

**STATEMENT OF FINDINGS
ISSUED BY
TOWN OF SOMERS TOWN BOARD**

**PURSUANT TO
THE NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT**

**Boniello Land & Realty, Ltd.
Application for Zone Change to Establish a Multifamily Residence Downtown
Hamlet MFR-DH Zoning District and Map It on Tax Lot 17.15-1-15.1 to Facilitate
the Somers Crossing Development
Town of Somers, Westchester County, New York**

Adopted: June 9, 2016

This Statement of Findings is issued pursuant to the New York State Environmental Quality Review Act -- Article 8 of the New York Environmental Conservation Law and its implementing regulations at 6NYCRR Part 617 (collectively referred to herein as "SEQRA" or "SEQR"), and Town of Somers Chapter 92, Environmental Quality Review.

The Town of Somers Town Board ("Town Board"), as the Lead Agency, makes these findings in connection with the project sponsor's application for approval of a zoning map and text change that would facilitate the mixed use site development known as Somers Crossing (the "Project" or "Proposed Action"). This Statement contains a summary of the Proposed Action, summarizes the facts and conclusions in the SEQR record relied upon by the Lead Agency, and includes further conclusions based on the SEQR record to consider and balance the relevant environmental impacts with "social, economic and other considerations" [6NYCRR 617.11(d)] which form the basis for the Lead Agency's decisions.

Name of Action:	Somers Crossing - Application to Establish a Multi-family Residence Downtown Hamlet (MFR-DH) Zoning District
Project Sponsor:	Boniello Land & Realty, Ltd.
Location:	NYS Route 100 (307 Route 100) & US Route 202, Town of Somers, Westchester County, NY
Tax Parcel:	SBL 17.15-1-15.1
SEQRA Classification:	Type 1 Action
Lead Agency:	Town of Somers Town Board

Brief Description of Action: The project is a Petition requesting Amendment to the Town Code [§170-13 MFR] to create a new Multifamily Residence Downtown Hamlet (MFR-DH) District Floating Zone [§170-13C] with consideration of its application to a specific site. The proposed floating zone would be applicable to any property located within 2,500 feet of the intersection of NYS Route 100 and US Route 202. The purpose of the proposed district is to encourage the creation of mixed uses in the Somers hamlet area and enhance the uses in the downtown. All uses within the proposed district would be required to be within an existing, expanded or new

sanitary sewer district, capable of being served with a central water system and convenient access to shopping, major road and community facilities and services.

Once enacted the MFR-DH district regulations would be applied to a 26.68-acre property. The Applicant's current proposal includes development of 66 multifamily residential units accessed from Route 100, a 19,000 sf neighborhood grocery store accessed from Route 202, preservation of permanent open space, and certain off-site improvements in the Somers Hamlet. The subject parcel has wetland and steep slope constraints and is located within a Groundwater Protection Overlay District. The property is currently zoned R-40 and R-80 Residence District. The Proposed Action would extend the Heritage Hills utility service districts for water and sewer services to include the site.

Summary of Discretionary Approvals

The following permits and approvals will be required to implement the proposed zoning action and subsequent site development. The listed "involved agencies" were included in the distributions of SEQRA documents for the Proposed Action, as were known "interested parties."

<u>Involved Agency</u>	<u>Permits / Approvals</u>
Somers Town Board	Creation of Multifamily Residence Downtown Hamlet (MFR-DH) zoning district – text change Rezoning to new MFR-DH district – map change 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 ¹ Tree Removal Permit Local Wetland Permit Steep Slope Permit (if required) Stormwater Management and Erosion and Sediment Control Permit
Westchester County Department of Health (WCDOH)	Water Extension Permit Sewer Extension Permit
New York City Department of Environmental Protection (NYCDEP)	Stormwater Pollution Prevention Plan Sanitary Sewer extension

¹ Subdivision is not proposed in the EIS but is listed as a possible future action.

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 Permits: US Route 202 and NYS Route 100 US Route 202 and NYS Route 116 US Route 202 and Heritage Hills Driveway/Proposed Site Driveway NY Route 100 and Proposed Site Driveway
US Army Corps of Engineers (ACOE)	Nationwide Permit for limited temporary utility installation ESA (Endangered Species Act) determination

Procedural History

In accordance with SEQRA, the following steps of the environmental review process have been undertaken:

- Upon receipt of the Project Sponsor’s Petition and proposed conceptual plan², the Town of Somers Town Board circulated its Letter of Intent to be Lead Agency on or about May 10, 2013;
- Having received no objection, the Town Board assumed Lead Agency status on July 11, 2013, and made a Determination / Positive Declaration requiring the preparation of a Draft Environmental Impact Statement (DEIS) on August 1, 2013, whereupon a Notice of Public Scoping Session was filed;
- A public Scoping session was held on September 12, continued on September 24, and October 3, 2013, and a Scope for the DEIS was adopted on October 10, 2013;
- Upon receipt of the Project Sponsor’s Amended Petition and revised conceptual plan³, the Lead Agency adopted an amended Scope for the DEIS on February 20, 2014;

² The initial conceptual plan accompanying the Petition proposed 60 townhouse-style dwelling units, 19,000 square foot grocery store, and 75-bed memory care facility.

- A DEIS, prepared by the Project Sponsor and reviewed and revised by the Lead Agency and its consultants, was accepted for public review on February 12, 2015;
- A Notice of Completion and Public Hearing and the accepted DEIS (dated last revised January 28, 2015) were duly filed and circulated;
- A Public Hearing on the DEIS and associated development Concept Plan; and proposed zoning text amendment and mapping was held by the Lead Agency on March 5, 2015 and April 9, 2015, at which time the hearing on the DEIS was closed;
- A review and comment period was afforded the public until April 20, 2015;
- A Final Environmental Impact Statement (FEIS) (which incorporated the Draft EIS by reference), prepared by the Project Sponsor and reviewed and revised by the Lead Agency and its consultants, was accepted for public review on March 10, 2016;
- A Notice of Completion and the accepted FEIS were duly filed and circulated;
- A Revised FEIS (which incorporated a DEIS comment letter not previously received), prepared by the Project Sponsor and reviewed by the Lead Agency and its consultants, was accepted for public review on April 7, 2016;
- A Notice of Completion and the accepted Revised FEIS (dated last revised April 7, 2016) were duly filed and circulated; and,
- A review period on the Revised FEIS⁴ was afforded the public for more than the requisite 10 calendar days prior to the consideration and adoption of this Findings Statement by the Lead Agency.

I. The Development Concept Plan

Enactment of the MFR-DH district regulation would then allow its application to the subject site. The initial Concept Plan accompanying the Applicant's Petition proposed 60 townhouse-style dwelling units, a 19,000 square foot grocery store, a 75-bed memory care facility, and open space. Subsequent to the adoption of a Scope for the DEIS, the Applicant submitted a revised Concept Plan and accompanying amended Petition, for which the Lead Agency adopted an amended Scope for the DEIS. The revised Concept Plan evaluated in the DEIS proposed 80 townhouse-style dwelling units, a 19,000 square foot grocery store and open space (and removed the memory care facility).

In response to comments received during review of the DEIS and the preliminary development Concept Plan described therein, the Concept Plan was modified. The revised Concept Plan

³ The revised conceptual plan accompanying the amended Petition proposed 80 townhouse-style dwelling units, open space and 19,000 square foot grocery store (and removed the memory care facility). This is the plan evaluated in the DEIS.

⁴ The Revised FEIS is hereinafter referred to as the FEIS.

presented in the FEIS incorporates a number of aspects of the alternatives presented in the DEIS. The revised Concept Plan incorporates these key revisions:

- The total number of market rate residential units proposed has been reduced to 66 (30 three-bedroom units and 36 two-bedroom units) from the 80 units.
- One of the residential units is to be built fully accessible for a special needs resident. The Applicant proposes to donate one two-bedroom unit to the Town (or designated non-profit sponsor or charity). The selection process for the resident(s) and management of future maintenance of this unit are both to be determined by the Somers Town Board. No affordable units which would affirmatively further fair housing (AFFH) as defined by Westchester County are proposed nor are any that necessarily meet requirements of Article XIA Affordable Housing of the Chapter 170 Zoning of the Somers Town Code nor are they required by the proposed MFR-DH District.
- The grocery store has been repositioned closer to Route 202, and farther from the wetland buffer, and the parking layout has been revised.
- Road connections have been added from the grocery store to the adjacent shopping center and from the residential component of the Project to the shopping center, allowing direct access between these uses for vehicles and pedestrians.
- The Route 202 access via a traffic signal will be configured opposite Heritage Hills Drive and will have an interconnection to the Towne Centre shopping center.
- The proposed stormwater management system has been modified through replacement of the formerly proposed infiltration basin No. 4 and bioretention filter with three new subsurface infiltration practices in the southern portion of the project. One additional subsurface infiltration practice is proposed in the northern portion of the project.
- Changes to the proposed stormwater management system have resulted in revisions to the phosphorus loading analysis that now calculate a net reduction in site phosphorus effluent of 1.23 lbs/year compared to predevelopment conditions.
- A recreation facility for use by Project residents has been added to the Concept Plan -- a 2,000 sf recreation building on approximately 0.5 acre. The Applicant will also pay a Recreation Fee to the Town calculated for 65 multifamily residential units.
- Site grading in the FEIS plan has been revised to create more balanced earthwork (reduced cuts and fills) which will reduce the amount of export material necessary to implement the Project from the DEIS plan. Further refinements may be possible during site plan review.
- Geothermal technologies are proposed to be installed for heating and cooling the residential units rather than fossil fuel consuming equipment.

- The Applicant proposes a sidewalk along the Route 202 frontage of the site to serve the store and pedestrians in the hamlet in general. The Applicant also offers land along the Route 100 frontage for dedication to NY State to provide for a possible future sidewalk, if required.⁵
- The Applicant additionally proposes a number of off-site improvements to provide benefits to the community. (These Community Benefits are highlighted below.)

The Applicant is offering a donation to the Town (or town designated charity or non-profit sponsor) of one complete 2-bedroom 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. This is offered instead of a conventional "affordable" component to the project as defined by Article XIA Affordable Housing of the Chapter 170 Zoning of the Somers Town Code. The FEIS cites the Town's recent update of its Comprehensive Plan (the November 2015 draft of the adopted Update), acknowledging the Town's record in providing affordable housing in both approved and proposed developments, accounting for 22 percent of the 750 unit total Westchester County Housing Settlement number for the County, in addition to a significant number of affordable units in conformance with the requirements of the Town's own Affordable Housing Code as stated above. The DEIS evaluates two alternatives that would provide affordable housing on the subject Site (DEIS Alternatives B.3. and B.4).

The Project will incorporate landscape elements intended to visually complement the historic context of the Somers Hamlet.

Community Benefits Proposed by the Applicant

The Applicant's Project Proposal is to build a multifamily townhouse development to be marketed as condominiums rather than as fee simple units. Since a condominium development will generate less annual tax revenue to the Town than would a fee-simple development, the revised Project Proposal presented in the FEIS includes a number of off-site improvements proposed to be implemented by the Applicant explicitly for the benefit of the Town of Somers, which will be the subject of a separate community benefit agreement between the Town and the Applicant. It is the Applicant's intent that such benefits provided upfront will provide infrastructure improvements sought by the Town that might otherwise have been provided by the Town and funded through the long term provision of additional project generated tax revenue.

The following Community Benefits are proposed in the revised project proposal as identified in the FEIS (citing the Applicant's estimate of value):

⁵ It is the Applicant's understanding from a meeting with NYSDOT that the Town intends to inform the NYSDOT that a sidewalk is not desired along the Route 100 frontage, and request that it not be required.

