community Services and Open Space/Recreation

Comment I1:

If there are no connections to the adjacent parcels, there is no emergency access provided for either portion of the Site. This should be discussed with the Town's Emergency Services.

(Letter #2, TRC Engineers, Inc., 3/13/15)

Response I1:

The Revised Concept Plan presented in this FEIS now includes a connection from the grocery store parcel to the Somers Town Centre, as well as a connection from the residential parcel to the Somers Town Centre, improving emergency access for the project. In the DEIS, correspondence from the Somers Fire District (see letter dated 10/15/14 in DEIS Appendix C) indicated that they would determine adequacy of site access during review of Site Plans. This is still the procedure the applicant intends to follow. However, it is noted that the project engineer has designed the Concept Plan to provide adequate access and turnaround for fire and emergency vehicles. A meeting with the Town's emergency services representatives will be held when the plan is further refined during the Site Plan review process.

Comment I2:

A written response from the Somers Fire Department, specifically with regard to maneuverability of fire trucks internal to the site, adequacy of site access, and sufficiency of water supply and pressure should be provided.

(Letter #4, Tim Miller Associates, 3/18/15)

Response I2:

See Response I1, above, and letter from Somers Fire Department in DEIS Appendix C. Fire trucks and access will be reviewed by the emergency service providers during site plan review. Sufficiency of water supply for firefighting is addressed in the DEIS Chapter III.I, Community Facilities (see page III.I-9).

Comment I3:

Illustrate sufficient turning radius for emergency service vehicles including fire trucks on the site plan for the proposed access locations.

Response I3:

See Responses G12, I1 and I2.

Comment I4:

Explain how the proposed walking trail will provide suitable access between the residences, the grocery store, and the Towne Centre. Will it be available in winter? At night? Based upon the likelihood of using a cart to transport groceries between the residential area and the proposed grocery, explain whether a pervious path will adequately facilitate pedestrian use of the grocery store. Will the proposed pervious path adequately facilitate bicycle use?

(Letter #4, Tim Miller Associates, 3/18/15)

Response I4:

The proposed path is intended for recreational use and to access the proposed passive open space on site. Much of the proposed trail is within a regulated wetland buffer, so, neither clearing nor installation of any impervious surfaces is proposed. Although some residents may use the path to walk to and from the grocery store, it is designed for recreational pedestrian use with pervious surface material. It is not intended to be a paved bicycle lane. It will be “available” in the winter, but will not be cleared of snow or lit in any way.

Comment I5:

How long is the walking route from the furthest residence to the grocery store via the proposed walking trail?

(Letter #4, Tim Miller Associates, 3/18/15)

Response 15:

From proposed Unit 1 in the southwest of the site to the grocery store via the proposed walking trail (final alignment still to be determined) is approximately 1,800 feet. The entire length of the trail between Route 100 and Route 202 is approximately 2,400 feet. The Revised Concept Plan now includes two road connections from the site to the Somers Towne Centre, so a pedestrian could also walk along a route through the existing shopping center that could be shorter than the trail in open space.

Comment 16:

How will indemnification of public use of the walking trail within the dedicated open space on site be provided?

(Letter #4, Tim Miller Associates, 3/18/15)

Response 16:

The proposed walking trail through the passive open space is described in the DEIS:

“This trail will make a connection through the Site from Route 202 to Route 100, and will be open to the public. (See Exhibit II-5, Concept Plan). The natural open space will be preserved and restricted as open space by covenants and restrictions in perpetuity, and maintained by a homeowners association (HOA). The intent for the trail is that it would be open to the public. Whether the land ultimately remains privately owned by the HOA or is becomes publicly owned will be determined later in the SEQRA process.” (DEIS p. III.J-3).

If the open space is not dedicated to the Town, it will be owned and maintained by a Homeowners Association. The trail will be open to the public, and the HOA will be responsible for providing indemnification to the users of the trail, whether those users are the general public or project residents.

Comment 17:

We read that an unpaved pedestrian path will go from the residences to the grocery. There are no sidewalks in front of the townhouses to connect to the footpath. Questions:

Is it to be usable by a wheelchair? By someone pushing a child's stroller? Is it to be lit? Cleared of snow? How far is it from the housing along Route #100 via the path to the store? We question whether or when the path will be used by those residents, but rather they will go by car, onto #100, left onto #202, and left at the new entrance at the light, adding to the traffic through those intersections, and negating the idea that the housing includes "convenient access to shopping", as the Town Code requires.

(Letter #11, League of Women Voters of Somers, 4/10/15)

Response 17:

Comments noted. See Responses 14, 15 and 16. It is noted that the two proposed connections in the Revised Concept Plan will improve pedestrian circulation to and from the grocery store and provide alternatives to the walking trail. See also Response G23 and G1 regarding sidewalks being proposed.

Comment 18:

While we support the preservation of 10.58 acres of open space that primarily includes the protection of wetlands, we note that the applicant does not intend to provide active recreation space on the site. MFR districts in Somers require 300 square feet of recreation area per density unit. The applicant is offering to make a payment-in-lieu to the Town, rather than provide this recreation area, noting that Bailey Park is within walking distance of the site.

We point out that the conceptual site plan shows very little open area on the site that is not wetland, wetland buffer or proposed stormwater management area. Further, the draft EIS states that 37 school-age children are forecasted to live in the proposed development. Also to be considered is the fact that Bailey Park is a passive park, not well connected to nearby sites. While the walking paths to be provided through the wetland areas will provide an opportunity for walking, the Town should consider if they will provide sufficient recreation opportunities for the projected population of 80 residences.

We note that the nearby Heritage Hills development consists of similar condominium units and offers many recreational amenities to residents, which will create a significant contrast between Heritage Hills and Somers Crossing in available amenities.

(Letter #13, Westchester County Planning Board, 4/15/15)

Response 18:

A 2,000 sf recreation center with a fitness center and outdoor playground on 0.5 acre have been added to the Concept Plan to meet the zoning requirements for active recreation. Therefore, in addition to reducing the unit count on the Revised Plan, the applicant is no longer requesting to pay a fee in lieu of providing active recreation on the site, but providing direct active recreation space for residents, in addition to passive open space. In addition, the applicant will be paying town recreation fees of \$575,000 for the project. See also Responses A8 and A9.

Comment 19:

How will trash pickup be handled at the two portions of the Site?

(Letter #2, TRC Engineers, Inc., 3/13/15)

How will trash be handled on-site and removed from the site?

(Letter #9, Town of Somers Planning Board, 3/31/15)

Response 19:

In the residential units, solid waste and recyclable storage will be kept in containers in the individual garages. Collection will be in accordance with Town and County solid waste and recycling regulations, and will be conducted by private carters, as part of the residential units' common fees. There will not be a centrally located garbage collection area.

At the grocery store, solid waste and recyclable storage will be in sealed dumpsters, located off the along the access to the rear of the building or in the parking lot in an enclosed area screened from view with fencing and/or plantings. Exact dumpster location will be determined during the site plan review process. The

waste in these dumpsters will likely need to be collected once a week since the grocery store will have an extensive recycling program. The grocery store will utilize trash compactors and dumpsters for cardboard disposal.

Comment 110:

Section III.I.4. - Solid Waste of the draft EIS includes an adequate discussion on solid waste storage and pickup that includes recyclables. We recommend the final EIS also include a discussion of possible food composting for food waste associated with the proposed grocery store. Any composting program could also include an option for condominium residents to compost their food waste on a voluntary basis. On-site food composting can help in reducing the amount of waste that must be processed in the waste stream and can provide a resource for landscaping maintenance on the site.