- Recreation Facility - total \$715,000
 - 0.5 acre lot (land cost), Recreation Building, Interior amenities (gym equip, furniture, kitchen, etc.), Playground, Utility connections, Architecture, engineering, landscape, etc. Recreation Facility
- Sidewalks - \$242,400 (As depicted in FEIS Figure I-6)
 - Route 100 - From Towne Centre entry drive, north and west around Bailey Park (A)
 - Route 202 - Site frontage (B)
 - Route 202 - From Site west to Fireman's Field (C)
 - Route 202 - From Fireman's Field west to School property (D)
- Land dedication for the project length along Route 100 to NY State (for future sidewalk, if required⁵) - \$57,750
- Donation of one unit (for special needs/town resident) - \$700,000
- Pave gravel parking lot at Somers Fire House on the south side of Route 202 (approx. 65' x 120') - \$120,000
- Install Sewer and Water line stubs on the Project Site to the property lines (allowing future access to adjacent parcels to the south and west, including Towne Centre) - \$30,000

In addition to the above amenity package, the Applicant will pay to the Town the standard required Recreation Fee for 65 multifamily residential units, \$575,000, in addition to provision of an on-site Recreation Facility on 0.5 acre and common passive open space (10.58 acres) with a trail.

II. Summary of Project Alternatives

The following alternatives were evaluated in the DEIS.

- A. **No-Action** – The No Action alternative assumes the Site would remain in its existing condition with no site improvements or development of any kind and with its existing zoning designation. None of the negative impacts, or benefits, of the proposed development would occur.
- B. **1. Development with Existing Zoning (Residential R-80 and R-40)** – A conventional layout of a single family residential subdivision would yield 10 to 12 lots on the Site, with individual wells and septic systems. This alternative includes no common open space or grocery store.

- B. 2. A Non-Floating Mixed Use Downtown Hamlet District – A non-floating MFR-DH zone applied only to the Site would achieve the same development plan and respective impacts as the proposed floating zone.
- B. 3. Affordable Housing in MFR-DH - The DEIS evaluates an alternative 92-unit plan with 12 affordable units and 80 market rate units, plus the grocery store. The impacts of this plan would not differ significantly from the Proposed Action.
- B. 4. Affordable Housing Based on Existing Regulations - This alternative applies the MFR-H floating district regulations to the entire Site for 109 total multifamily condominium units, (of which 24 are affordable and 85 are market rate units), utilizing available central sewer and water. A grocery store is not permitted in MFR-H, so it is not part of this alternative. . If this alternative applied the existing R-80/R-40 single family district requirements, it would reflect the Alternative B.1. plan and have at least one affordable housing unit.
- C. 1. Grocery Store with Minimum Setback and Parking in Rear - This alternative places the grocery store near the street (Route 202). Compared to the DEIS Proposed Action, this alternative would have approximately the same impacts, except visually, it is more characteristic of the hamlet setting along Route 202.
- C. 2. Clustering of Groups of Residential Units in New Urbanist Pattern – This alternative shows a representative clustered layout of residential units with emphasis on a pedestrian scale setting. Units are closer to the road, sidewalks added, smaller front yards with front porches, and alleys for vehicular access to rear garages of the townhomes. This plan results in more pavement than the Proposed Action.
- C. 3. Additional Buffering Along Route 100 - This alternative adds denser landscaping to the Proposed Plan in the 75-foot front yard to reduce potential visual impacts along Route 100.
- C. 4. Reduced Length of Loop Road for Multifamily Residential - This alternative depicts a reduced amount of internal roadways in the residential component by using cul-de-sac roads.
- D. Proposed Project with Fewer than 80 Residential Units, with Grocery Store - This plan reflects the proposed project layout with 72 units spread further apart. This plan reflects the same site-related impacts as the Proposed Action but with fewer impacts that relate to the project population.
- E. Alternative Area of Applicability for the MFR-DH Floating District - This alternative applies the proposed MFR-DH to areas other than a 2,500 foot radius from the intersection of Routes 100 and 202.

- F. Evaluation of Use of Existing Shopping Center Entrance/Exit – Connections between the Somers Crossing grocery store, Somers Crossing residential community and existing Towne Centre would improve access to/from US Route 202 and NYS Route 100 for both Somers Crossing and Towne Centre, improve internal circulation between the parcels, and reduce traffic on the area roadways and at the driveways.
- G. Alternative Site Hydrology Analysis - Utilizing Northeast Regional Climate Center (NRCC) precipitation data as the basis for site hydrologic analysis in lieu of precipitation depths specified by the NYSDEC Stormwater Management Design Manual, latest edition, and considering the resulting peak runoff flows and volumes for the design of stormwater water quality, all stormwater management facilities would be subject to increased inflows, high water elevations, storage volumes and peak outflows.

The revised Concept Plan presented in the FEIS incorporates a number of aspects of the alternatives presented in the DEIS: relocation of the grocery store from Alternative C.1.; use of cul-de-sacs from Alternative C.4.; reduced number of residential units from Alternative D; and connections to the shopping center presented in Alternative F.

III. Summary of Findings and Basis for Conclusions

This Findings Statement attests to the fact that the Lead Agency has complied with all of the applicable procedural requirements of Part 617 and has given due consideration to the DEIS, FEIS, and information derived from the public hearing and comments received during the course of the environmental review process (collectively referred to as “the SEQR Record”) in reviewing this action. These Findings also acknowledge that the Lead Agency has given due consideration to the letters received from the following agencies with comments on the FEIS.

- Westchester County Planning Board, dated March 22, 2016
- New York City Department of Environmental Protection, dated April 6, 2016
- Ira Allen, received April 6, 2016 (undated)
- Riverkeeper, received April 7, 2016 (undated)
- Westchester County Planning Board, dated April 18, 2016
- Watershed Inspector General, April 20, 2016
- New York City Department of Environmental Protection, dated April 27, 2016

Pursuant to Article 8 (SEQRA) of the Environmental Conservation Law and 6NYCRR Part 617, the Town of Somers Town Board makes the following findings. The DEIS and FEIS identified and evaluated potential environmental impacts of the Proposed Action and measures to avoid or minimize the potential impacts to the maximum extent practicable. The Lead Agency has considered the potential environmental impacts of the Proposed Action along with the mitigation

measures identified in the impact statements, as summarized below, in making its findings of facts and conclusions regarding the Proposed Action.

A. LAND USE AND ZONING

1. Land Use

The Site is currently undeveloped forested land. Immediately surrounding land uses include the Somers Towne Centre neighborhood shopping center to the north and east, vacant land to the west and NYS Police Barracks to the south, with a mix of uses in the general area: apartment, townhouse, and single family residential, office, public/quasi-public (including town hall and fire house), and retail.

Implementation of the proposed Concept Plan would change the land use on the site from vacant land to a residential community on the southern portion and a neighborhood grocery store on the northern portion. The uses in the Proposed Action and the scale of development are consistent with and complement existing surrounding land uses in the Somers hamlet. The Proposed Action is generally consistent with local and county planning objectives. Although the Project will not contribute significantly to the Town's obligation to provide affordable housing, the Town Board recognizes the Town's ongoing record in providing affordable housing as described above (Section I, The Development Concept Plan). The Project will add multi-family housing and a grocery store to the hamlet in a location that is readily accessible (including by foot) to other hamlet uses.

The addition of a neighborhood grocery store, in particular, is seen as a significant benefit to the hamlet which does not currently have a grocery store to serve surrounding residential uses, including the Heritage Hills development.

An existing easement in favor of the Somers Crossing property permits ingress, egress and access across the common areas on the Towne Centre property. As such, the proposed Concept Plan includes vehicular and pedestrian connections between the two properties (from residential component and grocery store) that will enhance connectivity of uses. These connections will be designed to provide separation between vehicles and pedestrians and cyclists (e.g. curb, sidewalk, pavement materials) for pedestrian safety, and will affect the site plan of the Towne Centre.

The Proposed Action also includes off-site improvements to install sidewalks on portions of Route 100 and Route 202 that will further enhance pedestrian connectivity of uses in the hamlet.

The DEIS outlines various objectives and recommended policies from the 1994 Town Comprehensive Master Plan that are relevant to the Proposed Action, and highlights several that

are particularly relevant to the proposal. More importantly, since acceptance and distribution of the DEIS, the Town Board adopted a new Town of Somers Comprehensive Plan Update on February 13, 2016. The following objectives of the newly adopted Comprehensive Plan Update relate to the Applicant's proposed plan:

- Under Goal #1 – Promote the highest quality of life for Town residents
 - Create new and enhance existing gateways to Somers to provide a sense of place and identity
 - Provide for a range of housing types and area facilities, including affordable options
 - Preserve and enhance local commercial opportunities that serve the needs of Somers' residents
- Under Goal #2 -- Pursue the best possible environmental quality, promoting sustainable development and redevelopment through the use of low impact development, smart growth techniques and provision of access to alternative renewal energy sources
 - Promote alternatives to private car use to improve air quality and reduce the use of combustible fuels
 - Pursue the use of more sustainable and cost-effective technology in infrastructure and utility systems, promoting waste reduction and reduction of energy use
 - For Town and school facilities and residences and businesses, review and promote respectively, opportunities to improve energy efficiency through the use of energy efficient lighting and alternative energy sources, including solar energy, combined heat and power, geothermal, biofuels and micro-grid technology.
- Under Goal #3 -- Enhance the Economic Base
 - Adjust zoning as needed and develop design guidelines for existing and proposed commercial areas and development, including the north side of Route 6 to foster coordinated redevelopment
- Under Goal #7 -- Promote multimodal means of transportation to provide safe and efficient circulation for pedestrians, bicycles and vehicles
 - Foster pedestrian/biking activities and networks
 - Minimize curb cuts between adjoining commercial uses with linked and limited access to parking areas
 - Provide sidewalks wherever feasible

The Town Board determines and finds, based on the above information, that the planning objectives of the proposed plan for the site are consistent with the goals and objectives of the Town of Somers Comprehensive Plan Update of February 13, 2016 and will result in no significant adverse impact to Land Use.

2. Zoning

The Site is currently zoned for residential use in the R-40 and R-80 districts, and is within the limits of the Somers Groundwater Protection Overlay District (GPOD). Adjacent and surrounding land is zoned NS Neighborhood Shopping, R-80 and R-40 Residential, DRD Designed Residential Overlay, B-HP Business Historic Preservation and OB-100 Office Business.

The Applicant proposes an amendment to the Town of Somers Zoning Code to add a new Multifamily Residence floating district called Downtown Hamlet (MFR-DH) which would be applicable to the subject parcel and potentially other parcels in the hamlet. With the proposed MFR-DH floating district applied, the Site could allow a neighborhood retail use up to 25,000 square feet in size, and up to 80 multifamily residential units to a basic average gross density not exceeding two density units per acre of net land area, based on a formula in the Code that determines potential yield while accounting for environmentally sensitive land. The Applicant's development Concept Plan proposes to build 66 total condominiums (65 market rate units and one special needs unit) targeted to and designed for empty nesters and professional couples, a \pm 19,000 square foot grocery store, and preserve over 10 acres of natural open space in the Somers hamlet.

The proposed MFR-DH floating zone closely resembles the two existing MFR districts, keeping the permitted residential density at a scale that conforms to the Town's Comprehensive Plan and many of the objectives of the other MFR districts, and is in harmony with much of the development in the immediate vicinity.

The MFR-DH requires the same setbacks as the other MFR districts, i.e. the MFR-H Multifamily Residence Hamlet District and the MFR-BP Multifamily Residence Baldwin Place District. As in those districts, a setback of 100 feet is required on those frontages that are adjacent to residentially zoned districts as opposed to the otherwise required 75 feet from any street line, and 50 feet from any other lot line. Also, as in those districts, a minimum 100 foot setback is required when there is a common property line shared with land in an adjoining single-family residence district. Since the Applicant's plan proposes 50 foot setbacks on the south where the State Police barracks exists on R-80 zoned land and on the west where wetlands and open space exist in R-80 zoned land, the Applicant will request the Planning Board, during site plan review, to permit a reduction in these setback requirements as allowed for in Section 170-13 A.(8) (a) of the Zoning Code. The Town Board determines that reduction of these setbacks will not result in any significant impact to land use or zoning.

Based on the above, it is the determination and finding of the Town Board that no significant impacts to land use and zoning are anticipated from amendment of the zoning code by addition

of the MFR-DH district to Section 170-13 Multifamily Residence MFR Districts and rezoning to and mapping of the subject of the Site to the MFR-DH district.

The DEIS evaluates the study area for other sites that may be eligible for application of the proposed MFR-DH floating zone and identifies one potential site that is presently developed in retail use which might be expanded. However, since the underlying zone is the B-HP district, this site would not otherwise be eligible for mapping of the MFR-DH district. The FEIS describes the advantages to the Town of adopting the new DH district rather than rezoning the northern portion of the property to NS Neighborhood Shopping similar to the adjacent zoning district and rezoning the southern portion to MFR-H. In this scenario, the proposed grocery store would not meet the building footprint regulations of the NS district and a substantial zoning variance would be required. The DEIS points out that if the Project Site was developed with single-family homes in accordance with the existing zoning (R-40 and R-80) in a conventional subdivision layout, the resulting character would not be consistent with surrounding commercial, office, municipal, and cultural uses in the hamlet.

The Town Board determines and finds, based on the above information, that no other hamlet sites would be significantly impacted by creation of the MFR-DH district and creation and mapping of this district on the subject site is the best zoning alternative for implementation of the proposed project and will result in no significant adverse impact to Zoning.

B. TOPOGRAPHY, SLOPES, SOILS & GEOLOGY

The general topography of the Site and adjacent land to the south and west is lower than Route 100 and Route 202, sloping toward a State wetland which continues off-site to the west. Surface water flows generally from the east side of the Site to the west toward the wetland. There are no special topographic features on the Site, and no rock outcroppings.

The majority of Site area falls within non-regulated slopes in the category of 0 to 15 percent. A small portion of the Site contains regulated slopes in the category of 15 to 25 percent. There are no regulated slopes above 25 percent located on the property. Impacts to topography would occur with the construction of the proposed Concept Plan. Total project disturbance is quantified on the Preliminary Grading Plan in the FEIS as 15.6 acres. The Preliminary Grading Plan confirms the majority of planned site disturbance will occur within non-regulated slope areas. Approximately 1.5 acres of planned site disturbance will occur within Town regulated steep slope areas in the 15 to 25 percent category.

The project layout will create new steep slope areas in some instances such as: roadway embankments, stormwater treatment basin embankments and general site grading around building units. Appropriate stabilization measures will be required for created steep slope areas

where, if no mitigation were provided, there is potential for soil erosion and sediment transport to receiving waters, slope failure and undermining of structural foundations.

Project development activities will result in a significant volume of earthwork. In the DEIS, earthwork is estimated to include 88,818 cubic yards (cy) of cut and 53,506 cy of fill, for an overall excess cut of 19,072 cy to be removed from the Site via truck hauling over a 24-36 month phased construction sequence. Proposed imported fill is identified as 6,740 cy in the DEIS. Site grading in the FEIS plan has been revised to create more balanced earthwork (reduced cuts and fills) which will reduce the amount of export material necessary to implement the Project compared to the DEIS plan. Further refinements of project earthwork will be investigated during the site plan application review. No blasting for rock removal is proposed.

Historical evaluations undertaken at the Site were reviewed and recertified by the Applicant's Engineer for consideration as part of the current project proposal, as described in the DEIS. This certification includes but is not limited to reported geotechnical soil parameters, foundation requirements, Phase I Environmental Site Assessment Data, and a Hydrogeologic Assessment of site conditions. Locations of historical test pit excavations are shown on the Preliminary Grading Plan.

The potential impact to topography and slopes from soil erosion and sedimentation will be mitigated by stabilization during construction, on-site permanent stormwater practices, seeding/mulching, monitoring after storm events, and implementation of a detailed Soil Erosion and Sediment Control Plan. A detailed Erosion and Sediment Control Plan is required to be a part of the project-specific Stormwater Pollution Prevention Plan (SWPPP). A draft of the project SWPPP that included a preliminary Erosion & Sediment Control Plan was prepared as part of the DEIS. Key components of the preliminary erosion and sediment control plan that will mitigate potential project impacts include but are not limited to:

- Erosion and sediment control plan specifications prepared in accordance with all applicable regulations, standards and guidance documents, including Westchester County's *Best Management Practices Manual for Erosion and Sediment Control* (1991), NYSDEC *New York State Standards and Specifications for Erosion and Sediment Control* (2005) and the NYSDEC *SPDES General Permit for Stormwater Discharges from Construction Activity* (GP-0-15-002).
- Consideration of Hydrologic Soil Groups for Site soils obtained from USDA Natural Resources Conservation Service Soil Survey Maps.
- Implementation of standard erosion and sediment control practices such as silt fence, stabilized construction entrances, sediment traps, drain inlet protection, temporary swales, water bars and land grading controls during the construction period.

- Provisions for inspection and maintenance of all planned erosion and sediment control practices throughout construction to acceptance of Final Stabilization.
- Requirement of weekly erosion and sediment control site inspections by a Qualified Inspector as defined by the NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-15-002).
- Requirement for inactive site areas to receive temporary stabilization where work has not occurred within the previous seven day period.
- Provision for dust control during construction.
- Preparation of a land disturbance phasing plan that maintains no greater than 5 acres of land area to be disturbed at any one time.
- Provision for Soil Restoration as part of Final Site Stabilization consistent with the specifications in the NYSDEC *Stormwater Management Design Manual*, latest edition.

Details of the SWPPP and associated Erosion and Sediment Control plan will be further refined as overall project design development continues during the Site Plan Application review for the Somers Crossing Site. Plan documents will be available for public review at public hearings required as part of the Planning Board Site Plan Application process.

Created steep slope areas will be required to be stabilized by appropriate methods. One alternative to large cut slopes would be to install retaining walls to reduce the area of slope disturbance. Rolled erosion control product or other structural measure will be required on all created slopes steeper than 3:1 (horizontal:vertical). Proposed steep slope stabilization practices will be further assessed during the Site Plan Application process, specifically investigating alternative methods for the cut area along the Route 100 site frontage. Enhanced requirements for stabilization of regulated steep slope areas will be considered as determined necessary for issuance of a Steep Slopes Slope Protection Permit consistent with the requirements of Town Code §148.

The Applicant proposes to delineate the onsite area suspected to contain colloidal soils during construction that are located in the southern portion of the Site. Colloidal soils will be excavated and removed from the Site during construction. Provisions for enhanced erosion and sediment controls during removal of suspected colloidal soils will be required as part of the final SWPPP developed during the Site Plan Application process. These enhanced measures will include but are not limited to containment, stabilization of disturbed area at the end of each construction day, limitation of excavation to dry weather conditions and redundant installation of silt fence/hay bales.

The Town Board determines and finds that implementation of all the above required techniques and mitigation measures will mitigate potential impacts to the maximum extent practicable and will result in no significant impact to topography, slopes, soils and geology.

C. SURFACE AND GROUND WATER RESOURCES

1. Surface Water and Stormwater Management

The Site drains to the Muscoot Reservoir (a Phosphorus Restricted Reservoir) via Brown Brook, which flows from north to south through NYSDEC Freshwater Wetland F-1 located to the west of the Site. Brown Brook is a NYSDEC regulated Class C(t) stream, capable of supporting trout populations, but not trout spawning. Two wetland areas on the Site, identified as Wetland A and Wetland C, are hydraulically connected to the same larger wetland that is mostly off-site to the west. FEMA floodplain limits for the 100- and 500-year storm events extend onto the western portion of the Site.

Potential impacts to surface water resources posed by the proposed project development include increased peak rates of stormwater discharge from the site. The FEIS document indicates that the proposed development will result in approximately 7.75 acres of new impervious surfaces. Appropriate stormwater management practices will be required where, if no mitigation were provided, there is potential for increased peak rates of stormwater runoff, increased erosion and flooding of downstream waters, and reduction in surface water quality. Any increase of water temperature in the downstream receiving Brown Brook is another potential water quality impact that was required to be evaluated for potential impact on trout populations in the NYSDEC protected watercourse.

Phosphorus effluent found in stormwater runoff from the Site is a key pollutant of concern. The downstream receiving Muscoot Reservoir is regulated as a Total Maximum Daily Load (TMDL) waterbody for Phosphorus concentration. Enhanced mitigation for phosphorus effluent in stormwater runoff is required within the reservoir watershed as specified by the NYSDEC SPDES General Permit (GP-0-15-002).

Potential project impacts to surface water are mitigated primarily through development of the project Stormwater Pollution Prevention Plan (SWPPP). A preliminary SWPPP was prepared for the DEIS and updated in the FEIS and is subject to meeting the requirements set forth in the following regulatory documents:

- New York State Department of Environmental Conservation (NYSDEC) “*Stormwater Management Design Manual*”, dated January 2015.

- New York State Department of Environmental Conservation (NYSDEC) "*New York State Standards and Specifications for Erosion and Sediment Control*", dated August 2005.
- New York City Department of Environmental Protection (NYCDEP) "*Rules and Regulations for the Protection from Contamination, Degradation and Pollution of the New York City Water Supply and its Sources*", dated April 2010.
- New York City Department of Environmental Protection (NYCDEP) "*Applicant's Guide to Stormwater Pollution Prevention Plans and Crossing, Piping or Diversion Permits*"
- New York State Department of Environmental Conservation (NYSDEC) "*SPDES General Permit for Construction Discharges (GP-0-15-002)*."
- Somers Town Code: Chapter 93 "Stormwater Management and Erosion and Sediment Control".

In accordance with regulatory requirements, pre- and post-development rates of stormwater runoff have been computed for comparison for the 1, 2, 10, 25, 50 and 100 year storm events using Type III, 24-hour rainfall events, considering local published precipitation data obtained from the Northeast Regional Climate Center (NRCC) for the Somers Crossing Site. Use of NRCC data in hydrologic site analysis is permitted by NYSDEC as part of an acceptable stormwater pollution prevention plan and was required to be evaluated under DEIS Alternative G, as prescribed by the DEIS Scoping Document.

The proposed stormwater design changed significantly on the FEIS plan from the system considered on the DEIS plan. Based on 2015 soil testing results, Infiltration Basin No. 4 and Bioretention Filter Area No. 1 have been eliminated on the revised drawings for the FEIS submittal and Subsurface Infiltration Systems No. 2, 4 & 5 are proposed at the former practice locations. The size and alignment of proposed Infiltration System No. 1 has been shifted north based upon the revised development layout. In addition, the Subsurface infiltration System previously shown in the Grocery Store parking lot, has been split into two separate Subsurface Infiltration Systems, identified as systems No. 7 and No. 8 on the FEIS Preliminary Grading Plan. The stormwater system modifications were implemented following reduction of the overall development plan undertaken in the FEIS, favorable stormwater practice site feasibility testing results and to provide an increased degree of stormwater attenuation.

Consistent with required design criteria, the updated SWPPP document demonstrates that:

- All proposed stormwater management practices have been sized for water quality treatment of runoff from the 1 year design storm as the controlling design criteria.
- Required Runoff Reduction Volume (RRv) and Channel Protection Volume (CPv) attenuation may be provided through construction of stormwater infiltration practices that

provide Water Quality Treatment in accordance with the NYSDEC *Stormwater Management Design Manual*.

- Peak rates of stormwater runoff calculated to be reaching the identified hydrologic design line under the post development condition have been determined to be equal to or less than such rates calculated under the predevelopment condition.