(Letter #13, Westchester County Planning Board, 4/15/15)

Response 110:

Comments noted. Composting at the grocery store (and for use by the residential units as well) is being investigated by the applicant and by representatives of DeCiccios.

J. Utilities: Wastewater and Water Supply

Comment J1:

While the Heritage Hills Wastewater Treatment Plant (WWTP) appears to have adequate available capacity to accept the additional flow, there are concerns about hydraulic loading to the filtration system and, as such, the collection system should be evaluated.

(Letter #6, New York City Department of Environmental Protection, 3/23/15)

Response J1:

The system has been evaluated by others and will be upgraded in the near future. The Applicant understands that the NYCDEP is working through consultants for the WWTP to be upgraded and to perform to the NYSDEC permitted capacity.

Comment J2:

Section III.K.1 (a), fourth paragraph – The following statements should be moved to section (b), since they discuss anticipated impacts: “The Heritage Hills wells (off-site) will not be influenced by the proposed action” and “There are adequate residual pressures and required flows to service this proposed development.”

(Letter #7, Woodard & Curran, 3/24/15)

Response J2:

Comments noted; revisions made as of this FEIS.

Comment J3:

Section III.K.1 (b), first paragraph – Clarify the statement that the “property owner” will be responsible for maintenance of the water utility given the statement HHWWC will be responsible for maintenance in Section III.K.1 (c), third paragraph.

(Letter #7, Woodard & Curran, 3/24/15)

Response J3:

HHWWC will be the owner of the water system and will be responsible for the maintenance of the same. Property owner in this instance is the Heritage Hills Water Works Corporation.

Comment J4:

Section III.K.1 (b), third paragraph – Add a citation to the calculations performed in Appendix I in the text.

(Letter #7, Woodard & Curran, 3/24/15)

Response J4:

The calculations performed in Section III.K.1(b) third paragraph relate to the “Recommended Standards for Water Works – 2012 Edition” and “New York State Design Standards for Intermediate Sized Wastewater Systems – March 5, 2014 Edition”.

Comment J5:

Section III.K.1(b), fourth paragraph – Add a date for the version of Ten State Standards being referenced.

(Letter #7, Woodard & Curran, 3/24/15)

Response J5:

See J4, Recommended Standards for Water Works – 2012 Edition.

Comment J6:

Section III.K.1 (b), fifth paragraph – Clarify which “regulatory agency” criteria is being referenced for the maximum day demand being twice the average day demand.

(Letter #7, Woodard & Curran, 3/24/15)

Response J6:

New York State Department of Environmental Conservation.

Comment J7:

Section III.K.1 (b), sixth paragraph – This paragraph includes existing conditions information that should be moved to section (a). A citation to reference the existing conditions reports in Appendix I should be added. Include the 2013 average day flow from Appendix I in the discussion of historic average day flows.

(Letter #7, Woodard & Curran, 3/24/15)

Response J7:

Comment noted.

Comment J8:

Section III.K.1(b), seventh paragraph – Clarify what piping is being considered in the volume calculation– total volume of water in the piping, or only volume of water in the piping down to the 22’ below the tank base elevation referenced in the eighth paragraph. Clarify how that volume has been considered (last sentence of the seventh paragraph seems to be missing a word between “pipes” and “considered”).

(Letter #7, Woodard & Curran, 3/24/15)

Response J8:

Comment noted. A pipe full condition was considered under full pressure. Only the pipes 12” and 14” diameter which will supply the proposed Somers Crossing have been considered full condition and calculated to be 39,850 gallons additional volume to the 1,000,000 gallon available in the storage tank. These pipes are located within the Heritage Hills existing water distribution system and the proposed 12” diameter connection in between the development and the source.

Comment J9:

Section III.K.1(c), last paragraph – Revise this paragraph to be specific to the water system.

(Letter #7, Woodard & Curran, 3/24/15)

Response J9:

Comment noted. The referenced Paragraph in the DEIS was inadvertently repeated. Where it says “sewer”, it should be replaced with “Water”. This FEIS serves as an update to the DEIS (DEIS is incorporated by reference into the FEIS).

Comment J10:

Appendix I, Determination of Water Supply Demands – Provide additional justification for the use of the Maximum Day Demand being twice the Average Day Demand, and Peak Hour Demand being four times the Average Day Demand. For reference, Figure 2-1 of the New England Interstate Water Pollution Control Commission publication TR-16, Guides for the Design of Wastewater Treatment Works, 2011 Edition, suggests ratios of over 3 and 5 to be used for the Maximum Day and Peak Hour flows, respectively.

(Letter #7, Woodard & Curran, 3/24/15)

Response J10:

Maximum Daily Demand is specified, in the Recommended Standards for Water Works – 2012 Edition, as twice the Average Daily Demand. Peak Hour Demand is based on the water system size and it is an engineering judgment that we assumed x 5.0 for this water system, resulting 67.25 gpm peak hour flow for the Somers Crossing Development. It should be noted however, this figure will only effect the connecting pipe size to the Heritage Hills Water System since the water system is a gravity system. The total peak flow will be 1,691 gpm which has been rounded to 1,700 gpm. This calculation approach is very conservative since the peak flows are simply added together, basically assuming that there is a fire using 1,500 gpm addition to the peak hour being used in the development. Either case, the connection pipe shall be designed using 1,700 gpm total peak flow and determined to be 12” diameter capable of fulfilling the peak flow factor of 5.0.

Comment J11:

Appendix I, Fire Demand – Provide additional citation of ISO reference used to justify 1,000 GPM calculation, or additional information on factors used in the calculation of

Needed Fire Flow. For example, Chapter 1 of the ISO Guide for Determination of Needed Fire Flow, Edition 06-2014, states in Step 8, Note 2:

The NFF for residential occupancies (such as apartment buildings, lodgings and rooming houses, board and care facilities, hotels, motels and dormitories) protected by an automatic fire sprinkler system installed in accordance with the general criteria of NFPA 13R, Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and including Four Stories in Height, is the demand at the base of the automatic sprinkler riser. The minimum NFF is 1,000 gpm at 20 psi for a duration of 2 hours. The Fire Demand calculation in Appendix I does not reference the presence of a sprinkler or justify that a calculation of the needed fire flow would not be in excess of the minimum requirement.

(Letter #7, Woodard & Curran, 3/24/15)

Response J11:

Needed Fire Flow (NFF) determination has been based on ISO “Guide for Determination of Needed Fire Flow – Edition 06-2014”, Chapter 7, which states that distance between buildings 0-10 NFF is 1,500gpm.

Comment J12:

Section III.K.2(a), seventh paragraph – Clarify the design capacity, location, and relevance of the sewage pump station for the Somers Elementary School, including citation of sources used to for information.

(Letter #7, Woodard & Curran, 3/24/15)

Response J12:

The Engineer’s Report for the pump station was previously submitted. Somers Elementary School sewage pump station has been designed to include the Somers Crossing development. The engineering evaluation of the pump station shall be performed during the Site Plan Process.

Comment J13:

Section III.K.2(a), eighth paragraph – Clarify which entity stated that there have not been any non-compliance incidents (i.e. – Heritage Hills Development Corporation, the contract operator for the sewer system, etc.), and what time period is being referenced for the statement (i.e. – in the past month, year, three years, etc.).

(Letter #7, Woodard & Curran, 3/24/15)

Response J13:

Non-compliance has not been documented. However upgrades are planned. (See J1 above).

Comment J14:

Section III.K.2(a) – The DEIS does not include information on the magnitude of wet weather flows relative to the capacity of the WWTP.