Initial feasibility testing was completed for the stormwater management practices being designed for the Somers Crossing Site. Test pit excavations witnessed by representatives of the Consulting Town Engineer and NYCDEP were completed by the Applicant in July 2015. Subsequent to the preparation of the FEIS, further on-site infiltration testing for proposed stormwater infiltration practice areas was completed by the Applicant in May 2016 and witnessed by representatives of the Consulting Town Engineer and NYCDEP. Results of these stormwater feasibility investigations are being considered by the Applicant as the basis for the final stormwater management system design and demonstrate compliance with practice feasibility requirements specified in the NYSDEC *Stormwater Management Design Manual*.

All proposed stormwater management practices have been designed to discharge excess stormwater beyond practice storage capacities at stabilized dissipation outlets located along the western portion of the site limits. Stabilized dissipation outlets consist of rock outlet aprons and level spreaders that are required to be sized considering runoff rates from the 100 year design storm and following technical construction specifications of the *New York State Standards and Specifications for Erosion and Sediment Control*. Details of the proposed stabilized outlet practices will be finalized during the Site Plan review process, prior to acceptance of the final project SWPPP.

Additional technical comments pertaining to the project SWPPP and stormwater analysis have been provided to the Applicant that are intended to be addressed as part of the Subdivision and Site Plan Application process. The Applicant will be required to address all outstanding comments of the Consulting Town Engineer and NYCDEP for final approval of the SWPPP and issuance of necessary regulatory permits. The applicant shall also carefully consider the comments of the Watershed Inspector General, and incorporate them into the SWPPP provided they do not conflict with nor exceed requirements of NYCDEP. The project SWPPP will be updated as site design development advances during review of the project Subdivision and Site Plan application. Such design development will include preparation of final stormwater practice construction details that demonstrate design compliance with technical practice requirements of the NYSDEC *Stormwater Management Design Manual*. The final SWPPP will be available for review and consideration of public comments provided through public hearings required as part of the Planning Board Site Plan Application process.

An analysis of nutrient loading was prepared by the Applicant for the Somers Crossing site that compares pre- and post-development nutrient loading conditions. In response to comments by

the Consulting Town Engineer, the Applicant prepared an updated analysis of Total Phosphorus loading following the principles of The Simple Method with loading rates and removals as specified by the East Of Hudson Watershed Corporation *Stormwater Retrofit Project Design Manual*, dated March 5, 2015. This analysis is included in FEIS Appendix R. Based upon the revised Phosphorus Pollutant Loading Analysis (PLA), total annual phosphorus effluent from the Site under the post development condition has been quantified to reduce by 1.23 lbs/yr, a reduction of 24.53% from pre-development conditions, consistent with the objectives of the TMDL watershed to not cause increase in phosphorus loading to the impaired waterbody.

The DEIS includes an analysis of potential thermal impact to receiving waters. Based on the mass balance analysis of the Site in a worst case (assuming all runoff from the 1-year storm event is at 95 degrees Fahrenheit for the entire storm duration), a 0.5 degree increase in water temperature was calculated. The proposed project will not create a significant impact to water temperature or provide adverse thermal conditions to support trout populations. The calculated increase maintains the temperature of post development discharge below the NYSDEC maximum of 70 degrees Fahrenheit for discharges to trout protected waters and is within the temperature tolerance for sensitive fish populations.

The DEIS includes surface water quality data previously collected from six local points within the Brown Brook watershed and analyzed for various pollutants, pH, total dissolved solids (TDS), and temperature. Brown Brook receives inputs from a variety of sources upstream of the project site, including a golf course, roads, residential lawns, and the Heritage Hills sewage treatment plant. Runoff from the Towne Centre site also flows through the Site to Brown Brook. The surface water quality test results are discussed in detail in a Biological Assessment Report (DEIS Appendix F). This information is intended to provide a baseline for comparison to future testing and monitoring if such testing is determined to be necessary during review of the project Groundwater Protection Plan specified for issuance of a Special Exception Use Permit as required within the Town of Somers Groundwater Protection Overlay District during the Site Plan Application review process.

The EIS documents demonstrate that no project disturbance will be incurred within the FEMA mapped 100 year floodplain boundary located along the western Site boundary. The current FEIS narrative and plans indicate that no net fill will be placed within the FEMA mapped 500 year floodplain. Demonstration of no net fill within the regulated floodplains will be confirmed as design development continues during the Site Plan Application process.

The Town Board determines and finds, based on the above information, that implementation of all the above required techniques and mitigation measures will mitigate potential impacts to the maximum extent practicable and will result in no significant adverse impact to Surface Water Resources.

2. Groundwater

The Site is underlain by outwash sand and gravel and kame stratified drift glacial deposits which are part of the Town of Somers Groundwater Protection Overlay District (GPOD). Chapter 170-32 of the Somers Code establishes special restrictions on certain uses within the GPOD including storage of hydrocarbon products (e.g. fuel oil tanks) and mandates requirements for issuance of a Special Exception Use Permit for regulated development within the district. Historical groundwater elevations are reported to measure between a maximum of 21 feet below grade to as shallow as 6.5 feet below grade at the Somers Crossing Site. General flow of Site groundwater is reported to follow the surface contours from higher elevation topography along the site border with Route 100/Route 202 towards lower elevations in the wetland to the West. There are four existing groundwater wells that were established into the bedrock aquifer on the site that were for a previous development application for the property.

Historical evaluations undertaken on the property were reviewed and recertified by the Applicant's Licensed Professional Engineer for consideration as part of the current site project proposal, as described in the DEIS. Relating to groundwater resources, this certification includes but is not limited to historical test pit excavations, Phase I Environmental Site Assessment Data, and a Hydrogeologic Assessment of site conditions.

A Hydrogeologic Assessment was prepared for the Site considering data collected between the years of 1994 through 2010. Field data consists of test borings and well data obtained from the existing groundwater wells and exploratory field investigation activities. This information is included in the DEIS. The DEIS includes estimates of groundwater recharge and seasonal groundwater level fluctuation under average precipitation conditions and extreme drought conditions. Site groundwater flow direction, rates, hydraulic capacity of the soils, interaction with surface waters, recharge quantity, limits and percentage of total recharge area, and groundwater quality testing were evaluated in the Hydrogeologic Assessment report. The report concludes the following concerning water quality of the groundwater resource:

- Water quality results available from onsite bedrock wells reported no exceedances of NYSDOH drinking water standards for any constituent.
- Winter rock salt application associated with development at the Site would likely result in no discernible increase of chloride and sodium concentrations in groundwater at the Site.
- Water quality impacts to Nitrogen and Phosphorus resulting from fertilizer application at the Site would be minimal and readily mitigated through use of best management practices.

Potential impacts to groundwater resources posed by the Proposed Project include the risk of introducing contaminants and reducing recharge to the groundwater aquifer. Appropriate

stormwater management practices will be required where, if no mitigation were provided, there is the potential to increase concentrations of oils and grease, metals and nutrient pollutants to groundwater. Post development operations such as application of fertilizers and winter deicing materials could also negatively impact the groundwater resource. The conversion of approximately 14.5 acres of woods on the Site to other cover types, including over 7 acres of impervious cover, will potentially change the recharge of groundwater and subsurface flow patterns of groundwater at the Site. To avoid, minimize or mitigate potential impacts to groundwater resources resulting from the Proposed Action to the maximum extent practicable, the following mitigation measures are proposed to be incorporated as part of the Project by the Applicant:

- Use of infiltration practices and pretreatment of stormwater as part of the stormwater management program.
- Re-vegetation of approximately 7 acres of site disturbance area as meadow and lawn.
- Connection to existing community water supply and wastewater treatment facilities.
- Implementation of water conservation techniques (i.e. low-flow toilets and shower heads and restriction on site irrigation).
- Deed restrictions on proposed open space.
- Best management practices during construction.
- Installation of geothermal technology in lieu of heating oil and other fossil fuel storage for HVAC.
- Preparation of a Groundwater Protection Plan as required by Town Code §170.32.8.

Increased stormwater runoff due to the proposed increase of impervious cover will be routed to subsurface stormwater infiltration practices constructed in series with a secondary Pocket Wetland practice. The proposed subsurface infiltration practices, which would function primarily to reintroduce stormwater runoff into the groundwater resource, are sized to store and infiltrate runoff produced by the 1-year design rainfall event. In addition, the proposed Pocket Wetland practice would maintain a permanent pool of water at the measured elevation of groundwater obtained during field testing. Together, this stormwater management approach will mitigate any potential significant impact to groundwater posed by the proposed development.

The Somers Crossing development will connect to the Heritage Hills Water Works and Sewer Works Corporation service areas, thereby avoiding potential impacts on groundwater related to the use of on-site septic systems. Two existing bedrock wells at the Site are proposed to be abandoned and closed in accordance with NYSDOH Sanitary Code Part 5, Subpart 5-1 and Westchester County Department of Health (WCDOH) standards. The Heritage Hills wells (off-site) will not be affected by the Proposed Action.

There is an existing, active well on the Towne Centre property approximately 15 feet from the site property line. There are no regulatory separation distances in this instance of a preexisting well. Appropriate wellhead protection measures should be exercised in the Site Plan to protect this water source (e.g. maximizing the distance to new impervious surfaces and stockpiled materials from the well, and directing surface runoff away from the well). With provision of such wellhead protection measures, there will be no significant impact on the Towne Centre well.

De-icing chemicals, i.e. road salt, would likely be applied to paved areas within the Site during the winter season. An analysis of the potential increase in sodium and chloride concentrations in groundwater underlying the Site was completed for the DEIS. Accounting for dilution through precipitation, there will be no discernible increase in sodium and chloride concentrations in groundwater down gradient of the Site. Some fertilizers and pesticides will be utilized to maintain landscaped areas in the Project with the potential to introduce nutrients to the environment. 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. Water quality impacts from these constituents will be managed through implementation of best management practices that will be required during both construction and occupancy of the Project. Implementation of such practices will be required as conditions of site plan approval. Site groundwater resources will also be protected through installation and maintenance of the proposed stormwater management practices that will reduce constituent concentrations in stormwater runoff prior to infiltration.

Geothermal systems are proposed to be utilized as the primary energy source for proposed heating and cooling demands for both residential and commercial uses. Installation of geothermal systems will contribute to overall project energy efficiency and will avoid use of traditional heating fuels (hydrocarbon based) for building heating, ventilation and cooling needs. No storage of petroleum based fuels will be permitted on the Site consistent with requirements of the Town of Somers Groundwater Protection Overlay District. The Proposal incorporates the installation of wells on the site to access the bedrock and/or groundwater at a substantial depth to provide a source of constant temperature water (roughly 60°F) to heat/cooling pumps that would service the buildings. The system to be used will be closed loop which does not allow groundwater interaction. This system has been used successfully on other projects developed by this Applicant. The geothermal system will be designed during site design development; the necessary number of wells, their depth and locations will be determined by the design demand.

The project is subject to issuance of a Special Exception Use Permit as required within the GPOD. Provisions in Town Code §170-32 prohibit specific named uses and installations on the Site that would potentially be detrimental to site groundwater resources. Issuance of a Special Exception Use Permit requires preparation of a hydrogeologic analysis and establishment of a Groundwater Protection Plan to demonstrate that the Project will not result in violation of the

New York State Drinking Water Standard (10 NYCRR 5). The DEIS contains a site specific Hydrogeologic Assessment as required by Town Code. The Applicant has committed to preparation of a Groundwater Protection Plan to supplement other proposed mitigation, based upon the final site plan that is determined as design development continues during the Site Plan Application process. Approval of the project Groundwater Protection Plan, unless waived by the Planning Board, will be required prior to issuance of any Town environmental permits for the project.

The Town Board determines and finds, based on the above information, that implementation of all the above required techniques and mitigation measures will mitigate potential impacts to the maximum extent practicable and will result in no significant adverse impact to Groundwater Resources.

D. VEGETATION, WILDLIFE AND WETLANDS

1. Vegetation and Wildlife

The majority of the Site (21.40 acres) consists of Successional Southern Hardwood Forest, which is an upland vegetative community. Wetland communities on the Site are dominated by shallow emergent marsh (3.92 acres) and red maple swamp (1.15 acres).

A Biological Assessment Report dated March 2014 is provided in DEIS Appendix F that includes a detailed discussion of the ecological communities on and near the Site. Natural resource assessments included field surveys for habitats, ecological community classification, wetlands delineation, tree survey, review of wildlife, protected species and natural communities, and surface water quality sampling. Wildlife assessments included Federal-listed and State-listed species in Westchester County and in the Town of Somers, species potential to exist on the Site, observed species, and review of the "Croton-to-Highlands Biodiversity Plan: Somers Addendum."

The US Fish & Wildlife Service (USFWS) IPaC website lists the following federally-listed Endangered, Threatened, and Candidate species in Westchester County:

Mammals: Indiana Bat (*Myotis sodalis*) – Endangered
New England Cottontail (*Sylvilagus transitionalis*) – Candidate
Northern Long-eared Bat (*Myotis septentrionalis*) – Threatened, proposed
Endangered
Reptiles: Bog Turtle (*Clemmys muhlenbergii*) – Threatened

The NYSDEC 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
Flowering Plants: Seabeach Amaranth (*Amaranthus pumilus*) – Threatened

All of these species are discussed in the study. None of the species listed by USFWS would be expected to be found on the site, however the USFWS has not made a final determination with regard to the Endangered Species Act (ESA). The final ESA determination would be made by the Federal agency involved during the application process (in this case, the US Army Corps of Engineers (ACOE)).

Inquiries for NYSDEC data regarding protected species revealed no records of sensitive State-listed plant and animal species being located on or near the site. All species that were documented on, or are anticipated to be present on, the site are species that are common to central Westchester County. The relatively low species diversity in the on-site forest community, the prevalence of invasive species, and the general lack of topsoil from past mining activities results in sub-optimal habitat for most wildlife species. The most valuable wildlife habitat is located in NYSDEC Freshwater Wetland F-1, the edge of which extends onto the site. This wetland contains good aquatic habitat for wetland flora and fauna, as the emergent marsh habitat is fairly diverse and densely vegetated in many areas. No amphibian breeding habitats, such as vernal pools, are present in the forest community on site.

Breeding birds were observed primarily within and near the edges of the wetlands; few birds were observed in the uplands on the Site. Based on the field observations and records from the New York Natural Heritage Program, there is no high-quality wildlife habitat in the uplands on the Site.

The following animal species have special status afforded by Federal, state, or county governments, or Audubon Society Watch List status (birds only), and have the potential to occur on the site but were not observed on the site: Spotted Turtle (*Clemmys guttata*) and Eastern Box Turtle (*Terrapene carolina*). A Wood Thrush (*Hylocichla mustelina*) was documented on-site but was not considered a probable or confirmed breeding bird for the site.

A tree survey was conducted in accordance with Chapter 156 of the Town Code in 2009.

Approximately 15.6 acres of the vegetative communities on the Site will be altered by the proposed plan. Approximately 14.5 wooded acres are proposed to be removed. The majority of the site development will take place in the Successional Southern Hardwood Forest community, a second growth forest type. Permanent tree removal where buildings and roads will replace existing habitat is an unavoidable impact of the Proposed Action. The anticipated limit of disturbance line is superimposed on the tree survey and most of the trees within the proposed

limit of disturbance are of smaller caliper (12-14" DBH or less). Based on the DEIS plan, approximately 864 trees are estimated to be removed for the residential development on the southern portion of the Site and 203 trees are estimated to be removed for the grocery store on the north end of the Site, for a total of 1,067 trees to be removed. A final Tree Removal Plan prepared in accordance with the requirements of Town Code Chapter 156 will be prepared and reviewed as part of the Tree Removal permit with the final Site Plan.

The proposed project will result in an increase in edge habitat around the Site that is conducive to disturbance-tolerant bird species that utilize this type of habitat. This added habitat has the potential to increase invasive plant species around the perimeter of development due to the bird species utilizing this habitat and spreading/depositing seeds. The Applicant proposes to develop a Landscape Plan intended to restore the perimeter of disturbed areas with the appropriate densities and types of vegetation that will discourage the establishment of invasive species.

New habitat will be provided in the tree, shrub, and grass plantings proposed in the uplands and within the stormwater management basins. Wetland buffer mitigation (removal of invasive plants and restoration with appropriate native species) is proposed to enhance areas of the wetland buffer that are currently compromised by past site disturbance and the overgrowth of invasive species. Monitoring and maintenance protocols of the stormwater treatment systems to be conducted following the completion of construction and planting will be required in the SWPPP to the satisfaction of the Consulting Town Engineer prior to it being accepted.

Limitations on tree clearing on the Project Site will be coordinated during the Site Plan Application process. For the protection of listed bats where they are known or suspected to be hibernating, foraging or roosting, the removal of potential roosting trees on such property must occur between October 1 and March 31. With regard to protection of the Northern Long-eared Bat, the USFWS issued a Final 4(d) Rule for the species on January 14, 2016 Federal Register (effective February 16, 2016) which limited the tree cutting restrictions to "activities that will occur within 0.25 mile of a known hibernacula or within 150 feet of known, occupied maternity roost trees during the pup season (June 1 to July 31)". Prior to the commencement of construction, consultation with the New York Natural Heritage Program will identify locations of known hibernacula and occupied maternity roost trees so that appropriate tree protection measures are determined. These restrictions will be noted on the tree removal plans. The Applicant will be required to perform tree clearing within the prescribed restricted time period(s) that are applicable, or produce USFWS approved Incidental Take Permits prior to issuance of a Town of Somers Tree Removal Permit, as a condition of project Site Plan approval.

Anthropogenic activity (noise, light, movement) associated with the proposed use of the property may impact the wildlife on and immediately adjacent to the Site. However, the DEIS represents that most of the species identified in the forested area are disturbance-tolerant species that will adapt to the activity.

The Town Board determines and finds, based on the above information, that implementation of all the above required techniques and mitigation measures will mitigate potential impacts to the maximum extent practicable and will result in no significant adverse impact to Vegetation and Wildlife resources.

2. Wetlands and Site Hydrology

Two wetland areas, designated "Wetland A" and "Wetland C", were identified on the Site. (Numbering is carried over from previous investigations and there is no "Wetland B.") In total, wetlands comprise 5.2 acres of the Site, and variously fall under the jurisdictions of the Town of Somers, NYSDEC, and/or the ACOE. Town-regulated 100-foot wetland buffers comprise 5.42 acres of the Site. NYSDEC-regulated 100-foot adjacent areas, which are included within the Town-regulated buffer above, comprise 4.54 acres of the Site. The wetland buffers are primarily on the undeveloped portions of the Site, but portions (not included in area calculations) also cover paved areas on the adjacent shopping center property. There is no wetland buffer regulated under Federal jurisdiction.

Additionally a 3,230 square foot depressional area is located in the south-central portion of the Site where hydric soils are present. The area is not regulated by the Town, NYSDEC or ACOE. This area is a relic of past stormwater discharge that apparently originated off-site to the east and has since been controlled or re-directed and no longer flows onto the subject property. This area has been assessed for amphibian activity and no amphibian breeding or evidence of amphibian breeding has ever been observed.

The boundaries of Wetland A and Wetland C were confirmed by the Town on October 1, 2013. The Town regulatory boundary varies slightly from that of the ACOE and NYSDEC.

Wetland A is regulated by the State as part of NYSDEC Freshwater Wetland F-1, with the exception of the constructed stormwater basin (Wetland C) and the constructed outlet stream for the basin (part of Wetland A). The wetland boundary was validated by NYSDEC on October 24, 2007 and the delineation is valid for 10 years.

Wetland A and Wetland C are regulated by the ACOE. A Jurisdictional Determination (JD) was issued on December 12, 2014 to reconfirm the wetland boundary (NAN-2013-01565-ESW) and is valid for 5 years.

Brown Brook flows through Wetland F-1 (off-site) and is classified by the New York State Protection of Waters Program Regulations as C(t), meaning that the stream is capable of supporting trout. This stream and the area up to 50 feet from the stream bed or banks is regulated

by the NYSDEC as a Protected Water under Article 15, however the stream is located approximately 400 feet or more from the subject site.

The Site is within the New York City Watershed as part of the Croton River Basin and is subject to the New York City Watershed Rules and Regulations. NYCDEP regulates activities within and adjacent to NYSDEC regulated wetlands as well as intermittent and perennial streams. Wetland A is therefore also regulated by the NYCDEP. On July 7, 2009, NYCDEP also determined that Wetland C, the constructed stormwater basin and its outlet stream, meet the definition as a NYCDEP regulated watercourse.

Runoff from the Somers Crossing Site drains to the New Croton/Muscoot Reservoir within the Croton River Watershed. The New Croton/Muscoot Reservoir is classified by NYSDEC as an Impaired Waterbody subject to a total maximum daily load (TMDL), with phosphorus being the pollutant of concern (POC).

Wetland A is a mainly emergent wetland (marsh), with some areas of forested, scrub/shrub, and open water habitat. Wetland A is primarily sustained by interception of the seasonally-high groundwater table with some runoff from upgradient areas, including Wetland C. Wetland C consists of a created stormwater basin containing mainly open water habitat. The hydrology in Wetland C is primarily sustained by runoff from the adjacent shopping center, as well as by interception of the seasonally-high groundwater table. DEIS Appendix G includes a Wetlands Functional Evaluation updated May 8, 2014.

The project proposal was modified between the DEIS and FEIS which, among other benefits, reduces impacts to wetlands and wetland buffers. The FEIS tabulates the following direct impacts to wetland resources:

- 0.01 acre temporary impact to Town wetland (for installation of utilities);
- 0.33 acre temporary impact to Town wetland buffer (for utilities and stormwater facilities);
- 0.17 acre temporary impact to State adjacent area (for installation of utilities).

It is the Applicant's stated intent in the FEIS that permanent fill or other disturbance in the wetland buffer is not proposed at the north end of the Project. The Applicant acknowledges that avoidance of all buffer impacts will require further modifications to the revised plan during site plan review, since the FEIS Concept Plan shows encroachment in the buffer (in addition to the acreages listed above) for portions of retaining wall, two stormwater outlets and erosion control measures for which wetland permits would be required. The Applicant will modify the plan to eliminate all permanent wetland and wetland buffer impacts shown on the FEIS Concept Plan other than the temporary areas listed above. Mitigation for proposed temporary impacts associated with the utility installation include returning the disturbed area to pre-existing grade and planting the area with appropriate wetland/transition area vegetation. In the event that additional buffer disturbance areas are identified outside current defined disturbance limits, the

Applicant will be required to demonstrate that appropriate and sufficient mitigation commensurate with the impact is proposed such that wetland buffer functions are not jeopardized by the plan. Encroachments whether temporary or permanent, will require issuance of Town and NYSDEC wetland permits as part of Site Plan Application review.

Indirect impacts to wetlands and surface water (such as impacts to hydrology or water quality) will be avoided or mitigated through the use of stormwater treatment systems that will infiltrate collected runoff from impervious surfaces back into the ground. These systems will be designed to work in conjunction with the implementation of the SWPPP which will include sediment and erosion control, site maintenance and monitoring. Environmental quality impacts due to changes in water quality (e.g., TSS, nutrients, pollutant introduction) or site hydrology are not expected.