(Letter #7, Woodard & Curran, 3/24/15)

Response J14:

See response to comment J1 above.

Comment J15:

Section III.K.2(b), first paragraph – Define “HHSD” in this location. It is currently defined after the term is first used.

(Letter #7, Woodard & Curran, 3/24/15)

Response J15:

So noted. HHSD is an abbreviation for Heritage Hills Sewer District.

Comment J16:

Section III.K.2(b), Table III.K-3 – Provide additional relevant flow criteria in this table or in the text, including maximum day flow and peak hour flow.

(Letter #7, Woodard & Curran, 3/24/15)

Response J16:

Peak hour flow for the Somers Crossing development is 67.25 gpm. The total peak flow including fire flow and irrigation will be 1,691 gpm which has been rounded to 1,700 gpm. This calculation approach is very conservative since the peak flows are simply added together, basically assuming that there is a fire using 1,500 gpm addition to the peak hour being used in the development. Peak flows will not be affected for this development relative to the totality of Heritage Hills.

Comment J17:

Section III.K.2(b), Table III.K-3 – Add a reference to Appendix I, where the flow estimates have been developed.

(Letter #7, Woodard & Curran, 3/24/15)

Response J17:

DEIS table updated as requested, below.

**DEIS Table III.K-3
Heritage Hills WWTP Capacity/Usage with Project**

Use	(GPD)
Heritage Hills WWTP Current Capacity	702,000
Total Current Usage:	289,000
Proposed Action:	
Residential development	16,720
Grocery Store	<u>1,520</u>
Subtotal	18,240
Total Current/Committed, Future/Proposed Action	307,240
Remaining Excess Capacity (702,000 – 307,240)	394,760

Source: Bibbo Associates, LLP (see DEIS Appendix I)

Comment J18:

Section III.K.2(b) – Clarify the intent, use, and sizing of the on-site pump station shown on the utility plans.

(Letter #7, Woodard & Curran, 3/24/15)

Response J18:

The pump station will pump to the existing pump station located on Route 202. Somers Elementary School sewage pump station has been designed to include the Somers Crossing development. The engineering evaluation of the pump station shall be performed during the Site Plan Process.

Comment J19:

Section III.K.2(b) – Section III.K.1(a) references a sewage pump station for the Somers Elementary School with design capacity for the Somers Crossing development. Provide additional information on whether, and how, the Somers Crossing project will connect to the pump station and the impacts on the pump station from the Somers Crossing development.

(Letter #7, Woodard & Curran, 3/24/15)

Response J19:

Per response to comment J18 above, the existing pump station will be adjusted to accommodate the proposed development. The pump station currently handles the school complex, and pumped into the HHSWD. Somers Elementary School sewage pump station has been designed to include the Somers Crossing development. The engineering evaluation of the pump station shall be performed during the Site Plan Process.

Comment J20:

Section III.K.2(c) – The wastewater system must meet applicable standards. The DEIS does not reference all relevant design standards for the wastewater system.

(Letter #7, Woodard & Curran, 3/24/15)

Response J20:

The wastewater collection system shall be designed in accordance with “New York State Design Standards for Intermediate Sized Wastewater Systems – March 5, 2014 Edition”, Westchester and New York State Health Departments’ Design Standards.

Comment J21:

If there is a power failure, is there to be any type of back up generating system for the residential and commercial uses on the site?

(Letter #9, Town of Somers Planning Board, 3/31/15)

Response J21:

It is anticipated that the retail component will have backup generator for power failure. Residential units will have generators only if the residents purchase them for their individual unit.

Comment: J22:

The number of Heritage Hills households currently connected is given, but does the volume include other users? i.e. The Heritage Society landscaping? The golf courses at Heritage Hills? The Pinnacle Restaurant? The figures are vague. The DEIS speaks of two wells which will be abandoned; it's hard to find whether they are counted in the current capacity of the system. Nor is anything said about the recent effect of run-off from fertilizers and road de-icing. The figures about the wells we found were from 2008 usage. How do we know that the groundwater has not changed since then? What are the current figures?

(Letter #11, League of Women Voters of Somers, 4/10/15)

Response J22:

All properties in the Heritage Hills district are currently served by the district. All of the existing wells on the subject site are test wells developed in the 1990's, and they are not part of the Heritage Hills water supply. These existing on-site wells are not needed for this project, and will be abandoned.

Comment J23:

In the annual required reports on the Water Works to customers, for the last several years it has stated that the amount of salt in the water is above the N.Y. State recommended level for human consumption. It further states that people with low salt

dietary restrictions should take notice, and use other water for drinking. We believe it should be mentioned in the DEIS.

(Letter #11, League of Women Voters of Somers, 4/10/15)

Response J23:

Comment noted.

Comment J24:

Where does the figure for estimated water usage by the grocery store come from? We didn't find any validation for it. Likewise, what is the source of the figure given for water for the landscaping which will be added?

(Letter #11, League of Women Voters of Somers, 4/10/15)

Response J24:

The grocery store water usage was estimated based on similar sized stores throughout the area. Total water usage including landscaping is considered.

Comment J25:

The DEIS says "Preliminary discussions have taken place with the applicant and the Heritage Hills Water Works and the Heritage Hills Sewage Works." If the owner of both facilities does not or cannot reach an agreement with the applicant, is there an alternative?

(Letter #11, League of Women Voters of Somers, 4/10/15)

Response J25:

Not at this time. Alternatives will be sought, but not anticipated.

Comment J26:

We noted that at the March 12 public hearing on the DEIS that the applicant's lawyer stated that "there are some problems" with the Sewage Treatment operations now, and that the EPA would be "reporting". Considering that the Sewage Treatment Plant was upgraded about six years ago with money from NYC, in the interest of protecting the NYC water in the Reservoir, we want to have the EPA report and the Water Treatment

Plant's response included in the DEIS, with assurance that the operation can properly handle more sewage. The figures for the capacity of the Plant seem to be from 2008, before the Somers Middle School was added, and before several hundred units were added to the Heritage Hills community.

(Letter #11, League of Women Voters of Somers, 4/10/15)

Response J26:

See response to comment J1 above.

Comment J27:

It should be noted that the facility is a private, for-profit operation, not a public benefit facility nor a municipal service. It is owned by the developer of Heritage Hills, not by the surrounding homeowners. Again, as the Heritage Hills Sewage Treatment Plant is the only possibility listed by the applicant, it appears that its owner is in a position to set conditions and charges which could have an impact on Somers Crossing. Those conditions should be included in the DEIS.

(Letter #11, League of Women Voters of Somers, 4/10/15)

Response J27:

Comment noted. Sewer rates are set by the Town Board of the Town of Somers.

Comment J28:

I just want to talk about the interconnect, so I'm going to ask a question. There's a committing process between the Town and, I guess, Heritage Hills – for the interconnect. So I think everything seems to be working in terms of the way permits are scaled to size, but we know that the system in Heritage Hills is not functioning up to capacity. So as you go through that process, if you can explain to us in some of your response how you're going to handle that?

(Anthony J. Cirieco, Public Hearing #1, p. 45-46)

Response J28:

Comment noted. See also Response J1.

K. Socioeconomic/Fiscal Resources

Comment K1:

With us losing Pepsi [this project] would maybe compensate for some of that until that Pepsi void is filled. So I think it would be very nice to have this wonderful plan, and with DeCicco's or equivalent would be a wonderful enhancement to this Town.

(Gary Parker, Public Hearing #1, p. 51)

Response K1:

Comments noted.

Comment K2:

What is the proposed form of ownership of the residential units? Is it condominium or fee simple and why?

(Letter #9, Town of Somers Planning Board, 3/31/15)

Response K2:

The proposed form of ownership of the residential units is condominium, as described in the DEIS. This is a multifamily development, which for 66-units would generate taxes estimated to be approximately \$672,968¹⁷ to the Town, County, School District and other districts as described in the DEIS and updated in the FEIS Introduction. The Property Assessment and Real Estate Tax Analysis, provided in FEIS Appendix H and letters in Appendix P provide further substantiation of the proposal for condominium ownership. When combined with the grocery store, estimated total annual taxes generated from the project would be approximately \$779,976 (\$672,968 residential + \$107,008 grocery = \$779,968).

With the level of amenities proposed in this multifamily residential development, and common fees to be paid by the homeowners (over and above property taxes)

¹⁷ The Appraisers Report in Appendix H calculated the annual property taxes generated from 65 market rate units to be approximately \$662,770.

for services included such as snow plowing, road maintenance, solid waste pick up, and the recreation facility, above what would be required for a single family home, in the applicant’s opinion, taxation as a condominium is appropriate and fair to both the new homeowners and the town. This aspect of marketability has been documented by 3 local realtors, as shown in their letters provided in Appendix P. See also FEIS Introduction, Response to Comment H1, K3 and K4, and Appendix I and Appendix M.

Comment K3:

These units, I believe, are for sale — yes? I was wondering how they will compare with those at Heritage Hills, both as to size, square footage, and the market they are aimed for; whether it's the same, or perhaps more upscale, or perhaps more modest? Just a point of information.

(Polly Kuhn, Public Hearing #1, p. 48)

Response K3:

The units will be for-sale residences. As described in the DEIS, the size of proposed units are estimated to be approximately be 2,200 to 2,600 square feet in size, with perhaps a single floor unit at around 1,800 square feet. The 2-story townhomes are proposed to have attached 2-car garages and walk out basements where applicable. The townhomes would be marketed to “empty nesters” wishing to downsize from their current homes, although the project is not proposed to be age-restricted.

Some of the amenities proposed include:

- ***The layout of the main living areas will be designed in an open concept style that is currently popular in single family home construction. It is noted that much of the existing townhouse inventory in the Town of Somers (such as Heritage Hills) and northern Westchester was built from the 1970s through early 1990s and, consequently, incorporated design elements that were envogue at the time but have not aged well in the view of many younger market participants.***

- ***The kitchens and baths will feature high-end custom cabinetry, granite and marble countertops, marble floors (baths) and stainless GE appliances (kitchens).***
- ***The townhouses will include premium features such as central vacuums, full security systems and L.E.D. light fixtures.***
- ***The heating and cooling of the proposed townhomes will be provided via a highly efficient geothermal HVAC systems. Typically, older townhomes in the area feature either electric or oil heating systems that cost considerably more to operate than the geothermal systems planned for the subject dwelling units.***

Comment K4:

In your proposal is to develop these units as condos as far as the tax base goes. So the question would be, the Town would be looking for a fee-simple structure for these properties, and the question would be: Is that going to happen or what is the thought process behind them, fee simple versus condo?

(Rick Morrissey, Public Hearing #1, p. 51)

Response K4:

See Response K2. Condominium ownership is proposed, not fee simple. However, given the estimated market value of the units (higher than most other condominiums in Somers), the tax revenue generated by these units will be higher than other condominiums. A condominium owner at Somers Crossing will likely pay at least as much in monthly costs for taxes and common fees as a moderate single family home in Somers. See also FEIS Introduction and Appendix H, Property Assessment and Real Estate Tax analysis, and Appendix M, Fee Simple and Condominium Comparison and Appendix P, with letters from 3 realtors regarding marketability.

In this document in Appendix M, and as described in the FEIS Introduction and the Property Assessment and Real Estate Tax Analysis, it is projected that the taxes paid per unit would be \$10,196 annually as proposed, with condominium taxation. This compares to \$18,374 annually if the units are taxed as fee simple. Given all

of the various the factors, including the common charges on top of the taxation with fee simple, the Applicant feels that based on their experience in the residential real estate market in Somers, taxes at this level would make these multifamily units unmarketable. With condominium taxation for the project, as shown in the analysis in Appendix H and Appendix M, there is an annual surplus of taxes to the school district, and the other taxing districts (Town, County, Fire) which also show a benefit. This benefit to taxing districts is in addition to the other community benefits proposed (see Table I-6A) of area sidewalks, paving of firehouse parking lot, recreation fee, donation of one unit, and water and sewer extension to the southern property line.

Comment K5:

I believe this project should be taxed as fee simple. That they are not condos. They are townhouses.

(Rick Morrissey, Public Hearing #2, p. 14)

Response K5:

See Responses K2, K3 and K4. Although Greenbriar and The Willows are taxed as fee simple townhomes, condominium ownership is proposed by the applicant, which is consistent with some other multifamily residences in Town, including hundreds of units at Heritage Hills to the north.

Comment K6:

This may be premature, but a question was asked whether the store was going to be leased or sold?

(Anthony Cirienco, Public Hearing #2, p. 18)

Response K6:

It is the applicant's intent to find a viable, long term user for the grocery store site (currently DeCicco Family Markets). It is anticipated that the land for the grocery store will be sold.

L. Visual and Community Character

Comment LI:

The Town needs a visual representation (photo sim or rendering) of the view of the grocery store and its parking from Route 202, and design details of the new entrance – would there be walls, hedges, walks, pedestrian amenities, decorative signage?

(Letter #4, Tim Miller Associates, 3/18/15)

Response LI:

Proposed signage, walls, details, lighting, and pavements will be designed and reviewed in detail during the Site Plan review process with the Planning Board. The typical plantings proposed are indicated on the revised Landscape Plan provided in the drawing set (see LP-2 and Exhibit I-5B), although this will also be reviewed, detailed and revised during the site plan process.

It is noted that the Revised Concept Plan in this FEIS indicates the grocery store in a different location, closer to the Route 202 frontage and farther from the regulated wetland areas. This concept was proposed as one of the alternatives in the DEIS, and was recommended in many comments received, as well as discussions with the Planning Board, as a more favorable design concept in order to minimize impacts to the site. In addition, a sidewalk is now proposed along the Route 202 frontage of the site. The sidewalk is proposed parallel to the roadway, in front of the store and in front of the proposed parking lot. A revised Landscape Plan has been developed with the revised layout indicating a sidewalk, grass strip and street trees along Route 202 in front of the parking area and the store.

As seen on the Landscape Plan (LP-2 and Exhibit I-5B), the grocery store is now located the same distance from Route 202 as the structure to the south on the Towne Centre at Somers (20 feet from the property line) as shown in DEIS photo 5 (Exhibit III.M-2). In this photo, the wooded areas will be removed and the grocery store will be visible at the streetscape along the road frontage, followed by the

proposed intersection at Heritage Hills Drive, then the parking area and sidewalk lined with street trees to the western property line at Fireman’s field. The existing stone wall along this property line will be reconstructed, providing a view of the stone wall and trees as seen from the road (this wall can be seen in Photo 6, DEIS Exhibit III.M-2). The parking lot is located 22 to 25 feet from the property line, and will have the 5 foot wide sidewalk, grass strip, street trees and stone wall between it and Somers Road/Route 202. In the applicant’s opinion, a photo sim or rendering is not necessary to further describe the proposed store and parking as it will be seen from Route 202 as indicated on the revised plans.