The proposed project will not create a significant impact to water temperature. The calculated increase of 0.5° Fahrenheit represents 0.76% increase in temperature over existing conditions and maintains the temperature of post development discharge below the NYSDEC maximum of 70° Fahrenheit for discharges to trout protected waters and is within the temperature tolerance for sensitive fish populations. All surface water runoff will be captured and treated in accordance with the SWPPP. The proposed impervious surfaces and lawn total approximately 12 acres. Any outflow from the stormwater management systems on the Site would be minute compared to the 1,778 acres that contribute to the watershed supplying Brown Brook. Outflow from the stormwater basin, if different from the nearby groundwater or surface water temperatures, would likely reach natural existing temperatures while flowing through the shallow emergent marsh prior to reaching the brook (likely as groundwater). This edge of the wetland is located approximately 1,000 feet from the main channel of the Brown Brook, which is likely the only portion of the wetland that would be deep enough with acceptable substrate to potentially support trout populations. The proposed stormwater basins would be held to the regulatory standards of the NYSDEC which has established strict criteria for regulating thermal impacts from stormwater runoff.

The functions that are provided by the wetlands will not be significantly impacted by the proposed project. The stormwater facilities proposed -- including six subsurface infiltration practices, one infiltration basin practice, and one Pocket Wetland practice with a forebay and micro pool -- will collect runoff from the site 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. Some loss of aquifer recharge was predicted in the DEIS. Infiltration systems were added in the FEIS plan -- from 2 systems (DEIS plan) to 7 systems (FEIS plan) -- which will minimize any change in aquifer recharge. The area of the site 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.

Permits that will be required for the proposed disturbance of the site include Site Plan Approval, a Wetland Permit, and a Tree Removal Permit from Town of Somers Planning Board, and a NYSDEC Wetland Permit (for minor encroachments into the 100' wetland adjacent area), which would include wetland mitigation requirements. Plans associated with wetland impacts, buffer impacts and/or effects on surface water will be variously subject to review by the Town of Somers, NYCDEP, NYSDEC and ACOE.

The Applicant proposes a Landscape Plan intended to enhance and restore the wetland buffer and undeveloped upland areas by removal of invasive species 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 ACOE. The Landscape Plan included in the FEIS identifies a preliminary list of plant species proposed to be used, including native species, and herbaceous seed mixes appropriate for use in the stormwater basins. Herbaceous plantings will take about 3 years (3 growing seasons) to mature sufficiently to function as a wildlife habitat. Trees and shrubs generally take at least 5 years to sufficiently mature to function as a wildlife habitat.

The Town Board determines and finds, based on the above information, that implementation of all the above required techniques and mitigation measures will mitigate potential impacts to the maximum extent practicable and will result in no significant adverse impact to Wetlands and Site Hydrologic Resources.

E. TRAFFIC, CIRCULATION AND PARKING

The Site currently does not contain any points of vehicular access. Access to the residential development is proposed via a new unsignalized driveway connection to NYS Route 100 and access to the grocery store is proposed at a modified signalized intersection on US Route 202 opposite Heritage Hills Drive. Cross-access with the adjacent Somers Towne Centre will also be provided from both the residential and commercial portions of the site.

The DEIS traffic study identified current conditions in the vicinity of the Site. Historical traffic data was compared to recent manual traffic counts and machine counts (conducted in October 2013) to establish the Year 2013 Existing Traffic Volumes for the Weekday AM, Weekday PM and Saturday Peak Hours. Available accident data for the latest three year period for the area roadways were obtained from the NYSDOT.

The Existing Traffic Volumes were projected to the 2018 Design Year by applying a background growth of one percent (1%) per year (based on historical data including information from NYSDOT) and adding traffic volumes associated with other specific developments planned in the area to estimate the Year 2018 No-Build Traffic Volumes. Delays and long queues during peak hours at intersections in the study area are currently experienced and will continue as a

result of background growth and traffic from the Project. With the reduction of units in the Project from the DEIS plan to the FEIS plan as well as the provision of cross-access with the Somers Towne Centre, the impact of the Project has been reduced.

In response to the existing conditions discussed at a meeting between the Applicant, the Town and NYSDOT, NYSDOT indicated it would review existing delays at the Route 100/Route 202 intersection for possible adjustments to the signal timing (irrespective of this Project).

The FEIS estimated the proposed residential development will generate (based upon 65 units – the adjustment to 66 units is not significant) 37 vehicles (6 entering and 31 exiting) during the Weekday Peak AM Hour, 42 vehicles (29 entering and 13 exiting) during the Weekday Peak PM Hour, and 46 vehicles (25 entering and 21 exiting) during the Saturday Peak Hour. The FEIS estimated the proposed grocery store will generate 65 vehicles (40 entering and 25 exiting) during the Weekday Peak AM Hour, 228 vehicles (116 entering and 112 exiting) during the Weekday Peak PM Hour, and 202 vehicles (103 entering and 99 exiting) during the Saturday Peak Hour, a portion of which will not be new trips to the area but will be pass-by trips.

An updated analysis was conducted as part of the FEIS for the estimated time of completion plus 10-year (ETC + 10) design year. The site generated traffic volumes were assigned to the roadway network based on projected arrival and departure distributions resulting in the Year 2026 Build Traffic Volumes for the Weekday AM, Weekday PM and Saturday Peak Hours. A SYNCHRO Analysis was completed for each of the Peak Hours to determine existing and future traffic operating conditions at the study area intersections. The DEIS provides the results of the SYNCHRO analysis, summarizes the Levels of Service, delays, and volume-to-capacity (v/c) ratios and queuing for the Year 2015 Existing, Year 2026 No-Build and Year 2026 Build Conditions, as well as traffic signal timing data.

US Route 202 and Heritage Hills Drive/Site Access

This intersection is currently operating at an overall Level of Service "C" during the Weekday AM, Weekday PM and Saturday Peak Hour. This intersection is projected to operate at an overall Level of Service "C" during the Weekday AM and PM Highway Hours and at an overall Level of Service "D" during the Saturday Peak Hour in Year 2026 No-Build Conditions.

Access to the grocery store, with a new interconnection to the Towne Centre shopping center, is proposed opposite Heritage Hills Drive. As part of the Project, a separate US Route 202 westbound left turn lane will be developed for entering traffic and the driveway (northbound approach) will have a left turn lane and a through/right turn lane. This intersection is projected to operate at an overall Level of Service "C" during the Weekday AM, PM and Saturday Peak Hours in Year 2026 Build with the connection to the Towne Centre. This access will require a

Highway Work Permit from the NYSDOT, and will be coordinated with NYSDOT to minimize queues, optimize signal operation and provide appropriate sight distances.

US Route 202 and Towne Centre at Somers

The Towne Centre Shopping Center exiting left turn (minor movement) is currently operating at a Level of Service "E" during the Weekday Peak AM Highway Hour, and "F" during the Weekday PM and Saturday Peak Hours. The exiting right turn (minor movement) is currently operating at a Level of Service "C" during the Weekday Peak AM Highway Hour, and "B" during the Weekday PM and Saturday Peak Hours. In Year 2026 No-Build Condition, the exiting left turn is projected to operate at a Level of Service "F" during the Weekday AM, PM and Saturday Peak Hours. The exiting right turn is projected to operate at a Level of Service "C" during the Weekday AM and PM Highway Peak Hours and "B" during the Saturday Peak Hour.

In the Year 2026 Build Condition without a cross-connection with the grocery store, the exiting left turn is projected to continue to operate at a Level of Service "F" during the Weekday AM, PM and Saturday Peak Hours, and the exiting right turn is projected to operate at a Level of Service "C" during the Weekday AM, PM and Saturday Peak Hours. With the cross-connection, and thus provision of the use of the traffic signal to turn left to exit, the amount of left turns out of the Towne Centre driveway will be significantly reduced and thus will improve the operating conditions of this location.

NYS Route 100 and Proposed Site Access

Access to the residential portion of the Site is planned to intersect NYS Route 100 at an unsignalized "T" shaped intersection, controlled by a "stop" sign. In Year 2026 Build Condition, the proposed site driveway (minor movements) is projected to operate at a Level of Service "F" during the Weekday Peak AM Highway Hour, "D" during the Weekday Peak PM Highway Hour and "C" during the Saturday Peak Hour. Vehicles exiting the Site Driveway in the peak period, particularly in the morning, will experience delays. It is not uncommon for the left turn exiting movements from an unsignalized side street or driveway to operate with delays during the Peak Hours while the major roadway movements (Route 100) operate at better Levels of Service.

With clearing of trees and shrubs near the access, there will be adequate sight distance along NYS Route 100 for vehicles to enter and exit the site driveway.

Other Intersections

The intersection of US Route 202 and NYS Route 100 currently experiences and is projected to continue to experience delays in the Peak Hours. The Applicant will work with the NYSDOT to modify traffic signal timings and re-stripe the pavement, if needed, as part of the Highway Work

Permit process. Similarly, as part of the Highway Work Permit process, the Applicant will assist with NYSDOT's modification of traffic signal timing if determined to be needed at the intersection of US Route 202 and NYS Route 116.

Vehicles turning left out of various unsignalized side streets and driveways along US Route 202 and NYS Route 100 currently and will continue to experience delays during the Peak Hours.

Proposed Site Parking

As shown on the proposed Concept Plan, the residential portion of the Project will have parking in unit garages as well as in driveways and guest parking spaces along the roadways. The grocery store has parking spaces proposed in two parking lots, plus one loading space. No shared parking is proposed or required between the grocery store and the adjacent Towne Centre shopping center. The total number of grocery store parking spaces and their configuration will be finalized during Site Plan review, as will the possibility of additional visitor parking spaces in appropriate locations within the residential portion of the Project.

Connections between the Grocery Store, Residential Component and Towne Centre

Vehicular connections between the grocery store, residential component and Towne Centre were added to the Applicant's proposal for the FEIS, utilizing an existing access easement between the two parcels. The connections will potentially reduce some turning movements at the NYS Route 100/US Route 202 intersection. A further reduction of traffic at the adjacent driveways would be experienced as a result of interplay trips between the Towne Centre and grocery store. In addition, the new Route 202 signalized access will allow better access for exiting left turns from the Towne Centre.

A vehicular connection between the residential component and Towne Centre would also reduce traffic on the adjacent driveways as a result of interplay trips between Towne Centre and the residential community. These connections would not likely create significant "cut-through" traffic between Route 100 and Route 202 since they would not be direct routes. These connections will improve emergency vehicle access for both the Project and the Towne Centre. The proposed connections will affect the site plan of the Towne Centre, and coordination of such will be resolved during site plan review.

Pedestrian connections are also proposed between the grocery store, residential component and Towne Centre. The accommodations for pedestrian movements will need to be developed during site plan review. An unpaved and unlit pathway through the open space portion of the site is also proposed to create a pedestrian connection through the site between Route 202 and Route 100.

The following specific traffic improvements are proposed:

- US Route 202 and Heritage Hills Drive/Site Access:
 - Signalized access to the grocery store opposite Heritage Hills Drive, with a separate westbound left turn lane for entering traffic.
 - The driveway (northbound approach) will have two exiting lanes -- a left turn lane and a through/right turn lane.
 - Modification to the existing traffic signal as needed.
 - The Applicant will be responsible for the signal improvements on U.S. Route 202 at the site access, including restriping and signal upgrade, and will share its future maintenance with Heritage Hills Condo Association.
- US Route 202 and NYS Route 116:
 - The existing semi-actuated traffic signal may require signal timing adjustments; the Applicant will coordinate the necessary improvements with the NYSDOT.
- US Route 202 and NYS Route 100:
 - The existing fully actuated traffic signal may require signal timing adjustments along with pavement re-striping; the Applicant will coordinate the necessary improvements with the NYSDOT.

The traffic generated by Somers Crossing can be accommodated on the roadway system in the vicinity of the Site with the improvements stated above. However, the Applicant proposes additional off-site pedestrian-related transportation improvements as a community benefit. Refer to Section I, under The Development Concept Plan, at the beginning of these Findings.

Further design and review of the Applicant's site plan will be necessary during site plan review before the Planning Board, including review of truck access and maneuvering, pedestrian crossings (particularly pedestrian access to/from the grocery store), traffic calming, grocery store parking, internal and cross-connection traffic control, trash removal, shopping cart storage, snow stockpile areas, signage, sight lines, loading space(s) at the grocery store, visitor and on-street parking in the residential portion, internal sidewalks, bicycle circulation, pervious pavement areas, a school bus stop and emergency vehicle access and maneuvering.

The Town Board determines and finds, based on the above information, that implementation of all the above required techniques and mitigation measures will mitigate potential impacts to the maximum extent practicable and will result in no significant adverse impact to Traffic, Circulation and Parking.

F. COMMUNITY SERVICES, SCHOOLS AND UTILITIES

The proposed residential units would be constructed as townhouses, with a mix of 30 three-bedroom units and 36 two-bedroom units. Using standard multipliers (Rutgers 2006), the 66

units could generate approximately 201-204 individuals, including 32 school-aged children projected to attend public schools of the Somers Central School District.

1. Schools

The school district is experiencing a general decline in enrollment. The potential impact of 32 new school children into the school district (an increase in district enrollment of 1.0%) is not considered significant. (The fiscal implications of this increase are discussed below in Section G.)

The Applicant will coordinate with the school district, the Town and NYSDOT, if required, during site plan review to provide a safe location for a bus stop at the Project.

2. Police

The projected population increase from 66 dwelling units would likely result in a proportionate increase in demand for police services -- an increase of 0.4 police personnel, 41 square feet of facility space, and 0.1 vehicle, using planning standards published in the Urban Land Institute's (ULI) *Development Assessment Handbook (1994)*. The addition of a new grocery store would also likely generate some additional demand for police services. Overall, these increases are not anticipated to create a significant adverse impact to the Town or State Police. (Neither the Somers Police Department nor the NY State Police provided responses to inquiries for input on the Proposed Action.)

3. Fire and Emergency Services

The projected population increase would likely result in a proportionate increase in demand for fire and emergency medical services, which includes an increase of 0.3 fire personnel, 51 square feet of facility space, and less than 0.1 additional vehicle, using ULI published planning standards. The emergency medical services (EMS) increases include an additional 7 EMS calls per year, and less than 0.1 EMS full-time personnel or EMS vehicle. The addition of a new grocery store would also likely generate some additional demand for fire and emergency services. Overall, these increases are not anticipated to create a significant adverse impact to the Somers Fire Department or EMS services. The Fire Department states it will determine adequacy of site access for emergency vehicles during site plan review.

No fire water supply storage facility is proposed on site since water supply will be provided via the connection to the Heritage Hills Water Works system. The buildings will not have sprinklers but the Project will comply with all applicable building codes. A series of fire hydrants is proposed in the residential area.

4. Solid Waste

All refuse and recycling in the Town is provided by private collectors. Private collectors must be licensed as per Town Code Chapter 109 and must collect garbage and recycling materials according to a minimum schedule. The Project would be responsible for obtaining contractor services and no Town services or facilities would be required for solid waste disposal from the Project. In accordance with applicable regulations, the Project would participate in the Town and County recycling programs.

5. Recreation

The population of the Town would increase by approximately 1.0 percent from the Project. If all Project residents were new to Somers, the Project population may create a proportionate increase in demand for public recreational resources in the Town -- an estimated 1.6 additional acres of community park land and a small fraction of a staff position, based on standard planning multipliers. This demand is not considered significant because the Town owns approximately 825 acres of public parkland, not including parkland available to Town residents owned by the County and other entities. The Project will include an on-site recreation facility for its residents, a trail through its common open space and will pay the Town's recreation fee for 65 new attached residential units, as well.

The Town Board determines and finds that the Proposed Action will result in no significant adverse impact to Community Services, including Schools.

6. Utilities

Water supply for the Project is proposed to be via a connection to the Heritage Hills Water Works Corporation system. Sewerage for the Project is proposed to be via a connection to the Heritage Hills Sewage Works Corporation system. Extensions of the Heritage Hills water and sewer districts to include the Project Site will be required.

Water Supply

The Project proposes to connect to the existing Heritage Hills Water District for water supply. The Project's average daily demand for the residences, site irrigation, and grocery store is estimated to be 41,707 gallons per day (GPD) with a peak hourly demand of 1,700 gallons per minute (GPM). The Project proposes to construct a connection to the Heritage Hills water supply, with new water mains and services on the Project Site.

The FEIS presents data to substantiate that there is sufficient water supply and pressure to serve the Project without impacting current Heritage Hills Water District customers, based on the results of hydrant flow testing and peak hourly flow and fire flow demand calculations.

The Project will be required to obtain all appropriate permits and approvals for the water supply extension prior to construction, including approval from Westchester County Department of Health (WCDOH) for construction and NYSDOT for installation of utilities in the State right of way. The water utilities will be designed in accordance with the requirements of WCDOH, American Water Works Association (AWWA), and the "Recommended Standards for Water Works (Ten State Standards) – 2012 Edition." The Proposed Action will include water conserving fixtures such as low-flow toilets and shower heads; and irrigation time restrictions (such as evenings only or every other day), and will maintain adequate separation distances between water, wastewater and stormwater utilities.

As an extension of the Heritage Hills Water District service area, the Heritage Hills Water Works Corporation (HHWWC) will ultimately own and maintain the water infrastructure on the Project Site and the property owners in the Project will be responsible for their share of system use and maintenance costs. HHWWC will continue to be responsible for the operation of the water supply wells and treatment system.

The Town Board determines and finds, based on the above information, that implementation of all the above required measures will mitigate potential impacts to the maximum extent practicable and will result in no significant adverse impact to Water Supply Utilities.

Wastewater Treatment

The Project proposes to discharge to the Heritage Hills Wastewater Treatment Plant (WWTP) for treatment of wastewater generated by the project. The Project's average daily flow from 66 units plus the grocery store is projected to be 18,240 gallons per day (GPD). The Project proposes to construct an onsite wastewater collection system and pump station, which will pump generated wastewater to the Somers Elementary School Pump Station (PS), which then pumps to the WWTP.

Under the existing SPDES permit for the WWTP, sufficient capacity exists for treatment of flows anticipated from Somers Crossing. However, the WWTP has documented hydraulic capacity limitations and is currently undergoing an upgrade with NYCDEP to ensure that the WWTP can continue to maintain permit compliance. The Project will also utilize capacity at the Somers Elementary School PS.

The wastewater collection system and PS for the project will be required to obtain all appropriate permits and approvals prior to construction, including approval from WCDOH for construction,

NYCDEP for confirmation of sufficient capacity at the WWTP, and NYSDOT for installation of utilities within the State right of way. The wastewater utilities will be designed in accordance with the requirements of WCDOH and the "New York State Design Standards for Intermediate Sized Wastewater Systems – March, 2014 Edition." As part of site plan review, the Applicant will be required to provide supporting calculations for the full range of wastewater flows, including peak hour and maximum day, in addition to the previously reviewed average daily flow. The Applicant will also be required to evaluate and confirm sufficient capacity and whether pump upgrades are required at the Somers Elementary School PS to accommodate Project flows.

As an extension of the Heritage Hills Sewer District service area, the Heritage Hills Sewage Works Corporation (HHSWC) will ultimately own and maintain the wastewater infrastructure on the Project Site and the property owners in the Project will be responsible for their share of system use and maintenance costs. HHSWC will continue to be responsible for the operation of the sewage treatment plant.

The Town Board determines and finds, based on the above information, that implementation of all the above required measures will mitigate potential impacts to the maximum extent practicable and will result in no significant adverse impact to Wastewater Utilities.

G. SOCIOECONOMIC/FISCAL RESOURCES

The Site currently generates \$31,349 in property taxes as residential zoned, vacant land (Town, County and School District taxes). The cost to educate one student in the Somers Central School District is calculated in the DEIS to be \$14,772. The cost to the Town to provide municipal services (police, fire, parks, recreation, and highway services) is calculated in the DEIS to be \$291 per capita.

The Project is estimated to generate approximately \$602,116 annually in tax revenue to the School District (from 66 units and grocery store) to offset the cost of the additional enrollment estimated to be \$472,704, resulting in a projected net benefit of \$129,412 annually to the district.⁶

Combining the grocery store and the residential component, the Project is anticipated to generate a total of \$779,976 in annual property taxes.⁷ Additionally, sales tax from the proposed grocery

⁶ The methodology for calculating property taxes of condominiums is the income capitalization approach, as required by State law, which is based on an assumption of the income (rents) that the property owner would receive if the units were rentals. Actual valuation will be determined by the Town Tax Assessor after the project approval process, however for purposes of the DEIS, a general estimation of property taxes was performed using existing data on the Heritage Hills development.

⁷ The Appraisers Report in Appendix H calculated slightly less annual property taxes generated from 65 units.

store, which would be generated for New York State (4%), Westchester County (3%) and the Metropolitan Transportation Authority (0.375%), is projected to be approximately \$300,000. Indirectly, a portion of the County revenue would flow to the Town and School District.

The economic benefits to the Town would include tax revenues and other positive impacts to the local economy including patronage at local businesses and employment at the proposed grocery store. It is anticipated that the cost to the community, including police and fire protection, highway, recreation, and school costs, due to the increased population in this development would be offset by the taxes and fees generated by the development. Overall, the proposed project would likely result in a net positive for the municipal taxing districts and the school district.

Condominium-type Ownership

The Project is proposed to be a condominium, with roads, utilities and recreation facility privately maintained. No Town services will be required for project maintenance (such as snow plowing, road and stormwater management facility maintenance, utilities). In addition to annual property taxes to the Town and School District, the homeowners will pay common charges on a monthly basis (estimated at a total \$4,000 annually per unit) for maintenance of these facilities and all the common areas via a homeowners association (HOA).

A comment on the DEIS related to the tax implications of the proposed residential condominium aspect of the Project. Concern was raised about the project proposal for condominium ownership as opposed to fee-simple ownership — the latter would potentially generate greater tax revenue to the municipality. In response to those comments, the FEIS includes a Property Assessment and Real Estate Tax Assessment Report prepared by an appraiser (FEIS Appendix H) which provides a detailed analysis of the likely assessed value and tax generation of the proposed condominium project. The report addresses the physical, economic, governmental and marketing considerations affecting the value of the Property, and includes a review of comparable income/rent bases used to determine taxes of other townhouse condominium developments in northern Westchester, as well as review and comparison of expenses incurred at other recently constructed, comparable, luxury townhouse developments in the vicinity.

In the Fee Simple and Condominium Comparison (FEIS Appendix M), the real estate taxes are estimated for the 66-unit project taxed as fee simple and as a condominium. If the units are taxed as fee simple, each unit would pay approximately \$18,374 annually in real estate taxes. Taxed as a condominium, each unit would pay approximately \$10,196 annually. Given the estimated market value of the units (higher than most other condominiums in Somers), the FEIS projects that 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. The Applicant has stated that based on its experience in the residential real estate market in Somers, taxes at the higher fee-simple level would significantly jeopardize the marketability of the residential units.

FEIS Appendix P includes letters from three local realtors generally agreeing with this experience and describing their opinions on the marketability of the units with fee simple taxation versus condominium taxation.

To offset reduced revenue to the Town resulting from taxing the Project as a condominium rather than as fee simple units, the Town and Applicant have agreed to enter into a separate Community Benefit Agreement whereby the Applicant will provide and construct a series of public infrastructure amenities specifically for the benefit of the Town of Somers. These amenities are projects that would otherwise be capital improvements that would be provided by the Town at its own expense over a longer period of time to fulfill the objectives of its Comprehensive Plan. As a result of instituting the Community Benefit Agreement, the Town Board determines that establishing the proposed residential portion of the Project as a condominium rather than as a fee simple development will not have a significant adverse fiscal impact.

The Town Board determines and finds, based on the above information, that implementation of all the above required measures will mitigate potential impacts to the maximum extent practicable and will result in no significant adverse impact to Socioeconomics.