The applicant has addressed comments of the lead agency and the public by revising the plan to relocate the grocery store to be in line with other facades along Route 202, and out of the wetland buffers. The applicant is confident that the concerns about visual impacts along Route 202 have been addressed, and that a photo simulation is not necessary. In addition, the end user of the grocery store site, DeCiccoco, is currently working on elevations and floor plans for this specific store. During site plan review process, the applicant will be prepared to provide these plans for discussion with the Planning Board.

As described in the FEIS Introduction, the design intent for the road frontage along Route 202 is for the proposed landscaping to mitigate loss of existing vegetation to the extent practical, in keeping with the character of the streetscape of the hamlet. The details of the implementation of the design intent will be finalized during site plan review. However, the design intent is proposed to be accomplished by implementation of the following mitigation measures along the Route 202 frontage:

- Although the sidewalk is currently proposed along the parking lot, provide sufficient level area at the right of way to accommodate a curb, grassed strip and sidewalk if that location is preferred by the town or by the NYSDOT;**
- Rebuild the existing stone wall along the Route 202 property line frontage to a height and width that has a substantial appearance from the road and will block the view of car headlights in the parking lot;**

- ***Alternatively or in addition to, add an ornamental fence along the frontage in character with historic wrought iron or wood picket fencing of early America, again, to a size that has a substantial appearance from the road;***
- ***Add new shade trees along the entire frontage, of suitable species for exposure to road conditions and substantial size and spacing to recreate a tree canopy in the short term (± 10 years);***
- ***Add understory flowering trees and shrubs that will function to filter views into the project (the parking lot) in the short term (five years or less) and provide an ornamental appearance from the road;***
- ***Add entrance driveway features that enhance the visual character of the corridor, such as a stone gateway pillars and project signage.***

Comment L2:

- As you know the role of this office in the SEQRA process is to provide the Lead Agency with comments relative to potential historic preservation concerns as part of its assessment of potential environmental impacts that may be associated with local discretionary reviews.
- The proposed Somers Crossing project is located in proximity to a number of resources either listed on or eligible for listing on the State and National Register of Historic Places— the Somers Hamlet Historic District, the St. Luke’s Episcopal Church complex, and the Somers Central School—in addition to one National Historic Landmark (NHL), the Elephant Hotel, which is located within the district. In this instance the potential impacts of the project appear to be indirect and visual in nature. As such our office recommends that steps be taken to minimize these impacts, which could adversely impact the setting of these various resources; particular emphasis should be given to protecting the setting of the Elephant Hotel, given its NHL status as a nationally significant property. In reviewing the materials submitted as part of the DEIS, it appears that consideration has already been given to assessing these potential adverse impacts as part of the planning process.
- Our office has no further concerns with archaeology relative to the proposed project. (Letter #1, William Krattinger, New York State Office of Parks, Recreation and Historic Preservation, 3/11/15)

Response L2:

Comments noted. It is noted that the NYSOPRHP has reviewed the 2015 DEIS (and cultural resource investigations on this site from 1995, 2010 and 2013) which notes that regarding the development proposed on the Route 202 frontage, “The proposed, low-rise neighborhood grocery store, fronting along Route 202, is the only new building that will be within immediate public view from any local street. According to the Applicant’s consultant, Historical Perspectives, Inc., this store will not impact either the visual or historical context of the SHHD (Somers Hamlet Historic District) or the individual NHL (National Historic Landmark), the Elephant Hotel.” As discussed previously in this FEIS, (see section 13, Visual Resources and Community Character in the Introduction, and response to comment A11 and L1) landscaping along both site frontages will be provided and reviewed during the site plan process which will address the comments of maintaining hamlet character.

M. Noise/Odor/Greenhouse Gases

Comment M1:

There is at least one dumpster and a trash compactor next door at the south side of the Towne Centre site that would need to be screened from the Somers Crossing residences. Regarding noise, what is the frequency and time of trash pickups?

(Letter #4, Tim Miller Associates, 3/18/15)

Response M1:

Comments noted. Screening will be proposed on the Somers Crossing Site to buffer the new residences from the existing parking lot. The extent of screening to control possible view and noise from service areas on the Towne Centre site will be evaluated during the Site Plan process with the Planning Board. The frequency of trash pick-up on the adjacent shopping center site is not known, but will need to be ascertained during site plan review to identify the extent of nuisance noise that may affect the future residents.

Comment M2:

The DEIS must address whether construction of the grocery store will include the installation of a trash compactor. If a trash compactor is proposed as part of the grocery store development, description of operating duration and noise level in decibels must be provided.

(Letter #7, Woodard & Curran, 3/24/15)

Response M2:

The details of the grocery store are not yet refined, however, according to a representative from DeCiccis, a trash compactor will be included, within the interior of the store. The trash compactor will be housed inside the building, so noise should not be an issue in any case.

Comment M3:

Discussion of noise mitigation measures shall be modified to address whether a noise emitting infrastructure (trash compactor) or facility operations (deliveries) for the proposed grocery store are anticipated to generate noise impacts considering noise level, time of day and duration of such activities. Mitigation measures that should be detailed may include restrictions on hours of operation and placement of screening measures between noise point source areas and neighboring receptors.

(Letter #7, Woodard & Curran, 3/24/15)

Response M3:

See response to comment M2. According to a representative from DeCiccio, if a trash compactor were proposed, it would likely be a once a week pick up, between 7:00 and 11:00 AM on business days only.

Comment M4:

The DEIS narrative must be updated to include estimate of post-construction permanent noise levels at the grocery store and residential development portions of the site, quantified in decibels.

(Letter #7, Woodard & Curran, 3/24/15)

Response M4:

As described in the DEIS, the of post-construction permanent noise levels at the grocery store and residential development portions are not anticipated to be significantly higher than the ambient noise levels of any other residential or retail noise level in the Somers hamlet or in the Heritage Hills area. Estimated typical noise level¹⁸ for a suburban residential townhouse neighborhood would be average Ldn of 55 dB for “normal suburban residential” and an average Ldn of 50 dB for “quiet suburban residential”; and for the suburban neighborhood shopping center site (which is adjacent) would be about the same levels of noise.

¹⁸ US Office of Noise Abatement and Control, 1974, “Information on levels of environmental noise requisite to protect public health and welfare with an adequate margin of safety.”

Comment M5:

It appears when considering the GHG emissions the reductions in the GHG emissions that could be contributed to carbon sequestration have not been considered. In addition, whereas the discussion of the GHG emissions indicates that the additional electrical usage attributed to street light (both residential and commercial areas), traffic lights, and other sources that are associated with the entire development and not individual housing units or commercial space has been considered, the table that outlines GHG emissions doesn't appear to include these sources. It is most likely that the GHG emission reductions from carbon sequestration and emission additions from miscellaneous electrical sources would not change the outcome of the GHG emissions impact analysis.

(Letter #7, Woodard & Curran, 3/24/15)

Response M5:

Comments noted.

Comment M6:

The Existing Odor Sources and Sensitive Receptors discussion on Page III.S-1 states the sewage treatment plant located to the north of the Site within Heritage Hills is approximately 1/4 mile away from the Site. In addition, the discussion states, "no significant odors from that facility can be readily detected at the Site." This determination is based on a single field visit conducted in September of 2013.

The Applicant shall amend the DEIS to identify that the existing Plant experiences odor impacts during wet weather conditions. The narrative shall consider odors in relation to the Somers Crossing site and how additional flows contributed by the development may impact existing odor conditions.

(Letter #7, Woodard & Curran, 3/24/15)

Response M6:

Comments noted. It is noted in this FEIS that according to the commenter, "the Plant experiences odor impacts during wet weather conditions". As

noted in the DEIS, the STP is located approximately ¼ mile north of the site, and is undergoing improvements, which are entirely the obligation and responsibility of NYCDEP.

N. Alternatives

Comment N1:

I am concerned about the appearance of the Somers Hamlet. Have you considered putting the parking behind the store and moving the market closer to Route 202? If you do this, what would the setback be?

(Letter #9, Town of Somers Planning Board, 3/31/15)

Response N1:

Alternative C1 in the DEIS describes a layout of the grocery store with a minimum setback from Route 202 (± 25 feet) and parking in the rear and side of the store. This concept has now been integrated into the Revised Concept Plan presented in this FEIS.

Comment N2:

Alternative C1. Grocery Store with Minimum Setback and Parking in Rear: This alternative shows the grocery store near route 202 with the parking lot behind the store. The Department believes that this alternative should be further evaluated (within the narrative) as the preferred alternative as it will decrease the AA impacts. The narrative in this section states "That the total wetland buffer disturbance is about the same or slightly less on this plan than with the Proposed Action, since no buildings are shown within the wetland or buffer areas on this plan" (pg. IV-8).

(Letter #3, New York State Department of Environmental Conservation, 3/16/15)

Response N2:

See Response N1. The Alternative C1 concept has now been integrated into the Revised Concept Plan, as presented in this FEIS. The revised concept has removed the structures and parking from the wetlands and adjacent areas of the NYSDEC wetland. (See also Responses in Chapter II.F).

Comment N3:

We prefer the alternative placement of the grocery store as shown in Alternative CI. This would create a more pedestrian-oriented and walkable store in the center of the hamlet by placing the store in the front of the site with parking in the rear. We also recommend that the Town ensure that a sidewalk is placed in front of the building with a pedestrian entrance to the store along the sidewalk so as to encourage walking to the store. This development approach would be consistent with the recommendations of the "Town of Somers Comprehensive Master Plan" for Somers hamlet.

(Letter #13, Westchester County Planning Board, 4/15/15)

Response N3:

See Responses N1 and N2. The Alternative CI concept has now been integrated into the Revised Concept Plan, as presented in this FEIS. At this time, sidewalk is proposed along Route 202 site frontage near the retail component, and west to the school and around Bailey Park, but not along the site's Route 100 frontage. (see Response G23).

Comment N4:

In addition, Alternative CI includes 124 parking spaces and the proposed alternative includes 107 parking spaces. However, as indicated in section III.B Zoning, Table III.B-6 the required store parking for the grocery store is 95 parking spaces. Therefore, as only 95 parking are required by the Town, this section should discuss why parking spaces in excess of the Town's requirement are being proposed. The additional parking spaces appear to result in greater impacts to the wetland adjacent area. As currently designed, the northern section of the parcel (near the grocery store) shows a significant amount of AA [*adjacent area*] disturbance in comparison to existing AA conditions. This portion of the proposal should be revised to avoid impacts to the wetland adjacent area to the maximum practicable extent, so as to preserve and protect important functions and benefits of the Class I wetland.

(Letter #3, New York State Department of Environmental Conservation, 3/16/15)

Response N4:

See Responses N1, N2 and N3. The Alternative C1 concept has now been integrated into the Revised Concept Plan, as presented in this FEIS. 122 Parking spaces are proposed on the plan for the grocery store, which is in excess of the requirement, but is anticipated to be utilized by the store patrons and employees. The parking lot is adjacent to Fireman’s Field, a community facility that could use the parking area as well as overflow for events. The parking areas are designed to avoid the NYSDEC adjacent areas for the most part on the current Proposed Concept Plan, and is decreased significantly from the DEIS plan. (See Response to Comment F16 and Tables III.F-1 and I-1).

Comment N5:

Why are potential connections to the Towne Centre shown on Alternatives but not on the proposal?

(Letter #4, Tim Miller Associates, 3/18/15)

Response N5:

The DEIS reflects the proposed action as originally proposed and scoped for a DEIS. After comments from the town board, town consultants and staff and the public, the plan has been revised. See Responses N1, N2 and N3. The Alternative C1 concept has now been refined into the Revised Concept Plan, as presented in this FEIS, and connections are shown at two points on the plan.

Comment N6:

All alternatives apply the same two assumptions as the project proposal: a 50-foot setback waiver to adjacent residential zone and no on-site active recreation facility. Some also do not demonstrate a housing mix that is envisioned for the MFR districts. If the Town wants to consider one of the alternatives as the preferred plan (for the purpose of a reduced-impact plan) and these assumptions are not acceptable to the Town, the resulting plan would have different impacts (and likely a lower unit count) than what are presented in the DEIS Alternatives section.

(Letter #4, Tim Miller Associates, 3/18/15)

Response N6:

Comments noted. The current proposal in this FEIS is a modified version of certain aspects of the alternatives presented in the DEIS. The current concept plan does include an active recreation facility, but also still requests an exception to the required setback to the adjacent residential zone. The anticipated impacts to the revised Concept Plan are outlined in the FEIS Introduction and Project Summary.

Comment N7:

Alternative C1 shows one possible layout with the grocery store at the street line. Different configurations of this area should be studied to evaluate whether a plan could, for example: eliminate the existing Towne Centre driveway to Route 202, possibly in favor of a pedestrian alley, and route all traffic thru the new signalized intersection; connect the grocery store visually to the Towne Centre activities by facing the grocery store front door toward the Towne Centre.

(Letter #4, Tim Miller Associates, 3/18/15)

Response N7:

Several alternative plans were described in the DEIS as per the scoping document. The proposed action Concept Plan has been revised as described in this FEIS in response to comments received. The Proposed Action involves a request for MFR-DH zoning, with an associated Concept Plan. After the MFR-DH is adopted, the project will be going through detailed site plan review with the planning board, at which time different configurations detailing this Concept Plan could be studied and discussed.

Comment N8:

Not mentioned in Alternative F is that pavement connections between the project and the Towne Centre would provide means and encourage pedestrian access between the two uses, not just vehicular.

(Letter #4, Tim Miller Associates, 3/18/15)

Response N8:

Comment noted. Pavement connections between the project and the Towne Centre (now part of the Proposed Action Concept Plan) would provide means and encourage both pedestrian and vehicular access between the two sites. See also Response G23 describing proposed sidewalks in the hamlet.

Comment N9:

Based on the information that is provided, it appears that Alternative B.1 with the existing zoning may provide a reduced level of impacts with respect to the area of disturbance and new imperviousness when compared to the preferred alternative. It is understood that this alternative does not serve the purpose of the applicant nor the town objective. Based on the site plan and information provided it appears that as the site is being overly developed in the proposed alternative and the site does not sustain this type of intense development. DEP recommends from a water quality stand point that the amount of impervious surfaces be further reduced perhaps by reducing the housing units thereby minimizing the impacts to the wetland and wetland buffer and by minimizing the overall disturbance so that the impacts of this proposed development can be reduced and mitigated effectively.

(Letter #6: New York City Department of Environmental Protection, 3/23/15)

Response N9:

The revised Concept Plan in the FEIS integrates comments received, and includes 7.75 acres of new impervious area as compared to 7.28 in the DEIS plan. Impact to wetlands buffers is proposed to be reduced with the FEIS Plan. Unit count was reduced on the FEIS Plan. The applicant does not consider this to be an “intense development”, particularly with the reduction in density proposed in the FEIS Concept Plan.

Comment N10:

One of the alternatives presented shows fewer than 80 residential units. I am interested to know if the applicant would consider reducing the number of units on the site.