H. CULTURAL RESOURCES – VISUAL, HISTORIC AND ARCHAEOLOGICAL

1. Visual Resources and Community Character

The DEIS study area for visual resources and community character includes portions of US Route 202, NYS Route 100, and the interior of the Towne Centre at Somers shopping center. Views of the Site along US Route 202 are views of undeveloped woodlands. There is an existing stone wall along a portion of the property line, which is largely hidden by vegetation. Views of the site from Route 100 are also of vacant woodlands. The view corridor is primarily pastoral, and forested; typical of many wooded areas of northern Westchester, and there is no distant view. The topography of the Site is lower than the elevation of the roadway. Along the Route 100 site frontage there are existing stone walls that roughly follow the property line.

Existing development around the Site includes numerous styles of buildings, including buildings of recent construction as well as historic structures. Part of the Site near Route 202 is visible from the Somers Hamlet Historic District. The character of development in the hamlet is varied.

Scenic resources are regulated in Section 138 of the Town Code with some guidance for preservation on scenic roadways, however neither the Route 100 or Route 202 corridor in the vicinity of the Site has not been designated a "scenic roadway" by the Town. The Town's 1994 Comprehensive Master Plan identifies as one of its objectives "the designation and protection of scenic road corridors," and in particular the Route 100 corridor in this area was discussed as a

scenic roadway to be preserved with a buffer of 50 to 100 feet. More recent updates to the Plan also reiterate this objective but have not been adopted by the Town.

The proposed Concept Plan would result in the loss of approximately 15.6 acres of natural woodland vegetation which will change the visual character of the Site from wooded to partially developed, portions of which will be visible for travelers on Route 100 and Route 202. The proposed plan would preserve approximately 10.58 acres of wooded land to the rear of the proposed grocery store on Route 202 in permanent open space.

The proposed residential structures would be partially visible post-construction from Route 100, especially during the winter months. Due to the topography, the second story and roofs of the units closest to the roadway would be the most visible. From Route 202, the grocery store and its parking lot would be clearly visible, with the northerly access road to the development being directly onto Route 202.

The DEIS presents cross sections, photographs, elevations, and narratives that describe the future proposed visual relationships between the public roadways and the site after construction. The DEIS presents conceptual building elevations for the proposed residential units and the grocery store. The color, scale (height and mass) and architectural style of these buildings has not yet been determined, but the Applicant proposes that they will be designed to fit in with the character of the Somers Hamlet area. These will be subject to review by the Somers Architectural Review Board.

The FEIS describes the setbacks of the Project from the local roads and identifies specific measures for establishing landscaped buffers. The revised Concept Plan moves the grocery store close to Route 202, in keeping with the character of the streetscape of the hamlet, while the residential buildings will be set back a minimum of 75 feet from Route 100.

The Project is intended to visually complement the historic context of the hamlet through implementation of the following mitigation measures along the frontages of Routes 100 and 202:

- Where possible, keep existing healthy and non-hazardous trees that will maintain a canopy over the road (Route 100);
- Rebuild the existing stone wall at the property line along the entire frontage (except where access or clear sight distance would be obstructed) to a height and width that has a substantial appearance from the road (Routes 100 & 202); the wall on Route 202 should block view of car headlights in the parking lot;
- 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 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;
- Add entrance driveway features that enhance the visual character of the road corridor, such as stone pillars and project signage;
- Provide sufficient level area at the right of way to accommodate a possible future curb, grassed strip and sidewalk.

The DEIS presents a Conceptual Lighting Plan designed to keep the development safely and attractively lit without impacting neighboring properties or creating unnecessary impacts. Site lighting would incorporate the latest technology designed to minimize glare and night sky impacts.

2. Historic and Archaeological Resources

There are no identified historic or archaeological resources on the Project Site. The New York State Office of Parks, Recreation and Historic Preservation (OPRHP) concluded in its 2010 and 2015 correspondence that it has no concerns regarding direct impacts to historic or archaeological resources.

The old hamlet of Somers is a rare surviving element of Westchester County's 19th Century rural heritage. The core of the surviving architecture of Somers was recognized in 2004 when the Somers Hamlet Historic District (SHHD) was listed in the National Register of Historic Places. The SHHD is centered at the intersection of Routes 202 and 100 and stretches easterly on Route 202 to Route 116 and westerly to the boundaries of the Towne Centre property on Route 202 and Route 100.

The proposed Project is located in proximity to a number of cultural 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, the Somers Central School, a National Register eligible property, and the Elephant Hotel, a National Historic Landmark (NHL). In its 2015 review of the DEIS and cultural resource investigations on the Site from 1995, 2010 and 2013, the OPRHP states that potential impacts of the Project would be indirect and visual in nature. The OPRHP recommends that the Project include measures to minimize effects that could adversely impact the setting of these resources.

The proposed residences in the Project will be visually separated from the SHHD by the Town Centre complex and set back at least 75 feet from Route 100, and will not impact upon historic properties/districts. The scale of the grocery store and its position on Route 202 as proposed will not visually or contextually impact the SHHD if its design is carefully considered. The proposed parking lot and entry road at the grocery store will also need to be designed in keeping with the streetscape character of the hamlet. The NR eligible Somers Central School on Route 202 is located well west of the SHHD and its grounds are distinctly separated from the proposed development.

The design intent for the Route 100 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, guided by the visual mitigation measures listed above.

The Town Board determines and finds, based on the above information, that implementation of all the above required techniques and mitigation measures will mitigate potential impacts to the maximum extent practicable and will result in no significant adverse impact to Cultural Resources relative to Visual, Historic and Archaeological Resources.

I. AIR QUALITY, NOISE, ODOR, AND CLIMATE CHANGE

1. Air Quality and Greenhouse Gases Affecting Climate Change

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. An air quality impact analysis was performed following the NYSDEC, NYSDOT, and the United States Environmental Protection Agency (USEPA) policies and procedures to assess existing air quality conditions, including traffic-related and construction-related impacts. The analysis demonstrates that the Somers Crossing project is in compliance with the 1990 Clean Air Act Amendments (CAAA) and will not interfere with the attainment or maintenance of the New York and/or National Ambient Air Quality Standards (NAAQS) established by the CAAA.

The results of the analysis demonstrate that CO and carbon monoxide concentrations for the 2018 No-Build and Build Scenarios would be below the NAAQS and no significant impacts are anticipated. Construction activities associated with grading and excavation on the Site could result in temporary air emissions of particulate matter (PM). The Site is located in a non-attainment area for PM_{2.5}, and while the analysis showed that construction activities will not impact general conformity or public health, emission mitigation techniques will be employed during construction of the Project.

To reduce air emissions from construction activities, the Project will require: adherence to all applicable regulations regarding vehicles emissions; use of ultra-low sulfur diesel fuel for off-road construction vehicles; protective measures around construction and demolition work to reduce dust and debris; dust control by spraying open soil areas with water; regular sweeping of adjacent roadway surfaces to reduce airborne dust.

The air quality analysis utilizes the Town of Somers' spreadsheet program entitled "Development GHG Evaluator" to calculate vehicular and building sources of Greenhouse Gas (GHG) emissions for the existing, future no-build and build conditions. This considers carbon sequestration offsets, all fuel consumption sources, stationary and mobile sources. The GHG analysis demonstrates that the proposed project would result in insignificant increases in CO₂ emissions. There are no extraordinary air quality mitigation measures necessary, however the proposed residences would be designed to exceed the New York State Energy Conservation Construction Code regarding the use of energy efficient products. The Applicant is proposing geothermal technologies for heating and cooling of the residential units and grocery store rather than fossil fuel consuming equipment.

2. Noise

Existing ambient noise conditions at the Site reflect surrounding land uses. Ambient noise at the Site comes primarily from vehicular traffic in the existing adjacent shopping center and on Routes 202 and 100. Local ambient daytime noise levels would temporarily increase in the Site vicinity during construction of the Project, primarily from diesel engines. Elevated noise occurrences would be sporadic during the construction period and are an unavoidable impact. Blasting at the Site is not anticipated. The level of new operational noise is not anticipated to be a significant adverse impact.

The requirements of the Town of Somers noise ordinance (Chapter 123 of Town Code) puts limitations on construction equipment noise and the operation of landscaping equipment. The project will need to comply with the local noise ordinance, and use best management practices during construction.

A trash compactor at the grocery store will be housed inside the building, thereby avoiding exterior noise. Deliveries to the proposed grocery store are anticipated to generate noise and mitigation measures may include restrictions on delivery hours depending on the anticipated noise level, time of day and duration of such activities.

Screening will be proposed on the Somers Crossing site to buffer the new residences from the existing Towne Centre 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 shopping center site will need to be

ascertained during site plan review to identify the need to mitigate nuisance noise that may affect the future residents.

3. Odors

Potential odor sources at the Site would be limited to the solid waste storage areas (dumpsters) at the grocery store site. At the residential units, solid waste containers would be stored in the individual garages. Pick-ups for the grocery store and the residences would be by private carters at regular intervals to preclude nuisance odors. No significant adverse impacts are anticipated due to odors.

The Town Board determines and finds, based on the above information, that implementation of all the above required techniques and mitigation measures will mitigate potential impacts to the maximum extent practicable and will result in no significant adverse impact to Air Quality, Noise, Odor and Climate Change.

IV. Growth Inducing and Cumulative Impacts

The addition of new town residents would expand the market for local businesses, providing them with the potential to increase sales, however this Project is not expected to be sufficiently large to serve as a stimulus for significant growth beyond the proposed grocery store. The presence of the grocery store would make the hamlet a more attractive destination for shoppers and would be expected to eliminate some trips now made by local area residents to areas outside the hamlet for shopping.

Although it is possible the proposed MFR-DH floating district could be applied to another parcel in the hamlet, most of the applicable parcels are already developed or contain significant environmental constraints, or would require some zoning modifications, thereby making it unlikely that significant new growth will occur as a result of the new zoning district. Cumulative impacts to land use, community facilities or environmental concerns would not be anticipated by application of the MFR-DH floating zone to another site.

The Applicant's proposed project, including the community benefit package that the Applicant and Town have discussed, will expand the sewer and water service areas to include the Project Site. Sewer and water service lines will be extended to the south and west property lines of the subject Site. These extensions will facilitate future connections of the existing Towne Centre and of possible future development to the south to the Heritage Hills sewer and water services. The Towne Centre property is currently outside of these service areas. While there have been discussions with the Town about development of a possible future public safety facility on the land south of the Project Site, no formal application has been made. The Town is generally supportive of extending these services to the south and west. The expansion of the sewer and

water districts as proposed will not, in and of itself, induce growth to adjoining land. Therefore, while the ability to physically connect sewer and water lines to these properties will be facilitated by the Proposed Action, the Town Board determines that the instant action will not induce growth because no such connections can occur without a formal petition on the part of the adjoining property owners to extend the districts to such lands with a demonstration that the Heritage Hills services can accommodate such connections.

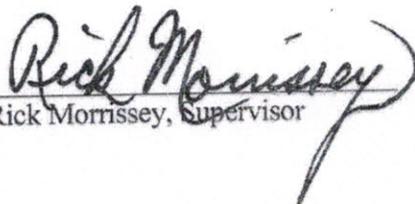
V. CERTIFICATION OF FINDINGS TO APPROVE

The Somers Town Board, acting as SEQR Lead Agency, based on the preceding written facts and conclusions, finds and certifies that:

- a. The Board has given due consideration to the Draft and Final Environmental Impact Statements, and information derived from the public hearing and comments received during the course of this environmental review process;
- b. The Board has weighed and balanced relevant environmental impacts with social, economic and other considerations;
- c. This Findings Statement provides a rationale for the Board's decision(s);
- d. The requirements of Part 617 of Title 6 NYCRR have been met; and,
- e. Consistent with the social, economic and other essential considerations, from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that have been identified as practicable.

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

BY ORDER OF THE TOWN BOARD

Signed: 
Rick Morrissey, Supervisor

Date: 6/10/16