(Letter #9, Town of Somers Planning Board, 3/31/15)

Response N10:

The number of units has been reduced from 80 in the DEIS plan to 66 in the FEIS Concept Plan.

Comment N11:

Please provide justification for the proposed reduction in unit count from 80 units to 72 units. The Applicant should explain why a larger reduction was not considered.

(Letter #16, Woodard & Curran, 4/17/15)

Response N11:

The 72 unit alternative described in the DEIS was prepared as a “reduced number of units” was requested in the scope, with no specific number to target for that plan. In any case, the number of units has been reduced from 80 in the DEIS plan to 66 in the FEIS Concept Plan.

Comment N12:

An approximate limit of disturbance line should be incorporated for all alternative site layouts exhibits contained within Section IV.

(Letter #16, Woodard & Curran, 4/17/15)

Response N12:

Limits of disturbance are included on the current preferred plan (See Exhibit I-4). Limits of disturbance were calculated on the alternatives in the DEIS as summarized on the comparison table in the DEIS.

Comment N13:

Construction of stormwater basins as shown on Exhibit IV-1 relating to Alternative B1 does not appear feasible. Proposed infiltration practices are shown to be located within 100' of parcel groundwater wells.

(Letter #16, Woodard & Curran, 4/17/15)

Response N13:

Existing wells on-site are proposed to be abandoned, as described in the DEIS.

Comment N14:

The Applicant must explain the basis for increase of unit count contemplated under Affordable Housing Alternatives B3 and B4. Citation to Town Code must be included in the description of the basis for unit count.

(Letter #16, Woodard & Curran, 4/17/15)

Response N14:

Basis for unit counts and calculations are included on the alternative exhibits in the DEIS and described in DEIS Chapter IV, Alternatives.

For Alternative B3, Affordable Housing in MFR-DH (see DEIS pages IV-4, 5 for citations), DEIS Table IV-1 provides the density calculations and the basis for the market rate unit count (minimum 68 units required, 74 provided) and the affordable unit count (minimum 12 required, 18 provided),

For Alternative B4, (see DEIS pages IV-5 through 8 for details), DEIS Table IV-2 provides the density calculations, using MFR-H (Code Section 170-13) and the basis for the market rate unit count (minimum 75 units required, 85 provided) and the affordable unit count (minimum 13 required, 24 provided), On this layout, no store is proposed.

Comment N15:

Correct the discrepancy on Table IV-3. Total unit count for Alternative B3 should reflect 18 affordable and 72[74] Market Rate units as presented in the DEIS text.

(Letter #16, Woodard & Curran, 4/17/15)

Response N15:

Comment noted (discrepancy revised as of this FEIS). Alternative B3 is listed on page IV-4 as having 74 market rate units and 18 affordable units for a total of 92 units.

Comment N16:

Stormwater practice setback/buffer requirements to adjacent structures appear infeasible as illustrated on Exhibit IV-3.

(Letter #16, Woodard & Curran, 4/17/15)

Response N16:

Stormwater management locations are approximate on the alternative plans. However, they are located conceptually at low points and outside of wetlands. If this plan were to be developed in detail, specific design of stormwater basins would be required.

Comment N17:

Stormwater runoff from a portion of proposed grocery store parking area, as shown on Exhibit IV-4A, appears to be discharged without planned treatment/attenuation at a stormwater management practice.

(Letter #16, Woodard & Curran, 4/17/15)

Response N17:

All stormwater from the grocery facility will be captured and treated.

Comment N18:

The Applicant shall explain why the proposed grocery store footprint and parking count are increased under Alternative C-1.

(Letter #16, Woodard & Curran, 4/17/15)

Response N18:

The store footprint is slightly different in Alternative C-1, therefore the square footage varies. Parking was increased in order to provide more parking for the store.

Comment N19:

Alternative C-3 Exhibit IV-6 considers an increased vegetative buffer along Route 100 as 75 feet. This alternative should consider the impact from an increased vegetative buffer of 100 feet.

(Letter #16, Woodard & Curran, 4/17/15)

Response N19:

The DEIS scoping document (DEIS Appendix A) does not specify a distance for a buffer. The increase from 75' buffer to 100' would provide for more landscaped area along Route 100 but in the applicant's opinion, would negatively affect the layout of the residential units and road layout.

Comment N20:

C. Alternative Design - The Applicant shall explain why the project limits of disturbance are expected to remain the same when alternative design provisions for reduction of the proposed loop road and additional buffering are implemented.

(Letter #16, Woodard & Curran, 4/17/15)

Response N20:

These alternative plans were provided in concept, as required by the scope, with enough detail to generally identify differences between the plans and analyze impacts. Given the unconstrained areas that remains on this site for development, the changes due to the loop road or the additional buffering do not make as significant change in the limit of disturbance on the site.

Comment N21:

Additional wetland buffer disturbance appears to be incurred when cross connections between the residential portion of the Somers Crossing site and the adjacent Somers Town Centre parking lot are considered. This additional disturbance should be summarized on Table IV-3.

(Letter #16, Woodard & Curran, 4/17/15)

Response N21:

The additional disturbance to wetland buffers due to the cross connections was considered and included in the totals on DEIS Table IV-3. The table was reviewed, and all wetland buffer figures are correct except for wetland buffer disturbance on alternatives C2 and C4 which both show the connection to the shopping center, and should read as “1.2 acres of wetland buffer disturbance” instead of 1.1 acres shown in the table. Table IV-3 is thereby updated in this FEIS.

Comment N22:

The Applicant must explain why overall project disturbance is shown to remain the same under the reduced unit count alternative. Table IV-3 indicates greater wetland disturbance and increased new impervious area for this alternative when compared to the proposed action. The Applicant should reconsider the alternative site layout to minimize disturbance to all environmentally sensitive areas (Wetland buffers) and reduce overall disturbance.

(Letter #16, Woodard & Curran, 4/17/15)

Response N22:

The reduced unit count alternative was designed within the same general limit of disturbance as the proposed action, and allowed for more space between residential buildings, and more units in groups of 2 and 3. The increased impervious area is a result of the two road connections to the shopping center to the north. The scoping document was not specific that an objective was reducing the overall disturbance with this alternative.

Comment N23:

Several alternative layouts presented under Section IV include driveway connections to be made between the Shopping Center and the Somers Crossing site. The Applicant shall explain why certain alternatives were selected for this consideration while others weren't. The Applicant must also confirm that summary items on Table IV-3 correctly consider additional impervious cover and wetland buffer disturbance when these connections are conceptually proposed.

(Letter #16, Woodard & Curran, 4/17/15)

Response N23:

The alternatives that show the whole site (B3, B4, C1, C4) all incorporate the connections to the shopping center. This was based on comments received about these connections being desired for circulation. Table IV-3 did consider and include these connections. Table IV-3 considered impervious cover and wetland buffer disturbance.

O. Miscellaneous

Comment O1:

We are in favor of the Somers Crossing Project, especially that we will finally get a supermarket in Somers. We really need a supermarket badly. The situating it [*sic*] near Heritage Hills will help a whole community be able to buy healthy food without a long drive. Many people in Heritage will enjoy being able to shop locally. Thank you for providing this for all of the residents of Somers. It will also prevent a lot of driving.

(Letter #5, Donald P. and Ellen B. Devey, 3/22/15)

We are supportive of the inclusion of a grocery store in this development because there are no grocery stores in Somers hamlet, with the nearest located in Goldens Bridge and Baldwin Place. Providing a grocery store will reduce the day-to-day travel for shopping for the many residential areas that are near the Somers hamlet center.

(Letter #13, Westchester County Planning Board, 4/15/15)

I actually like the idea of a grocery store. I thought it was an enormous one, initially, but it's obviously not, and I think that's cool and I like DeCicco's a lot. I think we need a smaller grocery store in Somers.

(Linda Simpson, transcript hearing #1, p. 32)

Response O1:

Comments noted.

Comment O2:

I do a tremendous amount of real estate in Somers, and I have to say that I get the question all the time from people coming out of town to look to move to our area. Where do I go to do my grocery shopping? And I have to say that I really wish that I could say we have a phenomenal DeCicco's right here for all your shopping needs. I mean, it's a big thing. People commute from the City. They commute from White Plains, and they don't like to come home and think they have to drive, you know, all the — to Danbury or — I mean, Goldens Bridge, I think they got — that A&P is horrible, so I wouldn't even send anybody

there. Or also if you go into Yorktown or all the way up to Somers Commons. I mean, it's a haul for people and I think that there's a real need for it. And I think that it would be a real asset to our Town to have something like that right here as part of this plan.
(Lyn Crispinelli, transcript hearing #1, p. 48-49)

When we are taking customers around, Lynn is correct. The first question is, where do we go shopping? Personally, you know, I'm in my car going to Brewster, or I'm going up to Danbury. I'm going to Yorktown, and I tell the customers the same thing. This is where your major shopping is going to be for food, and I say everything is only 10 or 15 minutes away, as everything is here. But it would be a great enhancement not only for our lifestyles -- you would save me a lot of trips, personally. But it would also help with the values of our properties here which is important.
(Gary Parker, transcript hearing #1, p. 50)

Response O2:

Comments noted.

Comment O3:

The agreement on that the building [grocery store] would not be built until the contract is consummated with a tenant that would be a food store; am I correct? Would it stay in town for a long time? Would it be a full-service store?
(Richard Clinchy, hearing transcript #1, p. 25)

Response O3:

This is a full service boutique grocery store. While it concentrates on perishable products such as fish, meat, deli foods, baked goods, and prepared food, it also supplies general grocery goods. The intent is currently for DeCicco's to be the tenant, with the goal of staying in town for a long time.

Comment O4:

DeCicco's is fine but we could pick a less pricey such as Hannaford or ShopRite.

(Letter #5, Donald P. and Ellen B. Devey, 3/22/15)

Response O4:

Comment noted. Due to market conditions and site constraints, a smaller boutique store, such as DeCicco's is proposed. Hannaford and ShopRite stores are typically much larger than the grocery store footprint proposed at Somers Crossing.

Comment O5:

Table II-2 in section D. Project Approvals and Reviews should include all of the above stated approvals and permits required by the Department for this project.

(Letter # 3, New York State Department of Environmental Conservation, 3/16/15)

Response O5:

As described in the FEIS Introduction, Table II-2 from the DEIS has been amended as requested to include all of the approvals and permits from the NYSDEC (see Table I-7 of this FEIS).

Comment O6:

We encourage the applicant to consider incorporating as much green building technology as possible into the proposed development.

(Letter #13, Westchester County Planning Board, 4/15/15)

Response O6:

See DEIS chapter V.B, Impacts on the Use and Conservation of Energy, regarding green building technology that is proposed and FEIS Introduction, as well as responses D39 and K3, regarding the intent to use geothermal technology.

Comment O7:

According to the DEIS, a significant amount of excavated materials/fills will be there during or after the construction and is needed to haul it away from the site. This causes potential impacts because of the construction traffic leaving the site. Whether the topsoil and subsoil will be stored separately should be mentioned in the FEIS. However, the applicant

should also demonstrate that there are appropriate staging areas for construction equipment and laborer vehicles to be stored on site during construction of the internal road. DEP recommends that the applicant provide detailed plans for each construction phase that demonstrates adequate space is available for these activities.

(New York City Department of Environmental Protection, 3/23/15, letter)

Response O7:

Estimated cuts/fills were provided for each construction phase, as shown in the DEIS. The DEIS analysis indicated that the amount of material export from the site would be 19,072 cubic yards or less (see DEIS Table III.D-8). However, for the FEIS proposed action plan, the site grading has been revised to accommodate a more balanced situation for the project. This will reduce the export material amount from the site from that provided in the DEIS. More detailed and final site cut/fill calculations and phasing similar to the DEIS will be performed during site plan process. Topsoil and subsoil will be stored separately on site (see Response F18). Short term and long term erosion and sediment control measures, including soil stabilization and staging areas for equipment and vehicles, are described in the SWPPP (See FEIS Appendix D).

Comment O8:

I do hope the Town is commissioning independent studies however and not relying on the developer.

(Letter #14 Matthew Searles, 4/15/15)

Response O8:

The Town Board has been engaged in a thorough and rigorous SEQRA review process in compliance with all applicable laws and regulations, and has been assisted by highly qualified professional staff, and expert consultants engaged by the Town at the Applicant's expense. This includes Woodard & Curran, Tim Miller Associates, TRC and CityScape. As is the case with any environmental impact statement, certain estimates must necessarily be based on the best information that is available before the action being studied is actually built and operating. A DEIS

prepared by an applicant is expected to reflect the applicant’s views, and is typically characterized as “the applicant’s document.” However, under Section 617.9(b)(8) of the SEQRA regulations, “the lead agency is responsible for the adequacy and accuracy of the final EIS, regardless of who prepares it.” This FEIS is therefore the Town Board’s document.

Comment O9:

I understand the influence that these developers have but their motive is purely for profit. They could care less if they leave the Town in a difficult position – making Somers resemble Route 6 in Mahopac.

(Letter #14 Matthew Searles, 4/15/15)

Somers is a great place. Allowing this development is a mistake.

(Letter #14 Matthew Searles, 4/15/15)

Response O9:

Comments noted.

Comment O10:

The overall question to be answered by the Final Environmental Impact Statement is whether the two proposed developments on this property, removing 1067 trees and encroaching on wetlands and buffers, can be done within the existing environmental and planning regulations of the Town of Somers.

(Letter #11, League of Women Voters of Somers, 4/10/15)

Response O10:

The purpose of the SEQR process is for the lead agency to review and balance potential significant adverse impacts with the various aspects of the development proposal, all within the context of the Town Comprehensive Plan and other objectives of the town. At the end of the process, the lead agency will arrive at a Findings Statement, summarizing those conclusions. The town is reviewing the process as it proceeds to ensure it is within the “planning regulations of the Town”.

Comment O11:

This particular development looked at the possibility of actually starting with solar versus retrofitting solar after the development. We are a member of the Economic Improvement Committee, and that's basically an organization that puts together funding for renewable energy and for solar projects. It's very attractive. It's very competitive, and they are prepared to actually sit down with you and possibly talk about that kind of capability in the development. So that's my only comment, is to consider the use of renewable energy as part of the development project.

(Mike Bloom, hearing transcript #2, p. 4)

I just want to echo Mr. Bloom's comment about alternative energy sources, solar. You know, you have a 19,000 square foot building that you're building, presumably with roof space that you may want to explore, you know, putting some solar panels or some type of renewable energy.

(Rick Morrissey, hearing transcript #2, p. 14)

Response O11:

Geothermal is proposed for the heating systems in the residences. (See Responses D39, K3). Solar power has not been investigated for this project, but could be reviewed as a possibility during the site plan and building permit process. As these proposed connections and improvements will affect the site plan of the Towne Centre, and coordination of such will be resolved during site plan review.

APPENDIX

(PROVIDED ELECTRONICALLY ON CD)